

## THIRD DIVISION

[ G.R. No. 191718, May 10, 2021 ]

**RAMON H. DEBUQUE, PETITIONER, VS. MATT C. NILSON,  
RESPONDENT.**

### D E C I S I O N

**HERNANDO, J.:**

This Petition for Review on *Certiorari*<sup>[1]</sup> assails the June 30, 2009 Decision<sup>[2]</sup> and March 23, 2010 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 100625, which reversed the August 23, 2007 Resolution<sup>[4]</sup> of the Secretary of the Department of Justice (DOJ), and reinstated the May 10, 2006 Joint Resolution of the City Prosecutor of Quezon City in I.S. Nos. 05- 5856,05-10313, and 05-7951.<sup>[5]</sup>

The said Joint Resolution found probable cause for the crime of Syndicated Estafa under Article 315(2)(a) of the Revised Penal Code<sup>[6]</sup> (RPC), as amended, in relation to Presidential Decree No. 1689<sup>[7]</sup> (PD 1689) against petitioner Ramon H. Debuque (Ramon) and other individuals not included as parties in this Petition, namely: Atty. Ignacio D. Debuque, Jr. (Atty. Debuque), Margarita H. Debuque (Margarita), Antonio H. Debuque (Antonio), Manuel Litonjua Yap (Manuel), and Luz Litonjua Yap (Luz) (collectively, the accused). The August 23, 2007 Resolution of the DOJ Secretary reversed the Joint Resolution of the City Prosecutor and ordered the filing of an Information for Estafa under Article 315(2)(a) of the RPC only against Atty. Debuque.

#### **The Factual Antecedents:**

This case arose from a Complaint-Affidavit for Syndicated Estafa filed by respondent Matt C. Nilson (Nilson) before the Office of the City Prosecutor of Quezon City against Ramon and the other accused. The criminal case was docketed as I.S. No. 05-5856.<sup>[8]</sup>

Nilson alleged that in the early 1990s, while he was the Managing Director of Tongsat,<sup>[9]</sup> he met Atty. Debuque, who was then the Chairman of Domestic Satellite Philippines, Inc. (DOMSAT).<sup>[10]</sup> They developed a professional relationship and eventually became friends.<sup>[11]</sup> Subsequently, Atty. Debuque was able to borrow sizable funds from Nilson numerous times.<sup>[12]</sup>

Atty. Debuque, who was also acting on behalf of the other accused, invited Nilson to join them in a business venture, which the former alleged would yield large profits.<sup>[13]</sup> He promised Nilson shares of stock in Investa Land Corporation (ILC), a corporation then to be formed, equivalent to the value of the numerous personal loans extended to him by Nilson.<sup>[14]</sup>

Atty. Debuque also induced Nilson to purchase various commercial lots in partnership with him, stating that the value of the lands will rise exponentially, and that these will be transferred in the name of ILC.<sup>[15]</sup> Consequently, on two occasions, Nilson paid Atty. Debuque sums of money as his share in the purchase price of commercial lots located in General Santos City - P6 million on September 20, 1997, and P3 million on November 19, 1997.<sup>[16]</sup>

Nilson, however, thereafter claimed that the lots were not commercial lands and were represented as such to induce him to pay a higher price. Atty. Debuque then pledged TCT No. 203836 in exchange for the release of the P3 million. The Land Registration Authority, however, reported that the said title was questionable.<sup>[17]</sup> Also, Nilson's wife, Racquel, lent Atty. Debuque sums of money in exchange for ILC shares of stock, secured by TCT No. 291035.<sup>[18]</sup> Nilson further contributed P8 million as initial operational funds of ILC.<sup>[19]</sup> In turn, Atty. Debuque promised to give Nilson ILC shares of stock in the total amount of P76 million.<sup>[20]</sup>

Hence the filing of a Complaint-Affidavit for Syndicated Estafa against Atty. Debuque, Ramon, and the other accused. Nilson alleged that they neither gave him the promised ILC shares of stock nor returned the funds that he contributed to the venture.<sup>[21]</sup>

In response, Atty. Debuque and the other accused filed counter-charges for Falsification and Perjury against Nilson.<sup>[22]</sup>

In their Joint Counter-Affidavit in the Syndicated Estafa charge (instant case), Atty. Debuque and the other accused denied the charges against them and alleged the following: (a) PD 1689 is not applicable because ILC is a closed corporation; (b) they filed a complaint for declaratory relief against Nilson and the issue raised therein presents a prejudicial question in the instant criminal case; (c) the mere act of disbursing the corporate funds by Atty. Debuque does not *ipso facto* mean that these were mishandled; (d) the charge is in the nature of an intra-corporate dispute; and (e) ILC is not bankrupt as it has numerous properties assigned to it.<sup>[23]</sup>

### **Joint Resolution of the City Prosecutor:**

In a May 10, 2006 Joint Resolution,<sup>[24]</sup> Assistant City Prosecutor Florante R. Ramolete found probable cause to charge Atty. Debuque and the other accused with Syndicated Estafa in relation to PD 1689. He also dismissed the counter-charges of Falsification and Perjury against Nilson.

The public prosecutor found that no properties were contributed to ILC in exchange for shares of stock.<sup>[25]</sup> Further, no certificates of stock of ILC were issued or delivered to Nilson, contrary to what was promised.<sup>[26]</sup> The Securities and Exchange Commission revoked ILC's certificate of registration leaving Nilson without recourse against it regarding his purported investments in the form of loans to Atty. Debuque.

[27] Nilson's money was never returned given that there was no issuance of shares of stock in his name.[28] The prosecutor also found that the other accused were shareholders or officers of ILC or Investa Holdings Corporation (a related corporation), thereby warranting the finding of probable cause for Syndicated Estafa.[29] The Joint Resolution was approved by City Prosecutor Claro A. Arellano.

The dispositive portion of the Joint Resolution reads:

WHEREFORE, premises considered, it is respectfully recommended that Atty. Ignacio D. Debuque, Jr. and his co-respondents be indicted of the crime of **Syndicated Estafa in relation to P.D. 1689**. However, the counter-charge of Perjury and Falsification of [P]ublic Documents in I.S. Nos. 05-10313 and 05-7951 are hereby recommended dismissed for lack of factual and legal basis.

Bail is so stated in the Information.[30]

Aggrieved, Atty. Debuque and the other accused elevated the finding to the DOJ Secretary.

Meanwhile, on May 19, 2006, an Information for Syndicated Estafa was filed before the Regional Trial Court (RTC) of Quezon City, Branch 105 against Ramon, Atty. Debuque, and the other accused, docketed as Criminal Case No. Q-06-141941.[31]

### **Resolutions of the Secretary of the Department of Justice:**

In a March 12, 2007 Resolution,[32] then DOJ Secretary Raul M. Gonzalez reversed and set aside the Joint Resolution of the City Prosecutor of Quezon City. He ordered the withdrawal of the Information for Syndicated Estafa and directed the filing of a new one for Estafa under Article 315 (2)(a) of the RPC but only against Atty. Debuque.

The Secretary of Justice ruled that all the elements of Estafa under Article 315 (2) (a) of the RPC were present, namely: (a) Atty. Debuque made false pretenses regarding the issuance of certificates of shares of stock in exchange for the loans extended by Nilson; (b) the false pretenses were made prior to or simultaneously with the commission of fraud; (c) Nilson relied on Atty. Debuque's false pretenses and was induced to part with his money or property; and, (d) Nilson suffered damage when Atty. Debuque failed to issue the promised shares of stock despite repeated demands.[33]

Further, the DOJ Secretary did not find any evidence implicating the other accused for Syndicated Estafa.[34] There was no evidence showing that Atty. Debuque was authorized by the other shareholders of the corporation to transact with Nilson.[35] The other accused were in fact strangers to the agreements between Atty. Debuque and Nilson.[36] Likewise, conspiracy among Atty. Debuque and the other accused in

the perpetuation of fraud was not proved.<sup>[37]</sup>

The dispositive portion of the March 12, 2007 Resolution reads:

WHEREFORE, based on the foregoing premises, the assailed resolution of the City Prosecutor of Quezon City is hereby REVERSED and SET ASIDE. The City Prosecutor is hereby directed to **withdraw the information for Syndicated Estafa and instead me a new information for Estafa under Article 315 (2)(a) against Atty. Ignacio Debuque, Jr.** Further, the City Prosecutor is hereby directed to report the action taken within ten (10) days from receipt hereof.

SO ORDERED.<sup>[38]</sup> (Underscoring and emphasis supplied)

Nilson filed a Motion for Reconsideration claiming that the other accused participated and ratified Atty. Debuque's scheme to defraud him.<sup>[39]</sup>

In his June 25, 2007 Resolution,<sup>[40]</sup> the DOJ Secretary reversed his previous Resolution and reinstated the Joint Resolution of the City Prosecutor in finding probable cause for Syndicated Estafa against Atty. Debuque and the other accused.

The DOJ Secretary found that the other accused are likewise liable for the following reasons: (a) they joined Atty. Debuque in incorporating ILC; (b) they were the controlling stockholders and officers of ILC, therefore privy to the matters relating to it, including Atty. Debuque's scheme; (c) despite being aware that the amounts Nilson paid (as his share for the purchase of properties and as his contribution for ILC's operational funds) were made in exchange for ILC shares of stock, they refused to issue the same; and, (d) they actively participated in delaying the resolution of Nilson's criminal complaint against Atty. Debuque by filing a complaint for declaratory relief.<sup>[41]</sup> Ramon, Antonio, Margarita, and Manuel, among the accused, collectively owned 75% of ILC's shareholdings; hence, they could have overruled Atty. Debuque and issued ILC shares of stock to Nilson or even returned the latter's investments.<sup>[42]</sup> The DOJ Secretary reasoned that by their inaction despite their majority shareholdings, it was evident that they intended to avail of the fruits of Atty. Debuque's fraudulent schemes.<sup>[43]</sup>

The dispositive portion of the June 25, 2007 Resolution reads:

WHEREFORE, premises considered, the motion for reconsideration is hereby GRANTED and our Resolution promulgated on 12 March 2007 is REVERSED and SET ASIDE. Accordingly, the appealed resolution of the City Prosecutor of Quezon City is hereby **REINSTATED** and he is further directed to report the action taken thereon within ten (10) days from receipt hereof.

SO ORDERED.<sup>[44]</sup> (Underscoring and emphasis supplied)

The accused filed a Motion for Reconsideration claiming that they did not participate and were indeed ignorant of the transactions between Atty. Debuque and Nilson.<sup>[45]</sup>

In an August 23, 2007 Resolution,<sup>[46]</sup> the DOJ Secretary again reversed his last

Resolution and reverted to his first disposition that only Atty. Debuque was to be held liable for Estafa. He ruled that there were no allegations showing that Nilson met and discussed with the other accused, apart from Atty. Debuque, regarding the transactions.<sup>[47]</sup> There were also no allegations showing that they made misrepresentations nor committed fraudulent acts concerning the transactions.<sup>[48]</sup> Nilson sent demand letters only to Atty. Debuque, and not to the other accused.<sup>[49]</sup>

While it is true that the other accused were stockholders of ILC, the DOJ Secretary ruled that such fact alone was insufficient to prove that they participated in the fraudulent schemes.<sup>[50]</sup> To indict them, conspiracy among them must be shown, which was absent in this instance.<sup>[51]</sup> There was also no proof that the other accused authorized Atty. Debuque to act on their behalf.<sup>[52]</sup> Further, the other accused were not signatories or even witnesses to the agreements between Atty. Debuque and Nilson.<sup>[53]</sup>

The dispositive portion of the August 23, 2007 Resolution reads:

WHEREFORE, premises considered, the motion for reconsideration is hereby GRANTED and our Resolution promulgated on 25 June 2007 is REVERSED and SET ASIDE. Accordingly, the City Prosecutor of Quezon City is hereby directed to **withdraw the information for Syndicated Estafa against respondents Atty. Ignacio Debuque, Jr., Ramon H. Debuque, Antonio H. Debuque, Margarita H. Debuque, Manuel Litonjua Yap, Jr., and Luz Litonjua Yap** and instead **file a new information for Estafa under Article 315 (2) (a) against Atty. Ignacio Debuque, Jr.** and he is likewise directed to report action taken within ten (10) days from receipt hereof.

SO ORDERED.<sup>[54]</sup> (Underscoring and emphasis supplied)

Aggrieved, Nilson filed a Petition for Review under Rule 43 of the Rules of Court before the CA assailing the August 23, 2007 Resolution of the DOJ Secretary.

### **Ruling of the Court of Appeals:**

The CA treated Nilson's petition as a Petition for *Certiorari* under Rule 65 considering that there was an allegation of grave abuse of discretion on the part of the DOJ Secretary in issuing his August 23, 2007 Resolution.<sup>[55]</sup>

In its assailed June 30, 2009 Decision,<sup>[56]</sup> the appellate court reversed the last Resolution of the DOJ Secretary and reinstated the Joint Resolution of the City Prosecutor finding probable cause for Syndicated Estafa against all accused.

The CA ruled that conspiracy may be implied from the fact that Ramon and the other accused were all relatives of Atty. Debuque, and were incorporators, officers, and stockholders of ILC.<sup>[57]</sup> According to the CA, these circumstances make them privy to Atty. Debuque's activities.<sup>[58]</sup>

The appellate court also found that they indeed participated and ratified the agreements between Atty. Debuque and Nilson even prior to the incorporation of ILC