TERRITORIAL JURISDICTION IN CRIMINAL PROCEEDINGS RE: PEOPLE V. GUTIERREZ

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I. INTRODUCTION

The Congress of the Philippines, by virtue of the provisions of the Constitution is vested with the power to define, prescribe and apportion the jurisdiction of courts in which judicial power rests.[1] Pursuant thereto, Congress approved on June 17, 1948, Republic Act No. 296 otherwise known as the Judiciary Act of 1948 specifically enumerating the actions over which the Supreme Court, Court of Appeals, Court of First Instance and Municipal and City Courts can exercise exclusive original, original and concurrent or exclusive appellate jurisdiction. It will be seen from the provisions of Article VIII, sections 2 and 3 of the Constitution that jurisdiction both original and appellate is conferred either (a) directly by the Constitution itself as in the case of specific cases enumerated over which the Supreme Court is given original jurisdiction or (b) directly by giving the Legislature the power to provide for the jurisdiction of the other courts.[2] It is evident therefore that it is only Congress which can make provisions on jurisdiction in view of the express Constitutional grant. The Supreme Court, however, is not devoid of any rule-making power for the Constitution of the Philippines in clear terms grants to this sole Constitutional Court the power to promulgate rules concerning pleading, practice and procedure in all courts and the admission to the practice of law, subject to the consequent power of Congress to repeal, alter and supplement the same.[3] The Rules of Court, subsequently revised has been adopted by the Supreme Court in the exercise of this quasi-legislative power.

Jurisdiction in criminal proceedings, therefore can only be determined by Congress. The Rules of Court, however in Section 14, paragraph (a) of of Rule 110 provides for the place where criminal action is to be filled and heard, thereby giving rise to the question of the range of territorial jurisdiction of courts, the Court of First Instance in particular. Authorities on the point are very scarce and are several decades distant, so there arises the necessity to go through them in detail. The most recent decision touching on the matter is the much publicized case which has become one of national significance, that of *People v. Gutierrez* promulgated by the Supreme Court

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1 CONST., art. VIII, sec. 2.

2 People v. Aquino, CA-G.R. No. 3186-R, November 29, 1948.

3 CONST., art. VIII, sec. 12.

on November 26, 1970.[4] Although not necessarily novel as far as the whole criminal jurisprudence is concerned, it is nevertheless one of first impression in several aspects here in the Philippines, thereby giving a chance to our Highest Judicial Body to promulgate a ruling on such matter greatly affecting public welfare and security. It is therefore important that such precedent-setting case be studied carefully in order to determine with certainty its impact on existing statutory provisions and judicial decisions on the matter. A general study of the existing jurisprudence before the case of *People v. Gutierrez* would be of valuable help in understanding its legal issues.

II. EXISTING JURISPRUDENCE ON TERRITORIAL JURISDICTION

Jurisdiction, according to Chief Justice Shaw, is a term of large and comprehensive import and embraces every kind of judicial action upon the subject matter, from finding the indictment to pronouncing the sentence. To have jurisdiction is to have the power to inquire into the fact, to apply the law and to declare the punishment in a regular course of judicial proceeding.[5] Exercise of jurisdiction should not be mistaken for jurisdiction itself for they should be distinguished. As such, jurisdiction does not in any way depend upon the regularity of its exercise or upon the rightfulness of the decisions made. The authority to decide a case and not the decision rendered therein is what makes up jurisdiction.[6]

Jurisdiction in only conferred by the sovereign authority which organizes the courts. When jurisdiction over an offense has not been conferred by law, it has been held that an accused cannot confer it by express waiver or otherwise.[7]

The jurisdiction of any court varies with its position in the heirarchy of judicial tribunals. It may be limited by such factor as territorial boundaries. Territorial jurisdiction of courts has been defined as the power of the tribunal with reference to the territory within which it is to be exercised.[8] The 1913 case of *U.S. v. Cunanan*[9] in its attempt to distinguish between the jurisdiction of military courts or courts-martial and regular Courts of First Instance declared that while the jurisdiction of a court-martial is not limited territorial bounds, "the jurisdiction of the Courts of First Instance of the Philippine Islands in criminal cases is limited to certain well defined territory. They cannot take jurisdiction of persons charged with an offense alleged to have been committed outside of that limited territory." In that case, Cunanan was charged with the crime of desertion. The complaint

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[4] G.R. Nos. 32282-83, November 26, 1970, 36 SCRA 172 (1970).

[5] Hopkins v. Commonwealth, 44 Mass. (3 Metc.) 460 (1842).

[6] 1 MORAN, COMMENTS ON THE RULES OF COURT 31 (6th ed., 1963), citing Yulo v. Cabrere, CA-G.R. No. 6079-R, March 30, 1951; De Veyra c. Avila, CA-G.R. No. 7660-R July 28, 1952.

[7] U.S. v. De la Santa, 9 Phil. 22 (1907); U.S. v. Jayme, 24 Phil. 90 (1913).

[8] 1 MORAN, *supra*, note 5 at 32.

[9] 26 Phil. 376 (1913).

was filed in the Court of First Instance of Manila but the complaint itself alleged that the offense was committed in the province of Cebu. There being no allegation in the complaint that the offense was committed in the jurisdiction of the Court of First Instance of the City of Manila, the judge of the lower court sustained the defendant's demurer to the complaint declaring the court to be without jurisdiction to try the accused. The Supreme Court upheld this ruling of the trial judge and stated that the complaint should show that the offense was committed within the jurisdiction of that court and that a complaint which shows positively that the offense was not committed within the jurisdiction of the court is demurrable.

In the foregoing case, the Supreme Court is of the opinion that the allegation of the complaint as to the place of the commission of the offense must coincide with the jurisdiction of the particular court in which the action is filed. The same rule is still adhered to at present. The provisions of Sections 9 and 14, paragraph (a) of Rule 110 of the Revised Rules of Court would prove this.

