

FIRST DIVISION

[G.R. No. 189878, July 11, 2016]

**WILSON FENIX, REZ CORTEZ AND ANGELITO SANTIAGO,
PETITIONERS, VS. THE HONORABLE COURT OF APPEALS AND
THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

D E C I S I O N

SERENO, C.J.:

In this petition for review on certiorari under Rule 45 of the Rules of Court, We uphold the power of judges to dismiss a criminal case when the evidence on record clearly fails to establish probable cause for the issuance of a warrant of arrest.

The petition challenges the Court of Appeals (CA) Decision^[1] and Resolution^[2] in CA-G.R. SP No. 98187. The assailed CA Decision annulled the Orders^[3] issued by the Regional Trial Court of Makati City, Branch 139 (RTC), which dismissed Criminal Case No. 05-1768 for lack of probable cause for the issuance of warrants of arrest against petitioners who had been charged with serious illegal detention. The assailed CA Resolution denied petitioners' motion for reconsideration.

FACTS

Complaint

In a Complaint Affidavit dated 15 June 2005, Technical Sergeant Vidal D. Doble, Jr. (Doble), a member of the Intelligence Service of the Armed Forces of the Philippines (ISAFP), charged petitioners, together with former Deputy Director of the National Bureau of Investigation (NBI) Samuel Ong (Ong), with serious illegal detention committed on 10-13 June 2005.^[4]

According to Doble, on the morning of 10 June 2005, petitioner Angelito Santiago (Santiago) brought him to the San Carlos Seminary, Guadalupe, Makati City, where they met petitioner Rez Cortez (Cortez) and Bishop Teodoro C. Bacani, Jr. (Bishop Bacani). While there, Doble heard Ong over the radio making a press statement about the existence of an audio tape of a conversation between then President Gloria Macapagal-Arroyo and a Commission on Elections (COMELEC) commissioner regarding the alleged rigging of the 2004 presidential elections.^[5]

On the afternoon of the same day, Ong arrived at the seminary and told Doble that the latter would be presented to the media as the source of the audio tape. From there, Ong and his men proceeded to transfer him from one room to another and closely monitored and guarded his movements. When he approached Santiago and said "*PARE, AYOKO NA, SUKO NA KO*,"^[6] the latter told him to stay put and not go out of the room.

On the morning of 13 June 2005, Doble informed a group of priests who had gone to his room that he was being held against his will. The priests brought him to another room in another building away from Ong and the latter's men. At about 2:30 in the afternoon, Doble was fetched by Bishop Socrates Villegas and turned over to the custody of ISAFP in Camp Aguinaldo, Quezon City.

Doble's Complaint Affidavit was referred to the Chief State Prosecutor, Department of Justice (DOJ), for appropriate legal action.^[7] Also attached to the referral were the affidavits of Doble's witnesses, namely: Arlene Sernal-Doble, wife of Doble;^[8] Reynaldo D. Doble, brother of Doble;^[9] and Marietta C. Santos (Santos), companion of Doble during his alleged illegal detention.^[10]

The DOJ constituted an Investigating Panel of Prosecutors^[11] (panel), which sent subpoenas^[12] for the submission of counter-affidavits.

Counter-allegations

Cortez denied the allegations in his counter-affidavit.^[13] He averred that he had stayed at the San Carlos Seminary from noon of 10 June 2005 to the afternoon of the following day to provide moral support for Ong. During his stay there, Cortez supposedly met Doble and Santos only once in the presence of Bishop Bacani.

Ong also submitted his counter-affidavit.^[14] According to him, sometime in March 2005, Santiago gave him an audio tape that came from the latter's friend, Doble. Ong was told that the audio tape was a product of the wiretap of calls made to COMELEC Commissioner Virgilio Garcillano, and that several of those calls had been made by President Gloria Macapagal-Arroyo. Before taking steps to make the audio tape public, Ong looked for someone who could arrange for sanctuary for him and Doble. Ong was introduced to Cortez, who made arrangements for them to be accommodated at the San Carlos Seminary on 10 June 2005.

