

ANGELA USARES Y SIBAY, PETITIONER, VS. PEOPLE OF PHILIPPINES, RESPONDENT.

G.R. No. 209047. January 07, 2019

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in this petition for review on certiorari[1] are the Resolutions dated February 14, 2013[2] and September 6, 2013[3] of the Court of Appeals (CA) in CA-G.R. CR No. 35317, which dismissed the appeal[4] filed by petitioner Angela Usares y Sibay (Usares) and referred the Motion for the Issuance of Warrant of Arrest 5 against her to the Regional Trial Court of Manila, Branch 21 (RTC) for appropriate action.

The Facts

In a Decision[6] dated February 23, 2012 in Criminal Case No. 08-259156, the RTC found Usares guilty beyond reasonable doubt of the crime of Homicide, and accordingly, sentenced her to suffer the penalty of imprisonment for an indeterminate period of eight (8) years and one (1) day, as minimum, to twelve (12) years and one (1) day, as maximum, and to pay the heirs of the victim the amounts of P50,000.00 as actual and compensatory damages, P50,000.00 as moral damages, and P50,000.00 as exemplary damages, as well as the costs of suit.[7] Additionally, the RTC cancelled the bond[8] posted for the provisional liberty of Usares.

On March 21, 2012, the RTC Decision was promulgated. Atty. Jojo Soriano Vijiga (Atty. Vijiga), representing Usares, thereafter manifested in open court that they "intend to file a Notice of Appeal within fifteen (15) days from [March 21, 2012]" and moved that Usares be "released under the same bond x x x." [9] The RTC granted the said motion in an Order[10] issued on even date.

Subsequently, Usares filed a Notice of Appeal[11] on April 12, 2012, which the RTC granted in an Order[12] dated May 10, 2012.

On November 28, 2012, a certain Deodoro A. Edillo (Edillo) filed a Motion for the Issuance of Warrant of Arrest,[13] praying that the warrant be issued against Usares to enforce the RTC Decision.

The CA Ruling

In a Resolution[14] dated February 14, 2013, the CA dismissed Usares's appeal and referred the Motion for the Issuance of Warrant of Arrest to the RTC for its appropriate action.[15] According to the CA, despite the judgment of conviction against her and the cancellation of her bail bond, Usares nonetheless continued to enjoy her liberty during the pendency of the appeal proceedings without a valid bail bond having been posted and approved by the court.[16] As such, she is considered to have jumped bail, and thus, her appeal should be dismissed in accordance with Section 8, Rule 124 of the Revised Rules on Criminal Procedure and the prevailing jurisprudence.[17]

On March 11, 2013, the February 14, 2013 CA Resolution became final and executory, and was thereby recorded in the Book of Entries of Judgments.[18]

Aggrieved, Usares, through Atty. Bernardo Q. Cuaresma (Atty. Cuaresma), [19] moved for reconsideration[20] on

July 15, 2013, pointing out, among others, that during the promulgation of the RTC Decision, her counsel, Atty. Vijiga, moved that she be allowed to be released under the same bond, which the RTC granted.[21]

In a Resolution[22] dated September 6, 2013, the CA denied Usares's motion.[23] Aside from reiterating its earlier ruling anent the cancellation of Usares's bail bond, it further observed that an entry of judgment had already been issued, and hence, her motion for reconsideration was already considered filed out of time.[24] Dissatisfied, Usares filed the instant petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA was correct in dismissing Usares's appeal.

The Court's Ruling

The petition is meritorious.

Under Section 8, Rule 124 of the Rules of Court, the CA is authorized to dismiss an appeal, whether upon motion of the appellee or *motu proprio*, once it is determined that the appellant, among others, jumps bail, viz.:

Section 8. Dismissal of appeal for abandonment or failure to prosecute. - The Court of Appeals may, upon motion of the appellee or *motu proprio* and with notice to the appellant in either case, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except where the appellant is represented by a counsel *de oficio*.

The Court of Appeals may also, upon motion of the appellee or *motu proprio*, dismiss the appeal if the appellant escapes from prison or confinement, jumps bail or flees to a foreign country during the pendency of the appeal. (Emphasis and underscoring supplied)

The reason behind this provision is not difficult to discern. Same as one who escapes from prison or confinement, or flees to a foreign country, an accused-appellant who jumps bail during the pendency of his appeal is considered to have evaded the established judicial processes to ensure his proper criminal prosecution, and in so doing, forfeits his right to pursue an appeal. In *People v. Mapalao*,[25] the Court explained that:

The reason for this rule is x x x once an accused escapes from prison or confinement or jumps bail or flees to a foreign country, he loses 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 when as in this case he escaped from confinement x x x, he should not be afforded the right to appeal therefrom x x x. While at large as above stated he cannot seek relief from the Court as he is deemed to have waived the same and he has no standing in court.[26] (Emphases and underscoring supplied)

In this relation, it should be pointed out that the right to appeal is merely a statutory remedy and that the party who seeks to avail of the same must strictly follow the requirements therefor.[27] As the Court discerns, Section 8, Rule 124 evokes an implicit requirement for an appellant to duly observe prevailing criminal processes pending appeal, else, he runs the risk of, among others, having the same dismissed. In *People v. Taruc*, [28] the Court 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. (Citing *People v. Ang Gioc Ko*, 73 Phil. 366, 369 [1941])

By putting himself beyond the reach and application of the legal processes of the land, accused-appellant revealed his contempt of the law and placed himself in a position to speculate, at his pleasure on his chances for a reversal.

In the process, he kept himself out of the reach of justice, but hoped to render the judgment nugatory at his option. Such conduct is intolerable and does not invite leniency on the part of the appellate court.[29]

According to the CA, Usares was "considered at-large following the judgment of conviction and cancellation of her bail bond, and [yet] enjoys liberty pending appeal without a valid a bail bond having been posted and approved by the court even until now." [30] As such, it deemed Usares to have jumped bail, and hence, dismissed her appeal pursuant to Section 8, Rule 124.

However, records reveal that Usares, through Atty. Vijiga, had manifested in open court during the promulgation of the RTC Decision on March 21, 2012, that she intended to appeal within fifteen (15) days therefrom, and further moved that she be released under the same cash bail bond. As clearly reflected in the March 21, 2012 RTC Order, the RTC granted the said motion.[31] Under Section 5, Rule 114 of the Rules of Court, when the RTC, after the conviction of the accused, grants the latter's application for bail based on its discretion, the accused-appellant may be allowed to continue on provisional liberty during the pendency of the appeal under the same bail subject to the consent of the bondsman, viz.:

Section 5. Bail, when discretionary. - Upon conviction by the Regional Trial Court of an offense not punishable by death, reclusion perpetua, or life imprisonment, admission to bail is discretionary. The application for bail may be filed and acted upon by the trial court despite the filing of a notice of appeal, provided it has not transmitted the original record to the appellate court. However, if the decision of the trial court convicting the accused changed the nature of the offense from non-bailable to bailable, the application for bail can only be filed with and resolved by the appellate court.

Should the court grant the application, the accused may be allowed to continue on provisional liberty during the pendency of the appeal under the same bail subject to the consent of the bondsman.

x x x x

At this juncture, it deserves mentioning that what Usares posted was a cash bail bond which to date remained in the government coffers. The Certification[32] dated October 22, 2013 issued by the Office of the Clerk of Court and Ex-Officio Sheriff Jennifer H. Dela Cruz-Buendia confirms this fact and further certifies that as of its date, the "cash bond has not yet been withdrawn." The Certification[33] dated October 24, 2013 issued by the Clerk of Court of the CA further validates Usares's posting of a cash bond as it certifies that a "CERTIFIED photocopy of the 'WAIVER/UNDERTAKING' with attached Official Receipt Nos. 7595717 K, 7330732 A, 7596909 K and Legal Fees Form dated February 11, 2008" are "found on page/s 291 to 295 in the Folder of Original Records in Crim. Case No. 08-259156 of the Regional Trial Court, Branch 21 of the City of Manila docketed with this [c]ourt as CA G.R. CR No. 35317 x x x." [34] Moreover, the Certification[35] dated July 9, 2013, also of the CA's Clerk of Court, confirms that the March 21, 2012 RTC Order (which granted Usares's motion to be released under the same bail bond) "is found on page 526 in the folder of the Original of Criminal Case No. 08-259156 of RTC-MANILA, BR. 21, docketed in this court as CA- G.R. CR-35317." Verily, the cash bond and Usares's written undertaking executed pursuant to the Rules-which the RTC approved-stood as sufficient security for her release during the appeal proceedings. As long as the amount deposited remains in the government coffers, the same sufficiently secures her continued provisional liberty during the entire appeal proceedings upon the RTC's approval of her bail application, following Section 5, Rule 114 of the Rules of Court. This is in contrast with the other types of securities given for the temporary release of an accused which require the participation of a third party, i.e., the surety or bondsman (either corporate surety or property surety), whose qualification must first be ascertained by the court.

Thus, considering that Usares has an existing cash bail bond- which the CA should have known had it reviewed more carefully the records of this case - she cannot be considered to have jumped bail, which thus renders

erroneous the dismissal of her appeal on the said ground.

Notably, while it appears that Usares belatedly filed her motion for reconsideration before the CA, which resulted in the issuance of an entry of judgment against her, the Court finds it proper to relax such technicalities in the interest of substantial justice given that there was, in the first place, no cogent basis for the dismissal of her appeal. In addition, the Court recognizes that Usares had duly explained in her petition that her previous lawyer, Atty. Vijiga, who received the copy of the February 14, 2013 CA Resolution on February 21, 2013,[36] unfortunately abandoned her cause without any explanation to her whatsoever. It was only when she asked her present lawyer, Atty. Cuaresma, to check on the status of her appeal that she found out that the same had long been dismissed by the CA.[37] "While as a general rule, the negligence of counsel may not be condoned and should bind the client, the exception is when such negligence is so gross, reckless and inexcusable that the client is deprived of his [or her] day in court,"[38] as in Usares's case. Time and again, the Court has ruled that "[d]ismissal of appeals purely on technical grounds is frowned upon, and the rules of procedure ought not to be applied in a very rigid, technical sense, for they are adopted to help secure, not override, substantial justice, and thereby defeat their very aims." [39]

In fine, the Court, based on the considerations above-discussed, resolves to grant the petition. Accordingly, the case is remanded to the CA for resolution of Usares's appeal on the merits, with reasonable dispatch.

WHEREFORE, the petition is GRANTED. The Resolutions dated February 14, 2013 and September 6, 2013 of the Court of Appeals (CA) in CA-G.R. CR No. 35317 are hereby REVERSED and SET ASIDE. Accordingly, the case is REMANDED to the CA which is DIRECTED to resolve the appeal filed by petitioner Angela Usares y Sibay on the merits, with reasonable dispatch.

SO ORDERED.

Carpio, Acting C.J.,[*] (Chairperson), Caguioa, J. Reyes, Jr., and Hernando,[**] JJ., concur.

[*] Designated Acting Chief Justice per Special Order No. 2631 dated December 28, 2018.

[**] Designated Additional Member per Special Order Nos. 2629 and 2630 dated December 18, 2018.

[1] Rollo, pp. 17-55.

[2] Id. at 8-11. Penned by Associate Justice Romeo F. Barza with Associate Justices Noel G. Tijam (now a member of this Court) and Ramon A. Cruz, concurring.

[3] Id. at 13, 13a-c, 14.

[4] See Notice of Appeal dated April 12, 2012; id. at 78.

[5] Dated November 28, 2012; id. at 82-83.

[6] Id. at 59-67. Penned by Judge Amor A. Reyes.

[7] Id. at 67.

[8] See Certification dated October 22, 2013 signed by the RTC Clerk of Court and Ex-Officio Sheriff Jennifer H. DeJa Cruz-Buendia; id. at 76.

[9] See Order dated March 21, 2012; id. at 69.

[10] See id.

[11]Id. at 78. See also Certification dated July 9, 2013 issued by the Clerk of Court of the CA; id. at 77.

[12]Id. at 80.

[13]Id. at 82-83.

[14]Id. at 8-11.

[15]Id. at 11.

[16]See id. at 10.

[17]The CA cited the case of *Alva v. CA*, 521 Phil. 286 (2006).

[18]See Entry of Judgment dated March 11, 2013; rolla, p. 108. See also Notice of Resolution in CA-G.R. CR No. 35317 dated June 26, 2013; CA rolla, p. 46. Records show that Atty. Vijiga received a copy of the February 14, 2013 Resolution on February 21, 2013 (see Registry Return Receipt; rolla, p. 86).

[19]See Formal Entry of Appearance dated July 3, 2013; CA rollo, p. 48.

[20]See Urgent Motion for Reconsideration dated July 15, 2013; rollo, pp. 92-104.

[21]See id. at 97.

[22]Id. at 13, 13a-c, 14.

[23]Id. at 115.

[24]See id. at 115.

[25]274 Phil. 354 (1991).

[26]Id. at 363.

[27]See *Manila Mining Corporation v. Amor*, 758 Phil. 268, 277 (2015).

[28]599 Phil. 149 (2009).

[29]Id. at 156-157.

[30]Rollo, p. 10.

[31]See id. at 69.

[32]Id. at 76. The Certification pertinently states:

"This is to certify that after careful verification of our records, the cash bond amounting to Forty Thousand Pesos (Php 40,000.00) under O.R. No. 7330732 dated February 11, 2008 was posted by accused Angela S. Usares in Criminal Case No. 08-259156, raffled to Branch 21.

This is to certify further that as of this date, the above-mentioned cash bond has not yet been withdrawn.

xxxx"

[33]Signed by Acting Chief, Archives Section Ronnie A. Inacay; proofread and verified by Doerlyn D. Dural and Josefma L. Hermoso. Id. at 70.

[34]Italics supplied.

[35]Signed by Chief, Criminal Cases Section, Medella A. Carrera. Rollo, p. 68.

[36]See id. at 85 (reverse side) and 86.

[37]See id. at 27-28.

[38]See *Hilario v. People of the Philippines*, 574 Phil. 348, 365 (2008).

[39]*Sarmiento v. Zaratan*, 543 Phil. 232, 245 (2007).

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