

SECOND DIVISION

[G.R. No. 183014, August 07, 2013]

**THE LAW FIRM OF CHAVEZ MIRANDA AND ASEOCHE,
REPRESENTED BY ITS FOUNDING PARTNER, FRANCISCO I.
CHAVEZ, PETITIONER, VS. ATTY. JOSEJINA C. FRIA,
RESPONDENT.**

D E C I S I O N

PERLAS-BERNABE, J.:

This is a direct recourse to the Court from the Regional Trial Court of Muntinlupa City, Branch 276 (RTC), through a petition for review on *certiorari*,^[1] raising a pure question of law. In particular, petitioner The Law Firm of Chavez Miranda and Aseoche (The Law Firm) assails the Resolution^[2] dated January 8, 2008 and Order^[3] dated May 16, 2008 of the RTC in S.C.A. Case No. 07-096, upholding the dismissal of Criminal Case No. 46400 for lack of probable cause.

The Facts

On July 31, 2006, an Information^[4] was filed against respondent Atty. Josejina C. Fria (Atty. Fria), Branch Clerk of Court of the Regional Trial Court of Muntinlupa City, Branch 203 (Branch 203), charging her for the crime of Open Disobedience under Article 231^[5] of the Revised Penal Code (RPC). The accusatory portion of the said information reads:

The undersigned 2nd Assistant City Prosecutor accuses ATTY. JOSEJINA C. FRIA of the crime of Viol. of Article 231 of the Revised Penal Code, committed as follows:

That on or about the 2nd day of February, 2006, or on dates subsequent thereto, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a public officer she being the Branch Clerk of Court of the Regional Trial Court Branch 203, Muntinlupa City, did then and there willfully, unlawfully and feloniously refused openly, without any legal justification to obey the order of the said court which is of superior authority, for the issuance of a writ of execution which is her ministerial duty to do so in Civil Case No. 03-110 entitled Charles Bernard Reyes, doing business under the name and style CBH Reyes Architects vs. Spouses Cesar and Mely Esquig and Rosemarie Papas, which has become final and executory since February 2, 2006, despite requests therefor, if only to execute/enforce said decision dated July 29, 2005 rendered within the scope of its jurisdiction and issued with all the legal formalities, to the damage and prejudice of the plaintiff thereof.

Contrary to law.

Muntinlupa City, July 31, 2006.^[6]

Based on the records, the undisputed facts are as follows:

The Law Firm was engaged as counsel by the plaintiff in Civil Case No. 03-110 instituted before Branch 203.^[7] On July 29, 2005, judgment was rendered in favor of the plaintiff (July 29, 2005 judgment), prompting the defendant in the same case to appeal. However, Branch 203 disallowed the appeal and consequently ordered that a writ of execution be issued to enforce the foregoing judgment.^[8] Due to the denial of the defendant's motion for reconsideration, the July 29, 2005 judgment became final and executory.^[9]

In its Complaint-Affidavit^[10] dated February 12, 2006, The Law Firm alleged that as early as April 4, 2006, it had been following up on the issuance of a writ of execution to implement the July 29, 2005 judgment. However, Atty. Fria vehemently refused to perform her ministerial duty of issuing said writ.

In her Counter-Affidavit^[11] dated June 13, 2006, Atty. Fria posited that the draft writ of execution (draft writ) was not addressed to her but to Branch Sheriff Jaime Felicen (Felicen), who was then on leave. Neither did she know who the presiding judge would appoint as special sheriff on Felicen's behalf.^[12] Nevertheless, she maintained that she need not sign the draft writ since on April 18, 2006, the presiding judge issued an Order stating that he himself shall sign and issue the same.^[13]

On July 31, 2006, the prosecutor issued a Memorandum^[14] recommending, *inter alia*, that Atty. Fria be indicted for the crime of Open Disobedience. The corresponding Information was thereafter filed before the Metropolitan Trial Court of Muntinlupa City, Branch 80 (MTC), docketed as Criminal Case No. 46400.

The Proceedings Before the MTC

On September 4, 2006, Atty. Fria filed a Motion for Determination of Probable Cause^[15] (motion) which The Law Firm opposed^[16] on the ground that the Rules on Criminal Procedure do not empower trial courts to review the prosecutor's finding of probable cause and that such rules only give the trial court judge the duty to determine whether or not a warrant of arrest should be issued against the accused.

Pending resolution of her motion, Atty. Fria filed a Manifestation with Motion^[17] dated November 17, 2006, stating that the Court had rendered a Decision in the case of *Reyes v. Balde II (Reyes)*^[18] – an offshoot of Civil Case No. 03-110 – wherein it was held that Branch 203 had no jurisdiction over the foregoing civil case.^[19] In response, The Law Firm filed its Comment/Opposition,^[20] contending that Atty. Fria already committed the crime of Open Disobedience 119 days before the Reyes ruling was rendered and hence, she remains criminally liable for the afore-stated charge.

In an Omnibus Order^[21] dated January 25, 2007, the MTC ordered the dismissal of

Criminal Case No. 46400 for lack of probable cause. It found that aside from the fact that Atty. Fria is a judicial officer, The Law Firm failed to prove the existence of the other elements of the crime of Open Disobedience.^[22] In particular, the second element of the crime, *i.e.*, that there is a judgment, decision, or order of a superior authority made within the scope of its jurisdiction and issued with all legal formalities, unlikely existed since the Court already declared as null and void the entire proceedings in Civil Case No. 03-110 due to lack of jurisdiction. In this regard, the MTC opined that such nullification worked retroactively to warrant the dismissal of the case and/or acquittal of the accused at any stage of the proceedings.^[23]

Dissatisfied, The Law Firm moved for reconsideration^[24] which was, however, denied in a Resolution^[25] dated July 13, 2007. Accordingly, it elevated the matter on *certiorari*.^[26]

The RTC Ruling

In a Resolution^[27] dated January 8, 2008, the RTC affirmed the MTC's ruling, finding no grave abuse of discretion on the latter's part since its dismissal of Criminal Case No. 46400 for lack of probable cause was "in full accord with the law, facts, and jurisprudence."^[28]

Aggrieved, The Law Firm filed a Motion for Reconsideration^[29] which was equally denied by the RTC in an Order^[30] dated May 16, 2008. Hence, the instant petition.

The Issue Before the Court

The essential issue in this case is whether or not the RTC erred in sustaining the MTC's dismissal of the case for Open Disobedience against Atty. Fria, *i.e.*, Criminal Case No. 46400, for lack of probable cause.

The Court's Ruling

The petition is bereft of merit.

Under Section 5(a) of the Revised Rules of Criminal Procedure, a trial court judge may immediately dismiss a criminal case if the evidence on record clearly fails to establish probable cause, *viz*:

Sec. 5. *When warrant of arrest may issue.* – (a) By the Regional Trial Court. – Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. **He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause.** If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by the judge who conducted preliminary investigation or when the complaint or information was filed pursuant to section 6 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence