FLORDELIZA ORPIA-TIONG, PETITIONER, V. PEOPLE OF THE PHILIPPINES, HON. FERNANDO VIL PAMINTUAN, IN HIS CAPACITY AS THE PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF BAGUIO CITY,...

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

For disposition is a Petition for Certiorari[1] filed under Rule 65 of the Rules of Court. The Petition assails the Order[2] dated July 4, 2006 issued by Judge Fernando Vil Pamintuan ("respondent judge" for brevity) of the Regional Trial Court ("respondent court" for brevity) of Baguio City, Branch 3 in CRIM. CASE NO. 26054-R for "Violation of PD 1612"[3]. The Petition also questions the Order[4] dated October 10, 2006, which denied petitioner's eventual Motion for Reconsideration[5].

The antecedent facts are:

On April 3, 2006, a Resolution[6] was issued by the Office of the City Prosecutor, through Prosecutor Raymond T. Tabangin ("Prosecutor Tabangin" for brevity). The Resolution found probable cause against petitioner Flordeliza Orpia-Tiong ("petitioner" for brevity) for violation of Presidential Decree No. 1612, otherwise known as the "Anti-Fencing Law", due to her having allegedly sold a carnapped vehicle owned by private respondent Rionel P. Lumanog to private respondents Spouses Ernesto and Junette Akia[7].

As a result, an Information[8] dated April 3, 2006 for violation of P.D. 1612 was filed against petitioner and was docketed as Criminal Case No. 26054-R before respondent court.

On April 20, 2006, petitioner filed a "Motion for Reconsideration"[9] of the Resolution dated April 3, 2006 with the Office of the City Prosecutor.

On May 18, 2006, a Resolution[10] was issued by the Review Committee of the Office of the City Prosecutor, through Prosecutor Elmer Manuel Sagsago ("Prosecutor Sagsago" for brevity). The Resolution found that "there is no crime of Fencing in so far as it involves cars which were the subject of carnapping"[11], and recommended that the Information in Criminal Case No. 26054-R against petitioner be withdrawn[12].

Consequently, on May 29, 2006, the City Prosecutor filed a "Motion to Withdraw Information"[13] before respondent court.

On July 4, 2006, respondent court issued its first assailed Order[14] denying the City Prosecutor's "Motion to Withdraw Information"[15].

After petitioner's Motion for Reconsideration[16] was denied by the respondent court in its other assailed Order[17] of October 10, 2006, petitioner filed the Petition[18] at bench praying that:

> "IN VIEW OF THE FOREGOING, it is most respectfully prayed of this Honorable Court to:

1. Immediately issue a Temporary Restraining Order and/or Writ of a Preliminary Injunction RESTRAINING and ENJOINING Public Respondent Honorable Judge Fernando Vil Pamintuan, the Presiding Judge of the Regional Trial Court of Baguio City, Branch 3, from proceeding in any and/or all proceedings in the case People of the Philippines vs. Flordeliza Orpia-Tiong, until after the final resolution of this instant PETITION.

2. Set aside the two (2) questioned Orders of the Public Respondent Honorable Judge Fernando Vil Pamintuan, dated July 4, 2006 and October 10, 2006 and issue in lieu thereof an Order granting the Motion to Withdraw Information by the Review Committee of the Office of the City Prosecutor of Baguio City dated May 29, 2006 and the Motion for Reconsideration of Accused - Petitioner dated July 20, 2006, respectively.

Other just and equitable reliefs are likewise prayed for."[19]

Petitioner raised the following grounds:

"I.

THE PUBLIC RESPONDENT JUDGE GRAVELY ABUSE[D] HIS DISCRETION WHEN HE DENIED THE MOTION TO WITHDRAW INFORMATION BY THE REVIEW COMMITTEE OF THE CITY PROSECUTOR'S OFFICE AS WELL AS ACCUSED-PETITIONER'S MOTION FOR RECONSIDERATION AND DISREGARDED THE PREROGATIVE OF THE CITY PROSECUTOR'S OFFICE TO DETERMINE WHETHER OR NOT A CRIME IS COMMITTED.

II.

THE PUBLIC RESPONDENT JUDGE GRAVELY ABUSED HIS DISCRETION WHEN HE IGNORED THE APPLICABLE LAWS AND JURISPRUDENCE ON THIS MATTER."[20] (Underlining was made in the original)

To begin with, contrary to petitioner's arguments in her assigned ground I., respondent court's denial of the "Motion to Withdraw Information"[21] did not encroach on the City Prosecutor's determination of probable cause and on whether or not a crime was committed.

Petitioner had argued as follows:

"At the outset, it must be stressed that the questioned Orders are being challenged in this Petition as they encroached on the prosecutor's prerogative to determine whether or not a crime was committed and if probable cause exist to warrant the filing of the Information or the Withdrawal of the same.

It is very notable that the Regional Trial Court has no authority to conduct preliminary investigation to determine probable cause for the purpose of filing in Court, or dismissing the charges against the respondent as this is an executive function lodge[d] in the Prosecutor. xxx

The act of the Honorable Judge in making an opinion as to what is PERSUASIVE, the Resolution dated April 3, 2006 of Investigating Prosecutor Raymond T. Tabangin or the Resolution on the Motion for Reconsideration dated May 18, 2006 by the Review Committee of the City Prosecutor's Office, is entirely contrary to the rulings set forth in the case of Rodrigo vs. Sandigan[b]ayan xxx

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To counter the unjustified, unsubstantiated and bias[ed] opinion of the Honorable Respondent Judge that the resolution dated April 3, 2006 of Investigating Prosecutor Raymond Tabangin upon which the questioned Order dated July 4, 2006 of the said Respondent Judge, it is worthwhile to note in the Counter-Affidavit of accused-petitioner xxx that the Petitioner was the third buyer-owner, having purchased the same from spouses Gregorio and Jonalyn Padilla.

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> And for the Honorable Respondent Judge to opine that the resolution of Prosecutor Tabangin is persuasive than that of the Review Committee is a grave abuse of discretion.
>
> The Honorable Respondent Judge obviously encroached on the duties of the Prosecutor when he supplanted and substituted his own opinion for that of the findings of the Review Committee of the City Prosecutor's Office with specific reference that no crime was committed by the accused-petitioner.

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> It must be stressed also that the resolution of Investigating Prosecutor Raymond Tabangin, dated April 3, 2006 and the resolution of the Review Committee, dated May 18, 2006 both emanated from the City Prosecutor's Office so that the Honorable Public Respondent Judge could not encroached (sic) on the duty to determine which of the two (2) resolutions is PERSUASIVE. Only the Office of the City Prosecutor from which the two (2) resolutions emanated could determine which is PERSUASIVE or not. This is purely and strictly an executive prerogative that could not be shared by the Honorable Respondent Judge.

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> In short, it is the prosecutor who is given by the law 'direction and control' of all criminal actions. It is he who initiates all prosecution in the name of the People of the Philippines, by information or complaint, against whom all persons who appear to be responsible for the offense charged."[22] (Emphasis Supplied; Underlining was made in the original)

Defeating petitioner's allegations however, is that as is the settled rule, "once a case is filed with the court, any disposition of it rests on the sound discretion of the court"[23]. Given this, it is therefore within the judicial discretion and prerogative of the respondent court to deny or grant the City Prosecutor's "Motion to Withdraw Information"[24]. That this is to be so is in accordance with the following pronouncement of the Supreme Court in Filemon A. Verzano, Jr. vs. Francis Victor D. Paro, et. al.[25]:

> "The court is the best and sole judge of what to do with the case before it. The determination of the case is within its exclusive jurisdiction and competence. Thus, the court may deny or grant a motion to withdraw an information, not out of subservience to the (Special) Prosecutor, but in faithful exercise of judicial discretion and prerogative." (Emphasis Supplied)

However, even if the respondent court had the discretion to deny or grant the City Prosecutor's "Motion to Withdraw Information"[26], such discretion should be exercised in accordance with the respondent court's "bounden duty to assess independently the merits of the motion, and this assessment must be embodied in a written order disposing of the motion."[27]

Here, a perusal of respondent court's assailed Orders[28] dated July 4, 2006 and October 10, 2006, respectively, revealed that respondent judge failed to make an independent evaluation or assessment of the merits of the case when he denied the City Prosecutor's "Motion to Withdraw Information"[29]. Instead of conducting his own determination of whether or not there was probable cause to hold petitioner, as the accused below, for trial, respondent judge relied solely on his comparison of the Resolution[30] issued by the Office of the City Prosecutor, through Prosecutor Tabangin, and the Resolution[31] issued by the Review Committee of the Office of the City Prosecutor, through Prosecutor Sagsago.

Respondent judge's failure to make an independent evaluation or assessment of the merits of the case is reflected in the Order[32] dated July 4, 2006, which stated:

> "The Motion to Withdraw [I]nformation is DENIED for lack of merit. This Court finds the Resolution dated

> April 3, 2006 penned by Investigating Prosecutor Raymond T. Tabangin resulting in the filing of the instant Information is PERSUASIVE than the Resolution dated May 18, 2006 on the Motion for Reconsideration.
>
> Thus, the Arraignment of the Accused Flordeliza Orpia-Tiong is set on August 22, 2006, Tuesday, at 8:30 o'clock in the morning.
>
> IT IS SO ORDERED."[33] (Emphasis Supplied)

For its part, respondent court's Order[34] dated October 10, 2006 only stated the following:

> "Finding no merit in the Motion for Reconsideration filed by the accused, the same is DENIED, as this Court has found probable cause resulting in the issuance of the warrant of arrest against the accused, earlier.
>
> The Arraignment of the Accused is set on October 31, 2006, at 8:30 o'clock in the morning.
>
> IT IS SO ORDERED."[35] (Emphasis Supplied)

By relying solely on the comparison of the Resolution[36] issued by the Office of the City Prosecutor, through Prosecutor Tabangin, and the Resolution[37] issued by the Review Committee of the Office of the City Prosecutor, through Prosecutor Sagsago, respondent judge, as was properly raised by petitioner in her assigned ground II, gravely abused his discretion amounting to excess of jurisdiction when he denied the City Prosecutor's "Motion to Withdraw Information"[38]. That this is the consequence is pursuant to the Supreme Court's declaration in Joseph C. Cerezo vs. People of the Philippines, et. al.[39], as follows:

> "In this case, it is obvious from the March 17, 2004 Order of the RTC, dismissing the criminal case, that the RTC judge failed to make his own determination of whether or not there was a prima facie case to hold respondents for trial. He failed to make an independent evaluation or assessment of the merits of the case. The RTC judge blindly relied on the manifestation and recommendation of the prosecutor when he should have been more circumspect and judicious in resolving the Motion to Dismiss and Withdraw Information especially so when the prosecution appeared to be uncertain, undecided, and irresolute on whether to indict respondents.

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> By relying solely on the manifestation of the public prosecutor and the resolution of the DOJ Secretary, the trial court abdicated its judicial power and refused to perform a positive duty enjoined by law. The said Orders were thus stained with grave abuse of discretion and violated the complainant's right to due process. xxx" (Emphasis Supplied)

Consequently, all other acts of respondent judge which traced their roots from his act that was committed in excess of jurisdiction, including his issuance of the assailed Orders[40], lose their standing and produce no effect. Thus, there is a need to remand the case to respondent court to rule on the merits of the case in order to determine if a prima facie case existed and to consequently resolve the City Prosecutor's "Motion to Withdraw Information"[41] anew. All of these consequences are in accordance with the following ruling of the Supreme Court in Summerville General Merchandising & Co., Inc. vs. Hon. Antonio M. Eugenio, Jr., et. al.[42]:

> "xxx And, all other acts which trace their roots from this act committed in excess of his jurisdiction, including the assailed Orders, lose their standing and produce no effect whatsoever. Thus, it is only but proper for this Court to remand the case to the trial court to rule on the merits of the case to determine if a prima facie case exists and consequently resolve the Motion to Withdraw Information anew." (Emphasis Supplied)

After careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, and, in accordance with what is best determined to be proper under the circumstances, the following disposition is therefore made on these matters.

WHEREFORE, the Petition for Certiorari is PARTLY GRANTED. The Order dated July 4, 2006 and October 10, 2006 of the Regional Trial Court of Baguio City, Branch 3, are SET ASIDE and ANNULLED. The case is REMANDED to the Regional Trial Court of Baguio City, Branch 3, for it to resolve the Motion to Withdraw the Information filed by the City Prosecutor based on its independent assessment of the evidence in this case.

SO ORDERED.

Dicdican (Chairperson) and Paredes, JJ., concur.

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[1] Rollo, pp. 84-97

[2] Rollo, p. 15

[3] Rollo, p. 15

[4] Rollo, p. 16

[5] Rollo, pp. 42-44

[6] Rollo, pp. 27-31

[7] Rollo, p. 30

[8] Rollo, p. 34

[9] Rollo, pp. 35-38; “MOTION FOR RECONSIDERATION (FOR FLORDELIZA ORPIA A.K.A. FLRODELIZA ORPIA-TIONG ONLY)”

[10] Rollo, pp. 39-40

[11] Rollo, p. 40

[12] Rollo, p. 40

[13] Rollo, p. 41; “MOTION TO WITHDRAW INFORMATION”

[14] Rollo, p. 15

[15] Rollo, p. 41; “MOTION TO WITHDRAW INFORMATION”

[16] Rollo, pp. 42-44

[17] Rollo, p. 16

[18] Rollo, pp. 84-97

[19] Rollo, p. 94

[20] Rollo, p. 89

[21] Rollo, p. 41; “MOTION TO WITHDRAW INFORMATION”

[22] Rollo, pp. 89-92

[23] Samuel U. Lee and Maybelle Lee Lim vs. KBC Bank N.V., G.R. No. 164673, January 15, 2010; Liezl Co vs. Harold Lim y Go and Ave,ino Uy Go, G.R. Nos. 164669-70, October 30, 2009

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[24] Rollo, p. 41; “MOTION TO WITHDRAW INFORMATION”

[25] G.R. No. 171643, August 8, 2010

[26] Rollo, p. 41; “MOTION TO WITHDRAW INFORMATION”

[27] Carolina B. Jose vs. Purita Suarez, G.R. No. 176111, July 17, 2013

[28] Rollo, p. 15; p. 16

[29] Rollo, p. 41; “MOTION TO WITHDRAW INFORMATION”

[30] Rollo, pp. 27-31

[31] Rollo, pp. 39-40

[32] Rollo, p. 15

[33] Rollo, p. 15

[34] Rollo, p. 16

[35] Rollo, p. 16

[36] Rollo, pp. 27-31

[37] Rollo, pp. 39-40

[38] Rollo, p. 41; “MOTION TO WITHDRAW INFORMATION”

[39] G.R. No. 185230, June 1, 2011

[40] Rollo, p. 15; p. 16

[41] Rollo, p. 41; “MOTION TO WITHDRAW INFORMATION”

[42] G.R. No. 163741, August 7, 2007

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