

CHRISTOFER TEJONES, PETITIONER, VS. HON. LEOPOLDO B. GIRONELLA, JUDGE, COURT OF FIRST INSTANCE, ABRA; HON. FRANCISCO VALERA, JUDGE, MUNICIPAL COURT, TAYUM, ABRA; HON. PROVINCIAL...

G.R. No. L-35506. March 21, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

In an incident which antedated this case, respondent Purisima Elvena filed with the Municipal Court of Tayum, Abra, Criminal Case No. 310 entitled "The People of the Philippines v. Christofer B. Tejones" for acts of lasciviousness. The case was later dismissed upon Elvena's own motion.

On June 10, 1970, upon another complaint of respondent Purisima Elvena, the Provincial Fiscal of Abra, after conducting the prescribed preliminary investigation, filed an information with the Court of First Instance of Abra which reads as follows:

"That on or about the 2nd day of October, 1969, in the Municipality of Tayum Province of Abra, and within this jurisdiction, the above-named accused without any legal excuse or authority but with intent to do harm or abuse against the honor, taking advantage of the night and the rain, with superior strength, disrespect toward the complainant, and with abuse of relationship, did then and there enter the premises of the house of the undersigned and once within the said premises willfully, unlawfully and feloniously get inside the room of the undersigned complainant by passing thru the window by breaking, forcing or destroying a part of said window that was closed which enabled the said accused to get inside against the will and without the consent or authority of the complainant to her horror, fear and molestations.

"CONTRARY TO LAW, with the aggravating circumstance of: (1) nighttime; (2) abuse of relationship; (3) superior strength; and, (4) disrespect toward the offended party on account of sex, age and social position."

"Bengued, Abra, October 14, 1969." (Rollo, pp. 19-10)

The petitioner was arrested but was later released upon the approval of the bail bond which he filed.

On July 19, 1970, the petitioner was arraigned and pleaded "NOT GUILTY."

On August 14, 1970, upon the motion of the defense counsel and with the consent of the Provincial Fiscal and private prosecutor, the respondent Judge of the Court of First Instance of Abra remanded the case to the Municipal Court of Tayum on the belief that it is the latter court and not the Court of First Instance which had exclusive jurisdiction over the case. The Municipal Judge of Banguede, Abra was designated to try the case in lieu of the incumbent Municipal Judge of Tayum who had previously inhibited himself.

On January 25, 1972, the petitioner was convicted of simple trespass to dwelling, and was sentenced to suffer a prison term of six (6) months of arresto mayor and to pay the costs of the proceedings in the amount of P10.00.

On February 3, 1972, the petitioner filed a Notice of Appeal with the Court of First Instance of Abra where the case was docketed as Criminal Case No. 128.

Respondent Judge Leopoldo Gironella dismissed the appeal for lack of appellate jurisdiction. He ruled that since the case fell within the concurrent jurisdiction of the municipal court and the court of first instance, appeal must be to the Court of Appeals. The motion for reconsideration was denied. The Judge ordered the remand of the case to the Municipal Trial Court of Tayum for execution of the sentence.

The petitioner filed the instant petition for certiorari and prohibition with preliminary injunction questioning the dismissal of his appeal and the remand for execution.

It is the petitioner's main contention that the Court of First Instance committed grave abuse of discretion in earlier remanding the case for trial to the Municipal Court considering that it first acquired jurisdiction over the case to the exclusion of the other court; hence, the proceedings of the Municipal Court were illegal and its sentence was null and void.

There is no dispute that the offense charged which is qualified trespass to dwelling with violence under Article 280 of the Revised Penal Code falls within the concurrent jurisdiction of the Municipal Courts and the Courts of First Instance pursuant to Section 87(b) in relation to Section 44 (f) of the Judiciary Act, as amended.

The facts of the case reveal that this case was first lodged with the Court of First Instance. However, after the case was set for trial but before the reception of evidence, the defense counsel moved that the case be transmitted to the Municipal Court "on the ground that it falls within the original exclusive jurisdiction of the Municipal Court." The motion was granted. Trial proceeded after the accused was re-arraigned before then Acting Judge Francisco Valera. Throughout the entire proceedings, the petitioner never questioned the jurisdiction of the Municipal Court. It was only after the petitioner was adjudged guilty by said court and after his appeal to the Court of First Instance of Abra had been denied that he moved to set aside the decision and to declare the proceedings null and void.

