

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. FRANCISCO PALMON, DEFENDANT AND APPELLEE.

G.R. No. L-2860. May 11, 1950

Ponente: OZAETA, J.

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OZAETA, J.:

Francisco Palmon was charged before the Court of First Instance of Capiz with serious physical injuries committed on November 19, 1948, in the municipality of Batan, Capiz, by firing a carbine at one Pedro Cipriano, thereby hitting and wounding Eliseo Flogio on the left thigh, which had to be amputated to save his life.

Before the arraignment of the accused His Honor Judge Hipolito Alo motu proprio dismissed the case on the ground that, under section 87 of Republic Act 296, the crime charged falls under the jurisdiction of the justice of the peace. From that order the provincial fiscal appealed.

The crime with which the accused is charged is defined and penalized by Article 263 of the Revised Penal Code, paragraph 2, which reads as follows:

"Any person who shall wound, beat, or assault another, shall be guilty of the crime of serious physical injuries and shall suffer:

"* * * * *

"2. The penalty of prision correccional in its medium and maximum periods, if in consequence of the physical injuries inflicted, the person injured shall have lost the use of speech or the power to hear or to smell, or a leg, or shall have lost the use of any such member, or shall have become incapacitated for the work in which he was theretofore habitually engaged."

Prision correccional in its medium and maximum periods ranges from 2 years, 4 months and 1 day to 6 years.

Section 44 of Republic Act no. 296 provides that the Courts of First Instance shall have original jurisdiction:

"(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."

Under the above-quoted provisions of the Revised Penal Code and of the Judiciary Act of 1948, there can be no question that the Court of First Instance has original jurisdiction to try and decide the case at bar. The question arises from the provisions of section 37 of the same Judiciary Act which reads in part 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:

"(a) All violations of municipal or city ordinances committed within their respective territorial jurisdiction;

"(b) All offenses in which the penalty provided by law is imprisonment for not more than six months, or a fine of not more than two hundred pesos, or both such fine and Imprisonment;

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

"(1) Gambling and management of lotteries;

"(2) Assaults where the intent to kill is not charged or evident upon the trial;

"(3) Larceny, embezzlement and estafa where the amount of money or property stolen, embezzled, or otherwise involved, does not exceed the sum or value of two hundred pesos;

"(4) Sale of intoxicating liquors;

"(5) Falsely impersonating an officer;

"(6) Malicious mischief;

"(7) Trespass on Government or private property; and

"(8) Threatening to take human life."

We note that some of the cases enumerated under paragraph (c) of the above-quoted section 87 also fall under the original jurisdiction of the Court of First Instance. For instance, some cases of gambling, operation of lotteries, embezzlement and estafa are punished with imprisonment of more than six months or a fine of more than two hundred pesos. (See Article 195, paragraph 2, [referring to gambling and betting], Article 217, paragraph 1, [referring to malversation or embezzlement of public funds or property], and Article 315, paragraph 4 (b) [estafa through falsification], of the Revised Penal Code..)

Likewise an assault without intent to kill may constitute a crime punishable with imprisonment of more than six months if it results in serious physical injuries, as in the present case. The provincial fiscal contended in the court below that the assault mentioned in section 87 of the Judiciary Act of 1946 comprehends only an aggression which produces no physical injury and which necessarily falls within the exclusive original jurisdiction of the justice of the peace. That view was rejected by the trial judge and is not shared by the Solicitor General in this appeal, and we think they are right. An assault causing no physical injury is penalized in paragraph 3 of Article 266 of the Revised Penal Code with *arresto menor* in its minimum period or a fine not exceeding fifty pesos. That would necessarily fall under the jurisdiction of the justice of the peace in accordance with paragraph (b) of Article 87. There would, therefore, be no need for sub-paragraph (2) of paragraph (c) if the assault mentioned therein meant only an aggression which produces no physical injury.

The Solicitor General agrees with the trial judge that the crime in question resulted from an assault mentioned in section 87. But, whereas the trial judge holds that such a crime falls within the exclusive original jurisdiction of the justice of the peace, the Solicitor General contends that the Court of First Instance and the Justice of the Peace Court have concurrent original jurisdiction over the offense.

We uphold the contention of the Solicitor General for the following reasons:

- Section 44 (f) of the Judiciary Act of 1943 expressly confers original jurisdiction on the Courts of First Instance over all criminal cases, like the present, in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos. And section 87 of the same Act also confers original jurisdiction on justices of the peace and judges of municipal courts of chartered cities over all criminal cases arising under the laws relating to assaults where the intent to kill is not charged or evident upon the trial. The serious physical injuries charged in the information resulted from such assault. There is no inconsistency in giving two courts concurrent jurisdiction over the same offense. To construe section 87 (c) as conferring exclusive original jurisdiction on justices of the peace and judges of municipal courts over all criminal cases therein

enumerated, would be to nullify pro tanto section 44 (f) of the same Act. A statute must be so construed as to harmonize and give effect to all its provisions whenever possible.

- formerly judges of municipal courts of chartered cities had concurrent jurisdiction with the Courts of First Instance over all criminal cases mentioned in section 87 (c), while justices of the peace did not. Sections 86 and 87 of Republic Act No. 296 put justices of the peace and judges of municipal courts on the same level by giving them the same jurisdiction in both criminal and civil cases. Section 87 (c) of Republic Act No. 296 was adopted from the provisions of the Revised Administrative Code on Chartered Cities with regard to the jurisdiction of municipal courts. Both sections 2468 (Manila) and 2562-A (Baguio) of the Revised Administrative Code provide that the municipal court "shall also have concurrent jurisdiction with the Court of First Instance over all criminal cases arising under the laws relating to gambling and management of lotteries, to assaults where the intent to kill is not charged or evident upon the trial, to larceny, embezzlement and estafa where the amount of money or property stolen, embezzled or otherwise involved does not exceed the sum or value of two hundred pesos, to the sale of intoxicating liquors, to falsely impersonating an officer, to malicious mischief, to trespass on Government or private property and to threatening to take human life."

From the foregoing considerations, it seems clear that the jurisdiction given to justices of the peace and judges of municipal courts over all criminal cases enumerated in paragraph (c) of section 87 of the Judiciary Act of 1948 is not exclusive but concurrent with the Courts of First Instance.

The trial court therefore erred in dismissing this case for lack of jurisdiction.

The order of dismissal is reversed and the case is remanded to the court of origin for further proceedings, without any finding as to costs.

Moran, C.J., Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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