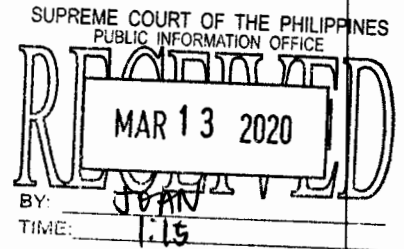




Republic of the Philippines
Supreme Court
Manila



THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 15, 2020**, which reads as follows:*

“**G.R. No. 195433 (Manuel Enrique L. Zalamea and Michelle Tuazon-Zalamea v. Elpidio C. Ocampo and Mario Cleofe)**. – This Petition for Review on *Certiorari*¹ assails the Decision² dated October 28, 2010 and Resolution³ dated January 31, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 115276 which denied the Petition for *Certiorari*⁴ filed by Manuel Enrique L. Zalamea (Manuel) and Michelle Tuazon-Zalamea (Michelle; collectively, Sps. Zalamea) and affirmed the Resolution⁵ of the Department of Justice (DOJ) and the City Prosecutor⁶ who found probable cause to charge Sps. Zalamea of one count of Simple Negligence Resulting in Slight Physical Injuries and one count of Robbery, and to charge Manuel of two counts of Grave Coercion.

Facts of the Case

In 2006, a *Sinumpaang Salaysay*⁷ was filed by Elpidio C. Ocampo (Ocampo) before the Office of the City Prosecutor of Quezon City (OCP) docketed as I.S No. 06-9799 against Sps. Zalamea for the crimes of Grave Threats, Grave Coercion, Unjust Vexation, Robbery, Malicious Mischief, and violation of Presidential Decree No. (P.D.) 1866. He filed another *Sinumpaang Salaysay*⁸ in I.S. No. 06-12248 against Manuel for the crimes of Child Abuse, Grave Coercion, Malicious Mischief, Grave Threats, and Unjust Vexation. Likewise, Mario Cleofe (Cleofe) filed a separate *Sinumpaang Salaysay* before the OCP against Manuel docketed as I.S. Nos. 06-12246⁹ and 06-12247¹⁰ for the crimes of Grave Coercion, Malicious

¹ *Rollo*, pp. 15-35.

² Penned by Associate Justice Celia C. Libre-Leagogo, with Associate Justices Remedios A. Salazar-Fernando and Michael P. Elbinias, concurring; id at 36-60.

³ Id. at 61-62.

⁴ Id. at 121-147.

⁵ Not attached to the *rollo*.

⁶ *Rollo*, pp. 93-103.

⁷ Id. at 76-79.

⁸ Id. at 104-107.

⁹ Id. at 108-111.

¹⁰ Not attached to the *rollo*.

Mischief, Grave Threats, Unjust Vexation, and Child Abuse.

In his Complaint in I.S No. 06-9799, Ocampo alleged that he is the owner and manager of EchoTech sounds and lights system and equipment, which were kept in a room in the first floor of the house located in 20 Speaker Perez Street, Barangay Lourdes, Quezon City. He was able to use the room as a warehouse since September 2003 by virtue of an authorization given by a certain Mrs. Rosario K. De Guzman. His equipment was under the care of Federico Albania (Federico). Sps. Zalamea live in the second floor of the building and they allegedly prohibited anyone from entering the warehouse except Federico. However, on September 14, 2016, Federico informed Ocampo that Michelle threatened him by saying, "*Hoy! Huwag ka na papasok dito kundi ipapabaril kita sa security guard!*" She also angrily said, "*Pag hindi kayo lumabas dito, pagbabarilin ko kayo!*"¹¹ When they did not leave, Michelle got an armalite-like gun and pointed it at them, however, Manuel got hold of the gun and hid it. They also asserted that the Sps. Zalamea padlocked the warehouse and poured foul-smelling liquid in their bathroom.¹²

In his Complaint in I.S. No. 06-12246, Cleofe argued that he was also residing at 20 Speaker Perez Street, Barangay Lourdes, Quezon City, employed as a liaison officer of ARL Business Consultancy owned by Atty. Rodolfo De Guzman (Atty. De Guzman) and Mrs. Rosario De Guzman (Rosario; collectively, Sps. De Guzman). On August 6, 2006, when he was about to spray insecticide in the ARL office, he noticed that the three corners of the office were destroyed. He asked the guard on duty, who said that it was Sps. Zalamea who ordered their people to destroy the room. When it was clear to him that Sps. Zalamea's intention was to get the property, he conveyed the incident to Atty. De Guzman who reported it to the police station. Michelle also allegedly threw a piece of wood at him while saying, "*[a]no ang tinitingin-tingin mo dyan?*" Thereafter, Atty. De Guzman and Sps. Zalamea had an altercation near the vicinity of the building. The next day, Cleofe noticed that the door was padlocked, contrary to their agreement that nobody will touch the place.¹³

In I.S. No. 06-12246, Michelle denied having shouted at Cleofe and claimed that the latter was merely being used by Atty. De Guzman and Rosario in order to bully them in their peaceful occupancy of the property. She also posited that Cleofe cannot lodge, in a single complaint, five different offenses in violation of their right to be informed of the charges against them.¹⁴

¹¹ *Rollo*, p. 94.

¹² *Id.* at 95.

¹³ *Id.*

¹⁴ *Id.* at 96.

In I.S. No. 06-12247, Cleofe alleged that on November 12, 2006, at around 3:40 p.m., while inside the building belonging to Atty. de Guzman, he was awoken by footsteps of persons climbing the stairs to the second floor and heard someone saying “[i]handá na ang mga bata[.]” A few minutes thereafter, he smelt pungent odor of chemicals emanating from the second floor of the building. He learned later on that the chemical was “solignum,” used to treat termites. As a result, his minor children experienced nausea and vomiting. He then heard a commotion outside the building and when he went out, he saw more or less 28 people trying to destroy the door leading to their quarters. He also saw policemen in the vicinity and barangay tanods. Manuel allegedly padlocked the gate and announced in the presence of everyone that whoever comes out of the building can no longer come in.¹⁵ In I.S. No. 12248, Ocampo had the same story as Cleofe.¹⁶

In all the complaints lodged against them, Sps. Zalamea countered that they are residents of the building, which has been owned by them since childhood as the ancestral home of Manuel’s grandparents who founded “Elar’s Lechon.” They claimed that Atty. De Guzman was their former counsel who represented them in their dealings with Banco de Oro (BDO) to redeem the building foreclosed by the bank in 2001. After completing the payments, Atty. De Guzman allegedly laid a claim to the property, which prompted BDO to file an interpleader case.¹⁷ Additionally, in I.S. No. 06-9799, Sps. Zalamea filed an Omnibus Motion¹⁸ contending that the filing of six different crimes in one complaint violated their right to be informed of the charges and accusations against them. They also noted that the proceeding in the OCP should be suspended by reason of prejudicial question because of the interpleader case filed before it. They also manifested that an existing case to determine ownership of the subject property was filed by Sps. Zalamea against Sps. De Guzman.¹⁹

Because of the similarity of the issues and the parties involved, the OCP consolidated the cases. On April 1, 2008, the OCP issued its Resolution,²⁰ which discussed point by point the allegations forwarded by Sps. Zalamea. It was held that even though Ocampo and Cleofe lumped different crimes in one complaint, what was controlling was the recital in the complaint and not the designation of the offenses. The OCP saw no problem in the filing of one complaint, which recites different offenses considering that the acts were committed in one instance.²¹ It was also discussed that there is no need to suspend the proceedings because the interpleader case was not a prejudicial question.²² Of all the crimes filed by Ocampo and

¹⁵ Id. at 97.
¹⁶ Id. at 97-98.
¹⁷ Id. at 98.
¹⁸ Id. at 85-92.
¹⁹ Id. at 99.
²⁰ Id. at 93-103.
²¹ Id. at 99.
²² Id. at 99-100.

Cleofe, the OCP only found probable cause to charge Sps. De Guzman with: (1) one count of Robbery under I.S. No. 06-9799 because of the intent to gain exemplified by the act of padlocking the doors of the warehouse, which contained the audio and light equipment belonging to Ocampo;²³ (2) one count of Simple Negligence resulting in Slight Physical Injuries because of the use of “solignum,” which injured the minor children of Ocampo and Cleofe, since according to the OCP, a simple courtesy of informing them of the plan to use “solignum” should have sufficed but the same was not done;²⁴ and (3) two counts of Grave Coercion against Manuel because of his acts of threatening and preventing Ocampo and Cleofe from entering the premises of the building and padlocking the same.²⁵

On June 4, 2008, Sps. Zalamea filed their Partial Petition for Review²⁶ to the DOJ, which was dismissed. Because of this, they filed a Petition for *Certiorari*²⁷ to the CA. Sps. Zalamea posited that they were deprived of due process because they were not given the chance to file their counter-affidavit in I.S. No. 06-9799 and that their omnibus motion was without prejudice to their filing of a counter-affidavit.²⁸ They also discussed in the petition all their defenses as to why there should not have been a finding of probable cause in the three offenses as resolved by the OCP. They also reiterated that the subject building was owned by them.²⁹

On October 28, 2010, the CA rendered its Decision³⁰ finding no grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the DOJ. The CA ruled that there was no violation of the right to due process because the cases were consolidated and hearings were conducted by the OCP therein. Sps. Zalamea also filed their omnibus motion in I.S. No. 06-9799, which discussed the procedural and substantive defects of the complaints. Lastly, in their partial petition for review, Sps. Zalamea extensively argued why there was no probable cause to charge them of Robbery. Hence, they had all the opportunity to be heard and raise their defenses.³¹ As to the allegation of prejudicial question, the CA echoed the findings of the DOJ and OCP in saying that the interpleader case did not present a prejudicial question, which necessitates the suspension of the criminal proceedings. Whatever was the outcome of the interpleader case has no bearing upon the determination of Sps. Zalamea’s innocence or guilt in the cases filed against them. Besides, the Regional Trial Court, in an Order³² dated December 10, 2007, dismissed the interpleader case.

²³ Id. at 100.

²⁴ Id. at 102.

²⁵ Id. at 101.

²⁶ Id. at 201-229.

²⁷ Id. at 121-147.

²⁸ Id. at 48.

²⁹ Id.

³⁰ Supra note 2.

³¹ *Rollo*, p.52.

³² Id. at 235-237.

Sps. Zalamea moved for reconsideration which was, likewise, denied in a Resolution³³ dated January 31, 2011. Because of the dismissal of their Petition for *Certiorari*, Sps. Zalamea filed this Petition for Review on *Certiorari*.³⁴ They reiterated the allegations of violation of due process and the presence of prejudicial question.

Ocampo and Cleofe filed their Comment³⁵ dated May 4, 2012. The Office of the Solicitor General (OSG), likewise, filed its Comment³⁶ dated April 18, 2013. Sps. Zalamea filed their Reply³⁷ dated August 22, 2013. Thereafter, the parties filed their respective memoranda; after which, the case was submitted for resolution.

The Court's Ruling

After a perusal of the records of the case, this Court resolves to deny the Petition for Review on *Certiorari* for failure of petitioners to show that the CA committed any reversible error in dismissing the petition.

As amply resolved by the CA, Sps. Zalamea were not deprived of their right to due process for not being able to file a counter-affidavit in I.S. No. 06-9799. It must be noted that Sps. Zalamea filed an omnibus motion in I.S. No. 06-9799 without prejudice to their filing of a counter-affidavit. In their omnibus motion, they were able to explain the alleged procedural and substantive defects of the complaints filed by Ocampo and Cleofe. In their partial petition for review to the DOJ, they were also able to explain why there should not have been a finding of probable cause for the crime of robbery as alleged in I.S. No. 06-9799.

As discussed by this Court, the essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard. Procedural due process simply means the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of. "To be heard" does not mean only verbal arguments in court; one may also be heard through pleadings. Where the opportunity to be heard, either through oral arguments or pleadings, is accorded, and there is no denial of procedural due process.³⁸

In the case of *Vivo v. Philippine Amusement and Gaming Corporation*,³⁹ this Court ruled that any procedural defect in the proceedings taken against the government employee therein was cured by his filing of a motion for reconsideration and by his appealing the adverse result to the

³³ Supra note 3.

³⁴ *Rollo*, pp. 15-35.

³⁵ *Id.* at 171-199.

³⁶ *Id.* at 267-274.

³⁷ *Id.* at 277-286.

³⁸ *Ebdane, Jr. v. Apurillo*, 755 Phil. 298, 306 (2013).

³⁹ 721 Phil. 34(2013).

administrative agency. Also, in the case of *Gonzales v. CSC*,⁴⁰ it was held that any defect in the observance of due process is cured by the filing of a motion for reconsideration, and that denial of due process cannot be successfully invoked by a party who was afforded the opportunity to be heard. Similarly, in the case of *Autencio v. Mañara*,⁴¹ this Court observed that defects in procedural due process may be cured when the party has been afforded the opportunity to appeal or to seek reconsideration of the action or ruling complained of.

In this case, even assuming that Sps. Zalamea were not given the chance to file their counter-affidavit in I.S. No. 06-9799, nevertheless, they were given numerous chances to thresh out their defenses in their Motion for Reconsideration and Partial Petition for Review and Petition for *Certiorari*. Hence, they cannot cry foul and assume that their right to due process was violated.

There was no need to discuss the presence of prejudicial question brought about by the interpleader case filed by BDO because the same has already been dismissed.

Lastly, it is a well-settled rule that courts do not interfere with the prosecutor's conduct of a preliminary investigation. The prosecutor's determination of probable cause is solely within his or her discretion. Prosecutors are given a wide latitude of discretion to determine whether an information should be filed in court or whether the complaint should be dismissed.⁴² In this case, there was no reason for the Court to depart from the foregoing rule. Besides, probable cause has been defined as such facts and circumstances which could lead a reasonable, discreet and prudent man to believe that an offense has been committed and the accused are probably guilty thereof.⁴³ A finding of probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of constitutes the offense charged.⁴⁴ Hence, the presence or absence of the elements of the crime is evidentiary in nature and is a matter of defense that may be passed upon after a full-blown trial on the merits.⁴⁵

WHEREFORE, premises considered, the instant petition for review on *certiorari* is hereby **DENIED** for lack of merit and for failure of petitioners to show that the Court of Appeals committed any reversible error in its Decision dated October 28, 2010 and Resolution dated January 31, 2011 in CA-G.R. SP No. 115276 as to warrant the exercise of this Court's discretionary appellate jurisdiction.

⁴⁰ 524 Phil. 271 (2006).

⁴¹ 489 Phil. 752 (2005).

⁴² *De Lima v. Reyes*, 776 Phil. 623 (2016).

⁴³ *People v. Malmstedt*, 275 Phil. 447 (1991).

⁴⁴ *Metropolitan Bank and Trust Company v. Reynado*, 641 Phil. 208 (2010).

⁴⁵ *Id.*

SO ORDERED.”

Very truly yours,

Misael D C Batt
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court

3/3/20

Atty. Emil Karlo LL. Joven
Counsel for Petitioners
DELLORO ESPINO & SAULOG LAW OFFICES
Units 911 & 912, Citystate Centre Bldg.
709 Shaw Boulevard cor. Orambo Drive
1600 Pasig City

COURT OF APPEALS
CA G.R. SP No. 115276
1000 Manila

Atty. Virgilio C. Leynes
Counsel for Respondents
LEYNES SARMINETO & ASSOCIATES
Unit 303-B, Cedar Mansion
JM Escriva Drive, Ortigas Center
1605 Pasig City

The Hon. Secretary
DEPARTMENT OF JUSTICE
Padre Faura Street
1000 Ermita, Manila
(I.S. Nos. 06-9799 & 06-12246 to 06-12248)

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

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