



SUPREME COURT OF THE PHILIPPINES
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**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

**IN RE: THE WRIT OF HABEAS
CORPUS FOR MICHAEL
LABRADOR ABELLANA
(Petitioner, detained at the New
Bilibid Prisons, Muntinlupa City),**

G.R. No. 232006

Present:

**CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
LAZARO-JAVIER, JJ.**

- versus -

Promulgated:

10 JUL 2019

MANCABALOG PERFECTO

**HON. MEINRADO P. PAREDES,
in his capacity as Presiding Judge,
Regional Trial Court of Cebu City
Branch 13, PEOPLE OF THE
PHILIPPINES, S/SUPT
BENJAMIN DELOS SANTOS
(ret.), in his capacity as Chief of
Bureau of Corrections,
Respondents.**

X-----X

DECISION

CAGUIOA, J.:

Before the Court is a petition for the issuance of the writ of *habeas corpus* under Rule 102 of the Rules of Court. Petitioner Michael Labrador Abellana (petitioner) prays for his release from prison on the ground that he has been deprived of his rights to due process and to competent counsel.

The Facts

Petitioner was charged before Branch 13, Regional Trial Court, Cebu City (RTC) with violation of Sections 11 and 12, Article II of Republic Act No. (R.A.) 9165 or the Comprehensive Dangerous Drugs Act of 2002. The factual findings by the RTC in its Decision are as follows:

A search warrant was issued against herein accused by the presiding judge of this court. The accused who is Michael Badajos also known as Michael Badayos is a resident of Bgy. Suba, Cebu City. The search warrant was for violation of Section 11, Article II of RA 9165.

When the team led by P/Supt. Labra arrived, the accused was present. They identified themselves as police officers and informed the accused of the existence of the search warrant. PO2 Maglinte was designated as searcher while PO2 dela Victoria was designated recorder. The search was done in the presence of the accused and barangay tanods of Bgy. Suba.

The sala of the 2-storey house was searched first. Then they found the hanged pants of the accused in the window. There was no other male person in the house. They found in the said front pocket of the accused the following items:

1. Big transparent plastic pack of white crystalline substance believed to be *shabu*. They marked it SW-MAB-01. They also found *shabu* paraphernalia consisting of the following:

One scissor;
Two disposable lighters;
One improvised clip;
One rolled aluminum tinfoil;
One improvised burner;
Six assorted sizes of empty plastic packs;
One improvised funnel inside a plastic pack (Exh. D).¹

Subsequently, petitioner was charged on the basis of the following Informations:

CBU-77150

That on or about the 26th day of May 2008 at about 4:30 p.m. in the City of Cebu, Philippines and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, did then and there have in his possession and under his control one (1) heat-sealed transparent plastic packs of white crystalline substance weighing 6.89 [grams] locally known as "shabu" containing methylamphetamine hydrochloride, a dangerous drug, without authority of law.

CONTRARY TO LAW.

¹ Rollo, pp. 66-67.

CBU-77151

That on the 26th day of May 2008 at about 4:30 p.m. in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent and without any lawful purpose, did then and there have in his possession and control the following:

- a) One (1) scissor
- b) Two (2) disposable lighters
- c) One (1) improvised clip
- d) One (1) rolled aluminum tin foil
- e) One (1) improvised burner
- f) Assorted sizes of empty packs to be used in repacking *shabu*
- g) One (1) improvised funnel

which are instruments or equipments (*sic*) fit or intended for smoking, consuming, administering, ingesting or introducing any dangerous drug into the body.

CONTRARY TO LAW.²

Petitioner pleaded not guilty to the crimes charged in both Informations.³

He thereafter filed a Motion to Quash Search Warrant, which was denied by the RTC in an Order dated September 15, 2006.⁴ After the pre-trial, the trial for the case ensued. Petitioner was represented then by Atty. Dario Rama, Jr. (Atty. Rama).⁵

On November 9, 2007, petitioner filed a Motion for Physical Re-examination and Re-weighing of the alleged *shabu* confiscated from him, which was granted by the RTC. The Qualitative Report revealed that the actual weight of the drugs seized was 4.4562 grams and not 6.89 grams. As a result, petitioner was able to file a Petition for Bail, which was granted.⁶ Thus, on April 4, 2008, petitioner was released from detention after furnishing the bail bond.⁷

After the prosecution rested its case, petitioner filed a demurrer to evidence, which was denied.⁸

On December 3, 2008, Atty. Raul Albura (Atty. Albura) filed his Entry of Appearance⁹ as counsel for petitioner.

On April 30, 2009, the RTC issued an Order¹⁰ submitting the case for decision for failure of petitioner and his counsel to appear during the

² Id. at 65-66.

³ Id. at 66.

⁴ Id. at 48-49.

⁵ Id. at 11.

⁶ Id. at 11, 56-57 and 58.

⁷ Id. at 59.

⁸ Id. at 12.

⁹ Id. at 60.

¹⁰ Id. at 61.



scheduled hearing on even date for initial presentation of evidence for the defense.¹¹

On July 25, 2009, petitioner, through Atty. Albura, filed an Urgent Motion to Defer Promulgation of Judgment.¹² Petitioner claimed that he received a copy of the July 17, 2009 Notice setting the promulgation of judgment on July 29, 2009 at 9:30 a.m. only on July 22, 2009. Petitioner also made the following claims:

x x x the Honorable Court, ordered the accused to present his witness starting September 10, 2008. Unfortunately, **he failed to testify or present witnesses because x x x there was no proper guidance of his previous counsel** [which] he observed [as] not [being able to defend] his case diligently as exemplified by: a) failure to quash the search warrant before arraignment[; and] b) failure to file the Demurrer to Evidence on time.

Finally, last September 24, 2008 hearing, accused **manifested [to] the Honorable Court [his desire to replace or change] his counsel**. Due to financial constraints, it took him until December 9, 2008 to engage the services of **Atty. Raul A. Albura, who entered his appearance** on the same date.

x x x Unfortunately, **the present counsel was never furnished copies of any [order, process and notice] from this Honorable Court** since the time he represented the accused despite filing a formal Entry of Appearance received by the court last December 9, 2008 x x x.

In fact, **the undersigned counsel accidentally received the Notice of Promulgation of Judgment** when he visited the court's office to follow-up his Notarial Petition.

x x x In view of the foregoing, **the promulgation of judgment in this case without giving the accused an opportunity to adduce his defense** either testimonial or documentary is **a denial of his constitutional right to due process.**¹³ (Emphasis and underscoring supplied)

Rulings of the RTC

On July 29, 2009, the RTC promulgated its Decision¹⁴ dated May 11, 2009,¹⁵ the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered finding accused MICHAEL L. ABELLANA[,] also known as MICHAEL BADAYOS[,] **GUILTY beyond reasonable doubt** of the crime of violation of Section 11, Art. II, RA 9165, and sentences him to TWELVE (12) YEARS AND ONE (1) DAY TO FIFTEEN (15) YEARS of imprisonment, subject to [a] fine in the amount of THREE HUNDRED THOUSAND PESOS (P300,000.00)[;] and for violation of Section 12, Art. 2, RA 9165[,] he is hereby sentenced to suffer SIX (6) MONTHS AND ONE (1) DAY TO FOUR (4) YEARS of

¹¹ Id. at 12.

¹² With Manifestation to Submit A Memorandum, id. at 62-64.

¹³ Id. at 62-63.

¹⁴ Id. at 65-68; penned by Judge Meinrado P. Paredes.

¹⁵ Id. at 12 and 155.



imprisonment and a fine in the amount of TEN THOUSAND PESOS (P10,000.00).¹⁶

Motion for New Trial or Reconsideration

On August 13, 2009, petitioner filed a Motion for New Trial or Reconsideration.¹⁷ He alleged that his rights as an accused had been prejudiced by some irregularities committed during trial. Specifically, he claimed that he had been deprived of his right to due process because he had not been properly notified ever since Atty. Albura became his new counsel and that in total, Atty. Albura received only two notices involving the case, which included the Notice of Promulgation of Judgment.¹⁸ Petitioner also discussed the merits of his case, claiming that there were errors of fact in the RTC Decision.¹⁹

On August 28, 2009, the RTC issued a Warrant of Arrest²⁰ against petitioner.

On November 25, 2009, the RTC issued a Show Cause Order²¹ against Atty. Albura to explain why he should not be held in contempt for the following statements in petitioner's Motion for New Trial or Reconsideration:

x x x Although, **counsel acknowledged his part of the blame for his failure to attend the said promulgation** but with a reason **as a sign of a protest** premised on the foregoing circumstances especially that counsel tried to defer the promulgation of the judgment by filing an "Urgent Motion to Defer the Promulgation of Judgment with a Manifestation to Submit a Memorandum" filed last July 27, 2009.²² (Emphasis supplied)

On December 28, 2009, the RTC issued an Order²³ denying petitioner's Motion for New Trial or Reconsideration on the basis of the last paragraph of Section 6, Rule 120 of the Rules of Court, which provides:

SECTION 6. *Promulgation of judgment.* — x x x

x x x x

If the judgment is for conviction and the failure of the accused to appear was without justifiable cause, he shall lose the remedies available in these rules against the judgment and the court shall order his arrest. Within fifteen (15) days from promulgation of judgment, however, the accused may surrender and file a motion for leave of court to avail of these remedies. He shall state the reasons for his absence at the scheduled promulgation and if he proves that his absence was for a justifiable cause, he shall be allowed to avail of said remedies within fifteen (15) days from notice. (6a) (Emphasis and underscoring supplied)

¹⁶ Id. at 68. Emphasis omitted, underscoring supplied.

¹⁷ Id. at 69-80.

¹⁸ Id. at 70-71.

¹⁹ Id. at 73.

²⁰ Id. at 81.

²¹ Id. at 82.

²² Id. Underscoring omitted, emphasis supplied.

²³ Id. at 83-87.

The RTC stated that when the case was called for promulgation of judgment, petitioner failed to appear despite notice through the bond company. His counsel's knowledge of the scheduled promulgation was also admitted when he stated in the Motion for New Trial or Reconsideration that "the first notice was received accidentally when counsel visited the courts' office to follow up his notarial petition whereby a court's personnel casually served [it] like an ordinary notice."²⁴ Thus, petitioner's failure to appear for promulgation of judgment was without justifiable cause. Moreover, petitioner did not surrender within 15 days from date of promulgation and there was no manifestation that his absence was for a justifiable cause. Thus, he lost all the remedies available, including a motion for new trial or reconsideration.²⁵

In any case, the RTC ruled that petitioner was not deprived of his right to due process. The RTC stated that there was no proper substitution of counsel.²⁶ The RTC also rejected petitioner's claim that his previous counsel was negligent for failing to quash the warrant and for failure to file the demurrer to evidence on time. The RTC ruled that there was no ground to quash the warrant and the demurrer was actually filed on time. Moreover, the RTC stated that the previous counsel, Atty. Rama, was not remiss in his duties as he filed several pleadings for petitioner, including the motion for re-examination and re-weighing of the *shabu* and the petition for bail, both of which were granted for petitioner's benefit. In contrast, the RTC stated that it was Atty. Albura who discouraged his client from attending the scheduled promulgation as a sign of protest.²⁷

Lastly, the RTC ruled that contrary to petitioner's claims, he was not deprived of his day in court. He was represented when all prosecution witnesses testified and the latter were cross-examined by his previous counsel. The RTC held:

The accused invoked his right to be present. **But after he posted bail, he became scarce and failed to appear during the scheduled promulgation. The right to present evidence may be waived.**

Contrary to the contention of counsel for movant, there was no conviction without due process of law. Due process does not mean lack of hearing but lack of opportunity to be heard. **In this case, the accused was given opportunity to be heard.**²⁸ (Emphasis supplied)

At the time of the issuance of the RTC Order dated December 28, 2009, petitioner was still at large.²⁹ On February 10, 2010, petitioner was finally arrested at his residence.³⁰

²⁴ Id. at 83.

²⁵ Id. at 84.

²⁶ Id. at 84-87.

²⁷ Id. at 86.

²⁸ Id. at 87.

²⁹ Id.

³⁰ Id. at 14.



On February 12, 2010, Atty. Albura filed a Manifestation of his withdrawal as counsel for petitioner, which was granted on February 16, 2010.³¹

Petition for Relief from Judgment

On August 16, 2010, petitioner's third counsel, Atty. Reynaldo Acosta (Atty. Acosta), filed a Petition for Relief from Judgment³² on the ground that petitioner was "deprived of his [c]onstitutional right to be heard and to present evidence in his behalf in view of the excusable negligence of Atty. Albura in not appearing during the above-mentioned hearing and for failure of his bondsman or Atty. Albura to inform him of the scheduled hearing."³³ In his Affidavit of Merit,³⁴ petitioner claimed that he was neither notified of the schedule of the hearing on the initial presentation of defense evidence nor was he notified of the promulgation of judgment.

In an Order³⁵ dated September 7, 2010, the RTC denied the petition for relief from judgment for lack of factual and legal basis. The RTC ruled that relief from judgment was not a proper remedy. In any event, even if the petition were to be given due course, it would still be denied based on the following:

He blamed his bondsman and original counsel in not informing him of the scheduled hearing. **He should not rely on his bondsman and counsel. He is the most interested party in these criminal cases.** His lawyer was not negligent because he filed a Motion for New Trial or Reconsideration although the court denied the same. After his conviction on May 11, 2009, he was arrested and detained on February 2010, he had plenty of time to avail of any remaining remedy. It was only on August 16, 2010 [when] he filed the so-called petition for relief from judgment. Thus, he filed the said petition more than six (6) months from the time he learned about his conviction.

He was abandoned by his former lawyer because he did not cooperate with him.

The accused is bound by the negligence of his counsel. He cannot blame his bondsman because, as earlier stated, he should have inquired from his lawyer, the bondsman or the court the scheduled hearing. In fact, he knew the scheduled hearing.³⁶ (Emphasis supplied)

On October 6, 2010 and December 28, 2010, petitioner filed a Motion for Reconsideration and Supplemental Motion for Reconsideration, respectively. These motions were denied by the RTC in an Order³⁷ dated January 24, 2011. The RTC reiterated its ruling in the previous order, with the addition that the petition was filed out of time.

³¹ Id.

³² Id. at 88-89.

³³ Id. at 14.

³⁴ Id. at 91.

³⁵ Id. at 93-94.

³⁶ Id. at 94.

³⁷ Id. at 15 and 103-107.



The RTC emphasized that according to Section 3, Rule 38 of the Rules of Court, the petition for relief should be filed “within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken.” Here, petitioner was detained on February 10, 2010 and according to the RTC, it is presumed that he learned about the judgment against him on said date. However, petitioner filed the petition only on August 16, 2010, which is beyond the 60-day period; hence, the same was filed out of time.³⁸

The RTC also ruled, citing jurisprudence, that a party who has filed a timely motion for new trial cannot file a petition for relief after his motion has been denied as these two remedies are exclusive of each other. Here, since petitioner filed a timely motion for new trial but was denied, he should have appealed the same. A petition for relief from judgment will not be granted when appeal was available and was an adequate remedy.³⁹

Aggrieved, petitioner went to the Court of Appeals (CA) via petition for *certiorari*.⁴⁰

Ruling of the CA

On February 17, 2012, the CA issued a Resolution⁴¹ dismissing the petition. The CA adopted the RTC’s findings that petitioner had due notices of the hearings set for defense evidence and promulgation of judgment but failed to appear. The CA also agreed with the RTC that the petition for relief was filed out of time and that the proper remedy should have been an appeal from the denial of petitioner’s motion for new trial or reconsideration.⁴²

On March 16, 2012, the above-mentioned Resolution became final and executory for petitioner’s failure to move for reconsideration or appeal the same. Consequently, an Entry of Judgment was made and the resolution was recorded in the Book of Entries of Judgment.⁴³

Petition before the Court

On June 20, 2017, petitioner filed a Petition for the Issuance of the Writ of *Habeas Corpus*⁴⁴ before the Court. He claims that a petition for the issuance of the writ of *habeas corpus* may be availed of as a post-conviction remedy in such cases when a person is deprived of his Constitutional rights during the

³⁸ Id. at 106.

³⁹ Id.

⁴⁰ Id. at 108-120.

⁴¹ Id. at 121-123; penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Abraham B. Borreta.

⁴² Id. at 122.

⁴³ Id. at 124.

⁴⁴ Id. at 3-39.



court proceedings.⁴⁵ Specifically, he claims that he has been deprived of his rights to due process and to competent counsel.

Petitioner avers that he has been deprived of his right to due process because of lack of notice of the proceedings in the RTC. He claims that the RTC hastily submitted the criminal cases for decision even if there was no proof on record that petitioner or his previous counsels, Attys. Rama and Albura, received any notice or order from the court of the proceedings, thereby effectively depriving him of his right to be heard and to present evidence on his behalf.⁴⁶ Moreover, petitioner argues that he has been deprived of his right to competent counsel due to the negligence of Atty. Albura.⁴⁷

In compliance with the Court's directive,⁴⁸ respondent, through the Office of the Solicitor General (OSG) filed a Comment.⁴⁹ The OSG contends that petitioner was not deprived of his constitutional rights; hence, the writ of *habeas corpus* cannot be issued to him as a post-conviction remedy.

According to the OSG, petitioner was afforded ample opportunity to be heard and to adduce his own evidence. However, it was his and his counsel's negligence and fault that caused his current predicament. The OSG notes that petitioner was represented by counsel when the prosecution witnesses testified and he was able to cross-examine them. His failure to present evidence in support of his defense was due to his negligence and that of his counsel for failing to appear at the trial despite due notice. Likewise, petitioner's counsel received the notice of the promulgation of judgment set on July 29, 2009. The OSG emphasized that petitioner's counsel even filed an Urgent Motion to Defer Promulgation of Judgment dated July 25, 2009, yet he still failed to appear during the date of promulgation. Petitioner similarly did not appear despite notice to his bondsman. As a result of his inexcusable absence during the promulgation of judgment, petitioner already lost all legal remedies in the rules against the judgment.⁵⁰

Additionally, the OSG argues that while Atty. Albura was indeed negligent, petitioner was nevertheless bound by the negligence of his counsel. Citing the case of *Bejarasco, Jr. v. People*,⁵¹ the OSG avers that petitioner is bound by the gross negligence of his counsel because he himself was negligent for failing to monitor the status of his case.⁵²

The OSG also maintains that the doctrine of immutability of judgment applies against petitioner. The OSG points out that the judgment rendered by the CA dismissing his petition for certiorari which sought to annul and set

⁴⁵ Id. at 18.

⁴⁶ Id. at 20.

⁴⁷ Id. at 30.

⁴⁸ Id. at 126.

⁴⁹ Id. at 150-174.

⁵⁰ Id. at 161-162.

⁵¹ 656 Phil. 337 (2011).

⁵² *Rollo*, pp. 166-168.

aside the RTC Orders had already become final and executory. Thus, the petition should be denied.⁵³

Lastly, the OSG contends that the same issues and arguments raised by petitioner have already been thoroughly discussed by the RTC in its December 28, 2009 Order and the CA in its February 17, 2012 Resolution. Likewise, petitioner was able to file different pleadings raising the arguments in the instant petition. Thus, the Court should deny the same.⁵⁴

In compliance with the Court's Resolution dated June 20, 2018, petitioner filed a Reply⁵⁵ reiterating the grounds he had raised in his petition.

Issue

Whether the petition for the writ of *habeas corpus* should be granted.

The Court's Ruling

The petition should be denied.

The Writ of Habeas Corpus

The high prerogative writ of *habeas corpus* is a speedy and effectual remedy to relieve persons from unlawful restraint. It secures to a prisoner the right to have the cause of his detention examined and determined by a court of justice and to have it ascertained whether he is held under lawful authority.⁵⁶

Broadly speaking, the writ of *habeas corpus* extends to all cases of illegal confinement or detention by which any person is deprived of his liberty, or by which the rightful custody of any person is withheld from the person entitled thereto.⁵⁷ Thus, the most basic criterion for the issuance of the writ is that the individual seeking such relief be illegally deprived of his freedom of movement or placed under some form of illegal restraint.

Concomitantly, if a person's liberty is restrained by some legal process, the writ of *habeas corpus* is unavailing. The writ cannot be used to directly assail a judgment rendered by a competent court or tribunal which, having duly acquired jurisdiction, was not ousted of this jurisdiction through some irregularity in the course of the proceedings.⁵⁸

However, jurisprudence has recognized that the writ of *habeas corpus* may also be availed of as a post-conviction remedy when, as a consequence

⁵³ Id. at 168-169.

⁵⁴ Id. at 170.

⁵⁵ Id. at 178-190.

⁵⁶ See *Go v. Dimagiba*, 499 Phil. 445, 456 (2005).

⁵⁷ RULES OF COURT, Rule 102, Sec. 1.

⁵⁸ *De Villa v. The Director, New Bilibid Prisons*, 485 Phil. 368, 381 (2004).



of a judicial proceeding, any of the following exceptional circumstances is attendant: 1) there has been a deprivation of a constitutional right resulting in the restraint of a person; 2) the court had no jurisdiction to impose the sentence; or 3) the imposed penalty has been excessive, thus voiding the sentence as to such excess.⁵⁹ Here, petitioner is invoking the first circumstance.

Nevertheless, it must be noted that when the detention complained of finds its origin in what has been judicially ordained, the range of inquiry in a *habeas corpus* proceeding is considerably narrowed.⁶⁰ Whatever situation the petitioner invokes from the exceptional circumstances listed above, the threshold remains high. Mere allegation of a violation of one's constitutional right is not enough. The violation of constitutional right must be sufficient to void the entire proceedings.⁶¹ This, petitioner failed to show.

*On petitioner's right to
due process*

In essence, procedural due process entails that a party is afforded a reasonable opportunity to be heard in support of his case and what is prohibited is the absolute absence of the opportunity to be heard. When the party invoking his right to 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.⁶²

Petitioner avers that he has been deprived of his right to due process because of lack of notice of the proceedings in the trial court. To recall, the RTC submitted the case for decision on April 30, 2009 for failure of petitioner and his counsel to appear during the scheduled hearing on the same date for initial presentation of the evidence for the defense.⁶³ However, petitioner claims that he was not notified of said hearing. He likewise claims that he was not given the notice setting the promulgation of judgment on July 29, 2009.

As regards the scheduled hearing on April 30, 2009, even if it were true that petitioner or his counsel were not notified of such, it is still not enough to warrant a finding of denial of due process. For in the application of the principle of due process, what is sought to be safeguarded is not lack of previous notice but the denial of the opportunity to be heard. To reiterate, as long as a party was given the opportunity to defend his interests in due course, he cannot be said to have been denied due process.⁶⁴ In this case, the Court finds that petitioner was still afforded opportunity to be heard, as will be discussed below. Moreover, the hearing on April 30, 2009 was not the first scheduled hearing for the presentation of evidence of the defense. The records

⁵⁹ *Go v. Dimagiba*, supra note 56.

⁶⁰ *Gumabon v. Director of the Bureau of Prisons*, 147 Phil. 362, 368 (1971).

⁶¹ *Alejano v. Cabuay*, 505 Phil. 298, 310 (2005).

⁶² *Suyan v. People*, 738 Phil. 233, 241 (2014).

⁶³ *Rollo*, p. 61.

⁶⁴ *Gannapao v. Civil Service Commission*, 665 Phil. 60, 70 (2011).

show that as early as September 10, 2008, the RTC had already ordered petitioner to present his witnesses; however, he failed to do so.⁶⁵

On the notice setting the promulgation of judgment on July 29, 2009, it is already established that Atty. Albura received the same since he was able to file on July 25, 2009 an Urgent Motion to Defer Promulgation of Judgment.⁶⁶ However, petitioner claims that he was not notified by Atty. Albura. The Court is not convinced.

The Urgent Motion to Defer Promulgation of Judgment was filed by Atty. Albura on petitioner's behalf. Further, in the Motion for New Trial or Reconsideration, Atty. Albura explained that when he received the notice setting the promulgation of judgment, he inquired from petitioner whether he received other notices of scheduled hearings.⁶⁷ Thus, it is clear that Atty. Albura informed petitioner of the promulgation of judgment. Furthermore, the RTC also informed petitioner through his bonding company.⁶⁸ Petitioner cannot now claim that he was not informed of the scheduled promulgation.

On this note, Section 6 of Rule 120 provides:

SECTION 6. *Promulgation of judgment.* — x x x

x x x x

If the judgment is for conviction and the failure of the accused to appear was without justifiable cause, he shall lose the remedies available in these rules against the judgment and the court shall order his arrest. Within fifteen (15) days from promulgation of judgment, however, the accused may surrender and file a motion for leave of court to avail of these remedies. He shall state the reasons for his absence at the scheduled promulgation and if he proves that his absence was for a justifiable cause, he shall be allowed to avail of said remedies within fifteen (15) days from notice. (Emphasis and underscoring supplied)

Clearly, petitioner lost the remedies available to him when he failed to appear at the promulgation of judgment despite being notified of the same. He cannot shift the blame to his counsel, for while Atty. Albura was out of line when he deliberately did not appear at the promulgation "as a sign of protest," it was still incumbent on petitioner to attend the same. Moreover, the rule provides that within 15 days from promulgation, the accused may still surrender and file a motion for leave of court to avail of the remedies, after proving that his absence was for a justifiable cause. However, the Court notes that petitioner, who was out on bail, failed to surrender himself as he was then at large.⁶⁹ He was only arrested on February 10, 2010.⁷⁰

⁶⁵ *Rollo*, p. 86.

⁶⁶ *Id.* at 62-64.

⁶⁷ *Id.* at 71.

⁶⁸ *Id.* at 83.

⁶⁹ *Id.* at 87.

⁷⁰ *Id.* at 14.



Considering the foregoing, the Court agrees with the RTC and the CA that petitioner was not deprived of due process. After all, the Court has consistently held that the crux of due process is simply an opportunity to be heard, or an opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of.⁷¹ Verily, petitioner was able to file several pleadings, including the following: motion to quash the search warrant,⁷² motion for physical re-examination and re-weighing of the alleged *shabu* confiscated from him,⁷³ petition for bail,⁷⁴ and demurrer to evidence.⁷⁵ Also, he was represented by counsel when all prosecution witnesses testified and his counsel was also able to cross-examine them.⁷⁶ Lastly, he was able to file a motion for new trial or reconsideration⁷⁷ of the RTC Decision convicting him. A party who was given the opportunity to seek a reconsideration of the action or ruling complained of cannot claim denial of due process of law.⁷⁸

In view thereof, petitioner's claim of denial of due process is without merit.

On petitioner's right to competent counsel

Likewise, petitioner's claim of denial of right to competent counsel must fail. While Atty. Albura was indeed negligent when he deliberately failed to appear at the scheduled promulgation of judgment as a sign of protest, the same does not warrant the granting of the petition for the issuance of the writ of *habeas corpus*. On the contrary, petitioner is bound by Atty. Albura's negligence. As held by the Court in *Bejarasco, Jr. v. People*:⁷⁹

The general rule is that a client is bound by the counsel's acts, including even mistakes in the realm of procedural technique. The rationale for the rule is that a counsel, once retained, holds the implied authority to do all acts necessary or, at least, incidental to the prosecution and management of the suit in behalf of his client, such that any act or omission by counsel within the scope of the authority is regarded, in the eyes of the law, as the act or omission of the client himself. **A recognized exception to the rule is when the reckless or gross negligence of the counsel deprives the client of due process of law. For the exception to apply, however, the gross negligence should not be accompanied by the client's own negligence or malice,** considering that the client has the duty to be vigilant in respect of his interests by keeping himself up-to-date on the status of the case. Failing in this duty, the client should suffer whatever adverse judgment is rendered against him.

⁷¹ *Dela Cruz v. People*, 792 Phil. 214, 230-231 (2016).

⁷² *Rollo*, p. 46.

⁷³ *Id.* at 51-52.

⁷⁴ *Id.* 56-57.

⁷⁵ *See id.* at 86.

⁷⁶ *Id.* at 85.

⁷⁷ *Id.* at 69-80.

⁷⁸ *Amarillo v. Sandiganbayan*, 444 Phil. 487, 497 (2003).

⁷⁹ *Supra* note 51.

Truly, a litigant bears the responsibility to monitor the status of his case, for no prudent party leaves the fate of his case entirely in the hands of his lawyer. It is the client's duty to be in contact with his lawyer from time to time in order to be informed of the progress and developments of his case; hence, to merely rely on the bare reassurances of his lawyer that everything is being taken care of is not enough.⁸⁰ (Emphasis and underscoring supplied)

In sum, the negligence and mistakes of the counsel are binding on the client, unless the counsel has committed gross negligence. For a claim of a counsel's gross negligence to prosper, nothing short of clear abandonment of the client's cause must be shown. As well, the gross negligence should not be accompanied by the client's own negligence or malice.⁸¹

Here, Atty. Albura's act of not attending the promulgation of judgment as a sign of protest was clearly an act of negligence. However, the same cannot be characterized as gross negligence as to amount to a clear abandonment of petitioner's cause. As mentioned earlier, Atty. Albura informed petitioner of the schedule of promulgation of judgment. He was also able to file a Motion for New Trial or Reconsideration of the RTC Decision convicting petitioner.

