

ALFREDO MONTELIBANO, PASTOR MALLORCA, GONZALGO DE LA TORRE, AND JOSE ARTICULO, PETITIONERS AND APPELLANTS, VS. THE HONORABLE FELIX S. FERRER, AS JUDGE OF THE MUNICIPAL COURT OF ...

G.R. No. L-7899. June 23, 1955

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

The question involved in this case is one purely of law.

On June 13, 1953, respondent Jose F. Benares filed, with the Municipal Court of the City of Bacolod, a criminal complaint, which was docketed as Case No. 2864 of said court, against petitioners herein, Alfredo Montelibano, Pastor Mallorca, Gonzalgo de la Torre and Jose Articulo, charging them with the crime of malicious mischief. It is alleged in said complaint:

"That on or about the 5th, the 7th and the 8th of June, 1953, in the City of Bacolod, Philippines, and within the jurisdiction of this court, Alfredo Montelibano, as author by inducement, Pastor Mallorca, Gonzalo de la Torre and Jose Articulo, as authors by direct participations, conspiring and confederating together and helping one another, did then and there, wilfully, unlawfully and deliberately cause damage to the sugarcane plantation belonging to Jose F. Benares, the offended party herein, intentionally and using bulldozer and destroying completely eighteen (18) hectares of sugarcanes obviously under the impulse of hatred and a desire for revenge, as the accused, Alfredo Montelibano, failed in his attempt to have the herein offended party punished for contempt of Court in Civil Case No. 1896 of the Court of First Instance of Negros Occidental, thereby causing upon said Jose F. Benares damage in the amount of more than P13,000.00."

Upon the filing of this complaint, due course was given thereto by the herein respondent, Hon. Felix S. Ferrer, Municipal Judge of the City of Bacolod, who, likewise, issued the corresponding warrant of arrest. On or about June 22, 1953, the aforementioned defendants (petitioners herein) filed a motion to quash said warrant of arrest, as well as the complaint, upon several grounds, which may be reduced to two, namely: (1) The only officer authorized by the Charter of the City of Bacolod to initiate criminal cases in the courts thereof is its City Attorney, who is opposed to the institution of said Case No. 2864; and (2) Said case involves a prejudicial question.

In this connection, petitioners alleged, and Benares has not denied, the following: Sometime in 1940, the Capitol Subdivision Inc. (hereinafter referred to as the Subdivision), of which petitioner Alfredo Montelibano is the president and general manager, leased Lot No. 1205-1-1 (which is the same property involved in Case No. 2864) to Benares, for a period of five (5) crop years, ending in the crop-year 1944-1945, with an option in favor of Benares, of another five (5) crop-years. On June 5, 1951, the Subdivision instituted against Benares, unlawful detainer case No. 1896 of the Municipal Court of the City of Bacolod, which, in due course, subsequently, rendered a decision ordering his ejectment from said lot. Benares appealed to the Court of First Instance of Negros Occidental (in which it was docketed as Civil Case No. 1896). On motion of the Subdivision, this court

issued a writ of preliminary mandatory injunction, commanding Benares to turn over the aforementioned lot to the Subdivision, which filed a bond undertaking to pay to Benares "all damages which he may sustain" by reason of the issuance of said writ, "if the court should finally decide that the plaintiff was not entitled thereto." Inasmuch as Benares continued planting on Lot No. 1205-L-1, instead of delivering it to the Subdivision, the latter filed a petition praying that the former be declared in contempt of court. This petition was denied, by an order dated April 30, 1953, which, however, required Benares to "immediately and promptly obey the order of preliminary mandatory injunction." On June 5, 1953 the provincial sheriff delivered the land in question to the Subdivision. Seemingly, acting upon instructions of petitioner Montelibano, his co-petitioners thereupon cleared the land of the sugarcane planted therein by Benares. Hence, the criminal complaint filed by the latter.

