

CHINA BANKING CORPORATION, PETITIONER, VS. HON. BUENAVENTURA ALBERT J. TENORIO, JR., IN HIS OFFICIAL CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 14...

Ponente: DICDICAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/1a88165a13e6/>

DICDICAN, J.:

Before us is a Petition for Certiorari[1] filed by herein petitioner China Banking Corporation (“petitioner”) pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to annul and set aside the Order[2] that was issued by public respondent Judge Buenaventura Albert J. Tenorio, Jr. of Branch 14 of the Regional Trial Court of the National Capital Judicial Region situated in the City of Manila (“lower court”) dated April 24, 2014 in Criminal Cases Nos. 12-291653-54 (“first assailed order”). Likewise assailed in the instant petition is the subsequent Order[3] of the lower court dated September 23, 2014 which partially granted the motion for reconsideration of the April 24, 2014 Order that was filed by the petitioner in the said case (“second assailed order”).

The material and relevant facts of the case, as culled from the record, are as follows:

The instant case stemmed from a Complaint-Affidavit[4] for estafa, in relation to Presidential Decree 115, that was filed by the petitioner against herein private respondents George C. Go (“private respondent Go”), Ng Meng Tam (“private respondent Ng”) and Michael Go in the Office of the City Prosecutor of Manila on March 4, 2009. In the said complaint-affidavit, the petitioner alleged that, in July 1997, it granted two (2) irrevocable commercial letters of credit to Gotesco Marketing, Inc. through herein private respondents and Michael Go. In connection thereto, Gotesco Marketing requested for the release of several goods which were bought by it through the said letters of credit.

Thereafter, the petitioner averred that its account was debited for the amount which was covered by the aforementioned letters of credit as confirmed by two (2) statements of account from the Union Bank of California dated July 31, 1998 and August 31, 1998. Thus, when the subject trust receipts fell due, the petitioner sent demand letters to herein private respondents directing the latter to comply with the terms and conditions of the said trust receipt agreements. The latter, however, failed to settle their obligation despite their receipt of the aforesaid demand letters. Consequently, as of November 30, 2008, the petitioner claimed that the aggregate outstanding balance of the private respondents pursuant to the trust receipt agreements had already amounted to Eleven Million One Hundred Thirty Nine Thousand Six Pesos and Ninety-Eight Centavos (Php11,139,006.98).

For their part, private respondent Go and Michael Go asserted that there was no misappropriation in that Gotesco Marketing had already made partial payments on its loan obligation to the petitioner. Moreover, they contended that, in several instances, they tried to return the goods to the petitioner and suggested schemes within which to settle their obligation but the petitioner nonetheless declined their proposals.

On the other hand, private respondent Ng maintained that the Trust Receipts Law does not apply in the instant

case since the goods which were covered by the letters of credit were not released under the the subject trust receipts. According to him, while the letters of credit were dated July 7 and 16, 1997, the trust receipt agreements were only executed in September 1998 or more than a year thereafter. In other words, the trust receipts upon which the petitioner anchored its claim were executed and issued more than a year after the release of the goods to Gotesco Marketing. Consequently, the petitioner could not invoke, and be protected by, the provisions of P.D. No. 115.

On July 30, 2009, the Office of the City Prosecutor of Manila (OCP) issued a Resolution[5] recommending the dismissal of the criminal charges that were filed against herein private respondents and Michael Go. Subsequently, the petitioner filed a Motion for Reconsideration[6] questioning the factual basis of the July 30, 2009 resolution of the OCP. Thus, in a subsequent Resolution[7] dated April 20, 2010, the OCP granted the said motion for reconsideration that was filed by the petitioner and recommended the filing of the criminal informations against the private respondents and Michael Go in the lower court. The private respondents then filed a motion for reconsideration of the April 20, 2010 resolution of the OCP but the said motion for reconsideration was denied by the said Office in another Resolution[8] dated August 13, 2012.

In the meantime, the private respondents and Michael Go filed their respective petitions for review in the Department of Justice (DOJ) seeking for the reversal of the April 20, 2010 resolution of the OCP. Consequently, in a Resolution that was issued on February 14, 2013, the DOJ granted the aforesaid petitions for review and ordered the OCP to move for the withdrawal of the criminal informations that were filed against the private respondents and Michael Go in the lower court. The petitioner thereafter filed a motion for reconsideration of the February 14, 2013 resolution of the DOJ but the same was still pending resolution until the time when the instant petition was filed in this Court. Meanwhile, Michael Go was arraigned in the lower court where he pleaded not guilty to the charges against him.

Thus, pursuant to the directive of the DOJ, the OCP and the private respondents filed in the lower court separate motions to withdraw the informations and to dismiss the case, respectively, that were filed against them in the said court. However, in an Order[9] dated May 27, 2013, the lower court denied the aforesaid motions to dismiss and withdraw information that were filed by the private respondents and the OCP, respectively, on the ground that the lower court was not bound to adopt the resolution of the DOJ in the private respondents' petitions for review. According to the lower court, it was mandated to independently evaluate or assess the merits of the case and it may either agree or disagree with the recommendation of the DOJ.

The private respondents then filed their respective motions for reconsideration of the May 27, 2013 order of the lower court but the same were likewise denied by the lower court in an Order dated October 24, 2013.

Subsequently, on December 10, 2013, private respondent Ng, through his new counsel, filed a Motion to Quash[10] the information that was filed against him in the lower court on the ground that the facts charged therein did not constitute an offense and that the officer who filed the information had no authority to do so. However, the said motion to quash was denied for lack of merit by the lower court in an Order[11] dated January 28, 2014.

On February 17, 2014, private respondent Ng filed a Motion for Reconsideration[12] of the January 28, 2014 Order of the lower court denying his motion to quash. Thus, in the herein first assailed order that was issued by the lower court on April 24, 2014, the lower court granted the aforesaid motion for reconsideration the decretal portion of which reads:

“WHEREFORE, premises considered, the Motion for Reconsideration filed by accused Ng Meng Tam is hereby GRANTED and Criminal Case Nos. 12-291653 and 12-291654 against the said accused is hereby

ordered DISMISSED. Considering that the documentary evidence against all the accused are the same, Criminal Case No. 12-291653 against accused George Go and Criminal Case No. 12-291654 against accused Michael Go are likewise DISMISSED.

“SO ORDERED.”

Aggrieved by the foregoing disposition of the lower court, herein petitioner filed a Motion for Reconsideration[13] of its herein first assailed April 24, 2014 Order. Thus, in the herein second assailed Order dated September 23, 2014, the lower court partially granted the motion for reconsideration that was filed by the petitioner as follows:

“WHEREFORE, premises considered, the Motion for Reconsideration is PARTIALLY GRANTED. The dismissal of Criminal Case No. 12-291653 against accused Ng Meng Tam and George Go and dismissal under Criminal Case No. 12-291654 against Ng Meng Tam are maintained. Meanwhile, Criminal Case No. 12-291654 against accused Michael L. Go is reinstated.

“SO ORDERED.”

Hence, the petitioner filed this petition for certiorari wherein the petitioner raised the following acts of grave abuse of discretion that were purportedly committed by the lower court, to wit:

I.

THE PUBLIC RESPONDENT JUDGE DENIED THE PROSECUTION ITS RIGHT TO DUE PROCESS WHEN HE DISMISSED THE CASES AGAINST GEORGE C. GO AND NG MENG TAM WITHOUT MINDING TO AFFORD THE PROSECUTION THE OPPORTUNITY TO PRESENT ITS CASE IN COURT.

II.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION IN DISMISSING THE CASES AGAINST GEORGE C. GO AND NG MENG TAM ON A MERE MANIFESTATION THAT WAS FILED BY RESPONDENT NG MENG TAM, WITHOUT MINDING TO AFFORD THE PROSECUTION THE OPPORTUNITY TO PRESENT ITS CASE IN COURT.

In sum, the sole issue to be resolved by us in the instant petition is whether or not the lower court committed grave abuse of discretion when it granted the motion to quash that was filed by private respondent Ng and when it dismissed the criminal case against herein private respondents on the ground that the latter were liable only for their loan obligations. After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the instant petition to be bereft of merit.

In the instant petition, the petitioner averred that it was denied due process of law in that the dismissal of the criminal cases against the private respondents was merely based on the documents which were attached to its complaint-affidavit. According to the petitioner, the order of dismissal was not based on the merits of the criminal cases which it filed against the private respondents. It was not given the opportunity to present additional evidence in the lower court, including the testimonies of its witnesses. Consequently, the petitioner claimed that the lower court's action in dismissing the criminal cases against the private respondents was not grounded on any legal basis and, thus, the same constitutes grave abuse of discretion on its part.

In his Comment to the instant petition, private respondent Ng countered that the petitioner was not denied due process of law when the lower court issued the assailed orders. In fact, private respondent Ng pointed out that the lower court was correct in ruling that the private respondents could not be possibly guilty of the crime charged in that they did not violate the Trust Receipts Law. He stressed that the lower court had carefully weighed all the documentary pieces of evidence that were submitted by the petitioner, taking into consideration the submission of

the petitioner's counsel that the petitioner had already attached all documentary evidence in its complaint.

We agree with the contentions of private respondent Ng. Verily, the pivotal issue in the instant petition is the propriety of granting the motion to quash the information which was filed by private respondent Ng and the subsequent dismissal of the criminal cases against the private respondents in the lower court. A perusal of the assailed orders that were issued by the public respondent judge in Criminal Cases Nos. 12-291653 and 12-291654 ultimately discloses that there is actually no sufficient showing by the petitioner of grave abuse of discretion committed by the said respondent judge in issuing such assailed orders.

In the case at bench, what has been shown to the contrary is that the public respondent judge acted within the pale of his discretion in dismissing Criminal Cases Nos. 12-291653 and 12-291654 against the herein private respondents pursuant to the Motion to Quash that was filed by private respondent Ng on the ground that no probable cause exists against them as buttressed by the DOJ resolution dated February 14, 2013. In the case of *Ledesma vs. Court of Appeals*,^[14] the Supreme Court, citing its earlier ruling in *Marcelo vs. Court of Appeals*,^[15] categorically held that the trial court has the option to grant or deny a motion to dismiss filed either by the public prosecutor or the accused, after the information had been filed in court and the latter had taken judicial cognizance of it, provided that such grant or denial is made from its own assessment and evaluation of the merits of the said motion. In other words, the trial court is actually vested with wide discretion in dealing with a motion to dismiss or quash an information filed with it. Of course, there is a parameter set in that the trial court should make its own assessment and evaluation of the merits of the motion.

An assiduous perusal of the assailed orders that were issued by the public respondent judge reveals implicitly that he made his own assessment and evaluation of the merits of the Motion to Quash that was filed by private respondent Ng. Significantly, the lower court stated that:

“After a second look at the facts surrounding the transactions, the Court concludes that inasmuch as GOTESCO received the goods subject of the trust receipt before the trust receipt itself was entered into, the transactions in questions were simple loan transactions and not trust receipt agreements. It is apparent from the documents that the trust receipts were executed long after the actual release of the embroidery machines. Said transactions belie what normally obtains in a pure trust receipt transaction. Although the prosecution tried to justify the one year delay in the execution of the trust receipts because Gotesco availed the usance letter of credit, such will not validate the delay in the execution of the trust receipts. Since the transactions do not fall under the category of a trust receipt agreement as contemplated in PD 115, the action for estafa should be dismissed as the accused are liable only for loan obligations.”

Thus, it could be safely and reasonably gleaned from the aforequoted portion of the first assailed order that the public respondent judge made his own assessment and evaluation of said Motion To Quash. This is in line with the ruling of the Supreme Court in the case of *Jimenez v. Jimenez*^[16] where the said Court ratiocinated:

“It cannot be gainsaid, of course, that a trial court has the option to grant or deny a Motion to Withdraw Information filed by the prosecution, provided that its action is based from its own assessment and evaluation of the merits of the motion. Where, however, there is clearly no probable cause to indict the accused, as in respondents’ case, as did the prosecution, so should the trial court have relieved respondents from the ordeal of going through a trial.

“It is . . . imperative upon the fiscal or the judge as the case may be, to relieve the accused from the pain of going through a trial once it is ascertained that the evidence is insufficient to sustain a prima facie case or that no probable cause exists to form a sufficient belief as to the guilt of the accused. Although there is no general formula or fixed rule for the determination of probable cause since the same must be decided in the light of the conditions obtaining in given situations and its existence depends to a large degree upon the finding or opinion of the judge conducting the examination, such a finding should not disregard the facts before the judge nor run

counter to the clear dictates of reasons. The judge or fiscal, therefore, should not go on with the prosecution in the hope that some credible evidence might later turn up during trial for this would be a flagrant violation of a basic right which the courts are created to uphold. It bears repeating that the judiciary lives up to its mission by visualizing and not denigrating constitutional rights. So it has been before. It should continue to be so.”

At this point, grave abuse of discretion means such capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction. To justify the issuance of a writ of certiorari, the abuse of discretion must be grave, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and the abuse must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined, or to act at all, in contemplation of law, as to be equivalent to having acted without jurisdiction.[17]

Viewed against the foregoing standards, the assailed orders of the public respondent judge dated April 24, 2014 and September 23, 2014 do not appear to have been made with grave abuse of discretion. As clearly discussed above, the public respondent judge exercised his discretion very well within the parameter allowed to him by law. No certiorari would then lie against what he did.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the petition filed in this case for lack of merit. The Orders that were issued by Branch 14 of the Regional Trial Court of the National Capital Judicial Region situated in the City of Manila dated April 24, 2014 and September 23, 2014 in Criminal Cases Nos. 12-291653-54 are AFFIRMED.

SO ORDERED.

Ybañez, and Paredes, JJ., concur.

[1] Rollo, pages 3-17.

[2] Ibid, Annex “A”, pages 18-21.

[3] Ibid, Annex “B”, pages 22-25.

[4] Ibid, Annex “D”, pages 33-38.

[5] Ibid, Annex “E”, pages 74-80.

[6] Ibid, Annex “F”, pages 81-91.

[7] Ibid, Annex “G”, pages 92-94.

[8] Ibid, Annex “H”, pages 95-96.

[9] Ibid, Annex “I”, pages 97-99.

[10] Ibid, Annex “J”, pages 100-105.

[11] Ibid, Annex “K”, pages 106-108.

[12] Ibid, Annex “L”, pages 109-115.

[13] Ibid, Annex “C”, pages 26-32.

[14] 278 SCRA 656.

[15] 235 SCRA 39.

[16] G.R. No. 158148, June 30, 2005.

[17] Angelina Pahila-Garrido v. Eliza M. Tortogo, G.R. No. 156358, 17 August 2011.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.