

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. VICTORIANO BUENO, ALIAS VICTOR, DEFENDANT AND APPELLANT.

*G. R. No. 10849. April 30, 1958*

Ponente: CONCEPCION, J.

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### CONCEPCION, J.:

On March 1, 1954, Pedro Tanap filed, with the Justice of the Peace Court of Umingan, Pangasinan, a complaint charging Victoriano Bueno, alias Victor, with the crime of Arson through Reckless Imprudence. The complaint alleged:

"That on or about 10:00 a.m. to 12:00 noon February 25, 1954, at barrio Malasin, Umingan, Pangasinan, and within the jurisdiction of this Honorable Court, the said accused, being then owner of a parcel of agricultural land still covered with rice hays adjoining the land of the herein complainant, (who) has a hut of strong materials with assorted personal properties kept in it consisting of all his farming implements and fruit trees surrounding the but, unlawfully and voluntarily set fire to the rice hays on his said land (of the accused), in a careless and imprudent manner without taking the necessary precautions to prevent its spread to the neighboring properties although the danger of the spreading of the fire to the adjoining lands and properties and the danger of burning the properties on same is immediate and clearly manifest causing said fire to spread and burn or swept the hut, all the farming implements and properties kept in it and surrounding trees belonging to the herein complainant, causing the entire loss of said hut and properties in it in the value of five hundred pesos (P500) Philippine Currency.

"Contrary to law."

After due trial, a decision convicting the accused as charged, and sentencing him to pay a fine of P100, with subsidiary imprisonment of fifteen (15) days in the event of insolvency, to indemnify the complainant in the same amount, without subsidiary imprisonment, and to pay the costs, was attached to the record of the case. On motion of the defense counsel, the promulgation of said decision was, however, suspended and the accused filed a motion to quash upon the ground that the maximum penalty imposable, pursuant to the third paragraph of Article 365 of the Revised Penal Code, is a P1,500 fine, which is beyond the jurisdiction of said court. In reply to this motion, the private prosecutor cited the case of *People vs. Valmonte* (CA-G. R. No. 5265-R, July 31, 1950), which held that the penalty imposable in a similar case is *arresto mayor* in its minimum and medium periods, pursuant to the first paragraph of said Article 365, in relation to Article 321, subdivision (5), of said Code. Thereafter, relying upon this precedent, the Justice of the Peace modified his afore-mentioned decision, by eliminating the fine originally imposed therein, and sentencing the accused to one (1) month and one (1) day of *arresto mayor* to indemnify the complainant in the sum of P100, with subsidiary imprisonment, in case of insolvency, not to exceed one-third (1/3) of the principal penalty, and to pay the costs. The accused appealed to the Court of First Instance of Pangasinan, where an information for Arson through Reckless Imprudence was filed alleging:

"That on or about the 25th day of February, 1954, in the municipality of Umingan, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, without exercising

the necessary safeguards and precaution to protect the properties of others, did, then and there, wilfully, unlawfully, and feloniously set fire and burn the straw of his rice field and imprudently, carelessly, and negligently left the fire he started on Ms field, notwithstanding: the presence of strong winds, which crept, invaded and burned nearby fields, resulting in the burning and destruction of the properties belonging to one Pedro Tanap, to his damage and prejudice in the amount of P600."

A motion to quash, analogous to the one adverted to above, was denied. In due course, the Court of First Instance subsequently rendered a judgment of conviction, sentencing the defendant to pay a fine of P170, to indemnify the complainant in the same amount, with the corresponding subsidiary imprisonment in case of insolvency, and to pay the costs. The defendant appealed to the Court of Appeals which, later on, certified the record to this Court, upon the ground that the only issue raised in the briefs is one involving the jurisdiction of the Justice of the Peace Court.

Said issue hinges on the penalty for the crime of Arson through Reckless Imprudence which has resulted only in damage to the property of another, as in the case at bar.

Relying upon the decision of the Court of Appeals in the aforementioned case of *People vs. Valmonte*, supra, the Justice of the Peace Court of Umingan held, and the Solicitor General maintains, that the provision, applicable is the first paragraph of Article 365, which reads:

"Any person who, by reckless imprudence, shall commit any act which, had it been intentional, would constitute grave felony, shall suffer the penalty of arresto mayor in its maximum period to prision correccional in its minimum period; if it would have constituted a less grave felony, the penalty of arresto mayor in its minimum and medium periods shall be imposed."

in relation to paragraph 5 of Article 321, which provides:

"When the arson consists in the burning of other property and under the circumstances given hereunder, the offender shall be punished:

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"By prision correccional in its medium period to prision mayor in its minimum period, when the damage caused is over 200 pesos but does not exceed 1,000 pesos, and any of the property referred to in paragraphs (a) and (b) of the next preceding subdivision is set on fire; but when the value of such property does not exceed 200 pesos, the penalty next lower in degree than that prescribed in this subdivision shall be imposed when the property burned is a building used as a dwelling in an uninhabited place, and the penalty of arresto menor and a fine ranging from fifty to one hundred per centum of the damage caused shall be imposed, when the property burned consists of grain fields, pasture lands, forests or plantations.."

and that, pursuant to these provisions, the penalty imposable in the case at bar, as held in the *Valmonte* case, is arresto mayor in its minimum and medium periods, which is within the jurisdiction of the Justice of the Peace Court. The third paragraph of Article 365, however, reads:

"When the execution of the act covered by this article shall have only resulted in damage to the property of another, the offender shall be punished by a fine ranging from an amount equal to the value of said damages to three times such value, but which shall in no case be less than 25 pesos."

It is obvious, that the case at bar falls squarely under this provision. Neither the prosecution nor the *Valmonte* case, has given, or even attempted to give, a single reason to the contrary. In fact, in its resolution certifying the record to this Court, the very Court of Appeals declared, that the *Valmonte* case "is seemingly not applicable here, as the issue of jurisdiction was not touched therein." Moreover, the applicability of the third paragraph of said Article 365 was not considered in said case. In any event, the first paragraph of Article 365, pursuant to which

"any person who, by reckless imprudence shall commit any act which, had it been intentional, \* \* \* would have constituted a less grave felony," shall suffer the penalty of "arresto mayor in its minimum and medium periods," merely establishes a general rule. The same is subject to the exception found in the third paragraph of the same article, namely, when the execution of said act "shall have only resulted in damage to the property of another, the offender shall be punished by a fine ranging from an amount equal to the value of said damage to three times such value, but which shall in no case be less than 25 pesos." The present case is precisely the one contemplated in said exception.

Inasmuch as the reckless and imprudent act of herein accused-appellant has "only resulted in damage to property," worth, according to the complaint and the information, P500, the maximum penalty imposable is, therefore, a fine of P1,500, which is beyond the jurisdiction of the Justice of the Peace Court. As a consequence, neither was the Court of First Instance, in the exercise of its appellate jurisdiction, competent to hear and decide this case on its merits, particularly, over defendant's objection.

Wherefore, the decision appealed from is hereby set aside and this case is dismissed, without prejudice to the institution of another criminal action in the proper court of first instance. Without special pronouncement as to costs. It is so ordered.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

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