

THIRD DIVISION

[G.R. No. 116512, July 30, 1996]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LEOPOLDO BACANG @ "POLDO," "GERRY BRAKO," AND "ARNOLD," FRANCISCO PALACIOS, @ "MINGGOY & JOE," TATA DOE, WILLIAM CASIDO @ "MARIO," AND FRANKLIN ALCORIN Y ALFARO @ "ARMAN," AND REO DOE, ACCUSED. WILLIAM CASIDO AND FRANKLIN ALCORIN, ACCUSED-APPELLANTS.

RESOLUTION

DAVIDE, JR., J.:

From the judgment of the Regional Trial Court (RTC) of Negros Oriental, Branch 45 (Bais City), in Criminal Case No. 397-B promulgated on 1 December 1993, finding them and co-accused Francisco Palacios guilty beyond reasonable doubt of murder and sentencing each of them to suffer the penalty of *reclusion perpetua* and to pay, severally, P200,000.00 and P25,000.00 as actual damages and for funeral expenses, respectively, and costs,^[1] accused WILLIAM CASIDO and FRANKLIN ALCORIN appealed to this court by filing a supplemental notice of appeal on 8 December 1993.^[2]

This Court accepted the appeal on 7 December 1994.^[3]

On 30 June 1995, counsel for accused-appellants filed the "Appellant's [sic] Brief."^[4]

On 28 September 1995, the Office of the Solicitor General filed the Brief for the Appellee^[5] and asked for the affirmance *in toto* of the appealed decision.

On 11 January 1996, this Court received an undated Urgent motion to Withdraw Appeal^[6] from accused-appellants William Casido and Franklin Alcorin which, however, did not state any reason therefor. At the lower portion thereof is a 1st Indorsement, dated 5 January 1996, of Venancio J. Tesoro, Superintendent IV of the Bureau of Corrections, referring the motion to this Court with a claim that "the legal effect " [thereof] has been adequately explained to the accused-appellant/s and that the same is/are filed on his/their own free will."

On 28 February 1996, this Court required counsel for the accused-appellants to comment on the urgent motion to withdraw the appeal.

On 22 March 1996, this Court received a 1st Indorsement, dated 18 March 1996,^[7] from Superintendent Venancio J. Tesoro informing this Court that accused-appellants William Casido and Franklin Alcorin "were released on Conditional Pardon on January 25, 1996."

On 20 May 1996, this Court directed Superintendent Venancio J. Tesoro to submit to this Court certified true copies of the Conditional Pardon and the release or discharge order.

On 29 April 1996, counsel for the accused-appellants filed the required comment^[8] on the urgent motion to withdraw the appeal and the counsel offered no objection thereto.

In a 1st Indorsement, dated 10 June 1996 but received on 14 June 1996, Superintendent Venancio J. Tesoro submitted certified true copies of the conditional pardons separately granted to accused-appellants William Casido and Franklin Alcorin^[9] both signed by the President on 19 January 1996 and of their certificates of discharge from prison^[10] showing that the said accused-appellants were released from confinement on 25 January 1996 in view of the grant of conditional pardon. These certificates stated that the pardons were granted:

[b]y virtue of the authority conferred upon me by the Constitution and upon the recommendation of the Presidential Committee for the Grant of Bail, Release and Pardon ...

It is then clear that the conditional pardons separately extended to the accused-appellants were issued during the pendency of their instant appeal.

In the resolution of 31 January 1995 in *People vs. Hinlo*,^[11] this Court categorically declared the "practice of processing applications for pardon or parole despite pending appeals" to be "in clear violation of law."

Earlier, in our resolution of 21 March 1991 in *People vs. Sepada*,^[12] this Court signified in no uncertain terms the necessity of a final judgment before parole or pardon could be extended.

Having observed that the pronouncements in the aforementioned cases remained unheeded, either through deliberate disregard or erroneous applications of the *obiter dictum* in *Monsanto vs. Factoran*^[13] or the ruling in *People vs. Crisola*,^[14] this Court, in its resolution of 4 December 1995 in *People vs. Salle*,^[15] explicitly declared:

We now declare that the "conviction by final judgment" limitation under Section 19, Article VII of the present Constitution prohibits the grant of pardon, whether full or conditional, to an accused during the pendency of his appeal from his conviction by the trial court. Any application therefor, if one is made, should not be acted upon or the process toward its grant should not be begun unless the appeal is withdrawn. Accordingly, the agencies or instrumentalities of the Government concerned must require proof from the accused that he has not appealed from his conviction or that he has withdrawn his appeal. Such proof may be in the form of a certification issued by the trial court or the appellate court, as the case may be. The acceptance of the pardon shall not operate as an abandonment or waiver of the appeal, and the release of an accused by virtue of a pardon, commutation of sentence, or parole before the withdrawal of an appeal shall render those responsible therefor