

SECOND DIVISION

[G.R. No. 178607, December 05, 2012]

DANTE LA. JIMENEZ, IN HIS CAPACITY AS PRESIDENT AND REPRESENTATIVE OF UNLAD SHIPPING & MANAGEMENT CORPORATION, PETITIONER, VS. HON. EDWIN SORONGON (IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 214 OF THE REGIONAL TRIAL COURT OF MANDALUYONG CITY), SOCRATES ANTZOULATOS, CARMEN ALAMIL, MARCELI GAZA AND MARKOS AVGOUSTIS, RESPONDENTS.

DECISION

BRION, J.:

We resolve the petition for review on *certiorari*^[1] filed by Dante La. Jimenez (*petitioner*) to challenge the twin resolutions of the Court of Appeals (CA) dated November 23, 2006^[2] and June 28, 2007^[3] in CA-G.R. SP No. 96584, which dismissed the petitioner's petition for *certiorari* and denied his motion for reconsideration, respectively.

The Factual Antecedents

The petitioner is the president of Unlad Shipping & Management Corporation, a local manning agency, while Socrates Antzoulatos, Carmen Alamil, Marceli Gaza, and Markos Avgoustis (*respondents*) are some of the listed incorporators of Tsakos Maritime Services, Inc. (TMSI), another local manning agency.

On August 19, 2003, the petitioner filed a complaint-affidavit^[4] with the Office of the City Prosecutor of Mandaluyong City against the respondents for syndicated and large scale illegal recruitment.^[5] The petitioner alleged that the respondents falsely represented their stockholdings in TMSI's articles of incorporation^[6] to secure a license to operate as a recruitment agency from the Philippine Overseas Employment Agency (POEA).

On October 9, 2003, respondents Antzoulatos and Gaza filed their joint counter-affidavit denying the complaint-affidavit's allegations.^[7] Respondents Avgoustis and Alamil did not submit any counter-affidavit.

In a May 4, 2004 resolution,^[8] the 3rd Assistant City Prosecutor recommended the filing of an information for syndicated and large scale illegal recruitment against the respondents. The City Prosecutor approved his recommendation and filed the corresponding criminal information with the Regional Trial Court (RTC) of Mandaluyong City (docketed as Criminal Case No. MC04-8514 and raffled to Branch 212) presided by Judge Rizalina T. Capco-Umali.

Subsequently, in a December 14, 2004 resolution, the City Prosecutor reconsidered the May 4, 2004 resolution and filed a motion with the RTC to withdraw the information.^[9] The petitioner and respondents Antzoulatos and Gaza filed their opposition^[10] and comment to the opposition, respectively.

In an August 1, 2005 resolution,^[11] the RTC denied the motion to withdraw information as it found the existence of probable cause to hold the respondents for trial.^[12] Thus, the RTC ordered the issuance of warrants of arrest against the respondents.

On August 26, 2005, respondents Antzoulatos and Gaza filed an omnibus motion for reconsideration and for deferred enforcement of the warrants of arrest.^[13] In a September 2, 2005 order,^[14] the RTC denied the omnibus motion, reiterating that the trial court is the sole judge on whether a criminal case should be dismissed or not.

On September 26, 2005, respondent Alamil filed a motion for judicial determination of probable cause with a request to defer enforcement of the warrants of arrest.^[15]

On September 29, 2005, the petitioner filed his opposition with motion to expunge, contending that respondent Alamil, being a fugitive from justice, had no standing to seek any relief and that the RTC, in the August 1, 2005 resolution, already found probable cause to hold the respondents for trial.^[16]

In a September 30, 2005 order,^[17] the RTC denied respondent Alamil's motion for being moot and academic; it ruled that it had already found probable cause against the respondents in the August 1, 2005 resolution, which it affirmed in the September 2, 2005 order.

On October 10, 2005, respondent Alamil moved for reconsideration and for the inhibition of Judge Capco-Umali, for being biased or partial.^[18] On October 25, 2005, the petitioner filed an opposition with a motion to expunge, reiterating that respondent Alamil had no standing to seek relief from the RTC.^[19]

In a January 4, 2006 order,^[20] Judge Capco-Umali voluntarily inhibited herself from the case and did not resolve respondent Alamil's motion for reconsideration and the petitioner's motion to expunge. The case was later re-raffled to Branch 214, presided by Judge Edwin D. Sorongon.

The RTC Rulings

In its March 8, 2006 order,^[21] the RTC granted respondent Alamil's motion for reconsideration. It treated respondent Alamil's motion for judicial determination as a motion to dismiss for lack of probable cause. It found: (1) no evidence on record to indicate that the respondents gave any false information to secure a license to operate as a recruitment agency from the POEA; and (2) that respondent Alamil voluntarily submitted to the RTC's jurisdiction through the filing of pleadings seeking affirmative relief. Thus, the RTC dismissed the case, and set aside the earlier issued warrants of arrest.

On April 3, 2006, the petitioner moved for reconsideration, stressing the existence of probable cause to prosecute the respondents and that respondent Alamil had no standing to seek any relief from the RTC.^[22]

On April 26, 2006, respondent Alamil moved to expunge the motion for being a prohibited pleading since the motion did not have the public prosecutor's conformity.^[23]

In its May 10, 2006 order,^[24] the RTC denied the petitioner's motion for reconsideration, finding that the petitioner merely reiterated arguments in issues that had been finally decided. The RTC ordered the motion expunged from the records since the motion did not have the public prosecutor's conformity.

On May 19, 2006, the petitioner filed a notice of appeal.^[25]

On May 30, 2006, respondent Alamil moved to expunge the petitioner's notice of appeal since the public prosecutor did not authorize the appeal and the petitioner had no civil interest in the case.^[26]

On June 27, 2006, the petitioner filed his comment to the motion to expunge, claiming that, as the offended party, he has the right to appeal the RTC order dismissing the case; the respondents' fraudulent acts in forming TMSI greatly prejudiced him.^[27]

In its August 7, 2006 joint order,^[28] the RTC denied the petitioner's notice of appeal since the petitioner filed it without the conformity of the Solicitor General, who is mandated to represent the People of the Philippines in criminal actions appealed to the CA. Thus, the RTC ordered the notice of appeal expunged from the records.

On October 18, 2006, the petitioner elevated his case to the CA via a Rule 65 petition for *certiorari* assailing the RTC's March 8, 2006, May 10, 2006, and August 7, 2006 orders.

The CA Ruling

In its November 23, 2006 resolution,^[29] the CA dismissed outright the petitioner's Rule 65 petition for lack of legal personality to file the petition on behalf of the People of the Philippines. It noted that only the Office of the Solicitor General (OSG) has the legal personality to represent the People, under Section 35(1), Chapter 12, Title III, Book IV of the 1987 Administrative Code. It also held that the petitioner was not the real party in interest to institute the case, him not being a victim of the crime charged to the respondents, but a mere competitor in their recruitment business. The CA denied^[30] the motion for reconsideration^[31] that followed.

The Petition

The petitioner argues that he has a legal standing to assail the dismissal of the criminal case since he is the private complainant and a real party in interest who had been directly damaged and prejudiced by the respondents' illegal acts;

respondent Alamil has no legal standing to seek any relief from the RTC since she is a fugitive from justice.

The Case for the Respondents

The respondents^[32] submit that the petitioner lacks a legal standing to assail the dismissal of the criminal case since the power to prosecute lies solely with the State, acting through a public prosecutor; the petitioner acted independently and without the authority of a public prosecutor in the prosecution and appeal of the case.

The Issue

The case presents to us the issue of whether the CA committed a reversible error in dismissing outright the petitioner's Rule 65 petition for *certiorari* for lack of legal personality to file the petition on behalf of the People of the Philippines.

Our Ruling

The petition lacks merit.

The petitioner has no legal personality to assail the dismissal of the criminal case

It is well-settled that "every action must be prosecuted or defended in the name of the real party in interest[,]" "who stands to be benefited or injured by the judgment in the suit, or by the party entitled to the avails of the suit."^[33] Interest means material interest or an interest in issue to be affected by the decree or judgment of the case, as distinguished from mere interest in the question involved.^[34] By real interest is meant a present substantial interest, as distinguished from a mere expectancy, or a future, contingent, subordinate or consequential interest.^[35] When the plaintiff or the defendant is not a real party in interest, the suit is dismissible.^[36]

Procedural law basically mandates that "[a]ll criminal actions commenced by complaint or by information shall be prosecuted under the direction and control of a public prosecutor."^[37] In appeals of criminal cases before the CA and before this Court, the OSG is the appellate counsel of the People, pursuant to Section 35(1), Chapter 12, Title III, Book IV of the 1987 Administrative Code. This section explicitly provides:

SEC. 35. *Powers and Functions.* — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. . . . It shall have the following specific powers and functions:

(1) **Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings;** represent the Government and its officers in the Supreme Court and Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings