



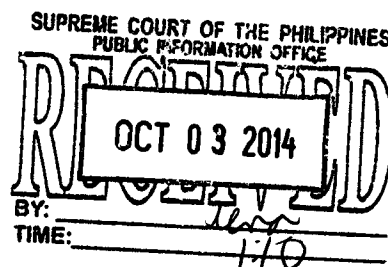
Republic of the Philippines

Supreme Court

Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated September 8, 2014 which reads as follows:

“G.R. No. 213285 (Reynald L. Lim, petitioner, v. National Bureau of Investigation, Benhur Luy, and People of the Philippines, respondents).

The instant case stemmed from the Report received on 8 March 2013 by the National Bureau of Investigation (NBI) that Benhur Luy was being detained by Reynald Lim (petitioner) and his sister, Janet Lim-Napoles, since 19 December 2012.

On 26 March 2013, the NBI Director transmitted to the Department of Justice (DOJ) their investigative findings and recommended for the prosecution of petitioner and Janet Lim-Napoles for violation of Article 267 of the Revised Penal Code (Serious Illegal Detention).

On 10 June 2013, the DOJ issued a Resolution dismissing the complaint for serious illegal detention for lack of probable cause.

The NBI filed its Motion for Reconsideration of the DOJ Resolution arguing that the DOJ committed a reversible error in the appreciation of the evidence. Benhur Luy, as well as Arturo and Gertrudes Luy, likewise filed their separate motions for reconsideration.

On 6 August 2013, the DOJ issued a Review Resolution with the recommendation that the motion for reconsideration of the DOJ resolution dated 10 June 2013 be granted and that an Information be filed in court against petitioner and Janet Lim-Napoles for violation of Article 267 of the Revised Penal Code, with no recommended bail.

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On 13 August 2013, an information for serious illegal detention was filed against petitioner and Janet Lim-Napoles before the Regional Trial Court (RTC) of Makati City.

On 14 August 2013, the case was raffled to Branch 150, the sala presided over by Judge Elmo M. Alameda (Judge Alameda). Petitioner, through counsel, filed on the same date an Urgent Omnibus Motion for Judicial Determination of Probable Cause and Deferment of the Issuance of the Warrant of Arrest (Omnibus Motion).

On even date, Judge Alameda issued the assailed order finding probable cause to issue a warrant of arrest against petitioner and Janet Lim-Napoles.

Aggrieved, petitioner filed before the Court of Appeals (CA) a Petition for *Certiorari* under Rule 65 assailing the 14 August 2013 order of Judge Alameda. The CA, however, denied the petition in a Decision promulgated on 20 November 2013. The motion for reconsideration subsequently filed by petitioner was denied in a Resolution dated 2 July 2014.

Hence, this petition for review on *certiorari* under Rule 45 (with application for a temporary restraining order).

Petitioner submits the following issues:

WHETHER THE CA GRAVELY ERRED IN NOT FINDING GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR IN EXCESS OF JURISDICTION ON THE PART OF RESPONDENT JUDGE ALAMEDA WHO ACTED WHIMSICALLY AND ARBITRARILY IN DENYING THE OMNIBUS MOTION AND IN ISSUING THE WARRANT OF ARREST EVEN BEFORE THE SET DATE FOR THE SAID MOTION TO BE HEARD

WHETHER THE CA GRAVELY ERRED IN NOT FINDING GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR IN EXCESS OF JURISDICTION ON THE PART OF RESPONDENT JUDGE ALAMEDA WHO VIOLATED THE CONSTITUTIONAL RIGHT OF PETITIONER IN ISSUING THE WARRANT OF ARREST DESPITE THE CLEAR ABSENCE OF PROBABLE CAUSE

WHETHER THE CA ERRED IN HOLDING THAT THE ASSAILED ORDERS CANNOT BE ENJOINED

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After a careful review of the petition, the Court resolves to deny the instant petition and affirm the 20 November 2013 Decision and 2 July 2014 Resolution of the CA in CA-G.R. SP. No. 131363.

Petitioner submits that there was inordinate haste on the part of Judge Alameda to issue the order finding probable cause to issue the warrant of arrest and the order of arrest. This is despite the fact that the Omnibus Motion has yet to be heard on the hearing set on 16 August 2013 at 1:30 P.M. He argued that had respondent judge taken a little more time to dig deeper behind the actuation of the Prosecution Office, he would have learned that no new or additional evidence was presented in the motion for reconsideration that would have warranted a change of mind by the same preliminary investigation panel that earlier found no probable cause against petitioner.

We agree with the CA that petitioner's disquisition that Judge Alameda acted with inordinate haste in issuing the assailed Orders or that he did not conduct a personal evaluation of the evidence presented, is at best, a conjecture without empirical basis.¹ It is evident from the Order of Judge Alameda that the finding of probable cause was issued only after he reviewed the proceedings before the prosecutor and after he examined the documents presented.

We likewise agree with the CA that the appellate court cannot freely delve into matters which, by constitutional fiat, rightly rests on Judge Alameda's personal judgment. Unless the contrary is proven, the presumption of regularity in the performance of his official functions is sustained.² Such presumption prevails until it is overcome by clear and convincing evidence. In fact, the filing of the Omnibus Motion is a mere superfluity. For even without it, respondent judge is duty-bound to personally evaluate the resolution of the public prosecutor and the supporting documents. Further, there is nothing in the rules which require a judge to conduct a hearing before he issues an order finding the existence of probable cause and order of arrest.

Under Rule 45 of the Rules of Court, only questions of law may be raised in, and be subject of, a petition for review on *certiorari* since this Court is not a trier of facts. The Court cannot thus review the evidence adduced by the parties on the issue of the absence or presence of probable cause, as there exists no exceptional circumstances to warrant a factual review.³

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¹ Rollo, p. 36; CA Resolution dated 2 July 2014.

² Id.

³ *Chan v. Court of Appeals*, 497 Phil. 41, 50 (2005).

In a petition for *certiorari*, like that filed by petitioner before the appellate court, the jurisdiction of the court is narrow in scope. It is limited to resolving only errors of jurisdiction. It is not to stray at will and resolve questions and issues beyond its competence, such as an error of judgment.⁴ The court's duty in the pertinent case is confined to determining whether the executive and judicial determination of probable cause was without or in excess of jurisdiction or with grave abuse of discretion. Although it is possible that error may be committed in the discharge of lawful functions, this does not render the act amenable to correction and annulment by the extraordinary remedy of *certiorari*, absent any showing of grave abuse of discretion amounting to excess of jurisdiction.⁵

The Court further resolves:

- (1) to **NOTE** the petitioner's *ex-parte* manifestation stating that the advance copy of the petition for review on certiorari with application for temporary restraining order is attached therein;
- (2) to **NOTE** the petitioner's *ex-parte* manifestation stating that the advance copy of entry of appearance is attached therein;
- (3) to **NOTE** the formal entry of appearance of Atty. Jesus Victor B. Valdez of David Cui-David Buenaventura and Ang Law Offices, Suite 1905-A, Philippine Stock Exchange Center, West Tower, Ortigas Center, Pasig City, as counsel for petitioner and **GRANT** the request to be furnished with all notices, orders, decisions and pleadings issued in this case;
- (4) to **DIRECT** the Cash Collection and Disbursement Division to **RETURN** to the petitioner the excess amount of ₱800.00 paid for filing fees under O.R. No. 0100232-SC-EP dated September 3, 2014; and
- (5) to **DELETE** as party respondent in this case Honorable Judge Elmo Alameda in his capacity as Presiding Judge of the Regional Trial Court of Makati City, Branch 150, pursuant to Sec. 4, Rule 45, 1997 Rules of Civil Procedure, as amended.

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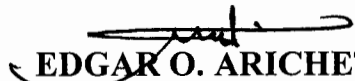
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⁴ Id at 53.

⁵ *D. M. Consunji, Inc. v. Esguerra*, 328 Phil. 1168, 1185 (1996).

SO ORDERED.” SERENO, C.J., on leave; **VELASCO, JR., J.**, acting member per S.O. No. 1772 dated August 28, 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
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