

GAUDENCIO VERA, RESTITUTO FIGUERAS, LORENZO AMBAS, JUSTO FLORIDO, PAULINO BAYBAN AND JAIME GARCIA, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES AND COURT OF APPEALS, RESPONDENTS.

G. R. No. L-18184. January 31, 1963

Ponente: BARRERA, J.

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BARRERA, J.:

In the Court of First Instance of Quezon, petitioners Gaudencio Vera, Restituto Figueras, Lorenzo Ambas, Justo Florido, Paulino Bayran, and 92 others, as John Does, were charged with the complex crime of kidnapping with murder of Amadeo Lozañes, alias Azarcon. Upon petitioners' motion, invoking the benefits of Amnesty Proclamation of the President, series of 1946, the case was referred to the Eighth Guerilla Amnesty Commission, which actually tried it.

During the hearing, none of the petitioners-defendants admitted having committed the crime charged. In fact, Gaudencio Vera, the only defendant who took the witness stand, Instead of admitting the killing of the deceased Lozañes, categorically denied it. Hence, the Commission, in its decision of January 12, 1956, held that it could not take cognizance of the case, on the ground that the benefits of the Amnesty Proclamation, could be invoked only by defendants in a criminal case who, admitting the commission of the crime, plead that said commission was in pursuance of the resistance movement and perpetrated against persons who aided the enemy during the Japanese occupation. Consequently, the Commission ordered that the case be remanded to the court of origin for trial. A motion for reconsideration filed¹ by petitioners was denied by the Commission in its order dated January 11, 1957, which partly reads:

"The Commission is convinced that the motive for the kidnapping and killing of Lt. Amadeo Lozañes of the Hunters was the keen rivalry, between the Vera's Guerrilla Party and the Hunter's ROTC Guerrilla organizations. It is noteworthy that the Hunters were driven away by General Vera from Pitogo in December, 1944, and that after said kidnapping and killing on February 13 and 14, 1945, Mayor Ramon Isaac of Unisan, was in turn kidnapped by the Hunters, Leopoldo Miciano, secretary of Col. de Luna, of the Vera's Guerrilla Party, testified that General Vera told him of his (Vera's) suspicion that Mayor Isaac "was kidnapped by way of reprisal as lie, Vera, had ordered the liquidation of Lt. Losañes (dinispatcha).

"In any event, since it is an established fact that when Lozañes was kidnapped, tortured, and later killed, he was actually a lieutenant of the Hunter's ROTC Guerrilla organization then engaged in the resistance movement, it may not be said with any amount of truth that the aforesaid killing was to further the resistance movement at the time, as the defense intimates. Rather, the killing of Lt. Losañes of the Hunters ROTC Guerrilla would tend to weakened commensurately the resistance movement against the Japanese invaders.

"The Commission noted, however, that nowhere in the evidence of record has it been shown that defendant Jaime Garcia had any participation in the complex crime charged. Neither does the evidence reveal that he admitted or disclaimed any role therein. Consequently, there would be no room, either for his conviction, or for

the application of the provisions of the aforementioned amnesty proclamation.

"FOR ALL THE FOREGOING CONSIDERATIONS, this Eighth Guerrilla Amnesty Commission denies the defendants' motion for reconsideration and maintains its order contained in its decision, to return the case to the Court of First Instance of Quezon for the latter to act on IL accordingly, not only because of lack of jurisdiction, but also because, even if it has jurisdiction, the defendants are not entitled to the benefits of the amnesty proclamation."

From this order of the Commission, petitioners appealed to the Court of Appeals. The latter, on July 27, 1959, certified the appeal to us, in view of the legal issue involved, namely, whether or not persona invoking the benefit of amnesty should first admit having committed the crime of which they were accused. On August 13, 1959 we ordered the docketing of the appeal in this Court (C.R. No. L-15808). However, on petitioners' motion to return the record of the case to the Court of Appeals (on the ground that the appeal was originally docketed to said Court, due to "factual issues to the effect that the death of Amadeo Lozañes did not spring from personal motive or on account of rivalry between guerrilla units, but owing to the fact that said decedent had sided in the war efforts of the enemy, by having been a member of the Jap-sponsored Philippine Constabulary organization, and by having been one of those who arrested and subsequently massacred innocent civilians and guerrillas in Catanauan, Quezon)", we ordered the return of said record to said Court.

On November 16, 1960, the Court of Appeals rendered a decision, affirming the Order of the Commission, stating in part, as follows:

"Appellants stressed in their aforementioned motion for reconsideration that they had impliedly admitted their participation in the killing of Amadeo Lozañes. But mere implied admission is not sufficient, for Administrative Order No. 144 of the Department of Justice, dated October 11, 1950, amending Administrative Order No. 179 thereof, and issued on November 17, 1949, explicitly directs that "where the offense charged against any person is not one against chastity but is covered by the Revised Penal Code, and the offense took place between December 8, 1941 and the date of the liberation of the province or city where the offense is alleged to have been committed, 'in order that the Amnesty Commission may take cognizance of the case, the accused or respondent must allege or claim verbally or in writing that he committed the acts charged against him in furtherance of the resistance movement or against persons who aided in the war efforts of the enemy', for amnesty presupposes the commission of a crime."

