

## **FIFTEENTH DIVISION**

**[ CA-G.R. SP No. 133082, June 25, 2014 ]**

**JEANNIE BOADO Y DELFINO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, HON. JUDGE LORNA NAVARRO-DOMINGO AND VIOLETA CHUA, RESPONDENTS.**

### **DECISION**

**CASTILLO, M., J.:**

This is a petition for certiorari seeking to annul and set aside the Orders dated 16 August 2013<sup>[1]</sup> and 23 September 2013,<sup>[2]</sup> both of the public respondent Lorna Navarro-Domingo, Presiding Judge of the Regional Trial Court of Las Pinas City, Branch 201, in Criminal Case No. 06-0810, denying petitioner's Motion to Promulgate Judgment Anew and to Allow the Accused to Post Bail Anew as well as her subsequent motion for reconsideration, respectively.

The antecedents of this petition are:

Charged with the crime of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code, along with her co-accused Rosario A. Baladjay, petitioner Jeannie Boado y Delfino, with the assistance of counsel *de officio*, entered a plea of "not guilty" during her arraignment on 20 September 2006. Trial thereafter ensued.

After the prosecution rested its case, the defense presented the testimony of the petitioner on 08 October 2012. Her testimony was, however, stricken off the records for her failure to appear for the continuation of her direct-examination despite due notice. She was therefore deemed to have waived her right to present evidence on her behalf.

Thereafter, the case was submitted for decision and the promulgation thereof was scheduled on 19 November 2012. Notice of the promulgation was then sent to the three (3) last known addresses of the petitioner.

As the counsel *de officio* of her co-accused was absent at the promulgation set on 19 November 2012, the same was reset on 13 December 2012. Again, notice of the promulgation was sent to the three (3) last known addresses of the petitioner.

On 13 December 2012, the RTC promulgated its Decision dated 19 November 2012 finding both the petitioner and her co-accused guilty beyond reasonable doubt of the crime charged. Present during the promulgation were Violeta Chua (the offended party), the prosecution, Rosario A. Baladjay and her counsel *de officio* as well as Atty. Diane Patricia Arceo (counsel *de officio* for the petitioner). Petitioner failed to appear.

On the same day, the trial court's Decision was entered in the Book of Judgment.

After the promulgation, all who were present were given copies of the 19 November 2012 Decision. A copy thereof for the petitioner was sent by registered mail to the address she gave during her testimony in court, which is at: c/o Trinidad Boado, Block 5, Lot 2, Almanza I, Good Year Park Subdivision, Las Pinas City. Said copy was, however, returned to the trial court with the notation "unknown" stamped on the envelope containing the same.

Almost eight (8) months following the promulgation or on 05 August 2013, petitioner filed a Formal Entry of Appearance with Motion to Promulgate Judgment Anew and to Allow the Accused to Post Bail Anew.<sup>[3]</sup> In her motion, petitioner questioned the validity of the notice of promulgation sent to her, as follows:<sup>[4]</sup>

xxxx xxxx xxxx

5. In the case at hand, all the pre-formatted Subpoenas (particularly designated as SUBPOENA DUCES TECUM AD TESTIFICANDUM) issued to the accused state:

"RE: Promulgation

"Greetings:

"You are hereby commanded to appear before this Court sitting at the Correctional Institute for Women (CIW), Mandaluyong City on December 13, 2012 at 1:30 o'clock in the afternoon, then and there to testify in the above-entitled case during Arraignment/Pre-Trial/Continuation of trial thereof.

xxx xxx xxx

xxx this 28<sup>th</sup> of November 2012.

6. Herein lies the issue with respect to the promulgation of judgment on December 13, 2012. With all due respect, THERE IS NO VALID NOTICE OF SUCH DATE OF PROMULGATION OF JUDGMENT in accordance with Section 6, Rule 120 of the Revised Rules of Court considering that the subpoena alleged (sic) sent to the accused-movant does not only sufficiently inform the accused-movant of the promulgation of judgment; but is likewise misleading.

7. Consider these: The "RE:" of the subpoena is only "Promulgation." This is not sufficient considering that it does not inform the accused-movant that it is a "decision" that is to be promulgated. This vagueness is coupled by the confusing sentence afterwards employed in the subpoena that she is commanded to appear on December 13, 2012 at 1:30 o'clock in the afternoon for "ARRAIGNMENT/PRE-TRIAL/CONTINUATION OF TRIAL." There is no mention whatsoever of PROMULGATION OF JUDGMENT OR DECISION.

8. It is therefore the humble submission of this Honorable Court (sic) that this is not the valid notice contemplated by the aforesaid provision of the Revised Rules of Court considering that the notice under the rules should set forth clearly and expressly that it is about promulgation of judgment

or decision. This becomes more compelling if one takes note of the principle that criminal procedures are strictly construed in favor of the accused-movant

XXXX XXXX XXXX

XXXX XXXX XXXX

Petitioner further asserted that the promulgation anew of the 19 November 2012 Decision of the public respondent RTC to enable her to appeal the same to the Court of Appeals is merited, in light of this Court's reversal of her conviction by another trial court in another criminal case but which supposedly involved the same set of facts as those obtaining in the instant case.

On 16 August 2013, the RTC rendered the first assailed Order denying petitioner's aforementioned motion.

Petitioner's subsequent motion for reconsideration was denied by the trial court in its second assailed Order.

Upon her receipt of the second assailed Order, petitioner informed the public respondent of her intention to appeal the denial of her two (2) motions (Motion to Promulgate Judgment Anew and to Allow the Accused to Post Bail Anew as well as her Motion for Reconsideration) by filing a Notice of Appeal on 18 October 2013.<sup>[5]</sup>

In its Order dated 23 October 2013, the public respondent RTC denied petitioner's Notice of Appeal for being moot and academic.<sup>[6]</sup>

Hence, this petition.

Upon the filing by the OSG of its Comment on the petition for certiorari and petitioner's Reply thereto, the case was submitted for decision.

Petitioner imputes grave abuse of discretion on the part of the public respondent RTC in issuing its assailed Orders. Reiterating her arguments in the Formal Entry of Appearance with Motion to Promulgate Judgment Anew and to Allow the Accused to Post Bail Anew, Boado insists that she was not duly notified of the promulgation of the 19 November 2012 Decision in violation of her right to due process.

Accordingly, this Court is tasked to determine whether or not the public respondent trial court gravely abused its discretion in denying petitioner's motion to promulgate judgment anew and to allow her to post bail bond anew as well as her subsequent motion for reconsideration.

We deny the instant petition.

Our judicious evaluation of the record of the case leads Us to no other conclusion than that it was but proper for the RTC to have rejected the aforementioned motions of the petitioner and consequently no grave abuse of discretion may rightly be imputed to the public respondent for its actions.

We are not swayed by petitioner's argument that she was not duly informed of the promulgation scheduled on 13 December 2012. The following facts and circumstances negate petitioner's claim that the subpoena she received commanding her to appear before the trial court sitting at the Correctional Institute