

THE PEOPLE OR THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. PAZ VILLAVICENCIO, DEFENDANT AND APPELLANT;*G. R. Nos. 10068-70. June 29, 1957*

Ponente: LABRADOR, J.

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In three amended complaints filed in the above-entitled cases in the Municipal Court of Manila, Generoso Amosco accuses Paz Villavicencio, Consuelo B. Garcia, and alias Doe alias Miss Santiago, of slander for uttering insulting words and expressions against him. The slanderous words are alleged to have been uttered on January 23, 1954, and separate informations against the accused had previously been filed by the Fiscal on February 18, 1954. But on July 21, 1954, the three accused filed a joint motion to quash the informations on the ground that the facts alleged do not constitute an offense, and that the municipal court has no jurisdiction to try the cases. The court sustained this motion on August 11, 1954; so on August 20, 1954, the amended complaints were "filed by the offended party" against the three accused.

On September 27, 1954, counsel for the accused again filed a motion to quash the amended complaints on the ground that the offense charged therein has been extinguished by 3 years' prescription, and that the facts alleged do not constitute an offense. On October 18, 1954, the Municipal Court dismissed the three cases, but recommended that the Fiscal appeal the order to the higher court so that a clear and definite report on the matter at issue can be had. The clerk of court entered the order of dismissal in the clerk's daily report of October 18, 1954. Almost eleven months elapsed without any action on the part of the Fiscal being taken, but on September 14, 1955, he filed his notice of appeal against the order of October 18, 1954. The papers were forwarded to the Court of First Instance of Manila on September 15, 1955. On September 19, 1955, counsel for the accused filed a motion in the Municipal Court to dismiss the appeal of the prosecution, but the court denied the motion in its order of September 28,

Once the case was docketed in the Court of First Instance by virtue of the appeal, the accused sought the return of the papers to the Municipal Court in order that his motion for reconsideration of the order allowing the appeal may be passed upon by that court. He also asked that the appeal be elevated directly to the Supreme Court. The Court of First Instance denied the motion of the accused that the case be certified to the Supreme Court, holding that the Judiciary Act of 1948 (Republic Act No. 296) confers upon the Courts of First Instance the exclusive appellate jurisdiction over all cases "arising from municipal and justice of the peace courts. However, it held, that the order of the Municipal Court dismissing the informations in the three cases may not be reviewed by "it for the reason that the appeal was not perfected "before six o'clock postmeridian of the day after the rendition and entry of the judgment by the municipal court." (Section 46, Republic Act No. 409). Against this order the Fiscal prosecuted this appeal.

The issue raised on this appeal is whether or not the period for filing an appeal from a judgment of the municipal court of the City of Manila should begin to run from the entry of the judgment in the said court, or from the receipt of notice of the judgment by the party desiring to appeal. The issue involves the interpretation of section

46 of Republic Act No. 409, which is as follows:

"Sec. 46. Procedure on appeal from, municipal court to Court of First Instance.—An appeal shall lie to the Court of First Instance next to be held within the city, in all cases where fine or imprisonment, or both," is imposed by the municipal court. The party desiring' to appeal shall before six o'clock postmeridian of the day after the rendition and entry of the judgment by the municipal court, file with the clerk of the court a written statement that he appeals to the Court of First Instance. The filing of such statement shall perfect the appeals. * * *.

The above provision is a reproduction of section 2445 of the Revised Administrative Code of 1916, and therefore it should be interpreted in the same manner as the latter.

Some members of the Court sustain the view that a judgment or order of the municipal court may be appealed by the Fiscal within the period provided, to be computed from the actual receipt of the notice of the judgment or order. The reason for this view is that this has been the practice and procedure followed in all courts and in all proceedings, and lack of notice may be deemed a denial of due process. Others are of the opinion, following the ruling of the judge below, that the entry of the judgment or order in the records of the municipal court as indicated in section 46 of Republic Act No. 409 (Revised Charter of the City of Manila), is equivalent to notice by personal service of a copy of the order or judgment. As the law expressly provides that appeals from judgment or orders of the municipal court are to be taken on the day following the entry of judgment, the prosecuting officers are presumed to know this provision, and if they are interested in any order or judgment, they should take the trouble of consulting the record

We have decided not to resolve the issue and base our ruling on the case on a more plausible ground. All members of the Court are agreed that the Fiscal has been guilty of laches in prosecuting this appeal. In view of the express provision of the law to the effect that appeals from orders and judgments can be appealed only on the day following their rendition and entry, it was the duty of the Fiscal to find out, within a reasonable time, whether a judgment or order! has been entered in the case, so that an appeal there from may be perfected. The Fiscal was entirely wanting in that diligence expected of a public official interested in the faithful discharge of, his duties, and his failure to exercise the required diligence and care in respect to the case is inexcusable. Without determining the issue presented by the Government in this appeal, we hold that the cases should be dismissed because of laches on the part of the prosecuting officer. The order of dismissal appealed from is, therefore, affirmed, with costs de oficio.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, and Reyes, J. B. L., JJ., concur.

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