

810 Phil. 187

## THIRD DIVISION

[ G.R. No. 209859, June 05, 2017 ]

**EILEEN P. DAVID, PETITIONER, VS. GLENDA S. MARQUEZ,  
RESPONDENT.**

### DECISION

**TIJAM, J.:**

This is a Petition for Review on Certiorari<sup>[1]</sup> under Rule 45, assailing the Decision<sup>[2]</sup> dated May 29, 2013 and Resolution<sup>[3]</sup> dated November 6, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 124839, reinstating the criminal cases of Illegal Recruitment and Estafa ag inst Petitioner Eileen David.

#### **The Procedural and Factual Antecedents**

In a *Sinumpaang Salaysay* filed before the Office of the City Prosecutor of Manila, Respondent Glenda Marquez alleged, among others, that she is a resident of Sampaloc, Manila and that sometime in March 2005, petitioner approached her in Kidapawan City and represented that she could recruit her to work abroad.<sup>[4]</sup> It was further alleged that petitioner demanded payment of placement fees and other expenses from the respondent for the processing of the latter's application, to which the respondent heeded.<sup>[5]</sup> Respondent's application was, however, denied and worse, the money that she put out therefor was never returned.<sup>[6]</sup>

In her Counter-Affidavit and Counter Charge, petitioner averred that it was physically impossible for her to have committed the said acts as she was in Canada at the alleged time of recruitment as evidenced by the entries in her passport.<sup>[7]</sup> Petitioner further averred that she was never engaged in the recruitment business.<sup>[8]</sup> The petitioner alleged that the amount deposited in her account was not for her but was just coursed through her to be given to her friend in Canada who was the one processing respondent's application, as evidenced by a certification to that effect issued by the said friend.<sup>[9]</sup> Further, petitioner argued before the Prosecutor that assuming *arguendo* that the allegations of recruitment were true, the case should be filed in Kidapawan City and not in Manila.<sup>[10]</sup>

On December 9, 2008, two separate Informations were filed against petitioner for Illegal Recruitment and Estafa, respectively. The accusatory portions thereof read as follows:

Criminal Case No. 08-265539

The undersigned accuses EILEEN DAVID of a violation of Article 38 (a), P.D. No. 1412, amending certain provision of Book I, P.D. No. 442, otherwise known as the New Labor Code of the Philippines, in relation to Article 13 (b) and (c) of said code, as further amended by P.D. Nos. 1693, 1920, and 2018 and as further amended by Sec. 6 (a), (1) and (m) of Republic Act 8042, committed as follows:

That sometime in the month of March, 2005, in the City of Manila, Philippines, the said accused representing herself to have the capacity to contract, enlist and transport Filipino workers overseas, particularly in Canada, did then and there willfully, unlawfully, for a fee, recruit and promise employment/job placement to GLENDA S. MARQUEZ without first having secured the required license from the Department of Labor and Employment as required by law, and charged or accepted directly or indirectly from said complainant the amount of Php152,670.00 as placement/processing fee in consideration for her overseas employment, which amount is in excess of or greater than that specified in the schedule of allowable fees prescribed by the POEA, and without valid reasons failed to actually deploy her and continuously fail to reimburse expenses incurred by her in connection with her documentation and processing for purposes of her deployment.

Contrary to law.<sup>[11]</sup>

Criminal Case No. 08-265540

The undersigned accuses EILEEN P. DAVID of the crime of Estafa, Art. 315 par. 2 (a) of the Revised Penal Code, committed as follows:

That on or about and during the period comprised between March 8, 2005 and April 20, 2007, inclusive, in the City of Manila, Philippines, the said accused, did then and there willfully, unlawfully, and feloniously defraud GLENDA S. MARQUEZ in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representations which she made to said GLENDA S. MARQUEZ prior to and even simultaneous with the commission of the fraud, to the effect that she had the power and capacity to recruit and employ said GLENDA S. MARQUEZ for overseas employment in Canada as Live-in Caregiver, and could facilitate the processing of the pertinent papers if given the necessary amount to meet the requirements thereof, induced and succeeded in inducing the said GLENDA S. MARQUEZ to give and deliver, as in fact she gave and delivered to said accused the total amount of Php152,670.00, on the strength of said manifestations and representations, said accused well knowing that the same were false and fraudulent and were made solely to obtain, as in fact, she did obtain the said

amount of Php152,670.00, which amount once in her possession, with intent to defraud, misappropriated, misapplied, and converted to her own personal use and benefit, to the damage and prejudice of said GLENDA S. MARQUEZ in the aforesaid amount of Php152,670.00, Philippine Currency.

