

**HIDELIZA C. CAMOMOT, AND VICENTE MERCADO, PETITIONERS,
AND HON. ROMULO SENINING, PRESIDING JUDGE OF BRANCH I,
CITY COURT OF CEBU CITY AND LORENCIANA P. MERCADO,
RESPONDENTS.**

G.R. No. L-37378. May 30, 1975

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

Petition for certiorari, prohibition and mandamus with a prayer for the issuance of a writ of preliminary injunction, filed by Hideliza C. Camomot and Vicente Mercado against Hon. Romulo Senining, Presiding Judge of Branch I, City Court of Cebu City, and Lorenciana Mercado, to declare void and to set aside all the proceedings of the respondent City Court which was then presided over by the former City Judge, Hon. Joaquin Maambong (now retired), as well as the decision of the Honorable Court of Appeals, affirming and modifying the said decision of the respondent City Court.

It appears that respondent Lorenciana Mercado filed a complaint for concubinage against petitioners in the City Court of Cebu City. On September 5, 1966, petitioners assisted by counsel and upon being arraigned entered a plea of not guilty. On the same date, the case was set for hearing on October 10, 1966 at 9:00 o'clock in the morning. Both accused and their counsel, together with Special City Counsel Graciano Lauron and private prosecutors F. Fernandez and Alberto Fernandez, were notified in open court of the hearing set for October 10, 1966. After trial the respondent court sentenced the accused Vicente Mercado to imprisonment of six (6) months and one (1) day of prison correctional and his co-accused, Hideliza Camomot, to a penalty of destierro for the same period of time. Upon Vicente Mercado's appeal to the Court of Appeals, the decision of the City Court was modified and the penalty of four (4) months and 20 days of arresto mayor, as minimum, to two (2) years, 11 months and 10 days of prison correctional, as maximum, was imposed on him. The said decision of the Court of Appeals which has already become final and executory and which was set for promulgation for three times in the sala of respondent City Judge, Hon. Romulo Senining, could not be executed by virtue of the several postponements filed by Atty. Honorato Hermosisima and petitioners' counsel Atty. Jesus Blanca.

On August 27, 1973, the instant petition was filed by Hideliza C. Camomot and Vicente Mercado claiming that they were not notified of the scheduled arraignment on September 5, 1966; that despite the absence of arraignment of accused (herein petitioners) then Presiding Judge, Hon. Joaquin Maambong, proceeded with the trial of the case on October 25, 1966; that during the initial hearing on October 25, 1966 and in all subsequent hearing thereafter, Hideliza Camomot was never present, nor was she represented by counsel.

By virtue of the temporary restraining order issued by this court on August 29, 1973, the respondent Hon. Romulo Senining of the City Court, Branch I of Cebu City was restrained from promulgating and/or reading the aforementioned modified decision of the Court of Appeals which was set on August 30, 1973 at 8:30 in the morning.

In connection with the issues thus raised by petitioners, we find that the accused Hideliza Camomot and Vicente Mercado in Criminal Case No. 1597-R were in fact duly arraigned and represented by counsel as shown in the Order of September 5, 1966[1] and the Certificate of Arraignment of the same date.[2]

Furthermore, pertinent portions of the transcript of stenographic notes taken during the proceedings, disclose that both petitioners were duly arraigned, tried and convicted by the trial court; that during these proceedings they were both present and assisted by counsel;[3] and that said decision was sustained by the Court of Appeals which decision is now final and executory.

IN VIEW OF THE FOREGOING, the petition under consideration is dismissed and the writs prayed for are denied, with costs.

The temporary restraining order issued by this Court is hereby dissolved.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Aquino, JJ., concur.

[1] p. 79, Rollo

[2] p. 80, rollo

[3] pp. 81-87, rollo

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