

THE PEOPLE OP THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. FABIAN MONTERA, DEFENDANT AND APPELLANT.

G. R. No. 34431. August 11, 1931

Ponente: MALCOLM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-34431/>

MALCOLM, J.:

The trial judge was right in convicting the accused for the theft of twelve phonograph records and one flashlight, valued at P30.30, and in considering the accused as an habitual delinquent. No consent, express or implied, on the part of the offended party for the accused to take the records and flashlight was established. Recidivism was properly taken into account as an aggravating circumstance, independently of the provisions of the Habitual Delinquent Law. (People vs. Aguinaldo [1925], 47 Phil., 728.)

The Habitual Delinquent Law, Act No. 3397, is attacked as an ex post facto law in violation of the Organic Act. This court has heretofore held the Habitual Delinquent Law valid as not inflicting cruel or unusual punishment, (People vs. Madrano [1928], 53 Phil., 860.) The present contention is equally unsustainable. Statutes which authorize a more severe punishment to be imposed upon one convicted of a second or subsequent offense are not objectionable upon the ground that they are ex post facto laws. Such statutes, the United States Supreme Court has said, do not impose any additional punishment for the former crimes, but simply impose a punishment on future crimes, the penalty therefor being enhanced on account of the criminal propensities of the accused. (McDonald vs. Massachusetts [1900], 180 U. S., 311.)

Conforming, therefore, with the pronouncements of the trial court, except that, as recommended by the Attorney-General, there must be a modification of the period of imprisonment, the judgment appealed from will be affirmed, it being understood that the defendant and appellant is sentenced to two years, four months, and one day imprisonment, presidio correctional, to indemnify the offended party in the amount of P30.30, with subsidiary imprisonment in case of insolvency, with the appropriate accessory penalties, and with the costs of both instances; and to an additional penalty of ten years' imprisonment as an habitual delinquent. So ordered.

Avanceña, C. J., Johnson, Street, Villamor, Ostrand, Romualdez, Villa-Real, and Imperial, 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.