

4 Phil. 325

[ G.R. No. 2270. March 24, 1905 ]

**THE UNITED STATES, PLAINTIFF AND RESPONDENT, VS. JOSE DIAZ Y TAN BAUCO, DEFENDANT AND PETITIONER.**

**D E C I S I O N**

**CARSON, J.:**

The petition of Jose Diaz y Tan Bauco alleges that he is “illegally and unlawfully detained and restrained of his liberty in Bilibid Prison by the warden thereof, George N. Wolfe.”

It appears that he was tried, convicted, and sentenced to fourteen years eight months and one day imprisonment at a special term of the Court of First Instance of Tayabas held in Lucena during the judicial vacation period for the year 1904, and that he is detained by the said George N. Wolfe, warden of Bilibid Prison, pending decision of his appeal from said sentence.

It is contended that said trial, conviction, and sentence were illegal and void because, as it is alleged, the holding of the said special term of court was not duly authorized by law and the judge thereof was without jurisdiction to hear and determine criminal cases.

The special term of court in question was held in pursuance of an order signed by the Secretary of Finance and Justice, which order, it is alleged, is illegal and void because it directed the holding of a special term of the Court of First Instance for the Province of Tayabas at the town of Lucena, a place not regularly designated by law for the holding of said court for said province; and it is said that the Civil Governor alone had authority to issue an order directing the holding of a special term of court at any place other than that designated by law

for the holding of the regular terms thereof.

Acts Nos. 136, 867, and 1153 declare the law touching the holding of terms of Courts of First Instance in the Philippine Islands. Regular terms are those held in the place and at the time regularly designated by law. Special terms are those held at a time or place not regularly designated by law.

Subsection (f), section 1, of Act No. 867, amending Act No. 136, conferred upon the Civil Governor the authority, "when in his judgment the emergency shall require, to direct any judge assigned to vacation duty to hold during vacation a special term of court in any district, there to hear civil or criminal cases and enter final judgments therein."

Paragraph 1, section 1, of Act No. 1153 amends the foregoing section, transferring the authority to issue such order to the Secretary of Finance and Justice.

We are of the opinion that in issuing the order complained of, which directs the holding of a special term of court for the Province of Tayabas at Lucena during the judicial vacation of 1904, the Secretary of Finance and Justice complied strictly with the terms of these provisions of the law, that said order was lawful, and that the alleged illegality in the proceedings complained of does not exist.

It is alleged that the "special term" referred to in the above-quoted subsection (f) of section 1 of Act No. 867 are terms special as to time and not terms held at places other than those designated by law for the holding of regular terms.

But this construction is forbidden by the rule which requires that the words of a statute are not to be taken in a limited and restricted sense, unless they conflict with each other and are inconsistent or unless a manifest absurdity and injustice would result from giving the words their natural and common import.

We have not been able to discover any reason for limiting or

restricting the meaning of the words "special terms" in subsection (f) of section 1 of Act No. 867 so as to exclude special terms held at places other than those regularly designated by law, and to do so would defeat the evident intent and object of the statute to give the Civil Governor the widest possible discretion in case of emergency to set the machinery of Courts of First Instance in motion during the judicial vacation period.

It is suggested that the authority of the Civil Governor to direct the holding of special terms of court at places other than those designated by law is to be found in section 10 of Act No. 867, and that, unless we limit the meaning of the words "special terms" in subsection (f) of section 1 of the same act so as to exclude these cases, we have two sections of the same instrument conveying precisely the same authority to the same officer. But even were this the case, the duplication or overlapping of the provisions of an instrument is not of itself a contradiction or inconsistency which would justify the limitation or restriction of the ordinary import of its words; and it is to be observed that while section 10, in general terms, provides for the holding of special terms at places other than those designated by law, we must look to subsection (f) of section 1 for the authority to direct judges assigned to vacation duty to hold such terms in vacation.

Our attention has been called to the last paragraph of section 12 of Act No. 867, which provides that "all criminal trials must be tried at the place designated in the law as the place at which the court having jurisdiction thereof shall be held, unless the Civil Governor shall otherwise order, as provided in section 10 of this act," and it is urged that the authority vested in the Civil Governor by said section 10 not having been transferred to any other person, no order directing the holding of criminal trials at places other than those designated by law can be legal unless it proceeds from him. But while it may be true that the authority vested in the Civil Governor by section 10 has not been transferred to the Secretary of Finance and Justice in all cases, we believe that it has been so transferred by subsection (i) of Act No. 1153 whenever it is exercised in vacation through a judge assigned to vacation duty.

The effect of subsection (f) of section 1 of Act No. 867 is merely to authorize the Civil Governor in cases of emergency to issue certain instructions to judges assigned to vacation duty, and in every instance where this authority is exercised for the purpose of directing the holding of terms at places not designated by law for the holding of regular terms it must be exercised as provided in section 10—that is to say, “whenever in his opinion the same may be necessary to the economical and speedy administration of justice, and he shall by executive order so direct.”

We think, therefore, that the proviso excepting from the general prohibition contained in section 12 of Act No. 867 all cases where “the Civil Governor shall otherwise order as provided in section 10 of this act,” includes those cases in which during vacation, orders are issued to the judges assigned to duty in vacation to hold special terms at places not designated by law for the holding of regular terms.

We are confirmed in this opinion by an examination of the object, purpose, and intent of the saving clause in question. The section of which it is a part is devoted to a declaration of the powers conferred upon a judge of a Court of First Instance when out of the province wherein certain matters are pending, but within his judicial district. Among other provisions it requires that all final hearings in interlocutory motions or issues shall be held within the province unless the parties by their counsel consent, in writing, to a hearing without the province, and it is in this connection that the provision is inserted which prohibits the hearing of criminal cases by consent or otherwise at any place other than that regularly designated by law, “unless the Civil Governor shall otherwise order, as provided in section 10 of this act”

Evidently the legislature did not intend by this provision to limit any powers already conferred upon the Civil Governor and on the contrary its plain purpose and intent is to save intact from the general prohibition such authority as had already been vested in him.

The application should be denied. So ordered.

*Arellano, C, J., Torres, and Mapa, JJ., concur.*

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## DISSENTING

**JOHNSON, J. :**

I can not conform with the doctrine announced in this decision. The laws of the Philippine Islands designate the pueblos in which courts shall be held. Section 10 of Act No. 867 gives the Governor-General of these Islands power to authorize the Courts of First Instance to hold special terms of the Courts of First Instance in any province in another place within the province than that fixed by the law, whenever, in his opinion, the same may be necessary to the economical and speedy administration of justice. The Commission, however, in delegating this power to the Governor-General, was very careful to provide that this power to change the place for holding the courts as provided for by law should not authorize him to make a permanent change in the regular places for holding courts as provided for by law. I do not believe that the Commission ever intended to give any other single member of the Commission power to change the regular places for holding sessions of the Courts of First Instance. The rule is well established that judgments rendered by *nisi prius* judges during sessions held at places not authorized by law are null and void. The law authorizing the holding of special terms of court or terms of court at times other than that fixed by law does not authorize the changing of the places designated by law at which courts shall regularly be held.

The prayer of the petitioner should be granted.

*Mail on denied.*

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