

**FAUSTO D. LAQUIAN, PETITIONER-APPELLANT, VS. JOSE L. BALTAZAR, MUNICIPAL COURT JUDGE OF SAN FERNANDO, PAMPANGA; REGIDOR AGLIPAY, PROVINCIAL FISCAL OF PAMPANGA; AND MARCELO D. ME...**

*G.R. No. L-27514. February 18, 1970*

Ponente: CONCEPCION, C.J.

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**CONCEPCION, C.J.:**

Direct appeal from an order of dismissal of the Court of First Instance of Pampanga.

On May 16, 1963, Marcelo D. Mendiola instituted Civil Case No. 2312 of the Court of First Instance of Pampanga against Fausto D. Laquian, to recover damages for an alleged defamatory letter written by the latter on May 21, 1962. Subsequently, on May 19, 1964, Mendiola filed with the Municipal Court of San Fernando, Pampanga, a criminal complaint, docketed as Criminal Case No. 4216 of said municipal court, accusing Laquian of the crime of libel, by reason of the same alleged defamatory letter. On April 26, 1965, Laquian moved to dismiss this complaint upon the ground that the municipal court has no jurisdiction over the same, in view of the provisions of par. 3 of Art. 360 of the Revised Penal Code, as amended by Rep. Act No. 1289, pursuant to which "exclusive" jurisdiction over said complaint is vested in the Court of First Instance of Pampanga in which the aforementioned civil case No. 2312 had been filed and is pending. Acting upon this motion, and the opposition thereto filed by the prosecution, said municipal court, presided over by municipal Judge Jose L. Baltazar, denied the motion in an order dated May 27, 1965. A reconsideration of this order was, also, denied, on August 4, 1965, in view of which, on August 27, 1965, Laquian commenced, in the Court of First Instance of Pampanga, the present special civil action for certiorari, which was docketed as Civil Case No. 2834 of said Court, against said Judge Baltazar, and Regidor Aglipay, as provincial fiscal of Pampanga, as well as Marcelo D. Mendiola, for the annulment of said orders of May 27 and August 4, 1965, and a declaration that said municipal court has no jurisdiction to hear and decide the aforesaid criminal case for libel. By an order dated May 18, 1966, the Court of First Instance, however, denied the petition for certiorari and dismissed said civil case No. 2834, upon the ground that the municipal court has concurrent jurisdiction with the court of first instance over cases of libel, and, hence, over said criminal case No. 4216. A reconsideration of this order of May 18, 1966, having been denied, petitioner Laquian interposed the present appeal, which We find to be well taken.

As amended by Rep. Act No. 1289, approved on June 15, 1955, the third paragraph of Art. 360 of the Revised Penal Code provides that "(t)he criminal and civil action for damages in cases of written defamations x x x shall be filed simultaneously or separately with the court of first instance of the province or city where any of the accused or any of the offended parties resides at the time of the commission of the offense"; that "the civil action shall be filed in the same court where the criminal action is filed and vice-versa"; and "(t)hat the court where the criminal action or civil action for damages is first filed, shall acquire jurisdiction to the exclusion of other courts." Pursuant to this Art. 360, the court of first instance of Pampanga, in which civil case No. 2312 was filed on May 16, 1963, had acquired exclusive jurisdiction to entertain the corresponding criminal action for libel against

Laquian.

This notwithstanding, municipal Judge Baltazar and the court of first instance of Pampanga were of the opinion that the criminal complaint for said offense, filed on May 19, 1964, was then within the concurrent jurisdiction of said municipal court and the court of first instance because libel is, pursuant to Article 355 of the Revised Penal Code, punishable with prison correccional in its minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both, in addition to the civil action which may be brought by the offended party, and Sec. 87(c) of R.A. No. 296 (the Judiciary Act of 1948), as amended by Rep. Act No. 3828, approved and effective on June 22, 1963, reads partly:

"x x x x x

"Justices of the peace in the capitals of provinces, and sub-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 their respective jurisdictions, in which the penalty provided by law does not exceed prison correccional or imprisonment for not more than six years or fine not exceeding six 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."