The Municipal Court denied the aforementioned motion to quash said complaint and the warrant of arrest, as well as a subsequent motion for reconsideration, whereupon petitioners instituted the case at bar, in the Court of First Instance of Negros Occidental, where it was docketed as Civil Case No. 2828, against said Municipal Judge, and complainant Benares, for the purpose of securing a writ of certiorari and mandamus—"annulling and vacating all the proceedings so far taken by respondent Judge in said Case No. 2864" and "holding that said Judge had no jurisdiction to take cognizance of the same" and "dismissing said case"—with a writ of preliminary injunction, enjoining respondent judge "to desist from further proceedings in the case." The writ of preliminary injunction was issued by said court of first instance, which, in due course, eventually rendered a decision, dismissing the petition for certiorari and mandamus, and dissolving the writ of preliminary injunction, with costs against the petitioners. The case is now before us on appeal taken, from said decision, by the aforementioned petitioners, the defendants in said criminal case.

It is not disputed that the complaint in question was filed by Benares directly with the municipal court of Bacolod, and that the City Attorney had, not only no intervention whatsoever therein, but, also, expressed, in open court, his opposition thereto. The issue boils down, to whether said municipal court may entertain said complaint. Petitioners contend that it may not, relying upon section 22 of Commonwealth Act No. 326, otherwise known as the Charter of the City of Bacolod, the pertinent part of which provides:

"* * * The City attorney * * * shall also have charge of the prosecution of all crimes, misdemeanors, and violations of city ordinances, in the Court of First Instance and the Municipal Court of the city, and shall discharge all the duties in respect to criminal prosecutions enjoined by law upon provincial fiscals.

"The city attorney shall cause to be investigated all charges of crimes, misdemeanors, and violation of ordinances, and have the necessary informations or complaints prepared or made against the persons accused.
* * *."

Upon the other hand, respondents argue that this provision is merely declaratory of the powers of the City Attorney of Bacolod and does not preclude the application of Sec. 2 of Rule 106 of the Rules of Court reading:

"Complaint is a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer or other employees of the government or governmental institution in charge of the enforcement or execution of the law violated"

This was the very same provision invoked by the petitioner in the case of *Espiritu vs. Dela Rosa* (45 Off. Gaz. 196), in which this Court refused to issue a writ of mandamus to compel the Court of First Instance of Manila to accept a complaint filed, directly with said court, by the offended party in a given case, without the intervention of the City Fiscal of Manila. In his concurring opinion therein, then Chief Justice Moran had the following to say:

"I concur upon the ground that Rule 108 section 4 does not apply in the City of Manila where the only officer authorized by law to conduct preliminary investigation is the City Fiscal (sec. 2474, Adm. Code) and therefore,

all criminal complaints should be filed with that officer who in turn may, after investigation, file the corresponding information with the Court of First Instance. The provisions of the Administrative Code on this matter have not been repealed by the Rules of Court. (*Hashim vs. Boncan*, 40 Off. Gaz., p. 13.)" (Italics supplied.)

As indicated in said decision, the same was based, partly, upon the rule laid down in *Hashim vs. Boncan* (71 Phil. 216), which, in turn, was predicated upon earlier precedents (*U. S. vs. Wilson*, 4 Phil. 317; *U. S. vs. McGovern*, 6 Phil. 621; *U. S. vs. Ocampo*, 18 Phil. 1; *U. S. vs. Grant and Kennedy*, 18 Phil. 122; *U. S. vs. Carlos*, 21 Phil. 553).

In case of *Sayo vs. Chief of Police* (45 Off. Gaz. 4875) the language used by this Court was:

"Under the law, a complaint charging a person, with the commission of an offense cognizable by the courts of Manila is not filed with the municipal court of First Instance of Manila, because as above stated, the latter do not make or conduct a preliminary investigation proper. The complaint must be made or filed with the city fiscal of Manila who, personally or through one of his assistance, makes the investigation, not for the purpose of ordering the arrest of the accused, but of filing with the proper court the necessary information against the accused if the result of the investigation so warrants, and obtaining from the court a warrant of arrest or commitment of the accused.

