

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF, VS. UY TIAM SU (ALIAS UY CHIN CHI), OFFENDED PARTY AND APPELLANT. GO HONG, TAN TEANG, LIM TIAP, TAN HOT (ALIAS TANG SENG), HONG ...

G.R. No. 30992. September 17, 1929

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

The appellant being the offended party in the instant case, opposes the dismissal thereof, ordered by the Court of First Instance of Laguna on December 4, 1928.

The appellant is one of the defendants in another case (G. R. No. 30991)[1] also dismissed by virtue of the aforementioned order. He assigns the following errors as committed by the court below.

"1. In practically rendering the order of Judge Paredes ineffective, which held that there were grounds for proceeding against Go Hong and others in the case of frustrated murder, and the order of the said judge decreeing the joint trial of both cases.

"2. In granting the motion filed by provincial fiscal Martinez praying for the dismissal of both cases in order that he might make another investigation and file such information as he may deem proper."

In September 17, 1928, the Honorable Isidro Paredes, Judge of the Court of First Instance of Laguna ordered the joint trial of the two aforesaid cases, setting it for the following October 15th.

These cases being later transferred to Judge Jugo, the provincial fiscal filed a motion which reads as follows:

"1. That the undersigned has always opposed the dismissal of either of these two cases, and has given his tacit consent to the date set for a joint hearing thereof by Judge Paredes, in the bona fide belief that such procedure adopted by said judge is not anomalous and irregular; and, furthermore, that all interested parties were agreeable to said hearing;

"2. That judging by the order issued yesterday, this honorable court is not agreeable that these two cases be tried jointly, as ordered by said Judge Paredes;

"3. That according to the tenor of said order, it appears that this honorable court is not disposed to designate which of the two cases is to be tried first;

"4. That the undersigned is of the humble opinion that the setting of a date for the hearing of the cases is incumbent upon the clerk of this honorable court.

"Wherefore, and in conformity with the aforementioned order of this honorable court, the undersigned respectfully prays for the dismissal of both cases in order to make a reinvestigation thereof for the purpose of filing only one criminal action for the crime resulting from said reinvestigation." (Pp. 117 and 118, original record.)

The defendants in both cases opposed said motion of the fiscal in separate pleadings; but the court below granted

it an its order of December 4, 1928, which reads as follows:

"Considering that the informations in these two cases are nothing more than the result of two absolutely contradictory and irreconcilable versions of one and the same incident;

"Considering that the provincial fiscal cannot conduct the prosecution of these two cases, inasmuch as it is evident that he cannot maintain and try to convince the court of his absolutely antagonistic theories in said two cases; and

"Considering that the People of the Philippine Islands, plaintiff in both cases, cannot sustain two prosecutions incompatible with each other;

"Wherefore, the court hereby grants the motion of the prosecuting officer, praying for the provisional dismissal of these two cases, to enable him to institute a single criminal action for the crime resulting from his reinvestigation." (Pp. 130 and 131, original record.)

It is this order which the herein offended party and appellant prays be revoked, on the grounds mentioned above.

With respect to the motion of the provincial fiscal granted by the order appealed from, we quote herewith and make a part hereof, the following paragraphs contained in the judgment rendered by this court in the other case, G. R. No. 30991:

"We believe that the fiscal had sufficient grounds to ask the court for the dismissal of the two cases for the purpose of reinvestigating them and to take such action as may be prompted by the result of the reinvestigation.

"Our conclusion is not exactly based upon the facts and opinions set forth in the fiscal's motion, but rather on his object in asking for the dismissal, namely, to investigate the case again and thereafter take such action as the interests of justice may require; such an attitude indicated his uncertainty as to which of the two cases was to be prosecuted.

"Although this court held in the case of *People vs. Mediavilla* (52 Phil., 94), that:

" 'CRIMINAL PROCEDURE; FILING OF DIFFERENT COMPLAINTS AGAINST GUILTY AND OFFENDED PARTIES.—The filing of an information against some defendants for the murder of an individual, and then another information for frustrated homicide and less serious physical injuries against said individual and others, because said individual had fired three shots at one of his assailants with his revolver, and because another of the defendants, the accused in the instant case, had wounded said assailant, does not disqualify the prosecuting attorney from sustaining said charges, because the accused in the one may be the offended parties in the other and vice versa, nor does it violate professional ethics which forbids an attorney to represent adverse interests, since in both cases the prosecuting attorney represents the public;' nevertheless, when the provincial fiscal, in view of the facts of the cases, apprehends that it would be an absurdity on his part to conduct both prosecutions, said officer, being responsible for the prosecution of criminal cases (section 1681, Administrative Code; *U. S. vs. Reyes*, 20 Phil., 510; and *U. S. vs. Despabiladeras and Laxamana*, 32 Phil., 442), has a right to investigate the cases more thoroughly in order the better to conform his action and attitude therein to the real facts, and to the dictates and requirements of justice and the public interest.

"And in granting said motion of the provincial fiscal, the court did no more than recognize the great responsibility devolving on him and the rights it had in helping him in the better, performance of his duties."

If, as we have seen and held, the provincial fiscal had sufficient legal grounds to ask for the provisional dismissal of the two cases, referred to, the court below did not err in upholding said grounds and granting the dismissal prayed for.

Neither the former order holding that there were grounds to prosecute the case for frustrated murder, nor the latter order setting a date for the joint trial of both cases, was a legal bar to such action on the part of the court below. With regard to the first order, it was given by the court before the trial of the case, that is, before the evidence was taken, and hence, could not refer to anything else than the merits of the information itself, which was the only datum adduced at that time upon the merits of the case; whereas the fiscal filed his motion, not to amend the terms of the information, but to ascertain whether or not he could and should uphold both cases, or if he could not, which of the two actions he ought to prosecute. Therefore, the order appealed from cannot be said to affect the former in so far as to prosecute the case on its merits, that is, to continue the trial under that information.

As to the other previous order, setting a joint trial for both cases, such an order may be set aside by another one, though the latter be made by another judge of the same court. It should be remembered that this is not a case of a resolution on the merits of both cases, or on any of the questions raised therein. We are simply concerned with the powers inherent in all courts to regulate the dispatch of cases pending before them, among which is the power to set a date for the trial of those cases. And in the very nature of things, an order setting a date for trial is subject to unavoidable delay and defeat by reason of divers contingencies which do not exist at the time of the order, but may well arise thereafter, such as the death of the parties or of any of them, the compromise and adjustment of differences, etc., etc. Final or provisional abandonment may also necessitate the setting aside of an order assigning a case to trial, as in the case before us, and it does not appear that such abandonment was considered by the court below when the former order setting a date for the joint trial of the two cases was made.

The interests of justice demand that the same court, whether or not presided over by the same judge, be empowered to amend or annul, as circumstances may require, orders of this kind, given by it in the exercise of its inherent powers, and having no relation to the merits of the case, nor to any of the questions raised in the action, and specially such orders as are dependent on facts and circumstances in their nature contingent. And this is so, because, as held in the case of *Shioji vs. Harvey* (43 Phil., 333), every court has inherent power to do all things reasonably necessary for the administration of justice within the scope of its jurisdiction.

A similar case was that of *Nunez vs. Low* (19 Phil., 244), where, after a Judge of First Instance had issued an order disqualifying the provincial fiscal and his assistant to prosecute a criminal case, another judge of the same court set aside that order and directed said fiscal and his assistant to proceed with the case. This court held:

"* * * That the court issuing the annulling order was the same court which issued the original order; it is not a question of one judge issuing an order and another annulling it; it is merely a question of the power of a Court of First Instance to issue and then to annul such order. The fact that different judges took part cannot alter or diminish the power of the court, which was one and the same."

The grounds of this appeal being insufficient, the order appealed from is affirmed in all its parts, with costs against the appellant. So ordered.

Avanceña, C. J., Johnson, Street, Villamor, Johns, and Villa-Real, JJ., concur.

[1] *People vs. Ong Eng*, p. 544, ante.

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