

FLAVIANO BALGOS, JR., VIRGILIO F. DACAYO, JESUS C. SISON AND LEON CUARESMA, PETITIONERS, VS. SANDIGANBAYAN, FIRST DIVISION AND LETICIA ACOSTA-ANG, RESPONDENTS.

G.R. No. 85590. August 10, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

Does the denial by the Sandiganbayan of the motion to withdraw the information and of another motion to suspend proceedings on the ground of a prejudicial question in a pending civil action constitute a grave abuse of discretion correctible by the writs of certiorari and prohibition?

The facts are undisputed. Petitioners were charged with violation of Section 3(c) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practice Act, as amended, in an information that was filed with the Sandiganbayan on April 18, 1986 by the Special Prosecutor which was approved by the Deputy Tanodbayan, after a preliminary investigation. The information reads as follows:

"That on December 27, 1984, in Bagabag, Nueva Vizcaya and within the jurisdiction of this Honorable Court, the accused Flaviano D. Balgos, Jr., a public officer, being the acting Clerk of Court of the Regional Trial Court in Bayombong, Nueva Vizcaya and also the Ex-Officio provincial sheriff of the said province; and the other accused Virgilio F. Dacayo, Jesus C. Sison and Leon C. Cuaresma, all public officers, being Deputy Provincial Sheriffs of said province, acting with evident bad faith and manifest partiality, did then and there, wilfully and unlawfully enforce a Writ of Execution against a Mustang car registered in the name of Leticia Acosta-Ang, despite their knowledge that the registered owner is not the judgment debtor in Civil Case No. 4047 of the Regional Trial Court of Nueva Vizcaya which is the subject of the said writ of execution, thereby causing undue injury to the said Leticia Acosta-Ang (complainant) and giving unwarranted benefits to the judgment creditor in said civil case." [1]

On March 18, 1987, Antonio Uy Lim, the plaintiff and prevailing party in Civil Case No. 4047 filed a complaint for rescission of the sale of the car by Juanito Ang to private respondent Leticia Acosta-Ang for being allegedly in fraud of creditors. The said complaint was filed with the Regional Trial Court of Nueva Vizcaya and was docketed as Civil Case No. 5307. On the same day, petitioners filed a motion for reinvestigation in the Tanodbayan. The same was granted on May 18, 1987.

After conducting the reinvestigation, the Tanodbayan issued an order resolving to:

"(a) set aside and render without force and effect its Resolution in this case dated March 25, 1986;

b) to dismiss the case for lack of merit.

"(c) to withdraw the Information filed in Criminal Case No. 11414 as soon as possible in the interest of justice." [2]

On April 22, 1988 the Tanodbayan filed with the Sandiganbayan a motion to withdraw the information against

petitioners. This was denied on June 29, 1988. On September 1, 1988, petitioners filed a motion to suspend proceedings in the criminal case against them on the ground of the existence of a prejudicial question in Civil Case No. 5307. This was likewise denied by the Sandiganbayan on October 24, 1988.

Hence, the instant petition where it is alleged that the Sandiganbayan committed a grave abuse of discretion amounting to lack or excess of jurisdiction in denying the aforesaid motions.

On June 6, 1989, the Court, acting on the ex-parte urgent motion of petitioners for the issuance of a temporary restraining order enjoining the Sandiganbayan from setting the arraignment of petitioners, and after requiring the Solicitor General to comment thereon, granted the motion. Thereafter, the Solicitor General filed a Manifestation in support of the stand taken by the petitioners.

The petition is devoid of merit.

In the case of *Crespo vs. Mogul*,^[3] this Court laid down the ground rules and the parameters pertaining to the direction and control of the prosecution of a criminal action by the fiscal or government prosecutor as provided for in the rules^[4] in relation to the jurisdiction of the competent courts over such cases. We ruled that while the public prosecutor has the sole direction and control in the prosecution of offenses, once the complaint or information is filed in court, the court thereby acquires jurisdiction over the case and all subsequent actions that may be taken by the public prosecutor in relation to the disposition of the case must be subject to the approval of the said court.^[5]

In such an instance, before a re-investigation of the case may be conducted by the public prosecutor, the permission or consent of the court must be secured. And if after such reinvestigation the prosecution finds a cogent basis to withdraw the information or otherwise cause the dismissal of the case, such proposed course of action must be addressed to the sound discretion of the court.

In the past, a government prosecutor could practically impose his judgment or opinion on the court as it was recognized that the prosecution of offenses is his exclusive domain which resulted then and again in a clash or conflict of opinion between the prosecutors and the courts to the detriment of the administration of justice. Such a situation may no longer be possible since *Crespo*. It is the court that has now the final say on any subsequent disposition or action once the case is brought before it.

The only instance when the appellate court should stay the hand of the trial court in such cases is when it is shown that the trial court acted without jurisdiction or in excess of its jurisdiction or otherwise committed a grave abuse of discretion amounting to such lack or excess of jurisdiction.

