

CELESTINO LUZANO, PETITIONER, VS. HONORABLE HONORIO ROMERO, PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF PAMPANGA, BRANCH III, VICENTE MACALINO, ASSISTANT FISCAL OF PAMPANG...*G.R. No. L-33245. September 30, 1971*

Ponente: MAKASIAR, J.

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The question raised in this petition is whether the municipal court of Apalit, Pampanga can be considered a court of record under Sections 45, 75, and 77 of the Judiciary Act (Republic Act No. 296), as amended by Republic Act No. 6031. Zenaida M. Manlapaz is the only duly appointed clerk-stenographer in the Apalit Municipal Court (p. 6 of Answer, p. 44, rec.; Annex "2" of Answer, p. 47, rec.).

Petitioner Celestino Luzano is the complaining witness in the estafa charge involving the amount of P150.00, which he filed against private respondent Dionisio Cayanán and was docketed as Criminal Case No. 1087 in the municipal court of Apalit (Annex "A", p. 6, rec.). The entire proceedings in the municipal court were taken down by said clerk-stenographer Zenaida M. Manlapaz, which is affirmed by the petitioner (see pars. 3 and 6 of the Petition, p. 2, rec.), admitted by respondent Dionisio Cayanán (see p. 6 of his Answer, p. 44, rec.), confirmed by Zenaida M. Manlapaz herself in her sworn statement (Annex "2" of the Answer, p. 47, rec.), and certified to by Acting Apalit Municipal Judge Nicanor D. Guevarra (Annex "3" of Answer, p. 48, rec.). After the trial, respondent Dionisio Cayanán was convicted and sentenced accordingly, from which judgment he appealed to the Court of First Instance presided by the respondent Judge Honorable Honorio Romero before whom he pleaded not guilty to the charge when arraigned on October 1, 1970. Thereafter, trial de novo was set for November 4, 1970 and reset for November 19, 1970.

Petitioner filed a motion dated October 21, 1970 praying that the case be decided on the basis of the evidence and records submitted by the municipal court on the basis of the ground that since the appealed case falls within the original exclusive jurisdiction of the municipal court (Sec. 87(b-3), R.A. No. 296 as amended), the same is appealable only to the Court of First Instance, which shall decide the case on the basis of the evidence and records transmitted from the municipal court under Sec. 45 of Republic Act No. 296, as amended by Republic Act No. 6031 and should not be tried de novo, because the municipal court of Apalit is a court of record (Annex "E", pp. 13-16, rec.). Respondent Judge granted the motion in an order dated December 4, 1970 setting aside the trial de novo (annex "F", pp. 17-18, rec.). Thereafter, the promulgation of the decision was set for January 28, 1971, but, upon motion of the accused, was reset for February 10, 1971 (Annexes "G" & "H", pp. 19-20, rec.).

However, in an order dated February 1, 1971, respondent Judge issued an order re-setting the arraignment of the accused and the trial de novo on February 17, 1971, on the ground that he was informed by the Undersecretary of Justice that the municipal court of Apalit is not a court of record (Annex "I", p. 21, rec.), because Department of Justice Circular No. 12 of February 10, 1970, construing Sections 45, 75 and 77 of the Judiciary Act, as amended

by Republic Act No. 6031, states that a city or municipal court, to be a court of record, must have a clerk of court, two stenographers and an interpreter under Section 2 of Republic Act No. 6031 amending paragraph 2 of Section 75 of Republic Act No. 296. The Provincial Fiscal of Pampanga entertains the same view (pp. 28-29, rec.). The respondent Judge reiterated his opinion in an order dated February 8, 1971 denying petitioner's motion for reconsideration of the order dated February 1, 1971 (Annex "K", p. 26, rec.).

The position of the respondents cannot be sustained.

The pertinent provisions of Republic Act No. 6031 read thus:

xx x xx x xx x xx x

"Section 1. Section 45 of Republic Act Numbered Two Hundred and Ninety-Six, as amended is hereby further amended to read as follows:

'Sec. 45. Appellate Jurisdiction. - Courts of First Instance shall have appellate jurisdiction over all cases arising in city and municipal courts, in their respective provinces, except over appeals from cases tried by municipal judges of provincial capitals or city judges pursuant to the authority granted under the last paragraph of Section 87 of this Act.

'Courts of First Instance shall decide such appealed cases on the basis of the evidence and records transmitted from the city or municipal courts: Provided, That the parties may submit memoranda and/or brief with oral argument if so requested: Provided, however, That if the case was tried in a city or municipal court before the latter became a court of record, then on appeal the case shall proceed by trial de novo.

'In cases falling under the exclusive original jurisdiction of municipal and city courts which are appealed to the courts of first instance, the decision of the latter shall be final: Provided, That the findings of facts contained in said decision are supported by substantial evidence as basis thereof, and the conclusions are not clearly against the law and jurisprudence; x xx xx x xx' (underscoring supplied).

"Sec. 2. Paragraph 2 of Section 75 of said Act is amended to read as follows:

'In other municipalities, the municipal judge shall likewise have a clerk of court, two stenographers and other minor personnel as the service may require, xx xx x xx.'

"Sec. 3. Section 77 of the same Act is hereby amended to read as follows:

'Sec. 77. Attendance at Court. ? Permission for Judge to pursue other vocation. - xx x xx x xx.

'All municipal and city courts shall keep records of their proceedings in the same manner as courts of first instance. All judgments determining the merits of cases shall be in writing personally and directly prepared by the municipal or city judge, stating clearly the facts and the law on which they are based, signed by him, and filed with the clerk of court.'

xx x xx x xx x " (underscoring supplied).

The over-riding purpose of Republic Act No. 6031 is to accelerate the administration of justice by eliminating trial de novo in the Court of First Instance of cases appealed from municipal and city courts thru the conversion into courts of record of the city and municipal courts, whose proceedings have been fully recorded by a qualified stenographer (Vol. IV, Cong. Rec., No. 64, p. 3202, May 13, 1969).

Paragraph 2 of Section 75 of the Judiciary Act, as amended by Republic Act No. 6031, directing that "in other municipalities, the municipal judge shall have a clerk of court, two stenographers, and other minor personnel as the service may require," provides for the ideal complement of a municipal court as a court of record, when government finances permit. It is significant to note that the law does not specifically mention the interpreter as

essential to complete the desired staffing pattern of a municipal court as a court of record. The interpreter is however included in the ge-neric phrase "other minor personnel as the service may require" --- but only when demanded by the exigencies of the service, as is patent from the provision, and not always. Hence, Circular No. 12 of the Department of Justice dated February 12, 1970, does not inter-pret or implement faithfully the aforementioned law; because it requires that the municipal court must at all times have an interpreter in order that it may be considered a court of record.

The clear legislative intent is that as long as the muni-cipal or city court has a qualified stenographer to record its proceedings, it is a court of record from the time Republic Act No. 6031 took effect on August 4, 1969. The congressional record discloses such intention thus:

"xx x xx x xx x xx x xx

"Senator GANZON. Under this bill, Your Honor, the lower courts -- I refer to city and municipal courts -- will become courts of records.

"Senator LAUREL. Yes, Your Honor.

"Senator GANZON. When will this bill take effect?

"Senator LAUREL. There is a provision here to that effect, Mr. President. Section 5 on page 4 provides that the bill will take effect upon its approval. xx x xx x xx x.

"Senator GANZON. This bill becomes effective when signed by the President into law.

"Senator LAUREL. Yes, Your Honor.

"Senator GANZON. Suppose this bill is signed on May 22. So we will have only until June 22, more or less.

"Senator LAUREL. Yes, Your Honor.

"Senator GANZON. But by June 22 our municipal courts, and there are hundreds of them, will not be staffed with the necessary stenographers. I have gone to many places, Your Honor, and have seen that there are plenty of municipal courts where the clerks are not stenographers.

"Senator LAUREL. That is correct, Your Honor.

"Senator GANZON. They do not have type-writers, they do not have ribbons, they do not have bond paper, they do not have clips. I have been to several municipalities where the judges write their decisions in long hand because they have no secretaries, no clerks, no stenographers, no typewriters.

"Senator LAUREL. Some of them do not even write their decisions. They just make oral, verbal decisions.

"Senator GANZON. That is worse, Your Honor. But considering the enforce-ability of the law or its implementation or effectivity on June 22, yet here we are pro-viding that the city or municipal court will become a court of record.

"Senator LAUREL. Yes, Your Honor.

"Senator GANZON. How could that be when there are no stenographers? By that time I am sure we will not be able to provide stenographers in all of these courts.

"Senator LAUREL. That will be a matter of implementation already, Your Honor. It will be up to the Department of Justice to implement the law.

