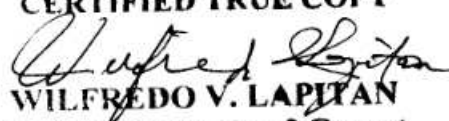




Republic of the Philippines
 Supreme Court
 Manila

CERTIFIED TRUE COPY

 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

AUG 08 2017

SPECIAL THIRD DIVISION

P/C SUPT. EDWIN A. PFLEIDER,
 Petitioner,

G.R. No. 208001

Present:

- versus -

VELASCO, JR., *Chairperson,*
 PERALTA,
 MENDOZA,
 PERLAS-BERNABE, and
 LEONEN, *JJ.*

Promulgated:

PEOPLE OF THE PHILIPPINES,
 Respondent.

June 19, 2017

X-----
 X

RESOLUTION

PERALTA, J.:

This is to resolve the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, dated July 23, 2013, of petitioner P/C Supt. Edwin A. Pfleider (Ret.) assailing the Decision dated October 23, 2012 and Resolution dated June 26, 2013, both of the Court of Appeals (CA).

The facts follow.

An Information for Murder against petitioner and Ryan Bautista was filed on April 18, 2011 before the Regional Trial Court (RTC) of Tacloban City, which reads as follows:

That on or about the 15th day of September 2010 or prior thereto, in the City of Tacloban, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and by offering a price, reward or consideration to Ryan O. Bautista



(Crim. Case No. 2010-09-497) and mutually helping one another, with intent to kill and with the qualifying circumstance of treachery, evident premeditation, while Ryan O. Bautista was armed with an unlicensed firearm, did then and there, willfully, unlawfully and feloniously attack, assault and shoot one Manuel Granados with the use of said unlicensed firearm and inflicting upon the said victim fatal wounds on different parts of his body, which resulted to his untimely death, to the damage and prejudice of his heirs.

CONTRARY TO LAW.

The RTC dismissed the case for lack of probable cause against petitioner in a Resolution dated September 5, 2011.

The prosecution filed a Motion for Reconsideration on September 26, 2011 praying for the reinstatement of the case, but the Court denied the said motion on October 26, 2011.

A petition for *certiorari* under Rule 65 of the Rules of Court was therefore filed with the CA. The petition was grounded on grave abuse of discretion amounting to lack or excess of jurisdiction, since (a) the questioned resolution and order: (i) discarded and ignored vital evidence and the authority of the public prosecutor in determining the existence of probable cause; (ii) excluded the extra-judicial confession executed by petitioner's co-accused, Ryan Bautista, despite the presumed voluntariness and due execution thereof; and (iii) failed to give weight and consideration to other vital pieces of evidence evincing trustworthiness of Bautista's extra-judicial confession and establishing petitioner's complicity; and (b) the manifest presence of probable cause supports the charge of murder as against petitioner.

On March 19, 2012, petitioner filed his Comment/Opposition and, on April 23, 2012, respondent filed its Reply to which petitioner filed a Rejoinder dated May 23, 2012.

The CA, in its Decision dated October 24, 2012, set aside the September 5, 2011 Resolution and October 26, 2011 Order of the trial court, and directed the reinstatement of the Information for Murder against petitioner.

Petitioner, on November 26, 2012, filed a Motion for Reconsideration on the CA's decision. Respondent, on the other hand, filed an Urgent Motion for the Issuance of a Warrant of Arrest on November 29, 2012. Petitioner responded by filing an Opposition dated December 8, 2012, and a Supplemental Motion for Reconsideration dated January 24, 2013. In a Resolution dated February 4, 2013, the CA resolved, among others, to Note

the Office of the Solicitor General's (OSG) Motion for the Issuance of a Warrant of Arrest.

On March 7, 2013, respondent filed its Comment to petitioner's motion for Reconsideration and Supplemental Motion and, in response, petitioner filed his Reply dated March 21, 2013.

