

FIRST DIVISION

[G.R. No. 182157, August 17, 2015]

**ANLUD METAL RECYCLING CORPORATION, AS REPRESENTED BY
ALFREDO A. DY, PETITIONER, VS. JOAQUIN ANG, RESPONDENT.**

D E C I S I O N

SERENO, C.J.:

We resolve the Petition for Review^[1] filed by petitioner Anlud Metal Recycling Corporation, which assails the Decision and Resolution of the Court of Appeals (CA) in CA-G.R. SP No. 97124.^[2] The CA affirmed the Decision and Order of the Regional Trial Court (RTC) in Criminal Case No. 12691-2004-C^[3] dismissing the charge of *estafa* against respondent Joaquin Ang;^[4]

The antecedent facts are as follows:

San Miguel Packaging Products-Metal Closures Lithography Plant (SMC-MCLP) allegedly awarded petitioner an exclusive contract to purchase its aluminum- and tin-based scrap materials from 20 March 2003 to 31 January 2004. However, on 23 January 2004, the President of Anlud Metal Recycling Corporation found that SMC-MCLP's employee Conrado Alday had allowed Nenita B. dela Cruz to load scrap materials in two truck, owned by respondent Ang, which were then operated by his truck drivers Edjanel Jose Paniergo and Renato Bagaua.

Based on the narration of petitioner, Dela Cruz pretended to be an agent of Anlud Metal Recycling Corporation when she arranged for the transport of the scrap materials. She had allegedly coordinated the hauling with Alday, who was then working for SMC-MCLP. Alday purportedly allowed the trucks driven by Paniergo and Bagaua to enter the plant and load the scrap materials in the cargoes based on a false representation that the transaction was authorized by petitioner. Fortunately, the two trucks was not able to leave the premises of SMC-MCLP.

Petitioner lodged a Complaint for attempted *estafa* through falsification of commercial/private document against Alday, Dela Cruz, Paniergo, Bagaua, and respondent Ang. Subsequently, the Investigating Prosecutor caused the filing with the RTC of an Information for *estafa* under Article 315, paragraph 2(a) of the Revised Penal Code, which reads as follows:^[5]

That on or about January 23, 2004 at Brgy. Canlubang, in the City of Calamba and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to defraud by means of fraudulent acts executed prior to or simultaneously with the commission of the fraud, did then there unlawfully, willfully and feloniously pretend to possess business or

imaginary transactions by claiming that he has the authority from complainant Anlud Metal Recycling Corporation to withdraw from San Miguel Corp Metal Closure Lithography Plant (SMC MCLP), when in truth and in fact they were not and as a consequence, they were able to withdraw thirty (30) metric tons of Aluminum Scraps from the said SMC-MCLP estimated at more than P500,000 using the name of Anlud Metal Recycling Corporation (ANLUD), which was charged to the latter's account, to its damage and prejudice in the amount of P500,000.

CONTRARY TO LAW.

The RTC issued a Warrant of Arrest^[6] on 26 October 2004 against Ang and his co-accused. Thereafter, respondent filed a Petition for Reinvestigation and a Motion for Preliminary Investigation before the City Prosecutor's Office. He also filed with the RTC an Urgent Motion to Suspend Proceedings Pending Reinvestigation and to Recall Order of Arrest Against Accused Movant Joaquin Ang.^[7]

In its Order dated 20 January 2005,^[8] the RTC denied the motion filed by Ang. It ruled that his allegations were not supported by evidence; and that based on the facts of the case, there was a reasonable ground to engender a well-founded belief that he had committed *estafa*.

In contrast, on 3 February 2005, the City Prosecutor's Office issued its Resolution on Reconsideration^[9] absolving respondent from the offense charged. It discussed that although he owned the trucks that carried the scrap materials, the theory of conspiracy had no foundation absent any proof that he had performed any overt act of *estafa*. It also highlighted the fact that he was not present at the time of the incident. As a result, the City Prosecutor's Office filed an Amended Information,^[10] which no longer included him as an accused.

Petitioner bewailed the dropping of respondent from the charge. Thus, it filed with the Department of Justice (DOJ) a Petition for Review, which the latter granted.^[11] According to the DOJ, respondent could not be considered innocent of *estafa*, since (1) his denial was self-serving; (2) he owned the trucks used in loading the scrap materials; (3) he failed to adduce exculpatory evidence showing that it was Dela Cruz who had commanded the use of his trucks; (4) the drivers of the trucks were respondent's own; and (5) it can be inferred from the action of the truck drivers that they received instructions from him.

Respondent filed a Motion for Reconsideration, but to no avail.^[12] Thus, a Second Amended Information^[13] was filed with the RTC, which already named Ang as one of the accused.

On 16 June 2006, respondent sought judicial relief by filing an Omnibus Motion to Determine Probable Cause and to Defer Issuance of Warrant of Arrest Until Determination of Probable Cause Is Completed (Omnibus Motion).^[14] Petitioner filed its Comment/Opposition^[15] thereto on 7 July 2006.

This time around, the court took a different stance. In its Decision dated 18

September 2006, the RTC dismissed the case against respondent for want of probable cause. It explained that mere ownership of the trucks did not make respondent a co-conspirator for *estafa*. For conspiracy to be appreciated against Ang, the trial court required proof showing that he knew of the crime, consented to its commission, or performed any of its elements.

Petitioner filed a Motion for Reconsideration^[16] and a Motion for Inhibition,^[17] but both were denied through the RTC Order dated 3 October 2006.^[18] The court reiterated in its ruling that "in the resolution of the judicial determination of probable cause, the court is not bound and cannot be bound by the findings of the Secretary of Justice in the existence of probable cause and hold the accused for trial."^[19]

Unrelenting, petitioner questioned the dismissal of Ang's criminal case before the CA. In its Decision dated 4 December 2007, and subsequent Resolution dated 13 March 2008, the CA gave due course to the Petition for Certiorari^[20] notwithstanding that Anlud Metal Recycling Corporation had appealed without the participation of the Office of the Solicitor General (OSG), which was supposed to act on behalf of the People of the Philippines.

However, the petition failed on the merits. Petitioner had argued before the CA that the RTC should not have entertained respondent's Omnibus Motion, because its Notice of Hearing was addressed only to the public prosecutor and not to petitioner. The CA rejected this argument and ruled that the "absence of a notice to a private prosecutor although the public prosecutor has been notified is a matter that is for a trial judge to consider in his sound discretion."^[21]

Petitioner also failed to dispute the RTC's ruling to exclude Ang as an accused in the crime of *estafa*. According to the CA, since the trial court had conducted an independent evaluation, the fact alone that the latter reversed its earlier finding of probable cause did not amount to grave abuse of discretion; and any error of the RTC was an error of judgment not correctible by certiorari.

Aggrieved, petitioner filed the instant petition before this Court and raised the following contentions: (1) the RTC had no jurisdiction to determine probable cause; (2) it abused its discretion when it entertained respondent's Omnibus Motion for determination of probable cause despite a defective Notice of Hearing; and (3) it erred in dismissing the charge of *estafa* against Ang. In tum, respondent filed a Comment,^[22] which included the issue of petitioner's standing to file this appeal without the participation of the OSG. Petitioner submitted its Reply^[23] to refute the allegations of respondent.

RULING OF THE COURT

Petitioner has no personality to appeal the dismissal of the criminal case for estafa before this Court.

Before the Court proceeds with the substantive issues in this case, the procedural

issue of petitioner's personality to appeal the dismissal of the criminal case merits preliminary attention.

Petitioner argues that since the CA has already ruled upon this issue, without respondent filing a partial appeal, then the latter has already lost its right to question the standing of Anlud Metal Recycling Corporation. This argument is unmeritorious. In the past, the Court has *motu proprio* ascertained the standing of a private offended party to appeal the dismissal of a criminal case.^[24]

In any event, respondent cannot be considered to have waived its argument regarding the personality of petitioner to file the instant appeal. In his Comment, respondent cites *Republic v. Partisala*^[25] and asserts that petitioner has no right to appeal the dismissal of the criminal case absent the participation of the OSG. In its Reply, petitioner responds by quoting the ruling of the CA, *viz.*^[26]

As argued by petitioner, citing the case of ***Perez v. Hagonoy Rural Bank, Inc.***, the petitioner, as private complainant, has legal personality to impugn the dismissal of the criminal case against the private respondent under Rule 65. As private offended party, the petitioner has an interest in the civil aspect of the case; thus, it may file a special civil action for certiorari and prosecute the same in its own name without making the People of the Philippines a party. While it is only the Solicitor General who may bring or defend actions in behalf of the Republic of the Philippines, or represent the People or State in criminal proceedings pending in the Supreme Court and the Court of Appeals, the private offended party retains the right to bring a special civil action for certiorari in his own name in criminal proceedings before the courts of law.

Notably, both positions taken by the parties are supported by jurisprudence. It is then proper for this Court to clarify the standing of a private offended party - in this case, petitioner - to appeal the dismissal of the criminal case against the accused, who in this case is respondent.

The real party in interest in a criminal case is the People of the Philippines. Hence, if the criminal case is dismissed by the trial court, the criminal aspect of the case must be instituted by the Solicitor General on behalf of the State.^[27]

As a qualification, however, this Court recognizes that the private offended party has an interest in the civil aspect of the case.^[28] Logically, the capability of the private complainant to question the dismissal of the criminal proceedings is limited only to questions relating to the civil aspect of the case.^[29] It should ideally be along this thin framework that we may entertain questions regarding the dismissals of criminal cases instituted by private offended parties. Enlarging this scope may result in wanton disregard of the OSG's personality, as well as the clogging of our dockets, which this Court is keen to avoid.

Therefore, the litmus test in ascertaining the personality of herein petitioner lies in whether or not the substance of the certiorari action it instituted in the CA referred to the civil aspect of the case.^[30]

Here in this Rule 45 petition, petitioner argues that the RTC erred when it concluded

that "there is no evidence of conspiracy against private respondent Ang." Petitioner goes on to enumerate circumstances that collectively amount to a finding that based on probable cause, respondent conspired with the accused in defrauding Anlud Metal Recycling Corporation.^[31]

Clearly, petitioner mainly disputes the RTC's finding of want of probable cause to indict Ang as an accused for *estafa*. This dispute refers, though, to the criminal, and not the civil, aspect of the case. In *Jimenez v. Sorongon*^[32] we similarly ruled:

In this case, the petitioner has no legal personality to assail the dismissal of the criminal case **since the main issue raised by the petitioner involved the criminal aspect of the case, i.e., the existence of probable cause.** The petitioner did not appeal to protect his alleged **pecuniary interest as an offended party of the crime**, but to cause the reinstatement of the criminal action against the respondents. This involves the right to prosecute which pertains exclusively to the People, as represented by the OSG. (Emphasis supplied)

Given that nowhere in the pleadings did petitioner even briefly discuss the civil liability of respondent, this Court holds that Anlud Metal Recycling Corporation lacks the requisite legal standing to appeal the discharge of respondent Ang from the Information for *estafa*. On this ground alone, the petition already fails.^[33]

Nonetheless, this Court has already acknowledged the interest of substantial justice, grave error committed by the judge, and lack of due process as veritable grounds to allow appeals to prosper despite the non-participation of the OSG.^[34] But as will be discussed below, petitioner has failed to demonstrate that the petition falls under any of these exceptions.

The RTC may conduct a judicial determination of probable cause.

Petitioner explains that there are two determinations of probable cause: the first is for the purpose of filing a criminal information in the court, and the second is for the issuance of a warrant of arrest. Petitioner submits that since the first kind is executive in nature, then the RTC had absolutely no jurisdiction to determine the existence of probable cause to hold respondent as an accused in the crime of *estafa*.

Hence, for petitioner, the RTC grievously erred when it gave due course to the Omnibus Motion of respondent, which questioned the determination of probable cause by the prosecutor. Respondent counters this argument by alleging that the RTC may resolve issues brought before it pursuant to the power of the court to administer justice.

Petitioner's interpretation of the rules on the determination of probable cause is inaccurate. Although courts must respect the executive determination of probable cause,^[35] the trial courts may still independently determine probable cause. They are not irrevocably bound to the determination of probable cause by the prosecutor and the DOJ.^[36]