

AURELIA S. GOMEZ, PETITIONER, VS. HON. PRESIDING JUDGE, RTC, BRANCH 15, OZAMIS CITY; COURT OF APPEALS, AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 118584. October 24, 1995

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In our resolution of 31 May 1995 dismissing this petition for "utter lack of merit," we required attorneys for petitioner to show cause "why they should not be disciplinarily dealt with for impeding the execution of the judgment in Criminal Case No. 85-49 and for misusing the rules of procedure to defeat the ends of justice in violation of Rule 10.03, Canon 10 and Rule 12.04, Canon 12 of the Code of Professional Responsibility." The backdrop of our order is summarized in the resolution in this wise:

The petitioner seeks the issuance of the extraordinary writs of certiorari and mandamus to annul and set aside the decision of the Regional Trial Court (RTC) of Ozamis City, Branch 15, in Criminal Case No. 85-49, the Resolution of the Court of Appeals of 5 September 1990 in CA-G.R. CR No. 07482, and the Resolution of this Court in G.R. No. 108331; and to order the Court of Appeals to give due course to the petitioner's appeal upon the filing of appellant's brief.

The Comment of the Office of the Solicitor General reveals the following procedural antecedents, some of which are suppressed in the petition.

In spite of its resolution of 5 September 1990 in CA-G.R. CR No. 07482 dismissing the petitioner's appeal from the RTC decision in Criminal Case No. 85-49 for failure to file the appellant's brief, the Court of Appeals accepted her Memorandum of 28 September 1990 wherein she raised the errors allegedly committed by the trial court. On 8 April 1991, the Office of the Solicitor General filed the Appellee's Brief refuting all the assigned errors. Since no reply brief was filed by the petitioner, the Court of Appeals, in its resolution of 21 June 1991, resolved to consider the case submitted for decision without the said brief.

On 9 June 1992, the Court of Appeals affirmed with modification the decision of the trial court, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, this Court finds the accused Aurelia Gomez guilty beyond reasonable doubt of the crime of Libel, defined and penalized under Article 355, in relation to Article 355 (sic) and 354 of the Revised Penal Code, and there being no mitigating or aggravating circumstances present, she is hereby sentenced to an indeterminate penalty of imprisonment ranging from six (6) months of arresto mayor, as minimum, to TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correctional, to pay a fine of P2,000.00 to suffer subsidiary imprisonment in case of insolvency, to pay the offended party Marieto M. Tan, Sr. the amount of P70,000.00 as moral and exemplary damages, and to pay the costs.

SO ORDERED.

Her motion to reconsider the decision of the Court of Appeals having been denied, the petitioner elevated the case to this Court on a petition for review on certiorari which was docketed as G.R. No. 108331. This petition was, however, denied for non-compliance with Circular Nos. 1-88 and 28-91.

Acting on the petitioner's motion for reconsideration, this Court, in the resolution of 31 March 1993, reinstated the petition but denied it nonetheless "for being factual and for failure of the petitioner to sufficiently show that respondent court had committed any reversible error in the questioned judgment." Petitioner's motion and supplemental motion for reconsideration of the resolution of 31 March 1993 were denied with finality.

On 28 June 1993, this Court noted without action the petitioner's letter requesting that the issues raised in the supplemental motion for reconsideration be given due consideration.

In the resolution of 23 August 1993, this Court denied the petitioner's motion to admit second motion for reconsideration and the second motion for reconsideration. Entry of judgment in G.R. No. 108331 was accordingly made on 8 September 1993.

The petition further discloses that this Court denied the petitioner's petition (G.R. No. 116398) to set aside the RTC's denial of her application for probation. The motion for reconsideration met the same fate. Upon the prosecution's motion for execution of the judgment in Criminal Case No. 85-49, the trial court issued a warrant of arrest.

In the final analysis then, the instant petition is to annul and set aside this Court's final resolution in G.R. No. 108331. The attorneys for the petitioner know, or ought to know, that the special civil action for certiorari will not lie against a final judgment of this Court. Even granting for the sake of argument that it could, this petition must fail for being filed one (1) year, four (4) months, and nineteen (19) days after the entry of judgment in G.R. No. 108331 or long after the jurisprudentially established "reasonable time" prescribed for the remedy under Rule 65 of the Rules of Court.

As this Court sees it, the instant petition is a clever ploy to further delay the execution of the judgment in Criminal Case No. 85-49.

In their Explanation dated 21 June 1995 submitted in compliance with the above show-cause order, attorneys for petitioner, namely: Alvin C. Go, Fernando C. Cojuangco, Vigor D. Mendoza, II, and Antonio A. Ligon, averred:

Counsel for petitioner beg the indulgence of this Honorable Court in asking for the extraordinary relief of seeking a declaration of mistrial of the libel case tried in the lower court through the special civil action for certiorari as they were impelled by their conviction that petitioner performed a moral and legal obligation in writing the letter which was the basis for libel, as she did, which disclosed the price fixing and price rigging of oil products by the private complainant, Mr. Marieto Tan, for his private benefit (in Criminal Case No. 85-49, RTC-Ozamiz City).

While counsel for petitioner are aware that their first bounden duty as officers of the Court is to honor and follow Court rules issued for the orderly and efficient administration of justice (*Banogon vs. Zerna*, 154 SCRA 593; *Toledo vs. Burgos*, 168 SCRA 513), they are equally burdened by their foremost obligation to prevent any miscarriage of justice in accordance with their convictions. Herein counsel had perused the available pleadings and court processes in the libel against petitioner, and were fully convinced thereof and impelled by their desire to legally assist the latter to substantiate her innocence for the crime of libel. If they had overstretched the parameters of the conduct required of lawyers in trying to protect their client's liberty by resorting to this judicial process of certiorari, herein counsel had acted in good faith and beg the kind indulgence of this Honorable Court

for such action.

Contrary to the representations of the Office of the Solicitor General, herein counsel were candid in the presentation of the factual and procedural antecedents based on pleadings given to them by their client. Counsel disclosed in the petition in page 10 thereof that there is already an Entry of Judgment in Criminal Case No. 85-49.

Herein counsel similarly disclosed that -

"Moreover, up to this date, Atty. Pactolin refused to surrender the records of the aforementioned case, so that accused-petitioner experienced extreme difficulties in filing the instant petition. And consequently, accused-petitioner stands helpless in determining the material dates of receipt of all orders, judgments, and other processes of the trial court, Court of Appeals, and that of this Honorable Court, all of which were addressed to Atty. Rodolfo Pactolin. xxx"

Hence, it could not be stated that herein counsel misrepresented on the procedural antecedents in this case.

Rather, when counsel did institute the present petition, they were invoking the equity jurisdiction of this Honorable Court such that procedural rules be set aside to serve the ends of justice, as the liberty of a person is at stake.

Herein counsel comprehend the difficulty in questioning procedural parameters for the efficient and orderly administration of justice in strictly following Court orders and jurisprudence implementing thereof, but equally compelling is their sworn duty to protect a client who has been innocently charged and stands to suffer deprivation of liberty should counsel omit to resort to the extraordinary relief they sought in this petition.

In the resolution of 9 August 1995, we then required the aforementioned lawyers to inform the Court if they were willing to submit the disciplinary matter for resolution on the basis of their Explanation. In compliance therewith, on 8 September 1995, they filed a Manifestation wherein they expressed that it had not been their intention to violate the Code of Professional Responsibility and likewise apologized to the Court "for whatever inconvenience the filing of the instant petition may have entailed."

We find the explanation proffered unsatisfactory and the justification set forth for their action flimsy.

As to the charge of suppression of factual and procedural antecedents, we cannot lend credence to the gossamer claim of petitioner's counsel that they were "candid" in their presentation of these antecedents as evidenced by their disclosure, on page 10 of the petition, that there already was an entry of judgment in Criminal Case No. 85-49. Neither can we find tenable the allegation that up to the date the petition was filed, Atty. Pactolin refused to surrender the records of the case, for which reason, petitioner stood "helpless in determining the material dates of receipt of all orders, judgments, and other processes of the trial court, Court of Appeals and that of this Honorable Court, all of which were addressed to Atty. Rodolfo Pactolin."

In the first place, attorneys for petitioner do not even claim that Atty. Pactolin unreasonably refused to turn over the records to petitioner; ex hypothesi, he could have legitimately retained them pursuant to Section 37, Rule 138 of the Rules of Court until petitioner paid him his lawful fees. In any event, Attorneys Go, Cojuangco, Mendoza, and Ligon were fully aware of the existence of their client's (petitioner's) case with the trial court, Court of Appeals, and this Court, and had unhampered access to the records thereof, especially those of the Court of Appeals and this Court since their office is located near said Courts. In less than half a day, any one of them or their authorized representatives could have personally sought the information they wanted from said Courts. Anent the records of the criminal case in Ozamiz City, if for whatever reason petitioner could not personally secure photocopies of pertinent pleadings, orders, decisions, and other processes therein, counsel could have merely requested the Clerk of Court thereof for the necessary information. As a matter of fact, the annexes

attached to the petition showed beyond cavil that counsel could have, without exerting undue effort, obtained the requisite information with respect to the cases before the trial court, the Court of Appeals, and this Court.

Obviously then, the suppression of vital facts by counsel for petitioner, exposed by the Office of the Solicitor General, was not due to the unavailability of such facts to counsel nor the difficulty of obtaining them; in legal contemplation, excusable negligence was not present in the instant case. Plainly, the concealment resorted to was nothing but a stratagem to give the petition a semblance of a valid grievance or a viable cause of action. Petitioner's counsel knew, or were reasonably expected to know, the hopelessness of their client's cause since the petition was filed, it bears repeating, one year, four months, and nineteen days after the entry of judgment in G.R. No. 108331 -- long after the lapse of the jurisprudentially established measure of "reasonable time" prescribed for the remedy under Rule 65 of the Rules of Court.

Howsoever viewed, the filing of the instant petition was nothing but a scheme to frustrate and further delay the execution of the judgment in Criminal Case No. 85-49. Neither could a claim of denial of due process save the day for petitioner as the judgment of the trial court was affirmed only after due proceedings by the Court of Appeals which, parenthetically, even extended the utmost liberality to petitioner who failed to file her Brief. Said judgment was ultimately sustained by us in the resolution of 31 March 1993 in G.R. No. 108331, which had long become final, with the entry of judgment made on 8 September 1993 yet. Thus, no depth of honest belief as to the innocence of the accused could alter the final verdict. Petitioner's counsel, if they are so minded, can only seek to relieve their client from the effects of the judgment from another forum, e.g., they may consider executive clemency.

Counsel's gambit is condemnable for it clearly disregards a lawyer's duty to maintain absolute candor, fairness, and good faith to the Court (Canon 10, Code of Professional Responsibility). In *Santos vs. Paguio* (227 SCRA 770, 779 [1993]), we declared, in no uncertain terms, that this Court can neither condone nor tolerate attempts to mislead it through suppression of important facts which would have a bearing on its initial action.

We stress once again what we said before, that litigations must end and terminate sometime and somewhere, it being essential to the effective administration of justice that once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict. Hence, courts must guard themselves against any scheme to bring about that result, for constituted as they are to put an end to controversies, they should frown upon any attempt to prolong it (*Lim Kim Tho vs. Go Siu Kao*, 82 Phil. 776 [1949]). Public policy and sound practice demand that at the risk of occasional errors, judgments of courts should become final and irrevocable at some definite date fixed by law. *Interes rei publicae ut finis sit litium* (*Tolentino vs. Ongsiako*, 7 SCRA 1001 [1963]; *Villaflor vs. Reyes*, 22 SCRA 385 [1968]). And for lawyers who disregard these postulates, we stated in *Banogon vs. Zerna* (154 SCRA 593 [1987]), reiterated in *Chua Huat vs. Court of Appeals* (199 SCRA 1, 15 [1991]), that:

As officers of the court, lawyers have a responsibility to assist in the proper administration of justice. They do not discharge this duty by filing pointless petitions that only add to the workload of the judiciary, especially this Court, which is burdened enough as it is. A judicious study of the facts and law should advise them when a case, such as this, should not be permitted to be filed to merely clutter the already congested judicial dockets. They do not advance the cause of law or their clients by commencing litigations that for sheer lack of merit do not deserve the attention of the courts.

While lawyers owe entire devotion to the interest of their clients, warm zeal in the maintenance and defense of their rights, and the exertion of their utmost learning and ability, to the end that nothing be taken away or be withheld from them, save by the rules of law legally applied (Canon 15, Canons of Professional Ethics), they

should not forget that they are officers of the court, bound to exert every effort and placed under duty, to assist in the speedy and efficient administration of justice (Canon 12, Canons of Professional Responsibility). They should not, therefore, misuse the rules of procedure to defeat the ends of justice (Rule 10.03, Canon 10, Id.) or unduly delay a case, impede the execution of a judgment or misuse court processes (Rule 12.04, Canon 12, Id.).

As a final point, we wish to state that the apology contained in the Explanation is misplaced. Counsel ought to know that they were not required to show cause for the inconvenience the filing of the petition caused this Court. The apology insinuates, rather smartly, that we required them to show cause out of our whims or caprice, which, of course, is baseless, as demonstrated by our observations in the resolution of 31 May 1995, particularly on the suppression of vital facts by the attorneys for petitioner.

We do not then hesitate to declare that counsel for petitioner, Attorneys Alvin C. Go, Fernando C. Cojuangco, Vigor D. Mendoza, II, and Antonio A. Ligon have breached the foregoing Canons and Rules.

WHEREFORE, Attorneys ALVIN C. GO, FERNANDO C. COJUANGCO, VIGOR D. MENDOZA, II, and ANTONIO A. LIGON are hereby CENSURED and warned that a repetition of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.

Padilla, (Chairman), Bellosillo, Kapunan, and Hermosisima, Jr., JJ., concur.

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