

NOEL NAVAJA, PETITIONER, VS. HON. MANUEL A. DE CASTRO OR HIS SUCCESSOR, IN HIS CAPACITY AS PRESIDING JUDGE OF THE MUNICIPAL CIRCUIT TRIAL COURT OF JAGNA & GARCIA-HERNANDEZ, JAGN...

G.R. No. 180969. September 11, 2017*

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in this petition for review on certiorari[1] are the Decision[2] dated June 26, 2007 and the Resolution[3] dated November 12, 2007 of the Court of Appeals (CA) in CA-GR. SP. No. 02354, which affirmed the Order[4] dated September 21, 2006 of the Regional Trial Court of Loay, Bohol, Branch 50 (RTC) in Sp. Civil Action No. 0357, and accordingly, sustained the denial of petitioner Noel Navaja's (petitioner) motion to quash filed before the Municipal Circuit Trial Court of Jagna & Garcia-Hernandez, Jagna, Bohol (MCTC-Jagna).

The Facts

The instant case is an offshoot of a preliminary investigation proceeding initiated by DKT Philippines, Inc. (DKT) before the Office of the Provincial Prosecutor of Bohol (OPP-Bohol) in Tagbilaran City, charging its then-Regional Sales Manager for Visayas, Ana Lou B. Navaja (Ana Navaja), of the crime of falsification of a Private Document, docketed as I.S. Case No. 04-1238.[5] In the course of the said proceeding, a certain Ms. Marilyn Magsigay (Ms. Magsigay), a material witness for DKT, was subpoenaed to appear in a hearing before the OPP-Bohol on March 15, 2004 in order to shed light on the official receipt allegedly falsified by Ana Navaja.[6] On March 9, 2004, petitioner, who is Ana Navaja's husband, allegedly went to Ms. Magsigay's workplace in Garden Cafe, Jagna, Bohol, and told her that as per instruction from Ana Navaja's lawyer, Atty. Orwen Bonghanoy (Atty. Bonghanoy), her attendance in the scheduled hearing is no longer needed (March 9, 2004 incident).[7] Thus, Ms. Magsigay no longer attended the scheduled March 15, 2004 hearing where petitioner and Atty. Bonghanoy presented an affidavit purportedly executed by Ms. Magsigay and notarized by a certain Atty. Rolando Grapa (Atty. Grapa) in Cebu City, supporting Ana Navaja's counter-affidavit (March 15, 2004 incident).[8] Resultantly, I.S. Case No. 04-1238 was dismissed.[9]

Meanwhile, respondent Atty. Edgar Borje (Atty. Borje), DKT's counsel, found out from Ms. Magsigay herself that: (a) she would have attended the scheduled March 15, 2004 hearing were it not for the misrepresentation of petitioner that her presence therein was no longer required; (b) she was merely told by her superior in Garden Cafe to sign the affidavit and that she did not personally prepare the same; and (c) she could not have gone to Cebu to have it notarized before Atty. Grapa as she was at work on that day.[10] This prompted Atty. Borje to file the following criminal complaints before the OPP-Bohol and the City Prosecution Office of Tagbilaran City: the first one,[11] charging petitioner of Obstruction of Justice, specifically, for violation of Section 1 (a) of Presidential Decree No. (PD) 1829[12] in connection with the March 9, 2004 incident; and the second one,[13] charging petitioner and Atty. Bonghanoy of Obstruction of Justice as well, specifically, for violation of Section 1

(f) of the same law in connection with the March 15, 2004 incident.[14] After due proceedings, separate Informations were filed. The case relating to the March 9, 2004 incident was filed before the MCTC-Jagna,[15] while that relating to the March 15, 2004 incident was filed before the Municipal Trial Court in Cities of Tagbilaran City, Bohol (MTCC-Tagbilaran).[16]

Consequently, petitioner filed a Motion to Dismiss/Quash Information (Motion to Quash)[17] before the MCTC-Jagna, principally arguing that the charge of violation of Section 1 (a) of PD 1829 pending before it should have been absorbed by the charge of violation of Section 1 (f) of the same law pending before the MTCC-Tagbilaran, considering that: (a) the case pending before the latter court was filed first; (b) the criminal cases filed before the MCTC-Jagna and MTCC-Tagbilaran arose from a single preliminary investigation proceeding, involving the same set of facts and circumstances, and flowed from a single alleged criminal intent, which is to obstruct the investigation of I.S. Case No. 04-1238; and (c) to allow separate prosecutions of the foregoing cases would be tantamount to a violation of his right to double jeopardy.[18]

The MCTC-Jagna Ruling

In an Order[19] dated November 2, 2005, the MCTC-Jagna denied petitioner's Motion to Quash. It held that petitioner had no right to invoke the processes of the court, since at the time he filed said motion, the MCTC-Jagna has yet to acquire jurisdiction over his person.

On reconsideration, the MCTC-Jagna issued a Resolution[20] dated January 24, 2006 upholding the denial of the Motion to Quash. It ruled that in the criminal case before it, petitioner is being charged with violation of Section 1 (a) of PD 1829, an offense separate and distinct from violation of Section 1 (f) of the same law, which is pending before the MTCC-Tagbilaran. As such, said offenses may be prosecuted independently from each other.[21]

Aggrieved, petitioner elevated[22] his case to the RTC.

The RTC Ruling

In an Order[23] dated September 21, 2006, the RTC denied the petition, thereby, affirming the MCTC-Jagna Ruling. It held that the criminal cases pending before the MCTC-Jagna for violation of Section 1 (a) of PD 1829 and MTCC-Tagbilaran for violation of Section 1 (f) of the same law are two (2) separate offenses, considering that: (a) the case in MCTC-Jagna has only one (1) accused, i.e., petitioner, while the one pending before the MTCC-Tagbilaran has two (2), i.e., petitioner and Atty. Bonghanoy; and (b) the places of commission are different, as the March 9, 2004 incident happened in Jagna, Bohol, while the March 15, 2004 incident occurred in Tagbilaran City, Bohol. Further, the RTC opined that while both offenses arose from substantially the same set of facts, each crime involves some important act which is not an essential element of the other.[24]

Dissatisfied, petitioner appealed to the CA.[25]

The CA Ruling

In a Decision[26] dated June 26, 2007, the CA affirmed the RTC Ruling. It held that petitioner allegedly committed several acts which constitute violations of different provisions of PD 1829, namely: (a) the March 9, 2004 incident where he prevented Ms. Magsigay from attending the scheduled hearing in I.S. Case No. 04-1238 by means of deceit and misrepresentation, which is a violation of Section 1 (a) of the law; and (b) the March 15, 2004 incident where he, along with Atty. Bonghanoy, submitted a purported spurious affidavit of Ms. Magsigay in the scheduled hearing in I.S. Case No. 04-1238, which is a violation of Section 1 (f) of the same law. Moreover, the CA pointed out that the foregoing acts were committed in distinct places and locations. As such, there is more than enough basis to try petitioner for two (2) separate crimes under two (2) distinct

Informations.[27]

Unperturbed, petitioner moved for reconsideration,[28] which was, however, denied in a Resolution[29] dated November 12, 2007; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly ruled that petitioner may be separately tried for different acts constituting violations of PD 1829, namely, violations of Sections 1 (a) and (f) of the same law allegedly committed during the pendency of a single proceeding.

The Court's Ruling

The petition is meritorious.

Section 1 of PD 1829 defines and penalizes the acts constituting the crime of obstruction of justice, the pertinent portions of which read:

Sec. 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:

(a)

preventing witnesses from testifying in any criminal proceeding or from reporting the commission of any offense or the identity of any offender/s by means of bribery, misrepresentation, deceit, intimidation, force or threats;

xxxx

(f)

making, presenting or using any record, document, paper or object with knowledge of its falsity and with intent to affect the course or outcome of the investigation of, or official proceedings in, criminal cases;

xxxx

The elements of the crime are: (a) that the accused committed any of the acts listed under Section 1 of PD 1829; and (b) that such commission was done for the purpose of obstructing, impeding, frustrating, or delaying the successful investigation and prosecution of criminal cases.[30]

