

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. MARIO J. GUTIERREZ, JUDGE OF THE COURT OF FIRST INSTANCE OF ILOCOS SUR, CAMILO PBLLOTIN, FRANCISCO PIANO, DELFIN PIANO, PEDRO PATAO...

G.R. Nos. L-32282-83. November 26, 1970

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/475667d39c89/>

REYES, J.B.L., J.:

Petition for writs of certiorari and mandamus, with preliminary injunction, filed by the Solicitor General and State Prosecutors, to annul and set aside the order of Judge Mario J. Gutierrez of the Court of First Instance of Ilocos Sur (respondent herein), dated 20 July 1970, denying the prosecution's urgent motion to transfer Criminal Case No. 47-V and 48-V of said Court of First Instance, entitled "People vs. Pilotin, et al.," to the Circuit Criminal Court of the Second Judicial District; to direct the respondent Judge to effectuate such transfer; and to restrain the trial of the cases aforesaid in the Court of First Instance of Ilocos Sur, sitting in Vigan, capital of the province.

In the morning of 22 May 1970, a group of armed persons descended on barrio Ora Centro, municipality of Bantay, Province of Ilocos Sur, and set fire to various inhabited houses therein. On the afternoon of the same day, in barrio Ora Este of the same municipality and province, several residential houses were likewise burned by the group, resulting in the destruction of various houses and in the death of an old woman named Vicenta Balboa. After investigation by the authorities, the provincial fiscal, with several state prosecutors assigned by the Department of Justice to collaborate with him, on 10 June 1970 filed in the Court of First Instance of Vigan, Ilocos Sur, two informations (Criminal Cases 47-V for arson with homicide and 48-V for arson) charging that the seventeen private respondents herein, together with 82 other unidentified persons, "confederating, conspiring, confabulating and helping one another, did then and there wilfully, unlawfully and feloniously burn or cause to be burned several residential houses, knowing the said houses to be occupied" and belonging to certain persons named in the filed informations in barrios Ora Este and Ora Centro, Bantay, Ilocos Sur (Petition, Annexes B and B-1). Accused Camilo Pilotin and Vincent Crisologo furnished bail, and on 15 June 1970 voluntarily appeared, before respondent Judge Gutierrez, were arraigned and pleaded not guilty. Trial was then set for 27, 28 and 29 July 1970.

It appears that on the same day, 15 June, the Secretary of Justice issued Administrative Order No. 221, authorizing Judge Lino Afiover, of the Circuit Criminal Court of the Second Judicial District, with official station at San Fernando, La Union, to hold a special term in Ilocos Sur, from and after 1 July 1970. Three days thereafter, on 18 June 1970, the Secretary further issued Administrative Order No. 226, authorizing Judge Mario Gutierrez to transfer Criminal Cases Nos. 47-V and 48-V to the Circuit Criminal Court, "in the interest of justice and pursuant to Republic Act No. 5179, as implemented by Administrative Orders Nos. 258 ' and 274" of the Department of Justice.

On 22 June 1970, the prosecution moved the respondent judge for a transfer of cases 47-V and 48-V to the Circuit

Criminal Court, invoking the Administrative Orders just mentioned and calling attention to the circumstance that they were issued at the instance of the witnesses seeking transfer of the hearing from Vigan to either San Fernando, La Union, or Baguio City, for reasons of security and personal safety, as shown in their affidavits. The accused vigorously opposed such transfer, and on 20 July 1970, the respondent judge declined the transfer sought, on the ground that Administrative Order No. 258 only provided for transfer of cases to the Circuit Criminal Court where the interest of justice required it for the more expeditious disposal of the cases, and in the cases involved the accused had already pleaded; that if the objective of the proposed transfer was to subsequently obtain a change of venue from the Supreme Court under Section 4 of Republic Act No. 5179 the same should have been done right at the very inception of these cases.

In view of the lower court's denial of the motion to transfer the cases to the Circuit Criminal Court, the prosecution resorted to Us for writs of certiorari and mandamus, charging abuse of discretion and praying this Court to set aside the order of denial of the transfer and to compel the respondent Court of First Instance to remand the cases to the Circuit Criminal Court of the Second Judicial District, as well as to authorize the latter to try the cases (47-V and 48-V) at either San Fernando, La Union, or Baguio City.

Respondents in their answer denied any abuse of discretion in view of the fact that the Administrative Order No. 226 merely authorized the court below, but did not require or command it, to transfer the cases in question to the Circuit Criminal Court, and likewise denied that the circumstances justified any such transfer.

At petitioners' request this Court enjoined the respondent Judge Gutierrez from proceeding with the trial of the cases until further orders.

We agree with respondents that the present laws do not confer upon the Secretary of Justice power to determine what court should hear specific cases. Any such power, even in the guise of administrative regulation of executive affairs, trenches upon the time-honored separation of the Executive and the Judiciary; and while not directly depriving the courts of their independence, it would endanger the rights and immunities of the accused or civil party. It could be much too easily transformed into a means of predetermining the outcome of individual cases, so as to produce a result in harmony with the Administration's preferences. The creation by Republic Act No. 5179 of the Circuit Criminal Courts for the purpose of alleviating the burden of the regular Courts of First Instance, and to accelerate the disposition of criminal cases pending or to be filed therein, nowhere indicates an intent to permit the transfer of preselected individual cases to the circuit courts. Neither do Administrative Orders Nos. 258 and 274 evidence any such intention; particularly since Administrative Order No. 258, Series of 1968, in Section 2 of its Part V, as confirmed by Administrative Order No. 274 of the same year, in Section 3 of Part III thereof, provides, that the transfer to Circuit Criminal Courts of cases pending in the regular Courts of First Instance should be effected by raffle, chance here operating to nullify any executive arbitration of what particular cases should be apportioned to either tribunal. The very terms of Administrative Order No. 226, issued on 18 June 1970 by Secretary of Justice Makasiar, relied upon by the petitioners, in merely authorizing, and not directing, Judges Arciaga and Gutierrez of the Court of First Instance of Ilocos Sur to transfer Criminal Cases Nos. 44-V and 47-V (Peopleys Pilotin, et al) to the Circuit Criminal Court of the Second Judicial District, reveals that the Secretary himself was aware of the impropriety of imperatively directing transfer of specified cases. Respondent Judge Gutierrez, therefore, in construing Administrative Order No. 226 as permissive and not mandatory, acted within the limits of his discretion and violated neither the law nor the Executive Orders heretofore mentioned.

It is unfortunate, however, that in refusing to consider Department Administrative Order No. 226 of the Secretary of Justice as mandatory respondent Judge Gutierrez failed to act upon the contention of the prosecuting officers that the cases against private respondents herein should be transferred to the Circuit Criminal Court of the Second Judicial District because a miscarriage of justice was impending, in view of the refusal of the prosecution

witnesses to testify in the court sitting in Vigan, Ilocos Sur, where they felt their lives would be endangered. This claim was buttressed by the affidavits of the injured parties and prosecution witnesses, reaffirming their fear to appear in Vigan to testify in cases 47-V and 48-V and expressing their willingness to testify if the cases are heard outside of Ilocos Sur, where they can be free from tension and terrorism (Petition, Annex J). The fear thus expressed can not be considered fanciful and unfounded when account is taken of the circumstances that the informations filed in the Court of First Instance of Ilocos Sur show that of the one hundred armed participants in the burning of the houses at barrios Ora Este and Ora Centro, Municipality of Bantay, some eighty-two (82) are still unidentified and at large; that one of the accused, private respondent Vincent Crisologo, belongs to an influential family in the province, being concededly the son of the Congressman for the first district of Ilocos Sur and of the lady Governor; that the reluctant witnesses are themselves the complainants in the criminal cases, and, therefore, have reasons to fear that attempts will be made to silence them; that it is not shown that the Executive branch is able or willing to give these witnesses full security during the trial and for a reasonable time thereafter; that even if armed security escorts were to be provided, the same would be no guarantee against the possibility of murderous assaults against the affiant witnesses, as recent events have proved; that Constabulary reports (Annex H) show, that between 1 January and 31 May 1970 no less than 78 murders have been reported committed in said province, of which number only 21 were solved; and, finally, that the promotion and confirmation of respondent Judge Mario Gutierrez from Clerk of Court to Jtfdge of the Court of First Instance of the Second Judicial District, Branch III, was actively supported by Congressman and Governor Crisologo, parents of accused Vincent Crisologo (Annexes H, H-I, and K to N-2 to petitioner's supplemental memorandum).

This just refusal to testify in Ilocos Sur, manifested by the complaining witnesses, who had on a previous occasion freely given evidence before the investigators in Manila, renders manifest the imperious necessity of transferring the place of trial to a site outside of Ilocos Sur, if the cases are to be judicially inquired into conformably to the interest of truth and justice and the State is to be given a fair chance to present its side of the case.

The respondents vigorously contend that a transfer of the trial site can not be made, because it is a long standing rule of criminal procedure in these Islands that one who commits a crime is amenable therefor only in the jurisdiction where the crime is committed, for the reason pointed out in *U.S. vs. Cunanan*, 26 Phil. 376, and *People vs. Mercado*, 65 Phil. 665, that the jurisdiction of a Court of First Instance in the Philippines is limited to certain well-defined territory and they can not take jurisdiction of persons charged with one offense committed outside of that limited territory; and they invoke Rule 110, Section 14 (a), of the Revised Rules of Court providing that "in all criminal prosecutions the action shall be instituted and tried in the court of the municipality or province wherein the offense was committed or any one of the essential ingredients thereof took place."

It is well to note that this Court has explained in *Beltran vs. Ramos*, 96 Phil. 149, 150, that the purpose of the rule invoked by accused respondents herein was "not to compel the defendant to move to and appear in a different court from that of the province where the crime was committed, as it would cause him great inconvenience in looking for his witnesses and other evidence in another place." Where the convenience of the accused is opposed by that of the prosecution, as in the case at bar, it is but logical that the court should have power to decide where the balance of convenience or inconvenience lies, and to determine the most suitable place of the trial according to the exigencies of truth and impartial justice.

In the particular case before Us, to compel the prosecution to proceed to trial in a locality where its witnesses will not be at liberty to reveal what they know is to make a mockery of the judicial process, and to betray the very purpose for which courts have been established. Since the rigorous application of the general principle of Rule 110, Section 14(a), would result here in preventing a fair and impartial inquiry into the actual facts of the case, it must be admitted that the exigencies of justice demand that the general rule relied upon by accused respondents

should yield to occasional exceptions whenever there are weighty reasons therefor. Otherwise, the rigor of the law would become the highest injustice — "summum jus, summa injuria."

The respondent accused can not complain that to transfer the trial to a site where the prosecution's witnesses can feel free to reveal what they know would be equivalent to railroading them into a conviction. Because regardless of the place where its evidence is to be heard, the prosecution will be always obligated to prove the guilt of the accused beyond reasonable doubt. The scales of justice clearly lean in favor of the prosecution being given full opportunity to lay its case before a proper arbiter: for a dismissal of the charges for lack of evidence is a verdict that the prosecution can neither challenge nor appeal.

We must thus reject the idea that our courts, faced by an impasse of the kind now before Us, are to confess themselves impotent to further the cause of justice. The Constitution has vested the Judicial Power in the Supreme Court and such inferior courts as may be established by law (Article VIII, Section 13), and such judicial power connotes certain incidental and inherent attributes reasonably necessary for an effective administration of justice. The courts "can by appropriate means do all things necessary to preserve and maintain every quality needful to make the judiciary an effective institution of government" (*Borromeo vs. Mariano*, 41 Phil. 322).

One of these incidental and inherent powers of court is that of transferring the trial of cases from one court to another of equal rank in a neighboring site, whenever the imperative of securing a fair and impartial trial, or of preventing a miscarriage of justice, so demands. This authority was early recognized in England as inhering in the courts of justice even prior to the eighteenth century. The opinion in *Crocker vs. Justices of the Superior Court*, 208 Mass. 162, 21 Ann. Cases~1067, has shown how the eminent Lord Chief Justice Mansfield in *Rex vs. Cowle* (Eng) 2 Burr 834, decided in 1759, said that, in this respect, "the law is clear and uniform as far back as it can be traced." Earlier still, the Royal Decree of 1583 establishing the first "Audiencia y Chancilleria de Manila," in its Article 23, empowered the Audiencia to call for records of cases before trial judges whenever the attorney should "swear that the judge trying the case is distrusted by him with just cause" (*Blair & Robertson, The Philippine Islands*, Vol. 5, page 283).

And in *Reg. vs. Conway*, 7 Ir. C.L. 507, the question was fully discussed, and all the judges appear to have agreed as to the power of the court, *Crampton, Jr.*, saying at page 525:

"There is another common-law right, equally open to defendants and prosecutors, . . . that where it appears that either party cannot obtain a fair and impartial trial in the proper county, then this court ... has jurisdiction to take the case out of the proper county, as it is called, and to bring it into an indifferent county... This jurisdiction to change the venue . . . has been exercised by this court from a very early period. We have reported cases, where the doctrine is laid down in emphatic language; we have the practice of the Court of Queen's Bench in England independently of any practice of our own court . . . The general jurisdiction of the court, in a proper case, to change the venue from one county to any other, cannot be the subject of doubt."

This power to transfer trial of criminal cases in furtherance of justice, exercised through writs of certiorari, has, according to the weight of authority, passed to the State Supreme Courts of the American Union.[1] In *Cochecho R. Co. vs. Farrington*, 26 N. H. 428, at page 436, it was held that the power to transfer the place of holding trials -

"became thoroughly engrafted upon the common law, long before the independence of this country; and from that time forth, not only has the practice prevailed in the courts of England, but the power is now exercised by the Courts of very many if not all of our states, either by force of express statute or the adoption of the common law in the jurisprudence of the same."

That such inherent powers are likewise possessed by the Philippine courts admits of no doubt, because they were organized on the American pattern with the enactment of the first judicial organic law, Act 136, on 11 June 1901,

by the Philippine Commission, then composed by a majority of able American lawyers, fully familiar with the institutions and traditions of the common law.

In *Alzua and Arnalot vs. Johnson*, 21 Phil. 300, 333, this Court stated:

"And it is safe to say that in every volume of the Philippine Reports, numbers of cases might be cited wherein recourse has been had to the rules, principles and doctrines of the common law in ascertaining the true meaning and scope of the legislation enacted in and for the Philippine Islands since they passed under American sovereignty."

