

VICTORIAS MILLING CO., INC., PETITIONER, VS. LUIS J. PADILLA, EMMANUEL S. DUTERTE, CARLOS TUPAS, JR., AND ROLANDO C. RODRIGUEZ, RESPONDENTS.

G.R. No. 156962. October 06, 2008

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This petition for review assails the 13 June 2002 Decision[1] and the 22 January 2003 Resolution[2] of the Court of Appeals in CA-G.R. SP No. 65895. The Court of Appeals dismissed the petition for certiorari filed by petitioner on the grounds of (1) lack of standing to prosecute the criminal cases for falsification of private documents against respondents; (2) failure to attach the assailed order in the petition for certiorari filed in the Regional Trial Court; and (3) late filing of the petition for certiorari in the Regional Trial Court.

The Facts

The present controversy stemmed from a single complaint for falsification of private documents filed by the Chief of Police[3] of the then Municipality of Victorias against respondents Luis J. Padilla (Padilla), Emmanuel S. Duterte (Duterte), Carlos Tupas, Jr. (Tupas), and Rolando C. Rodriguez (Rodriguez). Docketed as Criminal Case No. 8069-V, the complaint reads:

C O M P L A I N T

The undersigned, Station Commander, Victorias Police Station, PNP Victorias, Negros Occidental, hereby accuses Luis J. Padilla, Emmanuel S. Duterte, Carlos Tupas, Jr. and Rolando C. Rodriguez of the crime of Violation of Article 172 Paragraph 2 of the Revised Penal Code on Falsification of Private Documents committed as follows:

That confederating, working and acting in conspiracy with one another and with intent to cause damage to Victorias Milling Company (VMC), Luis J. Padilla, Emmanuel S. Duterte, Carlos Tupas, Jr. and Rolando C. Rodriguez on various dates and in various quantities during the period from 21 January 1992 to 02 December 1996 committed the crime of falsification of private documents in Victorias, Negros Occidental by executing, issuing and signing RSDOs (Refined Sugar Invoice/Delivery Orders) amounting to THREE MILLION ONE HUNDRED FORTY TWO THOUSAND SEVEN HUNDRED SIXTEEN (3,142,716) LKG, which are sugarless, and executing, issuing and signing false certifications supporting the RSDOs without securing the authority of the board of directors of VMC, as shown in Annex "A" hereof.

Acts contrary to Law.[4] (Emphasis supplied)

On 6 November 1998, upon Motions to Quash the Complaint filed by several of the respondents on the ground, among others, of duplicity of offenses, Municipal Trial Court in Cities Judge Ricardo S. Real, Sr. (MTCC Judge) dismissed the complaint and ordered the amendment of the complaint or the filing of another information.[5]

Accordingly, on 13 November 1998, upon the conversion of the Municipality of Victorias into a city,[6] City Prosecutor Adelaida R. Rendon filed sixty-four (64) Informations for falsification[7] against respondents,[8] alleging conspiracy among respondents in signing and using "sugarless" Refined Sugar Delivery Orders (RSDOs) as collateral to obtain loans from five banks[9] in the total amounts of US\$15,274,956.40 and P692,322,644.86.

The MTCC Judge approved the issuance of Warrants of Arrest against respondents only in the cases where they were the signatories of the sugarless RSDOs. Thus, warrants of arrest were issued against Padilla in 47 cases only, against Duterte in 10 cases only, against Tupas in 6 cases only, and against Rodriguez in 1 case only.

On 14 January 1999, the prosecution filed a Motion to Defer Arraignment,[10] praying for the issuance of 64 warrants of arrest against each respondent corresponding to the 64 informations for falsification in view of the charge of conspiracy.

In an Order of 7 April 1999,[11] the MTCC Judge denied the Motion to Defer Arraignment, ruling that conspiracy had to be proved by the prosecution and setting the cases for arraignment on 3 July 2000.

On 14 April 1999, the prosecution moved for reconsideration,[12] which the MTCC Judge denied in his Order of 24 November 1999.[13] This order reads:

It must be stressed that although the affidavit of the prosecution is based on personal knowledge, the same were not yet introduced, authenticated, marked as exhibits and offered as evidence, consequently, it remained as a worthless piece of evidence to establish even the circumstantial evidence of conspiracy. During the preliminary investigation using the sworn statement of the prosecution as part thereof is only to determine that a probable cause exists that the crime as charged was committed and that all the accused were probably guilty thereof and there is a necessity to issue a warrant of arrest.

The theory of the City Prosecutor of Victorias to issue Sixty Four (64) Warrants of Arrest to each accused as a result of the alleged conspiracy is baseless. Each accused is only liable for each RSDO's that they have signed since the dictum that the act of one is the act of all no longer stand [sic]. The High Court speaking thru Justice Davide, Jr. states:

"Conspiracy, just like the crime itself, must be established by proof beyond reasonable doubt and the Rule has always been that co-conspirators are liable only for the acts done pursuant to the conspiracy, for other acts done outside the contemplation of the co-conspirators or which are not necessary and logical consequence of the intended crime, only the actual perpetrators are liable. In such a case, the dictum that the act of one is the act of all does not hold true anymore. *People versus Rodolfo Federico y Mediona* (G.R. No. 99840, August 14, 1995)."[14] (Underscoring in the original)

On 29 June 2000, the prosecution filed an Urgent Ex-Parte Motion[15] praying for an ex-parte hearing for the presentation of evidence on its allegation of conspiracy.

On 3 July 2000, during the scheduled arraignment, the MTCC Judge impliedly denied the ex-parte motion, stating in open court that it is a "mere scrap of paper"[16] and proceeded with the arraignment. Respondents, except Tupas, were arraigned only on specific informations where their signatures appeared in the RSDOs or certifications. Accordingly, Padilla pleaded not guilty to 46 cases,[17] Duterte pleaded not guilty to 10 cases, and Rodriguez pleaded not guilty to 1 case only. Tupas, through his counsel, requested a deferment of his arraignment.

On the same date, the MTCC Judge set the pre-trial of the case on 4 September 2000 and trial proper on 25 and 26 September, 23 and 24 October, and 27 and 28 November 2000. He also reset the arraignment of Tupas to 4 September 2000.

On 30 August 2000, petitioner filed with the Regional Trial Court (RTC) of Negros Occidental a petition for

certiorari and mandamus, docketed as Civil Case Nos. 2133-40, against the MTCC Judge.[18] Petitioner prayed for the nullification of the arraignment of the three respondents and for the issuance of a writ of preliminary injunction to enjoin the MTCC Judge from further hearing the cases.

On 31 August 2000, the RTC issued an Order setting the date of the hearing for the preliminary injunction on 7 September 2000 and granting a temporary restraining order.[19]

On 29 September 2000, petitioner filed an Amended Petition attaching the 24 November 1999 Order of the MTCC Judge, which had been inadvertently omitted from the original Petition.

On 23 November 2000, the RTC issued an Order[20] denying the petition for certiorari and mandamus on three grounds: 1) petitioner has no standing to file the petition for certiorari; 2) the petition was incomplete in the narration of facts; and 3) the petition was filed beyond the prescribed period.

On 26 December 2000, petitioner filed a Motion for Reconsideration, which was denied in the 25 May 2001 Order of the RTC.[21]

On 1 August 2001, petitioner filed a petition for certiorari with the Court of Appeals challenging the 23 November 2000 and 25 May 2001 Orders of the RTC.

On 5 December 2001, the Court of Appeals issued a Resolution directing the issuance of a temporary restraining order.[22]

On 12 December 2001, the Office of the Solicitor General (OSG) filed a Manifestation and Motion (in Lieu of Comment)[23] asking that the People of the Philippines be removed as a party respondent and be excused from filing a comment to the petition considering that it was in conformity with the petition.

On 13 June 2002, the Court of Appeals rendered a Decision dismissing the petition.

On 1 July 2002, petitioner filed a Motion for Reconsideration, which was denied by the Court of Appeals on 22 January 2003.

Hence, this petition.

The Ruling of the Court of Appeals

In dismissing the petition for certiorari, the Court of Appeals ruled that petitioner has no personality to file the petition. The Court of Appeals stated that all criminal actions either commenced by complaint or by information should be prosecuted under the direction and control of the public prosecutor. In this case, petitioner did not even acquire the conformity of the public prosecutor before filing the petition. Petitioner was not also able to show that it suffered damages by reason of the alleged criminal act committed by respondents.

The Court of Appeals also found procedural lapses in petitioner's filing of the petition for certiorari before the RTC. Petitioner failed to attach the assailed orders to its petition and filed the petition beyond the reglementary period. The Court of Appeals opined that the 60-day period should start from the date of receipt of the 24 November 1999 Order, not from 3 July 2000 when the RTC impliedly denied the motion to conduct an ex-parte hearing. Hence, the RTC did not commit grave abuse of discretion in dismissing the petition for certiorari.

The Issues

Petitioner raises the following issues:

- Whether the petition for certiorari was filed within the reglementary period;

- Whether the petition for certiorari lacked the required vital documents;
- Whether petitioner has a legal personality to file a petition for certiorari; and
- Whether the issuance of a writ of mandamus directing the MTCC Judge to conduct an ex-parte hearing on the allegation of conspiracy is proper.

The Ruling of the Court

The petition is meritorious.

On the procedural issues

Petitioner contends that it seasonably filed on 30 August 2000 the petition for certiorari with the RTC considering that it "directly challenged the 3 July 2000 Orders issued by the MTCC," not the Orders dated 7 April 1999 and 24 November 1999. The prayer of the petition for certiorari filed in the RTC reads:

WHEREFORE, it is respectfully prayed of this Honorable Court that, after hearing, judgment be rendered in favor of the petitioner and against the respondents, directing the issuance of the writs of certiorari and mandamus, setting aside the arraignment of the three (3) accused for being null and void, and directing respondent judge through the writ of mandamus to conduct first an ex-parte hearing to determine whether warrants of arrest (shall) issue against all the accused in all the criminal informations for falsification, with costs against the respondents.

It is also prayed of this Honorable Court that after hearing, a writ of preliminary injunction be likewise issued to enjoin respondent Judge from further hearing the cases below and arraigning the accused Carlos Tupas, Jr. until further orders from this Honorable Court; that pending consideration of the issuance of the writ of preliminary injunction, a temporary restraining order be issued forthwith to the same effect.[24] (Emphasis supplied)

Under Section 4 of Rule 65,[25] the aggrieved party must file a petition for certiorari within 60 days from notice of the assailed judgment, resolution or order.

As can be gleaned from the prayer of the petition for certiorari, petitioner was not only assailing the implied denial of its ex-parte motion during the scheduled arraignment on 3 July 2000. Petitioner was also challenging the legality of respondents' arraignment on specific informations only instead of on all the 64 informations. Since the arraignment of the three respondents was held on 3 July 2000, the 60-day period for filing a petition for certiorari questioning the legality of the arraignment may be reckoned from that date. Therefore, the petition for certiorari filed on 30 August 2000 was filed within the reglementary period. Considering that petitioner is also objecting to the arraignment of the respondents, then the attachment to the petition for certiorari of the 3 July 2000 orders of the MTCC Judge and the transcript of the stenographic notes taken on that date substantially complied with the requirement under the Rules.

On petitioner's personality to file a petition for certiorari

Contrary to the view of the Court of Appeals, petitioner has the personality to file a petition for certiorari assailing the orders of the MTCC Judge. In *Paredes v. Gopengco*,[26] which ruling was reiterated in *People v. Calo, Jr.*,[27] the Court held that:

The non-joinder of the People in the action was x x x but a formality, x x x and should not serve as a ground for dismissal of the action, by virtue of the provisions of Rule 3, section 11, providing that "parties may be dropped or added by order of the Court on motion of any party or on its own initiative at any stage of the action and on such terms as are just." Furthermore, as offended party x x x, it cannot be gainsaid that

respondents have sufficient interest and personality as "person(s) aggrieved" x x x to file the special civil action, under sections 1 and 2 of Rule 65.

Moreover, it is basic in criminal law that the civil case is impliedly included in the criminal case.[28] Therefore, private complainant, petitioner in this case, has sufficient interest and personality in filing the petition for certiorari.

At any rate, the OSG fully adopted petitioner's views, curing the perceived lack of standing on the part of petitioner to assail the 3 July 2000 orders of the MTCC Judge via a petition for certiorari. In its Manifestation and Motion (In Lieu of Comment) filed with the Court of Appeals, the OSG explicitly stated that:

x x x it is in conformity with the instant petition [for certiorari], being on all fours with the Rules of Court and pertinent jurisprudence. Hence, it should be removed as party respondent, and excused from filing comment on the petition.[29]

In its Manifestation and Motion filed before this Court, the OSG reiterated its position that the petition for certiorari is correct.[30]

Further, it is not yet necessary to prove that petitioner suffered damages on account of the falsification of the private documents in order for petitioner to have standing to file a petition for certiorari. Intent to cause damage is a sufficient allegation of damage for a charge of falsification of private documents.[31]

On the MTCC Judge's failure to determine the existence of probable cause against respondents as conspirators in the crimes charged

The 64 separate informations filed with the Municipal Trial Court in Cities by City Prosecutor Adelaida R. Rendon uniformly charge Padilla, Duterte, Tupas, and Rodriguez of conspiring in the falsification of 64 private documents consisting of various RSDOs or certifications on different occasions with the intent to cause damage to petitioner. In effect, each respondent is charged, as a co-conspirator, with 64 counts of falsification of private documents.

