ARNOLD ALVA, PETITIONER, VS. HON. COURT OF APPEALS, RESPONDENT.

G.R. NO. 157331. April 12, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court, as amended, assailing the twin Resolutions of the Court of Appeals (CA), dated 18 October 2002[1]and 19 February 2003,[2]respectively, in CA-G.R. CR No. 24077, entitled People of the Philippines v. Arnold Alva.

The CA, in the assailed resolutions, dismissed petitioner's appeal of the trial court's judgment of conviction for failing to post a new bail bond to secure his provisional liberty on appeal.

The Facts

The present petition stemmed from an Information[3]charging petitioner with having committed the crime of estafa defined under Article 315, Paragraph 2(a) of the Revised Penal Code, alleging as follows:

> The undersigned accuses ARNOLD ALVA of the crime of ESTAFA, committed as follows:
>
> That in or about and during the period covered between October 18, 1993 up to December 18, 1993, inclusive, in the City of Manila, Philippines, the said accused, did then and there willfully (sic), unlawfully and feloniously defraud YUMI VERANGA y HERVERA in the following manner, to wit: the said accused, by means of false manifestation and fraudulent representation which he made to said YUMI VERANGA y HERVERA to the effect that he could process the latter's application for U.S. Visa provided she would give the amount of P120,000.00, and by means of other similar deceit, induced and succeeded in inducing said YUMI VERANGA y HERVERA to give and deliver, as in fact she gave and delivered to said accused the amount of P120,000.00 on the strength of said manifestation and representation said accused well knowing that the same were false and untrue for the reason that the U.S. Visa is not genuine and were made solely to obtain, as in fact he did obtain the amount of P120,000.00 which amount once in his possession with intent to defraud, he wilfully (sic), unlawfully and feloniously misappropriated, misapplied and converted the said amount to his own personal use and benefit, to the damage and prejudice of the said YUMI VERANGA y HERVERA in the aforesaid amount of P120,000.00, Philippine Currency.
>
> CONTRARY TO LAW.

The resultant criminal case was filed and docketed as Criminal Case No. 95-143803 and raffled to the Regional Trial Court (RTC) of Manila, Branch 54, presided by Judge Manuel T. Muro.

On 5 September 1995, the RTC issued a Recall Order[4]of the Warrant of Arrest issued on 18 July 1995 against petitioner in view of the approval of his bail bond by Hon. William Bayhon, then Executive Judge of the RTC of Manila.

Upon arraignment on 7 December 1995, petitioner, duly assisted by counsel,[5]pleaded not guilty to the crime

charged.

After the trial on the merits, in an Order[6]dated 6 April 1998, the RTC considered the case submitted for decision.

On 4 May 1999, petitioner's counsel filed an Urgent Motion to Cancel Promulgation[7]praying for the resetting of the 5 May 1999 schedule of promulgation of the RTC's decision to 17 June 1999 in view of the fact that said counsel already had a prior commitment on subject date. The RTC granted the motion. The promulgation, however, was deferred only until 19 May 1999.

A day before the rescheduled date of promulgation, or on 18 May 1999, petitioner's counsel again moved for the deferment of the promulgation, due to prior "undertakings of similar importance."[8]

On 19 May 1999, petitioner and counsel both failed to appear in court despite due notice. In his stead, claiming to be petitioner's representative, a certain Joey Perez personally delivered to the RTC a hand written medical certificate[9]expressing petitioner's inability to attend the day's hearing due to hypertension.

In response to the aforestated acts of petitioner and counsel, the RTC issued an Order[10]directing the promulgation of its decision in absentia and the issuance of a bench warrant of arrest against petitioner for his failure to appear before it despite due notice.

In its decision dated 25 March 1999,[11]the RTC found petitioner guilty of the crime of estafa under Article 315, paragraph 2(a) of the Revised Penal Code, the decretal part of which reads:

> WHEREFORE, judgment is hereby rendered: finding the accused guilty beyond reasonable doubt of the crime of estafa under Article 315, No. 2(a) of the RPC and sentences him to an indeterminate term of imprisonment of nine (9) years and one (1) day as minimum of prision mayor to seventeen (17) years as maximum of reclusion temporal in accordance with the provisions of Article 315, first, and the Indeterminate Sentence Law, and further for the accused to return the P120,000.00 to the complainant with an interest at the rate of twelve percent (12%) compounded annually from January 1, 1994 (the amount has been given to the accused in October and December 1993).

