

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. ANUNCIACION VDA. DE GOLEZ, DEFENDANT AND APPELLEE.

G.R. No. 14160. June 30, 1960

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-14160/>

REYES, J.B.L., J.:

On October 2, 1957, the provincial fiscal of Negros Occidental filed an information in the Court of First Instance of that province charging Anunciacion Vda. de Golez with the crime of homicide through reckless imprudence, as follows:

"That on or about the period comprised from December 12, 1956 to December 24, 1956, in the municipality of San Carlos, province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable, Court, the herein accused, without being duly licensed to practice medicine and with reckless negligence and without taking due precaution, did, then and there, wilfully, unlawfully, and feloniously diagnose, prescribe, and treat one Susana Tam, who had been suffering for sometime with bodily ailment, knowing fully well that she is incompetent and not possessing the necessary technical or scientific knowledge or skill, and as a consequence of such negligence and carelessness and lack of medical skill, said Susana Tam died thereafter."

The accused pleaded not guilty to the information.

When the case was called for trial, the assistant fiscal made a manifestation that the accused had also been charged with the crime of illegal practice of medicine before another sala of the same court. In view of this manifestation, the trial court *motu proprio* dismissed the information for being fatally defective, without prejudice to the filing of the proper information against the same accused. The grounds given for the dismissal were the following:

"In view of the foregoing manifestation of the Fiscal, the Court finds that the information is fatally defective and, therefore, should be dismissed under Par. (a), Sec. 2 of Rule 113 of the Rules of Court inasmuch as the facts charged do not constitute the offense of homicide thru reckless imprudence because illegal practice of medicine is malicious *per se*, and when the accused practiced medicine without academical preparation and without a license to do so, then she is *per se* committing a criminal act for which the criminal intent is presumed. Although the crime of homicide thru reckless imprudence can be committed by a duly licensed physician when in the practice of his profession he fails to exercise due care and diligence from which the criminal act arises, this crime cannot be imputed to a person who has no authority to practice this profession, which act is malicious *per se*. The crime described in Article 365 of the Revised Penal Code results from the performance of a lawful act which was done without exercising the care and diligence that is required by the circumstances, and not from the performance of an unlawful act which is the subject of the information in this case because a quack doctor who practices medicine does so against the law, and, therefore, his act is necessarily malicious and criminal."

From the above order, the provincial fiscal appealed to this Court, and, through the Solicitor General, urges that the court below erred in dismissing the information for being fatally defective because the facts charged therein

allegedly do not constitute the crime of homicide thru reckless imprudence.

We agree with appellant that the order of dismissal is erroneous, in that the crime of illegal practice of medicine is a statutory offense wherein criminal intent is taken for granted, so that a person may be convicted thereof irrespective of his intention and in spite of his having acted in good faith and without malice; i.e., even if he was not motivated by an evil desire to injure or hurt another, but by an honest desire to cure or alleviate the pain of a patient. In fact, as defined by Section 2678 of the Revised Administrative Code (the law then in force), the offense consists in the mere act of practicing medicine in violation of the Medical Law, even if no injury to another, much less death, results from such malpractice. When, therefore, the patient dies, the illegal practitioner should be equally responsible for the death of his patient, an offense independent of and distinct from the illegal practice of medicine.

The allegations in the information in this case that the accused acted with reckless negligence in diagnosing, prescribing for, and treating the deceased Susana Tarn, knowing that she did not possess the necessary technical knowledge or skill to do so, thus causing her death, sufficiently charge the crime of homicide through reckless imprudence, since ordinary diligence counsels one not to tamper with human life by trying to treat a sick man when he knows that he does not have the special skill, knowledge, and competence to attempt such treatment and cure, and may consequently reasonably foresee harm or injury to the latter. In a similar case wherein the accused, not being a regular practitioner, undertook to render medical assistance to another, causing physical injuries to the latter, said accused was found guilty and convicted by this Court of physical injuries through imprudence under the old Penal Code (*U. S. vs. Feliciano Divino*, 12 Phil, 175).

However, in view of the error of the lower court in dismissing the information, we cannot sustain this appeal for the reason that it would place the accused in double jeopardy. The present information being valid and sufficient in form and substance to sustain a conviction, the dismissal thereof by the court after the accused had pleaded not guilty to the charge and without his consent constitutes jeopardy as to bar further proceedings upon the case (*U.S. vs. Yam Tung Way*, 21 Phil., 67; *People vs. Hernandez*, 94 Phil., 49; 49 Off. Gaz. No. 12, 5342; *People vs. Ferrer*, 100 Phil., 124; 55 Off. Gaz. [4] 620). The failure of the accused to file a brief and raise the question of double jeopardy in this appeal does not mean that section 2, Rule 118, providing that the People can not appeal if the defendant would be placed in double jeopardy would no longer apply (*People vs. Bao*, 106 Phil., 243; 56 Off. Gaz. [51] 7768).

The unfortunate result in this case could have been avoided if the trial court had proceeded more deliberately, without allowing its judgment to be influenced by preconceived notions or undue haste in dispatching cases.

The appeal is, therefore, dismissed, with costs de oficio.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez, David, JJ., concur.

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.