

## THIRD DIVISION

[ G.R. No. 224567, September 26, 2018 ]

**LYDIA CU, PETITIONER, VS. TRINIDAD VENTURA, RESPONDENT.**

### DECISION

**PERALTA, J.:**

This is to resolve the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, dated July 1, 2016, of petitioner Lydia Cu that seeks to reverse and set aside the Resolution<sup>[1]</sup> dated December 11, 2015 and Resolution<sup>[2]</sup> dated May 13, 2016 of the Court of Appeals (CA) in CA-G.R. CR No. 37691 dismissing petitioner's appeal on the ground that as a private complainant, she is not authorized to represent the State in an appeal from a criminal action.

The facts follow.

Petitioner filed a Complaint-Affidavit for violation of *Batas Pambansa Blg. 22*<sup>[3]</sup> (BP 22) against respondent before the Office of the City Prosecutor of Quezon City. Eventually, the Office of the City Prosecutor found probable cause and an Information was filed with the Metropolitan Trial Court (MeTC) of Quezon City against respondent for violation of BP 22.

After trial on the merits, the MeTC, Branch 37 of Quezon City found the respondent guilty beyond reasonable doubt of violation of BP 22. The dispositive portion of the Decision dated January 10, 2014 reads as follows:

The foregoing manifests clearly that the accused has violated beyond reasonable doubt, *Batas Pambansa Bilang 22*. In view thereof, he is hereby ordered to:

1. Pay the total amount of the check which is for P2,000,000.00 and pay an interest of 12% per annum from the date of the check, up to the time that is fully paid;
2. Pay a fine of P200,000.00;
3. Suffer an imprisonment of sixty (60) days;
4. Pay the costs of suit, including Attorney's Fees and per appearance fee, should there be any.

The accused is to suffer, subsidiary imprisonment in case of insolvency.

SO ORDERED.

Respondent filed a Notice of Appeal and on December 3, 2014, the Regional Trial Court (RTC), Branch 87, Quezon City reversed and set aside the decision of the MeTC. The dispositive portion of the Decision acquitting the respondent reads as follows:

WHEREFORE, viewed in the light of the foregoing, the Decision dated January 10, 2014 of the Court *a quo* is hereby reversed and set aside and a new one rendered ACQUITTING the accused TRINIDAD VENTURA, of the crime of Violation of Batas Pambansa Bilang 22.

The civil aspect of the case is DISMISSED for failure of the private complainant to prove the requisite quantum of evidence preponderance of evidence.

SO ORDERED.

Petitioner, through her counsel, filed a motion for reconsideration, but it was denied by the RTC in its Resolution dated May 5, 2015. Thereafter, she filed a Motion for Extension of Time to File a Petition for Review under Rule 42 of the Rules of Court with the CA. On July 20, 2015, she filed her Petition for Review under Rule 42 with the CA.

The CA, in its Resolution dated December 11, 2015, dismissed the appeal. The CA disposed of the case as follows:

WHEREFORE, the instant appeal is hereby DISMISSED.

SO ORDERED.

According to the CA, in criminal actions brought before the Court of Appeals, or the Supreme Court, the authority to represent the State is solely vested in the Office of the Solicitor General (OSG). Petitioner filed a motion for reconsideration which was denied by the CA in its Resolution dated May 13, 2016.

Hence, the present petition with the following issues presented:

I.

WHETHER OR NOT RESPONDENT TRINIDAD VENTURA IS GUILTY OF B.P. 22.

II.

WHETHER OR NOT RESPONDENT IS LIABLE TO PETITIONER FOR THE CIVIL ASPECT.

Petitioner contends that respondent has been proven to have violated BP 22 beyond reasonable doubt as all the elements of the offense were proven by the prosecution. She also insists that in the petition for review that she filed with the CA, she questioned the civil aspect of the decision of the RTC and, thus, there is no need for the representation of the OSG.

In her Comment dated August 30, 2016, respondent argues that petitioner was actually assailing both the criminal and civil aspect of the appealed decision of the RTC when she filed an appeal with the CA. Respondent further contends that petitioner has no legal standing to file the present petition because the subject check was actually deposited not in her account but into the account of MC Nova Apparel Export Corporation which is a family-owned corporation with separate and distinct personality, and petitioner has not presented any authority or board resolution to prove that she was authorized to represent the said corporation.

The petition is without merit.

The Rules of Court requires that only questions of law should be raised in petitions filed under Rule 45.<sup>[4]</sup> This Court is not a trier of facts. It will not entertain questions of fact as the factual findings of the appellate courts are "final, binding[,] or conclusive on the parties and upon this [c]ourt"<sup>[5]</sup> when supported by substantial evidence.<sup>[6]</sup> Factual findings of the appellate courts will not be reviewed nor disturbed on appeal to this court.<sup>[7]</sup>

However, these rules do admit exceptions. Over time, the exceptions to these rules have expanded. At present, there are ten (10) recognized exceptions that were first listed in *Medina v. Mayor Asistio, Jr.*:<sup>[8]</sup>

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.<sup>[9]</sup>

These exceptions similarly apply in petitions for review filed before this court involving civil,<sup>[10]</sup> labor,<sup>[11]</sup> tax,<sup>[12]</sup> or criminal cases.<sup>[13]</sup>

A question of fact requires this court to review the truthfulness or falsity of the

allegations of the parties.<sup>[14]</sup> This review includes assessment of the "probative value of the evidence presented."<sup>[15]</sup> There is also a question of fact when the issue presented before this court is the correctness of the lower courts' appreciation of the evidence presented by the parties.<sup>[16]</sup>

In this case, the first issue raised by petitioner obviously asks this Court to review the evidence presented during the trial. She has laid down in the present petition the reasons as to why this Court should find respondent guilty of the crime charged against her and reverse the latter's acquittal by the RTC. Clearly, this is not the role of this Court because the issue she presented is factual in nature. Thus, the present petition must fail.

The CA dismissed petitioner's Petition for Review under Rule 42 of the Rules of Court because she is not the proper party to appeal in a criminal case. It ruled that in criminal cases or proceedings, only the Solicitor General may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or State. This is in compliance with the provisions of Section 35(1), Chapter 12, Title III, Book III of the Administrative Code of 1987, as amended, 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.

The above, however, is not without any exception. The two exceptions are: (1) when there is denial of due process of law to the prosecution and the State or its agents refuse to act on the case to the prejudice of the State and the private offended party, and (2) when the private offended party questions the civil aspect of a decision of a lower court.<sup>[17]</sup>

According to petitioner, she falls under the second because in the petition for review that she filed before the CA, what she questioned was the civil aspect of the decision of the RTC.

In the second exception, it is assumed that a decision on the merits had already been rendered by the lower court and it is the civil aspect of the case which the