SUMMERVILLE GENERAL MERCHANDISING & CO., INC., PETITIONER, VS. HON. ANTONIO M. EUGENIO, JR., IN HIS CAPACITY AS PRESIDING JUDGE OF RTC-MANILA, BR. 24, AND ELIDAD KHO, VIOLETA KH...

G.R. NO. 163741. August 07, 2007

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

This is a Petition for Review on Certiorari[1] under Rule 45 which seeks to reverse and set aside the May 26, 2004 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 77180, which upheld the October 24, 2001,[3] August 21, 2002,[4] and April 2, 2003[5] Orders of the Manila Regional Trial Court (RTC), Branch 24.

The instant petition originated from a complaint for unfair competition filed by petitioner against private respondents Elidad Kho, Violeta Kho, and Roger Kho, before the City Prosecutor's Office of Manila. After due investigation, the City Prosecutor's Office of Manila came out with its May 31, 2000 Resolution recommending the prosecution of private respondents for unfair competition and dismissing private respondents' counterclaim against petitioner. Pursuant to the Resolution, an Information[6] for unfair competition was filed against private respondents Khos before the Manila RTC, Branch 24, which was docketed as Crim. Case No. 00-183261. The charge as contained in the Information is hereby reproduced as follows:

> That on or about January 10, 2000 and for sometime prior and subsequent thereto, in the City of Manila, Philippines, the said accused, conspiring and confederating together and helping one another, then engaged in a business known as KEC Cosmetic Laboratory, located at 2407 Topacio Street and 2412 Raymundo Street, San Andres, this City, in an unfair competition, and for the purpose of deceiving/defrauding the public in general and the Summerville General Merchandising and Co. (Summerville) which is engaged, among others, in the importation and distribution of facial cream products with the trademark known as Chin Chun Su, herein represented by VICTOR CHUA, its General Manager, did then and there willfully, unlawfully, knowingly and jointly sell/dispose and/or cause to be sold/disposed to the public facial cream products using tools, implements and equipments in its production, labeling and distribution, which give and depict the general appearance of the Chin Chun Su facial cream products and likely influence the purchasers to believe that the same are those of the said Summerville.
>
> CONTRARY TO LAW.[7]

Arraignment was scheduled for July 13, 2000; however, on June 22 of the same year, private respondents filed a petition for review with the Department of Justice (DOJ), assailing the May 31, 2000 Resolution of the City Prosecutor's Office of Manila.

On August 17, 2000 the DOJ through Undersecretary Regis V. Puno issued a Resolution[8] affirming the May 31, 2000 Resolution of the City Prosecutor.

Upon a motion for reconsideration filed by private respondents, then DOJ Secretary Hernando Perez issued his

June 18, 2001 Resolution which recalled and set aside the August 17, 2000 Resolution of Undersecretary Puno, but without however issuing a ruling on the propriety of the complaint and merely indicated that the case would be further reviewed and the corresponding resolution would be issued.[9]

The arraignment pushed through on October 11, 2000. Since the accused refused to plea to the charge, a plea of not guilty was entered for each of them. In the meantime, pending the resolution of the petition for review, private respondents filed a motion to suspend proceedings, but it was denied in the July 18, 2001 Order of the trial court.

On September 28, 2001, the DOJ issued a Resolution[10] dismissing both the complaint filed by petitioner and the counterclaim filed by private respondents. Feeling aggrieved, petitioner immediately filed a motion for reconsideration of the Secretary's ruling.

On October 23, 2001, the prosecution filed with the trial court a Motion to Withdraw Information[11] on the basis of the September 28, 2001 Resolution issued by Secretary Perez. The next day, the RTC issued the first assailed Order, dated October 24, 2001. The pertinent portion of the Order reads as follows:

> Acting on the Motion to Withdraw Information filed by the trial prosecutor dated October 22, 2001, and for the reason therein cited the motion is hereby granted.
>
> The Information against the accused is hereby ordered withdrawn.
>
> This order likewise renders the Motion to Dismiss filed by the accused through counsel dated October 9, 2001, moot and academic.
>
> SO ORDERED.[12]

On November 23, 2001 petitioner filed its Motion for Reconsideration of the October 24, 2001 Order.

On June 6, 2002, the trial court issued an Order[13] holding in abeyance all pending incidents to await the final resolution of the motion filed before the DOJ. Private respondents Khos filed a Motion for Reconsideration, arguing that the trial court has all the facts necessary to resolve the pending incidents.

On July 31, 2002, the Khos filed a supplemental motion insisting that the case be dismissed on the ground of double jeopardy.

On August 21, 2002, the trial court issued the second assailed Order,[14] holding that due to its Order withdrawing the Information, there is no necessity to order the dismissal of the case. The re-filing of the Information would constitute double jeopardy.[15]

Petitioner then filed a Motion for Reconsideration of the August 21, 2002 Order.

On September 17, 2002, the DOJ, through Secretary Perez, issued a Resolution[16] granting the Motion for Reconsideration filed by petitioner and ordered the Office of the City Prosecutor of Manila to file the appropriate Information for Unfair Competition. Private respondents Khos then filed a Motion for Reconsideration with the Office of the Secretary of Justice. Petitioner on the other hand filed a manifestation before the trial court informing it of the recent development with a prayer to reinstate the case.

On April 2, 2003, the trial court issued its last assailed Order[17] holding that the "revival of the case is now barred by the impregnable wall of double jeopardy."[18]

On July 17, 2003, then Secretary of Justice Simeon Datumanong finally disposed of the petition for review by denying the Motion for Reconsideration filed by private respondents Khos.

Petitioner then filed a Petition for Certiorari and Mandamus with the CA which sought to annul the October 24,

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2001, August 21, 2002, and April 2, 2003 Orders issued by the Manila RTC. In its May 26, 2004 Decision, the CA held that double jeopardy had set in and that Judge Eugenio cannot be faulted for dismissing the case. The CA ratiocinated that:

> This is because once a complaint or information has been filed in court, any disposition of the case rests in the sound discretion of the court (Mamburao v. Ombudsman, G.R. Nos. 139141-42, Nov. 15, 2000), and the said undulating stance of the prosecution was reason enough to grant its withdrawal without the judge having to divine and weigh the probable evidence of both the prosecution and the defense.[19]

Finding that no grave abuse of discretion was committed by the trial court, the CA, in its May 26, 2004 Decision, denied due course and dismissed the petition.[20]

Petitioner now comes before this Court assailing the Decision of the CA on the following grounds:

> - The [CA] erred in not finding that respondent judge committed grave abuse of discretion in proceeding with the arraignment despite the fact that the petition for review is still pending with the DOJ.
>
> - The [CA] gravely erred in not finding that the respondent judge gravely abused his discretion in allowing the withdrawal of the information without making an independent assessment of the evidence.
>
> - The [CA] failed to apply the doctrine laid down by the Hon. Supreme Court in Martinez versus Court of Appeals, G.R. No. 112387, promulgated October 12, 1994 in consonance with another doctrinal ruling in Crespo v. Mogul (151 SCRA 462), by not finding that the trial court gravely abused its jurisdiction amounting to lack of jurisdiction in allowing the withdrawal of the Information in Crim. Case No. 00-183261 and in disregarding the latest Resolution of the DOJ directing the continuation of the prosecution of the Respondents for Unfair Competition.
>
> - The [CA] seriously erred in law in ruling that the reinstatement of the Information in Crim. Case No. 00-183261 pursuant to the DOJ Resolution directing the continued prosecution of the respondents for Unfair Competition will constitute double jeopardy.[21]

The issues submitted for our resolution can be summarized into (1) whether Judge Eugenio committed grave abuse of discretion in allowing the withdrawal of the Information against the accused without making an independent assessment of the evidence, contrary to established jurisprudence; and (2) whether the re-filing or the reinstatement of the Information would constitute double jeopardy.

The petition has merit.

We have ruled time and again that once a case is filed with the court, any disposition of it rests on the sound discretion of the court. This rule, however, is not without restrictions. We held in Santos v. Orda, Jr. that:

> [T]he trial court is not bound to adopt the resolution of the Secretary of Justice since it is mandated to independently evaluate or assess the merits of the case and it may either agree or disagree with the recommendation of the Secretary of Justice. Reliance alone on the resolution of the Secretary of Justice would be an abdication of the trial court's duty and jurisdiction to determine a prima facie case.[22]

Thus, the courts should not blindly follow the resolutions issued by the DOJ. On the contrary, it should determine on its own whether there is probable cause to hold the accused for trial.

In this case, it can be readily seen from the October 24, 2001 Order of Judge Eugenio, granting the withdrawal of the Information, that the trial court glaringly failed to conduct its own determination of a prima facie case, and simply adopted the September 28, 2001 Resolution issued by the Secretary of Justice. Where the prosecution is, as in this case, disappointingly unsure, irresolute, and uncertain on whether it should prosecute the accused, the court

should have been most circumspect and judicious in the resolution of the Motion to Withdraw Information, and should have conducted its own determination whether or not there is probable cause to hold the accused for trial.

This failure of Judge Eugenio to independently evaluate and assess the merits of the case against the accused violates the complainant's right to due process and constitutes grave abuse of discretion amounting to excess of jurisdiction. And, all other acts which trace their roots from this act committed in excess of his jurisdiction, including the assailed Orders, lose their standing and produce no effect whatsoever. Thus, it is only but proper for this Court to remand the case to the trial court to rule on the merits of the case to determine if a prima facie case exists and consequently resolve the Motion to Withdraw Information anew.

On the issue of double jeopardy, we hold that it does not bar the reinstatement of the Information.

The right against double jeopardy is contained in Sec. 21, Art. III of the Constitution, which reads: "No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act."

For double jeopardy to set in, the following requisites must concur: (1) there is a valid complaint or information; (2) the complaint should be filed before a court of competent jurisdiction; (3) the accused has pleaded to the charge; and (4) the accused has been convicted, acquitted, or the case has been dismissed or terminated without the express consent of the accused.[23]

Since we have held that the October 24, 2001 Order granting the withdrawal of the Information was committed with grave abuse of discretion, then the accused was not acquitted nor was there a valid and legal dismissal or termination of the case. Ergo, the fourth requisite on the conviction and acquittal of the accused in the dismissal of the case, without the approval of the accused, was not met. Thus, double jeopardy has not set in.

WHEREFORE, the petition is hereby GIVEN DUE COURSE, and the assailed May 26, 2004 Decision of the CA and the October 24, 2001, August 21, 2002, and April 2, 2003 Orders of the Manila RTC are hereby SET ASIDE and ANNULLED. The case is REMANDED to the Manila RTC, Branch 24 to independently evaluate or assess the merits of the case to determine whether or not probable cause exists to hold the accused for trial.

No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio Morales, and Tinga, JJ., concur.

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[1] Rollo, pp. 9-40.

[2] Id. at 46-55. The Decision was penned by Associate Justice Roberto A. Barrios and concurred in by Associate Justices Regalado E. Maambong and Vicente Q. Roxas.

[3] Id. at 138.

[4] Id. at 164-165.

[5] Id. at 189.

[6] Id. at 77-78.

[7] Id. at 77.

[8] Id. at 79-85.

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[9] Id. at 86-87.

[10] Id. at 88-96.

[11] Id. at 137.

[12] Supra note 3.

[13] Rollo, p. 148.

[14] Supra note 4.

[15] Rollo, p. 165.

[16] Id. at 149-156.

[17] Supra note 5.

[18] Rollo, p. 189.

[19] Id. at 53-54.

[20] Id. at 54.

[21] Id. at 19.

[22] G.R. No. 158236, September 1, 2004, 437 SCRA 504, 516.

[23] Philippine Savings Bank v. Bermoy, G.R. No. 151912, September 26, 2005, 471 SCRA 94, 105.

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