

THIRD DIVISION

[G.R. No. 192274, February 08, 2012]

**NORBERTO LEE, PETITIONER, VS. PEOPLE OF THE PHILIPPINES
AND ALLIED BANK, RESPONDENTS.**

DECISION

MENDOZA, J.:

Through this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Norberto Lee (*Lee*) assails the October 26, 2009 Decision^[1] of the Court of Appeals (*CA*), in CA-G.R. SP No. 106247, which dismissed his petition for certiorari under Rule 65 and affirmed the two (2) questioned interlocutory orders^[2] of the public respondent Regional Trial Court, Branch 143, Makati City (*RTC*), in Criminal Case Nos. 00-1809 to 00-1816.

In the questioned interlocutory orders, the RTC denied Lee's Motion for Document and Handwriting Examination by the National Bureau of Investigation (*NBI*) and his subsequent motion for the reconsideration of the denial.

The Facts

Lee was the New Account Service Representative of Manager's Check and Gift Check Processor at the Cash Department of Allied Banking Corporation (*Allied Bank*). The bank filed a complaint against him alleging that, on several occasions, he forged the signatures of responsible bank officers in several manager's checks causing damage and prejudice to it.

After the requisite preliminary investigation, he was charged with Estafa thru Falsification of Commercial Documents which were committed on separate dates involving separate instruments in eight (8) Informations.^[3] Except for the details, the Informations were uniformly worded as follows:

That on or about the 20th day of May 1999, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused [petitioner], being then the New Account Service Representative of Manager's Check and Gift Check Processor at Cash Department of complainant Allied Banking Corporation, herein represented by Ketty Uy and taking advantage of his position, by means of deceit and false pretenses and fraudulent acts, did then and there willfully, unlawfully and feloniously defraud said complainant in the following manner, to wit: the said accused forged and falsified the signatures of Ketty Uy, Tess Chiong, Manuel Fronda, the approving officers of complainant of the Man[a]ger's Check No. MC 0000473205 in the amount of ?200,500.00 dated May 20, 1999 payable to Noli

Baldonado which was issued by complainant-bank in favor of Filway Marketing, Inc., which is a commercial document, by then and there making it appear that the approving officers of complainant-bank had signed and approved the said Manager's Check when in truth and in fact said accused knew, that the approving officers had not participated or intervened in the signing of said manager's check, thereafter the accused encashed the said Manager's Check and represented himself as the payee thereto and received the amount of P200,500.00 from complainant-bank and then and there misappropriate, misapply and convert the same to his own personal use and benefit, to the damage and prejudice of complainant Allied Banking Corporation, herein represented by Ketty Uy in the aforesaid amount.

CONTRARY TO LAW.^[4]

On February 12, 2007, after the trial had started, Lee filed his Motion for Document and Handwriting Examination by the NBI.^[5] In his motion, he claimed, among others, that:

1. The record of the preliminary investigation of the Office of the City Prosecutor of Makati shows that Document Report No. 065-2000, dated 16 June 2000, prepared by the officials of the Crime Laboratory of the National Headquarters of the Philippine National Police at Camp Came, Quezon City, excluded and failed to examine the questioned and standard signatures of the accused in relation to the questioned and standard documents and signatures of the other signatories of the subject Allied Bank checks, application forms and related documents.

x x x x

6. The accused [petitioner] is suspicious of the credibility, neutrality and sincerity of the PNP Crime Laboratory examiners who had submitted the Report because they seemed to have been prevailed upon and influenced by the officers of the Bank to conduct the partial, biased and prejudiced examination without the participation of and said notice to the accused.

7. In the interest of justice and fair play, there is a need for the forensic laboratory of the National Bureau of Investigation (NBI) to conduct a new, confirmatory and independent document and handwriting signature examination of the questioned and standard documents and signatures of the concerned officers and staff of the Bank and the Filway Marketing Inc., on one hand, and of the accused, on the other, in a manner that is complete, comprehensive, fair, neutral, transparent and credible.^[6]

On August 22, 2007, the RTC, presided by Judge Tranquil P. Salvador, Jr., denied Lee's motion, stating that:

After due assessment of the assertions of the contending counsels, the Court is disinclined to grant instant motion. First, the trial of the case is already on-going and the accused has the option to utilize the concerned NBI intended witness during the presentation of defense evidence. And second, the Court is called upon to conduct its own evaluation of the questioned signature even with the opinion on the matter coming from an NBI expert. For this purpose, the Court may utilize, among others, the provisions of Sections 20 and 22, Rules of Court, on the rules in authentication of private documents [Rule 132].

"It is also hornbook doctrine that the opinions of handwriting experts, even those from the NBI and the PC, are not binding upon [the] courts.

Handwriting experts are usually helpful in the examination of forged Documents because of the technical procedure involved in analyzing them. But resort to these experts is not mandatory or indispensable to the examination or the comparison of handwriting (Heirs of Severa P. Gregorio vs. CA, 300 SCRA, December 1998) A finding of forgery does not depend entirely on the testimonies of handwriting experts, because the judge must conduct an independent examination on the questioned signature in order to arrive at a reasonable conclusion as to its authenticity. (Boado, 'Notes and Cases on the Revised Penal Code,' 2004 Ed., p. 428)."

Accordingly, defense motion for document and handwriting examination by the NBI is hereby DENIED.^[7]

Undaunted, Lee filed his Motion for Reconsideration^[8] on September 26, 2007, or two (2) days after the reglementary period of 15 days. For Lee's failure to comply with the rules, the RTC, through Presiding Judge Zenaida T. Galapate-Laguilles, denied his motion for reconsideration.

In his petition before the CA, Lee raised the sole issue of whether or not the two questioned interlocutory orders should be nullified for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction and in the interest of fair play, justice, due process, and equal protection of the law.

Without disputing the late filing of his motion for reconsideration, Lee sought the CA's liberal interpretation of the rules and the need to decide his case on the merits. He insisted that it was legally and physically impossible for him to secure an NBI witness without a compulsory judicial process or order.

In the assailed October 26, 2009 decision, the CA dismissed Lee's petition and affirmed the RTC orders. It stated that procedural rules are not stringently applied when an imperative exists and a grave injustice may be committed if applied otherwise. Since, however, no such imperative and grave injustice appeared in the case, the RTC clearly did not gravely abuse its discretion on this point.