



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **October 16, 2019** which reads as follows:

“G.R. No. 222456 (JUAN J. CARLOS, JR., Petitioner, v. MA. LUCIA J. CARLOS, Respondent.) – After a judicious review of the records, the Court resolves to **DENY** the petition for review for failure of the petitioner to prove that the Court of Appeals (CA) committed reversible error in promulgating its January 25, 2016 decision¹ in CA-G.R. No. SP No. 138874, whereby the CA reversed and set aside the order and resolution² of the Regional Trial Court (RTC), Branch 59, Makati City (RTC) in Criminal Case Nos. 14-1114 to 14-1117.

To recall, the prosecutor’s office filed criminal informations against several respondents for qualified theft before the RTC. Subsequently, the trial court found probable cause to issue warrants of arrest against the respondents. However, upon the respondents’ filing of a petition for *certiorari* before the appellate court, the CA reversed the RTC’s orders, withdrew the criminal informations, and recalled the warrants of arrest issued against the respondents. The present petition assails the appellate court’s decision.

Notable that herein petitioner, as the private complainant, insisted on appealing the criminal case. Notable that he lacked the personality to do the same.

It is axiomatic that in a criminal case, the offended party is the State. The private complainant or offended party’s interest is limited to the civil liability arising from the crime. Thus, in cases where the trial court dismisses a criminal case or acquits the accused, only the

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¹ *Rollo*, pp. 56-78.

² *Id.* at 509-516.

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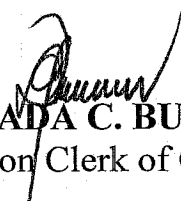
public prosecutor may move to reconsider the criminal aspect thereof. In the case of an appeal before the CA or this Court, it may only be undertaken by the State, through the Office of the Solicitor General (OSG).³ To be sure, the Revised Administrative Code vests the OSG the sole authority to represent the People in the appellate proceedings of criminal cases.⁴

Be that as it may, the CA did not err in withdrawing the informations. Indeed, the allegations contained in the informations did not constitute the crime of qualified theft. Specifically, the informations did not sufficiently allege the elements of unlawful taking and intent to gain and merely alleged that the respondents issued the checks without authority and caused the deposit of these checks into the bank account of a third party. The mere issuance of a check by corporate officers who are empowered to administer corporate funds in the ordinary course of business, cannot be considered an unlawful taking. That the funds were not deposited into the respondents' personal accounts belied even the existence of an intent to gain.

WHEREFORE, We **DENY** the petition for review and **AFFIRM** the decision of the Court of Appeals promulgated on January 25, 2016 in CA-G.R. No. SP No. 138874.

SO ORDERED. *Perlas-Bernabe, J., on official business; Gesmundo, J., designated as Acting Working Chairperson per Special Order No. 2717 dated October 10, 2019; Zalameda, J., designated as Additional Member per Special Order No. 2712 dated September 27, 2019.*

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

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³ *Mobilia Products, Inc. v. Umezawa*, 493 Phil. 85 (2005).

⁴ Section 35, Book IV, Title III, Chapter 12, Revised Administrative Code.

Atty. Jose Mari Velez, Jr.
Counsel for Petitioner
Room 604, Culmat Building
1270-1330 E. Rodriguez Sr. Avenue
cor. 12th Street, 1102 Quezon City

Court of Appeals (x)
Manila
(CA-G.R. SP No. 138874)

PUNO & PUNO LAW OFFICES
Counsel for Respondent
12/F East Tower, PSE Center
Exchange Road, Ortigas Center
1605 Pasig City

The Hon. Presiding Judge
Regional Trial Court, Branch 59
1200 Makati City
(Crim. Case Nos. 14-1114 to 14-1117)

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