

## SECOND DIVISION

**[ G.R. NO. 163400, March 31, 2006 ]**

**HILARIO P. SORIANO, G.R. NO. 163400 PETITIONER, VS. HON. CAESAR A. CASANOVA, PRESIDING JUDGE, BRANCH 80, REGIONAL TRIAL COURT OF MALOLOS, BULACAN; HON. BASILIO R. GABO, JR., PRESIDING JUDGE, BRANCH 11, REGIONAL TRIAL COURT OF MALOLOS, BULACAN; PEOPLE OF THE PHILIPPINES, BANGKO SENTRAL NG PILIPINAS (BSP), PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC), PUBLIC PROSECUTOR NICERETA LOURDES Q. VITUG, AND STATE PROSECUTOR JOSEFINO A. SUBIA, RESPONDENTS.**

### DECISION

**PUNO, J.:**

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court seeking the reversal of the Decision <sup>[1]</sup> of the Honorable Court of Appeals (Fifteenth Division) in CA-G.R. SP No. 70519 dated August 15, 2003, which affirmed the trial court's Order <sup>[2]</sup> denying the quashal of the four (4) separate informations filed against petitioner for estafa in Criminal Case Nos. 1178-M-2001, 1179-M-2001, 1180-M-2001 and 1181-M-2001 before Branch 80, Regional Trial Court, Malolos, Bulacan, as well as its Resolution <sup>[3]</sup> dated April 28, 2004, denying petitioner's motion for reconsideration. The dispositive portion of said decision provides:

WHEREFORE, premises considered, and finding that no grave abuse of discretion amounting to lack or excess of jurisdiction was committed by Branch 80, Regional Trial Court, Malolos, Bulacan, in the issuance of its assailed December 4, 2001 and April 19, 2002 Order in Criminal Cases Nos. 1178 to 1181-M-2001, the said Orders are AFFIRMED and UPHELD. Accordingly, the instant petition is DISMISSED for lack of merit.

SO ORDERED.

The factual background of the case is as follows:

Petitioner Hilario P. Soriano was the president of the Rural Bank of San Miguel (Bulacan), Inc. (RBSM), a domestic banking institution organized under Philippine laws. On May 31, 2000 and June 2, 2000, the Office of Special Investigation (OSI) of the Bangko Sentral ng Pilipinas (BSP) and the Litigation and Investigation Services (LIS) of the Philippine Deposit Insurance Corporation (PDIC), through their respective officers, transmitted two (2) letters <sup>[4]</sup> to Hon. Jovencito Zuño, Chief State Prosecutor of the Department of Justice (DOJ), containing as annexes the sworn affidavits of the following persons: (1) Joan M. Cortez, Director, Department of Loans and Credit, BSP; (2) Marcos Perez, Jr.; (3) Rosalinda E. Ilagan; (4) Joseph

P. Lara; (5) Noli B. Santos; (6) Lourdes J. Reynaldo; and (7) Belinda C. Benito and Ma. Socorro N. Bartolome (joint affidavit). These affidavits, along with other documents, contained narrations of how the criminal offense of estafa was committed on various occasions by the petitioner.

The first transmittal letter elaborated upon details concerning petitioner's failure to account for the aggregate amount of P21.0 million RBSM funds, of which P10.0 million was used to purchase five (5) Manager's Checks payable to Soriano Holdings Corporation (SHC) of which petitioner was Chief Executive Officer and Treasurer-in-Trust and P11.0 million was deposited on various occasions to the PCI Bank Account of SHC.

The second letter described how petitioner failed to account for the amount of P12.6 million, which was part of the approved emergency loan granted to RBSM by the BSP, which, upon his instructions, was delivered to him and was never placed under the custody of RBSM nor reflected on its books.

The letters of transmittal, which were not filed under oath, requested that a preliminary investigation be conducted and the corresponding criminal charges be filed against petitioner.

