

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS.
SIMPLICIANO SORIA, DEFENDANT-APPELLEE, LOURDES C. PAEZ,
INTERVENOR-APPELLANT.**

G.R. No. L-25175. March 01, 1968

Ponente: REYES, J.B.L., Acting C.J.

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REYES, J.B.L., Acting C.J.:

Appeal by the People of the Philippines from the order of dismissal, by the Court of First Instance of Nueva Ecija, of its Criminal Case No. 176-G.

Upon complaint of Lourdes C. Paez, Simpliciano Soria was criminally charged, on July 20, 1965, before the Court of First Instance of Nueva Ecija for violation of Section 39 of Republic Act 1199 (prohibition against pre-threshing), allegedly committed as follows:

"That on or about the 14th day of January, 1965, in the municipality of Guimba, Province of Nueva Ecija, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being a farm-share tenant of Mrs. Lourdes C. Paez with 50-50 sharing basis, with intent to gain before the date for threshing has been set, and without notifying said landowner, did then and there wilfully, unlawfully and criminally thresh a portion of his harvest in the total amount of 1 & 1/2 cavans of palay without the knowledge and consent of Lourdes C. Paez, the landowner and then convert the said palay to his exclusive use and bene-fit and to the damage and prejudice in the amount of one half of the aforesaid amount of the said landowner.

"Contrary to law."

Arraigned, the accused entered a plea of not guilty, after which, he filed a motion to quash the information on the ground that it failed to charge an offense. It was claimed that on April 10, 1964, the accused notified the landowners, by letter, that he was exercising his option to elect the leasehold system, as pro-vided in Section 4 of the Land Reform Code starting the agricul-tural year 1964-1965, and that he would be shouldering all the expenses for rice production on the land; that as the landowners refused to recognize him as an agricultural lessee, the accused on January 8, 1965 filed a petition in the Court of Agrarian Relations (CAR Case No. 1314-Gva. '65), for the declaration and confirmation of his status as a leasehold tenant and for the fixing of the rental for the use of the land; that as such leasehold tenant, he cannot be criminally liable for pre-threshing, said act not being punishable under the Land Reform Code.

In an order dated October 1, 1965, but allegedly promulgated on October 19, 1965, Judge Placido C. Ramos granted the motion and directed the dismissal of the information, for the reason that upon exercise by the tenant of his right to elect the leasehold system, he became a lessee. The Judge held that the accused committed no offense when he threshed the palay in question, because under the Land Reform Code, pre-threshing by a lessee is not a criminal act. The prosecution, through the Assistant Provincial Fiscal, signified its intention to appeal to this Court, on the ground that the order of dismissal was contrary to law and that the judge who issued the same was

without authority to do so.

The Solicitor General filed the brief for appellant in this case. However, the State counsel in effect sided with the accused-appellee urging the affirmance of the appealed order, on the argument that, there having been a valid exercise by the accused of his right to elect the leasehold system, the case was removed from the operation of Republic Act 1199 and should be governed instead by the provisions of the Land Reform Code which does not penalize pre-threshing. In view of this stand taken by the Solicitor General, the complainant, with leave of this Court, filed a brief as intervenor-appellant, assailing the correctness of the order on appeal.

She now contends that Republic Act 3844 (Land Reform Code) is not applicable to the present case, the municipality of Guimba, in Nueva Ecija, not having been proclaimed as yet by the National Land Reform Council as a land reform area; that the mere exercise by the tenant of his right to elect the leasehold system did not automatically convert his relationship with the landowners from share tenancy to leasehold, because there still remain certain steps to be observed, such as the fixing of rentals; that the dismissal of the information was improper, the allegation of the accused that he had shouldered all the expenses of production being a matter of defense that must be proved at the trial. Appellant, likewise, raises the question of the validity of the order, it being alleged that at the date of its promulgation, Judge Placido C. Ramos who penned it was no longer Judge of the Court of First Instance of Nueva Ecija, he, having been appointed and having qualified to the position of Judge of the Court of First Instance of Manila.

This appeal must be dismissed, for it appears that the order of Judge Ramos, although dated October 1, 1965, was actually received by the Clerk of the Court of First Instance of Nueva Ecija and filed with the records of the case only on October 19, 1965; but prior to that date, on October 11, 1965, Judge Ramos had been extended by the President an ad interim appointment to the Court of First Instance of Manila, to which position he qualified on October 12, 1965. Evidently, therefore, while the order in question might have been written by Judge Ramos prior to his assumption to office as Judge of First Instance of Manila, the said order was promulgated after he had ceased as Judge of the Court of First Instance of Nueva Ecija. This, renders the promulgation of the dismissal order invalid, for it is not the date of the writing of the decision or judgment that constitutes rendition thereof and gives it validity and binding effect, but the filing of such decision or judgment or order with the Clerk of Court.[1] And, if the decision is sent by registered mail, it is considered filed in court not as of the date of posting, but as of its receipt by the Clerk.[2] In similar cases, decisions promulgated after the judge who penned the same had been appointed and had qualified to another court were declared not valid and without any effect.[3]

The Solicitor General, however, advances the theory that, notwithstanding Judge Ramos' appointment and qualification to the Manila Court of First Instance, he did not cease "holding office" and could have continued discharging the functions of Judge of First Instance of Nueva Ecija, because nobody was immediately appointed to fill the latter position; and that the promulgation of the order even after the assignment of the judge to another court is allowed under Section 9 of Revised Rule 135 of the Rules of Court.

We cannot subscribe to this view. Under the law, after his acceptance of the appointment to preside over Branch III of the Court of First Instance of Manila, Judge Ramos could sit and attend to cases in any other court only upon proper authority of the Secretary of Justice, with the previous approval of this Court,[4] of which there is none in the present case. Nor is the validity of the questioned order of dismissal supported by Section 9 of Revised Rule 135 of the Rules, which reads:

"SEC. 9. Signing judgments out of province. -- Whenever a judge appointed or assigned in any province or branch of a Court of First Instance in a province shall leave the province by transfer or assignment to another court of equal jurisdiction, or by expiration of his temporary assignment, without having decided a case totally heard by him and which was argued or an opportunity given for argument to the parties or their counsel, it

shall be lawful for him to prepare and sign his decision in said case anywhere within the Philippines. He shall send the same by registered mail to the clerk of the court where the case was heard or argued to be filed therein as of the date when the same was received by the clerk, in the same manner as if he had been present in court to direct the filing of the judgment. x x x." (Underscoring supplied.)

The same provision appears in the Judiciary Act of 1948, as amended, as follows:

"SEC. 51. Detail of judge to another district or province. --

xxx xxx xxx

"Whenever a judge appointed or assigned in any province or branch of a court in a province shall leave the province by transfer or assignment to another court of equal jurisdiction without having decided a case totally heard by him and which was duly argued or opportunity given for argument to the parties or their counsel, it shall be lawful for him to prepare and sign his decision in said case anywhere within the Philippines and send the same by registered mail to the clerk of the court to be filed in the court as of the date when the same was received by the clerk, in the same manner as if the judge had been present in the court to direct the filing of the judgment. x x x."

It may be noted therefrom that the signing or writing of judgments outside the territorial jurisdiction of the court where the cases are pending, is allowed when the judge leaves the province "by transfer or assignment to another court of equal jurisdiction", or "by expiration of his temporary assignment". In other words, the rule contemplates of a temporary occupancy by the judge of either the post he has left or of the one he is going to assume. This is fortified by the appearance of the same provision in the Judiciary Act under the heading "Detail of judge to another district or province", which conveys the idea that the transfer or assignment of the judge treated therein is merely a detail and not one of permanent character. That cannot be said of the appointment of Judge Ramos from the Court of First Instance of Nueva Ecija to the Court of First Instance of Manila. Having been extended by the President, it could not be the temporary assignment or detail, from one court to another of equal jurisdiction and effected by the Secretary of Justice, specified in the abovequoted provisions.

As it has been repeatedly ruled, section 6 of Revised Rule 120 (old Rule 116) refers only to the physical absence of the judge, not to an absence by reason of cessation or removal from office (*Ong Siu vs. Paredes*, ante; *People vs. So y Ortega*, G.R. No. L-8732, July 30, 1957; *Jimenez vs. Republic*, G.R. No. L-24529, January 31, 1968).

FOR THE FOREGOING CONSIDERATIONS, the order appealed from is hereby set aside, and the case is remanded to the court below for resolution anew of the motion to quash, and for further proceedings according to law. No costs.

Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] *Ago vs. Court of Appeals*, G. R. No. L-17898, October 31, 1962.

[2] Sec. 51, Judiciary Act of 1948, as amended by Republic Acts 1186 and 1404.

[3] *Ong Siu vs. Paredes*, G. R. No. L-21638, July 26, 1966, and cases cited therein; *Jimenez vs. Republic*, G.R. No. L-24529, January 31, 1968.

[4] Sec. 51, Judiciary Act of 1948, as amended by Republic Acts 1186 and 1404.

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