

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. SALVADOR MAKARAIG Y BUENASEDA, DEFENDANT AND APPELLANT.

G.R. No. 32931. September 11, 1930

Ponente: MALCOLM, J.

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MALCOLM, J.:

Salvador Makaraig y Buenaseda, a lad 16 years old, appeals from a decision of the Court of First Instance of Manila which found him guilty of the crime of qualified seduction, and which, pursuant to the provisions of the Juvenile Delinquent Law, suspended sentence and ordered the accused committed to the Philippine Training School for Boys, until he becomes of age, or until further orders of the court. To test the right of appeal from Courts of First Instance to the Supreme Court in juvenile delinquent cases, the Attorney-General has filed a motion to dismiss the appeal on the ground that no appeal can be taken from such order's. Prior consideration, will be given to the determination of this question with which the members of the court are not entirely unfamiliar, since on its resolution depends the status of minors in other cases.

The Juvenile Delinquent Law, Act No. 3203, is entitled "An Act relating to the care and custody of neglected and delinquent children; providing probation officers therefor; imposing penalties for violations of its provisions and for other purposes." Section 3 of the law provides that "Whenever any boy or girl less than eighteen years of age shall be accused in any court of an offense not punishable by life imprisonment or death, the court, before passing sentence of conviction, shall suspend all further proceedings in the case and shall commit such minor to the custody of any of the institutions mentioned in sections one and two of this Act, until said minor shall have reached his majority or for such less period as to the court may seem proper, subject to the conditions provided in section seven hereof, * * *." Section 7 referred to, as amended by Act No. 3559, provides that any minor delinquent "may be returned to the court for either sentence or dismissal * * * In all cases where any such minor delinquent is returned to the court for either sentence or dismissal the court shall render such final judgment of either sentence or dismissal as in the opinion of the court the records of such minor during his confinement in the institution to which he was committed or during his probation period and the recommendation of the Public Welfare Commissioner shall justify." Section 14 of the law reads as follows: "All provisions of this Act and other laws applicable to minors shall be liberally construed and the judgment of the court and the care, custody, and discipline of the children by the persons in charge of them shall approximate that which they should receive from their parents and they shall be treated, not as criminals, but as in need of aid, encouragement, and guidance." As pointed out by the Attorney-General in his motion, the right of appeal is purely statutory (*U. S. vs. Gomez Jesus* [1915], 31 Phil., 218), and the law contains no provisions for an appeal.

According to the Code of Criminal Procedure, one of the rights of the accused in criminal prosecutions is "To have the right of appeal in all cases." (Sec. 15 [8].) The said Code further provides: "From all final judgments of the Court of First Instance or courts of similar jurisdiction, and in all cases in which the law now provides for appeals from said courts, an appeal may be taken to the Supreme Court as hereinafter prescribed." (Sec. 43.) The

questions then are whether the proceedings under the Juvenile Delinquent Law are, in their nature, criminal, and whether there are final judgments within the meaning of the Code of Criminal Procedure. "

In two decisions of this court, it was rather timidly intimated that the proceeding in juvenile delinquent cases "may perhaps be not regarded as a criminal proceeding." (People vs. Navarro [1929], No. 30994 [1]; Bactoso vs. Governor of Cebu [1925], 48 Phil., 25.) But in neither case was the question here at issue discussed. As to the nature of an appealable decision, reference may be made to what is found in Mejia vs. Alimorong ([1905], 4 Phil., 572), where it was held that a resolution, order, or judgment from a court below is appealable when it finally disposes of a legal proceeding pending before it, so that nothing more can be done with it in that court. The weight of authority in the United States seems to be that the procedure affecting the custody or commitment of infants is not considered criminal, and that in the absence of statutes so providing, there is no appeal from an order of commitment. But these decisions relate to juvenile courts specially created, and completely controlled under different statutes and organic laws than are to be found in the Philippines. (See Marlow vs. Commonwealth [1911], 142 Ky., 106; 133 S. W., 1137, as an example.)

The juvenile delinquent law most nearly similar to the Philippine law is found in the State of Texas. The appellate court of that State has experienced some difficulty in construing the law, and in reaching a state of equilibrium regarding the meaning to be given to its provisions. It is, however, now settled that a prosecution and conviction under the delinquent statutes of Texas is a criminal case, and that an appeal lies from a conviction thereunder directly to the Court of Criminal Appeals. (Miller vs. State [1918], 82 Tex. Crim. Rep., 495; 200 S. W., 389.) We are inclined to respect the experience of Texas, particularly as the result appears to ring true to judicial soundness. The last statement will bear further examination in connection with direct application to our law.

The record in the instant case may be taken as a typical example. In the first place, the boy less than 18 years of age is accused in an information of the crime of qualified seduction as is done in a criminal case. He is arrested, arraigned, and tried as in a criminal case. At the conclusion of the trial, there is a decision with a concluding order as in a criminal case. Whenever the record shall be returned to the court of origin there will be an order of commitment as in a criminal case.

The Juvenile Delinquent Law in its title speaks of "penalties;" in section 7 of return of the minor delinquent "to the court for either sentence or dismissal" and the rendering of a "final judgment;" and in section 14 of "the judgment of the court," although intimating that the delinquents should not be treated "as criminals." We think that, while the laudable purpose of the Juvenile Delinquent Law is aid, encouragement, and guidance of children who have temporarily gone astray, yet the proceeding is sufficiently akin to the criminal prosecutions provided for in the Code of Criminal Procedure, and the decision and order handed down are sufficiently akin to the final judgment mentioned in the Code of Criminal Procedure, to warrant the provisions of this Code being given application to minor delinquents who are desirous of taking appeals from Courts of First Instance to the higher court.

It may be observed that the present Juvenile Delinquent Law is the successor of the first law on the subject, Act No. 1438 enacted on January 11, 1906. For over twenty-four years, therefore, appeals have been permitted in this class of cases. During this same period of time it is well known that the inclination of the Legislature has been to sanction practically unlimited appeals to the Supreme Court. Under such circumstances it would be rather far-fetched to deduce that, because the Legislature failed to make mention of the subject of appeals in the new Juvenile Delinquent Law, the Legislature intended that the provisions of the Code of Criminal Procedure should not be given effect, and that no appeals should be permitted. It is a rule of statutory construction that a statute will not be construed as ousting or restricting the jurisdiction of the superior court unless there be express words or a necessary implication to that effect. (U. S. vs. Veray [1917], 36 Phil., 539.) And here it might be effectively

argued that any attempt to curtail the right of appeal would impair the jurisdiction of the Supreme Court in violation of the Organic Act, a result which should be avoided. We doubt very much if it was ever in the mind of our Legislature to allow the numerous trial courts to exercise absolute freedom in consigning minors to correctional institutions, without there being any right of review of their decisions. We accordingly rule adversely to the motion of the Attorney-General, and decide that there is a right of appeal from Courts of First Instance to the Supreme Court in juvenile delinquent cases.

Coming now to the merits of the case, little need be said. It has been conclusively demonstrated that the accused succeeded in seducing the offended party, a girl student of the National University, through a promise of marriage. Indeed, the principal purpose of the appeal is to qualify the crime committed by the accused as simple seduction. This contention is, however, not supported by any reliable evidence of record, and so must be rejected. The findings of the trial court plumb with the facts in all particulars, and should be respected.

In consonance with the foregoing, the motion for dismissal will be denied, and the decision and order appealed from will be affirmed, with costs.

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

Ostrand, J., concurs in the result.

[1] Promulgated December 7, 1929, not reported.

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