In this case, two (2) separate Informations were filed against petitioner, namely: (a) an Information dated September 22, 2004 charging him of violation of Section 1 (a) of PD 1829 before the MCTC-Jagna for allegedly preventing Ms. Magsigay from appearing and testifying in a preliminary investigation hearing;[31] and (b) an Information dated August 27, 2004 charging him of violation of Section 1 (f) of the same law before the MTCC-Tagbilaran for allegedly presenting a false affidavit.[32] While the Informations pertain to acts that were done days apart and in different locations, the Court holds that petitioner should only be charged and held liable for a single violation of PD 1829. This is because the alleged acts, albeit separate, were motivated by a single criminal impulse - that is, to obstruct or impede the preliminary investigation proceeding in I.S. Case No. 04-1238, which was, in fact, eventually dismissed by the OPP-Bohol.[33] The foregoing conclusion is premised on the principle of *delito continuado*, which envisages a single crime committed through a series of acts arising

from one criminal intent or resolution.[34] In *Santiago v. Garchitorena*,[35] the Court explained the principle of *delito continuado* as follows:

According to Cuello Calon, for *delito continuado* to exist there should be a plurality of acts performed during a period of time; unity of penal provision violated; and unity of criminal intent or purpose, which means that two or more violations of the same penal provisions are united in one and the same intent or resolution leading to the perpetration of the same criminal purpose or aim (II *Derecho Penal*, p. 520; I Aquino, Revised Penal Code, 630, 1987 ed).

Accordingly to Guevarra, in appearance, a *delito continuado* consists of several crimes but in reality there is only one crime in the mind of the perpetrator (Commentaries on the Revised Penal Code, 1957 ed., p. 102; Penal Science and Philippine Criminal Law, p. 152).

Padilla views such offense as consisting of a series of acts arising from one criminal intent or resolution (Criminal Law, 1988 ed. pp. 53-54).

x x x x

The concept of *delito continuado* although an outcrop of the Spanish Penal Code, has been applied to crimes penalized under special laws, e.g. violation of [Republic Act] No. 145 penalizing the charging of fees for services rendered following up claims for war veteran's benefits x x x.

Under Article 10 of the Revised Penal Code, the Code shall be supplementary to special laws, unless the latter provide the contrary. Hence, legal principles developed from the Penal Code may be applied in a supplementary capacity to crimes punished under special laws.[36] (Emphases and underscoring supplied)

In ruling that the acts imputed to petitioner are deemed separate crimes and thus, may be tried separately, the CA cited the case of *Regis v. People (Regis)*,[37] wherein it was held that the malversation committed through falsification of document performed on different dates constitute independent offenses which must be punished separately.[38] However, a closer perusal of *Regis* shows that its factual milieu is not on all fours with the instant case. In *Regis*, the accused, then municipal treasurer of Pinamungahan, Cebu, signed payrolls on two (2) different dates, i.e., April 30, 1931 and May 2, 1931, making it appear that certain workers worked as laborers in a municipal project when in truth, there were no such workers and that he and his co-accused misappropriated the payroll amounts to themselves. The Court ruled that the accused may be held liable for two (2) separate crimes, considering that when the accused committed the first act constituting malversation committed through falsification of document, it did not appear that he was already predisposed to committing the second act constituting the same crime.[39] Clearly, when the accused in *Regis* falsified the payroll of April 30, 1931, and later, the payroll of May 2, 1931, he -though committing similar acts - could not be said to have been motivated by a single criminal impulse as he was working towards discernibly distinct criminal objectives.

In contrast, petitioner's acts of allegedly preventing Ms. Magsigay from appearing and testifying in a preliminary investigation proceeding and offering in evidence a false affidavit were clearly motivated by a single criminal impulse in order to realize only one criminal objective, which is to obstruct or impede the preliminary investigation proceeding in I.S. Case No. 04-1238. Thus, applying the principle of *delito continuado*, petitioner should only be charged with one (1) count of violation of PD 1829 which may be filed either in Jagna, Bohol where Ms. Magsigay was allegedly prevented from appearing and testifying in I.S. Case No. 04-1238, or in Tagbilaran City, Bohol where petitioner allegedly presented a false affidavit in the same case.[40] However, since he was already charged - and in fact, convicted in a Judgment[41] dated July 3, 2007 - in the MTCC-Tagbilaran, the case in MCTC-Jagna should be dismissed as the events that transpired in Jagna, Bohol should only be deemed as a partial execution of petitioner's single criminal design. The Court's pronouncement in *Gamboa v. CA*[42] is instructive on this matter, to wit:

Apart and isolated from this plurality of crimes (ideal or real) is what is known as "delito continuado" or "continuous crime." This is a single crime consisting of a series of acts arising from a single criminal resolution or intent not susceptible of division. For Cuello Calon, when the actor, there being unity of purpose and of right violated, commits diverse acts, each of which, although of a delictual character, merely constitutes a partial execution of a single particular delict, such concurrence or delictual acts is called a "delito continuado." In order that it may exist, there should be "plurality of acts performed separately during a period of time; unity of penal provision infringed upon or violated and unity of criminal intent and purpose, which means that two or more violations of the same penal provision are united in one and the same intent leading to the perpetration of the same criminal purpose or aim." [43]

Consequently, the criminal case in MCTC-Jagna must be dismissed; otherwise, petitioner will be unduly exposed to double jeopardy, which the Court cannot countenance.

WHEREFORE, the petition is GRANTED. The Decision dated June 26, 2007 and the Resolution dated November 12, 2007 of the Court of Appeals in CA-GR. SP. No. 02354 are hereby REVERSED and SET ASIDE. Accordingly, Criminal Case No. 2878 pending before the Municipal Circuit Trial Court of Jagna & Garcia-Hernandez, Jagna, Bohol is DISMISSED.

SO ORDERED.

Cario, [**] Acting C. J., (Chairperson), Peralta, Caguioa, and Reyes, Jr., JJ., concur.

[*] Part of the Supreme Court's Case Decongestion Program.

[**] Acting Chief Justice per Special Order No. 2479 dated August 31, 2017.

[1] Rollo, pp. 12-44.

[2] Id. at 49-59. Penned by Associate Justice Pampio A. Abarintos with Associate Justices Priscilla Baltazar-Padilla and Stephen C. Cruz, concurring.

[3] Id. at 62.

[4] Id. at 64-66. Penned by Executive Presiding Judge Dionisio R. Calibo, Jr.

[5] See id. at 68 and 70.

[6] See id. at 70.

[7] Id.

[8] See id. at 251 -252 and 259-260.

[9] See id. at 70 and 252.

[10] Id. at 252.

[11] See Complaint-Affidavit dated June 24, 2004; id. at 73-78.

[12] Entitled "PENALIZING OBSTRUCTION OF APPREHENSION AND PROSECUTION OF CRIMINAL OFFENDERS" (January 16, 1981).

[13] See Complaint Affidavit dated June 24, 2004; rollo, pp. 91-94.

[14] See id. at 50.

- [15] See Information in Crim. Case No. 2878 dated September 22, 2004; id. at 68.
- [16] See Information in Crim. Case No. 15942 dated August 27, 2004; id. at 246-247.
- [17] Dated August 3, 2005. Id. at 104-116.
- [18] See id. at 107-112.
- [19] Id. at 136. Penned by Presiding Judge Manuel A. De Castro.
- [20] Id. at 137-138.
- [21] Id. at 138.
- [22] See petition for certiorari dated February 15, 2006; id. at 117-132.
- [23] Id. at 64-66.
- [24] Id. at 65-66.
- [25] See Memorandum [For Petitioner-Appellant] dated January 31, 2007; id. at 211 -229.
- [26] Id. at 49-59.
- [27] See id. at 53-57.
- [28] See motion for reconsideration dated July 20, 2007; id. at 230-244.
- [29] Id. at 62.
- [30] See *Padiernos v. People*, G.R. No. 181111, August 17, 2015, 766 SCRA 614, 628-629.
- [31] See rollo, p. 68.
- [32] See id. at 246-247.
- [33] See id. at 70.
- [34] *Paera v. People*, 664 Phil. 630, 636-637 (2011).
- [35] G.R. No. 109266, December 2, 1993, 228 SCRA 214, 224.
- [36] Id. at 223-225; citation omitted.
- [37] 67 Phil. 43(1938).
- [38] See id. at 46-48.
- [39] See id. at 47.
- [40] See Section 15, Rule 110 of the Revised Rules of Criminal Procedure.
- [41] Rollo, pp. 248-264. Penned by Judge Emma Eronico-Supremo.
- [42] 160-A Phil. 962 (1975).
- [43] Id. at 969.

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