

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE HON. JESUS ARLEGUI, JUDGE – COURT OF FIRST INSTANCE OF BATANGAS, BRANCH VII, AND WILLIAM ESPAÑOLA, RESPONDENTS.

G.R. No. 62117. April 02, 1984

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-62117/>

GUTIERREZ, JR., J.:

This is a petition for review on certiorari of the order of the Court of First Instance of Batangas, Branch VII, dismissing on a motion to quash Criminal Case No. 2170 entitled "People of the Philippines v. William Espanola" on the ground that from the language used in the information in relation to the Presidential Decrees punishing the alleged offense, it is not clear that an offense was committed and that the supposed penal statutes "are not prohibitive but rather permissive and preceptive statutes."

Respondent Española was charged in an information which reads:

"The undersigned Third Assistant Provincial Fiscal accuses William Espanola of the violation of Presidential Decree No. 381 in relation to Section 4-B of Presidential Decree No. 189, as amended, committed as follows:

"That during the month of May 1979 and continuously up to the present, at Sitio Putat, Barangay Papaya, Municipality of Nasugbu, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused did then and there, wilfully, unlawfully and feloniously and without authority of law, establish, construct, manage and operate development projects for tourism purposes on a land under the administration and supervision of the Philippine Tourism Authority, a government corporate body charged with the planning and development of tourism projects, and situated in Putat, Nasugbu, Batangas, containing an area of 30,000 square meters, more or less, otherwise known as the Peco de Loro Beach Resort, without the prior approval of the said Authority."

Respondent Española moved to quash the information on the following grounds:

"The accusation against the accused is not a penal offense, but, more of administrative in nature, because Sec. 4 of P.D. No. 381 as well as P.D. No. 189, Sec. 4-B do not impose Criminal liability against the offender. The accused did not commit any offense in the development of the beach resort because his application, granting that the area is within the jurisdiction of the Philippine Tourism Authority, was duly given due course by the said body as stated in Annex 'A'. Instead of charging the accused, he ought to be commended for assisting the government in the promotion of tourism. In fact, the beach resort has become so famous that foreigners have been continuously and regularly patronizing the place.

"The land covered by the beach resort was also given due course by the Bureau of Lands and covered by a Foreshore Lease Application as clearly reflected in Annexes 'B' and 'C'."

The grounds in the Fiscal's opposition to the motion to quash are:

"1. That the accused has overlooked the fact that Presidential Decree No. 381 which was made principally as the basis of the charge against the herein accused provides under Section 1 thereof 'that no development project

for tourism purposes shall be undertaken by any person without prior approval of the Philippine Tourism Authority, in accordance with the provisions and guidelines prescribed by the Department of Tourism.' As a corollary thereto, Section 4 provides 'that any person violating or causing another to violate any provision of this decree or the rules and regulations promulgated by the Philippine Tourism Authority pursuant to the next preceding section will suffer the penalties provided for under Section 4-B of P.D. No. 189, as amended. Presidential Decree No. 259 which took effect on August 1, 1973 which among others provides the penalties for the violation of any provision of the said decree or of the rules and regulations or circulars of the Department of Tourism is now known as Section 4-B of PD No. 189. Section 4-b has been misquoted because Section 4 of PD No. 189 was the one quoted by the accused. Section 4-b as we have stated is an amendment to Section 4 of PD No. 189 which section is now included under PD 259 as an amendatory act to PD No. 189.

xxx xxx xxx

"2. That it is not true that the Philippine Tourism Authority gave due course to the application of the accused for the undertaking of a particular development project at Sitio Putat, Barangay Papaya, Nasugbu, Batangas, for tourism purposes because the letter itself dated February 14, 1979 does not indicate approval of the authority of his application in the sense that the implications of the phrase 'we may give due course to your proposal' do not altogether give a guarantee and assurance to the accused that his application will be approved. x x x"

Complainant Philippine Tourism Authority likewise interposed an opposition to the motion to quash and argued:

"The charge against the accused is an offense punishable by Special Law, P.D. 381, the penalty of which is provided in Section 4-B of P.D. 189, as amended by P.D. 259. It should be noted that P.D. 189 has been amended by P.D. 259 in which Section 4-B was specifically incorporated providing for the penalty of any violation of P.D. 381. The citation of the accused of Sec. 4-b (not capitalized) of P.D. 189, as supposed to be providing the penalty as mentioned by P.D. 381 is an error because P.D. 381 mentions Sec. 4-B (capitalized letter) of P.D. 189 as amended particularly by P.D. No. 259. x x x

"The allegation of the accused that he did not commit the offense because his application for beach resort was duly given due course by the Authority, is a matter of defense which, at this stage, is misleading and definitely not a ground for a Motion to Quash. x x x"

The respondent court, in a twelve-page order resolved to dismiss the case. The prosecution, through the Provincial Fiscal and the Philippine Tourism Authority, raised the matter to this Court in this petition and made the following assignments of errors:

(i)

Respondent Lower Court erred in resorting to interpretation and construction of the information and the law subject of violation despite the unambiguous provisions thereof.

(ii)

Respondent Lower Court erred in declaring P.D. 381 as a permissive statute despite the mandatory nature of the provisions and the penalty provided for violation thereof.

(iii)

Respondent Lower Court erred in dismissing Criminal Case No. 2170.

Asked to comment on the case at bar, the Solicitor General stated that the respondent judge did not properly apply the correct provisions of the law allegedly violated by the private respondent and agreed with the prosecution that P.D. No. 381 is not a permissive statute and violation of its provisions constitutes a criminal offense.

The pertinent provisions of P.D. No. 381 (Requiring the Approval of the Philippine Tourism Authority on Certain Development Projects and Loans Applied for to Finance their Construction, etc.) are -

Section 1. Any provision of existing laws, decrees, or rules to the contrary notwithstanding, no development project for tourism purposes shall be undertaken by any person without the prior approval of the Philippine Tourism Authority, in accordance with the policies and guidelines prescribed by the Department of Tourism.

xxx xxx xxx

Section 4. Any person violating or causing another to violate any provision of this decree or of the rules and regulations promulgated by the Philippine Tourism Authority pursuant to the next preceding section shall suffer the penalties provided under Section 4-B of Presidential Decree No. 189, as amended. (Italics supplied).

Section 4-b (not capitalized) of P.D. No. 189 (Amending Part IX Of The Integrated Reorganization Plan by Renaming the Department of Trade and Tourism as the Department of Trade, and Creating the Department of Tourism with a Philippine Tourism Authority attached to it in lieu of Philippine Tourism Commission) provides:

Section 4. Functions. - The Department shall be responsible for the following functions:

xxx xxx xxx

b. Effect the removal of unnecessary barriers to travel; the integration and simplification of travel regulations; as well as their efficient, fair and courteous enforcement to assure expeditious and hospitable reception of all visitors;

xxx xxx xxx

P.D. No. 189 was later amended by P.D. No. 259 (Amending Certain Provisions of Presidential Decree No. 189 dated May 11, 1973). Section 2 of the latter decree provides that:

SECTION 2. To provide penalties for the violation of any provision of the said Decree or of the rules and regulations or circulars of the Department of Tourism, a new section to be known as Section 4-B is hereby added, which shall read as follows: (Italics supplied)

SEC. 4-B. Any person violating or causing another to violate any provision of this Decree, or of the rules and regulations or circulars promulgated by the Department of Tourism pursuant to its power and authority to license, classify, regulate and/or supervise the operation of all persons, businesses, establishments, facilities and services that cater to, or have anything to do with travelers and tourists, both international and domestic shall, upon conviction by a court of competent jurisdiction, suffer the penalty of imprisonment of not less than two (2) years nor more than five (5) years or a fine of not less than two thousand pesos nor more than five thousand pesos, or both, at the discretion of the Court. In addition thereto, such violation shall ipso facto, constitute a valid ground for the revocation of all privileges, permits and authorization granted to such person or entity under this Decree by the Department of Tourism. Provided, however, That if the offender is a corporation, firm, partnership or association, the penalty shall be imposed upon the guilty officer or officers, as the case may be, of the corporation, firm or association, and if such guilty officer or officers is an alien, in addition to the penalties herein prescribed, he or they shall be deported without further proceedings on the part of the Commission on Immigration and Deportation."

We purposely emphasize that there are two sections numbered almost identically, one with a capitalized "B" and the other with a non-capitalized "b", ("Section 4-B" and "Section 4-b") since these sections caused the confusion encountered by the respondent court and the misreading and misapplication of the law. The two sections must be distinguished from each other. Under "Section 4-b" of P.D. No. 189, the Department of Tourism was empowered to "effect the removal of unnecessary barriers to travel; the integration and simplification of travel regulations; as well as their efficient, fair, and courteous enforcement to assure expeditious and hospitable reception of all

visitors.” It does not provide for any penalty, much more impose any criminal liability. To that extent respondent Española was correct when he said that the provision was not a penal offense but that it was more administrative in nature. The respondent court citing Section 4-b (not capitalized) of P.D. No. 189, arrived at the same conclusion.

However, P.D. No. 189 has been amended by P.D. No. 259 and a new provision, Section 4-B, added. Moreover, the information clearly and expressly accuses respondent Española for the violation of P.D. No. 381 in relation to Section 4-B of P.D. No. 189, as amended, not Section 4-b of P.D. No. 189 before it was amended. This means that “Upon conviction of a court of competent jurisdiction” the “penalty of imprisonment of not less than two (2) years nor more than five (5) years or a fine of not less than two thousand pesos nor more than five thousand pesos, or both, at the discretion of the court” shall be imposed.

In dismissing the case, the respondent court relied on rules of statutory construction and held that:

“It is basic that if the writing is plain, certain and free from ambiguity, a bare reading suffices and interpretation is unnecessary or stated conversely, if the writing is ambiguous, or its meaning uncertain, interpretation is required in order to ascertain what the writer meant. But interpretation may be required and justified by various factors. Besides the doubt created by doubtful meaning of words used do not express the Prosecutor's Information intent perfectly, in which case interpretation is needed. Such is the case at bar, the Court honestly believe that the language used exceeds or falls short of expressing the meaning intended.”

An examination of the information shows on its face that it does not suffer from any material or substantial defect or any so-called ambiguity or double meaning as to warrant the dismissal of the case. Contrary to the respondents' claim, the information appears sufficiently explicit. It does not suffer from the obscurity, unintelligibility, or vagueness alleged by the respondents. Respondent Española created ambiguity where there was none. Resort to statutory construction or interpretation was, therefore, unnecessary.

Assuming the information to have been vague and ambiguous, alternative courses of action could have been taken. Respondent Española could have filed a motion for a bill of particulars if he did not feel like researching into a Presidential Decree with a Section 4-b and a Section 4-B. A bill of particulars while provided for under Section 6 of Rule 116 is not a popular procedure among lawyers for the accused in criminal cases. For one thing, it may invite an amended information which is not only clearer but may also be stronger and more incriminating. However, it would have clarified and corrected at an early stage the kind of doubt which the accused in this particular case alleged to have entertained. Section 6 of Rule 116 provides:

SEC. 6. Bill of Particulars. - Defendant may, at the time of or before arraignment, move for or demand a more definite statement or a bill of particulars of any matter which is not averred with sufficient definiteness or particularity to enable him properly to plead or prepare for trial. The motion shall point out the defects complained of and the details desired.

The more appropriate procedure under the circumstances would have been an order from the court directing the Fiscal to amend the information because the defect, if there ever was one, was curable by the simplest of amendments or clarifications. There was no basis to grant the motion to quash and dismiss the case.

