

RE-CASES APPEALED FROM THE PEOPLE'S COURT.

People. November 10, 1948

Ponente: PARAS, J.

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PARAS, J.:

There are about forty treason cases appealed to this Court before the re-creation of the Court of Appeals wherein the penalty imposed is less than or death. After the re-creation of the Court of Appeals, these cases were certified to it. The question that arises is whether they should be left with that court or whether they correspond and should be returned to this Court.

Under Commonwealth Act No. 682, the People's Court had jurisdiction not only to try and decide all cases of crimes against national security but to convict and sentence the accused for any crime included in the acts alleged in the information and established by the evidence, and decisions and final orders of said court were subject to review by the Supreme Court.

When Commonwealth Act No. 682 was enacted on September 25, 1945, there was no Court of Appeals, this court having been abolished by Executive Order No. 37 dated March 10, 1945; and this is evidently the only reason why the decisions of the People's Court were appealable to the Supreme Court irrespective of the penalty imposed.

The Court of Appeals was re-created by Republic Act No. 52, approved on October 4, 1946, with the result, needless to say, that it has thereafter resumed its exclusive appellate jurisdiction of all cases, actions and proceedings not falling within the exclusives appellate jurisdiction of the Supreme Court. Act No. 52, section 3, further provides that "all cases which properly correspond to the Court of Appeals by virtue of the provisions of Commonwealth Act Numbered Three, as revived and amended, which may be pending in the Supreme Court and which have not yet been heard on argument and submitted for decision by this Court, shall be certified by the Clerk of the Supreme Court to the Clerk of the Court of Appeals, to be heard and decided by the latter in conformity with the provisions of this Act."

The Judiciary Act of 1948 (No. 296), passed on June 17, 1948, has preserved the exclusive appellate jurisdiction of the Supreme Court over "all criminal cases involving offenses for which the penalty imposed is death or life imprisonment; and those involving other offenses which, although not so punished, arose out of the same occurrence or which may have been committed by the accused on the same occasion, as that giving rise to the more serious offense, regardless of whether the accused are charged as principals, accomplices, or accessories, or whether they have been tried jointly or separately" (Section 17, par. A7), as well as the exclusive appellate jurisdiction of the Court of Appeals over "all cases, actions, and proceedings not enumerated in section seventeen of this Act. (Section 29). Moreover, the said Judiciary Act has repealed all laws and rules inconsistent therewith (Section 99).

With the complete restoration of the exclusive appellate jurisdiction of the Court of Appeals and the repeal of all laws and rules inconsistent with the Judiciary Act of 1948, it must logically follow that the treason cases

hereinabove mentioned fall under the exclusive appellate jurisdiction of the Court of Appeals, because they do not belong to criminal cases specified in section 17 of said Act. It is not even necessary to invoke, in support of the propriety of the certification by this Court of those cases to the Court of Appeals, section 3 of Act No. 52, because, in view of the repealing clause of the Judiciary Act of 1948, all cases falling under the exclusive appellate jurisdiction of the Court of Appeals, whether or not heard on argument and submitted for decision by the Supreme Court, have to be certified to the Court of Appeals. This step is expressly authorized by section 31 of the Judiciary Act (formerly section 145-H of the Revised Administrative Code, as revived by Republic Act No. 52) which provides that "all cases which may be erroneously brought to the Supreme Court or to the Court of Appeals shall be sent to the proper court, which shall hear the same, as if it had originally been brought before it." This provision is comprehensive enough to include cases "erroneously brought" not only after but also before the approval of the Judiciary Act.

It is true that section 29 of the Judiciary Act, in referring to the exclusive appellate jurisdiction of the Court of Appeals, speaks of "all cases, actions, and proceedings not enumerated in section seventeen of this Act, properly brought to it from Court of First Instance." But, in our opinion, the specific mention of "Courts of First Instance" cannot alter or qualify the limits of the exclusive appellate jurisdiction of the Supreme Court as expressly fixed by section 17 of the Judiciary Act and determined, as regards criminal cases, by the penalty imposed (death or life imprisonment), and as a corollary the exclusive appellate jurisdiction of the Court of Appeals over criminal cases in which the penalty imposed is less than death or life imprisonment.

Moreover, the People's Court should be considered as having at most the category of a court of first instance in the sense contemplated in section 29 of the Judiciary Act. Whereas the people's Court had special and limited jurisdiction, the court of first instance has general jurisdiction, so that, if one is higher than the other, it must be the court of first instance. Our classification finds official support in Republic Act No. 311 which has transferred all cases pending in the People's Court upon the latter's abolition to the respective courts of first instance of the province or cities where the offenses are alleged to have been committed, and which makes the decisions of the courts of first instance in such cases appealable to the Court of Appeals or to the Supreme Court as the case may be, in accordance with the provisions of the existing laws and rules. Even the People's Court Act (No. 682) considered that court as having merely the category of a court of first instance when, in section 2, it provided that treason cases not instituted within the period therein fixed "shall be filed with, tried and determined by the proper Court of First Instance."

If the treason cases in question should be returned to and decided by this Court, we shall furthermore have the anomaly that similar cases decided by the courts of first instance after the abolition of the People's Court will be appealable to and disposed of by the Court of Appeals in virtue of Republic Act No. 311. The decision by the Supreme Court of some such cases was warranted before the revival of the Court of Appeals, but for the Supreme Court to take cognizance of said treason cases now, when the Court of Appeals is functioning, would amount to a discrimination.

We therefore hold that the treason cases here-inabove referred to were properly certified to, and should be duly disposed of, by the Court of Appeals.

Ozaeta, Bengzon, Briones, Tuason, and Montemayor, JJ., concur.

CONCURRING

PERFECTO, J.:

When the treason cases mentioned in the resolution were, many months ago, certified to the Court of Appeals, we made of record our objection. We did not see then, and we do not see now, any valid legal reason why the Supreme Court should not continue taking cognizance of said cases and proceed to their final determination. We felt that by transferring the cases to the Court of Appeals.

DISSENTING

FERIA, J.:

The Courts of First Instance existed and were known as such before the creation of the People's Court. When the People's Court was created by Commonwealth Act No. 682 to try treason cases, the jurisdiction to try and decide these cases was transferred to the People's Court, the two Courts were distinct and different. The Courts of First Instance were unipersonal and of general jurisdiction over cases arising within their respective territory or territorial jurisdiction, while the People's Court was a collective court, that is, composed of three or more judges acting as a body, and of special jurisdiction over all treason cases committed within the Philippines, and such other crimes which are included in the charge of treason which might be alleged and proven if the latter was not established.

The sentences rendered by the Courts of First Instance were and are appealable to the Court of Appeals or to the Supreme Court, depending upon the penalty imposed or the question raised on appeal; while all sentences rendered by the People's Court, irrespective of the penalty actually imposed, were appealable only to the Supreme Court. The reason why they were not appealable to the Court of Appeals even if the penalty imposed were not life imprisonment or death, was not precisely because at the time the People's Court was created, the Court of Appeals had been previously abolished, for otherwise at the recreation of the court of Appeals by Republic Act No. 52, on October 2, 1946, it would have been provided therein that appeal should be taken to the Court of Appeals or to the Supreme Court as the case may be; but because there was no justifiable reason for appealing from, a sentence rendered by the People's Court of imposed of three judges to another Court or Court of Appeals which acts in division composed of three judges also, except where the division fails to reach a decision in a case submitted to it, or whenever such decision shall so order, or whenever the Presiding judge in the exercise of his sound discretion shall so order in which case the action shall be heard and decided by the Court in banc (section 145 k, as amended by Commonwealth Act No. 52) and besides because it was the apparent intention of Congress to have all treason cases tried originally and on appeal by Judges and Justices who had not served in the Government during the Japanese occupation, line members of the Court of Appeals were appointed without taking into consideration whether or not the person so appointed had so served, and the fact that they had served in the Government during the Japanese occupation did not disqualify them to act in a case appealed to that Court; while members of the Supreme Court who had served as officer or employee in the puppet Republic of the Philippines were disqualified to act in a treason case appealed from the People's Court, though the provisions of the People's Court Act referring to such disqualification were declared by the majority of this Court unconstitutional.

The appellate jurisdiction of the court of Appeals is purely statutory or conferred by the statute, and therefore, it has jurisdiction only over cases expressly provided by law. Before the creation of the People's Court the Court of Appeals had appellate jurisdiction only over cases properly brought to it from the Courts of First Instance not falling within the appellate jurisdiction of the Supreme Court. When the Court of Appeals was recreated after the

People's Court had been established it preserved its appellate jurisdiction over cases properly brought to it from the courts of First Instance, and that was the reason why after a thorough deliberation on the matter of whether to transfer treason cases appealed from the People's could not transfer such cases appealed from the People's Court to the newly recreated Court of Appeals. The new Judiciary Act of June 17, 1948, did not enlarge the appellate jurisdiction of the Court of Appeals, for section 29 thereof which refers to the appellate jurisdiction of the said Court is a literal reproduction of section 145-F of the Administrative Code as amended by Commonwealth Act No. 3, as revised by Republic Act No. 52, and provides that "the Court of Appeals shall have exclusive appellate jurisdiction over all cases, actions, and proceedings not enumerated in section seventeen of this Act which speaks of cases falling within the exclusive appellate jurisdiction of the Supreme Court properly brought to it from the Courts of First Instance." It did not and does not have appellate jurisdiction over cases tried and decided by the People's Court because there is no law conferring upon it such jurisdiction.

The exclusive appellate jurisdiction of the supreme Court over cases appealed from the People's Court in which the penalty is less than life imprisonment is also statutory or conferred by sec. 13 of Act No, 682 which created the People's Court. Under the Constitution as well as under the other laws or statutory in force, the supreme Court has no such jurisdiction. And when Act No. 311 was promulgated it abolished only the People's Court and provided in its sec. 29, that "all cases pending before said Court and not embraced by Amnesty Proclamation shall be transferred to and tried by the respective Courts of First Instance of the province or city where the offense are alleged to have been committed", and that "the decision of the Courts of First Instance in such case shall be appealed to the Court of Appeals or the Supreme Court as the case may be, in accordance with the provisions of the exist-laws and rules, and shall be disposed of by the appellate court in the same manner as other criminal cases"

From the provisions of section 29 of Republic Act No. 311, it dearly appears that it was the intention of Congress to have the treason cases not pending before, but already decided by the people's court at the time said Act became effective, appealed to the Supreme Court as theretofore in accordance with the provisions of section 13 of Commonwealth Act No. 682, because said section has not been repealed by said Act No. 311, and is still in force as to such cases, for this Act has only abolished the People's Court. Had the intention of Congress been otherwise, that is, that all cases pending as those decided already by the People's Court at the time Republic Act No. 311 was promulgated, should be appealed to the Court of Appeals or to the Supreme Court, as the case may be, it should have so expressly stated therein, impliedly repealing thereby the provisions of section 13 of Commonwealth Act No. 682. Congress, by referring only in said section 2 of Republic Act No. 311 to appeals from decisions of the Courts of First Instance over cases then pending in the People's Court and transferred to said courts, it excluded therefrom cases already decided by the People's Court and appealed or to be appealed to the Suprane Court accordng to section 13 of said Act No, 682, in accordance with the legal maxim *inclusio unius est exclusio alterius*. This is further confirmed by the legislative history of Act No. 311, which originally was Bill No. 1621, and provided in its section 6 that commonwealth Act No. 682 is hereby repealed * * *," but said section 6 was eliminated by the Senate, which clearly shows that it was not the intention of Congress to repeal Act No. 682, but only abolish the People's Court, thus leaving the provisions of section 6 of Act No. 682 not inconsistent with Act No. 311, full force and effect) regarding appeal from the decisions the People's Court already rendered at the time the Republic Act No. 311 became effective, in full force and effect.

This conclusion is in conformity with the well known rule laid down by the Courts of last resort in the States of the Union from which our laws on appeal were taken, which ruling, if not not mandatory at least of persuasive authority, and which reads that "while tine abolition of an inferior court may abridge the appellate jurisdiction theretofore possessed by another court over its judgments, it does not have such effect as to cases pending on appeal at the t ime of abolition. Where a new appellate district is created, or where there has been a redistricting of

existing appellate districts, pending appeals will be transferred to the appellate court having jurisdiction thereof when a statute or valid order of the supreme court so provides; but in the absence of such a statute or order, appeals which have been perfected prior to the effective date of the statute will not be transferred to the court having jurisdiction under the new statute (Fla.—*Ferlita vs. Figarota*, 145 So., 605, 106 Fla. 578; *Whitlock vs. American Central Ins. Co. of St. Louis*, 144 So., 412; 107 Fla., 13; Tex.—*Keator vs. Whittaker*, 143 S.W., 607; 104 Tex., 628; Tex.—*Kennedy vs. Wheeler*, Civ. App., 256 S. W. 315; Tex.—*Pry vs. Barron*, 229 S. W., 230; 117 Tex.—170. (21 C.J.S., p. 206.)

DISSENTING

MORAN, C. J.:

I concur substantially in this dissent of Mr. Justice Feria. I believe that section 13 of Commonwealth Act No. 682 still governs appeal la treason cases.

PABLO, M.:

Concurro con estas disidencias.

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