

FIRST DIVISION

[G.R. No. 112089, January 24, 2001]

REMEDIOS A. DUPASQUIER, ENRIQUE M. ZALAMEA, JR., RAMON HENARES, RODRIGO GATMAITAN, JR., JESUS CORDERO, BENJAMIN ELIZAGA AND EDUARDO TACOLOD, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, THE SECRETARY OF JUSTICE, THE PROVINCIAL PROSECUTOR OF RIZAL, JUDGE JULIO R. LOGARTA OF BRANCH 63, REGIONAL TRIAL COURT OF MAKATI, BANCO FILIPINO SAVINGS & MORTGAGE BANK AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. NO. 112737

HON. EDUARDO G. MONTENEGRO, IN HIS CAPACITY AS SECRETARY OF JUSTICE; HON. MAURO C. CASTRO, IN HIS CAPACITY AS PROVINCIAL PROSECUTOR FOR RIZAL; HON. TEOFILO L. GUADIZ, JR., IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 147, MAKATI; HON. CANDIDO P. VILLANUEVA, IN HIS CAPACITY AS PRESIDING JUDGE, RTC, BRANCH 144, MAKATI, AND HON. JULIO R. LOGARTA, IN HIS CAPACITY AS PRESIDING JUDGE, RTC, BRANCH 53, MAKATI, PETITIONERS, VS. COURT OF APPEALS AND FORTUNATO M. DIZON, JR., RESPONDENTS.

D E C I S I O N

PARDO, J.:

These are two (2) consolidated cases assailing two (2) decisions^[1] of the Court of Appeals involving the prosecution of officials of Banco Filipino Savings and Mortgage Bank, for estafa.

In the first decision, the Court of Appeals^[2] dismissed the petition of Remedios A. Dupasquier, Enrique M. Zalamea, Jr., Ramon Henares, Rodrigo Gatmaitan, Jr., Jesus Cordero, Benjamin Elizaga and Eduardo Tacolod, for the dismissal of the charges against them.

In the second decision, the Court of Appeals^[3] ordered petitioners Secretary of Justice, Provincial Prosecutor for Rizal, and the trial courts to dismiss the charges against respondent Fortunato M. Dizon, Jr.

In 1987, Carlota P. Valenzuela, deputy governor of the Central Bank of the Philippines and receiver/liquidator of Banco Filipino Savings and Mortgage Bank, filed with the Department of Justice a complaint for estafa against the following Banco Filipino officials in connection with irregular grants of commercial loans to corporate subsidiaries of Banco Filipino, namely: Anthony C. Aguirre, Tomas B.

Aguirre, Teodoro C. Arcenas, Fortunato M. Dizon, Jr., Alberto C. Aguirre, Delfin M. Dimagiba, Napoleon L. Buencamino, Enrique M. Zalamea, Jr., Eugenio A. Osias, Ramon Henares, Benjamin E. Elizaga, Martin L. Calicutan, Eduardo V. Tacolod, Eduardo F. Quirino, Cynthia Subijano, Solita M. Manalaysay, Hautila D. Jose, Remedios Dupasquier, Nancy L. Ty and Elena Pallasique.^[4]

After conducting preliminary investigation, Rizal 2nd Assistant Provincial Prosecutor Herminio T. Ubana, Sr. issued two (2) resolutions^[5] recommending the filing of information for estafa against the above-named officials, except for Nancy L. Ty and Elena Pallasique. With the approval of the Provincial Prosecutor of Rizal, on August 8, 1988, informations^[6] were thus filed against said officials with the Regional Trial Court, Makati, Branch 63.

From the resolutions of the prosecutor, some of the accused-officials moved for a reconsideration or reinvestigation alleging serious irregularities during the preliminary investigation, to wit: (a) parties not originally charged were found indictable in said resolutions and (b) of many who were not included in the resolutions were charged in the informations filed in court.

On April 10, 1989, Rizal Provincial Prosecutor Mauro M. Castro issued a resolution^[7] granting a reinvestigation.

On March 21, 1991, a panel of investigators composed of 2nd Assistant Prosecutor Edwin Condaya, 3rd Assistant Prosecutor Domingo Allena and 4th Assistant Prosecutor Eduardo Bautista prepared a memorandum^[8] for Provincial Prosecutor Mauro M. Castro recommending the dismissal of the charges against the accused for lack of probable cause.

On July 11, 1991, respondent Provincial Prosecutor Castro issued a resolution^[9] reversing the investigating panel's recommendation and ordered the prosecution of petitioners^[10] and respondent Fortunato Dizon, Jr.^[11]

On or about July 29, 1991, petitioners^[12] filed a motion for reconsideration^[13] of the July 11, 1991 resolution of Provincial Prosecutor Castro. On the other hand, on July 24, 1991, respondent Fortunato M. Dizon, Jr. with others filed with the Office of the Secretary of Justice a petition for review.^[14]

On October 2, 1991, Acting Secretary of Justice Silvestre H. Bello dismissed respondent Dizon's petition for review.^[15] On March 25, 1992, Secretary of Justice Eduardo G. Montenegro denied respondent Dizon's motion for reconsideration.^[16]

On May 18, 1992, respondent Dizon^[17] filed with the Court of Appeals a petition for certiorari, prohibition and mandamus^[18] to annul the resolution^[19] of Acting Secretary of Justice Eduardo G. Montenegro, and to order the dismissal of all the criminal cases against him before the Makati Regional Trial Courts.

On May 28, 1992, Provincial Prosecutor Mauro M. Castro denied the motion for reconsideration of the petitioners.^[20]

On June 19, 1992, petitioners appealed to the Secretary of Justice from the resolution of respondent Provincial Prosecutor Castro.^[21]

On July 13, 1992, Secretary of Justice Franklin M. Drilon dismissed the appeal of petitioners.^[22] On August 24, 1992, Undersecretary Ramon S. Esguerra denied the motion for reconsideration.^[23]

On September 8, 1992, petitioners^[24] filed with the Court of Appeals a petition for *certiorari*, prohibition and mandamus.^[25] They alleged that:

- "1. The respondents are acting with an uneven hand and, in fact, are acting oppressively against Remedios Dupasquier when they allow her prosecution while excluding another similarly situated.
- "2. the respondent Secretary of Justice committed an act in grave abuse of his discretion and in excess of his jurisdiction when he sustained the grave abuse of discretion of the respondent Provincial Prosecutor in substituting his judgment in place of that of the panel formed by him without first informing the petitioners of the result of the investigation.
3. the respondents Secretary and Provincial Prosecutor acted in grave abuse of discretion amounting to an excess of jurisdiction when they continued prosecution of the petitioners despite lack of basis therefore and despite lack of damage on the part of Banco Filipino Savings & Mortgage Bank."

On June 18, 1993, the Court of Appeals promulgated a decision^[26] dismissing the petition for lack of merit. On July 5, 1993, petitioners filed a motion for reconsideration.^[27]

During the pendency of the motion for reconsideration,^[28] on September 03, 1993, the Court of Appeals promulgated a decision^[29] setting aside the resolution^[30] of respondent Secretary of Justice and ordering the dismissal of the criminal cases against respondent Dizon.

Upon learning of the triumph of their co-accused respondent Dizon, Jr.,^[31] on September 14, 1993,^[32] petitioners filed with the Court of Appeals a supplemental motion for reconsideration and an urgent motion for the consolidation of CA-G. R. SP No. 28867 and CA-G. R. SP No. 27922. On October 1, 1993, the Court of Appeals denied the motion for reconsideration.^[33]

Hence, on November 9, 1993, they filed with the Supreme Court a petition for review on *certiorari*^[34] praying that the criminal cases against them be dismissed.

On January 10, 1994, the prosecution^[35] interposed an appeal *via certiorari* to the