

MANUEL F. AQUINO AND FELIX PIRANTE, PETITIONERS, VS. THE HON. NUMERIANO G. ESTENZO, JUDGE OF THE COURT OF FIRST INSTANCE OF LEYTE, FIFTH BR. AND MARCIANO S. DU, CITY ATTORNEY, O...

G. R. No. L-20791. May 19, 1965

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

This is an original petition for certiorari and prohibition against the Judge of the Court of First Instance of Leyte, Branch V, and the City Attorney of Ormoc City, praying for a writ of preliminary injunction enjoining said respondents from continuing with the hearing of Criminal Case No. 1415-O in the Court of First Instance of Leyte and for the annulment of the proceedings so far conducted by the respondent Judge in the said case.

On January 25, 1962, an information for grave coercion was filed before the City Court of Ormoc City (Criminal Case No. 5640) by the respondent City Attorney against petitioner Manuel F. Aquino, which information was subsequently amended to include petitioner Felix Pirante as co-accused. The City Court of Ormoc City took cognizance of the case in the exercise of its concurrent jurisdiction with the Court of First Instance of Leyte, pursuant to Section 87 (c) of Republic Act 296 as amended by Sec. 10 of Rep. Act 2613.

On July 21, 1962, judgment was rendered by the City Court of Ormoc City in Criminal Case No. 5640, finding the accused (petitioners herein) guilty of the crime of light coercion and sentencing them to pay a fine of fifty pesos, and damages amounting to three hundred forty-seven pesos, with subsidiary imprisonment in case of insolvency.

On October 18, 1962, the petitioners filed with the City Court of Ormoc City a notice of appeal, stating that they were appealing their case to the Court of Appeals. In the notice of appeal it is stated:

"It is hereby manifested that in the hearing of the above-entitled case no stenographic notes were taken as there was no stenographer in court."

The clerk of court of the City Court of Ormoc City, instead of transmitting the records of the case to the Court of Appeals; forwarded the same to the Court of First Instance of Leyte, 5th Branch, at Ormoc City. The respondent City Attorney of Ormoc City filed a new information before the Court of First Instance of Leyte, which was docketed as Criminal Case No. 1415-O, charging the petitioners of the same crime of grave coercion of which they were previously charged in Criminal Case No. 5640, in the City Court of Ormoc City.

On November 28, 1962, the petitioners filed a motion to mash the information in Criminal Case No. 1415-O on the ground that the Court of First Instance of Leyte has no appellate jurisdiction to try said criminal case because the petitioners had not appealed to the Court of First Instance of Leyte, but to the Court of Appeals pursuant to Sec. 87 (c) of Republic Act 296 as amended by Republic Act 2613; and that under the law it was the ministerial duty of the clerk of court of the City Court of Ormoc City to forward the records of the case to the Court of

Appeals and not to the Court of First Instance of Leyte.

On December 13, 1962, the respondent Judge Numeriano Estenzo denied the motion to quash "for lack of sufficient merit" and set the arraignment of petitioners for December 28, 1962. The petitioners did not file any motion for the reconsideration of the order of respondent Judge denying the motion to quash. Upon motion of the accused (petitioners) the respondent Judge ordered the arraignment postponed to January 8, 1963.

On January 8, 1963, the petitioner Manuel Aquino, Jr. entered a plea of "not guilty" and after entering his plea, he manifested an intention to file with the Supreme Court a petition for certiorari and prohibition with preliminary injunction. Said petition was filed before this Court on January 28, 1963. Upon the petitioners having filed a bond in the amount of two hundred pesos this Court issued a writ of preliminary injunction against the respondents, as prayed for in the petition.

The questions for Us to resolve in the present case are:

1. Does the Court of First Instance of Leyte, Branch V, have jurisdiction to try and decide Criminal Case No. 1415-O pending in said Court? and
2. Has this petition for certiorari and prohibition been filed in accordance with the Rules of Court?

