Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

THE PEOPLE OF THE PHILIPPINES,
Petitioner,

- versus -

ENGR. RODOLFO YECYEC, ROGELIO BIÑAS, ISIDRO VICTA, IRENEO VIÑA, RUDY GO, JUANITO TUQUIB, ROMEO BUSTILLO, FELIX OBALLAS, CASTEO ESCLAMADO, RICARDO LUMACTUD, LEOPOLDO PELIGRO, PATERNO NANOLAN, CARLITO SOLATORIO, MEDARDO ABATON, FEDIL RABANES, FELIX HINGKING, BENJAMIN TOTO, EUFROCINO YBAÑEZ, FELOMINO OBSIOMA, LORETO PEROCHO, MARANIE UNGON, NOYNOY ANGCORAN, ROLANDO YUZON, NESTOR CHAVEZ, LEONARDO PREJAN, PRIMO LIBOT, NEMESIO ABELLA, IRENEO LICUT, PROCESO GOLDE, EPIFANIO LABRADOR, and BRANCH 11, REGIONAL TRIAL COURT (Manolo Fortich, Bukidnon),
Respondents.

G.R. No. 183551

Present:

CARPIO, *J.*, *Chairperson*,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

Promulgated:

NOV 12 2014

D E C I S I ON

MENDOZA, *J.*:

Appealed[1] by the Office of the Solicitor General *(OSG)* in this case is the Decision,[2] dated June 27, 2008, of the Court of Appeals *(CA)* in CA-G.R. SP No. 00489, affirming the resolutions of the Regional Trial Court, Branch 11, Manolo Fortich, Bukidnon *(RTC)*, dated October 14, 2004[3] and May 11, 2005,[4] which dismissed the criminal information against the respondents for lack of probable cause.

The Facts

The facts, as culled from the records, may be restated as follows:

Pioneer Amaresa, Inc. *(Pioneer)* is a domestic corporation engaged in the buying and selling of rubber. Calixto B. Sison was the supervisor of Pioneer's rubber processing plant, who was tasked, among other things, with the acquisition of rubber coagulum and rubber cup lumps in Talakag, Bukidnon.

On August 19, 2002, Sison bought for Pioneer a total of 2,433 kilos of rubber cup lumps from its various suppliers in Talakag, Bukidnon. Out of the total 2,433 kilos of rubber cup lumps he bought, some 1,500 kilos were purchased from Julieto Edon *(Edon)*, caretaker of the plantation of Albert Poño *(Poño)*. Considering that Pioneer did not have any storage facility in Talakag, Bukidnon, Sison placed the newly-purchased rubber cup lumps inside the fenced premises which he rented out as his residence.

Later that day, Sison was approached by Avelino Sechico *(Sechico)*, chairman of the FARBECO Multi-purpose Cooperative *(FARBECO)*. Accompanying Sechico were two police officers and several members of FARBECO. When asked about their purpose, Sison was informed they wanted to verify if the rubber cup lumps/coagulum he had bought earlier were the same as those that were earlier stolen from FARBECO. Upon inspection, the group informed Sison that six (6) tons of the rubber lumps/coagulum that Edon sold to him were the ones earlier stolen from FABRECO. As Sison was unsure if Sechico's claims were true, he informed

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[1] Via a Petition for Review on *Certiorari* filed under Rule 45 of the Revised Rules of Court; *rollo*, pp. 22-128.
[2] Id. at 54-62. Penned by Associate Justice Edgardo T. Lloren, with Associate Justices Edgardo A. Camello and Jane Aurora C. Lantion, concurring.
[3] Id. at 80-82.
[4] Id. at 83-84.

Sechico and his companions that he would cover up the rubber cup lumps first with canvass and confer with Poño to verify if the rubber cup lumps he bought from Edon really came from the Poño plantation.

On August 30, 2002, however, at about 4:00 o'clock in the afternoon, Sison was surprised when respondent Rodolfo Yecyec *(Yecyec)*, manager of FARBECO, arrived at his place on board a "weapons carrier truck." Yecyec, together with co-respondents herein and several John Does totaling thirty-five (35) men, demanded that Sison give them the rubber lumps/coagulum he bought from Edon. When Sison asked if they had any written authority and/or Court order authorizing them to take the rubber cup lumps from his house, Yecyec answered in the negative. For said reason, Sison refused to accede to their demands. In response, Yecyec suddenly yelled at Sison "*by hook or by crook kuhaon gyud namo ang mga rubber. Sumbong Lex* (referring to Sison) *bisag asa, apil pa si Mr. Poño ipa sumbong.*"[5]

Yecyec then ordered his men (co-respondents) to seize the rubber cup lumps inside Sison's house. Upon hearing the order, Sison warned Yecyec and his men not to enter his residence and added that he would ask a police officer and a barangay kagawad to witness the incident. Sison then left to fetch the police and barangay officials, leaving his nephew, Edwin Galdo, to watch over his place in the meantime.

