

**PEDRO TANDOC, ROGELIO ERCELLA, RUDY DIAZ, JUAN ROSARIO,
AND FRED MENTOR, PETITIONERS, VS. THE HONORABLE RICARDO
P. RESULTAN, IN HIS CAPACITY AS PRESIDING JUDGE OF THE CITY
COURT...**

G.R. Nos. 59241-44. July 05, 1989

Ponente: PADILLA, J.

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PADILLA, J.:

Petition for certiorari assailing the Orders[1] of the City Court of San Carlos City, Pangasinan, dated 13 August 1981, finding reasonable ground to believe that petitioners Pedro Tandoc, Rogelio Ercella, Rudy Diaz, Juan Rosario and Fred Menor had probably committed the crimes of "Trespass to Dwelling", "Serious Physical Injuries", "Less Serious Physical Injuries" and "Grave Threats", docketed as Criminal Cases Nos. 2105, 2106, 2107 and 2108: and the Order[2] dated 21 October 1981, denying petitioners' motion for a re-investigation of the complaint by the Office of the City Fiscal of San Carlos City. The incident which gave rise to the petition at bar is as follows:

On 19 October 1980, a criminal complaint docketed as I.S. No. 80-198 was lodged with the Office of the City Fiscal of San Carlos City, Pangasinan, with the charges of "Serious Physical Injuries", filed by Bonifacio Menor against respondent Arnulfo (Arnold) Payopay; "Slight Physical Injuries", filed by Fred de la Vega against respondent Beda Acosta, and "Trespass to Dwelling", filed by Pacita Tandoc against respondents Arnulfo (Arnold) Payopay, Beda Acosta, Manuel Cancino, Nadong Fernandez and Arturo Syloria.

Pending the resolution of said complaint, Arnulfo (Arnold) Payopay and his father Conrado Payopay, Sr., together with Manuel Cancino, also filed a complaint on 2 December 1980[3] with the Office of the City Fiscal, San Carlos City, Pangasinan, against Pedro Tandoc, Pacita Tandoc, Rudy Diaz, Fred Menor, Rogelio Ercella, Juan Rosario and Fred de la Vega, with the charges of "Trespass to Dwelling", "Serious Oral Defamation", "Grave Threats" and "Physical Injuries", docketed as I.S. No. 80-233.

On 10 December 1980, the investigating fiscal found reasonable ground to believe that respondents Arnulfo (Arnold) Payopay, Beda Acosta, Manuel Cancino, Nadong Fernandez and Arturo Syloria committed the crimes charged in I.S. 80-198,[4] thus:

"The evidence in the above-cited complaints tend to show that at about 6:35 o'clock in the afternoon of October 19, 1980, at the house of Pacita B. Tandoc, situated at Rizal Avenue, SCC, the respondents entered the store and dining [sic] room of the complainant without her permission. There was a sort of altercation between the complainant and respondent. Arnold Payopay, regarding the stoning of the store and house of complainant, Tandoc. In the course of their altercation, respondent Arnold Payopay picked up stones and struck the complainant Tandoc but instead her helper Bonifacio Menor was hit and suffered physical injuries which according to the medico-legal certificate will heal for [sic] more than thirty days. She further declared that respondent, Beda Acosta, who was behind Arnold Payopay picked up stone (sic) struck her but unfortunately her helper, Fred de la Vega, was hit and suffered injuries which injury will heal in less than nine

days according to the medical certificate. The matter was reported to the Barangay Chairman of the place and to the Office of the Station Commander. In support of the complaint are the sworn statements of Bonifacio Menor, Fred de la Vega, and Barangay Chairman Hermogenes Salangad.

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"After evaluating the evidence on hand and the entries in the police blotter the undersigned finds that there is reasonable ground to believe that the crime of Trespass To Dwelling, has been committed by all respondents; Serious Physical Injuries, has been committed by respondent Arnold Payopay; and Slight Physical Injuries, has been committed by respondent Beda Acosta. The latter case has not been referred to the Barangay Chairman as the case will soon prescribe and that the affidavit of complainant was just endorsed on November 28, 1980. I most respectfully recommend that the corresponding Informations be filed in Court.

From the aforequoted resolution, respondents filed a Motion for Reconsideration, but the same was denied in a resolution dated 5 January 1981.[5] Consequently, the corresponding informations for "Slight Physical Injuries", "Trespass to Dwelling" and "Serious Physical Injuries" were filed with the City Court of San Carlos City, docketed as Criminal Cases Nos. 1992, 2000 and 2001, respectively.[6]

With respect to the criminal complaint docketed as I.S. No. 80-233 filed by Arnulfo (Arnold) Payopay and Manuel Cancino against petitioners for "Serious Oral Defamation", "Grave Threats" and "Physical Injuries", the Office of the City Fiscal recommended the dropping of said charges on the ground that they "were found to be in a [sic] nature of a countercharge, the same having been filed after more than one (1) month from the date of the alleged incident of 19 October 1980." However, as to the charge of "Trespass to Dwelling" filed by Conrado Payopay, Sr. against Pedro Tandoc, a prima facie case was found by the investigating fiscal.[7] Thus, on 28 January 1981, an information[8] for "Trespass to Dwelling" was filed with the City Court of San Carlos City, docketed as Criminal Case No. 2017.

On 28 July 1981, respondents Arnulfo (Arnold) Payopay, Conrado Payopay, Sr. and Manuel Cancino, directly lodged with the City Court of San Carlos City the following criminal complaints against herein petitioners,[9] to wit:

- Criminal Case No. 2105, entitled "People v. Pedro Tandoc, Rogelio Ercella, Rudy Diaz, Juan Rosario and Fred Menor", for Serious Physical Injuries, filed by Arnulfo (Arnold) Payopay as private complainant.
- Criminal Case No. 2106, entitled "People vs. Rudy Diaz, Juan Rosario and Fred Menor", for Trespass to Dwelling, filed by Conrado Payo-pay, Sr. as private complainant.
- Criminal Case No. 2107, entitled "People vs. Pedro Tandoc, Rudy Diaz, Juan Rosario and Fred dela Vega", for Less Serious Physical Injuries, filed by Manuel Cancino as private complainant.
- Criminal Case No. 2108, entitled "People vs. Pedro Tandoc, Rudy Diaz, Rogelio Ercella, Juan Rosario & Fred Menor", for Grave Threats to Kill, with Arnulfo (Arnold) Payopay as private complainant.

On 13 August 1981, the City Court of San Carlos City issued several Orders[10] which are the subject of the petition at bar, whereby the court a quo, after conducting a preliminary examination of the four (4) aforementioned cases, found reasonable ground to believe that the offenses charged may have been committed by the accused (now petitioners) and that the latter were probably guilty thereof. The issuance of warrants of arrest was ordered against herein petitioners, although said warrants were later suspended upon motion of the petitioners. A motion for reconsideration of the aforesaid resolution was filed by petitioners, but it was denied.[11] They moved for a reinvestigation of the cases by the Office of the City Fiscal. On 21 October 1981, the court a quo denied said motion.[12] Petitioners sought a reconsideration of said order, but it was likewise denied,[13] hence, this petition.

The sole issue to be resolved in the case at bar is whether or not the city court has the power and authority to conduct anew a preliminary examination of charges, which were, previously the subject of a preliminary investigation conducted by the Office of the City Fiscal and thereafter dismissed by the latter.

A preliminary investigation is intended to protect the accused from the inconvenience, expense and burden of defending himself in a formal trial unless the reasonable probability of his guilt shall have been first ascertained in a fairly summary proceeding by a competent officer. It is also intended to protect the state from having to conduct useless and expensive trials.[14]

There are two (2) stages in a preliminary investigation; first, the preliminary examination of the complainant and his witnesses prior to the arrest of the accused to determine whether or not there is ground to issue a warrant of arrest; second, preliminary investigation proper, wherein the accused, after his arrest, is informed of the complaint filed against him and is given access to the testimonies and evidence presented, and he is also permitted to introduce evidence in his favor. The purpose of this stage of investigation is to determine whether or not the accused should be released or held before trial.[15]

Preliminary investigation is merely inquisitorial, and it is often the only means of discovering the persons who may be reasonably charged with a crime, to enable the fiscal to prepare his complaint or information.[16] It is not a trial of the case on the merits and has no purpose except that of determining whether a crime has been committed and whether there is probable cause to believe that the accused is guilty thereof, and it does not place the person against whom it is taken in jeopardy.[17]

Under Section 10, Rule 112 of the 1964 Revised Rules of Criminal Procedure, in cases falling within the exclusive jurisdiction of an inferior court, as well as in cases within the concurrent jurisdiction of the city courts or municipal courts with Courts of First Instance, the accused was not entitled to be heard in a preliminary investigation proper.[18] The reason behind this rule is as follows:

"Indeed, balancing the considerations, the withholding of the right of the preliminary investigation from the accused in cases triable by the inferior courts involving offenses with lower penalties than those exclusively cognizable by courts of first instance, could not be termed an unjust or unfair distinction. The loss of time entailed in the conduct of preliminary investigations, with the consequent extension of deprivation of the accused's liberty, in case he fails to post bail, which at times outlasts the period of the penalty provided by law for the offense, besides the mental anguish suffered in protracted litigations, are eliminated with the assurance of a speedy and expeditious trial for the accused, upon his arraignment (without having to undergo the second stage of the preliminary investigation), and of a prompt verdict on his guilt or innocence. On the other hand, the so-called first stage of preliminary investigation or the preliminary examination, conducted by the duly authorized officer, as borne out by the examination and sworn written statement of the complainants and their witnesses, generally suffices to establish the existence of reasonable ground to charge the accused with having committed the offense complained of."[19]

The preliminary examination prior to the issuance of a warrant of arrest and the sworn statements of the complainant and his witnesses are sufficient to establish whether "there is a reasonable ground to believe that an offense has been committed and the accused is probably guilty thereof ", to prevent needless waste or duplication of time and effort.[20]

In the case at bar, the offenses charged against petitioners for "Trespass to Dwelling", "Grave Threats" and "Physical Injuries" were all within the jurisdiction of the City Court of San Carlos City. Under the circumstances, the complaints could be filed directly with the City Court which is empowered to conduct a preliminary examination for purposes of issuance of warrants of arrest, and thereafter to proceed with the trial of the cases on the merits. The preliminary investigation proper conducted by the Office of the City Fiscal could have been

dispensed with. Neither did the earlier order of dismissal of the complaints by the investigating fiscal bar the filing of said complaints with the city court on the ground of double jeopardy.

"x x x. The result of a preliminary investigation can neither constitute nor give rise to the defense of double jeopardy in any case, because such preliminary investigation is not and does not in itself constitute a trial or even any part thereof. The only purpose of a preliminary investigation is to determine, before the presentation of evidence by the prosecution and by the defense, if the latter party should wish to present any, whether or not there are reasonable grounds for proceeding formally and resolutely against the accused (*People vs. Peji Bautista*, G.R. No. 45739, April 25, 1939; *U.S. vs. Yu Tuico*, 34 Phil., 209). In order that the defense of jeopardy may lie, there must be a former judgment, either of acquittal or of conviction, rendered by a court competent to render the same, not only by reason of the offense committed, which must be the same or at least comprised within it, but also by reason of the place where it was committed. Under the established facts it cannot be stated that the same circumstances exist in the case under consideration. Consequently, the defense of double jeopardy is untenable." [21]

