

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. TOMAS TAPEL, DEFENDANT AND APPELLANT.

G. R. No. 45391. February 17, 1937

Ponente: LAUREL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-45391/>

LAUREL, J.:

On November 10, 1936, the defendant, Tomas Tapel, was charged in the Court of First Instance of Manila with the violation of a conditional pardon committed, according to the information, as follows:

"That on or about the 18th day of September, 1936, in the City of Manila, Philippines, the said accused having been granted on September 7, 1934, by his Excellency, the Governor-General, a pardon remitting the unexecuted portion of the sentence of imprisonment of 12 years, 4. months and 1 day imposed upon him in criminal case No. 37838 of the Court of First Instance of Manila for the crime of qualified theft, which sentence he began to serve on December 5, 1929, conditioned upon the fact that he shall not again violate any of the penal laws of the Philippine Islands, which was accepted by the herein accused on September 8, 1934, as a consequence of which he was released from Bilibid Prisons on the last mentioned date, did then and there-willfully, unlawfully and feloniously violate the conditions of such pardon by then and there committing the crime of theft, for which he was received again in Bilibid Prisons to suffer 5 months' imprisonment and 5 days' subsidiary imprisonment in lieu of P14 indemnity imposed upon him by final judgment in criminal case No. 52232 of the Court of First Instance of Manila."

The accused pleaded guilty and was sentenced to serve the unexpired portion of his original sentence of imprisonment in criminal case No. 37838, and to pay the costs. The defendant has appealed to this court.

The appellant claims that the trial court erred in imposing upon him a punishment neither specified in the conditional pardon nor alleged in the information. The pardon imposed the condition that the appellant shall not again violate any of the penal laws of the Philippines, which condition was accepted by him. It was not necessary to specify in the pardon the penalty for the violation of that condition. The law has taken care of that in article 159 of the Revised Penal Code. Upon the other hand, the information charges a particular offense to which the law attaches a particular penalty. A plea of guilty justifies the imposition of the corresponding penalty.

The appellant also contends that the lower court was in error when it modified its original decision of November 23, 1936 and reduced the penalty from seven years, six months and twenty-eight days to six years, six months and two days in accordance with a letter, dated November 25, 1936, from the Bureau of Prisons. While we do not subscribe to the irregular procedure followed by the trial court in this regard, its action does not constitute a reversible error. It will be observed that, in conformity with said letter, the trial court reduced the penalty to be served by the accused by one year and twenty-six days.

The appellant further contends that, in accordance with article 159 of the Revised Penal Code, the penalty of prison correctional in its minimum period should have been imposed upon him as the time during which he was out of prison should have been deducted from the unexecuted portion of his original sentence which, in such a case, would fall short of six years. We find no merit in this contention. . When a conditional pardon is violated,

the prisoner is placed in the same state in which he was at the time the pardon was granted. He may be rearrested and recommitted to prison. (See U. S. vs. Ignacio [1916], 33 Phil, 202, 204; U. S. vs. Villalon [1917], 37 Phil., 322.) And the rule is well-settled that, in requiring the convict to undergo so much of the punishment imposed by his original sentence as he had not suffered at the time of his release, the court should not consider the time during which the convict was at large by virtue of the pardon as time served on the original sentence. (20 RC. L., p. 570; State vs. Home [1906], 52 Fla., 125; 42 So., 388; 7 L. R. A. [N. S.], 719, 725. Vide, also, Ex parte Bell [1879], 56 Miss., 282.)

The original sentence imposed upon the appellant by the Court of First Instance of Manila in criminal case No. 37838 was imprisonment of twelve years, four months and one day. The appellant served his original sentence from December 5, 1929 until he was pardoned and released on September 8, 1934, or a total period of four years, nine months and three days. Under article 97 of the Revised Penal Code, the appellant is entitled to an allowance of one year and twenty-five days for good conduct while in prison. The appellant, therefore, has garnered to his credit a total of five years, nine months and twenty-eight days of service, leaving unserved a period of six years, six months and three days, which is one day more than the penalty imposed by the trial court. The judgment of the lower court is accordingly modified, with costs against the appellant. So ordered.

Avancena, C. J., Villa-Real, Abad Santos, Imperial, Diaz, 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.