Meanwhile, as appearing in the records of the RTC, immediately following an original duplicate copy of the aforequoted decision, a document entitled Personal Bail Bond[12]dated 21 May 1999 issued by Mega Pacific Insurance Corporation, seemed to have been filed before and approved by the RTC as evidenced by the signature of Judge Muro on the face of said bail bond.[13]For such reason, petitioner appeared to have been admitted to bail anew after his conviction.

Incongruous to the above inference, however, in an Order[14]dated 25 May 1999, judgment was rendered against Eastern Insurance and Surety Corporation, the bonding company that issued petitioner's original bail bond, in the amount of P17,000.00, for failure to produce the person of petitioner within the 10 day period earlier provided and to explain why the amount of its undertaking should not be forfeited.

In the interregnum, Police Superintendent Ramon Flores De Jesus, Chief of Warrant and Subpoena Section,[15]manifested to the RTC the return of the unexecuted Warrant of Arrest issued on 19 May 1999 "for the reason that the address of the accused (petitioner) is not within our area of responsibility. x x x" Nevertheless, De Jesus reassured the RTC that "the name of the accused will be included in our list of wanted persons for our future reference." Examination of the records of the case revealed that petitioner already moved out of his address on record without informing the RTC.

On 15 July 1999, hand delivered by a certain Remedios Caneda, petitioner wrote[16]the RTC requesting for a certified photocopy of his exhibits submitted to it during trial.

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On 21 July 1999, a Termination of Legal Services was filed by petitioner before the RTC informing it of his decision to terminate the services of his counsel and that he was currently in the process of hiring a new one.

On 26 July 1999,[17] petitioner filed a Motion for Reconsideration before the RTC.

In an Order[18]dated 30 August 1999, the RTC declined to give due course to said motion for failure to set it for hearing; thus, treating it as a mere scrap of paper.

On 2 September 1999, petitioner received the above Order. The next day, or on 3 September 1999, petitioner filed a Notice of Appeal[19]before the RTC.

In an Order[20]dated 20 September 1999, the RTC again declined to give due course to the Notice of Appeal, ratiocinating thus:

> The "Notice of Appeal" filed by accused cannot be given due course as it was filed out of time. Although accused filed a "Motion for Reconsideration" dated 23 July 1999, the Court considered it as a mere scrap of paper and was not acted upon as the same was not set for hearing, hence, it did not stop the reglementary period to file appeal.

On 25 November 1999, petitioner filed anew a motion praying for the RTC's categorical resolution of his 23 July 1999 Motion for Reconsideration.

In an Order dated 7 December 1999, the RTC granted the abovestated motion, the full text of which states:

> The Motion to Resolve the Motion for Reconsideration of the accused, dated November 20, 1999 is granted in the interest of justice, considering that the one who prepared the Motion for Reconsideration appears to be the accused himself, who may not appear to be a lawyer and may not be conversant with the rules, among others, governing motions.
>
> Acting on the said Motion for Reconsideration itself, same is denied for lack of merit. The Decision has examined and discussed the evidence presented and the merits of the case.
>
> Because of the pendency of the Motion for Reconsideration, the appeal is deemed filed on time, and the appeal is given due course.
>
> Let the records of the case, together with three (3) copies of the transcripts of stenographic notes be transmitted to the Hon. Court of Appeals.

On appeal before the Court of Appeals, in a Resolution[21]dated 16 October 2001, the appellate court required petitioner to show cause why his appeal should not be dismissed it appearing that no new bail bond for his provisional liberty on appeal had been posted, to wit:

> Considering the arrest warrant issued by the trial court against the accused who failed to appear at the promulgation of the judgment, and it appearing from the record that no new bond for his provisional liberty on appeal has been posted, appellant is ORDERED to SHOW CAUSE within ten (10) days from notice why his appeal should not be dismissed outright.

