

SEA LION FISHING CORPORATION, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 172678. March 23, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

When an instrument or tool used in a crime is being claimed by a third-party not liable to the offense, such third-party must first establish its ownership over the same.

This is a Petition for Review on Certiorari assailing the January 10, 2006 Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 91270 which denied the Petition for Certiorari and Mandamus[2] questioning the twin Sentences[3] both dated May 16, 2005 and the Order[4] dated August 4, 2005 of the Regional Trial Court (RTC) of Puerto Princesa City, Branch 52 in Criminal Case Nos. 18965 and 19422. Likewise assailed is the May 5, 2006 Resolution[5] of the CA denying the Motion for Reconsideration[6] thereto.

Factual Antecedents

In response to fishermen's report of poaching off Mangsee Island in Balabac, Palawan, a combined team of Philippine Marines, Coast Guard and barangay officials conducted search and seizure operations therein. There they found F/V Sea Lion anchored three nautical miles northwest of Mangsee Island. Beside it were five boats and a long fishing net already spread over the water. The team boarded the vessel and apprehended her captain, a Filipino, and a crew composed of three Filipinos and three Chinese. Also arrested were 17 Chinese fishermen aboard F/V Sea Lion.

Various charges were thereafter filed as follows: (1) Violation of Section 97[7] of Republic Act (RA) No. 8550[8] against all those arrested, docketed as I.S. No. 2004-032; (2) Violation of Section 90[9] of the same law against the captain of F/V Sea Lion, the Chief Engineer, and the President of the corporation which owned said vessel, docketed as I.S. No. 2004-061; and (3) Violation of Section 27(a) and (f)[10] of RA 9147[11] and of Section 87[12] of RA 8550 against all those arrested and the President of the corporation which owned the vessel, respectively docketed as I.S. Nos. 2004-68, 2004-69, and 2004-70.

Ruling of the Provincial Prosecutor

While the Provincial Prosecutor of Palawan dismissed I.S. Nos. 2004-61, 2004-68 and 2004-69, he nevertheless found probable cause for the remaining charges[13] but only against the 17 Chinese fishermen.[14] This was after it was found out that the crew of F/V Sea Lion did not assent to the illegal acts of said 17 Chinese fishermen who were rescued by the crew of the F/V Sea Lion from a distressed Chinese vessel. The prosecutor concluded that the crew, unarmed, outnumbered and hampered by language barrier, acted only out of uncontrollable fear of imminent danger to their lives and property which hindered them from asserting their authority over these Chinese nationals. Accordingly, corresponding Informations against the 17 Chinese fishermen were filed in court.

With the crew of F/V Sea Lion now exculpated, petitioner Sea Lion Fishing Corporation filed before the Office of

the Provincial Prosecutor an Urgent Motion for Release of Evidence[15] alleging that it owns the vessel. Said Office thus issued a Resolution[16] dated August 25, 2004, viz:

WHEREFORE, F/[V] Sea Lion is hereby recommended to be released to the movant upon proper showing of evidence of its ownership of the aforesaid vessel and the posting of a bond double the value of said vessel as appraised by the MARINA, if through any court accredited company surety, or equal to the aforesaid value[,] if by cash bond. Said bond shall be on the condition that [the] vessel owner shall make [the vessel] available for inspection during the course of the trial.[17] (Emphasis supplied.)

This Resolution was later amended through a Supplemental Resolution[18] dated September 10, 2004 reading as follows:

This pertains to the Resolution of the undersigned dated 25 August 2004 recommending the release of the vessel F/[V] Sea Lion. In addition to the conditions therein, the release of the said vessel shall be with the approval of the Provincial Committee on Illegal Entrants which has jurisdiction over all apprehended vessels involved in poaching.[19]

Petitioner, however, failed to act in accordance with said Resolutions.

Ruling of the Regional Trial Court

The case for Violation of Section 97 of RA 8550 was docketed as Criminal Case No. 18965 while that for Violation of Section 87 of the same law was docketed as Criminal Case No. 19422. The Chinese nationals entered separate pleas of "not guilty" for both offenses. Later, however, in Criminal Case No. 18965, they changed their pleas from "not guilty" to "guilty" for the lesser offense of Violation of Section 88, sub-paragraph (3)[20] of RA 8550. Hence, they were accordingly declared guilty of said lesser offense in a Sentence[21] issued by the RTC of Puerto Princesa City, Branch 52 on May 16, 2005, the dispositive portion of which reads:

WHEREFORE, with the plea of guilty of all the accused to the lesser offense, the Court hereby finds the Seventeen (17) accused guilty beyond reasonable doubt as principals for the crime of Violation of Section 88, sub-par. (3) of R.A. 8550 and sentences them to suffer an imprisonment of FIVE (5) YEARS TO SIX (6) YEARS, SIX (6) MONTHS AND SEVEN (7) DAYS. The Fishing Vessel F/V Sea Lion I as well as the fishing paraphernalia and equipments used by the accused in committing the crime [are] hereby ordered confiscated in favor of the government.

The x x x confiscated vessel and all the fishing gadgets, paraphernalia and equipment are hereby ordered to be placed under the [temporary] custody of the Philippine Coast Guard. The latter is hereby directed to prepare and submit to this Court the inventory of all confiscated items within 15 days from receipt of this order. Further, the Commander of the Philippine Coast Guard should observe the diligence of a good father of the family in the preservation and maintenance of the entrusted confiscated items until the final disposition thereof by the Court.

Having appeared that the accused have been detained since January 19, 2004, the period of their detention is hereby credited in their favor.

SO ORDERED.[22]

A Sentence[23] in Criminal Case No. 19422 was also issued on even date, the dispositive portion of which reads:

WHEREFORE, with the plea of guilty of all seventeen (17) accused, the Court hereby finds them guilty beyond reasonable doubt as principals of the crime of Violation of Section 87 of R.A. 8550 (Poaching) and sentences them to pay a fine of One Hundred Thousand (US\$100,000.00) Dollars to be paid to the Republic of the Philippines. The Fishing Vessel F/V Sea Lion 1 as well as the fishing paraphernalia and equipments used by the accused in committing the crime [are] hereby ordered confiscated in the favor of the government.

The x x x confiscated vessel and all the fishing gadgets, paraphernalia and equipment are hereby ordered to be placed under the [temporary] custody of the Philippine Coast Guard. The latter is hereby directed to prepare and submit to this Court the inventory of all confiscated items within 15 days from receipt of this order. Further, the commander of the Philippine Coast Guard should observe the diligence of a good father of the family in the preservation and maintenance of the entrusted confiscated items until the final disposition thereof by the Court.

The Provincial Jail Warden of Palawan is hereby ordered to release all the above-named accused unless held for some other lawful cause or causes.

SO ORDERED.[24]

It was only after the issuance of the above Sentences that petitioner again made its move by filing a Motion for Reconsideration[25] on June 24, 2005. It prayed for the trial court to delete from said Sentences the confiscation of F/V Sea Lion. The Office of the Provincial Prosecutor filed an Opposition thereto.[26] After receipt of petitioner's Reply[27] to said Opposition, the trial court denied petitioner's Motion for Reconsideration.

Hence, petitioner filed a Petition for Certiorari and Mandamus[28] with the CA.

Ruling of the Court of Appeals

On January 10, 2006, the CA promulgated its assailed Decision denying the petition.[29] The CA ruled that there was no lack of jurisdiction, excess of jurisdiction or grave abuse of discretion on the part of the trial court since it had jurisdiction over the crimes as alleged in the Informations and the penalty for violating the laws stated therein. Necessarily, it had the authority to seize the F/V Sea Lion which was mentioned in the said Informations. The CA further held that while the petitioner attempted to claim as its own the fishing vessel in its Motion for Reconsideration dated June 24, 2005, its effort is undeserving of merit due to failure to adduce evidence. Lastly, the CA declared that the petitioner did not avail of the proper procedural remedy. After the trial court recognized its personality to intervene in the Order dated August 4, 2005, petitioner's recourse should have been an appeal and not certiorari under Rule 65 of the Rules of Court.[30]

The appellate court also denied petitioner's subsequent Motion for Reconsideration[31] in its assailed Resolution dated May 5, 2006.[32]

Thus, petitioner filed this Petition for Review on Certiorari raising the sole issue of whether the confiscation of F/V Sea Lion was valid.[33]

The Parties' Arguments

Petitioner contends that F/V Sea Lion should be released to it because it is the registered owner of said vessel and her captain and crew members were not among those accused of and convicted in Criminal Case Nos. 18965 and 19422. To buttress its contention, petitioner invokes Article 45 of the Revised Penal Code which provides:

ART. 45. Confiscation and forfeiture of the proceeds or instruments of the crime. - Every penalty imposed for the commission of a felony shall carry with it the forfeiture of the proceeds of the crime and the instruments or tools with which it was committed.

Such proceeds and instruments or tools shall be confiscated and forfeited in favor of the Government, unless they be the property of a third person not liable for the offense, but those articles which are not subject of lawful commerce shall be destroyed. (Emphasis supplied.)

Petitioner also claims that it was denied its right to due process of law when it was not notified of the judicial proceedings relative to the confiscation of the fishing vessel. It argues that such notification was necessary

considering that the provincial prosecutor was duly informed of its claim of ownership of the F/V Sea Lion.

On the other hand, respondent People of the Philippines through the Office of the Solicitor General (OSG) argues that since the 17 Chinese nationals were charged with violations of the provisions of RA 8550, a special law, Article 45 of the Revised Penal Code does not apply. This is in view of Article 10 of said Code which specifically declares that acts punishable by special laws are not subject to the provisions of the Revised Penal Code. They are only supplementary to such laws unless the latter should specifically provide the contrary. Hence, the forfeiture and confiscation of the fishing vessel under RA 8550 are different from the forfeiture and confiscation under the Revised Penal Code which are additional penalties imposed in the event of conviction. And, since RA 8550 provides that the vessel used in connection with or in direct violation of the provisions of RA 8550 shall be subjected to forfeiture in favor of the government without mention of any distinction as to who owns the vessel, the forfeiture of F/V Sea Lion was proper.

The OSG also contends that even if Article 45 of the Revised Penal Code is applicable, still the present petition must fail due to petitioner's failure to present its third-party claim at the earliest opportunity. It likewise argues that petitioner was not deprived its right to due process considering that it was given ample opportunity to be heard particularly when its motion for release of the F/V Sea Lion was granted by the Office of the Provincial Prosecutor subject to certain conditions. However, it opted not to comply with the conditions imposed by the prosecutor and instead waited for the trial court's final disposition of the case.

Our Ruling

The petition has no merit.

We note, at the outset, that petitioner pursued an incorrect remedy when it sought recourse before the CA. The filing of a Petition for Certiorari under Rule 65 of the Rules of Court before the CA is limited only to the correction of errors of jurisdiction or grave abuse of discretion on the part of the trial court.[34] "A special civil action for certiorari is an independent action, raising the question of jurisdiction where the tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction." [35] The CA did not find either lack or error of jurisdiction or grave abuse of discretion. There was no jurisdictional error because based on the Informations, [36] the offenses were committed within the territorial jurisdiction of the trial court. The penalties imposable under the law were also within its jurisdiction. As a necessary consequence, the trial court had the authority to determine how the subject fishing vessel should be disposed of. Likewise, no grave abuse of discretion attended the issuance of the trial court's order to confiscate F/V Sea Lion considering the absence of evidence showing that said vessel is owned by a third party. Evidently, the remedial relief pursued by the petitioner was infirm and improper.

We also agree with the CA's observation that the trial court impliedly recognized petitioner's right to intervene when it pronounced that petitioner failed to exercise its right to claim ownership of the F/V Sea Lion. This being the case, petitioner should have filed an appeal instead of a petition for certiorari before the CA. Under Rule 65 of the Rules of Court, certiorari is unavailing when an appeal is the plain, speedy, and adequate remedy. [37] "The nature of the questions intended to be raised on appeal is of no consequence. It may well be that those questions will treat exclusively of whether x x x the judgment or final order was rendered without or in excess of jurisdiction, or with grave abuse of discretion x x x. This is immaterial. The remedy, to repeat, is appeal, not certiorari as a special civil action." [38] The jurisdiction of a court is not affected by its erroneous decision. [39] The orders and rulings of a court on all controversies pertaining to the case cannot be corrected by certiorari if the court has jurisdiction over the subject matter and over the person. [40] Thus, we agree with the CA's dismissal of the petition.

Even assuming that the CA may resolve an error of procedure or judgment, there was none committed in this particular case.

Petitioner's claim of ownership of F/V Sea Lion is not supported by any proof on record. The only document on record that is relevant in this regard is a request for the release of the F/V Sea Lion based on petitioner's alleged ownership filed with the Provincial Prosecutor. While the latter authorized the release of said fishing vessel, this was conditioned upon petitioner's submission of a proof of ownership and the filing of a bond, with which petitioner failed to comply. Even when judicial proceedings commenced, nothing was heard from the petitioner. No motion for intervention or any manifestation came from petitioner's end during the period of arraignment up to the rendition of sentence. While petitioner later explained before the CA that its inaction was brought about by its inability to put up the required bond due to financial difficulties, same is still not a sufficient justification for it to deliberately not act at all.

It was only after the trial court ordered the confiscation of F/V Sea Lion in its assailed twin Sentences that petitioner was heard from again. This time, it filed a Motion for Reconsideration dated June 24, 2005^[41] to which was attached a copy of an alleged Certificate of Registration issued by the Maritime Industry Authority (MARINA).^[42] However, as correctly observed by the CA:

Significantly, the lack of any factual basis for the third-party claim of ownership was not cured at all when the petitioner filed its motion for reconsideration before the trial court. At that point, evidence should have been adduced to support the petitioner's claim (so that a new trial or reopening of the trial on the confiscation aspect should have been prayed for, rather than a mere motion for reconsideration.) There is firstly the factual issue - to be proved by proper evidence in order to be properly considered by the court - that the vessel is owned by a third party other than the accused. Article 45 required too that proof be adduced that the third party is not liable for the offense. After the admission by the accused through their guilty plea that the vessel had been used in the commission of a crime, we believe and so hold that this additional Article 45 requirement cannot be simply inferred from the mere fact that the alleged owner is not charged in the same case before the court.^[43]

Accordingly, petitioner's recourse to a motion for reconsideration was not proper. Although it attached a copy of an alleged Certificate of Registration, the same cannot be considered by the trial court because it has not been formally offered, pursuant to Section 34, Rule 132 of the Rules of Court. As suggested by the CA, petitioner should have instead moved for a new trial or reopening of the trial on the confiscation aspect, rather than a mere motion for reconsideration.^[44]

Finally, petitioner's contention that it was deprived of its right to due process in the confiscation of F/V Sea Lion has no factual basis. As correctly pointed out by the CA:

That the trial court concluded that no denial of due process occurred is likewise legally correct, perhaps not in the exact way expressed in the assailed order, but for what the reason articulated in the assailed order directly implies. As we discussed above, the petitioner did not intervene before the trial court to claim ownership of the fishing vessel, nor were there records before the court showing a third-party claim of ownership of the vessel; the formal introduction of evidence that would have formally brought the third-party ownership of the vessel to light was prevented by the plea of guilt of the accused. There was therefore no third-party property right sought to be protected when the trial court ordered the confiscation of the vessel.

Significantly, the lack of any factual basis for the third-party claim of ownership was not cured at all when the petitioner filed its motion for reconsideration before the trial court. At that point, evidence should have been adduced to support the petitioner's claim (so that a new trial or reopening of the trial on the confiscation aspect should have been prayed for, rather than a mere motion for reconsideration.) There is firstly the factual issue - to be proved by proper evidence in order to be properly considered by the court - that the vessel is owned by a third party other than the accused. Article 45 required too that proof be adduced that the third party is not liable

for the offense. After the admission by the accused through their guilty plea that the vessel had been used in the commission of a crime, we believe and so hold that this additional Article 45 requirement cannot be simply inferred from the mere fact that the alleged owner is not charged in the same case before the court.

It was under this legal situation that the trial court issued its assailed order that correctly concluded that there had been no denial of due process. Given the absence of any admissible evidence of third-party ownership and the failure to comply with the additional Article 45 requirement, the court's order to confiscate the F/V Sea Lion pursuant to Article 87 of R.A. No. 8550 cannot be incorrect to the point of being an act in grave abuse of discretion.[45]

In fine, it has been established beyond reasonable doubt that F/V Sea Lion was used by the 17 Chinese fishermen in the commission of the crimes. On the other hand, petitioner presented no evidence at all to support its claim of ownership of F/V Sea Lion. Therefore, the forfeiture of F/V Sea Lion in favor of the government was proper.

WHEREFORE, the petition is DENIED. The Decision dated January 10, 2006 and the Resolution dated May 5, 2006 of the Court of Appeals in CA-G.R. SP No. 91270 are AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Perez, JJ., concur.

[1] CA rollo, pp. 114-126; penned by Associate Justice Arturo D. Brion (now a Member of this Court) and concurred in by Associate Justices Bienvenido L. Reyes and Mariflor Punzalan Castillo.

[2] Id. at 2-14.

[3] Id. at 51-56; penned by Judge Toribio E. Ilao, Jr.

[4] Id. at 73-75.

[5] Id. at 149-150.

[6] Id. at 134-137.

[7] Section 97. Fishing Or Taking of Rare, Threatened or Endangered Species. - It shall be unlawful to fish or take rare, threatened or endangered species as listed in the CITES and as determined by the Department.

Violation of the provision of this section shall be punished by imprisonment of twelve (12) years to twenty (20) years and/or a fine of One hundred and twenty thousand pesos (P120,000.00) and forfeiture of the catch, and the cancellation of fishing permit.

[8] Otherwise known as "The Philippine Fisheries Code of 1998."

[9] Section 90. Use of Active Gear in the Municipal Waters and Bays and Other Fishery Management Areas. - It shall be unlawful to engage in fishing in municipal waters and in all bays as well as other fishery management areas using active fishing gears as defined in this Code.

Violators of the above prohibitions shall suffer the following penalties:

(1) The boat captain and master fisherman of the vessels who participated in the violation shall suffer the penalty of imprisonment from two (2) years to six (6) years;

(2) The owner/operator of the vessel shall be fined from Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00) upon the discretion of the court.

If the owner/operator is a corporation, the penalty shall be imposed on the chief executive officer of the Corporation.

If the owner/operator is a partnership the penalty shall be imposed on the managing partner.

(3) The catch shall be confiscated and forfeited.

[10] Section 27. Illegal Acts. - Unless otherwise allowed in accordance with this Act, it shall be unlawful for any person to willfully and knowingly exploit wildlife resources and their habitats, or undertake the following acts;

(a) killing and destroying wildlife species, except in the following instances;

(i) when it is done as part of the religious rituals of established tribal groups or indigenous cultural communities;

(ii) when the wildlife is afflicted with an incurable communicable disease;

(iii) when it is deemed necessary to put an end to the misery suffered by the wildlife;

(iv) when it is done to prevent an imminent danger to the life or limb of a human being; and

(v) when the wildlife is killed or destroyed after it has been used in authorized research or experiments.

x x x x

(f) collecting, hunting or possessing wildlife, their by-products and derivatives;

[11] Otherwise known as "Wildlife Resources Conservation and Protection Act."

[12] Section 87. Poaching in Philippine Waters. - - It shall be unlawful for any foreign person, corporation or entity to fish or operate any fishing vessel in Philippine waters.

The entry of any foreign fishing vessel in Philippine waters shall constitute a prima facie evidence that the vessel is engaged in fishing in Philippine waters.

Violation of the above shall be punished by a fine of One hundred thousand U.S. Dollars (US\$100,000.00), in addition to the confiscation of its catch, fishing equipment and fishing vessel: Provided, That the Department is empowered to impose an administrative fine of not less than Fifty thousand U.S. Dollars (US\$50,000.00) but not more than Two hundred thousand U.S. Dollars (US\$200,000.00) or its equivalent in the Philippine Currency.

[13] Except for I.S. No. 2004-61. Here, the Provincial Prosecutor dismissed the case against F/V Sea Lion's Owner, Captain and Chief Engineer but owing to reports that the 17 Chinese nationals made use of active fishing gears, he ordered that a subpoena be issued against them to afford them their right to a preliminary investigation. See the Concurring Resolution of Provincial Prosecutor Alen Ross B. Rodriguez, CA rollo, pp. 32-38.

[14] Id.

[15] As mentioned in the August 25, 2004 Resolution of the Office of the Provincial Prosecutor, id. at 47-49.

[16] Id.

[17] Id. at 49.

[18] Id. at 50.

[19] Id. at 51-53.

[20] Section 88. Fishing Through Explosives, Noxious or Poisonous Substance, and/or Electricity. -

x x x x

(3) Actual use of explosives, noxious or poisonous substances or electrofishing devices for illegal fishing shall be punishable by imprisonment ranging from five (5) years to ten (10) years without prejudice to the filing of separate criminal cases when the use of the same result to physical injury or loss of human life.

[21]CA rollo, pp. 54-56.

[22]Id. at 52-53.

[23]Id. at 54-56.

[24] Id. at 55-56.

[25] Id. at 59-64.

[26] Id. at 65-66.

[27] Id. at 69-72

[28]Id. at 2-15.

[29] Id. at 114-126.

[30] Id. at 9-12.

[31] Id. at 134-137.

[32] Id. at 149-150.

[33]Rollo, p. 13.

[34] Borromeo Bros. Estate, Inc. v. Garcia, G.R. Nos. 139594-95, February 26, 2008, 546 SCRA 543, 551.

[35]Id.

[36] CA rollo, pp. 41-44.

[37] The pertinent portion of Section 1, Rule 65 of the Rules of Court provides:

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, or 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.

x x x x

[38] Herrera, Remedial Law, Volume III, 1999 Ed., p. 220, citing Pan Realty Corporation v. Court of Appeals, 249 Phil. 521, 530-531 (1988).

[39] Estrada v. Sto. Domingo, 139 Phil. 158, 187-188. (1969).

[40] Paramount Insurance Corporation v. Judge Luna, 232 Phil. 526, 534 (1987).

[41] CA rollo, pp. 59-64.

[42]Id. at 76.

[43] Id. at 124.

[44] Id.

[45] Id. at 123-125.

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