805 Phil. 628

SECOND DIVISION

[G.R. No. 211120, February 13, 2017]

MEDEL ARNALDO B. BELEN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

PERALTA, J.:

This is a Petition for Review under Rule 45 of the Rules of Court, seeking to reverse and set aside the Decision[1] dated April 12, 2013 of the Court of Appeals, which affirmed the Decision[2] dated June 2, 2009 of the Regional Trial Court of San Pablo City, Branch 32, in Criminal Case No. 15332-SP, convicting petitioner Medel Arnaldo B. Belen of the crime of libel.

On March 12, 2004, petitioner, then a practicing lawyer and now a former Judge,[3] filed a criminal complaint for estafa against his uncle, Nezer D. Belen, Sr. before the Office of the City Prosecutor (*OCP*) of San Pablo City, which was docketed as I.S. No. 04-312 and assigned to then Assistant City Prosecutor (*ACP*) Ma. Victoria Suñega-Lagman for preliminary investigation. With the submission of the parties' and their respective witnesses' affidavits, the case was submitted for resolution.

In order to afford himself the opportunity to fully present his cause, petitioner requested for a clarificatory hearing. Without acting on the request, ACP Suñega-Lagman dismissed petitioner's complaint in a Resolution dated July 28, 2004. Aggrieved by the dismissal of his complaint, petitioner filed an Omnibus Motion (for Reconsideration & Disqualify),[4] the contents of which later became the subject of this libel case.

Petitioner furnished copies of the Omnibus Motion to Nezer and the Office of the Secretary of Justice, Manila. The copy of the Omnibus Motion contained in a sealed envelope and addressed to the Office of the City Prosecutor of San Pablo City was received by its Receiving Section on August 27, 2004. As a matter of procedure, motions filed with the said office are first received and recorded at the receiving section, then forwarded to the records section before referral to the City Prosecutor for assignment to the handling Investigating Prosecutor.

ACP Suñega-Lagman first learned of the existence of the Omnibus Motion from Michael Belen, the son of Nezer who is the respondent in the estafa complaint. She was also informed about the motion by Joey Flores, one of the staff of the OCP of San Pablo City. She then asked the receiving section for a copy of the said motion, and requested a photocopy of it for her own reference.

On September 20, 2004, ACP Suñega-Lagman filed against petitioner a criminal complaint for libel on the basis of the allegations in the Omnibus Motion (for Reconsideration & Disqualify). The complaint was docketed as I.S. No. 04-931

before the OCP of San Pablo City.

Since ACP Suñega-Lagman was then a member of its office, the OCP of San Pablo City voluntarily inhibited itself from conducting the preliminary investigation of the libel complaint and forwarded all its records to the Office of the Regional State Prosecutor.

On September 23, 2004, the Regional State Prosecutor issued an Order designating State Prosecutor II Jorge D. Baculi as Acting City Prosecutor of San Pablo City in the investigation of the libel complaint.

On December 6, 2004, State Prosecutor Baculi rendered a Resolution finding probable cause to file a libel case against petitioner. On December 8, 2004, he filed an Information charging petitioner with the crime of libel, committed as follows:

> That on or about August 31, 2004, in the City of San Pablo, Philippines and within the jurisdiction of this Honorable Court, the said accused, a member of the Philippine Bar with Attorney Roll No. 32322, did then and there willfully, unlawfully and feloniously, and with malicious intent of impeaching, defaming and attacking the honesty, competence, integrity, virtue and reputation of Ma. Victoria Suñega-Lagman as an Assistant City Prosecutor of the Office of the City Prosecutor of San Pablo City and for the further purpose of dishonoring, injuring, defaming and exposing said Ma. Victoria Suñega-Lagman to public hatred, contempt, insult, calumny and ridicule, wrote, correspond, published and filed with the Office of the City Prosecutor of San Pablo City an undated "OMNIBUS MOTION (FOR RECONSIDERATION & DISQUALIFY) in the case entitled "MEDEL B. BELEN, Complainant vs. NEZER D. BELEN SR., Respondent, "for Estafa docketed as I.S. No. 04-312, the pertinent and relevant portions are quoted hereunder, to wit:
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> > In the instant case, however, the **Investigating Fiscal was not impartial and exhibited manifest bias for 20,000 reasons**. The reasons were not legal or factual. These **reasons were based on her malicious and convoluted perceptions. If she was partial, then she is stupid. The Investigating Fiscal's stupidity was clearly manifest in her moronic resolution** to dismiss the complaint because she reasoned out that: (1) the lease started in 1983 as the number 9 was handwritten over the figure "8" in the lease contract; (2) no support for accounting was made for the first five (5) years; and (3) the dismissal of IS No. 03-14-12 covered the same subject matter in the instant case. Thus, the instant complaint should be dismissed.
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> > Unfortunately, the **Investigating Fiscal's wrongful assumption were tarnished with silver ingots. She is also an intellectually infirm or stupidly blind.** Because it was just a matter of a more studious and logical appraisal and examination of the documents and affidavits submitted by respondent's witnesses to establish that the lease started in 1993. All respondent's supporting affidavits of Mrs. Leyna

Belen-Ang; Mr. Demetrio D. Belen and Mr. Silvestre D. Belen (all admitted that the lease started in 1993). Secondly, had she not always been absent in the preliminary investigation hearings and conducted a clarificatory questioning as requested by herein complainant, as her secretary was the only one always present and accepted the exhibits and affidavits, there would have been a clear deliverance from her corrupted imagination. Firstly, complainant was married to his wife on August 15, 1987. Thus, it would be physically and chronologically inconceivable that the lease for the subject lanzones be entered by complainant and his wife, whom he met only in 1987, with respondent and his siblings in 1983. Secondly, the payments were made in 1993 and 1994, these were admitted by respondent's witnesses in their affidavits. Thus, it would be a height of stupidity for respondent and his witnesses to allow complainant to take possession and harvest the lanzones from 1983 to 2002 without any payment. Lastly, the only defense raised in the respondents witnesses' affidavits was the lease period was only from 1993 to 1998. Thus, this is a clear admission that the lease started in 1993. Despite all these matters and documents, the moronic resolution insisted that the lease started in 1983. **For all the 20,000 reasons of the Investigating Fiscal, the slip of her skirt shows a corrupted and convoluted frame of mind - a manifest partiality and stupendous stupidity in her resolution.**

Furthermore, Investigating Fiscal's 2nd corrupted reason was the failure of complainant to render an accounting on the 5-year harvest from 1993 to 1998. Sadly, the Investigating Fiscal was manifestly prejudiced and manifestly selective in her rationale. Firstly, the issue of non-presentation of accounting for the first 5 years was not raised in any of the witnesses' affidavits. A careful perusal of all their affidavits clearly shows that the issue of accounting for the first 5-year (1993-1999) harvest was never a defense because respondent and his witnesses knew and were informed that the lanzones harvest from 1993 to 1999 was less than 200,000. Secondly, during the respondent's 2002 visit from USA in a meeting at the house of Mrs. Leyna Belen Agra, complainant advised respondent of this matter and respondent acknowledged the fact that the 5-year harvest from 1993 to 1998 was abundantly inadequate to pay the principal sum of 300,000. Thirdly, all the numbers and figures in the Lease Contract indicated 1993 and/or 1994 - a clear indicia that the transaction covered by the instrument started in 1993. Fourthly, the correction was made by respondent or one of his siblings, which can easily be shown by the penmanship. Lastly, the letters of complainant to respondent clearly advised of the non-payment of the principal and interest for the 1st 5-year. For this reason, complainant had repeatedly agreed to the

request of respondent's wife, Lourdes B. Belen and younger son, Nezer Belen, Jr. in 2003 for meetings for resolution of the matter. But respondent's wife and younger son repeatedly cancelled these meetings. All these factual circumstances are undeniable but were presented because the issue of accounting was never raised.

