

PROCOPIO BELTRAN, PETITIONER, VS. POMPEYO DIAZ, JOSE P. VELUZ, AND ANTONIO QUIRINO, ASSOCIATE JUDGES OF THE PEOPLE'S COURT, FIFTH DIVISION, AND THE SOLICITOR GENERAL, AS HEAD OF...

G.R. No. L-608. October 07, 1946

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Certiorari to annul an order issued by the Fifth Division of the People's Court cancelling the bail filed by petitioner for his provisional liberty and ordering the arrest of the latter

Petitioner, a political detainee, was, on September 15, 1945, released on a bail of P20,000 granted by the Solicitor General, pursuant to the authority vested in the latter by the provisions of Executive Order No. 65 (41 Off. Gaz., p. 416).

On February 5, 1946, the Office of Special Prosecutors filed in the People's Court an indictment on twelve counts charging petitioner with the high crime of treason. Simultaneously, the office of Special Prosecutors filed in the same court a petition for the cancellation of petitioner's bail, planted upon the ground that the evidence of guilt then in their possession was strong.

The foregoing petition was heard on March 2 and 11, 1946, before the Honorable Jose P. Veluz, one of the Judges of the Fifth Division of the People's Court. In the course of the hearing, the Special Prosecutor recited what he terms "a few of the summary of the evidence in the hands of the prosecution in support of the counts of treason alleged in the information against the accused," taken from the affidavits of witnesses. No further evidence was introduced by the prosecution. Counsel for petitioner objected to the competency and sufficiency of the recital made by the Special Prosecutor. He invoked the right to cross-examine the witnesses for the prosecution. Counsel moved for a ruling on his objection, without prejudice to petitioner's right to present evidence on his behalf.

Judge Veluz overruled the objection upon the ground that the Special Prosecutor declined to reveal his evidence and had expressed his desire to present the the witnesses for the prosecution only at the trial of the case. Petitioner then presented two witnesses, namely, Dalmacio Maniquis and Major Fernando Perello of the Philippine Army. The substance of their testimony is that the accused had knowledge of the guerrilla activities of these two witnesses and helped the latter. Said witnesses, however, had no knowledge of the charges against the petitioner.

Predicated upon the ground that the evidence which sustains the acts charged in the information against the accused is strong "according to the recital made on the record by the Special Prosecutor", and that said evidence was not rebutted or strengthened by the testimony of the witnesses presented by the defense, the respondent Judges, in an order dated March 14, 1946, ordered the cancellation of the bail and the arrest of petitioner.

A motion for reconsideration having been denied by the respondent Judges in an order dated April 13, 1946,

petitioner brought the case before this court on certiorari. It is urged, first, that the respondent Judge Honorable Jose P. Veluz, sitting alone, was without authority to hear the petition for the cancellation of the bail; and secondly, that the respondent Judges of the People's Court committed a grave abuse of discretion in ordering the cancellation of the bail without a showing, on the part of the prosecution, of competent and strong evidence of guilt.

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The question as to the number of Judges required to be present in order to authorize the legal transaction of business by the People's Court is to be determined from the law of its creation. The general rule is that the death, disqualification, resignation, or absence of a Judge "will not deprive the surviving or remaining Judges of authority to hold court and transact the business of the court * * * provided, however, the number of the court is not reduced below that legally required for the transaction of its business" (14 Am. Jur. 282-283). By Section 6 of the People's Court Act, the said court may sit in five divisions of three judges each. Section 9 of the same Act provides that two judges shall constitute a quorum "for the sessions in division", and added that: "In the absence of a quorum, the * * * division shall stand ipso facto adjourned until such time as the requisite number shall be present, and a memorandum to this effect shall be inserted by the clerk in the minutes of the court." In the absence of a quorum owing to the legal disqualification of a Judge, Section 7 of the law directs that the president shall designate a District Judge of First Instance, Judge-at-Large of First Instance, Cadastral Judge, Judge of the Court of Industrial Relations, Securities and Exchange Commissioner, or Public Service Commissioner "to sit and vote" in lieu of the disqualified Judge, in connection with the case which brought about the disqualification. Section 12 enjoins the People's Court to try and decide or otherwise dispose of its cases in the manner provided for in the Act and in existing laws not inconsistent therewith.

A circumspect and considerate examination of the foregoing provisions of the People's Court Act discloses that Congress made it abundantly clear that in the absence of a quorum, a division of the People's Court must suspend its sessions, and it shall stand ipso facto, adjourned until such time as the requisite number shall be present. The statutory requirement of a quorum for the sessions in division is mandatory. The phraseology of the law is clear. There is no room for doubt. Short of the presence of two Judges, a division of the People's Court has no authority to sit for the transaction of business; it has no power to hear a petition for the cancellation of bail. Consequently, the respondent Judge Honorable Jose P. Veluz, sitting alone, was without authority to hear the application for the cancellation of petitioner's bail.

The mere fact that the order directing the cancellation of the bail was subsequently signed by the three respondent judges constituting the Fifth Division of the People's Court, is of no moment. The mandatory requirement of a quorum in the People's Court Act cannot be detoured by the simple expedient of permitting one of the judges of a division to hold sessions and thereafter submit the case for the consideration of the members of that division. A man's liberty is so precious as to be treated so lightly. In this particular case, petitioner received less than a fair hearing. For, under the law, he was entitled to a resolution handed down at the hearing by at least two of the Judges of the Fifth Division, sitting in court, upon a question of substance, namely, his objection to the competency and sufficiency of the recital of the evidence made by the special Prosecutor.

Upon the foregoing, we are of the opinion and so hold that the proceedings had before the respondent Judge Honorable Jose P. Veluz on the matter of the petition for the cancellation of the bail herein, are null and void.

- Constitutional law has established the basic rule that all persons shall before conviction be bailable by sufficient sureties, except those charged with capital "offenses when evidence of guilt is strong (section 1 [16], Article III of the constitution; Ocampo vs. Hon. Jose Bernabe, p.55, ante). It is now well-settled that at the hearing of an

application for the cancellation of bail in a capital offense, the burden of proof is on the prosecution (Marcos vs. Cruz, 67 Phil., 82; Ocampo vs. Bernabe, supra). And, in Ocampo vs. Bernabe, supra, this court said;

"* * * The determination of whether or not the evidence of guilt is strong is, as stated in the Herras Teehankee case, a matter of judicial discretion. This discretion, by the very nature of things, may rightly be exercised only after the evidence is submitted to the court at the hearing. Since the discretion is directed to the weight of evidence and since evidence cannot properly be weighed if not duly exhibited or produced before the court (Ramos vs. Ramos, 45 Phil. 362), it is obvious that a proper exercise of judicial discretion requires that the evidence of guilt be submitted to the court the petitioner having the right of cross-examination and to introduce his own evidence in rebuttal. * * *"

In the present case, the charge against petitioner is a capital, offense, namely, treason. Therefore, for the petition to cancel his bail to prosper, the prosecution must present strong evidence of guilt. No evidence, however, was adduced by the Special Prosecutor at the hearing of the application to cancel the bail. It is true that the Special Prosecutor made a recital in the form of a summary of a portion of the evidence in the hands of the prosecution in support of the counts of treason against respondent, taken from the affidavits of witnesses. But this recital was objected to by the defense. And, as was correctly stated in Ocampo vs. Bernabe, supra, the rule is that "mere affidavits or recital of their contents are not sufficient since they are hearsay evidence, unless the petitioner fails to object". Really, if the rule were otherwise, a Special Prosecutor would be virtually clothed with the power of an arbiter on the question of determining whether or not a person accused of treason is entitled to bail. This would amount to an abdication of the court's prerogatives. Such is not the law.

It appearing that no evidence was presented in support of the motion for the cancellation of the bail, the respondent Judges of the Fifth Division of the People's Court committed an abuse of discretion in ordering the cancellation of petitioner's bail and the arrest of the latter.

But the People's Court order in question had heretofore produced its effects. It was executed. The bail in effect was cancelled, and petitioner was arrested and now is in the custody of the law. We are faced by a fait accompli. From the moment petitioner was arrested upon cancellation of his bail, his surety ceased to be his mancupator-his jailer, was deprived of control over and custody of petitioner, and was thus effectively prevented from discharging its legal obligations (section 2, Rule 110, Rules of Court) under the undertaking. Consequently, the surety was discharged and the bail bond ceased to be in force. Said bail bond is beyond recall. Reversal of the executed order of cancellation and arrest will not revive it. Our duty in the premises is plain. It is to restore petitioner to his status quo ante as far as is possible, petitioner, accordingly, is entitled to be released upon the filing and approval by the People's Court, of a new bail bond in the same amount as the original bond, that is, P20,000.

Wherefore, the order of the respondent judges dated March 14, 1946, directing the cancellation of bail and the arrest of petitioner, and the order of the said Judges dated April 13, 1946, denying petitioner's motion for reconsideration are hereby set aside; and the People's Court is hereby ordered to admit petitioner to a new bail in the sum of P20,000, without prejudice to the right of the Office of Special Prosecutors thereafter to petition the People's Court for the cancellation of said bail, which petition shall be heard and decided in accordance with the opinion herein. Without costs.

Feria, Pablo, Hilado, JJ., and De la Rosa, Santos, Angeles, Ramos, and Benitez, Acting JJ., concur.

FERIA, J.:

I hereby certify that Acting Associate Justice Nicasio Yatco voted in accordance with this decision, but could not sign the same because of his being assigned in Sta. Cruz, Laguna.

PERFECTO, J., concurring and dissenting:

We concur in the majority opinion in so far as it reiterates the principles and doctrines which we have enunciated in our dissenting or concurring opinions in *Duran vs. Abad Santos*, (42 Off. Gaz., 263, 1945), in *Herras Teehankee vs. Rovira*, (75 Phil., 634), in *Teehankee vs. Director of Prisons*, (76 Phil., 756), and in *Ocampo vs. Bernabe*, (p.55, ante).

We also fully agree with the pronouncement that the proceedings had before one of the respondent judges without the presence of at least another one, are null and void, being in violation of the People's Court let which provides that two judges shall constitute a quorum for the sessions in division of the People's Court and that, in the absence of a quorum, the division shall stand ipso facto adjourned until such time as the requisite number shall be present.

But, as in *De la Rama vs. Misa*, (42 Off. Gaz., 1544), in *Ocampo vs. Bernabe*, supra, and lastly in *De la Rama vs. People's Court* (p. 461, ante), we are compelled to dissent from the dispositive part of the majority opinion in the present case as being inconsistent with the legal principles and doctrines enunciated as, premises in the body of the majority opinion.

We are of opinion that petitioner Procopio Beltran is entitled to immediate release, without the necessity of posting any new bond, as his bond in the amount of P20,000, posted on September 15, 1945, must be considered surviving and continued by the decision setting aside the order of respondent judges dated March 14, 1946, ordering the cancellation of the bail and the arrest of the petitioner, and the one dated April 13, 1946, denying petitioner's motion for reconsideration.

The orders of March 14 and April 13, 1946, being null and void as having been issued in violation of law and with grave abuse of discretion, must be, for all legal purposes, considered as if they had not been issued at all and, therefore, they have not the effect of cancelling the bail of petitioner. It is, besides, highly unjust to compel petitioner to support the heavy expenses entailed in posting a new bond in the amount of P20,000.

If logic and consistency have any meaning, the annulment of the two orders complained of must restore petitioner to the legal status which was illegally disturbed by the two illegal orders. Petitioner must be set free and given freedom on the bail bond posted on September 15, 1945.

To require petitioner to file a new bond in the amount of P20,000, which must be submitted to the approval of the People's Court, and to reserve to the Office of Special Prosecutors the right or privilege "to petition the People's Court for the cancellation of said bail," seems to us not only contrary to all elements of consistency, but tends to make of judicial procedure not as a means of settling rights and ending litigations, but as a sort of cloth of Penelope or a jigsaw puzzle which is made and broken, remade and again broken, until the player gets tired or exhausted.

We vote to order the immediate release of petitioner on his bail bond posted on September 15, 1945, without the necessity of filing another one.

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