

DIOSDADO S. MENDIOLA, DOMINGO B. JOLA, TEODORO C. DE LA CRUZ AND HERMOGENES CONCEPCION, JR., PETITIONERS, VS. HON. HIGINO MACADAEG, JUDGE OF THE COURT OF FIRST INSTANCE OF MANIL...*G.R. No. L-16874. February 27, 1961*

Ponente: BARRERA, J.

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This is a petition for certiorari, prohibition, and/or mandamus filed by the City Fiscal of Manila, together with Diosdado Mendiola, Domingo Jola, and Teodoro C. de la Cruz, minority stockholders of the Republic Savings Bank, seeking to nullify the preliminary writ of injunction issued in Civil Case No. 41454 of the Court of First Instance of Manila, restraining the petitioner City Fiscal from proceeding with his investigation of a complaint for falsification of public and/or commercial documents filed against respondents Pablo Roman, Ramon Racelis, Armando Abad, Jr., Juan J. Buenafe, Luciano Buenafe, Helmuth Holensteiner, Consuelo S. Perez, Melchor Tuazon, Jr., Maria Teresa Conui, and Vicente R. de Leon.

The antecedents are as follows:

In a letter-complaint dated March 2, 1959, later amended on May 9, 1959, and filed with the City Fiscal of Manila, Diosdado S. Mendiola, Domingo B. Jola, and Teodoro S. de la Cruz, minority stockholders of the Republic Savings Bank, accused Pablo Roman, Ramon Racelis, Luciano F. Buenafe, Juan J. Buenafe, Maria Teresa Conui, and Vicente R. de Leon (officials and employees of the Republic Savings Bank), together with Helmuth Holensteiner, Armando Abad, Jr., Consuelo Salazar Perez, Melchor Tuazon, Jr., John Doe, Peter Doe, James Doe, Richard Doe, and Mary Doe, of the crime of falsification of public and/or commercial documents under Article 171, paragraphs 2, 3, and 4, and Article 172, paragraph 1 of the Revised Penal Code, in relation to Sections 75, 76, 77, 78, 83, and 87 of the Banking Act (Republic Act 337), allegedly committed by the respondents Bank officials and employees, in connivance with the other respondents, in preparing or causing the preparation of the following documents:

(1) Four deeds of absolute sale, all dated December 10, 1957, by virtue of which Pablo M. Sarangaya purportedly sold and conveyed ownership of the properties separately described therein unto Felizardo Africa, Honorato Galang, Raul Suarez, and Conrado Enrile, respectively. These deeds were all signed by Melchor Tuazon, Jr. and Peter Doe, as witnesses, and notarized and acknowledged by Armando Abad, Jr.

(2) Four deeds of mortgage, all dated December 11, 1957, allegedly executed by vendee Africa, Galang, Suarez, and Enrile in favor of the Republic Savings Bank, to secure their respective loans of P85,000.00, P210,000.00, P250,000.00, and P200,000.00, incurred to pay the balance of the purchase price of the aforementioned properties. Said deeds of mortgage were witnessed by Maria Teresa Conui and John Doe, and notarized and acknowledged by Luciano F. Buenafe.

(3) Four deeds of sale with assumption of mortgage, all dated September 3, 1958, allegedly executed by

Felizardo Africa, Honorato Galang, Raul Suarez and Conrado Enrile, the first two in favor of the Beneficial Financing Corporation of which Consuelo S. Perez is the President and majority stockholder, and the other two in favor of Consuelo Salazar-Perez personally.

Specifically, the charge was that respondent made untruthful statements in the respective narration of facts, by causing it to appear in said deeds that the alleged vendees Africa, Galang, Suarez, and Enrile took part in the acts and proceedings indicated therein when in fact they did not; that by the unlawful and deliberate preparation, execution, and accomplishment of the aforementioned documents, the Register of Deeds of Rizal was induced to issue the corresponding transfer certificate of title for each of said properties, and the registration thereof in the names of Africa, Galang, Suarez, and Enrile, and to register the deeds of mortgage allegedly executed by the purchasers in favor of the Republic Savings Bank, as well as the supposed subsequent sale of the same properties, subject to said mortgages, in favor of Consuelo Salazar-Perez and the Beneficial Financing Corporation (of which Mrs. Perez is the President and majority stockholder); that by virtue of such fraudulent transactions, respondents were able to cause the unlawful disbursement of the funds of the Republic Savings Bank in the total sum of P745,000.00 in violation of their trust and which could not have been accomplished without the misrepresentations and falsifications complained of. This complaint was docketed as I.S. No. 6876 of the City Fiscal's Office.

With full knowledge of the filing of this complaint in the respondent City Fiscal's Office, and notwithstanding the summons issued by this official, the Beneficial Financing Corporation and Consuelo Salazar-Perez, on April 3, 1959, entered into a contract with Top Service, Inc. whereby they promised to sell to the latter the four (4) parcels of land for the sum of P794,764.30 for the first two parcels, and P597,031.30 for the last two parcels. Subsequently, Beneficial Financing Corporation conveyed the two parcels of land it obtained from Africa and Galang to Mrs. Perez who thereby became the owner of the four parcels. Thereafter, respondents filed a motion to quash the criminal complaint and an alternative motion to postpone the investigation on the ground that the nullity of the mortgage contracts is a prejudicial question to the charge for falsification. Evidently to bolster up this theory, Top Service Inc. subsequently instituted in the Court of First Instance of Pasig (Civil Case No. 5584) an action against Consuelo Salazar-Perez purportedly "to quiet title" of Mrs. Perez, alleging among others, the agreement to sell secured in its favor in virtue of which plaintiff averred to have already paid the total amount of P50,000.00 as advance payment, and was to undertake, as it did undertake, to subdivide the parcels of land into small lots, lay out streets and plazas; that it had already spent more than P300,000 and was expected to spend around P1,000,000.00 more to complete the subdivision work; that it learned of the filing by the three minority stockholders of the Republic Savings Bank of the complaint for falsification involving the parcels subject of their contract; that such proceeding was prejudicial to its rights, title, and interest under the aforementioned promise to sell. Thus, it was prayed that the court render judgment "to remove such cloud or to quiet the title of the aforesaid real property".

The defendant, Consuelo Salazar-Perez answered the complaint denying the alleged falsification and asserting the validity of her title over the said properties.

After the issues in said civil case have thus been apparently joined, the respondents in I.S. No. 6976 of the City Fiscal's Office reiterated their motion to quash or suspend the investigation of the criminal complaint, inviting attention to the civil action filed in Pasig and insisting that the same is an existing prejudicial civil question that warrants the suspension of the preliminary investigation. Upon its denial by the investigating fiscal, respondents appealed to the City Fiscal. Ruling that a decision in Civil Case No. 5584, filed in Pasig, purportedly to quiet title over the properties involved therein is not essential to the determination of the criminal liability of the respondents for falsification as charged in the complaint, the City Fiscal ordered the continuation of the preliminary investigation, setting the same for September 16, 1959, at 1:30 P.M. On the appointed date, but before the actual

investigation could take place, however, the City Fiscal received a writ of preliminary injunction issued ex-parte by the Court of First Instance of Manila in Civil Case No. 41454,[1] enjoining him to refrain from conducting the preliminary investigation of I.S. 6976. Their separate motions to dismiss the case and to dissolve the injunction having been denied, the City Fiscal, together with the complainants in the criminal investigation, filed the instant petition for the purpose heretofore stated, viz. to set aside the preliminary writ of injunction restraining the City Fiscal from proceeding with his investigation.

The only question to be resolved in this instance is, whether the proceedings in I.S. No. 6976 of the City Fiscal's Office may be stopped or suspended pending the final determination of the question involved in Civil Case No. 5584 of the Court of First Instance of Rizal (Pasig), or, differently stated, whether Civil Case No. 5584 is a prejudicial civil action to the falsification case subject of I.S. No. 6976.

In the leading case of *De Leon vs. Mabanag* (70 Phil., 202), cited by both parties, this Court, providing the criteria of when a prejudicial civil question exists, stated:

"* * * por regla general, el tribunal que entiende de un asunto criminal tiene competencia para decidir cuestiones prejudiciales, para solo el efecto de la represion, cuando tales cuestiones aparezcan tan intimamente ligadas al hecho punible que sea racionalmente imposible su separacion. Pero el articulo 4.º consagra una excepcion, y es cuando la cuestion prejudicial sea determinante de la culpabilidad o inocencia del acusado, en cuyo caso el tribunal que conoce de la causa criminal debe suspender esta y hacer que se falle la cuestion prejudicial en juicio civil o administrativo. Esto es exactamente lo que ocurre ahora. La falsificacion del documento V-1, a mejor dicho, los hechos en que consisten la misma y su sustitucion durante el curso del juicio afectan directamente a la moralidad del recurrente como miembro del foro y es deber de este Tribunal determinar si el mismo es culpable de malas practicas, determinacion que constituyo en este caso la cuestion prejudicial de caracter administrativo que debe resolverse separadamente en el expediente administrativo en vista de que determinura a su vez la culpabilidad o inocencia del recurrente en relacion con el proceso criminal por el delito de falsificacion. * * * La necesidad de suspender la investigacion preliminar que ha iniciado el recurrido asi como la inoacion del proceso criminal por el delito de falsificacion del documento V-1 resulta mas patente si se considera que la falsedad del documento y su sustitucion se hallan aun sub-judice y si este Tribunal decidiese que el mismo es genuino y no ha sido sustituido y por consiguiente el recurrente no es culpable de malas practicas, tal fallo estaria en pugna con el criterio sustentado por el recurrido." (Italics supplied)

Under the foregoing doctrine, for a civil case to be considered prejudicial to a criminal action as to cause the suspension of the latter pending its (civil case) final determination, it must appear not only that the said civil case involves the same facts upon which the criminal prosecution would be based, but also that in the resolution of the issue or issues raised in the aforesaid civil action, the guilt or innocence of the accused would necessarily be determined.

In the case at bar, the burden of the criminal complaint (I.S. No. 6976) is that the falsification therein charged had caused the fraudulent and illegal disbursements of the funds of the: Republic Savings Bank in violation of the Banking Law and of the Revised Penal Code. The validity of the transfers of ownership over the land is but an incident. Consequently, even if the ownership of Consuelo Salazar-Perez is upheld in the case to quiet title, such a decision will not finally conclude that the herein respondents, who are not parties to the said civil action, are innocent of the falsification that enabled them to obtain, through fraudulent misrepresentations and false narration of facts in the public documents, the illegal disbursements of the bank's funds in the way of loans.

Moreover, the civil case is an action between Top Service, Inc. and Consuelo Salazar-Perez alone. Both parties are interested in the same proposition, the clearing of doubt in the title of Mrs. Perez. In such a situation, who would raise the question of falsification of the documents relied on by both parties? How could a judgment

rendered under such circumstances be determinative of the guilt or innocence of the respondents who could not be bound by the decision without their intervention or the intervention of those who charge the falsification? Clearly, the issue in Civil Case No. 5584 does not constitute a prejudicial question that would warrant the suspension of the investigation, sought to be conducted by the petitioner City Fiscal, of the criminal complaint for falsification filed in his office ahead of the civil case.

Wherefore, the petition is hereby granted, and the preliminary injunction issued by the respondent court (in Civil Case No. 41454) restraining the City Fiscal of Manila from proceeding with the preliminary investigation of I.S. No. 6976 dissolved. Costs are taxed against the respondents petitioners, in said Civil Case No. 41454. So ordered.

Bengzon, Acting C.J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Paredes, and Dizon, JJ., concur.

[1] A complaint against the City Fiscal and complainants Mendiola, Jola, and Dela Cruz, praying for the issuance of a writ of preliminary injunction to restrain the City Fiscal from proceeding with the preliminary investigation of I. S. No. 6976, and for the declaration, after trial, that a prejudicial question exists in Civil Case No. 5584 of the Court of First Instance of Rizal.

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