

## FIRST DIVISION

[ G.R. No. 216920, January 13, 2016 ]

**GIRLIE M. QUISAY, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> are the Decision<sup>[2]</sup> dated October 10, 2014 and the Resolution<sup>[3]</sup> dated January 30, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 131968, which affirmed the denial of petitioner Girlie M. Quisay's (petitioner) Motion to Quash before the Regional Trial Court of Makati, Branch 144 (RTC).

#### The Facts

On December 28, 2012, the Office of the City Prosecutor of Makati City (OCP-Makati) issued a *Pasiya*<sup>[4]</sup> or Resolution finding probable cause against petitioner for violation of Section 10 of Republic Act No. (RA) 7610,<sup>[5]</sup> otherwise known as the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act." Consequently, a *Pabatid Sakdal*<sup>[6]</sup> or Information was filed before the RTC on January 11, 2013 charging petitioner of such crime.

On April 12, 2013, petitioner moved for the quashal of the Information against her on the ground of lack of authority of the person who filed the same before the RTC. In support of her motion, petitioner pointed out that the *Pasiya* issued by the OCP-Makati was penned by Assistant City Prosecutor Estefano H. De La Cruz (ACP De La Cruz) and approved by Senior Assistant City Prosecutor Edgardo G. Hirang (SACP Hirang), while the *Pabatid Sakdal* was penned by ACP De La Cruz, without any approval from any higher authority, albeit with a Certification claiming that ACP De La Cruz has prior written authority or approval from the City Prosecutor in filing the said Information. In this regard, petitioner claimed that nothing in the aforesaid *Pasiya* and *Pabatid Sakdal* would show that ACP De La Cruz and/or SACP Hirang had prior written authority or approval from the City Prosecutor to file or approve the filing of the Information against her. As such, the Information must be quashed for being tainted with a jurisdictional defect that cannot be cured.<sup>[7]</sup>

In its Comment and Opposition,<sup>[8]</sup> the OCP-Makati countered that the review prosecutor, SACP Hirang, was authorized to approve the *Pasiya* pursuant to OCP-Makati Office Order No. 32.<sup>[9]</sup> Further, it maintained that the *Pabatid Sakdal* was filed with the prior approval of the City Prosecutor as shown in the Certification in the Information itself.<sup>[10]</sup>

#### The RTC Ruling

In an Order<sup>[11]</sup> dated May 8, 2013, the RTC denied petitioner's motion to quash for lack of merit. It found the Certification attached to the Pabatid Sakdal to have sufficiently complied with Section 4, Rule 112 of the Rules of Court which requires the prior written authority or approval by, among others, the City Prosecutor, in the filing of Informations.<sup>[12]</sup>

Petitioner moved for reconsideration,<sup>[13]</sup> which was, however, denied in an Order<sup>[14]</sup> dated July 10, 2013. Aggrieved, petitioner elevated the matter to the CA *via* a petition for *certiorari*.<sup>[15]</sup>

### **The CA Ruling**

In a Decision<sup>[16]</sup> dated October 10, 2014, the CA affirmed the RTC ruling. It held that pursuant to Section 9 of RA 10071,<sup>[17]</sup> otherwise known as the "Prosecution Service Act of 2010," as well as OCP-Makati Office Order No. 32, the City Prosecutor of Makati authorized SACP Hirang to approve the issuance of, *inter alia*, resolutions finding probable cause and the filing of Informations before the courts. As such, SACP Hirang may, on behalf of the City Prosecutor, approve the *Pasiya* which found probable cause to indict petitioner of violation of Section 10 of RA 7610.<sup>[18]</sup>

Further, it held that the Certification made by ACP De La Cruz in the Pabatid Sakdal clearly indicated that the same was filed after the requisite preliminary investigation and with the prior written authority or approval of the City Prosecutor. In this regard, the CA opined that such Certification enjoys the presumption of regularity accorded to a public officer's performance of official functions, in the absence of convincing evidence to the contrary.<sup>[19]</sup>

Undaunted, petitioner moved for reconsideration,<sup>[20]</sup> but was denied in a Resolution<sup>[21]</sup> dated January 30, 2015; hence, this petition.

### **The Issue Before the Court**

The core issue for the Court's resolution is whether or not the CA correctly held that the RTC did not gravely abuse its discretion in dismissing petitioner's motion to quash.

### **The Court's Ruling**

The petition is meritorious.

Section 4, Rule 112 of the 2000 Revised Rules on Criminal Procedure states that the filing of a complaint or information requires a prior written authority or approval of the named officers therein before a complaint or information may be filed before the courts, *viz.*:

SECTION 4. *Resolution of investigating prosecutor and its review.* - If the investigating prosecutor finds cause to hold the respondent for trial, he shall prepare the resolution and information. He shall certify under oath

in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he was given an opportunity to submit controverting evidence. Otherwise, he shall recommend the dismissal of the complaint.

Within five (5) days from his resolution, he shall forward the record of the case to the provincial or city prosecutor or chief state prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the *Sandiganbayan* in the exercise of its original jurisdiction. They shall act on the resolution within ten (10) days from their receipt thereof and shall immediately inform the parties of such action.

**No** complaint or **information may be filed** or dismissed by an investigating prosecutor **without the prior written authority or approval of the** provincial or **city prosecutor** or chief state prosecutor or the Ombudsman or his deputy.

x x x x (Emphases and underscoring supplied)

Thus, as a general rule, complaints or informations filed before the courts without the prior written authority or approval of the foregoing authorized officers renders the same defective and, therefore, subject to quashal pursuant to Section 3 (d), Rule 117 of the same Rules, to wit:

SECTION 3. *Grounds.* - The accused may move to quash the complaint or information on any of the following grounds:

x x x x

(d) **That the officer who filed the information had no authority to do so;**

x x x x (Emphasis and underscoring supplied)

In this relation, *People v. Garfin*<sup>[22]</sup> firmly instructs that the filing of an Information by an officer without the requisite authority to file the same constitutes a jurisdictional infirmity which cannot be cured by silence, waiver, acquiescence, or even by express consent. Hence, such ground may be raised at any stage of the proceedings.<sup>[23]</sup>

In the case at bar, the CA affirmed the denial of petitioner's motion to quash on the grounds that: (a) the City Prosecutor of Makati may delegate its authority to approve the filing of the *Pabatid Sakdal* pursuant to Section 9 of RA 10071, as well as OCP-Makati Office Order No. 32; and (b) the *Pabatid Sakdal* contained a Certification stating that its filing before the RTC was with the prior written authority or approval from the City Prosecutor.