

## **SPECIAL THIRD DIVISION**

**[ G.R. No. 149588, August 16, 2010 ]**

**FRANCISCO R. LLAMAS AND CARMELITA C. LLAMAS,  
PETITIONERS, VS. THE HONORABLE COURT OF APPEALS,  
BRANCH 66 OF THE REGIONAL TRIAL COURT OF MAKATI CITY  
AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

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

**NACHURA, J.:**

Before this Court is a Motion for Reconsideration filed by herein petitioner-spouses Francisco R. Llamas and Carmelita C. Llamas. On September 29, 2009, this Court promulgated a Decision<sup>[1]</sup> in the above-captioned case, denying the petition for "Annulment of Judgment and *Certiorari*, with Preliminary Injunction" filed by petitioners. Petitioners are assailing the decision of the Regional Trial Court (RTC) of Makati City convicting them of the offense "Other Forms of Swindling" punishable under Article 316, paragraph 2, of the Revised Penal Code (RPC).

Briefly, the antecedent facts are as follows:

On August 14, 1984, petitioners were charged before the Regional Trial Court (RTC) of Makati with, as aforesaid, the crime of "other forms of swindling" in the Information, docketed as Criminal Case No. 11787, which reads:

That on or about the 20<sup>th</sup> day of November, 1978, in the Municipality of Parañaque, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, well knowing that their parcel of land known as Lot No. 11, Block No. 6 of the Subdivision Plan (LRC) Psd 67036, Cadastral Survey of Parañaque, LRC Record No. N-26926, Case No. 4896, situated at Barrio San Dionisio, Municipality of Parañaque, Metro Manila, was mortgaged to the Rural Bank of Imus, did then and there willfully, unlawfully and feloniously sell said property to one Conrado P. Avila, falsely representing the same to be free from all liens and encumbrances whatsoever, and said Conrado P. Avila bought the aforementioned property for the sum of P12,895.00 which was paid to the accused, to the damage and prejudice of said Conrado P. Avila in the aforementioned amount of P12,895.00.

Contrary to law.

After trial on the merits, the RTC rendered its Decision on June 30, 1994, finding petitioners guilty beyond reasonable doubt of the crime charged and sentencing them to suffer the penalty of imprisonment for two months and to pay the fine of P18,085.00 each.

On appeal, the Court of Appeals, in its February 19, 1999 Decision in CA-G.R. No. CR No. 18270, affirmed the decision of the trial court. In its December 22, 1999 Resolution, the appellate court further denied petitioners' motion for reconsideration.

Assailing the aforesaid issuances of the appellate court, petitioners filed before this Court, on February 11, 2000, their petition for review, docketed as G.R. No. 141208. The Court, however, on March 13, 2000, denied the same for petitioners' failure to state the material dates. Since it subsequently denied petitioners' motion for reconsideration on June 28, 2000, the judgment of conviction became final and executory.

With the consequent issuance by the trial court of the April 19, 2001 Warrant of Arrest, the police arrested, on April 27, 2001, petitioner Carmelita C. Llamas for her to serve her 2-month jail term. The police, nevertheless, failed to arrest petitioner Francisco R. Llamas because he was nowhere to be found.

On July 16, 2001, petitioner Francisco moved for the lifting or recall of the warrant of arrest, raising for the first time the issue that the trial court had no jurisdiction over the offense charged.

There being no action taken by the trial court on the said motion, petitioners instituted, on September 13, 2001, the instant proceedings for the annulment of the trial and the appellate courts' decisions.

The Court initially dismissed on technical grounds the petition in the September 24, 2001 Resolution, but reinstated the same, on motion for reconsideration, in the October 22, 2001 Resolution. [2]

In its September 29, 2009 Decision, this Court held that, following the ruling in *People v. Bitanga*, [3] the remedy of annulment of judgment cannot be availed of in criminal cases. The Court likewise rejected petitioners' contention that the trial court had no jurisdiction over the case.

Petitioners are now before this Court seeking the reversal of the September 29, 2009 Decision and, consequently, the annulment of their conviction by the trial court. In their Verified Motion for Reconsideration, [4] petitioners ask this Court to "revisit and take a second look" at the issues in the case "without being unduly hampered by any perceived technical shortfalls of a beleaguered innocent litigant." In particular, they raise the following issues:

1. WITH ALL DUE RESPECT, AND IN LIGHT OF THE CORRECT APPLICATIONS OF DOCTRINAL JURISPRUDENCE, PETITIONERS HAD PURSUED THEIR MORE THAN TWENTY FIVE (25) YEARS QUEST FOR JUSTICE AS INNOCENT MEN, AND HAD HONESTLY MAINTAINED THAT THEIR RESORT TO REVERSE, SET ASIDE AND/OR ANNUL, IS IN LINE WITH JURISPRUDENCE AND LAW, **ANY TECHNICAL SHORTFALLS [OR] DEFECTS NOTWITHSTANDING[;]**

2. WITH ALL DUE RESPECT, AGAIN IN LIGHT OF APPLICABLE JURISPRUDENCE ON THE ISSUE OF JURISDICTION, PETITIONERS ARE NOT BARRED FROM RAISING SUCH QUESTION OF JURISDICTION AT ANY TIME AND IN FACT MAINTAIN THAT RESPONDNET COURTS HAD **NO JURISDICTION** IN LAW AND ENLIGHTENING DOCTRINES TO TRY AND DECIDE THIS CASE;

3. AGAIN WITH ALL DUE RESPECT AND **UNFORTUNATELY, THE VERY JUSTIFYING MERITS OF PETITIONERS'** APPROPRIATE INSTANT REMEDY; **HAD NOT CONSEQUENTLY BEEN PASSED UPON, TO UPHOLD THE PARAMOUNT CONSTITUTIONAL CHERISED MANDATE,** "THE PRESUMPTION OF INNOCENCE MUST BE UPHELD, EXCEPT ONLY UPON ESTABLISHED AND ADMISSIBLE EVIDENCE BEYOND REASONABLE DOUBT; AND

4. PETITIONERS **VERY HUMBLY BESEECH** THIS HONORABLE COURT'S HIGHEST SENSE OF MAGNANIMITY, UNDERSTANDING, JUDICIOUS WISDOM AND COMPASSION, SO THAT JUSTICE MAY TRULY AND JUSTLY BE RENDERED IN FAVOR OF PETITIONERS AS IT MUST, GIVEN THE VERY UNIQUE AND COMPELLING JUSTIFICATIONS HEREOF[.]<sup>[5]</sup>

Petitioners likewise pray for a referral of the case to the Court *En Banc* for oral argument or to be allowed to submit written supplementary pleadings for them to state the compelling reasons why their motion for reconsideration should be allowed.

In the interest of justice and for humanitarian reasons, the Court deems it necessary to re-examine this case.

Admittedly, petitioners took many procedural missteps in this case, from the time it was pending in the trial court until it reached this Court, all of which could serve as enough basis to dismiss the present motion for reconsideration. However, considering petitioners' advanced age, the length of time this case has been pending, and the imminent loss of personal liberty as a result of petitioners' conviction, the Court resolves to grant *pro hac vice* the motion for reconsideration.

This Court has, on occasion, suspended the application of technical rules of procedure where matters of life, liberty, honor or property, among other instances, are at stake.<sup>[6]</sup> It has allowed some meritorious cases to proceed despite inherent procedural defects and lapses on the principle that rules of procedure are mere tools designed to facilitate the attainment of justice. The strict and rigid application of rules that tend to frustrate rather than promote substantial justice must always be avoided. It is far better and more prudent for the court to excuse a technical lapse