

**JOHN LABSKY P. MAXIMO AND ROBERT M. PANGANIBAN,
PETITIONERS, V. FRANCISCO Z. VILLAPANDO, JR. RESPONDENT.**

G.R. No. 214925. April 26, 2017

Ponente: PERALTA, J.

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PERALTA, J.:

Before us are consolidated petitions for review on certiorari under Rule 45 of the Rules of Court assailing the Decision[1] dated June 13, 2014, and Resolution[2] dated October 16, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 131085 which reversed the Decision[3] dated May 30, 2013 of the Regional Trial Court (RTC), Branch 150, Makati City in Special Civil Action No. 13-473. The RTC affirmed the Order[4] of the Metropolitan Trial Court (METC), Branch 67, Makati City denying the Motion to Quash filed by petitioner Francisco Z. Villapando, Jr. (Villapando).

The factual antecedents are as follows:

Villapando is the assignee of Enhanced Electronics and Communications Services, Inc. of Condominium Unit No. 2821 and parking slot at the Legazpi Place in Makati City. Petitioners John Labsky P. Maximo (Maximo) and Robert M. Panganiban (Panganiban) are Directors of ASB Realty Corporation (now, St. Francis Square Realty Corp.), the developer of the said condominium unit.[5]

On November 23, 2010, Villapando filed before the Office of the City Prosecutor of Makati City (OCP-Makati), a complaint[6] against Maximo and Panganiban and other directors/officers of ASB Realty Corp. (ASB) for Violation of Sections 17,[7] 20[8] and 25[9] of Presidential Decree (P.D.) No. 957, otherwise known as the Subdivision and Condominium Buyer's Protective Decree.

Villapando alleged in his complaint that there was failure on the part of Maximo and Panganiban and the other directors/officers of ASB to comply with PD No. 957 relative to the registration of contracts to sell and deeds of sale (Sec. 17), time of completion (Sec. 20) and issuance of title (Sec. 25) with respect to the aforementioned condominium unit.

The said criminal complaint for Violation of Sections 17, 20 and 25 was dismissed by the OCP-Makati in its Resolution[10] dated July 12, 2011 on the ground that prior to the estimated date of completion of the condominium unit, ASB encountered liquidity problems and instituted a petition for rehabilitation with the Securities and Exchange Commission (SEC) which showed good faith on the part of ASB.[11]

On February 24, 2011, Maximo instituted a Complaint[12] for Perjury, Incriminating Innocent Person and Unjust Vexation against Villapando docketed as NPS-No. XV-05-INV-11-B-00509. The complaint was assigned to Assistant City Prosecutor (ACP) Evangeline Viudez-Canobas.[13]

On October 10, 2011, Panganiban also filed a Complaint[14] for Perjury and Unjust Vexation against Villapando docketed as NPS-No. XV-05-INV-11-C-00601. The complaint was assigned to ACP Benjamin S. Vermug, Jr.[15]

The common allegation in the complaints of Maximo and Panganiban was that Villapando committed perjury when the latter alleged in the complaint he filed against them that they were officers and directors of ASB at the time the Deed of Sale was executed between ASB and Enhanced Electronics on February 28, 1997. They claimed that they were not even employees of ASB in 1997 as they were both minors at that time.

After the filing of the Counter-Affidavit,[16] Reply-Affidavit,[17] and Rejoinder-Affidavit,[18] ACP Canobas issued a Resolution[19] (Canobas Resolution) on August 3, 2011 finding probable cause against Villapando for the crime of perjury but dismissed the complaints for unjust vexation and incriminating innocent person. The Resolution was approved[20] by Senior Assistant City Prosecutor (SACP) Christopher Garvida.

Accordingly, on August 15, 2011, an Information[21] dated July 26, 2011 for Perjury was filed against Villapando before Branch 67 of the METC, Makati City. The Information was signed by ACP Canobas and sworn to before ACP Benjamin S. Vermug, Jr.

Meanwhile, on August 31, 2011, Villapando filed a Motion for Partial Reconsideration[22] of the Canobas Resolution before the OCP-Makati alleging that the Information was filed without the prior written authority of the City Prosecutor. He also stated that violations of Sections 17, 20 and 25 are committed not at the time of the execution of the contract to sell but after the execution of the contract, and that there is no allegation in his complaint-affidavit that Maximo was part of the "scheme in the execution of the contract to sell."

Pending resolution of the aforesaid motion for partial reconsideration, a warrant of arrest against Villapando was issued by the METC.[23] On October 14, 2011, Villapando filed a Motion to Quash Information[24] alleging that the person who filed the Information had no authority to do so. He asserted that the Information, as well as the Resolution finding probable cause against him, did not bear the approval of the City Prosecutor of Makati, Feliciano Aspi, which is contrary to Section 4 of Rule 112 of the Rules of Court.

On October 20, 2011, Villapando filed a Supplemental Motion to Quash Information[25] on the ground that the facts charged do not constitute an offense. According to Villapando, violations of Sections 17, 20 and 25 of P.D. No. 957 are continuing crimes, hence, the allegations in the Information do not constitute an offense and a quashal of the same is warranted.

After the filing of the Consolidated Opposition[26] by Maximo and Panganiban, as well as the Reply[27] thereto filed by Villapando, the METC denied the Motion to Quash in an Order[28] dated November 11, 2011. The METC ruled that the presumption of regularity in the performance of official functions should be appreciated in favor of the public prosecutors. It found that the certification by ACP Canobas in the Information stating that the filing of the Information was with the prior authority of the City Prosecutor constitutes substantial compliance with the rules. As to the allegation that the facts charged do not constitute an offense, the METC held that the elements of the crime of perjury were sufficiently alleged in the Information. The decretal portion of the METC Decision states:

WHEREFORE, considering that this case can still be heard and threshed out in a full blown trial, the Court DENIES the Motion to Quash the Information dated October 14, 2011 and its Supplements (to Motion to Quash Information) dated October 19, 2011.

SO ORDERED.[29]

Villapando moved for reconsideration[30] of the Order of the METC dated November 11, 2011. Maximo and Panganiban opposed[31] the motion and Villapando replied[32] thereto. Also, a supplement[33] to the motion was filed on June 14, 2012.

