

UNIVERSITY OF THE PHILIPPINES, ET AL., PETITIONERS, VS. THE CITY FISCAL OF QUEZON CITY, RESPONDENT.

G.R. No. L-18562. July 31, 1961

Ponente: DIZON, J.

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DIZON, J.:

This is an original petition seeking to restrain, prohibit and enjoin the City Fiscal of Quezon City and his assistants from filing any criminal information and/or prosecuting the same in court against petitioners Tomas S. Fonacier and Leopoldo Y. Yabes, for acts connected with the publication and circulation of the Golden Jubilee issue of the Philippine Social Sciences and Humanities Review, particularly the item or article entitled "The Peasant War in the Philippines"—A study of the Causes of Social Unrest in the Philippines—An Analysis of the Philippine Political Economy. Principal allegations thereof are:

That petitioners Fonacier and Yabes are the editor and managing editor, respectively, of the Philippine Social Sciences and Humanities Review, a publication primarily devoted to recent papers and monographs of scholarly merit in the Social Sciences and Humanities, published in connection with research and studies in the Arts and Sciences made in the University of the Philippines; that the Review is not for distribution to the public at large but is confined to the University of the Philippines and its correspondent universities and libraries abroad, with the exception of a few copies sold occasionally to private researchers; that on the occasion of the Golden Jubilee of the University of the Philippines the article mentioned heretofore partly entitled "The Peasant War in the Philippines * * *" was published sometime in July, 1959 in the Golden Jubilee issue of the Review; that 2,000 copies of the issue were printed, of which 500 were sent to various correspondent institutions of learning and research abroad, and 1,500 distributed among faculty members, alumni and students of the University of the Philippines engaged in the study of social sciences and humanities; that on or about June 7, 1961 Carlos Albert filed a verified complaint with the respondent City Fiscal charging petitioners Fonacier and Yabes with having committed incitement to sedition defined and penalized in Article 142 of the Revised Penal Code, in connection with which the respondent City Fiscal, through his assistant, Miguel Halili, Jr., conducted a preliminary investigation on June 29, 1961; that as a result of said preliminary investigation the respondent City Fiscal either by himself or through one of his assistants, "threatens and is about to file an information against petitioners Tomas S. Fonacier and Leopoldo Y. Yabes charging them with a criminal offense for acts performed in the publication and circulation of said Golden Jubilee issue of the review, more particularly for the publication and circulation of the historical article entitled "The Peasant War in the Philippines * * *"; that the filing of such information "constitutes harassment as well as the exercise of public power in an irresponsible, oppressive and arbitrary manner" and "would clearly amount to an excess of jurisdiction or a grave abuse of discretion" on the part of the respondent City Fiscal, and would "directly infringe upon and injure the academic freedom guaranteed to the petitioners by the Constitution", and would inflict "incalculable harm on the academic and research functions of petitioner University of the Philippines".

The question before us, therefore, is whether upon the facts alleged in the petition, it would be proper to enjoin,

restrain and prohibit the respondent City Fiscal and his assistants from filing an information against petitioners Fonacier and Yabes charging them with a violation of Article 142 of the Revised Penal Code.

It is almost unnecessary to state that it is not only the privilege but the sworn duty of the respondent City Fiscal, upon the filing of a complaint with his office charging a person with the commission of a criminal offense, to conduct an investigation thereof and subsequently to file the corresponding information should the evidence presented to him sufficiently prove, in his opinion, that a criminal offense had been committed and that the party charged was probably guilty thereof. Consequently, the general rule in this jurisdiction is that neither an injunction (preliminary or final) nor a writ of prohibition may be issued by the courts to restrain a criminal prosecution (*Kwong Sing vs. City of Manila*, 41, Phil., 103, 112) except in the extreme case where it is necessary for the courts to do so for the orderly administration of justice or to prevent the use of the strong arm of the law in an oppressive or vindictive manner (*Dimayuga vs. Fernandez*, 43 Phil., 304, 307).

Upon the facts alleged in the petition, we cannot find our way clear to holding that should the respondent City Fiscal file an information against petitioners Fonacier and Yabes for a violation of the provisions of Article 142 of the Revised Penal Code because, in his opinion, the evidence on hand justifies such action, the filing of the information would be against the orderly administration of justice or would amount to using the strong arm of the law in an oppressive or vindictive manner. To the contrary, if the said respondent finally decides to file the information referred to against the already named petitioners, the presumption must be that his action was justified by the evidence presented to him or his office in the course of the preliminary investigation already made, there being a presumption that official duty has been regularly performed.

In view of the foregoing, the petition for preliminary injunction and the main petition for prohibition are hereby denied for lack of merit.

Bengzon, C.J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, De Leon, and Natividad, JJ., concur.

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