

CARLOS LOFIDO Y GALANG, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES AND THE COURT OF APPEALS, RESPONDENTS.*G. R. No. 45698. December 18, 1937*

Ponente: DIAZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-45698/>**DIAZ, J.:**

The petitioner has instituted this proceeding to question the validity of the judgment rendered against him by the Court of First Instance of Manila in criminal case No. 53106, which the Court of Appeals modified on appeal by increasing his principal penalty of two months and one day to four months and one day, sustaining his additional penalty of three years, six months and twenty-one days, for being a habitual delinquent. He contends that the two courts exceeded their respective jurisdictions in imposing the additional penalty upon him, on the ground that they were not authorized to do so, he not being a habitual delinquent in the legal sense.

He bases his contention exclusively on the alleged insufficiency of the allegations of the information upon which he was charged, that he is a habitual delinquent, and invokes this court's interpretation of subsection 5 of article 62 of the Revised Penal Code and of the laws from which the same provision was taken, in the cases of *People vs. Venus* (35 Off. Gaz., 927), and *People vs. Tapel* (35 Off. Gaz., 612). The allegation of the information referred to by him literally reads as follows:

"That the said accused is an habitual delinquent, he having already been convicted three (3) times of the crime of theft, by virtue of final judgments of competent courts, the date of his last conviction being February 1936, and his last release March 24, 1936, and the dates of the previous two convictions being March 3 and 5, 1934, respectively."

There is no analogy between the petitioner's case and that of the accused in the cases invoked by him because he did not plead guilty as they did, and, of course, the courts that tried the latter's respective cases could not take into consideration more facts than those alleged in the informations presented against them. This court found that the allegations of facts relative to their habitual delinquency, contained in the informations in question, were insufficient because they failed to set forth the reasons for considering said accused as recidivists and habitual delinquents, it not appearing as it did not appear therein, when they were convicted of the crimes imputed to them and when they committed such crimes. Neither did the informations in question mention when they had been released after service of sentence. There was the possibility that the crimes, of which they were convicted prior to their last crime, were committed at the same time or on the same date, and that such convictions took place also on the same date or on dates so close to each other as not to give rise to recidivism as an aggravating circumstance and as an inherent or special qualifying circumstance of habitual delinquency (*People vs. De Jesus y Javier*, 35 Off. Gaz., 205). For this reason this court held that in all charges for robbery, theft, estafa or falsification, wherein it is desired to make an averment of habitual delinquency, the fiscal must also allege in his information the dates of -the commission of the previous crimes of the accused, the dates of his convictions thereof and those of his release for service of sentence, so that when he pleads guilty and the court convicts him, finding him a habitual delinquent, and he later interposes an appeal to impugn the judgment declaring him as such, the question may be

decided by this court by taking into account the facts alleged in the information, which shall then be considered admitted by the accused by virtue of his confession or admission of guilt, and not in mere conclusions of fact.

The petitioner, in not pleading guilty as Venus and Tapel had done in their respective cases, demanded trial which was naturally granted him. At the trial, the prosecuting attorney proved that his former convictions of theft took place on March 5 and 5, 1934, and that the theft previous to the last one committed by him on September 4, 1936, took place on February 1, 1936. Considering as only one conviction the petitioner's two convictions of March 3 and 5, 1934, for each of which he was sentenced to two months and one day, or four months and two days for both, which is the most favorable thing that may be conceded to him, it clearly appears that he was already a recidivist for the second time when he committed his second crime on February 1, 1936, and that almost two years already elapsed from the time he had been convicted and released. It is likewise clear that when the last charges were preferred against him, he was already a recidivist for the third time, because from February 1, 1936, the date of the final judgment rendered against him, to September 4, 1936, the date of the commission of his last crime, more than sufficient time had already elapsed for service of the sentence imposed upon him. Consequently, the petitioner's claim that the Court of Appeals, as well as the Court of First Instance which sentenced him, exceeded its jurisdiction in declaring him a habitual delinquent for the third time, is untenable. He was a habitual delinquent at the time of his last conviction, even without taking into account the erroneous opinion and conclusion of the Court of Appeals that the confinement of the petitioner in the Philippine Training School for Boys on July 16, 1931, warrants the conclusion that he was a recidivist, he not being so by reason thereof. Such conclusion is in conflict with the unequivocal provisions of article 80 of the Revised Penal Code prohibiting the pronouncing of judgment of conviction in case of minors, except under the circumstances provided for in the next to the last paragraph thereof, which does not seem to be the case herein because the records do not so state, and it is well settled that without final judgment there can be no recidivism (art. 14, subsec. 9).

Having arrived at this conclusion, and it appearing that the penalties imposed by the Court of Appeals upon the petitioner are in accordance with law, the appealed judgment of the Court of Appeals is hereby affirmed, with the costs de oficio, in view of the fact that the petitioner is at present confined in prison and is indigent. So ordered.

Villa-Real, Abad Santos, Imperial, 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.