

**FELINO LIM, PETITIONER AND APPELLEE, VS. HON. JOSE F. ORETA,
JUSTICE OF THE PEACE OF CALOOCAN, RIZAL, RESPONDENT AND
APPELLANT.**

G.R. No. L-6247. November 27, 1953

Ponente: BENGZON, J.

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BENGZON, J.:

The pertinent facts in this action for prohibition are described in the appellant's brief:

- On September 4, 1952, the petitioner-appellee Felino Lim with twenty-one others was charged for gambling in criminal case No. 14452 before the Justice of the Peace Court of Caloocan, Rizal. That same day, the defendants were arraigned before the respondent-appellant and all of them pleaded guilty.
- After making his plea, the petitioner-appellee manifested to the court that, since he had no lawyer at the time, he was reserving his right to present evidence to prove that the sum of P1,000 which was seized from his pocket during the gambling raid by the peace officers and which was then in the custody of the authorities of Caloocan was not a part of the proceeds or instrument of the Crime and for this purpose requested the court to set a day to enable him to introduce such evidence with the assistance of counsel.[1]
- Whereupon the respondent-appellant rendered a decision which reads as follows:

'SENTENCE

All the accused in the above-entitled case upon being duly informed today of the nature of the complaint, freely and voluntarily entered the plea of guilty as charged.

Wherefore, the accused Jose Lajon and Felino Lim, as maintainer and banker, respectively, are hereby sentenced to pay each a fine of P100, and the rest as bettors, at P50 each, in case of insolvency of the fines above imposed, to suffer each of the said accused the corresponding subsidiary imprisonment, with the costs proportionately.

The amount of P42.55 seized and presented as part of the evidence in this case, is hereby ordered confiscated in favor of the government. As regard to the sum of P1,000 which has been taken from the pocket of one of the herein accused, the court hereby sets the hearing of this case for September 15, 1952, at 2:30 p.m., in order to determine whether said amount should be confiscated in favor of the government or not.

It is so ordered.

Caloocan, Rizal, September 4, 1952.

(Sgd.)

JOSE F. ORETA

Justice of the Peace"

- In compliance with the above-quoted decision, the petitioner-appellee immediately paid the fine of P100 and his proportionate share of the costs imposed upon him by respondent-appellant.
- On September 15, 1952, the respondent-appellant called the case for hearing in order to pass upon the remaining question of the disposition of the said amount of P1,000, that is, whether or not it should be decreed confiscated to the Government or returned to its lawful owner.
- Instead of complying with his previous commitment, however, petitioner-appellee through counsel questioned during the hearing the right of respondent-appellant to proceed further on grounds of double jeopardy.
- On October 6, 1952, in view of respondent-appellant's insistence in hearing the case over and above petitioner-appellee's opposition, a petition for prohibition was filed by the latter against the former before the Court of First Instance of Rizal.
- On October 25, 1952, the Court of First Instance of Rizal, the Honorable Bienvenido A. Tan, presiding, granted the petition by ordering the respondent-appellant to desist from further hearing the case in question. In its order granting the relief, the court also directed the respondent-appellant to issue an order for the refund of the P1,000 to petitioner-appellee.
- On November 5, 1952, the Assistant Provincial Fiscal of Rizal, in representation of the respondent-appellant, filed a notice of appeal from this order of the Court of First Instance of Rizal.

In ordering the respondent to desist from, further proceedings the judge a quo reasoned thusly:

"In a criminal case once the decision is promulgated or once the accused is found guilty and has paid the fine, the decision is final. In the present case the accused having already paid the fine imposed upon them by the Justice of the Peace Court, said court has lost jurisdiction to hear further the said case."

Apparently His Honor overlooked both the reservation made by the accused, and the directive of the justice of the peace calling for a hearing on September 15, 1952, which was part and parcel of his sentence. And when His Honor declared "once the accused is found guilty and has paid the fine the decision is final" he obviously meant, the decision could not be "modified"—and that justice of the peace Oreta was attempting to "modify" his decision. Such appears to be the petitioner's position.

However there is reason to doubt whether the decision of September 4, 1952 could be legally considered "final". It left something to be done later, i. e., the determination of the question whether the money should be confiscated—a proper issue in the criminal proceeding. Unless and until that issue (expressly reserved for subsequent adjudication) was passed upon, the judgment could not be regarded final.

"When the order or judgment does not dispose of the case completely but leaves something to be done upon the merits" it is not final (Moran, Comments Rules of Court 1952 ed. Vol. I, p. 895). For instance in an action for dissolution of a partnership the judgment dissolving the partnership and ordering the defendant to render accounts is not final and appealable, for it does not completely dispose of the case. (Moran op. cit. Vol. I p. 897.)

Yet even if payment by the accused of the fine accorded finality to the judgment,—no appeal, executory—he may not prevent further actuation as to the money seized in his possession because the judgment itself reserved that point. In making payment he accepted the verdict, together with the reservation.

Had the judgment been silent on the matter, the decision of this court in *U. S. vs. Hart*. (24 Phil., 578) invoked by the appellee would be clearly applicable. In that case, the accused (for gambling) pleaded guilty and were sentenced to pay a fine. They promptly paid it. Afterwards the fiscal asked that the judgment be "modified" to dispose of the money which had been seized, and of which he was informed only after promulgation of the decision. The judge, modifying his decision, decreed the confiscation. Reversible error, said the Supreme Court.

In the instant case however, the justice of the peace had not attempted to "modify" his decision. He took further steps in consonance therewith. Although it was quite irregular, it cannot be held that he lacked jurisdiction. This is distinguishable from the *Hart* precedent wherein the judge had said nothing about confiscation in his decision imposing a fine. Here the justice of the peace had expressly reserved the power to continue hearing the matter.

In other words, the judgment of the court in *U. S. vs. Hart* was final, it left nothing to be done further. Whereas in this case, the decision expressly reserved decision on the particular issue as to disposition of the money. In the *Hart* case any pronouncement as to the money was a modification of a final judgment, unwarranted by the law on jeopardy. Here the proposed hearing was not a modification of the decision but a procedural step in furtherance thereof.

Wherefore it was a mistake to prohibit the justice of the peace of Caloocan to further act on the case. Judgment reversed, without costs.

Paras, C. J., Pablo, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.

[1] The appellee asserts there is no proof of the facts stated in this paragraph. But such facts were alleged in the answer, and as judgment was rendered on the pleadings, they must be deemed admitted.

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