



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

DANTE LA. JIMENEZ, in his capacity
as President and representative of
**UNLAD SHIPPING &
MANAGEMENT CORPORATION**,
Petitioner,

-versus -

G.R. No. 178607

Present:

CARPIO, * Acting *C.J.*,
Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

HON. EDWIN SORONGON (in his
capacity as Presiding Judge of Branch
214 of the Regional Trial Court of
Mandaluyong City), **SOCRATES
ANTZOULATOS, CARMEN
ALAMIL, MARCELI GAZA** and
MARKOS AVGOUSTIS,
Respondents.

Promulgated:

DEC 05 2012 *HH Cabalag/Projecto*

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DECISION

BRION, J.:

We resolve the petition for review on *certiorari*¹ filed by Dante La. Jimenez (*petitioner*) to challenge the twin resolutions of the Court of Appeals (*CA*) dated November 23, 2006² and June 28, 2007³ in CA-G.R. SP No. 96584, which dismissed the petitioner's petition for *certiorari* and denied his motion for reconsideration, respectively.

* Designated as Acting Chief Justice in lieu of Chief Justice Maria Lourdes P. A. Sereno per Special Order No. 1384 dated December 4, 2012.

¹ Under Rule 45 of the 1997 Rules of Civil Procedure; *rollo*, pp. 10-43.

² Penned by Associate Justice Elvi John S. Asuncion, and concurred in by Associate Justices Jose Catral Mendoza (now a member of this Court) and Celia C. Librea-Leagogo; *id.* at 48-50.

³ Penned by Associate Justice Jose Catral Mendoza, and concurred in by Associate Justices Celia C. Librea-Leagogo and Mariflor Punzalan-Castillo; *id.* at 52.

The Factual Antecedents

The petitioner is the president of Unlad Shipping & Management Corporation, a local manning agency, while Socrates Antzoulatos, Carmen Alamil, Marcelli Gaza, and Markos Avgoustis (*respondents*) are some of the listed incorporators of Tsakos Maritime Services, Inc. (*TMSI*), another local manning agency.

On August 19, 2003, the petitioner filed a complaint-affidavit⁴ with the Office of the City Prosecutor of Mandaluyong City against the respondents for syndicated and large scale illegal recruitment.⁵ The petitioner alleged that the respondents falsely represented their stockholdings in TMSI's articles of incorporation⁶ to secure a license to operate as a recruitment agency from the Philippine Overseas Employment Agency (*POEA*).

On October 9, 2003, respondents Antzoulatos and Gaza filed their joint counter-affidavit denying the complaint-affidavit's allegations.⁷ Respondents Avgoustis and Alamil did not submit any counter-affidavit.

In a May 4, 2004 resolution,⁸ the 3rd Assistant City Prosecutor recommended the filing of an information for syndicated and large scale illegal recruitment against the respondents. The City Prosecutor approved his recommendation and filed the corresponding criminal information with the Regional Trial Court (*RTC*) of Mandaluyong City (docketed as Criminal Case No. MC04-8514 and raffled to Branch 212) presided by Judge Rizalina T. Capco-Umali.

Subsequently, in a December 14, 2004 resolution, the City Prosecutor reconsidered the May 4, 2004 resolution and filed a motion with the RTC to

⁴ *Id.* at 76-82.

⁵ Under Section 6(c), in relation to Section 7, of Republic Act No. 8042 (Migrant Workers and Overseas Filipinos Act of 1995), effective July 15, 1995.

⁶ *Rollo*, pp. 57-63.

⁷ *Id.* at 83-92.

⁸ *Id.* at 104-108.

withdraw the information.⁹ The petitioner and respondents Antzoulatos and Gaza filed their opposition¹⁰ and comment to the opposition, respectively.

In an August 1, 2005 resolution,¹¹ the RTC denied the motion to withdraw information as it found the existence of probable cause to hold the respondents for trial.¹² Thus, the RTC ordered the issuance of warrants of arrest against the respondents.

