

SPECIAL FIRST DIVISION

[G.R. No. 154130, August 20, 2004]

**BENITO ASTORGA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

RESOLUTION

YNARES-SATIAGO, J.:

On October 1, 2003, we rendered a Decision in this case affirming petitioner's conviction by the Sandiganbayan of the crime of Arbitrary Detention. Petitioner now seeks a reconsideration of our Decision.

The facts are briefly restated as follows:

Private offended parties Elpidio Simon, Moises de la Cruz, Wenefredo Maniscan, Renato Militante and Crisanto Pelias are members of the Regional Special Operations Group (RSOG) of the Department of Environment and Natural Resources, Tacloban City. On September 1, 1997, they, together with SPO3 Andres B. Cinco, Jr. and SPO1 Rufo Capoquian of the Philippine National Police Regional Intelligence Group, were sent to the Island of Daram, Western Samar to conduct intelligence operations on possible illegal logging activities. At around 4:30-5:00 p.m., the team found two boats measuring 18 meters in length and 5 meters in breadth being constructed at Barangay Locob-Locob. There they met petitioner Benito Astorga, the Mayor of Daram, who turned out to be the owner of the boats. A heated altercation ensued between petitioner and the DENR team. Petitioner called for reinforcements and, moments later, a boat bearing ten armed men, some wearing fatigues, arrived at the scene. The DENR team was then brought to petitioner's house in Daram, where they had dinner and drinks. The team left at 2:00 a.m.

On the basis of the foregoing facts, petitioner was charged with and convicted of Arbitrary Detention by the Sandiganbayan in Criminal Case No. 24986. On petition for review, we rendered judgment as follows:

WHEREFORE, in view of the foregoing, the petition is hereby **DENIED**. The Decision of the Sandiganbayan in Criminal Case No., dated July 5, 2001 finding petitioner BENITO ASTORGA guilty beyond reasonable doubt of the crime of Arbitrary Detention and sentencing him to suffer the indeterminate penalty of four (4) months of *arresto mayor*, as minimum, to one (1) year and eight (8) months of *prision correccional*, as maximum, is **AFFIRMED in toto**.

Costs de oficio.

SO ORDERED.

Petitioner filed a Motion for Reconsideration, which was denied with finality on January 12, 2004.^[1] Petitioner then filed an "Urgent Motion for Leave to File Second Motion for Reconsideration"^[2] with attached "Motion for Reconsideration,"^[3] wherein he makes the following submissions:

1. THE ARMED MEN WERE NOT SUMMONED BY PETITIONER FOR THE PURPOSE OF DETAINING THE PRIVATE OFFENDED PARTIES;
2. THERE IS NO EVIDENCE THAT THE SUPPOSED VICTIMS INSISTED ON LEAVING THE PLACE WHERE THEY WERE SUPPOSED TO BE DETAINED;
3. THE SUPPOSED VICTIMS THEMSELVES HAVE DECLARED THE INNOCENCE OF THE PETITIONER;
4. CRIMINAL INTENT ON THE PART OF THE ACCUSED IS CLEARLY WANTING IN THE INSTANT CASE.^[4]

Subsequently, petitioner filed a Supplement to the Second Motion for Reconsideration.^[5]

The prosecution was required to comment on petitioner's second Motion for Reconsideration and the Supplement thereto.

We find the grounds raised by the second Motion for Reconsideration well-taken.^[6]

While a second motion for reconsideration is, as a general rule, a prohibited pleading, it is within the sound discretion of the Court to admit the same, provided it is filed with prior leave whenever substantive justice may be better served thereby.

The rules of procedure are merely tools designed to facilitate the attainment of justice. They were conceived and promulgated to effectively aid the court in the dispensation of justice. Courts are not slaves to or robots of technical rules, shorn of judicial discretion. In rendering justice, courts have always been, as they ought to be, conscientiously guided by the norm that on the balance, technicalities take a backseat against substantive rights, and not the other way around. Thus, if the application of the Rules would tend to frustrate rather than promote justice, it is always within our power to suspend the rules, or except a particular case from its operation.^[7]

The elements of the crime of Arbitrary Detention are:

1. That the offender is a public officer or employee.
2. That he detains a person.
3. That the detention is without legal grounds.^[8]

The determinative factor in Arbitrary Detention, in the absence of actual physical restraint, is fear. After a careful review of the evidence on record, we find no proof that petitioner instilled fear in the minds of the private offended parties.

Indeed, we fail to discern any element of fear from the narration of SPO1 Rufo Capoquian, the police officer who escorted the DENR Team during their mission. On the contrary, what appears is that petitioner, being then a municipal mayor, merely extended his hospitality and entertained the DENR Team in his house. SPO1 Capoquian testified thus:

ATTY. JUMAMIL:

- q After Bagacay you arrived in what barangay in Daram?
- a We were on our way to Barangay Sta. Rita in Daram but on our way we saw a boat being constructed there so we proceeded to Barangay Lucodlucod (*sic*).
- q And you arrived at 5:00 o'clock?
- a Yes sir.
- q And you left at 2:00 o'clock in the morning of September 2?
- a Yes sir.
- q And you ate dinner between 5:00 o'clock to 2:00 o'clock in the morning of September 2, is that correct?
- a Yes sir. Mayor Astorga told us let us have dinner.
- q And Mayor Astorga brought you to a house where you had dinner?
- a Yes sir.
- q And of course you also partook of wine?
- a I know they had wine but with respect to us we had no wine sir.

xxx xxx xxx

AJ NARIO:

- q While you were taking your dinner from 7 to 8:00 o'clock Mayor Astorga was with you having dinner?
- a Yes Your Honor.
- q You did not hear the conversation between the Mayor and the foresters, the complainants here?
- a I could not hear anything important because they were just laughing.

AJ PALATTAO:

q And then according to you there was laughter what was the cause of this laughter?

a Probably they were talking of something humorous.^[9]

The testimonial evidence likewise shows that there was no actual restraint imposed on the private offended parties. SPO1 Capoquian in fact testified that they were free to leave the house and roam around the barangay. Furthermore, he admitted that it was raining at that time. Hence, it is possible that petitioner prevented the team from leaving the island because it was unsafe for them to travel by boat.

ATTY. JUMAMIL:

q It was raining at that time, is that correct?

a Yes sir it was raining.

q And the weather was not good for motorized travel at that particular time that you were in Lucoblucob, Daram?

a I know it is raining but I could not say that you could not travel.

q What was the condition of the sea at that time when you were in Lucoblucob?

a The sea was good in fact we did not get wet and there were no waves at that time.

q But it was raining the whole day?

a It was not raining at the day but after we ate in the evening it rained.

q It was raining hard in fact after 8:00 p.m. up to 1:00 o'clock in the morning is that correct?

a A little bit hard I don't know when the rain stopped, sir.

q It is possible that it rain.. the rain stopped at 1:00 o'clock in the morning of September 2?

a I don't remember sir.

AJ PALATTAO:

q Were you told not to go away from the place?

a No Your Honor.