

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. ROBIN VILLASIS AND SIM VILLASIS, DEFENDANTS AND APPELLEES.

G.R. No. L-1218. September 15, 1948

Ponente: PERFECTO, J.

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PERFECTO, J.:

On July 30, 1946, the Chief of Police of Escalante, Occidental Negros, filed with the Justice of the Peace of, the said municipality a complaint against Robin Villasis and Sim Villasis for slight physical injuries, alleging:

"The Chief of Police, after having been duly sworn to, accuses ROBIN VILLASIS and SIM VILLASIS of the Crime of SLIGHT PHYSICAL INJURIES, committed as follows:

"That on or about the 5th day of July, at approximately 5'00 P.M., in barrio Bug-ang, Municipality of Escalante, Province of Negros Occidental, Philippines, and within the jurisdiction of this. Honorable Court, the said accused referred to above are brothers, confederating together and helping one another, did and use personal violence upon the person of one Policarpo Celeste, by then and there giving them several blows with a wooden cane and striking with a bolo, thereby inflicting upon the latter physical injuries to wit:

- "(1) Wound lacerated scalp parietal left
- "(2) Contusion back left
- "(3) Wound lacerated hand left from hype themar to base of little finger and part of dorsal as pect of hand
- "(4) Wound lacerated forearm left
- "(5) Wound, lacerated thumb and little finger right
- "(6) Wound lacerated leg right.

"Which injuries incapacitated Policarpo Celeste from performing his daily labor and it will require 7 to 10 days to heal, as per medical certificate herein attached."

On August 22, 1946 upon being arraigned, the two accused pleaded guilty and were sentenced to ten days of arresto menor and to pay the costs.

The accused began serving the sentence. On August 25, 1946, three days after the promulgation of the sentence, the Chief of Police filed with the same Justice of the fpeace, In the same case, under the same title and with (the same Case No. 103, an amended complaint, charging the same two accused with serious physical injuries and reading as follows:

"The Chief of Police, after having been duly sworn to, accuses Robin Villasis and Sim Villasis of the crime of Serious Physical Injuries, committed as follows:

"That on or about the 5th day of July, 191+6. at approximately 5:00 P.M., in barrio Bug-ang Municipality of Escalante, Province of Negros/Occidental, Philippines, and within the jurisdiction of this Honorable Court, the said accused referred to above, are brothers, confederating together and helping one another, did then and there wilfully, unlawfully and feloniously attack, assault and use personal violence upon the person of one Policarpo Celeste and striking with a bolo, thereby inflicting upon the latter Serious Physical Injuries, to wit:

"(1) Wound lacerated scalp parietal left

"(2) Contusion back left

"(3) Wound lacerated hand left from hype themar to base of little finger and part of dorsal as pect of hand

"(4) Wound lacerated forearm left

"(5) Wound lacerated thumb and little finger right

"(6) Wound lacerated leg right.

"Which injuries caused curation for 23 days. Inflicting wound on the left hand causing deformity."

On September 2, 1946, a warrant was Issued for the arrest of the two accused, their bail having been fixed at P3,000. On September 4, the accused filed a pleading renouncing preliminary investigation and praying that the record be remanded to the Court of First Instance or Negros Occidental, wherein, on September 19, 1946, the following information based on the amended complaint was filed:

"The undersigned Provincial Fiscal accuses Robin Villasis and Sim Villasis, of the crime of 'SERIOUS PHYSICAL INJURIES,' committed as follows:

"That on or about July 5, 1946, in the municipality of Escalante, province of Negros Occidental, Republic of the Philippines, and herein accused, being then provided with wooden cane and a bolo, respectively, confederating together and mutually helping one another, did, then and there, willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of one Policarpo Celeste, thus inflicting upon the latter several injuries in the different parts of his body which required medical attendance for more than 30 days and causing deformity on his left arm."

On October 16, 1946, defense counsel filed a motion to quash the information, on the ground that accused have already served the sentence of 10 days arresto menor for slight physical injuries of which they were convicted in the Justice of the Peace Court of Escalante upon the {same facts alleged in the information.

The Court of First Instance of Negros Occidental dismissed the case upon two grounds. First, because the amended complaint was filed after the judgment on the original complaint, in violation of Section 13 of Rule 106 that provides that the information or complaint may. be amended only before judgment has been rendered and, therefore, the court has not acquired Jurisdiction over the offense charged and over the persons of the defendants; and second, because the accused have been placed in double jeopardy (People vs. Tarok, G.R. No. 47453, decided on October 9, 1941).

The prosecution appealed against the order of dismissal.

Appellant holds that the trial court erred in finding that it has no jurisdiction over the subject matter and over the persons of the accused, in view of the fact that the amended complaint filed by the Chief of Police of Escalante was not an amended complaint but an original complaint.

The contention is evidently aimed at eluding the clear and indisputable provision of Section 13 of Rule 106.

Because the accused have expressly waived their right to a preliminary investigation, appellant intimates that the accused understood the amended complaint not as an amended complaint; but, to all intents and purposes, as an original complaint falling within the jurisdiction of the Court of First Instance. The argument is so thin that it vanishes into nothingness. Unless the Chief of Police had no idea of the meaning of his two words, there is no possible mistake that his intention was to amend the original complaint. The amended complaint was sworn to before the Justice of the Peace who thereupon issued a warrant for the arrest of the accused. The Justice of the Peace would not have allowed himself to officiate an empty ceremony where the Chief of Police swore to an amended complaint he intended to be original. Besides, it is too much to expect people as ignorant as the accused—one can hardly write his name and the other had to thumbmark his waiver to a preliminary investigation,—to follow the complex mental processes and to be made to understand that "amended" means "not amended" and that words are written to express ideas contrary to what they have always conveyed.

Appellant has proposed to show that the trial court erred in holding that the accused have been placed in double jeopardy.

There is no dispute that under the ruling in *People vs. Tarok*, supra, and upon the facts in this case, the accused have been placed in double jeopardy. The appellant impugns the validity of Section 9 of Rule 113, the authority upon which the ruling in the *Tarok* case was laid down, which provides that the conviction or acquittal of defendant shall be a bar to another prosecution for any offense which necessarily includes the offense charged in the former complaint or information. Appellant contends that the guaranty against double jeopardy provided for in Section 9 of Rule 113 is in virtue of the constitutional rule-making power of the Supreme Court which, according to Section 13 of Article VIII of the Constitution, may not however diminish, increase or modify substantive rights. The proposition is untenable. The rule in question does not diminish, increase or modify substantive rights, but only points out that there are procedures that must be followed to enforce, and to avoid violations of, the following provision of the fundamental law:

"No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act." (Sec. 1(20), Art. III of the Constitution.)

The argument advanced by appellant about the rise of the word "offense" in the first clause and of the word "act" in the second clause of the constitutional provision on double jeopardy appears to be immaterial to the question raised regarding the disputed provision of Section 9 of Rule 113. The disputed provision offers a rule of interpretation for the word "offense," and all matters of interpretation are procedural in nature. The Supreme Court has construed the words "same offense" in the constitutional inhibition, and to provide that an offense which necessarily includes the one charged in a complaint or information is the same as the latter is just an interpretation of the words used by the drafters of the fundamental law, and no reasonable person may validly hold that, in the light of history and experience and of a legal situation intended to be clarified, the Supreme Court has given an unreasonable interpretation of the thought of the drafters.

The appealed order is affirmed.

Paras, and Briones, JJ., concur.

Moran, C.J., see concurring opinion.

Feria, J., see dissenting opinion

Bengzon, J., see concurring and dissenting opinion.

Pablo, J., concurs in the dissenting opinion of Justices Feria, and Padilla.

Padilla, J., see dissenting opinion.

Tuason, J., in the result.

CONCURRING OPINION

MORAN, C.J.:

Upon the authority of *People v. Besa*, 2 Off. Gaz., 490, May 1943 I agree that there is double jeopardy in this case. I do not agree, however, with the ruling in the *Tarok* case (40 Off. Gaz., p. 3488) upon the reasons stated in my dissenting opinion therein. The difference between the *Tarok* case and the *Besa* case is that, in the former when the first case was tried the accused could not have been placed in jeopardy of being punished for the second offense charged which was not yet in existence, whereas in the latter the second offense was already in existence when the first case was tried.

