

DEOGRACIA VALDERRAMA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, AND JOSEPHINE ABL VIGDEN, RESPONDENTS.

G.R. No. 220054. March 27, 2017

Ponente: LEONEN, J.

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LEONEN, J.:

For our resolution is a Petition for Review on Certiorari[1] assailing the Court of Appeals' March 9, 2015 Decision,[2] which dismissed petitioner's appeal to question the grant of the prosecution's motion for reconsideration despite procedural infirmities, and July 23, 2015 Resolution,[3] which denied reconsideration.

On July 16, 2004,[4] the city prosecutor filed before the Metropolitan Trial Court of Quezon City, Branch 43 four (4) Informations for grave oral defamation against Deogracia M. Valderrama (Valderrama), pursuant to a complaint filed by Josephine ABL Vigden (Vigden).[5]

During the trial on April 12, 2012, Vigden was present but the private prosecutor was absent despite notice. On motion of the defense, the Metropolitan Trial Court considered the prosecution to have waived its right to present further evidence and required a formal offer of its documentary evidence within five (5) days.[6]

The prosecution failed to formally offer its evidence within five (5) days from the hearing.[7]

On May 8, 2012,[8] Vigden filed a Very Urgent Motion to Reconsider (Motion to Reconsider) explaining that the private prosecutor failed to appear because he had to manage his high blood pressure.[9]

Valderrama filed an opposition arguing that the public prosecutor did not give his conformity to Vigden's Motion to Reconsider, in violation of Rule 110, Section 5 of the Rules of Court, and the Motion to Reconsider's Notice of Hearing "was defective because it was not addressed to the parties, and did not specify the date and time of the hearing." She further argued that it was filed beyond the 15-day reglementary period allowed for motions for reconsideration. She likewise pointed out that there was no medical certificate attached to the Motion to Reconsider to prove the private prosecutor's sickness. Finally, she contended that the eight (8)-year delay in the prosecution of the cases violated Valderrama's right to speedy trial.[10]

In its Order[11] dated July 16, 2012, the Metropolitan Trial Court granted Vigden's Motion to Reconsider and set the continuation of the prosecution's presentation of further evidence for the last time on November 22, 2012:

After going over the same, the Court in the interest of substantial justice resolves to GRANT the aforesaid Motion, supra, however, the private complainant is hereby admonished to be ready to present her evidence to obviate any further delay in the proceedings of this case.

ACCORDINGLY, the Order of April 12, 2012, declaring the prosecution to have waived its right to present additional evidence is hereby LIFTED and SET ASIDE. Let the continuation of the presentation of prosecution's evidence be set for the last time on November 22, 2012 at 8:30 in the morning previously scheduled date for presentation of defense evidence. In the event the private complainant failed to adduce further evidence on the aforesaid date, the prosecution shall formally offer its evidence in open court.

The defense will be given another date for the presentation of its evidence on the aforesaid date of the hearing to insure the availability of the calendar of both counsels.

SO ORDERED.[12]

Valderrama moved to have the July 16, 2012 Order reconsidered. The Metropolitan Trial Court denied reconsideration in its Order[13] dated August 31, 2012:

Before this Court is the Motion for Reconsideration (re: Order dated July 16, 2012) filed by the accused, through counsel, there being no cogent reason for this Court to disturb the questioned order, the same is hereby DENIED for lack of merit.

As earlier ruled by this Court, continuation of the presentation of prosecution evidence shall proceed as scheduled on November 22, 2012 at 8:30 in the morning which is intransferrable and with a warning that in the event the private complainant failed to adduce further evidence, the prosecution shall ma[k]e an oral offer of its evidence in open court.

SO ORDERED.[14]

Valderrama filed a petition for certiorari before Branch 216, Regional Trial Court, Quezon City. In its Decision[15] dated May 3, 2013, the Regional Trial Court found no grave abuse of discretion by the lower court and dismissed the petition for certiorari.[16]

The Court of Appeals affirmed the ruling of the Regional Trial Court in its Decision[17] dated March 9, 2015. It also denied reconsideration in its Resolution[18] dated July 23, 2015.

Hence, Valderrama filed this Petition praying for the reversal of the ruling of the Court of Appeals and the annulment of the Metropolitan Trial Court Orders dated July 16, 2012 and August 31, 2012.[19]

Valderrama argues that the Metropolitan Trial Court acted with grave abuse of discretion in granting the patently defective Motion to Reconsider. She contends that the Motion to Reconsider violated procedural rules and its grant was not a mere error of judgment.[20]

Valderrama quotes *Crisologo v. JEW M Agro-Industrial Corporation*,[21] in that "manifest disregard of the basic rules and procedures constitutes a grave abuse of discretion . . . Such level of ignorance is not a mere error of judgment." [22] Valderrama additionally cites *Pesayco v. Layague*[23] in that "a judge is presumed to know the law and when the law is so elementary, not to be aware of it constitutes gross ignorance of the law." [24]

Valderrama adds that failure to comply with Rule 14, Sections 4 and 5 of the Rules of Court renders the motion "a worthless piece of paper . . . [that] the trial court [has] no authority to act upon." [25]

Vigden filed a Comment[26] to the Petition contending that there is no violation of law or procedural rule or any grave abuse of discretion on the part of the trial courts as both the parties were granted their day in court.[27] Valderrama was charged with four (4) counts of grave oral defamation, but has only been indicted for one (1) count.[28] Vigden contends that she deserves the opportunity to prove the three (3) remaining charges,[29] especially since the failure of the private prosecutor to appear in the hearing was due to medical reasons.[30]

Vigden further argues that Valderrama's acts belie her interest in a speedy disposition of the cases considering that she has been the one causing the suspension of the proceedings by elevating the rulings of the lower and appellate courts, filing an inhibition case,[31] and filing an appeal with the Department of Justice.[32] Delays were further caused by the parties' attempts in mediation.[33] Thus, delays in prosecution were caused by both parties and other court processes.[34]

The Office of the Solicitor General, in its Comment,[35] posits that the Court of Appeals correctly affirmed that no grave abuse of discretion was committed in allowing the prosecution to continue its presentation of evidence.[36] It claims that there was no showing that the relaxation of the procedural rules was exercised arbitrarily, whimsically, or motivated by ill will.[37] It asserts that the Metropolitan Trial Court clearly weighed the parties' arguments and granted the Motion to Reconsider in the interest of substantial justice, to resolve the matter substantially on the merits, and not on technicalities.[38] It finally argues that if the Metropolitan Trial Court committed an error, it was an error of judgment, not of jurisdiction, for which certiorari will not lie.[39]

The sole issue in this case is whether the Metropolitan Trial Court committed grave abuse of discretion in granting the Motion to Reconsider to allow the prosecution to continue its presentation of evidence.

Petitioner alleges several procedural lapses in Vigden's Motion to Reconsider, thus:

- The Motion did not bear the conformity of the public prosecutor in violation of Section 5 Rule 110 of the Rules on Criminal Procedure requiring all criminal actions to be prosecuted under the direction and control of the public prosecutor;
- It does not contain any notice addressed to the accused in violation of Section 5 Rule 15 Rules of Court;
- It does not indicate the date and time it was to be heard by the court in violation of Section 5 Rule 15 of the Rules of Court;
- It is filed beyond the fifteen (15)-day reglementary period required under Section 1 Rule 37 Rules of Court;
- It does not contain a statement of material dates showing that it is filed within fifteen (15) days from its receipt by the private prosecutor;
- It is neither verified nor accompanied by affidavits in support of the factual allegations that they contain; and
- It does not deny that private respondent refused to cooperate with the public prosecutor and present evidence at the hearing on April 12, 2012; neither did it offer any explanation or justification for such refusal to cooperate.[40]

We grant the Petition. The respondent's Motion to Reconsider was fatally defective and should have been denied by the Metropolitan Trial Court.

I

The public prosecutor's conformity to the Motion to Reconsider is necessary. Rule 110, Section 5 of the Rules of Court states:

Section 5. Who Must Prosecute Criminal Actions. — All criminal actions commenced by a complaint or information shall be prosecuted under the direction and control of the prosecutor. However, in Municipal Trial Courts or Municipal Circuit Trial Courts when the prosecutor assigned thereto or to the case is not available, the offended party, any peace officer, or public officer charged with the enforcement of the law violated may prosecute the case. This authority shall cease upon actual intervention of the prosecutor or upon elevation of the case to the Regional Trial Court.

In *Laude v. Ginez-Jabalde*,^[41] this Court ruled that the required conformity of the public prosecutor was not a mere superfluity and was necessary to pursue a criminal action.^[42] A private party does not have the legal personality to prosecute the criminal aspect of a case, as it is the People of the Philippines who are the real party in interest.^[43] The criminal case must be under the direction and control of the public prosecutor.^[44] Thus, when the public prosecutor does not give his or her conformity to the pleading of a party, the party does not have the

required legal personality to pursue the case.[45]

In this case, there is no conformity from the public prosecutor. This circumstance was not denied by the private respondent. Private respondent merely claimed that the the Office of the City Prosecutor did not object to the filing of the Motion to Reconsider.[46] The Office of the City Prosecutor was only furnished with a copy of the Motion to Reconsider and it opens with the phrase "[p]rivate complaining witness, through counsel and the Office of the City Prosecutor of Quezon City, and to this Honorable Court respectfully states . . ."[47] This is not sufficient. Since the Motion to Reconsider pertains to the presentation of the prosecution's evidence, it involves the criminal aspect of the case and, thus, cannot be considered without the public prosecutor's conforme.

II

Respondent also did not set a hearing for the Motion to Reconsider. Instead, she simply submitted it for Metropolitan Trial Court's immediate consideration.[48] Thus, the notice attached to the pleading stated:

GREETINGS:

Please submit the foregoing Motion for immediate consideration and resolution of the Honorable Court upon receipt hereof.

City of Parañaque for Quezon City
May 7, 2012[49]

This notice did not comply with Rule 15, Sections 4 and 5 of the Rules of Court:

Section 4. Hearing of motion. — Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

Section 5. Notice of hearing. — The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

These requirements are mandatory.[50] Except for motions which the court may act on without prejudice to the adverse party, all motions must set a hearing.[51] This includes motions for reconsideration.

The notice of hearing on the motion must be directed to the adverse party and must inform him or her of the time and date of the hearing.[52] Failure to comply with these mandates renders the motion fatally defective, equivalent to a useless scrap of paper.[53]

In *De la Peña v. De la Peña*, this Court enumerated the cases where it consistently ruled that a proper notice of hearing was necessary in filing motions for reconsideration:[54]

In *Pojas v. Gozo-Dadole* we had occasion to rule on the issue of whether a motion for reconsideration without any notice of hearing tolls the running of the prescriptive period. In *Pojas*, petitioner received copy of the decision in Civil Case No. 3430 of the Regional Trial Court of Tagbilaran on 15 April 1986. The decision being adverse to him petitioner filed a motion for reconsideration. For failing to mention the date when the motion was to be resolved as required in Sec. 5, Rule 15, of the Rules of Court, the motion for reconsideration was denied. A second motion for reconsideration met the same fate. On 2 July 1986 petitioner filed a notice of appeal but the same was denied for being filed out of time as "the motion for reconsideration which the Court ruled as pro forma did not stop the running of the 15-day period to appeal."

In resolving the issue of whether there was grave abuse of discretion in denying petitioner's notice of appeal, this Court ruled —

Section 4 of Rule 15 of the Rules of Court requires that notice of motion be served by the movant on all parties concerned at least three (3) days before its hearing. Section 5 of the same Rule provides that the notice shall be directed to the parties concerned, and shall state the time and place for the hearing of the motion. A motion which does not meet the requirements of Sections 4 and 5 of Rule 15 of the Rules of Court is considered a worthless piece of paper which the clerk has no right to receive and the court has no authority to act upon. Service of copy of a motion containing notice of the time and place of hearing of said motion is a mandatory requirement and the failure of the movant to comply with said requirements renders his motion fatally defective.

....

In *In re: Almacen* defendant lost his case in the lower court. His counsel then filed a motion for reconsideration but did not notify the adverse counsel of the time and place of hearing of said motion. The Court of Appeals dismissed the motion for reason that "the motion for reconsideration dated July 5, 1966 does not contain a notice of time and place of hearing thereof and is, therefore a useless piece of paper which did not interrupt the running of the period to appeal, and, consequently, the appeal was perfected out of time." When the case was brought to us, we reminded counsel for the defendant that —

As a law practitioner who was admitted to the bar as far back as 1941, Atty. Almacen knew — or ought to have known — that a motion for reconsideration to stay the running of the period of (sic) appeal, the movant must not only serve a copy of the motion upon the adverse party . . . but also notify the adverse party of the time and place of hearing. . .

Also, in *Manila Surety and Fidelity Co., Inc. v. Bath Construction and Company* we ruled —

The written notice referred to evidently is that prescribed for motions in general by Rule 15, Sections 4 and 5 (formerly Rule 26), which provide that such notice shall state the time and place of hearing and shall be served upon all the parties concerned at least three days in advance. And according to Section 6 of the same Rule no motion shall be acted upon by the court without proof of such notice. Indeed it has been held that in such a case the motion is nothing but a useless piece of paper. The reason is obvious; unless the movant sets the time and place of hearing the court would have no way to determine whether that party agrees to or objects to the motion, and if he objects, to hear him on his objection, since the Rules themselves do not fix any period within which he may file his reply or opposition.

In fine, the abovesited cases confirm that the requirements laid down in Sec. 5 Rule 15 of the Rules of Court that the notice shall be directed to the parties concerned, and shall state the time and place for the hearing of the motion, are mandatory. If not religiously complied with, they render the motion pro forma. As such the motion is a useless piece of paper that will not toll the running of the prescriptive period.[55] (Citations omitted, emphases supplied)

The intention behind the notice requirements is to avoid surprises and to provide the adverse party a chance to study the motion and to argue meaningfully against it before the court's resolution.[56]

This Court has allowed exceptions to this rule when to do so would not cause prejudice to the other party nor violate his or her due process rights.[57]

But while petitioner had the opportunity to argue against the Motion to Reconsider through her Vehement Opposition,[58] it cannot be said that she was not prejudiced by its grant.

This Court notes that the Motion to Reconsider was filed outside the period allowed by the rules as set in Rule 37,

Section 1 of the Rules of Court:

Section 1. Grounds of and Period for Filing Motion for New Trial or Reconsideration. — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party: . . .

The period for taking an appeal is 15 days.[59] Thus, respondent had 15 days to file her Motion to Reconsider. This period is non-extendible.[60] Failing to question an order or decision within the period prescribed by law renders the order or decision final and binding.[61]

The Metropolitan Trial Court issued its Order on April 12, 2012 and required the prosecution to formally offer its documentary evidence within five (5) days from that date.[62] The prosecution failed to formally offer its evidence within five (5) days from the hearing. It also failed to file the Motion to Reconsider within 15 days. The prosecution had 15 days from April 12, 2012, or until April 27, 2012 to file its Motion to Reconsider. The private prosecutor filed her Motion to Reconsider only on May 8, 2012, or 26 days after the Metropolitan Trial Court issued its Order.[63]

Respondent's private counsel argued that the respondent "misapprehended what resulted from the hearing" and "was unable to report back what happened." [64] However, knowing that a hearing transpired on April 12, 2012, private counsel had the duty to follow the course of his case and to keep his files updated as part of his duty to serve his client with competence and diligence.[65] His failure to timely file the proper motion is inexcusable.

The prosecution has the burden of proof to overturn the presumption of innocence of the accused. When the prosecution has been negligent in pursuing its case, and has failed to comply with procedural rules despite opportunities to sufficiently prove its allegations, the courts cannot extend it favors to the prejudice of the accused.

In *Spouses Bergonia v. Court of Appeals*: [66]

The petitioners ought to be reminded that the bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.[67] (Citation omitted)

There is grave abuse of discretion when there is a refusal to act in contemplation of law or a gross disregard of the Constitution, law, or existing jurisprudence.[68] In such a case, there is a whimsical and capricious exercise of judgment amounting to lack of jurisdiction.[69]

Since Vigden's Motion to Reconsider was laden with procedural defects, the Metropolitan Trial Court acted with grave abuse of discretion amounting to lack or excess of jurisdiction. Thus, its orders should be declared void.

WHEREFORE, this Court resolves to GRANT the Petition for Review on Certiorari. The Court of Appeals' March 9, 2015 Decision and July 23, 2015 Resolution are REVERSED. The prosecution is deemed to have waived its right to present further evidence. This case is REMANDED back to the Metropolitan Trial Court of Quezon City, Branch 43 for its proper disposition with DUE and DELIBERATE dispatch.

SO ORDERED.

Carpio, (Chairperson), Peralta, and Martires, JJ., concur.

Mendoza, J., on official leave.

[1] Rollo, pp. 20-34. This Petition was filed pursuant to Rule 45 of the Rules of Court.

[2] Id. at 36-A2. The Decision was penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Magdangal M. De Leon and Jane Aurora C. Lantion of the Eighth Division, Court of Appeals, Manila.

