

## FIRST DIVISION

[ G.R. No. 212865, July 15, 2015 ]

**HORACIO SALVADOR, PETITIONER, VS. LISA CHUA,  
RESPONDENT.**

### D E C I S I O N

**BERSAMIN, J.:**

This appeal proposes to undo the decision promulgated on December 12, 2013 in CA-G.R. SP No. 131486,<sup>[1]</sup> whereby the Court of Appeals (CA) granted the respondent's petition for *certiorari* and nullified the orders dated October 26, 2011 and August 8, 2013 of the Regional Trial Court (RTC) in Pasay City respectively giving due course to the petitioner's notice of appeal, and allowing him to post bail for his provisional liberty; and the resolution the CA promulgated on June 4, 2014 denying his *Motion for Reconsideration*.<sup>[2]</sup>

#### Antecedents

The petitioner and his wife Marinel Salvador were charged in the RTC with *estafa* penalized under Article 315 (a) of the *Revised Penal Code* docketed as Criminal Case No. R-PSY-08-04689-CR.<sup>[3]</sup> On March 30, 2011, the date scheduled for the promulgation of the judgment, their counsel moved for the deferment of the promulgation inasmuch as the petitioner was then suffering from hypertension.<sup>[4]</sup> Unconvinced of the reason, the RTC proceeded to promulgate its decision,<sup>[5]</sup> and disposed as follows:

IN LIGHT OF THE FOREGOING, accused spouses Horacio Salvador and Marinel Salvador are found GUILTY beyond reasonable doubt of the crime of Estafa and sentenced to suffer an indeterminate prison term of four (4) years and two (2) months of *prision correccional*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum. Both spouses are further ordered to indemnify the victim Lisa Chua the sum of P17,371,780.00 with interest of eight percent (8%) per annum until fully paid, plus the amount of P50,000.00, as and by way of moral damages, and P50,000 as attorney's fees.

x x x x

Costs against accused spouses Horacio Salvador and Marinel Salvador.

SO ORDERED.<sup>[6]</sup>

The RTC then issued a warrant for the petitioner's arrest. He was apprehended on April 7, 2011, or eight days from the promulgation of the judgment finding him

guilty.<sup>[7]</sup>

The petitioner filed his *Motion for Leave to file Notice of Appeal* dated April 13, 2011,<sup>[8]</sup> and attached thereto the medical certificate dated March 30, 2011 purportedly issued by Dr. Paulo Miguel A. David,<sup>[9]</sup> certifying that the petitioner had submitted himself to a medical consultation at the Rizal Medical Center on March 30, 2011 and had been found to be suffering from hypertension.<sup>[10]</sup>

In his order dated July 1, 2011,<sup>[11]</sup> RTC Judge Eugenio G. Dela Cruz initially denied the petitioner's *Motion for Leave to file Notice of Appeal* on the ground of non-compliance with Section 6, Rule 120 of the *Rules on Criminal Procedure*.

Thereafter, the respondent, who was the complainant in Criminal Case No. R-PSY-08-04689-CR, filed her *Motion for Execution* dated July 29, 2011 praying for the issuance of the writ of execution on the civil aspect.<sup>[12]</sup>

The petitioner moved for the reconsideration of the July 1, 2011 order.<sup>[13]</sup> Judge Dela Cruz granted the petitioner's motion for reconsideration on October 26, 2011, thereby giving due course to his notice of appeal.<sup>[14]</sup>

On October 27, 2011, the RTC, acting on the respondent's *Motion for Execution*, issued another order,<sup>[15]</sup> to wit:

IN LIGHT OF THE FOREGOING, the subject Motion for Execution and Motion to Commit the Person of Accused Horacio Salvador to the National Bilibid Prison, Muntinlupa City, to Serve his Sentence are both granted and hereby orders as follows:

- 1) Let Writ of Execution issue to implement the following, to wit:
  - a) Indemnify the victim Lisa Chua the sum of 17,371,780.00 with interest of 8% per annum until fully paid;
  - b) Pay the victim Lisa Chua 50,000.00 as moral damages and 50,000 as attorney's fees.
- 2) The Motion to Commit the Person of Accused Horacio Salvador to the National Bilibid Prison, Muntinlupa City, to Serve his Sentence is hereby granted without prejudice to the appropriate action of the Executive Judge where the accused is detained pursuant to Administrative Circular No. 68-2005.<sup>[16]</sup>

On its part, the Prosecution, represented by the private prosecutor, filed its *Motion for Reconsideration* against the order issued on October 26, 2011,<sup>[17]</sup> attaching to the motion the affidavit executed by Dr. Paolo Miguel A. David<sup>[18]</sup> affirming that he had not examined the petitioner on March 30, 2011; that he had not issued any medical certificate in favor of the petitioner; that his name of Paolo had been misspelled Paulo in the medical certificate submitted by the petitioner; that the signature appearing in the medical certificate was not his; and that the Rizal Medical Center did not officially issue the medical certificate in question.

The petitioner opposed the Prosecution's *Motion for Reconsideration*,<sup>[19]</sup> and prayed that he be allowed to post bail pending appeal. He submitted another medical certificate issued by Dr. Ma. Concepcion Santos-Enriquez, an OB-Gynecologist,<sup>[20]</sup> to the effect that she had seen the petitioner on March 28, 2011 for headache and dizziness; and that she had advised him to see a cardiologist because of his elevated blood pressure.

Meanwhile, Criminal Case No. R-PSY-08-04689-CR was re-raffled to Judge Francisco G. Mendiola, Presiding Judge of Branch 115, due to Judge Dela Cruz's inhibition.<sup>[21]</sup> In his order dated August 8, 2013,<sup>[22]</sup> Judge Mendiola denied the Prosecution's *Motion for Reconsideration*, and fixed bail of 80,000.00 for the provisional liberty of the petitioner.

Consequently, the respondent commenced a special civil action for *certiorari* in the CA to nullify the October 26, 2011 order (giving due course to the petitioner's notice of appeal), and the August 8, 2013 order (allowing him to post bail for his provisional liberty).<sup>[23]</sup>

In the decision promulgated on December 12, 2013, the CA granted the respondent's *certiorari* petition, viz.:

**WHEREFORE**, premises considered, the instant Petition is **GRANTED**. The assailed Orders dated October 26, 2011 and August 8, 2013 giving due course to respondent's Notice of Appeal and allowing him to post bail, respectively, are **NULLIFIED** and **SET ASIDE** for having been issued with grave abuse of discretion. The Order dated July 1, 2011 is **REINSTATED**.

**SO ORDERED.**<sup>[24]</sup>

The CA denied the petitioner's motion for reconsideration in its resolution promulgated on June 4, 2014.<sup>[25]</sup>

### **Issues**

Hence, this appeal, whereby the petitioner contends that the CA erred in rendering its December 12, 2013 decision because: (1) the respondent had no legal personality to challenge the assailed orders of the RTC because only the Office of the Solicitor General (OSG) could appeal in a criminal case in behalf of the State; (2) she had no legal personality to file the petition for *certiorari* in the CA because her *Motion for Execution* in respect of the civil aspect of the criminal case had already been granted by the RTC; and (3) his hypertension on the date of the promulgation of the decision by the RTC constituted a justifiable cause for him to regain the right to avail himself of the remedies under the *Rules of Court* against the judgment of conviction.

The issues are, therefore: (1) whether the respondent as the complainant in the criminal case had the legal personality to file the petition for *certiorari* in the CA to assail the orders of the RTC despite the lack of consent of the OSG; and (2) whether the petitioner had lost his standing in court for his failure to appear at the

promulgation of his conviction.

### **Ruling of the Court**

We **DENY** the petition for its lack of merit.

#### **1.**

#### **The respondent had legal standing to assail the questioned orders through *certiorari***

The OSG is the appellate counsel of the State in criminal proceedings pending in this Court and in the CA. This is explicitly provided in Section 35(1), Chapter 12, Title III, Book IV of the 1987 *Administrative Code*, viz.:

Section 35. Powers and Functions. - The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers x x x. It shall have the following specific powers and functions:

(1) **Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings;** represent the Government and its officers in the Supreme Court and Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party.

x x x x

The Court has stressed that the People of the Philippines, being the real party in interest in every criminal proceedings, can be represented only by the OSG in criminal proceedings in the CA or in this Court.<sup>[26]</sup> Yet, this rule admits of exceptions, for as pronounced in *Rodriguez v. Gadiane*:<sup>[27]</sup>

A special civil action for *certiorari* may be filed by an aggrieved party alleging grave abuse of discretion amounting to excess or lack of jurisdiction on the part of the trial court. In a long line of cases, this Court construed the term aggrieved parties to include the State and the private offended party or complainant.

As early as in the case of *Paredes v. Gopengco*, it was held that the offended parties in criminal cases have sufficient interest and personality as "person(s) aggrieved" to file the special civil action of prohibition and *certiorari* under Sections 1 and 2 of Rule 65. Apropos thereto is the case cited by petitioner, *De la Rosa v. Court of Appeals*, wherein it was categorically stated that the aggrieved parties are the State and the private offended party or complainant.

It was further held in *De la Rosa* that the complainant has such an interest in the civil aspect of the case that he may file a special civil action questioning the decision or action of the respondent court on