

SECOND DIVISION

[G.R. NO. 162416, January 31, 2006]

CHESTER DE JOYA, PETITIONER, VS. JUDGE PLACIDO C. MARQUEZ, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 40, MANILA-RTC, PEOPLE OF THE PHILIPPINES AND THE SECRETARY OF THE DEPARTMENT OF JUSTICE,

D E C I S I O N

AZCUNA, J.:

This is a petition for certiorari and prohibition that seeks the Court to nullify and set aside the warrant of arrest issued by respondent judge against petitioner in Criminal Case No. 03-219952 for violation of Article 315, par. 2(a) of the Revised Penal Code in relation to Presidential Decree (P.D.) No. 1689. Petitioner asserts that respondent judge erred in finding the existence of probable cause that justifies the issuance of a warrant of arrest against him and his co-accused.

Section 6, Rule 112 of the Revised Rules of Criminal Procedure provides:

Sec. 6. When warrant of arrest may issue. – (a) By the Regional Trial Court. – Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. **If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 7 of this Rule.** In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issuance must be resolved by the court within thirty (30) days from the filing of the complaint or information.

x x x^[1]

This Court finds from the records of Criminal Case No. 03-219952 the following documents to support the motion of the prosecution for the issuance of a warrant of arrest:

1. The report of the National Bureau of Investigation to Chief State Prosecutor Jovencito R. Zuño as regards their investigation on the complaint filed by private complainant Manuel Dy Awiten against Mina Tan Hao @ Ma. Gracia Tan Hao and Victor Ngo y Tan for syndicated estafa. The report shows that Hao induced Dy to invest more than a hundred million pesos in State Resources Development

Management Corporation, but when the latter's investments fell due, the checks issued by Hao in favor of Dy as payment for his investments were dishonored for being drawn against insufficient funds or that the account was closed.^[2]

2. Affidavit-Complaint of private complainant Manuel Dy Awiten.^[3]
3. Copies of the checks issued by private complainant in favor of State Resources Corporation.^[4]
4. Copies of the checks issued to private complainant representing the supposed return of his investments in State Resources.^[5]
5. Demand letter sent by private complainant to Ma. Gracia Tan Hao.^[6]
6. Supplemental Affidavit of private complainant to include the incorporators and members of the board of directors of State Resources Development Management Corporation as participants in the conspiracy to commit the crime of syndicated estafa. Among those included was petitioner Chester De Joya.^[7]
7. Counter-Affidavits of Chester De Joya and the other accused, Ma. Gracia Hao and Danny S. Hao.

Also included in the records are the resolution issued by State Prosecutor Benny Nicdao finding probable cause to indict petitioner and his other co-accused for syndicated estafa,^[8] and a copy of the Articles of Incorporation of State Resources Development Management Corporation naming petitioner as incorporator and director of said corporation.

This Court finds that these documents sufficiently establish the existence of probable cause as required under Section 6, Rule 112 of the Revised Rules of Criminal Procedure. Probable cause to issue a warrant of arrest pertains to facts and circumstances which would lead a reasonably discreet and prudent person to believe that an offense has been committed by the person sought to be arrested. It bears remembering that "in determining probable cause, the average man weighs facts and circumstances without resorting to the calibrations of our technical rules of evidence of which his knowledge is nil. Rather, he relies on the calculus of common sense of which all reasonable men have an abundance."^[9] Thus, the standard used for the issuance of a warrant of arrest is less stringent than that used for establishing the guilt of the accused. As long as the evidence presented shows a prima facie case against the accused, the trial court judge has sufficient ground to issue a warrant of arrest against him.

The foregoing documents found in the records and examined by respondent judge tend to show that therein private complainant was enticed to invest a large sum of money in State Resources Development Management Corporation; that he issued several checks amounting to P114,286,086.14 in favor of the corporation; that the corporation, in turn, issued several checks to private complainant, purportedly