

The Criminal Jurisdiction Of Justice Of The Peace Courts

By EMILIO CENTENA

THE limited jurisdiction of the justice of the peace courts over crimes and offenses has given rise to interesting and important jurisdictional questions over which even the justices of our Supreme Court could sometimes hardly come to agreement. An attempt shall be made in this article to delineate the principles evolved by the Supreme Court in its various decisions which define and delimit more clearly and more precisely the jurisdiction of the justice of the peace courts over criminal cases.

The jurisdiction of the justice of the peace courts is special and limited. They have, therefore, no authority except in those cases expressly specified by law. (*Africa vs. Gronke*, 34 Phil. 50). The criminal jurisdiction of the justice of the peace courts is defined in Sec. 4 of Act 1627, as amended by Sec. 4 of Act 2041 and Sec. 2 of Act 2131, the pertinent portion of which reads: "Justices of the peace, except in the city of Manila, shall have original jurisdiction to try parties charged with misdemeanors, offenses, violations of regulations adopted by the respective provincial boards, under the provisions of Sec. 13 (k), as amended, of Act numbered 83, entitled the "Provincial Government Act" and infractions of municipal ordinances committed within the territory within their jurisdiction, *in which the penalty provided by law does not exceed 6 months imprisonment or a fine of*

two hundred pesos or both such imprisonment and fine." (Italics ours) Although the law on its face is clear, yet, it has been the subject of constant definition by our Supreme Court in an effort to delimit with precision its scope.

In order to determine the jurisdiction of the court in criminal cases, the complaint must be examined for the purpose of ascertaining whether or not the facts set out and the punishment provided by the law for such acts fall within the jurisdiction of the court in which the complaint is presented. (*U. S. vs. Mallari*, 24 Phil. 366). Although the minimum penalty for the crime falls within the limit of the jurisdiction of the Justice of the peace court, yet if any degree of the penalty falls outside such limit the crime is not within the jurisdiction of such court (*Legarda vs. Valdez*, 1 Phil. 146).

But where aside from an imprisonment of not more than six months or a fine not exceeding ₱200, an accessory or additional penalty is to be imposed, would the justice of the peace still have jurisdiction over the case? It is now a well-settled rule that *additional* penalties must be considered, while *accessory* penalties are not to be taken into account in the determination of the jurisdiction of justice of the peace courts. Thus in the case of *U. S. vs. Nobleza* (8 Phil. 515), where the accused justice of the peace was prosecuted for estafa, it was held

that because in addition to the penalty of *arresto mayor*, which the court may impose, the penalty of temporary special disqualification to perpetual, special disqualification may also be given as an additional punishment, the case was one properly cognizable by the Court of First Instance and not by the justice of the peace. This is in accordance with Art. 534 par. 1, in connection with Art. 399 of the old Penal Code. And where the accused is prosecuted for simple seduction punishable with *arresto mayor* under Art. 443 of the old Penal Code, the court held that since Art. 449 imposes the further obligation upon the accused of (1) endowing the injured woman if she were unmarried or a widow, (2) acknowledging the offspring if the character of its origin should not prevent it and (3) in all cases to support the offspring, the justice of the peace had no jurisdiction to try the case. (*U. S. vs. Bernardo*, 19 Phil. 265) "These declarations", said the Court in that case "necessarily prescribed by the statute are not really in the strict legal sense accessories of the personal penalty imposed by the Penal Code upon the seducer, but are rather those which the penal law prescribes shall be made by the judge in passing final sentence in the cause, in order to show that beside the personal penalty, the accused in consequence of his crime has incurred, the obligations expressly stated by said code." To the same effect, *U. S. vs. Regala* (28 Phil. 57).

But accessory penalties, unlike additional penalties, are not to be considered in determining whether the penalty to be imposed is within the jurisdiction of the justice of the peace or not. Thus, in the case of *U. S. vs. Fajardo*

(49 Phil. 206) it was held that the accessories to the penalty of *arresto mayor* provided for in Art. 61 of the old Penal Code do not affect the jurisdiction of the justice of the peace; for they do not modify nor alter the penalty provided by law. The accessory penalties do not determine the jurisdiction of the court in which the complaint is filed. What determines the jurisdiction of the court in criminal cases is the extent of the penalty which the law imposes for the misdemeanor, or crime, or violation charged in the complaint.

From the foregoing, we may say, that it is settled in this jurisdiction that accessory penalties should not be considered in determining the jurisdiction of the justice of the peace courts. But additional penalties should be taken into consideration, in addition to the principal penalties attached by the law to the crime, in determining the jurisdiction of the court over such crime.

Supposing, however, that the penalty attached by the law to the offense charged in the complaint is within the competence of the justice of the peace court, but the offended party asks for an indemnity in an amount beyond the court's jurisdiction, shall the justice of the peace lose jurisdiction over the case? To give a concrete case, let us suppose that an accused is charged before the justice of the peace court with less serious physical injuries, as defined in the first paragraph of Art. 265 of the Revised Penal Code. It is alleged in the complaint that the injured party suffered damages amounting to ₱2,000. The penalty attached by law to the crime charged is *arresto mayor* (imprisonment ranging from one month

and one day to six months) Will the fact that an indemnity is asked for by the injured party in the complaint render the justice of the peace court incompetent to try the case? To answer this question it is necessary to ascertain the nature of an indemnity. Justice Moreland, with whom concurred Justices Carson and Trent, in his dissenting opinion in the case of *U. S. vs. Bernardo* (19 Phil. 265) maintained that indemnification is merely an incident of the crime and therefore not material in the determination of the jurisdiction of the court. In the course of that opinion he said, "It would be going a long way to say that an indemnification or a restitution or a reparation is a fine or imprisonment under any definition in the criminal law of any country. The jurisdiction of the court is determined by the amount of fine or imprisonment. An indemnification, or a reparation, or a restitution, is merely an incident of the crime. The jurisdiction of the court is not fixed by the incident but by the nature of the crime itself."

In the case of *U. S. v. Heery*. (25 Phil. 600) it was held that indemnity is not punishment. Under the doctrine of this case, therefore, it is clear that the indemnity which may be awarded to the injured party in a criminal case should not be taken into account in determining the jurisdiction of the court, inasmuch as indemnity is not a penalty. We would rest easy with the decision of the Supreme Court in this case were it not for the fact that under Art. 39 of the Revised Penal Code a person sentenced to pay an indemnity to the offended party, who suffers injury or damages as a result of the crime

committed, shall be liable to suffer subsidiary imprisonment in case of failure to pay the indemnity. And in the case of *People vs. Pascual Fajardo* (G. R. 43466, May 25, 1938), it was held that subsidiary imprisonment is a penalty. In that case, the Supreme Court in deciding whether a person sentenced by final judgment to pay a fine, without express pronouncement as to subsidiary imprisonment in case of insolvency, could be legally obliged to automatically suffer subsidiary imprisonment in case he is in fact insolvent, made this significant pronouncement: "Que la prision subsidiaria es una pena, no cabe duda, pues segun el articulo 39 del Codigo Penal Revisado se impone y extingue por el reo en sustitucion de la multa cuando esta no es satisfecha por la insolencia de aquel." This ruling that subsidiary imprisonment is a penalty taken in connection with Article 39 of the Revised Penal Code which provides that the failure of the convict to make restitution, reparation or indemnification to the offended party, may give rise to subsidiary imprisonment in case of insolvency, leads to the conclusion that, after all, indemnity, altho not a penalty in the strict sense of the word, is material in determining the jurisdiction of the court. Nor is this a far-fetched deduction, for the Supreme Court in the later cases of *People vs. Hodges* (G. R. No. 44612) and *Hodges vs. People* (G. R. No. 46719), in determining the court's jurisdiction took into account, in addition to the principal penalty imposed by the law, the subsidiary imprisonment that the accused might be made to suffer, in case of failure to pay indemnity

