

## FIRST DIVISION

[ G.R. No. 189644, July 02, 2014 ]

**NEIL E. SUYAN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES  
AND THE CHIEF PROBATION AND PAROLE OFFICER, DAGUPAN  
CITY, RESPONDENTS.**

### R E S O L U T I O N

**SERENO, C.J.:**

Before this Court is an appeal from the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated 27 March 2009, which affirmed the Orders dated 31 March 2006<sup>[2]</sup> and 26 June 2006<sup>[3]</sup> of the Regional Trial Court (RTC) of Dagupan City. The RTC found that Neil E. Suyan (petitioner) had violated the conditions of his probation and thus, ordered that his probation be revoked. The instant petition likewise assails the Resolution dated 9 September 2009<sup>[4]</sup>, which denied petitioner's Motion for Reconsideration of the aforementioned Decision dated 27 March 2009.

The facts as found by the CA are summarized as follows:

On 27 October 1995, an Information was filed against petitioner, charging him with violation of Section 16, Article III of Republic Act (R.A.) No. 6425.<sup>[5]</sup> During arraignment, he pleaded guilty to the charge. The RTC thereafter proceeded with trial.

On 22 November 1995, petitioner was convicted of the crime, for which he was sentenced to suffer the penalty of six (6) years of *prision correccional* and to pay the costs. On even date, he filed his application for probation.

On 16 February 1996, the RTC issued a Probation Order covering a period of six (6) years.<sup>[6]</sup>

While on probation, petitioner was arrested on two occasions, more specifically on 2 September and 20 October 1999<sup>[7]</sup> for violating Section 16, Article III of R.A. No. 6425. Two separate Informations were filed against him, both of which were filed with the RTC of Dagupan City. One of these cases was docketed as Criminal Case No. 99-03073-D before Branch 43 (Branch 43 case), and the other case as Criminal Case No. 99-03129-D before Branch 41.

On 1 December 1999, Atty. Simplicio A. Navarro, Jr. (Atty. Navarro), then the Chief Probation and Parole Officer of Dagupan City, filed a Motion to Revoke Probation (Motion to Revoke).<sup>[8]</sup> Atty. Navarro alleged that petitioner has been apprehended twice for drug possession while on probation. The former further alleged that petitioner was considered a recidivist, whose commission of other offenses while on probation was a serious violation of the terms thereof. Atty. Navarro also pointed out

that petitioner was no longer in a position to comply with the conditions of the latter's probation, in view of his incarceration.<sup>[9]</sup>

On 15 December 1999, the RTC issued an order revoking the probation of petitioner and directing him to serve the sentence imposed upon him.<sup>[10]</sup> It denied<sup>[11]</sup> his Motion for Reconsideration.<sup>[12]</sup>

Aggrieved, on 6 April 2000 petitioner filed a Rule 65 Petition<sup>[13]</sup> with the CA (first CA case),<sup>[14]</sup> wherein he assailed the revocation of his probation. He argued that he was denied due process as he was not furnished with a copy of the Motion to Revoke; and when the motion was heard, he was not represented by his counsel of record.<sup>[15]</sup>

On 2 January 2006, the CA in its Decision,<sup>[16]</sup> granted the Rule 65 Petition by annulling and set aside RTC's revocation of petitioner's probation. The CA ruled that the trial court had not complied with the Probation Law and the procedural requisites for the revocation of probation under the Revised Rules on Probation Methods and Procedures, enumerated as follows:<sup>[17]</sup>

1. No fact-finding investigation of the alleged violations was conducted by the Probation Officer.
2. The Probation Office should have reported to respondent court the result of said investigation, if any, upon its completion.
3. There was no Violation Report under P.A. Form No. 8, the contents of which are enumerated under Section 38 of the Revised Rules on Probation Methods and Procedures.
4. No warrant of arrest was issued by respondent court after considering the nature and seriousness of the alleged violations based on the report, if any.
5. The petitioner should have been brought to respondent court for a hearing of the violations charged, during which petitioner – with the right to counsel – should have been informed of the violations charged and allowed to adduce evidence in his favor.

The CA ordered the remand of the case to the RTC for further proceedings, for the purpose of affording petitioner his right to due process pursuant to Presidential Decree (PD) No. 968, and the Revised Rules on Probation Methods and Procedures.

In compliance with the CA Decision, the RTC conducted a hearing on the Motion to Revoke.<sup>[18]</sup> On 17 February 2006, a Violation Report dated 13 February 2006<sup>[19]</sup> was filed by the Dagupan City Parole and Probation Office recommending the revocation of probation.<sup>[20]</sup> The Violation Report provides in part:

#### D. CASE SUMMARY

At the outset of his probation period, probationer showed manifested negative attitude by incurring absences and not attending rehabilitation activities despite constant follow-up by his supervising officers. He continued with his illegal drug activities despite counselling and warning from this Office.

Obviously, probationer has failed to recognize the value of freedom and second chance accorded him by the Honorable Court, his conduct and attitude bespeaks of his deviant character, hence he is unworthy to continuously enjoy the privilege of probation.

On 22 March 2006, the prosecution submitted its Formal Offer of Evidence. A Certification dated 23 January 2006 (Certification),<sup>[21]</sup> issued by Manuel Z. de Guzman, was offered as evidence to prove that petitioner had been convicted in the Branch 43 case (one of the two cases subsequently filed against him, as stated earlier); and that he had served his sentence from 30 September 2000 until his release, by reason of the expiration of his maximum sentence on 8 September 2003. Thereafter, petitioner filed his Comment on the Formal Offer without disputing the Certification.<sup>[22]</sup>

On 31 March 2006, the RTC issued an Order<sup>[23]</sup> revoking the probation. It ruled that it had granted petitioner due process by affording him the full opportunity to contest the Motion to Revoke; but that instead of rebutting the Violation Report, he merely questioned the absence of a violation report when his probation was first revoked.<sup>[24]</sup> The RTC further held that there was positive testimony and documentary evidence showing that petitioner had indeed violated the conditions of his probation. He never rebutted the fact of his commission of another offense and conviction therefor while on probation.<sup>[25]</sup> He filed a Motion for Reconsideration,<sup>[26]</sup> but it was denied.<sup>[27]</sup>

Aggrieved, petitioner again filed an appeal with the CA.<sup>[28]</sup> This time, he alleged that he had been deprived of his constitutional right to due process when his probation was ordered revoked.<sup>[29]</sup> He further alleged that he had not been given ample opportunity to refute the alleged violations committed by him while on probation. The probation officer did not conduct a fact-finding investigation of the alleged violations, and, consequently, petitioner was not furnished any results. After considering the nature and seriousness of the alleged violations, the RTC did not issue any warrant for his arrest, as he had not been afforded an opportunity to adduce evidence in his favor with the assistance of his counsel.<sup>[30]</sup>

With regard to the specific grounds for revocation, petitioner claimed that the evidence adduced against him did not refer to the grounds cited in the Motion to Revoke, but instead, the evidence referred to alleged violations of Condition Nos. 3, 9 and 10 of the Probation Order.

The CA denied his appeal. With regard to the procedural issues discussed in the assailed Decision, it ruled that petitioner was afforded due process. A full-blown trial