

782 Phil. 158

## FIRST DIVISION

[ G.R. No. 210972. March 19, 2016 ]

**ROGER ALLEN BIGLER, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND  
LINDA SUSAN PATRICIA E. BARRETO, RESPONDENTS.**

## DECISION

### PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*<sup>[1]</sup> are the Decision<sup>[2]</sup> dated May 16, 2013 and the Resolution<sup>[3]</sup> dated January 21, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 119160, which affirmed *in toto* the Order<sup>[4]</sup> dated November 3, 2010 of the Regional Trial Court of Makati City, Branch 59 (RTC) in Criminal Case No. 99-2439 denying petitioner Roger Allen Bigler's (petitioner) Urgent Omnibus Motion (To: [1] Reopen proceedings and allow Accused to file his *Notice of Appeal*; [2] Recall the *Warrant of Arrest* dated 22 May 2006), thus, rendering final and unappealable the RTC's Decision<sup>[5]</sup> dated November 25, 2003 convicting petitioner of the crime of Libel.

### The Facts

Petitioner was charged with the crime of Libel before the RTC for allegedly maligning his former spouse, private respondent Linda Susan Patricia E. Barreto, through a letter sent to her lawyer purportedly containing various malicious and defamatory imputations against her. Petitioner pleaded "not guilty" to the charge, and thereafter, trial on the merits ensued.<sup>[6]</sup> On November 21, 2003, petitioner's counsel, Capuyan Quimpo & Salazar, filed a Withdrawal of Appearance<sup>[7]</sup> and requested therein that "all notices, legal processes, and pleadings intended for petitioner be sent to his address at Portofmo, Small La Laguna, Sabang, Puerto Galera, Oriental Mindoro or to his new counsel who shall enter an appearance in due time."

In a Decision<sup>[8]</sup> dated November 25, 2003, the RTC found petitioner guilty beyond

reasonable doubt of the crime of Libel and, accordingly, sentenced him to suffer the penalty of imprisonment for a period of one (1) year, eight (8) months, and twenty one (21) days to two (2) years, eleven (11) months, and ten (10) days, and to pay the costs of suit.<sup>[9]</sup> Aggrieved, petitioner moved for reconsideration,<sup>[10]</sup> which was, however, denied in an Order<sup>[11]</sup> dated May 22, 2006. On even date, a Warrant of Arrest was issued against petitioner.<sup>[12]</sup> Consequently, he was arrested and taken into custody on October 8, 2010.<sup>[13]</sup>

Following his arrest, petitioner filed an Urgent Omnibus Motion<sup>[14]</sup> dated October 13, 2010 praying that the RTC: (a) reopen the criminal proceedings against him; (b) allow him to file a notice of appeal; and (c) recall the Warrant of Arrest issued against him. In said Motion, petitioner questioned the validity of the promulgation of the RTC Decision convicting him of Libel, claiming that he never received notice of the same and that he was not present during such promulgation.<sup>[15]</sup> He likewise questioned the validity of the service of the Order dated May 22, 2006 denying his motion for reconsideration, maintaining that he never received a copy thereof.<sup>[16]</sup> In this relation, petitioner likewise filed a Notice of Appeal<sup>[17]</sup> dated October 22, 2010, claiming that he only knew of the RTC's Order dated May 22, 2006 on October 11, 2010.

### **The RTC Ruling**

In an Order<sup>[18]</sup> dated November 3, 2010, the RTC denied petitioner's Urgent Omnibus Motion and, likewise, denied due course to his Notice of Appeal.<sup>[19]</sup>

The RTC found that the Notice of Promulgation was sent to petitioner's address through registered mail and was even received by a certain Sally Tanyag, his employee. In this relation, the RTC held that petitioner is estopped from feigning ignorance of the judgment of conviction against him and the promulgation of such judgment, considering that: (a) the RTC's Order dated January 27, 2004 clearly stated that "the subject judgment was promulgated by reading the same and furnishing [a] copy thereof to accused who was duly assisted by Atty. Danilo Macalino;" and (b) he caused the filing of the Motion for Reconsideration dated February 9, 2004 as evidenced by the Verification attached to the said Motion which bore his signature.<sup>[20]</sup>

Further, the RTC found as immaterial petitioner's contention that he did not receive the Order dated May 22, 2006, considering that he filed his Motion for Reconsideration dated February 9, 2004 only on February 13, 2004, or two (2) days beyond the prescribed 15-day

period reckoned from the promulgation of the RTC order on January 27, 2004. Hence, the RTC concluded that its Decision convicting petitioner of the crime of Libel had long attained finality.<sup>[21]</sup>

Petitioner moved for reconsideration<sup>[22]</sup> but was denied in an Order<sup>[23]</sup> dated March 8, 2011. Aggrieved, petitioner filed a petition for *certiorari*<sup>[24]</sup> before the CA.

## The CA Ruling

In a Decision<sup>[25]</sup> dated May 16, 2013, the CA affirmed the RTC ruling *in toto*. It held that while the service of the Notice of Promulgation via registered mail was indeed a slight deviation from Section 6, Rule 120 of the Rules of Criminal Procedure which requires personal service to the accused or through his counsel, such departure from the rules was completely justifiable given that petitioner's previous counsel withdrew its representation shortly before the judgment was set for promulgation. In any event, the CA opined that petitioner cannot feign ignorance of such promulgation as records reveal that he was present thereat. Further, the CA agreed with the RTC that petitioner's filing of his Motion for Reconsideration was made out of time, thus, rendering the guilty verdict against him final and executory.<sup>[26]</sup>

Dissatisfied, petitioner moved for reconsideration,<sup>[27]</sup> which was, however, denied in a Resolution<sup>[28]</sup> dated January 21, 2014; hence, this petition.

## The Issue Before the Court

The core issue for the Court's resolution is whether or not the CA correctly affirmed the ruling of the RTC finding that: (a) the promulgation of the judgment of conviction against petitioner was valid; and (b) petitioner belatedly filed his Motion for Reconsideration, thus, rendering said judgment final and executory.

## The Court's Ruling

The petition is without merit.

At the outset, it should be pointed out that in this case, both the RTC and the CA found that the promulgation of the judgment of conviction was valid, as records reveal that petitioner,

assisted by Atty. Danilo Macalino, attended the same. Similarly, the courts *a quo* both found that petitioner belatedly filed his motion for reconsideration assailing said judgment of conviction, thus, rendering such judgment final and executory. Undoubtedly, these are findings of fact which cannot be touched upon in the instant petition.

It must be stressed that a petition for review under Rule 45 of the Rules of Court covers only questions of law. Questions of fact are not reviewable,<sup>[29]</sup> absent any of the exceptions recognized by case law.<sup>[30]</sup> This rule is rooted on the doctrine that findings of fact made by a trial court are accorded the highest degree of respect by an appellate tribunal and, absent a clear disregard of the evidence before it that can otherwise affect the results of the case, those findings should not be ignored.<sup>[31]</sup> Hence, absent any clear showing of abuse, arbitrariness or capriciousness committed by the lower court, its findings of facts, especially when affirmed by the Court of Appeals, are binding and conclusive upon this Court,<sup>[32]</sup> as in this case.

In view of the foregoing, petitioner is found guilty beyond reasonable doubt of the crime of Libel. Applying the provisions of the Indeterminate Sentence Law, he should be sentenced to suffer the penalty of imprisonment for an indeterminate period of four (4) months of *arresto mayor*, as minimum, to two (2) years and four (4) months of *prision correccional*, as maximum. Unfortunately, the Decision dated November 25, 2003 of the RTC convicting petitioner of the said crime – which had long become final and executory – sentenced him to suffer the penalty of imprisonment for a period of one (1) year, eight (8) months, and twenty one (21) days to two (2) years, eleven (11) months, and ten (10) days.

Under the doctrine of finality of judgment or immutability of judgment, a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. Any act which violates this principle must immediately be struck down.<sup>[33]</sup> Nonetheless, the immutability of final judgments is not a hard and fast rule as the Court has the power and prerogative to relax the same in order to serve the demands of substantial justice considering: (a) matters of life, liberty, honor, or property; (b) the existence of special or compelling circumstances; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (e) the lack of any showing that the review sought is merely frivolous and dilatory; and (f) that the other party will not be unjustly prejudiced thereby.<sup>[34]</sup>

In a catena of similar cases where the accused failed to perfect their appeal on their respective judgments of conviction,<sup>[35]</sup> the Court corrected the penalties imposed, notwithstanding the finality of the decisions because they were outside the range of penalty prescribed by law. There is thus, no reason to deprive herein petitioner of the relief afforded the accused in the aforesaid similar cases. Verily, a sentence which imposes upon the defendant in a criminal prosecution a penalty in excess of the maximum which the court is authorized by law to impose for the offense for which the defendant was convicted, is void for want or excess of jurisdiction as to the excess.<sup>[36]</sup>

In sum, petitioner should only be sentenced to suffer the penalty of imprisonment for an indeterminate period of four (4) months of *arresto mayor*, as minimum, to two (2) years and four (4) months of *prision correccional*, as maximum.

**WHEREFORE**, the petition is **DENIED**. Accordingly, the Decision dated May 16, 2013 and the Resolution dated January 21, 2014 of the Court of Appeals in CA-G.R. SP No. 119160 are hereby **AFFIRMED**. However, in the interest of substantial justice, the Decision dated November 25, 2003 of the Regional Trial Court of Makati City, Branch 59 in Criminal Case No. 99-2439 is **MODIFIED**, sentencing herein petitioner Roger Allen Bigler to suffer the penalty of imprisonment for an indeterminate period of four (4) months of *arresto mayor*, as minimum, to two (2) years and four (4) months of *prision correccional*, as maximum.

**SO ORDERED.**

*Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, Perlas-Bernabe, and Caguioa, JJ., concur.*

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<sup>[1]</sup> *Rollo*, pp. 3-42.

<sup>[2]</sup> *Id.* at 44-51. Penned by Associate Justice Stephen C. Cruz with Associate Justices Normandie B. Pizarro and Myra V. Garcia-Fernandez concurring.

<sup>[3]</sup> *Id.* at 53-56.

<sup>[4]</sup> *Id.* at 121-122. Penned by Presiding Judge Winlove M. Dumayas.

<sup>[5]</sup> *Id.* at 63-71.

<sup>[6]</sup> *Id.* at 44-45.

<sup>[7]</sup> Id. at 57-58.

<sup>[8]</sup> Id. at 63-71.

<sup>[9]</sup> Id. at 71.

<sup>[10]</sup> See Motion for Reconsideration dated February 9, 2004; id. at 72-78.

<sup>[11]</sup> Id. at 79.

<sup>[12]</sup> See id. at 121.

<sup>[13]</sup> Id. at 45.

<sup>[14]</sup> Id. at 81-91.

<sup>[15]</sup> See id. at 82-85.

<sup>[16]</sup> See id. at 86-88.

<sup>[17]</sup> Id. at 119.

<sup>[18]</sup> Id. at 121-122.

<sup>[19]</sup> Id. at 122.

<sup>[20]</sup> Id. at 121-122.

<sup>[21]</sup> Id. at 122.

<sup>[22]</sup> See Motion for Reconsideration dated December 2, 2010; id. at 123-135.

<sup>[23]</sup> Id. at 152-153.

<sup>[24]</sup> Id. at 154-186.

<sup>[25]</sup> Id. at 44-51.

<sup>[26]</sup> Id. at 47-50.

<sup>[27]</sup> See Motion for Reconsideration dated June 13, 2013; id. at 313-334.

<sup>[28]</sup> Id. at 53-56.

<sup>[29]</sup> See *Uyboco v. People*, G.R. No. 211703, December 10, 2014, citing *Microsoft Corp. v. Maxicorp, Inc.*, 481 Phil. 550, 561 (2004).

<sup>[30]</sup> “As a rule, only questions of law may be raised in a petition for review under Rule 45 of the Rules of Court. In many instances, however, this Court has laid down exceptions to this general rule, as follows:

- (1) When the factual findings of the Court of Appeals and the trial court are contradictory;
- (2) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures;
- (3) When the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd or impossible;
- (4) When there is grave abuse of discretion in the appreciation of facts;
- (5) When the appellate court, in making its findings, went beyond the issues of the case, and such findings are contrary to the admissions of both appellant and appellee;
- (6) When the judgment of the Court of Appeals is premised on misapprehension of facts;
- (7) When the Court of Appeals failed to notice certain relevant facts which, if properly considered, would justify a different conclusion;
- (8) When the findings of fact are themselves conflicting;
- (9) When the findings of fact are conclusions without citation of the specific evidence on which they are based; and
- (10) When the findings of fact of the Court of Appeals are premised on the absence of evidence but such findings are contradicted by the evidence on record.” (*Treñas v. People*, 680 Phil. 368, 378 (2012), citing *Salcedo v. People*, 400 Phil. 1302, 1308 [2000])

<sup>[31]</sup> *Uyboco v. People*, supra note 29, citing *Navallo v. Sandiganbayan*, G.R. No. 97214, July 18, 1994, 234 SCRA 175, 185-186.

<sup>[32]</sup> Id., citing *Plameras v. People*, G.R. No. 187268, September 4, 2013, 705 SCRA 104, 122.

<sup>[33]</sup> *Gadrinab v. Salamanca*, G.R. No. 194560, June 11, 2014, 726 SCRA 315, 329, citing *FGU Insurance Corporation v. RTC of Makati Br. 66*, 659 Phil. 117, 123 (2011).

<sup>[34]</sup> See *Sumbilla v. Matrix Finance Corporation*, G.R. No. 197582, June 29, 2015; citations omitted.

<sup>[35]</sup> See *id.* See also *Almuete v. People*, G.R. No. 179611, March 12, 2013, 693 SCRA 167; *Estrada v. People*, 505 Phil. 339 (2005); *Rigor v. The Superintendent, New Bilibid Prison*, 458 Phil. 561 (2003); *People v. Barro*, 392 Phil. 857 (2000); and *People v. Gatward*, 335 Phil. 440 (1997).

<sup>[36]</sup> See *Sumbilla v. Matrix Finance Corporation*, *supra* note 34.

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