

ANGELITO TAN, ALEX VILLAVERDE, JOSELITO TAN AND GEORGE LELIS, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, HON. DELIA P. MEDINA, AS PRESIDING JUDGE OF BRANCH I, COURT OF FIRST IN...

G.R. No. L-47482. July 21, 1978

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the jurisdiction of the municipal court over estafa cases where the amount of the fraud exceeds two hundred pesos.

On November 20, 1974 the four petitioners were charged with estafa in the municipal court of Sariaya, Quezon for having failed to return to the spouses Hilarion Abadejos and Zenaida Abadejos their Zenith television set valued at P2,375 which the petitioners allegedly had undertaken to repair (Criminal Case No. 7055).

After the prosecution had presented its evidence, the four accused filed a demurrer to the evidence. The motion was denied. They then filed another motion to dismiss on the ground of lack of jurisdiction. They relied on section 87 (b)(3) of the Judiciary Law which provides that the municipal court has jurisdiction over an estafa case if the amount involved does not exceed P200.

Respondent municipal judge denied the motion. The petitioners filed a motion for reconsideration which was heard by another municipal judge. The motion was granted and the case was elevated to the Court of First Instance for trial on the merits.

However, upon motion of the provincial fiscal, who contended that the case was within the concurrent jurisdiction of the municipal court and the Court of First Instance, the case was returned to the municipal court. The petitioners filed before respondent municipal judge a motion for the reconsideration of his order denying their demurrer to the evidence. The motion was denied.

The petitioners on March 23, 1976 filed in the Court of First Instance of Quezon a petition for certiorari, prohibition and mandamus wherein they assailed the municipal court's orders denying their demurrer to the evidence and their motion to dismiss based on lack of jurisdiction. The Court of First Instance, in its order of June 2, 1977 dismissing the petition, ruled that the estafa case is within the concurrent jurisdiction of the municipal court and the Court of First Instance because of section 87(c) of the Judiciary Law. Hence, the estafa case was remanded to the municipal court for further proceedings.

From that order of dismissal, the petitioners appealed to this Court under Republic Act No. 5440.

Legal issue: Does the municipal court have jurisdiction over the offense of estafa involving a television set valued at P2,375? The Judiciary Law provides:

"SEC. 44. Original jurisdiction.- Courts of First Instance shall have original jurisdiction:

xxx xxx xxx."

"(f) In all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos;

xxx xxx xxx."

"SEC. 87. Original jurisdiction to try criminal cases.- Municipal judges and judges of city courts of chartered cities shall have original jurisdiction over:

"(a) All violations of municipal or city ordinances committed within their respective territorial jurisdictions;

"(b) All criminal cases arising under the laws relating to:

- (1) Gambling and management or operation of lotteries;
- (2) Assaults where the intent to kill is not charged or evident upon the trial;
- (3) Larceny, embezzlement and estafa where the amount of money or property stolen, embezzled, or otherwise involved, does not exceed the sum value of two hundred pesos;
- (4) Sale of intoxicating liquors;
- (5) Falsely impersonating an officer;
- (6) Malicious mischief;
- (7) Trespass on Government or private property;
- (8) Threatening to take human life;
- (9) Illegal possession of firearms, explosives and ammunition;
- (10) Illegal use of aliases; and
- (11) Concealment of deadly weapons.

"(c) Except violations of election laws all other offenses in which the penalty provided by law is imprisonment for not more than three years, or a fine of not more than three thousand pesos, or both such fine and imprisonment.

"Said municipal judges and judges of city courts may also conduct preliminary investigation for any offense alleged to have been committed within their respective municipalities and cities which are cognizable by Courts of First Instance and the information filed with their courts without regard to the limits of punishment, and may release, or commit and bind over any person charged with such offense to secure his appearance before the proper court.

"No warrant of arrest shall be issued by any municipal judge in any criminal case filed with him unless he first examines the witness or witnesses personally, and the examination shall be under oath and reduced to writing in the form of searching questions and answers.

"Municipal judges in the capitals of provinces and subprovinces and judges of city courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within their respective jurisdictions, in which the penalty provided by law does not exceed prison correccional or imprisonment for not more than six years or fine not exceeding six thousand pesos or both, and in the absence of the district judge, shall have like jurisdiction within the province as the Court of First Instance to hear applications for bail.

"All cases filed under the next preceding paragraph with municipal judges of capitals and city court judges shall be tried and decided on the merits by the respective municipal judges or city judges. Proceedings had shall be recorded and decision therein shall be appealable direct to the Court of Appeals or the Supreme Court, as the case may be."