* * * * *

"Therefore, and since appellants did not claim verbally or in writing that they committed the offense with which they were charged in furtherance of the resistance movement or against persons who aided in the war efforts of the enemy, but on the contrary, as already stated, herein appellants had verbally denied the charge against them, their case should be tried by the ordinary courts of justice. Hence, the 8th Guerrilla Amnesty Commission could not take cognizance of their case.

"Appellants, however, want us to rule one way or the other, as to the factual question that the death of Amadeo Lozañes did not spring from personal motive or an account of rivalry of guerrilla units, but owing to the fact that the said decedent had aided in the war efforts of the enemy. Without shirking from our duty to make a finding or pronouncement on a question of fact, we are constrained not to make a pronouncement on this question, in view of our ruling stated earlier that the Commission is not competent to take cognizance of this case, for the reasons already stated, but it should be the ordinary courts of justice. Any ruling that we would make now on the factual issue postulated by appellants would not only be premature and prejudicial, but also useless, because this case proceeded from a body (the Commission) that has no jurisdiction to entertain the same. It may be stated, in this connection, that jurisdiction could be raised at any stage of the proceedings.

WHEREFORE, the decision and order appealed from are hereby affirmed.

"IT IS SO ORDERED."

Their motion for reconsideration of said decision having been denied, petitioners instituted the present petition for review.

Petitioners contend (as they did in the Court of Appeals), that, to be entitled to the benefits of Amnesty Proclamation No. 8, dated September 7, 1946, it is not necessary for them to admit the commission of the crime charged, citing in support of their submission the cases of Barrio-quinto, et al. vs. Fernandez, et al, (L-1278, January 21, 1949, 82 Phil. 642), Provincial Fiscal of Ilocos" Norte vs. De Los Santos, et al, (L-2502, December 1, 1949, 85 Phil. 77) and Viray vs. Amnesty Commission, et al. (L-2540, January 28, 1950, 85 Phil. 354), to the effect that "in order to entitle a person to the benefits of Amnesty Proclamation (No. 8) of September 7, 1946, it is not necessary that he should, as a condition precedent or sine qua non, admit having committed the criminal act or offense with which he is charged, and allege the amnesty as a defense; it is sufficient that the evidence, either of the complainant or the accused shows that the offense committed comes within the terms of said Amnesty Proclamation."

But said cases have been superseded and deemed over-ruled by the subsequent cases of, People vs. Llanita, et al. (L-2082, April 26, 1950, 86 Phil. 219) and People vs. Guillermo, et al. (L-2188, May 19, 1950, 86 Phil. 395), wherein we held that—

"It is rank inconsistency for appellant to justify an act, or seek forgiveness for an act which, according to him, he has not committed. Amnesty presupposes the commission of a crime, and when an accused maintains that he has not committed a crime, he cannot have any use for amnesty. Where an amnesty proclamation imposes certain conditions, as in this case, it is incumbent upon the accused to prove the existence of such conditions. The invocation of amnesty is in the nature of a plea of confession and avoidance, which means that the pleader admits the allegations against him but disclaims liability therefor on account of intervening facts which, if proved, would bring the crime charged within the scope of the amnesty proclamation." (Italics supplied.)

At any rate, the facts established before the Commission do not bring this case within the terms of Amnesty Proclamation No. 8. Note that said proclamation extends its provisions to "all persons who committed any act penalized under the Revised Penal Code in furtherance of the resistance to the enemy or against persons aiding in the war effort of the enemy." As found by the Commission, the killing of the deceased (Lozañes) was not in furtherance of the resistance movement, but was due to the rivalry between the Hunter's Guerrilla, to which he belonged, and the Vera's Guerrilla of petitioners.

Neither may petitioners rely on the case of Buyco vs. People, et al. (L-6327, July 29, 1954) because in said case, we held that petitioner was not entitled to the benefits of the Amnesty Proclamation not only because "the evidence did not suffice to show that appellant had acted in the manner contemplated in the amnesty proclamation", namely, that he killed the deceased Luis Gonzales due to his being an enemy collaborator, but also because if petitioner's version was true that he had no participation whatsoever in the killing of the deceased, then he "had committed no crime whatsoever, and, hence, there would be no room, either for his conviction or for the application of the provisions of the aforementioned amnesty application", which, in effect, reiterates our previous ruling in the Llanita and Guillermo cases, supra, that amnesty cannot be invoked, where the accused actually denies the commission of the offense charged.

We find no merit in petitioners' claim that the Court of Appeals erred in applying or citing Department of Justice Administrative Order No. 144, series of 1950,[1] considering that the latter was issued precisely pursuant to our ruling in the aforesaid Llanita and Guillermo cases, Petitioners also argue that the Court of Appeals erred in declining to resolve the factual issues they had raised before it. The argument is untenable, because as the

appellate court correctly pointed out, any ruling that it would make on the factual issues presented by petitioners, "would not only be premature and prejudicial, but also useless, because this case proceeded from a body (the Commission) that had no jurisdiction to entertain the same."

Wherefore, finding no error in the decision of the Court of Appeals sought to be reviewed, the same is hereby affirmed, with costs against the petitioners. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador , Concepcion , Reyes, J. B. L., Dizon, Regala and Makalintal, JJ., concur.

[1] Which provides that "in order that the Amnesty Commission may take cognizance of the case, the accused or respondent must allege or claim verbally or in writing that he committed the acts charged against him in furtherance or the resistance movement or against persons who acted in the war efforts of the enemy."

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