

SECOND DIVISION

[G.R. No. 184536, August 14, 2013]

**MASAYUKI HASEGAWA, PETITIONER, VS. LEILA F. GIRON,
RESPONDENT.**

D E C I S I O N

PEREZ, J.:

This petition for review on *certiorari* seeks to nullify the Decision^[1] dated 30 June 2008 and Resolution^[2] dated 18 September 2008 of the Court of Appeals in CA-G.R. SP No. 100091. The appellate court reversed and set aside the Resolutions of the Department of Justice (DOJ), which dismissed respondent Leila F. Giron's complaint for kidnapping and serious illegal detention against petitioner Masayuki Hasegawa.

On 16 September 2006, respondent filed a Complaint-Affidavit for Kidnapping and Serious Illegal Detention against petitioner and several John Does. Respondent alleged that sometime on December 2005, she and her officemate, Leonarda Marcos (Marcos) filed a complaint against their employer Pacific Consultants International, J.F. Cancio & Associates, Jaime F. Cancio, Tesa Tagalo and petitioner for illegal salary deductions, non-payment of 13th month pay, and non-remittance of SSS contributions. Respondent averred that since the filing of said complaint, they have been subjected to threats and verbal abuse by petitioner to pressure them to withdraw the complaint. Respondent had also filed separate complaints for grave threats, grave coercion, slander and unjust vexation against petitioner. Said cases are pending before the Metropolitan Trial Court (MeTC) of Pasay City.

Respondent recalled that on 17 July 2006, she received a call from an alleged messenger of her counsel who requested for a meeting at Harrison Plaza Mall in Manila. She asked Marcos to accompany her. While respondent and Marcos were on their way to Harrison Plaza Mall, they noticed a black Pajero car parked in front of the Package B Building inside the Light Rail Transit Authority (LRTA) compound, the place where both of them work. When they reached the mall, they went inside the SM Department Store to buy a few things. They then noticed two men following them. Respondent immediately called a close friend and reported the incident. Thereafter, respondent and Marcos went out of the department store and stood near the food stalls to make another phone call. Respondent suddenly felt a man's gun being pushed against the right side of her body. She panicked and her mind went blank. Respondent and Marcos were taken at gunpoint and pushed inside a black Pajero.^[3]

While inside the vehicle, they were blindfolded and gagged. They were taunted and repeatedly threatened by their abductors into withdrawing the case against petitioner. When her blindfold was loosened, respondent was able to take a good look at her surroundings. She noticed that the car was parked in a warehouse with concrete walls and high roof. She also saw four vehicles parked outside. She finally

saw three men wearing bonnets over their faces: the first one, seated beside her; the second one, seated in front; and the third one, was standing near the parked vehicles.^[4]

Before respondent and Marcos were released, they were once again threatened by a man who said: "*pag tinuloy nyo pa kaso kay Hasegawa, may paglalagyan na kayo, walang magsusumbong sa pulis, pag nalaman namin na lumapit kayo, babalikan namin kayo.*" They were released at around 11:00 p.m. on 18 July 2006 and dropped off in Susana Heights in Muntinlupa.^[5]

In a separate Affidavit, Marcos corroborated respondent's account of the alleged kidnapping. Marcos added that while she was in captivity, her blindfold was loosened and she was able to see petitioner inside one of the vehicles parked nearby, talking to one of their abductors, whom she noticed to be wearing bonnets.^[6]

Petitioner, in his Counter-Affidavit, denied the accusation of kidnapping and serious illegal detention against him. Petitioner categorically stated that he had nothing to do with the kidnapping; that he was neither the "brains" nor a "participant" in the alleged crimes; that he did not know the alleged kidnappers; and, that he was not present inside one of the vehicles talking with one of the abductors at the place alleged by Marcos.^[7]

Petitioner also pointed out several supposed inconsistencies and improbabilities in the complaint, such as:

1. Respondent and Marcos claim that petitioner has continuously warned them about withdrawing the complaint since its filing on December 2005 but petitioner only came to know about the complaint on 8 May 2006;
2. After being set free by their alleged abductors, respondent and Marcos did not immediately report the matter to the police either in Manila or Muntinlupa;
3. It is strange that respondent and Marcos did not know who their lawyer's messenger is and did not find it unusual that their lawyer would call for a meeting in Harrison Plaza Mall instead of at his office;
4. Petitioner wondered how respondent and Marcos could remember and distinguish the alleged black Pajero used by their captors to be the same black Pajero they saw in the parking lot of LRTA Package B Building;
5. It is incredible that the two alleged abductors were able to enter SM Department Store with guns in their possession;
6. It is an act contrary to human nature that upon noticing two men following them, respondent and Marcos went outside the department store to make a phone call, instead of staying inside the department store;
7. Marcos never mentioned that respondent's mobile phone was ringing while they were inside the vehicle;

8. The alleged statements made by the kidnappers demanding withdrawal of complaint against petitioner are hearsay;
9. It is unimaginable that petitioner was supposedly allowed to text and Marcos was allowed to call someone on her mobile phone;
10. It was very convenient for Marcos to mention that she saw petitioner inside one of the vehicles talking to one of the abductors. If indeed petitioner is involved in the kidnapping, he would never allow his identity to be exposed;
11. Respondent and Marcos did not report to the Philippine National Police what had happened to them. Only respondent wrote a letter to the National Bureau of Investigation (NBI), two weeks later, detailing her ordeal. And only respondent filed the instant case two months later; and
12. Respondent and Marcos continued to work after their alleged kidnapping.^[8]

Petitioner asserted that respondent and Marcos are extorting money from him because the instant case was filed right after the negotiations to settle the civil aspect of the three cases they filed with the Bureau of Immigration and Deportation (BID), National Labor Relations Commission (NLRC) and MeTC Pasay failed.^[9]

Petitioner's personal driver, Edamar Valentino, corroborated petitioner's statement that on 17 and 18 July 2006, he drove petitioner at 7:30 a.m. and brought him home after work as was his usual schedule.^[10]

In a Resolution^[11] dated 5 January 2007, Senior State Prosecutor Emilie Fe M. De Los Santos dismissed the complaint for lack of probable cause.

Respondent filed an appeal from the Resolution of the prosecutor dismissing her complaint. In her Petition for Review before the DOJ, respondent claimed that the Investigating Prosecutor gravely erred when she recommended the dismissal of the case against petitioner despite overwhelming evidence showing the existence of probable cause. She thus prayed for the reversal of the Resolution of the Investigating Prosecutor.

Finding no basis to overturn the findings of the Investigating Prosecutor, then Secretary of Justice Raul M. Gonzales dismissed the petition on 11 April 2007.

Respondent's motion for reconsideration having been denied by the DOJ, she filed a petition for *certiorari* before the Court of Appeals. On 30 June 2008, the Court of Appeals granted the petition, reversed and set aside the Resolutions of the DOJ and ordered the filing of an Information for Kidnapping and Serious Illegal Detention against petitioner. The Court of Appeals found that "the Secretary [of Justice] arrogated upon himself the functions of the judge by demanding more than a sampling, but for pieces of evidence that were understandably not there yet, being suited to a trial proper."^[12] The appellate court went on to state that the prosecutor usurped the duties belonging to the court when she "overstretched her duties and applied the standards, not of ordinary prudence and cautiousness, nor of mere 'reasonable belief' and probability, but of a full-blown trial on the merits, where rules on admissibility of testimonies and other evidence strictly apply."^[13]

The motion for reconsideration of the petitioner was denied by the Court of Appeals in its Resolution^[14] dated 18 September 2008. Hence, the instant petition attributing the following errors to the Court of Appeals, to wit:

I.

THE COURT OF APPEALS COMMITTED GRIEVOUS ERROR IN REVERSING THE FINDING OF THE SECRETARY OF JUSTICE THAT NO PROBABLE CAUSE EXISTS IN THE INSTANT CASE.

II.

THE COURT OF APPEALS COMMITTED GRIEVOUS ERROR IN GRANTING RESPONDENT'S PETITION FOR *CERTIORARI* DESPITE RAISING QUESTIONS OF FACT AND BEING UNMERITORIOUS.

III.

THE COURT OF APPEALS COMMITTED GRIEVOUS ERROR IN RULING THAT RESPONDENT'S PETITION FOR *CERTIORARI* IS THE PROPER MODE OF APPEAL FROM JUDGMENTS OF THE SECRETARY OF JUSTICE.^[15]

Petitioner insists that there was no showing that the Secretary of Justice acted with grave abuse of discretion in ruling that no probable cause exists to indict him for the crimes charged. Petitioner asserts that the Secretary of Justice clearly and sufficiently explained the reasons why no probable cause exists in this case. Petitioner faults the appellate court for also having done what it has charged the Secretary of Justice of doing, *i.e.*, deliberating point by point the issues and arguments raised by the parties in its Decision. Petitioner also faults the appellate court for overlooking the fact that the kidnapping and serious illegal detention charges are but the fourth in a series of successive cases filed by respondent against petitioner, all of which were dismissed by the BID, NLRC and MeTC of Pasay City. Petitioner argues that a review of facts and evidence made by the appellate court is not the province of the extraordinary remedy of *certiorari*. Finally, petitioner contends that the appellate court should have dismissed outright respondent's petition for certiorari for failure to exhaust administrative remedies and for being the wrong mode of appeal.

We had initially denied this petition, but upon motion for reconsideration of the petitioner, we decided to reconsider said denial and to give it due course.^[16]

Directed to file her Comment, respondent counters that in preliminary investigation cases, such as that done in this case, there is, as yet no occasion for the parties to display their full and exhaustive evidence, as a mere finding that the kidnapping might have been committed by petitioner is already sufficient.

The elementary rule is that the Court of Appeals has jurisdiction to review the resolution issued by the DOJ through a petition for *certiorari* under Rule 65 of the Rules of Court on the ground that the Secretary of Justice committed grave abuse of his discretion amounting to excess or lack of jurisdiction.^[17]