

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, AND ISIDORO ARAGON AND TEODORICA RUIZ, OFFENDED PARTIES AND APPELLANTS, VS. VICENTA GUIDO AND HONORATA AGUIRRE, DEF...

G.R. No. 37320. August 15, 1932

Ponente: VILLAMOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-37320/>

VILLAMOR, J.:

This appeal is an incident of criminal case No. 43226 of the Court of First Instance of Manila in which Vicenta Guido y Crisologo and Honorata Aguirre were prosecuted for the crime of qualified theft of certain jewelry. The accused were found guilty and sentenced, the former to ten years and one day of presidio mayor with the accessories of article 57 of the Penal Code, to indemnify the offended party, Levy Hermanos, Inc., in the amount of P7,405.45, without subsidiary imprisonment in case of insolvency, and to pay one-half of the costs; and the latter to one year and eight months of presidio correctional, with the accessories of article 58 of the Penal Code, to indemnify the offended party, Levy Hermanos, Inc., in the amount of P7,405.45, with subsidiary imprisonment in case of insolvency not to exceed one-third the duration of the principal penalty, and to pay one-half of the costs.

The court further ordered that the stolen jewels that were recovered be restored to the owner, Levy Hermanos, Inc.

The appellants appealed from that part of the sentence ordering the return of the jewels to the owner, without making provision for the indemnification of the owners of the pawnshops where they were pawned.

Leaving aside the merits of the present appeal, and confining ourselves to deciding the motion to dismiss said appeal, we believe the appellants, alleging as they do that they have been prejudiced by the judgment of the court ordering the return of the jewels to the owner without making provision for the reimbursement of the value of the pledges, may validly appeal from said judgment in accordance with section 44 of General Orders, No. 58, providing:

"Either party may appeal from a final judgment or from an order made after judgment affecting the substantial rights of the appellant. The people of the Philippine Islands may also appeal from a judgment for the defendant rendered on a demurrer to an information or complaint, and from an order dismissing a complaint or information." (As amended by section 4, Act No. 2886.)

The word "party" used in the law must be understood to mean not only the government and the accused, but also other persons who may be affected by the judgment rendered in the criminal proceedings. In accordance with this interpretation it has always been recognized in this jurisdiction that the sureties of the defendant are interested parties in the civil question of the forfeiture of the bond, and may take an appeal from any order entered against them in the criminal action. No one has disputed their right to appeal in such cases and the files of this court abound with proceedings of this nature.

In the present case no attempt is made to decide whether there is any merit in the appeal; it is not incumbent upon

us to decide now whether the grounds alleged by the appellants are in conformity with the law or not. The only question raised by the motion for dismissal is whether the appellants are entitled to appeal from the aforementioned order.

In order to decide said question one need but ask whether the appellants were prejudiced in any substantial right of theirs with relation to the jewels. That they were prejudiced, there can be no doubt, because, if the order appealed from were carried out, they would be deprived of the possession of said jewels without the corresponding compensation, equivalent to the amount for which they were pledged. Inasmuch as they are thus prejudiced, it is evident that they are interested and necessary parties to the incident and are therefore entitled to intervene directly therein.

It is immaterial that the appellants may bring a civil suit against La Estrella del Norte, Inc., to recover the amount for which the jewels were pledged, in case such an independent action could be maintained. If the appellants have two remedies within the law, they should not be compelled to resort to the very one they have not chosen, there being no legal provision prohibiting their choice.

The question raised is not entirely new in this jurisdiction. In the case of *United States vs. Bruhez* (28 Phil., 305), Joaquin Lorenzo Uy had been convicted of the illegal importation of opium and the sum of P3,500 in the form of seven P500 bills was confiscated by the customs authorities and presented to the court during the trial. This amount, according to the evidence, had been delivered to Bruhez, at that time a customs inspector, as a bribe, so that he would allow the entry of smuggled opium. Subsequently, Ignacio Velasco, a third party to the criminal action, entered an appearance praying that the sum of money be returned to him, alleging that it belonged to him, and had been wrongfully obtained by Lorenzo by means of a forged cheque. The court denied the petition on the ground that it had no jurisdiction over the money which had been already confiscated by the customs officials. This court, speaking through Justice Moreland in its decision, said:

"It is our opinion that the court below should have resolved all of the questions presented by the issues, among them being the ownership of the P3,500. If that money was owned by Joaquin Lorenzo Uy Yjo and was by him used to bribe a customs official to permit the illegal importation of opium, it became an instrument used in the commission of that crime and would be susceptible to the dispositions provided for in articles 25 and 62 of the Penal Code. Article 25 provides, among other things, that, as an accessory penalty, there shall be a forfeiture of the instruments and proceeds of the offense' and article 62 provides that 'every penalty imposed for the commission of a felony shall carry with it the forfeiture of the proceeds of the crime and the instrument with which it was committed. Such proceeds and instruments shall be forfeited unless they be the property of a third person not liable for the offense.'

"These articles constitute the law which governs the disposition of the money in question. If Joaquin Lorenzo Uy Yjo had been convicted of the crime of bribery, then, the money paid as a bribe would have been forfeited by virtue of article 389. The crime charged and prosecuted, however, being that of illegal importation of opium, the money became an instrument used in the commission of the crime and, therefore, became subject to the articles of the Penal Code already referred to.

"Under these articles of the Penal Code the court trying the cause has jurisdiction to determine the ownership and disposition of the instrument used in the commission of the crime, and any person claiming this instrument has a right to take his proceeding in that court for the purpose of determining his rights in the premises." (Pages 309 and 310.)

A careful reading of the decision in the case above cited will show not only that the right to intervene and to appeal of the person claiming to be the owner of the confiscated money in connection with the crimes of illegal importation and bribery, was recognized, but that it clearly and expressly decided that the ownership of said

money and other similar incidents should all be determined in the criminal action in pursuance of the provisions of articles 25 and 62 of the old Penal Code, or articles 25 and 45 respectively, of the Revised Penal Code.

Thus, the offended party, be he the owner of the property stolen or misappropriated, or the owner of the pawnshop, may appeal from the judgment of the trial court with reference to the indemnity to be paid resulting from the commission of the offense. The pawnbrokers, herein appellants, are deemed to have been prejudiced by the commission of the crime, because by reason of the fact that the jewels pledged to them had been stolen they will now be deprived of their possession without first having a declaration of indemnity for the amount of the pledges.

By virtue of the foregoing, without passing upon the merits of the appeal, in order that the appellants may file their briefs, the motion for dismissal is hereby denied, without special pronouncement as to costs. So ordered.

Street, Malcolm, Ostrand, Abad Santos, Imperial, and Butte, JJ., concur.

VILLA-REAL, J.:

I concur in the result.

HULL, J.:

I concur in the result.

DISSENTING

AVANCEÑA, C. J.

I dissent, and vote for the dismissal of the appeal. The appellants seek to intervene in this proceeding by virtue of the following facts:

"The pawnshops of Isidoro Aragon at 1460 Herran, Manila, of T. A. Ruiz at 1510 Herran, Manila, and of T. R. de Jose (who is none other than T. A. Ruiz) at 1414 Herran, Manila, are establishments conducted under government authority, engaged in making loans upon jewels at rates of interest fixed by Act No. 2615 of the Philippine Legislature; and the jewels exhibited in this cause, taken from these establishments by the police, had been pawned there in the ordinary course of business, a renewal of the pledge of jewels Exhibits Z60B, Z62B, and Z85B, having been made."

In my opinion the appellants have no right to appeal from the judgment rendered in this case in so far as it orders that the jewels recovered be returned to the owner, without making provision for the indemnity to be paid to them, as owners of the establishments where they had been pawned.

According to section 44 of General Orders, No. 58, either party may appeal from a final judgment or from an order issued after judgment, affecting the substantial rights of the appellant. I concur with the majority in holding that the word "party" here used does not mean only the government and the accused. But I believe that those who have no right to intervene in the proceedings cannot appeal therefrom, not being parties thereto. The only persons who may intervene in a criminal case besides the government and the accused, according to section 107 of General Orders, No. 58, are those claiming to have been injured by the commission of the offense. It is evident that this provision refers to those injured by the commission of the offense in question, and not any other offense. This is a necessary consequence of the protection which the law affords the accused in providing in section 11 of General Orders, No. 58 that he can be charged with but one offense in an information, in order that he may the

better prepare himself for his defense, which he would be unable to do if he were charged with a number of different offenses. If this be so with reference to the offenses themselves, a fortiori it should be so with reference to their mere consequences. If, in a criminal proceeding, no man can be tried for more than one offense, much less can facts be considered therein which are not a consequence of the crime prosecuted, but of a different crime subsequently committed.

In the case before us the crime in question is the theft of the jewels belonging to the Estrella del Norte. The only offended party in this -theft is the Estrella del Norte. If the accused, after having committed this crime, pretending to be the owners of the jewels, pledged them in certain pawnshops, they committed another crime, namely, estafa, in which the pawnbrokers, as owners of such shops, were the offended parties. It cannot be said, however, that these pawnbrokers were injured by the commission of the crime of theft. If they were injured it was because the jewels were pawned with them.

This is the rule clearly laid down by this court in the case of *United States vs. Barambangan* (34 Phil., 645). In that case certain individuals were accused of the theft of a carabao belonging to a Moro. Later, the accused sold the animal to a third person. In said case the carabao was returned to the owner. The lower court sentenced the accused to return to the purchaser the amount he had paid for the carabao. This court reversed the judgment, ruling that the theft of an animal and the sale, thereof to a third party constitute two separate and distinct crimes, larceny and estafa, and that in the cause for larceny against the accused, he cannot be condemned to indemnify the purchaser of the carabao, who was injured by the commission of the crime of estafa, a separate and distinct offense.

It will be noted that the appellants' contention, if sustained, would tend to aggravate the penalty imposed upon the accused. The restitution of the jewels to the owner relieves the accused of their civil liability. If the jewels are not restored, or if the owner has to pay the appellants the money advanced for the pledges, the accused, in turn, would have to indemnify the owner for the value of the jewels, or suffer the proper subsidiary imprisonment.

The cases of bonds given in criminal causes for the provisional liberty of the accused bear no analogy to this. It is true that the sureties may appeal within the criminal proceedings, whenever the bond they have given is affected by any order of the court, but this is because the bond given for the provisional liberty of a defendant in a criminal proceeding takes the place of the accused with respect to his appearance and makes the sureties parties to the case; for which reason General Orders, No. 58 establishes the procedure to be followed in the forfeiture of those bonds.

Neither is there any analogy between the present case and that of *United States vs. Bruhez* (28 Phil., 305) cited by the majority. In that case an intervention was filed in the proceeding by the owner of an object used by the accused as an instrument of the crime, and as such, under the law, it must be confiscated unless it belonged to a third person not liable for the crime. It is clear that in that case the injury to the third person was a direct consequence of the commission of the crime being prosecuted.

Another line of reasoning leads to the same conclusion.

Article 120 of the old Penal Code, copied verbatim in article 105 of the Revised Penal Code, provides that the thing which is the object of the crime shall be restored even though it be found in the possession of a third person who has acquired it by lawful means, saving to the latter his action against the proper person who may be liable to him unless the third person has acquired it in the manner and under the circumstances which, by law, bar an action for its recovery. In the present case there is no allegation that the appellants acquired the jewels under the circumstances which by law bar an action for their recovery. It has not been alleged that the appellants acquired ownership by prescription, which is the main thing meant by this provision of the Penal Code, nor that their pawnshops are *Monies de Piedad* established by authority of the government for the benevolent or charitable

purpose of helping the poor, nor that they acquired these jewels in good faith at a public auction, which are other exceptions established by the Civil Code. (Article 464.) From the nature of their claims in this case, the appellants have no right to object to the restitution. They can, however, institute an action against the proper party for the amount involved, through, a proceeding other than the present. The importance of this question lies in that it may throw open the doors of a criminal case to extraneous facts which may constitute other crimes, but which have no relation to the offense charged, thereby confusing the mind of the accused and rendering his position more difficult to defend.

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.