

THE PEOPLE OF THE PHILIPPINES AND LOURDES ITCHON VDA. DE FORMOSO, PETITIONERS, VS. HON. ANGELINO C. SALANGA, JUDGE, COURT OF FIRST INSTANCE OF ILOCOS SUR, TERIO PERALTA, ALIAS “

G.R. Nos. L-23584-85. August 31, 1971

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

These are two petitions for certiorari and prohibition with preliminary injunction, to set aside the order of respondent Judge Angelino C. Salanga in Criminal Cases Nos. 3692 and 3965 of the Court of First Instance of Ilocos Sur, dated September 16, 1964, wherein said respondent judge held that he had authority and jurisdiction to hear and decide those cases, and to enjoin him from hearing and deciding said cases.

The pertinent facts, as shown in the record, are summarized as follows:

As an aftermath of the incident which resulted in the killing of Mayor Lorenzo Formoso, Sr., of Vigan, Ilocos Sur, and of another person, and the wounding of two other persons, Criminal Cases Nos. 3692 and 3965 were filed, in August, 1958, before the Court of First Instance of Ilocos Sur, the first case for double murder and the second for double attempted murder. In each case the accused were Terio de Peralta, alias Leproso, Lucio Fabillaran and Johnny Fabillaran. These two cases were assigned to Branch I of the Court of First Instance of Ilocos Sur, stationed at Vigan, Ilocos Sur and then presided over by Judge Felix Antonio. Upon arraignment, the accused in these two cases pleaded not guilty and moved for separate trials. The motion for separate trials was granted, and Judge Antonio commenced hearing the two cases.

On June 29, 1962, Hon. Angelino Salanga - herein respondent - was appointed, ad interim Judge of the Court of First Instance to preside over the newly-created Branch III of the Court of First Instance of Ilocos Sur, with station at Vigan, Ilocos Sur. On May 23, 1963, the Commission on Appointments of the Congress of the Philippines confirmed the appointment of Judge Salanga. When Judge Salanga started to preside over Branch III, Judge Florencio Villamor was presiding over Branch I which had been vacated by Judge Felix Antonio who was appointed Judge of the Court of First Instance of Manila; while Judge Ulpiano Dumaual was presiding over Branch II which was vacated by Judge Jose Bautista who was appointed Judge of the Court of First Instance of Laguna. Because the judges presiding over the three branches of the Court of First Instance of Ilocos Sur were all new, they agreed among themselves to raffle the cases that were then pending in the three branches of the court which were all stationed at Vigan. As a result of the raffle, Criminal Cases Nos. 3692 and 3965 were assigned to Branch III, and so Judge Salanga resumed the hearing of the two cases which had been started by Judge Antonio. At that stage of the hearing when the prosecution had already rested its case against accused Terio Peralta and was about to finish presenting its evidence against the other accused (the Fabillaran brothers), Judge Salanga was appointed judge to preside over the newly-created Branch IV of the Court of First Instance of Ilocos Sur with station at Candon, Ilocos Sur. At about the same time Hon. Deogracias Solis was appointed judge to preside over

Branch III that had been vacated by Judge Salanga. Judge Solis started to preside over Branch III on June 15, 1964. On the same day when Judge Solis assumed office as presiding Judge of Branch III, the Secretary of Justice issued Administrative Order No. 184, dated June 15, 1964, which reads as follows:

"In the interest of the administration of Justice and pursuant to Section 56 of the Judiciary Act of 1948, as amended, the Honorable Angelino Salanga, District Judge for the Province of Ilocos Sur, Fourth Branch, with station at Candon, same province, is hereby authorized to continue holding court at Vigan, effective immediately and until further orders, for the purpose of trying all kinds of cases and to enter judgment therein."

Pursuant to the afore-quoted administrative order, Judge Salanga continued holding court at Vigan, presiding over Branch I which had become vacant because Judge Florencio Villamor who presided that branch was appointed Judge of the Court of First Instance of Nueva Ecija.

Since Criminal Cases Nos. 3692 and 3965 were among the cases assigned to Branch III Judge Solis set said cases for hearing on July 21, 1964. However, on the day of the scheduled hearing, when counsel for the parties informed Judge Solis that Judge Salanga had partially heard the two cases, Judge Solis issued an order in open court postponing the hearing of the two cases and turning over the records of the cases to Branch I, presided over by Judge Salanga.

Believing that under Administrative Order No. 184 of the Secretary of Justice and in virtue of the indorsement by Judge Solis of Criminal Cases Nos. 3692 and 3965 to Branch I he had the authority and jurisdiction to continue trying and deciding those two cases, Judge Salanga set the two cases for hearing before him on September 15, 16 and 17, 1964.

On the first day of the scheduled hearing, or on September 15, 1964, the private prosecutors filed a motion raising the question regarding the authority and/or jurisdiction of Judge Salanga to take cognizance of the two criminal cases, upon the ground that those two cases properly belonged to Branch III presided over by Judge Solis and not to Branch I, and praying that further hearings of the cases be suspended until after the question shall have been decided by the competent authority. The motion was denied in open court by Judge Salanga who forthwith set the continuation of the hearing for September 16 and 17, 1964. On September 16, 1964, the private prosecutors filed a motion for postponement of the hearing, which motion was virtually a motion for reconsideration of the order of respondent Judge the day before, reiterating their prayer to "suspend the hearing and continuation of the above-entitled cases in order to give the prosecution an ample time to elevate the case to the Higher Court for their resolution." [1]

On the same day, September 16, 1964, Judge Salanga issued an order which reads as follows:

"Considering the petition for postponement filed by Atty. Constante Pimentel, one of the private prosecutors in these two cases, to suspend the further hearing of these cases to enable the prosecution to file a proper pleading before the Supreme Court on the propriety of the authority of this Court to continue and terminate these two cases originally scheduled and heard in Branch III of this Court, which petition has been conformed to by the Fiscal In-Charge to be reasonable, the Court is hereby constrained to grant this petition to solve once and for all the issues raised in the aforementioned petition.

"The Court, however, has held the belief in denying the original petition of the private prosecution for lack of merit, that it has still full authority and jurisdiction to continue and terminate these cases by virtue of an Administrative Order of the Department of Justice which allows him to continue hearing cases and terminate thereof in the Court of First Instance of Vigan, Ilocos Sur. In spite of the vigorous objections of defense counsels that said petitions are only filed by the private prosecutors for the purpose of delaying the speedy termination of these cases, the Court, after granting the time period requested by the prosecution to file any proper pleading before the Supreme Court in these cases also hereby directs the Clerk of Court to set for three

days from October 6, 7, and 8, 1964 consecutively for the continuation of the trial of these cases in order to terminate the same.

"Let copy of this order be furnished to all parties concerned for their information and guidance."[2]

On September 30, 1964, Lourdes Itchon Vda. de Formoso, widow of the late Mayor Lorenzo Formoso, Sr., as one of the offended parties in Criminal Cases Nos. 3692 and 3965, filed, through counsel, the present petitions for certiorari and prohibition with preliminary injunction, naming as respondents Judge Angelino Salanga and the accused Terio Peralta, Lucio Fabillaran and Johnny Fabillaran. The People of the Philippines is included as one of the petitioners because the petition stemmed from the incidents in connection with the trial of Criminal Cases Nos. 3692 and 3965. In their petitions the petitioners allege that in holding that he has still authority and jurisdiction to continue with the hearing of the two criminal cases which are assigned to and are pending in Branch III of the Court of First Instance of Ilocos Sur at Vigan notwithstanding his appointment as Judge of Branch IV of the said court at Candon and the fact that Branch III was actually presided over by Judge Solis, respondent Judge Salanga "has clearly acted without jurisdiction, or at least in excess thereof...."[3]

On October 2, 1964, this Court issued a resolution requiring the respondents to file their answers to the petition on or before October 15, 1964, and restraining respondent Judge from further proceeding with the trial of Criminal Cases Nos. 3692 and 3965 of the Court of First Instance of Ilocos Sur until October 21, 1964, the day when the case was set for hearing. In due time the respondents filed their answers.

At the hearing on October 21, 1964, petitioners did not appear but upon written motion filed by their counsel they were given up to November 15, 1964 within which to submit a memorandum in lieu of oral argument. The attorneys for respondents appeared and were granted leave to file a reply memorandum within 15 days from receipt of petitioners' memorandum.

On November 13, 1964, counsel for petitioners filed a motion for extension of time to file petitioners' memorandum and for the issuance anew of a restraining order, upon the ground that he would not be able to submit his memorandum on time, and that respondent Judge Salanga had set Criminal Cases Nos. 3692 and 3965 for hearing on December 8, 9 and 10, 1964 in spite of the pendency of the present proceedings before this Court. On November 19, 1964, this Court granted the motion for extension, but deferred action on the issuance of another restraining order until after the parties had submitted their memoranda.