Meanwhile, after an exchange of pleadings - counter-affidavit,[34] reply-affidavit,[35] and rejoinder-affidavit,[36]

ACP Vermug, Jr. issued a Resolution[37] (Vermug Resolution) in NPS-No. XV-05-INV-11-C-00601 on January 13, 2012 finding probable cause against Villapando for the crime of perjury but dismissed the complaint for unjust vexation. The Resolution was approved[38] by Senior Assistant City Prosecutor (SACP) Christopher Garvida who recommended for the filing of an Amended Information before the METC to include Panganiban as one of the complainants.

Thus, on January 19, 2012, the prosecution filed a Motion to Amend the Information and to Admit Attached Information[39] to include Panganiban as one of the complainants in the case.

At this point, for a clear reading of the subsequent procedural incidents, We separately state the proceedings before the Department of Justice (DOJ) from the proceedings before the courts.

Proceedings before the DOJ:

As earlier stated, the Canobas Resolution pertains to the complaint for perjury filed by Maximo against Villapando which gave rise to the filing of the Information before the MeTC, but a motion to partially reconsider the said resolution was filed by Villapando.

On the other hand, the Vermug Resolution pertains to the complaint for perjury filed by Panganiban against Villapando which gave rise to the filing of an Amended Information. On February 13, 2012, Villapando filed a Motion for Partial Reconsideration[40] of the Vermug Resolution before the OCP-Makati.

On February, 21, 2012, the OCP-Makati issued an Order[41] denying Villapando's Motion for Partial Reconsideration of the Canobas Resolution. The Order stated that there was prior written authority for the City Prosecutor in filing the Information by virtue of Office Order No. 32 dated July 29, 2011. The finding of probable cause was also affirmed. The Order was approved by City Prosecutor Feliciano Aspi.

Likewise, on March 20, 2012, the OCP-Makati issued an Order[42] denying Villapando's Motion for Partial Reconsideration[43] of the Vermug Resolution. The said Order merely reiterated the ruling in the Order dated February 21, 2012 denying the Motion for Partial Reconsideration of the Canobas Resolution. The said Order was also approved by City Prosecutor Feliciano Aspi.

Aggrieved, Villapando filed separate petitions for review of the Canobas Resolution and the Vermug Resolution dated March 31, 2012[44] and May 7, 2012,[45] respectively, before the DOJ. He stated in the petitions the same allegations in his motions for partial reconsideration. In addition, he contended that there was even no proof that Maximo and Panganiban were still minors at the time of the execution of the contract to sell because they did not submit any birth certificate.

On November 28, 2013, a Resolution[46] was issued by Prosecutor General Claro A. Arellano denying the petitions for review filed by Villapando for failure to append to the petitions proof that a motion to suspend proceedings has been filed in court. The copies of the resolution and the complaint affidavit were likewise declared not verified.

Proceedings before the courts:

As previously mentioned, Villapando moved to reconsider the denial of his motion to quash the Information before the METC. In an Order[47] dated February 11, 2013, the METC denied Villapando's motion for reconsideration thereby affirming the validity of the information, and at the same time, granted the prosecution's Motion to Amend the Information.

The Amended Information[48] was signed by ACP Evangeline P. Viudez-Canobas and sworn to before ACP Benjamin S. Vermug, Jr.

On April 25, 2013, Villapando elevated the case to the RTC of Makati City via a Petition for Certiorari and Prohibition (with Prayer for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction)[49] assailing the Orders of the METC dated November 11, 2011 and February 11, 2013. A Comment[50] thereto was filed by Maximo and Panganiban, and a Reply to Comment[51] was filed by Villapando.

Subsequently, on May 30, 2013, the RTC issued a Decision, the dispositive portion of which states, thus:

WHEREFORE, the petition is DENIED. The assailed 11 November 2011 order of respondent Judge in Crim. Case No. 36741 which denied petitioner's Motion to Quash the Information with supplement and the order dated February 11, 2013 which denied petitioner's Motion for Reconsideration and granted the Public Prosecutor's motion to amend Information and admit attached amended Information are AFFIRMED.

SO ORDERED.[52]

The RTC ratiocinated that from the denial of the motion to quash, Villapando should have gone to trial without prejudice to reiterating his special defenses invoked in his motion. In the event that an adverse decision is rendered, an appeal therefrom should be the next legal step. Nonetheless, it found that the presumption of regularity exists in the filing of the information on the basis of the certification of ACP Canobas and ACP Vermug, Jr., coupled with the approval of the resolution by Garvida, stating that the filing of the Information was with the prior authority of the City Prosecutor. The RTC posited that the presumption has not been disputed by the City Prosecutor.

Undaunted, a Petition for Certiorari and Prohibition[53] dated July 31, 2013 was filed by Villapando before the CA. He raised before the CA the same issues: a) that the Information was filed without the prior written authority of the City Prosecutor; b) that the facts charged do not constitute an offense. A comment[54] on the petition was filed by Maximo and Panganiban and a Reply[55] thereto was filed by Villapando.

Before the CA, the parties filed their respective Formal Offer of Exhibits dated January 10, 2014 and January 14, 2014[56] for Villapando and Maximo and Panganiban, respectively.[57] The parties also filed their respective memoranda.[58]

On June 13, 2014, the CA rendered a Decision reversing the RTC Decision. The fallo of the CA Decision states:

WHEREFORE, the petition is hereby GRANTED. The Decision of the Regional Trial Court of Makati City, Branch 150, in Special Civil Action No. 13-473 is hereby REVERSED AND SET ASIDE. Criminal Case No. 367041 pending in Branch 67, Metropolitan Trial Court, Makati City is hereby DISMISSED WITHOUT PREJUDICE to the filing of new Information by an authorized officer.

SO ORDERED.[59]

Despite the dismissal of the case for perjury filed against him, and considering that the dismissal was without prejudice to the filing of a new information against him, Villapando moved for a partial reconsideration[60] of the CA Decision. Villapando argued that the CA did not resolve the second issue he brought before it, that is, that the facts charged do not constitute an offense. A Comment[61] to the motion was filed by Maximo and Panganiban. Villapando[62] replied to the comment.

On the other hand, Maximo and Panganiban, as the private complainants in the aforesaid case for perjury, filed against Villapando also moved for reconsideration[63] on the dismissal of the case by the CA. An Opposition[64] thereto was filed by Villapando.

On October 16, 2014, the motions for reconsideration filed by both parties were denied by the CA.

Subsequently, Maximo and Panganiban filed a petition for review on certiorari[65] before this Court docketed as

G.R. No. 214925. Villapando followed suit and its petition[66] was docketed as G.R. No. 214965.

A Motion to Consolidate[67] the two cases was filed by Villapando on April 29, 2015. In this Court's Resolution[68] dated July 13, 2015, We ordered the consolidation considering that the two cases "have common facts and are rooted in the same issues."

G.R. No. 214925

We first resolve the petition filed by Maximo and Panganiban which is anchored on the following assigned errors:

First Reason

THE COURT OF APPEALS COMMITTED ERROR WHEN IT TOOK COGNIZANCE OF RESPONDENT'S PETITION FOR CERTIORARI FILED UNDER RULE 65 BECAUSE -

- IT IS A WRONG REMEDY;
- THE RESPONDENT'S FAILURE TO IMPLEAD THE PEOPLE OF THE PHILIPPINES, BEING AN INDISPENSABLE PARTY, WARRANTED THE DISMISSAL OF THE PETITION;
- THE PETITION WAS ACCOMPANIED BY A FALSE VERIFICATION.

Second Reason

THE COURT OF APPEALS ERRED WHEN IT HELD THAT THE RESPONDENT'S PETITION FOR CERTIORARI FILED BEFORE THE REGIONAL TRIAL COURT WAS PROPERLY FILED;

Third Reason

THE COURT OF APPEALS ERRED WHEN IT HELD THAT THE RESPONDENT DID NOT COMMIT FORUM SHOPPING DESPITE HIS FILING OF A PETITION FOR REVIEW BEFORE THE SECRETARY OF JUSTICE INVOLVING THE SAME PARTIES, FACTS, ISSUES AND RELIEFS; and

Fourth Reason

THE COURT OF APPEALS ERRED WHEN IT HELD THAT THE TWO INFORMATIONS WERE NOT PROPERLY FILED DESPITE THE FACT THAT THEIR FILING AS WELL AS THE RESOLUTIONS RECOMMENDING THEIR FILING WERE MADE WITH PRIOR AUTHORITY OF THE CITY PROSECUTOR AND AFFIRMED BY THE CITY PROSECUTOR WHEN HE SUBSEQUENTLY DENIED THE RESPONDENT'S MOTIONS FOR PARTIAL RECONSIDERATION ON THE ASSAILED RESOLUTIONS.[69]

Maximo and Panganiban asserted in their petition that the denial of a petition for certiorari is a final order, such that, the remedy of the aggrieved party on a final order is to appeal the same. Even assuming that certiorari is available, the petition with the CA should have not been allowed for failure to file the requisite motion for reconsideration with the RTC prior to the filing of the petition. They also argued that since an action must be brought against indispensable parties, the instant petition should be dismissed for failure to implead the People in the petition before the RTC and the CA.

Maximo and Panganiban further averred that Villapando committed forum shopping because the issues raised before the CA were the same issues brought before the DOJ on a petition for review. They also pointed out that the petition filed with the CA was prepared only on July 31, 2013, but the verification was executed on June 20, 2013, or forty-one (41) days prior to the preparation of the petition.

Maximo and Panaganiban also contended that the Information bears the certification that the filing of the same

has the prior authority or approval of the City Prosecutor. The non-presentation of DOJ Office Order No. 32 which was the basis of the authority in filing the Information is immaterial on the ground that public officers enjoy the presumption of regularity in the performance of their functions. They also pointed out that the issuance of the Order of the City Prosecutor himself denying Villapando's Partial Motion for Reconsideration, in effect, affirmed the validity of the Information filed.[70]

In the Comment[71] to the Petition filed by Villapando, he countered that under the circumstances of the case, appeal is not the plain, speedy and adequate remedy in the ordinary cause of law, hence, certiorari may validly lie. He explained that this case stemmed from a complaint that he filed with the OCP Makati City against Maximo and Panganiban as directors of ASB for violations of Sections 17, 20 and 25 of P.D. No. 957. He believed that the instant complaint was merely filed in retaliation to his earlier complaint.

Villapando declared that the petition was properly verified. He stated that during the Oral Argument before the CA on January 7, 2014, he narrated that his counsel explained to him the contents of the draft of the petition, and the original of the verification page was earlier sent to him for his perusal and signature. After reading the draft, he immediately signed the final form/original of the verification because he had then a scheduled trip abroad. He also emphasized that the People was represented by the Makati City Prosecution Office before the RTC and by the Office of the Solicitor General (OSG) before the CA, and were duly furnished with copies of all the pleadings.

In the Reply[72] of Maximo and Panganiban, they insisted that for failure to implead the People in the petition with the CA, the CA did not acquire jurisdiction over the parties.

In the petition filed by Maximo and Villapando, the core issue for this Court's resolution relates to the validity of the Amended Information at bar.

Section 4, Rule 112 of the 2000 Revised Rules on Criminal Procedure states that the filing of a complaint or information requires a prior written authority or approval of the named officers therein before a complaint or information may be filed before the courts, viz.:

Section 4. Resolution of investigating prosecutor and its review. - If the investigating prosecutor finds cause to hold the respondent for trial, he shall prepare the resolution and information. He shall certify under oath in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he was given an opportunity to submit controverting evidence. Otherwise, he shall recommend the dismissal of the complaint.

Within five (5) days from his resolution, he shall forward the record of the case to the provincial or city prosecutor or chief state prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction. They shall act on the resolution within ten (10) days from their receipt thereof and shall immediately inform the parties of such action.

No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.

x x x[73]

Thus, as a general rule, complaints or informations filed before the courts without the prior written authority or approval of the foregoing authorized officers render the same defective and, therefore, subject to quashal pursuant to Section 3 (d), Rule 117 of the same Rules, to wit:

Section 3. Grounds. The accused may move to quash the complaint or information on any of the following grounds:

- (a) That the facts charged do not constitute an offense;
- (b) That the court trying the case has no jurisdiction over the offense charged;
- (c) That the court trying the case has no jurisdiction over the person of the accused;
- (d) That the officer who filed the information had no authority to do so;
- (e) That it does not conform substantially to the prescribed form;
- (f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law;
- (g) That the criminal action or liability has been extinguished;
- (h) That it contains averments which, if true, would constitute a legal excuse or justification; and
- (i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.[74]

In the case at bar, Villapando is charged in the Amended Information which reads:

AMENDED INFORMATION

The undersigned Prosecutor accuses FRANCISCO Z. VILLAPANDO of the crime of perjury under THE REVISED PENAL CODE art. 183, committed as follows:

On or about the 23[rd] of November 2010, in the city of Makati, the Philippines, accused, did then and there willfully, unlawfully, feloniously and falsely subscribe and swear to a complaint-affidavit docketed as NPS No. XV-05-INV-10K-03327 before Assistant City Prosecutor Andres N. Marcos of the Office of the City Prosecutor at Makati, a duly appointed, qualified, and acting as such, and in which complaint, said accused subscribed and swore to, among other things, facts known to him to be untrue, that is: complainants John Labsky P. Maximo and Robert M. Panganiban were one of the officers of ASB Realty Corporation and/or St. Francis Square Realty Corporation conspired with the other officers in the commission of the crime of violation of P.D 957 for entering into the contract to sell with Enhanced Electronics & Communication Services, Inc. involving the condominium unit and failure to register the sale and to complete the project and to deliver the title over the unit, when in truth and in fact as the said accused very well knew at the time he swore to and signed the said complaint that said statement appearing therein were false and untrue because at the time when the contract to sell was made between the parties, complainants were not even an employee/officers of the ASB Realty Corporation and was still under age, and the above false statements were made in order to impute complainants to a crime they did not commit, to their damage and prejudice.

CONTRARY TO LAW.

(signed)

BENJAMIN S. VERMUG, JR.
Assistant City Prosecutor

I HEREBY CERTIFY that I have conducted a preliminary investigation in this case in accordance with law; that I have, or as shown by the record, an authorized officer has personally examined complainant and witnesses, that on the basis of sworn statements and other evidence submitted before me there is reasonable ground to believe that the crime has been committed and that accused is probably guilty thereof, that accused was informed of the complaint and of the evidence submitted against him and was given the opportunity to submit controverting evidence. I further certify that the filing of this Information is with the prior authority or approval of the City Prosecutor.

(signed)

BENJAMIN S. VERMUG, JR.

Assistant City Prosecutor

SUBSCRIBED AND SWORN to before me this 26[th] day of July 2011 in the City of Makati.

(signed)

EVANGELINE P. VIUDEZ-CANOBAS

Assistant City Prosecutor

Maximo and Panganiban argued in their petition that the CA erred in holding that the Information did not comply with the rule requiring prior written authority or approval of the City or Provincial Prosecutor. They pointed out that the Information bears the certification that the filing of the same had the prior authority or approval of the City Prosecutor who is the officer authorized to file information in court. According to them, there is a presumption that prior written authority or approval of the City Prosecutor was obtained in the filing of the Information, such that, the non-presentation of Office Order No. 32, which was the alleged basis of the authority in filing the Information, is immaterial.

In the cases of *People v. Garfin*,^[75] *Turingan v. Garfin*,^[76] and *Tolentino v. Paqueo*,^[77] this Court had already rejected similarly-worded certifications uniformly holding that, despite such certifications, the Informations were defective as it was shown that the officers filing the same in court either lacked the authority to do so or failed to show that they obtained prior written authority from any of those authorized officers enumerated in Section 4, Rule 112 of the 2000 Revised Rules of Criminal Procedure.^[78]

Therefore, there must be a demonstration that prior written delegation or authority was given by the city prosecutor to the assistant city prosecutor to approve the filing of the information. We have recognized this valid delegation of authority in the case of *Quisay v. People*,^[79] viz.:

In the case at bar, the CA affirmed the denial of petitioner's motion to quash on the grounds that: (a) the City Prosecutor of Makati may delegate its authority to approve the filing of the Pabatid Sakdal pursuant to Section 9 of RA 10071, as well as OCP-Makati Office Order No. 32; and (b) the Pabatid Sakdal contained a Certification stating that its filing before the RTC was with the prior written authority or approval from the City Prosecutor.

The CA correctly held that based on the wordings of Section 9 of RA 10071, which gave the City Prosecutor the power to "[investigate and/or cause to be investigated all charges of crimes, misdemeanors and violations of penal laws and ordinances within their respective jurisdictions, and have the necessary information or complaint prepared or made and filed against the persons accused," he may indeed delegate his power to his subordinates as he may deem necessary in the interest of the prosecution service. The CA also correctly stressed that it is under the auspice of this provision that the City Prosecutor of Makati issued OCP-Makati Office Order No. 32, which gave division chiefs or review prosecutors "authority to approve or act on any resolution, order, issuance, other action, and any information recommended by any prosecutor for approval," without necessarily diminishing the City Prosecutor's authority to act directly in appropriate cases. By virtue of the foregoing issuances, the City Prosecutor validly designated SACP Hiram, Deputy City Prosecutor Emmanuel D. Medina, and Senior Assistant City Prosecutor William Celestino T. Uy as review prosecutors for the OCP-Makati.

In this light, the Pasiya or Resolution finding probable cause to indict petitioner of the crime charged, was validly made as it bore the approval of one of the designated review prosecutors for OCP-Makati, SACP Hiram, as evidenced by his signature therein.

In the case at bar, if indeed there was no proof of valid delegation of authority as found by the CA, We are constrained not to accord the presumption of regularity in the performance of official functions in the filing of the Amended Information. The CA ruling states:

x x x We scoured the records of the case and We did not find a copy of the purported Office Order No. 32 allegedly authorizing the Assistant City Prosecutor to sign in behalf of the city prosecutor. While We, too, are not oblivious of the enormous responsibility and the heavy volume of work by our prosecutors, We believe that such reality does not excuse them to comply with the mandatory requirement stated in our rules of procedure. Moreover, the said Office Order No. 32 is not a matter of judicial notice, hence, a copy of the same must be presented in order for the court to have knowledge of the contents of which. In the absence thereof, We find that there was no valid delegation of the authority by the City Prosecutor to its Assistant Prosecutor.[80]

x x x x

Applying the foregoing lessons from our jurisprudence, We certainly cannot equate the approval of the Assistant City Prosecutor to that of his superior. Clearly, we see nothing in the record which demonstrates the prior written delegation or authority given by the city prosecutor to the assistant city prosecutor to approve the filing of the information.

For the lack of such prior written authority, the inescapable result is that the court did not acquire jurisdiction over the case because there is a defect in the Information. It is for the same reason that there is no point in compelling petitioner to undergo trial under a defective information that could never be the basis of a valid conviction.[81]

Furthermore, We find untenable the argument of Maximo and Panganiban that the issuance of the Order dated February 21, 2012, bearing the signature of the City Prosecutor, denying Villapando's Partial Motion for Reconsideration, in effect, affirmed the validity of the Information filed.[82]

The case of *People v. Garfin*,[83] firmly instructs that the filing of an Information by an officer without the requisite authority to file the same constitutes a jurisdictional infirmity which cannot be cured by silence, waiver, acquiescence, or even by express consent. In the said case, We lift the ruling in *Villa v. Ibañez, et al.*: [84]

x x x Now, the objection to the respondent's actuations goes to the very foundation of the jurisdiction. It is a void information signed by a competent officer which, among other requisites, confers jurisdiction on the court over the person of the accused and the subject matter of the accusation. In consonance with this view, an infirmity in the information cannot be cured by silence, acquiescence, or even by express consent.[85]

An Information, when required by law to be filed by a public prosecuting officer, cannot be filed by another. The court does not acquire jurisdiction over the case because there is a defect in the Information.[86] There is no point in proceeding under a defective Information that could never be the basis of a valid conviction.[87]

As to the issue raised by Maximo and Panganiban which relates to the propriety of the chosen legal remedies availed of by Villapando in the lower courts to question the denial of his motion to quash, We find the same untenable.

In the usual course of procedure, a denial of a motion to quash filed by the accused results in the continuation of the trial and the determination of the guilt or innocence of the accused. If a judgment of conviction is rendered and the lower courts' decision of conviction is appealed, the accused can then raise the denial of his motion to quash not only as an error committed by the trial court but as an added ground to overturn the latter's ruling.[88]

In this case, Villapando did not proceed to trial but opted to immediately question the denial of his motion to quash via a special civil action for certiorari under Rule 65 of the Rules of Court.

It is also settled that a special civil action for certiorari and prohibition is not the proper remedy to assail the denial of a motion to quash an information. The established rule is that when such an adverse interlocutory order is rendered, the remedy is not to resort forthwith to certiorari or prohibition, but to continue with the case in due course and, when an unfavorable verdict is handed down, to take an appeal in the manner authorized by law.[89]

As a rule, the denial of a motion to quash is an interlocutory order and is not appealable; an appeal from an interlocutory order is not allowed under Section 1(c), Rule 41 of the Rules of Court.[90] Neither can it be a proper subject of a petition for certiorari which can be used only in the absence of an appeal or any other adequate, plain and speedy remedy. The plain and speedy remedy upon denial of an interlocutory order is to proceed to trial as discussed above.[91]

Thus, a direct resort to a special civil action for certiorari is an exception rather than the general rule, and is a recourse that must be firmly grounded on compelling reasons.[92]

However, on a number of occasions, We have recognized that in certain situations, certiorari is considered an appropriate remedy to assail an interlocutory order, specifically the denial of a motion to quash. We have recognized the propriety of the following exceptions: (a) when the court issued the order without or in excess of jurisdiction or with grave abuse of discretion; (b) when the interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief; (c) in the interest of a more enlightened and substantial justice; (d) to promote public welfare and public policy; and (e) when the cases have attracted nationwide attention, making it essential to proceed with dispatch in the consideration thereof.[93]

In grave abuse of discretion cases, certiorari is appropriate if the petitioner can establish that the lower court issued the judgment or order without or in excess of jurisdiction or with grave abuse of discretion, and the remedy of appeal would not afford adequate and expeditious relief. The petitioner carries the burden of showing that the attendant facts and circumstances fall within any of the cited instances.[94]

In the case at bar, We find that there was a compelling reason to justify a resort to a petition for certiorari against the Order of the METC. Villapando was able to show that the factual circumstances of his case fall under any of the above exceptional circumstances. The METC committed grave abuse of discretion in denying the motion to quash filed by Villapando. We adopt the ruling of the CA on this matter:

In this petition, petitioner insists that the RTC committed grave abuse of discretion in dismissing his Petition for Certiorari despite the lack of authority to file the information from the City Prosecutor, on the basis of the principle of "presumption of regularity". Verily, the issue raised in this Petition goes into the very authority of the court over the case. This is because a finding of the lack of authority for the assistant prosecutor in approving the probable cause resolution necessarily invalidates the information, and thereby ousts the court of jurisdiction to try and decide the case.[95] As will be discussed later, petitioner was able to establish the merit of his contention.

Likewise, We cannot ignore the fact, as admitted by the private respondents, that this case stemmed from a complaint filed by Petitioner with the Makati City Prosecution Office against private respondents, as directors of ASB for violations of Secs. 17, 20 and 25 of PD No. 957 or the Subdivision and Condominium Buyer's Protective Decree. Petitioner since the inception of this case, has been insistent that the criminal complaints filed by private respondents were merely filed in retaliation of his earlier complaint.

Thus, to deny petitioner the relief of a writ of certiorari and force him to go to trial would be self-defeating. To require Petitioner to go to the prescribed route of undergoing trial and filing an appeal thereafter, will undoubtedly expose him to the injuries which he seeks to promptly avoid by filing the instant Petition.[96]

As correctly held by the CA, the METC committed an error of jurisdiction, not simply an error of judgment, in

denying Villapando's motion to quash the Information as will be shown in the succeeding discussion.

Moreover, We recognize that the petition for certiorari filed by Villapando before the RTC was an original action whose resulting decision is a final order that completely disposed of the petition. Section 2, Rule 41 of the Rules of Court,[97] states that cases decided by the RTC in the exercise of its original jurisdiction must be appealed to the CA. Nonetheless, We have allowed exceptions for good cause that could warrant the relaxation of the rule as in this case.[98] As discussed above, the RTC gravely abuse its discretion in dismissing the petition of Villapando thereby affirming the denial of his motion to quash before the METC. We note that Villapando's liberty was already in jeopardy with the continuation of the criminal proceedings against him such that a resort to a petition for certiorari is recognized.

As a rule, certiorari lies when: (1) a tribunal, board, or officer exercises judicial or quasi-judicial functions; (2) the tribunal, board, or officer has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law.[99]

The writ of certiorari serves to keep an inferior court within the bounds of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to excess or lack of jurisdiction, or to relieve parties from arbitrary acts of courts which courts have no power or authority in law to perform.[100]

Anent the issue on forum shopping, We held in the case of *Flores v. Secretary Gonzales, et al.*[101] that there is no forum shopping when a petition is filed with the CA while another petition is pending with the DOJ Secretary, thus:

We wish to point out that, notwithstanding the pendency of the Information before the MTCC, especially considering the reversal by the Secretary of Justice of his May 31, 2006 Resolution, a petition for certiorari under Rule 65 of the Rules of Court, anchored on the alleged grave abuse of discretion amounting to excess or lack of jurisdiction on the part of Secretary of Justice, was an available remedy to Flores as an aggrieved party.

In the petition for certiorari, the Court of Appeals is not being asked to cause the dismissal of the case in the trial court, but only to resolve the issue of whether the Secretary of Justice acted with grave abuse of discretion in either affirming or reversing the finding of probable cause against the accused. But still the rule stands the decision whether to dismiss the case or not rests on the sound discretion of the trial court where the Information was filed. As jurisdiction was already acquired by the MTCC, this jurisdiction is not lost despite a resolution by the Secretary of Justice to withdraw the information or to dismiss the case, notwithstanding the deferment or suspension of the arraignment of the accused and further proceedings, and not even if the Secretary of Justice is affirmed by the higher courts.

Verily, it bears stressing that the trial court is not bound to adopt the resolution of the Secretary of Justice, in spite of being affirmed by the appellate courts, since it is mandated to independently evaluate or assess the merits of the case and it may either agree or disagree with the recommendation of the Secretary of Justice. Reliance on the resolution of the Secretary of Justice alone would be an abdication of the trial courts duty and jurisdiction to determine a prima facie case. Thus, the trial court may make an independent assessment of the merits of the case 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 it; or any evidence already adduced before the court by the accused at the time the motion is filed by the public prosecutor. The trial court should make its assessment separately and independently of the evaluation of the prosecution or of the Secretary of Justice.[102]

The filing of an appeal with the DOJ as well as the filing of the petition with the CA would not constitute forum shopping for the reason that the finding of the DOJ would not be binding upon the courts. In other words, even if

the DOJ recommends dismissal of the criminal case against petitioner, such resolution would merely be advisory, and not binding upon the courts. The DOJ ruling on the petition for review would not constitute as *res judicata* on the case at bar, neither can it conflict with resolution of the court on the propriety of dismissing the case.

Forum shopping is the act of a party against whom an adverse judgment has been rendered in one forum, of seeking another and possibly favorable opinion in another forum other than by appeal or the special civil action of certiorari. There can also be forum shopping when a party institutes two or more suits in different courts, either simultaneously or successively, in order to ask the courts to rule on the same and related causes and/or to grant the same or substantially the same reliefs on the supposition that one or the other court would make a favorable disposition or increase a party's chances of obtaining a favorable decision or action.[103]

Maximo and Panganiban additionally raised the issue that the People of the Philippines was not impleaded as a respondent in the case nor was the Office of the Solicitor General furnished a copy of the petition.

Section 5,[104] Rule 110 of the Rules of Criminal Procedure states that all criminal actions are prosecuted under the direction and control of the public prosecutor. The prosecution of offenses is thus the concern of the government prosecutors. The purpose in impleading the People of the Philippines as respondent in the RTC and in the CA is to enable the public prosecutor or Solicitor General, as the case may be, to comment on the petitions.[105] Evidently, in this case, the People was represented by the Makati City Prosecution Office before the RTC and by the Office of the Solicitor General before the CA and were duly furnished with copies of all the pleadings.

Lastly, We find in the negative the issue of whether the non-filing by Villapando of a motion for reconsideration of the RTC Decision is fatal to his petition for certiorari.[106] While a motion for reconsideration is a condition precedent to the filing of a petition for certiorari, this Court has recognized exceptions to the requirement and cannot unduly uphold technicalities at the expense of a just resolution of the case.[107]

In addition, Section 6, Rule 1 of the Rules of Court provides that rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding. Thus, in several cases, this Court has ruled against the dismissal of petitions or appeals based solely on technicalities. Technicalities may be set aside when the strict and rigid application of the rules will frustrate rather than promote justice.[108]

The foregoing considered, We deny the petition filed by Maximo and Panganiban on the ground that, as found by the CA, the records of the case is bereft of any showing that the City Prosecutor of Makati had authorized ACP Benjamin S. Vermug, Jr. to file the subject Amended Information. Thus, the instant defective Amended Information must be quashed. The CA did not err in finding grave abuse of discretion on the part of the RTC in affirming the denial of Villapando's motion to quash the Amended Information.

G.R. No. 214965

We now turn to the petition filed by Villapando which raised the following arguments:[109]

- Violations of Section 17, 20 and 25 of P.D. 957 are committed not upon the execution of the Contract to Sell between the Developer and Buyer, but thereafter. They continue to be committed until full compliance of the requirements and mandate of law.
- Violations of Sections 17, 20 and 25 of P.D. 957 are continuing offenses.
- Violations of Section 17, 20 and 25 of P.D. 957 are continuing offenses, hence, the allegations of the Information and amended Information against petitioner do not constitute the offense charged (perjury).

- The CA should not have skirted but resolved the foregoing substantial legal issues.

Villapando asserted in his petition that it was necessary for the CA to have resolved the nature of the violation of Sections 17, 20 and 25 of P.D. No. 957 to determine whether he could be held liable for the crime of perjury. He stated that nothing in P.D. No. 957 would suggest that violation of its provisions is committed at the time of the execution of the contract to sell between the developer and the buyer. According to him, there can be no violation at the time of the execution of the contract because it could not yet be determined if the developer will not comply with the law. Violations occur from the time the developer fails to comply with the law, and continue to be committed until the developer shall have fully complied with the law.

Villapando argued in his petition that assuming *arguendo* that Maximo and Panganiban were not employees/officers of ASB at the time of the execution of the contract to sell between ASB and Enhanced, they may still be held liable being undisputedly directors of ASB at the time the complaint was filed against them, during which, there was alleged continued non-compliance with Sections 17, 20 and 25 of P.D. No. 957. Nonetheless, Villapando insisted that he never alleged in his complaint that Maximo and Panganiban were employees/officers of ASB at the time of the execution of the contract to sell. Instead, the two became officers only in 2010 as evidenced by the Articles of Incorporation he attached to his complaint. He further argued that the said issue is not material to the charge for violation of P.D. No. 957, and thus, no crime of perjury was committed.

