

[G.R. No. 109920, August 31, 2000]

CEFERINO A. SORIANO, PETITIONER, VS. HON. ADORACION C. ANGELES, IN HER CAPACITY AS PRESIDING JUDGE OF THE CALOOCAN CITY, REGIONAL TRIAL COURT, BRANCH CXXI, AND RUEL GARCIA, RESPONDENTS.

D E C I S I O N

MENDOZA, J.:

This is a petition for *certiorari* to annul the decision rendered by the Regional Trial Court, Branch 121, Caloocan City, on March 15, 1993 in Criminal Case No. C-40740 which acquitted private respondent Ruel Garcia of direct assault.

The prosecution's evidence was as follows: Private respondent Ruel Garcia and his uncle, Pedro Garcia, were members of the Caloocan police. Shortly after midnight on November 7, 1991, they barged into the barangay hall of Barangay 56, Zone 5 in Caloocan City, looking for petitioner Ceferino A. Soriano, the barangay captain. Private respondent gave petitioner fist blows on the face four times with his left hand, while he poked a gun at him with his right hand, at the same time cursing him, "*Putang ina mo cabeza*" ("You son of a bitch chief"). Although there were four barangay *tanods* (Manuel Montoya, Arturo del Rosario, Ramiro Samson, and Francisco Raton) in the barangay hall, they could not come to the aid of petitioner because they were held at bay by Pedro Garcia. The Garcias then left with their companions who had been waiting outside the hall. Petitioner was treated for his injuries in the hospital.

Private respondent denied petitioner's allegations. He testified that he went to the barangay hall in the evening of November 6, 1991 because his younger brother had been reportedly arrested and beaten up by petitioner. (It appears that the younger Garcia was involved in a brawl with Dennis Mones and a certain Ocampo. They were arrested and taken to the barangay hall. One of the boys, who was apparently drunk, vomitted while their names were recorded. Petitioner, therefore, ordered the three boys to be taken to the Ospital ng Kalookan for a check-up.) As private respondent saw petitioner near the door of the barangay hall, he asked for the whereabouts of his brother and the reason for the latter's arrest. Apparently thinking that private respondent was trying to intervene in the case he was investigating, petitioner angrily told private respondent to lay off: "*Walang pulis pulis dito*" ("Your being a policeman doesn't pull strings here"). When private respondent insisted on going inside the barangay hall, petitioner blocked him and then pushed him on the chest. Private respondent also pushed petitioner, causing him to fall on a pile of nightsticks and injure himself. All the time, private respondent claimed he had his gun tucked at his waist. Private respondent's uncle, Pedro Garcia, then arrived and took him home.

In acquitting private respondent, respondent Judge Adoracion C. Angeles found it incredible that petitioner did not resist or even say anything when private respondent allegedly assaulted him and that none of the four barangay tanods who

were near him came to his aid. She thought that if petitioner had indeed been attacked, he would have suffered more serious injuries than a contusion on the forehead, erythema on the chest, and a lacerated wound on the lower lip. Respondent judge also excluded from the evidence the testimonies of petitioner and barangay tanod Manuel Montoya on the ground that their testimonies had not been formally offered in evidence as required by Rule 132, §§34 to 35 of the Revised Rules on Evidence.

Hence this petition for *certiorari*. Petitioner alleges that the decision is void because it was not rendered by an impartial tribunal. He contends that respondent judge was "hell-bent on saving the private respondent from conviction and had pre-judged the case" as shown by the fact that (1) on August 26, 1992, before private respondent's arraignment, she called the parties and their counsels to her chambers and urged them to settle the case, and, when petitioner refused, she did not set the case for hearing until after three weeks allegedly to provide a "cooling off" period; (2) that at the initial trial on September 15 and 16, 1992, respondent judge again called on the parties to settle the case. Petitioner alleges that, while respondent judge stated in her order of September 15, 1992 cancelling the hearing on that date that this was done to enable Atty. Maria Lelibet Sampaga to study the case as she had been appointed as private respondent's counsel only on that day, the same was actually a pretext, the real reason being to give private respondent another opportunity to persuade petitioner to settle the case. The records in fact show that Atty. Sampaga had been private respondent's counsel at the arraignment on August 26, 1992; (3) that respondent judge excluded the testimonies of petitioner and his witness, Manuel Montoya, for failure of the prosecution to offer formally the same when the transcript of stenographic notes shows this was not so and that, at any rate, the defense waived the objection based on this ground by cross-examining petitioner and Montoya; and (4) that respondent judge failed to find private respondent guilty despite the testimonies of three eyewitnesses (barangay tanods Montoya, del Rosario, and Samson). Petitioner therefore prays that a mistrial be declared and that the case be ordered retried before another judge.

On the other hand, private respondent Ruel Garcia contends that, if at the outset, petitioner doubted respondent judge's impartiality, he should have sought her inhibition right then and there; that it was not true respondent judge called the parties to her chambers on August 26, 1992 as only the arraignment took place on that day; that at said arraignment, his counsel, Atty. Emilio Bermas, was absent for which reason respondent judge designated Atty. Maria Lelibet S. Sampaga to assist him; that the schedule of the trial (September 15, 16, and 21, 1992) was not fixed by respondent judge but by the clerk in charge of the matter, taking into account the schedule of the other cases assigned to the court; that it was only on the first day of trial on September 15, 1992 that respondent judge first talked to the parties, and, upon learning that both were public officers, thought it proper to ask them if they were not willing to settle their dispute, and seeing the parties and their counsels to be receptive, she invited them to her chambers; that as petitioner later appeared to have second thoughts and, on the other hand, as Atty. Sampaga needed time to prepare for trial, respondent judge postponed the trial to the next day, September 16, 1992; that on September 16, 1992, respondent judge again called the parties to her chambers to see if they had come to any agreement, but as she was told by petitioner that "for him to withdraw his complaint against the private respondent, he must have to transfer his residence first," thus implying that

he wished the case against private respondent to continue, respondent judge proceeded with the trial that morning.

Private respondent contends that the instant petition does not have the consent and conformity of the public prosecutor but was instead filed by the private prosecutor who does not have the requisite legal personality to question the decision acquitting him.

Required to comment, the Solicitor General argues that this petition should be dismissed:

A perusal of the judgment of the trial court showed that the parties were heard conformably to the norms of due process, evidence was presented by both parties and duly considered, their arguments were studied, analyzed, and assessed, and judgment was rendered in which findings of facts and conclusions of law were set forth. These conclusions of fact or law cannot in any sense be characterized as outrageously wrong or manifestly mistaken or whimsically or capriciously arrived at. The worst that may perhaps be said of them is that they are fairly debatable and may even be possibly erroneous. But they cannot be declared to have been made with grave abuse of discretion (*Bustamante vs. NLRC*, 195 SCRA 1991). Clearly, there was no mistrial in this case which would warrant the nullity of the assailed judgment.^[1]

The preliminary issue in this case is whether the petition should be dismissed outright because it was filed without the intervention of the OSG as counsel for the prosecution.

This question is not a novel one. In the case of *People v. Santiago*,^[2] this Court held:

The question as to whether or not U.P., as the private offended party, can file this special civil action for *certiorari* questioning the validity of said decision of the trial court should be answered in the affirmative.

It is well-settled that in criminal cases where the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability. Thus, in the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General. Only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not take such appeal. However, the said offended party or complainant may appeal the civil aspect despite the acquittal of the accused.

In a special civil action for i filed under Section 1, Rule 65 of the Rules of Court wherein it is alleged that the trial court committed a grave abuse of discretion amounting to lack of jurisdiction or on other jurisdictional grounds, the rules state that the petition may be filed by the person aggrieved. In such case, the aggrieved parties are the State and the private offended party or complainant. The complainant has an interest in the civil aspect of the case so he may file such special civil action questioning the decision or action of the respondent court on jurisdictional grounds. In so doing, complainant should not bring the action in the

name of the People of the Philippines. The action may be prosecuted in name of said complainant.^[3]

The above ruling has been reiterated in *De la Rosa v. Court of Appeals*^[4] and *Perez v. Hagonoy Rural Bank, Inc.*,^[5] in which the legal personality of private complainant to file a special civil action of *certiorari* questioning the dismissal by the trial court of a criminal case has been upheld subject to the limitation that the accused's right to double jeopardy is not violated.^[6] As explained by the Court in *People v. Court of Appeals*:^[7] 7

A judgment rendered with grave abuse of discretion or without due process is void, does not exist in legal contemplation, and, thus, cannot be the source of an acquittal. However, where the petition demonstrates mere errors in judgment not amounting to grave abuse of discretion or deprivation of due process, the writ of *certiorari* cannot issue. A review of the alleged errors of judgment cannot be made without trampling upon the right of the accused against double jeopardy.^[8]

In short, petitioner must establish that the judgment of acquittal resulted from a mistrial so as not to place private respondent, as accused, in double jeopardy.

In only one case has the Court categorically declared a mistrial, and that is the case of *Galman v. Sandiganbayan*.^[9] Petitioner would have the Court draw parallelisms between this case and Galman where the Court nullified the judgment of acquittal of the Sandiganbayan in Criminal Case Nos. 10010 and 10011 entitled "*People of the Philippines v. General Luther Custodio, et al.*"

This case is, however, a far cry from Galman. There, it was shown that evidence was suppressed in order to justify the acquittal of the accused. This Court held that "the secret Malacañang conference at which the authoritarian President called together the Presiding Justice of the Sandiganbayan [Manuel Pamaran] and Tanodbayan [Bernardo] Fernandez and the entire prosecution panel headed by Deputy Tanodbayan [Manuel] Herrera and told them how to handle and rig (moro-moro) the trial and the close monitoring of the entire proceedings to assure the pre-determined ignominious final outcome are without parallel and precedent in our annals and jurisprudence."^[10]

In contrast, petitioner does not allege any such irregularity in the trial of private respondent. He simply claims that respondent judge's bias and partiality denied the prosecution a fair and impartial trial. Why respondent judge was biased for the defense petitioner does not say. It is noteworthy that petitioner does not even dispute private respondent's allegation that respondent judge was not personally acquainted with him until she heard the criminal case against him.

It is pertinent at this point to cite certain principles laid down by the Court regarding the disqualification of a judge for lack of the objectivity that due process requires. It is settled that mere suspicion that a judge is partial to one of the parties is not enough; there should be evidence to prove the charge.^[11] Bias and prejudice cannot be presumed, especially weighed against a judge's sacred allegation under oath of office to administer justice without respect to any person and do equal right to the poor and the rich.^[12] There must be a showing of bias and prejudice stemming from an extrajudicial source resulting in an opinion in the merits on some basis other than what the judge learned from his participation in the case.^[13]