

BENITO ASTORGA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 154130. August 20, 2004

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

On October 1, 2003, we rendered a Decision in this case affirming petitioner's conviction by the Sandiganbayan of the crime of Arbitrary Detention. Petitioner now seeks a reconsideration of our Decision.

The facts are briefly restated as follows:

Private offended parties Elpidio Simon, Moises de la Cruz, Wenefredo Maniscan, Renato Militante and Crisanto Pelias are members of the Regional Special Operations Group (RSOG) of the Department of Environment and Natural Resources, Tacloban City. On September 1, 1997, they, together with SPO3 Andres B. Cinco, Jr. and SPO1 Rufo Capoquian of the Philippine National Police Regional Intelligence Group, were sent to the Island of Daram, Western Samar to conduct intelligence operations on possible illegal logging activities. At around 4:30-5:00 p.m., the team found two boats measuring 18 meters in length and 5 meters in breadth being constructed at Barangay Locob-Locob. There they met petitioner Benito Astorga, the Mayor of Daram, who turned out to be the owner of the boats. A heated altercation ensued between petitioner and the DENR team. Petitioner called for reinforcements and, moments later, a boat bearing ten armed men, some wearing fatigues, arrived at the scene. The DENR team was then brought to petitioner's house in Daram, where they had dinner and drinks. The team left at 2:00 a.m.

On the basis of the foregoing facts, petitioner was charged with and convicted of Arbitrary Detention by the Sandiganbayan in Criminal Case No. 24986. On petition for review, we rendered judgment as follows:

WHEREFORE, in view of the foregoing, the petition is hereby DENIED. The Decision of the Sandiganbayan in Criminal Case No., dated July 5, 2001 finding petitioner BENITO ASTORGA guilty beyond reasonable doubt of the crime of Arbitrary Detention and sentencing him to suffer the indeterminate penalty of four (4) months of arresto mayor, as minimum, to one (1) year and eight (8) months of prision correccional, as maximum, is AFFIRMED in toto.

Costs de oficio.

SO ORDERED.

Petitioner filed a Motion for Reconsideration, which was denied with finality on January 12, 2004.[1] Petitioner then filed an "Urgent Motion for Leave to File Second Motion for Reconsideration"[2] with attached "Motion for Reconsideration,"[3] wherein he makes the following submissions:

- THE ARMED MEN WERE NOT SUMMONED BY PETITIONER FOR THE PURPOSE OF DETAINING THE PRIVATE OFFENDED PARTIES;

- THERE IS NO EVIDENCE THAT THE SUPPOSED VICTIMS INSISTED ON LEAVING THE PLACE WHERE THEY WERE SUPPOSED TO BE DETAINED;
- THE SUPPOSED VICTIMS THEMSELVES HAVE DECLARED THE INNOCENCE OF THE PETITIONER;
- CRIMINAL INTENT ON THE PART OF THE ACCUSED IS CLEARLY WANTING IN THE INSTANT CASE.[4]

Subsequently, petitioner filed a Supplement to the Second Motion for Reconsideration.[5]

The prosecution was required to comment on petitioner's second Motion for Reconsideration and the Supplement thereto.

We find the grounds raised by the second Motion for Reconsideration well-taken.[6]

While a second motion for reconsideration is, as a general rule, a prohibited pleading, it is within the sound discretion of the Court to admit the same, provided it is filed with prior leave whenever substantive justice may be better served thereby.

The rules of procedure are merely tools designed to facilitate the attainment of justice. They were conceived and promulgated to effectively aid the court in the dispensation of justice. Courts are not slaves to or robots of technical rules, shorn of judicial discretion. In rendering justice, courts have always been, as they ought to be, conscientiously guided by the norm that on the balance, technicalities take a backseat against substantive rights, and not the other way around. Thus, if the application of the Rules would tend to frustrate rather than promote justice, it is always within our power to suspend the rules, or except a particular case from its operation.[7]

The elements of the crime of Arbitrary Detention are:

- That the offender is a public officer or employee.
- That he detains a person.
- That the detention is without legal grounds.[8]

The determinative factor in Arbitrary Detention, in the absence of actual physical restraint, is fear. After a careful review of the evidence on record, we find no proof that petitioner instilled fear in the minds of the private offended parties.

Indeed, we fail to discern any element of fear from the narration of SPO1 Rufo Capoquian, the police officer who escorted the DENR Team during their mission. On the contrary, what appears is that petitioner, being then a municipal mayor, merely extended his hospitality and entertained the DENR Team in his house. SPO1 Capoquian testified thus:

ATTY. JUMAMIL:

q

After Bagacay you arrived in what barangay in Daram?

a

We were on our way to Barangay Sta. Rita in Daram but on our way we saw a boat being constructed there so we proceeded to Barangay Lucodlucod (sic).

q

And you arrived at 5:00 o'clock?

a

Yes sir.

q

And you left at 2:00 o'clock in the morning of September 2?

a

Yes sir.

q

And you ate dinner between 5:00 o'clock to 2:00 o'clock in the morning of September 2, is that correct?

a

Yes sir. Mayor Astorga told us let us have dinner.

q

And Mayor Astorga brought you to a house where you had dinner?

a

Yes sir.

q

And of course you also partook of wine?

a

I know they had wine but with respect to us we had no wine sir.

xxx xxx xxx

AJ NARIO:

q

While you were taking your dinner from 7 to 8:00 o'clock Mayor Astorga was with you having dinner?

a

Yes Your Honor.

q

You did not hear the conversation between the Mayor and the foresters, the complainants here?

a

I could not hear anything important because they were just laughing.

xxx xxx xxx

AJ PALATTAO:

q

And then according to you there was laughter what was the cause of this laughter?

a

Probably they were talking of something humorous.[9]

The testimonial evidence likewise shows that there was no actual restraint imposed on the private offended parties. SPO1 Capoquian in fact testified that they were free to leave the house and roam around the barangay. Furthermore, he admitted that it was raining at that time. Hence, it is possible that petitioner prevented the team from leaving the island because it was unsafe for them to travel by boat.

ATTY. JUMAMIL:

q

It was raining at that time, is that correct?

a

Yes sir it was raining.

q

And the weather was not good for motorized travel at that particular time that you were in Lucoblucob, Daram?

a

I know it is raining but I could not say that you could not travel.

q

What was the condition of the sea at that time when you were in Lucoblucob?

a

The sea was good in fact we did not get wet and there were no waves at that time.

q

But it was raining the whole day?

a

It was not raining at the day but after we ate in the evening it rained.

q

It was raining hard in fact after 8:00 p.m. up to 1:00 o'clock in the morning is that correct?

a

A little bit hard I don't know when the rain stopped, sir.

q

It is possible that it rain.. the rain stopped at 1:00 o'clock in the morning of September 2?

a

I don't remember sir.

xxx xxx xxx

AJ PALATTAO:

q

Were you told not to go away from the place?

a

No Your Honor.

q

Up to what point did you reach when you were allegedly prevented to go somewhere?

a

They did not say anything sir.

q

Where did you go after that?

a

Just down until it rained.

q

If you want to go, let us say, you want to leave that place, on your part, was there somebody prevented you to go to another place?

a

I don't know Your Honor.

q

But on your part can you just leave that place or somebody will prevent you to go somewhere else?

a

What I felt I will not be able to leave because we were already told not to leave the barangay.

q

In other words, you can go places in that barangay but you are not supposed to leave that barangay, is this Barangay Daram?

a

Barangay Lucoblucob, Your Honor.

q

On your part according to you you can go places if you want although in your impression you cannot leave the

barangay. How about the other companions like Mr. Simon, Cruz and Maniscan, can they leave the place?

a

No Your Honor.

q

Why are you very positive that in your case you can leave but in the case of those I have enumerated they cannot, why?

a

If only in that barangay we can leave, Your Honor.[10]

Mr. Elpidio Simon, one of the private offended parties, took the witness stand on August 16, 2000 but did not complete his testimony-in-chief due to lack of material time. His testimony only covered preliminary matters and did not touch on the circumstances of the alleged detention.[11]

On August 23, 2000, all the private offended parties, namely, Elpidio E. Simon, Moises de la Cruz, Renato Militante, Crisanto Pelias and Wenefredo Maniscan, executed a Joint Affidavit of Desistance stating, in pertinent part:

xxx xxx xxx;

- That what transpired may have been caused by human limitation aggravated by the exhaustion of the team in scouring the shores of the small islands of Samar for several days. Mayor Benito Astorga may have also been confronted with the same predicament, hence our confrontation resulted to a heated argument and the eventual misunderstanding;

- Considering that he is the local Chief Executive of the Municipality of Daram, Samar our respect for him prevailed when he ordered us to take dinner with him and other local residents thereat, so we capitulated whose invitation was misinterpreted by us;

- That thereafter, a natural and spontaneous conversation between the team and the group of Mayor Astorga during the dinner and we were eventually allowed to leave Daram, Samar;

- That upon our return to our respective official stations we reported the incident to our supervisors who required us to submit our affidavit;

- That at present our differences had already been reconciled and both parties had already express apologies and are personally no longer interested to pursue the case against the Mayor, hence, this affidavit of desistance;

xxx xxx xxx.[12]

Thereafter, the private offended parties did not appear anymore in court to testify. This notwithstanding, the Sandiganbayan convicted petitioner of the crime of Arbitrary Detention on the basis of the testimonies of SPO1 Capoquian and SPO3 Cinco, the police escorts of the DENR Team.

The quoted portions of SPO1 Capoquian's testimony negate the element of detention. More importantly, fear is a state of mind and is necessarily subjective.[13] Addressed to the mind of the victim, its presence cannot be tested by any hard-and-fast rule but must instead be viewed in the light of the perception and judgment of the victim at the time of the crime.[14] As such, SPO1 Capoquian and SPO3 Cinco, not being victims, were not competent to testify on whether or not fear existed in the minds of the private offended parties herein. It was thus error for the Sandiganbayan to have relied on their testimonies in convicting petitioner.

Verily, the circumstances brought out by SPO1 Capoquian created a reasonable doubt as to whether petitioner detained the DENR Team against their consent. The events that transpired are, to be sure, capable to two interpretations. While it may support the proposition that the private offended parties were taken to petitioner's house and prevented from leaving until 2:00 a.m. the next morning, it is equally plausible, if not more so, that petitioner extended his hospitality and served dinner and drinks to the team at his house. He could have advised them to stay on the island inasmuch as sea travel was rendered unsafe by the heavy rains. He ate together with the private offended parties and even laughed with them while conversing over dinner. This scenario is inconsistent with a hostile confrontation between the parties. Moreover, considering that the Mayor also served alcoholic drinks, it is not at all unusual that his guests left the house at 2:00 a.m. the following morning.

In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved.[15] He is entitled to an acquittal unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.[16]

As held in several cases, when the guilt of the accused has not been proven with moral certainty, the presumption of innocence of the accused must be sustained and his exoneration be granted as a matter of right. For the prosecution's evidence must stand or fall on its own merit and cannot be allowed to draw strength from the weakness of the evidence for the defense.[17] Furthermore, where the evidence for the prosecution is concededly weak, even if the evidence for defense is also weak, the accused must be duly accorded the benefit of the doubt in view of the constitutional presumption of innocence that an accused enjoys. When the circumstances are capable of two or more inferences, as in this case, one of which is consistent with the presumption of innocence while the other is compatible with guilt, the presumption of innocence must prevail and the court must acquit. It is better to acquit a guilty man than to convict an innocent man.[18]

WHEREFORE, in view of the foregoing, the Decision dated October 1, 2003 is RECONSIDERED and SET ASIDE. The appealed judgment of the Sandiganbayan in Criminal Case No. 24986 is REVERSED. Petitioner Benito Astorga is ACQUITTED of the crime of Arbitrary Detention on the ground of reasonable doubt.

No pronouncement as to costs.

SO ORDERED.

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

[1] Rollo, p. 197.

[2] Id., pp. 198-199.

[3] Id., pp. 202-216.

[4] Id., pp. 204-213.

[5] Id., pp. 217-223.

[6] The Court En Banc resolved to allow the Special First Division to consider and resolve the Second Motion for Reconsideration.

[7] Fulgencio, et al. v. NLRC, G.R. No. 141600, 12 September 2003.

[8] Astorga v. People, G.R. No. 154130, 1 October 2003.

- [9] TSN, 15 August 2000, pp. 6-7, 9-10, 21.
- [10] *Id.*, pp. 8-9, 22-23.
- [11] TSN, 16 August 2000, pp. 6-13.
- [12] Record, p. 158.
- [13] *People v. Servano*, G.R. Nos. 143002-03, 17 July 2003.
- [14] *People v. Lustre*, G.R. No. 134562, 6 April 2000, 330 SCRA 189, 196.
- [15] Constitution, Art. III, Sec. 14 (2).
- [16] Rules of Court, Rule 133, Sec. 2.
- [17] *People v. Sodsod*, G.R. Nos. 141280-81, 16 June 2003.
- [18] *People v. Batoctoy*, G.R. Nos. 137458-59, 24 April 2003.

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