

**ROMEO DELA CRUZ, ZALDY BAUTISTA, FELMONDE RUNDEZ AND
GERARDO MARTINEZ, PETITIONERS, VS. JUDGE EUFREN F.
CHANGALE, REGIONAL TRIAL COURT, SECOND JUDICIAL REGION,
BRANCH 32, CABARR...**

Ponente: DICDICAN, J.

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DICDICAN, J.:

Before us is a Petition for Certiorari[1] filed by herein petitioners Romeo Dela Cruz, Zaldy Bautista, Felmonde Rundez and Gerardo Martinez pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to annul and set aside the Order[2] issued by public respondent Judge Eufren F. Changale (“public respondent judge”) of Branch 32 of the Regional Trial Court of the Second (2nd) Judicial Region in Cabarroguis, Quirino (“trial court”) dated March 12, 2013 in Criminal Case No. 2670-2012 which, inter alia, denied the motion to quash the information for the crime of robbery that was filed in the trial court against herein petitioners. Likewise assailed in the instant petition is the subsequent Order[3] of the trial court dated June 24, 2013 which denied the motion for reconsideration of the March 12, 2013 Order that was issued by the said court for lack of merit.

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

The instant case stemmed from a Criminal Complaint[4] for the crime of robbery in band that was filed by one PO3 Alex P. Agbayani against herein petitioners at the Office of the Provincial Prosecutor of Quirino on June 4, 2012. The said criminal complaint stated that, on or about 2:15 o'clock in the morning of May 31, 2012 at Purok 1, Barangay San Marcos, Cabarroguis, Quirino, herein petitioners, who were carrying firearms, forcibly entered the back door of the house of the Spouses Luciano and Imelda Ghisellini (“Spouses Ghisellini”). Thereafter, with force and intimidation, the petitioners took away the following items from the aforementioned Spouses Ghisellini, to wit:

- 1) One (1) gold bracelet with pendant valued at Php21,600.00;
- 2) One (1) gold bracelet valued at Php21,600.00;
- 3) One (1) pair of earrings with diamond stones valued at Php72,000;
- 4) One (1) ring with four (4) diamond stones valued at Php30,000.00;
- 5) One (1) emerald ring with brilliantitos valued at Php10,000.00;
- 6) One (1) white gold bracelet valued at Php3,600.00;
- 7) One (1) pair of pearl earrings valued at Php5,000.00;
- 8) One (1) wrist watch with brilliantitos valued at Php36,500.00;
- 9) One (1) PSP valued at Php13,000.00;
- 10) One (1) Samsung cellphone valued at Php8,050.00; and
- 11) One (1) Nokia cellphone valued at Php4,700.00.

On August 31, 2012, the Office of the Provincial Prosecutor of Cabarroguis, Quirino, issued a Resolution[5] recommending that a criminal information for the crime of robbery with violence against or intimidation of persons under paragraph 4 of Article 294 of the Revised Penal Code be filed against herein petitioners. On the

same day, a criminal Information[6] for the crime of robbery under the aforesaid provision was filed against the petitioners, as follows:

“That on or about the 31[st] day of May, 2012, in the municipality of Cabarroguis, province of Quirino, Philippines and within the jurisdiction of this Honorable Court, the said accused, armed with a Gauge 12 shotgun, a Cal. 38 revolver and a Cal. 22 revolver, conspiring, confederating together and helping one another, with intent to gain and by means of violence and intimidation against persons, did then and there, willfully, unlawfully and feloniously enter the house of spouses LUCIANO GHISELLINI AND IMELDA GHISELLINI Y MANGACAT to wit: by forcibly destroying the lock of the backdoor of the said house wherein the accused gained entry and once inside, did then and there, willfully, unlawfully and feloniously take, steal and bring away therefrom two (2) units of cellphones described as NOKIA 100 valued at Php 4,700.00 and SAMSUNG Touch Screen valued at Php 8,050.00; one (1) bracelet white gold valued at Php 3,600.00; one (1) pair of pearl earring valued at Php 5,000.00; one (1) wrist watch with brilliantitos valued at Php 36,500.00; and one colored blue PSP valued at Php 13,000.00; all were placed around the corner inside the sala and coffee bar of the said house; that thereafter, the accused, in attempting to enter the bedroom of the spouses LUCIANO GHISELLINI AND IMELDA GHISELLINI Y MANGACAT, did then and there, willfully, unlawfully and feloniously, by means of violence and intimidation against persons, and by employing such violence and intimidation to a degree clearly unnecessary for the commission of the crime, fired on the wall of the said room and hit and strike for several times the victim LUCIANO GHISELLINI on the head and other parts of his body with the use of the said Gauge 12 shotgun causing said LUCIANO GHISELLINI to suffer physical injuries, and at gun point, did then and there, willfully, unlawfully and feloniously, take, steal and bring away a jewelry pouch directly from the possession of IMELDA GHISELLINI containing one (1) pc. gold bracelet with pendant valued at Php 21,600.00, one (1) pc. gold bracelet valued at Php 21,500.00; one (1) pair of earrings with diamond stones valued at Php 72,000.00, one (1) pc. ring with four diamond stones valued at Php 30,000.00 and one (1) pc. Ring with emerald stone brilliantitos valued at Php 10,000.00 all valued in the total amount of Php 226,050.00 and one (1) unit ARMSCOR Air Rifle (air gun) with a still undetermined amount, all belonging to the said spouses LUCIANO GHISELLINI AND IMELDA GHISELLINI Y MANGACAT, against their will and consent, to the damage and prejudice of the said owners in the aforesaid total amount of Php 226,050.00 and the still undetermined amount of the said air rifle.

“That during the commission of the crime, the said accused, in pursuance of their conspiracy, not being allowed nor authorized by law to keep, possess and carry firearms and ammunitions, did then and there, willfully, unlawfully and feloniously, have in their possession and under their control and custody the said Gauge 12 shotgun, Cal. 38 revolver and Cal. 22 revolver, with live ammunitions for the same, which they used in the commission of the crime, without first having obtained the necessary permits and/or licenses therefor.”

Thereafter, the petitioners filed in the trial court a Motion to Quash[7] the criminal information for the crime of robbery that was filed against them alleging that the aforesaid court had no jurisdiction over their persons. In the aforesaid motion to quash, the petitioners claimed that they were invalidly arrested since their arrest did not meet the requisites of the law for a valid hot pursuit arrest, to wit: (1) the offense has just been committed; and (2) there is probable cause based on personal knowledge of facts or circumstances that the person to be arrested committed it.

The petitioners contended that the third (3[rd]) element (i.e. probable cause based on personal knowledge of facts or circumstances that the person to be arrested committed it) was missing in the conduct of the hot pursuit arrest against them. According to the petitioners, herein private respondent Imelda Ghisellini (“private respondent”), who was the private complainant in the criminal case for robbery against them, admitted in her affidavit-complaint that she was only able to identify herein petitioner Zaldy Bautista (“petitioner Bautista”) and another male perpetrator who grappled with her husband. The private respondent claimed that, while she did not know the name of the latter, she could easily recognize and identify the male perpetrator who grappled with her

husband should she see him again. The petitioners maintained that, at 3:00 o'clock in the morning of the same day or immediately after the robbery took place, the police officers of Diffun, Quirino, a town which was contiguous and about twenty (20) kilometers away from the house of Spouses Ghisellini, allegedly spotted herein petitioner Romeo Dela Cruz ("petitioner Dela Cruz") walking along the road of Diffun. Thereafter, during their surveillance, the police officers saw petitioner Dela Cruz at a pawnshop dealing with a cellular phone technician and, at 9:00 o'clock in the morning of the same day, the police officers went to the house of petitioner Dela Cruz and invited the latter to the police station. Later on, when confronted by the private respondent at the police station, petitioner Dela Cruz named the other petitioners in this case as his cohorts in robbing the house of spouses Ghisellini.

Nonetheless, the petitioners asseverated that the arresting officers were all in bad faith in effecting the arrest of petitioner Dela Cruz when they based their suspicion on circumstances which were so ordinary and commonplace in the course of things such as walking at 3:00 o'clock in the morning at the road along Diffun, Quirino, or dealing with a cellular phone technician. Otherwise stated, the petitioners submitted that the arresting officers did not have any knowledge as to the alleged participation of petitioner Dela Cruz in the crime charged. Moreover, the petitioners pointed out that there was ample time for the arresting officers to secure a warrant for the arrest of petitioner Dela Cruz since there was no urgency for the arrest of the latter.

As regards the three (3) other petitioners, they belied that they were legally arrested pursuant to the information that was given by petitioner Dela Cruz to the arresting officers that they were involved in the aforementioned crime. Finally, the petitioners denied having admitted that they committed the crime that was charged against them. While there were extra-judicial affidavits that were submitted by the arresting officers whereby they admitted their participation in the said act, the petitioners pointed out that the said extra-judicial affidavits were never explained to them and that Atty. Roldan Ubaldo, who assisted them when they signed the same, was not their lawyer.

In the herein first assailed Order dated March 12, 2013, the trial court denied the motion to quash that was filed by the petitioners on the ground that Section 5 of Rule 113 of the Rules on Criminal Procedure does not require the arresting officers to personally witness the commission of the offense with their own eyes. Moreover, the trial court held that, assuming that the arrest of the petitioners was illegal, the supervening events that transpired would indicate that the petitioners had already waived their right to question the validity of their arrest and assail the jurisdiction of the trial court over their persons.

Aggrieved by the foregoing disposition of the public respondent judge, herein petitioners filed a Motion for Reconsideration[8] of the March 12, 2013 order of the said public respondent judge. However, in the second assailed order dated June 24 2013, the public respondent judge likewise denied the aforementioned motion for reconsideration that was filed by the petitioners on the ground that the issues that were raised therein by the petitioners were speculative in nature and that, apart from the bare statements of the petitioners, they did not submit other concrete pieces of evidence to support their claims.

Hence, the petitioners filed this petition for certiorari wherein the petitioners raised the following acts of grave abuse of discretion that were purportedly committed by the public respondent RTC judge:

I.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION WHEN HE FAILED TO APPRECIATE THE FACT THAT THE PETITIONERS, IN POSTING THEIR BAIL AND IN FILING THEIR MOTION TO QUASH, DID NOT SUBMIT THEIR PERSONS TO THE JURISDICTION OF THE TRIAL COURT. ON THE CONTRARY, THE PETITIONERS DID THE SAME PURPOSELY TO

ASSAIL THE SAID JURISDICTION OF THE TRIAL COURT.

II.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION WHEN HE DENIED THE MOTION TO QUASH DESPITE THE GLARING PIECES OF DOCUMENTARY EVIDENCE THAT WERE SUBMITTED BY THE PROSECUTION.

III.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION WHEN HE FAILED TO APPRECIATE THAT THE DENIAL OF THE MOTION TO QUASH AND THE MOTION FOR RECONSIDERATION WITHOUT ANY PRONOUNCEMENT AS TO THE LEGALITY OR ILLEGALITY OF THE ARREST WAS TANTAMOUNT TO VESTING JURISDICTION UPON THE PERSONS OF THE PETITIONERS WITHOUT DUE PROCESS.

IV.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION WHEN HE DECLARED THAT THE ARGUMENTS THAT WERE RAISED BY THE PETITIONERS IN THE TRIAL COURT WERE NOT PROPERLY SUPPORTED BY OTHER CONCRETE EVIDENCE.

In sum, the sole issue to be resolved by us in the instant petition is whether or not the public respondent judge committed grave abuse of discretion when he denied the motion to quash the criminal information that was filed in the trial court by herein petitioners. 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 petitioners averred that, pursuant to Section 26 of Rule 114 of the Revised Rules on Criminal Procedure, an application for bail or the admission to bail by an accused shall not bar the latter from assailing the validity of his or her arrest or the legality of the warrant that was issued against him or her. Moreover, the petitioners reiterated that the arresting officers did not have a reasonable ground of suspicion to arrest all of the petitioners in that they did not have personal knowledge of the facts that were based on probable cause or reasonable grounds of suspicion that the petitioners committed the crime of robbery.

Moreover, the petitioners contended that the trial court erred when it denied the motion to quash the information without any pronouncement as to the legality or illegality of the warrantless arrests that were effected upon them. Further, they argued that they filed the aforesaid motion to quash the information in the trial court precisely to assail the jurisdiction of the latter over their persons, adding that they never submitted their persons to the jurisdiction of the said trial court when they filed the said motion to quash.

At the outset, it must be noted that a preliminary investigation was conducted in the case below where the petitioners were given the opportunity to be heard as they, in fact, submitted their counter-affidavits for the consideration of the Office of the Provincial Prosecutor of Quirino. In their counter-affidavits, the petitioners had already raised the issue of the legality of their arrest but a resolution was nonetheless issued by the said office recommending the filing of a criminal information for the crime of robbery against them in the trial court. It bears stressing that the petitioners had never denied their participation in the crime of robbery that took place in the house of Spouses Ghisellini. It is only the legality of their arrest that they had been assailing from the very beginning.

Thus, at the core of the controversy in the instant case is Section 5 of Rule 113 of the Rules of Court which lays down the basic rule on when an arrest without a warrant is lawful. It states:

“Sec. 5. Arrest without warrant; when lawful. -- A peace officer or a private person may, without a warrant, arrest a person:

“(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

“(b) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and

“(c) When the person to be arrested is a prisoner who escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.”

Section 5 (b) of the aforementioned rule is otherwise known as the rule on “hot pursuit” arrests. Here, two elements must concur prior to the arrest: first, an offense has in fact just been committed; and, second, the arresting officer has personal knowledge of facts indicating that the person to be arrested committed the offense. In effecting this type of arrest, it is not enough that there is reasonable ground to believe that the person to be arrested has committed a crime. A crime must, in fact or, actually, had been committed first. The fact of the commission of the offense must be undisputed.[9] In this case, it was undisputed that, indeed, robbery took place at the house of spouses Ghisellini.

Anent the second element, personal knowledge of facts in arrests without a warrant under Section 5 (b) of Rule 113 must be based upon probable cause which means “an actual belief or reasonable grounds of suspicion” that the person or persons arrested had committed the crime. The grounds of suspicion are reasonable when, in the absence of actual belief of the arresting officers, the suspicion that the person to be arrested is probably guilty of committing the offense is based on actual facts (i.e., supported by circumstances sufficiently strong in themselves to create the probable cause of guilt of the person to be arrested). A reasonable suspicion, therefore, must be founded on probable cause, coupled with good faith on the part of the peace officers making the arrest.[10]

As applied in the instant case, record shows that, immediately after the commission of the crime, private respondent Imelda Ghisellini herself accompanied the police officers in their “hot pursuit” or follow-up operation against the perpetrators of the said crime. The private respondent was able to describe herein petitioner Dela Cruz as one of the persons who robbed their house in the early morning of May 31, 2012. Thus, the police officers already had personal knowledge which they acquired from the testimony or statements of the victim herself describing the perpetrators, one of whom she even recognized as a former classmate in high school. A coordination by the police officers of Cabarroguis, Quirino, with the other police officers from Diffun, Quirino, revealed that petitioner Dela Cruz whom the private respondent described was, indeed, spotted walking along the road of Diffun at around 3:00 o'clock in the morning or less than an hour after the robbery incident took place at the house of spouses Ghisellini. Thereafter, petitioner Dela Cruz was seen at a pawnshop at Santiago City, along with petitioners Bautista and Martinez, while they were trying to sell one unit of PSP at the said pawnshop. Petitioner Dela Cruz was later on invited at the police station where he was positively identified by herein private complainant as the person who grappled with her husband when the latter tried to resist and fight back.

At this point and, taking into consideration the foregoing circumstances, especially the fact that petitioner Dela Cruz was spotted at a pawnshop while trying to sell one (1) of the items that were stolen from the private respondent, it can be very well said that the second element of a valid hot pursuit arrest was present. The grounds of suspicion of the police officers who conducted the hot pursuit arrest were supported by circumstances sufficiently strong in themselves to create the probable cause of guilt of the person to be arrested. It must be stressed that the private respondent herself was with the police officers during the time when the hot pursuit

operation was being conducted and she provided all the crucial details that eventually led to the arrest of petitioner Dela Cruz. Moreover, an inspection was made by the police officers at the scene of the crime where they recovered pieces of evidence which aided them in their investigation of the incident. Thus, as stated in the Resolution by the Office of the Provincial Prosecutor of Cabarroguis:

“As to the argument that there was no probable cause for the police to effect a warrantless arrest, suffice it to state that after the police had learned about the incident, a hot pursuit operation was conducted. While the police may have no personal knowledge over the crime committed by the respondent, the fact that the private complainant who has personal knowledge over the crime committed, was with them all along during the hot pursuit and that by virtue of the complainant's personal knowledge, the respondents were arrested. In fact, it could even be safely presumed that it was the complainant IMELDA GHISELLINI who effected their arrest, and that the police had merely assisted her in effecting the arrest of the respondents.”

Anent herein petitioner Bautista, he was positively identified by the private respondent since they were classmates in high school at Saint Mary's Academy at Diffun, Quirino. His arrest, therefore, less than twenty four (24) hours from the time when he committed the crime of robbery against the spouses Ghisellini, was likewise made during the conduct of the hot pursuit operation against him. His positive identification by the private respondent more than complied with the second element of a valid hot pursuit arrest (i.e. reasonable grounds of suspicion that the person to be arrested is probably guilty of committing the offense).

In the case of *People v. Gerente*,^[11] the Supreme Court upheld the warrantless arrest of the accused three (3) hours after the said accused and his companions had killed the victim. Thus:

“The policemen arrested Gerente only some three (3) hours after Gerente and his companions had killed Blace. They saw Blace dead in the hospital and when inspected the scene of the crime, they found the instruments of death: a piece of wood and a concrete hollow block which the killers had used to bludgeon him to death. The eyewitness, Edna Edwina Reyes, reported the happening to the policemen and pinpointed her neighbor, Gerente, as one of the killers. Under those circumstances, since the policemen had personal knowledge of the violent death of Blace and of facts indicating that Gerente and two others had killed him, they could lawfully arrest Gerente without a warrant. If they had postponed his arrest until they could obtain a warrant, he would have fled the law as his two companions did.”

Further, in *Umil v. Ramos*,^[12] the Supreme Court declared as lawful the arrest of the accused in the said case without a warrant one (1) day after the said accused had shot to death two (2) soldiers, following the conduct of a police investigation immediately after the commission of the aforesaid crime. In the instant case, on the other hand, all the petitioners were arrested less than one (1) day from the time of their commission of the crime of robbery.

As regards the two (2) other petitioners in this case (Felmonde Runderz and Gerardo Martinez), this Court likewise finds that their warrantless arrest was legal. The police officers who arrested petitioners Runderz and Martinez had personal or actual knowledge based on reasonable grounds of suspicion that the said persons were involved in the robbery. The aforesaid personal or actual knowledge was pursuant to the information that was given by petitioner Dela Cruz himself that petitioners Runderz and Martinez were his co-perpetrators in the crime of robbery. Again, in the case of *Umil v. Ramos*,^[13] the Supreme Court found no merit in the submission of the petitioner in the said case, Narciso Nazareno (“Nazareno”) that he was illegally arrested. One of the co-perpetrators in the said case, who was earlier arrested by the police, pointed to Nazareno as one of his companions in the killing of the victim. In view of the aforesaid information that was given to the police officers, Nazareno was arrested and brought to the police headquarters for questioning. In upholding the legality of the arrest of Nazareno the Supreme Court enunciated:

“xxx Evidently, the arrest of Nazareno was effected by the police without warrant pursuant to Sec. 5 (b), Rule 113, Rules of Court after he was positively implicated by his co-accused Ramil Regala in the killing of Romulo Bunye II; and after investigation by the police authorities. As held in *People v. Ancheta*:

“The obligation of an agent of authority to make an arrest by reason of a crime, does not presupposed as a necessary requisite for the fulfillment thereof, the indubitable existence of a crime. For the detention to be perfectly legal, it is sufficient that the agent or person in authority making the arrest has reasonably sufficient grounds to believe the existence of an act having the characteristics of a crime and that the same grounds exist to believe that the person sought to be detained participated therein.”

The circumstances surrounding the arrest of petitioners Runderz Martinez and even Bautista are the same with the aforequoted case of Umali. It was petitioner Dela Cruz himself, one of the accused in the case below, who pointed to the other petitioners herein as his co-perpetrators in the crime of robbery. It was pursuant to this information or personal knowledge that the police officers arrested the other petitioners. Thus, pursuant to the ruling of the Supreme Court in the case of Umali, the second element of a valid hot pursuit operation (i.e. the arresting officer has personal knowledge of facts indicating that the person to be arrested committed the offense) is present and had been complied with.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the petition filed in this case for lack of merit.

SO ORDERED.

ISAIAS P. DICDICAN

Associate Justice

WE CONCUR:

MICHAEL P. ELBINIAS

Associate Justice

VICTORIA ISABEL A. PAREDES

Associate Justice

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ISAIAS P. DICDICAN

Associate Justice

Chairperson, Twelfth Division

[1] Rollo, pages 2-15.

[2] Ibid, Annex "A", pages 16-18.

[3] Ibid, Annex "B", pages 19-22.

[4] Ibid, Annex "F", page 28.

[5] Ibid, Annex "G", pages 29-33.

[6] Ibid, Annex "H", pages 34-35.

[7] Ibid, Annex "I", pages 36-42.

[8] Ibid, Annex "J", pages 43-49.

[9] People v. Burgos, 144 SCRA 1, 14, September 4, 1986.

[10] People v. Doria, 301 SCRA 668, 709, 1991.

[11] 219 SCRA 756, 1993.

[12] 187 SCRA 311, 1990.

[13] Supra, Note No. 12.

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