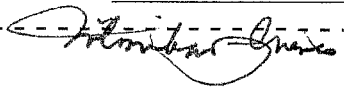


EN BANC

G.R. No. 205275 – Mamerto Austria v. AAA and BBB

Promulgated:

June 28, 2022

X ----- X 

CONCURRENCE

LAZARO-JAVIER, J.:

I agree with the disposition to remand the case to the trial court for resolution of petitioner's motion for reconsideration in accordance with Section 14, Article VIII of the 1987 Constitution.¹ The Court of Appeals properly struck down the trial court's Joint Orders as a nullity which simply copied Mamerto Austria's allegations in his motion for reconsideration and memoranda. There was no analysis of the evidence nor a reference to any legal basis for the conclusion in violation of the Constitution.

The *ponencia* of my esteemed colleague, Justice Mario V. Lopez takes the opportunity to lay down rules for the bench and the bar to follow with respect to the legal standing of a private complainant in assailing judgments or orders in criminal proceedings before the Court and the Court of Appeals.

It is a settled rule that every action must be prosecuted or defended in the name of the real party in interest who stands to be benefited or injured by the judgment in the suit, or by the party entitled to the avails thereof.² The suit is dismissible when the plaintiff or the defendant is not a real party in interest.³

Meanwhile, a crime is an offense against the State, hence, it is prosecuted in the name of People of the Philippines.⁴ As the real party in interest, the People have the inherent prerogative to prosecute the offense.

¹ Article VIII – Judicial Department
Section 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.
No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.
(Constitution, Art. VIII, Section 14).

² Rule 3, Section 2 provides:
Section 2. *Parties in interest.* — A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.
(1997 Rules of Procedure, Rule 3, Sec. 2, As Amended).

³ See *Jimenez v. Sorongon*, 700 Phil. 316, 324 (2012).

⁴ See *Merciales v. CA*, 429 Phil. 70, 79 (2002).

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This includes the authority to appeal from the accused's acquittal, the dismissal of the case, and other interlocutory orders relating to the criminal aspect of the case.⁵

Under Section 5, Rule 110⁶ of the Rules of Court, all criminal actions commenced by complaint or Information shall be prosecuted under the direction and control of the public prosecutor. The public prosecutor represents the People of the Philippines in the prosecution of offenses before the metropolitan trial courts, municipal trial courts, municipal circuit trial courts, and regional trial courts. When such criminal actions are brought to the Court of Appeals or this Court, however, it is the Solicitor General who must represent the People of the Philippines, not the public prosecutor.⁷

Section 35(1), Chapter 12, Title III of Book IV of the 1987 Administrative Code explicitly provides, *viz.*:⁸

SEC. 35. *Powers and Functions.* — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers x x x shall have the following specific powers and functions:

- (1) **Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings;** represent the Government and its officers in the Supreme Court and Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party. (Emphasis in the original).

Indeed, the Office of the Solicitor General (*OSG*) is the appellate counsel of the People of the Philippines in **all** criminal cases.⁹ Specifically, it shall represent the Government in all criminal proceedings before the Supreme Court and the Court of Appeals. Thus, as a general rule, if a criminal case is dismissed by the trial court or if there is an acquittal, the appeal on the criminal aspect of the case must be instituted by the Solicitor General on behalf of the State.¹⁰

⁵ See *BDO Unibank Inc. V. Choa*, G.R. No. 237553, July 10, 2019.

⁶ Section 5. *Who must prosecute criminal actions* — All criminal actions either commenced by complaint or information shall be prosecuted under the direction and control of a public prosecutor. In case of heavy work schedule of the public prosecutor or in the event of lack of public prosecutors, the private prosecutor may be authorized in writing by the Chief of the Prosecution Office or the Regional State Prosecutor to prosecute the case subject to the approval of the Court. Once so authorized to prosecute the criminal action, the private prosecutor shall continue to prosecute the case up to end of the trial even in the absence of a public prosecutor, unless the authority is revoked or otherwise withdrawn. x x x.
(Rules of Court, Rule 110, Sec. 5).

⁷ See *People v. Duca*, 618 Phil. 154–169 (2009).

⁸ *Id.* at 164.

⁹ See *People v. Alapan*, 823 Phil. 272, 279 (2018).

¹⁰ See *Morillo v. People*, 775 Phil. 192, 210 (2015).

As a qualification, however, the Court recognizes that the private offended party has an interest in the civil aspect of the case. 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. It should ideally be along this thin framework that we may entertain questions regarding the dismissals of criminal cases instituted by private offended parties.¹¹

The *litmus* test, therefore, in ascertaining the personality of a private complainant lies in whether or not the substance of the certiorari action instituted in the Court of Appeals refers to the civil aspect of the case.¹²

*People v. Santiago*¹³ is instructive:

It is well-settled that in criminal cases where the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability. Thus, in the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General. Only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not take such appeal. However, the said offended party or complainant may appeal the civil aspect despite the acquittal of the accused.

In a special civil action for certiorari filed under Section 1, Rule 65 of the Rules of Court wherein it is alleged that the trial court committed a grave abuse of discretion amounting to lack of jurisdiction or on other jurisdictional grounds, the rules state that the petition may be filed by the person aggrieved. In such case, the aggrieved parties are the State and the private offended party or complainant. The complainant has an interest in the civil aspect of the case so he may file such special civil action questioning the decision or action of the respondent court on jurisdictional grounds. In so doing, complainant should not bring the action in the name of the People of the Philippines. The action may be prosecuted in name of said complainant.

Thus, the Court has definitively ruled that in a criminal case in which the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability arising therefrom. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal of the criminal aspect may be undertaken, whenever legally feasible, only by the State through the solicitor general. As a rule, only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not undertake such appeal.¹⁴

¹¹ *Aniud Metal Recycling Corp. v. Ang*, 766 Phil. 676 (2015).

¹² *Id.* at 687.

¹³ See *People v. Santiago*, 255 Phil. 851, 861–862 (1989).

¹⁴ *Bautista, et al. v. Cuneta-Pangilinan*, 698 Phil. 110, 124 (2012).

Verily, once the private complainant raises the main issues or matters involving the criminal aspect of the case such as the existence of probable cause, he or she loses the legal personality to assail the dismissal of the criminal case. Evidently, the principal purpose of his or her appeal is no longer the protection of his or her pecuniary interest as an offended party but the reinstatement of the criminal action, which amounts to an encroachment on the People's right to prosecute.¹⁵

The following, however, are instances where the Court permitted an offended party to file an appeal without the OSG's intervention:

One. When the offended party questions the civil aspect of a decision of a lower court.¹⁶ In this situation, it is assumed that a decision on the merits had already been rendered by the lower court and it is the civil aspect of the case which the offended party is appealing. The offended party who is not satisfied with the outcome of the case may question the amount of the grant or denial of damages by the court below even without the participation of the Solicitor General.¹⁷

Two. When there is a denial of due process of law to the prosecution and the State or its agents refuse to act on the case to the prejudice of the State and the private offended party.¹⁸ It contemplates a situation where the State and the offended party are deprived of due process because the prosecution is remiss in its duty to protect the interest of the State and the offended party. This Court recognizes the right of the offended party to appeal an order of the trial court which denied him or her and the State due process of law.¹⁹

Three. When there is grave error committed by the judge, or when the interest of substantial justice so requires.²⁰

Four. When the circumstances surrounding the case, such as the absence of support from the OSG, leave the private complainant with no other suitable recourse but to appeal the case himself or herself.²¹

The above points have a common denominator, the private complainant was clothed with personality even without the OSG's intervention in cases where the decision or order smacks of apparent error that ultimately resulted in the denial of justice both for the State and the private complainant.

¹⁵ Supra note 3 at 325, citing Minute Resolution, *Carina L. Dacer, Sabina Dacer-Reyes, et al. v. Panfilo M. Lacson*, G.R. No. 196209, June 8, 2011.

¹⁶ *Cabral v. Bracamonte*, G.R. No. 233174, January 23, 2019.

¹⁷ *Cu v. Ventura*, 840 Phil. 650, 660 (2018).

¹⁸ See *Land Bank of the Phils. v. Perez*, 687 Phil. 106, 124 (2012).

¹⁹ See *Heirs of Delgado v. Gonzalez*, 612 Phil. 817, 844 (2009).

²⁰ Supra note 10 at 193.

²¹ Id. at 216.

I join the *ponencia* in maintaining these exceptions. Certainly, in vesting the private complainant with the requisite legal personality before the Court of Appeals, the Court did so after considering the pieces of evidence on record *vis-à-vis* the patent error elevated for review. But we cannot clothe the private complainant with an all too convenient personality to go to the Court of Appeals and raise questions even beyond the civil liability. To do so would elevate the private complainant to the level of the OSG, worse, even higher than the OSG. Surely, the interest of the People, as the real-party-in interest, is paramount and should prevail over the participation of the private complainant through the private prosecutor.²²

While a private prosecutor may be allowed to intervene in criminal proceedings on appeal in the Court of Appeals or the Supreme Court, his or her participation is subordinate to the interest of the People, hence, he or she cannot be permitted to adopt a position contrary to that of the Solicitor General. To do so would be tantamount to giving the private prosecutor the direction and control of the criminal proceeding, contrary to the provisions of law.²³

In *Anlud Metal Recycling Corp. v. Ang*, the Court categorically held that enlarging the scope of what a private complainant may raise in a *certiorari* action 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.²⁴

At any rate, an appeal of the criminal case is dismissible if not filed by the People as represented by the OSG. *Cu v. Ventura*²⁵ is *apropos*:

Again, jurisprudence holds that if there is a dismissal of a criminal case by the trial court, or if there is an acquittal of the accused, it is only the OSG that may bring an appeal on the criminal aspect representing the People. The rationale therefor is rooted in the principle that the party affected by the dismissal of the criminal action is the People and not the petitioners who are mere complaining witnesses. For this reason, the People are deemed as the real parties-in-interest in the criminal case and, therefore, only the OSG can represent them in criminal proceedings pending in the CA or in this Court. In view of the corollary principle that every action must be prosecuted or defended in the name of the real party-in-interest who stands to be benefited or injured by the judgment in the suit, or by the party entitled to the avails of the suit, an appeal of the criminal case not filed by the People as represented by the OSG is perforce dismissible. The private complainant or the offended party may, however, file an appeal without the intervention of the OSG, but only insofar as the civil liability of the accused is concerned. He may also file a special civil action for *certiorari* even without the intervention of the OSG, but only to the end of preserving his interest in the civil aspect of the case.

²² See *Cariño v. De Castro*, 576 Phil. 634, 640 (2008).

²³ *Supra* note 9 at 280.


²⁴ *Supra* note 11 at 687.

²⁵ *Supra* note 17 at 663.

ALL TOLD, I vote in favor of the guidelines governing the participation of a private complainant in appellate or *certiorari* proceedings in criminal cases; and the remand of the case to the trial court for resolution of petitioner's motions for reconsideration.


AMY C. LAZARO-JAVIER

CERTIFIED TRUE COPY


MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
OCC-En Banc, Supreme Court