

SECOND DIVISION

[G.R. No. 185267, September 17, 2014]

**CESAR T. QUIAMBAO AND ERIC C. PILAPIL, PETITIONERS, VS.
PEOPLE OF THE PHILIPPINES, ADERITO Z. YUJUICO AND
BONIFACIO C. SUMBILLA, RESPONDENTS.**

D E C I S I O N

BRION, J.:

Before us is a petition for review on *certiorari*^[1] filed by Cesar T. Quiambao and Eric C. Pilapil (*collectively the "petitioners"*) assailing the decision^[2] dated June 26, 2008 and the order^[3] dated October 23, 2008 of the Regional Trial Court, Pasig City, Branch 161 (*RTC-Branch 161*).

These challenged RTC rulings dismissed the petitioners' petition for *certiorari*, prohibition and mandamus in SCA Case No. 3193 for lack of merit.

The Factual Antecedents

Petioners Quiambao and Pilapil are the President and the Corporate Secretary, respectively, of Strategic Alliance Development Corporation (STRADEC), a domestic corporation duly organized and existing under the laws of the Republic of the Philippines.^[4]

- **Criminal Case Nos. 89723-24**

On August 12, 2005, the private respondents, Bonifacio C. Sumbilla and Aderito Z. Yujuico, both directors and officers of STRADEC, filed before the Office of the City Prosecutor (*OCP*) of Pasig City a criminal complaint for violation of Section 74 of Batas Pambansa Blg. 68 (*B.P. 68*),^[5] against the petitioners and a certain Giovanni Casanova, then accountant of STRADEC.

After preliminary investigation, the petitioners were charged under two (2) Informations^[6] for violation of Section 74 of B.P. 68. The first criminal information was docketed as Criminal Case No. 89723; while the second, was docketed as Criminal Case No. 89724. These cases were raffled to Branch 69 of the Metropolitan Trial Court (*MTC*) of Pasig City, presided by Judge Jacqueline J. Ongpauco-Cortel.

On the same date, the petitioners filed an Urgent Motion for Judicial Determination of Probable Cause and to Defer the Issuance of Warrants of Arrest Pending Determination^[7] with the MTC. The petitioners asserted that the private respondents failed to adduce evidence to support a finding of probable cause against them. They also alleged that their act of refusing to turn over STRADEC's stock and

transfer books to the private respondents was not punishable under the Corporation Code.

- The MTC's Orders dated May 8, 2006 and August 16, 2006

On May 8, 2006, the MTC denied the motion insofar as it prayed for the dismissal of Criminal Case No. 89724. Criminal Case No. 89723 was, however, dismissed.^[8]

The petitioners moved for partial reconsideration^[9], but the MTC denied the motion in its Order dated August 16, 2006.^[10] In the same Order, the court set the arraignment of the petitioners on October 9, 2006.

Subsequently, the petitioners filed a Petition for *Certiorari*^[11] (with application for issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction) docketed as SCA No. 3047 with the RTC of Pasig, Branch 154 (*RTC-Branch 154*), seeking the partial annulment of the MTC's Orders dated May 8, 2006 and August 16, 2006.

The petitioners were arraigned on January 29, 2007.

- The RTC Branch-154's Order dated June 4, 2007 (SCA No. 3047).

In an Order dated June 4, 2007 (*RTC-Branch 154's Order*), the RTC-Branch 154, through Judge Abraham B. Borreta granted the petition^[12] holding that there was no probable cause to hold the petitioners for trial. Consequently, it directed the MTC to dismiss Criminal Case No. 89724 for want of probable cause.

The private respondents thereafter sought reconsideration but it was denied by the RTC-Branch 154. Thus, they brought an appeal to this Court *via* a petition for review on *certiorari* (docketed as G.R. No. 180416) raising pure questions of law.

- The MTC's Orders dated June 18, 2007 and September 17, 2007

While G.R. No. 180416 remains pending before this Court, the MTC dismissed Criminal Case No. 89724 on June 18, 2007 (*Order of Dismissal*), pursuant to the RTC-Branch 154's Order which reads:

Considering the Order of the Regional Trial Court Branch 154, reversing the Order of this Court dated August 16, 2006, and considering further that the private prosecutor is not armed with a written authority to actively prosecute the case, this case is hereby ordered DISMISSED.

The private respondents thereafter filed a motion for reconsideration, which the MTC granted. Upon learning that a petition for *certiorari* had been filed before this court, the MTC issued an Order dated September 17, 2007 (*Order of Revival*) recalling the Order of Dismissal and reinstating the criminal information in Criminal Case No. 89724. It further ordered the suspension of the proceedings in G.R. No. 180416 to await the final outcome of the pending case.

The petitioners moved for reconsideration but its motion was denied. They thereafter filed a Petition for *Certiorari*, Prohibition and Mandamus^[13] docketed as SCA Case No. 3193 with the RTC-Branch 161.

- *The RTC's Decision dated June 26, 2008 (SCA Case No. 3193)*

The RTC-Branch 161, in a decision dated June 26, 2008, dismissed the petition for lack of merit. It found that the MTC did not commit grave abuse of discretion when it revived and archived Criminal Case No. 89724. Since the RTC-Branch 154's Order dated June 4, 2007 has not yet attained finality in view of the pendency of G.R. No. 180416, the MTC cannot be considered to have acted with grave abuse of discretion when it issued the assailed orders.

Likewise, the RTC ruled that the Order of Revival was pursuant to Section 5(g) of Rule 135 of the Revised Rules of Court, which provides for the inherent power of the courts to amend and control its process and orders so as to make them conformable to law and justice.

The motion for reconsideration that followed was denied in an Order dated October 23, 2008. Hence, the petitioners filed the present petition.

The Petition

The petitioners mainly argued that the RTC-Branch 161 had gravely erred in upholding the MTC's departure from the accepted and usual course of judicial proceedings. They maintain that in dismissing their Rule 65 petition (SCA Case No. 3193), the RTC-Branch 161 had refused to consider that the MTC's Order of Revival necessarily placed them in double jeopardy.

The petitioners also asserted that the RTC-Branch 161 had sanctioned the MTC's departure from the well-established rule that the power to prosecute and appeal from the order or judgment of the courts in a criminal action lies solely with the State, acting through a public prosecutor. Since the private respondents acted independently of and without the authority of the public prosecutor, the MTC gravely abused its discretion when it entertained the private respondents' motion.

The Case for the Respondents

- *The Private Respondents' Comment*

In their comment, the private respondents accused the petitioners of resorting to willful and deliberate act of forum shopping, manifested by their filing of the present petition for *certiorari*. They contended that as the RTC-Branch 154's Order is still pending review by the First Division of this Court, the instant petition was totally unnecessary and superfluous.

The private respondents also contended that contrary to the petitioners' claim, double jeopardy had not yet attached. Since the dismissal of the case was made provisionally and upon the express request of the petitioners, the revival of the

criminal information, according to the respondents, did not give rise to double jeopardy.

Lastly, on the issue of the respondents' legal personality to move for reconsideration, the private respondents maintain that the public prosecutor's failure to subscribe to the Motion for Reconsideration was not fatal.

- *The Public Respondent's Manifestation and Motion*

Required to comment in the petition, the Solicitor General, representing the public respondent, maintained that the MTC's Order of Revival had placed the petitioners in double jeopardy. It alleged that herein private respondents did not have the legal personality to move for the reconsideration of the MTC's orders. Since there was no showing that the private respondents acted by virtue of the public prosecutor's authority, the filing of the motion for reconsideration did not effectively stop the running of the reglementary period to appeal from the MTC's Order of Dismissal. Consequently, the Order of Dismissal had attained finality and can no longer be revived by the MTC.

The Issue Before the Court

The parties' arguments, properly joined, present to us the following issues:

1. Did the RTC-Branch 161 correctly determine whether the MTC committed grave abuse of discretion in ordering the reinstatement of Criminal Case No. 89724?
2. Did the MTC's dismissal of Criminal Case No. 89724 operate as an acquittal of the petitioners for the crime charged?
3. Did the reinstatement or revival of Criminal Case No. 89724 place the petitioners in double jeopardy?

Our Ruling

We find the petition meritorious.

We note, at the outset, that the legal question before us revolves around the MTC's Order of Revival dated September 17, 2007. However, after going deeply into the roots of the controversy, we find that the real root of the issue stems back to the jurisdictional *faux pas* committed early on by the MTC when it issued its prior Order of Dismissal dated June 18, 2007.

The MTC acted without jurisdiction when it issued the Order of Dismissal dated June 18, 2007

To recall, the petition for review on *certiorari* (docketed as G.R. No. 180416) filed by the private respondents to question the RTC Branch 154's Order, remains pending before this Court. Being the subject of a pending review, the RTC Order – directing the MTC to dismiss Criminal Case No. 89724 for want of probable cause – was therefore **not yet final and executory**.