

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. HERMENEGILDO TRIA, DEFENDANT AND APPELLANT.

G.R. No. 32723. October 15, 1930

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

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In view of the importance of the fundamental point raised by counsel for the appellant, who in their motion of September 24, 1930, contend—

"That four justices, who composed the divisional court that passed upon this case, have no jurisdiction to decide it, because they do not constitute the required quorum of this Honorable Court," the division in question determined to refer it to the full court.

Section 163 of Act No. 2657 (the former Administrative Code) is invoked, which, among other things, provides that—

* * * * *

"Five of the judges of the Supreme Court, lawfully convened, shall form a quorum for the transaction of any business of the court. * * *" and it is alleged that this provision was held constitutional when the Jones Law (1916) confirmed the jurisdiction of this court.

It is true that section 26 of the aforesaid Jones Law reaffirmed the jurisdiction hitherto exercised by this court and by the Courts of First Instance, and anticipated recognition of any increase of jurisdiction thereafter conferred upon them by law; but this provision refers to the jurisdiction and not to the procedure to be followed in exercising it. And the change in the number of justices prescribed by section 138 of the present Administrative Code is not a matter of jurisdiction, but of procedure. It has been so held in *United States vs. Limsiongco* (41 Phil, 94), and in *Buenviaje vs. Director of Lands* (49 Phil, 939).

Therefore, it may well be stated that what the Jones Law confirmed in Act No. 2657 was not the number of justices or the quorum prescribed in this Act, which are details relating to procedure, but the jurisdiction which this court and Courts of First Instance already had at that time.

The validity of the provisions of the present Administrative Code, section 138, has been discussed and upheld in the cases already cited above, *United States vs. Limsiongco*, and *Buenviaje vs. Director of Lands*, in the first of which this court made the following statements which we are of opinion it would not be amiss to quote:

"Recurring now to the point at issue let us first recall that the portion of section 26 of the Organic Act relating to the exercise of jurisdiction by the Supreme Court, an exact transcription of a portion of section 9 of the Philippine Bill, has invariably been construed by the courts to mean that the Philippine Legislature can add to, but cannot diminish, the jurisdiction of the Supreme Court and the Courts of First Instance. (Weigall vs. Shuster [1908], 11 Phil., 340; Barrameda vs. Moir [1913], 25 Phil, 44; In re Guarina [1913], 24 Phil, 37.) Jurisdiction has, in this connection, been defined as the authority to hear and determine a cause. (Herrera vs. Barretto and Joaquin [1913], 25 Phil., 245.) Our precise inquiry then becomes one of determining if the Philippine Legislature, by enacting that portion of section 138 of the Administrative Code which authorizes divisions in the Supreme Court, has diminished the authority of the Supreme Court to hear and determine causes.

"We think not. There is but one Supreme Court of the Philippine Islands. It is the jurisdiction of this Supreme Court which cannot be diminished. The Supreme Court remains a unit notwithstanding it works in divisions. Although it may have two divisions, it is but a single court. Actions considered in any one of these divisions and decisions rendered therein are, in effect, by the same Tribunal. The two divisions of this court are not to be considered as two separate and distinct courts but as divisions of one and the same court. In the exact words of the law which is questioned, 'the Supreme Court shall, as a body, sit in bane, but it may sit in divisions * * *.' (See generally 15 C. J., 869, citing authorities.)

"The Legislature has merely attempted to regulate the organization of the court in a way not prohibited by any constitutional provision. The constitution of divisions has been permitted for convenience and the prompt dispatch of business. The provision in no way involves the question of jurisdiction." (Pages 107 and 108, id.)

It is not disputed that the Philippine Legislature is authorized to divide the Supreme Court, as it has done by section 138 above cited, into two divisions. And as in doing so, one of these divisions can have no more than four members, it is clear that in empowering only four justices to try and decide certain cases, the Philippine Legislature acted within its authority and, therefore, the quorum of four members of this court constituted into a division, is legally valid and sufficient.

Is is argued, however, that in *United States vs. Limsiongco*, the only question decided was the authority conferred on the court to sit in divisions. We repeat that in view of the foregoing, such a decision necessarily involved the question of the number of justices and the quorum in the divisions of the court.

And this, for the reason that, as stated in the beginning, and as this court clearly held in *United States vs. Limsiongco*, and *Buenviaje vs. Director of Lands*, the constitution of the Supreme Court into two divisions with a total number of members equal to the number of justices of the court, from which it follows as a necessary consequence that four members alone made up a quorum, does not even touch the question of jurisdiction.

Finally, it cannot be unqualifiedly asserted that section 138 of the Administrative Code reduced the quorum of this court from five to four. It should be remembered that when the Philippine Legislature fixed the quorum of the Supreme Court at five, there were only seven justices composing the court; and, when the Philippine Legislature raised the number of justices to nine, the quorum in bane cases was not reduced, but rather increased, to six, although it also fixed a quorum of four justices—which is the greatest possible number of members for one of the divisions of this court considering the number of justices composing it—for relatively minor cases.

Wherefore, it is held that the divisional court which tried and decided the instant case, composed of four justices, acted within its jurisdiction, and the motion to submit the case upon its merits to the court in bane for a new decision, must be denied. So ordered.

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

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