"Senator GANZON. Of course that is true, Your Honor, but when the law says it is effective immediately and we, there-fore, eliminate trial de novo from the approval of the law, that means from the approval of the law

the lower courts become courts of record.

"Senator LAUREL. That is right, Your Honor.

Senator GANZON. But how will they become courts of record when they have no records, when they have no stenographers to make the records? I ask this question because it is very possible that one of the adversaries or one of the attorneys may raise it for the court to decide.

"Senator LAUREL. That is very possible, Your Honor.

"Senator GANZON. They will say, 'Well, the court of first instance will decide this case in accordance with the records submitted from the city or municipal court.' But there is no record; no stenographer.

"Senator LAUREL. It will be up to the Department of Justice to move fast.

"Senator GANZON. I do not think they can move fast in 30 days. There are hundreds of municipalities which do not have stenographers. As a matter of fact municipal courts are not courts of record until now. Ninety-eight percent of the municipalities do not have steno-graphers. Your Honor knows that because he has been around the country.

"I am only trying to help find a way whereby we can implement this bill when approved. There are handicaps to be met. Ninety-eight per cent of our municipal courts are not courts of record. They do not have stenographers.

"Senator LAUREL. Well, there will be an interregnum, Mr. President. Of course, from the time this bill is actually signed into law by the President up to the time it is actually implemented by the executive department, there will be an interregnum. Your Honor's point is very well taken on that particular phase. During this period of the organization of the municipal court into a court of record, it would be very difficult to carry out the provisions of this law into effect to the letter. Is it the suggestion of Your Honor to make this effective upon the furnishing of the necessary personnel?

"Senator GANZON. I will say that, or else make a provision in the bill when these municipal courts without stenographers will have to comply. It is very hard. Rather than leave this to the Department of Justice, we shall make this provision applicable when there is complete personnel already.

"Senator LAUREL. We will accept that suggestion.

“xx x xx x xx x xx x xx”

(Vol. IV, Congressional Record, No. 64, pp. 3202-03, May 13, 1969, underlining supplied.)

It is likewise clear from the aforequoted portions of the congressional record that the municipal courts became courts of record from the approval on August 4, 1969 of the amendatory law, Republic Act No. 6031.

However, with respect to a city or municipal court, which was still without the desired personnel at the time of the effectivity of the amendment on August 4, 1969, upon the suggestion of Senators Jose W. Diokno and Rodolfo Canzon, as aforequoted, the amendment incorporated in paragraph 2 of Section 45 of the Judiciary Act the following proviso: "Provided, however, that if the case was tried in a city or municipal court before the latter became a court of record, then on appeal, the case shall proceed by trial de novo." (Vol. IV, Congressional Record, No. 64, pp. 3203-04, May 13, 1969; Vol. IV, No. 699, p. 4265, May 19, 1969.)

Consequently, because the municipal court of Apalit has a clerk-stenographer since before August 4, 1969, it became a court of record within the purview of Republic Act No. 6031 as of August 4, 1969, even if it has no interpreter.

The circumstance that the trial of the estafa case against the herein private respondent in the Apalit municipal court might have commence in June, 1969, before Republic Act No. 6031 took effect on August 4, 1969, does not render necessary a trial de novo under the aforementioned proviso in paragraph 2 of Section 45 of the Judiciary Act, as amended by Republic Act No. 6031; because the fact remains that the trial of said case was continued and terminated long after August 4, 1969, with the entire proceedings fully recorded by the lone but qualified clerk-stenographer, and was decided on June 3, 1970 (Annex "A", pp. 6-11, rec.).

The claim of private respondent that the stenographic notes and translation of the testimonies of the witnesses are inaccurate, does not invite belief; because he did not make such assertion before the respondent Judge, despite the fact that the private prosecutor repeatedly stated that the proceedings in the Apalit municipal court were fully recorded by the clerk-stenographer in his motion dated October 21, 1970 to decide the case based on the evidence and records submitted by the municipal court (Annex "E", pp. 14-16, rec.) and in his motion for the reconsideration of the order of the respondent Judge dated February 1, 1971 setting the trial de novo of the appealed case (Annex "J", pp. 22-25, rec.). The respondent Judge, in his order dated February 1, 1971 setting the hearing de novo of the case (Annex "I", p. 21, rec.) and his order dated February 8, 1971 denying the motion of the private prosecutor for the reconsid-eration of the order dated February 1, 1971 (Annex "K", p. 26, rec.), did not in any way insinuate or intimate that the private respondent herein challenged the accuracy or integrity of the records taken by the clerk-stenographer of the proceedings in the Apalit municipal court. It was only in his Answer to the petition before this Court that the private respondent, for the first time, categorically impugns the correctness of the steno-graphic notes and the translation of the testimonies as taken down by the clerk-stenographer of the Apalit municipal court. If the private respondent herein doubted the accuracy of the stenographic notes and of the translation of the testimonies of the witnesses, he must have made the corresponding objections during and after the trial in the municipal court and before the municipal judge could render a decision, and his objections should accordingly appear of record. At any rate, such inaccuracies, even if conceded, will not impair the character of the municipal court as a court of record; because such inaccuracies at times also obtain in the stenographic notes and records of the courts of first instance, which do not thereby cease to be courts of record. Moreover, such mistakes, if any, may still be corrected upon proper motion therefor before the respondent Judge.

The essential feature of a court of record under existing jurisprudence is that it is "a court that is bound to keep a record of its proceedings";[1] which is required expressly by para-graph 2 of Section 77 of the Judiciary Act, as amended by Republic Act No. 6031; or its "proceedings is perpetuated in writing by some duly authorized persons"[2] as was done in the instant case.

Even when there is no duly appointed court stenographer, the proceedings can still be recorded by a competent stenographer duly designated by the Judge or upon agreement of the parties. This happens occasionally even in the court of first instance when the regular court stenographers have not been appointed as yet or are absent. The stenographer so designated with the consent or acquiescence of the parties is a de facto employee whose acts are valid in so far as the public and third persons are concerned.[3]

The requirement that to be a court of record, a municipal or city court must have a clerk of court, two stenographers and other minor personnel as the service may require, is certainly not jurisdictional. Consequently, the absence of a duly appointed clerk of court or stenographer or other minor employees will not divest the municipal or city court of jurisdiction to try the case. Neither will the absence of such employees in the municipal or city court deprive the court of first instance of its appellate jurisdiction to decide such appealed cases on the basis of the records and evidence submitted in the municipal or city court as long as the proceedings have been fully recorded by a qualified stenographer. If the contention of the respondents were to be upheld, the

court of first instance with only one duly appointed stenographer or a stenographer not pertaining to the said court of first instance or not duly appointed but designated upon agreement of the parties, would be reduced to a court not of record and consequently would deny the Court of Appeals and the Supreme Court jurisdiction to review cases appealed from the court of first instance.

The view of respondents would paralyze the administration of justice; because a trial court with only one stenographer cannot thereunder legally proceed with the trial of the case.

There is no dispute that the written decision promulgated by the municipal judge of Apalit in this case is valid. It complies with the requirements of Section 77, paragraph 2 of Republic Act No. 6031 and of Section 2 of Rule 120, Revised Rules of Court, as to form and content and discusses the evidence of both the pro-secution and the defense, including reference to the stenographic notes taken of the testimonial evidence by the lone but duly appointed stenographer of the Apalit municipal court. It is likewise conceded that the offense of estafa involving P150.00 of which the accused was convicted, is within the exclusive original jurisdiction of the municipal court of Apalit, that the jurisdiction over the person of the accused was properly acquired, and that trial was held with due notice to the accused and his counsel, who were both present during the entire proceedings.

WHEREFORE, the orders of the respondent Judge dated February 1, 1971 and February 8, 1971 are hereby set aside as null and void, and the respondent Judge is hereby directed to decide Criminal Case No. 76 entitled "People of the Philippines vs. Dionisio Cayanán, Accused" on the basis of the evidence and records transmitted from the municipal court of Apalit, without a trial de novo. With costs against private respondent Dionisio Cayanán.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] *Margiotti vs. Sutton*, 193 A. 250, 252, 327 -- July 7, 1937; *Heininger vs. Davis*, 117 N.E. 229, 231, 96 Ohio 205 -- April 17, 1917; *Words and Phrases*, Vol. 10, pp. 429-435.

[2] *Tourtlot vs. Booker*, 160 S.V. 293, 297 -- June 26, 1913.

[3] *Nacionalista Party vs. De Vera*, L-3274, Dec. 7, 1949, 85 Phil. 126; *People vs. Cabitanan*, 43 O.G. 3207; *People vs. Penesa*, 46 O.G. 1st supp. 180; *Luna vs. Rodriguez*, 37 Phil. 186; *Regala vs. Judge of CFI*, 77 Phil. 684.

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