

AQUILINA R. ARANETA, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-46638. July 09, 1986

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition to review the decision of the then Court of Appeals, now Intermediate Appellate Court, finding the accused appellant guilty of the crime of bribery. The dispositive portion of the decision reads:

"WHEREFORE, modifying the judgment of conviction, We hereby find the defendant guilty beyond reasonable doubt of the crime of bribery under the second paragraph of Article 210 of the Revised Penal Code; and there being no mitigating or aggravating circumstances, We hereby impose upon her the penalty of imprisonment consisting of four (4) months and twenty-one (21) days and a fine of P100.00. The defendant shall also suffer the penalty of special temporary disqualification from holding office. With costs."

Atty. Aquilina Araneta was charged with violation of Section 3, Subsection B of Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act" in an information which reads:

"That on or about the 26th day of August, 1971, in the City of Cabanatuan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then employed as Hearing Officer in the Department of Labor, with station at Cabanatuan City, and therefore, a public officer, did then and there wilfully, unlawfully, and feloniously demand and receive for herself the amount of One Hundred Pesos (P100.00), Philippine Currency, from one Mrs. Gertrudes M. Yoyongco, as a condition and/or consideration for her to act on the claim for compensation benefits filed by the said Mrs. Gertrudes M. Yoyongco pertaining to the death of her husband, which claim was then pending in the office wherein the above-named accused was employed and in which, under the law, she has the official capacity to intervene."

The evidence for the prosecution is summarized by the respondent appellate court in its decision as follows:

"Complainant Gertrudes M. Yoyongco is the widow of Antonio Yoyongco, an employee of the National Irrigation Administration assigned as instrument man at the Upper Pampanga River Project. Upon the death of her husband on April 27, 1971, she ap-proached the appellant, a hearing officer of the Workmen's Compensation Unit at Cabanatuan City, to inquire about the procedure for filing a claim for death compensation. Learning the requirements, she prepared the application forms and attach-ments and filed them with the Workmen's Compensation Unit at San Fernando, Pampanga. (pp. 2-13, TSN, October 3, 1973).

"After a few days, the complainant went back to San Fernando to verify the status of her claim. She was informed that the death certificate of her husband, their marriage contract and the birth certificates of their children were needed. She secured these documents and brought them to San Fernando. She was told that her claim papers had been forwarded to Cabanatuan City, particularly to the appellant, for consolidation of the require-ments. So she went to see the appellant. (pp. 13-18, TSN, October 3, 1973).

"When she saw the appellant, the complainant was told that she had to pay P100.00 so that her claim would be acted upon. The complainant told the appellant that she had no money then, but if the appellant would process her claim she would give her the P100.00 upon its approval. The appellant was adamant. She would not agree to the complainant's pro-posal. According to her, on previous occasions certain claimants made similar promises but they failed to live up to them. (pp. 18-24, TSN, October 3, 1973).

"The complainant went to her brother-in-law, Col. Yoyongco, erstwhile chief of the Criminal Investigation Service, Philippine Constabulary, to inform him of the demand of the appellant. Col. Yoyongco gave the complainant two 50-peso bills (Exhibits B and B-1) and instructed her to go to Col. David Laureaga, Provincial Commander of Nueva Ecija, for help. (pp. 24--25, TSN, October 3, 1973).

"After listening to the complainant, Col. Laureaga instructed Lt. Carlito Carlos to entrap the appellant. The two 50-peso bills were marked with the notations 'CC-NE-1' and 'CC-NE-2', photographed and dusted with ultra-violet powder. With this preparation, Lt. Carlos, Sgt. Beleno, CIC Balcos and the complainant proceeded to the office of the appellant. When they arrived thereat, the appellant was talking with three persons who had a hearing before her. They allowed the three persons to finish their business with the appellant. After the group had left, the complainant and CIC Balcos who pretended to be the complainant's nephew approached the appellant. Lt. Carlos and Sgt. Beleno stationed themselves outside the room and observed events through a glass window. Aside from the appellant, the complainant and CIC Balcos, there were three other persons inside the office. These were Atty. Herminio Garcia, Renato de Lara and Gregorio Ocampo. The complainant again requested the appellant to process her claim. The appellant countered by asking her if she already had the P100.00. In answer, the complainant brought out the two 50-peso bills from her bag and handed them to the appellant. As the appellant took hold of the money, CIC Balcos grabbed her hand and told her she was under arrest. Whereupon, Lt. Carlos and Sgt. Beleno immediately entered the room and helped in the arrest of the appellant. (pp. 3-12, TSN, November 6, 1973).