On December 3, 1964, after he had filed a memorandum, counsel for petitioners moved for a reconsideration of the resolution of this Court of November 19, 1964 insofar as said resolution had deferred action on the motion for the issuance of a restraining order, and prayed that a restraining order be issued enjoining the respondent Judge from proceeding with the trial of Criminal Cases Nos. 3692 and 3965 which he had set for December 8, 9 and 10, 1964. Being of the impression that the two criminal cases had been heard by respondent Judge on December 8, 9 and 10, 1964, this Court, in its resolution of December 14, 1964, did not take action on the motion for reconsideration. Actually, however, respondent Judge postponed the hearing of the two criminal cases which was scheduled for December 8, 9 and 10, 1964.

On March 8, 1965, respondent Judge issued an order setting again the trial of the two criminal cases for April 6, 7 and 8, 1965, with the warning "that this Court will not grant any further postponement, and the trial shall proceed on the dates aforementioned." [4] This order prompted petitioners to file, on March 11, 1965, an urgent motion praying this Court to issue a restraining order directing respondent Judge to desist from hearing the two criminal cases on April 6, 7 and 8, 1965, and on such other days, before final judgment in the present case shall have been rendered. On March 15, 1965, this Court issued an order restraining the respondent Judge from hearing Criminal Cases Nos. 3692 and 3965 of the Court of First Instance of Ilocos Sur until further order from this Court.

The question to be resolved in the present case is whether or not, under the facts and circumstances herein-above related, respondent Judge Angelino Salanga had authority to continue hearing and to decide Criminal Cases Nos. 3692 and 3965 of the Court of First Instance of Ilocos Sur.

It is the settled rule that jurisdiction is vested in the court, not in the judge. In the case of *Bacalso vs. Ramolete*, G.R. No. L-22488, October 26, 1967,[5] this Court held:

".... The various branches of the Court of First Instance... are coor-dinate and co-equal courts, and the tota-lity of which is only one Court of First Instance. The jurisdiction is vested in the court not in the judges. And when a case is filed in one branch jurisdiction over the case does not attach to the judge or branch alone, to the exclusion of the other branches. Trial may be held or pro-ceedings continued by and before another branch or judge The apportionment and distribution of cases do not involve a grant or limitation of jurisdiction, the jurisdiction attaches and continues to be vested in the Court of First Instance of the province, and the trials may be held by any branch or judge of the court." [6]

It is clear, therefore, that any of the branches of the Court of First Instance of Ilocos Sur has jurisdiction to try and decide Criminal Cases Nos. 3692 and 3965 -- the crimes involved in those cases being those of murder and frustrated murder and the accused were all validly brought before the court for trial. And so, it cannot be said, as maintained by the petitioners, that because these two criminal cases had been assigned to Branch III of the Court of First Instance of Ilocos Sur by raffle that branch has the exclusive jurisdiction to try and decide those cases and that it is only the judge presiding that branch that has authority to hear and decide those cases. A case may be assigned to any branch of the Court of First Instance, and a case already assigned to one branch may be transfer-red to another branch. Section 7 of Rule 22 of the Rules of Court provides as follows:

"Sec. 7. Assignment of cases. - In the assignment of cases to the different branches of a Court of First Instance, or their transfer from one branch to another whether by raffle or otherwise, the parties or their counsel shall be given written notice sufficiently in advance so that they may be present therein if they so desire."

Under the foregoing provision of the Rules of Court the assignment of cases to the different branches of the court, or the transfer of cases from one branch to another branch thereof, may be done by raffle or upon proper ac-cord among the judges. What is required, as contemplated in the provision of Section 7 of Rule 22 of the Rules of Court, is that the parties are given notice so that they may be present when the raffle is made or when the trans-fer from one branch to another is ordered by a judge. Certainly a clerk of court can not, by his own initiative, transfer a case already assigned to one branch of the court to another branch.[7] Neither may a judge cause a case to be transferred to the branch presided by him under cir-cumstances which would warrant a charge that the judge has demonstrated "unusual interest" in the case.[8] Indeed the matter regarding the transfer of cases from one branch of the court to another branch is left to the sound discretion of the judges presiding the different branches of the court.

