

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. CARIDAD CAPISTRANO, DEFENDANT AND APPELLANT.

G.R. No. L-14363. August 31, 1960

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

An appeal from a decision of the Court of First Instance of Rizal, the last two (2) paragraphs of which read:

"Although the information designates the offense committed by the accused as a violation of Circular No. 37, as implemented by circular No. 60, Sec. 1(b) of the Central Bank in relation to Sec. 34 of Rep. Act No. 265, yet, this is merely the conclusion of the Fiscal but what determines the offense committed are the allegations of facts contained in the information, which as above-stated, constitute a violation not of Sec. 1(b) of Circular No. 60 but of Section 2 (a) of said circular.

"In view of the foregoing, the Court hereby declares the accused, Caridad Capistrano, guilty beyond reasonable doubt for violation of circular No. 60, Sec 2 (a) thereof of the Central Bank of the Philippines in relation with section 34 of Republic Act No. 265 and said accused is hereby sentenced to suffer imprisonment for fifteen (15) days, pay a fine of one thousand (P1,000.00) pesos, with subsidiary imprisonment in case of insolvency and to pay the costs. The one hundred fifty-six (156) pieces of fifty-peso bills, Exhibits 'A-1' to '156', inclusive, are hereby declared forfeited in favor of the government."

It appears, that on October 6, 1956, defendant Caridad Capistrano was accused in Criminal Case No. 3881-P of the Court of First Instance of Rizal, under an information reading:

"The undersigned City Attorney accuses Caridad Capistrano of Violation of Circular No. 37, as implemented by Circular No. 60, Section 1 (b) of the Central Bank, in relation to Section 34 of Republic Act No. 265, committed as follows:

"That on or about the 31st day of March, 1955, in the Manila International Airport, Pasay City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Caridad Capistrano, an outgoing Philippine resident who had booked passage and ready to leave the Philippines for Hongkong through Philippine Air lanes plane, did then and there wilfully, unlawfully and feloniously have in her possession and control concealed in her person, in a sanitary pad (Kotex brand) the following to wit:

"100 pcs. @ P50.00 each—P5,000.00

"Contrary to law, (p. 1, rec., Crim. Case No. 3881-P.)"

Defendant moved to quash the information, but the motion was denied. Then, she entered a plea of not guilty. When the case was later called for trial, defendant admitted the facts alleged in the information, but maintained that said facts did not constitute a crime. In due course, the court, subsequently, rendered a decision convicting the defendant as charged and sentencing her to the corresponding penalty. On appeal, said decision was reversed by this Court in Case G. R. No. L-12724, upon the ground that, for the circular mentioned in the information to be deemed "infringed, it is necessary to allege that the outgoing Philippine resident or transient visitor has taken or is

about to take out of the Philippines, Philippine coins and notes * * * without the necessary license issued by the Central Bank. An examination of the information does not show any averment of this element. This omission makes the charge alleged in the information insufficient to constitute an offense for which appellant may be convicted and rendered amenable to the penalty prescribed by law."

The dispositive part of our decision in said Case G. R. No. L-12724 (102 Phil., 1025; 54 Off. Gaz. [11] 3499), was as follows:

"Wherefore, the decision appealed from is hereby reversed. The appellant is acquitted and the sum of P5,000 confiscated from her ordered returned to her, with costs de oficio."

Soon after this decision had become final and executory, or on May 28, 1958, the Provincial Fiscal of Rizal filed the following information, which was docketed as Criminal Case No. 4366-P of the aforementioned court of first instance:

"The undersigned City Attorney accuses Caridad Capistrano of Violation of Circular No. 37, as implemented by Circular No. 60, Sec. 1 (b) of the Central Bank, in relation to Sec. 34 of Republic Act No. 265, committed as follows:

"That on or about the 31st day of March, 1955, in the Manila International Airport, Pasay City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Caridad Capistrano, an outgoing Philippine resident who had booked passage and ready to leave the Philippines for Hongkong through Philippine Air lines plane, did then and there wilfully, unlawfully and feloniously have in her person, in a sanitary pad (Kotex brand) the following to wit:

156 pcs. P50.00 each—P7,800.00

(Philippine currency) without having declared the same in the Central Bank currency form and without first securing the necessary license and/or permit to export the same from the Central Bank of the Philippines or any of its authorized agents.

"Contrary to law."

Defendant moved to quash this information upon the ground of double jeopardy, but the motion was denied. After entering, subsequently, a plea of not guilty, defendant admitted the allegations of said information, and maintained that the act therein described does not constitute a crime. Upon the presentation of the fifty-peso bills mentioned in the information, which were admitted without any objection on the part of the defense, the lower court rendered the decision alluded to at the beginning of this opinion. Hence, this appeal taken by the defendant, who insists that, having been acquitted by this Court in Case G. R. No. L-12724, the government is now barred from prosecuting her once again.

Appellant's pretense is untenable. Section 9 of Rule 113 of the Rules of Court provides:

"When a defendant shall have been convicted or acquitted, or the case against him dismissed or otherwise terminated without the express consent of the defendant, by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the defendant had pleaded to the charge, the conviction or acquittal of the defendant or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information."

In order that a former judgment may bar a subsequent prosecution, it is necessary, therefor, that said judgment be rendered: (a) "by a court of competent jurisdiction"; (b) "upon a valid complaint or information or other formal

charge sufficient in form and substance to sustain a conviction; (c) after arraignment; (d) "after the defendant had pleaded to the charge", and that the second prosecution be for the "offense charged or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information."

Pursuant to our decision in case G. R. No. L-12724, the failure of the prosecution to allege in the information in that case that the notes described therein were sought to be taken out of the Philippines "without the necessary license issued by the Central Bank" rendered the charge in said information "insufficient to constitute an offense for which appellant may be convicted and rendered amenable to the penalty prescribed by law". Consequently, defendant was not placed in jeopardy of punishment in said case and, hence, cannot now be deemed to be twice in jeopardy of punishment for the same offense. (People vs. Austria, 94 Phil., 897; 50 Off. Gaz., 1967; People vs. Lopez, 79 Phil., 658; People vs. Reyes, 96 Phil., 927; 51 Off. Gaz. [3] 2408; People vs. Margatan, 48 Phil., 470; People vs. Mirasol, 43 Phil., 860). Indeed, it cannot be said that the offense charged in the case at bar is the same as the one charged in the former information or an attempt to commit the same or a frustration thereof, or includes or is included in the offense charged in said information, no offense whatsoever, from a legal viewpoint, having been, charged therein.

Wherefore, the decision appealed from is hereby affirmed, with costs against the defendant-appellant. It is so ordered.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, and Gutierrez David, JJ., concur.

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