

DEMOSTHENES MEDIANTE AND PABLO PASENIO, PETITIONERS, VS. HON. MONTANO ORTIZ, JUDGE OF THE COURT OF FIRST INSTANCE OF AGUSAN, RESPONDENT.

G.R. No. 19425. April 27, 1967

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This is a petition to prohibit respondent Judge of the Court of First Instance of Agusan from further proceeding against petitioners in special civil case No. 59 of said Court and to set aside the writ of preliminary injunction issued therein on January 22, 1959.

The present petition had its origin in a simple criminal complaint for the offense of "Illegal Possession of Firearm" filed against Mamerto Campo and Anastacio Baclayo. The complaint alleged that the offense was committed in the barrio of Cadena de Amor, municipality of Magsaysay, province of Misamis Oriental. The case, docketed as criminal case No. 354, was filed by Gaudioso Gacus, acting Chief of Police, and a warrant of arrest was forthwith issued by the Municipal Court of the same municipality, presided by Demosthenes Mediente. Mediente and Pasenio (Chief of Police) are the petitioners herein.

Subsequently Campo, one of the two accused, after moving for the postponement of the hearing and without first raising before the municipal court the question of its jurisdiction in the case, filed directly in respondent Court, together with 29 other persons, a petition for "Prohibition, Injunction and Damages with Preliminary Injunction." The petitioners' prayer reads thus:

"WHEREFORE, it is respectfully prayed:

"(a) That pending the final determination of this action an ex-parte writ of preliminary injunction be issued - (1) restraining and prohibiting the respondents Justice of the Peace and Chief of Police of Magsaysay, Misamis Oriental, as well as respondents Legutom and Fernandez from continuing with the proceeding in Criminal Case No. 354 (People v. Mamerto Campo et al) of the Justice of the peace Court of Magsaysay, Misamis Oriental; (2) restraining and prohibiting the respondents Chief of Police, Legutum, Fernandez, Cervantes their agents representatives subordinates, servants, or any other person acting in their behalf from prosecuting or proceeding (sic) petitioners or instituting criminal complaints with the Justice of the Peace Court of Magsaysay, Misamis Oriental for acts done by petitioners within the territory of Carmen, Agusan or within any part of the parcels of land described in paragraph 2 of this petition; (3) restraining and prohibiting the respondent Justice of the Peace from entertaining complaints and issue (sic) warrants of arrest against petitioners for acts done in Carmen, Agusan or any part of the parcels of land described in paragraph 2 of this petition; (4) restraining and prohibiting respondents, their attorneys, agents, representatives, servants, bodyguards, laborers, tenants, drivers, and any other person acting in their behalf from intimidating, coercing, threatening, molesting or bothering petitioners; (5) restraining and prohibiting respondents, their attorneys, agents, representatives, servants, bodyguards, laborers, tenants, drivers, and any other person acting in their behalf from entering the parcels of land described in paragraph 2 of this petition and from molesting the harvest of petitioners products in the said parcels of land; restraining and prohibiting respondents, their

attorneys, agents, representatives, servants, body-guards, laborers, tenants, drivers, and any other person acting in their behalf from getting or harvesting any products from the lands of petitioners, which are described in paragraph 2 of this petition x x x."

In the resolution of January 22, 1959 respondent Judge denied the motions to dismiss filed by herein petitioners and ruled that the Court of First Instance of Agusan had jurisdiction to issue the writ of preliminary injunction prayed for. The dispositive portion of the said resolution is hereunder quoted:

"WHEREFORE, the motions to dismiss are hereby denied. Let a writ of preliminary injunction issue, restraining and prohibiting the respondents, their servants, bodyguards, attorneys and other persons in their behalf to desist from threatening, coercing and harassing the petitioners or otherwise disturbing and molesting them in their peaceful possession of the parcels of land described in paragraph 2 of the petition, and restraining and prohibiting the respondents, their attorneys, agents, representatives, servants and other persons in their aid from harvesting and carrying away the corn and other products in the lands in question, upon the previous filing of the bond with sufficient sureties in the sum of P3,000.00 subject to the approval by this Court.

"SO ORDERED."

Petitioners filed the instant proceeding, with the following prayer: "(a) To prohibit the Respondent Judge from requiring the petitioners to enter into trial in said special civil case No. 59 of the Court; (b) To prohibit and restrain the respondent Judge from further proceeding in the said Special Civil Case No. 59 against the petitioners; and (c) For such other remedies as may be just and equitable in the premises."

With respect to the writ of preliminary injunction issued by respondent Judge, petitioners ask that it be set aside so that the prosecution of criminal case No. 354 may continue. We find no need to do this. The said writ does not enjoin the criminal prosecution. This is evident upon a simple examination of the dispositive portion of the lower court's resolution, which granted only the prayers numbered 4 and 5 in the petition and not the prayer to abate temporarily the criminal action.

With respect to the main petition before us, which seeks to prohibit respondent Judge from further proceeding against petitioners in special civil case No. 59, the same should be granted. The complaint for illegal possession of firearm filed against Mamerto Campo in the Municipal Court of Magsaysay, province of Misamis Oriental, recites that the offense was committed in the barrio of Cadena de Amor of the said municipality. This is the recital that defines the jurisdiction of the said court, of which petitioner Mediante is the Judge. Respondent Court, in taking cognizance of special civil case No. 59 insofar as Campo is concerned, stated that the land in controversy pertains to the province of Agusan. The reference is to certain civil disputes involving the harvest of palay from certain lands claimed by the petitioners below on the one hand, and by the respondents therein, named Antonio Cervantes and Jesus Cervantes, on the other. Indeed in the petition in special civil case No. 59 there is no allegation that the barrio of Cadena de Amor, the supposed situs of the crime of illegal possession of firearm allegedly committed by Mamerto Campo is not within the jurisdiction of the municipality of Magsaysay, province of Misamis Oriental. The allegation is rather that the warrant of arrest was served on him at his residence and that he then remonstrated that the municipal Judge of Magsaysay who issued the warrant had no jurisdiction in the place where he was "harvesting" palay and where he was "residing," since it was within the province of Agusan. Whichever court has jurisdiction in that place is of no importance. The vital point is the allegation of the situs of the offense in the information, and the question of jurisdiction in the light of such allegation must be passed upon and decided in the first instance by the Municipal Court itself in the criminal case before it.

Besides, the petition below, insofar as it seeks to prohibit the Municipal Court of Magsaysay from proceeding in the criminal case, should have been filed in the Court of First Instance of Misamis Oriental, which has appellate

and supervisory jurisdiction over all municipal courts in said province, and not in the Court of First Instance of Agusan. The actuation of respondent Judge, as against herein petitioners, is officious and unwarranted and constitutes an undue arrogation of such supervisory power which does not belong to it at all.

WHEREFORE, the writ prayed for is granted, and respondent Judge is prohibited and enjoined from further proceeding against herein petitioners in special case No. 59. No pronouncement as to costs.

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

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