

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FELIPE MAGPALE, DEFENDANT AND APPELLANT.

G.R. No. 46656. June 26, 1940

Ponente: LAUREL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-46656/>

LAUREL, J.:

A criminal complaint was lodged against Felipe Magpale in the justice of the peace court of San Jose, Province of Nueva Ecija, charging him with a violation of Article 176 of the Revised Penal Code allegedly committed as follows:

"That, on or about the 25th day of March, 1938, in the municipality of San Jose, Nueva Ecija, Philippine Islands, and within the jurisdiction of this court, the above-named accused did then and there wilfully, unlawfully, feloniously, knowingly and without lawful purpose, have in his possession, custody and control one brand of the municipal government of San Jose, Nueva Ecija, to wit:, with the intent of using it for falsifying the official brand of the said municipality of San Jose, Nueva Ecija, in public documents, to wit: Certificate of Ownership of Large Cattle. All contrary to law."

The preliminary investigation conducted by the justice of the peace was marked by the presentation of evidence by the prosecution and by the waiver of the defense to present any evidence in rebuttal. Convinced, from the evidence before him, that there was reasonable ground to believe that the defendant committed the crime complained of, the justice of the peace remanded the records of the case to the Court of First Instance of Nueva Ecija for further proceedings. In the latter court, the defendant was informed against by the provincial fiscal as follows:

"That on or about the 25th day of March, 1938, in the municipality of San Jose, Province of Nueva Ecija, P. I., and within the jurisdiction of this court, the above-named defendant, Felipe Magpale, did then and there voluntarily, maliciously, illegally and criminally make an iron brand purported to be of the municipality of San Jose, Nueva Ecija, with the intention of using it knowingly in the falsification of certificates of ownership of large cattle, said manufactured brand having been found in the possession of said accused. All contrary to law."

After trial, the Court of First Instance of Nueva Ecija rendered a decision the dispositive part of which reads:

"Wherefore, the court finds the defendant Felipe Magpale guilty of a violation of article 176 of the Revised Penal Code, and hereby sentences him to an indeterminate penalty ranging from four months and one day of arresto mayor to two years, four months and one day of prision correctional, to pay a fine of P100 with subsidiary imprisonment in case of insolvency, to the accessories of the law and to pay the costs."

The case is before this court on appeal by the defendant and appellant, who makes the following assignment of errors:

"1. The lower court erred in overruling the demurrer interposed by the defendant that the said court has no jurisdiction over the case on the ground that the accused is deprived of the right to preliminary investigation on

the information charged.

"2. The lower court erred in finding the acts imputed to the defendant punishable, as coming within the purview of article 176 of the Revised Penal Code.

"3. The lower court erred in finding the accused guilty of the crime charged in the information, and in not acquitting him of the same."

In varying phraseology, but conveying the same central thought, this court has set out the purposes of a preliminary investigation as follows: "The object of a preliminary investigation, or a previous inquiry of some kind, before an accused person is placed upon trial, is to secure the innocent against hasty, malicious and oppressive prosecutions, and to protect him from an open and public accusation of crime, from the trouble, expenses and anxiety of a public trial, and also to protect the State from useless and expensive prosecutions." (U. S. vs. Grant and Kennedy, 18 Phil., 122.) "Preliminary investigations are intended to secure the right to every person charged with crime to be free from the inconvenience, expense and burden of defending himself in the course of a formal trial until the reasonable probability of his guilt has been passed upon in a more or less summary proceeding by a competent officer designated by law for that purpose; and, that they are intended further to guard the state from the burden of unnecessary expense involved in holding trials based on false, frivolous or groundless charges." (U. S. vs. Marfori, 35 Phil., 666.) "A preliminary investigation is not a trial or any part thereof and has no purpose except that of determining whether a crime has been committed and whether there is probable cause to believe the accused guilty thereof." (U. S. vs. Yu Tuico, 34 Phil., 209.) In the case at bar, it will be noted that the offense charged in the complaint and that alleged in the information are defined and penalized by the same article 176 of the Revised Penal Code, and are so related that an inquiry into one would have elicited substantially if not precisely the same facts that an inquiry into the other would have brought into light. It will further be noted, that in the notices sent out by the justice of the peace in connection with the preliminary investigation of the complaint, he did not specifically refer to only one of said offenses but to both, as he invariably spoke of a violation of article 176 of the Revised Penal Code, thus giving the appellant a chance, and putting him on his guard, to defend himself not only against the charge of illegal possession of the iron brand but also against that of making or ordering the making thereof. But the appellant has seen fit to waive his right to present any evidence at said investigation, and we cannot now entertain his last-minute defense that he should have been investigated anew for the crime alleged in the information. To grant him such a belated remedy would not be in obedience to, but in disregard of, the prime purposes for which preliminary investigations are ordained by law and sanctioned by the decisions. Granting, however, that he was entitled to a second preliminary investigation, still his right thereto was invoked after he pleaded not guilty when arraigned. In *People vs. Solon*, 47 Phil., 443, 448, it was intimated that "Whether said motion was made before or after the arraignment, is of some importance for the reason that if it was not made before the arraignment or before the plea of the defendants was entered, it would indicate that they have waived their right to a preliminary examination, and for that reason the court a quo would have been justified in denying the said motion." After his motion contesting the jurisdiction of the trial Court was denied, the appellant should have brought the appropriate proceedings to compel the trial court to grant him another preliminary investigation, this right being a substantial one. Instead, the appellant folded his arms and went forward with the trial, at which the prosecution presented witnesses who brought in testimony, without any objection on the part of the appellant, establishing the fact that the appellant was the one who ordered the making of the iron brand in question.

As to the last two assigned errors, article 176 of the Revised Penal Code provides as follows:

"Art. 176. Manufacturing and possession of instruments or implements for falsification.—The penalty of prison correccional in its medium and maximum periods and a fine not to exceed 10,000 pesos shall be imposed upon

any person who shall make or introduce into the Philippine Islands any stamps, dies, marks, or other instruments or implements intended to be used in the commission of the offenses of counterfeiting or falsification mentioned in the preceding sections of this chapter." Appellant himself admits that he ordered the questioned iron brand to be made, wherefore, he is criminally liable for the making thereof. (Article 17, Revised Penal Code.) It also appears that the said brand is an exact imitation of that owned and used by the municipality of San Jose, Nueva Ecija, to brand its own large cattle and to counterbrand large cattle belonging to its inhabitants.

The offense committed by the appellant under the aforecited article of the Revised Penal Code is penalized with prision correctional in its medium and maximum periods, and a fine not to exceed ₱10,000, imposable in its medium period (three years, six months, and twenty-one days to four years, nine months, and ten days) because unattended by any modifying circumstance. The judgment is thus modified and the defendant sentenced, under Act No. 4103, to an indeterminate penalty, the minimum of which is four months and one day of arresto mayor, and the maximum three years, six months and twenty-one days of prision correctional. As thus modified, the appealed judgment is affirmed, with costs to the defendant and appellant. So ordered.

Avanceña, C.J., Imperial, Diaz, Concepcion, and Moran, JJ., concur.

Judgment modified.

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.