

SECOND DIVISION

[G.R. No. 187094, February 15, 2017]

LIZA L. MAZA, SATURNINO C. OCAMPO, TEODORO A. CASIÑO, AND RAFAEL V. MARIANO, PETITIONERS, VS. HON. EVELYN A. TURLA, IN HER CAPACITY AS PRESIDING JUDGE OF REGIONAL TRIAL COURT OF PALAYAN CITY, BRANCH 40, FLORO F. FLORENDO, IN HIS CAPACITY AS OFFICER-IN-CHARGE PROVINCIAL PROSECUTOR, ANTONIO LL. LAPUS, JR., EDISON V. RAFANAN, AND EDDIE C. GUTIERREZ, IN THEIR CAPACITY AS MEMBERS OF THE PANEL OF INVESTIGATING PROSECUTORS, AND RAUL M. GONZALEZ, IN HIS CAPACITY AS SECRETARY OF JUSTICE, RESPONDENTS.

DECISION

LEONEN, J.:

Upon filing of an information in court, trial court judges must determine the existence or non-existence of probable cause based on their personal evaluation of the prosecutor's report and its supporting documents. They may dismiss the case, issue an arrest warrant, or require the submission of additional evidence. However, they cannot remand the case for another conduct of preliminary investigation on the ground that the earlier preliminary investigation was improperly conducted.

This is a Petition for Certiorari and Prohibition^[1] with a Prayer for the Issuance of a Temporary Restraining Order ,and/or Writ of Preliminary Injunction. Petitioners seek to have the Orders^[2] dated July 18, 2008^[3] and December 2, 2008^[4] of the Regional Trial Court, Palayan City, Branch 40 in Criminal Case Nos. 1879-P and 1880-P nullified and set aside and the criminal cases against them dismissed.

Petitioners Liza L. Maza, Saturnino C. Ocampo, Teodoro A. Casiño, and Rafael V. Mariano (petitioners) are former members of the House of Representatives. Liza represented Gabriela Women's Party (Gabriela), Saturnino and Teodoro represented Bayan Muna Party-List (Bayan Muna), while Rafael represented Anakpawis Party-List (Anakpawis).^[5]

In three letters^[6] all dated December 14, 2006, Police Senior Inspector Arnold M. Palomo (Inspector Palomo), Deputy Provincial Chief of the Nueva Ecija Criminal Investigation and Detection Team, referred to the Provincial Prosecutor of Cabanatuan City, Nueva Ecija, three (3) cases of murder against petitioners and 15 other persons.^[7]

Inspector Palomo named 19 individuals, including Petitioners, who were allegedly responsible for the death of Carlito Bayudang, Jimmy Peralta, and Danilo Felipe.^[8] His findings show that the named individuals conspired, planned, and implemented

the killing of the supporters of AKBAYAN Party List (AKBAYAN), a rival of Bayan Muna and Gabriela.^[9] Carlito Bayudang and Danilo Felipe were AKBAYAN community organizers,^[10] whereas Jimmy Peralta was mistaken for a certain Ricardo Peralta, an AKBAYAN supporter.^[11]

Inspector Palomo recommended that a preliminary investigation be conducted and that an Information for each count of murder be filed against the 19 individuals.^[12]

On February 2, 2007, Investigating Prosecutor Antonio Ll. Lapus, Jr. issued a subpoena^[13] requiring petitioners to testify at the hearings scheduled on February 16 and 23, 2007.

On March 9, 2007, petitioners filed a Special Appearance with Motion to Quash Complaint/Subpoena and to Expunge Supporting Affidavits.^[14] They argue that the Provincial Prosecutor had no jurisdiction to conduct the preliminary investigation since no valid complaint was filed against them.^[15] They also claimed that, "the preliminary investigation conducted was highly irregular, and that the subpoena issued against [them] was patently defective amounting to a denial of their rights to due process."^[16]

On July 13, 2007, the panel of investigating prosecutors, composed of Antonio Ll. Lapus, Jr., Eddie C. Gutierrez, and Edison V. Rafanan, denied petitioners' motion and ordered the submission of their counter-affidavits.^[17]

Petitioners filed their respective counter-affidavits.^[18] They also filed a (1) Motion to conduct Clarificatory Hearing and to Allow [them] to Submit Written Memorandum,^[19] and a (2) Joint Supplemental Counter-Affidavit on Common Legal Grounds in Support of their Prayer to Dismiss the Case,^[20] both dated August 21, 2007.

On October 23, 2007, the panel issued an Order^[21] again denying the motion. Petitioners moved for reconsideration,^[22] which was denied by the panel in the Resolution^[23] dated November 14, 2007.

The panel of prosecutors issued on April 11, 2008 a Joint Resolution,^[24] reviewed and approved by Officer-in-charge Provincial Prosecutor Floro F. Florendo (Prosecutor Florendo). The panel found probable cause for murder in the killing of Carlito Bayudang and Jimmy Peralta, and for kidnapping with murder in the killing of Danilo Felipe, against the nineteen 19 suspects. However, the panel considered one of the suspects, Julie Flores Sinohin, as a state witness. The panel recommended that the corresponding Informations be filed against the remaining suspects.^[25] On the same day, two (2) Informations^[26] for murder were filed before the Regional Trial Court of Palayan City, Branch 40 in Nueva Ecija, (Palayan cases) and an Information^[27] for kidnapping with murder was filed in Guimba, Nueva Ecija (Guimba case).

Petitioners filed a Motion for Judicial Determination of Probable Cause with Prayer to Dismiss the Case Outright on the Guimba case. This was opposed by the panel of investigating prosecutors and Prosecutor Florendo.^[28] After the hearing on the

motion and submission of the parties' memoranda, Judge Napoleon R. Sta. Romana issued an Order^[29] dated August 5, 2008, dismissing the case for lack of probable cause.^[30]

On April 21, 2008, petitioners also filed a Motion for Judicial Determination of Probable Cause with Prayer to Dismiss the Case Outright^[31] on the Palayan cases. They requested the court to move forward with the presented evidence and decide if there were probable cause and, consequently, dismiss the case outright if there were none.^[32]

The panel of investigating prosecutors and Prosecutor Florendo opposed the motion.^[33] Petitioners filed their Reply^[34] on May 12, 2008.

On April 25, 2008 and May 12, 2008, the motion was heard by the Regional Trial Court of Palayan City, Branch 40.^[35] Thereafter, both parties submitted their respective memoranda.^[36]

On July 18, 2008, Presiding Judge Evelyn A. Atienza-Turla (Judge Turla) issued an Order^[37] on the Palayan cases. Judge Turla held that "the proper procedure in the conduct of the preliminary investigation was not followed in [the Palayan] cases"^[38] due to the following:

First, the records show that the supposed principal witnesses for the prosecution were not presented before the panel of prosecutors, much less subscribed their supposed affidavits before them.

The marginal note of one of the panel member, Asst. Prov'l Pros. Eddie Gutierrez said it all, thus: "**I concur with the conclusion but I would have been more than satisfied if witnesses for the prosecution were presented.**"

Second, the charge against [petitioners] is Murder (two counts), a non-bailable offense. The gravity of the offense alone, not to mention the fact that three of the movants are incumbent Party-List Representatives while the other one was a former Party-List Representative himself, whose imprisonment during the pendency of the case would deprive their constituents of their duly-elected representatives should have merited a deeper and more thorough preliminary investigation.

The panel of prosecutors, however, did nothing of the sort and instead swallowed hook, line and sinker the allegations made by Isabelita Bayudang, Cleotilde Peralta[,] and Alvaro Juliano, and principally hinges on the affidavit of Julie Sinohin, a supposed "co-conspirator" of the movants, which were all not "subscribed or sworn" before the said panel.

Given the foregoing circumstances, this Court for all practical purposes will do an even worse job than what the panel of prosecutors did, by accepting in its entirety the findings of the said panel, despite its obvious flaws. This practice should not be condoned.

....

Third, [petitioners'] filing of a motion for reconsideration of the resolution of the preliminary investigation conducted by the panel of prosecutors is allowed by the rules....

....

Strictly speaking, the filing of a "Motion for Reconsideration" is an integral part of the preliminary investigation proper. There is no dispute that the two (2) Informations for murder were filed *without* first affording the movants their right to file a motion for reconsideration. The denial thereof is tantamount to a denial of the right itself to a preliminary investigation. This fact alone already renders preliminary investigation conducted in this case *incomplete*. The inevitable conclusion is that the movants were not only effectively denied the opportunity to file a "Motion for Reconsideration" of the "Joint Resolution" dated April 11, 2008 issued by the panel of prosecutors assigned in these cases, but were also **deprived of their right to a full preliminary investigation preparatory to the filing of the Information against them.** (Emphasis in the original, citation omitted).^[39]

Judge Turla further held:

In this case, the undue haste in filing of the information against movants cannot be ignored. From the gathering of evidence until the termination of the preliminary investigation, it appears that the state prosecutors were overly-eager to file the case and to secure a warrant of arrest of [petitioners] without bail and their consequent detention. There can be no gainsaying the fact that the task of ridding society of criminals and misfits and sending them to jail in the hope that they will in the future reform and be productive members of the community rests both on the judiciousness of judges and the prudence of the prosecutors. There is however, a standard in the determination of the existence of probable cause. The determination has not measured up to that standard in this case.^[40]

Judge Turla added that her order of remanding the Palayan cases back to the provincial prosecutors "for a complete preliminary investigation is not a manifestation of ignorance of law or a willful abdication of a duty imposed by law ... but due, to the peculiar circumstances obtaining in [the cases] and not just 'passing the buck' to the panel of prosecutors[.]"^[41]

The dispositive portion reads:

WHEREFORE, PREMISES CONSIDERED, this Court hereby resolves to:

- 1.) **SET ASIDE** the "**Joint Resolution**" of the Nueva Ecija Provincial Prosecutor's Office dated, **April 11, 2008** finding probable cause for two (2) counts of Murder against the herein movants; and,
- 2.) **ORDER** the Office of the Provincial Prosecutor of Nueva Ecija

to conduct the preliminary investigation on the incidents subject matter hereof in accordance with the mandates of Rule 112 of the Rules of Court.

SO ORDERED.^[42] (Emphasis in the original)

Petitioners moved for partial reconsideration^[43] of the July 18, 2008 Order, praying for the outright dismissal of the Palayan cases against them for lack of probable cause.^[44] The Motion was denied by Judge Turla in an Order dated December 2, 2008.^[45]

Hence, on March 27, 2009, petitioners filed this Petition for Certiorari and Prohibition with Prayer for Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction against Judge Evelyn A. Turla, Prosecutors Floro F. Florendo, Antonio Ll. Lapus, Jr., Edison V. Rafanan, and Eddie C. Gutierrez, and Justice Secretary Raul M. Gonzalez (respondents).^[46]

Petitioners pray that the July 18, 2008 and December 2, 2008 Orders of Judge Turla be set aside and annulled and that the murder cases against them be dismissed for failure to show probable cause. They also ask for the issuance of a temporary restraining order and/or writ of preliminary injunction to enjoin Judge Turla from remanding the cases to the provincial prosecutors, and "the respondent prosecutors from conducting further preliminary investigation [on] these cases."^[47]

Petitioners claim that they "have no plain, speedy[,] and adequate remedy in the ordinary course of law[.]"^[48] They also contend that "[r]espondents' actions will certainly cause grave and irreparable damage to [their] constitutional rights unless injunctive relief is afforded them through the issuance of a writ of preliminary injunction and/or temporary restraining order[.]"^[49]

They allege that Judge Turla acted with grave abuse of discretion amounting to lack or excess of jurisdiction,

[I] WHEN SHE SHIRKED FROM HER CONSTITUTIONAL DUTY TO DETERMINE PROBABLE CAUSE AGAINST PETITIONERS AND INSTEAD REMANDED THE CASES TO THE OFFICE OF THE PROVINCIAL PROSECUTOR DESPITE LACK OF EVIDENCE.

[II] WHEN SHE DID NOT DISMISS THE CASES DESPITE THE LACK OF EVIDENCE TO ESTABLISH PROBABLE CAUSE AGAINST PETITIONERS.

[III] WHEN SHE REFUSED TO RULE ON THE ISSUE OF FAILURE OF THE PROSECUTION EVIDENCE TO ESTABLISH THAT PETITIONERS ARE PRINCIPALS BY INDUCEMENT.

[IV] FOR IGNORING THE ISSUE OF INADMISSIBILITY OF PROSECUTION EVIDENCE ON THE GROUND OF VIOLATION OF THE *RES INTER ALIOS ACTA* RULE.^[50]

Petitioners claim that Judge Turla's order of remanding the case back to the prosecutors had no basis in law, jurisprudence, or the rules. Since she had already