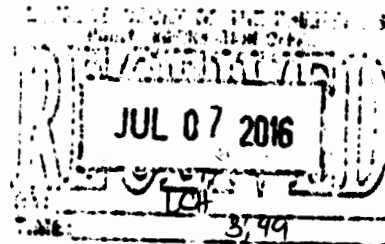




Republic of the Philippines  
 Supreme Court  
 Manila

FIRST DIVISION



**JOSE BURGOS, JR.,**  
 Petitioner,

**G.R. No. 219468**

- versus -

Present:

**SPOUSES ELADIO SJ. NAVAL  
 and ARLINA B. NAVAL, and  
 AMALIA B. NAVAL,**  
 Respondents.

SERENO, *C.J.*,\*  
 LEONARDO-DE CASTRO,  
 Acting Chairperson,\*\*  
 BERSAMIN,  
 PERLAS-BERNABE, and  
 CAGUIOA, *JJ.*

Promulgated:

**JUN 08 2016**

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**RESOLUTION**

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>1</sup> are the Resolutions dated March 5, 2015<sup>2</sup> and July 2, 2015<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 138203, which denied petitioner Jose Burgos, Jr.'s (Burgos) petition for *certiorari*<sup>4</sup> before it for his lack of authority to initiate and bring the same in the name of the People of the Philippines (People).

\* On leave.

\*\* Per Special Order No. 2354 dated June 2, 2016.

<sup>1</sup> *Rollo*, pp. 3-24.

<sup>2</sup> *Id.* at 26-28. Penned by Associate Justice Amy C. Lazaro-Javier with Associate Justices Celia C. Librea-Leagogo and Melchor Q. C. Sadang concurring.

<sup>3</sup> *Id.* at 30.

<sup>4</sup> *Id.* at 31-47.

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### The Facts

This case stemmed from a letter-complaint<sup>5</sup> dated April 26, 2012 filed by Burgos, before the Office of the Provincial Prosecutor, Taytay, Rizal, charging respondents spouses Eladio and Arlina Naval (Sps. Naval) and their daughter, Amalia Naval (Amalia; collectively respondents), of the crime of *Estafa* through Falsification of Public Documents. Burgos alleged that he and his wife, Rubie S. Garcia-Burgos, were the registered owners of a lot with an area of 1,389 square meters, situated in the Municipality of Taytay, Rizal, covered by Transfer Certificate of Title (TCT) No. 550579 (subject lot).<sup>6</sup> On November 19, 1996, the subject lot was purportedly mortgaged to a certain Antonio Assad,<sup>7</sup> and subsequently, Burgos decided to obtain a loan from Sps. Naval in order to avoid foreclosure. Respondents agreed and asked spouses Burgos to sign some blank documents in return – to which they faithfully complied.<sup>8</sup>

Sometime in February 2011, Burgos allegedly discovered that TCT No. 550579 was cancelled, and a new one was issued, *i.e.*, TCT No. 644582,<sup>9</sup> in favor of Sps. Naval on April 1, 1998. He claimed that the blank documents which he and his wife previously signed turned out to be a receipt<sup>10</sup> and a Deed of Absolute Sale<sup>11</sup> over the subject lot through the ploy and conspiracy of respondents. Thereafter, or on February 11, 2013, an Information<sup>12</sup> was filed before the Regional Trial Court of Antipolo City, Branch 97 (RTC), docketed as Criminal Case No. 13-45768, accusing respondents of having committed the aforesaid crime.<sup>13</sup>

Before arraignment, respondents filed a motion to quash<sup>14</sup> based on the following grounds: (a) that their criminal liability has been extinguished due to prescription;<sup>15</sup> (b) that the information failed to charge Amalia with an offense;<sup>16</sup> and (c) that they were not afforded the opportunity of a preliminary investigation.<sup>17</sup> Respondents averred that since the information was filed on February 11, 2013, beyond the reglementary period of ten (10) years from the registration of the title on April 1, 1998, the crime had already prescribed. They also claimed that the information did not contain any specific charge against Amalia. Finally, they maintained that they were

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<sup>5</sup> Id. at 55-57.

<sup>6</sup> Id. at 58-59.

<sup>7</sup> See Real Estate Mortgage with Power to Sell; *id.* at 62-64.

<sup>8</sup> See *id.* at 55-56.

<sup>9</sup> *Id.* at 66-69.

<sup>10</sup> *Id.* at 72.

<sup>11</sup> *Id.* at 73-75.

<sup>12</sup> *Id.* at 78-79. Issued by Assistant Provincial Prosecutor Teresita Carigma-Palos.

<sup>13</sup> See *id.* at 56-57.

<sup>14</sup> Filed on May 8, 2013. *Id.* at 80-82.

<sup>15</sup> *Id.* at 80.

<sup>16</sup> *Id.* at 81.

