

## THIRD DIVISION

[ G.R. No. 113216, September 05, 1997 ]

**RHODORA M. LEDESMA, PETITIONER, VS. COURT OF APPEALS  
AND HON. MAXIMIANO C. ASUNCION, IN HIS CAPACITY AS  
PRESIDING JUDGE OF RTC, QUEZON CITY, RESPONDENTS.**

### D E C I S I O N

**PANGANIBAN, J.:**

When confronted with a motion to withdraw an information on the ground of lack of probable cause based on a resolution of the secretary of justice, the bounden duty of the trial court is to make an independent assessment of the merits of such motion. Having acquired jurisdiction over the case, the trial court is not bound by such resolution but is required to evaluate it before proceeding further with the trial. While the secretary's ruling is persuasive, it is not binding on courts. A trial court, however, commits reversible error or even grave abuse of discretion if it refuses/neglects to evaluate such recommendation and simply insists on proceeding with the trial on the mere pretext of having already acquired jurisdiction over the criminal action.

This principle is explained in this Decision resolving a petition for review on certiorari of the Decision<sup>[1]</sup> of the Court of Appeals,<sup>[2]</sup> promulgated on September 14, 1993 in CA-G.R. SP No. 30832 which in effect affirmed an order of the Regional Trial Court of Quezon City denying the prosecution's withdrawal of a criminal information against petitioner.

*The Antecedent Facts*

From the pleadings submitted in this case, the undisputed facts are as follows:

Sometime in April 1992, a complaint for libel was filed by Dr. Juan F. Torres, Jr. against Dr. Rhodora M. Ledesma, petitioner herein, before the Quezon City Prosecutor's Office, docketed as I.S. No. 92-5433A. Petitioner filed her counter-affidavit to the complaint.

Finding 'sufficient legal and factual basis,' the Quezon City Prosecutor's Office filed on July 6, 1992 an Information for libel against petitioner with the Regional Trial Court of Quezon City, Branch 104.<sup>[3]</sup> The Information filed by Assistant City Prosecutor Augustine A. Vestil reads: <sup>[4]</sup>

"That on or about the 27th day of June 1991, in Quezon City, Metro Manila, Philippines, the said accused, acting with malice, did, then and there, wilfully, unlawfully and feloniously send a letter addressed to Dr. Esperanza I. Cabral, Director of Philippine Heart Center, East Avenue, this city, and furnished the same to other officers of the said hospital, said

letter containing slanderous and defamatory remarks against DR. JUAN F. TORRES, JR., which states in part, to wit:

'27June 1991

Dr. Esperanza I. Cabral

Director

Subject: Return of all  
professional fees due  
Dr.  
Rhodora M. Ledesma,  
Nuclear Medicine  
Specialist/Consultant,  
Philippine Heart  
Center, from January  
31, 1989 to January  
31,  
1991.

Respondents: Dr. Juan F. Torres, Jr.,  
Chief, Nuclear  
Medicine Section

Dr. Orestes P.  
Monzon,

Staff Consultant

Dear Dr. Cabral,

This is to demand the return of all professional fees due me as a consultant in Nuclear Medicine, this Center, since January 31, 1989 until my resignation effective January 31, 1991, amounting to at least P100,000.00 for the year 1990 alone. Records in the Nuclear Medicine Section will show that from January 1989 to January 1991, a total of 2,308 patients were seen. Of these, I had officially supervised, processed, and interpreted approximately a total of 1,551 cases as against approximately 684 and 73 cases done by Dr. Monzon and Dr. Torres respectively.

Until my resignation I had received a monthly share of professional fees averaging P1,116.90/month supposedly representing 20% of the total monthly professional fees. The rest were divided equally between Dr. Monzon and Dr. Torres. There was never any agreement between us three consultants that this should be the arrangement and I am certain that this was not with your approval. The burden of unfairness would have been lesser if there was an equal distribution of labor and the schedule of duties were strictly followed. As it was, the schedule of duties submitted monthly to the office of the Asst. Director for Medical Services was simply a dummy to comply with administrative requirements rather than a guideline for strict compliance. Both consultants have complete daily time records even if they did not come regularly. Dr. Torres came for

an hour every week, Dr. Monzon came sporadically during the week while I was left with everything from training the residents and supervising the Techs to processing and interpreting the results on a regular basis. I had a part time appointment just like Dr. Monzon and Dr. Torres.

In the interest of fairness and to set a precedent for the protection of future PHC Nuclear Medicine Alumni I am calling your attention to the unfair and inhuman conditions I went through as a Consultant in that Section. I trust that your sense of professionalism will put a stop to this corruption.

I suggest that a committee be formed to make an audit of the distribution of professional fees in this Section. At this point, let me stress that since professional fees vary according to the type of procedure done and since there was no equity of labor between us I am not settling for an equal percentage share. I demand that I be indemnified of all professional fees due me on a case to case basis.

Let me make clear my intention of pursuing this matter legally should there be no favorable action in my behalf. Let me state at this point<sup>6</sup> that the actions of Dr. Torres and Dr. Monzon are both unprofessional and unbecoming and are clearly violating the code of ethics of the medical profession and the Philippine Civil Service Rules and Regulations related to graft and corruption.

Thank you.'

and other words of similar import, when in truth and in fact, as the accused very well knew, the same are entirely false and untrue but were publicly made for no other purpose than to expose said DR. JUAN F. TORRES, JR. to public ridicule, thereby casting dishonor, discredit and contempt upon the person of the said offended party, to his damage and prejudice."

A petition for review of the resolution of Assistant City Prosecutor Vestil was filed by petitioner before the Department of Justice pursuant to P.D. No. 77 as amended by P.D. No. 911.

The Department of Justice gave due course to the petition and directed the Quezon City prosecutor to move for deferment of further proceedings and to elevate the entire records of the case.<sup>[5]</sup> Accordingly, a "Motion to Defer Arraignment" dated September 7, 1992 was filed by Prosecutor Tirso M. Gavero before the court *a quo*.<sup>[6]</sup> On September 9, 1992, the trial court granted the motion and deferred petitioner's arraignment until the final termination of the petition for review.<sup>[7]</sup>

Without the consent or approval of the trial prosecutor, private complainant, through counsel, filed a Motion to Lift the Order dated September 9, 1992 and to Set the Case for Arraignment/Trial.<sup>[8]</sup>

On January 8, 1993, the trial court issued an Order setting aside its earlier Order of September 9, 1992 and scheduling petitioner's arraignment on January 18, 1993 at

two o'clock in the afternoon.<sup>[9]</sup>

In a resolution dated January 27, 1993, then Justice Secretary Franklin M. Drilon reversed the Quezon City investigating prosecutor. Pertinent portions of Drilon's ruling read:<sup>[10]</sup>

"From the circumstances obtaining, the subject letter was written to bring to the attention of the Director of the Philippine Heart Center for Asia and other responsible authorities the unjust and unfair treatment that Dr. Ledesma was getting from complainants. Since complainants and respondent are government employees, and the subject letter is a complaint to higher authorities of the PHCA on a subject matter in which respondent has an interest and in reference to which she has a duty to question the same is definitely privileged (US vs. Bustos, 37 Phil. 131). Moreover, in *Ang vs. Castro*, 136 SCRA 455, the Supreme Court, citing *Santiago vs. Calvo*, 48 Phil. 922, ruled that 'A communication made in good faith upon any subject matter in which the party making the communication has an interest or concerning which he has a duty is privileged... although it contains incriminatory or derogatory matter which, without the privilege, would be libelous and actionable.

The follow-up letter sent by respondent to the director of the PHCA, is a direct evidence of respondent's righteous disposition of following the rule of law and is a clear indication that her purpose was to seek relief from the proper higher authority who is the Director of PHCA.

The same interpretation should be accorded the civil and administrative complaints which respondent filed against complainants. They are mere manifestations of her earnest desire to pursue proper relief for the alleged injustice she got from complainants. If she was motivated by malice and ill-will in sending the subject communication to the Director of the PHCA, she would not have sent the second letter and filed the administrative and civil cases against complainants.

Moreover, it is unbelievable that it took complainants one year to realize that the questioned letter subjected them to public and malicious imputation of a vice or omission. It is beyond the ordinary course of human conduct for complainants to start feeling the effects of the alleged libelous letter — that of experiencing sleepless nights, wounded feelings, serious anxiety, moral shock and besmirched reputation — one year after they read the communication in question.

The claim that the case of *Crespo vs. Mogul*, 151 SCRA 462 is applicable to the instant case is unfounded. In the first place, the instant cases are not being reinvestigated. It is the resolutions of the investigating prosecutor that are under review. Further, the record shows that the court has issued an order suspending the proceedings pending the resolutions of the petitions for review by this Office. In the issuance of its order, the court recognizes that the Secretary of Justice has the power and authority to review the resolutions of prosecutors who are under his control and supervision.

In view of the foregoing, the appealed resolutions are hereby reversed. You are directed to withdraw the Informations which you filed in Court. Inform this Office of the action taken within ten (10) days from receipt hereof.'

In obedience to the above directive, Quezon City Trial Prosecutor Tirso M. Gavero filed a Motion to Withdraw Information dated February 17, 1993,<sup>[11]</sup> attaching thereto the resolution of Secretary Drilon. The trial judge denied this motion in his Order dated February 22, 1993, as follows:<sup>[12]</sup>

'The motion of the trial prosecutor to withdraw the information in the above-entitled case is denied. Instead, the trial prosecutor of this court is hereby directed to prosecute the case following the guidelines and doctrine laid down by the Supreme Court in the case of *Crespo vs. Mogul*, 151 SCRA 462.'

Petitioner's motion for reconsideration<sup>[13]</sup> was denied by the trial judge in the Order dated March 5, 1993, as follows:<sup>[14]</sup>

"Finding no cogent reason to justify the reconsideration of the ruling of this Court dated February 22, 1993, the Motion for Reconsideration dated March 1, 1993 filed by the accused through counsel is hereby denied."

Aggrieved, petitioner filed a petition for *certiorari* and prohibition with the Supreme Court. In a Resolution dated March 31, 1993, this Court referred the case to the Court of Appeals for proper determination and disposition pursuant to Section 9, paragraph 1 of B.P. 129.<sup>[15]</sup>

Respondent Court dismissed the petition "for lack of merit," holding that it had no jurisdiction to overturn the doctrine laid down in *Crespo vs. Mogul* — once a complaint or information has been filed in court, any disposition of the case, i.e., dismissal, conviction or acquittal of the accused, rests on the sound discretion of the trial court.<sup>[16]</sup>

Hence, this recourse to this Court.

### *The Issues*

For unexplained reasons, petitioner failed to make an assignment of errors against the appellate court. Her counsel merely repeated the alleged errors of the trial court: <sup>[17]</sup>

"I. The Orders, dated February 22, 1993 and March 5, 1993, of respondent Judge Asuncion relied solely on the '*Crespo vs. Mogul*' (151 SCRA 462) decision. It is respectfully submitted that said case is not applicable because:

1. It infringes on the constitutional separation of powers between the executive and judicial branches of the government;
2. It constitutes or it may lead to misuse or misapplication of 'judicial power' as defined in the Constitution;