HORACIO SALVADOR, PETITIONER, VS. LISA CHUA, RESPONDENT.

G.R. No. 212865. July 15, 2015

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

This appeal proposes to undo the decision promulgated on December 12, 2013 in CA-G.R. SP No. 131486,[1] whereby the Court of Appeals (CA) granted the respondent's petition for certiorari and nullified the orders dated October 26, 2011 and August 8, 2013 of the Regional Trial Court (RTC) in Pasay City respectively giving due course to the petitioner's notice of appeal, and allowing him to post bail for his provisional liberty; and the resolution the CA promulgated on June 4, 2014 denying his Motion for Reconsideration.[2]

Antecedents

The petitioner and his wife Marinel Salvador were charged in the RTC with estafa penalized under Article 315 (a) of the Revised Penal Code docketed as Criminal Case No. R-PSY-08-04689-CR.[3] On March 30, 2011, the date scheduled for the promulgation of the judgment, their counsel moved for the deferment of the promulgation inasmuch as the petitioner was then suffering from hype1iension.[4] Unconvinced of the reason, the RTC proceeded to promulgate its decision,[5] and disposed as follows:

> IN LIGHT OF THE FOREGOING, accused spouses Horacio Salvador and Marinel Salvador are found GUILTY beyond reasonable doubt of the crime of Estafa and sentenced to suffer an indeterminate prison term of four (4) years and two (2) months of prision correccional, as minimum, to twenty (20) years of reclusion temporal, as maximum. Both spouses are further ordered to indemnify the victim Lisa Chua the sum of P17,371,780.00 with interest of eight percent (8%) per annum until fully paid, plus the amount of P50,000.00, as and by way of moral damages, and P50,000 as attorney's fees.
>
> x x x x
>
> Costs against accused spouses Horacio Salvador and Marinel Salvador.
>
> SO ORDERED.[6]

The RTC then issued a warrant for the petitioner's arrest. He was apprehended on April 7, 2011, or eight days from the promulgation of the judgment finding him guilty.[7]

The petitioner filed his Motion for Leave to file Notice of Appeal dated April 13, 2011,[8] and attached thereto the medical certificate dated March 30, 2011 purportedly issued by Dr. Paulo Miguel A. David,[9] certifying that the petitioner had submitted himself to a medical consultation at the Rizal Medical Center on March 30, 2011 and had been found to be suffering from hypertension.[10]

In his order dated July 1, 2011,[11] RTC Judge Eugenio G. Dela Cruz initially denied the petitioner's Motion for Leave to file Notice of Appeal on the ground of non-compliance with Section 6, Rule 120 of the Rules on Criminal Procedure.

Thereafter, the respondent, who was the complainant in Criminal Case No. R-PSY-08-04689-CR, filed her Motion for Execution dated July 29, 2011 praying for the issuance of the writ of execution on the civil aspect.[12]

The petitioner moved for the reconsideration of the July 1, 2011 order.[13] Judge Dela Cruz granted the petitioner's motion for reconsideration on October 26, 2011, thereby giving due course to his notice of appeal.[14]

On October 27, 2011, the RTC, acting on the respondent's Motion for Execution, issued another order,[15] to wit:

> IN LIGHT OF THE FOREGOING, the subject Motion for Execution and Motion to Commit the Person of Accused Horacio Salvador to the National Bilibid Prison, Muntinlupa City, to Serve his Sentence are both granted and hereby orders as follows:
>
> 1)
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> Let Writ of Execution issue to implement the following, to wit:
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> a)
>
> Indemnify the victim Lisa Chua the sum of 17,371,780.00 with interest of 8% per annum until fully paid;
>
> b)
>
> Pay the victim Lisa Chua 50,000.00 as moral damages and 50,000 as attorney's fees.
>
> 2)
>
> The Motion to Commit the Person of Accused Horacio Salvador to the National Bilibid Prison, Muntinlupa City, to Serve his Sentence is hereby granted without prejudice to the appropriate action of the Executive Judge where the accused is detained pursuant to Administrative Circular No. 68-2005.[16]

On its part, the Prosecution, represented by the private prosecutor, filed its Motion for Reconsideration against the order issued on October 26, 2011,[17] attaching to the motion the affidavit executed by Dr. Paolo Miguel A. David[18] affirming that he had not examined the petitioner on March 30, 2011; that he had not issued any medical certificate in favor of the petitioner; that his name of Paolo had been misspelled Paulo in the medical certificate submitted by the petitioner; that the signature appearing in the medical certificate was not his; and that the Rizal Medical Center did not officially issue the medical certificate in question.

The petitioner opposed the Prosecution's Motion for Reconsideration,[19] and prayed that he be allowed to post bail pending appeal. He submitted another medical certificate issued by Dr. Ma. Concepcion Santos-Enriquez, an OB-Gynecologist,[20] to the effect that she had seen the petitioner on March 28, 2011 for headache and dizziness; and that she had advised him to see a cardiologist because of his elevated blood pressure.

Meanwhile, Criminal Case No. R-PSY-08-04689-CR was re-raffled to Judge Francisco G. Mendiola, Presiding Judge of Branch 115, due to Judge Dela Cruz's inhibition.[21] In his order dated August 8, 2013,[22] Judge Mendiola denied the Prosecution's Motion for Reconsideration, and fixed bail of 80,000.00 for the provisional liberty of the petitioner.

Consequently, the respondent commenced a special civil action for certiorari in the CA to nullify the October 26, 2011 order (giving due course to the petitioner's notice of appeal), and the August 8, 2013 order (allowing him to post bail for his provisional liberty).[23]

In the decision promulgated on December 12, 2013, the CA granted the respondent's certiorari petition, viz.:

> WHEREFORE, premises considered, the instant Petition is GRANTED. The assailed Orders dated October 26, 2011 and August 8, 2013 giving due course to respondent's Notice of Appeal and allowing him to post bail,

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> respectively, are NULLIFIED and SET ASIDE for having been issued with grave abuse of discretion. The Order dated July 1, 2011 is REINSTATED.
>
> SO ORDERED.[24]

The CA denied the petitioner's motion for reconsideration in its resolution promulgated on June 4, 2014.[25]

Issues

Hence, this appeal, whereby the petitioner contends that the CA erred in rendering its December 12, 2013 decision because: (1) the respondent had no legal personality to challenge the assailed orders of the RTC because only the Office of the Solicitor General (OSG) could appeal in a criminal case in behalf of the State; (2) she had no legal personality to file the petition for certiorari in the CA because her Motion for Execution in respect of the civil aspect of the criminal case had already been granted by the RTC; and (3) his hypertension on the date of the promulgation of the decision by the RTC constituted a justifiable cause for him to regain the right to avail himself of the remedies under the Rules of Court against the judgment of conviction.

The issues are, therefore: (1) whether the respondent as the complainant in the criminal case had the legal personality to file the petition for certiorari in the CA to assail the orders of the RTC despite the lack of consent of the OSG; and (2) whether the petitioner had lost his standing in court for his failure to appear at the promulgation of his conviction.

Ruling of the Court

We DENY the petition for its lack of merit.

1.

The respondent had legal standing to assail the questioned orders through certiorari

The OSG is the appellate counsel of the State in criminal proceedings pending in this Court and in the CA. This is explicitly provided in Section 35(1), Chapter 12, Title III, Book IV of the 1987 Administrative Code, viz.:

> Section 35. Powers and Functions. - The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers x x x. It shall have the following specific powers and functions:
>
> (1) Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; represent the Government and its officers in the Supreme Court and Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party.
>
> x x x x

The Court has stressed that the People of the Philippines, being the real party in interest in every criminal proceedings, can be represented only by the OSG in criminal proceedings in the CA or in this Court.[26] Yet, this rule admits of exceptions, for as pronounced in Rodriguez v. Gadiane:[27]

> A special civil action for certiorari may be filed by an aggrieved party alleging grave abuse of discretion amounting to excess or lack of jurisdiction on the part of the trial court. In a long line of cases, this Court construed the term aggrieved parties to include the State and the private offended party or complainant.
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> As early as in the case of Paredes v. Gopengco, it was held that the offended parties in criminal cases have sufficient interest and personality as "person(s) aggrieved" to file the special civil action of prohibition and

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> certiorari under Sections 1 and 2 of Rule 65. Apropos thereto is the case cited by petitioner, De la Rosa v. Court of Appeals, wherein it was categorically stated that the aggrieved parties are the State and the private offended party or complainant.
>
> It was further held in De la Rosa that the complainant has such an interest in the civil aspect of the case that he may file a 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. He should do so and prosecute it in his name as such complainant. In the same vein, the cases of Martinez v. Court of Appeals, Santos v. Court of Appeals, and Chua v. Court of Appeals adhere to the doctrines mentioned above.

Yet, although the respondent's Motion for Execution had already been granted by the RTC, the CA still held that she continued to have an interest in the litigation, observing as follows:

> x x x [W]ith the public respondents' questioned Orders both granting him leave to appeal the Decision dated March 30, 2011, the whole case is rendered open for review by Us, including the civil aspect of the case. An appeal throws the case open for review. Under Section 11, Rule 124 of the Rules of Court, the Court of Appeals may reverse, affirm or modify the judgment. An appeal in a criminal case opens the entire case for review on any question, including one not raised by the parties.
>
> A mere cursory reading of the herein Petition will readily reveal that petitioner desires to question the propriety of public respondents' ruling giving due course to private respondent's appeal and subsequently allowing him to post bail. We do not, however, perceive the same as a procedural misstep thus divesting the petitioner the personality to the instant Petition. We still lean towards giving due course to the instant Petition in the interest of substantial justice and considering what to Us are abuse of discretion committed by public respondents resulting to denial of due process. As ordained by the Supreme Court in Carmencita G. Cariño vs. Merlin De Castro, there can be cases where a private offended party is allowed to prosecute as an aggrieved party in the interest of substantial justice for a party cannot be left without recourse to address a substantive issue in law.
>
> As to whether or not there was a clear disregard of basic precepts pertaining to an accused who did not appear for promulgation of judgment despite notice is a query of substance both factual and legal.[28]

We affirm the CA's holding on the respondent's legal standing to institute the special civil action for certiorari in order to annul the questioned orders of the RTC. For sure, her interest in the criminal case did not end upon the granting of her Motion for Execution because the questioned orders opened the possibility of defeating the judgment in her favor should the CA reverse or modify his conviction. She remained an aggrieved party like the State in every sense, and, consequently, she had as much right as anyone else in the criminal proceedings to adopt and to take the necessary procedural steps within the bounds of the Rules of Court to serve and protect her substantial interest. Although it is true that she could be represented by the OSG if it wanted to, she would be reckless at that point to be disinterested in the appellate proceedings. Moreover, we would violate her fundamental right to due process of law if we were to deny her the opportunity to assail and set aside the improperly resurrected appeal of the petitioner.

2.

Petitioner has lost his right to appeal his conviction

Section 6, Rule 120 of the Rules of Criminal Procedure pertinently states:

> Section 6. Promulgation of judgment. - The judgment is promulgated by reading it in the presence of the accused and any judge of the court in which it was rendered. However, if the conviction is for a light offense, the judgment may be pronounced in the presence of his counsel or representative. When the judge is absent or outside the province or city, the judgment may be promulgated by the clerk of court.

> x x x x
>
> In case the accused fails to appear at the scheduled date of promulgation of judgment despite notice, the promulgation shall be made by recording the judgment in the criminal docket and serving him a copy thereof at his last known address or thru his counsel.
>
> If the judgment is for conviction and the failure of the accused to appear was without justifiable cause, he shall lose the remedies available in these rules against the judgment and the court shall order his arrest. Within fifteen (15) days from promulgation of judgment, however, the accused may surrender and file a motion for leave of court to avail of these remedies. He shall state the reasons for his absence at the scheduled promulgation and if he proves that his absence was for a justifiable cause, he shall be allowed to avail of said remedies within fifteen (15) days from notice.

As the rule expressly indicates, the promulgation of the judgment of conviction may be done in absentia. The accused in such case is allowed a period of 15 days from notice of the judgment to him or his counsel within which to appeal; otherwise, the decision becomes final.[29] The accused who fails to appear at the promulgation of the judgment of conviction loses the remedies available under the Rules of Court against the judgment, specifically: (a) the filing of a motion for new trial or for reconsideration (Rule 121), and (b) an appeal from the judgment of conviction (Rule 122). However, the Rules of Court permits him to regain his standing in court in order to avail himself of these remedies within 15 days from the date of promulgation of the judgment conditioned upon: (a) his surrender; and (b) his filing of a motion for leave of court to avail himself of the remedies, stating therein the reason for his absence. Should the trial court find that his absence was for a justifiable cause, he should be allowed to avail himself of the remedies within 15 days from notice of the order finding his absence justified and allowing him the available remedies from the judgment of conviction.[30]

Under Section 6, supra, the personal presence of the petitioner at the promulgation of the judgment in Criminal Case No. R-PSY-08-04689-CR was mandatory because the offense of which he was found guilty was not a light felony or offense.[31] He was charged with and actually found guilty of estafa, and meted the indeterminate sentence of four years and two months of prision correccional, as minimum, to 20 years of reclusion temporal, as maximum.

Based on the records, the promulgation of the judgment was on March 30, 2011; hence, the petitioner had only until April 14, 2011 within which to meet the mandatory requirements under Section 6, supra.

In the attempt to regain his right to avail himself of the remedies under the Rules of Court, the petitioner filed a Motion for Leave to File a Notice of Appeal, and attached thereto the medical certificate issued by Dr. Paulo Miguel David. Yet, he did not thereby establish that his absence had been for a justifiable cause because the purported issuer himself, Dr. Paolo Miguel A. David, directly impugned the credibility of this certificate by denying to have issued the certificate, and to have examined the petitioner on March 30, 2011, or to have signed the certificate, or that the Rizal Medical Center issued the certificate. The petitioner later submitted another medicate certificate, which, aside from being belatedly issued, went unsupported and unauthenticated by the testimony of the alleged issuing physician, who turned out to be an OB-Gynecologist. The CA justly discredited the certificates.[32]

Even assuming that he had suffered hypertension, which could have validly excused his absence from the promulgation, the petitioner did not fulfill the other requirement of Section 6, supra, to surrender himself to the trial court. The term surrender used in the rule visibly necessitated his physical and voluntary submission to the jurisdiction of the court to suffer any consequences of the verdict against him.[33]

In its assailed decision, therefore, the CA unavoidably declared the petitioner to have lost his standing in court

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because of his non-compliance with Section 6, supra. His failure to fulfill the requirements rendered the conviction final and immutable.[34] He ought to be reminded that the right to appeal, being neither a natural right nor a part of due process, is a merely statutory privilege that should be exercised in the manner and in accordance with the provisions of the law establishing the right; otherwise, it is lost.[35]

WHEREFORE, the Court AFFIRMS the decision promulgated on December 12, 2013; and ORDERS the petitioner to pay the costs of suit.

SO ORDERED.

Sereno, C. J., Leonardo-De Castro, Perez, and Perlas-Bernabe, JJ., concur.

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[1] Rollo, pp. 37-57; penned by Associate Justice Zenaida T. Galapate-Laguilles, with Associate Justice Francisco P. Acosta and Associate Justice Amy C. Lazaro-Javier concurring.

[2] Id. at 58-59.

[3] Id. at 60.

[4] Id. at 85.

[5] Id. at 60-84.

[6] Id. at 83-84.

[7] Id. at 86, 90.

[8] Id. at 85-88.

[9] Id. at 89.

[10] Id.

[11] Id. at 106-110.

[12] Id. at 121-123.

[13] Id. at 111-116.

[14] Id. at 125-127.

[15] Id. at 128-129.

[16] Id. at 129.

[17] Id. at 130-153.

[18] Id. at 156.

[19] ld. at 157-171.

[20] Id. at 172.

[21] Id. at 233, 272.

[22] Id. at 272-274.

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[23] Id. at 275-337.

[24] Supra note 1, at 56-57.

[25] Supra note 2.

[26] Jimenez v. Sorongon, G.R. No. 178607, December 5, 2012, 687 SCRA 151, 160.

[27] G.R. No. 152903, July 17, 2006, 495 SCRA 368, 372.

[28] Rollo, pp. 49-50.

[29] Almuete v. People, G.R. No. 179611, March 12, 2013, 693 SCRA 167, 169-170.

[30] Villena v. People, G.R. No. 184091, January 31, 2011, 641 SCRA 127, 134-135.

[31] Under Article 9 of the Revised Penal Code, light felonies are those infractions of law for the commission of which the penalty of arresto menor (one to 30 days of imprisonment), or a fine not exceeding 200.00, or both is imposable.

[32] Rollo, pp. 52-54.

[33] Villena v. People, supra note 30, at 135.

[34] Id. at 136-137.

[35] Id.

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