

## THIRD DIVISION

[ G.R. No. 176033, March 11, 2015 ]

**FELILIBETH AGUINALDO AND BENJAMIN PEREZ, PETITIONERS,  
VS. REYNALDO P. VENTUS AND JOJO B. JOSON, RESPONDENTS.**

### D E C I S I O N

**PERALTA, J.:**

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, seeking to nullify and set aside the Decision<sup>[1]</sup> dated August 11, 2006 of the Court of Appeals (CA) and its December 4, 2006 Resolution<sup>[2]</sup> in CA-G.R. SP No. 92094. The CA dismissed for lack of merit the Petition for *Certiorari* under Rule 65 filed by petitioners Felilibeth Aguinaldo and Benjamin Perez, praying for the following reliefs: (1) the issuance of a Writ of Preliminary Injunction and/or Temporary Restraining Order to enjoin the public respondent Judge Felixberto T. Olalia from implementing the Orders dated May 16, 2005 and August 23, 2005; (2) the issuance of a Writ of *Certiorari* to annul the said Orders, and (3) the dismissal of the estafa case against them for having been prematurely filed and for lack of cause of action.

The procedural antecedents are as follows:

On December 2, 2002, private respondents Reynaldo P. Ventus and Jojo B. Joson filed a Complaint-Affidavit<sup>[3]</sup> for estafa against petitioners Aguinaldo and Perez before the Office of the City Prosecutor (OCP) of Manila. Claiming to be business partners in financing casino players, private respondents alleged that sometime in March and April 2002, petitioners connived in convincing them to part with their Two Hundred Sixty Thousand (P260,000.00) Pesos in consideration of a pledge of two motor vehicles which the latter had misrepresented to be owned by Aguinaldo, but turned out to be owned by one Levita De Castro, manager/operator of LEDC Rent-A-Car.

On January 15, 2003, Perez filed his Counter-Affidavit,<sup>[4]</sup> denying the accusation against him, and claiming that his only participation in the transaction between private respondents and Aguinaldo was limited to having initially introduced them to each other.

On January 22, 2003, private respondents filed their Reply-Affidavit,<sup>[5]</sup> asserting that Perez was the one who showed them photocopies of the registration paper of the motor vehicles in the name of Aguinaldo, as well as the one who personally took them out from the rent-a-car company.

On January 29, 2003, Perez filed his Rejoinder-Affidavit,<sup>[6]</sup> stating that neither original nor photocopies of the registration was required by private respondents to

be submitted to them because from the very start, they were informed by Aguinaldo that she merely leased the vehicles from LEDC Rent-a-Car.

On February 25, 2003, Assistant City Prosecutor (ACP) Renato F. Gonzaga issued a Resolution<sup>[7]</sup> recommending both petitioners to be indicted in court for estafa under Article 315, paragraph (2) of the Revised Penal Code (RPC). He also noted that Aguinaldo failed to appear and to submit any controverting evidence despite the subpoena.

On July 16, 2003, an Information<sup>[8]</sup> (I.S. No. 02L-51569) charging petitioners with the crime of estafa under Article 315, paragraph 2 (a) of the RPC was filed with the Regional Trial Court of Manila. Docketed as Criminal Case No. 03-216182, entitled "*People of the Philippines v. Felilibeth Aguinaldo and Benjamin Perez*," the case was raffled to the public respondent.

On July 31, 2003, Perez was arrested, so he filed an Urgent Motion for Reduction of Bail to be Posted in Cash, which the public respondent granted in an Order of even date.<sup>[9]</sup>

On the same day, petitioners filed through counsel a Very Urgent Motion to Recall or Quash Warrants of Arrest,<sup>[10]</sup> alleging that the Resolution dated February 25, 2003 has not yet attained finality, and that they intended to file a motion for reconsideration.

On August 4, 2003, petitioners jointly filed with the OCP of Manila their "Motion for Reconsideration and Motion for the Withdrawal of the Information Prematurely Filed With the Regional Trial Court, Branch 8, City of Manila."<sup>[11]</sup> Citing the Counter-Affidavit and Rejoinder-Affidavit of Perez, Aguinaldo asserted, among others, that no deceit or false pretenses was committed because private respondents were fully aware that she does not own the pledged motor vehicles.

On August 6, 2003, the public respondent issued an Order<sup>[12]</sup> granting the motion for withdrawal of information, and directing the recall of the arrest warrant only insofar as Aguinaldo was concerned, pending resolution of her motion for reconsideration with the OCP.

