

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FELIZA CASUGA Y MUNAR, ACCUSED-APPELLANT.

G.R. No. L-37642. October 22, 1973

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court herein affirms the judgment of conviction for slight slander as rendered by the La Union court of first instance after trial de novo on an appeal by the accused-appellant from an adverse original judgment of the municipal court of San Fernando, La Union. The Court thus reaffirms the principle that while the jurisdiction of a court may be challenged at any time, sound public policy bars a party such as appellant from so doing belatedly and challenging the jurisdiction of the court of first instance after having expressly procured that jurisdiction herself and speculating on the fortunes of litigation.

Accused-appellant was originally charged on July 9, 1964 with grave slander in the municipal court of San Fernando, La Union for having uttered defamatory words in calling the offended party, Erlinda Munar, an unmarried woman and a distant relative, the paramour of somebody. The municipal court rejected her defense of alibi and per its decision of September 8, 1964 sentenced her to pay a fine of P20.00 with subsidiary imprisonment in case of insolvency and to pay the costs.[1]

Accused-appellant filed an appeal directly to the La Union court of first instance and filed the P100. -appeal bond as fixed by the municipal court. She was duly re-arraigned by the said court and entered her not-guilty plea on December 23, 1964. The said court thereafter conducted a full dress trial de novo with extensive hearings on October 11, 1965, December 9, 1965, December 29, 1965, August 11, 1966, October 4, 1966 and January 5, 1967, on which last date the trial court declared the reception of evidence closed.

The trial court thereafter rendered its decision of January 30, 1967, wherein like the municipal court it rejected as not worthy of credence the accused's defense of alibi that she was in Manila on the day of the commission of the offense and took a moderate view of her defamatory remarks, finding her guilty merely of slight slander and imposing a P50.00-fine with subsidiary imprisonment in case of insolvency and payment of costs. The trial court however sentenced the accused to indemnify the offended party in the amount of P500.00 by way of civil liability.

The accused filed a motion for reconsideration praying for acquittal and for reduction of the civil liability to P100.00. The trial court in its reasoned order of February 8, 1967 denied reconsideration, rejecting the belated objection raised for the first time by accused as to the proceedings being invalid because the private prosecutor conducted the examination of the witnesses on three hearing days, notwithstanding his announcement - later withdrawn - that the offended party would file a separate civil case and ruling correctly that since the government prosecutors were present at the hearings, the prosecution of the case remained under their control and the private prosecutor's presence and participation which were then not objected to were "of no particular importance."

The accused thereafter filed her notice of appeal directly to the Supreme Court "solely on a question of law, to wit: that there was no legal basis for the judgment of conviction because the proceedings were null and void as the

private prosecutor had no legal personality to represent, or present evidence for, the prosecution in view of the reservation of the civil action, as borne out by the records." [2]

Notwithstanding that the trial court ordered the record elevated to this Court, its clerk forwarded the records to the Court of Appeals where the parties filed their briefs. Then Solicitor-General, now a member of this Court, Justice Antonio P. Barredo noted this oversight in the People's brief filed on February 14, 1968, and further prayed that since the appeal was solely on questions of law that the same be certified to this Court. This was eventually done in the appellate court's resolution of September 19, 1973, transmitted to this Court on October 10, 1973, forwarding the case to this Court as raising pure questions of law.

The original sole question of law raised by accused-appellant that private prosecutor for the offended party had no legal personality to conduct the examination of some witnesses and that his participation rendered null and void the proceedings is manifestly without merit. Aside from the fact that accused's objection brought up only in her motion for reconsideration was too late, the objection had no valid basis since the private prosecutor had withdrawn the reservation to file a separate civil case and prosecution of the case remained at all times under the control of the government prosecutors.

As to the additional question of jurisdiction raised for the first time by the accused-appellant only in her brief on appeal that the crime of grave slander [3] of which she was charged comes within the area of concurrent jurisdiction of municipal courts of provincial capitals or city courts and courts of first instance, and that the judgment of the La Union court of first instance to which she had expressly appealed the municipal court's conviction should be deemed null and void for want of jurisdiction as her appeal should have been directly to the Court of Appeals or Supreme Court [4], this question is foreclosed by the doctrine of estoppel enunciated by the Court 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." As restated in *Crisostomo vs. Reyes* and a number of subsequent cases, the principle decrees that "While the jurisdiction of a tribunal may be challenged at any time, sound public policy bars the petitioners from so doing after their having procured that jurisdiction themselves, speculating on the fortunes of litigation." [5]

