

**PEOPLE OF THE PHILIPPINES, REPRESENTED BY THE OFFICE OF
THE CITY PROSECUTOR, DEPARTMENT OF JUSTICE, ROXAS CITY,
PETITIONER, VS. JESUS A. ARROJADO, RESPONDENT.**

G.R. No. 207041. November 09, 2015

Ponente: PERALTA, J.

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PERALTA, J.:

Before the Court is a petition for review on certiorari seeking to set aside the Decision[1] and Resolution[2] of the Court of Appeals (CA), dated September 8, 2011 and April 18, 2013, respectively, in CA-G.R. SP No. 04540. The assailed Decision affirmed the Orders of the Regional Trial Court (RTC) of Makati City, Branch 16, dated July 2, 2009 and July 23, 2009 in Criminal Case No. C-75-09, while the questioned Resolution denied petitioners' Motion for Reconsideration.

The pertinent factual and procedural antecedents of the case are as follows:

In an Information dated March 23, 2009, herein respondent was charged with the crime of murder by the Office of the City Prosecutor of Roxas City, Capiz. The case was docketed as Criminal case No. C-75-09 and was raffled off to Branch 16 of the Regional Trial Court of Roxas City, Iloilo (RTC of Roxas City).

On June 16, 2009, respondent filed a Motion to Dismiss[3] the Information filed against him on the ground that the investigating prosecutor who filed the said Information failed to indicate therein the number and date of issue of her Mandatory Continuing Legal Education (MCLE) Certificate of Compliance, as required by Bar Matter No. 1922 (B.M. No. 1922) which was promulgated by this Court via an En Banc Resolution dated June 3, 2008.[4]

Herein petitioner filed its Comment/Opposition[5] to respondent's Motion to Dismiss contending that: (1) the Information sought to be dismissed is sufficient in form and substance; (2) the lack of proof of MCLE compliance by the prosecutor who prepared and signed the Information should not prejudice the interest of the State in filing charges against persons who have violated the law; and (3) administrative edict cannot prevail over substantive or procedural law, by imposing additional requirements for the sufficiency of a criminal information.

On July 2, 2009, the RTC of Roxas City issued an Order[6] dismissing the subject Information without prejudice. Respondent filed a Motion for Reconsideration.[7] but the trial court denied it in its Order[8] dated July 23, 2009

Respondent then filed a petition for certiorari and/or mandamus with the CA assailing the July 2, 2009 and July 23, 2009 Orders of the RTC of Roxas City.

In its presently assailed Decision, the CA denied respondent's petition and affirmed the questioned RTC Orders. Respondent's Motion for Reconsideration was likewise denied by the CA in its disputed Resolution.

Hence, the present petition for review on certiorari raising a sole Assignment of Error, to wit:

THE HONORABLE COURT OF APPEALS ERRED WHEN IT RULED THAT THE FAILURE OF THE
INVESTIGATING PROSECUTOR TO INDICATE HER MCLE COMPLIANCE NUMBER AND DATE OF

ISSUANCE THEREOF IN THE INFORMATION AGAINST RESPONDENT JESUS A. ARROJADO WARRANTED THE DISMISSAL OF THE SAME.[9]

Petitioner contends that: (1) the term "pleadings" as used in B.M. No. 1922 does not include criminal Informations filed in court; (2) the failure of the investigating prosecutor to indicate in the Information the number and date of issue of her MCLE Certificate of Compliance is a mere formal defect and is not a valid ground to dismiss the subject Information which is otherwise complete in form and substance.

The petition lacks merit.

Pertinent portions of B.M. No. 1922, provide as follows:

x x x x

The Court further Resolved, upon the recommendation of the Committee on Legal Education and Bar Matters, to REQUIRE practicing members of the bar to INDICATE in all pleadings filed before the courts or quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding compliance period. Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records.

x x x[10]

Section 1, Rule 6 of the Rules of Court, as amended, defines pleadings as the written statements of the respective claims and defenses of the parties submitted to the court for appropriate judgment. Among the pleadings enumerated under Section 2 thereof are the complaint and the answer in a civil suit. On the other hand, under Section 4, Rule 110 of the same Rules, an information is defined as an accusation in writing charging a person with an offense, subscribed by the prosecutor and filed with the court. In accordance with the above definitions, it is clear that an information is a pleading since the allegations therein, which charge a person with an offense, is basically the same as a complaint in a civil action which alleges a plaintiff's cause or cause of action. In this respect, the Court quotes with approval the ruling of the CA on the matter, to wit:

x x x x

[A]n information is, for all intents and purposes, considered an initiatory pleading because it is a written statement that contains the cause of action of a party, which in criminal cases is the State as represented by the prosecutor, against the accused. Like a pleading, the Information is also filed in court for appropriate judgment. Undoubtedly then, an Information falls squarely within the ambit of Bar Matter No. 1922, in relation to Bar Matter 850.[11]

Even under the rules of criminal procedure of the United States, upon which our rules of criminal procedure were patterned, an information is considered a pleading. Thus, Rule 12(a), Title IV of the United States Federal Rules of Criminal Procedure, states that: "[t]he pleadings in a criminal proceeding are the indictment, the information, and the pleas of not guilty, guilty, and nolo contendere." Thus, the Supreme Court of Washington held that:

An information is a pleading. It is the formal statement on the part of the state of the facts constituting the offense which the defendant is accused of committing. In other words, it is the plain and concise statement of the facts constituting the cause of action. It bears the same relation to a criminal action that a complaint does to a civil action; and, when verified, its object is not to satisfy the court or jury that the defendant is guilty, nor is it for the purpose of evidence which is to be weighed and passed upon, but is only to inform the defendant of the precise acts or omissions with which he is accused, the truth of which is to be determined thereafter by direct and positive evidence upon a trial, where the defendant is brought face to face with the witnesses.[12]

