

ALLEN B. LANGTIWAN & CESAR PANDAYAN, PETITIONERS, V. THE HON. REGIONAL TRIAL COURT BRANCH 95, ANTIPOLO CITY, RESPONDENT.

Ponente: BRUSELAS, JR. J.

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BRUSELAS, JR. J.:

Before us is a Rule 65 petition for certiorari which seeks to set aside the Orders[1] issued by the public respondent Regional Trial Court Judge that: (1) directed the issuance of warrants of arrest and forfeiture of cash bonds posted by the petitioners; and (2) denied the motion for reconsideration thereof. The dispositive portions of the assailed orders read as follows:

"In view whereof, as prayed for by Private Prosecutor Claro R. Recto, issue a warrant of arrest of said accused Cesar Pandayan y Lakpaben and Allen Langtiwan y Besang and the cash bonds posted for their liberty are hereby ordered forfeited in favor of the government.

The Court notes that despite receipt of the directive for Cesar Pandayan y Lakpaben to submit a notarized medical certificate within ten (10) days from August 28, 2012, no such medical certificate has been submitted. The Court notes also that the intended witness for today PO3 Gary A. Boco failed to appear but informed the Court beforehand of his inability to appear and even submitted a medical certificate.

Reset the continuation of the hearing of this case to November 08, 2012, at 1:30 o'clock in the afternoon.

SO ORDERED."[2]

XXX XXX XXX

"WHEREFORE, in view of the foregoing disquisition, accused's "Motion for Reconsideration and Lift Warrant of Arrest" is hereby DENIED.

SO ORDERED."[3]

The antecedent facts of the case are as follows:

Petitioners Cesar Pandayan and Allen Langtiwan ("petitioners") are separately accused of violation of Section 3[4] of Presidential Decree 1866,[5] as amended by Republic Act (R.A.) 8292[6] and further amended by R.A. 9516,[7] in Criminal Case Nos. 11-42291 and 11-42292, respectively, both pending before the court of the public respondent judge.

The petitioners were also separately accused of Robbery under Article 299, paragraph (1) (a-2)[8] of the Revised Penal Code, as amended, by Section 9[9] of Republic Act No. 7659,[10] in relation to Article 62, paragraph 2[11] of the same code, in Criminal Case No. 11-42293, also pending with the same court.

In the information for the above-mentioned offense, bail was recommended at P 200,000.00 in Criminal Case No. 11-42291; P 200,000.00 in Criminal Case No. 11-42292; and P 40,000.00 each in Criminal Case No. 11-42293.

Upon the motion of the petitioners, the public respondent, in an Order dated 18 August 2011, reduced the bail to P100,000.00 for both Criminal Cases Nos. 11-42291 and 11-42292, respectively; and P 20,000.00 each in Criminal Case No. 11-42293. The petitioners thereafter posted bail in the aforesaid amounts in the three (3) criminal cases.

All the cash bonds uniformly stated that in case the petitioners "jumps bail or fails to appear for trial despite due notice, his/her absence will be deemed an expressed waiver of his/her right to be present."

The case then proceeded to trial.

On 06 March 2012, when the consolidated cases were called for hearing on the Motion for Leave of Court to Amend the Recommended Bail in the Information filed by Asst. Provincial Prosecutor Claro R. Recto, both accused-petitioners in said cases, as well as their respective lawyers were not present in court. Again, on 03 April 2012, when the cases were called for hearing, both accused and counsel were still not around.

During the 14 August 2012 hearing, both petitioners were again absent, notwithstanding receipt of notice of said hearing through counsel. When the public respondent inquired from Atty. Floyd Lalwet, the petitioners' counsel, where his clients were, the latter answered that Langtiwan had a flu, while Pandayan was recovering from an eye surgery. The public respondent then ordered both accused "to present at the next scheduled hearing, notarized medical certificates to substantiate the excuses for their absence." During the next hearing of 28 August 2012, Langtiwan finally appeared with the required medical certificate. Pandayan, however, was still absent. Atty. Floyd P. Lalwet was consequently given ten (10) days therefrom to submit the notarized medical certificate of Pandayan.