"The appellant has brought to the PC headquarters where her hands were examined with a special light for the presence of ultraviolet powder. The examination was witnessed by Assistant Provincial Fiscal Talavera. The result was positive. (pp. 12-13, TSN, November 6, 1973)."

On the other hand, the petitioner presented her own version of the facts:

"On her part, the appellant testified that there was indeed an offer of P100.00 by the complainant. She declined the offer and never touched the bills when they were laid on her table. If she was found positive for ultra-violet powder, it was because CIC Balcos rubbed the bills on her hand and dress. He did it four times -- once at her office, once at the Milky way Restaurant and twice at the PC Headquarters. (Decision, Court of Appeals, Annex "A", p. 5)

"When the complainant went to the office of the appellant in Cabanatuan City, she demanded the release of the decision of her case, but appellant told her that she cannot do so for the reason that she is only a hearing officer to receive evidence about the claim for compensation due to the death of her husband, and the real office to decide the case is that Workmen's Compensation Branch in San Fernando, Pampanga. The complainant went to her brother-in-law, Col. Yoyongco, Chief of the Criminal Investigation Service, Philippine Constabulary, Cabanatuan City to inform him of the demand of the appellant for P100.00. Col. Yoyongco gave complainant two fifty (P50.00) peso bills. After listening to the complainant, Col. Laureaga instructed Lt. Carlito Carlos to entrap appellant by the use of fifty (P50.00) peso bills which were marked with the notation 'CC-NE-1' and 'CC-NE-2', photographed and dusted with ultra violet powder, the two fifty-peso bills. After this preparation Lt. Carlos, Sgt. Beleno and the complainant proceeded to the office of the complainant. When they arrived in the place the

complainant was talking to the 3 persons who had then a hearing before her. After the appellant finished the hearing the complainant and the CIC Balgos who pretended to be the complainant's nephew approached the appellant. Then the complainant again requested the appellant to process her claim by this time the complainant took the 2 fifty-peso bills from her bag and gave to the appellant but the appellant pushed the money, and CIC Balgos grabbed her hand and told her appellant was under arrest. The appellant was brought to the headquarters where her hands were examined with special light for the presence of ultra-violet powder. The examination was witnessed by the Assistant Provincial Fiscal of Cabanatuan City and the result was positive. (TSN, pp. 12-13, November 6, 1973)

On the other hand, Renato de Lara, a witness for the appellant testified that he was in the office of the appellant at the time the incident took place and he saw the amount of P100.00 being offered by the complainant to the appellant but the latter refused to accept the money. When appellant refused, CIC Balgos took it, rubbed it on the hand of the appellant and announced that he was arresting her.

"Appellant further testify (sic) that complainant offered P100.00 to her to expedite the preparation of the decision of her claim and said complainant put two fifty peso bills in her table after which she was arrested and investigated and a complaint was filed against her for violation of the Anti-Graft and Corrupt Practices Act."

After trial, the lower court convicted the petitioner as charged. The dispositive portion of the decision reads:

"WHEREFORE, the Court hereby finds the accused Atty. Aquilina R. Araneta guilty beyond reasonable doubt of the crime charged in the information and hereby sentences her to suffer imprisonment for ONE (1) YEAR, with perpetual disqualification from public office, and to pay the costs. The P100.00 consisting of two fifty-peso bills which were marked as Exhibits 'B' and 'B-1' are hereby ordered returned to Mrs. Gertrudes Yoyongco who owns them."

As indicated earlier, the respondent appellate court modified the decision of the lower court and convicted the petitioner instead of the crime of bribery under the second paragraph of Article 210 of the Revised Penal Code.

The petitioner now assigns the following errors:

I

THE COURT OF APPEALS ERRED IN NOT ACQUITTING THE PETITIONER ON THE BASIS OF ENTRAPMENT EVIDENCE DEvised BY MEMBERS OF THE PHILIPPINE CONSTABULARY IN CABANATUAN CITY.

II

THE COURT OF APPEALS ERRED IN CONVICTING THE PETITIONER OF BRIBERY WHERE SUCH CRIME WAS NOT CHARGED IN THE INFORMATION FILED BY THE FISCAL AGAINST THE PETITIONER.

