

ELIAS ORO, PLAINTIFF AND APPELLANT, VS. LEOCADIO PAJARILLO, DEFENDANT AND APPELLEE.

G.R. No. 7705. November 21, 1912

Ponente: ARELLANO, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-7705/>

ARELLANO, C.J.:

A question has been presented in the Court of First Instance of Capiz regarding the admissibility of a civil action arising ex delicto, without dependence upon the judgment of conviction rendered in the original case for the crime committed.

Leocadio Pajarillo and twelve other persons were charged with the crime robbery in a gang for having seized personal property amounting to several thousand pesos belonging to Elias Oro. Case No. 970 was begun in said court on a criminal complaint and prosecuted against Onofre Odruña and eight other defendants; but Leocadio Pajarillo and three more of the were excluded from the complaint, because they were already serving sentences of life imprisonment in Bilibid Prison for another crime, to wit, murder.

On December 16, 1910, Elias Oro exercised his right of civil action arising that crime of robbery in a gang in order to secure restitution of the property stolen or reparation and indemnity for damages.

But counsel for Leocadio Pajarillo by a motion presented on December 28, 1910, asked for the suspension of this civil complaint, especially as " In connection with Leocadio Pajarillo no order of dismissal has been issued said case No. 970 for robbery in a gang" and the success of the civil action arising from the crime of robbery in a gang, therein tried, must depend upon the outcome of this case No. 970. (B. of E., 7 & 8.)

By order of January 17, 1911, the court passed upon the motion in conform with the petition made therein, ordering, in accordance with articles 11 of the Spanish Law of Criminal Procedure of 1882, applicable in the pres case, the suspension of the civil complaint until final judgment should rendered in criminal case No. 970, for robbery in a gang, with respect the defendant Leocadio Pajarillo. (B. of E., 14 & 15.)

But on May 13, 1911, the court ordered the dismissal of case No. 970, for robbery in a gang, with respect to Leocadio Pajarillo and his three accomplices (who were serving life sentences) and declared canceled the bonds filed for said accused and the costs de oficio. (B. of E., 19)

On July 26, 1911, the plaintiff Elias Oro presented a motion requesting revocation of the order of January 17, 1911, wherein suspension of the complaint was ordered; by this motion raising the present question.

The court refused the revocation asked and overruled the motion by its decree of August 7, 1911, to which the plaintiff Elias Oro objected and appealed to this court by means of a bill of exceptions.

The reason for denying revocation of the order of January 17, 1911 that for not raising the suspension of the pending civil complaint is that order of dismissal on May 13, 1911, with respect to Leocadio Pajarillo accomplices, is not a final judgment and therefore prevents the present against them of a new complaint for the

same crime, for said dismissal h to be ordered before any trial, before any answer to the complaint drawn up against these defendants, just as if it might be said that if at any Leocadio Pajarillo and his accomplices in murder should be free from life sentences, not having been placed in real jeopardy in case No. 9 they could still be tried for the crime of robbery in a gang, from which pending civil action arose, and it therefore follows that this would rem suspended, subject to such contingency, that is, the possibility that th action for such robbery in a gang might be prosecuted at some more or less remote time, and until then, until this possibility should have disappeared, the civil action must remain in suspense, dependent, not u criminal case pending final judgment, but upon a criminal complaint merely possible at some indefinite time.

Later, on February 14, 1912, this Supreme Court rendered a judgment execution in the oft-cited case No. 970, against Onofre Odruña [1] and accomplices for robbery in a gang, dismissing the complaint presented, the costs de oficio, and ordering the defendants set free immediately. Thus was this case of robbery in a gang, perpetrated against Elias Or finally terminated. Dismissal was due to the application to the defend of the Amnesty Proclamation of the President of the United States of Jul 4, 1902.

If Leocadio Pajarillo and his three accomplices had remained subject to case No. 970, they would, like Onofre Odruña and his associates, have h the amnesty applied to them, and they must necessarily be regarded a priori in any possibility of a new complaint as included in the Proclamation of the President of the United States.

The trial court's order of May 13, 1911, wherein said case No. 970 w dismissed with respect to Leocadio Pajarillo and his accomplices, is fi and in force.

The decree of the same court of August 7, 1911, which is appealed from, must be revoked.

In accordance with article 130 of the Penal Code, criminal responsibility extinguished: "1: * * * 3. By amnesty, which completely extinguish the penalty and all its effects." And in accordance with the said Law of Criminal Procedure, article 116 whereof has been cited, extinction of penal action does not carry with it extinction of the civil, unless the proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist. In the other cases, the person entitled to the civil action may exercise it in the jurisdiction and in the proper against the person who may be liable for restitution of the thing and reparation or indemnity for the damages suffered.

The decree appealed from, of August 7, 1911, is hereby revoked, with th costs de oficio.

Torres, Mapa, Johnson, Carson, and Trent, JJ., concur.

[1] U. S. vs. Odruña (21 Phil. Rep., 452).

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.