

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODOLFO LABAO ALIAS KA RUDY, AND CESAR VILLANUEVA Y MIGUEL, ACCUSED-APPELLANTS.

G.R. No. 102826. March 17, 1993

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

It is settled doctrine long cherished since 1917^[1] that a decision cannot be validly prepared and signed, much less promulgated, by a judge after he has retired. This notwithstanding, Judge Florentino F. Calica of the Regional Trial Court of Tuao, Cagayan, Br. 11, rendered the judgment under review two and a half (2-1/2) months after he left the Bench and his successor-in-office, Judge Hilarion L. Aquino, promulgated the same two (2) months thereafter.

In the case before Us, accused-appellants Rodolfo Labao and Cesar Villanueva were charged before the Regional Trial Court of Tuao, Cagayan, with the crime of robbery with homicide. After pleading not guilty on arraignment, the case was tried until it was submitted for decision before Judge Calica on 30 April 1991 (Crim. Case No. XI-202-T).

Earlier On 12 April 1991, Judge Calica applied for optional retirement under R.A. 910, as amended by R.A. 5095 and P.D. 1438. As required under S.C. Circular No. 16 dated 2 December 1986, he specified in his application 16 June 1991 as the date of effectivity of his retirement. For the guidance of all members, officials and employees of the judiciary, We quote hereunder pertinent portions of S.C. Circular No. 16 in filing applications for optional retirement:

“1. All applications for optional retirement shall specify the date of effectivity thereof and not leave the same effective 'upon approval of the Court.'

“2. All such applications, together with all the necessary documents in support thereof, shall be filed with the Office of the Court Administrator at least two (2) months prior to its effective date, either personally or by special delivery.

“3. Within one (1) month following the filing of his application, the applicant must inquire and verify from the Court Administrator as to the status of his application.

“4. When the specified date of retirement is reached, without the applicant receiving any notice of approval or denial of his application, he shall cease working and discharging his functions, unless directed otherwise" (underscoring supplied).

On 30 May 1991, We approved the retirement of Judge Calica effective 16 June 1991, the date he had earlier indicated in his application. Whether he received Our resolution approving his optional retirement prior to its effectivity is of no moment considering that under Circular 16 he was supposed to inquire and verify the status of his application for retirement from the Court Administrator within one (1) month following the filing of his

application (par. 3), and that should he not receive any notice of approval or denial of his application on the requested date of effectivity of his retirement, he should have automatically ceased working or discharging his functions unless directed otherwise (par. 4).

Strangely, on 4 September 1991 or about two and a half (2-1/2) months after the effectivity of his retirement, Judge Calica decided Crim. Case No. XI-202-T finding accused-appellants guilty of robbery with homicide and sentencing them to reclusion perpetua. On 5 November 1991, Judge Hilarion L. Aquino, who was designated Acting Presiding Judge of Br. 11 vacated by the retiring Judge under Administrative Order No. 87-91, promulgated the decision of 4 September 1991 written by Judge Calica.

The only issue to be resolved in the instant appeal by the accused is the validity of the decision penned by Judge Calica on 4 September 1991 after he had retired from office on 16 June 1991. A corollary issue may also be raised: assuming that Judge Calica signed his decision before his effective date of retirement, could it have been validly promulgated afterwards by his successor in office? In this regard, even the Solicitor General prays in his "Manifestation in Lieu of Appellee's Brief" that the decision of the retired judge be set aside and that the record of the case be remanded to the trial court for the preparation and promulgation of a new decision.

We have consistently ruled that for a judgment to be valid, it must be duly signed and promulgated during the incumbency of the judge who signed it[2]. Thus, a decision penned by a judge after his retirement cannot be validly promulgated; it cannot acquire a binding effect as it is null and void[3]. Verily, when Judge Calica optionally retired on 16 June 1991 he ceased to be a judge of the court where he sat in judgment. Consequently, with him also "retired" all his authority to decide any case, i.e., to write, sign and promulgate the decision thereon. In other words, he had lost entirely his power and authority to act on all cases assigned to him prior to his retirement.

WHEREFORE, the decision of Judge Florentino F. Calica in Crim. Case No XI-202-T is declared null and void having been issued and promulgated after his retirement. This case is ordered remanded to the court of origin for adjudication and promulgation of a new decision.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, and Quiason, JJ., concur.

[1] See *Luna v. Rodriguez*, 37 Phil. 186 (1917). While the *Luna* case may have lost its earlier relevance due to the much later case of *Valentin v. Sta. Maria*, No. L-30158, 17 January 1974, 55 SCRA 4, which formally abandoned the doctrine laid down in *People v. Soria*, No. L-25175, 1 March 1968, 22 SCRA 948; *Ong Siu v. Paredes*, No. L-21638, 26 July 1966, 17 SCRA 661; and, *Garchitorena v. Crescini*, 37 Phil. 675, which dealt principally with the question of whether a judge permanently transferred to a court of equal jurisdiction may still decide cases heard by him in his former sala, there is no deviation from the authoritative norm that a judge who has retired has no legal authority to promulgate a decision, let alone write one as in the present case.

[2] *Lao v. To-Chip*, G.R. No. 76597, 26 February 1988, 158 SCRA 243; *People v. So*, 101 Phil. 1257 (1957); *Consolidated Bank and Trust Corporation v. Intermediate Appellate Court*, G.R. Nos. 73777-78, 12 September 1990, 189 SCRA 433.

[3] See *Jandayan v. Ruiz*, No. L-37471, 28 January 1980, 95 SCRA 562; *Jimenez v. Republic*, No. L--24529, 17 February 1968, 22 SCRA 622; *Solis v. Court of Appeals*, Nos. L-29777-83, 26 March 1971, 38 SCRA 53.

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