

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. MANUEL A. ARGEL, PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, CALOOCAN CITY BRANCH XXXV, AND ROLANDO VENTURA, RESPOND...

G.R. No. L-45975. May 25, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the appellate jurisdiction of the Court of First Instance of Rizal and the Court of Appeals over a criminal case decided by the city court of Caloocan City.

On September 30, 1975 Rolando Ventura was charged by an assistant fiscal in the Caloocan City court with frustrated qualified theft of a tin can of edible oil valued at five pesos, belonging to his employer, Plame Manufacturing Corporation (Criminal Case No. 102175).

After trial, the city court convicted Ventura of simple theft and imposed upon him a penalty of three months and one day of arresto mayor and ordered him to pay an indemnity of five pesos.

He appealed to the Court of First Instance of Rizal. The case was assigned to its Caloocan City Branch 35, pre-sided over by Judge Manuel A. Argel.

The fiscal in a manifestation dated February 18, 1977 contended that the Court of First Instance had no appellate jurisdiction over the case because it was allegedly within the concurrent jurisdiction of the city court and the Court of First Instance. He prayed that the appeal should be forwarded to the Court of Appeals.

Judge Argel denied the fiscal's prayer. In a decision promulgated on March 23, 1977 he acquitted Ventura on the ground of reasonable doubt.

On April 14, 1977, the fiscal and the private prosecutor filed in this Court the instant petition for certiorari, praying that the said judgment be declared void on the ground of lack of appellate jurisdiction and that Ventura's appeal be trans-mitted to the Court of Appeals.

The issue is whether the city court's judgment of con-viction should be reviewed by the Court of First Instance or by the Court of Appeals.

We hold that the Court of First Instance has no appellate jurisdiction over the case and, therefore, its decision is void. The proceeding in that court was coram non iudice.

The Court of First Instance has no appellate jurisdic-tion because frustrated qualified theft of an object valued at five pesos is penalized with arresto mayor maximum to prision correccional minimum or four months and one day to two years and four months (Arts. 309[6] and 310, Revised Penal Code).

That crime falls within the concurrent original jurisdiction of the city court and the Court of First Instance. A

municipal or city court has original jurisdiction over theft (larceny) cases where the amount of money or property stolen does not exceed the sum or value of two hundred pesos [Sec. 87(b)(3), Judiciary Act of 1948, Republic Act No. 296 as amended by Republic Acts Nos. 2613 and 3828].

But that original jurisdiction of the inferior court is not exclusive. It is concurrent with the Court of First Instance in case the penalty for the theft or larceny exceeds imprisonment for six months or is a fine of more than two hundred pesos.

That is the settled ruling which is based on the following provisions of the Judiciary Act of 1948, Republic Act No. 296:

"SEC. 44. Original jurisdiction. - Courts of First Instance shall have original jurisdiction:

"x x x x x x x x

"(f) In all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos:

"x x x x x x x x

"SEC. 45. Appellate jurisdiction.- Courts of First Instance shall have appellate jurisdiction over all cases arising in city and municipal courts, in their respective provinces, except over appeals from cases tried by municipal judges of provincial capitals or city judges pursuant to the authority granted under the last paragraph of section 87 of this Act. (As amended by Republic Act No. 2613 which took effect on August 1, 1959).

"Courts of First Instance shall decide such appealed cases on the basis of the evidence and records transmitted from the city or municipal courts: Provided, That the parties may submit memoranda and/or brief with oral argument if so requested: Provided, however, That if the case was tried in a city or municipal court before the latter became a court of record, then on appeal the case shall proceed by trial de novo.

"In cases falling under the exclusive original jurisdiction of municipal and city courts which are appealed to the courts of first instance, the decision of the latter shall be final: Provided, That the findings of facts contained in said decision are supported by substantial evidence as basis thereof, and the conclusions are not clearly against the law and jurisprudence; in cases falling under the concurrent jurisdictions of the municipal and city courts with the courts of first instance, the appeal shall be made directly to the court of appeals whose decision shall be final: Provided, however, That the Supreme Court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the case be certified to it for review and determination, as if the case had been brought before it on appeal. (As amended by Republic Act No. 6031 which took effect on August 1, 1969).

"SEC. 87. Original jurisdiction to try criminal cases.- Municipal judges and judges of city courts of chartered cities shall have original jurisdiction over:

"(a) All violations of municipal or city ordinances committed within their respective territorial jurisdictions;

"(b) All criminal cases arising under the laws relating to:

(1) Gambling and management or operation of lotteries;

(2) Assaults where the intent to kill is not charged or evident upon the trial;

(3) Larceny, embezzlement and estafa where the amount of money or property stolen, embezzled, or otherwise involved, does not exceed the sum or value of two hundred pesos;

- (4) Sale of intoxicating liquors;
- (5) Falsely impersonating an officer;
- (6) Malicious mischief;
- (7) Trespass on Government or private property;
- (8) Threatening to take human life;
- (9) Illegal possession of firearms, explosives and ammunition;
- (10) Illegal use of aliases; and
- (11) Concealment of deadly weapons.

"(c) Except violations of election laws all other offenses in which the penalty provided by law is imprisonment for not more than three years, or a fine of not more than three thousand pesos, or both such fine and imprisonment.

"Said municipal judges and judges of city courts may also conduct preliminary investigation for any offense alleged to have been committed within their respective municipalities and cities which are cognizable by Courts of First Instance and the information filed with their courts without regard to the limits of punishment, and may release, or commit and bind over any person charged with such offense to secure his appearance before the proper court.

"No warrant of arrest shall be issued by any municipal judge in any criminal case filed with him unless he first examines the witness or witnesses personally, and the examination shall be under oath and reduced to writing in the form of searching questions and answers.

"Municipal judges in the capitals of provinces and sub-provinces and judges of city courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within their respective jurisdictions, in which the penalty provided by law does not exceed prison correctional or imprisonment for not more than six years or fine not exceeding six thousand pesos or both, and in the absence of the district judge, shall have like jurisdiction within the province as the Court of First Instance to hear applications for bail.

"All cases filed under the next preceding paragraph with municipal judges of capitals and city court judges shall be tried and decided on the merits by the respective municipal judges or city judges. Proceedings had shall be recorded and decisions therein shall be appealable direct to the Court of Appeals or the Supreme Court, as the case may be." (As amended by Republic Act No. 2613 which took effect on August 1, 1959 and Republic Act No. 3828 which took effect on June 22, 1963).

In the instant case, the frustrated qualified theft falls within the concurrent original jurisdiction of the inferior court and the Court of First Instance because of the aforecited provision of section 44(f) of the Judiciary Law that Courts of First Instance have original jurisdiction "in all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos".

Stated in other words, the original jurisdiction of the Court of First Instance over criminal cases in which the penalty provided by law is imprisonment for more than six months or a fine of more than two hundred pesos is not exclusive.

It is not exclusive because there are criminal cases falling within the original jurisdiction of the municipal and city courts, as provided in section 87, wherein the imposable penalty exceeds six months' imprisonment or two hundred pesos' fine. It should be repeated that those criminal cases are within the concurrent original jurisdiction

of the inferior court and the Court of First Instance.

Thus, simple theft of an object valued at five pesos, which is penalized by *arresto mayor* minimum and medium or one month and one day to four months, falls within the exclusive original jurisdiction of the municipal or city court.

But frustrated qualified theft of the same object, which, as already noted, is penalized by imprisonment for four months and one day to two years and four months, falls within the original jurisdiction of the Court of First Instance as well as within the original jurisdiction of the municipal or city court because of sections 44(f) and 87(b)(3). Consequently, and as already noted, the jurisdiction of the inferior court and the Court of First Instance over the said frustrated theft of an article valued at five pesos is concurrent.

The concurrent original jurisdiction of the inferior court and the Court of First Instance over the said frustrated theft case is also sanctioned by the penultimate paragraph of section 87 as amended [not by paragraph (c) as held in *Tan vs. People*, L-47482, July 21, 1978, 84 SCRA 207].

That penultimate paragraph provides that "municipal judges in the capitals of provinces and subprovinces and judges of city courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within their respective jurisdictions, in which the penalty provided by law does not exceed prison correccional or imprisonment for not more than six years or fine not exceeding six thousand pesos or both".

So, paragraph (b) and the penultimate paragraph of section 87 both justify the concurrent jurisdiction of the inferior court and the Court of First Instance over the instant frustrated theft case. In that sense, the two paragraphs overlap.

As noted in *People vs. Nazareno*, L-40037, April 30, 1976, 70 SCRA 531, the concurrent original jurisdiction of municipal courts of provincial capitals and city courts and the Courts of First Instance over certain criminal cases, as provided in the penultimate paragraph of section 87, overlaps or coexists with their concurrent original jurisdiction over certain offenses mentioned in paragraphs (b) and (c) of section 87.

