

## FIRST DIVISION

[ G.R. NO. 152823, September 23, 2003 ]

**RUFINA CHUA, PETITIONER, VS. THE COURT OF APPEALS  
(FORMER FIRST DIVISION), WILFRED N. CHIOK AND THE  
PEOPLE OF THE PHILIPPINES (AS AN INDISPENSABLE PARTY),  
RESPONDENTS.**

[G.R. NO. 152824]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. COURT OF  
APPEALS (FIRST DIVISION) AND WILFRED N. CHIOK,  
RESPONDENTS.**

### **DECISION**

**YNARES-SANTIAGO, J.:**

These are two consolidated petitions assailing the Resolutions of the Court of Appeals in CA-G.R. CR No. 23309, dated May 7, 2001<sup>[1]</sup> and February 14, 2002.<sup>[2]</sup>

Respondent Wilfred N. Chiok was charged with *estafa* in Criminal Case No. 109927, filed by private complainant Rufina Chua. On February 1, 1999, the Regional Trial Court of Pasig, Branch 165, rendered judgment convicting respondent of the crime charged. He filed a Motion for Reconsideration, but the same was denied by the trial court in an Omnibus Order dated May 28, 1999.<sup>[3]</sup> Thus, respondent filed an appeal from the judgment of conviction to the Court of Appeals.

On April 5, 2000, respondent filed an Urgent Manifestation and Motion, alleging that when his counsel went to the Court of Appeals to examine the records of the case preparatory to filing his appellant's brief, he learned that the Office of the Solicitor General (OSG) had borrowed the same.<sup>[4]</sup> Thus, respondent prayed that the OSG be directed to return the records of the case to the Court of Appeals.<sup>[5]</sup>

The appellate court issued a Resolution directing the OSG to return the records of the case and suspending respondent's period for filing the appellant's brief.<sup>[6]</sup>

The prosecution, through the OSG, filed a Manifestation and Motion stating that the aforementioned records could not be found despite diligent efforts to search the same.<sup>[7]</sup> Thus, on May 7, 2001, the Court of Appeals issued a Resolution ordering the reconstitution of the records of the case before the trial court. The dispositive portion of the Resolution reads as follows:

WHEREFORE, the court *a quo* is hereby directed to receive evidence in behalf of this Court, pursuant to Section 9 of B.P. 129 (as amended by R.A. 7902). The trial court shall rule on the matter of admissibility of

such evidence presented before it by the parties and shall submit such evidence and render a report thereon within sixty (60) days from notice hereof. The evidence adduced by the parties and received by the trial court, and its report as submitted to Us, shall be used to enable this Court to determine whether or not to affirm or set aside the appealed judgment of December 3, 1998. In the meantime, the legal effects of the appealed judgment are hereby suspended.

SO ORDERED.<sup>[8]</sup>

Petitioner Chua filed a Motion for Clarification and/or Reconsideration,<sup>[9]</sup> while the OSG filed a Motion for Partial Reconsideration.<sup>[10]</sup> Both motions were denied by the Court of Appeals.<sup>[11]</sup>

Hence, petitioner Chua and the prosecution filed two separate petitions which were ordered consolidated by this Court.<sup>[12]</sup>

In her petition for *certiorari* and *mandamus*, petitioner Chua argues, in fine, that the Court of Appeals should have declared the records of CA-G.R. CR No. 22309 as fully reconstituted, pursuant to Rule 135, Section 5 (h);<sup>[13]</sup> that respondent is duty bound to help reconstitute the missing records; and that respondent is estopped from challenging the authenticity of copies of the missing records which were already with the Court of Appeals.<sup>[14]</sup>

For its part, the prosecution anchors its petition for certiorari on the following grounds:

## I

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AND EXCEEDED ITS JURISDICTION IN SUSPENDING THE LEGAL EFFECTS OF THE TRIAL COURT'S JUDGMENT OF CONVICTION, AS APPEAL MAY PROCEED ON THE BASIS OF THE AVAILABLE RECORDS WHICH HAVE REMAINED INTACT (HANDWRITTEN AND CERTIFIED TRUE COPIES OF THE JUDGMENT AND TRANSCRIPT OF STENOGRAPHIC NOTES), AND CHIOK IS ESTOPPED FROM DENYING THE VERACITY OF THE JUDGMENT, ORDERS AND PLEADINGS WHICH HE ATTACHED TO HIS VERIFIED PETITION IN CA-G.R. SP No. 53340.

## II

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AND EXCEEDED ITS JURISDICTION IN HOLDING THAT THE REPORT TO BE SUBMITTED BY THE TRIAL COURT ON THE EVIDENCE ADDUCED BY THE PARTIES WILL BE ITS BASIS FOR DETERMINING WHETHER OR NOT TO AFFIRM OR REVERSE THE JUDGMENT OF CONVICTION.<sup>[15]</sup>

In the meantime, while these petitions were pending before this Court, the prosecution filed a Manifestation and Motion<sup>[16]</sup> stating that the missing records were finally located by an OSG employee in the cubicle of Solicitor Brigido Artemon

M. Luna II, the lawyer who had handled the case before he was appointed to the judiciary, and that the records have been returned to the Court of Appeals on January 28, 2003.<sup>[17]</sup>

Notwithstanding this development, respondent insists that the reconstitution of the records before the trial court is still necessary because he entertains serious doubts on the authenticity of the records that were returned to the Court of Appeals.<sup>[18]</sup>

Petitioner Chua's petition for *mandamus* in G.R. No. 152823, which seeks to compel the Court of Appeals to consider the records of the case as reconstituted, must fail. Reconstitution is not a ministerial task. It involves the exercise of discretion on the part of a court in evaluating the authenticity and relevance of all evidence to be presented before it. Thus, the extraordinary writ of *mandamus* cannot be used to dictate upon the court how it will rule in the admission of the reconstituted evidence, inasmuch as this calls for the exercise of discretion. We have ruled that the court may be compelled by *mandamus* to pass and act upon a question submitted to it for decision, but it cannot be enjoined to decide for or against one of the parties. A judicial act is not compellable by *mandamus*; the court has to decide a question according to its own judgment and understanding of the law.<sup>[19]</sup>

In G.R. No. 152824, the prosecution argues that suspending the effects of the trial court's judgment is "short of saying that private respondent is considered innocent of the crime for which he was convicted unless and until the records are found or reconstituted,"<sup>[20]</sup> and that the assailed Resolutions had the effect of automatically setting aside the trial court's judgment.<sup>[21]</sup> The prosecution further contends that the appellate court erred when it ruled that the report to be submitted by the trial court regarding the reconstitution will be the basis for determining whether or not to affirm or reverse the judgment of conviction, since the parties still have to file their appellant's and appellee's briefs, respectively.<sup>[22]</sup>

We agree that the sweeping statement made in the assailed Resolution of the Court of Appeals as to the suspension of the legal effects of the appealed judgment may give rise to an interpretation that the legal effects of the conviction shall likewise be suspended. Surely, this could not have been the intendment of the Court of Appeals. Rather, the import of the statement to our mind is that the reconstitution proceedings will only suspend the periods of the parties to file their briefs, and this should have been qualified by the Court of Appeals. In the same vein, the Court of Appeals' declaration that the evidence received by the trial court will be used in its determination of whether to affirm or reverse the conviction, should be understood to mean that such determination will be made after the parties shall have been allowed to file their respective appeal briefs. Nevertheless, there is need to clarify the assailed Resolution, making sure that ambiguous judgments must be construed in such a way as to do justice and avoid wrong.<sup>[23]</sup> Thus, the dispositive portion of the assailed Resolution must be clarified and modified accordingly.

The procedure for the reconstitution of records of judicial proceedings and other official documents is governed by Act No. 3110. The said Act covers the loss or destruction of records due to causes other than fire or public calamity.<sup>[24]</sup>

There is no provision in the Act for the reconstitution of records before the Court of