

**JUAN C. DIMSON, PETITIONER AND APPELLANT, VS. HONORABLE ARTEMIO ELEPANO, JUSTICE OF THE PEACE OF CALAUAN, LAGUNA, RESPONDENT AND APPELLEE.***G.R.No. L-9385. August 16, 1956*

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

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On March 15, 1954, appellant Juan Dimson was charged in the Justice of the Peace Court of Calauan, Laguna with the crime of light threats (Criminal Case No. 113). After trial judgment was rendered by the court on June 2, 1954 finding Dimson guilty as charged, and sentencing him to pay a fine of P50 and costs. On the same date, the court sent a notice to Dimson that judgment would be promulgated on June 19, 1954. The notice was returned unserved, because Dimson could not be found in the place of his residence in Barrio Dayap. On June 26, 1954, the court again issued another notice to Dimson to appear for promulgation of judgment on July 10, 1954. This notice was also returned unserved because Dimson was still absent from his residence. Wherefore, on July 17, 1954, the judge sent by registered mail a copy of the decision to Dimson's attorneys as well as the provincial fiscal at Sta. Cruz, Laguna, duly received by them on July 20, 1954 and July 19, 1954 respectively. Then on October 6, 1954, the judge, issued a notice to Dimson's bondsmen to produce the accused in court on October 23, 1954 "for the promulgation of the judgment". The bondsmen notified Dimson to appear in court as required, but instead of appearing personally on the date set, Dimson filed, through his lawyers, an "Omnibus Motion" asking for the dismissal of the case because the delay in the promulgation of the decision allegedly violated the right of the accused to a speedy trial. The judge denied the motion on October 30, 1954, holding that judgment had already been promulgated on July 20, 1954 when copy of the decision was received by the defendant's lawyers, and that the same had already become final and executory; on the same day, the judge sent another notice to the bondsmen to produce the person of the accused in court for the execution of the sentence. On November 29, 1954, the accused, through counsel, filed a petition for certiorari and mandamus with preliminary injunction before the Court of First Instance of Laguna, complaining about the actuations of the respondent justice of the peace, and asking that all proceedings in criminal case No. 113 be annulled. In answer, the respondent judge explained that the cause of the delay in the promulgation of his sentence was the continued absence of the accused from the place of his known residence; that the service of a copy of the decision to the defendant's lawyers was sufficient promulgation of the judgment; that as said lawyers did not perfect an appeal on time, the judgment had become final and executory; and that the notice to bondsmen to produce the body of the accused on October 23, 1954 was mistakenly worded for "promulgation of judgment" when it should have been a notice to produce the accused for the execution of the judgment.

The Court of First Instance found that service of a copy of the decision to the defendant's lawyers was not equivalent to promulgation, but that the delay in the promulgation of the judgment did not render the proceedings void but only made the decision ineffective; that said delay was due to the fact that the accused could not be found in the place of his known residence; and ordered that the decision of the inferior court be promulgated in

accordance with law. From this judgment, defendant Juan C. Dimson appealed to this court.

The appeal has no merit.

Appellant mainly complains about the alleged unreasonable delay in the promulgation of the sentence against him in criminal case No. 113. The records show, however, that whatever delay there was in the promulgation of said sentence was due to no fault of the respondent justice of the peace, but to appellant's continued absence from his residence, where respondent judge sought twice to notify him of the judgment but failed because he could not be found therein. When notice of the judgment could not be served on, appellant, the judge, however, sent copy of the decision to his attorneys and notified his bondsmen to produce him in court for the promulgation of the judgment. The sentence then could have been promulgated at this later date, but appellant, instead of appearing personally on the day set for the reading of his sentence, filed, through his lawyers, a motion asking for the dismissal of his case. The delay in the promulgation of the sentence of the inferior court was therefore caused by appellant's own acts, first, his continued absence from his place of residence, and second, his filing a motion to dismiss the case against him instead of appearing for the promulgation of the judgment.

The only error that can be attributed to the respondent justice of the peace was his having held, in denying appellant's motion to dismiss, that judgment had already been promulgated when notice of the decision was received by his lawyers on July 20, 1954. Under section 6, Rule 116 of the Rules of Court, judgment for a light offense as the one at bar is promulgated by reading the sentence in the presence of the defendant or his attorney or representative. The reading of the sentence to the accused or his attorney in open court is motivated by the necessity of fixing the start of the period for appeal; it is only in verdicts of acquittal that notice of the decision to the accused is deemed sufficient promulgation, for then, no appeal is necessary and the judgment becomes final and executory immediately after promulgation (*Cea vs. Cinco*, 50 Off. Gaz. No. 11, 5254).

Appellant also claims that the delay in the promulgation of his sentence for more than ninety days deprived the justice of the peace court of jurisdiction to act further in his case. This argument is untenable, not only because, as already stated, whatever delay in the promulgation of the judgment in criminal case No. 113 was due to appellant's own acts, but also for the reason that the 90-day period fixed by the law is for the decision of cases or proceedings pending before the trial courts, and has no application to cases already decided and disposed of. Besides, failure to comply with the injunction for judges to decide their cases within 90 days from submission merely deprives them of their right to collect their salaries or to apply for leave (section 5, Judiciary Act of 1948; section 129, Revised Administrative Code) but does not deprive them of jurisdiction to act in the causes pending before them.

The judgment appealed from is affirmed, with costs against appellant Juan Dimson. So ordered.

Paras C, J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia,, and Felix, JJ., concur.

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