Now if, as shown above, the instant frustrated theft case falls within the concurrent original jurisdiction of the Caloocan city court and the Court of First Instance of Rizal at Caloocan City, then it follows that the Court of First Instance has no appellate jurisdiction over that case.

In other words, the decision of the Caloocan city court was not appealable to the Court of First Instance but should have been appealed to the Court of Appeals.

The basis of that holding is found in two separate and distinct provisions of the aforequoted section 45. In the third paragraph of section 45, as amended by Republic Act No. 6031, it is clearly provided that "in cases falling under the concurrent jurisdictions of the municipal and city courts with the Courts of First Instance, the appeal shall be made directly to the Court of Appeals whose decision shall be final".

Another provision of section 45, dealing with the same subject matter, is the first paragraph thereof which provides that "Courts of First Instance shall have appellate jurisdiction over all cases arising in city and municipal courts, in their respective provinces, except over appeals from cases tried by municipal judges of provincial capitals or city judges pursuant to the authority granted under the last paragraph of section 87".

And the last paragraph of section 87 provides that all criminal cases in which the penalty does not exceed prison correccional or imprisonment for not more than six years or a fine not exceeding six thousand pesos, or both, which are filed with municipal judges of provincial capitals and city court judges, shall be tried and decided on

the merits by the said judges. The "proceedings had shall be recorded and decisions therein shall be appealable direct(ly) to the Court of Appeals or the Supreme Court, as the case may be", depending on whether factual issues or pure legal issues are involved.

Considering the above-cited legal provisions, it is clear that respondent Judge Argel of the Court of First Instance at Caloocan City erred in exercising appellate jurisdiction over the frustrated qualified theft case decided by the city court.

Note that the appeal from the inferior court to the Court of First Instance, as provided in the first paragraph of section 45 of the Judiciary Law and in section 1, Rule 40 and section 5, Rule 123 of the Rules of Court is the general rule.

As shown in the preceding discussion, the exception to that general rule in criminal cases is found in section 45 itself and in the last paragraph of section 87.

In *People vs. Maceren*, L-32166, October 18, 1977, 79 SCRA 450, the municipal court of Sta. Cruz, Laguna, dismissed a com-plaint for electro-fishing, an offense penalized by a fine up to five hundred pesos which falls within the concurrent jurisdiction of the inferior courts and the Court of First Instance.

From the order of dismissal, the prosecution appealed to the Court of First Instance which affirmed the order of dis-missal. The prosecution filed in this Court a petition for the review of that order under Republic Act No. 5440.

It was held that the Court of First Instance had no appellate jurisdiction to review the municipal court's order of dismissal and that the said order was directly appealable from the municipal court to this Court pursuant to section 45 and the last paragraph of section 87 of the Judiciary Law.

In *Esperat vs. Avila*, L-25922, June 30, 1967, 20 SCRA 596, it was held that the judgment of the city court of Cotabato City con-victing the petitioner of grave coercion was appealable directly to the Court of Appeals and not to the Court of First Instance.

The fact that the city court found that the crime com-mitted by Ventura is simple theft falling within the exclusive original jurisdiction of the city court is of no moment because the court's jurisdiction in criminal cases is determined by the allegations of the complaint or information and not by the findings which the court may make after the trial (*People vs. Mission*, 87 Phil. 641; *People vs. Co Hiok*, 62 Phil. 501; *U.S. vs. Mallari and Cueson*, 24 Phil. 366; *U.S. vs. Jimenez*, 41 Phil. 1).

Lack of jurisdiction over the subject matter of an action may be raised at any stage of the proceeding. When jurisdiction over an offense has not been conferred by law, the accused can-not confer it by express waiver or otherwise. A conviction or acquittal rendered by a court having no jurisdiction is absolutely void (*U.S. vs. Jayme*, 24 Phil. 90).

Judge Argel, in support of his contention that he has appellate jurisdiction, cites the ruling that the Court of First Instance has appellate jurisdiction over a criminal case which is within the concurrent jurisdiction of the ordinary municipal court and the Court of First Instance (*People vs. Valencia*, L-29396, August 29, 1969, 29 SCRA 252).

The facts and the law involved in the Valencia case are different from those involved in this case. The Valencia case refers to the judgment of a municipal court, not a city court. In that case, the municipal court of San Luis, Aurora Sub-Province in 1964 convicted Florencio Daguman of illegal possession of firearms, a crime falling within the concurrent jurisdiction of the municipal court and the Court of First Ins-tance by reason of section 45(f) and section 87(b)(9), as amended by Republic Act No. 2613.

