

**NORBERTO LUMPAY, VALENTIN SUPERABLE, ANTONIO PACLE,
BENJAMIN PACLE, VICENTE CALABU, SEVERO CAIGOY AND
ALFONSO HEMBRA, PETITIONERS, VS. HON. SEGUNDO MOSCOSO,
JUDGE OF THE COURT O...**

G.R. No. 14723. May 29, 1959

Ponente: LABRADOR, J.

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LABRADOR, J.:

Petitioners in the above-entitled case were the defendants in a criminal complaint filed by a sergeant of the Constabulary in case No. 218 of the Justice, of the Peace Court of Tunga, Leyte (Annex "D"). The complaint charges the defendants in that case, petitioners herein, with the crime of robbery in band with double homicide, frustrated homicide and less serious physical injuries, committed in said municipality of Tunga, Leyte. The complaint is dated April 25, 1958. On June 18, 1958, the provincial fiscal of Leyte petitioned the Secretary of Justice for authority to file said case in the branch of the Court of First Instance at Tacloban, instead of before the branch of the Court at Carigara, 6th Branch, praying for the non-application of the provisions of Justice Administrative Order No. 175, dated December 13, 1954, which assign the town of Tunga to the district presided over by the judge stationed at Carigara, Leyte. The reason alleged for transferring the trial of the case is that the accused have many relatives and followers in the towns of Jaro and Tunga, and may harass the prosecution witnesses while going back and forth to Carigara (Annex "H"). On July 3, the Secretary of Justice approved the petition of the fiscal, so the information was filed before the Tacloban Branch of the court. It so happened, however, that on July 2, counsel for the accused moved the Court of First Instance to have the case transferred to Carigara for trial on the merits. In the meanwhile, said counsel had secured a telegraphic order from the Secretary of Justice, which reads as follows:

"PETITION ATTORNEYS VILLAMOR GRANADOS SUPERABLE TRANSFER CRIMINAL CASES SEVEN FOUR EIGHT SEVEN AND SEVEN FIVE ZERO EIGHT TO CARIGARA WHERE THEY BELONG GRANTED STOP PREVIOUS AUTHORITY TO TACLOBAN COURT REVOKED PLEASE INSTRUCT CLERK COURT SEND RECORDS CARIGARA IMMEDIATELY" (ANNEX "K").

In accordance with this order, Executive Judge Segundo C. Moscoso ordered the case to be forwarded to the Court of First Instance of Carigara for trial. Thereupon, the fiscal and the private prosecutors moved to reconsider the order for the transfer of the case to Carigara, alleging the same reason that had been given by the fiscal in asking for permission to file the case in Tacloban. Opposition to this motion was registered by counsel for the defense. The court thereupon set the motion and the opposition thereto for hearing, and on September 27, 1958, it reconsidered its order transferring the case to the 6th Branch at Carigara for trial. The judge ruled that Administrative Order No. 175 of the Department of Justice, dated December 13, 1954, while not illegal, was intended merely to distribute equally the burden of work among the different branches of the Court of First Instance of Leyte and to facilitate the speedy administration of justice; that said administrative order cannot confer exclusive jurisdiction, because the matter of jurisdiction is beyond the said department's prerogative and is fixed

by law. The court further held that the different branches of the Court of First Instance of Leyte had equal or concurrent jurisdiction over all cases filed therein, and the judge assigned to a branch before whom a case has been presented may refuse to follow the above-mentioned administrative order or may transfer a case on appropriate motion or *motu proprio* to a proper branch. It moreover reasoned that no administrative regulation can vest jurisdiction upon the courts, for jurisdiction is conferred by law and that once the court has taken jurisdiction of a case, it may not be removed therefrom by mere departmental order.

Against this order, the defendants in the case, petitioners herein, have prosecuted this action for certiorari, prohibition and mandamus, alleging that as the municipality of provided, however, that whenever the interest of the administration of justice so requires, any judge of the six (6) branches of the Court of First Instance of the province of Leyte, Tacloban and Ormoc cities may try any case coming from any municipality, with the previous approval of this Department.

The above arrangement is without prejudice to the assignment from time to time or any of the Judges presiding the Third, Fourth, Fifth and Sixth Branches to hold court in Tacloban City as the occasion demands."

