

SPECIAL ELEVENTH DIVISION

[CA-G.R. SP No. 135908, November 28, 2014]

**POLICE SUPERINTENDENT (PSUPT) RAMON L. BALAUAG,
PETITIONER, VS. HON. MARIA CHONA E. PULGAR-NAVARRO, IN
HER CAPACITY AS PRESIDING JUDGE OF REGIONAL TRIAL
COURT, BRANCH 61, GUMACA, QUEZON AND THE PEOPLE OF THE
PHILIPPINES, RESPONDENTS.**

D E C I S I O N

DICDICAN, J.:

Before us is an Amended Petition for *Certiorari*^[1] filed by herein petitioner Police Superintendent Ramon L. Balauag ("petitioner") pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to annul and set aside the Resolution^[2] that was issued by public respondent Judge Maria Chona E. Pulgar-Navarro ("public respondent judge") of Branch 61 of the Regional Trial Court of the Fourth (4th) Judicial Region in Gumaca, Quezon ("lower court") dated March 26, 2014 in Criminal Case No. 12508-G entitled "*People of the Philippines v. PSupt. Hansel Marantan, et al.*" which, *inter alia*, denied the motion for judicial determination of probable cause that was filed by the petitioner in the said case ("assailed resolution").

The material and relevant facts of the case, as culled from the record, are as follows:

Intelligence reports disclosed that several persons, collectively known as the "Siman Group", were involved in illegal gambling, illegal drugs, gun-for-hire and other criminal activities in the Southern Luzon area. With the objective of neutralizing the said group, "COPLAN ARMADO" was conceptualized in order to conduct a surveillance and covert operations on the aforesaid group.

On January 5, 2013, Police Superintendent Hansel M. Marantan ("PSupt. Marantan"), Deputy Chief of the Regional Intelligence Division of the Police Regional Office 4-A, purportedly received an information that a convoy of four (4) vehicles without registration plates carrying fifteen (15) to twenty (20) fully armed men would be passing through the Maharlika Highway on their way to Camarines Province.

Acting on the aforesaid information, at around 1:00 o'clock in the afternoon of January 6, 2013, three (3) blockades/checkpoints were established along the Maharlika Highway, Barangay Lumutan, Atimonan, Quezon, by a joint Philippine National Police (PNP) and Armed Forces of the Philippines (AFP) force that was headed by the following officials, namely: (1) PSupt. Marantan, Deputy Regional Intelligence Division; (2) herein petitioner PSupt. Balauag, Chief of the Provincial Intelligence Branch of the Quezon Provincial Police Office; (3) Police Chief Inspector Grant Gollod ("PCInsp Gollod"), Chief of Police of Atimonan, Quezon Province; and

(4) Lieutenant Colonel Monico Abang ("LC Abang"), Battalion Commander of the First Special Forces Battalion of the AFP.

Thereafter, at around 3:20 o'clock in the afternoon of the same day, two (2) black Mitsubishi Montero SUVs were apprehended along the national highway of Atimonan, Quezon Province. According to the PNP, the SUVs did not slow down and, instead, opened fire on the police operatives who were manning the checkpoint. This prompted the joint forces to retaliate, thereby killing all the thirteen (13) occupants of the two (2) SUVs. PSupt. Marantan was wounded during the said encounter.

A PNP Fact-Finding Committee was thereafter created in order to shed light on the incident after the families of those who died expressed doubts on the legitimacy of the police operation. Likewise, the Office of the President ordered the National Bureau of Investigation (NBI) to conduct its own probe.

In an Executive Report^[3] that was submitted by the NBI to the Office of the President dated February 5, 2013, the NBI stated that it would file criminal charges for murder against the PNP and AFP personnel who had directly participated in the checkpoint operation. Thereafter, criminal complaints for multiple murder and obstruction of justice were filed by the NBI against herein petitioner and other AFP and PNP members in the Department of Justice (DOJ). The said case was docketed as NPS Docket No. XVI-INV-13C-00092.

A preliminary hearing was then conducted by the DOJ where the respondents in NPS Docket No. XVI-INV-13C-00092, including herein petitioner, submitted their respective counter-affidavits and other pieces of evidence. Consequently, on August 30, 2013, the DOJ issued a Resolution^[4] recommending that charges for multiple murder be filed against several PNP officials and personnel, including herein petitioner who had directly participated in the so-called "shootout". The petitioner then filed a motion for reconsideration and a supplemental motion for reconsideration in the DOJ seeking for the reversal of its August 30, 2013 resolution.

Meanwhile, in an Order^[5] dated September 20, 2013, the lower court, after finding probable cause on the basis of the information that was filed by the DOJ, issued a warrant of arrest against herein petitioner, along with the other PNP personnel that were named in the aforesaid information. No bail was recommended for their provisional liberty.

Subsequently, the petitioner filed a Motion for Reconsideration^[6] and a Supplemental^[7] motion for reconsideration of the September 20, 2013 Order of the lower court praying that the said court re-examine the pieces of evidence and to recall the warrant of arrest which it issued against the petitioner. Likewise, the petitioner filed in the lower court an Urgent Motion for Judicial Determination of Probable Cause with motion to withhold issuance of warrants of arrest praying that the lower court re-examine the findings of the DOJ finding probable cause to charge petitioner of the crime of murder.

In the herein assailed resolution dated March 26, 2014, the lower court denied the motions for reconsideration and judicial determination of probable cause that were filed by the petitioner the pertinent portions of which state:

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"The Urgent Motion for Judicial Determination of Probable Cause (With Motion to Withhold Issuance of Warrants of Arrest) dated September 20, 2013 filed by accused Psupt. Ramon Balauag, SPO3 Joselito de Guzman, SPO1 Claro Cataquiz, Jr., PO2 Al-Bhazar Jailani, PO1 Rodel Talento, PO1 Wryan Sardea, PO3 Eduardo Oronan and PO2 Nelson Indal, through counsel Crisanto R. Buela is hereby DENIED.

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"The Motion for Reconsideration dated September 23, 2013 filed by Atty. Romeo S. Gonzales, counsel for accused De Guzman, Cataquiz, Oronan, Balauag, Indal and Jailani is hereby DENIED.

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"SO ORDERED."

Hence, the petitioner filed this petition for *certiorari* wherein the petitioner raised the following acts of grave abuse of discretion that were purportedly committed by the public respondent RTC judge:

I.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN FINDING THAT PROBABLE CAUSE EXISTED FOR THE ISSUANCE OF A WARRANT OF ARREST AGAINST THE PETITIONER CONSIDERING THAT SHE COULD NOT HAVE PERSONALLY EVALUATED THE RESOLUTION OF THE PANEL OF PROSECUTORS OF THE DOJ, AS WELL AS THE VOLUMINOUS SUPPORTING EVIDENCE, WITHIN A PERIOD OF LESS THAN TWENTY FOUR (24) HOURS.

II.

THE PUBLIC RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN FINDING THAT PROBABLE CAUSE EXISTED FOR THE ISSUANCE OF WARRANT OF ARREST AGAINST PETITIONER CONSIDERING THAT THERE WERE CONFLICTING STATEMENTS OF THE WITNESSES AND THE PIECES OF EVIDENCE THAT WERE SUBMITTED BY THE PANEL OF THE PROSECUTORS OF THE DOJ.

In sum, the sole issue to be resolved by us in the instant petition is whether or not the public respondent judge committed grave abuse of discretion when she found probable cause for the issuance of a warrant of arrest against the petitioner. After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the instant petition to be bereft of merit.

In the instant petition, the petitioner averred that the public respondent judge could not have personally evaluated the resolution of the Panel of Prosecutors of the DOJ, as well as its voluminous supporting evidence, within a period of less than twenty four (24) hours. According to the petitioner, the judicial determination of probable cause by the public respondent judge was improperly and hastily done which clearly showed that she did not personally evaluate the record of the case in the court *a quo*.

Moreover, the petitioner contended that COPLAN ARMADO was a legal and legitimate police operation which was led by its case officer, PSupt. Marantan. Thus, there was no basis in the finding of the DOJ Panel of Prosecutors that the PNP personnel conspired and confederated to commit a felony. Further, the petitioner insisted that he had no knowledge of the COPLAN ARMADO prior to the conduct of its operation on January 6, 2013 and, even though his assistance was merely requested by PSupt. Marantan on the said date, he only had limited knowledge of the details of the said operation.

Furthermore, the petitioner maintained that the handling of the investigation by the NBI was clearly biased and partial in that it started with a premise that there was a plan to kill the group of Vic Siman. On the contrary, the petitioner stressed that probable cause existed for the PNP and the AFP to stop and conduct a search of the SUVs especially in that they tried to flag down the said vehicles but the latter refused to stop. Thereafter, it was proved that a crime was, indeed, being committed since the occupants of the two (2) vehicles were carrying guns either without licenses or permits to carry the same.

All told, the petitioner submitted that he had clearly shown that there was a complete absence of unity of purpose and unity in the commission of an unlawful objective if, indeed, there was any, as far as he is concerned.

For their part, herein respondents, through the Office of the Solicitor General, countered that the instant petition was an improper remedy in that a petition for *certiorari* is only limited to correcting errors of jurisdiction and not errors of judgment. In this case, the petitioner was challenging the lower court's appreciation of the evidence and, therefore, he was seeking the correction of an error of judgment and not an error of jurisdiction. At any rate, the respondents insisted that the lower court complied with the constitutional mandate that the judge shall make a personal determination of probable cause before issuing a warrant of arrest against an accused. Thus, considering that a presumption existed as to the regularity in the performance of official duty, there was a presumption that the public respondent judge personally reviewed and evaluated the resolution of the DOJ and the pieces of evidence in support thereof before she found probable cause against the petitioner and his co-accused.

We agree with the contentions of the respondents. Preliminary investigation, in our jurisdiction, is an inquiry or proceeding in order to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof and should be held for trial.^[8]

Corollary thereto, probable cause is such set of facts and circumstances that would lead a reasonable discreet and prudent man to believe that the offense charged in the information or any offense included therein has been committed by the person