Immediately after Sison left, Yecyec, together with his men proceeded to destroy the fence of Sison's residence to gain entrance to the premises. As they were unable to completely destroy the fence, Yecyec climbed over the enclosure to gain entrance to Sison's residence. About eleven (11) of Yecyec's men followed him. Once inside the fenced premises, Yecyec and his companions took the rubber cup lumps and loaded them on to their truck.

Two (2) of Yecyec's men were armed during the incident. Respondent Benjamin Toto *(Toto)*, a security guard, was armed with a shotgun while waiting outside the fence. Respondent Ireneo Viño *(Viño)*, who entered the fenced premises, was armed with a bolo.

Before Yecyec and his men could completely load all the rubber cup lumps inside the truck, Sison arrived together with police officer Billy Dahug and barangay kagawad Marc Gumilac. Startled when the police officer Dahug blew his whistle, Yecyec and his men hastily left the premises on board their truck, leaving the left portion of the fence destroyed.

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[5] Which means "*By hook or by crook, we will really get the rubber. File a case anywhere Lex, you can even include Mr. Poño*." See CA Decision, p. 2; CA *rollo*, p. 150.

From the total of 2,433 kilos of rubber cup lumps stored inside Sison's fenced premises, only 207 kilos were left. The value of the rubber cup lumps taken from the premises was ₱27,825.00.

Pioneer, through Sison, thus filed an affidavit-complaint[6] against the respondents before the Philippine National Police *(PNP)* of Talakag, Bukidnon. Acting favorably on the complaint, the Chief Police of the PNP of Talakag, Bukidnon, filed a criminal complaint[7] against the private respondents for Robbery with Intimidation of Persons before the 1st Municipal Circuit Trial Court *(MCTC)* of Talakag-Baungon-Malitbog, Bukidnon.

Decision of the MCTC

After conducting the requisite preliminary investigation,[8] the MCTC found probable cause to hold respondents liable for Robbery with Intimidation of Persons. In its Resolution, dated January 13, 2004,[9] the MCTC dismissed the respondents' contention that they were simply recovering their stolen property sold by Edon to Sison. While noting that the respondents had previously charged Sison with violation of the Anti-Fencing Law, the MCTC opined that the respondents did not have any right to forcibly take back the rubber cup lumps, especially considering that they admitted that the actual ownership of the rubber cup lumps was still to be determined by the proper court.

Decision of the Provincial Prosecutor

While affirming the finding of probable cause by the investigating judge for the unlawful taking, the Provincial Prosecutor found that the respondents should only be liable for the lower offense of Theft.[10] In finding the respondents liable for a lesser crime, the Provincial Prosecutor noted that no evidence was adduced to show that respondents had employed violence and intimidation in the taking of the rubber cup lumps from the house of the complainant. For the Provincial Prosecutor, the mere possession by Toto and Viño of a bolo and a shotgun did not amount to intimidation of persons considering the bolo or shotgun was not used to threaten any person.[11]

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[6] Id. at 26-30.
[7] Id. at 38-39.
[8] Prior to the issuance of A.M. No. 05-8-26-SC which took effect on October 3, 2005, judges of the Municipal Trial Court and Municipal Circuit Trial Courts were authorized to conduct preliminary investigation to determine probable cause pursuant to then Section 2(b) of Rule 112 of the Revised Rules of Court.
[9] Issued by Judge Ma. Lourdes Eltanal Ignacio; CA *rollo*, pp. 40-48.
[10] Issued by Prosecutor Giovanni Alfred H. Navarro; id. at 49-52.
[11] Id. at 51.

Thereafter, an Information[12] was filed before the Regional Trial Court *(RTC)*, Branch 11, Manolo Fortich, Bukidnon, charging the respondents with the crime of Theft, committed as follows:

> That on or about the 30th day of August 2002, in the afternoon, at barangay San Isidro, Municipality of Talakag, province of Bukidnon, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, did then and there wilfully, unlawfully, and feloniously, with intent to gain and without the consent of the owner thereof, take, steal and carry away 2,226 kilograms of RUBBER COAGULUM with a total value of TWENTY SEVEN THOUSAND EIGHT HUNDRED TWENTY FIVE PESOS (P27,825.00) Philippine Currency belonging to the PIONEER AMARESA, INC., represented by CALIXTO SISON; to the damage and prejudice of the said corporation in the said amount.
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> Contrary to and in violation of Articles 308 and 309 of the Revised Penal Code.

