

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. RICARDO D. GALANO, PRESIDING JUDGE, COURT OF FIRST INSTANCE OF MANILA, BRANCH XIII, AND GREGORIO SANTOS, RESPONDENTS.

G.R. No. L-42925. January 31, 1977

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court sets aside the respondent judge's orders dismissing the information for estafa against respondent accused, since the offense charged clearly has not prescribed. The complaint filed with the Batangas court which expressly alleged commission of the offense within the municipality and which pended for twelve years (the accused having jumped bail and evaded rearrest for nine years) and which was eventually dismissed by said court for lack of territorial jurisdiction as a result of the proof adduced before it properly interrupted and tolled the prescription period. Respondent judge failed, in ruling otherwise, to apply the settled rule that the jurisdiction of a court is determined in criminal cases by the allegations of the complaint or information and not by the result of proof. The case is ordered remanded for determination with the utmost dis-patch, since this case has already been pending for fifteen years owing to respondent accused's deplorable tactics.

The undisputed factual background of the case is succinctly stated by then Acting Solicitor General, now Associate Justice of the Court of Appeals, Hugo E. Gutierrez, Jr., thus:

"1. On October 2, 1962, a criminal complaint for estafa was filed in the municipal court of Batangas, Batangas (now City Court of Batangas City) against the accused-respondent Gregorio Santos by complainant, Juanito Limbo, x x x.

"2. Gregorio Santos was arrested to answer for the above charge, and upon his arrest, posted a bail bond for his provisional liberty. The accused was thereafter arraigned and he pleaded not guilty to the charge. Then, the case was heard on its merits. However, on September 16, 1964, the accused jumped bail. As a result, his bail bond was forfeited and the case against him archived by the municipal court of Batangas, Batangas.

"3. It was not until September 14, 1973, about nine years later, when the accused was rearrested, and the trial of the said case resumed.

"4. On October 21, 1974, while the said case was pending trial, private respondent Gregorio Santos filed a motion to dismiss the case on the ground that the Batangas court did not have territorial jurisdiction over the case, the evidence showing that the crime was committed in Manila.

"5. Finding the motion meritorious, the Batangas City Court issued an order dated November 5, 1974, dismissing the case against Gregorio Santos for lack of territorial jurisdiction over the crime charged, x x x.

"6. On November 14, 1974, the complainant Juanito B. Limbo re-filed the same case against Gregorio Santos in the Fiscal's Office of Manila. A preliminary investigation was conducted. On July 29, 1975, the corresponding information was filed with the Court of First Instance of Manila, docketed as Criminal Case No. 22397, x x x.

"7. On November 12, 1975 the accused Gregorio Santos filed a motion to dismiss Criminal Case No. 22397 on the grounds of prescription and double jeopardy.

"8. The prosecuting fiscal filed his opposition to said motion on December 2, 1975, to which the accused filed a rejoinder on December 5, 1975.

"9. December 8, 1975, the Court of First Instance of Manila, Branch XIII, presided over by the Honorable Ricardo D. Galano, issued an order dismissing Criminal Case No. 22397 on the ground that the offense charged had already prescribed, x x x. The prosecution moved for the reconsideration of said order but this was denied by the lower court by order of January 7, 1976. x x x

"10. From the said Order of dismissal, the City Fiscal of Manila interposed an appeal by certiorari to this Honorable Court on January 24, 1976. On March 3, 1976, this Honorable Court issued the Resolution of March 3, 1976 requiring the Solicitor General to file the required petition for review within fifteen days from receipt thereof. x x x."

The People avers in the petition[1] that respondent judge gravely erred "in dismissing Criminal Case No. 22397 despite the provisions of Article 91 of the Revised Penal Code, which clearly indicate that the offense charged has not prescribed" and "in not considering the prevailing jurisprudence indicating non-prescription of the offense charged, and in holding that the case of *People v. Olarte*, 19 SCRA 494, does not apply to the case at bar."

The petition is patently meritorious and must be granted.

I. The offense of estafa for which respondent accused stands charged clearly has not prescribed.

Article 91 of the Revised Penal Code on prescription of offenses provides:

"Art. 91. Computation of prescription of offenses. - The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or by their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when the proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him. x x x"

The offense was committed on or about September 16, 1962 when respondent failed to account for and instead misappropriated to his own use the sum of P8,704.00 representing the net proceeds (minus his commission) of 272 booklets of sweepstakes tickets that had been entrusted to him by the complainant, who promptly filed on October 2, 1962 plainly within the ten-year prescriptive period the criminal complaint against respondent accused in the Municipal Court of Batangas, Batangas. The prescriptive period was thereupon interrupted.

After his plea of not guilty and during the trial, respondent accused jumped bail in September, 1964 and evaded rearrest for nine years until September, 1973 and the trial was resumed. When the Batangas court in its Order of November 5, 1974 upon respondent's motion dismissed the complaint "for lack of jurisdiction" since the evidence (of both prosecution and accused) showed that all elements of the crime were committed in Manila (and not in Batangas),[2] the proceedings therein terminated without conviction or acquittal of respondent accused and it was only then that the prescriptive period (which was interrupted during the pendency of the case in the Batangas court) commenced to run again.

When the City Fiscal of Manila upon complainant's instance refiled on July 29, 1975 the same case against respondent accused in the Manila court of first instance, (after having conducted a preliminary investigation), it is clear that not even a year of the ten-year prescriptive period had been consumed.

Respondent accused intent on thwarting his prosecution filed anew a motion to dismiss the information on grounds of prescription and double jeopardy.

There is manifestly no jeopardy, because he was not acquitted by the Batangas court which on the basis of the evidence could neither convict him because it was thereby shown to have no jurisdiction over the offense.

But respondent judge gravely erred in sustaining the ground of prescription, ruling that there was no interruption of the prescriptive period during the pendency of the case in the Batangas court because "(T)he proceedings contemplated by Article 91 are proceedings which are valid and before a competent court. If they are void from the beginning because the court has no territorial jurisdiction of the offense charged, it is as if no proceedings were held thereat. If this is so, then the warrant or order of arrest as well as the bail given by the accused for his provisional liberty is of no effect. Inevitably, there can be no jumping bail to speak of and there are no proceedings to be interrupted." [3]

This is plain error for "Settled is the rule . . . that the jurisdiction of a court is determined in criminal cases by the allegations of the complaint or information and not by the result of proof." [4]

It follows clearly that the Batangas court was vested with lawful jurisdiction over the criminal complaint filed with it which expressly alleged that the offense was committed "in the Municipality of Batangas, province of Batangas" and that the proceedings therein were valid and before a competent court, (including the arrest warrant, the grant of bail and forfeiture thereof upon the accused's jumping of bail), until the same court issued its November, 1974 order dismissing the case and declaring itself without territorial jurisdiction on the basis of the evidence presented to it by both prosecution and the accused.

It follows just as clearly that the prescriptive period was interrupted and tolled during the 12-year pendency of the proceedings before the Batangas Court (for nine years of which respondent accused had jumped bail and evaded rearrest).

II. Respondent judge gravely erred in dismissing the information on the ground of prescription and disregarding the controlling case of *People vs. Olarte*. [5]

In the second *People vs. Olarte* case, [6] the Court clarified precisely for the guidance of bench and bar that the true doctrine is that the filing of the complaint in the municipal court, even if it be merely for purposes of preliminary investigation (where the offense charged is beyond its jurisdiction to try the case on the merits) should, and does interrupt the period of prescription, as follows:

"Analysis of the precedents on the issue of prescription discloses that there are two lines of decisions following differing criteria in determining whether prescription of crimes has been interrupted. One line of precedents holds that the filing of the complaint with the justice of the peace (or municipal judge) does interrupt the course of the prescriptive term: (*People vs. Olarte*, L-13027, June 30, 1960 and cases cited therein; *People vs. Uba*, L-13106, October 16, 1959; *People vs. Aquino*, 68 Phil. 588, 590.) Another series of decisions declares that to produce interruption the complaint or information must have been filed in the proper court that has jurisdiction to try the case on its merits: *People vs. Del Rosario*, L-15140, December 29, 1960; *People vs. Coquia*, L-15456, June 29, 1963.

"In view of this diversity of precedents, and in order to provide guidance for Bench and Bar, this Court has reexamined the question and, after mature consideration has arrived at the conclusion that the true doctrine is, and should be, the one established by the decision holding that the filing of the complaint in the Municipal Court, even if it be merely for purposes of preliminary examination or investigation, should, and does, interrupt the period of prescription of the criminal responsibility, even if the court where the complaint or information is filed can not try the case on its merits. Several reasons buttress this conclusion: first, the text of Article 91 of the Revised Penal Code, in declaring that the period of prescription 'shall be interrupted by the filing of the complaint or information' without distinguishing whether the complaint is filed in the court for preliminary examination or investigation merely, or for action on the merits. Second, even if the court where the complaint

or information is filed may only proceed to investigate the case, its actuation already represents the initial step of the proceedings against the offender. Third, it is unjust to deprive the injured party of the right to obtain vindication on account of delays that are not under his control. All that the victim of the offense may do on his part to initiate the prosecution is to file the requisite complaint." [7]