Lastly, **the invocation of the dismissal of I.S. No. 03-1412 was a nail in the coffin for the idiocy and imbecility of the Investigating Fiscal**. It was her fallacious rationale that because No. 03-14-12 covered the same subject, the instant case should also be dismissed. Unfortunately, she showed her glaring ignorance of the law. Firstly, there is no res judicata in a preliminary reinvestigation. Secondly, the dismissal of a complaint shall not bar filing of another complaint because upon completion of the necessary documentary exhibits and affidavits to establish probable cause another case could be filed. Thirdly, the cause of action in the instant case is totally different *vis-a-vis* that in I.S. No. 03-1412. Fourthly, the complainant is filing the instant case in his own personal capacity as "lessee" over the entire property from 1993 to 2013. In other words, the **Investigating Fiscal's invocation of the dismissal of I.S. No. 03-1412 was clearly imbecilic and idiotic**.

All these matters could have been easily established. **All the idiotic and corrupted reason of the Investigating Fiscal manifestly exposed**, had the Investigating Fiscal exercised the cold partiality of a judge and calendared the instant case for clarificatory questions. In fact, she deliberately ignored complainant's request for such setting despite the established doctrine in preliminary investigation that the "propounding of clarificatory questions is an important component of preliminary investigation, more so where it is requested in order to shed light on the affidavits >>>" (Mondia v. Deputy Ombudsman/Visayas Are, 346 SCRA 365) **Unfortunately, the Investigating Fiscal, despite the letter-request for clarificatory question to shed lights of all the transaction and facts under investigation, chose to be guided by her manifest partiality and stupendous stupidity.** As a reminder to the Investigating Fiscal, Justice Oscar Herrera, Sr., in his treatise, I Remedial Law 2000 ed., succinctly explained the underlying principle of fair play and justice in the just determination of every action and proceedings is that the rules of procedure should be viewed as mere tools designed to aid the Courts in the speedy, just and inexpensive determination of cases before the court.

In totality, the dismissal of the instant case was based on reasons that were never raised by the respondent. Reasons dictate and due process of law mandates that complainant be afforded opportunity to rebut issues raised. In the instant

case, manifestly established is the corrupted penchant of the Investigating Fiscal to assume matters and presume issues not raised and decide, without affording complainant the due process, matters totally extraneous and not raised. Thus, contrary to the due process requirement of law, the Investigating Fiscal rendered a resolution on a matter not raised. The question, therefore, is her reason in adjudicating without affording complainant the opportunity of rebuttal, a matter not raised. She never ever asked these questions. She deliberately and fraudulently concealed her biased reasoning to prevent complainant to rebut this matter. She sideswiped complainant on matters not raised in the pleading. She was a partial and interested investigator with clear intent to dismiss the case. This is an implied lawyering for the respondent. Thus, **she should resign from the prosecutorial arm of the government and be a defense counsel. Then her infirm ed intellectual prowess and stupid assumptions be exposed in trial on the merits under which complainant is afforded the due process requirement of the law. At that stage of trial, she would be exposed as a fraud and a quack bereft of any intellectual ability and mental honesty.**

It is a sad day for a colleague in the practice of law to call for a disqualification of an Investigating Fiscal. The circumstances of the instant case, leave no recourse for complainant but the option, in his quest for justice and fair play and not for corrupted and convoluted 20,000 reasons, to strongly ask for the disqualification of Fiscal Suñega-Lagman in the resolution of the instant motion.

In the resolution for this motion for reconsideration, the sole issue is whether based on the affidavits and evidence adduced by the complainant probable cause exist to file a case against respondent. The answer is YES because, all law students and lawyers, except Fiscal Suñega-Lagman, know ">>> the preliminary investigation should determine whether there is a sufficient ground to engender a well-founded belief that a crime has been committed and that the respondent is probably guilty thereof, and should be held for trial. (Webb vs. Visconde, August 23, 1995, 63 SCAD 916, 247 SCRA 652) And if the evidence so warrants, the investigating prosecutor is duty bound to file the corresponding information. (Meralco vs. Court of Appeals, G.R. No. 115835, July 5, 1996, 71 SCAD 712, 258 SCRA 280). Thus, preliminary investigation is not a trial of the case on the merits and has no purpose except that of determining whether there is probable cause to believe that the accused is guilty thereof. A probable cause merely implies probability of guilt and should be determined in a summary manner..."