On August 26, 2005, respondents Antzoulatos and Gaza filed an omnibus motion for reconsideration and for deferred enforcement of the warrants of arrest.¹³ In a September 2, 2005 order,¹⁴ the RTC denied the omnibus motion, reiterating that the trial court is the sole judge on whether a criminal case should be dismissed or not.

On September 26, 2005, respondent Alamil filed a motion for judicial determination of probable cause with a request to defer enforcement of the warrants of arrest.¹⁵

On September 29, 2005, the petitioner filed his opposition with motion to expunge, contending that respondent Alamil, being a fugitive from justice, had no standing to seek any relief and that the RTC, in the August 1, 2005 resolution, already found probable cause to hold the respondents for trial.¹⁶

In a September 30, 2005 order,¹⁷ the RTC denied respondent Alamil's motion for being moot and academic; it ruled that it had already found probable cause against the respondents in the August 1, 2005 resolution, which it affirmed in the September 2, 2005 order.

⁹ *Id.* at 109-110.

¹⁰ *Id.* at 111-116.

¹¹ *Id.* at 118-119.

¹² *Id.*

¹³ *Id.* at 120-124.

¹⁴ *Id.* at 125-129.

¹⁵ *Id.* at 130-142.

¹⁶ *Id.* at 143-148.

¹⁷ *Id.* at 150-151.

On October 10, 2005, respondent Alamil moved for reconsideration and for the inhibition of Judge Capco-Umali, for being biased or partial.¹⁸ On October 25, 2005, the petitioner filed an opposition with a motion to expunge, reiterating that respondent Alamil had no standing to seek relief from the RTC.¹⁹

In a January 4, 2006 order,²⁰ Judge Capco-Umali voluntarily inhibited herself from the case and did not resolve respondent Alamil's motion for reconsideration and the petitioner's motion to expunge. The case was later re-raffled to Branch 214, presided by Judge Edwin D. Sorongon.

The RTC Rulings

In its March 8, 2006 order,²¹ the RTC granted respondent Alamil's motion for reconsideration. It treated respondent Alamil's motion for judicial determination as a motion to dismiss for lack of probable cause. It found: (1) no evidence on record to indicate that the respondents gave any false information to secure a license to operate as a recruitment agency from the POEA; and (2) that respondent Alamil voluntarily submitted to the RTC's jurisdiction through the filing of pleadings seeking affirmative relief. Thus, the RTC dismissed the case, and set aside the earlier issued warrants of arrest.

On April 3, 2006, the petitioner moved for reconsideration, stressing the existence of probable cause to prosecute the respondents and that respondent Alamil had no standing to seek any relief from the RTC.²²

On April 26, 2006, respondent Alamil moved to expunge the motion for being a prohibited pleading since the motion did not have the public prosecutor's conformity.²³

¹⁸ *Id.* at 152-171.

¹⁹ *Id.* at 172-187.

²⁰ *Id.* at 189-191.

²¹ *Id.* at 192-196.

²² *Id.* at 197-207.

²³ *Id.* at 209-212.

In its May 10, 2006 order,²⁴ the RTC denied the petitioner's motion for reconsideration, finding that the petitioner merely reiterated arguments in issues that had been finally decided. The RTC ordered the motion expunged from the records since the motion did not have the public prosecutor's conformity.

On May 19, 2006, the petitioner filed a notice of appeal.²⁵

On May 30, 2006, respondent Alamil moved to expunge the petitioner's notice of appeal since the public prosecutor did not authorize the appeal and the petitioner had no civil interest in the case.²⁶

On June 27, 2006, the petitioner filed his comment to the motion to expunge, claiming that, as the offended party, he has the right to appeal the RTC order dismissing the case; the respondents' fraudulent acts in forming TMSI greatly prejudiced him.²⁷

In its August 7, 2006 joint order,²⁸ the RTC denied the petitioner's notice of appeal since the petitioner filed it without the conformity of the Solicitor General, who is mandated to represent the People of the Philippines in criminal actions appealed to the CA. Thus, the RTC ordered the notice of appeal expunged from the records.

