

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLANT, VS. CO HIOK (ALIAS FELIX BENITEZ), DEFENDANT AND APPELLEE.*G.R. No. 43154. November 07, 1935*

Ponente: RECTO, J.

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It appears that Co Hiok (alias Felix Benitez), was charged in the justice of the peace court of Pagsanjan, Laguna, with the crime of "less serious physical injuries through reckless imprudence"; that the complaint, original and amended, dated April 10 and 11, 1934, respectively, alleged that the injuries of the child Higino Agawin, the offended party, would take twenty-five days to heal; that, after trial, the justice of the peace court of Pagsanjan found that the said' injuries of the offended party took forty-one days to heal, and sentenced the accused, notwithstanding this finding, to a penalty corresponding to the crime of less serious physical injuries through reckless imprudence, or two months and one day of arresto mayor, to indemnify the offended party in the sum of P80, with subsidiary imprisonment in case of insolvency, with costs; that the accused appealed from said judgment to the Court of First Instance of Laguna, and upon the record forwarded to the latter court, the provincial fiscal filed a new information against the accused for serious physical injuries through reckless imprudence based on the allegation that the injuries of the offended party took forty-one days to heal; that on January 14, 1935, the accused filed in the Court of First Instance of Laguna a motion to dismiss on the ground that the justice of the peace court of Pagsanjan originally, and the Court of First Instance of Laguna on appeal, lacked jurisdiction to try the case; that the Court of First Instance of Laguna granted said motion on January 24, 1935, holding that it had no jurisdiction to try the case and dismissing it without prejudice to the institution by the fiscal of the proper proceedings ; that counsel for the Government appealed to this court, alleging that the action of the Court of First Instance was erroneous and illegal.

The jurisdiction of a court in criminal cases is determined by the allegations of the complaint and not by the result of the evidence presented at the trial (U. S. vs. Mallari and Cueson, 24 Phil., 366), from which it follows that the justice of the peace court of Pagsanjan had original jurisdiction to try the case upon the allegations of the complaint, original and amended, filed therein, notwithstanding a finding in the decision of the aforesaid court that the injuries of the offended party took forty-one days to heal. The penalty of two months and one day of arresto mayor imposed by the justice of the peace court of Pagsanjan upon the accused is within its jurisdiction (section 2, Act No. 2131; section 108, General Orders, No. 58).

In criminal cases appealed from a justice of the peace court to a Court of First Instance, a new information is unnecessary to transfer jurisdiction to the latter court, inasmuch as the case is prosecuted upon the complaint filed in the justice of the peace court (Crisostomo vs. Director of Prisons, 41 Phil, 368) ; wherefore, the new information filed by the fiscal in this case in the Court of First Instance of Laguna is superfluous.

The Court of First Instance of Laguna erred in reckoning with the new information filed by the fiscal to take

cognizance of this case, especially in view of the allegations thereof changing the nature of the crime charged in the justice of the peace court of Pagsanjan, in violation of the law (*Andres vs. Wolfe*, 5 Phil., 60). The Court of First Instance of Laguna erred, therefore, in holding that it had no jurisdiction to try the case on the appeal taken by the accused from the adverse judgment of the justice of the peace court of Pagsanjan. It should have heard this case in second instance upon the complaint filed in the justice of peace court of Pagsanjan.

Wherefore, we are of the opinion and so hold that the order appealed from must be reversed with instructions to the Court of First Instance of Laguna to try and decide this case by virtue of its appellate jurisdiction upon the complaint filed in the justice of the peace court of Pagsanjan, without costs in this instance.

Avanceña, C.J., Abad Santos, Hull, and Vickers, JJ., concur.

Order reversed and case remanded with instructions.

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