

JEANNIE BOADO Y DELFINO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, HON. JUDGE LORNA NAVARRO-DOMINGO AND VIOLETA CHUA, RESPONDENTS.

Ponente: CASTILLO, M., J.

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CASTILLO, M., J.:

This is a petition for certiorari seeking to annul and set aside the Orders dated 16 August 2013^[1] and 23 September 2013,^[2] both of the public respondent Lorna Navarro-Domingo, Presiding Judge of the Regional Trial Court of Las Pinas City, Branch 201, in Criminal Case No. 06-0810, denying petitioner's Motion to Promulgate Judgment Anew and to Allow the Accused to Post Bail Anew as well as her subsequent motion for reconsideration, respectively.

The antecedents of this petition are:

Charged with the crime of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code, along with her co-accused Rosario A. Baladjay, petitioner Jeannie Boado y Delfino, with the assistance of counsel de oficio, entered a plea of "not guilty" during her arraignment on 20 September 2006. Trial thereafter ensued.

After the prosecution rested its case, the defense presented the testimony of the petitioner on 08 October 2012. Her testimony was, however, stricken off the records for her failure to appear for the continuation of her direct-examination despite due notice. She was therefore deemed to have waived her right to present evidence on her behalf.

Thereafter, the case was submitted for decision and the promulgation thereof was scheduled on 19 November 2012. Notice of the promulgation was then sent to the three (3) last known addresses of the petitioner.

As the counsel de oficio of her co-accused was absent at the promulgation set on 19 November 2012, the same was reset on 13 December 2012. Again, notice of the promulgation was sent to the three (3) last known addresses of the petitioner.

On 13 December 2012, the RTC promulgated its Decision dated 19 November 2012 finding both the petitioner and her co-accused guilty beyond reasonable doubt of the crime charged. Present during the promulgation were Violeta Chua (the offended party), the prosecution, Rosario A. Baladjay and her counsel de oficio as well as Atty. Diane Patricia Arceo (counsel de oficio for the petitioner). Petitioner failed to appear.

On the same day, the trial court's Decision was entered in the Book of Judgment.

After the promulgation, all who were present were given copies of the 19 November 2012 Decision. A copy thereof for the petitioner was sent by registered mail to the address she gave during her testimony in court, which is at: c/o Trinidad Boado, Block 5, Lot 2, Almanza I, Good Year Park Subdivision, Las Pinas City. Said copy was, however, returned to the trial court with the notation "unknown" stamped on the envelope containing the same.

Almost eight (8) months following the promulgation or on 05 August 2013, petitioner filed a Formal Entry of

Appearance with Motion to Promulgate Judgment Anew and to Allow the Accused to Post Bail Anew.[3] In her motion, petitioner questioned the validity of the notice of promulgation sent to her, as follows:[4]

xxxx xxxx xxxx

5. In the case at hand, all the pre-formatted Subpoenas (particularly designated as SUBPOENA DUCES TECUM AD TESTIFICANDUM) issued to the accused state:

“RE: Promulgation

“Greetings:

“You are hereby commanded to appear before this Court sitting at the Correctional Institute for Women (CIW), Mandaluyong City on December 13, 2012 at 1:30 o’clock in the afternoon, then and there to testify in the above-entitled case during Arraignment/Pre-Trial/Continuation of trial thereof.

xxx xxx xxx

xxx this 28[th] of November 2012.

6. Herein lies the issue with respect to the promulgation of judgment on December 13, 2012. With all due respect, THERE IS NO VALID NOTICE OF SUCH DATE OF PROMULGATION OF JUDGMENT in accordance with Section 6, Rule 120 of the Revised Rules of Court considering that the subpoena alleged (sic) sent to the accused-movant does not only sufficiently inform the accused-movant of the promulgation of judgment; but is likewise misleading.

7. Consider these: The “RE:” of the subpoena is only “Promulgation.” This is not sufficient considering that it does not inform the accused-movant that it is a “decision” that is to be promulgated. This vagueness is coupled by the confusing sentence afterwards employed in the subpoena that she is commanded to appear on December 13, 2012 at 1:30 o’clock in the afternoon for “ARRAIGNMENT/PRE-TRIAL/CONTINUATION OF TRIAL.” There is no mention whatsoever of PROMULGATION OF JUDGMENT OR DECISION.

8. It is therefore the humble submission of this Honorable Court (sic) that this is not the valid notice contemplated by the aforesaid provision of the Revised Rules of Court considering that the notice under the rules should set forth clearly and expressly that it is about promulgation of judgment or decision. This becomes more compelling if one takes note of the principle that criminal procedures are strictly construed in favor of the accused-movant

xxxx xxxx xxxx

xxxx xxxx xxxx

Petitioner further asserted that the promulgation anew of the 19 November 2012 Decision of the public respondent RTC to enable her to appeal the same to the Court of Appeals is merited, in light of this Court’s reversal of her conviction by another trial court in another criminal case but which supposedly involved the same set of facts as those obtaining in the instant case.

On 16 August 2013, the RTC rendered the first assailed Order denying petitioner’s aforementioned motion.

Petitioner’s subsequent motion for reconsideration was denied by the trial court in its second assailed Order.

Upon her receipt of the second assailed Order, petitioner informed the public respondent of her intention to appeal the denial of her two (2) motions (Motion to Promulgate Judgment Anew and to Allow the Accused to Post Bail Anew as well as her Motion for Reconsideration) by filing a Notice of Appeal on 18 October 2013.[5]

In its Order dated 23 October 2013, the public respondent RTC denied petitioner's Notice of Appeal for being moot and academic.[6]

Hence, this petition.

Upon the filing by the OSG of its Comment on the petition for certiorari and petitioner's Reply thereto, the case was submitted for decision.

Petitioner imputes grave abuse of discretion on the part of the public respondent RTC in issuing its assailed Orders. Reiterating her arguments in the Formal Entry of Appearance with Motion to Promulgate Judgment Anew and to Allow the Accused to Post Bail Anew, Boado insists that she was not duly notified of the promulgation of the 19 November 2012 Decision in violation of her right to due process.

Accordingly, this Court is tasked to determine whether or not the public respondent trial court gravely abused its discretion in denying petitioner's motion to promulgate judgment anew and to allow her to post bail bond anew as well as her subsequent motion for reconsideration.

We deny the instant petition.

Our judicious evaluation of the record of the case leads Us to no other conclusion than that it was but proper for the RTC to have rejected the aforementioned motions of the petitioner and consequently no grave abuse of discretion may rightly be imputed to the public respondent for its actions.

We are not swayed by petitioner's argument that she was not duly informed of the promulgation scheduled on 13 December 2012. The following facts and circumstances negate petitioner's claim that the subpoena she received commanding her to appear before the trial court sitting at the Correctional Institute for Women in Mandaluyong City on 13 December 2012 failed to properly notify her that the hearing set on that date was for the promulgation of the trial court's judgment:

One, the subpoena sent to the petitioner expressly stated on its face that the subject thereof was promulgation as shown by the words "Re: Promulgation" right below petitioner's name and her given address;[7]

Two, while concededly, the subpoena also contained the words "then and there to testify in the above-entitled case during Arraignment/Pre-Trial/Continuation of trial thereof"[8] the same could not have possibly confused her of the true purpose of the hearing. Indeed, petitioner knew all too well that the scheduled hearing could not have been for arraignment or pre-trial or continuation of trial as she had already been arraigned and the prosecution had already completed the presentation of its evidence and rested its case. She was also well aware that she had already started her direct examination after her co-accused waived her right to present evidence in her own behalf. In fact, in her motion to promulgate judgment anew and to allow her to post bail bond anew, she readily admitted that she did testify on 08 October 2012;[9]

Further, petitioner similarly admitted in her motion to promulgate judgment anew and to allow her to post bail bond anew that she was cognizant of the fact that the trial court ordered her previous testimony stricken off the record for her failure to appear at the several hearings scheduled for the continuation of her direct examination and was consequently considered to have waived her right to present evidence. As a result, the case was submitted for decision on the basis of the evidence for the prosecution.

Third, more telling is the obvious fact that petitioner filed her motion to promulgate judgment anew and to allow her to post bail bond anew as a mere afterthought on her part. In her motion, she categorically declared that she deliberately stopped attending the hearings set by the trial court to evade being arrested pursuant to the warrants issued by the Makati City courts where several criminal cases had been filed against her. It was only upon

learning that this Court acquitted her in CA-G.R. CR. No. 33159[10] but after she had already been detained in the Makati City Jail that she saw it fit to question the validity of the notice of promulgation she received from the public respondent. Notably, she filed her motion only on 05 August 2013 or almost eight (8) months from the promulgation of the 19 November 2012 Decision of the trial court on 13 December 2012.

Plainly, petitioner filed her motion in her attempt to regain her standing in court to avail of the remedies under the Rules (specifically, the remedy of appeal from the judgment of conviction) which she had already lost for her failure to appear at the scheduled promulgation despite due notice. This simply cannot be condoned.

It is a well-settled rule that once an accused escapes from prison or confinement, jumps bail, or flees to a foreign country, he loses his standing in court, and unless he surrenders or submits to the jurisdiction of the court, he is deemed to have waived any right to seek relief therefrom.[11]

However, the Rules of Court allow the accused to regain his standing in court in order to avail of the remedies provided therein by: (a) his surrender, and (b) his filing of a motion for leave of court to avail of these remedies, stating therein the reasons for his absence, within 15 days from the date of promulgation of judgment. If the trial court finds that his absence was for a justifiable cause, the accused shall be allowed to avail of the said remedies within 15 days from notice or order finding his absence justified and allowing him the available remedies against the judgment of conviction.

Thus Section 6, Rule 20 of the Rules on Criminal Procedure, provides:

Sec. 6. Promulgation of judgment.—The judgment is promulgated by reading it in the presence of the accused and any judge of the court in which it was rendered. However, if the conviction is for a light offense, the judgment may be pronounced in the presence of his counsel or representative. When the judge is absent or outside the province or city, the judgment may be promulgated by the clerk of court.

If the accused is confined or detained in another province or city, the judgment may be promulgated by the executive judge of the Regional Trial Court having jurisdiction over the place of confinement or detention upon request of the court which rendered the judgment. The court promulgating the judgment shall have the authority to accept the notice of appeal and to approve the bail bond pending appeal; provided, that if the decision of the trial court convicting the accused changed the nature of the offense from non-bailable to bailable, the application for bail can only be filed and resolved by the appellate court.

The proper clerk of court shall give notice to the accused personally or through his bondsman or warden and counsel, requiring him to be present at the promulgation of the decision. If the accused was tried in absentia because he jumped bail or escaped from prison, the notice to him shall be served at his last known address.

In case the accused fails to appear at the scheduled date of promulgation of judgment despite notice, the promulgation shall be made by recording the judgment in the criminal docket and serving him a copy thereof at his last known address or thru his counsel.

If the judgment is for conviction and the failure of the accused to appear was without justifiable cause, he shall lose the remedies available in these rules against the judgment and the court shall order his arrest. Within fifteen (15) days from promulgation of judgment, however, the accused may surrender and file a motion for leave of court to avail of these remedies. He shall state the reasons for his absence at the scheduled promulgation and if he proves that his absence was for a justifiable cause, he shall be allowed to avail of said remedies within fifteen (15) days from notice.

Here, it is safe to assume that petitioner was out on bail during trial and is therefore deemed to have jumped bail when she failed to appear at the scheduled promulgation despite notice. She accordingly lost her standing in court and was considered to have waived any right to seek relief therefrom. She never regained her standing in court as

she failed to comply with the mandatory requirements provided under the Rules for her to do so. She neither surrendered herself nor file the proper motion within fifteen (15) days from the promulgation of the decision finding her guilty of the crime charged that was held on 13 December 2012. The public respondent RTC, therefore, properly denied petitioner's motion to promulgate judgment anew and to allow her to post bail bond anew as well as her subsequent motion for reconsideration.

WHEREFORE, in view of the foregoing, the instant petition for certiorari is DENIED.

SO ORDERED.

Lazaro-Javier and Galapate-Laguilles, JJ., concur.

[1] Rollo, pp. 28 - 30

[2] Rollo, p. 31

[3] Rollo, pp. 75 - 92

[4] Rollo, pp. 76 - 77

[5] Rollo, pp. 36 - 37

[6] Rollo, p. 38

[7] Rollo, p. 74

[8] *ibid*

[9] Paragraph 17, Rollo, p. 91

[10] Rollo, pp. 94 - 108

[11] *Edward Garrick Villena, et. al. v. People*, G.R. No. 184091, January 31, 2011, 641 SCRA 127, 136, citing *Estrada v. People*, 505 Phil. 339, 352 (2005), citing *People v. Mapalao, et al.*, 274 Phil. 354, 363 (1991)..

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