

NINTH DIVISION

[CA–G.R. SP No. 138328, March 27, 2015]

CHINA BANKING CORPORATION, PETITIONER, VS. HON. BUENAVENTURA ALBERT J. TENORIO, JR., IN HIS OFFICIAL CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 14, GEORGE C. GO AND NG MENG TAM, RESPONDENTS.

D E C I S I O N

DICDICAN, J.:

Before us is a Petition for *Certiorari*^[1] filed by herein petitioner China Banking Corporation (“petitioner”) pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to annul and set aside the Order^[2] that was issued by public respondent Judge Buenaventura Albert J. Tenorio, Jr. of Branch 14 of the Regional Trial Court of the National Capital Judicial Region situated in the City of Manila (“lower court”) dated April 24, 2014 in Criminal Cases Nos. 12-291653-54 (“first assailed order”). Likewise assailed in the instant petition is the subsequent Order^[3] of the lower court dated September 23, 2014 which partially granted the motion for reconsideration of the April 24, 2014 Order that was filed by the petitioner in the said case (“second assailed order”).

The material and relevant facts of the case, as culled from the record, are as follows:

The instant case stemmed from a Complaint-Affidavit^[4] for estafa, in relation to Presidential Decree 115, that was filed by the petitioner against herein private respondents George C. Go (“private respondent Go”), Ng Meng Tam (“private respondent Ng”) and Michael Go in the Office of the City Prosecutor of Manila on March 4, 2009. In the said complaint-affidavit, the petitioner alleged that, in July 1997, it granted two (2) irrevocable commercial letters of credit to Gotesco Marketing, Inc. through herein private respondents and Michael Go. In connection thereto, Gotesco Marketing requested for the release of several goods which were bought by it through the said letters of credit.

Thereafter, the petitioner averred that its account was debited for the amount which was covered by the aforementioned letters of credit as confirmed by two (2) statements of account from the Union Bank of California dated July 31, 1998 and August 31, 1998. Thus, when the subject trust receipts fell due, the petitioner sent demand letters to herein private respondents directing the latter to comply with the terms and conditions of the said trust receipt agreements. The latter, however, failed to settle their obligation despite their receipt of the aforesaid demand letters. Consequently, as of November 30, 2008, the petitioner claimed that the aggregate outstanding balance of the private respondents pursuant to the trust receipt agreements had already amounted to Eleven Million One Hundred Thirty Nine

Thousand Six Pesos and Ninety-Eight Centavos (Php11,139,006.98).

For their part, private respondent Go and Michael Go asserted that there was no misappropriation in that Gotesco Marketing had already made partial payments on its loan obligation to the petitioner. Moreover, they contended that, in several instances, they tried to return the goods to the petitioner and suggested schemes within which to settle their obligation but the petitioner nonetheless declined their proposals.

On the other hand, private respondent Ng maintained that the Trust Receipts Law does not apply in the instant case since the goods which were covered by the letters of credit were not released under the the subject trust receipts. According to him, while the letters of credit were dated July 7 and 16, 1997, the trust receipt agreements were only executed in September 1998 or more than a year thereafter. In other words, the trust receipts upon which the petitioner anchored its claim were executed and issued more than a year after the release of the goods to Gotesco Marketing. Consequently, the petitioner could not invoke, and be protected by, the provisions of P.D. No. 115.

On July 30, 2009, the Office of the City Prosecutor of Manila (OCP) issued a Resolution^[5] recommending the dismissal of the criminal charges that were filed against herein private respondents and Michael Go. Subsequently, the petitioner filed a Motion for Reconsideration^[6] questioning the factual basis of the July 30, 2009 resolution of the OCP. Thus, in a subsequent Resolution^[7] dated April 20, 2010, the OCP granted the said motion for reconsideration that was filed by the petitioner and recommended the filing of the criminal informations against the private respondents and Michael Go in the lower court. The private respondents then filed a motion for reconsideration of the April 20, 2010 resolution of the OCP but the said motion for reconsideration was denied by the said Office in another Resolution^[8] dated August 13, 2012.

In the meantime, the private respondents and Michael Go filed their respective petitions for review in the Department of Justice (DOJ) seeking for the reversal of the April 20, 2010 resolution of the OCP. Consequently, in a Resolution that was issued on February 14, 2013, the DOJ granted the aforesaid petitions for review and ordered the OCP to move for the withdrawal of the criminal informations that were filed against the private respondents and Michael Go in the lower court. The petitioner thereafter filed a motion for reconsideration of the February 14, 2013 resolution of the DOJ but the same was still pending resolution until the time when the instant petition was filed in this Court. Meanwhile, Michael Go was arraigned in the lower court where he pleaded not guilty to the charges against him.

Thus, pursuant to the directive of the DOJ, the OCP and the private respondents filed in the lower court separate motions to withdraw the informations and to dismiss the case, respectively, that were filed against them in the said court. However, in an Order^[9] dated May 27, 2013, the lower court denied the aforesaid motions to dismiss and withdraw information that were filed by the private respondents and the OCP, respectively, on the ground that the lower court was not bound to adopt the resolution of the DOJ in the private respondents' petitions for review. According to the lower court, it was mandated to independently evaluate or assess the merits of the case and it may either agree or disagree with the

recommendation of the DOJ.

The private respondents then filed their respective motions for reconsideration of the May 27, 2013 order of the lower court but the same were likewise denied by the lower court in an Order dated October 24, 2013.

Subsequently, on December 10, 2013, private respondent Ng, through his new counsel, filed a Motion to Quash^[10] the information that was filed against him in the lower court on the ground that the facts charged therein did not constitute an offense and that the officer who filed the information had no authority to do so. However, the said motion to quash was denied for lack of merit by the lower court in an Order^[11] dated January 28, 2014.

On February 17, 2014, private respondent Ng filed a Motion for Reconsideration^[12] of the January 28, 2014 Order of the lower court denying his motion to quash. Thus, in the herein first assailed order that was issued by the lower court on April 24, 2014, the lower court granted the aforesaid motion for reconsideration the decretal portion of which reads:

"WHEREFORE, premises considered, the Motion for Reconsideration filed by accused Ng Meng Tam is hereby GRANTED and Criminal Case Nos. 12-291653 and 12-291654 against the said accused is hereby ordered DISMISSED. Considering that the documentary evidence against all the accused are the same, Criminal Case No. 12-291653 against accused George Go and Criminal Case No. 12-291654 against accused Michael Go are likewise DISMISSED.

"SO ORDERED."

Aggrieved by the foregoing disposition of the lower court, herein petitioner filed a Motion for Reconsideration^[13] of its herein first assailed April 24, 2014 Order. Thus, in the herein second assailed Order dated September 23, 2014, the lower court partially granted the motion for reconsideration that was filed by the petitioner as follows:

"WHEREFORE, premises considered, the Motion for Reconsideration is PARTIALLY GRANTED. The dismissal of Criminal Case No. 12-291653 against accused Ng Meng Tam and George Go and dismissal under Criminal Case No. 12-291654 against Ng Meng Tam are maintained. Meanwhile, Criminal Case No. 12-291654 against accused Michael L. Go is reinstated.

"SO ORDERED."

Hence, the petitioner filed this petition for certiorari wherein the petitioner raised the following acts of grave abuse of discretion that were purportedly committed by the lower court, to wit:

I.

THE PUBLIC RESPONDENT JUDGE DENIED THE PROSECUTION ITS RIGHT TO DUE PROCESS WHEN HE DISMISSED THE CASES AGAINST GEORGE