

LEONARDO A. AURELIO, PETITIONER, VS. DEPARTMENT OF JUSTICE, BUN SIONG YAO, MARIA VICTORIA L. YAO, REYNALDO TAY AND ROSITA G. DOMINGO, RESPONDENTS.

Ponente: GONZALES-SISON, M., J.

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GONZALES-SISON, M., J.:

Before this Court is a petition for certiorari^[1] which seeks to reverse and set aside the twin resolutions of the Department of Justice in I.S. No. 4-62729-K dated 10 October 2011 and 10 January 2014.

The 10 October 2011 resolution affirmed the earlier ruling of the Office of the City Prosecutor of Mandaluyong City dismissing petitioner's complaint for falsification of commercial/public documents against private respondents for lack of merit, thus:

“WHEREFORE, premises considered, the instant petition is hereby DENIED.

SO ORDERED.”^[2]

Meanwhile, the 10 January 2014 resolution denied petitioner's motion for reconsideration of the above resolution, hence:

“WHEREFORE, the Motion for Reconsideration is hereby DENIED.

SO ORDERED.”^[3]

Briefly, the facts of the case, are as follows:

Petitioner Leonardo A. Aurelio (petitioner), is a lawyer and a stockholder of Solar Farm and Livelihood Corporation (Solar Farm), which is a domestic corporation duly organized and existing under the Philippine law.

Meanwhile, private respondents Bun Siong Yao, Reynaldo Tay, Maria Victoria L. Yao and Rosita G. Domingo, are the President, Treasurer, Corporate Secretary and Auditor respectively of Solar Farm.

In 2004, Solar Corporation filed its 2003 Audited Financial Statement to the Securities and Exchange Commission (SEC). However, on said Audited Financial Statement, Solar Farm did not include three (3) parcels of land located in San Jose del Monte City which are all titled and registered under Solar Farm's name. The titles of the parcels of land and their corresponding area are as follows:

TCT

Area

1) T-151130M

23,649 sq. m.

2) T-151131M

7,752 sq. m.

3) T-151132M

9,120 sq. m.

Based on the above omission, petitioner decided to file a complaint-affidavit against the private respondents for falsification of commercial/public documents under Article 172 (1), in relation to Article 171 (4) of the Revised Penal Code.

In their joint counter-affidavit, private respondents Bun Siong Yao and Maria Victoria L. Yao, averred that it was the former who bought the above parcels of land using his own money and thereafter transferred them to Solar Farms. Allegedly, there was an agreement with the other stockholders of Solar Farms that they would pay Bun Siong Yao the value of the parcels of land with their respective shareholdings. As of date, no payment has been made to Bun Siong Yao. Consequently, upon the advice of petitioner that the said parcels of land do not yet form part of Solar Farm, the same were excluded in the list of the company's assets. Moreover, private respondents Bun Siong Yao and Maria Victoria L. Yao claimed that they were not the ones who prepared the Audited Financial Statement, hence, they could not be charged with falsification.

Private respondent Rosita G. Domingo, on the other hand, defended herself in her own counter-affidavit by stating that she is an independent public accountant (CPA) and has no connection whatsoever with Solar Farm. Further, Rosita G. Domingo explained that she merely prepared the audit report of Solar Farm based on the financial records presented to her.

In a resolution dated 9 February 2006, the Office of the City Prosecutor (OCP) of Mandaluyong City dismissed petitioner's complaint for want of merit. The OCP of Mandaluyong City ratiocinated that private respondents Bun Siong Yao, Reynaldo Tay and Ma. Victoria Yao cannot be faulted for falsification as they relied in good faith on the advice of petitioner that the said parcels of land do not yet form part of Solar Farm's assets. As to private respondent Rosita G. Domingo, she cannot also be held liable as she has no connection with Solar Farm and she merely examined the related Solar Farm's financial statements of income and expenses for the year then ended based on the documents presented to her.

Petitioner then filed a motion for reconsideration of the above resolution of the OCP Mandaluyong but was met by a denial in a resolution dated 28 May 2007.

Unperturbed, petitioner elevated the case to the Department of Justice (DOJ) via a petition for review. Nonetheless, the DOJ adopted the findings of the OCP of Mandaluyong City and denied the petition for review as encapsulated in the 10 October 2011 resolution.

With the denial of petitioner's motion for reconsideration of the above resolution, petitioner now comes before this Court through this instant petition for certiorari and in support thereof raises the following issues, to wit:

I.

THE DEPARTMENT OF JUSTICE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN SUSTAINING THE FINDINGS OF THE OCP MANDALUYONG CITY WHICH INCLUDED A NON-ELEMENT IN DEFINING THE OFFENSE CHARGED.

II.

THE DEPARTMENT OF JUSTICE (DOJ) COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DELIBERATELY CLOSING ITS EYES TO THE

PUBLIC DOCUMENTS ADDUCED BY COMPLAINANT-PETITIONER, THE GENUINENESS OF WHICH WERE ADMITTED BY RESPONDENTS, HENCE, BEYOND DISPUTE.

III.

THE DEPARTMENT OF JUSTICE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN NOT FINDING "PROBABLE CAUSE", BUT INSTEAD, IN USURPING THE FUNCTIONS OF A TRIAL COURT IN TRYING TO DETERMINE THE EXISTENCE OF "PROOF BEYOND REASONABLE DOUBT."

IV.

THE DEPARTMENT OF JUSTICE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN GIVING MORE WEIGHT TO THE BARE DENIALS AND LAME EXCUSES OF THE RESPONDENTS DESPITE THEIR LACK OF EVIDENCE.

V.

THE DOJ ARBITRARILY AND CAPRICIOUSLY GAVE PROBATIVE VALUE TO THE TOTALLY UNNATURAL, ILLOGICAL, PREPOSTEROUS AND UNSUBSTANTIATED ALLEGATIONS OF RESPONDENTS, NOT TO MENTION THE FACT THAT THEY ARE DEVOID OF SPECIFICS AND ARE BARRED NOT ONLY BY THE STATUTES OF FRAUD BUT ALSO BY THE RULE ON PRESCRIPTION.

Again, petitioner insists that there is probable cause to indict the private respondents as they were responsible in submitting to the SEC a falsified Audited Financial Statement as it does not include the three (3) parcels of land under Solar Farm's name. Likewise, petitioner cast serious doubt on the defense of private respondent Bun Siong Yao that there was an agreement for the stockholders of Solar Farm to reimburse Bun Siong Yao for the values of the parcels of land as there is no contract or document proving the same.

In resolving the issues before this Court, We deem it proper to articulate beforehand the purpose of certiorari and what constitutes grave abuse of discretion.

A petition for certiorari is the proper remedy when any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction and there is no appeal, nor any plain speedy, and adequate remedy at law. There is "grave abuse of discretion" when respondent acts in a capricious or whimsical manner in the exercise of its judgment as to be equivalent to lack of jurisdiction.[4]

After sifting through the facts of the case and guided by the applicable laws and jurisprudence, We find the instant petition for certiorari, bereft of merit.

As aptly found by the OCP of Mandaluyong City and the DOJ, private respondents Bun Siong Yao, Reynaldo Tay and Maria Victoria L. Yao acted in good faith, thus they are not liable for falsification. Here, it is uncontroverted that it was petitioner himself, acting as a lawyer, who gave the advice to private respondents Bun Siong Yao and Maria Victoria L. Yao not to include the parcels of land in the assets of Solar Farms as these have not yet been paid for by the stockholders of the company.

Petitioner could not side-step the issue by claiming that private respondents should have known that they were committing falsification by leaving out the parcels of land in the Audited Financial Statement. Basic is the principle that "mistake upon a doubtful or difficult question of law may be made the basis of good faith." [5] The difficulty of the legal issue involved is manifest in the fact that private respondents had to consult the legal expertise of petitioner on this matter. If this was a simple legal issue, obviously, the private respondents would have gone ahead without seeking legal advice.

Furthermore, as a lawyer, it is expected that petitioner would hand out a legally sound advice to the private respondents because an attorney enjoys the presumption of regularity in the discharge of his duty.[6] Definitely, the private respondents could not be faulted for following the advice of petitioner as they have the right to presume that such advice is in accordance with petitioner's duty to "counsel or maintain such actions or proceedings only as appear to him to be just".[7]

Having established that the private respondents acted in good faith or without criminal intent, they cannot thus be charged for falsification of public/commercial documents. *Actus non facit reum, nisi mens sit rea*. There can be no crime when the criminal mind is wanting. Significantly, it was held in *Amora, Jr., v. Hon. Court of Appeals*[8] that:

"xxx. Thus the learned Mr. Justice Ramon C. Aquino has said, "there is no falsification of a public document if the acts of the accused are consistent with good faith. Thus, it has been held that 'a conviction for falsification of a public document by a private person will not be sustained when the facts found are consistent with good faith on the part of the accused.' In other words, although the accused altered a public document or made a misstatement or erroneous assertion therein, he would not be guilty of falsification as long as he acted in good faith and no one was prejudiced by the alteration or error." (II Revised Penal Code, pp. 986-987 119761.)"

With respect to private respondent Rosita G. Domingo, there is more reason to protect her from the trouble, expense and anxiety of a public trial as she is neither connected with Solar Farms nor responsible for the documents that became the basis for the Audited Financial Statement.

Anent the issue that the defense of "good faith" should be threshed out in full-blown trial, it is well to remind petitioner that a preliminary investigation is intended to protect the accused from the inconvenience, expense and burden of defending himself in a formal trial unless the reasonable probability of his guilt shall have been first ascertained in a fairly summary proceeding by a competent officer. It is also intended to protect the state from having to conduct useless and expensive trials.[9]

In fine, we find that the DOJ did not commit any grave abuse of discretion amounting to lack or in excess of jurisdiction in rendering the assailed resolutions.

As a final point, this Court would like to remind the lawyer for the petitioner to become more circumspect in the pleadings filed by him with this Court. Though the reference number is identical to this case, what said counsel filed on 17 November 2014 is a memorandum of arguments for another case involving defamation and which originated from the Office of the City Prosecutor of Quezon City. The said memorandum is thus considered a mere scrap of paper.

WHEREFORE, premises considered, the instant Petition for Certiorari is DENIED for lack of merit and the assailed resolutions of the of the Department of Justice dated 10 October 2011 and 10 January 2014 are hereby AFFIRMED.

SO ORDERED.

Diamante, F.N.,[**] and Cruz, R.A., JJ., concur.
Gonzales-Sison, M, Acting Chairperson[*]

[*] Per Office Order No. 72-15-RDC dated 6 March 2015.

[**] Per Office Order No. 72-15-RDC dated 6 March 2015.

- [1] Rollo, p. 3.
- [2] Rollo, p. 103-104;
- [3] Rollo, p. 113.
- [4] People's Broadcasting v. The Sec. of the Department Labor and Employment, etc., G.R. No. 179652, 08 May 2009.
- [5] Mabutas v. Nable, A.M. No. 1827, 25 April 1978.
- [6] Agpalo, R.E., Legal and Judicial Ethics, 7th ed., p.9.
- [7] Section 20(c), Rule 138 of the Rules of Court.
- [8] G.R. No. L-58973-76, 20 July 1982.
- [9] Tandoc v. The Honorable Resultan, G.R. No. 59241-44, 5 July 1989.

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