

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. PERCIVAL GILO, DEFENDANT AND APPELLANT.

G.R. No. L-18202. April 30, 1964

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Appellant was charged before the Justice of the Peace Court of Guimbal, Iloilo, with a crime labelled as "Acts of Lasciviousness" described in a complaint filed by the offended party. After conducting the required preliminary investigation, the justice of the peace forwarded the case to the Court of First Instance where the provincial fiscal filed an information charging a similar crime of "Acts of Lasciviousness." It was alleged this time that the acts were committed "with lewd design."

Trial was conducted by the latter court, and after the prosecution had rested its case, appellant filed a motion to dismiss alleging lack of jurisdiction in view of the lack of allegation of lewd design in the complaint subscribed by the offended party. The court, however, deferred action on the motion until after trial had been completed. Thereafter, the court rendered decision finding that the act committed was merely one of unjust vexation and sentenced appellant to pay a fine of P20.00. Appellant interposed the present appeal.

The complaint filed before the Justice of the Peace Court of Guimbal, Iloilo, by the offended party, which was labelled as "Acts of Lasciviousness", reads as follows:

"That on or about December 11, 1957, in the Municipality of Guimbal, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, the said accused Percival Gilo taking advantage of his being drunk with force and intimidation did then and there intentionally, maliciously, feloniously and criminally touch the breast and face of Verna Genzola against her will or consent and as a result of which Verna Genzola suffered shame, embarrassment, and lost her self-respect."

Considering that in order that a crime constituting acts of lasciviousness may be committed it is necessary that it be alleged that it was committed with lewd design, the latter being an indispensable element of all crimes against chastity, such as abduction, seduction and rape, including acts of lasciviousness, the complaint copied above cannot really be considered as charging a crime of acts of lasciviousness because of the absence of such element, even if the complaint is labelled as "Acts of Lasciviousness." [1] What characterizes a criminal charge is not the title but the body of the complaint or information. In this sense, the lower court did not acquire jurisdiction over the case, even if the information filed by the provincial fiscal be one of acts of lasciviousness, because the complaint that gave initial life to the case is merely one of unjust vexation. This fatal defect can only be cured by making the proper correction in the complaint filed by the offended party, which here was not done. Verily, the lower court acted without, jurisdiction, thereby rendering all its proceedings null and void.

The contention of the government that the complaint filed by the offended party before the Justice of the Peace Court of Guimbal, Iloilo, is sufficient even if it does not allege that the act, was committed with lewd design is untenable, because the words "feloniously and criminally" that are alleged in the complaint are mere general terms

which denote the criminal intent of the accused but which do not necessarily connote the idea of lust needed in the commission of the act. Lust or lewd design is an element that characterizes all crimes against chastity, apart from the felonious or criminal intent of the offender, and such element must be always present in order that they may be so considered in contemplation of law. The absence of such element converts the act into another crime, which in this case is unjust vexation.

WHEREFORE, the decision appealed from is reversed. It is ordered that this case be remanded to the lower court with the directive that it be in turn remanded to the Justice of the Peace Court of Guimbal, Iloilo, so that trial may proceed under the complaint filed by the offended party. No costs.

Bengzon, C.J., Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, and Makalintal, JJ., concur.

[1] People vs. Crisostomo, 46 Phil. 775; People vs. Aguinaldo, 34, Off. Gaz.; 1896; People vs. Parentela, G. R. No. 41804, February 16, 1995, III Lawyers' League Journal, 416; Viado, 3 Cod. Pen., 124.

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