In the Comment[110] of Maximo and Panganiban, they argued that Villapando misconstrued the concept of continuing crimes. A continuing crime requires a series of acts which stems from a single criminal resolution. The alleged violations of Sections 17, 20 and 25 of P.D. No. 957 consist of omissions such that the non-compliance thereof cannot constitute a continuing crime. They stated that the issue as to whether the violations of Sections 17, 20 and 25 of P.D. No. 957 are continuing offenses is a matter of defense which cannot be raised in a motion to quash. They also stressed that the complaint of Villapando against the ASB had already prescribed as ruled by the DOJ in its Resolution dated December 12, 2014.[111]

In Reply[112] to the Comment of Maximo and Panganiban, Villapando insisted that violation of Sections 17, 20 and 25 of P.D. No. 957 has not yet prescribed. He learned that there was violation of Section 17 of P.D. No. 957 only when he received the certification of the Makati City Register of Deeds dated May 12, 2010 stating that the contract to sell has not been registered with its office. He also stated that the DOJ Resolution dated December 12, 2014 was brought before this Court on February 18, 2015 via a petition for certiorari docketed as G.R. No. 216546 entitled Francisco Z. Villapando, Jr. v. Hon Leila de Lima.[113]

In the Comment[114] filed by the OSG, it contended that unless and until the City Prosecutor files a new information for Perjury against Villapando, there would be no actual case to speak of and there would be no need for the court to resolve the issue regarding the nature of the violation of the provisions of P.D. No. 957.

In the Reply[115] to the Comment of the OSG, Villapando averred that it is proper for this Court that the legal issue be resolved to avoid a circuitous and vexatious litigation.

Basically, the petition of Villapando imputes grave error on the part of the CA in not resolving the substantive issue as to whether violations of Sections 17, 20 and 25 of P.D. No. 957 are continuing offenses.

The argument need not detain Us. This Court's power of review may be awesome, but it is limited to actual cases and controversies dealing with parties having adversely legal claims, to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented.[116]

An actual case or controversy involves a conflict of legal right, an opposite legal claim susceptible of judicial

resolution. It is definite and concrete, touching the legal relations of parties having adverse legal interest; a real and substantial controversy admitting of specific relief.[117]

We agree with the argument proffered by the OSG that unless and until the City Prosecutor files a new information for perjury against Villapando, there would be no actual case to speak of and there would be no need for the court to resolve the issue regarding the nature of the violation of the provisions of P.D. No. 957. The resolution on whether Sections 17, 20 and 25 of P.D. No. 957 are continuing offenses would necessarily pre-empt the outcome of the trial before the proper court should an information be re-filed by the City Prosecutor.

Quite notable is the statement of Villapando in his Reply that he filed a petition for certiorari before this Court docketed as G.R. No. 216546 questioning the ruling of the DOJ Secretary in sustaining the denial of his complaint for violations of Sections 17, 20 and 25 of P.D. No. 957. Apparently, the arguments he raised in G.R. No. 216546 as to the nature of the violations of Sections 17, 20 and 25 of P.D. No. 957 are the same arguments he is raising in the instant petition.

Based on the foregoing, We deny the petition filed by Villapando and imputes no grave error on the part of the CA in not resolving the substantive issue as to whether violations of Sections 17, 20 and 25 of P.D. No. 957 are continuing offenses. We, therefore, uphold the ruling of the CA that since the Amended Information was defective on its face for having been filed by an unauthorized person, there was no need to resolve whether Sections 17, 20 and 25 of P.D. No. 957 are continuing offenses without pre-empting the trial court should an Information be filed by the prosecution.

As a final note, We need to state that had the prosecutor and the MeTC presiding judge been aware of the pertinent provisions of the Rules of Court on the matter, the defect in the Information could have been cured before the arraignment of the accused by a simple motion of the public prosecution to amend the Information; the amendment at this stage of the proceedings being a matter of right on the part of the prosecution, or for the court to direct the amendment thereof to show the signature or approval of the City Prosecutor in filing the Information. Section 4, Rule 117 of the Rules of Court mandates that if the motion to quash is based on the alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made. Had either of these two been done, this case should have not unnecessarily reached this Court.

WHEREFORE, the Decision dated June 13, 2014, and Resolution dated October 16, 2014 of the Court of Appeals in CA-G.R. CV No. 131085 are hereby AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Mendoza, Leonen, and Martires, JJ., concur.

June 7, 2017

NOTICE OF JUDGMENT

Sir/Madam:

Please take notice that on April 26, 2017 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 June 7, 2017 at 3:05 p.m.

Very truly yours,

(SGD) MA. LOURDES C. PERFECTO

Division Clerk of Court

[1] Penned by Associate Justice Noel G. Tijam (now an member of this Court), with Associate Justices Priscilla J. Baltazar-Padilla and Agnes Reyes-Carpio, concurring; rollo (G.R No. 214925), pp. 38-58.

[2] Id. at 59-62.

[3] Penned by Judge Elmo M. Alameda, id. at 132-141.

[4] Rollo (G.R. No. 214965), pp. 72-73.

[5] Id. at 39.

[6] Id. at 52-122.

[7] Section 17. Registration. All contracts to sell, deeds of sale and other similar instruments relative to the sale or conveyance of the subdivision lots and condominium units, whether or not the purchase price is paid in full, shall be registered by the seller in the Office of the Register of Deeds of the province or city where the property is situated.

[8] Section 20. Time of Completion. Every owner or developer shall construct and provide the facilities, improvements, infrastructures and other forms of development, including water supply and lighting facilities, which are offered and indicated in the approved subdivision or condominium plans, brochures, prospectus, printed matters, letters or in any form of advertisement, within one year from the date of the issuance of the license for the subdivision or condominium project or such other period of time as may be fixed by the Authority.

[9] Section 25. Issuance of Title. The owner or developer shall deliver the title of the lot or unit to the buyer upon full payment of the lot or unit. No fee, except those required for the registration of the deed of sale in the Registry of Deeds, shall be collected for the issuance of such title. In the event a mortgage over the lot or unit is outstanding at the time of the issuance of the title to the buyer, the owner or developer shall redeem the mortgage or the corresponding portion thereof within six months from such issuance in order that the title over any fully paid lot or unit may be secured and delivered to the buyer in accordance herewith.

[10] Rollo (G.R No. 214965), pp. 633-638.

[11] In an Order dated February 6, 2012, the MR to the July 12, 2011 Resolution was denied. A Petition for Review was likewise denied on February 6, 2012. In the Resolution (Rollo, G.R No. 214965, pp. 639- 646) dated December 12, 2014 affirming the previous rulings of the DOJ Prosecutors, the DOJ Secretary held that the complaint had prescribed because it was filed after the 12-year prescriptive period from the time of the violation.

[12] Rollo (G.R No. 214965), pp. 124-134.

[13] Rollo (G.R No. 214925), p. 12.

[14] Rollo (G.R No. 214965), pp. 135-144.

[15] Rollo (G.R No. 214925), p. 12.

[16] Rollo (G.R No. 214965), pp. 145-153.

[17] Id. at 168-175.

[18] Id. at 176-182.

