

SECOND DIVISION

[G.R. No. 240843, June 03, 2019]

**JAIME CHUA CHING, PETITIONER, V. FERNANDO CHING,
RESPONDENT.**

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*^[1] are the Decision^[2] dated November 28, 2017 and the Resolution^[3] dated May 15, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 150342 which reversed and set aside the Decision^[4] dated February 15, 2017 of the Regional Trial Court of the City of Manila, Branch 30 (RTC) in Special Civil Action No. 16-136012, and consequently, reinstated the Orders dated January 15, 2016^[5] and March 7, 2016^[6] of the Metropolitan Trial Court of the City of Manila, Branch 9 (MeTC) denying petitioner Jaime Chua Ching's (petitioner) application for probation.

The Facts

This case stemmed from an Information^[7] dated July 2, 2010 filed before the MeTC charging petitioner with Falsification of a Public Document Committed by a Private Individual, defined and penalized under Article 172 in relation to Article 171 of the Revised Penal Code (RPC). After due proceedings, the MeTC promulgated a Decision^[8] dated August 14, 2015 finding petitioner guilty beyond reasonable doubt of the crime charged, and accordingly, sentenced him to suffer the penalty of imprisonment for an indeterminate period of two (2) years, four (4) months, and one (1) day of *prision correccional* in its medium period, as minimum, to six (6) years of *prision correccional* in its maximum period, as maximum, and to pay a fine in the amount of P5,000.00. It found petitioner to have falsified his voter's registration with the Commission on Elections (COMELEC) by making it appear that he is a citizen of the Philippines, when in truth, he is a Chinese citizen who has yet to acquire Filipino citizenship.^[9]

Instead of filing an appeal, petitioner filed an Application for Probation^[10] dated September 1, 2015, manifesting that he is not among those disqualified offenders under Presidential Decree No. (P.D.) 968,^[11] otherwise known as the Probation Law of 1976, as amended (Probation Law), and that he undertakes to comply with the terms of probation, should the same be granted.^[12] However, in its Post-Sentence Investigation Report^[13] (PSIR), the Parole and Probation Office of Manila (PPO-Manila) ascertained that petitioner poses a great risk to the members of his community in particular and the society in general, as shown by his several derogatory records, and thus, recommended that his application for probation be denied. It found petitioner to be in need of correctional treatment that can be

provided most effectively by his commitment to an institution, and that there is undue risk for him to commit another crime during the period of probation.^[14]

The MeTC Ruling

In an Order^[15] dated January 15, 2016, the MeTC ordered the issuance of a warrant of arrest against petitioner for the enforcement of the judgment of conviction, "[c]onsidering the denial of the Application for Probation of Jaime Ching y Chua per Post Sentence Investigation Report of the Probation Officer x x x."^[16]

Aggrieved, petitioner filed a motion for reconsideration^[17] wherein he refuted one by one the findings of the PPO-Manila in its PSIR, and even attached statements/certifications from his neighbors, acquaintances, and relatives attesting to his good moral character.^[18] The motion was, however, denied in an Order^[19] dated March 7, 2016. Hence, petitioner filed a petition for *certiorari*^[20] before the RTC.

The RTC Ruling

In a Decision^[21] dated February 15, 2017, the RTC reversed and set aside the MeTC ruling, and accordingly, granted petitioner's application for probation.^[22] It held that the MeTC gravely abused its discretion in relying solely on the recommendation of the PPO-Manila in denying petitioner's application for probation, ratiocinating that a careful analysis of the PSIR shows that: *first*, petitioner has neither been charged and convicted of any crime against national security nor convicted of any other crime that would disqualify him to avail of the benefits of probation, as in fact, all the cases filed against him had already been dismissed, or that he was already acquitted therein; and *second*, other than his existing derogatory records and the barangay blotters filed against him, there is no showing that petitioner is physically or medically unfit to be reformed outside of a correctional institution, and that his confinement in jail is not the only way for him to be remorseful of what he had done in the past.^[23] Finally, the RTC opined that any apprehension that petitioner is incapable of reform and will only be a menace to society may be easily obviated by the imposition of various conditions to his probation, violations of which would cause the revocation thereof.^[24]

Dissatisfied, petitioner's father,^[25] respondent Fernando Ching, appealed to the CA.^[26]

The CA Ruling

In a Decision^[27] dated November 28, 2017, the CA reversed and set aside the RTC ruling, and accordingly, reinstated the MeTC's denial of petitioner's application for probation^[28] on the ground that his act of falsifying his voter's registration is an election offense under Section 261 of Batas Pambansa Blg. 881,^[29] otherwise known as the Omnibus Election Code of the Philippines (OEC). In relation thereto, Section 264 of the OEC states that those found guilty of election offenses shall not be subject to probation.^[30] Additionally, the CA opined that the MeTC correctly denied petitioner's application for probation in view of his acts which are not that of a penitent offender, as well as his derogatory records which manifest his dangerous character that may be considered a threat to the community where he resides.^[31]

Undaunted, petitioner moved for reconsideration^[32] but the same was denied in a Resolution^[33] dated May 15, 2018; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly reinstated the denial of petitioner's application for probation.

The Court's Ruling

The petition is meritorious.

Probation is a special privilege granted by the state to penitent qualified offenders who immediately admit their liability and thus renounce their right to appeal. In view of the acceptance of their fate and willingness to be reformed, the state affords them a chance to avoid the stigma of an incarceration record by making them undergo rehabilitation outside of prison. Some of the major purposes of the law are to help offenders develop themselves into law-abiding and self-respecting individuals, as well as assist them in their reintegration with the community.^[34] In *Villareal v. People*,^[35] the Court reiterated that probation is not a right enjoyed by the accused, but rather, an act of grace or clemency conferred by the State, *viz.*:

It is a special prerogative granted by law to a person or group of persons not enjoyed by others or by all. Accordingly, the grant of probation rests solely upon the discretion of the court which is to be exercised primarily for the benefit of organized society, and only incidentally for the benefit of the accused. The Probation Law should not therefore be permitted to divest the state or its government of any of the latter's prerogatives, rights or remedies, unless the intention of the legislature to this end is clearly expressed, and no person should benefit from the terms of the law who is not clearly within them.^[36]

Section 8 of the Probation Law states that "[i]n determining whether an offender may be placed on probation, the court [where the application is filed] shall consider all information relative to the character, antecedents, environment, mental and physical condition of the offender, and available institutional and community resources. [Hence,] [p]robation shall be denied if [said] court finds that: (a) the offender is in need of correctional treatment that can be provided most effectively by his commitment to an institution; (b) there is an undue risk that during the period of probation the offender will commit another crime; or (c) probation will depreciate the seriousness of the crime committed."^[37] Moreover, probation shall be denied outright to offenders who are deemed disqualified by the Probation Law.^[38]

In this case, the Court noted that the RTC granted petitioner's application for probation mainly on the ground that petitioner has no disqualifications under the Probation Law. In contrast, the CA and the MeTC ruled otherwise, albeit their reasons for denial are different. In denying petitioner's application for probation, the CA opined, *inter alia*, that since petitioner committed an election offense under Section 261 of the OEC, then he shall not be subject to probation, as provided by Section 264 of the OEC.^[39] On the other hand, the MeTC denied petitioner's application for probation in view of the PPO-Manila's "denial" of the same.

After a judicious perusal of the records, the Court disagrees with the reasons proffered by the CA and the MeTC in denying petitioner's application for probation, as will be explained hereunder.

Anent the reason proffered by the CA, the Court finds that while petitioner's act of falsifying his voter's registration with the COMELEC by making it appear that he is a citizen of the Philippines, when in truth, he is a Chinese citizen who has yet to acquire Filipino citizenship, may be considered as an election offense under Section 261 (y) (2)^[40] of the OEC, petitioner's conviction in this case does not involve this election offense. Rather, a plain reading of the Information,^[41] as well as the MeTC Decision^[42] dated August 14, 2015, would readily show that he was tried and subsequently found guilty beyond reasonable doubt of the crime of Falsification of a Public Document Committed by a Private Individual, defined and penalized under Article 172 in relation to Article 171 of the RPC. Hence, the CA erred in applying the disqualification for probation found under Section 264 of the OEC as he was not adjudged guilty of an election offense in this case.

As to the MeTC's Decision, the Court agrees with the RTC's finding that the MeTC gravely abused its discretion when it denied petitioner's application for probation and issued a warrant for his arrest based solely on the recommendation of the PPO-Manila as indicated in the PSIR without conducting its own investigation on the matter. It is settled that the grant of probation is **discretionary upon the court**, and in exercising such discretion, it must consider the potentiality of the offender to reform, together with the demands of justice and public interest, along with other relevant circumstances. **It should not limit the basis of its decision to the report or recommendation of the probation officer, which is at best only persuasive.**^[43] Otherwise stated, in determining whether or not to grant the application for probation, the court must not merely rely on the PSIR - as what the MeTC did in this case - but rather, it must make its own findings as to the merits of the application, considering that the Probation Law vests upon it the power to make a final decision on the matter. Had the MeTC thoroughly evaluated the merits of the application, it would have determined that petitioner is not a disqualified offender under the Probation Law and that there is a possibility that he can be reformed outside of a correctional institution.

In view of the foregoing, the Court agrees with the RTC that petitioner's application for probation should be granted. In so ruling, the Court stresses that the primary objective in granting probation is the reformation of the probationer. For this purpose, courts must be meticulous enough to ensure that the ends of justice and the best interest of the public, as well as the accused, be served by the grant of probation.^[44] Finally, it must be emphasized that the underlying philosophy of probation is one of liberality towards the accused. Such philosophy is not served by a harsh and stringent interpretation of the statutory provisions. Verily, the Probation Law should be applied in favor of the accused not because it is a criminal law, but to achieve its beneficent purpose.^[45]

WHEREFORE, the petition is **GRANTED**. The Decision dated November 28, 2017 and the Resolution dated May 15, 2018 of the Court of Appeals in CA-G.R. SP No. 150342 are **REVERSED** and **SET ASIDE**. The Decision dated February 15, 2017 of the Regional Trial Court of the City of Manila, Branch 30 in Special Civil Action No. 16-136012 is hereby **REINSTATED**.