

## FIRST DIVISION

[ G.R. No. 236686, February 05, 2020 ]

**YOKOHAMA TIRE PHILIPPINES, INC., PETITIONER, VS. SANDRA REYES AND JOCELYN REYES, RESPONDENTS.**

### D E C I S I O N

**PERALTA, C.J.:**

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the July 10, 2017 Decision<sup>[1]</sup> and the November 7, 2017 Order<sup>[2]</sup> of the Regional Trial Court (RTC) of Angeles City, Branch 56 in Case No. R-ANG-16-00138-SC. The disputed RTC Decision dismissed herein petitioner's petition for *certiorari* under Rule 65 of the same Rules questioning a portion of the Decision of the Municipal Trial Court (MTC) of Clarkfield, Pampanga, in Criminal Case No. 12-5960 which acquitted herein respondents of the crime of attempted theft. The challenged RTC Order, on the other hand, denied petitioner's Motion for Reconsideration of the above Decision of the RTC.

The facts are as follows:

Herein respondents, together with one Celeste Tagudin (*Tagudin*), were former employees of herein petitioner company.

On June 17, 2011, petitioner filed a criminal complaint<sup>[3]</sup> for qualified theft against respondents and Tagudin, accusing them of having taken HP ink cartridges from the company's stock room through stealth and without the consent of petitioner or any of its authorized representatives.

In a Resolution/Recommendation<sup>[4]</sup> dated March 22, 2012, the Assistant City Prosecutor (ACP) of Angeles City recommended that the complaint against Tagudin be dismissed for insufficiency of evidence, while an Information for Attempted Theft be filed against respondents. The City Prosecutor of Angeles City approved the Resolution /Recommendation of the ACP. Thus, on May 23, 2012, an Information for Attempted Theft was filed with the MTC of Clarkfield, Pampanga and the case was docketed as Criminal Case No. 12-5960.

On June 14, 2012, petitioner filed a Motion for Reconsideration<sup>[5]</sup> of the March 22, 2012 Resolution of the Angeles City ACP, but the same was denied by the latter in his Resolution/Recommendation<sup>[6]</sup> dated June 20, 2012, which was, likewise, approved by the City Prosecutor.

Thereafter, trial proceeded. Hence, on November 10, 2015, the MTC of Clarkfield, Pampanga rendered its Decision<sup>[7]</sup> acquitting herein respondents of the crime of attempted theft.

Herein petitioner, then, filed a petition<sup>[8]</sup> for *certiorari* with the RTC, docketed as R-ANG-16-00138, contending that the MTC acted without or in excess of jurisdiction and/or with grave abuse of discretion in ruling that the pieces of HP ink cartridges found by petitioner's representatives inside the vehicle of one of respondents, which was subsequently presented as evidence by the prosecution, were inadmissible for having been obtained in violation of the law and of respondents' right against unreasonable search and seizure. Petitioner prayed for the annulment of the November 10, 2015 Decision of the MTC.

In its Decision<sup>[9]</sup> dated July 10, 2017, the RTC dismissed the *certiorari* petition for lack of merit.

Petitioner filed a Motion for Reconsideration, but the same was denied by the RTC in its Order <sup>[10]</sup> dated November 7, 2017.

Hence, the present petition based on the following arguments:

**RTC-ANGELES CITY UNDULY DEVIATED FROM THE ESTABLISHED LAWS AND SETTLED JURISPRUDENCE THAT:**

**I**

**THE COURTS MUST ABIDE BY THE EVIDENCE FORMALLY OFFERED DURING THE TRIAL SUCH THAT OBJECT AND OTHER EVIDENCE ALREADY ADMITTED SHOULD BE THE BASES OF THE FINDINGS OF FACTS AND THE JUDGMENT OF THE COURTS x x x.**

**II**

**THE LAW AGAINST UNREASONABLE SEARCHES AND SEIZURE IS A RESTRAINT AGAINST THE GOVERNMENT AND NOT PRIVATE ENTITIES x x x. <sup>[11]</sup>**

Petitioner contends that the RTC committed error in affirming the assailed decision of the MTC. Ultimately, petitioner basically seeks to annul the decision of the MTC which acquitted herein respondents. In so doing, petitioner contends that the pieces of HP ink cartridges which were submitted as part of the evidence for the prosecution should have been admitted and considered by the MTC in determining the guilt or innocence of respondents. Petitioner argues that, under prevailing jurisprudence, the constitutional guarantee against unreasonable searches and seizures, which was cited by the MTC in excluding the HP ink cartridges from the prosecution's evidence, is made applicable as a restraint against the government only and not against private entities.

The petition lacks merit.

At the outset, the Court notes that petitioner lacked authority in filing a special civil action for *certiorari* with the RTC to seek the annulment of the decision of the MTC which acquitted herein respondents from the crime of attempted theft.

It is settled that in criminal cases, the State is the offended party and the private complainant's interest is limited to the civil liability arising therefrom.<sup>[12]</sup> Hence, if a criminal case is dismissed by the trial court or if there is an acquittal, a reconsideration of the order of dismissal or acquittal may be undertaken, whenever

legally feasible, insofar as the criminal aspect thereof is concerned and may be made only by the public prosecutor; or in the case of an appeal, by the State only, through the Office of the Solicitor General (OSG).<sup>[13]</sup> The private complainant or offended party may not undertake such motion for reconsideration or appeal on the criminal aspect of the case.<sup>[14]</sup> However, the offended party or private complainant may file a motion for reconsideration of such dismissal or acquittal or appeal therefrom but only insofar as the civil aspect thereof is concerned.<sup>[15]</sup>

The rationale behind this rule is that in a criminal case, the party affected by the dismissal of the criminal action is the State and not the private complainant.<sup>[16]</sup> The interest of the private complainant or the private offended party is limited only to the civil liability.<sup>[17]</sup> In the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution such that when a criminal case is dismissed by the trial court or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General.<sup>[18]</sup> The private offended party or complainant may not take such appeal, but may only do so as to the civil aspect of the case.<sup>[19]</sup>

Thus, this Court's ruling in the earlier case of *People v. Santiago*<sup>[20]</sup> is instructive, to wit:

It is well settled that in criminal cases where the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability. Thus, in the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General. Only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not take such appeal. However, the said offended party or complainant may appeal the civil aspect despite the acquittal of the accused.

**In a special civil action for certiorari filed under Section 1, Rule 65 of the Rules of Court wherein it is alleged that the trial court committed a grave abuse of discretion amounting to lack of jurisdiction or on other jurisdictional grounds, the rules state that the petition may be filed by the person aggrieved. In such case, the aggrieved parties are the State and the private offended party or complainant. The complainant has an interest in the civil aspect of the case so he may file such special civil action questioning the decision or action of the respondent court on jurisdictional grounds.** In so doing, complainant should not bring the action in the name of the People of the Philippines. The action may be prosecuted in [the] name of said complainant.<sup>[21]</sup>

Thus, the Court has definitively ruled that in a criminal case in which the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability arising therefrom. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal of the criminal aspect may be undertaken, whenever legally feasible, only by the State through the Solicitor

General. As a rule, only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not undertake such appeal.

In its petition for *certiorari* filed with the RTC, petitioner seeks the annulment of the MTC decision acquitting herein respondents. In so doing, petitioner raises issues on the admissibility of evidence which it submitted to prove the guilt of the accused. These issues necessarily require a review of the criminal aspect of the case and, as such, is prohibited. As discussed above, only the State, and not herein petitioner, who is the private offended party, may question the criminal aspect of the case.

In any event, even granting that petitioner has the requisite authority to question the subject RTC Decision, this Court, after a careful review of the arguments of the parties, finds no error in the questioned Decision of the RTC.

In the instant case, the Court agrees with the ruling of the RTC that the disputed acts of the MTC in denying admissibility to the subject ink cartridges as part of the prosecution's evidence, its appreciation of the entirety of evidence presented by both parties to the case, and its subsequent finding that the prosecution failed to prove the crime charged, are assailable as errors of judgment and are not reviewable by the extraordinary remedy of *certiorari*.

The Court finds no error in the ruling of the RTC that petitioner was not able to establish its allegation of grave abuse of discretion on the part of the MTC. Where a petition for *certiorari* under Rule 65 of the Rules of Court alleges grave abuse of discretion, the petitioner should establish that the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction.<sup>[22]</sup>

Thus, this Court has explained that:

The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." Furthermore, the use of a petition for *certiorari* is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." From the foregoing definition, it is clear that the special civil action of *certiorari* under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross x x x.<sup>[23]</sup>

As found by the RTC, there was no hint of whimsicality, nor of gross and patent abuse of discretion as would amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law on the part of the MTC. If at all, the mistake committed by the MTC is only an error of judgment and not of jurisdiction, which would have amounted to a grave abuse of discretion.

This Court sustains the RTC ruling that even if the subject ink cartridges are admitted as evidence, it does not necessarily follow that they are given probative weight. The admissibility of an evidence is different from its probative value. Thus, this Court held in *Mancol, Jr. v. Development Bank of the Philippines*<sup>[24]</sup> that:

x x x [a]dmissibility of evidence should not be confused with its probative value.

The admissibility of evidence depends on its relevance and competence, while the weight of evidence pertains to evidence already admitted and its tendency to convince and persuade. The admissibility of a particular item of evidence has to do with whether it meets various tests by which its reliability is to be determined, so as to be considered with other evidence admitted in the case in arriving at a decision as to the truth. The weight of evidence is not determined mathematically by the numerical superiority of the witnesses testifying to a given fact, but depends upon its practical effect in inducing belief on the part of the judge trying the case. "Admissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue." "Thus, a particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence."<sup>[25]</sup>

Petitioner chose to simply focus on the MTC's act of denying admissibility to the subject ink cartridges. Petitioner lost sight of the fact that respondents were acquitted not because the ink cartridges were excluded as evidence but because the MTC, after considering the entirety of evidence presented by the prosecution, found that the latter failed to prove all the elements of the crime charged.

Stated differently, even if the seized ink cartridges were admitted in evidence, the Court agrees with the OSG that the probative value of these pieces of evidence must still meet the various tests by which their reliability is to be determined. Their tendency to convince and persuade must be considered separately because admissibility of evidence is different from its probative value. As contended by the OSG, "[e]ven granting *arguendo* that the MTC indeed committed an error in ruling that there was illegal search and seizure in this case, the prosecution still has to prove that the seized cartridges were indeed the property of petitioner."<sup>[26]</sup> However, the prosecution failed in this respect. This Court agrees with the OSG that since the employee of petitioner who allegedly discovered the theft of the subject cartridges, and who was supposedly the one who put identifying marks thereon was not presented in court, nobody could verify if the cartridges seized from respondents were the ones missing from the stockroom. Parenthetically, what is very damaging to the cause of the prosecution is its failure to present the alleged video recording which supposedly shows respondents in the act of putting ink cartridges inside a bag.

Thus, the Court finds neither error nor grave abuse of discretion on the part of the MTC when it ruled that the prosecution failed to prove the essential element of taking in the alleged crime of theft, to wit:

First. The prosecution attempted to establish the fact of taking through a set of pictures (exhibits DD to UU) allegedly lifted from a video file - in