

FRANCISCO COLMENARES, PETITIONER-APPELLANT, VS. JUDGE ARTURO P. VILLAR, MUNICIPAL JUDGE OF LA CASTEL-LANA, NEGROS OCCIDENTAL, AND ATTY. OTHELO CABALES, CHIEF OF POLICE OF LA CAS...

G.R. No. L-27124. May 29, 1970

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal from the order of the Court of First Instance of Negros Occidental (in Civil Case No. 7929) dismissing for lack of merit the petition for certiorari filed therein.

The case arose from the filing in the Municipal Court of La Castellana, Negros Occidental, by the Chief of Police of the same municipality of a complaint against one Francisco Colmenares for illegal possession of firearms (Criminal Case No. 1257), allegedly committed as follows:

"That on the 22nd day of December, 1965, at about 1:30 in the afternoon more or less, in the municipality of La Castellana, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the herein accused, Francisco Colmenares, did then and there, willfully, unlawfully and feloniously have in his possession and under his custody and control two (2) firearms to wit: one (1) Colt super .38 bearing SN 43975 with magazine loaded with 9 rounds of live ammunition and WTC Austen MK.I No. 70 with magazine loaded with 23 rounds of live ammunitions, without first having obtained proper license therefor.

"An Act Contrary to law."

Named in the complaint as witnesses were Eduardo Colmenares, also of La Castellana, Negros Occidental, and others.

The accused thereafter filed a motion to quash the complaint[1] on the ground of lack of jurisdiction. It was claimed that venue was improperly laid, because the firearms mentioned in the complaint were taken from the possession of the accused in the municipality of La Carlota, Negros Occidental, by the La Carlota policemen, and not in La Castellana where the complaint was filed. The municipal court having denied this motion, the accused went to the Court of First Instance of Negros Occidental in a petition for certiorari (Civil Case No. 7929), raising the same issue of improper venue. And as prayed for in the petition, a writ of preliminary injunction was issued by said court, restraining the Municipal judge of La Castellana from proceeding with the trial of Criminal Case No. 1257.

Therein respondents Municipal Judge and Chief of Police of La Castellana, traversing the averments of the petition, contended that although the alleged unlicensed firearms were taken from the custody of the accused by La Carlota policemen such unlawful act of carrying unlicensed firearms started from La Castellana that the La Carlota policemen intercepted the accused and took the firearms from him only because they were earlier requested, by telephone, by the policemen of La Castellana, then in pursuit of the accused, who was fleeing in a

taxicab (Koken No. 25), to assist them in the apprehension of the latter.

On 7 September 1966, the court ordered the dismissal of the petition for lack of merit. The accused moved for reconsideration thereof and, when it was denied, he came to this Court on appeal, reiterating the argument that since the firearms specified in the complaint were found in and removed from his custody in the municipality of La Carlota, the municipal court of La Castellana has no jurisdiction to take cognizance of the case for illegal possession of such arms. There is no merit in the appeal.

It must be remembered that the jurisdiction of the court over a case is determined by the allegations of the complaint or information. Here, the complaint filed with the municipal court of La Castellana recited that on 22 December 1966 the accused, Francisco Colmenares, was found in possession of two unlicensed firearms in the municipality of La Castellana. That allegation makes the filing of the case in the La Castellana municipal court proper. Under the Rules, criminal actions shall be instituted and tried in the court of the municipality or province wherein the offense was committed or any one of the essential ingredients thereof took place.[2] That the firearms were confiscated from him by the La Carlota policemen within the territorial boundaries of that municipality would not sustain the motion for quashal of the complaint in this case nor affect the merits thereof. It is not altogether improbable that the offense of unlawful possession of firearms could have been committed in La Castellana, as stated in the complaint, and also in La Carlota, as manifested by the appellant. For, being *malum prohibitum*, the crime is consummated by the very fact of its performance; by the firearms being possessed or held by the accused without proper authorization therefor. The place where the said firearms were finally confiscated and taken away from the accused is immaterial; it could not have added anything to the nature of the unlawful act completed and consummated earlier.[3] Thus, for purposes of the proceeding instituted in the La Castellana municipal court, it is sufficient that, according to the prosecution, the accused was in possession of the unlicensed firearms while he was in La Castellana determine the correct venue, the vital point is the allegation of the situs of the offense charged in the complaint or information,[4] and that is satisfied in this case.

WHEREFORE, finding no error in the order appealed from, the same is hereby affirmed, with costs against the appellant.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.
Castro, J., on leave.

[1] This motion must have been filed after a warrant for the arrest of the accused was issued, although nothing to this effect appears from the papers submitted to this Court. There is record that the Municipal judge had fixed the bail at P5,000.00 (page 9, CFI record), but there is no indication that the accused was arrested and detained, or else released on bail.

[2] Section 14, Revised Rule 110.

[3] *Duran vs. Tan*, 85 Phil. 476.

[4] *Mediante vs. Ortiz*, G.R. No. L-19425, 27 April 1967, 19 SCRA 832.

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