Contrary to law.<sup>[12]</sup>

### **The Ruling of the Regional Trial Court**

On December 11, 2008, warrants of arrest were issued against the petitioner.

On April 15, 2009, petitioner filed a Motion to Quash the Information<sup>[13]</sup> in Criminal Case No. 08-265540, arguing that she was deprived of her right to seek reconsideration or reinvestigation of the public prosecutor's resolution as she was not furnished a copy thereof.<sup>[14]</sup> Also, petitioner argued that the City Prosecutor of Manila had no jurisdiction over the case as the alleged crime was committed in Kidapawan City.

In an Order<sup>[15]</sup> dated May 13, 2011 in Criminal Case No. 08-265540, the Regional Trial Court (RTC) of Manila, Branch 55, denied petitioner's Motion to Quash, ruling that the ground relied upon by the petitioner in the said motion is not one of those enumerated under Section 3<sup>[16]</sup>, Rule 117 of the Rules of Court for quashing a complaint or information.<sup>[17]</sup> As to the jurisdictional issue, the RTC ruled that it has jurisdiction to take cognizance of the case, citing Section 9 of Republic Act No. 8042<sup>[18]</sup> (RA 8042), which explicitly states that:

A criminal action arising from illegal recruitment as defined herein shall be filed with the Regional Trial Court of the province or city where the offense was committed **or where the offended party actually resides at the time of the commission of the offense** xxx. (*underscoring supplied for emphasis*)<sup>[19]</sup>

Since complainant is a resident of Manila, the RTC ruled that the second ground interposed by the petitioner is devoid of merit.<sup>[20]</sup> Thus:

In view of the foregoing, the Motion to Quash is hereby DENIED for lack of merit.

SO ORDERED.<sup>[21]</sup>

Petitioner filed a Motion for Reconsideration<sup>[22]</sup> of the said Order alleging that she just found out that there were two Informations filed against her, one for Illegal Recruitment in Criminal Case No. 08-265539<sup>[23]</sup> and another for Estafa<sup>[24]</sup> in Criminal Case No. 08-265540. Petitioner maintained that the alleged crimes were committed in Kidapawan City, not in Manila as alleged in the Informations. Petitioner further alleged that there is no showing that respondent is an actual resident of Manila but as per her Reply-Affidavit, Manila is merely her postal address.<sup>[25]</sup> Hence, petitioner again raised a jurisdictional issue in the said motion.<sup>[26]</sup>

In an Order<sup>[27]</sup> dated January 26, 2012, this time in Criminal Cases Nos. 08-265539-40, the RTC reconsidered its May 13, 2011 Order, finding that it had no jurisdiction to try the cases since the crimes of Illegal Recruitment and Estafa were not committed in its territory but in Kidapawan City, thus:

WHEREFORE, in the light of the foregoing, the instant Motion for Reconsideration is hereby GRANTED. The Order of this Court dated May 13, 2011 is hereby RECONSIDERED and SET ASIDE.

This case is ordered returned to the Office of the Clerk of Court of the Regional Trial Court for proper disposition.

SO ORDERED.<sup>[28]</sup>

On the same date, the RTC also issued an Order<sup>[29]</sup> recalling the warrants of arrest issued against the petitioner, thus:

Considering that this Court has no territorial jurisdiction over the above-entitled cases, the Order of this Court dated December 11, 2008, pertaining to the issuance of Warrants of Arrest against herein accused is hereby cancelled (and) set aside.

WHEREFORE, let the Warrants of Arrest issued in these cases be ordered RECALLED AND SET ASIDE.

