# SPS. ARTEMIO AND ESPERANZA ADUAN, PETITIONERS, VS. LEVI CHONG, RESPONDENT.

*G.R. No. 172796. July 13, 2009*

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-172796/

**CARPIO MORALES, J.:**

Via petition for review on certiorari, spouses Artemio and Esperanza Aduan (petitioners) assail the Decision[1] of the Court of Appeals dated March 27, 2006 and the Resolution[2] dated May 22, 2006 reversing the Department of Justice (DOJ) Resolutions dated November 5, 2004[3] and March 14, 2005[4] which modified the Manila City Prosecutor's Office Resolution[5] -- finding probable cause to indict petitioner Esperanza and her uncle Ernesto Sagum for falsification of public document -- by ordering the discharge of petitioner Esperanza from the Information filed in court.

It appears that on September 20, 2001, respondent Levi Chong's wife Nelia issued an Allied Bank check in the amount of P850,000 postdated November 20, 2001 to secure the payment of a loan. On even date, a Deed of Real Estate Mortgage[6] over a house and lot in Tondo, Manila was executed in favor of petitioners by Nelia, who was later to claim that she was coerced into signing the deed, together purportedly with her husband whose signature thereon was allegedly forged.

When the loan was on maturity not settled, despite demand, petitioners presented the check for payment but it was dishonored due to Account Closed.

Petitioners thereupon instituted criminal complaints against Nelia, as well as her husband, for violation of Batas Pambansa Blg. 22 (B.P. 22) and for Estafa before the City Prosecutors Office of Manila.[7] In a separate move, they filed an action for foreclosure of mortgage before the Regional Trial Court of Manila.

On the other hand, the Chongs filed a complaint for forgery against petitioner Esperanza and her uncle Ernesto Sagum, alleging that Esperanza induced said uncle to forge the signature of respondent Levi Chong in the Deed of Real Estate Mortgage.[8]

The City Prosecutor of Manila found probable cause to hold respondent Levi Chong's wife Nelia liable for violation of B.P. 22 and for estafa. It also found probable cause to hold Sagum and petitioner Esperanza liable for falsification of public document as in fact an Information therefor was filed against Sagum and Esperanza before the Metropolitan Trial Court (MeTC) of Manila.

Petitioner Esperanza sought the review by the DOJ of the City Prosecutor's Resolution indicting her for falsification of public document. The DOJ, by Resolution of November 5, 2004, modified the City Prosecutor's resolution by ordering the discharge of Esperanza from the Information filed before the MeTC, it holding that in light of her uncle-co-accused Sagum's admission against his own interest that he was the one who actually forged the signature of Levi Chong, without Esperanza's assistance or participation, and in the absence of clear and convincing evidence that Esperanza conspired with him, she should be discharged from the Information. And the

DOJ denied the Motion for Reconsideration of its November 5, 2004 Resolution by Resolution of March 14, 2005.

Respondent assailed the DOJ Resolutions before the Court of Appeals. In the interim, acting on Esperanza's Omnibus Motion in light of the DOJ directive for her discharge,[9] the MeTC, Branch 4, Manila dropped her from the Information by Order[10] dated March 8, 2006.

By the assailed Decision of March 27, 2006, the appellate court set aside the DOJ Resolutions and ruled that the Information against both Sagum and Esperanza filed before the MeTC by the City Prosecutor of Manila stands, it holding that the DOJ Resolutions had "no basis except the self-serving denial of . . . Esperanza Aduan," and that "there is strong indication that Esperanza Aduan, who was to benefit from the performance of the act complained of, acted in concert with Sagum" (Underscoring supplied). The appellate court went on to state as follows:

> It is noticed that the Information had clearly and accurately mentioned the elements of the crime charged. The use of allegations of basic facts constituting the offense charged is sufficient (Serapio vs. Sandiganbayan, 396 SCRA 443). The purpose of preliminary investigation is merely to determine whether a crime has been committed and whether there is probable cause to believe that the person accused of the crime is probably guilty thereof and should be held for trial (Serapio vs. Sandiganbayan, id.).
>
> The test for the correctness of the ground that the facts alleged in the Information do not constitute an offense is the sufficiency of the averments in the Information, that is, whether the facts alleged, if hypothetically admitted, constitute the elements of the offense (Mustang Lumber, Inc. vs. CA, 257 SCRA 430). In the present case, the Resolution of the Asst. City Prosecutor of Manila and approved by the City Prosecutor, with the attached Information, had correctly determined the persons to be prosecuted. Thus, it was patently erroneous for the public respondent to discharge Esperanza Aduan from the Information.[11] (Underscoring supplied)

Esperanza and her co-petitioner husband's Motion for Reconsideration, in which they insisted that the petition before the appellate court had become moot and academic in view of the trial court's grant of petitioner Esperanza's Omnibus Motion,[12] was denied by the appellate court by Resolution dated May 22, 2006 which reiterated its previous ruling and noted that with its grant of the writ of certiorari prayed for by the spouses Chong, the DOJ Resolution has been declared null and void, hence, all actions emanating from such Resolution are also null and void.

Hence, this petition.

The petition is impressed with merit.

The Court held in First Women's Credit Corporation v. Perez that:[13]

> It is settled that the determination of whether probable cause exists to warrant the prosecution in court of an accused should be consigned and entrusted to the Department of Justice, as reviewer of the findings of public prosecutors. The court's duty in an appropriate case is confined to a determination of whether the assailed executive or judicial determination of probable cause was done without or in excess of jurisdiction or with grave abuse of discretion amounting to want of jurisdiction. This is consistent with the general rule that criminal prosecutions may not be restrained or stayed by injunction, preliminary or final, albeit in extreme cases, exceptional circumstances have been recognized. The rule is also consistent with this Court's policy of non-interference in the conduct of preliminary investigations, and of leaving to the investigating prosecutor sufficient latitude of discretion in the exercise of determination of what constitutes sufficient evidence as will establish probable cause for the filing of an information against a supposed offender.
>
> While prosecutors are given sufficient latitude of discretion in the determination of probable cause, their findings are subject to review by the Secretary of Justice. (Emphasis supplied)


*Bar review courses, mock exams and a study planner that keeps you on pace - batas.org*

And it held in UCPB v. Looyuko:[14]

> Consistent with this policy, courts do not reverse the Secretary of Justice's findings and conclusions on the matter of probable cause except in clear cases of grave abuse of discretion.
>
> x x x x
>
> In other words, judicial review of the resolution of the Secretary of Justice is limited to a determination of whether there has been a grave abuse of discretion amounting to lack or excess of jurisdiction considering that full discretionary authority has been delegated to the executive branch in the determination of probable cause during a preliminary investigation. Courts are not empowered to substitute their judgment for that of the executive branch; it may, however, look into the question of whether such exercise has been made in grave abuse of discretion. (Emphasis and underscoring supplied)

The issue on appeal before the Court of Appeals was whether the DOJ committed grave abuse of discretion in determining that there was insufficient evidence showing probable cause to hale petitioner Esperanza into court.

It is hornbook principle that the term "grave abuse of discretion" means such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction.[15] The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.[16]

The DOJ, in reversing the City Prosecutor's finding of probable cause and ordering the discharge of Esperanza, noted that although the evidence on record fully supported the finding of probable cause against Sagum based on his admission that he forged herein respondent's signature on the Deed of Real Estate Mortgage without the participation of Esperanza, there was no basis to hold that Esperanza conspired with him to effect the forgery. The DOJ, citing Dans, Jr. v. People,[17] ruled that conspiracy, like the crime itself, must be proven by competent proof, independently and beyond reasonable doubt.

A reading of the Resolution of the Office of the City Prosecutor does not at all indicate why conspiracy was present between Esperanza and her uncle. The City Prosecutor's Resolution merely states:[18]

> In other words, Sagum did it in conspiracy with Aduan, his niece, who stands to benefit from the forgery as she is the purported mortgagee of the house that belongs to the Chongs. (Emphasis supplied)

There was thus no grave abuse of discretion on the part of the DOJ in issuing its Resolutions.

Contrary to the City Prosecutor's finding, which was adopted by the appellate court in its assailed Decision, that Esperanza was the mortgagee of the subject property does not, without more, show conspiracy in the commission of the forgery admitted to have been done by Sagum alone. If everyone who stands to be benefited from a forged document can be deemed a conspirator, then Nelia Chong as mortgagor may likewise be held liable since the mortgage deed which she signed, albeit under duress according to her, was used to guarantee the loan she admittedly contracted.

In loan transactions secured by mortgages, both mortgagee and mortgagor stand to benefit from the execution of the documents. To assume that Esperanza is a conspirator in the commission of the forgery simply because she was to benefit as mortgagee from the execution of the Deed of Real Estate Mortgage is thus absurd. Absent then any evidence to indicate conspiracy, the City Prosecutor's finding of probable cause against Esperanza fails, as correctly held by the DOJ.

WHEREFORE, the Court of Appeals Decision of dated March 27, 2006 and Resolution dated May 22, 2006 are

REVERSED and SET ASIDE. The Department of Justice Resolution dated November 5, 2004, as well as that of March 14, 2005, is REINSTATED.

**SO ORDERED.**

Quisumbing, (Chairperson), Chico-Nazario,[*] Leonardo-De Castro,[**] and Brion, JJ. , concur.

---

[*] Additional member per Special Order No. 658.

[**] Additional member per Special Order No. 635.

[1] Annex "A" of the Petition, rollo, pp. 21-26. Penned by Associate Justice Eliezer R. de los Santos and concurred in by Associate Justices Jose C. Reyes, Jr., and Arturo G. Tayag.

[2] Annex "D" of the Petition, id. at 37-38. Penned by Associate Justice Eliezer R. de los Santos and concurred in by Associate Justices Jose C. Reyes, Jr., and Arturo G. Tayag.

[3] CA rollo, pp. 95-98.

[4] Id. at 104-105.

[5] Id. at 48-49

[6] Id. at 21-22

[7] Id. at 72-73.

[8] Id. at 18.

[9] Id. at 186-187.

[10] Id. at 184-185. Penned by Judge Nicanor A. Manalo, Jr.

[11] Id. at 162.

[12] Annex "F," rollo, pp. 49-50. Penned by Judge Nicanor A. Manalo, Jr.

[13] G.R. No. 169026, June 15, 2006, 490 SCRA 774, 777.

[14] G.R. No. 156337, September 28, 2007, 534 SCRA 322, 331 citing Metropolitan Bank & Trust Co. v. Tonda, 392 Phil. 797, 814.

[15] People v. Terrado, G.R. No. 148226, July 14, 2008.

[16] Ibid.

[17] G.R. No. 127073, January 29, 1998, 285 SCRA 504.

[18] CA rollo, p. 50.


*Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org*

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.