Ruling of the Regional Trial Court

Upon its review, however, the RTC arrived at the conclusion that the evidence on record failed to establish probable cause absent two (2) of the essential elements of the crime of Theft and dismissed the case. In its Resolution,[13] dated October 14, 2004, the RTC explained:

> x x x [T]his court does not agree that just because the respondents forcibly took back the rubber cup lumps from the complainant (sic) would already amount to the crime of theft. Neither does this court believe that the filing of a Fencing case against complainant is an implied admission by the respondents that the ownership of the rubber cup lumps is yet to be determined by the court. It thinks otherwise. Because of the personal knowledge by the respondents that said rubber cup lumps rightfully belong to them that they filed a case of fencing against the complainant for having bought said rubber cup lumps from an alleged thief.
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> The second element of Theft, i.e.,: "That said property belongs to another" is absent. The records of the case would reveal that complainant himself admitted that the ownership of the said rubber cup lumps is questionable. And yet, he took possession of the said rubber cup lumps (sic) at his residence. One of the vendors, Julieto Edon is not himself an owner of a rubber plantation but

[12] Id. at 53-54.
[13] Issued by Judge Francisco G. Rojas, Sr.

> merely a caretaker of Albert Po[ñ]o. There was neither any statement from the alleged owner that he authorized the said caretaker, nor any proof of payment presented during the preliminary investigation, which is important so much so that the ownership of the rubber coagulum and rubber cup lumps is in issue here.
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> x x x x
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> The third element of Theft i.e.,: "That the taking be done with intent to gain" is absent. The Prosecution affirmed the findings of probable cause against all respondents but for the lesser offense of Theft. It considered the respondents' taking of the subject rubber cup lumps from complainant *albeit made openly and avowedly under claim of title made in bad faith.*
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> This court holds otherwise. If a person takes personal property from another believing it to be his own, the presumption of intent to gain is rebutted and, therefore, he is not guilty of Theft x x x. Most importantly, one who takes personal property openly and avowedly under claim of title made in good faith is not guilty of theft even though the claim of ownership is later found to be untenable x x x.
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> x x x x
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> Thirty (30) persons more or less allegedly took the said rubber cup lumps from the residence of private complainant Calixto Sison "at about 4:00 o'clock in the afternoon" x x x, in broad daylight, in the presence of the complainant herein, the witnesses and several other people and children. Their belief was that they are the owners of the said rubber cup lumps. The policemen did not even arrest them in the act of taking but only "blew his whistle a number of times which prompted respondents to leave my residence using the weapon carrier truck which was loaded with rubber cup lumps" x x x. In this situation, bad faith or intent to gain is wanting.[14]

Pioneer, with the conformity of the public prosecutor, sought reconsideration,[15] but its motion was denied.[16]

Both Pioneer and the public prosecutor assailed the resolutions of the RTC and jointly filed a petition for *certiorari* with the CA.[17]

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[14] CA *rollo*, pp. 21-23.
[15] Id. at 55-59.
[16] Id. at 23-24.
[17] Id. at 2-64.

Ruling of the Court of Appeals

On June 27, 2008, the CA issued the assailed decision affirming the dismissal of the charges against the respondents. Echoing the findings of the RTC that no probable cause exists to hold the respondents liable for the crime of Theft, the appellate court opined that the respondents lacked the intent to gain since the taking was done in broad daylight and under an avowed claim of ownership. According to the CA, while the use of force may hold respondents criminally liable for some other crime like coercion, it would not hold them guilty for the crime of theft or robbery, absent the element of intent to gain.[18]

Hence, this petition.

Taking the cudgels for Pioneer, the OSG asserts that the existence of probable cause for Robbery/Theft is evident from both the affidavits of the private complainants and the findings of fact of the CA.[19] It insists that the respondents were not in good faith when they entered the premises of Sison, destroyed his fence and forcibly took the rubber cup lumps, because they knew that Sison was in possession of the rubber cup lumps by authority of the owner and the case, where the issue of ownership was raised, still had to be adjudicated.

According to the OSG, the RTC and the CA erred in finding that intent to gain was lacking from the respondents' act of taking, since intent to gain is presumed from all furtive taking of property of another. To relieve the respondents from the charge of Robbery/Theft because of their alleged claim would allow any person accused of Robbery/Theft to easily evade prosecution by raising ownership and/or good faith in the taking of stolen property. The OSG argues that the case should have at least been heard on its merits.[20]

Finally, it is contended that the trial court denied the prosecution its right to due process when it dismissed the case for failure to establish probable cause. The OSG further argues that if the trial court was not satisfied with the findings of the MCTC and the Office of the Provincial Prosecutor that there was probable cause, it should have conducted its own investigation rather than dismissing the case outright.

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[18] Id. at 156-157.
[19] *Rollo*, pp. 30-37.
[20] Id. at 37-43.

For their part, the respondents reiterate the ruling of the RTC and the CA that no probable cause exists to hold them liable for the crime of theft, absent the element of intent to gain. In support of their argument, the respondents, reiterate the finding of the trial court that the taking of the rubber cup lumps was done in broad daylight under an avowed claim of ownership. They also point out the fact that even the policemen who arrived with Sison did not even arrest them while they were in the act of taking away the rubber cup lumps.[21]

In essence, the sole issue for the consideration of the Court is whether or not the RTC and the CA erred in dismissing the information against the respondents for the crime of Theft for want of probable cause.

The Court's Ruling

The Court has reviewed the records and found the petition impressed with merit.

To determine whether probable cause exists and to charge those believed to have committed the crime as defined by law, is a function that belongs to the public prosecutor. It is an *executive* function.[22] The public prosecutor, who is given a broad discretion to determine whether probable cause exists and to charge those believed to have committed the crime as defined by law and, thus, should be held for trial, has the quasi-judicial authority to determine whether or not a criminal case must be filed in court.[23] Whether or not that function has been correctly discharged by the public prosecutor, that is, whether or not he has made a correct ascertainment of the existence of probable cause in a case, is a matter that the trial court itself does not and may not be compelled to pass upon.[24] Thus, in the oft-cited case of *Crespo v. Mogul*, it was stated that:

> It is a cardinal principle that all criminal actions either commenced by complaint or by information shall be prosecuted under the direction and control of the fiscal. The institution of a criminal action depends upon the sound discretion of the fiscal. He may or may not file the complaint or information, follow or not follow that presented by the offended party, according to whether

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[21] Id. at 249-250.
[22] *Ledesma v. Court of Appeals*, 344 Phil. 207, 226, 227 (1997).
[23] *Paderanga v. Drilon*, 273 Phil. 290, 296 (1991).
[24] *Leviste. v. Alameda,* G.R. No. 182677, August 3, 2010, 626 SCRA 575, 608-609; *People v. Castillo*, 607 Phil. 754, 764-765.

> the evidence, in his opinion, is sufficient or not to establish the guilt of the accused beyond reasonable doubt. The reason for placing the criminal prosecution under the direction and control of the fiscal is to prevent malicious or unfounded prosecutions by private persons.
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> x x x Prosecuting officers under the power vested in them by the law, not only have the authority but also the duty of prosecuting persons who, according to the evidence received from the complainant, are shown to be guilty of a crime committed within the jurisdiction of their office. They have equally the duty not to prosecute when the evidence adduced is not sufficient to establish a *prima facie* case.

This broad prosecutorial power is, however, not unfettered, because just as public prosecutors are obliged to bring forth before the law those who have transgressed it, they are also constrained to be circumspect in filing criminal charges against the innocent. Thus, for crimes cognizable by regional trial courts, preliminary investigations are usually conducted.[25] In *Ledesma v. Court of Appeals*,[26] the Court discussed the purposes and nature of a preliminary investigation in this manner:

> x x x The primary objective of a preliminary investigation is to free respondent from the inconvenience, expense, ignominy and stress of defending himself/herself in the course of a formal trial, until the reasonable probability of his or her guilt in a more or less summary proceeding by a competent office designated by law for that purpose. Secondarily, such summary proceeding also protects the state from the burden of the unnecessary expense an effort in prosecuting alleged offenses and in holding trials arising from false, frivolous or groundless charges.
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> Such investigation is not part of the trial. A full and exhaustive presentation of the parties' evidence is not required, but only such as may engender a well-grounded belief than an offense has been committed and that the accused is probably guilty thereof. By reason of the abbreviated nature of preliminary investigations, a dismissal of the charges as a result thereof is not equivalent to a judicial pronouncement of acquittal. Hence, no double jeopardy attaches.

The determination of probable cause to hold a person for trial must be distinguished from the determination of probable cause to issue a warrant of arrest, which is a *judicial* function. The judicial determination of probable cause, is one made by the judge to ascertain whether a warrant of arrest

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[25] *Baltazar v. People*, 582 Phil. 275, 280 (2008); *Tan v. Ballena*, 579 Phil. 503, 525 (2008); *People v. Court of Appeals*, 361 Phil. 492, 498 (1999), citing the Separate (Concurring) Opinion of former Chief Justice Narvasa in *Roberts, Jr. v. Court of Appeals*, 324 Phil. 568, 620 (1996).

[26] Supra note 22, at 226.

should be issued against the accused. The judge must satisfy himself that based on the evidence submitted, there is a necessity to place the accused under custody in order not to frustrate the ends of justice.[27] If the judge finds no probable cause, the judge cannot be forced to issue the arrest warrant.[28]

Corollary to the principle that a judge cannot be compelled to issue a warrant of arrest if he or she deems that there is no probable cause for doing so, the judge should not override the public prosecutor's determination of probable cause to hold an accused for trial on the ground that the evidence presented to substantiate the issuance of an arrest warrant was insufficient. It must be stressed that in our criminal justice system, the public prosecutor exercises a wide latitude of discretion in determining whether a criminal case should be filed in court, and the courts must respect the exercise of such discretion when the information filed against the person charged is valid on its face, and that no manifest error or grave abuse of discretion can be imputed to the public prosecutor.[29]

Thus, absent a finding that an information is invalid on its face or that the prosecutor committed manifest error or grave abuse of discretion, a judge's determination of probable cause is limited only to the judicial kind or for the purpose of deciding whether the arrest warrant should be issued against the accused.

In this case, there is no question that the Information filed against the respondents was sufficient to hold them liable for the crime of Theft because it was compliant with Section 6, Rule 110 of the Rules of Court.[30] Moreover, a review of the resolutions of the MCTC, the Provincial Prosecutor, the RTC, and the CA shows that there is substantial basis to support finding of probable cause against the respondents, albeit with the RTC and the CA having varying opinions as to the application and interpretation of such basis. Hence, as the Information was valid on its face and there was no manifest error or arbitrariness on the part of the MCTC and the Provincial Prosecutor, the RTC and the CA erred when they overturned the finding of probable cause against the respondents.

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[27] *Ho v. People*, 345 Phil. 597, 611 (1997).
[28] *People v. Court of Appeals*, 361 Phil. 401, 415 (1999).
[29] *Schroeder v. Saldevar*, G.R. No. 163656, April 27, 2007, 522 SCRA 624, 628-629.
[30] Sec. 6. *Sufficiency of complaint or information*. – A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information.

It was clearly premature on the part of the RTC and the CA to make a determinative finding prior to the parties' presentation of their respective evidence that the respondents lacked the intent to gain and acted in good faith considering that they merely sought to recover the rubber cup lumps that they believed to be theirs. It has long been settled that the presence or absence of the elements of the crime is evidentiary in nature and is a matter of defense that may be best passed upon after a full-blown trial on the merits.[31]

In all, by granting this petition, the Court is not prejudging the criminal case or the guilt or innocence of the respondents. The Court is simply saying that, as a general rule, if the information is valid on its face and there is no showing of manifest error, grave abuse of discretion or prejudice on the part of the public prosecutor, the court should not dismiss it for lack of "probable cause," because evidentiary matters should first be presented and heard during the trial. The functions and duties of both the trial court and the public prosecutor in "the proper scheme of things" in our criminal justice system should be clearly understood.[32]

WHEREFORE, the petition is **GRANTED**. The June 27, 2008 Decision of the Court of Appeals in CA-G.R. SP No. 00489 is hereby **REVERSED** and **SET ASIDE**. The Information against the above-named respondents is hereby ordered **REINSTATED**. The case is **REMANDED** to the Regional Trial Court, Manolo Fortich, Bukidnon, which is ordered to proceed with the case with dispatch.

SO ORDERED.

JOSE CATRAL MENDOZA
Associate Justice

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[31] *Go v. Fifth Division, Sandiganbayan*, 549 Phil. 783, 804 (2007).
[32] *People of the Philippines v. Court of Appeals*, 361 Phil. 401, 420 (1999).

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

ANTONIO T. CARPIO
Acting Chief Justice