

DANILO M. SALCEDO, PETITIONER, VS. HON. MARILOU D. RONES TAMANG, IN HER CAPACITY AS PRESIDING JUDGE-DESIGNATE BRANCH 57, METROPOLITAN TRIAL COURT, SAN JUAN, METRO MANILA; HON. G...

Ponente: DIMARANAN-VIDAL, J.

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DIMARANAN-VIDAL, J.:

In this Petition for Certiorari under Rule 65 of the Revised Rules of Court, Petitioner DANILO SALCEDO (hereinafter Petitioner) is seeking the nullification of all the proceedings in I.S. Nos. 99-1-8773,[1] 99-11-26618[2] and 99-11-26619[3] in the Office of the City Prosecutor of Pasig City and all the proceedings in Criminal Cases Nos. 65053,[4] 65118[5] and 62280[6] in the Metropolitan Trial Court (MTC), Branch 57, San Juan, Metro Manila, particularly the issuance of the Orders dated 29 June 2001[7] and 13 June 2002.[8]

THE FACTS

As synthesized by the Public Respondent, Provincial Prosecutor of Rizal:

On 14 September 1999, Respondent EUGENE T. LIM (hereinafter Respondent) filed with the Office of the City Prosecutor of Pasig City, a complaint for Violation of BP Blg. 22 against the Petitioner DANILO M. SALCEDO. Subsequently, on November 17, 1999 another two (2) counts of Violation of BP 22 were filed by Mr. Lim against the petitioner.

Subsequently, the Office of the City Prosecutor, found probable cause against Petitioner for Violation of B.P. 22 in three counts, which were filed before the Metropolitan Trial Court, Branch 57, San Juan, Metro Manila and docketed thereat as Crim. Case Nos. 65053, 65118 and 62280 all entitled People vs. Danilo M. Salcedo.

The said Metropolitan Trial Court then took cognizance of the cases and proceeded with the trial until the prosecution rested its case.

Meanwhile, the jurisdiction to prosecute offenses committed in San Juan, Metro Manila has been restored from the Office of the City Prosecution of Pasig City to the Office of the Provincial Prosecutor of Rizal. Hence, the latter office took over the prosecution of the above-mentioned three (3) criminal cases, subject hereof.

Subsequently, on June 21, 2002, the Petitioner, instead of presenting his defense evidence, filed a Motion to Dismiss By Way of Demurrer to Evidence/Jurisdiction, which was, however, denied by the court a quo in an order dated June 29, 2002.[9]

The pertinent portion of the assailed Order of 29 June 2001,[10] which denied the Petitioner's Motion to Dismiss By Way of Demurrer to Jurisdiction/Evidence,[11] reads:

For failure of the movant lawyer as well as the accused to appear in court for today's hearing on "Motion to Dismiss" (By Way of Demurrer to Jurisdiction/Evidence) filed by the Defense Counsel Atty. Leopoldo M. Salcedo, which they prayed to be called at 10:00 a.m., this court denies the Motion at bench for lack of appearance to pursue the motion at bench.[12]

On 19 July 2001, Petitioner filed a Motion for Reconsideration[13] which the court a quo denied in an Order dated 13 June 2002.[14] The dispositive portion of the said Order states:

WHEREFORE, premises considered, the court hereby resolves to deny accused[']s Motion to Dismiss.

Accordingly, and without prejudice to any petition which the counsel for the accused may wish to file with the proper tribunal under the obtaining circumstances, let the presentation of evidence be set on September 12, 2002 at 8:30 o'clock in the morning.[15]

Aggrieved, the Petitioner comes now before Us raising the following issues:

I

WHETHER THE MANDATORY REQUIREMENT OF A CERTIFICATION AGAINST FORUM-SHOPPING, AS PROVIDED FOR IN ADM. CIRCULAR NO. 04-94, DATED FEBRUARY 8, 1994, IN RELATION TO RULE 1, SEC. 3 AND RULE 7, SECTION 5 OF THE 1997 (SIC) RULES OF COURT APPLIES IN CRIMINAL CASES, THE NON-OBSERVANCE OF WHICH WOULD RESULT TO DENIAL OF "DUE PROCESS OF LAW/EQUAL PROTECTION OF THE LAW", AND, ULTIMATELY, RESULT TO LACK OF JURISDICTION/NULLITY OF ALL PROCEEDINGS IN SAID CRIMINAL CASES, DUE TO UNLAWFUL EXERCISE OF JURISDICTION BY PUBLIC RESPONDENT COURT[;]

II

COROLLARY THERETO, WHETHER, RESPONDENTS IN PROSECUTING THE CRIMINAL CASES, IN QUESTION, HAVE ACTED WITHOUT/IN EXCESS OF JURISDICTION/WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION, AND[;]

III

AND, ULTIMATELY, WHETHER THE PRESENT PETITION FOR CERTIORARI, FILED PURSUANT TO RULE 65 OF THE 1997 RULES OF COURT, IS WELL-FOUNDED, IN FACT AND AT LAW[.][16]

OUR RULING

The Petition is bereft of merit.

Anent the first issue, Administrative Circular No. 04-94 clearly provides:

The complaint and the initiatory pleadings referred to and the subject of this Circular are the original civil complaint, counterclaim, cross-claim, third (fourth, etc.) party complaint, or complaint-in-intervention, petition, or application wherein a party asserts his claim for relief.

The foregoing provision is unambiguous and unequivocal. It undoubtedly applies to original civil complaints. Any strained construction attempting to include within its purview criminal complaints is a shot aimed at the moon. Such out-of-this-world interpretations are frowned upon. The role of counsel is to present the best defense for his client, the Petitioner, and not to make a mockery of the judicial process, which is exactly what Petitioner's counsel is doing in the instant case. After he had actively participated in the criminal proceedings for three (3) years without raising this objection, he now assails the validity of the entire proceedings on the alleged ground that the rule requiring a certificate of non-forum shopping was violated.

Petitioner further argues that, in line with Rule 111 of the 1985 Rules of Criminal Procedure, the criminal informations for B.P. 22 in the case at bar serve as the civil complaints for the recovery of civil liability arising from the offense, hence, the said informations are covered by Administrative Circular No. 04-94.[17] This argument is misplaced. Even if the civil action is included in the criminal action, the proceeding remains criminal

in nature.[18] In fact, this is the reason behind the express prohibition of the filing of a counterclaim, cross-claim or third-party complaint by the accused in a criminal case.[19]

There is no showing that the non-inclusion of criminal complaints in the application of Supreme Court Administrative Circular 04-94 violates the due process and the equal protection clause of the Constitution. The equal protection clause mandates that all persons and things similarly situated should be treated alike. However, it is axiomatic that persons or things with substantial distinctions which make for real differences may be treated differently. Otherwise stated, a classification based on valid and reasonable standards does not violate the equal protection clause.[20]

Verily, substantial distinctions exist between a civil and a criminal action. For this reason, there is a separate set of rules governing civil procedure and criminal procedure. A civil action is one by which a party sues another for the enforcement or protection of a right, or the prevention or redress of a wrong, while a criminal action is one by which the State prosecutes a person for an act or omission punishable by law.[21] The distinctions between civil and criminal actions are too basic to require further explanation.

Re the second issue, the court a quo and the Provincial Prosecutor evidently did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in prosecuting the criminal cases against the Petitioner and in issuing the assailed orders. Besides, as correctly observed by the court a quo, the failure of the Petitioner to raise the issues, supra, prior to his arraignment, is deemed a waiver thereof.

Consequently, anent the third issue, Certiorari will definitely not lie in the instant case. The essence of a special civil action for Certiorari is to keep in check a tribunal, board or officer acting without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction.[22] We find herein no such lack or excess of jurisdiction correctable by Certiorari. Definitely, in prosecuting the criminal cases and in issuing the Order denying the Petitioner's Motion to Dismiss By Way of Demurrer to Jurisdiction/Evidence and the subsequent Order denying the Motion for Reconsideration, the court a quo acted judiciously within the bounds of the law and jurisprudential doctrines on the matter.

WHEREFORE, premises considered, the instant Petition is DENIED.

SO ORDERED.

Reyes, (Chairman) and Lampas-Peralta, JJ., concur.

[1] Rollo, p. 33

[2] Id., p. 40

[3] Id., p. 46

[4] Id., p. 53

[5] Id., p. 55

[6] Id., p. 51

[7] Id., p. 74

[8] Id., pp. 80-81

[9] Id., pp. 84-85

[10] Id., p. 74

[11] Id., p.57-73

[12] Id., p. 74

[13] Id., p.75

[14] Id., pp. 80-81

[15] Id., p. 81

[16] Id., pp. 12-13

[17] Id., pp. 22-24.

[18] See Regalado, Remedial Law Compendium, Volume II, p. 292

[19] Rule 111, Section 1, Rules of Court; See Regalado, *ibid*.

[20] *Tiu v. Court of Appeals*, G.R. No. 127410, January 20, 1999

[21] Rule 1, Section 3, Rules of Court

[22] Section 1, Rule 65, 1997 Rules of Civil Procedure; *Heirs of Hinog vs. Hon. Achilles Melicor*, G.R. No. 140954, April 12, 2005.

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