III

THE COURT OF APPEALS ERRED IN NOT ACQUITTING THE PETITIONER FOR THE PROSECUTION FAILED TO PROVE THE GUILT OF THE PETITIONER BEYOND REASONABLE DOUBT.

Relative to the first error, the petitioner submits that the criminal intent originated in the mind of the entrapping person and for which reason, no conviction can be had against her.

This argument has no merit.

The petitioner confuses entrapment with instigation. We agree with the submission of the Solicitor General that:

xxx xxx xxx

"x x x There is entrapment when law officers employ ruses and schemes to ensure the apprehension of the criminal while in the actual commission of the crime. There is instigation when the accused was induced to commit the crime (People v. Galicia, [CA], 40 OG 4476). The difference in the nature of the two lies in the origin of the criminal intent. In entrapment, the mens rea originates from the mind of the criminal. The idea and the resolve to commit the crime comes from him. In instigation, the law officer conceives the commission of the crime and suggests to the accused who adopts the idea and carries it into execution.

"The legal effects of entrapment and instigation are also different. As already stated, entrapment does not exempt the criminal from liability. Instigation does."

Even more emphatic on this point is People v. Lua Chu and Uy Se Tieng (56 Phil. 44) where this Court ruled that the mere fact that the Chief of Customs Secret Service pretended to agree to a plan for smuggling illegally imported opium through the customs house, in order to assure the seizure of the said opium and the arrest of its importers is no bar to the prosecution and conviction of the latter. In that case, this Court quoted with approval 16 Corpus Juris, p. 88, Sec. 57, which states that:

"ENTRAPMENT AND INSTIGATION.? While it has been said that the practice of entrapping persons into crime for the purpose of instituting criminal prosecutions is to be deplored, and while instigation, as distinguished, from mere entrapment, has often been condemned and has sometimes been held to prevent the act from being criminal or punishable, the general rule is that it is no defense to the perpetrator of a crime that facilities for its commission were purposely placed in his way, or that the criminal act was done at the 'decoy solicitation' of persons seeking to expose the criminal, or that detectives feigning complicity in the act were present and apparently assisting in its commission. Especially is this true in that class of cases' where the offense is one of a kind habitually committed, and the solicitation merely furnishes evidence of a course of conduct. Mere deception by the detective will not shield defendant, if the offense was committed by him free from the influence or the instigation of the detective. x x x"

Anent the second assignment of error, the petitioner argues that she was denied due process of law because she was not charged with bribery in the information but for a crime falling under the Anti-Graft and Corrupt Practices Act.

Again, this argument is erroneous. The contention of the petitioner was squarely answered in United States v. Panlilio (28 Phil. 608) where this Court held that the fact that the information in its preamble charged a violation of Act No. 1760 does not prevent us from finding the accused guilty of a violation of an article of the Penal Code. To the same effect is our ruling in United States v. Guzman (25 Phil. 22) where the appellant was convicted of the crime of estafa in the lower court, but on appeal, he was instead convicted of the crime of embezzlement of public funds as defined and penalized by Act No. 1740.

As long as the information clearly recites all the elements of the crime of bribery and the facts proved during the trial show it having been committed beyond reasonable doubt, an error in the designation of the crime's name is not a denial of due process.

In United States v. Paua (6 Phil. 740), this Court held that:

"The foregoing facts, duly established as they were by the testimony of credible witnesses who heard and saw

everything that occurred, show beyond peradventure of doubt that the crime of attempted bribery, as defined in article 387, in connection with article 383 of the Penal Code, has been committed, it being immaterial whether it is alleged in the complaint that section 315 of Act No. 355 of the Philippine Commission was violated by the defendant, as the same recites facts and circumstances sufficient to constitute the crime of bribery as defined and punished in the aforesaid articles of the Penal Code."

Our review of this decision shows that the crime for which the petitioner was convicted has been proved beyond reasonable doubt.

WHEREFORE, the petition for review is hereby DISMISSED for lack of merit. The decision of the respondent court is AFFIRMED without costs.

Considering however, that this case has been pending since 1971, that the amount involved is only P100.00 and that the defendant-appellant is a mother of four, it is recommended that the petitioner either be granted executive clemency or be given the privilege of probation if she is qualified.

Let a copy of this decision be furnished the Ministry of Justice for appropriate action.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Paras, JJ., concur.

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