CONCURRING AND DISSENTING OPINION

BENGZON, J.:

Although I agree with Mr. Justice Feria and Mr. Justice Padilla that there was no double jeopardy, I vote jfor confirmation of the decision, because the appellees having relied on the rulings of this Court in the cases \$f *Tarok* and *Besa* they should not be prejudiced by a reversal thereof which ought to be prospective in effect.as I pointed out in *Santiago, et al. v. Valenzuela, et al.*, G.R. No. L-670, April 30, 1947.

DISSENTING OPINION

PADILLA, J.:

The majority upholds the order dismissing the information for serious physical injuries entered by the Court of First Instance of Occidental Negros appealed from, when it declares that section 13, Rule 106, is the law of the case, upon which the court below had predicated the pronouncement that it had accquired no jurisdiction over the crime charged in the information and over the persons of the accused. The reason given by the majority for this opinion is:

The Justice of the Peace would not have allowed himself to officiate an empty ceremony where the Chief of Police swore to an amended complaint he intended to be original. Besides, it is too much to expect people as ignorant as the accused— one can hardly write his name and the other had to thumbmark his waiver to a preliminary investigation,—to follow the complex mental processes and to be made to understand that 'amended' means 'not amended' and that words are written to express ideas contrary to what they have always

conveyed.

This view runs counter to a rule well established in this jurisdiction that not the title but the facts (alleged in a complaint or information are what constitutes the crime charged therein. If the facts alleged in, and not the title of, a complaint are what constitutes the crime charged, the "amended complaint" filed by the chief of police of Escalante, Occidental Negros, cannot be deemed as amended complaint, because the facts therein alleged charge the crime of serious physical injuries which the justice of the peace could not deem, as he did not deem, to be an amendment to the original complaint of slight physical injuries, for the crime charged in the "amended complaint" is not within the jurisdiction of his court. Such being the case, the court below grievously erred in holding that it had acquired no jurisdiction over the offense charged and over the persons of the accused, it appearing further that in the justice of the peace court, the appellee's waived their right to a preliminary investigation and were bound over to the court of first instance. The majority considers the argument advanced by counsel [for the appellant on this point] "so thin that vanishes into nothingness." For the reasons already stated, I hold the contrary view. The pronouncements and conclusions of this Court must draw its vivifying strength from correct and sound premises, if it desires to preserve the confidence of the citizenry. The premises and conclusions must appeal to, and be accepted by, that attribute of the mind that mankind has come to call logic. This Court cannot by a wave of the hand disregard and brush aside sound rules heretofore laid down and established. It cannot by the use of strong, haughty and sarcastic language impose its view as if it were a dogma. It cannot by such language benumb counsel of the party who holds a contrary view and tries and attempts to convince this Court of the correctness and soundness of his contention.

As regards the second question raised by the appellant, I am of the opinion that the conviction of the appellees for slight physical injuries is no bar to their subsequent prosecution for serious physical injuries, for reasons that presently I am going to state. The law defines what act or omission constitutes a crime and prescribes the penalty to be imposed upon those found guilty thereof. The transgressor of the law is liable not for the immediate but for the ultimate effect or result directly caused by his act or omission, for the latter includes the former. The ultimate and not the immediate effect or result constitutes the crime. If the act or omission causes immediate results which lead to an ultimate result, the transgressor can not be held guilty of the former but of the latter. The Court applies the law through a prescribed procedure designed to safeguard the rights of a person charged with an offense as guaranteed by the Constitution. A jury by its verdict and a court by its judgment or sentence cannot lawfully hold an accused person guilty of a crime or offense which, in the contemplation of law and as far as said accused is concerned, he has not committed, because in truth and in fact he has committed a more serious crime. The court, taking cognizance of such a crime or offense, has no power to enter a verdict of guilt and render judgment accordingly, because it cannot render such verdict and judgment for a crime or offense which the accused has not committed. The trial, the verdict and the judgment in such a case are an absolute nullity. Hence, conviction for a lesser crime or offense—the immediate result—included in the more serious crime or offense—the ultimate result—certainly is not and cannot be a bar to a prosecution for the latter offense. (*Diaz v. U.S.*, 223 U.S., 432.)

In this case the crime charged in the justice of the peace court is slight physical injuries, as defined in article 266 of the Revised Penal Code, and comes under the jurisdiction of that court. The second crime charged is serious physical injuries, as defined in article 263 of the same Code. This comes under the jurisdiction of the Court of First Instance. How may the conviction of the appellees for the first crime in the justice of the peace court be a bar to a prosecution for the crime of serious physical injuries, which caused the offended party's deformity, is hard for me to understand. Evidence to support the facts alleged in the information for serious physical injuries could not have been presented at the trial for slight physical injuries because such evidence did not then exist. The fact that the second crime charged arose from the same transaction as the first does not warrant a plea of former conviction to bar the prosecution for the more serious offense resulting from the same act. Slight physical injuries and serious

physical injuries differ in degree; and, though they may be of the same species, certainly they are not the same in substance or of the same nature, because of the gravity of the latter and the levity of the former. Slight physical injuries cannot be said to be an ingredient of serious physical injuries, because the crime committed is either the former or the latter—it cannot be both. The two offenses are not the same both in law and in fact. Serious physical injuries does not contain as an element slight physical injuries, such as the falsification of a public document in the complex crime of malversation committed through such falsification, in which the latter is an ingredient of the crime of malversation (*People v. Barbas*, 60 Phil. 241); or the usurpation of public functions in the complex crime of seduction committed through usurpation of public functions, in which the latter is an ingredient of the crime of seduction (*U.S. v. Hernandez*, 29 Phil. 109). To my mind, that part of sec. 9, Rule 113, which provides that a plea of former jeopardy may be set up to bar the prosecution for a more serious offense arising out of a criminal act, from which a less serious crime also arose and for which the accused has already been placed in jeopardy, contemplates a situation where the more serious crime was already in existence at the time of the conviction of the accused for a lesser offense arising out of the same criminal act. It does not mean that the accused convicted of a lesser offense cannot be prosecuted for a more serious offense which at the time of his conviction was not yet in existence. To illustrate: A person charged and convicted or acquitted of homicide cannot subsequently be prosecuted for murder, because if he was guilty or innocent of having deprived another of his life, any attending qualifying circumstance, which would make it murder, was already in existence at the time of the indictment and conviction or acquittal for homicide. A person charged and convicted or acquitted of serious physical injuries cannot later on be prosecuted for attempted or frustrated homicide, because if he was guilty or innocent of having caused the serious physical injuries to the complainant, the intent to kill, if the accused had it at the time of causing the injuries, which would change the crime to attempted or frustrated homicide, was already in existence at the time of the indictment and conviction or acquittal for serious physical injuries.

But if the construction placed by the majority upon that part of the rule referred to reflects the true intent of the authors of the Rules of Court, then that part of the rule reflecting such intent is *ultra vires*. At the time of the adoption of the Constitution (8 February 1935) the notion or concept of jeopardy already had acquired a fixed, concrete and definite meaning in the jurisprudence of the country (*Diaz v. U.S.*, *supra*). Sec. 1 (20), Article III, of the Constitution declares and reiterates that "No person shall be twice put in jeopardy of punishment for the same offense." And, because at that time the punishment of an act by a law and an ordinance was not deemed a violation of the jeopardy clause in the former organic law, which also prohibited the placing of a person twice in jeopardy of punishment for the same offense, the Constitution enlarged the scope of the prohibition by providing that "If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act." (Sec. 1 (20), Article III, of the Constitution.) The framers of the Constitution having adopted the jeopardy clause with its fixed, concrete and definite meaning and enlarged its scope, as above pointed out, this Court in the exercise of its rule-making power cannot broaden further its scope without offending against another constitutional provision which prohibits this Court, in the use and exercise of such rule-making power, from diminishing, increasing or modifying substantive rights (sec. 13, Art. VIII). The right guaranteed by the Constitution under the jeopardy clause is unquestionably substantive. To allow a plea of former jeopardy for the conviction of a lesser offense to bar the prosecution for a more serious offense, arising out of the same criminal act, which at the time of the conviction was not yet in existence—a plea not allowed at the time of, and after, the adoption of the Constitution (*Diaz v. U.S.*, *supra*)—would be enlarging or increasing a substantive right, in violation of the constitutional prohibition just referred to.

The order appealed from should be reversed and the (case remanded to the court below for further proceedings in accordance with law.

DISSENTING OPINION

FERIA, J.,:

I dissent.

The first ground on which the order of the lower court dismissing the case rests is groundless. Whether the second complaint for serious physical injuries filed by the Chief of Police with the said Justice of the peace of Escalante on August 25, 1946, is a new complaint or a mere amendment of the one previously filed by him with the said Justice of the peace, charging the defendants-appellees slight physical injuries, of which they were already convicted, is of no consequence ^ Whatever may have been the offense charged in a complaint filed before the inferior or justice of the peace court, and even if no complaint had previously been filed and therefore no preliminary investigation made, the Court of First Instance would have jurisdiction to try and convict a defendant of an offense cognizable by the court upon an information filed by the fiscal, if the defendant does not object to the trial on the ground that he is entitled to a preliminary investigation of the crime with which he is charged. In the present case, the appellees not only did not make such objection, but have waived expressly their right to a preliminary investigation. Therefore, the action taken by the Chief of Police in this case did not and could not affect the information filed by the fiscal.

The only question which merits serious consideration is whether or not the lower Court of First Instance erred in dismissing the case on the ground that the defendant has already been in jeopardy for the same offense, and can not therefore be prosecuted for the crime of serious physical injuries arising from the same injury inflicted upon the offended party, of which the defendants had Already been convicted by the justice of the peace.

The provision of Sec. 1 (subsection 20), Art. III of the Constitution to the effect that "no person shall be twice put in jeopardy or punished for the same offense," is exactly the same as that of the Jones Law, and of the Philippine Bin, Act of Congress of July 1, 1902, on the subject.

The concept of double jeopardy had already been defined and given a definite meaning not only by this Court but also by the Supreme Court of the United States before the promulgation of the present Rules of Court. Said concept is now embodied in section 9, Rule 113. According to this section, a defendant has already been in jeopardy, and therefore can not be twice put in jeopardy or punished for the same offense, if he "shall have been convicted or acquitted or the case against him dismissed or otherwise terminated, without the express consent of the defendant, by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction, and after the defendant has pleaded to the charge."

The test for determining the identity of offenses was formerly whether the evidence required to support conviction upon one complaint or information is sufficient to support conviction upon the other. But now under the same Sec. 9, Rule 113, the test is: that one offense shall be considered the same as the other, not only where one is identical to the other or is an attempt to commit the same or a frustration thereof, but also where one necessarily includes or is necessarily in the other. An offense charged necessarily includes the other "when some of the essential elements or ingredients of the former, as this is alleged in the complaint or information, constitute the latter. And the offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form a part of those constituting the latter." The present is exactly the same although in different terms as the former test because if the offense with which a defendant is presently charged necessarily includes or is necessarily included in the offense with which he was formerly charged, the evidence required to support conviction upon one indictment would be sufficient to warrant conviction upon the other. And the reason is obvious. If the offense charged in the first complaint or information is constituted by some of the essential elements or ingredients of that alleged in the second, it is obvious that the evidence required to prove the latter

which is the -whole -will also prove the former that is a part thereof; and if the offense charged in the second is included or constituted by some of the essential elements or ingredients of that averred in the first, the evidence necessary to prove the second charge which is a part of the former will also support conviction on the first charge, not of the offense charged not proven, but of the offense 'also proven, included therein of which the defendant has also been informed for one informed of the whole is also informed of each and every one of its part.

