

JOSE ANTONIO U. GONZALEZ, PETITIONER, VS. HONGKONG & SHANGHAI BANKING CORPORATION, RESPONDENT.*G.R. NO. 164904. October 19, 2007*

Ponente: CHICO-NAZARIO, J.

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In this petition for review on certiorari[1] under Rule 45 of the Rules of Court, as amended, petitioner Jose Antonio U. Gonzalez (Gonzalez) seeks; 1) the reversal of the 13 January 2004 Decision,[2] and 6 August 2004 Resolution,[3] both of the Court of Appeals in CA-G.R. SP No. 75469; and 2) the dismissal of the complaint[4] for violation of Presidential Decree No. 115, otherwise known as the “Trust Receipts Law,” in relation to Article 315(1)(b) of the Revised Penal Code, filed by respondent Hongkong & Shanghai Banking Corporation (HSBC) against him before the City Prosecutor of Makati and docketed as I.S. No. 00-G-24734-35.

The Court of Appeals, in its assailed decision and resolution, found no grave abuse of discretion on the part of the Secretary and the succeeding Acting Secretary, both of the Department of Justice (DOJ), in their denial of petitioner Gonzalez’s petition for review and motion for reconsideration, respectively. Consequently, the appellate court affirmed the 17 October 2002,[5] and 14 January 2003[6] twin resolutions of the DOJ, which in turn affirmed the 13 September 2000 Resolution,[7] of the City Prosecutor of Makati, recommending the filing of an Information for violation of Presidential Decree No. 115, in relation to Article 315(1)(b) of the Revised Penal Code against petitioner Gonzalez.

The case stemmed from a complaint filed by respondent HSBC against petitioner Gonzalez for estafa, more particularly, the violation of Presidential Decree No. 115, in relation to Art. 315(1)(b) of the Revised Penal Code.

The antecedents of the present petition are beyond dispute. They are:

At the time of the incident subject of the case at bar, petitioner Gonzalez was the Chairman and Chief Executive Officer of Mondragon Leisure and Resorts Corporation (MLRC). MLRC is the owner, developer and operator of Mimosa Leisure Estate[8] located at the Clark Special Economic Zone (CSEZ), Clark Field, Pampanga. On 1 August 1997, petitioner Gonzalez, for and in behalf of MLRC, acknowledged receipt of various golfing equipments and assorted Walt Disney items, and signed the corresponding two Trust Receipt agreements, i.e., Trust Receipt No. 001-016310-205,[9] covering the various golfing equipments, and Trust Receipt No. 001-016310-206,[10] covering the assorted Walt Disney items, both in favor of respondent HSBC.

The due date for Trust Receipt No. 001-016310-205, for the value of HK\$85,540.00, was on 1 September 1997, while that of Trust Receipt No. 001-016310-206, for the value of HK\$143,993.90, was on 28 January 1998.

When the due dates of subject Trust Receipts came and went without word from MLRC, respondent HSBC, through Paula L. Felipe (Felipe), Vice-President of respondent HSBC’s Credit Control Department, in a letter[11] dated 28 March 2000, demanded from MLRC the turnover of the proceeds of the sale of the assorted goods covered by the Trust Receipts or the return of said goods. Despite demand, however, MLRC failed to return the

assorted goods or their value. Consequently, Felipe, for respondent HSBC, filed a criminal complaint for estafa, i.e., for violation of Presidential Decree No. 115, the “Trust Receipts Law,” in relation to Art. No. 315(1)(b) of the Revised Penal Code against petitioner Gonzalez before the Office of the City Prosecutor of Makati, docketed as I.S. No. 00-G-24734-35. The complaint-affidavit contained the following allegations:

- On August 1, 1997, Mr. Antonio U. Gonzalez, Chairman and Chief Executive of Mondragon, executed in favor of the Bank Trust Receipt No. 001-016310-205, by virtue of which he acknowledged receipt from the Bank of “(Sporting Goods) Golf Equipments” (sic) with the value of HK\$85,540.00. Under this trust receipt, Mr. Gonzalez bound himself to turn over to the Bank the proceeds of the sale of the goods or to return them in case of non-sale on January 28, 1998.

x x x x

- On August 1, 1997, Mr. Gonzalez executed in favor of the Bank Trust Receipt No. 001-016310-206, by virtue of which he acknowledged receipt from the Bank of “Assorted Disney Items” with the value of HK\$143,993.90. Under this trust receipt, Mr. Gonzalez bound himself to turn over to the Bank the proceeds of the sale of the goods or to return them in case of non-sale on September 1, 1997.

x x x x

- All the abovementioned trust receipts x x x executed by the respondents (sic) contain the following provisions:

‘1. The Document and the goods and/or proceeds to which they relate (“The Goods”) will be held for your [HSBC] benefit and the entrustee will receive the Documents and take delivery of the Good exclusively for the purpose of selling the Goods unless you [HSBC] shall direct otherwise.

2. The Documents, the Goods and the proceeds of their sale are and will be held by the entrustee in trust for you [HSBC] as entruster and solely to your [HSBC] order and the entrustee shall pay the proceeds to you [HSBC], immediately on receipt thereof or of each portion thereof, as the case may be, without set-off or any deduction. The records of the entrustee shall properly record your [HSBC] interest in the Goods.

x x x x

10. This Trust Receipt shall be governed and construed in all respects in accordance with P.D. 115 otherwise known as Trust Receipts Law.’

- Despite repeated oral and written demands upon respondent, respondent has not turned over to the Bank a single centavo of the proceeds of the sale of the abovementioned goods covered by the Trust Receipts, or returned any of the goods.[12]

In his defense, petitioner Gonzalez countered that:

- At the outset, it must be stressed that the transactions subject of the instant Complaint are between the complainant bank and Mondragon Leisure and Resorts Corporation (“MLRC”) and that the officers of the latter, including respondent herein, in all of their official acts and transactions, are not acting in their own personal capacity but, rather, are merely acting on behalf of the corporation and performing a valid corporate act pursuant to a validly enacted resolution of the Board of Directors.

- Moreover, it is clear that I cannot be held criminally responsible for alleged violation of the Trust Receipts subject hereof. The aforesaid transactions, while reportedly denominated as “Trust Receipts” were not really intended by the parties to be trust receipt transaction within the purview of P.D. 115. At best, they are loan transactions, for which the respondent cannot be held criminally liable.

x x x x

- x x x respondent, who merely performed a valid corporate act may not be held personally and criminally liable therefore (sic), absent a clear showing of fault or negligence on his part x x x.

- x x x it is required that the person charged with estafa pursuant to a trust receipt transaction must be proved to have misappropriated, misused or converted to his own personal use to the damage of the entruster, the proceeds of the goods covered by the trust receipts. Thus, mere failure to pay the amounts covered by the trust receipts does not conclusively constitute estafa as defined under P.D. 115 and the Revised Penal Code.

- x x x. [W]hile respondent may have failed on behalf of MLRC (which is actually the debtor) to make payments on the due dates, such failure is neither attributable to respondent or due to his wrongdoing or fault but on account of circumstances concerning the corporation x x x.

x x x x

- x x x there was a tacit agreement among the parties that defendant, being a stable company with good credit standing, would be accorded leniency and given enough leeway in the settlement of its obligations.

x x x x

- x x x the unlawful closure of the Casino by CDC and PAGCOR, coupled with the Asian economic crisis, severely affected its ability to pay its creditors, including complainant bank herein, which have an aggregate exposure of about P5.3 Billion in Mondragon. These events rendered it impossible for MLRC to duly comply with its financial obligations. These events barred plaintiff bank from declaring MLRC's obligation due and demandable, and consequently from declaring MLRC in default. Thus, since MLRC is not in default, respondents herein cannot be charged for estafa as the obligations on the basis of which they are being charged are not yet due and demandable.[13]

Following the requisite preliminary investigation, in a Resolution dated 13 September 2000, the City Prosecutor found probable cause to hold petitioner Gonzalez liable for two counts of estafa, more specifically, the violation of Presidential Decree No. 115, in relation to Art. 315(1)(b) of the Revised Penal Code. The City Prosecutor recommended that:

WHEREFORE, premises considered, it is respectfully recommended that respondent Jose Antonio U. Gonzalez be indicted with two (2) counts of Violation of P.D. 115 and that the attached Information for that purpose be approved for filing in court.[14]

In finding probable cause to prosecute petitioner Gonzalez for the crime supposedly committed, the City Prosecutor held that:

After study, assessment and thorough evaluation of the evidence obtaining in this case at bar, the undersigned finds probable cause to warrant respondent's indictment with the offense charge (sic) all the elements of which are obtaining under the aforementioned circumstances. This is so because respondent admitted having executed the trust receipts subject matter of the case in point. The defense raised by the respondent though it appears to be meritorious are (sic) matters of defense best left for the court to consider and appreciate during trial of the case. As shown above, the failure of the entrustee/respondent to account for the goods covered by the two (2) Trust Receipts which he received after notice and demand caused him to be liable for two (2) counts of violation of P.D. 115.[15]

On 24 October 2000, petitioner Gonzalez appealed the foregoing resolution of the City Prosecutor to the DOJ by means of a petition for review.

In a Resolution dated 17 October 2002, Honorable Hernando B. Perez, then Secretary of the DOJ, denied said petition. In affirming the resolution of the City Prosecutor of Makati, the Secretary held that:

The gravamen of violation of PD 115 is the failure to account, upon demand, for fund or property held in trust by virtue of a trust receipt x x x. This failure, being clearly present in the instant case, prima facie evidence of misappropriation lies. A fortiori, the charges of dishonesty and abuse of confidence will hold.[16]

Further, the Secretary ruled that:

The allegation of respondent that he cannot be made liable for the offense as he was just performing a valid corporate act is untenable x x x. The respondent being the Chairman and Chief Executive Officer and the person who signed the trust receipts, there can be no doubt that there is no other person who can be considered as more responsible than him. He appears to be the most responsible person contemplated under the aforesaid provision of P.D. 115.

Finally, we agree with the Prosecutor's findings that the other defenses raised by the respondent are evidentiary in nature and best left to the sound appreciation of the court in the course of the trial.[17]

The dispositive of the resolution provides:

WHEREFORE, the assailed resolution is hereby AFFIRMED and consequently, the petition is DENIED.[18]

Subsequently, on 14 January 2003, Hon. Merceditas N. Gutierrez, then Acting Secretary of the DOJ, denied the motion for reconsideration of petitioner Gonzalez.

Undaunted, petitioner Gonzalez went to the Court of Appeals via a Petition for Review under Rule 43[19] of the Rules of Court, as amended.

On 13 January 2004, the Court of Appeals promulgated its Decision denying petitioner Gonzalez's recourse for lack of merit.

The appellate court, notwithstanding the procedural infirmity, as the petition filed under Rule 43 of the Rules of Court, as amended, was the wrong mode of appeal, took cognizance of and proceeded to resolve the petition based on substantive grounds. In holding that no grave abuse of discretion amounting to lack or excess of jurisdiction tainted the actions of the Secretary as well as the Acting Secretary of the DOJ in denying petitioner Gonzalez's petition, the decision explained that:

In the case at bar, it is decisively clear that petitioner executed the trust receipts in behalf of MLRC and that there was a failure to turn over the proceeds from the goods sold and the goods themselves subject of the trust receipts despite demand from the respondent bank. Such failure to account or turn over the proceeds or to return the goods subject of the trust receipts gives rise to the crime punished under the Trust Receipts Law. [Citation omitted.] Petitioner is ventilating before us the merits of his causes or defenses, but this is not the occasion for the full and exhaustive display of evidence. The presence or absence of the elements of the crime is evidentiary in nature and shall be passed upon after a full-blown trial on the merits. Petitioner's defenses are matters best left to the discretion of the court during trial.[20]

The fallo of the preceding decision reads:

WHEREFORE, the petition is DENIED for lack of merit.[21]

Petitioner's motion for reconsideration was likewise denied in a Resolution dated 6 August 2004.

Hence, the present petition filed under Rule 45 of the Rules of Court, as amended.

In the present petition, petitioner Gonzalez fundamentally seeks to reverse the ruling of the Court of Appeals on the following grounds:

I.

