

MODESTA N. OCA AND AMADO OCA, PETITIONERS AND APPELLANTS, VS. JUDGE DAMIAN L. JIMENEZ, JUDGE OF THE MUNICIPAL COURT OF QUEZON CITY AND OSCAR A. INOCENTES, SPECIAL COUNSEL FOR QU...

G. R. No. L-17777. June 29, 1962

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Appellants were charged in the municipal court of Quezon City under the following information (Criminal Case No. 30230):

"The undersigned Special Counsel for Quezon City accuses MODESTA NANO DE CCA and AM ADO OCA Y NANO of the crime of Ill Treatment, committed as follows:

That on or about the 23rd day of November, 1959, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping each other, did then and there, willfully, unlawfully and feloniously, without any justifiable cause, attack, assault and employ personal violence upon the person of Maria Loreto Lintag de Garcia by then and there strangling the latter and pushing her in the cement floor thereby inflicting upon her physical injuries which, however did not require medical attendance, to the damage and prejudice of the said Maria Loreto Lintag de Garcia in such amount as may be. awarded under the Civil Code.

Contrary to law."

After arraignment, wherein appellants entered a plea of not guilty, they filed a motion to quash on the ground that the formation charged two offenses: ill-treatment and physical injuries. The motion was denied, and appellants thereupon filed a petition for prohibition and/or certiorari with the Court of First Instance, Quezon City branch, asking that respondents Judge of the municipal court and special counsel handling the prosecution be enjoined from proceeding with the trial of the case and that an order be issued quashing the information. On September 29, 1960 the said Court, without requiring respondents to answer or setting the petition for hearing, dismissed the same, saying that "although there is a difference between the designation of the offense and the statement of the acts complained of, the information in criminal case No. 30230 charges only one offense of slight physical injuries. "It is from this order of dismissal that the appeal now before us has been taken.

The order should be sustained for two reasons. First, since appellants did not move to quash the information before they pleaded thereto they should be taken to have waived all objections which are grounds for such a motion except "when the complaint or information does not charge an offense, or the court is without jurisdiction of the same." Rule 113, section 10; *Provincial Fiscal vs. Court of First Instance of Nueva Ecija*, 79 Phil., 165. The second reason goes to the merits of the petition. Although the information states that the crime charged is ill-treatment, which falls under paragraph 3 of Art. 266 of the Revised Penal Code, the allegations of facts in the body thereof clearly describe the offense of slight physical injuries under paragraph 2 of the same article. It is

already settled doctrine that the qualification of a crime is not governed by the designation given by the prosecuting attorney in the first part of the information, but by the recital in the body, thereof as to facts alleged to have been committed by the defendant. U.S. vs. Reyes, 14 Phil., 270; U.S. vs. Urn San, 17 Phil., 273; U.S. vs. Gumban, 39 Phil. 76; People vs. Cosare, 95 Phil., 656.

In the Lim San case, supra, this Court discussed at length the rationale of the doctrine in this wise:

"From a legal point of view, and in a very real sense, it is of no concern to the accused what is the technical name of the crime of which he stands charged. It in no way aids him in a defense on the merits. Whatever its purpose may be, its result is to enable the accused to vex the court and embarrass the administration of justice by setting up the technical defense that the crime set forth in the body of "the information proved in the trial is not the crime characterized by the fiscal in the caption of the information. That to which his attention should be directed, and in which he, above all things, also, should be most interested, are the facts alleged. The real question is not did he commit a crime given in the law some technical and specific name, but did he perform the acts alleged in the body of the information in the manner therein set forth. If he did, it is of no consequence to him, either as a matter of procedure or of substantive right, how the law denominates the crime which those acts constitute. The designation of the crime by name in the caption of the information from the facts alleged in the body of that pleading is a conclusion of law made by the fiscal. In the designation of the crime the accused never has a real interest until the trial has ended. For his full and complete defense he need not know the name of the crime at all. It is of no consequence whatever for the protection of his substantial rights. The real and important question to him is, "Did you perform the acts alleged in the manner alleged?" not, "Did you commit a crime named murder?" If he performed the acts alleged, in the manner stated, the law determines what the name of the crime is and fixes the penalty therefor. It is the province of the court alone to say what the crime is or what it is named. If the accused performed the acts alleged in the manner alleged, then he ought to be punished adequately, whatever may be the name of the crime which those acts constitute."

The information under review here alleges with sufficient clarity the specific acts committed by appellants, and it is upon such allegations—not upon the denomination of the offense given by the prosecuting counsel—that appellants must prepare their defense and stand trial.

Wherefore, the order appealed from is affirmed, with costs against appellants.

Padilla, Bautista Angelo, Labrador, Concepcion Barera, Paredes, Dizon and Regala, JJ., concur.

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