On 29 October 2001, petitioner, through new counsel, filed a Compliance[22]essentially stating therein that:

> x x x x
>
> 3. Upon learning of the course of action taken by the presiding judge, and for purposes of appealing the decision subject of the instant case, on May 21, 1999, accused immediately posted a new bond for his provisional liberty. The presiding judge of the lower court, which issued the questioned decision, duly approved the new bond. Certified true copy of the bond is hereto attached as Annex "3" and made an integral

part hereof;

x x x x.

In a Resolution[23]dated 18 October 2002, the Court of Appeals, nonetheless dismissed the appeal filed by petitioner for "appellant's failure to post a new bond for his provisional liberty on appeal despite our directive as contained in our Resolution dated October 16, 2001, and in view of the fact that his personal bail bond posted in the lower court had already expired, x x x."

Undaunted, petitioner filed a Motion for Reconsideration[24]thereto seeking its reversal. According to petitioner's counsel, he was of the understanding that the "Show Cause" Resolution of 16 October 2001 merely sought an explanation vis-á-vis the absence of a bail bond guaranteeing petitioner's provisional liberty while his conviction was on appeal. All the same, petitioner's counsel manifested that Mega Pacific Insurance Corporation, had already extended the period covered by its 21 May 1999 bail bond. Attached to said motion was a Bond Endorsement[25]extending the coverage of the bail bond from 21 May 1999 to 21 May 2003.

Asked to comment on the Motion for Reconsideration, respondent People of the Philippines (People), through the Office of the Solicitor General (OSG), interposed objections. In its Comment,[26]respondent People raised two arguments: 1) that "an application for bail can only be availed of by a person who is in the custody of the law or otherwise deprived of his liberty;" and 2) that "bail on appeal is a matter of discretion when the penalty imposed by the trial court is imprisonment exceeding six (6) years."

On 19 February 2003, the Court of Appeals issued the second assailed Resolution,[27]disposing of petitioner's motion as follows:

> Finding no merit in appellant's motion for reconsideration (citation omitted) filed on November 12, 2002, the same is hereby DENIED. We agree with the appellee that appellant has failed to submit himself under the jurisdiction of the court or under the custody of the law since his conviction in 1999 and that there was no valid bail bond in place when appellant took his appeal.
>
> WHEREFORE, appellant's motion for reconsideration is DENIED. [Emphasis supplied.]

Hence, this petition.

The Issues

Petitioner now comes to this Court via a petition for review on certiorari under Rule 45 of the Rules of Court alleging the following errors:[28]

> I.
>
> THE HONORABLE COURT OF APPEALS HAS DECIDED QUESTIONS OF SUBSTANCE IN A WAY NOT IN ACCORD WITH LAW OR WITH APPLICABLE DECISIONS OF THIS HONORABLE SUPREME COURT;
>
> II.
>
> THE HONORABLE COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISMISSED THE PETITION DOCKETED AS CA G.R. CR NO. 24077 ON THE GROUND OF ALLEGED FAILURE TO POST A NEW BOND FOR PETITIONER'S PROVISIONAL LIBERTY AND THAT THE PERSONAL BAIL BOND POSTED IN THE LOWER COURT HAD ALLEGEDLY ALREADY EXPIRED;
>
> III.

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> THE HONORABLE COURT OF APPEALS GRAVELY ERRED OR ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT DID NOT CONSIDER AS SUBSTANTIAL, THE COMPLAINCE FILED BY THE PETITIONER WHICH SHOWED THE FACT THAT INDEED THERE WAS A BAIL BOND FILED FOR THE PROVISIONAL LIBERTY OF THE ACCUSED DURING THE PENDENCY OF THE APPEAL;
>
> IV.
>
> THE HONORABLE COURT OF APPEALS GRAVELY ERRED OR ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT IGNORED THE RECENT BAIL BOND EXTENSION ATTACHED TO THE MOTION FOR RECONSIDERATION FILED BY THE PETITIONER;
>
> V.
>
> THE HONORABLE COURT OF APPEALS GRAVELY ERRED OR ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT RULED THAT THE PETITIONER FAILED TO SUBMIT TO THE JURISDICTION OF THE COURT OR TO THE CUSTODY OF LAW DESPITE THE BAIL BOND POSTED ON MAY 21, 1999; and
>
> VI.
>
> THE HONORABLE COURT OF APPEALS GRAVELY ERRED OR ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT RULED THAT THERE WAS NO VALID BAIL BOND IN PLACE WHEN THE PETITIONER TOOK HIS APPEAL.