[3] Id. at 45-46. The Resolution was penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Magdangal M. De Leon and Jane Aurora C. Lantion of the Former Eighth Division, Court of Appeals, Manila.

[4] Id. at 22.

[5] Id. at 37.

[6] Id.

[7] Id. at 57, Very Urgent Motion To Reconsider Order of April 12, 2012.

[8] Id. at 37.

[9] Id. at 58, Very Urgent Motion To Reconsider Order of April 12, 2012.

[10] Id. at 37.

[11] Id. at 66. The Order was penned by Presiding Judge Manuel B. Sta. Cruz, Jr. of Branch 43, Metropolitan Trial Court, Quezon City.

[12] Id.

[13] Id. at 72. The Order was penned by Presiding Judge Manuel B. Sta. Cruz, Jr. of Branch 43, Metropolitan Trial Court, Quezon City.

[14] Id.

[15] Id. at 114-118. The Decision was penned by Presiding Judge Alfonso C. Ruiz II of Branch 216, Regional Trial Court, Quezon City.

[16] Id. at 118.

[17] Id. at 36-42.

[18] Id. at 45-46.

[19] Id. at 29.

[20] Id. at 27.

[21] 728 Phil. 315 (2014) [Per J. Mendoza, Third Division].

[22] Rollo, p. 26.

- [23] 488 Phil. 455, 466 (2004) [Per J. Tinga, Second Division].
- [24] Rollo, p. 28.
- [25] Id.
- [26] Id. at 153-168.
- [27] Id. at 160.
- [28] Id. at 160-161.
- [29] Id. at 161.
- [30] Id.
- [31] Id. at 162.
- [32] Id. at 164.
- [33] Id.
- [34] Id.
- [35] Id. at 186-194.
- [36] Id. at 188-189.
- [37] Id. at 190.
- [38] Id.
- [39] Id. at 190-191.
- [40] Id. at 27.
- [41] G.R. No. 217456, November 24, 2015, 775 SCRA 408 [Per J. Leonen, En Banc].
- [42] Id. at 431.
- [43] Id.
- [44] Id.
- [45] Id.
- [46] Rollo, p. 161.
- [47] Id. at 57.
- [48] Id. at 60.
- [49] Id.
- [50] De la Peña v. De la Peña, 327 Phil. 936, 941 (1996) [Per J. Belosillo, First Division].
- [51] Id.
- [52] Id. at 942.
- [53] Id.

[54] 327 Phil. 936, 941 (1996) [Per J. Belosillo, First Division].

[55] Id. at 939-943.

[56] Ama Computer College, Inc. v. Immaculate Conception Academy, G.R. No. 161398 (Notice), January 21, 2015, citing Tan v. Court of Appeals, 356 Phil. 1058 (1998) [Per J. Panganiban, First Division], Cruz v. Court of Appeals, 436 Phil. 641 (2002) [Per J. Carpio, Third Division], Cledera v. Sarmiento, 148-A Phil. 468 (1971) [Per J. Makasiar, En Banc], PNB v. Donasco, 117 Phil. 429 (1963) [Per J. Labrador, En Banc], Manakil v. Revilla, 42 Phil. 81 (1921) [Per J. Johnson, Second Division], Roman Catholic Bishop of Lipa v. Municipality of Unisan, 44 Phil. 866 (1920) [Per J. Araullo, First Division], Director of Lands v. Sanz, 45 Phil. 117 (1923) [Per J. Johnson, First Division].

[57] G.R. No. 217456, November 24, 2015 [Per J. Leonen, En Banc].

[58] Rollo, pp. 61-65, Vehement Opposition.

[59] RULES OF COURT, Rule 122, sec. 6 provides:

Section 6. When appeal to be taken. - An appeal must be taken within fifteen (15) days from promulgation of the judgment or from notice of the final order appealed from ...

[60] Rivelisa Realty, Inc. v. First Sta. Clara Builders Corp., 724 Phil. 508, 516 (2014) [Per J. Perlas-Bernabe, Second Division].

[61] Id.

[62] Rollo, p. 37.

[63] Id.

[64] Id. at 58.

[65] Zarate-Bustamante v. Libatique, 418 Phil. 249, 254 (2001) [Per J. Quisimbing, Second Division].

[66] 680 Phil. 334 (2012) [Per J. Reyes, Second Division].

[67] Id. at 343.

[68] Republic v. Caguioa, 704 Phil. 315, 333 (2013) [Per J. Brion, Second Division].

[69] Id.

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