

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. HIGINIO MACADAEG, HON. POTENCIANO PECSON, HON. RAMON SAN JOSE, AS CHAIRMAN AND MEMBERS, RESPECTIVELY, OF THE SEVENTH GUERRILLA AM...

G.R. No. L-4316. May 28, 1952

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an action of prohibition against the Seventh Guerrilla Amnesty Commission, composed of Honorables Higinio Macadaeg, Potenciano Pecson, and Ramon R. San Jose, Judges of the Court of First Instance of Manila, to restrain and prevent it from taking jurisdiction and cognizance of a petition for amnesty filed by respondent Antonio Guillermo, alias Silver, who was convicted and sentenced by this Court on May 19, 1950, for murder in G.R. No. L-2188.[*] The grounds upon which the petition are based are (1) that this Court has already expressly ruled in its judgment of conviction in said case that said Antonio Guillermo is not entitled to the benefits of amnesty, because the murders of which he was convicted were committed "not in furtherance of the resistance movement but in the course of a fratricidal strife between two rival guerrilla units," and (2) that the Seventh Guerrilla Amnesty Commission can take cognizance only of cases pending appeal in the Supreme Court on October 2, 1946 (date of Administrative Order No. 11 of the President), and Guillermo's case was not pending appeal in this Court at that time. The respondents filed answers independently of each other, and with the exception of Judge Ramon R. San Jose, they oppose the petition, alleging (1) that the decision of this Court does not prevent the respondent Antonio Guillermo from invoking his right to the provisions of the amnesty, because said right was not at issue at the trial of the case against him, and the pronouncement of this Court thereon is not final and conclusive and is merely an obiter dictum, and (2) that under a liberal interpretation of the administrative orders implementing the President's Amnesty Proclamation, the respondent Commission has jurisdiction of said petition.

The record discloses that the original information against respondent Antonio Guillermo was filed in the Court of First Instance of Ilocos Norte on September 16, 1946, and an amended information, on July 15, 1947. The Court of First Instance rendered judgment on March 29, 1948. Thereupon, Guillermo presented an appeal to this Court, and this Court rendered its judgment on May 19, 1950. On June 5, 1950, Guillermo's counsel filed a motion for reconsideration, but this motion was denied on July 13, 1950. On June 20, 1950, even before his motion for reconsideration was acted upon, respondent Guillermo filed a motion with this Court for the suspension of the proceedings and the reference of the case to the Seventh Guerrilla Amnesty Commission, but this motion was denied by this Court on July 13, 1950. Antonio Guillermo filed his petition for amnesty with the respondent Commission on July 8, 1950. On August 2, 1950, the records of the case against Guillermo were remanded to the clerk of the Court of First Instance of Ilocos Norte for the execution of the judgment, and on October 17, 1950, the respondent Commission required the clerk of the Court of First Instance of Ilocos Norte to forward the records of the case to it, and on November 9, 1950, it set the case for hearing over the opposition of the Solicitor General.

It was at this stage that this action of prohibition was filed in this Court.

The first ground upon which the opposition to the petition is based, namely, that the holding of this Court that the respondent Guillermo is not entitled to the benefits of the amnesty proclamation, is merely an obiter dictum, is without any legal foundation, and must be dismissed. An obiter dictum is an opinion "uttered by the way, not upon the point or question pending, as if turning aside from the main topic of the case to collateral subjects" (Newman vs. Kay, 49 S.E. 926, 931, 57 W. Va. 98, 68 L.R.A. 908, 4 Ann. Cas. 39, citing United States ex rel. Johnston vs. Clark County Court, 96 U.S. 211, 24 L. Ed. 628), or the opinion of the court upon any point or principle which it is not required to decide (29 Words & Phrases 15), or an opinion of the court which does not embody its determination and is made without argument or full consideration of the point, and is not the professed deliberate determinations of the judge himself (29 Words & Phrases 13.). A cursory reading of the decision of this Court in G. R. No. L-2188[*] against respondent Antonio Guillermo discloses that the ruling of the Court that the said respondent is not entitled to the benefits of the amnesty is not an obiter dictum, but is a ruling of the Court on an issue expressly raised by the party appellant on facts or evidence adduced in the course of the trial of his case. It is not an opinion uttered by the way; it is a direct ruling on an issue expressly raised by a party. It was not unnecessary to make that ruling; the ruling was absolutely essential to a determination of a question of fact and of law directly in issue. It was not made without argument or full consideration of the point; it was deliberately entered by the Court after arguments on both sides had been heard. This Court could not have avoided determining the issue without the peril of rendering an incomplete decision.

Hereinbelow we quote portions of the decision of this Court, from which it can readily be seen that it had before it evidence in support of the claim of amnesty expressly raised before the Court, and its ruling that appellant was not entitled thereto.

* * * * *

Apparently realizing the inconsistency and untenability of that position, appellant also contends that granting for the sake of argument that the accused was the author of the crime, there is proof "that the ill-starred seven were charged of (with) being spies for the Japanese."

The insincerity and weakness of this last-ditch plea is manifest. Appellant does not claim that he killed the seven victims because he had proof and believed that they were spies for the Japanese. He merely says they were charged (by Sagad) with being spies for the Japanese.

* * * * *

At any rate, the amnesty proclamation now invoked is not applicable. We are satisfied from the proofs that the massacre in question was committed not in furtherance of the resistance movement but in the course of a fratricidal strife between two rival guerrilla units. That was to hinder and not to further the resistance against the Japanese enemy. It was a shame: And it would be adding insult to injury to stigmatize the memory of the unfortunate victims of such lust for power and supremacy as spies and traitors to their country, in the absence of competent proof that they really were. We spurn the baseless suggestion as rank injustice.

A more serious contention is, May not respondent Guillermo raise the issue before the corresponding guerrilla amnesty commission in view of our ruling in the case of Viray vs. Crisologo, et al.[*] G. R. No. L-2540, in which we held that the fact that the defendant has declined to take advantage of the amnesty proclamation at the beginning of his trial before a court martial does not preclude him from invoking it after he was found guilty and convicted. The express holding of this Court in that case is as follows:

In our opinion the fact that respondent Crisologo had declined to take advantage of the amnesty proclamation at the beginning of his trial before the court martial does not now preclude him from invoking it, especially

after he was found guilty and convicted. Before his trial, he may and he must have entertained the idea and the belief that the killing was justified and was done in the performance of his duties as an official according to the criminal law, and that consequently there was no need for amnesty. However, after the court martial had disagreed with him and disabused him of his belief, he realised the necessity of invoking amnesty. There is nothing in the law that stands in his way toward seeking the benefits of a law which in his opinion covers and obliterates the act of which he had been found criminally responsible.

We hold that the above cited case is not applicable to the case at bar, for in that case the defendant did not invoke the benefits of the amnesty at the time of the trial or on appeal, and only did so after he had been adjudged guilty and convicted, while in the case at bar he did so. It is true that the appellant Guillermo did not expressly plead amnesty, but facts and circumstances surrounding the commission of the act charged against him as an offense were disclosed at the trial, from which facts and circumstances he later predicated the issue, before this Court, that he was entitled to the benefits of the amnesty. It may be true that the appellant Guillermo did not expressly plead amnesty as a defense at the trial of his case. But the rules on criminal procedure do not include amnesty as one of those defenses which shall have to be expressly pleaded, (Section 1, Rule 113, Rules of Court.) Even without an express plea of amnesty, a defendant may submit evidence that the commission of the act imputed to him falls within the provisions of the amnesty proclamation, without a previous formal announcement of such a defense before or during the trial. And even without such express plea, if the court finds that the case falls under the provisions of the amnesty proclamation, it is the duty of the court to declare that fact, if the facts justify such a finding, and extend the benefits of the amnesty to him.

* * *, and the accused, during such trial, may present evidence to prove that his case falls within the terms of this amnesty. If that fact is legally proved, the trial judge shall so declare and this amnesty shall be immediately effective as to the accused, who shall forthwith be released or discharged. (Proclamation No. 8, September 7, 1946, 42 Off. Gaz., No. 9 p. 2073.)

That the respondent herein Guillermo did submit evidence to that effect is inferred from the claim of his counsel in the case against him that "there is proof that the ill starred seven were charged with being spies for the Japanese." Not only that, he expressly raised that issue in this Court on appeal. May he raise this issue again before the guerrilla amnesty commission, and thus have this administrative body reverse or change the finding of this Court?

Under the circumstances of the present case, we hold that he should no longer be permitted to do so in view of "the general rule common to all civilized systems of jurisprudence that the solemn and deliberate sentence of the law, pronounced by its appointed organs, upon a disputed fact or state of facts, should be regarded as a final and conclusive determination of the question litigated, and should forever set the controversy at rest. Indeed it has been well said that this maxim is more than a rule of law, more even than an important principle of public policy; and that it is a fundamental concept in the organization of every jural society." (Peñalosa vs. Tuason, 22 Phil., 303, 310; Section 44, Rule 39, Rules of Court).

It is also argued, in support of the claim that this Court had no jurisdiction to make the ruling that respondent Guillermo is not entitled to amnesty, that the guerrilla amnesty commissions are the first ones to pass upon petitions for amnesty, that regular judicial tribunals can not rule upon such an issue (of amnesty) unless it has first been resolved by a commission, and that these are not judicial tribunals but administrative bodies acting as arms of the chief executive in carrying out the purposes of the amnesty proclamation, which is merely a form of executive clemency. It is true that the grant of amnesty originates in an executive act. But the proclamation was issued under express authority of the Constitution [Article VII, Section 10 (6)], was expressly sanctioned by the Congress (Resolution No. 13 dated September 18, 1946), and has the nature, force, effect, and operation of a law. That the cognizance of applications for amnesty is vested in the guerrilla amnesty commissions as mere screening

bodies is not denied, but there is nothing in the proclamation to support the contention that the authority to decide any claim for amnesty is to be exercised by said commissions alone, to the exclusion of the courts. Neither can it be denied that any one charged before the courts may claim amnesty as a defense, waive the filing of an application therefor, and submit evidence thereof in the trial of his case. In this latter case it would be a cumbersome procedure, indeed, if said defense were first required to be submitted to a commission for decision, later to be reviewed by a court. The only sensible interpretation of the law is that while all applications should be passed upon by commissions, an accused may, instead of filing an application, choose the alternative remedy of just raising the issue in a court of justice in the trial of his case. And if this second alternative is chosen, the applicant should be declared estopped from contesting the decision, as well as the authority of the court that adversely passed upon his claim.

But there are further and other considerations, also weighty and important, that attend respondent Guillermo's petition for amnesty. His is not one filed during the pendency of his case in the Court of First Instance; it is a petition filed after final judgment of conviction in this Supreme Court. It does not appear in the record that during the one and one-half-year period (September 16, 1946, to March 29, 1948) that his case was being coursed and tried in the Court of First Instance of Ilocos Norte, that he ever filed an application for amnesty. Neither does it appear that the provincial fiscal has ever reported Guillermo's case to the Guerrilla Amnesty Commission for Ilocos Norte, pursuant to the direct mandate of the amnesty proclamation. Nor did Guillermo ever claim amnesty as his defense at the time of the trial. May we not justly infer from these positive circumstances that, during all the time the case was pending and up to the filing of appellant's brief in the Supreme Court, amnesty was never thought of as a defense, either by the accused himself or by the fiscal, or by the judge trying the case? As a matter of fact, this Court found that the issue of amnesty raised in this Court on appeal was a "last-ditch plea." Guillermo only thought of amnesty on June 20, 1950, after this Court had found him guilty, overruling his defense of amnesty, and before his motion for reconsideration was denied. We are, therefore, constrained to hold that his present petition is not entirely free from a reasonable suspicion as to its ends and purposes. It seems to us to be a last desperate attempt by technicality to avert or delay the execution of the judgment of conviction rendered against him. Of course, no court of justice would countenance such an ill-advised attempt.

The second ground upon which the petition for prohibition is based is that the Seventh Guerrilla Amnesty Commission has no jurisdiction to take cognisance of respondent Guillermo's application. We also find this contention to be correct. Administrative Order No. 11, which creates the guerrilla amnesty commissions, expressly assigns to the Seventh "cases from the different provinces and cities now pending appeal in the Supreme Court." (*Italics ours.*) Said administrative order was promulgated on October 2, 1946, on which date the criminal case against respondent Guillermo was still pending in the Court of First Instance of Ilocos Norte. His case was a case in the province (Ilocos Norte) assigned to the Second Guerrilla Amnesty Commission. Respondents cite Administrative Order No. 217 of the Department of Justice dated December 1, 1943, to support their claim that the Seventh has jurisdiction of the application, because on that date Guillermo's case was already pending in the Supreme Court. This department order was issued, as it expressly states, "in view of the appointments of new Judges of First Instance," not for the purpose of setting forth cases cognizable by each of the different commissions, which the President had already done. Besides, it can not be interpreted to modify the President's administrative order apportioning the cases among the amnesty commissions.

In resume of our conclusions, we state (1) that the finding of this Court that Guillermo is not entitled to the benefits of amnesty, is not an obiter dictum but a pronouncement on a material issue, and is final and conclusive against him and may not, under the principle of *res judicata*, be again raised in issue by him in any tribunal, judicial or administrative; (2) that having voluntarily raised the issue in this Court during the consideration of his case, he is now estopped from contesting the judgment, or the jurisdiction of the court that rendered the adverse

ruling; (3) that his petition is an ill-advised attempt of doubtful good faith, to arrest or delay the execution of a final judgment of conviction; and (4) that the respondent Commission has no jurisdiction to take cognizance of the application for amnesty.

Wherefore, the petition for prohibition is hereby granted, and the preliminary injunction issued by this Court on November 24, 1950, made absolute, with costs against respondent Antonio Guillermo, alias Silver.

Paras, C.J., Feria, Pablo, Bengzon, Tuason, Montemayor, and Bautista Angelo, JJ., concur.

* 86 Phil. 395.

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