

**GAUDENCIO C. HIQUIANA ET AL., PETITIONERS-APPELLES, VS.
ISMAEL L. VELOSO, ETC., RESPONDENT-APPELLANT.***G. R. No. 47864. May 12, 1942*

Ponente: OZAETA, J.

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The only question raised in this appeal is whether or not a justice of the peace has authority to grant a new trial in a criminal case.

In the justice of the peace court of Malita, Davao, four persons were accused of theft. Two of them were convicted and two acquitted by Acting Justice of the Peace Valerio P. Reyes in a decision dated April 22, 1940. On the last-mentioned date the two accused who were convicted, presented a motion for new trial, which was submitted to Justice of the Peace Ismael L. Veloso, who in the meantime had relieved Acting Justice of the Peace Reyes. Without expressly setting aside the decision, Justice of the Peace Veloso granted a new trial, saying that “the court is convinced that a review of the case is necessary,” and announcing its intention to make an ocular inspection of the place of the crime. A motion for reconsideration was presented by the offended party, but it was denied by the justice of the peace, who in the same order set the case for new trial on June 22, 1940. Thereupon the offended party and the chief of police who acted as prosecutor instituted the present certiorari proceedings in the Court of First Instance of Davao to annul the order of the respondent justice of the peace granting the motion for new trial. The Court of First Instance (Judge Fernando Hernandez presiding) granted the writ prayed for and ordered the justice of the peace to abstain from holding a new trial in said criminal case to the Court of First Instance as if it had been appealed by the accused. From that decision the respondent justice of the peace appealed to this Court.

The reasoning of the court below may be summarized as follows: The granting of a new trial is practically a revision of the case, which pertains to the appellate court and not to the respondent justice of the peace. There is no provision in General Orders No. 58 authorizing justices of the peace to grant a new trial in criminal cases. Neither is there any provision in Rule 119 of the new Rules of Court for such authorization. It is only in civil cases that a justice of the peace may grant a new trial, under the authority of *Veluz vs. Justice of the Peace of Sariaya* (42 Phil. 557). To authorize a justice of the peace to grant a new trial would merely delay the proceedings, inasmuch as the accused can appeal to the Court of First Instance, where a trial de novo is held. A justice of the peace, according to the trial court, may grant a motion for reconsideration but not a new trial.

We think the opinion of the court below is neither sound nor logical. In the *Veluz* case (*supra*) this Court admitted “that there is no statutory provision granting the justice of the peace authority to consider a motion for a new trial,” but held nevertheless that “it does not require statutory authority for a court to correct its errors or mistakes during the time which it has control over its decisions,” citing paragraph 7 of section 11 of Act No. 190, which provides that the court may, as one of its incidental powers, “amend and control its process and orders so as to make them conformable to law and justice.” In other words the authority to grant a motion for reconsideration or a new trial is implied from the inherent power of the court to correct its own error before its decision becomes

final; and what is implied need not be expressed. Such authority is clearly deduced by implication from the provision of Court, referring to appeals from judgement of the justice of the peace or municipal court in criminal cases, which says that “the period of appeal shall be interrupted from the date a motion for new trial is filed until notice of the order overruling the motion shall have been served upon the defendant or his attorney.”

Resolving the question in the affirmative, we reserve the decision appealed from, with costs.

Yulo, C. J., Paras, and Bocobo, JJ., concur.

MORAN, J., dissenting:

On a case of theft instituted in the justice of the peace of the Peace Valerio O. Reyes, after due trial, rendered judgment which was read to the four accused on May 11, 1940. Two of the accused who were convicted presented, in the same day, a motion for new trial before Justice of the Peace Ismael L. Veloso, who had then relieved Acting Justice of the Peace Reyes. Without vacating the judgment rendered by his predecessor, and without specifying any mistake found to have been committed and which called for correction, Justice of the Peace Veloso declared that “a review is necessary and in order to be in a position to render judgment accordingly,” ordered the parties to introduce anew all the evidence already presented before Justice of the Peace Reyes, and announced his intention for an ocular inspection of the place of the crime thereafter. The Court of First Instance of Davao, before which legal propriety of this procedure was challenged, held that “el juez recurrido al dictar la orden de nueva vista y señalar de las mismas pruebas ya aportadas por las partes, ha obrado sin competencia ni jurisdicción.” This certiorari proceeding aims to test the correctness of such ruling.

Justice of the peace courts are courts of limited jurisdiction, and as such they can exercise no powers which are not expressly granted them by law (*Elumbaring vs. Elumbaring* 12 Phil., 384; *Tuason vs. Crossfield*, 30 Phil., 543; *Africa vs. Gronke*, 34 Phil., 50; *Romy vs. Roxas*, 40 Off. Gaz., 8th Sup., p. 240). It has been held that “inferior courts have no authority to grant new trials except such as is given by the statutes. It follows that they may grant new trials only upon the grounds and in the manner authority by the statutes.” (*Italic mine*—46 C. J., p. 60.) Thus, when a justice of the peace court is given the power to grant a new trial on several grounds, it cannot grant a new trial on several grounds, it cannot grant a new trial of newly discovered evidence, if such ground is not one of those expressly mentioned by law. (*De Lemons vs. Cohen*, 28 Mich., 579; 59 N. Y. S., 498.)

That in the Philippines a justice of the peace a new trial, is conceded (Rule 119, sec. 6), but only on the ground of actual mistake shown to have been committed and which calls for correction (*Veluz vs. Justice of the Peace of Sariaya*, 42 Phil., 557). In the present case, upon what ground has the new trial been granted by the respondent justice of the peace? In the order for new trial, he specific no actual mistake or irregularity calling for correction, but simply states that “a review is necessary” without indicating the reasons therefor, and “in order to be in a position to render judgment accordingly,” he ordered the presentation of all the evidence already adduced before the other justice of the peace. It is thus clear that the purpose of the peace to make his own appraisal of the case, to find out whether in the first trial any mistakes had been committed requiring the rendition of a new and different judgment. Narrowed to more concise terms, the question is whether a justice of the peace may grant a new trial not on the ground of actual mistakes he has yet to discover. A desire to search for error is not a ground for new trial under the law. The mistake for which the law authorizes a new trial is not merely a possible, but an actual, mistake shown to have been committed. If possibilities of error constitute sufficient grounds, then new trials will have to be granted ad infinitum because such possibilities are always present in any kind of judicial inquiry.

What, in truth, the respondent justice of the peace attempted to do is not to hold a new trial as a means for correction, but to make a review in search for error since, in the motion for new trial, he was told that certain

mistakes had been committed in the first trial, without ascertaining what such mistakes were, he wanted to hold the second trial for no other purpose than to test the correctness of the judgment rendered by the other justice of the peace. This is a true procedure for review which is not expressly authorized by law in a justice of the peace court, it being the appellate function of the Court of First Instance.

It may be urged that the second trial may be deemed proper since it was the only means by which the respondent justice of the peace could ascertain the existence of the mistakes attributed to the first justice of peace. To this the answer is that the law denies the respondent justice of the peace authority to inquire as to mistakes committed by another justice of the peace if his only means to that affect is a new trial. The reason is, as I have stated before, that a justice of the peace is not expressly authorized by law to grant a new trial merely for the purpose of making such inquiry. This function, I repeat, belongs to the Court of First Instance by appeal. Indeed, there is authority to the effect that “one justice has no power to set aside an order made by another justice.” (35 C. J., 679; *In re National Trust Co.*, 4 N. Y. Civ. Proc., 203; *Com. vs. City Prison*, 24 Pa. Dist., 175.) And I think Mr. Justice Street was more than right, when, upon a similar question, he said: “If the provisions relative to proceedings in the courts of the justice of the peace be carefully examined, it will be found that those provisions are clearly designed for the accomplishment of a speedy trial in the inferior court and a quick removal to the Court of First Instance when the losing party deems himself aggrieved. Even under the provisions contained in sections 148 and 149 of the Code of Civil Procedure providing for relief from judgments obtained by fraud, accident or mistake, the law does not provide for a new trial, or for any trial, in the court of the justice of the peace, but . . . and this is remarkable . . . directs that the case be removed at once to the Court of First Instance for trial there.” (*Colegio de San Jose vs. Sison*, 56 Phil., 344, 350-351)

The action taken by the respondent justice of the peace is not only authorized by law but it is unjust, vexatious to the parties. Unjust, because there is a justice of the peace to review and test the correctness of the judgment rendered by another justice of the peace, both justices having the same qualifications and belonging to the same class in the judiciary. The degree of probability of error is the same for both, aside from the circumstance that a second trial is not always a good means for review as the witnesses would not probably testify in exactly the same manner as they did in the first trial. Vexatious, because a second trial because a second trial compels the parties to the trouble and expense of a trial which is the same as the first already had without any assurance of advantage to them or benefit to the interest of justice, there being no probability that the second judgment would be better than to bear the hardship of re-appearing with all his witnesses at the poblacion of Malita, Davao, hiking one whole day through mountains and forest; or depend upon the irregular transportation of the launches at sea, oftentimes via the city of Davao.” And if after the second trial in the justice of the peace court an appeal is taken by the losing party to the Court of First Instance, then there will be a third trial of the case; and if after the third trial, another Judge of First Instance wishes to review by means of new trial the judgment rendered by the former, a fourth trial will follow, and so on. This is the doctrine laid down by the majority pursued to its ultimate consequences.

Lastly, the majority rule permits a trifling with the seriousness of judicial proceedings and is offensive to the spirit of the new Rules of Court. Here, there had full opportunity to present their evidence and a judgment was rendered in the course of a regular procedure. To hold a second trial for no other reason than the possibility of mistakes in the former proceedings, is to permit gambling with the administration of the law, to the detriment of the dignity of courts of justice. In the past, there had been instances of petty cases coming from justice of the peace courts and which had lasted for years before they were finally disposed of because of delays in our procedure. This Court in the new Rules has exerted every effort to eliminate the sources of such delays with a view to assisting the parties “in obtaining just, speedy and inexpensive determination of every action and proceeding. It is unfortunate, however, that the ruling laid down by the majority frustrates this most important aim of the new Rules of Court.

Judgment reversed.

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