Daguman appealed to the Court of First Instance. Later, he moved for the dismissal of his appeal. He contended that the case was appealable to the Court of Appeals, as held in *Esperat vs. Avila*, L-25922, June 30, 1967, 20 SCRA 596.

It was held that appeal should be made to the Court of First Instance. The proceedings in the municipal court were not recorded. Consequently, a direct appeal to the Court of Appeals would not be practicable. There was then no statutory authority for a direct appeal to the Court of Appeals from a judgment rendered by an ordinary municipal court in a criminal case falling within the concurrent jurisdiction of the municipal court and the Court of First Instance.

At the time the *Valencia* case was decided, the only statutory authority for a direct appeal to the Court of Appeals was from the judgment of the municipal court of the provincial capital and the city court in criminal cases, as contemplated in the first paragraph of section 45 and the penultimate and last paragraphs of section 87 as amended by Republic Act No. 2613. The proceedings in the inferior court in such cases have to be recorded (*Aquino and Pirante vs. Estenzo*, 121 Phil. 794).

Judge Argel also invoked *Paringit vs. Masakayan*, 112 Phil. 861. That case does not involve any direct appeal to the Court of Appeals from the judgment of a city court. It has no relevancy to this case.

On the other hand, the accused contends that in theft and estafa cases the concurrent jurisdiction of the city court and the Court of First Instance arises only when the amount involved exceeds two hundred pesos. Hence, the accused contends that, inasmuch as the amount involved in the instant frustrated theft case is only five pesos, the case falls within the exclusive original jurisdiction of the city court and the appeal from its judgment of conviction should be made to the Court of First Instance.

That contention is flagrantly wrong. It is manifestly contrary to the ruling of this Court in *Tan vs. People*, L-47482, August 1, 1978, 84 SCRA 207 and *People vs. Nazareno*, L-40037, April 30, 1976, 70 SCRA 531 and the cases cited therein, that where the penalty for the offense over which the inferior court has jurisdiction exceeds imprisonment for six months or a fine of two hundred pesos, the inferior court's original jurisdiction is concurrent with the original jurisdiction of the Court of First Instance to try such offenses.

Section 44(f) of the Judiciary Law, in providing that the Court of First Instance has original jurisdiction "in all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos" clearly implies that criminal cases in which the penalty is imprisonment for not more than six months or a fine of not more than two hundred pesos fall within the exclusive original jurisdiction of the municipal and city courts.

In fact, section 87 of the Judiciary Law, as originally enacted in 1948, contained a paragraph (b) which provides that the justice of the peace and municipal courts (later designated municipal and city courts, respectively) had original jurisdiction over "all offenses in which the penalty provided by law is imprisonment for not more than six months, or a fine of not more than two hundred pesos, or both such fine and imprisonment".

That jurisdiction was exclusive. It complemented paragraph (f) of section 45 which paragraph (f) has not been amended since it was enacted in 1948.

The original paragraph (b) of section 87 was amended by Republic Act No. 3828, which took effect on June 22, 1963, and was replaced by what is now paragraph (c) which provides that, except for violations of election laws, municipal and city courts have jurisdiction over offenses wherein the penalty provided by law is imprisonment for not more than three years or a fine of not more than three thousand pesos, or both such fine and imprisonment.

The original jurisdiction of inferior courts prescribed in paragraph (c) is in addition to the jurisdiction of city and municipal courts to try violations of ordinances [paragraph(a)] and the eleven classes of offenses mentioned in what is now paragraph (b) of section 87.

It should always be borne in mind that the original jurisdiction of municipal and city courts to try offenses enumerated in paragraphs (b) and (c) and the penultimate paragraph of section 87 becomes concurrent with the original jurisdiction of the Court of First Instance to try the same offenses when the imposable penalty exceeds imprisonment for six months or a fine of two hundred pesos.

WHEREFORE, the decision of Judge Argel dated February 4, 1977, acquitting Rolando Ventura, is set aside for lack of appellate jurisdiction. The record of Criminal Case No. 8030 (76) of the lower court, formerly Criminal Case No. 102175 of the city court, should be elevated to the Court of Appeals for review of the city court's decision. No costs.

SO ORDERED.

Guerrero*, Abad Santos, and De Castro, JJ., concur.

Barredo, (Chairman), J., concurs and would emphasize that the accused, herein private respondent should be ordered rearrested if he has already been set free.

Concepcion, Jr., J., on official leave.

* Justice Guerrero was designated to sit in the Second Division.

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