The pertinent provision of the law involved in the present case is as follows:

"Justices of the peace in the capitals of provinces and Judges of Municipal Courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within the province, in which the penalty provided by law does not exceed prison correccional or imprisonment for not more than six years or fine not exceeding three 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 Justices of the Peace of capitals and municipal court judges shall be tried and decided on the merits by the respective justices of the peace or municipal 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." (Republic Act 296, Sec. 87 (c) as amended by Rep. Act 2613; Italics supplied)

The above-quoted provision of Sec. 87 (c) of Republic Act 296 was the one existing when Criminal Case No. 5640 was commenced in the municipal court of Ormoc City. By subsequent amendment of Rep. Act 296, the term "Justice of the Peace" has been changed to "municipal judge" and the term "Judge of municipal court" has been changed to "City Judge."

The crime of grave coercion is punishable by arresto mayor and a fine not exceeding P500.00. Because of the additional penalty of line, the crime of grave coercion is not within the exclusive jurisdiction of a municipal court of the capitals of provinces or a city court. It follows, therefore, that the city court of Ormoc City had jurisdiction to try the petitioners herein of the offense of grave coercion of which they were charged in Criminal Case No. 5640 before said court in the exercise of its concurrent jurisdiction with the Court of First Instance to try cases of the same nature, as provided in the above-quoted provision of Sec. 87(c) of Republic Act 296, as amended.

It is admitted that the City Court of Ormoc City had concurrent jurisdiction with the Court of First Instance of Leyte to try the criminal case wherein the petitioners were charged of the offense of grave coercion, and that when the city court assumed said jurisdiction it had thereby excluded the Court of First Instance of Leyte from the exercise of its jurisdiction to try the petitioners in a case which they are charged of the very same offense. It is also admitted that decisions of the City Court of Ormoc City in the exercise of this concurrent jurisdiction are directly appealable to the Court of Appeals as provided for in Sec. 87 (c) of Rep. Act. 296, as amended. But when

the City Court of Ormoc City tried this Criminal Case No. 5640, it did not proceed in accordance with the provision of Sec. 87 (c) of Rep. Act. 296, as amended, which requires that "Proceedings had shall be recorder." The petitioners themselves admit that the proceedings had during the trial of this case were not recorder because "no stenographic notes were taken as there was no stenographer of court." We hold, therefore, that the trial of this case in the city court was not conducted in accordance with the law, and the City Court of Ormoc City had not exercised its jurisdiction to try and decide this case in accordance with law. Consequently the decision rendered by the City Court of Ormoc in Criminal Case No. 5640 of said court can not be appealed directly to the Court of Appeals because said decision was based on evidence that was taken during a trial or proceeding that was not recorded as required by law. It is very elementary that the Court of Appeals cannot review the findings of facts of the trial court of there is no record o the evidence taken during the trial of the case.

We hold that the proceedings in the City Court of Ormoc City, in Criminal Case No. 5640 was a nullity, not because the City Court had no jurisdiction to try the case but because the requirement of the law that the proceedings be recorded was not complied with. When it was provided in Sec. 87 (c) of Rep. 296, as amended by Rep Act. 2613, that the city court of chartered cities have like jurisdiction as the Court of First of Instance to try parties charged with an offense in which the penalty provided by law does not exceed prision correccional or imprisonment for not more than six years or fine not exceeding P3,000.00 or both, the city court thereby acts as a Court of First Instance and its decisions are appealable directly to the Court of Appeals or to the Supreme Court, as the case may be. When the city court tries cases of this nature and its acts as a Court of First Instance, it must perforce act as a court of record. The very law itself provides that in the exercise of this jurisdiction by the municipal courts of provincial capitals and by city courts the proceedings must be recorded. Certainly, the decisions of the city court or of the municipal court of provincial capitals in the exercise of this jurisdiction are similar to decisions of the Court of First Instance, and their decisions, cannot be appealed to the Court of Appeals or to the Supreme Court, as the case may be, if there are no records of their proceedings. When a city court, or the municipal court of provincial capitals, does not record its proceedings in the trial of a case in the exercise of its jurisdiction under Sec. 87 (c) of Republic Act 296, as amended, then it does not exercise its jurisdiction in accordance with law and therefore the proceedings had before it are null and void.

We hold, therefore, that the decision of the City Court of Ormoc City in its Criminal Casa No. 5640 is not appealable to the Court of Appeals, and the clerk of court of the city of Ormoc City acted properly when he remitted the records of said case to the Court of First Instance of Leyte, Branch V, in Ormoc City.

It is deplorable that the proceedings in Criminal Case No. 0640 before the City Court of Ormoc City were not conducted in a manner as required by law. The City Judge should know the law, and he should not have allowed said illegal proceedings to take place before his court. The accused in said case (petitioners herein), who were assisted by counsel, should have known their rights- and should have insisted that the proceedings in the trial of the case against them be recorded. This is more so, because one of the two accused—the herein petitioner Manuel Aquino, Jr.—is himself a lawyer.

When the respondent City Attorney filed a new information in the Court of First Instance of Leyte, which was docketed as Criminal Case No. 1415-0, charging the petitioners of the same offense of which they were charged in Criminal Case No. 5640 in the City Court of Ormoc City, said City Attorney actually filed a new criminal case against the petitioners; and the Court of First Instance of Leyte took cognizance of the case in the exercise of its original jurisdiction to try the case, and not its appellate jurisdiction over cases coming from the City Court of Ormoc City. We are of the opinion that the Court of First Instance of Leyte had not acted without or in excess of jurisdiction or with grave abuse of discretion when it denied the motion to quash in Criminal Case No. 1415-O, and said court has jurisdiction to proceed with the hearing of said Criminal Case No. 1415-O. This is more so,

because the records show that petitioner Manuel Aquino, Jr. was already arraigned in said case and he entered a plea of "not guilty." As far as the petitioner, Felix Pirante, is concerned the records show that he did not appear on the day set for arraignment and his arrest was ordered by the court.

The records show that before the respondent City Attorney for Ormoc City filed the information for grave coercion in the City Court of Ormoc City (Criminal Case No. 5640) he had previously conducted the necessary preliminary investigation. That same preliminary investigation that was conducted by the respondent City Attorney can serve as the basis for the filing of the information in Criminal Case No. 1415-O in the Court of First Instance of Leyte.

We now come to the second question to be resolved in this case: Whether this petition was filed in accordance with the Rules of Court.

It was brought to the attention of this Court by the respondents that after pleading not guilty to the crime charged in the information and thereby submitting to the jurisdiction of the respondent court, by said plea, petitioner Aquino merely announced his intention to file a Petition for certiorari and prohibition with the Supreme Court. The petitioners had not filed with respondent court any motion for reconsideration of the order denying their motion to quash. The respondents contend that because the petitioners had not filed any motion for reconsideration of the order denying their motion to quash they did not exhaust the adequate remedies available to them under the law before filing the present petition before this Court and, therefore, this petition should be denied.

We agree with the respondents that a motion for reconsideration of the order denying the motion to quash should have been filed with the respondent court before the petitioners proceed to file the present petition, and their failure to do so is definitely a fatal defect in the procedure that they had followed.

Because of the numerous decisions^[1] rendered by this Court on this particular matter, it has become elementary that before filing a petition for certiorari with the higher court the attention of the lower court should first be called to its supposed error and its correction asked for, and if this is not done the petition for certiorari should be denied. Considering that the petitioners herein had not filed the required motion for reconsideration of the order denying the motion to quash before the respondent court prior to their filing of the present petition, this circumstance alone is sufficient reason to deny the present petition.

Wherefore, this petition for certiorari and prohibition should be, as it is hereby denied, and the writ of preliminary injunction heretofore issued is dissolved, with costs against the petitioners.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Makailintal and Zaldivar, JJ., concur.

[1] Herrera vs. Barretto, 25 Phil. 245; Uy Chu vs. Imperial, 44 Phil. 27; Amante vs. Sison, 60 Phil. 949, 951-953; Manzanares vs. C.F.I. Batangas, 61 Phil. 850; Manila Post Publishing Co. vs. Sanchez, 81 Phil. 614; Alvarez vs. Ibañez, 83 Phil. 104; Nicolas vs. Castillo, 97 Phil. 336; Collector of Internal Revenue vs. Reyes, 100 Phil. 822; Ricafort vs. Fernan, 101 Phil. 575; 54 Off. Gaz. 2539; People vs. Palacio, et al., 108 Phil. 220; Cueto vs. Ortiz, 108 Phil. 538; Pagkakaisa vs. Enriquez, 108 Phil. 1010; Santos vs. Cerdenola, et al., L-18412, July 31, 1962 and Sy vs. Tiangco, et al., L-18376, Feb. 27, 1962.

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