

ERLINDA K. ILUSORIO, PETITIONER, VS. MA. ERLINDA I. BILDNER, LILY F. RAQUEÑO, SYLVIA K. ILUSORIO, MA. CRISTINA A. ILUSORIO, AND AURORA I. MONTEMAYOR, RESPONDENTS.

G.R. Nos. 173935-38. December 23, 2008

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Respondents Ma. Erlinda Bildner and Lily Raqueño were charged by Erlinda K. Ilusorio (petitioner) before the Metropolitan Trial Court (MeTC) of Pasig City with perjury arising from their filing, on behalf of Lakeridge Development Corp. (LDC), of a petition in the Makati City Regional Trial Court (RTC) for issuance of new owner's duplicate copy of Certificate of Condominium Title (CCT) No. 21578 covering a condominium unit in Makati. The Information reads:

On or about November 4, 1999, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, conspiring and confederating together and mutually helping and aiding one another, did then and there willfully, unlawfully, feloniously and falsely subscribe and swear to a Petition for Issuance of a New Owner's Duplicate Copy of Condominium Certificate of Title No. 21578 before Rafael Arsenio S. Dizon, a notary public in and for Pasig City, duly appointed, qualified and acting as such, and in which Petition said accused subscribed and swore to, among other things, facts known to them to be untrue, that is: That the Petitioners claim that the title was lost, which fact was material matter and required by law to be stated in said Petition, when in truth and in fact as the said accused very well knew at the time they swore to and signed the said petition for Issuance of a New Owner's Duplicate Copy of Condominium Certificate of Title No. 21578, that said statement appearing in paragraph 4 of said Petition:

"4. Pending registration of the mortgage document with the Registry of Deeds of Makati City, the petitioners had their respective offices, renovated and by reason thereof, documents were moved from their usual places and thereafter, sometime in the early part of the second quarter of this year, when petitioners were ready to have the mortgage documents registered, the said owner's duplicate copy of CCT No. 21578 could no longer be located at the places where they may and should likely be found despite earnest and diligent efforts of all the petitioners to locate the same;"

was false and untrue because the said title was in the possession of the complainant, Erlinda K. Ilusorio, and the above false statement was made in order to obtain a New Owner's Duplicate Copy of Condominium Certificate of Title No. 21578, to the damage and prejudice of complainant Erlinda K. Ilusorio.

Contrary to law.[1] (Emphasis and underscoring supplied)

Three similarly worded Informations for perjury were also filed against respondents Sylvia Ilusorio, Ma. Cristina Ilusorio and Aurora Montemayor also before the Pasig City MeTC arising from their filing of three petitions, also on behalf of LDC, before the Tagaytay City RTC for issuance of new owner's duplicate copy of Transfer Certificates of Title (TCT) Nos. 17010,[2] 17011[3] and 17012[4] covering properties located in Tagaytay City.

As the purported corporate officers of LDC, respondents filed the above-mentioned petitions for issuance of new

owner's duplicate copies of titles over properties located in Makati City and Tagaytay City after the owner's copies thereof could no longer be found "despite earnest and diligent efforts" to locate the same.

Petitioner, alleging that she, as bona fide chairman and president of LDC,[5] has in her possession those titles, filed her opposition to respondents' petitions.[6] Respondents forthwith amended their respective petitions,[7] the amendments reading, according to petitioner, as follows:

4. On November 4, 1999, in the belief that the aforesaid owner's duplicate copy of CCT No. 21578 had been lost and can no longer be recovered, the petitioners filed before the Regional Trial Court of Makati City a petition for the cancellation and issuance of a new owner's duplicate copy of CCT No. 21578 in lieu of the lost copy;

5. However, after the jurisdictional facts and evidence had been presented before the said court, the above-named respondents, through their counsel, filed their opposition to the petition on the ground that the said owner's duplicate copy of Condominium Certificate of Title No. 21578 allegedly is not lost and is actually in their possession and, thereafter, in a subsequent hearing held on February 10, 2000, said respondents, through counsel, presented before this Honorable Court the duplicate copy of said CCT No. 21578;

6. The owner's duplicate copy of CCT No. 21578, pursuant to law, should be in the actual possession of the registered owner thereof and it is indubitable that LAKERIDGE DEVELOPMENT CORPORATION is the registered owner entitled to the possession and control of the evidence of ownership of all corporate properties;

