

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. NICOLASA PASCUAL, DEFENDANT AND APPELLANT.

G.R. No. 3777. January 06, 1908

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-3777/>

JOHNSON, J.:

Three complaints were filed against the defendant in the Court of First Instance of the city of Manila, each charging her with the crime of estafa.

By stipulation of the respective attorneys in each of said causes the testimony in all of the three was taken together. These three causes were numbered in the lower court respectively 2436, 2437, and 2438. The complaint in said cause 2436 charged the defendant with the crime of estafa in the following language:

"That on or about the 20th day of December, 1905, in the city of Manila, the said Nicolasa Pascual did, then and there, willfully, unlawfully, feloniously, with intent of gain, and without the consent of the owner thereof, appropriate, misapply, and convert to her own use—

1 pair gold earrings, 6 diamonds each

160.00

1 pair gold earrings, 8 diamonds each

160.00

1 gold ring, diamond solitaire

180.00

1 gold ring, 3 diamonds.....

280.00

1 gold ring, 8 diamonds

170.00

All valued at

950.00

"Philippine currency, which sum is the equivalent of and equal in value to the sum of 4,750 pesetas, all the property of Juana de Guzman, then and there received by and in the possession of the said Nicolasa Pascual under the obligation to sell the said property for and on account of the said Juana de Guzman, and to return to

the said Juana de Guzman the price and value of said property, or, in default thereof, to return the said property. All to the damage and prejudice of the said Juana de Guzman in the said sum of 4,750 pesetas. All contrary to law.

"JUANA (her X mark) DE GUZMAN.

"Subscribed and sworn to before me this 26th day of December, 1905, by the said Juana de Guzman.

"MANUEL ARAULLO,

"Court of First Instance, Manila."

The complaint in cause 2437 charged the defendant with the crime of estafa, committed as follows:

"That on or about the 20th day of December, 1905, in the city of Manila, Philippine Islands, the said Nicolasa Pascual did, then and there, willfully, unlawfully, feloniously, with intent of gain, and without the consent of the owner thereof, appropriate, misapply, and convert to her own use—

1 pair gold earrings, diamond solitaire set.....

P230.00

1 pair gold earrings, topaz set.....

60.00

1 gold ring, 3 diamonds.....

70.00

1 gold ring, 4 diamonds

90.00

—————
All valued at

450.00

"Philippine currency, which sum is the equivalent of and equal in value to the sum of 2,250 pesetas, all the property of Paulina Gomez, then and there received by and in the possession of the said Nicolasa Pascual under the obligation to sell the said property for and on account of the said Paulina Gomez, and to return to the said Paulina Gomez the price and value of said property, or, in default thereof, to return the said property. All to the damage and prejudice of the said Paulina Gomez in the said sum of 2,250 pesetas. All contrary to law.

"PAULINA GOMEZ.

"Subscribed and sworn to before me this 21st day of December, 1905, by the said Paulina Gomez.

"MANUEL ARAULLO,

"Court of First Instance, Manila."

The complaint in cause No. 2438 charged the defendant with the crime of estafa, committed as follows:

"That on or about the 20th day of December, 1905, in the city of Manila, P. I., the said Nicolasa Pascual did, then and there, willfully, unlawfully, feloniously, with intent of gain, and without the consent of the owner thereof, appropriate, misapply, and convert to her own use

1 pair gold earrings, 5 diamonds each.....

P260.00

"Philippine currency, which sum is the equivalent of and equal in value to the sum of 1,250 pesetas, all the property of Aniceta del Rosario, then and there received by and in the possession of the said Nicolasa Pascual under the obligation to sell the said property for and on account of the said Aniceta del Rosario, and to return to the said Aniceta del Rosario the price and value of said property, or, in default thereof, to return the said property. All to the damage and prejudice of the said Aniceta del Rosario in the said sum of 1,250 pesetas. All contrary to law.

"NICETA DEL ROSARIO.

"Subscribed and sworn to before me this 21st day of December, 1905, by the said Aniceta del Rosario.

"MANUEL ARAULLO,

"Court of First Instance, Manila."

