

## FIFTEENTH DIVISION

[ CA-G.R. SP NO. 88176, August 18, 2006 ]

**MIGUELITO BATOCABE, PETITIONER, VS. REGIONAL TRIAL COURT, BRANCH 171, VALENZUELA CITY, HON. MARIA NENA J. SANTOS, AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### D E C I S I O N

**REYES, JR., J., J.:**

Before Us is a Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure with Prayer for Issuance of Temporary Restraining Order/Writ of Preliminary Injunction (Rollo, pp. 2-16), seeking the reversal and setting aside of the Order dated October 13, 2004 (Rollo, pp. 19-20) of public respondent Hon. Maria Nena J. Santos, Presiding Judge of Branch 171 of the Regional Trial Court of Valenzuela City in Criminal Case No. 91-V-02 entitled "*People of the Philippines, plaintiff vs. Mike Batocabe and Natalia Soria, accused*" for Infidelity in the Custody of Public Document under Article 226 of the Revised Penal Code of the Philippines. Also assailed herein is the Order dated December 10, 2004 (Rollo, p. 18) denying the petitioner's motion for reconsideration.

The antecedent facts of the case are as follows:

On July 25, 2001, the Office of the Ombudsman filed with Branch 171 of the Regional Trial Court of Valenzuela (RTC) an Information (Rollo, p. 21) charging Natalia Soria and petitioner Miguelito Batocabe, a Vault Keeper in the Office of the Registry of Deeds of Valenzuela City, with the crime of Infidelity in the Custody of Public Documents, defined and penalized under Article 226 of the Revised Penal Code of the Philippines (RPC). The accusatory portion of the said Information reads:

"That during the period from September 21, 1997 to September 6, 1998, or sometime prior or subsequent thereto, in Valenzuela, Philippines and within the jurisdiction of this Honorable Court, the above-named accused NATALIA SORIA, being then the Records Officer or Record Custodian of the Office of the Register of Deeds, Valenzuela City, while in the performance of her official functions and taking advantage of the same, conspiring with co-accused Mike Batocabe (a public officer Vault Keeper) did then and there willfully, unlawfully and feloniously remove, destroy or conceal a Deed of Extrajudicial Settlement of the Estate of Jesus Bautista, Sr., married to Consuelo Nunez with waiver of rights, filed by Spouses Reynaldo N. Bautista and Teresita C. Bautista which became the basis for the cancellation of TCT Nos. (T-49854)5070 and T-43853)73948 over two parcels of land with a total land area of 8,167 square meters, located in Marulas, Polo (Valenzuela), Bulacan, originally in the name of Jesus Bautista, Sr., married to Consuelo Nunez and the issuance of TCT Nos. V-47038 and V-47039 in the names of Reynaldo N. Bautista married to Teresita Bautista (2/3 share) and Violeta N. Bautista-Vicencio married

to Gerino Vicencio (1/4) to the damage and prejudice of the heirs and the public interest as well.

CONTRARY TO LAW.” (Rollo, p. 21)

Upon arraignment, the petitioner entered a plea of not guilty to the crime leveled against him. Subsequently, on August 20, 2004, the Office of the Ombudsman filed a “Motion for Leave of Court to Amend Information and to Admit Attached Amended Information” dated August 9, 2004 (Rollo, pp. 23-30), seeking to add the word “serious” in the last statement of the Original Information to read “xxx to the serious damage and prejudice of the heirs and the public interest as well.” It pointed out that the amendment to the information was a matter of form, and that it did not seriously prejudice the rights of the petitioner as it merely stated with additional precision something which was already contained in the Original Information .

On September 13, 2004, the petitioner interposed his opposition to the said motion of the Office of the Ombudsman (Rollo, pp. 34-40). According to the petitioner, the amendment sought, which consisted in the insertion of the word “serious” before the phrase “damage and prejudice” in the Amended Information, was not merely a matter of form, but rather a substantial amendment since it sought to alter the nature of the offense and increase the penalty for which he may be made to suffer.

After considering the respective arguments of the parties, the RTC, in the Order dated October 13, 2004, granted the motion of the Office of the Ombudsman, ruling that the disputed amendment to the Original Information was only a matter of form. Thus:

“In the present case, this Court notes that the recital of facts in the Information, to which accused Batocabe entered his plea, would not be changed with the insertion of the word, 'serious' in the information. It would only serve to clarify that the accused are being charged under paragraph 2 of Article 226 of the Revised Penal Code and not under paragraph 1 thereof which is within the jurisdiction of the metropolitan trial courts. What matters is that in the body of the Information itself there is a narration of the acts or omissions of the accused from which can be gleaned the extent of damage sustained by the private offended party. The insertion of a word, in this instance, the word 'serious' just summed up with one word the extent of the prejudice borne by the offended party. In fact, the absence of said adjective would not in any way diminish the gravity of the effects of such acts or omissions as recited in the Information.

xxx    xxx    xxx

WHEREFORE, in view of the foregoing, the 'Motion for Leave of Court to Amend Information and to Admit Attached Amended Information' is hereby GRANTED. Consequently, the attached Amended Information is hereby ADMITTED.” (Rollo, p. 61)

Dissatisfied therewith, the petitioner filed an urgent motion for reconsideration of the Order dated October 13, 2004, insisting that the insertion of the word “serious” was a substantial amendment and adversely affected his right to be informed of the accusation against him (Rollo, pp. 41-44).

On December 10, 2004, the trial court denied the said motion filed by the petitioner, reiterating its stand that the recital of facts in the Original Information, to which the petitioner entered his plea, was not changed by the insertion of the word "serious" in the Amended Information, and that the said word just summed up with one word the extent of the prejudice borne by the offended party (Rollo, p. 18).

Still unconvinced, the petitioner now comes to Us via this instant petition raising the following issues:

"1. THE HONORABLE COURT GRAVELY ERRED AND ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT TAKE COGNIZANCE OF THE CASE DESPITE SHOWING LACK OF JURISDICTION THERETO;

2. THE HONORABLE COURT GRAVELY ERRED AND ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE ASSAILED ORDER (GRANTING THE AMENDMENT OF INFORMATION) DESPITE IT HAVING NO JURISDICTION AT ALL." (Rollo, p. 6)

Essentially, the petitioner wants Us to resolve the following issues: 1) whether the RTC has jurisdiction over the criminal case; 2) whether the amendment to the Original Information was formal or substantial, and 3) whether the RTC committed grave abuse of discretion in granting the motion of the Office of Ombudsman to amend the Original Information.

The petition is devoid of merit.

There is no question that the jurisdiction of a court is defined by the Constitution or statute and that the elements of that definition must appear in the complaint or information so as to ascertain which court has jurisdiction over a case. In other words, the fundamental rule is that the jurisdiction of a court is determined by the allegations in the complaint or information, and not by the evidence presented by the parties at the trial (*Lacson vs. Executive Secretary*, 301 SCRA 298, 327 [1999]). In *People vs. Lagon*, 185 SCRA 442, 447 (1990), citing *People vs. Buissan* 105 SCRA 547 (1981), the Supreme Court explained the aforementioned rule in this wise:

"... [i]n criminal prosecutions, jurisdiction of the court is not determined by what may be meted out to the offender after trial (*People v. Cuello*, 1 SCRA 814) or even by the result of the evidence that would be presented during the trial (*People v. Co Hiok*, 62 Phil. 503) but by the extent of the penalty which the law imposes, together with other legal obligations, on the basis of the facts as recited in the complaint or information (*People v. Purisima*, 69 SCRA 347) constitutive of the offense charged, for once jurisdiction is acquired by the court in which the information is filed, it is retained regardless whether the evidence proves a lesser offense than that charged in the information (*People v. Mision*, 48 O.G. 1330)." (Emphasis Supplied)

The petitioner maintains that the RTC has no jurisdiction over the case considering that the Original Information failed to allege that the damage or prejudice caused to the offended party and the public by reason of the wrongful act of the petitioner was