

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS.
ALEJANDRO DIMANA, DEFENDANT-APPELLEE.***G.R. No. L-26668. April 27, 1972*

Ponente: MAKALINTAL, J.

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The main issue posed in this appeal from the order of the Court of First Instance of Bukidnon in its Criminal Case No. 1563 is whether or not the information filed by the Provincial Fiscal has placed the appellee in double jeopardy for the same offense.

In a criminal complaint filed by forestry officer Juan Baganoc with the Municipal Court of Kibawe, Bukidnon, on June 7, 1965 and docketed as Criminal Case No. 929, the herein appellee, Alejandro Dimana, was accused of violating Section 2751(b) of the Revised Administrative Code, as amended Republic Act No. 3701. The complaint, captioned "Destruction of Public Forest", alleged:

"That on or about April 3, 1965, the accused Mr. Alejandro Dimana, of sitio Kisulop, barrio Gutapol, Kibawe, Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, said accused without lawful authority did then and there willfully and criminally entered (sic), cut and destroyed (sic) therein, made (sic) kaingin and occupied (sic) an area approximately 2.0 hectares inside the Kibawe Forest Reserve No. 95, Proclamation No. 500, Lot 2, sitio Kisulop, Gutapol, Kibawe, Bukidnon, Philippines, cutting 143.16 cubic meters of second group timber and 464.81 cubic meters of third group timber. The total amount of government charges on the timber unlawfully destroyed is: SEVEN THOUSAND ONE HUNDRED SIXTY THREE PESOS & 47/100 (P7,163.47) as shown in the attached statement."

Upon plea of guilty entered by the accused on June 23, 1965, the municipal court rendered its decision on the same day, sentencing him, after taking into consideration three mitigating circumstances, "to suffer the penalty of ONE and ONE-HALF (1-1/2) MONTHS IMPRISONMENT and to pay the fine of SEVEN THOUSAND ONE HUNDRED SIXTY-THREE PESOS and FORTY SEVEN CENTAVOS (P7,163.47) and in case of insolvency to suffer the SUBSIDIARY IMPRISONMENT which shall not exceed ONE-THIRD (1/3) of the sentence or FIFTEEN (15) DAYS SUBSIDIARY IMPRISONMENT and to pay the costs." In the same decision the court credited the accused with one-half (1/2) of his fourteen-day preventive imprisonment.

Although considered a provincial prisoner by reason of the duration of the sentence imposed upon him, Alejandro Dimana served his prison term in the municipal jail of Kibawe and was taken to the provincial jail only for purposes of his release. When this release papers were being processed it was discovered that he had overstayed in jail and that his services had been utilized by the municipality of Kibawe without prior approval of the Provincial Board of Bukidnon. The Provincial Warden, in a letter dated August 18, 1965, reported the irregularities to the Provincial Governor. A copy of the letter was furnished the Provincial Fiscal, who in turn directed his assistant to look into the matter. One of the findings of the latter was to the effect that the Municipal Court of Kibawe was not competent to try the criminal case on the merits for lack of jurisdiction. Acting on said finding, the Provincial Fiscal filed an information with the Court of First Instance of Bukidnon (Criminal Case

No. 1563), charging Alejandro Dimana anew with violation of Section 2751(b) of the Revised Administrative Code, as amended by R.A. 3092 and as further amended by R.A. 3701. The information reads:

"The undersigned Provincial Fiscal accuses ALEJANDRO DIMANA of the crime of UNLAWFUL DESTRUCTION OF PUBLIC FOREST committed as follows, to wit:

That on or about the 3rd day of April, 1965, or few days prior thereto and for sometime thereafter, in sitio Kisulop, barrio Gutapol of the municipality of Kibawe, province of Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without written permission from the Director of Forestry or his duly authorized representative, and after having entered Parcel 2 of the Kibawe Forest Reserve No. 95, which has been proclaimed as such under Proclamation No. 500 by the President of the Philippines, did then and there willfully, unlawfully and criminally cut and destroy the timber stand and other forest growth found therein, in the aggregate total of 143.16 cubic meters of timber belonging to the second group and 464.81 cubic meters of timber belonging to the third group, to the damage and prejudice of the government of the Republic of the Philippines in the amount of P7,163.47, the amount of government charges on the timber unlawfully destroyed.

Contrary to, and in violation of, Section 2751(b), of the Revised Administrative Code as amended by R. A. 3092 and as further amended by R. A. 3701."

By virtue of a warrant issued by the trial court, Alejandro Dimana was arrested and committed to the provincial jail of Bukidnon.

