

2 Phil. 268

[G.R. No. 1007. May 10, 1903]

PAULINO REYES, PETITIONER, M. HON. FEUX M. ROXAS, JUDGE OF FIRST INSTANCE OF RIZAL, RESPONDENT.

D E C I S I O N

MAPA, J.:

In the case of the United States vs. The Municipality of Santa Cruz de Malabon, decided February 16, 1903,^[1] we have enunciated the doctrine that in accordance with section 107 of General Orders, No. 58, no private individual, other than the person injured may maintain a criminal action for the prosecution of a crime. The petitioners are not the persons injured in the present case. The mere circumstance that they are inhabitants of the municipality of Pasig does not confer upon them this character in the sense in which the words *person injured* are used in that section, with respect to the embezzlement of the public funds of which the accused, as president of the town, may have been guilty. It can not be said, properly speaking, that such funds were the property of the complainants. The person offended in such a case would be the municipality, and not the petitioners.

The petitioners, therefore, have no right to bring any penal action for the purpose of prosecuting and punishing the said crime. Not having this right, they have in consequence no right to appeal against the order of dismissal entered by the judge in the preliminary investigation. Such a right would be merely consequential to the right to maintain the penal action which, as above stated, they are not entitled to bring in this case.

For this reason, and not upon the grounds stated by the judge below, in his order, the *recurso de queja* brought by the petitioners is denied. So ordered.

Arellano, C. J., Willard and Ladd, JJ., concur.

^[1] Phil. Rep., 731.

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