

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS, REGIONAL TRIAL COURT OF LANA O DEL NORTE, BRANCH V, AND CASAN MAQUILING, RESPONDENTS.

G.R. No. 104709. March 07, 1995

Ponente: PADILLA, J.

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PADILLA, J.:

Petitioner People questions the decision* of respondent Court of Appeals dated 13 March 1992, rendered in CA-G.R. SP No. 26868, which declared as null and void the orders of 29 October 1991 and 03 December 1991 rendered by the RTC of Lanao del Norte, Iligan City, Branch 5 in Criminal Case No. 1996 [for murder] and Criminal Case No. 2124 [for frustrated homicide]. The dispositive part of the decision of the Court of Appeals reads:

"WHEREFORE, the petition is GRANTED. The challenged orders of September 25 and December 3, 1991 and all subsequent proceedings thereunder are hereby declared null and void. Respondent Judge is directed to give due course to the appeal of the accused and to fix his bail pending appeal, pursuant to Administrative Circular 2-92." [1]

The issues in this case arose when the court a quo, after convicting private respondent in the aforesaid Criminal Cases Nos. 1996 and 2124, approved his motion to withdraw the notice of appeal he had earlier filed therein, and later declared its judgment of conviction against private respondent, dated 25 September 1991, as final and executory.

The antecedent facts of the case, as found by respondent appellate court, are as follows:

"(1) Petitioner (now private respondent) was charged with, and is the [sic] accused of, a twin offense, viz: murder docketed as Criminal Case No. 1996 and frustrated murder in Criminal Case No. 2124, before the respondent (trial) court.

(2) Petitioner's motion for bail pendente lite was denied. Thus, petitioner was detained during the time that the two cases were heard on the merits.

(3) Following a full-blown trial, petitioner was adjudged guilty of homicide in Criminal Case No. 1996 and serious physical injuries in Criminal Case No. 2124, in a Decision promulgated on 25 September 1991, where petitioner was sentenced to imprisonment for a maximum aggregate period of FIFTEEN YEARS & SIX MONTHS and ordered to pay x x x civil indemnity of TWO MILLION SIX HUNDRED FIFTY-TWO THOUSAND (P2,652,000.00) PESOS.

(4) In the afternoon of 25 September 1991, petitioner filed a Notice of Appeal and Motion to Fix Bail. Said motion was requested by petitioner to be heard on 30 September 1991, but was set for hearing by respondent court on 10 October 1991, the last day of the fifteen (15) day period to appeal.

(5) On 27 September 1991, petitioner filed a motion to withdraw notice of appeal because of his desire to file a

motion for reconsideration. Petitioner prayed:

WHEREFORE, it is prayed that accused be allowed to withdraw his Notice of Appeal so as to afford him the opportunity to file a Motion for Reconsideration of the decision of the Honorable Court.

(6) On 30 September 1991, respondent court issued an order, giving due course to petitioner's motion to withdraw appeal.

(7) Respondent prosecutor filed a motion for execution of the judgment promulgated on 25 September 1991, on the ground that (under Section 12, Rule 122 of the Rules of Court) with the withdrawal of the appeal, the judgment has become final.

(8) Petitioner filed an opposition/objection to respondent prosecutor's motion for execution because Section 12, Rule 122, Rules of Court, applies only if accused has clearly and unequivocally renounced or waived his right to appeal.

(9) On 7 October 1991, which is well within the period of appeal, petitioner, as prayed for in his motion to withdraw notice of appeal filed his Motion for Reconsideration of the judgment of conviction promulgated on 25 September 1991.

(10) On 29 October 1991, respondent court issued the challenged order declaring the judgment of conviction promulgated on 25 September 1991, as FINAL AND EXECUTORY; and consequently, ORDERING THE ISSUANCE OF A WRIT OF EXECUTION. Respondent Judge refused to act on petitioner's pending Motion to Fix Bail and Motion for Reconsideration and decreed:

WHEREFORE, the foregoing premises considered, it is hereby ordered:

[1] That the motion for execution of judgment is granted; and

[2] The motion for reconsideration as well as the motion to fix bail bond will no longer be entertained by this Court, because the judgment here has become final and executory. (Annex "A").

Petitioner filed a Motion for Reconsideration of the 29 October 1991 order of the respondent court. This was denied on December 4, 1991." [2]

Private respondent (the accused) thereupon filed with the Court of Appeals, thru counsel, a petition for certiorari dated 07 December 1991, docketed as CA-G.R. SP No. 26868, assailing the aforesaid orders of 29 October 1991 and 03 December 1991 issued by the trial court. [3]

On 13 March 1992, the appellate court, as earlier stated, rendered its decision, now assailed, declaring as null and void the questioned orders of the RTC, Iligan City, Branch 5.

Meanwhile, after the trial court had issued its order of 29 October 1991 declaring its judgment of conviction as final, private respondent escaped from prison on 11 November 1991. However, on 25 March 1992, or after the Court of Appeals had rendered its decision on 13 March 1992, private respondent re-appeared and surrendered to the court a quo and he posted bail. Said court approved the bail bond of private respondent and ordered his release. On that same day, 25 March 1992, the court a quo acted on private respondent's motion for reconsideration by denying the same. [4] The following day, 26 March 1992, private respondent filed with the court a quo his new notice of appeal.

Hence, petitioner People filed this present petition, thru counsel of private complainant, assailing the decision of the Court of Appeals dated 13 March 1992.

The two (2) main issues in this recourse are: First - whether private respondent should still be allowed to appeal from the judgment of the court a quo, dated 25 September 1991, notwithstanding his withdrawal on 27 September 1991 of his notice of appeal filed on 25 September 1991; Second — If he is allowed to interpose an appeal, what would be the effects of his escape from prison on 11 November 1991, on his right to appeal?

We rule against the petition.

On the first issue, the trial court ruled that when private respondent moved on 27 September 1991 to withdraw his notice of appeal of 25 September 1991, such withdrawal could only mean that he wanted the judgment rendered against him to become final and executory. The trial court invoked, for authority, Section 12, Rule 122 of the Rules of Court which provides:

"Section 12. - Withdrawal of appeal.— Notwithstanding the perfection of the appeal, the Court of First Instance may allow the appellant to withdraw his appeal before the record has been forwarded by the Clerk of Court to the appellate court as provided in Section 8, in which case the judgment shall become final."

On the other hand, respondent Court of Appeals (in reversing the trial court) held that there is no basis for the trial court to presuppose that in withdrawing his appeal, the accused (herein private respondent) had a change of heart and had become interested in having the judgment against him become final and executory; that in fact, the motion to withdraw notice of appeal clearly expressed the reason of private respondent for the withdrawal of said notice, namely, to be able to file a motion for reconsideration of the judgment of conviction of the trial court rendered against him.

In *People v. Dela Cruz*, [5] we ruled that once a notice of appeal is filed, it cannot be validly withdrawn to give way to a motion for reconsideration, except when the accused decides to serve the sentence. However, said case would not apply to the present case because here, the court a quo itself approved such withdrawal of appeal three (3) days after the filing of the motion for withdrawal of appeal. In the *Dela Cruz* case, the trial court did not favorably act on the motion for withdrawal of notice of appeal. Further, in the present case, it was made clear in the motion to withdraw notice of appeal that private respondent had opted for such withdrawal not for the purpose of serving the sentence, but to file precisely a motion for reconsideration of the judgment of the court a quo.

If the court a quo, after approving on 30 September 1991, the withdrawal of the notice of appeal indeed believed that it had overlooked Sec. 12, Rule 122 of the Rules of Court, what it should have done was not to declare the judgment of conviction as final and executory, but to set aside its previous order approving the private respondent's motion to withdraw notice of appeal.

The trial court should have realized that declaring the judgment of 25 September 1991 as final and executory was more prejudicial and unfavorable to private respondent than reinstating the notice of appeal.

Courts, after all, are duty-bound to ascertain whether the accused in a criminal case is fully aware of the consequences of his actions especially those affecting his rights, like making a plea of guilty or, as in this case, waiving his right to appeal. Private respondent, having clearly manifested to the court a quo that he merely wanted to file a motion for reconsideration, and not to serve sentence under the judgment, the court should have been more careful in not declaring its judgment as final and executory.

Moreover, nothing in the records would show that the approval of the withdrawal of the notice of appeal and allowing private respondent to file his motion for reconsideration would adversely affect or prejudice any substantial right of petitioner People.

All told, we hold that the earlier approval by the court a quo of the private respondent's motion for withdrawal of notice of appeal, and the subsequent filing by private respondent of his motion for reconsideration of the judgment

dated 25 September 1991, were in order. Thus, we affirm the ruling of the Court of Appeals to give due course to the notice of appeal filed by private respondent of the trial court's judgment, especially after private respondent's motion for reconsideration thereof was finally denied by the trial court.

On the second issue, petitioner People argues that private respondent lost his right to appeal because on 11 November 1991 he escaped from detention. [6] The People cite Section 8, Rule 124 of the Rules of Court which provides:

"Dismissal of appeal for abandonment or failure to prosecute. — The appellate court may, upon motion of the appellee or on its own motion and notice to the appellant, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this rule, except in case the appellant is represented by an attorney de officio.