On 20 September 2012, the scheduled hearing had to be canceled, among others, because of both petitioners' absence, thereby prompting the public respondent to issue the first assailed order, the pertinent portion of which reads:

"In view whereof, as prayed for xxx issue a warrant for the arrest of said accused Cesar Pandayan y Lakpaben and Allen Langtiwan y Besang and the cash bonds posted for their liberty are hereby ordered forfeited in favor of the government.

The Court notes that despite receipt of the directive for Cesar Pandayan y Lakpaben to submit a notarized medical certificate within ten (10) days from August 28, 2012, no such medical certificate has been submitted."

On even date, a Motion for Reconsideration and Lift Warrant of Arrest was filed by Atty. Floyd Lalwet wherein it was claimed that "accused Langtiwan and counsel arrived x x x at past 2:00 p.m. And were informed that this Hon. Court has already called the case and due to the absence of accused, has ordered the issuance of a warrant of arrest and the forfeiture of the cash bond posted by both accused xxx counsel has to wait for accused coming from Baguio City and whose bus arrived in Quezon City only at 1:25 pm; be that as it may, their being late was entirely their fault for which they most respectfully ask this Hon. Court to reconsider and given them a last chance." With said motion, Atty. Floyd Lalwet submitted a medical certificate issued in the name of Pandayan, allegedly indicating treatment for a rupture of his eyeball which caused him dizziness and required at least 300 days of treatment. The motion bore a notice of hearing for 25 September 2012 at 1:30 pm.

On 21 September 2012, the public respondent granted the prosecution's Motion for Leave of Court to Amend Information and admitted the amended information filed therewith.

When the case was called for hearing on the Motion for Reconsideration and Lift Warrant of Arrest, counsel for the petitioners was present, but both the petitioners were not. In view of which, the public respondent told the counsel for the accused that no merit was found in the motion for reconsideration, especially in view of the

repeated failure of the accused-petitioners to attend the court's proceedings. In the interest of justice, nonetheless, the public respondent gave the Public Prosecutor ten (10) days to file his Comment/Opposition to the motion for reconsideration, while Atty. Floyd Lalwet was directed "to surrender both accused to the proper authorities."

Meanwhile, on 22 October 2012, both accused, through counsel, filed their Manifestation with Motion to Allow the Accused to be on Temporary Liberty on their Previous Bail Pending Resolution of Petition for Bail to which was appended a Petition for Bail which the Court again referred to Prosecutor Claro Recto for Comment. The request of the petitioners' counsel that the aforementioned motion be set for hearing on 06 November 2012 was noted. The petition for bail was tentatively set for hearing on 31 January 2013.

On the 06 November 2012 hearing, Atty. Lalwet was present with petitioner Langtiwan. Upon inquiry from the public respondent, Atty. Floyd Lalwet finally admitted that petitioner Pandayan had been detained at the Baguio City Jail. He was given by the Court ten (10) days to submit proof that Pandayan was indeed detained at the Baguio City Jail. No compliance was ever filed by Atty. Floyd Lalwet with the foregoing order within the period given him and even beyond.

On January 23, 2013, the Court issued an Order declaring the petitioners' Manifestation with Motion to Allow the Accused to be on Temporary Liberty on their Previous Bail Pending Resolution of Petition for Bail submitted for resolution sans comment. And then, on 30 January 2013, the said Manifestation with Motion to Allow the Accused to be on Temporary Liberty on their Previous Bail Pending Resolution of Petition for Bail was denied.

On 31 January 2013, Prosecutor Claro R. Recto finally filed his Comment/Opposition (to the Accused Lantiwan's Motion for Reconsideration and Lift Warrant of Arrest) in open court. The motion for reconsideration and lift warrant of arrest, consequently, was declared submitted for resolution. The public respondent noted that when the case was called on said date, only counsel for the petitioners appeared. Because of this, the hearing on the petition for bail was canceled, and then reset to 21 February and 30 April 2013, with warning that should the petitioners be not still around on said dates, trial on the merits shall proceed instead.

