

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. ANG GIOC (ALIAS ANG GIOC KO, ALIAS TOMAS) AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. 48547. October 31, 1941

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

The purpose of this petition for a writ of certiorari is to secure a review by this court of certain proceedings had in the Court of Appeals in Criminal Case No. 33757 of the Court of First Instance of Manila, entitled "People of the Philippine Islands vs. Sio Go, Ang Gioc, Gang Kan, Kee Ya and Chua Chui."

Briefly stated, the pertinent facts which gave rise to this case are as follows: About fifteen years ago, that is, on October 30, 1926, the respondent Ang Gioc, together with Sio Go, Gang Kan, Kee Ya and Chua Chui, was charged with the crime of frustrated murder in the Court of First Instance of Manila. On November 5, 1926, he was released on bail. After a protracted trial, which lasted several months, Ang Gioc and one of his co-accused, Sio Go, were found guilty and sentenced to twelve years and one day of cadena temporal, with the accessories of the law, and to indemnify the offended party in the sum of P1,100. Ang Gioc and his sureties were duly notified to appear before the court on March 28, 1928, for the reading of the sentence, but the former failed to appear and thereupon the trial judge ordered his arrest and the confiscation of the bond furnished for his temporary release.

The order of arrest could not be served on Ang Gioc because, according to the police authorities, he had escaped to China. The record shows that his bondsmen were given more than the usual period of time (four months) to locate Ang Gioc, but they failed to find him. The record also shows that between the years 1928 and 1941 several warrants were issued for the arrest of Ang Gioc, but all attempts to arrest him proved futile because he could not be found. He was, however, finally arrested on February 18, 1941, nearly thirteen years from the date fixed for the reading of the sentence. He was subsequently brought before the court and the sentence was read to him, from which he appealed to the Court of Appeals where, against the objection of the Solicitor General, he was allowed to file a bond for his temporary release.

In perfecting the record on appeal it was found that the stenographic notes taken during the trial were not transcribed and that the two stenographers who took the notes were already dead. The matter was referred to several stenographers who stated that they could not transcribe the notes because the deceased had used systems known only to themselves. In this situation, Ang Gioc petitioned the Court of Appeals to remand the cause to the court below for a new trial, while the Solicitor General moved for the dismissal of the appeal on the ground that "the present impasse is solely due to accused-appellant having jumped the bail, before the sentence of the court could be read to him and evaded arrest for thirteen years." The Court of Appeals decided to remand the cause to the court below for a new trial, stating that from the affidavits and other documents submitted by Ang Gioc in support of the petition for bail pending the appeal, it appeared that Ang Gioc was not a fugitive from justice.

The question presented is whether, upon the facts stated, the Court of Appeals had jurisdiction to remand the

cause to the court of origin for a new trial.

In all criminal prosecutions the accused has the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses in his behalf. These are among the rights secured to him by the Constitution. (Constitution, Article III, sec. 1, par. 17.) He has also the right of appeal; but this is a purely statutory, not a constitutional, right. (Old Code of Crim. Proc, sec. 15, par. 8; Rules of Court, Rule 111, sec. 1, par. h.) All these rights have been recognized and established in order to make sure that justice is done to the accused, and no more. They were not intended to enable the accused to defeat the very ends of justice. When, therefore, through cunning or malice, he succeeds in thwarting the course of the law, he should not be heard to complain if, as a result of his own misconduct, he is deemed to have waived rights which he would otherwise have enjoyed. An accused person must suffer the legitimate consequences of his own wrongful acts.

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. Such was the situation with reference to the respondent Ang Gioc. He was duly notified to appear before the trial court for the reading of the sentence, but failed to do so; and when an order was issued for his arrest, the warrant could not be served on him because he could not be found. Whether or not he escaped to China is immaterial for our present purpose. The fact remains that he succeeded in evading arrest for nearly thirteen years. The record shows that upon his failure to appear for the reading of the sentence, the trial court declared the confiscation of the bond filed by Ang Gioc, and later issued the corresponding order of execution. This action of the court amounted to a judicial declaration that Ang Gioc was a fugitive from justice, and such declaration cannot after the lapse of nearly thirteen years be controverted by proof aliunde. A contrary view would encourage accused persons to trifle with the administration of justice, and provide means for guilty parties to escape punishment. We reject it without the least hesitation by declaring that Ang Gioc had waived his right to appeal from the judgment rendered against him. The law will not allow a person to take advantage of his own wrong.

Having arrived at the conclusion that Ang Gioc had waived his right of appeal, the Court of Appeals acquired no jurisdiction of the appeal filed by him, except to dismiss it and that court acted in excess of its jurisdiction when it ordered the cause to be remanded to the court of origin for a new trial. It follows that the remanding order must be set aside, and the judgment of the Court of First Instance of Manila declared final and executory. So ordered.

Diaz, Laurel, Moran, and Horrilleno, JJ., concur.

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