For instance, if the former charge is homicide and the present is murder, the former is necessarily included in the latter because homicide is an essential element or ingredient of murder, and 'therefore the evidence required to support conviction for murder would support conviction for homicide; and also vice-versa the evidence necessary to support conviction for homicide would support conviction for the same offense upon charge for murder. And if the offense charged in the former complaint or information is robbery and that alleged in the latter is theft, the former necessarily includes the latter, because one of the essential elements or ingredients of robbery is theft, and therefore the evidence required to support conviction for robbery would support conviction for theft; and vice-versa, the evidence necessary to support conviction for theft would support conviction for the same offense upon a complaint or information for robbery.

It must be borne in mind, however, that the above quoted rule has two exceptions, to wit: first, "where after the first prosecution a new fact supervenes for which the defendant is responsible which changes the character of the offense and together with the facts existing at the time constitutes a new and distinct offense", as, for instance, when the defendant was charged with assault or physical injuries, and afterwards the victim, dies as a sequence of the wounds inflicted. And second, where court trying a defendant on a lesser charge would have no jurisdiction of a greater offense involving such charge. And the reason is that, although the former is necessarily included in the latter, as in the case at bar, the defendant could not have been placed in danger of being convicted of the greater offense even if it had been alleged in the complaint or information.

It is true that the second exception above mentioned has not been adopted in all jurisdictions. In some, "the courts take the view that the state cannot, after prosecuting the accused before a justice of the peace for an offense within his jurisdiction, avoid the effect of the judgment upon the theory that such an offense was an ingredient of a higher crime of which the justice had no jurisdiction;" while in the others "the courts hold that a conviction of a minor offense in an inferior court, such as a justice's court, does not bar a prosecution of a higher crime of which the inferior court has no jurisdiction" (8 R. C. S. Sec. 131; 15 Am. Jur. Sec 386). But in our jurisdiction this second exception was adopted and made a part of our laws on jeopardy before the promulgation of our present Rules of Court, by the ruling of this Court in *U. S. v. Ledesma*, 29 Phil. 433, and the Supreme Court of the United States in *Diaz v. United States*, 23 U. S. 383, 56 Law. ed. 500.

From the fact that our Rules of Court do not contain those two exceptions, it does not follow that they have been abolished or discarded from our procedural laws. Our Rules of Court on criminal procedure do not undertake to dispose of all subjects on jeopardy. To hold otherwise would be to make the Rules of Court on jeopardy unconstitutional, in so far as they increase the substantive rights of a defendant in a criminal case, because Sec. 13, Art. VIII of the Constitution provides that the Supreme Court has power to promulgate rules concerning procedure, but "said rules "shall not diminish, increase or modify substantive rights." It is obvious that to grant a defendant the right to set up successfully the defense of double jeopardy in those cases in which, according to our laws in force before the Rules of Court were promulgated, they had no such right, would be to increase his substantive rights.

The ruling of the Supreme Court during the Japanese occupation of the Philippines in *People v. Besa*, 2 Off. Gaz. 490, May 1943, that abandoned the second exception incorporated in our laws or jurisprudence by the decision of our Courts of last resort in *U. S. v. Ledesma*, 29 Phil. 433 and *Diaz v. U. S.*, 223 U. S. 442, was predicated on the

wrong premise that the Rules of Court, in providing that, for determining the identity of offenses, the test is whether the second offense includes or is necessarily included in the offense charged in the former complaint or information, instead of whether or not the evidence which proves the one would also prove the other, modified the defense of double jeopardy in favor of accused, and it was based on the erroneous assumption this Supreme Court may do so under its rule-making power conferred by the Constitution.

Undoubtedly, had the question of constitutionality of the power of this Court to promulgate rules of procedure which would increase the substantive right of the defendant,' been raised in the case of *People v. Carole*, 40 Off. Gaz. 3488, Oct. 9, 1941, and *People v. Besa*, 2 Off. Gaz. 490, May 1943, as it is now raised, this Court would not have laid down the rulings concerning the matter, under consideration contained therein.

The order appealed from should, therefore, be reversed and the case remanded to the lower court for further proceeding in accordance with law.

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