In the first case, *People vs. Hodges* (G. R. No. 44612), the accused was convicted of usury in the Court of First Instance of Iloilo. From this judgment of conviction the accused appealed on the ground that the said court had no jurisdiction over the case. In disposing of this contention the supreme court said, "As the infractions of the law against usury according to Art. 10 of Act 2655, as amended, are punished aside from a fine of not less than ₱50 nor more than ₱200, or an imprisonment of not less than 10 days, nor more than six months, or both fine and imprisonment at the discretion of the court, with the return of the usurious interests collected, and with subsidiary imprisonment in case of insolvency at the rate of ₱2.00 a day; and as in accordance with the allegations in the complaint, the justice of the peace of Iloilo could have imposed on the accused an imprisonment which might have exceeded six months including the subsidiary imprisonment in case of failure to return the usurious interests by reason of insolvency, it is obvious that the said justice of the peace had no jurisdiction over the case. It is beyond discussion that the subsidiary imprisonment is a punishment of this nature according to Art. 39 of the Revised Penal Code (*People vs. Pascual Fajardo*, G. R. No. 43466)." In the subsequent case of *People vs. Hodges* (G. R. No. 46719) this ruling was impliedly reiterated. It was there held that the accused could not be held liable according to the allegations of the complaint to return the usurious interests collected, and, therefore, he could not have been subjected to subsidiary imprisonment in case of insolv-

ency. Hence, the case was within the jurisdiction of the justice of the peace court inasmuch as in no case whatsoever would the penalty that could be imposed upon him exceed six months. It follows as a necessary implication that had there been usurious interests to be returned, the possibility of subsidiary imprisonment arising from failure to return the same, would have brought the case within the jurisdiction of the Court of First Instance, since the penalty to be imposed in that event, together with the subsidiary imprisonment would have exceeded six months.

Thus, we see that there is an apparent conflict between the holding of the Supreme Court in the Heery case and its ruling in the above-mentioned cases of *People vs. Pascual Fajardo*, *People vs. Hodges*, and *Hodges vs. People*. In the Heery case the court held that indemnity is not a penalty. But in the later cases, the same court held that the subsidiary imprisonment that might be imposed in case of failure to pay the indemnity is a penalty and, as such, must be taken into consideration in determining the criminal jurisdiction of the court.

Realizing this uncertain state of jurisprudence on the subject, the Supreme Court in the case of *People vs. Caldito* (see page 90 of this issue), promulgated on June 10, 1941, took a categorical stand on the matter. In this case the defendant was prosecuted for usury in the Court of First Instance of Pangasinan. The trial court ordered the dismissal of the case for lack of jurisdiction. The government appealed on the ground that the imposition of subsidiary imprisonment in case of failure to return the usurious interest collected by reason of in-

solvency, is not only a civil indemnity but also an additional penalty which should be taken into account in determining the court's jurisdiction. In overruling this contention the court said, "The requirement that the usurious interest should be returned to the offended party only and not to the government is consistent only with the idea of civil indemnity and not with pecuniary penalty. There can be no question that the offended party may waive the payment and this precludes all idea of penalty, for penalty can never be waived. As we have once said, civil liability is due to the person injured and criminal liability to the sovereign (U. S. vs. Heery 25 Phil. 600). Had the return of the usurious interests been intended as a part of the penalty, the law would have provided the payment of the fine as much as the amount of the usurious interest collected. But the law not only does so provide but prescribes a separate, specific fine of not less than ₱50 nor more than ₱200, meaning thereby that the usurious interest to be returned to the offended party is not a fine but a special indemnity. We hold therefore that the return of the usurious interest is a civil indemnity and not a part of the penalty provided for in the offense. . . . It is true that subsidiary imprisonment is provided by law in case of nonpayment of

the fine or the usurious interest. But such subsidiary imprisonment cannot be added to the maximum penalty fixed by law for jurisdictional purposes. According to Sec. 2 of Act 2131 the subsidiary imprisonment which may be imposed upon the accused because of his failure to pay the fine is not material to the jurisdiction of the court. What is material is the extent of imprisonment or the amount of fine that is provided by law as the penalty for the offense."

By way of resumé, we may say that in determining the jurisdiction of justice of the peace courts:

First, *accessory* penalties do not affect the penalty to be imposed and therefore is not material in determining the same. (U. S. vs. Fajardo, 49 Phil. 206).

Second, that the presence of *additional* penalties will have the effect of bringing the case outside of the jurisdiction of the court. (U. S. vs. Nobleza, 8 Phil. 515; U. S. vs. Bernardo, 19 Phil. 265; U. S. vs. Regala, 28 Phil. 57).

Third, that *indemnity* not being an additional penalty, but merely a civil liability, the subsidiary imprisonment arising therefrom by reason of the insolvency of the convict is, like accessory penalty, not essential to the determination of the criminal jurisdiction of the court. (People vs. Caldito, 40 O. G. 523).