The CA, in a Resolution dated June 26, 2013, denied the Motion for Reconsideration for lack of merit, there being no legal and factual basis for the Court to depart from its earlier ruling reinstating Criminal Case No. 2011-04-286 for Murder against petitioner.

Hence, the present Petition.

This Court, in a Resolution dated September 2, 2013, resolved "to DENY the petition and AFFIRM the ruling of the Court of Appeals promulgated on October 23, 2012 for failure to show any reversible error committed by it when it held that the Regional Trial Court, Branch 9 of Tacloban City committed grave abuse of discretion in dismissing the case against Edwin A. Pfleider despite the presence of probable cause linking him as one of the perpetrators of the crime charged against him."¹ Thus, petitioner filed a Motion for Reconsideration dated October 8, 2013.²

In a Resolution dated December 11, 2013, this Court resolved to "GRANT the Motion for Reconsideration and SET ASIDE the Resolution dated September 2, 2013, REINSTATE the petition and to require the Office of the Solicitor General to COMMENT thereon within ten (10) days from notice."³

A Motion for Extension⁴ dated February 4, 2014 was filed by the OSG which was granted by this Court in its Resolution⁵ dated March 24, 2014.

The OSG filed its Comment⁶ dated April 2, 2014, while the petitioner filed his Reply⁷ dated May 15, 2014.

Petitioner raises the following Assignment of Errors:

¹ *Rollo*, p. 909.
² *Id.* at 912-978.
³ *Id.* at 979.
⁴ *Id.* at 980-985.
⁵ *Id.* at 986.
⁶ *Id.* at 987-1035.
⁷ *Id.* at 1043-1113.

I.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN GIVING DUE COURSE AND NOT DISMISSING THE PETITION FOR CERTIORARI FILED BY THE OFFICE OF THE SOLICITOR GENERAL AS THE SAME IS NOT THE PROPER REMEDY, AND CANNOT BE AVAILED OF AS A SUBSTITUTE FOR THE LOST REMEDY OF AN APPEAL;

II.

ASSUMING THAT PETITION FOR CERTIORARI CAN BE AVAILED IN LIEU OF A LOST APPEAL, THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT HONORABLE JUDGE ROGELIO SESCON OF BRANCH 9, REGIONAL TRIAL COURT, TACLOBAN CITY, COMMITTED GRAVE ABUSE OF DISCRETION WHEN HE DISMISSED THE CRIMINAL CASE FOR MURDER WITH NO. 2011-04-268 AGAINST HEREIN PETITIONER FOR LACK OF PROBABLE CAUSE;

III.

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT HONORABLE JUDGE ROGELIO SESCON ARROGATED UPON HIMSELF THE EXECUTIVE FUNCTION OF DETERMINING PROBABLE CAUSE, AND ALLEGEDLY ASSUMED THE POWER TO PROSECUTE VESTED IN THE EXECUTIVE DEPARTMENT; AND

IV.

THE HONORABLE COURT OF APPEALS LIKEWISE ERRED IN HOLDING THAT PROBABLE CAUSE EXISTS, AND THAT PROSECUTION WAS ALLEGEDLY ABLE TO PROFFER SUFFICIENT BASIS TO ESTABLISH, MORE LIKELY THAN NOT, A LINK BETWEEN PETITIONER AND RYAN BAUTISTA WITH RESPECT TO THE KILLING OF MANUEL GRANADOS.

The OSG, in its Comment, posited the following arguments:

I.

A SPECIAL CIVIL ACTION FOR CERTIORARI UNDER RULE 65 IS THE PROPER REMEDY TO CORRECT ERRORS OF JURISDICTION WHICH, IN THIS CASE, ARE DEMONSTRATED BY THE TRIAL COURT IN:

A. EXERCISING THE EXECUTIVE FUNCTION OF DETERMINING THE EXISTENCE OF PROBABLE CAUSE IN SUPPORT OF THE MURDER CHARGE;

B. IGNORING AND DISREGARDING THE EXTRA-JUDICIAL CONFESSION OF PETITIONER'S CO-ACCUSED, RYAN BAUTISTA; AND



c. REJECTING THE SAID EXTRA-JUDICIAL CONFESSION DESPITE ITS PRESUMED AND MANIFEST VOLUNTARINESS AND DUE EXECUTION;

II.

WELL ENTRENCHED IS THE RULE THAT MINOR AND TRIVIAL INCONSISTENCIES IN THE STATEMENTS OF PROSECUTION WITNESSES DO NOT WEAKEN, BUT RATHER STRENGTHEN THEIR CREDIBILITY;

III.

THE EVIDENCE ON RECORD SHOWS THAT, MORE LIKELY THAN NOT, CRIME CHARGED HAS BEEN COMMITTED AND THAT RESPONDENT IS PROBABLY GUILTY OF THE SAME, THE JUDGE SHOULD NOT DISMISS THE CASE;

IV.

THE CIDG IS PRESUMED TO HAVE PERFORMED ITS OFFICIAL FUNCTIONS REGULARLY AND IN ACCORDANCE WITH LAW.

Basically, what the petitioner and the respondent want from this Court is for it to review the facts and to finally determine whether a probable cause really exists in the case against petitioner for murder.

Ordinarily, the determination of probable cause is not lodged with this Court. Its duty in an appropriate case is confined to the issue of whether the executive or judicial determination, as the case may be, of probable cause was done without or in excess of jurisdiction or with grave abuse of discretion amounting to want of jurisdiction.⁸ This is consistent with the general rule that criminal prosecutions may not be restrained or stayed by injunction, preliminary or final.⁹ There are, however, exceptions to this rule. Among the exceptions are enumerated in *Brocka v. Enrile*.¹⁰

⁸ *Roberts, Jr. v. CA*, 324 Phil. 568, 615 (1996).

⁹ *Id.*

¹⁰ G.R. Nos. 69863-65, December 10, 1990, 192 SCRA 183, 188-189.

a. To afford adequate protection to the constitutional rights of the accused (*Hernandez v. Albano, et al.*, 125 Phil. 513 [1967]).

b. When necessary for the orderly administration of justice or to avoid oppression or multiplicity of actions (*Dimayuga, et al. v. Fernandez*, 43 Phil. 304 [1922]; *Hernandez v. Albano, supra*; *Fortun v. Labang, et al.*, 192 Phil. 125 [1981];

c. When there is a pre-judicial question which is *sub judice* (*De Leon v. Mabanag*, 70 Phil. 202 [1940]);

d. When the acts of the officer are without or in excess of authority (*Planas v. Gil*, 67 Phil. 62 [1938]);

e. Where the prosecution is under an invalid law, ordinance or regulation (*Young v. Rafferty*, 33 Phil. 556 [1916]; *Yu Cong Eng v. Trinidad*, 47 Phil. 385, 389 [1925]);

f. When double jeopardy is clearly apparent (*Sangalang v. People and Avendia*, 109 Phil. 1140 [1960]);

g. Where the court has no jurisdiction over the offense (*Lopez v. City Judge*, 124 Phil. 1211 [1996]).

h. Where it is a case of persecution rather than prosecution (*Rustia v. Ocampo*, CA-G.R. No. 4760, March 25, 1960);

i. Where the charges are manifestly false and motivated by the lust for vengeance (*Recto v. Castelo*, 18 L.J., [1953], cited in *Rañoa v. Alvendia*, CA-G.R. No. 30720-R, October 8, 1962; Cf. *Guingona, Jr., et al. v. City Fiscal of Manila, et al.*, 213 Phil. 516 [1984]); and

However, a close examination of the arguments presented by both parties would show that the present case does not fall under any of the above-cited exceptions. Furthermore, in this case, this Court is once again confronted with the often raised issue of the difference between the determination of probable cause by the prosecutor on one hand and the determination of probable cause by the judge on the other. To have a clearer view on the matter, see the case of *Mendoza v. People of the Philippines, et al.*¹¹

It must be emphasized that this Court is not a trier of facts. The determination of probable cause is and will always entail a review of the facts of the case. The CA, in finding probable cause, did not exactly delve into the facts of the case but raised questions that would entail a more exhaustive review of the said facts. It ruled that, “*Questions remain as to why, among all people, Ryan would implicate Pfelider as the inducer and why the other witnesses would associate Pfelider to the crime.*”¹² From this query, the CA has raised doubt. Under the Revised Rules on Criminal Procedure,

Section 6. *When warrant of arrest may issue.* — (a) *By the Regional Trial Court.* — Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 7 of this Rule. **In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence** within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint of information.¹³

In this case, the judge of the RTC, not finding the existence of probable cause, outrightly dismissed the case. The contrasting findings of the CA and the RTC is well noted and from the very provision of the Rules of Court,¹⁴ the remedy, in case of doubt, is for the judge to order the prosecutor to present additional evidence. Therefore, in the interest of justice, this Court finds it appropriate to remand the case to the trial court for its proper disposition, or for a proper determination of probable cause based on the evidence presented by the prosecution. This is not the first time that

j. When there is clearly no prima facie case against the accused and a motion to quash on that ground has been denied (*Salonga v. Paño, et al.*, L-59524, February 18, 1985, 134 SCRA 438).

¹¹ 733 Phil. 603 (2014).

¹² *Rollo*, p. 125.

¹³ Sec. 6, Rule 112.

¹⁴ *Id.* (Emphasis ours)

this Court has remanded a case to the trial court for it to make a ruling on whether certain Informations should be dismissed or not.¹⁵

Thus, it is my view that the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, dated July 23, 2013, of petitioner P/C Supt. Edwin A. Pfleider (Ret.), should have been granted in so far as his prayer to set aside the Decision dated October 23, 2012 and Resolution dated June 26, 2013, both of the Court of Appeals; and for this Court to order that this case be remanded to the Regional Trial Court of Tacloban City for the judicial determination of probable cause and the proper disposition of the same case. However, in view of the demise of P/C Supt. Edwin A. Pfleider on April 15, 2017, which effectively extinguished his criminal liability, this case had been rendered moot and academic. Thus, the criminal action against him should just be dismissed, and deemed closed and terminated inasmuch as there is no longer a defendant to stand as the accused.

WHEREFORE, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, dated July 23, 2013 of petitioner P/C Supt. Edwin A. Pfleider (Ret.) is hereby **GRANTED** insofar as his prayer to **SET ASIDE** the Decision dated October 23, 2012 and Resolution dated June 26, 2013, both of the Court of Appeals. However, considering the demise of P/C Supt. Edwin A. Pfleider, instead of remanding the case to the Regional Trial Court of Tacloban city for the determination of probable cause, the criminal action is **DISMISSED**, there being no defendant to stand as accused.¹⁶

SO ORDERED



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:


(Please see Dissenting Opinion)
PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson

¹⁵ See *People of the Philippines, et al. v. Panfilo M. Lacson*, 432 Phil. 113, 131 (2002).

¹⁶ See *People v. Layag*, G.R. No. 214875, October 17, 2016. See also Article 89 (1) of the Revised Penal Code.

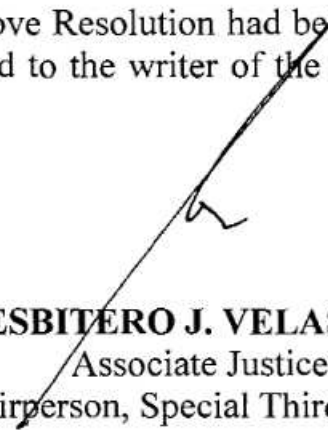

JOSE CATRAL MENDOZA
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

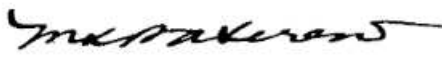
ATTESTATION

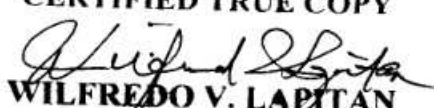
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Special Third 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 Resolution 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
Chief Justice

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

AUG 08 2017