

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AUSTIN WILLIAMS, ACCUSED-APPELLANT.

Ponente: VIDAL, M.D., J.

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VIDAL, M.D., J.:

This is an appeal from the Order[1] dated 14 November 2003 of the Regional Trial Court (RTC), National Capital Judicial Region, Branch 118 of Pasay City, in Criminal Case No. 92-2108, denying the Motion for Special Judgment filed by Appellant AUSTIN WILLIAMS and its subsequent Order[2] dated 17 March 2004 denying Appellant's Motion for Reconsideration.

THE FACTS

At about 1:30 P.M. on 19 December 1992, Accused-Appellant AUSTIN WILLIAMS (hereinafter Appellant) who was at the Ninoy Aquino International Airport (NAIA) departure area, was apprehended by the NAIA and Customs authorities for carrying and transporting heroin contained in sixty-three (63) rectangular objects. Said rectangular objects, containing 22.547 kilograms of heroin, were found hidden in the Appellant's two pieces of luggage which had false bottoms. After the Appellant was arrested, he tipped off the NAIA police that another black man was also transporting prohibited drugs. Acting on this information, the NAIA police searched the airport for that other black man. The police found a black man who was later identified as MANZANZA NZENZA (hereinafter NZENZA), who was carrying a bag similar to that carried by the Appellant. The latter's bags were likewise searched and from one of his supposed checked-in luggages, 11.15 kilograms of heroin were confiscated.

Two separate Informations were filed on 23 December 1992 against the Appellant and NZENZA for Violation of Section 4, Article II of Republic Act No. 6425 otherwise known as the Dangerous Drugs Act of 1972.

The Information against the Appellant in Criminal Case No. 92-2108 reads:

That on or about the 19[th] day of December 1992, at about 1:30 in the afternoon, at the Ninoy Aquino International Airport, Pasay City, Philippines and within the jurisdiction of this Honorable Court the above-named accused WILLIAM AUSTIN (sic), did then and there, willfully, unlawfully and feloniously transport, without lawful authority 22.547 kilograms, more or less of Heroin a prohibited drug, without the corresponding license or prescription.

CONTRARY TO LAW.[3]

The Information against NZENZA in Criminal Case No. 92-2107 states:

That on or about the 19[th] day of December 1992, at about 1:30 in the afternoon, at the Ninoy Aquino International Airport, Pasay, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused MANZANZA NZENZA did then and there willfully, unlawfully and feloniously transport without authority 11.15 kilograms, more or less of Heroine (sic), a prohibited drug without the corresponding license or prescription.

CONTRARY TO LAW.[4]

The two cases were consolidated upon motion of the prosecution.[5] During their arraignment, the Appellant and NZENZA pleaded NOT GUILTY to the respective charges,[6] supra, against them. Thereafter joint trial on the merits ensued.

After a full-blown trial, the court a quo on 26 April 1996 rendered a Decision,[7] the dispositive portion of which reads:

WHEREFORE, and based on the foregoing considerations, the court finds accused Austin Williams and Manzanza Nzenza both GUILTY of the crime charged in the Information (sic) respectively filed against them and hereby sentences them:

For AUSTIN WILLIAMS in Criminal Case No. 92-2108, to suffer the PENALTY OF IMPRISONMENT OF RECLUSION PERPETUA and to pay the amount of P30,000.00 as fine;

For MANZANZA NZENZA in Criminal Case No. 92-2107, to suffer the PENALTY OF IMPRISONMENT OF RECLUSION PERPETUA and to pay the amount of P30,000.00 as fine;

The penalty of Reclusion Perpetua is being imposed pursuant to Republic Act 7659 while the fine of P30,000.00 for each accused is imposed pursuant to Republic Act 6425.

The subjects of indictment consisting of 22.547 kilograms of heroin with respect to Austin Williams and 11.15 kilograms of heroin with respect to Manzanza Nzenza are hereby ordered disposed of in accordance with law.

SO ORDERED.[8]

Although both the Appellant and NZENZA were convicted, only NZENZA appealed his conviction to the Supreme Court.[9]

The High Court reversed NZENZA's conviction in its Decision[10] dated 20 April 2001, which states:

WHEREFORE, the appealed decision is hereby REVERSED and accused-appellant MANZANZA NZENZA is hereby ACQUITTED for insufficiency of evidence. The Director of the Bureau of Corrections is hereby ordered to cause the release of accused-appellant forthwith, unless the latter is being held lawfully for another cause. No costs.

SO ORDERED.[11]

In view of the aforecited Decision, the Appellant filed a Motion for Special Judgment[12] in the court a quo, praying that the Supreme Court Decision on appeal, acquitting NZENZA be applied to him. However, this was denied by the court a quo in its Order[13] dated 14 November 2003, the dispositive portion thereof reads:

WHEREFORE, all the foregoing considered, the Court resolves to DENY the "Motion for Special Judgment" filed by accused AUSTIN WILLIAMS.

SO ORDERED.[14]

Appellant's Motion for Reconsideration[15] of said Order was likewise denied for lack of merit in an Order¹⁶ dated 17 March 2004.

Hence, the instant appeal anchored on the following assigned errors:

- THE TRIAL COURT ERRED IN DENYING ACCUSED'S MOTION FOR SPECIAL JUDGMENT PRAYING THAT THE DECISION OF THE SUPREME COURT IN G.R. NO. 125985 ACQUITTING HIS CO-ACCUSED MANZANZA NZENZA BE APPLIED TO HIM.

- THE TRIAL COURT ERRED IN NOT APPLYING SECTION 11 (a), RULE 122 OF THE REVISED RULES OF COURT, WHICH READS:

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.

- THE TRIAL COURT ERRED IN DENYING ACCUSED'S MOTION FOR RECONSIDERATION OF THE ORDER DENYING HIS MOTION FOR SPECIAL JUDGMENT.[17]

In the main, the sole issue for Our resolution is whether or not the Supreme Court Decision on appeal, *supra*, in *People v. Williams and Nzenza*, [18] is applicable to the Appellant pursuant to Section 11(a), Rule 122 of the Revised Rules of Court, despite the fact that he and NZENZA were not charged in the same Information.

Our Ruling

The appeal is bereft of merit.

Section 11, paragraph (a), Rule 122 of the Revised Rules on Criminal Procedure provides:

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter. (underscoring supplied)

x x x

In order to resolve the issue, We find it imperative to determine whether the Appellant comes within the purview of one or more of several accused contemplated in the aforecited rule.

The Appellant in his Brief cites a definition of the term co-accused from the Bouviers Law Dictionary, to wit:

A co-accused is one who is charged with a crime or misdemeanor with one or more persons. (underscoring supplied)

A closer look at the above-quoted definition tells Us that the Appellant and NZENZA were not charged as co-accused. As borne by the records, they were separately charged in two different Informations, *supra*. The Appellant was charged in Criminal Case No. 92-2108 for transporting without lawful authority 22.547 kilograms, more or less of heroin while NZENZA, in Criminal Case No. 92-2107 for transporting without lawful authority 11.15 kilograms, more or less, of heroin.

We agree with the court a quo's pronouncement that the fact that the two cases were consolidated and common evidence was presented did not make them co-accused of each other.[19]

In reiteration, they were charged in two separate Informations. The evidence presented may have been common hence the consolidation, but yet, a careful evaluation of the recorded evidence disclosed that their conviction is not inextricably linked. This observation is further strengthened by the fact that NZENZA in his appeal to the High Tribunal cited the following errors, to wit:

THE LOWER COURT ERRED:

I

IN NOT CONSIDERING THE TESTIMONY OF THE ACCUSED-APPELLANT THAT HIS PIECES OF LUGGAGE ARE ONLY THOSE HANDWRITTEN IN HIS SWISSAIR PLANE TICKET WITH TAG NOS. SR 450229 AND SR 450246;

II

IN ADMITTING AN ALLEGED COMPUTER PRINT-OUT (sic) OF PASSENGER MANIFEST (EXHIBIT "1") WITHOUT HAVING TESTIFIED TO BY THE ALLEGED PHILIPPINE AIRLINE (PAL) EMPLOYEE WHO ENCODED AND PRINTED THE SAME.[20]

which definitely do not appear to obtain in Appellant's case.

