

## EN BANC

[ G.R. No. 179611, March 12, 2013 ]

**EFREN S. ALMUETE, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

Section 6,<sup>[1]</sup> Rule 120 of the 1985 Rules on Criminal Procedure allows promulgation of judgment *in absentia* and gives the accused a period of fifteen (15) days from notice to him or his counsel within which to appeal; otherwise, the decision becomes final.<sup>[2]</sup>

This Petition for Review on *Certiorari*<sup>[3]</sup> under Rule 45 of the Rules of Court assails the May 4, 2007 Resolution<sup>[4]</sup> and the September 4, 2007 Resolution<sup>[5]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 98502.

#### ***Factual Antecedents***

This case is an offshoot of *People v. Court of Appeals*,<sup>[6]</sup> docketed as G.R. No. 144332 and promulgated on June 10, 2004.

Efren D. Almuete (petitioner), Johnny Ila (Ila) and Joel Lloren (Lloren) were charged before the Regional Trial Court (RTC) of Nueva Vizcaya, Branch 27, with violation of Section 68<sup>[7]</sup> of Presidential Decree (P.D.) No. 705, otherwise known as the "Revised Forestry Code of the Philippines," as amended by Executive Order (E.O.) No. 277,<sup>[8]</sup> docketed as Criminal Case No. 2672.<sup>[9]</sup>

On the scheduled date of promulgation of judgment, petitioner's counsel informed the trial court that petitioner and Lloren were ill while Ila was not notified of the scheduled promulgation.<sup>[10]</sup> The RTC, however, found their absence inexcusable and proceeded to promulgate its Decision as scheduled.<sup>[11]</sup> The dispositive portion of the September 8, 1998 Decision reads:

WHEREFORE, finding the accused, namely, Efren S. Almuete, Johnny Ila y Ramel and Joel Lloren y dela Cruz GUILTY beyond reasonable doubt of violation of Section 68, P.D. No. 705, as amended, they are each sentenced to suffer the penalty of 18 years, 2 months and 21 days of reclusion temporal, as minimum period to 40 years of reclusion perpetua as maximum period. Costs against the said accused.

SO ORDERED.<sup>[12]</sup>

Accordingly, the RTC cancelled the bail bonds of petitioner, Ila and Lloren<sup>[13]</sup> and issued warrants of arrest against them.<sup>[14]</sup>

Petitioner and his co-accused moved for reconsideration, questioning the validity of the promulgation, the factual and legal bases of their conviction, and the correctness of the penalty imposed.<sup>[15]</sup>

On October 12, 1998, the RTC denied their motion for lack of merit.<sup>[16]</sup>

Instead of filing an appeal, petitioner and his co-accused filed a Petition for *Certiorari*, docketed as CA-G.R. SP No. 49953, with the CA.<sup>[17]</sup>

On May 19, 2000, the CA granted the Petition and disposed of the case in this wise:

WHEREFORE, premises considered, the present petition is hereby GRANTED. On the basis of the evidence on record, accused Efren S. Almuete should be, as he is hereby ACQUITTED of the charge against him.

The court *a quo* is ORDERED to re-promulgate the decision in the presence of the accused Ila and Lloren, duly assisted by counsel of their own choice, after notice and allow them to appeal. Let the complete records of this case be remanded to the court *a quo*.

SO ORDERED.<sup>[18]</sup>

The acquittal of petitioner prompted the People of the Philippines to elevate the case to this Court *via* a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, docketed as G.R. No. 144332.

On June 10, 2004, this Court reversed petitioner's acquittal and reinstated the RTC's September 8, 1998 Decision and its October 12, 1998 Order, to wit:

**IN LIGHT OF ALL THE FOREGOING**, the petition is **GRANTED**. The assailed decision and resolution of the Court of Appeals are **REVERSED AND SET ASIDE**. The Decision of the Regional Trial Court dated September 8, 1998 and its Order dated October 12, 1998 are **REINSTATED**. No costs.

**SO ORDERED.**<sup>[19]</sup>

Aggrieved, petitioner moved for reconsideration but his motion was denied by this Court in a Resolution dated January 17, 2005.<sup>[20]</sup>

On February 15, 2005, this Court issued an Entry of Judgment.<sup>[21]</sup>

Unfazed, petitioner filed a second and a third Motion for Reconsideration, which were denied by this Court in its March 28, 2005 and November 9, 2005 Resolutions, respectively.<sup>[22]</sup>

Petitioner then filed a Motion for Clarification<sup>[23]</sup> on whether he could still appeal the RTC's September 8, 1998 Decision. This Court noted without action his Motion for Clarification in its July 26, 2006 Resolution.<sup>[24]</sup>

On December 13, 2006, petitioner filed with the RTC a Motion for Repromulgation<sup>[25]</sup> of the September 8, 1998 Decision.

### ***Ruling of the Regional Trial Court***

The RTC, in its January 17, 2007 Order,<sup>[26]</sup> denied the Motion for Repromulgation.

Petitioner sought reconsideration but the RTC denied the same in its February 20, 2007 Order.<sup>[27]</sup>

### ***Ruling of the Court of Appeals***

Imputing grave abuse of discretion on the part of the RTC, petitioner filed a Petition for *Certiorari*<sup>[28]</sup> with the CA. On May 4, 2007, the CA rendered its Resolution<sup>[29]</sup> which dismissed the Petition for lack of merit.

Petitioner's Motion for Reconsideration<sup>[30]</sup> was likewise denied by the CA in its September 4, 2007 Resolution.<sup>[31]</sup>

### **Issues**

Hence, this recourse, with petitioner raising the following issues:

1. Whether x x x the Decision of the [RTC] convicting [p]etitioner Almuete of the charge against him passed the requisite conviction beyond reasonable doubt.
2. Whether x x x the promulgation of the Decision of the [RTC] convicting the petitioner was valid despite the absence of the petitioner and regardless of petitioner's intention to be present at the promulgation of the Decision.
3. Whether x x x the Honorable [CA] committed grave abuse of discretion when it acquitted petitioner Almuete in a Petition for *Certiorari* under Rule 65 of the Rules of Court.
4. Whether x x x the judgment of acquittal by the Honorable [CA] bars further proceedings and that to do so would constitute a violation of petitioner's constitutional right against double jeopardy.

5. Whether x x x the denial of the [RTC] of petitioner's motion for re-promulgation is in order, the denial being based on an inappropriate Administrative Order of this Honorable Supreme Court (Administrative Order No. 16-93).<sup>[32]</sup>

### ***Petitioner's Arguments***

Petitioner maintains his innocence and asserts that he was wrongly convicted by the RTC because his guilt was not proven beyond reasonable doubt.<sup>[33]</sup> He argues that his conviction was based on circumstantial and hearsay evidence as he was convicted only because he owns the truck containing the lumber.<sup>[34]</sup> Thus, he contends that his earlier acquittal by the CA was proper,<sup>[35]</sup> and that his acquittal can no longer be assailed without violating the principle of double jeopardy.<sup>[36]</sup>

Petitioner likewise assails the validity of the promulgation of the judgment against him since it was made in his absence.<sup>[37]</sup> He insists that he had a valid reason for not attending the promulgation of the judgment as he was suffering from stress, anxiety, and some physiological disturbance, and thus, was advised to rest.<sup>[38]</sup> He also claims that the RTC's denial of his Motion for Repromulgation was not proper.<sup>[39]</sup> Hence, a repromulgation of the judgment should be made to allow him to avail of his right to appeal.<sup>[40]</sup>

### ***Respondent's Arguments***

The Solicitor General, on behalf of the People, contends that the issues and arguments raised by petitioner may no longer be entertained as these have been addressed in *People v. Court of Appeals*,<sup>[41]</sup> which is already the "law of the case."<sup>[42]</sup> He likewise points out that the promulgation of judgment *in absentia* is allowed under Section 6<sup>[43]</sup> of Rule 120 of the 1985 Rules of Criminal Procedure,<sup>[44]</sup> and that the denial of petitioner's Motion for Repromulgation of the September 8, 1998 Decision is proper as the same is in accordance with Administrative Circular No. 16-93.<sup>[45]</sup>

As to petitioner's right to appeal, respondent opines that petitioner's right has prescribed,<sup>[46]</sup> as the same should have been filed within 15 days from the time he or his counsel received a copy of the September 8, 1998 Decision instead of filing a Petition for *Certiorari* with the CA.<sup>[47]</sup>

However, notwithstanding the finality of petitioner's conviction, respondent recommends that the penalty be modified by reducing the same to six (6) years and one (1) day to ten (10) years in accordance with the Indeterminate Sentence Law (ISL).<sup>[48]</sup>

### ***Our Ruling***

The petition lacks merit.

### ***The denial of the Motion for Repromulgation***

***is in accordance with Administrative Circular  
No. 16-93***

Administrative Circular No. 16-93, issued on September 9, 1993, provides that:

**TO:** ALL JUDGES OF THE REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, AND MUNICIPAL CIRCUIT TRIAL COURTS

**RE:** PROCEDURE AFTER AFFIRMANCE OR MODIFICATION BY SUPREME COURT OR COURT OF APPEALS OF JUDGMENTS OF CONVICTION IN CRIMINAL CASES

To ensure uniformity in the procedure to be observed by the trial courts in criminal cases after their judgments of conviction shall have been affirmed or modified by the Supreme Court or the Court of Appeals, attention is invited to the decisional and statutory guidelines set out hereunder.

1. The procedure for the promulgation of judgments in the trial courts in criminal cases, differs from that prescribed for the Supreme Court and the Court of Appeals where promulgation is effected by filing the signed copy of the judgment with the Clerk of Court who causes true copies thereof to be served upon the parties. The procedural consequence of this distinction was reiterated in *Jesus Alvarado, etc. vs. The Director of Prisons*, to wit:

By sections 8 and 9 of Rule 53 (now Sections 10 and 11 of Rule 51) in relation to section 17 of Rule 120 (now Section 17 of Rule 124), a judgment is entered 15 days after its promulgation, and 10 days thereafter, the records are remanded to the court below including a certified copy of the judgment for execution.

In the case of *People vs. Sumilang* (44 Off. Gaz., 881, 883; 77 Phil. 764), it was explained that "the certified copy of the judgment is sent by the clerk of the appellate court to the lower court under section 9 of rule 53, not for the promulgation or reading thereof to the defendant, but for the execution of the judgment against him," it "not being necessary to promulgate or read it to the defendant, because it is to be presumed that accused or his attorney had already been notified thereof in accordance with sections 7 and 8, as amended, of the same Rules 53 (now sections 9 and 10 of Rule 51)," and that the duty of the court of first instance in respect to such judgment is merely to see that it is duly executed when in their nature the intervention of the court of first instance is necessary to that end.

**2. The practice of requiring the convict to appear before the trial court for "promulgation" of the judgment of the appellate court should, therefore, be immediately discontinued.** It is not only an unauthorized surplusage entailing unnecessary expense, but it could also create security problems where the convict was already under detention