On June 23, 1966 the accused moved to quash the information on two grounds, namely: (1) that no proper preliminary investigation had been conducted; and (2) that the new charge placed him in double jeopardy. The Provincial Fiscal filed his opposition, contending that a preliminary investigation was made before the information was filed, and that the accused was not placed in double jeopardy, since the Municipal Court of Kibawe had no jurisdiction to try the first case on the merits inasmuch as the imposable fine for the offense charged exceeded the maximum amount that could be imposed by the said court. In his supplemental arguments the accused countered that the amount of the fine was immaterial, considering that the crime charged, although denominated "Destruction of Public Forest" in the Municipal Court and as "Unlawful Destruction of Public Forest" in the Court of First Instance, was actually a crime of "Trespass on Government Property" over which the Municipal Court had jurisdiction under Section 87(b) of the Judiciary Act of 1948, as amended. The accused also cited Revised Circulars of the Department of Justice stating, among other things, that Courts of First Instance and Justice of the Peace Courts (now Municipal Courts) had concurrent jurisdiction in cases of unlawful occupation and destruction of forest products.

On July 11, 1966 the court a quo issued an order granting the motion to quash on the ground of double jeopardy. The order reads as follows:

"Acting upon the motion to quash presented by counsel for the defendant in the above-entitled case and finding that the latter has already been convicted by the municipal court of Kibawe for the same crime of destruction of public forest for which he is now charged for the second time under the information presented by the Fiscal, and that he has served the sentence imposed upon him by said municipal court which, according to the Revised Circular of the Secretary of Justice, has concurrent jurisdiction with this Court to try the crime of unlawful occupation and destruction of forest products, offenses which are punishable by Sec. 2751 of the Revised Administrative Code, the Court believes that the present information places the above-named accused in double jeopardy, for which reason the motion to quash is hereby GRANTED and the accused ordered immediately discharged from custody, unless otherwise held to answer for another offense."

The State instituted this appeal, seeking reversal of the above order and the remand of the case for trial on the merits.

It is well-settled that Courts of First Instance and Municipal Courts have concurrent jurisdiction over all criminal cases specifically mentioned in Section 87(b) of the Judiciary Act of 1948, as amended, when the penalty provided by law is imprisonment for more than six months or a fine of more than two hundred pesos, taking into consideration Section 44(f) of the same Act.[1] Since one of those cases mentioned is "trespass on Government property," the question as to the jurisdiction of the municipal court of Kibawe in turn depends on whether the crime charged falls within the category of such trespass.

Section 2751(b) of the Revised Administrative Code, as amended by Republic Act No. 3701, the law violated by the appellee as alleged both in the criminal complaint and in the information, reads as follows:

"SEC. 2751. Unlawful occupation or destruction of public forest.- Without the written permission of the Director of Forestry or his duly authorized representative, it shall be unlawful for any person willfully to enter upon any public forest, proclaimed timberland, communal forest, communal pasture, and forest reserve and occupy the same, or to make 'caingin' therein or in any manner destroy such forest or part thereof, or to cause any damage to the timber stand and other forest products and forest growth found therein, or to assist, aid or abet any other person so to do. * * * Any person violating this section shall suffer

* * * * *

(b) If the offense is committed within a forest reserve, a fine of eight times the regular government charges on the timber or other forest products so unlawfully destroyed, and in addition thereto, imprisonment for not less than six months nor more than one year and six months;"

Undoubtedly the offense punishable under the afore-quoted provision is one of "trespass on Government property" since said provision speaks of (1) unlawful entry upon any public forest, proclaimed timberland, communal forest, communal pasture, and forest reserve; and/or (2) damage to the property after the entry. It is to be noted that the words "trespass on Government or private property" were originally employed in Act No. 267, which conferred jurisdiction for the first time over said offense on the Municipal Court of Manila. The Philippine Commission, in enacting said law must have used the word "trespass" as it was understood and defined in various jurisdictions of the United States. There the essential elements of "trespass" when applied to real property are unlawful entry and damage to such property, thus:

"When applied to real property 'trespass' is any unauthorized entry on realty of another to the damage thereof. City of Cape Girardeau vs. Pankey, Mo. App. 224 S.W. 2d 588, 589." (42-A Words and Phrases, p. 77)

"'Trespass' is an entry on another's ground without lawful authority and doing some damage, however inconsiderable, to his real property and encroachment by one person on the land of another is a trespass although the damage may be negligible. (Hark vs. Mountain Lumber Co., W. Va. 34 S.E. 2d 348, 352, 353." (Ibid, p. 81)

Consequently, the Municipal Court of Kibawe correctly assumed jurisdiction over the criminal case and the appellee's conviction in said court is a bar to a subsequent prosecution for the same offense. We, therefore, find that the court a quo did not err in granting the appellee's motion to quash the information on the ground of double jeopardy.

In any event, justice demands that the appellee should no longer be prosecuted for an offense which he has fully expiated and paid for in conformity with the judgment rendered in the first case.

WHEREFORE, the order of the Court of First Instance of Bukidnon is hereby affirmed.

Reyes, J.B.L., Actg. C.J., Zaldivar, Fernando, Teehankee, Makasiar, and Antonio, JJ., concur.

Castro and Barredo, JJ., did not take part.

Concepcion, C.J., on official leave.

[1] Brecino vs. Papica, G.R. No. L-20347, October 31, 1964 (12 SCRA 349) and the cases cited.

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