

AVELINO NATIVIDAD, PEDRO GABRIEL, AND MIGUEL EVANGELISTA, PETITIONERS, VS. RICARDO C. ROBLES, JUSTICE OF THE PEACE COURT OF MALABON, RIZAL, RESPONDENT.

G.R. No. L-3612. December 29, 1950

Ponente: MORAN, C.J.

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MORAN, C.J.:

This is a petition for prohibition against the Justice of the Peace court of Malabon. Petitioners, on August 18, 1949, were charged in the Justice of the Peace Court of Malabon, Rizal, with qualified trespass to dwelling. After conducting a preliminary investigation, said court elevated the case to the Court of First Instance for trial on the merits. The Assistant; Provincial Fiscal of Rizal, instead of filing an information, asked the Court of First Instance of Rizal to return the case to the Justice of the Peace court for trial on the merits. The case was set for trial by the latter court, hence the instant petition to prevent such trial upon the ground that it is not the justice of the peace court but the Court of First Instance which has original jurisdiction to try the case.

Formerly the jurisdiction of the justice of the peace courts in criminal cases was limited to offenses penalized with imprisonment of not more than six months or a fine of not more than P200. But later such jurisdiction was enlarged and made to extend to specific offenses independently of the penalties provided by law therefor. Thus, Republic Act No. 296, sec. 87 (c), provides that justice of the peace courts shall have original jurisdiction over:

"(c) All criminal cases arising under the law relating to:

"(1) Gambling and management or operation of lotteries;

"(2) Assaults where the intent to kill is not charged or evident upon the trial;

"(3) Larceny, embezzlement and estafa where the amount of money or property stolen, embezzled, or otherwise involved, does not exceed the sum or value of two hundred pesos;

"(4) Sale of intoxicating liquor;

"(5) Falsely impersonating an officer;

"(6) Malicious mischief;

"(7) Trespass on Government or private property; and

"(8) Threatening to take human life. * * *"

This new jurisdiction of justice of the peace courts is exactly the same jurisdiction vested long ago in the Municipal Court of the City of Manila, (section 2468 of the Administrative Code as amended by Commonwealth Act No. 361) and is also the same jurisdiction vested later in the municipal courts of other chartered cities such as Cebú, Iloilo, Baguio, San Pablo and Cavite. In other words, justice of the peace courts are empowered to impose penalties higher than "imprisonment of six months or fine of P200," where the offense charged is one of those

specified in the above quoted provision of the Judiciary Act.

Upon the other hand, section 44 (f) of the same Republic Act No. 296, confers upon the Court of First Instance original jurisdiction "in all criminal cases in which the penalty provided by law is imprisonment for more than six (6) months or a fine of more than P200." This provision should be construed together with section 87 (c) above quoted, and such construction should be adopted which harmonizes the two provisions, giving equal effectivity to both of them. Accordingly, the jurisdiction of the two courts over the specific offenses above mentioned must be construed as concurrent when the penalty to be imposed is more than six months imprisonment or a fine of more than P200. In the City of Manila the concurrent jurisdiction of the Court of First Instance and the municipal court in such cases is expressly provided by law. (Sec. 2468. Adm. Code.)

One of the specific offenses over which justice of the peace courts have now jurisdiction is "trespass on Government or private property." And the question is whether "trespass on private property" includes qualified trespass to dwelling, the offense charged against petitioners. There can be no doubt that "private property" includes all property, personal or real, and therefore, it includes dwelling. The jurisdiction of the Municipal Court of Manila over this offense was first vested by Act No. 267 of the Philippine Commission who undoubtedly employed the words "trespass on private property" in the sense in which they were understood in the United States of America. And under the American Criminal Law, trespass on private property includes trespass to dwelling. (52 Am. Jur., p. 848.)

The purpose of the new Judiciary Act is to enlarge the jurisdiction of the justices of the peace, who are all required by the Constitution to be lawyers. If the words "trespass on private property" should be construed as having reference only to trespass to uninhabited "closed premises" or "fenced estate" as defined in article 281 of the Revised Penal Code and penalized therein with *arresto mayor* or a fine not exceeding P200, then such offense would not have been included in the new jurisdiction of the justice of the peace courts, for it was already under their jurisdiction under the old law. And furthermore the jurisdiction of the Municipal Court of Manila in such case could not be concurrent with that of the Court of First Instance of Manila which, because of the nature of the penalty provided by law, has no original jurisdiction over said offense.

Moreover, qualified trespass to dwelling is not as serious as some of the other offenses to which the criminal jurisdiction of the justice of the peace courts has been extended by the Judiciary Act. Qualified theft, for instance, when the value of the thing stolen is less than P200, is penalized by law with imprisonment ranging from *prisión mayor* to *reclusión temporal*, whereas trespass to dwelling with violence or intimidation is punishable only with *prisión correccional* in its medium and maximum periods plus fine. And this is another reason for concluding that, under the wording of the law, the criminal jurisdiction of the justice of the peace courts which includes qualified theft, includes also qualified trespass to dwelling.

Our conclusion is that the offense of trespass to dwelling with violence as charged against the petitioners, falls within the original jurisdiction of the justice of the peace court of Malabon, concurrent with that of the Court of which first exercised jurisdiction was the Justice of the Peace court of Malabon, which already acted on the case though erroneously in the form of preliminary investigation. The Court of First Instance to which the case was elevated did nothing but return the same to the court of origin.

From all the foregoing, petition is denied, with costs against petitioners.

Pablo, Bengzon, Padilla, Tuason, Reyes, Jugo, and Bautista Angelo, JJ., concur.

MORAN, C.J.:

Mr. Justice Paras and Mr. Justice Feria agree with the decision.

Petition denied.

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