

MA. IMELDA PINEDA-NG, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 189533. November 15, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is a Petition[1] for Review on Certiorari under Rule 45 of the Rules of Civil Procedure, seeking the reversal of the Court of Appeals (CA) Decision[2] dated July 10, 2009.

The facts are summarized as follows:

On December 19, 2007, an Information[3] for Qualified Theft was filed against: (1) Richard Francisco (Francisco), Branch Manager of private complainant Philippine Business Bank (bank) located in Dolores, City of San Fernando, Pampanga; (2) Mailada Marilag-Aquino[4] (Aquino); and (3) petitioner Ma. Imelda Pineda-Ng[5] (petitioner).

The prosecution found that Aquino had drawn and issued the following checks in favor of petitioner:

Drawee Bank

Check No.

Date

Payor

Amount

Planters Bank

0204036

February 07, 2007

Imelda Ng P 625,000.00

China Bank

A0666301

February 21, 2007

Imelda Ng 1,180,000.00

China Bank

A0666309

February 26, 2007

Cash 1,560,000.00

China Bank

A0666310

February 26, 2007

Cash 1,390,000.00

China Bank

A0666308

February 27, 2007

Imelda Ng 2,080,000.00

Planters Bank

0204030

February 28, 2007

Imelda Ng 900,000.00

China Bank

A0661638

February 28, 2007

Cash 1,000,000.00

TOTAL:

P 8,735,000.00

In turn, petitioner presented these seven (7) checks for payment before the bank by virtue of her Bill Purchase Accommodation facility through Francisco, who, in excess of his authority, approved the payment of these checks despite the fact that each check had a face value of more than P100,000.00 and that the same were actually drawn from Closed Accounts and/or drawn against insufficient funds.[6]

Petitioner filed a Motion for Reconsideration,[7] which was, however, denied by the City Prosecutor because the Information was already filed before the Regional Trial Court (RTC) of San Fernando, Pampanga, Branch 42, presided over by Judge Maria Amifaith Fider-Reyes (Judge Reyes).[8] In her Order[9] dated January 11, 2008, Judge Reyes found probable cause to hold Francisco liable, and fixed his bail at P400,000.00; while she ordered the dismissal of the case against Aquino and petitioner for absence of probable cause. Aggrieved, the bank filed its Motion for Reconsideration,[10] to which petitioner filed her own Comment and Opposition.[11]

On April 30, 2008, Judge Reyes, acting on the bank's motion for reconsideration, issued an Order[12] reversing her earlier ruling, this time finding probable cause against Aquino and petitioner, cancelling the bail fixed for Francisco, and directing the issuance of warrants of arrest to all the accused. No bail was recommended.

Unperturbed, petitioner filed a Petition for Certiorari before the CA. In its Decision[13] dated July 10, 2009, the CA dismissed the petition for lack of merit. The CA took note that, while it appeared that Judge Reyes, other than

exhaustively quoting *People v. CA*,^[14] failed to fully amplify her own findings, it could not be said that she did not review the records of the case, and that she merely relied on the findings of the City Prosecutor. The CA stressed that, at the outset, in her Order dated January 11, 2008 issued in petitioner's favor, Judge Reyes categorically indicated that she reviewed the records of the case. The CA ratiocinated that the judge already had knowledge of the case and that she need not reiterate or mention in the assailed Order that she reviewed the case. After all, Judge Reyes had the power to set aside her previous Order. Moreover, the CA held that while it is true that there is no crime of "Conspiracy to Commit Qualified Theft" as argued by petitioner, the Information charged all the accused with consummated Qualified Theft; thus, Aquino and petitioner were charged as principals by direct participation. Subsequently, the CA denied petitioner's motion for reconsideration in its Resolution^[15] dated September 8, 2009.

