



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

CAROLINA B. JOSE,
Petitioner,

G.R. No. 176111

Present:

- versus -

CARPIO, *Chairperson,*
DEL CASTILLO,
PEREZ,
MENDOZA,* *and*
PERLAS-BERNABE, *JJ.*

PURITA SUAREZ,
Respondent.

Promulgated:
JUL 17 2013

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DECISION

DEL CASTILLO, *J.:*

When a trial court is confronted to rule on “a motion to dismiss a case or to withdraw an Information”, it is its “bounden duty to assess independently the merits of the motion, and this assessment must be embodied in a written order disposing of the motion.”¹

Petitioner Carolina B. Jose (Carolina) disputes in this Petition for Review on *Certiorari*² the August 30, 2006 Decision³ of the Court of Appeals (CA) in CA-G.R. CEB-SP No. 01601 which: (1) granted the Petition for *Certiorari* filed therewith by respondent Purita Suarez (Purita); (2) set aside the Orders dated December 9, 2005⁴ and March 10, 2006⁵ of the Regional Trial Court (RTC) of Cebu City, Branch 21 in Criminal Case No. CBU-72619; and, (3) granted the Motion to Withdraw Information filed in the said criminal case and, in effect,

* Per Special Order No. 1484 dated July 9, 2013.

¹ *Cerezo v. People*, G.R. No. 185230, June 1, 2011, 650 SCRA 222, 229.

² *Rollo* of G.R. No. 176111, pp. 3-13.

³ CA *rollo*, pp. 140-146; penned by Associate Justice Isaias P. Dicedican and concurred in by Associate Justices Romeo F. Barza and Priscilla Baltazar-Padilla.

⁴ Records, p. 223; penned by Presiding Judge Eric F. Menchavez.

⁵ *Id.* at 234.

dismissed the same. She likewise assails the December 19, 2006 Resolution⁶ of the CA which denied her Motion for Reconsideration.

Factual Antecedents

Carolina filed two Affidavit-Complaints⁷ for estafa against Purita before the Office of the City Prosecutor of Cebu, one concerning 14 Chinabank checks totalling ₱1.5 million⁸ and the other pertaining to 10 Chinabank checks in the aggregate amount of ₱2.1 million,⁹ later docketed as I.S. Nos. 04-5768-5782-G and 04-6060-6070-H, respectively. She claimed that on April 26, 2004, Purita went to her house because the latter needed cash for her business. Carolina gave Purita the cash she needed provided she would pay interest at 5% monthly. In exchange for the cash, Purita issued checks all dated April 27, 2004. However, the checks were dishonored upon presentment. Hence, the complaint for estafa.

In her two Counter-Affidavits,¹⁰ Purita claimed that her transactions with Carolina are civil in nature; they are mere loans and the checks were issued only to guarantee payment. She explained that due to serious liquidity problems in her hardware and construction business, she was constrained to borrow money from Carolina, a money lender, to fund the postdated checks she issued to creditors which had been maturing daily. Compelled to replenish her daily fund requirement, Purita was forced to accept Carolina's exorbitant and iniquitous terms, initially at 1-2% interest a day until the same was increased to 5%. The setup was that whenever the loaned money is released, Purita would issue a number of checks dated on the next banking day equal to the amount of cash lent to her, plus the 5% daily interest inclusive of weekends and holidays until the checks are cleared.¹¹ This arrangement started in October 2003 and continued until April 2004. According to Purita, Carolina was able to collect from her approximately ₱33 million by imposing 5% daily interest.¹² As a result of the iniquitous arrangement, Purita was in dire need of funds and was in fact no longer able to fund the checks she issued to Carolina, all of which matured on April 27, 2004.

In a Joint Resolution¹³ dated December 7, 2004, the City Prosecutor found probable cause to indict Purita for estafa. The corresponding Information¹⁴ was filed against her and the case was docketed as Criminal Case No. CBU-72619.

⁶ CA *rollo*, pp. 166-167.

⁷ Records, pp. 16-17 and 26-27.

⁸ Id. at 21-25.

⁹ Id. at 33-36.

¹⁰ Id. at 37-50 and 126-139.

¹¹ According to Purita, she filed a civil case for declaration of nullity of interest and collection of illegal interest docketed as Civil Case No. CEB 30278 entitled Sps. Laureano and Purita Suarez vs. Carolina Jose and Reynaldo a.k.a. Antonio Jose. *Rollo* of G.R. No. 176111, p. 107.

¹² Id. at 38.

¹³ Records, pp. 3-4.

Stressing that her transactions with Carolina did not constitute estafa, Purita promptly filed a Petition for Review¹⁵ before the Department of Justice (DOJ).

Ruling of the Department of Justice

The DOJ found merit in Purita’s Petition for Review. It ruled that the transactions between Purita and Carolina do not constitute estafa and are merely contracts of loan because Carolina was not deceived into parting with her money. On the contrary, Carolina parted with her money on the expectation of earning interest from the transactions. Hence, the DOJ reversed and set aside the Joint Resolution of the City Prosecutor in its July 5, 2005 Resolution,¹⁶ the dispositive portion of which reads:

¹⁴ See Amended Information, id. at 154-156, the accusatory portion of which reads:
That in or about the month of April 2004, and for sometime prior and subsequent thereto, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent to gain and by means of false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud, to wit: by inducing one Carolina B. Jose to change the following checks to cash, to wit:

CHECK NO.	DATE	AMOUNT
A0001328288	April 27, 2004	₱ 50,000.00
A0001328290	April 27, 2004	₱ 50,000.00
A0001328387	April 27, 2004	₱ 250,000.00
A0001328389	April 27, 2004	₱ 250,000.00
A0001328391	April 27, 2004	₱ 250,000.00
A0001328393	April 27, 2004	₱ 250,000 00
A0001328287	April 27, 2004	₱ 250,000.00
A0001328289	April 27, 2004	₱ 250,000.00
A0001328291	April 27, 2004	₱ 250,000.00
A0001328293	April 27, 2004	₱ 250,000.00
A0001328383	April 27, 2004	₱ 250,000.00
A0001328384	April 27, 2004	₱ 50,000.00
A0001328385	April 27, 2004	₱ 250,000.00
A0001328386	April 27, 2004	₱ 50,000.00
A0001328388	April 27, 2004	₱ 50,000.00
A0001328390	April 27, 2004	₱ 50,000.00
A0001328392	April 27, 2004	₱ 50,000.00
A0001328394	April 27, 2004	₱ 50,000.00
A0001328292	April 27, 2004	₱ 50,000.00
A0001328294	April 27, 2004	₱ 50,000.00
A0001328379	April 27, 2004	₱ 250,000.00
A0001328380	April 27, 2004	₱ 50,000.00
A0001328381	April 27, 2004	₱ 250,000.00
A0001328382	April 27, 2004	₱ 50,000.00
TOTAL		₱ 3,600,000.00

falsely pretending that the same are duly funded and by means of such false pretenses and persuasion Carolina B. Jose was induced and in fact did change said checks to cash in the total sum of ₱3,600,000.00 when in truth and in fact as the accused very well knew said checks were not funded as they were dishonored by the bank for the reason “Account Closed” and that such scheme was employed by the accused merely [to] obtain possession of the said sum of ₱3,600,000.00, and [in spite] of repeated demands made upon her she has failed and refused and up to the present time still fails and refuses to make good said checks or replace the same with cash, to the damage and prejudice of Carolina B. Jose in the amount aforestated.

CONTRARY TO LAW.

¹⁵ Id. at 68-80.

¹⁶ Id. at 206-211.

WHEREFORE, the assailed resolution is hereby **REVERSED** and **SET ASIDE**. The City Prosecutor of Cebu City is directed to move for the withdrawal of the information(s) for estafa against respondent Purita M. Suarez, if any has been filed against her, and to report the action taken hereon within ten (10) days from receipt hereof.

SO ORDERED.¹⁷

Carolina moved for reconsideration¹⁸ but was denied in a Resolution¹⁹ dated October 27, 2005.

Ruling of the Regional Trial Court

Thus, pursuant to the DOJ's directive, City Prosecutor Nicolas C. Sellon moved for the withdrawal of the Information²⁰ before the RTC.

