

## SEVENTH DIVISION

[ CA-G.R. SP NO. 92586, September 27, 2006 ]

**PEOPLE OF THE PHILIPPINES, AND ROAD LEADER MARKETING CORPORATION, PETITIONERS, VS. HON. CESAR M. SOLIS, IN HIS CAPACITY AS PRESIDING JUDGE OF REGIONAL TRIAL COURT, BRANCH 14, MANILA, AND DAVID C. TAN, RESPONDENTS.**

### D E C I S I O N

**BERSAMIN, L.P., J.:**

This special civil action for *certiorari* was originally commenced only by Road Leader Marketing Corporation (Road Leader) to assail the following orders issued by Hon. Cesar M. Solis, Presiding Judge of Branch 14, Regional Trial Court (RTC), of Manila in Criminal Case No. 03-21-7842 entitled *People of the Philippines v. David C. Tan*, for being contrary to the pertinent rule and jurisprudence, to wit:

- a. The order dated May 4, 2005, quashing the original information and rejecting the amended information filed by petitioner People of the Philippines;<sup>1</sup> and
- b. The order dated September 30, 2005, denying the Prosecution's motion for reconsideration.<sup>2</sup>

Considering that the petition concerned the quashal of the criminal information, which pertained entirely to the criminal aspect of Criminal Case No. 03-21-7842 and that such remedy should be brought by the People of the Philippines, we required Road Leader through our resolution of January 16, 2006 to show cause in writing within 10 days from notice why the petition should not be dismissed.<sup>3</sup> Road Leader presented its written explanation on March 10, 2006.<sup>4</sup> Subsequently, on March 10, 2006, the Office of the Solicitor General (OSG) signified its express conformity to the petition.<sup>5</sup> Accordingly, on March 23, 2006, we directed Road Leader to amend the petition in order to include the People of the Philippines as petitioner, rather than as respondent.<sup>6</sup> The amended petition was filed on May 2, 2006, signed by Asst. Solicitor General Ma. Antonia Edita C. Dizon and Solicitor Magtanggol M. Castro.<sup>7</sup>

Now to the essential antecedents.

On August 28, 2003, the Office of the City Prosecutor of Manila filed in the RTC the information in Criminal Case No. 03-21-7842, charging private respondent David C. Tan (Tan) with violating Presidential Decree (P. D.) 1612 (Anti-Fencing Law),<sup>8</sup> alleging thus:

That sometime during the period comprised between January to February 2002, in the City of Manila, Philippines, the said accused, with intent of gain for himself or for another did then and there willfully, unlawfully and feloniously receive, acquire and buy from Road Leader Marketing

Corporation, herein represented by ANTHONY GO ENG KUANG, Kelani and Dunlop tires in the total amount of P4,317,445.73 belonging to Road Leader Marketing Corporation, which said assorted tires said accused knew or should have known to have been the subject/proceeds of the crime of theft.

Contrary to law.<sup>9</sup>

The case was assigned to Branch 14, presided by respondent RTC Judge. The arraignment of Tan, originally scheduled on October 8, 2003, was reset 11 times,<sup>10</sup> mostly because his petition for review was still pending in the Department of Justice.

On February 23, 2005, however, Tan filed a motion to quash, alleging that the information averred facts that did not constitute an offense under P. D. 1612.

On March 10, 2005, Road Leader, as the complainant in the criminal case, opposed the motion to quash with the conformity and approval of Trial Prosecutor Liberato Cabaron, countering that the information set forth facts constituting an offense under P. D. 1612.

On April 5, 2005, the RTC directed the public prosecutor to amend the information within 10 days from receipt of the order.<sup>11</sup>

Subsequently, Tan presented his motion to grant (the) motion to quash dated April 18, 2005,<sup>12</sup> stating that the public prosecutor had not filed the amended information within the 10-day period as directed in the order dated April 5, 2005.

On April 22, 2005, the public prosecutor filed a manifestation with compliance (attaching the amended information).<sup>13</sup> The amended information now averred as follows:

That sometime during the period comprised between January to February 2002, in the City of Manila, Philippines, the said accused, with intent of gain for himself or for another did then and there willfully, unlawfully and feloniously receive, acquire and buy Kelani and Dunlop tires valued in the total amount of P4,317,445.73, which said assorted tires the accused knew or should have known to have been the subject/proceeds of the crime of theft or stolen from their owner Road Leader Marketing Corporation represented by ANTHONY GO ENG KUANG.

CONTRARY TO LAW.<sup>14</sup>

On May 3, 2005, Road Leader filed its opposition to the motion to grant (the) motion to quash,<sup>15</sup> invoking the right of the Prosecution to amend the information, either in form or in substance, even without prior leave of court, as long as the amendment was done before the accused entered his plea.

On May 4, 2005, respondent RTC Judge issued his first assailed order,<sup>16</sup> to wit:

In this connection, the Court has observed that compliance with the submission of the Amended Information was done beyond the period fixed in the Order. Indeed, it was the "opportunity" extended under Section 4, Rule 117 of the 2002 Revised Rules on Criminal Procedure. While the prosecution described the delay to be "slight", the Court however deems it to be a violation of the rulings that the periods for compliance are to be strictly enforced. On the other hand, it is well settled that the law or rules have to be interpreted in favor of the accused, and against the State.

Further, what the prosecution largely invokes are those that refer to amendments in general, whereas, what are to be applied hereto are those that specially pertain to matters under Rule 117 on Motion to Quash; and therefore should prevail over the former.

WHEREFORE, all premises considered, it is hereby resolved that the Information as prayed for, shall be Quashed. Whereas, the Amended Information is hereby rejected accordingly.

SO ORDERED.

On May 31, 2005, Road Leader moved for the reconsideration of the order of May 4, 2005 and for the admission of the amended information.<sup>17</sup>

On September 30, 2005, respondent RTC Judge denied the motion for reconsideration,<sup>18</sup> viz:

WHEREFORE, the Motion for Reconsideration of private complainant Road Leader Marketing Corporation is hereby DENIED for lack of merit.

SO ORDERED.

Hence, this special civil action for *certiorari*, wherein the petitioners submit that respondent RTC Judge acted without jurisdiction or in excess of jurisdiction, and with grave abuse of discretion when he quashed the original information and rejected the amended information on the sole ground that the amended information was filed beyond the 10-day period allowed to the public prosecutor for the purpose but before arraignment and plea.

They submit that respondent RTC Judge thereby disregarded the rules relevant to amendment of the information prior to the arraignment of the accused, particularly as embodied in Sec. 14, Rule 110, *Rules of Court*; and thereby gravely abused his discretion amounting to lack or excess of jurisdiction when he quashed the information and rejected the amended information.

The private respondent counters that respondent RTC Judge properly issued the assailed orders due to the non-compliance of the Prosecution with the order directing the amendment of the information within 10 days from receipt of the order; that the order dated September 30, 2005 already became final, as borne out by the certificate of finality issued on December 21, 2005; and that the original