

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. AGUSTIN JUEVES ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 6992. August 30, 1912

Ponente: TRENT, J.

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TRENT, J.:

The appellants in this case, seven in number, were charged under section 1 of Act No. 518 as amended by section 1 of Act No. 1121 with the crime of brigandage or highway robbery, and each sentenced to twenty years' imprisonment.

The trial judge, the Honorable Mariano Cui, found from the testimony presented the following facts:

- About 7 o'clock on the evening of December 31, 1903, the residents of the town of Alabat, Tayabas Province, heard the report of a gun and the cry of "tulisan." Immediately following this alarm, a band of armed men entered the municipal building, bound the presidente, and took him out into the street, and then took from the municipal building seven guns which they found therein. Later on in the night they killed the justice of the peace of that town.

- About 7 o'clock on the evening of February 4, 1904, a band of some twenty men, three armed with guns and the rest with bolos, entered the house of one Doroteo Maraver, situated in the sitio of Capalohan (formerly a part of the town of Capalongan, Ambos Camarines, but at the date of the commencement of this action a part of the town of Calauag, Tayabas), and after warning the inmates not to move, tied and bound all the men they found therein, four in number, after which they ordered the women to prepare a meal for them, which they ate. After eating this meal, they departed, taking with them the men whom they had bound and also some tobacco and rice. They then went to the house of Francisco Ambas, one of their prisoners, from which place they took a hog and various other things. They then proceeded to a river, where they liberated two of their prisoners. About a year later the widow of Martin Ambas attempted to identify two skulls exhibited to her in the Court of First Instance at Daet, Ambos Camarines, as being those of the two missing men.

- On the night of Holy Thursday of the year 1904, which was in the month of April, a band of many men, armed with one revolver, 3 shotguns, and bolos, went to the barrio of Basiad, which was then within the jurisdiction of the town of Capalongan, Ambos Camarines, and took as prisoners three men, conducting them from place to place. One of them, Juan Talento, made his escape and reported to the authorities of the said town.

- About 9 o'clock of a morning in August, 1910, two of the accused, Agustin Jueves and Felix Jueves, accompanied by their younger brother, Esteban Jueves, all armed with large bolos, entered the house of Serapio Juego, situated near the sea in the sitio of Pangas, municipality of Calauag, Tayabas, there being no other houses near, and without uttering a word, the two first named placed themselves in the doorway while the last named

took possession of a small quantity of rice, valued at ₱2.40, which he found in the house, after which they all three left, carrying the rice with them.

Of the thirteen who were held to answer the complaint, four, namely, Juan Manabo, Pedro Manabo, Dionisio Jamito (alias Cabayo), and Juan Saret, were not present to answer; the complaint was dismissed as to Cesareo Ocana and Bartolome Ocana on motion of the prosecution for lack of proof. The remaining seven, namely, Agustin Jueves, Roberto Toacar, Felix Jueves, Pedro Toacar, Cesareo Penamonte, Ciriaco Manigo, and Mauricio Manigo, were convicted as above stated, and have all appealed to this court.

Graciana Laiman testified that she was the wife and sister-in-law, respectively, of Francisco Ambas and Martin Ambas, both deceased. She testified that of the accused she recognized all of the seven who were finally convicted by the trial court as being members of the gang who took the prisoners referred to in paragraph 2. She stated that she was an eyewitness to this occurrence; that Agustin and Felix Jueves were, during 1904, and still are, residents of a neighboring barrio; that Roberto and Pedro Toacar lived in her own barrio and near her own home; that she knew Mauricio Manigo because he was a woodcutter for her brother-in-law, and that at the time her husband was taken prisoner he lived in a neighboring barrio; that she remembered Ciriaco Mañigo because while the band was at the house there was a good light; that she had seen him again in the court at Daet; and that she recognized him in the court during the trial of this case. As for Cesario Penamonte, she stated that he was with the Jueves and Mañigo brothers on the night in question in 1904.

Doroteo Mercader (Maraver) testified regarding the same occurrence. He stated that the men taken prisoners were in his house at the time. This witness was one of the prisoners turned loose when the band reached the river. He identified all of the seven appellants in open court, calling them by name.

Angelo Lunasco testified regarding the same event. He stated that he was one of the prisoners turned loose on the band's arrival at the river. He recognized five of the accused and pointed them out on the stand as being the Jueves and Toacar brothers, and Mauricio Mañigo.

Juan Talento testified regarding the occurrence on the night of Holy Thursday, 1904. He stated that he was taken prisoner by the band in question on that night. He recognized Ciriaco Mañigo and the Toacar brothers as being members of the gang.

Graciana Laiman states that Ciriaco Mañigo was one of the party who carried off her husband on the night of February 4, 1904; that she saw him again in the court at Daet, and the third time during the trial of this case. Doroteo Mercader (Maraver), who was taken prisoner on that night, testified that this man was one of the gang, and on being requested to do so, pointed him out to the court from among the rest. Juan Talento testified that Mañigo was one of the party which took him prisoner on the night of Holy Thursday, 1904. The testimony of these witnesses shows conclusively that Ciriaco Mañigo was a member of the gang.

Cesareo Peñamonte was pointed out by Graciana Laiman and Doroteo Mercader (Maraver) as being one of the band. Graciana Laiman stated that she saw him with the Jueves and Manigo brothers on that night. Mercader testified that this defendant was a resident of his own barrio.

There is no evidence controverting the declarations of these witnesses. These witnesses had excellent opportunities to note the features of the different members of the party, while it was engaged in its unlawful acts. The guilt of all the appellants has been established beyond any question of a doubt by direct and positive testimony.

Counsel insist, first, that the court of Tayabas had no jurisdiction to try these appellants for the reason that the territory where the acts complained of were committed belonged to the Province of Ambos Camarines at the time

of the commission of said acts, although it has since been transferred to the Province of Tayabas; and second, that section 3 of Act No. 518 is invalid as opposed to the Philippine Bill. The record showing nothing to the contrary, we assume that the complaint was filed subsequent to the transfer of territory in question. Such being the case, the question is raised Does a court have jurisdiction of crimes committed in a particular locality prior to the time such locality was included within the jurisdiction of such court? If this question can be answered in the affirmative, we do not need to consider the validity of section 3 of Act No. 518 in order to dispose of this objection.

The general rule is that the jurisdiction of a court is determined (1) by the geographical limits of the territory over which it presides, and (2), the actions (civil and criminal) it is empowered to hear and decide. That the Court of First Instance of Tayabas would have had jurisdiction of this cause had the unlawful acts of the appellants been committed subsequent to the transfer of this small strip of territory must be conceded.

Questions of jurisdiction do not arise and cannot be decided until the initial pleadings in an action are presented to a court. A court has an inchoate right of jurisdiction over all crimes committed within its jurisdiction which is perfected on the institution of the action. If, however, it loses jurisdiction over a particular action because its territorial limits are restricted prior to the institution of the action, it also loses this inchoate right to jurisdiction in favor of the court to which the territory is transferred. Were the rule otherwise, it would be necessary to prolong a court's existence indefinitely after being legally abolished or after its authority had been legally restricted or diminished on the ground that it must hear possible actions arising sometime in the future.

The territory where the acts complained of in the case at bar were committed having been transferred to the Province of Tayabas prior to the institution of this action, the court of that province had jurisdiction to hear and determine this case. (*State vs. Donaldson*, 3 Heisk. (Tenn.), 48; *State vs. Jones*, 9 N. J. L., 357, 372.) The assumption of jurisdiction over crimes committed before jurisdiction was conferred is not in violation of the ex post facto clause of the Philippine Bill. (*Calder vs. Bull*, 3 Dall., 386, 1 L. ed., 648; *Cook vs. United States*, 138 U. S., 157, 34 L. ed., 906; *Gut vs. Minnesota*, 76 U. S., 35, 19 L. ed., 573.)

The change of the territory after the crime was committed and before the institution of this action does not touch the offense nor change the punishment therefor. It only includes the place of the commission of the offense within another judicial district, and subjects the appellants the trial in that district. This would not alter the situation of the appellants in respect to their offense or its consequences. If it did, owing to the peculiar jurisdiction conferred upon Courts of First Instance in case of brigandage and the elements constituting this crime, especially that of conspiracy, the result would be the same.

For the foregoing reasons, the judgment appealed from is affirmed with costs against the appellants. So ordered.

Arellano, C. J., Mapa, Johnson, and Carson, JJ., concur.

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