

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY ABRAHAM CAMPO, IN HIS CAPACITY AS COMMANDER IN THE PHILIPPINE NAVY, PETITIONER AND APPELLANT VS. HON. ROMAN CANSINO, JR., AS JUDGE OF...

G. R. No. 17923. May 26, 1962

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-17923/>

CONCEPCION, J.:

Appeal from an order of the Court of First Instance of Manila dismissing the petition for prohibition and injunction in this case.

On October 3, 1960, Magdayo Ramirez filed with the Municipal Court of Manila, presided over by respondent Judge, Hon. Roman Cansino, Jr., a complaint (Civil Case No. 81186 of said court) for replevin against the manager of the Royal Cold Storage, located in Aviles Street, Manila, and Philippine Navy Commander Abraham Campo, alleging that he (Ramirez) is the owner of 85 tubs of fish which were illegally seized by Campo and his agents or representatives on October 1, 1960 and impounded in the premises of said Royal Cold Storage. Upon the filing by Ramirez of a P2,000 bond, said respondent Judge forthwith issued (on October 3, 1960) a warrant of seizure, directing the Sheriff of Manila to take possession of said 85 tubs of fish, keep the same for five (5) days and, thereafter, deliver it to Ramirez.

On October 7, 1960, Commander Campo filed with said municipal court an urgent petition for the return of said fish, upon the ground that the same was taken from the fishing boat "Tony Lex I" in the waters of Navotas, Rizal, by a unit of the Philippine Navy duly engaged in the enforcement of our fishing laws, "after a finding by a Fishery Product Examiner of the Bureau of Fisheries from samples taken earlier that the fish in question had been killed or caught with the use of dynamite, the mere possession of which" fish is a crime under Republic Act No. 428, as amended; that, as a consequence, two (2) criminal complaints—copies of which were attached to said petition—were filed against Ramirez with the Justice of the Peace Court of Navotas, Rizal, one for illegal possession of dynamited fish and another for disobedience to a person in authority; that the fish aforementioned should not be delivered to Ramirez, at least, during the pendency of said criminal cases, because, among other reasons, said fish is the subject or proceeds of a crime, because, in the event of the conviction of Ramirez, the forfeiture of the fish would be frustrated, and because the prosecution would be deprived of a material evidence; and that since the petition had been filed on behalf of the Republic of the Philippines, it was unnecessary for the same to file a redelivery bond.

When the urgent petition was heard on October 8, 1960, respondent Judge announced that, unless said redelivery bond was posted by 4:00 p.m. on October 10, 1960, he would order the Sheriff to turn the fish over to Ramirez.

Accordingly, on October 10, 1960, Commander Campo, acting on behalf of the Republic of the Philippines, instituted the present action for prohibition and injunction in the Court of First Instance of Manila (Case No. 44438 thereof) against respondent Judge, the Sheriff of Manila and Ramirez, based upon the facts adverted to above,

with the prayer that a writ of preliminary injunction be issued restraining the delivery of the fish to Ramirez and that, after trial, said writ be made permanent. On the same date the writ of preliminary injunction prayed for was issued. A motion filed by Ramirez, on October 12, 1960, for the dissolution of said writ, was denied on October 14, 1960. After service of summons, or on October 24, 1960, Ramirez filed his answer to the complaint and a separate motion for reconsideration of the order of October 14, 1960. The motion was granted on November 7, 1960, on which date the writ of preliminary injunction was dissolved. A motion of the Government for the reconsideration of the order of November 7, 1960, was denied on December 10, 1960. On the same date, the lower court issued another order dismissing the petition for prohibition and injunction. Consequently, the Government interposed this appeal directly to the Supreme Court, only questions of law being raised therein.

This case hinges on the applicability to the case at bar of the second paragraph of section 4 of Republic Act No. 428, as amended by Republic Act No. 1535, reading:

"Any officer or person mentioned in the preceding paragraph is authorized to take from among the fishes or aquatic animals believed to have been stupefied or killed in violation of this Act the necessary samples, in not more than one kilo, for examination; issuing a receipt therefor with specification of the kind and the quality of fish or other aquatic animals taken by him as well as their value obtaining in the market that day. If after the examination, such fish or aquatic animals are found not to have been stupefied or Trilled in violation of this Act, the person from whom they are taken as samples shall be paid their value as herein stated, said payment to be borne and defrayed by the government office or agency to which the person or officer mentioned in the first paragraph of this section is connected from funds appropriated for said purpose. The officer or person in authority or agent of authority who does not submit the sample taken for examination or does not gave the person from whom it was taken a report of such examination within ten days shall be punished upon conviction by a fine of not exceeding five hundred pesos, or by imprisonment for not more than six months, or both such fine and imprisonment, in the discretion of the court."

The lower court held that the issue herein is controlled by this provision; that pursuant thereto, petitioner was entitled to take samples of the fish in question "in not more than one kilo", and that, accordingly, the seizure of 85 tubs of fish was illegal. It should be noted, however, that said provision refers to "fishes * * * believed to have been * * * killed in violation" of said Act, and that the same authorizes the officer entertaining said belief to take "the necessary samples, in not more than one kilo, for examination of the kind and the quality of fish * * * taken by him".

Such is not the situation obtaining in the case at bar. In the urgent petition filed by the Government with the municipal court on October 7, 1960, as well as in its petition for prohibition and injunction in the present case, it is specifically alleged that, "after a finding made by a Fishery Product Examiner of the Bureau of Fisheries from samples taken earlier that the fish in question had been killed or caught with the use of dynamite", the "mere possession" of which fish is "a crime" under Republic Act No. 428, as amended by Republic Act No. 1535, said fish was seized by agents of the law, and the corresponding criminal complaints were filed with the Justice of the Peace Court of Navotas, Rizal. The above quoted provision is, therefore, inapplicable to the present case and the same is governed by the rule to the effect that the subject of an offense and the proceeds thereof are proper objects of seizure, particularly when—as it is in the present case—the mere possession of the objects seized constitutes a crime, for the holder of said objects is then committing a crime in the presence of the officer effecting the seizure, and the same is valid, despite the absence of a search warrant (*Magoncia vs. Palacio*, 30 Phil., 770, 772; 56 C. J. 1166).

Furthermore, respondent Judge erred in requiring the posting of a redelivery bond as a condition precedent to the dissolution of the warrant of seizure issued by said officer, for petitioner is the Republic of the Philippines and the same is exempt from the obligations to post such bond (*De Leon vs. Hon. Judge Macapanton*, G. R. No. L-15394,

April 29, 1961; Amparo Joaquin-Gutierrez vs. Camus, 96 Phil., 144.

Wherefore, the order appealed from is reversed and respondent Judge and the Sheriff of Manila are hereby enjoined from proceeding with the delivery of the 85 tubs of fish in question to respondent Magdayo Ramirez, unless otherwise directed by the court having jurisdiction over the aforementioned criminal action against him for illegal possession of dynamited fish, with the costs of both instances against said Magdayo Ramirez. It is so ordered.

Padilla, Bautista, Angelo, Labrador, Reyes, J. B. L. Barrera, Paredes, and Dizon, 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.