The *Cunanan* case gave rise to the doctrinal rule that venue in criminal cases is equivalent to territorial jurisdiction, unlike in civil cases where venue is merely procedural. Such has been the rule since then as there has been no other case wherein the Supreme Court has made any other pronoucement on the matter. In *Regpala v. Justice of the Peace of Tubod, Lanao,*[10] the same statement that venue in criminal cases is jurisdictional is merely reiterated and no additional comment has ever been made on the matter until the 1970 case of *People v. Gutierrez.*

III. BASIS OF THE EXISTING RULE

In the Philippines, section 14, paragraph (a) of Rule 110 of the Revised Rules of Court constitutes the primary source of that well-settled, fundamental rule that every person who commits a crime is amendable only in the jurisdiction where the crime was committed. The provision is as follows: "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." This provision is in consonance with the procedural requirement of the averment of the jurisdictional fact in the complaint or information itself necessary to confer jurisdiction upon the court in which the action is filed. Section 9, Rule 110 of the Revised Rules of Court thereby provides that:

> "The complaint or information is sufficient if it can be understood therefrom that the offense was committed or some of the essential ingredients thereof occurred at some place within the jurisdiction of the Court,

[10] G.R. No. 15375, August 31, 1960, 61 O.G. 392 (Jan., 1965).

> unless the particular place wherein it was committed constitutes an essential element of the offense or is necessary for identifying the offense charged."

From this foregoing provision it is clear that the allegations in the complaint or information would confer jurisdiction upon the court wherein the action is filed. There must therefore exist compliance with both the provisions of Sections 14, paragraph (a) and 9, Rule 110 of the Revised Rules of Court. The action to be cognizable must be filed in the court of the municipality or province wherein the offense was committed and complaint or information to be considered sufficient should contain thereon an allegation as to the place where said offense was committed. Section 14, paragraph (a) however does not only provide for the place where an action is to filed but provides for the place where the action is to be instituted and tried.

The Supreme Court, in the cases of *Beltran v. Ramos,*[11] *Hernandez v. Albano,*[12] *Duran v. Tan,*[13] *People v. Mercado* [14] and *People v. Dipay* [15] had the occasion to apply the aforementioned provisions of the Rules of Court.

In *Beltran v. Ramos,* Juan Beltran was charged before the Court of First Instance of Occidental Mindoro of the crime of malversation of public funds alleged in the information to have been committed in the municipality of San Jose, province of Occidental Mindoro. The trial was commenced in the municipalities of San Jose, Mamburao and Lubang, all of Occidental Mindoro but was transferred and continued in the Municipality of Calapan, Oriental Mindoro. The defendant, Beltran, herein petitioner, objected to the continuation of the trial in Calapan on the ground that it is outside of the territorial boundaries of the province of Occidental Mindoro where the crime was committed, which objection was overruled by the trial court. The Supreme Court acting on Beltran's petition for a writ of prohibition to enjoin the trial court from continuing with the trial in Calapan held that although the judge of a district may hold sessions in any part of said district, Occidental and Oriental Mindoro being parts of the 8th judicial district, yet he should hold the trial in any particular case subject to the specific provisions of Section 14, paragraph (a), Rule 110 in order not to violate the Rules of Court and disregard the fundamental rights of the accused.[16]

The case of *Hernandez v. Albano* postulated that this principle is fundamental and that a court is powerless to try a case wherein the offense

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[11] 96 Phil. 149 (1954).
[12] G.R. No. 19272, January 25, 1967, 19 SCRA 95 (1967).
[13] 85 Phil. 476 (1950).
[14] 65 Phil. 665 (1938).
[15] G.R. No. 8380, November 29, 1955, 51 O.G. 6224 (Dec., 1955), 98 Phil. 59 (1955).
[16] Beltran v. Ramos, *supra,* note 11.

charged was committed outside the territorial limits where it operates.[17] For the rule according to this decision is that one cannot be held to answer for any crime except in the jurisdiction where it was committed. As such, here, where the petitioner, as Secretary of Finance and Chairman of the Monetary Board holding office in Manila was charged with the offense of having a financial interest in corporations which secured dollar allocations from the Monetary Board, the Supreme Court held that the Office of the City Fiscal of Manila can investigate the charges although some of the corporations wherein petitioner allegedly possessed prohibited interest were domiciled outside Manila.

In *Duran v. Tan*, the court reiterated the same ruling applying the same provisions of the Rules of Court. In that case, the offense charged was fully committed in the City of Manila, where the automobile was allegedly stolen from its parking place in Port Area. The fact that said automobile was later found in San Juan Street, Rizal City is not, according to the Court an essential ingredient of the crime or the offense or its consummation.[18] As such, this circumstance cannot be made determinative of the jurisdiction of the trial court over the criminal action for qualified theft.

In *People v. Mercado*, the court is of the same mind and upheld the Court of First Instance of Pampanga declaring that it was without jurisdiction to hear and decide the two criminal cases pending before it for theft large cattle on the ground that said offenses took place and were committed in the Municipality of Gapan, Province of Nueva Ecija although the stolen animals were thereafter brought by the accused to Candaba, Pampanga. The Court, further held that in criminal proceedings, the rule is that one cannot be held to answer for any crime committed by him except in the jurisdiction where it was committed. Said rule is based on the legal provision which prescribes the essential requisites of a good complaint or information, one of which is the allegation that the crime was committed within the jurisdiction of the court where the complaint or information is filed and that said court has authority to try it.[19]

Thus, in the Court of Appeals case of *People v. Agustin* [20] citing *People v. Tolentino* [21] the Court held that jurisdiction in criminal cases does not depend on the facts relied upon by the accused. The Court went on to say that: "Jurisdiction in criminal cases depends upon the nature of the offense, the penalty imposable and the place of the commission of the crime." This case cannot help but show the indispensability of the place of the commission of the offense as an element of jurisdiction as far as criminal proceedings are concerned.

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[17] *Supra*, note 12.
[18] Duran v. Tan, *supra*, note 13.
[19] People v. Mercado, *supra*, note 14.
[20] CA-G.R. No. 6404-R, October 18, 1951.
[21] 69 Phil. 715 (1940).

Section 14, paragraph (a), though expressly referring to trials alone has been interpreted to cover preliminary investigations, thereby entitling provincial and city fiscals to conduct preliminary investigations only of crimes committed within their territorial jurisdiction.[22]

This fundamental principle of criminal jurisprudence embodied in the penal statutes of various countries has been interpreted by Philippine Courts to have been evolved for the protection of the accused, so as not to compel the defendant to move to and appear in a different court from that of the province or municipality where the crime was committed as it would cause him great inconvenience in looking for his witnesses and other evidence in another place.[23] In effect, this general principle is in pursuance of the same objective sought to be achieved by the provisions of the Bill of Rights of the Constitution of the Philippines in Sections 16 to 21 of Article III, relating to the rights of an accused. Our penal system presumes his innocence and thereby entitles him to the rights due an innocent man.

Although this is general principle, it is but proper to look into the provisions of our Constitution and statutes to verify whether it does not in any way conflict with any of these provisions. Since the justification for the rule is contained in the provisions adopted by the Supreme Court pursuant to the Constitutional grant of rule-making power,[24] such fundamental principle cannot be of any worthy effect here unless sanctioned by the Constitution and by legislative enactments. This will be adequately taken up in the concurring opinion of the of-cited case of *People v. Gutierrez*.[25]

This general rule, however, is not without exception. They may either be implied from congressional enactments or has become such because of the nature of the offense itself or may have been evolved through judicial legislation.

Article 2 of the Revised Penal Code enumerates a number of extra-territorial offenses which constitute exceptions to the general principle of territoriality. This is therefore one instance when the action is to be commenced and tried outside of the place where the offense charged was committed. Although this literally illustrates a case which may be considered an exception, such is more in the nature of an exception to the rule that "the laws of a country do not take effect beyond its territorial limits, because it has neither the interest nor the power to enforce its will.[26]

Piracy, by its very nature is a crime not against any particular State. It may be punished in the competent tribunal of any country where the

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[22] Hernandez v. Albano, *supra*, note 12; Ragpala v. Justice of the Peace of Tubod, *supra*, note 10; Tadeo v. Provincial Fiscal of Pangasinan, G.R. No. 16474, January 31, 1962, 61 O.G. 6482 (Oct., 1965), 4 SCRA 235 (1962).

[23] Beltran v. Ramos, *supra*, note 11; Duran v. Tan, *supra*, note 13; Hasim v. Boncan, 71 Phil. 216 (1941).

[24] CONST., art. VIII, sec. 2.

[25] *Supra*, note 4.

[26] 2 FRANCISCO, REVISED PENAL CODE 39-40 (2nd ed., 1954).

offender maybe found or into which he maybe carried. The jurisdiction of piracy unlike all other crimes has no territorial limits.[27]

Continuous crimes, which may have been committed partly in one province and partly in another, that is, where some acts material and essential to the crime and requisite to its consummation occur in one province and some in another, said crime is triable in either province.[28] Authorities have held that offenses are continuing or transitory upon the theory that there is a new commission, continuance or repetition of the offense wherever the defendant maybe found,[29] and as such, triable therein.

An important exception brought forth by judicial legislation is in a case where the application of the general principle would result in preventing a fair and impartial inquiry into the actual facts of the case because the witnesses from the place where the crime was committed will not be at liberty to reveal what they know about the case.[30] This is the exception offered by the case of *People v. Gutierrez*.[31]

It is very evident from the foregoing that the Supreme Court has time and again exercised its well-recognized prerogative of making exceptions to provisions of law by interpretations and seek to justify such by the general grant of judicial power by the Constitution.[32] As aptly postulated in one case:

> "Laws do not always express what they mean or mean what they say and many things are left unsaid. Where that happens, it is the Supreme Court which by tradition, by the scheme of our Government, if not by express Constitutional and legal mandates has the last word on what the law is. In the interest of orderly administration of justice and uniformity, there should be only one Supreme Court from whose decisions all other courts shall take their bearings." [33]

IV-A. JURISDICTION OF COURTS

Under Section 14, paragraph (a), of the Rules of Court actions shall be filed and tried in the court of the municipality or city where the offense charged was committed or any of its essential ingredients took place. As such, the action shall be brought either in the municipal or City Court of the municipality or city or in the Court of First Instance of the province where the offense was committed depending on whether the offense falls within jurisdiction of either of said courts.

In as much as the jurisdiction conferred on the Supreme Court and the Court of Appeals is mostly appellate, it may be logically inferred that

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[27] People v. Lol-lo, 43 Phil. 19 (1922).
[28] U.S. v. Santiago, 27 Phil. 411 (1914).
[29] Annot., 36 SCRA 199 (1970).
[30] *Ibid.*
[31] *Supra*, note 25.
[32] Art. VIII, sec. 1.
[33] People v. Aquino, *supra*, note 2.

it is not limited to any particular territory in the Philippines but rather nationwide in scope unlike municipal and city courts, Courts of First Instance and Circuit Criminal Courts.

