BARON A. VILLANUEVA AND THE SECRETARY OF JUSTICE PETITIONERS, VS. EDNA R. CAPARAS, RESPONDENT.

G.R. No. 190969. January 30, 2013

Ponente: BRION, J.

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BRION, J.:

We resolve the petition for review on certiorari[1] tiled by petitioner Baron A. Villanueva (Villanueva) to nullity the decision[2] dated May 28, 2009 and the resolution[3] dated January 11, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 102128 insofar as it reversed the disposition[4] of the Secretary of Justice (Secretary) in LS. No. 05-3813 (docketed before the Quezon City Regional Trial Court (RTC), Branch 97, as Criminal Case No. Q-06-14.3 768). The Secretary set aside the resolution[5] of the City Prosecutor of Quezon City (prosecutor) and directed tile withdrawal of the information for homicide filed against Villanueva.

The Factual Antecedents

As the CA summarized in its decision, an altercation occurred between Renato Caparas, husband of respondent Edna R. Caparas, and Villanueva in the morning of August 24, 2005, which altercation led to the death of Renato. On September 7, 2005, Edna filed a criminal complaint for murder against Villanueva.

During the preliminary investigation, Edna submitted her affidavit; the affidavit of her neighbor, Fernando Gonzales, who witnessed the incident; and the autopsy report of the Philippine National Police-Central Police District Crime Laboratory.[6] Villanueva, for his part, submitted his affidavit; the affidavit of Joan Miguel, Villanueva's girlfriend and the niece of Edna; the affidavit of Lourdes Miguel, Renato's sister; and the affidavit of Jovita Caparas, Renato and Lourdes' mother, who were all witnesses to the incident. Villanueva submitted as well as the opinion of Dr. Valentin T. Bernales of the National Bureau of Investigation Medico-Legal Division (NBI opinion) as to the cause of Renato's head injuries.[7]

Finding probable cause, the prosecutor filed a criminal information for homicide[8] against Villanueva on October 3, 2006.[9] Villanueva sought reconsideration of the prosecutor's resolution, but the prosecutor denied the motion on March 22, 2007. Before he could be arraigned,[10] Villanueva filed a petition for review before the Department of Justice.

The DOJ Secretary's Resolution

On July 27, 2007, the Secretary set aside the prosecutor's resolution and directed the prosecutor to move for the withdrawal of the information. The Secretary found the evidence against Villanueva insufficient to support a prima facie case. With the Secretary's denial of Edna's motion for reconsideration on January 4, 2008, Edna sought recourse with the CA via a Rule 65 petition for certiorari.[11]

The Ruling of the CA

The CA reversed the Secretary's resolution and ordered the reinstatement of the prosecutor's resolution and the

corresponding information. It held that the Secretary exceeded the functional requirements of a preliminary investigation in passing upon the validity of matters essentially evidentiary in nature; grave abuse of discretion intervened when he passed upon the merits of Villanueva's defenses, a matter best ventilated in the trial proper. The CA concluded that the facts and the pieces of evidence presented sufficiently supported the finding of probable cause to indict Villanueva for Homicide.

The CA also denied Villanueva's motion to dismiss, based on the order dated February 16, 2009 of the RTC[12] granting the motion for the withdrawal of the information. The CA's denial of Villanueva's motion for reconsideration gave rise to and prompted the present recourse.

The Petition

Villanueva argues in the petition before us that the CA decided questions of substance in a way not in accord with law and jurisprudence, and it departed from the accepted and usual course of judicial proceedings when the CA:

- ordered the reinstatement of the information; and

- reversed and set aside the resolution of the Secretary that was fully in accord with law and the facts established by the evidence.[13]

The Case for the Respondents

Edna, in her response,[14] argues that, first, the issue raised before the CA is whether the Secretary committed grave abuse of discretion in issuing his resolution which was cited as basis for Villanueva's motion to withdraw the information; thus, after setting aside the Secretary's resolution and finding probable cause, the CA correctly ordered the reinstatement of the information; and second, the CA correctly ruled that the Secretary gravely abused his discretion when he reversed the finding of probable cause as he relied on the unconfirmed affidavit of Jovita and on the NBI opinion, and disregarded the testimony of Edna and her witness and the autopsy report.

The Court's Ruling

The petition poses to us the issue of whether the CA correctly ruled that the Secretary exceeded the bounds of his jurisdiction when he reversed the prosecutor's resolution finding probable cause to indict Villanueva for homicide and, pursuant to this conclusion, ordered the withdrawal of the resolution.

The petitioner posits that: (1) the CA passed upon the findings of the RTC although the latter's findings were not in issue before the CA; (2) the Secretary is specifically granted the power, among others, to reverse the findings of the prosecutor when, as in this case, they are contrary to the evidence; and (3) the CA completely disregarded the affidavits of Lourdes and Jovita, and the NBI opinion, among others.

We find the CA decision and resolution in accord with law and jurisprudence in finding that the Secretary acted with grave abuse of discretion when he reversed the prosecutor's resolution finding probable cause to charge Villanueva with homicide.

Probable cause, for purposes of filing criminal information, pertains to facts and circumstances sufficient to incite a well-founded belief that a crime has been committed and the accused is probably guilty thereof.[15] Only such facts sufficient to support a prima facie case against the respondent are required, not absolute certainty.[16] Probable cause implies mere probability of guilt, i.e., a finding based on more than bare suspicion but less than evidence that would justify a conviction.[17] The strict validity and merits of a party's accusation or defense, as well as admissibility of testimonies and pieces of evidence, are better ventilated during the trial proper of the case.[18]

The determination of probable cause is essentially an executive function,[19] lodged in the first place on the

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prosecutor who conducted the preliminary investigation[20] on the offended party's complaint.[21] The prosecutor's ruling is reviewable by the Secretary[22] who, as the final determinative authority on the matter, has the power to reverse, modify or affirm the prosecutor's determination.[23] As a rule, the Secretary's findings are not subject to interference by the courts,[24] save only when he acts with grave abuse of discretion amounting to lack or excess of jurisdiction;[25] or when he grossly misapprehends facts;[26] or acts in a manner so patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined by law; or when he acts outside the contemplation of law.[27]

In order to arrive at probable cause, the elements of the crime charged, homicide in this case, should be present.[28] Jurisprudence laid out the elements of homicide as: (1) a person was killed; (2) the accused killed him without any justifying circumstance; (3) the accused had the intention to kill, which is presumed; and (4) the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide.[29] All of these elements are present in this case, as adequately shown by the affidavits of Edna and her witness, and by the autopsy report.

We agree with the CA that the Secretary, in this case, calibrated the evidentiary weight of the NBI opinion vis-a-vis the autopsy report, as well as Edna's complaint-affidavit vis-à-vis the affidavit of Jovita, and in so doing, already went into the strict merits of Villanueva's defenses. We note that the NBI opinion was procured at Villanueva's instance and was based on the documents and in response to the questions Villanueva posed,[30] while Jovita was unable to recall the events that transpired relative to Renato's death when asked during the preliminary investigation. Whether the alternative scenario on the cause of Renato's injuries and death (as supported by Jovita's affidavit and the NBI opinion and which Villanueva proposed by way of defense) is more credible and more likely than the narrations of Edna in her complaint-affidavit, in the affidavit of her witness, and the NBI autopsy report should best be left for the trial court to determine after a full- blown trial on the merits. When the Secretary made a determination based on his own appreciation of the pieces of evidence for and against Villanueva, he effectively assumed the function of a trial judge in the evaluation of the pieces of evidence and, thereby, acted outside his jurisdiction.

Finally, while the CA may have discussed the propriety of the RTC's order granting the withdrawal of the information a matter not directly raised in the petition before the appellate court the discussion was done only in response to Villanueva's own manifestation and motion tor the dismissal of the petition by reason of the order of the RTC:[31] In this light, the CA's discussion of the matter is fully justifiable and understandable. We agree with the CA that the order of the RTC for the withdrawal of information simply relied on the Secretary's resolution granting the withdrawal of the information.[32] Since the Secretary's resolution is void, the consequent order of the RTC, made on the basis of this void resolution, should likewise be void and of no effect.[33]

In sum, the CA did not commit any reversible error when it nullified and set aside the resolution rendered by the Secretary with grave abuse of discretion. Accordingly, the CA also did not err in ordering the reinstatement of the prosecutor's resolution of probable cause and its accompanying information.

WHEREFORE, premises considered, we DENY the petition for lack of merit, and accordingly AFFIRM the decision of the Court of Appeals dated May 28, 2009 and its resolution dated January 11, 2010 in CA-G.R. SP No. 102128. Costs against petitioner Baron A. Villanueva.

SO ORDERED.

Carpio, (Chairperson), Abad,* Perez, and Perlas-Bernabe, JJ., concur.

[*] Designated as additional member in lieu of Associate Justice Mariano C. del Castillo per Raffle dated September 24, 2012.

[1] Dated March 8, 2010 and tiled on March 24, 2010, under Rule 45 or the 1907 Rules of Civil Procedure; rollo, pp. 13-52.

[2] Penned by Associate Justice Rosmari D. Carandang, and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Marlene Gonzales-Sison; id. At 57-69.

[3] Rollo, pp.71-76.

[4] Resolutions dated July 27, 2007 and January 4, 2008 of the Secretary of Justice Raul M. Gonzales; id. at 84-92.