In this case, the petitioners are public officers charged with having violated Section 3(c) of Republic Act No. 3019, as amended, for evident bad faith and manifest partiality in enforcing the writ of execution in Civil Case No. 4047 against a Mustang car registered in the name of Leticia Acosta-Ang (complainant) who is not the judgment debtor thereby causing undue injury to said complainant and giving unwarranted benefits to the judgment creditor in said case.

Upon reinvestigation of the criminal case by the Tanodbayan, he found evidence tending to show that the sale of said car to the complainant by Juanito Ang, the judgment debtor, was a sham intended to defraud his creditors; that the deed of absolute sale which ostensibly was executed before a notary public on June 18, 1983 appeared to be fictitious inasmuch as the entry of the document in the notarial register of said notary public on said date referred to a catering contract of other parties; that the certificate of registration of the car was issued to complainant only on June 13, 1984 which showed that the document of sale was actually executed only on or about the same date, that is, seven (7) days after Juanito Ang received copy of the adverse decision in Civil Case

No. 4047 on June 8, 1984; and that upon the execution of the judgment, the car was found in the possession of Alvin, the son of Juanito Ang, who admitted that the car belonged to his father by showing the receipt of its repair in the name of Juanito Ang. This is the basis of the motion for withdrawal of the information of the Tanodbayan.

In denying said motion the public respondent Sandiganbayan stated in its resolution dated June 29, 1988 that the issue in the criminal case was not so much whether the car was owned by Juanito Ang or Leticia Ang but whether it was rightly seized, that is, whether or not it was attended with partiality as to extend unwarranted benefits to the judgment creditor, quoting the resolution of the Tanodbayan after a preliminary investigation for the filing of the information:

"In the implementation of the writ of execution it is the bounden duty of the sheriffs to ascertain the true owner of the property sought to be levied. Assuming that they have not seen the Certificate of Registration showing that the real owner is Leticia Acosta-Ang, they could have easily verified the same at the Land Transportation Commission. Their contention that they were informed by Alvin Ang and the neighbors of Juanito Ang (the judgment debtor) that the latter is the owner of the car is clearly hearsay evidence. The best evidence is the document itself -- the Certificate of Registration shown to the respondents. Their conclusion that the transfer of ownership to Leticia Ang, even if true, may be simulated to defraud the judgment creditor is plainly untenable, for the same should be addressed to the sound discretion of a competent court in an action for annulment of the Deed of Sale.

The respondents are aware that the complainant is not a party to the civil case filed by the creditor against spouses Juanito and Lydia Ang and that a writ of execution cannot be implemented validly against one who is not a party to the action. All these, coupled with the undue haste in which the levy on the Mustang car was made without first ascertaining the true owner thereof demonstrate quite convincingly the evident bad faith and manifest partiality of the respondents, thereby giving unwarranted benefits to the judgment creditor to the damage and prejudice of the complainant. x x x "[6]

We agree. Although at the reinvestigation, the Tanodbayan was persuaded that in fact the sale of the car to Leticia Ang was fraudulent, this did not necessarily clear petitioners of the aforesaid Anti-Graft charge against them. Still the burden is on the petitioners to establish that they acted in good faith in proceeding with the execution on the car even as they were presented evidence tending to show it did not belong to Juanito Ang anymore.

In its resolution dated August 11, 1988 denying the motion for reconsideration filed by petitioner, the Sandiganbayan held that the arguments adduced relate to matters of defense. The Court finds that the public respondent did not err in denying the motion for withdrawal of the information.

By the same token, the denial of the motion to suspend the criminal proceedings on the ground of the pendency of a prejudicial question in Civil Case No. 5307 is well taken. The doctrine of prejudicial question comes into play usually in a situation where a civil action and a criminal action are both pending and there exists in the former an issue which must be preemptively resolved before the criminal action may proceed, because whatsoever the issue raised in the civil action is resolved would be determinative juris et jure of the guilt or innocence of the accused in the criminal case.[7]

In this case, as correctly held by public respondent, the pending civil case for the annulment of the sale of the car to Leticia Ang (Civil Case No. 5307) is not determinative of the guilt or innocence of the petitioners for the acts allegedly committed by them in seizing the car. Even if in the civil action it is ultimately resolved that the sale was null and void, it does not necessarily follow that the seizure of the car was rightfully undertaken. The car was registered in the name of Leticia Ang six (6) months before the seizure. Until the nullity of the sale is declared by the courts, the same is presumptively valid. Thus, petitioners must demonstrate that the seizure was not attended by manifest bad faith in order to clear themselves of the charge in the criminal action.

WHEREFORE, the petition is DENIED for lack of merit and the restraining order dated June 6, 1989 is hereby lifted. No costs.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

[1] Pages 3 to 4, Rollo.

[2] Page 73, Rollo.

[3] 151 SCRA 462 (1987).

[4] Sections 5 and 16, Rule 110. 1985 Rules on Criminal Procedure, as amended.

[5] Crespo vs. Mogul, *supra*.

[6] Page 39, Rollo.

[7] Flordelis vs. Castillo, 58 SCRA 301 (1974); and Falgui, Jr. vs. Provincial Fiscal of Batangas, 62 SCRA 462, 467 to 468 (1975).

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