

THE UNITED STATES, PLAINTIFF AND APPELLANT, VS. SATURNINO DE IRO, DEFENDANT AND APPELLEE.*G.R. No. 10548. February 09, 1916*

Ponente: JOHNSON, J.

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The herein defendant was charged with the crime of injurias graves. The complaint was presented in the court of the justice of the peace of the municipality of Solana, Province of Cagayan. The complaint was signed by Ceferina Calimag. The complaint was presented and sworn to on the 25th of March, 1912. Upon said complaint the defendant was arrested and brought before the court for the purpose of a preliminary examination. At the time of the hearing, on the 10th of April, 1912, the defendant renounced his right to a preliminary examination. Later, the justice of the peace, after examining a number of witnesses, reached the conclusion, on the 28th of May, 1912, that there was probable reason for believing that the defendant was guilty of the crime charged, and remanded him to the Court of First Instance for trial.

The record of the court of the justice of the peace was received in the Court of First Instance on the 24th of June, 1912. On the 23d of July, 1914, more than two years thereafter, a new complaint was presented in the Court of First Instance signed by Susana Durian, charging the defendant with the crime of injurias graves. The complaint presented in the Court of First Instance charged the defendant with the same crime as that charged in the complaint in the court of the justice of the peace,

On the 4th of December, 1914, the defendant was duly arraigned and plead not guilty. On that date the attorney for the defendant presented the following motion:

"Comes now the defendant by his attorney and sets forth:

"1. That the offended party is Susana Durian.

"2. That the original complaint in this case was signed and presented in the justice of the peace court by Ceferina Calimag and not the offended party.

"3. That at the time the alleged crime was committed Susana Durian, the offended party, was more than twenty-one (21) years of age, as shown by the record at page seven (7) and her certificate of baptism presented herewith and marked exhibit A, and therefore the said Susana Durian was competent and the only person who could sign and present the complaint.

"Wherefore, for these reasons this case is improperly before this court, and the court has no jurisdiction over the person of the defendant nor over the subject matter. The court is asked to dismiss the case with costs de officio. (Act No. 1891; U. S. vs. De la Santa, 9 Phil. Rep., 22; U. S. vs. Narvas, 14 Phil. Rep., 410; U. S. vs. Castanares, 18 Phil. Rep., 210; U. S. vs. De Ungria, 19 Phil. Rep., 518; U. S. vs. Ortiz and Regalado, 19 Phil. Rep., 174; U. S. vs. Cruz and Reyes, 20 Phil. Rep., 363; U. S. vs. De la Cruz, 17 Phil. Rep., 139; Quilatan and Santiago vs. Caruncho, 21 Phil. Rep., 399.)

"S. A. HARVEY,

"Attorney for defendant.

"Tuguegarao, Cagayan, December 4, 1914."

Upon a consideration of the foregoing motion, the lower court held "that for the purpose of the prosecution of this case, the foundation of the action is a complaint filed in this court (Court of First Instance), which complaint appears, from the facts alleged in the complaint, to have been signed by the offended party," and denied said motion.

On the 4th of December, 1914, after hearing the evidence adduced during the trial of the cause, the Honorable John P. Weissenhagen, judge, found the defendant guilty of the crime charged in the complaint and sentenced him to suffer the penalty of destierro for a period of six months and one day, and to remain away from the town of Solana during that period and not to approach nearer to the central portion of said town than a radius of 25 kilometers, to pay a fine of P65 and to pay the costs.

On the same day (the 4th of December, 1914) the said sentence was published and announced to the defendant in open court. On the same day (the 4th of December, 1914) the defendant presented a written notice of his intention to appeal from said sentence to the Supreme Court of the Philippine Islands.

On the 5th of December, 1914, the defendant gave a bond for his liberty during the pendency of his appeal.

On the 14th of December, 1914, the attorney for the defendant presented a brief in the Court of First Instance, in which he attempted to show that the lower court was without jurisdiction to render a sentence in the present case, and asked the court to reconsider its order denying the motion of the 4th of December set out above.

On the 16th of December, 1914, the Honorable John P. Weissenhagen, judge, reconsidered said motion, and granted the same, dismissed the complaint and discharged the defendant from custody, with costs de officio.

From that decision the plaintiff, through the provincial fiscal, appealed to this court. In this court the Attorney-General asks that the order of the lower court dismissing the complaint and discharging the defendant from the custody of the law, be revoked.

After each of the parties had presented his brief in this court, the defendant-appellee, on the 3d of April, 1915, presented a motion asking that the appeal be dismissed, for the reason that the same "does not lie on behalf of the government."

With reference to the questions presented by the record—

(a)

Whether or not the judge had a right, on the 16th of December, 1914, to revoke his sentence rendered on the 4th day of the same month, and after an appeal therefrom had been perfected;

(b)

Whether the provincial fiscal had a right to appeal therefrom; and

(c)

Whether or not the motion made by the appellee to dismiss the appeal is well founded; it may be said:

That we have in numerous decisions announced the rule that, by virtue of the provisions of section 47 of General Orders No. 58, a decision or sentence, after the lapse of fifteen days, is final, and that the court a quo is without

jurisdiction to alter, amend, or modify the same, except to correct clerical errors. (U. S. vs. Flemister, 1 Phil. Rep., 317; U. S. vs. Perez, 1 Phil. Rep., 322; U. S. vs. Trincio, 4 Phil. Rep., 90; U. S. vs. Torrero, 8 Phil. Rep., 88; U. S. vs. Rota, 9 Phil. Rep., 426; U. S. vs. Court of First Instance of Manila [Crossfield], 24 Phil. Rep., 321; U. S. vs. Court of First Instance of La Union [Campbell], R. G. No. 9042.1)

These decisions simply hold that the sentence in a criminal case ipso facto becomes final by the lapse of fifteen days mentioned in said article 47; but the lapse of fifteen days is not the only way a sentence may become final, so far as the jurisdiction of the lower court is concerned. The lower court may lose jurisdiction over the sentence even before the lapse of fifteen days. For example:

(a)

When the defendant voluntarily submits to the execution of the sentence; or

(b)

When the defendant perfects his appeal. The moment the appeal is perfected, the court a quo loses jurisdiction over it, except for the purpose of correcting clerical errors.

In the present case the appeal had been perfected eleven days before the order was made revoking the sentence in which the appellee was found guilty. If the perfection of the appeal deprives the court a quo of its jurisdiction, it must follow that in the present case the court had lost jurisdiction to alter, amend, modify, or revoke its sentence. The order revoking the sentence was, therefore, null and void. Being as it is null and void for lack of jurisdiction, did the fiscal have a right to appeal therefrom? The validity of an order, void for lack of jurisdiction, may be tested in either one of two ways, depending upon the status of the action: First. By an appeal; and second, by a petition for the writ of certiorari.

The validity of the judgment may be tested by an appeal when that can be perfected in time, by a certiorari thereafter. In the present case the appeal was perfected in time. The present appeal in no way affects the guilt or innocence of the accused. Its purpose is simply to determine the validity of the order of the lower court of the 16th of December, 1914.

When the appellant (the accused) had perfected his appeal, the lower court thereby lost all jurisdiction over him. If the accused desired to withdraw his appeal, he should have presented his petition therefor in the Supreme Court. The Supreme Court was the only court which had jurisdiction over the cause after the appeal had been perfected. If the court, after the appeal from its decision is perfected, may modify or revoke its sentence, it may increase or diminish the penalty. We do not believe that such power is vested in the courts. (See cases supra.)

For the foregoing reasons, it is hereby ordered and decreed that the order of the lower court of the 16th of December, 1914, which revoked and annulled the sentence theretofore rendered by the lower court, is hereby declared to be null and void and of no effect, and the motion of the appellee in the present case is hereby denied; and it is further ordered and decreed that the clerk of the lower court be directed to send to the Supreme Court immediately, the record in the criminal case in which the appellee in the present case was sentenced and from which sentence he appealed, and without any finding as to costs, it is so ordered.

Arellano, C J., Torres, Carson, Trent, and Araullo, JJ., concur.
Moreland, J., dissents.

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