In the case now at bar the record shows that on July 21, 1964 when Criminal Cases Nos. 3692 and 3965 were called for hearing before Judge Deogracias Solis of Branch III of the Court of First Instance of Ilocos Sur, the parties -- -prosecution and defense -- were present, and the parties themselves informed the court that these two cases had been partly heard by Judge Salanga. Acting on that information, Judge Solis, taking into consideration that Judge Salanga was holding court in Vigan, issued an order stating: "let the trial of these two cases be postponed and the records be returned to the court being presided by Judge Salanga." [9] The parties to the cases, which include the petitioners herein, who were present in court, therefore, had due notice of said order of Judge Solis of the transfer of the two cases to Branch I. The record does not show that the prose-cution, or the petitioners herein, had filed any motion for reconsideration of that order of Judge Solis. We hold that the requirement of Section 7 of Rule 22 of the Rules of Court regarding notice to the parties regarding the transfer of

a case from one branch of the court to another branch had been sufficiently satisfied.[10] The order of Judge Solis transferring those two cases from Branch III to Branch I was not only reasonable but proper. Judge Salanga had already heard practically all the main evidence of the prosecution in those two cases. Judge Salanga was certainly best situated to continue hearing, and finally deciding, those two cases. In the case of *People vs. Buslon*, G. R. No. L-22778, Nov. 29, 1965[11] this Court held that a judge of the court of first instance of one province who was assigned as a vacation judge to another province by the Secretary of Justice, "for the purpose of trying all kinds of cases and to enter judgment therein", may hear and decide cases already begun and partly tried by the regular judge. If a vacation judge detailed temporarily by the Secretary of Justice from one province to another to act in place of a regular judge can continue to hear and decide cases already partly tried by the latter, with more reason that in the case at bar respondent Judge Salanga may continue hearing, and later decide, the two criminal cases above adverted to, considering that he had already partly heard said cases. Administrative Order No. 184, dated June 15, 1964, of the Secretary of Justice authorizing Judge Salanga to continue holding court in Vigan "for the purpose of trying all kinds of cases and to enter judgment therein," which was issued pursuant to the provision of Section 56 of the Judiciary Act of 1948 (R. A. 296), had vested in Judge Salanga a perfectly valid authority to preside over Branch I of the Court of First Instance of Ilocos Sur and to try and decide all cases assigned to, or transferred to, that branch. In the case now before Us, We hold that the transfer of Criminal Cases Nos. 3692 and 3965 from Branch III to Branch I of the Court of First Instance of Ilocos Sur was proper, and respondent Judge Salanga could continue to hear, and to decide, those cases under the authority of Administrative Order No. 184, dated June 15, 1964, of the Secretary of Justice.[12]

This Court has taken note of the fact that in the record it is not shown that when Criminal Cases Nos. 3692 and 3965 were first heard by Judge Salanga, when he was yet presiding Branch III of the Court of First Instance of Ilocos Sur, the prosecution, or the petitioners herein, had raised any objection against said judge trying of hearing the two cases. It is only when Judge Salanga had been transferred to Branch IV of the Court of First Instance of Ilocos Sur and was assigned by the Secretary of Justice to hold court in Vigan -- temporarily presiding over Branch I to which Criminal Cases Nos. 3692 and 3965 had been transferred -- that petitioners for the first time objected to Judge Salanga's hearing the two cases. In their petition before this Court petitioners allege probable bias on the part of Judge Salanga, insinuating that said Judge might decide the cases against the prosecution because of his alleged connections with the powerful political leaders of Ilocos Sur. However, We do not find in the record any showing of partiality, arbitrariness, or prejudice on the part of respondent judge when these cases were partially heard by him. Prejudice is not to be presumed, and this Court will not indulge in assumption. We cannot accept the insinuation of the petitioners that Judge Salanga would act with bias in hearing and deciding the two cases in question. On the contrary, this Court believes that Judge Salanga, as every Judge is expected to do, would act in accordance with his oath to administer justice without fear or favor.[13]

Be that as it may, this Court takes judicial notice of the fact that as of the date this opinion is being written respondent Judge Angelino Salanga is no longer the presiding judge of Branch IV of the Court of First Instance of Ilocos Sur, because presently he is the presiding judge of one of the branches of the Court of First Instance of Pangasinan, in the Third Judicial District, with station at Dagupan City. The question, as to whether or not respondent Judge Salanga can continue hearing Criminal Cases Nos. 3692 and 3965 of the Court of First Instance of Ilocos Sur under the authority of Administrative Order No. 184 dated June 15, 1964 of the Secretary of Justice, has, therefore, become moot. This Court also takes judicial notice that Judge Deogracias Solis who presided over Branch III of the Court of First Instance of Ilocos Sur is now dead. Inasmuch as the records of Criminal Cases Nos. 3692 and 3965 were turned over to Branch I of the Court of First Instance of Ilocos Sur, said cases should be tried by the judge who presides over said branch.

