



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

JCLV REALTY & DEVELOPMENT CORPORATION,

Petitioner,

-versus-

G.R. No. 236618

Present:

PERALTA, *CJ.*, Chairperson,
 CAGUIOA,
 REYES, J., JR.,
 LAZARO-JAVIER, and
 LOPEZ, *JJ.*

PHIL GALICIA MANGALI,
 Respondent.

Promulgated:

AUG 27 2020

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D E C I S I O N

LOPEZ, J.:

A private complainant cannot question the Order granting the demurrer to evidence in a criminal case absent grave abuse of discretion or denial of due process. The interest of the offended party is limited only to the civil aspect of the case. We apply this dictum in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Court of Appeals' (CA) Resolution¹ dated September 22, 2017 in CA-G.R. SP No. 152450.

ANTECEDENTS

Phil Mangali (Mangali) and Jerry Alba (Alba) were charged with robbery committed against JCLV Realty & Development Corporation (JCLV Realty) before the Regional Trial Court (RTC) docketed as Criminal Case No. Q-11-169004.² Allegedly, Mangali and Alba removed JCLV Realty's electric facilities with intent to gain and intimidation against persons. After the prosecution rested its case, Mangali filed a demurrer to evidence claiming that the prosecution failed to establish intent to gain and that the

¹ *Rollo*, pp. 32-38; penned by Associate Justice Rafael Antonio M. Santos, with the concurrence of Associate Justices Marlene Gonzales-Sison and Socorro B. Inting.

² *Id.* at 79-80.

metering instruments belonged to JCLV Realty.³ The prosecution opposed the demurrer.

On March 30, 2017, the RTC granted the demurrer and dismissed the criminal case for lack of evidence that Mangali perpetrated the robbery,⁴ thus:

WHEREFORE, the Demurrer to Evidence is **GRANTED**. The prosecution's evidence is not sufficient to convict the accused, accused (sic) **Phil Mangali y Galicia**'s case is hereby **DISMISSED**.

No pronouncement as to the civil aspect of the case.

As regards accused Jerry P. Alba, his case is **ORDERED ARCHIVED** and may be revived only upon his apprehension and/or surrender.

SO ORDERED.⁵

Unsuccessful at a reconsideration,⁶ JCLV Realty elevated the case to the CA through a special civil action for *certiorari* docketed as CA-G.R. SP No. 152450. JCLV Realty argued that the RTC erred in granting the demurrer because Mangali had admitted the taking of meter facilities. Moreover, the pre-trial order which contained admission on the identity of the perpetrator is valid even if not signed by the parties. Lastly, JCLV Realty claimed denial of due process and grave abuse of discretion on the part of RTC when it dismissed the criminal case on a ground not invoked by the accused.⁷

On September 22, 2017, the CA dismissed the petition and ruled that JCLV Realty has no personality to question the dismissal of the criminal case. The authority to represent the State in criminal proceedings is vested solely on the Office of the Solicitor General (OSG) and not the private complainant who may appeal only the civil aspect of the case,⁸ viz.:

WHEREFORE, the Petition for *Certiorari* is **DISMISSED** for lack of personality or authority of the petitioner to file the Petition with respect to the criminal aspect of the case and for being the wrong judicial remedy with respect to the civil aspect of the case.

SO ORDERED.⁹

JCLV Realty sought reconsideration¹⁰ but was denied.¹¹ Hence, this recourse.¹² JCLV Realty contends that the authority of the OSG applies only in ordinary appeals. The private complainant can file a special civil action

³ *Id.* at 172-179.

⁴ *Id.* at 68-71; penned by Presiding Judge Eleuterio Larisma Bathan.

⁵ *Id.* at 71.

⁶ *Id.* at 78.

⁷ *Id.* at 57-64.

⁸ *Id.* at 32-38.

⁹ *Id.* at 38.

¹⁰ *Id.* at 39-48.

¹¹ *Id.* at 56.

¹² *Id.* at 12-27.

for *certiorari* to question the criminal and civil aspect of the case. Yet, the CA mistook its petition as an ordinary appeal. On the other hand, Mangali maintains that JCLV Realty has no legal standing to file *certiorari* proceedings because the reliefs sought directly affects the criminal aspect of the case. Hence, the OSG's consent is necessary.

RULING

In any criminal case or proceeding, only the OSG may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or State before the Supreme Court and the CA. This is explicitly provided under Section 35(1), Chapter 12, Title III, Book III of the 1987 Administrative Code of the Philippines,¹³ thus:

Section 35. *Power and Functions.* — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the service of a lawyer. It shall have the following specific power and functions:

(1) **Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings;** represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party. (Emphasis supplied.)

The rationale behind this rule is that in a criminal case, the party affected by the dismissal of the criminal action is the State and not the private complainant. The interest of the private offended party is restricted only to the civil liability. In the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution such that when a criminal case is dismissed by the trial court or if there is an acquittal, an appeal on the criminal aspect may be undertaken only by the State through the OSG. The private offended party may not take such appeal, but may only do so as to the civil aspect of the case.¹⁴ Differently stated, the private offended party may file an appeal without the intervention of the OSG, but only insofar as the civil liability of the accused is concerned. Also, the complainant may file a special civil action for *certiorari* even without the intervention of the OSG, but only to the end of preserving his interest in the civil aspect of the case.¹⁵

Corollarily, we dismissed petitions filed by the private offended party questioning the acquittal of the accused or dismissal of the criminal case

¹³ See *Cu v. Ventura*, G.R. No. 224567, September 26, 2018, 881 SCRA 118.

¹⁴ *Chiok v. People, et al.*, 774 Phil. 230, 264 (2015).

¹⁵ *Cu v. Ventura*, *supra* note 13, citing *Villareal v. Aliga*, 724 Phil. 47, 57 (2014) and *Ong v. Genio*, 623 Phil. 835 (2009).



without the consent of the OSG. In *Bangayan, Jr. v. Bangayan*,¹⁶ the respondent lacks personality to file a petition for *certiorari* before the CA because she prayed for the reversal of the trial court's order granting the petitioners' demurrer to evidence and the conduct of a full blown trial. The respondent did not even briefly discuss the civil liability of the petitioners, to wit:

A perusal of the petition for certiorari filed by Sally Go before the CA discloses that **she sought reconsideration of the criminal aspect of the case. Specifically, she prayed for the reversal of the trial court's order granting petitioners' demurrer to evidence and the conduct of a full blown trial of the criminal case. Nowhere in her petition did she even briefly discuss the civil liability of petitioners. It is apparent that her only desire was to appeal the dismissal of the criminal case against the petitioners. Because bigamy is a criminal offense, only the OSG is authorized to prosecute the case on appeal. Thus, Sally Go did not have the requisite legal standing to appeal the acquittal of the petitioners.**

Sally Go was mistaken in her reading of the ruling in *Merciales*. *First*, in the said case, the OSG joined the cause of the petitioner, thereby meeting the requirement that criminal actions be prosecuted under the direction and control of the public prosecutor. *Second*, the acquittal of the accused was done without due process and was declared null and void because of the nonfeasance on the part of the public prosecutor and the trial court. There being no valid acquittal, the accused therein could not invoke the protection of double jeopardy.

In this case, however, neither the Solicitor General nor the City Prosecutor of Caloocan City joined the cause of Sally Go, much less consented to the filing of a petition for *certiorari* with the appellate court. Furthermore, she cannot claim to have been denied due process because the records show that the trial court heard all the evidence against the accused and that the prosecution had formally offered the evidence before the court granted the demurrer to evidence. Thus, the petitioners' acquittal was valid, entitling them to invoke their right against double jeopardy.¹⁷ (Emphasis supplied; citation omitted.)

Likewise, in *Jimenez v. Sorongon*¹⁸ the petitioner has no standing to question the dismissal of the criminal case since his main argument is about the existence of probable cause. This dispute involves the right to prosecute which pertains exclusively to the People, as represented by the OSG. A similar ruling was applied in *Anlud Metal Recycling Corp. v. Ang*,¹⁹ to wit:

The real party in interest in a criminal case is the People of the Philippines. Hence, if the criminal case is dismissed by the trial court, the criminal aspect of the case must be instituted by the Solicitor General on behalf of the State.

