

**JUAN VERA, EXPEDITO SERRANO AND ROMEO PLANTADO,
PETITIONERS, VS. THE PEOPLE OF THE PHILIPPINES, COURT OF
APPEALS AND COURT OF FIRST INSTANCE OF CAMARINES SUR,
RESPONDENTS.**

G.R. No. L-31218. February 18, 1970

Ponente: FERNANDO, J.

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FERNANDO, J.:

Petitioners Juan Vera, Expedito Serrano and Romeo Plantado, in this special proceeding for certiorari, would have this Court set aside, for being null and void, the decision of the respondent Court of Appeals of February 13, 1969 finding them guilty of the crime of homicide and thus affirming, with modification, the judgment of conviction rendered by the respondent Court of First Instance of Camarines Sur dated July 25, 1966. The People of the Philippines was likewise named respondent. The alleged nullity of the two above decisions is predicated on the fact that as of the time the decision of the respondent Court of First Instance of Camarines Sur was promulgated and read to petitioners on August 23, 1966, the judge who rendered and signed it, the Honorable Jose T. Surtida, had ceased to hold office as of July 31, 1966. Petitioners would thus rely on *Jimenez v. Republic*[1] as well as the earlier case of *People v. Court of Appeals*[2] as authority for the view that a decision promulgated by the judge who prepared it after he had left the bench could have no binding effect.

In our resolution of November 18, 1969, we required respondents to answer the above petition for certiorari filed four days earlier. In the meanwhile, Alfredo Oliveros, who was himself likewise an accused in the above criminal case and likewise convicted in the same decision of respondent Court of First Instance of Camarines Sur, as affirmed by the respondent Court of Appeals, filed on December 17, 1969 a motion for leave to intervene, joining the other petitioners in nullifying and setting aside such judgment of conviction. After several extensions, respondents filed a manifestation on January 20, 1970 to the effect that they shared the view of the petitioners that the promulgation of the judgment of conviction complained of was null and void, and prayed that they be relieved from filing an answer to this petition which, in their opinion, "is meritorious." Two days thereafter, they again manifested the same view insofar as the motion of intervenor Alfredo Oliveros was concerned. In the light of the above, this petition is now ripe for resolution.

It is to be admitted that petitioners' stand, considered purely from the legal question raised, is not without doctrinal support. As was held in *People v. Court of Appeals*: "We have then that, legally, the decisions of Judge Mañalac were promulgated on July 3, 1954. Wherefore, because he had left the Bench before that date, his decisions have no binding effect." [3] *Jimenez v. Republic*, the other case cited by petitioners, quoted extensively from *Ong Siu v. Paredes*, [4] including the following decisive portion of the opinion: "Here, in the present case, when the notice for the promulgation of the decision was sent out, the judge who signed the decision was no longer the judge of the court, and no copy of the judgment of acquittal was delivered to the appellants. With more reasons, therefore, is there no judgment validly entered in this case." [5]

If, therefore, the disposition of this case were made to depend solely on the above principle thus enunciated by us, petitioners' efforts would not be in vain. There is a decisive fact, however, that removes this case from its operation. After the decision by the respondent Court of First Instance dated July 25, 1966, at a time when the then Judge Surtida still could validly render judgment, although promulgated on August 23, 1966 after his retirement, an appeal was taken to respondent Court of Appeals. The brief for petitioners Juan Vera and Expedito Serrano assigned five errors as having been committed by the respondent Court of First Instance of Camarines Sur. No jurisdictional question was included among such alleged errors committed. A separate brief was filed by intervenor Alfredo Oliveros, one of the accused likewise convicted by the respondent Court of First Instance of Camarines Sur, He imputed five errors as having been committed. Again, he did not raise the issue of jurisdiction. Petitioner Romeo Plantado likewise appealed and on his part sought the reversal of the lower court decision by alleging that three errors vitiated it. Again, there was no attack on its validity based on the ground that in the meanwhile, before promulgation, the judge who penned it had retired.

Then came the decision of respondent Court of Appeals on February 13, 1969. It is understandable why respondent Court of Appeals was not called upon to discuss any jurisdictional question. Thereafter, the present petitioners, including the intervenor Alfredo Oliveros, filed a petition for certiorari before us on July 2, 1969 to review the aforesaid decision of respondent Court of Appeals.[6] Three legal questions were raised in such petition. Thus: "1. May the Court of Appeals allow the filing by a private prosecutor of another appellee's brief which is contrary to the recommendation of the Solicitor General in an appealed criminal case? 2. May the trial court properly block the presentation by the accused of evidence for his valid defense? 3. May a judgment of conviction rest on proof not beyond reasonable doubt? "What is clearly noticeable is the absence of any allegation that the decision of the lower court suffered from a jurisdictional defect as Judge Surtida had retired prior to its promulgation. On July 9, 1969 the aforesaid petition for certiorari was denied according to the following resolution issued by us: "Considering the allegations of, and the issues raised in, the petition for review on certiorari of the decision of the Court of Appeals referred to therein, [the Court resolved] to deny the petition, there being no sufficient showing that the decision sought to be reviewed is not supported by substantial evidence." Two motions for reconsideration were thereafter filed, one on behalf of all the petitioners and the other on behalf of intervenor Alfredo Oliveros alone, but as before, there was no objection interposed as to the lower court decision suffering from jurisdictional infirmity. In our resolution of August 26, 1969, we denied both motions for reconsideration.

In the light of the above facts, the question that presents itself is whether petitioner and intervenor could still raise the question that Judge Surtida having retired previous to the promulgation of the sentence, it must be declared null. We hold that they cannot. This conclusion finds support in the doctrine announced in *Tijam v. Sibonghanoy*,[7] the opinion being penned by Justice Dizon. Thus: "The facts of this case show that from the time the Surety became a quasi-party on July 31, 1948, it could have raised the question of the lack of jurisdiction of the Court of First Instance of Cebu to take cognizance of the present action by reason of the sum of money involved which, according to the law then in force, was within the original exclusive jurisdiction of inferior courts. It failed to do so. Instead, at several stages of the proceedings in the court a quo as well as in the Court of Appeals, it invoked the jurisdiction of said courts to obtain affirmative relief and submitted its case for a final adjudication on the merits. It was only after an adverse decision was rendered by the Court of Appeals that it finally woke up to raise the question of jurisdiction. Were we to sanction such conduct on its part, We would in effect be declaring as useless all the proceedings had in the present case since it was commenced on July 19, 1948 and compel the judgment creditors to go up their Calvary once more. The inequity and unfairness of this is not only present but revolting." [8]

Subsequently, three other decisions were rendered by us in reliance on the above *Tijam* doctrine: *Carillo v. Allied*

Workers' Association of the Phil.:[9] Tolentino v. Hon. Escalona:[10] and Rodriguez v. Court of Appeals.[11] As a matter of fact, in an even earlier case, Francisco v. City of Davao, a 1964 decision,[12] this Court, speaking through the then Justice, now Chief Justice, Concepcion, already served notice on litigants that after a certain stage, if it would result in a failure of justice, a jurisdictional question, even on its face meritorious, would not necessarily be accorded the decisiveness that it might ordinarily possess. Thus: "The ends of justice would not be served, if we now dismiss the case - over nine (9) years after it had been initiated - and bade the plaintiffs to start all over again, following the procedure that the defendants had asked the lower court, but which the latter refused, to require. At any rate, since the legal question raised in the pleadings has reached this Court, and the assessment complained of is manifestly violative of the clear and express provision of the law, it is best that we decide said question, instead of further deferring its resolution." [13]

Nor is the conclusion reached by us open to the objection that the principle we deem controlling was announced in suits civil in character. Of itself, such a distinction does not suffice to call for a different result. What would constitute an insuperable obstacle to its application to a criminal prosecution and the judgment thereafter rendered is if thereby, to paraphrase the present Chief Justice, the ends of justice would not be served. For, if such were the case, a due process question would undoubtedly arise. There would be a disregard of this constitutional safeguard if the governmental action taken is found offensive to a principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental.[14] In criminal proceedings due process would require that the accused be informed as to why he is proceeded against and what charge he has to meet, with his conviction being made to rest on evidence that is not tainted with falsity after full opportunity for him to rebut it and the sentence being imposed in accordance with a valid law.

It is assumed, of course, that the court that renders the sentence is one of competent jurisdiction. It is an admitted fact in this case that respondent Court of First Instance of Camarines Sur, presided by the then Judge Jose T. Surtida, was vested with jurisdiction to try and decide the case against petitioners. As admitted in this very petition, the decision reached by him, thereafter affirmed with modification by respondent Court of Appeals, was "duly rendered and signed" on July 25, 1966 at a time before his retirement. Had it been promulgated then and there, this particular question raised in this petition would not have arisen. What gave it plausibility, as above noted, was that it was not until after his retirement on August 23, 1966 that such a sentence was read to petitioners. Considering all the circumstances detailed above and the Tijam doctrine on which reliance could be had, it cannot be said that injustice was thereby committed against petitioners.

The canons of fairness are not thereby set at naught. Petitioners cannot rightfully complain of having been the victims of arbitrary governmental action. They were given all the opportunity to defend themselves not only before the respondent Court of First Instance of Camarines Sur but likewise before respondent Court of Appeals. They tried to have this Court, in an earlier petition for certiorari, to review the judgment of respondent Court of Appeals, but they did not meet with success because of their inability to demonstrate that they failed to receive the protection that due process accords every accused. What was said by Justice Cardozo fits the occasion: "The law, as we have seen, is sedulous in maintaining for a defendant charged with crime whatever forms of procedure are of the essence of an opportunity to defend. Privileges so fundamental as to be inherent in every concept of a fair trial that could be acceptable to the thought of reasonable men will be kept inviolate and inviolable, however crushing may be the pressure of incriminating proof. But justice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true." [15]

WHEREFORE, the petition for certiorari filed by Juan Vera, Expedito Serrano and Romeo Plantado is dismissed, and the motion for leave to intervene and file an attached petition in intervention of Alfredo Oliveros is denied.

Without pronouncement as to costs.

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

Barredo, J., did not take part.

[1] L-24529, 22 SCRA 622 (1968).

[2] 99 Phil. 786 (1956).

[3] Ibid., p. 790. In the opinion of the then Justice, later Chief Justice Bengzon, the following cases were likewise cited: Luna v. Rodriguez, 37 Phil. 186 (1917); Garchitorena v. Crescini, 37 Phil. 675 (1918); and Rodriguez v. Commission, 84 Phil. 368 (1949).

[4] L-21638, 17 SCRA 661 (1966).

[5] Ibid., pp. 665-666.

[6] L-30591, July 9, 1969.

[7] L-21450, 23 SCRA 29 (1968).

[8] Ibid, pp. 36-37.

[9] L-23689, 24 SCRA 566 (1968).

[10] L-26556, 26 SCRA 613 (1969).

[11] L-29264, 29 SCRA 419 (1969).

[12] L-20654, 12 SCRA 628.

[13] Ibid, p. 634.

[14] Cf. Snyder v. Massachusetts, 291 US 97 (1934).

[15] Ibid, p. 122.

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