In the leading case of *Tijam v. Sibonghanoy* (23 SCRA 29) and reiterated in the later cases of *Philippine National Bank v. Intermediate Appellate Court*, (143 SCRA 299) and *Meram v. Edralin*, (G.R. No. 71228, September 24, 1987), we ruled that:

"x x x a party can not invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction (*Dean v. Dean*, 136 Or. 694, 86 A.L.R. 79). In the case just cited, by way of explaining the rule, it was further said that the question whether the court had jurisdiction either of the subject matter of the action or of the parties was not important in such cases because the party is barred from such conduct not because the judgment or order of the court is valid and conclusive as an adjudication, but for the reason that such a practice can not be tolerated - obviously for reasons of public policy." (At pp. 35-36 of *Tijam v. Sibonghanoy*)

"Furthermore, it has also been held that after voluntarily submitting a cause and encountering an adverse decision on the merits, it is too late for the loser to question the jurisdiction or power of the court (*Pease v. Rathbun-Jones etc.*, 243 U.S. 273, 61 L.Ed. 715, 37 S. Ct. 283; *St. Louis etc. v. McBride*, 141 U.S. 127, 35 L. Ed. 659). And in *Littleton v. Burgess*, 16 Wyo, 58, the Court said that it is not right for a party who has affirmed and invoked the jurisdiction of a court in a particular matter to secure an affirmative relief, to afterwards deny that same jurisdiction to escape a penalty." (id)

It is, therefore, clear that the petitioner is now estopped from assailing the jurisdiction of the Municipal Court after he had voluntarily submitted himself to its jurisdiction.

It is true that the appeal from the decision of the Municipal Court was timely filed by the petitioner with the Court of First Instance. However, as noted by the Court of First Instance, Judge Gironella, the appeal should have been

elevated to the Court of Appeals considering the concurrent jurisdiction of the Municipal Court and the Court of First Instance pursuant to Section 45 of the Judiciary Act of 1948 as amended by Republic Act No. 2613 and 6031 particularly the second paragraph which provides:

" x x x In cases falling under the concurrent jurisdiction of the Municipal and City courts with the Court of First Instance, the appeal shall be made directly to the Court of Appeals whose decision shall be final x x x."

The order dated August 24, 1972 denying the motion for reconsideration of the petitioner and remanding the case to the Municipal Court of Tayum, Abra for execution of the judgment was received by the petitioner on September 8, 1972 after which he filed the instant Petition for Certiorari and Prohibition with preliminary injunction with this Court invoking a question of law.

While it is the fault of the petitioner for appealing to the wrong court and thereby allowing the period for appeal to lapse, the more correct procedure was for the respondent court to forward the case to the proper court which was the Court of Appeals for appropriate action. Considering, however, the length of time that this case has been pending, we apply the rule in the case of *Del Castillo v. Jaymalin*, (112 SCRA 629) and follow the principle enunciated in *Alger Electric, Inc. v. Court of Appeals*, (135 SCRA 37) which states:

"x x x it is a cherished rule of procedure for this Court to always strive to settle the entire controversy in a single proceeding leaving no root or branch to bear the seeds of future litigation. No useful purpose will be served if this case is remanded to the trial court only to have its decision raised again to the Intermediate Appellate Court and from there to this court." (p. 43)

Only recently in the case of *Beautifont, Inc., et al. v. Court of Appeals, et al.* (G.R. No. 50141, January 29, 1988), we stated that:

"x x x But all those relevant facts are now before this Court. And those facts dictate the rendition of a verdict in the petitioner's favor. There is therefore no point in referring the case back to the Court of Appeals. The facts and the legal propositions involved will not change, nor should the ultimate judgment. Considerable time has already elapsed and, to serve the ends of justice, it is time that the controversy is finally laid to rest. (See *Sotto v. Samson*, 5 SCRA 733; *Republic v. Paredes*, 108 Phil. 57; *Lianga Lumber Co. v. Lianga Timber Co., Inc.*, 76 SCRA 197; *Erico v. Heirs of Chigas*, 98 SCRA 575; *Francisco v. City of Davao*, 12 SCRA 628, *Valencia v. Mabilangan*, 105 Phil. 162). 'Sound practice seeks to accommodate the theory which avoids waste of time, effort and expense, both to the parties and the government, not to speak of delay in the disposal of the case (cf. *Fernandez v. Garcia*, 92 Phil. 592, 597). A marked characteristic of our judicial set-up is that where the dictates of justice so demand x x x the Supreme Court should act, and act with finality.' (*Li Siu Liat v. Republic*, 21 SCRA 1039, 1046, citing *Samal v. CA*, 99 Phil. 230 and *U.S. v. Gimenez*, 34 Phil. 74). In this case, the dictates of justice do demand that this Court act, and act with finality."

In the instant case, there is no error in the judgment rendered by the Municipal Court which found the accused guilty of the crime charged. The decision is very well supported by evidence and corroborated by the testimonies of witnesses. We reiterate the well-settled doctrine stated in the case of *People v. Pelias Jones* (137 SCRA 166) that:

"x x x with respect to the issue of credibility of witnesses we have always accorded the highest degree of respect to the findings of the trial court considering that it is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, x x x."

The records do not show any inconsistencies in the decision of the trial court nor do we find any facts of substance and value that the court may have overlooked which could affect the result of the case.

WHEREFORE, the petition is DISMISSED for lack of merit. The decision of the trial court is REINSTATED for

immediate execution.

SO ORDERED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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