

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VINCENT R. JUMO, ACCUSED-APPELLANT.

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This is an appeal from the 24 June 2013 Judgment[1] of the RTC- Branch 27, 10[th] Judicial Region of Gingoog City, Misamis Oriental finding the appellant guilty beyond reasonable doubt of Violation of Republic Act No. 9165.

The antecedents---

On 24 June 2013, the appellant was convicted by the Court a quo of Violation of Republic Act No. 9165 in Criminal Case No. 2007-3667, entitled People of the Philippines v. Vincent R. Jumo. The dispositive part of the assailed decision reads:

“WHEREFORE, the Court finds accused Vincent Jumo y Regis GUILTY beyond reasonable doubt of the crime of violation of Section 11, Article II, of R.A. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and hereby sentences him to suffer the indeterminate penalty of thirteen (13) years as minimum to fifteen (15) years as maximum and to pay a fine of three hundred thousand pesos (Php 300,000.00).

xxx xxx xxx

SO ORDERED.”[2]

In its Order[3] dated 26 June 2013, the RTC increased the bail posted by the appellant, viz:

“xxx xxx xxx

The bail posted for the provisional liberty of the accused is hereby increased to P 60,000.00. The accused is given ten (10) days from today within which to give the bail in the increased amount. He is hereby warned that should he fail to post the bail in the increased amount, he will be arrested and committed to custody.

SO ORDERED.” [4]

For failure of the appellant to comply with the 26 June 2013 Order, the RTC issued another Order⁵ dated 11 July 2013, which reads:

“xxx xxx xxx

Let a warrant of arrest be issued against the accused. The cash bond in the amount of P 30,000.00 under Official Receipt No. 6719226 is hereby forfeited in favor of the government. The surety, Aurea Regis Jumo, is directed, within thirty (30) days from receipt of this Order, to produce the body of the accused and to show cause why no judgment should be rendered against her for the amount of the bail.

SO ORDERED.” [6]

On 1 July 2013, the appellant filed his Notice of Appeal[7] from the judgment of conviction.

In its 4 July 2013 Order[8], the RTC gave due course to the Notice of Appeal filed by the appellant.

On 16 July 2013, the RTC issued the WARRANT OF ARREST[9] ordering the arrest of the appellant.

On 19 November 2013, the transcripts of stenographic notes and original records of the case were transmitted to this Court.

Our Ruling

We dismiss the appeal.

The un-rebutted records reveal:

- The appellant failed to appear during the promulgation of the Judgment of conviction on 26 June 2013;
- The appellant failed to file a motion for leave of court to avail of the remedy of appeal;
- The appellant failed to state the reasons for his absence during the promulgation of Judgment;
- The Notice of Appeal[10] filed by the appellant was not in conformity of the appellant but of his sister Thirteen R. Jumo; and
- A warrant of arrest was issued by the RTC for the arrest of the appellant.

Evidently, from the promulgation of judgment up to the time of the filing his Notice of Appeal, the appellant has not surrendered nor subjected himself to the jurisdiction of the RTC.

Section 6, Rule 120 of the Rules of Court reads:

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. (Emphasis Supplied)

On the other hand, *Villena v. People of the Philippines*[11] held, thus:

Thus, the accused who failed to appear at the promulgation of the judgment of conviction shall lose the remedies available under the Rules of Court against the judgment—(a) the filing of a motion for new trial or reconsideration (Rule 121), and (b) an appeal from the judgment of conviction (Rule 122). However, the Rules allow the accused to regain his standing in court in order to avail of these remedies 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, petitioners' mere filing of notices of appeal through their new counsel, therein only explaining their absence during the promulgation of judgment, cannot be considered an act of surrender, despite the fact that said notices were filed within 15 days from September 28, 2007, the purported date when their new counsel personally secured a copy of the judgment of conviction from the RTC. The term "surrender" under Section 6, Rule 120 of the Rules of Court contemplates an act whereby a convicted accused physically and voluntarily submits himself to the jurisdiction of the court to suffer the consequences of the verdict against him. The filing of notices of appeal cannot suffice as a physical and voluntary submission of petitioners to the RTC's jurisdiction. It is only upon petitioners' valid surrender, and only after proper motion, that they can avail of the remedy of appeal. Absent compliance with these requirements, their notices of appeal, the initiatory step to appeal from their conviction, were properly denied due course.

Even if petitioners' notices of appeal were given due course, the CA would only be constrained to dismiss their appeal. This is because petitioners, who had standing warrants of arrest but did not move to have them lifted, are considered fugitives from justice. Since it is safe to assume that they were out on bail during trial, petitioners were deemed to have jumped bail when they failed to appear at the promulgation of their sentence. This is a ground for dismissal of an appeal under Section 8, Rule 124 of the Rules of Court, which provides—

Sec. 8. Dismissal of appeal for abandonment or failure to prosecute.—The Court of Appeals may, upon motion of the appellee or motu proprio and with notice to the appellant in either case, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except where the appellant is represented by a counsel de officio.

The Court of Appeals may also, upon motion of the appellee or motu proprio, dismiss the appeal if the appellant escapes from prison or confinement, jumps bail or flees to a foreign country during the pendency of the appeal.

Once an accused escapes from prison or confinement, jumps bail (as in the case of petitioners), or flees to a foreign country, he loses his standing in court. Unless he surrenders or submits to the jurisdiction of the court, he is deemed to have waived any right to seek relief from the court. (Citations Omitted)

Here, the appellant was out on bail in the amount of P30,000.00 during the trial of his case. When he failed to appear at the promulgation of his conviction, he is deemed to have jumped bail. Considering further that there is a standing warrant against him for his arrest, he is considered as a fugitive from justice. Consequently, the appellant

has lost his standing in court; he is precluded from availing this present remedy of appeal.

True, an appeal is perfected upon the mere filing of a notice of appeal and that the trial court thereupon loses jurisdiction over the case. This principle, however, presupposes that the party filing the notice of appeal could validly avail of the remedy of appeal and had not lost standing in court. [12]

Then and now, it has been consistently held that the right to appeal is neither a natural right nor a part of due process. It is merely a statutory privilege, and, as such, may be exercised only in the manner and in accordance with the provisions of the law. The party who seeks to avail of the same must comply with the requirements of the Rules. Failing to do so, the right to appeal is lost.[13]

WHEREFORE, the appeal is DENIED. The Order[14] dated 4 July 2013 of the RTC- Branch 27, 10[th] Judicial Region of Gingoog City, Misamis Oriental giving due course to appellant's Notice of Appeal is hereby SET ASIDE. The Judgment dated 24 June 2013 of the RTC convicting the appellant of Violation of Republic Act No. 9165 has, therefore, attained finality.

SO ORDERED.

Borja, J., CH., and Badelles, JJ., concur.

[1] Records, pp. 143-149

[2] Records, p. 149

[3] Records, p. 151

[4] Ibid

[5] Records, p. 154

[6] Ibid

[7] Records, p. 152

[8] Records, p. 153

[9] Records, p. 155

[10] Supra at note 7

[11] G.R. No. 184091, 31 January 2011

[12] Villena v. People of the Philippines, G.R. No. 184091, 31 January 2011

[13] De Guzman v. People, G.R. No. 167492, 22 March 2007

[14] Supra at note 8

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