

**PROVINCIAL FISCAL NATALIO P. AMARGA OF NEGROS ORIENTAL
AND ASSISTANT PROVINCIAL FISCAL FLORIANO ALO BELTRAN,
PETITIONERS, VS. HON. CIPRIANO VAMENTA, JR. AND ANGEL V.
CAMPOY, RES...**

G.R. No. L-27172. January 31, 1972

Ponente: CASTRO, J.

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CASTRO, J.:

On June 3, 1959 the respondent Angel Campoy caused the execution of a "Deed of Extradjudicial Settlement and Sale" covering a certain parcel of land located in barrio Looc, Sibulan, Negros Oriental. This deed purported to settle the matter of the ownership of the said property among the heirs of the late Macaria Grifo; it also embodied a supposed transfer of ownership from the said heirs to the respondent Campoy and his wife.

The above transaction spawned three separate proceed-ings against Campoy.

First , on May 31, 1961, civil case 3907 (for reconveyance and damages) was commenced against him in the Court of First Instance of Negros Oriental. The plaintiff therein charged Campoy with fraud in the execution of the deed of extrajudicial settlement and sale adverted to, in the sense that he knowingly omitted therefrom one Esperanza Abol, a legitimate heir of the late Macaria Grifo.

Second , earlier, or sometime in March, 1961, an administrative case was brought against Campoy in his capacity as City Judge of Dumaguete for falsification of public document (specifically, of the same deed of extra-judicial settlement and sale mentioned above). The complaint averred that after failing to obtain the consent of one of the heirs to the transfer of the property to him, Campoy deleted the name of the said heir from the instrument and made it appear that only the heirs remaining therein had the right to effect such transfer. Further, it was alleged that Campoy falsified the residence certificates of the heirs who supposedly took part in the transaction, and then caused the deed to be notarized as such.

A judge of the Court of First Instance of Negros Oriental subsequently heard the administrative charges against Campoy and adjudged the latter guilty thereof. On December 3, 1965 the then President Diosdado Macapagal ordered Campoy's removal from office. This latter order, however, became the subject of a motion for reconsideration after the new Administration took over in 1966.

And finally, on February 15, 1966, the petitioner provincial fiscal of Negros Oriental filed criminal case 7894 against Campoy, charging the same offense of falsification subject of the administrative case. This criminal case was raffled to the respondent judge, Cipriano Vamenta, Jr.

Issues having been joined in civil case 3907, the Court of First Instance of Negros Oriental (Branch I), presided by Judge Macario Santos, set the case for trial on April 21, 1966. On the said date, Campoy moved the trial court to suspend the hearing of the case and await the outcome of criminal case 7894, the fraud charged in the latter case being the same fraud imputed in civil case 3907. This motion of Campoy was granted outright by the trial

court.

Meanwhile, in criminal case 7894, the private pro-secutor, joined by the provincial fiscal, moved the respondent judge to set the criminal case for trial. Campoy opposed this move, and, invoking the pendency of the separate administrative and civil cases against him, argued that the outcome of these cases is pre-judicial to the criminal litigation before the respondent judge. Accepting this view, the latter issued an order dated December 16, 1966, suspending the hearing of criminal case 7894 until the final disposition of civil case 3907, then pending in another branch of the court. Failing to have the order of the respondent judge reconsidered, the petitioner provincial fiscal lodged the present petition for certiorari and mandamus with this Court.

During the pendency of the petition at bar, certain significant events supervened to render useless and purposeless any further action by this Court in relation to the object of the petition.

On March 14, 1967 the President set aside the prior administrative order removing Campoy and instead exonerated the latter of the falsification charges against him. While adhering to his previous theory that civil case 3907 was yet another pending proceeding which posed a pre-judicial question to the criminal case, Campoy nevertheless moved the respondent judge on March 28, 1967 for the setting of the latter case for trial on the merits "to resolve once and for all the innocence or guilt of the accused" and to remove any cloud on his integrity as a City Judge of Dumaguete. The provincial fiscal opposed this move of Campoy, but on April 20, 1967 the respondent judge denied the opposition and scheduled the criminal case for trial.

In the main, the petitioner provincial fiscal presses this Court for an order commanding the respondent judge to set criminal case 7894 for trial. However, in view of the respondent judge's order of April 20 mentioned above, any action on the petitioner's prayer, one way or another, would be an exercise in futility. Verily, the issues posed in the present case are not moot and academic.

The petitioner nonetheless suggests that this Court proceed to render judgment on the merits of this petition if only to instruct Campoy, a City Court Judge, on the ethics of setting off two separate litigations, one criminal and the other civil, against each other, for the purpose of holding off trial in both. Besides being incongruous to the nature of the petition before us, the course of action suggested by the petitioner does not find warrant in the record of this case. It does not appear indubitable that Campoy or his counsel had misrepresented the facts upon which the respondent trial judge issued the questioned order of December 16, 1966. Moreover, our reading of this case indicates that the situation that confronts us at this late day cannot be said to be wholly free from the bane of completely irrelevant and extraneous political motivations and considerations.

We deem it best that criminal case 7894 should now be permitted to proceed, with dispatch and without further delay.

ACCORDINGLY , we dismiss the present petition. No costs.

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

Teahankee, J., took no part.

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