As a qualification, however, this Court recognizes that the private offended party has an interest in the civil aspect of the case. Logically,

¹⁶ 675 Phil. 656 (2011).

¹⁷ *Id.* at 665.

¹⁸ 700 Phil. 316 (2012).

¹⁹ 766 Phil. 676 (2015).

the capability of the private complainant to question the dismissal of the criminal proceedings is limited only to questions relating to the civil aspect of the case. It should ideally be along this thin framework that we may entertain questions regarding the dismissals of criminal cases instituted by private offended parties. Enlarging this scope may result in wanton disregard of the OSG's personality, as well as the clogging of our dockets, which this Court is keen to avoid.

Therefore, **the litmus test in ascertaining the personality of herein petitioner lies in whether or not the substance of the certiorari action it instituted in the CA referred to the civil aspect of the case**

Here in this Rule 45 petition, petitioner argues that the RTC erred when it concluded that "there is no evidence of conspiracy against private respondent Ang." Petitioner goes on to enumerate circumstances that collectively amount to a finding that based on probable cause, respondent conspired with the accused in defrauding Anlud Metal Recycling Corporation.

Clearly, petitioner mainly disputes the RTC's finding of want of probable cause to indict Ang as an accused for *estafa*. This dispute refers, though, to the criminal, and not the civil, aspect of the case. In *Jimenez v. Sorongon*, we similarly ruled:

In this case, the petitioner has no legal personality to assail the dismissal of the criminal case **since the main issue raised by the petitioner involved the criminal aspect of the case, i.e., the existence of probable cause.** The petitioner did not appeal to protect his alleged **pecuniary interest as an offended party of the crime**, but to cause the reinstatement of the criminal action against the respondents. This involves the right to prosecute which pertains exclusively to the People, as represented by the OSG. (Emphasis supplied.)

Given that nowhere in the pleadings did petitioner even briefly discuss the civil liability of respondent, this Court holds that Anlud Metal Recycling Corporation lacks the requisite legal standing to appeal the discharge of respondent Ang from the Information for *estafa*. On this ground alone, the petition already fails.²⁰ (Emphasis supplied; citations omitted.)

In *Yokohama Tire Philippines, Inc. v. Reyes*,²¹ the petitioner filed a special civil action for *certiorari* before the RTC seeking to annul the MTC's decision acquitting the respondents. In that case, the petitioner has no authority in filing the petition because it assails the admissibility of evidence which only the State may question, *viz.*:

x x x [T]he Court has definitively ruled that in a criminal case in which the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability arising therefrom. If a

²⁰ *Id.* at 686-688.

²¹ G.R. No. 236686, February 5, 2020.

criminal case is dismissed by the trial court or if there is an acquittal, an appeal of the criminal aspect may be undertaken, whenever legally feasible, only by the State through the Solicitor General. As a rule, only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not undertake such appeal.

In its petition for certiorari filed with the RTC, petitioner seeks the annulment of the MTC decision acquitting herein respondents. In so doing, petitioner raises issues on the admissibility of evidence which it submitted to prove the guilt of the accused. These issues necessarily require a review of the criminal aspect of the case and, as such, is prohibited. As discussed above, only the State, and not herein petitioner, who is the private offended party, may question the criminal aspect of the case.

The above cases raised issues that necessarily require a review of the criminal aspect of the proceedings. In the same manner, JCLV Realty are praying for reliefs which pertain to the criminal aspect of the case. Foremost, the arguments in the petition for *certiorari* are centered on Mangali's identification as the perpetrator of the crime. Secondly, JCLV Realty prayed that the March 30, 2017 Order be "*annulled, reversed and set aside and that a new one [will] be rendered denying the [accused'] Demurrer to Evidence.*" Lastly, nowhere in the petition did JCLV Realty discuss Mangali's civil liability. In contrast, it is ultimately seeking the reinstatement of the criminal case against Mangali.

