

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PEDRO LETE, DEFENDANT AND APPELLANT.

G. R. No. 5919. September 16, 1910

Ponente: MORELAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-5919/>

MORELAND, J.:

The defendant in this case was convicted in the Court of First Instance of the Province of La Union of a violation of the Gambling Law. He was sentenced to six months in prison and to pay a fine of P200. From the judgment of conviction and the sentence imposed thereunder the defendant appealed to this court.

The two questions raised by the appellant on this appeal are, first, that the Court of First Instance had no jurisdiction over the defendant because there had been no preliminary investigation, and, second, that the penalty imposed was excessive.

It appears from the records that the crime for the commission of which the defendant stands convicted was committed in the municipality of San Juan, Province of La Union; that the defendant was arrested by and brought before the justice of the peace of that municipality; that, by reason of the suspension of that justice of the peace from the performance of the duties of his office, the cause was transferred to the justice of the peace of the municipality of San Fernando, an adjoining municipality; that a preliminary investigation was had before the justice of the peace of San Fernando, who found that the facts warranted the conclusion that the defendant was probably guilty of the crime charged and accordingly certified the case in form of law to the Court of First Instance of the Province of La Union.

It also appears from the record that no objection was made by the defendant to the transfer of the cause from the one justice to the other and that he made no objection whatever before the Court of First Instance as to its jurisdiction to try him or as to the failure of a preliminary investigation prior to the trial. The question of the failure of a preliminary investigation and the consequential lack of jurisdiction of the Court of First Instance was raised for the first time here. In the case of the United States vs. Aquino and others (11 Phil. Rep., 244) this court said (p. 247):

"No objection appears to have been made to this proceeding either in the court of the justice of the peace or in the trial court, nor did the accused raise any objection at the trial upon the ground now raised for the first time upon appeal, that they were not given a preliminary trial. Under these circumstances, we are of opinion that they must be taken to have waived any other preliminary investigation than that which was accorded them in the court of the justice of the peace of San Fernando, and to have waived those defects in the preliminary proceedings which are now indicated by the counsel upon appeal. It has been uniformly held, not only by this court but by the various courts of the United States, that when provision is made for the preliminary trial of accused persons by a justice of the peace, this right is one which may be waived by the accused (*People vs. Tarbox*, 115 Cal., 57; 47 Pac. Rep. (Idaho), 945; 46 Neb., 631; 83 Wis., 486; *People vs. Harris*, 103 Mich., 473; 25 Fla., 675; 45 Hun., 34; *U. S. vs. Cockrill*, 8 Phil. Rep., 742; *U. S. vs. Asebuque*, 9 Phil. Rep., 241) ; and this court has frequently held that where the accused fails to object to proceedings upon the ground that he

has had no preliminary investigation, he must be taken to have waived his right thereto, and can not raise an objection upon this ground for the first time upon appeal. (U. S. vs. Asebuque, 9 Phil. Rep., 241; 54 Kan., 206; 44 Neb., 417.)"

The same proposition was laid down in the case of the United States vs. Asebuque (9 Phil. Rep., 241).

These considerations dispose of the first assignment of error.

As to the second assignment of error, namely, that the penalty imposed was excessive, the court below, in his opinion sentencing the defendant, said:

"The evidence further shows that all the witnesses who testified against the accused were, with one exception, young men. One of them was 20 years of age, one 17 years of age, and one 23 years of age. The evidence shows that these young men were not playing, but they were allowed to be present at the game and have the temptation set before them and they would be apt to play whenever they had money enough to enter the game. The court considers that any man who conducts a gambling house and admits the youth of the country into it for the purpose of seducing them from the path of virtue and teaching them the vice of gambling deserves a severe punishment."

We can not say, upon the whole case, that the punishment is excessive, particularly in view of the finding of the court above quoted.

The judgment of the court below is, therefore, affirmed, with costs against the appellant.

Arellano, C. J., Torres, Johnson, and Trent, 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.