

## THIRTEENTH DIVISION

[ CA-G.R. SP No. 133985, November 25, 2014 ]

**ERLINDA RIVERA NANCA, RUPERTO RIVERA AND HEIRS OF DARWIN RIVERA, SHIRLEY RIVERA, CINDY HONEYLEE RIVERA HALILI, AND SHERWIN RIVERA, PETITIONERS, VS. LADISLAO BALTAZAR, MARCELO BALTAZAR, RICARDO CACHO, HONORIO CORCOTHEA, JR., JULIETA ENCOMIENDA, RICARDO ENCOMIENDA, GRACIANO GABRIEL, RAYMUNDO GABRIEL, ROMY GABRIEL, JONATHAN LORENZO, TEODORO RAMOS, REYNALDO ROSARIO, LEONCIO GABRIEL AND RAUL SANCHEZ, RESPONDENTS.**

### DECISION

**DIAMANTE, J.:**

The Amended Petition for Review filed on May 26, 2014<sup>[1]</sup> assails the Resolutions dated May 18, 2011<sup>[2]</sup> and January 20, 2014<sup>[3]</sup> of the Department of Justice (**DOJ**), dismissing the petition for review of the Joint Resolution of the Provincial Prosecutor of Nueva Ecija in I.S. Nos. 08G-1842 to 1849 which dismissed the complaint for estafa, under Article 315, paragraph 1 (b) of the Revised Penal Code, filed by petitioners against respondents.

In compliance with Our Resolution dated June 16, 2014,<sup>[4]</sup> respondents filed their "Manifestation, Comments and Compliance"<sup>[5]</sup> manifesting that their Comment on the Petition for Review filed on March 24, 2014 and Comments on Rejoinder of the Petition for Review filed on May 23, 2014 are already sufficient Comments to this case. On the other hand, petitioners filed their "Compliance and Manifestations"<sup>[6]</sup> stating, among others, that they are adopting their "Rejoinder to Comments on the Petition for Review of the Petitioners filed by Respondents" as their Reply to respondents' Comment and Comments on Rejoinder. Thus, in view of the parties' sufficient compliance with the aforesaid Resolution, the case at bench is hereby declared submitted for decision.

Petitioners Erlinda Rivera Nanca, Ruperto Rivera and the Heirs of Darwin Rivera, namely Shirley E. Rivera, Sherwin E. Rivera and Cindy Honeylee R. Halili, aver that they are the co-owners of a rice land located at General Luna, Carranglan, Nueva Ecija, with an area of 21.0227 hectares covered by Transfer Certificate of Title (TCT) No. NT-122888. Respondents Reynaldo Rosario, Ladislao Baltazar, Marcelo Baltazar, Ricardo Cacho, Honorio Corcothea, Jr., Julieta Encomienda, Ricardo Encomienda, Graciano Gabriel, Raymundo Gabriel, Romy Gabriel, Jonathan Lorenzo, Teodoro Ramos, Leoncio Gabriel and Raul Sanchez are their tenants under a leasehold arrangement pursuant to the Agrarian Reform Law. Respondents allegedly failed to deliver the leasehold rentals from 1996 to 2006, consisting of 132 cavans of *palay*. On May 28, 2007 and October 20, 2007,<sup>[7]</sup> demands were made by petitioners upon

each of the respondents for the payment of the leasehold rentals which the latter did not comply. Petitioners later learned that respondents had sold the *palay* representing the leasehold rentals and appropriated to themselves the proceeds of the sale. Consequently, petitioners filed complaints against respondents for eleven counts of Estafa corresponding to the eleven (11) years for which they allegedly failed to pay their lease rentals docketed as I.S. Nos. 08G-12842 to 1849 with Office of the Provincial Prosecutor, Province of Nueva Ecija, Cabanatuan City.

In their individual Counter-Affidavits, respondents denied the charges. They contented that they have no obligation to pay the lease rentals on the subject land as they are the rightful owners by virtue of Executive Order No. 228 proclaiming that the farmer beneficiaries are deemed full owners, as of October 21, 1972, of the land they acquired by virtue of Presidential Decree No. 27. On October 11, 1994, Transfer Certificates of Title (EP) were issued in their names pursuant to Emancipation Patents awarded by the Department of Agrarian Reform (DAR) which facts were annotated at the dorsal portion of petitioners' title, but which noticeably were not reflected in the copy annexed by petitioners in their Complaint. They also presented their Receipts/Statements of Account/Certifications of Full Payment from the Land Bank of the Philippines as proofs of payment of their amortization on the land awarded to them by virtue of P.D. No. 27.

After preliminary investigation, the Provincial Prosecutor of Nueva Ecija, in the Joint Resolution dated March 7, 2009,<sup>[8]</sup> dismissed petitioners' complaint for lack of probable cause. The findings revealed that respondents could not have committed any acts of estafa for they were able to present documents clearly proving that long before the dates for which the lease rentals were being demanded by petitioners, they were already farmer beneficiaries who were deemed full owners of the lands they tilled.

Petitioners appealed the dismissal of their complaint to the Secretary of the Department of Justice (**DOJ**) by way of filing a Petition for Review. In the Resolution dated May 18, 2011, Prosecutor General Claro A. Arellano, in behalf of DOJ Secretary Leila M. De Lima, dismissed their petition after finding no reversible error in the Joint Resolution dated March 7, 2009 of the Office of the Provincial Prosecutor of Nueva Ecija. Unfazed, petitioners moved to have the dismissal of their petition reconsidered but it was denied by the DOJ in the assailed Resolution dated January 20, 2014.

Hence, petitioners in the instant Amended Petition interposed that the Department of Justice gravely abused its discretion and authority:

## **I.**

**...WHEN HE (*sic*) SUSTAINED THE DECISION RENDERED BY THE HON. PROVINCIAL PROSECUTOR OF CABANATUAN CITY (*sic*) IN THIS CASE (IS NO. 08-G-1842 TO 1849) IN FAVOR OF RESPONDENTS WHEN THEY ARE NOT PAYING ANY LEASEHOLD RENTALS OR DELIVERING THE PALAY TO THE LANDOWNERS REPRESENTING THE AGRICULTURAL "LEASEHOLD RENTALS" FOR THE AGRICULTURAL YEARS 1991 TO 2013 IN THE AMOUNT**

**HEREIN STATED.**

**II.**

**...WHEN IT SUSTAINED THE DECISION RENDERED BY THE HON. PROVINCIAL PROSECUTOR OF CABANATUAN CITY IN RULING THAT THERE IS NO PROBABLE CAUSE FOR THE CRIME OF ESTAFA WHICH IS NOT IN ACCORD WITH LAW AND APPLICABLE JURISPRUDENCE AND NOT IN ACCORD WITH THE FACTUAL EVIDENCE PER RECORD.**

At the outset, it has been settled that the Resolutions of the Justice Secretary affirming, modifying or reversing the resolution of the Investigating Prosecutor are final. Since there is no more appeal or other remedy available in the ordinary course of law, the remedy of the aggrieved party is to file a petition for *certiorari* under Rule 65 of the Rules of Court.<sup>[9]</sup> As the proper remedy of petitioners is a petition for *certiorari*, We shall treat their Amended Petition for Review as such considering that they have raised therein allegations of grave abuse of discretion on the part of the DOJ in issuing the assailed Resolutions, and that the same has been filed within the reglementary period for filing a petition for *certiorari*. Courts look beyond form and consider substance as circumstances warrant.<sup>[10]</sup>

Petitioners insisted that the DOJ should have not dismissed the case but instead recommended its reinvestigation to the Provincial Prosecutor of Nueva Ecija because the Emancipation Patents of respondents were illegally issued. As successors of their deceased parents, petitioners are entitled to a retention area of five (5) hectares each from the subject riceland under R.A. No. 6657. The Department of Agrarian Reform Adjudication Board (DARAB) Quezon City had, in fact, granted their Application for Retention per DAR Interlocutory Order dated July 22, 2013<sup>[11]</sup> in ADM. CASE NO. A-9999-01-RT-065-05. Being owners of the subject landholdings, they are entitled to payment of "leasehold rentals" from respondents who are their tenants under the Agrarian Reform Law. Respondents had committed the crime of estafa when they failed to deliver the palay or the money representing the proceeds of the sale of petitioners' palay and appropriated the same for their own personal use, gain and benefit to the damage and prejudice of petitioners.

We are not persuaded.

A preliminary investigation is an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial.<sup>[12]</sup> It is conducted for the purpose of determining whether a crime has been committed and that probable cause exists for the purpose of filing the information.

A scrutiny of the arguments and evidence adduced by both parties inclines Us to sustain the dismissal of petitioners' complaint for lack of probable cause. The gravamen of the crime of estafa under Article 315, paragraph 1 (b) of the Revised Penal Code is the appropriation or conversion of money or property received to the prejudice of the owner.<sup>[13]</sup> Respondents, in their Counter-Affidavits and evidence adduced in support of their defense, were able to squarely debunk petitioners'