

ALEX COMBATE, PETITIONER, VS. THE HON. GERONIMO R. SAN JOSE, JR., MUNICIPAL TRIAL JUDGE OF THE MUNICIPAL CIRCUIT TRIAL COURT OF MAGARAO-CANAMAN, CAMARINES SUR, RESPONDENT.

G.R. No. 68566. April 15, 1985

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

In this Petition for Certiorari, filed with the assistance of the Citizens Legal Assistance Office (Naga City), petitioner-accused seeks to annul respondent Judge's Decision in Criminal Case No. 1915 of the Municipal Circuit Trial Court of Magarao-Canaman, Camarines Sur, convicting him of Theft, on the ground that it was rendered in violation of his constitutional rights.

The records disclose that petitioner was charged before the Municipal Circuit Trial Court of Magarao-Canaman, Camarines Sur, presided by respondent Judge, with the crime of Theft of "one (1) Rooster [Fighting Cock] color red, belonging to Romeo Posada worth P200.00." [1]

Following the procedure laid down in the Rule on Summary Procedure in Special Cases, respondent Judge required petitioner and his witnesses to submit counter-affidavits to the supporting affidavits of the complainant, [2] with which petitioner complied within the period designated by the Court.

On June 5, 1984, petitioner was subpoenaed to appear before respondent Judge and was arraigned without the assistance of counsel. He pleaded not guilty. [3]

Subsequently, in an Order dated July 5, 1984, respondent Judge deemed the case submitted for resolution purportedly pursuant to the Rule on Summary Procedure. [4]

In a Decision promulgated on July 16, 1984, without benefit of trial, petitioner was sentenced to suffer six (6) months' imprisonment and to pay the complainant the amount of P200.00, plus costs. [5]

Seeking redress before this Court, petitioner alleges that respondent Judge had denied him due process for having been arraigned without the assistance of counsel, and for having been convicted without the benefit of trial.

The Petition is highly meritorious. The Rule on Summary Procedure in Special Cases applies only to criminal cases where the penalty prescribed by law for the offense charged does not exceed six (6) months imprisonment or a fine of one thousand pesos (P1,000.00), or both. The crime of Theft as charged herein is penalized with *arresto mayor* in its medium period to *prision correccional* in its minimum period, or, from two (2) months and one (1) day to two (2) years and four (4) months. [6] Clearly, the Rule on Summary Procedure is inapplicable.

But even assuming that the case falls under the coverage of said Rule, the same does not dispense with trial. On the contrary, it specifically provides:

"Section 11. When case set for arraignment and trial. — Should the court, upon a consideration of the complaint or information and the affidavits submitted by both parties, find no cause or ground to hold the defendant for trial, it shall order the dismissal of the case; otherwise, the court shall set the case for arraignment and trial.

"Section 14. Procedure of Trial. — Upon a plea of not guilty being entered, the trial shall immediately proceed. The affidavits submitted by the parties shall constitute the direct testimonies of the witnesses who executed the same. Witnesses who testified may be subjected to cross-examination. Should the affiant fail to testify, his affidavit shall not be considered as competent evidence for the party presenting the affidavit, but the adverse party may utilize the same for any admissible purpose.

"No witness shall be allowed to testify unless he had previously submitted an affidavit to the court in accordance with Sections 9 and 10 hereof." (emphasis supplied)

In the case at bar, since petitioner-accused had pleaded not guilty, trial should have proceeded immediately. But not only was petitioner unrepresented by counsel upon arraignment; he was neither accorded the benefit of trial. Respondent Judge based his judgment of conviction merely on the affidavits submitted, without the petitioner having been even given the chance to confront or cross-examine the affiants. There being a clear deprivation of petitioner's fundamental right to due process of law,[7] the assailed Decision should be set aside. When judgment is rendered in complete disregard of all norms of procedure, the whole proceeding in question is completely void,[8] and the case should be remanded for trial and proceedings strictly in accordance with law.[9] Considering that the judgment is void, it is as if there were no judgment at all and no double jeopardy attaches.[10]

ACCORDINGLY, granting Certiorari, respondent Judge's Decision promulgated on July 16, 1984, is hereby ANNULLED for having been issued with grave abuse of discretion. The case is remanded to the Municipal Circuit Trial Court of Magarao-Canaman, Camarines Sur, for proceedings strictly in accordance with law.

SO ORDERED.

Teehankee, (Chairman), Plana, Relova, Gutierrez, Jr., De La Fuente, and Alampay, JJ., concur.

[1] Rollo, p. 43.

[2] *ibid.*, p. 48.

[3] *ibid.*, p. 52.

[4] *ibid.*, p. 53.

[5] *Ibid.*, p. 62.

[6] Article 309 [4] Revised Penal Code.

[7] Sections 17 & 19, Article IV, 1973 Constitution.

[8] *People vs. Kayanan*, 83 SCRA 437 [1978].

[9] *People vs. Bacong*, 54 SCRA 289 [1973].

[10] *People vs. Court of Appeals*, 101 SCRA 450 [1980]; *People vs. Brecinio*, 125 SCRA 182 [1983].

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