SUPREME COURT
EN BANC

DOMINGO DE GUZMAN,
***Petitioner*,**

-versus-

G.R. No. 103276
April 11, 1996

THE SANDIGANBAYAN (Second Division) and the PEOPLE OF THE PHILIPPINES,
***Respondents*.**
x----------x

R E S O L U T I O N

SEPARATE OPINIONS
VITUG, J ., dissenting:

DECISION dated April 12, 1994

FRANCISCO, *J.*:

The Court in its June 16, 1994 En Banc Resolution[1] denied with finality petitioner's motion for reconsideration of the Court's April 12, 1994 Decision[2] affirming his conviction by the Sandiganbayan[3] of violation of Section 3(e) of the "Anti-Graft and Corrupt Practices Act"[4] for his alleged failure to account for P200,000.00 received for certain official training programs of the Department of Agriculture. Entry of judgment was ordered to be made in due course.[5] Six (6)

years and one (1) month as minimum, to nine (9) years and one (1) day as maximum in jail await petitioner.

As the Sandiganbayan and the Court saw it then, petitioner's guilt was duly established by 1) lone prosecution witness Josephine Angeles'[6] testimony that no such training programs were held at the designated places,[7] and 2) petitioner's failure to present a single receipt to support due disbursement of the P200,000.00, resulting from his former lawyers' insistence in filing a demurrer to evidence despite prior leave for that purpose having been denied by the Sandiganbayan.

To avert his looming imprisonment and with full awareness that he has nothing in our Rules of Court to rely on, petitioner takes a novel recourse by filing the instant "Omnibus Motion For Leave to Vacate First Motion For Reconsideration In The Light Of The Present Developments And To Consider Evidence Presented Herein And To Set Aside Conviction."[8] This was filed on petitioner's behalf by a new counsel, as shown by the "Entry of Appearance and Motion For Leave To Submit Attached Omnibus Motion" filed on June 27, 1994[9] after petitioner's former lawyers withdrew their appearance.[10]

In this Omnibus Motion, petitioner, for the first time, seeks to be relieved from what he considers as the serious and costly mistake of his former lawyers[11] in demurring to the prosecution evidence after court leave was denied, the effect of which deprived him of presenting before the Sandiganbayan the pieces of documentary evidence that would have completely belied the accusation against him. Annexed to the Omnibus Motion are photocopies of the list of expenses and receipts[12] in support of the liquidation voucher (Exhibit "E") showing due disbursement of the P200,000.00 received for training programs actually conducted — the original records of which are all along kept in the Records Section of the Bureau of Plants Industry as per letter of the Bureau Director Emillano P. Gianzon[13] and which are readily available. Petitioner now appeals to the Court's sense of justice and equity that these documents be summoned and appreciated by the Court itself or by the Sandiganbayan after remanding the case thereto, if only to give him the final chance to prove his innocence.

When required by the Court to comment on the "Omnibus Motion,"[14] the Solicitor General, representing respondents, was granted no less than eight (8) extensions to do so,[15] the last one with warning that no further extension will be given. None was filed. Instead, the Solicitor General filed a ninth (9th) motion for extension which was denied considering the warning contained in the eighth (8th) extension.[16] The tenth (10th) motion for extension was merely noted by the Court.[17] Thereafter, the Court in a Resolution dated August 15, 1995 required the Solicitor General's Office to 1) SHOW CAUSE why it should not be disciplinarily dealt with for its repeated failure to file comment and 2) file its comment, both within ten (10) days from notice. In compliance therewith, the Solicitor General's Office filed its Comment and Explanation. The Court accepted such Explanation, noted the Comment filed and required petitioner to file a Reply thereto within ten (10) days from notice in a Resolution dated October 10, 1995. A Reply was thus filed by petitioner in due time.

The Solicitor General's Office advances the following arguments in its Comment:

1. Petitioner's "Omnibus Motion" is violative of the Court's adopted policy on second motions for reconsideration as expressed in a Resolution dated April 7, 1988 stating that:

   > "Where the Court has resolved to deny a motion for reconsideration and decrees the denial to be final, no motion for leave to file second motion for reconsideration shall be entertained."

2. Petitioner is bound by the mistake of his former lawyers, assuming that the latter indeed committed one.

3. Even granting the petitioner is not bound by his former lawyer's mistake, the documentary evidence petitioner now attempts to present would nonetheless not cast at all a reasonable doubt on his guilt for violation of Section 3 of R.A. No. 3019, as amended, to warrant a reversal of his conviction by the Sandiganbayan.

Petitioner's Reply, on the other hand, contains the following counter-arguments:

1. The "Omnibus Motion" is not violative of the prohibition on second motions for reconsideration since such motion does not seek leave to file a second motion for reconsideration but for leave to vacate the first Motion For Reconsideration filed on May 6, 1994 and in its stead to admit the "Omnibus Motion" containing the petitioner's documentary evidence and arguments. Thus, petitioner's Motion to vacate the first motion for reconsideration is but necessary to his defense that he should be excused from the mistake of his former lawyers.

2. Adherence to the general rule that the client is bound by his counsel's mistake is to deprive petitioner of his liberty through a technicality.

3. The pieces of evidence petitioner is now presenting for appreciation either by this Court or the Sandiganbayan will, contrary to the OSG's claim, disprove his guilt of the charge levelled against him.

After carefully considering anew petitioner's plight and keeping in mind that substantial rights must ultimately reign supreme over technicalities, this Court is swayed to reconsider.

The power of this Court to suspend its own rules or to except a particular case from its operations whenever the purposes of justice require it, cannot be questioned.[18] In not a few instances, this Court ordered a new trial in criminal cases on grounds not mentioned in the statute, viz: retraction of witness,[19] negligence or incompetency of counsel,[20] improvident plea of guilty,[21] disqualification of an attorney de oficio to represent the accused in trial court,[22] and where a judgment was rendered on a stipulation of facts entered into by both the prosecution and the defense.[23] Similarly, in a considerable host of cases has this prerogative been invoked to relax even procedural rules of the most mandatory character in terms of compliance, such as the period to appeal. Take for instance the relatively recent case of "PNB, et al. vs. CA, et al."[24] where the Court

once again extended this liberality of allowing an appeal filed beyond the reglementary 15-day period. It should be noted that Mr. Justice Melo, while dissenting therein,[25] nonetheless made this crucial observation:

> "The majority opinion, with due respect would suspend the rule-actually the law — for what it says are 'petitioners' detailed demonstration of the merits of the appeal' without, however, delving on such so-called 'merits'. The simple merits of one's case, lost through neglect, to my mind should not automatically call for the suspension of applicable rules, laws, or jurisprudence. At the very least. before this may be done transcendental matters. surely, life, liberty, or the security of the State, should be at risk, but obviously, not simple matters which can be reduced to pesos and centavos." (Emphasis supplied)

Clearly, when "transcendental matters" like life, liberty or State security are involved, suspension of the rules is likely to be welcomed more generously.

Petitioner's present dilemma is certainly not something reducible to pesos and centavos. No less than his liberty is at stake here. And he is just about to lose it simply because his former lawyers pursued a carelessly contrived procedural strategy of insisting on what has already become an imprudent remedy, as aforediscussed, which thus forbade petitioner from offering his evidence all the while available for presentation before the Sandiganbayan. Under the circumstances, higher interests of justice and equity demand that petitioner be not penalized for the costly importunings of his previous lawyers based on the same principles why this Court had, on many occasions where it granted new trial, excused parties from the negligence or mistakes of counsel.[26] To cling to the general rule in this case is only to condone rather than rectify a serious injustice to petitioners whose only fault was to repose his faith and entrust his innocence to his previous lawyers. Consequently, the receipts and other documents constituting his evidence which he failed to present in the Sandiganbayan are entitled to be appreciated, however, by that forum and not this Court, for the general rule is that we are not triers of facts. Without prejudging the result of such appreciation, petitioner's

documentary evidences prima facie appear strong when reckoned with the lone prosecution witness Angeles' testimony, indicating that official training programs were indeed actually conducted and that the P200,000.00 cash advance he received were spent entirely for those programs. In this connection, the Court in "US vs. Dungca,"[27] had occasion to state that:

> "the rigor of the rule might in an exceptional case be relaxed, this would be done only under very exceptional circumstances, and in cases where a review of the whole record taken together with the evidence improvidently omitted would clearly justify the conclusion that the omission had resulted in the conviction of one innocent of the crime charged."(Emphasis supplied)

Let us not forget that the rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided. Even the Rules of Court envision this liberality.[28] This power to suspend or even disregard the rules can be so pervasive and encompassing so as to alter even that which this Court itself has already declared to be final, as we are now compelled to do in this case. And this is not without additional basis. For in "Ronquillo vs. Marasigan,"[29] the Court held that:

> "The fact that the decision has become final, does not preclude a modification or an alteration thereof because even with the finality of judgment. when its execution becomes impossible or unjust. as in the instant case. it may be modified or altered to harmonize the same with justice and the facts." (Emphasis supplied)

The Rules of Court was conceived and promulgated to set forth guidelines in the dispensation of justice but not to bind and chain the hand that dispenses it, for otherwise, courts will be mere slaves to or robots of technical rules, shorn of judicial discretion. That is precisely why courts in rendering real justice have always been, as they in fact ought to be, conscientiously guided by the norm that when on the balance, technicalities take a backseat against substantive rights, and not the other way around. Truly then, technicalities, in the

appropriate language of Justice Makalintal, "should give way to the realities of the situation."[30] And the grim reality petitioner will surely face, if we do not compassionately bend backwards and flex technicalities in this instance, is the disgrace and misery of incarceration for a crime which he might not have committed after all. More so, considering that petitioner's record as public servant remained unscathed until his prosecution. Indeed, "while guilt shall not escape, innocence should not suffer."[31]

In resume, this is a situation where a rigid application of rules of procedure must bow to the overriding goal of courts of justice to render justice where justice is due — to secure to every individual all possible legal means to prove his innocence of a crime of which he is charged. To borrow Justice Padilla's words in "People vs. CA, et al.,"[32] (where substantial justice was upheld anew in allowing therein accused's appeal despite the withdrawal of his notice of appeal and his subsequent escape from confinement) that "if only to truly make the courts really genuine instruments in the administration of justice", the Court believes it imperative, in order to assure against any possible miscarriage of justice resulting from petitioner's failure to present his crucial evidence through no fault of his, that this case be remanded to the Sandiganbayan for reception and appreciation of petitioner's evidence.

WHEREFORE, petitioner's "Omnibus Motion" is **GRANTED** and the Court's April 12, 1994 Decision and June 16, 1994 Resolution are hereby **RECONSIDERED**. Accordingly, let this case be **REMANDED** to the Sandiganbayan for reception and appreciation of petitioner's evidence. No costs.

SO ORDERED.

Narvasa, *C.J.*, Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Kapunan, Mendoza, Hermosisima, Jr. and Panganiban, *JJ.*, concur.
Torres, Jr., took no part.

SEPARATE OPINION

VITUG, J ., dissenting:

I reiterate my dissent from the decision now being reconsidered accordingly.

I vote for acquittal even now.

---

[1] Rollo, p. 221.
[2] Rollo, pp. 197-203.
[3] Decision dated November 19, 1991, Annex "A", Rollo, pp. 30-43.
[4] R.A. 3019.
[5] June 16, 1994 En Banc Resolution, p. 221 Rollo.
[6] Training Officer and Chief of Bureau of Plant Industry from 1985 to 1986.
[7] Ipil, Zamboanga del Sur and Baguio City.
[8] Rollo, pp. 227-243.
[9] Rollo, p. 225.
[10] Rollo, p. 222.
[11] Attys. V.E. del Rosario and Eduardo R. Robles.
[12] Annexes "B" to "GG", pp. 245-276, Rollo.
[13] Annex "A", p. 244, Rollo.
[14] En Banc Resolution dated July 5, 1994, p. 279, Rollo.
[15] Resolutions of August 25, 1994, September 13, 1994, October 18, 1994, November 22, 1994 December , 1994 January 10, 1995, January 24, 1995 and March 7, 1995.
[16] Resolution of April 4, 1995.
[17] Resolution of May 23, 1995.
[18] Ronquillo vs. Marasigan, 5 SCRA 304; Picson vs. Court of Appeals, 190 SCRA 31.
[19] People vs. Oscar Castelo, et. al., 111 Phil. 54.
[20] U.S. vs. Gimenez, 34 Phil. 74.
[21] People vs. Solacito, L-29209, August 25, 199, 27 SCRA, 1037; people vs. Mengote, et. al., L-30343, July 25, 1975; People vs. Vicente del Rosario, L-33270, November 28, 1975.
[22] U.S. vs. Laranja, 21 Phil. 500.
[23] U.S. vs. Pobre, 11 Phil. 51.
[24] G.R. No. 108870, July 14, 1995, granting therein petitioner's Motion for Reconsideration.

[25] Joined by Justices Puno and Kapunan.
[26] U.S. vs. Gimenez, ibid.
[27] 27 Phil. 274.
[28] Aznar III vs. Bernad, 11 SCRA 276; Picson vs. court of Appeals, 190 SCRA 31.
[29] 5 SCRA 304.
[30] Urbayan vs. Caltex, 5 SCRA 1016; Economic Insurance Co. vs. Uy Realty, 34 SCRA 749.
[31] Suarez vs. Platon, 9 Phil. 556 (quoting Justice Sutherland of the U.S. Supreme Court, 9 U.S. Law Review, June 1935, No. , p. 309).
[32] G.R. No. 104709, March 7, 1995.