SO ORDERED.<sup>[30]</sup>

Respondent, through the public prosecutor, then filed a Motion for Reconsideration<sup>[31]</sup> of the said Order, averring that while it appears in the Philippine Overseas Employment Administration (POEA) pro-forma complaint affidavit that the alleged recruitment activities took place in Kidapawan City, it also appears in her Reply-Affidavit, that she deposited certain amounts in several banks in Manila for the name and account of petitioner as payments for employment processing and placement fees.<sup>[32]</sup> Thus, part

of the essential elements of Illegal Recruitment and Estafa took place in Manila.<sup>[33]</sup> Section 9 of RA 8042, above-quoted, which states that an illegal recruitment case may also be filed with the RTC of the province or city where the offended party actually resides at the time of the commission of the crime, was likewise invoked in the said motion.<sup>[34]</sup> Respondent averred that the records show that at the time of the incident up to the present, she resides in Sampaloc, Manila.<sup>[35]</sup>

Petitioner filed an Opposition<sup>[36]</sup> to the said motion. Respondent, through the public prosecutor, filed a Comment<sup>[37]</sup> thereon and a Reply<sup>[38]</sup> was then filed by the petitioner.

In an Order<sup>[39]</sup> dated March 16, 2012, the RTC denied respondent's motion for reconsideration, ruling that as stated in respondent's *Sinumpaang Salaysay*, the essential elements of Illegal Recruitment and Estafa took place in Kidapawan City and not in Manila. The allegation that several deposits for the payment of the placement fees were made in Manila is of no moment, according to the RTC, considering that the main transaction actually took place in Kidapawan City, which is the basis for determining the jurisdiction of the court. Thus:

WHEREFORE, premises considered, the instant Motion for Reconsideration filed by the Prosecution is hereby DENIED for lack of merit. The Orders of the Court both dated January 26, 2012 still stand.

SO ORDERED.<sup>[40]</sup>

### **The Ruling of the Court of Appeals**

Undaunted, respondent filed a *Petition for Certiorari* before the CA.

In its assailed Decision, the CA discussed, first, the issue of respondent's legal personality to file the said petition and second, the RTC's jurisdiction over the case.<sup>[41]</sup>

On the first issue, the CA ruled that while it is only the Office of the Solicitor General (OSG) that may represent the People or the State in criminal proceedings before this Court or the CA, the private offended party retains the right to bring a special civil action for *certiorari* in his/her own name in criminal proceedings before the courts of law.<sup>[42]</sup> The CA cited Section 1, Rule 122, which provides that the right to appeal from a final judgment or order in a criminal case is granted to any party except when the accused is placed thereby in double jeopardy.<sup>[43]</sup> It also cited this Court's ruling that the word party in the said provision must be understood to mean not only the government and the accused, but also other persons who may be affected by the judgment rendered in the criminal proceeding.<sup>[44]</sup> The private complainant, having an interest in the civil aspect of the case, thus, may file such action in his/her name to

question the decision or action of the respondent court on jurisdictional grounds.<sup>[45]</sup> In line with this, the CA also ruled that there is no double jeopardy in this case as the charges were dismissed upon motion of the petitioner-accused.<sup>[46]</sup>

As to the issue on jurisdiction, the CA ruled that the RTC has jurisdiction over the cases of Illegal Recruitment and Estafa, citing Section 9 of RA 8042, which provides that a criminal action arising from illegal recruitment may be filed in the place where the offended party actually resides at the time of the commission of the offense.<sup>[47]</sup> According to the CA, it was established that herein respondent was residing in Sampaloc, Manila at the time of the commission of the crimes.<sup>[48]</sup> Therefore, the two (2) Informations herein were correctly filed with the RTC of Manila, pursuant to Section 9 of RA 8042.<sup>[49]</sup> The CA disposed, thus:

**WHEREFORE,** the petition for certiorari is **GRANTED**. The assailed *Order* dated January 26, 2012 and *Resolution* dated March 16, 2012 of the RTC, Manila, in Criminal Case No. 08-265539 for *estafa* and Criminal Case No. 08-265540 for *illegal recruitment* respectively, are **NULLIFIED and SET ASIDE**. The cases are **REINSTATED and REMANDED** to the court of origin for appropriate proceedings.

**SO ORDERED.**<sup>[50]</sup>

Petitioner's motion for reconsideration was denied by the CA in its Resolution dated November 6, 2013, thus:

**WHEREFORE,** the *Motion for Reconsideration* is **DENIED** for lack of merit.

**SO ORDERED.**<sup>[51]</sup>

Hence, this Petition.

Petitioner argues that the CA committed a reversible error and grave abuse of discretion in declaring that the respondent had the legal personality to assail the dismissal of the criminal cases as respondent is not the proper party to do so.<sup>[52]</sup> Petitioner argues that the OSG is the appellate counsel of the People of the Philippines in all criminal cases and as such, the appeal in the criminal aspect should be taken solely by the State and the private complainant is limited only to the appeal of the civil aspect.<sup>[53]</sup> According to the petitioner, respondent's action before the CA does not concern the civil aspect of the case but the validity of the RTC's Orders.<sup>[54]</sup>

On the jurisdictional issue, the petitioner maintains that the RTC of Manila has no jurisdiction over the cases as the alleged acts constituting the crimes charged were

committed in Kidapawan City and not in Manila.<sup>[55]</sup>

For her part, respondent argues that the argument as regards her legal personality in filing the *petition for certiorari* before the CA reveals that petitioner misunderstood the difference between an appeal and a special civil action for *certiorari* under Rule 65 of the Rules of Court.<sup>[56]</sup> In fact, respondent agrees with the petitioner that only the State, through the OSG, may file an appeal in a criminal case.<sup>[57]</sup> As an appeal is not available for a private complainant in a criminal case, an independent action through a *petition for certiorari* under Rule 65, therefore, is available to the said aggrieved party.<sup>[58]</sup>

Anent the jurisdictional issue, respondent again invokes Section 9 of RA 8042 which allows the filing of an action arising from illegal recruitment with the RTC of the complainant's residence.<sup>[59]</sup> The respondent further argues that as regards the charge of Estafa, considering that the same arose from the illegal recruitment activities, the said provision allows the filing thereof with the court of the same place where the Illegal Recruitment case was filed.<sup>[60]</sup> Besides, according to the respondent, since one of the essential elements of Estafa, *i.e.*, damage or prejudice to the offended party, took place in Manila, as the offended party resides in Manila, the RTC of Manila has jurisdiction over the Estafa case.<sup>[61]</sup>

### Issues

- 1) Does the RTC of Manila have jurisdiction over the cases of Illegal Recruitment and Estafa?
- 2) Does the respondent, on her own, have legal personality to file the *petition for certiorari* before the CA?

### The Court's Ruling

The issues shall be discussed *ad seriatim*.

#### **The RTC of Manila has jurisdiction over the cases of Illegal Recruitment and Estafa**

Indeed, venue in criminal cases is an essential element of jurisdiction.<sup>[62]</sup> As explained by this Court in the case of *Foz, Jr. v. People*:<sup>[63]</sup>

It is a fundamental rule that for jurisdiction to be acquired by courts in criminal cases, the offense should have been committed or any one of its essential ingredients took place within the territorial jurisdiction of the court.

Territorial jurisdiction in criminal cases is the territory where the court has jurisdiction to take cognizance or to try the offense allegedly committed therein by the accused. Thus it cannot take jurisdiction over a person charged with an offense allegedly committed outside of that limited territory. **Furthermore, the jurisdiction of a court over a criminal case is determined by the allegations in the complaint or information. And once it is so shown, the court may validly take cognizance of the case. However, if the evidence adduced during the trial show that the offense was committed somewhere else, the court should dismiss the action for want of jurisdiction.**<sup>[64]</sup> (*emphasis ours*)

Section 15(a), Rule 110 of the Rules of Criminal Procedure provides:

SEC. 15. *Place where action is to be instituted.* - a) **Subject to existing laws**, the criminal action shall be instituted and tried in the court of the municipality or territory where the offense was committed or where any of its essential ingredients occurred. (*emphasis ours*)

