

## EN BANC

[ G.R. No. 192565, February 28, 2012 ]

**UNION BANK OF THE, PHILIPPINES AND DESI TOMAS,  
PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**BRION, J.:**

We review in this Rule 45 petition, the decision<sup>[1]</sup> of the Regional Trial Court, Branch 65, Makati City (*RTC-Makati City*) in Civil Case No. 09-1038. The petition seeks to reverse and set aside the RTC-Makati City decision dismissing the petition for *certiorari* of petitioners Union Bank of the Philippines (*Union Bank*) and Desi Tomas (collectively, *the petitioners*). The RTC found that the Metropolitan Trial Court, Branch 63, Makati City (MeTC-Makati City) did not commit any grave abuse of discretion in denying the motion to quash the information for perjury filed by Tomas.

#### *The Antecedents*

Tomas was charged in court for perjury under Article 183 of the Revised Penal Code (RPC) for making a false narration in a Certificate against Forum Shopping. The Information against her reads:

That on or about the 13<sup>th</sup> day of March 2000 in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously make untruthful statements under oath upon a material matter before a competent person authorized to administer oath which the law requires to wit: said accused stated in the Verification/Certification/Affidavit of merit of a complaint for sum of money with prayer for a *writ* of replevin docketed as [Civil] Case No. 342-00 of the Metropolitan Trial Court[,], Pasay City, that the Union Bank of the Philippines has not commenced any other action or proceeding involving the same issues in another tribunal or agency, accused knowing well that said material statement was false thereby making a willful and deliberate assertion of falsehood.<sup>[2]</sup>

The accusation stemmed from petitioner Union Bank's two (2) complaints for sum of money with prayer for a *writ* of replevin against the spouses Eddie and Eliza Tamondong and a John Doe. The **first complaint**, docketed as Civil Case No. 98-0717, was filed before the RTC, Branch 109, Pasay City on April 13, 1998. The **second complaint**, docketed as Civil Case No. 342-000, was filed on March 15, 2000 and raffled to the MeTC, Branch 47, Pasay City. Both complaints showed that Tomas executed and signed the Certification against Forum Shopping. Accordingly,

she was charged of deliberately violating Article 183 of the RPC by falsely declaring under oath in the Certificate against Forum Shopping in the second complaint that she did not commence any other action or proceeding involving the same issue in another tribunal or agency.

Tomas filed a Motion to Quash,<sup>[3]</sup> citing two grounds. *First*, she argued that the venue was improperly laid since it is the Pasay City court (where the Certificate against Forum Shopping was submitted and used) and not the MeTC-Makati City (where the Certificate against Forum Shopping was subscribed) that has jurisdiction over the perjury case. Second, she argued that the facts charged do not constitute an offense because: (a) the third element of perjury – the willful and deliberate assertion of falsehood – was not alleged with particularity without specifying what the other action or proceeding commenced involving the same issues in another tribunal or agency; (b) there was no other action or proceeding pending in another court when the second complaint was filed; and (c) she was charged with perjury by giving false testimony while the allegations in the Information make out perjury by making a false affidavit.

The MeTC-Makati City denied the Motion to Quash, ruling that it has jurisdiction over the case since the Certificate against Forum Shopping was notarized in Makati City.<sup>[4]</sup> The MeTC-Makati City also ruled that the allegations in the Information sufficiently charged Tomas with perjury.<sup>[5]</sup> The MeTC-Makati City subsequently denied Tomas' motion for reconsideration.<sup>[6]</sup>

The petitioners filed a petition for *certiorari* before the RTC-Makati City to annul and set aside the MeTC-Makati City orders on the ground of grave abuse of discretion. The petitioners anchored their petition on the rulings in *United States v. Canet*<sup>[7]</sup> and *Ilusorio v. Bildner*<sup>[8]</sup> which ruled that venue and jurisdiction should be in the place where the false document was presented.

### **The Assailed RTC Decision**

In dismissing the petition for *certiorari*, the RTC-Makati City held:

[I]nsofar as the petitioner's stance is concerned[,], the more recent case of [Sy Tiong Shiou v. Sy] (GR Nos. 174168 & 179438, March 30, 2009) however, reaffirms what has been the long standing view on the venue with respect to perjury cases. In this particular case[,], the high court reiterated the rule that the criminal action shall be instituted and tried in the court of the municipality or territory where the offense was committed, or where any of its essential ingredients occurred. It went on to declare that since the subject document[,], the execution of which was the subject of the charge[,], was subscribed and sworn to in Manila[,], then the court of the said territorial jurisdiction was the proper venue of the criminal action[.]

x x x x

x x x Given the present state of jurisprudence on the matter, it is not amiss to state that the city court of Makati City has jurisdiction to try and

decide the case for perjury inasmuch as the gist of the complaint itself which constitute[s] the charge against the petitioner dwells solely on the act of **subscribing to a false certification**. On the other hand, the charge against the accused in the case of *Ilusorio v. Bildner, et al.*, based on the complaint-affidavits therein[,] was not simply the execution of the questioned documents but rather the introduction of the false evidence through the subject documents before the court of Makati City.<sup>[9]</sup> (emphasis ours)

The RTC-Makati City ruled that the MeTC-Makati City did not commit grave abuse of discretion since the order denying the Motion to Quash was based on jurisprudence later than *Ilusorio*. The RTC-Makati City also observed that the facts in *Ilusorio* are different from the facts of the present case. Lastly, the RTC-Makati City ruled that the Rule 65 petition was improper since the petitioners can later appeal the decision in the principal case. The RTC-Makati City subsequently denied the petitioner's motion for reconsideration.<sup>[10]</sup>

### **The Petition**

The petitioners pray that we reverse the RTC-Makati City decision and quash the Information for perjury against Tomas. The petitioners contend that the *Ilusorio* ruling is more applicable to the present facts than our ruling in *Sy Tiong Shiou v. Sy Chim*.<sup>[11]</sup> They argued that the facts in *Ilusorio* showed that the filing of the petitions in court containing the false statements was the essential ingredient that consummated the perjury. In *Sy Tiong*, the perjurious statements were made in a General Information Sheet (GIS) that was submitted to the Securities and Exchange Commission (SEC).

Interestingly, Solicitor General Jose Anselmo I. Cadiz shared the petitioners' view. In his *Manifestation and Motion in lieu of Comment* (which we hereby treat as the Comment to the petition), the Solicitor General also relied on *Ilusorio* and opined that the *lis mota* in the crime of perjury is the deliberate or intentional giving of false evidence in the court where the evidence is material. The Solicitor General observed that the criminal intent to assert a falsehood under oath only became manifest before the MeTC-Pasay City.

### **The Issue**

The case presents to us the issue of what the proper venue of perjury under Article 183 of the RPC should be – Makati City, where the Certificate against Forum Shopping was notarized, or Pasay City, where the Certification was presented to the trial court.

### **The Court's Ruling**

**We deny the petition and hold that the MeTC-Makati City is the proper venue and the proper court to take cognizance of the perjury case against the petitioners.**

Venue of Action and Criminal Jurisdiction

Venue is an essential element of jurisdiction in criminal cases. It determines not only the place where the criminal action is to be instituted, but also the court that has the jurisdiction to try and hear the case. The reason for this rule is two-fold. **First**, the jurisdiction of trial courts is limited to well-defined territories such that a trial court can only hear and try cases involving crimes committed within its territorial jurisdiction.<sup>[12]</sup> **Second**, laying the venue in the *locus criminis* is grounded on the necessity and justice of having an accused on trial in the municipality of province where witnesses and other facilities for his defense are available.<sup>[13]</sup>

Unlike in civil cases, **a finding of improper venue in criminal cases carries jurisdictional consequences**. In determining the venue where the criminal action is to be instituted and the court which has jurisdiction over it, Section 15(a), Rule 110 of the 2000 Revised Rules of Criminal Procedure provides:

(a) Subject to existing laws, the criminal action shall be instituted and tried in the court or municipality or territory **where the offense was committed or where any of its essential ingredients occurred.**  
[emphasis ours]

The above provision should be read in light of Section 10, Rule 110 of the 2000 Revised Rules of Criminal Procedure which states:

*Place of commission of the offense.* – The complaint or information is sufficient if it can be understood from its allegations that the offense was committed or some of its essential ingredients occurred at some place within the jurisdiction of the court, unless the particular place where it was committed constitutes an essential element of the offense charged or is necessary for its identification.

Both provisions categorically place the venue and jurisdiction over criminal cases *not only in the court where the offense was committed, but also where any of its essential ingredients took place*. In other words, the venue of action and of jurisdiction are deemed sufficiently alleged where the Information states that the offense was committed or some of its essential ingredients occurred at a place within the territorial jurisdiction of the court.

#### Information Charging Perjury.

Section 5, Rule 7 of the 1997 Rules of Civil Procedure, as amended, contains the requirement for a Certificate against Forum Shopping. The Certificate against Forum Shopping can be made either by a statement under oath in the complaint or initiatory pleading asserting a claim or relief; it may also be in a sworn certification annexed to the complaint or initiatory pleading. In both instances, the affiant is required to execute a statement under oath before a duly commissioned notary public or any competent person authorized to administer oath that: (a) he or she has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his or her knowledge, no such other action or claim is pending therein; (b) if there is such

other pending action or claim, a complete statement of the present status thereof; and (c) if he or she should thereafter learn that the same or similar action or claim has been filed or is pending, he or she shall report that fact within five days therefrom to the court wherein his or her aforesaid complaint or initiatory pleading has been filed. In relation to the crime of perjury, the material matter in a Certificate against Forum Shopping is the truth of the required declarations which is designed to guard against litigants pursuing simultaneous remedies in different fora.

[14]

In this case, Tomas is charged with the crime of perjury under Article 183 of the RPC for making a false Certificate against Forum Shopping. The elements of perjury under Article 183 are:

(a) That the accused made a *statement under oath or executed an affidavit* upon a *material matter*.

(b) That the statement or affidavit was made *before a competent officer*, authorized to receive and administer oath.

(c) That in the statement or affidavit, the accused made a *willful and deliberate assertion of a falsehood*.

(d) That the sworn statement or affidavit containing the falsity is *required by law or made for a legal purpose*.<sup>[15]</sup> (emphasis ours)

Where the jurisdiction of the court is being assailed in a criminal case on the ground of improper venue, the allegations in the complaint and information must be examined together with Section 15(a), Rule 110 of the 2000 Revised Rules of Criminal Procedure. On this basis, we find that the allegations in the Information sufficiently support a finding that the crime of perjury was committed by Tomas within the territorial jurisdiction of the MeTC-Makati City.

The first element of the crime of perjury, the execution of the subject Certificate against Forum Shopping was alleged in the Information to have been committed in Makati City. Likewise, the second and fourth elements, requiring the Certificate against Forum Shopping to be under oath before a notary public, were also sufficiently alleged in the Information to have been made in Makati City:

That on or about the 13<sup>th</sup> day of March 2000 in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously make untruthful statements under oath upon a material matter before a competent person authorized to administer oath which the law requires to wit: said accused stated in the Verification/Certification/Affidavit x x x.<sup>[16]</sup>

We also find that the third element of willful and deliberate falsehood was also sufficiently alleged to have been committed in Makati City, not Pasay City, as