In a similar manner, the Supreme Court of Illinois ruled that "[a]n indictment in a criminal case is a pleading, since it accomplishes the same purpose as a declaration in a civil suit, pleading by allegation the cause of action in law against [a] defendant." [13]

As to petitioner's contention that the failure of the investigating prosecutor to indicate in the subject Information the number and date of issue of her MCLE Certificate of Compliance is a mere formal defect and is not a valid ground to dismiss such Information, suffice it to state that B.M. No. 1922 categorically provides that "[f]ailure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records." In this regard, petitioner must be reminded that it assailed the trial court's dismissal of the subject Information via a special civil action for certiorari filed with the CA. The writ of certiorari is directed against a tribunal, board or officer exercising judicial or quasi-judicial functions that acted without or in excess of its or his jurisdiction or with grave abuse of discretion. [14] Grave abuse of discretion means such capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction. [15] To justify the issuance of the writ of certiorari, the abuse of discretion must be grave, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined, or to act at all, in contemplation of law, as to be equivalent to having acted without jurisdiction. [16] Since the trial court's dismissal of the subject Information was based on a clear and categorical provision of a rule issued by this Court, the court a quo could not have committed a capricious or whimsical exercise of judgment nor did it exercise its discretion in an arbitrary or despotic manner. Thus, the CA did not commit error in dismissing petitioner's petition for certiorari.

In harping on its contention that the ends of justice would be best served if the criminal case would be allowed to proceed in order to determine the innocence or culpability of the accused, petitioner sounds as if the dismissal of the Information left the prosecution with no other recourse or remedy so as to irreversibly jeopardize the interests of the State and the private offended party. On the contrary, the Court agrees with the CA that the dismissal of the Information, without prejudice, did not leave the prosecution without any other plain, speedy and adequate remedy. To avoid undue delay in the disposition of the subject criminal case and to uphold the parties' respective rights to a speedy disposition of their case, the prosecution, mindful of its duty not only to prosecute offenders but more importantly to do justice, could have simply re-filed the Information containing the required number and date of issue of the investigating prosecutor's MCLE Certificate of Compliance, instead of resorting to the filing of various petitions in court to stubbornly insist on its position and question the trial court's dismissal of the subject Information, thereby wasting its time and effort and the State's resources.

The Court is neither persuaded by petitioner's invocation of the principle on liberal construction of procedural rules by arguing that such liberal construction "may be invoked in situations where there may be some excusable formal deficiency or error in a pleading, provided that the same does not subvert the essence of the proceeding and connotes at least a reasonable attempt at compliance with the Rules." The prosecution has never shown any reasonable attempt at compliance with the rule enunciated under B.M. No. 1922. Even when the motion for reconsideration of the RTC Order dismissing the subject Information was filed, the required number and date of issue of the investigating prosecutor's MCLE Certificate of Compliance was still not included nor indicated. Thus, in the instant case, absent valid and compelling reasons, the requested leniency and liberality in the observance of procedural rules appear to be an afterthought, hence, cannot be granted.

In any event, to avoid inordinate delays in the disposition of cases brought about by a counsel's failure to indicate in his or her pleadings the number and date of issue of his or her MCLE Certificate of Compliance, this Court issued an En Bane Resolution, dated January 14, 2014 which amended B.M. No. 1922 by repealing the phrase "Failure to disclose the required information would cause the dismissal of the case and the expunction of the

pleadings from the records" and replacing it with "Failure to disclose the required information would subject the counsel to appropriate penalty and disciplinary action." Thus, under the amendatory Resolution, the failure of a lawyer to indicate in his or her pleadings the number and date of issue of his or her MCLE Certificate of Compliance will no longer result in the dismissal of the case and expunction of the pleadings from the records. Nonetheless, such failure will subject the lawyer to the prescribed fine and/or disciplinary action.

In light of the above amendment, while the same was not yet in effect at the time that the subject Information was filed, the more prudent and practical thing that the trial court should have done in the first place, so as to avoid delay in the disposition of the case, was not to dismiss the Information but to simply require the investigating prosecutor to indicate therein the number and date of issue of her MCLE Certificate of Compliance.

WHEREFORE, the instant petition is DENIED. The Decision and Resolution of the Court of Appeals, dated September 8, 2011 and April 18, 2013, respectively, in CA-G.R. SP No. 04540 are AFFIRMED.

SO ORDERED

Velasco, Jr., (Chairperson), Bersamin,[*] Villarama, Jr., and Reyes, JJ., concur.

December 28, 2015

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on ___November 9, 2015___ a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on December 28, 2015 at 9:40 a.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[*] Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated November 17, 2014.

[1] Penned by Associate Justice Ramon Paul L. Hernando, with Associate Justices Edgardo L. Delos Santos and Victoria Isabel A. Paredes, concurring; Annex "A" to Petition, rollo pp. 22-31.

[2] Annex "B" to Petition, id. at 32-33.

[3] Annex "E" to Petition, id. at 53-55.

[4] The rule took effect on January 1, 2009.

[5] Annex "F" to Petition, rollo, p. 56.

[6] Annex "H" to Petition, , id. at 60.

[7] Annex "I" to Petition, id. at 61-64.

[8] Annex "J" to Petition, id. at 65-66.

[9] Rollo, p. 10.

[10] Emphasis supplied.

[11] Id. at 27-28.

[12] *Stale v. Cronin*, 20 Wash. 512; *McClendon v. Callahan* 46 Wn. 2d 733.

[13] *People v. Fox*, 346 111. 374.

[14] *Julie's Franchise Corporation , et al. v. Hon. Judge Ruiz, et al.* 614 Phil. 108, 116 (2009)

[15] Id.

[16] Id.

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