

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ILDEFONSO BRECINIO, ACCUSED-APPELLANT.

G.R. No. L-31949. October 26, 1983

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This appeal by Ildefonso Brecinio involves a question of law only. The facts are simple.

Ildefonso Brecinio was accused of stealing a male carabao worth P150.00 in the Justice of the Peace Court of Pili, Camarines Sur. The jurisdiction of the court to try Brecinio was questioned. In *Brecinio vs. Papica*, 120 Phil. 1141 (1964), this Court held that the Justice of the Peace Court of Pili had concurrent original jurisdiction with the Court of First Instance of Camarines Sur to try and decide the case pursuant to Section 87 of the Judiciary Act.

Brecinio was tried and convicted by the Justice of the Peace Court of Pili. The court, however, did not record its proceedings. Brecinio appealed his conviction to the Court of First Instance of Camarines Sur which had concurrent jurisdiction over the case. The CFI said that the appeal should have been taken directly to the Court of Appeals but it tried the case nonetheless on the following note:

"However, the appellate jurisdiction of this Court was not questioned by the accused or by the prosecution. This being so, it presupposes that the parties agreed to the exercise by this Court of its original concurrent jurisdiction over the case. We take cognizance of the present case in the exercise of such jurisdiction."

After trial where both testimonial and documentary evidence were received, the CFI rendered the following judgment:

"WHEREFORE, this Court finds the accused, Ildefonso Brecinio guilty of the crime of theft of large cattle beyond reasonable doubt and hereby sentences him to suffer an imprisonment of not less than two (2) years, four (4) months and one (1) day of prison correctional to not more than eight (8) years of prison mayor and to pay the cost of the suit. The carabao having been recovered, no in-demnity shall be paid by the accused."

The judgment was promulgated on July 24, 1968, and on the same day Brecinio filed a notice of appeal.

The appellant makes the following assignment of errors:

"I. THE COURT OF FIRST INSTANCE ERRED IN TAKING COGNIZANCE OF THIS CASE IN THE EXERCISE OF ITS ORIGINAL CONCURRENT JURISDICTION, INSPITE OF THE FACT THAT THE MUNICIPAL COURT OF PILI, CAPITAL OF CAMARINES SUR, HAS ALREADY TRIED THE CASE AND IN FACT CONVICTED THE ACCUSED, ALSO IN THE EXERCISE OF ITS CONCURRENT JURISDICTION, ON THE FLIMSY GROUND THAT THE PARTIES DID NOT OBJECT TO SAID JURISDICTION;

"II. THE COURT OF FIRST INSTANCE ERRED IN CONVICTING THE ACCUSED ANEW, AFTER HE WAS ALREADY CONVICTED BY THE MUNICIPAL COURT, WHICH CONVICTION BY THE MUNICIPAL COURT IS TOTALLY VOID BECAUSE THE PROCEEDINGS WERE NOT RECORDED,

WHEN PURSUANT TO LAW, THE EVIDENCE SHOULD HAVE BEEN RECORDED CONSEQUENTLY THE ACCUSED IS PLACED IN DOUBLE JEOPARDY."

The petitory paragraph reads:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, it is respectfully prayed that the proceedings of the Municipal Court, as well as that of the Court of First Instance, be declared null and void and that, the complaint or information against the accused, be ordered dismissed and for any other relief or reliefs which are just and meet."

It should be stated that neither of the errors assigned is well taken.

A judgment of conviction by a justice of the peace court in the exercise of its concurrent jurisdiction should be appealed directly to the Court of Appeals, not to the Court of First Instance. (*Esperat vs. Avila*, L-25922, June 30, 1967, 20 SCRA 596.) But *Brecinio's* conviction could not have been appealed to the Court of Appeals for the following reasons:

1. The proceedings in the Justice of the Peace Court were not recorded. Hence, there was nothing which the Court of Appeals could have reviewed.
2. But more importantly, the proceedings in the Justice of the Peace Court were void for lack of record. In *Aquino vs. Estenzo*, L-20791, May 19, 1965, 14 SCRA, this Court held:

"We hold that the proceedings in the City Court of Ormoc City in Criminal Case No. 5640 was a nullity, not because the City Court had no jurisdiction to try the case but because the requirement of the law that the proceedings be recorded was not complied with. When it was provided in Sec. 87(c) of Rep. Act 296, as amended by Rep. Act 2613, that the city courts of chartered cities have like jurisdiction as the Court of First Instance to try parties charged with an offense in which the penalty provided by law does not exceed prison correccional or imprisonment for not more than six years or fine not exceeding P3, 000.00 or both, the city court thereby acts as a Court of First Instance and its decisions are appealable directly to the Court of Appeals or to the Supreme Court, as the case may be. When the city court tries cases of this nature and it acts as a Court of First Instance, it must perforce act as a court of record. The very law itself provides that in the exercise of this jurisdiction by the municipal courts of provincial capitals and by city courts the proceedings must be recorded. Certainly, the decisions of the city courts or of the municipal courts of provincial capitals in the exercise of this jurisdiction are similar to decisions of the Court of First Instance, and their decisions cannot be appealed to the Court of Appeals or to the Supreme Court, as the case may be, if there are no records of their proceedings. When a city court, or the municipal court of provincial capitals, does not record its proceedings in the trial of a case in the exercise of its jurisdiction under Sec. 87(c) of the Republic Act 296, as amended, then it does not exercise its jurisdiction in accordance with law and, therefore, the proceedings had before it are null and void." (At pp. 23-24.)

Where the proceedings in the Justice of the Peace Court are null and void, as in this case, it was correct and proper for the Provincial Fiscal to file an information, again as in this case, in the Court of First Instance and for the latter court to take cognizance, of the case in the exercise of its original not appellate jurisdiction. (*Aquino vs. Estenzo*, *supra*.)

Since the appellant himself admits in his second assignment of error that the proceedings in the Justice of the Peace Court were void, it is impossible, not simply difficult, to understand his claim that he was placed in double jeopardy when he was tried and convicted in the Court of First Instance. Double jeopardy requires, among other things, valid previous proceedings.

WHEREFORE, the instant appeal is hereby dismissed. Let the records of this case be returned to the court a quo

where Ildefonso Brecinio may manifest within fifteen (15) days from notice if he desires to appeal to the Intermediate Appellate Court. Absent such manifestation, the judgment against him shall be immediately executory. Costs against the appellant.

SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Guerrero, and Escolin, JJ., concur.
De Castro, J., on sick leave.

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