

R.R. PAREDES, W.S. TIFFANY, T.R. KOTZE, H. MUSSAIN, FRANCISCO A. CRUZ, EDGARDO C. CATAGUIS, E.M. LAPUZ, ATTY. JOSELIA POBLADOR, JOSE DE LUSONG, EDUARDO A. RICARDO, ATTY. ARIEL F...

G.R. NO. 156055. March 05, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court seeking the reversal and setting aside of the Decision,[2] dated 29 January 2001, and Resolution,[3] dated 14 November 2002, of the Court of Appeals in CA-G.R. SP No. 54862. In its assailed Decision, the Court of Appeals reversed the Resolution,[4] dated 27 July 1998, of the Department of Justice (DOJ), which affirmed the Resolution,[5] dated 7 October 1997, of the Makati City Prosecution Office, finding no probable cause and dismissing the herein respondent's complaint, docketed as I.S. No. 97-22188-191; and, instead, disposed as follows -

WHEREFORE, the resolution of the Department of Justice dated November 26, 1997, is hereby set aside. The Prosecutor of Makati, is hereby Ordered to file an information of Estafa against the respondents.

During the time material to the Petition at bar, petitioners Francisco A. Cruz (Cruz), Edgardo C. Cataguis (Cataguis), Atty. Joselia J. Poblador (Atty. Poblador), Jose De Lusong (De Lusong), Eduardo A. Ricardo (Ricardo), and Atty. Ariel F. Abonal (Atty. Abonal) were serving, in various capacities, as officials of Caltex Philippines, Inc. (CPI). Petitioner Cruz was the Vice President for Corporate Planning and a member of the Board of Directors of CPI; petitioner Cataguis was the General Manager for Marketing and also a member of the Board of Directors of CPI; petitioner Atty. Poblador was the Corporate Secretary and General Manager for Legal and Tax of CPI; petitioner De Lusong was the General Manager for Marketing Retail of CPI; petitioner Ricardo was the General Manager for Marketing of CPI for the years 1990-1996; and petitioner Atty. Abonal was the internal Legal Counsel of CPI.

On 3 May 1997, respondent Tarcisio S. Calilung (Atty. Calilung), a lawyer and a businessman, instituted a Complaint, docketed as I.S. No. 97-22188-191, against the aforementioned petitioners and several others. Respondent included in his complaint R.R. Paredes, W.S. Tiffany, T.R. Kotze, H. Mussain, and E.M. Lapuz, who had likewise served as officials of CPI but are no longer connected with the company and whose whereabouts as of present time are unknown. They did not participate in any proceedings. Respondent also included in his complaint Adolfo B. Garcia (Garcia), the Deputy Sheriff of the Manila Regional Trial Court (RTC), Branch 31, who participated in the proceedings before the Makati City Prosecution Office and the DOJ, but no longer participated in the instant petition.

In his complaint before the Makati City Prosecution Office, respondent charged petitioners, et al., with several counts of estafa. Respondent's Original Complaint was summarized in the Resolution,[6] dated 7 October 1997, of the Makati City Prosecution Office, to wit -

[Herein respondent] Tarcisio S. Calilung alleged that [herein petitioner] Atty. Joselia Poblador, Chief Legal Counsel of Caltex Philippines (Caltex for brevity) negotiated to him the sale of several parcels of land consisting of 228.9 hectares, more or less[,] situated at Barrio Alibagu, Ilagan, Isabela. Atty. Poblador represented to [respondent] that Caltex is the absolute owner of all the parcels [of] land as it acquired the same at a Sheriff's Auction Sale, a copy of a Sheriff's Certificate of Final Sale was shown to [respondent]. Likewise, Atty. Poblador represented and assured complainant that subject property is not covered by the Agrarian Reform Program and that the adverse occupants thereof are mere squatters. Consequently, [respondent] paid the total amount of P3.5 Million for all the said parcels of land in two payments. Thereupon, a Deed of Assignment with Consolidation of Title dated June 22, 1995 was executed between Caltex Philippines and Tarcisio S. Calilung. Later, [respondent] discovered that none of the representations made to him by [petitioner] Atty. Poblador is true. Contrary to Atty. Poblador's representation, Caltex Philippines is not the absolute owner of the several parcels of land sold to him. Accordingly, the several parcels of land are owned by the heirs of Antonia Medina (sic). Caltex Philippines is the owner of only one share of the co-heirs which it acquired at the Sheriff's Auction. Further, [respondent] learned that on August 3, 1993, Caltex thru E.A. Ricardo, manager for Marketing, has already sold the subject parcels of land to the Department of Agrarian Reform under Voluntary Offer To Sell program of the Government. Also, complainant averred that the Sheriff's Certificate of Final Sale executed by Deputy Sheriff Adolfo Garcia shown to him was falsified as it showed that Caltex's bid of P2.7 Million was successful and it is the absolute owner of all the parcels of land. The truth however, is that Caltex is the owner of only one share of one of the co-heirs. Lastly, Caltex through E.A. Ricardo misrepresented to the Department of Agrarian Reform that the subject property is agricultural in order (sic) that it will qualify and be sold under the Agrarian Reform Program. The truth of the matter is the said parcels of land are pasturelands thus, exempt from the coverage of the Agrarian Reform Program. Hence, [respondent] filed this complaint for Estafa against R.H. Paredes, W.S. Tiffany, T.R. Kotze, H. Mussain, F.A. Cruz, E.C. Cataguis, E.M. Lauz who are members of the Board of Caltex Philippines, Atty. Joselia Poblador, Chief Legal Counsel, Jose De Lusong, signatory of the Deed of Assignment and E.A. Ricardo, manager for Marketing and Atty. Ariel F. Abonal, assistant Secretary to the Board of Caltex Philippines who according to him acted in concert in perpetrating the crime charged. Likewise, a complaint for Falsification is instituted against Adolfo Garcia who connived with the above-mentioned officers/members of the Board of Caltex Philippines for falsification.

To answer the respondent's accusations against them, petitioners Atty. Poblador, Cruz, Cataguis, De Lusong, and Ricardo, submitted their Joint Counter-Affidavit,[7] averring that the respondent's complaint was without basis in fact and in law, and that they could not be held liable for estafa. The contents of their Joint Counter-Affidavit were concisely recounted by the Makati City Prosecutor in her Resolution,[8] dated 7 October 1997 -

Jose de Lusong and Atty. Poblador claimed that they did not at any time represent that Caltex Philippines is the absolute owner of the entire subject parcels of land.

[Herein petitioners] narrated that Caltex's rights and interests on subject parcels of land arose from Civil Case No. 84-22434 entitled Caltex Philippines vs. Antonia Vda. de Medina at Branch 31, RTC-Manila. Antonia Vda. de Medina is Caltex's judgment debtor and is [respondent's] mother-in-law. During the pendency of the case, or on February 7, 1984, 5 Notices of Levy on Attachment were issued against the rights, titles and interest of [respondent's] mother-in-law. The undivided shares of the other heirs, two (2) children of Antonia Vda. de Medina were never levied. On September 17, 1984, a decision was rendered in favor of Caltex Philippines and the same became final and executory. On July 24, 1989, a Writ of Execution was issued. On July 24, 1989, Deputy Sheriff Adolfo B. Garcia issued a Notice of Levy Execution [sic] where only the shares, rights and interests of [respondent's] mother-in-law over subject parcels of land were levied upon. Likewise, a notice of Sheriff's Sale was issued. On August 23, 1989, Caltex, through Atty. Rafael Durian bidded P4.5 Million for the purchase of the rights, shares of [respondent's] mother-in-law in subject parcels of land. Consequently, the subject parcels of land (shares and interests of Antonia Vda. de Medina which is 66.67% of the entire property) were sold to Caltex Philippines in the amount of P2,785,620.00. After the execution of the

sale, [respondent's] mother-in-law was given one (1) year within which to redeem her interest over the subject land.

After the lapse of the one (1) year redemption period given to Antonia Vda. de Medina, [respondent] went to Caltex office and propose [sic] to reacquire the interest of Antonia Vda. de Medina and to pay the deficiency (sic) judgment obligation of his mother-in-law. Caltex Philippines, through its office accepted the proposal of [respondent] to buy the parcels of land. Complainant further requested that all cases against his mother-in-law be withdrawn. Caltex Philippines agreed and the sale of the said subject parcels of land to [respondent] in the amount of P3.5 Million materialized. On the first payment made by the [respondent], Caltex Philippines executed a Deed of Waiver and Quitclaim in all cases filed against [respondent's] mother-in-law. Thereupon, a Deed of Assignment with Consolidation of Title was executed by herein parties after the balance [thereof] was tendered by [respondent].

On the alleged sale by Caltex Philippines of subject parcels of land to the Department of Agrarian Reform, [petitioners] denied having sold the same to DAR. According to [petitioners], it was Antonia Vda. de Medina through her attorney-in-fact Carlito Baluang who transacted the voluntary Officer (sic) To Sell with the Department of Agrarian Reform sometime in 1988 and 1989. Subsequently, by virtue of the Deed of Assignment (With Special Power of Attorney Couple (sic) With Interest) executed by Antonia Vda. de Medina ceded in favor of Caltex Philippines, wherein Antonia Vda. de Medina "all her rights, interests, claims and participation from the proceeds of land compensation for all the property that she has voluntarily offered to sell" to Caltex Philippines and constituted the latter as its (sic) exclusive attorney-in-fact to follow-up with the Department of Agrarian Reform. Accordingly, this matter is make (sic) known to [respondent]. It was on the strength of [respondent's] relation to Antonia Vda. de Medina and his assurance that he has connections with DAR that CPI decided to sell subject property to [respondent].

[Petitioners] denied the allegation of [respondent] that Caltex officers and directors conspire (sic) with Deputy Sheriff Adolfo B. Garcia and notary Public Atty. Ariel Abonal in the falsification of the Sheriff's Certificate of Final Sale by representing that Caltex bided for the entirety of all the parcels of land subject of the sale and using the said falsified documents to convince [respondent] of Caltex's absolute title over the subject parcels of land.

Lastly, the declaration [of] Mr. Eduardo A. Ricardo that subject parcels of land is (sic) agricultural in nature in the Voluntary Officer (sic) To Sell to the DAR can hardly be considered a crime *moreso* that there is no other proof presented than the mere self-serving statement of Mr. Ricardo. Besides, in the Deed of Assignment with Consolidation of Title, there is not (sic) warranty as to the properties['] classification or primary use given.

Deputy Sheriff Garcia submitted his own Counter-Affidavit with a Counter-Complaint for Perjury.[9] He essentially affirmed the narration made in the petitioners' Joint Counter-Affidavit, particularly, the events arising from Civil Case No. 84-22434, instituted by CPI against respondent's mother-in-law, Antonia Vda. de Medina, before the Manila RTC. After the Decision, dated 17 September 1984, rendered by the Manila RTC against Antonia Vda. de Medina, became final and executory, and upon failure of Antonia Vda. de Medina to pay her judgment debt to CPI, Deputy Sheriff Garcia proceeded to implement the Writ of Execution which levied upon Antonia Vda. de Medina's rights, interests, title and participation in the subject real properties. At the execution sale held on 24 August 1989, CPI won the bidding. It bought Antonia Vda. de Medina's limited interests over the subject real properties in the total amount of P4.5 Million. CPI's winning bid was broken down[10] as follows -

P2,785,620.00

For the parcels of land covered by TCT Nos. T-132694, T-133034, T-94234, T-124684, T-139590, T-138153, T-138154, T-138155, T-133033, T-133021, T-133022, T-133023, T-133024, T-133025, T-133026, T-133027, T-133028, T-133029, T-133030, T-133031, T-133032, T-133033 and T-133034; and,

P1,714,380.00

For the parcels of land covered by Tax Declaration Nos. 01-262, 01-265, 01-25080, 01-29376 and 01-23470

P4,500,000.00

Total

When Antonia Vda. de Medina failed to redeem her interest in the subject real properties within a year from the execution sale, ownership over the said interest was consolidated in CPI. Deputy Sheriff Garcia explained that he prepared the Final Certification of Sale on 24 October 1990, although it was notarized only on 1 February 1994. He denied that he ever conspired with CPI, through its officers and directors, to make false representations to respondent that CPI was the absolute owner of the subject real properties; to maliciously conceal from respondent that CPI already sold the subject real properties to the Department of Agrarian Reform (DAR); or to falsify the Sheriff's Certificate of Final Sale so as to convince respondent that CPI had absolute title over the subject real properties. He averred that he conducted the execution sale as part of his official duties and in accordance with the Rules of Court and the judgment issued by the Manila RTC in Civil Case No. 84-22434. He also maintained that only the rights and interests of Antonia Vda. de Medina over the subject real properties were covered by the execution.

Respondent submitted a Reply-Affidavit in which he insisted that the concealment of a prior sale, the falsification of the Sheriff's Certificate of Final Sale and the conspiracy among the petitioners, et al., and the others can be readily seen. Once again, reference is herein made to the Resolution, dated 7 October 1997 of the Makati City Prosecution Office which related[11] thus -

[Herein respondent] alleged that he married the daughter of Antonia Vda. de Medina on November 22, 1994. In early November of 1994, Atty. Villacorta, [respondent's] counsel, inquired from Caltex about the redemption of subject parcels of land. Caltex refused their offer to redeem the property because the period for redemptions (sic) has long expired. However, Caltex proposed that if they are interested in the remaining subject properties, they can purchase the same, Caltex demanded for P9 Million for the fourteen (14) parcels of land consisting of 228.9 hectares. Caltex never informed [respondent] or his counsel that the entire properties were sold to DAR for [P]1 Million. On November 1994, [respondent] formally offered to buy the entire fourteen (14) parcels of land [pay for] P3.5 Million as earnest money which was accepted by Atty. Poblador. Even if the titles over the subject parcels of land was (sic) still in the name of Antonia Medina (sic), he believed Atty. Poblador's representation that Caltex is the absolute owner by virtue of the Sheriff's Certificate of Final Sale handed to him. Nowhere in the Sheriff's Certificate of Final Sale that only ¼ undivided share of Antonia Medina was auctioned.

The certificate of Final Sale was dated October 24, 1990 but notarized only on November 15, 1994, which is more than a week before he paid the earnest money on November 29, 1994. Lastly, the declared sale price of P2,785,620.00 does not correspond to the written winning bid by Caltex for P4.5 Million.

To support his foregoing allegations, respondent also submitted the Affidavit[12] of his counsel, Atty. Rolando A. Villacorta (Atty. Villacorta), who supposedly represented and assisted him during the negotiations with CPI for the purchase of the subject real properties. Atty. Villacorta attested that he met with both petitioners Attys. Poblador and Abonal of CPI regarding respondent's offer to purchase the subject real properties; that Atty. Poblador, in response to a direct query by respondent, expressly denied that the subject real properties were covered by the Comprehensive Agrarian Reform Program (CARP) of the Government; and that respondent was never informed that what he was purchasing was not the whole of the subject real properties, consisting of 229 hectares, but only an undivided share therein.

In their Joint Rejoinder,[13] petitioners Cruz, Cataguis, De Lusong, Ricardo and Attys. Poblador and Abonal denied meeting and talking to Atty. Villacorta. According to petitioners Attys. Poblador and Abonal, at the beginning of their negotiations for the purchase by respondent of the subject real properties from CPI, the latter was accompanied, not by Atty. Villacorta, but an Atty. Karl Miranda from the Office of the Solicitor General (OSG), acting as a broker. During their meeting, they discussed about the redemption of the rights, interests, and title of Antonia Vda. de Medina over the subject real properties. In their succeeding meetings, petitioners stressed that respondent was informed that CPI was selling and assigning only the limited rights, interests, and title of Antonia Vda. de Medina over the subject real properties, and that the subject real properties were under the coverage of CARP and were subject of a Voluntary Offer to Sell (VOS). Petitioners pointed out that respondent himself admitted that he was purchasing only the limited interest of Antonia Vda. de Medina in the subject real properties when he stated in his letter,[14] dated 29 November 1994, addressed to CPI, that, "We are pleased to inform you that we accept your offer to sell to us for P3.5 Million your interest in the foreclosed Medina properties."

Moreover, to belie the attestations of respondent and Atty. Villacorta in their affidavits, petitioners presented the Affidavits of Attys. Rodrigo B. Libunao, Jr.[15] and Catherine T. Manahan,[16] Legal Counsel and Tax Counsel, respectively, of CPI, who were also present during the meetings of petitioner Atty. Poblador with respondent. They both alleged that they were called to join the meeting in October 1994 wherein respondent was accompanied, not by Atty. Villacorta, but Atty. Miranda of the OSG; that respondent claimed to be married to Ma. Luisa Victoria Medina, the daughter of Antonia Vda. de Medina, and he was interested in acquiring CPI's rights, interests, and title to the subject real properties in exchange for CPI's execution of a waiver or quitclaim to secure the release of Antonia Vda. de Medina who was in prison by reason of the criminal cases filed by CPI against her; and that Atty. Poblador made full disclosure to respondent that CPI had, and was assigning to respondent, only the limited rights, interests, and title of Antonia Vda. de Medina over the subject real properties, and that the subject real properties were under the coverage of CARP and the subject of the VOS initiated by Antonia Vda. de Medina herself, through her attorney-in-fact Carlito Balauag.

Atty. Libunao further claimed that on 1 December 1994, when respondent came unaccompanied to the CPI Office to pay the P1 Million earnest money, Atty. Libunao again explained to him in detail the following -

- That CPI was merely a co-owner of the said properties as there were other heirs to the estate, one of whom was his wife, and that only the undivided share pertaining to Antonia Vda. de Medina which we acquired in an execution sale in Civil Case No. 84-22434 could be transferred to him.
- That photocopies of the TCT's to the subject parcels of land were furnished, and exhibited to, him and he carefully noted that the subject parcels of land were in the name of "Heirs of Antonio Medina."
- That the subject parcels of land were covered by the Comprehensive Agrarian Reform Program (CARP) by virtue of a Voluntary Offer to Sell signed by Antonia Vda. de Medina, through her attorney-in-fact, Mr. Carlito Balauag. A copy of this document was also furnished Atty. Calilung.
- That out of the sixteen (16) parcels of land under process by the DAR, two (2) lots are ready for compensation and that the money has already been deposited by the DAR in a trust account in the Landbank branch in Tuguegarao, Cagayan.
- That the fourteen (14) subject parcels of land are still under process by the MARO in Ilagan, Isabela and that the latter has started to identify the actual occupants and proposed beneficiaries of the same.
- That payment of compensation under the CARP was being delayed by the fact that the heirs of Antonio Medina have not initiated any estate settlement proceeding and that none of the heirs has ever participated in the DAR conferences, despite notice.[17]

When Atty. Libunao again asked him if he really understood the complexities of the CARP issues affecting the subject real properties, respondent allegedly "confidently replied that he had been successful in preserving his and his family's landholdings in Pampanga and that he will do the same for the subject parcels of land." [18]

On 7 October 1997, the Makati City Prosecution Office wrapped up its preliminary investigation and issued its Resolution, in which it made the following findings and recommendations [19] -

After a careful examination of the evidence obtaining in this case the undersigned finds that: (1) there appears no conceivable fraudulent representations committed by [herein petitioners, et al.] (Caltex Officers) in the negotiation and sale of subject parcels of land, (2) there is no sufficient proof to show that the Sheriff's Certificate of Final Sale was falsified by [Deputy Sheriff Garcia] in connivance with [petitioners, et al.] Caltex Officers; and (3) that there is insufficient evidence to substantiate [respondent's] claim that [petitioners, et al.] (Caltex Officers) made false declaration that subject parcels of land are productive agricultural land so these parcels of land may be covered and sold under the Agrarian Reform Program of the Government.

x x x x

Seemingly, [respondent] would want to extricate himself from a bad bargain and annul the effects of an unwise act. If the [respondent] failed to apprise himself of the consequence of his purchase of subject parcels of land from Caltex[,] he was simply unfortunate. As it would appear all documents and informations (sic) about the parcels of land subject matter of the sale transactions entered by the parties are in [respondent's] hands for his scrutiny. [Respondent] is a lawyer and as such it can be presumed that he knows the complexities/controversies attached to the interests and rights of his mother-in-law (Antonia Vda. de Medina) over the parcels of land he wants to purchase from [petitioners, et al.] Caltex Officers. Clearly, there was no misrepresentation and/or concealment regarding the ownership of Caltex over subject parcels of land. Neither was there falsification committed on the Sheriff's Certificate of Title.

x x x x

WHEREFORE, premises considered, it is respectfully recommended that complainant (sic) against [petitioners, et al.] Caltex Officers and Adolfo Garcia be dismissed, as it is hereby upon, approval, dismissed.

Likewise, it is recommended that the counter-charge of perjury against [respondent] be dismissed.

Aggrieved, respondent filed with the DOJ a Petition for Review of the Resolution, dated 7 October 1997, of the Makati City Prosecution Office. However, on 27 July 1998, the DOJ resolved [20] to dismiss his Petition for Review, ratiocinating thus -

The record clearly shows that the subject parcels of land were previously owned by the late Antonio Medina. Upon the latter's death, the said properties were inherited by Antonia Vda. de Medina and her children through intestate succession. When Caltex filed a civil case against Antonia Vda. de Medina, who is [herein respondent's] mother-in-law, the latter's rights, title and interests over the subject properties were levied on attachment during the pendency of the said case. Thereafter, upon judgment in favor of Caltex in the said civil case; and, pursuant to the writ of execution issued therein, the rights, title and interests of Antonia Vda. de Medina over the said parcels of land were levied on execution and, consequently, sold at public auction with Caltex eventually winning the bid. Finally, a certificate of sheriff's sale was issued and based thereon Caltex became the owner of the undivided interest of Antonia Vda. de Medina over the subject parcels of land.

We find it incredible for [respondent] not to have known the foregoing circumstances. It must be stressed that [respondent is] a member of the family of Antonia Vda. de Medina. It taxes one's credulity that [respondent] would have had no personal knowledge about the family's properties which were the subject of the sale transaction [respondent] had with Caltex. Besides, [respondent is] a lawyer [himself]. As such, not only [was respondent] expected to know the intricacies and complexities of the sale transaction [he] entered with Caltex

but also [respondent] had all the means and resources to check and counter-check the veracity of [herein petitioners, et al.'s] representations. Indeed, it is hard to believe that [respondent] chose to just take the word of [petitioners, et al.] that Caltex is the owner of all the subject properties rather than examine the documents pertaining thereto before parting with a substantial amount of money. We take with a grain of salt [respondent's] allegation that during the sale negotiations [respondent was] unaware of the extent of the ownership of Caltex over the properties in question not only because of [respondent's] stature as a lawyer-businessman but also because of [his] personal knowledge thereon by reason of [his] being a member of the family of Antonia Vda. de Medina from whom Caltex acquired the subject properties. Under this milieu, no amount of fraudulent misrepresentations from [petitioners, et al.] could have misled [him] into executing with Caltex the Deed of Assignment with Consolidation of Title over the properties in question.

The foregoing circumstances not only create suspicion as to [respondent's] actual motive in filing the instant complaint but also strengthen [petitioners'] claim that there is, indeed, reasonable ground to believe that [respondent] entered into the transaction in question knowing fully well that what was being sold by Caltex was only the undivided interest of [his] mother-in-law who is one (1) of the co-heirs in (sic) the subject parcels of land.

Besides, no clearer acknowledgment by [respondent] of [his] knowledge on (sic) the circumstances surrounding the subject properties than as stated in par. 3, p. 5, of the Deed of Assignment with Consolidation of Title can be made, which states thus -

x x x x

"4. ASSIGNEE [respondent] further acknowledges that he is fully aware of the circumstances under which these Properties were acquired by ASSIGNOR [CPI] and that he has examined the title and inspected the said properties and has verified their location together with their boundaries." x x x

As regards the findings of the City Prosecutor on [respondent's] other charges for estafa under Article 315, par. (3) of the Revised Penal Code and falsification/use of falsified documents, we can find no cogent reason to alter, modify much less reverse the same.

WHEREFORE, [respondent's] instant petition for review is hereby dismissed.

Respondent's Motion for Reconsideration was denied by the DOJ in another Resolution dated 30 June 1999.

This prompted respondent to file with the Court of Appeals a Petition for Certiorari under Rule 65 of the Rules of Court, contending that the DOJ and the Makati City Prosecution Office committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing respondent's complaint in I.S. No. 97-22188-191. The Court of Appeals, in its Decision,[21] dated 29 January 2001, reversed the findings of the DOJ and the Makati City Prosecution Office, and ordered the filing of an information for estafa against the petitioners, based on the following *raison d'être* -

The Court after a perusal over (sic) the ruling of the Department of Justice believes that said resolution deserves scant consideration. This is so because the issue on double sale was just taken in passing by the Department of Justice, when that issue is paramount in the case.

It appears on record that E.A. Ricardo, General Manager - Marketing commercial of Caltex offered for sell (sic) to DAR the subject property.

x x x x

It should be noted that the sale to DAR is unlike the ordinary contract to sell transactions wherein one could determine when a sale is consummated. But at this instance, where voluntary offer to sell has been made, where process has been undergoing at that time, We opine that there is already sale considering the unique

circumstance of selling the subject landholding to the DAR.

This is so because under Administrative Order No. 5 series of 1992, it provides that landowners who entered into Voluntary Offer to sell can no longer back out, except under the exceptional circumstances as earlier illustrated. The present case is one that is not of the exception. Hence, if a landowner can no longer back out since he entered into that kind of transaction and by entering into another sale such as in this case, fully knowing of the circumstances but without divulging the same to the petitioner, would that not tantamount to misrepresentation, fraud and deceit.

A careful perusal on (sic) the comments and arguments of the [herein petitioners] that it (sic) did not refute in whatever manner that there was a sale that took place between the Department of Agrarian Reform and the CPI. As a matter of fact, a reading of the foregoing, in consonance with the VOS would connote that the sale has indeed been entered into because Caltex knew that a process has been undertaken by the DAR (p. 175 [petitioners'] Comment) x x x.

These are an admission (sic) so far, that there was indeed a previous transfer of the subject parcels of land to the DAR as they never disputed that there was a sale between CPI and DAR. The words of CALTEX are simple and explicit, there was an "offer" and "transfer" and that there was already an ongoing process of the VOS. Hence, there was a sale by virtue of the voluntary offer to sell under the Comprehensive Agrarian Reform Program. The only thing is that, Caltex denies responsibility that it was the one who offered the sale to DAR, but it claim (sic) instead that it was Antonia Vda. de Medina. But this argument bears no weight. Regardless of whether or not Antonia Vda. de Medina was the one who offered to sell the property to DAR, CALTEX can't absolve itself from any responsibility.

x x x x

So whether or not the first voluntary offer to sell to the Department of Agrarian Reform was made by Antonia Vda. de Medina and the second offer was made by CALTEX to DAR, to our mind is, of no moment. One thing is thus, clear, CALTEX who duly executed the necessary documents. There is nothing on record which would reveal that [petitioners] was (sic) able to prove that [herein respondent] was fully informed of the first sale made to DAR.

Further, [petitioners] claimed that being a son-in-law, it (sic) would be impossible for [respondent] not to know it. This is not sufficient reason to conclude that [respondent] was aware of the attending circumstances. And we cannot therefore, agree with the conclusion of the DOJ.

Clearly then, the evidence points out that what appears to have been sold were the properties described in the 14 TCT's without any qualification thereon. And that the existence of a double sale can't be contested, there being an admission by the [petitioners] that there was a sale made to DAR prior to herein [respondent].

x x x x

With the acts of CALTEX in the case at bar it can be gleaned therefrom that there was no clear transactions [sic] that took place, thus, there was an evident misrepresentation to the damage and prejudice of the [respondent]. As supported by the Deed of Assignment itself, the assurances given by the assignor CALTEX to [respondent] is a grave misrepresentation to the [respondent] who is the buyer of the properties in question. That where there was no divulgement made by the CALTEX to petitioner of the sale to DAR, there is no question that deceit is present. The presence of damage and deceit are (sic) apparent in the present case, hence, the very elements of Estafa exist.

Even granting that the sale was only with respect to the individual share or interest of CALTEX, it can't be denied that deceit was committed by [petitioners, et al.] in not being fair, honest in not revealing the real status of the subject lot. x x x Had it not been of such misrepresentation, the Court believes that [respondent] would not have parted substantial amount of money.

From the foregoing premises, a prima facie case of ESTAFA was herein committed by the [petitioners, et al.] on the ground of double sale. And the only way to determine whether [petitioners, et al.] herein are guilty or not is in a full blown trial before a Court. However, we do not find any participation of the Deputy Sheriff Adolfo Garcia on the issue of double sale, it appearing that he has nothing to do with the transaction between CALTEX and Department of Agrarian Reform. This Court is convinced that the Deputy Sheriff had just performed a ministerial duty imposed upon him by law.

After their Motion for Reconsideration was denied by the Court of Appeals, in its Resolution,[22] dated 14 November 2002, petitioners come before this Court via a Petition for Review on Certiorari under Rule 45 of the Rules of Court. Petitioners posit that the Court of Appeals erred in finding that there exists a prima facie case against them considering that: (1) Petitioners never deceived respondent with regard to the background circumstances of the subject real properties; (2) There was no "double sale" made by CPI of its rights and interests in the subject real properties; and (3) There exists no proof of specific overt acts or omission of each of the petitioners which would constitute conspiracy in committing the alleged crime of estafa.

This Court finds the Petition at bar meritorious.

In his complaint, respondent charges petitioners, together with other persons no longer part of the present Petition, of two counts of estafa by means of deceit: (1) estafa by means of false pretenses, under Article 315(2)(a) of the Revised Penal Code; and (2) estafa by means of concealment, under Article 315(3)(c) of the same Code. Relevant provisions of the Revised Penal Code expressly read thus -

ART. 315. Swindling (estafa). - Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

x x x x

[P]rovided that in the four cases mentioned, the fraud be committed by any of the following means:

x x x x

(2) By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneous with the commission of the fraud:

(a) By using a fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits;

x x x x

(3) Through any of the following fraudulent means:

x x x x

(c) By removing, concealing or destroying, in whole or in part, any court record, office files, document or any other paper.

The elements of estafa by means of deceit,[23] whether committed by false pretenses or concealment, are the following -

- That there must be a false pretense, fraudulent act or fraudulent means.
- That such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud.
- That the offended party must have relied on the false pretense, fraudulent act, or fraudulent means, that is, he

was induced to part with his money or property because of the false pretense, fraudulent act, or fraudulent means.

- That as a result thereof, the offended party suffered damage.

Now the question is whether there exists probable cause that petitioners committed the crime of estafa by means of deceit which would warrant the filing of an information against them before the trial court.

Probable cause has been defined as the existence of such facts and circumstances as would excite the belief, in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he was prosecuted. Probable cause is a reasonable ground of presumption that a matter is, or may be, well-founded, such a state of facts in the mind of the prosecutor as would lead a person of ordinary caution and prudence to believe, or entertain an honest or strong suspicion, that a thing is so. The term does not mean "actual and positive cause" nor does it import absolute certainty. It is merely based on opinion and reasonable belief. Thus, a finding of probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of constitutes the offense charged. Precisely, there is a trial for the reception of evidence of the prosecution in support of the charge.[24] While probable cause demands more than "bare suspicion," it requires "less than evidence which would justify conviction." A finding of probable cause merely binds over the suspect to stand trial. It is not a pronouncement of guilt.[25]

The conduct of preliminary investigation for the purpose of determining the existence of probable cause is executive in nature.[26] The prosecution of crimes appertains to the executive department of the government whose principal power and responsibility is to see that the laws of the land are faithfully executed. A necessary component of this power to execute the laws is the right to prosecute their violators. The right to prosecute vests the prosecutor with a wide range of discretion, the discretion of whether, what and whom to charge, the exercise of which depends on a smorgasbord of factors which are best appreciated by prosecutors.[27]

The main function of a government prosecutor during his conduct of preliminary investigation is to determine the existence of probable cause and to file the corresponding information should he find it to be so.[28] The purpose of a preliminary investigation is to secure the innocent against hasty, malicious and oppressive prosecution, and to protect him from an open and public accusation of crime, from the trouble, expense and anxiety of a public trial, and also to protect the state from useless and expensive trials. A preliminary investigation serves not only the purposes of the State. More important, it is a part of the guarantees of freedom and fair play which are birthrights of all who live in this country. It is, therefore, imperative upon the fiscal to relieve the accused from the pain of going through a trial once it is ascertained that no probable cause exists to form a sufficient belief as to the guilt of the accused.[29]

A prosecutor, by the nature of his office, is under no compulsion to file a particular criminal information where he is not convinced that he has evidence to prop up the averments thereof, or that the evidence at hand points to a different conclusion. This is not to discount the possibility of the commission of abuses on the part of the prosecutor. But this Court must have to recognize that a prosecutor should not be unduly compelled to work against his conviction.[30] Although the power and prerogative of the prosecutor, to determine whether or not the evidence at hand is sufficient to form a reasonable belief that a person committed an offense, is not absolute but subject to judicial review, it would be embarrassing for him to be compelled to prosecute a case when he is in no position to do so, because in his opinion he does not have the necessary evidence to secure a conviction, or he is not convinced of the merits of the case.[31]

Hence, this Court consistently adheres to its policy of non-interference in the conduct of preliminary

investigations, and to leave to the investigating prosecutor sufficient latitude of discretion in the determination of what constitutes sufficient evidence as will establish probable cause for the filing of an information against a supposed offender.[32]

In the present case, the Makati City Prosecution Office, as well as the DOJ, found no probable cause that petitioners committed estafa by deceit to the damage of respondent. There was no factual or legal basis for the Court of Appeals to reverse the findings of the prosecutor who conducted the preliminary investigation in I.S. No. 97-22188-191.

It should do well for the Court of Appeals to remember that the DOJ Resolutions, dated 27 July 1998 and 30 June 1999, affirming the dismissal by the Makati City Prosecution Office of respondent's complaint against petitioners, were brought before it via a Petition on Certiorari under Rule 65 of the Rules of Court. Its duty is confined to determining whether the executive determination of probable cause was done without or in excess of jurisdiction or with grave abuse of discretion. Thus, although it is entirely possible that the investigating prosecutor may erroneously exercise the discretion lodged in him by law, this does not render his act amenable to correction and annulment by the extraordinary remedy of certiorari, absent any showing of grave abuse of discretion amounting to excess of jurisdiction.[33]

For the courts to grant the extraordinary writ of certiorari, so as to justify the reversal of the investigating prosecutor's finding on the existence or absence of probable cause to file an information, the one seeking the writ must be able to establish the following -

For grave abuse of discretion to prosper as a ground for certiorari, it must first be demonstrated that the lower court or tribunal has exercised its power in an arbitrary and despotic manner, by reason of passion or personal hostility, and it must be patent and gross as would amount to an evasion or to a unilateral refusal to perform the duty enjoined or to act in contemplation of law. Grave abuse of discretion is not enough. Excess of jurisdiction signifies that the court, board or office, has jurisdiction over the case but has transcended the same or acted without authority. [34]

Try as we might, this Court cannot find grave abuse of discretion on the part of the DOJ, when it affirmed the finding of the Makati City Prosecution Office, that there was no probable cause to file an information for estafa by means of deceit against petitioners and resolved to dismiss respondent's complaint. There is absolutely no showing that the DOJ, in the exercise of its power to review on appeal the findings of the Makati City Prosecution Office, acted in an arbitrary and despotic manner, so patent or gross as to amount to an evasion or unilateral refusal to perform its legally-mandated duty. On the contrary, this Court finds the Resolutions of the DOJ, as well as that of the Makati City Prosecution Office, to be more in accordance with the evidence on record and relevant laws and jurisprudence than the assailed Decision of the Court of Appeals.

Respondent charges petitioners with the crime of estafa because they allegedly employed deceit to induce respondent to enter into a contract of sale with CPI by (1) falsely misrepresenting that CPI was the owner of and, thus, could assign to respondent the entire subject real properties, when in truth, CPI only acquired and could assign to respondent the limited interest of Antonia Vda. de Medina in the subject real properties; and (2) fraudulently concealing the fact that the subject real properties were covered by CARP and were actually the subject of a pending VOS with the DAR.

It is worth stressing that it was respondent who initiated the complaint before the Makati City Prosecution Office. Thus, upon him rests the burden of supporting his charges with affidavits and any other evidence, for it is upon these evidence thus adduced, that the investigating prosecutor determines the existence, or in this case, the absence, of probable cause to hold the petitioners for trial for the crimes charged. Respondent must have

necessarily tendered evidence, independent of and in support of the allegations in his affidavit-complaint, of such quality as to engender belief in an ordinarily prudent and cautious man that the offense charged therein has been committed by the petitioners. Indeed, probable cause need not be based on clear and convincing evidence of guilt, neither on evidence establishing guilt beyond reasonable doubt and definitely, not on evidence establishing absolute certainty of guilt, but it certainly demands more than bare suspicion and can never be left to presupposition, conjecture, or even convincing logic.[35]

Respondent, however, miserably failed to present sufficient evidence to establish probable cause for the filing of an information against petitioners for estafa by means of deceit. The only evidence presented by respondent that would directly establish the deceit allegedly perpetrated by the petitioners consists of his very own affidavits and that of his alleged counsel, Atty. Villacorta. These had been sufficiently rebutted by the evidence of the petitioners. The affidavits of petitioners, Deputy Sheriff Garcia, and witnesses Attys. Libunao and Manahan, all presented a consistent, coherent, and credible version of events, adequately supported by other documentary evidence. Even respondent's own documentary evidence was satisfactorily explained or was even consistent with the version of events as presented by petitioners and their witnesses. The sale of CPI's interest in the subject real properties to respondent was a legitimate business transaction, done in the course of CPI's business, and petitioners did nothing more than to carry out their respective functions as officers of CPI to perfect and execute the sale.

Moreover, as between the mere denial constituting self-serving negative assertions of respondent that he did not fully know of the circumstances and the current status of the subject real properties he acquired from CPI, and the positive and categorical declarations of petitioners and their witnesses that respondent was duly informed thereof, the choice is not hard to make, for the jurisprudence on the matter is that positive statement is stronger and attains greater evidentiary weight than negative evidence.[36]

Also, this Court seriously doubts that, given the particular circumstances of this case, respondent was indeed clueless or ignorant of the true state of affairs of the subject real properties.

First, Antonia Vda. de Medina, from whom CPI acquired its interest in the subject real properties, is the respondent's mother-in-law. He is married to Ma. Luisa Victoria Medina, one of the co-heirs and co-owners of the subject real properties. The Court of Appeals brushed aside the relations between Antonia Vda. de Medina and respondent as insufficient to conclude that respondent knew of the circumstances and status of the subject real properties. Although it may not constitute as conclusive evidence, the relations between Antonia Vda. de Medina and respondent casts serious doubts on respondent's assertions. Given the close-knit relations among Filipino family members, it is almost impossible that his mother-in-law Antonia Vda. de Medina, his wife Ma. Luisa Victoria Medina, and respondent, never talked about the subject real properties; more so, if we consider that respondent is a lawyer who can freely and readily give legal advice to his mother-in-law and his wife to protect their remaining rights and interests in the subject real properties.

Neither can this Court give credence to respondent's contention that his wife Ma. Luisa Victoria Medina, born 30 January 1972, was only a minor when CPI instituted Civil Case No. 84-22434 against her mother Antonia Vda. de Medina, before the Manila RTC on 18 February 1984; when judgment was rendered therein against her mother on 17 September 1984; and when the subject real properties were sold in favor of CPI at the execution sale on 24 August 1989. Respondent avers that his wife then still failed to grasp the significance of the events taking place as regards CPI, her mother, and the subject real properties. Respondent seems to ignore the fact that his wife grew up, and the likelihood that she eventually came to understand the history and legal problems besetting the subject real properties. In fact, respondent does not deny that on 26 September 1996, his wife Ma. Luisa Victoria Medina, together with the other heirs of her deceased father Antonio Medina, filed a civil complaint with the RTC of

Ilagan, Isabela, docketed as Civil Case No. 948, in which they questioned and, thus, admitted knowledge of the VOS made by CPI in favor of DAR.[37] And if Ma. Luisa Victoria Medina already knew that the subject real properties were voluntarily offered for sale by CPI to the DAR, it is highly unlikely that she would have kept such information from respondent, her husband.

It should also be recalled that it was respondent who approached CPI first and sought the purchase of its interest in the subject real properties. Respondent never explained how he knew of CPI's interest in the subject real properties. Neither did respondent allege nor prove that CPI actively offered for sale to the public its interest in the subject real properties. The only logical deduction would be that respondent came to know of CPI's interest in the subject real properties through his wife and/or mother-in-law. In fact, in consideration of respondent's purchase of the interest of CPI in the subject real properties for P3.5 Million, respondent was able to secure the execution by CPI of the Deed of Waiver and Quitclaim, dated 22 December 1994, by virtue of which, CPI waived any further claim for sum of money and damages from respondent's mother-in-law Antonia Vda. de Medina, and discharged the latter from any and all pending court case liabilities, whether civil or criminal, filed by CPI against her. That respondent sought the execution by CPI of the said Deed of Waiver and Quitclaim, which obviously benefited his mother-in-law, only supports the view that respondent not only knew of the current status of the subject real properties, but also the history of the legal tussle between Antonia Vda. de Medina and CPI, which resulted in the transfer of Antonia Vda. de Medina's interest in the subject real properties to CPI.

Respondent's contention of his seeming disconnection and isolation from the affairs of his wife's family is undoubtedly contrary to the common family life experience of Filipinos. Reference is made herein to the quote of Vice-Chancellor Van Fleet, reproduced in *Pacheco v. Hon Court of Appeals and People of the Philippines*[38] -

Evidence to be believed must not only proceed from the mouth of a credible witness but must be credible in itself - such as the common experience and observation of mankind can approve as probable under the circumstances. We have no test of the truth of human testimony, except its conformity to our knowledge, observation and experience. Whatever is repugnant to these belongs to the miraculous, and is outside of judicial cognizance.[39]

Second, there is a clear paper trail by which respondent could have traced and uncovered the true status of the subject real properties. CPI itself provided respondent with some of these documents, while the others are part of public records to which respondent had access.

There is scant evidence on record that CPI or any of its officers, including herein petitioners, had willfully and maliciously made false misrepresentations to respondent that CPI owned the subject real properties in its entirety. Again, only the affidavits of respondent and Atty. Villacorta directly and positively describe how the alleged false misrepresentations were made, and, even therein, they could only attribute the same to petitioner Atty. Poblador, and no other. Thus, it behooves this Court how, from respondent's self-serving and unsubstantiated allegations, it can jump off to conclude that all the petitioners, in conspiracy and with criminal intent, made false misrepresentations on behalf of CPI to the damage of respondent.

Instead, the documentary evidence on record establishes that CPI laid claim on and actually acquired only the limited interest of Antonia Vda. de Medina in the subject real properties and nothing more.

The Notice of Levy on Attachment[40] issued on 7 February 1984 by Deputy Sheriff Garcia to the Register of Deeds of Ilagan, Isabela, during the pendency of Civil Case No. 84-22434 before the Manila RTC, clearly stated that what was being levied upon was limited to "the rights, interest, title and participation" which Antonia Vda. de Medina may have in the real properties enumerated therein.

In its letter,[41] dated 23 August 1989, addressed to Deputy Sheriff Garcia, CPI presented its bid of P4.5 Million

at the auction sale of the properties of Antonia Vda. de Medina, held to satisfy the latter's judgment debt to CPI in Civil Case No. 84-22434. CPI's bid was conditioned on the following -

[2] With respect to property under the exclusive name of Antonia Caragayan Vda. de Medina, the Certificate of Sale shall indicate that the said property together with improvements thereon, is sold to the successful bidder.

[3] With respect to property registered in the name of Heirs of Antonio Medina and/or Antonia Vda. de Medina representing or as Administration [sic] of Estate of Antonio of Antonio Medina the Certificate of Sale shall refer only [to] the rights, interests, claims and participation of Antonia Vda. de Medina in the covered property and improvements since she has co-heirs, a son and a daughter. In the computation of the undivided interest of Antonia Vda. de Medina and the two heirs, since the property appear to be conjugal, two thirds[66.67%] of the property pertains to Antonia Vda. de Medina while the remaining one-third [33.34%] pertains to the heirs, son and daughter. (Emphasis supplied.)

Respondent himself, in his letter,[42] dated 29 November 1994, addressed to CPI, wrote in the first paragraph that, "We are pleased to inform you that we accept your offer to sell to us for P3.5 Million your interest in the foreclosed Medina properties." CPI's interest in the subject real properties, as referred to in respondent's letter, could be nothing more than the same interest therein of Antonia Vda. de Medina.

Thus, although the Deed of Assignment with Consolidation of Title[43] executed between CPI and respondent on 22 June 1995, provides that -

- For and in consideration of the sum of THREE MILLION FIVE HUNDRED THOUSAND PESOS (P3,500,000.00), Philippine Currency, receipt of which is acknowledged, [CPI] hereby assigns, transfers and conveys unto and in favor of [respondent], his heirs, executors and assigns, the Properties aforescribed.

it should not be taken to mean that what CPI was assigning to respondent was the entirety of the subject real properties, instead of merely the limited interest therein acquired by CPI from Antonia Vda. de Medina. The reference in the said paragraph, as well as in any other part of the Deed, to "Properties" without particularly limiting or qualifying the same to the undivided interest of CPI in the subject real properties, could be more of a problem of imprecise use of terms rather than a criminal intent to defraud and mislead respondent. Even so, the afore-quoted paragraph should be read in conjunction with the rest of the Deed, especially the succeeding paragraphs, to wit -

- [Respondent] acknowledges that he is fully aware of the circumstances under which these Properties were acquired by [CPI] and that he examined the title and inspected the properties and verified their location together with their boundaries. [CPI] shall therefore be no longer obliged to submit to [respondent] a location survey plan of the Properties nor pinpoint the same to [respondent].

- [Respondent] further acknowledges that the Properties are presently occupied by squatters and other adverse occupants and that [CPI] makes no warranty that possession can be immediately delivered to [respondent] free and clear of these squatters and other adverse occupants. All the expenses for the eviction of these persons shall be borne by [respondent].

- [CPI] warrants the genuineness of its interest over said Properties and that it shall, if necessary, execute any additional documents to complete the title of [respondent] to above-described Properties. No warranty, however, as to the Properties' classification or primary use is hereby given.

Respondent, by virtue of paragraphs 3 and 4 of the Deed of Assignment with Consolidation of Title, explicitly acknowledges that he is fully aware of the circumstances by which CPI acquired its interest in the subject real properties; that he has examined the title; that he has inspected the properties; and that he acknowledges that the

subject real properties are occupied by squatters and other adverse occupants. The said acknowledgments made by respondent dispute any claim on his part that he was misled to believe that when he entered into the contract of sale with CPI, he was acquiring the entirety of the subject real properties.

Respondent had every opportunity to verify what he was actually purchasing from CPI. He already admits knowing the circumstances by which CPI acquired its interest in the subject real properties. If this is truly so, respondent should have known that the subject real properties were inherited, intestate, by Antonia Vda. de Medina and her co-heirs, from Antonia's deceased husband, Antonio; that Antonia Vda. de Medina is just one of the heirs of the late Antonio Medina, so she co-owns with the other heirs, in undivided shares or interests, the subject real properties; that Antonia Vda. de Medina's undivided interest in the subject real properties was sold at an auction sale held to satisfy her judgment debt to CPI in Civil Case No. 84-22434; that CPI gave the highest bid at the auction sale and was thus awarded Antonia Vda. de Medina's limited interest in the subject real properties; that when Antonia Vda. de Medina failed to redeem her interest in the subject real properties within a year, title was thereby consolidated in CPI; and that even before CPI acquired Antonia Vda. de Medina's interest in the subject real properties, she, together with all the other heirs of her late husband Antonio Medina, had already voluntarily offered to sell the subject real properties to DAR. With respondent's knowledge of the foregoing circumstances, coupled with his extensive legal knowledge as a lawyer, then respondent should have realized that what he was acquiring from CPI shall be nothing more than the same limited interest in the subject real properties acquired by CPI from Antonia Vda. de Medina.

Even if the Deed of Assignment with Consolidation of Title was prepared entirely by CPI, respondent cannot claim that the same was a contract of adhesion, in which he had no other participation but to adhere to. There were several meetings between CPI and respondent precisely for the purpose of negotiating the terms of their contract. Contrary to respondent's contention that the Deed contained "so many ambiguities, subterfuge and clever craft" to allow CPI a "back-door retreat," if necessary, this Court finds that it is actually couched in simple terms easily understandable, and capable of no other possible and reasonable interpretation than what this Court had already discussed in the preceding paragraphs. Respondent, as a lawyer, is very capable of reviewing the Deed himself. He must also know that he had a legal right to revise certain terms or provisions thereof if he found these too ambiguous. Respondent was actually given time to review and revise the Deed, and for some unexplained reason, his only revision was to change his status from "married" to "single."

Furthermore, assuming that respondent had absolutely no knowledge of the circumstances surrounding CPI's acquisition of its interest in the subject real properties from Antonia Vda. de Medina, then his examination of the transfer certificates of title (TCTs) should have revealed to him such circumstances or, at the very least, led him to ask questions about the same. The court processes^[44] issued by the Manila RTC in Civil Case No. 84-22434, affecting the subject real properties, and duly served on the Register of Deeds, were clearly annotated on the TCTs covering the subject real properties. What is more, the TCTs were all still in the name of the Heirs of Antonio Medina, not CPI. Such a fact should have been a caveat to respondent to proceed with the transaction with more prudence and to inquire into CPI's title to or interest in the subject properties, as well as the circumstances attendant to its acquisition thereof. According to a well-established rule in our jurisdiction -

The law protects to a greater degree a purchaser who buys from the registered owner himself. Corollarily, it requires a higher degree of prudence from one who buys from a person who is not the registered owner, although the land object of the transaction is registered. While one who buys from the registered owner does not need to look behind the certificate of title, one who buys from one who is not the registered owner is expected to examine not only the certificate of title but all factual circumstances necessary for him to determine if there are any flaws in the title of the transferor, or in his capacity to transfer the land.^[45] (Emphasis supplied.)

Respondent could be reasonably assumed to be familiar with the foregoing since he is a lawyer.

Third, respondent is a lawyer and, as such, he is presumed to know the law.[46] Though respondent may not be actively practicing law as a profession, the legal rules and principles applicable to the present Petition are so basic and fundamental, and which respondent must have learned even while he was still studying law. Respondent is also a businessman who must possess some degree of shrewdness in his dealings so as to protect his business interests. With respondent's qualifications as a lawyer and a businessman, while they may not protect him absolutely, make him less susceptible to deception as compared to an ordinary layperson.

The Court of Appeals, in its Decision, dated 29 January 2001, found that CPI committed a double sale of the subject real properties when it sold the same first to the DAR, then second to the respondent. It declared that a VOS is already a consummated sale because landowners who made such an offer can no longer back out. This declaration by the Court of Appeals has no basis in law or jurisprudence.

Respondent's mother-in-law Antonia Vda. de Medina decided to avail of the VOS under Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law (CARL) of 1988. On 5 April 1988, she executed a Special Power of Attorney (SPA)[47] designating a certain Carlito Balauag to represent her and her children in any and all transactions with the DAR and the Landbank of the Philippines (Landbank) and to place the subject real properties under the voluntary coverage of CARP. Worth noting is the fact that the SPA covers not just Antonia Vda. de Medina's share but all of the subject real properties. Pursuant to his SPA, Carlito Balauag submitted on 10 March 1989 the VOS Forms covering the subject real properties to the DAR. He signed the said forms on behalf of the landowners, who he identified as the "Heirs of Antonio Medina."

However, just a few days earlier, on 22 February 1989, Antonia Vda. de Medina executed a Deed of Assignment (with Special Power of Attorney Coupled with Interest),[48] in which, for and in consideration of her unpaid obligations to CPI, she assigned all of her "rights, interests, claims and participation from the proceeds of land compensation" for the property she voluntarily offered to sell and transfer under the CARP. She claimed in the same Deed that the VOS was already under process for indorsement to the Landbank. Hence, she was appointing CPI as her exclusive attorney-in-fact to follow-up the processing of the VOS papers with the DAR and the Landbank. On 13 August 1993, CPI, pursuant to the authority granted to it by Antonia Vda. de Medina under the same Deed, submitted new VOS Forms covering the subject real properties.

By virtue of the foregoing, should the VOS covering the subject real properties already be deemed a consummated sale? This Court rules in the negative.

The CARL of 1988 encourages landowners to voluntarily offer for sale their lands by giving an additional five percent compensation to those who avail of this option.[49] To implement the VOS scheme under the CARL of 1988, the DAR issued Administrative Order No. 3, series of 1989, subsequently revised by Administrative Order No. 9, series of 1990, which provided for the rules and procedure governing the acquisition by the government of land subject of a VOS. A cursory reading of these Administrative Orders would reveal that a VOS undergoes a long process. It is initiated by the filing by the landowner of the VOS Form and other required documents. The VOS is reviewed, among other personalities, by the Municipal Agrarian Reform Officer (MARO), the Provincial Agrarian Reform Officer (PARO), the DAR Regional Director, the Bureau of Land Acquisition and Development (BLAD), and the Landbank, for purposes of identifying the land and the qualified tenants, the valuation of the land, and payment of just compensation to the landowner.

In the case of *Government Service Insurance Systems, Inc. v. Court of Appeals*,[50] this Court already ruled that -

While it is true that under DAR Administrative Order No. 3, series of 1989, it is not necessary that the voluntary offeror of the lot be the registered owner thereof, private respondent failed to show that the DAR

accepted and approved his offer to sell. Without said approval and acceptance, private respondent cannot safely presume that his voluntary offer to sell was accepted by the DAR. Notably, the word "offer," is subject to acceptance. The voluntary offer to sell is in fact reviewed and evaluated by the DAR before a corresponding notice of acceptance is sent to the landowner. The applicable rules and procedure governing voluntary offer to sell (VOS) at the time private respondent made his offer provides:

X X X X

Evidently, without the notice informing the landowner of the DAR's conformity with the offer to sell, private respondent cannot validly presume that his offer to sell has been accepted by the DAR and that the latter will now assume the payment of the loan to the GSIS. (Emphasis supplied.)

Hence, a VOS, as its name implies, is a voluntary offer to sell the land to the government so that the latter can distribute the same to qualified tenants. While a landowner who voluntarily offered his land for sale is precluded from withdrawing his offer except under specified circumstances, such a condition does not make the mere offer a consummated sale. It bears to emphasize that the offer still needs to be accepted by the DAR on behalf of the government, and just compensation for the land determined and paid to the landowner. The sale is deemed consummated when the landowner has received payment or deposit by the DAR of just compensation with an accessible bank, in cash or Landbank bonds, since only then is ownership of the land finally transferred from the landowner to the government.[51]

In the present case, the VOS covering the subject real properties is still being processed by the DAR. There has so far been no express acceptance by the DAR of the said VOS or payment of just compensation to CPI. There being no consummated sale of the subject real properties to DAR, CPI could not have committed a double sale of the same. It remained a co-owner of the subject real properties, together with the other heirs of Antonio Medina, and, thus, it could still legally sell its share or interest therein to another person, such as respondent. Should the DAR finally approve the VOS covering the subject real properties, then respondent, after acquiring the interest of CPI, shall be entitled to just compensation corresponding to his interest.

After finding that petitioners did not deceive respondent into purchasing CPI's limited interest in the subject real properties, then it necessarily follows that there can be no conspiracy to commit such deception. This Court would still want to point out that respondent's accusation of conspiracy was so stretched that he implicated in his complaint members of the CPI Board of Directors who did nothing more than sign a resolution authorizing the sale of CPI's interest in the subject real properties to respondent. Yet again, the existence of conspiracy among the CPI officers rests on no other evidence but respondent's own allegations in his affidavits. Conspiracy cannot be established by mere inferences or conjectures.[52] It is incumbent upon respondent to prove that each of the petitioners performed an overt act in pursuance or furtherance of the alleged complicity, so as to convince the investigating prosecutor that there is probable cause that petitioners conspired with one another to commit the crime.[53] However, respondent's general accusations against petitioners and the other CPI officers do little to persuade.

WHEREFORE, premises considered, the instant Petition is hereby GRANTED. The Decision, dated 29 January 2001, and Resolution, dated 14 November 2002, of the Court of Appeals in CA-G.R. SP No. 54862, are hereby REVERSED and SET ASIDE. Respondent's complaint in I.S. No. 97-22188-191 is hereby ordered DISMISSED.

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