

## CRIMINAL LAW

*Circumstances which Affect Criminal Liability; Aggravating Circumstances—Evident Premeditation.*

FACTS: Defendants were all prosecuted and convicted for the crime of murder. Prosecution contended and trial court found that the killing was done with evident premeditation.

HELD: We agree with the Solicitor General that there is no proof of premeditation. On the contrary, the evidence shows that from the school grounds Emiliano and Hilarion hurried to the house of Pio: the interval was so short that there was no time or sufficient period for meditation and reflection. The appellants did not have an opportunity to cool up and serenely think and deliberate on the meaning and consequences of what they planned to do, an interval long enough for their conscience and better judgment to overcome their evil desire and scheme. One may even say that the killing of Pio in his house was a continuation of the trouble and fight in the school grounds, the shed made at Vicente's house being to consolidate their forces by enlisting the aid of Vicente and to plan the details of the attack. (PEOPLE OF THE PHILIPPINES vs. VICENTE MENDOZA, G. R. Nos. L-4146 and 4147, March 28, 1952.)

## PENALTIES

*Application of Penalties; Application of Indivisible Penalties; Importance of a Mitigating Circumstances in Crimes Punishable by One or Two Indivisible Penalties. Article 63, R.P.C.*

Where a crime, like parricide, is penalized with two indivisible penalties, reclusion perpetua to death, the lesser penalty should be imposed even when there is no mitigating circumstance. However, the presence of a mitigating circumstance may be relevant and important in case of the exercise of executive clemency in the course of accused's service of his prison sentence. (THE PEOPLE OF THE

PHILIPPINES vs. PAULINO BELARMINO, G. R. No. L-4429, April 18, 1952.)

*Penalty to be imposed upon a person under fifteen but over nine years of age who acted with discernment. Art. 68, Subsection 1.*

FACTS: Defendant was charged before the Court of First Instance of Quezon Province with the crime of treason on four (4) counts, as found guilty and sentenced to suffer life imprisonment.

HELD: The accused was more than nine (9) but less than fifteen (15) years of age at the time that he committed the crime charged, the court found that he acted with discernment, further noting that accused appeared as the leader of the raiding party.

Although his minority does not exempt him from criminal responsibility because he acted with discernment, it is considered as special mitigating circumstance lowering the penalty by two (2) degrees. (THE PEOPLE OF THE PHILIPPINES vs. BIENVENIDO CAPISIANO, G. R. No. L-4549, October 22, 1952.)

*Indeterminate Sentence Law. The law applies only when penalty actually imposed exceeds one year.*

FACTS: Defendant pleaded guilty to an information charging him with theft of electric current. The court sentenced him to suffer six (6) months and one (1) day of prison correccional. The accused appeals, stating among other assignments of error, that the lower court erred in not giving to the accused the benefits of the Indeterminate Sentence Law.

HELD: It is clear that the accused is not entitled to the benefits of the Indeterminate Sentence Law, for the reason that the penalty imposed does not exceed one (1) year (Sec. 2, Act No. 4103). The application of the Indeterminate Law is based upon the penalty actually imposed in accordance with law and not upon that which may be imposed in the discretion of the court. (THE PEOPLE OF THE PHILIPPINES vs. PLARIDEL DIMALANTA, G. R. No. L-5196, Nov. 1952.)

## EXTINCTION OF CRIMINAL LIABILITY

*Prescription of penalties; Evasion of Sentence an essential ele-*

ment of prescription; when it commences to run; Art. 93.

FACTS: (See page 366.)

HELD: Petitioner claims that the remitted penalty for which he had been recommitted to jail—1 year and 11 days—had prescribed, ten years having elapsed since his conditional pardon.

It is evident from Art. 93 of the Revised Penal Code that evasion of the sentence is an essential element of prescription. There has been no such evasion in this case. Even if there had been one and prescription were to be applied, its basis would have to be the evasion of the *unserved* sentence, and computation could not have started earlier than the date of the order for the prisoner's rearrest.<sup>1</sup> (ANTONIO INFANTE *vs.* THE PROVINCIAL WARDEN OF NEGROS OCCIDENTAL, G. R. No. L-4164, December 12, 1952.)

#### CIVIL LIABILITY

*Rules Regarding Civil Liability in Certain Cases. Article 101, R. P. C.*

HELD: The exemption from criminal liability established in subdivisions 1, 2, 3, 5 and 6 of Art. 12 and in Subdivision 4 of Art. 11 of the Revised Penal Code, does not include exemption from civil liability, which shall be enforced subject to the following rules:

2nd. In cases falling within subdivision 4 of Art. 11, the persons for whose benefit the harm has been prevented shall be civilly liable in proportion to the benefit which they may have received. (Art. 101, Revised Penal Code.)

Defendant R.T. Co., was one of those for whose benefit a greater harm has been prevented. The acquittal of the two employees cannot be a bar to the civil liability of the defendant Co. because its civil liability is completely divorced from the criminal liability of the accused. *The rule regarding reservation of right to file a separate civil action does not apply to it.* (ANITA TAN *vs.* STANDARD

<sup>1</sup> In one case (*People vs. Puntillas*, G. R. No. 45269, June 15, 1938) the Supreme Court held that acceptance of a conditional pardon interrupts the running of the prescriptive period.

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VACUUM OIL Co., JULITO STO. DOMINGO, IGMIDIO RICO and RURAL TRANSIT Co., G. R. No. L-4160, July 29, 1952.)

*Subsidiary Liability. When civil action based on a criminal act is brought under the provisions of the Revised Penal Code. Articles 102 and 103.*

FACTS: Defendants were sued for the recovery of damages arising from the negligent acts of Francisco Aduna. Defendants contending that the action was brought under the provisions of the New Civil Code, relied on the defense of having exercised all the diligence of a good father of a family to prevent the damages. Court, however, maintained that the provisions of the Rev. Penal Code which provide for the subsidiary liability of the employer for felonies committed by his servants or employees in the discharge of their duties, should be applied.

HELD: In the present case, however, the plaintiffs have chosen to rely upon the provisions of the Penal Code and have based their action on the result of the criminal case against Francisco Aduna. In fact, no evidence to show the negligence of Aduna was submitted except his conviction in the criminal case. Hence, defendant company is subsidiarily liable. (CONNEL BROS. CO. *ET ALS.* *vs.* FRANCISCO ADUNA *ET AL.*, G. R. No. L-4057, March 31, 1952.)

*What Civil Liability Includes. Indemnification includes moral damages.*

Where the offended party suffered the loss of one school year, sleepless nights due to physical pains and mental anguish, and normal expectations of life—because of a fractured leg—she is entitled to moral damages, to the amount of P2,500. (MIGUEL SAN SE *vs.* DEL MUNDO *ET AL.*, G. R. No. L-4450, April 28, 1952.)

#### CRIMES AND PENALTIES

*Criminal Law: Treason; helping Guerillas not exempting or mitigating.*

FACTS: Accused was prosecuted and convicted for the crime of treason. No motive has been pointed by the defense as to why numerous witnesses for the prosecution should have testified

falsely against the defendant in so serious a matter. Defendant also presented witnesses to prove that he had helped some guerillas.

**HELD:** It is beyond belief that all these witnesses conspired to secure the conviction of the accused of a very serious crime, the commission of which was more or less public. Regarding the claim of helping some guerillas, these acts, assuming them to be true, do not constitute either an exempting or mitigating circumstance. (PEOPLE OF THE PHILIPPINES *vs.* JOSE CATALUÑA, G. R. No. L-4071, March 12, 1952.)

*Estafa. When a refusal to return money does not constitute Estafa; Revised Penal Code, Art. 315, P. 2.*

**FACTS:** Defendant received from offended party Lino Casabar the sum of ₱1,500 as part payment of the purchase price and obligated himself to deliver to said offended party one complete rice mill. Defendant failed to deliver said mill and refused to return the money despite repeated demands by the offended party. Hence this criminal action.

**HELD:** Where the accused as Manager and cashier of a corporation received a sum of money from another by virtue of a contract whereby such Manager bound himself to deliver a rice mill but failed to do so, the sum so received being considered a part payment and not a deposit, the accused cannot be convicted of estafa. The remedy in such case is a civil action for rescission or specific performance with damages in either case and not a criminal action for estafa. And where the company of which he is a manager and cashier does not complain, the presumption is that the Co. was not prejudiced and that the accused is not guilty of malversation of such sum. (EL PUEBLO DE FILIPINAS *vs.* MA SU, G. R. No. L-3872, January 24, 1952.)

*Offense not obliterated by the acceptance by the offended party of a promissory note from the accused.*

**FACTS:** Complainant A gave several sums of money to accused upon the promise of the latter that he would use the money for the purchase of jeeps. Despite repeated demands by A, no jeep was delivered, nor even purchased. Pressed by A, accused finally executed a note which he handed to A promising to return the money on a certain day, but failed on that day and subsequent days. Hence this prosecution for estafa.

**HELD:** Accused was guilty of estafa. The offense is not obliterated by the fact that the offended party in a estafa accepts a promissory note of the accused for the repayment of the money already converted. (PEDRO CAMUS *vs.* THE COURT OF APPEALS and THE PEOPLE OF THE PHILIPPINES, G. R. No. L-4560, September 10, 1952.)

*Section 2 of Republic Act No. 4 and Section 1 of Republic Act No. 482 distinguished.*

“Under section 2 of Rep. Act No. 4, a possessor of unlicensed firearm or ammunition was not exempted from criminal liability when found, within the period of surrender, making use thereof except in self-defense or carrying it on his person except for the purpose of surrendering it to the authorities. Under section 1 of Rep. Act No. 482, a possessor of unlicensed firearm or ammunition not exempt from criminal liability when found, within one year from June 10, 1950, making use of said firearm or ammunition or carrying it on his person except for the purpose of surrendering it to the proper authorities. The only difference between the two provisions is that the phrase, ‘except in self-defense’, appearing in section 2 of Rep. Act No. 4, has been eliminated in section 1 of Rep. Act No. 482 with reference to a possessor of an unlicensed firearm found, within the period for surrender, making use thereof.” (THE PEOPLE OF THE PHILIPPINES *vs.* JESUS MATUGAS ET AL., G. R. No. L-4395, April 25, 1952.)

*Where the firearm and ammunition is found in the house of the accused and not in his person.*

Where the rifle and ammunition mentioned in the information were found in the house of the accused JM, without any showing, however, that said firearm and ammunition were being used by the accused or carried on their persons, while said firearm and ammunition had been in the possession of the accused, said possession was not sufficient to make them criminally liable under section 1 of Rep. Act No. 482, since they still had until June 10, 1951, within which to surrender said firearm and ammunition without incurring any criminal liability. (THE PEOPLE OF THE PHILIPPINES *vs.* JESUS MATUGAS ET AL., G. R. No. L-4395, April 25, 1952.)

## AMNESTY PROCLAMATION

*Scope of Amnesty Proclamation No. 76, Series of 1948.*

FACTS: Defendants G.O. and A.H. appealed from a judgment of the Court of First Instance of Quezon convicting them of the crime of murder. The victim, a former Huk, was continuously in touched with the MP's, received money from them and actually caused the arrest of two Huks. Consequently, he was ordered executed by the Huk command as a spy.

HELD: His execution by order of the Huk command should be considered, under Amnesty Proclamation No. 76, as an act incident to or in furtherance of the commission of the crimes of rebellion or sedition, and, therefore, covered by its provisions. As both G.O. and A.H. have duly filed their applications in time, they are entitled to the benefits of the amnesty, although they were already under detention when the amnesty was proclaimed. Judgment reverse. (PEOPLE *vs.* OBENIA, G. R. No. L-4218, Prom. May 19, 1952.)

## COMMERCIAL LAW

### CORPORATION LAW

*Test of Nationality of a Corporation.*

FACTS: During the Occupation, the deposits of two American-controlled corporations in the Philippine Trust Co. were ordered transferred to the Bank of Taiwan by the Japanese authorities. After the war, the checks covering these deposits were transferred by the corporation to the herein plaintiff who now seeks the payment of said deposits from the Philippine Trust Co. One of plaintiff's contentions is that said corporations cannot be classified as enemy corporation because some of the shares of each belong to a Filipino stockholder.

HELD: The transfer by the defendant Philippine Trust Co. of the deposits of pre-war depositors to the Bank of Taiwan as depository of the Bureau of Enemy Property Custody of the Japanese Military Administration, upon orders of the Japanese Military Authorities released the defendant bank from its obligations. Furthermore, the fact that certain shares of stock are owned by a Filipino stockholder does not change the nationality of said corporation inasmuch as the nationality of a private corporation is determined by the character or citizenship of its controlling stockholders. (S. DAVIS *WINSHIP vs. PHILIPPINE TRUST Co.*, G. R. No. L-3869, January 31, 1952.)

*Distinction between Corporation and Stockholder.*

FACTS: Defendant claims that Jose Araneta was her agent in the sale and at the same time the president of Gregorio Araneta, Inc. Trial court distinguished between Jose Araneta, the agent, and, Gregorio Araneta, Inc. Defendant claims that the fiction of corporate entity distinct from its stockholders should be disregarded when such is used to commit fraud or an illegal act.

HELD: Gregorio Araneta, Inc. had long been organized and