We hold that swindling, where the amount of the fraud exceeds P200, if committed in an ordinary municipality (as distinguished from a city or provincial capital), falls within the original and exclusive jurisdiction of the Court of First Instance. It is beyond the jurisdiction of the municipal court of the town where that kind of estafa was committed.

The reason is that under section 87(b)(3) the municipal judge has jurisdiction only over estafa cases where the amount of the fraud does not exceed P200. The jurisdictional criterion is not the penalty but the amount of the defraudation (*Cruz vs. Martin and Cabrera*, 75 Phil. 11, 15; *People vs. Blanco*, 85 Phil. 296). For the municipal judge to have jurisdiction over an estafa case, the amount of the fraud should not exceed P200, as explicitly spelled out in section 87(b)(3).

The clear and unmistakable implication of the provisions of section 87(b)(3) is that if the amount of the fraud exceeds P200, then it is the Court of First Instance that has jurisdiction. The same rule applies to theft cases which constitute the other kind of cases (larceny) mentioned in section 87(b)(3).

Thus, if the amount stolen is P930, the municipal court of a town, other than a provincial capital, has no jurisdiction over the theft case (*Guzman vs. Court of Appeals*, L-27671, etc., July 27, 1967, 20 SCRA 803). But if the amount stolen is P150, the municipal court has jurisdiction over the crime of theft (*People vs. Nazareno*, L-40037, April 30, 1976, 70 SCRA 531).

If the amount of the fraud in estafa does not exceed P200, the penalty is *arresto mayor* medium and maximum or two months and one day to six months (except estafa by means of bouncing checks which is punished with a higher penalty under Presidential Decree No. 818). If, as in this case, the amount of the fraud is over P200 but does not exceed P6,000, the penalty is *arresto mayor* maximum to *prision correccional* minimum, or four months and one day to two years and four months (Art. 315, Revised Penal Code).

Respondent Court of First Instance erred in holding that because of the provision of section 87(c) that the municipal court has jurisdiction over offenses wherein the penalty is imprisonment for not more than three years, the municipal court of Sariaya has jurisdiction over an estafa case, like the instant case, which is penalized by imprisonment for four months and one day of *arresto mayor* to two years and four months of *prision correccional*.

Section 87(c) has no application to estafa cases because estafa cases are covered by section 87(b)(3). As already

stated, in estafa cases the municipal court's jurisdiction is measured by the amount of the fraud and not by the impossible penalty. And it should be stressed that paragraph (c) of section 87 does not apply to the eleven classes of offenses enumerated in paragraph (b) of the same section as shown by the use of the phrase "all other offenses" in the said paragraph (c).

The Solicitor General's contention that the phrase "all other offenses" in paragraph (c) of section 87 means offenses other than "violations of election laws" is not entirely correct. That phrase refers to offenses other than the electoral offenses and the eleven kinds of offenses specified in the preceding paragraph (b) of section 87. Electoral offenses are mentioned because under section 187 of the Revised Election Code such offenses come within the original exclusive jurisdiction of the Court of First Instance.

And the eleven kinds of offenses enumerated in the preceding paragraph (b) are also not comprehended in the phrase "all other offenses" found in paragraph (c) of section 87 because the legislative intention is to avoid overlapping between the two paragraphs. If the eleven kinds of offenses mentioned in paragraph (b) should be deemed included in the phrase "all other offenses" contemplated in paragraph (c), then that phrase would be useless. See *People vs. Nazareno*, L-40037, April 30, 1976, 70 SCRA 531, 543.)

The legislative history of paragraph (c) of section 87, as amended, gives illumination on its meaning and scope. That paragraph (c) used to be paragraph (b) of section 87, as originally enacted, and what is now paragraph (b) used to be paragraph (c). Paragraph (b) in the original version of section 87 provided that "all offenses in which the penalty provided by law is imprisonment for not more than six months, or a fine of not more than two hundred pesos, or both such fine and imprisonment" were within the jurisdiction of municipal courts and city courts. As thus worded, there was overlapping between paragraphs (b) and (c) of the original text of section 87.

Republic Act No. 2613, which took effect on August 1, 1959, amended section 87 by making as paragraph (b) its paragraph (c) and making its paragraph (c), dealing with eight classes of offenses, its paragraph (b) and adding a ninth class of offenses, namely, illegal possession of firearms. Paragraph (c) in its amended form reads as follows: "All other offenses except violation of election laws in which the penalty provided by law is imprisonment for not more than six months, or a fine of not more than two hundred pesos, or both such fine and imprisonment."

It should be borne in mind that Republic Act No. 2613 introduced the phrase "all other offenses except violation of election laws" in order to clarify that the nine classes of offenses in paragraph (b) of section 87 are distinct from the "other offenses" to which paragraph (c) of the same section applies. The overlapping in paragraphs (b) and (c) of section 87, as originally worded, was eliminated.

Republic Act No. 3828, which took effect on June 22, 1963, retained the wording of Republic Act No. 2613 but it rearranged the words and, as rearranged, the opening phrase of paragraph (c) reads, as it is now worded, as follows: "Except violations of election laws all other offense x x x".

As correctly observed by petitioners' counsel, if the expression "other offenses" simply means offenses other than electoral offenses, then the word "other" would not have been used. The lawmaking body could simply have used the expression: "Except violations of election laws, offenses in which the penalty provided by law is imprisonment x x x." If that were the wording of paragraph (c), then it would overlap with paragraph (b). But because the word "other" is used, and it is a word that should be read in context or in connection with paragraph (b), it becomes evident that the intention is to distinguish the offenses contemplated in paragraph (c) from those eleven classes of offenses enumerated in paragraph (b) of section 87.

As previously intimated, the inferior court has jurisdiction over the eleven categories of offenses enumerated in paragraph (b) of section 87 irrespective of the penalties and the amount of the civil liability (*Paringit vs.*

Masakayan, 112 Phil. 861, 867). The inferior court's jurisdiction over the said eleven classes of offenses is not based on the impossible penalty (Natividad vs. Robles, 87 Phil. 834).

However, it is settled that where the penalty for any of the said eleven kinds of offenses exceeds six months imprisonment or a fine of P200, then the offense falls within the concurrent jurisdiction of the inferior court and the Court of First Instance (People vs. Palmon, 86 Phil. 350; People vs. Laba, L-28022, July 30, 1969, 28 SCRA 988; People vs. Valencia, L-29396, August 29, 1969, 29 SCRA 252; People vs. Tapayan, L-26885, November 28, 1969, 30 SCRA 529).

Thus, it was ruled that the concurrent jurisdiction of the city court and the Court of First Instance in a theft case [a case covered by paragraph (b)(3) of section 87] is measured, not by the penalty, but by the amount involved which should not be more than P200. If the amount involved does not exceed P200, the city court has jurisdiction even if it has to impose an additional penalty of six years and one day of prision mayor because the accused is a habitual delinquent (People vs. Acha, 68 Phil. 664). "La jurisdiccion del Juzgado Municipal de Manila, en los casos de hurto, se determina, no por la pena, sino por la cuantia de lo hurtado y, cuando esta no excede P200, dicho Juzgado tiene jurisdiccion cualquiera que sea la pena señalada al delito." (Pueblo contra Del Mundo, R. G. No. 46531, 18 de octubre, 1939, cited in San Juan case, *infra*).

El hecho de que el acusado y apelante es delincuente habitual, condicion que le hace acreedora una pena adicional, no descualifica al Juzgado Municipal de Manila para conocer de una causa en que se alega tal condicion, siempre y cuando el delito de que se le acusa es de hurto y el valor de la cosa hurtada no excede de P200" (People vs. San Juan, 69 Phil. 347).

But if the total penalty for the theft and for habitual delinquency exceeds six months' imprisonment, the Court of First Instance and the city court have concurrent jurisdiction (People vs. Costosa, 70 Phil. 10).

As to the first eight classes of offenses enumerated in section 87(b), the concurrent jurisdiction is expressly provided for in the charters of Manila and Baguio (Secs. 2468 and 2562-A, Revised Administrative Code; Sec. 41, Republic Act No. 409. See charters of Cities of Cebu, Iloilo, Cavite and San Pablo. See People vs. Laba, L-28022, July 30, 1969, 28 SCRA 988 and Dimagiba vs. Geraldez, 102 Phil. 1016).

Another vital point that should be underscored in connection with the jurisdiction of inferior courts in criminal cases is that the penultimate paragraph of section 87 makes a distinction between the jurisdiction of the ordinary municipal court, on one hand, and the jurisdiction of the city court and the municipal court of the provincial capital, on the other.

Thus, estafa wherein the amount of the fraud is P5,100 and which, like the instant case, is punishable by imprisonment up to two years and four months of prision correccional, is within the concurrent jurisdiction of the Court of First Instance and the city court of Angeles City by virtue of the penultimate paragraph of section 87 (People vs. Cook, L-25305, January 31, 1969, 26 SCRA 698. Identical holding in People vs. Villaraza, L-46228, January 17, 1978).

