

ANICETO C. OCAMPO, PETITIONER, VS. THE COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES (UNIVERSITY OF THE PHILIPPINES), RESPONDENTS.

G.R. No. 79060, December 08, 1989

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari to reverse or set aside the judgment of public respondent Court of Appeals dated May 8, 1987 which affirmed the trial court's decision finding petitioner guilty of violation of Presidential Decree No. 772 (Anti-Squatting Law) and sentencing him to suffer imprisonment for one (1) year, with the accessories provided by law and to remove the house constructed on the land in question within thirty (30) days from the finality of judgment, otherwise, private respondent University of the Philippines was authorized to demolish or dismantle the house at the expense of the petitioner.

The facts are not disputed.

"At about 10:00 o'clock in the morning of August 15, 1984, the desk officer of the U.P. Police Force received a telephone call; the caller reported that somebody was constructing a house at the U.P. Arboretum. Villanueva, Ladip and Ernesto were directed to investigate (pp. 4-5, TSN, June 21, 1985; p. 4, TSN, July 22, 1985).

Villanueva and Ladip are members of the U.P. Police Force connected or assigned with the U.P. Squatter's Relocation Team.

The U.P. Arboretum is located at the back of the U.P. Petron, beside the U.P. Hydraulic Research Center (p. 5, TSN, June 21, 1985).

They proceeded to said place and there they saw some people constructing a house. They asked the carpenters who owned the house and were told that the accused, Aniceto Ocampo, is the owner. Aniceto Ocampo who was present at the time, was asked whether he had a building permit. The accused admitted that he had no building permit, although he claimed that he bought the parcel of land on which his house was being constructed from a certain Roberto Pael (p. 5, TSN, July 22, 1985; p. 6, TSN, June 21, 1985).

The accused was informed that the land belongs to the University of the Philippines and that he should stop the construction of his house. The accused complied (pp. 6-7, TSN, June 21, 1985; p. 6, TSN, July 22, 1985).

However, on August 24, 1984, the accused resumed the construction of his aforesaid house. The aforementioned prosecution witnesses reminded the accused that he was violating Presidential Decree No. 772 (pp. 7-8, TSN, June 21, 1985; pp. 6-7, TSN, July 22, 1985).

The accused was again told to stop the construction of his house. The accused ignored the U.P. Police Squatter's Team, and insisted that he bought the land from Mr. Pael (p. 9, TSN, July 22, 1985; p. 10, TSN, June 21, 1985).

The team reported the matter to their Chief, Captain Madrigal, and executed an affidavit (Exh. "A") which they

submitted to the U.P. Legal Department (p. 9, TSN, July 22, 1985; p. 10, tsn, June 21, 1985).

A picture of the house constructed by the accused was also taken" (Exhibit "B"). (pp. 2-3, Comment; pp. 22-23, Rollo)

After the preliminary investigation had been conducted, an information dated March 25, 1985, was filed against Aniceto Ocampo charging him with violation of Presidential Decree No. 772, docketed as Criminal Case No. Q-38997.

Upon arraignment, accused-appellant (now petitioner) pleaded "not guilty".

After the prosecution rested its case, petitioner waived the presentation of his evidence and instead filed a motion to dismiss (demurrer to evidence) on the ground that the prosecution did not present Transfer Certificate of Title No. 192689 to prove ownership of the land in question and that it failed to prove that the land on which the petitioner constructed his house belongs to the University of the Philippines.

The trial court denied the motion to dismiss for lack of merit, arriving at the following conclusion:

"The prosecution did not present in evidence Transfer Certificate of Title No. 192689 to prove that the land in question, indeed, belongs to the University of the Philippines. The absence of this piece of evidence, in the considered view of this Court, did not cripple the fact that the accused, Aniceto Ocampo, is not the owner of said property. And since there is no showing that the accused occupied the lot in question and constructed his residential house thereat with the knowledge and/or consent of the owner thereof, the accused is a squatter within the contemplation of Presidential Decree No. 772.

"Section 1 of Presidential Decree No. 772 reads:

'Any person, who with the use of force, intimidation or threat, or taking advantage of the absence or tolerance of the landowner, succeeds in occupying or possessing the property of the latter against his will for residential, commercial or any other purposes, shall be punished by an imprisonment ranging from six months to one year or a fine of not less than one thousand nor more than five thousand pesos at the discretion of the court, with subsidiary imprisonment in case of insolvency.'

(p. 5, Comment; p. 25, Rollo)

On October 7, 1985, the trial court found Aniceto Ocampo guilty beyond reasonable doubt of the offense charged.

Accused then appealed to the Court of Appeals alleging that the trial court erred in: (a) applying Section 15, Rule 119 of the 1985 Rules of Criminal Procedure; (b) convicting appellant on the basis of evidence which does not measure to the degree of proof as required by law; and (c) not applying the principle of presumption of innocence in favor of appellant.

Respondent Court of Appeals affirmed the decision of the lower court, finding said appealed decision to be in accordance with law and supported by evidence as well.