Thus, the lower courts have virtually held that Rep. Act No. 1289 has been amended by Rep. Act No. 3828. This conclusion is, to our mind, untenable, for the following reasons, namely:

1. Section 87(c) of the Judiciary Act allocates jurisdiction, in general. Upon the other hand, although using the term "jurisdiction," Art. 360 of the Revised Penal Code, as amended by Rep. Act No. 1289, refers, mainly, to the place where actions for libel shall be filed, or "venue," inasmuch as, before the passage of said amendatory act, courts of first instance already had jurisdiction over criminal cases for libel.[1] Even, however, if Rep. Act No. 1289 did regulate jurisdiction, it refers exclusively to that relating to civil and criminal actions for written defamation, and it is well settled that a general law does not repeal or modify a previous special law on a specific subject included in the general law, unless the intent is manifest.[2] No such intent appears in the case at bar. Indeed, in the language of *People v. Olarte*[3]:

"x x x under said Article 360, as originally enacted, an offended party residing, let us say, in the province of Cagayan, could - for the purpose of causing undue harassment - commence, in the province of Batanes, a civil action against the publisher of a newspaper edited in Manila. At the same time, said offended party could institute a criminal action in the Court of First Instance of Sulu. To avoid these evils, Article 360 was amended by Republic Act No. 1289. Pursuant thereto, both actions must be filed with the same court of first instance, and this must be that of 'the province or city where any of the accused or any of the offended parties resides at the time of the commission of the offense,' unless 'the libel is published, circulated, displayed or exhibited in the province or city wherein neither the offender nor the offended resides,' in which case 'the civil and criminal actions may be brought in the court of first instance thereof.' That these were the only objectives of Congress in passing House Bill No. 2695, which later became Republic Act No. 1289, is manifest, not only from the above quoted explanatory note to said bill, but, also, from the Congressional Record pertinent thereto." [4]

There is absolutely nothing in Rep. Act 3828 to indicate that Congress wanted to abrogate or modify the foregoing policy.

2. Even in cases of concurrent jurisdiction, it is, also, axiomatic that the court first acquiring jurisdiction excludes the other courts.[5] In the case at bar, upon the filing of civil case No. 2312 of the court of first instance of Pampanga, on May 16, 1963, that court acquired, pursuant to said Art. 360 of the Revised Penal Code, as amended, exclusive jurisdiction over the criminal action that may subsequently be filed in consequence of the same written defamation on which said civil case No. 2312 was based. Here, again, there is no clear expression of

the will of Congress, in Rep. Act No. 3828, to divest said court of first instance of the exclusive jurisdiction, vested in it prior thereto, over said criminal action.

3. There is every reason to believe that Congress had no such design. Indeed, Rep. Act No. 4363, approved on June 19, 1965, which further amended said Art. 360 of the Revised Penal Code,[6] reproduced the provisions of said Art. 360, as amended by Rep. Act No. 1289, to the effect that "(t)he criminal and civil action for damages in cases of written defamations x x x shall be filed x x x with the court of first instance of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense"; that "the civil action shall be filed in the same court where the criminal action is filed and vice versa" and that "the court where the criminal action or civil action for damages is first filed, shall acquire jurisdiction to the exclusion of other courts."

It is, therefore, our considered opinion that the municipal court of San Fernando, Pampanga, has no jurisdiction to hear and decide the aforementioned criminal case No. 4216; that respondent Judge Baltazar has erred in denying Laquian's motion to dismiss said case; and that the order of the court of first instance of Pampanga denying the petition for certiorari in civil case No. 2834 of said court and dismissing the same should be, as it is hereby reversed, with costs against private respondent Marcelo D. Mendiola.

### **IT IS SO ORDERED.**

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

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[1] *People v. Olarte*, L-13027, June 30, 1960.

[2] *Manila Railroad Co. v. Rafferty*, 40 Phil. 224, 229; *Lichauco & Co. v. Apostol*, 44 Phil. 138, 147; *Libarnes v. Exec. Secretary*, L-21505, Oct. 24, 1963; *Tumipus Mangayao v. Quintana Lasud*, L-19252, May 29, 1964; *Butuan Sawmill, Inc. v. City of Butuan*, L-21516, Apr. 29, 1966; *Gaerlan v. Catubig*, L-23964, June 1, 1966; *Kordovez v. Carmona*, L-21473, Oct. 31, 1967; *Fal-cotelo v. Gali*, L-24190, Jan. 8, 1968; *Romero v. Mun. Mayor of Boljoon*, L-22062, Mar. 29, 1968; *National Power Corp. v. Judge Arca*, L-23309, Oct. 31, 1968.

[3] *Supra*.

[4] Underscoring ours.

[5] *Grafton v. U. S.*, 11 Phil. 776, 791; *Valdez v. Lucero*, 76 Phil. 356; *Braca v. Tan*, 84 Phil. 582; *People v. Livara*, 94 Phil. 771; *Lumpay v. Hon. Moscoso*, 105 Phil. 968, 972-973; *Alimajen v. Valera*, 107 Phil. 224, 245.

[6] By prescribing the venue when "one of the offended parties is a public officer."

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