

PEOPLE OF THE PHILIPPINES, REPRESENTED BY THE PROVINCIAL FISCAL OF LEYTE, PETITIONER, VS. HON. JUDGE AUXENCIO C. DACUYCUI, CELESTINO S. MATONDO, SEGUNDINO A. CAVAL AND CIRILO M....

G.R. No. L-45127. May 05, 1989

Ponente: REGALADO, J.

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REGALADO, J.:

Involved in this special civil action is the unique situation, to use an euphemistic phrase, of an alternative penal sanction of imprisonment imposed by law but without a specification as to the term or duration thereof.

As a consequence of such legislative faux pas or oversight, the petition at bar seeks to set aside the decision of the then Court of First Instance of Leyte, Branch IV, dated September 8, 1976,[1] penned by herein respondent judge and granting the petition for certiorari and prohibition with preliminary injunction filed by herein private respondents and docketed therein as Civil Case No. 5428, as well as his resolution of October 19, 1976[2] denying the motions for reconsideration filed by the parties therein. Subject of said decision were the issues on jurisdiction over violations of Republic Act No. 4670, otherwise known as the Magna Carta for Public School Teachers, and the constitutionality of Section 32 thereof.

In a complaint filed by the Chief of Police of Hindang, Leyte on April 4, 1975, herein private respondents Celestino S. Matondo, Segundino A. Caval and Cirilo M. Zanoria, public school officials of Leyte, were charged before the Municipal Court of Hindang, Leyte in Criminal Case No. 555 thereof for violation of Republic Act No. 4670. The case was set for arraignment and trial on May 29, 1975. At the arraignment, the herein private respondents, as the accused therein, pleaded not guilty to the charge. Immediately thereafter, they orally moved to quash the complaint for lack of jurisdiction over the offense allegedly due to the correctional nature of the penalty of imprisonment prescribed for the offense. The motion to quash was subsequently reduced to writing on June 13, 1975.[3] On August 21, 1975, the municipal court denied the motion to quash for lack of merit.[4] On September 2, 1975, private respondents filed a motion for the reconsideration of the aforesaid denial order on the same ground of lack of jurisdiction, but with the further allegation that the facts charged do not constitute an offense considering that Section 32 of Republic Act No. 4670 is null and void for being unconstitutional. In an undated order received by the counsel for private respondents on October 20, 1975, the motion for reconsideration was denied.[5]

On October 26, 1975, private respondents filed a petition[6] for certiorari and prohibition with preliminary injunction before the former Court of First Instance of Leyte, Branch VIII, where it was docketed as Civil Case No. B-622, to restrain the Municipal Judge, Provincial Fiscal and Chief of Police of Hindang, Leyte from proceeding with the trial of said Criminal Case No. 555 upon the ground that the former Municipal Court of Hindang had no jurisdiction over the offense charged. Subsequently, an amended petition[7] alleged the additional ground that the facts charged do not constitute an offense since the penal provision, which is Section 32 of said

law, is unconstitutional for the following reasons: (1) It imposes a cruel and unusual punishment, the term of imprisonment being unfixed and may run to reclusion perpetua; and (2) It also constitutes an undue delegation of legislative power, the duration of the penalty of imprisonment being solely left to the discretion of the court as if the latter were the legislative department of the Government.

On March 30, 1976, having been advised that the petition of herein private respondents was related to Criminal Case No. 1978 for violation of Presidential Decree No. 442 previously transferred from Branch VIII to Branch IV of the erstwhile Court of First Instance of Leyte, Judge Fortunato B. Cuna of the former branch transferred the said petition to the latter branch for further proceedings and where it was subsequently docketed therein as Civil Case No. 5428.[8] On March 15, 1976, the petitioner herein filed an opposition to the admission of the said amended petition[9] but respondent judge denied the same in his resolution of April 20, 1976.[10] On August 2, 1976, herein petitioner filed a supplementary memorandum in answer to the amended petition.[11]

On September 8, 1976, respondent judge rendered the aforecited challenged decision holding in substance that Republic Act No. 4670 is valid and constitutional but cases for its violation fall outside of the jurisdiction of municipal and city courts, and remanding the case to the former Municipal Court of Hindang, Leyte only for preliminary investigation.

As earlier stated, on September 25, 1976, petitioner filed a motion for reconsideration.[12] Likewise, private respondents filed a motion for reconsideration of the lower court's decision but the same was limited only to the portion thereof which sustains the validity of Section 32 of Republic Act No. 4670.[13] Respondent judge denied both motions for reconsideration in a resolution dated October 19, 1976.[14]

The instant petition to review the decision of respondent judge poses the following questions of law: (1) Whether the municipal and city courts have jurisdiction over violations of Republic Act No. 4670; and (2) Whether Section 32 of said Republic Act No. 4670 is constitutional.

We shall resolve said queries in inverse order, since prior determination of the constitutionality of the assailed provision of the law involved is necessary for the adjudication of the jurisdictional issue raised in this petition.

1. The disputed section of Republic Act No. 4670 provides:

"Sec. 32. Penal Provision. - A person who shall wilfully interfere with, restrain or coerce any teacher in the exercise of his rights guaranteed by this Act or who shall in any other manner commit any act to defeat any of the provisions of this Act shall, upon conviction, be punished by a fine of not less than one hundred pesos nor more than one thousand pesos, or by imprisonment, in the discretion of the court." (Underscoring supplied).

Two alternative and distinct penalties are consequently imposed, to wit: (a) a fine ranging from P100.00 to P1,000.00; or (b) imprisonment. It is apparent that the law has no prescribed period or term for the impossible penalty of imprisonment. While a minimum and maximum amount for the penalty of fine is specified, there is no equivalent provision for the penalty of imprisonment, although both appear to be qualified by the phrase "in the discretion of the court".

Private respondents contend that a judicial determination of what Congress intended to be the duration of the penalty of imprisonment would be violative of the constitutional prohibition against undue delegation of legislative power, and that the absence of a provision on the specific term of imprisonment constitutes that penalty into a cruel and unusual form of punishment. Hence, it is vigorously asserted, said Section 32 is unconstitutional.

The basic principle underlying the entire field of legal concepts pertaining to the validity of legislation is that in the enactment of legislation a constitutional measure is thereby created. In every case where a question is raised as to the constitutionality of an act, the court employs this doctrine in scrutinizing the terms of the law. In a great

volume of cases, the courts have enunciated the fundamental rule that there is a presumption in favor of the constitutionality of a legislative enactment.[15]

It is contended that Republic Act No. 4670 is unconstitutional on the ground that the imposable but indefinite penalty of imprisonment provided therein constitutes a cruel and unusual punishment, in defiance of the express mandate of the Constitution. This contention is inaccurate and should be rejected.

We note with approval the holding of respondent judge that -

"The rule is established beyond question that a punishment authorized by statute is not cruel or unusual or disproportionate to the nature of the offense unless it is a barbarous one unknown to the law or so wholly disproportionate to the nature of the offense as to shock the moral sense of the community. Based on this principle, our Supreme Court has consistently overruled contentions of the defense that the punishment of fine or imprisonment authorized by the statute involved is cruel and unusual. (Legarda vs. Valdez, 1 Phil. 146; U.S. vs. Pico, 18 Phil. 386; People vs. Garay, 2 ACR 149; People vs. Estoista, 93 Phil 647; People vs. Tiu Ua, 96 Phil 738; People vs. Dionisio, 22 SCRA 1299). The language of our Supreme Court in the first of the cases it decided after the last world war is appropriate here:

'The Constitution directs that 'Excessive fines shall not be imposed, nor cruel and unusual punishment inflicted.' The prohibition of cruel and unusual punishments is generally aimed at the form or character of the punishment rather than its severity in respect of duration or amount, and apply to punishments which never existed in America, or which public sentiment has regarded as cruel or obsolete (15 Am. Jur., p. 172), for instance there (sic) inflicted at the whipping post, or in the pillory, burning at the stake, breaking on the wheel, disemboweling, and the like (15 Am. Jur. Supra, Note 35 L.R.A. p. 561). Fine and imprisonment would not thus be within the prohibition.' (People vs. de la Cruz, 92 Phil 906)."[16]

The question that should be asked, further, is whether the constitutional prohibition looks only to the form or nature of the penalty and not to the proportion between the penalty and the crime.

The answer thereto may be gathered from the pronouncement in People vs. Estoista,[17] where an "excessive" penalty was upheld as constitutional and was imposed but with a recommendation for executive clemency, thus:

"x x x If imprisonment from 5 to 10 years is out of proportion to the present case in view of certain circumstances, the law is not to be declared unconstitutional for this reason. The constitutionality of an act of the legislature is not to be judged in the light of exceptional cases. Small transgressors for which the heavy net was not spread are, like small fishes, bound to be caught, and it is to meet such a situation as this that courts are advised to make a recommendation to the Chief Executive for clemency or reduction of the penalty. x x x".

That the penalty is grossly disproportionate to the crime is an insufficient basis to declare the law unconstitutional on the ground that it is cruel and unusual. The fact that the punishment authorized by the statute is severe does not make it cruel or unusual.[18] In addition, what degree of disproportion the Court will consider as obnoxious to the Constitution has still to await appropriate determination in due time since, to the credit of our legislative bodies, no decision has as yet struck down a penalty for being "cruel and unusual" or "excessive".

We turn now to the argument of private respondents that the entire penal provision in question should be invalidated as an "undue delegation of legislative power, the duration of penalty of imprisonment being solely left to the discretion of the court as if the latter were the legislative department of the government".

Petitioner counters that the discretion granted therein by the legislature to the courts to determine the period of imprisonment is a matter of statutory construction and not an undue delegation of legislative power. It is contended that the prohibition against undue delegation of legislative power is concerned only with the delegation of power to make laws and not to interpret the same. It is also submitted that Republic Act No. 4670 vests in the

courts the discretion, not to fix the period of imprisonment, but to choose which of the alternative penalties shall be imposed.

Respondent judge sustained these theses of petitioner on his theory that "the principle of separation of powers is not violated by vesting in courts discretion as to the length of sentence or amount of fine between designated limits in sentencing persons convicted of crime. In such instance, the exercise of judicial discretion by the courts is not an attempt to use legislative power or to prescribe and create a law but is an instance of the administration of justice and the application of existing laws to the facts of particular cases." [19] What respondent judge obviously overlooked is his own reference to penalties "between designated limits".

In his commentary on the Constitution of the United States, Corwin wrote:

"x x x At least three distinct ideas have contributed to the development of the principle that legislative power cannot be delegated. One is the doctrine of separation of powers: Why go to the trouble of separating the three powers of government if they can straightway remerge on their own motion? The second is the concept of due process of laws which precludes the transfer of regulatory functions to private persons. Lastly, there is the maxim of agency 'Delegata potestas non potest delegari'." [20]

An apparent exception to the general rule forbidding the delegation of legislative authority to the courts exists in cases where discretion is conferred upon said courts. It is clear, however, that when the courts are said to exercise a discretion, it must be a mere legal discretion which is exercised in discerning the course prescribed by law and which, when discerned, it is the duty of the court to follow. [21]

So it was held by the Supreme Court of the United States that the principle of separation of powers is not violated by vesting in courts discretion as to the length of sentence or the amount of fine between designated limits in sentencing persons convicted of a crime. [22]

In the case under consideration, the respondent judge erroneously assumed that since the penalty of imprisonment has been provided for by the legislature, the court is endowed with the discretion to ascertain the term or period of imprisonment. We cannot agree with this postulate. It is not for the courts to fix the term of imprisonment where no points of reference have been provided by the legislature. What valid delegation presupposes and sanctions is an exercise of discretion to fix the length of service of a term of imprisonment which must be encompassed within specific or designated limits provided by law, the absence of which designated limits will constitute such exercise as an undue delegation, if not an outright intrusion into or assumption, of legislative power.

Section 32 of Republic Act No. 4670 provides for an indeterminable period of imprisonment, with neither a minimum nor a maximum duration having been set by the legislative authority. The courts are thus given a wide latitude of discretion to fix the term of imprisonment, without even the benefit of any sufficient standard, such that the duration thereof may range, in the words of respondent judge, from one minute to the life span of the accused. Irremissibly, this cannot be allowed. It vests in the courts a power and a duty essentially legislative in nature and which, as applied to this case, does violence to the rules on separation of powers as well as the non-delegability of legislative powers. This time, the presumption of constitutionality has to yield.

On the foregoing considerations, and by virtue of the separability clause in Section 34 of Republic Act No. 4670, the penalty of imprisonment provided in Section 32 thereof should be, as it is hereby, declared unconstitutional.

It follows, therefore, that a ruling on the proper interpretation of the actual term of imprisonment, as may have been intended by Congress, would be pointless and academic. It is, however, worth mentioning that the suggested application of the so-called rule or principle of parallelism, whereby a fine of P1,000.00 would be equated with

one year of imprisonment, does not merit judicial acceptance. A fine, whether imposed as a single or as an alternative penalty, should not and cannot be reduced or converted into a prison term; it is to be considered as a separate and independent penalty consonant with Article 26 of the Revised Penal Code.[23] It is likewise declared a discrete principal penalty in the graduated scales of penalties in Article 71 of said Code. There is no rule for transmutation of the amount of a fine into a term of imprisonment. Neither does the Code contain any provision that a fine when imposed in conjunction with imprisonment is subordinate to the latter penalty. In sum, a fine is as much a principal penalty as imprisonment. Neither is subordinate to the other.[24]

2. It has been the consistent rule that the criminal jurisdiction of the court is determined by the statute in force at the time of the commencement of the action.[25]

With the deletion by invalidation of the provision on imprisonment in Section 32 of Republic Act No. 4670, as earlier discussed, the impossible penalty for violations of said law should be limited to a fine of not less than P100.00 and not more than P1,000.00, the same to serve as the basis in determining which court may properly exercise jurisdiction thereover. When the complaint against private respondents was filed in 1975, the pertinent law then in force was Republic Act No. 296, as amended by Republic Act No. 3828, under which crimes punishable by a fine of not more than P3,000.00 fall under the original jurisdiction of the former municipal courts. Consequently, Criminal Case No. 555 against herein private respondents falls within the original jurisdiction of the Municipal Trial Court of Hindang, Leyte.

WHEREFORE, the decision and resolution of respondent judge are hereby REVERSED and SET ASIDE. Criminal Case No. 555 filed against private respondents herein is hereby ordered to be remanded to the Municipal Trial Court of Hindang, Leyte for trial on the merits.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, 80-105.

[2] Ibid., 117-138.

[3] Ibid., 25-30.

[4] Ibid., 31.

[5] Ibid., 37-38.

[6] Ibid., 19-24.

[7] Ibid., 56-61.

[8] Ibid., 5.

[9] Ibid., 62-63.

[10] Ibid., 64-62.

[11] Ibid., 68-79.

[12] Ibid., 106-112.

[13] Ibid., 113-116.

[14] Ibid., 117-138.

[15] 16 Am. Jur. 2d, 631.

[16] Rollo, 98-99.

[17] 93 Phil. 647 (1953).

[18] 24 C.J.S. 1187-1188.

[19] Rollo, 98.

[20] Cited in Bernas, The Constitution of the Republic of the Philippines, Vol II, 1988 Ed., 73.

[21] 16 Am. Jur. 2d, 902.

[22] Ohio ex rel. Lloyd vs. Dollison, 194 U.S. 445, cited in 16 Am. Jur. 2d, 903.

[23] People vs. Basalo, 101 Phil. 57 (1957).

[24] People vs. Crisostomo, 5 SCRA 1048 (1962); People vs. Ignacio, 13 SCRA 153 (1965).

[25] People vs. Paderna, 22 SCRA 273 (1968); People vs. Mariano, et al., 71 SCRA 600 (1976); Lee, et al. vs. Hon. Presiding Judge, etc., et al., 145 SCRA 408 (1986).

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