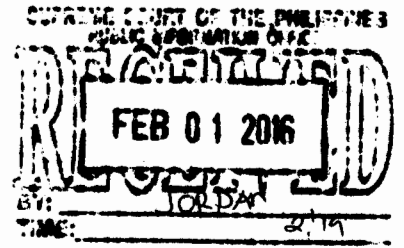




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

GIRLIE M. QUISAY,

G.R. No. 216920

Petitioner,

Present:

- versus -

PEOPLE OF THE PHILIPPINES,

Respondent.

SERENO, *C.J.*, Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PEREZ, and
 PERLAS-BERNABE, *JJ.*

Promulgated:

JAN 13 2016

X-----X

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated October 10, 2014 and the Resolution³ dated January 30, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 131968, which affirmed the denial of petitioner Girlie M. Quisay's (petitioner) Motion to Quash before the Regional Trial Court of Makati, Branch 144 (RTC).

The Facts

On December 28, 2012, the Office of the City Prosecutor of Makati City (OCP-Makati) issued a *Pasiya*⁴ or Resolution finding probable cause

¹ *Rollo*, pp. 23-41.

² *Id.* at 126-134. Penned by Associate Justice Rebecca De Guia-Salvador with Associate Justices Ricardo R. Rosario and Leoncia R. Dimagiba concurring.

³ *Id.* at 149-150.

⁴ *Id.* at 69-71. Penned by Assistant City Prosecutor Estefano H. De La Cruz and approved by Senior Assistant City Prosecutor Edgardo G. Hirang.

R

against petitioner for violation of Section 10 of Republic Act No. (RA) 7610,⁵ otherwise known as the “Special Protection of Children Against Abuse, Exploitation and Discrimination Act.” Consequently, a *Pabatid Sakdal*⁶ or Information was filed before the RTC on January 11, 2013 charging petitioner of such crime.

On April 12, 2013, petitioner moved for the quashal of the Information against her on the ground of lack of authority of the person who filed the same before the RTC. In support of her motion, petitioner pointed out that the *Pasiya* issued by the OCP-Makati was penned by Assistant City Prosecutor Estefano H. De La Cruz (ACP De La Cruz) and approved by Senior Assistant City Prosecutor Edgardo G. Hirang (SACP Hirang), while the *Pabatid Sakdal* was penned by ACP De La Cruz, without any approval from any higher authority, albeit with a Certification claiming that ACP De La Cruz has prior written authority or approval from the City Prosecutor in filing the said Information. In this regard, petitioner claimed that nothing in the aforesaid *Pasiya* and *Pabatid Sakdal* would show that ACP De La Cruz and/or SACP Hirang had prior written authority or approval from the City Prosecutor to file or approve the filing of the Information against her. As such, the Information must be quashed for being tainted with a jurisdictional defect that cannot be cured.⁷

In its Comment and Opposition,⁸ the OCP-Makati countered that the review prosecutor, SACP Hirang, was authorized to approve the *Pasiya* pursuant to OCP-Makati Office Order No. 32.⁹ Further, it maintained that the *Pabatid Sakdal* was filed with the prior approval of the City Prosecutor as shown in the Certification in the Information itself.¹⁰

The RTC Ruling

In an Order¹¹ dated May 8, 2013, the RTC denied petitioner’s motion to quash for lack of merit. It found the Certification attached to the *Pabatid Sakdal* to have sufficiently complied with Section 4, Rule 112 of the Rules of Court which requires the prior written authority or approval by, among others, the City Prosecutor, in the filing of Informations.¹²

⁵ Entitled “AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES” (approved on June 17, 1992).

⁶ *Rollo*, pp. 72-73. Signed by Assistant City Prosecutor Estefano H. De La Cruz.

⁷ See Motion to Quash dated April 12, 2013; *id.* at 74-76.

⁸ *Id.* at 77.

⁹ Issued on July 29, 2011. *Id.* at 78.

¹⁰ *Id.* at 77.

¹¹ *Id.* at 79. Penned by Presiding Judge Liza Marie R. Picardal-Tecson.

¹² *Id.*

Petitioner moved for reconsideration,¹³ which was, however, denied in an Order¹⁴ dated July 10, 2013. Aggrieved, petitioner elevated the matter to the CA *via* a petition for *certiorari*.¹⁵

The CA Ruling

In a Decision¹⁶ dated October 10, 2014, the CA affirmed the RTC ruling. It held that pursuant to Section 9 of RA 10071,¹⁷ otherwise known as the “Prosecution Service Act of 2010,” as well as OCP-Makati Office Order No. 32, the City Prosecutor of Makati authorized SACP Hirang to approve the issuance of, *inter alia*, resolutions finding probable cause and the filing of Informations before the courts. As such, SACP Hirang may, on behalf of the City Prosecutor, approve the *Pasiya* which found probable cause to indict petitioner of violation of Section 10 of RA 7610.¹⁸

Further, it held that the Certification made by ACP De La Cruz in the *Pabatid Sakdal* clearly indicated that the same was filed after the requisite preliminary investigation and with the prior written authority or approval of the City Prosecutor. In this regard, the CA opined that such Certification enjoys the presumption of regularity accorded to a public officer’s performance of official functions, in the absence of convincing evidence to the contrary.¹⁹

Undaunted, petitioner moved for reconsideration,²⁰ but was denied in a Resolution²¹ dated January 30, 2015; hence, this petition.

The Issue Before the Court

The core issue for the Court’s resolution is whether or not the CA correctly held that the RTC did not gravely abuse its discretion in dismissing petitioner’s motion to quash.

The Court’s Ruling

The petition is meritorious.

¹³ See motion for reconsideration dated May 20, 2013; *id.* at 80-81.

¹⁴ *Id.* at 82.

¹⁵ *Id.* at 47-65.

¹⁶ *Id.* at 126-134.

¹⁷ Entitled “AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE” (approved on April 8, 2010).

¹⁸ *Id.* at 128-131.

¹⁹ *Id.* at 132-133.

²⁰ See motion for reconsideration dated November 18, 2014; *id.* at 135-143.

²¹ *Id.* at 149-150.

Section 4, Rule 112 of the 2000 Revised Rules on Criminal Procedure states that the filing of a complaint or information requires a prior written authority or approval of the named officers therein before a complaint or information may be filed before the courts, *viz.*:

SECTION 4. *Resolution of investigating prosecutor and its review.*

– If the investigating prosecutor finds cause to hold the respondent for trial, he shall prepare the resolution and information. He shall certify under oath in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he was given an opportunity to submit controverting evidence. Otherwise, he shall recommend the dismissal of the complaint.

Within five (5) days from his resolution, he shall forward the record of the case to the provincial or city prosecutor or chief state prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the *Sandiganbayan* in the exercise of its original jurisdiction. They shall act on the resolution within ten (10) days from their receipt thereof and shall immediately inform the parties of such action.

No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.

x x x x (Emphases and underscoring supplied)

Thus, as a general rule, complaints or informations filed before the courts without the prior written authority or approval of the foregoing authorized officers renders the same defective and, therefore, subject to quashal pursuant to Section 3 (d), Rule 117 of the same Rules, to wit:

SECTION 3. *Grounds.* – The accused may move to quash the complaint or information on any of the following grounds:

x x x x

(d) That the officer who filed the information had no authority to do so;

x x x x (Emphasis and underscoring supplied)

In this relation, *People v. Garfin*²² firmly instructs that the filing of an Information by an officer without the requisite authority to file the same constitutes a jurisdictional infirmity which cannot be cured by silence,

²² G.R. No. 153176, March 29, 2004, 426 SCRA 393.

✓

waiver, acquiescence, or even by express consent. Hence, such ground may be raised at any stage of the proceedings.²³

In the case at bar, the CA affirmed the denial of petitioner's motion to quash on the grounds that: (a) the City Prosecutor of Makati may delegate its authority to approve the filing of the *Pabatid Sakdal* pursuant to Section 9 of RA 10071, as well as OCP-Makati Office Order No. 32; and (b) the *Pabatid Sakdal* contained a Certification stating that its filing before the RTC was with the prior written authority or approval from the City Prosecutor.

The CA correctly held that based on the wordings of Section 9 of RA 10071, which gave the City Prosecutor the power to “[i]nvestigate and/or ***cause to be investigated*** all charges of crimes, misdemeanors and violations of penal laws and ordinances within their respective jurisdictions, ***and have the necessary information or complaint prepared or made and filed*** against the persons accused,”²⁴ he may indeed delegate his power to his subordinates as he may deem necessary in the interest of the prosecution service. The CA also correctly stressed that it is under the auspice of this provision that the City Prosecutor of Makati issued OCP-Makati Office Order No. 32, which gave division chiefs or review prosecutors “authority to approve or act on any resolution, order, issuance, other action, and any information recommended by any prosecutor for approval,”²⁵ without necessarily diminishing the City Prosecutor's authority to act directly in appropriate cases.²⁶ By virtue of the foregoing issuances, the City Prosecutor validly

²³ See *id.* at 407, citing *Villa v. Ibañez*, 88 Phil. 402 (1951).

²⁴ Section 9 of RA 10071 states in full:

Section 9. *Powers and Functions of the Provincial Prosecutor or City Prosecutor.* – The provincial prosecutor shall:

(a) Be the law officer of the province or city, as the case may be:

(b) Investigate and/or cause to be investigated all charges of crimes, misdemeanors and violations of penal laws and ordinances within their respective jurisdictions, and have the necessary information or complaint prepared or made and filed against the persons accused. In the conduct of such investigations he or any of his/her assistants shall receive the statements under oath or take oral evidence of witnesses, and for this purpose may by subpoena summon witnesses to appear and testify under oath before him/her, and the attendance or evidence of an absent or recalcitrant witness may be enforced by application to any trial court;

(c) Have charge of the prosecution of all crimes, misdemeanors and violations of city or municipal ordinances in the courts at the province or city and therein discharge all the duties incident to the institution of criminal actions, subject to the provisions of second paragraph of Section 5 hereof.

