

FIRST DIVISION

[G.R. No. 195957, January 15, 2020]

**CEZAR T. QUIAMBAO, Petitioner, vs. PEOPLE OF THE
PHILIPPINES and STAR INFRASTRUCTURE DEVELOPMENT
CORPORATION, Respondents.**

D E C I S I O N

REYES, A., JR., J.:

Before us is a Petition for Review on *Certiorari* against the Court of Appeals' (CA's) Decision^[1] dated November 18, 2010 and Resolution^[2] dated March 10, 2011 in CA-G.R. SP No. 113553, finding no grave abuse of discretion on the part of the Regional Trial Court (RTC) of Pasig City, Branch 161, when it directed the filing of as many information for estafa as alleged against petitioner Cezar T. Quiambao (Quiambao).

The Antecedents

From criminal complaints for estafa filed by the Star Infrastructure Development Corporation (SIDC) against Quiambao, docketed as I.S. Nos. 06-10-11685 to 89,^[3] the Office of the City Prosecutor of Pasig City (OCP Pasig) rendered a Consolidated Resolution^[4] dated May 2, 2007 finding probable cause to charge Quiambao with two counts of estafa. Consequently, two separate Information^[5] were filed against Quiambao before the RTC on June 4, 2007, worded as follows:

(a) Criminal Case No. 135413-PSG^[6] Estafa through misappropriation.

Sometime between 1997 to 2004, in Pasig City, and within the jurisdiction of this Honorable Court, [Quiambao] being then in the capacity as a Chairman of the Board of Directors, CEO and/or Treasurer of Star Infrastructure Development Corporation (SIDC) represented by Louie A. Turgo, as such is in the position of influence and control [to] receive in trust corporate funds and made disbursements and release of funds in favor of STRADEC and Strategic Alliance Holdings, Inc. (SAHI), which is owned and fully operated by [Quiambao] and to [sic] Roberto Quiambao, which corporations are neither affiliated to nor connected with SJDC nor said disbursement to Roberto Quiambao is with justification, but [Quiambao] once in possession of the same and far from complying with his obligation, with unfaithfulness and abuse of confidence and with intent to defraud the complainant, [SIDC], did then and there willfully, unlawfully and feloniously misappropriate, misapply and convert to his own personal use and benefit the said money, and despite demand, [Quiambao] failed and refused and still fails and refuses to return the amount of Eighty[-]Five Million, Eight Hundred Eight Thousand, Seven Hundred Seventy[-]Eight Pesos and Twenty[-]Six Centavos

(P85,808,778.26), to the damage and prejudice of the complainant.
(Emphasis supplied)

Contrary to Law.^[7]

(b) Criminal Case No. 135414-PSG^[8] - Estafa through deceit and false pretenses.

Sometime between 1997 to 2004, in Pasig City, and within the jurisdiction of this Honorable Court, [Quiambao], by means of deceit and false pretenses executed prior to or simultaneously with the commission of fraud, did then and there willfully, unlawfully and feloniously defraud complainant Star Infrastructure Development Corporation (SIDC) represented by Louie A. Turgo in the following manner, to wit: [Quiambao] through fraudulent means, by falsely pretending to possess power, qualification and/or similar deceit, obtained funds from the corporation either as a loan repayments or salary or compensation, to which [Quiambao succeeded] in defrauding/inducing the said corporation, which actually made the disbursements in the total amount of Fifteen Million, One Hundred Eighty Thousand Pesos (P15,180,000.00), and [Quiambao] once in possession of the aforementioned amount, misapplied, misappropriated and converted to his own personal use and benefits to the damage and prejudice of the complainant [SIDC] represented by Louie A [Turgo] in the aforementioned total amount of Fifteen Million, One Hundred Eighty Thousand Pesos (P15,180,000.00).
(Emphasis supplied)

Contrary to Law.^[9]

Aggrieved by the OCP-Pasig's finding of probable cause and accusing the SIDC of forum shopping, Quiambao lodged a Petition for Review of the OCP-Pasig's May 2, 2007 Consolidated Resolution before the Department of Justice (DOJ) on June 19, 2007.^[10] Quiambao invited the attention of the DOJ to the 11 criminal complaints (I.S. Nos. PSG 05-05-04326 to 27 and 05-08-07924 to 32) pending review before it, involving the same issues and subject matter as I.S. Nos. 06-10-11685 to 89 from which the May 2, 2007 Consolidated Resolution originated.^[11] The OCP-Pasig had dismissed the said 11 criminal complaints, which the SIDC appealed to the DOJ.^[12]

Meanwhile, on November 9, 2007, Quiambao moved to quash^[13] the twin Information in Criminal Case Nos. 135413-14-PSG for merely stating the date of commission of the offenses as "[s]ometime between 1997 to 2004." Agreeing that the phrasing of the date is so broad and general, but such defect is merely in form that is curable by amendment, the RTC issued an Order^[14] on February 6, 2008, directing the prosecution to specify the approximate months or years from 1997 to 2004 when the acts causing the total defraudation stated in the information were committed.

As a result, on April 15, 2008, the OCP-Pasig issued two Amended Information 15 that replaced the phrase "[s]ometime between 1997 to 2004" with 72 specific dates, in the following manner:

(a) Criminal Case No. 135413-PSG Estafa through misappropriation.

**That on November 21 and December 22, 1997, April 6, April 28, May 4, May 7, May 15, May 18, May 19, 1998, June 28, July 14, July 16, and August 14, 1999, May 30, June 7, June 13, June 22, June 23, July 13, July 14, July 17, August 11, and August 21, 2000, January 31, March 12, March 27, April 6, April 10, April 11, April 19, April 20, April 26, May 2, May 3, May 4, and May 8, 2001, July 30, August 2, September 11, October 8, and October 29, 2002, January 13, January 15, March 25, May 14, and May 20, 2003, in Pasig City, and within the jurisdiction of this Honorable Court, [Quiambao] being then in the capacity as a Chairman of the Board of Directors, CEO and/or Treasurer of Star Infrastructure Development Corporation (SIDC)^[16]
x x x. (Emphasis supplied)**

(b) Criminal Case No. 135414-PSG- Estafa through deceit and false pretenses.

That on July 14 and August 14, 1999, May 30, June 13, June 22, June 23, July 17, and August 11, 2000, August 2, 2002, July 30, August 18, August 21, September 12, September 29, October 15, October 30, November 13, November 20, December 11, and December 17, 2003, January 14, January 28, February 13, February 27, March 12, and March 30, 2004, in Pasig City, and within the jurisdiction of this Honorable Court,^[17] x x x. (Emphasis supplied)

In another Motion to Quash with Motion to Dismiss^[18] filed on June 13, 2008, Quiambao alleged that the insertion of various dates was a substantial amendment requiring the conduct anew of a preliminary investigation, contending that the prosecution failed to comply with the directive to formally amend the Information. The RTC denied the motions through an Order^[19] dated August 28, 2008, ruling that the Amended Information merely alleged with particularity the months and years the defraudation was committed and that Quiambao remains charged with the same offense.

Undeterred, Quiambao filed a Motion for Reconsideration with Motion for Judicial Re-determination of Probable Cause^[20] on September 26, 2008, reiterating that the patent defects in the original information were not cured and claiming that a judicial re-determination of probable cause was warranted. In its Comment on the said motions, the OCP-Pasig argued that Quiambao was being charged with a continuing crime of estafa committed from 1997 to 2004.^[21] The RTC denied Quiambao's motions in an Order^[22] dated January 26, 2009, maintaining that the prosecution had substantially complied with the order to amend the two Information.

Quiambao then filed an Omnibus Motion^[23] to clarify the RTC's January 26, 2009 Order and to quash the Amended Information for allegedly charging multiple offenses, assailing the prosecution's theory of Quiambao being charged with a continuing crime of estafa committed from 1997 to 2004 which the RTC allegedly failed to address in its order. This time, ruling that each misappropriation and

conversion is an independent complete felony and not the result of a single criminal intent to defraud, the RTC issued an Order^[24] dated May 7, 2009, directing the quashal of the twin Amended Information for charging multiple offenses.

The SIDC moved for reconsideration^[25] of the May 7, 2009 Order, arguing that the RTC should not have considered a situation contrary to that set forth in the criminal complaint. Acting on the motion, the RTC issued its October 5, 2009 Order,^[26] directing the prosecution to file the corresponding information for each act of estafa as alleged in the Amended Information.

On November 5, 2009, Quiambao sought partial reconsideration of the October 5, 2009 Order, but this was denied by the RTC on February 8, 2010.^[27] Consequently, Quiambao filed a Petition for *Certiorari*^[28] with prayer for injunctive relief with the CA. The CA, however, found no merit in Quiambao 's petition, which it dismissed on November 18, 2010 through the Decision^[29] presently under review.

According to the CA, the amendments which the RTC directed the city prosecutor to make are only of form and not of substance. It held that the amendments were not new facts because they were based on the same documentary evidence presented during the preliminary investigation. Furthermore, it pointed out that the RTC is not subservient to the findings of the DOJ and is mandated to make its own determination of probable cause.

Quiambao sought reconsideration, insisting that the dates enumerated in the quashed Amended Information could not be the basis of filing new criminal information without the conduct of another preliminary investigation.^[30] The motion was denied by the CA in its March 10, 2011 Resolution^[31] for merely reiterating the grounds already considered when it arrived at its decision.

In view of the CA's November 18, 2010 Decision and the March 10, 2011 Resolution upholding the RTC's Order to file the corresponding information for each act of estafa, the OCP-Pasig filed a motion on March 14, 2011, for the RTC to admit 81 Amended Information.^[32] Hence, Quiambao filed the present petition on March 24, 2011 against the said CA Decision and Resolution, citing the following grounds:

IN RESOLVING CA-G.R. SP NO. 113553, THE [CA] HAS NOT ONLY DECIDED QUESTIONS OF SUBSTANCE IN A WAY NOT IN ACCORD WITH LAW OR WITH THE APPLICABLE DECISIONS OF THE HONORABLE SUPREME COURT, BUT HAS ALSO SO FAR SANCTIONED THE TRIAL COURT'S DEPARTURE FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS AS TO CALL FOR AN EXERCISE OF THIS HONORABLE COURT'S POWER OF SUPERVISION, INASMUCH AS BOTH THE TRIAL COURT AND THE [CA] DEPRIVED PETITIONER HIS RIGHT TO THE CONDUCT OF A NEW PRELIMINARY INVESTIGATION, WHICH IS MANDATORY UNDER THE CIRCUMSTANCES.

II.

INSTEAD OF AFFIRMING THE TRIAL COURT'S DIRECTIVE TO FILE

ANOTHER SET OF CRIMINAL INFORMATION, THE [CA] SHOULD HAVE
ALTOGETHER DISMISSED THE CHARGES AGAINST PETITIONER.^[33]

The SIDC filed its Comment^[34] on July 4, 2011, delineating the issue in Quiambao's petition as whether the eventual amendments made to the twin Information filed in Criminal Case Nos. 135413-14-PSG were formal or substantial. It reiterated that the subject amendments were merely formal because they merely specified the various dates during which the crimes charged were committed and nothing more was added. The SIDC argued that the amendments did not alter the nature of the crimes charged and Quiambao failed to show how the amendments entitled him to a new preliminary investigation.

In its Comment^[35] filed on September 5, 2011, the Office of the Solicitor General (OSG) argued that Quiambao's original defenses would still be equally available even after the amendments. The OSG reasoned that an amendment that simply eliminates vagueness in the information without introducing new and material facts, only stating with precision something already contained in the original information, is merely one of form.

Quiambao filed a Consolidated Reply^[36] on September 23, 2011, insisting that the various dates inserted in the quashed Amended Information were not part of the findings during the preliminary investigation stage of Criminal Case Nos. 135413-14-PSG. Quiambao also manifested that the RTC had issued an Order^[37] on August 8, 2011, deciding to defer action on the prosecution's motion to admit the 81 Amended Information until this Court has resolved the present petition.

On November 16, 2011, Quiambao filed a Manifestation^[38] regarding the October 6, 2011 Resolution^[39] of the DOJ which reversed and set aside the OCP-Pasig's May 2, 2007 Consolidated Resolution. The DOJ found that the OCP-Pasig's Consolidated Resolution (LS. Nos. 06-10-11685 to 89) from which the present controversy arose involved the same issues and subject matter between the same parties as a prior Consolidated Resolution of the OCP-Pasig dated December 8, 2005 (I.S. Nos. PSG 05-05-04326 to 27 and 05-08-07924 to 32) pending review before the DOJ.

The SIDC filed a Counter-Manifestation^[40] on November 23, 2011 pointing out that upon filing of the information in court, findings of the prosecutorial arm of the government on the existence of probable cause are merely recommendatory, recalling that the RTC had already made a finding that probable cause exists in the case under review.

In a Manifestation^[41] dated October 24, 2013, Quiambao manifested that, through a Decision^[42] dated September 10, 2013 in CA-G.R. SP No. 123298, the CA had dismissed the SIDC's Petition for *Certiorari* assailing the DOJ's Resolution dated October 6, 2011. In that case, the CA found that the DOJ did not abuse its discretion in ruling that the OCP-Pasig's December 8, 2005 and May 2, 2007 Consolidated Resolutions have identical facts, issues and parties. In this regard, Quiambao argued that the DOJ's order to withdraw the information arising from the OCP-Pasig's May 2, 2007 Consolidated Resolution, as upheld by the CA, necessarily includes the withdrawal of the 81 Amended Information that are pending before the RTC.