

ANGELITO P. MAGNO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, MICHAEL MONSOD, ESTHER LUZ MAE GREGORIO, GIAN CARLO CAJOLES, NENETTE CASTILLON, DONATO ENABE AND ALFIE FERNANDEZ, R...

G.R. No. 171542. April 06, 2011

Ponente: BRION, J.

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BRION, J.:

Through a petition for review on certiorari[1], petitioner Angelito P. Magno seeks the reversal of the Amended Decision of the Court of Appeals (CA), dated September 26, 2005[2] in "People of the Philippines, et al. v. Hon. Augustine A. Vestil, Presiding Judge, RTC Mandaue City, Br. 56, et al" (docketed as CA-G.R. SP No. 79809), and its Resolution dated February 6, 2006[3] denying respondents' motion for reconsideration.[4] The assailed rulings denied the petition for certiorari filed under Rule 65 of the Rules of Court and upheld the ruling[5] of the Regional Trial Court (RTQ of Mandaue City, which precluded Atty. Adelino B. Sitoy from acting as private prosecutor in Criminal Case No. DU-10123.[6]

THE FACTUAL ANTECEDENTS

On May 14, 2003, the Office of the Ombudsman filed an information for multiple frustrated murder and double attempted murder against several accused, including Magno, who were public officers working under the National Bureau of Investigation.[7]

During the scheduled arraignment, Magno, in open court, objected to the formal appearance and authority of Atty. Sitoy, who was there as private prosecutor to prosecute the case for and on behalf of the Office of the Ombudsman.[8] The oral objection was reduced to writing on July 21, 2003 when Magno filed an opposition[9] before Branch 56 of the RTC of Mandaue City, citing the provisions of Section 31 of Republic Act (RA) No. 6770.[10]

The Office of the Ombudsman submitted its comment,[11] while the accused submitted their joint opposition.[12] The respondents likewise submitted their comments to the opposition of the other co-accused.[13]

On September 25, 2003, the RTC issued an Order, ruling that "the Ombudsman is proper, legal and authorized entity to prosecute this case to the exclusion of any other entity/person other than those authorized under R.A. 6770." [14]

In open court, the Office of the Ombudsman moved for the reconsideration of the Order, which the RTC later denied in its October 1, 2003 Order.[15]

Proceedings before the CA

On October 13, 2003, the respondents, through the Ombudsman for the Visayas and Atty. Sitoy, filed a petition

for certiorari before the CA.[16] They contended that the RTC committed a grave abuse of discretion in prohibiting the appearance of Atty. Sitoy as counsel for the private offended parties, as the Rules of Court expressly provides that a private offended party may intervene, by counsel, in the prosecution of offenses. [17]

Magno, in his comment[18] filed on December 15, 2003, insisted that what he questioned before the RTC was the appearance and authority of the private prosecutor to prosecute the case in behalf of the Ombudsman.[19] He stressed that while the Office of the Ombudsman can designate prosecutors to assist in the prosecution of criminal cases, its authority in appointing, deputizing or authorizing prosecutors to prosecute cases is confined only to fiscals, state prosecutors and government lawyers. It does not extend to private practitioners/private prosecutors.[20] He further stressed that while the Order of the RTC states that the Office of the Ombudsman is the proper legal and authorized entity to prosecute the case, it did not affect the right to intervene personally, as the Office of the Ombudsman can take the cudgels for the private respondents in prosecuting the civil aspect of the case.[21]

On February 16, 2005, the CA, in its original Decision, declared that the private prosecutor may appear for the petitioner in the case, but only insofar as the prosecution of the civil aspect of the case is concerned.[22]

The respondents moved for the reconsideration[23] of the CA decision. On September 26, 2005, the CA amended its decision,[24] ruling that the private prosecutor may appear for the petitioner in Criminal Case No. DU-10123 to intervene in the prosecution of the offense charged in collaboration with any lawyer deputized by the Ombudsman to prosecute the case.[25]

Failing to obtain a reconsideration[26] of the amended CA decision, Magno elevated the dispute to this Court through the present petition for review on certiorari[27] filed under Rule 45 of the Rules of Procedure.

PETITIONER'S ARGUMENTS

Magno submits that the CA did not have jurisdiction to entertain the petition for certiorari; the power to hear and decide that question is with the Sandiganbayan.[28] To support this contention, Magno invokes *Engr. Teodoto B. Abbot v. Hon. Judge Hilario I. Mapayo, etc., et al.*[29] where the Court held that the Sandiganbayan has the exclusive power to issue petitions for certiorari in aid of its appellate jurisdiction.[30]

Even if the Court were to set aside this procedural lapse, Magno adds, the private prosecutor cannot be allowed to intervene for the respondents as it would violate Section 31 of RA No. 6770.[31] Section 31 limits the Ombudsman's prerogative to designate prosecutors to fiscals, state prosecutors and government lawyers. It does not, Magno maintains, allow the Ombudsman to deputize private practitioners to prosecute cases for and on behalf of the Office of the Ombudsman.[32]

RESPONDENTS' ARGUMENTS

The Office of the Ombudsman, through the Office of the Special Prosecutor, submitted its memorandum on February 8, 2008. Substantively, the Ombudsman maintains that Atty. Sitoy may intervene in the case pursuant to Section 16, Rule 110 of the Rules of Court, which reads:

Sec. 16. Intervention of the offended party in criminal action. Where the civil action for recovery of civil liability is instituted in the criminal action pursuant to Rule 111, the offended party may intervene by counsel in the prosecution of the offense.

The Ombudsman maintains that Section 31 of RA No. 6770 did not amend Section 16, Rule 110 of the Rules of Court.[33] Section 31 merely allows the Ombudsman to designate and deputize any fiscal, state prosecutor or

lawyer in the government service to act as special investigator or prosecutor to assist in the investigation and prosecution in certain cases. The Ombudsman opines that the two provisions of law "are not diametrically opposed nor in conflict,"[35] as "a private prosecutor may appear for the private offended complainants in the prosecution of an offense independent of the exclusive right of the Ombudsman to deputize."[36] The Ombudsman, however, did not address the contention that the Sandiganbayan, not the CA, has appellate jurisdiction over the RTC in this case.

THE COURT'S RULING

We resolve to grant the petition.

The Sandiganbayan, not the CA, has appellate jurisdiction over the RTC's decision not to allow Atty. Sito to prosecute the case on behalf of the Ombudsman

Presidential Decree (PD) No. 1606 created the Sandiganbayan. Section 4 thereof establishes the Sandiganbayan's jurisdiction:

Section 4. Jurisdiction. The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

A. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corruption Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

x x x x

B. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection of this section in relation to their office.

C. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

In cases where none of the accused are occupying positions corresponding to Salary Grade "27" or higher, as prescribed in the said Republic Act No. 6758, or military or PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Big. 129, as amended.

The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

The Sandiganbayan shall have exclusive original jurisdiction over petitions for the issuance of the writs of mandamus, prohibition, certiorari, habeas corpus, injunctions, and other ancillary writs and processes in aid of its appellate jurisdiction and over petitions of similar nature, including quo warranto, arising or that may arise in cases filed or which may be filed under Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986: Provided, That the jurisdiction over these petitions shall not be exclusive of the Supreme Court.

The procedure prescribed in Batas Pambansa Blg. 129, as well as the implementing rules that the Supreme Court has promulgated and may hereafter promulgate, relative to appeals/petitions for review to the Court of Appeals, shall apply to appeals and petitions for review filed with the Sandiganbayan. In all cases elevated to

the Sandiganbayan and from the Sandiganbayan to the Supreme Court, the Office of the Ombudsman, through its special prosecutor, shall represent the People of the Philippines, except in cases filed pursuant to Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees in the proper courts which shall exercise exclusive jurisdiction over them.

Any provision of law or Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability shall at all times be simultaneously instituted with, and jointly determined in, the same proceeding by the Sandiganbayan or to appropriate courts, the filing of the criminal action being deemed to necessarily carry with it the filing of civil action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized: Provided, however, That where the civil action had theretofore been filed separately but judgment therein has not yet been rendered, and the criminal case is hereafter filed with the Sandiganbayan or the appropriate court, said civil action shall be transferred to the Sandiganbayan or the appropriate court, as the case may be, for consolidation and joint determination with the criminal action, otherwise the separate civil action shall be deemed abandoned." [emphasis and underscoring supplied]

This is clear: the Sandiganbayan has exclusive appellate jurisdiction over resolutions issued by RTCs in the exercise of their own original jurisdiction or of their appellate jurisdiction.

We reaffirmed this rule in *Abbot*.^[37] In that case, petitioner Engr. Abbot filed a petition for certiorari before the CA, claiming that the RTC gravely abused its discretion for not dismissing the information for Malversation thru Falsification of Public Document. The CA refused to take cognizance of the case, holding that the Sandiganbayan has jurisdiction over the petition.

Recognizing the amendments made to PD No. 1606 by RA No. 7975,^[38] we sustained the CA's position since Section 4 of PD No. 1606 has expanded the Sandiganbayan's jurisdiction to include petitions for "mandamus, prohibition, certiorari habeas corpus, injunction, and other ancillary writs and processes in aid of its appellate jurisdiction."^[39]

In the present case, the CA erred when it took cognizance of the petition for certiorari filed by Magno. While it is true that the interlocutory order issued by the RTC is reviewable by certiorari, the same was incorrectly filed with the CA. Magno should have filed the petition for certiorari with the Sandiganbayan, which has exclusive appellate jurisdiction over the RTC since the accused are public officials charged of committing crimes in their capacity as Investigators of the National Bureau of Investigation.^[40]

The CA should have dismissed the petition outright. Since it acted without authority, we overrule the September 26, 2005 Amended Decision of the CA and the subsequent denial of Magno's motions for reconsideration.

Jurisdiction is conferred by law, and the CA's judgment, issued without jurisdiction, is void.

There is no rule in procedural law as basic as the precept that jurisdiction is conferred by law,^[41] and any judgment, order or resolution issued without it is void^[42] and cannot be given any effect.^[43] This rule applies even if the issue on jurisdiction was raised for the first time on appeal or even after final judgment.^[44]

We reiterated and clarified the rule further in *Felicitas M. Machado, et al. v. Ricardo L. Gatdula, et al.*,^[45] as follows:

Jurisdiction over a subject matter is conferred by law and not by the parties' action or conduct. Estoppel generally does not confer jurisdiction over a cause of action to a tribunal where none, by law, exists. In *Lozon v. NLRC*, we declared that:

Lack of jurisdiction over the subject matter of the suit is yet another matter. Whenever it appears that the court has no jurisdiction over the subject matter, the action shall be dismissed. This defense may be interposed at any time, during appeal or even after final judgment. Such is understandable, as this kind of jurisdiction is conferred by law and not within the courts, let alone the parties, to themselves determine or conveniently set aside.

We note that Magno had already raised - in his supplemental motion for reconsideration before the CA[46] - the ground of lack of jurisdiction before the CA's Decision became final. The CA did not even consider this submission, choosing instead to brush it aside for its alleged failure to raise new or substantial grounds for reconsideration.[47] Clearly, however, its lack of jurisdiction is a new and substantial argument that the CA should have passed upon.

The Office of the Ombudsman
cannot rely on the principle of estoppel
to cure the jurisdictional defect of its
petition before the CA

The Ombudsman cannot rely on the principle of estoppel in this case since Magno raised the issue of jurisdiction before the CA's decision became final. Further, even if the issue had been raised only on appeal to this Court, the CA's lack of jurisdiction could still not be cured. In *Machado*,[48] citing *People of the Philippines v. Rosalina Casiano*,[49] we held:

In *People v. Casiano*, this Court, on the issue of estoppel, held:

The operation of the principle of estoppel on the question of jurisdiction seemingly depends upon whether the lower court actually had jurisdiction or not. If it had no jurisdiction, but the case was tried and decided upon the theory that it had jurisdiction, the parties are not barred, on appeal, from assailing such jurisdiction, for the same "must exist as a matter of law, and may not be conferred by consent of the parties or by estoppel." However if the lower court had jurisdiction, and the case was heard and decided upon a given theory, such, for instance, as that the court had no jurisdiction, the party who induced it to adopt such theory will not be permitted, on appeal, to assume an inconsistent position - that the lower court had jurisdiction.

WHEREFORE, we DENY the petitioner's petition for review on certiorari, and DECLARE the Amended Decision of the Court of Appeals in CA-G.R. SP No. 79809, promulgated on September 26, 2005, as well as its Resolution of February 6, 2006, NULL AND VOID for having been issued without jurisdiction. The respondents are hereby given fifteen (15) days from the finality of this Decision within which to seek recourse from the Sandiganbayan. No costs.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Filed under Rule 45 of the Rules of Court, Rollo, pp. 21-37.

[2] *Id.* at 40-43.

[3] *Id.* at 44-45.

[4] Id. at 115-121.

[5] Id. at 65-66.

[6] Id. at 69-73.

[7] Ibid.; filed as Criminal Case No. DU-10123.

[8] Id. at 24.

[9] Id. at 74-76.

[10] Section 31. Designation of Investigators and Prosecutors.— The Ombudsman may utilize the personnel of his office and/or designate or deputize any fiscal, state prosecutor or lawyer in the government service to act as special investigator or prosecutor to assist in the investigation and prosecution of certain cases. Those designated or deputized to assist him herein provided shall be under his supervision and control.

The Ombudsman and his investigators and prosecutors, whether regular members of his staff or designated by him as herein provided, shall have authority to administer oaths, to issue subpoena and subpoena duces tecum, to summon and compel witnesses to appear and testify under oath before them and/or bring books, documents and other things under their control, and to secure the attendance or presence of any absent or recalcitrant witness through application before the Sandiganbayan or before any inferior or superior court having jurisdiction of the place where the witness or evidence is found.

[11] Rollo, pp. 77-80.

[12] Id. at 81-84.

[13] Id. at 85-94.

[14] Id. at 66.

[15] Id. at 67-68.

[16] Id. at 46-59.

[17] Id. at 52-56.

[18] Id. at 95-104.

[19] Id. at 100.

[20] Id. at 101.

[21] Id. at 102.

[22] Id. at 11.

[23] Id. at 115-121.

[24] Id. at 40-43.

[25] Id. at 43.

[26] Id. at 44-45.

[27] Id. at 21-37.

[28] Id. at 28.

[29] G.R. No. 134102, July 6, 2000, 335 SCRA 265.

[30] Rollo, pp. 30-31.

[31] Id. at 32-35.

[32] Id. at 35.

[33] Id. at 238.

[34] Id. at 237-238.

[35] Id. at 238.

[36] Ibid.

[37] Supra note 29.

[38] Section. 4 of RA No. 7975 has since been supplanted by RA No. 8249: AN ACT FURTHER DEFINING THE JURISDICTION OF THE SANDIGANBAYAN, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 1606, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES" (but has retained the exclusive appellate jurisdiction of the Sandiganbayan to issue writs of mandamus, prohibition, certiorari, habeas corpus, injunction and other ancillary writs).

[39] Abbot v. Mapayo, supra note 29 at 271.

[40] Rollo, p. 70.

[41] Machado v. Gatdula, G.R. No. 156287, February 16, 2010, 612 SCRA 546, 559, citing Spouses Vargas v. Spouses Caminas, G.R. Nos. 137839-40, June 12, 2008, 554 SCRA 305, 317; Metromedia Times Corporation v. Pastorin, G.R. No. 154295, July 29, 2005, 465 SCRA 320, 335; and Dy v. National Labor Relations Commission, 229 Phil. 234, 242 (1986).

[42] Id. at 560, citing National Housing Authority v. Commission on the Settlement of Land Problems, G.R. No. 142601, October 23, 2006, 505 SCRA38, 43.

[43] Id. at 561.

[44] Id. at 559, citing Lozon v. NLRC, 310 Phil. 1, 12-13 (1995), citing La Naval Drug Corporation v. Court of Appeals, 236 SCRA 78 (1994).

[45] Id.

[46] Rollo, pp. 132-134; dated January 3, 2006.

[47] Id. at 45.

[48] Supra note 41.

[49] L-15309, February 16, 1961, 1 SCRA 478.

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