JOSELITO V. NARCISO, PETITIONER, VS. FLOR MARIE STA. ROMANA-CRUZ, RESPONDENT.

G.R. No. 134504. March 17, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

When the penalty prescribed by law is death, reclusion perpetua or life imprisonment, a hearing must be conducted by the trial judge before bail can be granted to the accused. Absent such hearing, the order granting bail is void for having been issued with grave abuse of discretion. In parricide, the accused cannot be considered an offended party just because he was married to the deceased. In the interest of justice and in view of the peculiar circumstances of this case, the sister of the victim may be deemed to be an "offended party"; hence, she has the legal personality to challenge the void order of the trial court.

The Case

We invoke the foregoing principles in rejecting the Petition for Review on Certiorari before us, assailing the February 26, 1998 Decision[1] and the June 29, 1998 Resolution of the Court of Appeals (CA),[2] which reversed and set aside the Order of Executive Judge Pedro T. Santiago of the Regional Trial Court (RTC) of Quezon City, Branch 101, in Criminal Case No. Q-91-24179 entitled "People of the Philippines v. Joselito V. Narciso."

The dispositive portion of the challenged CA Decision reads:

> "WHEREFORE, the petition for certiorari is hereby GRANTED and the order granting bail is annulled and set aside."[3]

The assailed Resolution, on the other hand, denied petitioner's Motion for Reconsideration.

The full text of the August 3, 1992 RTC Order, which the Court of Appeals annulled and set aside, reads as follows:

> "Accused who is present filed thru counsel a Motion to Allow Accused Joselito V. Narciso to Post Bail.
>
> "Considering that the Presiding Judge of Branch 83 who is hearing this case is on leave and the Pairing Judge Honorable Salvador Ceguerra is no longer within the premises, there being no objection by the City Prosecutor Candido Rivera to the accused posting a cashbond of P150,000.00, the undersigned in his capacity as Executive Judge hereby approves the same."[4]

The Facts of the Case

The undisputed antecedents of the case were summarized by the Court of Appeals as follows:

> "1) After conducting a preliminary investigation on the death of Corazon Sta. Romana-Narciso, wife of Joselito Narciso, Asst. City Prosecutor Myrna Dimaranan Vidal of Quezon City recommended and thereafter filed, the information for parricide against Joselito Narciso on November 13, 1991, with the Regional Trial Court of Quezon City, docketed therein as Criminal Case No. Q-91-24179.

"2) Joselito Narciso thereafter asked for a review of the prosecutor's resolution [before] the Department of Justice (DOJ) which was however denied. Joselito Narciso moved for reconsideration, which was still denied by the DOJ.

"3) Failing before DOJ, the accused on February 6, 1992, filed in Criminal Case No. Q-91-24179 an "Omnibus Motion for Reinvestigation and to Lift the Warrant of Arrest". The Motion was granted and the case was set for reinvestigation by another prosecutor.

"4) Assistant Prosecutor Lydia A. Navarro, to whom the case was assigned for reinvestigation, found no reason to disturb the findings of the previous prosecutor and recommended the remand of the case to the court for arraignment and trial.

"5) On August 3, 1992, accused filed an 'Urgent Ex-Parte (Ex Abundanti Cautela) to Allow Accused Joselito Narciso to Post Bail'. The Public Prosecutor registered no objection and said motion was granted on the same day, allowing accused to post bail at P150,000.00.

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"6) On August 14, 1992, the private prosecutor representing private complainant Flor Marie Sta. Romana-Cruz, a sister of accused's deceased wife, filed an "Urgent Motion to Lift Order Allowing Accused To Post Bail'.

"7) Accused objected to the aforesaid urgent motion by filing a 'Motion to Expunge 1) Notice of Appearance of the Private Prosecutor and the 2) Urgent Motion to Lift Order Allowing Accused to Post Bail".

"8) Arraignment was conducted on September 14, 1992 and the case was set for hearing on November 9, 16, 23, December 2, 9, 1992, January 6, 13, 20, 27, 1993, February 3, 7, 10 and 24 1993.

"9) On October 15, 1992, private complainant through counsel filed her opposition to the motion to expunge [filed by] accused.

"10) On November 3, 1992 private complainant moved for the postponement of the trials set on November 9, 16 and 23 and the subsequent hearings thereon pending the resolution of their 'Urgent Motion to Lift Order Allowing Accused To Post Bail'.

"11) On November 9, 1992, the court issued the first assailed order stating therein to wit:

'ORDER

'Counsel for the accused, upon being informed of the motion for postponement dated November 3, 1992 filed by the private complainant, through counsel, offered no objection to the cancellation of today's trial but not the trial set on November 16, 23 and December 2 and 9, 1992 for the reason that the trial can proceed independently of the pending 'Urgent Motion to Lift Order Allowing the Accused to Post Bail'.

'WHEREFORE, the trial set for today is hereby cancelled and re-set on November 16, 1992 at 10:30 o'clock in the morning, as previously scheduled.

'SO ORDERED.'

"12) On November 16, 1992, the court cancelled the hearing upon motion of the public prosecutor because no prosecution witness was available.

"13) [I]n the hearing of November 23, 1992, the private prosecutor again moved for postponement because of the pendency of his 'Motion to Lift Order Allowing Accused to Post Bail'. On the same date, the court issued the second assailed order which reads:

'ORDER

'On motion of the Asst. City Prosecutor, for the reason that there is no showing in the record that the private complainant was duly notified, hence there is no available witness this morning, the trial set for today is hereby cancelled and reset on December 2 and 9, 1992 both at 10:30 o'clock in the morning, as previously scheduled.

'Let a subpoena be issued to complainant Corazon [sic] Sta. Romana-Narciso, the same to be served personally by the Deputy Sheriff/Process server of this Court.

'The accused is notified of this Order in open court.

'SO ORDERED.'

"Not obtaining any resolution on her 'Motion To Lift Order Allowing Accused to Post Bail', private complainant filed this petition [before the CA]."

As earlier mentioned, the Court of Appeals granted private respondent's Petition for Certiorari. Hence, this recourse to us via Rule 45 of the Rules of Court.[5]

The Issues

Petitioner imputes to the Court of Appeals this alleged error:

"The Respondent Court of Appeals has erroneously decided questions of substance, in a manner not in accord with law, the Rules of Court and applicable jurisprudence, as exemplified in the decisions of this Honorable Court, when it reversed and set aside the order of the Regional Trial Court of Quezon City which granted the petitioner his constitutional right to bail, considering the absence of strong evidence or proof of his guilt, and more especially when the public prosecutors, who have direct control of the proceedings and after assessment of the evidence, have themselves recommended the grant of bail."[6]

Respondent, on the other hand, poses the following issues:[7]

"A

Whether or not the Respondent Court of Appeals correctly ruled that the Order of the Regional Trial Court which granted bail to the petitioner is substantially and procedurally infirm notwithstanding the absence of any opposition from the public prosecutor.

"B

Whether or not the private respondent has the legal personality to intervene in the present criminal case."

To resolve this case, the Court believes that two issues must be taken up; namely, (1) the validity of the grant of bail and (2) private respondent's standing to file the Petition before the CA.

The Court's Ruling

The Petition is devoid of merit.

First Issue:
Validity of the Grant of Bail

Section 13, Article III of the Constitution provides: "All persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of habeas corpus is suspended. Excessive bail shall not be required." Furthermore, Section 7,

Article 114 of the Rules of Court, as amended, also provides: "No person charged with a capital offense, or an offense punishable by reclusion perpetua or life imprisonment, when evidence of guilt is strong, shall be admitted to bail regardless of the stage of the criminal prosecution."

Although petitioner was charged with parricide which is punishable with reclusion perpetua, he argued before the CA that he was entitled to bail because the evidence of his guilt was not strong. He contended that the prosecutor's conformity to his Motion for Bail was tantamount to a finding that the prosecution evidence against him was not strong.

The Court of Appeals ruled, however, that there was no basis for such finding, since no hearing had been conducted on the application for bail — summary or otherwise. The appellate court found that only ten minutes had elapsed between the filing of the Motion by the accused and the Order granting bail, a lapse of time that could not be deemed sufficient for the trial court to receive and evaluate any evidence. We agree with the CA.

Stressing in Basco v. Rapatalo[8] that the judge had the duty to determine whether the evidence of guilt was strong, the Court held:

> "When the grant of bail is discretionary, the prosecution has the burden of showing that the evidence of guilt against the accused is strong. However, the determination of whether or not the evidence of guilt is strong, being a matter of judicial discretion, remains with the judge. 'This discretion by the very nature of things, may rightly be exercised only after the evidence is submitted to the court at the hearing. Since the discretion is directed to the weight of the evidence and since evidence cannot properly be weighed if not duly exhibited or produced before the court, it is obvious that a proper exercise of judicial discretion requires that the evidence of guilt be submitted to the court, the petitioner having the right of cross examination and to introduce his own evidence in rebuttal.'
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> x x x x x x x x x
>
> "Consequently, in the application for bail of a person charged with a capital offense punishable by death, reclusion perpetua or life imprisonment, a hearing, whether summary or otherwise in the discretion of the court, must actually be conducted to determine whether or not the evidence of guilt against the accused is strong. 'A summary hearing means such brief and speedy method of receiving and considering the evidence of guilt as is practicable and consistent with the purpose of hearing which is merely to determine the weight of evidence for the purposes of bail. On such hearing, the court does not sit to try the merits or to enter into any nice inquiry as to the weight that ought to be allowed to the evidence for or against the accused, nor will it speculate on the outcome of the trial or on what further evidence may be therein offered and admitted. The course of inquiry may be left to the discretion of the court which may confine itself to receiving such evidence as has reference to substantial matters, avoiding unnecessary thoroughness in the examination and cross examination.' If a party is denied the opportunity to be heard, there would be a violation of procedural due process." (Emphasis supplied.)

Jurisprudence is replete with decisions compelling judges to conduct the required hearings in bail applications, in which the accused stands charged with a capital offense. The absence of objection from the prosecution is never a basis for the grant of bail in such cases, for the judge has no right to presume that the prosecutor knows what he is doing on account of familiarity with the case. "Said reasoning is tantamount to ceding to the prosecutor the duty of exercising judicial discretion to determine whether the guilt of the accused is strong. Judicial discretion is the domain of the judge before whom the petition for provisional liberty will be decided. The mandated duty to exercise discretion has never been reposed upon the prosecutor."[9]

Imposed in Baylon v. Sison[10] was this mandatory duty to conduct a hearing despite the prosecution's refusal to adduce evidence in opposition to the application to grant and fix bail. We quote below the pertinent portion of the

Decision therein:

> "The importance of a hearing has been emphasized in not a few cases wherein the Court ruled that even if the prosecution refuses to adduce evidence or fails to interpose an objection to the motion for bail, it is still mandatory for the court to conduct a hearing or ask searching questions from which it may infer the strength of the evidence of guilt, or the lack of it, against the accused."

In Gimeno v. Arcueno Sr.,[11] the Court also held:

> "The grant of bail is a matter of right except in cases involving capital offenses when the matter is left to the sound discretion of the court. That discretion lies, not in the determination whether or not a hearing should be held but in the appreciation and evaluation of the prosecution's evidence of guilt against the accused. x x x A hearing is plainly indispensable before a judge can aptly be said to be in a position to determine whether the evidence for the prosecution is weak or strong."

And in Concerned Citizens v. Elma,[12] the Court ruled:

> "It is true that the weight of the evidence adduced is addressed to the sound discretion of the court. However, such discretion may only be exercised after the hearing called to ascertain the degree of guilt of the accused for the purpose of determining whether or not he should be granted liberty."

Basco v. Rapatalo[13] summarized several cases[14] that emphasized the mandatory character of a hearing in a petition for bail in a capital case. It enunciated the following duties of the trial judge in such petition: Esm

> "(1) Notify the prosecutor of the hearing of the application for bail or require him to submit his recommendation (Section 18, Rule 114 of the Rules of Court as amended;
>
> "(2) Conduct a hearing of the application for bail regardless of whether or not the prosecution refuses to present evidence to show that the guilt of the accused is strong for the purpose of enabling the court to exercise its sound discretion (Sections 7 and 8, supra);
>
> "(3) Decide whether the evidence of guilt of the accused is strong based on the summary of evidence of the prosecution (Baylon v. Sison, supra);
>
> "(4) If the guilt of the accused is not strong, discharge the accused upon the approval of the bailbond. (Section 19, supra). Otherwise, petition should be denied."

