JUAN G. RIVERA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 163996. June 09, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court assails the decision dated May 3, 2004 of the Sandiganbayan,[1] which convicted petitioner of twelve counts of the crime of falsification by a public officer under Article 171 and one count of the crime of malversation of public funds under Article 217 (4), both of the Revised Penal Code and its resolution dated June 10, 2004,[2] denying reconsideration thereof and disallowing him to present evidence.

The antecedent facts are as follows:

Petitioner Juan G. Rivera and Eric O. Garcia, municipal mayor and disbursement officer, respectively, of Guinobatan, Albay, were charged before the Sandiganbayan with twelve counts of falsification of public documents and one count of malversation of public funds involving the amount of P1,936,798.64 given to the Municipality of Guinobatan as calamity fund for the victims of the Mayon volcanic eruption. Garcia died on August 25, 2001 and was accordingly dropped from the amended information.

Upon arraignment,[3] petitioner entered a plea of not guilty to all thirteen cases. A pre-trial was conducted and thereafter trial ensued. On various dates, the prosecution presented its witnesses and offered documentary exhibits. Then, it rested its case.

The defense was scheduled to present evidence on September 29, 2003; however, during the hearing, petitioner's former counsel, Atty. Benjamin C. Belarmino, Jr., informed the court that they have not yet received the resolution on the prosecution's Formal Offer of Exhibits, further manifesting that upon receipt of the resolution, they will ask for leave of court to file demurrer to evidence.

Thereupon, the court directed Atty. Belarmino to file a demurrer to evidence even without leave of court but the latter manifested that he would still discuss the matter with his collaborating counsel.

However, in the order issued by the Sandiganbayan on September 29, 2003, it was stated that petitioner, through counsel, manifested that he would be filing a demurrer to evidence without leave of court within ten (10) days.[4]

On October 20, 2003, petitioner filed his Demurrer to Evidence[5] without leave of court to which the prosecution filed its Opposition on October 27, 2003.

Pursuant to Section 23, Rule 119 of The Revised Rules of Criminal Procedure, the Sandiganbayan considered the right of petitioner to present evidence waived and deemed the case submitted for judgment on the basis of the evidence for the prosecution. On May 3, 2004, the Sandiganbayan rendered the assailed decision finding petitioner guilty as charged, the dispositive portion of which states:

> WHEREFORE:
>
> - In Criminal Cases No. 26686 to 26697, the Court finds the accused Juan G. Rivera GUILTY beyond reasonable doubt for TWELVE (12) COUNTS of the crime of Falsification by Public Officer defined under Article 171 of the Revised Penal Code, and is hereby sentenced to suffer the penalty of imprisonment of, after applying the indeterminate sentence law, TWO (2) YEARS, FOUR (4) MONTHS, and ONE (1) DAY of prisión correccional as minimum, up to TEN (10) YEARS of prisión mayor, as maximum, for each count;
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> Fine of Two Thousand Pesos (P2,000.00) for each count, or a total of TWENTY FOUR THOUSAND PESOS (P24,000.00) for all twelve counts; and
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> All the accessory penalties provided for by law.
>
> - In Criminal Case No. 26698, the Court finds the accused Juan G. Rivera GUILTY beyond reasonable doubt of the crime of Malversation of Public Funds defined under Article 217(4) of the Revised Penal Code, and is hereby sentenced to suffer the penalty of imprisonment of, after applying
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> i) the indeterminate sentence law, TWELVE (12) YEARS, FIVE (5) MONTHS, and ELEVEN (11) DAYS of reclusion temporal as minimum, up to TWENTY (20) YEARS of reclusion temporal as maximum,
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> ii) the penalty of perpetual special disqualification,
>
> iii) a fine of SEVEN HUNDRED NINETY FOUR THOUSAND FOUR HUNDRED FORTY FIVE PESOS (P794,445.00).
>
> By way of restitution, the accused is likewise ordered to indemnify the government in the same amount of SEVEN HUNDRED NINETY FOUR THOUSAND FOUR HUNDRED FORTY FIVE PESOS (P794,445.00); and
>
> All the accessory penalties provided for by law.
>
> SO ORDERED.[6]

On May 17, 2004, petitioner moved for reconsideration of the decision and further moved that he be allowed to present evidence.[7] The same, however, was denied in a resolution dated June 10, 2004, the dispositive portion of which reads:

> WHEREFORE, premises considered, this Court is constrained to DENY the omnibus motion for reconsideration.
>
> SO ORDERED.[8]

Hence, this petition for review on certiorari.[9]

The sole issue for resolution is whether or not the assailed decision and resolution of the Sandiganbayan should be set aside to allow petitioner to present evidence despite the demurrer to evidence filed.