7. The respondents have no authority nor legal basis to take and continue to have possession of said CCT No. 21578, not one of them being a corporate officer of LAKERIDGE DEVELOPMENT CORPORATION, the registered owner of said property;

x x x x

9. The respondents, in the absence of any authority or right to take possession of CCT No. 21578, should be ordered by this Honorable Court to surrender the owner's duplicate copy thereof, which they continue to hold without legal and/or justifiable reasons, not only for the purpose of causing the registration of the mortgage thereof in favor of the mortgagee/petitioner, Ma. Erlinda I. Bildner, but also for the reason that it is the corporation, as owner of the property, who [sic] is entitled to possession and control and therefore, said CCT must, pursuant to law, be kept at the corporation's principal place of business.

x x x x. (Underscoring in the original; emphasis supplied)

Using as bases the contents of the original petitions filed in the Makati and Tagaytay RTCs,[8] petitioner filed charges of falsification of public documents and perjury against respondents before the Pasig City Prosecutor's Office.[9]

By Resolution of April 6, 2000, Investigating Prosecutor Edgardo Bautista, with the imprimatur of the City Prosecutor, dismissed the falsification charges but found probable cause to indict respondents for perjury.[10] Four informations for perjury were accordingly filed before the MeTC Pasig, one against respondents Ma. Erlinda I. Bildner and Lily F. Raquero; another against respondents Sylvia K. Ilusorio, Maria Cristina A. Ilusorio and Aurora Montemayor; still another against respondents Sylvia K. Ilusorio, Maria Cristina A. Ilusorio and Aurora Montemayor; and the last against respondents Sylvia K. Ilusorio, Maria Cristina Ilusorio and Aurora Montemayor, docketed as Criminal Case Nos. 121496, 121497, 121498 and 121499, respectively.

After the consolidation of the Informations, respondents moved for their quashal on the grounds of lack of jurisdiction due to improper venue, lack of bases of the charges as the original petitions had already been withdrawn, and privileged character of the pleadings.[11]

Branch 72 of the Pasig City MeTC, by Order[12] of June 13, 2001, ruled that venue was properly laid, viz:

To determine the correct venue (territorial jurisdiction)[,] the vital point is the allegations [sic] in the complaint or information of the situs of the offense charged. If the complaint or information alleges that the crime was committed in the place where the court has jurisdiction, then that court has jurisdiction to hear and decide the case. (Colmenares vs. Villar, 33 SCRA 186). In other words, what is important is the allegation in the complaint that the crime was committed in the place which is within the court's jurisdiction (Mediante vs. Ortiz, 19 SCRA 832).

In the instant cases, the information [sic] allege that the offenses were committed in Pasig City. Hence, pursuant to the aforesaid doctrinal rulings, this court has the venue or territorial jurisdiction over these cases. (Underscoring supplied)

Nonetheless, finding that respondents' petitions are privileged, the MeTC, citing *Flordelis v. Judge Himalalaon*[13] and *People v. Aquino, et al.*,[14] granted the Motions to Quash, viz:

However, the Court finds the third ground[-privileged character of the pleadings] meritorious. In the case of *Flordelis vs. Himalalaon*, (84 SCRA 477) which is also a prosecution for Perjury, the Supreme Court held:

"x x x x

Moreover, it is likewise clear that any statement contained in an appropriate pleading filed in court that is relevant to the issues in the case to which it relates is absolutely privileged [sic] and it is the law that the same may not be made the subject of a criminal prosecution. (*People vs. Aquino*, 18 SCRA 555.)"

Similarly, the alleged perjurious statements in the instant cases are contained in a Petition filed before the Regional Trial Courts of Makati and Tagaytay Cities which are relevant to the case the same being for the issuance of a new owner's duplicate copy of a certificate of title alleged to be lost.

x x x x.

As the facts charged herein do not constitute an offense and/or the information contains averments which, if true, would nonetheless constitute a legal excuse or jurisdiction [sic], quashal of the Information[s] is thus in order.

x x x x. (Underscoring in the original; emphasis supplied)

Reconsideration of the quashal of the Informations having been denied,[15] petitioner appealed to the Pasig City RTC Branch 263 of which, by Decision[16] of January 25, 2006, affirmed the ruling of the MeTC. After the denial of her motion for reconsideration,[17] petitioner filed with this Court the present petition for review on certiorari,[18] contending that:

THE COURT A QUO ERRED IN RELYING ON THE CASES OF *FLORDELI[S] VS. HIMALALAOAN* (84 SCRA 477) AND *PEOPLE VS. AQUINO* (18 SCRA 555) [IN HOLDING] THAT STATEMENTS MADE IN PLEADINGS, EVEN IF PERJURIOUS OR FALSE, ARE ABSOLUTELY PRIVILEGED AND NOT SUBJECT TO CRIMINAL PROSECUTION. (Underscoring supplied)

Petitioner is of the view that *People v. Aquino*[19] cited by the RTC does not apply in the present controversy as that case involved a libel case and "there is no authority which states that the rules on absolute privileged statements in pleadings apply to both crimes of perjury and libel." [20]

Neither, petitioner posits, does the also cited case of *Flordelis v. Himalalaon*[21] apply wherein the Court sustained the quashal of the therein information for perjury as the answer to the complaint containing the alleged false allegations did not have to be under oath.

