

VERONICA DE LA CRUZ, ET AL., PETITIONERS AND APPELLANTS VS. MANUEL SGALES, ET AL., RESPONDENTS AND APPELLEES.*G.R. No. 14901. April 25, 1960*

Ponente: BAUTISTA ANGELO, J.

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Sometime in April, 1958, Manuel Sgaless lodged a complaint with the Provincial Fiscal of Bulacan against petitioners charging them with a violation of Article 313 of the Revised Penal Code. The complaint was given due course and was assigned to a special counsel for investigation.

On June 20, 1958, while the investigation was still in progress, Manuel Sgaless filed with the Justice of the Peace Court of Bulacan a complaint charging petitioners with the same acts as those covered by the complaint he lodged with the office of the provincial fiscal the investigation of which has not yet been terminated.

On August 20, 1958, petitioners filed a motion to quash alleging that the justice of the peace court had no jurisdiction over the case inasmuch as it was initiated by a complaint and not by an information. The petition was denied. Petitioners filed a motion for reconsideration, which was also denied.

On November 14, 1958, petitioners filed a petition for certiorari with preliminary injunction before the Court of First Instance of Bulacan alleging lack of jurisdiction or grave abuse of discretion on the part of the justice of the peace court in that it assumed jurisdiction to act on the complaint filed by Manuel Sgaless despite the fact that the provincial fiscal with whom he first lodged the charge has not yet finished his investigation or has not yet acted thereon, but the court found both the petition as well as the prayer for preliminary injunction not well-taken and dismissed the same. Hence the present appeal.

There is no merit in the appeal. It appears that the charge which respondent Manuel Sgaless preferred against petitioners before the Provincial Fiscal of Bulacan is to the effect that they confederated in altering and removing the boundary mark or monument of his land which constitutes a violation of Article 813 of the Revised Penal Code penalized with arresto menor, or a fine not exceeding P100, or both. The act is alleged to have been committed on April 23, 1958.

Sometime in the latter part of the same month, Sgaless lodged the complaint with the fiscal with a view to the prosecution of the offenders. The complaint was given due course and was assigned to a special counsel for investigation. Apparently there was some delay in the investigation, and impatient for such inaction, Sgaless took the initiative in filing a complaint covering the same charge with the Justice of the Peace Court of Bulacan. He filed the complaint on June 20, 1958.

It should be noted, in this connection, that the act complained of which is a slight offense, prescribe in two months (Article 90, Revised Penal Code.) Since the alleged act was committed on April 23, 1958 and respondent lodged the complaint with the justice of the peace court on June 20, 1958, the implication is clear that the two-month period for the prosecution of the crime was fast running out which demanded quick action on his part. He cannot

therefore be blamed for taking the action he has taken which he did merely to protect his right.

There is nothing in the law which grants to a provincial fiscal exclusive right to investigate a charge that is submitted to him for action. Of course, it is his duty under the law to undertake the investigation during the period his situation may permit. But when he is guilty of inaction or acts in a manner that may jeopardize the right of a complainant or offended party, there is nothing that may prevent the latter from taking action to protect his right. To hold otherwise would place his fate at the mercy of the prosecuting official. Such is the situation of respondent Sagales. He took the action he deemed proper so that his grievance against his offenders may not remain without vindication by the lapse of time. For this solicitude, he cannot be blamed. We find no error in the action taken by the trial court.

Wherefore, the order appealed from is affirmed, with costs against petitioners.

Paras, C. J., Bengzon, Labrador, Concepcion, Endencia, Barrera, and Gutierrez David, JJ., concur.

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