

FIRST DIVISION

[G.R. No. 139381, April 20, 2001]

**PEOPLE OF THE PHILIPPINES AND CONGRESSWOMAN VIDA
ESPINOSA, PETITIONERS, VS. GOVERNOR ANTONIO KHO AND
ARNEL QUIDATO, RESPONDENTS.**

D E C I S I O N

KAPUNAN, J.:

This is an appeal by way of petition for review on *certiorari* of the Decision of the Court of Appeals, dated May 10, 1999, and of its Resolution of July 16, 1999 in CA-GR-SP No. 48170 "entitled Antonio Kho and Arnel Quidato versus Hon. Lucas P. Bersamin as Judge of the RTC of Quezon City, Branch 96; People of the Philippines and Vida Espinosa." The well-written decision penned by Justice Romeo A. Brawner, set aside the Orders, dated January 8, 1998 and May 19, 1998 of Judge Lucas P. Bersamin. The Court of Appeals held that the order of Judge Bersamin inhibiting himself from the case was rendered in excess of jurisdiction. The court ordered the said judge to proceed with the trial of the criminal case until the termination thereof, unless and/or until other legal obstacles other than his voluntary inhibition exists or may in the future exist and prevent further proceedings.^[1]

The facts material to the resolution of this aspect of the case are well established.

An information for Murder was filed before the Regional Trial Court of Quezon City, Branch 88, presided by Judge Bersamin, against Blas Rosario, respondents Antonio Kho, Arnel Quidato, Rogelio Soriano, Jacinto Ramos, and one Jun Doe, for the ambush-slaying of the late Congressman Tito Espinosa.

The case was first raffled to the sala of Judge Tirso Velasco but because of the prosecution's move to disqualify Judge Velasco, the case was re-raffled to the sala of Judge Bersamin.^[2]

Accused applied for bail and a hearing therefor was commenced on September 25, 1998. On said hearing, the prosecution presented witnesses to oppose the application for provisional liberty. The prosecution's witnesses included eyewitness Rudy de Leon, who identified the alleged assassin, accused Blas Rosario. Other witnesses were presented by the prosecution to prove that several of the accused met and conspired to undertake the gruesome killing. Included in the prosecution's formal offer of evidence in opposition to the bail application are the extra-judicial confessions of Blas Rosario, Arnel Quidato and Roberto Pidlaon implicating the others in the conspiracy. The defense did not present evidence and submitted the bail application for resolution.

An Order dated April 15, 1996 denied the application for bail and held that:

xxx in reference to Kho and Quidato, enough grounds exist to hold that the Prosecution's evidence against them is strong and may even be adequate to overcome the presumption of their innocence.^[3]

A second motion for bail was filed by Kho and Quidato, dated May 10, 1996. Again, this was denied by the court because of the "absence of any new matter or fact which warrants a *different view*."^[4]

Trial on the merits of the case ensued. After the prosecution rested its case and while the defense was still presenting evidence, respondents Kho and Quidato filed a third application for bail. On November 18, 1997, Judge Bersamin issued an order reversing the two previous denials of bail application. Said judge ordered the immediate release of Kho and Quidato after posting bail in the amount of P200,000.00 and P50,000.00, respectively.

The reversal was justified by the trial court on the ground that the prosecution could not establish any linkage between Kho and Quidato, on the one hand, and the alleged gunman, Rosario, on the other, except by means of the extra-judicial statements of Rosario and Pidlaon. The court ruled that the evidence against Kho and Quidato is not strong. As to Kho, the trial court reasoned that his connection to the murder is entirely dependent on the validity of the extra-judicial confession of Rosario and Pidlaon. However, by reason of the rule of *res inter alios acta*, said extra-judicial statements do not apply to Kho. Quidato's liability, on the other hand, hinged on mere association because of his being the bodyguard and having been seen in the company of Kho.

The trial court ruled that the extra-judicial statement of Rosario, while incompetent as against respondents, may be considered as corroborating evidence of conspiracy if repeated in court or if other competent proof of conspiracy exists independent of the confessions or admissions. Since the confession of Rosario was not repeated in court, but was in fact repudiated by him, and since the prosecution failed to furnish independent proof of the conspiracy, the trial court concluded that the evidence of guilt against Kho and Quidato was "other than strong."^[5]

As a result of the order granting bail, the prosecution on November 26, 1997, orally moved for inhibition of Judge Bersamin from the case. This was reiterated in a written motion, dated December 1, 1997^[6] citing as reasons for the inhibition the judge's bias and partiality and prejudgment of the case in favor of the acquittal of the accused. It is worthy to note that the private prosecutor's motion for inhibition was characterized by language that is unrestrained and intemperate,^[7] which merited admonition from the Court of Appeals.

Judge Bersamin issued an Order, dated January 8, 1998, inhibiting himself from further hearing the case. In said order, the judge, while noting that the motion for inhibition is based on flimsy and imaginary insinuations, resolved to disqualify himself in order to dispel any suspicion about his objectivity.^[8] The judge went on to put into record observations justifying the order to grant bail and his other actuations so that any future inquiry will have the "benefit of his own explanation before it is too late!"^[9]

The Court of Appeals, in the questioned decision,^[10] ruled that the voluntary inhibition by Judge Bersamin was not in the exercise of sound discretion and that there was no just and valid reasons for inhibition because the mere suspicion of bias and partiality is not sufficient. The respondent court, likewise, cited the following reasons for reversing the trial judge's order of inhibition:

1. Motion for Inhibition came late in the day, after the prosecution had finished presenting its evidence in chief;
2. It is the second time that Judge in the case was sought to be inhibited, the first being Judge Velasco;
3. Allowing forum-shopping for a more friendly judge may set a mischievous precedent;
4. The danger of a new judge deciding without benefit of observing witnesses, hearing testimonies, and noting their demeanor.

The Court of Appeals granted the petition, thus:

WHEREFORE, in the light of all the foregoing, the Petition is hereby GRANTED and the writ of *certiorari* issued as against the assailed Orders. The questioned Orders dated 08 January 1998 and 19 May 1998, are hereby ANNULLED and SET ASIDE for having been rendered in excess of jurisdiction. The Executive Judge of the Regional Trial Court in Quezon City is hereby ORDERED to return the entire records of Criminal Case No. Q-95-61675 to the respondent judge for His Honor to continue with the proceedings thereof. The respondent judge is further ORDERED to proceed with the trial of the said Criminal Case until the termination thereof, unless and/or until other legal obstacles other than his voluntary inhibition exists or may in the future exist to prevent further proceedings.

^[11]

A motion for reconsideration was denied by respondent court. Hence, this petition, raising the following issues:

I. THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE TRIAL JUDGE DID NOT EXERCISE SOUND DISCRETION WHEN HE INHIBITED HIMSELF FROM FURTHER SITTING IN CRIMINAL CASE NO. Q-95-6175.

II. THE HONORABLE COURT OF APPEALS ERRED IN FINDING THAT THE INHIBITION WAS NOT FOR JUST OR VALID CAUSE.^[12]

The petition has no merit.