

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. TEODORICO DACO, ET AL., DEFENDANT AND APPELLEE.*G.R. No. L-17210. November 30, 1962*

Ponente: DIZON, J.

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A complaint for assault upon an agent of a person in authority was filed on September 13, 1959 by the Chief of Police of Busuanga, Palawan, against Isidro, Eustaquio, Teodorico, Isaias, all surnamed Daco, and Mario Edonga in the Justice of the Peace Court of said municipality. It alleged that on or about 11:00 p.m. of September 12, 1959, at sitio Bangohon, Municipality of Busuanga, province of Palawan, the accused, confederating with one another, wilfully, unlawfully and feloniously attacked Porfirio Feloteo, a policeman of said municipality, while in the performance of his official duty, causing him to suffer less serious physical injuries.

After receiving the evidence presented by the prosecution and the defense, during the preliminary investigation, the Justice of the Peace Court rendered a "decision" elevating the case, as against Isidro Daco, to the Court of First Instance, but convicting the other four accused for slight physical injuries and sentencing each of them to 10 days imprisonment. The "decision" notwithstanding, the provincial fiscal of Palawan filed an information with the Court of First Instance of said province charging all the five accused with assault upon an agent of a person in authority, with physical injuries. The defendants—except Isidro Daco—moved to quash the information on the ground of double jeopardy, alleging that the crime charged therein necessarily included the crime of slight physical injuries of which they had been convicted and for which they had served sentence.

The court sustained the motion to quash and dismissed the case. Hence the present appeal.

The question to be determined is whether the "decision" of the Justice of the Peace Court of Busuanga mentioned heretofore is valid or a nullity. If valid, defendants' plea of jeopardy should be sustained, but the same should be overruled if it is otherwise.

That Justice of the Peace Courts have no jurisdiction to entertain a case of assault against a person in authority or of assault upon an agent of a person in authority—except for preliminary investigation—has been repeatedly held heretofore. (Article 148, Revised Penal Code; *Salab-salo, et al., vs. Ang Koy, et al.*, 108 Phil., 649; 58 Off. Gaz. [35] 5733; *Villanueva etc. vs. Hon. Ortiz, et al.*, 108 Phil., 493; 58 Off. Gaz. [7] 1318; *People vs. Romualdo*, 90 Phil., 739). As a matter of fact, the record of the present case shows positively that the Justice of the Peace Court of Busuanga heard the case only to conduct the corresponding preliminary investigation.

The conviction of Eustaquio, Teodorico, Isaias, all surnamed Daco, and Mario Edonga by the Justice of the Peace Court of Busuanga being a nullity, their plea of double jeopardy can not be sustained, one of its essential elements—a judgment or final order rendered or issued by a competent court—not being present.

Wherefore, the order of dismissal appealed from is set aside and this case is remanded to the lower court for further proceedings in accordance with law. Costs de officio.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Regala, and Makalintal, JJ., concur.

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