On August 9, 2003, petitioners filed an Urgent Motion for Cancellation of Arraignment, pending resolution of their motion for reconsideration filed with the OCP of Manila. Upon the prosecution's motion,<sup>[13]</sup> the public respondent ordered the proceedings to be deferred until the resolution of petitioners' motion for reconsideration.<sup>[14]</sup>

On December 23, 2003, the public respondent ordered the case archived pending resolution of petitioners' motion for reconsideration with the OCP of Manila.<sup>[15]</sup>

On January 16, 2004, the OCP of Manila, through ACP Antonio M. Israel, filed a Motion to Set Case for Trial,<sup>[16]</sup> considering that petitioners' motions for reconsideration and for withdrawal of the information have already been denied for lack of merit.

On February 27, 2004, petitioners filed with the Department of Justice (DOJ) a petition for review<sup>[17]</sup> in I.S. No. 02L-51569 for estafa, entitled "*Benjamin Perez and Felilibeth Aguinaldo v. Reynaldo P. Ventus and Jojo B. Joson.*"

Acting on the prosecution's recommendation for the denial of petitioners' motions for reconsideration and withdrawal of the information, and its motion to set the case for trial, the public respondent issued an Order<sup>[18]</sup> dated March 15, 2004 directing the issuance of a warrant of arrest against Aguinaldo and the setting of the case for arraignment.

On March 26, 2004, petitioners filed an Urgent Motion to Cancel Arraignment and Suspend Further Proceedings,<sup>[19]</sup> until their petition for review before the DOJ is resolved with finality. Petitioners reiterated the same prayer in their Urgent Motion for Reconsideration<sup>[20]</sup> of the Order dated March 15, 2004.

On April 16, 2004, the public respondent granted petitioners' urgent motion to cancel arraignment and suspend proceedings, and motion for reconsideration.<sup>[21]</sup>

On June 23, 2004, Levita De Castro, through the Law Firm of Lapeña and Associates, filed a Motion to Reinstate Case and to Issue Warrant of Arrest.<sup>[22]</sup> De Castro alleged that she was the private complainant in the estafa case that had been ordered archived. Petitioners filed an Opposition with Motion to Expunge,<sup>[23]</sup> alleging that De Castro is not a party to the said case, which is in active file, awaiting the resolution of their petition for review before the DOJ.

On October 15, 2004, De Castro filed a Manifestation<sup>[24]</sup> informing the public respondent that the DOJ had already promulgated a Resolution dated September 6, 2004 denying petitioners' petition for review in I.S. No. 02G-29349 & 02G-28820 for estafa, entitled "*Levita De Castro v. Felilibeth Aguinaldo.*"<sup>[25]</sup>

On May 16, 2005, the public respondent issued an Order granting the Motion to Reinstate Case and to Issue Warrant of Arrest, thus:

Pending with this Court are (1) Motion to Reinstate Case and to Issue Warrant of Arrest against accused Aguinaldo filed by private prosecutor with conformity of the public prosecutor. x x x

It appears from the records that:

- (1) the warrant of arrest issued against accused Aguinaldo was recalled pending resolution of the Petition for Review filed with the DOJ; x x x
- (2) the Petition for Review was subsequently dismissed x x x
- (3) accused Aguinaldo has not yet posted bail bond.

In view of the foregoing, (the) Motion to Reinstate Case and to Issue Warrant of Arrest is GRANTED. Let this case be REINSTATED and let warrant of arrest be issued against accused Aguinaldo.

x x x x

SO ORDERED.<sup>[26]</sup>

On May 30, 2005, petitioners filed a Motion for Reconsideration with Motion to Quash Warrant of Arrest.<sup>[27]</sup>

On August 23, 2005, the public respondent issued an Order denying petitioners' Motion for Reconsideration with Motion to Quash Warrant of Arrest, and setting petitioners' arraignment, as the Revised Rules on Criminal Procedure (or *Rules of Court*) allows only a 60-day period of suspension of arraignment. Citing *Crespo v. Mogul*,<sup>[28]</sup> he also ruled that the issuance of the warrant of arrest is best left to the discretion of the trial court. He also noted that records do not show that the DOJ has resolved the petition for review, although photocopies were presented by De Castro.

Aggrieved, petitioners filed with the CA a Petition for *Certiorari* under Rule 65 of the Rules of Court, attributing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent in issuing the Orders dated May 16, 2005 and August 23, 2005. On August 11, 2006, the CA dismissed the petition for lack of merit. Petitioners filed a motion for reconsideration, but the CA denied it in a Resolution<sup>[29]</sup> dated December 4, 2006. Hence, this instant petition for review on *certiorari*.

Petitioners raise the following issues:

I.

THE HONORABLE COURT OF APPEALS FAILED TO APPRECIATE THAT THE MOTION TO REINSTATE THE CASE AND ISSUE A WARRANT OF ARREST WAS FILED BY ONE LEVITA DE CASTRO WHO IS NOT A PARTY TO CRIMINAL CASE NO. 03-21[6]182.

II.

A PROCEDURAL TECHNICALITY THAT THE SUSPENSION ALLOWED FOR ARRAIGNMENT IS ALREADY BEYOND THE 60-DAY PERIOD MAY BE RELAXED IN THE INTEREST OF AN ORDERLY AND SPEEDY ADMINISTRATION OF JUSTICE.

III.

THE PRELIMINARY INVESTIGATION ON THE I.S. NO. 02L-51569 (CRIMINAL CASE NO. 03-21[6]182) BY THE OFFICE OF THE CITY PROSECUTOR OF MANILA HAS NOT YET BEEN COMPLETED.<sup>[30]</sup>

On the first issue, petitioners argue that the public respondent erred in issuing the Order dated May 16, 2005 reinstating the case and issuing an arrest warrant against Aguinaldo. They point out that the Motion to Reinstate the Case and to Issue a Warrant of Arrest against Aguinaldo was filed by De Castro who is not a party in Criminal Case No. 03-216182, entitled "*People of the Philippines v. Felilibeth*

*Aguinaldo and Benjamin Perez*," instead of private complainants Reynaldo P. Ventus and Jojo B. Joson. They also assert that said motion was erroneously granted based on the purported denial of their petition for review by the DOJ, despite a Certification showing that their actual petition in I.S. Number 02L-51569, entitled "*Reynaldo Ventus, et al. v. Felilibeth Aguinaldo*," has not yet been resolved and is still pending with the DOJ.

On the second issue, petitioners argue that the provision of Section 11, Rule 116 of the Rules of Court limiting the suspension for arraignment to only sixty (60) days is merely directory; thus, it cannot deprive petitioners of their procedural right to due process, as their petition for review has not yet been resolved by the DOJ.

On the third issue, petitioners take exception that even before they could receive a copy of the DOJ resolution denying their petition for review, and thus move for its reconsideration, the Information in Criminal Case No. 03-216182 had already been filed with the RTC on July 16, 2003. They contend that such precipitate filing of the Information and issuance of a warrant of arrest put petitioners at the risk of incarceration without the preliminary investigation having been completed because they were not afforded their right to file a motion for reconsideration of the DOJ resolution. In support of their contention, they raise the following arguments: that the right to preliminary investigation is a substantive, not merely a procedural right; that an Information filed without affording the respondent his right to file a motion for reconsideration of an adverse resolution, is fatally premature; and, that a denial of a complete preliminary investigation deprives the accused of the full measure of his right to due process and infringes on his constitutional right to liberty.

The petition is denied for lack of merit.

On the first issue, petitioners are correct in pointing out that the Motion to Reinstate the Case and Issue a Warrant of Arrest<sup>[31]</sup> was filed by one Levita De Castro who is not a party to Criminal Case No. 03-216182. Records show that De Castro is not even a private complainant, but a mere witness for being the owner of the vehicles allegedly used by petitioners in defrauding and convincing private respondents to part with their P260,000.00. Thus, the public respondent should have granted petitioners' motion to expunge, and treated De Castro's motion as a mere scrap of paper with no legal effect, as it was filed by one who is not a party to that case.

Petitioners are also correct in noting that De Castro's motion was granted based on the purported dismissal of their petition for review with the DOJ. In reinstating the case and issuing the arrest warrant against Aguinaldo, the public respondent erroneously relied on the DOJ Resolution dated September 6, 2004 dismissing the petition for review in a different case, *i.e.*, I.S. No. 02G-29349 & 02G-28820, entitled "*Levita De Castro v. Felilibeth Aguinaldo*, for two (2) counts of estafa." As correctly noted by petitioners, however, their petition for review with the DOJ is still pending resolution. In particular, Assistant Chief State Prosecutor Miguel F. Guido, Jr. certified that based on available records of the Office of the Chief State Prosecutor, their petition for review filed in I.S. Number 02L-51569, entitled "*Reynaldo Ventus, et al. v. Felilibeth Aguinaldo*" for estafa, is still pending resolution as of May 27, 2005.<sup>[32]</sup> It bears stressing that their petition stemmed from Criminal Case No. 03-216812, entitled "*People of the Philippines v. Felilibeth Aguinaldo and Benjamin Perez*" wherein the public respondent issued the interlocutory orders assailed before