

JACINTO DAVIS, PETITIONER, VS. THE DIRECTOR OF PRISONS, RESPONDENT.

G.R. No. 6399. October 06, 1910

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-6399/>

JOHNSON, J.:

This was an original action commenced in the Supreme Court for a writ of habeas corpus.

The defendant was sentenced first by the municipal court of the city of Manila for the crime of estafa. He appealed to the Court of First Instance and was there sentenced for the crime of "estafa - embezzlement" to be imprisoned for a period of four months and one day of arresto mayor, with the accessory penalties described in article 61 of the Penal Code.

Upon the presentation of the petition in the Supreme Court, the Director of Prisons was directed to show cause, if he had any, why the writ should not be granted. In answer to the order of the court, the Director of Prisons simply stated that he was holding the body of the defendant by virtue of a sentence of conviction rendered by the Court of First Instance.

The petition was accompanied by a copy of the complaint presented in the municipal court. This complaint charged the defendant with the crime of estafa. The complaint charged the defendant with having fraudulently obtained six boxes of milk marked "Gold Seal," of the value of P60. There is no charge in the said complaint that the said boxes of milk were or had been in the possession or under the control of the defendant.

The defendant, in the municipal court, objected to the jurisdiction of that court upon the ground that the penalty provided for the crime charged in the complaint was for a period longer than six months. The municipal court denied the objection and held that it had jurisdiction of the crime charged, and sentenced the defendant to be imprisoned for a period of six months of arresto mayor. From that sentence the defendant appealed to the Court of First Instance. In the Court of First Instance the defendant contended that the municipal court did not have jurisdiction over the crime charged in said complaint, and that, therefore, the Court of First Instance could not have jurisdiction to try him under the said complaint; that the only question which the Court of First Instance could try in the first instance was whether or not the municipal court had jurisdiction over said crime.

Section 40, Act No. 183, of the Philippine Commission, gave to the municipal court of the city of Manila "exclusive jurisdiction over all criminal cases arising under the ordinances of the city of Manila, and over all criminal cases arising under the penal laws of the Philippine Islands, where the offense is committed within the police jurisdiction of the city and their respective districts and the maximum punishment is by imprisonment for not more than six months or a fine of not more than one hundred dollars."

Under this provision the municipal court had jurisdiction over crimes provided for under the Penal Code, where the punishment did not exceed six months' imprisonment or a fine of not more than P200, or both. This provision gave the municipal court jurisdiction over the crime of estafa when the punishment did not exceed six months'

imprisonment and the fine mentioned.

Section 10 of Act No. 267 provides, among other things, that the municipal courts shall also have concurrent jurisdiction with the Courts of First Instance over all criminal cases arising under the laws:

- (a) Relating to gambling and the management of lotteries;
- (b) Assaults where the intent to kill is not charged or evident upon the trial;
- (c) Larceny and embezzlement where the amount of money or property stolen or embezzled does not exceed the sum or value of \$100 (P200);
- (d) The sale of intoxicating liquors;
- (e) Falsely impersonating an officer;
- (f) Trespassing on government or private property;
- (g) Threatening to take human life.

It will be noted that said section 10 did not increase the jurisdiction of the municipal court in cases of estafa unless "embezzlement" is estafa. Embezzlement is a purely statutory offense and may be defined as the fraudulent appropriation to one's own use of money or goods intrusted to one's care by another; the fraudulent appropriation of property by a person to whom it has been intrusted or into whose hands it has lawfully come. It is distinguished from larceny in the fact that the original taking of the property was lawful or was with the consent of the owner.

This court has held, in several cases where a person was charged with the crime of "embezzlement," that he may be convicted under certain provisions of the Penal Code relating to estafa (paragraph 5, article 535) and malversation (390-395). (U. S. vs. Rastrollo, 1 Phil. Rep., 22; U. S. vs. Sensano, 2 Phil. Rep., 119; U. S. vs. Karelsen, 3 Phil. Rep., 223; U. S. vs. Lopus, 4 Phil. Rep., 147; U. S. vs. Hollis, 5 Phil. Rep., 526; U. S. vs. Reyes, 6 Phil. Rep., 40; U. S. vs. Solis, 7 Phil. Rep., 195.)

By these cases it has been decided that the crime of embezzlement is covered by certain provisions of the Penal Code and that whenever the complaint filed in any particular case shows that the defendant has violated those provisions of the Penal Code, he will be convicted and punished in accordance with such provisions, even though the crime be described in the complaint as that of "embezzlement;" in other words, the character of the crime will be determined from the facts alleged in the complaint and not by the qualification made in the title to the complaint. (U. S. vs. Jeffrey, 15 Phil. Rep., 391.) We must examine the complaint then in the present case for the purpose of ascertaining whether or not it describes the crime of "embezzlement" or estafa. Upon an examination of the complaint we are of the opinion and so hold that it describes the crime of estafa and not of "embezzlement." There is no allegation that the defendant appropriated to his own use goods, wares, merchandise or other things intrusted to his care. There is no allegation that there existed between the owner of the six boxes of milk and the defendant any relation of fidelity relating to said property.

By an examination of section 40 of Act No. 183, and comparing it with section 10 of Act No. 267, it will be seen that while in the original Act (No. 183) the municipal court was given original jurisdiction over the crime of estafa when the punishment did not exceed six months' imprisonment or a fine of P200, in Act No. 267 it is given concurrent jurisdiction with Courts of First Instance of certain crimes, among which are larceny and embezzlement, where the amount of money or property stolen or embezzled did not exceed the value of P200. While, in our opinion, said Act No. 267 gave the municipal court the right to impose the same penalties which the Court of First Instance might impose for the crimes enumerated in said Act, yet the crime of estafa is not enumerated as one of the crimes over which the municipal court has concurrent jurisdiction except, as has been

said above, where the crime of embezzlement constitutes also and at the same time the crime of estafa. Section 10 of Act No. 267 did not, therefore, give the municipal court concurrent jurisdiction with the Court of First Instance to try persons charged with the crime of estafa when the penalty was for more than six months, etc., when said crime did not also constitute embezzlement. Our conclusion, therefore, must be, if the foregoing reasoning is correct, that the complaint in the present instance not being a complaint for the crime of embezzlement and the punishment for the crime described in the complaint; being for more than six months (paragraph 2, article 534), the municipal court did not have jurisdiction to try the defendant, and therefore the judgment was null and void. The defendant, before the beginning of the trial in the municipal court, objected to the jurisdiction of that court, and after the decision he appealed to the Court of First Instance and there again objected. His objection in the Court of First Instance was to the effect that the municipal court not having had jurisdiction of the cause, the Court of First Instance had no jurisdiction further than to decide the question whether or not the municipal court had had jurisdiction of the cause. We are of the opinion and so hold that this contention of the defendant is tenable. When a case is commenced in a lower court and that court has no jurisdiction over the cause and an objection on that ground is made in such court, and an appeal is taken to a higher court, the higher court acquires no jurisdiction to try the cause further than to decide first whether the lower court really had jurisdiction or not. If the higher court decides correctly that the lower court had jurisdiction of said cause, then it may proceed with the trial of the cause on its merits. In the present case an objection was duly made in the municipal court to its jurisdiction, as well as in the Court of First Instance. In this respect the present case differs from the decision of this court in *U. S. vs. Ang Suyco* (page 92, *supra*) and the case of *Carroll vs. Judge Paredes* (page 94, *supra*). In neither of these cases was there any objection at any time during the pendency of the action in either of the lower courts.

Our conclusions are, therefore:

First. That the municipal court has original jurisdiction over the crime of estafa only when the punishment does not exceed six months' imprisonment or a fine of P200.

Second. That the municipal court does not have concurrent jurisdiction with the Court of First Instance over the crime of estafa when the punishment exceeds six months' imprisonment or a fine of P200, unless the crime is also "embezzlement." Some of the provisions of the Penal Code (paragraph 5, article 535, and articles 390-395) governing the crimes of estafa and malversacion, also govern the statutory crime of embezzlement.

Third. Section 10, Act No. 267, contains no punishment for the crime of embezzlement and no punishment can be imposed for it unless some provision of the Penal Code or other laws in force in the Philippine Islands can be found governing this statutory offense (embezzlement).

Fourth. All of the provisions of the Penal Code relating to estafa do not cover embezzlement. The word estafa, as defined by some of the provisions of the Penal Code, does not cover embezzlement.

Fifth. A complaint charging estafa does not necessarily include "embezzlement" and when it does not, the municipal court does not have jurisdiction if the penalty exceeds six months' imprisonment, etc. The courts have no authority to extend a law beyond its express terms when they are plain and unequivocal.

Sixth. The municipal court did not have original jurisdiction of the crime charged in the complaint in the present cause, for the reason that the punishment (paragraph 2, article 534) was for more than six months.

Seventh. The municipal court did not have concurrent jurisdiction with the Court of First Instance over the crime charged in the complaint in the present cause, for the reason that the crime described in the complaint did not constitute "embezzlement."

Eighth. The defendant duly objected to the jurisdiction in the municipal court, as well as in the Court of First Instance.

Ninth. The defendant having objected to the jurisdiction of the municipal court and having appealed to the Court of First Instance upon the ground that the municipal court was without jurisdiction, and there again having objected to the jurisdiction of that court, he was entitled to be heard first upon the question whether or not the municipal court had jurisdiction to impose the sentence under the complaint.

Tenth. It being established that the municipal court did not have jurisdiction to impose the penalty under the complaint, then the Court of First Instance had no jurisdiction and the penalty imposed was without authority of law and therefore null.

Eleventh. The proceedings in the municipal court being null and void by virtue of the fact that said court had no jurisdiction, the defendant had a right, if the authorities deemed it advisable to prosecute him, to be brought into the Court of First Instance by the usual and ordinary procedure adopted by the law. On his appeal, under proper objection to the jurisdiction, he had a right to have the question decided whether or not the municipal court had jurisdiction.

Therefore and for all of the foregoing reasons, it is the judgment of this court that the defendant's petition should be allowed and that he should be at once set at liberty.

Without any finding as to costs, it is so ordered.

Arellano, C. J., Torres, Moreland, and Trent, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.