

FRANCISCO N. VILLANUEVA, JR., PETITIONER, VS. THE HON. COURT OF APPEALS AND ROQUE VILLADORES, RESPONDENTS.*G.R. No. 142947. March 19, 2002*

Ponente: DE LEON, JR., J.

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Before us is a petition for review on certiorari of the Decision[1] of the Court of Appeals dated April 12, 2000 in CA-G.R. SP No. 50235 reversing the two (2) Orders dated August 27, 1998[2] and December 4, 1998[3] of the Regional Trial Court of Manila, Branch 41, in Criminal Cases Nos. 94-138744-45 which denied respondent Roque Villadores's motion for disqualification of Rico and Associates as private prosecutor for petitioner Francisco N. Villanueva, Jr., and the motion for reconsideration thereof, respectively.

Respondent Villadores is one of the accused in the amended informations in Criminal Cases Nos. 94-138744 and 94-138745 entitled, "People of the Philippines v. Atty. Tomas Bernardo, Roque Villadores, Alberto Adriano and Rolando Advincula," for Falsification of Public Document before the Regional Trial Court of Manila, Branch 41.

It appears that petitioner Villanueva, Jr. filed a complaint for illegal dismissal against several parties, among them, IBC 13. When the labor arbiter[4] ruled in favor of petitioner Villanueva, Jr., IBC 13 appealed to the National Labor Relations Commission (NLRC).[5] As an appeal bond, IBC 13 filed Surety Bond No. G (16) 00136 issued by BF General Insurance Company, Inc. (BF) with the Confirmation Letter dated September 20, 1993 supposedly issued by BF's Vice-President. However, both documents were subsequently found to be falsified.

Thus, the two (2) complaints for falsification of public document were filed before the Manila City Prosecutor's Office. The charges against respondent Villadores and Atty. Eulalio Diaz III were dismissed by the City Prosecutor's Office which, however, found probable cause against the other respondents. Nonetheless, on a petition for review before the Department of Justice (DOJ), the latter affirmed the dismissal against Diaz but ordered the inclusion of respondent Villadores as an accused in the two (2) criminal cases. Accordingly, the original informations were amended to include respondent Villadores among those charged.

Following the arraignment of respondent Villadores, the private prosecutor, Rico and Associates, filed anew a Motion to Admit Amended Informations alleging damages sustained by private complainant, herein petitioner Villanueva, Jr., as a result of the crimes committed by the accused. The incident was referred to the City Prosecutor's Office by the trial court. In compliance, the fiscal's office submitted a Motion to Admit Amended Informations with the following amendment: "to the prejudice of Francisco N. Villanueva, Jr., and of public interest and in violation of public faith and destruction of truth as therein proclaimed."

The Motion was granted by the trial court and the amended informations were admitted in an Order dated October 10, 1997. Respondent Villadores subsequently filed a Manifestation and/or Motion for Reconsideration but the same was denied in an Order dated October 24, 1997.

Thus, respondent Villadores interposed on November 26, 1997 a petition for certiorari with the Court of Appeals.

Said petition, which was docketed as CA-G.R. SP No. 46103, sought to annul the Order of the trial court dated October 10, 1997 which admitted the second amended informations, as well as the Order dated October 24, 1997 denying his motion for reconsideration thereof.[6]

In a Decision dated June 22, 1998, the appellate court, acting thru its Eleventh Division, found that the trial court committed no grave abuse of discretion in admitting the amended informations and dismissed the petition of respondent Villadores.[7] The decision in CA-G.R. SP No. 46103 became final and executory on July 18, 1998.[8]

Subsequently, before Branch 41 of the Regional Trial Court of Manila, respondent Villadores moved for the disqualification of Rico and Associates as private prosecutor for petitioner Villanueva, Jr.,[9] in line with the following pronouncement of the appellate court in CA-G.R. SP No. 46103, to wit:[10]

Incidentally, We are one with the petitioner when it argued that Francisco N. Villanueva, Jr. is not the offended party in these cases. It must be underscored that it was IBC 13 who secured the falsified surety bond for the purpose of the appeal it had taken from an adverse judgment of the labor case filed by Francisco N. Villanueva, Jr. himself and wherein the latter prevailed. We see no reason how Villanueva could have sustained damages as a result of the falsification of the surety appeal bond and its confirmation letter when it could have even redounded to his own benefit if the appeal would be dismissed as a result of the forgery. If there be anyone who was prejudiced, it was IBC 13 when it purchased a fake surety bond.

Rico and Associates opposed said motion on the ground that the above-quoted pronouncement of the appellate court is a mere obiter dictum.[11]

In an Order[12] dated August 27, 1998 the trial court denied the motion for disqualification ratiocinating, thus:

A reading of the aforecited decision of the Court of Appeals clearly shows that the aforecited reason for the motion is a mere obiter dictum. As held by the Supreme Court, an obiter dictum lacks force of adjudication. It is merely an expression of an opinion with no binding force for purposes of res judicata (City of Manila vs. Entote, June 28, 1974, 57 SCRA, 508-509). What is controlling is the dispositive portion of the subject decision of the Court of Appeals which denied due course and ordered dismissed the petition of the movant questioning the Order of this Court granting the Motion to Admit Informations and admitting the Amended Informations that include the name of Francisco N. Villanueva, Jr. as the private offended party, which in effect upheld and/or affirmed the questioned Order of this Court admitting the amended informations.

Reconsideration[13] was sought by respondent Villadores but the same was denied by the trial court in its Order dated December 4, 1998.[14]

Thus, on January 7, 1999, respondent Villadores filed a petition for certiorari with the Court of Appeals, docketed therein as CA-G.R. SP No. 50235, seeking the annulment of the trial court's Order dated August 27, 1998 denying the Motion for Disqualification as well as its subsequent Order dated December 4, 1998 denying reconsideration.[15]

On April 12, 2000, the appellate court rendered its now challenged decision which reversed and set aside the two (2) Orders of the trial court dated August 27, 1998 and December 4, 1998. The appellate court directed that the name of petitioner Villanueva, Jr., appearing as the offended party in Criminal Cases Nos. 94-138744-45 be stricken out from the records.[16]

Hence, this petition anchored on the following grounds:[17]

THE HON. COURT OF APPEALS SERIOUSLY ERRED IN ENJOINING RICO & ASSOCIATES FROM APPEARING AS PRIVATE PROSECUTOR AND/OR AS COUNSEL FOR FRANCISCO N.

VILLANUEVA, JR., IN CRIMINAL CASE NOS. 94-138744-45.

THE HON. COURT OF APPEALS SERIOUSLY ERRED IN FAILING TO APPRECIATE THAT THE MATTER OF WHETHER OR NOT FRANCISCO N. VILLANUEVA, JR. IS AN OFFENDED PARTY IN CRIMINAL CASE NOS. 94-138744-45 HAD BEEN RESOLVED WITH FINALITY IN THE AFFIRMATIVE IN CA-G.R. SP NO. 46103 WHERE THE HON. COURT OF APPEALS UPHELD THE AMENDMENT OF THE INFORMATIONS IN SAID CASES TO STATE THAT THE CRIMES WERE COMMITTED TO THE PREJUDICE OF FRANCISCO N. VILLANUEVA, JR., AND PURSUANT TO THE DOCTRINE OF RES JUDICATA, THE SAME COULD NO LONGER BE RELITIGATED IN CA-G.R. SP NO. 50235.

THE HON. COURT OF APPEALS SERIOUSLY ERRED IN FAILING TO CONSIDER THE PRONOUNCEMENT IN CA-G.R. SP NO. 46103 THAT FRANCISCO N. VILLANUEVA, JR. IS NOT AN OFFENDED PARTY, AS A MERE OBITER DICTUM.

THE HON. COURT OF APPEALS SERIOUSLY ERRED IN FAILING TO APPRECIATE THAT FRANCISCO N. VILLANUEVA, JR., WAS IN FACT AN AGGRIEVED PARTY.

THE HON. COURT OF APPEALS SERIOUSLY ERRED IN ORDERING THE NAME OF FRANCISCO N. VILLANUEVA, JR., APPEARING AS THE OFFENDED PARTY BE STRICKEN FROM THE RECORDS, DESPITE THE FACT THAT IN CA-G.R. SP NO. 46103, IT UPHELD THE AMENDMENT OF THE INFORMATIONS SO AS TO STATE THAT THE CRIMES CHARGED WERE COMMITTED TO THE PREJUDICE OF FRANCISCO N. VILLANUEVA, JR.

All the foregoing issues boil down to the issue of whether or not the pronouncement of the appellate court in CA-G.R. SP No. 46103 to the effect that petitioner Villanueva, Jr. is not an offended party in Criminal Cases Nos. 94-138744-45 is obiter dictum.

An obiter dictum has been defined as an opinion expressed by a court upon some question of law which is not necessary to the decision of the case before it. It is a remark made, or opinion expressed, by a judge, in his decision upon a cause, “by the way,” that is, incidentally or collaterally, and not directly upon the question before him, or upon a point not necessarily involved in the determination of the cause, or introduced by way of illustration, or analogy or argument. Such are not binding as precedent.[18]

Based on the foregoing, the pronouncement of the appellate court in CA-G.R. SP No. 46103 is not an obiter dictum as it touched upon a matter clearly raised by respondent Villadores in his petition assailing the admission of the Amended Informations. Among the issues upon which the petition for certiorari in CA-G.R. SP No. 46103 was anchored, was “whether Francisco N. Villanueva, Jr. is the offended party.[19] Argument on whether petitioner Villanueva, Jr. was the offended party was, thus, clearly raised by respondent Villadores. The body of the decision contains discussion on that point and it clearly mentioned certain principles of law.

It has been held that an adjudication on any point within the issues presented by the case cannot be considered as obiter dictum, and this rule applies to all pertinent questions, although only incidentally involved, which are presented and decided in the regular course of the consideration of the case, and led up to the final conclusion, and to any statement as to matter on which the decision is predicated. Accordingly, a point expressly decided does not lose its value as a precedent because the disposition of the case is, or might have been, made on some other ground, or even though, by reason of other points in the case, the result reached might have been the same if the court had held, on the particular point, otherwise than it did. A decision which the case could have turned on is not regarded as obiter dictum merely because, owing to the disposal of the contention, it was necessary to consider another question, nor can an additional reason in a decision, brought forward after the case has been disposed of on one ground, be regarded as dicta. So, also, where a case presents two (2) or more points, any one of which is

sufficient to determine the ultimate issue, but the court actually decides all such points, the case as an authoritative precedent as to every point decided, and none of such points can be regarded as having the status of a dictum, and one point should not be denied authority merely because another point was more dwelt on and more fully argued and considered, nor does a decision on one proposition make statements of the court regarding other propositions dicta.[20]

The decision of the appellate court in CA-G.R. SP No. 46103 allegedly show a conflict between the pronouncements in the body of the decision and the dispositive portion thereof. However, when that decision is carefully and thoroughly read, such conflict is revealed to be more illusory than real. In denying the petition for certiorari in CA-G.R. SP No. 46103, the appellate court had this to say:

At the centerfold of this controversy is Section 14 of Rule 110, 1st paragraph, which is quoted hereunder:

SEC. 14. Amendment. - The information or complaint may be amended, in substance or form, without leave of court, at any time before the accused pleads, and thereafter and during the trial as to all matters of form, by leave and at the discretion of the court, when the same can be done without prejudice to the rights of the accused.”

Needless to state, amendment of a criminal charge sheet depends much on the time when the change is requested. If before arraignment it is a matter of right, no leave of court is necessary and the prosecution is free to do so even in matters of substance and in form. On the other hand, the more complicated situation involves an amendment sought after the accused had already been arraigned. This time amendment can only be made by a prior leave and at the discretion of the court, only as to matters of form when the same can be done without prejudice to the rights of the accused [Draculan vs. Donato; 140 SCRA 425 (1985); Teehankee vs. Madayag, 207 SCRA 134 (1992)].

Relative to the second instance, the primary consideration is whether the intended amendment is only as to matter of form and same could be done without prejudice to the rights of the accused. Substantial amendment as a consequence is proscribed. In essence, substantial matters in the complaint or information is the recital of facts constituting the offense charged and determinative of the jurisdiction of the court. All other matters are merely of form [Almeda vs. Villaluz, 66 SCRA 38 (1975); Teehankee vs. Madayag, supra].

In other words, even if the amendment is only as to matter of form, one other criteria must accompany it for its admission, which is, that it should not be prejudicial to the accused. Conformably, the test as to when the rights of an accused are prejudiced by the amendment of a complaint or information is, when a defense under the complaint or information, as it originally stood, would no longer be available after the amendment is made, and when any evidence the accused might have, would no longer be available after the amendment is made, and when any evidence the accused might have, would be inapplicable to the complaint or information as amended [People vs. Montenegro, 159 SCRA 236 (1988); Teehankee vs. Madayag, supra].

Given the above aphorisms, the inclusion of the name of Francisco N. Villanueva, Jr. as the prejudiced complainant in the cases appears to be not substantial. It did not change, alter or modify the crime charged nor any possible defense. Likewise, any evidence the accused might have under his defense in the original informations is still very much available to him and applicable to the amended informations. In sum, accused petitioner is not in any way prejudiced in his rights with such amendment which, in Our considered opinion, is only a matter of form under the standards laid down in the cases above-cited.

What seems to be more crucial here is the fact that the crime charged in the two informations is falsification of public document committed by a private individual defined and penalized under Article 172, paragraph 1, of the Revised Penal Code. Accordingly, the evil sought to be punished and sanctioned by the offense of falsification of public document is the violation of the public faith and the destruction of the trust as therein solemnly proclaimed

[People vs. Pacana, 47 Phil 48, citing Decisions of the Supreme Court of Spain of December 23, 1886; People vs. Mateo, 25 Phil. 324, Po Giok To, 96 Phil. 913; see Revised Penal Code, Luis B. Reyes, 13[th] Division, p. 211 and Aquino, 1976 ed., Vol. 2, p. 984]. Apropos, the crime of falsification of public document does not require for its essential elements damage or intent to cause damage. In the final analysis, the inclusion of the name of Francisco N. Villanueva, Jr. would then be merely a superfluity in the information, a meaningless surplusage therein. In fact, it is even highly doubted if civil damages may be awarded in such transgression of the law.

Viewed from the above ratiocinations, We find no grave abuse of discretion on the part of the lower court in admitting the second amended informations albeit such amendment is totally irrelevant and unnecessary to the crime charged. The mere fact that the court decides the question wrongly is utterly immaterial to the question of jurisdiction [Estrada vs. Sto Domingo, 28 SCRA 891 (1969)]. And writs of certiorari are issued only for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or in excess of jurisdiction. It cannot be legally used for any other purpose [Silverio vs. Court of Appeals, 141 SCRA 527 (1986)].

Incidentally, We are in one with the petitioner when it argued that Francisco N. Villanueva, Jr. is not the offended party in these cases. It must be underscored that it was IBC 13 who secured the falsified surety bond for the purpose of the appeal it had taken from an adverse judgment of the labor case filed by Francisco N. Villanueva, Jr. himself and wherein the latter prevailed. We see no reason how Villanueva could have sustained damages as a result of the falsification of the surety appeal bond and its confirmation letter when it could have even redounded to his own benefit if the appeal would be dismissed as a result of the forgery. If there be anyone who was prejudiced, it was IBC 13 when it purchased a fake surety bond.[21]

Clearly then, while the appellate court in CA-G.R. SP No. 46103 admitted that the addition of petitioner Villanueva, Jr. as an offended party is not necessary, it held that the admission of the amended informations due to the amendment to include petitioner Villanueva, Jr. did not by itself amount to grave abuse of discretion amounting to lack or excess of jurisdiction. Otherwise stated, there is an error of judgment but such did not amount to an error of jurisdiction.

The special civil action for certiorari, which was availed of respondent Villadores, is a remedy designed for the correction of errors of jurisdiction and not errors of judgment. When a court exercised its jurisdiction an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed. If it did, every error committed by a court would deprive it of its jurisdiction and every erroneous judgment would be a void judgment. Thus, an error of judgment that the court may commit in the exercise of its jurisdiction is not correctible through the original special civil action of certiorari.[22] In effect, the appellate court in CA-G.R. SP No. 46103 merely held that respondent Villadores chose the wrong remedy.

It is significant to mention that the intervention of petitioner Villanueva, Jr. in the criminal cases as an offended party is apparently predicated[23] on the reduction by the NLRC, in IBC's appeal of the illegal dismissal case, of the monetary award to which he is entitled, despite finding the appeal as not perfected due to the posting of the spurious appeal bond.[24] However, such alleged error should have been brought by petitioner Villanueva, Jr. to the appropriate forum,[25] and not raised in criminal cases before the trial court as a ground for his inclusion as a "prejudiced party".

In view of all the foregoing, the instant petition, being devoid of merit, must fail.

WHEREFORE, the instant petition is hereby DENIED, and the Decision of the Court of Appeals dated April 12, 2000 in CA-G.R. SP No. 50235 is AFFIRMED. No costs.

SO ORDERED.

Bellosillo, J., (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Penned by Associate Justice Bernardo P. Abesamis and concurred in by Associate Justices Conchita Carpio Morales and Candido V. Rivera, Former Fourth Division, Rollo, pp. 47-53.

[2] Penned by Judge Rodolfo A. Ponferrada, Rollo, pp. 55-56.

[3] Rollo, p. 54.

[4] Penned by Labor Arbiter Oswald B. Lorenzo in NLRC-NCR Case No. 00-03-01890-92.

[5] Docketed as NLRC-NCR CA No. 005714-93.

[6] Rollo, pp. 255-266.

[7] Penned by Associate Justice Conrado M. Vasquez, Jr. and concurred in by Associate Justices Fermin A. Martin, Jr. and Teodoro P. Regino, Rollo, pp. 284-290.

[8] Rollo, p. 291.

[9] Rollo, pp. 292-294.

[10] Rollo, pp. 289-290.

[11] Rollo, pp. 295-299.

[12] See Note No. 2, *supra*.

[13] Rollo, pp. 300-303.

[14] See Note No. 3, *supra*.

[15] Rollo, pp. 311-318.

[16] See Note No. 1, *supra*.

[17] Rollo, pp. 33-34.

[18] *Delta Motors Corporation v. Court of Appeals*, 276 SCRA 212, 223 [1997]; *Auyong Hian v. Court of Tax Appeals*, 59 SCRA 110, 120 [1974].

[19] Rollo, p. 258.

[20] 21 *Corpus Juris Secundum* § 190.

[21] Rollo, pp. 287-290, Underscoring supplied.

[22] *Jamer v. National Labor Relations Commission*, 278 SCRA 632, 646 [1997].

[23] Rollo, pp. 39-40, 407-408.

[24] Rollo, pp. 64-76.

[25] In *St. Martin Funeral Homes v. NLRC*, 295 SCRA 494 [1998], the supreme court en banc declared that “all appeals from the NLRC to the Supreme Court via petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure should henceforth be initially filed in the court of appeals as the appropriate forum for relief desired in

strict observance of the doctrine on the hierarchy of courts.”

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