

ANSELMA G. SANTOS (IN HER OWN BEHALF AND IN REPRESENTATION OF THE PEOPLE OF THE PHILIPPINES), PETITIONER, VS. JUDGE ALICE C. GUTIERREZ, PRESIDING JUDGE OF RTC, BRANCH 193, MARIK...

Ponente: LANTION, J.A.C., J.

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LANTION, J.A.C., J.:

This is a Petition for Review[1] under Rule 42 of the Rules of Court filed by Petitioner Anselma G. Santos.

However, Petitioner filed the instant case in her behalf and in behalf of the People of the Philippines, as can be gleaned from the caption of the case. Thus, the Former Twelfth (12th) Division of this Court issued a Resolution,[2] viz:

“Before acting on the Petition, and in view of the foregoing circumstances, the Court RESOLVES to DIRECT petitioner to secure the conformity and participation of the Office of the Solicitor General to the filing of the petition within ten (10) days from notice hereof.”

The Office of the Solicitor General (OSG), thereafter, filed a Manifestation,[3] which reads:

“The Office of the Prosecutor of Marikina City had already made a finding of lack of probable cause to indict private respondent Rolando S. Cruz, Sr. As a matter of fact, the assailed order subject of this petition was prompted by the Motion to Withdraw Information filed by Prosecutor Abijay, Jr. If the OSG will conform to the filing of the present petition and participate in the resolution thereof, the OSG, in effect, will be disregarding the findings of the investigating prosecutor and substituting its own position theret, which act constitutes an encroachment on the discretionary authority of the Office of the Prosecutor to determine whether facts and circumstances exist meriting reasonable belief that a person has committed a crime.

xxx xxx xxx

In view of the foregoing, the OSG does not conform to and cannot participate in the present petition.”
(Emphasis supplied)

Procedural law mandates that “[a]ll criminal actions commenced by complaint or by information shall be prosecuted under the direction and control of a public prosecutor.”[4] In appeals of criminal cases, the OSG is the appellate counsel of the People.[5] The People is the real party in interest in a criminal case and only the OSG can represent the People in criminal proceedings on appeal.

Withal, the petitioner has no legal personality to file the instant Petition for Review since the main issue raised by the petitioner pertained to the criminal aspect of the case. This involves the right to prosecute which belongs exclusively to the People, as represented by the OSG.[6]

WHEREFORE, the Petition for Review is DISMISSED.

SO ORDERED.

De Leon, M.M., Chairperson and Antonio-Valenzuela, N.G., JJ., concur.

[1] Rollo, pp. 08-43

[2] Id., p. 164

[3] Id., pp. 174-180

[4] Revised Rules of Criminal Procedure, Rule 110, Section 5

[5] Section 35 (1), Chapter 12, Title III, Book IV of the 1987 Administrative Code provides:

“SEC. 35. Powers and Functions. — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. It shall have the following specific powers and functions:

(1) Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; represent the Government and its officers in the Supreme Court and Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party xxx.”

[6] See Carina L. Dacer, Sabina Dacer-Reyes, et al. v. Panfilo M. Lacson, G(R. No. 196209, 08 June 2011)

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