

## FIRST DIVISION

**[ G.R. NO. 166315, December 14, 2006 ]**

**ALFREDO SY FOR HIMSELF AND AS ATTORNEY-IN-FACT OF  
GONZALO SY, VERONICA SY, ROSARIO SY, MANUEL SY AND JOSE  
SEE, PETITIONERS, VS. HON. SECRETARY OF JUSTICE, LEON  
MARIA MAGSAYSAY AND ENGR. EMMANUEL LALIN,  
RESPONDENTS**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

This petition for review<sup>[1]</sup> assails the May 17, 2004 Decision<sup>[2]</sup> of the Court of Appeals in CA-G.R. SP No. 79877 which affirmed the July 26, 2002 Resolution<sup>[3]</sup> of the Secretary of Justice dismissing petitioners' complaint against respondents for grave coercion. Also assailed is the October 7, 2004 Resolution<sup>[4]</sup> denying petitioners' motion for reconsideration.

The facts are as follows:

The [petitioners] aver that sometime in 1985, Dolores F. Posadas, through respondent, Leon Maria F. Magsaysay, as her attorney-in-fact, filed an ejectment case against them to recover a parcel of land in Paco, Manila consisting of approximately 8,295 sq.m. Several structures stand on the land including their post-war built building which has served as their family residence with a small sari-sari store. The trial court thereafter ruled in favor of Dolores F. Posadas. On appeal, the Regional Trial Court affirmed the trial court's decision. On appeal to the Court of Appeals, the latter court set aside the decision of the Regional Trial Court and dismissed the complaint.

However, during the pendency of the appeal in the Court of Appeals, respondent Leon Maria F. Magsaysay obtained from the office of the Building Official of Manila a Notice of Condemnation dated February 8, 1996.

In response, the [petitioners] caused the assessment of the structural soundness of their residence. Consequently, on February 20, 1996, a Certificate of Structural Inspection was issued by a licensed engineer, certifying to the general integrity of the structure which merely needed minor repairs.

In October, 1997, the [petitioners] received a letter from the Office of the Building Official informing them that respondent Leon Maria F. Magsaysay had requested for the condemnation of certain structures, including the structure owned by [petitioners]. The [petitioners] were directed to

submit their Answer/Comment and supporting papers.

A scheduled ocular inspection of the property was deferred at the instance of [petitioners'] counsel. Subsequently, an order of demolition dated February 3, 1998 was issued by Manila Building Official Hermogenes B. Garcia, on the basis of a Resolution dated February 3, 1998 issued by a committee created to act on the letter dated October 13, 1997 of respondent Leon Maria Guerrero.

The [petitioners] filed a Motion for Reconsideration of the order with the Secretary of the Department of Public Works and Highways (DPWH). The complainants also obtained a TRO enjoining the enforcement of the order of demolition.

In the morning of August 28, 1998, respondent Emmanuel T. Lalin, together with several men with hammers, ropes, axes and crowbars, arrived at the complainants' residence and over their protests, demolished the building which served as their family residence and sari-sari store. The [petitioners] contend that the respondents' act of demolishing their building without any legal authority to do so is an act of grave coercion, punishable under Article 286 of the Revised Penal Code.

On the other hand, respondent Leon Ma. Magsaysay, in his counter affidavit, avers that he is one of the co-owners of the land located at the corner of Pedro Gil and A. Isip Sts., Paco, Manila as evidenced by TCT Nos. 216323 and 216327. He further avers that the demolition of the [petitioners'] structure was based on the lawful order of the City Building Official of Manila and affirmed by the DPWH.

Respondent Civil Engineer Emmanuel T. La[l]in, for his part, also avers that the demolition was undertaken pursuant to a duly-issued demolition order and that he was only hired by respondent Leon Maria Magsaysay to implement the same.<sup>[5]</sup>

The City Prosecutor of Manila dismissed the complaint for grave coercion for lack of merit. Hence, petitioners appealed to the Secretary of Justice but same was denied, finding that the demolition was carried out pursuant to a duly issued demolition order.

Petitioners filed a petition for certiorari before the Court of Appeals which denied the petition for lack of merit.

Petitioners' motion for reconsideration was likewise denied hence this petition for review based on the following grounds:<sup>[6]</sup>

## I

THE FINDINGS OF THE HONORABLE COURT OF APPEALS ARE MERE CONCLUSIONS THAT ARE PATENTLY CONTRARY TO THE EVIDENCE ON RECORD.

## II

THE HONORABLE COURT OF APPEALS MANIFESTLY OVERLOOKED CERTAIN RELEVANT AND UNDISPUTED FACTS THAT, IF PROPERLY CONSIDERED, WOULD JUSTIFY A DIFFERENT CONCLUSION.

### III

THE HONORABLE COURT OF APPEALS HAS DECIDED QUESTIONS OF SUBSTANCE WITHOUT DELVING INTO THE RECORDS OF THE CASE, THUS WITHOUT FACTUAL AND LEGAL BASIS.

Petitioners alleged that there is sufficient evidence to support a finding of probable cause for the filing of an information for grave coercion against respondents and that the Secretary of Justice gravely abused his discretion in holding otherwise.

Respondents argued that the determination of probable cause during preliminary investigation is an executive function, the correctness of which is a matter that the courts may not be compelled to pass upon. At any rate, they claim that the Secretary of Justice did not abuse his discretion in finding that the complaint for grave coercion is without merit.

The issue for resolution is whether there is probable cause for the filing of an information against respondents Magsaysay and Lalin for the offense of grave coercion.

The petition is meritorious.

Probable cause, for purposes of filing a criminal information, has been defined as such facts as are sufficient to engender a well-founded belief that a crime has been committed and that respondent is probably guilty thereof.<sup>[7]</sup> In *Villanueva v. Secretary of Justice*,<sup>[8]</sup> we held:

It is such a state of facts in the mind of the prosecutor as would lead a person of ordinary caution and prudence to believe or entertain an honest or strong suspicion that a thing is so. The term does not mean "actual or positive cause;" nor does it import absolute certainty. It is merely based on opinion and reasonable belief. Thus, a finding of probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of constitutes the offense charged. Precisely, there is a trial for the reception of evidence of the prosecution in support of the charge.

In the instant case, we find that the acts complained of are sufficient to sustain a finding of probable cause. The elements of grave coercion under Article 286 of the Revised Penal Code are as follows: 1) that a person is prevented by another from doing something not prohibited by law, or compelled to do something against his will, be it right or wrong; 2) that the prevention or compulsion is effected by violence, threats or intimidation; and 3) that the person who restrains the will and liberty of another has no right to do so, or in other words, that the restraint is not made under authority of law or in the exercise of any lawful right.<sup>[9]</sup>