

**WILSON CHUA, RENITA CHUA, THE SECRETARY OF JUSTICE AND
THE CITY PROSECUTOR OF LUCENA CITY, PETITIONERS, VS.
RODRIGO PADILLO AND MARIETTA PADILLO, RESPONDENTS.**

G.R. No. 163797. April 24, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on Certiorari assailing the Amended Decision[1] of the Court of Appeals dated May 15, 2003 reversing its Decision[2] dated January 24, 2001 in CA-G.R. SP No. 62401, entitled "Rodrigo Padillo and Marietta Padillo, Complainants-Petitioners, versus The Secretary of Justice, et al., Respondents."

The facts as found by the Court of Appeals are:

Rodrigo Padillo and Marietta Padillo, respondents, are the owners of Padillo Lending Investor engaged in the money lending business in Lucena City. Their niece, Marissa Padillo-Chua, served as the firm's manager. Marissa is married to Wilson Chua, brother of Renita Chua, herein petitioners.

One of Marissa's functions was to evaluate and recommend loan applications for approval by respondents. Once a loan application had been approved, respondents would authorize the release of a check signed by them or their authorized signatory, a certain Mila Manalo.

Sometime in September 1999, a post-audit was conducted. It was found that Marissa was engaged in illegal activities. Some of the borrowers whose loan applications she recommended for approval were fictitious and their signatures on the checks were spurious. Marissa's modus operandi was to alter the name of the payee appearing on the check by adding another name as an alternative payee. This alternative payee would then personally encash the check with the drawee bank. The cash amounts received were turned over to Marissa or her husband Wilson for deposit in their personal accounts. To facilitate encashment, Marissa would sign the check to signify to the bank that she personally knew the alternative payee. The alternative payees included employees of Wilson or his friends. The total amount embezzled reached P7 million.

Respondents filed complaints against petitioners and several others with the National Bureau of Investigation (NBI) in Lucena City. In turn, the NBI forwarded their complaints to the Office of the City Prosecutor, same city, for preliminary investigation, docketed as I.S. Nos. 98-1487, 98-1621, 98-1629, and 98-1605.

In a Resolution dated March 18, 1999, Lucena City Prosecutor Romeo A. Datu (now retired), disposed of the complaints as follows:

WHEREFORE, after preliminary investigation, finding sufficient evidence to warrant a finding of a prima facie case of Estafa Thru Falsification of Commercial Documents, let an Information be filed against Marissa Padillo-Chua, Wilson Chua, Renita Chua, and several John Does, the same to be filed with the Regional Trial Court.

The case against the other respondents, namely, Perla Correa, Giovanni Guia, Emmanuel Garcia, Zenaida Nantes, Cherrylyn Mendoza, Rosalie Mazo, Fernando Loreto, Cesar Salamat, Antonio Bana, Isidro Manalo, Jr., Ramon Villanueva, Alexander Asiado, Peter Tan, Jun Tan, Flaviano Evaso, Edgar Sebastian, Crisencio Asi, Roberto Ong and Gregorio Flancia is provisionally dismissed.

Forthwith, the City Prosecutor filed an Information for estafa against Marissa, Wilson, and Renita with the Regional Trial Court of Lucena City, docketed therein as Criminal Cse No. 99-182. It was raffled of to Branch 59.

Believing that a more serious offense should have been charged against petitioners, respondents interposed an appeal to the Secretary of Justice who issued a Resolution dated January 3, 2000, the dispositive portion of which reads:

WHEREFORE, the appealed resolution is modified. The City Prosecution Office of Lucena City is hereby directed to file the Information of the complex crime of estafa through falsification of commercial documents defined and penalized under Article 315 par. 1(b) in relation to Articles 171 and 172 (58 counts) against respondent Marissa Padillo-Chua and to cause the withdrawal of the Information of estafa through falsification of commercial documents against respondents Wilson Chua and Renita Chua. Report to us the action taken within ten (10) days from receipt hereof.

The Secretary of Justice found that the participation of Wilson Chua in the commission of the crime was not clearly established by the evidence. There was no showing that he abused the trust and confidence of respondents when two (2) of the questioned checks were deposited in his bank account. As to Renita Chua, the Secretary of Justice found no proof of conspiracy between her and Marissa.

Respondents filed a motion for reconsideration, but it was denied with finality by the Secretary of Justice on November 6, 2000.

Respondents then filed a Petition for Certiorari with the Court of Appeals, docketed as CA-G.R. SP No. 62401. They alleged that in issuing the Resolution dated January 3, 2000 directing the Prosecutor's Office of Lucena City to file the corresponding Information only against Marissa, the Secretary of Justice committed grave abuse of discretion. They prayed that the Court of Appeals order the Lucena City Prosecutor to withdraw the Information in Criminal Case No. 99-182 and instead, file several Informations against petitioners.

On January 24, 2001, the Court of Appeals rendered its Decision dismissing the petition, holding that there was no conspiracy among the petitioners.

Respondents seasonably filed a motion for reconsideration. Revisiting its Decision, the Court of Appeals, on May 15, 2003, promulgated its Amended Decision granting respondents' motion, thus:

WHEREFORE, the Motion for Reconsideration is hereby GRANTED. ACCORDINGLY, the Court orders the DOJ, City Prosecutor, Lucena City to include Wilson Chua and Renita Chua as accused in the said case.

SO ORDERED.

In reversing itself, the Court of Appeals found that it overlooked certain facts and circumstances which, if considered, would establish probable cause against Wilson and Renita. The Court of Appeals identified these facts to be: (1) Marissa's consistent practice of depositing checks with altered names of payees to the respective accounts of Wilson Chua and Renita Chua; (2) considering that Wilson and Marissa are husband and wife, it can be inferred that one knows the transactions of the other; and (3) Wilson had full knowledge of the unlawful activities of Marissa. This is supported by the affidavit of Ernesto Alcantara dated November 26, 1998.

Wilson Chua and Renita Chua filed their motion for reconsideration of the Amended Decision, but the Court of

Appeals denied the same on May 28, 2004.

Hence, the instant petition. Petitioners contend that the Court of Appeals erred in compelling the Secretary of Justice to include in the Information Wilson and Renita.

Section 5, Rule 110 of the 200 Rules of Criminal Procedure, as amended, partly provides that "All criminal actions either commenced by a complaint or information shall be prosecuted under the direction and control of a public prosecutor." The rationale for this rule is that since a criminal offense is an outrage to the sovereignty of the State, it necessarily follows that a representative of the State shall direct and control the prosecution thereof.[3] In *Suarez v. Platon*,^[4] this Court described the prosecuting officer as:

[T]he representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense a servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer.

Having been vested by law with the control of the prosecution of criminal cases, the public prosecutor, in the exercise of his functions, has the power and discretion to: (a) determine whether a prima facie case exists;^[5] (b) decide which of the conflicting testimonies should be believed free from the interference or control of the offended party;^[6] and (c) subject only to the right against self-incrimination, determine which witnesses to present in court.^[7] Given his discretionary powers, a public prosecutor cannot be compelled to file an Information where he is not convinced that the evidence before him would warrant the filing of an action in court. For while he is bound by his oath of office to prosecute persons who, according to complainant's evidence, are shown to be guilty of a crime, he is likewise duty-bound to protect innocent persons from groundless, false, or malicious prosecution.^[8]

We must stress, however, that the public prosecutor's exercise of his discretionary powers is not absolute.

First, the resolution of the investigating prosecutor is subject to appeal to the Secretary of Justice who, under the Administrative Code of 1987, as amended, exercises control and supervision over the investigating prosecutor. Thus, the Secretary of Justice may affirm, nullify, reverse, or modify the ruling of said prosecutor." In special cases, the public prosecutor's decision may even be reversed or modified by the Office of the President.^[9]

Second, the Court of Appeals may review the resolution of the Secretary of Justice on a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended, on the ground that he committed grave abuse of discretion amounting to excess or lack of jurisdiction.^[10]

Here, we note that the Court of Appeals, on motion for reconsideration by respondents, ruled that the Secretary of Justice committed grave abuse of discretion in resolving that only Marissa should be charged.

We agree.

Grave abuse of discretion implies a capricious and whimsical exercise of judgment that is equivalent to lack of jurisdiction.^[11] We have carefully examined the Resolution of the Secretary of Justice dated January 3, 2000 wherein he ruled that there was no probable cause to hold Wilson Chua and Renita Chua for estafa through falsification of commercial documents. As found by the Court of Appeals, the Secretary of Justice either overlooked or patently ignored the following circumstances: (1) Marissa's practice of depositing checks, with altered names of payees, in the respective accounts of Wilson and Renita Chua; (2) the fact that Wilson and Marissa are husband and wife makes it difficult to believe that one has no idea of the transactions entered into by the other; and (3) the affidavit of Ernesto Alcantara dated November 26, 1998 confirming that Wilson had knowledge of Marissa's illegal activities.

Indeed, as we ruled in *Sanchez v. Demetriou*,^[12] not even the Supreme Court can order the prosecution of a person against whom the prosecutor does not find sufficient evidence to support at least a prima facie case. The only possible exception to this rule is where there is an unmistakable showing of grave abuse of discretion on the part of the prosecutor, as in this case.

Verily, the Court of Appeals did not err in directing the City Prosecutor of Lucena City to include Wilson and Renita Chua in the Information for the complex crime of estafa through falsification of commercial documents.

WHEREFORE, we DENY the petition and AFFIRM the Amended Decision of the Court of Appeals in CA-G.R. SP No. 62401. Costs against petitioner.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

[1] Penned by Associate Justice Eloy R. Bello, Jr., and concurred in by Associate Justice Eugenio S. Labitoria and Associate Justice Perlita J. Tria-Tirona (all retired).

[2] Rollo, pp. 58-64.

[3] *Tan, Jr. v. Gallardo*, G.R. Nos. 41213-14, October 5, 1976, 73 SCRA 306, 310.

[4] 80 Phil. 556 (1940).

[5] *Zulueta v. Nicolas*, 102 Phil. 944 (1958).

[6] *People v. Liggayu*, 97 Phil. 865 (1955); *Talunan v. Ofiana*, G.R. No. 31028, June 29, 1972, 45 SCRA 467.

[7] *People v. Sariol*, G.R. No. 83809, June 22, 1989, 174 SCRA 237; *People v. Nabunat*, G.R. No. 84392, February 7, 1990, 182 SCRA 52; *People v. Cariño*, G.R. Nos. 92144-49, December 18, 1992, 216 SCRA 702.

[8] *Vda. de Bagatua v. Revilla and Lombos*, 104 Phil. 392 (1958).

[9] *Public Utilities Department of Olongapo City v. Guigona, Jr.*, 417 Phil. 798 (2001).

[10] Sec. 4, Rule 112, 2000 Rules of Criminal Procedure; *Vda. de Jacob v. Puno*, G.R. Nos. 61554-55, July 31, 1984, 131 SCRA 144; *Crespo v. Mogul*, G.R. No. 53373, June 30, 1987, 151 SCRA 462.

[11] *Samson v. Office of the Ombudsman*, G.R. No. 117741, September 29, 2004, 49 SCRA 315.

[12] G.R. Nos. 11171-77, November 9, 1983, 227 SCRA 627.

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