

FIRST DIVISION

[G.R. No. 149687, April 14, 2004]

**FLORITA TEOPE, PETITIONER, VS. THE PEOPLE OF THE
PHILIPPINES AND THE COURT OF APPEALS, RESPONDENTS.**

DECISION

AZCUNA, J.:

This is a petition for review of *certiorari* assailing the Decision^[1] and Resolution^[2] of the Court of Appeals in CA-G.R. SP No. 52906 dismissing the petition for *mandamus* filed by Florita Teope.

Petitioner alleged that on January 19, 1994, she was charged with 2 counts of violation of Batas Pambansa Bilang 22 (B.P. 22) before the Regional Trial Court of Dumaguete City (RTC).^[3] After the prosecution rested its case, petitioner filed a Demurrer to the Evidence on December 9, 1995. The RTC denied said demurrer on January 9, 1995 and a Notice of Appeal from the denial was filed on January 21, 1999. The RTC denied due course to the Notice of Appeal on February 5, 1999. Petitioner timely filed a motion for reconsideration, but it was denied by the RTC on March 16, 1999.

Petitioner then filed a petition for *mandamus* with the Court of Appeals on May 24, 1999. On October 19, 2000 and August 6, 2001, respectively, the Court of Appeals promulgated the assailed Decision and Resolution dismissing the petition and denying the subsequent motion for reconsideration. Thus, the present petition was instituted.

To start with, the RTC decision^[4] and the Comment^[5] filed by the Office of the Solicitor General bring to light some very relevant antecedent facts that occurred between January 9, 1995 and January 21, 1999, which the petitioner did not state in her petition.

Upon verification from the records of the case, it appears that after the Demurrer to the Evidence was denied on January 9, 1995, the RTC ordered that hearings for the reception of petitioner's evidence be set. Petitioner's counsel himself suggested that the hearings be held on April 17, 19, 21, 24, 25 and 26, 1995.

On April 17, 1995, however, petitioner filed a "MOTION ENTREATING HON. ENRIQUE C. GARROVILLO TO CONSIDER WHETHER TO CONTINUE PRESIDING OVER THE CASES AND TO INHIBIT FISCAL DIOSDADO D. HERMOSA FROM APPEARING AS PUBLIC PROSECUTOR IN THE CASES." On April 21, 1995, said motion to inhibit was denied by the RTC and petitioner was ordered to present her evidence on April 24 and 26, 1995 and on May 9 and 12, 1995.

Petitioner failed to appear at the April 24, 1995 hearing. Thus, the RTC declared her

bail bonds forfeited and ordered the bondsman to produce petitioner within 30 days and show cause why no judgment should be rendered against her for the amount of the bonds.

On April 27, 1995, the RTC received an urgent motion for postponement from petitioner's counsel, asking for the resetting of the May 9 and 12, 1995 hearings. The reasons given were that on May 9, 1995 petitioner's counsel was scheduled to attend to some urgent family engagement, while on May 12, 1995 her counsel already had prior engagements with other courts. The RTC acceded to the motion and reset the hearings to June 6,7,8,9 and 13, 1995, but declared these hearings to be "intransferable considering the fact that the termination of these cases has been much delayed by the frequent absence and/or postponements made by the Accused."

On June 2, 1995, petitioner filed a motion for reconsideration of the April 21, 1995 order. The RTC denied the motion for reconsideration on July 5, 1995. On July 6, 1995, the RTC rendered judgment against the bonds for failure of the bondsman to produce petitioner and submit an explanation for the latter's failure to appear at the April 24, 1996 hearing.

On January 30, 1997, as prayed for by petitioner's counsel, the RTC issued an order again resetting the hearing to April 7, 1997. On February 4, 1997, the RTC issued another order declaring petitioner as a fugitive from justice and a warrant of arrest was issued against her.

Petitioner's counsel then filed an Omnibus Motion dated May 19, 1997, asserting that petitioner cannot be tried *in absentia* because she was not notified of the subsequent trials after the forfeiture of her bail bonds. Consequently, petitioner's counsel prayed that the two criminal cases against her be archived and that an alias warrant of arrest be issued. The RTC denied the Omnibus Motion for lack of merit on October 30, 1998. In the same order, the criminal cases were deemed submitted for decision and an alias warrant of arrest was issued.

On January 18, 1999, the RTC rendered a Joint Judgment finding petitioner guilty on both counts of violation of B.P. 22, with the following dispositive portion:^[6]

WHEREFORE, finding the accused Florita Teope guilty beyond a scintilla of doubt of violation of Section 1 of Batas Pambansa Bilang 22, she is hereby imprisoned for one (1) year to be served successively plus a fine of P25,000.00 in Criminal Case No. 11357 and P20,000.00 in Criminal Case No. 11358 with subsidiary imprisonment in case of insolvency.

Florita Teope is also ordered to pay by way of civil liability the sum of P45,000.00 to Hermogena Beltran.

Costs against the accused.

Let a copy of this judgment be furnished to the NBI and the ICS for them to locate and arrest Florita L. Teope who jumped bail and is presently a fugitive from justice.

Furnish Florita L. Teope with a copy of this judgment by registered mail