

THIRD DIVISION

[G.R. NO. 159517-18, June 30, 2009]

**HILARIO P. SORIANO AND ROSALINDA ILAGAN, PETITIONERS,
VS. PEOPLE OF THE PHILIPPINES, BANGKO SENTRAL NG
PILIPINAS (BSP), AND PHILIPPINE DEPOSIT INSURANCE
CORPORATION (PDIC), RESPONDENTS.**

DECISION

NACHURA, J.:

Petitioners Hilario P. Soriano and Rosalinda Ilagan (petitioners) appeal by *certiorari* the August 5, 2003 Decision^[1] of the Court of Appeals (CA) in the consolidated cases CA-G.R. SP. Nos. 64648 and 64649.

The antecedents.

Hilario P. Soriano (Soriano) and Rosalinda Ilagan (Ilagan) were the President and General Manager, respectively, of the Rural Bank of San Miguel (Bulacan), Inc. (RBSM). Allegedly, on June 27, 1997 and August 21, 1997, during their incumbency as president and manager of the bank, petitioners indirectly obtained loans from RBSM. They falsified the loan applications and other bank records, and made it appear that Virgilio J. Malang and Rogelio MañaoI obtained loans of P15,000,000.00 each, when in fact they did not.

Accordingly, on May 4, 2000, State Prosecutor Josefino A. Subia charged Soriano in the Regional Trial Court (RTC) of Malolos, Bulacan, with violation of Section 83 of Republic Act No. 337 (R.A. No. 337) or the *General Banking Act*, as amended by Presidential Decree No. 1795, or *Violation of the Director, Officer, Stockholder or Related Interest (DOSRI) Rules* (DOSRI Rules). The inculpatory portion of the Information reads:

That on or about June 27, 1997 and thereafter, and within the jurisdiction of this Honorable Court, the said accused, in his capacity as President of the Rural Bank of San Miguel (Bulacan), Inc. did then and there, unlawfully, feloniously, and indirectly borrow or secure a loan with Rural Bank of San Miguel-San Miguel Branch amounting to Php15 million, without the consent and written approval of the majority of the directors of the bank, by using the name of one depositor VIRGILIO J. MALANG of San Miguel Bulacan who have no knowledge of the said loan, and once in possession of the said amount of Php14,775,000.00, net of interest converted the same to his own personal use and benefit, in flagrant violation of the said law.^[2]

On the same date, an information for *estafa thru falsification of commercial document* was also filed against Soriano and Ilagan, viz.:

That on or about June 27, 1997 and thereafter, in San Miguel, Bulacan and within the jurisdiction of this Honorable Court, the said accused HILARIO P. SORIANO and ROSALINDA ILAGAN, as principals by direct participation, with unfaithfulness or abuse of confidence and taking advantage of their position as President of Rural Bank of San Miguel (Bulacan), Inc. and Manager of Rural Bank of San Miguel-San Miguel Branch, a duly organized banking institutions under Philippine Laws, conspiring, confederating and mutually helping one another, did then and there, willfully and feloniously falsify loan documents consisting of loan application/information sheet, and promissory note dated June 27, 1997, disclosure statement on loan/credit transaction, credit proposal report, manager's check no. 06514 dated June 27, 1997 and undated RBSM-San Miguel Branch check voucher, by making it appear that one **VIRGILIO J. MALANG** filed the aforementioned documents when in truth and in fact, **VIRGILIO J. MALANG** did not participate in the execution of said loan document and that by virtue of said falsification and with deceit and intent to cause damage, the accused credited the loan proceeds of the loan amounting to Php14,775,000.00, net of interest, to the account of **VIRGILIO J. MALANG** with the RBSM and thereafter converted the same amount to their own personal gain and benefit, to the damage and prejudice of the Rural Bank of San Miguel-San Miguel Branch, its creditors and the Bangko Sentral Ng Pilipinas in the amount of Php14,775,000.00.

CONTRARY TO LAW.^[3]

The informations were docketed as Criminal Case Nos. 1719-M-2000 and 1720-M-2000, respectively, and were raffled to Branch 14, presided by Judge Petrita Braga Dime.

