

LUZ C. OÑAS, PETITIONER, VS. THE SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 85999. October 02, 1989

Ponente: NARVASA, J.

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NARVASA, J.:

This case calls for the retrospective application of a 1988 amendment to the 1985 Rules on Criminal Procedure, more particularly, Section 15, Rule 119, as revised, treating of demurrers to evidence.

Luz Oñas y Capangpangan stands accused of having malversed public funds in her possession by reason of her official position as Deputy Provincial and Municipal Treasurer of Montevista, Davao del Norte, under an information filed with the Sandiganbayan on September 1, 1987.¹ After Oñas, with the assistance of counsel de officio, had entered a plea of innocent on arraignment, the State presented its evidence and then rested its case. Thereafter, as narrated by the Sandiganbayan --2

"On July 1, 1988, when the case was called for the initial presentation of the defense evidence, the accused (Oñas), personally and through her counsel (de parte), manifested that she was waiving the presentation of evidence in her defense and, upon her oral motion, was granted a period of thirty (30) days to file her demurrer to evidence, which period was later extended at her instance. On September 5, 1988, accused filed her 'Demurrer to Evidence,' to which prosecution filed its 'Opposition' on September 29, 1988."

On that day that, "the Court," as further stated by the Sandiganbayan,¹ "lengthily explained to ** (her) and her counsel the nature and legal consequences thereof and the accused signified her understanding and express conformity thereto (Page 122, Record; Pp. 2-4, TSN, July 1, 1988)."

Oñas' demurrer cited several grounds justifying outright dismissal of the charges against her, and contained the reservation that it was "without prejudice to her right to adduce evidence."²

On October 11, 1988, the Sandiganbayan promulgated its Decision,³ overruling Oñas' demurrer, declaring her to have lost the right to present evidence in her behalf in accordance with Section 15, Rule 119 of the 1985 Rules on Criminal Procedure -- rejecting, too, by the way, Oñas' contention that the provision was unconstitutional -- finding her guilty beyond reasonable doubt of the felony with which she was charged, and sentencing her -

" ... to suffer the indeterminate penalty ranging from TWELVE (12) YEARS, FIVE (5) MONTHS and ELEVEN (11) DAYS of reclusion temporal as the minimum, to EIGHTEEN (18) YEARS, EIGHT (8) MONTHS AND ONE (1) DAY, likewise of reclusion temporal, as the maximum; to further suffer perpetual special disqualification; to pay a fine of P267,327.71 corresponding to the amount malversed; to indemnify the Government of the Republic of the Philippines in the same amount of P267,327.71, and to pay the costs of this action."

Oñas' motion for reconsideration was denied by Resolution promulgated November 9, 1988.⁴

She has seasonably taken an appeal by certiorari to this Court and prays that her conviction "be reversed and set

aside * * (or if the Court is not so minded, that her) conviction be set aside and the case remanded to the respondent court and the latter ordered to receive * * (her) evidence * *." In her petition for review she contends that the Sandiganbayan erred in (1) convicting her "on the basis of evidence secured in contravention of the law," and "on the basis of information and investigation had when there was no duly appointed Tanodbayan (Ombudsman) lawfully authorized to do so," and (2) in "considering her to have waived the right to adduce evidence."

The Sandiganbayan was, to be sure, quite correct in emphasizing to Oñas on July 1, 1988 that by filing a demurrer to evidence, she was waiving the right to present evidence. That cautionary advice was entirely justified by the governing provision then in force, Section 15, Rule 119 of the 1985 Rules on Criminal Procedure -- a provision having no counterpart in the 1964 Rules and obviously meant to alter the jurisprudential principle theretofore obtaining⁵ -- said Section 15 reading as follows:

"SEC. 15. Demurrer to Evidence. -- When after the prosecution has rested its case, the accused files a motion to dismiss the case on the ground of insufficiency of evidence, he waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution."

But the law was changed after Oñas' demurrer to evidence had been overruled, verdict rendered against her, her motion for reconsideration of her conviction denied by Resolution promulgated on November 9, 1988, and before she could take an appeal to this Court.¹ On November 13, 1988, the 1988 amendments to the 1985 Rules on Criminal Procedure (Rules 110-126, Rules of Court) went into effect.² Section 15, Rule 119, was amended to read as follows:

"SEC. 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. (n)"

Pursuant to the time-honored rule to which attention is drawn by the Solicitor General,³ that adjective statutes may be made applicable to actions pending and undetermined at the time of their passage, the amended provision should have been applied to Oñas, specially since it is favorable to her. So does this Court now rule: Section 15 of Rule 119, as lastly amended, applies as regards Oñas. Since she sought and was granted leave to file a demurrer to evidence, and she made an explicit reservation to present evidence in the event of denial of her demurrer (withdrawing an earlier waiver made by her), her situation falls within said Section 15, Rule 119, as amended. Not having expressly waived the right to adduce evidence, she did not lose the right to do so after her motion for dismissal was denied. Hence, the Court is constrained to regard as grave error, because contrary to the letter and spirit of the applicable law (albeit probably unintended), the Sandiganbayan's act of ruling otherwise under the circumstances, and convicting Oñas on the basis only of the evidence of the prosecution.

It is worthy of note that by an extended Resolution dated September 19, 1988 in G.R. No. 78759 entitled *Bonalos v. People*, the Third Division of this Court, also on recommendation of the Solicitor General, similarly gave retroactive effect to said Section 15 of Rule 119, as revised by the 1988 Amendments, upon the authority of the same precedents above cited.

The conclusion here expressed makes unnecessary (and premature) consideration of the other errors assigned to the Sandiganbayan by the petitioner.

WHEREFORE, the Sandiganbayan's Decision promulgated on October 11, 1988 in Criminal Case No. 12417 is

REVERSED AND SET ASIDE, and the case is REMANDED to the Sandiganbayan for reception of the petitioner's evidence and subsequent appropriate proceedings. No costs.

SO ORDERED.

Fernan, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

1 Decision, Sandiganbayan, Oct. 11, 1988, p. 1: Rollo, p. 113

2 Id., pp. 3-4: Rollo, pp. 115-116

1 Id., footnote 3/, p. 7: Rollo, p. 119

2 Id., p. 7: Rollo, p. 119: In the footnote just adverted to, supra, the Sandiganbayan remarked that "Such reservation is no longer allowed under the 1985 Rules on Criminal Procedure (quoting Sec. 15, Rule 119 of said 1985 Rules).

3 Per Escareal, J., Chairman, Second Division, with whom concurred Hermosisima, Jr. and Amores, JJ: Rollo, pp. 113-128

4 Rollo, p. 129

5 SEE *Peo. v. Mamacol*, 81 Phil. 543; *Abriol v. Homeres*, 84 Phil. 525

1 This Court granted her an extension of 30 days within which to file her petition for review on certiorari (by Resolution dated December 21, 1988), and she filed her petition by registered mail on December 20, 1988.

2 Bar Matter No. 375: Resolutions dated June 17, 1988 and July 7, 1988. N.B. Although both resolutions set the effective date of the amendments at October 1, 1988, the effectivity date was subsequently changed to November 13, 1988 by Resolution of the Court en banc dated February 2, 1989 it appearing that the 1985 Rules on Criminal Procedure, as amended, were not published until October 29, 1988, in *Bulletin Today*; the Court reset the effectivity date from October 1, 1988 to November 13, 1988, i.e., 15 days from its publication.

3 Comment dated June 20, 1989, p. 6: Rollo, p. 169, citing *Peo. v. Sumilang*, 77 Phil. 764; *Alday v. Camillon*, 120 SCRA 521

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