

FIRST DIVISION

[G.R. No. 186597, June 17, 2015]

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. VICTORIA R. ARAMBULO AND MIGUEL ARAMBULO, JR., RESPONDENTS.

D E C I S I O N

PEREZ, J.:

This Petition for Review on *Certiorari* seeks to annul the Decision^[1] and Resolution^[2] dated 5 February 2008 and 27 February 2009, respectively of the Court of Appeals, Seventeenth Division in CA-G.R. SP No. 86353 which effectively suspended the criminal proceedings in Criminal Case No. C-62784, an *estafa* case against respondents before the Regional Trial Court (RTC), Branch 121, Caloocan City.

Records show that respondent Victoria R. Arambulo (Victoria), Emerenciana R. Gungab, Reynaldo Reyes (Reynaldo), Domingo Reyes (Domingo), Rodrigo Reyes and Oscar Reyes (Oscar) are the heirs of Spouses Pedro C. Reyes and Anastacia Reyes. Anaped Estate Inc. (Anaped) was incorporated as part of the estate planning or as conduit to hold the properties of the estate of Pedro Reyes for and in behalf of his heirs.

Jose Buban (Buban), as Vice-President and General Manager of Anaped Estate Inc. (Anaped), filed a complaint for *estafa* against Victoria and her husband Miguel Arambulo, Jr. (Miguel) before the Office of the City Prosecutor of Caloocan City. He alleged that Victoria failed to remit the rentals collected from the time the ownership of the commercial apartments was transferred to Anaped.

On 24 April 2001, Assistant City Prosecutor Alvin A. Almora recommended the filing of an Information against respondents. On 1 June 2001, respondents were charged with *estafa* committed as follow:

That on [or] about the period from December, 1994 to June, 1997, in the City of Caloocan, Philippines, and within the jurisdiction of the Honorable Court, the said accused, conspiring together and mutually helping one another, and with unfaithfulness or abuse of confidence, after having received rentals from IMF International Corporation, in the total amount of THREE HUNDRED NINETEEN THOUSAND EIGHT HUNDRED EIGHTY-EIGHT (P319,888.00) PESOS, under the express obligation of turning over or remitting the same to ANAPED ESTATE INCORPORATED, once in possession of the said amount and far from complying with their obligation aforesaid and despite notice [to] that effect, the said accused did then and there willfully, unlawfully and feloniously misappropriate, misapply, and convert the said amount to their own personal use and

benefit to the damage and prejudice of ANAPED ESTATE, INC., in the sum above-aforementioned.^[3]

On 14 April 2003, respondents filed a Motion to Suspend Proceedings on the ground of a prejudicial question in view of the pendency of two intra-corporate cases pending before the RTC of Quezon City and Makati City. SEC Case No. 05-97-5659 is a petition filed by Victoria's brother Oscar for accounting of all corporate funds and assets of Anaped, annulment of sale, injunction, receivership and damages.^[4] SEC Case No. 03-99-6259 is a petition filed by Victoria and her brothers Reynaldo and Domingo questioning the authority of their elder sibling Rodrigo Reyes and Emerenciana R. Gungab, as well as the Anaped Board of Directors and officers, including private complainant Buban to act for and in behalf of the corporation.^[5]

In their motion to suspend proceedings, respondents asserted that the resolution of the SEC cases in their favor particularly the issues of whether of the group of Rodrigo and Buban are the lawful representatives of the corporation and whether they are duly authorized to make a demand for remittance would necessarily result in their acquittal in the criminal case.

On 28 August 2003, the trial court, through Presiding Judge Adoracion G. Angeles, granted the motion for suspension of the proceedings. The trial court reasoned that the issue in the SEC cases, *i.e.*, who between the groups has the right to act for and in behalf of the corporation, has a direct link to the issue of the culpability of the accused for *estafa*, thus:

For indeed, if the aforesaid issues are resolved in the [respondent's] favor, they cannot be held liable for misappropriation for they possess the authority to collect rentals and hold the same on behalf of the firm. They would then be justified in not remitting the collections to the group of Jose Buban who would be then deemed as mere usurpers of authority.^[6]

Acting on the Motion for Reconsideration filed by petitioner, the trial court issued an Order dated 19 February 2004 setting aside its 28 August 2003 Order and setting the case for pre-trial. The trial court noted that respondents failed to file an opposition to the motion for reconsideration.

Respondents filed an Omnibus Motion praying that they be allowed to file their Comment/Opposition to the motion for reconsideration and that the pre-trial be held in abeyance. Respondents claimed that the Order of the trial court to file comment/opposition was served on respondents themselves and not on their counsel.

On 23 June 2004, the trial court denied respondents' Omnibus Motion. The trial court stressed that even if the order was served upon respondents and not upon their counsel, records show that a copy of the motion for reconsideration was served by registered mail upon counsel. Thus, the trial court stated that respondents' counsel was well aware of the existence of the motion for reconsideration, thus he could have taken the initiative to file his comment thereto without waiting for any directive from the court.

Aggrieved, respondents filed a petition for *certiorari* before the Court of Appeals asserting that the trial court committed grave abuse of discretion when it denied

them the opportunity to file their comment; when it ruled that respondents' counsel should have filed the comment as he was furnished a copy of the motion for reconsideration; and when it granted petitioner's motion for reconsideration.

On 5 February 2008, the Court of Appeals granted the petition. The dispositive portion reads:

WHEREFORE, the assailed Orders of the respondent Judge dated February 19, 2004 and July 23, 2004 are **REVERSED** and **SET ASIDE** and she is hereby enjoined from hearing the Criminal Case No. C-62784 until the termination of the SEC Case No. 03-99-6259. The August 28, 2003 Order of the respondent Judge is hereby **REINSTATED**.^[7]

Preliminarily, on the procedural question, the Court of Appeals pointed out that respondents were given the opportunity to present their side in their motion to suspend proceedings. The appellate court treated respondents' arguments in said motion as their Comment/Opposition to the Motion for Reconsideration filed by petitioner. That is correct.

The appellate court ruled that in SEC Case No. 03-99-6259:

[T]he issue is the legality of the election of Anaped Board of Directors, as well as the authority of its officers, which include private complainant Jose Buban, to act for and in behalf of the corporation. Clearly, it involves facts that are intimately related to those upon which the criminal case is based. The resolution of the issues raised in this intra-corporate dispute will ultimately determine the guilt or innocence of [respondents] in the crime of *estafa* initiated by Jose Buban. It must be remembered that one of the elements of the crime of *estafa* with abuse of confidence under paragraph 1 (b) of Article 315 of the Revised Penal Code is a demand made by the offended party to the offender. A valid demand must therefore be made by an offended party to the offender.^[8]

The appellate court added that since respondents are challenging the authority of Buban, then the validity of Buban's demand to turn over or remit the rentals is put in question. The appellate court concluded that if the supposed authority of Buban is found to be defective, it is as if no demand was ever made, hence the prosecution for *estafa* cannot prosper.

Petitioner filed a motion for reconsideration but it was denied in a Resolution dated 27 February 2009.

In this petition for review on *certiorari*, petitioner raises the lone ground of whether the Court of Appeals erred in declaring that there exists a prejudicial question which calls for the suspension of the criminal proceedings before the trial court.

Petitioner argues that any decision of the trial court in the SEC cases with respect to the question of who are the lawful officers or directors of Anaped is not determinative of the liability of respondents to remit the rental collections in favor of Anaped. Petitioner proffers that a corporation has a personality distinct and separate from its individual stockholders. Petitioner emphasizes that at the time the demand for remittance of the rental collections was made against respondents, Buban was an officer of Anaped and until such time that his authority is validly revoked, all his