

THIRD DIVISION

[G.R. No. 110315, January 16, 1998]

**RENATO CUDIA, PETITIONER, VS. THE COURT OF APPEALS, THE
HON. CARLOS D. RUSTIA, IN HIS CAPACITY AS PRESIDING
JUDGE OF THE REGIONAL TRIAL COURT BRANCH LVI, ANGELES
CITY, RESPONDENTS.**

DECISION

ROMERO, J.:

Petitioner assails the decision^[1] of the Court of Appeals dated May 14, 1993 dismissing his petition and finding that he had not been placed in double jeopardy by the filing of a second information against him, although a first information charging the same offense had been previously dismissed, over petitioner's vigorous opposition.

The factual antecedents of the case are as follows:

On June 28, 1989, petitioner was arrested in Purok 6, Barangay Santa Inez, Mabalacat,^[2] Pampanga, by members of the then 174th PC Company, allegedly for possessing an unlicensed revolver. He was brought to Camp Pepito, Sto. Domingo, Angeles City, where he was detained. A preliminary investigation was thereafter conducted by an investigating panel of prosecutors. As a result thereof, the City Prosecutor of Angeles City filed an information against him for illegal possession of firearms and ammunition, docketed as Criminal Case No. 11542, which reads as follows:

"That on or about the 28th day of June, 1989, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his possession and under his control one (1) .38 Cal. Revolver (paltik) without any Serial Number with six (6) live ammunitions, which he carried outside of his residence without having the necessary authority and permit to carry the same.

ALL CONTRARY TO LAW."^[3] (Emphasis petitioner's.)

The case was raffled to Branch 60 of the Regional Trial Court of Angeles City (hereafter the Angeles City RTC). Upon his arraignment on August 14, 1989, petitioner pleaded "not guilty" to the charges. During the ensuing pre-trial, the court called the attention of the parties to the fact that, contrary to the information, petitioner had committed the offense in Mabalacat, and not in Angeles City. Inasmuch as there was an existing arrangement among the judges of the Angeles City RTCs as to who would handle cases involving crimes committed outside of Angeles City, the judge ordered the re-raffling of the case to a branch assigned to

criminal cases involving crimes committed outside of the city. Thereafter, the case was assigned to Branch 56 of the Angeles City RTC.

On October 31, 1989 however, the provincial prosecutor of Pampanga also filed an information charging petitioner with the same crime of illegal possession of firearms and ammunition, docketed as Criminal Case No. 11987. The case was likewise raffled to Branch 56 of the Angeles City RTC. This prompted the prosecutor in Criminal Case No. 11542 to file a Motion to Dismiss/Withdraw the Information, stating "that thru inadvertence and oversight, the Investigating Panel was misled into hastily filing the Information in this case, it appearing that the apprehension of the accused in connection with the illegal possession of unlicensed firearm and ammunition was made in Bgy. Sta. Inez, Mabalacat, Pampanga, within the jurisdiction of the Provincial Prosecutor of Pampanga"^[4] and that the Provincial Prosecutor had filed its own information against the accused, as a result of which two separate informations for the same offense had been filed against petitioner. The latter filed his opposition to the motion, but the trial court nonetheless, granted said motion to dismiss in its order dated April 3, 1990.

On May 21, 1990, petitioner filed a Motion to Quash Criminal Case No. 11987 on the ground that his continued prosecution for the offense of illegal possession of firearms and ammunition — for which he had been arraigned in Criminal Case No. 11542, and which had been dismissed despite his opposition — would violate his right not to be put twice in jeopardy of punishment for the same offense. The trial court denied the motion to quash; hence, petitioner raised the issue to the Court of Appeals. The appellate court, stating that there was no double jeopardy, dismissed the same on the ground that the petitioner could not have been convicted under the first information as the same was defective. Petitioner's motion for reconsideration was denied; hence, this appeal.

Petitioner points out the following as errors of the Court of Appeals:

1. THE COURT OF APPEALS ERRED WHEN IT FOUND THAT THE CITY PROSECUTOR OF ANGELES CITY DID NOT HAVE THE AUTHORITY TO FILE THE FIRST INFORMATION.
2. THE COURT OF APPEALS ERRED IN HOLDING THAT THE FIRST JEOPARDY DID NOT ATTACH BECAUSE THE FIRST INFORMATION FILED AGAINST THE ACCUSED WAS NOT VALID.

We shall discuss the assigned errors jointly as they are closely related.

Section 21, Article III of the 1987 Constitution provides that "(n)o person shall be twice put in jeopardy of punishment for the same offense x x x." Pursuant to this provision, Section 7 of Rule 117 of the Rules of Court provides in part that "(w)hen an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, x x x."

In order to successfully invoke the defense of double jeopardy, the following

requisites must be present: (1) a first jeopardy must have attached prior to the second; (2) the first jeopardy must have been validly terminated; and (3) the second jeopardy must be for the same offense or the second offense includes or is necessarily included in the offense charged in the first information, or is an attempt to commit the same or a frustration thereof.^[5]

In determining when the first jeopardy may be said to have attached, it is necessary to prove the existence of the following:

- (a) Court of competent jurisdiction
- (b) Valid complaint or information
- (c) Arraignment
- (d) Valid plea
- (e) The defendant was acquitted or convicted or the case was dismissed or otherwise terminated without the express consent of the accused.^[6]

It is undisputed that petitioner was arraigned in Criminal Case No. 11542, that he pleaded "not guilty" therein, and that the same was dismissed without his express consent, nay, over his opposition even. We may thus limit the discussion to determining whether the first two requisites have been met.

As to the first requisite, it is necessary that there be a court of competent jurisdiction, for jurisdiction to try the case is essential to place an accused in jeopardy. The Court of Appeals and the Solicitor General agreed that Branch 60, which originally had cognizance of Criminal Case No. 11542, had no jurisdiction over the case. In the words of the Solicitor General:

"The first jeopardy did not also attach because Branch 60 of the Regional Trial Court of Angeles City was not the proper venue for hearing the case. Venue in criminal cases is jurisdictional, being an essential element of jurisdiction (*Agbayani vs. Sayo*, 89 SCRA 699). In all criminal prosecutions, the action shall be instituted and tried in the court of the municipality or territory wherein the offense was committed or any one of the essential ingredients thereof took place (*People vs. Tomio*, 202 SCRA 77). Although both Branches 60 and 56 are sitting in Angeles City, it is Branch 56 which has jurisdiction to try offenses committed in Mabalacat, Pampanga. Petitioner was arraigned before Branch 60, not Branch 56."^[7]

It must be borne in mind that the question of jurisdiction of a court over cases filed before it must be resolved on the basis of the law or statute providing for or defining its jurisdiction. Administrative Order No. 7, Series of 1983 provides that:

"Pursuant to the provisions of Section 18 of B.P. Blg. 129, the Judiciary Reorganization Act of 1980, and Section 4 of Executive Order No. 864 of the President of the Philippines, dated January 17, 1983, the territorial areas of the Regional Trial Courts in Region One to Twelve are hereby defined as follows:

x x x x x x x x x