



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**CESAR T. QUIAMBAO and ERIC C.
PILAPIL,**

Petitioners,

- versus -

G.R. No. 185267

Present:

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

**PEOPLE OF THE PHILIPPINES,
ADERITO Z. YUJUICO and
BONIFACIO C. SUMBILLA,**

Respondents.

Promulgated:

SEP 17 2014 *HANLALAHAG/Project*

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DECISION

BRION, J.:

Before us is a petition for review on *certiorari*¹ filed by Cesar T. Quiambao and Eric C. Pilapil (*collectively the "petitioners"*) assailing the decision² dated June 26, 2008 and the order³ dated October 23, 2008 of the Regional Trial Court, Pasig City, Branch 161 (*RTC-Branch 161*).

These challenged RTC rulings dismissed the petitioners' petition for *certiorari*, prohibition and mandamus in SCA Case No. 3193 for lack of merit.

The Factual Antecedents

Petioners Quiambao and Pilapil are the President and the Corporate Secretary, respectively, of Strategic Alliance Development

* Designated as Acting Member per Special Order No. 1767 dated August 27, 2014.

¹ Under Rule 45 of the Rules of Court; *rollo*, pp. 16-46.

² Id. at 51-53; penned by Judge Nicanor A. Manalo, Jr.

³ Id. at 54.

Corporation (*STRADEC*), a domestic corporation duly organized and existing under the laws of the Republic of the Philippines.⁴

- *Criminal Case Nos. 89723-24*

On August 12, 2005, the private respondents, Bonifacio C. Sumbilla and Aderito Z. Yujuico, both directors and officers of STRADEC, filed before the Office of the City Prosecutor (*OCP*) of Pasig City a criminal complaint for violation of Section 74 of Batas Pambansa Blg. 68 (*B.P. 68*),⁵ against the petitioners and a certain Giovanni Casanova, then accountant of STRADEC.

After preliminary investigation, the petitioners were charged under two (2) Informations⁶ for violation of Section 74 of B.P. 68. The first criminal information was docketed as Criminal Case No. 89723; while the second, was docketed as Criminal Case No. 89724. These cases were raffled to Branch 69 of the Metropolitan Trial Court (*MTC*) of Pasig City, presided by Judge Jacqueline J. Ongpauco-Cortel.

On the same date, the petitioners filed an Urgent Motion for Judicial Determination of Probable Cause and to Defer the Issuance of Warrants of Arrest Pending Determination⁷ with the MTC. The petitioners asserted that the private respondents failed to adduce evidence to support a finding of probable cause against them. They also alleged that their act of refusing to turn over STRADEC's stock and transfer books to the private respondents was not punishable under the Corporation Code.

- *The MTC's Orders dated May 8, 2006 and August 16, 2006*

On May 8, 2006, the MTC denied the motion insofar as it prayed for the dismissal of Criminal Case No. 89724. Criminal Case No. 89723 was, however, dismissed.⁸

The petitioners moved for partial reconsideration⁹, but the MTC denied the motion in its Order dated August 16, 2006.¹⁰ In the same Order, the court set the arraignment of the petitioners on October 9, 2006.

Subsequently, the petitioners filed a Petition for *Certiorari*¹¹ (with application for issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction) docketed as SCA No. 3047 with the RTC of

⁴ Id. at 55-64.

⁵ Corporation Code of the Philippines.

⁶ *Rollo*, pp. 70-71.

⁷ Id. at 72-90.

⁸ Id. at 107-113.

⁹ Id. at 114-120.

¹⁰ Id. at 152-154.

¹¹ Id. at 155-189.

Pasig, Branch 154 (*RTC-Branch 154*), seeking the partial annulment of the MTC's Orders dated May 8, 2006 and August 16, 2006.

The petitioners were arraigned on January 29, 2007.

- *The RTC Branch-154's Order dated June 4, 2007 (SCA No. 3047)*

In an Order dated June 4, 2007 (*RTC-Branch 154's Order*), the RTC-Branch 154, through Judge Abraham B. Borreta granted the petition¹² holding that there was no probable cause to hold the petitioners for trial. Consequently, it directed the MTC to dismiss Criminal Case No. 89724 for want of probable cause.

The private respondents thereafter sought reconsideration but it was denied by the RTC-Branch 154. Thus, they brought an appeal to this Court *via* a petition for review on *certiorari* (docketed as G.R. No. 180416) raising pure questions of law.