Acting on these letters and their annexes, State Prosecutor Josefino A. Subia filed, on May 2, 2001, four (4) separate informations for estafa as penalized under Article 315, paragraph 2 (a), of the Revised Penal Code against petitioner for allegedly defrauding RBSM of various amounts through false pretenses and misrepresentations committed on different occasions during the year 1999. The same were docketed as Criminal Case Nos. 1178 to 1181-M-2001 and raffled off to the Regional Trial Court, Branch 80, Malolos, Bulacan, presided by respondent Hon. Caesar A. Casanova.

In **Criminal Case No. 1178-M-2001**, the information alleged that petitioner converted the P12.6 million emergency loan approved by the BSP to RBSM to his own personal use and which amount was never recorded in the books of RBSM.

In **Criminal Case No. 1179-M-2001 and Criminal Case No. 1181-M-2001**, petitioner was alleged to have caused the withdrawal of P7.0 million and P4.0 million, respectively, from the RBSM account on the strength of his representation that said amounts would be invested. Instead of being invested, these amounts were deposited to SHC, where petitioner was the Treasurer-in-Trust and Chief Executive Officer, and was purportedly converted by the latter to his own personal use.

In **Criminal Case No. 1180-M-2001**, petitioner allegedly caused the purchase of P10.0 million worth of manager's checks payable to SHC from

RBSM's account and, instead of using the same for investment purposes, converted the same to his own personal use.

On August 27, 2001, petitioner moved to quash these informations on the ground that the court had no jurisdiction over the offense charged.<sup>[5]</sup> It was petitioner's contention that the letters sent to the DOJ by the BSP and PDIC constituted the complaint and hence were fatally defective for not being filed under oath or sworn to

before the investigating prosecutor as required under Section 3(a) of Rule 112 of the Rules of Court. Moreover, he argued that said letters contravened Section 18, paragraphs (c) and (d) of Republic Act (R.A.) No. 7653, otherwise known as the New Central Bank Act, which requires that the complaint must be filed under the delegated authority of the Governor of the BSP or pursuant to a Monetary Board Resolution.

Respondents filed an opposition<sup>[6]</sup> contending that the letters of transmittal did not constitute the complaint and were merely transmittal or covering letters. They argued that what comprised the criminal complaints were the affidavits and since these were made under oath and supported by evidence, there was substantial compliance with the Rules. Moreover, it was their contention that since estafa is a public crime, any person may institute the complaint and that the letters were mere indorsements routinely done by one government office to another and need not bear the written authorization of the head of office.

In an order dated December 4, 2001, the trial court denied the motion to quash filed by the petitioner for lack of merit ruling that it had jurisdiction over the case since from the record there are affidavits and supplemental affidavits executed and sworn to by complaining witnesses. Thereafter, petitioner's motion for reconsideration was likewise denied on April 19, 2002. <sup>[7]</sup>

Aggrieved, petitioner elevated the matter via a petition for certiorari under Rule 65 to the Court of Appeals claiming that the trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction in taking cognizance of the case. <sup>[8]</sup> On August 15, 2003, the Court of Appeals dismissed petitioner's petition finding that there was no grave abuse of discretion committed by the trial court and ruled that the order denying petitioner's motion to quash is an interlocutory order and that the proper remedy in such a case is to appeal after an adverse decision has been rendered on the merits.

Petitioner's motion for reconsideration was denied, hence, the present petition.

Petitioner contends that the two letters transmitted by the legal departments of the BSP and PDIC to the DOJ constituted the complaints. The letters were not subscribed under oath and were signed by BSP and PDIC officers without authorization from the BSP governor. These letter-complaints, petitioner argues, do not comply with the mandatory requirements of Rule 112, Section 3(a), of the Rules of Court, thus the trial court did not acquire jurisdiction over the offense.

Petitioner's contention is not well-taken.

Section 3(a), Rule 112, of the Rules of Court provides:

SEC. 3. Procedure — The preliminary investigation shall be conducted in the following manner:

- (a) The complaint shall state the address of the respondent and shall be accompanied by the affidavits of the complainant and his witnesses, as well as other supporting documents to establish probable cause. They shall be in such number of copies as there are respondents, plus two (2) copies for official file. The affidavit shall be subscribed and sworn to