

CAYETANO B. LIWANAG, PETITIONER AND APPELLEE, VS. ROBERT S. HAMILL,, ET AL., RESPONDENTS AND APPELLANTS.*G.R. No. L-7881. February 27, 1956*

Ponente: LABRADOR, J.

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This is an appeal from a judgment of the Court of First Instance of Pampanga, Hon. Massimo Abano, presiding, prohibiting Lorenzo D. Licup, Justice of the Peace of Clark Field, from taking cognizance of Criminal Case No. 523 filed in said justice of the peace court and entitled *The People of the Philippine vs. Cayetano B. Liwanag*, accused, for violation of section 174 of the Internal Revenue Code.

In said criminal case, Robert S. Hamill, Major, USAF, Assistant Base Provost Marshal, Clark Air Force Base, province of Pampanga, filed an amended complaint against Liwanag for violation of section 174 of the Internal Revenue . Code. It is alleged in the amended complaint that Liwanag, "a private individual, without authority whatsoever, and without paying the corresponding specific tax of Two Pesos (P2) per cartoon, * * *, did then and there willfully, unlawfully and feloniously, possess and have in his control seventeen cartoons of imported free of tax American cigarettes for use only of the US Military and Naval Forces stationed in the Philippines * * *." The complaint was subscribed and sworn to before Judge Lorenzo T. Licup. Counsel for Liwanag moved to quash the complaint in the Justice of the Peace Court, but this was denied. There upon Liwanag filed a petition for prohibition with the Court of First Instance, alleging i;hat Robert S. Hamill has no personal capacity to subscribe to the complaint and the Justice of the Peace court, therefore, acquired no jurisdiction to conduct the preliminary investigation The Court of First Instance held that respondent Robert S. Hamill is not a peace officer of the Republic of the Philippines and, therefore, is not authorized to file a complaint in accordance with section 2, Rule 106 of the Rules of Court. Against this decision, the complainant Robert S. s Hamill has filed this appeal.

We note that the appeal should have been prosecuted in the name of the People of the Philippines, which is the offended party and the plaintiff in the criminal case filed against accused Cayetano B. Liwanag. When Liwanag, however, filed his petition for prohibition, he predicated his action oh the claim that Robert S. Hamill is not an officer of the Government of the Philippines and can not represent, the plaintiff, the People of the Philippines, in the criminal case. Evidently, in accordance with this theory, the People of the Philippines was not made a party in the prohibition ease. This theory was sustained by the lower court. The real party in interest is not Robert S. Hamill, but the People of the> Philippines, although the complaint .was signed by Hamill. However, we assume, for purposes of the appeal, that Hamill is representing the People, of the Philippines, as he represented it when he filed the amended complaint.

It is admitted that the Provost Marshal of Clark Field is a peace officer. Provost Marshals in Army bases are police officers, and they have the powers and duties of chiefs of police in municipalities.

"An officer appointed in an army iircamp, garrison, or the field, to preserve order as head of the military police, arrest soldiers guilty of offenses of a general nature, secure prisoners properly delivered into his .custody by military or naval authority, and to perform other duties pertaining to police and discipline."

(Webster's International Dictionary, second edition, unabridged, p. 1995.)

The essence of the decision appealed from is that as the Provost Marshal of Clark Field is not a peace officer of the Republic of the Philippines, he is not authorized to file a complaint for violation of the Internal Revenue Code. We find this theory to be incorrect. Under the agreement between the Republic of the Philippines and the United States of America, for the establishment of bases by the latter within the territory of the former, laws of the Philippines continue to be in force in said bases except when otherwise agreed upon in the agreement. And for the purpose of hearing cases therein, justices of the peace are appointed and hold office. They are not appointed by the United States of America, but by the President of the Philippines, subject to confirmation by the Commission, on Appointments. But other than justices of the peace, no other officers of the Republic of the Philippines are appointed in the bases, much less peace officers, although agents of the Republic of the Philippines may have access in the bases to see that the laws of the Philippines are enforced. But the question of peace and order within the bases is left to peace officers of the United States of America, the chief of whom is the provost marshal. To allow peace officers of said Republic to go therein and make arrests or institute prosecutions for violation of Philippine laws would certainly give occasion for conflicts of authority. So no provision is made for the appointment of peace officers of the Republic of the Philippines within the bases, and it is understood that the enforcement of Philippine laws is left to the officers of the United States of America. It is illogical to deny to these peace officers (of the United States) the power to prosecute violations of Philippine laws in the military bases. Since these bases were established the Republic of the Philippines has abstained from appointing peace officers of its own; this must have been with the understanding that the execution of Philippine laws would be taken care of therein by the peace officers of the United States of America. It would be inconvenient if not detrimental to the enforcement of the laws of the Philippines for peace officers of the Republic of the Philippines alone to be the ones authorized to prosecute offenses before the justice of the peace courts established in the bases. It is, furthermore, technical ceremony to allow a provost marshal to apprehend violators of Philippine laws and deny him the authority to prosecute such offenses before a Philippine court established inside the bases. Such was never in the contemplation of the parties when the agreements regarding the bases were entered into. The absence of peace officers of the Republic of the Philippines in these bases is due to the fact that the enforcement and prosecution of offenses against Philippine laws was intended to be lodged with the peace officers of the United States of America.

We hold that provost marshals in military bases established by agreement between the Republic of the Philippines and the United States of America have the power and authority to file complaints for violation of Philippine laws. The decision appealed from is hereby reversed and the action for prohibition, dismissed. Costs against the petitioner-appellee Cayetano B. Liwanag.

Parás, C. J., Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Concepcion, Reyes, J. B. L. and Endencia, JJ., concur.

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