CHANGES CAUSED IN GRANTING INFERIOR COURTS CONCURRENT JURISDICTIONS WITH THE COURT OF FIRST INSTANCE IN SOME CASES*

By Judge DAMIAN L. JIMENEZ**

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Prior to the amendment made on the provisions of the Judiciary Law of 1948 by Rep. Act 2613, specifically Sections 86, 87, 88 and 90, questions on the extent of cases which may be taken cognizant of by courts of limited jurisdiction seem less unsettled than as now obtaining. However, though this is not saying that all the conceivable questions on the jurisdiction of such courts have fully passed judicial interpretative scrutiny, the fact remains, and fact it is that a number of issues raised from without the express language of the Judiciary Act had been laid bare by decisions of the superior courts.[1] On August 1, 1959, when Judges of Municipal Courts and Justices of the Peace Courts of the capital of provinces began re-adjusting themselves to the conformity of Rep. Act 2613, jurisdictional issues which mostly are questions of first impression began asserting themselves in one form or another. A Fiscal, may for instance, file a case before a court only to be tossed back by the Judge on a claim that he is without jurisdiction to try it, or, a Judge of an inferior court after judgment of conviction in a case appealed against, transmits the records thereof to the Court of First Instance only to be remanded upon a resolution that the appeal pertains to the Court of Appeals. These and other similar questions are not infrequent occurences after the amendatory provisions became effective. Therefore, aware as we are of the motive behind the amendment, an outlook to obviate from these sad experiences should be as compelling as the inducement which, by legislative fiat, made the amendment possible. It is to this end that this paper is intended, without assuming that everything will be solved.

Under the Judiciary Reorganization Act of 1948 enacted and made effective upon its approval on June 17, 1948, the jurisdiction of the justices of the peace and Municipal Courts of chartered cities covers those expressly provided in Sections 86, 87, 88 and 90 thereof. In addition, such courts have jurisdiction concurrently with the Courts of First Instance and the Supreme Court "over cases affecting ambassadors, other public ministers and consuls"[2] including, as advanced by some local commentarists. the power of judicial review.[3]

Section 86 of Rep. Act 296 or better known as the Judiciary Law of 1948 as amended by Rep. Act 644, states that justices of the peace and judges of municipal courts of chartered cities have jurisdiction consisting of:

(a) Original jurisdiction to try criminal cases in which the offense charged has been committed within their respective territorial jurisdiction;

(b) Original jurisdiction in civil actions arising in their respective municipalities and cities, and not exclusively cognizable by the Courts of First Instance; and

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1. Uy Chin Hua vs. Dinglasan, 47 O.G. 233 (Supplement) No. 12. After holding that destierro though, of long duration than *arresto mayor* is a lighter penalty than the latter, the Supreme Court held that the inferior courts have jurisdiction of cases so penalized saying: "Thus there exists a gap in the law as to which court shall have original jurisdiction over offenses penalized with *destierro* or banishment. Until the law making body should fill that gap by expressly providing otherwise, the Court must do so by reasonable interpretation of the existing law."

2. Concurrent original jurisdiction in this class of cases should mean the sharing of the Supreme Court with the most inferior courts of cases affecting ambassadors, other public ministers and consuls such that the Supreme Court would have concurrent jurisdiction with the lowest courts in our judicial hierarchy, the justice of the peace courts, in a petty case involving for instance, the violation of a municipal ordinance affecting the parties just mentioned. (Concurring Opipnion, Justice Laurel, Schneckenburger vs. Moran, 63 Phil. p. 267-268)

3. That lower courts have the power of judicial review is merely an incident of the power to decide actual cases before the court. Since the function of adjudication imposes on the court the duty of ascertaining the facts and applying the law to such facts and since the constitution where applicable overrides a statutory provision, executive order or municipal ordinance, it does follow that in deciding a case before it, a lower court may have to annul any legislative or executive act in contravention of the constitutional provision. (Constitution of the Philippines annotated, Tañada & Fernando, p. 775) Under Section 10, Art. VIII of the Philippine Constitution, the Supreme Court has the power to declare a law or treaty unconstitutional. There is however, nothing in said section from which it can be concluded that the power to declare a law unconstitutional belongs exclusively to the Supreme Court, this section pro-

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hesitate to cross party lines in considering the persons who would reflect his official personality. Virtue is never the monopoly of a political party. Nor, for that matter, is vice.

The President-elect has every right to demand loyalty to the announced policies of his administration. But in justice to himself, he cannot afford to demand political loyalty as a condition precedent to public service. For he, and not his party, will bear the brunt of the public scrutiny that will judge the calibre of the men and women he appoints to office. Responsibility is on him. Not on his party. Appointments to executive and administrative positions in the government must transcend partisan considerations. The only political expedient criteria are competence and integrity, as the catastrophic experience of the outgoing president has indicated. This is the only way by which the President-elect can channel the nation's available intellectual and moral resources of the country into public service. This is the only way he can successfully shoulder the burden of presidential responsibility. He is no longer just the president of a political party. He is now the President of the Philippines, to which he owes, by his own choice, ultimate and supreme fidelity.

(c) The last phrase of par. (e) or (Section forty-four) of this Act, notwithstanding, justices of the peace and judges of municipal courts shall have concurrent jurisdiction with the Courts of First Instance in the appointment of guardians and adoption cases.

This section was not modified by the new amendment, save probably the last paragraph thereof which may be said to have been impliedly repealed by the 2nd paragraph of Section 88, as now read, on appointment of guardians. This conclusion seems clear from the manner the amendment is expressed. Rep. Act 2613 consists of 13 sections. All sections, except the 12th and the 13th, the appropriation and effectivity clauses, are introduced by the phrase "is hereby amended to read as follows," following the citation of the sections modified. Such being the case, the legislature therefore merely intended a change in the provision of the particular section or sections expressly mentioned and not to any other section or sections of the old provisions of the Act.[4] Of the eleven sections in Rep. Act 2613, no mention of Section 86 was ever made. It follows therefore, that the intention of Congress was to retain the original provision of Section 86, and not to suffer it the modifications of the new provisions as set out. However, though this may be so concluded on paragraphs (a) and (b) of Section 86, the same should not be made to apply to par. (c) even in the face of the knowledge that Rep. Act 2613 did not provide for a repealing clause. To hold it so would be to say that Congress intended to make the jurisdiction of the courts referred to in Section 86 uncertain — a supposition which does not deserve even the slightest regard. Therefore, the obvious contrariety between the provisions of par. (c) of Section 86 providing for a concurrent jurisdiction in the appointment of guardians and the provisions of Section 10 of Rep. Act 2613 which do away with such concurrence with the Courts of First Instance, should be reconciled. Since the provisions of Section 10 amending Section 88 of the Act do away with the power of the inferior courts in the appointment of guardians granted them under the provisions of par. (c) of Section 86 of the Act, the conclusion should be that, as a general rule, justices of the peace courts and judges of municipal courts have no jurisdiction in the appointment of guardians, by tacit repeal,[5] the repugnance between the two provisions being irreconcilable.[6] The rule, however, as said, is but general. It cannot be claimed obsolutely that by Section 10 of the amendatory Act, justices of the peace and judges of municipal courts are at present totally divested with such power. Strongly indicating this contention is the force drawn from the fact that Section 90 of the Act has not suffered emasculation by the amendment. Said Section 90, as amended:[7]

"Justices of the peace and judges of municipal courts of chartered cities shall have concurrent jurisdiction with the courts of first instance to appoint guardians or guardian AD LITEM *for persons who are incapacitated by being of minor age or mentally incapable in matters within their respective jurisdiction.*" (Underscoring supplied)

Inasmuch as the provision of Section 10 of Rep. Act 2613, in this regard is couched in general terms, it is believed that it could not affect Section 90 such as to remove the same power of appointment of guardians from the cognizance of the inferior courts to the Courts of First Instance, over specific subjects, and in "matters within their respective jurisdiction." Section 90, like Section 86 of the Act was not treated by the amendment, which, as already noted, only modified isolated sections of the prior provisions of the Act. Untouched, it therefore remains effective as apportioned by Congress to the inferior courts concurrently with the Courts of First Instance. This is one reason for holding this view. Another, and a more compelling one, is the fact that Section 90 covers not the entire field of the power of appointment of guardians but merely some cases of that gamut. Unlike the observation here made between Section 10 of the amendatory law and Section 86 par. (c) of the Act, said Section 10 does not produce any conflict or antagonism with Section 90. On the contrary, the one is the harmonious part of the other,[8] or, gleaned in another light, may be taken to be a case of an exception from a rule.[9] Therefore, Section 10 of the amendment and Section 90 of the Act construed together should make up the following rules:

(1) Where the subject of the proceedings are persons who are incapacitated by being of minor age or are mentally incapable, justices of the peace and judges of municipal courts have jurisdiction in matters within their respective jurisdiction, concurrently with the Courts of First Instance;

(2) Where the subject of the proceedings are the persons above referred to but the matter before said courts are without their respective jurisdiction, there is no concurrence; jurisdiction in the Courts of First Instance is exclusive; and

(3) Where the subject of proceedings are other incompetents (those under civil interdiction, hospitalized lepers, prodigals, deaf and dumb who are unable to read and write, those who by reason of age, disease and other similar causes, cannot, without outside aid take care of themselves and manage their property, becoming thereby an easy prey for deceit and exploitation — (See Sec. 2 Rule 93, Rules of Court) the jurisdiction to appoint guardians is exclusive in the Court of First Instance.

