

**JOVENDO DEL CASTILLO, PETITIONER, VS. HON. ROSARIO TORRECAMPO, PRESIDING JUDGE, RTC OF CAMARINES SUR, BRANCH 33 AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

*G.R. No. 139033. December 18, 2002*

Ponente: CORONA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-139033/>

---

**CORONA, J.:**

The instant petition is one for the review, by way of appeal by certiorari, of the Decision[1] of the Court of Appeals dated November 20, 1998, and of the Resolution dated June 14, 1999 denying the motion for reconsideration thereof.

Petitioner was charged on March 8, 1983 with violation of Section 178 (nn)[2] of the 1978 Election Code in Criminal Case No. F-1447 before Branch 33, Regional Trial Court, Camarines Sur. The Information alleged:

That on May 17, 1982, (Barangay Election Day), at around 8:15 P.M. in Barangay Ombao, Municipality of Bula, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did, then and there unlawfully conducted himself in a disorderly manner, by striking the electric bulb and two (2) kerosene petromax lamps lighting the room where voting center no. 24 is located, during the counting of the votes in said voting center plunging the room in complete darkness, thereby interrupting and disrupting the proceedings of the Board of Election Tellers.[3]

On arraignment, petitioner pleaded not guilty. Thereafter, trial on the merits ensued.

On January 14, 1985, the trial court rendered judgment and declared petitioner guilty beyond reasonable doubt of violating Section 178 (nn) of PD 1296, otherwise known as the 1978 Election Code, as amended, and sentenced petitioner to suffer the indeterminate penalty of imprisonment of 1 year as minimum to 3 years as maximum.

Aggrieved, petitioner appealed his conviction to the Court of Appeals which eventually affirmed the decision of the trial court in toto. Said decision became final and executory. Thus, the execution of judgment was scheduled on October 14, 1987.

On October 12, 1987, an urgent motion to reset the execution of judgment was submitted by petitioner through his counsel. But it was denied for lack of merit.

During the execution of judgment, petitioner failed to appear which prompted the presiding judge to issue an order of arrest of petitioner and the confiscation of his bond. However, petitioner was never apprehended. He remained at large.

Ten years later, on October 24, 1997, petitioner filed before the trial court a motion to quash the warrant issued for his arrest on the ground of prescription of the penalty imposed upon him. However, it was denied. His motion for reconsideration thereof was likewise denied.

Dissatisfied, petitioner filed with the Court of Appeals a Petition for Certiorari assailing the orders of the trial

court denying both his motion to quash the warrant of arrest and motion for reconsideration.

On November 20, 1998, the Court of Appeals rendered its now assailed decision dismissing the petition for lack of merit.

Following the denial of his motion for reconsideration, the instant petition was filed before us.

Petitioner asserts that the Court of Appeals gravely erred in holding that the penalty imposed upon petitioner has not prescribed. Petitioner maintains that Article 93 of the Revised Penal Code provides that the period of prescription shall commence to run from the date when the culprit should evade the service of his sentence. The Court of Appeals, in its interpretation of the said provision, engaged in judicial legislation when it added the phrase “by escaping during the term of the sentence” thereto, so petitioner claims.

Going over the merits of the petition, the Court finds that the Court of Appeals did not err in dismissing the petition for certiorari.

The threshold issue in the instant case is the interpretation of Article 93 of the Revised Penal Code in relation to Article 157 of the same Code.

In dismissing the petition, the Court of Appeals ruled:

“Article 92 of the Revised Penal Code provides as follows:

‘When and how penalties prescribe – The penalties imposed by the final sentence prescribed as follows:

- Death and reclusion perpetua, in twenty years;
- Other afflictive penalties, in fifteen years;
- Correctional penalties, in ten years; with the exception of the penalty of *arresto mayor*, which prescribes in five years;
- Light penalties, in one year.’

“And Article 93 of the Revised Penal Code, provides as follows:

‘Computation of the prescription of penalties – The period of prescription of penalties shall commence to run from the date when the culprit should evade the service of his sentence, and it shall be interrupted if the defendant should give himself up, be captured, should go to some foreign country with which his Government has no extradition treaty, or should commit another crime before the expiration of the period of prescription.’

“The penalty imposed upon the petitioner is one (1) year of imprisonment as minimum to three (3) years of imprisonment as maximum.

“The law under which the petitioner was convicted is a special law, the 1978 Election Code. This law does not provide for the prescription of penalties. This being the case, We have to apply the provision of the Revised Penal Code which allows the application of said code in suppletory character when it provides that:

‘Offenses which are or in the future may be punishable under special laws are not subject to the provision of this code. This code shall be supplementary to such laws, unless the latter should specially provide the contrary.’

“The penalty imposed upon the petitioner is a correctional penalty under Article 25 in relation to Article 27 of the Revised Penal Code. Being a correctional penalty it prescribed in ten (10) years.

“The petitioner was convicted by a final judgment on June 14, 1986. Such judgment would have been executed on

October 14, 1986 but the accused did not appear for such proceeding. And he has never been apprehended.

“The contention of the petitioner is that said judgment prescribed on October 24, 1996.

“The issue here is whether or not the penalty imposed upon the petitioner has prescribed.

“The elements in order that the penalty imposed has prescribed are as follows:

- ‘1. That the penalty is imposed by final sentence.
2. That the convict evaded the service of the sentence by escaping during the term of his sentence.
3. That the convict who escaped from prison has not given himself up, or been captured, or gone to a foreign country with which we have no extradition treaty or committed another crime.
4. That the penalty has prescribed, because of the lapse of time from the date of the evasion of the service of the sentence by the convict.’

(p. 93, Revised Penal Code by L. Reyes 93 ed.)

“From the foregoing elements, it is clear that the penalty imposed has not prescribed because the circumstances of the case at bench failed to satisfy the second element, to wit – ‘That the convict evaded the service of the sentence by escaping during the service of his sentence.’ As a matter of fact, the petitioner never served a single minute of his sentence.

The foregoing conclusion of the Court of Appeals is consistent with the ruling of this Court in *Tanega vs. Masakayan, et. al.*,<sup>[4]</sup> where we declared that, for prescription of penalty imposed by final sentence to commence to run, the culprit should escape during the term of such imprisonment.

The Court is unable to find and, in fact, does not perceive any compelling reason to deviate from our earlier pronouncement clearly exemplified in the *Tanega* case.

Article 93 of the Revised Penal Code provides when the prescription of penalties shall commence to run. Under said provision, it shall commence to run from the date the felon evades the service of his sentence. Pursuant to Article 157 of the same Code, evasion of service of sentence can be committed only by those who have been convicted by final judgment by escaping during the term of his sentence.

As correctly pointed out by the Solicitor General, “escape” in legal parlance and for purposes of Articles 93 and 157 of the RPC means unlawful departure of prisoner from the limits of his custody. Clearly, one who has not been committed to prison cannot be said to have escaped therefrom.

In the instant case, petitioner was never brought to prison. In fact, even before the execution of the judgment for his conviction, he was already in hiding. Now petitioner begs for the compassion of the Court because he has ceased to live a life of peace and tranquility after he failed to appear in court for the execution of his sentence. But it was petitioner who chose to become a fugitive. The Court accords compassion only to those who are deserving. Petitioner’s guilt was proven beyond reasonable doubt but he refused to answer for the wrong he committed. He is therefore not to be rewarded therefor.

The assailed decision of the Court of Appeals is based on settled jurisprudence and applicable laws. It did not engage in judicial legislation but correctly interpreted the pertinent laws. Because petitioner was never placed in confinement, prescription never started to run in his favor.

WHEREFORE, for lack of merit, the petition is hereby DENIED.

**SO ORDERED.**

Puno (Chairman), Panganiban, Sandoval-Gutierrez, and Carpio Morales, JJ., concur.

---

[1] Penned by Associate Justice Eloy R. Bello, Jr. and concurred in by Associate Justices Salome A. Montoya and Ruben T. Reyes, of the Seventh Division. [ [2]] “Any person who, in the presence or within the hearing of the election committee or the board of canvassers during any of its meetings, conducts himself in such a disorderly manner as to interrupt or disrupt the work or proceedings to the end of preventing either body from performing its functions, either partly or totally.”

[3] Rollo, p. 13.

[4] 19 SCRA 564 [1967].

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.