

THE PEOPLE OF PHILIPPINES, APPELLANT, VS. JUAN GIL, ET AL., APPELLEE.

G.R. No. L-20398. October 31, 1968

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by the State from an order of the Court of First Instance of Agusan dismissing Criminal Case No. 2156 but leaving Criminal Case No. 2153, of the same court, to proceed to trial and final judgment.

It appears that Juan Gil, Angel Cabiugin and Gerardo Limpiado were charged separately by the offended parties, Jose Malingit and Tranquilino O. Calo, Jr., for defamation under Article 358 of the Revised Penal Code in the Justice of the Peace Court of Nasipit, Agusan. After they had waived their right to preliminary investigation, the cases were elevated to the Court of First Instance, where separate informations were filed against them. Upon arraignment they pleaded not guilty and the cases were subsequently set for joint trial. The record does not disclose clearly whether or not the joint trial had actually began with the presentation of the prosecution witnesses, but it shows that the court, *motu proprio*, raised this question: That the acts complained of as slanderous were uttered on the same date, and at the same place, albeit against two different persons; that such being the case there should have been only one information against the parties charged.

After hearing both parties upon this issue the court issued the order appealed from dismissing one of the cases, - Criminal Case No. 2156 - but leaving the other - Criminal Case No. 2153 - outstanding, to proceed to trial and final judgment.

We agree with the prosecution that our decision in *People vs. Del Rosario* (G. R. No. L-2254, April 1950) for libel is controlling. As in said case there are in the case before Us as many offenses as there were persons defamed. However, as stated heretofore, the accused in both cases had already pleaded not guilty when the court, *motu proprio*, raised the question of multiplicity of prosecution for offenses arising from one and the same act, and for this reason dismissed Criminal Case No. 2156. As the dismissal - although erroneous - was not at the instance of the defendants themselves, it must be deemed sufficient to bar prosecution for the offense charged. To reverse the order of dismissal complained of and order the case to proceed would therefore constitute double jeopardy (*People vs. Borja* 43 Phil 613; *People vs. Vda. de Golez* G.R. L-14160, June 30, 1960; *People vs. Hernandez*, 49 O.G. 5342).

WHEREFORE, judgment is hereby rendered dismissing the appeal, without pronouncement as to costs.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Sanchez, Castro, Angeles, Fernando, and Capistrano, JJ., concur. Zaldivar, J., did not take part.

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