

EULALIO PARINGIT, PETITIONER, VS. THE HON. HONORATO MASAKAYAN, ETC., ET AL., RESPONDENTS.*G.R. No. 16578. July 31, 1961*

Ponente: NATIVIDAD, J.

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This is a petition for a writ of certiorari to the Court of First Instance of Nueva Vizcaya to review an order entered in Criminal Case No. 930 of that court, *People vs. Silverio Certeza, et al.*, dismissing the action on the ground that the Justice of the Peace Court of Aritao, Nueva Vizcaya, from which it originated was without jurisdiction to take cognizance of the same.

It appears that on April 23, 1959, the petitioner herein, Eulalio Paringit, filed in the Justice of the Peace Court of Aritao, Nueva Vizcaya, a complaint charging Silverio Certeza and seven others with the crime of malicious mischief, which was made to consist in that on or about March 24, 1959, in the municipality of Aritao, Province of Nueva Vizcaya, the said accused, conspiring, confederating and mutually helping one another, wilfully, unlawfully and feloniously, with intent to cause damage to said offended party, filled up and covered with earth the irrigation canal belonging to the latter, thereby making it unusable for conveying water to his ricefield, and causing his agricultural crop to fail to his damage in the sum of P5,600.00 per year.

Before the case was set for hearing on the merits, counsel for the defendants challenged the jurisdiction of the Justice of the Peace Court of Aritao to take cognizance of the same. The latter, however, overruled counsel's motion, and the defendants having pleaded not guilty to the charge, proceeded to hear the case on the merits. After said hearing, said Justice of the Peace Court convicted five of the accused, namely Silverio Certeza, Gavina Dua, Eve Certeza, Fabian Laborida and Mariano Erigino, and acquitted the other three, and sentenced the former, each to pay a fine of P15.00, to indemnify, jointly and severally, the offended party in the sum of P15.00, the estimated value of the damage to the irrigation canal allegedly destroyed, with subsidiary imprisonment in case of insolvency, and each to pay the proportionate part of the costs. From this judgment, both the above named accused and the offended party appealed, the former in so far as it convicted them of the crime charged, and the latter, as regards its civil aspect.

Upon receipt of the case in the Court of First Instance of Nueva Vizcaya, the provincial fiscal of that province filed in that court an information, which reproduced almost verbatim the complaint filed in the Justice of the Peace Court of Aritao. When the case was called for hearing, counsel for the defendants, in a verbal motion which later on was confirmed in writing, asked for the quashing of the case, on the ground that the Court of First Instance of Nueva Vizcaya had no Jurisdiction to try the same on appeal as the Justice of the Peace Court of Aritao from which it came had no jurisdiction to try it originally. After hearing, the Court of First Instance of Nueva Vizcaya, then presided by the respondent Judge, dismissed the case with costs de oficio, in an order dated December 17, 1959, on the ground that the decision appealed from was void as the Justice of the Peace Court which rendered it had no jurisdiction over the offense charged. Neither the accused nor the prosecution has appealed from this order, or in any other way questioned it. The offended party, however, herein petitioner, has

brought the present proceeding, asking that said order be reviewed, vacated and set aside, on the ground that the respondent Judge, in issuing it, abused his discretion.

We do not see how the present proceeding can be entertained. The writ of certiorari only lies when an inferior court, board or officer exercising judicial functions has acted without or in excess of his or its jurisdiction, or with grave abuse of discretion, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law. Rule 67, Section 1, Rules of Court. And it has been held that although the error complained of is one of jurisdiction, the writ of certiorari does not lie, if an appeal may be taken or there is another adequate remedy, *Claudio vs. Zulueta*, 64 Phil., 801; *Haw Pia vs. San Jose*, 78 Phil., 238; *Dans vs. Court of Appeals*, 93 Phil., 564; 49 Off. Gaz., 2753; and that where the court has jurisdiction over the case, errors which may be committed in the exercise of said jurisdiction are errors of judgment which are only reviewable by appeal. *De los Santos vs. Mapa*, 46 Phil., 791; *Santos vs. Court of First Instance*, 49 Phil., 398; *Ello vs. Judge of First Instance of Antique*, 49 Phil., 152; *Gonzales vs. Salas*, 49 Phil., 1, *Ong Sit vs. Piccio*, 79 Phil., 785; *Castro vs. Peña*, 80 Phil., 488; *Gil vs. Gil III*, 80 Phil., 791.

