

BENJAMIN B. BANGAYAN, JR., PETITIONER, VS. SALLY GO BANGAYAN, RESPONDENT.*G.R. No. 172777. October 19, 2011*

Ponente: MENDOZA, J.

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These are consolidated petitions for review on certiorari under Rule 45 of the 1997 Revised Rules of Civil Procedure assailing the March 14, 2006 Decision[1] and the May 22, 2006 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 83704 entitled "Sally Go-Bangayan v. Hon. Luisito C. Sardillo, in his capacity as Presiding Judge of RTC-Caloocan City, Branch 126, Benjamin B. Bangayan, Jr. and Resally de Asis Delfin."

The Facts

This case stemmed from a complaint-affidavit filed by respondent Sally Go-Bangayan (Sally Go) accusing petitioners Benjamin Bangayan, Jr. (Benjamin, Jr.) and Resally de Asis Delfin (Resally) of having committed the crime of bigamy.[3]

On March 7, 1982, Benjamin, Jr. married Sally Go in Pasig City and they had two children.[4] Later, Sally Go learned that Benjamin, Jr. had taken Resally as his concubine whom he subsequently married on January 5, 2001 under the false name, "Benjamin Z. Sojayco." [5] Benjamin, Jr. fathered two children with Resally. Furthermore, Sally Go discovered that on September 10, 1973, Benjamin, Jr. also married a certain Azucena Alegre (Azucena) in Caloocan City.

The City Prosecutor of Caloocan City conducted a preliminary investigation and thereafter issued a Resolution dated June 5, 2002 recommending the filing of an information for bigamy against Benjamin, Jr. and Resally for having contracted a marriage despite knowing fully well that he was still legally married to Sally Go.[6] The information was duly filed on November 15, 2002 and was raffled to the Regional Trial Court of Caloocan City, Branch 126 (RTC) where it was docketed as Criminal Case No. C-66783.[7]

After the arraignment, during which petitioners both pleaded not guilty to the charge against them, the prosecution presented and offered its evidence.[8] On September 8, 2003, Benjamin, Jr. and Resally separately filed their respective motions for leave to file a demurrer to evidence.[9] This was granted by the RTC in its Order dated September 29, 2003.[10]

On October 20, 2003, Benjamin, Jr. filed his Demurrer to Evidence, praying that the criminal case for bigamy against him be dismissed for failure of the prosecution to present sufficient evidence of his guilt.[11] His plea was anchored on two main arguments: (1) he was not legally married to Sally Go because of the existence of his prior marriage to Azucena; and (2) the prosecution was unable to show that he and the "Benjamin Z. Sojayco Jr.," who married Resally, were one and the same person.[12]

In its December 3, 2003 Order,[13] the RTC dismissed the criminal case against Benjamin, Jr. and Resally for insufficiency of evidence.[14] It reasoned out that the prosecution failed to prove beyond reasonable doubt that

Benjamin, Jr. used the fictitious name, Benjamin Z. Sojayco Jr., in contracting his marriage with Resally.[15] Corollarily, Resally cannot be convicted of bigamy because the prosecution failed to establish that Resally married Benjamin, Jr.[16]

Aggrieved, Sally Go elevated the case to the CA via a petition for certiorari. On March 14, 2006, the CA promulgated its Decision[17] granting her petition and ordering the remand of the case to the RTC for further proceedings. The CA held that the following pieces of evidence presented by the prosecution were sufficient to deny the demurrer to evidence: (1) the existence of three marriages of Benjamin, Jr. to Azucena, Sally Go and Resally; (2) the letters and love notes from Resally to Benjamin, Jr.; (3) the admission of Benjamin, Jr. as regards his marriage to Sally Go and Azucena; and (4) Benjamin, Jr.'s admission that he and Resally were in some kind of a relationship.[18] The CA further stated that Benjamin, Jr. was mistaken in claiming that he could not be guilty of bigamy because his marriage to Sally Go was null and void in light of the fact that he was already married to Azucena. A judicial declaration of nullity was required in order for him to be able to use the nullity of his marriage as a defense in a bigamy charge.[19]

Petitioners' motions for reconsideration were both denied by the CA in a Resolution dated May 22, 2006.[20]

Hence, these petitions.

The Issues

Petitioner Benjamin, Jr. raises the following issues:

1. Whether or not the Honorable Court of Appeals in a certiorari proceedings may inquire into the factual matters presented by the parties in the lower court, without violating the constitutional right of herein petitioner (as accused in the lower court) against double jeopardy as enshrined in Section 21, Article III of the 1987 Constitution.
2. Whether or not the order of the trial court that granted the Demurrer to Evidence filed by the petitioners as accused therein was issued with grave abuse of discretion that is tantamount to lack of jurisdiction or excess of jurisdiction as to warrant the grant of the relief as prayed for in the Petition for Certiorari filed by respondent Sally [Go-Bangayan].
3. Whether or not the prosecution was indeed denied due process when the trial court allegedly ignored the existence [of the] pieces of evidence presented by the prosecution.[21]

On the other hand, petitioner Resally poses the following questions:

1. Whether or not the Honorable Court of Appeals committed serious errors of law in giving due course to the petition for certiorari notwithstanding the lack of legal standing of the herein respondent (petitioner therein) as the said petition was filed without the prior conformity and/or imprimatur of the Office of the Solicitor General, or even the City Prosecutor's Office of Caloocan City
2. Whether or not the Honorable Court of Appeals committed serious errors of law in ordering the further proceedings of the case as it would violate the right of the accused against double jeopardy.[22]

Essentially, the issues which must be resolved by this Court are:

1. Whether Sally Go had the legal standing to file a petition for certiorari before the CA despite the lack of consent of either the Office of the Solicitor General or the Office of the City Prosecutor (OCP) of Caloocan.
2. Whether petitioners' right against double jeopardy was violated by the CA when it reversed the December 3, 2003 RTC Order dismissing the criminal case against them.

The Court's Ruling

The Court finds merit in the petitions.

Only the OSG, and not the private offended party, has the authority to question the order granting the demurrer to evidence in a criminal case.

Petitioner Resally argues that Sally Go had no personality to file the petition for certiorari before the CA because the case against them (Resally and Benjamin, Jr.) is criminal in nature. It being so, only the OSG or the OCP of Caloocan may question the RTC Order dismissing the case against them.[23] Respondent's intervention as the offended party in the prosecution of the criminal case is only limited to the enforcement of the civil liability.[24]

Sally Go counters that as the offended party, she has an interest in the maintenance of the criminal prosecution against petitioners and quotes *Merciales v. Court of Appeals*[25] to support her position: "The right of offended parties to appeal an order of the trial court which deprives them of due process has always been recognized, the only limitation being that they cannot appeal any adverse ruling if to do so would place the accused in double jeopardy." Moreover, the OSG and the OCP had impliedly consented to the filing of the petition before the CA because they did not interpose any objection.[26]

This Court leans toward Resally's contention that Sally Go had no personality to file the petition for certiorari before the CA. It has been consistently held that in criminal cases, the acquittal of the accused or the dismissal of the case against him can only be appealed by the Solicitor General, acting on behalf of the State.[27] The private complainant or the offended party may question such acquittal or dismissal only insofar as the civil liability of the accused is concerned.[28] As explained in the case of *People v. Santiago*:[29]

It is well-settled that in criminal cases where the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability. Thus, in the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General. Only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not take such appeal. However, the said offended party or complainant may appeal the civil aspect despite the acquittal of the accused.

In a special civil action for certiorari filed under Section 1, Rule 65 of the Rules of Court wherein it is alleged that the trial court committed a grave abuse of discretion amounting to lack of jurisdiction or on other jurisdictional grounds, the rules state that the petition may be filed by the person aggrieved. In such case, the aggrieved parties are the State and the private offended party or complainant. The complainant has an interest in the civil aspect of the case so he may file such special civil action questioning the decision or action of the respondent court on jurisdictional grounds. In so doing, complainant should not bring the action in the name of the People of the Philippines. The action may be prosecuted in name of said complainant. [Emphases Supplied]

A perusal of the petition for certiorari filed by Sally Go before the CA discloses that she sought reconsideration of the criminal aspect of the case. Specifically, she prayed for the reversal of the trial court's order granting petitioners' demurrer to evidence and the conduct of a full blown trial of the criminal case. Nowhere in her petition did she even briefly discuss the civil liability of petitioners. It is apparent that her only desire was to appeal the dismissal of the criminal case against the petitioners. Because bigamy is a criminal offense, only the OSG is authorized to prosecute the case on appeal. Thus, Sally Go did not have the requisite legal standing to appeal the acquittal of the petitioners.

Sally Go was mistaken in her reading of the ruling in *Merciales*. First, in the said case, the OSG joined the cause

of the petitioner, thereby meeting the requirement that criminal actions be prosecuted under the direction and control of the public prosecutor.[30] Second, the acquittal of the accused was done without due process and was declared null and void because of the nonfeasance on the part of the public prosecutor and the trial court.[31] There being no valid acquittal, the accused therein could not invoke the protection of double jeopardy.

In this case, however, neither the Solicitor General nor the City Prosecutor of Caloocan City joined the cause of Sally Go, much less consented to the filing of a petition for certiorari with the appellate court. Furthermore, she cannot claim to have been denied due process because the records show that the trial court heard all the evidence against the accused and that the prosecution had formally offered the evidence before the court granted the demurrer to evidence. Thus, the petitioners' acquittal was valid, entitling them to invoke their right against double jeopardy.

Double jeopardy had already set-in

Petitioners contend that the December 3, 2003 Order of dismissal issued by the RTC on the ground of insufficiency of evidence is a judgment of acquittal. The prosecution is, thus, barred from appealing the RTC Order because to allow such an appeal would violate petitioners' right against double jeopardy.[32] They insist that the CA erred in ordering the remand of the case to the lower court for further proceedings because it disregarded the constitutional proscription on the prosecution of the accused for the same offense.[33]

On the other hand, Sally Go counters that the petitioners cannot invoke their right against double jeopardy because the RTC decision acquitting them was issued with grave abuse of discretion, rendering the same null and void.[34]

A demurrer to evidence is filed after the prosecution has rested its case and the trial court is required to evaluate whether the evidence presented by the prosecution is sufficient enough to warrant the conviction of the accused beyond reasonable doubt. If the court finds that the evidence is not sufficient and grants the demurrer to evidence, such dismissal of the case is one on the merits, which is equivalent to the acquittal of the accused.[35] Well-established is the rule that the Court cannot review an order granting the demurrer to evidence and acquitting the accused on the ground of insufficiency of evidence because to do so will place the accused in double jeopardy.[36]

The right of the accused against double jeopardy is protected by no less than the Bill of Rights (Article III) contained in the 1987 Constitution, to wit:

Section 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

Double jeopardy attaches if the following elements are present: (1) a valid complaint or information; (2) a court of competent jurisdiction; (3) the defendant had pleaded to the charge; and (4) the defendant was acquitted, or convicted or the case against him was dismissed or otherwise terminated without his express consent.[37] However, jurisprudence allows for certain exceptions when the dismissal is considered final even if it was made on motion of the accused, to wit:

(1) Where the dismissal is based on a demurrer to evidence filed by the accused after the prosecution has rested, which has the effect of a judgment on the merits and operates as an acquittal.

(2) Where the dismissal is made, also on motion of the accused, because of the denial of his right to a speedy trial which is in effect a failure to prosecute.[38]

The only instance when the accused can be barred from invoking his right against double jeopardy is when it can be demonstrated that the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction, such as where the prosecution was not allowed the opportunity to make its case against the accused or where the trial was a sham.[39] For instance, there is no double jeopardy (1) where the trial court prematurely terminated the presentation of the prosecution's evidence and forthwith dismissed the information for insufficiency of evidence;[40] and (2) where the case was dismissed at a time when the case was not ready for trial and adjudication.[41]

In this case, all four elements of double jeopardy are doubtless present. A valid information for the crime of bigamy was filed against the petitioners, resulting in the institution of a criminal case against them before the proper court. They pleaded not guilty to the charges against them and subsequently, the case was dismissed after the prosecution had rested its case. Therefore, the CA erred in reversing the trial court's order dismissing the case against the petitioners because it placed them in double jeopardy.

As previously discussed, an acquittal by virtue of a demurrer to evidence is not appealable because it will place the accused in double jeopardy. However, it may be subject to review only by a petition for certiorari under Rule 65 of the Rules of Court showing that the trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction or a denial of due process.[42]

Grave abuse of discretion has been defined as that capricious or whimsical exercise of judgment which is tantamount to lack of jurisdiction. "The abuse of discretion must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." [43] The party questioning the acquittal of an accused should be able to clearly establish that the trial court blatantly abused its discretion such that it was deprived of its authority to dispense justice.[44]

The CA determined that the trial court committed grave abuse of discretion in ignoring the evidence presented by the prosecution and granting petitioners' demurrer to evidence on the ground that the prosecution failed to establish by sufficient evidence the existence of the crime.[45] An examination of the decision of the trial court, however, yields the conclusion that there was no grave abuse of discretion on its part. Even if the trial court had incorrectly overlooked the evidence against the petitioners, it only committed an error of judgment, and not one of jurisdiction, which could not be rectified by a petition for certiorari because double jeopardy had already set in.[46]

As regards Sally Go's assertion that she had been denied due process, an evaluation of the records of the case proves that nothing can be further from the truth. Jurisprudence dictates that in order for a decision of the trial court to be declared null and void for lack of due process, it must be shown that a party was deprived of his opportunity to be heard.[47] Sally Go cannot deny that she was given ample opportunity to present her witnesses and her evidence against petitioners. Thus, her claim that she was denied due process is unavailing.