As long as the offense charged has not prescribed, the city court has the power and authority to conduct a preliminary examination and proceed with the trial of the case properly within its jurisdiction. The prescriptive period of a crime depends upon the penalty imposed by law. The penalty of *arresto mayor* is imposed by law for the crimes of "Trespass to Dwelling", [22] "Grave Threats", which is not subject to a condition [23] and "Less Serious Physical Injuries" which has incapacitated the offended party for ten days or shall require medical attendance for the same period; [24] for "Serious Physical Injuries" which has caused illness or incapacity for labor for more than thirty (30) days, the penalty is *arresto mayor* in its maximum period to *prision correccional* in its minimum period. [25] The prescriptive period of offenses punishable by *arresto mayor* is five (5) years, while crimes punishable by correctional penalties prescribe in ten (10) years. [26] The incident at bar occurred on 19 October 1980, while the complaints were filed with the City Court nine (9) months from said occurrence or on 28 July 1981, thus, the crimes charged had not yet prescribed under the given facts.

From the order of the City Court finding reasonable ground to believe that a crime was committed and the accused probably guilty thereof, petitioners cannot seek a re-investigation by the Office of the City Fiscal. The re-investigation sought by petitioners applies only instances where a case is cognizable by the Court of First Instance but filed with the City Court for purposes of preliminary investigation only and thereafter dismissed by the latter on the ground that no *prima facie* case exists. However, for cases cognizable by inferior courts and filed with the same not only for purposes of preliminary investigation but for trial on the merits, the Office of the City Fiscal has no authority to re-investigate.

WHEREFORE, the petition is hereby DISMISSED. Costs against petitioners.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Sarmiento, and Regalado, JJ., concur.

[1] Penned by Judge Ricardo P. Resultan, Rollo, pp. 39, 41, 43 & 45

[2] *Ibid.*, pp. 48-51

[3] Rollo, p. 29

[4] *Ibid.*, pp. 19-20

[5] *Ibid.*, p. 24

[6] Ibid., pp. 25-28

[7] Ibid., p. 35

[8] Ibid., p. 36

[9] Ibid., pp. 38, 40, 42 and 44

[10] Ibid., pp. 39, 40, 42 and 44

[11] Ibid., p. 24

[12] Ibid., pp. 48-51

[13] Ibid., pp. 56-58

[14] Salta vs. CA, L-41395, 31 July 1986, 143 SCRA 228;

[15] Biron vs. Cea, G.R. No. 48110, 16 Sept. 1942, 73 Phil. 673; Hashim vs. Boncan, 24 Phil. 116

[16] People vs. Badilla, L-23792, 17 February 1926, 48 Phil. 718;

[17] U.S. vs. Yu Tuico, L-1115, 10 March 1916, 34 Phil. 209; People vs. Medted, L-46108, 22 Sept. 1939, 68 Phil. 485;

[18] Under Sec. 9, Rule 112 of the 1985 Rules on Criminal Procedure, cases not falling under the original jurisdiction of the Regional Trial Courts and those covered by the Rules on Summary Procedure do not require a preliminary investigation, to wit:

"Sec. 9. Cases not falling under the original jurisdiction of the Regional Trial Courts nor covered by the Rule on Summary Procedure. –

(a) Where filed with the fiscal. -If the complaint is filed directly with the fiscal or state prosecutor, the procedure outlined in Section 3(a) of this Rule shall be observed. The fiscal shall take appropriate action based on the affidavits and other supporting documents submitted by the complainant.

(b) Where filed directly with the Municipal Trial Court. - If the complaint or information is filed directly with the Municipal Trial Court, the procedure provided for in Section 3(a) of this Rule shall likewise be observed. If the judge finds no sufficient ground to hold the respondent for trial, he shall dismiss the complaint or information. Otherwise, he shall issue a warrant of arrest after personally examining in writing and under oath the complainant and his witnesses in the form of searching questions and answers, (n)"

[19] Banzon vs. Cabato, L-31447, 27 June 1975, 64 SCRA 419;

[20] Fabie v. Ong, L-46773, 16 July 1979, 91 SCRA 451;

[21] People v. Medted, G.R. No. L-46108, 22 Sept. 1939, 68 Phil. 489

[22] Revised Penal Code, Art. 280

[23] Ibid., Art. 282

[24] Ibid., Art. 265

[25] Ibid., Art. 263

[26] Ibid., Art. 90

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