

THIRD DIVISION

[G.R. No. 171435, July 30, 2008]

**ANTHONY T. REYES, PETITIONER, VS. PEARLBANK SECURITIES,
INC., RESPONDENT.**

D E C I S I O N

CHICO-NAZARIO, J.:

In this Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court, petitioner Anthony T. Reyes prays for the reversal of the 26 October 2005 Decision^[1] and 7 February 2006 Resolution^[2] of the Court of Appeals in "*Anthony T. Reyes v. Secretary of the Department of Justice and Pearlbank Securities, Inc.*," docketed as CA-G.R. SP No. 90006, ruling that the Secretary of the Department of Justice (DOJ) did not commit grave abuse of discretion in finding probable cause to charge petitioner Reyes with the crime of falsification of commercial and private documents.

Pearlbank Securities, Inc. (PEARLBANK) is a domestic corporation engaged in the securities business.

Westmont Investment Corporation (WINCORP) is a domestic corporation operating as an investment house. Among the services rendered by WINCORP to its clients in the ordinary course of its business as an investment house is the arranging and brokering of loans. Petitioner Anthony T. Reyes was formerly the Vice President for Operations and Administration of WINCORP.^[3]

PEARLBANK alleged that in March 2000, it received various letters from persons who invested in WINCORP demanding payment of their matured investments, which WINCORP failed to pay, threatening legal action. According to these investors, WINCORP informed them that PEARLBANK was the borrower of their investments. WINCORP alleged that it was unable to repay its investors because of the failure of its fund borrowers, one of which was PEARLBANK, to pay the loans extended to them by WINCORP. As proof of their claims, the investors presented Confirmation Advices,^[4] Special Powers of Attorney and Certifications signed and issued to them by WINCORP.

The period covered by these Confirmation Advices was from 25 January 2000 to 3 April 2000, with said Confirmation Advices bearing the words "Borrower: PEARLBANK Securities, Inc."

PEARLBANK denied having any outstanding loan obligation with WINCORP or its investors.

In reaction to the accusations against it, PEARLBANK immediately wrote Antonio T. Ong, WINCORP President, demanding an explanation as to how and why

PEARLBANK was made to appear to be involved in its transactions. According to PEARLBANK, it did not get any reply from WINCORP.

PEARLBANK alleged that WINCORP's acts of stating and making it appear in several Confirmation Advices, Special Powers of Attorney and Certifications that PEARLBANK was the borrower of funds from the lenders/investors of WINCORP constituted falsification of commercial and private documents.

While PEARLBANK admitted obtaining loans from WINCORP, it alleged that these accounts were settled by way of an offsetting arrangement. Thus, the promissory notes executed by PEARLBANK covering such loans were allegedly all stamped "cancelled." It denied obtaining loans from WINCORP or its lenders/investors from the period 11 December 1998 to 18 January 1999 due to the fact that there was "no valid and effective grant of a credit facility" in favor of PEARLBANK during the said period.

On 3 April 2000, PEARLBANK served on WINCORP a final demand letter asking for a full and accurate accounting of the identities and investments of the lenders/investors and the alleged loan obligations of PEARLBANK, with the supporting records and documents including the purported Confirmation Advices.

WINCORP, however, still did not heed the demands of PEARLBANK and failed to produce the loan agreement documents it allegedly executed with the latter.

On 7 April 2000, PEARLBANK filed two complaints with the Securities and Exchange Commission (SEC) against Ong and several John Does for full and accurate accounting of the investments of WINCORP and of PEARLBANK's alleged loan obligations to WINCORP and/or its investors. The cases were docketed as SEC Cases No. 04-00-6590 and 04-00-6591.

On 6 September 2000, Juanita U. Tan, Treasurer of PEARLBANK, filed a complaint on behalf of PEARLBANK for **falsification by private individuals of commercial and private documents** before the DOJ. The case was docketed as I.S. No. 2000-1491. Named respondents in the complaint were the officers and directors of WINCORP, to wit: petitioner herein Anthony T. Reyes, Antonio T. Ong, Gilda C. Lucena,^[5] Nemesio R. Briones, Loida C. Tamundong,^[6] Eric R.G. Espiritu, and **John or Jane Does**.

In answer to the complaint of PEARLBANK in I.S. No. 2000-1491, WINCORP, through Ong, explained that among the services offered by WINCORP was the arranging and/or brokering of loans for clients. Upon application of PEARLBANK, WINCORP agreed to arrange and/or broker loans on behalf of the former. Thus, in a meeting of its Board of Directors on 28 November 1995, WINCORP approved a credit line in favor of PEARLBANK in the amount of P250M.

According to Ong, pursuant to this Credit Line Agreement, PEARLBANK was able to obtain, through the brokerage of WINCORP, loans from several lenders/investors in the total amount of P324,050,474.24 for which PEARLBANK issued promissory notes from 1995 to 1996. The Credit Line Agreement was renewed for another year or up to 25 October 1996. PEARLBANK made payments, leaving a balance of around P300M on the loan. On 28 April 1997, the Credit Line Agreement was amended and the credit line was increased from P250M to P850M. On 11 December 1998,

PEARLBANK arranged with WINCORP to transact additional loans from lenders in the amount of P200M, the proceeds of which were deposited in the account of Farmix Fertilizers, Inc., a corporation wholly owned and/or controlled by Manuel Tankiansee and Juanita Uy Tan. Following the previous procedure, WINCORP prepared the promissory notes corresponding to the additional loans, totaling P200M, and forwarded said documents to PEARLBANK. WINCORP maintains, however, that the promissory notes were never returned. WINCORP issued the standard Confirmation Advices to the lenders of PEARLBANK for said loans. Although the promissory notes were stamped "terminated" or "cancelled," the renewal promissory notes were not sent back/returned by PEARLBANK to WINCORP.

From the foregoing, WINCORP asserted that PEARLBANK was accurately designated as the borrower from the lenders/investors. The Confirmation Advices, Special Powers of Attorney, and Certifications it issued to the lenders/investors, indicating PEARLBANK as the borrower, were prepared in good faith and in accordance with the records of WINCORP. Hence, the officers and directors named as respondents in I.S. No. 2000-1491 who prepared, signed, and reviewed such documents denied having falsified them.

On 2 January 2001, Ong, Lucena, Briones, Tamundong and Espiritu filed a Motion to Admit Attached Memorandum before the DOJ, asserting that the criminal complaint against them should be dismissed for lack of probable cause or suspended due to the existence of a prejudicial question involving the SEC cases.

On 18 June 2001, Prosecutor Estherbella N. Rances of the DOJ Task Force on Financial Fraud issued a Review Resolution recommending the filing of Informations for falsification of commercial and private documents by private individuals against petitioner Reyes, Ong, Briones, Lucena, Espiritu, and Tamundong.

On 21 August 2001, prior to the expiry of the period to file a motion for reconsideration, Informations for Falsification of Commercial and Private Documents under paragraphs 1 and 2, Article 172,^[7] in relation to paragraph 2 of Article 171^[8] of the Revised Penal Code, were filed against petitioner, Ong, Briones, Lucena, Espiritu, and Tamundong before Branch 2 of the Metropolitan Trial Court (MTC) of Manila apparently relying on the Rances resolution dated 18 June 2001. The cases were docketed as Criminal Cases No. 365255-88.

On 28 August 2001, petitioner filed a motion for reconsideration of the 18 June 2001 Resolution of Prosecutor Rances. He raised the issues earlier brought up by Ong, Briones, Lucena, Espiritu and Tamundong, contending there was lack of probable cause and that there existed a prejudicial question. The other respondents in the criminal complaint filed a separate joint motion for reconsideration on 4 September 2001.^[9]

Meanwhile, on 13 November 2001, petitioner filed an Urgent Motion to Suspend Proceedings and to Defer Arraignment of Accused before the MTC of Manila where the criminal cases were pending, leading to the cancellation of the arraignment scheduled for 21 November 2001.

Citing no cogent reason to modify or reverse the assailed 18 June 2001 Resolution, Prosecutor Rances denied the two motions for reconsideration filed by petitioner and

his co-respondents in a Resolution issued on 13 December 2001.

Ong, Briones, Lucena, Espiritu, and Tamundong appealed the 13 December 2001 Resolution^[10] to the Office of the DOJ Secretary while petitioner filed a Petition for Review with the same office.^[11]

On 27 June 2003, Undersecretary (Usec.) Ma. Merceditas N. Gutierrez (representing the Office of the DOJ Secretary) resolved the appeal and Petition for Review in a joint Resolution reversing the Resolutions dated 18 June 2001 and 13 December 2001 of Prosecutor Rances. In ruling that the complaint in I.S. No. 2000-1491 should be dismissed, Usec. Gutierrez took into consideration the following:

- (1) That the confirmation advices were mere renewals forming part of the earlier loans of PEARLBANK under an existing credit line agreement;
- (2) That [petitioner, Ong, Lucena, Briones, Tamundong, and Espiritu] are mere employees of WINCORP performing perfunctory functions in good faith;
- (3) That Confirmation Advices are not commercial documents;
- (4) That SEC Case No. 0400-6590, is a prejudicial question, involving issues which are intimately related to the issues in the present case.

