

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. SALVADOR C. REYES, AS JUDGE OF BRANCH III, COURT OF FIRST INSTANCE OF NUEVA ECIJA; HON. NORBERTO L. CAJUCOM, AS CITY JUDGE OF PAL...

G.R. No. L-41569. October 31, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

In this petition for review on certiorari, the People seeks to declare as null and void, being violative of due process, the order of respondent City Court, dated April 2, 1974, dismissing the case of estafa against respondent Agaton Inocencio in Criminal Case No. 51, to direct the continuation of the trial of said criminal case, and to annul and set aside the order dated March 6, 1975 of the respondent Court of First Instance in Civil Case No. 6228.

Records show that on August 15, 1973 an information for estafa against private respondent Agaton Inocencio was filed by the City Fiscal of Palayan City in respondent City Court and docketed as Criminal Case No. 51, entitled "People vs. Agaton Inocencio." The information reads:

"That on or about the 3rd day of March 1973 in the City of Palayan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the said accused AGATON INOCENCIO, got and received from Mr. FABIAN POSADA a warehouseman in the Bishop house at Cabanatuan City the sum of 120 bags of rolled oats, designated 'foods for work project' for the purpose and within the obligation of delivering and giving them thru the Barrio Captains to the 70 laborers who worked at the multi-purpose pavement by cementing the pavement in front of the stage of the Bo. Malate, Elementary School, Palayan City, whose names appeared on a list attached hereto, but the accused Agaton Inocencio once in possession of the 120 bags of rolled oats gave the workers thru the Bo. Captain only 12 bags and with intent to defraud, unfaithfulness and abuse of confidence did then and there wilfully, unlawfully and feloniously misappropriate and convert to his personal use and benefit the balance of 108 bags of rolled oats valued at P75.00 per bag, refused and still refuses to deliver the 108 bags to the workers listed above and to their damage and prejudice in equal proportion in the sum of 108 bags of rolled oats or its value of P8,100.00 Philippine currency." (p. 45, Rollo)

The petitioner had listed more than 70 prosecution witnesses and it had already presented around 14 witnesses. At the trial on December 17, 1974, only 3 of the 10 witnesses who were duly served with subpoenas appeared and testified. Whereupon, in view of the non-appearance of the other seven (7) witnesses, the city fiscal moved for their arrest which was denied by respondent city judge. The city fiscal then moved for the postponement of the trial but again respondent city judge denied the motion and, instead, required the defense to file a motion to dismiss. The city fiscal moved to reconsider the aforementioned order of denial, but the same was turned down on December 26, 1974.

On January 16, 1975, the city fiscal filed a motion for certiorari with the respondent Court of First Instance (Civil Case No. 6228) alleging that the respondent city judge committed grave abuse of discretion in denying his two

motions which deprived the prosecution of its right to present evidence in order to sustain the allegations in the information.

On February 6, 1975, respondent CFI Judge issued an order restraining the city judge "from further acting on the said estafa case until further orders from this court." (p. 62, Rollo)

Herein respondents filed a motion to dismiss the petition for certiorari on the ground that respondent CFI Judge has no jurisdiction over the subject matter because the case of estafa, involving the amount of P8,100.00, falls within the concurrent jurisdiction of the the City Court and the Court of First Instance and, therefore, the petition for certiorari should have been filed with the Court of Appeals.

On March 6, 1975, respondent CFI Judge issued an order dismissing the petition for certiorari on the ground that "in the exercise of such concurrent jurisdiction, the said city court is a co-ordinate and co-equal court of the Court of First Instance. Under that situation, the said City Court is not an inferior court but in the nature of a superior court, co-equal and co-ordinate with this Court. Consequently, this Court believes that it has no power to interfere by certiorari or otherwise with the acts of the Palayan City Court which had taken cognizance of said Criminal Case No. 51, as a Court with a concurrent or co-ordinate jurisdiction with this Court." (p. 79, Rollo)

After a careful perusal of the records We find that respondent city judge did not abuse his discretion when he denied (1) the motion of the city fiscal for the arrest of the witnesses who failed to come at the hearing and (2) the motion for the continuance of the trial. Each party in a case, whether civil or criminal has the right to introduce such evidence which in his opinion would sustain his burden of proof. To prove a fact in issue a party can present one or several witnesses. However, when the evidence already presented on one point is sufficient and the party merely seeks to present cumulative evidence which cannot produce additional persuasive effect or that he is not sure of what the other witnesses would testify, the court may in its sound discretion stop the introduction of such further evidence. Section 6, Rule 133 of the Rules of Court specifically provides:

"SEC. 6. Power of the court to stop further evidence. - The court may stop the introduction of further testimony upon any particular point when the evidence upon it is already so full that more witnesses to the same point cannot be reasonably expected to be additionally persuasive. But this power should be exercised with caution."

In *Guinea vs. Vda. de Ramonal*, 62 SCRA 370, We have applied the said provision and held that "[a]s Ello's testimony would be merely cumulative, the trial court did not err in rejecting it."

In the case at bar, the prosecuting fiscal had already presented around fourteen (14) witnesses. On December 17, 1974, three (3) of the ten (10) witnesses who were subpoenaed appeared and testified. In other words, 17 witnesses had already testified when the respondent city judge would not allow further continuance of the hearing. Pursuant to the foregoing provision of the Rules of Court and Our ruling in the above-cited case, respondent city judge acted within his discretion when he denied the motion to postpone the hearing and when he stopped the further presentation of the People's evidence. The trial court is vested with that prerogative of stopping further testimony.

The petition is bereft of merit as there is no showing of denial of substantial justice.

WHEREFORE, the case is DISMISSED without costs.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, and De La Fuente, JJ., concur.

Gutierrez, Jr., J., no part.

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