

PEOPLE OF THE PHILIPPINES, PETITIONER-APPELLANT, VS. COURT OF FIRST INSTANCE OF QUEZON, BR. X, GUMACA, QUEZON, AND GREGORIO MALCO, RESPONDENT-APPELLEES.

G.R. No. L-48817. October 29, 1993

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

The crux of the instant petition is the validity of the judgment of acquittal penned by a trial judge detailed to a vacant branch of the court but promulgated after a permanent judge has been duly appointed to the vacancy.

In an Information^[1] dated 25 May 1976, private respondent Gregorio Malco was charged before the then Court of First Instance of Quezon with attempted rape, docketed as Crim. Case No. 463-G and raffled to Branch X of the same court then presided by Judge Mapalad A. Nañadiego. On 15 October 1977, after the defense rested, the case was submitted for decision.^[2] However, on 17 April 1978, Judge Nañadiego retired without deciding the case.

Meanwhile, Judge Juan B. Montecillo, Presiding Judge of Branch III, was designated pro tempore to take over Branch X. Among the cases submitted to him for decision was this case of respondent-appellee Gregorio Malco, which the judge decided on 22 May 1978.

On 9 June 1978, Judge Conrado R. Antona was appointed Presiding Judge of Branch X. He took his oath and assumed office the following day,^[3] terminating ipso facto the temporary designation of Judge Montecillo.

On 20 June 1978, Special Deputy Clerk of Court Mateo M. Cabangon promulgated said decision of Judge Montecillo dated 22 May 1978 acquitting private respondent Malco of attempted rape.^[4] On 30 June 1978, Special Counsel Hjalmar P. Quintana moved to set aside the judgment of acquittal. On 10 July 1978, Judge Antona denied the motion on the ground that the trial court was without jurisdiction "to review and declare illegal the actuation of a co-equal Court."^[5] On 8 August 1978, the Motion for Reconsideration was likewise denied,^[6] thus sustaining the acquittal of private respondent. This prompted Provincial Fiscal Dante H. Diamante, with authority from the Office of the Solicitor General, to institute the present petition contending in essence that the decision of Judge Montecillo was null and void since he was no longer judge-designate of Branch X when his decision was promulgated as Judge Antona had already been appointed and qualified.

Still, the Solicitor General, tasked to submit the Brief for Petitioner, maintained that the appointment and qualification of Judge Antona to preside over Branch X had the effect of immediately terminating the temporary assignment of Judge Montecillo thereto, hence, his decision promulgated after the expiration of his temporary detail was null and void and that, as a consequence, the trial court then presided by Judge Antona should have set aside the judgment of acquittal penned by Judge Montecillo.

The petition must fail. A trial judge whose temporary detail to a vacant branch has expired remains to be the incumbent judge of the branch of the court where he is permanently assigned. Thus, he may still decide cases

submitted to him for decision during his temporary detail in the vacant branch even after the vacancy has been filled. In one case,[7] it was held that it was not unusual for a judge who did not try a case to decide it on the basis of the record since the trial judge who tried the case may have already died or retired. In fact, as early as 1915, this Court already ruled that "[t]here is no law which prohibits a judge from deciding a case because he did not see some of the witnesses when they testified therein. In the absence of any express prohibition of this kind, we cannot imply one." [8] The Court also said then -

"[T]o-day, when stenographers are employed in the courts in the trial of cases and when a complete, authentic record of everything that transpires during the trial is kept and when from said record, every one x x x may read x x x x said record, and be informed fully of every act, objection, or exception taken or made during the trial, there seems to be but little reason for asserting that one qualified person may not be able to reach a just and fair conclusion from said record x x x x Every person may ascertain for himself the correctness of any disputed fact in said record." [9]

As if realizing the practicability and validity of this procedure, the Supreme Court En Banc issued a Resolution dated 10 February 1983 laying down the guidelines in the distribution of cases in the implementation of the Judiciary Reorganization Act of 1981 (B.P. Blg.129) par. I subpar. 1, of which provides -

"1. Cases already submitted for decision shall be decided by the Judge to whom they were submitted, except cases submitted for decision to judges who were promoted to higher courts or to those who are no longer in the service."

Quite apparently, the foregoing provision does not state that the judge to whom the case was submitted for decision must be the same judge who heard the case, totally or partially, although that would be ideal. It does not even require that he heard any of the witnesses for the parties.

As may be noted, the pertinent portion of the Resolution of 10 February 1983 merely requires that the judge who pens the decision is still an incumbent judge, i.e., in this case, a judge of the same court, albeit now assigned to a different branch, at the time the decision is promulgated.

Consequently, in the instant case, the judgment of acquittal penned by Judge Montecillo must be declared valid. It is not necessary that he be the presiding judge of Branch X at the time his decision was promulgated since even after the expiration of his temporary designation at Branch X he continued to be an incumbent of Branch III. After all, where a Court of First Instance (now Regional Trial Court) is divided into several branches, each of the branches is not a court distinct and separate from the others. Jurisdiction is vested in the court, not in the judges, so that when a complaint or information is filed before one branch or judge, jurisdiction does not attach to said branch of the judge alone, to the exclusion of the others.[10]

Judge Montecillo penned the decision on 22 May 1978 while his temporary designation at Branch X expired only on 10 June 1978 when Judge Antona qualified for the position. And, Judge Montecillo was still an incumbent judge of the Court of First Instance of Quezon, being then the permanent judge of Branch III, at the time his decision was promulgated. Thus, he continued to possess authority to dispose of the case. In fact, even after his temporary designation, he continued to have authority and could decide the case as it was one of those submitted to him for decision during his detail.

Besides, we have reviewed the records and we fail to find any evidence of bad faith on the part of Judge Montecillo in preparing and signing the decision, nor on the part of Special Deputy Clerk of Court Cabangon in promulgating it. As adverted to, when Judge Montecillo took over Branch X in an acting capacity, this case was one of those submitted to him for decision. Consequently, he worked on the case, read and studied the records, and thereafter penned the decision. Except for the authority of Judge Montecillo, who was not legally without

jurisdiction, neither the petitioner nor the Solicitor General ascribes any irregularity in the manner the case was resolved. The petition does not question the soundness of the decision, but merely points to a technicality to annul the judgment of acquittal. Suffice it to say that the Court frowns upon technicalities, especially so if these are used to put in jeopardy the acquittal of an accused who should be benefitted by a liberal construction of the rules. In fine, the questioned decision being in accord with law and the facts, there is no reason to disturb it; otherwise, double jeopardy will set in.

What is more, Judge Antona adopted the judgment of acquittal by denying the motions filed by the prosecution. After all, the decision of Judge Montecillo cannot be said to be a decision of another court, but of the same Court of First Instance of Quezon, and Judge Montecillo penned the decision in fact as Presiding Judge of Branch X. To rule otherwise would be disruptive of an orderly judicial process, for then the new judge would again have to start reviewing the case from its inception until he can formulate his own decision. This is not the concept of a judge on detail to a vacant branch.

Indeed, it would have been different altogether if the judge whose decision was promulgated had, prior to its promulgation, died, resigned, retired, been dismissed, promoted to a higher court, or appointed to another office with inconsistent functions. Then, he would no longer be an incumbent member of a court of equal jurisdiction, and his decisions written thereafter would be invalid.

A word of caution. Let not this case be considered by trial judges as a precedent for them to continue to exercise authority over courts where there are already incumbent judges, except where the circumstances fall squarely within the ambit of the instant case. Detailed judges or those on special assignments are strongly advised that before acting on any case of the branch where they are assigned temporarily to ascertain whether they have authority over such case. Needless to stress, judges should be extra careful and prudent in determining their authority over specified cases to avoid any imputation or inference of irregularity, misdeed or wrongdoing.

WHEREFORE, the instant petition for review on certiorari is DENIED, consequently, the decision of respondent Court ACQUITTING private respondent GREGORIO MALCO is AFFIRMED.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., and Quason, JJ., concur.

[1] Rollo, p. 27.

[2] Id., p. 29.

[3] Letter of Judge Conrado R. Antona to the Provincial Fiscal, dated 30 September 1978; Rollo, p. 30.

[4] Rollo, pp. 31-36.

[5] Id., p. 44.

[6] Id., p. 49.

[7] *People v. Collado*, G.R. No. 88631, 30 April 1991, 196 SCRA 519.

[8] *United States v. Abreu*, 30 Phil. 402, 411 (1915).

[9] Id., p. 415, citing *Enriquez v. Watson*, 3 Phil. 279 (1904).

[10] *People v. Gorospe*, G.R. No. 51513, 15 May 1984, 129 SCRA 233, citing *Lumpay v. Moscoso*, 105 Phil 968

(1959).

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