At the time of the filing of the informations, the applicable provision was Section 9, Rule 112 of the 1985 Rules on Criminal Procedure, which covers cases not falling under the original jurisdiction of the Regional Trial Courts nor covered by the Rule on Summary Procedure.[32] No preliminary investigation is required in such cases.[33]

In the course of the proceedings, Section 9 of Rule 112 was amended to read as follows:

SEC. 8. Cases not requiring a preliminary investigation nor covered by the Rule on Summary Procedure. --

x x x x

(b) If the complaint or information is filed with the Municipal Trial Court or Municipal Circuit Trial Court for an offense covered by this section, the procedure in section 3(a) of this Rule shall be observed. If within ten (10) days after the filing of the complaint or information, the judge finds no probable cause after personally evaluating the evidence, or after personally examining in writing and under oath the complainant and his witnesses in the form of searching questions and answers, he shall dismiss the same. He may, however, require the submission of additional evidence, within ten (10) days from notice, to determine further the existence of probable cause. If the judge still finds no probable cause despite the additional evidence, he shall, within ten (10) days from its submission or expiration of said period, dismiss the case. When he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused had already been arrested, and hold him for trial. However, if the judge is satisfied that there is no necessity for placing the accused under custody, he may issue summons instead of a warrant of arrest. (Emphasis supplied)

Whether under the old or new provision, the Rules applicable to this case are substantially the same. The Rules essentially provide that if the MTCC judge finds no probable cause against respondents, he shall dismiss the complaint or information. Otherwise, he shall issue either warrants of arrest or summonses, depending on the necessity to place the accused under custody.

In the present case, Padilla, Duterte, Tupas, and Rodriguez are charged in each information as conspirators of falsifying 64 private documents. In other words, whether respondents signed the falsified documents or not, they are alleged to have conspired in making untruthful statements in such documents.

After the filing of the 64 informations for falsification of private documents by the City Prosecutor, the MTCC Judge proceeded to the issuance of warrants of arrest only against the signatories of the allegedly falsified documents and arraigned the same respondents against whom warrants of arrest were issued. The MTCC Judge opined that "each respondent is liable only for the RSDO that he signed," citing the case of *People v. Federico*, where this Court held that "conspiracy, just like the crime itself, must be established by proof beyond reasonable doubt." The MTCC Judge also stated that the prosecution's evidence is worthless for not being marked as exhibits and for not being authenticated.

The MTCC Judge is mistaken. He ruled out the existence of conspiracy based on a wrong ground. At that stage of the proceedings, the MTCC Judge need not find proof beyond reasonable doubt of the existence of conspiracy. He must only satisfy himself whether there is probable cause or sufficient ground to hold each respondent for trial as a co-conspirator. It is obviously absurd for the MTCC Judge to require that conspiracy must be proved before conspiracy can be alleged in the informations.

For the sake of the prosecution, which desires the punishment of the criminals liable for the falsifications, and for the benefit of the respondents, who will possibly face prosecution or conviction for the crimes charged, the MTCC Judge should properly and clearly resolve whether there is probable cause against each respondent as a co-conspirator for 64 counts of falsification of private documents. The summary nature of the procedure under the Rules does not dispense with such determination.

As stated above, Section 9 of Rule 112 was amended. Since remedial laws may be given retroactive effect,[34] the Court orders the MTCC Judge to determine the existence of probable cause against respondents as conspirators for the crimes charged pursuant to the amended provision, specifically Section 8(b) of Rule 112 of the Revised Rules of Criminal Procedure. Accordingly, if the MTCC judge finds no probable cause against respondents as conspirators, he shall dismiss the informations against the non-conspirators. He may, however, require the submission of additional evidence, within ten (10) days from notice, to determine further the existence of probable cause. If the MTCC Judge still finds no probable cause despite the additional evidence, he shall, within ten (10) days from its submission or expiration of said period, dismiss the informations against the non-conspirators. If there exists probable cause against each respondent as a co-conspirator for 64 counts of falsification of private documents, then the MTCC Judge shall issue either warrants of arrest, in addition to the arrest warrants already issued, or summonses against respondents, depending on the necessity of placing the accused under custody. Thereafter, the MTCC Judge should arraign each respondent for 64 counts of falsification of private documents.

Concerning the arraignment of the respondents, the same is not void. If ever, the eventual positive finding of the existence of probable cause against all respondents as conspirators will only mean additional indictments for respondents. This finding will not affect the arraignment of the respondents.

WHEREFORE, the Court GRANTS the petition. The Court orders Judge Ricardo S. Real, Sr. or the Presiding Judge of the Municipal Trial Court in Cities of Victorias City to determine whether there is probable cause against

respondents as conspirators in the crime of falsification of 64 private documents defined and penalized under Article 172(1) in relation to Article 171(4) of the Revised Penal Code in accordance with the procedure in Section 8(b) of Rule 112 of the Revised Rules of Criminal Procedure.

SO ORDERED.

Puno, C.J., (Chairperson), Azcuna, Reyes,[*] and Leonardo-De Castro, JJ., concur.

* As replacement of Justice Renato C. Corona who is on official leave per Special Order No. 520.[1] Rollo, pp. 746-755. Penned by Associate Justice Eugenio S. Labitoria, with Associate Justices Teodoro P. Regino and Juan Q. Enriquez, Jr., concurring.

[2] Id. at 772-773.

[3] Senior Inspector Larry L. Decena.

[4] Rollo, p. 89.

[5] Id. at 99.

[6] Republic Act No. 8488 converted the Municipality of Victorias into a Component City of Negros Occidental and renamed it the City of Victorias (<http://www.victoriacity.gov.ph/>).

[7] Penalized by Article 172, in relation to Article 171, paragraph 4, of the Revised Penal Code.

[8] Docketed as Criminal Case Nos. 8130-V to 8193-V.

[9] Bank of the Philippine Islands, Metropolitan Bank & Trust Company, Dao Heng Bank, Asian Bank, and Land Bank of the Philippines.

[10] Rollo, pp. 365-366.

[11] Id. at 380-383.

[12] Id. at 384-390.

[13] Id. at 391-393.

[14] Id. at 392.

[15] Id. at 394-396.

[16] Id. at 401.

[17] Id. at 410-413.

[18] Id. at 72-88.

[19] Id. at 462.

[20] Id. at 513-518.

[21] Id. at 548.

[22] Id. at 555-556.

[23] Id. at 718-719.

[24]Id. at 85.

[25]SEC. 4. Where petition filed. The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.

[26]140 Phil. 81, 92-93 (1969).

[27] G.R. No. 88531, 18 June 1990, 186 SCRA 620. See *Mosquera v. Panganiban*, G.R. No. 121180, 5 July 1996, 258 SCRA 473, 479. See also *Padillo v. Apas*, G.R. No. 156615, 10 April 2006, 487 SCRA 29, 39, citing *Flores v. Joven*, G.R. No. 129874, 27 December 2002, 394 SCRA 339, 344.

[28] Section 1, Rule 111 of the Rules of Court provides:

When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately, or institutes the civil action prior to the criminal action. x x x x

[29] Rollo, p. 718.

[30]Id. at 877.

[31]Aquino, Ramon C., *The Revised Penal Code*, Vol. II, 1997 Edition, p. 281. See also *Andaya v. People of the Philippines*, G.R. No. 168486, 27 June 2006, 493 SCRA 539.

[32]Falsification of private documents defined and penalized under Article 172(1) in relation to Article 171(4) of the Revised Penal Code carries with it an imposable penalty of prision correccional in its medium and maximum periods and a fine of not more than P5,000. See *Batas Pambansa Blg. 129*, as amended, otherwise known as "The Judiciary Reorganization Act of 1980."

[33]*Villanueva v. Almazan*, A.M. No. MTJ-99-1221, 16 March 2000, 328 SCRA 230. See also *Guillen v. Nicolas*, A.M. No. MTJ-98-1166, 4 December 1998, 299 SCRA 623.

[34]*Great Southern Maritime Services Corporation v. Acuña*, G.R. No. 140189, 28 February 2005, 452 SCRA 422, 434, citing *Republic v. Court of Appeals*, G.R. No. 141530, 18 March 2003, 399 SCRA 277, 284; *Universal Robina Corporation v. Court of Appeals*, G.R. No. 144978, 15 January 2002, 373 SCRA 311, 315; *Pfizer, Inc. v. Galan*, G.R. No. 143389, 25 May 2001, 358 SCRA 240, 246; *Unity Fishing Development Corp. v. Court of Appeals*, G.R. No. 145415, 2 February 2001, 351 SCRA 140, 143. See also *Queensland-Tokyo Commodities, Inc. v. Matsuda*, G.R. No. 159008, 23 January 2007, 512 SCRA 276, 281.

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