

ISABELO PINZA, PETITIONER-APPELLANT, VS. TEOFILO ALDOVINO AND CITY COURT OF LUCENA, BRANCH II, PRESIDED BY JUDGE LEODEGARIO L. MOGOL, SUED AS SUCH IN ITS OR HIS OFFICIAL CAPACIT...

G.R. No. L-25226. September 27, 1968

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

From the order of the Court of First instance of Quezon Province (Case No. 6801) dismissing his petition for a writ of certiorari against the City Court of Lucena, Branch II, and Teofilo Aldovino for lack of jurisdiction, Isabelo Pinza has appealed directly to this Court.

The original petition in the court a quo sought a declaration that the City Court of Lucena had no jurisdiction to proceed with its Criminal Case No. 1246 charging petitioner with perjury, and that said court be ordered to dismiss the case, without action on the merits.

As bases for his action, petitioner (now appellant) Isabelo Pinza claimed that:

“1. The information filed in the said criminal case, Annex A, is null and void, because the certification of the Fiscal as to the holding of the corresponding preliminary investigation is not under oath;

“2. There was no valid preliminary investigation pursuant to Rule 112, Section 14, of the New Rules of Court, because the accuse, who had not waived his right to a preliminary investigation, was not given the chance to be present or to be represented by counsel at the preliminary investigation and

3. There is a prejudicial question involved in the case, which necessarily suspends further proceeding therein, on account of the existence of a civil action (Civil Case No. 604-G) between the accused, on the one hand, and the complaining witness Teofilo Aldavino and his wife Milagros Nico-demus, on the other, before the Third Branch of the Court of First Instance of Quezon, at Gumaca, Quezon, involving Lot No. 2343-A of Catanauan, Cadastre, which is also involved in the supposed affidavit of the accused Isabelo Pinza, subject matter of the information in the aforesaid criminal case.”

Respondents in the court below (appellees herein) moved to dismiss on the ground that the Court of First Instance had no supervisory jurisdiction over the City Court of Lucena, and the motion was granted. Hence, this appeal.

Appellant submits the following assignment of errors:

“1. The trial court erred in holding that it has no jurisdiction over this case.

“2. The trial court erred in not declaring respondent Teofilo Aldovino guilty of contempt of court.”

The first assignment of error is plainly unmeritorious, and we find correct the reasoning of the respondent Judge, Hon. Gabriel V. Valero, in his decision under appeal. He said:

"The crime of perjury, charged in Criminal Case No. 1246 of the court of the respondent city judge, from which the instant suit arose, is penalized under Article 183 of the Revised Penal Code with arresto mayor in its maximum period to prision correccional in its minimum period, and, pursuant to the provisions of Section 87, Republic Act 296, as amended, falls within the con-current jurisdiction of the municipal or city court and of the court of first instance. Since the court of the res-pondent city judge has taken cognizance of Criminal Case No. 1246 to the exclusion of all, other courts, particularly the Court of First Instance of Quezon, judgment in said case will not be appealable to this Court (CFI) but directly to the Court of Appeals or the Supreme Court, as the case may be, pursuant to the pro-visions of the last paragraph of Section 87 of Republic Act 296, to wit:

'All cases filed under the next preceding paragraph with municipal judges of capitals and city court judge snail be tried and de-cided on the merits by the respective munici-pal judges or city judges. Proceedings had shall be recorded and decisions therein shall be appealable direct to the Court of Appeals or the Supreme Court, as the case may be' (Italics supplied) --

because

Courts of First Instance shall have appellate jurisdiction over all cases arising in city and mu-nicipal courts, in their respective provinces, except over appeals from cases tried by municipal judges of provincial capitals or city judges pur-suant to the authority granted under the last para-graph of Section 87 of this Act. (Section 45, Rep. Act 296, as amended by Rep. Act 2513. Italics supplied).

"And according to Section 30 of the same Republic Act 296, as amended -?

'The Court of Appeals shall have original juris-diction to issue writs of mandamus, prohibition, injunction, certiorari, habeas corpus, and all other auxiliary writs and process in aid of its appellate jurisdiction.'

"It is clear, therefore, that the present action falls within the jurisdiction of the Court of Appeals as an aid in its appellate jurisdiction."

Appellant relies on the provisions of Section 4, Rule 65, of the Revised Rules of Court, to the effect that:

"Where petition filed. The petition (for certiorari, prohibition or mandamus) may be filed in the Supreme Court, or if it relates to the acts or omissions of an inferior court or of a corporation, board, officer or person, in a Court of First Instance having jurisdiction thereof. It may also be filed in the Court of Appeals if it is in aid of its appellate jurisdiction."

Appellant's reliance upon the foregoing rule is misplaced. First, because the Rules of Court do not define the Jurisdiction of the various Tribunals of the Philippines, and the quoted provision evidently assumes that such jurisdiction exists. But, as pointed out in the appealed decision, the Court of First Instance no supervisory jurisdiction over the Lucena City Court, since the decisions of the latter are directly appealable to the Court of Appeals or to this Supreme Court, as the circumstances may warrant. Secondly, the rule invoked speaks of "acts or omissions of an inferior court", and under the Judiciary Act the City Court (as contrasted to an ordinary Municipal Court is not inferior to the Court of First instance in cases within their concurrent jurisdiction, for then the City Court acts with like jurisdiction as the Court of First Instance "(Republic Act 296, section 87(c), paragraph 4).

The second assignment of error is equally without merit. Appellant charges that appellee Aldovino, without being a member of the bar, filed an answer not only for himself but also for his co-respondent, Judge Mogol of the City Court of Lucena; that this act is in contempt of court, since it amounts to practicing Law without authority. It is unquestionable that Aldovino, as respondent, could file an answer for both himself and the judge, under Section 6 of Revised Rule 5, providing that --

"it shall be the duty of such person or persons (interested in sustaining the proceedings) to appear or defend, both in his or their own behalf, and in behalf of the court or Judge affected by the proceedings," (Emphasis supplied)

for the judge is merely a nominal party to the certiorari case, and has no personal interest in the case (Tan vs. Lantin, L-28849, Resolution of 29 July 1968)

Appellee claims that the Court of First Instance should not have contented itself with declaring that it had no jurisdiction but should have declared the petition "without any merit whatsoever". Absent jurisdiction, it would be improper for the Court of First Instance to pass upon the merits of petitioner's case.

WHEREFORE, the order of dismissal appealed from is affirmed. Cost against appellant Isabelo Pinza. And it being apparent that this appeal was taken to delay the criminal case, the appellant shall pay, in solidum with his counsel, Joaquin M. Trinidad, treble costs.

Concepcion, C.J., Makalintal, Sanchez, Castro, Angeles, Fernando and Capistrano, JJ., concur.
Dizon and Zaldivar, JJ., did not take part.

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