

AUGUSTO BALDE, PETITIONER, VS. HON. COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-46980. May 29, 1987

Ponente: NARVASA, J.

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NARVASA, J.:

Having been convicted by the City Court of Legaspi City of the crime of qualified trespass to dwelling under Article 280 (paragraph 2) of the Revised Penal Code,[1] and his conviction having been affirmed by the Court of Appeals which in consequence imposed on him an indeterminate penalty ranging from 4 months and 1 day of arresto mayor to 2 years, 3 months and 1 day of prision correccional, and the payment of a fine of P200.00,[2] Augusto Balde has instituted the proceedings at bar to challenge the correctness of those adjudications of his guilt.

He does not deny the essential fact of his having entered the dwelling of the complaining witness, Leonida Achacon, without her permission, but he argues that this does not make him guilty of the felony charged the gravamen of which is entrance against the will of the complainant, or against the latter's presumed or express prohibition.¹ He also contends that he was denied the right of preliminary investigation in that he was not accorded an opportunity to present evidence in the course thereof.²

Balde's arguments entail a review of the evidence to determine first, whether or not the facts justify the conclusion of a presumed prohibition against his entrance to Leonida's dwelling, and additionally, whether or not the latter's 10-year old maidservant had in fact granted Balde permission to come in; and second, whether or not his proofs are sufficient to establish that he was in truth deprived of the right to adduce evidence at the preliminary investigation before the fiscal. This consideration warrants giving short shrift to Balde's appeal.

It is axiomatic that this Court will not generally review the factual findings of the Court of Appeals. And it should be stressed that except in criminal cases in which the penalty imposed is reclusion perpetua or higher,³ appeals to the Supreme Court are not a matter of right but of sound judicial discretion, allowed only on questions of law which must be distinctly set forth in the petition for review on certiorari, and only when there are special and important reasons therefor.⁴ The record discloses no such special and important reasons.

In any case, the record shows no reversible error in the factual conclusions of the Court of Appeals to the effect that (1) that the relations between Balde and Leonida, his cousin, were of so unfriendly a character as to give sufficient warning upon ** (appellant Balde) that his entry into (Leonida's) house ** was unwarranted and objectionable,⁵ i.e., unwelcome and prohibited; (2) that Leonida's housemaid, Felicitas, had not really given Balde permission to come into the house;⁶ (3) that these circumstances, and the actuality of Balde's having laid hands on Leonida after intruding into her dwelling, are adequately proven by the evidence given by the prosecution witnesses who were deemed to be more credible and trustworthy than the defense witnesses;¹ and (4) Balde's proofs failed to establish that the fiscal's preliminary investigation had not been regular.²

WHEREFORE, the petition for review on certiorari is denied, the judgment of the Court of Appeals subject thereof being in accord with the facts and the law, with costs against the petitioner.

Yap, (Chairman), Melencio-Herrera, Cruz, Gancayco, and Sarmiento, JJ., concur.
Feliciano, J., on leave.

[1] Appendix A, Appellant's Brief in C.A., rollo, p. 30 et seq

[2] Rollo; pp, 16-28

1 Id., pp. 71-72, citing *Peo v. Peralta*, 42 Phil. 69

2 Id., pp. 72-73

3 Sec. 5[2], [d], ART. VIII, 1987 Constitution

4 Secs. 1, 2 and 4, Rule 45, Rules of Court; see *Sotto v. Commission on Elections*, 76 Phil. 516, 521

5 Id., pp. 20-21

6 Id., pp, 21 et seq

1 Id., pp. 23-24

2 Id., pp. 24-27

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