592 Phil. 286

SECOND DIVISION

[G.R. No. 167571, November 25, 2008]

LUIS PANAGUITON, JR., PETITIONER, VS. DEPARTMENT OF JUSTICE, RAMON C. TONGSON AND RODRIGO G. CAWILI, RESPONDENTS.

D E C I S I O N

TINGA, J.:

This is a Petition for Review[1] of the resolutions of the Court of Appeals dated 29 October 2004 and 21 March 2005 in CA G.R. SP No. 87119, which dismissed Luis Panaguiton, Jr.'s (petitioner's) petition for certiorari and his subsequent motion for reconsideration.[2]

The facts, as culled from the records, follow.

In 1992, Rodrigo Cawili (Cawili) borrowed various sums of money amounting to P1,979,459.00 from petitioner. On 8 January 1993, Cawili and his business associate, Ramon C. Tongson (Tongson), jointly issued in favor of petitioner three (3) checks in payment of the said loans. Significantly, all three (3) checks bore the signatures of both Cawili and Tongson. Upon presentment for payment on 18 March 1993, the checks were dishonored, either for insufficiency of funds or by the closure of the account. Petitioner made formal demands to pay the amounts of the checks upon Cawili on 23 May 1995 and upon Tongson on 26 June 1995, but to no avail.[3]

On 24 August 1995, petitioner filed a complaint against Cawili and Tongson[4] for violating Batas Pambansa Bilang 22 (B.P. Blg. 22)[5] before the Quezon City Prosecutor's Office. During the preliminary investigation, only Tongson appeared and filed his counter-affidavit.[6] Tongson claimed that he had been unjustly included as party-respondent in the case since petitioner had lent money to Cawili in the latter's personal capacity. Moreover, like petitioner, he had lent various sums to Cawili and in appreciation of his services, he was offered to be an officer of Roma Oil Corporation. He averred that he was not Cawili's business associate; in fact, he himself had filed several criminal cases against Cawili for violation of B.P. Blg. 22. Tongson denied that he had issued the bounced checks and pointed out that his signatures on the said checks had been falsified.

To counter these allegations, petitioner presented several documents showing Tongson's signatures, which were purportedly the same as the those appearing on the checks.[7] He also showed a copy of an affidavit of adverse claim wherein Tongson himself had claimed to be Cawili's business associate.[8]

In a resolution dated 6 December 1995,[9] City Prosecutor III Eliodoro V. Lara found probable cause only against Cawili and dismissed the charges against Tongson.

Petitioner filed a partial appeal before the Department of Justice (DOJ) even while the case against Cawili was filed before the proper court. In a letter-resolution dated 11 July 1997,[10] after finding that it was possible for Tongson to co-sign the bounced checks and that he had deliberately altered his signature in the pleadings submitted during the preliminary investigation, Chief State Prosecutor Jovencito R. Zuño directed the City Prosecutor of Quezon City to conduct a reinvestigation of the case against Tongson and to refer the questioned signatures to the National Bureau of Investigation (NBI).

Tongson moved for the reconsideration of the resolution, but his motion was denied for lack of merit.

On 15 March 1999, Assistant City Prosecutor Ma. Lelibet S. Sampaga (ACP Sampaga) dismissed the complaint against Tongson without referring the matter to the NBI per the Chief State Prosecutor's resolution. In her resolution,[11] ACP Sampaga held that the case had already prescribed pursuant to Act No. 3326, as amended,[12] which provides that violations penalized by B.P. Blg. 22 shall prescribe after four (4) years. In this case, the four (4)-year period started on the date the checks were dishonored, or on 20 January 1993 and 18 March 1993. The filing of the complaint before the Quezon City Prosecutor on 24 August 1995 did not interrupt the running of the prescriptive period, as the law contemplates judicial, and not administrative proceedings. Thus, considering that from 1993 to 1998, more than four (4) years had already elapsed and no information had as yet been filed against Tongson, the alleged violation of B.P. Blg. 22 imputed to him had already prescribed.[13] Moreover, ACP Sampaga stated that the order of the Chief State Prosecutor to refer the matter to the NBI could no longer be sanctioned under Section 3, Rule 112 of the Rules of Criminal Procedure because the initiative should come from petitioner himself and not the investigating prosecutor.[14] Finally, ACP Sampaga found that Tongson had no dealings with petitioner.[15]

Petitioner appealed to the DOJ. But the DOJ, through Undersecretary Manuel A.J. Teehankee, dismissed the same, stating that the offense had already prescribed pursuant to Act No. 3326.[16] Petitioner filed a motion for reconsideration of the DOJ resolution. On 3 April 2003,[17] the DOJ, this time through then Undersecretary Ma. Merceditas N. Gutierrez, ruled in his favor and declared that the offense had not prescribed and that the filing of the complaint with the prosecutor's office interrupted the running of the prescriptive period citing *Ingco v. Sandiganbayan*.[18] Thus, the Office of the City Prosecutor of Quezon City was directed to file three (3) separate informations against Tongson for violation of B.P. Blg. 22.[19] On 8 July 2003, the City Prosecutor's Office filed an information[20] charging petitioner with three (3) counts of violation of B.P. Blg. 22.[21]

However, in a resolution dated 9 August 2004,[22] the DOJ, presumably acting on a motion for reconsideration filed by Tongson, ruled that the subject offense had already prescribed and ordered "the withdrawal of the three (3) informations for violation of B.P. Blg. 22" against Tongson. In justifying its sudden turnabout, the DOJ explained that Act No. 3326 applies to violations of special acts that do not provide for a prescriptive period for the offenses thereunder. Since B.P. Blg. 22, as a special act, does not provide for the prescription of the offense it defines and

punishes, Act No. 3326 applies to it, and not Art. 90 of the Revised Penal Code which governs the prescription of offenses penalized thereunder.[23] The DOJ also cited the case of *Zaldivia v. Reyes, Jr.*,[24] wherein the Supreme Court ruled that the proceedings referred to in Act No. 3326, as amended, are judicial proceedings, and not the one before the prosecutor's office.

Petitioner thus filed a petition for certiorari[25] before the Court of Appeals assailing the 9 August 2004 resolution of the DOJ. The petition was dismissed by the Court of Appeals in view of petitioner's failure to attach a proper verification and certification of non-forum shopping. The Court of Appeals also noted that the 3 April 2003 resolution of the DOJ attached to the petition is a mere photocopy.[26] Petitioner moved for the reconsideration of the appellate court's resolution, attaching to said motion an amended Verification/Certification of Non-Forum Shopping.[27] Still, the Court of Appeals denied petitioner's motion, stating that subsequent compliance with the formal requirements would not *per se* warrant a reconsideration of its resolution. Besides, the Court of Appeals added, the petition is patently without merit and the questions raised therein are too unsubstantial to require consideration.[28]

In the instant petition, petitioner claims that the Court of Appeals committed grave error in dismissing his petition on technical grounds and in ruling that the petition before it was patently without merit and the questions are too unsubstantial to require consideration.

The DOJ, in its comment,[29] states that the Court of Appeals did not err in dismissing the petition for non-compliance with the Rules of Court. It also reiterates that the filing of a complaint with the Office of the City Prosecutor of Quezon City does not interrupt the running of the prescriptive period for violation of B.P. Blg. 22. It argues that under B.P. Blg. 22, a special law which does not provide for its own prescriptive period, offenses prescribe in four (4) years in accordance with Act No. 3326.

Cawili and Tongson submitted their comment, arguing that the Court of Appeals did not err in dismissing the petition for certiorari. They claim that the offense of violation of B.P. Blg. 22 has already prescribed per Act No. 3326. In addition, they claim that the long delay, attributable to petitioner and the State, violated their constitutional right to speedy disposition of cases.[30]

The petition is meritorious.

First on the technical issues.

Petitioner submits that the verification attached to his petition before the Court of Appeals substantially complies with the rules, the verification being intended simply to secure an assurance that the allegations in the pleading are true and correct and not a product of the imagination or a matter of speculation. He points out that this Court has held in a number of cases that a deficiency in the verification can be excused or dispensed with, the defect being neither jurisdictional nor always fatal.[31]

Indeed, the verification is merely a formal requirement intended to secure an assurance that matters which are alleged are true and correct--the court may simply order the correction of unverified pleadings or act on them and waive strict compliance with the rules in order that the ends of justice may be served,[32] as in the instant case. In the case at bar, we find that by attaching the pertinent verification to his motion for reconsideration, petitioner sufficiently complied with the verification requirement.

Petitioner also submits that the Court of Appeals erred in dismissing the petition on the ground that there was failure to attach a certified true copy or duplicate original of the 3 April 2003 resolution of the DOJ. We agree. A plain reading of the petition before the Court of Appeals shows that it seeks the annulment of the DOJ resolution dated 9 August 2004,[33] a certified true copy of which was attached as Annex "A."[34] Obviously, the Court of Appeals committed a grievous mistake.

Now, on the substantive aspects.

Petitioner assails the DOJ's reliance on *Zaldivia v. Reyes*,[35] a case involving the violation of a municipal ordinance, in declaring that the prescriptive period is tolled only upon filing of the information in court. According to petitioner, what is applicable in this case is *Ingco v. Sandiganbayan*,[36] wherein this Court ruled that the filing of the complaint with the fiscal's office for preliminary investigation suspends the running of the prescriptive period. Petitioner also notes that the *Ingco* case similarly involved the violation of a special law, Republic Act (R.A.) No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, petitioner notes.[37] He argues that sustaining the DOJ's and the Court of Appeals' pronouncements would result in grave injustice to him since the delays in the present case were clearly beyond his control.[38]

There is no question that Act No. 3326, appropriately entitled *An Act to Establish Prescription for Violations of Special Acts and Municipal Ordinances and to Provide When Prescription Shall Begin,* is the law applicable to offenses under special laws which do not provide their own prescriptive periods. The pertinent provisions read:

> Section 1. Violations penalized by special acts shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: (a) x x x; (b) after four years for those punished by imprisonment for more than one month, but less than two years; (c) x x x
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> Sec. 2. Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and the institution of judicial proceedings for its investigation and punishment.
>
> The prescription shall be interrupted when proceedings are instituted against the guilty person, and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.

We agree that Act. No. 3326 applies to offenses under B.P. Blg. 22. An offense under B.P. Blg. 22 merits the penalty of imprisonment of not less than thirty (30) days but not more than one year or by a fine, hence, under Act No. 3326, a