

THIRD DIVISION

[G.R. No. 139655, July 27, 2000]

**FIRST PRODUCERS HOLDINGS CORPORATION, PETITIONER, VS.
LUIS CO, RESPONDENT.**

DECISION

PANGANIBAN, J.:

A criminal proceeding, as a rule, may be suspended upon a showing that a prejudicial question determinative of the guilt or innocence of the accused is the very issue to be decided in a civil case pending in another tribunal. However, such suspension cannot be allowed if it is apparent that the civil action was filed as an afterthought for the purpose of delaying the ongoing criminal action. This exception applies especially in cases in which the trial court trying the criminal action has authority to decide such issue, and the civil action was instituted merely to delay the criminal proceeding and thereby multiply suits and vex the court system with unnecessary cases. Procedural rules should be construed to promote substantial justice, not to frustrate or delay its delivery.

Statement of the Case

Before this Court is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, seeking a reversal of the May 10, 1999 Decision^[2] of the Court of Appeals^[3] (CA) in CA-GR SP No. 49701. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, premises considered, the Orders dated February 27, 1998 and October 9, 1998 are hereby ANNULLED and SET ASIDE, and respondent judge is hereby DIRECTED TO SUSPEND the proceedings in Criminal Case No. 97-734 to await the outcome of Civil Case No. 97-2663."^[4]

The February 27, 1998 Order^[5] of the Regional Trial Court (RTC) which was set aside by the CA disposed as follows:

"The MOTION TO SUSPEND on grounds of prejudicial question and to reset arraignment is hereby DENIED for lack of merit."^[6]

The Facts

The undisputed facts are summarized by the Court of Appeals as follows:

"On March 13, 1997, x x x Armand M. Luna filed a criminal complaint for estafa and perjury against [herein respondent] Luis L. Co in the Office of

the City Prosecutor of Manila, docketed as I.S. No. 97-10892. Pertinent portion of the complaint is hereby quoted as follows:

`2.....On November 25, 1997, in the regular meeting of the Board of Directors of the Producers Bank of the Philippines held at Manhattan Bldg. Nueva Street, Manila, a resolution was adopted authorizing the corporation to purchase three (3) proprietary shares of Manila Polo Club to be placed in the names of Messrs. Co Bun Chun, Henry Co and Luis Co to be held by them on behalf of the corporation which is evidenced by the attached ANNEX 'C':

`3. In accordance with said resolution, the corporation purchased said proprietary shares in the name of the nominees, one of which was placed in the name of Mr. Luis L. Co as evidenced by Proprietary Membership Certificate No. 203 dated July 2, 1979, hereto attached as ANNEX D;

`4. On March 17, 1994, after the separation from the service of Mr. Luis L. Co, Ms. Amelita F. Bautista demanded from him the transfer of the subject certificate in the name of the corporation as evidenced by a letter dated March 16, 1994 attached hereto as ANNEX 'E';

`5. Despite his duty to assign the certificate back to the corporation and the subject demand, Mr. LUIS L. CO, on April 26, 1994, instead registered the loss of the said proprietary share with Manila Polo Club Inc. by executing a false Affidavit of Loss and subsequently, he was able to secure a replacement certificate No. 4454 in his name after allegedly complying with the legal requirements for the replacement of lost certificates. This is evidenced by the letter dated September 5, 1996 signed by Ramon B. Salazar, General Manager of Manila Polo Club, Inc., hereto attached as ANNEX 'F';

`6. In so doing, Mr. Luis L. Co misrepresented himself to be the legitimate owner of subject share and by executing a false affidavit, he made it appear that Certificate No. 203 was lost despite the fact that said certificate is existing and remains in possession of the corporation;

`7. That on February 06, 1997, another demand was made upon Mr. Luis L. Co to deliver to us the newly issued Manila Polo Club Certificate No. 4454 and to execute a Deed of Assignment in favor of a new nominee. Said demand is evidenced by the attached letter dated February 6, 1997 signed by Atty. Pedro M. Malabanan, ANNEX 'G' hereof;

`8. That the value of said certificate is FIVE MILLION SIX HUNDRED FIFTY THOUSAND PESOS (P5,650,000.00) as of April 1996 as evidenced by a certification dated Oct. 03, 1996

hereto attached as ANNEX 'H';

`9. Despite subject demand, Mr. Luis L. Co failed and [has] continuously fail[ed] to deliver the subject certificate to the corporation and to execute a Deed of Assignment in favor of the nominee of the corporation to the damage and prejudice of the latter;

'10. That said act of Mr. Luis Co constitutes misappropriation or conversion of something given to him in trust to the prejudice of the bank;'

"After the filing of [Co's] counter affidavit and after consideration of necessary pleadings appended thereto, [the] City Prosecutor recommended the filing of estafa and perjury against [him]. Thus, the Office of the City Prosecutor filed [an] information for estafa against [him] in the Regional Trial Court of Makati docketed as Criminal Case No. 97-734 and another information for perjury was filed in the Metropolitan Trial Court of Makati.

"Unsatisfied, [Co] appealed the resolution of the City Prosecutor to the Department of Justice but was dismissed by the latter in a[n] order dated October 2, 1997.

"On November 16, 1997, during the pendency of the criminal case, [Co] filed an action for damages against Armand Luna and First Producers Holdings (complainant in the criminal case filed) with the Regional Trial Court of Makati, and was docketed as Civil Case No. 97-2663. In the said complaint, [he] claimed ownership over questioned Manila Polo Club Proprietary Share No. 203.

"On December 10, 1997, [Co] filed a motion for suspension of the case and his arraignment thereon but was denied by [the trial court] in an order dated February 27, 1998."^[7]

Ruling of the Court of Appeals

The Court of Appeals explained that "a prejudicial question is a question which arise[s] in a case, the resolution of which is a logical antecedent of the issue involved in said case, and the cognizance of which pertains to another tribunal."^[8] And based on the above definition, it ruled that the requisites for the existence of a prejudicial question were present in the case at bar. Should the ownership of the share in question be decided in favor of Luis Co, there would be no basis for the charge of estafa against him. The CA added that respondent's belated filing of the civil case did not detract from the correctness of his cause, since a motion for suspension of a criminal action based on the pendency of a prejudicial action may be filed at any time before the prosecution rests.

Hence, this Petition.^[9]

Issues