At any rate, even if such act constituted gross negligence, the Court finds that petitioner was also negligent. Despite being notified of the scheduled promulgation of judgment, he still failed to attend the same. Worse, he became a fugitive from justice for several months until he was arrested. Even in the subsequent proceedings, petitioner still appears to lack sufficient diligence over his case. He filed a petition for relief from judgment more than six months after his arrest, which was clearly beyond the period allowed by the rules. Moreover, the instant petition had been filed more than five years after the Entry of Judgment of the CA Resolution, making the same final and immutable.

Considering that what is at stake is his liberty, petitioner should have exercised the standard of care which an ordinary prudent man devotes to his business.⁸² He cannot simply leave the fate of his case entirely to his counsel and later on pass the blame to the latter. Indeed, diligence is required not only from lawyers but also from their clients.⁸³

Time and again, the Court has ruled that a client is bound by his counsel's conduct, negligence, and mistake in handling a case. To allow a client to disown his counsel's conduct would render the proceedings indefinite, tentative, and subject to reopening by the mere subterfuge of replacing counsel.⁸⁴ While this rule has recognized exceptions, the Court finds none in this case.

⁸⁰ Id. at 340.

⁸¹ *Resurreccion v. People*, 738 Phil. 704, 718 (2014).

⁸² Id. at 719.

⁸³ Id.

⁸⁴ *Uyboco v. People (Resolution)*, 749 Phil. 987, 996 (2014).



Conclusion

The writ of *habeas corpus* is a high prerogative writ which furnishes an extraordinary remedy; it may thus be invoked only under extraordinary circumstances.⁸⁵

Indeed, the rule is that when there is a deprivation of a person's constitutional rights, the court that rendered the judgment is deemed ousted of its jurisdiction and *habeas corpus* is the appropriate remedy to assail the legality of his detention.⁸⁶ The inquiry on a writ of *habeas corpus* is addressed, not to errors committed by a court within its jurisdiction, but to the question of whether the proceeding or judgment under which the person has been restrained is a complete nullity. The concern is not merely whether an error has been committed in ordering or holding the petitioner in custody, but whether such error is sufficient to render void the judgment, order, or process in question.⁸⁷

Petitioner, however, failed to convince the Court that the proceedings before the trial court were attended by violations of his rights to due process or competent counsel as to oust the RTC of its jurisdiction. Thus, the issuance of the writ of *habeas corpus* is unwarranted.


WHEREFORE, in view of the foregoing, the instant petition for the issuance of the writ of *habeas corpus* is **DENIED**.

SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:




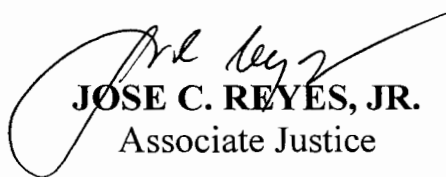
ANTONIO T. CARPIO
Associate Justice
Chairperson

⁸⁵ *De Villa v. The Director, New Bilibid Prisons*, supra note 58 at 383.

⁸⁶ *In Re: Azucena L. Garcia*, 393 Phil. 718, 730 (2000).

⁸⁷ *Calvan v. Court of Appeals*, 396 Phil. 133, 142 (2000).



ESTELA M. PERLAS-BERNABE
Associate Justice


JOSE C. REYES, JR.
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

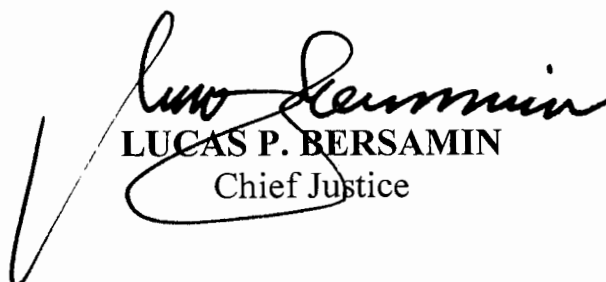
ATTESTATION

I attest 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.


ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.


LUCAS P. BERSAMIN
Chief Justice

