

EDUARDO JIMENEZ, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES AND JUDGE PEDRO NAVARRO, COURT OF FIRST INSTANCE OF RIZAL, RESPONDENTS.

G.R. No. L-24529. February 17, 1968

Ponente: ANGELES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/699aed9c7b1e/>

ANGELES, J.:

On petition for writs of certiorari, prohibition and mandamus, with preliminary injunction, to the Court of First Instance of Rizal, praying: (a) to review and thereafter annul the order of respondent Judge denying petitioner's motion to set aside decision and promulgation thereof; (b) to restrain respondent Judge from promulgating the decision; and (c) to direct respondent Judge "to make re-examination of the evidence presented" during the trial of the case and to render a decision upon the evidence.

The antecedent facts of the case which are not disputed, are the following:

Eduardo Jimenez, herein petitioner, together with others, was charged with homicide in an information, dated May 13, 1960, before the Court of First Instance of Rizal, criminal case No. 9531 of said court. The case was heard and tried before Judge Eulogio Mencias, presiding one of the branches of the court. Admittedly, the decision prepared signed by Judge Mencias was delivered to the clerk of court on January 16, 1965. On the same date, the clerk of court issued and served notice on the petitioner to appear in court on January 21, 1965 for the promulgation of the sentence. In view that January 21, was declared by the President a special holiday, the promulgation of the decision could not be carried out on that day. On January 21, 1965, Judge Eulogio Mencias had reached the age of 70 and was retired on that day from the bench. Respondent Judge Pedro Navarro was immediately designated to take place of Judge Mencias. The former judge ordered that the sentence be promulgated on January 29, 1965 but for some reason, it was postponed to March 1, 1965.

On March 1, 1965, petitioner Jimenez filed a motion to set aside decision and promulgation thereof, on the following grounds: (a) "That the case was heard and tried by the Hon. Eulogio Mencias and judgment was rendered by him before he retired on January 21, 1965, having reached the age of 70 years"; and (b) "That said judgment cannot be validly promulgated since it is no longer the official act of a judge either de jure or de facto."

The motion was opposed by the private prosecutor.

On April 2, 1965, the respondent Judge issued an order denying the motion, and ordered that the decision be promulgated.

Hence, the instant petition.

The theory of the petitioner is, that for a decision to be validly promulgated, the same must not only be rendered by a judge legally appointed and acting either as de jure or de facto, but that the decision must also be promulgated during the incumbency of the judge who penned the decision, reasoning that if the judge who penned the decision is no longer a judge at the time of the promulgation, there is nothing that can legally be

promulgated because the decision is no longer an official act of the judge.

The Solicitor General, on the other hand, contends that, while he is in accord with the view that for a decision to be validly promulgated there must be a judge legally appointed and acting, either de jure or de facto, it is not necessary that the promulgation be made during the incumbency of the judge who prepared and signed the decision, and the decision can be validly promulgated as long as it was signed and delivered to the clerk of court for promulgation during the judge's term of office.

Before the effectivity of the Revised Rules of Court, on January 1, 1964, the rule on promulgation of judgment in criminal cases was Section 6, Rule 116 of the Rules of Court, which reads thus:

"Sec. 6. Promulgation of judgment. - The judgment is promulgated by reading the judgment or sentence in the presence of the defendant and the judge of the court who has rendered it. The defendant must be personally present if the conviction is for a grave or less grave offense; if for light offense, the judgment may be pronounced in the presence of his attorney or representative. And when the judge is absent or outside of the province, his presence is not necessary and the judgment may be promulgated or read to the defendant by the clerk of court." [Underscoring supplied]

After January 1, 1964, the rule now is Section 6, Rule 120 of the Revised Rules of Court, which reads thus:

"Sec. 6. Promulgation of judgment. - The judgment is promulgated by reading the judgment or sentence in the presence of the defendant and any judge of the court in which it was rendered.

"If the defendant is confined or detained in another province or city, the judgment of conviction may be promulgated by the judge of the Court of First Instance having jurisdiction over the place of confinement or detention upon the request of the court that rendered the judgment. The court promulgating the judgment shall have authority to accept the notice of appeal and to approve the appeal bond." [Underscoring supplied]

In *Ong Siu, et al., v. Hon. Antonio P. Paredes, et al.*, G. R. No. L-21638, July 26, 1966, the facts are as follows:

Four criminal cases, in which there were 6 accused, were tried jointly by Judge Sta. Maria of the Municipal Court of Manila, and a single decision was rendered, under date of July 7, 1962. On July 9, 1962, before the decision could be promulgated, Judge Sta. Maria was appointed to and assumed the position of judge of the Court of First Instance of Mindoro. Judge German succeeded him as Municipal Judge of Manila. Two of the accused, Fung and Lu, petitioned the court that the unpromulgated decision of Judge Sta. Maria be declared null and void. Judge German granted the petition, but before retrial of the cases could be had, Judge German resigned. On August 23, 1962, Judge Paredes was appointed to the vacant position of Municipal Judge of Manila. On the same day, he scheduled the promulgation of the decision of Judge Sta. Maria. This was done with respect to the four accused, but not with regards to defendants Fung and Lu who did not appear during the promulgation of the judgment. The latter two instituted certiorari and prohibition proceedings in the Court of First Instance of Manila to restrain the promulgation of the decision. The Court of First Instance of Manila granted the writ on the ground that since Judge Sta. Maria was no longer a judge of the Municipal Court, the decision, prepared and signed by him could no longer be validly promulgated. So Judge Paredes of the Municipal Court ordered a retrial of the four criminal cases which was set for March 14, 1963. The four defendants Ong Siu, Sy So Ty, Francisco Ong and Lucio Ong, went to CFI Manila and applied for a writ to restrain the Municipal Judge from retrying the four cases, on the ground that as the decision acquitting them had already been promulgated with respect to them, a retrial of the cases would subject them to double jeopardy for the same offense. The CFI Manila dismissed the petition for the reason that the decision of Judge Sta. Maria being invalid because its promulgation was effected when the judge had already ceased to be a municipal judge, the same cannot place the defendants twice in jeopardy for the same offense. The four defendants appealed to the Supreme Court. In affirming the appealed decision of the Court of

First Instance, the Supreme Court in applying Sec. 6, Rule 120 of the Revised Rules, said:

"The appellants in effect con-tend that since the decision of Judge Sta. Maria was signed by him while he was still the judge of the Municipal Court of Manila where they were tried, its promulgation, although made in his absence, was valid. In support of this contention, they cite Section 6 of Rule 116 (now Rule 120) of the Rules of Court, which reads:

'Sec. 6. Promulgation of judgment. - The judgment is promulgated by reading the judgment or sentence in the presence of the defendant and any judge of the court in which it was rendered. The defendant must be personally present if the conviction is for a grave of-fense; if for a light offense, the judgment may be pronounced in the presence of his attorney or represen-tative. And when the judge is absent or outside of the province or city, his presence is not necessary and the judgment may be promulgated or read to the defendant by the clerk of court. x x x.' [Underlining supplied]

"Pursuant to the above-quoted provisions, the petitioners-appel-lants argue, the decision of Judge Sta. Maria was promulgated in the presence of Judge Paredes, another judge of the Municipal Court. They claim that the absence of Judge Sta. Maria during the promulgation does not render the decision he penned prior to his appointment to the position of judge of the court of first instance null and void. Thus, it is alleged, the promulga-tion thereof, upon order of Judge Paredes, was valid and could be the basis of the defense of double jeo-pardy.

"The above-quoted Section 6 of Rule 116 (now Rule 120) of the Rules of Court, allowing the dis-pensability of the presence of the judge in the reading of a sentence refers only to the physical absence of the judge, and not to his inability to be present during the promulgation of the judgment because of the cessation of or his removal from office. This is clear from the use of the disjunctive clause "ab-sent or outside of the province or city" in the provision. In other words, the decision of the judge may be promulgated even without his presence, as long as he is still a judge of that court (Luna v. Rodri-guez, 37 Phil. 186; Garchitorena v. Criscini, 37 Phil. 675; Barredo v. Commission on Elections, 45 O. G. 4457; People v. Court of Appeals, G. R. Nos. L-9111-9113, Aug. 28, 1956; People v. So, G. R. No. L-8732, July 30, 1957)

"In the present case, what we have is not merely physical ab-sence of the judge who penned the decision, but the cessation or termination of his incumbency as such judge. In the case of People v. Bonifacio So y Ortega, (G. R. No. L-8732, supra) this Court ruled:

'It is well-settled that to be binding a judg-ment must be duly signed, and promulgated during the incumbency of the judge who signed it.

'In Lino Luna v. Rodri-guez, supra, Judge Barreto signed his decision on Jan-uary 14; two days later (January 16), he qualified as Secretary of Finance thereby retiring from the Judiciary; and on January 17, his decision was promulgated. This Court held such decision to be void, because at the time of the promulgation the judge who prepared it was no longer a judicial officer.

'In criminal proceedings the Rules are more explicit. They require the judgment to be promulgated by reading the judgment or sentence in the presence of the defendant and the judge of the court who has rendered it.' (Rule 116 sec. 6); and although it is true that it may be read by the clerk "when the judge is absent or outside the province", it is implied that it may be read, provided he is the judge therein.

It is contended that herein decision was promulgated to all intents and purposes, when it was delivered to the clerk for promulgation - June 18. That contention was however, indirect-ly overruled in People v. Court of Appeals, a case similar to this wherein we regarded com-pliance with sec. 6 of Rule 116 as essential to promulgation, and held that as the judgment was promulgated after the judge who penned it had ceased to be judge, it was not legally

bind-ing.

It is true that in *Cea v. Cinco* (50 O. G. 5254) this section was interpreted to mean that where judgment is one of acquittal, reading in the presence of the defendant" may be substituted by giving a copy of the decision to him. We declared that such act - delivery copy - amounted to promulgation. In the case before us, notice that the decision would be read (on Jun 30) was sent out, while Judge Encarnacion was still a judge. Yet no copy of such decision was given the accused, and he was not informed thereof during said judge's incumbency. No judgment was therefore validly entered. (Cf. *Landicho Tan*, 48 O. G. 1007).'

"Here, in the present case, when the notice for the promulgation of the decision was sent out, the judge who signed the decision was no longer the judge of the court, and no copy of the judgment of acquittal was delivered to the appellants. With more reasons, therefore, is there no judgment validly entered in this case."

Upon the foregoing considerations, We hold that the decision rendered by the retired Judge Eulogio Mencias cannot be validly promulgated and acquire a binding effect for the same has become null and void under the circumstances.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Ruiz Castro, and Fernando, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.