

DOMINADOR TEMPOROSA, PETITIONER, VS. NICASIO YATCO, JUDGE OF THE COURT OF FIRST INSTANCE OF LAGUNA, AND SANTOS B. PAMPOLINA, JUSTICE OF THE PEACE OF SAN PEDRO, LAGUNA, RESPONDENTS.

G.R. No. L-1533. September 09, 1947

Ponente: FERIA, J.

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FERIA, J.:

The petitioner in this case has filed a complaint against one of the respondents, Santos B. Pampolina, Justice of the Peace of San Pedro, Laguna, for illegal detention, and after an investigation conducted by the respondent judge of the Court of First Instance, the latter refused to issue a warrant of arrest and dismissed the complaint. From the order of dismissal the petitioner filed a notice of appeal and after hearing the respondent Judge denied the appeal interposed by the attorney for the petitioner on the strength of the ruling laid down by this Court in the case of *People vs. Ocampo* (63 Phil., 121), in which it was held that a resolution dismissing the complaint and denying the issuance of a warrant of arrest is not appealable.

What is called a preliminary investigation in this petition for mandamus is the investigation prior to the arrest of the defendant and for the purpose of determining whether there is any ground to believe that the accused has committed the offense complained of in order to issue the warrant of arrest under section 1 of Rule 108, which was taken from section 13 of General Orders No. 58. According to the decision of this Court in the said case of *People vs. Ocampo*, "appeal does not lie from a resolution of a judge of a Court of First Instance denying the issuance of a warrant of arrest and dismissing the complaint, after having heard the statements of the complainant and his witnesses, as provided by section 13 of General Orders No. 58." The appeal provided in section 14 of General Orders, No. 58 was from a resolution of a justice of the peace ordering the release of an accused after conducting the corresponding preliminary investigation held after the defendant has been arrested, for the purpose of preventing the release of the defendant. Rule 108 does not provide for appeal if Justice of the Peace or Court of First Instance dismisses the complaint after the investigation previous to arrest, because such dismissal does not bar the filing of another warrant for the same offense, and there is no defendant to be released by the dismissal.

As to the question whether appeal lies to this Court or to the Court of Appeals from the order of the respondent judge dismissing administrative charges filed by the petitioner against the other respondent, and whether the respondent judge who refused to allow the appeal may be compelled to allow it, we are of the opinion and therefore so hold that no such appeal lie, and hence mandamus to compel the respondent judge to allow such appeal does not lie. Because section 229 of the Administrative Code which provides for administrative investigation against a justice of the peace by the Court of First Instance does not provide for an appeal from the action taken thereon by the judge of the Court of First Instance. And section 1, Rule 129 of the Rules of Court which refers to investigation of complaint against judges of the Court of First Instance or of the Court of Appeals by the Supreme Court does not also provide for an appeal from the recommendation of the latter to the Chief Executive.

Therefore, the petition is dismissed.

Moran, C.J., Paras, Pablo, Perfecto, Hilado, Bengzon, Briones, Padilla, and Tuason, JJ., concur.

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