

**POLICE SUPERINTENDENT (PSUPT) RAMON L. BALAUAG,
PETITIONER, VS. HON. MARIA CHONA E. PULGAR-NAVARRO, IN HER
CAPACITY AS PRESIDING JUDGE OF REGIONAL TRIAL COURT,
BRANCH 61, GUMACA...**

Ponente: DICDICAN, J.

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DICDICAN, J.:

Before us is an Amended Petition for Certiorari[1] filed by herein petitioner Police Superintendent Ramon L. Balauag ("petitioner") pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to annul and set aside the Resolution[2] that was issued by public respondent Judge Maria Chona E. Pulgar-Navarro ("public respondent judge") of Branch 61 of the Regional Trial Court of the Fourth (4th) Judicial Region in Gumaca, Quezon ("lower court") dated March 26, 2014 in Criminal Case No. 12508-G entitled "People of the Philippines v. PSupt. Hansel Marantan, et al." which, inter alia, denied the motion for judicial determination of probable cause that was filed by the petitioner in the said case ("assailed resolution").

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

Intelligence reports disclosed that several persons, collectively known as the "Siman Group", were involved in illegal gambling, illegal drugs, gun-for-hire and other criminal activities in the Southern Luzon area. With the objective of neutralizing the said group, "COPLAN ARMADO" was conceptualized in order to conduct a surveillance and covert operations on the aforesaid group.

On January 5, 2013, Police Superintendent Hansel M. Marantan ("PSupt. Marantan"), Deputy Chief of the Regional Intelligence Division of the Police Regional Office 4-A, purportedly received an information that a convoy of four (4) vehicles without registration plates carrying fifteen (15) to twenty (20) fully armed men would be passing through the Maharlika Highway on their way to Camarines Province.

Acting on the aforesaid information, at around 1:00 o'clock in the afternoon of January 6, 2013, three (3) blockades/checkpoints were established along the Maharlika Highway, Barangay Lumutan, Atimonan, Quezon, by a joint Philippine National Police (PNP) and Armed Forces of the Philippines (AFP) force that was headed by the following officials, namely: (1) PSupt. Marantan, Deputy Regional Intelligence Division; (2) herein petitioner PSupt. Balauag, Chief of the Provincial Intelligence Branch of the Quezon Provincial Police Office; (3) Police Chief Inspector Grant Gollod ("PCInsp Gollod"), Chief of Police of Atimonan, Quezon Province; and (4) Lieutenant Colonel Monico Abang ("LC Abang"), Battalion Commander of the First Special Forces Battalion of the AFP.

Thereafter, at around 3:20 o'clock in the afternoon of the same day, two (2) black Mitsubishi Montero SUVs were apprehended along the national highway of Atimonan, Quezon Province. According to the PNP, the SUVs did not slow down and, instead, opened fire on the police operatives who were manning the checkpoint. This prompted the joint forces to retaliate, thereby killing all the thirteen (13) occupants of the two (2) SUVs. PSupt. Marantan was wounded during the said encounter.

A PNP Fact-Finding Committee was thereafter created in order to shed light on the incident after the families of those who died expressed doubts on the legitimacy of the police operation. Likewise, the Office of the President ordered the National Bureau of Investigation (NBI) to conduct its own probe.

In an Executive Report[3] that was submitted by the NBI to the Office of the President dated February 5, 2013, the NBI stated that it would file criminal charges for murder against the PNP and AFP personnel who had directly participated in the checkpoint operation. Thereafter, criminal complaints for multiple murder and obstruction of justice were filed by the NBI against herein petitioner and other AFP and PNP members in the Department of Justice (DOJ). The said case was docketed as NPS Docket No. XVI-INV-13C-00092.

A preliminary hearing was then conducted by the DOJ where the respondents in NPS Docket No. XVI-INV-13C-00092, including herein petitioner, submitted their respective counter-affidavits and other pieces of evidence. Consequently, on August 30, 2013, the DOJ issued a Resolution[4] recommending that charges for multiple murder be filed against several PNP officials and personnel, including herein petitioner who had directly participated in the so-called "shootout". The petitioner then filed a motion for reconsideration and a supplemental motion for reconsideration in the DOJ seeking for the reversal of its August 30, 2013 resolution.

Meanwhile, in an Order[5] dated September 20, 2013, the lower court, after finding probable cause on the basis of the information that was filed by the DOJ, issued a warrant of arrest against herein petitioner, along with the other PNP personnel that were named in the aforesaid information. No bail was recommended for their provisional liberty.

Subsequently, the petitioner filed a Motion for Reconsideration[6] and a Supplemental[7] motion for reconsideration of the September 20, 2013 Order of the lower court praying that the said court re-examine the pieces of evidence and to recall the warrant of arrest which it issued against the petitioner. Likewise, the petitioner filed in the lower court an Urgent Motion for Judicial Determination of Probable Cause with motion to withhold issuance of warrants of arrest praying that the lower court re-examine the findings of the DOJ finding probable cause to charge petitioner of the crime of murder.

In the herein assailed resolution dated March 26, 2014, the lower court denied the motions for reconsideration and judicial determination of probable cause that were filed by the petitioner the pertinent portions of which state:

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"The Urgent Motion for Judicial Determination of Probable Cause (With Motion to Withhold Issuance of Warrants of Arrest) dated September 20, 2013 filed by accused Psupt. Ramon Balauag, SPO3 Joselito de Guzman, SPO1 Claro Cataquiz, Jr., PO2 Al-Bhazar Jailani, PO1 Rodel Talento, PO1 Wryan Sardea, PO3 Eduardo Oronan and PO2 Nelson Indal, through counsel Crisanto R. Buela is hereby DENIED.

xxx

"The Motion for Reconsideration dated September 23, 2013 filed by Atty. Romeo S. Gonzales, counsel for accused De Guzman, Cataquiz, Oronan, Balauag, Indal and Jailani is hereby DENIED.

xxx

"SO ORDERED."

Hence, the petitioner filed this petition for certiorari wherein the petitioner 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 AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN FINDING THAT PROBABLE CAUSE EXISTED FOR THE ISSUANCE OF A WARRANT OF ARREST AGAINST THE PETITIONER CONSIDERING THAT

SHE COULD NOT HAVE PERSONALLY EVALUATED THE RESOLUTION OF THE PANEL OF PROSECUTORS OF THE DOJ, AS WELL AS THE VOLUMINOUS SUPPORTING EVIDENCE, WITHIN A PERIOD OF LESS THAN TWENTY FOUR (24) HOURS.

II.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN FINDING THAT PROBABLE CAUSE EXISTED FOR THE ISSUANCE OF WARRANT OF ARREST AGAINST PETITIONER CONSIDERING THAT THERE WERE CONFLICTING STATEMENTS OF THE WITNESSES AND THE PIECES OF EVIDENCE THAT WERE SUBMITTED BY THE PANEL OF THE PROSECUTORS OF THE DOJ.

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 she found probable cause for the issuance of a warrant of arrest against the petitioner. 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 petitioner averred that the public respondent judge could not have personally evaluated the resolution of the Panel of Prosecutors of the DOJ, as well as its voluminous supporting evidence, within a period of less than twenty four (24) hours. According to the petitioner, the judicial determination of probable cause by the public respondent judge was improperly and hastily done which clearly showed that she did not personally evaluate the record of the case in the court a quo.

Moreover, the petitioner contended that COPLAN ARMADO was a legal and legitimate police operation which was led by its case officer, PSupt. Marantan. Thus, there was no basis in the finding of the DOJ Panel of Prosecutors that the PNP personnel conspired and confederated to commit a felony. Further, the petitioner insisted that he had no knowledge of the COPLAN ARMADO prior to the conduct of its operation on January 6, 2013 and, even though his assistance was merely requested by PSupt. Marantan on the said date, he only had limited knowledge of the details of the said operation.

Furthermore, the petitioner maintained that the handling of the investigation by the NBI was clearly biased and partial in that it started with a premise that there was a plan to kill the group of Vic Siman. On the contrary, the petitioner stressed that probable cause existed for the PNP and the AFP to stop and conduct a search of the SUVs especially in that they tried to flag down the said vehicles but the latter refused to stop. Thereafter, it was proved that a crime was, indeed, being committed since the occupants of the two (2) vehicles were carrying guns either without licenses or permits to carry the same.

All told, the petitioner submitted that he had clearly shown that there was a complete absence of unity of purpose and unity in the commission of an unlawful objective if, indeed, there was any, as far as he is concerned.

For their part, herein respondents, through the Office of the Solicitor General, countered that the instant petition was an improper remedy in that a petition for certiorari is only limited to correcting errors of jurisdiction and not errors of judgment. In this case, the petitioner was challenging the lower court's appreciation of the evidence and, therefore, he was seeking the correction of an error of judgment and not an error of jurisdiction. At any rate, the respondents insisted that the lower court complied with the constitutional mandate that the judge shall make a personal determination of probable cause before issuing a warrant of arrest against an accused. Thus, considering that a presumption existed as to the regularity in the performance of official duty, there was a presumption that the public respondent judge personally reviewed and evaluated the resolution of the DOJ and the pieces of evidence in support thereof before she found probable cause against the petitioner and his co-accused.

We agree with the contentions of the respondents. Preliminary investigation, in our jurisdiction, is an inquiry or

proceeding in order to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof and should be held for trial.[8]

Corollary thereto, probable cause is such set of facts and circumstances that would lead a reasonable discreet and prudent man to believe that the offense charged in the information or any offense included therein has been committed by the person sought to be arrested.[9] A finding of probable cause needs only to rest on evidence showing that, more likely than not, a crime has been committed and that it was committed by the accused. Probable cause demands more than suspicion; it requires less than evidence that would justify conviction.[10]

There are two kinds of determination of probable cause: executive and judicial. The executive determination of probable cause is one made during preliminary investigation. It is a function that properly pertains to the public prosecutor who is given a broad discretion to determine whether probable cause exists and to charge those whom he or she believes to have committed the crime as defined by law and, thus, should be held for trial. Otherwise stated, such official has the quasi-judicial authority to determine whether or not a criminal case must be filed in court. Whether or not that function had been correctly discharged by the public prosecutor, i.e., whether or not he or she had made a correct ascertainment of the existence of probable cause in a case, is a matter that the trial court itself does not and may not be compelled to pass upon.[11]

The judicial determination of probable cause, on the other hand, is one made by the judge to ascertain whether a warrant of arrest should be issued against the accused. The judge must satisfy himself or herself that, based on the evidence submitted, there is necessity for placing the accused under custody in order not to frustrate the ends of justice. If the judge finds no probable cause, the judge could not be forced to issue the warrant of arrest.[12]

Corollary to the principle that a judge cannot be compelled to issue a warrant of arrest if he or she deems that there is no probable cause for doing so, the judge, in turn, should not override the public prosecutor's determination of probable cause to hold an accused for trial on the ground that the evidence presented to substantiate the issuance of an arrest warrant was insufficient. It must be stressed that, in our criminal justice system, the public prosecutor exercises a wide latitude of discretion in determining whether a criminal case should be filed in court and that courts must respect the exercise of such discretion when the information filed against the person charged is valid on its face, and that no manifest error or grave abuse of discretion can be imputed to the public prosecutor.[13]

Thus, absent a finding that an information is invalid on its face or that the prosecutor committed manifest error or grave abuse of discretion, a judge's determination of probable cause is limited only to the judicial kind or for the purpose of deciding whether the arrest warrants should be issued against the accused.[14]

In the case at bench, the petitioner questioned the alleged haste in the issuance of a warrant of arrest against him and he further insisted that the public respondent judge could not have possibly examined the record of the case in less than twenty four (24) hours. Nonetheless, the Supreme Court, in the case of *Webb v. De Leon*[15], declared that the sufficiency of the review process could not be measured by merely counting minutes and hours that it took the judge to review the record of the case. Thus:

"Clearly then, the Constitution, the Rules of Court, and our case law repudiate the submission of petitioners that respondent judges should have conducted "searching examination of witnesses" before issuing warrants of arrest against them. They also reject petitioners' contention that a judge must first issue an order of arrest before issuing a warrant of arrest. There is no law or rule requiring the issuance of an Order of Arrest prior to a warrant of arrest.

In the case at bar, the DOJ Panel submitted to the trial court its 26-page report, the two (2) sworn statements of Alfaro and the sworn statements of Carlos Cristobal and Lolita Birrer as well as the counter-affidavits of the

petitioners. Apparently, the painstaking recital and analysis of the parties' evidence made in the DOJ Panel Report satisfied both judges that there is probable cause to issue warrants of arrest against petitioners. Again, we stress that before issuing warrants of arrest, judges merely determine personally the probability, not the certainty of guilt of an accused. In doing so, judges do not conduct a de novo hearing to determine the existence of probable cause. They just personally review the initial determination of the prosecutor finding a probable cause to see if it is supported by substantial evidence. The sufficiency of the review process cannot be measured by merely counting minutes and hours. The fact that it took the respondent judges a few hours to review and affirm the probable cause determination of the DOJ Panel does not mean they made no personal evaluation of the evidence attached to the records of the case."

Neither could we give our imprimatur to herein petitioner's claim that the lower court gravely abused its discretion in denying the said motions for judicial determination of probable cause and for reconsideration that were filed by herein petitioner. It is hornbook principle that the term "grave abuse of discretion" means such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction[16]. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.[17]

Here, there was no hint of whimsicality nor gross and patent abuse of discretion on the part of the lower court 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. Per contra, the lower court, in resolving the aforesaid motions, applied the basic precepts of law to the facts, allegations and evidence on record.

At any rate, it is noteworthy that the grounds that were relied upon by herein petitioner for the recall of the warrant of arrest that was issued against him and for the judicial determination of probable cause clearly involved factual disputes which are best ventilated in a full blown trial. Veritably, the validity and merits of a party's defense and accusation, as well as admissibility of testimonies and evidence, are better ventilated during trial proper than at the preliminary investigation level.[18] The allegations adduced by the prosecution would be put to test in a full-blown trial in which evidence shall be analyzed, weighed, given credence or disproved.[19]

What is more, it is well-settled that a petition for certiorari under Rule 65 of the Rules of Court is a remedy designed for the correction of errors of jurisdiction and not errors of judgment.[20] Error of jurisdiction is one where the act complained of was issued by the court without or in excess of jurisdiction and which error is correctible only by the extraordinary writ of certiorari.[21] On the other hand, an error of judgment is one in which the court may commit in the exercise of its jurisdiction, and which error is reversible only by an appeal.[22]

Errors of judgment include errors of procedure or mistakes in the court's findings.[23] Where a court has jurisdiction over the person and subject matter, the decision on all other questions arising in the case is an exercise of that jurisdiction.[24] As long as a court acts within its jurisdiction, any alleged error committed in the exercise of its jurisdiction will amount to nothing more than an error of judgment reviewable by timely appeal and not by a special civil action of certiorari.[25]

Here, inasmuch as it has jurisdiction over the parties and the subject matter of the case below, the lower court's resolution of the said motions for reconsideration and judicial determination of probable cause is but a mere exercise of jurisdiction. For this reason, the error supposedly committed by the lower court, as adverted to by petitioner, is nothing more than an error of judgment which could not be felicitously passed upon by this Court in a certiorari proceeding.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DENYING the petition filed in this case for lack of merit. The Resolution that was issued Branch 61 of the Regional Trial Court of the

Fourth (4[th]) Judicial Region in Gumaca, Quezon dated March 26, 2014 in Criminal Case No. 12508-G is hereby AFFIRMED insofar as it denied the Urgent Motion for Judicial Determination of Probable Cause dated September 20, 2013 and the Motion for Reconsideration and Supplement Motion for Reconsideration dated September 23, 2013 and October 24, 2013, respectively, that were filed by petitioner Police Superintendent Ramon L. Balauag in the said case.

SO ORDERED.

[*]Lazaro-Javier and Paredes, JJ., concur.

[*] Acting Senior Member vice J. Elbinias as per Raffle dated November 26, 2014.

[1] Rollo, pages 475-518.

[2] Ibid, Annex "A", pages 45-72.

[3] Ibid, Annex "Q", pages 315-378.

[4] Ibid, Annex "C", pages 77-119.

[5] Ibid, Annex "B", page 75.

[6] Ibid, Annex "D", pages 121-130.

[7] Ibid, Annex "E", pages 132-142.

[8] Section 1, Rule 112 of the Rules of Court.

[9] Santos v. Orda, Jr., G.R. No. 189402, May 6, 2010 citing Baltazar v. People, G.R. No. 174016, July 28, 2008.

[10] Ibid.

[11] People of the Philippines v. Castillo, G.R. No. 171188, June 19, 2009.

[12] Ibid.

[13] Ibid.

[14] Ibid.

[15] G.R. No. 121234, August 23, 1995.

[16] People v. Terrado, G.R. No. 148226, July 14, 2008.

[17] Id.

[18] Ricaforte v. Jurado, G.R. No. 154438, September 5, 2007.

[19] Ibid.

[20] Ampeloquio, Sr. v. Court of Appeals, G.R. No. 124243, June 15, 2000.

[21] Toh v. Court of Appeals, 344 SCRA 831 (2000).

[22] Julie's Franchise Corporation v. Ruiz, G.R. No. 180988, August 28, 2009.

[23] Microsoft Corporation v. Best Deal Computer Center Corporation, G.R. No. 148029, September 24, 2002.

[24] Ibid.

[25] *Sumndad v. Harrigan*, G.R. No. 132358, April 12, 2002.

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