Section 68 of the Judiciary Act provides that there shall be one municipal judge and auxiliary municipal judge in each municipality and municipal district whose territorial jurisdiction maybe made to extend over any number of municipalities, municipal districts or other minor political divisions or places not included in the jurisdiction of a municipal judge already appointed upon the recommendation of the Secretary of Justice. Municipal and city judges possess original jurisdiction over all violations of municipal or city ordinances committed within their respective territorial jurisdiction, over all criminal cases enumerated in the law and other offenses the penalty for which is imprisonment for more than three years or a fine of not more than three thousand pesos or both.[34]

The Judiciary Act of 1948 organized and established throughout the Philippines, courts of general original jurisdiction known as Courts of First Instance with its judicial functions vested in district judges appointed and commissioned under the laws.[35] The criminal jurisdiction of the Court of First Instance is embodied in Section 44 of said Act which provides that 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;
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> (g) Over all crimes and offenses committed on the high seas or beyond the jurisdiction of any country or within any of the navigable waters of the Philippines in accordance with the laws thereof. The jurisdiction herein conferred maybe exercised by the Court of First Instance in any province into which the ship or watercraft upon which the crime or offense was committed shall come after the commission thereof. Provided, that the court first lawfully taking cognizance thereof shall have jurisdiction of the same to the exclusion of all other courts in the Philippines."

According to a decided case,[36] what is conferred to the Court of First Instance is an abstract jurisdiction or power to try decide criminal cases as for example, homecide committed within its territorial jurisdiction. However, such court has no power to try and decide a criminal case against a person for homecide committed within its territory unless a complaint or information against him is filed with said court.

A judicial district of the Court of First Instance may consist of a number of branches. Section 57 of the Judiciary Act provides:

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[34] Rep. Act No. 296 (1948), sec. 87.
[35] Rep. Act No. 296 (1948), sec. 39.
[36] Caluag v. Pecson, 82 Phil. 8 (1948).

> "Where court is appointed to be held at more than one place in a district, the District Judge may, with the approval of the Department Head define the territory over which the court held at a particular place shall exercise its authority; and cases arising in the territory thus defined shall be triable at such court accordingly. The power herein granted shall be exercised with the view to making the attendance of litigants and witnesses as inexpensive as possible."

Jurisdiction, according to the Supreme Court, is vested in the court and not in the judges. As such, when this power of defining or apportioning the territory over which a particular branch shall exercise jurisdiction is availed of by the District Judge with the approval of the Secretary of Justice, no grant or limitation on jurisdiction results since this continues to be vested in the Court of First Instance as a whole.[37]

On July 27, 1967, the Congress of the Philippines passed Republic Act No. 5179, creating a Circuit Criminal Court "in each of the sixteen judicial districts for the Courts of First Instance as presently constituted with limited jurisdiction, concurrent with the regular Court of First Instance to try and decide the following criminal cases falling under the original and exclusive jurisdiction of the latter."

> "(a). Crimes committed by public officers, crimes against persons and crimes against property as defined and penalized under the Revised Penal Code, whether simple or complexed with the other crimes,
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> (b). Violations of Republic Act No. 3019 otherwise known as the Anti-Graft and Corrupt Practices Act and Republic Act No. 1379; and
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> (c). Violations of sections 3601, 3602 and 3604 of the Tariff and Customs Code and Sections 174, 175 and 345 of the National Internal Revenue Code." [38]

By express provision of said Act, the Judges of the Circuit Criminal Courts were made subject to the provisions of all laws and the Rules of Court governing judges of the Court of First Instance as well as the laws and rules relative to the trial, disposition and appeal of criminal cases.[39]

Recognizing the nature of the jurisdiction conferred by Republic Act No. 5179 to Circuit Criminal Courts which aside from being limited is concurrent with that of regular Courts of First Instance, it becomes necessary to note the provisions of Section 4 of said Act. This section expressly provides:

> "The Circuit Criminal Courts may hold sessions anywhere within their respective districts: Provided however, that cases shall be heard within the province where the crime subject of the offense was committed; and

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[37] Lumpay v. Moscoso, G.R. No. 14723, May 29, 1959, 58 O.G. 5185 (July, 1962), 105 Phil. 968 (1959); People v. Fule, G.R. No. 12915, July 28, 1959, 58 O.G. 5530 (Aug., 1962), 105 Phil. 1171 (1959).

[38] Rep. Act No. 5179 (1967), sec. 1.

[39] Rep. Act No. 5179 (1967), sec. 3.

> Provided further, that when the interest of justice so demands, with prior approval of the Supreme Court, case maybe heard in a neighboring province within the district."

The second proviso of the foregoing section allows cases to be heard in a province different from that where the crime was committed provided that said province is a "neighboring province within the district."[40] This proviso in effect constitutes an exception to the general rule promulgated by Section 14(a) of Rule 110 of the Revised Rules of Court. For if it becomes necessary to hold the trial in a different province in the interest of justice and prior approval of the Supreme Court is obtained, then the hearing of such a case outside of the territory where the offense was committed is allowable.

B. Nature of the Concurrent Jurisdiction of Courts

It is a fundamental principle upheld in various jurisdictions that when two or more courts have concurrent jurisdiction, the first to validly acquire it takes it to the exclusion of the other or the rest.[41]

Thus, in the 1946 case of *Valdez v. Lucero*,[42] the Supreme Court upheld the jurisdiction of the justice of the peace court in taking cognizance of the murder charge filed by the provincial fiscal of Ilocos Sur against Silverio Valdez. The main issue in that case was whether the civil courts had jurisdiction to take cognizance of and try the case for murder because petitioner Valdez alleged that since he was a person subject to the military law, he should be tried by a general court-martial pursuant to Article 93 of the Articles of War. The Court held that granting that all the facts alleged by Valdez were true, the civil courts of the Commonwealth was not deprived of the jurisdiction over Valdez but have concurrent jurisdiction with the general courts-martial inasmuch as Article 93 of the Articles of War was identical with Article 92 of the Articles of War of the U.S. Army which had been understood to mean that even in time of war, the civil courts were not deprived of their jurisdiction over murder cases committed by subjects of the military law. It appeared in this case that the military authorities did not claim priority to try Valdez.

The 1950 case of *People v. Blanco*,[43] later cited in *People v. Colicio*,[44] took up the same matter. In that case an information for theft was filed in the Municipal Court of Iloilo. The municipal judge, believing he had no jurisdiction forwarded the case to the Court of First Instance which was objected to by the fiscal who moved for the return of the case to

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[40] Rep. Act No. 5179 (1967), sec. 4.