At the risk of being repetitive, Sec. 9 of RA 8042, however, fixed an alternative venue from that provided in Section 15(a) of the Rules of Criminal Procedure, *i.e.*, a criminal action arising from illegal recruitment may also be filed where the offended party actually resides at the time of the commission of the offense and that the court where the criminal action is first filed shall acquire jurisdiction to the exclusion of other courts.<sup>[65]</sup>

Despite the clear provision of the law, the RTC of Manila declared that it has no jurisdiction to try the cases as the illegal Recruitment and Estafa were not committed in its territory but in Kidapawan City.<sup>[66]</sup>

We are, thus, one with the CA in finding that the RTC of Manila committed grave abuse of discretion and in fact, a palpable error, in ordering the quashal of the Informations. The express provision of the law is clear that the filing of criminal actions arising from illegal recruitment before the RTC of the province or city where the offended party actually resides at the time of the commission of the offense is allowed. It goes without saying that the dismissal of the case on a wrong ground, indeed, deprived the prosecution, as well as the respondent as complainant, of their day in court.

It has been found by both the RTC and the CA that the respondent resides in Manila; hence, the filing of the case before the RTC of Manila was proper. Thus, the trial court should have taken cognizance of the case, and if it will eventually be shown during trial that the offense was committed somewhere else, then the court should dismiss the action for want of jurisdiction.<sup>[67]</sup> As a matter of fact, the RTC is not unaware of the above-cited provision which allows the filing of the said case before the RTC of the city where the offended party resides at the time of the commission of the offense; hence,



it originally denied petitioner's Motion to Quash. This Court is, thus, baffled by the fact that the RTC reversed itself upon the petitioner's motion for reconsideration on the same ground that it previously invalidated.

Likewise, with the case of Estafa arising from such illegal recruitment activities, the outright dismissal thereof due to lack of jurisdiction was not proper, considering that as per the allegations in the Information, the same was within the jurisdiction of Manila. During the preliminary investigation of the cases, respondent even presented evidence that some of the essential elements of the crime were committed within Manila, such as the payment of processing and/or placement fees, considering that these were deposited in certain banks located in Manila.<sup>[68]</sup> Thus, it bears stressing that the trial court should have proceeded to take cognizance of the case, and if during the trial it was proven that the offense was committed somewhere else, that is the time that the trial court should dismiss the case for want of jurisdiction.<sup>[69]</sup>

Undoubtedly, such erroneous outright dismissal of the case is a nullity for want of due process. The prosecution and the respondent as the private offended party were not given the opportunity to present and prosecute their case. Indeed, the prosecution and the private offended party are as much entitled to due process as the accused in a criminal case.<sup>[70]</sup>

**The respondent has the legal personality  
to file a *petition for certiorari* under Rule 65.**

This procedural issue is not novel. There is no question that, generally, the prosecution cannot appeal or bring error proceedings from a judgment rendered in favor of the defendant in a criminal case due to the final and executory nature of a judgment of acquittal and the constitutional prohibition against double jeopardy.<sup>[71]</sup> Despite acquittal, however, the offended party or the accused may appeal, but only with respect to the civil aspect of the decision.<sup>[72]</sup>

This Court has also entertained petitions for *certiorari* questioning the acquittal of the accused in, or the dismissal of, criminal cases upon clear showing that the lower court, in acquitting the accused, committed not merely errors of judgment but also grave abuse of discretion amounting to lack or excess of jurisdiction or a denial of due process, thus rendering the assailed judgment void.<sup>[73]</sup> When the order of dismissal is annulled or set aside by an appellate court in an original special civil action via *certiorari*, the right of the accused against double jeopardy is not violated.<sup>[74]</sup>

In as early as the 1989 case of *People v. Santiago*,<sup>[75]</sup> this Court has ruled that a private offended party can file a special civil action for *certiorari* questioning the trial court's order acquitting the accused or dismissing the case, viz.:

In such special civil action for *certiorari* filed under 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/she 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 Philippines. The action may be prosecuted in the name of said complainant.** (*emphasis supplied*)

Moreover, there have been occasions when this Court has allowed the offended party to pursue the criminal action on his/her own behalf, as when there is a denial of due process as in this case.<sup>[76]</sup> Indeed, the right of offended parties to appeal or question an order of the trial court which deprives them of due process has always been recognized, the only limitation being that they cannot appeal any adverse ruling if to do so would place the accused in double jeopardy.<sup>[77]</sup>

At this juncture, We also uphold the CA's finding that double jeopardy does not exist in this case. Inasmuch as the dismissal of the charges by the RTC was done without regard to due process of law, the same is null and void.<sup>[78]</sup> It is as if there was no acquittal or dismissal of the case at all, and the same cannot constitute a claim for double jeopardy.<sup>[79]</sup>

Also, it is elementary that double jeopardy attaches only when the following elements concur: (1) the accused is charged under a complaint or information sufficient in form and substance to sustain their conviction; (2) the court has jurisdiction; (3) the accused has been arraigned and has pleaded; and (4) he/she is convicted or acquitted, or the case is dismissed without his/her consent.<sup>[80]</sup> Thus, as found by the CA, double jeopardy does not attach in this case as the dismissal was granted upon motion of the petitioner. To be sure, no fundamental right of the petitioner was violated in the filing of the petition for *certiorari* before the CA by the respondent, as well as the grant thereof by the CA.

In fine, the dismissal of the cases below was patently erroneous and as such, invalid for lack of fundamental requisite, that is, due process.<sup>[81]</sup> For this reason, this Court finds the recourse of the respondent to the CA proper despite it being brought on her own and not through the OSG.

Besides, such technicality cannot prevail over the more fundamental matter, which is the violation of the right to due process resulting from the RTC's patent error. Nothing is more settled than the principle that rules of procedure are meant to be tools to facilitate a fair and orderly conduct of proceedings.<sup>[82]</sup> Strict adherence thereto must not get in the way of achieving substantial justice.<sup>[83]</sup> As long as their purpose is sufficiently met and no violation of due process and fair play takes place, the rules should be liberally construed.<sup>[84]</sup> Liberal construction of the rules is the controlling principle to effect substantial justice.<sup>[85]</sup> The relaxation or suspension of procedural

rules, or the exemption of a case from their operation, is warranted when compelling reasons or when the purpose of justice requires it.<sup>[86]</sup> Thus, litigations should, as much as possible, be decided on their merits and not on sheer technicalities.<sup>[87]</sup>

In all, since it is established that the RTC of Manila has jurisdiction over the Illegal Recruitment and Estafa cases, and there being no violation of the double jeopardy doctrine, the prosecution of the case may still resume in the trial court as held by the CA.

**WHEREFORE**, premises considered, the instant petition is **DENIED**. The Decision dated May 29, 2013 and Resolution dated November 6, 2013 of the Court of Appeals are hereby **AFFIRMED**.

**SO ORDERED.**

*Velasco, Jr., (Chairperson), Bersamin, Reyes, and Jardeleza, JJ., concur.*

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**July 10, 2017**

## **NOTICE OF JUDGMENT**

Sirs /Mesdames:

Please take notice that on **June 5, 2017** a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on July 10, 2017 at 10:12 a.m.

Very truly yours,

**(SGD.) WILFREDO V. LAPITAN**  
*Division Clerk of Court*

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<sup>[1]</sup> *Rollo*, pp. 3-30 with Annexes.

<sup>[2]</sup> Penned by Associate Justice Hakim S. Abdulwahid and concurred in by Associate Justices Marlene Gonzales-Sison and Rodil V. Zalameda; *Id.*, 31-40.

<sup>[3]</sup> *Id.*, pp. 41-42.

<sup>[4]</sup> *Supra* note 2, at 32.

[5] Id.

[6] Id.

[7] Id.

[8] Id.

[9] Supra note 1, at 6.

[10] Supra note 4.

[11] *Rollo*, pp. 71-72.

[12] Id., p. 73.

[13] Id., pp. 74-87.

[14] RTC of Manila, Branch 55 Order dated May 13, 2011, penned by Judge Armando A. Yanga, Id., p. 110.

[15] Id., pp. 110-111.

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

- (a) That the facts charged do not constitute an offense;
- (b) That the court trying the case has no jurisdiction over the offense charged;
- (c) That the officer who filed the information had no authority to do so;
- (d) That the officer who filed the information had no authority to do so;
- (e) That it does not conform substantially to the prescribed form;
- (f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law;
- (g) That the criminal action or liability has been extinguished;
- (h) That it contains averments which, if true, would constitute a legal excuse or justification; and
- (i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.

[17] Supra note 15.

[18] *The Migrant Workers and Overseas Filipinos Act of 1995.*

[19] Supra note 15, at 111.

[20] Id.

[21] Id.

[22] Rollo, pp. 112-118.

[23] Not 08-265540 as alleged in the Motion to Quash.

[24] Supra note 22, at 112.

[25] Id., p. 114.

[26] Id.

[27] *Rollo*, pp. 119-120.

[28] Id.

[29] Id., p. 121.

[30] Id.

[31] Id., pp. 122-123.

[32] Id., p. 122.

[33] Id.

[34] Id.

[35] Id.

[36] Id., pp. 124-128.

[37] Id., pp. 129-131.

[38] Id., pp. 132-140.

[39] Id., pp. 139-140.

[40] Id.

[41] Supra note 2.

[42] Id., p. 37.

[43] Id., p. 36.

[44] Id.

[45] Id., p. 37.

[46] Id.

[47] Id., p. 39.

[48] Id.

[49] Id.

[50] Id., pp. 39-40.

[51] Id., p. 42.

[52] Supra note 1, at 16.

[53] Id.

[54] Id., p. 19.

[55] Id., p. 23.

[56] Comment, *rollo*, pp. 184-191.

[57] Id., p. 186.

[58] Id.

[59] Id., p. 188.

[60] Id.

[61] Id.

- [62] *Ana Lou B. Navaja v. Hon. Manuel A. De Castro, or the Acting Presiding Judge of MCTC Jagna-Garcia-Hernandez, DKT Phils., Inc., represented by Atty. Edgar Borje*, G.R. No. 182926, June 22, 2015.
- [63] 618 Phil. 120 (2009).
- [64] *Id.*
- [65] *Hon. Patricia A. Sto. Tomas, et al. v. Rey Salac et al.*, G.R. Nos. 152642, 152710, 167590, 182978-79, 184298-99, November 13, 2012.
- [66] *Supra* note 27.
- [67] *Foz, Jr. v. People*, *supra* note 63.
- [68] *Supra* note 31, at 122.
- [69] *Foz, Jr. v. People*, *supra* note 63.
- [70] *People v. Honorable Pedro T. Santiago. in his capacity as Presiding Judge of Branch 101 of the Regional Trial Court of Quezon City and Segundina Rosario y Sembrano*, G.R. No. L-80778, June 20, 1989.
- [71] *People and AAA v. Court of Appeals, 21<sup>st</sup> Division, Mindanao Station, Raymund Carampatana, Joeffel Oporto, and Moises Alquizola*, G.R. No. 183652. February 25, 2015.
- [72] *Id.*
- [73] *People v. Hon. Enrique C. Asis, in his capacity as Presiding Judge of the Regional Trial Court of Biliran Province, Branch 16, and Jaime Abordo*, G.R. No. 173089, August 25, 2010 citing *People v. Louel Uy*, G.R. No. 158157, September 30, 2005, 471 SCRA 668, 680-681.
- [74] *Id.*, citing *People v. Laguio, Jr.*, G.R. No. 128587, March 16, 2007, 518 SCRA 393, 408-409.
- [75] *Supra* note 70.
- [76] *Elvira O. Ong v. Jose Casim Genio*, G.R. No. 182336, December 23, 2009.
- [77] *Leticia R. Merciales v. The Honorable Court of Appeals, The People of the Philippines Joselito Nuada, Pat. Edwin Moral, Adonis Nieves, Ernesto Lobete, Domil Grageda, and Ramon Pol Flores*, G.R. No. 124171, March 18, 2002.

[78] Id.

[79] Id.

[80] Id.

[81] Id.

[82] *Foz, Jr. v. People*, supra note 63.

[83] Id.

[84] Id.

[85] Id.

[86] Id.

[87] Id.



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