

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MARIA ASUNCION, DEFENDANT AND APPELLANT.

G.R. No. 7124. March 25, 1912

Ponente: CARSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-7124/>

CARSON, J.:

This case has come up on appeal from a judgment rendered in the Court of First Instance of the city of Manila, in a prosecution for adultery, in which the trial court found the defendant guilty and sentenced her to four years nine months and eleven days of prisidn correctional, and to pay the costs of the prosecution. The complaint is as follows:

"The undersigned, husband of Maria Asuncion, accuses the said Maria Asuncion of the crime of adultery, committed as follows:

"That on or about or between October 23,1910, and October 27, 1910, in the city of Manila, Philippine Islands, the said Maria Asuncion, being the lawful wife of the complainant, Carlos de Lalinde, did willfully, illegally, and criminally, lie with a man who is not her husband, to wit, with one R. L, Larson, who lay with her not knowing that she was a married woman. In violation of law."

To this complaint counsel for the defendant filed a demurrer on the ground that it was fatally defective under the provisions of article 434 of the Penal Code, in that it did not include the wife's paramour as a party defendant together with the wife.

The trial court overruled the demurrer and but two witnesses were called, the husband of the accused and a policeman. The defense offered no evidence and declined to cross-examine the witnesses for the prosecution, there having been an agreement of counsel whereby only such evidence was offered by the prosecution as was necessary to prove the essential facts charged in the complaint, it being understood that the real question sought to be raised by the defense was the one of law presented by the demurrer.

In the case of U. S. vs. Bacas (14 Phil. Rep., 308), we held that Act No. 1773 does not repeal the provisions of article 434. That article is as follows:

"No penalty shall be imposed for the crime of adultery, except upon a complaint filed by the injured husband.

"The husband can not institute a prosecution without including therein both the guilty parties, if they are both alive, nor in any case, if he shall have consented to the adultery or pardoned either of the adulterers."

The contention of the prosecution is that while article 434 has not been repealed and is still in force with the modification that the crime of adultery has been made a public crime instead of a private one, and can no longer be pardoned or condoned by the offended party as provided in article 434 of the code; nevertheless the provisions of article 434 are not applicable to a case where the paramour did not know the woman to be married. It is contended that since the paramour is not guilty of the crime of adultery under the provisions of article 433 unless it is shown that he knew the woman to be married, it could not have been the intention of the lawmaker to require

the injured husband to file a complaint against the paramour in a case where the paramour did not know of the existence of the marriage, and was not therefore guilty of the crime of adultery.

Reading all these articles and their amendments together, however, we conclude that the intention of the lawmaker was to deny to the husband the right to prefer a complaint against either the wife or her paramour without including the other therein. To hold otherwise would be to give to the husband the right or at any rate the power in all cases to condone the offense of the paramour and at the same time to secure the conviction of his wife; for to secure this end it would only be necessary for the husband to omit from his complaint an allegation that the paramour knew of the existence of his marriage with the woman, or, as in the case at bar, to insert an allegation that the paramour did not know of the existence of the marriage, in order to relieve him from liability of conviction and punishment. It is not for the husband to determine the question of the guilt or innocence of the paramour of the crime of adultery; that question must be left to the court. It may be that the complaint having been duly filed, and the control of the proceedings having thereby been placed in the hands of the prosecuting officer, he might move for a dismissal of the complaint as to the paramour if he were satisfied that he could not establish guilty knowledge on his part. But however this may be, we think that the language of article 434 of the code clearly contemplates the inclusion by the husband of both the wife and her paramour, if they are both alive, in the complaint upon which he institutes a prosecution for the crime of adultery.

The jurisdiction of the court below to hear and determine; a charge of this nature being dependent upon the filing of a complaint by the husband, and the husband being expressly prohibited from the filing of such a complaint against one of the parties without including therein the other, we are of opinion that the demurrer filed in the court below should have been sustained.

The judgment of conviction and sentence imposed by the trial court are reversed, with the costs of both instances de oficio. The appellant will be set at liberty forthwith and the complaint dismissed.

Arellano, C. J., Torres, Mapa, 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.