

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

SECOND DIVISION

**PRIMO A. MINA, FELIX DE
VERA, POMPEYO MAGALI,
BERNADETTE AMOR and
PURIFICACION DELA CRUZ,**
Petitioners,

G.R. No. 239521

Present:

- versus -

CARPIO, *J.*, Chairperson,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
HERNANDO,* *JJ.*

**THE COURT OF APPEALS and
RODOLFO C. TANDOC,**
Respondents.

Promulgated:

28 JAN 2019

X-----X

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for *certiorari*¹ are the Resolutions dated May 22, 2017² and March 12, 2018³ of the Court of Appeals (CA) in CA-G.R. SP No. 150130 which dismissed petitioners Primo A. Mina, Felix De Vera, Pompeyo Magali, Bernadette Amor, and Purificacion Dela Cruz's (petitioners) petition for *certiorari* before it for purportedly availing of a wrong remedy.

The Facts

This case stemmed from an Affidavit-Complaint⁴ for Perjury, as defined and penalized under Article 183 of the Revised Penal Code (RPC),

* Designated Additional Member per Special Order Nos. 2629 and 2630 dated December 18, 2019.
¹ *Rollo*, pp. 4-15.
² *Id.* at 17-18. Penned by Associate Justice Ramon A. Cruz with Associate Justices Mario V. Lopez and Carmelita Salandanan-Manahan, concurring.
³ *Id.* at 20-22.
⁴ Dated August 2, 2016; *CA rollo*, pp. 102-108.

filed by petitioners against respondent Rodolfo C. Tandoc (Tandoc) before the Office of the Provincial Prosecutor of Pangasinan (OPP). After the requisite preliminary investigation proceedings, the OPP dismissed petitioners' criminal complaint against Tandoc for lack of probable cause.⁵ Aggrieved, petitioners appealed before the Office of the Regional State Prosecutor (ORSP) located in San Fernando City, La Union. However, the ORSP affirmed the OPP's findings that no probable cause exists to indict Tandoc for the crime of Perjury. Undaunted, petitioners filed a petition for *certiorari* before the CA.⁶

The CA Ruling

In a Resolution⁷ dated May 22, 2017, the CA dismissed the petition outright on the ground that petitioners availed of a wrong remedy. It held that under Department of Justice (DOJ) Department Circular No. 70-A, petitioners should have first appealed the adverse ORSP ruling to the Secretary of Justice (SOJ) before elevating the matter to the regular courts.⁸

Petitioners moved for reconsideration but the same was denied in a Resolution⁹ dated March 12, 2018; hence, this petition.¹⁰

The Issue Before the Court

Whether or not the CA erred in dismissing the petition for *certiorari* on the ground of petitioners' supposed availment of a wrong remedy.

The Court's Ruling

To recapitulate, the CA ruled that petitioners should have first elevated the adverse ORSP ruling to the SOJ before availing of judicial remedies. On the other hand, petitioners maintain that the ORSP ruling is already final, and as such, it correctly elevated the matter to the courts by filing a petition for *certiorari* before the CA.

The Court finds for petitioners.

DOJ Department Circular No. 70¹¹ dated July 3, 2000, entitled the "2000 NPS Rule on Appeal," which governs the appeals process in the

⁵ See Resolution dated September 30, 2016; *id.* at 179-181.

⁶ See *rollo*, p. 6.

⁷ *Id.* at 17-18.

⁸ *Id.*

⁹ *Id.* at 20-22.

¹⁰ *Id.* at 4-15.

¹¹ (September 1, 2000)

National Prosecution Service (NPS), provides that resolutions of, *inter alia*, the Regional State Prosecutor, in cases subject of preliminary investigation/reinvestigation shall be appealed by filing a verified petition for review before the SOJ.¹² However, this procedure was immediately amended by DOJ Department Circular No. 70-A¹³ dated July 10, 2000, entitled “Delegation of Authority to Regional State Prosecutors to Resolve Appeals in Certain Cases,” which reads:

DEPARTMENT CIRCULAR NO. 70-A

SUBJECT: Delegation of Authority to Regional State Prosecutors to Resolve Appeals in Certain Cases

In order to expedite the disposition of appealed cases governed by Department Circular No. 70 dated July 3, 2000 (“2000 NPS RULE ON APPEAL”), **all petitions for review of resolutions of Provincial/City Prosecutors in cases cognizable by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts**, except in the National Capital Region, **shall be filed with the Regional State Prosecutor concerned who shall resolve such petitions with finality** in accordance with the pertinent rules prescribed in the said Department Circular.

