

**THE PEOPLE OF THE PHILIPPINE ISLANDS, THROUGH THE
COMPLAINANT AND OFFENDED PARTY J. S. RUSTIA, PETITIONER,
VS. BUENAVENTURA OCAMPO, ACCUSED, AND C. M. VILLAREAL AND
SOTERO RODAS...**

G. R. No. 44922. March 31, 1936

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-44922/>

VILLA-REAL, J.:

This is an original petition for mandamus instituted by the petitioner J. S. Rustia against C. M. Villareal and Sotero Rodas, Judges of the Court of First Instance of Bulacan, Seventh Judicial District, praying that said respondent judges be ordered to immediately forward to this court the record of the proceedings and the evidence in criminal case No. 6717 of the Court of First Instance of Bulacan, entitled "The People of the Philippine Islands vs. Buenaventura Ocampo", by virtue of the appeal taken by said petitioner J. S. Rustia; that upon receipt thereof, the orders denying the appeal and the motions for reconsideration of October 23, and December 28, 1935, respectively, be reviewed and annulled; and that said appeal be allowed in accordance with law until the final determination thereof, with costs to the respondent Buenaventura Ocampo.

The pertinent facts necessary for the determination of the question raised in this petition are as follows:

On September 30, 1935, the herein petitioner, as offended party, filed a sworn criminal complaint for dereliction of duty (prevaricacion) against the respondent Buenaventura Ocampo, docketed as criminal case No. 6717 in the Court of First Instance of Bulacan, copy of which is made an integral part of the petition and marked Exhibit A,

On October 7, 1935, the respondent Judge C. M. Villareal, having been designated to receive the preliminary evidence in support of the petitioner's complaint, prior to the issuance of the warrant for the arrest of the accused in conformity with section 13 of General Orders, No. 58, proceeded in open court to receive said evidence, oral and documentary, and an affidavit of the clerk of this court, Vicente Albert.

On October 15, 1935, said respondent judge, as investigator, entered a resolution to the effect that "the warrant of arrest is denied and the complaint dismissed", of which the herein petitioner was notified on the 17th of said month and year, and copy of which is attached to this petition and marked Exhibit B.

On said date, October 17, 1935, the petitioner excepted to the resolution in question and filed an application for an appeal. Said respondent Judge C. M. Villareal, in his order of October 23, 1935, denied the appeal interposed by the offended-petitioner and refused to forward the record of the proceedings to this court.

For the purposes of this petition, the petitioner, on October 26, 1935, filed a motion for reconsideration of the order denying the appeal, which motion was denied by the other respondent Judge Sotero Rodas to which denial the petitioner excepted on the 30th of the said month and year.

The only question to be decided in this petition is whether or not appeal lies from the resolution of the respondent

Judge C. M. Villareal refusing to issue the warrant of arrest and dismissing the complaint filed by the petitioner against Buenaventura Ocampo.

The English text of section 13 of General Orders, No. 58 is as follows:

"SEC. 13. When a complaint or information alleging the commission of a crime is laid before a magistrate, he must examine, on oath, the informant or prosecutor and the witnesses produced, and take their depositions in writing, causing them to be subscribed by the parties making them. If the magistrate be satisfied from the investigation that the crime complained of has been committed, and that there is reasonable ground to believe that the party charged has committed it, he must issue an order for his arrest. If the offense be bailable, and the defendant offers a sufficient security, he shall be admitted to bail; otherwise he shall be committed to prison."

It will be seen that the above quoted section requires the justice of the peace, before issuing a warrant of arrest, to examine, on oath, the complainant and his witnesses, taking their depositions in writing and causing them to subscribe the same. Said section provides no appeal from an order of the justice of the peace court denying the issuance of a warrant of arrest. Appeal is provided for by section 14 of said General Orders, No. 58 in case the justice of the peace, after hearing the evidence presented at the preliminary investigation conducted by him after the arrest of the accused, should declare that the crime has not been committed and should order the release of the accused.

In the case at bar, the complaint was not filed in the justice of the peace court but in the Court of First Instance, under the provisions of section 37 of Act No. 1627, from whose decision, in preliminary investigations of crimes denounced to it, no appeal to this court is provided. The appeal provided for in said section 14 is from resolutions of justices of the peace ordering the release of an accused after conducting the corresponding preliminary investigation, but not from resolutions of Courts of First Instance ordering said release. Inasmuch as the right to appeal is not inherent in every accused, but granted by the constitution or by law, appeal does not lie from a resolution of a Court of First Instance refusing to issue a warrant of arrest and dismissing a complaint.

For the foregoing considerations, we are of the opinion and so hold that appeal does not lie from a resolution of a judge of a Court of First Instance denying the issuance of a warrant of arrest and dismissing the complaint, after having heard the statements of the complainant and his witnesses, as provided by section 13 of General Orders, No. 58.

Wherefore, the petition for mandamus is denied and the same dismissed, with costs to the petitioner. So ordered.

Avanceña, C. J., Abad Santos, Diaz, and Laurel, JJ., concur.

Recto, J.: I concur in the result.

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.