

## THIRD DIVISION

**[ G.R. No. 156337, September 28, 2007 ]**

**UNITED COCONUT PLANTERS BANK, PETITIONER, VS. ALBERTO T. LOOYUKO AND JIMMY T. GO, RESPONDENTS.**

### DECISION

**AUSTRIA-MARTINEZ, J.:**

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated March 15, 2002 and its Resolution<sup>[2]</sup> of November 29, 2002 in CA-G.R. SP No. 62626.

The present petition originated from a Complaint-Affidavit filed with the Makati City Prosecutor's Office by Angelo Manahan and Francisco Zarate, Senior Vice-President and First Vice-President, respectively, of herein petitioner United Coconut Planters Bank (UCPB) accusing respondents Alberto T. Looyuko (Looyuko) and Jimmy T. Go (Go) of violation of Article 315 (1-b) of the Revised Penal Code (RPC), in relation to Section 13 of Presidential Decree (P.D.) No. 115, otherwise known as the Trust Receipts Law.

After preliminary investigation was conducted, the investigating prosecutor issued a Resolution dated February 16, 2000, recommending the dismissal of the complaint against respondents for insufficiency of evidence. The Assistant Chief State Prosecutor, Officer-in-Charge approved the recommendation on February 22, 2000.

On a motion for reconsideration filed by UCPB, the Assistant Chief State Prosecutor approved the Resolution dated April 10, 2000 of the same investigating prosecutor recommending the filing of an Information for Estafa against herein respondents.

Accordingly, an Information for Estafa under Article 315, paragraph 1(b) of the RPC, in relation to P.D. No. 115 was filed against herein respondents with the Regional Trial Court (RTC) of Makati City.

Looyuko then filed a petition for review with the Department of Justice (DOJ) assailing the April 10, 2000 Resolution of the Makati City Prosecutor's Office. On the other hand, Go filed a Motion for Reinvestigation with the RTC of Makati City.

On August 29, 2000, then DOJ Secretary Artemio G. Tuquero issued a Resolution with the following dispositive portion:

WHEREFORE, the assailed resolution is hereby REVERSED and SET ASIDE. The City Prosecutor of Makati City is hereby directed to move for the withdrawal of the information for estafa against respondents Alberto T. Looyuko and Jimmy T. Go filed before the Regional Trial Court, Branch 139, Makati City.

SO ORDERED.<sup>[3]</sup>

UCPB filed a Motion for Reconsideration but the same was denied by the DOJ Secretary in his Resolution of November 9, 2000.

In the meantime, the Makati City Prosecutor's Office filed an *Ex-Parte* Motion to Withdraw Information dated September 14, 2000.<sup>[4]</sup>

Thereafter, UCPB filed a Petition for *Certiorari* and Prohibition in the CA seeking to nullify the DOJ Secretary's Resolutions dated August 29, 2000 and November 9, 2000 for having been rendered with grave abuse of discretion.

In a Decision dated March 15, 2002, the CA denied the petition for *certiorari* holding that the DOJ Secretary did not commit grave abuse of discretion in ruling against the existence of probable cause to prosecute respondents.

UCPB filed a Motion for Reconsideration but the same was denied in a Resolution of the CA dated November 29, 2002.

Hence, herein petition based on the following grounds:

THE COURT OF APPEALS

(A) DECIDED THE CASE A QUO IN A WAY NOT IN ACCORD WITH LAW AND JURISPRUDENCE;

(B) SANCTIONED THE SECRETARY OF JUSTICE'S DEPARTURE FROM THE ACCEPTED COURSE OF PROCEEDINGS; AND

(C) SERIOUSLY ERRED IN NOT FINDING THAT THE DOJ SECRETARY ACTED WITH GRAVE ABUSE OF DISCRETION.

CONSIDERING THAT:

I

THE DOJ SECRETARY CAPRICIOUSLY AND WHIMSICALLY DISREGARDED THE EVIDENCE ON RECORD, AND INSTEAD ARBITRARILY RULED BASED ON BARE ALLEGATIONS CONTRARY NOT ONLY TO THE EVIDENCE PRESENTED, BUT LOOYUKO'S OWN SWORN STATEMENTS

II

THE DOJ SECRETARY VIOLATED UCPB'S RIGHT TO PROCEDURAL DUE PROCESS

III

THE DOJ SECRETARY COMMITTED GRAVE ABUSE OF DISCRETION IN ACCEPTING AS TRUTH WHAT WERE MATTERS

Petitioner contends that the conclusions arrived at by the DOJ Secretary in his assailed Resolutions are based on mere allegations which were not proven by respondents. Petitioner asserts that there is no evidence to prove that: (a) respondent Looyuko offered to return the goods subject of the trust receipt and that petitioner refused to accept such offer; and (b) there is a new loan granted by petitioner which extinguished Looyuko's obligation under the trust receipt.

Petitioner also contends that the CA erred in simply relying on the general rule that *certiorari* is not available to correct the evaluation of evidence or factual findings of the DOJ Secretary. Petitioner argues that an established exception to this rule is when a board, tribunal or officer performing a judicial or quasi-judicial function fails to consider evidence adduced by the parties; or acts capriciously and whimsically, in total disregard of evidence material to or decisive of the controversy. Petitioner claims that, in the present case, the DOJ Secretary's act of totally disregarding the facts and evidence presented amount to grave abuse of discretion and it was an error on the part of the CA to rule otherwise.

Petitioner further argues that the DOJ Secretary violated its right to procedural due process when he failed to consider the evidence presented by petitioner; that his conclusions are not supported by any evidence but are mere allegations of respondent Looyuko.

Petitioner avers that the DOJ Secretary committed grave abuse of discretion in accepting the allegations of respondent Looyuko as truth when they have no evidentiary basis and they are consistently denied by petitioner. Petitioner contends that the allegations of Looyuko are matters of defense which should be proven during trial.

In his Comment and Memorandum, respondent Looyuko's sole contention is that the issues raised in the present petition entail a review of the factual findings of the DOJ and the CA, which is proscribed in a petition for review on *certiorari* under Rule 45 of the Rules of Court.

Respondent Go echoes the argument of his co-respondent that the re-evaluation of evidence is beyond the province of a petition for review on *certiorari* under Rule 45 of the Rules of Court. In addition, Go asserts that the CA did not err in dismissing the petition for *certiorari* filed by petitioner, because the latter seeks the re-examination of the evidence presented by the opposing parties; whereas the sole office of a writ of *certiorari* is the correction of errors of jurisdiction, including the commission of grave abuse of discretion amounting to lack of jurisdiction, and does not include the review of DOJ Secretary's evaluation of the evidence and his factual findings thereon.

Go also contends that the determination of probable cause is an executive function and it is the policy of the Court to refrain from interfering in the conduct of preliminary investigations and to leave the DOJ ample latitude of discretion in the determination of what constitutes sufficient evidence to establish probable cause for the prosecution of supposed offenders.

The Court finds the petition meritorious.

At the outset, it bears to reiterate the settled rule that under the 1997 Rules of Civil Procedure, as amended, only questions of law may be raised in a petition for review before this Court.<sup>[6]</sup> However, this Rule is not absolute; it admits of exceptions, such as: (1) when the findings of a trial court are grounded entirely on speculation, surmises or conjectures; (2) when a lower court's inference from its factual findings is manifestly mistaken, absurd or impossible; **(3) when there is grave abuse of discretion in the appreciation of facts;** (4) when the findings of the appellate court go beyond the issues of the case, run contrary to the admissions of the parties to the case, or fail to notice certain relevant facts which, if properly considered, will justify a different conclusion; (5) when there is a misappreciation of facts; **(6) when the findings of fact are conclusions without mention of the specific evidence on which they are based, are premised on the absence of evidence, or are contradicted by evidence on record.**<sup>[7]</sup> This Court finds that the present case falls under the third and sixth exceptions for reasons discussed hereunder.

The pivotal question to be resolved in the present petition is whether or not the CA erred in concluding that the DOJ Secretary did not commit grave abuse of discretion in issuing his Resolutions of August 29, 2000 and November 9, 2000.

In its Petition for *Certiorari* filed with the CA, herein petitioner's main contention is that there is no evidence to prove the conclusions reached by the DOJ Secretary. The CA dismissed the petition and ruled as follows:

The subject resolutions of public respondent [DOJ Secretary] embody his own findings in the exercise of his official functions on whether or not there was sufficient evidence adduced to warrant the filing of criminal charges against private respondents.

His finding that private respondents are not criminally liable involves his assessment and evaluation of both parties' evidence and his interpretation and application of the law to what he deems to be facts in the process of determining probable cause for the criminal prosecution of persons.

The present petition cannot thus prosper for the extraordinary remedy of a special civil action for certiorari is available only and restrictively in those truly exceptional cases wherein the action of an inferior court, board or officer performing judicial or quasi-judicial acts is challenged for being wholly void on grounds of jurisdiction. For the sole office of the writ of certiorari is the correction of errors of jurisdiction and does not include correction of the evaluation of the evidence and factual findings based thereon (*Flores v. National Labor Relations Commission*, 253 SCRA 494 [1996] or of erroneous conclusions of law or fact (*Tensorex Industrial Corporation v. Court of Appeals*, 316 SCRA 471 [1999]) which is what petitioner attempts to do in the petition at bench.<sup>[8]</sup>

It is true that the sole office of the writ of *certiorari* is the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack of jurisdiction, and does not include a correction of public respondent's evaluation of

the evidence and factual findings thereon.<sup>[9]</sup>

However, it is sometimes necessary to delve into factual issues in order to resolve allegations of grave abuse of discretion as a ground for the special civil action of *certiorari* and prohibition.<sup>[10]</sup> In *Filadams Pharma, Inc. v. CA*,<sup>[11]</sup> one of the issues resolved by this Court was whether or not the DOJ committed grave abuse of discretion in affirming the dismissal of therein petitioner's complaint-affidavit. In resolving said issue, the Court proceeded to determine factual and evidentiary matters in order to ascertain whether there was probable cause warranting the filing of information for estafa against the private respondent therein. In the same manner, in *NBI-Microsoft Corporation v. Hwang*,<sup>[12]</sup> this Court, in resolving whether the DOJ acted with grave abuse of discretion in not finding probable cause to charge therein respondents with copyright infringement and unfair competition, proceeded to determine the sufficiency of evidence to support a finding of probable cause against said respondents.

In reviewing the findings of the DOJ in preliminary investigations, the settled rule is that the determination of probable cause for the filing of an Information in court is an executive function, one that properly pertains at the first instance to the public prosecutor and, ultimately, to the Secretary of Justice.<sup>[13]</sup> For this reason, the Court considers it sound judicial policy to refrain from interfering in the conduct of preliminary investigations and to leave the DOJ ample latitude of discretion in the determination of what constitutes sufficient evidence to establish probable cause for the prosecution of supposed offenders.<sup>[14]</sup> Consistent with this policy, courts do not reverse the Secretary of Justice's findings and conclusions on the matter of probable cause except in clear cases of grave abuse of discretion.<sup>[15]</sup>

In other words, judicial review of the resolution of the Secretary of Justice is limited to a determination of whether there has been a grave abuse of discretion amounting to lack or excess of jurisdiction considering that full discretionary authority has been delegated to the executive branch in the determination of probable cause during a preliminary investigation.<sup>[16]</sup> Courts are not empowered to substitute their judgment for that of the executive branch; it may, however, look into the question of whether such exercise has been made in grave abuse of discretion.<sup>[17]</sup>

By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction.<sup>[18]</sup> The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.<sup>[19]</sup>

Grave abuse of discretion refers not merely to palpable errors of jurisdiction; or to violations of the Constitution, the law and jurisprudence.<sup>[20]</sup> It refers also to cases in which, for various reasons, there has been a gross misapprehension of facts.<sup>[21]</sup>

In the present case, this Court finds it necessary to examine the reasons of the DOJ Secretary in directing the City Prosecutor of Makati to move for the withdrawal of the information for estafa against herein respondents before the RTC of Makati City