

ZENAIDA REYES, PETITIONER, VS. COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.*G.R. No. 111682. February 06, 1997*

Ponente: MENDOZA, J.

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This is a motion for reconsideration of the resolution, dated November 29, 1995, of the Court, denying the petition for review of the decision, dated May 28, 1993, and the resolution, dated August 30, 1993, of the Court of Appeals[1] in CA-G.R. CR. No. 08410, affirming the conviction of petitioner Zenaida P. Reyes of falsification of public document. Petitioner's motion is based on her contention that because of her counsel's unexplained absences at the trial she was prevented from presenting evidence in her defense and therefore denied the due process of law.

The facts are as follows:

In an information filed on April 7, 1986 with the Regional Trial Court of Bulacan and later assigned to Branch 22 thereof as Criminal Case No. 9252-M, petitioner Zenaida Reyes was accused of falsifying a deed of sale of four (4) parcels of land "by feigning and signing the name of Pablo Floro, who could not affix his signature anymore due to age infirmity, on the said document as seller and causing it to appear that said Pablo Floro [had] participated in the execution of the said document when in truth and in fact, as said accused well knew, said deed of sale was not executed and signed by the said Pablo Floro, nor did he ever appear before any notary public for the purpose of acknowledging the deed above mentioned." [2]

Upon being arraigned, petitioner pleaded not guilty. Trial on the merits then followed. After the prosecution had rested its case, the presentation of the defense evidence was scheduled on February 6, 1989, which, however, was reset "for the last time" to March 10, 1989 due to petitioner's illness. [3] The hearing on March 10, 1989 was, however, cancelled also because of the absence of both the private prosecutor and defense counsel, Atty. Analuz Cristal-Tenorio. The new schedule was April 12, 1989. [4] However, Atty. Tenorio was again absent on April 12, 1989. Petitioner was also absent, but her husband appeared and submitted to the court a medical certificate that she was sick. The hearing on that date was therefore postponed to May 17, 1989 "[f]or the last time." [5]

On May 11, 1989, Atty. Tenorio moved for the postponement of the hearing from May 17, 1989 to June 5, 1989, allegedly because she had to leave for Malaybalay, Bukidnon to assist in the prosecution of her brother-in-law's killers. The trial court, while noting that the hearing on May 17, 1989 was "intransferrable in character," nonetheless granted Atty. Tenorio's motion and postponed the hearing to June 5, 1989 over the objection of the private prosecutor. Petitioner was warned that if she did not present her evidence on that date, she would be considered to have waived her right to do so. [6] But the hearing on June 5, 1989 had to be rescheduled again because petitioner's counsel, Atty. Tenorio, was absent. [7]

On July 10, 1989, the new date of hearing, both petitioner and Atty. Tenorio were absent, so that on motion of private prosecutor, the court declared petitioner to have waived the right to present her evidence. [8] Four days

later (on July 14, 1989), petitioner gave a medical certificate[9] stating that she was suffering from hypertension and rheumatism which required bed rest for at least 5-7 days. The court merely noted the medical certificate but maintained its previous order, on the ground that “the same is not a motion and [as] counsel was also not in Court during the last hearing, the Order of the Court dated July 10, 1989 to the effect that the presentation of defense evidence is considered waived, stands.”[10]

Petitioner by herself moved for reconsideration, alleging that she failed to appear in court on July 10, 1989 because she was indisposed and had been unable to contact Atty. Tenorio. She asked for permission to present her evidence. Her motion, however, was denied by the court in its order of August 29, 1989[11] in which it also scheduled the promulgation of judgment on September 29, 1989.

On September 29, 1989, the court rendered its decision[12] finding petitioner guilty of falsification and sentencing her to 4 months of arresto mayor, as minimum, to 4 years and 2 months of prision correccional, as maximum, and to pay a fine of P5,000.00.

Petitioner through a new counsel, Atty. Ronolfo S. Pasamba, filed a notice of appeal.[13] On May 9, 1990, petitioner by herself filed a motion in the Court of Appeals for extension of 30 days to file her brief as appellant.[14] About the same time Atty. Pasamba also filed a motion for an extension of 45 days for the same purpose, but later asked to be relieved as petitioner’s counsel on the ground that despite his request, petitioner did not give him the records of the case and confer with him but instead acted as her own counsel by filing her own motion for time to file brief.

The Court of Appeals granted Atty. Pasamba’s motion and required petitioner to submit the name and address of her new counsel within ten (10) days from notice. Petitioner instead filed a motion for new trial in lieu of appellant’s brief, claiming that because of the negligence of her counsel, she had been deprived of her right to present evidence on her behalf in the trial court.

After the Solicitor General filed his comment, the Court of Appeals in its resolution dated January 15, 1992 denied petitioner’s motion for new trial and gave her 30 days within which to file her appellant’s brief.[15] The appellate court held:

All that appellant is invoking as ground for new trial is the policy of liberality in the application of the rules and the alleged negligence of her counsel.

Appellant, who has, in fact, prepared the motion herself, without the assistance of counsel, is probably a member of the Bar. If she is not, she must have gone through law school as her handiwork is written in forensic style and is even better than the pleadings of some licensed advocates who are handling appealed cases or original special civil actions before this Court.

Under the Rules the grounds for new trial are

- (a) That errors of law or irregularities have been committed during the trial prejudicial to the substantial rights of the accused; and
- (b) That new and material evidence has been discovered which the accused could not with reasonable diligence have discovered and produced at the trial, and which if introduced and admitted, would probably change the judgment. (Rule 121, Section 2)

There is not even a wee bit of a hint about the second ground.

So, in effect, what the accused would want of Us is to bend over backwards and in a gesture of liberality consider as an error of law or as an irregularity the trial court’s conclusion that she was deemed to have waived her right to

present evidence in her defense. In connection with this course of action she already filed before the trial court a motion for reconsideration: this was denied, whereupon the trial court proceeded to rendition of the judgment appealed from by the accused to this court.

We have meticulously gone over the entire record, and We find that accused appellant was not at all deprived of her day in court or denied due process. She was afforded ample opportunity to present evidence in her defense.

Regardless of the nature of the offense charged, a criminal case, even if it involves only a light offense, the penalty for which might be mere censure, is a serious matter that deserves equally serious attention by the one accused. The appellant, it seems never gave to this case while it was still at the lower court the serious attention that it deserves. For good reason -- repeated absences of the accused and her counsel -- the trial court was eventually constrained to consider the accused to have waived the presentation of evidence in her defense. As pointed out by the Solicitor General, it is settled in our jurisprudence that dilatory moves by the accused that tend to defeat the expeditious termination of a criminal case is tantamount to trifling with the administration of justice that certainly can not and should not be condoned. (PP vs. Angco, 103 Phil. 33; PP vs. Dichoso, 96 SCRA 957)

Petitioner filed a "very urgent motion" for 90 days from February 22, 1992 to secure services of counsel to file her appellant's brief. The Court of Appeals gave petitioner 15 days from February 22, 1992, the last day of the extension previously granted her. The Court of Appeals stated that it had given petitioner notice to file brief as early as March 27, 1990, but "petitioner has been trifling with our judicial processes long enough."

On March 6, 1992, without the assistance of counsel, accused-appellant filed an appellant's brief. Thereafter the Solicitor General filed the appellee's brief to which petitioner filed a reply brief. On May 28, 1993, the Court of Appeals rendered its decision, affirming the trial court's ruling. On August 30, 1993 it denied reconsideration.

Petitioner filed this case for review on certiorari, claiming that her conviction by the trial court was void because she was denied due process, since she was denied the opportunity to present evidence in her behalf. The Solicitor General filed his comment to which petitioner filed a reply. On November 29, 1995 this Court denied the petition for lack of merit. Hence this motion for reconsideration.

After due consideration of the motion and its supplement and the separate comments thereto by the respondents as well as petitioner's replies and private respondent's consolidated rejoinder, the Court now resolves to grant petitioner's motion for reconsideration.

First. The issue in this case is whether the trial court properly held petitioner to have waived the right to present evidence because of her failure to proceed despite several postponements granted to her. To be sure, the postponement of the trial of a case to allow the presentation of evidence of a party is a matter which lies in the discretion of the trial court, but it is a discretion which must be exercised wisely, considering the peculiar circumstances obtaining in each case and with a view to doing substantial justice.[16] In the case at bar, hearings were scheduled for the presentation of petitioner's evidence on six different dates, to wit: (1) February 6, 1989; (2) March 10, 1989; (3) April 12, 1989; (4) May 17, 1989; (5) June 5, 1989; and (6) July 10, 1989. Petitioner was absent thrice, i.e., on February 6, 1989, April 12, 1989, and July 10, 1989. On the first date, petitioner could not come because she was sick and her counsel so informed the court. She was absent also on June 5, 1989 and July 10, 1989 because of illness (hypertension and rheumatism). Thus, while petitioner's absences were explained, those of her counsel were not. Atty. Tenorio simply disappeared without a trace, despite warning to counsel that her failure to present evidence for her client on June 5, 1989 would be considered a waiver of the latter's right to present her evidence. But counsel failed to heed the warning. Petitioner had to soldier on and, by herself, had to plead with the court for a chance to present her evidence. Contrary to what the appellate court thought in affirming petitioner's conviction, this was not the case of a woman who treated the criminal proceedings against

her with cavalier disdain. Indeed, we do not think that petitioner's absences were so many, capricious, or egregious as to indubitably indicate an attempt to stall the proceedings of the criminal case as was the case in *People v. Angco*[17] and *People v. Dichoso*.[18] Petitioner might have tried to delay the filing of her appellant's brief, but her effort can be attributed to an understandable desire to be allowed to present her evidence. Hence, the filing of a motion for new trial. Even in her present petition before this Court petitioner's prayer is not that she be exonerated but only that she be given the chance to prove her innocence by being allowed to present her evidence.

Respondent People and the counsel for the private respondent oppose petitioner's motion. They point out that, unlike the cases[19] which petitioner cites in support of her motion, petitioner herself was negligent. They contend that she could not have been unaware of the absences of her lawyer but despite that she did nothing to protect her interests. Private respondent argues that "if granted a second chance to present her side, nothing will stop the petitioner from once again engaging the services of her erstwhile absentee counsel. Anyway, after another 10 years of litigation, she can easily sound her reliable refrain: 'I was denied due process! I was ready to present my evidence, but my lawyer was absent for five consecutive times'"

Private respondent's contention is exaggerated. Of course there is a limit to petitioner's credibility should she repeat what had happened here just for delay, not to mention that she would be taking a big risk of losing her defense. As for the private respondent's argument that petitioner should have gotten another lawyer, only with the benefit of hindsight does this course appear to be the only tenable one to take. Petitioner might have thought that her counsel would be more sedulous in her behalf. Or perhaps petitioner tried to get another counsel, but failed and, left with no choice, stuck it out with Atty. Tenorio and simply hoped for the best rather than be left without a counsel. In any case, the fact that on May 17, 1989 and June 5, 1989 petitioner was present even when counsel was absent tends to negate an intention to delay the criminal proceedings.

It was Atty. Tenorio's absences, then, rather than petitioner's, which appear to be the cause for the defense's failure to present its evidence. Atty. Tenorio's negligence did not consist in error of procedure or even a lapse in strategy but something as basic as failing to appear in court despite clear warning that such failure would amount to waiver of her client's right to present evidence in her defense.

Keeping in mind that this case involves personal liberty, the negligence of counsel was certainly so gross that it should not be allowed to prejudice petitioner's constitutional right to be heard. The judicial conscience certainly cannot rest easy on a conviction based solely on the evidence of the prosecution just because the presentation of the defense evidence had been barred by technicality. Rigid application of rules must yield to the duty of courts to render justice where justice is due $\frac{3}{4}$ to secure to every individual all possible legal means to prove his innocence of a crime with which he or she might be charged.[20]

Only last year, this Court set aside its decision after finding that the right of the accused to due process had been violated. In *De Guzman v. Sandiganbayan*,[21] this Court set aside its decision affirming petitioner's conviction by the Sandiganbayan and its resolution denying reconsideration, after being shown that petitioner's conviction had been brought about by his counsel's gross ignorance of law and procedure. The Court held:

Petitioner's present dilemma is certainly not something reducible to pesos and centavos. No less than his liberty is at stake here. And he is just about to lose it simply because his former lawyers pursued a carelessly contrived procedural strategy of insisting on what has already become an imprudent remedy, which thus forbade petitioner from offering his evidence all the while available for presentation before the Sandiganbayan. Under the circumstances, higher interests of justice and equity demand that petitioner be not penalized for the costly importunings of his previous lawyers based on the same principles why this Court had, on many occasions where it granted new trial, excused parties from the negligence or mistakes of counsel. To cling to the general rule in this

case is only to condone rather than rectify a serious injustice to petitioners whose only fault was to repose his faith and entrust his innocence to his previous lawyers. . . .

The Court remanded the case to the Sandiganbayan for reception and appreciation of petitioner's evidence.

In another case, *People v. Del Mundo*,^[22] in which the accused was convicted of rape in six cases and sentenced to reclusion perpetua on five of them and to death on the sixth, this Court ordered a new trial after it was shown that complainant had executed prior to accused's conviction an affidavit of desistance, while an NBI medico-legal report given after such conviction found that complainant's "physical virginity preserved." The report belied the contrary finding of the city health officer on which the trial court relied in convicting the accused. Although the NBI report did not constitute newly-discovered evidence, a new trial was nonetheless ordered "on the broader ground of substantial justice [as] the rule for granting a motion for new trial, among others, should be liberally construed to assist the parties in obtaining a just and speedy determination of their rights. . . . Court litigations are primarily for the search for truth, and a liberal interpretation of the rules by which both parties are given the fullest opportunity to adduce proofs is the best way to ferret out such truth."

Reconsideration of the resolution in this case is compelled by these precedents. Indeed, to deny petitioner the opportunity to present her evidence on the merest chance that she might be innocent would be to disregard the wisdom that it is better to acquit ten guilty individuals than to convict one innocent person. The Court is as aware as anyone of the need for the speedy disposition of cases. At the same time, however, it has ever been mindful of its responsibility as the highest tribunal of justice to see to it that the paramount interests of justice are not sacrificed for the sake of speed and efficiency. As Justice Teehankee wrote:^[23]

The Court has consistently maintained that although a speedy determination of an action implies a speedy trial, speed is not the chief objective of a trial. Careful and deliberate consideration for the administration of justice, a genuine respect for the rights of all parties and the requirements of procedural due process and an adherence to the Court's standing admonition that the discretion granted judges in the granting or denial of motions for postponement and the setting aside of denial orders previously issued "should always be predicated on the consideration that more than the mere convenience of the courts or of the parties in the case, the ends of justice and fairness would be served thereby" are more important than a race to end the trial.

Second. In denying petitioner's plea for a chance to present her evidence, the Court of Appeals observed that petitioner has more than a layman's acquaintance with the law, having been able to prepare and file her own motion for new trial and appellant's brief, to be given the benefit of the doubt. But even lawyers, who are parties in a case, need the guiding hand of counsel. Skill in drafting pleadings (which is practically the only "lawyerly" thing petitioner did) is vastly different from skill needed in the courtroom. Preparing pleadings can be done at leisure with the luxury of consultation, either of books or of people. Trial work, however, demands more. It requires the ability to think fast on one's feet and the psychologist's feel for the witness' mood and motive. As then Chief Justice Moran said for the Court in *People v. Holgado*:^[24]

Even the most intelligent or educated man may have no skill in the science of the law, particularly in the rules of procedure, and, without counsel, he may be convicted not because he is guilty but because he does not know how to establish his innocence.

It is entirely probable that, forced to be her own lawyer, petitioner nonetheless felt some inadequacy and experienced some moments of doubt whether she could go through the ordeal of presenting her evidence by her lonesome, and that could be the reason why she hesitated from doing so when she found herself without the assistance of counsel and not because petitioner tried to delay the proceedings and obstruct the course of justice.

In sum, it is better to allow petitioner another chance to present her evidence than to let her conviction stand based

solely on the evidence of the prosecution. In accordance with Rule 121, §6,[25]the evidence of the prosecution shall be understood preserved, subject to the right of the prosecution to supplement it and/or to rebut the evidence which petitioner may present.

WHEREFORE, the motion for reconsideration of the resolution of November 29, 1995 is GRANTED and the decision dated May 28, 1993 of the Court of Appeals and that of the Regional Trial Court of Bulacan, Branch 22 dated September 29, 1989 in Criminal Case No. 9252-M are SET ASIDE and this case is REMANDED to the Regional Trial Court of Bulacan for a new trial for the purpose of allowing petitioner to present evidence in her defense with directive to the court thereafter to decide the case with all deliberate speed.

SO ORDERED.

Regalado, (Chairman), Romero, Puno, and Torres, Jr., JJ., concur.

[1](Tenth Division) per Justice Regina G. Ordoñez-Benitez and concurred in by Justices Arturo B. Buena and Eduardo G. Montenegro.

[2] Vol. I of Records, p. 1.

[3] RTC Order of February 6, 1989, id., p. 276.

[4] RTC Order of March 10, 1989, id., p. 281.

[5] RTC Order of April 12, 1989, id., p. 286.

[6] RTC Order of May 17, 1989, id., p. 293

[7]RTC Order of June 5, 1989, id., p. 297.

[8] RTC Order of July 10, 1989, id., p. 300.

[9] Id., p. 301.

[10] RTC Order of July 17, 1989, id., p. 303.

[11] Id., p. 314.

[12]Id., pp. 326-334.

[13] Id., p. 338.

[14] CA Rollo, p.14.

[15](Special Eleventh Division) per Justice Fortunato A. Vailoces and concurred in by Justices Nathanael P. de Pano, Jr. and Luis A. Victor, CA Rollo, pp. 69-71.

[16] Piedad v. Batuyong, 55 SCRA 763 (1974); People v. Martinez, 105 Phil. 200 (1959); United States v. Ramirez, 39 Phil. 738 (1919).

[17] 103 Phil. 33 (1953).

[18] 96 SCRA 957 (1980).

[19] The cases are (1) Aceyork Aguilar v. Court of Appeals, 250 SCRA 371 (1995) where the Court set aside the dismissal of petitioner's appeal for failure to file the appellant's brief on time, it appearing that petitioner's former counsel had abandoned him and could not be contacted despite earnest efforts; (2) Legarda v. Court of

Appeals, 195 SCRA 418 (1991) where the Court found petitioner's counsel's negligence in allowing petitioner to be declared in default and the ensuing judgment against her to lapse in finality resulting in the loss of her property worth millions so "gross and inexcusable" as to warrant reinstating her title to the property; (3) Escudero v. Dulay, 158 SCRA 69 (1988) where the Court set aside the decision of the trial court against the petitioner, the same being due to their trial counsel's blunder in procedure and gross ignorance of existing jurisprudence; and (4) People's Homesite and Housing Corp. v. Tiongco, 12 SCRA 471 (1964) where the Court held that a petition for relief although filed outside the reglementary period of 60 days was nonetheless seasonably filed because the delay was attributed to the negligence of petitioner's counsel.

[20] People v. Jose, 70 SCRA 257 (1976).

[21] G.R. No. 103276, April 11, 1996.

[22] G.R. Nos. 119964-69, September 20, 1996.

[23] Amberti v. Court of Appeals, 89 SCRA 240, 249-250 (1979).

[24] 85 Phil. 752, 756 (1959).

[25] Rule 121, §6: Effects of granting a new trial or reconsideration. - The effects of granting a new trial or reconsideration are the following:

(a) When a new trial is granted on the ground of errors of law or irregularities committed during the trial, all the proceedings and evidence not affected by the commission of such errors and irregularities shall stand, but those affected thereby shall be set aside and taken anew. The court may, in the interest of justice, allow the introduction of additional evidence.

. . . .

(c) In all cases, when the court grants new trial or reconsideration, the original judgment shall be set aside and a new judgment rendered accordingly. (Emphasis added)

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