



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
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FIRST DIVISION

**ANLUD METAL RECYCLING CORPORATION, as represented by ALFREDO A. DY,**

Petitioner,

**G.R. No. 182157**

Present:

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

- versus -

**JOAQUIN ANG,**

Respondent.

Promulgated:

**AUG 17 2015**

X -----X

**DECISION**

**SERENO, *CJ*:**

We resolve the Petition for Review<sup>1</sup> filed by petitioner Anlud Metal Recycling Corporation, which assails the Decision and Resolution of the Court of Appeals (CA) in CA-G.R. SP No. 97124.<sup>2</sup> The CA affirmed the Decision and Order of the Regional Trial Court (RTC) in Criminal Case No. 12691-2004-C<sup>3</sup> dismissing the charge of *estafa* against respondent Joaquin Ang.<sup>4</sup>

The antecedent facts are as follows:

San Miguel Packaging Products-Metal Closures Lithography Plant (SMC-MCLP) allegedly awarded petitioner an exclusive contract to purchase its aluminum- and tin-based scrap materials from 20 March 2003

<sup>1</sup> *Rollo*, pp. 3-36.

<sup>2</sup> *Id.* at 38-52; the CA Decision promulgated on 4 December 2007 and Resolution promulgated on 13 March 2008 were penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Bienvenido L. Reyes (now a member of this Court) and Fernanda Lampas Peralta.

<sup>3</sup> *Id.* at 111-114; the RTC Decision dated 18 September 2006 and Order (on reconsideration) dated 3 October 2006 were penned by Presiding Judge Arnaldo B. Belen, Branch 36, Calamba City.

<sup>4</sup> *Id.* at 192-193. In its Resolution dated 30 June 2008, the Court resolved to delete Presiding Judge Belen as party respondent pursuant to Rule 45, Section 4, of the Rules of Court.

to 31 January 2004. However, on 23 January 2004, the President of Anlud Metal Recycling Corporation found that SMC-MCLP's employee Conrado Alday had allowed Nenita B. dela Cruz to load scrap materials in two trucks, owned by respondent Ang, which were then operated by his truck drivers Edjanel Jose Paniergo and Renato Bagaua.

Based on the narration of petitioner, Dela Cruz pretended to be an agent of Anlud Metal Recycling Corporation when she arranged for the transport of the scrap materials. She had allegedly coordinated the hauling with Alday, who was then working for SMC-MCLP. Alday purportedly allowed the trucks driven by Paniergo and Bagaua to enter the plant and load the scrap materials in the cargoes based on a false representation that the transaction was authorized by petitioner. Fortunately, the two trucks was not able to leave the premises of SMC-MCLP.

Petitioner lodged a Complaint for attempted *estafa* through falsification of commercial/private document against Alday, Dela Cruz, Paniergo, Bagaua, and respondent Ang. Subsequently, the Investigating Prosecutor caused the filing with the RTC of an Information for *estafa* under Article 315, paragraph 2(a) of the Revised Penal Code, which reads as follows:<sup>5</sup>

That on or about January 23, 2004 at Brgy. Canlubang, in the City of Calamba and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to defraud by means of fraudulent acts executed prior to or simultaneously with the commission of the fraud, did then there unlawfully, willfully and feloniously pretend to possess business or imaginary transactions by claiming that he has the authority from complainant Anlud Metal Recycling Corporation to withdraw from San Miguel Corp – Metal Closure Lithography Plant (SMC-MCLP), when in truth and in fact they were not and as a consequence, they were able to withdraw thirty (30) metric tons of Aluminum Scraps from the said SMC-MCLP estimated at more than ₱500,000 using the name of Anlud Metal Recycling Corporation (ANLUD), which was charged to the latter's account, to its damage and prejudice in the amount of ₱500,000.

CONTRARY TO LAW.

The RTC issued a Warrant of Arrest<sup>6</sup> on 26 October 2004 against Ang and his co-accused. Thereafter, respondent filed a Petition for Reinvestigation and a Motion for Preliminary Investigation before the City Prosecutor's Office. He also filed with the RTC an Urgent Motion to Suspend Proceedings Pending Reinvestigation and to Recall Order of Arrest Against Accused Movant Joaquin Ang.<sup>7</sup>

<sup>5</sup> Id. at 54.

<sup>6</sup> Id. at 55.

<sup>7</sup> Id. at 56-70; filed on 16 November 2004.

In its Order dated 20 January 2005,<sup>8</sup> the RTC denied the motion filed by Ang. It ruled that his allegations were not supported by evidence; and that based on the facts of the case, there was a reasonable ground to engender a well-founded belief that he had committed *estafa*.

In contrast, on 3 February 2005, the City Prosecutor's Office issued its Resolution on Reconsideration<sup>9</sup> absolving respondent from the offense charged. It discussed that although he owned the trucks that carried the scrap materials, the theory of conspiracy had no foundation absent any proof that he had performed any overt act of *estafa*. It also highlighted the fact that he was not present at the time of the incident. As a result, the City Prosecutor's Office filed an Amended Information,<sup>10</sup> which no longer included him as an accused.

Petitioner bewailed the dropping of respondent from the charge. Thus, it filed with the Department of Justice (DOJ) a Petition for Review, which the latter granted.<sup>11</sup> According to the DOJ, respondent could not be considered innocent of *estafa*, since (1) his denial was self-serving; (2) he owned the trucks used in loading the scrap materials; (3) he failed to adduce exculpatory evidence showing that it was Dela Cruz who had commanded the use of his trucks; (4) the drivers of the trucks were respondent's own; and (5) it can be inferred from the action of the truck drivers that they received instructions from him.

Respondent filed a Motion for Reconsideration, but to no avail.<sup>12</sup> Thus, a Second Amended Information<sup>13</sup> was filed with the RTC, which already named Ang as one of the accused.

On 16 June 2006, respondent sought judicial relief by filing an Omnibus Motion to Determine Probable Cause and to Defer Issuance of Warrant of Arrest Until Determination of Probable Cause Is Completed (Omnibus Motion).<sup>14</sup> Petitioner filed its Comment/Opposition<sup>15</sup> thereto on 7 July 2006.

This time around, the court took a different stance. In its Decision dated 18 September 2006, the RTC dismissed the case against respondent for want of probable cause. It explained that mere ownership of the trucks did not make respondent a co-conspirator for *estafa*. For conspiracy to be appreciated against Ang, the trial court required proof showing that he knew of the crime, consented to its commission, or performed any of its elements.

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<sup>8</sup> Id. at 75-76.

<sup>9</sup> Id. at 77-78.

<sup>10</sup> Id. at 79.

<sup>11</sup> Id. at 86-91; Resolution promulgated on 27 January 2006.

<sup>12</sup> Id. at 92-93; Resolution (on reconsideration) promulgated on 2 July 2006.

<sup>13</sup> Id. at 94-95

<sup>14</sup> Id. at 96-100.

<sup>15</sup> Id. at 101-109.

Petitioner filed a Motion for Reconsideration<sup>16</sup> and a Motion for Inhibition,<sup>17</sup> but both were denied through the RTC Order dated 3 October 2006.<sup>18</sup> The court reiterated in its ruling that “in the resolution of the judicial determination of probable cause, the court is not bound and cannot be bound by the findings of the Secretary of Justice in the existence of probable cause and hold the accused for trial.”<sup>19</sup>

Unrelenting, petitioner questioned the dismissal of Ang’s criminal case before the CA. In its Decision dated 4 December 2007, and subsequent Resolution dated 13 March 2008, the CA gave due course to the Petition for Certiorari<sup>20</sup> notwithstanding that Anlud Metal Recycling Corporation had appealed without the participation of the Office of the Solicitor General (OSG), which was supposed to act on behalf of the People of the Philippines.

However, the petition failed on the merits. Petitioner had argued before the CA that the RTC should not have entertained respondent’s Omnibus Motion, because its Notice of Hearing was addressed only to the public prosecutor and not to petitioner. The CA rejected this argument and ruled that the “absence of a notice to a private prosecutor although the public prosecutor has been notified is a matter that is for a trial judge to consider in his sound discretion.”<sup>21</sup>

Petitioner also failed to dispute the RTC’s ruling to exclude Ang as an accused in the crime of *estafa*. According to the CA, since the trial court had conducted an independent evaluation, the fact alone that the latter reversed its earlier finding of probable cause did not amount to grave abuse of discretion; and any error of the RTC was an error of judgment not correctible by certiorari.

Aggrieved, petitioner filed the instant petition before this Court and raised the following contentions: (1) the RTC had no jurisdiction to determine probable cause; (2) it abused its discretion when it entertained respondent’s Omnibus Motion for determination of probable cause despite a defective Notice of Hearing; and (3) it erred in dismissing the charge of *estafa* against Ang. In turn, respondent filed a Comment,<sup>22</sup> which included the issue of petitioner’s standing to file this appeal without the participation of the OSG. Petitioner submitted its Reply<sup>23</sup> to refute the allegations of respondent.

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<sup>16</sup> Id. at 115-131.

<sup>17</sup> Id. at 132-139.

<sup>18</sup> Id. at 155-156.

<sup>19</sup> Id. at 156.

<sup>20</sup> CA *rollo*, pp. 2-32.

<sup>21</sup> *Rollo*, p. 47.

<sup>22</sup> Id. at 219-241.

<sup>23</sup> Id. at 244-253.

**RULING OF THE COURT**

***Petitioner has no personality to appeal the dismissal of the criminal case for estafa before this Court.***

Before the Court proceeds with the substantive issues in this case, the procedural issue of petitioner's personality to appeal the dismissal of the criminal case merits preliminary attention.

Petitioner argues that since the CA has already ruled upon this issue, without respondent filing a partial appeal, then the latter has already lost its right to question the standing of Anlud Metal Recycling Corporation. This argument is unmeritorious. In the past, the Court has *motu proprio* ascertained the standing of a private offended party to appeal the dismissal of a criminal case.<sup>24</sup>

In any event, respondent cannot be considered to have waived its argument regarding the personality of petitioner to file the instant appeal. In his Comment, respondent cites *Republic v. Partisala*<sup>25</sup> and asserts that petitioner has no right to appeal the dismissal of the criminal case absent the participation of the OSG. In its Reply, petitioner responds by quoting the ruling of the CA, *viz*:<sup>26</sup>

As argued by petitioner, citing the case of *Perez v. Hagonoy Rural Bank, Inc.*, the petitioner, as private complainant, has legal personality to impugn the dismissal of the criminal case against the private respondent under Rule 65. As private offended party, the petitioner has an interest in the civil aspect of the case; thus, it may file a special civil action for certiorari and prosecute the same in its own name without making the People of the Philippines a party. While it is only the Solicitor General who may bring or defend actions in behalf of the Republic of the Philippines, or represent the People or State in criminal proceedings pending in the Supreme Court and the Court of Appeals, the private offended party retains the right to bring a special civil action for certiorari in his own name in criminal proceedings before the courts of law.

Notably, both positions taken by the parties are supported by jurisprudence. It is then proper for this Court to clarify the standing of a private offended party – in this case, petitioner – to appeal the dismissal of the criminal case against the accused, who in this case is respondent.

The real party in interest in a criminal case is the People of the Philippines. Hence, if the criminal case is dismissed by the trial court, the

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<sup>24</sup> See *Villareal v. Aliga*, G.R. No. 166995, 13 January 2014; *Bautista v. Cuneta-Pangilinan*, G.R. No. 189754, 24 October 2012, 684 SCRA 521.

<sup>25</sup> 203 Phil. 750 (1982).

<sup>26</sup> *Rollo*, p. 245.

criminal aspect of the case must be instituted by the Solicitor General on behalf of the State.<sup>27</sup>

As a qualification, however, this Court recognizes that the private offended party has an interest in the civil aspect of the case.<sup>28</sup> Logically, the capability of the private complainant to question the dismissal of the criminal proceedings is limited only to questions relating to the civil aspect of the case.<sup>29</sup> It should ideally be along this thin framework that we may entertain questions regarding the dismissals of criminal cases instituted by private offended parties. Enlarging this scope may result in wanton disregard of the OSG's personality, as well as the clogging of our dockets, which this Court is keen to avoid.

Therefore, the litmus test in ascertaining the personality of herein petitioner lies in whether or not the substance of the certiorari action it instituted in the CA referred to the civil aspect of the case.<sup>30</sup>

Here in this Rule 45 petition, petitioner argues that the RTC erred when it concluded that "there is no evidence of conspiracy against private respondent Ang." Petitioner goes on to enumerate circumstances that collectively amount to a finding that based on probable cause, respondent conspired with the accused in defrauding Anlud Metal Recycling Corporation.<sup>31</sup>

Clearly, petitioner mainly disputes the RTC's finding of want of probable cause to indict Ang as an accused for *estafa*. This dispute refers, though, to the criminal, and not the civil, aspect of the case. In *Jimenez v. Sorongon*<sup>32</sup> we similarly ruled:

In this case, the petitioner has no legal personality to assail the dismissal of the criminal case **since the main issue raised by the petitioner involved the criminal aspect of the case, i.e., the existence of probable cause.** The petitioner did not appeal to protect his alleged **pecuniary interest as an offended party of the crime**, but to cause the reinstatement of the criminal action against the respondents. This involves the right to prosecute which pertains exclusively to the People, as represented by the OSG. (Emphasis supplied)

Given that nowhere in the pleadings did petitioner even briefly discuss the civil liability of respondent, this Court holds that Anlud Metal Recycling Corporation lacks the requisite legal standing to appeal the discharge of

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<sup>27</sup> *People v. Malayan Insurance Company, Inc.*, G.R. No. 193681, 6 August 2014.

<sup>28</sup> *Cariño v. De Castro*, 576 Phil. 634 (2008).

<sup>29</sup> *Rodriguez v. Gadiane*, 527 Phil. 691 (2006)

<sup>30</sup> *People v. Santiago*, 255 Phil. 851 (1989).

<sup>31</sup> *Rollo*, pp. 25-26.

<sup>32</sup> G.R. No. 178607, 5 December 2012, 687 SCRA 151.

respondent Ang from the Information for *estafa*. On this ground alone, the petition already fails.<sup>33</sup>

Nonetheless, this Court has already acknowledged the interest of substantial justice, grave error committed by the judge, and lack of due process as veritable grounds to allow appeals to prosper despite the non-participation of the OSG.<sup>34</sup> But as will be discussed below, petitioner has failed to demonstrate that the petition falls under any of these exceptions.

***The RTC may conduct a judicial determination of probable cause.***

Petitioner explains that there are two determinations of probable cause: the first is for the purpose of filing a criminal information in the court, and the second is for the issuance of a warrant of arrest. Petitioner submits that since the first kind is executive in nature, then the RTC had absolutely no jurisdiction to determine the existence of probable cause to hold respondent as an accused in the crime of *estafa*.

Hence, for petitioner, the RTC grievously erred when it gave due course to the Omnibus Motion of respondent, which questioned the determination of probable cause by the prosecutor. Respondent counters this argument by alleging that the RTC may resolve issues brought before it pursuant to the power of the court to administer justice.

Petitioner's interpretation of the rules on the determination of probable cause is inaccurate. Although courts must respect the executive determination of probable cause,<sup>35</sup> the trial courts may still independently determine probable cause. They are not irrevocably bound to the determination of probable cause by the prosecutor and the DOJ.<sup>36</sup>

The trial court actually has the following options upon the filing of a criminal information: (1) immediately dismiss the case if the evidence on record clearly fails to establish probable cause; (2) issue a warrant of arrest if it finds probable cause; and (3) order the prosecutor to present additional evidence within five days from notice in case of doubt as to the existence of probable cause.<sup>37</sup> These options are provided in Rule 112, Section 6 (a) of the Rules of Court, which reads:

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

<sup>33</sup> *Supra* note 24; *Bangayan, Jr. v. Bangayan*, G.R. Nos. 172777 and 172792, 19 October 2011, 659 SCRA 590.

<sup>34</sup> *Cariño v. De Castro*, 576 Phil. 634 (2008) citing *Mobilia Products, Inc. v. Umezawa*, 493 Phil. 85 (2005), *Narciso v. Sta. Romana-Cruz*, 385 Phil. 208 (2000), *Perez v. Hagonoy Rural Bank, Inc.*, 384 Phil. 322 (2000), and *People v. Santiago*, 255 Phil. 851 (1989).

<sup>35</sup> *Unilever Phils., Inc. v. Tan*, G.R. No. 179367, 29 January 2014, 715 SCRA 36.

<sup>36</sup> *Mendoza v. People*, G.R. No. 197293, 21 April 2014.

<sup>37</sup> *People v. Gabo*, 640 Phil. 396 (2010).

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. (Emphasis supplied)

Indeed, the RTC is allowed to dismiss the charge of *estafa* against Ang notwithstanding the executive determination of probable cause by the prosecutor. If we were to construe otherwise, we would be contradicting the basic principle that “once an information is filed in RTC, any disposition of the case rests already in the sound discretion of the court.”<sup>38</sup>

***Rule 15, Section 5 of the Rules of Court was substantially complied with.***

Citing Rule 15, Section 5 of the Rules of Court, petitioner regards the Notice of Hearing appended to respondent’s Omnibus Motion as defective. This is because the notice was addressed only to the public prosecutor and the clerk of court, and not to the private offended party – petitioner herein.<sup>39</sup>

By having a defective Notice of Hearing, petitioner concludes that the Omnibus Motion was a mere scrap of paper, which the RTC should have instantly disregarded. Thus, when the RTC, as affirmed by the CA, gave due course to the motion, petitioner believes that its right to due process was oppressed.

Petitioner correctly argues that a notice of hearing must be addressed to all the parties concerned;<sup>40</sup> and that failure to comply with this directive results in a motion that should be treated as a mere scrap of paper.<sup>41</sup> However, this general requirement of a valid notice of hearing is one of those procedural rules that admit of various exceptions.<sup>42</sup>

In *Jehan Shipping Corporation v. National Food Authority*,<sup>43</sup> the Court considered the defect in the notice of hearing as cured, since the adverse party had the opportunity to be heard and had filed pleadings in

<sup>38</sup> *Viudez II v. Court of Appeals*, 606 Phil. 337 (2009).

<sup>39</sup> *Rollo*, p. 100.

<sup>40</sup> *Community Rural Bank of Guimba (N. E.) Inc. v. Talavera*, 495 Phil. 30 (2005).

<sup>41</sup> *Balagtas v. Sarmiento, Jr.*, 476 Phil. 392 (2004).

<sup>42</sup> *Pasion v. Lorenzo*, G.R. No. 192335, 9 July 2014; *Preysler, Jr. v. Manila Southcoast Development Corp.*, 635 Phil. 598 (2010); *Basco v. Court of Appeals*, 392 Phil. 251 (2000).

<sup>43</sup> *Jehan Shipping Corp. v. NFA*, 514 Phil. 166 (2005).

opposition to the motion. In particular, the adverse party was able to argue the procedural defects and even ventilate substantial arguments.

This same application has already been echoed in our past decisions.<sup>44</sup> In those cases, the Court observes that the real purpose behind the requirement of notice of hearing is to afford the adverse parties a chance to be heard before a motion is resolved by the court.<sup>45</sup> The test is the presence of the opportunity to be heard, as well as to have time to study the motion and meaningfully oppose or controvert the grounds upon which it is based.<sup>46</sup> Considering the circumstances of the present case, we believe that procedural due process has substantially been complied with.

Petitioner filed a Comment/Opposition on 7 July 2006 specifically to oppose the supposedly defective Omnibus Motion filed by respondent on 16 June 2006. In that pleading, petitioner raised the incompleteness of the Notice of Hearing and likewise argued about the substantive merits – that probable cause existed to indict Ang as an accused. Thereafter, the RTC scheduled the hearing for the judicial determination of probable cause on 16 August 2006, but the hearing was later rescheduled on 30 August 2006.<sup>47</sup> Only after these proceedings had transpired did the trial court issue its assailed Decision on 18 September 2006 finding a want of probable cause to hold Ang for trial for the crime of *estafa*. Thereafter, petitioner filed a Motion for Reconsideration on 2 October 2006, which the RTC denied in its Order dated 3 October 2006.

Based on the sequence of events mentioned above, it is clear that petitioner was given an opportunity to be heard. It advanced its opposition to the Omnibus Motion when it filed its Comment/Opposition on 7 July 2006 and later on in its Motion for Reconsideration dated 2 October 2006. From these facts, we conclude that Rule 15, Section 5 of the Rules of Court on notice of hearing was substantially complied with. Consequently, this Court cannot agree with petitioner that the latter's right to due process has been denied.

In any event, petitioner cannot anchor the reversal of the finding of want of probable cause on the mere pretext that the Omnibus Motion filed by respondent was just a scrap of paper as it contained a defective Notice of Hearing. The judicial determination of probable cause may proceed even if the accused does not file a pertinent motion. As adverted to earlier, the RTC may immediately dismiss the case if the evidence on record clearly fails to establish probable cause.<sup>48</sup>

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<sup>44</sup> *Cabrera v. Ng*, G.R. No. 201601, 12 March 2014; *Mamba v. Lara*, 623 Phil. 63 (2009); *Vlason Enterprises Corp. v. Court of Appeals*, 369 Phil. 269 (1999).

<sup>45</sup> *KKK Foundation, Inc. v. Hon. Adelina Calderon-Bargas*, G.R. No. 163785, 27 December 2007, 541 SCRA 432.

<sup>46</sup> *Sarmiento v. Zaratan*, 543 Phil. 232 (2007).

<sup>47</sup> *Rollo*, p. 110.

<sup>48</sup> *Id.* at 36.

***The RTC did not exceed its jurisdiction when it dismissed the charge of estafa against respondent for want of probable cause.***

In the main, petitioner questions the ruling of the CA, which dismissed its Petition for Certiorari. The CA held that the RTC did not commit an error of jurisdiction when the latter ruled that the prosecution failed to establish probable cause against respondent.

Ordinarily, the determination of probable cause is not lodged with this Court.<sup>49</sup> We emphasize that the viewpoint we follow must conform to the nature of reviewing a CA decision, which was rendered under Rule 65 of the Rules of Court.

In *Hao v. People*,<sup>50</sup> we explained that in this situation, the Court is confronted with the question of whether the CA correctly determined the presence or absence of grave abuse of discretion on the part of the trial court, and not on the basis of whether the latter's assessment of the incidents before it was strictly legally correct. To recall, grave abuse of discretion exists when there is an arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or a whimsical, arbitrary or capricious exercise of power that amounts to an evasion of or a refusal to perform a positive duty enjoined by law or to act at all in contemplation of law.<sup>51</sup>

In this case, the CA no longer dealt with the particular exhibits relied upon by the RTC to conclude the absence of probable cause to indict Ang as an accused in the case for *estafa*. In its rulings, the RTC reasoned as follows:<sup>52</sup>

The fact that the accused is the owner of the truck that carried the objects of the crime cannot make him a co-conspirator in the execution of the crime of *estafa*. An affirmation of this supposition (sic) open a floodgate for charges against people, whose only fault was being owners of vehicle used in the commission of the crime.

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Upon review and examination of the prosecution evidence in the judicial determination of probable cause, there is total absence of any prosecution evidence in their documents (**Annexes "A-1" to "A-9"**) and witnesses' affidavits (**Exhibits "A" & "B"**) where this Court can logically surmised nor inferred (sic) from any of the proven acts of any of the other accused that Accused Joaquin Ang was in conspiracy with

<sup>49</sup> *Roberts, Jr. v. Court of Appeals*, 324 Phil. 568 (1996).

<sup>50</sup> G.R. No. 183345, 17 September 2014.

<sup>51</sup> *Corpuz v. del Rosario*, 653 Phil. 36 (2010).

<sup>52</sup> *Rollo*, pp. 112-113.

the other accused in their common criminal unity and intent to defraud Anlud.

There was nothing from these documents and affidavits that Accused Joaquin Ang committed, executed or implied any act leading to a conclusion that he knew the commission of the crime or performed any of the elements of the offense to establish that he acted in unison with the other accused.

There was no proof that he benefitted from the effects of the crime. There was no proof that he gave his consent to the commission of the alleged crime.

In view of this (sic) findings, this Court agrees with the observation of the Office of the City Prosecutor of Calamba City in their Resolution on Reconsideration dated 22 September 2004 that absolved Accused Joaquin Ang. To quote their logic and ratio:

The bone of movant's contention dwells on the theory of conspiracy which was the basis of his inclusion as one of the accused. Indubitably, accused Renato Bagaua and Edjanel Jose were the assigned drivers of his trucks with plate number UUG 787 and TJL 632 that were chanced upon by the complainant loading scrap materials inside the premises of San Miguel Corporation-Metal Closure Lithography Plant (SMC-MCLP) sometime in January 23, 2004. A careful perusal of the evidence adduced by the parties will clearly show that movant was not around at the premises of SMC-MCLP during the time that the other respondents were loading scrap materials on his truck. Neither that he executed any act leading to a conclusion that he has knowledge thereof or performed any of the elements of the offense charged to show that he acted in unison with the accused. There is also no proof that he benefitted, in any manner, from the effects of the crime nor gave his consent to the commission thereof.

Based on the explanation of the RTC, this Court holds that the CA was correct in not finding grave abuse of discretion on the part of the trial court. In referring to the extant facts, the arguments of the parties, as well as logic and law, the RTC did not whimsically, arbitrarily, or capriciously ascertain the absence of probable cause.

Probable cause, albeit requiring less evidence than that which would justify a conviction, nevertheless implies the probability of guilt and requires more than bare suspicion.<sup>53</sup> Given that Ang was implicated in the conspiracy, the trial court correctly looked into whether respondent performed any overt act as direct or indirect contribution to the execution of the crime planned to be committed.<sup>54</sup>

As held by the RTC, apart from owning the trucks, no other link has been established by the prosecution to hold respondent as a conspirator in

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<sup>53</sup> *Pineda-Ng v. People*, G.R. No. 189533, 15 November 2010, 634 SCRA 736.

<sup>54</sup> *Salapuddin v. Court of Appeals*, G.R. No. 184681, 25 February 2013, 691 SCRA 578.



the hauling of the scrap materials. Even in the instant petition,<sup>55</sup> petitioner harps only on Ang being engaged in scrap trading, owning the trucks, and employing the accused as his truck drivers. Without more, none of these depicts any overt act of respondent connected to the accomplishment of *estafa*.

Petitioner relies on the Memorandum submitted by Ang before the Office of the Provincial Prosecutor of Calamba, Laguna, on 25 September 2004 to argue that respondent admitted his complicity in the transaction. He purportedly admitted to the crime when he pleaded:<sup>56</sup>

Worse, Alfredo (petitioner's representative) went beyond the bounds of fairness and good faith by maliciously and recklessly accusing the poor truck drivers Edjanel and Renato of the crime when all they did was to drive the truck for their employer who had negotiated with San Miguel for the purchase of the scrap material.

This issue was already raised by petitioner in the proceedings below. Unfortunately, neither the RTC nor the CA discussed this matter.

Based on our own appreciation then, we find that nowhere in the above-quoted passage is it indicated that respondent specifically made a factual admission that he had instructed his drivers to go to the plant, misrepresent that they were from Anlud Metal Recycling Corporation, and coordinate the hauling of the scrap materials with Alday and Dela Cruz. An admission must be clear; and in this instance, it must take into account the unwavering position of Ang that he did not conspire with any of the accused in their alleged scheme to haul scrap materials with the use of his trucks.<sup>57</sup>

All told, we are not inclined to disturb the conclusions of the RTC, as these are based on the evidence on record. Neither are we in disagreement with the CA, which remarked that the dismissal of the criminal action against Ang is "not fatal to the cause of the public prosecution because such quashal appears to have been issued at the initial stage of the criminal trial process."<sup>58</sup> Considering the foregoing, we rule to sustain the judgments of the courts *a quo*.

**WHEREFORE**, the Petition for Review filed by Anlud Metal Recycling Corporation is **DENIED**. The Court of Appeals Decision dated 4 December 2007 and subsequent Resolution dated 13 March 2008 in CA-G.R. SP. No. 97124, affirming the Regional Trial Court Decision dated 18 September 2006 and Order dated 3 October 2006 in Criminal Case No. 12691-04-C are **AFFIRMED**.

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<sup>55</sup> *Rollo*, pp. 24-25.

<sup>56</sup> *Id.* at 174.

<sup>57</sup> *Atillo III v. Court of Appeals*, 334 Phil. 546 (1997).

<sup>58</sup> *Rollo*, p. 49.



**SO ORDERED.**



**MARIA LOURDES P. A. SERENO**  
Chief Justice, Chairperson

WE CONCUR:

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

*Lucas P. Bersamin*  
**LUCAS P. BERSAMIN**  
Associate Justice

*Jose Portugal Perez*  
**JOSE PORTUGAL PEREZ**  
Associate Justice

*Estela M. Perlas-Bernabe*  
**ESTELA M. PERLAS-BERNABE**  
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**  
Chief Justice