Notably, this Court has already acknowledged that the acquittal of the accused or dismissal of the criminal case may be assailed through a Petition for *Certiorari* under Rule 65 of the Rules of Court on the grounds of grave abuse of discretion amounting to lack or excess of jurisdiction or a denial of due process rendering the judgment void.²² In *People v. Judge Santiago*,²³ the private offended party filed a special civil action for *certiorari* on the ground that trial court acquitted the accused without trial on the merits despite the conflicting positions of the parties. This Court ruled that the acquittal is a nullity for want of due process because the trial court deprived the prosecution an opportunity to present evidence. Also, we declared that the victim can avail *certiorari* to question the validity of acquittal.

In *Dela Rosa v. CA*,²⁴ we sustained the private offended party's right to file a special civil action for *certiorari* in assailing the dismissal of a criminal case and ruled that the OSG's intervention is not necessary. In that case, the trial court's dismissal of the case on the ground that the accused is entitled to a speedy trial is capricious and unwarranted. In *People v. Court of Appeals*,²⁵ the victim filed a petition for *certiorari* to assail the decision of the appellate court acquitting the accused from the crime of rape. This Court reversed the judgment of acquittal because the appellate court merely relied on the evidence of the defense and utterly disregarded that of the prosecution. We

²² *People v. Go, et al.*, 740 Phil. 583, 603 (2014).

²³ 255 Phil. 851 (1989).

²⁴ 323 Phil. 596 (1996).

²⁵ 755 Phil. 80 (2015).

likewise held that the victim has legal standing to bring a special civil action for *certiorari*. In any event, the OSG joined the victim's cause in its comment thereby fulfilling the requirement that all criminal actions shall be prosecuted under the direction and control of the public prosecutor.

In *Perez v. Hagonoy Rural Bank, Inc.*,²⁶ the trial court dismissed the criminal charge for estafa thru falsification of commercial documents against the petitioner on the basis solely of the recommendation of the Secretary of Justice. We ruled that the trial court acted with grave abuse of discretion because it did not make an independent evaluation of the merits of the case. Hence, the private respondent properly filed a petition for *certiorari* before the appellate court to question the dismissal of the criminal case. In *David v. Marquez*,²⁷ the private offended party brought a special civil action for *certiorari* to the CA and questioned the patently erroneous order of the trial court quashing the informations on the supposed ground of improper venue. We held that the victim has the legal personality to file a petition for *certiorari* on her own and not through the OSG.

In this case, we find that JCLV Realty was not deprived of due process. Notably, JCLV Realty participated in the proceedings and presented evidence until the prosecution rested its case. The prosecution likewise opposed the demurrer. On this point, there is no denial of due process especially when the parties are granted an opportunity to be heard, either through verbal arguments or pleadings.²⁸ Also, the RTC did not commit grave abuse of discretion when it dismissed the case on a ground not raised in the demurrer to evidence, *i.e.* the prosecution failed to positively identify the accused. It is settled that the identity of the offender is indispensably entwined to the commission of the crime.²⁹ The first duty of the prosecution is not to prove the crime but to establish the identity of the criminal, for even if the commission of the crime can be proven, there can be no conviction without proof of identity of the criminal.³⁰ On the other hand, a demurrer to evidence is defined as an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue.³¹ The party demurring challenges the sufficiency of the whole evidence to sustain a verdict.³² In granting the demurrer, the RTC considered the entirety of the prosecution evidence but found them insufficient to establish the identity of the accused.

Finally, double jeopardy has set in. It attaches when the following elements concur: (1) the accused is charged under a complaint or information sufficient in form and substance to sustain their conviction; (2) the court has

²⁶ 384 Phil. 322 (2000).

²⁷ 810 Phil. 187 (2017).

²⁸ *People v. Atienza, et al.*, 688 Phil. 122, 134 (2012).

²⁹ *People v. Amarela*, G.R. Nos. 225642-43, January 17, 2018, 852 SCRA 54; *People v. Wagas*, 717 Phil. 224 (2013); *People v. Espera*, 718 Phil. 680, 694 (2013).

