

JOSE ARENAJO, PETITIONER, VS. HON. JULIAN E. LUSTRE, JUDGE OF THE COURT OF FIRST INSTANCE OF TARLAC, AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G. R. No. 21382. July 02, 1966

Ponente: BARRERA, J.

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BARRERA, J.:

Petition to review on certiorari the order of the Court of First Instance of Tarlac directing the refiling of the criminal case against defendant Jose Arenajo after his acquittal by the Justice of the Peace Court of Camiling.

Sometime in February, 1961, a criminal complaint for theft (Crim. Case No. 1317) was filed against defendant-petitioner Jose Arenajo in the Justice of the Peace Court of Camiling, Tarlac.

After trial, the Justice of the Peace Court rendered a decision, on January 17, 1962, acquitting petitioner of the charge, but ordering the return of the wrist watch subject of the theft-complaint to complainant Eustacio Damian. The decision reads:

"This is a case for theft of wrist watch valued at P85 filed against the accused Jose Arenajo.

"From the evidence received during the trial-of this case, this court finds duly established, among other things, that the complainant Eustacio Damian is the owner of the subject wrist watch as per testimonies of the complainant and his witnesses, and as per Exhibit 'C' the purchase receipt covering the same, the legal weight of which evidence has not been otherwise disturbed by the evidence for the defense. There is no direct evidence, however, to the effect that the accused actually took the subject wrist watch from the person of the complainant who claimed that he lost the same when he slept one day at a barber shop.

"There is no evidence that the accused ever went on the same day to the said barber shop where subject wrist watch has been claimed lost. So that the only basis why the accused was so charged was because having been found later to be in possession of the lost wrist watch, he was presumed under our rules to be the author of the unlawful taking. The explanations of the accused and his witness, however, that he acquired the same by way of barter from a third person rings true and this deserves and so accorded credence by this court, there being no satisfactory and credible evidence to the contrary but the clear naked fact that the accused without criminal intent bartered a pair of shoes to acquire the same wrist watch from a third person who is not the true owner of the wrist watch but whom he thought had the right to barter to him.

"Wherefore, premises considered, this court hereby renders judgment for the accused acquitting him of the offense charged and awarding the subject wrist watch to the complainant Eustacio Damian whose ownership and loss of the same have been satisfactorily proved. With costs de oficio."

From this decision, petitioner, on January 29, 1962, filed a notice of appeal to the Court of First Instance of Tarlac, in the following tenor:

"The accused, through his undersigned counsel, hereby appeals to the Court of First Instance, from the decision of this Honorable Court, only as with regards the civil nature or aspect of this case, in awarding the subject

wrist watch to the complainant Eustacio Damian and not to the said accused, which decision was issued and dated January 17, 1962, and copy of which was received by the accused¹ counsel on January 29, 1962." (Emphasis supplied.)

On September 28, 1962, respondent Judge of the Court of First Instance of Tarlac issued an order granting and considering the refiling of the criminal complaint before it and docketed the case as Criminal Case No. 2631. The order states:

"Acting on the 'Motion to Consider the Criminal Complaint filed in the Justice of the Peace as Refiled before the Honorable Court on appeal, the same is hereby granted. The attention, however, of the Assistant Provincial Fiscal, Mr. Fernando M. Bartolome, is invited to Section 8, Rule 119 of the Rules of Court, which provides: 'SEC. 8. x x x, and the case shall be tried in all respects anew in the Court of First Instance as if it were a case originally instituted in that court.'

This section confirms the opinion expressed in the order dated February 17, 1962 of the inferior court, to the effect that this case shall be rebeted both in its criminal as well as in its civil aspect."

From this order, petitioner filed a motion for reconsideration on the grounds, among others, that (1) he has already been acquitted of the criminal charge for theft and he appealed only as regards the civil aspect of the case which was jointly instituted and heard in the Justice of the Peace Court; (2) his appeal is not from a judgment of conviction on the criminal aspect, but from the decision on the civil nature of the case; (3) if he is tried anew for the same charge of theft for which he was already acquitted by the Justice of the Peace Court, he would be placed in double jeopardy. On September 26, 1962, the Assistant Provincial Fiscal of Tarlac also filed a motion for reconsideration, praying that the action in the Court of First Instance be limited to the civil aspect of the case, and relieving him from participation in the proceedings "as it involves only a civil action."

On December 14, 1962, respondent Judge issued an order denying said motion for reconsideration. From this order of denial, the Assistant Provincial Fiscal of Tarlac filed a motion for reconsideration. This motion was denied by respondent Judge on March 15, 1963, and set the case for hearing for the June 1963 calendar of the court.

On June 3, 1963, petitioner filed with this Court the present petition for certiorari and prohibition with a prayer for preliminary injunction, to enjoin respondent Judge from further proceeding with the trial of the case. On June 13, 1963, this Court issued a writ of preliminary injunction against respondent Judge, upon petitioner's filing a bond of P200, and required said respondent Judge to answer the petition.

Respondent Judge, through the Solicitor General, filed an answer alleging that he issued the orders complained of pursuant to Section 9, Rule 40 of the Rules of Court. He argues that the setting of the case for trial de novo does not place petitioner in jeopardy of being convicted a second time for the same offense of theft, firstly, because Section 9, Rule 40 of the Rules of Court requires trial de novo, the decision of the Justice of the Peace Court of Camiling having been vacated by the appeal interposed by petitioner in the Court of First Instance of Tarlac and, secondly, because by appealing from the decision of the justice of the peace court, petitioner is "deemed to have waived his right not to be placed in jeopardy for the second time of the same offense" of theft.

We cannot subscribe to respondent's argument. There can be no dispute that after trial, the Justice of the Peace Court of Candling, on January 17, 1962, acquitted petitioner of the charged crime of theft. In this jurisdiction, a judgment of acquittal is such a final verdict that once rendered and promulgated, it takes effect immediately. To hold that respondent Judge may retry the criminal aspect of the case would defeat the very essence and purpose of a judgment of acquittal. It would, in effect, place the accused in jeopardy of being convicted again for an offense of which he was already absolved.

It should also be noted that in his notice of appeal to the Court of First Instance on January 9, 1962, petitioner expressly and specifically stated that he was limiting his appeal only "as regards the civil nature or aspect of this case, in awarding the subject wrist watch to the complainant Eustacio Damian", which was deemed jointly and simultaneously tried with the criminal aspect of the case.

True it is, that Section 9, Rule 40 as well as Section 7, Rule 123 of the Rules of Court states that an appeal to the Court of First Instance from the Justice of the Peace (or Municipal) court will result in trial de novo of the appealed case. But, this should not be literally interpreted as authorizing or allowing the retrial of an accused's criminal case after he had already been acquitted therefrom in the inferior court. We hold that these provisions on trial de novo are applicable in respect to criminal cases only if and when the appealed judgment in the Justice of the Peace (or Municipal) Court is one for conviction.

Considering that petitioner had already been acquitted in the Justice of the Peace Court of Camiling and he had confined his appeal to the Court of First Instance only to the civil aspect of the case, it was error for respondent Judge to have ordered, as he did, the reopening or retrial of the case in both its criminal and civil aspect.

WHEREFORE, the writ prayed for is granted and the preliminary injunction heretofore issued is made permanent. No costs.

SO ORDERED.

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

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