This Court stated in *People v. Plaza* (117 Phil. 627), where we found that the real defect of the information was not that the facts alleged therein did not constitute a punishable offense but that its allegations were vague, that:

“But even assuming that the lower court was right in holding that the facts alleged in the information do not constitute a punishable offense, as far as defendant Plaza was concerned, the case should not have been dismissed with respect to him. Instead, pursuant to the provisions of Section 7, Rule 113 of the Rules of Court, the lower court should have given the prosecution an opportunity to amend the information. That under the

provisions of said rule the trial court may order the filing of another information or simply the amendment of the one already filed is clearly in accordance with the settled rule in this jurisdiction (U.S. v. Muyo, 2 Phil. 177; People v. Tan, 48 Phil. 877, 880)."

But the ruling of this Court was not followed. Instead, after respondent Española filed a motion to quash to which the Fiscal together with the complainant Philippine Tourism Authority interposed an opposition, the same was granted. To make matters worse, the case had to be brought to this Court on certiorari. The filing of this petition and the resultant unnecessary addition to the heavy docket of this Court could have been avoided by the simple expedient of ordering the filing of an amended information.

Respondent Española contends that the phrase "as amended" found in the information cannot be the subject of guessing by the accused. He argues that -

"x x x the purpose of the designation of the offense 'is to secure a clear specification of the offense charged. And, inasmuch as in criminal cases, not only the liberty but even the life of the defendants may be at stake, it is always wise and proper that they should be fully apprised of the charges against them, and thus avoid any and all possible surprise, which might be detrimental to their rights and interests.' (People v. Abad Santos, 76 Phil. 744) It would be unwise to change the battleground in criminal cases from issues to guesses and from facts to fancy."

The respondent was not caught in a speculative guessing game. He knew very well or should have known what law amended P.D. No. 189. And even if the respondent was sincerely confused at the start, he was properly apprised of the present status and applicable provision of the decree when the Fiscal and the complainant Philippine Tourism Authority filed their separate oppositions to the motion to quash. The respondent court quoted P.D. No. 259, the amendatory decree in its order. The correct action to take on the motion to quash was obvious.

We have held that an error which specifies the wrong provision of applicable law does not necessarily vitiate the information (People v. Arnault, 92 Phil. 252). A fortiori should an imagined ambiguity not vitiate the information. For it is a well-settled rule that the real nature of the crime charged in an information or complaint is determined not by the title of the complaint, nor by the specification of the provision of law alleged to have been violated, but by the facts alleged in the complaint or information (People v. Oliveria, 67 Phil. 427).

What is important is not the designation of the offense charged in the caption of the information but the facts alleged therein (People V. Agito, 103 Phil. 526). The designation by name of the crime in the caption of the information constitutes a conclusion of law on the part of the fiscal. It is not necessarily essential, for the protection of the substantial rights of the accused or for the effective preparation of his defense, that he be informed of the technical name of the crime of which he stands charged (People v. Cosare, 95 Phil. 656).

The respondent court further erred in holding that P.D. No. 381 in relation to Section 4-B of P.D. No. 189, as amended is not prohibitive but rather is a permissive and preceptive provision of law. A perusal of the decrees involved shows the contrary. Section 1 of P.D. No. 381 is worded in the negative, i.e., ". . . no development project for tourism purposes. . . ". Moreover, it uses the word "shall" instead of "may" evincing the mandatory nature of the provision itself. In addition, it contains a "no-exemption clause", i.e., "any provision of existing laws, decrees or rules to the contrary notwithstanding..." Most important, the decree carries a penalty of imprisonment or fine or both for a violation of its provisions. It would be incongruous for permissive provision of law to be sanctioned by stiff criminal penalties. When all these are combined, the effect is to clearly express the prohibitive intent of the law.

Respondent Española adamantly insists that he has not violated P.D. No. 381 since the Philippine Tourism Authority gave due course to his application. This is a matter of defense on the part of the accused and should be

properly ventilated during the full-dressed trial on the merits of the case below.

WHEREFORE, the petition is given due course. The questioned order of the respondent court is REVERSED and SET ASIDE. The appropriate Regional Trial Court is directed to proceed with the arraignment of the private respondent and, thereafter, to proceed with the trial of the case. No costs.

SO ORDERED.

Melencio-Herrera, (Acting Chairman), Plana, Relova, and De la Fuente, JJ., concur.

Teehankee, J., on official leave.

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.