On October 18, 2006, the petitioner elevated his case to the CA via a Rule 65 petition for *certiorari* assailing the RTC's March 8, 2006, May 10, 2006, and August 7, 2006 orders.

The CA Ruling

²⁴ *Id.* at 218.

²⁵ *Id.* at 219-220.

²⁶ *Id.* at 221-224.

²⁷ *Id.* at 225-229.

²⁸ *Id.* at 240-241.

In its November 23, 2006 resolution,²⁹ the CA dismissed outright the petitioner's Rule 65 petition for lack of legal personality to file the petition on behalf of the People of the Philippines. It noted that only the Office of the Solicitor General (OSG) has the legal personality to represent the People, under Section 35(1), Chapter 12, Title III, Book IV of the 1987 Administrative Code. It also held that the petitioner was not the real party in interest to institute the case, him not being a victim of the crime charged to the respondents, but a mere competitor in their recruitment business. The CA denied³⁰ the motion for reconsideration³¹ that followed.

The Petition

The petitioner argues that he has a legal standing to assail the dismissal of the criminal case since he is the private complainant and a real party in interest who had been directly damaged and prejudiced by the respondents' illegal acts; respondent Alamil has no legal standing to seek any relief from the RTC since she is a fugitive from justice.

The Case for the Respondents

The respondents³² submit that the petitioner lacks a legal standing to assail the dismissal of the criminal case since the power to prosecute lies solely with the State, acting through a public prosecutor; the petitioner acted independently and without the authority of a public prosecutor in the prosecution and appeal of the case.

The Issue

The case presents to us the issue of whether the CA committed a reversible error in dismissing outright the petitioner's Rule 65 petition for

²⁹ *Supra* note 2.

³⁰ *Supra* note 3.

³¹ *Rollo*, pp. 242-247.

³² Per the October 12, 2009 Resolution, the Court dispensed with respondent Avgoustis' comment to the petition since, as per the petitioner's report, he could not be located; *id.* at 322-323.

certiorari for lack of legal personality to file the petition on behalf of the People of the Philippines.

Our Ruling

The petition lacks merit.

The petitioner has no legal personality to assail the dismissal of the criminal case

It is well-settled that “every action must be prosecuted or defended in the name of the real party in interest[,]” “who stands to be benefited or injured by the judgment in the suit, or by the party entitled to the avails of the suit.”³³ Interest means material interest or an interest in issue to be affected by the decree or judgment of the case, as distinguished from mere interest in the question involved.³⁴ By real interest is meant a present substantial interest, as distinguished from a mere expectancy, or a future, contingent, subordinate or consequential interest.³⁵ When the plaintiff or the defendant is not a real party in interest, the suit is dismissible.³⁶

Procedural law basically mandates that “[a]ll criminal actions commenced by complaint or by information shall be prosecuted under the direction and control of a public prosecutor.”³⁷ In appeals of criminal cases before the CA and before this Court, the OSG is the appellate counsel of the People, pursuant to Section 35(1), Chapter 12, Title III, Book IV of the 1987 Administrative Code. This section explicitly provides:

SEC. 35. *Powers and Functions.* — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies

³³ 1997 RULES OF CIVIL PROCEDURE, Rule 3, Section 2.

³⁴ *Theodore and Nancy Ang, represented by Eldrige Marvin B. Aceron v. Spouses Alan and Em Ang*, G.R. No. 186993, August 22, 2012; and *Goco v. Court of Appeals*, G.R. No. 157449, April 6, 2010, 617 SCRA 397, 405.

³⁵ *United Church of Christ in the Philippines, Inc. v. Bradford United Church of Christ, Inc., et al.*, G.R. No. 171905, June 20, 2012; and *Jelbert B. Galicto v. H.E. President Benigno Simeon C. Aquino III, etc., et al.*, G.R. No. 193978, February 28, 2012.

³⁶ *United Church of Christ in the Philippines, Inc. v. Bradford United Church of Christ, Inc., et al.*, *supra*; and *Shipside Inc. v. Court of Appeals*, 404 Phil. 981, 1000 (2001).

³⁷ REVISED RULES OF CRIMINAL PROCEDURE, Rule 110, Section 5.

and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. . . . It shall have the following specific powers 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 and 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 added)

The People is the real party in interest in a criminal case and only the OSG can represent the People in criminal proceedings pending in the CA or in this Court. This ruling has been repeatedly stressed in several cases³⁸ and continues to be the controlling doctrine.

While there may be rare occasions when the offended party may be allowed to pursue the criminal action on his own behalf³⁹ (as when there is a denial of due process), this exceptional circumstance does not apply in the present case.

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.⁴⁰

Respondent Alamil voluntarily submitted to the RTC's jurisdiction

³⁸ *Bureau of Customs v. Sherman*, G.R. No. 190487, April 13, 2011, 648 SCRA 809; *Ong v. Genio*, G.R. No. 182336, December 23, 2009, 609 SCRA 188; *People of the Philippines v. Arturo F. Duca*, G.R. No. 171175, October 30, 2009; *Heirs of Federico C. Delgado v. Gonzalez*, G.R. No. 184337, August 7, 2009, 595 SCRA 501; *Cariño v. De Castro*, G.R. No. 176084, April 30, 2008, 553 SCRA 688; *Mobilia Products, Inc. v. Umezawa*, 493 Phil. 85 (2005); *Narciso v. Sta. Romana-Cruz*, 385 Phil. 208 (2000); *Perez v. Hagonoy Rural Bank, Inc.*, 384 Phil. 322 (2000); *Labaro v. Hon. Panay*, 360 Phil. 102 (1998); *People v. Judge Santiago*, 255 Phil. 851 (1989); and *City Fiscal of Tacloban v. Judge Espina*, 248 Phil. 843 (1988).

³⁹ *Merciales v. Court of Appeals*, 429 Phil. 70 (2002).

⁴⁰ See Minute Resolution, *Carina L. Dacer, Sabina Dacer-Reyes, et al. v. Panfilo M. Lacson*, G.R. No. 196209, June 8, 2011.

As a rule, one who seeks an affirmative relief is deemed to have submitted to the jurisdiction of the court. Filing pleadings seeking affirmative relief constitutes voluntary appearance, and the consequent jurisdiction of one's person to the jurisdiction of the court.⁴¹


Thus, by filing several motions before the RTC seeking the dismissal of the criminal case, respondent Alamil voluntarily submitted to the jurisdiction of the RTC. Custody of the law is not required for the adjudication of reliefs other than an application for bail.⁴²


WHEREFORE, we hereby **DENY** the appeal. The twin resolutions of the Court of Appeals dated November 23, 2006 and June 28, 2007 in CA-G.R. SP No. 96584 are **AFFIRMED**. Costs against the petitioner.

SO ORDERED.

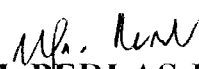

ARTURO D. BRION
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Acting Chief Justice
Chairperson


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

⁴¹ *Miranda v. Tuliao*, G.R. No. 158763, March 31, 2006, 486 SCRA 377, 388, 390; and *Sapugay v. Court of Appeals*, G.R. No. 86792, March 21, 1990, 183 SCRA 464, 471.

⁴² *Alawiya v. Datumanong*, G.R. No. 164170, April 16, 2009, 585 SCRA 267, 280; and *Miranda v. Tuliao*, *supra* at 391.

CERTIFICATION

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.

A handwritten signature in black ink, appearing to read "Antonio T. Carpio", written in a cursive style.

ANTONIO T. CARPIO
Acting Chief Justice