

SECOND DIVISION

[G.R. No. 191015, August 06, 2014]

**PEOPLE OF THE PHILIPPINES PETITIONER, VS. JOSE C. GO,
AIDA C. DELA ROSA, AND FELECITAS D. NECOMEDES,**
RESPONDENTS.**

D E C I S I O N

DEL CASTILLO, J.:

The power of courts to grant demurrer in criminal cases should be exercised with great caution, because not only the rights of the accused – but those of the offended party and the public interest as well – are involved. Once granted, the accused is acquitted and the offended party may be left with no recourse. Thus, in the resolution of demurrers, judges must act with utmost circumspection and must engage in intelligent deliberation and reflection, drawing on their experience, the law and jurisprudence, and delicately evaluating the evidence on hand.

This Petition for Review on *Certiorari*^[1] seeks to set aside the September 30, 2009 Decision^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 101823, entitled "*People of the Philippines, Petitioner, versus Hon. Concepcion Alarcon-Vergara et al., Respondents,*" as well as its January 22, 2010 Resolution^[3] denying reconsideration of the assailed judgment.

Factual Antecedents

The following facts appear from the account of the CA:

On October 14, 1998, the Monetary Board of the Bangko Sentral ng Pilipinas (BSP) issued Resolution No. 1427 ordering the closure of the Orient Commercial Banking Corporation (OCBC) and placing such bank under the receivership of the Philippine Deposit Insurance Corporation (PDIC). PDIC, as the statutory receiver of OCBC, effectively took charge of OCBC's assets and liabilities in accordance with its mandate under Section 30 of Republic Act 7653.

x x x x

While all the aforementioned events were transpiring, PDIC began collecting on OCBC's past due loans receivable by sending demand letters to its borrowers for the immediate settlement of their outstanding loans. Allegedly among these borrowers of OCBC are Timmy's, Inc. and Asia Textile Mills, Inc. which appeared to have obtained a loan of [P]10 Million each. A representative of Timmy's, Inc. denied being granted any loan by OCBC and insisted that the signatures on the loan documents were

falsified. A representative of Asia Textile Mills, Inc. denied having applied, much less being granted, a loan by OCBC.

The PDIC conducted an investigation and allegedly came out with a finding that the loans purportedly in the names of Timmy's, Inc. and Asia Textile Mills, Inc. were released in the form of manager's checks in the name of Philippine Recycler's and Zeta International, Inc. These manager's checks were then allegedly deposited to the savings account of the private respondent Jose C. Go with OCBC and, thereafter, were automatically transferred to his current account in order to fund personal checks issued by him earlier.

On September 24, 1999, PDIC filed a complaint^[4] for two (2) counts of Estafa thru Falsification of Commercial Documents in the Office of the City Prosecutor of the City of Manila against the private respondents in relation to the purported loans of Timmy's, Inc. and Asia Textile Mills, Inc.

On November 22, 2000, after finding probable cause, the Office of the City Prosecutor of the City of Manila filed Informations^[5] against the private respondents which were docketed as Criminal Case Nos. 00-187318 and 00-187319 in the RTC in Manila.

Upon being subjected to arraignment by the RTC in Manila, the private respondents pleaded not guilty to the criminal cases filed against them. A pre-trial was conducted. Thereafter, trial of the cases ensued and the prosecution presented its evidence. After the presentation of all of the prosecution's evidence, the private respondents filed a Motion for Leave to File Demurrer to Evidence and a Motion for Voluntary Inhibition. The presiding judge granted the private respondents' Motion for Voluntary Inhibition and ordered the case to be re-raffled to another branch. The case was subsequently re-raffled to the branch of the respondent RTC judge.^[6]

In an Order dated December 19, 2006, the respondent RTC judge granted the private respondents' Motion for Leave to File Demurrer to Evidence. On January 17, 2007, the private respondents filed their Demurrer to Evidence^[7] praying for the dismissal of the criminal cases instituted against them due to the failure of the prosecution to establish their guilt beyond reasonable doubt.

On July 2, 2007, an Order^[8] was promulgated by the respondent RTC judge finding the private respondents' Demurrer to Evidence to be meritorious, dismissing the Criminal Case Nos. 00-187318 and 00-187319 and acquitting all of the accused in these cases. On July 20, 2007, the private prosecutor in Criminal Case Nos. 00-187318 and 00-187319 moved for a reconsideration of the July 2, 2007 Order but the same was denied by the respondent RTC judge in an Order^[9] dated October 19, 2007.^[10]

Surprisingly, and considering that hundreds of millions of Orient Commercial Banking Corporation (OCBC) depositors' money appear to have been lost – which must have contributed to the bank's being placed under receivership, no motion for reconsideration of the July 2, 2007 Order granting respondents' demurrer to evidence was filed by the handling public prosecutor, Manila Prosecutor Marlo B. Campanilla (Campanilla). Only complainant Philippine Deposit Insurance Corporation (PDIC) filed a Motion for Reconsideration, and the same lacked Campanilla's approval and/or conformé; the copy of the Motion for Reconsideration filed with the RTC^[11] does not bear Campanilla's approval/conformé; instead, it indicates that he was merely furnished with a copy of the motion by registered mail. ^[12] Thus, while the prosecution's copy of PDIC's Motion for Reconsideration^[13] bore Campanilla's subsequent approval and conformity, that which was actually filed by PDIC with the RTC on July 30, 2007 did not contain the public prosecutor's written approval and/or conformity.

Ruling of the Court of Appeals

On January 4, 2008, the prosecution, through the Office of the Solicitor General (OSG), filed an original Petition for *Certiorari*^[14] with the CA assailing the July 2, 2007 Order of the trial court. It claimed that the Order was issued with grave abuse of discretion amounting to lack or excess of jurisdiction; that it was issued with partiality; that the prosecution was deprived of its day in court; and that the trial court disregarded the evidence presented, which undoubtedly showed that respondents committed the crime of estafa through falsification of commercial documents.

On September 30, 2009, the CA issued the assailed Decision with the following decretal portion:

WHEREFORE, in view of the foregoing premises, the petition filed in this case is hereby DENIED and the assailed Orders of the respondent RTC judge are AFFIRMED and deemed final and executory.

SO ORDERED.^[15]

Notably, in dismissing the Petition, the appellate court held that the assailed July 2, 2007 Order of the trial court became final since the prosecution failed to move for the reconsideration thereof, and thus double jeopardy attached. The CA declared thus –

More important than the fact that double jeopardy already attaches is the fact that the July 2, 2007 Order of the trial court has already attained finality. This Order was received by the Office of the City Prosecutor of Manila on July 3, 2007 and by the Private Prosecutor on July 5, 2007. While the Private Prosecutor filed a Motion for Reconsideration of the said Order, the Public Prosecutor did not seek for the reconsideration thereof. It is the Public Prosecutor who has the authority to file a Motion for Reconsideration of the said order and the Solicitor General who can file a

petition for certiorari with respect to the criminal aspect of the cases. The failure of the Public Prosecutor to file a Motion for Reconsideration on or before July 18, 2007 and the failure of the Solicitor General to file a Petition for Certiorari on or before September 1, 2007 made the order of the trial court final.

As pointed out by the respondents, the Supreme Court ruled categorically on this matter in the case of *Mobilia Products, Inc. vs. Umezawa* (452 SCRA 736), as follows:

"In a criminal case in which the offended party is the State, the interest of the private complainant or the offended party is limited to the civil liability arising therefrom. Hence, if a criminal case is dismissed by the trial court or if there is an acquittal, a reconsideration of the order of dismissal or acquittal may be undertaken, whenever legally feasible, insofar as the criminal aspect thereof is concerned and may be made only by the public prosecutor; or in the case of an appeal, by the State only, through the OSG. The private complainant or offended party may not undertake such motion for reconsideration or appeal on the criminal aspect of the case. However, the offended party or private complainant may file a motion for reconsideration of such dismissal or acquittal or appeal therefrom but only insofar as the civil aspect thereof is concerned. In so doing, the private complainant or offended party need not secure the conformity of the public prosecutor. If the court denies his motion for reconsideration, the private complainant or offended party may appeal or file a petition for *certiorari* or *mandamus*, if grave abuse amounting to excess or lack of jurisdiction is shown and the aggrieved party has no right of appeal or given an adequate remedy in the ordinary course of law."^[16]

In addition, the CA ruled that the prosecution failed to demonstrate that the trial court committed grave abuse of discretion in granting the demurrer, or that it was denied its day in court; that on the contrary, the prosecution was afforded every opportunity to present its evidence, yet it failed to prove that respondents committed the crime charged.

The CA further held that the prosecution failed to present a witness who could testify, based on personal knowledge, that the loan documents were falsified by the respondents; that the prosecution should not have relied on "letters and unverified ledgers," and it "should have trailed the money from the beginning to the end;"^[17] that while the documentary evidence showed that the signatures in the loan documents were falsified, it has not been shown who falsified them. It added that since only two of the alleged 13 manager's checks were being questioned, there arose reasonable doubt as to whether estafa was committed, as to these two checks; instead, there is an "inescapable possibility that an honest mistake was made in the preparation of the two questioned manager's checks since these checks were made out to the names of different payees and not in the names of the alleged

applicants of the loans.”^[18] The appellate court added –

x x x Finally, the petitioner failed to present evidence on where the money went after they were deposited to the checking account of the private respondent Jose C. Go. There is only a vague reference that the money was used to fund the personal checks earlier issued by x x x Go. The petitioner should have gone further and identified who were the recipients of these personal checks and if these personal checks were negotiated and honored. With all the resources of the public prosecutor’s office, the petitioner should have done a better job of prosecuting the cases filed against the private respondents. It is a shame that all the efforts of the government will go for naught due to the negligence of the public prosecutors in tying up the chain of evidence in a criminal case.
^[19]

As a final point, the CA held that if errors were made in the appreciation of evidence, these are mere errors of judgment – and not errors of jurisdiction – which may no longer be reviewed lest respondents be placed in double jeopardy.

The OSG moved for reconsideration, but in the assailed January 22, 2010 Resolution, the CA stood its ground. Hence, the instant Petition was instituted.

Issues

In the Petition, it is alleged that –

THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT RULED THAT –

(a) NO GRAVE ABUSE OF DISCRETION WAS COMMITTED BY RESPONDENT RTC JUDGE IN GRANTING THE DEMURRER TO EVIDENCE;

(b) THE ORDER OF ACQUITTAL HAS ALREADY ATTAINED FINALITY WHEN IT WAS NOT CHALLENGED IN A TIMELY AND APPROPRIATE MANNER; AND

(c) THE LOWER COURT MERELY COMMITTED ERRORS OF JUDGMENT AND NOT OF JURISDICTION.^[20]

Petitioner’s Arguments

Petitioner argues that the public prosecutor actually filed a Motion for Reconsideration of the assailed July 2, 2007 Order of the trial court granting respondents’ demurrer – that is, by “joining” the private prosecutor PDIC in the latter’s July 20, 2007 Motion for Reconsideration. Nonetheless, it admitted that while it joined PDIC in the latter’s July 20, 2007 Motion for Reconsideration, it had only until July 18, 2007 within which to seek reconsideration since it received the order on July 3, 2007, while the private prosecutor received a copy of the Order only on July 5, 2007; it pleads that the two-day delay in filing the motion should not