

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS.
CLEMENGIO ABAQUITA, DEFENDANT-APPELLEE.***G.R. No. 48058. October 20, 1944*

Ponente: OZAETA, J.

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This case of homicide thru reckless imprudence, commenced in the Court of First Instance of Cebu on October 2, 1940, is before us for the second time. The first time, it was brought here on appeal by the Government from an order of the trial court remanding the case to the municipal court of Cebu for preliminary investigation. In our decision of September 4, 1942, we reversed that order and instructed the trial court to proceed. But the trial court (then presided over by another judge), instead of proceeding, dismissed the case on motion of the accused upon the ground of supposed lack of jurisdiction arising from the change of sovereignty. Hence this second appeal by the Government.

We are constrained again to reverse the trial court. The supposed lack of jurisdiction is premised on the trivial and over-technical observation that the heading of the information describes or indicates the former and not the present sovereignty under which the case is prosecuted. We do not think such a purely formal defect in the heading of the information (if defect it has become) affected the jurisdiction of the court. If it did, practically all the final judgments rendered by our courts of justice during the last thirty-two months in cases filed before 1942 would have to be declared null and void. The mere suggestion of such a stupendous and devastating consequence should make one pause and reflect: Is the court's jurisdiction conferred by, or in any way dependent upon, the heading of the information or complaint? We are not aware of any law to that effect. It is the parties and the subject matter that should be considered. If the heading or superscription to the pleading is of any consequence, it may, with the aid of common sense and a little imagination, be taken for granted as having been impliedly and necessarily changed with the changing circumstances, as indeed the trial court must have so taken it for granted when, without any change in the heading of the original information, it used in the very order appealed from the heading it considered appropriate under the then existing circumstances, namely, "Philippine Executive Commission," in lieu of "Commonwealth of the Philippines."

The order appealed from is reversed and the case is again ordered remanded to the court of origin for trial and decision on the merits, with costs against the appellee.

Yulo, C. J., Moran, Horrilleno and Paras, JJ., concur.

YULO, C. J.:

Mr. Justice Bocobo took no part in the deliberation and voted to reverse and remand.

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