Hence, this Petition ascribing grave abuse of discretion to the CA insofar as "the impugned decision and resolution of the Court of Appeals are inconsistent with and not supported by the law, the facts, as well as, the settled jurisprudence laid down by the Honorable Supreme Court on the matter of filing of criminal cases against the accused where there is no evidence sufficient to engender a well-founded belief that an offense was committed."^[16]

Petitioner claims that being a bank client and not an employee of the bank, she could not be held liable for Qualified Theft, and that there is no such crime as Conspiracy to Commit Qualified Theft. Petitioner avers that Judge Reyes merely relied on the findings and recommendation of the City Prosecutor when she did not clearly state the basis for the assailed Order, thus, violating petitioner's constitutional rights to liberty and presumption of innocence.^[17]

On the other hand, respondent *People of the Philippines*, through the Office of the Solicitor General (OSG), asseverates that the petition for certiorari filed before the CA was validly dismissed because the assailed RTC Order was based on Judge Reyes' fair evaluation of the records; hence, there was no grave abuse of discretion committed by the judge when she issued the order. The OSG also states that the petition raises factual matters, and issues of fact are not proper subjects of a petition for certiorari, the same being limited to issues of jurisdiction and grave abuse of discretion. The OSG then submits that the determination of what should be charged in the Information is within the exclusive authority of the executive branch.^[18]

We deny the Petition.

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 subject of the investigation. Being based merely on opinion and reasonable belief, it does not import absolute certainty. Probable cause need not be based on clear and convincing evidence of guilt, as the investigating officer acts upon reasonable belief. Probable cause implies probability of guilt and requires more than bare suspicion, but less than evidence which would justify a conviction.^[19]

The general rule is that this Court does not review factual findings of the trial court, which include the determination of probable cause for the issuance of a warrant of arrest. It is only in exceptional cases where this Court sets aside the conclusions of the prosecutor and the trial court judge on the existence of probable cause, such as cases when the Court finds it necessary in order to prevent the misuse of the strong arm of the law or to protect the orderly administration of justice. The facts obtaining in this case do not warrant the application of the exception.^[20]

Moreover, we respect the findings of the CA when it held that Judge Reyes did not solely rely on the findings of the City Prosecutor in reversing her earlier Order. We observed, among others, that when Judge Reyes quoted our

ruling in *People v. CA*,^[21] she underscored a portion thereof, clearly indicative of her reliance on said jurisprudence. Thus, it cannot be validly argued that Judge Reyes simply and blindly adhered to the recommendation of the City Prosecutor in rendering the assailed Order, bereft of any factual and legal basis. Furthermore, we also accord respect to the factual findings of the City Prosecutor and the CA that petitioner indeed encashed these allegedly anomalous checks. Suffice it to state that a finding of probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction - it is enough that there is a reasonable belief that the act or omission complained of constitutes the offense charged.^[22]

In view of the foregoing disquisitions, we find no further need to resolve the other issues raised by petitioner, absent any reversible error on the part of the CA in rendering the assailed Decision.

WHEREFORE, the instant Petition is DENIED. No Costs.

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

[1] Rollo, pp. 24-42.

[2] Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Magdangal M. de Leon and Ramon R. Garcia, concurring; id. at 113-124.

[3] Id. at 66-67.

[4] Also referred to as Maidala Marilag-Aquino in some pleadings and documents.

[5] Also referred to as Imelda Ng in some pleadings and documents.

[6] Supra note 3; please also see City Prosecutor's resolution dated December 19, 2007 (rollo, pp. 53-60).

[7] Rollo, pp. 61-65.

[8] Id. at 68.

[9] Id. at 81 and 84 (wrong pagination).

[10] Id. at 88-99.

[11] Id. at 102-111.

[12] Id. at 44-52.

[13] Supra note 2.

[14] 361 Phil. 401 (1999).

[15] Rollo, pp. 126-127.

[16] Id. at 26.

[17] Supra note 1; please see petitioner's Reply (id. at 184-191).

[18] Rollo, pp. 153-179.

[19] *Chan v. Secretary of Justice*, G.R. No. 147065, March 14, 2008, 548 SCRA 337, 352.

[20] De Joya v. Marquez, G.R. No. 162416, January 31, 2006, 481 SCRA 376, 381.

[21] Supra note 14, at 415-416.

[22] Ang-Abaya v. Ang, G.R. No. 178511, December 4, 2008, 573 SCRA 129, 142.

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