Petitioner prays that in the interest of justice he be allowed to present evidence in view of the severity of the penalty imposed on him which is imprisonment of about 140 years. He asserts that he was unaware of the consequences of the action taken by his former counsel when he manifested that they were opting to file a demurrer to evidence. He also claims that the Sandiganbayan made no searching inquiry to determine whether he fully understood the legal ramifications of filing a demurrer to evidence without leave of court. He submits that by its filing, he was totally unaware and did not comprehend that he was in effect waiving his constitutional right to present evidence and be heard.

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The petition is meritorious.

We recognize the importance of procedural rules in insuring the effective enforcement of substantive rights through the orderly and speedy administration of justice.[10] However, the rules of procedure ought not to be applied in a very rigid technical sense, as they are used only to help secure, not override substantial justice. If a technical and rigid enforcement of the rules is made, their aim would be defeated.[11] That the Court has the power to set aside its own rules in the higher interests of justice is well-entrenched in our jurisprudence.[12]

The adjudication of cases involving the transcendental matter of life and liberty of a person, requires our utmost consideration.[13] The Constitution ordains that due process must be observed in cases involving a possible deprivation of life, liberty, or property.[14]

In the case at bar, the extreme penalty of more than a double-life sentence was imposed. No less than his liberty is at stake here.[15] Consequently, this case deserves to be deliberated upon, moreso because after the initial assessment by the Sandiganbayan, petitioner's only and last resort is with this Court.

A demurrer to evidence is defined as "an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue".[16] The party demurring challenges the sufficiency of the whole evidence to sustain a verdict.[17] In passing upon the sufficiency of the evidence raised in a demurrer, the court is merely required to ascertain whether there is competent or sufficient proof to sustain the indictment or to support a verdict of guilt.[18]

The transcript of stenographic notes taken during the hearing held on September 29, 2003 is reproduced herein, to wit:

> CHAIRMAN:
> Call the cases.
>
> INTERPRETER:
> Criminal Cases Nos. 26686-97 and 26698 entitled, People versus Juan Rivera, for trial.
>
> PROSECUTOR:
> Respectfully appearing for the People, your Honor.
>
> COUNSEL:
> Same appearance for the accused, your Honor.
>
> CHAIRMAN:
> Ready? It's your turn now to present evidence (referring to defense counsel).
>
> COUNSEL:
> Your Honor please, last week, we received a telegram from this Court, wherein we were notified that the prosecution's Formal Offer of Exhibits has been resolved. But we have not received the final Resolution, your Honor.
>
> CHAIRMAN:
> Will that be a justification for asking for a postponement? Don't you think of preparing for today's hearing?
>
> COUNSEL:
> I don't intend, your Honor, to request for postponement, however, we have thought that upon receipt of said Resolution, we will be asking for leave of court to file demurrer to evidence.
>
> CHAIRMAN:

You file your demurrer to evidence, just file it without leave of court.

COUNSEL:
I will have to discuss this matter yet with my collaborating counsel, your Honor.

CHAIRMAN:
You do that, since you are the lead counsel.
Where is the accused?

COUNSEL:
He is in court, your Honor.

CHAIRMAN:
Okay, just tell us if you are not ready, but do not say you are still going to confer with the accused.

If you will tell us you are not ready yet, so that you will have time to intelligently prepare for it, by all means, we will agree to that.

COUNSEL:
Thank you, your Honor.

CHAIRMAN:
ORDER.

When these cases were called for hearing this morning, counsel for the accused manifested that he will be filing a demurrer to evidence even without leave of court.

WHEREFORE, as prayed for, the defense is hereby granted a period of ten (10) days within which to file the said demurrer, furnishing the prosecution a copy thereof, who asked for the same period to file its comment/opposition thereto. Thereafter, this incident shall be deemed submitted for resolution of this Court.

SO ORDERED. (Emphasis supplied)

It appears from the aforequoted TSN of the hearing on September 29, 2003, that counsel for accused, Atty. Belarmino, asked for leave of court to file a demurrer to evidence but was curtly ordered to file the same even without leave of court. When Atty. Belarmino inquired about the resolution on the prosecution's Formal Offer of Exhibits, the Sandiganbayan thought that it was only an excuse to request for postponement, and that he was not prepared for the hearing.

