

## SECOND DIVISION

**[ G.R. NO. 166888, January 31, 2007 ]**

**FIRST WOMEN'S CREDIT CORPORATION AND SHIG KATAYAMA,  
PETITIONERS, VS. HON. ROMMEL O. BAYBAY, IN HIS CAPACITY  
AS THE ACTING PRESIDING JUDGE OF BRANCH 65,  
METROPOLITAN TRIAL COURT, MAKATI CITY [SIC]\*, RAMON P.  
JACINTO, JAIME C. COLAYCO, ANTONIO P. TAYAO AND  
GLICERIO PEREZ, RESPONDENTS.**

### DECISION

**CARPIO MORALES, J.:**

Assailed via Petition for Review on Certiorari are the September 28, 2004 Decision<sup>[1]</sup> and January 25, 2005 Order<sup>[2]</sup> of the Regional Trial Court (RTC) of Makati, Branch 59 affirming the July 22, 2002 Order<sup>[3]</sup> of the Metropolitan Trial Court (MeTC) of Makati, Branch 65 granting the "Motion to Withdraw Informations and to Dismiss the [Criminal] Cases" filed against respondents Ramon P. Jacinto (Jacinto), Jaime C. Colayco (Colayco), Antonio P. Tayao (Tayao) and Glicerio Perez (Perez) for falsification of private document and grave coercion.

First Women's Credit Corp. (the corporation), represented by stockholder and director Shig Katayama (Katayama), filed on November 12, 1997 a petition before the Securities and Exchange Commission (SEC) against the corporation's officers Jacinto, Colayco, Concepcion T. Sangil (Sangil) and Asuncion Cruz (Cruz), for alleged mismanagement of the corporation. The case was docketed as SEC No. 11-97-5816.<sup>[4]</sup>

The SEC, in SEC Case No. 11-97-5816, created an Interim Management Committee (IMC) for the corporation by Order of November 17, 1999. The Order was upheld by the SEC en banc on July 4, 2000.

The IMC thereupon issued directives to the corporation's president Antonio Tayao (Tayao) and corporate secretary and treasurer Glicerio Perez (Perez) toward the preservation of assets and records of the corporation.<sup>[5]</sup>

Allegedly in conspiracy with Jacinto and Colayco, Tayao and Perez defied the implementation of the SEC November 17, 1999 Order<sup>[6]</sup> when IMC attempted to enter the main office of the corporation in Makati on December 3, 1999, December 29, 1999 and January 28, 2000.<sup>[7]</sup>

On April 6, 2000, Tayao filed a request with the Bureau of Immigration and Deportation (BID) to include Katayama in its watch list.

The IMC, on April 14, 2000, later preventively suspended Tayao and Perez. Despite

their preventive suspension, however, the two, allegedly in conspiracy with Jacinto and Colayco, still issued various directives/memoranda to the employees of the corporation to disobey the IMC.

On May 9, 2000, the IMC dismissed Tayao and Perez.<sup>[8]</sup>

In two follow-up letters to the BID both dated August 1, 2000, Tayao represented himself as president of the corporation.<sup>[9]</sup>

Hence, the filing before the Makati City Prosecutor's Office (CPO) on December 27, 2000 of criminal complaints against Jacinto, Colayco, Tayao and Perez by the corporation, represented by Katayama, for violation of the following offenses defined and punishable under the Revised Penal Code:

- a) Article 151 which punishes resistance and disobedience to person in authority or the agents of such person (20 counts);
- b) Article 154 which punishes the unlawful use of means of publication and unlawful utterances (2 counts);
- c) Article 172(2) which punishes falsification by private individuals and use of falsified documents (2 counts);
- d) Article 315, paragraph 2(a) Estafa by falsely pretending to be officers of FWCC (23 counts).<sup>[10]</sup>

Jacinto, Colayco, Tayao and Perez (hereafter respondents) denied the charges.<sup>[11]</sup> They claimed that the SEC Order creating the IMC was pending appeal at the Court of Appeals;<sup>[12]</sup> that there was no danger that the assets of the corporation would be dissipated or lost at the time the alleged criminal acts were committed; and that Katayama had no authority to institute the criminal charges in behalf of the corporation as he was merely a minority stockholder, aside from his lack of personal knowledge of the circumstances giving rise to the filing of the charges.<sup>[13]</sup>

The Investigating Prosecutor, by Resolution of August 28, 2001, found probable cause to hale respondents into court for falsification of private documents under Article 172(2), and three informations for grave coercion against private respondent Tayao and three unnamed security guards. The decretal text of the resolution reads:

Wherefore, finding sufficient evidence to charge respondents Ramon P. Jacinto, Jaime P. Colayco, Antonio P. Tayao and Glicerio Perez for the offense of Falsification of Private Document under Art. 172(2) on two (2) counts and, only as against respondent Tayao with three (3) other unnamed security guards, three (3) counts of Grave Coercion under Art. 286, both of the Revised Penal Code, but insufficient evidence for the offenses defined under Articles 151, 154 and 315, 2(a) of the Revised Penal Code as against all four (4) respondents, the undersigned respectfully recommends that the charges for the latter three (3) offenses as against all respondents be dismissed for insufficiency of evidence as these are dismissed upon approval but the attached informations be approved for filing in court.

x x x x<sup>[14]</sup>

In finding probable cause, the Investigating Prosecutor declared:

On the other hand, there is sufficient evidence for the charge of Falsification of Private Document as defined in Art. 172 (2) against respondents as the two (2) letters addressed to the Bureau of Immigration and Deportation both dated 1 August 2000 but the first, received at the BID on 10 August 2000 and the second, on 21 August 2000, clearly showed that respondents colluded and connived with each other in making it appear in the said letters that respondent Tayao was the President of complainant FWCC when as early as 9 May 2000, he has already been dismissed as officer of the said corporation by the Management Committee. It has also been shown that as a result of these two (2) letters, complainant Katayama suffered not only pecuniary and material damage but also damage to his honor as well.

Finally, sufficient evidence has shown that respondent Tayao and three (3) other armed security guards whose identities can be established later, without authority of law, with the use of physical force and threats, prevented the Management committee from implementing their legal mandate on 3 December 1999, on 29 December 1999 and 28 January 2000, by refusing them entry into the FWCC's main office at 51 Polaris St., Makati City. They may therefore be held liable for Grave Coercion under Art. 286 of the Revised Penal Code. No evidence, however, has been presented showing the other respondents' culpable participation in these three (3) aforementioned instances.<sup>[15]</sup> (Underscoring supplied)

The City Prosecutor approved the Investigating Prosecutor's resolution.

Respondents appealed the CPO resolution to the Department of Justice (DOJ) via Petition for Review.

The DOJ, by Resolution<sup>[16]</sup> dated April 29, 2002, reversed the Resolution of the CPO which was directed to move for the withdrawal of the information for falsification of private document against private respondents and the informations for grave coercion against respondent Tayao and the three John Does.

The corporation and Katayama (hereafter petitioners) moved to reconsider the DOJ April 29, 2002 Resolution but it was denied by Resolution of September 24, 2002.<sup>[17]</sup>

Petitioners thereupon assailed the DOJ Resolutions before the Court of Appeals via petition for certiorari.<sup>[18]</sup>

In the meantime, respondents filed with Branch 65, MeTC Makati where the criminal cases were raffled, a "Motion to Withdraw Informations and to Dismiss the Cases"<sup>[19]</sup> to which motion petitioners filed their Opposition.<sup>[20]</sup> By Order<sup>[21]</sup> of July 22, 2002, Acting Presiding Judge Rommel Baybay found respondents' motion to be well-taken and accordingly dismissed the criminal cases.

Petitioners' Motion for Reconsideration of the July 22, 2002 Order of the trial court was denied by Order<sup>[22]</sup> of December 3, 2002.

Petitioners assailed the trial court's orders via certiorari with the RTC of Makati which Branch 59 thereof dismissed by Decision<sup>[23]</sup> of September 28, 2004 for lack of merit.

In denying their petition for certiorari, the RTC held that the grounds relied upon by petitioners were mere errors of judgment, not necessarily of jurisdiction, and there being other legal remedies to question the assailed orders, *e.g.*, the filing of a Notice of Appeal, petitioners' petition for certiorari would not lie.<sup>[24]</sup>

Hence, the instant petition for review on certiorari filed directly with this Court, petitioners contending that

IN ISSUING THE ASSAILED RTC DECISION AND ASSAILED RTC ORDER, THE REGIONAL TRIAL COURT DECIDED NOT IN ACCORDANCE WITH LAW AND APPLICABLE JURISPRUDENCE, IN THAT:

A. PURSUANT TO *PEREZ V. HAGONoy RURAL BANK AND DEE V. COURT OF APPEALS*, PETITIONERS' ONLY REMEDY FROM THE ASSAILED MTC ORDERS WAS A PETITION FOR CERTIORARI AND NOT AN ORDINARY APPEAL.

B. CONTRARY TO *ROBERTS V. COURT OF APPEALS*, THE METROPOLITAN TRIAL COURT FAILED TO DISCHARGE ITS JUDICIAL MANDATE TO MAKE AN INDEPENDENT EVALUATION AND ASSESSMENT OF THE EVIDENCE ON RECORD.

C. AN INDEPENDENT EVALUATION AND ASSESSMENT OF THE EVIDENCE ON RECORD ESTABLISHES THE EXISTENCE OF PROBABLE CAUSE THAT RESPONDENTS COMMITTED FALSIFICATION OF PRIVATE DOCUMENTS AND GRAVE COERCION.

<sup>[25]</sup> (*Italics in the original*)

It is settled that the determination of whether probable cause exists to warrant the prosecution in court of an accused should be consigned and entrusted to the Department of Justice, as reviewer of the findings of public prosecutors.<sup>[26]</sup> The court's duty in an appropriate case is confined to a determination of whether the assailed executive or judicial determination of probable cause was done without or in excess of jurisdiction or with grave abuse of discretion amounting to want of jurisdiction. This is consistent with the general rule that criminal prosecutions may not be restrained or stayed by injunction, preliminary or final,<sup>[27]</sup> albeit in extreme cases, exceptional circumstances have been recognized.<sup>[28]</sup> The rule is also consistent with this Court's policy of non-interference in the conduct of preliminary investigations, and of leaving to the investigating prosecutor sufficient latitude of discretion in the exercise of determination of what constitutes sufficient evidence as will establish probable cause for the filing of an information against a supposed offender.<sup>[29]</sup>

While prosecutors are given sufficient latitude of discretion in the determination of