

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. BERNARD LU CHONG, RESPONDENT.

G.R. No. 277491, June 09, 2026

Ponente: LOPEZ, J.

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LOPEZ, J.:

This Court resolves the Petition for Review on Certiorari[1] filed by the Office of the Solicitor General (OSG) for the People of the Philippines, assailing the Decision[2] and Resolution[3] of the Court of Appeals (CA), which annulled the Orders[4] issued by the Regional Trial Court (RTC), finding probable cause to issue a warrant of arrest against Bernard Lu Chong (Chong).

On March 22, 2019, joint operatives of the government under the direct supervision of Philippine Drug Enforcement Agency (PDEA) Regional Office-National Capital Region Regional Director Joel B. Plaza conducted an Interdiction Operation at the freight division of the Manila International Container Port, which resulted in the seizure of 276,344.82 grams of methamphetamine hydrochloride or shabu, with an estimated value of PHP 1,876,800,000.00, concealed in sacks of plastic resin in a forty-foot container with Container No. SITU 9031817.[5]

Based on the various importation documents provided by the Bureau of Customs and SITC Container Lines Phils, Inc. (SITC), several persons involved with Fortuneyield Cargo Services Corporation (Fortuneyield) and Wealth Lotus Empire Corporation (Wealth Lotus) were charged with illegal importation of prohibited drugs under Republic Act No. 9165.[6]

According to SITC's documents, Bill of Lading SITSGMNG160726 shows that Fortuneyield is the declared consignee, that the shipment originated from Vietnam, and that Brian Pabilona (Pabilona) is the contact person for the said consignee.[7]

On the other hand, other documents in the record show that Wealth Lotus was the consignee of the controversial shipment, and that it originated from China.

It was alleged that Xu Zhi Jian alias Jacky Co (Co) informed Francis Young (Young) (Co et al.) about a shipment of resin plastic from Vietnam which was consigned to Fortuneyield, as shown in the documentation of SITC. Young forwarded the shipping documents to Federal Fortunes Worldwide Logistics Corporation (Federal Fortunes), a freight forwarder, for customs facilitation, where Fe P. Tamayosa (Tamayosa) was the documentation and customer service staff. Tamayosa coordinated with Fortuneyield operations officer Pabilona and customs broker Jane Castillo (Castillo), who also served as the customs broker for Wealth Lotus.[8]

Subsequent documents in the record confirmed that Wealth Lotus was the consignee of the controversial shipment. Wealth Lotus's operations manager was Alvin Bautista (Bautista), with Carlo Sueta (Sueta), Leonard Sucaldito (Sucaldito), and Mark Magpayo (Magpayo) as its incorporators. There are also records showing that Fortuneyield paid PHP 20,000.00 for the container deposit and PHP 76,807.50 for the freight.[9]

The two companies—Wealth Lotus and Fortuneyield—separately wrote SITC, asking it to allow their "authorized brokerage/forwarder Federal Fortunes" to take and transfer Container No. SITU 9031817. Sueta signed the March 16, 2019 letter on behalf of Wealth Lotus, and Pabilona signed the March 18, 2019 letter on behalf of Fortuneyield.[10]

Following this, the prosecutor recommended the filing of an Information against Co, Tamayosa, Bautista, Castillo, Sueta, Abraham G. Torrecampo, Arwin Jay P. Caparros, Sucaldito, Magpayo, Pabilona, and Young for the importation of the subject shipment.[11]

The PDEA likewise filed a complaint against the incorporators of Fortuneyield, namely, Meldy Sayon, Rhea Tolosa, Edgardo Dominado, Jeffrey Siguenza, and Debbie Joy Acheron (Sayon et al.), Sayon, et al. submitted a Joint Counter-Affidavit[12] stating that, since June 2017, they were replaced as incorporators and officers of Fortuneyield by Chong, William S. Tan (Tan), Matthew Angelo L. Haw (Haw), Alexander Maluto Lao (Lao), and Emerson Chua Tan (Chua Tan) (collectively, Chong et al.).[13]

Sayon et al. included attachments to their Joint Counter-Affidavit, including a General Information Sheet (GIS) filed with the Securities and Exchange Commission (SEC) on May 11, 2018, naming Chong et al. as the incorporators and officers of Fortuneyield. Sayon et al. also submitted a Client Profile Registration Form[14] filed with the Bureau of Customs and named Chong et al. as the stockholders. Notably, the same form named Chong as a principal officer, with a designation of general manager, and separately, as a responsible officer, with an indication of his area of responsibility as "over all operation." [15]

Subsequently, Chong et al. submitted documents stating that their group had assigned their shares to a new set of incorporators since June 2018. These documents included a GIS of Fortuneyield[16] filed with the SEC on July 10, 2018 showing a change of incorporators and officers; a June 1, 2018 Board Resolution[17] assigning their shares; and a resignation letter from Chong as president of Fortuneyield.[18]

Following this, Chong was included in an Amended Information, as he was found to be the former president of Fortuneyield. Chong submitted documents showing that by the time the subject shipment was seized, he and the other incorporators of Fortuneyield had assigned their shares to a new group. The prosecutor considered the assignment of shares "a sham" and found that Chong was privy to the shipment.[19]

Nevertheless, the prosecutor found that there was no probable cause to indict the other incorporators, namely ran, Haw, Lao and Chua Tan, on the ground of their assignment of shares.[20]

Subsequently, the RTC issued an Order[21] finding probable cause to issue warrants of arrest against Co et al. and Chong.

