

PEOPLE OF THE PHILIPPINES, AND ROAD LEADER MARKETING CORPORATION, PETITIONERS, VS. HON. CESAR M. SOLIS, IN HIS CAPACITY AS PRESIDING JUDGE OF REGIONAL TRIAL COURT, BRANCH 14, MA...

Ponente: BERSAMIN, L.P., J.

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BERSAMIN, L.P., J.:

This special civil action for certiorari was originally commenced only by Road Leader Marketing Corporation (Road Leader) to assail the following orders issued by Hon. Cesar M. Solis, Presiding Judge of Branch 14, Regional Trial Court (RTC), of Manila in Criminal Case No. 03-21-7842 entitled People of the Philippines v. David C. Tan, for being contrary to the pertinent rule and jurisprudence, to wit:

- The order dated May 4, 2005, quashing the original information and rejecting the amended information filed by petitioner People of the Philippines;^[1] and

- The order dated September 30, 2005, denying the Prosecution's motion for reconsideration.^[2]

Considering that the petition concerned the quashal of the criminal information, which pertained entirely to the criminal aspect of Criminal Case No. 03-21-7842 and that such remedy should be brought by the People of the Philippines, we required Road Leader through our resolution of January 16, 2006 to show cause in writing within 10 days from notice why the petition should not be dismissed.^[3] Road Leader presented its written explanation on March 10, 2006.^[4] Subsequently, on March 10, 2006, the Office of the Solicitor General (OSG) signified its express conformity to the petition.^[5] Accordingly, on March 23, 2006, we directed Road Leader to amend the petition in order to include the People of the Philippines as petitioner, rather than as respondent.^[6] The amended petition was filed on May 2, 2006, signed by Asst. Solicitor General Ma. Antonia Edita C. Dizon and Solicitor Magtanggol M. Castro.^[7]

Now to the essential antecedents.

On August 28, 2003, the Office of the City Prosecutor of Manila filed in the RTC the information in Criminal Case No. 03-21-7842, charging private respondent David C. Tan (Tan) with violating Presidential Decree (P. D.) 1612 (Anti-Fencing Law),^[8] alleging thus:

That sometime during the period comprised between January to February 2002, in the City of Manila, Philippines, the said accused, with intent of gain for himself or for another did then and there willfully, unlawfully and feloniously receive, acquire and buy from Road Leader Marketing Corporation, herein represented by ANTHONY GO ENG KUANG, Kelani and Dunlop tires in the total amount of P4,317,445.73 belonging to Road Leader Marketing Corporation, which said assorted tires said accused knew or should have known to have been the subject/proceeds of the crime of theft.

Contrary to law.^[9]

The case was assigned to Branch 14, presided by respondent RTC Judge. The arraignment of Tan, originally scheduled on October 8, 2003, was reset 11 times,[10] mostly because his petition for review was still pending in the Department of Justice.

On February 23, 2005, however, Tan filed a motion to quash, alleging that the information averred facts that did not constitute an offense under P. D. 1612.

On March 10, 2005, Road Leader, as the complainant in the criminal case, opposed the motion to quash with the conformity and approval of Trial Prosecutor Liberato Cabaron, countering that the information set forth facts constituting an offense under P. D. 1612.

On April 5, 2005, the RTC directed the public prosecutor to amend the information within 10 days from receipt of the order.[11]

Subsequently, Tan presented his motion to grant (the) motion to quash dated April 18, 2005,[12] stating that the public prosecutor had not filed the amended information within the 10-day period as directed in the order dated April 5, 2005.

On April 22, 2005, the public prosecutor filed a manifestation with compliance (attaching the amended information).[13] The amended information now averred as follows:

That sometime during the period comprised between January to February 2002, in the City of Manila, Philippines, the said accused, with intent of gain for himself or for another did then and there willfully, unlawfully and feloniously receive, acquire and buy Kelani and Dunlop tires valued in the total amount of P4,317,445.73, which said assorted tires the accused knew or should have known to have been the subject/proceeds of the crime of theft or stolen from their owner Road Leader Marketing Corporation represented by ANTHONY GO ENG KUANG.

CONTRARY TO LAW.[14]

On May 3, 2005, Road Leader filed its opposition to the motion to grant (the) motion to quash,[15] invoking the right of the Prosecution to amend the information, either in form or in substance, even without prior leave of court, as long as the amendment was done before the accused entered his plea.

On May 4, 2005, respondent RTC Judge issued his first assailed order,[16] to wit:

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In this connection, the Court has observed that compliance with the submission of the Amended Information was done beyond the period fixed in the Order. Indeed, it was the “opportunity” extended under Section 4, Rule 117 of the 2002 Revised Rules on Criminal Procedure. While the prosecution described the delay to be “slight”, the Court however deems it to be a violation of the rulings that the periods for compliance are to be strictly enforced. On the other hand, it is well settled that the law or rules have to be interpreted in favor of the accused, and against the State.

Further, what the prosecution largely invokes are those that refer to amendments in general, whereas, what are to be applied hereto are those that specially pertain to matters under Rule 117 on Motion to Quash; and therefore should prevail over the former.

WHEREFORE, all premises considered, it is hereby resolved that the Information as prayed for, shall be Quashed. Whereas, the Amended Information is hereby rejected accordingly.

SO ORDERED.

On May 31, 2005, Road Leader moved for the reconsideration of the order of May 4, 2005 and for the admission of the amended information.[17]

On September 30, 2005, respondent RTC Judge denied the motion for reconsideration,[18] viz:

WHEREFORE, the Motion for Reconsideration of private complainant Road Leader Marketing Corporation is hereby DENIED for lack of merit.

SO ORDERED.

Hence, this special civil action for certiorari, wherein the petitioners submit that respondent RTC Judge acted without jurisdiction or in excess of jurisdiction, and with grave abuse of discretion when he quashed the original information and rejected the amended information on the sole ground that the amended information was filed beyond the 10-day period allowed to the public prosecutor for the purpose but before arraignment and plea.

They submit that respondent RTC Judge thereby disregarded the rules relevant to amendment of the information prior to the arraignment of the accused, particularly as embodied in Sec. 14, Rule 110, Rules of Court; and thereby gravely abused his discretion amounting to lack or excess of jurisdiction when he quashed the information and rejected the amended information.

The private respondent counters that respondent RTC Judge properly issued the assailed orders due to the non-compliance of the Prosecution with the order directing the amendment of the information within 10 days from receipt of the order; that the order dated September 30, 2005 already became final, as borne out by the certificate of finality issued on December 21, 2005; and that the original petition was defective for its failure to implead the People of the Philippines.

We grant the petition for certiorari.

We need first to address the procedural objection based on the failure to properly implead the People of the Philippines. It is true that the original petition improperly impleaded the People of the Philippines as respondent, but, as earlier adverted to herein, Road Leader satisfactorily explained such error. Ultimately, the OSG signified its express conformity to the petition, with the amended petition reflecting the participation of the OSG as petitioner being filed on May 2, 2006. The defect was thus corrected.

We now address the matter of the rejection of the amended information.

The rule relevant to the situation in Criminal Case No. 03-21-7842 is Sec. 4, Rule 117, 2000 Rules of Criminal Procedure, to wit:

Sec. 4. Amendment of complaint or information. – If the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made.
(4a)

If it is based on the ground that the facts charged do not constitute an offense, the prosecution shall be given by the court an opportunity to correct the defect by amendment. The motion shall be granted if the prosecution fails to make the amendment, or the complaint or information still suffers from the same defect despite the amendment. (n)

It is clear from the rule that the Prosecution had the right to amend the information because the rule required respondent RTC Judge to accord to the Prosecution the opportunity to amend. Towards that end, therefore, respondent RTC Judge allowed the Prosecution 10 days from notice of his order of April 5, 2005, observing that the “deficiency, if ever, is curable more so because the accused has not yet been arraigned,” and the correction of the deficiency “can be done by amendment.”[19]

Yet, the public prosecutor failed to submit the amended information within the 10-day period thus allowed (ending on April 16, 2005), leading the private respondent to file on April 19, 2005 his motion to grant (the) motion to quash. The amended information was submitted by the public prosecutor a few days later, or on April 22, 2005. Respondent RTC Judge then issued the assailed order of May 4, 2005, indicating that the delay in the filing of the amended information was “a violation of rulings that the periods for compliance are to be strictly enforced” as well as contrary to the proposition that laws and rules “have to be interpreted in favor of the accused, and against the State.”[20]

We hold that respondent RTC Judge should have admitted the amended information as a matter of course because, as of then, the private respondent was not yet arraigned. Sec. 14, Rule 110, 2000 Rules of Criminal Procedure, pertinently states:

Sec. 14. Amendment or substitution. – A complaint or information may be amended, in form or in substance, without leave of court and when it can be done without causing prejudice to the rights of the accused.

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We cannot subscribe to the very narrow justification of respondent RTC Judge for his assailed order of May 4, 2005. As the OSG correctly urged, the opportunity to amend afforded to the People of the Philippines under Sec. 4, Rule 117, *supra*, must be construed in the light of the Prosecution’s absolute right to amend the information, in form or in substance, prior to arraignment. The Prosecution was free to amend the information without leave of court before arraignment,[21] despite the limitation of 10 days set in the order of April 5, 2005, because the accused would not thereby be prejudiced. The only restriction against an amendment before the plea is that the amendment should not downgrade the nature of the offense charged in or should not exclude any accused from the complaint or information except only upon motion of the public prosecutor, with notice to the offended party and with leave of court.[22]

On the other hand, it is plain enough that the motion to quash was to be granted only in either of 2 instances, namely: (a) after the Prosecution should fail to make the amendment; or (b) when the complaint or information still suffers from the same defect despite the amendment. Neither of such instances was applicable because by the time that the assailed order of May 4, 2005 was issued the Prosecution had already filed the amended information and had thus effected the necessary changes.

Respondent RTC Judge’s excuse of strictly enforcing the period he had fixed for the amendment disregarded the right of the Prosecution to amend the information. By his citing the principle of interpretation in favor of the accused, he went blind to the equally potent principle that the State and the offended or complaining party were, like the accused, entitled to due process in criminal cases.[23] Verily, justice must be done to all parties alike.[24] As a result, he was manifestly arbitrary and whimsical in his rejection of the amended information, rendering him guilty of manifest grave abuse of discretion amounting to lack or excess of jurisdiction.

The term grave abuse of discretion connotes capricious and whimsical exercise of judgment as is equivalent to excess, or a lack of jurisdiction.[25] The abuse must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.[26] Grave abuse of discretion is not enough. Excess of jurisdiction signifies that the court, board or office, has jurisdiction over the case but has transcended the same or acted without authority.[27]

WHEREFORE, the PETITION FOR CERTIORARI is GRANTED.

The orders dated May 4, 2005 and September 30, 2005 issued in Criminal Case No. 03-21-7842 entitled People of

the Philippines v. David C. Tan of Branch 14, Regional Trial Court, in Manila are ANNULLED and SET ASIDE.

The Presiding Judge of Branch 14, Regional Trial Court, in Manila is ORDERED to admit the amended information and to conduct further proceedings in Criminal Case No. 03-21-7842.

Costs of suit to be paid by the private respondent.

SO ORDERED.

Villarama, Jr. and Arevalo-Zenarosa, JJ., concur.

[1] Annex B, petition.

[2] Annex C, petition.

[3] Rollo, pp. 64-65.

[4] Rollo, pp. 78-87.

[5] Rollo, pp. 88-92.

[6] Rollo, pp. 95-96.

[7] Rollo, pp. 119-132.

[8] Annex E, petition.

[9] Rollo, p. 28.

[10] Specifically, on November 19, 2003, December 17, 2003, January 28, 2004, April 14, 2004, May 19, 2004, June 30, 2004, August 4, 2004, September 15, 2004, October 27, 2004, January 19, 2005, and February 23, 2005.

[11] Annex F, petition.

[12] Annex G, petition.

[13] Annex H, petition.

[14] Annex I, petition.

[15] Annex J, petition.

[16] Annex B, petition.

[17] Annex D, petition.

[18] Annex C, petition.

[19] Annex F, petition.

[20] Annex B, petition.

[21] People v. Judge Dacudao, 170 SCRA 489, 496-497 (February 21, 1989).

[22] Sec. 14, 2nd paragraph, Rule 110, 2000 Rules of Criminal Procedure:

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However, any amendment before plea, which downgrades the nature of the offense charged in or excludes any accused from the complaint or information, can be made only upon motion by the prosecutor, with notice to the offended party and with leave of court. The court shall state its reasons in resolving the motion and copies of its order shall be furnished all parties, especially the offended party. (n).

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[23] *Merciales v. Court of Appeals*, 379 SCRA 345 (March 18, 2002); *People v. Judge Santiago*, 174 SCRA 143 (June 20, 1989).

[24] *People v. Judge Tac-an*, 398 SCRA 373 (February 27, 2003); *Dimatulac v. Villon*, 297 SCRA 679 (October 12, 1998).

[25] *Republic v. Sandiganbayan*, 484 SCRA 119 (March 6, 2006); *Litton Mills, Inc. v. Galleon Trader, Inc.*, 163 SCRA 489 (1988).

[26] *Sarigumba v. Sandiganbayan*, 451 SCRA 533 (February 16, 2005); *People v. Court of Appeals*, 431 SCRA 610 (June 10, 2004); *Duero v. Court of Appeals*, 373 SCRA 11 (2002).

[27] *Sarigumba v. Sandiganbayan*, 451 SCRA 533 (February 16, 2005).

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