WHEREFORE, the petitions are GRANTED. The March 14, 2006 Decision and the May 22, 2006 Resolution of the Court of Appeals are REVERSED and SET ASIDE. The December 3, 2003 Order of the Regional Trial Court, Branch 126, Caloocan City, in Criminal Case No. C-66783, granting the Demurrer to Evidence of petitioners Benjamin B. Bangayan, Jr. and Resally de Asis Delfin and dismissing the case against them is hereby REINSTATED.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Abad, and Perlas-Bernabe, JJ., concur.

[1] Rollo (G.R. No. 172777), pp. 29-37. Penned by Associate Justice Eliezer R. De los Santos and concurred in by Associate Justice Jose C. Reyes, Jr. and Associate Justice Arturo G. Tayag.

[2] Id. at 38-40.

[3] Id. at 30.

[4] Id.

[5] Id. at 30, 291.

[6] Id. at 30.

[7] Id. at 55.

[8] Id. at 32.

[9] Id. at 73-77.

[10] Id. at 89-90.

[11] Id. at 91-110.

[12] Id. at 98, 101.

[13] Id. at 127-136; penned by RTC Judge Luisito C. Sardillo.

[14] Id.

[15] Id. at 134.

[16] Id. at 135.

[17] Id. at 29-37.

[18] Id. at 34-35.

[19] Id. at 36.

[20] Id. at 38-40.

[21] Id. at 272.

[22] Id. (G.R. No. 172792), at 176-177.

[23] Id. at 177.

[24] Id. at 180.

[25] 429 Phil. 70 (2002).

[26] Rollo (G.R. No. 172777), p. 294.

[27] Metropolitan Bank and Trust Company v. Veridiano II, 412 Phil. 795, 804 (2001).

- [28] *Rodriguez v. Gadiane*, G.R. No. 152903, July 17, 2006, 495 SCRA 368, 372.
- [29] *People v. Santiago*, 255 Phil. 851, 861-862 (1989), citing *People v. Ruiz*, 171 Phil. 400 (1978); *People v. Court of Appeals*, 181 Phil. 160 (1979); *The City Fiscal of Tacloban v. Hon. Pedro M. Espina*, 248 Phil. 843 (1988); *Republic v. Partisala*, 203 Phil. 750 (1982), *Padilla v. Court of Appeals*, 214 Phil. 492 (1984), and *People v. Jalandoni*, 216 Phil. 424 (1984).
- [30] *Merciales v. Court of Appeals*, supra note 25 at 77.
- [31] *Id.* at 78-80.
- [32] *Rollo* (G.R. No. 172792), p. 185.
- [33] *Id.* (G.R. No. 172777), p. 283.
- [34] *Id.* at 302.
- [35] *Dayap v. Sendiong*, G.R. No. 177960, January 29, 2009, 577 SCRA 134, 147, citing *People v. Sandiganbayan*, 448 Phil. 293, 310 (2004), citing *People v. City Court of Silay*, 165 Phil. 847 (1976).
- [36] *People v. Bans*, G.R. No. 104147, December 8, 1994, 239 SCRA 48, 55.
- [37] *Paulin v. Gimenez*, G.R. No. 103323, January 21, 1993, 217 SCRA 386, 389, citing *People v. Obsania*, 132 Phil. 782 (1968) and *Caes v. IAC*, 258-A Phil. 620 (1989).
- [38] *Id.* at 392, citing *Caes v. IAC*, 258-A Phil. 620, 628 (1989).
- [39] *People v. Laguio*, G.R. No. 128587, March 16, 2007, 518 SCRA 393, 409.
- [40] Supra note 37, citing *Saldana v. Court of Appeals*, G.R. No. 88889, October 11, 1990, 190 SCRA 396.
- [41] *Id.*, citing *People v. Pamittan*, -----G.R. No. L-25033, October 31, 1969, 30 SCRA 98.
- [42] Supra note 35, citing *People v. Uy*, 508 Phil. 637 (2005).
- [43] *People v. Tan*, G.R. No. 167526, July 26, 2010, 625 SCRA 388, 397 citing *People v. Court of Appeals*, 368 Phil. 169, 180 (1999).
- [44] *Sanvicente v. People*, 441 Phil. 139, 148 (2002) citing *People v. Sandiganbayan, et al.*, 426 Phil. 453 (2002), citing *People v. Court of Appeals*, G.R. No. 128986, June 21, 1999, 308 SCRA 687.
- [45] *Rollo* (G.R. No. 172777), p. 36.
- [46] *People v. Sandiganbayan*, G.R. No. 174504, March 21, 2011.
- [47] *Palu-ay v. Court of Appeals*, 355 Phil. 94, 102 (1998).

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