Nevertheless, if any of the parties in those two criminal cases desire that Judge Angelino Salanga continue to hear

and decide them, said party may move to secure from the Supreme Court an authority for Judge Salanga to continue hearing and to decide those cases pursuant to the provisions of the second paragraph of Section 51 of the Ju-diciary Act of 1948 (R. A. 296), as amended, which reads as follows:

"Whenever a judge appointed or assigned in any province or branch of a court in a province shall leave the province by trans-fer or assignment to another court of equal jurisdiction without having decided a case totally heard by him and which was duly argued or opportunity given for argument to the parties or their counsel, it shall be lawful for him to prepare and sign his decision in said case anywhere within the Philippines and send the same by registered mail to the clerk of the Court to be filed in the court as of the date when the same was received by the clerk, in the same manner as if the judge had been present in the court to direct the filing of the judgment: Provided however, That if a case has been heard only in part, the Supreme Court, upon petition of any of the parties to the case and the recommendation of the respective district judge, may also autho-rize the judge who has partly heard the case to continue hearing and to decide said case notwithstanding his transfer or appointment to another court of equal jurisdiction." [14]

The Rules of Court has a provision practically similar to the above-quoted provision of the second paragraph of Section 51 of R. A. 296, as amended. Thus Section 9 of Rule 135 of the Rules of Court reads as follows:

"Sec. 9. Signing judgments out of province. - Whenever a judge appointed or assigned in any province or branch of a Court of First Instance in a province shall leave the province by transfer or assignment to another court of equal juris-diction, or by expiration of his temporary assignment, without having decided a case totally heard by him and which was argued or an opportunity given for argument to the parties or their counsel, it shall be lawful for him to prepare and sign his decision in said case anywhere within the Philippines. He shall send the same by registered mail to the clerk of the court where the case was heard or argued to be filed therein as of the date when the same was received by the clerk, in the same manner as it he had been present in court to direct the filing of the judgment. If a case has been heard only part, the Supreme Court, upon petition of any of the parties to the case recommendation of the respective district judge, may also authorize the judge who has partly heard the case, if no other judge had heard the case in part, to continue hearing and to decide said case notwithstanding his transfer or appointment to another court of equal jurisdiction. [15]

IN VIEW OF THE FOREGOING, the herein petitions for certiorari and prohibition are dismissed, and the restrain-ing order issued by this Court on March 15, 1965 is lifted. No pronouncement as to costs.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] As quoted from the motion for postponement, page 22 of the record.

[2] Pages 25-26, record.

[3] As quoted from petition, page 5 of record.

[4] As quoted from order of March 2, 1965, page 84, record.

[5] 21 SCRA 519, 523-524.

[6] See also *Ella vs. Salanga*, L-23826, Sept. 28, 1970, 35 SCRA 86; *Lumpay vs. Moscoso*, 105 Phil. 968, 973; *Ruiz vs. Topacio*, 40 O. G. 8th. Supp. 201.

[7] *Deluao vs. Casteel*, L-21906, Dec. 24, 1968, 26 SCRA 475, 486.

[8] Luque vs. Kayanan, L-26826, August 29, 1969; 29 SCRA 165, 183.

[9] (See Annex H to answer of respondent Judge Salanga, p. 44, record.)

[10] Commissioner of Immigration, etc. vs. Reyes, et al., G. R. No. L-23838, Dec. 28, 1964, 12 SCRA 728-731-32.

[11] 15 SCRA, 460, 463.

[12] Ella vs. Salanga, L-23826, Sept. 28, 1970; 35 SCRA 86, 93.

[13] Pimentel vs. Salanga, L-27934, Sept. 18, 1967; 21 SCRA 160, 167.

[14] Underscoring, supplied.

[15] Underscoring, supplied.

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