

## PEOPLE OF THE PHILIPPINES, PETITIONER, VS. RAFAEL JOSE CONSING, JR., RESPONDENT.

*G.R. No. 148193. January 16, 2003*

Ponente: YNARES-SANTIAGO, J.

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### YNARES-SANTIAGO, J.:

Before us is a petition for review under Rule 45 of the Rules of Court, seeking to set aside the May 31, 2001 decision[1] of the Court of Appeals[2] in CA-G.R. SP No. 63712, which reversed and set aside the January 23, 2001 order[3] of the Regional Trial Court of Imus, Cavite, Branch 21, in Criminal Case No. 7668-00 denying respondent's motion for deferment of arraignment.

Sometime in February 1997, respondent Rafael Jose Consing, Jr. and his mother, Cecilia de la Cruz,[4] represented to Plus Builders, Inc. (PBI) that they are the true and lawful owners of a 42,443 square meter lot situated in Imus, Cavite and covered by Transfer Certificate of Title No. 687599 in the name of Cecilia de la Cruz. They further represented that they acquired said lot, which was previously covered by TCT No. 191408 from Juanito Tan Teng and Po Willie Yu. Relying on the representations of respondent and his mother, PBI purchased the questioned lot.

In April 1999, PBI discovered that respondent and his mother did not have a valid title over the subject lot. PBI came to know that Juanito Tan Teng and Po Willie Yu never sold said lot to respondent and his mother and that TCT No. 191408 upon which TCT No. 687599 was based is not on file with the Register of Deeds.

In August 1999, PBI was ousted from the possession of the disputed lot by Juanito Tan Teng and Po Willie Yu. Despite written and verbal demands, respondent and his mother refused to return the amount of P13,369,641.79 alleged to have been initially paid by PBI.

On July 22, 1999, respondent filed with the Regional Trial Court of Pasig City, Branch 68, an action for "Injunctive Relief" docketed as Civil Case No. SCA 1759, against PBI, Unicapital Inc, Unicapital Realty Inc., Jaime Martires, Mariano D. Martinez, Cecilia de la Cruz and 20 other John Does.[5] Respondent sought a declaration that he was merely an agent of his mother, Cecilia de la Cruz, and therefore was not under any obligation to PBI and to the other defendants on the various transactions involving TCT No. 687599.

On October 13, 1999, PBI filed against respondent and his mother a complaint for "Damages and Attachment," docketed as Civil Case No. 99-95381, with Branch 12 of the Regional Trial Court of Manila.[6] Respondent filed a motion to dismiss on the ground of forum shopping and pendency of Civil Case No. SCA 1759.[7]

On January 21, 2000, a criminal case for estafa through falsification of public document was filed against respondent Rafael Jose Consing, Jr. and his mother with the RTC of Imus, Cavite.[8]

On April 7, 2000, respondent filed a motion to defer arraignment on the ground of prejudicial question, i.e., the pendency of Civil Case Nos. SCA 1759 and 99-95381.[9] On January 27, 2000, the trial court denied respondent's motion.

A motion for reconsideration thereof was likewise denied on February 27, 2001.[10]

Respondent filed a petition for certiorari with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction with the Court of Appeals seeking to enjoin the arraignment and trial of the estafa through falsification case.[11] The Court of Appeals granted respondent's prayer for the issuance of a temporary restraining order in a resolution dated March 19, 2001.[12]

On May 31, 2001, a decision was rendered setting aside the January 27, 2000 order of the trial court and permanently enjoining it from proceeding with the arraignment and trial of the criminal case until the civil cases for Injunctive Relief and for Damages and Attachment shall have been finally decided.

Hence, the People of the Philippines, represented by the Solicitor General, filed the instant petition seeking the reversal of the May 31, 2001 decision of the Court of Appeals.

The issue to be resolved in this petition is whether or not the pendency of Civil Case Nos. SCA 1759 and 99-95381, for Injunctive Relief and for Damages and Attachment, is a prejudicial question justifying the suspension of the proceedings in the criminal case for estafa through falsification of public document, filed against the respondent.

A prejudicial question is defined as that which arises in a case, the resolution of which is a logical antecedent of the issue involved therein, and the cognizance of which pertains to another tribunal. The prejudicial question must be determinative of the case before the court but the jurisdiction to try and resolve the question must be lodged in another court or tribunal. It is a question based on a fact distinct and separate from the crime but so intimately connected with it that it determines the guilt or innocence of the accused. For a civil action to be considered prejudicial to a criminal case as to cause the suspension of the criminal proceedings until the final resolution of the civil action, the following requisites must be present: (1) the civil case involves facts intimately related to those upon which the criminal prosecution would be based; (2) in the resolution of the issue or issues raised in the civil action, the guilt or innocence of the accused would necessarily be determined; and (3) jurisdiction to try said question must be lodged in another tribunal.[13]

If both civil and criminal cases have similar issues or the issue in one is intimately related to the issues raised in the other, then a prejudicial question would likely exist, provided the other element or characteristic is satisfied. It must appear not only that the civil case involves the same facts upon which the criminal prosecution would be based, but also that the resolution of the issues raised in the civil action would be necessarily determinative of the guilt or innocence of the accused. If the resolution of the issue in the civil action will not determine the criminal responsibility of the accused in the criminal action based on the same facts, or there is no necessity that the civil case be determined first before taking up the criminal case, therefore, the civil case does not involve a prejudicial question.[14]

In the case at bar, we find no prejudicial question that would justify the suspension of the proceedings in the criminal case. The issue in Civil Case No. SCA 1759 for Injunctive Relief is whether or not respondent merely acted as an agent of his mother, Cecilia de la Cruz; while in Civil Case No. 99-95381, for Damages and Attachment, the question is whether respondent and his mother are liable to pay damages and to return the amount paid by PBI for the purchase of the disputed lot. Even if respondent is declared merely an agent of his mother in the transaction involving the sale of the questioned lot, he cannot be adjudged free from criminal liability. An agent or any person may be held liable for conspiring to falsify public documents. Hence, the determination of the issue involved in Civil Case No. SCA 1759 for Injunctive Relief is irrelevant to the guilt or innocence of the respondent in the criminal case for estafa through falsification of public document.

Likewise, the resolution of PBI's right to be paid damages and the purchase price of the lot in question will not be determinative of the culpability of the respondent in the criminal case for even if PBI is held entitled to the return of the purchase price plus damages, it does not ipso facto follow that respondent should be held guilty of estafa through falsification of public document. Stated differently, a ruling of the court in the civil case that PBI should not be paid the purchase price plus damages will not necessarily absolve respondent of liability in the criminal case where his guilt may still be established under penal laws as determined by other evidence.

Moreover, neither is there a prejudicial question if the civil and the criminal action can, according to law, proceed independently of each other.[15] Under Rule 111, Section 3 of the Revised Rules on Criminal Procedure, in the cases provided in Articles 32, 33, 34 and 2176 of the Civil Code, the independent civil action may be brought by the offended party. It shall proceed independently of the criminal action and shall require only a preponderance of evidence. In no case, however, may the offended party recover damages twice for the same act or omission charged in the criminal action.

Thus, in *Rojas v. People*,[16] the petitioner was accused in a criminal case for violation of Article 319 of the Revised Penal Code, for executing a new chattel mortgage on personal property in favor of another party without consent of the previous mortgagee. Thereafter, the offended party filed a civil case for termination of management contract, one of the causes of action of which consisted of petitioner having executed a chattel mortgage while the previous chattel mortgage was still valid and subsisting. Petitioner moved that the arraignment and trial of the criminal case be held in abeyance on the ground that the civil case was a prejudicial question, the resolution of which was necessary before the criminal proceedings could proceed. The trial court denied the suspension of the criminal case on the ground that no prejudicial question exist. We affirmed the order of the trial court and ruled that:

... the resolution of the liability of the defendant in the civil case on the eleventh cause of action based on the fraudulent misrepresentation that the chattel mortgage the defendant executed in favor of the said CMS Estate, Inc. on February 20, 1957, that his D-6 "Caterpillar" Tractor with Serial No. 9-U-6565 was "free from all liens and encumbrances" will not determine the criminal liability of the accused in the said Criminal Case No. 56042 for violation of paragraph 2 of Article 319 of the Revised Penal Code. . . . (i) That, even granting for the sake of argument, a prejudicial question is involved in this case, the fact remains that both the crime charged in the information in the criminal case and the eleventh cause of action in the civil case are based upon fraud, hence both the civil and criminal cases could proceed independently of the other pursuant to Article 33 of the new Civil Code which provides: "In cases of defamation, fraud and physical injuries, a civil action for damages, entirely separate and distinct from the criminal action shall proceed independently of the criminal prosecution, and shall require only a preponderance of evidence." (j) That, therefore, the act of respondent judge in issuing the orders referred to in the instant petition was not made with "grave abuse of discretion."

In the instant case, Civil Case No. 99-95381, for Damages and Attachment on account of the alleged fraud committed by respondent and his mother in selling the disputed lot to PBI is an independent civil action under Article 33 of the Civil Code. As such, it will not operate as a prejudicial question that will justify the suspension of the criminal case at bar.

WHEREFORE, in view of all the foregoing, the instant petition is GRANTED. The May 31, 2001 decision of the Court of Appeals in CA-G.R. SP No. 63712 is REVERSED and SET ASIDE. The permanent injunction issued by the Court of Appeals is LIFTED and the Regional Trial Court of Imus, Cavite, Branch 21 is ORDERED to proceed with the arraignment and trial in Criminal Case No. 7668-00.

**SO ORDERED.**

Davide, Jr., C.J., (Chairman), Vitug, Carpio, and Azcuna, JJ., concur.

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[1] Rollo, p. 21.

[2] Thirteenth Division, composed of Associate Justices: Martin S. Villarama, Jr. (Ponente), Eliezer R. De Los Santos (Member), and Conrado M. Vasquez, Jr. (Chairman).

[3] Issued by Judge Norberto J. Quisumbing, Jr. (Rollo, p. 65).

[4] Sometimes spelled as “dela Cruz” in the records.

[5] Rollo, p. 38.

[6] Rollo, p. 29.

[7] Court of Appeals Rollo, p. 72.

[8] Rollo, p. 49.

[9] Rollo, p. 52.

[10] Rollo, p. 74.

[11] Court of Appeals Rollo, p. 94.

[12] Rollo, p. 27.

[13] Sabandal v. Tongco, et al., G.R. No. 124498, October 5, 2001, citing Donato v. Luna, 160 SCRA 441 [1988]; Quiambao v. Osorio, 158 SCRA 674 [1988]; Ras v. Rasul, 100 SCRA 125 [1980]; Prado v. People, 218 Phil. 573 [1984].

[14] Sabandal v. Tongco, et al., supra, citing Alano v. Court of Appeals, 347 Phil. 549 [1997]; Benitez v. Concepcion, Jr., 112 Phil. 105 [1961]; Te v. Court of Appeals, 346 SCRA 327 [2000]; Beltran v. People, 334 SCRA 106 [2000]; Isip v. Gonzales, 148-A Phil. 212 [1971].

[15] Sabandal v. Tongco, et al., supra, citing Rojas v. People, 156 Phil. 224 [1974].

[16] Supra.

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