On 14 February 2013, the public respondent received a communication from Police Senior Superintendent (DSC) of the PNP CIDG CAR Criminal Investigation and Detection Unit informing that the warrant of arrest issued in this case, "was duly served against the accused person at Baguio City Jail where he is presently detained for Robbery with Force Upon Things under the jurisdiction of RTC, FJR, Br. 6 since March 31, 2012 under Criminal Case Number 32918-R." Attached thereto among others was a Certificate of Detention issued by Jail Chief Inspector Wilson P. Banasen of the BJMP Cordillera Administration Region Baguio City Jail.

Because the petitioners' Motion for Reconsideration and Lift Warrant of Arrest were denied via the second assailed order, the petitioners came to us by way of a petition for certiorari alleging that serious error and grave abuse of discretion amounting to lack or excess of jurisdiction were committed by the public respondent judge in rendering the assailed orders.

In pursuit of their petition for certiorari, the petitioners raise the lone issue:

"WHETHER OR NOT THE HON. PUBLIC RESPONDENT HAS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN DENYING HEREIN PETITIONERS' MOTION FOR RECONSIDERATION OF ITS ORDER DIRECTING FORFEITURE OF THEIR CASH BONDS."

We fail to find merit in the petition.

As a rule, a petition for certiorari under Rule 65 is proper only when the question involved is an error of jurisdiction, or when there is grave abuse of discretion amounting to lack or excess of jurisdiction on the part of

the court or tribunals exercising quasi-judicial functions. "Grave abuse of discretion" implies such capricious and whimsical exercise of judgment as to be equivalent to lack or excess of jurisdiction;^[12] that is, power is arbitrarily or despotically exercised by reason of passion, prejudice, or personal hostility; and caprice is so patent or so gross as to amount to an evasion of a positive duty, or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.^[13] Grave abuse of discretion may also arise when a lower court or tribunal violates or contravenes the Constitution, the law or existing jurisprudence.^[14]

We, however, cannot find any act of grave abuse of discretion on the part of the public respondent when it directed the issuance of warrants of arrest against the petitioners and the forfeiture of cash bonds; and the consequent denial of their motion for reconsideration.

The petitioners insist that the public respondent erred when it failed to give merit to the petitioners' allegations that petitioner Langtiwan, together with their counsel, arrived late at the scheduled hearing of 21 September 2012. They further argue that the public respondent was in error when it simply relied on the minutes of hearing on the said date, which allegedly did not bear the signatures of either the petitioners or their counsel.

The petitioners narrated their version of facts on what transpired during the hearing date of 20 September 2012:

Counsel and petitioner Langtiwan arrived at the court a few minutes after 2:00 pm on 20th September 2012. As was his practice, said petitioner took a sit at the entrance lobby of the courts at the 3rd floor of the Club Manila East Arcade while counsel went inside the sala of the public respondent where session was then already in progress.

Counsel sat in the first row of the court for almost an hour and it was, in fact, the presiding judge, presumably noticing that the former has been sitting inside the court for some time, who instructed the Branch Clerk to confer with said counsel. The Branch Clerk of Court immediately called the attention of the petitioners' counsel who then approached her table. It was at the point that the Branch Clerk of Court informed counsel that there was already an earlier ruling of the public respondent made immediately after the first call was announced, directing the issuance of the warrants of arrest and forfeiture of bonds of accused. When counsel asked the Branch Clerk of Court if he needed to sign the minutes, he was informed that he cannot because there was already an Order made in open court by the Public Respondent. Petitioners further assert that the Branch Clerk of Court further advised their counsel to simply file a motion for reconsideration. With this information that counsel need not sign the minutes, the latter saw no reason to require Langtiwan, who was then still seated outside the court's lobby, to come inside the court for his signature. Both counsel and petitioner were then preoccupied with the urgent need to immediately file a motion for reconsideration which they did after a few hours on the same day.

Petitioners insist that they have apologized for being late but their physical presence on the said scheduled hearing could not be completely glossed over; and to forfeit their cash bonds for simply being late is certainly a grave abuse of discretion.

In coming out with the assailed Orders, the public respondent had in fact enumerated the hearing dates of the petitioners' case. It appears from the court a quo's records that on 06 March 2012, both petitioners and their counsel failed to appear in court. On 03 April 2012, both petitioners again were absent during the hearing. Similarly, on 14 August 2012, the petitioners did not appear with their counsel's notification that petitioner Langtiwan had a flu, while Pandayan was recovering from an eye surgery. On 28 August 2012, it was only petitioner Langtiwan who appeared with the required medical certificate while Pandayan continued to be absent. Finally on 20 September 2012, the public respondent issued the first assailed order which issued the warrants of arrest of the petitioners and the forfeiture of their bonds. During the hearing on the Motion for Reconsideration and Lift Warrant of Arrest, it was only the petitioners' counsel who was present but both the petitioners were

missing. The public respondent after informing the counsel of the denial of the motion, nonetheless, gave the public prosecutor ten (10) days to file his Comment/Opposition and directed Atty. Floyd Lalwet to surrender the petitioners to proper authorities. On 06 November 2012, Atty. Floyd Lalwet was present in court with petitioner Langtiwan, while the former notified the public respondent that petitioner Pandayan was detained at the Baguio City Jail. On the succeeding hearing dates, only Atty. Floyd Lalwet appeared sans the petitioners.

Thus, it can only be inferred from the foregoing, that the petitioners were afforded several hearing dates and opportunities to appear in court, but which they failed to take advantage of.

The petitioners now come to us, asking for a reassessment of the factual circumstances of the case, more specifically of the public respondent's appreciation of what transpired on the hearing dated 20 September 2012. They insist that they were deprived of substantial due process.

We must remember, however, that "the essence of due process is to be found in the reasonable opportunity to be heard and submit any evidence one may have in support of one's defense. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of due process." [15] Verily, so long as a party is given the opportunity to advocate his cause or defend his interest in due course, it cannot be said that there was denial of due process. [16] Here, the petitioners were given several opportunities to ventilate their cause with the court a quo thru the several hearing dates accorded to them, as well as the public respondent's appreciation of every single pleading and motion they filed. Hence, the petitioners could not validly complain. It is the opportunity to be heard that is the essence of due process; opportunity that, in this case, had been a-plenty.

Even assuming, for the sake of argument, that the respondent judge committed an error in judgment in issuing the assailed orders, we must stress that certiorari will issue only to correct errors of jurisdiction, not errors of procedure or mistakes in the findings or conclusions of the lower court. As long as a court acts within its jurisdiction, any alleged errors committed in the exercise of discretion will amount to nothing more than errors of judgment which are reviewable by timely appeal and not by a special civil action for certiorari. [17]

WHEREFORE, the instant petition is DISMISSED.

IT IS SO ORDERED.

Salazar-Fernando (Chairperson) and Barrios, [*] JJ., concur.

[*] Actg. Third Member vice J. Gaerlan per Office Order No. 270-14-RSF datedn06 June 2014.

[1] Written by Presiding Judge Marie Claire Victoria Mabutas-Sordan, Branch 95 of the Regional Trial Court of Antipolo City in Criminal Case Nos. 11-42291, 11-42292 and 11-42293 dated 20 September 2012 and 21 February 2013, respectively; Rollo, pp. 24-25 and pp. 26-30.

[2] Rollo, p. 25.

[3] Ibid, p. 30.

[4] SECTION 3. Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Explosives. — The penalty of reclusion temporal in its maximum period to reclusion perpetua shall be imposed upon any person who shall unlawfully manufacture, assemble, deal in, acquire, dispose or possess handgrenade(s), rifle grenade(s), and other explosives, including but not limited to "pillbox bombs", "molotov cocktail bombs", "fire bombs", or other incendiary devices capable of producing destructive effect on contiguous objects or causing injury or death to any person.

