

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS. MARCIAL CRUZ, ET AL., ACCUSED-APPELLEES.

G.R. No. L-27978. February 25, 1982

Ponente: ERICTA, J.

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ERICTA, J.:

The defendants are accused in the Court of First Instance of Camarines Sur in Criminal Case No. 7509 and in Criminal Cases Nos. 6925 to 6936 of Violations of Section 129 of the Public Land Act in relation to Art. 183 of the Revised Penal Code.

The information in Criminal Case No. 7509 alleges that Marcial Cruz and Augusto Corpuz did then and there "prepare and/or cause to be prepared and presented (in the District Land Office of Camarines Sur) false application, declaration, evidence and/or false affidavit in support of an application for free patent over a parcel of land of the public domain."

In Criminal Cases Nos. 6925-6936, the typical information alleges that Santiago Cruz, Marcial Cruz and Isidro Magdaraog did then and there in Camarines Sur "prepare, make, cooperate and/or cause to be prepared, made or cooperated in the making of the false application and/or declarations and documents required in support of the free patent application No. V-8453 of the accused applicant, Santiago Cruz over the aforementioned lot No. 1, Psu-131158 located in Bo. Cambalidio, Municipality of Libmanan, Province of Camarines Sur."

Upon motion of the defendants, the lower court dismissed the several informations for alleged lack of jurisdiction and held that the Court of First Instance of Manila was the Court of proper jurisdiction.

The reason of the trial Court in dismissing Criminal Case No. 7509 is stated as follows:

"In a motion dated September 27, 1966, the accused, thru counsel, has asked the Court to dismiss the case on the ground of lack of jurisdiction contending that the 'application, affidavit and evidence in connection with the Free Patent Application of one Manuel Sioson were represented and showed to the Director of Lands and/or to the Secretary of Agriculture and Natural Resources', hence, the venue should be in City of Manila, not in Camarines Sur, citing the case of *Velez vs. Victoriano* L-18114, June 29, 1962, which quoted with approval the earlier decision of the Supreme Court in the Case of *U.S. vs. Cañet*, 30 Phil. 371."

The reason of the trial Court in dismissing Criminal Cases Nos. 6925-6936 is as follows:

"The accused Marcial Cruz and Isidro Magdaraog have filed a motion to dismiss dated December 3, 1966, claiming that the Court has no jurisdiction over these cases, because the informations have alleged that the applications, affidavits and evidence submitted in connection with the free patent applications of over 12 individuals were all 'submitted to the Director of Lands in the City of Manila, Philippines, and recommended and/or caused to be recommended and expedited the immediate approval and issuance of the corresponding certificate of title x x x'; hence the proper venue is the City of Manila over which the Court of First Instance of that City has jurisdiction, citing the case of *Velez vs. Victoriano, et al.*, G.R. L-18114, decided June 29, 1962."

From the Orders of dismissal, the Solicitor General appeals to this Court. The appeal is meritorious.

The law allegedly violated is Section 129 of Commonwealth Act No. 141 which reads as follows:

SEC. 129 - Any person who presents or causes to be presented or cooperates in the presentation of any false application, declaration, or evidence, or makes or causes to be made or cooperates in the making of a false affidavit in support of any petition, claim, or objection respecting lands of public domain shall be deemed guilty of perjury and punished accordingly.

Section 129 aforecited defines the manner of committing the offense. The penalty is fixed in Art. 183 of the Revised Penal Code. Although the penalties for the violation of Section 129 of the Public Land Act and Article 183 of the Revised Penal Code are the same, the essential ingredients of each of these two offenses are not the same.

There are two ways of committing a violation of Section 129 of the Public Land Act, namely:

- (1) presenting or causing to be presented or cooperating in the presentation of any false application, declaration, or evidence, and
- (2) making or causing to be made or cooperating in the making of a false affidavit in support of any petition, claim or objection respecting lands of public domain.

On the other hand, perjury under Art. 183 of the Revised Penal Code is committed "by any person who, knowingly makes untruthful statements and not being included in the provisions of the next preceding Articles (defining crimes of false testimony), shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires."

In the instant cases, it is not disputed that the alleged falsified documents were filed and presented in the District Land Office of Naga City pursuant to Lands Administrative Order No. 7-1, dated April 30, 1936 which reads as follows:

3. Place of Filing. The application shall be filed in the office of the Director of Lands in Manila, or with the District Land office or the Provincial Land Officer who has jurisdiction over the locality where the land applied for is situated.

The information in Criminal Case No. 7509 alleges that the false documents were "prepared and/or caused to be prepared and presented in the Land Office of Camarines Sur." The informations in Criminal Cases Nos. 6925-6936 allege that the false documents were "prepared, made or caused to be prepared in Camarines Sur." Thus, the informations allege that all the elements in the commission of the offenses took place in Camarines Sur. Hence, the proper venue is the Court of First Instance of Camarines Sur pursuant to Rule 110 Section 14 of the Rules of Court which reads as follows:

SEC. 14. Place where action is to be instituted. (a) In all criminal prosecutions the action shall be instituted and tried in the Court of the municipality or the province wherein the offense was committed or any one of the essential ingredients thereof took place.

Under Sec. 129 of the Public Land Act, the gist of the offense is "presenting or causing to be presented or co-operating in the presentation of any false application, declaration or evidence," which is precisely what is alleged in the informations filed in Camarines Sur. Under the aforecited provision of the Rules of Court, the proper venue is the Court of First Instance of Camarines Sur.

The lower court erroneously applied the cases of *U.S. vs. Cañet*, 30 Phil. 371 and *Velez vs. Victoriano*, 5 SCRA 447. Said cases, erroneously relied upon by the trial Court, support the view of the Solicitor General that the Court

of First Instance of Camarines Sur has jurisdiction to try and decide the dismissed informations. The case of Cañet was a prosecution for perjury in the Court of First Instance of Iloilo allegedly committed on September 29, 1913 under Sec. 3 of Act 1697 which was then the law of perjury. Said law, which is substantially different from our present law of perjury (Art. 183, Revised Penal Code) reads as follows:

Any person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the Philippine Island authorizes an oath to be administered that he will testify, declare, depose or certify directly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, wilfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury.

As applied and interpreted by this Court, perjury under the aforesaid law may be committed by presenting a false document in a judicial proceeding. Thus, this Court in the aforesaid case of U.S. vs. Cañet said:

In view of the definition of perjury as defined by a statute which has been accepted and followed in numerous cases and upon the authority of the case of U.S. vs. Estraña (16 Phil. 520), We hold that it is perjury in this jurisdiction to submit false evidence in a judicial proceeding by means of an affidavit. (U.S. vs. Cañet, 30 Phil. 371,380)

The information in the Cañet case which charged the defendant with perjury in the Court of First Instance of Iloilo alleged among others that the defendant "presented to the Court of First Instance of Iloilo a motion asking for the annulment of a judgment of said Court, dated March 28, 1913 rendered in the civil suit docketed as Case No. 1842 and entitled Abraham Weill as Attorney for Levy Hermano vs. Federico Cañet, defendant, for a sum of money, and, as an integral and essential part of said motion, the defendant presented a false affidavit signed by him in the City of Manila" (U.S. vs. Cañet, 371-372). In other words, the thrust of the allegation in the information was the presentation in a judicial proceeding in Iloilo of a false affidavit.

On motion of the defendant, the lower Court "found that the crime charged in the amended information was completed in Manila inasmuch as the affidavit upon which the charge of perjury rested was subscribed and sworn to before a notary in that city, and therefore, held that it lacked jurisdiction over the case (U.S. vs. Cañet, 30 Phil. 371, 378).

Upon appeal, the Supreme Court reversed the order of dismissal. As alluded to above, presenting a false affidavit in a judicial proceeding was perjury under Sec. 3 of Act 1697. The information alleged the presentation of a false affidavit in Civil Case No. 1842 of the Court of First Instance of Iloilo. Since the crime of perjury committed by the presentation of a false affidavit in a judicial proceeding was done in Civil Case No. 1842 which was tried by the Court of First Instance of Iloilo in Iloilo City, this Court, correctly holding that perjury was committed in Iloilo, stated: "it is perjury in this jurisdiction to submit false evidence in a judicial proceeding by means of an affidavit" (U.S. vs. Cañet, 30 Phil. 371, 380).

Bypassing the question whether or not the Court of First Instance of Manila had also jurisdiction, this Court held:

Without considering or deciding whether the facts alleged sufficiently charge the commission of the crime of perjury in the City of Manila, We hold that the complaint (in Iloilo) sets forth facts which, if proven, are sufficient to sustain the finding that the defendant committed the crime of perjury within the jurisdiction of the Court of First Instance of Iloilo, in that in a judicial proceeding pending in that Court, the defendant did deliberately, maliciously and criminally swear to and present in the Court of First Instance of Iloilo the said false affidavit (U.S. vs. Cañet, 30 Phil. 371, 378).

Since the Velez case relied upon the Cañet case by simply quoting the relevant portions of the opinion thereof, the trial court likewise misapplied the Velez case as a basis of the order of dismissal of the informations.

Of some significance is the fact that the Supreme Court in both the Cañet case and the Velez case sustained the jurisdiction of the Courts where the informations were filed. It did not rule that other courts claimed by the defendants therein to have jurisdiction did not have jurisdiction. It simply bypassed the question.

The effect of dismissing the several informations is to cause inconvenience to the parties and unnecessary delay in the administration of justice. It will cause the refiling of the informations in Manila, and conducting another preliminary investigation.

WHEREFORE, the questioned orders are hereby set aside and the lower court is ordered to reinstate Criminal Case No. 7509 and Criminal Cases Nos. 6925 to 6936 and proceed to try them on the merits.

SO ORDERED.

Aquino, Concepcion, Jr., De Castro, and Escolin, JJ., concur.

Barredo (Chairman) and Abad Santos, JJ., no part.

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