

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. MANUEL BLANCO, JUDGE OF THE COURT OF FIRST INSTANCE OF ILOILO, RESPONDENT.*G.R. No. L-2700. January 13, 1950*

Ponente: BENGZON, J.

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In the municipal court of Iloilo, on September 28, 1948, the fiscal of said city filed against Claudio Galicto and Roberto Sevilla an information charging them with the crime of theft of two trousers valued at P28. The information alleged that the accused were habitual delinquents, they having been convicted of theft on three previous occasions, enumerating such convictions in detail. The next day, Claudio Galicto pleaded guilty. The municipal judge, believing he had no jurisdiction, immediately forwarded the case to the Court of First Instance for further proceedings.

In the latter court, however, the city fiscal submitted on September 30, 1948 a motion for the return of the case to the municipal court, contending that it was said municipal court that had jurisdiction to decide it. The Court of First Instance, presided by the respondent judge, denied the motion, as well as a motion to reconsider. Hence this petition for certiorari and mandamus.

The charter of the City of Iloilo provides that its municipal court shall have concurrent jurisdiction with the Court of First Instance "over cases for larceny, embezzlement and estafa where the amount of money or property stolen or embezzled does not exceed two hundred pesos * * *." Inasmuch as the information described a theft of property worth P28.00 only, that the municipal court had jurisdiction. It does not matter that the penalty to be imposed by reason of the habitual delinquency might reach six years' imprisonment, according to the respondent; because, unlike ordinary justice of the peace courts, the jurisdiction of the municipal court of Iloilo, like that of Manila, in the matter of theft or estafa, does not depend upon the extent of the penalty, but upon the value of the property stolen or embezzled. (People vs. San Juan, 69 Phil., 347)

It has been held that such municipal courts of Iloilo and Manila, have jurisdiction over theft cases where the amount stolen does not exceed P200, notwithstanding the fact that by reason of habitual delinquency, an additional penalty of more than six months' imprisonment is imposed.[1]

It is contended for the respondent that the accused had not been booked for larceny only, but also for the "delito de habito" (habitual delinquency) which has not been assigned by law to the municipal court. This Court has already said that habitual delinquency is not a crime in itself, but merely a factor in determining a total penalty.[2] Article 62 of the Revised Penal Code, speaking of habitual delinquency, did not establish a new crime, but only regulated the "effect of the attendance of mitigating or aggravating circumstances and of habitual delinquency" as its caption indicates. As a matter of fact it is found in a section prescribing rules for the application of penalties—not a section defining offenses.

It is furthermore suggested that, inasmuch as the Court of First Instance of Iloilo has concurrent jurisdiction and

the papers are already there, the matter should be left therein in the interest of speedy adjudication. Such suggestion should not be heeded, because of the rule that "where several courts have concurrent jurisdiction of the offense the court which first acquires jurisdiction of the prosecution retains it to the exclusion of the other" (22 C.J.S., p. 186). And supposing we agree to the suggestion, the accused himself, if he happens to object to the penalty imposed upon him by the Court of First Instance, might raise the question of jurisdiction.

It is thus clear that the petitioner is entitled to the remedy prayed for. Wherefore, the respondent should be, and is, prohibited from taking cognizance of the case, which must be returned tot he municipal court of Iloilo for further proceedings.

So ordered.

Moran, C. J., Ozaeta, Paras, Pablo, Padilla, Tuason, Montemayor, Reyes, and Torres, JJ., concur.

[1] People vs. Acha, G. R. No. 46714, October 2, 1939; People vs. Del Mundo, G. R. No. 46531; People vs. San Juan, *supra*; Moran, Comments on the Rules of Court, Vol. II, p. 885.

[2] People vs. Sanchez, 57 Phil., 770.

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