

## SECOND DIVISION

[ G.R. NO. 143044, August 14, 2005 ]

**WILLIAM MADARANG AND EVANS KHO, PETITIONERS, VS. HON. COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, HON. OFELIA ARELLANO-MARQUEZ, PRESIDING JUDGE OF THE METROPOLITAN TRIAL COURT OF QUEZON CITY, BRANCH 32 AND JANICE YOUNG-CHUA, RESPONDENTS.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

Before us is a petition for review on *certiorari* under Rule 45 of the Rules of Court which seeks the reversal of the Decision,<sup>[1]</sup> dated April 18, 2000, of the Court of Appeals (CA) in CA-G.R. SP No. 58038 dismissing petitioners' petition for *certiorari*.

The factual background of the case is as follows:

On February 11, 1994, private respondent Janice Young-Chua and her husband, Eduardo Chan-Chua, filed a complaint for replevin and damages against petitioners William Madarang and Evans Kho in the Regional Trial Court of Quezon City, docketed as Civil Case No. Q-94-19266 and raffled to Branch 84 (RTC, Branch 84). The complaint alleged that private respondent is the owner of a 1990 dark gray Kia Pride car, evidenced by Certificate of Registration No. 08605800<sup>[2]</sup> dated May 31, 1991; and that on January 29, 1994, petitioners, through force and intimidation, took possession of the subject car by virtue of a falsified Deed of Sale dated December 3, 1993 allegedly executed by private respondent in favor of petitioner Madarang.<sup>[3]</sup>

On May 12, 1994, upon complaint of private respondent, petitioner Madarang was charged with Falsification of Public Document in the Metropolitan Trial Court of Quezon City (MeTC) which was docketed as Criminal Case No. 94-24930 and raffled to Branch 32.<sup>[4]</sup> On the same date, petitioners were charged with Grave Coercion in the same MeTC which was docketed as Criminal Case No. 94-24931, also raffled to Branch 32.<sup>[5]</sup> The cases were consolidated and jointly tried.

On August 8, 1996, a Motion to Suspend Criminal Proceedings on the ground of prejudicial question was filed by petitioner Madarang in the MeTC, claiming that the issues presented in the replevin case pending in RTC, Branch 84 are intimately related to the issues pending before the MeTC, the resolution of which would necessarily determine the guilt of the accused in the criminal case for falsification.<sup>[6]</sup>

On October 1, 1996, the MeTC denied petitioner Madarang's motion to suspend proceedings on the ground that the decision in the civil case for replevin will not be determinative of the guilt of the accused in the criminal charge for falsification.<sup>[7]</sup>

On March 7, 1997, RTC, Branch 84 dismissed the complaint for replevin upon finding that the deed of sale is genuine and that private respondent voluntarily surrendered possession of the car to the petitioners.<sup>[8]</sup> Private respondent filed a timely appeal with the CA, docketed as CA-G.R. CV No. 57597.

On June 13, 1997, petitioner Madarang filed a Motion to Dismiss the falsification case on the ground that the decision dismissing the replevin suit in RTC, Branch 84 involving the same parties absolved him of criminal liability in the falsification case.<sup>[9]</sup> On January 22, 1998, the MeTC granted the Motion to Dismiss of petitioner Madarang.<sup>[10]</sup> On February 27, 1998, a Motion for Reconsideration was filed by the prosecution on the ground that the dismissal was unwarranted since the decision dismissing the replevin suit in RTC, Branch 84 is not yet final and executory, as it is pending appeal before the CA and the accused deliberately omitted to send the private prosecutor a copy of said Motion to Dismiss.<sup>[11]</sup> On July 27, 1998, the MeTC recalled the dismissal of the case for falsification.<sup>[12]</sup>

Petitioners filed a Second Omnibus Motion to Quash Criminal Case Nos. 94-24930 and 94-24931 on the ground that the findings of RTC, Branch 84 that the signature of private respondent in the deed of sale is not falsified and that private respondent voluntarily surrendered possession of the car to the petitioners bar the prosecution for falsification and grave coercion. Petitioners alleged that the findings of the RTC are binding and must be given due respect by the MeTC notwithstanding the appeal taken by private respondent.<sup>[13]</sup>

In its Opposition, the prosecution alleged that: the motion to quash is a mere scrap of paper as it is contrary to Section 1, Rule 117 of the Rules of Court that a Motion to Quash must be filed before arraignment of accused and such failure to move to quash before entering his plea, accused is deemed to have waived his right to file the same; and, the replevin suit is an independent civil action, separate and distinct from these cases for falsification of public document and grave coercion.<sup>[14]</sup>

On March 26, 1999, the MeTC denied petitioners' motion to quash, ruling that the decision rendered by the RTC, Branch 84 in the replevin case cannot absolve petitioners of the charges in the criminal cases as said decision has not attained finality since it is pending appeal before the CA; and that petitioners waived any grounds of a Motion to Quash pursuant to Section 1, Rule 117 of the Rules of Court.<sup>[15]</sup>

Petitioners then filed a petition for *certiorari* before the RTC, Branch 77, Quezon City (RTC, Branch 77), docketed as Civil Case No. Q-99-37324. They assailed the MeTC's denial of their motion to quash the informations for falsification of public document and grave coercion and alleged that the MeTC should have adopted the factual findings of RTC, Branch 84 in the Decision dated March 7, 1997 in the replevin case as *res judicata*.<sup>[16]</sup>

On October 8, 1999, the RTC, Branch 77 dismissed petitioners' petition for *certiorari* upon holding that: *res judicata* cannot be invoked considering that the Decision dated March 7, 1997 of RTC, Branch 84 in the replevin case is not yet a final and executory judgment, being on appeal; in any event, a final judgment rendered in a

civil action absolving the defendant from civil liability is not a bar to criminal action; the issues of falsification and coercion were not made the subject of a full-dressed hearing in the replevin case; and, the motion to quash was filed only after their arraignment in violation of the well-settled doctrine that a motion to quash may be filed only before the accused has entered his plea to the accusatory pleading.<sup>[17]</sup>

Petitioners' filed a motion for reconsideration<sup>[18]</sup> but was denied in an Order dated February 29, 2000.<sup>[19]</sup>

Undaunted, petitioners filed a petition for certiorari before the CA which, on April 18, 2000, was dismissed. In dismissing the petition, the CA held that the writ of *certiorari* is not the proper remedy where a motion to quash an information is denied. It further held that the People of the Philippines was not impleaded as a respondent in the case nor was the Office of the Solicitor General furnished a copy of the petition when the Informations were filed in the name of the People of the Philippines and necessarily it is the party interested in sustaining the proceedings in the court.<sup>[20]</sup>

Hence, the present petition for review on *certiorari* anchored on the following grounds:

THE HONORABLE COURT OF APPEALS HAS DECIDED THE ISSUES PRESENTED PROBABLY NOT IN ACCORD WITH LAW OR WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT.

THE HONORABLE COURT OF APPEALS HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS OR SO FAR SANCTIONED SUCH DEPARTURE BY THE LOWER COURT AS TO CALL FOR AN EXERCISE OF THE POWER OF SUPERVISION.<sup>[21]</sup>

Petitioners claim that the MeTC Judge committed grave abuse of discretion when she denied their motion to quash the Informations and refused to dismiss the charges against them since the charges against them pending before her court were "obliterated" by the positive factual findings of RTC, Branch 84 in its Decision dated March 7, 1997 that the signature of private respondent in the Deed of Sale dated December 3, 1993 is genuine and she voluntarily surrendered the car to petitioners. They maintain that such factual findings of RTC, Branch 84 in its Decision dated March 7, 1997 bar their prosecution in the criminal cases for falsification of public document and grave coercion. They submit that once a court of competent jurisdiction puts to finish an issue of fact, it cannot be disturbed by the lower court and, accordingly, the factual findings of RTC, Branch 84 cannot be overturned by the MeTC.

The Solicitor General, on the other hand, avers that the decision in the replevin suit cannot foreclose or suspend the prosecution of the criminal cases for falsification and grave coercion as replevin is an entirely separate and distinct remedy allowed by the rules. He states that *res judicata* cannot apply for lack of the essential elements of identity of parties and finality of the decision in the replevin suit.

As for private respondent, she argues that the decision of RTC, Branch 84 can not be conclusive upon the MeTC because it is not a final and executory judgment, being

on appeal in the CA, and, even if final, the rules provide that such final decision does not foreclose prosecution of the criminal action. She insists that the MeTC Judge did not act beyond her jurisdiction as the denial of the motion to quash was in accordance with law and jurisprudence and, thus, petitioners' resort to certiorari was improper and appropriately dismissed by the RTC and the CA.

At the outset, we observe that while the assigned errors appear to raise errors of judgment committed by the CA, the arguments of the petitioners purely dwell on the alleged grave abuse of discretion or error of jurisdiction committed by the MeTC in denying the Motion to Quash, the very issue they raised in the petition for certiorari before the RTC, when the issues that should have been raised in the petition for review on certiorari before us are the errors of judgment that the CA may have committed in dismissing their petition for *certiorari*. Petitioners' utter failure to bring up the matter concerning the CA's bases in dismissing their petition shows that they are evading the issues.

Nonetheless, we find that the CA is correct in dismissing petitioners' petition for *certiorari*.

First. We note that the petitions for certiorari in the RTC and CA are defective since petitioners failed to implead the People of the Philippines as respondent therein. As provided in Section 5,<sup>[22]</sup> Rule 110 of the Rules of Criminal Procedure, all criminal actions are prosecuted under the direction and control of the public prosecutor. The prosecution of offenses is thus the concern of the government prosecutors. It behooved the petitioners to implead the People of the Philippines as respondent in the RTC and in the CA to enable the public prosecutor or Solicitor General, as the case may be, to comment on the petitions. The failure to implead is fatal to petitioners' cause.

Second. It is settled that a special civil action for certiorari and prohibition is not the proper remedy to assail the denial of a motion to quash an information. The established rule is that when such an adverse interlocutory order is rendered, the remedy is not to resort forthwith to certiorari or prohibition, but to continue with the case in due course and, when an unfavorable verdict is handed down to take an appeal in the manner authorized by law.<sup>[23]</sup> Only when the court issued such order without or in excess of jurisdiction or with grave abuse of discretion and when the assailed interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief will certiorari be considered an appropriate remedy to assail an interlocutory order.<sup>[24]</sup> No such special circumstances are present in the case at bar.

The declaration of RTC, Branch 84 in its Decision dated March 7, 1997 that the signature of private respondent in the Deed of Sale dated December 3, 1993 is genuine and she voluntarily surrendered the car to petitioners is not *res judicata* in the criminal cases for falsification and grave coercion because there is no identity of parties as the People of the Philippines is not a party in the replevin suit and cannot be bound by the factual findings therein. Besides, the decision of RTC, Branch 84 is still pending appeal with the CA. Hence, at the time the MeTC, the RTC and the CA rendered their assailed order, decision and resolution, respectively, there existed no special circumstance to warrant a dismissal of the cases pending in the MeTC.