As specifically applied to criminal cases, the Court in *Vera vs. People* [6] refused to set aside the judgment of conviction of the petitioners-accused as affirmed by the Court of Appeals on the ground that the therein accused were barred from raising too late the question of nullity of the trial court's judgment which was promulgated to the accused only after the presiding judge's retirement when he was no longer the judge of the said court. The Court again stressed therein the rationale for its doctrine whereby a party is precluded from raising what would otherwise be a decisive jurisdictional question only after an adverse decision had been rendered by the very court whose jurisdiction has been invoked by a party to obtain affirmative relief and a final adjudication on the merits and whose jurisdiction the party would now spurn. As stated in *Tijam vs. Sibonghanoy* [7] to sanction such conduct would result in revolting inequity and unfairness, with the nullification of all the proceedings had over an extended period of time - 20 years in that case and almost 10 years in the case at bar.

As the People's brief puts it, an appellant cannot be permitted to experiment with the court - the court of first instance in the case of herein appellant - by submitting herself to its jurisdiction and after the experiment has proved unsuccessful for her with the rendition of an adverse decision to raise for the first time its lack of jurisdiction. As restated by Chief Justice Roberto Concepcion in *Francisco vs. City of Davao*, the ends of justice would not be served if such belated jurisdictional questions were to be entertained and the proceedings nullified - when the court's jurisdiction had been invoked all the time by the party who would now belatedly question its jurisdiction because of its adverse decision.

Sound public policy and the interests of a just, orderly, efficient and inexpensive administration of justice, whereby justice and fairness are accorded both to plaintiff and defendant, to the offended party as well as to the accused, properly raise a barrier against a party who would speculate on the fortunes of litigation and in the event of an adverse decision challenge the jurisdiction of the very tribunal whose jurisdiction he or she has invoked and procured at the expenditure of so much time, expense and effort on the part of the litigants and of the State. A graphic illustration of the soundness of this policy and doctrine is the present case where appellant would set at naught a mere judgment imposing a P50. -fine and P500. - civil liability upon her rendered after protracted and extensive hearings conducted by the lower court in a case which has been pending for almost ten years now since its inception and in the language of Sibonghanoy would compel the offended party "to go up (her) Calvary once more."

As a matter of substantial justice, both the municipal court and the court of first instance in the case at bar had dealt with the criminal charge of grave slander against the accused-appellant as if it were one of slight slander punishable with a penalty of arresto mayor or a fine not exceeding P200.00 - and both courts imposed merely a fine well below the maximum of P200.00. In this context, the municipal court can be said to have properly exercised exclusive original jurisdiction and the court of first instance to have properly exercised appellate jurisdiction as invoked by the accused-appellant herself - and she cannot now be allowed to question for the very first time here the very jurisdiction invoked by her, especially where she has raised no question whatever as to the correctness in fact and in law of the penalty and civil liability imposed upon her by the lower court's judgment.

ACCORDINGLY, the decision appealed from is hereby affirmed in toto, with costs.

Makalintal, Acting C.J., Zaldivar, Fernando, Makasiar, Antonio, and Esguerra, JJ., concur.

Ruiz Castro, J., concurs in the result.

Barredo, J., did not take part.

[1] The municipal court record does not show any stenographic record of the testimony of the witnesses, but only a list of the witnesses who testified.

[2] Record, page 84.

[3] Carrying an imposable penalty of arresto mayor in its maximum period to prision correccional in its minimum period under Art. 358, Revised Penal Code.

[4] Citing the then recently decided case of *Esperat vs. Avila* 20 SCRA 596 (June 30, 1967). The Court therein pointed out, however, that "should the evidence not have been recorded (or transcribed) as required by the last part of section 87 (c) of the Judiciary law, then the trial of the criminal case [by the municipal court] would be an entire nullity.." (at page 602). Since the municipal court kept no such record, the trial de novo conducted by the court of first instance could properly be deemed in exercise of its original concurrent jurisdiction.

[5] *Calderon vs. Public Service Commission*, 38 SCRA 624, 633 (April 30, 1971) citing *Tijam vs. Sibonghanoy*, 33 SCRA 29 (April 15, 1968), and cases cited therein and *Crisostomo vs. Reyes*, 32 SCRA 54 (March 25, 1970).

[6] 31 SCRA 711 (February 18, 1970).

[7] *Supra*, fn. 5.

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