However, the RTC, in its December 9, 2005 Order,²¹ denied the motion in this wise:

Acting on the Motion to Resolve "Motion to Withdraw Information[""] dated July 13, 2005, and finding it to be unmeritorious, the Court resolves to deny the motion.

SO ORDERED.²²

On February 15, 2006, Purita moved for a reconsideration²³ which the RTC denied in its Order²⁴ dated February 17, 2006. On March 10, 2006, the RTC issued another Order,²⁵ thus:

The defense of the accused that the last three checks were issued by the accused to cover the interest of 5% per day is a matter that should be addressed [to] the trial court.

The prosecution has established that complainant gave [her] money to accused for the exchange of checks simultaneously delivered to [her] and if it were not for the delivery of the checks, complainant would not have parted with [her] money.

¹⁷ Id. at 210. Emphases supplied.

¹⁸ Id. at 341-346.

¹⁹ Id. at 217-218.

²⁰ Id. at 204-205; 215-216.

²¹ Id. at 223.

²² Id.

²³ Id. at 227-231.

²⁴ Id. at 232.

²⁵ Id. at 234.

WHEREFORE, all the foregoing premises considered, this Court reiterates to Deny the Motion for Reconsideration.

SO ORDERED.²⁶

Purita thus went to the CA to challenge the two above-mentioned Orders of the RTC.

Ruling of the Court of Appeals

By way of a special civil action for *certiorari*, Purita alleged that the said Orders of the RTC failed to explain why the Motion to Withdraw Information was denied. To her, such omission amounted to grave abuse of discretion because the judge failed to do his duty, *i.e.*, to make an independent evaluation of the merits of the case in determining probable cause when faced with a Motion to Withdraw Information. She stressed that the RTC should have granted the Motion to Withdraw Information because her case is clearly civil in character and does not make a case for estafa.

Finding the Petition meritorious, the CA ruled that the RTC Judge failed to personally assess or evaluate the Resolution of the DOJ. The December 9, 2005 Order of the RTC merely stated that the motion to withdraw was ‘unmeritorious’ while the March 10, 2006 Order only declared that Purita’s defense was ‘a matter that must be addressed to the trial court’. The said Orders neither explained why Purita should be tried for the crime charged nor made any reference to the DOJ findings. Upholding the DOJ’s ruling that there is no probable cause to indict Purita for estafa, the CA also held that the matter is the proper subject of a civil case as the parties engaged themselves in a contract of loan. What really induced Carolina to release her money was the payment of interest, and not Purita’s checks which served only as guarantees of repayment. Thus, the dispositive portion of the CA’s August 30, 2006 Decision²⁷ reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us GRANTING the petition filed in this case, SETTING ASIDE the Orders dated December 9, 2005 and March 10, 2006 issued by the respondent judge in Criminal Case No. CBU-72619 and hereby GRANTING the Motion to Withdraw Information filed in Criminal Case No. CBU-72619 and, in effect, DISMISSING said case.

SO ORDERED.²⁸

²⁶ Id.

²⁷ CA *rollo*, pp. 140-146.

²⁸ Id. at 145.

Carolina pleaded for reconsideration and argued that the RTC's own evaluation of a *prima facie* case for estafa is a matter that is within the trial court's jurisdiction that should not be disturbed by the CA. The CA, however, rejected this claim in its Resolution²⁹ of December 19, 2006.

Hence, this Petition.

Issues

Carolina imputes error upon the CA in reversing the Orders of the RTC. To her, the RTC independently evaluated the merits of the case and thus, correctly adjudged to maintain the estafa charge against Purita. This is an exercise of its sole prerogative which the CA cannot replace.

Our Ruling

We partly grant the Petition.

We sustain the CA in finding that the RTC gravely abused its discretion in denying the Motion to Withdraw Information.

The RTC failed to make its independent evaluation of the merits of the case when it denied the Prosecutor's Motion to Withdraw Information.

When a trial court is confronted to rule on "a motion to dismiss a case or to withdraw an Information", it is its "bounden duty to assess independently the merits of the motion, and this assessment must be embodied in a written order disposing of the motion."³⁰

As aptly observed by the CA, the RTC's December 9, 2005 Order denying the Motion to Withdraw Information failed to state cogent reasons behind the said court's refusal to grant withdrawal of the Information. To stress, the December 9, 2005 Order merely stated:

ORDER

Acting on the Motion to Resolve "Motion to Withdraw Information[""] dated July 13, 2005, and finding it to be unmeritorious, the Court resolves to deny the motion.

²⁹ Id. at 166-167.

³⁰ *Cerezo v. People*, supra note 1.

SO ORDERED.³¹

The RTC simply declared that it was denying the motion for being “unmeritorious,” without further elaborating on the bases of its conclusion. Moreover, there is nary any reference made to the findings of the DOJ. The same holds true with respect to the Order³² dated February 17, 2006 which denied respondent’s Motion for Reconsideration.³³ We note that in her Motion for Reconsideration, respondent already called the trial court’s attention to the findings of the DOJ that the transactions were loans thus civil in character and to this Court’s ruling in *People v. Cuyugan*³⁴ which allegedly has a similar factual setting as in this case.³⁵ The RTC, however, gave scant consideration to these arguments. Instead, it denied the Motion for Reconsideration in its February 17, 2006 Order, viz:

The Motion for Reconsideration of the Order of this Court dated December 9, 2005 is DENIED.

SO ORDERED.³⁶

Likewise, in its March 10, 2006 Order reiterating its denial of respondent’s Motion for Reconsideration, the RTC merely stated that the 5% interest is a matter of defense. There was never any discussion as to how it reached such conclusion, or how the DOJ findings impacted on its ruling. And instead of confronting the reasons stated in the motion for the withdrawal of the Information, the RTC digressed and focused solely on what constitutes estafa involving bouncing checks. It said, “The prosecution has established that complainant gave [her] money to accused for the exchange of checks simultaneously delivered to [her] and if it were not for the delivery of the checks, complainant would not have parted with [her] money.”³⁷ Notably, the RTC in both Orders perfunctorily denied the motion to withdraw as it did not “(1) positively state that the evidence against [Purita is sufficient to make out a case for estafa]; (2) include a discussion [on] the merits of the case; (3) assess [if the DOJ’s conclusion] is supported by evidence; (4) look at the basis of [the DOJ’s] recommendation; (5) embody its assessment in the [said Orders]; and, (6) state [the] reasons in denying the motion to withdraw information.”³⁸ Hence, it is plain from the said Orders that the RTC failed to perform its bounden-duty to make an independent evaluation of the merits of the case. The CA did not therefore err in declaring that such failure of the RTC constitutes grave abuse of discretion amounting to excess of jurisdiction.³⁹

³¹ Records, p. 223.

³² Id. at 232.

³³ Id. at 227-231.

³⁴ 440 Phil. 637 (2002).

³⁵ Records, 228-229.

³⁶ Id. at 232.

³⁷ Id. at 234.

³⁸ *Lee v. KBC Bank N.V.*, G.R. No. 164673, January 15, 2010, 610 SCRA 117, 133.

³⁹ *Co v. Lim*, G.R. Nos. 164669-70, October 30, 2009, 604 SCRA 702, 712.

At this juncture, the Court deems it proper to remand this case to the RTC. The trial court is therefore directed to make an independent and thorough evaluation of the merits of the case. It must clearly state whether the evidence presented is sufficient to make out a case for estafa and whether the DOJ's conclusion is supported by evidence. Its Order must contain its assessment and the reasons for granting or denying the Motion to Withdraw Information.

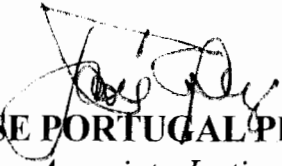
WHEREFORE, the Petition for Review on *Certiorari* is **PARTLY GRANTED**. The case is ordered **REMANDED** to the Regional Trial Court of Cebu City, Branch 21 for further proceedings in accordance with this Decision.

SO ORDERED.



MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ANTONIO T. CARPIO***Associate Justice**Chairperson***CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P. A. SERENO***Chief Justice*