

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. VILMA ALMENDRAS Y ZAPATA AND ARSENIO ALMENDRAS Y LOCSIN, APPELLANTS.*G.R. No. 145915. April 24, 2003*

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-145915/>**QUISUMBING, J.:**

For automatic review is the judgment[1] of the Regional Trial Court of Calamba, Laguna, Branch 36, dated November 23, 2000, in Criminal Case No. 6014-98-C, the fallo of which reads:

WHEREFORE, this court finds accused Vilma Almendras and Arsenio Almendras guilty beyond reasonable doubt for violation of Sec. 15, Title III of Republic Act 6425 as amended by Republic Act 7659, and are hereby sentenced to suffer the death penalty.

The two accused are hereby ordered to pay the fine of two million pesos each.

SO ORDERED.[2]

Appellants herein are Vilma Almendras y Zapata, alias “Apple,” and her husband, Arsenio Almendras y Locsin, a.k.a. “Scout.” They are residents of Sta. Ana, Manila. They were arrested by operatives of the Philippine National Police Narcotics Command (PNP NARCOM) in Calamba, Laguna as a result of a “buy-bust” operation on June 19, 1998.

In an information dated August 4, 1998, the Office of the Provincial Prosecutor of Laguna charged the appellants of violating Sec. 21 (b)[3] in relation to Sec. 15,[4] Art. III, of Republic Act No. 6425, otherwise known as the “Dangerous Drugs Act of 1972,” as amended by Rep. Act No. 7925. The offense was allegedly committed as follows:

That on or about June 19, 1998, at Brgy. Pansol, Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused without any authority of law, conspiring, confederating and mutually helping one another, did then and there wilfully (sic), unlawfully and feloniously sell and deliver Methamphetamine Hydrochloride, otherwise known as “SHABU” weighing one (1) kilogram a regulated drug, to a poseur buyer for and in consideration of Ten Thousand Pesos (P Normal 0 false false false EN-PH X-NONE X-NONE /* Style Definitions /* table.MsoNormalTable {mso-style-name:“Table Normal”; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-priority:99; mso-style-parent:“”; mso-padding-alt:0cm 5.4pt 0cm 5.4pt; mso-para-margin-top:0cm; mso-para-margin-right:0cm; mso-para-margin-bottom:10.0pt; mso-para-margin-left:0cm; line-height:115%; mso-pagination:widow-orphan; font-size:11.0pt; font-family:“Calibri”, “sans-serif”; mso-ascii-font-family:Calibri; mso-ascii-theme-font:minor-latin; mso-hansi-font-family:Calibri; mso-hansi-theme-font:minor-latin; mso-bidi-font-family:“Times New Roman”; mso-bidi-theme-font:minor-bidi; mso-fareast-language:EN-US;} 10,000.00) and the rest in boodle money arranged into bundles to make it appear as real and genuine payment of ONE MILLION PESOS (P Normal 0 false false false EN-PH X-NONE X-NONE /* Style Definitions /* table.MsoNormalTable {mso-style-name:“Table Normal”; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0;

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CONTRARY TO LAW.[5]

Assisted by their defense counsel, Atty. Rodolfo Jimenez, appellants pleaded not guilty to the charge.[6] The case then proceeded to pre-trial.

At the pre-trial the defense admitted that: (1) appellants are not residents of Calamba, Laguna; (2) they are the same persons charged in the information; (3) that they were arrested at 4:00 a.m. of June 19, 1998 at Pansol, Calamba, Laguna; (4) there were two (2) photos of a Mercedes Benz car where the supposed shabu weighing 990.97 grams was supposedly found; (5) the existence of a Police Arrest Investigation Report, the photocopies of the alleged “buy-bust” money, Receipt of Items Confiscated, Request for Laboratory Examination, and Examination Report as part of the records, subject to cross-examination. The prosecution, in turn, marked the aforesaid documents as Exhibits “A” to “F” without prejudice to the presentation of additional documentary exhibits. It likewise admitted that there was only one laboratory qualitative examination conducted on the alleged shabu, the result of which was contained in the report marked as Exhibit “F” for the prosecution and Exhibit “1” for the defense. The parties agreed to limit the issues for trial to the following:

- Whether in fact there was a “buy-bust” operation;
- Whether the alleged prohibited drugs were found inside the car of the accused; and
- Whether the quantity of the alleged prohibited drugs was 990.97 grams.[7]

During the trial, the prosecution established that:

At around 5:00 p.m. of June 18, 1998, the PNP NARCOM, Region IV, in Camp Vicente Lim, Calamba, Laguna received a tip from a confidential informer that a supplier of shabu recently arrived from Manila and was looking for a buyer.[8] The quantity of the drug was one kilo, with a street price of one million pesos (P Normal 0 false false EN-PH X-NONE X-NONE /* Style Definitions */ table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-priority:99; mso-style-parent:""; mso-padding-alt:0cm 5.4pt 0cm 5.4pt; mso-para-margin-top:0cm; mso-para-margin-right:0cm; mso-para-margin-bottom:10.0pt; mso-para-margin-left:0cm; line-height:115%; mso-pagination:widow-orphan; font-size:11.0pt; font-family:"Calibri", "sans-serif"; mso-ascii-font-family:Calibri; mso-ascii-theme-font:minor-latin; mso-hansi-font-family:Calibri; mso-hansi-theme-font:minor-latin; mso-bidi-font-family:"Times New Roman"; mso-bidi-theme-font:minor-bidi; mso-fareast-language:EN-US;} 1,000,000).

Acting thereon, P/Supt. Emelito T. Sarmiento, PNP NARCOM Region IV Chief, immediately instructed his men to organize a team to conduct a “buy-bust” operation. P/Insp. Mauricio M. Cadano[9] headed the team and designated SPO3 Rico Atienza to be the poseur-buyer.[10] The police informer then called up one “Apple” on his mobile phone and arranged for a meeting the following day, between the hours of three o’clock to six o’clock in the morning, at the Mountain View Resort Restaurant in Pansol, Calamba, Laguna.[11]

The team proceeded to prepare marked money consisting of ten P Normal 0 false false EN-PH X-NONE

X-NONE /* Style Definitions */ table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-priority:99; mso-style-parent:""; mso-padding-alt:0cm 5.4pt 0cm 5.4pt; mso-para-margin-top:0cm; mso-para-margin-right:0cm; mso-para-margin-bottom:10.0pt; mso-para-margin-left:0cm; line-height:115%; mso-pagination:widow-orphan; font-size:11.0pt; font-family:"Calibri","sans-serif"; mso-ascii-font-family:Calibri; mso-ascii-theme-font:minor-latin; mso-hansi-font-family:Calibri; mso-hansi-theme-font:minor-latin; mso-bidi-font-family:"Times New Roman"; mso-bidi-theme-font:minor-bidi; mso-fareast-language:EN-US;} 1,000 bills.[12] Bundles of “boodle money” were also prepared to make it appear that SPO3 Atienza was carrying a million pesos in cash.[13] The marked bills were placed on top of each bundle.

Early in the morning of June 19, 1998, the police operatives, accompanied by their informer, proceeded to Mountain View Resort on board two vehicles.[14] On arriving at the resort, SPO3 Atienza parked at the resort’s parking area, while the other members of the team remained outside the gate of the resort, to act as a blocking force.

SPO3 Atienza and the informer then went inside the resort’s restaurant where they ordered coffee.[15] After a few seconds, the police informer approached a couple seated at a nearby table and talked to the woman. He then introduced SPO3 Atienza to the woman who called herself “Apple.”[16] When “Apple” was told that SPO3 Atienza was interested in buying shabu, she asked him whether he had the money for the drug.[17] SPO3 Atienza replied that the money was in his vehicle.

“Apple” then introduced her male companion as “Scout.” All four of them proceeded to the parking lot. SPO3 Atienza then took out a bag from his car, showed the “buy-bust” money to “Apple” and “Scout.”[18] The latter then went to his vehicle, which was parked nearby, opened its trunk and pulled out a black box.[19] “Scout” then showed its contents, a white crystalline powder wrapped in a transparent plastic bag to SPO3 Atienza. SPO3 Atienza handed over the bag with the marked money to “Apple” and got the box. Once the box was in his hands, SPO3 Atienza gave the pre-arranged signal to the other members of the team. The back-up team approached, introduced themselves as NARCOM agents, and arrested “Apple” and “Scout.” The marked money was recovered from “Apple” and the suspected shabu was turned over to P/Insp. Cadano. The police then brought the suspects to Camp Vicente Lim for further investigation. Interrogation by the PNP NARCOM operatives revealed that “Apple” was Vilma Almendras y Zapata while “Scout” was her husband, Arsenio Almendras y Locsin.

The confiscated bag containing the white substance was turned over to the PNP Crime Laboratory, Region IV for testing. PNP Forensic Chemical Officer P/Insp. Lorna R. Tria tested the said substance and found it positive for methamphetamine hydrochloride, more popularly known as shabu, a regulated drug.[20] The quantity of the seized drug amounted to 990.97 grams.

On May 6, 1999, the prosecution rested its case. Reception of the defense evidence was then set for May 12, 13, and 17, 1999.[21]

On May 10, 1999, defense counsel moved for leave to file a Motion for Demurrer to Evidence and the admission of said Demurrer with Alternative Prayer for Bail.[22] The defense submitted that the prosecution failed to establish the element of lack of authority to sell and deliver the alleged shabu. It further alleged that the prosecution failed to present any concrete evidence establishing that the substance tested at the PNP Crime Laboratory was the same substance seized from appellants. The defense then prayed for an acquittal.

In view of the Demurrer to Evidence filed by the defense, the lower court cancelled the scheduled hearings for May and new settings were made for June 8, 14, and 21, 1999.[23]

On June 8, 1999, the trial court denied the Demurrer to Evidence.[24] It ruled that what is material in a prosecution for a sale of an illegal drug is proof that the transaction took place. The trial court pointed out that both the marked money and the shabu were presented in open court. The trial court also pointed out that the poseur buyer, the police investigator, and the forensic chemist identified in court the shabu seized from the Almendras couple, had placed their initials on the bag containing the same, and hence, established that it was the same drug seized from appellants. The lower court likewise denied appellants' prayer for bail since the amount of shabu involved was 990.97 grams, for which the imposable penalty was reclusion perpetua to death, making the offense non-bailable.

On June 21, 1999, the defense manifested that it was seeking a review of the trial court's Resolution denying its Demurrer to Evidence from the Supreme Court. The reception of the defense evidence was then reset anew to September 7, 15, and 23, 1999.[25]

The defense then filed a Petition for Certiorari, Prohibition, and Mandamus with Preliminary Injunction before the Court of Appeals, which docketed the same as CA-G.R. SP No. 54343.[26] In their petition, appellants alleged that the trial court gravely abused its judicial discretion in denying their Demurrer to Evidence and in denying their prayer for bail.[27]

In view of the filing of CA-G.R. SP No. 54343, the trial court moved the dates for the hearing of Criminal Case No. 6014-98-C to March 7, 14, and 21, 2000.[28]

On March 14, 2000, defense counsel Jimenez was not present at the hearing. The trial court then ordered him to appear for the defense on March 21, 2000, failing which it would appoint a counsel de oficio for the Almendras couple, to expedite the disposition of the case.[29]

On March 20, 2000, defense counsel moved to suspend proceedings in Criminal Case No. 6014-98-C pending the final disposition by the Court of Appeals of their petition in CA-G.R. SP No. 54343.[30] The prosecution was then given ten days to comment on the motion and the trial dates were moved anew to April 6 and 10, 2000 and May 10, 2000.[31]

On May 10, 2000, the trial court cancelled the scheduled hearing and reset new hearing dates for July 5, 12, and 19, 2000.

At the hearing of July 5, 2000, defense counsel again failed to show up. The trial dates were then moved anew to September 21 and 28, and October 5, 2000.[32]

When trial resumed on September 21, 2000, defense counsel was absent once again. The trial court then advised appellants to coordinate with their counsel to ensure his presence at the next scheduled trial date.[33]

On September 25, 2000, the defense moved that the trial court cancel the hearing set for September 28, 2000 to await the final disposition of CA-G.R. SP No. 54343 by the Court of Appeals.[34]

On September 28, 2000, trial resumed. Since defense counsel, Atty. Jimenez, again failed to show up, the trial court appointed Atty. Vicente Carambas of the Public Attorney's Office (PAO) as counsel de oficio for the Almendras couple in the event counsel Jimenez was absent at the next scheduled hearing. The trial court also denied the defense's motion of September 25, 2000. New trial dates were then set for October 5, 11, 12, and 19, 2000.[35]

However, counsel de parte (Jimenez) was absent for the October 5, 2000 trial. Appellant's counsel de oficio then manifested that the Almendras spouses refused to testify in court. When questioned by the court, appellant Arsenio Almendras affirmed the manifestation of Atty. Carambas. The trial court then reset the hearing for

October 26, 2000 and ruled that in the event the defense failed to adduce its evidence on said date, the defense would be considered as having waived its right to present evidence and Criminal Case No. 6014-98-C would be deemed submitted for decision.[36]

On October 10, 2000, appellants filed a Motion for an Order Enjoining Observance of Judicial Courtesy in CA-G.R. SP No. 54343.[37] They prayed that the appellate court issue an order enjoining the trial court to observe judicial courtesy by suspending proceedings in Criminal Case No. 6014-98-C so as not to preempt the decision of the appellate court in CA-G.R. SP No. 54343. Appellants contended that the order of the trial court compelling them to present their evidence with assistance of a counsel de oficio was violative of their right to due process.

On October 24, 2000, appellants moved that the trial court judge voluntarily inhibit himself from hearing Criminal Case No. 6014-98-C.[38]

At the hearing of October 26, 2000, the trial court denied the Motion for Voluntary Inhibition for lack of merit. Since counsel de parte (Jimenez) was again not in court, counsel de oficio (Atty. Carambas) appeared for appellants. After due consultation, Atty. Carambas manifested that the Almendras spouses told him that they would not testify in court unless assisted by Atty. Jimenez. When questioned by the lower court, appellants affirmed the manifestation of Atty. Carambas. The prosecution then moved that the defense be deemed to have waived its right to present its evidence and the case be considered submitted for decision. The trial court granted the prosecution's motion and set promulgation of judgment for November 23, 2000.[39]

On November 15, 2000, appellants filed in CA-G.R. SP No. 54343 a Very Urgent Motion for the Issuance of a Temporary Restraining Order.[40]

On November 23, 2000, the trial court promulgated its judgment finding appellants guilty beyond reasonable doubt of violating Sec. 15 of Rep. Act No. 6425, as amended, and sentenced both appellants to death. Since counsel de parte (Jimenez) was not around for the promulgation of judgment, appellants were assisted by Atty. Carambas as counsel de oficio.[41]

Hence, the need for this automatic review of the appellants' conviction and sentence by this Court.

On September 6, 2001, the PAO manifested to this Court that they talked to appellant Vilma Almendras to ascertain if she wanted to be represented by them. Said appellant told the PAO that her counsel was Atty. Jimenez. Out of respect for the right of appellants herein to be represented by a counsel of their choice, the PAO moved for the suspension of the period to file appellants' brief.[42]

On September 14, 2001, the law firm of Puyat, Jacinto & Santos formally entered its appearance for appellant Vilma Almendras.[43]

In our resolution dated October 2, 2001, we granted the motion of the PAO and required appellants to submit to the Court the name and address of a new counsel of choice, other than Atty. Jimenez.

On August 27, 2002, the Court noted the failure of appellant Arsenio Almendras to comply with the resolution of October 2, 2001 and appointed the PAO as counsel de oficio for him.[44]

On October 1, 2002, Atty. Jimenez moved for leave to enter his appearance as counsel for appellant Arsenio Almendras and admit his constancia.[45]

In a manifestation and motion dated October 15, 2002, the PAO moved to be excused from filing a brief for appellant Arsenio Almendras in deference to appellant's right to be represented by a counsel of his choice.[46]

On November 12, 2002, we directed Atty. Jimenez to file a supplemental brief for appellant Arsenio Almendras.

On November 26, 2002 we granted the motion of the PAO and directed Atty. Jimenez to file appellant's brief for Arsenio Almendras.[47]

In her brief, appellant Vilma Almendras assigns the following errors to the trial court.

- THE TRIAL COURT GRAVELY ERRED IN DECLARING ACCUSED-APPELLANT TO HAVE WAIVED HER RIGHT TO PRESENT DEFENSE EVIDENCE, RESULTING IN DENIAL OF DUE PROCESS;
- THE TRIAL COURT GRAVELY ERRED IN PROCEEDING TO RESOLVE THE CASE WITHOUT AWAITING THE RESOLUTION OF THE HON. COURT OF APPEALS IN THE PETITION FOR CERTIORARI FILED BY ACCUSED-APPELLANT TO ANNUL THE ORDER OF THE TRIAL COURT DENYING HER DEMURRER TO PROSECUTION EVIDENCE.
- THE TRIAL COURT ERRED IN FINDING THE EVIDENCE OF THE PROSECUTION SUFFICIENT TO PROVE THE GUILT OF ACCUSED-APPELLANT BEYOND REASONABLE DOUBT.[48]

For his part, appellant Arsenio Almendras submits that:

I
THE TRIAL COURT ERRED AND GRAVELY ABUSED JUDICIAL DISCRETION IN DENYING APPELLANT'S DEMURRER TO EVIDENCE.

II
THE TRIAL COURT ERRED AND GRAVELY ABUSED JUDICIAL DISCRETION IN WAIVING APPELLANT'S RIGHT TO PRESENT THEIR DEFENSE AND PROCEEDING TO CONVICT THEM PENDING THEIR CERTIORARI IN THE COURT OF APPEALS ON THE DENIAL OF THEIR DEMURRER TO EVIDENCE AND ALTERNATIVE PRAYER FOR BAIL NOTWITHSTANDING.[49]

As correctly pointed out by the Solicitor General, the issues presented by appellants in this case are identical to those raised in CA-G.R. SP No. 54343, which boil down to the question of whether the denial of their Demurrer to Evidence was tainted with grave abuse of discretion. The pivotal issue in this case concerns, in our view, the sufficiency of the prosecution's evidence to sustain a conviction.

Appellant Vilma Almendras submits that in convicting appellants, the trial court merely relied on legal presumptions that were not established by the prosecution due to the inconsistent and contradictory nature of its evidence.

First, with respect to the testimonies of the police officers, the trial court found these to be credible and believable. Vilma, however, points out that a closer look at the testimony of SPO3 Rico Atienza will show that he contradicted himself on several material points, namely: (1) what transpired when the confidential informant arrived at Camp Vicente Lim; (2) whether surveillance was conducted by the NARCOM agents; and (3) who prepared the marked money to be used in the "buy-bust" operation. Further, she argues that the testimony of Atienza was contradicted by the police investigator, SPO3 Edgar Groyon, on several material points. Moreover, she likewise points out that the integrity of the physical evidence, namely, the alleged shabu supposedly taken from them by the police operatives is placed in doubt as the prosecution failed to establish an unbroken chain of custody over the alleged confiscated drug. Finally, she stresses that inasmuch as the shabu allegedly taken from them by the NARCOM personnel was not tested in its entirety, but only an alleged sample consisting of more or less five milligrams, the drug content of said substance was not adequately proven. Thus, she concludes that the trial court should have, on that basis, granted their Demurrer to Evidence and acquitted them of the charge.

Appellant Arsenio Almendras, in his Brief, contends that under the Rules of Evidence, the prosecution had the obligation to prove that they sold and delivered one kilogram of shabu, without any authority of law, for a price of one million pesos. He points out that the prosecution failed to adduce any evidence to show that appellants had no authority to sell and deliver the said regulated drug. Furthermore, according to him, there can be no sale of shabu in the instant case as, the price was “simulated” because as the Information itself alleges “in consideration of ten thousand pesos (P

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For the appellee, the Office of the Solicitor General counters that the trial court did not commit any grave abuse of jurisdiction in denying appellants’ Demurrer to Evidence. For one, said the OSG, there is no showing of a broken chain in the custody of the shabu from the moment of its seizure to the laboratory examination. According to the OSG, it was duly established by documentary, testimonial, and object evidence including the markings on the plastic bag containing the shabu, that the substance tested by the forensic chemist was the same as that taken from appellants. To require that the whole caboodle of 990.97 grams of shabu be tested at the PNP Crime Laboratory would be absurd, said the OSG, in view of the doctrine that a sample taken from a package is logically presumed to be representative of the entire package unless proven otherwise. Appellants had not adduced any evidence to prove the exception to said doctrine. Finally, says the OSG, all that is required of the prosecution in cases for illegal sale of prohibited or regulated drugs is that it proves the: (1) identity of the buyer and seller, object, and consideration; and (2) the delivery of the thing sold and the payment therefor. All these elements were duly proven by the prosecution hence, concludes the OSG, the trial court was not only correct in denying appellants’ Demurrer to Evidence; it was likewise correct in convicting them as charged.

Prosecutions involving illegal drugs depend largely on the credibility of the police officers who conduct the “buy-bust” operation.[50] Hence, in cases involving violations of the Dangerous Drugs Law, appellate courts tend to heavily rely upon the trial court in assessing the credibility of witnesses, as it had the unique opportunity, denied to the appellate courts, to observe the witnesses and to note their demeanor, conduct, and attitude under direct and cross-examination.[51] Hence, its factual findings are accorded great respect, even finality, absent any showing that certain facts of weight and substance bearing on the elements of the crime have been overlooked, misapprehended, or misapplied.[52]

In the present case, the trial court ruled that appellants had waived the right to present evidence because of their failure to proceed with the presentation of evidence despite several postponements granted to them. On the sole basis of the prosecution evidence, the trial court rendered a verdict of conviction for violation of the Dangerous Drugs Act, and sentenced both appellants to death.

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,[53] 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.

Here, appellants lost their chance to present evidence due to the delaying strategem of their original counsel of record.[54] Recall that after the prosecution has rested its case, he filed a Demurrer to Evidence that was denied by the trial court.[55] Having expressed his intention to seek relief from this Court, the trial court gave the defense three months, or until September 1999, before resuming with the reception of defense evidence.[56] Although there was no order from the Court of Appeals enjoining the court a quo from resuming its proceedings, the trial court postponed the resumption of hearing for six months, or on March 2000, so as not to pre-empt the action of the Court of Appeals on appellant's prayer for Temporary Restraining Order.[57]

Despite the 6-month leeway given by the trial court to defense counsel, he failed to appear in the March 7, 14, and 21, 2000 hearings. Then on March 20, 2000, instead of presenting evidence, he filed a Motion to Suspend Proceedings.[58] Although properly notified, he still failed to attend the scheduled hearings for the months of April, May, July, and September of 2000.

On September 25, 2000, defense counsel filed an Urgent Motion for Further Continuance[59] to await the ruling of the Court of Appeals in their prayer for a restraining order. Because there was still no injunction from the Court of Appeals to proceed with the trial of the case, the Regional Trial Court denied the motion.[60] Due to the persistent absences of their counsel, in the subsequent settings the trial court appointed a counsel de oficio for appellants with a warning that failure of the defense to present evidence on October 26, 2000 would be considered waiver of their right to present their evidence.[61]

Still undaunted by said warning, defense counsel filed a Motion for an Order Enjoining Observance of Judicial Courtesy with the Court of Appeals.[62] He moved for the voluntary inhibition of the hearing judge.[63] This time, the trial court mindful that there should be a limitation or an end to unnecessary postponements, not only denied the motion for inhibition, but also ordered the case to be deemed submitted for decision sans the presentation of evidence from the defense.[64]

Defense counsel Jimenez caused no less than 15 continuances in a span of two years.[65] Delay is obviously the name of his game.

While a lawyer owes absolute fidelity to the cause of his client, full devotion to his genuine interest, and warm zeal in the maintenance and defense of his rights, as well as the exertion of his utmost learning and ability, he must do so only within the bounds of the law.[66] The case for certiorari, prohibition and mandamus with preliminary injunction, which was filed by defense counsel with the Court of Appeals to assail the trial court's denial of their demurrer to evidence, did not interrupt the course of the principal action in Criminal Case No. 6014-98-C nor the running of the reglementary periods involved in the proceedings.[67] Settled is the rule that to arrest the course of the principal action during the pendency of certiorari proceedings, there must be a restraining order or a writ of preliminary injunction from the appellate court directed to the lower court.[68] There was none in the instant case.

Further, in filing various motions for continuances, defense counsel heavily relies on the case which he cited as: "Factoran, Jr. v. Hon. Judge Capulong, A.M. No. RTJ-90517, Feb. 7, 1991"[69] to justify his motion for suspension of proceedings in the trial court. For one, the case citation is incorrect; the resolution is dated February 11, 1991. For another, the rule is settled as far back as *People v. Mercado*[70] that the judicial action on the motion for leave of court to file demurrer to evidence or the demurrer itself is left to the exercise of the court's sound judicial discretion. This doctrine was reiterated in the recent case of *People v. Singh*. [71] Section 23 of Rule 119, 2000 Rules of Criminal Procedure,[72] provides that "the order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment."

As may be gleaned from the records, defense counsel apparently lost sight of the above-mentioned cardinal rules of procedure. In filing motions of various denominations, namely: Motion to Suspend Proceedings, Motion for an Order Enjoining Observance of Judicial Courtesy, Urgent Motion for Further Continuance, and Motion for Voluntary Inhibition, all anchored on the certiorari case pending with the CA, counsel regrettably exposed his disregard of quite elementary legal principles, in the false hope of gaining tempo in the pursuit of dilatory tactics.

From the numerous pleadings filed by defense counsel, he has demonstrated that he is not a novice in milking the cow of procedure to the hilt. Rather, he has well demonstrated valued skills in the realm of litigation, considering that he also adroitly cross-examined all of the prosecution witnesses, exhaustively scrutinized every minute detail of the “buy-bust” operation, facets of appellants’ arrest, and the chain of custody of the prosecution evidence. Such forensic display must have been purposive, directed at a singular goal: delay, delay, and delay some more till the mills of justice grind to a halt. In appellant’s brief he filed before this Court, he now prays for the alternative relief of remanding the instant case to the lower court for the reception of evidence.[73] We shall take him at his word that he would present evidence, not verbiage of technicality, at last!

It bears stressing that a lawyer’s fidelity to his client must not be pursued at the expense of ferreting the truth and administering justice to all.[74] His responsibility to protect and advance the interests of his client does not warrant a course of action propelled by ill motives and malicious intentions. He had, after all, taken the oath upon admission to the Bar that he “will not wittingly or willingly promote or sue any groundless, false or unlawful suit nor give aid nor consent to the same;” and that he “will conduct himself as a lawyer according to the best of his knowledge and discretion with all good fidelity as well to the courts as to his clients.” Far from being an empty exhortation, this oath embodies a sacred trust that every lawyer must uphold and keep inviolable at all times.[75]

In *Apex Mining, Inc. v. Court of Appeals*, [76] we held that in cases where reckless or gross negligence of counsel deprives the client of due process of law, or when its application will result in outright deprivation of the client’s liberty or property or where the interests of justice so require, relief is accorded to the client who suffered by reason of the lawyer’s gross or palpable mistake or negligence.[77] This ruling found positive resonance in *Doroteo Salazar and Dozen Construction and Development Corporation v. Court of Appeals*. [78] Both are civil cases, where we granted new trial on motion of petitioners who stood to lose property due to the negligence of their respective counsels. In the present case, involving the death sentence, with more reason do appellants deserve to be heard, because their lives are about to be forfeit. Not that we are rewarding defense counsel’s apparent antics, nor do we denigrate an appellant’s stubborn refusal to be represented by a counsel de oficio. Having engaged the services of counsel, however, a party has justifiable reason to expect that only his chosen counsel could amply protect his interests in the case.

At the same time, we cannot in fairness ascribe any grave abuse of discretion on the part of the trial court. What brought the trial court’s order forfeiting the right of the defense to present evidence was defense counsel’s tactics that took the case on its lethargic course. The trial court merits commendation for its manifestation of zeal and determination to expedite the case and render justice.[79]

However, in view of the death penalty imposed on appellants, we are constrained to rule that accused-appellants be allowed to present evidence for their defense now. In *People v. Cabodoc*, [80] this Court said:

Surely, the Rules of Court were conceived and promulgate[d] to aid and not to obstruct the proper administration of justice, to set forth guidelines in the dispensation of justice but not to bind and chain the hand that dispenses justice, for otherwise, courts will be mere slaves to or robots of technical rules, shorn of judicial discretion.

Thus, admittedly, courts may suspend its own rules or except a case from them for the purposes of justice or, in

a proper case, disregard them.

Court litigation is primarily a 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.[81] We note that although Section 2 of Rule 121,[82] the Rules of Court enumerates the specific grounds in granting new trial or reconsideration, none of which is present here, nonetheless Section 6 on the effects thereof considers the “interest of justice” as a gauge in the introduction of additional evidence, to wit:

SEC. 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 affected thereby shall be set aside and taken anew. The court may, in the interest of justice, allow the introduction of additional evidence.

(b) When a new trial is granted on the ground of newly-discovered evidence, the evidence already adduced shall stand and the newly-discovered and such other evidence as the court may, in the interest of justice, allow to be introduced shall be taken and considered together with the evidence already in the record. (*Italics supplied.*)

In the case at bar, the paramount interest of justice militates against closing the door of the courtroom against appellants. For unless granted a day in court now, an appellant may be doomed without competent counsel presenting a proper defense at his disposal. We are not predisposed to such an eventuality that could taint seriously our adversarial system. We must, however, warn the defense to proceed with the presentation of its evidence with dispatch, lest this final opportunity to be heard now be lost. Needless to stress defense counsel, Atty. Rodolfo Jimenez, is put on notice that further dilatory tactics on the part of the defense shall be dealt with most severely.

WHEREFORE, the judgment of the Regional Trial Court of Calamba, Laguna, Branch 36, dated November 23, 2000, in Criminal Case No. 6014-98-C is hereby SET ASIDE. The case is REMANDED to the trial court for reception of defense evidence and other appropriate proceedings conformably with this decision, without further delay.

FURTHER, counsel de parte, Atty. Rodolfo Jimenez, is hereby ordered to show cause why no administrative action should be taken against him for what appears to be misconduct as a member of the bar and abuse of judicial process, within 10 days from notice.

Costs de oficio.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., and Azcuna, JJ., concur.

[1] Records, pp. 269-277.

[2] Rollo, p. 23.

[3] SEC. 21. Attempt and Conspiracy. – The same penalty prescribed by this Act for the commission of the offense shall be imposed in case of any attempt or conspiracy to commit the same in the following cases:

x x x x x x x x

(b) Sale, administration, delivery, distribution and transportation of dangerous drugs;

[4] SEC. 15. Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs. – The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug.

Notwithstanding the provisions of Section 20 of this Act to the contrary, if the victim of the offense is a minor or should a regulated drug be involved in any offense under this Section be the proximate cause of a victim thereof, the maximum penalty herein provided shall be imposed.

[5] Records, p. 38.

[6] Id. at 43.

[7] Id. at 49-50.

[8] TSN, 20 October 1998, pp. 30-32; TSN, 29 March 1999, pp. 5-6; 22, 24-25; TSN, 6 May 1999, pp 12-14.

[9] In portions of the TSN of 6 May 1999, he is also referred to as “Major Calanog,” while in parts of the TSN of 20 October 1998, he is called “Major Calano.” His real name as per the records is P/Insp. Mauricio Mercado Cadano. See Records, p. 4.

[10] TSN, 20 October 1998, p. 32; TSN, 29 March 1999, p. 6; TSN, 6 May 1999, p. 16.

[11] Id. at 33-34; Id. at 8.

[12] Id. at 38, 40; Id. at 7, 13-14; TSN, 6 May 1999, pp. 27-28.

[13] Ibid; Ibid; Ibid.

[14] Id. at 35-36; Id. at 8-9; Id. at 19-20.

[15] TSN, 6 May 1999, pp. 23-24.

[16] TSN, 20 October 1998, p. 37; See also TSN, 6 May 1999, p. 25.

[17] Ibid; Ibid.

[18] Id. at 38; Id. at 26.

[19] Ibid; Ibid.

[20] Exh. “F,” Records, p. 20; TSN, 20 October 1998, pp. 12-13.

[21] Records, p. 95.

[22] Id. at 96-108.

[23] Id. at 111.

[24] Id. at 112-114.

[25] Id. at 117.

[26] Id. at 118-137.

[27] Id. at 120.

- [28] Id. at 162.
- [29] Id. at 172.
- [30] Id. at 173-175.
- [31] Id. at 176.
- [32] Id. at 190.
- [33] Id. at 218.
- [34] Id. at 219-222.
- [35] Id. at 223.
- [36] Id. at 230.
- [37] Id. at 233-236.
- [38] Id. at 240-242.
- [39] Id. at 243-244.
- [40] Id. at 252-254.
- [41] Id. at 280.
- [42] Rollo, pp. 35-38.
- [43] Id. at 44.
- [44] Id. at 173.
- [45] Id. at 175-186.
- [46] Id. at 189-191.
- [47] Id. at 193.
- [48] Id. at 54-55.
- [49] Id. at 194.
- [50] *People v. Sy*, G.R. No. 147348, 24 September 2002, p. 12.
- [51] *People v. Corpuz*, G.R. No. 148919, 17 December 2002, pp. 10-11.
- [52] *People v. Chen Tiz Chang*, G.R. Nos. 131872-73, 17 February 2000, 325 SCRA 776, 790.
- [53] *Reyes v. Court of Appeals*, 335 Phil. 206, 213 (1997).
- [54] Atty. Rodolfo Jimenez.
- [55] Records, pp. 112- 114.
- [56] Id. at 117.
- [57] Id. at 162.
- [58] Id. at 173-175.

[59] Id. at 219-222.

[60] Id. at 223.

[61] Id. at 230.

[62] Id. at 233-236.

[63] Id. at 240-242.

[64] Id. at 243-244.

[65] Id. at 76-77, 80, 82, 87, 162, 172-173, 218-219, 223, 230, and 243.

[66] Choa v. Chiongson, 329 Phil. 270, 275 (1996).

[67] Regalado, Remedial Law Compendium, 1997 Ed., Vol. 1, p. 705 citing Palomares v. Jimenez, 90 Phil. 773, 776 (1952).

[68] Yasay, Jr. v. Hon. Desierto, 360 Phil. 680, 694 (1998).

[69] Rollo, p. 205.

[70] No. L-33492, 30 March 1988, 159 SCRA 453, 459.

[71] G.R. No. 129782, 29 June 2001, 360 SCRA 404, 415.

[72] SEC. 23. Demurrer to evidence. – After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.

If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution.

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The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment. (Italics Supplied.)

[73] Rollo, p. 209.

[74] Choa v. Chiongson, A.M. No. MTJ-95-1063, 9 August 1996, 260 SCRA 477, 483.

[75] Radjaie v. Alovera, A.C. No. 4748, 4 August 2000, 337 SCRA 244, 255-256.

[76] G.R. No. 133750, 29 November 1999, 319 SCRA 456.

[77] Id. at 466.

[78] G.R. No. 142920, 6 February 2002, p. 9.

[79] See Amion v. Chiongson, A.M. No. RTJ-97-1371, 22 January 1999, 301 SCRA 614, 625.

[80] 331 Phil. 491, 506 (1996).

[81] Ibid.

[82] SEC. 2. Grounds for a new trial. – The court shall grant a new trial on any of the following grounds:

- (a) That errors of law or irregularities prejudicial to the substantial rights of the accused have been committed during the trial;
- (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.

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