



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

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

**“G.R. No. 220179 (PCInsp. Gollod, et al. v. DOJ National Prosecution Service, et al.).** – This Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 assails the Decision<sup>2</sup> of the Court of Appeals (CA) in CA-GR SP. No. 132777 finding no grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the Department of Justice Investigating Panel, which ruled that probable cause for multiple murder exists against petitioners.

**Facts of the Case**

The case stemmed from the investigation conducted by the National Bureau of Investigation (NBI) regarding the shooting incident that happened on January 6, 2013, at around 3:00 p.m. in Atimonan, Quezon. The shooting involved members of the Philippine National Police (PNP) and Armed Forces of the Philippines (AFP) against around 15 to 20 armed men suspected to be members of the gun-for-hire, illegal gambling, kidnap for ransom, and illegal drugs syndicates together with some policemen and members of the Philippine Air Force (PAF).<sup>3</sup> Thirteen men from the latter group died, namely:<sup>4</sup>

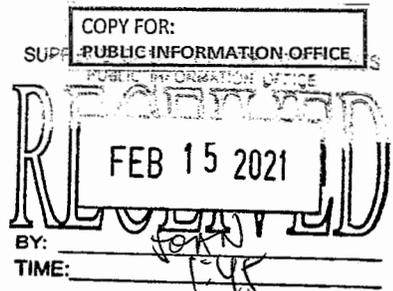
1. PSupt. Alfredo Consemينو;
2. SPO1 Gruet Alinea Mantuano;
3. PO1 Jeffrey Valdez;
4. 1Lt. Jimbeam Justiniani (PAF);
5. SSGt. Armando Lescano (PAF);
6. Victorino Siman Atienza, Jr.;
7. Conrado Decillo;
8. Tirso Lontok, Jr.;
9. Leonardo Marasigan;
10. Maximo Pelayo;
11. Paul Quiohilag;
12. Gerry Siman;

<sup>1</sup> Rollo, pp. 11-72.

<sup>2</sup> Penned by Associate Justice Carmelita Salandanan-Manahan, with the concurrence of Associate Justices Japar B. Dimaampao and Franchito N. Diamante; id. at 74-87.

<sup>3</sup> Id. at 75-76.

<sup>4</sup> Id.



13. Victor Siman.<sup>5</sup>

The NBI issued a Report<sup>6</sup> recommending the prosecution for multiple murder of several members of the PNP and AFP involved in the shooting.<sup>7</sup> Subsequently, the NBI filed with the Department of Justice (DOJ) a criminal complaint for multiple murder and the latter instituted an Investigating Panel to conduct a preliminary investigation on the matter.<sup>8</sup>

The NBI submitted voluminous documents, sworn statements of eyewitnesses and members of the investigating team including forensic examiners and agents in order to prove its case against the police officers and members of the AFP involved in the shooting incident.<sup>9</sup>

Three (3) eyewitnesses narrate that they were travelling from Visayas to Manila onboard a crane truck on January 6, 2013. Upon reaching Maharlika Highway in the vicinity of Plaridel, Quezon, they passed through a police check point being manned by uniformed policemen and soldiers as well as those in civilian clothing. They stopped for inspection when suddenly, two (2) SUV Monteros over took them and ignored the soldiers manning the first layer of the checkpoint. After halting the SUV Monteros in the second layer of the checkpoint, some soldiers asked the occupants thereof to alight but no one from the Monteros moved. Thereafter, they heard someone shout, "Fire! Fire" and the soldiers and policemen started shooting the SUV Monteros. The same man shouted "Stop! Cease fire!" and after a brief lull, they saw that a shot was fired from the first SUV Montero, which was followed by another volley of gunfire from the policemen and soldiers.<sup>10</sup>

A ballisticsian belonging to the team of NBI investigators found that the eight exit bullet holes on the rear right side of the first SUV Montero did not come from any shot fired from inside of the vehicle. An exit hole from the second SUV Montero matched with the pistol of one of those seated on the front right side of the vehicle. Further, only a few of the cartridges and shells recovered matched those of the rifles and pistols confiscated at the crime scene or turned over by the policemen and soldiers.<sup>11</sup>

Attys. Peter Chan Lugay and Arnold Diaz of the NBI testify that in the course of their investigation, personnel of the Quezon Province Crime Laboratory initially cooperated with them but in the succeeding interviews, they no longer entertained them. They also found that the pistols and high-powered firearms used by the PNP and AFP personnel during the shooting incident as seen in the photographs taken immediately thereafter are different from those surrendered by them for ballistic examination. The two NBI agents

