

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE COURT OF
FIRST INSTANCE OF BULACAN, BRANCH VII, PRESIDED OVER BY
THE HON. MINERVA C. GENOVEA, AND LIBERATO ANDAYA,
RESPONDENTS.**

G.R. Nos. 53674-75. July 11, 1988

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a special civil action for certiorari under Rule 65 of the Rules of Court, which seeks to set aside as null and void the decision dated January 14, 1980, of the respondent Court of First Instance (now Regional Trial Court) of Bulacan, Branch VII, and the order dated March 25, 1980, of the same court denying a motion for reconsideration thereof.

The aforesaid decision dismissed two (2) criminal cases, namely: (1) Criminal Case No. 2504-M for grave threats and (2) Criminal Case No. 2505-M for physical injuries, both entitled “People of the Philippines, Plaintiff, vs. Liberato Andaya, Accused,” appealed to the respondent court from the municipal court of Marilao, Bulacan.

The following undisputed facts appear in the records:

On November 6, 1974, the Office of the Provincial Fiscal of Bulacan, through Assistant Provincial Fiscal Liberato Reyes, filed with the municipal court of Marilao, Bulacan, two (2) separate informations charging private respondent Liberato Andaya, a duly elected councilor of the municipality of Bocaue, Bulacan, with the crimes of grave threats and physical injuries. Finding the existence of probable cause, the municipal court, on November 14, 1974, admitted the two (2) informations, ordered the arrest of the private respondent and fixed the bail for his provisional liberty.

On January 23, 1975, the private respondent, through counsel, filed a motion to quash the two (2) informations for lack of authority on the part of the fiscal to file the same as no prior clearance was obtained by him from the Department of Local Government or the Department of Justice, which is required under Letter of Instructions No. 180 as amended by Letter of Instructions No. 231, since the private respondent is an elective official. The motion further alleged that the filing of the informations directly with the court, without the fiscal conducting the preliminary investigation and with the end in view for the court where they were filed to conduct the preliminary examination, does not exempt the fiscal from securing such clearance.

On February 11, 1975, the municipal court denied the motion to quash, ruling that Letter of Instructions Nos. 180 and 231, all cited by the private respondent in his motion, apply only to preliminary investigations and not to cases where the fiscal merely filed informations and for the court to conduct the corresponding preliminary examinations. This order was never questioned by the private respondent.

On March 24, 1975, the private respondent, upon arraignment, pleaded not guilty to both informations. After a joint trial on the merits, the municipal court rendered a joint decision on November 15, 1977, convicting private

respondent in both cases.

On appeal to the respondent court, the private respondent assigned eight (8) errors, without raising the issue of the fiscal's failure to secure authority or clearance from the Department of Local Government or the Secretary of Justice before filing the informations with the court a quo. Neither did he raise the question of jurisdiction of the municipal court in conducting the preliminary examinations in both cases without securing the same clearance.

On January 14, 1980, a decision was rendered by the respondent court dismissing both cases, not on the merits or the issues raised in the appeal, but for the alleged lack of jurisdiction on the part of the municipal court in proceeding to conduct a preliminary examination in both cases without prior clearance in violation of Letter of Instructions No. 180.

On January 23, 1980, the Provincial Fiscal of Bulacan filed a motion for reconsideration of the aforesaid decision on the ground that the Letter of Instructions in question does not apply to the judiciary but only to the investigating officers of the three (3) executive departments of government mentioned therein. On March 25, 1980, respondent court denied the motion for lack of merit. Hence, this petition.

The petitioner raises the following issues for consideration:

“(a) Whether or not failure to comply with the requirements of LOI No. 180 divested the courts of its jurisdiction; and

(b) Whether or not the respondent court acted without or in excess of its jurisdiction and/or with grave abuse of discretion in dismissing the two criminal cases in question.”

Letter of Instructions No. 180 issued on April 3, 1974, was addressed only to the Secretaries of the Department of National Defense, the Department of Justice and the Department of Local Government and Community Development. Section 1 thereof reads:

“Except as hereinafter, otherwise provided, the investigation with a view to arrest based upon probable cause as well as the actual arrest and/or detention of such local elective official arising from or as a result of such investigation shall be made thru the Secretary of Local Government and Community Development, irrespective of whether the charges being investigated arose from acts committed before or after September 21, 1972.”

This Letter of Instructions was later modified by Letter of Instructions No. 231 issued on December 5, 1974. Paragraphs (1) and (4) thereof read:

“(1) The Secretary of Justice may, without need of securing previous clearance or authority from me, authorize the preliminary investigation of a criminal complaint filed against a local elective official with the Office of the Provincial or City Fiscal.

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(4) The provisions of Letters of Instruction Nos. 147 and 180, dated November 14, 1973 and April 3, 1974, respectively, and this Letter of Instructions shall not be construed as affecting jurisdiction of regular courts of justice under existing laws.”

Respondent court, in justifying its conclusion that courts are covered by the clearance requirement provided in the Letter of Instructions in question, ruled that the requirement applies to all officials authorized by law to conduct preliminary investigations of criminal complaints and “when the judge conducts a preliminary investigation, he is not exercising his judicial function of trying and hearing a case but his quasi-judicial function of investigating a criminal complaint.”

This interpretation is clearly without merit. Consider the following:

- Letters of Instruction are simply directives of the President of the Philippines, issued in the exercise of his administrative power of control, to heads of departments and/or officers under the executive branch of the government for observance by the officials and/or employees thereof. In the case of Letter of Instructions No. 180, the same was addressed specifically to the Secretaries of the Department of National Defense, the Department of Justice and the Department of Local Government and Community Development. Courts are not under any of these three departments. Neither are they under the executive branch of the government.

- It is a well-established rule that only a law creates courts and upon consideration of general policy, defines and limits their jurisdiction. (U.S. vs. Grant and Kennedy, 18 Phil. 122). If it were the intention that courts are also to be bound by the requirement that prior clearance must first be obtained before they can conduct preliminary examinations or investigations of cases against local elective officials filed with them, the President of the Philippines could have easily issued, in the exercise of his rule-making powers then available during the martial law regime, a presidential decree to that effect which has the force of law. But this was not done. The clearance requirement, therefore, is not jurisdictional.

An example of a law which virtually limited the jurisdiction of court is Presidential Decree No. 316 issued by the President of the Philippines on October 22, 1973. This decree expressly prohibited judges of the Court of Agrarian Relations, Court of First Instance and municipal or city courts from taking cognizance of any ejectment case or any other case designed to harass or remove a tenant of an agricultural land primarily devoted to rice and corn, unless certified by the Secretary of Agrarian Reforms as a proper case for trial or hearing by a court or judge or other officer of competent jurisdiction. If the case has already been filed, the court or judge cannot assume jurisdiction over the dispute or controversy unless the Secretary of Agrarian Reforms first finds and certifies that the case is a proper case for the court or judge to hear.

- It is very clear that as early as January 23, 1975, when he filed a motion to quash the two (2) informations filed against him with the municipal court of Marilao, Bulacan, the private respondent himself was already convinced that the said court was not at all covered by the clearance requirement provided in Letter of Instructions No. 180. He did not question the jurisdiction of the court to hear and decide the case. What he raised instead in his motion was the lack of authority on the part of the fiscal to file the informations without prior clearance from the authorities concerned. Again, on appeal to the respondent court after his conviction in the two (2) cases on November 15, 1977, private respondent did not raise as an issue the lack of authority of the fiscal to file the case or the jurisdiction of the court to hear and decide the case.

Respondent court rendered its questioned decision on January 14, 1980, long after the issuance of Letters of Instructions No. 180 on April 3, 1974. In his motion for reconsideration of the said decision filed on January 23, 1980, the Provincial Fiscal of Bulacan already pointed out to the respondent court that Secretary of Justice Vicente Abad Santos, in his opinions of October 10 and 11, 1974, stated that Letter of Instructions No. 180 covers only investigations conducted by the military or fiscals and does not apply to preliminary investigations conducted by the courts.

The opinion of the Secretary of Justice dated October 10, 1974 reads:

“Respectfully returned to the Honorable Secretary of Local Government and Community Development, Quezon City, with the comment that since the case referred to in the basic communication (People vs. Juan Liabres y Cortuna, et al., Crim. Case No. R-109, for Rape) is already on trial before the Court of First Instance of

Occidental Mindoro, Branch I, Mamburao, I believe that no further clearance be granted. A perusal of Letter of Instructions No. 180 clearly shows that it applies only to investigations of local elective officials by the military or by fiscals, or arrest and detention by the military, for which prior clearance must first be secured either from the Secretary of National Defense or from me, as the case may be, or from the Secretary of Local Government and Community Development in cases other than those falling under paragraph 4 thereof. It does not apply to preliminary investigations conducted by the Courts, much less to cases which are already being heard by the Courts as in the instant case.”

The opinion of the Secretary of Justice dated October 11, 1974 reads:

“Respectfully returned to the Secretary of Local Government and Community Development, Quezon City, with the statement that this Office believes that Letter of Instructions No. 180 does not apply to preliminary investigations conducted by the Courts nor to service of warrants of arrests issued after such preliminary investigations. Letter of Instructions No. 180 refers only to investigation by the military and by fiscals.

“Accordingly, in the cases referred to in the basic communications (People vs. Alejandro Quinto and People vs. Cesario Balay, Crim. Cases Nos 1612 and 1613, respectively, of the Municipal Court of Sto Domingo, Nueva Ecija) where the preliminary investigations were conducted by the Municipal Judge himself, I believe that a clearance is not necessary for the issuance of the corresponding warrants of arrest.”

The position of the Secretary of Justice on the matter was confirmed by Letter of Instructions No. 231 issued on December 5, 1974, which expressly stated that “The provisions of Letters of Instructions Nos. 147 and 180, dated November 14, 1973 and April 3, 1974, respectively, and this Letter of Instructions shall not be construed as affecting jurisdiction of regular courts of justice under existing laws” (underscoring supplied). It will be noted that this amendatory Letter of Instructions was also mentioned by the private respondent in his motion to quash filed in the municipal court and quoted in its decision of November 15, 1977, convicting the accused in both cases.

Notwithstanding the fact that its attention was already called to the correct coverage of the Letters of Instructions in question, the respondent court still capriciously dismissed the two criminal cases on the ground that no prior clearance was obtained by the municipal court in conducting the preliminary examination, thus implying that it is a jurisdictional requirement for the prosecution thereof. This act clearly constitutes grave abuse of discretion amounting to lack of jurisdiction. Such a dismissal order is void. It cannot terminate the proceedings. In *People vs. Gomez*, L-22345, May 29, 1967, 20 SCRA 293, this Court said:

“A purely capricious dismissal of an information, as herein involved, moreover, deprives the State of fair opportunity to prosecute and convict. It denies the prosecution its day in court. Accordingly, it is a dismissal without due process and, therefore, null and void. A dismissal invalid for lack of a fundamental prerequisite, such as due process, will not constitute a proper basis for the claim of double jeopardy (*People v. Balisacan*, L-26376, August 31, 1996, *Tilghman v. Mago* [Fla.] 82 So. 2d 136; *McCleary v. Hudspeth*, 124 F. 2d 445).”

ACCORDINGLY, the petition is GRANTED; the decision of respondent court dated January 14, 1980 and its order dated March 25, 1980 denying the motion for reconsideration are hereby set aside; and the case is remanded to the lower court for further proceedings.

Narvasa, J., (Chairman), Cruz, Gancayco and Griño-Aquino, JJ., concur.

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