- [19] Id. at 225-230; rollo (G.R No. 214925), pp. 63-69.
- [20] "For The City Prosecutor"
- [21] Rollo (G.R No. 214965), pp. 231-232; rollo (G.R No. 214925), pp. 70-71.
- [22] Rollo (G.R No. 214965), pp. 412-422.
- [23] Rollo (G.R No. 214925), pp. 239-248.
- [24] Rollo (G.R No. 214965), pp. 234-248.
- [25] Rollo (G.R No. 214925), p. 14.
- [26] Rollo (G.R No. 214965), pp. 273-280.
- [27] Id. at 281-288.
- [28] Rollo (G.R No. 214925), pp. 72-73.
- [29] Id. at 73.
- [30] Rollo (G.R No. 214965), pp. 291-298.
- [31] Id. at 299-303
- [32] Id. at 305-312.
- [33] Id. at 320-323.
- [34] Id. at 184-191.
- [35] Id. at 207-213.
- [36] Id. at 214-220.
- [37] Rollo (G.R No. 214925), pp. 78-80; id. at 317-319.
- [38] "For The City Prosecutor"
- [39] Rollo (G.R No. 214965), pp. 313-314; rollo (G.R No. 214925), pp. 74-77.
- [40] Rollo, G.R No. 214965, pp. 423-440.
- [41] Rollo (G.R No. 214925), pp. 81-82; id. at 436-434.
- [42] Id. at 102-103; id. at 439-440.
- [43] Rollo (G.R. No. 214965) at 620.
- [44] Rollo (G.R No. 214925), pp. 83-101; id. at 366-385.
- [45] Id. at 106-131; id. at 386-410.
- [46] Rollo, G.R No. 214965, pp. 558-559.
- [47] Id. at 323-325; Rollo, G.R No. 214925, pp. 104-105.
- [48] Rollo, G.R No. 214925, pp. 76-77;
- [49] Rollo (G.R. No. 214965), pp. 326-350.

- [50] Id. at 351-364.
- [51] Id. at 441-442.
- [52] Rollo (G.R No. 214925), p. 141.
- [53] Id. at 142-168; Rollo, G.R No. 214965, pp. 457-485.
- [54] Rollo, G.R No. 214965, pp. 486-504.
- [55] Id. at 505-510.
- [56] Id. at 511-518.
- [57] Id. at 520-524.
- [58] Id. at 525-536 (Villapando) and at 537-557 (Maximo and Panganiban).
- [59] Rollo (G.R No. 214925), pp.56-57.
- [60] Rollo, G.R. No. 214965, pp. 560-568.
- [61] Id. at 569-576.
- [62] Id. at 577-584.
- [63] Id. at 585-599.
- [64] Id. at 600-604.
- [65] Rollo, G.R. No. 214925, pp.11-35.
- [66] Rollo, G.R. No. 214965, pp. 8-27.
- [67] Rollo, G.R No. 214925, pp. 200-201.
- [68] Rollo, G.R. No. 214965, pp. 676-A and 676-B; id. at 230-A to 23-C.
- [69] Rollo (G.R. No. 214925), pp. 17-18.
- [70] Id. at 31-32.
- [71] Id. at 213-230.
- [72] Id. at 257-267.
- [73] Emphasis and underscoring ours.
- [74] Emphasis and underscoring ours.
- [75] 470 Phil. 211 (2004).
- [76] 549 Phil. 903 (2007).
- [77] 551 Phil. 355 (2007).
- [78] Quisay v. People, G.R. No. 216920, January 13, 2016, 781 SCRA 98, 107-108.
- [79] Supra.
- [80] Rollo (G.R. No. 214925), pp. 52-53. (Underscoring ours)

[81] Id. 55-56. (Underscoring ours)

[82] Rollo (G.R. No. 214925), pp. 31-32.

[83] Supra note 75, at 230.

[84] 88 Phil. 402(1951).

[85] Villa v. Ibañez, supra at 405. (Underscoring ours)

[86] Miaque v. Patag, 597 Phil. 389, 395 (2003).

[87] Dela Chica v. Sandiganbayan, 462 Phil. 712, 723 (2003).

[88] Galzote v. Briones, G.R. No. 673 Phil. 165, 172 (2011).

[89] Zamoranos v. People, et al., 665 Phil. 447, 460 (2011).

[90] Section 1. Subject of appeal. — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

x x x x

(c) An interlocutory order;

x x x x

[91] Galzote v. Briones, supra note 88.

[92] Id.

[93] Zamoranos v. People, et al., supra note 89, at 461.

[94] Galzote v. Briones, supra note 88, at 173.

[95] Romualdez v. Sandiganbayan, 434 Phil. 670 (2002).

[96] Rollo (G.R. No. 214925), pp. 47-48.

[97] SEC. 2. Modes of appeal.

(a) Ordinary appeal. The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party.

[98] Heirs of Arturo Garcia v. Municipality of Iba, Zambales, G.R. No. 162217, July 22, 2015, 763 SCRA 349, 358.

[99] Zamoranos v. People, supra note 89.

[100] Id.

[101] 640 Phil. 694 (2010).

[102] Flores v. Secretary Gonzales, et al., supra, at 706- 707.

[103] Arroyo v. Department of Justice, et al., 695 Phil. 302, 355-356 (2012).

[104] Section 5. Who must prosecute criminal actions. — All criminal actions commenced by a complaint or information shall be prosecuted under the direction and control of the prosecutor. However, in Municipal Trial

Courts or Municipal Circuit Trial Courts when the prosecutor assigned thereto or to the case is not available, the offended party, any peace officer, or public officer charged with the enforcement of the law violated may prosecute the case. This authority cease upon actual intervention of the prosecutor or upon elevation of the case to the Regional Trial Court.

[105] Cobarrubias v. People, 612 Phil. 984, 990 (2009), citing the case of Vda. De Manguerra v. Risos,

[106] Castro v. Guevarra, 686 Phil. 1125, 1137 (2012).

[107] Id.

[108] Cobarrubias v. People, supra note 105.

[109] Rollo (G.R. No. 214965), pp. 19-22.

[110] Id. at 617-631.

[111] Id. at 625-627; see note 11.

[112] Id. at 679-686.

[113] Id. at 685, 682.

[114] Id. at 657-665.

[115] Id. at 671-674.

[116] Lozano v. Nograles, 607 Phil. 334, 340 (2009).

[117] David v. Macapagal Arroyo, 522 Phil. 705, 753 (2006).

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