Hence, accused-appellant filed the instant petition for review on certiorari.

In this petition, two issues are presented involving purely questions of law:

"1. Whether or not the failure of the prosecution to present evidence of ownership is not a fatal defect in finding the accused?petitioner guilty beyond reasonable doubt of the crime of squatting; and

2. Is the Motion to Dismiss filed by accused-petitioner a bar for him to present evidence?"

For failure of the petitioner to file his reply within the period which expired on December 20, 1987, this Court, in

a resolution dated February 3, 1988, resolved to dispense with the aforesaid reply and considered the case submitted for deliberation.

Petitioner alleges that the very essence of the case is the proof of ownership of the land involved herein. We do not agree.

The law involved in this case is Section 1 of Presidential Decree No. 772, otherwise known as the Anti-Squatting Law, which embraces three (3) elements, namely: (a) accused is not the owner of the land; (b) that he succeeded in occupying or possessing the property through force, intimidation, or threat or by taking advantage of the absence or tolerance of the owner; and (c) such occupation of the property is without the consent or against the will of the owner. In the case at bar, all three (3) elements have been established beyond reasonable doubt.

The evidence presented by the prosecution manifested that Aniceto Ocampo was not the owner of the land on which he constructed his house and that he did so against the owner's will or without its consent. Prosecution witnesses testified that as early as May, 1983, petitioner was told that the area is U.P. property; that he began constructing his house without a permit from the owner; that petitioner had no building permit and that he had been informed that he was violating the Anti-Squatting Law. Besides, it was also confirmed that petitioner had never shown title to the land he claims to have purchased from one Roberto Pael. Yet, he failed to present any deed of sale or any title in his name. This alleged sale is a defense which the petitioner could have successfully utilized to his advantage but failed to substantiate it with evidence at the trial. When petitioner moved for dismissal of the case, he forfeited his chance to prove his claim. It must be noted also that this Roberto Pael was shown by testimonial evidence to be not the owner of the land and that said land is the subject of a criminal case against Pael for squatting.

Neither did the petitioner exhibit any building or sanitary permit to the U.P. Security Force or in court, such being attached only to his motion for reconsideration. Worthy of note is the fact that such permits are both dated June 26, 1985, which is more than ten (10) months after the illegal construction took place and three (3) months after the case had been filed against petitioner. (p. 29, Rollo)

We concur with the Court of Appeals in affirming the trial court's decision which maintained that the failure of the prosecution to present title to prove ownership by the University of the Philippines of the land in question is not material in proving the guilt of the petitioner beyond reasonable doubt. The ownership of U.P. is not in issue in this case. Withal, the property has been widely and publicly known to be part of the U.P. grounds. The crucial issue is the act of squatting of the petitioner and his non-ownership of the property, both of which have been proven beyond reasonable doubt.

As regard the second issue presented, the answer is in the affirmative. Section 15, Rule 119 of the Rules on Criminal Procedure, as amended, provides:

"Section 15. Demurrer to Evidence. After the prosecution has rested its case, the court may dismiss the case on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution an opportunity to be heard; or (2) on motion of the accused filed with prior leave of court.

"If the court denies the motion for dismissal, the accused may adduce evidence in his defense. When the accused files such motion to dismiss without express leave of court, he waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution." (Underscoring supplied.)

The amendment to Section 15, Rule 119 of the 1985 Rules on Criminal Procedure took effect only on October 1, 1988, but the same was given retroactive effect in the case of Bonalos vs. People, in its resolution dated, September 19, 1988. Well-settled is the rule that "statutes regulating the procedure of the court will be construed

as applicable to actions pending and undetermined at the time of their passage. Procedural laws are retrospective in that sense and to that extent" (People vs. Sumilang, 77 Phil. 784; Alday vs. Canilon, 120 SCRA 522). The amendment would therefore apply in this case.

In the case at bar, nowhere does the record show that accused-petitioner's demurrer to evidence was filed with prior leave of court, the retroactive effect of the amendment aforesated would therefore work against herein petitioner.

By moving to dismiss on the ground of insufficiency of evidence, accused-petitioner waives his right to present evidence to substantiate his defense and in effect submits the case for Judgment on the basis of the evidence for the prosecution. This is exactly what petitioner did, and he cannot now claim denial of his right to adduce his own evidence. As the Solicitor General aptly opined, "petitioner gambled on securing an acquittal, a gamble which he lost." (pp. 31-32, Rollo)

More than that, petitioner raises as issue whether his motion to dismiss bars him from presenting his evidence, but nowhere in his petition does he endeavor to argue in his favor. Such a question should have been raised by the petitioner in the court a quo and on appeal yet he failed to do the same.

WHEREFORE, the petition is DENIED. The decision of the public respondent is hereby AFFIRMED in toto.

SO ORDERED.

Padilla, Sarmiento, and Regalado, JJ., concur.

Melencio-Herrera, J., (Chairman), on leave.

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