"Among the earliest measures of the Philippine Commission, after the establishment of Civil Government under American sovereignty, was the enactment on June 11, 1901, of Act No. 136, 'An Act providing for the organization of courts in the Philippine Islands.' This Act in express terms abolished the then existing Audiencia or Supreme Court and Courts of First Instance, and substituted in their place the courts provided therein. It sets out in general terms the jurisdiction, duties, privileges, and powers of the new courts and their judges. The majority of the members of the body which enacted it were able American lawyers. The spirit with which it is informed, and indeed its very language and terminology would be unintelligible without some knowledge of the judicial systems of England and the United States. Its manifest purpose and object was to replace the old judicial system, with its incidents and traditions drawn from Spanish sources, with a new system modelled in all its essential characteristics upon the judicial systems of the United States. It cannot be doubted, therefore, that any incident of the former system which conflicts with the essential principles and settled doctrines on which the new system rests, must be held to be abrogated by the law organizing the new system."

While not expressly conferred by Act 136, We find it difficult to believe that the framers' intent was to deny, by silence, to the Philippine Courts, and particularly upon this Supreme Court, the inherent jurisdiction possessed by the English and American courts under their common law heritage to transfer the place of trial of cases in order to secure and promote the ends of justice, by providing fair and impartial inquiry and adjudication.

Like the exemption of judges of courts of superior or general authority from liability in a civil action for acts done by them in the exercise of their judicial functions, upheld in the *Alzua* case as essentially inherent in the courts established by Act 136, even if not expressly provided for, the power to transfer the place of trials when so demanded by the interest of justice is equally essential and possesses no inferior rank. To it apply, *mutatis mutandis*, the words of this Court in the *Alzua* case just cited:

"The grounds of public policy and the reasoning upon which the doctrine is based are not less forceful and imperative in these Islands than in the countries from which the new judicial system was borrowed; and an examination of the reasons assigned leaves no room for doubt that a failure to recognize it as an incident to the new judicial system would materially impair its usefulness and tend very strongly to defeat the ends for which it was established." (21 Phil. 333-334)

Not only has there been since then no proof of any specific pronouncement, by Constitution or Congress, against the exercise by our Courts of the power discussed heretofore: on the contrary, the law establishing the Circuit Criminal Courts, Republic Act No. 5179, in its Section 4, provides express legislative recognition of its existence:

"SEC. 4. The Circuit Criminal Courts may hold sessions anywhere within their respective districts: Provided, however, that cases shall be heard within the province where the crime subject of the offense was committed. And provided further, that when the interest of justice so demands, with prior approval of the Supreme Court, cases may be heard in a neighboring province within the district..." (Italics supplied)

Since the requirements for proper jurisdiction have been satisfied by the filing of the criminal case in question with the Court of First Instance of Ilocos Sur, in which province the offenses charged were committed, according

to the informations; since the holding of the trial in a particular place is more a matter of venue, rather than jurisdiction; since the interests of truth and justice can not be subserved by compelling the prosecution to proceed to trial in the respondent court in Ilocos Sur, because its witnesses, for just and weighty reasons, are unwilling to testify therein, and the respondent court, ignoring their safety, has abusively denied the motion to have the case transferred to another court, this Supreme Court, in the exercise of judicial power possessed by it under the Constitution and the statutes, should decree that the trial of cases 47-V and 48-V should be heard and decided by the Circuit Criminal Court of the Second Judicial District, either in San Fernando, La Union, or in Baguio City, at the earliest available date. This arrangement would have the advantage that the same trial judge could later be authorized to hear the defense witnesses in Vigan, if circumstances so demanded. Furthermore, the adjudication of the case by a judge other than respondent Gutierrez, if resulting in acquittal, would remove any doubt or suspicion that the same was in any way influenced by the trial Judge's being beholden to the Crisologo family.

The solution thus adopted is in harmony with the ideals set by this Court in *Manila Railroad Co. vs. Attorney General*, 20 Phil. 523, where We said:

" The most perfect procedure that can be devised is that which gives opportunity for the most complete and perfect exercise of the powers of the court within the limitations set by natural justice. It is that one which, in other words, gives the most perfect opportunity for the powers of the court to transmute themselves into concrete acts of justice between the parties before it. The purpose of such a procedure is not to restrict the jurisdiction of the court over the subject matter but to give it effective facility in righteous action.

It may be said in passing that the most salient objection which can be urged against procedure today is that it so restricts the exercise of the court's power by technicalities that that part of its authority effective for justice between the parties is many times in inconsiderable portion of the whole. The purpose of procedure is not to thwart justice. Its proper aim is to facilitate the application of justice to the rival claims of contending parties. It was created not to hinder and delay but to facilitate and promote the administration of justice. It does not constitute the thing itself which courts are always striving to secure to litigants. It is designed as the means best adapted to obtain that thing. In other words, it is a means to an end. It is the means by which the powers of the court are made effective in just judgments. When it loses the character of the one and takes on that of the other the administration of justice becomes incomplete and unsatisfactory and lays itself open to grave criticism." (*Manila Railroad Co. v. Attorney-General*, 20 Phil. 523, 529 (1911). Italics and paragraphing supplied.)

In resume, this Court holds, and so rules:

- (1) That Republic Act No. 5179 creating the Circuit Criminal Courts did not, and does not, authorize the Secretary of Justice to transfer thereto specified and individual cases;
- (2) That this Supreme Court, in the exercise of the Judicial Power vested by the Constitution upon it and other statutory Courts, possesses inherent power and jurisdiction to decree that the trial and disposition of a case pending in a Court of First Instance be transferred to another Court of First Instance within the same district whenever the interest of justice and truth so demand, and there are serious and weighty reasons to believe that a trial by the court that originally had jurisdiction over the case would not result in a fair and impartial trial and lead to a miscarriage of justice.
- (3) That in the present case there are sufficient and adequate reasons for the transfer of the hearing of Criminal Cases Nos. 47-V and 48-V of the Court of First Instance of Ilocos Sur to the Circuit Criminal Court of the Second Judicial District, in the interest of truth and justice.

IN VIEW OF THE FOREGOING , the writs of certiorari and mandamus prayed for are granted; the order of the respondent Court of First Instance of Ilocos Sur, dated 20 July 1970, is sustained in so far as it holds that the Administrative Order No. 221 of the Department of Justice is not mandatory, but only directory; nevertheless,

said order is declared in grave abuse of discretion and set aside in so far as it declines to transfer the trial of its cases Nos. 47-V and 48-V to another court within the district; and said respondent Court is accordingly directed and ordered to remand the two criminal cases aforesaid to the Circuit Criminal Court of the Second Judicial District for hearing of the evidence for the prosecution either in- Baguio or San Fernando, La Union, at the earliest available date, and such other proceedings as the Circuit Criminal Court may determine in the interest of justice.

The accused are required to file bail bonds to answer for their appearance at the trial and sentence by the Circuit Criminal Court for the Second Judicial District, in the same amount, and under the same terms and conditions as their present bail bonds, which will be replaced by those herein ordered, all within fifteen (15) days from finality of this decision.

No special pronouncement as to costs.

Makalintal, Zaldivar, Ruiz Castro and Teehankee, JJ., concur.

Fernando, J., concurs fully and in addition submits a brief, separate opinion.

Barrero, J., concurs in a separate opinion. Villamor, J., reserves his vote.

Concepcion, CJ., took no part.

Dizon and Makasiar, JJ., are on official leave.

[1] 56 Am. Jur. (Venue), pages 47-48, 50. For an exhaustive review of precedents, see *Crocker vs. Justices of the Superior Courts*, 208 Mass. 162, i 21 Ann. Cas. 1067; *Barry vs. Truax*, 99 NW 769, 65, LRA, 762.

CONCURRING

FERNANDO, J.,

The learned and scholarly opinion of Justice J.B.L. Reyes renders crystal-clear why the decision reached by this Court should be what it is. It is a manifestation of the jurist's art at its most exemplary. It belies the belief not infrequently given utterance that hard cases make bad law. The problem before us is unique and unprecedented as far as our previous decisions go. It calls for a resolution far-reaching in its consequences and far-flung in its implications. Fortunately for the administration of justice according to law, there is the recognition of power vested in this Court, in the past perhaps only imperfectly discerned but nonetheless in existence, to be utilized whenever there is need to do so. This is one such occasion. Even without resort then to precedents coming from jurisdictions after which our judicial system was patterned, the same result would have been reached. For only thus, to paraphrase Cardozo, would the flexibility and the creativeness of the judicial process assert themselves.

The opinion of Justice J.B.L. Reyes therefore calls for assent, which I readily yield. Nor does it seem

inappropriate if it be stressed that the conclusion reached by the Court is solidly buttressed not only in law as history but likewise in law as logic and as social control. Hence this brief concurring opinion, which likewise will afford me the opportunity to give expression to the view that the Constitution and the proceedings in the Constitutional Convention of 1934-1935 point unerringly to the conclusion that this Court as the sole body vested with judicial power by the fundamental law itself is not devoid of supervisory authority over inferior courts. Necessarily the prerogative to transfer the venue of criminal prosecutions whenever there is a persuasive showing that there would be a failure of justice is therein included. On such an assumption, I do not feel called upon to inquire into any asserted authority, even if denominated administrative, of an alter ego of the Executive, the Secretary of Justice, over the lower courts. For my belief gets stronger with the years that it would be difficult to assert that such a competence, even as thus limited, is warranted under a Constitution based on the doctrine of separation of powers and necessarily committed to the principle of judicial independence.

- We start with the grant by the Constitution of judicial power to this Court and to such inferior courts as may be established by law.[1] Thus is conferred the authority to decide cases through the ascertainment of facts and the application of the law, involving many a time its interpretation.[2] It connotes, in the language of the decision, the imperative of securing a fair and impartial trial, or of preventing a miscarriage of justice, * * *." [3] Where, as this did develop in this case, there is more than a probability of an impasse with the witnesses for the prosecution displaying the utmost reluctance to testify if the trial would be held in Vigan, entailing the risk that there be, again in the language of the opinion, "a mockery of the judicial process," [4] it would appear undeniable, and we have so held today, that this Court is not to be denied the necessary competence to set matters right. It is not to fold its hands as if in helpless submission to a binding decree of Providence but must meet the problem squarely, possessed of power adequate to cope with such an exigency. In the same way that the two other coordinate departments, the Executive and Congress, being constitutional organs, can rely on the fundamental law to justify the exercise of certain prerogatives, [5] so may this Court, the only constitutional court, exercise supervision over all other judicial agencies thereafter legislatively created, appropriately termed by the Constitution as inferior courts.

There would be a void in the framework of government thus established if there is no official body of a higher rank that! can take the necessary steps to avoid a frustration of the exercise of judicial power. It is my firm conviction that neither the Presidency nor Congress can rightfully be entrusted with such a task. If it were thus, then the doctrine of separation of powers becomes a myth. Such an approach necessarily and logically compel the conclusion that the so-called administrative supervision exercised by the Secretary of Justice is, to put it at its mildest, infected with the gravest doubts as to its constitutionality.

There is no need to go that far to reach a decision in this case as is so aptly demonstrated in the opinion of the Court. What appears to me undisputed is that where the question partakes of a judicial character, only this Court can perform that function and trace its source to the Constitution itself. That is to free the Constitution from the reproach that a situation is left unprovided for. What is more, it assures the utmost respect for the principle that like the other two coordinate and co-equal branches, this Court is likewise the recipient of power conferred by the Constitution itself. [6]

- So much for law from the standpoint of analytical jurisprudence on law as logic. If the matter be viewed from the approach found congenial by sociological jurists, law as one of the most effective forms of social control, the same conclusion appears to be inescapable. This is to examine legal institutions in terms of how they function. It certainly would be a blot on the administration of justice if by the reluctance of witnesses to testify, based on what they consider to be a feeling that cannot be stigmatized under the circumstances as having no basis in reason, no

trial could be had of a criminal case. It is a matter of great public interest that crime should not go unpunished. Of course, it is equally important that the rights of whoever is accused are duly safeguarded. Where as in this case an impasse is likely to occur, in itself an alarming symptom of a breakdown in the orderly legal processes, the loss of public confidence in the rule of law itself is incalculable. That is an eventuality which at all pains must be avoided. The only question is how. If the legal doctrines and principles, which under the system of legal norms followed must be grounded in the Constitution itself, do not recognize such a competence in this Court, then for some all may well be lost.

It would be unthinkable, again given the assumption, not entirely without basis, that the two other branches of the government cannot escape political considerations, to assume that either Congress or the Executive can be trusted to take care of such a situation. Nor would it do to leave such matters in the hands of the lower courts, unless whatever is decided by them is subject to correction and review by the only constitutional court, certainly vested with the needed supervisory authority. It would thus appear, if a breakdown in the legal system is to be averted, that the power of this Court is undeniable. There would seem to be no other way to avoid a serious disruption in the legal order.

The above considerations necessarily lead me to yield a full concurrence with what has been so persuasively and ably put forth in the masterly opinion of Justice J.B.L. Reyes.

[1] According to the Constitution: "The judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law." Art. VIII Sec. 1.

[2] Cf. *City of Baguio v. de Leon*, L-24756, Oct. 31, 1968, 25 SCRA 938; *Vera v. Arca*, L-25721, May 26, 1969, 28 SCRA 351; *Pecson Jose v. Santos* L-25510 Oct. 30, 1970.

[3] Opinion of Justice J.B.L. Reyes p. 5

[4] *Ibid.*

[5] Cf. *Planas v. Gil*, 67 Phil. 62 (1939); *Villena v. Secretary of Interior* 67 Phil. 451 (1939); *Arnault v. Nazareno*, 87 Phil. 29 (1950).

[6] Cf. Debates in the Constitutional Convention with Delegate Jose P. Laurel explaining his draft proposal as found in V Laurel, ed., *Proceedings of the Philippine Constitutional Convention*, pp. 724-731; 911-928.

CONCURRING

BARREDO, J.,

The accuracy of the technical bases as well as the unerring logic of the resolution of the various facets of this case evident in the main opinion written by our erudite colleague Mr. Justice J.B.L. Reyes could not but impel the unanimous assent given thereto by the members of this Court. Indeed, I could give the best evidence of my full concurrence therein by merely signing the same without this separate opinion. I feel, however, that the impact of this decision is of such transcendental importance to the administration of justice in this country, particularly now when some sectors of our people make no secret of lingering doubts as to the fairness and impartiality of judicial actuations and decisions, that my duty as a member of this highest tribunal of the land calls for more than just the giving of my vote in favor thereof. I consider it incumbent upon me, since none of my brethren seems to be

minded to do it, to project more emphatically certain relevant matters, the significance of which should go hand in hand with the resolution of the case itself.

