



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NEIL E. SUYAN,
Petitioner,

G.R. No. 189644

Present:

- versus -

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BRION,*
VILLARAMA, JR. and
REYES, *JJ*.

PEOPLE OF THE PHILIPPINES
AND THE CHIEF PROBATION
AND PAROLE OFFICER,
DAGUPAN CITY,
Respondents.

Promulgated:

JUL 02 2014

x

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RESOLUTION

SERENO, *CJ*:

Before this Court is an appeal from the Decision¹ of the Court of Appeals (CA) dated 27 March 2009, which affirmed the Orders dated 31 March 2006² and 26 June 2006³ of the Regional Trial Court (RTC) of Dagupan City. The RTC found that Neil E. Suyan (petitioner) had violated the conditions of his probation and thus, ordered that his probation be revoked. The instant petition likewise assails the Resolution dated 9 September 2009⁴, which denied petitioner's Motion for Reconsideration of the aforementioned Decision dated 27 March 2009.

The facts as found by the CA are summarized as follows:

On 27 October 1995, an Information was filed against petitioner, charging him with violation of Section 16, Article III of Republic Act (R.A.)

* Designated additional member in lieu of Associate Justice Lucas P. Bersamin per raffle dated 24 March 2014.

¹ *Rollo*, pp. 43-52; Penned by Associate Justice Pampio A. Abarintos, concurred in by Associate Justices Amelita G. Tolentino and Ramon R. Garcia, in CA-G.R. SP No. 95426.

² *Id.* at 106-107.

³ *Id.* at 114.

⁴ *Id.* at 54-55; Penned by Associate Justice Pampio A. Abarintos, concurred in by Associate Justices Amelita G. Tolentino and Ramon R. Garcia, in CA-G.R. SP No. 95426.

No. 6425.⁵ During arraignment, he pleaded guilty to the charge. The RTC thereafter proceeded with trial.

On 22 November 1995, petitioner was convicted of the crime, for which he was sentenced to suffer the penalty of six (6) years of *prision correccional* and to pay the costs. On even date, he filed his application for probation.

On 16 February 1996, the RTC issued a Probation Order covering a period of six (6) years.⁶

While on probation, petitioner was arrested on two occasions, more specifically on 2 September and 20 October 1999⁷ for violating Section 16, Article III of R.A. No. 6425. Two separate Informations were filed against him, both of which were filed with the RTC of Dagupan City. One of these cases was docketed as Criminal Case No. 99-03073-D before Branch 43 (Branch 43 case), and the other case as Criminal Case No. 99-03129-D before Branch 41.

On 1 December 1999, Atty. Simplicio A. Navarro, Jr. (Atty. Navarro), then the Chief Probation and Parole Officer of Dagupan City, filed a Motion to Revoke Probation (Motion to Revoke).⁸ Atty. Navarro alleged that petitioner has been apprehended twice for drug possession while on probation. The former further alleged that petitioner was considered a recidivist, whose commission of other offenses while on probation was a serious violation of the terms thereof. Atty. Navarro also pointed out that petitioner was no longer in a position to comply with the conditions of the latter's probation, in view of his incarceration.⁹

On 15 December 1999, the RTC issued an order revoking the probation of petitioner and directing him to serve the sentence imposed upon him.¹⁰ It denied¹¹ his Motion for Reconsideration.¹²

⁵ Sec. 16 of Republic Act No. 6425 states:

Section 16. *Possession or Use of Regulated Drugs.* The penalty of imprisonment ranging from six months and one day to four years and a fine ranging from six hundred to four thousand pesos shall be imposed upon any person who shall possess or use any regulated drug without the corresponding license or prescription.

⁶ *Rollo*, p. 56.

⁷ *Supra* note 4.

⁸ *Rollo*, pp. 56-57.

⁹ *Id.* at 56.

¹⁰ *Id.* at 58-59.

¹¹ *Id.* at 64.

¹² *Id.* at 60-61.

Aggrieved, on 6 April 2000 petitioner filed a Rule 65 Petition¹³ with the CA (first CA case),¹⁴ wherein he assailed the revocation of his probation. He argued that he was denied due process as he was not furnished with a copy of the Motion to Revoke; and when the motion was heard, he was not represented by his counsel of record.¹⁵

On 2 January 2006, the CA in its Decision,¹⁶ granted the Rule 65 Petition by annulling and set aside RTC's revocation of petitioner's probation. The CA ruled that the trial court had not complied with the Probation Law and the procedural requisites for the revocation of probation under the Revised Rules on Probation Methods and Procedures, enumerated as follows:¹⁷

1. No fact-finding investigation of the alleged violations was conducted by the Probation Officer.
2. The Probation Office should have reported to respondent court the result of said investigation, if any, upon its completion.
3. There was no Violation Report under P.A. Form No. 8, the contents of which are enumerated under Section 38 of the Revised Rules on Probation Methods and Procedures.
4. No warrant of arrest was issued by respondent court after considering the nature and seriousness of the alleged violations based on the report, if any.
5. The petitioner should have been brought to respondent court for a hearing of the violations charged, during which petitioner – with the right to counsel – should have been informed of the violations charged and allowed to adduce evidence in his favor.

The CA ordered the remand of the case to the RTC for further proceedings, for the purpose of affording petitioner his right to due process pursuant to Presidential Decree (PD) No. 968, and the Revised Rules on Probation Methods and Procedures.

In compliance with the CA Decision, the RTC conducted a hearing on the Motion to Revoke.¹⁸ On 17 February 2006, a Violation Report dated 13

¹³ Id. at 65-73.

¹⁴ Docketed as CA-G.R. SP No. 58406, entitled "*Neil E. Suyan v. The Honorable Presiding Judge, RTC, Branch 43, Dagupan City, The People of the Philippines and the Chief Probation and Parole Officer, Dagupan City.*"

¹⁵ *Rollo*, p. 93.

¹⁶ Id. at 91-99.

¹⁷ Id. at 95, 97.

¹⁸ Id. at 106; Order dated 31 March 2006.

February 2006¹⁹ was filed by the Dagupan City Parole and Probation Office recommending the revocation of probation.²⁰ The Violation Report provides in part:

D. CASE SUMMARY

At the outset of his probation period, probationer showed manifested negative attitude by incurring absences and not attending rehabilitation activities despite constant follow-up by his supervising officers. He continued with his illegal drug activities despite counselling and warning from this Office.

Obviously, probationer has failed to recognize the value of freedom and second chance accorded him by the Honorable Court, his conduct and attitude bespeaks of his deviant character, hence he is unworthy to continuously enjoy the privilege of probation.

On 22 March 2006, the prosecution submitted its Formal Offer of Evidence. A Certification dated 23 January 2006 (Certification),²¹ issued by Manuel Z. de Guzman, was offered as evidence to prove that petitioner had been convicted in the Branch 43 case (one of the two cases subsequently filed against him, as stated earlier); and that he had served his sentence from 30 September 2000 until his release, by reason of the expiration of his maximum sentence on 8 September 2003. Thereafter, petitioner filed his Comment on the Formal Offer without disputing the Certification.²²

On 31 March 2006, the RTC issued an Order²³ revoking the probation. It ruled that it had granted petitioner due process by affording him the full opportunity to contest the Motion to Revoke; but that instead of rebutting the Violation Report, he merely questioned the absence of a violation report when his probation was first revoked.²⁴ The RTC further held that there was positive testimony and documentary evidence showing that petitioner had indeed violated the conditions of his probation. He never rebutted the fact of his commission of another offense and conviction therefor while on probation.²⁵ He filed a Motion for Reconsideration,²⁶ but it was denied.²⁷

Aggrieved, petitioner again filed an appeal with the CA.²⁸ This time, he alleged that he had been deprived of his constitutional right to due

¹⁹ CA *rollo*, pp. 65-67.

²⁰ *Id.* at 66.

²¹ *Rollo*, p. 246.

²² *Id.* at 47.

²³ *Id.* at 106-107.

²⁴ *Id.* at 107.

²⁵ *Id.*

²⁶ *Id.* at 108-113.

²⁷ *Id.* at 114.

²⁸ *Id.* at 115-129.

process when his probation was ordered revoked.²⁹ He further alleged that he had not been given ample opportunity to refute the alleged violations committed by him while on probation. The probation officer did not conduct a fact-finding investigation of the alleged violations, and, consequently, petitioner was not furnished any results. After considering the nature and seriousness of the alleged violations, the RTC did not issue any warrant for his arrest, as he had not been afforded an opportunity to adduce evidence in his favor with the assistance of his counsel.³⁰

With regard to the specific grounds for revocation, petitioner claimed that the evidence adduced against him did not refer to the grounds cited in the Motion to Revoke, but instead, the evidence referred to alleged violations of Condition Nos. 3, 9 and 10 of the Probation Order.

The CA denied his appeal. With regard to the procedural issues discussed in the assailed Decision, it ruled that petitioner was afforded due process. A full-blown trial was conducted precisely to allow him to refute the allegations made in the Motion to Revoke. It held further that petitioner wasted this opportunity when, instead of rebutting the allegations mentioned in the Violation Report, he merely questioned the absence of such a report when his probation was first revoked. It added that the procedural infirmities in the Motion to Revoke were cured when the RTC conducted a hearing in accordance with the directive laid down in the First CA Case.

With regard to the substantive issue of revocation, the CA ruled that, for having been apprehended twice for the commission of two offenses similar in nature, petitioner violated one of the conditions prescribed in the Probation Order. He even admitted to having served out his sentence for those offenses.

Aggrieved yet again, petitioner filed an appeal with this Court. On procedural grounds, he alleges that there was no fact-finding investigation of the alleged violations conducted by the probation officer, and thus no results were furnished him. Likewise, no warrant of arrest was issued by the RTC. Neither was he afforded any opportunity to adduce evidence in his favor with the assistance of counsel.

On substantive grounds, petitioner alleges that he already showed repentance after his conviction. In his first case, he readily admitted his accountability by pleading guilty to the charge. Thus, he was convicted and he subsequently applied for probation. He further alleges that, of the two cases filed against him, one was ordered dismissed; he has already served his

²⁹ Id. at 120.

³⁰ Id. at 121.

sentence for the other. Since then, no derogatory information has been received either by the probation office or the trial court. Petitioner points out that he has already reformed his ways and is thus entitled to the grace of law. He contends that the CA should have ordered him to resume his probation pursuant to the positivist theory adopted in our criminal justice system.

ISSUE

The sole issue to be resolved in the instant case is whether the probation was validly revoked.

THE COURT'S RULING

We rule that the probation of petitioner was validly revoked.

On the procedural grounds, we do not subscribe to his contention that his right to due process was violated after the RTC had already conducted a full-blown trial on the Motion to Revoke, in compliance with the directive of the CA. Based on record, he had ample opportunity to refute the allegations contained in the Violation Report.

The essence of due process is that a party is afforded a reasonable opportunity to be heard in support of his case; what the law abhors and prohibits is the absolute absence of the opportunity to be heard.³¹ When the party seeking due process was in fact given several opportunities to be heard and to air his side, but it was by his own fault or choice that he squandered these chances, then his cry for due process must fail.³²

We adopt the ruling of the CA in that petitioner squandered his own opportunity when, instead of rebutting the allegations mentioned in the Violation Report, he merely questioned the absence of any such report when his probation was first revoked.

On substantive grounds, we believe that there was sufficient justification for the revocation of his probation.

Petitioner does not deny the fact that he has been convicted, and that he has served out his sentence for another offense while on probation. Consequently, his commission of another offense is a direct violation of Condition No. 9 of his Probation Order,³³ and the effects are clearly outlined in Section 11 of the Probation Law.

³¹ *Yuchengco v. Sandiganbayan*, 479 SCRA 1 (2006).

³² *Heirs of Bugarin v. Republic*, G.R. No. 174431, 6 August 2012.

³³ *Rollo*, p. 45.

Section 11 of the Probation Law provides that the commission of another offense shall render the probation order ineffective. Section 11 states:

Sec. 11. Effectivity of Probation Order. — A probation order shall take effect upon its issuance, at which time the court shall inform the offender of the consequences thereof and explain that upon his failure to comply with any of the conditions prescribed in the said order or **his commission of another offense, he shall serve the penalty imposed for the offense under which he was placed on probation.** (Emphasis supplied)

Based on the foregoing, the CA was correct in revoking the probation of petitioner and ordering him to serve the penalty for the offense for which he was placed on probation.

As probation is a mere discretionary grant, petitioner was bound to observe full obedience to the terms and conditions pertaining to the probation order or run the risk of revocation of this privilege.³⁴ Regrettably, petitioner wasted the opportunity granted him by the RTC to remain outside prison bars, and must now suffer the consequences of his violation.³⁵ The Court's discretion to grant probation is to be exercised primarily for the benefit of organized society and only incidentally for the benefit of the accused.³⁶ Having the power to grant probation, it follows that the trial court also has the power to order its revocation in a proper case and under appropriate circumstances.³⁷

WHEREFORE, premises considered, the Petition is **DENIED**. The Court of Appeals Decision dated 27 March 2009 and Resolution dated 9 September 2009 in CA-G.R. SP No. 95426 are both **AFFIRMED**.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson


³⁴ See *Jalosjos, Jr. v. COMELEC*, G.R. Nos. 193237 & 193536, 9 October 2012.


³⁵ *Soriano v. Court of Appeals*, G.R. No. 123936, 4 March 1999.


³⁶ *Tolentino v. Alconcel*, 206 Phil. 79 (1983).

³⁷ *Supra* note 32.

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

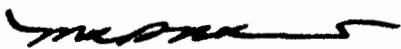

ARTURO D. BRION
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice