

LOURDES BALTAZAR AND EDISON BALTAZAR, PETITIONERS, VS. JAIME CHUA Y IBARRA, RESPONDENT.

G.R. No. 177583. February 27, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This Petition for Review on Certiorari under Rule 45 of the Rules of Court assails the Decision[1] of the Court of Appeals in CA-G.R. SP No. 92671, which annulled the 7 December 2004 Order[2] of the Regional Trial Court (RTC) of Manila, Branch 37, directing the filing of Informations for Murder and Frustrated Murder against Jaime Chua (Jaime) and Jovito Armas, Jr. (Jovito).

Jaime and Jovito were charged before the RTC Manila, Branch 27 with the crimes of homicide and frustrated homicide for the death of Ildefonso Baltazar and the wounding of Edison Baltazar. The cases, which were docketed as Criminal Cases No. 97-154966 and No. 97-154967, were presided by Judge Edgardo P. Cruz (Judge Cruz).[3]

On 13 February 1997, petitioners Lourdes Baltazar (Lourdes) and Edison Baltazar (Edison), through counsel, filed a motion for reinvestigation of the cases, praying that Jaime and Jovito be charged with the crimes of murder and frustrated murder, instead of homicide and frustrated homicide.

In a Resolution dated 2 July 1997, the City Prosecutor's Office, upon reinvestigation, found that the appropriate charges against Jaime and Jovito were murder and frustrated murder. With this, the City Prosecutor filed a motion for admission of amended Informations for Murder and Frustrated Murder, which was granted by Judge Cruz in an Order dated 9 September 1997.

Jaime and Jovito appealed the 2 July 1997 Resolution of the City Prosecutor to the Department of Justice (DOJ).

The Secretary of the DOJ (Secretary of Justice), in his Resolution dated 20 October 1997, modified the 2 July 1997 resolution of the City Prosecutor by directing the latter to amend the Informations for Murder and Frustrated Murder to Homicide and Frustrated Homicide against Jovito and to drop Jaime from the charges. On 13 November 1997, Lourdes and Edison filed a motion for reconsideration of the 20 October 1997 Resolution of the Secretary of Justice, which was denied by the latter on 15 December 1997.

Meanwhile, on 11 November 1997, in obedience to the directive of the Secretary of the DOJ, the City Prosecutor filed with the RTC a Manifestation and Motion for the Withdrawal of the Informations for Murder and Frustrated Murder and for the Admission of New Informations for Homicide and Frustrated Homicide.

Over the objections of Lourdes and Edison, Judge Cruz granted the said manifestation and motion in an Order dated 18 November 1997, thereby leaving Jovito as the lone accused. The Order partly provides:

Having been presented prior to arraignment, the motion for withdrawal of the information for murder and frustrated murder is granted pursuant to Sec. 14, Rule 110 of the Revised Rules of Court. Consequently, the amended information for murder and frustrated murder in Crim. Cases Nos. 97-154966 and 97-154967,

respectively, are considered withdrawn.[4]

Unconvinced of the correctness of the dismissal of the charges against Jaime and the downgrading of the charges against Jovito, Lourdes and Edison moved for a reconsideration. They asked the RTC to maintain the informations for murder and frustrated murder against Jovito and Jaime and asked the RTC to determine the existence of probable cause for these charges, pursuant to the ruling in *Crespo v. Mogul*,^[5] which ruled that once an information is filed in court, the disposition of said case lies in the discretion of the trial court.

In the meantime, the cases were re-raffled to Branch 37 of the Manila RTC presided over by Judge Vicente A. Hidalgo (Judge Hidalgo) and docketed as Criminal Cases No. 97-161168 and No. 97-161169.

Despite the transfer of the cases to the sala of Judge Hidalgo, Judge Cruz, nonetheless, acted on Lourdes and Edison's motion for reconsideration of the Order dated 18 November 1997. In his order dated 16 February 1998, Judge Cruz denied the said motion on the ground that the proper motion to amend the informations for homicide and frustrated homicide to murder and frustrated murder should be filed before Branch 37, presided by Judge Hidalgo, where said cases were transferred; and that the amendment of informations was a matter of right of the prosecution before arraignment, thus:

[T]he Court is in no position to favorably act on the instant motion. If, indeed, there is probable cause for indicting both accused for the crimes of murder and frustrated murder, the appropriate motion (e.g. amendment of the information) should be filed in Criminal Cases Nos. 97-161168 and 97-161169 and not in these cases. To rule otherwise would sanction multiple charges (murder and homicide; and frustrated murder and frustrated homicide) for a single offense, thereby places accused in double jeopardy x x x.[6] (Emphasis supplied.)

On 4 March 1998, Lourdes and Edison filed before Judge Cruz a Motion to Maintain the Amended Informations for Murder and Frustrated Murder. This motion mainly reiterates Lourdes and Edison's objection to the dismissal of the charges against Jaime and the downgrading of the charges against Jovito.

On 1 April 1998, Judge Cruz denied the foregoing motion on the ground that the same was, in effect, a second motion for reconsideration of the Order dated 18 November 1997, and that to act on the said motion would interfere with the prerogative of Judge Hidalgo of RTC Branch 37, where the cases were transferred. The 1 April 1998 Order partly reads:

[T]his branch cannot act on the motion to dismiss or consider withdrawn the informations for homicide and frustrated homicide, otherwise, it would be interfering with the prerogatives of the other branch of this Court where those criminal actions are pending.[7]

On 30 April 1998, Lourdes and Edison filed this time before Judge Hidalgo a Motion for the Amendment of the Informations for Homicide and Frustrated Homicide, which actually contained arguments identical with those in the Motion to Maintain the Amended Informations for Murder and Frustrated Murder filed by them on 4 March 1998; i.e., that the RTC should assert its authority over said cases, independently of the opinion of the Secretary of Justice, and make its own assessment whether there is sufficient evidence to hold both Jaime and Jovito liable for the crime of murder and frustrated murder.

In an Order dated 7 December 2004, Judge Hidalgo, after making his own assessment of the documents presented by both the prosecution and the defense, granted the motion and ordered the reinstatement of the informations for murder and frustrated murder. The decretal portion of the Order reads:

WHEREFORE, in view of the foregoing, the Informations for Homicide and Frustrated Homicide are considered withdrawn and the Court hereby orders the reinstatement of the Informations for murder and frustrated murder x x x.[8]

On 26 April 2005, Jaime and Jovito filed a motion for reconsideration. They argued that the RTC had no authority to make its own independent findings of facts to determine probable cause against them, apart from the findings made by the Secretary of Justice. Judge Hidalgo denied the said motion, opining that the RTC had the power and duty to make an evaluation to determine the existence of probable cause for the charges, independent of the opinion of the Secretary of Justice. The dispositive part of the Order provides:

Accordingly, the Motion for Reconsideration filed by the accused is hereby DENIED for lack of basis x x x. Asst. City Prosecutor Ronaldo Hubilla is hereby directed within 10 days from receipt hereof to file amended Informations for Murder and Frustrated Murder against Jovito Armas, Jr. and Jaime Chua, respectively.[9]

Jaime then filed a petition for certiorari and prohibition with the Court of Appeals. Again, Jaime contended that Judge Hidalgo had no authority to order the amendment of the informations and to include him as co-accused, since such powers and prerogatives revolved exclusively on the Department of Justice and the City Prosecutor.

In a Decision dated 24 January 2007, the Court of Appeals granted Jaimes' petition and nullified the 7 December 2004 Order of Judge Hidalgo, ruling that the same were issued in grave abuse of discretion amounting to excess of jurisdiction. In nullifying Judge Hidalgo's Order, the Court of Appeals held that Crespo was not applicable to the instant case, since Judge Hidalgo, unlike in the Crespo case, was not confronted with a motion to dismiss or tasked to convict or to acquit an accused. It maintained that the trial court could only exercise its sound discretion on what to do with cases filed before it in line with Crespo, when there was a pleading calling for the dismissal, conviction or acquittal of the accused. Since Lourdes and Edison's Motion for the Amendment of the Informations for Homicide and Frustrated Homicide filed on 30 April 1998 was not a motion to dismiss nor one aimed at convicting or acquitting the accused, then Crespo found no relevance.

The Court of Appeals likewise stressed that the 7 December 2004 Order of Judge Hidalgo was a patent nullity since it revived the earlier 18 November 1997 Order of Judge Cruz withdrawing the charges against Jaime, which had already attained finality on 6 October 1998.

Aggrieved, Lourdes and Edison filed the instant petition.

We grant the petition.

The basic issue at hand is whether Judge Hidalgo may review the finding of the Secretary of Justice on the existence or non-existence of probable cause sufficient to hold Jaime for trial and substitute his judgment for that of the Secretary of Justice.

The rule is that once an information is filed in court, any disposition of the case, be it dismissal, conviction, or acquittal of the accused, rests on the sound discretion of the court. Crespo v. Mogul[10] laid down this basic precept in this wise:

The rule therefore in this jurisdiction is that once a complaint or information is filed in Court any disposition of the case as [to] its dismissal or the conviction or acquittal of the accused rests in the sound discretion of the court. Although the fiscal retains the direction and control of the prosecution of criminal cases even while the case is already in court he cannot impose his opinion on the trial court. The court is the best and sole judge on what to do with the case before it. The determination of the case is within its exclusive jurisdiction and competence. A motion to dismiss the case filed by the fiscal should be addressed to the Court who has the option to grant or deny the same.

In observance of the tenet spelled out in Crespo, the Court in Martinez v. Court of Appeals[11] lamented the trial court's grant of the motion to dismiss filed by the prosecution, upon the recommendation of the Secretary of Justice, as the judge merely relied on the conclusion of the prosecution, thereby failing to perform his function of

making an independent evaluation or assessment of the merits of the case.

Crespo and Martinez mandated the trial courts to make an independent assessment of the merits of the recommendation of the prosecution dismissing or continuing a case. This evaluation may be based on the affidavits and counter-affidavits, documents, or evidence appended to the information; the records of the public prosecutor which the court may order the latter to produce before the court; or any evidence already adduced before the court by the accused at the time the motion is filed by the public prosecutor.[12] Reliance on the resolution of the Secretary of Justice alone is considered an abdication of the trial court's duty and jurisdiction to determine a *prima facie* case. While the ruling of the Justice Secretary is persuasive, it is not binding on courts.[13] The trial court is not bound by the Resolution of the Justice Secretary, but must evaluate it before proceeding with the trial.

Considering that the trial court has the power and duty to look into the propriety of the prosecution's motion to dismiss, with much more reason is it for the trial court to evaluate and to make its own appreciation and conclusion, whether the modification of the charges and the dropping of one of the accused in the information, as recommended by the Justice Secretary, is substantiated by evidence. This should be the state of affairs, since the disposition of the case -- such as its continuation or dismissal or exclusion of an accused -- is reposed in the sound discretion of the trial court.[14]

In the case under consideration, the City Prosecutor indicted Jaime and Jovito for the crimes of murder and frustrated murder. However, upon review, the Secretary of Justice downgraded the charges to homicide and frustrated homicide. The Secretary also dropped Jaime from the charges. This resolution prompted the City Prosecutor to file a Manifestation and Motion for the Withdrawal of the Informations for Murder and Frustrated Murder and for the Admission of New Informations for Homicide and Frustrated Homicide against Jovito only, which was granted by Judge Cruz in his Order dated 18 November 1997. Judge Cruz, however, failed to make an independent assessment of the merits of the cases and the evidence on record or in the possession of the public prosecutor. In granting the motion of the public prosecutor to withdraw the Informations, the trial court never made any assessment whether the conclusions arrived at by the Secretary of Justice was supported by evidence. It did not even take a look at the bases on which the Justice Secretary downgraded the charges against Jovito and excluded Jaime therefrom. The said order reads:

For resolution is the prosecution's motion to withdraw the amended information for murder and frustrated murder and to admit, in lieu thereof, the information for homicide and frustrated homicide. (Manifestation and Motion dated November 6, 1997). The motion was filed in compliance with the resolution of the Secretary of Justice dated October 20, 1997 directing the City Prosecutor "to amend the information from murder and frustrated murder to homicide and frustrated homicide against Jovito Armas, Jr. and to drop Jaime Chua from the charges.

