

HONORABLE PEDRO TEMPLO, JUDGE, CITY COURT; ROBERTO M. RODRIGUEZ, JR., 1ST ASSISTANT CITY FISCAL, NAGA CITY; AND ELIAS PAMA, CHIEF OF POLICE, NAGA CITY, PETITIONERS, VS. HONORABL...

G.R. Nos. L-37393-94. October 23, 1974

Ponente: FERNANDO, J.

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FERNANDO, J.:

The solidity of the stand of petitioners,[1] represented by Solicitor General Estelito P. Mendoza,[2] in assailing a decision[3] on jurisdictional grounds of respondent Judge Rafael dela Cruz of the Court of First Instance of Camarines Sur, the effect of which was to enjoin the prosecution of respondent Manuel Yee Concepcion for a violation of the National Internal Revenue Code for the illegal possession of "blue seal" cigarettes and untaxed foreign wines, is quite apparent. It is undoubted such offense is within the concurrent jurisdiction of petitioner City Judge and respondent Judge, yet that did not prevent the latter from taking cognizance of two petitions for injunction filed by the aforesaid private respondent for the purpose of restraining petitioner Fiscal from introducing or admitting certain seized articles as evidence against him and petitioner Chief of Police from enforcing the warrant of arrest issued by petitioner Judge Pedro M. Templo. In the joint decision of respondent Judge, now impugned, private respondent prevailed, the relief sought by him being granted. It is the principal contention of petitioners that as the jurisdiction of the city court and the court of first instance is concurrent, the latter is devoid of jurisdiction over the petitions filed resulting in the decision sought to be nullified. Such argument is meritorious. We grant certiorari.

The facts are undisputed. On June 16, 1972, two search warrants were issued by Judge Templo against Benjamin Yee and Crispin Santiago, owner and general manager of Fiesta Hotel, Naga City and occupant of Room 208, Fiesta Hotel, to search and seize an undetermined number of boxes of untaxed foreign wines and undetermined number of cases of untaxed "blue seal" cigarettes. They were duly served on the same day. As a result of such search, two hundred cartons of Pall Mall cigarettes, one hundred ten cartons of Good Companion cigarettes, forty cartons of State Express cigarettes and twelve bottles of untaxed Johnnie Walker Scotch Whisky as well as six bottles of Hennessy Wine were seized. Then on September 4, 1972, petitioner Assistant City Fiscal of Naga filed with the Naga City Court, presided by petitioner City Judge Templo, an information against herein respondent Manuel Yee Concepcion, incidentally not the same party against whom the search warrant was issued, for violation of Section 174 of the National Internal Revenue Code for the illegal possession of such "blue seal" cigarettes and "untaxed foreign wines" with a total unpaid tax due therein the amount of P8,187.80. There was likewise a warrant of arrest issued on the same day. Then respondent Manuel Yee Concepcion, on September 21, 1972, sought in a petition for injunction to restrain petitioner Fiscal from introducing certain seized articles as evidence against him and to declare the search and seizure unconstitutional and illegal. The action was filed with the Court of First Instance against petitioner Roberto Rodriguez, Jr. in his capacity as Assistant City Fiscal and petitioner Pedro Templo as Presiding Judge of the First Branch of the City Court of Naga. It was docketed as

Civil Case No. 7373. Thereafter, on September 28, 1972, the same respondent Yee Concepcion filed another injunction suit to restrain the carrying out of the warrant of arrest as well as from proceeding with the case against him unless a preliminary investigation is conducted. Restraining orders were handed down on September 22, 1972 and on September 25, 1972 in both petitions. At the hearing where the Court inquired into the propriety of issuing a writ of preliminary injunction; the parties agreed have both cases consolidated and regarded as one, and likewise agreed to submit the case for resolution; based upon the records obtaining, after submission of their written memoranda. Then on November 27, 1972 the decision, the dispositive portion of which reads "[Wherefore], premises considered; the restraining order earlier issued by the Executive Judge is hereby reiterated. The records of the case in Civil Case No. 36887 of the City Court of Naga are ordered returned to the said court for further proceedings with the end in view of giving the herein petitioner a day to question the search warrant issued which, if not done, may cause him to lose his right forever. Likewise, the City Fiscal is hereby inhibited from introducing the proceeds of the search warrant issued against Benjamin Yee Concepcion, and Crispin Santiago against the herein petitioner. The Chief of Police of Naga, his agents, representatives and any person or persons acting in his own behalf are, hereby restrained from enforcing the order of arrest against the petitioner until, such time when the respondent City Judge shall have given the said petitioner the opportunity to be heard as heretofore outlined." [4] A motion for reconsideration was filed by petitioner Rodriguez on January 12, 1973, but the same was denied. Hence this petition.

This petition, to repeat, possesses merit, respondent Judge being devoid of authority to act on the matter.

1. It is the jurisdictional issue that is decisive. So it was stressed in the well-written petition of the Solicitor General. Thus: "The parties in the Lower Court are agreed that the violation of law subject of the criminal complaint is punishable by fine from not less than P600 nor more than P5,000.00 and an imprisonment of not less than 4 years under Republic Act No. 4713. As such, the case falls within the concurrent jurisdiction of respondent court and the City Court of Naga. When the City Court took cognizance of the case in its concurrent jurisdiction with the respondent Court, the latter court had no power to interfere by injunction with acts of the City Court which had taken cognizance of the case as a court with a concurrent or coordinate jurisdiction. The remedy for questioning the validity of a search warrant can only be sought in the court that issued it, not in the Sala of another judge of concurrent jurisdiction. . . Assuming without conceding that respondent Concepcion could question the validity of the search warrants, he should have filed a motion to quash the warrants before the Court which issued them. Inasmuch as the City Court which issued said search warrants was then acting in a concurrent jurisdiction with Respondent Court, whatever remedy the respondent would like to take as a consequence of the issuance of the search warrants should not be brought before the Court with which it has concurrent jurisdiction but to the Court that issued it." [5] To bolster such a contention, an excerpt from *Pagkalinawan vs. Gomez*, [6] was cited. It reads thus: "Any other view would be subversive of a doctrine that has been steadfastly adhered to, the main purpose of which is to assure stability and consistency in judicial actuations and to avoid confusion that may otherwise ensue if courts of coordinate jurisdiction are permitted to interfere with each other's lawful orders." [7]

No other approach could have been followed. Moreover, if private respondent wanted to challenge the actuation of petitioner city Judge, he ought not to have filed his petitions before a court of first instance. So it was held in the leading case of *Esperat vs. Avila*. [8] As was pointed out by Justice J.B.L. Reyes, speaking for this Court: "Needless to state, in an appropriate case where the jurisdiction of the justice of the peace, municipal or city court is concurrent with that of the court of first instance, appeal from the decision of the former tribunal lies directly to the Court of Appeals, or the Supreme Court. Since the crime of grave coercion is punishable with *arresto mayor* (imprisonment from one month and one day to six months) and fine not exceeding P500.00, said offense comes within the area of concurrent jurisdiction of municipal or city courts and courts of first instance. Hence, the sentence of the City Court of Cotabato convicting herein petitioner was in fact appealable to the Court of Appeals

and not to the Court of First Instance." [9] In *Abiera vs. Court of Appeals*, [10] this Court, through the present. Chief Justice, stated the following: "The doctrine as thus formulated is well settled, and has been adhered to consistently whenever justified by the facts in order to avoid conflict of power between different courts of coordinate jurisdiction and to bring about a harmonious and smooth functioning their proceedings. For the doctrine to apply, however, the injunction issued by one court must interfere with the judgment or decree issued by another court of equal or coordinate jurisdiction, and the relief sought by such injunction must be one which could be granted by the court which rendered the judgment or issued the decree." [11]

Considering the fatal infirmity attributed to the actuation of respondent Judge, it cannot escape notice that in the comment submitted by respondents, no attempt was even made to refute such charge. The objections to the petition were premised on the following grounds: "1. That there is no allegation in the petition with respect to the dates when notice of judgment And order of denial of the Motion for Reconsideration were received by the petitioners; 2. That the petition is not accompanied with all the pleadings and Orders necessary for the understanding of the issues before the lower court, *** 3. That there is no' allegation in' the petition that the petitioners' have perfected their appeal by filing in due time the appeal bond." [12] When this Court, in a resolution of December 3, 1973, resolved consider the aforesaid comment as answer and the case submitted for decision, the inadequacy of such failure to meet the basic and fundamental question of jurisdiction must have dawned on them. They sought and they were granted permission to file a memorandum. There was nothing in such pleading, however that, could in any wise detract or minimize the legal force and effect of the submission by petitioners as to the lack of jurisdiction. Not that it could have done them any good in the light of the controlling and authoritative precedents.

2. With the jurisdictional question thus resolved, the other grounds alleged by petitioners need not be inquired into. It suffices to say that petitioners once again have the law on their side when they likewise assert that the proper forum where the alleged illegality of the search warrant could be ventilated is the City Court of Naga not the sala of respondent Judge. That has been the settled law as far back as 1925 in *People vs. Carlos*, [13] this Court relying on the American decision of *Silverthorne Lumber Co. vs. United States*, [14] the opinion being penned by Justice Holmes. Only recently, in the cited case of *Pagkalinawan vs. Gomez*, [15] this Court had occasion to reiterate such a doctrine. Thus: "It would be to ignore a principle to which this Court has been firmly committed if under the, circumstances disclosed, respondent Judge would be sustained. The moment a court of first instance has been informed through the filing of an appropriate pleading that a search warrant has been issued by another court of first instance, it cannot, *** require a sheriff or any proper officer of the Court to take the property subject of the replevin action if theretofore it came into the custody of another public officer by virtue of a search warrant. Only the court of first instance that issued such a search warrant may order its release." [16]

WHEREFORE, the decision of respondent Judge of November 27, 1972 is reversed and set aside. Costs against private respondent.

Barredo, Antonio, Fernandez and Aquino, JJ., concur.

[1] Hon. Pedro Templo, Judge, City Court; Roberto M. Rodriguez, Jr., 1st Assistant City Fiscal, Naga City; Elias Pama, Chief of Police, Naga City.

[2] He is assisted by Assistant Solicitor General Hugo E. Gutierrez, Jr., Solicitor Cecilio F. Balagot and Acting City Fiscal, Naga City, Roberto M. Rodriguez, Jr.

[3] Order, Annex A to Petition, deciding two civil cases for injunction, Civil Cases Nos. 7373 and 7375 of the Court of First Instance of Camarines Sur.

[4] Order Annex A to petition 11

[5] Petition, 8-10.

[6] G.R. No. L-22585, December 18, 1967, 21 SCRA 1275.

[7] Ibid, 1280.

[8] 20 SCRA 596.

[9] Ibid, 602. The ruling was subsequently followed in the following cases, *Le Hua Sia vs. Reyes*, G.R. No. L-21686, April 16, 1968, 23 SCRA 53; *Andico vs. Roan*, G.R. No. L-26563, April 16, 1968, 23 SCRA 93; *People vs Doriquez*, G.R. No. L-24444, July 29, 1968, 24 SCRA 163; *Mangila vs Lantin*, G.R. No. L-24735, Oct 31, 1969, 30 SCRA 81 *People vs. Tayao*, G.R. No. L-26457, March 25, 1979, 32 SCRA 44; *Abiera vs. Court of Appeals*, G.R. No. L-26294, May 31, 1972, 45 SCRA ;314.

[10] G.R. No. L-26294, May 31, 1972, 45 SCRA 314

[11] Ibid, 318.

[12] Cormment, 1.

[13] 47 Phil. 626.

[14] 251 US 385 (1920).

[15] G.R. No. L-22585, December 18, 1967, 21 SCRA 1275.

[16] Ibid, 1279-1280.

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