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EN BANC

[G.R. NO. 157977, February 27, 2006]

EDUARDO TOLENTINO RODRIGUEZ AND IMELDA GENER RODRIGUEZ, PETITIONERS, VS. THE HONORABLE PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA – BRANCH 17, GOVERNMENT OF THE UNITED STATES OF AMERICA, REPRESENTED BY THE PHILIPPINE DEPARTMENT OF JUSTICE, AND DIRECTOR OF NATIONAL BUREAU OF INVESTIGATION, RESPONDENTS.

DECISION

QUISUMBING, J.:

Before us is a special civil action for certiorari and prohibition directed against the **Orders** dated May 7, 2003[1] and May 9, 2003[2] of the Regional Trial Court of Manila, Branch 17 in Case No. 01-190375, which cancelled the bail of petitioners and denied their motion for reconsideration, respectively.

The case stemmed from the petition for extradition filed on March 12, 2001 by the Government of the United States of America (US government) through the Department of Justice (DOJ) against the petitioners.

After their arrest, petitioners applied for bail which the trial court granted on September 25, 2001. The bail was set for one million pesos for each. Petitioners then posted cash bonds. The US government moved for reconsideration of the grant of bail, but the motion was denied by the trial court. Unsatisfied, the US government filed a petition for certiorari with this Court, entitled *Government of the United States of America, represented by the Philippine Department of Justice v. Hon. Rodolfo A. Ponferrada, etc., et al.*, and docketed as G.R. No. 151456.

Thereafter, we directed the trial court to resolve the matter of bail which, according to its November 28, 2001 Order,[3] shall be subject to whatever ruling that this Court may have in the similar case of Mark Jimenez entitled *Government of the United States of America v. Purganan*,[4] docketed as G.R No. 148571. In compliance with our directive, the trial court, without prior notice and hearing, cancelled the cash bond of the petitioners and ordered the issuance of a warrant of arrest,[5] to wit:

> Accordingly, following the En Banc Decision of the Supreme Court in G.R. No. 148571 dated September 24, 2002 to the effect that extraditees are not entitled to bail... while the extradition proceedings are pending...' (page 1, En Banc Decision in G.R. No. 148571), **let a warrant of arrest** issue against the herein respondents sans any bail, for implementation by the Sheriff or any member of any law enforcement agency in line with Section 19 of Presidential Decree No. 1069.

IT IS SO ORDERED.

Petitioners filed a very urgent motion for the reconsideration of the cancellation of their bail. The motion was heard and denied on May 9, 2003.[6]

Having no alternative remedy, petitioners filed the present petition on the following grounds:

I

...THE RESPONDENT JUDGE COMMITTED SUCH SERIOUS AND GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN CANCELLING THE BAIL OF HEREIN PETITIONERS WITHOUT PRIOR NOTICE AND HEARING OF ITS CANCELLATION.

II

...THE RESPONDENT JUDGE COMMITTED SUCH SERIOUS AND GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT CONSIDERING CERTAIN SPECIAL CIRCUMSTANCES ATTENDANT TO THE PRESENT CASE, AS AN EXCEPTION TO THE GENERAL RULE OF "NO-BAIL" IN EXTRADITION CASES WHEN PETITIONERS' CASH BAIL WAS UNILATERALLY CANCELLED.

III

"THE RESPONDENT JUDGE COMMITTED SUCH SERIOUS AND GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE WARRANT OF ARREST WITHOUT CONSIDERING THE HEREIN PETITIONERS" SPECIAL CIRCUMSTANCE OF VOLUNTARY EXTRADITION PRIOR TO CANCELLING THEIR CASH BAIL.[7]

Once again we face the controversial matter of bail in extradition cases. We are asked to resolve twin issues: First, in an extradition case, is prior notice and hearing required before bail is cancelled? Second, what constitutes a "special circumstance" to be exempt from the no-bail rule in extradition cases?

Petitioners assert that their bail cannot be cancelled without due process of law. By way of analogy, they point to Rule 114, Section 21[8] of the Rules of Court where the surety or bonding company is required to be notified and allowed to show cause why the bail bond should not be cancelled. They say that if the rules grant this opportunity to surety and bonding companies, the more reason then that in an extradition case the same should be afforded.

Petitioners also contend that this Court's directive in G.R. No. 151456 did not in any way authorize the respondent court to cancel their bail. Petitioners aver that respondent court should have first determined the facts to evaluate if petitioners were entitled to continuance of their bail, *e.g*. their willingness to go on voluntary extradition, which respondent court should have considered a special circumstance.

Respondents, for their part, argue that prior notice and hearing are not required to

cancel petitioners' bail, and the issuance of a warrant of arrest *ex parte* against an extraditee is not a violation of the due process clause. Further, respondents maintain that prior notice and hearing would defeat the purpose of the arrest warrant since it could give warning that respondents would be arrested and even encourage them to flee.

Besides, even granting that prior notice and hearing are indeed required, respondents contend that petitioners had been effectively given prior notice and opportunity to be heard, because the trial court's order clearly stated that the matter of bail shall be subject to whatever ruling the Supreme Court may render in the similar extradition case of *Government of the United States of America v. Purganan*.[9] Petitioners did not contest the aforementioned order. Respondents declare that petitioners were likewise notified of this Court's directives to the trial court to resolve the matter of their bail.

More significantly, petitioners claim that their bail should not have been cancelled since their situation falls within the exception to the general rule of no-bail. They allege that their continuous offer for voluntary extradition is a special circumstance that should be considered in determining that their temporary liberty while on bail be allowed to continue. They cite that petitioner Eduardo is in fact already in the United States attending the trial. They also have not taken flight as fugitives. Besides, according to petitioners, the State is more than assured they would not flee because their passports were already confiscated and there is an existing hold-departure order against them. Moreover, petitioners assert, they are not a danger to the community.

Respondents counter that petitioner Imelda Gener Rodriguez did not show her good faith by her continued refusal to appear before the respondent court. Further, the reasons of petitioners do not qualify as compelling or special circumstances. Moreover, the special circumstance of voluntary surrender of petitioner Eduardo is separate and distinct from petitioner Imelda's.

Additionally, respondents maintain that the ruling in the case of Atong Ang[10] has no applicability in the instant case. Ang's bail was allowed because the English translation of a testimony needed to determine probable cause in Ang's case would take time. This special circumstance is not attendant in this case.

The issue of prior notice and hearing in extradition cases is not new. In *Secretary of Justice v. Lantion*,[11] by a vote of nine to six, we initially ruled that notice and hearing should be afforded the extraditee even when a possible extradition is still being evaluated.[12] The Court, deliberating on a motion for reconsideration also by a vote of nine to six, qualified and declared that prospective extraditees are entitled to notice and hearing only when the case is filed in court and not during the process of evaluation.[13]

In the later case of Purganan, eight justices concurred that a possible extraditee is not entitled to notice and hearing before the issuance of a warrant of arrest while six others dissented.

Now, we are confronted with the question of whether a prospective extraditee is entitled to notice and hearing before the cancellation of his or her bail.