

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. SIMEON CAPULE, DEFENDANT AND APPELLANT.

G.R. No. 44954. May 31, 1938

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-44954/>

VILLA-REAL, J.:

The defendant Simeon Capule appeals to this court from the judgment of the Court of First Instance of Manila finding him guilty of a violation of section 1633 of the Revised Administrative Code, as amended by Act No. 3612, and sentencing him to pay a fine of P200 with subsidiary imprisonment in case of insolvency and the costs.

In support of his appeal, appellant assigns the following alleged errors committed by the court a quo in its decision:

"1. The lower court erred in considering the revocation of the license of the Orient Protective Assurance Ass'n. dated Nov. 24, 1934, final.

"2. The lower court erred in sentencing the accused to pay a fine of two hundred pesos (P200)."

The facts established at the trial beyond reasonable doubt are the following:

The defendant was president and manager, of a non-stock corporation which was registered on July 31, 1934 in the mercantile registry of the Bureau of Commerce under the firm name of "Orient Protective Association" (Exhibits A and C). On September 14, 1934 the association secured a license from the Acting Insular Treasurer to transact business as a mutual benefit relief society. On September 20, 1934 it filed amended articles of incorporation changing the original firm name of "Orient Protective Association" to "Orient Protective Assurance Association" (Exhibits 12 and 15). When the Acting Insular Treasurer learned of this change, he wrote a letter to the defendant, as president of the "Orient Protective Association", advising him that if within forty-eight hours after the receipt thereof, no satisfactory explanation was given for the insertion of the word "assurance" in the name of the association, by the amendment of its articles of incorporation, its license would be revoked (Exhibit 2). On October 31, 1934, the defendant replied to the Acting Insular Treasurer stating that the association was legally entitled to the use of the word "assurance" in its name (Exhibit 3). On November 5, 1934, an examination of the affairs and of the financial condition of the association was conducted by Cecilio A. de Guzman, as representative of the Acting Insular Treasurer, and his examination revealed that the association had committed eleven kinds of irregularities, one of which was the use of the word "assurance" in its name. The accused was advised of these findings by a letter, Exhibit B, dated November 20, 1934, which concludes as follows:

"In view of the foregoing findings the license (No. 281), issued to your Association on September 14, 1934, is hereby revoked, effective upon receipt of this letter, under the provisions of section 1633 of the Administrative Code. The Board of Directors and through it, the agents are required to refrain from transacting any business for the Association, otherwise they would be amenable for prosecution under section 2743 of said Code.

"You are further required to deliver to the bearer, Mr. Cecilio A. de Guzman, license No. 281 and to furnish

this Office with a balance sheet of your Association, as of the date of receipt of this letter, together with the supporting statement of receipts and disbursements. * * *

This letter of revocation was received by the accused on November 24, 1934. On the 27th of the same month, the accused wrote a letter to the Acting Insular Treasurer requesting that the order of revocation of license in the letter dated November 20, 1934, be reconsidered and that the same be duly cancelled as contrary to law and equity (Exhibit 4). In conformity with the above request for reconsideration, the Acting Insular Treasurer, on December 3, 1934, directed De Guzman to make a further investigation on the matter (Exhibit 5). After due examination conducted by De Guzman in behalf of the Acting Insular Treasurer, the latter, on December 15, 1934, wrote a letter to the accused requiring him to comply with the orders set forth therein, with the warning that if within sixty days from November 24, 1934, the date when defendant received the letter revoking the license issued to the association, said accused should fail to comply with the above requirements, the said revocation would become final. On January 23, 1935, the accused advised the Acting Insular Treasurer by letter that the association had complied with the requirements stated in the letter of December 15, 1934 (Exhibit 9), with these two exceptions: First, "We believe that according to law, we have the right to have the word 'assurance' in the name of this Association"; and second, "That the manager is not needed to have any bond as agent because he is not handling money nor issuing any receipt to the applicants secured by him, and: any money coming from anybody applying for membership is always given to the secretary-treasurer for issuance of proper receipts." (Exhibit 9.) The next day De Guzman was ordered to determine whether the association had really complied with the requirements of the Acting Insular Treasurer (Exhibit 11). On January 22, 1935, the accused, acting for the "Orient Protective Assurance Association, Inc.", filed a complaint against the Acting Insular Treasurer, Antonio Ramos, in the Court of First Instance of Manila, seeking to enjoin the latter from requiring the plaintiff to delete the word "assurance" from the name of the association and from cancelling the license duly issued to him (Exhibit 14). The court having sustained the demurrer to the complaint, the latter was then amended. The case is still pending. Notwithstanding the order of revocation above-mentioned, the accused continued to make transactions for and in the name of the association, by securing more members and accepting from them their corresponding fees (Exhibits E and F). On April 16, 1935, the Acting Insular Treasurer advised the accused that he had reported the matter of the revocation of the license to the Secretary of Finance as required by law (Exhibit C). On July 3, 1935, the accused addressed a letter to the Acting Insular Treasurer, requesting for the reconsideration of his decision in the matter. (Exhibit D.)

The principal question to be determined in this appeal is that raised in the first alleged error to the effect that the court a quo erred in considering as final the revocation of the license of the "Orient Protective Assurance Association", dated November 24, 1934.

Section 1633 of the Revised Administrative Code, as amended by Act No. 3612 of the old Philippine Legislature, with the violation of which accused and appellant stands charged, reads as follows:

"Sec. 1633. Revocation of license. Insolvency proceedings.—Whenever the Insular Treasurer shall find that the society or association has failed to comply with any of the provisions of this article or of any other law or regulation obligatory upon it, or with any recommendations made by the said official in connection with the results of the examination conducted into its business affairs, or that it has exceeded its powers or conducted business fraudulently, or that its condition is one of insolvency and its finances could not be rehabilitated within three months after it has been so found insolvent, or it otherwise appears that the society cannot, through mismanagement, inefficiency, or incompetence of its officers, or indifference of its members, or for any other cause, properly carry out the purposes for which it was organized, the Insular Treasurer shall forthwith revoke its license and forbid it to continue its operation: * * * And provided, further, That should said societies or associations whose licenses to transact business have been revoked either due to insolvency or

other causes hereinabove enumerated, fail, within sixty days after such revocation, to show cause convincing to the Insular Treasurer why said license should be renewed, the latter shall inform the Secretary of Finance of the facts, * * *."

The accused, maintains that the order revoking the license issued to the association by the Acting Insular Treasurer was not yet final, inasmuch as he (accused) had been given sixty days within which to comply with the requirements set forth in the letter embodying said order, and cites in support of his contention the provisions of section 1628-C of the Revised Administrative Code, as amended by Act No. 3612, which says:

"Sec. 1628-C. Duties of Insular Treasurer—Appeal from his decision—Promulgation of rules and regulations.— *
* * The society or association or any person who deems himself aggrieved by the decision of the Insular Treasurer may appeal therefrom to the Secretary of Finance without prejudice to any proper court action."

The accused also contends that as long as the Court of First Instance of Manila has not acted on his complaint as manager of the "Orient Protective Assurance Association", filed on January 23, 1935, in civil case No. 47667, entitled "Orient Protective Assurance Association vs. Acting Insular Treasurer Hon. Antonio Ramos," the order of revocation of November 24, 1934 is not final.

As we have seen, section 1633 of the Revised Administrative Code, as amended by Act No. 3612 of the Philippine Legislature, says that if the societies or associations whose licenses to transact business have been revoked either due to insolvency or other causes enumerated in said section, fail, within sixty days after such revocation, to show cause convincing to the Insular Treasurer why said license should be renewed, the latter should inform the Secretary of Finance of the facts. In other words, the license of the society or association whose license to transact business has been revoked either due to insolvency or other causes mentioned in said section, shall be renewed, if within sixty days after such revocation, it can show cause convincing to the Insular Treasurer why the license should be renewed. The revocation of a license to transact business of a society or association, provided in section 1633, is conditional in character, the condition being resolutory. The effectivity of the revocation does not depend upon the fulfillment of the condition, but is immediate. If the condition is fulfilled, the revocation shall be without effect and the license shall be renewed. The revocation of the license of the "Orient Protective Association" to transact the business for which it was created, took effect immediately, and the license could only be renewed if the association had given satisfactory explanations to the Insular Treasurer so that the latter might order its renewal. Since the accused and appellant did not give any satisfactory explanation within the period of sixty days fixed by law, said revocation became final. The fact that the civil case is still pending has nothing to do with the criminal violation, but only with the final cancellation of the license.

In view of the foregoing, and finding no error in the judgment appealed from, the same is hereby affirmed in all its parts, with costs against the appellants. So ordered.

Abad Santos, Imperial, Diaz, Laurel, and Concepcion, 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.