The court may also, upon motion of the appellee or on its own motion, dismiss the appeal if the appellant escapes from prison or confinement or flees to a foreign country during the pendency of the appeal."

The appellate court did not discuss in its assailed decision the effects of private respondent's escape from detention. This Court, therefore, will dwell on and resolve this material issue.

Well-settled is the rule that the "Court may upon motion of the appellee or on its own motion dismiss the appeal if the appellant escapes from prison or confinement or jumps bail or flees to a foreign country during the pendency of the appeal," and that the appellant is deemed thereby to have waived any right to seek relief from the court. [7]

Applying said rule, it would seem that indeed appellant had lost his right to appeal from the judgment of 25 September 1991, due to his escape from confinement and in the light of the provisions of Section 8, Rule 124 of the Rules of Court. However, given the gravity of the offenses for which private respondent was convicted, and the error of the court a quo in declaring the judgment against him as final and executory, this Court is compelled to undertake a careful examination of the case and the circumstances surrounding it.

It was on 7 October 1991 [8] when private respondent filed his motion for reconsideration of the decision of 25 September 1991, and thirty five (35) days later or on 11 November 1991, he escaped from prison, while said motion was pending resolution. The court a quo did not act on the motion since it had issued the questioned order of 29 October 1991 which declared the decision of 25 September 1991 as final and executory on private respondent. It was only on 25 March 1992, [9] after respondent Court of Appeals in its decision of 13 March 1992, ordered the trial court to give due course to the notice of appeal, when the court a quo acted on the said motion for reconsideration by denying the same.

After private respondent's motion for recon-sideration (of the RTC decision dated 25 September 1991) filed on 7 October 1991 was in effect reinstated, and after the trial court had finally denied the same, the question focused on whether private respondent could still be allowed to appeal from said decision notwithstanding his escape from confinement on 11 November 1991.

After careful deliberation on the issue, facts and circumstances attending this case, and in the interest of serving the ends of substantial justice, we resolve to allow private respondent to appeal from the decision of 25 September 1991.

The prosecutions involved in this case resulted from a shooting incident which took place on 3 June 1988. During the trial of the criminal cases, private respondent was confined in jail as he was not granted bail. He was originally indicted for two (2) crimes of homicide and frustrated homicide. The information accusing private respondent of homicide (for the death of Frederick Pacasum) was later amended to murder for which he was prosecuted and tried. But after trial, he was convicted of homicide and serious physical injuries in the two (2) criminal cases.

The records show that private respondent lost no time in defending himself in the criminal cases. He invoked self-defense for the death of Frederick Pacasum and the injuries caused to Oligario Villarimo.

After the decision of 25 September 1991 was rendered against him, he immediately sought relief from said decision, by filing with the court in the afternoon of 25 September 1991 his notice of appeal. But two (2) days later or on 27 September 1991, he filed a motion to withdraw notice of appeal, because of his desire to file a motion for reconsideration. When the trial court granted on 30 September 1991 the said motion to withdraw, private respondent filed the motion for reconsideration on 7 October 1991 which was well within the period of appeal. Unfortunately, on 29 October 1991, the trial court erroneously declared the decision of 25 September 1991 as final against private respondent even if it had been earlier clearly manifested by private respondent that he was withdrawing his notice of appeal because he wanted to move for reconsideration of the decision of 25 September 1991. The following day, or on 30 October 1991, private respondent filed a motion for reconsideration of the RTC order of 29 October 1991. Then, on 11 November 1991, he escaped from prison.

Meanwhile, his counsel continued to question before respondent Court of Appeals the order of the trial court dated 29 October 1991 declaring the judgment of 25 September 1991 final. When, on 13 March 1992, the Court of Appeals rendered its decision ruling therein to reinstate private respondent's motion for reconsideration of the decision of 25 September 1991, private respondent surrendered to the trial court on 25 March 1992 (or 12 days after). The next day, on 26 March 1992, private respondent filed anew his notice of appeal it with the trial court (after his motion for reconsideration was finally denied).

From all the foregoing actions of private respondent during the trial of the criminal cases, and after his conviction by the trial court, he had shown sufficient interest in defending his case. The records show no unusual and deliberate delay caused by any party in the trial of the criminal cases. It would seem that the escape of private respondent on 11 November 1991 was the only event which disrupted the proceedings in this case. Only private respondent knows the real reasons for his escape. While the courts can blame him for the delay in the final disposition of the criminal cases and for the loss of his privilege to seek relief from courts due to such escape from prison, the court a quo is equally at fault when it contributed to this delay. The court a quo in its questioned order of 29 October 1991 erred, as earlier averred, when it ruled that private respondent's act of withdrawing his notice of appeal could only mean his desire to make the judgment of conviction final against him, despite the fact that the court had earlier approved the withdrawal of the notice of appeal and private respondent had clearly manifested that he was withdrawing his appeal because he wanted to file a motion for reconsideration of the judgment of conviction against him. It is because of this order of 29 October 1991 that a controversy arose that led to the filing of the present petition.

The purpose of appeal is to bring up for review a final judgment of the lower court. [10] As held in *YBL vs. NLRC* [11] substantial justice is better served by allowing the appeal. In view of the foregoing, and if only to truly make the courts really genuine instruments in the administration of justice, we allow private respondent to appeal the judgment decreeing his conviction. Moreover, by allowing private respondent's appeal, no substantial rights of the prosecution would be prejudiced.

In addition, we note that the trial court itself admitted that it had a difficult time in determining the truth as it reviewed the evidence presented in the criminal cases, as "both prosecution and defense panel [sic] presented their evidence and built up their case skillfully and competently such that at the outset, it had some difficulty of [sic] discerning the truth." [12] Several witnesses from both parties gave different testimonies and versions as to the true facts behind the shooting incident. This difficulty in discerning the truth was even made harder when the trial court's presiding judge "came into the proceedings half way". [13]

The records of this case would show that the facts and circumstances that led to the shooting incident of 3 June 1988, and the evidence presented in the criminal cases are admittedly not simple. It is to be noted that private respondent was originally charged with homicide and frustrated homicide. The information for homicide was later amended to charge private respondent with murder (for the death of Frederick Pacasum). He was, nevertheless, finally convicted of homicide and serious physical injuries. Considering the gravity of the offenses charged and the complexity of the case, a review of the case by respondent appellate court would insure a more thorough assessment and appreciation of the evidence, and consequent review of whether respondent was, in fact, guilty of the charges against him.

Petitioner People further contends, thru the Solicitor General, that respondent Court of Appeals failed to give it the opportunity to file its comment on the petition for certiorari in CA G.R. S.P. No. 26868, hence the assailed decision dated 13 March 1992 is null and void. [14] The contention of the Solicitor General is not meritorious.

It is true, as alleged by the Solicitor General, that when criminal actions are brought to the Court of Appeals or Supreme Court, the Solicitor General must represent the People of the Philippines. [15] However, the records show that when private respondent filed his petition with the Court of Appeals (CA G.R. SP No. 26868), the latter issued a resolution requiring the Solicitor General to comment on the petition. The Solicitor General received the resolution on 20 February 1992, but instead of filing comment, he filed a motion for extension of time to file comment until 31 March 1992. It was the City Prosecutor of Lanao who filed his own comment, informing the court therein that private respondent had escaped from prison. [16]

It is, therefore, not true that the Court of Appeals did not give the Solicitor General the opportunity to be heard. Instead of, however, filing the comment, he filed the said motion for extension of time to file comment. To grant or deny motions for extension of time is addressed to the sound discretion of the courts. Settled is the rule that when a motion for extension of time is filed, lawyers should not presume that it would be granted. [17]

In sum, in the interest of substantial justice, we allow private respondent to appeal from the judgment of the court a quo dated 25 September 1991.

WHEREFORE, the petition is DENIED. The decision of the Court of Appeals dated 13 March 1992, rendered in CA-G.R. SP No. 26868, is hereby AFFIRMED.

SO ORDERED.

Davide, Jr., Bellosillo, Quiason, and Kapunan, JJ., concur.

* Penned by Justice Oscar M. Herrera with the concurrence of Justices Vicente V. Mendoza and Alicia V. Sempio-Diy.

[1] Rollo , p. 24

[2] Rollo , pp. 16-18.

[3] Rollo p. 4.

[4] Rollo , p. 118.

[5] G.R. No. 68319, 31 March 1992, 207 SCRA 632.

[6] Rollo , p. 208.

[7] People vs. Martinado, G.R. No. 92020, 19 October 1992, 214 SCRA 712.

[8] Rollo , p. 302.

[9] Id., pp. 185-186.

[10] Lansang, Jr. vs. Court of Appeals, G.R. No. 76028, 6 April 1990, 184 SCRA 230.

[11] G.R. No. 93381, 28 September 1990, 190 SCRA 160.

[12] Rollo , p. 51.

[13] Rollo , p. 51.

[14] Rollo , p. 342.

[15] People vs. Eduarte, G.R. No. 88232, 26 February 1990, 182 SCRA 750.

[16] Rollo , p. 339.

[17] Roxas vs. Court of Appeals, G.R. No. 76549, 10 December 1987, 156 SCRA 252.

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