In its Resolution,[22] the Department of Justice (DOJ), recommended the amendment of the complaint to include Chong, as follows:

The supposed record of the assignment of the respondents' FORTUNEYIELD shares in the transfer book is the epitome of self-serving evidence, easily manufactured and practically impossible to authenticate. In light of the evidence submitted by the complainant, which are mostly based on public documents and public records, respondents' claim cannot stand.

Most damning is the e-filing with the Bureau of Customs dated June 2018, when the respondents had supposedly transferred their shares. Yet here the respondents are declared the major stockholders, and Bernard Lu Chong is also announced as the general manager in charge of the "over all operation" and accused Brian Pabilona the operation "officer" [.]

The respondents could be liable for these apparent false transfers. The complainant is directed to investigate

the matter further and take appropriate action relative to their findings. That being said, there is not enough evidence to indict William S. Tan, Matthew Angelo L. Haw, Alexander Maluto Lao and Emerson Chua Tan. The said respondents have denied involvement in the operations of the corporation and the complainant has not submitted any evidence to rebut this claim.

It is a different situation for Bernard Lu Chong who is the general manager in charge of "over all operation" (Annex 3 of the joint counter-affidavit of Meldy Sayon et al., which attached to the complaint-affidavit). The evidence shows that FORTUNEYIELD paid [PHP] 20,000.00 as container deposit and [PHP] 76,807.50 for freight to SITC; it would be impossible for these payments of significant amounts to be made without the general manager's knowledge and acquiescence[.][23]

Chong filed a Motion to Quash or Recall of the Warrant of Arrest, which was denied by the RTC in the first assailed Order.[24] Chong filed a Motion for Reconsideration with Voluntary Inhibition, which was denied by the RTC in the second assailed Order.[25] During the subsequent proceedings, the RTC judge, Hon. Emilio Rodolfo Y. Legaspi III (Judge Legaspi III), inhibited from the case after an accusation of judicial impartiality. The case was re-raffled to the sala of Judge Caroline Rivera-Colasito, who likewise inhibited from the case in view of the fact that one of the counsels of PDEA was her godson.[26] Chong then filed a Motion for Leave of Court to File and Admit Second Motion for Reconsideration.[27] Presiding Judge Reynaldo A. Alhambra issued the assailed third Order,[28] which affirmed the first two Orders and found that there was probable cause to issue a warrant of arrest against Chong. The dispositive portion of the Order stated:

WHEREFORE, in view of the foregoing, the (i) Motion for Reconsideration dated September 25, 2021 and (ii) Second Motion for Reconsideration dated December 22, 2021 filed by accused Bernard Lu Chong are hereby DENIED.

SO ORDERED.[29]

Aggrieved, Chong filed a petition for Certiorari before the CA, alleging that the RTC committed grave abuse of discretion when it refused to quash the warrant of arrest and to dismiss the criminal charge against him, despite evidence that he was no longer a director or an officer of Fortuneyield at the time the alleged crime was committed.[30] In its Decision, the CA granted the Petition for Certiorari and gave credence to the documents submitted by Chong to substantiate his replacement as president of Fortuneyield. These documents included the GIS of Fortuneyield, submitted to the SEC on July 10, 2018, and the June 1, 2018 Board Resolution.[31] It also ruled that the court may allow Chong's Petition for Certiorari despite the fact that it was filed beyond the 60-day reglementary period from his receipt of the first assailed Order, which denied the first motion for reconsideration. The CA noted that Chong did not merely let the period lapse. Rather, he filed a second motion for reconsideration against the Order which denied his Motion to Quash/Recall the Warrant of Arrest. It reasoned that such second motion for reconsideration was not prohibited, given that the Order being considered was not a final order.[32] The dispositive portion of the CA Decision stated:

WHEREFORE, premises considered, the instant Petition is GRANTED. Accordingly, judgment is hereby rendered ANNULING and SETTING ASIDE the assailed Orders dated 13 September 2021, 25 October 2021, and 29 April 2022 issued by the RTC-Manila, Branch 53 in Criminal Case No. R-MNL-20-0002-CR. Judgment is likewise rendered ORDERING the dismissal of the case insofar as herein petitioner Lu Chong is concerned and QUASHING the issued warrant of arrest against petitioner in connection with the afore-indicated case.

SO ORDERED.[33] (Emphasis in the original)

Hence, the OSG filed the present Petition, asserting that the CA erred in allowing Chong's Petition for Certiorari which was filed beyond the 60-day reglementary period from his receipt of the RTC's second Order, which denied

his first Motion for Reconsideration. It likewise claims that the CA erred in finding that the RTC orders were issued with grave abuse of discretion.[34]

In his Comment/Opposition,[35] Chong cites the Petition's failure to raise questions of law and argues that the CA Decision was in accordance with laws and jurisprudence.

Issue

The sole issue for resolution in this case is whether the CA erred in finding that the assailed RTC Orders, which found probable cause to hold respondent Bernard Lu Chong for trial, were issued with grave abuse of discretion.

This Court's Ruling

On procedural matters, We affirm the CA ruling that the Petition for Certiorari was not time-barred as it was filed within 60 days from respondent Bernard Lu Chong's receipt of the RTC's second assailed Order, which denied his second motion for reconsideration.

Rule 65 of the Rules of Court provides the following reglementary period for a petition for certiorari:

Section 4. When and where to file the petition. – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the petition shall be filed not later than sixty (60) days counted from the notice of the denial of the motion.

In this case, the Petition for Certiorari before the CA was filed within 60 days from respondent's notice of denial of his second motion for reconsideration. In allowing the Petition for Certiorari, the CA found that respondent was not precluded from filing the second motion for reconsideration before the RTC. It stated:

The assailed orders are interlocutory orders and not final orders such that failure to seasonably challenge the same will not help such from attaining finality. There is no dispute that petitioner did not sleep on his rights when he timely filed. Both the motion for reconsideration and the second motion for reconsideration assailing the Order dated 13 September 2021, an interlocutory order. Undeniably, the second motion for reconsideration against an interlocutory order is not prohibited under the Section 5, Rule 37 of the Rules of Civil Procedure considering that the proscription against a second motion or reconsideration is directed against "a judgment or final order."

....

Incontestably, the Order dated 13 September 2021, denying the Motion to Quash/Recall Warrant of Arrest is not a final order, and hence, the petitioner's filing of a second motion for reconsideration of the said order is not prohibited. Being an interlocutory order which is not appealable, public respondent's subsequent order denying motion for reconsideration may be challenged in a petition for certiorari before Us.

What is more crucial to the Court's conclusion is the fact that the Order dated 25 October 2021 did not dispose of the first motion for reconsideration filed by petitioner on the basis of the arguments raised by him assailing the Order dated 13 September 2021. Quite noticeably, it appears from the record that public respondent has recognized that there was no real and truthful attempt to resolve the motion for reconsideration assailing the Order dated 13 September 2021 when the denial was based merely on the ruling that "the issuance of the warrant of arrest of the accused is a consequence of the probable cause finding of this court," thus necessitating a resolution thereof as contained in the Order dated 29 April 2022. This was expressly apparent from the discussion of the public respondent judge in his resolution dated 29 April 2022, viz[.]: "On November 11, 2021, Judge Emilio Legaspi inhibited without resolving the Motion for Reconsideration on the Order dated September 13, 2021. Consequently, the case was re-raffled to Branch 23 of this Court." (Emphasis supplied)

Verily, the dispositive portion of the Order dated 29 April 2022 denied both "the (i) Motion for Reconsideration

dated 25 September 2021 and (ii) Second Motion for Reconsideration dated 22 December 2021" to provide herein petitioner with adequate explanation on the reason his motion was resolved in that way by the trial court. The adequate disquisition is more than necessary so that the aggrieved party may ascertain whether the conclusion and findings of the trial court were sound and to avoid arbitrary and unintelligent disposition.

To our mind, the sixty (60)-day period within which a petition for certiorari must be filed in this case must be reckoned from 02 May 2022, the date of petitioner's receipt of the Order dated 29 April 2022, and not on the receipt of the order dated 25 October 2021, as erroneously argued by the Solicitor General. It is evident that there was nothing substantive for petitioner to refute considering that his grounds for the motion were never deflated.[36] (Emphasis in the original)

We agree. The general rule regarding the proscription of a second motion for reconsideration is based on Rule 52 of the Rules of Court:

RULE 52

Motion for Reconsideration

....

Section 2. Second motion for reconsideration. — No second motion for reconsideration of a judgment or final resolution by the same party shall be entertained.

Verily, the proscription only applies in cases where a judgment or final resolution has been rendered by the court. As this Court has established, the rule stems from the principle of immutability of judgments:

Case law explains that "[t]he rule rests on the basic tenet of immutability of judgments [which evokes that] [a]t some point, a decision [must] becom[e] final and executory and consequently, all litigations must come to an end." [37]

Here, no final judgment has been rendered yet by the RTC. To recall, what was issued by Judge Legaspi III was an Order finding probable cause to issue a warrant of arrest against Co et al. and respondent.[38] The first assailed Order by the RTC denied respondent's motion to quash the issuance of his warrant of arrest. The second assailed Order denied his first motion for reconsideration, and the third assailed Order denied his second motion for reconsideration. The first assailed Order, of which respondent sought reconsideration twice, was in the nature of an interlocutory order. The distinction between interlocutory orders and final judgments are established in case law:

[T]he main difference between an interlocutory order and a final order is that a final order disposes of a case, an interlocutory order, on the other hand, does not dispose of a case and does not end the court's task of adjudicating the parties' contentions. The test to determine whether an order or a judgment is interlocutory or final is: Does the order or judgment leave something to be done in the trial court regarding the merits of the case? If it does, the order or judgment is interlocutory; otherwise, it is final.[39]

Hence, contrary to the position of the OSG, We find that respondent was not prohibited from filing a second motion for reconsideration on the first assailed Order, which is an interlocutory order. Jurisprudence explains that a second motion for reconsideration of an interlocutory order may be denied on the ground that it is a rehash of arguments already passed upon by the court, but not on the ground that it is forbidden by law:

The rule that a second motion for reconsideration is prohibited by the Rules applies to final judgments and orders, not interlocutory orders... A second motion for reconsideration attacking an interlocutory order can be denied on the ground that it is a "rehash" or mere reiteration of grounds and arguments already passed upon and resolved by the court; it, however, cannot be rejected on the ground that a second motion for

reconsideration of an interlocutory order is forbidden by law.[40]

As correctly noted by the CA, the second motion for reconsideration was not a rehash of arguments duly passed upon by the RTC, because the second assailed Order, denying the first motion for reconsideration, did not meaningfully dispose of the issues.

