

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS. PACIFICO DOSE AND DIOSDADO DESCARES, DEFENDANTS-APPELLEES.

G.R. No. L-23540. June 29, 1968

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

On January 17, 1964, the Provincial Fiscal of Iloilo filed an information in the Court of First Instance of Iloilo, docketed as Criminal Case No. 10168, accusing Pacifico Dose and Diosdado Descares of illegal pos-session of firearms; it being alleged in the information that on November 12, 1963, in the municipality of Dumangas, province of Iloilo, the two accused, working together and helping one another, wilfully had in their possession and under their control one (1) automatic pistol Colt, super .38, with ammunition, without license or authority to possess or hold the same.

On August 4, 1964, the Court of First Instance of Iloilo issued an order holding that it had no original jurisdiction to try the case and remanding the case to the municipal court of Dumangas for trial on the merits, and at the same time ordering the Provincial Fiscal to file the corresponding information against the ac-cused in the municipal court of Dumangas.

The Provincial Fiscal moved for the reconsidera-tion of the order of August 4, 1964, arguing that under Section 44 (f) of the Judiciary Act of 1948, as amended, the Court of First Instance has original concurrent jurisdiction with the municipal court to try the case. On August 20, 1964, the Court of First Instance of Iloilo died the motion for reconsidera-tion. So, the People of the Philippines brought the instant appeal from the two orders of the Court of First Instance of Iloilo, dated August 4, 1964, and August 20, 1964, on a question of law.

The State contends that the lower court erred in holding that it did not have original jurisdiction to try a case of illegal possession of firearms.

The orders appealed from are erroneous, and the appeal of the State must be sustained. The Court of First Instance of Iloilo was of the stand that the municipal court has exclusive original jurisdiction to try a case of illegal possession of firearm, because Section 87 of the Judiciary Act of 1948 (Republic Act No. 296), as amended by Republic Act No. 3828, provides as follows:

"SEC. 87. Original jurisdiction to try criminal cases. -- Justices of the peace and judges of municipal courts of chartered cities shall have original jurisdiction over:

x x x

"(b) All criminal cases arising under the laws relating to:

x x x

"(9) Illegal possession of firearms explosives and ammunition;

x x x

On the other hand, it is the stand of the State that the Court of First Instance has concurrent original jurisdiction with the municipal court to try a case of illegal possession of firearms pursuant to the provision of Section 44, Par (f), of the Judiciary Act of 1948 which provides as follows:

'Sec. 44. Original jurisdiction: -- Courts of First Instance shall have original jurisdiction:

x x x

"(f) In all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos; x x x

Under Republic Act No. 4, illegal possession of firearms is punishable by imprisonment for a period of not less than one year and one day nor more than five years, or both such imprisonment and a fine of not less than P1000.00 nor more than P5,000.00 in the discretion of the court.

The issue to be resolved is this: Is the crime of illegal possession of firearm within the exclusive original jurisdiction of the municipal courts by virtue of Section 87 (b), par. (9) of the Judiciary Act of 1948, as amended, or do Courts of First Instance have concurrent original jurisdiction with the municipal courts to try such a case?

The decision of this Court in the case of Natividad vs. Robles, 87 Phil. 834, 836-837, squarely settles the issue raised in the present case. We held:

"Formerly the jurisdiction of the justice of the peace courts in criminal cases was limited to offenses penalized with imprisonment of not more than six months or a fine of not more than P200. But later such jurisdiction was enlarged and made to extend to specific offenses independently of the penalties provided by law therefor.....

x x x

"This new jurisdiction of justice of the peace courts is exactly the same jurisdiction vested long ago in the Municipal Courts of the City of Manila, (section 2468 of the Administrative Code as amended by Commonwealth Act No. 361) and is also the same jurisdiction vested later in the municipal courts of other chartered cities such as Cebu, Iloilo, Baguio, San Pablo and Cavite. In other words, justice of the peace courts are empowered to impose penalties higher than 'imprisonment of six months or fine of P200 where the offense charged is one of those specified in the above quoted provision of the Judiciary Act.

"Upon the other hand, section 44 (f) of the same Republic Act No. 296, confers upon the Court of First Instance original jurisdiction 'in all criminal cases in which the penalty provided by law is imprisonment for more than six (6) months or a fine of more than P200.' This provision should be construed together with section 37 (b) above quoted, and such construction should be adopted which harmonizes the two provisions, giving equal effectivity to both of them. Accordingly the jurisdiction of the two courts over the specific offenses above mentioned must be constructed as concurrent when the penalty to be imposed is more than six months imprisonment or a fine of more than P200." (Underscoring supplied).

The aforequoted ruling of this Court has been re-affirmed in many subsequent cases, and this Court has made it clear that because Section 44 of the Judiciary Act of 1948, vesting the Court of First Instance original jurisdiction over offenses penalized by law with imprisonment of more than six months or a fine of more P200.00, has been left unaltered the enlargement of the former jurisdiction of municipal courts pursuant to the amendatory provisions of Republic Act No. 3828 has resulted in concurrent jurisdiction of both courts over crimes penalized with imprisonment in excess of six months or fine in excess of P200.00 as far as crimes enumerated or specified in Section 87(b) of Republic Act No. 296, known as the Judiciary Act of 1948, are concerned.[1]

We, therefore, hold that the Court of First Instance and the municipal courts or city courts have concurrent original jurisdiction to try criminal cases involving illegal possession of firearms.

WHEREFORE, the appealed orders of the Court of First Instance of Iloilo, dated August 4, 1964 and August 20, 1964, are set aside, and this case is ordered remanded to the Court of First Instance of Iloilo with instructions to proceed with the trial of the case on the merits. No costs.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, Dizon, Makalintal, Sanchez, Castro, Angeles and Fernando, JJ., concur.

[1] See *People vs. Dalton*, L-23539, February 22, 1968; *Esperat vs. Avila, et al.*, L-25922, June 13, 1967; *Pariñgit vs. Masakayan*, L-16578, July 31, 1961; *Villanueva vs. Ortiz*, L-15344, May 30, 1960; *Niñarea, et al., vs. Veluz*, 91 Phil. 473; *People vs. Colicio*, 88, Phil., 196, and *People vs. Palmon*, 85 Phil. 350.

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