

ESTEFANIA PISALBON, ET AL., PETITIONERS AND APPELLANTS. VS. HONORATO TESORO, ET AL., RESPONDENTS AND APPELLEES.

G. R. No. L-5065. April 20, 1953

Ponente: JUGO, J.

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JUGO, J.:

In 1950, Estefania Pisalbon found in the records of cadastral case No. 3, record No, 8540, Asingan Cadastre, Pangasinan, a purported affidavit subscribed and sworn to by her before Notary Public Felix Villaflores, in which it appeared that she renounced in favor of Eugenia Pisalbon, and the heirs and assigns of the latter all her (Estefania's) rights and interests in lot No. 7525 of said cadastre. Estefania said that she had no knowledge of the affidavit nor had she executed it. She filed a complaint before the Justice of the Peace of Asingan against the notary public for falsification of document. The justice of the peace, without holding any investigation, dismissed her complaint on the ground that he could not proceed with the criminal case until the Court of First Instance of Pangasinan had decided the cadastral case in which the alleged falsified affidavit had been presented.

The complainant filed in the Court of First Instance of Pangasinan a petition for certiorari and mandamus against the justice of the peace, praying the court to set aside the order of the justice of the peace and instruct him to proceed with the preliminary investigation.

The Court of First Instance denied the petition on the ground that the alleged falsified affidavit having been presented in the cadastral case, the criminal case should be suspended until after the cadastral case had been decided. Estefania Pisalbon appealed from said decision to this court.

The Court of First Instance of Pangasinan erred in holding that the criminal case should, be suspended. In the present proceedings, the civil case does not involve a question prejudicial to the criminal case, for to whomsoever the land may be awarded after all the evidence has been presented in the civil case, may not affect the alleged crime committed by the notary public, which is the subject of the criminal case. But, even supposing that both the civil and the criminal case involve the same question and one must precede the other, it should be the civil case which should be suspended rather than the criminal, to await the result of the latter. (Section 1, Rule 107; Almeida, et al., vs. Abaroa, 8 Phil., 178.)

In view of the foregoing, the decision appealed from is reversed, and the respondents Justice of the Peace of Asingan and the Court of First Instance of Pangasinan are ordered to proceed with the criminal case. Without costs. So ordered.

Paras, C, J., Feria, Pablo, Bengzon, Tuason,. Montemayor, Reyes, Bautista Angelo and Labrador, JJ., concur.

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