

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. SY CHAY (ALIAS SEE KUAN), DEFENDANT AND APPELLANT

G. R. No. 45670. October 30, 1937

Ponente: DIAZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-45670/>

DIAZ, J.:

The appellant was convicted of the crime of theft and consequently sentenced to suffer the penalty of three months and one day of *arresto mayor* plus that of ten years and one day of *prision mayor*, being a habitual delinquent, and to indemnify Lazaro Crufc, the owner of the stolen melons, in the sum of P5. He appealed from his sentence, believing and so contending now that the trial court committed the errors assigned by him in his brief as follows:

"I. The court erred in not considering the voluntary confession of the accused as a mitigating circumstance for the application of the penalty; and in holding instead that said mitigating circumstance cannot be set off against the four recidivisms.

"II. The court erred in applying subsection 5 of article 62 of the Penal Code, which is unconstitutional, as are also the provisions of the other two paragraphs (a) and (b) of said subsection 5 of article 62.

"III. The court erred in sentencing the accused, for the crime of theft, to three months and one day of *arresto mayor*.

"IV. The court erred in sentencing the accused, for habitual delinquency, to ten years and one day of *prision mayor*."

I. When the appellant was arraigned in the Court of First Instance, he denied all participation in the crime with which he was charged, as he had done in the municipal court when the case was tried there for the first time. It had been necessary to take evidence in the case, for said reason. However, when the case was called for hearing in the Court of First Instance, he chose to admit his guilt. This conduct of the appellant does not entitle him to the mitigating circumstance of voluntary confession because it is not in accordance with the reason stated by this court in the case of *People vs. Hermino* (p. 403, ante). In order that the confession may constitute a mitigating circumstance, it must be voluntary and must at least show repentance or moral disposition on the part of the person making it to reform and submit to the law, without in the least attempting to evade his responsibility, and it should be done at the first opportunity, that is, upon arraignment and before the presentation of any evidence by the prosecution.

II. It appears that the information contains an allegation that the appellant was four times a recidivist, having been convicted of theft on May 18, 1929; again of theft on October 21, 1929; likewise of theft on May 15, 1930, and finally also of theft on October 8, 1930. In admitting his guilt, the appellant necessarily had to admit all the circumstances under which he is alleged to have committed it, this being inferable because all such circumstances were stated in the information of which he was duly informed (*U. S. vs. Barba*, 29 Phil., 206; *U. S. vs. Santiago*, 35 Phil., 20; *U. S. vs. Burlado*, 42 Phil., 72; and *People vs. De Jesus*, 63 Phil., 760). This being so, the penalty that

should have been imposed upon him by reason of the crime of which he pleaded guilty, taking into consideration, of course, the value of the thing stolen, is the maximum period of *arresto mayor* in its minimum and medium periods, that is: from three months and one day to four months, because the aggravating circumstance of recidivism does not appear to be compensated by any mitigating circumstance. The penalty of three months and one day of *arresto mayor* imposed by the lower court is within the above-stated limit and, therefore, is in accordance with law (arts. 308, 309, case 6, and art. 64, rule 3, of the Revised Penal Code).

III. The appellant being a recidivist. for the fifth time, when ten years have not yet elapsed from the time he was convicted of his previous crime, that is, the fourth committed by him, and from the time he served the penalty that had been imposed upon him therefor, it clearly appears that he is a habitual delinquent and, therefore, deserves an additional penalty of at least ten years and one day, which is the one imposed upon him by the lower court, because, according to article 62, subsection 5, paragraph (c), of the Revised Penal Code, the penalty which should be imposed upon a habitual delinquent for being a recidivist for the fifth time or oftener within the period of time prescribed therein, is *prision mayor* in its maximum period to *reclusion temporal* in its minimum period, that is: from ten years and one day to fourteen years and eight months.

The punishment imposed, by reason of habitual delinquency is not unconstitutional because, as this court stated in the case of *People vs. Montera* (55 Phil., 933), citing with approval that of *McDonald vs. Massachusetts* ([1900], 180 U. S., 311):

"Statutes which authorize a more severe punishment to be imposed upon one convicted of a second or subsequent offense are not objectionable upon the ground that they are *ex post facto* laws. Such statutes, the United States Supreme Court has said, do not impose any additional punishment for the former crimes, but simply impose a punishment on future crimes, the penalty therefor being enhanced on account of the criminal propensities of the accused."

In the case of *People vs. Soriano* (56 Phil., 95), apropos of the question which was again raised therein to the effect that our Habitual Delinquent Act is unconstitutional, because it partakes of the nature of an *ex post facto* law, is discriminatory and permits the imposition of two penalties for the same offense, this court had occasion to reiterate once more what had already been stated by it in the cases cited therein (*People vs. Sierra*, G. R. No. 28516, April 21, 1928, not reported; *People vs. Ortezuela*, 51 Phil., 857; and *People vs. Madrano*, 53 Phil., 860), that is, that the law in question is perfectly valid because it is not in conflict with the Constitution and suffers from none of the defects attributed to it. This court deems it unnecessary to state once more the reasons then adduced by it to reach the foregoing conclusion.

It having been shown that the errors assigned by the appellant are unfounded and that the appealed judgment is in accordance with law, said judgment is hereby affirmed with the costs to the appellant. So ordered.

Avancena, C. J., Villa-Real, Laurel, and Concepcion, JJ., concur.

ABAD SANTOS, J., dissenting in part:

For the reasons stated in my dissenting opinion in *People vs. Bawasanta* (pp. 409, 413, ante), I am of the opinion that the appellant is entitled to have considered in" his-favor the mitigating circumstance of having pleaded guilty in the Court of First Instance.

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.