

DORIS E. OCAMPOS, BLYTHE LOU G. URBANO AND ALENE A. GREGORIO, PETITIONERS-APPELLANTS, VS. SALVIO A. TAMALA AND MARIVIC FAITH BATION, RESPONDENTS-APPELLEES.

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

On 30 May 2013, this Court rendered a Decision[1] dismissing the instant Petition for Review.

On 1 July 2013, the petitioners, through counsel, filed a Motion for Reconsideration with Formal Entry of Appearance as Counsel.[2]

Per JRD verification report[3] dated 26 February 2014 stating that no Comment has been filed by the respondents as of the said date, We shall now resolve the petitioners' Motion for Reconsideration.

The same must be denied.

We reiterate that the petition for review under Rule 43 filed by the petitioners is the wrong remedy to question the Resolution of the Justice Secretary as regards the determination of the existence of probable cause.

We likewise maintain that, technicalities aside, the petition fails to show any grave abuse of discretion on the part of the Secretary of Justice.

Again, it must be stressed that an act can only be considered as to have been committed with grave abuse of discretion if it was done in a “capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction.”[4] Such grave abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or 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.[5]

We find that the arguments raised by the petitioner fail to show that the Secretary of Justice, in affirming the resolution of the Regional State Prosecutor of Region X, acted in a whimsical or capricious manner. It is clear that the resolutions of the Regional State Prosecutor and the Secretary of Justice were arrived at after a careful examination of the evidence and upon consideration of the applicable laws and jurisprudence. As the Supreme Court held in one case:

x x x [T]he determination of probable cause for the filing of an information in court is an executive function, one that properly pertains at the first instance to the public prosecutor and, ultimately, to the Secretary of Justice. For this reason, the Court considers it sound judicial policy to refrain from interfering in the conduct of preliminary investigations and to leave the Department of Justice ample latitude of discretion in the determination of what constitutes sufficient evidence to establish probable cause for the prosecution of supposed offenders. Consistent with this policy, courts do not reverse the Secretary of Justice's findings and conclusions on the matter of probable cause except in clear cases of grave abuse of discretion. Thus, petitioners will prevail only if they can show that the CA erred in not holding that public respondent's resolutions were tainted with grave abuse of discretion.

By grave abuse of discretion is meant such capricious and whimsical exercise of judgment which is equivalent to an excess or lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or 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.

Viewed against the foregoing standards, public respondent's resolution to direct the withdrawal of the informations against private respondents does not appear to have been made with grave abuse of discretion. The reasons for the course of action taken by public respondent were stated clearly and sufficiently in the assailed resolution of April 29, 2002. There was no hint of whimsicality, no gross and patent abuse of discretion as would amount to "an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law." Quite to the contrary, public respondent resolved the issues by applying basic precepts of criminal law to the facts, allegations, and evidence on record.

Even on the assumption that public respondent did make some erroneous inferences of fact and conclusions of law along the way, the CA could not have corrected these errors on certiorari as these were not of a degree that would amount to a clear case of abuse of discretion of the grave and malevolent kind. Thus, in *Estrada v. Desierto*, this Court held that the public respondents in said case did not gravely abuse their discretion in dismissing a criminal complaint even though their interpretation of the applicable law and jurisprudence might well have been wrong. After all, it is elementary that not every erroneous conclusion of law or fact is an abuse of discretion.[6]

Accordingly, the Motion for Reconsideration filed by petitioner Republic of the Philippines is hereby DENIED.

SO ORDERED.

Borja, J., Ch., and Badelles, JJ., concur.

[1] Rollo, pp. 328-353.

[2] Rollo, pp. 338-344.

[3] Rollo, p. 350 (dorsal portion).

[4] Eric U. Yu. Hon. Judge Agnes Reyes-Carpio and Caroline T. Yu, G.R. No. 189207, 15 June 2011.

[5] Ibid.

[6] *First Women's Credit Corporation v. Hon. Hernando B. Perez*, G.R. No. 169026, 15 June 2006.

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