Having been presented prior to arraignment, the motion for withdrawal of the information for murder and frustrated murder is granted pursuant to Sec. 14, Rule 110 of the Revised Rules of Court. Consequently, the amended information for murder and frustrated murder in Crim. Cases Nos. 97-154966 and 97-154967, respectively are considered withdrawn.[15]

In so doing, the trial court relinquished its judicial power in contravention to the pronouncement of the Court in Crespo and in Martinez.

Judge Cruz did not have a chance to correct his error since, during the pendency of the motion for reconsideration questioning his order dated 18 November 1997, the cases were subsequently transferred to another branch which was presided by Judge Hidalgo. Thus, in his supposed order resolving the said motion for reconsideration, Judge Cruz merely recommended to the movants to go to Judge Hidalgo, who now had jurisdiction over the cases, and

to question therein whether the downgrading of the crimes charged against Jovito and the exclusion of Jaime therefrom were proper. Judge Cruz ruled in this wise:

[T]he Court is in no position to favorably act on the instant motion. If, indeed, there is probable cause for indicting both accused for the crimes of murder and frustrated murder, the appropriate motion (e.g. amendment of the information) should be filed in Criminal Cases Nos. 97-161168 and 97-161169 and not in these cases. To rule otherwise would sanction multiple charges (murder and homicide; and frustrated murder and frustrated homicide) for a single offense, thereby placing accused in double jeopardy x x x.[16] (Emphasis supplied.)

Heeding the advice of Judge Cruz, Lourdes and Edison, went to Judge Hidalgo where they questioned anew the downgrading by the Justice Secretary of the charges against Jovito and the exclusion of Jaime from the charges. After a thorough evaluation of the evidence available vis-a-vis the Resolution of the Justice Secretary, Judge Hidalgo disagreed with those findings. He found that the proper charges against Jovito were murder and frustrated murder and not homicide and frustrated homicide. He, likewise, believed that Jaime was involved in these crimes. The discussion of Judge Hidalgo's Order dated 7 December 2004 is as follows:

In the affidavit executed by the private complainant Lourdes Baltazar, she positively identified Jaime Chua, who was just outside the door of the subject apartment, as the one who handed the gun to Jovito Armas, Jr. simultaneously directing the latter to fire the same to the deceased by telling "iyan tirahin mo." This was confirmed by Edison Baltazar, the son of the deceased, who has a more vivid recollection of the incident, he being present in the scene when the incident occurred and more so, a victim too, who was mortally wounded in the crime complained of. He declared that his father was shot while both his hands were already raised as a manifestation that he has (sic) no intention to fight Jaime Chua and Jovito Armas, Jr. Ildefonso turned his back to back off and leave the aggressors but despite thereof Jovito Armas, Jr. proceeded to carry out the commands of his boss Jaime Chua, resulting in the death of helpless Ildefonso Baltazar.

When his father fell on the ground, he saw Jovito Armas who was about to shoot again his father. So, he surged to his father and covered the latter with his own body as a shield causing him to be shot in the process.

The summary of evidence demonstrates that there is a prima facie facts showing the presence of the element of treachery in the case at bar. The circumstance shows that the shooting was sudden and unexpected to the deceased constituting the element of alevosia necessary to raise homicide to murder, it appearing that the aggressor adopted such mode of attack to facilitate the perpetration of the killing without risk to himself. This is evident since Jovito Armas, Jr. could have fired the gun to the anterior body of Ildefonso Baltazar while the latter was still facing him. But to insure the commission of the killing or to make it impossible or difficult for Ildefonso to retaliate or defend himself, Jovito did the shooting when Ildefonso manifested to retreat. The postmortem findings confirmed that he was shot at the right side of his abdomen. The position of the victim, and the part of his body where the bullet passed through show that the sudden (sic) the act of shooting made by Jovito Armas, Jr. was purposely carried out without danger to himself of any retaliation from the victim. Hence, element of treachery apparently exist.

From the statements of the witnesses for the prosecution, a prima facie evidence sufficient to form a reasonable belief that Jaime Chua is likewise criminally liable as principal by induction.

In the incipency, Jaime Chua appears to be the only adversary of Clarita Tan and thereafter the Baltazars whom Tan called up for intervention in that afternoon. There was an admission that Jaime Chua is the brother-in-law of Jovito Armas, Jr. and the latter likewise work for the former as bodyguard. Furthermore, Chua was present when the incident happened being just a few meters from Jovito Armas and from Ildefonso who was at the door of Chua's apartment when the altercation between him and Ildefonso began. Edison who was beside his father narrated that he saw Chua handed the gun to Jovito Armas simultaneously commanding the latter: "Tirahin mo iyan" pointing at his father. Clearly, a prima facie evidence shows that Jovito Armas could not have shot the deceased had not Chua ordered him to do so. Jovito Armas had no existing animosity with

the deceased nor with Clarita Tan. Rather, it was Chua who apparently infuriated the Clarita Tan and the persons who came to her assistance in that afternoon.

The positive and direct testimony of victim Edison Baltazar and other witnesses for the prosecution indeed support a finding of probable cause. Settled is the rule that the finding of probable cause is based neither on clear and convincing evidence of guilt nor evidence establishing absolute certainty of guilt. It is merely based on opinion and reasonable belief, and so it is enough that there exists such state of facts as would lead a person of ordinary caution and prudence to believe or entertain an honest or strong suspicion that the accused committed the crime imputed.

Upon the other hand, the version of the defense that it was Ildefonso himself who shot his own son is, at the stage of the proceeding, incredible considering the close distance of the Ildefonso from Jovito Armas and Jaime Chua. Had he really willed to fire the gun, which the defense alleges Ildefonso possessed, to Chua and Armas there is a slim chance of missing them in four successive shots. Besides, the statements of the witnesses for the defense failed to provide clear details on how the shooting transpired in contrast with the clear testimonies of the witnesses for the prosecution. At most the statements made for the defense are generally summation of facts, the details of which is yet to be supported by evidence to be presented and which should properly be ventilated in the course of the trial on the merits. Further, the Court is of the opinion that discussing the merits of the defense at this stage of the proceedings would result on probable prejudgment of the case.

WHEREFORE, in view of the foregoing, the Informations for Homicide and Frustrated Homicide are considered withdrawn and the Court hereby orders the reinstatement of the Informations for murder and frustrated murder in Criminal Case Nos. 97454966 and 9745496, respectively.[17]

In its questioned Decision, the Court of Appeals held that Judge Hidalgo gravely abused his discretion amounting to excess of jurisdiction in issuing the foregoing order.

There is excess of jurisdiction where, being clothed with the power to determine the case, the tribunal, board or officer oversteps its/his authority as determined by law.[18] And there is grave abuse of discretion where the capricious, whimsical, arbitrary or despotic manner in which the court, tribunal, board or officer exercises its/his judgment is said to be equivalent to lack of jurisdiction.[19]

Judge Hidalgo is far from being abusive in rendering his questioned Order. He was merely following the injunctions of this Court that whenever a court is presented with a motion to dismiss or to withdraw an information or to exclude an accused from the charge (as heretofore discussed) upon the behest of the Secretary of Justice, the trial court has to determine the merits of the same, and not be subservient to the former.

The Court of Appeals insisted that the instant case did not involve a disposal that would call for the trial court's power to grant or deny the same.

This is inaccurate. Lourdes and Edison's Motion for the Amendment of the Informations for Homicide and Frustrated Homicide, filed on 30 April 1998, was questioning the dismissal of the cases against Jaime and the downgrading of the charges against Jovito. The exclusion of Jaime from the charges was not only disposing the cases against him, but also letting him free from any criminal liabilities arising from the death of Ildefonso Baltazar and the wounding of Edison.

As to the appellate court's holding that the 7 December 2004 Order of Judge Hidalgo revived the final order of Judge Cruz dated 18 November 1997, the same needs clarification.

It must be noted that the 18 November 1997 Order of Judge Cruz granting the motion of the prosecution to Withdraw the Information for Murder and Frustrated Murder was in effect an affirmation by the trial court of the

Justice Secretary's directive to downgrade the crimes against Jovito and to exclude Jaime from these crimes. As discussed earlier, such grant by Judge Cruz, absent any independent evaluation on his part of the merits of the resolution of the Justice Secretary, constituted an abdication of his power, rendering the said Order void. The rule in this jurisdiction is that orders which are void can never attain finality.[20] Since the 18 November 1997 Order is void, the same has never attained finality. Besides, assuming *arguendo* that the 18 November 1997 Order was valid, the same could not have an adverse effect on the 7 December 2004 Order of Judge Hidalgo. As has been noted, a timely motion for reconsideration was filed on the 18 November 1997 Order and Judge Cruz merely stated therein that he could not resolve the merits of the dropping of Jaime from all the cases and the downgrading of the crimes charged since the subject cases were already transferred to Judge Hidalgo. In the subject order of Judge Cruz, he even stated that the said issues could only be resolved by Judge Hidalgo, before whom the cases were pending. In other words, since Judge Cruz was divested of jurisdiction, the issue of the dropping of Jaime from all charges and the downgrading of the charges against Jovito was not resolved by the 18 November 1997 Order. It was therefore proper for Judge Hidalgo to resolve such issue since he had jurisdiction over the cases.

WHEREFORE, the Decision of the Court of Appeals dated 24 January 2007 nullifying the 7 December 2004 Order of the Regional Trial Court of Manila, Branch 37 is hereby SET ASIDE. The 7 December 2004 Order of RTC Branch 37, directing the filing of Informations for Murder and Frustrated Murder against Jovito Armas, Jr. and Jaime Chua, is REINSTATED.

SO ORDERED.

Quisumbing, Carpio, Nachura, and Peralta, JJ., concur.

* Per Special Order No. 564, dated 12 February 2009, signed by Chief Justice Reynato S. Puno, designating Associate Justice Leonardo A. Quisumbing to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave under the Court's Wellness Program.

** Per Special Order No. 568, dated 12 February 2009, signed by Chief Justice Reynato S. Puno, designating Associate Justice Antonio T. Carpio to replace Associate Justice Ma. Alicia Austria-Martinez, who is on official leave under the Court's Wellness Program.

[1] Penned by Associate Mariano C. del Castillo with Associate Justices Ruben T. Reyes and Arcangelita Romilla Lontok, concurring; rollo, pp. 54-70.

[2] Penned by Judge Vicente A. Hidalgo; *id.* at 184-190.

[3] Now an Associate Justice of the Court of Appeals.

[4] CA rollo, p. 38.

[5] G.R. No. L-53373, 30 June 1987, 151 SCRA 462, 469-470.

[6] CA rollo, pp. 42-43.

[7] Rollo, pp. 166-167.

[8] CA rollo, p. 28.

[9] *Id.* at 31.

[10] *Supra* note 5 at 471.

- [11] G.R. No. 112387, 13 October 1994, 237 SCRA 575.
- [12] Santos v. Orda, Jr., G.R. No. 158236, 1 September 2004, 437 SCRA 504, 515.
- [13] Chan v. Secretary of Justice, G.R. No. 147065, 14 March 2008, 548 SCRA 337, 349.
- [14] Ledesma v. Court of Appeals, G.R. No. 113216, 5 September 1997, 278 SCRA 656, 682.
- [15] CA rollo, p. 38.
- [16] Id. at 42-43.
- [17] Rollo, pp. 188-190.
- [18] Litton Mills, Inc. v. Galleon Trader, Inc., G.R. No. L-40867, 26 July 1988, 163 SCRA 489, 494-495.
- [19] Id.
- [20] Villa v. Lazaro, G.R. No. 69871, 24 August 1990, 189 SCRA 34, 44.

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