

## SECOND DIVISION

[ G.R. No. 236461, December 05, 2018 ]

**REYNALDO ARBAS RECTO, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**CAGUIOA, J:**

Before the Court is a petition for review on *certiorari*<sup>[1]</sup> (Petition) under Rule 45 of the Rules of Court assailing the Decision<sup>[2]</sup> dated June 29, 2017 and Resolution<sup>[3]</sup> dated January 11, 2018 issued by the Thirteenth Division and Former Thirteenth Division, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 146120.

### The Facts

An Information<sup>[4]</sup> for Murder was filed against petitioner Reynaldo Arbas Recto (Recto) for the death of Margie Carlosita (Carlosita), the accusatory portion of which reads:

That on or about the 18<sup>th</sup> day of February, 2011 in the Municipality of Gen. Mariano Alvarez, Province of Cavite, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then armed with a hard object, with intent to kill, qualified by treachery and evident premeditation, abuse of superior strength, did then and there, wilfully, unlawfully and feloniously attack, assault and hit one **Margie Carlosita** on the head and on the parts of her body with the use of said hard object, thereby inflicting upon the latter traumatic injuries on the head and on her trunk, which caused her instantaneous death, to the damage and prejudice of the heirs of said Margie Carlosita.

CONTRARY TO LAW.<sup>[5]</sup>

Thereafter, on May 23, 2011, Recto's former counsel filed a Petition for Bail<sup>[6]</sup> with the Regional Trial Court of Bacoor City, Branch 89 (RTC). However, on April 11, 2014, the RTC issued an Order<sup>[7]</sup> denying Recto's Petition for Bail as it gave credence to the testimony of prosecution witness Joshua Emmanuel Rabillas (Rabillas), son of Carlosita, that Recto was the one who killed his mother. The RTC, in denying the Petition for Bail, noted that "without, however, prejudging in any way the result of the case, the Court is of the impression that the evidence of guilt is strong, and it is incumbent on the part of the accused to take the witness stand to show otherwise."<sup>[8]</sup>

Trial on the merits then ensued. After the prosecution rested its case, Recto filed a Demurrer to Evidence<sup>[9]</sup> on June 22, 2015 for insufficiency of evidence to hold him

guilty of the crime of Murder. The RTC, however, denied the Demurrer to Evidence through an Order<sup>[10]</sup> dated December 22, 2015. In the said Order, the RTC stated:

Considering, therefore, the testimony of Joshua pointing to the accused as the perpetrator of the crime compared with the mere allegations of the accused that the victim committed suicide, it is imperative on the part of the accused to take the witness stand, that is, if he so desires, to support his claim that he is not guilty as charged.<sup>[11]</sup>

Subsequently, on April 27, 2016, petitioner filed a Motion to Fix Bail<sup>[12]</sup> alleging that the prosecution was able to show that the crime charged should be Homicide only and not Murder. He pointed out that Rabillas, who was five years old at the time of the incident, testified that Carlosita was hit by the bottle during a quarrel over money. Citing *People v. Rivera*,<sup>[13]</sup> a case with substantially the same facts wherein the common-law wife was killed by the common-law husband during a heated argument, Recto argued that the case established by the prosecution was thus merely Homicide due to the absence of the qualifying circumstance of treachery.

On June 8, 2016, the RTC issued an Order<sup>[14]</sup> denying the Motion to Fix Bail. The RTC reiterated that it was of the impression that the evidence of guilt is strong and that it was incumbent on Recto to take the witness stand and show otherwise. As Recto had not taken the witness stand, then the RTC ruled against the Motion to Fix Bail. Recto moved for reconsideration, but the same was denied by the RTC on January 29, 2016.<sup>[15]</sup>

Aggrieved by the Order of the RTC denying his Motion to Fix Bail, Recto then filed a petition for *certiorari*<sup>[16]</sup> under Rule 65 of the Rules of Court with the CA.

### **Ruling of the CA**

In the assailed Decision dated June 29, 2017, the CA affirmed the denial of Recto's Motion to Fix Bail. The CA reasoned that Recto failed to show that the RTC's issuance of the Order was attended by grave abuse of discretion amounting to lack or excess of jurisdiction. Furthermore, the CA held that "the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grilling examination."<sup>[17]</sup> The CA, thus, deferred to the RTC's assessment of the credibility of Rabillas' testimony, and also relied on its judgment that the evidence of guilt was strong. The CA ultimately dismissed the case.

Recto then sought reconsideration of the Decision, but the same was denied by the CA in a Resolution dated January 11, 2018.

Recto thus filed this Petition on February 26, 2018. The People, through the Office of the Solicitor General (OSG), filed its Comment<sup>[18]</sup> on September 13, 2018. Recto then filed his Reply<sup>[19]</sup> on October 5, 2018.

### **Issue**

The sole issue to be resolved in this case is whether the CA erred in dismissing Recto's petition for *certiorari*.

### **The Court's Ruling**

The Petition is meritorious.

A petition for *certiorari* under Rule 65 of the Rules of Court is the proper remedy when (1) any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction and (2) there is no appeal nor plain, speedy and adequate remedy in the ordinary course of law for the purpose of annulling or modifying the proceeding.<sup>[20]</sup> Grave abuse of discretion exists when there is an arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or a whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law.<sup>[21]</sup>

In this case, the denial of the Motion to Fix Bail by the RTC amounted to an evasion or refusal to perform a positive duty enjoined by law. The Order denying the Motion to Fix Bail was thus issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

Section 13, Article III of the Constitution provides:

SECTION 13. All persons, except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of *habeas corpus* is suspended. Excessive bail shall not be required.

The following Constitutional provision is implemented by the following provisions of the Rules of Court:

SEC. 4. *Bail, a matter of right; exception.* - All persons in custody shall be admitted to bail as a matter of right, with sufficient sureties, or released on recognizance as prescribed by law or this Rule (a) before or after conviction by the Metropolitan Trial Court, Municipal Trial Court, Municipal Trial Court in Cities, or Municipal Circuit Trial Court, and (b) before conviction by the Regional Trial Court of an offense not punishable by death, *reclusion perpetua*, or life imprisonment.

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SEC. 7. *Capital offense or an offense punishable by reclusion perpetua or life imprisonment, not bailable.* - No person charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution.<sup>[22]</sup>