Any person who commits any of the crimes defined in the Revised Penal Code or special laws with the use of the aforementioned explosives, detonation agents or incendiary devices, which results in the death of any person or persons shall be punished with the penalty of death.

If the violation of this Section is in furtherance of, or incident to, or in connection with the crimes of rebellion, insurrection or subversion, the penalty of death shall be imposed. cda

The penalty of reclusion temporal in its maximum period to reclusion perpetua shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any of the explosives owned by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs.

[5] CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION, OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF AND FOR RELEVANT PURPOSES dated June 29, 1983.

[6] AN ACT AMENDING THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1866, AS AMENDED, ENTITLED "CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AND FOR RELEVANT PURPOSES dated June 6, 1997.

[7] AN ACT FURTHER AMENDING THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1866, AS AMENDED, ENTITLED "CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AAN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL LAWS, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSESND FOR RELEVANT PURPOSES dated December 22, 2008.

[8] Art. 299. Robbery in an inhabited house or public building or edifice devoted to worship.- Any armed person who shall commit robbery in an inhabited house or public building or edifice devoted to religious worship, shall be punished by reclusion temporal, if the value of the property taken shall exceed 250 pesos, and if--

(a) The malefactors shall enter the house or building in which the robbery is committed, by any of the following means:

(1) xxx xxx xxx

(2) By breaking any wall, roof, or floor or breaking any door or window;
xxx xxx xxx

[9] SEC. 9. Article 294 of the same Code is hereby amended to read as follows:

"Art. 294. Robbery with violence against or intimidation of persons - Penalties. - Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

- The penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional

mutilation or arson.

- The penalty of reclusion temporal in its medium period to reclusion perpetua, when or if by reason or on occasion of such robbery, any of the physical injuries penalized in subdivision 1 of Article 263 shall have been inflicted.

- The penalty of reclusion temporal, when by reason or on occasion of the robbery, any of the physical injuries penalized in subdivision 2 of the article mentioned in the next preceding paragraph, shall have been inflicted.

- The penalty of prision mayor in its maximum period to reclusion temporal in its medium period, if the violence or intimidation employed in the commission of the robbery shall have been carried to a degree clearly unnecessary for the commission of the crime, or when in the course of its execution, the offender shall have inflicted upon any person not responsible for its commission any of the physical injuries covered by subdivisions 3 and 4 of said Article 263.

- The penalty of prision correccional in its maximum period to prision mayor in its medium period in other cases."

[10] AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES, dated December 13, 1993.

[11] Art. 62. Effects of the attendance of mitigating or aggravating circumstances and of habitual delinquency.- Mitigating or aggravating circumstances and habitual delinquency shall be taken into account for the purpose of diminishing or increasing the penalty in conformity with the following rules:

xxx xxx xxx

(2) The same rule shall apply with respect to any aggravating circumstances inherent in the crime to such a degree that it must of necessity accompany the commission thereof;

xxx xxx xxx

[12] Tagle v. Equitable PCIBank, G.R. No. 172299, April 22, 2008, 552 SCRA 424; Miguel v. JCT Group Inc., et al., G.R. No. 157752. March 16, 2005, 453 SCRA 529;

[13] Madrigal Transport, Inc. v. Lapanday Holdings Corporation, G.R. No. 156067, August 11, 2004, 436 SCRA 123; Pure Foods Corporation v. NLRC, G.R. No. 78591, March 21, 1989, 171 SCRA 415.

[14] Conrado Banal III v. Panganiban, et al., G.R. No. 167474, November 15, 2005, 475 SCRA 164.

[15] Sofio v. Valenzuela, G.R. No. 157810, February 15, 2012, 666 SCRA 55, citing Producers Bank of the Philippines v. Court of Appeals, G.R. No. 126620, April 17, 2002, 381 SCRA 185.

[16] Supra at footnote 15.

[17] Soriano v. Angeles, G.R. No. 109920, August 31, 2000, 339 SCRA 366.

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