

**THE PEOPLE OF THE PHILIPPINE ISLANDS, PETITIONER, VS.
MARIANO BUYSON LAMPA, JUDGE OF FIRST INSTANCE OF TARLAC,
ARTEMIO CASTAÑEDA AND PEDRO FERNANDEZ (ALIAS PIRO),
RESPONDENTS.**

G.R. No. 38178. November 15, 1933

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is a petition for a writ of certiorari praying that, after proper proceedings, a judgment be rendered declaring null and void and without effect the order of the respondent judge granting a new trial in criminal case No. 4378 of the Court of First Instance of Tarlac.

The only question presented here is one of law. Respondents Artemio Castañeda and Pedro Fernandez were charged in the Court of First Instance of Tarlac with the crime of theft. After due trial, they were found guilty and sentenced accordingly. One day after the pronouncement of the judgment they filed a written notice of appeal, which was allowed on the same day. Seven days thereafter, they filed a motion for a new trial, which was granted by the court. The provincial fiscal of Tarlac contends that the respondent judge exceeded his jurisdiction in granting a new trial, because the motion therefor was filed and decided after an appeal had been perfected.

This case is governed by the decisions of this court in *United States vs. De Iro* (33 Phil, 475), and *United States vs. Ballard and Tamaray* (35 Phil., 14). In the first case, the defendant was convicted of the crime of injurias graves. On the same day that judgment was pronounced, he filed a written notice of his intention to appeal from said judgment. Eleven days later, the trial judge, on motion of the defendant, reconsidered his decision, dismissed the complaint, and discharged the defendant from custody. The case having been brought here, this court, in disposing of it, said:

"The moment the appeal is perfected, the court a quo loses jurisdiction over it, except for the purpose of correcting clerical errors.

"In the present case the appeal had been perfected eleven days before the order was made revoking the sentence in which the appellee was found guilty. If the perfection of the appeal deprives the court a quo of its jurisdiction, it must follow that in the present case the court had lost jurisdiction to alter, amend, modify, or revoke its sentence. The order revoking the sentence was, therefore, null and void."

In *United States vs. Ballard and Tamaray*, supra, the defendants were convicted of the crime of theft by the Court of First Instance of Cagayan, and sentenced accordingly. One day after the pronouncement of the judgment, they filed a written notice of appeal. Twelve days thereafter they presented a motion for a new trial, and two days after this motion was presented, they filed a written request for withdrawal of their appeal. Upon this state of facts, the trial court held that, the appeal of the defendants having been perfected, he had lost jurisdiction to grant a new trial. In sustaining the ruling of the lower court on this point, this court said:

"We have in numerous cases held that, after an appeal has been perfected, a court has no power to set aside its judgment or to grant a new trial. A different determination would lead to great uncertainty and possibly to gross abuse. There must be a time when the rights of the parties are to be considered determined and for litigation to cease; and for that purpose the law has wisely fixed the rule here indicated. (Baldwin vs. Kramer, 2 Cal., 582; Casement vs. Ringgold, 28 Cal., 335; U. S. vs. Samio, 3 Phil., 691.)

"It seems to be clear, therefore, from the foregoing rule, that the lower court committed no error in refusing to grant a new trial or to permit the withdrawal of the appeal already perfected. It was the duty of the appellant to present said motions in the Supreme Court."

In the case now before us, the appeal had been perfected seven days before the motion for a new trial was filed, and fourteen days before said motion was granted by the trial court. In the light of the authorities above cited, it seems clear that the respondent judge had no power to set aside the judgment in question or to grant a new trial.

It is, therefore, adjudged and decreed that the order of the respondent judge granting a new trial in criminal case No. 4378 of the Court of First Instance of Tarlac, was null and void and of no effect.

Avanceña, C. J., Street, Vickers, and Butte, JJ., concur.

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