[5] Id. At 96-97.

[6] Id. at 119-122 and 211, copies of the affidavit of Edna and her witness, and the PNP autopsy report, respectively.

[7] Id. at 123-127, 131, 132-138, 142-144, and 216-217 copies of the counter-affidavit of Villanueva, affidavit of Jovita, counter-affidavit of Joan, affidavit of Lourdes, and the medical opinion from the NBI Medico-Legal Division, respectively.

[8] Filed by Assistant City Prosecutor Gibson T. Araula, Jr.; id. at 98. The information reads:

> "The undersigned accuses BARON VILLANUEVA Y APALISOC of the crime of HOMICIDE, committed as follows:
>
> That on or about the 24[th] day of August 2005, in Quezon City, Philippines, the above named accused, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one RENATO DALUZ CAPARAS, by then and there giving him fistic blow on his head, causing him to fall on the pavement and instantaneously hitting his head on the concrete road, thereby inflicting upon him serious and mortal injuries which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said RENATO DALUZ Y CAPARAS."

[9] The case was docketed as Criminal Case No. Q-06-143768, originally raffled to the RTC, Branch 218 and re-raffled to the RTC, Branch 97 upon Villanueva's motion for inhibition; per the CA decision; id. at 61-62.

[10] Villanueva's arraignment had been postponed several times upon his motion. See copy of his Motion to Defer Arraignment, id. at 115-118.

[11] Id. at 155-178.

[12] Penned by Judge Bernelito R. Fernandez, id. at 103-104.

[13] Id. at 34.

[14] Comment; id. at 225.

[15] Ang-Abaya v. Ang, G.R. No. 178511, December 4, 2008, 573 SCRA 129, 142; and Baltazar v. People, G.R. No. 174016, July 28, 2008, 560 SCRA 278, 290-291.

[16] Id.

[17] Chan v. Secretary of Justice, G.R. No. 147065, March 14, 2008, 548 SCRA 337, 352; Ang-Abaya v. Ang, supra note 15, at 142; and Santos v. Orda, Jr., G.R. No. 189402, May 6, 2010, 620 SCRA 375, 385.

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[18] Galvez v. Court of Appeals, G.R. Nos. 187919, 187979 and 188030, April 25, 2012, 671 SCRA 222, 235-236; and United Coconut Planters Bank v. Looyuko, G.R. No. 156337, September 28, 2007, 534 SCRA 322, at 337.

[19] Torres, Jr. v. Spouses Drs. Aguinaldo, 500 Phil 365, 375; and Leviste v. Alameda, G.R. No. 182677, August 3, 2010, 626 SCRA 575, 598.

[20] Julieta E. Bernardo v. Andrew (Chong Buan) L. Tan, et al., G.R. No. 185491, July 11, 2012. See Section 1, Rule 112 of the Revised Rules of Criminal Procedure.

[21] United Coconut Planters Bank v. Looyuko, supra note 18, at 330.

[22] Ang-Abaya v. Ang, supra note 15; United Coconut Planters Bank v. Looyuko, supra note 18, at 330. See 2000 NPS Rule on Appeal, DOJ Department Circular No. 70 (July 3, 2000).

[23] PCGG Chairman Magdangal B. Elma, et al. v. Reiner Jacobi, et al., G.R. No. 155996, June 27, 2012.

[24] Baltazar v. People, supra note 15, at 291-292; Chan v. Secretary of Justice, supra note 17, at 349; United Coconut Planters Bank v. Looyuko, supra note 18, at 330; PCGG Chairman Magdangal B. Elma, et al. v. Reiner Jacobi, et al, supra.

[25] Torres, Jr. v. Sps. Drs. Aguinaldo, supra note 19, at page 376; Chan v. Secretary of Justice, supra note 17, at pp. 349-350; and United Coconut Planters Bank v. Looyuko, supra note 18, at 331.

[26] United Coconut Planters Bank v. Looyuko, supra; and Metropolitan Bank & Trust Company v. Gonzales, G.R. No. 180165, April 7, 2009, 584 SCRA 631, 641.

[27] Aduan v. Chong, G.R. No. 172796, July 13, 2009, 592 SCRA 508, 514.

[28] Ang-Abaya v. Ang, supra note 15, at 143.

[29] Villamor v. People, G.R. No. 182156, November 25, 2009, 605 SCRA 616, 624; and People v. Badriago, G.R. No. 183566, May 8, 2009, 587 SCRA 820, 832. See Revised Penal Code, Article 249.

[30] Per the CA decision and the NBI opinion; rollo, pp. 63-65 and 216-217, respectively.

[31] Id at 67-6 .

[32] Supra note 12.

[33] Adasa v. Abalos, GR. No.168617, February 19, 2007, 516 SCRA 261, 280.

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