

RUFINA CHUA, PETITIONER, VS. THE COURT OF APPEALS (FORMER FIRST DIVISION), WILFRED N. CHIOK AND THE PEOPLE OF THE PHILIPPINES (AS AN INDISPENSABLE PARTY), RESPONDENTS.

G.R. NO. 152823. September 23, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

These are two consolidated petitions assailing the Resolutions of the Court of Appeals in CA-G.R. CR No. 23309, dated May 7, 2001[1] and February 14, 2002.[2]

Respondent Wilfred N. Chiok was charged with estafa in Criminal Case No. 109927, filed by private complainant Rufina Chua. On February 1, 1999, the Regional Trial Court of Pasig, Branch 165, rendered judgment convicting respondent of the crime charged. He filed a Motion for Reconsideration, but the same was denied by the trial court in an Omnibus Order dated May 28, 1999.[3] Thus, respondent filed an appeal from the judgment of conviction to the Court of Appeals.

On April 5, 2000, respondent filed an Urgent Manifestation and Motion, alleging that when his counsel went to the Court of Appeals to examine the records of the case preparatory to filing his appellant's brief, he learned that the Office of the Solicitor General (OSG) had borrowed the same.[4] Thus, respondent prayed that the OSG be directed to return the records of the case to the Court of Appeals.[5]

The appellate court issued a Resolution directing the OSG to return the records of the case and suspending respondent's period for filing the appellant's brief.[6]

The prosecution, through the OSG, filed a Manifestation and Motion stating that the aforementioned records could not be found despite diligent efforts to search the same.[7] Thus, on May 7, 2001, the Court of Appeals issued a Resolution ordering the reconstitution of the records of the case before the trial court. The dispositive portion of the Resolution reads as follows:

WHEREFORE, the court a quo is hereby directed to receive evidence in behalf of this Court, pursuant to Section 9 of B.P. 129 (as amended by R.A. 7902). The trial court shall rule on the matter of admissibility of such evidence presented before it by the parties and shall submit such evidence and render a report thereon within sixty (60) days from notice hereof. The evidence adduced by the parties and received by the trial court, and its report as submitted to Us, shall be used to enable this Court to determine whether or not to affirm or set aside the appealed judgment of December 3, 1998. In the meantime, the legal effects of the appealed judgment are hereby suspended.

SO ORDERED.[8]

Petitioner Chua filed a Motion for Clarification and/or Reconsideration,[9] while the OSG filed a Motion for Partial Reconsideration.[10] Both motions were denied by the Court of Appeals.[11]

Hence, petitioner Chua and the prosecution filed two separate petitions which were ordered consolidated by this

Court.[12]

In her petition for certiorari and mandamus, petitioner Chua argues, in fine, that the Court of Appeals should have declared the records of CA-G.R. CR No. 22309 as fully reconstituted, pursuant to Rule 135, Section 5 (h);[13] that respondent is duty bound to help reconstitute the missing records; and that respondent is estopped from challenging the authenticity of copies of the missing records which were already with the Court of Appeals.[14]

For its part, the prosecution anchors its petition for certiorari on the following grounds:

I

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AND EXCEEDED ITS JURISDICTION IN SUSPENDING THE LEGAL EFFECTS OF THE TRIAL COURT'S JUDGMENT OF CONVICTION, AS APPEAL MAY PROCEED ON THE BASIS OF THE AVAILABLE RECORDS WHICH HAVE REMAINED INTACT (HANDWRITTEN AND CERTIFIED TRUE COPIES OF THE JUDGMENT AND TRANSCRIPT OF STENOGRAPHIC NOTES), AND CHIOK IS ESTOPPED FROM DENYING THE VERACITY OF THE JUDGMENT, ORDERS AND PLEADINGS WHICH HE ATTACHED TO HIS VERIFIED PETITION IN CA-G.R. SP No. 53340.

II

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AND EXCEEDED ITS JURISDICTION IN HOLDING THAT THE REPORT TO BE SUBMITTED BY THE TRIAL COURT ON THE EVIDENCE ADDUCED BY THE PARTIES WILL BE ITS BASIS FOR DETERMINING WHETHER OR NOT TO AFFIRM OR REVERSE THE JUDGMENT OF CONVICTION.[15]

In the meantime, while these petitions were pending before this Court, the prosecution filed a Manifestation and Motion[16] stating that the missing records were finally located by an OSG employee in the cubicle of Solicitor Brigido Artemon M. Luna II, the lawyer who had handled the case before he was appointed to the judiciary, and that the records have been returned to the Court of Appeals on January 28, 2003.[17]

Notwithstanding this development, respondent insists that the reconstitution of the records before the trial court is still necessary because he entertains serious doubts on the authenticity of the records that were returned to the Court of Appeals.[18]

Petitioner Chua's petition for mandamus in G.R. No. 152823, which seeks to compel the Court of Appeals to consider the records of the case as reconstituted, must fail. Reconstitution is not a ministerial task. It involves the exercise of discretion on the part of a court in evaluating the authenticity and relevance of all evidence to be presented before it. Thus, the extraordinary writ of mandamus cannot be used to dictate upon the court how it will rule in the admission of the reconstituted evidence, inasmuch as this calls for the exercise of discretion. We have ruled that the court may be compelled by mandamus to pass and act upon a question submitted to it for decision, but it cannot be enjoined to decide for or against one of the parties. A judicial act is not compellable by mandamus; the court has to decide a question according to its own judgment and understanding of the law.[19]

In G.R. No. 152824, the prosecution argues that suspending the effects of the trial court's judgment is "short of saying that private respondent is considered innocent of the crime for which he was convicted unless and until the records are found or reconstituted,"[20] and that the assailed Resolutions had the effect of automatically setting aside the trial court's judgment.[21] The prosecution further contends that the appellate court erred when it ruled that the report to be submitted by the trial court regarding the reconstitution will be the basis for determining whether or not to affirm or reverse the judgment of conviction, since the parties still have to file their appellant's

and appellee's briefs, respectively.[22]

We agree that the sweeping statement made in the assailed Resolution of the Court of Appeals as to the suspension of the legal effects of the appealed judgment may give rise to an interpretation that the legal effects of the conviction shall likewise be suspended. Surely, this could not have been the intendment of the Court of Appeals. Rather, the import of the statement to our mind is that the reconstitution proceedings will only suspend the periods of the parties to file their briefs, and this should have been qualified by the Court of Appeals. In the same vein, the Court of Appeals' declaration that the evidence received by the trial court will be used in its determination of whether to affirm or reverse the conviction, should be understood to mean that such determination will be made after the parties shall have been allowed to file their respective appeal briefs. Nevertheless, there is need to clarify the assailed Resolution, making sure that ambiguous judgments must be construed in such a way as to do justice and avoid wrong.[23] Thus, the dispositive portion of the assailed Resolution must be clarified and modified accordingly.

The procedure for the reconstitution of records of judicial proceedings and other official documents is governed by Act No. 3110. The said Act covers the loss or destruction of records due to causes other than fire or public calamity.[24]

There is no provision in the Act for the reconstitution of records before the Court of Appeals for the simple reason that the said Court was not yet in existence at the time of the enactment of the statute.[25] However, the provisions thereof which pertain to the Supreme Court are applicable, to wit:

Sec. 66. Upon receipt of the notice provided for in sections fifty-four and fifty-five hereof, the Court of First Instance shall cause a complete list to be made of all criminal actions appealed to the Supreme Court, which list shall contain the names of the stenographers who have reported each case. Copies of this list shall be sent to the provincial fiscal, the Attorney-General, and the Clerk of the Supreme Court.

Sec. 67. Upon the preparation of the list provided for in the next preceding section, the Courts of First Instance shall proceed to reconstitute all criminal actions included in said list, in accordance with the rules and procedure established in sections thirteen to forty-five hereof, and every time they declare any record reconstituted or its reconstitution a failure, they shall report the same to the Supreme Court. (*italics ours*)

Section 13 provides:

Sec. 13. Pending criminal actions shall be reconstituted by means of copies filed by the fiscal and the counsel for the defendant or the defendant himself, or certified by them under oath as being correct, and whatever cannot be reconstituted in this manner shall be reconstructed by means of the supplementary procedure, provided for the reconstitution of ordinary civil cases. (*italics ours*)

The aforementioned supplementary procedure in ordinary civil cases that is applicable to the case at bar is embodied in the following provisions:

Sec. 4. Civil cases pending trial shall be reconstituted by means of the copies presented and certified under oath as correct by the counsels or the parties interested. In case it is impossible to find a copy of a motion, decree, order, document, or other proceeding of vital importance for the reconstitution of the record, the same may be replaced by an agreement on the facts entered into between the counsels or the parties interested, which shall be reduced to writing and attached to the proper record.

Sec. 5. In case the counsels or parties are unable to come to an agreement, the Court shall determine what may be proper in the interest of equity and justice, and may also consider the proceeding in question as non-existent and reconstitute only that part of the record which can stand without such proceeding, and continue proceedings upon the record so reconstituted.

In the case at bar, the authenticity of the records that were returned is assailed by respondent. Clearly, therefore, there is a need to reconstitute the records in accordance with the procedure outlined in the law, in order to dispel any doubt as to the integrity of the records that were lost and recovered in the Office of the Solicitor General. Indeed, the authenticity of the evidence contained in the records has been compromised when the same were misplaced by the OSG. Every aspect of the right to due process must be afforded the accused-appellant, and this includes the right to examine and assail the veracity of every piece of evidence contained in the recovered records. This must be done in the trial court, as provided for in the law.

Respondent must participate in the reconstitution proceedings. The reconstitution is as much the duty of the prosecution as of the defense.[26] The principle enunciated in the following ruling is apropos:

Every person who finds himself in a court of justice, in whatever capacity, must hold himself while there, subject to those unforeseen events which suddenly and unavoidably intervene and change the whole aspect of things. The sickness or death of the judge, or of counsel for the prosecution, the destruction by fire or flood of the court-house and all the records and evidence of the pending trial — any of these things are sufficient to interrupt the course of the proceedings and to require that they be begun anew. Such events weigh equally against all. As no one can be charged with their occurrence, so no one can legally lose or profit by their results. While the law protects persons charged with crime from the unjust and arbitrary acts of man, there is no shield which may be interposed against the tyranny of unforeseen events. Until the proceedings which, under the system which the law provides, constitute his trial are terminated, the happening of an unforeseen event which renders the continuance of his trial for the time impossible, as it can not be used for his conviction, can not be urged for his absolution.[27]

We cannot overemphasize the necessity for a regulated, orderly, and careful handling of court records; and the loss, tampering, or any other form of alteration or destruction of the same does not only contribute to inordinate delay in judicial proceedings but more importantly erodes the credibility and reliability of our courts.[28] In this connection, we note that, despite repeated directives from this Court, the National Bureau of Investigation has not submitted its report on the cause of the loss or disappearance of the records in the Office of the Solicitor General.

WHEREFORE, in view of the foregoing, the Resolution of the Court of Appeals in CA-G.R. CR No. 23309 dated May 7, 2001 is MODIFIED. The Regional Trial Court of Pasig City, Branch 165, is directed to reconstitute the records and evidence of Criminal Case No. 109927, in accordance with the procedure laid down in Act No. 3110. The trial court shall submit such records and evidence and render a report to the Court of Appeals within sixty (60) days from notice hereof. During the reconstitution proceedings, the periods for filing appeal briefs shall be suspended. After receipt of the report and reconstituted records and evidence from the trial court, the Court of Appeals shall require the parties to submit their respective appeal briefs, and thereafter to resolve the appeal based on said briefs and the reconstituted evidence.

The National Bureau of Investigation is directed to immediately and without further delay submit its report on the cause of the loss or disappearance of the records in the Office of the Solicitor General.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, and Carpio, JJ., concur.
Azcuna, J., on leave.

[1] Rollo, G.R. No. 152823, p. 598; penned by Associate Justice Elvi John S. Asuncion; concurred in by

Associate Justices Cancio C. Garcia and Oswaldo D. Agcaoili.

[2] Id., p. 723.

[3] Rollo, G.R. No. 152824, p. 8; penned by Judge Marietta A. Legaspi.

[4] Id., p. 257.

[5] Id., p. 258.

[6] Id., p. 262.

[7] Id., p. 266.

[8] Rollo, G.R. No. 152823, pp. 601-602.

[9] Id., p. 621.

[10] Rollo, G.R. No. 152824, p. 1602.

[11] Rollo, G.R. No. 152823, p. 725.

[12] Id., p. 1708-1709.

[13] Sec. 5. Inherent powers of courts. – Every court shall have power:

xxx xxx xxx;

(h) To authorize a copy of a lost or destroyed pleading or other paper to be filed and used instead of the original, and to restore, and supply deficiencies in its records and proceedings.

[14] Rollo, G.R. No. 152823, pp. 21-54.

[15] Id., pp. 24-25.

[16] Id., p. 891; Rollo, G.R. No. 152824, p. 950.

[17] Id., pp. 893-894; Rollo, G.R. No. 152824, pp. 952-953.

[18] Id., p. 905.

[19] Laburada v. Land Registration Authority, G.R. No. 101387, 11 March 1998, 287 SCRA 333.

[20] II Rollo for G.R. No. 152824, p. 1721.

[21] I Rollo for G.R. No. 152824, p. 37.

[22] I Rollo for G.R. No. 152824, p. 38.

[23] Republic v. De Los Angeles, 148-B Phil. 902, 924 (1971), citing 49 C.J.S. Judgments § 436.

[24] Act No. 3110, Sec. 44.

[25] Com. Act No. 3 (1936).

[26] Gunabe v. Director of Prisons, 77 Phil. 993, 995 (1947), cited in Feria v. Court of Appeals, 382 Phil. 412 (2000).

[27] U.S. v. Laguna, 17 Phil. 532, 540 (1910), cited in People v. Dagatan, 90 Phil. 294 (1951).

[28] Usman v. Cabe, 345 Phil. 236 (1997).

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