The Court added: "The above-enumerated procedure should now leave no room for doubt as to the duties of the trial judge in cases of bail applications. So basic and fundamental is it to conduct a hearing in connection with the grant of bail in the proper cases that it would amount to judicial apostasy for any member of the judiciary to disclaim knowledge or awareness thereof."

Additionally, the court's grant or refusal of bail must contain a summary of the evidence for the prosecution, on the basis of which should be formulated the judge's own conclusion on whether such evidence is strong enough to indicate the guilt of the accused. The summary thereof is considered an aspect of procedural due process for both the prosecution and the defense; its absence will invalidate the grant or the denial of the application for bail.[15]

Clearly, the grant of bail by Executive Judge Santiago was laced with grave abuse of discretion and the Court of Appeals was correct in reversing him.

Second Issue:
Respondent's Standing to File the Petition

Petitioner attacks respondent's legal standing to file the Petition for Certiorari before the appellate court,

maintaining that only the public prosecutor or the solicitor general may challenge the assailed Order. He invokes People v. Dacudao,[16] which ruled:

> "x x x A private prosecutor in a criminal case has no authority to act for the People of the Philippines before this Court. It is the Government's counsel, the Solicitor General who appears in criminal cases or incidents before the Supreme Court. At the very least, the Provincial Fiscal himself, with the conformity of the Solicitor General, should have raised the issue (of whether or not the prosecution was deprived of procedural due process on account of the grant of bail to the accused without any hearing on the motion for bail) before us, instead of the private prosecutor with the conformity of the Assistant Provincial Fiscal of Cebu."

He also cites Republic v. Partisala[17] which held as follows:

> "We make it known that only the Solicitor General can bring or defend actions on behalf of the Republic of the Philippines. Henceforth actions filed in the name of the Republic of the Philippines if not initiated by the Solicitor General will be summarily dismissed."

Citing the "ends of substantial justice," People v. Calo,[18] however, provided an exception to the above doctrines in this manner:

> "While the rule is, as held by the Court of Appeals, only the Solicitor General may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or the State in criminal proceedings pending in this Court and the Court of Appeals (Republic vs. Partisala, 118 SCRA 320 [1982]), the ends of substantial justice would be better served, and the issues in this action could be determined in a more just, speedy and inexpensive manner, by entertaining the petition at bar. As an offended party in a criminal case, private petitioner has sufficient personality and a valid grievance against Judge Adao's order granting bail to the alleged murderers of his (private petitioner's) father.
>
> "In Paredes vs. Gopengco, 29 SCRA 688 (1969), this Court ruled that the offended parties in criminal cases have sufficient interest and personality as "person(s) aggrieved" to file the special civil action of prohibition and certiorari under Sections 1 and 2 of Rule 65 in line with the underlying spirit of the liberal construction of the Rules of Court in order to promote their object, thus:
> 'Furthermore, as offended parties in the pending criminal case before petitioner judge, it cannot be gainsaid that respondents have sufficient interest and personality as 'person(s) aggrieved' by petitioner judge's ruling on his non-disqualification to file the special civil action under sections 1 and 2 of Rule 65. Recently, in line with the underlying spirit of a liberal construction of the Rules of Court in order to promote their object, as against the literal interpretation of Rule 110, section 2, we held, overruling the implication of an earlier case, that a widow possesses the right as an offended party to file a criminal complaint for the murder of her deceased husband.'"
> (Id., p. 699)

The ends of substantial justice indeed require the affirmation of the appellate court's ruling on this point. Clearly, the assailed Order of Judge Santiago was issued in grave abuse of discretion amounting to lack of jurisdiction. A void order is no order at all.[19] It cannot confer any right or be the source of any relief. This Court is not merely a court of law; it is likewise a court of justice.

To rule otherwise would leave the private respondent without any recourse to rectify the public injustice brought about by the trial court's Order, leaving her with only the standing to file administrative charges for ignorance of the law against the judge and the prosecutor. A party cannot be left without recourse to address a substantive issue in law.

Moreover, we agree with the Office of the Solicitor General that "it is too late in the day for the petitioner to challenge the legal personality of private respondent considering that it was never disputed by [him] during the preliminary investigation of the case, in his appeal to the Department of Justice and during the reinvestigation of

the case."[20]

Corollary to the question of standing, petitioner submits that even if the exception were made to apply, private respondent is not an "offended party" who is granted the right to challenge the assailed RTC Order. He maintains that only the compulsory heirs of the deceased, who are the accused himself and his minor child, may file the instant action. We disagree.

It should be remembered that the crime charged against the private respondent is parricide; hence, the accused cannot be regarded as an offended party. That would be a contradiction in terms and an absurdity in fact. Nor can one expect the minor child to think and to act for himself. Hence, we rule that in view of the peculiar circumstances of this case, the sister of the deceased is a proper party-litigant who is akin to the "offended party," she being a close relative of the deceased. There is no closer kin who may be expected to take up the cudgels of justice for the deceased.

WHEREFORE, the Petition is DENIED and the assailed Decision AFFIRMED. Costs against petitioner. Sclaw

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

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[1] Penned by J. Ricardo P. Galvez, now solicitor general, Division chairman; with the concurrence of JJ Hilarion L. Aquino and Marina L. Buzon, members.

[2] Special Fifteenth Division.

[3] Decision, p. 7; Rollo, p. 13.

[4] Rollo, p. 42.

[5] This case was deemed submitted for resolution on October 6, 1999, upon receipt by this Court of the solicitor general's Memorandum, signed by Assistant Solicitor General Mariano M. Martinez and Solicitor Edwin C. Yan. Petitioner's Memorandum, signed by Atty. Antonio F. Navarrete, was filed on July 14, 1999; while that of private respondent, signed by Attys. Rene V. Sarmiento and Rolando M. Delfin, was posted on June 28, 1999.

[6] Petitioner's Memorandum, pp. 4-5.

[7] Respondent's Memorandum, p. 9; Rollo, p. 165.

[8] 269 SCRA 220, March 5, 1997, per Romero, J.; Ramos v. Ramos, 45 Phil. 362, October 30, 1923; Ocampo v. Bernabe, 77 Phil. 55, August 20, 1946; Siazon v. Presiding Judge et al., 42 SCRA 184, October 29, 1971.

[9] Basco v. Rapatalo, supra.

[10] 243 SCRA 284, April 6, 1995, per Regalado, J.; Borinaga v. Tamin, 226 SCRA 206, September 10, 1993; Aguirre v. Belmonte, 237 SCRA 778, October 27, 1994; Tucay v. Dumagas, 242 SCRA 110, March 2, 1995.

[11] 250 SCRA 376, November 29, 1995, per Vitug, J. See also Aurillo Jr. v. Francisco, 235 SCRA 283, August 12, 1994.

[12] 241 SCRA 84, February 6, 1995, per curiam.

[13] Supra.

[14] People v. Sola, 103 SCRA 393, March 17, 1981; People v. Dacudao, 170 SCRA 489, February 21, 1989;

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People v. Calo, 186 SCRA 620, June 18, 1990; Libarios v. Dabalo, 199 SCRA 48, July 11, 1991; People v. Nano, 205 SCRA 155, January 13, 1992; Pico v. Combong Jr., 215 SCRA 421, November 6, 1992; Borinaga v. Tamin, 226 SCRA 216, September 10, 1993; Aurillo v. Francisco, 235 SCRA 283, August 12, 1994; Estoya v. Abraham-Singson, 237 SCRA 1, September 26, 1994; Aguirre v. Belmonte, 237 SCRA 778, October 27, 1994; Lardizabal v. Reyes, 238 SCRA 640, December 5, 1994; Guillermo v. Reyes, 240 SCRA 154, January 18, 1995; Santos v. Ofilada, 245 SCRA 56, June 16, 1995; Sule v. Biteng, 243 SCRA 524, April 18, 1995; Buzon Jr. v. Velasco, 253 SCRA 601, February 13, 1996.

[15] People v. San Diego, 26 SCRA 522, December 24, 1968; Carpio v. Maglalang, 196 SCRA 41, April 19, 1991; People v. Nano,, supra; Guillermo v. Reyes, supra; Santos v. Ofilada,, supra.

[16] 170 SCRA 489, February 21, 1989, per Gutierrez, J.

[17] 118 SCRA 370, November 15, 1982, per Abad Santos, J.

[18] 186 SCRA 620, June 18, 1990, per Bidin, J.

[19] Leonor v. Court of Appeals, 256 SCRA 69, April 2, 1996.

[20] Memorandum of the Office of the Solicitor General, p. 13.

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