- *The MTC's Orders dated June 18, 2007 and September 17, 2007*

While G.R. No. 180416 remains pending before this Court, the MTC dismissed Criminal Case No. 89724 on June 18, 2007 (*Order of Dismissal*), pursuant to the RTC-Branch 154's Order which reads:

Considering the Order of the Regional Trial Court Branch 154, reversing the Order of this Court dated August 16, 2006, and considering further that the private prosecutor is not armed with a written authority to actively prosecute the case, this case is hereby ordered DISMISSED.

The private respondents thereafter filed a motion for reconsideration, which the MTC granted. Upon learning that a petition for certiorari had been filed before this court, the MTC issued an Order dated September 17, 2007 (*Order of Revival*) recalling the Order of Dismissal and reinstating the criminal information in Criminal Case No. 89724. It further ordered the suspension of the proceedings in G.R. No. 180416 to await the final outcome of the pending case.

The petitioners moved for reconsideration but its motion was denied. They thereafter filed a Petition for *Certiorari*, Prohibition and Mandamus¹³ docketed as SCA Case No. 3193 with the RTC-Branch 161.

- *The RTC's Decision dated June 26, 2008 (SCA Case No. 3193)*

The RTC-Branch 161, in a decision dated June 26, 2008, dismissed the petition for lack of merit. It found that the MTC did not commit grave abuse of discretion when it revived and archived Criminal

¹² Id. at 190-206.

¹³ Id. at 254-276.

Case No. 89724. Since the RTC-Branch 154's Order dated June 4, 2007 has not yet attained finality in view of the pendency of G.R. No. 180416, the MTC cannot be considered to have acted with grave abuse of discretion when it issued the assailed orders.

Likewise, the RTC ruled that the Order of Revival was pursuant to Section 5(g) of Rule 135 of the Revised Rules of Court, which provides for the inherent power of the courts to amend and control its process and orders so as to make them conformable to law and justice.

The motion for reconsideration that followed was denied in an Order dated October 23, 2008. Hence, the petitioners filed the present petition.

The Petition

The petitioners mainly argued that the RTC-Branch 161 had gravely erred in upholding the MTC's departure from the accepted and usual course of judicial proceedings. They maintain that in dismissing their Rule 65 petition (SCA Case No. 3193), the RTC-Branch 161 had refused to consider that the MTC's Order of Revival necessarily placed them in double jeopardy.

The petitioners also asserted that the RTC-Branch 161 had sanctioned the MTC's departure from the well-established rule that the power to prosecute and appeal from the order or judgment of the courts in a criminal action lies solely with the State, acting through a public prosecutor. Since the private respondents acted independently of and without the authority of the public prosecutor, the MTC gravely abused its discretion when it entertained the private respondents' motion.

The Case for the Respondents

- **The Private Respondents' Comment**

In their comment, the private respondents accused the petitioners of resorting to willful and deliberate act of forum shopping, manifested by their filing of the present petition for *certiorari*. They contended that as the RTC-Branch 154's Order is still pending review by the First Division of this Court, the instant petition was totally unnecessary and superfluous.

The private respondents also contended that contrary to the petitioners' claim, double jeopardy had not yet attached. Since the dismissal of the case was made provisionally and upon the express request of the petitioners, the revival of the criminal information, according to the respondents, did not give rise to double jeopardy.

Lastly, on the issue of the respondents' legal personality to move for reconsideration, the private respondents maintain that the public prosecutor's failure to subscribe to the Motion for Reconsideration was not fatal.

- *The Public Respondent's Manifestation and Motion*

Required to comment in the petition, the Solicitor General, representing the public respondent, maintained that the MTC's Order of Revival had placed the petitioners in double jeopardy. It alleged that herein private respondents did not have the legal personality to move for the reconsideration of the MTC's orders. Since there was no showing that the private respondents acted by virtue of the public prosecutor's authority, the filing of the motion for reconsideration did not effectively stop the running of the reglementary period to appeal from the MTC's Order of Dismissal. Consequently, the Order of Dismissal had attained finality and can no longer be revived by the MTC.

The Issue Before the Court

The parties' arguments, properly joined, present to us the following issues:

1. Did the RTC-Branch 161 correctly determine whether the MTC committed grave abuse of discretion in ordering the reinstatement of Criminal Case No. 89724?
2. Did the MTC's dismissal of Criminal Case No. 89724 operate as an acquittal of the petitioners for the crime charged?
3. Did the reinstatement or revival of Criminal Case No. 89724 place the petitioners in double jeopardy?

Our Ruling

We find the petition meritorious.

We note, at the outset, that the legal question before us revolves around the MTC's Order of Revival dated September 17, 2007. However, after going deeply into the roots of the controversy, we find that the real root of the issue stems back to the jurisdictional *faux pas* committed early on by the MTC when it issued its prior Order of Dismissal dated June 18, 2007.

The MTC acted without jurisdiction when it issued the Order of Dismissal dated June 18, 2007

To recall, the petition for review on *certiorari* (docketed as G.R. No. 180416) filed by the private respondents to question the RTC Branch 154's Order, remains pending before this Court. Being the

subject of a pending review, the RTC Order – directing the MTC to dismiss Criminal Case No. 89724 for want of probable cause – was therefore **not yet final and executory**.

Nonetheless, despite the pendency of the petition for review before us, the MTC, by virtue of the RTC's "non-final" Order, dismissed Criminal Case No. 89724. Thus, we find that the MTC acted without jurisdiction when it issued its Order of Dismissal dated June 18, 2007.

We held in *PAA v. Court of Appeals*¹⁴ that an appeal to this Court via a Petition for Review on *Certiorari* stays the judgment, award or order appealed from. Thus, until after the appeal of the defendant shall have been resolved by this Court with finality, and its records transmitted to the court of origin, the judgment, award or order appealed from cannot be executed, enforced, much less, modified by the court of origin. Once the case has been appealed and given due course by this Court, the lower court or the court of origin could no longer take cognizance of the issue under review. It cannot execute the judgment appealed from because to do so would constitute encroachment on the exclusive appellate jurisdiction of this Court.

In *Heirs of the Late Justice Jose B. L. Reyes v. CA*,¹⁵ this Court emphasized that:

A judgment of the Court of Appeals cannot be executed pending appeal. Once final and executory, the judgment must be remanded to the lower court, where a motion for its execution may be filed only after its entry. **In other words, before its finality, the judgment cannot be executed. There can be no discretionary execution of a decision of the Court of Appeals.** In the second place, even in discretionary executions, the same must be firmly founded upon good reasons. The court must state in a special order the "good reasons" justifying the issuance of the writ. The good reasons allowing execution pending appeal must constitute superior circumstances demanding urgency that will outweigh the injuries or damages to the adverse party if the decision is reversed.

In the third place, on September 14, 1998, petitioners elevated the decision of the Court of Appeals to the Supreme Court by petition for review. **By the mere fact of the filing of the petition, the finality of the Court of Appeals' decision was stayed, and there could be no entry of judgment therein, and, hence, no premature execution could be had.** The Court of Appeals adopted its resolution granting execution pending appeal on September 18, 1998, after the petition for review was already filed in the Supreme Court. **It thereby encroached on the hallowed grounds of the Supreme Court.**

In the present case, the MTC's Order of Dismissal is a jurisdictional error that must be struck down as flawed for having been

¹⁴ 347 Phil. 122, 136 (1997).

¹⁵ 392 Phil. 827, 844 (2000).

issued without jurisdiction. It amounts to a premature execution which tended to render moot the issue raised in the order appealed from and would render ineffective any decision which might eventually be made by this Court.

Moreover, the jurisdiction over the issue of probable cause in Criminal Case No. 89724 had already been acquired by this Court. From the moment the case had been elevated to us, the MTC no longer had authority to further act on the issue which was pending review. In fact, at the time the MTC issued the Order of Dismissal, even the RTC had lost jurisdiction. Thus, inasmuch as the case had already come under our exclusive appellate jurisdiction, the MTC acted without jurisdiction when it issued the Order of Dismissal.

As explained in *Vda. de Syquia v. Judge of First Instance et al.*:¹⁶

x x x the perfecting(*sic*) of an appeal taken from said judgment deprives the trial court of its jurisdiction over said judgment and said jurisdiction is transferred to the appellate court, and the trial court cannot modify or revoke any order of execution of the said judgment after the appeal taken therefrom is perfected.

Similarly, in *Desbarats v. De Vera*¹⁷ we held that:

A modifying order allowing defendant to occupy the portion of the building he is actually holding which was not for the protection and preservation of the rights of the parties is conspicuously null and void; having been entered after the records on appeal had been approved and, accordingly, after the Court of First Instance had lost jurisdiction over the case.

The MTC's Order of Revival is also void

Like the Order of Dismissal, the Order of Revival that followed should be declared null and void. While said order merely sought to correct the previous Order of Dismissal, it suffers from the same infirmity of having been issued without jurisdiction.

As discussed above, the MTC no longer had the authority to dismiss Criminal Case No. 89724 because the jurisdiction to act on and entertain the case had already been acquired by this Court. Hence, it naturally follows that all the issuances and/or orders issued by the lower court relative to the issue pending review will become null and void.

¹⁶ 60 Phil. 190-191 (1934).

¹⁷ 83 Phil. 382, 384 (1949).

There is no double jeopardy because the MTC, which ordered the dismissal of the criminal case, is not a court of competent jurisdiction.

Since the MTC clearly had no jurisdiction to issue the Order of Dismissal and the Order of Revival, there can be no double jeopardy.

Section 7, Rule 117 of the Revised Rules of Criminal Procedure, as amended provides:

SEC. 7. *Former conviction or acquittal; double jeopardy.* – When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a **court of competent jurisdiction**, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information. x x x

Thus, double jeopardy exists when the following requisites are present: (1) a first jeopardy attached prior to the second; (2) the first jeopardy has been validly terminated; and (3) a second jeopardy is for the same offense as in the first. A first jeopardy attaches only (a) after a valid indictment; (b) before a competent court; (c) after arraignment; (d) when a valid plea has been entered; and (e) when the accused has been acquitted or convicted, or the case dismissed or otherwise terminated without his express consent.¹⁸

In this case, there is no question that the first four requisites are present in the case at bar. However, in view of the nullity of the Order of Dismissal and the Order of Revival, the fifth requisite – that the accused be acquitted or convicted, or the case dismissed or otherwise terminated without his express consent – is absent.

As held in *Paulin v. Gimenez*:¹⁹

Void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right nor the creator of any obligation. No legal rights can emanate from a resolution that is null and void.

In the subsequent case of *People v. Albano* (163 SCRA 511 [1988]), this Court reiterated its previous ruling in the *Bocar* case, holding that the trial court exceeded its jurisdiction and acted with grave abuse of discretion, tantamount to lack of jurisdiction, when it pre-emptively dismissed the case and as a consequence thereof, deprived the prosecution of its right to prosecute and prove its case,

¹⁸ *People v. Nazareno*, 612 Phil. 753, 765 (2009).

¹⁹ G.R. No. 103323, January 21, 1993, 217 SCRA 386, 393.

thereby violating its fundamental right to due process. **With such violation, its orders are, therefore null and void and cannot constitute a proper basis for a claim of double jeopardy.** (Citations Omitted; Emphasis Supplied)

Since the MTC did not have jurisdiction to take cognizance of the case pending this Court's review of the RTC Order, its order of dismissal was a total nullity and did not produce any legal effect. Thus, the dismissal neither terminated the action on the merits, nor amounted to an acquittal.

The same can be said of the Order of Revival. Since both orders cannot be the source of any right nor create any obligation, the dismissal and the subsequent reinstatement of Criminal Case No. 89724 did not effectively place the petitioners in double jeopardy.

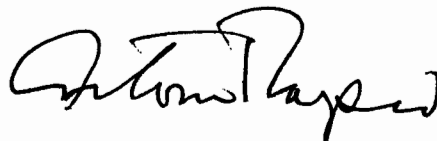
WHEREFORE, we hereby **GRANT** the present petition. The decision dated June 26, 2008 and the order dated October 23, 2008 of the Regional Trial Court Pasig City, Branch 161 are hereby **REVERSED and SET ASIDE**. The Orders dated June 18, 2007 and September 17, 2007 of the Metropolitan Trial Court of Pasig City are hereby declared **NULL AND VOID**; it is hereby **DIRECTED** to await the resolution of G.R. No. 180416 before taking any action on the criminal proceedings.

SO ORDERED.



ARTURO D. BRION
Associate Justice

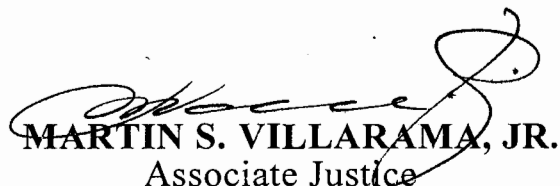
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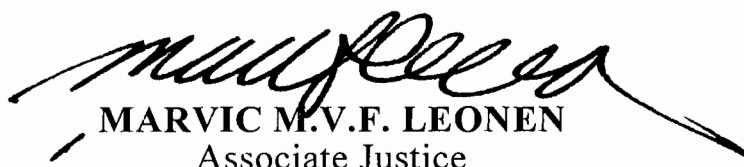
ANTONIO T. CARPIO
Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice



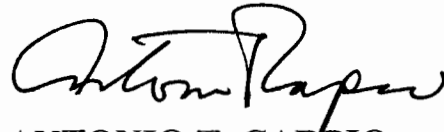
MARTIN S. VILLARAMA, JR.
Associate Justice



MARVIC M.V.F. LEONEN
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, Second Division

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