

FIRST DIVISION

[G.R. No. 128540, April 15, 1998]

**EDUARDO CUISON, PETITIONER, VS. COURT OF APPEALS AND
THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

D E C I S I O N

PANGANIBAN, J.:

The constitutional proscription of double jeopardy is not violated by a Court of Appeals order requiring the trial court to promulgate a decision sentencing the accused to imprisonment even if, earlier, the same decision has been promulgated in regard only to the payment of the modified civil indemnity arising from the same criminal act. Otherwise stated, the promulgation of only one part of the decision, *i.e.*, the liability for civil indemnity, is not a bar to the subsequent promulgation of the other part, the imposition of the criminal accountability.

The Case

This is the gist of this Court's resolution of the petition for review on *certiorari*, assailing the November 5, 1996 Decision^[1] of the Court of Appeals^[2] in CA-GR SP No. 41096. The dispositive portion of the said Decision, which set aside the April 12, 1996 Resolution^[3] of the Regional Trial Court of Lingayen, Pangasinan, Branch 39,^[4] reads as follows:

"WHEREFORE, premises considered, the Resolution dated April 12, 1996 of the respondent Judge is hereby **SET ASIDE** and he is ordered to set anew the promulgation of the decision of the Court of Appeals affirming the judgment of conviction and sentencing the accused to serve imprisonment for the duration stated in the decision of the said respondent Court dated February 7, 1989. The order for the payment of the civil liabilities has been promulgated earlier.

SO ORDERED."^[5]

The RTC Resolution, set aside by the Court of Appeals, disposed:

"WHEREFORE, in view of the foregoing considerations, the Court finds that the "Urgent Motion to Set Aside Promulgation" filed by the accused thru counsel, is meritorious and accordingly, the same is hereby granted."

The Facts

The undisputed facts of this case, as narrated by the Court of Appeals, are reproduced below:

"On February 7, 1989, respondent Presiding Judge of the Regional Trial Court of Pangasinan (Branch 39) rendered a Joint Decision in Criminal Cases Nos. L-3553 and L-3554, the dispositive portion of which is as follows:

'WHEREFORE, judgment is hereby rendered finding accused Eduardo Cuison guilty of the crime of double homicide, beyond reasonable doubt and therefore sentences him to suffer imprisonment from 6 years and 1 day of [p]rision [m]ayor as [m]inimum to 12 years and 1 day of [r]eclusion [t]emporal as [m]aximum, for each offense, with the accessories provided by law and to pay the costs. Accused is also ordered to indemnify the heirs of Rafael Sapigao the amount of P30,000.00 and the heirs of Rulo Castro also the amount of P30,000.00 without subsidiary imprisonment in case of insolvency.'

On appeal to the Court of Appeals, the said decision was affirmed with the modification that the civil indemnity was increased to P50,000.00. The dispositive portion of said Decision of this Court dated July 30, 1991 reads:

'PREMISES CONSIDERED, the joint decision appealed from is hereby MODIFIED by ordering accused Eduardo Cuison to indemnify the heirs of Rafael Sapigao the amount of P50,000.00 and the heirs of Rulo Castro also the amount of P50,000.00 without subsidiary imprisonment in case of insolvency.'

The accused elevated the decision on a petition for review docketed as G.R. Nos. 108985-86 but the Supreme Court denied the said petition on December 1, 1993.

The case was remanded to the Regional Trial Court of Pangasinan (Br. 39) for promulgation of the decision. However, respondent Judge promulgated [on April 4, 1995] the decision of [the Court of Appeals] only with respect to the modified civil liability of the accused but did not commit the accused to jail to commence service of his sentence.

Asst. City Prosecutor Abraham L. Ramos II reported the matter to the Solicitor General and requested that a motion for clarification be filed with this Court to clarify the decision dated July 30, 1991. On July 7, 1995, the Solicitor General filed a Motion to Clarify Decision. On August 17, 1995, [the Court of Appeals] rendered a Resolution which states in pertinent portions thereof:

'In the dispositive portion of this Court's decision, We simply modified the appealed decision of the court *a quo* in one respect only - the increase of the indemnity to be paid by the appellant to the heirs of the victims from P30,000.00 to P50,000.00 as ruled in various cases including that cited in Our decision, *People vs. Sison*, 189 SCRA 643, 646.

In view of the foregoing, it is ineluctable that the penalty imposed by the lower court was not touched on at all by this Court especially in the light of [o]ur [o]bservation in the said decision, as follows:

'After a careful review of the evidence on records, this Court entertains no doubt as to the participation of the accused-appellant in the shooting of Sapigao and Rulo Castro. The court *a quo* has expressed the following findings in its decision, to which findings this Court accords the great weight and respect such findings of the trial court are entitled to:

Conspiracy . . . was proven by the following circumstances:

xxx

xxx

xxx

The following circumstances showing the sequence of events, the mode or manner in which the offenses were perpetrated taken together indicated that the assailants cooperated and helped

each other in the attainment of the same aim. (Memorandum, pp. 20-21) (CA Decision, pp. 14-16; *Rollo*, pp. 127-129)”

Acting on the afore-cited motion to clarify decision, this Court hereby declares that this Court had affirmed the decision of the court *a quo* with regard to the penalty of imprisonment imposed in the said trial court’s decision.’

Respondent Judge then set the promulgation of the decision anew. The accused, however, filed a Motion to Set Aside Promulgation on the following grounds:

- “1. That the judgment in said case was already promulgated on 4 April 1995 and therefore there is nothing to promulgate anymore.
2. To pursue with [sic] the scheduled promulgation will violate the accused’s constitutional right against jeopardy.”

In a Resolution dated April 12, 1996, the respondent Judge granted the aforesaid motion holding:

“Now, the question is: May the resolution of the Honorable Court of Appeals promulgated on 17 August 1995 which ‘clarified’ the dispositive portion of its original decision, be considered as an amendment, alteration or modification of the decision? Here, we must not forget the basic rule that in the execution of the judgment, it is the dispositive portion of the decision which controls. We cannot also forget that, as already mentioned above, we have already promulgated the said decision by reading to the accused the dispositive portion, and that to the best of our knowledge, he had already complied therewith by paying the damages which were awarded. It may be relevant at this point in time, to cite the decision of the Honorable Supreme Court in the case of **Heirs of George Bofill vs. Court of Appeals, 237 SCRA 393** that

“Had the Court of Appeals been more accurate and precise in quoting data from the records, it would have arrived at the right conclusion”

The Honorable Court of Appeals cited the decision of the Honorable Supreme Court in the case of *Partola-Jo vs. CA*, 216 SCRA 692, that:

“Where there is an ambiguity caused by an omission or mistake in the dispositive portion of the decision, the **Supreme Court** may clarify such ambiguity by an amendment **even after the judgment has become final**. (emphasis supplied)’

The above decision is in consonance with the decision of the Honorable Supreme Court in the case of **Buan vs. Court of Appeal, et al.**, 235 SCRA 424 wherein the Supreme Court said:

‘x x x Thus the respondent Court stated, ‘it is undisputed that the Decision of the Court of Appeals x x x had become final and executory.’ Taken in this light the respondent court apparently did not err in **leaving the issue unresolved**, a final decision being unreviewable and conclusive.

But judging from the facts presented by this case, it is beyond doubt that serious injustice will be committed if strict adherence to procedural rules were to be followed. It should be remembered that rules of procedure are but mere tools designed to facilitate the attainment of justice, such that when rigid application of the rules

would tend to frustrate rather than promote substantial justice, **this Court is empowered to suspend its operation.** (emphasis supplied)'

It would seem from the above pronouncements of the Honorable Supreme Court therefore, that it may suspend the operation of the rules of procedure by **virtue of its rule-making power.** Certainly if the Honorable Supreme Court has the power to promulgate the Rules of Court, then it has the power to **suspend** its operation in order to promote substantial justice. Unquestionably, however, the Honorable **Court of Appeals** does not have that rule[-] making authority. Therefore it may not suspend the operation of the Rules of Court.

Moreover, the above discussion refers to civil cases. Will the same doctrines apply to criminal cases as in the cases before us? The accused thru his counsels raised the issues of the effect of a promulgation already once made arguing in the process that another promulgation can no longer be legally feasible if the constitutional right of the accused against **double jeopardy** will not be violated.

We are not unmindful of the injunction upon lower courts, which the Honorable Supreme Court has imposed, i.e., to accept with modesty the orders and decisions of the appellate courts. However, we feel that we must equate this with another injunction, that trial judges must keep abreast with the jurisprudence or run the risk of being found to be grossly ignorant of the law. In short, this Court finds itself in the horns of a dilemma. Since the very jurisprudential authority relied upon by the Honorable [Court] of Appeals refers to the power of the **Supreme Court** to clarify an ambiguity, may not this Court therefore conclude that the Honorable Court of Appeals does not have the power to clarify the dispositive portion of the decision which has not only become final, but has already been previously promulgated?

Finally, it appears to this Court that there is validity to the observation made by counsel for the accused in paragraph 4 of their motion which we quote:

'4. It appears, therefore, that there is nothing to promulgate as the same had already been promulgated on April 4, 1995. Besides, there is, likewise, nothing to promulgate in the Court of Appeals Resolution dated February 2, 1996 and much less in the alluded August 17, 1995 Resolution of the Court of Appeals.'

Indeed, the said Resolution did not authorize nor did it direct this Court to re-promulgate the Decision.

On June 28, 1996, the Solicitor General, representing the People of the Philippines, filed [before the Court of Appeals a] petition for *certiorari* and *mandamus* contending that the respondent Judge seriously erred and gravely abused his discretion in refusing to execute the penalty of imprisonment in spite [the Court of Appeals'] Decision of July 30, 1991 and Resolution of August 17, 1995. He prays that the Order dated April 12, 1996 of respondent Judge be nullified and the penalty of imprisonment rendered against the accused be enforced."^[6]

Ruling of the Appellate Court

In ruling for the People, the Court of Appeals ratiocinated in this way:

“Obviously, respondent Judge was of the belief that the penalty of imprisonment was not affirmed by [the Court of Appeals] although it increased the civil liability from P30,000.00 to P50,000.00. He failed to recognize the fact that the only modification made by [the Court of Appeals] on the decision [was] to increase the civil liability, which would not have been imposed if the accused was not found guilty of the charge. Had he looked carefully into the text of the decision he would have found that [the Court of Appeals] affirmed the decision of conviction, as borne out by the following portions of said decision:

‘After a careful review of the evidence on record, this Court entertains no doubt as to the participation of the accused-appellant in the shooting of Sapigao and Rulo Castro. The Court *a quo* has expressed the following findings in its decision, to which findings this Court accords the great weight and respect such findings of the trial court are entitled to:

Conspiracy ... was proven by the following circumstances:

1. Accused Eduardo Cuison was seen together occupying the same table with Sgt. Bustarde and Sgt. Castro drinking beer at the terrace upon the arrival of Leo Petete and his companions;
2. They left the terrace of the Tropical Hut about 10 to 15 minutes after the arrival of Rulo Castro, Rafael Sapigao, Leo Petete and Agardo Reyes and boarded the same yellow car owned and driven by accused Eduardo Cuison.
3. Accused Eduardo Cuison was seen by Ronald Ligayo, a resident of Poblacion, Bugallon, Pangasinan, a disinterested witness in the evening of May 27, 1986 in front (sic) of the house of said accused Eduardo Cuison in Poblacion, Bugallon, Pangasinan. Accused Eduardo Cuison alighted from his car, proceeded to his house and after coming out of his house was seen holding a 45 (sic) caliber and a carbine pistol. Eduardo Cuison called for his brother Warling to whom he handed the carbine pistol and received by the latter.

Eduardo Cuison sent Domy Cuison to call for Bot Cuison. When Bot Cuison arrived, he, Warling, Domy, Eduardo Cuison and two others inside the car proceeded towards the north. Obviously, these two were Sgt. Castro and Sgt. Bustarde.

4. Upon arrival of accused Eduardo Cuison, Bot Cuison, Warling Cuison, Domy Cuison, Sgt. Bustarde and Sgt. Castro at the driveway of the Tropical Hut on board the car of accused Eduardo Cuison, each of them with the use of their respective firearms simultaneously fired several shots in the air;
5. Sgt. Castro and Sgt. Bustarde pulled and poked their guns to [sic] Sapigao. Then Sgt. Castro fired the fatal shot to [sic] Sapigao;
6. After Sapigao fell down, Sgt. Castro, Warling Cuison, Eduardo Cuison, Bot and Domy Cuison turned at [sic] Sapigao obviously to see to it and make sure Sapigao was already dead;
7. After ascertaining that Sapigao was shot dead, accused Eduardo Cuison called for Rulo Castro to come outside the restaurant and when Rulo Castro emerged at the door, accused Eduardo Cuison, Warling Cuison, Bot Cuison, Domy Cuison and Sgt. Bustarde simultaneously pointed their guns and shot at Rulo Castro hitting the latter;