²⁵ See Section 2 of OCP-Makati Office Order No. 32 (*rollo*, p. 78), which provides:

SEC. 2. *Approval of Resolution, issuance, action, and motion and filing of information.* – Subject to Section 4 hereof, a division chief or review prosecutor shall have authority to approve or act on any resolution, order, issuance, other action, and any information recommended by any prosecutor for approval and assigned to him or her for review, unless in the assignment it is indicated that the same is subject to the approval of the City Prosecutor.

²⁶ See Section 4 of OCP-Makati Office Order No. 32 (*id.*), which reads:

✓

designated SACP Hirang, Deputy City Prosecutor Emmanuel D. Medina, and Senior Assistant City Prosecutor William Celestino T. Uy as review prosecutors for the OCP-Makati.²⁷

In this light, the *Pasiya* or Resolution finding probable cause to indict petitioner of the crime charged, was validly made as it bore the approval of one of the designated review prosecutors for OCP-Makati, SACP Hirang, as evidenced by his signature therein.

Unfortunately, the same could not be said of the *Pabatid Sakdal* or Information filed before the RTC, as there was no showing that it was approved by either the City Prosecutor of Makati or any of the OCP-Makati's division chiefs or review prosecutors. All it contained was a Certification from ACP De La Cruz which stated, among others, that "*DAGDAG KO PANG PINATUTUNAYAN na ang paghahain ng sakdal na ito ay may nakasulat na naunang pahintulot o pagpapatibay ng Panlungsod na Taga-Usig*"²⁸ – which translates to "and that the filing of the Information is with the prior authority and approval of the City Prosecutor."

In the cases of *People v. Garfin*,²⁹ *Turingan v. Garfin*,³⁰ and *Tolentino v. Paqueo*,³¹ the Court had already rejected similarly-worded certifications, uniformly holding that despite such certifications, the Informations were defective as it was shown that the officers filing the same in court either lacked the authority to do so or failed to show that they obtained prior written authority from any of those authorized officers enumerated in Section 4, Rule 112 of the 2000 Revised Rules of Criminal Procedure.

Here, aside from the bare and self-serving Certification, there was no proof that ACP De La Cruz was authorized to file the *Pabatid Sakdal* or Information before the RTC by himself. Records are bereft of any showing that the City Prosecutor of Makati had authorized ACP De La Cruz to do so by giving him prior written authority or by designating him as a division chief or review prosecutor of OCP-Makati. There is likewise nothing that would indicate that ACP De La Cruz sought the approval of either the City Prosecutor or any of those authorized pursuant to OCP-Makati Office Order No. 32 in filing the *Pabatid Sakdal*. Quite frankly, it is simply baffling how ACP De La Cruz was able to have the *Pasiya* approved by designated review prosecutor SACP Hirang but failed to have the *Pabatid Sakdal*

SEC. 4. *Authority of City Prosecutor to act directly.* – Nothing in this Order shall diminish the authority of the City Prosecutor to act directly on any resolution or order disposing of complaints or cases, and motions pending in the Office of the City Prosecutor for Makati and on any pleading, motion or any other action to be filed by the Office in courts or other office.

²⁷ See OCP-Makati Administrative Order Nos. 10-038, 11-030, and 12-007; id. at 95-97.

²⁸ Id. at 73.

²⁹ Supra note 22.

³⁰ 549 Phil. 903 (2007).

³¹ 551 Phil. 355 (2007).

approved by the same person or any other authorized officer in the OCP-Makati.


In view of the foregoing circumstances, the CA erred in according the *Pabatid Sakdal* the presumption of regularity in the performance of official functions solely on the basis of the Certification made by ACP De La Cruz considering the absence of any evidence on record clearly showing that ACP De La Cruz: (a) had any authority to file the same on his own; or (b) did seek the prior written approval from those authorized to do so before filing the Information before the RTC.

In conclusion, the CA erred in affirming the RTC's dismissal of petitioner's motion to quash as the *Pabatid Sakdal* or Information suffers from an incurable infirmity – that the officer who filed the same before the RTC had no authority to do so. Hence, the *Pabatid Sakdal* must be quashed, resulting in the dismissal of the criminal case against petitioner.

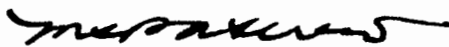
As a final note, it must be stressed that “[t]he Rules of Court governs the pleading, practice, and procedure in all courts of the Philippines. For the orderly administration of justice, the provisions contained therein should be followed by all litigants, but especially by the prosecution arm of the Government.”³²

WHEREFORE, the petition is **GRANTED**. The Decision dated October 10, 2014 and the Resolution dated January 30, 2015 of the Court of Appeals in CA-G.R. SP No. 131968 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the Information against petitioner Girlie M. Quisay is **QUASHED** and the criminal case against her is **DISMISSED**.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

³² Id. at 367.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Jose Portugal Berez
JOSE PORTUGAL BEREZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice