

**ANTONIO TAN, DANILO DOMINGO AND ROBERT LIM, PETITIONERS,
VS. AMELITO BALLENA, ZENAIDA BORLONGAN, ANNALYN
VILLAFUERTE, ROGELIO VELASQUEZ, EDMONDO VILLAMOR,
MERCY SANTOMIN, REYNAL...**

G.R. No. 168111. July 04, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Assailed in this Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court are the Decision[2] and Resolution[3] of the Court of Appeals dated 30 September 2004 and 9 May 2005, respectively, in CA-G.R. SP No. 79101. The appellate court's Decision set aside the Resolutions[4] of the Department of Justice (DOJ) dated 19 March 2002 and 9 August 2002, and reinstated the Final Resolution[5] of the Provincial Prosecutor in I.S. Nos. 01-03-1007, 01-04-1129 and 01-04-1130, which ordered the filing of two (2) informations against petitioners Antonio Tan, Danilo Domingo and Robert Lim. The appellate court's Resolution denied petitioners' Motion for Reconsideration.

The factual and procedural antecedents of the case are as follows:

Petitioners Antonio Tan, Danilo Domingo and Robert Lim were officers of Footjoy Industrial Corporation (Footjoy), a domestic corporation engaged in the business of manufacturing shoes and other kinds of footwear, prior to the cessation of its operations sometime in February 2001.

On 19 March 2001, respondent Amelito Ballena,[6] and one hundred thirty-nine (139) other employees of Footjoy, filed a Joint Complaint-Affidavit[7] before the Office of the Provincial Prosecutor of Bulacan against the company and petitioners Tan and Domingo in their capacities as owner/president and administrative officer, respectively.[8]

The Complaint-Affidavit alleged that the company did not regularly report the respondent employees for membership at the Social Security System (SSS) and that it likewise failed to remit their SSS contributions and payment for their SSS loans, which were already deducted from their wages.

According to respondents, these acts violated Sections 9, 10, 22 and 24, paragraph (b) of Republic Act No. 1161, as amended by Republic Act No. 8282;[9] as well as Section 28, paragraphs (e), (f), and (h) thereof, in relation to Article 315 of the Revised Penal Code, the pertinent portions of which read:

SEC. 9. Coverage. - (a) Coverage in the SSS shall be compulsory upon all employees not over sixty (60) years of age and their employers: x x x Provided, finally, That nothing in this Act shall be construed as a limitation on the right of employers and employees to agree on and adopt benefits which are over and above those provided under this Act.

SEC. 10. Effective Date of Coverage. - Compulsory coverage of the employer shall take effect on the first day of his operation and that of the employee on the day of his employment: x x x.

SEC. 22. Remittance of Contributions. -- (a) The contribution imposed in the preceding section shall be remitted to the SSS within the first ten (10) days of each calendar month following the month for which they are applicable or within such time as the Commission may prescribe. Every employer required to deduct and to remit such contributions shall be liable for their payment and if any contribution is not paid to the SSS as herein prescribed, he shall pay besides the contribution a penalty thereon of three percent (3%) per month from the date the contribution falls due until paid. If deemed expedient and advisable by the Commission, the collection and remittance of contributions shall be made quarterly or semi-annually in advance, the contributions payable by the employees to be advanced by their respective employers: Provided, That upon separation of an employee, any contribution so paid in advance but not due shall be credited or refunded to his employer.

(b) The contributions payable under this Act in cases where an employer refuses or neglects to pay the same shall be collected by the SSS in the same manner as taxes are made collectible under the National Internal Revenue Code, as amended. Failure or refusal of the employer to pay or remit the contributions herein prescribed shall not prejudice the right of the covered employee to the benefits of the coverage.

The right to institute the necessary action against the employer may be commenced within twenty (20) years from the time the delinquency is known or the assessment is made by the SSS, or from the time the benefit accrues, as the case may be.

(c) Should any person, natural or juridical, defaults in any payment of contributions, the Commission may also collect the same in either of the following ways:

1. By an action in court, which shall hear and dispose of the case in preference to any other civil action; x x x.

SEC. 24. Employment Records and Reports. -

x x x x

(b) Should the employer misrepresent the true date of employment of the employee member or remit to the SSS contributions which are less than those required in this Act or fail to remit any contribution due prior to the date of contingency, resulting in a reduction of benefits, the employer shall pay to the SSS damages equivalent to the difference between the amount of benefit to which the employee member or his beneficiary is entitled had the proper contributions been remitted to the SSS and the amount payable on the basis of the contributions actually remitted: x x x.

SEC. 28. Penal Clause. -

x x x x

(e) Whoever fails or refuses to comply with the provisions of this Act or with the rules and regulations promulgated by the Commission, shall be punished by a fine of not less than Five thousand pesos (P5,000.00) nor more than Twenty thousand pesos (P20,000.00), or imprisonment for not less than six (6) years and one (1) day nor more than twelve (12) years, or both, at the discretion of the court: Provided, That, where the violation consists in failure or refusal to register employees or himself, in case of the covered self-employed, or to deduct contributions from the employees' compensation and remit the same to the SSS, the penalty shall be a fine of not less Five thousand pesos (P5,000.00) nor more than Twenty thousand pesos (P20,000.00) and imprisonment for not less than six (6) years and one (1) day nor more than twelve (12) years.

(f) If the act or omission penalized by this Act be committed by an association, partnership, corporation or any other institution, its managing head, directors or partners shall be liable to the penalties provided in this Act for the offense.

x x x x

(h) Any employer who after deducting the monthly contributions or loan amortizations from his employee's compensation, fails to remit the said deductions to the SSS within thirty (30) days from the date they became due shall be presumed to have misappropriated such contributions or loan amortizations and shall suffer the penalties provided in Article Three hundred fifteen of the Revised Penal Code.

Art. 315. Swindling (estafa). -- Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

x x x x

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.

Respondents also alleged their entitlement to actual and exemplary damages and attorney's fees.

In their Joint Counter-Affidavit,[10] petitioners Tan and Domingo blamed the economic distress that beset their company for their failure to timely pay and update the monthly SSS contributions of the employees. They alleged that the company's dire situation became even more aggravated when the buildings and equipment of Footjoy were destroyed by fire on 4 February 2001.[11] This incident eventually led to the cessation of the company's operations. Because of this, some of the company's employees tried to avail themselves of their SSS benefits but failed to do so. It was then that the employees filed their complaint.

Petitioners Tan and Domingo thereafter underlined their good faith and lack of criminal culpability when they acknowledged their fault and demonstrated their willingness to pay their obligations by executing a memorandum of agreement with the SSS on 10 April 2001, the pertinent portions of which read:

April 10, 2001

FOOTJOY INDUSTRIAL CORPORATION

Antonio Tan

President

Mercado St., Guiguinto, Bulacan

Dear Mr. Antonio Tan,

Pursuant to Office Order No. 141-V dated February 2, 1995, your application to pay on installment the amount of P5,227,033.66 representing SS premium contribution and penalties for the period August 2000 up to January 2001 is hereby approved subject, however, to the following terms and conditions:

- That the amount of P5,227,033.66 be paid in twenty-four (24) monthly installment (sic):

x x x x

- Upon payment, you are hereby directed to submit to us within three days the official receipt as proof of payment of the monthly installment; and,

- That in the event of default in the payment of at least two (2) monthly installments or non-compliance with the payment plan, the employer's total outstanding obligations shall become due and demandable without need of further notice otherwise, we will pursue legal action against you.

Please be guided accordingly.

Very truly yours,
(Signed) Maylene M. Sanchez
Branch Head

CONFORME:

(Signed) Antonio Tan[12]

On 17 May 2001, the Assistant Provincial Prosecutor issued a Joint Resolution,[13] which found probable cause to charge Footjoy, Antonio Tan, and Danilo Domingo with violations of Sections 9, 10 and 24, paragraph (b) in relation to Section 28, paragraphs (e), (f) and (h) of the Social Security Law. On the other hand, the charge for the violation of Article 315, paragraph 1(b) of the Revised Penal Code was dismissed, as the same was deemed absorbed by the violations under the SSS Law, but the penalty imposed by the former law would be applied whenever appropriate. The Provincial Prosecutor approved the above Resolution on 29 May 2001 and affirmed the filing of informations against petitioners Tan and Domingo.

On 14 June 2001, respondents filed a Motion[14] to implead five additional party respondents purportedly for being "owners and/or responsible officers" of Footjoy, in accordance with the above-mentioned Section 28 paragraph (f) of the SSS Law.

Meanwhile, on 29 June 2001, petitioners filed a Motion for Reconsideration[15] of the above Joint Resolution.

The Assistant Provincial Prosecutor issued a Final Resolution[16] on 20 August 2001, the dispositive portion of which provides:

Accordingly, the original resolution is modified by impleading therein as additional respondent Robert Lim.[17] On the other hand, two informations (one count each) for violation of Sec. 9 in relation to Sec. 10 and, Sec. 24(b) should be prepared for filing in court. All the rest found in the original resolution are maintained.

On 20 September 2001, the Provincial Prosecutor issued a Supplementary Resolution,[18] which clarified the last statement in the Final Resolution, stating that:

Let it, therefore, be understood and for which this supplementary resolution is being issued, that the last recommendation of Pros. F. F. Malapit was approved as [to] the filing of two informations as contained in his approved original resolution, that is, violations of Sec. 9, 10 24(b) in relation to Sec. 28, pars. (e) (f) and (h) of R.A. 1161, as amended.

Thus, on 28 September 2001, the Provincial Prosecutor filed two informations against petitioners Tan, Domingo and Lim in Branch 18 of the Regional Trial Court (RTC) of Bulacan. Criminal Case No. 2592-M-2001[19] charged petitioners Tan, Domingo and Lim with violation of Section 9 in relation to Section 10 and Section 28, paragraph (e) of the Social Security Law. On the other hand, Criminal Case No. 2593-M-2001 charged petitioners with violation of Section 24 paragraph (b) in relation to Section 28, paragraph (h) of said law.

On 13 November 2001, petitioners filed a Petition for Review[20] with the DOJ, alleging, inter alia, that the Assistant Prosecutor committed grave and manifest error when he found probable cause to charge them with the alleged offenses.

Due to the pendency of the above petition, petitioners filed with the RTC of Bulacan a motion for the suspension of their scheduled arraignment[21] in the criminal cases, in accordance with Section 11, paragraph (c) of Rule 116[22] of the Revised Rules of Criminal Procedure.[23]

On 19 March 2002, the DOJ resolved to grant the petition for review,[24] stating:

WHEREFORE, the assailed resolution is REVERSED. The Provincial Prosecutor of Bulacan is hereby directed to cause the withdrawal of the informations for violation of the Social Security Law earlier filed against respondents Antonio Tan, Danilo Domingo, and Robert Lim and to report the action thereon within ten (10) days from receipt thereof.

Respondents filed a Motion for Reconsideration[25] of the DOJ resolution, but the same was denied in a Resolution[26] dated 9 August 2002.

On 16 October 2002, respondents filed with the Court of Appeals a Petition for Certiorari[27] under Rule 65 of the Revised Rules of Court, which was docketed as CA-G.R. SP No. 79101. Respondents claimed that the DOJ committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding that no probable cause existed to charge petitioners Tan, Domingo and Lim with violations of the SSS Law; that the allegation of petitioners' failure to report respondents to the SSS for coverage is not supported by evidence; and that charges [for the violation] of a special law such as the Social Security Act can be overcome by a show of good faith and lack of intent to commit the same.

In a Resolution[28] issued on 29 November 2002, the Court of Appeals dismissed outright the above petition because only respondents Zenaida Borlongan and Francis Bulaong, who did not possess a special power of attorney empowering them to sign on behalf of the other respondents, signed the certification of non-forum shopping. The petition was also filed only on 16 October 2002 or one day beyond the reglementary period, which ended on 15 October 2002.

Respondents then filed a Motion for Reconsideration[29] of the appellate court's resolution, contending that the procedural lapses committed by their counsel were honest and excusable mistakes and that the same should give way to their meritorious case. They, likewise, prayed for the admission of a Special Power of Attorney[30] that authorized Mercy Santomin, Zenaida Borlongan and Ronaldo Nicol to sign court pleadings and documents on their behalf.

Before resolving the respondents' motion, the Court of Appeals directed the respondents to amend their petition by impleading as party petitioners the two hundred thirty-eight (238) other employees of Footjoy, whose names were not included in the title of the original petition, but were merely contained in an annexed document.[31] On 13 March 2003, respondents filed their amended petition, which was signed by only one hundred eighty employees.[32]

On 2 June 2003, the Court of Appeals rendered a Resolution[33] which granted the respondents' Motion for Reconsideration of the 29 November 2002 resolution and admitted the amended petition.

After requiring the parties to comment, the Court of Appeals issued the assailed Decision dated 30 September 2004, the dispositive portion of which reads:

WHEREFORE, premises considered, the resolutions of the Department of Justice dated March 19, 2002 and August 9, 2002 are VACATED and SET ASIDE, while the final resolution of the Provincial Prosecutor of Bulacan dated August 20, 2001 is REINSTATED.[34]

In reversing the DOJ resolutions, the Court of Appeals ruled that the agency acted with grave abuse of discretion when it committed a palpable mistake in dismissing the charges against petitioners. The appellate court found that petitioners were indeed remiss in their duty to remit the respondents' SSS contributions in violation of Section 28(h) of the Social Security Law. The petitioners' claim of good faith and the absence of criminal intent should not have been considered, as these were evidentiary in nature and should thus be more properly proved in a trial.

Furthermore, the appellate court declared that said defenses are unavailing in crimes punishable by a special law, which are characterized as mala prohibita. In these crimes, it is enough that they were done freely and consciously and that the intent to commit the same need not be proved.

Petitioners moved for a reconsideration[35] of the above decision, but the same was denied by the Court of Appeals in a Resolution[36] dated 9 May 2005, the dispositive portion of which reads:

WHEREFORE, for lack of merit, the motion for reconsideration is DENIED.

Petitioners now come before us, pleading that we reverse the assailed decision and resolution of the Court of Appeals as we rule on the following issues:

I

WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRIEVOUS ERROR AND ACTED WITHOUT JURISDICTION WHEN IT GAVE DUE COURSE TO THE RESPONDENTS' PETITION FOR CERTIORARI DESPITE THE FACT THAT IT WAS FILED OUT [OF] TIME.

II.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRIEVOUS ERROR WHEN IT GAVE DUE COURSE TO THE RESPONDENTS' PETITION FOR CERTIORARI DESPITE THE FACT THAT THE TWO (2) SIGNATORIES THEREAT WERE NOT ABLE TO SHOW THAT THEY WERE DULY AUTHORIZED BY THE OTHER PETITIONERS TO FILE THE PETITION ON THEIR BEHALF.

III.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED SERIOUS ERROR WHEN IT REVERSED THE RESOLUTION OF THE DOJ WHICH FOUND OUT THAT THE PETITIONERS COULD NOT BE INDICTED FOR ANY VIOLATION OF THE SSS LAW FOR WANT OF PROBABLE CAUSE.[37]

Petitioners' case centers on the alleged error of the Court of Appeals in giving due course to a formally defective petition. Respondents, on the other hand, pray for a liberal interpretation of the rules in pleading for their cause.

We find that the petition lacks merit.

Procedurally, petitioners argue that the Court of Appeals gravely erred in taking cognizance of the respondents' Petition for Certiorari even if the original petition was filed one day beyond the reglementary period allowed by the rules, and the two signatories therein were not shown to have been properly authorized by their co-petitioners to file the petition.

Section 1, Rule 65 of the Rules of Court provides for the requirements for filing a Petition for Certiorari, namely:

Section 1. Petition for certiorari. When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46. (Emphases ours.)

Specifically, the requirement of verification is contained in Section 4, Rule 7 of the Rules of Court, to wit:

Sec. 4. Verification. Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.

A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records.

A pleading required to be verified which contains a verification based on information and belief or upon knowledge, information and belief, or lacks a proper verification, shall be treated as an unsigned pleading.

On the other hand, the fourth paragraph of Section 3, Rule 46 of the Rules of Court provides:

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

Finally, the reglementary period within which a Petition for Certiorari must be filed is provided for under the first paragraph of Section 4, Rule 65,[38] to wit:

The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the petition shall be filed not later than sixty (60) days counted from the notice of the denial of the motion. (Emphasis ours.)

In the present case, only two employees signed the original Petition's verification and certification of non-forum shopping and the same was filed one day beyond the period allowed by the rules. The appellate court initially resolved to dismiss the original petition precisely for these reasons in a Resolution dated 29 November 2002. When asked to reconsider, the appellate court ordered the filing of an amended petition in order to include all the original complainants. An amended petition was then filed in compliance with the said order, but only one hundred eighty (180) of the two hundred forty (240) original complainants signed the verification and certification of non-forum shopping. The Court of Appeals then granted the motion for reconsideration and resolved to reinstate the petition. Thereafter, on 30 September 2004, the assailed decision that upheld the filing of the informations against the petitioners was issued.

This Court finds no fault in the assailed actions of the Court of Appeals.

It is a well-settled principle that rules of procedure are mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed.[39] In deciding a case, the appellate court has the discretion whether or not to dismiss the same, which discretion must be exercised soundly and in accordance with the tenets of justice and fair play, taking into account the circumstances of the case.[40] It is a far better and more prudent cause of action for the court to excuse a technical lapse and afford the parties a review of the case to attain the ends of justice, rather than dispose of the case on technicality and cause grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.[41]

The Court of Appeals committed no reversible error when it gave due course to the amended petition despite the signing of the verification and certification of non-forum shopping of only some, and not all, of the original complainants.

Under justifiable circumstances, we have already allowed the relaxation of the requirements of verification and certification so that the ends of justice may be better served.[42] Verification is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith; while the purpose of the aforesaid certification is to prohibit and penalize the evils of forum shopping.[43]

In *Torres v. Specialized Packaging Development Corporation*,[44] we ruled that the verification requirement had been substantially complied with despite the fact that only two (2) out of the twenty-five (25) petitioners have signed the petition for review and the verification. In that case, we held that the two signatories were unquestionably real parties-in-interest, who undoubtedly had sufficient knowledge and belief to swear to the truth of the allegations in the Petition.

In *Ateneo de Naga University v. Manalo*,[45] we also ruled that there was substantial compliance with the requirement of verification when only one of the petitioners, the President of the University, signed for and on behalf of the institution and its officers.

Similarly, in *Bases Conversion and Development Authority v. Uy*,[46] we allowed the signature of only one of the principal parties in the case despite the absence of a Board Resolution which conferred upon him the authority to represent the petitioner BCDA.

In the present case, the circumstances squarely involve a verification that was not signed by all the petitioners therein. Thus, we see no reason why we should not uphold the ruling of the Court of Appeals in reinstating the petition despite the said formal defect.

On the requirement of a certification of non-forum shopping, the well-settled rule is that all the petitioners must sign the certification of non-forum shopping. The reason for this is that the persons who have signed the certification cannot be presumed to have the personal knowledge of the other non-signing petitioners with respect to the filing or non-filing of any action or claim the same as or similar to the current petition.[47] The rule, however, admits of an exception and that is when the petitioners show reasonable cause for failure to personally sign the certification. The petitioners must be able to convince the court that the outright dismissal of the petition would defeat the administration of justice.[48]

In the case at bar, counsel for the respondents disclosed that most of the respondents who were the original complainants have since sought employment in the neighboring towns of Bulacan, Pampanga and Angeles City. Only the one hundred eighty (180) signatories were then available to sign the amended Petition for Certiorari and the accompanying verification and certification of non-forum shopping.[49] Considering the total number of respondents in this case and the elapsed period of almost two years since the filing of the Joint Complaint Affidavit on 19 March 2001 and the filing of the amended petition on 13 March 2003, we hold that the instant case sufficiently falls under the exception to the aforesaid rule. Thus, the Court of Appeals cannot be said to have erred in overlooking the above procedural error.

We also cannot fault the act of the Court of Appeals in ordering submission of an amended petition and the reinstatement of the same despite the original petition's late filing, considering the obvious merits of the case.

In *Vallejo v. Court of Appeals*,[50] the Court of Appeals initially dismissed the Petition for Certiorari for having been filed beyond the reglementary period, but on appeal, we reversed the appellate court's ruling, as petitioner had presented a good cause for the proper determination of his case.

Petitioners claim that the Court of Appeals committed serious error when it reversed the DOJ resolution, which found that there was no probable cause to indict petitioners for any violation of the SSS Law. They argue that the

DOJ is the highest agency and the ultimate authority to decide the existence or non-existence of probable cause, and that the Court of Appeals does not have the authority to reverse such findings.

This argument is utterly misguided.

Probable cause is 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.[51] It is a reasonable ground of presumption that a matter is, or may be, well-founded, such a state of facts in the mind of the prosecutor as would lead a person of ordinary caution and prudence to believe, or entertain an honest or strong suspicion, that a thing is so. The term does not mean "actual and positive cause" nor does it import absolute certainty. It is merely based on opinion and reasonable belief.[52]

The determination of probable cause is a function that belongs to the public prosecutor, one that, as far as crimes cognizable by the RTC are concerned, and notwithstanding that it involves an adjudicative process of a sort, exclusively pertains, by law, to said executive officer, the public prosecutor.[53] This broad prosecutorial power is, however, not unfettered, because just as public prosecutors are obliged to bring forth before the law those who have transgressed it, they are also constrained to be circumspect in filing criminal charges against the innocent. Thus, for crimes cognizable by the regional trial courts, preliminary investigations are usually conducted.[54] As defined under the law, a preliminary investigation is an inquiry or a proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed, and the respondent is probably guilty thereof and should be held for trial.[55]

The findings of the prosecutor with respect to the existence or non-existence of probable cause is subject to the power of review by the DOJ. Indeed, the Secretary of Justice may reverse or modify the resolution of the prosecutor, after which he shall direct the prosecutor concerned either to file the corresponding information without conducting another preliminary investigation, or to dismiss or move for dismissal of the complaint or information with notice to the parties.[56]

This power of review, however, does not preclude this Court and the Court of Appeals from intervening and exercising our own powers of review with respect to the DOJ's findings. In the exceptional case in which grave abuse of discretion is committed, as when a clear sufficiency or insufficiency of evidence to support a finding of probable cause is ignored, the Court of Appeals may take cognizance of the case via a petition under Rule 65 of the Rules of Court.[57]

This is precisely the situation in the case at bar. In deciding the respondents' Petition for Certiorari, the Court of Appeals ruled that the DOJ committed palpable mistake in reversing the Final Resolution of the Provincial Prosecutor and, in so doing, acted with grave abuse of discretion.

In the assailed decision, the Court of Appeals declared that the DOJ's dismissal of the charges against petitioners, on the ground that the evidence on record did not support the same, was incorrect. Furthermore, the appellate court held that the defenses of petitioners of good faith and lack of criminal intent should not have been considered, inasmuch as the offenses charged were for violations of a special law and are therefore characterized as *mala prohibita*, in which the intent to commit is immaterial.

After carefully reviewing the records of this case, we agree with the Court of Appeals' findings that there was indeed probable cause to indict petitioners for the offenses charged.

In a preliminary investigation, 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.[58] Certainly, it does not involve the determination of whether or not there is evidence beyond

reasonable doubt pointing to the guilt of the person. Only prima facie evidence is required; or that which is, on its face, good and sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense; and which, if not rebutted or contradicted, will remain sufficient.[59] Therefore, matters of evidence are more appropriately presented and heard during the trial.[60]

In the present case, petitioners were charged with violations of the SSS Law for their failure to either promptly report some of the respondents for compulsory coverage/membership with the SSS or remit their SSS contributions and loan amortizations. In support of their claims, respondents have attached unto their Joint Complaint-Affidavit a summary of their unreported and unremitted SSS contributions,[61] as gathered from the SSS Online Inquiry System, and a computation of their unreported and unremitted SSS contributions.[62]

On the part of the petitioners, they have not denied their fault in not remitting the SSS contributions and loan payments of the respondents in violation of Section 28, paragraphs (e), (f) and (h) of the SSS Law. Instead, petitioners interposed the defenses of lack of criminal intent and good faith, as their failure to remit was brought about by alleged economic difficulties, and they have already agreed to settle their obligations with the SSS through a memorandum of agreement to pay in installments.

As held by the Court of Appeals, the claims of good faith and absence of criminal intent for the petitioners' acknowledged non-remittance of the respondents' contributions deserve scant consideration. The violations charged in this case pertain to the SSS Law, which is a special law. As such, it belongs to a class of offenses known as mala prohibita.

The law has long divided crimes into acts wrong in themselves called acts mala in se; and acts which would not be wrong but for the fact that positive law forbids them, called acts mala prohibita. This distinction is important with reference to the intent with which a wrongful act is done. The rule on the subject is that in acts mala in se, the intent governs; but in acts mala prohibita, the only inquiry is, has the law been violated?[63] When an act is illegal, the intent of the offender is immaterial.[64]

Thus, the petitioners' admission in the instant case of their violations of the provisions of the SSS Law is more than enough to establish the existence of probable cause to prosecute them for the same.

WHEREFORE, in light of the foregoing, the Petition for Review under Rule 45 of the Rules of Court is hereby DENIED. The assailed Decision dated 30 September 2004 of the Court of Appeals in CA-G.R. SP No. 79101 and the Resolution dated 9 May 2005 are hereby AFFIRMED. Costs against petitioners.

SO ORDERED.

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

* Justice Antonio T. Carpio was designated to sit as additional member replacing Justice Ruben T. Reyes per Raffle dated 28 May 2008.

[1] Rollo, pp. 3-36.

[2] Penned by Associate Justice Edgardo P. Cruz with Associate Justices Godardo A. Jacinto and Jose C. Mendoza concurring; rollo, pp. 38-46.

[3] Rollo, p. 48.

[4] Rollo, pp. 117-120; records, pp. 122-124.

[5] Rollo, pp. 101-103.

[6] In the pleadings filed before the Court of Appeals, the Decision of the appellate court dated 30 September 2004 and in the Respondent's Memorandum (Rollo, pp. 612-625), the name of respondent Ballena was written as Angelito Ballena.

[7] Rollo, pp. 64-75.

[8] In the Petition for Certiorari filed before the Court of Appeals, the appellate court's Decision dated 30 September 2004 and the Respondents' Memorandum (Rollo, pp. 612-625), the figure stated as the number of employees who filed the Complaint-Affidavit was two hundred forty (240). However, in the Complaint-Affidavit itself, there were only one hundred forty (140) signatory employees.

[9] The Social Security Act of 1997.

[10] Rollo, pp. 85-87.

[11] Id. at 88.

[12] Id. at 89.

[13] Id. at 99-100.

[14] Id. at 101.

[15] Id. at 101.

[16] Id. at 101-103.

[17] The Assistant Prosecutor resolved to implead petitioner Lim in light of the testimony of one of the complainants that Lim acted as the general manager of one of the Annex buildings of Footjoy and that he failed to dispute the said description. (Rollo, p. 102)

[18] Rollo, p. 104.

[19] The accusatory portion provides:

That [on] or about and during the period from October, 1981 up to April 2001, in the municipality of Guiguinto, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then the President, Administrative Officer and General Manager of Annex Building C, respectively, of Footjoy Industrial Corporation, a member of the Social Security System with Employer I.D. No. 03-9007996-1, in conspiracy with one another, did then and there willfully, unlawfully and feloniously fail to register and report for coverage to the SSS the employees of said corporation whose names are contained in Annex "A" hereof, to the damage and prejudice of said employees. (CA rollo, pp. 83-84.)

[20] Rollo, pp. 105-113.

[21] Id. at 87-89.

[22] Section 11, paragraph (c) of Rule 116 provides:

SEC. 11. Suspension of arraignment. - Upon motion by the proper party, the arraignment shall be suspended in the following cases:

x x x x

(c) A petition for review of the resolution of the prosecutor is pending at either the Department of Justice, or the Office of the President; provided, that the period of suspension shall not exceed sixty (60) days counted from the filing of the petition with the reviewing office.

[23] On 5 February 2002, the RTC denied the petitioners' Motion to Defer/Suspend Arraignment and the accompanying Motion to Recall Alias Witness. (Records, pp. 101-102).

[24] Rollo, pp. 117-120.

[25] Records, pp. 111-121.

[26] Id. at 122-124.

[27] Rollo, pp. 121-136.

[28] Id. at 137.

[29] Id. at 138-146.

[30] Id. at 176-220.

[31] Records, p. 324.

[32] Id. at 332-368.

[33] Rollo, pp. 147-148.

[34] Id. at 45-46.

[35] Id. at 49-60.

[36] Id. at 48.

[37] Id. at 575.

[38] As amended by A.M. No. 07-7-12-SC, which took effect on 27 December 2007. This amendment may already be applied to the present case, as it is already a settled principle that procedural rules may be given retroactive effect to actions pending and undetermined at the time of their passage, and this will not violate any right of a person who may feel that he is adversely affected, inasmuch as there is no vested rights in rules of procedure. (Republic v. Court of Appeals, 447 Phil. 385 [2003].)

[39] Ginete v. Court of Appeals, 357 Phil. 36, 51 (1998).

[40] Aguam v. Court of Appeals, 388 Phil. 587, 593 (2000), cited in Vallejo v. Court of Appeals, G.R. No. 156413, 14 April 2004, 427 SCRA 658, 668.

[41] Id.

[42] Sy Chin v. Court of Appeals, 399 Phil. 442, 454 (2000).

[43] Bank of the Philippine Islands v. Court of Appeals, 450 Phil. 532, 540 (2003).

[44] G.R. No. 149634, 6 July 2004, 433 SCRA 455, 464.

[45] G.R. No. 160455, 9 May 2005, 458 SCRA 325, 334.

[46] G.R. No. 144062, 2 November 2006, 506 SCRA 524, 535.

[47] See *Docena v. Lapesura*, 407 Phil. 1007, 1017 (2001).

[48] *Spouses Ortiz v. Court of Appeals*, 360 Phil. 95, 101 (1998), cited in *Digital Microwave Corporation v. Court of Appeals*, 384 Phil. 842, 847 (2000).

[49] *Records*, p. 330.

[50] *Supra* note 40.

[51] *Cruz, Jr. v. People*, G.R. No. 110436, 27 June 1994, 233 SCRA 439, 453-454, cited in *Ladlad v. Velasco*, G.R. Nos. 172070-72, 1 June 2007, 523 SCRA 318, 335.

[52] *Pilapil v. Sandiganbayan*, G.R. No. 101978, 7 April 1993, 221 SCRA 349, 360.

[53] *People v. Court of Appeals*, 361 Phil. 492, 498 (1999), citing the Separate (Concurring) Opinion of former Chief Justice Narvasa in *Roberts, Jr. v. Court of Appeals*, 324 Phil. 568, 620 (1996).

[54] *People v. Court of Appeals*, *id.*

[55] *Rules of Court*, Rule 112, Section 1, first paragraph.

[56] *Id.*, Section 4, last paragraph.

[57] See *Ladlad v. Velasco*, *supra* note 51, citing *Allado v. Diokno*, G.R. No. 113630, 5 May 1994, 232 SCRA 192, 208 and *Salonga v. Cruz-Paño*, G.R. No. L-59524, 18 February 1985, 134 SCRA 438.

[58] *People v. Court of Appeals*, *supra* note 53, citing *Ledesma v. Court of Appeals*, 344 Phil. 207, 226 (1997).

[59] *Wa-acon v. People*, G.R. No. 164575, 6 December 2006, 510 SCRA 429, 439.

[60] *People v. Court of Appeals*, *supra* note 53.

[61] *Rollo*, pp. 76-78.

[62] *Id.* at 79-84.

[63] *Dunlao, Sr. v. Court of Appeals*, 329 Phil. 613, 619 (1996).

[64] *Id.*

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