Similarly, theft involving the sum of P2,131, which is punishable by a maximum imprisonment of four years and two months of prision correccional, falls within the concurrent jurisdiction of the Court of First Instance and the city court of Cotabato City likewise by virtue of the penultimate paragraph of section 87 (People vs. Laba, L-28022, July 30, 1969, 28 SCRA 988. Same holding in Alcantara vs. Valdebueza, L-27790, July 31, 1969, 28 SCRA 1072).

For the convenience of law practitioners and legal researchers, we are collating hereunder the rulings on the concurrent jurisdiction of inferior courts and the Court of First Instance under section 87.

1. Illustrations of the concurrent jurisdiction of the inferior court and the Court of First Instance under section 87(b) are the following:

(a) Lesiones graves (People vs. Palmon, 86 Phil. 350; Neñaria vs. Veluz, 91 Phil. 473; People vs. Padios, 97 Phil. 19, 23; Andico vs. Roan, L-26563, April 16, 1968, 23 SCRA 93) or assaults without intent to kill (Villanueva vs. Ortiz, 108 Phil. 493) but the inferior court has no jurisdiction to try a case of direct assault (People vs. Daco, 116 Phil. 1137 and Salabsalo vs. Angcoy and Cabaluna, Jr., 108 Phil. 649).

(b) Qualified theft where the amount stolen was less than P200 and the imposable penalty was prison correccional (People vs. Peñas, 86 Phil. 596 and Alimajen vs. Valera, 107 Phil. 244) or may reach reclusion temporal (Neñaria vs. Veluz, supra); qualified theft of coconuts valued at P33 punishable by prison mayor (People vs. Colicio, 88 Phil. 196; Cruz vs. Martin and Cabrera, 75 Phil. 11, 15); qualified theft of a carabao valued at P150 (Brecinio vs. Papica, L-20347, October 31, 1964, 12 SCRA 349; De Guzman vs. Court of Appeals, L-27671, July 27, 1967, 20 SCRA 803, 807), and simple theft of property valued at P150 (People vs. Nazareno, L-40037, April 30, 1976, 70 SCRA 531). See Ricafort vs. Fernan, 101 Phil. 575.

(c) Qualified trespass to dwelling (Natividad vs. Robles, 87 Phil. 834).

(d) Destruction of public forest which is trespass on government property punishable under section 2751(b) of the Revised Administrative Code by imprisonment for not less than six months and not more than one year and six months and a fine of eight times the regular government charges (People vs. Dimana, L-26668, April 27, 1972, 44 SCRA 457).

(e) Malicious mischief involving a civil liability of P5,600 (Paringit vs. Masakayan, 112 Phil. 861, 867) and the special case of malicious mischief under article 328(1) of the Revised Penal Code where the damage amounted to P24,912.18 (People vs. Ragasi, L-28663, September 22, 1976, 73 SCRA 23). See Quizon vs. Justice of the Peace of Bacolor, 97 Phil. 342.

(f) Illegal possession of firearms which is punishable by imprisonment of not less than one year and one day nor more than five years or both such imprisonment and a fine of not less than P1,000 nor more than P5,000 (People vs. Dose, L-23540, June 29, 1968, 23 SCRA 1345; People vs. Valencia, L-29396, August 29, 1969, 29 SCRA 252; People vs. Tapayan, L-26885, November 28, 1969, 30 SCRA 529).

(g) Grave threats punishable under article 282(2) of the Revised Penal Code with arresto mayor and a fine not exceeding P500 (People vs. Fernando, L-25942, May 28, 1968, 23 SCRA 867).

See People vs. Adolfo, L-24191, March 31, 1965, 13 SCRA 599, a case of damage to property through reckless imprudence punishable with a maximum fine of P2,671.47, instituted in the Court of First Instance of Manila on July 30, 1963, when Republic Act No. 3828 was already in force. It was held that the offense was exclusively cognizable by the municipal court of Manila and that the Court of First Instance had no

jurisdiction. Under the ruling in *Esperat vs. Avila*, L-25922, June 30, 1967, 20 SCRA 596, the jurisdiction of the two courts was concurrent. As to physical injuries and damage to property through reckless imprudence committed before section 87 was amended by Republic Act No. 3828, see *People vs. Malabanan*, 112 Phil. 1082 and *People vs. Vendiola*, 115 Phil. 122.

2. Illustrative rulings on the concurrent jurisdiction of the inferior court and the Court of First Instance as to offenses, which are not enumerated in section 87(b) and which are covered by section 87(c) and the penultimate paragraph of section 87, are the following:

(a) Grave coercion, a crime punished by article 286 of the Revised Penal Code with imprisonment not exceeding six months and a fine of P500 (*Esperat vs. Avila*, L-25922, June 30, 1967, 20 SCRA 596; *People vs. Dalton*, L-23539, February 22, 1968, 22 SCRA 673; *People vs. Tayao*, L-26457, March 25, 1970, 32 SCRA 44; *Aquino vs. Estenzo*, L-20791, May 19, 1965, 14 SCRA 18).

(b) Violation of section 16 of the Civil Registry Law which is punishable with imprisonment of not less than one month nor more than six months or a fine of not less than P200 nor more than P500, or both (*People vs. Judge Purisima*, L-40902, February 18, 1976, 69 SCRA 341).

(c) Violation of Republic Act No. 4713 punishable by a fine of not less than P600 nor more than P5,000 and imprisonment of not less than four years, the case having been filed in the City Court of Naga (*Templo vs. De la Cruz*, L-37393, October 23, 1974, 60 SCRA 295).

(d) Dereliction of duty punished under article 208 of the Revised Penal Code punishable with prison correccional minimum and suspension (*People vs. Anino*, L-25997, May 28, 1968, 23 SCRA 870).

(e) Offenses punishable with imprisonment up to two years and four months such as grave oral defamation (*People vs. Doriquez*, L-24444, July 29, 1968, 24 SCRA 163; *Mangila vs. Lantin*, L-24735, October 31, 1969, 30 SCRA 81; *Balite vs. People*, L-21475, September 30, 1966, 18 SCRA 280; *Cariaga vs. Justo-Guerrero*, L-24494, June 22, 1968, 23 SCRA 1061).

(f) Grave slander by deed (*Encarnacion vs. Baltazar and Kayanan*, 111 Phil. 459, 464).

(g) Perjury (*Pinza vs. Aldovino*, L-25226, September 27, 1968, 25 SCRA 220; *Carmorin vs. Barrios*, L-23615, February 27, 1970, 31 SCRA 764), and

(h) Falsification punishable by imprisonment up to six years (*Bermejo vs. Barrios*, L-23614, February 27, 1970, 31 SCRA 764).

As to the rule in contempt cases, see *People vs. Orpilla-Molina*, 105 Phil. 362.

As to electro fishing, see *People vs. Maceren*, L-32166, October 18, 1977, 79 SCRA 450, 454-5.

In the instant case, the Court of First Instance, in holding that the municipal court has jurisdiction over the estafa case, cited the ruling that the Court of First Instance and the municipal court have concurrent jurisdiction over all criminal cases mentioned in section 87(b) as long as the penalty is imprisonment penalty is imprisonment for more than six months or a fine more than P200 (*People vs. Dimana*, L-26668, April 27, 1972, 44 SCRA 457).

That ruling is not applicable to this case because the estafa herein involves an amount exceeding P200 and, therefore, it is not the estafa contemplated in section 87(b).

In this case, there can be no doubt that the offense of estafa is beyond the municipal court's jurisdiction because the amount involved exceeds the limit of P200 fixed in paragraph (b)(3) of section 87 and because this case is not covered by paragraph(c) of the same section since estafa, being included in paragraph (b), is excluded from the operation of paragraph (c). The penultimate paragraph of section 87 is likewise not applicable because the municipal court of Sariaya is not the court of a provincial capital.

In view of our finding that the municipal court has no jurisdiction over the estafa case and considering that the merits of the case (which involve factual issues) cannot be passed upon in this appeal under Republic Act No. 5440, we cannot entertain petitioners' second contention that the municipal court and the Court of First Instance erred in not sustaining their demurrer to the evidence. Their remedy is to ask the provincial fiscal to reinvestigate the case.

It appears that the petitioners had filed on July 15, 1975 in the municipal court a motion wherein they prayed that the proceedings already had therein be regarded as a preliminary investigation and that the case be elevated to the Court of First Instance for trial on the merits.

It further appears that the television set in question had allegedly already been returned to the offended parties and, for that reason, the petitioners contend that their criminal liability, if any, had already been extinguished.

Since the municipal court has no jurisdiction over the case, the record thereof (elevated to this Court) should be sent to the Court of First Instance. Although the proceedings in the municipal court may be treated as a preliminary investigation, the provincial fiscal may reinvestigate the case and file an information, if there is probable cause, or inform the Court of what action, in his opinion, should be taken on the case.

WHEREFORE, the order of respondent Court of First Instance dated June 2, 1977, returning the record of the estafa case to the municipal court of Sariaya is reversed and set aside. The Court of First Instance should conduct further proceedings in that case as in the cases wherein a preliminary investigation was conducted by the municipal court. No costs.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Santos, JJ., concur.

Concepcion, Jr., J., took no part.

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