(NOTE: The Juvenile and Domestic Relations Court of the City of Manila is of the category of a Court of First Instance.)

Earlier, mention was made that in view of the manner whereby Congress incorporated into the provisions of the Act the present change, Section 86 not thereby included, should not be taken to bend to the new changes save par. (c) on the matter of appoint-

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vides only for the procedure that the Supreme Court should follow when such question is presented before it. (Espiritu vs. Fugoso, G.R. No. L-1768, Oct. 20, 1948) Furthermore the provisions of the constitution that the Supreme Court shall have exclusive jurisdiction to review, revise, modify, or affirm on appeal, certiorari or writ of error, as the law or rules of court may provide, final judgments and decrees of inferior courts in all cases in which the constitutionality or validity of any treaty or law is in question, implies that the inferior courts may declare a law or treaty unconstitutional, but their decisions or decrees on the constitutionality or validity of any law or treaty are subject to appeal to the Supreme Court. (Phil. Const. Law by R. Martin, Rev. Ed. 1956, p. 65)

4. Where the specific provision was amended "to read as follows: 'it is a re-enactment of the whole subject in substitution of the previous one which thereafter disappears entirely. The intent of the legislature to set out the original section as amended is most commonly indicated by a statement in the amendatory act that the original section is amended 'to read as follows: "The legislature thereby declares that the new statute is a substitute for the original act or section. Only those provision of the original act or section repeated in the amendments are retained. (Domingo T. Parras vs. Land Registration Commission citing I Sutherland statutory construction, 3rd Ed., p. 420-421) G.R. L-16011; From. July 26, 1960.

5. From the moment there is a conflict between an old law and a new law, so that the observance of one excludes that of the other, the conflict must be resolved in favor of the later law. This implied repeal of an earlier law takes place without any special declaration in the subsequent law. (Calderon vs. Santisimo Rosario 28 Phil., 164; U.S. vs. Chan Tienco, 25 Phil., 89.)

6. Ibid.

7. See Rep. Act 648.

8. Lichauco vs. Apostol, 44 Phil., 138. But in all cases where two statutes cover, in whole or in part, the same matter, but they are not absolutely irreconcilable, the duty of the Court — no purpose to repeal being clearly indicated or expressed — is, if possible, to give effect to both.

9. Ibid. When there are two acts or provisions, one of which is special and particular and includes the matter in question, and the other general, which, if standing alone, would also include the same matter and thus conflict with the special act or provision, the special must be taken as intended to constitute an exception to the general act or provision.

ment of guardians. This statement should be qualified by the effect borne of the provisions that "Justices of the Peace in the capitals of provinces and judges of municipal courts shall have jurisdiction as the Courts of First Instance to try parties charged with an offense *committed within the province* in which the penalty provided by law does not exceed prision correcional or imprisonment for not more than six (6) years or fine not exceeding three thousand pesos (₱3,000.00) or both x x x,[10] on the provisions granting original jurisdiction to try criminal cases in which the offense charged has been committed *within the respective territorial jurisdiction* of justices of the peace and judges of municipal courts.[11] Before the amendment, the respective territorial jurisdiction of the justices of the peace has been understood to extend only over cases committed within the territorial limits of municipality where they sit. Conversely, a justice of the peace would have no power to try a case committed beyond the territory of the municipality where he sits, the reason being that any exercise of jurisdiction by a justice of the peace beyond his prescribed territory is *coram non judice* and void.[12] However, under the present law as modified, justices of the peace courts of the capitals of provinces have jurisdiction to try cases committed within the province where the imposable penalty does not exceed prision correccional or imprisonment for not more than six (6) years or fine not exceeding three thousand pesos (₱3,000.00) or both irrespective of whether the trial be on the merits or merely one preliminary to such trial before the Court of First Instance of the province. Therefore, if the case be one triable by virtue of their authority to conduct preliminary investigations, said justices of the peace courts have jurisdiction "without regard to the limits of punishment x x x." This would seem to be the correct view considering that since Section 10 of Rep. Act 2613 amending Section 87 par. 4 which introduces said paragraph with the words "Said justices of the peace and judges of municipal courts x x x" did not qualify the first of its compound subject, to distinguish or discriminate between justices of the peace courts of the capitals of provinces and the justices of the peace courts of the municipalties other than the capitals of provinces, said phrase (justices of the peace) must be held to include both kinds — *Ubi lex non distinguit nec non distinguere debemus*. Hence, the provisions of Section 86 par. (a) of the Act which grants original jurisdiction to try offenses committed within the respective territorial jurisdiction, should now be understood to have been enlarged at least insofar as the territorial jurisdiction of justices of the peace of capitals of provinces are concerned.

By Section 10 of Rep. Act 2613, the original provisions of Section 87 were replaced. Now, the latter reads:

"Sec. 87. Original jurisdiction to try criminal cases.—Justices of the peace and judges of municipal courts of chartered cities shall have original jurisdiction over:

"(a) All violations of municipal or city ordinances committed within their respective territorial jurisdiction;

"(b) All criminal cases arising under the laws relating to:

"1. Gambling and management or operation of lotteries;

"2. Assaults where the intent to kill is not charged or evident upon the trial;

"3. Larceny, embezzlement and estafa where the amount of money or property stolen, embezzled, or otherwise involved, does not exceed the sum or value of two hundred pesos;

"4. Sale of intoxicating liquors;

"5 Falsely impersonating an officer;

"6. Malicious mischiefs;

"7. Trespass on government or private property;

"8. Threatening to take human life; and

"9. Illegal possession of firearms.

"(c) All other offense except violation of election laws in which the penalty provided by law is imprisonment for not more than six months or a fine of not more than two hundred pesos, or both such fine and imprisonment;

"Said justices of the peace and judges of municipal courts may also conduct preliminary investigation for any offense alleged to have been committed within their respective municipalities and cities, without regard to the limits of punishments, and may release, or commit and bind over any person charged with such offense to secure his appearance before the proper court.

"Justices of the peace in the capitals of provinces and Judges of Municipal Courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within the province in which the penalty provided by law does not exceed prision correccional or imprisonment for not more than six years or fine not exceeding three thousand pesos or both, and in the absence of the district judge, shall have like jurisdiction within the province as the Court of First Instance to hear application for bail.

"All cases filed under the next preceding paragraph with Justices of the Peace of capitals and municipal court judges shall be tried and decided on the merits by the respective justices of the peace or municipal judges. Proceedings had shall be appealable direct to the Court of Appeals or the Supreme Court, as the case may be."

By the amending law, the noticeable changes may be summed as follows:

(a) The transposition of par. (b) to (c) and vice versa;

(b) The introduction of par. (b)-9, adding to the list of offense therein enumerated, a charge of illegal possession of firearms;

(c) Violation of election laws have been inserted as an exception to the provisions of par. (c) which embraces all offenses exclusively cognizable by justices of the peace and municipal courts;

(d) A provision giving to justices of the peace of capitals of provinces and municipal courts of chartered cities like authority as the Court of First Instance over criminal cases the penalty of which is limited to prision correcional or its equivalent or a fine not exceeding ₱3 000.00 or both committed within the province.

(e) A provision introducing trial on the merits of the class of cases referred to above (par. 4 hereof), the recording of the same and a direction that such cases shall be appealable to the Court of Appeals or Supreme Court.

(f) The provisions granting like jurisdiction with the Courts of First Instance by assignment of district judges to Justices of the Peace of capitals of provinces to try parties charged with an offense committed within the province in which the penalty does not exceed imprisonment for two years and four months, or a fine of two thousand pesos or both, have been legislated out, save their like jurisdiction with the Court of First Instance within the province to hear applications for bail.

Save the foregoings all others have been retained.

On these observations, it can be said generally, that the jurisdiction of inferior courts have been extended. However, while the jurisdiction of justices of the peace and municipal courts over all violations of municipal or city ordinances committed within their respective territorial jurisdiction have been retained *en toto*, their authority to try parties charged with an offense punishable by an imprisonment of not more than six months or a fine of not more than two hundred pesos or both was constricted to exclude therefrom violations of election laws regardless of the penalties.

By force of par. (c) Section 87 as amended, all offenses which the law assigns a penalty of imprisonment for not more than six

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10. Section 10 Rep. Act 2613 amending Section 87 par. 5.
11. Section 86 par. (a) Rep. Act 296.
12. 51 C.J.S. 83.

months or a fine of not exceeding ₱200.00 committed within the respective territorial jurisdiction of justices of the peace and municipal courts of chartered cities are exclusively cognizable by them; otherwise they are cognizable by the Courts of First Instance.[13] In such cases the maximum of the penalty whether it be in the form of imprisonment or fine furnishes the test, and the fact that the minimum punishment is within the justice's jurisdiction is immaterial.[14] For instance, if the imposable penalty for the offense is arresto mayor and a fine from 325 to 3,250 pesetas, a sum greater than ₱200.00, conviction thereon by a justice of the peace is null, for want of jurisdiction. [15] So also, if the imposable penalty for the offense is arresto mayor in its maximum to prison correccional in its minimum period and/or a fine not exceeding ₱200.00 pesos, the justice of the peace is without power to try the charge even considering that the alternative or conjuctive penalty of fine imposed by law is within its power to impose. However, justices of the peace courts may not have jurisdiction over a case when, although the penalty prescribed by law is not more than six months imprisonment and two hundred pesos fine, the law prescribes an additional penalty which the justice of the peace courts have no jurisdiction to impose.[16] Accordingly, it has been held where the accused public official was charged for estafa, an offense punishable with the penalty of arresto mayor and the additional penalty of temporary special disqualification in its maximum degree to perpetual special disqualification,[17] or, where the petitioner was charged with a violation of Art. 155 par. (4) of the Revised Penal Code which calls for the additional penalty of two years, four months and one day of prision correcional for habitual delinquency on account of his two previous convictions for the same offense,[18] or, where to impose the penalty of *arresto mayor* upon the accused guilty of seducing a minor, the additional penalty of certain civil obligations which are not really, in a strict sense, accessories of the personal penalty, such as, the acknowledgement and the support of the child begotten,[19] the justice of the peace has no jurisdiction. But it has also been held that where the justice of the peace has jurisdiction over the subject matter as the penalty for the offense brought before him is within his jurisdiction pursuant to law, said justice is not precluded from imposing subsidiary imprisonment consequent upon the inability of the accused to satisfy his pecuniary liabilities even when to do so would distend the penalty of imprisonment to over six months.[20] So also, since the penalty of destierro is not a higher penalty than arresto mayor for the reason that it is merely a restriction on one's liberty of movement and not a complete deprivation of such liberty, the imposition of the same is within the exclusive jurisdiction of the justice of the peace to impose despite that it exceeds the terms of six months.[21] And in another case [22] the jurisdiction of the justice of the peace has been conceded where it ordered the confinement of a minor delinquent in a reformatory for a period exceeding six months.

With respect to the provisions of Section 87 par. (b) as now amended, justices of the peace courts and municipal judges of chartered cities have exclusive jurisdiction over all cases the nature of which are of those specifically enumerated and involving a penalty the term of which does not exceed the limits set out in par. (c). But in those same cases, said justices and judges of municipal courts exercises the authority to try the same concurrently with the Courts of First Instance,[23] where the imposable penalty exceeds the limits set forth in par. (c)[24] since the controlling basis for such jurisdiction lies not on the measure of the imposable penalty but upon the character of the offense,[25] the imposition of additional penalty, such as habitual delinquency, notwithstanding.[26] However, this rule has been qualified by jurisprudence holding that where to try and determine a case either civil or criminal, the justice of the peace has to first decide title to real property necessarily involved therein, he has no jurisdiction.[27] So that, if a criminal case be filed with a justice of the peace or municipal judge for the offense of other forms of swindling defined and punished under Art. 316 of the Revised Penal Code par. (1) said justice or judge is competent to try and hear it, but where to do so, he would have to first resolved title to such real property, then said justice has no jurisdiction. It is well to note that in the former instance, the justice of the peace acquired jurisdiction because of the 3rd par. of Section 87 of the Act, but in the latter it could not try the case though it would have had under the authority conferred to it in pars. (b), or (c) because it has to decide a question of title to real property which is within the exclusive cognizance of the Courts of First Instance. In the same breath, a justice of the peace or municipal court would have no jurisdiction to try prosecutions under the provisions of the Anti-graft Law (Rep. Act 3019), though the imposable penalty therein provided in cases of conviction, would have been well within his competence to impose, the statute itself providing that "all prosecutions under this Act" shall be within the original jurisdiction of the proper Court of First Instance.[28]

However, it should be well to note that the jurisdiction granted the justices of the peace and municipal judges of chartered cities over all criminal cases arising under the laws relating to those enumerated in paragraph (b) of Section 87, concurrently with the Courts of First Instance, refers only to consummated offenses. Where the offense charged recites a mere attempt to commit estafa where the amount involved is ₱202.00 an amount exceeding the limit set forth in Section 87, par. (b) subpar. (3), the judge of the Court of First Instance has no jurisdiction to try it. The Supreme Court in upholding the jurisdiction of the municipal court in this case, disregarded Subsec. (c) (now subsec. (b) declaring that "we should not lose sight of the fact that the offenses mentioned in said subsection (c) refer to *consummated acts* and not merely to those that are attempted or frustrated in nature." A different interpretation, it was further said, would give rise to the incongruous situation where while under subsection (c) the offense does not come with the jurisdiction of the municipal court because the value of the thing stolen is more than ₱200.00 it at the same time comes within its jurisdiction under subsection (b) because the penalty involved is less than six months.[29]

Under the prior provisions of par. (b) of Section 87, was express to read: "All offenses in which the penalty x x x." However under the amendment it is now worded: "all *other* offenses in which the penalty x x x." It is therefore obvious that it was the intention to limit the cases of crimes that may be taken cognizance of by the justices of the peace and municipal courts to those specified, never to any criminal cause not specified — *expressio unius est exclusio alterius*. Following this reasoning, it is conceded that justices of the peace of capitals and municipal courts of chartered cities, may determine all the cases enumerated therein under the authority conferred to them by the provisions of the 3rd. par. of Section 87 of the present Act.

By the language of the 3rd. par. of Section 87 as amended by Section 10, of Rep. Act 2613, justices of the peace of the capitals

13. Section 44 par. (f) Judiciary Act of 1948.
14. 31 Am. Jur. 739.
15. U.S. vs. Almazan and Martinez 20 Phil., 225.
16. U.S. vs. Bernardo, 19 Phil., 265, U.S. vs. Regala 28 Phil., 37; People vs. Costosa, 40 Off. Gaz., 17th Supp. 147.
17. U.S. vs. Figueroa, 22 Phil., 269.
18. Llobrera vs. The Director of Prisons, G.R. No. L-3994, Aug. 16, 1950.
19. U.S. vs. Bernardo, 19 Phil., 265.
20. People vs. Caldito, et al., 40 O.G. 5522.
21. Ibid.
22. Bactoso vs. Governor of Cebu, 28 Phil., 25
23. People vs. Colico XVI, L.J. 508.
24. Ibid.
25. People vs. Palmon G.R. No. L-2860, May 11, 1950.
26. People vs. Blanco G.R. No. L-7200 Jan. 13, 1950.
27. Carroll & Ballesteros vs. Paredes, 17 Phil., 94.
28. Section 10, Rep. Act 3019.
29. People vs. Marita Ocampo y Pure G.R. No. L-10915 Prom. December 18, 1958.

of provinces and municipal courts of chartered cities are now authorized to try criminal cases to which the law assigns the penalty of prision correcional or its equivalent and/or a fine not exceeding P3,000.00 committed within the province. This authority however, is not exclusive, but concurrent with the Courts of First Instance. Jurisdiction of such courts under this paragraph may be exercised by them over said cases not only when committed within the territorial limits of the capital of the province but also committed elsewhere within the province. The same proposition will hold true, where the capital of the province is at the same time a city, but in chartered cities which are not the capitals of the provinces where they are located, the jurisdiction of such courts extend only to criminal offenses committed within the city limits. This would seem to be the meaning of the provision of the 3rd par. of Section 87 when it provides: "Justices of the peace *in the capitals* of provinces and judges of Municipal Courts shall have like jurisdiction as the courts of First Instance to try parties charged with an offense committed *within the province*, x x x." Had the law intended differently, it would have been easy for Congress to provide the same by merely saying "within the province or city, respectively" or by words of like import. More so, to entertain the idea that justices of the peace of the capitals of provinces may try cases committed within the territorial limits of the provinces without however conceding the same authority to judges of municipal courts simply because it happened that the latter sit in cities which are also capitals, would lead to a ludicrous result. Precisely, the intent behind the amendment is to enlarge the jurisdiction of inferior courts in order to ease the clogging of cases in the Courts of First Instance.[30] Considering further, that even Congress is well aware that most of the capitals of the provinces are now cities, it may be assumed that Congress did not intend to discriminate between the territorial jurisdiction of a justice of the peace of the capital of a province and judge of a municipal court of a city where such city is also the capital of the province. Therefore, under the present set up the justice of the peace of Pasig, Rizal, for instance, can take cognizance of a case of "homicide thru reckless imprudence"[31] committed in any municipality embraced in that province. And also, the justice of the peace of Marikina, Rizal, for instance, may remand a case of the same kind, after preliminary inquiry either to the Courts of First Instance or to the justice of the peace stationed at Pasig, Rizal. Since the jurisdiction of justices of the peace of capitals and judges of municipal court under the provisions of the 3rd par. of Section 87, is determined by the penalty therein provided, it follows that the prevailing decisions limiting or qualifying the provisions of par. (c) should be made applicable to them. Hence, justices of the peace of capitals of provinces and judges of municipal courts have no jurisdiction where to try a criminal cause, they would have to impose an additional penalty in certain cases, such as that of habitual delinquency, or, to first resolve title to real property necessarily involved therein, or to require an accused to acknowledge and give support to the child begotten by him with a minor he had seduced.[32]

By the 4th par. of Section 87 as amended, all cases filed with justice of the peace and municipal courts which may be tried by them concurrently with the courts of First Instance "shall" be tried on the merits by the respective justices or municipal judges, and the proceedings therein had *shall* be recorded. By these is meant that when said courts acquire jurisdiction to try and decide a case of the nature mentioned in the 3rd paragraph of Section 87 of the Act, as amended, to the exclusion of the Courts of First Instance, said courts, from the filing of the corresponding complaint or information become courts of record insofar as the case filed is concerned. Therefore the procedure by which a criminal action is tried before the Court of First Instance should be made applicable, recording the proceedings therein had from the beginning to end. The judgment to be promulgated and entered in such cases should also conform to the requirements of stating the facts and the laws applied in the decision which must be in writing, so that if an appeal is raised thereon, the Court of Appeals or the Supreme Court, to which such appeals are made, may have something to appreciate. So also, in cases of appeals, the procedure followed for appeals from the Courts of First Instance to the Court of Appeals or Supreme Court, as the case may be, should be adopted.

The 4th par. of Section 87 of the Act as amended, begins with: "All cases filed under the *next preceding paragraph* x x x." From this is clear that only those cases referred to in the 3rd paragraph thereof are and should be appealed direct to the Court of Appeals or Supreme Court as the case may be in cases, where appeals are raised. This gives rise to the further implication that where a justice of the peace court of the capital of a province or a judge of a municipal court decides a criminal case pursuant to his authority under the cases provided in paragraphs (a), (b) or (c) of Section 87 of the Act as now amended, appeals should be made to the Courts of First Instance. This becomes even more obvious should we consider that in such cases the trial court is not a court of record. Therefore, where the judgment appealed from is one rendered on any of the cases mentioned in par. (b) the appeals should be brought to the Courts of First Instance, even if the sentence therein imposed may well exceed the penalty of prision correcional or a fine of more than P3,000.00 or both. Though in some of these cases the justice of the peace and municipal judge may try and decide them concurrently with the Court of First Instance, the fact of mere concurrence, however, does not bring them within the application of the 4th par. of Section 87 inasmuch as the phrase "All cases filed under the next preceding paragraph" is clearly indicative of the legislative intent to cover only the cases falling in their cognizance under said 4th paragraph to the exclusion of all the other cases.

Because of the amendment distending the power of justices of the peace courts of capitals of provinces and judges of municipal courts of chartered cities, far-reaching implications have insinuated themselves into the field of procedure. A notable instance is the rule to the effect that warrant of arrest issued by the justice of the peace cannot be served or executed outside his province unless the judge of the Court of First Instance of the district or, in his absence, the provincial fiscal shall certify that in his opinion the interest of justice requires such service.[33] Because of the amendment it is now believed that in the cases covered in the provisions of the 3rd par. of Section 87, the named courts may issue warrants without the certification of District Judges or Provincial Fiscal, the service of which may be affected within the Philippines. The consistency of this contention, it is submitted, lies heavily on the rule that when by law jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by the Rules of Court, any suitable process or mode of proceeding may be

30. "There are now a number of cases that are pending and which cannot possibly be disposed of by the present number of judges of courts of First Instance. Just to see the number of cases pending will convince anyone. There were 74.870 cases pending at the end of the year, last year (1958)." "While all the judges are trying to do their best to dispose of them, yet they cannot cope with the increasing number of cases, which by the year are increasing more than in the past. "We propose to increase in this bill the jurisdiction of the justices of the Peace Courts." Ponencia del Sen. Paredes, p. 1497 to 1498 Cong. Rec. Vol. II, No. 58, 1959.

31. Art. 365, Revised Penal Code, par. numbered 2 as amended by Rep. Act No. 1790.

32. Supra — p. 11.

33. See. 4. Rule 109, Rules of Court.

adopted which appears most conformable to the spirit of said rules.[34] Again, because of the grant to the justices of the peace of capitals and judges of municipal courts of chartered cities like jurisdiction as the Courts of First Instance, it can now be said that in cases of conviction where an appeal is made therefrom, the defendant appealing may be admitted to bail, not as a matter of right but at the discretion of the Court. In the same vein, since the defendant must be personally present at the arraignment where the charge is for an offense within the jurisdiction of the Courts of First Instance,[35] the same must be followed where the defendant is charged for an offense concurrently triable by the former and the latter courts under the provisions of the 3rd par. of Section 87, as amended. For the same reason, an appeal taken from a judgment of conviction rendered by Judges of municipal courts of chartered cities should be made within fifteen days from the rendition of the judgment appealed from, when the judgment rendered by said courts is upon a case cognizable by both the Courts of First Instance and judges of municipal courts. This would seem to be the mode applicable notwithstanding appeals from municipal courts had been, by the respective city charters, made to be done within the day following the rendition or promulgation of the judgment, usually at 4:00 o'clock or 6:00 o'clock post meridian,[36] for the reason that it could not be presumed that Congress intended that said city charters should prevail over a law yet to be made. And by parallel reasoning, it may also be said that justices of the peace courts of the capitals of provinces and municipal courts of chartered cities, when in the exercise of the jurisdiction conferred to them by the provisions of the 3rd par. of Section 87, as amended, may now be competent to act in a summary proceedings for direct contempt under the provisions of Section 1, Rule 64 of the Rules of Court in like manner as the Courts of First Instance to whose province the imposition of a fine of not exceeding two hundred pesos or imprisonment not exceeding ten days or both, has been given. The consideration for this proposition lies on the theory that direct contempts being as they are remedies ancillary to a principal cause should be deemed to be within the sphere of the Court's cognizance, where the principal cause is by law vested in said Court.[37] And, since no appeal lies from a decision of the Court of First Instance in summary proceedings for direct contempt of court,[38] the same is submitted to apply with equal force upon an adjudication for contempt rendered by justices of the peace courts of capitals of provinces and judges of municipal courts of chartered cities in the cases provided in 3rd par. of Section 87. The above are only my humble opinion as there are no precedents yet on the matter.

C I V I L

The authority of inferior courts to hear and decide civil cases under the prior enactment was measured by the value of the subject matter or amount of the demand, exclusive of the costs and interests. Pursuant to the then provisions of Section 88 of the Judiciary Act of 1948, the limit was set at an amount or value not exceeding ₱2,000.00 exclusive of costs and interests. Under the present rule, the value of the subject matter or amount of the demand was fixed at ₱5,000.00, exclusive of interests and costs. Outside of this sum or value, justices of the peace or municipal courts of chartered cities are without authority to act on ordinary civil actions, the power to take action thereon being vested exclusively in the Courts of First Instance.[39] And, in determining this value of the subject matter or amount of said suit or that there are several claims or causes of action between the same parties embodied in the same complaint, the amount of the demand shall be the totality of the demand in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions; but where the claims or causes of action joined in a single complaint are separately owned by or due to different parties, each separate claim shall furnish the jurisdictional test.[40]

The jurisdiction of justices of the peace courts obtaining under the provisions of Section 88 of the Act before the amendment over assigned cadastral or land registration cases was also fixed at ₱2,000.00. This is now fixed at ₱5,000.00. Beyond this value of contested lots, justices of the peace have no jurisdiction to hear and determine cadastral and land registration cases assigned to them by the District Judge and approved by the Secretary of Justice.

Outside of these changes the jurisdiction of inferior courts under the provisions of the Judiciary Law, as to all other matters, have been kept intact, save, as mentioned earlier, their authority to appoint guardians, generally.

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34. Sec. 6, Rule 124, Ibid.

35. Sec. 2, Rule 112, Rules of Court

36. In Rep. Act 537, as amended, appeals from a judgment of conviction from the municipal courts of Quezon City should be taken before the hour of 4:00 o'clock post meridian of the following day.

In Rep. Act 409, as amended, appeals from a judgment of conviction rendered by a municipal judge should be perfected the day following the rendition at 6:00 o'clock post meridian.

37. The power of courts of justice, whether of record or not, to punish for contempt is an incident essential to the execution and maintenance of judicial authority (12 Am. Jur. 390).

38. People v. Abaya, 43 Phil., 247;

39. Sec. 44 par. (c) as amended by Sec. 3 Rep. Act 2613 of the Judiciary Act of 1948.

40. (a) In general, in an action in which the relief sought is a sum of money, the amount claimed in good faith by plaintiff, the same being well pleaded, determines the amount in controversy for the purpose of determining the court's jurisdiction. This amount is determined without reference to any defense or plea set upon by the defendants, and is not determined by the proof adduced during the trial of the case or by the amount of the recovery. If the amount claimed is such as to bring the case within the jurisdiction of the court, such jurisdiction is not defeated by the fact that the actual recovery is less than the jurisdictional amount; unless it appears that the original demand was fictitious or fraudulent. (21 C.J.S., Sec. 50, p. 65.)

(b) Where there are several claims or causes of action between the same parties embodied in a single complaint, the jurisdiction of the court depends, not upon the value or demand in each single cause or action, but upon the totality of the demand in all the causes of action. In other words, "the amount of the demand" means the total or aggregate amount demanded in the complaint, irrespective of whether the plural causes of action constituting the total claim arose out of the same, or different transactions. This is the ruling of the Supreme Court on the matter and makes obsolete the contrary ruling made in Go vs. Go, G.R. No. L-7020, June 30, 1954, wherein a distinction was drawn between a claim composed of several accounts arising from different transactions, and another which is composed of several accounts which arise out of the same transaction; and it was held that in the first case, the amount of each account furnishes the test of jurisdiction, while in the second, the jurisdiction is determined by the total amount claimed. (Campos Rueda Corp. vs. Sta. Cruz Timber Company et al., G.R. No. L-6994, March 21, 1956.)

(c) When two or more plaintiffs, each having separate and distinct demand, join in a single suit, the demand of each must be of the requisite jurisdictional amount. Aggregation of the claims to make up the jurisdictional amount is permitted only if the claims are of a joint nature, as when it is sought to enforce a single right in which plaintiffs have a common interest. As American Jurisprudence puts it. "Where several claimants have separate and distinct demands against a defendant or defendants, which may properly be joined in a single suit, the claims cannot be added together to make up the required jurisdictional amount; each separate claim furnishes the jurisdictional test." (Hacknes v. Guaranty Trust Co., of New York, 4 Fed. Rules Serv. 378; U.S. Circuit Court of Appeals Second Circuit, Jan. 13, 1941 117 F. (2nd) 95.)