

YAO LIT (YAO DIT), PETITIONER AND APPELLEE, VS. HON. A. M. GERALDEZ, BT AL., RESPONDENTS AND APPELLANTS.*G.R. No. L-13428. November 27, 1959*

Ponente: MONTEMAYOR, J.

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This is an appeal from the order of the Court of First Instance of Manila, dated December 26, 1957, granting the petition for certiorari with injunction filed with it, and annulling the order of respondent Judge Geraldez of the Municipal Court of Manila, denying the motion to quash the information filed with him against the petitioner, restraining said Judge from further taking cognizance of the case.

The facts in this case are not in dispute. Petitioner Yao Lit (Yao Dit) was found by members of the Manila Police Department on August 15, 1957 at Salazar-Benavides streets in Manila, acting suspiciously, and he was placed under arrest. In his possession, they found a Chinese jueteng list. To establish his identity and other personal circumstances, he was required to produce his alien certificate of registration, which he failed to do, as a result of which, the Office of the City Fiscal filed two complaints against him one for violation of the Gambling Law, Article 195 (c) of the Revised Penal Code in the Court of First Instance of Manila, and another complaint for violation of Section 7 of Republic Act 562, as amended, in the Municipal Court of the same city. On September 25, 1957, petitioner filed a motion to quash the second complaint in the Municipal Court on the ground that said court had no jurisdiction over the offense charged and that the Fiscal had no authority to file the complaint or information. Acting upon said motion to quash, respondent Judge denied the motion as well as the motion to reconsider his order of denial. Dissatisfied with said orders of the municipal Judge, petitioner filed in the Court of First Instance of Manila, the present case for certiorari with injunction against the respondent Judge and the Assistant City Fiscal, seeking to annul the said orders of the respondent Judge and to restrain the latter from trying the case against him.

Appellants take the position that the City Fiscal, under Section 38 (b) of Republic Act No. 409, as amended by Republic Act No. 1201, is charged with the prosecution of all crimes and violations of the city ordinances, in the Court of First Instance and in the Municipal Court of the City of Manila; that he is equally charged with the investigation of all crimes and violations of ordinances committed within said city and that this includes offenses and violations of the law by aliens.

Section 7 of Republic Act No. 562, as amended by Section 3 of Republic Act 751, provides as follows:

"SEC. 7. Every alien subject to the provisions of this Act shall, on demand of any immigration officials, or a member of the Philippine Constabulary, police, or other peace officer, exhibit his certificate of registration. In the case of an alien for whom a parent or legal guardian has applied for the registration of such alien, the exhibition of the certificate herein required shall be made by such parent or legal guardian. Every alien, or parent or legal guardian of such alien, violating this section shall, at the option of the Commissioner of Immigration, be subject to an administrative fine not exceeding one hundred pesos, or be prosecuted and upon conviction be punished by a fine not exceeding two hundred pesos, or imprisonment for not more than thirty

days, or both."

It is significant to note that the original provisions of Section 7 of Republic Act 562, provided for the punishment of violation of its provisions, namely, failure to exhibit his certificate of registration when demanded by any immigration official or member of the Philippine Constabulary, police or other peace officer, with a fine not exceeding P200 or imprisonment for not more than thirty days, or both, that is to say, that any such violation may immediately be followed by prosecution by the prosecuting official. However, the amendment as above-reproduced, introduces the intervention of the Commissioner of Immigration in the sense that he has the choice or option to either subject the erring alien to an administrative fine or indorse his prosecution before the court. The logical conclusion is that the prosecuting official may not initiate prosecution until and unless the Commissioner of Immigration has elected and decided upon said prosecution in lieu of an administrative charge and fine. In the well prepared appealed decision of Judge Antonio Canizares, he correctly discusses and resolves this question, and we reproduce with favor the pertinent portion of said decision:

A cursory reading of the original provision (Sec. 7, Republic Act No. 562), shows that a violation thereof subjects the offender to prosecution before the court and if found guilty be punished by a fine not exceeding two hundred pesos, or imprisonment for not more than 30 days, or both, while the amendatory provision (Sec. 3, Rep. Act No. 751) gives the Commissioner of Immigration the discretion to choose whether to impose an administrative fine or to prosecute criminally the offender before the court. It is clear that under the amendatory provision (Sec. 3, Rep. Act No. 751), the prosecuting official cannot immediately proceed to prosecute the offender without the Commissioner of Immigration having first exercised such discretion. This is obviously the intention of Congress, as can be gleaned from a reading of the Explanatory Note to House Bill No. 2138 (Exh. 'H'), which is the bill that seeks to amend the Alien Registration Law of 1950 (Rep. Act No. 562), the Congressional Record of the proceedings and consideration thereof by the Senate (Exhs. '1-2', '1-3'), and also the appropriation of the sum of P50,000 for the employment of additional personnel for the Bureau of Immigration to carry out the provisions of Republic Act No. 751 considering the thousands of violations thereof expected to be investigated by said office. It is also clear that Congress intended to bestow upon the Commissioner of Immigration the duty of investigating and imposing administrative fines upon violators of the provisions of Republic Act No. 751, before their prosecution before the courts, for the reason that said official has better facilities than the prosecuting officials to carry out the provisions of said Act, the former official being the keeper of records pertaining to aliens. Moreover, as indicated in the explanatory note to House Bill No. 2138, the alien violator may have valid reasons for his failure to comply with the law, and for such light mist demeanor he would be more disposed to pay an administrative fine, assessed by the Commissioner of Immigration in accordance with the facts of the particular case, rather than undergo the trouble and expense of facing criminal prosecution. It can also be inferred that Congress, in enacting Republic Act No. 751, intended that the prosecuting officials give their attention to more serious offenses than to violations of this Act, which can properly be handled by the Commissioner of Immigration. Furthermore, the Revised Charter of Manila, which has the nature of a general law, under which the Fiscal maintains that he has the duty and authority to investigate and prosecute all crimes and violations of the city ordinances, cannot prevail over Republic Act No. 751, which is a special law, specially when the Charter of Manila does not contain any provision specifically repealing said special law. Consequently, the prosecuting fiscal, in immediately prosecuting the petitioner in court without first affording the Commissioner of Immigration an opportunity to exercise his discretion over the matter involved in the offense charged against the petitioner, clearly acted in excess of his authority."

In view of the foregoing, the decision appealed from is affirmed. The motion to quash should have been granted by respondent Judge. No costs.

Paras, C. J., Bengzon, Padilla, Bautista Angela, Labrador, Reyes, Endencia, Barrera, and Gutierrez David, JJ., concur.

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