

THIRD DIVISION

[G.R. No. 129319, January 30, 2002]

DONATO PANGILINAN, PETITIONER, VS. THE COURT OF APPEALS, JUDGE MAURICIO M. RIVERA, PRESIDING JUDGE OF RTC BRANCH 73, ANTIPOLO, RIZAL, AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

DECISION

SANDOVAL-GUTIERREZ, J.:

On September 23, 1993, twelve (12) Informations for violations of Section 9,^[1] in relation to Section 39,^[2] of Presidential Decree No. 957^[3] were filed against Donato Pangilinan, now petitioner, before the Regional Trial Court (Branch 73), Antipolo, Rizal, presided by Judge Mauricio M. Rivera, respondent herein. The 12 Informations,^[4] docketed as Criminal Cases Nos. 93-10039 to 93-10050, contain similar averments except for the names of private complainants, to wit:

“That on or about the 15th day of August 1993, in the Municipality of Antipolo, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused constructed forty-six (46) dwelling units in Barangay Mayamot, Antipolo, Rizal of which (names of complainants omitted) acquired and occupied one (1) unit with the assurance and guarantee of said accused that said unit was built in accordance with Pag-ibig Standards for building works but once said complainant moved in and occupied his unit, it turned out that this unit is obviously defective and that despite the ruling rendered by the Housing and Land Use Regulatory Board in HLRB Case No. REM-082283-1687 to cause necessary repairs therein, said corporation, thru its President, willfully, unlawfully and feloniously did not comply with said ruling to the damage and prejudice of the herein complainant.

Contrary to law.”

Upon arraignment, petitioner pleaded “not guilty” to the charges. During the first scheduled hearing, or on January 4, 1994, the private prosecutor asked for postponement on the ground that he was awaiting the filing of seven (7) additional Informations against petitioner. This motion was granted.^[5]

On March 14, 1994, the 7 additional Informations^[6] were filed, docketed as Criminal Cases Nos. 94-10919 to 94-10925. These have similar allegations as those of the first 12 Informations except as to the names of the complainants and as to the docket number of HLRB Case which is “REM-082282-1687.”

Subsequently, on March 25, 1994, the private prosecutor filed an *Ex-Parte* Omnibus

Motion,^[7] praying *inter alia* that: (a) the 7 new Informations be consolidated with the first 12 Informations, and (b) all these 19 Informations be amended to reflect the correct time frame within which the offenses charged were committed, which is 1981 (instead of "on or about the 15th day of August 1993"), the actual date the housing units were constructed.

Contending that the proposed amendment changing the date of the commission of the offenses is substantial in nature, petitioner opposed^[8] the motion insofar as the first 12 Informations are concerned as he has already entered his plea, hence not allowed under Section 14, Rule 110 of the Revised Rules on Criminal Procedure.

Finding the amendment to be merely formal, the trial court, in an Order dated September 9, 1994, granted the omnibus motion. However, the lower court inadvertently committed a mistake by ordering the insertion in the Informations of the phrase "on or about the 15th day of August, 1993" in place of "in the vicinity of the year 1981". This error, however, was rectified in the Order dated November 9, 1994.^[9]

Aggrieved, petitioner filed a motion for reconsideration of the Orders dated September 9, 1994 and November 9, 1994 but was denied in the Order dated December 5 1994.^[10]

During the scheduled arraignment pertaining to the new 7 Informations on December 8, 1994, petitioner asked for deferment and manifested his intention of filing a petition for certiorari to assail the Orders of September 9, 1994, November 9, 1994 and December 5, 1994.

True enough, on December 19, 1994, petitioner filed with the Court of Appeals a petition^[11] for certiorari and prohibition with application for a temporary restraining order and a writ of preliminary injunction against Judge Mauricio M. Rivera and the People of the Philippines. Petitioner reiterated that insofar as the first 12 Informations are concerned, the trial court could not anymore, after his plea, order the change of the alleged dates of the commission of the offenses charged, this being a substantial amendment. Petitioner further asserted that the phrase "in the vicinity of 1981" is insufficient and defective allegation since he would not know the nature and cause of the accusations and would thereby unduly expose him to surprises during trial. This petition, however, was dismissed by the Court of Appeals "for failure of the petitioner to attach certified true copies of the assailed orders."^[12] Petitioner's motion for reconsideration was also denied by the Court of Appeals.

Eventually petitioner filed the instant petition with this Court, assailing the dismissal of his suit by the Court of Appeals. This Court, in a Resolution dated March 27, 1996, granted the said petition and ordered the Appellate Court to resolve his petition for certiorari and prohibition on the merits.

In its Decision of October 21, 1996, the Court of Appeals, dismissed the petition, holding that the lower court did not gravely abuse its discretion when it allowed the amendment of the 19 Informations. It affirmed the trial court's ruling that the amendment sought by the prosecution does not involve a matter of substance but merely of form.