

SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

BDO UNIBANK, INC.,
Petitioner,

G.R. No. 237553

Present:

PERALTA, *J.*, Chairperson,
LEONEN,
REYES, A., JR.,
HERNANDO, and
INTING, *JJ.*

-versus-

ANTONIO CHOA,
Respondent.

Promulgated:
July 10, 2019
Mis-DCBatt

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DECISION

LEONEN, J.:

When a demurrer is granted in a criminal case, the private complainant can file a Rule 65 petition on the civil aspect of the case, as long as he or she can show that the trial court committed grave abuse of discretion in granting the demurrer.

This Court resolves a Petition for Review on Certiorari¹ under Rule 45 of the 1997 Rules of Civil Procedure, assailing the October 24, 2017 Decision² and February 13, 2018 Resolution³ of the Court of Appeals in CA-

¹ *Rollo*, pp. 27–87.

² *Id.* at 9–21. The Decision was penned by Associate Justice Sesonando E. Villon, and concurred in by Associate Justices Manuel M. Barrios and Renato C. Francisco of the Ninth Division, Court of Appeals, Manila.

³ *Id.* at 22–23. The Resolution was penned by Associate Justice Sesonando E. Villon, and concurred in

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G.R. SP No. 140059.⁴ The Court of Appeals affirmed the November 26, 2014⁵ and February 12, 2015⁶ Orders of the Regional Trial Court, which granted Antonio Choa (Choa)'s Demurrer to Evidence.

On February 28, 2008, an Information⁷ was filed before the Regional Trial Court of Pasig City against Choa, then president and general manager of Camden Industries, Inc. (Camden). He was charged with violating Presidential Decree No. 115, or the Trust Receipts Law, to the prejudice of BDO Unibank, Inc. (BDO), the private complainant. The Information read:

That, on or about and during the period beginning March 12, 1999 until May 20, 1999, in the then Municipality of San Juan, now City of San Juan, a place within the jurisdiction of this Honorable Court, the above named accused, being then the President and General Manager of Camden Industries, Inc., execute several Trust Receipt Agreements with Nos. 0006, 0007, 0008, 0009, 0024, 0025, 0046 and 0047 in favor of Equitable PCI Bank (now Banco De Oro-EPCI, Inc.), herein represented by its Senior Manager Danilo M. De Dios, in consideration of the receipt by the said accused of . . . for which there is now due the sum of Php 7,875,904.96 under the terms of which the accused agreed to sell the same with express obligation to remit to the complainant bank proceeds of the sale and/or turn over the same if not sold or disposed of in accordance with the said Trust Receipt Agreements on demand, but the accused once in possession of the said good, far from complying with his obligation and with unfaithfulness and abuse of confidence, did then and there willfully, unlawfully and feloniously, misappropriate, misapply and convert to his own personal use and benefit the said goods and/or the proceeds of the sale thereof, and despite repeated demands, failed and refused to account for and/or remit the proceeds of the sale thereof, to the damage and prejudice of the said complainant bank in the aforementioned amount of Php7,875,904.96.

CONTRARY TO LAW.⁸

Trial ensued. The prosecution presented Gerard K. Santiago (Santiago) and Froilan Carada (Carada) as its witnesses.⁹ The witnesses testified, among others, that per Civil Case No. 70098, entitled "*CAMDEN Industries, Inc. v. Equitable PCI Bank*" (Pasig civil case), which had been elevated to the Court of Appeals, BDO supposedly owed Camden the judgment award of ₱90 million.¹⁰ They testified:

by Associate Justices Manuel M. Barrios and Renato C. Francisco of the Former Ninth Division, Court of Appeals, Manila.

⁴ Id. at 76.

⁵ Id. at 809–814. The Order, in Crim. Case No. 137326, was issued by Judge Leoncio M. Janolo, Jr. of Branch 264, Regional Trial Court, Pasig City (assigned in San Juan City).

⁶ Id. at 906–909. The Order, in Crim. Case No. 137326, was issued by Judge Leoncio M. Janolo, Jr. of Branch 264, Regional Trial Court, Pasig City (assigned in San Juan City).

⁷ Id. at 414–415.

⁸ Id. at 414 and 812.

⁹ Id. at 90 and 809.

¹⁰ Id. at 810. Gerard Santiago was then the account officer of BDO who handled Camden, Inc.'s account with respect to the Trust Receipt Agreements (id. at 602), while Froilan Carada was the head of the

a. The subject trust receipts are for the account of CAMDEN Industries[;]

b. The complainant bank did not sue CAMDEN for the liability. The only one they sued was CAMDEN's President, the accused;

c. CAMDEN sued the bank and was awarded P90M plus. The bank was ordered to pay CAMDEN the same amount. The case is now on appeal to the Court of Appeals;

d. Upon the other hand, the money claim of the bank against CAMDEN and/or for the accused is P20M plus;

e. On clarificatory question by the court, the prosecution witness Gerard Santiago [a]dmitted that currently the bank is a judgment debtor of CAMDEN in the amount of P90M plus while the bank's claim against CAMDEN/accused is P20M plus[.]¹¹

On August 20, 2014, the prosecution filed its Formal Offer of Documentary Evidence,¹² which the trial court admitted in its September 12, 2014 Order.¹³ In the same Order, the trial court gave Choa 10 days to comment on the prosecution's evidence.¹⁴

On September 25, 2014, Choa filed his Comment.¹⁵

Later, on October 13, 2014, Choa filed a Motion for Leave (To file Demurrer to Evidence),¹⁶ attached to which was his Demurrer to Evidence.¹⁷ In both pleadings, Choa argued:

It would thus appear that CAMDEN, represented by the accused, and the bank, assuming *arguendo* without admitting the bank's theory of the case, are mutually creditors and debtors of each other (*Art. 1278, Civil Code*). Consequently, their obligations are extinguished proportionately by operation of law. Since the P20M plus being claimed by the bank is more than offset by the P90M plus judgment against the bank, there is no basis for the claim of violation of the *Trust Receipts Law*. At the very least, it would be impossible under such premises to build the case beyond reasonable doubt.¹⁸ (Emphasis in the original)

In its October 20, 2014 Order,¹⁹ the trial court directed the prosecution

Letters of Credit Section of the Trade Processing Center of BDO (id. at 674).

¹¹ Id. at 809–810.

¹² Id. at 683–696.

¹³ Id. at 762.

¹⁴ Id.

¹⁵ Id. at 766–767.

¹⁶ Id. at 769–770.

¹⁷ Id. at 772–773.

¹⁸ Id. at 769 and 772.

¹⁹ Id. at 776.

to comment on Choa's pleading, and Choa's counsel to reply on the comment if needed.²⁰

On October 30, 2014, the prosecution filed its Opposition.²¹ Arguing that the Motion for Leave should be expunged from the records, it claimed that the pleading was *pro-forma* for being filed beyond the five (5)-day reglementary period under Rule 119, Section 23 of the Rules of Court.²²

Even if the Motion was timely filed, the prosecution asserted that it should still be denied for lack of basis, maintaining that Choa's civil liabilities could not have been offset by the judgment award granted to Camden in the Pasig civil case. It points out that since Choa's civil liabilities stemmed from his criminal violations of the Trust Receipts Law,²³ they could not be the subject of compensation.²⁴

The prosecution added that the decision of the trial court, which had awarded Camden ₱90 million, was reversed and set aside by the Court of Appeals.²⁵

On November 26, 2014, the trial court issued an Order²⁶ granting Choa's Demurrer to Evidence. Based on the records and the witnesses' testimonies, it found that the prosecution failed to establish Choa's guilt.²⁷

The trial court found that: (1) the amounts BDO and Camden owed each other—BDO's ₱90 million judgment debt to Camden, and Camden's ₱20 million judgment debt to BDO—may be legally compensated; (2) BDO failed to prove that Choa was liable for ₱7,875,904.96, and that this amount formed part of the ₱20 million trust receipt; and (3) BDO failed to prove Choa's criminal intent in not paying or turning over the goods.²⁸

From these findings, the trial court declared that "the case is subject to compensatory action, which is civil in nature."²⁹

The dispositive portion of the Regional Trial Court Order read:

WHEREFORE, premises considered, accused Antonio Choa's

²⁰ Id.

²¹ Id. at 778–790.

²² Id. at 779–783.

²³ Id. at 784–789.

²⁴ Id. at 785 *citing* CIVIL CODE, art. 1288.

²⁵ Id. at 786–789.

²⁶ Id. at 809–814.

²⁷ Id. at 811.

²⁸ Id. at 811–813.

²⁹ Id. at 814.



Demurrer to Evidence is hereby **GRANTED**.

SO ORDERED.³⁰ (Emphasis in the original)

The prosecution filed a Motion for Reconsideration,³¹ which the trial court denied in its February 12, 2015 Order.³²

Thus, BDO filed before the Court of Appeals a Petition for Certiorari,³³ assailing the trial court's November 26, 2014 and February 12, 2015 Orders. It argued that the trial court judge committed grave abuse of discretion in:

1. granting Choa's Demurrer to Evidence despite being filed out of time;
2. granting the Demurrer to Evidence without first resolving the Motion for Leave and giving BDO due process;
3. ruling that Choa's civil liabilities may be legally compensated with the judgment award in the Pasig civil case despite it being irrelevant to this case, and despite the award having been reversed by the Court of Appeals;
4. granting the Demurrer to Evidence despite the prosecution having established a *prima facie* case for Choa's violation of the Trust Receipts Law; and
5. ruling that the prosecution failed to present enough proof of Camden's outstanding obligations to BDO despite evidence to the contrary.³⁴

Affirming the trial court's Orders, the Court of Appeals issued its October 24, 2017 Decision³⁵ denying BDO's Petition. It found that Choa filed his Motion for Leave within the prescriptive period since the prosecution could not "yet be deemed to have rested its case."³⁶ It explained that the trial court only "physically 'admitted'"³⁷ in its September 12, 2014 Order the prosecution's Formal Offer of Documentary Evidence, but had yet to rule on its admissibility. This was shown, the Court of Appeals explained,

³⁰ Id.

³¹ Id. at 816-842.

³² Id. at 906-909.

³³ Id. at 911-971.

³⁴ Id. at 925-927.

³⁵ Id. at 89-101.

³⁶ Id. at 97.

³⁷ Id.

when Choa was also directed to submit his Comment.³⁸

The Court of Appeals added that BDO was not denied due process. It pointed out that the bank's filing of its Opposition and subsequent Motion for Reconsideration showed that it had been given an opportunity to be heard.³⁹ The Court of Appeals noted that when the opportunity to be heard is accorded, "there is no denial of procedural due process."⁴⁰

Finally, the Court of Appeals held that BDO failed to show how the trial court had committed grave abuse of discretion in issuing the September 12, 2014 Order.⁴¹ Even if the trial court erred in granting Choa's Demurrer to Evidence, the Court of Appeals stated that this error was not "capricious and whimsical as to constitute grave abuse of discretion."⁴²

The dispositive portion of the Court of Appeals Decision read:

WHEREFORE, the instant petition is hereby **DENIED**. **ACCORDINGLY**, the assailed Orders dated November 26, 2014 and February 12, 2015 of the Regional Trial Court of Pasig City (assigned in San Juan City), Branch 264, in Criminal Case No. 137326, are hereby **AFFIRMED**.

SO ORDERED.⁴³ (Emphasis in the original)

BDO moved for reconsideration,⁴⁴ but the Court of Appeals denied the Motion in its February 13, 2018 Resolution.⁴⁵

Hence, BDO filed this Petition for Review on Certiorari,⁴⁶ assailing the October 24, 2017 Decision and February 13, 2018 Resolution of the Court of Appeals.⁴⁷

On November 5, 2018, Choa filed his Comment.⁴⁸ In turn, BDO filed its Reply⁴⁹ on February 1, 2019.

Petitioner insists that the Motion for Leave was not timely filed. It

³⁸ Id.

³⁹ Id. at 100.

⁴⁰ Id.

⁴¹ Id. at 98–100.

⁴² Id. at 98.

⁴³ Id. at 101.

⁴⁴ Id. at 1195–1223.

⁴⁵ Id. at 103–104.

⁴⁶ Id. at 27–87.

⁴⁷ Id. at 76.

⁴⁸ Id. at 1317–1358.

⁴⁹ Id. at 1363–1382.

avers that under Rule 119, Section 23 of the Rules of Court, respondent should have filed his Motion for Leave within five (5) days from September 12, 2014, when the prosecution supposedly rested its case after its documentary evidence had been admitted by the trial court judge.⁵⁰ It claims that if, according to the Court of Appeals, the prosecution did not rest its case at the time of the filing of the Motion for Leave, then the trial court's judgment granting the Demurrer to Evidence was premature, and therefore, void.⁵¹

Moreover, petitioner contends that the trial court should have first ruled on respondent's Motion for Leave,⁵² as this would have helped "in determining whether he is merely stalling the proceedings."⁵³ Nonetheless, even if the trial court judge was allowed to resolve respondent's Demurrer to Evidence without first ruling on the Motion, petitioner claims that the prosecution should have been given 10 days from notice of the ruling on the Motion so it could file its Opposition to the Demurrer to Evidence.⁵⁴ What happened, petitioner claims, was that the prosecution was deprived of an opportunity to be heard on both pleadings.⁵⁵

Petitioner maintains that it was deprived of an opportunity to present extensive evidence on the overpayment in the Pasig civil case as it believed that the trial court would not use the Pasig civil case judgment in resolving the Demurrer to Evidence. It points out that the trial court has consistently stated in three (3) Orders—July 21, 2008, April 14, 2009, and November 8, 2010—that the Pasig civil case was irrelevant to this case. It says it did not know that the trial court would use the Pasig civil case judgment in ruling that the judgment debts may be offset.⁵⁶

Finally, petitioner avers that the Court of Appeals should have decided on the merits of the Demurrer to Evidence after the trial court judge had committed grave abuse of discretion in:

1. allowing respondent to comment on the Formal Offer of Documentary Evidence despite it having already been admitted;
2. granting the Motion for Leave despite being filed belatedly;
3. denying petitioner due process by granting the Motion and Demurrer to Evidence without giving the prosecution a chance to

⁵⁰ Id. at 50–53.

⁵¹ Id. at 53–56.

⁵² Id. at 60–64.

⁵³ Id. at 63.

⁵⁴ Id. at 64.

⁵⁵ Id.

⁵⁶ Id. at 56–60.

refute the pleadings;

4. ruling—contrary to the Civil Code—that there could be legal compensation between the judgment debt in Camden’s favor and respondent’s civil liability arising from a criminal case;
5. ignoring the Court of Appeals Decision that reversed the trial court Decision awarding the judgment debt in Camden’s favor;
6. ruling that respondent’s obligation to petitioner was a mere loan, despite his liability for violating the Trust Receipts Law;
7. ignoring that respondent’s violation of the Trust Receipts Law was *malum prohibitum*; and
8. ruling that the prosecution failed to present proof of Camden’s outstanding obligations to petitioner.⁵⁷

In his Comment,⁵⁸ respondent counters that this Petition should have been “denied outright for lack of authority.”⁵⁹ It maintains that petitioner was also appealing the criminal aspect of the case, which was exclusively within the Office of the Solicitor General’s authority. Without the conformity or authority of the Office of the Solicitor General, petitioner had no standing to appeal the criminal aspect of the case.⁶⁰

Respondent also insists that his Motion for Leave was not belatedly filed. Contrary to petitioner’s claim, the period of his Motion’s filing did not start on September 12, 2014, when the trial court admitted the prosecution’s exhibits. Respondent asserts that since the trial court directed him to comment on the evidence in the same Order, the trial court did not yet rule on the evidence’s admissibility. If the trial court indeed made a ruling on September 12, 2014, respondent asserts that petitioner should have moved for reconsideration or clarification of the Order, or it could have raised the alleged prematurity of the Motion for Leave earlier in its Opposition—but it did not do either.⁶¹

Respondent argues that petitioner was not deprived of its opportunity to be heard on both the Motion for Leave and the Demurrer to Evidence. He emphasizes that petitioner was duly represented at the hearing on the Motion

⁵⁷ Id. at 67–75.

⁵⁸ Id. at 1317–1358.

⁵⁹ Id. at 1324.

⁶⁰ Id. at 1324–1327.

⁶¹ Id. at 1328–1331.



for Leave, and that it filed its Opposition to both pleadings. He further argues that petitioner should have moved for reconsideration or clarification of the trial court's November 4, 2014 Order if it believed that the Motion, not the Demurrer, was the only subject for resolution.⁶²

Respondent avers that petitioner's other arguments involved an appreciation of evidence, which is not proper in a petition for certiorari filed before the Court of Appeals.⁶³ He reiterated that a Rule 65 petition "cannot be granted to correct mere errors in appreciation of facts or interpretation of law."⁶⁴

Maintaining that his guilt of the accusation in the Information has not been proven,⁶⁵ respondent argues that the prosecution failed to prove that he "was directly and personally responsible for the alleged violation of the Trust Receipts Law[.]"⁶⁶ He emphasizes that the prosecution witnesses had no personal knowledge of the trust receipt transactions, and that their testimonies were merely based on available records.⁶⁷

Moreover, respondent claims that the elements of the offense are absent in his case:

There is no proof that Respondent received the goods subject of the trust receipts (first element). There is no proof that he personally misappropriated such goods or the proceeds of their sale (second element). There is no proof that Respondent performed such act of misappropriation or conversion with abuse of confidence (third element). There is even no proof of demand upon him (fourth element).⁶⁸

Lastly, respondent points out that petitioner did not present any evidence on the alleged reversal of the Pasig civil case. He submits that petitioner did not submit a certified copy of the Court of Appeals Decision despite purportedly obtaining it before filing the Formal Offer of Documentary Evidence.⁶⁹

In its Reply,⁷⁰ petitioner maintains that it has personality in filing this case, citing as its bases *Rural Bank of Mabitac, Laguna, Inc. v. Canicon*⁷¹

⁶² Id. at 1331–1335. The November 4, 2014 Order stated that the Demurrer to Evidence would be deemed submitted for resolution after respondent had filed his reply.

⁶³ Id. at 1336–1339.

⁶⁴ Id. at 1337.

⁶⁵ Id. at 1339–1354.

⁶⁶ Id. at 1340.

⁶⁷ Id. at 1343.

⁶⁸ Id. at 1344.

⁶⁹ Id. at 1346–1348.

⁷⁰ Id. at 1363–1382.

⁷¹ G.R. No. 196015, June 27, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64171>> [Per J. Jardeleza, First Division].

and *David v. Marquez*.⁷² It refutes respondent's claim that its Petition should be dismissed for being filed without the Office of the Solicitor General's authority.⁷³

Petitioner insists that the trial court judge committed grave abuse of discretion in issuing the assailed Orders. As such, respondent was not validly acquitted and, consequently, there is no double jeopardy. Petitioner reiterates that it was able to sufficiently show the trial court judge's arbitrariness and abuse of authority in the way he handled the case.⁷⁴

Moreover, petitioner again submits that respondent's Motion for Leave was belatedly filed.⁷⁵

Petitioner reiterates that it was deprived of due process. It insists that the trial court failed to give it an opportunity to present evidence in relation to the Pasig civil case, and on both the Motion for Leave and Demurrer to Evidence.⁷⁶

On the Pasig civil case, petitioner asserts that it was not possible then to include the Court of Appeals Decision in its Formal Offer of Documentary Evidence since it received the copy after it had concluded its presentation of evidence. Nonetheless, it claims that it manifested the Decision and attached its copy to its Opposition before the trial court. Thus, it was able to inform the trial court judge of the Decision.⁷⁷

Petitioner argues that even if it did not include the Court of Appeals Decision in the case records, the Pasig civil case will still be irrelevant to the criminal case since "the trial court Judge [has] already ruled that the Pasig Civil Case will not determine the guilt or innocence of respondent[.]"⁷⁸

The issues for this Court's resolution are:

First, whether or not petitioner BDO Unibank, Inc. has the legal personality to file a Petition for Certiorari before the Court of Appeals; and

Second, whether or not the Court of Appeals erred in ruling that the trial court judge did not commit grave abuse of discretion when he issued the Order granting respondent Antonio Choa's Demurrer to Evidence.

⁷² 810 Phil. 187 (2017) [Per J. Tijam, Third Division].

⁷³ *Rollo*, pp. 1365–1366.

⁷⁴ *Id.* at 1367–1368.

⁷⁵ *Id.* at 1369–1372.

⁷⁶ *Id.* at 1372–1374.

⁷⁷ *Id.* at 1374–1379.

⁷⁸ *Id.* at 1378.

I

The State has the “inherent prerogative in prosecuting criminal cases and in seeing to it that justice is served.”⁷⁹ Subsumed under this right is the authority to appeal an accused’s acquittal. In *Bautista v. Cuneta-Pangilinan*,⁸⁰ this Court elaborated:

The authority to represent the State in appeals of criminal cases before the Supreme Court and the CA is solely vested in the Office of the Solicitor General (OSG). Section 35 (1), Chapter 12, Title III, Book IV of the 1987 Administrative Code explicitly provides that the OSG 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 lawyers. It shall have specific powers and functions to represent the Government and its officers in the Supreme Court and the CA, 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. The OSG is the law office of the Government.

To be sure, in criminal cases, the acquittal of the accused or the dismissal of the case against him can only be appealed by the Solicitor General, acting on behalf of the State. *The private complainant or the offended party may question such acquittal or dismissal only insofar as the civil liability of the accused is concerned.* In a catena of cases, this view has been time and again espoused and maintained by the Court. In *Rodriguez v. Gadiane*, it was categorically stated that if the criminal case is dismissed by the trial court or if there is an acquittal, the appeal on the criminal aspect of the case must be instituted by the Solicitor General in behalf of the State. *The capability of the private complainant to question such dismissal or acquittal is limited only to the civil aspect of the case. . .*

Worthy of note is the case of *People v. Santiago*, wherein the Court had the occasion to bring this issue to rest. The Court elucidated:

It is well-settled that in criminal cases where the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability. Thus, in the prosecution of the offense, the complainant’s role is limited to that of a witness for the prosecution. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General. Only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not take such appeal. *However, the said offended party or complainant may appeal the civil aspect despite the acquittal of the accused.*

⁷⁹ *People v. Subida*, 526 Phil. 115, 128 (2006) [Per J. Callejo, Sr., First Division].

⁸⁰ 698 Phil. 110 (2012) [Per J. Peralta, Third Division].

In a special civil action for certiorari filed under Section 1, Rule 65 of the Rules of Court wherein it is alleged that the trial court committed a grave abuse of discretion amounting to lack of jurisdiction or on other jurisdictional grounds, the rules state that the petition may be filed by the person aggrieved. In such case, the aggrieved parties are the State and the private offended party or complainant. The complainant has an interest in the civil aspect of the case so he may file such special civil action questioning the decision or action of the respondent court on jurisdictional grounds. In so doing, complainant should not bring the action in the name of the People of the Philippines. The action may be prosecuted in name of said complainant.

Thus, the Court has definitively ruled that in a criminal case in which the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability arising therefrom. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal of the criminal aspect may be undertaken, whenever legally feasible, only by the State through the solicitor general. As a rule, only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not undertake such appeal.⁸¹ (Emphasis supplied, citations omitted)

Here, although petitioner discussed respondent's criminal liability in its Petition for Certiorari, the totality of its arguments concerns the civil aspect of the case. It reinforced its position in its concluding paragraph:

All told, public respondent Judge clearly committed grave abuse of discretion amounting to lack and/or excess of jurisdiction in holding that the prosecution was not able to prove private respondent Choa's liability in the total amount of P7,875,904.96 as stated in the Information as well as CAMDEN's total outstanding obligation to petitioner BDO as of 31 March 2011 in the amount of P23,806,788.11.⁸²

Thus, petitioner has the legal personality to file a special civil action questioning the Regional Trial Court Orders insofar as the civil aspect of the case is concerned.

II

This Court will first resolve the procedural issue of whether the trial court erred in not dismissing outright respondent's Motion for Leave and Demurrer to Evidence for being filed out of time.

⁸¹ Id. at 122-124.

⁸² Rollo, p. 964.

Demurrer to evidence in criminal cases is governed by Rule 119, Section 23 of the Revised Rules of Criminal Procedure:

RULE 119

Trial

SECTION 23. *Demurrer to Evidence.* — After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.

If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution.

The motion for leave of court to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.

If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt.

The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment.

In *Valencia v. Sandiganbayan*,⁸³ this Court clarified:

A demurrer to evidence tests the sufficiency or insufficiency of the prosecution's evidence. As such, a demurrer to evidence or a motion for leave to file the same must be filed after the prosecution rests its case. But before an evidence may be admitted, the rules require that the same be formally offered, otherwise, it cannot be considered by the court. A prior formal offer of evidence concludes the case for the prosecution and determines the timeliness of the filing of a demurrer to evidence.⁸⁴

A review of the case records reveals that when the prosecution filed its Formal Offer of Documentary Evidence⁸⁵ on August 20, 2014, it included a reservation in its Prayer, which states:

PRAYER

⁸³ 510 Phil. 70 (2005) [Per J. Ynares-Santiago, First Division].

⁸⁴ Id. at 80.

⁸⁵ *Rollo*, pp. 683–696.

WHEREFORE, it is respectfully prayed that plaintiff People of the Philippines' Exhibits "A" to "P-I", inclusive of their submarkings, be admitted in evidence for the purposes for (*sic*) which they have been offered. *With the admission of the foregoing exhibits and the testimonies of Messrs. Gerard Santiago and Froilan Carada, for the purposes for (sic) which they are offered, plaintiff People of the Philippines hereby rests its case.*

In the event that the Honorable Court will deny the admission of any of the foregoing exhibits offered, it is respectfully prayed that the Honorable Court grant plaintiff People of the Philippines an opportunity to present additional evidence.

Other reliefs just and equitable are likewise prayed for.⁸⁶
(Emphasis supplied)

The prayer itself indicates that the prosecution would rest its case depending on whether the trial court admitted its evidence. If the trial court did not admit its evidence, the prosecution would present additional evidence; otherwise, it would rest its case. Due to this reservation, the five (5)-day period for the filing of a Motion for Leave had not yet started when petitioner filed its Formal Offer of Documentary Evidence.

The prosecution is deemed to have rested its case on September 12, 2014, when the trial court admitted its documentary evidence. In *Cabador v. People*,⁸⁷ this Court held that "only after [the court ruled on the prosecution's formal offer of documentary evidence] could the prosecution be deemed to have rested its case."⁸⁸

However, the counting of the five (5)-day period did not commence on August 20, 2014, when the prosecution filed its Formal Offer of Documentary Evidence; or on September 12, 2014, when the trial court admitted the evidence. Instead, it started upon respondent's receipt of the September 12, 2014 Order, for only then was he notified that the prosecution had rested its case.

Nonetheless, respondent filed his Motion for Leave and Demurrer to Evidence on October 13, 2014. To recall, the September 12, 2014 Order had also directed respondent to submit his comment/opposition, which he then submitted on September 25, 2014. Even if there is no record of when respondent received a copy of the Order, it can be surmised that he received it before September 25, 2014. It follows that the Motion for Leave and the Demurrer to Evidence were filed beyond the five (5)-day period under Rule

⁸⁶ Id. at 694.

⁸⁷ 617 Phil. 974 (2009) [Per J. Abad, Second Division].

⁸⁸ Id. at 982. See also *Magleo v. Judge De Juan-Quinagoran*, 746 Phil. 552, 560 (2014) [Per J. Mendoza, Second Division].

119, Section 23 of the Rules of Court. The trial court, then, should have denied these pleadings outright.

III

Nevertheless, even if the Motion for Leave and the Demurrer to Evidence were filed on time, the trial court judge still committed grave abuse of discretion in granting the Demurrer to Evidence.

Presidential Decree No. 115, or the Trust Receipts Law, defines a trust receipt transaction:

SECTION 4. *What constitutes a trust receipt transaction.* — A trust receipt transaction, within the meaning of this Decree, is any transaction by and between a person referred to in this Decree as the entruster, and another person referred to in this Decree as the trustee, whereby the entruster, who owns or holds absolute title or security interests over certain specified goods, documents or instruments, releases the same to the possession of the trustee upon the latter's execution and delivery to the entruster of a signed document called a "trust receipt" wherein the trustee binds himself to hold the designated goods, documents or instruments in trust for the entruster and to sell or otherwise dispose of the goods, documents or instruments with the obligation to turn over to the entruster the proceeds thereof to the extent of the amount owing to the entruster or as appears in the trust receipt or the goods, documents or instruments themselves if they are unsold or not otherwise disposed of, in accordance with the terms and conditions specified in the trust receipt, or for other purposes substantially equivalent to any of the following:

1. In the case of goods or documents, (a) to sell the goods or procure their sale; or (b) to manufacture or process the goods with the purpose of ultimate sale: Provided, That, in the case of goods delivered under trust receipt for the purpose of manufacturing or processing before its ultimate sale, the entruster shall retain its title over the goods whether in its original or processed form until the trustee has complied fully with his obligation under the trust receipt; or (c) to load, unload, ship or transship or otherwise deal with them in a manner preliminary or necessary to their sale; or
2. In the case of instruments, (a) to sell or procure their sale or exchange; or (b) to deliver them to a principal; or (c) to effect the consummation of some transactions involving delivery to a depository or register; or (d) to effect their presentation, collection or renewal.

The sale of goods, documents or instruments by a person in the business of selling goods, documents or instruments for profit who, at the outset of the transaction, has, as against the buyer, general property rights in such goods, documents or instruments, or who sells the same to the

buyer on credit, retaining title or other interest as security for the payment of the purchase price, does not constitute a trust receipt transaction and is outside the purview and coverage of this Decree.

Simply put, “a trust receipt transaction imposes upon the trustee the obligation to deliver to the entruster the price of the sale, or if the merchandise is not sold, to return the same to the entruster.”⁸⁹ *Gonzalez v. Hongkong & Shanghai Banking Corporation*⁹⁰ explained:

There are thus two obligations in a trust receipt transaction: the first, refers to money received under the obligation involving the duty to turn it over (*entregarla*) to the owner of the merchandise sold, while the second refers to merchandise received under the obligation to “return” it (*devolvera*) to the owner. A violation of any of these undertakings constitutes estafa defined under Art. 315 (1) (b) of the Revised Penal Code, as provided by Sec. 13 of Presidential Decree 115[.]⁹¹ (Citations omitted)

In granting respondent’s Demurrer to Evidence, the trial court consequently acquitted him of violation of the Trust Receipts Law. The Decision was based on grounds that: (1) petitioner owed Camden, which was represented by respondent, ₱90 million, while Camden owed petitioner ₱20 million, and both amounts can be legally compensated; (2) petitioner failed to provide evidence that respondent was liable for ₱7,875,904.96 as alleged in the Information, or that this amount formed part of the ₱20 million trust receipt; and (3) petitioner failed to provide evidence of respondent’s criminal intent in not paying or turning over the goods.

On the first ground, the trial court held:

In the instant case, what is evidently proved is that the complainant and CAMDEN, represented by the accused have earlier litigated on the issue of trust receipt. Accordingly, complainant BDO was decided on that case a judgment debtor in favor of the (sic) CAMDEN. It was testified that BDO is obligated to the accused Antonio Choa by as much as P90M more or less. On the other hand, CAMDEN, represented by the accused Antonio Choa, is claimed to have failed to pay and/or turn over the goods amounting to P20M.

....

What is clear from the record is that the accused is obligated to pay the private complainant BDO for the purchase of the goods.

Under this (*sic*) circumstances, the transaction is a mere loan extended to the accused who in turn is to pay the loan by way of

⁸⁹ *Gonzalez v. Hongkong & Shanghai Banking Corporation*, 562 Phil. 841, 858 (2007) [Per J. Chico-Nazario, Third Division].

⁹⁰ 562 Phil. 841 (2007) [Per J. Chico-Nazario, Third Division].

⁹¹ *Id.* at 858.

remittance of the proceeds of the sale. If the goods are unsold or surrender (*sic*) the collateral[,] no criminal liability arises. Hence, accused should not be held liable for violation of Presidential Decree No. 115 [p]roviding for the Regulation of the Trust Receipts Transactions.

....

... The mass of trust receipts subject of this case in the amount of P20M interspersed with the claim of P90M accused have against the complainant. Hence, the case is subject to compensatory action, which is civil in nature.⁹²

However, the judgment in the Pasig civil case is irrelevant here. Again, the issue here is whether Camden violated the Trust Receipt Agreements when it failed to deliver the proceeds of the sale of the goods to petitioner, or to return the goods should the merchandise remain unsold. Moreover, the Pasig civil case, which held petitioner as a judgment debtor of Camden, has yet to attain finality.⁹³ As such, it cannot be the basis of a judgment.

On the second ground, the trial court held:

However, a review of the information filed by 4th Assistant City Prosecutor, Ma. Dinna Paulino, reveals that the amount at issue is P7,875,904.96. . . .

....

There is nothing on record that the information of the prosecution even mentioned the specific amount of P7,875,904.96. All that testified is the P20M liability of the accused without specific proof of obligation how the accused was able to accumulate the P20M.

To the mind of the court, there is not even a probable cause sufficient to indict the accused for his minimal liability of P7,875,904.96. So far, the prosecution was able to advance an imaginary liability of P20M. There is even no proof posited that the P7,875,904.96 mentioned in the information, forms part of that P20M trust receipt.⁹⁴

Contrary to the trial court's ruling, the prosecution was able to show how it computed the amount of P7,875,904.96. In its Formal Offer of Documentary Evidence, the prosecution offered the following Trust Receipt Agreements and their corresponding amounts, which respondent received as Camden's representative:

Trust Receipt Agreement No. 006,	₱711,385.00
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⁹² *Rollo*, pp. 811–814.

⁹³ There is no Entry of Judgment of the Pasig civil case attached to the *rollo*.

⁹⁴ *Rollo*, p. 812.

dated March 12, 1999	
Trust Receipt Agreement No. 007, dated March 12, 1999	₱662,660.00
Trust Receipt Agreement No. 008, dated May 7, 1999	₱883,035.00
Trust Receipt Agreement No. 009, dated May 17, 1999	₱1,532,113.20
Trust Receipt Agreement No. 024, dated May 17, 1999	₱1,037,458.40
Trust Receipt Agreement No. 025, dated May 17, 1999	₱1,148,201.76
Trust Receipt Agreement No. 046, dated May 20, 1999	₱644,810.00
Trust Receipt Agreement No. 047, dated May 20, 1999	₱1,256,241.60 ⁹⁵

These amounts total ₱7,875,904.96. The trial court, then, cannot rule that the prosecution was not able to provide evidence. In addition, whether this amount formed part of the alleged ₱20 million trust receipt obligation of respondent is irrelevant. That is not the issue in this case, which deals with the violation of the Trust Receipts Law.

On the third ground, the trial court held:

Finally, records show that the prosecution failed to elicit strong evidence that the accused has criminal intent not to pay or turn over the goods to the private complainant.⁹⁶

Criminal intent is irrelevant in prosecuting the violation of the Trust Receipts Law. In *Gonzalez*:

That petitioner Gonzalez neither had the intent to defraud respondent HSBC nor personally misused/misappropriated the goods subject of the trust receipts is of no moment. The offense punished under Presidential Decree No. 115 is in the nature of *malum prohibitum*. *A mere failure to deliver the proceeds of the sale or the goods if not sold, constitutes a criminal offense that causes prejudice not only to another, but more to the public interest.* This is a matter of public policy as declared by the legislative authority. Moreover, this Court already held previously that failure of the entrustee to turn over the proceeds of the sale of the goods, covered by the trust receipt, to the entruster or to return said goods if they were not disposed of in accordance with the terms of the trust receipt shall be punishable as estafa under Art. 315(1)(b) of the Revised Penal Code *without need of proving intent to defraud.*⁹⁷ (Emphasis supplied, citations

⁹⁵ Id. at 683–691, Formal Offer of Documentary Evidence, and 697–710, Trust Receipt Agreements.

⁹⁶ Id. at 814.

⁹⁷ 562 Phil. 841, 860 (2007) [Per J. Chico-Nazario, Third Division].

omitted)

Thus, in granting the Demurrer to Evidence, the trial court judge committed grave abuse of discretion. Its Orders, therefore, should be reversed.

IV

As a consequence, this Court will now resolve the merits of the case based on petitioner's evidence. This is in line with the ruling in *Siyngco v. Costibolo*:⁹⁸

The rationale behind the rule and doctrine is simple and logical. The defendant is permitted, without waiving his right to offer evidence in the event that his motion is not granted, to move for a dismissal (i.e. demur to the plaintiff's evidence) on the ground that upon the facts as thus established and the applicable law, the plaintiff has shown no right to relief. If the trial court denies the dismissal motion, i.e., finds that plaintiff's evidence is sufficient for an award of judgment in the absence of contrary evidence, the case still remains before the trial court which should then proceed to hear and receive the defendant's evidence so that all the facts and evidence of the contending parties may be properly placed before it for adjudication as well as before the appellate courts, in case of appeal. Nothing is lost. This doctrine is but in line with the established procedural precepts in the conduct of trials that the trial court liberally receive all proffered (*sic*) evidence at the trial to enable it to render its decision with all possibly relevant proofs in the record, thus assuring that the appellate courts upon appeal have all the material before them necessary to make a correct judgment, and avoiding the need of remanding the case for retrial or reception of improperly excluded evidence, with the possibility thereafter of still another appeal, with all the concomitant delays. *The rule, however, imposes the condition by the same token that if his demurrer is granted by the trial court, and the order of dismissal is reversed on appeal, the movant loses his right to present evidence in his behalf and he shall have been deemed to have elected to stand on the insufficiency of plaintiff's case and evidence. In such event, the appellate court which reverses the order of dismissal shall proceed to render judgment on the merits on the basis of plaintiff's evidence.*⁹⁹ (Emphasis supplied)

In the more recent case of *Duque v. Spouses Yu*:¹⁰⁰

In short, defendants who present a demurrer to the plaintiffs' evidence retain the right to present their own evidence, if the trial court disagrees with them; if it agrees with them, but on appeal, the appellate court disagrees and reverses the dismissal order, the defendants lose the

⁹⁸ 136 Phil. 475 (1969) [Per J. Teehankee, En Banc].

⁹⁹ Id. at 488.

¹⁰⁰ G.R. No. 226130, February 19, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/63883>> [Per J. Velasco, Jr., Third Division].

right to present their own evidence. *The appellate court shall, in addition, resolve the case and render judgment on the merits*, inasmuch as a demurrer aims to discourage prolonged litigations.¹⁰¹ (Emphasis supplied, citation omitted)

Based on the prosecution's evidence, this Court cannot grant petitioner's Complaint.

The prosecution's evidence consists of copies of: (1) Trust Receipt Agreement Nos. 006, 007, 008, 009, 024, 025, 046, and 047 between Equitable PCI Bank, Inc.—petitioner's predecessor-in-interest—and Camden, with respondent signing as its representative; (2) a copy of the Demand Letter dated May 22, 2003 addressed to Camden and respondent; (3) Camden's Statement of Account as of March 31, 2011; (4) the Certificate of Filing of the Articles and Plan of Merger dated May 25, 2007 between petitioner and Equitable PCI Bank, Inc.; (5) the Plan of Merger dated December 28, 2006 between petitioner and Equitable PCI Bank, Inc.; (6) Santiago's Judicial Affidavit; and (7) Carada's Judicial Affidavit.¹⁰²

Although these pieces of evidence show that respondent signed the Trust Receipt Agreements, they do not show that he signed them in his personal capacity. On the bottom right corner of the agreements are two (2) lines: one for the "NAME OF CORPORATION," and the other for "AUTHORIZED SIGNATURE." In all agreements, "Camden Inds." was handwritten as the name of the corporation, while respondent's signature appeared as the authorized signature. Clearly, respondent affixed his signature only as Camden's representative.

Moreover, there was no guaranty clause or a similar clause on the page that he signed that would have made him personally liable in case of default of the company.¹⁰³ In *Tupaz IV v. Court of Appeals*:¹⁰⁴

A corporation, being a juridical entity, may act only through its directors, officers, and employees. Debts incurred by these individuals, acting as such corporate agents, are not theirs but the direct liability of the corporation they represent. As an exception, directors or officers are personally liable for the corporation's debts only if they so contractually agree or stipulate.¹⁰⁵ (Citations omitted)

Without any evidence that respondent personally bound himself to the

¹⁰¹ Id.

¹⁰² *Rollo*, pp. 683–694.

¹⁰³ See *Tupaz IV v. Court of Appeals*, 512 Phil. 47, 56–64 (2005) [Per J. Carpio, First Division]; *Ong v. Court of Appeals*, 449 Phil. 691, 709–711 (2003) [Per J. Carpio, First Division]; and *Prudential Bank v. Intermediate Appellate Court*, 290-A Phil. 1, 17–21 (1992) [Per J. Davide, Jr., Third Division].

¹⁰⁴ 512 Phil. 47 (2005) [Per J. Carpio, First Division].

¹⁰⁵ Id. at 56–57.

debts of the company he represented, this Court cannot hold him civilly liable under the Trust Receipt Agreements.

WHEREFORE, the Petition is **DENIED**.

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:



DIOSDADO M. PERALTA
Associate Justice
Chairperson



ANDRES B. REYES, JR.
Associate Justice



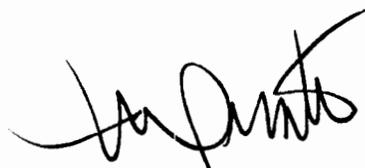
RAMON PAUL L. HERNANDO
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

ATTESTATION

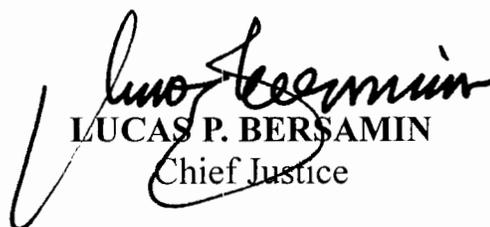
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Associate Justice
Chairperson

CERTIFICATION

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



LUCAS P. BERSAMIN
Chief Justice