<sup>17</sup> *Id.* at 82.

deprived of their right to dispute the allegations of the complaint during the preliminary investigation.<sup>18</sup>

### The RTC Ruling

In an Order<sup>19</sup> dated August 14, 2013, the RTC granted respondents' motion and, consequently, dismissed the case on the ground of prescription.

The RTC essentially observed that the prescriptive period for the alleged crime commenced from the time Burgos had constructive notice of the alleged falsification, *i.e.*, when the document was registered with the Register of Deeds on April 1, 1998. Therefore, since more than ten (10) years had elapsed when the information was filed on February 11, 2013, the subject crime had prescribed.<sup>20</sup>

Aggrieved, Burgos moved for reconsideration,<sup>21</sup> which was denied in an Order<sup>22</sup> dated July 14, 2014. Notably, the RTC declared that it could not order the public prosecutor to amend the information to include the specific amount of damage sustained by Burgos amounting to ₱8,500,000.00, as it would improperly infringe his executive functions.<sup>23</sup> Thus, Burgos elevated the matter to the CA *via* a petition for *certiorari*, docketed as CA-G.R. SP No. 138203.

### The CA Ruling

In a Resolution<sup>24</sup> dated March 5, 2015, the CA dismissed the petition for failure of Burgos to join the People in his *certiorari* petition as required by the Administrative Code of 1987.<sup>25</sup>

Unstirred, Burgos moved for reconsideration,<sup>26</sup> which was likewise denied in a Resolution dated July 2, 2015. Significantly, the CA observed that the Office of the Solicitor General (OSG) has not consented to the filing of the *certiorari* petition;<sup>27</sup> hence, this petition before the Court.

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<sup>18</sup> See *id.* at 81-82.

<sup>19</sup> *Id.* at 50-53. Penned by Presiding Judge Miguel S. Asuncion.

<sup>20</sup> See *id.* at 51-53.

<sup>21</sup> See motion for reconsideration (to the Order dated August 14, 2013) filed on September 16, 2013; *id.* at 88-92.

<sup>22</sup> *Id.* at 48-49.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 26-28.

<sup>25</sup> Section 35 (1), Chapter 12, Title III of Book IV of Executive Order No. 292, entitled "INSTITUTING THE 'ADMINISTRATIVE CODE OF 1987'" signed on July 25, 1987, mandates the OSG to represent the "Government in the Supreme Court and the Court of Appeals in all Criminal proceedings; x x x."

<sup>26</sup> See motion for reconsideration filed on April 15, 2015; *rollo*, pp. 93-99.

<sup>27</sup> *Id.* at 30.

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### The Issue Before the Court

The issue for the Court's resolution is whether or not the CA correctly dismissed the *certiorari* petition on the ground that the People, as represented by the OSG, was not impleaded as a party.

### The Court's Ruling

In his petition, Burgos averred that the CA Resolutions dated March 5, 2015 and July 2, 2015 should be declared null and void for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. He claimed that he already complied with the directive to furnish the OSG with a copy of the *certiorari* petition before the CA,<sup>28</sup> and that he even made a letter dated April 7, 2015,<sup>29</sup> requesting the OSG for authority to appear and prosecute the case on behalf of the People. Relatedly, he prayed for the reinstatement of the Information and/or a declaration that prescription has not yet set in as the crime of *Estafa* through Falsification of Public Documents was only discovered sometime in February 2011.<sup>30</sup>

In their comment,<sup>31</sup> respondents maintained that Burgos nevertheless failed to furnish the OSG with a copy of the *certiorari* petition filed before the CA as mandated by Section 3,<sup>32</sup> Rule 46 of the Rules of Court, which is a sufficient ground for its dismissal.<sup>33</sup> In fact, they averred that Burgos did not even attempt to change or amend the title of the petition from "Jose Burgos, Jr." to "People of the Philippines."<sup>34</sup> Moreover, they pointed out that Burgos's letter-request for authority addressed to the OSG was filed only on April 10, 2015 or nine (9) days after Burgos's receipt of the adverse March 5, 2015 CA Resolution, further alleging that mere request from the OSG is not tantamount to authority.<sup>35</sup>

<sup>28</sup> Id. at 94.

<sup>29</sup> Through Burgos's counsel, Atty. Cris T. Paculanang. Id. at 103.

<sup>30</sup> Id. at 18-19.

<sup>31</sup> Filed on February 11, 2016. Id. at 105-110.

<sup>32</sup> **Section 3. Contents and filing of petition; effect of noncompliance with requirements.** – x x x.

x x x x

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. x x x.

x x x x

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition. (Emphasis supplied)

<sup>33</sup> *Rollo*, p. 108.

<sup>34</sup> Id. at 109.

<sup>35</sup> Id.

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The Court finds for respondents.

Jurisprudence dictates that it is the OSG which possesses the requisite authority to represent the People in an appeal on the criminal aspect of a case.<sup>36</sup> The OSG is “the law office of the Government whose specific powers and functions include that of representing the Republic and/or the [P]eople before any court in any action which affects the welfare of the people as the ends of justice may require.”<sup>37</sup> Section 35 (1), Chapter 12, Title III, Book IV of the 1987 Administrative Code<sup>38</sup> provides that:

Section 35. Powers 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 lawyer. x x x. 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, 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. (Emphases supplied)

In *People v. Piccio (Piccio)*,<sup>39</sup> this Court held that “if there is a dismissal of a criminal case by the trial court or if there is an acquittal of the accused, it is only the OSG that may bring an appeal on the criminal aspect representing the People. The rationale therefor is rooted in the principle that the party affected by the dismissal of the criminal action is the People and not the petitioners who are mere complaining witnesses. For this reason, **the People are therefore deemed as the real parties in interest in the criminal case and, therefore, only the OSG can represent them in criminal proceedings pending in the CA or in this Court.** In view of the corollary principle 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, an appeal of the criminal case not filed by the People as represented by the OSG is perforce dismissible. The private complainant or the offended party may, however, file an appeal without the intervention of the OSG but only insofar as the civil liability of the accused is concerned. **He may also 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.**”<sup>40</sup>

<sup>36</sup> See *People v. Piccio*, G.R. No. 193681, August 6, 2014, 732 SCRA 254, 261.

<sup>37</sup> *Gonzales v. Chavez*, G.R. No. 97351, February 4, 1992, 205 SCRA 816, 845.

<sup>38</sup> See Executive Order No. 292.

<sup>39</sup> Supra note 36.

<sup>40</sup> Id. at 261-262; emphases and underscoring supplied.

In this case, records show that Burgos's petition for *certiorari* in CA-G.R. SP No. 138203 sought for **the reinstatement of the Information and/or a ruling that the crime has not yet prescribed.**<sup>41</sup> Accordingly, the same was not intended to merely preserve his interest in the civil aspect of the case. Thus, as his *certiorari* petition was filed seeking for relief/s in relation to the criminal aspect of the case, it is necessary that the same be filed with the authorization of the OSG, which, by law, is the proper representative of the People, the real party in interest in the criminal proceedings. As the CA aptly noted, "[t]o this date, the [OSG] as appellant's counsel of the [People] has not consented to the filing of the present suit."<sup>42</sup> There being no authorization given – as his request to the OSG filed on April 10, 2015 was not shown to have been granted – the *certiorari* petition was rightfully dismissed.

It must, however, be clarified that the CA's dismissal of Burgos's *certiorari* petition is without prejudice to his filing of the appropriate action to preserve his interest in the civil aspect of the *Estafa* through Falsification of Public Documents case, provided that the parameters of Rule 111 of the Rules of Criminal Procedure are complied with.<sup>43</sup>

It is noteworthy to point out that "[t]he extinction of the penal action does not carry with it the extinction of the civil action where[:] (a) the acquittal is based on reasonable doubt as only preponderance of evidence is required; (b) the court declares that the liability of the accused is only civil; and (c) the civil liability of the accused does not arise from or is not based upon the crime of which the accused was acquitted. The civil action based on delict may, however, be deemed extinguished if there is a finding on the final judgment in the criminal action that the act or omission from which the civil liability may arise did not exist."<sup>44</sup> In this case, the RTC did not render any ruling that the act or omission from which the civil liability may arise did not exist; instead, the RTC granted the motion to quash and thereby, dismissed the criminal case on the sole ground of prescription. Any misgivings regarding the propriety of that disposition is for the People, thru the OSG, and not for Burgos to argue. As earlier intimated, Burgos's remedy is to institute a civil case under the parameters of Rule 111 of the Rules of Criminal Procedure.

**WHEREFORE**, the petition is **DENIED**. The Resolutions dated March 5, 2015 and July 2, 2015 of the Court of Appeals in CA-G.R. SP No. 138203 are hereby **AFFIRMED**.

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<sup>41</sup> See *rollo*, p. 43.

<sup>42</sup> *Id.* at 30.

<sup>43</sup> See *People v. Piccio*, *supra* note 36, at 262.

<sup>44</sup> *Hun Hyung Park v. Eung Won Choi*, 544 Phil. 431, 444 (2007). See also Section 2, Rule 111 of the Revised Rules of Criminal Procedure.

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**SO ORDERED.**

*M.P. Perlas*  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

On leave  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice  
Acting Chairperson

*Lucas P. Bersamin*  
**LUCAS P. BERSAMIN**  
Associate Justice

*Alfredo Benjamin S. Caguioa*  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

**A T T E S T A T I O N**

I attest 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.

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice  
Acting Chairperson, First Division

**C E R T I F I C A T I O N**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, 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.

*Antonio T. Carpio*  
**ANTONIO T. CARPIO**  
Acting Chief Justice