Ong denied the allegation that he had armed men guarding Doble during their three-day stay in the seminary. In fact, he and Santiago were both unarmed, while Doble had his .45-caliber pistol. All of them were free to roam around the seminary. Around noon of 13 June 2005, Ong was informed that Bishop Socrates Villegas fetched Doble upon the request of a woman claiming to be Doble's wife, as well as of their two children. Ong was later brought out of the seminary by Bishop Bacani and other bishops, and taken to a safehouse in the south.

In his counter-affidavit,^[15] Santiago essentially corroborated the statements of Ong. Annexed to the counter-affidavits of Ong and Santiago was an Affidavit dated 23 July 2005 executed by Santos,^[16] as well as an Affidavit dated 10 August 2005 executed by Bishop Bacani.^[17]

In her affidavit, Santos recanted all her previous affidavits in support of Doble's complaint. According to her, she was only made to sign the affidavits at the ISAFP office. She made clear that she and Doble had voluntarily sought sanctuary in San Carlos Seminary on 10 June 2005, and that at no point were their movements restricted or closely monitored. They were only transferred from room to room as a

safety measure after an ISAFP agent had been seen around the premises.

In his affidavit, Bishop Bacani narrated that he had agreed to give sanctuary to Ong and the latter's group at *Bahay Pari*^[18] on 10 June 2005. The other persons in the group were Doble, and Santos whom he assumed was Doble's wife. At no time did the two intimate to Bishop Bacani that they were being detained against their will. Rather, they feared that government forces would find them. Bishop Bacani also stated that no armed guards accompanied Doble and Santos in their room during their stay at *Bahay Pari*.

Resolution of the Panel

In a Resolution dated 9 September 2005,^[19] the panel found probable cause to charge petitioners and Ong with serious illegal detention as defined and penalized under Article 267^[20] of the Revised Penal Code. It ruled that the evidence on hand sufficiently established the fact that the offense had indeed been committed against Doble, who was a public officer detained for more than three days.

The panel did not give any serious consideration to the counter-affidavits, with annexes, executed by Ong and Santiago. Allegedly, they had failed, despite notice, to appear and affirm those counter-affidavits before the panel. The panel was supposedly deprived of the opportunity to ask clarificatory questions to test the credibility of Ong and Santiago. On the other hand, it took note of the admission of Cortez that he had gone to the seminary to give moral support to Ong, an act that allegedly made him a conspirator in the commission of the crime.

PROCEEDINGS BEFORE THE RTC

Accordingly, an Information^[21] for the crime of serious illegal detention was filed before the RTC on 9 September 2005 and docketed as Criminal Case No. 05-1768. Attached to the Information filed before the court were the affidavit and supplemental affidavit of Doble and the affidavit of Arlene Sernal-Doble.^[22]

Petitioners and Ong filed a petition for review of the panel's Resolution before the DOJ,^[23] but then DOJ Secretary Raul M. Gonzalez denied it in the Resolution dated 13 January 2006.^[24] Aggrieved, petitioners and Ong filed a motion to dismiss before the RTC urging the court to personally evaluate the Resolution of the panel and all pieces of evidence, especially the affidavit of Bishop Bacani, to determine the existence of probable cause for the issuance of warrants of arrest.^[25]

After an exchange of pleadings, the RTC directed the panel to submit all the documents that were mentioned in the latter's Resolution dated 9 September 2005, but were not attached to the Information filed before the court.^[26] Specifically, the court directed the submission of the sworn statements of Santos and Reynaldo and the counter-affidavits with annexes executed by Ong, Santiago and Cortez.^[27] The panel submitted its compliance on 27 September 2005.^[28]

In the Order dated 17 April 2006,^[29] the RTC dismissed Criminal Case No. 05-1768 for lack of probable cause for the issuance of warrants of arrest against petitioners

and Ong. It saw no justifiable reason why the panel did not give serious consideration to the counter-affidavits of Ong and Santiago. It also recognized the importance of the recantation of Santos. It held that, other than Doble, Santos was the one who truly knew about the incident, as she was with him the whole time.

According to the RTC, recantations are indeed looked upon with disfavor because they can be easily procured through intimidation, threat or promise of reward. There was, however, no showing that the recantation of Santos was attended by any of these vices of consent. At any rate, the court considered it a responsibility to go over all pieces of evidence before the issuance of warrants of arrest, considering the "political undertones" of the case.^[30] It also found no reason to ignore the affidavit of Bishop Bacani. It regarded him as a disinterested witness who had personal knowledge of the circumstances surrounding the alleged illegal detention, for he was the one who gave sanctuary to Doble and Santos.

The court noted that there was no evidence or allegation whatsoever regarding the involvement of Fenix in the alleged detention.

The panel filed a Motion for Reconsideration on 2 May 2006.^[31] The following day, it also filed a motion calling for the voluntary inhibition of Presiding Judge Benjamin T. Pozon allegedly due to bias and prejudice as shown by the arbitrary dismissal of the case.^[32] Finding no just and valid ground therefor, the court denied the motion for inhibition in an Order dated 18 December 2006.^[33]

The RTC issued another Order dated 19 December 2006^[34] denying the motion for reconsideration. It upheld its independent authority to conduct its own evaluation of the evidence for the purpose of determining the existence of probable cause for the issuance of warrants of arrest and the dismissal of the case for failure to establish probable cause.

PROCEEDINGS BEFORE THE CA

The OSG filed a petition for certiorari^[35] before the CA within the 20-day extension previously prayed for.^[36] Petitioners and Ong moved for the dismissal of the petition for late filing,^[37] invoking Section 4,^[38] Rule 65 of the Rules of Court. According to this provision, no extension of time to file a petition shall be granted except for compelling reasons, and in no case exceeding 15 days. The CA admitted^[39] the petition and denied the motion to dismiss, citing the interest of substantial justice.^[40]

On 20 April 2009, the CA issued the assailed Decision^[41] ruling that the RTC committed grave abuse of discretion in dismissing Criminal Case No. 05-1768. The appellate court annulled the RTC Orders dated 17 April 2006 and 19 December 2006 and reinstated the Information for serious illegal detention. Nevertheless, the CA sustained the RTC Order dated 18 December 2006 denying the motion for inhibition.

The CA ruled that while a judge is required to personally determine the existence of probable cause for the issuance of a warrant of arrest, this determination must not extend to the issue of whether there is reasonable ground to believe that the accused is guilty of the offense charged and should be held for trial. In this case, the

CA found that the RTC had delved into the evaluation of the evidence, which should have been held in abeyance until after a full-blown trial on the merits.

The appellate court also stressed that the late filing of the OSG's petition had to be disregarded to correct a patent injustice committed against the People through the precipitate dismissal of Criminal Case No. 05-1768.

Petitioners and Ong filed a motion for reconsideration,^[42] but it was denied in the challenged Resolution dated 13 October 2009.^[43] Meanwhile, Ong passed away on 22 May 2009.^[44]

PROCEEDINGS BEFORE THE COURT

Petitioners come before us raising various issues for our consideration. While the petition was originally denied in the Court Resolution dated 15 February 2010,^[45] it was reinstated on 18 August 2010 pursuant to the grant of the motion for reconsideration filed by petitioners.^[46]

Upon order of the Court, the OSG filed a Manifestation in Lieu of Comment^[47] dated 24 November 2010. The OSG abandoned the legal theory it had previously espoused and prayed that the petition be given due course in view of its merit. According to the OSG, in dismissing Criminal Case No. 05-1768, the RTC dutifully acted within the parameters of its authority under Section 6(a),^[48] Rule 112 of the Rules of Court. The RTC did not merely rely on the findings and recommendations of the panel, but took into consideration certain supervening events such as the recantation of Santos, the panel's refusal to consider the counter-affidavits of Ong and Santiago, and the affidavit of Bishop Bacani. From the point of view of the OSG, this act was called for pursuant to the court's mandate and could not be regarded as an unlawful intrusion into the executive functions and prerogatives of the panel. Thus, it opined that the RTC had committed no grave abuse of discretion.

Despite the orders^[49] from this Court, the DOJ's comment to the petition was not filed and, hence, was deemed waived. The petition was given due course in the Resolution dated 13 February 2013.^[50]

Issue

The instant petition seeks a review of the Decision and the Resolution issued by the CA under its certiorari jurisdiction.^[51] In this light, the case shall be decided by resolving the single issue of whether the appellate court erred in finding that the RTC had committed grave abuse of discretion in dismissing Criminal Case No. 15-1768.

OUR RULING

We grant the petition.

The power of the judge to determine probable cause for the issuance of a warrant of arrest is enshrined in Section 2, Article III of the Constitution: