Lorenzo Jose vs. The Court of Appeals and The People of the Philippines
G.R. No. L-38581 March 31, 1976

FACTS:
Petitioner Lorenzo Jose was arrested on February 8, 1968 for possessing hand grenade. He was convicted of illegal possession of explosives and sentenced to suffer imprisonment of five years. After promulgation of the judgment, petitioner, on that same day filed his notice of appeal. Nine days thereafter, he filed a motion praying that the case be reopened to permit him to present (1) the written permit of petitioner to possess and use handgrenade, and (2) the written appointment of petitioner as PC agent with Code No. P-36-68 and Code Name 'Safari'. The trial court denied the motion on the ground that it had lost jurisdiction over the case in view of the perfection of the appeal by the accused. The appellate court affirmed the judgment of conviction and denied the motion for new trial because the evidence sought to be introduced by him at the new trial is not newly discovered evidence as both documents are dated January 31, 1968.

ISSUE:
Should the petitioner's motion for new trial be granted and that the documents which are not newly discovered be admitted in evidence?

RULING:
Yes. In the interest of justice, the case was remanded to the trial court for a new trial. This is an exception to the general rule that new trial may only be granted if there is newly discovered evidence. The evidence sought to be presented by the petitioner do not fall under the category of newly-discovered evidence because his alleged appointment as an agent of the Philippine Constabulary and a permit to possess a handgrenade were supposed to be known to petitioner and existing at the time of trial and not discovered only thereafter. For a new trial to be granted on the ground of newly discovered evidence, it must be shown that (a) the evidence was discovered after trial; (b) such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; (c) the evidence is material, not merely cumulative, corroborative, or impeaching; and (d) it must go to the merits as ought to produce a different result if admitted.

However, under Sec. 11, Rule 124 of the Rules of Court which provides that upon appeal, the appellate court may reverse, affirm, or modify the judgment and increase or reduce the penalty imposed by the trial court, remand the case to the Court of First Instance for new trial or retrial, or dismiss the case on the ground of substantial justice.

In the present case petitioner claimed that he was an agent of the Philippine Constabulary with a permit to possess explosives such as the handgrenade in question. However, he found himself in a situation where he had to make a choice to reveal his identity as an undercover agent of the Philippine Constabulary assigned to perform intelligence work on subversive activities and face possible reprisals or even liquidation at the hands of the dissidents considering that Floridablanca, the site of the incident, was in the heart of "Huklandia", or ride on the hope of a possible exoneration or acquittal based on insufficiency of the evidence of the prosecution. Without revealing his identity as an agent of the Philippine Constabulary, he claimed before the trial judge that he had a permit to possess the handgrenade and prayed for time to present the same. The permit however could not be produced because it would reveal his intelligence work activities. The Court held that these circumstances justifies a

reopening of the case to afford the petitioner the opportunity of producing exculpating evidence.

[G.R. No. L-38581, March 31, 1976]

LORENZO JOSE, petitioner, vs. THE COURT OF APPEALS and THE PEOPLE OF THE PHILIPPINES, respondents.

D E C I S I O N

MUÑOZ-PALMA, J.:

Petitioner Lorenzo Jose who was convicted of illegal possession of explosives (handgrenade) and sentenced to suffer imprisonment of five years, seeks a new trial which was denied him by the Court of First Instance of Pampanga, Branch III, and by respondent Court of Appeals.

Petitioner thus poses one legal issue for the court to resolve, viz: did respondent appellate court commit an error of law and gravely abuse its discretion when it denied petitioner's motion for new trial "for the reception of (1) the written permit of petitioner to possess and use handgrenade, and (2) the written appointment of petitioner as PC agent with Code No. P-36-68 and Code Name 'Safari' (both documents are dated 31 January 1968)"? [1]

The following incidents are not in dispute:

On February 8, 1968, at the poblacion of Floridablanca, Pampanga, petitioner Jose was arrested by the local police leading to the filing with the Court of First Instance of Pampanga, Branch III of several criminal cases against him to wit: illegal discharge of firearm (Crim. Case 6235), robbery (Crim. Case 6236) and illegal possession of explosives (Crim. Case 6237). These three cases were jointly tried after which the trial judge, Hon. Honorio Romero, in a decision dated December 15, 1969, and promulgated on January 15, 1970[2] acquitted accused Lorenzo Jose of illegal discharge of firearm and robbery, but convicted him for illegal possession of the handgrenade that was found on his person at the time of his arrest.

After promulgation of the judgment, petitioner on that same day, filed his notice of appeal. Nine days thereafter or more particularly on January 24, 1970, petitioner filed a motion praying that the case be reopened to permit him to present, pursuant to a reservation he had made in the course of the trial, a permit to possess the handgrenade in question. The trial court in its order of January 30, 1970 denied the motion mainly on the ground that it had lost

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[1] p. 19, rollo.
[2] p. 21, ibid.

jurisdiction over the case in view of the perfection of the appeal by the accused on the very date the decision was promulgated. [3]

The records of Criminal Case 6237 were then elevated to the Court of Appeals where petitioner as accused-appellant raised the issues of (1) an erroneous conviction for illegal possession of explosives when there was no proof of an essential element of the crime, and (2) erroneous denial of his motion to reopen the case for the reception of his permit to possess the handgrenade. [4] In his brief, Lorenzo Jose prayed for his acquittal or in the alternative for the remand of the case back to the trial court for a new trial.

Resolving the appeal, respondent Appellate Court, [5] rendered its decision of March 8, 1974, affirming the findings of fact and the judgment of conviction of the court a quo, and declaring that no reversible error was committed by the latter when it denied the reopening of the case as the court had lost its "power to change, modify, or alter its decision." [6]

A motion for reconsideration and/or new trial was filed with a plea that "assuming arguendo that the court a quo lacked jurisdiction to act upon appellant's motion for new trial because of the perfection of the appeal, this Honorable Court before which said motion was reiterated and which has competence to act thereon should have granted the same if for no other reason than to prevent a miscarriage of justice which is the inevitable result of its denial." [7] This motion for reconsideration was denied in respondent court's resolution of April 3, 1974. [8]

A second motion for reconsideration and/or new trial was filed by Lorenzo Jose [9] but this was also denied by the appellate court in a Resolution promulgated on July 24, 1974. [10]

Forthwith, appellant Lorenzo Jose assisted by counsel, Atty. Francisco Carreon, filed with Us this petition for review which We denied outright on September 6, 1974, "the question raised being factual and for insufficient showing that the findings of facts by respondent court are unsupported by substantial evidence, and for lack of merit."

A motion for reconsideration was filed by petitioner stressing that the following grounds should justify this Court to review the ruling of respondent appellate court, to wit:

"1.petitioner's plight is of compelling human and legal interest, and his being imprisoned for five (5) years when there is indubitable exculpatory evidence on hand is a result - so harsh that the Honorable Court may well undertake a

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[3] pp. 20, 21, ibid.
[4] pp. 4-5, appellant's brief, Court of Appeals, p. 151, ibid.
[5] Third Division; L. B. Reyes, J. ponente, Gatmaitan, Plana, JJ., concurring.
[6] p. 56, ibid.
[7] pp. 55-59, ibid.
[8] p. 85, ibid.
[9] pp. 86-96, ibid.
[10] pp. 132-137, ibid.

review of the case just to satisfy itself of the justice and inevitability of such a result;

"2.a question of substance not heretofore determined by the Honorable Court is involved, as the evidence sought to be introduced at the new trial is, technically, not newly discovered; and

"3.the denial of a new trial in the circumstances mentioned in his above-quoted statement of the main legal issue, is contrary to the decisions of this Honorable Court because under these decisions, the new trial should have been granted since there is a 'strong, compelling reason' in this case for granting the relief prayed for, such strong compelling reason being the very strong probability of petitioner's acquittal if a new trial were granted. (Workmen's Insurance Co. vs. Augusto, 40 SCRA 123; Sison vs. Gatchalian, 51 SCRA 262; Rubio vs. Mariano 52 SCRA 338; Montecines vs. Court of Appeals, 53 SCRA 14; Posadas vs. Court of Appeals, L-38071, April 25, 1974; please see Annotation: 52 SCRA 346. . . ." (pp. 157-158, rollo).

The Solicitor General opposed the granting of the foregoing motion for reconsideration claiming that there was neither a denial of "substantial justice nor error of any sort on the part of respondent Court of Appeals, affirming the judgment of conviction," and that it being admitted by petitioner that the evidence sought to be introduced by him at the new trial is not newly discovered evidence, the denial of the new trial "visibly appears as correct". This Opposition drew a lengthy reply from petitioner's counsel.

On February 13, 1975, a Manifestation was submitted by the Solicitor General informing the Court that in view of the "persistence of accused petitioner Lorenzo Jose both before this Honorable Court and respondent Court of Appeals as to his alleged existing appointment as PC Agent and/or authority to possess handgrenade," in the interest of justice, he was constrained to make pertinent inquiries from the PC Chief, Gen. Fidel V. Ramos who in reply sent his letter dated December 27, 1974 with enclosures, xerox copies of which are being attached to the manifestation as Annexes A, B, C, C-1 and D. [11]

Annex A of the above-mentioned Manifestation of the Solicitor General reads:

> "Solicitor General Estelito P. Mendoza Padre Faura, Manila.
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> Dear Solicitor General Mendoza:
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> "With reference to your letter of December 5, 1974, please be informed that Colonel Pedrito C. de Guzman, who is now Provincial Commander of Sorsogon Constabulary Command, confirmed that he executed an affidavit on May 4, 1974 at Sorsogon, Sorsogon stating that he appointed Mr. Lorenzo Jose of Betis, Guagua, Pampanga as PC Agent on January 31, 1968.
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> "The incumbent Provincial Commander of Pampanga Constabulary Command also confirmed the appointment of Lorenzo Jose as PC agent during the year 1968.

[11] pp. 189-195, ibid

"Attached herewith are the pertinent papers related to the said appointment.

"Sincerely yours,

(Sgd.) FIDEL V. RAMOS
FIDEL V. RAMOS
Major General, AFP
Chief of Constabulary"
(p. 191, rollo)

Inclosure: Appointment paper of subject person dtd Jan. 31, 1968 with Personal History Statement

Annex B is the appointment dated January 31, 1968 of petitioner Lorenzo Jose as a PC Agent of the Pampanga Constabulary Command with Code Number P-36-68 and Code Name "Safari" with expiration on December 31, 1968, the pertinent portion of which We quote:

> "This Headquarters will, from time to time, provide you firearms and such other equipment which it may deem necessary for your personal protection on the need basis which will be covered by separate written authority." (p. 192, rollo).

In a Resolution of February 21, 1975, the Court resolved to set aside the denial of this petition for review, to give due course and consider the Petition as a special civil action. In another Resolution of April 4, 1975, the parties were given time to submit their respective memorandum.

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. The failure of the Court of Appeals to appreciate the merits of the situation, involving as it does the liberty of an individual, thereby closing its ear to a plea that a miscarriage of justice be averted, constitutes a grave abuse of discretion which calls for relief from this Court.

At the outset, We give due credit to the Solicitor General and his staff for upholding the time-honored principle set forth in perspicuous terms by this Court in Suarez vs. Platon, et al., that a prosecuting officer, as the representative of a sovereignty whose obligation and interest in a criminal prosecution is not that it shall win a case but that justice shall be done, has the solemn responsibility to assure the public that while guilt shall not escape, innocence shall not suffer. (69 Phil. 556, 564-565, quoting Justice Sutherland of the U.S. Supreme Court in 69 U.S. Law Review, June, 1935, No. 6, p. 309) The Solicitor General now concedes that the interests of justice will best be served by remanding this case to the court of origin for a new trial.

We do not question the correctness of the findings of the Court of Appeals that the evidence sought to be presented by the petitioner do not fall under the category of newly-discovered evidence because the same his alleged appointment as an agent of the Philippine Constabulary and a permit to possess a handgrenade were supposed to be known to petitioner and existing at the time of trial and not discovered only thereafter.

It is indeed an established rule that for a new trial to be granted on the ground of newly discovered evidence, it must be shown that (a) the evidence was discovered after trial; (b) such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; (c) the evidence is material, not merely cumulative, corroborative, or impeaching; and (d) it must go to the merits as ought to produce a different result if admitted. [12]

However, petitioner herein does not justify his motion for a new trial on newly discovered evidence, but rather on broader grounds of substantial justice under Sec. 11, Rule 124 of the Rules of Court which provides:

Power of appellate court on appeal. Upon appeal from a judgment of the Court of First Instance, the appellate court may reverse, affirm, or modify the judgment and increase or reduce the penalty imposed by the trial court, remand the case to the Court of First Instance for new trial or retrial, or dismiss the case.

Petitioner asserts, and correctly so, that the authority of respondent appellate court over an appealed case is broad and ample enough to embrace situations as the instant case where the court may grant a new trial or a retrial for reasons other than that provided in Section 13 of the same Rule, or Section 2, Rule 121 of the Rules of Court. [13] While Section 13, Rule 124, and Section 2, Rule 121, provide for specific grounds for a new trial, i.e. newly discovered evidence, and errors of law or irregularities committed during the trial, Section 11, Rule 124 quoted above does not so specify, thereby leaving to the sound discretion of the court the determination, on a case to case basis, of what would constitute meritorious circumstances warranting a new trial or retrial.

Surely, the Rules of Court were conceived and promulgated to aid and not to obstruct the proper administration of justice, to set forth guidelines in the dispensation of justice but not to bind and chain the hands that dispense justice, for otherwise, courts will be mere slaves to or robots of technical rules, shorn of judicial discretion.

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[12] U.S. vs. Luzon, 1905, 4 Phil. 343; People vs. Mangulabnan, et al., 1956, 99 Phil. 883; Moran, Comments on the Rules of Court, 1970 Ed., Vol. 4, pp. 345-346.

[13] Section 13, Rule 124.

> "Motion for new trial. At any time after the appeal from the lower court has been perfected and before the judgment of the appellate court convicting the accused becomes final, the latter may move for a new trial on the ground of newly discovered evidence material to his defense, the motion to conform to the provisions of section 3, Rule 121."

Section 2, Rule 121:

> "Grounds for a new trial. The Court shall grant a new trial on any of the following grounds:
> (a)That errors of law or irregularities have been committed during the trial prejudicial to the substantial rights of the defendant;
>
> > (b)That new and material evidence has been discovered which the defendant could not with reasonable diligence have discovered and produced at the trial, and which if introduced and admitted, would probably change the judgment."

Thus, admittedly, courts may suspend its own rules or except a case from them for the purposes of justice [14] or, in a proper case, disregard them. 15 In this jurisdiction, in not a few instances, [15] this Court ordered a new trial in criminal cases on grounds not mentioned in the statute, viz: retraction of witness, [16] negligence or incompetency of counsel, [17] improvident plea of guilty, [18] disqualification of an attorney de oficio to represent the accused in the trial court, [19] and where a judgment was rendered on a stipulation of facts entered into by both the prosecution and the defense. [20]

Characteristically, a new trial has been described as a new invention to temper the severity of a judgment or prevent the failure of justice. [21]

Petitioner cites certain peculiar circumstances obtaining in the case now before Us which may be classified as exceptional enough to warrant a new trial if only to afford human opportunity to establish his innocence of the crime charged. Thus petitioner was facing a criminal prosecution for illegal possession of a handgrenade in the court below. He claimed to be an agent of the Philippine Constabulary with a permit to possess explosives such as the handgrenade in question. However, he found himself in a situation where he had to make a choice reveal his identity as an undercover agent of the Philippine Constabulary assigned to perform intelligence work on subversive activities and face possible reprisals or even liquidation at the hands of the dissidents considering that Floridablanca, the site of the incident, was in the heart of "Huklandia", or ride on the hope of a possible exoneration or acquittal based on insufficiency of the evidence of the prosecution. Without revealing his identity as an agent of the Philippine Constabulary, he claimed before the trial judge that he had a permit to possess the handgrenade and prayed for time to present the same. The permit however could not be produced because it would reveal his intelligence work activities. Came the judgment of conviction and with it the staggering impact of a five-year imprisonment. The competent authorities then realized that it was unjust for this man to go to jail for a crime he had not committed, hence, came the desired evidence concerning petitioner's appointment as a Philippine Constabulary agent and his authority to possess a handgrenade for the protection of his person, but, it was too late according to the trial court because in the meantime the accused had perfected his appeal.

We find and hold that the above circumstances justify a reopening of petitioner's case to afford him the opportunity of producing exculpating evidence. An outright acquittal from this Court which petitioner seeks as an alternative relief is not proper. As correctly stressed by the Solicitor General, the People is to be given the chance of examining the documentary evidence sought to be produced, and of cross-examining the persons who executed the same, as well

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[14] Russell vs. McLellan, 3 Wood & M. 157.

15 Clark vs. Brooks, 26 How. Pr. 285.

[15] See Francisco, Criminal Procedure, 1969 Ed. p. 866.

[16] People vs. Oscar Castelo, et al., 111 Phil. 54.

[17] U.S. vs. Gimenez, 34 Phil. 74.

[18] People vs. Solacito, L-29209, August 25, 1969, 27 SCRA, 1037; People vs. Mengote, et al., L-30343, July 25, 1975. People vs. Vicente del Rosario, L-33270, November 28, 1975.

[19] U.S. vs. Laranja, 21 Phil. 500.

[20] U.S. vs. Pobre, 11 Phil. 51.

[21] Kearney vs. Snodgrass, 7 P. 309, 310, 12 Or. 311.

as the accused himself, now petitioner, on his explanation for the non-production of the evidence during the trial.

PREMISES CONSIDERED, We hereby set aside the judgment of conviction of the herein petitioner, Lorenzo Jose, and remand the case to the court a quo for a new trial only for the purpose of allowing said accused to present additional evidence in his defense. The trial court shall inform this Court of the final outcome of the case within a reasonable time. Without pronouncement as to costs.

So ordered.

Teehankee, (Chairman), Makasiar, Esguerra and Martin, JJ., concur.