I can neither control nor conceal the feeling of full satisfaction that overwhelms me now, because I consider this decision as probably the first one of national importance, in a long time, that will receive universal and unqualified approval throughout the length and breath of this Republic. I am sure it will yield for our constitutional government as a whole and for the judiciary in particular a rich harvest of regained trust and confidence in the administration of justice. This decision is a great leap forward. We are shaking away from a long standing jurisprudential rule; We are casting aside technical procedural roadblocks; We are here and now proclaiming to all and sundry the plenitude, under the Constitution, of Our power and authority to "insure to (our people) and their posterity, the blessings of independence under a regime of justice" (Preamble of the Constitution) by holding that the "judicial power . . . vested in . . . (the) Supreme Court" necessarily carries with it the power to lay down procedures that will effectively and fully guarantee, as far as it is humanly possible to do so, that substantial justice shall not be defeated thru technicalities of procedure; and what is most important today, as I view it, is that this is one decision the essence of which spells simple justice that will be plainly understood by the common man. In the clearest terms, this Court holds in effect in this decision that inspite of the traditional rule that a person charged with an offense may not be tried in a province outside of the one in which the alleged offense or any essential ingredient thereof has been committed, it is the duty of the corresponding trial court, with the approval of the Supreme Court, to see to it that when the demands of justice require it, the venue is moved to another province wherein the circumstantial environment will insure a full disclosure of all material facts essential in the pursuit of truth and justice. Surely, the common man would not understand why the Supreme Court in whom the totality of judicial power is vested by the Constitution would not have the authority and the right, nay the duty, to prevent a trial from being held in a place where it would be nothing more than a farce arid an empty show, the final chapter of which may have already been prewritten, even independently of the honesty and integrity of the presiding judge, because of external factors and forces that impede the witnesses from making a free and fearless exposition of what they know. I am exceedingly happy that by this decision, the common man will understand that neither the Constitution nor this Court will ever be found wanting in what is needed to render justice in its truest sense.

Now, for some views of my own on the specific legal issues raised by the parties in their pleadings. The problem revolves around the power of the Secretary of the Department of Justice vis-a-vis the operation of the Circuit Criminal Courts created by Republic Act 5179. The People contends that by Administrative Order 258 and 271, Series of 1968 and Administrative Order No. 226, Series of 1970, of the Secretary of Justice, issued pursuant allegedly to Republic Act 5179, (presumably Section 8 thereof) the transfer of the criminal cases herein involved, Criminal Cases Nos. 47-V and 48-V of the Court of First Instance of Ilocos Sur to the Circuit Criminal Court of the Second Judicial District is legally justifiable. On the other hand, the defense submits that under the uniformly announced doctrine of this Court regarding the jurisdictional nature of the venue of criminal cases and principally because to give effect to the administrative orders aforementioned would be impairing the independence of the judiciary, the accused in aforesaid cases must be tried in Vigan, Ilocos Sur, by the Court of First Instance in which, it is a fact, the case was filed on June 15, 1970, the very day Administrative Order No. 221 of the Secretary of Justice authorizing Judge Lino Afiover of the Circuit Criminal Court to hold sessions in Vigan beginning July 1, 1970 was issued.

It is my considered view that the less said about the intervention of the Department of Justice with the Circuit Criminal Courts by the issuance of Administrative Orders 258 and 274, Series of 1968 and worse Administrative Order No. 226, Series of 1970 the better, for I find absolutely no legal authority for the issuance of said Orders. The first two purportedly direct and instruct the judges of the various judicial districts of the Philippines as to how

to apportion among themselves, together with the corresponding circuit criminal court judge, the cases falling within their concurrent jurisdictions. I feel very strongly that the distribution of the powers of government by the Constitution places, even in its broadest sense, everything that judges have to do that might in one way or another affect or be related to the ultimate disposition of the controversies and cases to be tried by them, including the distribution of the cases to be tried by them, entirely and exclusively with the judges themselves by common agreement among them, and so I hold that whatever be the import of Section 8 of Republic Act 5179 providing that "for administrative purposes, the Circuit Criminal Courts shall be under the supervision of the Department of Justice," the same cannot be considered as contemplating any intervention of the Secretary of Justice in the distribution of cases among judges. That the common impression and long standing practice on the matter are otherwise, cannot alter what, in my humble view, the Constitution ordains.

I take it that under Republic Act 5179, Circuit Criminal Courts are nothing but additional branches of the regular Courts of First Instance in their respective districts with the limited concurrent jurisdiction to take cognizance of, try and decide only those cases enumerated in Section 1 of the Act. This is readily implied from Section 3 of the Act which says:

"Sec. 3. The provisions of all laws and the Rules of Court relative to the judges of the Courts of First Instance and the trial, disposition and appeal of criminal cases therein shall be applicable to the circuit judge and the cases cognizable by them insofar as they are not inconsistent with the provisions of this Act."

