

## EIGHTH DIVISION

[ CA-G.R. SP No. 127922, May 28, 2014 ]

**JOSE "BOYET" DRILON, PETITIONER, VS. HON. SILVINO T. PAMPILO, JR., IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 26, MANILA AND ANTONIO B. DIZON, IN HIS CAPACITY AS THE PRIVATE COMPLAINANT, RESPONDENTS.**

### D E C I S I O N

**INTING, S.B., J.:**

This is a *Petition for Certiorari*<sup>[1]</sup> filed under Rule 65 of the Rules of Court seeking to annul and set aside the two Orders issued by Honorable Judge Silvino T. Pampilo, Jr. in his capacity as Presiding Judge of the Regional Trial Court of Manila, Branch 26, in Criminal Case No. 10-274361, to wit: (1) Order<sup>[2]</sup> dated June 28, 2012; and (2) Order<sup>[3]</sup> dated October 16, 2012.

#### The Factual Antecedents

Culled from the records, the facts of this case appear to be evident:

On December 16, 2009, the 4<sup>th</sup> Assistant City Prosecutor of Manila, Alexander P. Ramos, issued a Resolution<sup>[4]</sup> recommending the filing of an information for Estafa against Jose "Boyet" Drilon ("PETITIONER"). The Information<sup>[5]</sup> was filed before the Regional Trial Court of Manila, Branch 26, presided by Judge Silvino T. Pampilo, Jr. ("PUBLIC RESPONDENT"), and docketed as Criminal Case No. 10-274361.

On February 22, 2012, petitioner filed a Motion to Quash<sup>[6]</sup> praying for the dismissal of the case against him on the ground that the public prosecutor who filed the information has no authority to do so. According to petitioner, the information was filed by the Investigating Prosecutor (Alexander P. Ramos) without the written authority or approval of the City Prosecutor Jhosep Y. Lopez contrary to the mandatory requirement provided under Section 4, Rule 112 of the Rules of Court.

On June 28, 2012, public respondent issued an Order denying petitioner's Motion to Quash, the pertinent portion of which reads as follows:

"x x x This court hereby resolves to deny the instant motion on the ground that the resolution dated December 16, 2009 was duly signed and approved by the Second City Prosecutor Raymunda A. Cruz-Apolo and City Prosecutor Jhosep Y. Lopez. The said resolution is the basis for the filing of the information.

Trial shall continue on August 1, 2012 at 8:30 in the morning.

**SO ORDERED."**<sup>[7]</sup>

Subsequently, the petitioner moved for the reconsideration<sup>[8]</sup> of the above Order of denial. On October 16, 2012, public respondent denied the said motion for lack of merit and eventually, petitioner went to this Court via this present petition<sup>[9]</sup>.

### **The Issue**

WHETHER OR NOT PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE ASSAILED ORDERS.

### **The Court's Ruling**

The petition lacks merit.

At the outset, worth stressing is that for a petition for certiorari to be granted, it must set out and demonstrate, plainly and distinctly, all the facts essential to establish a right to a writ. Accordingly, the public respondent acts without jurisdiction if it does not have the legal power to determine the case; there is excess of jurisdiction where the respondent, being clothed with the power to determine the case, oversteps its authority as determined by law. There is grave abuse of discretion where the public respondent acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of its judgment as to be said to be equivalent to lack of jurisdiction.<sup>[10]</sup> In this case, the Court holds that public respondent did not commit grave abuse of discretion amounting to lack or excess of jurisdiction when he denied the petitioner's Motion to Quash. We explain.

Rule 112, Section 4, paragraph 3 of the 2000 Rules on Criminal Procedure states that:

**Section 4. Resolution of investigating prosecutor and its review. —**

x x x x

No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.

A perusal of the records shows that there is substantial compliance with the above-quoted provision considering that the 2nd Assistant City Prosecutor who signed in behalf of the City Prosecutor is clothed with authority to approve the filing of the information. As aptly found by herein public respondent, the Resolution dated December 16, 2009 which was duly signed and approved by the Second City Prosecutor Raymunda A. Cruz-Apolo and the City Prosecutor Jhosep Y. Lopez is the basis for the filing of an Information for Estafa against petitioner.

At any rate, even assuming *arguendo* that the Motion to Quash the information be granted on the ground of lack of authority of the officer who filed the same, the re-filing of the information for estafa against herein petitioner with the written authority/approval of the City Prosecutor to cure its defect would only cause a delay in the disposition of the case.

*Certiorari* implies an indifferent disregard of the law, arbitrariness and caprice, an omission to weigh pertinent considerations, a decision arrived at without rational deliberation. Accordingly, We hold that public respondent's assailed orders did not