[41] Encarnacion v. Baltazar, G.R. No. 16883, March 27, 1961, 61 O.G. 3914 (June, 1965).

[42] 76 Phil. 356 (1946).

[43] G.R. No. 2700, January 13, 1950, 47 O.G. 3425 (July, 1951), 85 Phil. 296 (1950).

[44] G.R. No. 2885, February 26, 1951, 88 Pril. 196 (1951).

the justice of the peace court, which was denied. The Supreme Court, on petition for certiorari and mandamus held that the two courts possess concurrent jurisdiction and inasmuch as it was the justice of the peace court which has first taken cognizance of the matter, the case was ordered returned to the latter court.

Although it can be conceded that where two or more courts have concurrent jurisdiction as the Court of First Instance and the Circuit Criminal Court, the choice of the Court where to bring the action is merely a matter of procedure and not of jurisdiction, the moment the choice has been exercised, the matter becomes jurisdictional. The right to make the choice belongs to the persons who may validly file or subscribe to a complaint or information under sections 2 and 3 of Rule 110 to the Revised Rules of Court and not to the defendant in such case. When the complaint or information is filed with any of these courts having concurrent jurisdiction over the crime and said court acquires jurisdiction also over the person of the defendant, the choice is deemed to have been made, and from the time of such filing, the court acquires the right and power to try the accused.[45] The case of *Go v. Go*[46] recognizes further that once jurisdiction has attached it remains until the case has been finally settled and determined. This principle according to that case is a cardinal one and is so well settled that it needs no citation of authorities to support or justify it. Jurisdiction therefore, once acquired by the court in which the action was filed cannot be lost and such court can only be divested of it by express and specific provision of law.[47] In the absence of any provision of law authorizing or allowing in clear and unmistakable terms the stripping of jurisdiction from the particular court, then said jurisdiction is retained until the termination of the case.

The law in force at the time the information is filed, according to the general rule determines the power of the court to try the offense charged. Thus, if under the laws then existing the court acquired jurisdiction, such cannot be lost except under the express provisions of an existing law.

V. THE CASE OF PEOPLE V. GUTIERREZ[48]

On the twenty second day of May, 1970, a group of armed persons mercilessly set fire to several residential houses in Barrio Ora Centro, municipality of Bantay, Province of Ilocos Sur, which resulted, aside from the wanton destruction of various properties, in the death of an innocent old woman. This event became a very much publicized one not only be-

[45] Alimajen v. Valera, 107 Phil. 244 (1960); People v. Blanco, *supra*, note 40; Crisologo v. People, G.R. No. 6277, February 26, 1954, 50 O.G. 1021 (March, 1954), 94 Phil. 477 (1954).

[46] C.A.-G.R. No. 21227-R, January 22, 1960.

[47] People v. Cudilla, C.A.-G.R. No. 4079-R, June 26, 1950.

[48] *Supra*, note 25.

cause of the senselessness and cruelty of the actions of those responsible therefor but more so because of the fact that the son of influential politicians was the alleged "brains" of such inhuman acts. This occurence brought into the fore a conflict between the ever recurring universally recognized principle of justice which is the essence of every judicial system and the existing statutory provisions relating to jurisdiction of courts in criminal cases, when after two cases have been filed in the Court of First Instance of Vigan as a consequence of such occurence, a motion to transfer the place of the trial of such cases filed by the prosection was denied by Judge Mario J. Gutierrez of the Second Judicial District of the Court of First Instance, Branch III with its seat in Vigan, Ilocos Sur.

These facts gave rise to that celebrated case of *People v. Gutierrez* which elicited varied reactions from the concerned citizenry because of its inevitable repercussions on the people themselves. In this case, the Supreme Court, by a unanimous vote established new precedents and set forth new principles which according to Justice Fernando are far reaching in its consequences, relating to territorial jurisdiction of the Court of First Instance and the Circuit Criminal Courts in criminal proceedings.

In this case, the provincial fiscal of Ilocos Sur filed, on the 10th day of June, 1970, in the Court of First Instance of Vigan, two informations (Criminal cases 47-V for arson with homicide and 48-V for arson) against seventeen named private respondents, together with eighty-two unidentified persons. The cases were raffled and docketed in Branch III. Two of the accused, Camilo Pilotin and Vincent Crisologo voluntarily appeared and pleaded not guilty when arraigned, after which the trial was set for July 27 and 29, 1970. The witnesses against the accused however would not not appear and testify in a court in Ilocos Sur. They asked the Secretary of Justice to order the hearing of the case to be transferred either to San Fernando, La Union, or to Baguio City for reasons of security and personal safety as consequence of which Administrative Orders No. 221 and 226 were issued authorizing Judge Mario J. Gutierrez to transfer said criminal cases to the Circuit Criminal Court "in the interest of justice and pursuant to Republic Act No. 5179 as implemented by Administrative Order Nos. 258 and 274 of the Department of Justice..."

The prosecution in seeking transfer on the strength of the affidavits of witnesses, invoked the aforecited Administrative Orders. The accused strongly opposed such transfer which opposition was sustained by the respondent judge when he issued an order, on July 20, 1970, declining the transfer sought on the ground

> "that Administrative Order No. 258 only provided for transfer of cases to the Circuit Criminal Court where the interest of justice required it for the more expeditious disposal of the cases, and in the cases involved the accused had already pleaded; that if the objective of the proposed trans-

> fer was to subsequently obtain a change of venue from the Supreme Court under Section 4 of Republic Act No. 5179, the same should have been done right at the very inception of these cases."