Another information for violation of Section 83 of R.A. No. 337, as amended, was filed against Soriano, this time, covering the P15,000,000.00 loan obtained in the name of Rogelio Mañaol. The information reads:

That on or about August 21, 1997 and thereafter, and within the jurisdiction of this Honorable Court, the said accused, in his capacity as President of the Rural Bank of San Miguel (Bulacan), Inc. did then and there, unlawfully, feloniously, and indirectly borrow or secure a loan with Rural Bank of San Miguel-San Miguel Branch, a domestic rural ba[n]king institution created, organized and existing under Philippine laws, amounting to Php15.0 million, knowing fully well that the same has been done by him without the written approval of the majority of [the] board of directors of the said bank and which consent and approval the said accused deliberately failed to obtain and enter the same upon the record of said banking institution and to transmit a copy of which to the

supervising department of the said bank, as required by the General Banking Act, by using the name of one depositor ROGELIO MAÑAOL of San Jose, San Miguel Bulacan who have no knowledge of the said loan, and once in possession of the said amount of Php 15.0 million, converted the same to his own personal use and benefit, in flagrant violation of the said law.^[4]

Soriano and Ilagan were also indicted for *estafa thru falsification of commercial document* for obtaining said loan. Thus:

That on or about August 21, 1997 and thereafter, in San Miguel, Bulacan and within the jurisdiction of this Honorable Court, the said accused **HILARIO P. SORIANO** and **ROSALINDA ILAGAN**, as principals by direct participation, with unfaithfulness or abuse of confidence and taking advantage of their position as President of Rural Bank of San Miguel (Bulacan), Inc. and Manager of Rural Bank of San Miguel-San Miguel Branch, a duly organized banking institutions under Philippine Laws, conspiring confederating and mutually helping one another, did then and there, willfully and feloniously falsify loan documents consisting of loan application/information sheet and promissory note dated August 21, 1997, by making it appear that one **ROGELIO MAÑAOL** filled up the application/information sheet and filed the aforementioned loan documents when in truth and in fact, **ROGELIO MAÑAOL** did not participate in the execution of said loan document and that by virtue of said falsification and with deceit and intent to cause damage, the accused succeeded in securing a loan in the amount of Php15.0 million, from Rural Bank of San Miguel-San Miguel Branch in the name of **ROGELIO MAÑAOL**, which amount of Php 15.0 million representing loan proceeds the accused deposited to the account of **ROGELIO MAÑAOL** maintained with Rural Bank of San Miguel and thereafter converted the same amount to their own personal gain and benefit, to the damage and prejudice of the Rural Bank of San Miguel-San Miguel Branch, its creditors, the Bangko Sentral Ng Pilipinas and the Philippine Deposit Insurance Corporation in the amount of Php 15.0 million.

CONTRARY TO LAW.^[5]

The cases were docketed as 1980-M-2000 and 1981-M-2000, respectively, and were raffled to Branch 77, presided by Judge Aurora Santiago-Lagman.

Petitioners moved to quash the informations in Criminal Case Nos. 1719-M-2000 and 1720-M-2000 (pending before Branch 14), and also in Criminal Case Nos. 1980-M-2000 and 1981-M-2000 (pending with Branch 77), on grounds that: (i) more than one (1) offense is charged; and (ii) the facts charged do not constitute an offense. Specifically, petitioners argued that the prosecutor charged more than one offense for a single act. Soriano was charged with violation of DOSRI rules and *estafa thru falsification of commercial document* for allegedly securing fictitious loans. They further argued that the facts as alleged in the information do not constitute an offense.

In an Order^[6] dated November 15, 2000, RTC Branch 77 denied the motion to quash. Rejecting petitioners' arguments, it held:

Section 13 of Rule 110 of the Revised Rules of Criminal Procedure provides that the complaint or information must charge but only one offense, except only in those cases in which existing laws prescribe a single punishment for various offenses. Under this Rule, the Information is defective when it charges two (2) or more offenses. The rule enjoining the charging of two (2) or more offenses in one information has for its aim to give the defendant the necessary knowledge of the charge to enable him to prove his defense (People vs. Ferrer, 101 Phil. 234, cited in Herrera Remedial Law IV., p. 72). While Section 3 (e) of Rule 117 of the Revised Rules of Court provides as one of the grounds where the accused may move to quash the complaint or information, considering Sec. 13 of Rule 110 of the Rules as aforestated, it is apparent that the said ground refers to a situation where the accused is being charged in one information or criminal complaint for more than one offense. The record shows that two (2) Informations were filed against the herein accused, one in Criminal Case No. 1980-M-2000 against accused Hilario P. Soriano for Violation of Sec. 83 of R.A. No. 337, as amended by PD 1795, and another one in Criminal Case No. 1981-M-2000 against accused Hilario P. Soriano and Rosalinda Ilagan for Estafa Thru Falsification of Commercial Documents. Thus, each Information charges only one offense.

Even assuming that the two (2) cases arose from the same facts, if they violate two (2) or more provisions of the law, a prosecution under one will not bar a prosecution under another (Pp. vs. Tac-an, 182 SCRA 601; Lamera v. Court of Appeals, 198 SCRA 186, cited in Herrera Criminal Procedure, Vol. 4, p. 453).

Upon the foregoing, this Court finds that there is no basis to quash the Informations filed in these two (2) cases as the accused are being charged therein with only one offense in each Information. As to the assertion of the accused that the facts charged do not constitute an offense, this Court finds that the allegations of both parties are evidentiary and the same can only be determined after a full blown trial on the merits of these cases where both parties will be given a chance to present their evidence in support of their respective positions.

WHEREFORE, the instant motion is DISMISSED and the arraignment of both accused and the pre-trial of these cases scheduled on December 4, 2000 at 10:00 o'clock in the morning, shall proceed as scheduled.^[7]

Petitioners' motion to quash informations in Criminal Case Nos. 1719-M-2000 and 1720-M-2000 before Branch 14 likewise suffered the same fate, as Judge Braga Dime denied the same in an Order^[8] dated November 27, 2000, holding that:

Duplicity in criminal pleading is the joinder of two or more distinct and separate offenses in the same court of an indictment or information. (41 Am. Jur. 2d 1011). Whether two offenses are charged in an information, or otherwise, must not be made to depend upon the evidence presented at the trial court but upon the facts alleged in the information (Provincial Fiscal of Nueva Ecija vs. CFI, 79 Phil. 165). Where an offense may be committed in any of the different modes provided by law and the offense is alleged to have been committed in two or more modes specified, the indictment is sufficient. The allegations in the information of the various ways of committing the offense should be considered as a description of only one offense and the information cannot be dismissed on the ground of multifariousness (Jurado v. Suy Yan, L-30714, April 30, 1971)

A perusal of the criminal information filed in the above-entitled cases indubitably show that each information charges only but one offense. Thus, in Criminal Case No. 1719-M-2000, Accused Hilario P. Soriano is charged only with violation of Sec. 83 of RA 337, as amended by PD 1796, while in Criminal Case No. 1720-M-2000, Accused Hilario P. Soriano and Rosalinda Ilagan are charged only with Estafa thru falsification of commercial document.

On the ground that the facts charged do not constitute an offense xxx
xxx xxx

[b]y simply reading the information filed against the Accused Hilario P. Soriano, in Crim. Case No. 1719-M-2000 it is clear that the allegations, which is hypothetically admitted by said accused, in the same information set out an offense for violation of Sec. 83 of RA 337 as amended by PD No. 1795.

Finally, Accused, in addition to the two (2) grounds aforesaid, cited prematurity and lack of probable cause which would warrant the quashal of the two (2) informations.

These additional grounds relied upon by the Accused for the quashal of the two (2) informations must necessarily fail because they are not one of the grounds enumerated in Sec. 3, Rule 117 of the Revised Rules of Court which this Court shall not consider, in accordance with Sec. 2, Rule 117 of the Revised Rules of Court.

WHEREFORE, premises considered, the Motion to Quash, dated September 1, 2000 filed by both Accused is hereby DENIED, for lack of merit.

SO ORDERED.^[9]

Petitioners went up to the Court of Appeals via *certiorari*, assailing the Orders of Branch 77 and Branch 14. The petitions were docketed as CA-G.R. SP. Nos. 64648 and 64649. By decision^[10] of August 5, 2003, the CA, which priorly consolidated the petitions, sustained the denial of petitioners' separate motions to quash: