

SECOND DIVISION

[G.R. NO. 162371, August 25, 2005]

**MARY HELEN ESTRADA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES AND HON. BONIFACIO SANZ MACEDA,
RESPONDENTS.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

This resolves the petition for review on *certiorari* seeking the reversal of the Decision^[1] of the Court of Appeals (CA) promulgated on October 28, 2003, and the CA Resolution dated February 23, 2004, denying petitioner's motion for reconsideration; together with the letter of petitioner dated January 18, 2005 which was treated by the Court as a petition for *habeas corpus* alleging that the Decision dated July 2, 1997 of the Regional Trial Court (RTC) of Las Piñas City, Branch 275, imposed upon petitioner an erroneous and excessive penalty.

The present case has its origin in a criminal case filed against petitioner. An Information charging petitioner with estafa was filed with the RTC of Las Piñas City. In view of the fact that petitioner jumped bail, the RTC issued an Order dated May 14, 1997, considering petitioner to have waived her right to present evidence. Thus, the RTC rendered judgment based only on prosecution evidence and made the following conclusions:

...Junimar Bermundo applied for employment in Japan with the accused. Accused collected money from Junimar and his wife in the total amount of P68,700.00.

These payments were all evidenced by various receipts bearing different dates. ...

...

Junimar and his wife were able to pay the accused by using the money they obtained from a loan with the Luzon Development Bank using their parcel of land located at Pangao, Lipa City as collateral (Exh. "L").

After making the necessary payments, the accused told Junimar to proceed to the Japanese Embassy to claim the plane tickets in December 1993, but when they went to the Japanese Embassy, they were told that nothing was filed with their office. Junimar then informed the accused what happened and the latter accompanied him the second time to the Japanese Embassy. It was only at that time that accused filed the necessary documents. ...Accused told them that if they would use the name of her daughter, the processing of their papers would be faster

because her daughter performs outside the country.

However, in the early part of 1994, the Japanese Embassy wrote a letter to Junimar requiring them to submit documents but the accused failed to produce these documents. Junimar then decided to abandon his plan of going to Japan and just get the money from the accused. Accused, however, failed to return the money despite receipt of a demand letter the witness made (Exh. "I" & "J", tsn, Sept. 5, 1995, pp. 2-9).

Under the established facts, accused indeed deceived Junimar Bermundo and Rosalie Bermundo by means of false pretenses and fraudulent misrepresentations which induced the Bermundos to deliver to the accused their (sic) amount of P68,700.00 which amount accused applied and used for her own benefit to the damage and prejudice of Junimar and Rosalie Bermundo.

WHEREFORE, IN VIEW OF ALL THE FOREGOING, judgment is rendered finding accused GUILTY beyond reasonable doubt as charged which is punished under Article 315, par. 2 (a), and applying the Indeterminate Sentence Law, accused MARY HELEN ESTRADA is hereby sentenced to suffer an indeterminate prison term of TWELVE (12) YEARS of prison mayor maximum as minimum to TWENTY-FOUR (24) YEARS as maximum; to pay back the sum of P68,700.00 to Junimar Bermundo and Rosalie Bermundo; and to pay the costs. [2]

In a petition for *certiorari* and/or *mandamus* filed with the CA, petitioner assailed the decision of the RTC, alleging the same to be null and void for having been rendered in violation of petitioner's constitutional rights.

The proceedings that transpired in the trial court are accurately set forth in the Decision of the CA dated October 28, 2003, as follows:

On October 24, 1994, Asst. Provincial Prosecutor Danilo Uy filed an Information for estafa against petitioner Mary Helen B. Estrada docketed as Criminal Case No. 94-6230...

...

On January 23, 1995, petitioner signed an undertaking that in case of her failure to appear during the trial despite due notice, her absence would constitute as an express waiver of her right to be present during trial and promulgation of judgment and the lower court would then proceed with the hearing *in absentia*.

During the hearing on May 30, 1996, Atty. Ma. Nenette Quicho, counsel for petitioner, failed to appear. On motion of the private prosecutor, the lower court directed Atty. Ma. Nenette Quicho to explain in writing within ten (10) days from notice why she should not be cited for contempt.

After the presentation of evidence for the prosecution on March 31, 1997, the lower court scheduled the reception of evidence for the petitioner on

May 14, 1997. Counsel for petitioner failed to explain her absence in the previous hearing. She was found guilty of contempt of court and was sentenced to suffer the penalty of one (1) day imprisonment.

On May 14, 1997, in view of the fact that petitioner jumped bail, the lower court considered her to have waived the presentation of her evidence and declared the case submitted for decision.

On June 13, 1997, a Notice of Appearance with Motion for Presentation of Evidence for the Defense was filed by Atty. Herenio E. Martinez, as collaborating counsel for petitioner. He argued among others, that the fact that despite trial *in absentia* and accused's (petitioner) failure to surrender, still petitioner could present her evidence in support of her defense because there were other witnesses who would testify for her. Hence, she prayed that the scheduled date for promulgation of decision (June 18, 1997) be cancelled and she be allowed to present her evidence.

However, the subject decision was promulgated on July 2, 1997, convicting petitioner of the crime charged.

The Decision was entered in the Docket Book on September 3, 1997.

On December 1, 1999, petitioner moved for reconsideration and/or new trial stating that her constitutional rights to be heard and to counsel were violated for the following reasons:

(1) counsel for petitioner was not served a copy of the Order dated March 31, 1997 citing her for contempt of court;

(2) counsel for petitioner was not served any copy of the Order dated May 14, 1997 declaring petitioner to have waived her right to present evidence and set the date of promulgation of decision on June 18, 1994 (sic) at 2:00 p.m.;

(3) the order dated July 18, 1997 denying the motion for reception of petitioner's evidence was not furnished counsel for petitioner and it came after the judgment of conviction; and

(4) the penalty imposed was beyond that allowed by law.

On March 6, 2000 the motion for reconsideration was denied for lack of merit.

On April 5, 2000 petitioner filed her notice of appeal but was denied due course in an Order dated April 5, 2000.^[3]

It also appears from the records that on September 13, 1999, petitioner was arrested and detained at the Las Piñas Police Station.^[4] This was a little over two years after the judgment of conviction against her had been entered in the criminal docket book on September 3, 1997, and prior to the filing of a motion for

reconsideration and/or new trial with the trial court on December 1, 1999.

Petitioner's appeal was denied due course by the trial court in its Order dated April 5, 2000 for having been filed beyond the reglementary period.^[5] She then filed the aforementioned petition for *certiorari* and/or *mandamus* with the CA, alleging that: the RTC judge violated petitioner's constitutional right to due process by depriving petitioner of the right to be assisted by counsel during the proceedings and failing to notify petitioner of the scheduled presentation of defense evidence; the RTC judge imposed upon petitioner a penalty which was not authorized under the law for which petitioner had been charged; the RTC judge acted with grave abuse of discretion amounting to lack or excess of jurisdiction when he denied petitioner's motion for reconsideration of the decision and/or motion for new trial; neither petitioner nor her counsel has officially received a copy of the RTC decision, hence, the same has not yet become final and executory at the time petitioner filed her motion for reconsideration and/or new trial; the RTC judge acted with grave abuse of discretion amounting to lack or excess of jurisdiction when he denied due course to petitioner's appeal because petitioner filed her notice of appeal well within the fifteen-day period within which to appeal, thus, it was the mandatory duty of the RTC judge to approve the notice of appeal.

On October 28, 2003, the CA promulgated its decision denying the petition for *certiorari*. The CA held that there was no grave abuse of discretion committed by the RTC judge as his actions were anchored on Section 14 (2), Article III of the 1987 Constitution which states that "after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable," and on Section 1(c), Rule 115 of the Rules of Court which provides that "[t]he absence of the accused without justifiable cause at the trial of which he had notice shall be considered a waiver of his right to be present thereat." The CA further held that "[t]he deprivation of her right to present evidence in her defense shall be deemed to include the non-admission of the testimonies of the other witnesses other than the petitioner herself. This must be so because the deprivation of her opportunity to present evidence due to unreasonable absences on the scheduled hearings is primarily intended to safeguard the orderly administration of justice." Thus, the CA concluded that the trial court's action was well within its jurisdiction.

The CA did not dwell on the propriety of the penalty imposed on petitioner although petitioner raised it as one of the issues in the petition. In her motion for reconsideration of the CA Decision, petitioner called the CA's attention to this fact, and also pointed out that although petitioner, by failing to appear at several trial dates, may be deemed to have waived her right to be present during the proceedings, such waiver does not include a waiver of her right to present evidence. On February 23, 2004, the CA issued a resolution denying the motion for reconsideration for lack of merit.

Hence, petitioner filed the present petition for review on *certiorari*.

Previously, however, petitioner had filed an administrative case (A.M. OCA IPI No. 00-1002-RTJ) against Judge Bonifacio Sanz Maceda of the RTC of Las Piñas City, Branch 275 for gross ignorance of the law. In a Resolution dated August 13, 2001, the Court dismissed said administrative complaint but issued a stern reminder to respondent judge to be more cautious in computing the appropriate penalty in the

future to avoid injustice.

In connection with said administrative case, petitioner, who is presently detained at the Correctional Institution for Women, sent a letter dated January 18, 2005, wherein she emphasized that although the Court's Resolution of August 13, 2001 issued such stern warning to respondent judge, the same resolution did not give any relief for the injustice she is now suffering due to the erroneous penalty imposed on her. Thus, in said administrative case, the Court issued a Resolution dated March 9, 2005, resolving to treat petitioner's letter as a petition for *habeas corpus* and ordered the Office of the Solicitor General to comment on said letter-petition. Thereafter, the Office of the Solicitor General filed its Comment where it was manifested that there is a pending petition for review on *certiorari* with the Court which turned out to be the herein petition under consideration, involving the issue of the penalty imposed on petitioner.

Thus, in a Resolution dated July 5, 2005, the Court resolved to consolidate the letter/petition for *habeas corpus* with the instant petition for review on *certiorari*.

Petitioner alleges that the CA erred in deciding the case in a way not in accord with law or jurisprudence and departed from the usual course of judicial proceedings. In support of said allegations, petitioner reiterated her arguments that the trial court denied her the constitutional right to be heard and to be assisted by counsel by failing to furnish her counsel copies of the order setting the date for reception of defense evidence on May 14, 1997, and the order considering petitioner to have waived her right to present evidence in her defense; that the decision of the trial court was null and void for imposing a penalty not authorized by law; that inasmuch as the decision was null and void, the trial court acted with grave abuse of discretion in denying petitioner's motion for reconsideration and/or new trial on the ground that the assailed decision had become final; and that the CA utterly failed to resolve petitioner's submission that the trial court's decision was null and void by virtue of the excessive penalty imposed.

At the outset, the undisputed fact that petitioner jumped bail while trial was pending should be emphasized. In fact, it appears that from the beginning, the address she furnished the trial court was incorrect. The trial court's process server, Nap Manguserra, made a note on the subpoena he was trying to serve on petitioner, that "per ocular inspection made, said address is a vacant lot & subject person is unknown to her neighbors."^[6] From such fact alone, petitioner's arguments regarding the validity of the proceedings and promulgation of judgment *in absentia* for being in violation of her constitutional right to due process are doomed to fail.

The holding of trial *in absentia* is authorized under Section 14 (2), Article III of the 1987 Constitution which provides that "after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable." In fact, in *People vs. Tabag*,^[7] the Court even admonished the trial court for failing to proceed with the trial of some accused who escaped from preventive detention, to wit:

Finally, the trial court also erred in not proceeding with the case against Laureño Awod and Artemio Awod after their successful escape on 19 October 1989 while in preventive detention. They had already been arraigned. **Therefore, pursuant to the last sentence of paragraph**