³⁰ *People v. Caliso*, 675 Phil. 742, 752 (2011), citing *People v. Pineda*, 473 Phil. 517 (2004); *People v. Esmale*, 313 Phil. 471 (1995); *Tuason v. Court of Appeals*, 311 Phil. 813 (1995).

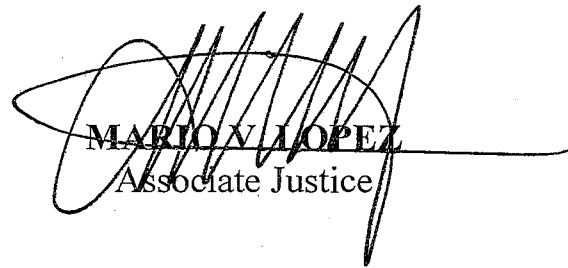
³¹ *Gutib v. Court of Appeals*, 371 Phil. 293, 300 (1999).

³² *Zaldivar v. People, et al.*, 782 Phil. 113, 120 (2016), citing *People v. Go*, 740 Phil. 583 (2014).

jurisdiction; (3) the accused has been arraigned and has pleaded; and (4) the accused is convicted or acquitted, or the case is dismissed without his/her consent.³³ Here, all the elements are present. A valid Information for the crime of robbery was filed against Mangali before the RTC. Also, Mangali had pleaded not guilty to the charge, and after the prosecution rested, the criminal case was dismissed upon a demurrer to evidence. Absent grave abuse of discretion or denial of due process, the grant of demurrer to evidence is a judgment of acquittal which is final and executory.³⁴

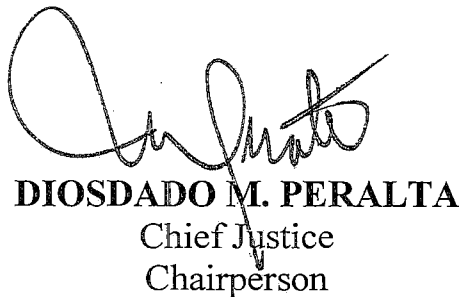
FOR THESE REASONS, the petition is **DENIED**. The Court of Appeals' Decision dated September 22, 2017 in CA-G.R. SP No. 152450 is **AFFIRMED**.

SO ORDERED.



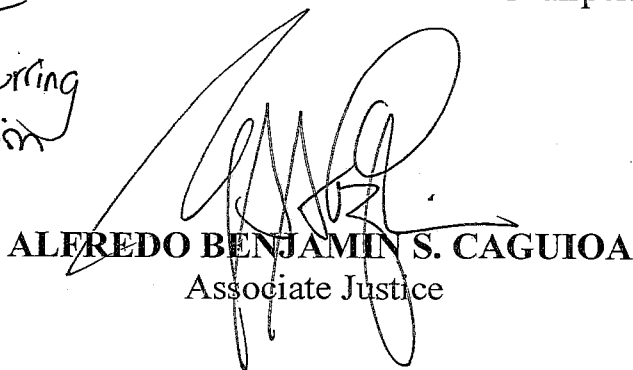
MARIO V. LOPEZ
Associate Justice

WE CONCUR:

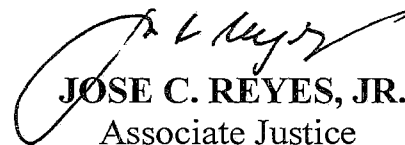


DIOSDADO M. PERALTA
Chief Justice
Chairperson

*Please
See Concurring
Opinion*



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice



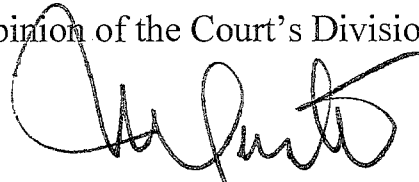
AMY C. LAZARO-JAVIER
Associate Justice

³³ *Merciales v. Court of Appeals*, 429 Phil. 70, 81 (2002).

³⁴ *People v. Go*, *supra* note 32 at 602, citing *People v. Hon. Sandiganbayan (Third Division), et al.*, 661 Phil. 350 (2011).

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.



DIOSDADO M. PERALTA
Chief Justice