After hearing the evidence adduced at the trial of the three causes, the court found that the evidence adduced during the trial of cause No. 2436 showed beyond peradventure of doubt that the defendant was guilty of the crime charged in said complaint, in the manner and form as charged therein, and, extending to the defendant the benefit of article 11 of the Penal Code, sentenced her to be imprisoned for a period of three months, to return the jewelry mentioned in said complaint, or in default thereof to return its value, and in case of insolvency to suffer subsidiary imprisonment for a period of one month, and to pay the costs.

After hearing the evidence adduced in the cause 2437, the court found that the defendant was guilty of the crime charged in said complaint, in the manner and form charged therein, and, extending to the defendant the benefit of article 11 of the Penal Code, sentenced her to be imprisoned for a period of three months, to return to Paulina Gomez the jewelry in question or the value thereof, and in case of insolvency to suffer subsidiary imprisonment for a period of one month, and to pay the costs.

After hearing the evidence at the trial of cause 2438, the court found the defendant guilty of the crime charged in said complaint, in the manner and form charged therein, and, extending to the defendant the benefit of article 11 of the Penal Code, sentenced her to be imprisoned for a period of three months, to return the jewelry in question, or the value thereof, to the person entitled thereto, and in case of insolvency to suffer subsidiary imprisonment for the period of one month, and to pay the costs.

From each of these sentences the defendant appealed to this court.

An examination of the evidence produced at the trial of cause No. 2436 shows beyond possibility of doubt that the defendant was guilty of the crime charged in said complaint. The value of the jewelry appropriate[^] in the manner and form stated in said complaint was the sum of 950; therefore the punishment provided for the offense is found in paragraph 5 of article 535, in its relation with paragraph 2 of article 534 of the Penal Code. The penalty under these provisions of the code is that of arresto mayor in its medium grade to presidio correccional in its minimum grade.

The lower court gave the defendant the benefit of the mitigating circumstance of article 11 of the Penal Code. This court has repeatedly decided that, in offenses against property, article 11 should not be applied in fixing the penalty as to mitigating circumstances. There being neither mitigating nor aggravating circumstances in the commission of the crime, the defendant, in accordance with the provisions of paragraph 1 of article 81 of the Penal Code, must be punished in the medium degree of the penalty provided by law. The penalty applicable to the offense in the present case is that of four months and one day to six months of arresto mayor. It is the judgment of

this court, therefore, that the sentence of the lower court be modified and that the said defendant be sentenced to be imprisoned for a period of four months and one day of arresto mayor, with the accessory penalties provided for in article 61 of the Penal Code, to return the jewelry mentioned in said complaint or to indemnify the said offended party, Juana de Guzman, in the sum of 950, and, in case of insolvency, to suffer subsidiary imprisonment, which" shall not exceed one-third of the principal penalty, and to pay the costs.

An examination of the evidence adduced during the trial of cause No. 2437 convinces us that the defendant was guilty of the crime charged in said complaint, in the manner and form therein charged, and for the reasons given above for the modification of the sentence in said cause No. 2436, the sentence of the lower court in this cause (No.2437) is hereby modified and the defendant is hereby sentenced to be imprisoned for a period of four months and one day of arresto mayor, with the accessory penalties provided in article 61 of the Penal Code, to return the jewelry mentioned in said complaint or to indemnify the offended party, Paulina Gomez, in the sum of 450, and, in case of insolvency, to suffer subsidiary imprisonment, which shall not exceed one-third part of the principal penalty, and to pay the costs.

An examination of the evidence produced at the trial of cause No. 2438 convinces us beyond peradventure of doubt that the defendant was guilty of the crime charged in the complaint. For the reasons given above, in cause No. 2436, the sentence of the lower court in this cause (No. 2438) is hereby modified and the defendant is hereby sentenced to be imprisoned for a period of four months and one day of arresto mayor, with the accessory penalties provided in article 61 of the Penal Code, to return the jewelry mentioned in said complaint or to indemnify the offended party, Aniceta del Rosario, in the sum of P250, and, in case of insolvency, to suffer subsidiary imprisonment, which shall not exceed one-third of the principal penalty, and to pay the costs. So ordered.

Arellano, C. J., Torres, Mapa, Carson, Willard, and Tracey, 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.