In their Comment, respondents initially burrow into the petition's alleged procedural crack by underscoring the

apparent disregard by petitioner of the established policy of judicial hierarchy of courts, pointing out that the petition should have been first filed with the Court of Appeals.[22]

On the merits, respondents reiterate, in the main, the congruent rulings of the MeTC and RTC that allegations made by the parties or their counsel in a pleading are privileged in nature. Moreover, they contend that since they had amended the original petitions, there were no more bases for the charges of perjury."[23]

A word first on the procedural question raised by respondents. The present petition is one for review on certiorari under Rule 45 of the Rules of Court, not a special civil action for certiorari under Rule 65. Rule 41 of the Rules of Court (APPEAL FROM THE REGIONAL TRIAL COURTS), Section 2(c) provides that in all cases where only questions of law are raised, the appeal "shall be to the Supreme Court by petition for review in accordance with Rule 45." [24] Indubitably, the issue tendered in this case is a question of law, hence, there is no violation of the principle of hierarchy of courts.

On the merits, the Court denies the petition on the ground that, contrary to the lower courts' ruling, venue of the Informations was improperly laid in Pasig.

The allegations in each of the Informations indicate Pasig as the situs of the offense charged where respondents' petitions were notarized. Albeit the Informations referred to the "subscribed and sworn" petitions of respondents as bases of the charges, there is no mention therein that those petitions were filed in Makati City and Tagaytay City. The Complaint-Affidavits,[25] which initiated the criminal actions, reflect such jurisdictional details. Consider this allegation:

6. On November 4, 1999, MA. ERLINDA I. BILDNER and LILY F. RAQUENO allegedly representing LAKERIDGE filed a verified Petition for Issuance of a New Owner's Duplicate Copy of Condominium Certificate of Title No. 21578 before the Regional Trial Court of Makati City x x x x, (Emphasis, italics and underscoring supplied)

as well as this:

06. On November 10, 1999, AURORA I. MONTEMAYOR, SYLVIA ILUSORIO, and MA. CRISTINA A. ILUSORIO allegedly representing LAKERIDGE filed three (3) verified Petitions for Issuance of a New Owner's Duplicate Copy of Transfer Certificate of Title Nos. 17010, 17011 and 17012 before the Regional Trial Court, Branch 18, Tagaytay City x x x x. (Emphasis, italics and underscoring supplied)

The allegation in each of the four similarly-worded Informations that perjury was committed in Pasig is neither controlling nor sufficient to show that the Pasig MeTC has jurisdiction over them. The purported perjurious petition quoted in each of the Informations in fact indicates that, with respect to the CCT of the Registry of Deeds of Makati the TCTs of the Registry of Deeds of Tagaytay, venue of the criminal action arising therefrom is in Makati and Tagaytay, respectively.

Perjury is committed as follows:

Article 183, Revised Penal Code.

False Testimony in other cases and perjury in solemn affirmations. - The penalty of arresto mayor in its maximum period to prision correccional in its minimum period shall be imposed upon any person who, knowingly making untruthful statements and not being included in the provisions of the next preceding articles, shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires.

x x x x[26] (Italics in the original; underscoring supplied)

There are thus four elements to be taken into account "in determining whether there is a prima facie case" of perjury, viz:

(a) that the accused made a statement under oath or executed an affidavit upon a material matter; (b) that the statement or affidavit was made before a competent officer, authorized to receive and administer oath; (c) that in the statement or affidavit, the accused made a willful and deliberate assertion of a falsehood; and (d) that the sworn statement or affidavit containing the falsity is required by law or made for a legal purpose.[27] (Citation omitted)

It is the deliberate making of untruthful statements upon any material matter, however, before a competent person authorized to administer an oath in cases in which the law so requires,[28] which is imperative in perjury[29]

Venue, in criminal cases, being jurisdictional,[30] the action for perjury must be instituted and tried in the municipality or territory where the deliberate making of an untruthful statement upon any matter was made, in this case, in Makati and Tagaytay.[31]

It was in Makati and Tagaytay where the intent to assert an alleged falsehood became manifest and where the alleged untruthful statement finds relevance or materiality in deciding the issue of whether new owner's duplicate copies of the CCT and TCTs may issue.

Whether the perjurious statements contained in the four petitions were subscribed and sworn in Pasig is immaterial, the gist of the offense of perjury being the intentional giving of false statement. So *United States v. Cañet* [32] teaches, viz:

It is immaterial where the affidavit was subscribed and sworn, so long as it appears from the information that the defendant, by means of such affidavit, "swore to" and knowingly submitted false evidence, material to a point at issue in a judicial proceeding pending in the Court of First Instance of Iloilo Province. The gist of the offense charged is not the making of the affidavit in Manila, but the intentional giving of false evidence in the Court of First Instance of Iloilo Province by means of such affidavit.[33] (Emphasis and underscoring supplied)

While the Court finds that, contrary to the MeTC and RTC ruling, venue of the Informations was improperly laid, and on that score the Court denies the present petition as priorly stated, it is confronting the sole issue raised by petitioner - whether the questioned petitions of respondents are, as the MeTC held and which the RTC affirmed, absolutely privileged on the basis of *Flordelis* and *Aquino*.

The issue had already been addressed by the Court in *Choa v. People*,[34] in this wise:

Sison and Aquino both involve libel cases. In Sison, this Court categorically stressed that the term "absolute privilege" (or "qualified privilege") has an "established technical meaning, in connection with civil actions for libel and slander." x x x x.

x x x x.

The *Flordelis* case is likewise not in point. There, *Flordelis* was charged with perjury for having alleged false statements in his verified answer. This Court held that no perjury could be committed by *Flordelis* because "an answer to a complaint in an ordinary civil action need not be under oath," thus, "it is at once apparent that one element of the crime of perjury is absent x x x, namely, that the sworn statement complained of must be required by law. [35] (Italics in the original; underscoring supplied)

Verily, both the MeTC and the RTC misappreciated this Court's rulings in *Flordelis* and *Aquino* as respondents' petitions-bases of the subject Informations for perjury are required by law to be under oath.

WHEREFORE, the petition is, on the ground that the Metropolitan Trial Court of Pasig has no jurisdiction over the Informations for perjury against respondents, DENIED.

No costs.

SO ORDERED.

Quisumbing, (Chairperson), Tinga, Velasco, Jr., and Brion, JJ., concur.

[1] I Records, pp. 1-3.

[2] Id. at pp. 4-6.

[3] Id. at pp. 7-9.

[4] Id. at pp. 10-12.

[5] Id. at 644, 647.

[6] Id. at 771-772; Exhibit "HH." Not found in the records is the opposition to the Tagaytay City RTC petition for issuance of new owners' duplicate copy of TCT Nos. 17010, 17011 and 17012.

[7] Id. at 774-779. Exhibit "II." Not found in the records are the amended petitions filed with the Tagaytay City RTC.

[8] Id. at 651-666, Exhibit "E" to "H."

[9] Id. at 644-650.

[10] Id. at 630-635.

[11] Id. at 461-476.

[12] Id. at 558-561.

[13] 173 Phil. 616 (1978).

[14] 124 Phil. 1179 (1966).

[15] Records, p. 583.

[16] Rollo, pp. 24-28.

[17] Id. at 29-30.

[18] Id. at 9-23.

[19] *People v. Aquino*, supra note 14.

[20] Rollo, p. 17.

[21] *Flordelis v. Himalalaon*, supra note 13.

[22] Rollo, p. 103.

[23] Id. at 110.

[24] SEC. 2. Modes of Appeal.--

x x x x.

(c) Appeal by certiorari.--In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45.

[25] I Records, pp. 15-17; pp. 35-38.

[26] Article 183, Revised Penal Code.

[27] Saavedra, Jr. v. Department of Justice, G.R. No. 93173, September 15, 1993, 226 SCRA 438, 445 citing Diaz v. People, 191 SCRA 86, 93 (1990).

[28] Burgos v. Aquino, 319 Phil. 622 (1995).

[29] Saavedra, Jr. v. Department of Justice, supra note 27 at 445.

[30] People. v. Mercado, 65 Phil. 665 (1938); Alfelor Sr, et al. v. Hon. Intia, et al., 162 Phil. 596 (1976), citing Lopez v. City Judge, No. L-25795, October 29, 1966, 18 SCRA 616, in turn citing U.S. v. Pagdayuman, 5 Phil. 265 (1905), People v Yumang, 120 Phil. 301 (1964), Beltran v. Ramos, 96 Phil. 149 (1954), Ragpala v. Justice of the Peace of Tubod, 109 Phil. 373 (1960).

[31] Cudia v. Court of Appeals, G.R. No. 110315, January 16, 1998, 284 SCRA 173.

[32] 30 Phil. 371 (1915).

[33] Id. at 378. Also cited in Velez v. Victoriano, 115 Phil. 444, 449 (1962).

[34] 447 Phil 230 (2003).

[35] Id. at 243.

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