

**PEOPLE OF THE PHILIPPINES(LUZ MARQUEZ), PETITIONER, VS.
COURT OF FIRST INSTANCE OF ORIENTAL MINDORO, BRANCH I AND
MATILDE FESALVO, RESPONDENTS.**

G.R. No. 64050. September 12, 1984

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MAKASIAR, J., Chairman:

This is a petition for certiorari to review and annul the decision dated August 31, 1982 of the defunct Court of First Instance of Oriental Mindoro (Branch I) reversing the decision of the Municipal Court of Calapan, Oriental Mindoro, in Criminal Case No. 5061 for Grave Slander filed against private respondent Matilde Fesalvo.

The facts are undisputed. It appears that on January 10, 1980, Luz A. Marquez filed against herein private respondent a complaint for Grave Slander with the Municipal Court (now Municipal Trial Court) of Calapan, Oriental Mindoro, docketed as Criminal Case No. 5061.

Upon arraignment, private respondent herein pleaded not guilty. After trial on the merits, private respondent was found guilty of slight Oral defamation in a decision dated January 15, 1982 and sentenced to pay a fine of P200.00, attorney's fees in the sum of P2,000.00 and costs.

On January 29, 1982, counsel for private respondent filed a notice of appeal with a prayer that the records of the instant case be forwarded to the Court of First Instance of Oriental Mindoro.

On February 16, 1982, the respondent Court of First Instance of Oriental Mindoro took cognizance of the case when it issued an order requiring the parties to submit their respective memoranda within thirty (30) days from receipt of said order (p. 18, rec.).

On September 23, 1982, respondent Court promulgated its decision dated August 31, 1982, reversing the decision of the Municipal Court of Calapan, Oriental Mindoro by acquitting private respondent Matilde Fesalvo on the ground that the "quantum of evidence required to justify conviction of grave slander has not been met" (pp. 23-24, rec.).

On September 24, 1982, petitioner herein, thru Assistant Provincial Fiscal Emmanuel S. Panaligan and private prosecutor Dante A. Manzo, filed a motion for reconsideration assailing the respondent court's decision on jurisdictional ground, but the same was denied by respondent court in an order dated January 3, 1983 (p. 30, rec.).

Hence, the instant petition filed on March 11, 1983.

The sole issue before Us is whether or not respondent then Court of First Instance, now the Regional Trial Court, has appellate jurisdiction over a criminal case for grave slander.

As noted at the outset, petitioner herein assailed the respondent Court's decision reversing the decision of the municipal court of Calapan, Oriental Mindoro contending that the respondent Court of First Instance of Oriental Mindoro has no jurisdiction to entertain the appeal filed by private respondent for lack of jurisdiction.

The Solicitor General, in his comment in support of the instant petition, likewise assailed respondent Court's action acquitting herein private respondent Matilde Fesalvo for want of jurisdiction, citing Section 45, Judiciary Act of 1948, as amended by Republic Act Nos. 2613 and 6031 which provides:

"In cases falling under the exclusive original jurisdiction of municipal and city courts which are appealed to the courts of first instance, the decision of the latter shall be final: Provided, That the findings of facts contained in said decision are supported by substantial evidence as basis thereof, and the conclusions are not clearly against the law and jurisprudence; in cases falling under the concurrent jurisdictions of the municipal and city courts with the courts of first instance, the appeal shall be made directly to the court of appeals whose decision shall be final: Provided, however, That the Supreme Court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the case be certified to it for review and determination, as if the case had been brought before it on appeal" (Italics supplied).

There is merit in the petition.

This case presents another occasion to repeat what had been -- albeit no longer obtain-ing now -- a well-settled jurisprudence too well known to be missed by respondent Court. It bears reiterating what this Court had first stated in *Esperat vs. Avila* (20 SCRA 596, 601-602 [1967]) and in a number of other cases (*Manigla vs. Lantin*, 30 SCRA 81, 84-85 [1969]; *People vs. Doriquez*, 24 SCRA 163, 169-170 [1968]; *Andico vs. Roan*, 23 SCRA 93, 99-100 [1968]; *Le Hua vs. Reyes*, 23 SCRA 53, 56-57 [1968]) that:

"Actually, there is nothing irreconcilable between sections 44(f) and 87(c) of the Judiciary Act.

"As therein provided, the court of first instance was given original jurisdiction over cases where the penalty prescribed by law is imprisonment for more than 6 months or fine of more than P200.00; the justices of the peace and municipal or city courts of chartered cities, over cases where penalty is imprisonment for not more than 3 years, and fine of not more than P3,000.00. In other words, where the prescribed penalty is imprisonment for more than 6 months, but not exceeding 3 years, or fine of more than P200.00 but not exceeding P3,000.00, the justice of the peace or municipal court only has concurrent (and not exclusive) original jurisdiction with the court of first instance. And, it may be stated that this concurrent jurisdiction between the inferior courts and the court of first instance was not provided for the first time in Republic Act No. 3828. Under Republic Act 2613, crimes the penalties for which do not exceed 6 years, or fine for not more than P3,000.00, were specifically placed within the jurisdiction of the justice of the peace and municipal courts, concurrent with the court of first instance.

"It follows, therefore, that the exclusive original jurisdiction of the justice of the peace and municipal court is confined only to cases where the prescribed penalty is imprisonment for 6 months or less, or fine of P200.00 or less, whereas, the exclusive original jurisdiction of the court of first instance covers cases where the penalty is incarceration for more than 3 years (or 6 years in the case of city courts and municipal courts in provincial capitals) or fine for more than P3,000.00 (or P6,000.00 in proper cases), or both such imprisonment and fine. Between these exclusive jurisdictions lies a zone where the jurisdiction is concurrent. This is the proper construction to be placed on the provisions involved herein, regardless of what may have been the prior rulings on the matter. Needless to state, in an appropriate case where the jurisdiction of the justice of the peace, municipal or city court is concurrent with that of the court of first instance, appeal from the decision of the former tribunal lies directly to the Court of Appeals, or the Supreme Court."

Since the offense of grave oral defamation carries a maximum penalty of prision correccional in its minimum period (or imprisonment not exceeding 2 years and 4 months), said offense falls within the concurrent jurisdiction of the inferior courts and the courts of first instance under the old Judiciary Act of 1948, as amended (*People vs. Doriquez*, supra). Hence, the decision of the Municipal Court of Calapan, Oriental Mindoro convicting

herein private respondent in Criminal Case No. 5061 should have been appealed to the Court of Appeals.

The appeal having been erroneously filed in the CFI, this Court may, by analogy, apply Section 31 of the Judiciary Act, as amended, which reads as follows:

"Sec. 31. Transfer of cases from Supreme Court and Court of Appeals to proper court. -- All cases which may be erroneously brought to the Supreme Court or to the Court of Appeals shall be sent to the proper court, which shall hear the same, as if it has originally been brought before it."

Hence, We deem herein private respondent's appeal to the CFI of Oriental Mindoro as an appeal to the Court of Appeals (now Intermediate Appellate Court) and correspondingly order the remand of the record of the instant case to the Intermediate Appellate Court for determination as if it were originally brought before it.

Finally, it may be pointed out that under Batas Pambansa 129, which was implemented upon the issuance by the President of Executive Order No. 864, dated January 17, 1983, declaring the completion of the re-organization of the Judiciary, the so-called zone of concurrent jurisdiction of the then municipal and city courts and courts of first instance has been done away with. All cases decided by Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts are now appealable to the Regional Trial Courts exercising jurisdiction over the area to which they pertain (Section 22; Section 21, Interim Rules and Guidelines).

While it is an established rule of statutory construction that procedural laws have retroactive effect and they are applicable to cases pending in courts at the time of their adoption (*Alday vs. Camilon*, 120 SCRA 522, 523 [1983] citing *People vs. Sumilang*, 77 Phil. 764, 765-766); nevertheless, said principle cannot be applied to the factual and legal setting of the present case -- which ostensibly involved a procedural matter -- for the reason that at the time of the filing of the complaint for grave slander in the then municipal court of Calapan, Oriental Mindoro on January 10, 1980, until it was decided by said court on January 15, 1982, the provisions of B.P. 129 were not yet carried out and that the old courts (CA, CFI, CCC, JDRC, CAR, City Courts, Municipal Courts, and Municipal Circuit Trial Courts) would continue to function as constituted and organized until the completion of the re-organization as declared by the President, which he did with the issuance as aforesaid of Executive Order No. 864 on January 17, 1983. Stated otherwise, the case at bar cannot be said to have been pending in the old municipal court of Calapan, Oriental Mindoro at the time B.P. 129 took effect on January 17, 1983, because said court had already exhausted its authority over the case after it rendered decision in Criminal Case No. 5061 on January 15, 1982.

Since the instant case was erroneously appealed by private respondent to the CFI of Oriental Mindoro, the proceedings held therein and its decision rendered on September 23, 1982 as well as the order of said court dated January 3, 1983 denying herein petitioner's motion for recon-sideration of the court's decision, are deemed null and void. A conviction or an acquittal rendered by a court having no jurisdiction is absolutely void (*People vs. Argel*, 104 SCRA 497, 506 [1981] citing *U.S. vs. Jayme*, 24 Phil. 90).

WHEREFORE, THE PETITION IS HEREBY GRANTED. THE DECISION RENDERED BY RESPONDENT COURT OF FIRST INSTANCE OF ORIENTAL MINDORO IS HEREBY SET ASIDE FOR LACK OF APPELLATE JURISDICTION. THE APPEAL TAKEN BY PRIVATE RESPONDENT TO THE THEN CFI OF ORIENTAL MINDORO IS CONSIDERED AN APPEAL TO THE COURT OF APPEALS (NOW INTERMEDIATE APPELLATE COURT) AND THE RECORD OF THE CASE IS HEREBY ORDERED REMANDED TO THE INTERMEDIATE APPELLATE COURT FOR REVIEW ON THE MERITS.

NO COSTS. SO ORDERED.

Aquino, Abad Santos, Escolin, and Cuevas, JJ., concur.

Concepcion, Jr., and Guerrero, JJ., on leave.

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