

## SECOND DIVISION

[ G.R. No. 230170, June 06, 2018 ]

**MA. SUGAR M. MERCADO AND SPOUSES REYNALDO AND YOLANDA MERCADO, PETITIONERS, VS. HON. JOEL SOCRATES S. LOPENA [PRESIDING JUDGE, METROPOLITAN TRIAL COURT, BRANCH 33, QUEZON CITY], HON. JOHN BOOMSRI S. RODOLFO [PRESIDING JUDGE, METROPOLITAN TRIAL COURT, BRANCH 38, QUEZON CITY], HON. REYNALDO B. DAWAY [PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 90, QUEZON CITY], HON. ROBERTO P. BUENAVENTURA [PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 86, QUEZON CITY], HON. JOSE L. BAUTISTA, JR. [PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 107, QUEZON CITY], HON. VITALIANO AGUIRRE II (IN HIS CAPACITY AS SECRETARY OF JUSTICE), BON. DONALD LEE (IN HIS CAPACITY AS THE CHIEF OF THE OFFICE OF THE CITY PROSECUTOR OF QUEZON CITY), KRISTOFER JAY I. GO, PETER AND ESTHER GO, KENNETH ROUE I. GO, CASEY LIM JIMENEZ, CRISTINA PALILEO, AND RUEL BALINO, RESPONDENTS.**

### DECISION

#### CAGUIOA, J:

This is a Petition for *Certiorari* and Prohibition under Rule 65 of the Rules of Court (Petition), invoking the power of the Court "to promulgate rules concerning protection and enforcement of constitutional rights, to declare the cases filed by private respondents against petitioners as Strategic Lawsuits Against Public Participation (SLAPP) and therefore contrary to the Constitution, public policy and international law and x x x repugnant to fundamental equality before the law of women and men and the spirit and the intent of Republic Act [No.] 9262."<sup>[1]</sup>

Petitioner Ma. Sugar M. Mercado (Mercado) is joined herein by her parents, co-petitioners spouses Reynaldo and Yolanda Mercado (collectively, petitioners).

Private respondent Kristofer Jay I. Go (Go) is the husband of petitioner Mercado. The other private respondents herein are spouses Peter and Esther Go (parents of respondent Go), Kenneth Roue Go, Casey Lim Jimenez, Cristina Palileo, and Ruel Balino (relatives and friends of respondent Go) (collectively, private respondents). Likewise impleaded herein are public respondent judges and prosecutors presiding over various cases filed against petitioners (collectively, public respondents).

#### Factual Antecedents

The root of this controversy is a domestic dispute between estranged spouses petitioner Mercado and private respondent Go. Such dispute eventually led to the filing of numerous suits by both parties against each other, as summarized below.

### **Cases filed by private respondents against petitioners**

Sometime in October 2015, respondent Go filed a Petition for *Habeas Corpus* with Custody of their children, which was docketed as Civil Case No. R-QZN-15-08943. The case was raffled to and is still pending with the Regional Trial Court (RTC) of Quezon City, Branch 86, which is presided by herein public respondent Judge Roberto P. Buenaventura.<sup>[2]</sup>

Within the period of September 2015 to November 2015, private respondents also filed the following cases against petitioners:

1. *People v. Sugar Mercado and Yolanda Mercado* (Crim. Case No. R-QZN-16-06371-CR) for violation of Republic Act (R.A.) No. 7610<sup>[3]</sup>;
2. *People v. Yolanda Mercado* (Crim. Case No. R-QZN-16-06372-CR) for violation of R.A. No. 7610;
3. *Kristofer Go v. Sugar Mercado-Go* (NPS XV-INV-15J-11698) for Libel;
4. *Kristofer Go v. Yolanda Mercado* (NPS-XV-INV-15J-11699) for Libel;
5. *People v. Sugar Mercado* (Crim. Case No. R-QZN-16-5596-98-CR) for Physical Injuries, Oral Defamation, Slander by Deed, and Unjust Vexation; and
6. *People v. Yolanda and Reynaldo Mercado* (Crim. Case No. 16-09066-69) for Unjust Vexation, Unlawful Arrest, Slight Physical Injuries, Grave Coercion.

All the cases were still pending at the time the Petition was filed, except for NPS XV-INV-151-11698, which was dismissed by the Office of the City Prosecutor (OCP) of Quezon City in a Resolution dated November 23, 2016.<sup>[4]</sup>

In addition to the foregoing, beginning February 2016, private respondents initiated the following cases:

1. *Kristofer Go and Christina Palileo v. Yolanda Mercado* (QCOCP-NOS-INV-16A-01033) for Grave Threats;
2. *Kristofer Go v. Sugar Mercado* (NPS-XV-02-INV-16C-00840) for violation of R.A. No. 10175<sup>[5]</sup>;
3. *Kristofer Go v. Sugar Mercado* (Civil Case No. R-QZN-16-02517-CV) for Indirect Contempt; and
4. *Kristofer Go v. Sugar Mercado* (Civil Case No. R-QZN-16-07881-CV) for Indirect Contempt.

Of the above cases, NPS-XV-02-INV-16C-00840 was dismissed for lack of probable cause.<sup>[6]</sup>

### **Cases filed by petitioners against private respondents**

On the other hand, on November 5, 2015, petitioner Mercado filed an Urgent Petition for Issuance of Temporary and/or Permanent Protection Order (TPO/PPO), docketed as Civil Case No. R-QZN-15-10201 (the PPO Case).<sup>[7]</sup> The case was also raffled to Branch 86 of the RTC of Quezon City.<sup>[8]</sup> Therein, petitioner Mercado complained of several acts of respondent Go allegedly constituting domestic violence.

At the same time, petitioner Mercado also filed a criminal complaint for violation of R.A. No. 9262<sup>[9]</sup> against respondent Go and his parents, respondent spouses Peter and Esther Go, which was eventually dismissed for insufficiency of evidence.

On February 19, 2016, the RTC in the PPO case granted the petition and forthwith issued a PPO in favor of petitioner Mercado.<sup>[10]</sup> The Order granting the PPO was appealed by respondent Go to the Court of Appeals (CA) and was docketed as CA-G.R. No. 106476.<sup>[11]</sup> In a Decision dated March 3, 2017, the CA denied respondent Go's appeal.<sup>[12]</sup> The CA's Decision was then elevated to the Court via Rule 45 appeal by *certiorari* in G.R. No. 232206 (*Kristofer Jay I. Go v. AAA*), which was denied through a Resolution dated October 2, 2017 for failure to show any reversible error on the part of the CA.<sup>[13]</sup>

Petitioner Mercado also filed several other cases against private respondents, as follows:

1. *Sugar Mercado v. Kristofer Jay Go* (R-QZN-16-05478-CV) for Indirect Contempt;
2. *Sugar Mercado v. Krystle Anne I. Go-Cantillo* (OCP NPS-INV-16H-09264) for violation of R.A. No. 10175;
3. *Ma. Sugar Mercado v. Kristofer Hay Go, Peter and Esther Go* (NPS-XV-03-INV-15K-12139) for violation of R.A. No. 9262; and
4. *Ma. Sugar Mercado v. Kristoffer Jay Go, Peter and Esther Go* (NPS-XV-INV-16C-00802 OCP) for violation of R.A. No. 9262.

The last two cases for violation of R.A. No. 9262 were eventually dismissed by the OCP of Quezon City for lack of probable cause.<sup>[14]</sup>

Hence, the instant Petition.

Petitioners aver that the cases filed by private respondents against them (the subject cases) are forms of SLAPP intended to harass, intimidate, and silence them.<sup>[15]</sup> Petitioners claim that the subject cases are false and baseless complaints that were filed to emotionally, psychologically, and financially drain them and ultimately to pressure them to give up custody of petitioner Mercado's minor children. Petitioners also argue that the filing of the subject cases falls within the definition of "abuse" and "violence against women" under R.A. No. 9262. In this regard, petitioners claim that public respondents committed grave abuse of discretion, amounting to lack or excess of jurisdiction, in taking cognizance of the subject cases even though petitioner Mercado is a "judicially declared victim of domestic violence"

and in whose favor a PPO has been issued.<sup>[16]</sup>

Petitioners thus pray that the Court declare the subject cases as SLAPP and for the Court to issue a TRO/Writ of Preliminary Injunction directing public respondents to desist from conducting further hearings on the subject cases and for the immediate dismissal of the same. Petitioners also seek the amendment of A.M. No. 04-10-11-SC (Rule on Violence Against Women and Children) to include provisions against SLAPP.

### ***Comment of Private Respondents***

On September 14, 2017, private respondents filed their Comment to the Petition.

Private respondents allege that the Petition does not satisfy the procedural requisites of judicial review and that petitioners are guilty of forum-shopping. They likewise claim that the filing of the subject cases against petitioners was not a violation of the PPO as some of the cases were filed prior to the issuance of the PPO on February 19, 2016. Nonetheless, there was no pronouncement in the PPO that the filing of said cases was a violation thereof. Private respondents further allege that the subject cases had factual and legal bases and that the enforcement of a right or seeking redress through judicial processes does not constitute violence against women. Thus, private respondents argue that there was no grave abuse of discretion on the part of public respondents as they were merely performing their official functions.

### ***Comment of Public Respondents***

On November 9, 2017, public respondents Vitaliano Aguirre II, in his capacity as Secretary of Justice, and Donald Lee, in his capacity as Chief of the Prosecutor's Office, Quezon City, filed their Comment through the Office of the Solicitor General (OSG).

Public respondents stress several procedural infirmities in the Petition, namely: (i) that the requisites for judicial review are not present in this case; (ii) that the filing of the Petition is premature because there are other plain, speedy, and adequate remedies available to petitioners; and (iii) that there was also a failure to observe the hierarchy of courts.

With respect to the substantive issue, public respondents further aver that they did not commit grave abuse of discretion in taking cognizance of the subject cases as the same cannot be considered as SLAPPs because such rule applies specifically to environmental cases only. Hence, the relief being sought by petitioners lacks legal or procedural basis.

## **Issues**

As gathered from the submissions of the parties, the principal issue for the Court's resolution is whether public respondents committed grave abuse of discretion amounting to lack or excess of jurisdiction in taking cognizance of the subject cases.

## **Discussion**

The Petition is dismissed.

*The Petition is procedurally infirm; availability of plain, speedy, and adequate remedies; failure to state material dates*

At the outset, the Court finds the filing of the instant Petition premature. For a petition for *certiorari* or prohibition to prosper, the Rules require that there be no other plain, speedy, and adequate remedy available in the ordinary course of law.

[17] Here, the cases before the public respondents are still pending. Thus, there still exists in law a plain, speedy, and adequate remedy for petitioners which is to participate in said cases and await the judgment of the RTC. And, if the RTC renders an unfavorable judgment against petitioners, they may appeal the cases to the CA. Meanwhile, as to the complaints filed before the OCP of Quezon City, the same may be elevated via petition for review before the Secretary of Justice and thereafter to the Office of the President; if the prosecutor's finding of probable cause is ultimately upheld, the case may then proceed to trial.

In the same vein, petitioner Mercado is also entitled to the appropriate relief under R.A. No. 9262 in case of a violation of the PPO dated February 19, 2016 issued in Civil Case No. R-QZN-15-10201. Under Section 21 of R.A. No. 9262, a violation of any provision of a PPO shall constitute Contempt of Court punishable under Rule 71 of the Rules:

SECTION 21. *Violation of Protection Orders.* -

x x x x

Violation of any provision of a TPO or PPO issued under this Act shall constitute contempt of court punishable under Rule 71 of the Rules of Court, without prejudice to any other criminal or civil action that the offended party may file for any of the acts committed.[18]

The Court is a court of last resort. This policy must be strictly observed so as not to unduly burden the Court with cases that may be resolved by the lower courts vested with concurrent jurisdiction. The Court's original jurisdiction may only be invoked when serious and important reasons exist that necessitate the same.

Furthermore, the Petition is dismissible for failure to include a statement of material dates in violation of Rule 56 of the Rules of Court, in relation to Section 3 of Rule 46. Rule 46 provides that the following material dates must be stated in a petition for *certiorari* brought under Rule 65: (a) the date when notice of the judgment or final order or resolution was received, (b) the date when a motion for new trial or for reconsideration was filed, and (c) the date when notice of the denial thereof was received.[19] The same provision states that the petitioner's failure to comply with said requirements shall be sufficient ground for the dismissal of the petition.[20]

The purpose of this requirement is to determine whether the petition was filed within the proper reglementary period. A petition for *certiorari* or prohibition must be filed not later than sixty (60) days from notice of the judgment, order, or resolution sought to be assailed.[21]