The bombardment of errors notwithstanding, only two issues are raised in this petition: 1) with the exception of the fifth assignment of error, all six can be encapsulated in one solitary question, that is, whether or not the Court of Appeals committed reversible error in dismissing the appeal in view of petitioner's alleged failure to post a valid bail bond to secure his provisional liberty on appeal; and 2) whether or not petitioner failed to submit himself to the jurisdiction of the court or to the custody of the law despite the posting of the subject bail bond.

The Court's Ruling

Petitioner faults the appellate court for expressing "x x x in its questioned resolutions that herein petitioner did not submit to the jurisdiction of the court or custody of the law, or that there was no valid bail bond when the appeal was taken when the records of the case would readily prove the contrary."[29] In issuing said resolution, petitioner concludes that the Court of Appeals made "x x x no careful examination of the records x x x." Petitioner rationalizes his deduction in the following manner:

> x x x [T]he records of the case readily reveals (sic) that several pleadings were filed by the petitioner before the lower court even after the promulgation of judgment was made. Right after the promulgation of the decision in the lower court, herein petitioner went to the court and posted a bail bond. If the posting of the bond which was approved by the same Regional Trial Court who rendered the decision subject of appeal is not yet a submission to the jurisdiction of the court, then the respondent Hon. Court of Appeals must have been thinking of another matter beyond the comprehension of the petitioner and obviously outside the matters being contemplated by law and the Rules of Court.

Equally, petitioner further posits that:

> x x x Although it is respectfully submitted that an accused shall be denied bail or his bail shall be cancelled if sentenced to an imprisonment exceeding six (6) years as provided in Section 5, Rule 114 of the Rules of Court, just the same, there must be a showing by the prosecution with notice to the accused of the fact that, the accused is a recidivist, has previously escaped from confinement, evaded sentence, has committed an offense while under probation, there are circumstances indicating the probability of flight if released on bail, etc. But there was none of the said instances that may be attributable to herein petitioner.[30]

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Respondent People, in contrast, counters that "x x x [a]lthough a personal bail bond dated May 21, 1999 was executed in favor of petitioner by Mega Pacific Insurance Corporation two days after the promulgation of the Decision, there is nothing on record which shows that petitioner had surrendered, was arrested or otherwise deprived of his liberty after the promulgation of the judgment of his conviction in his absence. x x x." To illustrate its point, respondent People cites the following facts: 1) the return of the Warrant of Arrest issued on May 19, 1999 signed by P/Superintendent Ramon Flores De Jesus, Chief of Warrant and Subpoena Section, which states in full:

> Respectfully returned this unexecuted Warrant of Arrest for the reason that the address of the accused is not within our area of responsibility. Further request that the warrant of Arrest be forwarded to the Police Station which has Jurisdiction over the address of the accused.
>
> However, the name of the accused will be included in our list of wanted persons for our future reference.

2) the fact that six days after the decision of the RTC was promulgated, or on 25 May 1999, said court rendered judgment against the bail bond issued by Eastern Assurance and Surety Corporation executed to secure petitioner's provisional liberty during the trial, for the bondsman's failure to produce petitioner before the court, to wit:

> In view of the failure of Eastern Insurance & Surety Corporation, bondsman of herein accused, to produce the herein accused within the period granted it by this Court, judgment is hereby rendered against said bond in the amount of Seventeen Thousand (P17,000.00) Pesos.[31]

Respondent People explains that the first two facts make it improbable to conclude that there existed a valid bail bond securing petitioner's provisional liberty even after conviction. Stated in another way, petitioner's admission to bail presumes that the latter surrendered, was arrested or he had otherwise submitted himself under the custody of the law.

And, 3) "that petitioner belatedly attached a bond endorsement to his motion for reconsideration dated November 7, 2002 submitted before the Court of Appeals, purportedly to extend the expired personal bond dated May 21, 1999 x x x, did not automatically confer on petitioner the benefits of an effective bail bond,"[32]as petitioner made no extension of the previous personal bond before the same expired.

We disagree in petitioner's assertions; hence, the petition must fail.

A definitive disposition of the issue relating to the existence and validity of petitioner's bail bond on appeal presupposes that the latter was allowed by law to post bail notwithstanding the RTC's judgment of conviction and the imposition of the penalty of imprisonment for an indeterminate period of nine (9) years and one (1) day as minimum of prision mayor to seventeen (17) years as maximum of reclusion temporal.

Section 5 of Rule 114 of the 1994 Rules of Court, as amended, intrinsically addresses the foregoing prefatory matter viz:

> SEC. 5. Bail, when discretionary. - Upon conviction by the Regional Trial Court of an offense not punishable by death, reclusion perpetua or life imprisonment, the court, on application, may admit the accused to bail.
>
> The court, in its discretion, may allow the accused to continue on provisional liberty under the same bail bond during the period to appeal subject to the consent of the bondsman.
>
> If the court imposed a penalty of imprisonment exceeding six (6) years, but not more than twenty (20) years, the accused shall be denied bail, or his bail previously granted shall be cancelled, upon a showing by the prosecution, with notice to the accused, of the following or other similar circumstances:

> (a) That the accused is a recidivist, quasi-recidivist, or habitual delinquent, or has committed the crime aggravated by the circumstances of reiteration;
>
> (b) That the accused is found to have previously escaped from legal confinement, evaded sentence, or has violated the conditions of his bail without valid justification;
>
> (c) That the accused committed the offense while on probation, parole, or under conditional pardon;
>
> (d) That the circumstances of the accused or his case indicate the probability of flight if released on bail; or
>
> (e) That there is undue risk that during the pendency of the appeal, the accused may commit another crime.
>
> The appellate court may review the resolution of the Regional Trial Court, on motion and with notice to the adverse party. [Emphasis supplied.]

From the preceding quoted provision, the RTC is given the discretion to admit to bail an accused even after the latter has been convicted to suffer the penalty of imprisonment for a term of more than six (6) years but less than twenty (20) years. However, the same also provides for the cancellation of bail bonds already granted or the denial of a bail bond application upon the concurrence of two points: 1) if the judgment of the Regional Trial Court exceeds six (6) years but not more than twenty (20) years; and 2) upon a showing by the prosecution, with notice to the accused, of the presence of any of the five circumstances therein enumerated or other similar circumstances.

In the case at bar, petitioner was convicted by the RTC to suffer the penalty of imprisonment for an indeterminate term of nine (9) years and one (1) day as minimum of prison mayor to seventeen (17) years as maximum of reclusion temporal. Quite clearly, the approval of petitioner's application for bail was discretionary upon the RTC.

It is incongruous, to say the least, that the posting of a bail presupposes that the accused and/ or accused-appellant is detained or in the custody of the law.[33] In the case at bar, the bench warrant issued by the RTC on 19 May 1999 still remains unserved. Nothing in the records of the case, neither in the RTC nor the Court of Appeals, demonstrates that petitioner was ever arrested, as there has been no related Order of Release issued by any court, or that he voluntarily surrendered or at the very least placed himself under the custody of the law.

Basic is the principle that that the right to bail can only be availed of by a person who is in custody of the law or otherwise deprived of his liberty and it would be premature, x x x, to file a petition for bail for someone whose freedom has yet to be curtailed.[34]

All told, no bail should have been granted petitioner. It is beyond dispute that the subject bail bond issued by Mega Pacific Insurance Corporation was irregularly approved. Worth noting is the fact that nowhere in the records of the case is it shown that petitioner applied for bail through a motion duly filed for such purpose nor is there showing that the RTC issued an Order of Approval or any other court process acknowledging such document. Be that as it may, even granting for the sake of argument that it was indeed approved by Judge Muro, such approval did not render the subject bail bond valid and binding for it has been established that petitioner was not entitled to bail on appeal.

That the prosecution appears not to have been given the chance to object, as evidently required under the quoted rule, to the application or approval of the subject bail bond (with notice to the accused), fortifies the declaration as to its invalidity. Nowhere in the original records of the RTC does it even show that the prosecution was informed of petitioner's application for bail, much less the approval of such application.

Noting that the raison d'être for such requirement is the discretionary nature of the admission to bail of an accused after conviction, though discretionary, such assessment must be exercised in accordance with applicable legal

principles. As when there is a concurrence of the enumerated circumstances and the range of penalty imposed, the prosecution must first be accorded an opportunity to object and present evidence, if necessary, with notice to the accused. It is on this basis that judicial discretion is balanced in determining whether or not an accused-appellant should be admitted to bail pending appeal of his conviction vis-á-vis the increased possibility or likelihood of flight.

Approval of an application for bail on appeal, absent the knowledge of the prosecution of such application or, at the very least, failing to allow it to object, is not the product of sound judicial discretion but of impulse and arbitrariness, not to mention violative of respondent People's right of procedural due process.

This is especially true in this case as a close scrutiny of the original records of the case at bar reveals that petitioner violated the conditions of his bail without valid justification - his failure to appear before the RTC, despite due notice, on the day of the promulgation of the latter's judgment, absent any justifiable reason. His absence was a clear contravention of the conditions of his bail bond to say the least. As evidenced by the undertaking printed on the face of the bond issued by Eastern Insurance and Surety Corporation and likewise required under Section 6[35]of Rule 120 of the Rules of Court, petitioner must present himself before the court for the reading of the judgment of the RTC in order to render himself to the execution thereof.

While, indeed, a medical certificate was hand delivered and filed by a certain Joey Perez, allegedly a representative of petitioner, stating therein the reason for the latter's absence, the RTC found insubstantial the explanation proffered. Appropriately, it ordered the promulgation of its judgment in absentia. It also issued a bench warrant of arrest against petitioner.

Upon examination, the subject medical certificate[36]merely states that petitioner was diagnosed to be suffering from hypertension. It failed to elucidate further any concomitant conditions necessitating petitioner's physical incapability to present himself before the court even for an hour or two; thus, it considered the absence of petitioner unjustified. What's more, though notarized, the subject document failed to indicate evidence of affiant's[37]identity making its due execution doubtful.

Further, it should be recalled as well, that as early as 4 May 1999, petitioner and counsel had already been notified of the 19 May 1999 schedule of promulgation. The first having been postponed in view of the Urgent Motion to Cancel Promulgation (on 5 May 1999) filed by petitioner's counsel.

Another telling evidence of the violation of petitioner's original bail bond is revealed by the Process Server's Return,[38]indicated at the dorsal portion of the RTC's Produce Order, indicating petitioner's change of address without prior notice to the RTC, it states:

> PROCESS SERVER'S RETURN
>
> This certifies that on the 17th day of May, (sic) 1999, undersigned return (sic) again to Fersal Apartelle located at 130 Kalayaan Ave. (sic) Diliman, Quezon City for confirmation and indeed the addressee, Arnold Alva, had no (sic) longer been residing nor holding office at the aforementioned address.

By failing to inform the RTC of his change of address, petitioner failed to hold himself amenable to the orders and processes of the RTC. It was an unmistakable arrant breach of the conditions of his bail bond.

Prescinding from the above discussion, the conviction of petitioner to a period beyond six (6) years but less than twenty (20) years in tandem with attendant circumstances effectively violating his bail without valid justification should have effectively precluded him from being admitted to bail on appeal.

The issue of the validity of petitioner's bail bond on appeal having been laid to rest by Section 5 of Rule 114 of

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the 1994 Rules of Court, as amended, petitioner's alleged failure to post a bail bond on appeal is, therefore, inconsequential as, under the circumstances, he is disallowed by law to be admitted to bail on appeal. Thus, for all legal intents and purposes, there can be no other conclusion than that at the time petitioner filed his notice of appeal and during the pendency of his appeal - even until now - he remains at large, placing himself beyond the pale, and protection of the law.

Inexorably, having jumped bail and eluded arrest until the present, the issue of whether or not petitioner has lost his right to appeal his conviction now ensues.

The manner of review of petitioner's conviction is governed by the Rules of Court. Appropriately, Rule 124 of the Rules of Court presents the procedural requirements regarding appeals taken to the Court of Appeals. Section 8 of said Rule finds application to the case at bar, viz:

> SEC. 8. Dismissal of appeal for abandonment or failure to prosecute. - The appellate court may, upon motion of the appellee or its own motion and notice to the appellant, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except in case the appellant is represented by a counsel de oficio.
>
> The court may also, upon motion of the appellee or on its own motion, dismiss the appeal if the appellant escapes from prison or confinement or jumps bail or flees to a foreign country during the pendency of the appeal. [Emphasis supplied.]

By virtue of the second paragraph of the abovequoted provision, the act of jumping bail, among otherthings, will result in the outright dismissal of petitioner's appeal. As pointed out by the Court in the case of People v. Mapalao,[39]the reason for said rule is that:

> [O]nce an accused escapes from prison or confinement or jumps bail or flees to a foreign country, he losses his standing in court and unless he surrenders or submits to the jurisdiction of the court he is deemed to have waived any right to seek relief from the court.

Thus, the Court of Appeals committed no reversible error in dismissing petitioner's appeal. Within the meaning of the principles governing the prevailing criminal procedure, petitioner impliedly withdrew his appeal by jumping bail and thereby made the judgment of the RTC final and executory.[40]

By putting himself beyond the reach and application of the legal processes of the land, petitioner revealed his contempt of the law and placed himself in a position to speculate at his pleasure his chances for a reversal. This, we cannot condone. Once more, by jumping bail, petitioner has waived his right to appeal. In the case of People v. Ang Gioc,[41]we enunciated that:

> There are certain fundamental rights which cannot be waived even by the accused himself, but the right of appeal is not one of them. This right is granted solely for the benefit of the accused. He may avail of it or not, as he pleases. He may waive it either expressly or by implication. When the accused flees after the case has been submitted to the court for decision, he will be deemed to have waived his right to appeal from the judgment rendered against him x x x.

Coming now to the second issue of whether or not petitioner failed to submit himself to the jurisdiction of the court or to the custody of the law, despite the posting of the subject bail bond, petitioner argues that his act of filing several pleadings after the promulgation of the RTC's judgment plus his filing of the application for his admission to bail should be considered a submission to the court's jurisdiction. He rationalizes that:

> [T]he records of the case readily reveals that several pleadings were filed by the petitioner before the lower court even after the promulgation of judgment was made. Right after the promulgation of the decision in the lower court, herein petitioner went to the court and posted a bail bond. If the posting of the bond which was

> approved by the same Regional Trial Court who rendered the decision subject of appeal is not yet a submission to the jurisdiction of the court, then the respondent Hon. Court of Appeals must have been thinking of another matter beyond the comprehension of the petitioner and obviously outside the matters being contemplated by law and the Rules of Court.

For the resolution of the second issue, it should have been sufficient to state that for reasons stated in the foregoing discussion, the question posed has now become academic. However, to diminish the confusion brought about by ostensibly equating the term "jurisdiction of the court (over the person of the accused)" with that of "custody of the law", it is fundamental to differentiate the two. The term:

Custody of the law is accomplished either by arrest or voluntary surrender (citation omitted); while (the term) jurisdiction over the person of the accused is acquired upon his arrest or voluntary appearance (citation omitted). One can be under the custody of the law but not yet subject to the jurisdiction of the court over his person, such as when a person arrested by virtue of a warrant files a motion before arraignment to quash the warrant. On the other hand, one can be subject to the jurisdiction of the court over his person, and yet not be in the custody of the law, such as when an accused escapes custody after his trial has commenced (citation omitted).[42]

Moreover, jurisdiction, once acquired, is not lost at the instance of parties, as when an accused escapes from the custody of the law, but continues until the case is terminated.[43]Evidently, petitioner is correct in that there is no doubt that the RTC already acquired jurisdiction over the person of the accused petitioner - when he appeared at the arraignment and pleaded not guilty to the crime charged - notwithstanding the fact that he jumped bail and is now considered a fugitive.

As to whether or not petitioner has placed himself under the custody of the CA, alas, we cannot say the same for "[b]eing in the custody of the law signifies restraint on the person, who is thereby deprived of his own will and liberty, binding him to become obedient to the will of the law (citation omitted). Custody of the law is literally custody over the body of the accused. It includes, but is not limited to, detention."[44] In the case at bar, petitioner, being a fugitive, until and unless he submits himself to the custody of the law, in the manner of being under the jurisdiction of the courts, he cannot be granted any relief by the CA.

Parenthetically, we cannot end this ponencia without calling attention to a very disturbing fact - that petitioner admits of being the author of a falsified public document was treated nonchalantly by authorities.

In fine, the petitioner has remained at large even as he hopes that his appeal, and consequently, this petition, will succeed and he can then appear before the Court to claim his victory. He hopes in vain."[45]

WHEREFORE, the instant petition is DENIED for lack of merit. The assailed Resolutions of the Court of Appeals, in CA-G.R. CR No. 24077, which dismissed petitioner's appeal, are hereby AFFIRMED. In this connection, Judge Manuel Muro is DIRECTED to issue forthwith a warrant of arrest for the apprehension of Petitioner Arnold Alva and for proper disposition of the case in line with the foregoing discussion.

Costs against the petitioner.

SO ORDERED.

Panganiban, C.J., (Chairman), Ynares-Santiago, Austria-Martinez, and Callejo, Sr., JJ., concur.

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[1]Penned by Court of Appeals Associate Justice Eubulo G. Verzola and concurred in by Associate Justices Teodoro P. Regino and Sergio L. Pestaño; Annex "A" of the Petition; Rollo, p. 35.

[2] Id. at 36.

[3] RTC records, p. 1.

[4] RTC records, p. 38.

[5] Id. at 47.

[6]Id. at 176.

[7] Id. at 189-190.

[8]Id. at 204-205.

[9] Id. at 202.

[10] "Considering that this is the second time that this case was set for promulgation of decision and the Medical Certificate brought by the representative of the accused in the person of Joey Perez, states that the accused has hypertension, let the promulgation be held in absentia."

Issue a warrant of arrest against the accused to serve the sentence.

Given in open court, May 19, 1999;" Records, p. 197.

[11] RTC records, pp. 206-212.

[12] Id. at 213.

[13] Id.

[14] RTC records, p. 227.

[15]Petitioner's address on record is Unit No. 12 Fersal Condominium, 130 Kalayaan Ave., Diliman, Q.C; RTC records, p. 228.

[16]RTC records, p. 229.

[17]The Motion for Reconsideration was filed by registered mail on 26 July 1999; Id. at 233-266.

[18] Id. at 267.

[19] Id. at 275-276.

[20]Id. at 280.

[21] Court of Appeals rollo, p. 32.

[22] Id. at 36-38.

[23] Id. at 56.

[24]Id. at 57-60.

[25] Annex "1" of the Motion for Reconsideration; Id. at 61.

[26] Id. at 72-88.

[27] Id. at 90.

[28] Id. at 106-120.

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[29] Rollo, p. 30.

[30]Id. at 30-31.

[31] Id. at 111-113.

[32]Id. at 115.

[33] Guillen v. Nicolas, 360 Phil. 1, 13 (1998).

[34] Cortes v. Catral, 344 Phil. 415, 428-429 (1997).

[35] Sec. 6. Promulgation of judgement. - The judgement is promulgated by reading it in the presence of accused and any judge of the court in which it was rendered. x x x.

[36] RTC records, p. 202.

[37] Signed by a certain Rodel Quintin M. Aquino, M.D., with PRC License No. 90073.

[38] RTC records, p. 203.

[39]G .R. No. 92415, 14 May 1991, 197 SCRA 79, 87-88.

[40] Francisco, Criminal Procedure (1996, 3rd ed.), p. 520.

[41] 73 Phil. 366, 369 (1941).

[42]Miranda, et al. v. Tuliao, G.R. No. 158763, __ March 2006.

[43] Gimenez v. Nazareno, 160 SCRA 1, 5 to 7 (1988).

[44] People v. Agbulos, G. R. 73875, 18 May 1993, 222 SCRA 196, 201.

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