The foregoing delegation of authority notwithstanding, the Secretary of Justice may, pursuant to his power of supervision and control over the entire National Prosecution Service and in the interest of justice, review the resolutions of the Regional State Prosecutors in appealed cases.

x x x x (Emphases and underscoring supplied)

As may be gleaned above, DOJ Department Circular No. 70-A delegated to the ORSPs the authority to **rule with finality** cases subject of preliminary investigation/reinvestigation appealed before it, provided that: (a) the case is not filed in the National Capital Region (NCR); and (b) the case, should it proceed to the courts, is cognizable by the Metropolitan Trial Courts (MeTCs), Municipal Trial Courts (MTCs) and Municipal Circuit Trial Courts (MCTCs) – which includes not only violations of city or municipal ordinances, but also all offenses punishable with imprisonment **not exceeding six (6) years** irrespective of the amount of fine, and regardless of other imposable accessory or other penalties attached thereto.¹⁴ This is, however, without prejudice on the part of the SOJ to review the ORSP ruling, should the former deem it appropriate to do so in the interest of justice. The foregoing amendment is further strengthened by a later issuance, namely DOJ Department Circular No. 018-14¹⁵ dated June 18, 2014, entitled “Revised Delegation of Authority on Appealed Cases,” pertinent portions of which read:

¹² See Sections 1 and 4 of DOJ Circular No. 70.

¹³ (September 1, 2000)

¹⁴ See Section 32 of *Batas Pambansa Blg. 129*, entitled “AN ACT REORGANIZING THE JUDICIARY, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES,” otherwise known as “THE JUDICIARY REORGANIZATION ACT OF 1980,” as amended (August 14, 1981).

¹⁵ (July 1, 2014)

DEPARTMENT CIRCULAR NO. 018-14

SUBJECT: Revised Delegation of
Authority on Appealed Cases

In the interest of service and pursuant to the provisions of existing laws with the objective of institutionalizing the Department's Zero Backlog Program on appealed cases, the following guidelines shall be observed and implemented in the resolution of appealed cases on Petition for Review and Motions for Reconsideration:

1. Consistent with Department Circular No. 70-A, all appeals from resolutions of Provincial or City Prosecutors, except those from the National Capital Region, in cases cognizable by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, shall be by way of a petition for review to the concerned province or city. The Regional Prosecutor shall resolve the petition for review with finality, in accordance with the rules prescribed in pertinent rules and circulars of this Department. *Provided, however,* that the Secretary of Justice may, pursuant to the power of control and supervision over the entire National Prosecution Service, review, modify or reverse, the resolutions of the Regional Prosecutor in these appealed cases.

2. Appeals from resolutions of Provincial or City Prosecutors, except those from the National Capital Region, in all other cases shall be by way of a petition for review to the Office of Secretary of Justice.

3. Appeals from resolutions of the City Prosecutors in the National Capital Region in cases cognizable by Metropolitan Trial Courts shall be by way of a petition for review to the Prosecutor General who shall decide the same with finality. *Provided, however,* that the Secretary of Justice may, pursuant to the power of control and supervision over the entire National Prosecution Service, review, modify or reverse, the resolutions of the Prosecutor General in these appealed cases.

4. Appeals from resolutions of the City Prosecutors in the National Capital Region in all other cases shall be by way of a petition for review to the Office of the Secretary.

x x x x

This Circular supersedes all inconsistent issuances, takes effect on 01 July 2014 and shall remain in force until further orders.

For guidance and compliance.

In *Cariaga v. Sapigao*,¹⁶ the Court harmonized the foregoing DOJ Circulars, and accordingly, interpreted the prevailing appeals process of the NPS as follows:

A reading of the foregoing provisions shows that the prevailing appeals process in the NPS with regard to complaints subject of preliminary investigation would depend on two factors, namely: where the

¹⁶ G.R. No. 223844, June 28, 2017, 828 SCRA 436.

complaint was filed, *i.e.*, whether in the NCR or in the provinces; and which court has original jurisdiction over the case, *i.e.*, whether or not it is cognizable by the MTCs/MeTCs/MCTCs. Thus, the rule shall be as follows:

(a) **If the complaint is filed outside the NCR and is cognizable by the MTCs/MeTCs/MCTCs, the ruling of the OPP may be appealable by way of petition for review before the ORSP, which ruling shall be with finality;**

(b) If the complaint is filed outside the NCR and is not cognizable by the MTCs/MeTCs/MCTCs, the ruling of the OPP may be appealable by way of petition for review before SOJ, which ruling shall be with finality;

(c) If the complaint is filed within the NCR and is cognizable by the MTCs/MeTCs/MCTCs, the ruling of the OCP may be appealable by way of petition for review before the Prosecutor General, whose ruling shall be with finality;

(d) If the complaint is filed within the NCR and is not cognizable by the MTCs/MeTCs/MCTCs, the ruling of the OCP may be appealable by way of petition for review before the SOJ, whose ruling shall be with finality;

(e) **Provided, that in instances covered by (a) and (c), the SOJ may, pursuant to his power of control and supervision over the entire National Prosecution Service, review, modify, or reverse the ruling of the ORSP or the Prosecutor General, as the case may be.**¹⁷ (Emphases and underscoring supplied)

In this case, records show that petitioners filed a criminal complaint before the OPP accusing Tandoc of Perjury. The complaint was, however, dismissed by the OPP and such dismissal was upheld by the ORSP. Since (a) the criminal complaint was filed outside of the NCR; (b) perjury cases are cognizable by the first-level courts since the maximum penalty therefor is imprisonment for less than six (6) years;¹⁸ and (c) it appears that the SOJ did not exercise its power of control and supervision over the entire NPS by reviewing the ORSP ruling, the ORSP's affirmance of the OPP ruling was with finality. As such, petitioners have already exhausted its administrative remedies and may now go to the CA via a petition for *certiorari*.

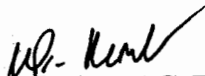
In this light, the Court concludes that the CA gravely abused its discretion in dismissing outright the petition for *certiorari* filed before it by petitioners. On this note, since the Court recognizes that the dismissal of petitioners' petition for *certiorari* filed before the CA was due to a mere technicality, it is only appropriate that this case be remanded to the said appellate court for its resolution on the merits.

¹⁷ Id. at 446-447.

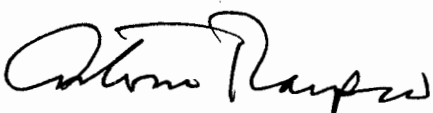
¹⁸ See Article 183 of the Revised Penal Code.

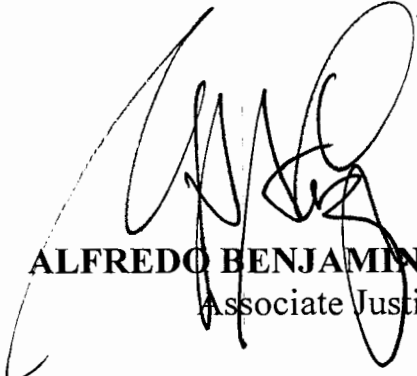
WHEREFORE, the petition is **GRANTED**. The Resolutions dated May 22, 2017 and March 12, 2018 of the Court of Appeals in CA-G.R. SP No. 150130 are hereby **REVERSED** and **SET ASIDE**. Accordingly, this case is **REMANDED** to the Court of Appeals for its resolution on the merits.

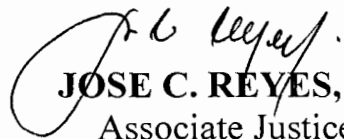
SO ORDERED.

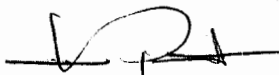

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

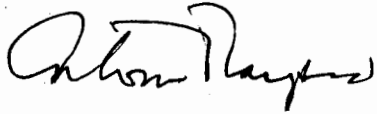

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

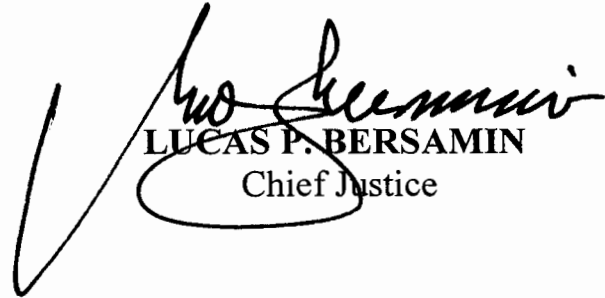
ATTESTATION

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.


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

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