

JAIME HERNANDEZ, PETITIONER-APPELLANT, VS. DELFIN ALBANO, HERMOGENES CONCEPCION, JR., CITY FISCAL OF MANILA AND CARLOS C. GONZALES, SECOND ASSISTANT CITY FISCAL OF MANILA, RESPO...

G.R. No. 19272. January 25, 1967

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

This case has its roots in a complaint lodged with the Office of the City Fiscal of Manila, by respondent Delfin Albano, quondam Congressman for the lone district of Isabela, against petitioner Jaime Hernandez, then the Secretary of Finance and Presiding Officer of the Monetary Board of the Central Bank—for violation of Article 216 of the Revised Penal Code, Commonwealth Act 626[1] or Republic Act 265.[2] The complaint revolves around petitioner's alleged shareholdings in the University of the East, Bicol Electric Co., Rural Bank of Nueva Caceres, DMG, Inc., and University of Nueva Caceres; and the claim that said corporations obtained dollar allocations from the Central Bank, through the Monetary Board, during petitioner's incumbency as presiding officer thereof. The charges involved were docketed in the City Fiscal's Office, as—

I.S. No. 11379—re petitioner's holdings in the Rural Bank of Nueva Caceres;

I.S. No. 11380—re petitioner's holdings in the University of Nueva Caceres;

I.S. No. 11381—re petitioner's holdings in the Bicol Electric Co.;

I.S. No. 11382—re petitioner's holdings in the University of the East; and

I.S. No. 11383—re petitioner's holdings in the DMG, Inc.

At the joint investigation of the foregoing charges before respondent Carlos C. Gonzales, the investigating Fiscal, complainant moved to exclude therefrom the alleged violation of Article 216 of the Revised Penal Code because the applicability of this statute was in issue in *Solidum, et al., vs. Hernandez, L-16570*, at the time pending before this Court, but which had since been resolved by us— February 28, 1963—adversely to Hernandez. Fiscal Gonzales granted the motion.

Then, petitioner sought the dismissal of the remaining charges upon the averment that (a) violation of Article VII, Section 11, subsection (2) of the Constitution, punishable under Commonwealth Act 626, should be prosecuted at the domicile of the private enterprises affected thereby; and that (b) violation of Section 13 of Republic act 265 is not criminal in nature. Dismissal was denied; reconsideration thereof failed.

To restrain the respondent Fiscals from continuing the investigation, petitioner went to the Court of First Instance of Manila on certiorari and prohibition with a prayer for preliminary injunction.[3] The decision dated October 13, 1961, reached upon a stipulation of facts, dismissed the petition, with costs.

Petitioner appealed.

1. Stripped of inconsequential issues, the forefront question thrust upon us is whether the prosecuting arm of the City of Manila should be restrained from proceeding with the investigation of the charges levelled against petitioner.

By statute, the prosecuting officer of the City of Manila and his assistants are empowered to investigate crimes committed within the city's territorial jurisdiction. Not a mere privilege, it is the sworn duty of a Fiscal to conduct an investigation of a criminal charge filed with his office. The power to investigate postulates the other obligation on the part of the Fiscal to investigate promptly and file the case as speedily. Public interest—the protection of society—so demands. Agreeably to the foregoing, a rule—now of long standing and frequent application—was formulated that ordinarily criminal prosecution may not be blocked by court prohibition or injunction.[4] Really, if at every turn investigation of a crime will be halted by a court order, the administration of criminal justice will meet with an undue setback.[5] Indeed, the investigative power of the Fiscal may suffer such a tremendous shrinkage that it may end up in hollow sound rather than as a part and parcel of the machinery of criminal justice.

We are not to be understood, however, as saying that the heavy hand of a prosecutor may not be shackled—under all circumstances. The rule is not an invariable one. Extreme cases may, and actually do, exist where relief in equity may be availed of to stop a purported enforcement of a criminal law where it is necessary (a) for the orderly administration of justice; (b) to prevent the use of the strong arm of the law in an oppressive and vindictive manner; (c) to avoid multiplicity of actions;[6] (d) to afford adequate protection to constitutional rights;[7] and (e) in proper cases, because the statute relied upon is unconstitutional, or was "held invalid".[8]

With the foregoing guidelines, we come to grips with the legal problems of whether—

- Violation of Art. VII, Section 11, Subsection (2) of the Constitution, punishable under C.A. 626, should be prosecuted at the domicile of the private enterprise affected by the violation; and
- Violation of Section 13 of Republic Act 265 is criminal in nature.
- The constitutional proscription allegedly violated, Article VII, Section 11 (2), reads:

"(2) The heads of departments and chiefs of bureaus or offices and their assistants shall not, during their continuance in office, engage in the practice of any profession, or intervene, directly or indirectly, in the management or control of any private enterprise which in any way may be affected by the functions of their office; nor shall they, directly or indirectly, be financially interested in any contract with the Government, or any subdivision or instrumentality thereof."

Commonwealth Act 626 provides the penal sanction for a violation of this constitutional precept, i.e., a fine of not more than P5,000 or imprisonment of not more than 2 years, or both.

The legal mandate in Section 14, Rule 110 of the Rules of Court is that "[i]n all criminal prosecutions the action shall be instituted and tried in the court of the municipality or province wherein the offense was committed or any one of the essential ingredients thereof took place".[9] This principle is fundamental.[10] Thus, where an offense is wholly committed outside the territorial limits wherein the court operates, said court is powerless to try the case. For, "the rule is that one cannot be held to answer for any crime committed by him except in the jurisdiction where it was committed".[11]

Similarly, the City Fiscal of Manila and his assistants—as such—may not investigate a crime committed within the exclusive confines of, say, Camarines Norte. This proposition offers no area for debate. Because, said prosecuting officers would then be overreaching the territorial limits of their jurisdiction, and, in the process, step on the shoes

of those who, by statute, are empowered and obligated to perform that task. They cannot unlawfully encroach upon powers and prerogatives of the Fiscals of the province aforesaid.

Petitioner seeks to bar respondent Fiscals from investigating the constitutional violation charged. His claim is that—except for his holdings in Manila's University of the East—the Manila Fiscals are powerless to investigate him. His reason is that the essence of the crime is his possession of prohibited interests in corporations domiciled in Naga City (Rural Bank of Nueva Caceres, University of Nueva Caceres and Bicol Electric Co.,) and in Mandaluyong, Rizal (DMG, Inc.); and that the place where the crime is to be prosecuted is "the situs of such shares."

In effect, petitioner asks us to carve out an exception to the rule that said Fiscals may not be enjoined from conducting the inquiry aforesaid. We would not hesitate to state that, if it clearly appears that the crime or any essential ingredient thereof was committed outside the boundaries of the City of Manila, petitioner's argument should merit serious consideration. For, orderly administration of justice so demands; multiplicity of criminal actions is to be obviated; the long arm of the law cannot be used in an oppressive or vindictive manner.

But let us take a look at the admitted facts of this case. Petitioner himself concedes that he stands "charged with allegedly having shareholdings in the Bicol Electric Co., Rural Bank of Nueva Caceres, University of Nueva Caceres, DMG, Inc., and the University of the East, and that the said corporations purportedly obtained dollar allocations from the Central Bank thru the Monetary Board during the incumbency of respondent as presiding officer thereof." [12]

Petitioner relies on *Black Eagle Mining Co. vs. Conroy, et al.*, 221 Pac. 425, 426, thus—

"Shares of stock are a peculiar kind of personal property, and are unlike other classes of personal property in that the property right of shares of stock can only be exercised or enforced where the corporation is organized and has its place of business and can exist only as an incident to and connected with the corporation, and this class of property is inseparable from the domicile of the corporation itself."

By no stretch can the cited case be taken as germane to the controversial point here. It speaks of property right to shares of stock which can only be enforced in the corporation's domicile. In the case at bar, the charges are not directed against the corporations. Not mere ownership of or title to shares is involved. Possession of prohibited interests is but one of the essential components of the offense. As necessary an ingredient thereof is the fact that petitioner was head of a department—Secretary of Finance. So also, the fact that while head of department and chairman of the Monetary Board he allegedly was financially interested in the corporations aforesaid which secured the dollar allocations, and that he had to act officially, in his dual capacity, not in Camarines Sur, but in Manila where he held his office.

Since criminal action must be instituted and tried in the place where the crime or an essential ingredient thereof took place, it stands to reason to say that the Manila Fiscals, under the facts obtaining here, have jurisdiction to investigate the violation complained of.

3. The other argument pressed upon us—that a violation of Section 13 of Republic Act 265 is not criminal in nature—furnishes no better foundation.

Section 13 of Republic Act 265, allegedly violated by petitioner, recites:

"SEC. 13. Withdrawal of persons having a personal interest. - Whenever any person attending a meeting of the Monetary Board has a personal interest of any sort in the discussion or resolution of any given matter, or any of his business associates or any of his relatives within the fourth degree of consanguinity or second degree of affinity has such an interest, said person may not participate in the discussion or resolution of the matter and

must retire from the meeting during the deliberations thereon. The minutes of the meeting shall note the withdrawal of the member concerned."

The gravamen of petitioner's argument is that for a violation of Section 13 of the law aforesaid, Section 15 of the same statute provides "only for a civil sanction"—"not a criminal sanction". Said Section 15 reads:

"SEC. 15. Responsibility. - Any member of the Monetary Board or officer or employee of the Central Bank who wilfully violates this Act or who is guilty of gross negligence in the performance of his duties shall be held liable for any loss or injury suffered by the Bank as a result of such violation or negligence. * * *"

The nonsequitur is at once apparent. For, Section 34 of the same Republic Act 265, in terms clear and certain and free from the taint of ambiguity, provides the penal sanction,[13] thus—

"SEC. 34. Proceedings upon violation of laws and regulations. - Whenever any person or entity wilfully violates this Act or any order, instruction, rule or regulation legally issued by the Monetary Board, the person or persons responsible for such violation shall be punished by a fine of not more than twenty thousand pesos and by imprisonment of not more than five years. * * *"

But, petitioner draws attention to the fact that Sections 13 and 15 both fall under "Article II.—The Monetary Board", of Chapter I, - "Establishment and Organization of the Central Bank of the Philippines", whereas Section 34 comes under the heading "B. -Department of Supervision and Examination" of "Article IV.—Departments of the Central Bank". From this, petitioner puts forth the claim that the penal provisions in Section 34 are "to be restricted to the matters encompassed in that topic, that is, the supervision of banking institutions".[14] We are unable to join petitioner in this ipse dixit pronouncement. And, for a number of reasons. First, Because while Section 15 provides for the civil liability "for any loss or injury suffered by the (Central) Bank as a result of such violation", Section 34 prescribes the penalty for the wilful violation of "this Act", irrespective of whether the bank suffered any loss or not. Second. The entire statute is to be construed not in piecemeal style—but as a whole. Effort should be exerted "to make every part effective, harmonious, sensible".[15] And so construing, we find that the one refers to the civil liability at the same time that the other specifies a separate criminal liability. Indeed, it could well be said that the penal sanction in Section 34 is an "additional incentive toward obedience of the mandates of the law".[16] One does not preclude the other. Third. We observe that the penal provisions of Republic Act 265 were placed in three successive sections thereof, Sections 32, 33 and 34. Section 32 penalizes any owner, agent, manager or other officer in charge of any banking institution who wilfully refuses to file the required reports or to have the bank's affairs examined. Section 33 penalizes the making of a false statement to the Monetary Board. Section 34 provides for the penalty to be imposed upon any person who violates, among others, the provisions of said Act. This grouping of penalties obviously was intended to present a clearer picture of the liabilities which the Central Bank Act specifies, and thus avoid confusion.[17]

All else failing, petitioner summons to his aid the congressional record on the deliberations on House Bill 1704 (which later became Republic Act 265), to wit:

"Mr. Topacio Nueno. On page 6, Section 13 - prohibiting relatives from transacting business. I should like to insert a punishment, a penal clause. On line 11, add the following: 'Violation of this section is punishable by dismissal and a fine a from five thousand to ten thousand pesos.'

The Speaker. What does the Committee say?

Mr. Roy. We cannot accept the amendment.

The Speaker. When we come to the provision with regard to the penalties, the gentleman from Manila may propose that amendment, in order that they may be included in the same section.

Mr. Topacio Nueno. I reserve that amendment later on."

* * * * *

"Mr. Laurel. May we be informed which of the three offenses mentioned in Sections 32, 33 and 34 is regarded to be the most serious? I am asking this question because I notice that the penalties imposed are not the same. Which of the three offenses covered by the three sections I have mentioned is the most serious?"

Mr. Roy. Under Section 32, the offenses intended to be punishable are specified. It is in Section 34 where the law is very broad. It provides: 'Whenever any person or entity wilfully violates this Act or any order, instruction, rule or regulation legally issued by the Monetary Board, * * *'. I think the court will determine the gravity of the offense, Mr. Speaker, because there are many provisions of law; and the rules and regulations of the Monetary Board will vary in their importance and in the seriousness of the consequences of the violation. So we will leave to the court the determination of the gravity of the offense. That is why the range of penalties provided under Section 34 is not more than ten thousand pesos and by imprisonment of not more than five years. * * *"

Congressional Record, First Congress, Third Session, Vol. 3, pp. 1259, 1281.

Petitioner notes the failure of Congressman Topacio Nueno to reiterate his proposed amendment to Section 13 by providing therein a penal clause. Paying full respect to the congressional intent as it may be reflected in the debates, nonetheless it seems to us that nothing in the quoted transcript of the congressional record may be reasonably deemed as foreclosing criminal action. That the announced amendment was not submitted, is perfectly understandable. There was no need therefor. For, as Congressman Roy aptly puts it (in the aforesaid record), "Under Section 32, the offenses intended to be punishable are specified. It is under Section 34 where the law is very broad." Which simply means that any person—and this includes the Chairman of the Monetary Board—who "wilfully violates this Act", shall be punished.

The respondent Fiscals, indeed, justifiably relied on Section 34 in pursuing their investigation for a violation of Section 13. For, Section 15 is not intended to write off from the statute said Section 34. To do so is to sanction pointless rigidity in statutory construction.

In the light of the foregoing considerations, we vote to affirm the judgment under review. Costs against petitioner. So ordered.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Ruiz Castro, JJ., concur.

[1] Which provides for the penalty for violations of Article VII, Section 11, subsection (2) of the Constitution.

[2] The Central Bank Act.

[3] Case No. 47688, "Jaime Fernandez, petitioner, vs. Delfin Albano, Hermogenes Concepcion, Jr., City Fiscal of Manila, and Carlos C. Gonzales, Second Assistant City Fiscal of Manila, respondents."

[4] Section 38, Charter of the City of Manila; Costosa, et al., vs. Schulte, et al., 50 O.G. pp. 1171, 1180; University of the Philippines vs. City Fiscal of Quezon City, L-18562, July 31, 1961, citing Kwong Sing vs. City of Manila, 41 Phil. 103, 112; Gorospe, et al., vs. Peñaflorida, et al., 101 Phil. 886, 892.

[5] Solidum, et al., vs. Hernandez, L-16570, February 28, 1963.

[6] Dimayuga, et al., vs. Fernandez, 43 Phil. 304, 307.

[7] 28 Am Jur., p. 416, citing Spielman Motor Sales Co. vs. Dodge, 295 U.S. 89, 79 L. ed, 1322, 55 S. Ct. 678.

[8] Yu Cong Eng, et al., vs. Trinidad, 47 Phil. 385, 389.

[9] Reproduced from Section 14, Rule 106 of the Rules of Court; emphasis supplied.

[10] Beltran vs. Ramos, etc., 96 Phil. 149, 150. See also: People vs. Dipay, 98 Phil., 59; 51 O.G. No. 12, pp. 6224, 6225-6226.

[11] People vs. Mercado, 65 Phil. 665, 668; emphasis supplied.

[12] Petitioner's brief, pp. 20-21.

[13] "* * Strictly and properly speaking, penal statutes are those imposing punishment for an offense committed against the state, which the executive of the state has the power to pardon. In common use, however, this sense has been enlarged to include under the term 'penal statutes' all statutes which command or prohibit certain acts and establish penalties for their violation, and even those which, without expressly prohibiting certain acts, impose a penalty on their commission. * * *" (82 C.J.S. p. 922)

[14] Petitioner's brief, p. 28.

[15] Republic vs. Reyes, et al., L-22550, May 19, 1966.

[16] Crawford, Statutory Construction, 1940 ed., p. 475.

[17] See 2 Sutherland, p. 372; emphasis supplied.

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