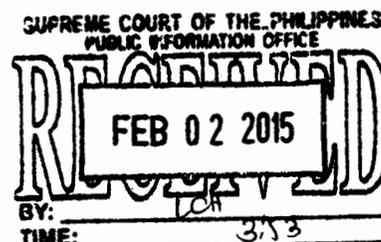




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 24, 2014 which reads as follows:

“G.R. No. 214069 – SPOUSES ANTONIO A. CHUA AND LEONIDEZ C. CHUA, *Petitioners* v. ROSITA FERRER-AMBROSIO, *Respondent*.- The petitioners’ motion for an extension of twenty (20) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period.

This petition for review assails the 30 August 2013 Decision¹ and 1 September 2014 Resolution² of the Court of Appeals in CA-G.R. SP No. 123875.

Respondent Rosita Ferrer-Ambrosio (Rosita) borrowed from petitioner Leonidez Chua (Leonidez) ₱200,000.00 secured by a parcel of land with TCT No. T-31097 in the name of Spouses Carlito Ambrosio and Rosita Ferrer-Ambrosio. Rosita failed to pay the loan on its due date on 8 December 2005.

On 20 November 2008, spouses Antonio Chua and Leonidez (Spouses Chua) filed a complaint for unlawful detainer against Rosita. It was only then when Rosita discovered that the title of the property used to secure the loan was cancelled and a new one was issued under TCT No. T-74111, in the name of Spouses Chua. Rosita also learned that there was an alleged Deed of Absolute Sale executed by them in favor of Spouses Chua on 11 March 2008. Rosita denied signing any deed of sale. She also claimed that her husband died in 4 April 1986 so it was also impossible for the latter to have signed the same.

- over – four (4) pages

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¹ Rollo, pp. 75-85.

² Id. at 92-93.

On 2 October 2009, Rosita filed a complaint for Falsification of Public Documents and Use of Falsified Documents against Spouses Chua. On 18 December 2009, the Assistant Provincial Prosecutor found probable cause and recommended that Spouses Chua be indicted for the crime charged.

Spouses Chua filed a motion for reconsideration but it was denied on 5 March 2010. They then filed on 20 April 2010 a petition for review before the Department of Justice (DOJ).

On 18 May 2011, the DOJ dismissed the petition for failure of Spouses Chua to attach a motion to defer proceedings filed in court, in violation of Section 5 of Department Circular No. 70. The DOJ moreover, found no error committed by the prosecutor to justify a reversal of his resolution.

Their motion for reconsideration having been denied, Spouses Chua filed a petition for *certiorari* with the Court of Appeals.

On 30 August 2013, the Court of Appeals dismissed the petition. The appellate court found no grave abuse of discretion on the part of the DOJ in dismissing the petition for review. The appellate court ruled that the DOJ resolution had complied with Department Circular No. 70 but it highlighted the fact that the dismissal is in accord with evidence and law by holding that the determination of probable cause for the filing of an information in court is an executive function which pertains at the first instance to the public prosecutor and then to the Secretary of Justice. The appellate court found that Spouses Chua's act of using the new TCT in their name in filing an ejectment case against Rosita constitutes probable cause to believe they were the ones who executed the falsified documents.

In the instant case, Spouses Chua insists that Section 5 of Department Circular No. 70 may be relaxed in this case as they had no intention to deliberately defy the rule. Moreover, they had attached the Order of Suspension in their motion for reconsideration. As to the issue of probable cause, Spouses Chua argues that there is no probable cause to indict them because they had no participation in the commission of the alleged falsification. Spouses Chua claims good faith because they themselves were also victims of a certain Mrs. Carulla, who processed the papers for the transfer of title in their names without knowledge of employment of illegal acts. To further prove their innocence, Spouses Chua filed a complaint for *estafa*, use of falsified document and falsification of public documents against Mrs. Carulla. Spouses Chua maintains that lack of malice or criminal intent is a defense in falsification of public document.

In order to arrive at a finding of probable cause, the elements of the crime charged should be present. In determining these elements for purposes of preliminary investigation, only facts sufficient to support a *prima facie* case against the respondent are required, not absolute certainty. Thus, probable cause implies mere probability of guilt, *i.e.*, a finding based on more than bare suspicion but less than evidence that would justify a conviction.³

The elements of falsification of public documents under Article 172 of the Revised Penal Code are: (1) the offender is a private individual or a public officer or employee who did not take advantage of his official position; (2) he committed any of the acts of falsification enumerated in Article 171 of the Revised Penal Code; and (3) the falsification was committed in a public, official or commercial document.⁴

Applying these elements, we uphold the existence of probable cause.

Spouses Chua's defense of lack of malice or intent and good faith is evidentiary in nature. As a matter of defense, it can be best passed upon after a full-blown trial on the merits. Public prosecutors do not decide whether there is evidence beyond reasonable doubt of the guilt of the person charged. They merely determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and that the accused is probably guilty thereof, and should be held for trial. A finding of probable cause does not require an inquiry as to whether there is sufficient evidence to secure a conviction. It is enough that prosecutors believe that the act or omission complained of constitutes the offense charged. Precisely, there is a trial for the reception of evidence of the prosecution in support of the charges.⁵

WHEREFORE, the petition is **DENIED**.

At any rate, the petition must also be **DENIED** for:

- (1) failure to state the material date when notice of the assailed decision was received, in violation of Secs. 4(b) and 5, Rule 45 in relation to Sec. 5(d), Rule 56, 1997 Rules of Civil Procedure, as amended;

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³ *Shu v. Dee*, G.R. No. 182573, 23 April 2014.

⁴ *Guillergan v. People*, G.R. No. 185493, 2 February 2011, 641 SCRA 511, 516.

⁵ *Deloso v. Desierto*, 372 Phil. 805, 814 (1999).

- (2) submitting an improper affidavit of service of the petition since it was not notarized on or after October 13, 2014, the actual date of posting of copies of the petition upon the parties; and
- (3) failure to accompany the petition with a clearly legible duplicate original or a certified true copy of the assailed decision certified by the Clerk of Court of the Court of Appeals, in violation of Secs. 4(d) and 5, Rule 45 in relation to Sec. 5(d), Rule 56, 1997 Rules of Civil Procedure, as amended.

SO ORDERED.” PERLAS-BERNABE, J., on leave;
VILLARAMA, JR., J., acting member per S.O. No. 1885 dated
November 24, 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court ^{11/24/14}
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Manila
(I.S. No. I-01E-INV-09J-00486)

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