



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

MARIA AURORA G. MATHAY,
ISMAEL G. MATHAY III, MARIA
SONYA M. RODRIGUEZ, AND
RAMON G. MATHAY,*

Petitioners,

- versus -

PEOPLE OF THE
PHILIPPINES and ANDREA
L. GANDIONCO,

Respondents.

G.R. No. 218964

Present:

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

Promulgated:

JUN 30 2020

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RESOLUTION

CAGUIOA, J.:

The Case

This is a Petition for Review on *Certiorari*¹ (Petition) filed under Rule 45 of the Rules of Court against the Decision² dated March 6, 2015 and Resolution³ dated June 18, 2015 in CA-G.R. SP. No. 137194 rendered by the Court of Appeals (CA) Special Division of Five Former Special Fifteenth Division.

The assailed Decision and Resolution upheld the Order⁴ dated September 10, 2014 issued by the Regional Trial Court (RTC) of Pasig City, Branch 265 in Criminal Case No. 153895-PSG,⁵ which denied the Omnibus

* Also known as Ramon Ismael G. Mathay. See *rollo*, pp. 19, 55 and 125.

¹ *Rollo*, pp. 17-53.

² Id. at 54-75. Penned by Associate Justice Stephen C. Cruz, with Associate Justices Sesonando E. Villon and Romeo F. Barza concurring; Associate Justice Florito S. Macalino filed a Dissenting Opinion (id. at 76-86) and Associate Justice Agnes Reyes-Carpio joined in the Dissenting Opinion of Justice Macalino.

³ Id. at 87-88.

⁴ Id. at 125-130. Penned by Judge Danilo A. Buemio.

⁵ Also appears as Criminal Case No. 153895 in some parts of the *rollo*.

Motion and Motion to Suspend Proceedings filed by petitioners, and ordered the issuance of warrants of arrest against them.

The Facts

Petitioners Maria Sonya M. Rodriguez (Maria Sonya), Ismael G. Mathay III (Ismael III), Ramon G. Mathay (Ramon), and Maria Aurora G. Mathay (Maria Aurora) are siblings, whose parents are the late Quezon City Mayor Ismael A. Mathay, Jr. (Ismael) and Sonya Gandionco Mathay (Sonya).⁶

On March 6, 1980, Sonya and her sons, Ismael III and Ramon, along with Sonya's youngest sister, Andrea L. Gandionco (private respondent), organized Goldenrod, Inc. During her lifetime, Sonya managed and operated Goldenrod, Inc.⁷

At the time of her death on November 22, 2012, Goldenrod, Inc.'s General Information Sheet (GIS) dated April 4, 2012 reflected Sonya as having subscribed to 30,000 shares of stocks in Goldenrod, Inc., equivalent to 60% of its total shareholdings. This GIS was signed by its corporate secretary, Aida Palarca (Aida), and filed with the Securities and Exchange Commission (SEC).⁸ It showed the respective shares of the other Goldenrod, Inc.'s stockholders as follows:

SONYA MATHAY	30,000 SHARES	60%
MARIA SONYA M. RODRIGUEZ	5,000 SHARES	10%
ISMAEL G. MATHAY III	5,000 SHARES	10%
RAMON ISMAEL G. MATHAY	5,000 SHARES	10%
MARIA AURORA G. MATHAY	5,000 SHARES	10% ⁹

On December 7, 2012, after Sonya's death, an amended GIS of Goldenrod, Inc. was filed with the SEC. It was signed and attested by Aida, and showed a substantial reduction of the shares of Sonya from 30,000 to 4,000, or from 60% to 8% ownership of Goldenrod, Inc.'s outstanding shares. At the same time, the amended GIS showed that private respondent

⁶ *Rollo*, p. 55.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 55-56

owned 26,000 shares or 52% of the shareholdings of Goldenrod, Inc.,¹⁰ to wit:

SONYA MATHAY	4,000 SHARES	8%
MARIA SONYA M. RODRIGUEZ	5,000 SHARES	10%
ISMAEL G. MATHAY III	5,000 SHARES	10%
RAMON ISMAEL G. MATHAY	5,000 SHARES	10%
MARIA AURORA G. MATHAY	5,000 SHARES	10%
ANDREA L. GANDIONCO	26,000 SHARES	52% ¹¹

The amendment of the GIS was prompted by the presentation of a Declaration and Share Purchase Agreement (SPA) by private respondent to Aida. The Declaration was dated December 24, 2011 and executed by Sonya, who acknowledged therein that private respondent is the real owner of the 60% shares of stock in Goldenrod, Inc. she (Sonya) held on record. Sonya, in said Declaration, returned 52% of said shares of stock to private respondent through the SPA. The remaining 8% shares, upon the wishes of private respondent, were donated to petitioners, but were placed under Sonya's custodianship until their actual distribution to petitioners.¹²

On February 5, 2013 and February 11, 2013, petitioners successively filed two (2) GIS of Goldenrod, Inc. (both for the year 2013) with the SEC. These were signed and attested by Ramon as the new Corporate Secretary. Both GISs showed an increase of Sonya's shares to 60% (30,000 shares) from the 8% shares (4,000 shares) reflected in the amended GIS dated December 7, 2012. Private respondent's name as shareholder was likewise conspicuously absent.¹³ Thus:

SONYA MATHAY	30,000 SHARES	60%
MARIA SONYA M. RODRIGUEZ	5,000 SHARES	10%
ISMAEL G. MATHAY III	5,000 SHARES	10%
RAMON ISMAEL G. MATHAY	5,000 SHARES	10%

¹⁰ Id. at 56-57.

¹¹ Id. at 56.

¹² Id. at 58-59.

¹³ Id. at 57.

MARIA AURORA G. MATHAY	5,000 SHARES	10% ¹⁴
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On February 11, 2013, Goldenrod, Inc. executed the Deed of Absolute Sale of its real estate covered by Transfer Certificate of Title (TCT) No. T-92106 in favor of YIC Group of Companies, Inc. for the sum of ₱8.1 Million.¹⁵

On February 18, 2013, private respondent filed a civil complaint for Injunction with Prayer for the Issuance of Temporary Restraining Order (TRO) and Writ of Preliminary Mandatory Injunction, and Mandamus against petitioners. It was filed before the Quezon City RTC, Branch 93, and docketed as Civil Case No. Q-13-289. Private respondent claimed deprivation of 26,000 shares (52%) of Goldenrod, Inc. belonging to her by virtue of the SPA she allegedly entered into with Sonya. Thus, she prayed: (1) for the return of 26,000 shares; (2) to call a special stockholders' meeting to elect a new set of directors; (3) to restrain petitioners from managing and exercising the powers and duties as directors of Goldenrod, Inc.; (4) for accounting of proceeds and funds paid to, received, and earned by Goldenrod, Inc.; and (5) for inventory of assets of Goldenrod, Inc.¹⁶

On April 23, 2013, Ismael filed a complaint against private respondent to declare null and void the SPA. It was filed before the Quezon City RTC, Branch 91 and docketed as Civil Case No. Q-13-73089. Ismael alleged that the SPA lacks his written consent, in contravention of Article 124 of the Family Code.¹⁷

On March 26, 2014, private respondent filed a complaint against petitioners for Qualified Theft through Falsification of Public Documents by a Private Individual.¹⁸ On May 14, 2014, an Information¹⁹ was filed in court, the accusatory portion of which reads:

“During the period from February 5 to 11, 2013, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, being then members of the Board of Directors and officers of Goldenrod, Inc., and as such has access to the corporate papers and properties of the said company, conspiring and confederating together, and all of them mutually helping and aiding one another, with grave abuse of confidence, and with intent to gain, without the knowledge and consent of the owner thereof, did then and there wilfully, unlawfully and feloniously commit acts of falsification in preparing or causing to prepare two (2) General Information Sheets (GIS), which are public documents, by removing the name of the complainant Andrea L. Gandionco represented by Johnny T.

¹⁴ Id. at 57-58.

¹⁵ Id. at 23.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id. at 58.

¹⁹ Docketed as Criminal Case No. 153895-PSG and filed before the RTC of Pasig City, Branch 265.

Medina, retaining the name of Sonya G. Mathay, complainant's sister which is (sic) already deceased since November 22, 2012, and placing the name of Ramon G. Mathay, who is one and the same person, which making it appear to be true, when in truth and in fact they were false and falsify (sic), and as result thereof, the accused took full and exclusive ownership of the real property covered by Transfer Certificate of Title No. T-92106 in the name of Goldenrod, Inc., enabling to (sic) accused to execute a deed of Absolute Sale and was able to dispose and sell the said property, to the damage and prejudice of complainant Andre (sic) L. Gandionco in the amount of Php4,212,000.00 corresponding [to] her 52% shares, being the stockholder of the said company.

Contrary to law."²⁰

Petitioners filed an Omnibus Motion for: (1) Judicial Determination of Probable Cause; (2) Annulment of the Resolution dated May 8, 2014 of Pasig City Assistant Prosecutor Leoncio D. De Guzman; (3) Quashal of Information; and (4) Suspension of the Issuance of Warrant of Arrest pending final resolution on the merits of said Omnibus Motion. They also filed a Motion to Suspend Proceedings on the ground of a prejudicial question in view of a pending civil case.²¹

RTC Proceedings

The RTC, in its Order²² dated September 10, 2014, denied the motions of petitioners and ordered the issuance of the corresponding warrants of arrest against them.²³ Holding that a finding of probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction, the trial court found that the allegations in the Information and the affidavit-complaint, together with the documents submitted by the prosecution, *prima facie* show all the elements of qualified theft through falsification of public documents. The trial court observed that it was alleged in the Information that petitioners, with grave abuse of confidence and with intent to gain, conspired in taking away the amount of ₱4,212,000.00 without the consent and knowledge of private respondent. The act was accomplished by falsifying two (2) GISs, removing private respondent from the list of owners/shareholders, and selling the property of the corporation. The taking, according to the RTC, appears to have been made with grave abuse of confidence, inasmuch as petitioners could not have taken the subject shares of stocks if not for the positions they hold in the company and their blood relationship with private respondent.²⁴

²⁰ *Rollo*, pp. 60-61.

²¹ *Id.* at 61.

²² *Id.* at 125-130.

²³ *Id.* at 130.

²⁴ *Id.* at 126-128.



Furthermore, the RTC gave credence to the Declaration where Sonya admitted that her sister, private respondent, is the real owner of the 60% shares of stocks of Goldenrod, Inc.²⁵

On the other hand, the counter-allegations of petitioners essentially delved on evidentiary matters that are best passed upon in a full-blown trial.²⁶

As regards the issue on prejudicial question, the RTC found it premature to suspend the criminal action on this ground because of its lack of jurisdiction on the person of the accused. The RTC held it untenable for petitioners to seek such relief without surrendering to the jurisdiction of the court.²⁷

CA Proceedings

Petitioners thereafter filed a Petition for *Certiorari* with Urgent Prayer for Issuance of TRO/Preliminary Injunction before the CA. Petitioners argued that the trial court judge acted with grave abuse of discretion when he: (1) failed to quash the Information on the ground that the facts as charged do not constitute an offense; (2) allowed the issuance of warrants of arrest against petitioners without the benefit of bail; and (3) failed to suspend the proceedings despite the manifest existence of a prejudicial question in a previously instituted civil case (Civil Case No. Q-13-289).²⁸

The CA denied the petition for lack of merit.²⁹ The CA ruled that petitioners' alleged act of falsifying the two (2) GISs of Goldenrod, Inc. in order to consummate the sale of a real property owned by the corporation, thereby depriving private respondent of her shares in the proceeds thereof, may be construed as taking of personal property of another. Private respondent, who claims to be the lawful owner of the 52% shares of stock of Goldenrod, Inc. by virtue of the purported Declaration and SPA signed in her favor by Sonya before she died, may be considered to have been deprived of her right to possess, enjoy, and control said personal property through the act of petitioners (in their capacity as officers and members of the Board of Directors of Goldenrod, Inc.) of excluding her name in the GISs.³⁰

The CA gave short shrift to the argument of petitioners that the ownership over the subject property must first be determined. Citing *Miranda v. People*³¹ (*Miranda*), the CA held that in the crime of theft,

²⁵ Id. at 127.

²⁶ Id. at 128.

²⁷ Id. at 129.

²⁸ See id. at 62.

²⁹ Id. at 74.

³⁰ Id. at 66.

³¹ G.R. No. 176298, January 25, 2012, 664 SCRA 124.

ownership of the stolen property is immaterial. The law merely requires that the stolen property must not belong to the offender.³² Parenthetically, the CA also held that the resolution of Civil Case No. Q-13-289 will not be determinative of the outcome of the present criminal case as they are independent of each other. The CA emphasized that the only issues in the present criminal case are: (1) whether petitioners falsified the two (2) subject GISs; and (2) whether petitioners, with intent to gain and without private respondent's consent, took her share from the purchase price of the sale of the real property of Goldenrod, Inc. with YIC Group of Companies, Inc.³³

Finally, the CA found no grave abuse of discretion on the part of the trial court in ordering the issuance of warrants of arrest against petitioners in view of the denial of their motions. The CA found it procedurally incumbent upon the trial court to issue the warrants of arrest so it can acquire jurisdiction over the persons of petitioners. The CA found nothing wrong with the issuance of the warrants of arrest without the benefit of bail since the offense charged was non-bailable and there was no proof that petitioners even filed a petition for bail.³⁴

Petitioners filed a motion for reconsideration, but the same was denied for lack of merit via the assailed Resolution³⁵ dated June 18, 2015. Hence, this Petition.

On January 22, 2016, petitioners filed an Urgent Motion for Application for a Temporary Restraining Order (TRO) and Writ of Preliminary Injunction. The Court, in a Resolution³⁶ dated February 17, 2016 granted this motion and issued a TRO enjoining the proceedings in Criminal Case No. 153895 and the implementation of the warrants of arrest and Hold Departure Order against petitioners arising from the Information. The TRO took effect immediately and continues to be effective until further orders from the Court.

Issue

Before the Court can delve into the other issues raised by petitioners on whether there is probable cause to charge them with Qualified Theft through Falsification of Public Documents, and whether the Information is defective, the Court holds that the threshold legal issue that needs to be confronted first is whether there is a prejudicial question which warrants the suspension of the criminal proceedings against petitioners.

³² *Rollo*, p. 67.

³³ See *id.* at 74.

³⁴ *Id.* at 70-72.

³⁵ *Id.* at 87-88.

³⁶ *Id.* at 402-403.



The Court's Ruling

The Court rules in the affirmative.

Sections 6 and 7 of Rule 111 of the Rules on Criminal Procedure provide when a criminal action may be suspended upon the pendency of a prejudicial question in a civil action, and what the elements of the prejudicial question are, respectively:

SEC. 6. *Suspension by reason of prejudicial question.* – A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be filed in the office of the prosecutor or the court conducting the preliminary investigation. When the criminal action has been filed in court for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests.

SEC. 7. *Elements of prejudicial question.* – The elements of a prejudicial question are: (a) the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action, and (b) the resolution of such issue determines whether or not the criminal action may proceed.

The prejudicial question must be determinative of the case before the court, but the jurisdiction to try and resolve the question must be lodged in another court or tribunal. It is a question based on a fact distinct and separate from the crime, but so intimately connected with it that its ascertainment determines the guilt or innocence of the accused. For it to suspend the criminal action, it must appear not only that the civil case involves facts intimately related to those upon which the criminal prosecution would be based, but also that in the resolution of the issue or issues raised in the civil case, the guilt or innocence of the accused would necessarily be determined.³⁷

There are two pending civil cases, Civil Case No. Q-13-73089 and Civil Case No. Q-13-289, which bear issues that, to the mind of the Court, are determinative of the guilt or innocence of petitioners in the instant criminal case.

Civil Case No. Q-13-73089 is a complaint for nullity of the SPA filed by Ismael against private respondent, attacking the validity of the SPA on the ground of his lack of consent thereto. Civil Case No. Q-13-289, on the other hand, involves private respondent praying for the return to her of 26,000 shares of stock in Goldenrod, Inc., among others. She claims ownership over these shares on the basis of the SPA.

³⁷ *Reyes v. Pearlbank Securities, Inc.*, G.R. No. 171435, July 30, 2008, 560 SCRA 518, 539-540.



The Office of the Solicitor General (OSG), in its Comment,³⁸ argued that there can be no prejudicial question in a complex crime for the reason that when a complex crime is charged and one offense is not proven, the accused can be convicted of the other. It also argued that there is no prejudicial question because Civil Case No. Q-13-73089 was already dismissed by the trial court.

Private respondent, for her part, argued that there can be no prejudicial question because even if the trial court finds that the SPA is invalid, petitioners would still be liable for qualified theft on the basis of the ruling in *Miranda* that the ownership of the stolen property is immaterial.

The Court disagrees with the arguments of both the private respondent and the OSG.

Firstly, petitioners, in their Reply³⁹ dated January 18, 2016, attached a Resolution⁴⁰ from the trial court reconsidering its previous dismissal of the complaint in Civil Case No. Q-13-73089. This has not been disputed by the OSG. It would appear therefore that Civil Case No. Q-13-73089 is still very much alive.

Secondly, in the event that the trial court in Civil Case No. Q-13-289 rules in favor of petitioners or that the SPA is rendered void in Civil Case No. Q-13-73089, it would follow that private respondent is not entitled to 26,000 shares of stock of Goldenrod, Inc. As such, a criminal case against petitioners for either a complex crime of Qualified Theft through Falsification of Public Documents or any of such component crimes would have no leg to stand on.

The crime of qualified theft is found in Article 310 and is read in relation to Article 308 of the RPC. These Articles provide:

Art. 310. *Qualified theft.* – The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding articles, if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of a plantation, fish taken from a fishpond or fishery, or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance.

Art. 308. *Who are liable for theft.* – Theft is committed by any person who, with intent to gain but without violence against or intimidation of persons nor force upon things, shall take personal property of another without the latter's consent.

³⁸ *Rollo*, pp. 315-340.

³⁹ *Id.* at 373-390.

⁴⁰ *Id.* at 391-394. Penned by Presiding Judge Lita S. Tolentino-Genilo.



x x x x

Thus, the elements of qualified theft, committed with grave abuse of confidence, are:

1. Taking of personal property;
2. That the said property belongs to another;
3. That the said taking be done with intent to gain;
4. That it be done without the owner's consent;
5. That it be accomplished without the use of violence or intimidation against persons, nor of force upon things;
6. That it be done with grave abuse of confidence.⁴¹

On the other hand, Falsification under Article 172, in relation to Article 171(4) of the RPC, is committed as follows:

Art. 172. *Falsification by private individual and use of falsified documents.* – The penalty of *prision correccional* in its medium and maximum periods and a fine of not more than 5,000 pesos shall be imposed upon:

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document[.]

Art. 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* – The penalty of *prision mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

x x x x

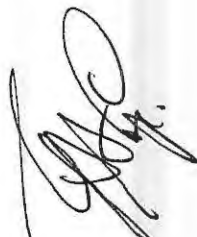
4. Making untruthful statements in a narration of facts[.]

The elements of falsification of public documents under Article 171(4) of the RPC are:

(a) The offender makes in a document untruthful statements in a narration of facts;

(b) The offender has a legal obligation to disclose the truth of the facts narrated;

⁴¹ *People v. Cahilig*, G.R. No. 199208, July 30, 2014, 731 SCRA 414, 424.



(c) The facts narrated by the offender are absolutely false; and

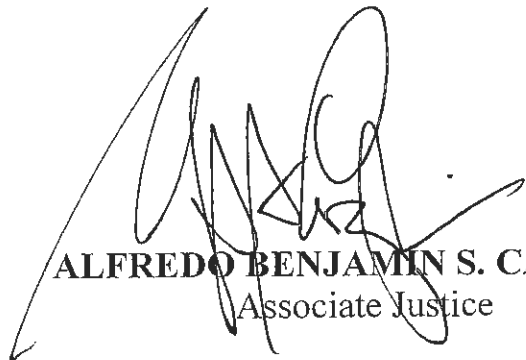
(d) The perversion of truth in the narration of facts was made with the wrongful intent to injure a third person.⁴²

Hence, should private respondent be adjudged not entitled to the 26,000 shares of stocks in the pending civil cases, there could have been no crime of qualified theft to speak of as the elements of: (1) the property belonging to another; (2) the taking done with intent to gain; (3) the taking done without the owner's consent; and (4) the taking done with abuse of confidence would be absent.

In the same vein, there would be no crime of falsification to speak of, as well, because there would be no perversion of truth and the statements in the two (2) GISs in 2013 would neither be "untruthful statements in a narration of facts," nor "absolutely false."

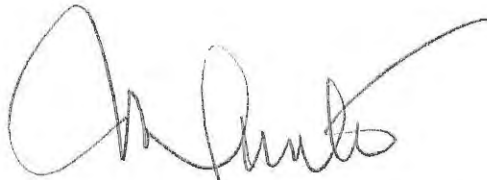
WHEREFORE, the Petition is **GRANTED**. The Decision and Resolution dated March 6, 2015 and June 18, 2015, respectively, of the Court of Appeals in CA-G.R. SP. No. 137194 are **SET ASIDE**. The proceedings in Criminal Case No. 153895-PSG and the implementation of the warrants of arrest and Hold Departure Order against petitioners are hereby **ORDERED SUSPENDED** until Civil Cases No. Q-13-73089 and Q-13-289 are terminated and resolved with finality.

SO ORDERED.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁴² See *Daan v. Sandiganbayan (Fourth Division)*, G.R. Nos. 163972-77, March 28, 2008, 550 SCRA 233, 246.


WE CONCUR:



DIOSDADO M. PERALTA
Chief Justice
Chairperson



JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution I certify that the conclusions in the above Resolution 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

