

RODOLFO ANDICO, PETITIONER, VS. JUDGE AMADO G. ROAN, ET AL., RESPONDENTS.*G.R. No. L-26563. April 16, 1968*

Ponente: FERNANDO, J.

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The basis of this petition for prohibition and mandamus, dated September 14, 1966, was the failure to institute an appeal in a criminal case to the proper judicial tribunal.[1] It is the contention of petitioner, as complainant, that upon conviction of the accused, respondent Fidelino, for serious physical injuries, by the Municipal Court of Manila, the matter should have been elevated not to the Court of First Instance of Manila, as was done, but to the Court of Appeals.

Respondent Fidelino, in an information filed on July 30, 1964, before respondent Judge Roan of the Municipal Court of Manila, was indicted for the above offense, penalized by *arresto mayor* in its maximum period to *prision correccional* in its minimum period. The aforesaid case was tried and decided on the merits by respondent Judge Roan, the entire proceedings having been duly recorded, stenographic notes of which were officially taken by the Court stenographer. The accused, respondent Fidelino, was found guilty as charged. He was sentenced to six months of *arresto mayor*, the aforesaid decision having been promulgated on March 16, 1966.[2] The accused, respondent Fidelino, appealed as noted to the Court of First Instance of Manila.

The contention was advanced by petitioner that pursuant to Section 37 of the Judiciary Act, as amended, specifically the last two paragraphs thereof, the Municipal Court of Manila has concurrent jurisdiction with the Court of First Instance of Manila over the offense charged, resulting in the aforesaid decision of respondent Judge Roan being directly appealable to the Court of Appeals, the Court of First Instance of Manila having no appellate jurisdiction. Such a contention was over-ruled by the then Judge Placido Ramos of the Court of First Instance of Manila, to whom the case was assigned, a ruling affirmed by respondent Judge Conrado Vasquez.[3] On July 30, 1966, petitioner filed with the Municipal Court of Manila a motion for the execution of its aforesaid decision, on the ground that as it was directly appealable to the Court of Appeals, no legal appeal was taken thereto by respondent Fidelino, resulting in such decision having become final and executory. Such motion was denied by respondent City Judge Roan in an order dated the same day.[4]

The point is raised that respondent Judge Vasquez of the Court of First Instance of Manila acted without or in excess of his jurisdiction or with grave abuse of discretion in assuming jurisdiction over the appeal interposed by respondent Fidelino from the aforesaid decision of respondent Judge Roan, who allegedly failed to comply with the performance of a legal duty in refusing to execute the sentence promulgated by him, which had become final.[5] Hence this petition for prohibition and mandamus.

The stand of petitioner is premised on the latest amendment to Section 87 of the Judiciary Act.[6] As the law stands at present, judges of the peace and judges of municipal courts of chartered cities possess original jurisdiction over all offenses, except violation of election laws jurisdiction which the penalty provided by law is

imprisonment for not more than three (3) years or a fine of not more than P3,000.00, or both such fine and imprisonment." [7] It is further provided in the same amendatory act: "Justices of the peace in the capitals of provinces and sub-provinces and judges of municipal courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within their respective jurisdictions, in which the penalty provided by law does not exceed prison correccional or imprisonment for not more than six years or fine not exceeding six thousand pesos or both, and in the absence of the district judge, shall have like jurisdiction within the province as the Court of First Instance to hear applications for bail." [8] Since the original jurisdiction as conferred in the Court of First Instance by the Judiciary Act of 1948, [9] as far as criminal cases is concerned, namely, where the penalty provided by law is imprisonment for more than six (6) months or a fine of more than P200.00, [10] municipal courts of chartered cities as well as Courts of First Instance possess concurrent original jurisdiction over all criminal offenses except violations of election laws where the penalty provided by law is more than six (6) months or a fine of more than P200.00, but not exceeding imprisonment for not more than six (6) years or a fine of not more than P6,000.00 or both such fine and imprisonment.

Under such circumstances, and in view of the explicit provision of the latest amendatory act, to the effect that in all the cases where judges of the municipal courts and Courts of First Instance have concurrent jurisdiction as above provided, which are to be tried and decided on the merits by them with proceedings to be recorded, the "decision therein shall be appealable direct to the Court of Appeals or to the Supreme Court," [11] the appeal in this particular criminal case, where respondent Fidelino was found guilty and penalized by six months of arresto mayor, so petitioner asserts, should have been elevated to the Court of Appeals. It bears repeating that such is petitioner's justification for the allegation that respondent Judge Vasquez of the Court of First Instance of Manila acted without or in excess of jurisdiction or at the very least with grave abuse of discretion in entertaining the appeal to his court and that respondent Judge Roan of the Municipal Court of Manila should have decreed the execution of the sentence, which by virtue of the erroneous appeal, had become final.

How did respondents, who in effect admitted the factual allegations of the petition, seek to refute such a contention? Their answer dated October 7, 1966, would fasten this interpretation on the above statutory provisions: "In resume, respondents maintain that all offenses, except violation of election laws, shall be within the original exclusive jurisdiction of city courts when the penalty provided is imprisonment for not more than three years or a fine of not more than three thousand pesos or both such fine and imprisonment. Like-wise, City Courts shall have original concurrent jurisdiction with the Court of First Instance over offenses in which the penalty provided is imprisonment for more than three years or a fine of more than three thousand pesos but not to exceed six years or a fine not exceeding six thousand pesos, in which case the proceedings in the City Courts shall be recorded and appeals shall be made direct to the Court of Appeals or the Supreme Court as the case may be." [12] Inasmuch, according to the answer, as respondent Fidelino was accused of a crime "punishable by imprisonment from four months and one day to two years and four months, which needless to say, is less than three years and following the abovestated exposition, the same is within the original and exclusive jurisdiction of the City Court of Manila. Therefore appeals therefrom should be made to the Court of First Instance of Manila." [13]

Instead of being heard in an oral argument, both petitioner and respondents submitted memoranda. Thereafter, in a supplemental memorandum for petitioner, the attention of this Court was invited to a recent decision, *Esperat v. Avila*, [14] which to him is controlling. As he emphatically asserted: "It can therefore be said without fear of contradiction that the present case is on all fours with the recently-decided *Esperat* case. In the light thereof, the position taken by the petitioners should be upheld." [15]

Petitioner's reliance on *Esperat v. Avila* is not in vain. It was there held by this Court, speaking through Acting

Chief Justice J.B.L. Reyes, that the provisions of the Judiciary Act conferring the respective jurisdiction in criminal cases on Courts of First Instance and municipal courts must be considered together. In the language of the opinion: "Note that notwithstanding the various amendments received by section 87, section 44(f) remained unaltered, thereby indicating the intention of the legislators to retain the original jurisdiction of the court of first instance in certain cases. The fact that the jurisdiction of the municipal or city courts was enlarged in virtue of the amendment of section 87(c), cannot be taken as a repeal or withdrawal of the jurisdiction conferred on the court of first instance. Not only is implied repeal disfavored by the law, but also, it is a cardinal principle that a statute must be so construed as to harmonize all apparent conflicts, and give effect to all its provisions whenever possible."

Nor, as the opinion continues, is there anything irreconcilable between the above sections of the Judiciary Act. Why it is so, is explained thus: "As therein provided, the court of first instance was given original jurisdiction over cases where the penalty prescribed by law is imprisonment for more than 6 months or fine of more than P200.00 the justices of the peace and municipal or city courts of chartered cities, over cases where the penalty is imprisonment for not more than 3 years, and fine of not more than P3,000.00. In other words, where the prescribed penalty is imprisonment for more than 6 months, but not exceeding 3 years, or fine of more than P200.00 but not exceeding P3,000.00, the justice of the peace or municipal court only has concurrent (and not exclusive) original jurisdiction with the court of first instance. And, it may be stated that this concurrent jurisdiction between the inferior courts and the court of first instance was not provided for the first time in Republic Act No. 3828. Under Republic Act No. 2613, crimes the penalties for which do not exceed 6 years, or fine for not more than P3,000.00, were specifically placed within the jurisdiction of the justice of the peace and municipal courts, concurrent with the court of first instance."

From which the conclusion emerges, again to quote from the opinion: "It follows, therefore, that the exclusive original jurisdiction of the justice of the peace and municipal courts is confined only to cases where the prescribed penalty is imprisonment for 6 months or less, or fine of P200.00 or less, whereas, the exclusive original jurisdiction of the court of first instance covers cases where the penalty is incarceration for more than 3 years (or 6 years in the case of city courts and municipal courts in provincial capitals), or fine for more than P3,000.00 (or P6,000.00 in proper cases), or both such imprisonment and fine. Between these exclusive jurisdictions lies a zone where the jurisdiction is concurrent. This is the proper construction to be placed on the provisions involved herein, regardless of what may have been the prior rulings on the matter. Needless to state, in an appropriate case where the jurisdiction of the justice of the peace, municipal or city court is concurrent with that of the court of first instance, appeal from the decision of the former tribunal lies directly to the Court of Appeals, or the Supreme Court."

On the controlling authority of *Esperat v. Avila*, which speaks in categorical language, it is indisputable that respondent Judge Vasquez of the Court of First Instance of Manila, in taking cognizance of the appeal and refusing to elevate this case to the Court of Appeals, acted without jurisdiction. No mandamus lies as against respondent Judge Roan of Municipal Court of Manila, for at this stage the judgment is not yet final and executory, the appeal having been perfected in due time.

WHEREFORE, the petition for prohibition against respondent Judge Vasquez is granted, and he is hereby ordered to elevate the records of the case to the Court of Appeals, which has jurisdiction over the appeal. The petition for mandamus against respondent Judge Roan of Municipal Court of Manila for the execution of the sentence imposed on respondent Fidelino, now properly the subject of an appeal, is hereby denied. With costs against respondent Fidelino.

Reyes, J.B.L., (Acting C.J.), Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, and Angeles, JJ.,

concur.

[1] People v. Fidelino y Tecson, Criminal Case No. F-070485, par. 1, Petition.

[2] Pars. 2 to 5, Petition.

[3] Pars. 6 and 7, Petition.

[4] Par. 8, Petition.

[5] Par. 9, Petition.

[6] Republic Act No. 3828, which took effect upon its approval on June 22, 1963.

[7] Section 87(c), 1st par. as amended by Republic Act No. 3828.

[8] Section 87(c), penultimate par. as amended by Republic Act No. 3828.

[9] Republic Act No. 296.

[10] Section 44(f).

[11] Section 87(c), last par. as amended by Republic Act No. 3828.

[12] Answer of respondents, p. 6.

[13] Id., p. 7.

[14] L-25922, June 30, 1967.

[15] Supplemental Memorandum for Petitioner, p. 4.

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