Thus, the Office of the DOJ Secretary ordered the Office of the Chief State Prosecutor to move for the withdrawal of the Informations from the MTC.^[12]

PEARLBANK filed a motion for reconsideration with the Office of the DOJ Secretary for the setting aside of its 27 June 2003 Resolution, with a motion^[13] praying that DOJ Usec. Gutierrez inhibit herself from the proceedings.

On 4 December 2003, DOJ Secretary Simeon Datumanong issued a Resolution granting the motion for reconsideration of PEARLBANK.^[14]

In effect, DOJ Secretary Datumanong reversed the 27 June 2003 Resolution of Usec. Gutierrez and reinstated the 18 June 2001 Resolution of Prosecutor Rances finding probable cause to charge petitioner and other respondents in I.S. No. 2000-149, except for Eric R. G. Espiritu, for the crime of falsification of commercial and private documents:

WHEREFORE, the resolution dated 27 June 2003 (Resolution No. 283, Series of 2003) is hereby REVERSED and SET ASIDE. The Chief State Prosecutor's Review Resolution dated 18 June 2001 is hereby REINSTATED, with the MODIFICATION that respondent ERIC R.G. ESPIRITU should be excluded. The Chief State Prosecutor is directed to cause the amendment of the informations filed against said respondent Espiritu by excluding him therefrom, and to report the action taken hereon within ten (10) days from receipt hereof.^[15]

In said Resolution, DOJ Secretary Datumanong explained that while Eric R. G. Espiritu was one of the signatories of the Certifications, considering the nature of the certifications in question and his duties and functions, it would appear that he was entitled to rely on the Certifications and representations of those in the Treasury group. The DOJ Secretary ratiocinated that there was no prejudicial question involved, since the existence of an outstanding obligation on the part of PEARLBANK under its Credit Line with WINCORP was irrelevant and immaterial to the falsification cases, and shall not be determinative of the outcome of said falsification cases. Explaining further, he said that it was clear from the admissions of respondents therein that the loans reflected in the Confirmation Advices, which appeared to be new loans, were matched against the alleged outstanding loans of complainant.

On 8 January 2004, petitioner filed a motion for reconsideration of the 4 December 2003 Resolution of the DOJ Secretary.^[16]

On the other hand, his co-respondents filed a separate motion for reconsideration on 16 January 2004.^[17]

On 1 March 2005, DOJ Secretary Datumanong denied both motions for reconsideration.

Petitioner sought recourse with the Court of Appeals *via* a Petition for *Certiorari* under Rule 65 of the 1997 Revised Rules of Court, docketed as CA-G.R. No. 90006. Petitioner sought the nullification of the 4 December 2003 DOJ Resolution based on the following arguments:

- (a) petitioner did not make any untruthful statements in the Confirmation Advices since [PEARLBANK] allegedly has an outstanding obligation with Westmont Investment Corporation;
- (b) WINCORP's Confirmation Advices subject of the falsification case were not commercial documents; and
- (c) a prejudicial question exists warranting the suspension of proceedings in the falsification case.

During the pendency of the petition for certiorari with the Court of Appeals, petitioner filed an Urgent *Ex Parte* Motion to Suspend Further Proceedings before the same MTC Court on 11 July 2005, contending that Criminal Case Nos. 365255 to 88 should be suspended, since he had filed a pending Petition for *Certiorari* under Rule 65 of the Rules of Court with the Court of Appeals to annul the 4 December 2003 and 1 March 2005 Resolution of the DOJ.

On 26 October 2005, the Court of Appeals promulgated its Decision dismissing CA-G.R. No. 90006. The appellate court found that the DOJ Secretary did not commit grave abuse of discretion in finding that there was probable cause for holding that petitioner was guilty of the offense charged. It noted that the Informations were already filed against petitioner before Branch 2 of the MTC of the National Capital Region (NCR), and petitioner's liability for the crime of falsification of commercial and private documents could best be threshed out at the trial on the merits of the case.