

MARIETTA K. ILUSORIO, PETITIONER, VS. SYLVIA K. ILUSORIO, CRISTINA A. ILUSORIO, JOVITO CASTRO AND FIVE (5) JOHN DOES, RESPONDENTS.

G.R. No. 171659. December 13, 2007

Ponente: NACHURA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-171659/>

NACHURA, J.:

Before us on appeal, by way of a petition for review on certiorari under Rule 45 of the Rules of Court, is the Decision[1] dated November 23, 2005 and the Resolution[2] dated February 14, 2006, both of the Court of Appeals.

The case arose from a Complaint-Affidavit[3] filed by petitioner Marietta K. Ilusorio (Marietta) for robbery, qualified trespass to dwelling, and violation of Presidential Decree (P.D.) No. 1829 against private respondents Sylvia K. Ilusorio (Sylvia), Cristina A. Ilusorio (Cristina), Jovito Castro (Jovito), and five (5) John Does.

In the said Complaint-Affidavit, Marietta alleged that she, together with Erlinda K. Ilusorio (Erlinda), Ramon K. Ilusorio, and Shereen K. Ilusorio, owns and controls the majority of the shares of stock of Lakeridge Corporation (Lakeridge), the registered owner of Penthouse Unit 43-C (Penthouse Unit 43-C) of the Pacific Plaza Condominium (Pacific Plaza) in Ayala Avenue, Makati City; that Erlinda, Chairperson and President of Lakeridge, has, for the past eight years, been the present and lawful occupant of Penthouse Unit 43-C; that, sometime in October 1999, Erlinda left for the United States of America, giving her (Marietta) full authority to take care of, oversee, and secure Penthouse Unit 43-C through a letter to that effect addressed to the management of the Pacific Plaza; that on November 2, 1999, Sylvia, Christie Agcaoili-Ilusorio (referring to Cristina), with several unidentified persons, with the consent of Jovito, Chief Security of the Pacific Plaza, forcibly entered Penthouse Unit 43-C by breaking its door and locks and allegedly caused the loss of documents and jewelry (this incident was subject of a robbery case before the Office of the City Prosecutor of Makati City docketed as I.S. No. 99-Y-37824); that on November 6, 1999, five (5) unidentified persons, with Jovito's permission, forcibly entered Penthouse Unit 43-C by breaking its door and locks, replacing it with new ones, and thus preventing her entrance; that upon learning of the latter incident, she went to Penthouse Unit 43-C to verify, and, having seen the door knob torn and one of the locks broken, sought the assistance of the Makati Police; that during the on-site investigation by the police, Jovito failed to cooperate and even concealed information pertinent to the incident.

In their Counter-Affidavit,[4] private respondents, while agreeing that the registered owner of Penthouse Unit 43-C is Lakeridge Development Corporation, denied that petitioner and the other persons named in the Complaint-Affidavit own and control the majority shares and that Erlinda is the chairperson and president of Lakeridge. To buttress this allegation, they submitted copies of the updated General Information Sheet[5] filed with the Securities and Exchange Commission (SEC), Secretary's Certification[6] dated November 8, 1999, and SEC Certificate of Corporate Filing/Information[7] dated November 3, 1999, all showing the stockholders, the officers, and the members of the board of directors of Lakeridge. They also alleged that the authority given by

Erlinda to Marietta was without force and effect, being ultra vires, in the absence of any board resolution to support it. They also noted that the letter of authority,[8] while dated October 7, 1999, was received by the management of the Pacific Plaza only on November 3, 1999, which was after the November 2, 1999 incident described in the Complaint-Affidavit. They also submitted a copy of Lakeridge's letter[9] dated October 20, 1999 to the Pacific Plaza Condominium Association, Inc., received by the latter on October 29, 1999, stating that Lakeridge had not authorized any lease or sale of Penthouse Unit 43-C. They also averred that Marietta was not authorized by the board of directors of Lakeridge to institute the criminal case and that Erlinda's residence was not at the Pacific Plaza but in Antipolo, Rizal. More importantly, they alleged that there could not be robbery and qualified trespass to dwelling because, as officers of Lakeridge, they had the right to enter Penthouse Unit 43-C.

In his separate Counter-Affidavit[10] dated January 17, 2000, Jovito explained that the November 2, 1999 incident cited by Marietta in her Complaint-Affidavit where she claimed that Penthouse Unit 43-C was forced open by breaking the door and locks was really an act of maintenance of the property upon written request made by Sylvia as one of the legitimate unit owners per the records of Pacific Plaza. He claimed that he was merely dragged to the family feud of the Ilusorios.

In a Resolution[11] dated February 1, 2000, Prosecutor II Edgardo G. Hirang of the Office of the City Prosecutor of Makati City dismissed the charges against private respondents for lack of probable cause. He found that, according to the records of Pacific Plaza, Sylvia, who was alleged to have ordered the opening of the door and the replacement of the locks of Penthouse Unit 43-C on November 3, 1999, being among the legitimate owners of and who had on several occasions visited the unit, had the authority to do so for the effective maintenance of the unit. He also found that the charge against Jovito had already become moot and academic considering the dismissal of the charges for robbery and qualified trespass to dwelling.

Marietta's motion for reconsideration of the Resolution was denied in an Order[12] dated May 2, 2000.

Marietta elevated the case to the Department of Justice (DOJ) via a petition for review. However, in a Resolution[13] dated August 27, 2004, then Acting DOJ Secretary Ma. Merceditas N. Gutierrez denied the petition on the ground that there was no showing of any reversible error on the part of the Office of the City Prosecutor of Makati City to warrant the reversal of his dismissal of the criminal charges. The motion for reconsideration of the Resolution dated August 27, 2004 was, likewise, denied in a Resolution[14] dated February 11, 2005.

Marietta went to the Court of Appeals by means of a petition for review on certiorari under Rule 65 of the Rules of Court claiming grave abuse of discretion on the part of both the Office of the City Prosecutor of Makati City and the DOJ in dismissing, for lack of probable cause, the charges she lodged against private respondents.

The Court of Appeals, in its Decision dated November 23, 2005, denied the petition for lack of merit. Marietta moved to reconsider the said Decision, but the motion was, likewise, denied in the Resolution dated February 14, 2006. Hence, this petition.

Petitioner posits that this Court should grant the petition because –

The Public Respondents erred in upholding the resolution of the Investigating Prosecutor Edgardo G. Hirang, which dismissed the complaints for Robbery, Qualified Trespass to Dwelling, and Violation of P.D. [1829], considering that:

- The evidence on record sufficiently established probable cause that [the] said crimes were committed and that the private respondents were probably guilty thereof.
- The petitioner, together with EKI (Erlinda), Ramon K. Ilusorio, and Shereen K. Ilusorio, were the duly

constituted officers of LAKERIDGE and that the lawful occupant of Penthouse Unit 43-C of Pacific Plaza Condominium was EKI, who in turn entrusted the same to petitioner in her absence.

- The self-serving assertions of private respondents that they were representatives of LAKERIDGE did not authorize them to break open the doors of Penthouse Unit 43-C of Pacific Plaza Condominium and gain entry thereto.[15]

We disagree.

In essence, Marietta ascribes reversible error in the Office of the City Prosecutor's finding of lack of probable cause against private respondents for robbery, qualified trespass to dwelling, and for violation of P.D. No. 1829, which was uniformly affirmed by the DOJ and the Court of Appeals.

Probable cause has been defined as the existence of such facts and circumstances as would lead a person of ordinary caution and prudence to entertain an honest and strong suspicion, that the person charged is guilty of the crime for which he is sought to be prosecuted. Being based merely on opinion and reasonable belief, it does not import absolute certainty.[16] A finding of probable cause merely binds over the suspect to stand trial; it does not impose a guilty verdict. However, it requires more than bare suspicion.[17]

The conduct of preliminary investigation for the purpose of determining the existence of probable cause is executive in nature. The right to prosecute crime is reposed in the executive department of the government primarily responsible for the faithful execution of the laws of the land. This right vests the government prosecutor with a wide latitude of discretion on what and whom to charge upon proper finding of probable cause, depending on a smorgasbord of factors best appreciated by him. The preliminary investigation also serves to secure the innocent against hasty, malicious, and oppressive prosecution, and to protect him from an open accusation of a crime, and the expense and anxiety of a public trial. It likewise protects the State from useless and expensive trials, if unwarranted.[18]

Thus, a prosecutor, by the nature of his office, is under no compulsion to file a particular criminal information where he is convinced that there is not enough evidence to support its averments, or that the evidence at hand, to his mind, necessarily leads to a different conclusion. While his findings are not absolute and are subject to judicial review, this Court generally adheres to the policy of non-interference in the conduct of preliminary investigations, particularly when the said findings are well-supported by the facts as established by the evidence on record.[19]

Findings of probable cause are essentially factual in nature. Accordingly, in assailing said findings on the contention that the prosecutor committed grave abuse of discretion, the petitioner clearly raises issues anchored mainly on the propriety or impropriety of the prosecutor's appreciation of the facts. This Court is not duty bound to scrutinize anew established facts in a petition for review for we are not a trier of facts.[20]

In this case, we find no compelling reason to deviate from our policy of non-interference with the investigating prosecutor's findings of absence of probable cause. It is admitted by both parties that the registered owner of Penthouse Unit 43-C is Lakeridge. Aside from the allegation of Marietta, there is no sufficient evidence on record that Erlinda was indeed the lawful occupant of the unit. In fact, the letter dated October 7, 1999, by which she claimed Erlinda gave her authority to occupy, oversee, and secure Penthouse Unit 43-C, and belatedly received by the management of the Pacific Plaza on November 3, 1999, was signed by Erlinda "for LAKERIDGE" without the appropriate resolution of Lakeridge's board of directors to support it. Likewise, Marietta is not armed with any board resolution authorizing her to institute the criminal charges against the private respondents.

Furthermore, Sylvia and Cristina were able to establish by competent evidence that they were then the Vice-President and the Assistant Vice-President of Lakeridge, respectively. As such officers, they would,

ostensibly, have the right and authority to freely enter and perform acts of maintenance of Penthouse Unit 43-C. The right could include breaking open the door and replacing its locks, apparently due to loss of the keys.

Be that as it may, we still take time out to examine the pertinent provisions of the Revised Penal Code on robbery and qualified trespass to dwelling, and the violation of P.D. No. 1829 referred to by Marietta in her Complaint-Affidavit which read as follows:

Art. 293. Who are guilty of robbery.—Any person who, with intent to gain, shall take any personal property belonging to another, by means of violence against or intimidation of any person, or using force upon anything shall be guilty of robbery.

Art. 299. Robbery in an inhabited house or public building or edifice devoted to worship.—Any armed person who shall commit robbery in an inhabited house or public building or edifice devoted to religious worship, shall be punished by reclusion temporal, if the value of the property taken shall exceed 250 pesos, and if –

(a) The malefactors shall enter the house or building in which the robbery was committed, by any of the following means:

- Through an opening not intended for entrance or egress.
- By breaking any wall, roof, or floor, or breaking any door or window.
- By using false keys, picklocks, or similar tools.
- By using any fictitious name or pretending the exercise of public authority.

Or if -

(b) The robbery be committed under any of the following circumstances:

- By the breaking of doors, wardrobes, chests, or any other kind of locked or sealed furniture or receptacle.
- By taking such furniture or objects away to be broken or forced open outside the place of robbery.

Art. 280. Qualified trespass to dwelling.—Any private person who shall enter the dwelling of another against the latter's will, shall be punished by arresto mayor and a fine not exceeding 1,000 pesos.

If the offense be committed by means of violence or intimidation, the penalty shall be prision correccional in its medium and maximum periods and a fine not exceeding 1,000 pesos.

The provisions of this article shall not be applicable to any person who shall enter another's dwelling for the purpose of preventing some serious harm to himself, the occupants of the dwelling or a third person, nor shall it be applicable to any person who shall enter a dwelling for the purpose of rendering some service to humanity or justice, nor to anyone who shall enter cafes, taverns, inns, and other public houses, while the same are open.

Presidential Decree No. 1829:

Section 1. The penalty of prision correccional in its maximum period, or a fine ranging from 1,000 to 6,000 pesos, or both, shall be imposed upon any person who knowingly or willfully obstructs, impedes, frustrates or delays the apprehension of suspects and the investigation and prosecution of criminal cases by committing any of the following acts:

x x x x

(b)

altering, destroying, suppressing, or concealing any paper, record, document, or object, with intent to impair its

verity, authenticity, legibility, availability, as evidence in any investigation of or official proceedings in, criminal cases, or to be used in the investigation of, or official proceedings in, criminal cases;

(c)

harboring or concealing, or facilitating the escape of, any person he knows, or has reasonable ground to believe or suspect, has committed any offense under existing penal laws in order to prevent his arrest, prosecution, and conviction.

We hold that the evidence adduced does not support a finding of probable cause for the offenses defined in the provisions cited above. Marietta failed to prove, by competent evidence, that: (1) Penthouse Unit 43-C was the dwelling place of Erlinda; (2) she has authority over the said unit; (3) Sylvia and Cristina had no authority to enter the unit and conduct acts of maintenance thereon; and (4) Sylvia and Cristina were armed when they effected entrance. Based on these circumstances, the charges of robbery and qualified trespass to dwelling must inevitably fail. Perforce, the charge against Jovito for violation of P.D. No. 1829 should also be dismissed.

We reiterate that Marietta, as the complainant in the criminal charges filed before the Office of the City Prosecutor of Makati City, has the burden to prove the allegations in her Complaint-Affidavit by convincing evidence to warrant the indictment of private respondents. Unfortunately, she failed to discharge this burden. Thus, we cannot fault the investigating prosecutor for dismissing the criminal charges, especially after the dismissal was uniformly affirmed in toto by the City Prosecutor, the Secretary of the DOJ, and the Court of Appeals.

WHEREFORE, the petition is DENIED for lack of merit. The assailed Decision of the Court of Appeals, dated November 23, 2005, and the Resolution dated February 14, 2006 in CA-G.R. SP No. 89331, are AFFIRMED.

SO ORDERED.

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

[1] Rollo, pp. 27-35.

[2] Id. at 36.

[3] Id. at 73-75.

[4] Id. at 76-80.

[5] Id. at 86.

[6] Id. at 81-85.

[7] Id. at 87.

[8] Id. at 70.

[9] Id. at 88-89.

[10] Id. at 90-91.

[11] Id. at 98-100.

[12] Id. at 108.

[13] Id. at 123.

[14] Id. at 58.

[15] Id. at 14.

[16] Paredes v. Calilung, G.R. No. 156055, March 5, 2007, 517 SCRA 369, 394; Pilapil v. Sandiganbayan, G.R. No. 101978, April 7, 1993, 221 SCRA 349, 360.

[17] Ramiscal, Jr. v. Sandiganbayan, G.R. Nos. 169727-28, August 18, 2006, 499 SCRA 375, 395; Drilon v. Court of Appeals, 327 Phil. 916, 923 (1996).

[18] Webb v. De Leon, 317 Phil. 758, 789 (1995); Cruz, Jr. v. People, G.R. No. 110436, June 27, 1994, 233 SCRA, 439, 459; Lim, Sr. v. Felix, G.R. Nos. 94054-57, February 19, 1991, 194 SCRA 292, 304.

[19] Salonga v. Paño, G.R. No. L-59524, February 18, 1985, 134 SCRA 438, 462; People v. Hon. Pineda, 127 Phil. 150, 157 (1967).

[20] Serapio v. Sandiganbayan, 444 Phil. 499, 529 (2003).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.