It is also my conviction that when Congress enacted Republic Act 5179, it was conscious of the existing doctrinal rule laid down by this Court of Cunanan,[1] that in criminal cases, venue is equivalent to territorial jurisdiction and precisely because of this consciousness and the knowledge that the nature of the crimes placed within the jurisdiction of the Circuit Criminal Courts is such that their successful prosecution might be impaired or obstructed by the doctrinal rule aforementioned that in Section 4 of the Act, Congress expressly provided that as a rule, "cases shall be heard within the province where the crime subject of the offense (sic) was committed" but "when the interest of justice so demands, with the prior approval of the Supreme Court, cases may be heard in a neighboring province of the district."

It is contended that these quoted provisions of Section 4 contemplate only those cases already in the Circuit Criminal Court. That may be so, but my view is that by the said provisions, Congress has precisely opened the door for the regular courts trying cases of the nature enumerated in the Act to shift those cases to the circuit criminal court in instances like the present wherein it appears quite evident that to maintain Vigan as the venue of the trials in question will defeat the ends of justice, for, after all, the circuit court is just another branch of the Court of First Instance, and once it is in the former court, then Section 4 may be easily applied. Moving of cases from one branch of a Court of First Instance to another branch thereof is neither new nor unusual when the judges concerned are agreed that such a step would best promote the interests of justice. In the light of this practice, commendable in its motivation, why cannot the transfer be made from the Court of First Instance to Circuit Criminal Court? Indeed, this should not be treated as merely a matter of discretion; judges should feel bound to act accordingly, as a matter of duty, hence a negative action in the appropriate cases is ground for certiorari or mandamus. In this connection, however, I must hasten to advert, that the interested parties should be duly heard on the matter and, in accordance with the spirit, if not the letter of the law, approval of the Supreme Court be secured.

Apropos of all this discussion, I would like to make it clear that the rule invoked by the defense to the effect that venue in criminal cases is jurisdictional in character has no foundation in any act of the legislature. There can be no question that jurisdiction is conferred only by law and that it is only venue that may be fixed by the Rules of Court because jurisdiction is substantive and venue is merely procedural. The rule the defense invokes is found

only in a decision of this Court rendered way back in 1913. In *Cunanan*, supra, this Court held: "The jurisdiction of the Courts of First Instance of the Philippine

Islands, in criminal cases, is limited to certain well-defined territory. They cannot take jurisdiction of persons charged with an offense alleged to have been committed outside of that limited territory."

As can be noted, no provision of law is cited in support of the ruling. The reason is simple. There is no such law. In other words, whatever force such invoked ruling may have is no more than that of a construction given by this Court. I dare say that when a previous construction by this Court runs counter to fundamental principles now separating the rule making power of the courts from the legislative faculty to define and apportion jurisdiction, it is best to lean in favor of recognizing the constitutional boundaries of our prerogatives when they are plain and the contrary cannot be implied. And since it was this Court that made the construction, there is nothing to stop Us from modifying the same, and inasmuch as Section 14, par. (a) of Rule 110 is purely a rule of venue, not legislated upon by Congress as a jurisdictional matter, Our power to change the same is unquestionable. I, therefore, reiterate ray concurrence in the resolution of this point in the main opinion.

Accordingly, I agree that the respondent judge gravely abused his discretion in not yielding to the suggested transfer of the cases in question to the Circuit Criminal Court. Court trials and proceedings mean nothing unless the pronouncements and decisions of the courts merit the faith and trust of the parties in particular and the people in general. To the common man specially, the imperatives of justice administered by our courts are: (1) judges who can be trusted and (2) procedures that insulate the proceedings from all factors that may taint the ultimate outcome of litigations with doubt and skepticism. To my mind, it is not enough that a judge trusts himself or can be trusted as capable of acting in good faith; it is equally important that no circumstance attendant to the proceedings should mar that quality of trustworthiness. It is thus clear that by Our decision in this case, We are not expressing any (distrust as to the impartiality of respondent judge; it should be clearly understood, however, that it is possible for his decision to be unfair not because he has made it so, but because under the circumstances, the adulterated evidence before him leaves him no other alternative.

May I say as I close that what is most striking in this decision is that it is a unanimous one, inspite of the fact that at first blush it appeared that there were formidable adverse precedents on our way. After long and careful deliberation and after viewing all its angles, factual and legal, when the time for voting came, there was no hesitation in the assent that all of us gave to the rationalizations and conclusions contained in the scholarly main opinion of Mr. Justice Reyes and the dispositive part of the decision, but by no means and in absolutely no degree did the public discussion generated by the peculiar circumstances and personages involved in this case ever influence any of Us, as such things, indeed, never will.

[1] 26 Phil. 376.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.