No less than the Supreme Court through Mr. Justice SANTIAGO M. KAPUNAN in its Decision on appeal, supra, in simplifying the above-cited assigned errors held, that the issue for the Court's resolution is whether the evidence presented before the trial court was sufficient to warrant accused-appellant's (NZENZA) conviction.[21]

From the foregoing, We hold that the errors cited by NZENZA in his appeal which resulted to his acquittal are not applicable to the Appellant as the former's acquittal was anchored on the fact that the prosecution evidence against him was based on circumstantial evidence while in the case of the Appellant, he was caught in flagrante delicto, committing the offense charged. If indeed the Supreme Court believed that the People's evidence against the Appellant was insufficient to warrant his conviction, it could have very well cited the applicability of its ruling to the Appellant's conviction.

Assuming arguendo that the Appellant and NZENZA were co-accused, still the Appellant's case does not fall within the ambit of Section 11(a), Rule 122 of the Revised Rules of Court. The provision expressly states that the judgment shall only affect those who did not appeal insofar as it is favorable and applicable to them.

In the case at bar, it is conceded that NZENZA's acquittal may be favorable to the Appellant but definitely it is not applicable to him. As earlier pointed out, the errors raised by NZENZA in his appeal do not apply to the Appellant as the same refer to circumstances pertinent only to him (NZENZA). There is nothing in the record showing that the issues raised by NZENZA in his appeal to the Supreme Court could be applied as well to Appellant's case.

Moreover, the reliance of the Appellant in the case of *People vs. Gatward*,[22] is misplaced. A careful reading of the text of the said case reveals that the discussion on the applicability of Section 11 (a), Rule 122 of the Revised Rules of Court is only an obiter dictum. The main issue in the *Gatward* case was the imposition of the correct penalty of reclusion perpetua as indivisible penalty which the Supreme Court likewise imposed upon U AUNG WIN, although the latter did not appeal the decision. In fact, in said case, the High Court even ruled that Sec. 11(a), Rule 122 could not be applied in the case of *Gatward*, since the application thereof presupposes a valid judgment which was not obtaining in that case, in view of the imposition by the trial court of an unauthorized penalty of 35 years and 25 years of reclusion perpetua upon GATWARD and U AUNG WIN, respectively. Hence, when the High Court modified the penalty imposed upon GATWARD, U AUNG WIN's penalty was likewise modified and both were made to serve reclusion perpetua in its entire duration and full extent.

In view of the foregoing factual and legal backdrop, We find no cogent reason to set aside the assailed Orders of the court a quo.

WHEREFORE, premises considered, instant appeal is DENIED. Accordingly, assailed Orders stand.
SO ORDERED.

Reyes, and Lampas Peralta, JJ., concur.

[1] Rollo, pp. 144-146

[2] id., p. 147

- [3] Rollo, p. 1
- [4] Rollo, pp. 158-159
- [5] Records of Criminal Case No.92-2108, pp. 52-53
- [6] Records of Criminal Case No. 92-2108, p. 44; Records of Criminal Case No. 92-2107, p. 48
- [7] Rollo, pp. 37-54
- [8] *id.*, pp. 53-54
- [9] Rollo, p. 102
- [10] Rollo, pp. 101-125
- [11] *id.*, pp. 124-125
- [12] Records, pp. 382-400
- [13] Rollo, pp. 144-146
- [14] Rollo, p. 146
- [15] Records of Criminal Case No. 92-2108, pp. 447-453
- [16] Rollo, p. 147
- [17] Rollo, p. 75
- [18] G. R. No. 125985, 20 April 2001, 357 SCRA 124
- [19] Rollo, p. 146
- [20] *id.*, pp. 116-117
- [21] *Ibid.*
- [22] G. R. Nos. 119772-73, 7 February 1997, 267 SCRA 785.

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