

PEOPLE OF THE PHILIPPINES, REPRESENTED BY CHIEF STATE PROSECUTOR JOVENCITO ZUÑO, STATE PROSECUTOR GERONIMO SY AND PROSECUTION ATTORNEY IRWIN MARAYA, PETITIONERS, VS. HON. BASILI...

G.R. No. 161083. August 03, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court is a petition for certiorari[1] under Rule 65 of the Rules of Court, seeking to set aside the July 24, 2003 Decision[2] and October 3, 2003 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 71985.

The facts of the case, as culled from the petition, are as follows:

On May 14, 2001, around 12:15 a.m., a fire broke out inside the plant of Sanyoware Plastic Products Manufacturing Corporation (Sanyoware) located at Km. 8, McArthur Highway, Lolomboy, Bocaue, Bulacan. The Sanyoware plant had four single-storey buildings, enclosed in concrete walls with steel tresses and galvanized iron sheet roofing.

Sanyoware 2, Warehouse 2, the building that was razed by fire, was located at the right innermost portion of the plant facing north. Sanyoware occupied the right, western portion of the said building, while New Unitedware Marketing Corporation (Unitedware) rented the other half, located at the left, eastern portion. The building was divided at the center by a tall concrete firewall with a steel gate.

Investigations were conducted by the Philippine 3[rd] Regional Criminal Investigation and Detention Group (CIDG) and the Inter Agency Anti-Arson Task Force (IATF) of the Department of the Interior and Local Government. Pursuant to the August 1, 2001 letter[4] of CIDG Regional Officer P/Supt. Christopher A. Laxa to the Secretary of the Justice; the IATF's October 25, 2001 Indorsement[5] and the October 8, 2001 letter[6] of Bureau of Fire Protection (BFP) Chief Sr. Supt. Victoriano C. Remedio to the Prosecutor of the DOJ, the following were accused of destructive arson before the Office of the Chief State Prosecutor, namely: Samson Cua Ting, alias Ding Jian Zhi, External Vice-President; Wilson Cua Ting, Plant Manager; Edward Ngo Yao (Yao), President of New Marketing Corporation; Willy So Tan, alias Chen Yi Ming, Vice-President for Operations; Carol Fernan Ortega, Assistant to the External Vice-President; and John Doe and Peter Doe.

In support of the accusation, petitioner submitted the Sworn Statements of Richard Madrideo, Jaime Kalaw, Raymund Dy, Chit Chua, Jennifer Chua Reyes, Shanda Amistad, SPO1 Valeriano Dizon and Inspector Allan N. Barredo.

In his sworn statement,[7] Richard Madrideo, a supervisor at Sanyoware said that there were two separate sets of fire in the Sanyoware Warehouse and that it was different from, but occurred simultaneously, with the fire at the Unitedware Warehouse. Madrideo claimed that respondents Wilson Ting and Yao instructed him that if anyone should ask about the fire, he should say that the fires did not break out simultaneously and the cause thereof was

defective wiring. In his additional sworn statement, Madrideo claimed that, days after the fire, he was threatened by respondents and was being forced to write a sworn statement against his will.

Jaime Kalaw, a former head of the Maintenance Department of Sanyoware, alleged in his sworn statement[8] that the cause of the fire could not have been faulty electrical wiring, because the warehouse was relatively new and that, on the day of the fire, the plant was not in operation so there was no heavy load of electricity and all the circuit breakers were shut down. Kalaw noted that a week before the fire occurred, almost 300 unserviceable molds were transferred to the burned Sanyoware warehouse. A day before the fire, expensive finish products were loaded in delivery trucks. In addition, Kalaw alleged that he saw respondent Yao a day before the fire driving to the Unitedware warehouse. Once inside, respondent Yao took a rectangular shaped object from his vehicle.

Raymond Dy, a warehouse supervisor at Sanyoware stated in his sworn statement[9] that a week before the fire occurred, he observed that saleable products from the burned warehouse were transferred to the Sanyo City Warehouse, while unusable components from the Sanyo City warehouse were transferred to the burned warehouse. Dy alleged that the transfer of the products was upon the orders of Charles Lee, the plant manager of Sanyoware, who allegedly told the employees to finish the transfers on May 12, 2001.

Chit Chua, an employee at the Accounting Department of Sanyoware, claimed in her sworn statement[10] that Sanyoware was indebted to a number of banks and corporations and that Sanyoware's outstanding obligations amounted to P95,000,000.00 to P96,000,000.00. Jennifer Chua Reyes, a secretary at Sanyoware, alleged in her sworn statement[11] that Sanyoware has an outstanding loan of P180,000,000.00 to various individuals.

Shanda Amistad, a former stay-in worker at Sanyoware, alleged in her affidavit[12] that, around 8:00 a.m. of May 13, 2001, she saw respondent Yao driving a Canter truck of Unitedware loaded with goods. Yao went to Sanyoware three times that day. Amistad found it unusual, since Yao did not normally go to Sanyoware on Sundays and there were available drivers at that time. Around 2:00 p.m. of the same day, respondent Wilson Ting arrived.

SPO1 Valeriano Dizon (SPO1 Dizon), a fireman assigned at the Meycauayan Fire Station, Bulacan, stated in his sworn statement[13] that he conducted the examination of the fire that occurred on May 14, 2001. He alleged that he took the statement of the witnesses, but Sr. Supt. Enrique Linsangan of the BFP Regional Office, Region III, took the witnesses' statements from him before he could prepare the Final Investigation Report (FIR). Thereafter, Sr. Supt. Linsangan summoned him, Inspector Allan Barredo and BFP C/Ins. Absalon Zipagan, Municipal Fire Marshall of Bocaue, Bulacan, and showed them the copy of the FIR and made them sign it. Inspector Barredo, in his affidavit,[14] corroborated SPO1 Dizon's allegation as to how Sr. Supt. Linsangan summoned and ordered them to sign the FIR.

In their defense, respondents submitted a Counter-Affidavit[15] to refute the allegations made against them, the significant portions of which read:

7. Principally on the basis of the "Salaysay" of Richard Madrideo attached Annex "A" to the Affidavit of Carol Ortega Fernan dated September 22, 2001, and on the basis of the "Sinumpaang Salaysay" of Ricky A. Hista and of the "Karagdagang Salaysay" of Bobby Bacang and on the basis of our inquiry from others, we have good reason to believe that one claiming to be a representative of CRM Adjustment Corporation had indeed offered money and jobs to persons to give perjured statements to make it appear that there was arson and that we committed it. (The Affidavit of Carol Ortega Fernan, together with the "Salaysay" of Richard Madrideo as Annex "A" thereto, the "Sinumpaang Salaysay" of Ricky A. Hista and the "Karagdagang Salaysay" of Bobby Bacang were all submitted last September 22, 2001 to the Inter Agency Anti-Arson Task Force, Office of the Secretary, Department of the Interior and Local Government.

8. We would like to stress the fact that during the supposed investigation of this arson case by complainant 3[rd] Regional Criminal Investigation and Detection Group, not one of us was invited by complainant to answer the allegations of witnesses against us. As far as we know, complainant did not even make an ocular inspection of the place where fire occurred.

9. Although the CIDG investigators were allegedly informed by Mrs. June Go, a clerk of Sanyoware, that nobody could assist the team in the ocular inspection, said investigators did not proceed to conduct an ocular inspection when they actually did not need any assistance and when nobody was preventing them from conducting the inspection.

10. Although Senior Police Officer Regino Raquipiso claims that when he and SPO1 John Tabago returned to the factory, the ocular inspection was not pushed through for alleged lack of clearance from the company owners, there is no showing that said police officers insisted or demanded to conduct then and there an ocular inspection.

11. Apparently, complainant solely relied on the statements of Jaime Kalaw, Raymond Dy and Richard Madrideo in deciding to file the case at bar against us.

12. Richard Madrideo executed a "Sinumpaang Salaysay" before SPO4 Regino D. Raquipiso, Jr. last June 29, 2001 wherein he claims, among others, that there was a simultaneous fire that occurred in two places in Sanyoware warehouse and in a place in Unitedware. However, said claim is a blatant lie and perjured statement.

13. In his "Salaysay" (Annex "A" to the Affidavit of Carol Ortega Fernan submitted last September 22, 2001 to the Inter Agency Anti-Arson Task Force), Richard Madrideo admitted to the fact that he received the sum of P1,000.00 from Atty. Lugtu and that he subsequently received another sum of P15,000.00 from Atty. Lugtu. Richard Madrideo was also given a cellphone and was promised a job. According to said "Salaysay," Atty. Lugtu instructed Madrideo to state, among others, in his "Salaysay" that Madrideo saw a simultaneous fire that occurred in two sides of the plant of Sanyoware.

14. In the "Karagdagang Salaysay" of Richard Madrideo, he repudiated his "Salaysay" by claiming that he was threatened and coerced by Respondents into executing said "Salaysay." Said claim is a blatant lie. In essence, the story contained in the "Karagdagang Salaysay" regarding alleged threats and coercion is nothing but a fabricated lie for the truth of the matter being that his "Salaysay" was executed by him freely and voluntarily last July 30, 2001 at the conference room of Sanyoware. He was not threatened by anyone. He was neither paid nor promised any consideration for executing said "Salaysay."

15. At any rate, I, Wilson Ting, and the security guards on duty can attest to the fact that fire started at the warehouse of Unitedware and that it did not occur simultaneously in different places.

16. In the Sworn Statement of Raymond Dy, he claims that Richard Madrideo had told him that while the fire was on going at the Unitedware warehouse, Madrideo saw the fire on top of the stock piles inside the Sanyoware warehouse aside from that fire at the Unitedware. However, Jaime Kalaw, who was allegedly informed about the fire by Raymond Dy, did not mention in his Sworn Statement about any simultaneous occurrence of the fire in different places. Jaime Kalaw even further stated in his Sworn Statement that upon his inquiry from the employees, he was allegedly told that the fire originated from Unitedware warehouse that spread to Sanyoware warehouse.

17. The allegation of Jaime Kalaw in his Sworn Statement that all circuit breakers were "off" position so that there was no flow of electric current that may cause fire on the warehouses and the allegation of Raymond Dy that during his roving before the fire, all the lights were "off" are not true for the truth being that management had required that some lights be put on every night in all the warehouses so that they can be well guarded. Besides, I, Wilson Ting, and the guards on duty can attest to the fact that there were lights in all the

warehouses during the subject incident.

18. Raymond Dy claims that the keys were usually kept by the guard on duty, but that on this occasion, he learned from Shandra Amistad, a stay-in helper, that the keys were then kept by Wilson Ting. Obviously, said claim is based on hearsay and thus, should not be given any credence and besides, I, Wilson Ting, deny said claim for the truth of the matter being that the keys of Sanyoware are kept inside its main office and are not kept by the guard on duty.

19. Raymond Dy also claims that the lights were 3 to 4 meters away from the stocks, so that it could be impossible that stocks will be caught by fire if and when the lights or electrical system leak down. However, said claim is not true for the fact of the matter is that in the Unitedware warehouse and in Sanyoware warehouse, there were so much pile[s] of stocks that some pile[s] almost reached the lights.

20. There is also no truth to the allegation of Raymond Dy that a week before the fire, saleable finished products from Sanyoware and Unitedware were removed and transferred to Sanyo City warehouse. There is also no truth to the allegation that non-useable components were removed from Sanyo City and transferred a week before the fire to the warehouses that got burned. Likewise, there is no truth that Charles Lee gave a deadline until Saturday (May 12) to transfer non-useable components to the burned warehouses. Said allegations are all fabricated lies designed to make it appear that there was arson.

21. Long before the subject incident, I, Wilson Ting, had ordered to have the stock piles that were in between the steel gate dividing Unitedware and Sanyoware warehouses moved, not to have a pathway, but for the purpose of closing the said steel gate. After said stock piles were moved, the steel gate was padlocked.

22. There was nothing extraordinary or irregular for several delivery trucks filled with stocks to stay at the parking area for the night and to leave very early in the morning to avoid traffic. Considering the huge volume of deliveries being made regularly by Sanyoware and Unitedware, delivery trucks with finished products were often times parked in the evening and during Sundays and holidays at the compound of Sanyoware and they usually moved out very early in the morning from Monday to Saturday. Thus, there was nothing extraordinary or irregular for some delivery trucks with stocks at the parking area on the night of May 13, 2001, considering especially that it was a Sunday.

23. Being the operations manager of Sanyoware, I have no fixed time and schedule of work. Even on a Sunday or holiday, I, Wilson Ting[,] sometimes visit the plant. Thus, there was nothing unusual that I, Wilson Ting, went to Sanyoware last May 13, 2001. Due to several incidents of thefts that took place inside the compound of Sanyoware and because of reports that the delivery trucks at the parking lot might contain some items that were not included in the inventory for delivery, I, Wilson Ting, as operations manager, decided to be at Sanyoware on that Sunday (May 13, 2001) principally to check the goods inside the delivery trucks. With the help of security guards Bobby Bacang and Ricky Hista, I, Wilson Ting, checked the goods in all the delivery trucks.

24. Being the President and practically the owner of Unitedware, a marketing area of Sanyoware and the lessee of Sanyoware's warehouse, I, (Edward Yao), visit Sanyoware and Unitedware from time to time.

25. As my (Edward Yao's) mother-in-law asked from me (Edward Yao) some chairs and drawers, I (Edward Yao) drove my Pajero and went to Sanyoware. I (Edward Yao) called up Wilson Ting and informed him that I'll be getting some chairs and drawers from Sanyoware for my mother-in-law. From the plant of Sanyoware, I (Edward Yao) got some chairs and drawers. When said chairs and drawers could not fit in my (Edward Yao) [P]ajero, I (Edward Yao) left to get a van. I (Edward Yao) came back later driving a van where the said chairs and drawers were placed. I (Edward Yao) brought said chairs and drawers to my mother-in-law who selected and got only some items and so, I (Edward Yao) returned to Sanyoware the remaining items. Before I (Edward Yao) left again, Wilson Ting asked me to come back for some chat and so, I (Edward Yao) returned in my [P]ajero. However, after chatting with Wilson Ting, I (Edward Yao) left at around 9:00 o'clock in the evening

of May 13, 2001. Thus, just before the incident when the fire occurred, I (Edward Yao) was not in the compound of Sanyoware.

26. There is no truth, however, to the claim that I (Edward Yao) had entered the warehouse of Unitedware and that I (Edward Yao) got a rectangular shape black object from my vehicle while inside the warehouse for the truth of the matter being that I (Edward Yao) did not enter said warehouse and I (Edward Yao) did not get any object from my vehicle. I (Edward Yao) got the said chairs and drawers from the plant of Sanyoware.

27. There is no truth that the company is suffering losses even before the fire occurred. The loan of Sanyoware with Metrobank is fully secured by a real estate mortgage wherein the value of the real estate, together with the improvements thereon that was mortgaged is more or less double the amount of the said loan and, thus, said real estate value is more than sufficient to cover said loan of Sanyoware. On the other hand, the loan with Equitable Bank is also fully secured by a real estate mortgage.

28. Before the subject incident, Sanyoware was making profits. There was no year that Sanyoware incurred losses. Its business was going every year. Prior to the subject incident, the record of Sanyoware with the banks was quite good.

29. Likewise, prior to the fire, Unitedware was steadily growing. Every year, its profit continued to go up. Last year, Unitedware made a huge profit from its operation and it is expected that, despite the fire that burned the warehouses, Unitedware will still make a good profit this year.

30. Complainant did not conduct any investigation, except to get the statements of its witnesses: Madrideo, Kalaw and Dy. Likewise, the Inter Agency Anti-Arson Task Force did not also conduct any investigation, except in essence to ask the witnesses of complainant to identify under oath their sworn statements executed before the complainant and to ask respondents to submit their sworn statements and later to identify the same under oath.

31. On the other hand, the elements of Bocaue Fire Station and OPFM Bulacan BFP Region 3 Intel and Inves Section conducted a thorough investigation of the origin of the fire. Statements of security guards Bobby A. Bacang and Mark Anthony Gabay were taken. Statement of the operations manager Wilson Ting was also taken. The subject place was inspected. Pictures were taken. Specimens were obtained from the place where fire occurred and submitted to the laboratory for examination. Said elements undertook other activities in line with proper investigation.[16]

After preliminary investigation, then State Prosecutor Carlos C. Pormento issued a Resolution,[17] the dispositive portion of which reads:

WHEREFORE, premises considered, it is respectfully recommended that an information for Destructive Arson be filed against Wilson Ting, Edward Yao, Willy So Tan and Carol Ortega. That the case against Samson Ting be dismissed for lack of sufficient evidence to indict him under the charge.

As to the charge of Accessories against herein three (3) Fire Officers, let that case be remanded to TF-IATF for further investigation.[18]

Pursuant to the foregoing Resolution, an Information[19] for Arson was filed against Wilson Cua Ting, Edward Ngo Yao, Willy So Tan, Carol F. Ortega, John Doe and Peter Doe, of the crime of arson, to wit:

That on or about May 14, 2001, in the Municipality of Bocaue, Province of Bulacan, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating and mutually helping one another, acting in common accord, did then and there, willfully, unlawfully, and feloniously, destroy the warehouses known as Sanyoware Plastic Products Manufacturing Plant and New Unitedware Marketing Corporation, including the stocks of raw materials and finish products, machineries and various equipments by maliciously burning the same for the purpose of concealing or destroying evidence of another

violation of law, and to conceal bankruptcy to defraud creditors and to collect from insurance.

CONTRARY TO LAW.[20]

The Information was raffled to Branch XI, Regional Trial Court (RTC) of Malolos Bulacan, 3[rd] Judicial Region. The case was docketed as Criminal Case No. 300-47M 2002.

Prior to the arraignment of respondents and before warrants of arrest could be issued, respondents filed a Motion to Conduct Hearing to Determine Probable Cause and to Hold in Abeyance the Issuance of Warrant of Arrest Pending Determination of Probable Cause.[21]

On February 27, 2002, the RTC issued an Order[22] dismissing the case, the dispositive portion of which reads:

Accordingly, for lack of probable cause, the instant case is DISMISSED as ordained under Sec. 6, Rule 112 of the Revised Rules of Criminal Procedure.

SO ORDERED.[23]

The RTC applied the equipoise rule in dismissing the case, because of its observation that the sworn statements submitted by petitioner and respondents contained contradictory positions.

Aggrieved, petitioner filed a Motion for Reconsideration,[24] which was, however, denied by the RTC in an Order[25] dated March 25, 2002.

On August 8, 2002, petitioner filed a petition for certiorari before the CA docketed as CA-G.R. SP No. 71985. On July 24, 2003, the CA issued a Decision denying the petition, the dispositive portion of which reads:

WHEREFORE, premises considered, there being no grave abuse of discretion committed by the public respondent, the assailed Orders dated February 27, 2002 and March 25, 2002 are hereby AFFIRMED in toto and the present petition is hereby DENIED DUE COURSE and is, accordingly, DISMISSED for lack of merit.

SO ORDERED.[26]

Petitioner then filed a Motion for Reconsideration, which was, however, denied by the CA in a Resolution[27] dated October 3, 2003.

Hence, this instant petition, with petitioner raising the following ground for this Court's consideration, to wit:

THE COURT OF APPEALS PATENTLY AND GROSSLY ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ADOPTING THE EQUIPOISE RULE IN THE CASE AT BAR.[28]

Before anything else, this Court shall address a procedural issue raised by respondents that certiorari does not lie considering that such special civil action is not and cannot be a substitute for an appeal, or more importantly, a lapsed appeal.[29]

Respondents' position is well taken.

It is well settled that a special civil action for certiorari under Rule 65 of the Rules of Court lies only when, "there is no appeal nor plain, speedy and adequate remedy in the ordinary course of law," and certiorari cannot be allowed when a party to a case fails to appeal a judgment despite the availability of that remedy, certiorari not being a substitute for a lost appeal.[30]

A perusal of the records will show that petitioner received the assailed CA Resolution on October 10, 2003. From that time on, petitioner had 15 days, or until October 25, 2003, to file an appeal by way of a petition for review

under Rule 45 of the Rules of Court. However, instead of filing the appeal on the last day of reglementary period, petitioner simply allowed it to lapse. Clearly, petitioner had an appeal, which under the circumstances was the adequate remedy in the ordinary course of law. On this point alone, petitioner's petition must be dismissed, as herein petition is without a doubt a substitute for a lost appeal. In any case, even if this Court were to set aside the procedural infirmity of the petition, the same still fails on the merits.

In a petition for certiorari, the court must confine itself to the issue of whether or not respondent court lacked or exceeded its jurisdiction or committed grave abuse of discretion.[31]

It is well to remember that there is a distinction between the preliminary inquiry, which determines probable cause for the issuance of a warrant of arrest, and the preliminary investigation proper, which ascertains whether the offender should be held for trial or be released. The determination of probable cause for purposes of issuing a warrant of arrest is made by the judge. The preliminary investigation proper - whether or not there is reasonable ground to believe that the accused is guilty of the offense charged - is the function of the investigating prosecutor.[32]

Section 6, Rule 112 of the Revised Rules of Court provides:

SEC 6. When warrant of arrest may issue. -

x x x x

(a) By the Regional Trial Court. - Within (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order of the accused had already been arrested, pursuant to a warrant issued by the judge who conducted preliminary investigation or when the complaint or information was filed pursuant to Section 7 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information.[33]

As enunciated in *Baltazar v. People*,[34] the task of the presiding judge when the Information is filed with the court is first and foremost to determine the existence or non-existence of probable cause for the arrest of the accused. Probable cause is such set of facts and circumstances as would lead a reasonably discreet and prudent man to believe that the offense charged in the Information, or any offense included therein, has been committed by the person sought to be arrested. In determining probable cause, the average man weighs the facts and circumstances without resorting to the calibrations of the rules of evidence of which he has no technical knowledge. He relies on common sense. A finding of probable cause needs only to rest on evidence showing that, more likely than not, a crime has been committed and that it was committed by the accused. Probable cause demands more than suspicion; it requires less than evidence that would justify conviction.[35] The purpose of the mandate of the judge to first determine probable cause for the arrest of the accused is to insulate from the very start those falsely charged with crimes from the tribulations, expenses and anxiety of a public trial.[36]

Based on the foregoing, the RTC acted within its jurisdiction when it dismissed the case on lack of probable cause as the same is sanctioned under Section 6, Rule 112 of the Rules of Court. The penultimate question to be resolved then is was such exercise of jurisdiction attended by grave abuse of discretion?

Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or in other words where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[37]

Petitioner's main argument hinges on the propriety of the RTC's use of the equipoise rule in dismissing the case which was affirmed by the CA. Specifically, petitioner contends that the equipoise rule cannot be used by the RTC merely after the filing of the information, thus:

Since there must be a proper determination of the presence or absence of evidence sufficient to support a conviction, i.e., proof beyond reasonable doubt, the equipoise rule shall properly come into play when the parties have already concluded the presentation of their respective evidence. It is only at this stage, not at any prior time and certainly not merely after the filing of the information, can the trial court assess and weigh the evidence of the parties and thereafter determine which party has the preponderance of evidence. If both parties fail to adduce evidence in support of their respective cases, an adverse decision would be rendered against the party which has the burden of proof.[38]

Under the equipoise rule, where the evidence on an issue of fact is in equipoise, or there is doubt on which side the evidence preponderates, the party having the burden of proof loses. The equipoise rule finds application if the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, for then the evidence does not suffice to produce a conviction.[39]

To this Court's mind, the reliance of the RTC in the equipoise rule is misplaced as a review of previous Court decisions would show that the position of petitioner is in fact correct. The equipoise rule has been generally applied when the parties have already concluded the presentation of their respective evidence as shown in a plethora of cases such as *Abarquez v. People*,[40] *Tin v. People*[41] and *People v. Leano*. [42]

While the use of the equipoise rule was not proper under the circumstances of the case at bar, the same, however, does not equate to an abuse of discretion on the part of the RTC, but at most, merely an error of judgment. More importantly, this Court finds that the RTC had in fact complied with the requirement under the rules of personally evaluating the resolution of the prosecutor and its supporting evidence and that the assailed Order was arrived at after due consideration of the merits thereto, thus:

By this statement of Madrideo, it would appear fire broke out in two (2) places, which, presupposes or implies that some sort of incendiary or flammable substances were ignited to start the fire. The investigation conducted by the Bocaue Fire Station, however, appears to have ruled out the use of incendiary or inflammable substances. Annex "E" of the Complaint, Chemistry Report No. C-054-2001 of the Bulacan Provincial Crime Laboratory Office indicated that the specimen submitted by the Bocaue Fire Station in connection with the fire in question was found negative of any flammable substance. This finding was never debunked or repudiated, which makes the misgivings of the police investigators about its veracity unfounded. Thus, pitted against the allegation of Madrideo, this physical evidence puts the truth of the latter in grave doubt. Physical evidence is evidence of the highest order. It speaks more eloquently than a hundred witnesses (*People vs. Sacabin*, 57 SCRA 707). Physical evidence are mute but eloquent manifestations of truth and they rate high in our hierarchy of trustworthy evidence (*People vs. Uycoque*, 124 SCRA 769).

At this stage, it must be stressed that the Fire Investigation Report prepared by the Bocaue Fire Station (Annex "D") and the Certification made by the Provincial Fire Marshall, Absalon Zipagan, point to the faulty wiring as the cause or origin (sic) of the conflagration at bar. The Office the Regional Fire Marshall also came out with the same findings. (Annexes "B" and "C") All the above reports and investigation stand as the official report of the fire in question. Contrary to the Resolution, we find nothing in the respective sworn statements of Supt. Absalon Zipagan, Sr. Supt. Enrique Linsangan and Insp. Allan Barredo that deviated much less repudiated the aforesaid reports and findings. Far from impugning their own investigation, the three (3) fire officials simply narrated the steps that were taken at the provincial and regional levels in the investigation of the Sanyo fire. Needless to state, the investigation reports and findings carry the presumption that official duty has been regularly performed. A mere affidavit cannot overcome this presumption. (*Transport Corporation vs. CA*, 241

SCRA 77) Government officials are presumed to perform their functions with regularity and strong evidence is necessary to rebut this presumption. (Tata vs. Garcia, Jr., 243 SCRA 235)

The significance of the above reports and findings cannot be overlooked. Note that F/CINSP. Absalon Zipagan, F/Insp. Allan Barredo and SPO1 Valeriano Dizon, Jr. were included as accessories in the complaint by the DILG, Inter Agency Anti-Arson Task Force but the State Prosecutor did not rule on their liability, which thus enhances all the more the probative value of the said reports and findings.

This Court, likewise, noted that although the Inter Agency Anti Arson Task Force was quick to rule out faulty electrical wiring, it did not arrive at a definite theory how the fire started, leaving everything hanging in mid-air.

This Court is also hard put to make out a case from the actuations of some of the accused before, during and after the fire. For one, the presence of Wilson Ting and Edward Yao in the Sanyo premises before the fire is not criminal per se. Both apparently have their own explanations, and following the equipoise rule as elucidated above, no adverse implications can be inferred therefrom. So are with the alleged utterances made by the accused during and after the fire, having been said in the midst of tenseful happening these can be attributed to their desperation over the loss of some of their properties. And, consistent with the equipoise rule, if ever said statements were uttered at all, they cannot serve as evidence against the accused for the offense charged.[43]

The conclusions of the RTC which led to the dismissal of the information against respondents cannot, in any sense, be characterized as outrageously wrong or manifestly mistaken, or whimsically or capriciously arrived at. The worst that may perhaps be said of it is that it is fairly debatable, and may even be possibly erroneous. But they cannot be declared to have been made with grave abuse of discretion.[44]

Based on Section 6, Rule 112 of the Rules of Court, the RTC judge, upon the filing of an Information, has the following options: (1) dismiss the case if the evidence on record clearly failed to establish probable cause; (2) if he or she finds probable cause, issue a warrant of arrest; and (3) in case of doubt as to the existence of probable cause, order the prosecutor to present additional evidence within five days from notice, the issue to be resolved by the court within thirty days from the filing of the information.[45]

The judge is required to personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause.[46] To this Court's mind, the RTC had complied with its duty of personally evaluating the supporting evidence of the prosecution before arriving at its decision of dismissing the case against respondents.

While petitioner mainly argues against the use of the equipoise rule, it cannot escape this Court's attention that ultimately petitioner is asking this Court to resolve the propriety of the dismissal of the case by the RTC, on the basis of the Information and the attached documents it had filed. This Court however, will defer to the findings of fact of the RTC, which are accorded great weight and respect, more so because the same were affirmed by the CA. In addition, it bears to stress that the instant case is a petition for certiorari where questions of fact are not entertained.[47]

The sole office of writ of certiorari is the correction of errors of jurisdiction, including the commission of grave abuse of discretion amounting to lack of jurisdiction and does not include correction of public respondent's evaluation of the evidence and factual findings based thereon.[48] An error of judgment that the court may commit in the exercise of its jurisdiction is not correctible through the original special civil action of certiorari.[49]

In any case, the dismissal of herein petition does not preclude petitioner from availing of any other action it deems

appropriate under the premises. Double jeopardy cannot be invoked where the accused has not been arraigned and it was upon his express motion that the case was dismissed.[50] Moreover, while the absence of probable cause for the issuance of a warrant of arrest is a ground for the dismissal of the case, the same does not result in the acquittal of the said accused.[51]

WHEREFORE, premises considered, the petition is DISMISSED. The July 24, 2003 Decision and October 3, 2003 Resolution of the Court of Appeals, in CA-G.R. SP No. 71985, are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ., concur,

[1] Rollo, pp. 8-37.

[2] Penned by Associate Justice B.A. Adefuin-de la Cruz, with Associate Justices Jose L. Sabio, Jr. and Hakim S. Abdulwahid, concurring; id. at 40-50.

[3] Id. at 51.

[4] Rollo, pp. 117- 119.

[5] Id. at 120.

[6] Id. at 121-123.

[7] Id. at 124-125.

[8] Id. at 128.

[9] Id. at 129-132.

[10] Id. at 133-134.

[11] Id. at 135-137.

[12] Id. at 138.

[13] Id. at 139-142.

[14] Id. at 143-144.

[15] Id. at 145-154.

[16] Id. at 147-152.

[17] Id. at 155-161.

[18] Id. at 160.

[19] Id. at 162-163.

[20] Id.

[21] Id. at 164-171.

[22] CA rollo, pp. 43-47.

[23] *Id.* at 47.

[24] *Id.* at 177-191.

[25] *Id.* at 58.

[26] *Id.* at 49-50.

[27] *Id.* at 51.

[28] *Id.* at 29.

[29] *Id.* at 472.

[30] *Bernardo v. Court of Appeals*, G.R. No. 106153, July 14, 1997, 275 SCRA 413, 426. (Underscoring supplied.)

[31] *San Pedro v. Court of Appeals*, G.R. No. 114300, August 4, 1994, 235 SCRA 145, 150.

[32] *AAA v. Carbonell*, G.R. No. 171465, June 8, 2007, 524 SCRA 496, 509, citing *People v. Inting*, 187 SCRA 788, 792-793 (1990).

[33] (Emphasis and underscoring supplied).

[34] G.R. No. 174016, July 28, 2008, 560 SCRA 278, 293-294.

[35] *Id.*, citing *People v. Aruta*, 351 Phil. 868, 880 (1998).

[36] *Id.* at 294, citing *Okabe v. Gutierrez*, 429 SCRA 685, 706 (2004).

[37] Revised Rules of Civil Procedure, Rule 65, Sec. 1. See also *Angara v. Fedman Development Corporation*, 483 Phil. 495, 505 (2004).

[38] *Rollo*, pp. 30-31. (Italics in the Original).

[39] *Tin v. People*, 415 Phil. 1, 11 (2001).

[40] G.R. No. 150762, January 20, 2006, 479 SCRA 225.

[41] *Supra* note 39.

[42] 419 Phil. 241 (2001).

[43] *Rollo*, pp. 55-56.

[44] *Busmente v. NLRC*, G.R. No. 73647, April 8, 1991, 195 SCRA 710, 714.

[45] *In Re: Mino v. Navarro*, A.M. No. MTJ-06-1645, August 28, 2007, 531 SCRA 271, 279.

[46] *Concerned Citizen of Maddela v. Dela Torre-Yadao*, 441 Phil. 480, 489 (2002).

[47] *Premiere Development Bank v. National Labor Relations Commission*, G.R. No. 114695, July 23, 1998, 293 SCRA 49, 60.

[48] *Building Care Corporation v. National Labor Relations Commission*, 335 Phil. 1131, 1139 (1997).

[49] *Jamer v. National Labor Relations Commission*, 344 Phil. 181, 197 (1997).

[50] *People v. Monteiro*, G.R. No. 49454, December 21, 1990, 192 SCRA 548, 553.

[51] See *People v. Sandiganbayan*, 482 Phil. 613, 632 (2004).

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