Respondent judge in his dismissal order correctly cited the rationale for statutory prescriptions, inter alia, that "the delay in instituting the proceedings not only causes expenses to the State, but exposes public justice to peril, for it weakens oral evidence, due to the lapse of the natural period of duration of memory, if not to anything else. And it is the policy of the law that prosecutions should be prompt and that statutes enforcing that promptitude should be maintained, they being not merely acts of grace, but checks imposed by the State upon its subalterns, to exact vigilant activity and to secure for criminal trials the best evidence that can be obtained." [8]

But respondent judge fell into grave error in not applying the controlling case of *Olarte* on his misconception that there had been no valid complaint filed with a competent court in Batangas contrary to what has already been held hereinabove that the express allegations of the complaint that the offense was committed in Batangas vested the Batangas court with lawful jurisdiction until its dismissal order twelve years later for lack of jurisdiction as a result of the proof presented before it during the trial, (and in not taking into account that the delay was not at all due to the State but to respondent accused himself who jumped bail and escaped the law for nine [9] years and who apparently has made no effort all this time to make good the amount due to complainant or any part thereof).

Since the record with transcript of the testimonial evidence in the Batangas court is complete (and shows that the trial was continued on August 2, 1974 to September 10, 1974 while respondent accused was testifying on the witness stand but that he instead filed his motion to dismiss of October 14, 1974 which was granted by the Batangas court for lack of territorial jurisdiction) and this case has already been pending for almost 15 years, all the evidence already taken by the Batangas court as recorded in the minutes and transcript shall be deemed reproduced upon remand of the case to the Manila court which is hereby ordered to receive only the remaining evidence of the respondent accused and such rebuttal evidence as the parties may have and thereafter resolve the case with the utmost dispatch.

ACCORDINGLY, respondent judge's dismissal orders of December 8, 1975 and January 7, 1976 are hereby set aside, and the case is remanded to respondent judge or whoever presides Branch XIII of the Manila court of first instance for continuation of the trial (with reproduction of the evidence in the Batangas city court in Criminal Case No. 532 thereof, entitled "*People vs. Gregorio Santos*") in line with the directives in the preceding paragraph. Respondent judge or the judge presiding his court is further ordered to report to this Court the action taken hereon within a period of ninety (90) days from promulgation of this decision. In view of the many years that the criminal case has been pending, this decision is declared immediately executory upon promulgation. SO ORDERED.

Makasiar, Muñoz Palma, Concepcion, Jr., and Martin, JJ., concur.

[1] Admitted upon motion of September 30, 1976 of the Solicitor General's office after it withdrew an earlier manifestation of April 23, 1976 erroneously sharing respondent judge's wrong premises and conclusions.

[2] The pertinent portion of the Batangas court's dis-missal order reads thus:

"The records show that by a great preponderance of evidence, the offense of estafa, as alleged in the Criminal Com-plaint herein dated October 2, 1962, and signed by the complaining witness, was com-mitted, if at all, in the City of Manila. Even the affidavit of said complainant dated October 2, 1962, and attached to the records as page 2 thereof, states in part as follows: 'that from July 20, 1962 to August 24, 1962 in my capacity as general agent of

the Philippine Charity Sweepstakes, I delivered to my sub-agent Gregorio Santos of 1002 Metrica, Sampaloc, Manila, two hundred seventy two (272) booklets, sweepstakes tickets of the total value of P10,880.00 to be sold by him on commission and the proceeds of the sale thereof to be turned over to me on or before the date of the draw, September 16, 1962.' Nowhere does it appear that the receipt of the tickets, or any of them, was effected in Batangas City (then Batangas, Batangas), nor was the delivery of the pro-ceeds of the sale to be made in said place, nor was the supposed defraudation committed therein."

[3] Resolution denying the People's motion for reconsideration, Rollo, p. 75.

[4] People vs. Delfin, 2 SCRA 911, 920 (1961) per Reyes, J.B.L., J.

[5] 19 SCRA 495 (1967), per Reyes, J.B.L., J.

[6] Supra, the first case having been decided on June 30, 1960, 108 Phil. 756 (L-13027).

[7] Emphasis supplied.

[8] Dismissal order, Rollo, pp. 69-70.

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