THE HONORABLE COURT OF APPEALS COMMITTED MANIFEST ERROR IN NOT FINDING THAT FOR A VALID INDICTMENT UNDER PRESIDENTIAL DECREE NO. 115 TO LIE, THE SAID LAW MUST BE READ IN CONJUNCTION WITH ARTICLE 315, PARAGRAPH 1 (B) OF THE REVISED PENAL CODE WHICH REQUIRES THAT THE PERSON CHARGED WITH ESTAFA PURSUANT TO A TRUST RECEIPT TRANSACTION MUST BE PROVED TO HAVE MISAPPROPRIATED, MISUSED OR CONVERTED TO HIS PERSONAL USE THE PROCEEDS OF THE GOODS COVERED BY THE TRUST RECEIPTS TO THE DAMAGE OF THE ENTRUSTER; and

II.

NO PROBABLE CAUSE EXISTS TO WARRANT THE INDICTMENT OF PETITIONER FOR VIOLATION OF SECTION 13 OF PRESIDENTIAL DECREE 115.[22]

On the whole, the basic issue presented before this Court in this petition is, given the facts of the case, whether or not there is probable cause to hold petitioner Gonzalez liable to stand trial for violation of Presidential Decree No. 115, in relation to Art. 315(1)(b) of the Revised Penal Code.

Petitioner Gonzalez contends that the Court of Appeals committed manifest error in ruling, that, probable cause existed to hold him liable to stand trial merely on the basis of “his admission that he executed the trust receipts subject matter of the case below and his failure to account for the goods covered by the same.”[23] He argues that the City Prosecutor of Makati and the DOJ failed to appreciate two important facts: 1) that the real transaction that led to the present controversy was in fact a loan agreement; and 2) that MLRC simply extended to Best Price PX, Inc., the owner and operator of Mimosa Mart at the CESZ, its credit line with respondent HSBC, such that Best Price was the actual debtor of respondent bank. Paradoxically, he maintains that “the fact that (he) held a high position in MLRC was not sufficient reason to charge him for alleged violation of trust receipts.”[24] He insists further that he is not the person responsible for the offense allegedly committed because of the absence of “a clear showing of fault or negligence on his part.” According to petitioner Gonzalez, “President (sic) Decree No. 115 must be read in conjunction with Article 315, paragraph 1(b) of the Revised Penal Code x x x under both x x x it is required that the person charged with estafa pursuant to a trust receipt transaction must be proved to have misappropriated, misused or converted to his own personal use the proceeds of the goods covered by the trust receipts to the damage of the entruster.” Thus, petitioner concludes that “mere failure to pay the amounts covered by the trust receipts does not conclusively constitute estafa as defined under Presidential Decree No. 115 and Article 315, paragraph 1(b).”

Respondent HSBC, on the other hand, contends that “petitioner is criminally liable since he signed the trust receipts x x x;”[25] and, that, “[f]raud is not necessary for conviction for violation of the Trust Receipts Law,”[26] the latter being in the nature of a *malum prohibitum* decree. On the issue of company reverses, Asian currency crisis and the closure of the Mimosa Regency Casino, respondent HSBC counters that “[t]hey do not excuse petitioner for his failure to comply with his obligations under the trust receipts,”[27] because unlike “motor vehicles or parcels of land, which are frequently purchased on credit or on installment basis,”[28] the goods covered by the two trust receipts, i.e., assorted Disney items and various golfing equipments, are usually paid for in cash upon receipt by buyers; and if not sold, the merchandise should still be with MLRC. Hence, there was no reason for petitioner Gonzalez’s failure to comply with his obligation under the two Trust Receipts – to turn over the proceeds of the sale of the goods or to return the goods if they remained unsold.

We find no merit in the petition.

We agree with the Court of Appeals that no grave abuse of discretion amounting to lack or excess of jurisdiction marred the assailed resolutions of the DOJ.

Herein, petitioner Gonzalez questions the finding of probable cause by the City Prosecutor to hold him liable to

stand trial for the crime complained of. 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.[29] A finding of probable cause merely binds over the suspect to stand trial. It is not a pronouncement of guilt.[30]

To determine the existence of probable cause, there is a need to conduct preliminary investigation. A preliminary investigation is an inquiry to determine whether (a) a crime has been committed; and (b) whether there is probable cause to believe that the accused is guilty thereof. Such investigation is designed to secure the (accused) against hasty, malicious and oppressive prosecution, the conduct of which is executive in nature.[31]

The executive department of the government is accountable for the prosecution of crimes, its principal obligation being the faithful execution of the laws of the land. A necessary component of the power to execute the laws is the right to prosecute their violators.[32] Corollary to this, 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.[33]

Having said the foregoing, this Court consistently adheres to the 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 the supposed offender,[34] courts can only review whether or not the executive determination of probable cause was done without or in excess of jurisdiction resulting from 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.[35]

And for courts of law to grant the extraordinary writ of certiorari, so as to justify the reversal of the finding on the existence of probable cause to file an information, the one seeking the writ must be able to establish that the investigating prosecutor exercised his 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.[36] Excess of jurisdiction signifies that he had jurisdiction over the case but has transcended the same or acted without authority.[37]

Try as we might, this Court cannot find substantiation that the executive determination of probable cause was done without or in excess of jurisdiction resulting from grave abuse of discretion, when the City Prosecutor resolved to recommend the filing of the Information for two counts of violation of Presidential Decree No. 115 against petitioner Gonzalez. Similarly, there is absolutely no showing that the DOJ, in the exercise of its power to review on appeal the findings of the City Prosecutor of Makati, acted in an arbitrary or despotic manner that amounted to an excess or lack of jurisdiction.

In the case at bar, petitioner Gonzalez is charged by respondent HSBC with violating Presidential Decree No. 115. Section 4 of the “Trust Receipts Law” defines a trust receipt transaction as –

Section 4. What constitutes a trust receipts transaction. – A trust receipt transaction, within the meaning of this Decree, is any transaction by and between a person referred to in this Decree as the entruster, and another person referred to in this Decree as trustee, whereby the entruster, who owns or holds absolute title or security interests over certain specified goods, documents or instruments, releases the same to the possession of the trustee upon the latter’s execution and delivery to the entruster of a signed document called a “trust receipt” wherein the trustee binds himself to hold the designated goods, documents or instruments in trust for the entruster and to sell or otherwise dispose of the goods, documents or instruments with the obligation to

turn over to the entruster the proceeds thereof to the extent of the amount owing to the entruster or as appears in the trust receipt or the goods, documents or instruments themselves if they are unsold or not otherwise disposed of, in accordance with the terms and conditions specified in the trust receipt, or for other purposes substantially equivalent to any of the following:

- In the case of goods or documents: (a) to sell the goods or procure their sale; or (b) to manufacture or process the goods with the purpose of ultimate sale: Provided, That, in the case of goods delivered under trust receipt for the purpose of manufacturing or processing before its ultimate sale, the entruster shall retain its title over the goods whether in its original or processed form until the entrustee has complied fully with his obligation under the trust receipt; or (c) to load, unload, ship or transship or otherwise deal with them in a manner preliminary or necessary to their sale; or

- In the case of instruments: (a) to sell or procure their sale or exchange; or (b) to deliver them to a principal; or (c) to effect the consummation of some transactions involving delivery to a depository or register; or (d) to effect their presentation, collection or renewal.

The sale of good, documents or instruments by a person in the business of selling goods, documents or instruments for profit who, at the outset of transaction, has, as against the buyer, general property rights in such goods, documents or instruments, or who sells the same to the buyer on credit, retaining title or other interest as security for the payment of the purchase price, does not constitute a trust receipt transaction and is outside the purview and coverage of this Decree.

In general, a trust receipt transaction imposes upon the entrustee the obligation to deliver to the entruster the price of the sale, or if the merchandise is not sold, to return the same to the entruster. There are thus two obligations in a trust receipt transaction: the first, refers to money received under the obligation involving the duty to turn it over (entregarla) to the owner of the merchandise sold,[38] while the second refers to merchandise received under the obligation to “return” it (devolvera) to the owner.[39] A violation of any of these undertakings constitutes estafa defined under Art. 315(1)(b) of the Revised Penal Code, as provided by Sec. 13 of Presidential Decree 115, viz:

Section 13. Penalty clause. – The failure of an entrustee to turn over the proceeds of the sale of the goods, documents or instruments covered by a trust receipt to the extent of the amount owing to the entruster or as appears in the trust receipt or to return said goods, documents or instruments if they were not sold or disposed of in accordance with the terms of the trust receipt shall constitute the crime of estafa, punishable under the provisions of Article Three Hundred and Fifteen, paragraph one (b) of Act Numbered Three Thousand Eight Hundred and fifteen, as amended, otherwise known as the Revised Penal Code. If the violation or offense is committed by a corporation, partnership, association or other juridical entities, the penalty provided for in this Decree shall be imposed upon the directors, officers, employees or other officials or persons therein responsible for the offense, without prejudice to the civil liabilities arising from the criminal offense.

Article 315(1)(b) of the Revised Penal Code punishes estafa committed as follows:

1. With unfaithfulness or abuse of confidence, namely:

x x x x

(b)

By misappropriating or converting, to the prejudice of another, money, goods, or any other personal property received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property.

As found in the complaint-affidavit of respondent HSBC’s representative, petitioner Gonzalez is charged with

failing to turn over “to the Bank a single centavo of the proceeds of the sale of the (assorted) goods covered by the Trust Receipts, or x x x”[40] or to return any of the assorted goods. From the evidence adduced before the City Prosecutor of Makati i.e., 1) the two Trust Receipts bearing the acknowledgment signature of petitioner Gonzalez; 2) the official documents concerning the transaction between MLRC and respondent HSBC; 3) the demand letter of respondent HSBC; and, significantly, 4) the counter-affidavit of petitioner Gonzalez containing his initial admission that on behalf of MLRC, he entered into a trust receipt transaction with respondent HSBC – the investigating officer determined that there existed probable cause to hold petitioner Gonzalez for trial for the crime charged. Time and again, this Court has stated that 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.[41] In the present case, there being sufficient evidence to support the finding of probable cause by the City Prosecutor of Makati, the same cannot be said to have resulted from bare suspicion, presupposition, conjecture or logical deduction.

That petitioner Gonzalez neither had the intent to defraud respondent HSBC nor personally misused/misappropriated the goods subject of the trust receipts is of no moment. The offense punished under Presidential Decree No. 115 is in the nature of *malum prohibitum*. A mere failure to deliver the proceeds of the sale or the goods if not sold, constitutes a criminal offense that causes prejudice not only to another, but more to the public interest.[42] This is a matter of public policy as declared by the legislative authority. Moreover, this Court already held previously that failure of the entrustee to turn over the proceeds of the sale of the goods, covered by the trust receipt, to the entruster or to return said goods if they were not disposed of in accordance with the terms of the trust receipt shall be punishable as *estafa* under Art. 315(1)(b) of the Revised Penal Code without need of proving intent to defraud.[43]

As a last ditch effort to exculpate himself from the offense charged, petitioner Gonzalez posits that, “the fact that (he) held a high position in MLRC was not sufficient reason to charge him for alleged violation of trust receipts.”[44] Unfortunately, it is but a futile attempt. Though petitioner Gonzalez signed the Trust Receipts merely as a corporate officer of MLRC and had no physical possession of the goods subject of such receipts, he cannot avoid responsibility for violation of Presidential Decree No. 115 for two unpretentious reasons: first, that the last sentence of Section 13 of the “Trust Receipts Law,” explicitly imposes the penalty provided therein upon “directors, officers, employees or other officials or persons therein responsible for the offense, without prejudice to the civil liabilities arising from the criminal offense,” of a corporation, partnership, association or other juridical entities found to have violated the obligation imposed under the law. The rationale for making such officers and employees responsible for the offense is that they are vested with the authority and responsibility to devise means necessary to ensure compliance with the law and, if they fail to do so, are held criminally accountable; thus, they have a responsible share in the violations of the law.[45] And second, a corporation or other juridical entity cannot be arrested and imprisoned; hence, cannot be penalized for a crime punishable by imprisonment.[46]

Petitioner Gonzalez’s allegation that Best Price PX, Inc. is the real party in the trust receipt transaction and his assertion that the real transaction between respondent HSBC and MLRC is a loan agreement, are matters of defense best left to the trial court’s deliberation and contemplation after conducting the trial of the criminal case. To reiterate, a preliminary investigation for the purpose of determining the existence of probable cause is not part of the trial. A full and exhaustive presentation of the parties’ evidence is not required, but only such as may engender a well-grounded belief that an offense has been committed and that the accused is probably guilty thereof.[47]

In fine, the Court of Appeals committed no reversible error when it ruled that there was no grave abuse of discretion on the part of the Secretary and Acting Secretary of the DOJ in directing the filing of the Information against petitioner Gonzalez for violation of Presidential Decree No. 115 in relation to Article 315(1)(b) of the Revised Penal Code.

WHEREFORE, premises considered, the instant petition is DENIED for lack of merit. The assailed 13 January 2004 Decision and 6 August 2004 Resolution, both of the Court of Appeals in CA-G.R. SP No. 75469 are hereby AFFIRMED. Costs against petitioner.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.

[1] Rollo, pp. 11-38.

[2] Penned by Court of Appeals Associate Justice Perlita J. Tria-Tirona with Associate Justices Portia Aliño-Hormachuelos and Rosalinda Asuncion-Vicente concurring; Annex “A” of the Petition; id. at 39-46.

[3] Annex “B” of the Petition; id. at 48-49.

[4] Annex “E” of the Petition; id. at 53-54.

[5] Annex “K” of the Petition; id. at 92-94.

[6] Annex “M” of the Petition; id. at 111-112.

[7] Annex “I” of the Petition; id. at 68-69.

[8] Composed of The Mimosa Golf and Country Club, the Holiday Inn Resort Clark Field, the Monte Vista Hotel and the Mimosa Regency Casino.

[9] Annex “1” of respondent HSBC’s Comment; rollo, p. 195.

[10] Annex “2” of respondent HSBC’s Comment; id. at 196.

[11] Annex “3” of respondent HSBC’s Comment; id. at 197-198.

[12] Annex “E” of the Petition; id. at 53-54.

[13] Petitioner Gonzalez’s Counter-Affidavit; Annex “F” of the Petition; id. at 55-57.

[14] Id. at 69.

[15] Id.

[16] Id. at 93.

[17] Id.

[18] Id.

[19] APPEALS FROM THE COURT OF TAX APPEALS AND QUASI-JUDICIAL AGENCIES TO THE COURT OF APPEALS.

[20] Rollo, pp. 44-45.

- [21] Id.
- [22] Petition, pp. 14-15; id. at 24-25.
- [23] Petitioner Gonzalez's Memorandum, p. 14; id. at 309.
- [24] Petitioner Gonzalez's Memorandum, p. 16; id. at 311.
- [25] Respondent HSBC's Memorandum, p. 7; id. at 260.
- [26] Id.
- [27] Id. at 263.
- [28] Id. at 264.
- [29] R.R. Paredes v. Calilung, G.R. No. 156055, 5 March 2007, 517 SCRA 369, 394.
- [30] Webb v. Hon. De Leon, 317 Phil. 758, 789 (1995).
- [31] Lim, Sr. v. Felix, G.R. No. 94054-57, 19 February 1991, 194 SCRA 292, 304.
- [32] R.R. Paredes v. Calilung, supra note 29 at 394.
- [33] Webb v. Hon. De Leon, supra note 30 at 800.
- [34] Andres v. Cuevas, G.R. No. 150869, 9 June 2005, 460 SCRA 38, 52.
- [35] D.M. Consuji, Inc. v. Esguerra, 328 Phil. 1168, 1185 (1996).
- [36] R.R. Paredes v. Calilung, supra note 29 at 397.
- [37] Sarigumba v. Sandiganbayan, G.R. Nos. 154239-41, 16 February 2005, 451 SCRA 533, 549.
- [38] People v. Cuevo, 191 Phil. 622, 630 (1981).
- [39] Id.
- [40] Rollo, pp. 53-54.
- [41] Kilosbayan, Inc. v. COMELEC, 345 Phil. 1141, 1174 (1997).
- [42] People v. Nitafan, G.R. Nos. 81559-60, 6 April 1992, 207 SCRA 726, 731.
- [43] Colinares v. Court of Appeals, 394 Phil. 106, 120 (2000).
- [44] Rollo, pp. 55-57.
- [45] Ching v. Secretary of Justice, G.R. No. 164317, 6 February 2006, 481 SCRA 609, 635, citing U.S. v. Park, 421 U.S. 658, 95, S.Ct. 1903 (1975).
- [46] Ong v. Court of Appeals, 449 Phil. 691, 704 (2003).
- [47] Ledesma v. Court of Appeals, 344 Phil. 207, 226 (1997).

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