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<sup>5</sup> Id. at 187.  
<sup>6</sup> Id. at 169-179.  
<sup>7</sup> Id.  
<sup>8</sup> Id. at 77.  
<sup>9</sup> Id. at 187.  
<sup>10</sup> Id. at 188.  
<sup>11</sup> Id. at 188-190.

suspect that the policemen and soldiers had the intention to conceal what really occurred that day.<sup>12</sup>

Felicisima Francisco, an NBI forensic chemist, who was sent to examine the two (2) SUV Monteros involved in the shooting, found that there was no indication that someone from inside the SUV Monteros fired a gun at the policemen and soldiers because there were no gun powder residues on any part of the interior of the cars. Edwin Purificando, another forensic chemist, who conducted a paraffin test on the victims, testified that majority of the victims were shot at close range or within 36 inches as shown by the gun powder nitrates in their clothing. Of the victims examined, only one (1) gave positive results for gun powder residues.<sup>13</sup>

PSupt. Jerry Valeroso recounts that at around 3:00 p.m. of January 6, 2013, he had a phone conversation about promotion with PSupt. Alfredo Consemينو, one of those killed in the shooting. He heard continuous ticking sound of metal hitting a glass until their line was cut. He learned later on about the incident and realized that the ticking sound must have been the bullets hitting the glass windshield of the vehicle.<sup>14</sup>

Petitioners submitted their counter-affidavits. PSupt. Hansel Marantan (PSupt Marantan), the former Deputy Chief of the Regional Intelligence Division (RID) of the Police Regional Office 4-A, vehemently denies the charges against him. According to him, at around midnight of January 5, 2013, he received an information from his reliable source that a convoy of four vehicles carrying 15 to 20 fully armed men shall pass through Maharlika Highway *en route* to Camarines Norte or Camarines Sur. In the early morning of January 6, 2013, he was only able to assemble a small team because it was a Sunday and most of his men were on leave.<sup>15</sup> Because of this, he sought assistance from PSupt. Ramon Balauag (PSupt. Balauag), Chief of the Provincial Intelligence Branch (PIB) of the Quezon Police Provincial Office and PCInsp. Grant Gollod (PCInsp. Gollod), Officer-in-Charge – Chief of Police of the Municipality of Atimonan, Quezon. Due to the holidays, PSupt. Balauag only managed to assemble eight (8) police officers to join the operation. He was advised by PSupt. Marantan to seek the support of the Army Special Forces Batallion stationed in Quezon.<sup>16</sup>

At around 1:00 p.m. of the same day, the groups of PSupt. Marantan, PSupt. Balauag and PCInsp. Gollod proceeded to Atimonan, Quezon to set up the three-layer check point. Later, the Army Special Forces headed by LTC Monico Abang (LTC Abang) arrived. PSupt. Marantan was able to confirm from his informants that the convoy were black Monteros and one of the passengers include Victor Siman, a known leader of a syndicated group in the

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<sup>12</sup> Id. at 190-191.

<sup>13</sup> Id. at 192.

<sup>14</sup> Id. at 193.

<sup>15</sup> Id. at 198.

<sup>16</sup> Id. at 199.

CALABARZON region. At around 3:18 p.m., the Atimonan police manning the first layer communicated that two (2) SUV Monteros overtook the queuing motorists. When they were about to reach the second layer but without intention to stop, LTC Abang ordered the Army truck to block their way. PSupt. Marantan slowly proceeded to the Montero in order to diplomatically ask the occupants to alight therefrom. However, gunshots came from the first Montero injuring him and causing him to lose consciousness. PSupt. Marantan maintains that there was no pre-conceived plan to kill any of the occupants of the two SUV Monteros. According to him, he was hoping that the occupants of the convoy would submit themselves to the checkpoint in order to prevent any untoward incident from happening.<sup>17</sup>

PSupt. Balauag testified that he was called by PSupt. Marantan and asked for assistance from the PIB. He readily agreed. He explained to his team the degree of their participation in the operation to be spearheaded by PSupt. Marantan of the RID. He instructed his subordinates that they will only gather and process intelligence information, conduct profiling through counter-intelligence and perform administrative duties.<sup>18</sup> He was surprised when at about 3:20 p.m., he heard gunshots prompting him to disembark from his vehicle. When he saw PSupt. Marantan fall and wounded, he shouted "Cease fire." He claims that he never discharged his service firearm.<sup>19</sup>

PCInsp. Gollod, for his part, avers that PSupt. Marantan called him requesting for assistance in setting up a check point in his area of responsibility. His version of the events coincides with the narration of PSupt. Marantan. He likewise denied discharging his service firearm or his participation in the alleged conspiracy to kill the passengers of the two (2) Monteros.<sup>20</sup>

PSInsp. John Paolo Carracedo (PSInsp. Carrecedo) was one of the men of PSupt. Marantan who was also involved in the operation. He claims that the operation was legitimate.<sup>21</sup>

The AFP personnel headed by LTC Abang narrated that their support in the operation headed by PSupt. Marantan was requested. LTC Abang organized two (2) teams as support.<sup>22</sup> As soon as they arrived in the check point already put in place, LTC Abang met with PSupt. Marantan, PSupt. Balauag and PCInsp. Gollod for a briefing. PSupt. Marantan informed him that the check point was set-up to intercept the group of Victor Siman involved in gun for hire, illegal gambling, kidnap for ransom and illegal drugs. He allegedly told PSupt. Marantan that the role of the AFP in the operation is only to provide support and augmentation.<sup>23</sup>

<sup>17</sup> Id. at 199-202.

<sup>18</sup> Id. at 193-194.

<sup>19</sup> Id. at 195.

<sup>20</sup> Id. at 196-198.

<sup>21</sup> Id. at 195-196.

<sup>22</sup> Id. at 204.

<sup>23</sup> Id. at 206-207.

LTC Abang recounts that the passengers on board the two SUV Monteros failed to heed the request of the operatives to alight from their vehicles and that the first gunshot came from the first Montero. The policemen and soldiers exchanged gun fires with the passengers of the Monteros. Sensing that there were no longer gunfire coming from the vehicles, LTC Abang shouted "Cease fire!" 1LT Rico Tagure (1LT Tagure) heard PSInsp. Carrecedo's instruction to clear the vehicles. 1LT Tagure presumed that what PSInsp. Carrecedo meant was that they have to ensure that the threat has stopped. PSInsp. Carrecedo asked 1LT Tagure to break the glass of the first Montero. Upon hearing someone moan from inside of the vehicle, 1LT Tagure told PSInsp. that they should bring the survivor to the hospital.<sup>24</sup>

LTC Abang allegedly heard successive gunshots fired in the air and when he glanced at the said direction, he saw PSInsp. Carrecedo firing the victims' guns in the air and thereafter returning them to the person whom he got them. In protest, LTC Abang told PSInsp. Carrecedo not to tamper with the evidence.<sup>25</sup>

In sum, the AFP personnel assert that they presumed good faith on the part of PSupt. Marantan in requesting for their support in the operation; that the check point was not illegal; and that there was no conspiracy with the policemen.<sup>26</sup>

On August 30, 2013, the DOJ found probable cause to indict the following for multiple murder:

1. PSupt. Hansel Marantan;
2. PSupt. Ramon Balauag;
3. PCInsp. Grant Gollod;
4. PSInsp. John Paolo Carrecedo;
5. PSInsp. Timoteo Orig;
6. SPO3 Joselito De Guzman;
7. SPO1 Carlo Cataquiz;
8. SPO1 Arturo Sarmiento;
9. PO3 Eduardo Oronan;
10. PO2 Nelson Indal;
11. PO2 Al Bazar Jailani;
12. PO1 Wryan Sardea; and
13. PO1 Rodel Talento a.k.a. Rodel Tolentino<sup>27</sup>

A charge for obstruction of justice was also filed against PSInsp. Carrecedo and 1LT. Tagure.<sup>28</sup>

According to the DOJ, all the essential elements of murder are present

<sup>24</sup> Id. at 208-209.

<sup>25</sup> Id. at 209.

<sup>26</sup> Id. at 210-211.

<sup>27</sup> Id. at 222-223.

<sup>28</sup> Id. at 223.

in the case.<sup>29</sup> It was also concluded that the PNP personnel conspired and confederated with each other to eliminate the victims.<sup>30</sup> The conspiracy was proved by the following: (1) PSupt. Marantan, the one in command of the operation, knew the identities of the passengers of the two (2) SUV Monteros because he has been monitoring their movements; (2) the plan to eliminate the group of Victor Siman became apparent when PSupt. Marantan worked together with PSupt. Balauag and PCInsp. Golod in putting up the three-layered checkpoint. This is highly irregular because it did not conform with the common procedures on checkpoints; (3) PSupt. Marantan and PSupt. Balauag purposely sought the support of the AFP personnel whose motive appears only to ensure that the PNP personnel will emerge unharmed from the planned execution;<sup>31</sup> and (4) the results of the NBI investigation tells that there was no exchange of gunfire among the PNP and AFP personnel on the one hand and the victims on the other. What transpired was a shoot-out perpetrated by the joint PNP and AFP personnel.<sup>32</sup>

The DOJ gave credence to the result of the NBI investigation finding irregularities and possible tampering of the crime scene perpetrated by the members of the PNP.<sup>33</sup> They also observed that contrary to the claim of the policemen that they were engaged by the passengers of the SUV Monteros in a gunfire, the vehicles which the policemen allegedly sought cover were unharmed.<sup>34</sup>

However, the DOJ investigating panel found that the evidence did not indicate that the AFP personnel were part of the conspiracy to eliminate the victims. The AFP personnel were in fact surprised when, after the shooting, PSInsp. Carcedo started taking the firearms of the victims and firing them into the air.<sup>35</sup> While the AFP personnel undeniably fired at the Monteros, however, such acts were merely in support when the policemen begun firing. They had no control of the situation as the planning and execution thereof were undertaken by the PNP personnel. Their actions were not considered by the DOJ investigating panel as approval of the PNP's intent to kill the victims.<sup>36</sup>

On September 3, 2013, the DOJ filed the necessary Informations for multiple murder and obstruction of justice against the policemen involved in the Atimonan shooting incident.<sup>37</sup>

Petitioners PCInsp. Gollod, PSInsp. Carracedo, SPO3 De Guzman, SPO1 Cataquiz, PO3 Oronan, PO2 Indal, PO1 Sardea, and PO1 Talento filed a Petition for *Certiorari* under Rule 65 before the CA alleging grave abuse of

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<sup>29</sup> Id. at 213.  
<sup>30</sup> Id. at 214.  
<sup>31</sup> Id. at 215.  
<sup>32</sup> Id. at 216.  
<sup>33</sup> Id.  
<sup>34</sup> Id. at 217.  
<sup>35</sup> Id. at 218.  
<sup>36</sup> Id. at 219.  
<sup>37</sup> Id. at 73.

discretion amounting to lack or excess of jurisdiction on the part of the DOJ investigating panel. They alleged that the DOJ hastily filed the Informations against them thereby depriving them of their right to file a motion for reconsideration within 15 days from their receipt of the Resolution. They aver that the Resolution was served to them only on September 23, 2013, while the Informations were already filed on September 3, 2013.<sup>38</sup> They likewise claim that the DOJ totally ignored the facts and evidence in their favor.<sup>39</sup>

On August 24, 2015, the CA issued its Decision<sup>40</sup> finding no grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the DOJ investigating panel.

The CA held that while petitioners were not able to file a motion for reconsideration, nevertheless, they cannot claim that their right to due process was violated because they were given the right to participate in the preliminary investigation and given the opportunity to explain their side of the controversy.<sup>41</sup> Further, the CA ruled that the determination of probable cause for purposes of filing information in court is essentially an executive function that is lodged, at the first instance, to the public prosecutor. The prosecutor is given wide latitude of discretion in the conduct of preliminary investigation and his findings are generally not subject to review by the court.<sup>42</sup> Here, the CA noted that the elements of murder appear to be present as stated in the DOJ's Resolution.<sup>43</sup> Hence, there was no reason to ascribe grave abuse of discretion on the part of the latter.<sup>44</sup>

Still aggrieved, petitioners filed this Petition for Review on *Certiorari*<sup>45</sup> under Rule 45. Petitioners insist that their right to due process was violated when they were prevented from filing a motion for reconsideration because the Informations against them were filed in court even before the service of the Resolution to them.<sup>46</sup> Additionally, they maintain that the finding of probable cause against them was without basis in fact and law. They assert that their actions were in the performance of duty.<sup>47</sup>

The Office of the Solicitor General (OSG) filed its Comment<sup>48</sup> dated July 22, 2016. According to the OSG, the filing of the motion for reconsideration does not prohibit the filing of the proper Information in court. Pending resolution of the petition for review or motion for reconsideration, petitioners are only entitled to a suspension of the proceedings in the court.<sup>49</sup>

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38 Id. at 81.  
39 Id. at 82.  
40 Supra note 2.  
41 *Rollo*, pp. 82-83.  
42 Id. at 84.  
43 Id. at 85.  
44 Id.  
45 Id. at 11-72.  
46 Id. at 45-46.  
47 Id. at 55.  
48 Id. at 370-384.  
49 Id. at 377.

The OSG also debunked the argument of grave abuse of discretion on the part of the DOJ because the latter examined the facts and evidence in accordance of applicable laws and in the exercise of their executive determination of probable cause.<sup>50</sup>

In their Reply<sup>51</sup> dated September 20, 2016, petitioners insist on their arguments raised in their Petition for Review.

### Ruling of the Court

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 a reversible error in affirming the DOJ investigating panel's finding of probable cause for multiple murder and in ruling that there was no grave abuse of discretion amounting to lack of excess of jurisdiction on the part of the latter.

Petitioners fault the DOJ investigating panel for not giving them the opportunity to file a motion for reconsideration of its Resolution finding probable cause to indict them of multiple murder. In other words, they argue that their failure to file a motion for reconsideration violates their right to due process.

The essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard.<sup>52</sup> In this case, petitioners cannot deny the fact that during the preliminary investigation of the case, they were given the opportunity to file their counter-affidavits as well as the affidavits of their witnesses and to submit other evidence to support their arguments. Hence, they were given the opportunity to be heard.

In any event, any procedural defect in the proceedings taken against petitioners during the preliminary investigation stage was cured when they were afforded the opportunity to file a petition for *certiorari* questioning the same to the CA.<sup>53</sup> Besides, the National Prosecution Service Rules gives petitioners the right to question the findings of the DOJ investigating panel even though an Information has been filed in court. Given the foregoing, petitioners cannot insist that their right to due process was violated.

When an Information is filed in court, the court acquires jurisdiction over the case and has the authority to determine whether or not the case should be dismissed.<sup>54</sup> There are two (2) kinds of determination of probable cause: (1) executive; and (2) judicial. The executive determination of probable cause is one made during preliminary investigation. It is a function that properly

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<sup>50</sup> Id. at 380.

<sup>51</sup> Id. at 392-409.

<sup>52</sup> *Vivo v. PAGCOR*, 721 Phil. 34, 43 (2013).

<sup>53</sup> *Autencio v. Manara*, 489 Phil. 752 (2005).

<sup>54</sup> *Personal Collection Direct Selling, Inc. v. Carandang*, 820 Phil. 706, 720 (2017).

pertains to the public prosecutor who is given a broad discretion to determine whether probable cause exists and to charge those whom he believes to have committed the crime as defined by law and thus should be held for trial. The judicial determination of probable cause, on the other hand, is one made by the judge to ascertain whether a warrant of arrest should be issued against the accused. The judge must satisfy himself that based on the evidence submitted, there is necessity for placing the accused under custody in order not to frustrate the ends of justice. If the judge finds no probable cause, the judge cannot be forced to issue the arrest warrant.<sup>55</sup> Given the foregoing, all is not lost on petitioners. Since the case has been filed in court, the judge can now judicially determine, upon his own independent assessment of the evidence, whether probable cause exists, and if not, he can dismiss the case.

Here, petitioners should proceed to trial and have their case determined by the judge based on the law and the facts presented to him. Besides, it is established in the case of *De Lima v. Reyes*<sup>56</sup> that when the trial court has already determined that probable cause exists, a petition for *certiorari* questioning the validity of the preliminary investigation in any other venue has been rendered moot by the issuance of the warrant of arrest and the conduct of arraignment.<sup>57</sup>

Probable cause, for the purpose of filing a criminal information, has been defined as such facts as are sufficient to engender a well-founded belief that a crime has been committed and that respondent is probably guilty thereof. The term does not mean "actual and positive cause" nor does it import absolute certainty. It is merely based on opinion and reasonable belief. 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.<sup>58</sup> In this case, all the elements of murder appear to be present as found by the DOJ investigating panel.

Lastly, the arguments of petitioners are matters of defenses which must be best presented during the trial.

**WHEREFORE**, the petition is **DENIED**. The Regional Trial Court of Gumaca, Quezon Province, Branch 61 is **DIRECTED** to proceed with the prosecution of Criminal Case No. 12508-G.

<sup>55</sup> *People v. Castillo*, 607 Phil. 654, 765 (2009), as cited in *Mendoza v. People*, 733 Phil. 603, 610 (2014).

<sup>56</sup> 776 Phil. 623 (2016).

<sup>57</sup> *Id.* at 652.

<sup>58</sup> *Fenequito v. Vergara, Jr.*, 691 Phil. 335, 345 (2012).

SO ORDERED.”

By authority of the Court:

*Mis D C Batt*  
MISAEAL DOMINGO C. BATTUNG III  
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