

FIRST DIVISION

[G.R. No. 236618, August 27, 2020]

**JCLV REALTY & DEVELOPMENT CORPORATION, PETITIONER, VS.
PHIL GALICIA MANGALI, RESPONDENT.**

DECISION

LOPEZ, J.:

A private complainant cannot question the Order granting the demurrer to evidence in a criminal case absent grave abuse of discretion or denial of due process. The interest of the offended party is limited only to the civil aspect of the case. We apply this dictum in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Court of Appeals' (CA) Resolution^[1] dated September 22, 2017 in CA-G.R. SP No. 152450.

ANTECEDENTS

Phil Mangali (Mangali) and Jerry Alba (Alba) were charged with robbery committed against JCLV Realty & Development Corporation (JCLV Realty) before the Regional Trial Court (RTC) docketed as Criminal Case No. Q-11-169004.^[2] Allegedly, Mangali and Alba removed JCLV Realty's electric facilities with intent to gain and intimidation against persons. After the prosecution rested its case, Mangali filed a demurrer to evidence claiming that the prosecution failed to establish intent to gain and that the metering instruments belonged to JCLV Realty.^[3] The prosecution opposed the demurrer.

On March 30, 2017, the RTC granted the demurrer and dismissed the criminal case for lack of evidence that Mangali perpetrated the robbery,^[4] thus:

WHEREFORE, the Demurrer to Evidence is **GRANTED**. The prosecution's evidence is not sufficient to convict the accused, accused (sic) **Phil Mangali y Galicia's** case is hereby **DISMISSED**.

No pronouncement as to the civil aspect of the case.

As regards accused Jerry P. Alba, his case is **ORDERED ARCHIVED** and may be revived only upon his apprehension and/or surrender.

SO ORDERED.^[5]

Unsuccessful at a reconsideration,^[6] JCLV Realty elevated the case to the CA through a special civil action for certiorari docketed as CA-G.R. SP No. 152450. JCLV Realty argued that the RTC erred in granting the demurrer because Mangali had admitted the taking of meter facilities. Moreover, the pre-trial order which contained admission on the identity of the perpetrator is valid even if not signed by the

parties. Lastly, JCLV Realty claimed denial of due process and grave abuse of discretion on the part of RTC when it dismissed the criminal case on a ground not invoked by the accused.^[7]

On September 22, 2017, the CA dismissed the petition and ruled that JCLV Realty has no personality to question the dismissal of the criminal case. The authority to represent the State in criminal proceedings is vested solely on the Office of the Solicitor General (OSG) and not the private complainant who may appeal only the civil aspect of the case,^[8] viz.:

WHEREFORE, the Petition for *Certiorari* is **DISMISSED** for lack of personality or authority of the petitioner to file the Petition with respect to the criminal aspect of the case and for being the wrong judicial remedy with respect to the civil aspect of the case.

SO ORDERED.^[9]

JCLV Realty sought reconsideration^[10] but was denied.^[11] Hence, this recourse.^[12] JCLV Realty contends that the authority of the OSG applies only in ordinary appeals. The private complainant can file a special civil action for *certiorari* to question the criminal and civil aspect of the case. Yet, the CA mistook its petition as an ordinary appeal. On the other hand, Mangali maintains that JCLV Realty has no legal standing to file *certiorari* proceedings because the reliefs sought directly affects the criminal aspect of the case. Hence, the OSG's consent is necessary.

RULING

In any criminal case or proceeding, only the OSG may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or State before the Supreme Court and the CA. This is explicitly provided under Section 35(1), Chapter 12, Title III, Book III of the 1987 Administrative Code of the Philippines,^[13] thus:

Section 35. *Power and Functions*. — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the service of a lawyer. It shall have the following specific power and functions:

(1) **Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings;** represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party. (Emphasis supplied.)

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. The interest of the private offended party is restricted only to the civil liability. 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 on the criminal aspect may be undertaken only by the State through the OSG. The private offended party may not take such appeal, but may only do so as to the civil aspect of the case.^[14] Differently stated, the private offended party may file an appeal without the intervention of the OSG, but only insofar as the civil liability of the accused is concerned. Also, the complainant may file a special civil action for *certiorari* even without the intervention of the OSG, but only to the end of preserving his interest in the civil aspect of the case.^[15]

Corollarily, we dismissed petitions filed by the private offended party questioning the acquittal of the accused or dismissal of the criminal case without the consent of the OSG. In *Bangayan, Jr. v. Bangayan*,^[16] the respondent lacks personality to file a petition for *certiorari* before the CA because she prayed for the reversal of the trial court's order granting the petitioners' demurrer to evidence and the conduct of a full blown trial. The respondent did not even briefly discuss the civil liability of the petitioners, to wit:

A perusal of the petition for certiorari filed by Sally Go before the CA discloses that **she sought reconsideration of the criminal aspect of the case. Specifically, she prayed for the reversal of the trial court's order granting petitioners' demurrer to evidence and the conduct of a full blown trial of the criminal case. Nowhere in her petition did she even briefly discuss the civil liability of petitioners. It is apparent that her only desire was to appeal the dismissal of the criminal case against the petitioners. Because bigamy is a criminal offense, only the OSG is authorized to prosecute the case on appeal. Thus, Sally Go did not have the requisite legal standing to appeal the acquittal of the petitioners.**

Sally Go was mistaken in her reading of the ruling in *Merciales*. First, in the said case, the OSG joined the cause of the petitioner, thereby meeting the requirement that criminal actions be prosecuted under the direction and control of the public prosecutor. Second, the acquittal of the accused was done without due process and was declared null and void because of the nonfeasance on the part of the public prosecutor and the trial court. There being no valid acquittal, the accused therein could not invoke the protection of double jeopardy.

In this case, however, neither the Solicitor General nor the City Prosecutor of Caloocan City joined the cause of Sally Go, much less consented to the filing of a petition for *certiorari* with the appellate court. Furthermore, she cannot claim to have been denied due process because the records show that the trial court heard all the evidence against the accused and that the prosecution had formally offered the evidence before the court granted the demurrer to evidence. Thus, the petitioners' acquittal was valid, entitling them to invoke their right against double jeopardy.^[17] (Emphasis supplied; citation omitted.)

Likewise, in *Jimenez v. Sorongon*^[18] the petitioner has no standing to question the dismissal of the criminal case since his main argument is about the existence of

probable cause. This dispute involves the right to prosecute which pertains exclusively to the People, as represented by the OSG. A similar ruling was applied in *Anlud Metal Recycling Corp. v. Ang*,^[19] to wit:

The real party in interest in a criminal case is the People of the Philippines. Hence, if the criminal case is dismissed by the trial court, the criminal aspect of the case must be instituted by the Solicitor General on behalf of the State.

As a qualification, however, this Court recognizes that the private offended party has an interest in the civil aspect of the case. Logically, **the capability of the private complainant to question the dismissal of the criminal proceedings is limited only to questions relating to the civil aspect of the case, It should ideally be along this thin framework that we may entertain questions regarding the dismissals of criminal cases instituted by private offended parties.** Enlarging this scope may result in wanton disregard of the OSG's personality, as well as the clogging of our dockets, which this Court is keen to avoid.

Therefore, the litmus test in ascertaining the personality of herein petitioner lies in whether or not the substance of the certiorari action it instituted in the CA referred to the civil aspect of the case.

Here in this Rule 45 petition, petitioner argues that the RTC erred when it concluded that "there is no evidence of conspiracy against private respondent Ang." Petitioner goes on to enumerate circumstances that collectively amount to a finding that based on probable cause, respondent conspired with the accused in defrauding Anlud Metal Recycling Corporation.

Clearly, petitioner mainly disputes the RTC's finding of want of probable cause to indict Ang as an accused for *estafa*. This dispute refers, though, to the criminal, and not the civil, aspect of the case. In *Jimenez v. Sorongon*, We similarly ruled:

In this case, the petitioner has no legal personality to assail the dismissal of the criminal case **since the main issue raised by the petitioner involved the criminal aspect of the the existence of probable cause.** The petitioner did not appeal to protect his alleged **pecuniary interest as an offended party of the crime**, but to cause the reinstatement of the criminal action against the respondents. This involves the right to prosecute which pertains exclusively to the People, as represented by the OSG. (Emphasis supplied.)

Given that nowhere in the pleadings, did petitioner even briefly discuss the civil liability of respondent, this Court holds that Anlud Metal Recycling Corporation lacks the requisite legal standing to appeal the discharge of respondent Ang from the

Information for *estafa*. On this ground alone, the petition already fails.

[20] (Emphasis supplied; citations omitted.)

In *Yokohama Tire Philippines, Inc. v. Reyes*^[21] the petitioner filed a special civil action for certiorari before the RTC seeking to annul the MTC's decision acquitting the respondents. In that case, the petitioner has no authority in filing the petition because it assails the admissibility of evidence which only the State may question, *viz.*:

xxx [T]he 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.

The above cases raised issues that necessarily require a review of the criminal aspect of the proceedings. In the same manner, JCLV Realty are praying for reliefs which pertain to the criminal aspect of the case. Foremost, the arguments in the petition for *certiorari* are centered on Mangali's identification as the perpetrator of the crime. Secondly, JCLV Realty prayed that the March 30, 2017 Order be "*annulled, reversed and set aside and that a new one [will] be rendered denying the [accused'] Demurrer to Evidence.*" Lastly, nowhere in the petition did JCLV Realty discuss Mangali's civil liability. In contrast, it is ultimately seeking the reinstatement of the criminal case against Mangali.

Notably, this Court has already acknowledged that the acquittal of the accused or dismissal of the criminal case may be assailed through a Petition for *Certiorari* under Rule 65 of the Rules of Court on the grounds of grave abuse of discretion amounting to lack or excess of jurisdiction or a denial of due process rendering the judgment void.^[22] In *People v. Judge Santiago*,^[23] the private offended party filed a special civil action for *certiorari* on the ground that trial court acquitted the accused without trial on the merits despite the conflicting positions of the parties. This Court ruled that the acquittal is a nullity for want of due process because the trial court deprived the prosecution an opportunity to present evidence. Also, we declared that the victim can avail *certiorari* to question the validity of acquittal.

In *Dela Rosa v. CA*,^[24] we sustained the private offended party's right to file a special civil action for certiorari in assailing the dismissal of a criminal case and ruled that the OSG's intervention is not necessary. In that case, the trial court's dismissal