

SECOND DIVISION

[G.R. No. 111610, February 27, 2002]

ROMEO P. NAZARENO, PETITIONER, VS. HON. COURT OF APPEALS, HON. ENRIQUE M. ALMARIO, IN HIS CAPACITY AS PRESIDING JUDGE, RTC, BRANCH 15, NAIC, CAVITE, AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

DECISION

DE LEON, JR., J.:

Before us is a petition for review on certiorari of the Decision^[1] of the Court of Appeals dated June 30, 1993 in CA-G.R. SP No. 30306 which found and declared that no grave abuse of discretion attended the issuance of the Decision^[2] dated October 12, 1992 of Judge Enrique M. Almario of the Regional Trial Court of Naic, Cavite, Branch 15 in Criminal Case No. NC-564 dismissing, for having been filed out of time, petitioner's appeal from a judgment^[3] dated November 8, 1985, of conviction for serious physical injuries, rendered by the Municipal Trial Court of Naic, Cavite.

It appears that in an Information dated December 1, 1983 petitioner Romeo Nazareno and his wife, Elisa Nazareno, were charged with Serious Physical Injuries in the Municipal Trial Court of Naic, Cavite and that upon arraignment, both pleaded "not guilty" to the offense charged.

After trial on the merits, the said court set the promulgation of judgment for April 24, 1986, but the same was postponed due to petitioner's filing of a motion to re-open the case on the ground of non-presentation of a vital witness who could not be produced during the trial proper.^[4] Said motion was opposed by the prosecution. On November 27, 1987, after Presiding Judge Manuel C. Diosomito was suspended, Acting Municipal Trial Court Judge Aurelio Icasiano, Jr. issued a resolution denying the motion to re-open.^[5]

Petitioner brought the matter up to the Court of Appeals on certiorari with a prayer for a temporary restraining order/preliminary injunction, docketed as CA-G.R. SP No. 14329.^[6] In the meantime, Acting Municipal Trial Court Judge Icasiano, Jr. set the promulgation of judgment on April 15, 1988. On April 15, 1988, Acting Municipal Trial Court Judge Icasiano, Jr. promulgated the Decision^[7] dated November 8, 1985 of Judge Manuel C. Diosomito acquitting Elisa Nazareno but convicting the petitioner as charged. However, on the same date, the Court of Appeals in said CA-G.R. SP No. 14329 issued a temporary restraining order^[8] enjoining Judge Icasiano, Jr. from proceeding with the promulgation of said judgment since a copy of the same resolution containing the temporary restraining order was received by the Metropolitan Trial Court only after said date.

Petitioner thereafter filed in the Court of Appeals a supplemental petition in said CA-G.R. SP No. 14329 to declare the nullity of judgment, on the ground that the decision, having been signed by Judge Diosomito, should have also been promulgated by him, and not by Acting Judge Icasiano, Jr.^[9] Petitioner also alleged that the decision is void since at the time of the promulgation of the decision by Judge Icasiano, Jr., Judge Diosomito who signed the subject decision has already retired from office. Said supplemental petition, however, was denied by the Court of Appeals in its decision dated February 11, 1991.^[10] Reconsideration of the said decision of the appellate court was denied in a Resolution promulgated on March 13, 1991.^[11]

Petitioner interposed a petition for review on certiorari with the Supreme Court questioning the February 11, 1991 decision of the Court of Appeals but the same failed for having been filed out of time, more specifically twelve (12) days late. Petitioner's motion for reconsideration was denied by the Supreme Court in a Resolution dated September 18, 1991.^[12] On October 3, 1991, petitioner received a copy of the resolution denying his motion for reconsideration, and on the same date he filed his notice of appeal with the said Municipal Trial Court of Naic, appealing its decision to the Regional Trial Court.^[13]

On October 10, 1991, the records of the case were forwarded to the Regional Trial Court, Branch 15, Naic, Cavite, presided by the respondent Judge Enrique M. Almario who, in a decision dated October 12, 1992, dismissed the appeal of petitioner for having been filed out of time.^[14] Reconsideration was sought^[15] by petitioner but the same was denied by respondent Judge Almario in his Order dated February 4, 1993.^[16]

Undaunted, petitioner interposed a Petition for Mandamus and Certiorari with the Court of Appeals upon the premise that respondent Judge Almario, in dismissing the appeal, unlawfully neglected to perform a duty resulting from his office to give due course to petitioner's appeal which was already approved.^[17] The appellate court dismissed the petition.^[18] Petitioner sought^[19] reconsideration of the decision but the same was denied in a Resolution^[20] promulgated on August 10, 1993.

Hence, this petition, which raises four (4) issues for resolution, to wit:^[21]

I

THE APPEAL INTERPOSED BY PETITIONER AS ACCUSED IN CRIMINAL CASE NO. 2335 OF THE MUNICIPAL TRIAL COURT, PRESIDED BY THE RESPONDENT JUDGE WAS FILED ON TIME.

II

THE FILING OF A SUPPLEMENTAL PETITION, FOLLOWED BY A MOTION FOR RECONSIDERATION, IN CA-G.R. NO. 14329 (CRIMINAL CASE NO. 2335, MTC OF NAIC), AS WELL AS THE FILING OF A PETITION FOR REVIEW ON CERTIORARI WITH THE SUPREME COURT IN G.R. NO. 97812 AND FOLLOWED BY A MOTION FOR RECONSIDERATION INTERRUPTED THE RUNNING OF THE 15-DAY PERIOD WITHIN WHICH TO PERFECT

PETITIONER'S APPEAL FROM THE COURT DECISION OF THE MUNICIPAL TRIAL COURT OF NAIC IN CRIMINAL CASE NO. 2335.

III

THE RESPONDENT COURT AS WELL AS THE RESPONDENT JUDGE, CLEARLY COMMITTED OR EXCEEDED THEIR AUTHORITY OR ACTED IN EXCESS OF JURISDICTION WHEN THEY DISMISSED PETITIONER'S APPEAL FROM THE DECISION OF THE MUNICIPAL TRIAL COURT OF NAIC IN CRIMINAL CASE NO. 2335 TO THE REGIONAL TRIAL COURT IN CRIMINAL CASE NO. NC-564, AS WELL AS THEIR MOTION FOR RECONSIDERATION FILED IN CRIM. CASE NO. NC-564 AND IN CA-G.R. NO. 14329 OF THE RESPONDENT JUDGE AND THE RESPONDENT COURT RESPECTIVELY.

IV

UNDER THE CIRCUMSTANCES OF THE CASE AND IN THE EXERCISE OF ITS SOUND DISCRETION IN ORDER TO DISPENSE JUSTICE TO PETITIONER, THIS HONORABLE TRIBUNAL MAY VALIDLY AND LEGALLY GIVE DUE COURSE TO THE PRESENT PETITION AND TO DECLARE THE DECISION OF THE LOWER COURT AS NULL AND VOID AS THE TRIAL JUDGE WHO PENNED THE DECISION HAD LONG RETIRED FROM THE SERVICE AT THE TIME OF THE PROMULGATION OF THE SAID JUDGMENT ON APRIL 15, 1988.

At the outset, we note that, apparently, the crucial argument raised by the petitioner is but a repetition of his main assertion in his prior petition for review in G.R No. 97812 before this Court which, unfortunately, was dismissed on a technicality - failure to file the petition within the prescribed period. Considering the transcendental importance of the issues herein raised which involve the precious liberty of a person and to finally settle this cycle of unsettled questions of law, justice dictates that this Court resolve this petition on the merits.

There is one vital fact that renders the instant petition meritorious, which is petitioner's last issue for consideration, namely, the error committed by the trial judge, Judge Icasiano, Jr., in promulgating a decision penned by another judge, Judge Diosomito, who has ceased to be a member of the judiciary at the time of the promulgation of the decision.

A judgment promulgated after the judge who signed the decision has ceased to hold office is not valid and binding.^[22] Such a doctrine goes back to a 1917 decision, *Lino Luna v. Rodriguez and De los Angeles*.^[23] We reiterated this doctrine in the case of *People v. Labao*^[24] wherein we held that for a judgment to be valid, it must be duly signed and promulgated during the incumbency of the judge who signed it.^[25] Thus, a decision penned by a judge after his retirement cannot be validly promulgated; it cannot acquire a binding effect as it is null and void.^[26] *Qoud ab initio non valet, in tractu temporis non convalescit*.^[27]

In like manner, a decision penned by a judge during his incumbency cannot be validly promulgated after his retirement. When a judge retired all his authority to