* * * * *

"In the City of Manila, where complaints are not filed directly with the municipal court or the Court of First Instance, the officer or person making the arrest without warrant shall surrender or take the person arrested to the city fiscal, and the latter shall make the investigation' above mentioned and file, if proper, the corresponding information without the time prescribed by Section 125 of the Revised Penal Code, so that the court may issue a warrant of commitment for the temporary detention of the accused. * * *." (Italics supplied.)

It is clear, therefore, that, in the City of Manila, criminal complaints may be filed only with the City Fiscal, who is thereby given, by implication, the exclusive authority to institute criminal cases in the different courts of said city, under the provisions of its Charter, originally found in Section 39 of Act No. 183, the pertinent part of which we quote:

"* * * The prosecuting attorney of the city of Manila shall have charge of the prosecution of all crimes, misdemeanors, and violations of city ordinances, in the Court of First Instance and the municipal courts of the city of Manila. He shall investigate all charges of crimes, misdemeanors, and violations of ordinances, and prepare the necessary informations or make the necessary complaints against the persons accused, and discharge all other duties in respect to criminal prosecutions enjoined upon provincial fiscals * * *."

This provision was mutatis mutandis reproduced, firstly, in section 2437 of the Old Administrative Code (Act No. 2657), then in section 2465 of the Revised Administrative Code, and lastly in section 38 of Republic Act No. 409. We do not see, and respondents herein have not pointed out, any reason why the above quoted provision of the Charter of the City of Bacolod, should be interpreted differently from said sections of the Charter of the City of Manila, which are substantially identical thereto. On the contrary, considering that said provisions of the Charter of the City of Manila had been consistently construed in the manner above indicated, before being incorporated in the Charter of the City of Bacolod, the conclusion is inevitable that the framers of the latter had reproduced the former with intent of adopting, also its settled interpretation by the judicial department (*In re Dick*, 38 Phil. 41, 77).

"In the interpretation of reenacted statutes the court will follow the construction which they received when previously in force. The legislature will be presumed to know the effect which such statute originally had, and by reenactment to intend that they should again have the same effect. * * * It is not necessary that a statute should be reenacted in identical words in order that the rule may apply. It is sufficient if it is reenacted in

substantially the same words. * * * The rule has been held to apply to the reenactment of a statute which received a practical construction on the part of those who are called upon to execute it. The Supreme Court of Nebraska says: 'Where the legislature in framing an act resorts to language similar in its import to the language of other acts which have received a practical construction by the executive departments and by the legislature itself, it is fair to presume that the language was used in the later act with a view to the construction so given the earlier.' * * * (Sutherland Statutory Construction, Vol. II, 2d. ed., section 403)

"* * * two statutes with a parallel scope, purpose and terminology should, each in its own field, have a like interpretation, unless in particular instances there is something peculiar in the question under consideration, or dissimilar in the terms of the act relating thereto, requiring a different conclusion." (50 Am. Jur. 343)

"* * * Since it may be presumed that the legislature knew a construction, long acquiesced in, which had been given by the courts to a statute re-enacted by the legislature, there is a presumption of an intention to adopt the construction as well as the language of the prior enactment. It is accordingly a settled rule of statutory construction that when a statute or a clause or provision thereof has been construed by a court of last resort, and the same is substantially reenacted, the legislature may be regarded as adopting such construction." (50 Am. Jur. 461)

In view of the foregoing, the decision appealed from must be, as it is hereby, reversed and another one shall be entered annulling the warrant of arrest issued by respondent Judge and enjoining the latter to refrain from entertaining the complaint aforementioned and to dismiss the same. With cost against respondent Jose F. Benares. It is so ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador and Reyes, J. B. L., JJ., concur.

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