On substantive grounds, however, We find that the Petition is meritorious.

At the outset, it bears noting that under Rule 45 of the Rules of Court, this Court's jurisdiction is generally limited to the review of errors of law committed by the appellate court.[41]

Nevertheless, this rule is not absolute and admits of certain exceptions as stated in jurisprudence:

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.[42]

In this case, We find that the fifth exception applies given that the findings of fact between the RTC and CA are conflicting.

The crux of the matter revolves around the judicial determination by the RTC that there was probable cause to issue a warrant of arrest against respondent and to hold him for trial. This Court has previously discussed the scope of the judicial determination of probable cause:

The judicial determination of probable cause, on the other hand, is one made by the judge to ascertain whether a warrant of arrest should be issued against the accused. The judge must satisfy himself that based on the evidence submitted there is necessity for placing the accused under custody in order not to frustrate the ends of justice. If the judge finds no probable cause, the judge cannot be forced to issue the arrest warrant.[43]

In its ruling, the CA found that the RTC committed grave abuse of discretion when it found that there was probable cause to hold respondent for trial. The CA discussed:

In the case at bench, We find that there was a compelling reason to justify a resort to a petition for certiorari against the assailed Orders of the RTC. After a judicious and thorough examination of the records of this case, We find that petitioner was able to show that the factual circumstances of his case fall under the foregoing exceptional circumstances. Indubitably, the RTC committed grave abuse of discretion in denying the motion to quash the warrant of arrest filed by therein petitioner on account of its whimsical and capricious finding that there was probable cause to hold him for trial.

....

In this case, at the crux of the controversy rests (sic) on whether petitioner's claim that he was no longer connected with Fortuneyield on or about March 22, 2019, the time of the alleged commission of the crime, by reason of his resignation, assignment of shares, and replacement as President of the said company long before the said commission of the crime, has been sufficiently established.

From a careful re-evaluation of the records of this case, We find that there is substantial basis to hold that there is no prima facie case against herein petitioner. There is no ounce of evidence which establish probable cause

of petitioner's complicity to the crime charged, whether in conspiracy with the indicted Co, et al. or otherwise.

A judicious scrutiny reveals that the trial court whimsically found probable cause against herein petitioner on the expedient basis that there was a "damning evidence" against him of an e-filing with the Bureau of Customs allegedly submitted on June 2018 declaring herein petitioner as a General Manager of Fortuneyield. However, the commission of the crime took place on or about 22 March 2019. Thus, there is no sufficient basis to conclude that petitioner was still an officer of Fortuneyield nor had any vested interest therein at the time of the commission of the offense.

Assuming arguendo that herein petitioner was indeed still the General Manager at the time of the commission of the crime charged, Section 30 of RA 9165 provides that in case any violation of this Act is committed by a corporation, [as in this case], the partner, president, director, manager, trustee, estate administrator, or officer must be shown to have consented or knowingly tolerated such violation in order to be held criminally liable as a co-principal.

Here, no such evidency was established in finding the existence of probable cause against herein petitioner aside from the bare assertion, albeit unfounded, that he is an officer of Fortuneyield, and nothing more. At the bare minimum, no overt act on the part of petitioner was alleged to show that he consented or knowingly tolerated the commission of the crime charged.

Certainly, there was no basis to show that petitioner actually held his functions and possessed or exercised authority for Fortuneyield on 22 March 2019 or thereafter. In the same vein, the claim that petitioner was involved in the affairs of Fortuneyield was never corroborated by any record, other than a mere allegation of the former directors who were removed as early as 2017, as admitted, and previously included in the investigation.[44]

We agree that there was no basis to indict respondent on the ground of his alleged involvement in Fortuneyield as officer or incorporator, considering the submitted documents showing his replacement as president and his assignment of shares. These documents were not sufficiently controverted but were characterized by the DOJ as a "sham." It would also be contradictory to indict respondent on this ground, while absolving Haw, Tan, Lao, and Chua Tan, on the strength of the same documents showing their assignment of shares and replacement as corporate officers.

Nevertheless, We note that respondent has not materially disputed his involvement in Fortuneyield as its general manager at the time of the subject shipment.

At the outset, We reiterate that the basis of involving Fortuneyield in the prosecution for the subject illegal shipment is the Bill of Lading SITSGMNG160726 showing that Fortuneyield is the declared consignee, that the shipment originated from Vietnam, and that Pabilona was the contact person for the said consignee.

Republic Act No. 10863 or the Customs Modernization and Tariff Act states that the consignee or holder of the bill of lading shall be deemed the owner of imported goods:

SECTION 404. Owner of Imported Goods. – All goods imported into the Philippines shall be deemed to be the property of the consignee or the holder of the bill of lading, airway bill or other equivalent transport document if duly endorsed by the consignee therein, or, if consigned to order, duly endorsed by the consignor. The underwriters of abandoned goods and the salvors of goods saved from wreck at sea, coast, or in any area of the Philippines, may be regarded as the consignees.

Hence, We find that the RTC was justified in its reliance on the documentary evidence presented by the prosecution, which included a Bill of Lading connecting Fortuneyield to Container No. SITU 9031817.

Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002 states who shall be the natural persons liable when a corporation is charged for violation of its provisions:

Section 30. Criminal Liability of Officers of Partnerships, Corporations, Associations or Other Juridical Entities. – In case any violation of this Act is committed by a partnership, corporation, association or any juridical entity, the partner, president, director, manager, trustee, estate administrator, or officer who consents to or knowingly tolerates such violation shall be held criminally liable as a co-principal.

The penalty provided for the offense under this Act shall be imposed upon the partner, president, director, manager, trustee, estate administrator, or officer who knowingly authorizes, tolerates or consents to the use of a vehicle, vessel, aircraft, equipment or other facility, as an instrument in the importation, sale, trading, administration, dispensation, delivery, distribution, transportation or manufacture of dangerous drugs, or chemical diversion, if such vehicle, vessel, aircraft, equipment or other instrument is owned by or under the control or supervision of the partnership, corporation, association or juridical entity to which they are affiliated.

In this case, Pabilona was primarily indicted for being the signatory on behalf of Fortuneyield, in the importation documents gathered by the prosecution.

Notably, Pabilona did not dispute that he is the operations officer of Fortuneyield. His position as such is consistent with the information in the Client Profile Registration Form filed with the Bureau of Customs, which was an attachment included in the Sayon et al. Joint Counter-Affidavit.

The RTC, therefore, had sufficient reason to accord weight to the Client Profile Registration Form, which identified respondent as the general manager whose area of responsibility was the "over all operation" of the company.

The Client Profile Registration Form is considered a public record, as defined in Rule 132, Section 19 of the Rules of Court. The same Rule provides the evidentiary rules for public records:

Section 23. Public documents as evidence. — Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.

Given this, it was appropriate for the RTC to give weight to the facts alleged in the Client Profile Registration Form submitted by the prosecution, in its determination of the existence of probable cause to hold respondent for trial. It would be absurd to indict Fortuneyield's operations officer without considering the probable participation of his superior who was in charge of the company's over-all operation. This Court has established the threshold of probable cause in the issuance of a warrant of arrest:

It should be emphasized that before issuing warrants of arrest, judges merely determine personally the probability, not the certainty, of guilt of an accused. Hence, judges do not conduct a de novo hearing to determine the existence of probable cause. They just personally review the initial determination of the prosecutor finding a probable cause to see if it is supported by substantial evidence.[45]

We likewise take judicial notice that the Client Profile Registration Form is a reportorial requirement for all importers, customs brokers, and other stakeholders transacting with the Bureau of Customs.[46] Being the basis of the Bureau of Customs for company information regarding its stakeholders, it is incumbent upon the registered companies to update their Client Profile Registration Form when there is a change of responsible officers and company officers.[47] We note in this case that respondent has not alleged that the responsible officers of Fortuneyield had been updated. Neither did he submit documents to prove the same.

In any case, it bears emphasizing that it is not necessary to prove, at this point, that respondent is indeed guilty of the crime charged. The questions regarding respondent's involvement in the subject shipment as general manager are evidentiary in nature and are matters of defense that may be best passed in a full-blown trial on the merits.

In sum, We find that the CA erred in finding that the RTC committed grave abuse of discretion in finding probable cause for respondent's arrest.

ACCORDINGLY, the Petition is GRANTED. The April 13, 2023 Decision and December 5, 2024 Resolution of the Court of Appeals in CA-G.R. SP No. 174135 are REVERSED and SET ASIDE. The September 13, 2021 and October 25, 2021 Orders of Branch 13 and the April 29, 2022 Order issued by Branch 53, both of the Regional Trial Court, Manila, in Criminal Case No. R-MNL-20-00002-CR are SUSTAINED. The case is ordered REMANDED to Branch 53, Regional Trial Court of Manila for further proceedings, and to resolve the case with utmost dispatch.

SO ORDERED.

Lazaro-Javier and Villanueva, JJ., concur.

Leonen, SAJ. (Chairperson), see separate concurring opinion.

Kho, Jr.,[*] J., on leave.

[*] On leave.

[1] Rollo, pp. 46-72.

[2] Id. at 74-100. The April 13, 2023 Decision in CA-G.R. SP No. 174135 was penned by Justice Bonifacio S. Pascua and concurred in by Associate Justices Louis P. Acosta and Jennifer Joy C. Ong of the Special Seventeenth Division, Court of Appeals, Manila.

[3] Id. at 122-124. The December 5, 2024 Resolution in CA-G.R. SP No. 174135 was penned by Associate Justice Bonifacio S. Pascua and concurred in by Associate Justices Louis P. Acosta and Jennifer Joy C. Ong of the Former Special Seventeenth Division, Court of Appeals, Manila.

[4] Id. at 146. The September 13, 2021 Order in Criminal Case No. R-MNL-20-00002-CR was penned by Judge Emilio Rodolfo Y. Legaspi III of Branch 13, Regional Trial Court, Manila; id. at 172. The October 25, 2021 Order in Criminal Case No. R-MNL-20-00002-CR was penned by Judge Emilio Rodolfo Y. Legaspi III of Branch 13, Regional Trial Court, Manila; id. at 147-148. The April 29, 2022 Order in Case No. R-MNL-20-00002-CR was penned by Presiding Judge Reynaldo A. Alhambra of Branch 53, Regional Trial Court, Manila.

[5] Id. at 102.

[6] Id. at 76.

[7] Id. at 232.

[8] Id. at 49.

[9] Id. at 102-103.

[10] Id. at 230.

[11] Id. at 76.

[12] Id. at 192-198.

- [13] Id.
- [14] Id. at 209-218.
- [15] Id. at 215.
- [16] Id. at 249-258.
- [17] Id. at 259.
- [18] Id. at 262.
- [19] Id. at 242.
- [20] Id. at 16.
- [21] Id. at 146. Dated September 13, 2021.
- [22] Id. at 239-244.
- [23] Id. at 243-244.
- [24] Id. at 146. Dated September 13, 2021.
- [25] Id. at 172. Dated October 25, 2021.
- [26] Rollo, pp. 77-78.
- [27] Id. at 78.
- [28] Id. at 147-149. Dated April 29, 2022.
- [29] Id. at 148.
- [30] Id. at 78-79.
- [31] Id. at 80.
- [32] Id. at 85-86.
- [33] Id. at 99.
- [34] Id. at 52-53.
- [35] Id. at 329-351.
- [36] Id. at 85-88.
- [37] *Carreon v. Aguillon and Lopez*, 815 Phil. 598, 604-605 (2020) [Per J. Perlas-Bernabe, Second Division].
- [38] Rollo, p. 16.
- [39] *Integrated Credit and Corporate Services v. Labrador*, 943 Phil. 581, 589 (2023) [Per C.J. Gesmundo, First Division].
- [40] *Philgreen Trading Const. Corp. v. Court of Appeals*, 338, Phil. 433, 440 (1997) [Per J. Puno, Second Division].
- [41] *Lopez v. Saludo, Jr.*, 910 Phil. 600, 603-607 (2021) [Per J. Hernando, Second Division].

[42] *Spouses Miano v. Manila Electric Company*, 800 Phil. 118, 123 (2016) [Per J. Leonen, Second Division].

[43] *People v. Alcantara*, 835 Phil. 635, 645-646 (2018) [Per J. Tijam, First Division].

[44] *Rollo*, pp. 90-95.

[45] *De Joya v. Judge Marquez*, 516 Phil. 717, 722 (2006) [Per J. Azcuna, Second Division].

[46] See Customs Memorandum Order (CMO) No. 3-9-2008, December 2, 2008, "Initial Registration of Clients and Stakeholders with the Electronic-to-Mobile or e2M Customs System; Data Build-up Phase of the Client Profile Registration System or CPRS

[47] See Bureau of Customs, "Accounts Management Office (AMO)'s Corner," available at <https://customs.gov.ph/amos-corner/> (last accessed on January 30, 2026).

CONCURRING OPINION

LEONEN, SAJ:

I concur with the ponencia's reversal of the April 13, 2023 Decision and December 5, 2024 Resolution of the Court of Appeals in CA-G.R. SP No. 174135.[1] The Court of Appeals erred in finding that the Regional Trial Court gravely abused its discretion when it found probable cause to issue a warrant of arrest against respondent Bernard Lu Chong.

In *Tagastason v. People*, [2] this Court distinguished between executive and judicial determinations of probable cause. It explained that executive determination of probable cause is one made "during preliminary investigation. It is a function that properly pertains to the public prosecutor who is given a broad discretion, to determine whether probable cause exists and to charge those whom he believes to have committed the crime as defined by law and thus should be held for trial." [3]

On the other hand, judicial determination of probable cause is one made "by the judge to ascertain whether a warrant of arrest should be issued against the accused. The judge must satisfy himself that based on the evidence submitted, there is necessity for placing the accused under custody in order not to frustrate the ends of justice." [4]

Here, the ponencia finds that the Regional Trial Court correctly determined the existence of probable cause to issue a warrant of arrest against respondent. As it explained, the "[Regional Trial Court] was justified in its reliance on the documentary evidence presented by the prosecution[.]" [5]

I write separately to highlight certain factual circumstances that warrant closer examination.

At the outset, I reiterate that the executive determination of probable cause for filing an information is "an executive function which lies within the discretion of the public prosecutor and justice secretary. It is generally not reviewable by courts regardless of its correctness, except when there is showing of grave abuse of discretion." [6]

In *Secretary of Justice v. Cabanes*, [7] this Court stated that prosecutors are "granted a wide latitude of discretion in resolving whether a complaint must be dismissed or an information should be filed. Generally, courts do not interfere with the prosecutor's determination of probable cause and conduct of preliminary investigation." [8] Nonetheless, while prosecutors are afforded "sufficient latitude of discretion in the determination of probable cause," their findings remain subject to review by the Secretary of Justice. [9]

Here, in its February 2, 2021 Resolution, the Department of Justice agreed with the Philippine Drug Enforcement Agency's (PDEA) assessment that the claim of respondent Chong and the other incorporators of Fortuneyield, namely, William S. Tan, Matthew Angelo L. Haw, Alexander Maluto Lao, and Emerson Chua Tan (Tan et al.) that they had already assigned their shares to a new group by the time the drug shipment was seized was "apparently a sham." [10] The Department of Justice stated:

The fictitious notarization [of the deeds of assignment] establishes [the sham], especially considering that it involved four (4) separate contracts, all of which were coincidentally not recorded or reported. The respondents can try to prove that Atty. Salamera merely failed to report the notarization of the deeds of assignment as a matter of defense during a full-blown trial. Significantly, the notarization of the supposed transfer documents are all dated the same as that of the SEC General Information Sheet for the year 2018 wherein the respondents declared themselves as stockholders (See Annex 2 of the joint counter-affidavit of Meldy Sayon et al., which is attached as the first unmarked attachment to the complaint-affidavit), thus negating their claim that they had transferred the shares that day.

The supposed record of the assignment of the respondents' Fortuneyield shares in the transfer book is the epitome of self-serving evidence, easily manufactured and practically impossible to authenticate. In light of the evidence submitted by the complainant, which are mostly based on public documents and public records, respondents' claim cannot stand.

Most damning is the e-filing with the Bureau of Customs dated June 2018, when the respondents had supposedly transferred their shares. Yet here the respondents are declared the major stockholders, and Bernard Lu Chong is also announced as the general manager in charge of the 'over-all operation' and accused Brian Pabilona the operation 'officer' (Annex 3 of the joint counter-affidavit of Meldy Sayon et al., which is attached as the first unmarked attachment to the complaint-affidavit). [11]

These findings are relevant insofar as they underscore the strength of the documentary evidence relied upon in determining the existence of probable cause against respondent Chong.

Be that as it may, despite the clear and well-reasoned explanation in its Resolution, the Department of Justice nevertheless concluded that there is not enough evidence to indict Tan et al. because they had "denied involvement in the operations of the corporation and the complainant [PDEA] has not submitted any evidence to rebut this claim." [12] Hence, only respondent Chong was included in the Amended Information for the importation of dangerous drugs.

This conclusion is difficult to reconcile with the Department of Justice's own findings regarding the purported sham transfer of shares. It therefore becomes necessary to examine the basis for excluding Tan et al. from the Amended Information.

In *People v. Chi Chan Liu*, [13] this Court identified the elements of crime of importation of dangerous drugs as follows: "(1) the importation or bringing into the Philippines of any regulated or prohibited drug; and (2) the importation or bringing into the Philippines of said drugs was without authority of law." [14] In addition, Section 4 of the Implementing Rules and Regulations of Republic Act No. 9165 provides in part that "[t]he maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages, or acts as a 'financier' of any of the illegal activities prescribed in this Section." [15]

Even if Tan et al. were not directly responsible for the illegal importation of dangerous drugs into the country, they may nevertheless be considered persons who "organized ... any of the illegal activities" proscribed under Section 4 of the Implementing Rules and Regulations of Republic Act No. 9165.

Tan et al., together with respondent Chong, were the incorporators of Fortuneyield. As the ponencia observes,

documents from SITC Container Lines Phils., Inc. (SITC) identified Fortuneyield as the consignee of the subject shipment originating from Vietnam.[16] Furthermore, the ponencia states that "Bill of Lading SITSGMNG160726 shows that Fortuneyield is the declared consignee [and] that the shipment originated from Vietnam." [17]

The shipment in question consisted of 276,344.82 grams of methamphetamine hydrochloride, or shabu, with an estimated value of PHP 1,876,800,000.00.[18] This was not a routine seizure involving a sachet or several sachets of shabu from a neighborhood buy-bust operation. Rather, it involved an extraordinary quantity of dangerous drugs valued at nearly PHP 2 billion.

Given its sheer volume, it is difficult to conceive that the shipment could have been imported by a single individual acting alone. Such an undertaking would necessarily require the coordinated efforts of several persons. This underscores the need for law enforcement authorities to exercise utmost diligence in identifying and prosecuting all individuals who may have participated in the illegal importation.

The Department of Justice must likewise exercise caution before dismissing a criminal complaint for lack of probable cause, particularly where the evidence on record tends to support a finding of probable cause.

In the same manner, when a judge issues a warrant of arrest following the seizure of a considerable quantity of dangerous drugs, such determination should not be lightly disturbed absent a clear showing of grave abuse of discretion. This is especially true given the tremendous pressures and complexities attendant to large-scale drug interdiction aimed at disrupting, intercepting, and severing the supply chain.

From the records, as recounted in the ponencia, respondent Chong filed a Motion to Quash or Recall the Warrant of Arrest, which Judge Emilio Rodolfo Y. Legaspi III (Judge Legaspi III) denied in the first assailed Order.[19] Respondent Chong filed a Motion for Reconsideration with Voluntary Inhibition, which Judge Legaspi III likewise denied in the second assailed Order.[20]

During subsequent proceedings, Judge Legaspi eventually inhibited himself from the case following "an accusation of loss of trust in judicial impartiality." [21] The case was thereafter re-raffled to the sala of Judge Caroline Rivera-Colasito, who likewise inhibited because one of PDEA's counsels was her godson.[22]

Respondent Chong then filed a Motion for Leave of Court to File and Admit Second Motion for Reconsideration. The third judge to handle the case, Judge Reynaldo A. Alhambra, issued the third assailed Order affirming the first two Orders and finding that "there was probable cause to issue a warrant of arrest against Chong." [23]

Yet, despite these findings of the Regional Trial Court, the Court of Appeals opined that "[f]rom a careful re-evaluation of the records of this case, [w]e find that there is substantial basis to hold that there is no prima facie case against [respondent Chong]." [24] This conclusion is difficult to reconcile with the fact that respondent Chong was the general manager of Fortuneyield, the identified consignee of the shipment of illegal drugs in question.

Further, in its Petition for Review on Certiorari before this Court, the Office of the Solicitor General observed that "all the arguments of respondent [Chong] are rebutted in the reports and supporting documents submitted by the prosecution, thereby establishing the existence of probable cause to issue a warrant of arrest against him." [25] Specifically, the Office of the Solicitor General argued:

Sayon, et al.[, the original Fortuneyield incorporators,] pointed to respondent as the General Manager in charge of over-all operations of Fortuneyield after they were replaced as incorporators in 2017. Moreover, Sayon, et al. noted that the replacement of respondent [and Tan et al.] by De Vicente, et al. in 2018 as incorporators of

Fortuneyield is a sham because it was not reported by the notary public and an e-filing after the alleged replacement still declared respondent [and Tan et al.] as the major stockholders. Therefore, establishing that respondent was in charge of over-all operations of Fortuneyield at the time of the commission of the crime.

Additionally, [Francis] Young identified Fortuneyield as the consignee of the subject shipment. [B]oth Fortuneyield and Wealth Lotus wrote letters to SITC indicating Federal Fortunes as the freight forwarder for the subject shipment and Fortuneyield paid for both the container deposit and freight to SITC. Thus, [this] establish[ed] overt acts on the part of Fortuneyield which respondent should have had consented to or have had knowledge of. Without resorting to the calibration of the rules of evidence in determining admissibility and weight, said pieces of evidence undoubtedly establish probable cause for [v]iolation of Section 4 in relation to Section 30 of R.A. No. 9165.[26] (Emphasis supplied)

Again, I stress that in judicial determination of probable cause, the judge "must satisfy himself that based on the evidence submitted, there is a necessity for placing the accused under custody in order not to frustrate the ends of justice." [27]

From the foregoing, there was sufficient basis for the Regional Trial Court to conclude that respondent Chong should be placed under custody pending trial, considering that Fortuneyield, of which he was the general manager, was implicated in the illegal importation of shabu valued at nearly PHP 2 billion.

In any case, trial on the merits has yet to commence. This case rests solely on the question of the propriety of the warrant of arrest issued against respondent, who, along with several other accused, is implicated in the illegal importation of a large quantity of dangerous drugs.

The rights of the accused under the Bill of Rights remain fully protected. They may still be acquitted should the prosecution fail to establish their guilt beyond reasonable doubt. Their arrest does not imply their guilt. Rather, it signifies that the judicial process continues to operate and that the proper administration of justice prevails.

As this Court enunciated in *Personal Collection Direct Selling, Inc. v. Carandang*: [28]

Indeed, for justice to prevail, the scales must balance; justice is not to be dispensed for the accused alone. The interests of society and the offended parties which have been wronged must be equally considered. Verily, a verdict of conviction is not necessarily a denial of justice; and an acquittal is not necessarily a triumph of justice, for, to the society offended and the party wronged, it could also mean injustice. Justice then must be rendered even-handedly to both the accused, on one hand, and the State and offended party, on the other. [29]

ACCORDINGLY, I vote to GRANT the petition.

[1] The April 13, 2023 Decision and the December 5, 2024 Resolution in CA-G.R. SP No. 174135 were penned by Associate Justice Bonifacio S. Pascua and concurred in by Associate Justice Louis P. Acosta and Associate Justice Jennifer Joy C. Ong, Former Special Seventeenth Division, Court of Appeals, Manila.

[2] 856 Phil. 54 (2019) [Per J. Carpio, Second Division].

[3] Id.

[4] Id.

[5] Ponencia, p. 12.

[6] *Secretary of Justice v. Cabanes*, 908 Phil. 40 (2021) [Per J. Leonen, Third Division].

[7] 908 Phil. 40 (2021) [Per J. Leonen, Third Division].

[8] Id.

[9] Id.

[10] Rollo, p. 242.

[11] Id. at 242-243.

[12] Id. at 243.

[13] 751 Phil. 146 (2015) [Per J. Peralta, Third Division].

[14] Id.

[15] Implementing Rules and Regulations, Republic Act No. 9165, sec. 4 (2002).

[16] Ponencia, p. 2.

[17] Id.

[18] Id.

[19] Id. at 5.

[20] Id.

[21] Id.

[22] Id.

[23] Id.

[24] Rollo, p. 93.

[25] Id. at 63.

[26] Id. at 63-64.

[27] Secretary of Justice v. Cabanes, 908 Phil. 40 (2021) [Per J. Leonen, Third Division].

[28] 820 Phil. 706 (2017) [Per J. Leonen, Third Division].

[29] Id.

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