

THIRD DIVISION

[G.R. No. 127899, December 02, 1999]

MARILYN C. SANTOS, PETITIONER, VS. HONORABLE COURT OF APPEALS AND CORAZON T. CASTRO, RESPONDENTS.

DECISION

PURISIMA, J.:

At bar is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the Decision,^[1] Resolution,^[2] and Supplemental Resolution^[3] of the Court of Appeals in CA-G.R. SP No. 38522.

The facts that matter are as follows:

Petitioner issued fifty-four (54) checks in the total amount of Three Million Nine Hundred Eighty Nine Thousand One Hundred Seventy-Five and 10/100 (P3,989,175.10) Pesos, all of which checks were dishonored upon presentment to the drawee bank.

On October 12, 1993, the petitioner was charged with fifty-four (54) counts of violation of Batas Pambansa Bilang 22 ("BP 22") in fifty-four (54) separate Informations, docketed as Criminal Case Nos. 102009 to 102062, respectively, before Branch 160 of the Regional Trial Court of Pasig City. To the said accusations, petitioner pleaded not guilty upon arraignment. After trial, she was found guilty in a Decision promulgated on December 20, 1994, sentencing her to a total prison term of fifty-four (54) years and to pay P3,989,175.10 to the private respondent.

Petitioner therefore, filed an application for probation, which was referred by Presiding Judge Umali to the Probation Officer of Marikina, for investigation, report, and recommendation.

Private respondent opposed subject application for probation on the grounds that: the petitioner is not eligible for probation because she has been sentenced to suffer an imprisonment of fifty-four (54) years, and she failed to pay her judgment debt to the private respondent.

On January 6, 1995, private respondent presented a "Motion for a Writ of Execution", which motion was granted by Judge Umali in an Order dated January 11, 1995. Thus, the corresponding writ of execution issued for the implementation and satisfaction of the monetary aspect of the said Decision. Thereafter, the sheriff prepared and signed a Notice of Levy on Execution over several properties belonging to the petitioner.

On February 13, 1995, petitioner and her husband executed a "Deed of Absolute Sale" deeding out in favor of Teodoro S. Dijamco ("Mr. Dijamco") for P264,570.00 a

parcel of land in La Trinidad, Benguet ("Benguet Property"), covered by Transfer Certificate of Title No. T-18721 ("TCT No. T-18721"). On the same day, the sheriff annotated the Notice of Levy on Execution on the dorsal portion of TCT No. T-18721.

On March 29, 1995, Mr. Dijamco filed an "Affidavit of Third-Party-Claim" over the same Benguet property on the strength of the said previous sale but averring already a consideration of P3,000,000.00. Attached thereto are the checks he allegedly paid for subject property.

On May 5, 1995, private respondent interposed a "Supplemental Opposition" to the application for probation; contending that:

"x x x

2. Recent developments show that the accused had been disposing and/or mortgaging her properties in obvious attempt to negate the satisfaction of her civil liability to herein private complainant, as evidenced by the Affidavit of Third Party Claim filed by Teodoro S. Dijamco and the Real Estate Mortgage executed by the accused in favor of the Rural Bank of Angono, Inc. (attached as Annexes "A" and "B" in the Comment/Opposition to the Post Sentence Investigation Report).

3. It must be stressed that the real estate mortgage was executed by the accused in anticipation of an unfavorable judgment and that the alleged sale the real property in favor of Teodoro Dijamco was made after this Honorable Court had rendered judgment convicting the accused of the crime charged and after notice of levy on execution had been annotated on the title. Clearly, the said mortgage and sale executed by the accused constitute indirect contempt under Sec. 3 of Rule 71 of the Rules of Court and the accused may likewise be prosecuted criminally for the said acts.

4. Moreover, the accused is disqualified from the benefits of the aforecited Decree as she has been sentenced to a total of fifty four (54) years of imprisonment.

5. From the foregoing, it is crystal clear that the accused is not entitled to the benefits of the probation law and that the acts enumerated constitute indirect contempt."

In the Order he issued on June 30, 1995, Judge Umali granted petitioner's application for probation for a period of six (6) years, subject to the following terms and conditions, to wit:

"1. Probationer shall report initially to the Chief parole and Probation Officer at Marikina Parole & Probation Off. Hall of Justice, Marikina within seventy-two hours from receipt of the Order granting Probation.

2. She shall, thereafter, report to her supervising probation and parole officer 2 times a month, unless otherwise modified by the Chief Probation and Parole Officer.

3. She shall reside in #8 Jazmin, Twinsville Subd. Concepcion, Marikina and shall not change her residence without approval of the supervising

probation and parole officer or of the Court, as the case may be.

4. She shall secure a written permit to travel outside the jurisdiction of the parole and probation office from the chief probation officer, and from the Court if such travel exceeds thirty (30) days.

5. She shall allow the supervising probation officer, or an authorized Volunteer Aide to visit her place of work and home.

6. She shall meet her family responsibilities.

7. She shall devote herself to a specific employment and shall not change said employment without prior notice to the supervising officer; and/or shall pursue a prescribed secular study or vocational training.

8. She shall refrain from associating with persons of questionable character, and shall not commit any other offense.

9. She shall cooperate with her program of supervision, and shall satisfy any other condition related to her rehabilitation and not unduly restrictive of her liberty or incompatible with her freedom of conscience.

10. She shall plant at least five (5) fruit bearing trees in his backyard or any government lot as part of her rehabilitation.

11. She shall participate in the Parole and Probationer's Project as clean and green project in Marikina and attend the First Friday Mass at the Hall of Justice of Marikina."

Private respondent moved for reconsideration but to no avail. Her motion for reconsideration was denied.

Dissatisfied, the private respondent filed with the Court of Appeals a petition for Certiorari under Rule 65 of the Rules of Court, questioning the grant of probation. In its Decision^[4] dated August 16, 1996, the Court of Appeals ruled thus:

"IN THE LIGHT OF ALL THE FOREGOING, the Petition is GRANTED. The Orders of the Respondent Judge, Annexes "A" and "B" of the Petition are SET ASIDE. Let the records of this case be remanded to the Court a quo. The Respondent Judge is hereby directed to issue a warrant for the arrest of the Private Respondent."

Private respondent filed a Motion for Reconsideration^[5] of the above Decision but the same was denied in the Resolution^[6] dated January 7, 1997, holding:

"Anent Private Respondent's 'Motion for Reconsideration', We find no valid justification for a reversal or reconsideration of our Decision. Private Respondent's claim that the Petitioner is not the proper party-in-interest to file the Petition is barren of merit. In the first place, the Private Respondent, in her Answer/Comment and the Public Respondent, in his Comment, on the Petition, never claimed that the Petitioner was not the proper party-in-interest to file the Petition. More, the Solicitor General

appearing for the Public Respondent has not filed any 'Motion for Reconsideration' of our Decision. Evidently, the Solicitor General is in accord with our Decision.

Anent Petitioner's 'Motion for the Issuance of a Hold Departure Order', We find the said motion meritorious and hereby grants the same. Accordingly, the Commissioner & Immigration and Deportation is hereby directed not to allow the departure from the Philippines of the Private Respondent Marilyn C. Santos, married, and a resident of No. 8 Jasmin Street, Twinville Subdivision, Marikina City, until further orders of this Court.

SO ORDERED."

In a Supplemental Resolution^[7] dated January 29, 1997, the Court of Appeals elucidated further its Resolution that the herein petitioner is the real party-in-interest, and declared that there were no procedural lapses in the granting of private respondent's petition.

Having lost the case before the Court of Appeals, petitioner has come to this Court for relief; contending that:

I

PRIVATE RESPONDENT CORAZON T. CASTRO IS NOT THE REAL PARTY IN INTEREST TO QUESTION THE GRANT OF PROBATION TO HEREIN PETITIONER.

II

NON-PAYMENT OF THE CIVIL LIABILITY IMPOSED ON PETITIONER IN THE DECISION RENDERED IN THE CRIMINAL CASE IS NOT A GROUND FOR THE REVOCATION OF PROBATION.

III

THE COURT OF APPEALS IS MORE INTERESTED IN THE FULL SATISFACTION OF PRIVATE RESPONDENT CORAZON T. CASTRO RELATIVE TO THE CIVIL ASPECT OF CASE THAN IN THE REHABILITATION OF PETITIONER AS A PROBATIONER. THIS IS HIGHLY IMPROPER.

IV

THE GRANT OF PROBATION TO PETITIONER MARILYN C. SANTOS IS FAIT ACCOMPLI AND SHE HAS COMPLIED WITH THE CONDITIONS OF THE PROBATION GRANTED HER.

V

THE GRANT OF PROBATION BY JUDGE UMALI TO PETITIONER UNDER THE FACTS OBTAINING DOES NOT CONSTITUTE GRAVE ABUSE OF