CRIMINAL PROCEDURE

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Jurisdiction

In order that the proceedings had in a particular case can be considered valid, they must have been conducted under certain circumstances or requirements, one of which is that the court must have jurisdiction over the subject matter and the person of the accused.[1] Jurisdiction is the power and authority of a court to hear, try and decide a case.[2] By legislative enactment, the jurisdiction of courts have been apportioned among the different courts of the Philippines and provided for in the Judiciary Act of 1948, Republic Act No. 296, as amended. This law is, pursuant to the power granted to Congress by the Constitution, to define, apportion and prescribe the jurisdiction of the various courts.[3]

(a) Jurisdiction over the subject matter.

Jurisdiction over the subject matter means the power of the court to try and decide a particular crime or felony. It is conferred by the sovereign authorities which organize the court; it is given only by law and an objection based on the lack of such jurisdiction can not be waived by the parties. Hence, the accused in a criminal case can not, by express waiver or otherwise, confer jurisdiction on a court over an offense as to which such jurisdiction has not been conferred upon such court by law.[4]

What confers jurisdiction upon a court to try, convict and sentence a defendant is not the filing of a complaint or information, but the allegations of the complaint, that is, the crime charged therein. The Supreme Court had occasion to apply this doctrine in the case of *People v. Celis*.[5] In this case, the accused was charged with slander in the Municipal Court of Manila. She was found guilty. However, on appeal to the Court of First Instance, she was convicted of serious oral defamation. Accused contested this decision alleging among other things that the Court of First Instance could not find her guilty of a more serious offense, because if the complaint charged the more serious offense, the Municipal Court would not have acquired jurisdiction to try and decide it. Accused further contended that the Court of First Instance as an appellate court had jurisdiction only to dismiss the appeal and not to try the case and so its verdict and sentence was null and void. But the Court of First Instance was not divested of its original jurisdiction to try and decide the case which rightly comes under its jurisdiction. The

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[1] KAPUNAN, CRIMINAL PROCEDURE ANNOTATED, 3 (1950).

[2] Conchada v. Director, 31 Phil. 94 (1915); U.S. v. Lunsiongco, 41 Phil. 94 (1920).

[3] PHIL. CONST., ART VIII, section 2.

[4] U.S. v. de la Santa, 9 Phil. 22, 26 (1907); U.S. v. Castanares, 18 Phil. 210, 214 (1911).

crime charged in the complaint or information is what confers jurisdiction upon the court. As an *abitur dictum* the Supreme Court stated that at the trial in the Court of First Instance, accused did not object to the proceedings.

In another case,[6] the Court held that the Court of First Instance has original jurisdiction over murder and homicide cases as provided by Sec. 44 (f) of the Judiciary Act,[7] regardless of the municipality where the crime was consummated. The authority of the Justice of the Peace in cases like these is limited to the conduct of preliminary investigation, which may be waived.

(b) Continuing Crimes

> **"In all criminal prosecutions, the action shall be instituted and tried in the court of the municipality or province wherein the offense was committed or any one of the essential ingredients thereof took place."[8]**

While the general rule is that a criminal action must be instituted in the court having jurisdiction over the place or territory where the offense was committed, nevertheless, in cases where some of the essential elements or ingredients of the offense are committed in one province and the others in another province the criminal action may be instituted in either courts. But once the action is instituted in one court, it acquires jurisdiction to the exclusion of the other.[9]

In the case of *People v. De Guzman*[10] the accused, an employee of FACOMA, in Cabanatuan, Nueva Ecija, was sent to Alcala, Pangasinan to purchase some carabaos for the members of his district. The money was handed to the accused in Alcala; the purchase, however, was never made because De Guzman claimed that before he could buy the carabaos, he lost the money. De Guzman was charged with *estafa* in the Court of First Instance of Nueva Ecija. Convicted, the accused appealed alleging among other things that the case was not within the territorial jurisdiction of the Nueva Ecija court. The Supreme Court said that although the money was delivered to the accused in Alcala, where the purchase would be made, there is no doubt that the said accused had to account for the said sum in Cabanatuan, Nueva Ecija, wherein the office of aforesaid FACOMA is located. The Supreme Court agreed with the solicitor-general when he said:

> **"In this jurisdiction, where the strict common law rules touching the finding of indictments have no controlling influence, offenses committed partly in one province and partly in another, that is to say, where some acts material and essential to the crime and necessary to its consummation occur in one province, and some in another, are triable in either province having concurrent jurisdiction of such offenses....**

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[5] G. R. No. L-9625, May 27, 1957.

[6] People v. Ramos, GR No. L-9579, June 29, 1957.

[7] Courts of First Instance shall have original jurisdiction; (f) In all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos.

[8] Sec. 14, (a), Rule 106, Rules of Court.

[9] Parulan v. Rodas, 45 O.G. 215.

[10] G. R. No. L-9629, March 29, 1957.

> **"The crimes of estafa can be prosecuted in the court under whose jurisdiction they are committed, where they are being committed, or continue to be committed and where the accused of said crime is under obligation to account for what he had received and which he had misappropriated."**

The same doctrine was stated by the Supreme Court in the case of *People v. Po Kee Kam,*[11] which said that one of the elements of the embezzlement charged may be deemed to have its situs, in view of appellant's failure to render accounts, at the place agreed upon.

Prosecution of Offenses

(a) Commencement of Criminal Action

> **"All criminal actions must be commenced either by a complaint or information in the name of the People of the Philippines against all persons who appear to be responsible therefore."**

The question arises as to whether the phrase "against all persons who appear to be responsible therefor" is mandatory or merely directory. In the case of *People v. Binsol,*[12] the Supreme Court interpreted the meaning of "discretion of the fiscal." The fiscal's exercise of discretion lies in determining whether the evidence submitted is sufficient to justify a reasonable belief that a person has committed an offense. The law therefore makes it mandatory for the fiscal to file charges against those who according to the evidence are responsible for an offense.

As Justice Carson said: "It is very clear that the statute does not relieve the prosecuting officer of the duty to exercise his sound discretion in determining what persons 'appear' to have been or to be responsible for the commission of crimes in such cases, though it imposes upon him the duty to include the names of all persons in his information, who appear to have been guilty participants therein..."

It has been held, however, that such provision should by no means be construed to abridge, or otherwise unduly interfere with the discretion of the prosecuting officer not to proceed against a person whose guilt he will not, he believes, be able to establish by sufficient evidence.[13] Therefore, even if an accused is first taken as state witness, as was done in this case, there is nothing to prevent the fiscal from including him as an accused later on if the evidence is sufficient to show that he appears to be responsible therefor.[14]

(b) Complaint Defined

Where a statute expressly provides for the persons who should file a complaint, the same must be strictly complied with because

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[11] G. R. No. L-10017 April 17, 1957.
[12] G. R. No. L-8346, January 22, 1957.
[13] U.S. v. Enriquez, 40 Phil. 603 (1919); U.S. v. Abanzado, 37 Phil. 658 (1918); People v. Agasang, 60 Phil. 182 (1934).
[14] People v. Abanzado, 37 Phil. 658 (1918).

such requirement is jurisdictional. Thus, Sec. 2, Rule 106 of the Rules of Court[15] with respect to private crimes must be construed in relation to Par. 3, Art. 344 of the Revised Penal Code.[16] This principle was enunciated by the court in the case of *People v. Santos*[17] where the court refused to take cognizance of the case charging the accused of rape because of failure to comply strictly with the jurisdictional requirement of a complaint by the offended party.

(c) Who must prosecute Criminal Actions

In the trial of criminal cases, it is the duty of the public prosecutor to appear for the Government.[18] An offense is an outrage to the sovereignty of the State, and so it is but natural that the representatives of the State should be the ones to direct and control the prosecution.[19] But the offended party is given the privilege to intervene in the prosecution of the criminal action, his intervention being subject to the direction and control of the fiscal, or Solicitor-General, and the latter has the right to move for the dismissal of the appeal interposed by the offended party if such dismissal would not affect the right of the offended party to civil indemnity.[20] Thus, in the case of *People v. Flores*,[21] the Supreme Court disallowed an appeal interposed by the offended party, from an order dismissing a criminal case, upon petition of the fiscal. The court stated that to allow the appeal would be tantamount to divesting the fiscal of the direction and control of the prosecution. This ruling has been applied by the Court in its previous decisions.[22]

Prosecution of Civil Action

Every person criminally liable for a felony is also civilly liable therefor.[23] Accordingly, when a criminal action is brought against a person, the presumption is that the civil action to recover damages or for the restitution is also instituted, unless the injured party, expressly waives the civil action or reserves the right to institute it separately. And after a criminal action has been commenced, no civil action arising from the same offense can be prosecuted; and the same shall be suspended in whatever stage it may be found, until final judgment in the criminal proceeding has been rendered.[24] This rule however has been partially amended by Art. 33 of the

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[15] A complaint is a sworn statement charging a person with an offense, subscribed by the offended party, any peace officer or other employee of the government or governmental institution in charge of the enforcement or execution of the law violated.

[16] The offenses of seduction, abduction, rape or acts of lasciviousness shall not be prosecuted upon a complaint filed by the offended party or her parents, grandparents, or guardian.

[17] G. R. No. L-8520, June 29, 1957.

[18] Revised Administrative Code, Secs. 1681, 2465.

[19] II MORAN, COMMENTS ON THE RULES OF COURT, 593, (1956).

[20] People v. Velez, 77 Phil. 1023 (1947); People v. Capistrano, G. R. No. L-44448. Feb. 27, 1952.

[21] G. R. No L-7528, December 18, 1957.

[22] People v. Ligaya, G. R. No. L-8224, Oct. 31, 1955; People v. Lipana, 72 Phil. 166 (1941); People v. Florendo, 73 Phil. 679 (1942).

[23] Revised Penal Code Art. 100.

[24] Sec. 1 par. (c), Rule 107, Rules of Court.

New Civil Code providing that a civil action for damages brought by the injured party in cases of defamation, fraud, and physical injuries shall proceed independently of the criminal prosecution. Likewise, a civil action may be instituted and may proceed independently of the criminal action where the civil action is based on torts or quasi-delict which Art. 2176 and 2177 of the New Civil Code expressly allow. Thus, the Supreme Court, in the cases of *Dyogi v. Yatco*[25] and *Bachrach Motor v. Gamboa*,[26] upheld the rights of the plaintiffs to proceed with the civil actions based on the New Civil Code provisions, independently of the criminal case.

Preliminary Investigation

Under Sec. 11 of Rule 108, Rules of Court, an accused who has been arrested and delivered to the court has a right to be informed of the complaint or information filed against him. This is known as the preliminary investigation proper which takes place after a warrant of arrest has been issued in pursuance to a preliminary investigation conducted in the Justice of the Peace or Municipal Court. This right is not given to one who has undergone preliminary investigation by a judge of the Court of First Instance who is not anymore entitled to the preliminary investigation proper.

In the case of *Medrana v. Sepulvera and Cabagiuao*[27] a preliminary investigation was conducted in the Municipal Court and to prepare for the preliminary investigation (proper) the accused was granted the right to be informed of the substance of the testimony and evidence presented against him in accordance with Sec. 11, Rule 108 of the Rules of Court. The purpose of this preliminary investigation is to afford the accused an opportunity to show by his own evidence that there is no reasonable ground to believe that he is guilty of the offense charged and that, therefore, there is no good reason for further holding him to await trial in the Court of First Instance.[28]

Warrant of Arrest

The Constitution guarantees the freedom of an individual from unreasonable searches and warrants and lays down the requirement for the issuance of a warrant—probable cause to be determined by the judge issuing it.[29] The Supreme Court in the case of *Arches v. Municipal Judge*[30] cited *U.S. v. Ocampo*[31] thus: The question whether probable cause exists or not must depend upon the judgment and discretion of the judge or magistrate issuing the warrant. It does not mean that sufficient facts must exist in each particular case. It simply means that sufficient facts must be presented to the judge or magistrate issuing the warrant to convince not that the particular person has committed the crime, but

[25] G. R. No. L-9623, January 22, 1957.
[26] G. R. No. L-10296, May 21, 1957.
[27] G. R. No. L-10450, October 31, 1957.
[28] MORAN, COMMENTS ON THE RULES OF COURT, 676, Vol. 2 (1956).
[29] Sec. 3, Art. III. Constitution.
[30] G. R. No. L-10212, October 30, 1957.
[31] 18 Phil. 1 (1911).

that there is probable cause for believing that the person whose arrest is sought committed the crime charged. No rule can be laid down which will govern the discretion of the court in this matter. If he decides upon the proof presented that probable cause exists, no objection can be made upon constitutional grounds against the issuance of the warrant. His conclusion as to whether probable cause existed or not is final and conclusive.

Bail

(a) Forfeiture of Bail

When the appearance of the defendant is required by the court, his sureties shall be notified to produce him before the court on a given date. If the defendant fails to appear as required, the bond is declared forfeited and the bondsmen are given thirty days within which to produce their principal and to show cause why a judgment should not be rendered against them for the amount of their bond. Within the said period of thirty days, the bondsmen (a) must produce the body of their principal or give the reason for its non-production; and (b) must explain satisfactorily why the defendant did not appear before the court when first required to do so. Failing in those two requisites, a judgment shall be rendered against the bondsmen.[32]

Generally, courts are liberal in accepting the explanation when the body of the defendant is produced.[33] Thus, where the surety was ordered to produce the person of the accused and there was failure to fulfill the same resulting in forfeiture, but the surety fulfilled the condition, subsequently delivering the accused, the bondsmen's liability should be reduced.[34] The court is not deprived of its inherent discretionary power to relieve the bondsmen from a part of their liability according to the merits of the particular case, where the purpose of the recognizance is shown to have been accomplished by placing the principal in prison to serve his sentence.

Arraignment

If the charge is for an offense within the jurisdiction of the Courts of First Instance, the defendant must be personally present at the arraignment and if for a light offense triable by the justice of the peace or any other inferior courts of similar jurisdiction he may appear by attorney. In the case of *Turaray v. People*[35] accused was charged with trespass, a light offense in the Justice of the Peace Court of Sta. Maria, Isabela. Accused in a motion prayed that the Court issue an order declaring that they expressly waived their right to be present at the trial of the case. The same was

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[32] Sec. 15, Rule 110, Rules of Court.

[33] People v. Alamada, G. R. No. L-2155, May 15, 1951.

[34] People v. Felix and Equitable Insurance Co., G. R. No. L-10094, May 14, 1957; People v. Equitable Insurance Co., G. R. No. L-9739, Oct. 30, 1957; People v. Daisin, G. R. No. L-6713, April 29, 1957; People v. Tan, G. R. No. L-6239, April 30, 1957.

[35] G. R. No. L-10716, September 30, 1957.

granted, the offense being merely a light offense triable by an inferior court.

Double Jeopardy

One of the tests of double jeopardy is whether or not the second offense charged necessarily includes or is necessarily included in the offense charged in the former complaint or information. Another test is whether the evidence which proves one would prove the other, that is to say, whether the facts alleged in the first charge if proven, would have been sufficient to support the second charge and vice versa; or whether one crime is an ingredient of the other. These two tests were applied by the Supreme Court in the case of *People v. Berga*[86] where a motion to quash was granted on the ground that the prosecution of the second charge would place the accused in jeopardy for the same offense of which he was acquitted.

It is not enough that the defendant had previously been brought to trial before a competent court, but it is also necessary that the complaint or information filed against the defendant is a valid one in accordance with law. Without such complaint or information, the court does not acquire jurisdiction over the subject matter and the proceedings had on such invalid complaint or information are null and void and cannot place the defendant in double jeopardy.[87] Thus, in the case of *People v. Pascual*[88] the Supreme Court declared that where the complaint filed with the provincial fiscal was dropped by him, no information was ever filed with the Court of First Instance. Hence the same acquired no jurisdiction over the case and did not divest other courts of the authority (venue) to receive and hear a charge of the same offense. Needless to say, there was no question of double jeopardy.

Judgment

The rules of Court cite several instances when the judgment in a criminal action becomes final. The finality of the sentence places it beyond the reach of any court, even the Highest Tribunal. In the case of *People v. Sanchez,*[89] the Supreme Court refused to entertain an appeal of the defendant on the ground that it had already become final and no longer subject to modification for the reason that the accused had already served the sentence, not only partially but totally.

Appeals

Under Sec. 1, Rule 118 of the Rules of Court, in order that a judgment may be appealed from, it is necessary that it be final in the sense that it completely disposes of the cause, so that no further questions affecting the merits remain for adjudication. An order overruling a motion to dismiss presented by the defendant against the information does not dispose of the cause upon its merits and

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[86] G. R. No. L-8901-02, Feb. 28, 1957.
[87] KAPUNAN, CIMINAL PROCEDURE ANNOTATED, 200 (1900).
[88] G. R. No. L-9490, Nov. 29, 1957.
[89] G.R. No. L-9768, June 21, 1957.

is thus merely interlocutory and not a final order within the meaning of the above section.[40]

According to Sec. 46, Republic Act 409[41] 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 court a written statement that he appeals to the Court of First Instance. The filing of such statement shall perfect the appeal.

In the case of *People v. Villavicencio*,[42] the law cited was interpreted by the Court. The entry of the judgment or order in the records of the municipal court is equivalent to notice by personal service of a copy of the order or judgment. As the law expressly provides that appeals from judgments of the municipal court are to be taken on the day following the entry of the judgment, the prosecuting officers are presumed to know this provision and their failure to take appeal will bar them. They are supposed to be interested in the order or judgment and should take the trouble of consulting the records of the Municipal Court.

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[40] Mill v. People, G. R. No. L-10427, May 27, 1957.
[41] Revised Charter of Manila.
[42] G. R. No. L-10068-70, June 2, 1957.

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