

## FIRST DIVISION

[ G.R. NO. 153284, April 17, 2007 ]

**REGIONAL STATE PROSECUTOR SANTIAGO M. TURINGAN, AS  
ALTER EGO OF THE SECRETARY OF JUSTICE IN REGION V AND  
STATE PROSECUTOR AND SPECIAL PROSECUTOR ON SSS<sup>[1]</sup>  
CASES IN REGION V ROMULO SJ. TOLENTINO, IN THEIR  
OFFICIAL CAPACITIES AND FOR AND IN REPRESENTATION OF  
THE PEOPLE OF THE PHILIPPINES AND MARITES C. DE LA  
TORRE, IN HER OFFICIAL CAPACITY AS COUNSEL FOR THE  
COMPLAINANT SOCIAL SECURITY SYSTEM BICOL CLUSTER,  
PETITIONERS, VS. HON. ZEIDA AURORA B. GARFIN, IN HER  
CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL  
COURT OF NAGA CITY, BRANCH 19, AND MURIEL C. APOLINAR,  
RESPONDENTS.**

### R E S O L U T I O N

**CORONA, J.:**

This petition for certiorari and mandamus<sup>[2]</sup> seeks the nullification of the March 13, 2002 and April 12, 2002 orders of respondent Judge Zeida Aurora B. Garfin<sup>[3]</sup> in Criminal Case No. RTC 2001-0582 entitled *People of the Philippines v. Muriel C. Apolinar*. The orders granted private respondent Muriel C. Apolinar's motion to quash and denied petitioner state prosecutor Romulo SJ. Tolentino's motion for reconsideration.

Criminal Case No. RTC 2001-0582 arose from an Information charging Apolinar for violation of Section 22(a) in relation to Sections 19(b) and 28(e) of RA 8282<sup>[4]</sup> for non-remittance of social security and employees' compensation<sup>[5]</sup> premiums of his workers for the period January 1997 to December 1998, and nonpayment of the 3% monthly penalty for late remittance. The Information, signed by state prosecutor Tolentino, read:

The undersigned State Prosecutor of the Office of the Regional State Prosecutor, Legazpi City, accuses MURIEL C. APOLINAR, as a registered trimobile operator with business address at 108-1 San Mateo Street, Peñafrancia Avenue, Naga City, for Violation of Section 22(a) in relation to Sections 19(b) and 28(e) of R.A. 8282[,], otherwise known as the Social Security Act of 1997, committed as follows:

That on or about February 1997 and up to the present, in the City of Naga, Camarines Sur, Philippines, within the functional jurisdiction of SSS Naga Branch and the territorial jurisdiction of this Honorable Court, the above named accused while being a registered trimobile operator, did then and there wilfully, unlawfully, and criminally refuse and fail and continuously refuse and fail to remit the premiums due for (sic) his

employee to the SSS in the amount of TWO THOUSAND TWO HUNDRED FIFTY SIX PESOS (P2,256.00), Philippine Currency, representing SSS and EC premiums, for the period from January 1997 to December 1998, and the 3% penalty per month for late remittance in the amount of TWO THOUSAND FORTY EIGHT PESOS and 26/100 (P2,048.26) computed as of 30 July 2000, despite lawful demands by letter in violation of the above-cited provisions of the law, to the damage and prejudice of the SSS and the public in general.

CONTRARY TO LAW.<sup>[6]</sup>

The accompanying certification, also signed by state prosecutor Tolentino, read:

I HEREBY CERTIFY THAT THE REQUIRED INVESTIGATION IN THIS CASE HAS BEEN CONDUCTED BY THE UNDERSIGNED SPECIAL PROSECUTOR IN ACCORDANCE WITH LAW AND UNDER OATH AS OFFICER OF THE COURT, THAT THERE IS REASONABLE GROUND TO BELIEVE THAT THE OFFENSE HAS BEEN COMMITTED, THAT THE ACCUSED IS PROBABLY GUILTY THEREOF AND THAT THE FILING OF THE INFORMATION IS WITH THE PRIOR AUTHORITY AND APPROVAL OF THE REGIONAL STATE PROSECUTOR.<sup>[7]</sup>

Prior to his arraignment, Apolinar moved for the quashing of the Information on the ground that state prosecutor Tolentino lacked the authority to sign it.

On February 13, 2002, Tolentino opposed Apolinar's motion. He contended that he was clothed with the authority to investigate, file the necessary Information and prosecute SSS cases in view of his designation as special prosecutor for SSS cases in Region V under Regional Order No. 97-024-A dated July 14, 1997.

In an order dated March 13, 2002,<sup>[8]</sup> respondent Judge Garfin dismissed Criminal Case No. RTC 2001-0582 for lack of jurisdiction. State prosecutor Tolentino moved for reconsideration but the motion was denied in an order dated April 12, 2002.<sup>[9]</sup> Thus, this petition.

The petition must be dismissed.

The issue in this petition — whether or not state prosecutor Tolentino had the authority to file the Information for violation of RA 8282 despite the absence of a written authority or approval of the provincial or state prosecutor — is similar to that in *People v. Garfin*.<sup>[10]</sup> In that case, the same state prosecutor Tolentino charged Serafin Saballegue also for violation of Section 22(a) in relation to Sections 19(b) and 28(e) of RA 8282. The certification accompanying the Information (which was identical to the certification in the Information against Apolinar) was also signed by Tolentino. The case was also raffled to the sala of respondent Judge Garfin.

Three days after pleading not guilty to the charge, Saballegue filed a motion to dismiss on the ground that the Information was filed without the written authority or approval of the city prosecutor. This was opposed by Tolentino.

After considering the arguments of the parties, respondent Judge Garfin granted Saballegue's motion. She denied the motion for reconsideration filed by Tolentino.