The order dated September 29, 2003,[19] inaccurately stated that Atty. Belarmino manifested that he will be filing a demurrer to evidence even without leave of court when the records show no such manifestation was made. On the contrary, the records show that Atty. Belarmino asked for leave of court to file a demurrer to evidence and for time to discuss the same with his co-counsel but was instead ordered by the court to file the same without leave of court within ten days.

In addition, we note that Atty. Belarmino did not cite any ground when he moved for leave of court to file demurrer to evidence; neither did the Sandiganbayan make any inquiry thereon before issuing the September 29, 2003 order, directing the petitioner to file a demurrer to evidence even without leave of court. This is contrary to the provisions of Section 23, Rule 119 of the Revised Rules of Criminal Procedure which specifically instructs that "the motion for leave of court to file demurrer to evidence shall specifically state its grounds."

Also, the records show that petitioner was not consulted nor did his counsel confer with him and ask whether he understood the significance of filing a demurrer to evidence. In fact, Atty. Belarmino was not given the opportunity to discuss with petitioner the consequences of filing a demurrer to evidence without leave of court.

In People v. Bodoso,[20] the accused was charged with raping his fourteen-year old daughter. After the prosecution rested its case, the counsel de oficio of accused manifested that the defense was not intending to present any evidence and was resting its case. There was no clear showing that accused agreed to the waiver and intended to relinquish his right to be heard as manifested by his counsel. We held thus, to wit:

> Henceforth, to protect the constitutional right to due process of every accused in a capital offense and to avoid any confusion about the proper steps to be taken when a trial court comes face to face with an accused or his counsel who wants to waive his client's right to present evidence and be heard, it shall be the unequivocal duty of the trial court to observe, as a prerequisite to the validity of such waiver, a procedure akin to a "searching inquiry" as specified in People v. Aranzado when an accused pleads guilty, particularly –
>
> - The trial court shall hear both the prosecution and the accused with their respective counsel on the desire or manifestation of the accused to waive the right to present evidence and be heard.
>
> - The trial court shall ensure the attendance of the prosecution and especially the accused with their respective counsel in the hearing which must be recorded. Their presence must be duly entered in the minutes of the proceedings.
>
> - During the hearing, it shall be the task of the trial court to –
>
> a. ask the defense counsel a series of question to determine whether he had conferred with and completely explained to the accused that he had the right to present evidence and be heard as well as its meaning and consequences, together with the significance and outcome of the waiver of such right. If the lawyer for the accused has not done so, the trial court shall give the latter enough time to fulfill this professional obligation.
>
> b. inquire from the defense counsel with conformity of the accused whether he wants to present evidence or submit a memorandum elucidating on the contradictions and insufficiency of the prosecution evidence, if any, or in default theory, file a demurrer to evidence with prior leave of court, if he so believes that the prosecution evidence is so weak that it need not even be rebutted. If there is a desire to do so, the trial court shall give the defense enough time to this purpose.
>
> c. elicit information about the personality profile of the accused, such as his age, socio-economic status, and educational background, which may serve as a trustworthy index of his capacity to give a free and informed waiver.
>
> d. all questions posed to the accused should be in a language known and understood by the latter, hence, the record must state the language used for this purpose as well as reflect the corresponding translation thereof in English.

In passing, trial courts may also abide by the foregoing procedure even when the waiver of the right to be present and be heard is made in criminal cases involving non-capital offenses. After all, in whatever action or forum the accused is situated, the waiver that he makes if it is to be binding and effective must still be exhibited in the case records to have been validly undertaken, that is, it was done voluntarily, knowingly and intelligently with sufficient awareness of the relevant circumstances and likely consequences. As a matter of good court practice, the trial court would have to rely upon the most convenient, if not primary, evidence of the validity of the waiver which would amount to the same thing as showing its adherence to the step-by-step process outlined above.[21] (Emphasis supplied)

Similarly, in People v. Flores,[22] counsel for accused manifested that Flores was waiving his right to present evidence and requested for time to file a demurrer to evidence. The records were bereft of any indications that accused voluntarily waived his right to present evidence and with full comprehension. In that case, we ruled thus:

> The lower court, in view of the severity of the imposable penalty, ought to have inquired into the voluntariness

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> and full knowledge of the consequences of accused-appellants' waiver. Though the Rules require no such inquiry to be undertaken by the court for the validity of such waiver or any judgment made as result of the waiver, prudence, however, requires the Court to ascertain the same to avoid any grave miscarriage of justice. Although accused-appellants' waiver amazed the lower court, nevertheless, the record is devoid of any facts which would indicate that the lower court took steps to assure itself of accused-appellants' voluntariness and full knowledge of the consequences of their waiver.
>
> Besides, counsels' waiver should have put the court on guard. Any lawyer worth his salt ought to know that the filing of a demurrer to evidence with leave of court as was done below, has the beneficial effect of reserving the movant's right to present evidence if the demurrer is denied by the court. Thus, a counsel who files a demurrer with leave of court, but at the same time expressly waives his right to present evidence should put a judge on guard that said counsel may not entirely comprehend the consequences of the waiver. The trial court should have exercised prudence by warning counsel about the prejudicial effects of their waiver, that with such a waiver, the case would be deemed submitted for decision, and their leave to file motion for demurrer to evidence will have no effect.[23]

Finally, the evidence on record of the instant case do not clearly show where and to whom the allegedly malversed money were given after it was encashed. What is clear is that the calamity fund was released to Almeda O. Lim, the Municipal Treasurer of Guinobatan, Albay to which Official Receipt No. 8749242H was issued. Thereafter, checks bearing her signature and that of Rivera's were personally encashed by her while she was allegedly accompanied by Garcia. Witnesses who owned the forged receipts testified that they handed the blank receipts to Garcia and not to petitioner. Then, after receipt of the cash, the disbursement vouchers and other forms required to liquidate the amount were allegedly prepared by Almeda O. Lim and thereafter, transmitted to Rivera for approval, and finally to the provincial Government. It has not been satisfactorily established whether petitioner has appropriated, taken or misappropriated, or has consented to the taking by another person, of such funds.

Due to the precipitate filing by the defense of the demurrer to evidence, the Sandiganbayan determined petitioner's guilt based only on the prosecution's evidence. To our mind, the presentation of evidence by the defense would resolve any doubt as to petitioner's complicity and avoid possible miscarriage of justice. Clearly, when "transcendental matters" like life, liberty or State security are involved, suspension of the rules is likely to be welcomed more generously.[24] The Rules on procedure are merely tools designed to facilitate the attainment of justice. When they are rigid and strict in application, resulting in technicalities that tend to frustrate rather than promote justice, the Court is empowered to suspend the rules.[25]

In the interest of substantial justice, we are therefore constrained to remand the case to the Sandiganbayan for further proceedings.

WHEREFORE, the petition is GRANTED. The decision dated May 3, 2004 and the resolution dated June 10, 2004 of the Sandiganbayan are hereby SET ASIDE. Let the records of Criminal Case Nos. 26686-98 be REMANDED to the Sandiganbayan for further proceedings.

SO ORDERED.

Davide, Jr., C.J., Quisumbing, Carpio, and Azcuna, JJ., concur.

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[1] Rollo, pp. 49-70; penned by Associate Justice Norberto Y. Geraldez, with Associate Justices Gregory S. Ong and Efren N. Dela Cruz concurring.

[2] Id. at 72-76.

[3] Records, Vol. I, p. 259.

[4] Rollo, p. 113.

[5] Id. at 114-125.

[6] Id. at 68-69.

[7] Id. at 126-138.

[8] Id. at 76.

[9] Id. at 8-48.

[10] Seven Brothers Shipping Corp. v. Oriental Assurance Corp., 439 Phil. 663, 674 (2002).

[11] Ramiscal, Jr. v. Sandiganbayan, G.R. Nos. 140576-99, 13 December 2004.

[12] Malonzo v. Zamora, 370 Phil. 240, 257 (1999).

[13] People v. Flores, 336 Phil. 58, 64 (1997).

[14] People v. Beriber, G.R. No. 151198, 8 June 2004, 431 SCRA 332, 340.

[15] De Guzman v. Sandiganbayan, 326 Phil. 182, 189 (1996).

[16] Gutib v. Court of Appeals, 371 Phil. 293, 300 (1999).

[17] Ong v. People, G.R. No. 140904, 9 October 2000, 342 SCRA 372, 383, citing Gutib v. CA, supra.

[18] Choa v. Choa, 441 Phil. 175, 183 (2002), citing Ong v. People, supra; and Gutib v. CA, supra.

[19] Rollo, p. 113.

[20] 446 Phil. 838 (2003).

[21] Id. at 855-857.

[22] Supra, note 13.

[23] Id. at 64.

[24] Supra, note 15.

[25] Supra, note 13 at 62.

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