

## FIRST DIVISION

[ G.R. No. 181658, August 07, 2013 ]

**LEE PUE LIONG A.K.A. PAUL LEE, PETITIONER, VS. CHUA PUE CHIN LEE, RESPONDENT.**

### DECISION

**VILLARAMA, JR., J.:**

Before this Court is a petition<sup>[1]</sup> for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, seeking the reversal of the May 31, 2007 Decision<sup>[2]</sup> and the January 31, 2008 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 81510. The CA affirmed the Orders<sup>[4]</sup> dated August 15, 2003 and November 5, 2003 of the Metropolitan Trial Court (MeTC) of Manila denying (a) the Omnibus Motion<sup>[5]</sup> for the exclusion of a private prosecutor in the two criminal cases for perjury pending before the MeTC, and (b) the Motion for Reconsideration<sup>[6]</sup> of the said order denying the Omnibus Motion, respectively.

The facts follow:

Petitioner Lee Pue Liong, a.k.a. Paul Lee, is the President of Centillion Holdings, Inc. (CHI), a company affiliated with the CKC Group of Companies (CKC Group) which includes the pioneer company Clothman Knitting Corporation (CKC). The CKC Group is the subject of intra-corporate disputes between petitioner and his siblings, including herein respondent Chua Pue Chin Lee, a majority stockholder and Treasurer of CHI.

On July 19, 1999, petitioner's siblings including respondent and some unidentified persons took over and barricaded themselves inside the premises of a factory owned by CKC. Petitioner and other factory employees were unable to enter the factory premises. This incident led to the filing of Criminal Case Nos. 971-V-99, 55503 to 55505 against Nixon Lee and 972-V-99 against Nixon Lee, Andy Lee, Chua Kipsi a.k.a. Jensen Chua and respondent, which are now pending in different courts in Valenzuela City.<sup>[7]</sup>

On June 14, 1999, petitioner on behalf of CHI (as per the Secretary's Certificate<sup>[8]</sup> issued by Virginia Lee on even date) caused the filing of a verified Petition<sup>[9]</sup> for the Issuance of an Owner's Duplicate Copy of Transfer Certificate of Title (TCT) No. 232238<sup>[10]</sup> which covers a property owned by CHI. The case was docketed as LRC Record No. 4004 of the Regional Trial Court (RTC) of Manila, Branch 4. Petitioner submitted before the said court an Affidavit of Loss<sup>[11]</sup> stating that: (1) by virtue of his position as President of CHI, he had in his custody and possession the owner's duplicate copy of TCT No. 232238 issued by the Register of Deeds for Manila; (2) that said owner's copy of TCT No. 232238 was inadvertently lost or misplaced from

his files and he discovered such loss in May 1999; (3) he exerted diligent efforts in locating the said title but it had not been found and is already beyond recovery; and (4) said title had not been the subject of mortgage or used as collateral for the payment of any obligation with any person, credit or banking institution. Petitioner likewise testified in support of the foregoing averments during an ex-parte proceeding. In its Order<sup>[12]</sup> dated September 17, 1999, the RTC granted the petition and directed the Register of Deeds of Manila to issue a new Owner's Duplicate Copy of TCT No. 232238 in lieu of the lost one.

Respondent, joined by her brother Nixon Lee, filed an Omnibus Motion praying, among others, that the September 17, 1999 Order be set aside claiming that petitioner knew fully well that respondent was in possession of the said Owner's Duplicate Copy, the latter being the Corporate Treasurer and custodian of vital documents of CHI. Respondent added that petitioner merely needs to have another copy of the title because he planned to mortgage the same with the Planters Development Bank. Respondent even produced the Owner's Duplicate Copy of TCT No. 232238 in open court. Thus, on November 12, 1999, the RTC recalled and set aside its September 17, 1999 Order.<sup>[13]</sup>

In a Complaint-Affidavit<sup>[14]</sup> dated May 9, 2000 filed before the City Prosecutor of Manila, respondent alleged the following:

1. I am a stockholder, Board Member, and duly elected treasurer of Centillion Holdings, Inc. (CHI), which corporation is duly organized and existing under Philippine laws.

2. As duly elected treasurer of CHI, I was tasked with the custody and safekeeping of all vital financial documents including bank accounts, securities, and land titles.

3. Among the land titles in my custody was the Owner's Duplicate copy of Transfer Certificate of Title No. 232238 registered in the name of CHI.

4. On June 14, 1999, Lee Pue Liong, a.k.a. Paul Lee, filed a VERIFIED PETITION for the issuance of a new owner's duplicate copy of the aforementioned certificate claiming under oath that said duplicate copy was in his custody but was lost.

x x x x

5. Paul Lee likewise executed an affidavit of loss stating the same fact of loss, which affidavit he used and presented as exhibit "D".

x x x x

6. On August 18, 1999, Paul Lee testified under oath that TCT No. 232238 was inadvertently lost and misplaced from his files.

x x x x

7. *Paul Lee made a willful and deliberate assertion of falsehood in his*

*verified petition, affidavit and testimony, as he perfectly knew that I was in possession of the owner's duplicate copy of TCT No. 232238.*

8. I and my brother Nixon Lee opposed the petition of Paul Lee and even produced in open court the owner's duplicate copy of TCT No. 232238.

Such fact was contained in the Order of Branch 4, RTC, Manila, dated November 12, 1999, x x x.

9. I and Paul Lee are involved in an intra-corporate dispute, which dispute is now pending with the SEC.

10. Paul Lee needed to have a new owner's duplicate of the aforementioned TCT so that he could mortgage the property covered thereby with the Planters Development Bank, even without my knowledge and consent as well as the consent and knowledge of my brother Nixon Lee who is likewise a shareholder, board member and officer of CHI.

11. If not for the timely discovery of the petition of Paul Lee, with his perjurious misrepresentation, a new owner's duplicate could have been issued.

x x x x<sup>[15]</sup> (Italics supplied.)

On June 7, 2000, respondent executed a Supplemental Affidavit<sup>[16]</sup> to clarify that she was accusing petitioner of perjury allegedly committed on the following occasions: (1) by declaring in the VERIFICATION the veracity of the contents in his petition filed with the RTC of Manila concerning his claim that TCT No. 232238 was in his possession but was lost; (2) by declaring under oath in his affidavit of loss that said TCT was lost; and (3) by testifying under oath that the said TCT was inadvertently lost from his files.

The Investigating Prosecutor recommended the dismissal of the case. However, in the Review Resolution<sup>[17]</sup> dated December 1, 2000 issued by First Assistant City Prosecutor Eufrosino A. Sulla, the recommendation to dismiss the case was set aside. Thereafter, said City Prosecutor filed the Informations<sup>[18]</sup> docketed as Criminal Case Nos. 352270-71 CR for perjury, punishable under Article 183<sup>[19]</sup> of the Revised Penal Code, as amended, against petitioner before the MeTC of Manila, Branch 28.

At the trial, Atty. Augusto M. Macam appeared as counsel for respondent and as private prosecutor with the consent and under the control and supervision of the public prosecutor. After the prosecution's presentation of its first witness in the person of Atty. Ronaldo Viesca, Jr.,<sup>[20]</sup> a lawyer from the Land Registration Authority, petitioner's counsel moved in open court that respondent and her lawyer in this case should be excluded from participating in the case since perjury is a public offense. Said motion was vehemently opposed by Atty. Macam.<sup>[21]</sup> In its Order<sup>[22]</sup> dated May 7, 2003, the MeTC gave both the defense and the prosecution the opportunity to submit their motion and comment respectively as regards the

issue raised by petitioner's counsel.

Complying with the MeTC's directive, petitioner filed the aforementioned Omnibus Motion<sup>[23]</sup> asserting that in the crime of perjury punishable under Article 183 of the Revised Penal Code, as amended, there is no mention of any private offended party. As such, a private prosecutor cannot intervene for the prosecution in this case. Petitioner argued that perjury is a crime against public interest as provided under Section 2, Chapter 2, Title IV, Book 2 of the Revised Penal Code, as amended, where the offended party is the State alone. Petitioner posited that there being no allegation of damage to private interests, a private prosecutor is not needed. On the other hand, the Prosecution filed its Opposition<sup>[24]</sup> to petitioner's Omnibus Motion.

The MeTC denied the Omnibus Motion in the Order<sup>[25]</sup> dated August 15, 2003, as follows:

[W]hile criminal actions, as a rule, are prosecuted under the direction and control of the public prosecutor, however, an offended party may intervene in the proceeding, personally or by attorney, especially in cases of offenses which cannot be prosecuted except at the instance of the offended party. The only exception to this rule is when the offended party waives his right to [file the] civil action or expressly reserves his right to institute it after the termination of the case, in which case he loses his right to intervene upon the theory that he is deemed to have lost his interest in its prosecution. And, in any event, whenever an offended party intervenes in the prosecution of a criminal action, his intervention must always be subject to the direction and control of the public prosecutor. (*Lim Tek Goan vs. Yatco*, 94 Phil. 197).

Apparently, the law makes no distinction between cases that are public in nature and those that can only be prosecuted at the instance of the offended party. In either case, the law gives to the offended party the right to intervene, personally or by counsel, and he is deprived of such right only when he waives the civil action or reserves his right to institute one. Such is not the situation in this case. The case at bar involves a public crime and the private prosecution has asserted its right to intervene in the proceedings, subject to the direction and control of the public prosecutor.<sup>[26]</sup>

The MeTC also denied petitioner's motion for reconsideration.<sup>[27]</sup>

Petitioner sought relief from the CA via a petition<sup>[28]</sup> for certiorari with a prayer for the issuance of a writ of preliminary injunction and temporary restraining order. Petitioner prayed, among others, for the CA to enjoin the MeTC and respondent from enforcing the MeTC Orders dated August 15, 2003 and November 5, 2003, and likewise to enjoin the MeTC and respondent from further allowing the private prosecutor to participate in the proceedings below while the instant case is pending.

By Decision<sup>[29]</sup> dated May 31, 2007, the CA ruled in favor of respondent, holding that the presence of the private prosecutor who was under the control and supervision of the public prosecutor during the criminal proceedings of the two perjury cases is not proscribed by the rules. The CA ratiocinated that respondent is

no stranger to the perjury cases as she is the private complainant therein, hence, an aggrieved party.<sup>[30]</sup> Reiterating the MeTC's invocation of our ruling in *Lim Tek Goan v. Yatco*<sup>[31]</sup> as cited by former Supreme Court Associate Justice Florenz D. Regalado in his Remedial Law Compendium,<sup>[32]</sup> the CA ruled that "the offended party, who has neither reserved, waived, nor instituted the civil action may intervene, and such right to intervene exists even when no civil liability is involved."<sup>[33]</sup>

Without passing upon the merits of the perjury cases, the CA declared that respondent's property rights and interests as the treasurer and a stockholder of CHI were disturbed and/or threatened by the alleged acts of petitioner. Further, the CA opined that petitioner's right to a fair trial is not violated because the presence of the private prosecutor in these cases does not exclude the presence of the public prosecutor who remains to have the prosecuting authority, subjecting the private prosecutor to his control and supervision.

Petitioner filed a Motion for Reconsideration<sup>[34]</sup> but the CA denied it under Resolution<sup>[35]</sup> dated January 31, 2008.

Hence, this petition raising the following issues:

## I

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED A GRAVE ERROR WHEN IT UPHELD THE RESOLUTION OF THE METROPOLITAN TRIAL COURT THAT THERE IS A PRIVATE OFFENDED PARTY IN THE CRIME OF PERJURY, A CRIME AGAINST PUBLIC INTEREST; AND

## II

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED WHEN IT UPHELD THE RESOLUTIONS OF THE *LOWER COURT* WHICH IN TURN UPHELD THE RIGHT OF RESPONDENT, AN ALLEGED STOCKHOLDER OF CHI, TO INTERVENE IN THE CRIMINAL CASE FOR PERJURY AS PRIVATE COMPLAINANT ON BEHALF OF THE CORPORATION WITHOUT ITS AUTHORITY.<sup>[36]</sup>

Petitioner claims that the crime of perjury, a crime against public interest, does not offend any private party but is a crime which only offends the public interest in the fair and orderly administration of laws. He opines that perjury is a felony where no civil liability arises on the part of the offender because there are no damages to be compensated and that there is no private person injured by the crime.

Petitioner argues that the CA's invocation of our pronouncement in *Lim Tek Goan*, cited by Justice Regalado in his book, is inaccurate since the private offended party must have a civil interest in the criminal case in order to intervene through a private prosecutor. Dissecting *Lim Tek Goan*, petitioner points out that said case involved the crime of grave threats where Lim Tek Goan himself was one of the offended parties. Thus, even if the crime of grave threats did not have any civil liability to be satisfied, petitioner claims that Lim Tek Goan, as a matter of right, may still intervene because he was one of the offended parties.