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THIRD DIVISION

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Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **August 26, 2020**, which reads as follows:

**“G.R. No. 250722 (People of the Philippines, petitioner; Christopher C. Chua, private complainant-appellant v. Terrence<sup>1</sup> Kenji B. Ito, Jake Ryu Oprecio, Aldus Reiner Tubiera, Joanary Roxas, Ria Agaton, Kent Ortiz, Jordan de Mesa, Angel Diego III, Edmer Maligaya, Merlin Malaran and Theodore Yuji E. Ito, respondents).** – This appeal by *certiorari*<sup>2</sup> seeks to reverse and set aside the May 31, 2019 Decision<sup>3</sup> and November 27, 2019 Resolution<sup>4</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 40379. The CA dismissed the appeal filed by private complainant Christopher C. Chua from the January 16, 2017<sup>5</sup> and June 6, 2017<sup>6</sup> Orders of the Regional Trial Court of Pasig City, Branch 67 (RTC), dismissing the case for Syndicated Estafa against Terrence Kenji B. Ito, Jake Ryu Oprecio, Aldus Reiner Tubiera, Joanary Roxas, Ria Agaton, Kent Ortiz, Jordan de Mesa, Angel Diego III, Edmer Maligaya, Merlin Malaran and Theodore Yuji E. Ito (collectively, respondents) for lack of probable cause. The CA dismissed private complainant’s appeal due to the lack of conformity by the Office of the Solicitor General (OSG) in filing the same.

*The Antecedents*

Christopher Chua (*Chua*), together with Bermin L. Tiu (*Bermin*), Chris Ginger T. Tiu, and Jeffrey Ballesteros (collectively, private complainants), filed a Joint-Complaint Affidavit for syndicated estafa and violation of the Securities and Regulation Code against respondents before the Office of the City Prosecutor of Pasig City (*OCP*).<sup>7</sup>

<sup>1</sup> Also referred to as “Terence” in some parts of the *rollo*.

<sup>2</sup> *Rollo*, pp. 29-57.

<sup>3</sup> Id. at 58-66; penned by Associate Justice Geraldine C. Fiel-Macaraig with Associate Justices Apolinario D. Bruselas, Jr. and Myra V. Garcia-Fernandez, concurring.

<sup>4</sup> Id. at 68-70.

<sup>5</sup> Id. at 76-84; rendered by Acting Presiding Judge Maria Paz R. Reyes-Yson.

<sup>6</sup> Id. at 85-86.

<sup>7</sup> Id. at 59.

Private complainants alleged that from September to November 2014, respondents, who were officers of One Lighting Corporation (*OLC*), enticed them to invest in their company. They were assured that *OLC* had a legal and viable business model and enough resources to pay the promised returns on investment. They were also promised hefty returns within a short period of time plus additional profits for successful new investor referrals. Relying on these representations, private complainants invested various amounts. Thereafter, respondents delivered to private complainants various cosmetic and healthcare products which quantity and quality did not compensate for the amount of their investments.<sup>8</sup>

Sometime between February and March of 2015, the Securities and Exchange Commission (*SEC*) issued advisories warning the public of *OLC*'s unauthorized and unlicensed sale of securities and solicitation of investments from the public. A Cease and Desist Order was issued by the *SEC* against *OLC* and its agents. Respondents, however, assured private complainants that the *SEC*'s Cease and Desist Order did not direct *OLC* to stop its operations, but merely prohibited certain acts which constitute investment activities. To quell their investors' apprehensions and fears on the *SEC* investigation, respondents represented that *OLC* would adopt a new business platform which would allow it to continue to operate without violating *SEC* orders, rules, and regulations. Based on these assurances, private complainants made several other investments in hopes of eventually getting returns.<sup>9</sup>

Private complainants, however, grew wary when they learned that several checks issued by *OLC* to investors, two (2) of which were issued to Bermin, bounced. In June 2015, *OLC* stopped paying private complainants the promised returns on their investments, referral rewards and commissions and bonuses without any justifiable reason. Later that year, respondents set up another company purportedly to assume the obligations of *OLC* on the condition that private complainants invest in the new company and execute a quitclaim in favor of *OLC*.<sup>10</sup>

In January 2016, respondents threatened private complainants with non-payment should they refuse to invest in the new company. Private complainants refused to shell out any more of their money. Despite repeated demands from private complainants, respondents refused to settle any of *OLC*'s outstanding obligations to private complainants amounting to ₱47,764,119.96.<sup>11</sup>

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<sup>8</sup> Id. at 32-34.

<sup>9</sup> Id. at 34-35.

<sup>10</sup> Id. at 35-36.

<sup>11</sup> Id. at 36-37.

The OCP found probable cause and recommended the prosecution of respondents for Syndicated Estafa.<sup>12</sup> Accordingly, an Information<sup>13</sup> was filed with the RTC of Pasig City and raffled to Branch 67.

On September 20, 2016, the RTC found probable cause against respondents and ordered the issuance of a Warrant of Arrest against them. As a consequence, some of the respondents<sup>14</sup> were arrested and detained. Respondents moved for reconsideration of the RTC's ruling on the ground that there was no probable cause against them and their rights were violated on account of the Investigating Prosecutor's failure to properly notify them of the complaint and the resultant preliminary investigation proceedings. Private complainants opposed the motion, and there was an exchange of pleadings.<sup>15</sup>

In its January 16, 2017 Order,<sup>16</sup> the RTC granted respondents' motion and dismissed the case for lack of probable cause. It rationalized its ruling in this wise:

After a meticulous assessment and examination of the information and the documents attached thereto, *i.e.* complaint affidavits and their annexes alongside with the documents submitted by the accused in their motion, this Court resolves in favor of the accused.

X X X X

x x x [T]here is no evidence that any of the accused committed any false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud by using a fictitious name, or falsely pretended to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits. The sales scheme and the manner by which the private complainants who are buyers or customers would earn profit from the sale of the products made by themselves or commission from the sale of the products by their referrals were thoroughly explained to them. They agreed to enter into the transactions with full knowledge and understanding of the business.

X X X X

Finally, there is no sufficient evidence that the accused acted in conspiracy with each other. In fact, in their complaint affidavits, the private complainants failed to show the complicity of each of the respondent particularly Joanary Roxas, Jake Ryu Oprecio, Aldus Reiner Tubiera, Ria Agaton, Kent Ortiz, Jordan de Mesa, Angel Diego III and Edmer Maligaya.

<sup>12</sup> Id. at 71-75.

<sup>13</sup> For violation of Article 315, par. 2 of the Revised Penal Code in relation to Sec. 1 of Presidential Decree No. 1689.

<sup>14</sup> *Rollo*, p. 84; Terrence Kenji B. Ito, Jake Ryu Oprecio, Aldus Reiner Tubiera, Joanary Roxas, Edmer Maligaya, and Theodore Yuji E. Ito.

<sup>15</sup> Id. at 59-60.

<sup>16</sup> *Supra* note 5.

**WHEREFORE**, all premises considered, the Motion for Reconsideration x x x is hereby **granted**. Accordingly, the case is hereby dismissed for lack of probable cause and the Warrant of Arrest x x x is hereby recalled and set aside.<sup>17</sup> (citations omitted)

Consequently, the apprehended respondents were released from detention. Private complainants' Motion for Reconsideration was denied by the RTC in its June 6, 2017 Order;<sup>18</sup> thus, private complainant Chua elevated the case to the CA.

In its May 31, 2019 Decision, the CA dismissed the case outright due to the OSG's lack of conformity to the filing of the appeal.<sup>19</sup>

On July 4, 2019, the OSG moved for the reconsideration of the May 31, 2019 Decision. It averred that it received the request for representation from the Department of Justice only on July 9, 2019. The OSG prayed for a relaxation of the rules as the appeal appears to be meritorious.<sup>20</sup>

After the CA denied its Motion for Reconsideration,<sup>21</sup> the OSG filed this petition.

### **This Court's Ruling**

We grant the petition.

Section 35(1), Chapter 12, Title III, Book IV of the 1987 Administrative Code provides that the OSG has the sole authority to represent the Government in the Supreme Court and Court of Appeals in all criminal proceedings. However, this Court has recognized certain exceptions and given due course to actions even when the respective interests of the government were not properly represented by the OSG, specifically to serve the broader interests of justice, among others.<sup>22</sup>

In *People v. De Grano*,<sup>23</sup> the subsequent participation of the OSG, *i.e.*, filing motions for extension of time to file the petition before this Court, was deemed sufficient to cure the lack of its conformity to the filing of the petition before the CA.

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<sup>17</sup> Id. at 81-83.

<sup>18</sup> Id. at 85.

<sup>19</sup> Id. at 58-66.

<sup>20</sup> Id. at 87-94.

<sup>21</sup> Id. at 68-70.

<sup>22</sup> See *Cu v. Small Business Guarantee and Finance Corporation*, 815 Phil. 617, 630 (2017); citations omitted and *Antone v. Beronilla*, 652 Phil. 151, 161 (2010).

<sup>23</sup> 606 Phil. 547 (2009).

In *Montañez v. Cipriano*,<sup>24</sup> this Court gave due course to the petition assailing the trial court's dismissal of the information for bigamy filed by the private complainant in view of the OSG's ratification of the petition when, after being required to comment, it prayed for the granting of the petition.<sup>25</sup> When through its comment, the OSG takes a position similar to the private complainant's, we hold that the OSG ratifies and adopts the private complainant's position as its own.<sup>26</sup>

Applying these precedents in this case, the OSG's filing of a Motion for Reconsideration of the May 31, 2019 Decision of the CA, along with its submission that private complainant's appeal appears to be meritorious, should be treated as adequate to remedy private complainant's failure to comply with the rules on appeals. Therefore, the CA should have given due course to the appeal and decided on the merits.

Indeed, the courts should always aim for the expeditious and orderly administration of justice. However, this aspiration should not mar the higher interest of the just resolution of cases on their merits. Unless the noncompliance with procedural rules is wantonly and deliberately vexatious and dilatory, proving to be very oppressive to one of the parties, it is better for all concerned to give premium to the substantial merits of the case over the noncompliance with mere rules and technicalities.<sup>27</sup> The State, like any other litigant, is entitled to its day in court, and to a reasonable opportunity to present its case. A hasty dismissal, instead of unclogging dockets, has actually increased the workload of the justice system and unwittingly prolonged the litigation.<sup>28</sup>

**WHEREFORE**, the petition is **GRANTED**. The May 31, 2019 Decision and November 27, 2019 Resolution of the Court of Appeals in CA-G.R. CR No. 40379 are hereby **SET ASIDE**. CA-G.R. CR No. 40379 is **REMANDED** to the Court of Appeals for proper disposition.

**SO ORDERED."**

By authority of the Court:

*Misael DC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court  
*10/14/2020*

<sup>24</sup> 697 Phil. 586 (2012).

<sup>25</sup> Id. at 595.

<sup>26</sup> *Chiok v. People*, 774 Phil. 230, 246 (2015), citing *Montañez v. Cipriano*, supra note 17, at 595.

<sup>27</sup> *Sps. Paderanga v. Sps. Bogabong*, 764 Phil. 290, 293 (2015).

<sup>28</sup> *Tan v. People*, 604 Phil. 68, 88-89 (2009); citation omitted.

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