In the case of *Haw Pia vs. San Jose*, supra, this Court held:

"Where an appeal is the proper remedy, a petition for certiorari cannot prosper."

And in the case of *Castro vs. Peña*, supra, it was held that:

"In a case which the Court of First Instance had jurisdiction to decide, whether its decision was erroneous or correct is entirely apart from its jurisdiction and authority to render it, and however erroneous such decision might be the error would not divest the court of its jurisdiction, and could only be corrected, if at all, by appeal."

That an appeal from the order of the respondent Judge of December 17, 1959, dismissing the case with costs de oficio herein complained of lies, and that such remedy could have been availed of by any one of the parties to the case, including the offended party, cannot be denied. That order dismissed the action as regards all the defendants with costs de oficio. It is, therefore, final for it completely disposes of the pending action, so that nothing more can be done in the trial court. *People vs. Makaraig*, 54 Phil., 904; *San Jose vs. Castillo*, 84 Phil., 839; 47 Off. Gaz., 1843; *People vs. Aragon*, 94 Phil., 357; 50 Off. Gaz., 4863. The order complained of might be erroneous. It is clear that the Justice of the Peace Court of Aritao had jurisdiction over the offense in question the fact that the claim for indemnity contained in the complaint is for an amount which said court cannot award under the law notwithstanding. The case at bar is governed by the Judiciary Act of 1948. Republic Act No. 296, prior to its amendment, as the acts charged took place and the complaint by which the case was initiated prior to the amendment of said Act by Republic Act No. 2613. Section 87 of the Judiciary Act of 1948, Republic Act No. 296, provides in part:

* * * * *

"SEC. 87. Original jurisdiction to try criminal cases.—Justices of the peace and judges of municipal courts of chartered cities shall have original jurisdiction over:

* * * * *

(c)

All criminal cases arising under the laws relative to:

(1)

Gambling and management or operation of lotteries;

(2)

Assaults where the intent to kill is not charged or evident upon the trial;

(3)

Larceny, embezzlement and estafa where the amount of money or properly stolen, embezzled, or otherwise involved, does not exceed the sum or value of two hundred pesos;

(4)

Sale of intoxicating liquors:

(5)

Falsely impersonating an officer;

(6)

Malicious mischief:

(7)

Trespass on Government or private property; and

(8)

Threatening to take human life."

It might be noted that the above-quoted legal provision gives justice of the peace and municipal courts original jurisdiction over specific crimes without any qualification. It makes no mention whatsoever of the civil liability of the accused, or any other incident of the crime. It may be safely assumed, therefore, that the legislature intended that the justice of the peace and municipal courts shall have original jurisdiction over the specific crimes therein prescribed and over all the incidents thereof, irrespective of the penalties provided by law therefor and of the nature of such incidents, although it must be understood that in cases where the penalty provided for the offense is more than 6 months imprisonment or a fine of over P200.00, the jurisdiction of the justice of the peace and municipal courts over the crime is concurrent with the Courts of First Instance, Section 44, Judiciary Act of 1948, and that where the claim for civil liability exceeds the jurisdiction of said inferior courts, the offended party must be deemed to have waived so much of his claim as would exceed such jurisdiction. For, if the intention were otherwise, the legislature would have so expressed in clear terms, as it did in cases of larceny, embezzlement and estafa. Section 87, paragraph (c)-(3), Republic Act No. 296, Judiciary Act of 1948. And it would be absurd to think that such jurisdiction, expressly conferred by law, can be defeated by an allegation in the complaint of a claim of indemnity in an amount exceeding that which the court could award. Such theory would be subversive of the orderly administration of justice. It would place in the hands of the offended party the power to dispossess a court of its jurisdiction clearly conferred by law. Moreover, the civil liability, although determined in the same criminal action, unless the offended party waives the same or reserves his right to have the civil damages determined in a separate civil action, is not part of the punishment for the crime. Such is the rule in this jurisdiction, *U. S. vs. Heery*, 25 Phil., 600. The error however committed by the respondent Judge in issuing the order complained of in the instant case is clearly an error of judgment, which, under the jurisprudence, is only correctible by appeal; it cannot be reviewed by certiorari.

Upon the facts, therefore, we find that the petitioner has failed to make a sufficient showing to entitle him to the remedy prayed for. Accordingly, the instant proceeding is hereby dismissed, with the costs taxed against the

petitioner.

Bengzon, C. J., Padilla, Labrador, Concepcion, Paredes, Dizon, and De Leon, JJ., concur.

Reyes, J. B. L., J., concurs in the result.

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