The above order has evidently been promulgated in pursuance of Section 57 of Republic Act No. 296, superseding Tunga, where the crimes with which they are charged, is nearer to Carigara than Tacloban, the court acted with grave abuse of discretion and in excess of jurisdiction in refusing to transfer the case to Carigara, in accordance with the departmental order and the specific mandate of the Secretary of Justice. Administrative Order No. 175 of the Department of Justice reads as follows:

"In view of the creation, under Republic Act 296, as amended, of additional branches of the Court of First Instance of the province of Leyte, Tacloban and Ormoc cities, Thirteenth Judicial District, and considering the transportation facilities, means of communicating, the distance between the municipalities and the seats of the six (6) branches of the said courts, and the probable number of cases to be filed in the respective branches, the cases coming from the different municipalities of the province, are hereby distributed among the six (6) branches of the court, as follows:

The Judges of the First and Second Branches, with station in Tacloban City, shall take cognizance of the cases coming from the following municipalities:

1. Tacloban City

The Judge of the sixth Branch, with station in Carigara, Leyte, shall take cognizance of the cases coming from the following municipalities:

1. Carigara

provided, however, that whenever the interest of the administration of Justice so requires, any judge of the six (6) branches of the Court of First Instance of the province of Leyte, Tacloban and Ormoc cities may try any cases coming from the municipality, with the previous approval of this Department.

The above arrangement is without prejudice to the assignment

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from time to time or any of the Judges presiding the Third, Fourth, Fifth and Sixth Branches to hold court in Tacloban City as the occasion demands."

The above order has evidently been promulgated in pursuance of Section 57 of Republic Act No 296, superseding Section 164 of the Revised Administrative Code, which reads as follows:

"Where court is appointed to be held at more than one place in a district, the District Judge may, with the

approval of the Department Head, define the territory over which the court held at a particular place shall exercise its authority, and cases arising in the territory thus defined shall be triable at such court accordingly. The power herein granted shall be exercised with a view to making the courts readily accessible to the people of the different parts of the district and with a view to making the attendance of litigations and witnesses as inexpensive as possible."

Upon inquiry from the Department of Justice, we have been advised by the Secretary that:

"*** the apportioning of the different municipalities of Leyte among the six branches of the Court of First Instance was taken up during a conference held in Tacloban City among the district judges, the justices of the peace, the representatives of the local bar association, and myself, before the promulgation of our Administrative Order No. 175, dated December 13, 1954, and that the groupings embodied during the conference as the most feasible under the conditions obtaining in the province."

It is in accordance with the above quoted administrative order, approved pursuant to the provisions of Section 57 of the Judiciary Act, superseding Section 164 of the Revised Administrative Code, that the Secretary of Justice in his telegram, Annex "K", ordered that the case of the petitioners be transferred to the Sixth branch at Carigara, for trial.

We agree with the argument of the court below that jurisdiction is fixed by law and that once jurisdiction has attached by the filing of a complaint or information with a court of concurrent jurisdiction, the latter may not be divested thereof especially by an administrative order or circular. But the court below predicates the argument on the incorrect premise that the six branches of the court of first instance of Leyte are six different courts. There is only one court of first instance of Leyte; each of its six branches is not a court separate and distinct from the five other branches. Jurisdiction, furthermore, is vested in the court, not in the judges. So, when a complaint or information is filed before one branch or judge, jurisdiction does not attach to said branch or judge alone, to the exclusion of the others. Trial may be had or proceedings may continue by and before another branch or judge. It is for this reason that Section 57 of the Judiciary Act, expressly grants the Secretary of Justice, upon recommendation of the district judge, the administrative right or power to apportion the cases among the different branches, both for the convenience of the parties and for the coordination of the work by the six branches and the judges presiding each branch. The apportionment does not involve a grant or limitation of jurisdiction; this continues to be vested in the court of first instance of the province as a whole and trial may be had by any branch or judge of the court.

We find, therefore, that the judge below erred in considering each of the six branches of the court of first instance of Leyte as independent and different courts, distinct and separate from all the others. So did it err in holding that once a judge has started to try a case, this may no longer be transferred to and tried by another. Administrative Order No. 175 and the law under which it is adopted are based on the theory that authority to try cases is vested in the whole court, or in all or any of the branches or judges of the province or judicial district, and that the actual determination of who among the judges should try a given case is an administrative matter to be made pursuant to the arrangement to be adopted in accordance with Section 57 of the Judiciary Act. Cognizant of the difficulties that may arise in the apportionment of the cases among the different branches of the court sitting in different municipalities, the legislature has authorized the district judge and the Secretary of Justice to adopt an apportionment best suited to the interests of a speedy administration of justice. This apportionment must be respected by the Judges in the interest of order and coordination in the dispatch of cases. The administrative arrangement does not violate jurisdiction because as we have stated above jurisdiction to try cases is vested in the court or in all the branches thereof in the province or judicial district. Considering that the case of the petitioner should be tried by the Sixth branch sitting at Carigara in accordance with Administrative Order No. 175 of the Department of Justice, we hereby hold that the judge below erred in refusing to comply with said administrative

order and in not transferring the case to the said Sixth branch at Carigara especially upon the order of the Secretary of Justice.

The order sought to be reviewed is hereby set aside, said the case is hereby ordered transferred to the Sixth Branch of the Court of First Instance of Leyte, sitting at Carigara. Without costs.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Concepcion, and Endencia, JJ., concur.

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