The petition for writ of certiorari and mandamus was brought to the Supreme Court charging abuse of discretion which the defendant denied in his answer contending that the Administrative Orders were merely discretionary in character and that circumstances did not warrant such transfer. Invoking the time-honored principle of separation of powers, the Supreme Court sided with the respondent judge when, in the decision penned by Justice Jose B.L. Reyes and unanimously approved by seven other justices, it stated that

> "present laws do not confer upon the Secretary of Justice the power to determine what court should hear specific cases. xxxx The creation by Republic Act No. 5179 of the Circuit Criminal Courts for the purpose of alleviating the burden of the regular Courts of First Instance and to accelerate the disposition of criminal cases pending or to be filed therein nowhere indicates an intent to permit the transfer of pre-selected individual cases to the Circuit Courts. x x x x The very terms of Administrative Order No. 226 issued on June 18, 1970 by Secretary of Justice Makasiar, relied upon by the petitioners in merely authorizing and not directing Judges Arciaga and Gutierrez of the Court of First Instance to transfer the criminal cases, reveals that the Secretary himself was aware of the impropriety of imperatively directing transfer of specified cases. Respondent Judge Gutierrez therefore, in construing Administrative Order No. 226 as permissive and not mandatory acted within the limits of his discretion and violated neither the law nor the Executive Orders heretofore mentioned."

Despite this however, the Court held the respondent judge to have acted in grave abuse of discretion for his failure to act on the motion to transfer claiming that such may result in the miscarriage of justice because of the refusal of the witnesses for the prosecution to testify before the court sitting in Vigan where they felt their lives would be endangered. The Supreme Court did not consider the fear thus expressed as fanciful, considering, according to it, the circumstances of the case. This ruling of the Supreme Court sounds strange and inconsistent considering that it upheld the respondent judge's decision treating the Administrative Orders as discretionary. Judge Gutierrez, in an interview, noted that although the motion to transfer was supported by affidavits of witnesses, he was not given the opportunity to examine said witnesses and verify from them the truth of their statements in the supporting affidavits, by reason of which he denied the motion. He was of the firm belief that the witnesses could not really have feared to testify in Vigan knowing Ilocos Sur to be a province of heroes and martyrs, claiming that there was in effect, a prejudgment that the contents of the affidavits were true. It is evident therefore, that from the point of view of the judge himself, he was law-

fully exercising a discretion vested in him. Moreover, it has long been settled that the power to define and apportion jurisdiction cannot be delegated to the Secretary of Justice, being legislative in character and subject to the limitations set forth in the fundamental law.[49] Under the principle of separation of powers, the Administrative Orders of the Secretary of Justice can never justified. Otherwise the concept "of an independent judiciary instituted in the Philippines and which has served as one of the chief glories of the government and one of the priceless heritages of the Filipino people," [50] would become a farce. Neither can the Secretary of Justice find support from Section 8 of Republic Act No. 5179 inasmuch as what that section grants him is limited only to administrative supervision of Circuit Criminal Courts, which obviously does not include the power to order or authorizing the transfer of venue of cases to a place other than what the law provides. Furthermore, said Act requires the approval of the Supreme Court in cases when in the interest of justice the trial of a case should be held in a province different from that where the offense charged was committed.[51] Although this rule is not clear since it does not categorically state whether it applies only to cases which are already in the Circuit Criminal Court and not to a case similar to the one at bar, it is at least indicative of the legislative intention of first requiring Supreme Court approval before any such change of venue is made. Thus, having been found to be unsupported by any existing law, and constituting in effect a usurpation of legislative power vested in Congress by the Constitution, as well as an encroachment upon the independence of the judiciary, said Administrative Orders should have been declared invalid.

The Supreme Court, in this case, faced a legal dilemma, a conflict between the provisions of the Rules of Court and the realities of the situation. This was what made this case one of extreme importance. The circumstances were such that if justice was to be given to the victims of this terrifying event, the provisions of criminal procedure should give way in the interest of justice. As there was as yet no previous case squarely in point, there was no precedent to fall back on and the Supreme Court was left to decide the significant issue of whether the judge, once he has taken jurisdiction of a criminal case, can be compelled to transfer the case to other courts if ever any transfer can be made at all.[52]

Respondents strongly opposed the transfer of the trial site invoking the long standing rule of criminal procedure that one who commits a crime is amenable therefor only in the jurisdiction where the crime was committed. The respondents based their contention on the decisions of the

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[49] Gumpal v. Court of First Instance of Isabela, G.R. Nos. 16409 & 16416, November 29, 1960, 61 O.G. 674 (Feb., 1965).

[50] Borromeo v. Mariano, 41 Phil. 322 (1921).

[51] *Supra*, note 40.

[52] Rama, *Man of the Year*, 64 PHIL. FREE PRESS 4 (January 2, 1971).

Supreme Court in *U.S. v. Cunanan* [53] and *People v. Mercado* [54] which held that "the jurisdiction of a Court of First Instance in the Philippines is limited to certain well-defined territory and they cannot take jurisdiction of persons charged with one offense committed outside of that limited territory." The basis of the aforesaid rule if applied presently, is Section 14 (a) of the Rules of Court. Although the Supreme Court reiterated the purpose of this general rule as declared in the case of *Beltran v. Ramos* that such rule is for the convenience of the defendant, it extended the rule in this manner.

> "Where the convenience of the accused is opposed by that of the prosecution, the Court should have the power to decide where the balance of convenience and inconvenience lies and to determine the most suitable place of the trial according to the exigencies of truth and impartial justice. xxxx In the particular case before us, to compel the prosecution to proceed to trial in a locality where its witnesses will not be at liberty to reveal what they know is to make a mockery of the judicial process and to betray the very purpose for which courts have been established. Since the rigorous application of the general principle of Rule 110, Section 14(a) would result here in preventing a fair and impartial inquiry into the actual facts of the case it must be admitted that the exigencies of justice demand that the general rule relied upon by the accused respondents should yield to occasional exceptions wherever there are weighty reasons therefor. Otherwise the rigor of the law would become the highest injustice—summum jus, summa injuria."

Justice Jose B. L. Reyes, not only relied on the principle of truth and justice in support of this decision but likewise expounded on the incidental and inherent powers of courts which, according to him are necessary for an effective administration of justice, one of which is this power to transfer trial of cases from one court to another of equal rank in a neighboring site whenever there is a need of securing a fair and impartial trial or of preventing a miscarriage of justice, citing English common law jurisprudence in support thereof. Such common law doctrine having passed to the State Supreme Courts of the American Union, also passed to Philippine Courts in recognition of the fact that our courts were organized on the American pattern with the enactment of the first judicial organic law, Act No. 136, on June 11, 1901. The enactment of Republic Act No. 5179 empowering Circuit Criminal Courts to hear cases in a neighboring province within the district when the interest of justice so demands with prior approval of the Supreme Court is an indication, according to the Court, of the recognition by Congress of the existence of this essential inherent power.

In accord with all these is the fact that the rule hereby being excepted to is a section of the Revised Rules of Court,[55] a provision in crim-

[53] *Supra*, note 9.
[54] *Supra*, note 14.
[55] Rule 110, sec. 14.

inal procedure promulgated by the Supreme Court of the Philippines itself in the exercise of the power conferred upon it by the Philippine Constitution. It is not one enacted by Congress in the exercise of its legislative power. As such, the Supreme Court, by all means, possesses the power to provide for an exception if it finds it necessary to do so. More so, the purpose of procedure is not to restrict the jurisdiction of the court over the subject matter but to give it effective facility in righteous action.[56] It should therefore not be a hindrance to the courts in any way in the performance of the latter of the judicial power vested upon it by Article VIII, section 1 of the Constitution.

In his separate opinion, Justice Barredo tried to delve further into the matter of jurisdiction. With regards to the defense relied upon by respondents that venue in criminal cases is jurisdictional, Justice Barredo categorically stated that the rule invoked in support thereof has no foundation in any act of the legislature. He endeavored to make a distinction between jurisdiction and venue stating that "jurisdiction is conferred only by law and that it is only venue that may be fixed by the Rules of Court because jurisdiction is substantive and venue is merely procedural." By this, he attempts to convey that venue can never be jurisdictional, having been adopted by the Supreme Court and not by Congress. The learned Justice went on to say that the case relied upon by respondents is a 1913 case in support of which no particular legislative enactment was cited. True, the *Cunanan* rule is merely a doctrinal rule, yet, it is the most fundamental of the rules on jurisdiction in criminal proceedings. It has been in existence long before such became a part of our criminal procedure contained in the Rules of Court. It cannot be denied that jurisdiction is substantive and is within the power of Congress to define, prescribe and apportion,[57] nor is it denied that venue is merely procedural and hence within the Supreme Court's power to promulgate rules on. All these tend to insinuate that the ruling in Cunanan is not good law anymore and that it needs to be changed. This, Justice Barredo claimed the Supreme Court has every power to do inasmuch as such rule is no more than a construction given by this Court and since it

> "runs counter to fundamental principles now separating the rule-making power of the Courts from the legislative faculty to define and apportion jurisdiction, it is best to learn in favor of recognizing the Constitutional boundaries of our prerogatives when they are plain and the contrary cannot be implied."

And since section 14 (a) of Rule 110 is purely a rule of venue, he adds, the power of the Supreme Court to change the same is unquestionable.

Despite all these, however, as was noted earlier, Congress, by the enactment of Republic Act No. 5179, in Section 4 thereof, in effect re-

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[56] Manila Railroad Co. v. Attorney-General, 20 Phil. 528 (1911).
[57] CONST., Art. VIII, sec. 2.

cognized the fundamental rule contained in Section 14(a) of the Rules. Section 4 amounts to a legislative definition of the territorial jurisdiction of Circuit Criminal Courts and may be considered as expressive of the acceptance and admission by Congress of the *Cunanan* ruling despite the absence of any definite statutory enactment to give it. The fact that no one has questioned this rule until now, when Justice Barredo took pains to bring it out, makes it all the more sound. *People v. Gutierrez* did not overthrow such rule; it was merely subjected to an "occassional exception" in the interest of truth and justice. From all that has been said, it can be gathered that the jurisdiction of Courts of First Instance is limited by territorial boundaries, generally by the province and in presently recognized exceptions, by districts. In no case has it been allowed to hold a trial outside of the district. Otherwise, the division of the whole country into districts and the vesting of the judicial function of Courts of First Instance in District Judges would serve no useful purpose if Congress intended the jurisdiction of each branch of the Court to be unlimited in terms of territory. The phrase "courts of general original jurisdiction" used by the Judiciary Act[58] to describe Court of First Instance, does not confer upon it limitless jurisdiction, territorywise, by parity of reasoning. By "general jurisdiction" is meant "such as extends to all controversies which maybe brought before a court within the legal bounds of rights and remedies."[59]

In accordance with the petition brought to the Supreme Court, in this case, this Court granted the writs prayed for and the respondent judge was ordered and directed to remand the two criminal cases to the Circuit Criminal Court of the Second Judicial District for hearing of the evidence for the prosecution either at Baguio City or San Fernando, La Union at the earliest available date. As such presently, these two cases are being heard by the Circuit Criminal Court with its seat in Baguio, Judge Lino Añover, presiding.

Aside from Justice Antonio Barredo, Justice Enrique M. Fernando was also impelled to write a separate concurring opinion to stress further the learned and scholarly opinion and views of the eminent jurist, Justice Jose B.L. Reyes, in view of the uniqueness of the case. As emphasized by Justice Fernando, "the conclusion reached by the Court is solidly buttressed not only in law as history but likewise in law as logic and as social control."

Justice Fernando's concurring opinion pivoted around the all-embracing and flexible power of the courts which according to him can be utilized whenever there is need to do so. Inasmuch as an impasse was created under the circumstances, the Supreme Court, according to him, should not be denied the power to set things right. As he so rightly worked out,

[58] Rep. Act No. 296 (1948), sec. 39.
[59] 1 MORAN, *supra*, note 6 at 31.

> "there would be a void in the framework of government thus established if there is no official body of a higher rank that can take the necessary steps to avoid frustration of the exercise of judicial power. xxxx What appears to be so undisputed is that where the question partakes of a judicial character, only this court can perform that function and trace its source to the Constitution itself. That is to free the Constitution from the reproach that a situation is left unprovided for."

This enlarges the power of the Supreme Court to cover all situations not contemplated by any existing law, thereby filling up the void left by them.

POWER OF COURTS TO CHANGE THE PLACE TO TRIAL

The power of courts to change the venue or the place of trial is recognized in American jurisprudence. The right to make such change may under American Law, be based purely on statutes but in some jurisdictions, the common-law basis of such a right has been recognized.[60] Courts have been held to possess the inherent power to order the change despite the lack of any express statutory grant thereof, in recognition of the undeniable circumstance that the statutes conferring such right are nothing but declarations of said common-law rule and does not in any manner confer any new power to the courts. This power of courts to order a change of place of trial has been considered of primary importance in assuring a fair and impartial trial necessary in dispensing justice.[61]

Thus, although generally no statute allows our courts either expressly or impliedly to order the change of the place of trial, aside from the second proviso to Section 4 of Republic Act No. 5179, it cannot be said that this power ought to be denied to Philippine Courts. As exhaustively expounded on by Justice Reyes, its common law original can be adequately traced. And considering the categorical statement in the case of *Crocker v. Justices of Superior Court,* that statutes are merely declaratory of the common law rule,[62] the grounds for change usually appearing in statutes can be legally availed of to obtain the needed change. Such grounds, therefore as local prejudice, feelings and opinion rendering it impossible to obtain a fair and impartial trial[63] and the promotion of justice[64] will warrant a change asked for.

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[60] 92 C.J.S. *Venue,* sec. 127 (1955), citing State *ex rel* Trost v. Schinl, 217 Wis. 576, 259 N.W. 601 (1935); State *ex rel* Bobroff v. Braun, 209 Wis. 483, 245 N. W. 176 (1932); Crocker v. Justices of Superior Court, 208 Mass. 162, 94 N.E. 369 (1911).

[61] Crocker v. Justices of Superior Court, *supra,* note 60.

[62] *Ibid.,* Anderson v. Johnson, 1 Utah 2d 400, 268 P. 2d 427 (1954).

[63] 56 AM. JUR. *Venue,* sec. 56 (1947) citing State *ex rel* Stephens v. District Ct., 43 Mont. 571, 118 P. 268 (1911); Elliott v. Wallowa County, 57 Ore. 236, 109 P. 130 (1910); Shelton v. Southern Kraft Corp., 195 S.C. 81, 10 S.E. 2d 341, 129 A.L.R. 1280 (1940); Olson v. City of Sioux Falls, 63 S.D. 563, 262 N.W. 85, 103 A.L.R. 1022 (1935); Ferguson Seed Farms v. McMillan, 18 S.W. 2d 595, 63 A.L.R. 1015 (1929).

[64] 92 C.J.S. *Venue,* sec. 147 (1955).

General, however, power to change venue is accorded to the defense and not to the prosecution.[65] It would seem therefore that the decision in *People v. Gutierrez* is not in consonance with this general rule. This general rule, it seems, apply only to venue statutes in the United States and inasmuch as the power to change the place of trial is based likewise on the common-law rule in England as pointed out by Justice Reyes, it would be safe to assume that this inherent power of courts extends to motions for transfers filed by the prosecution, although this seems quite odd since at the start, the prosecution has a choice as to which of two courts possessing concurrent jurisdiction over the case, as the Court of First Instance and the Circuit Criminal Court, the action is to be brought.

It is noteworthy to point out that notwithstanding the extensive discussion of the various legal issues in this decision, the court failed to take into account another elementary principle which has evolved throughout the years; that when two or more courts possess concurrent jurisdiction to try a particular case, the court which first takes jurisdiction, exercises the same to the exclusion of the other courts. Judge Gutierrez, himself, in an interview, note this and stated that the Supreme Court had overruled this age-old doctrine. It seems however, that this established rule has not been set aside. It would be more accurate to say that what the Court did in this case was to provide for an exception to such a rule which it can in recognition of the all-embracing Constitutional grant of judicial power in our highest Court. In support of the manner in which the Supreme Court disposed of this case, it would be apt to quote Lord Hardwicke in the case of *Read v. Huggonson* [66] when he said that "There cannot be anything of greater consequence that to keep the streams of justice clear and pure that parties may proceed with safety both to themselves and their characters." This is in keeping with the ideal of a court trial which is a proceeding unaffected by extra-legal influences.

V. SUMMARY

As may be inferred from Section 14 (a) of Rule 110 of the Rules of Court, the jurisdiction of courts is limited by territorial boundaries. Although jurisdiction is admittedly substantive and that only venue may be provided for by the Rules, the rule embodied in the 1913 case of *U.S. v. Cunanan* is fundamental and has been part of criminal procedure ever since. It is still good law and what *People v. Gutierrez* did was to provide for an exception thereof in the interest of justice. However, it is not this rule which is excepted from by the *Gutierrez* case, for the decision, in effect also constitutes an exception to the prevailing rule on concurrent jurisdiction.

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[65] INBAU, CRIMINAL JUSTICE: CASES AND COMMENTS 1004 (1954).
[66] 2 Atk. 496 as cited in SULLIVAN, TRIAL BY NEWSPAPER vii (1961).

Territorial jurisdiction of courts is not affected by this decision. It continues to extend to cases occuring or to offenses committed with in the territorial boundaries of the province or of the district in some case, in case of Courts of First Instance and within the municipality, in case of Municipal Courts or of the city in case of City Courts. The Courts, however, can provide for exceptions when it finds it imperative for the proper and fair disposal of cases.