

LEOVINO V. AYUMA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

Ponente: BRUSELAS, JR. J.

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BRUSELAS, JR. J.:

Via the 23 August 2013 Joint Resolution[1], the Regional Trial Court (RTC) denied the Joint Demurrer to Evidence[2] filed by the petitioner for lack of merit. It held that the prosecution succeeded in discharging the burden of proof by presenting evidence sufficient to establish a prima facie case against the petitioner. Consequently, the trial court proceeded with the presentation of the petitioner's evidence.

Aggrieved by the denial of his demurrer, the petitioner filed this certiorari petition alleging that the trial court's denial of its demurrer constituted grave abuse of discretion amounting to lack or excess of jurisdiction. He anchored his petition on the following grounds:

- a. Neither the witness from the National Bureau of Investigation (NBI) Noel Cruz nor witness Patnanungan Former Mayor Alfredo Sarmiento proved that the Landbank of the Philippines (LBP) Check Nos. 177462, 177460, 177449 and 177476 were genuine and that the same came from the LBP Lucena.
- b. It was not established by the said witnesses that it was the petitioner who prepared the checks in question and who signed over the name of Alfredo Sarmiento on said checks.
- c. It was not established that the petitioner encashed the checks and received the proceeds thereof.
- d. There was no demand for the petitioner to account for the amount of the checks.

On 28 April 2014, the Court issued a Resolution[3] ordering the dismissal of the petition in view of paragraph 5, Section 23 of Rule 119 of the Rules of Criminal Procedure which provides:

“The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment.”

The court opined that the proper course of action to assail the denial of petitioner's demurrer was to proceed to trial and, in the event of an adverse decision after trial on the merits, he may file an appeal therefrom.

Aggrieved, the petitioner moves for the reconsideration[4] of our resolution. He insists that as an accused in the criminal case, he should be allowed to raise before the appellate court the denial of his demurrer to evidence without awaiting the rendition of the decision of the court a quo. The petitioner further insists that there was no need to present evidence on his behalf as the evidence for the prosecution was weak or was short of the required proof beyond reasonable doubt to obtain a judgment of conviction of the crime of malversation of public funds thru falsification of public document.

The motion is devoid of merit.

At the outset, we emphasize that: “The resolution of a demurrer to evidence should be left to the exercise of sound judicial discretion. The trial court's resolution of denial shall not be disturbed, that is, the appellate courts will not

review the prosecution's evidence and precipitately decide whether such evidence has established the guilt of the accused beyond a reasonable doubt, unless accused has established that such judicial discretion has been gravely abused, thereby amounting to a lack or excess of jurisdiction. Mere allegations of such abuse will not suffice.”[5]

A demurrer to evidence challenges the sufficiency of the plaintiff's evidence to sustain a verdict. In passing upon the sufficiency of the evidence raised in a demurrer, the court is merely required to ascertain whether there is competent or sufficient proof to sustain the indictment or to support a verdict of guilt.[6]

In this case, the petitioner miserably failed to present sufficient evidence to show that the trial court abused, much more, gravely abused, its discretion in denying his demurrer. A closer scrutiny of the assailed resolution and order would indeed show that the trial court meticulously discussed both testimonial and documentary evidence presented by the prosecution.[7] The trial court appreciated the testimonial evidence of the prosecution in the persons of NBI Senior Document Examiner Noel Cruz and Former Mayor Alfredo Sarmiento who identified the checks in question as well as the signatures therein vis-a-vis the other checks with the true and genuine specimen signatures of Former Mayor Sarmiento. The trial court further relied on the presumption that the subject checks had been issued by the petitioner in the performance of his function as Municipal Treasurer of Patnanungan, Quezon. It was after a careful analysis of the facts and evidence presented that the trial court laid down its findings and conclusions, which process is inconsistent with a grave abuse.

Furthermore, it has been settled that “the presence or absence of the elements of the crime is evidentiary in nature and is a matter of defense that may be passed upon after a full-blown trial on the merits,” and “the validity and merits of a party's defense or accusation, as well as admissibility of testimonies and evidence, are better ventilated during trial proper.”[8] Petitioner's claims and defenses in his Joint Demurrer to Evidence can best be tackled during the trial. In the presentation of his defense, he shall have the opportunity to explain or show why he should not be made liable.

In fine, the resort to Rule 65 is not well-taken because the petitioner still has another adequate, appropriate remedy. Rule 65 certiorari is available only when there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law. In the petitioner's case, he can still proceed with the trial and then go on appeal should he ultimately be adjudged guilty after trial. The Court thus finds the challenged resolution and order to have been duly premised and not arbitrarily, capriciously or whimsically issued.

As a final word, we cannot allow a party to delay litigation by filing a petition for certiorari under Rule 65 based on scant allegations of grave abuse of discretion.

WHEREFORE, the motion for reconsideration is DENIED. The petition must remain DISMISSED.

IT IS SO ORDERED.

[*]Macalino and Gaerlan, JJ., concur.

[*] Acting Senior Member per Office Order No. 156-14-AGT.

[1] Issued by Presiding Judge Arnelo C. Mesa, RTC, Branch 65 in Crim. Case Nos. 2899-2902-1, rollo, p. 18.

[2] Rollo, p. 79.

[3] Rollo, p. 95.

[4] Rollo, p. 97.

[5] Singian, Jr. vs. Sandiganbayan, GR No. 195011-19, 30 September 2013 citing Alarilla vs. Sandiganbayan, GR No. 136806, 393 Phil. 143, 154 (2000).

[6] Soriquez vs. Sandiganbayan (Fifth Division), GR No. 153526, 25 October 2005, 474 SCRA 222.

[7] See joint resolution and order, rollo, pp. 19 and 20.

[8] Andres vs. Justice Secretary Cuevas, GR No. 150869, 499 Phil. 36 (2005); see also Lee vs. KBC Bank N.V., GR No. 164673, 15 January 2010, 610 SCRA 117.

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