REMEDIAL LAW

MIGDONIO RACCA and MIAM GRACE DIANNE RACCA *v.*
MARIA LOLITA A. ECHAGUE
G.R. No. 237133, 20 January 2021, *SECOND DIVISION* (Gesmundo, *J.*)

DOCTRINE OF THE CASE

Under Section 3, publication of the notice of hearing shall be done upon the delivery of the will, or filing of the petition for allowance of the will in the court having jurisdiction. On the other hand, personal notice under Section 4 shall be served to the designated or known heirs, legatees and devisees, and the executor or co-executor, at their residence, if such are known.

Here, the notice sent to Migdonio and Miam fell short of the procedural requirements laid down by Section 4.

FACTS

Maria Lolita A. Echague (Echague) filed a Petition for the allowance of the will of the late Amparo Ferido Racca (Amparo) and issuance of letters testamentary in her favor. She averred that Amparo executed a notarial will before her death and bequeathed an undivided portion of a parcel of land in favor of her grandnephew Migdon Chris Laurence Ferido (Migdon). She also named Migdonio Racca (Migdonio) and Miam Grace Dianne Ferido Racca (Miam), Amparo's husband and daughter, respectively, as Amparo's known heirs.

The hearing for the petition proceeded but Migdonio and Miam failed to appear, hence, they were declared in default. Subsequently, Migdonio and Miam filed a Motion to Lift Order of General Default on the ground of excusable negligence. They alleged that Migdonio received a copy of the Notice of Hearing only two days before the scheduled hearing. Since Migdonio is already 78 years old, and not in perfect health, he could not immediately act on the notice within such a short period of time.

Miam, on the other hand, did not receive any notice. Due to their ignorance of procedural rules and financial constraints, they were not immediately able to secure a counsel to represent their interest. They also manifested in the motion that Amparo was mentally incapable to make a will based on the medical certificate issued by her attending physician.

The Regional Trial Court (RTC) released an Order denying the motion. It held that the jurisdictional requirements of publication and posting of notices had been substantially complied with. A Motion for Reconsideration was then filed but the RTC denied the same. Hence, the present appeal by *Certiorari* under Rule 45.

ISSUE

Are Migdonio and Miam still entitled to notice under Section 4 of Rule 76 despite the publication of the notice of hearing?

RULING

YES. Notice to the designated and known heirs, devisees and legatees under Section 4, Rule 76 of the Rules of Court is mandatory. Publication of notice of hearing is not sufficient when the places of residence of the heirs, legatees and devisees are known.

Notable that Sections 3 and 4 prescribe two (2) modes of notification of the hearing:

(a) by publication in a newspaper of general circulation or the Official Gazette; and

(b) by personal notice to the designated or known heirs, legatees and devisees.

Under Section 3, publication of the notice of hearing shall be done upon the delivery of the will, or filing of the petition for allowance of the will in the court having jurisdiction. On the other hand, personal notice under Section 4 shall be served to the designated or known heirs, legatees and devisees, and the executor or co-executor, at their residence, if such are known.

It should be stressed that the rule on personal notice was instituted in Section 4 to safeguard the right to due process of unsuspecting heirs, legatees, or devisees who, without their knowledge, were being excluded from participating in a proceeding which may affect their right to succeed in the estate.

Here, Miam was indicated as a known heir of Amparo in the petition filed by Echague. While her status as a compulsory heir may still be subject to confirmation, the petition, on its face, had already informed the probate court of

the existence of Miam as one of Amparo's heirs. The petition also provided Miam's residence. By Echague's own averments, Miam is entitled to the notice of hearing under Section 4.

As regards the notice sent to Migdonio, the Court also finds that the same fell short of the procedural requirements laid down by Section 4. There was no evidence that the notice of hearing addressed to him was deposited in the post office at least 20 days before June 21, 2017. Even if it were assumed that the notice of hearing was personally served to Migdonio, the same cannot be said to be substantial compliance.

Based on records, Migdonio received a copy of the notice on June 19, 2017 or two (2) days prior to the hearing. This is short of the 10-day period fixed by Section 4. Hence, the notice served to Migdonio did not satisfy the requirement provided by Section 4.

Moreover, the Court cannot expect Migdonio, an ailing 78-year-old who is not knowledgeable of legal procedures, to intelligently and promptly act upon receipt of the notice of hearing.

GINA VILLA GOMEZ *v.* PEOPLE OF THE PHILIPPINES
G.R. No. 216824, 10 November 2020, *SECOND DIVISION* (Gesmundo, *J.*)

DOCTRINE OF THE CASE

The handling prosecutor's authority, particularly as it does not appear on the face of the Information, has no connection to the trial court's power to hear and decide a case. Hence, Sec. 3(d), Rule 117, requiring a handling prosecutor to secure a prior written authority or approval from the provincial, city, or chief state prosecutor before filing an Information with the courts, may be waived by the accused through silence, acquiescence, or failure to raise such ground during arraignment or before entering a plea. If, at all, such deficiency is merely formal and can be cured at any stage of the proceedings in a criminal case.

Henceforth, all previous doctrines laid down by the Court, holding that the lack of signature and approval of the provincial, city, or chief state prosecutor on the face of the Information shall divest the court of jurisdiction over the person of the accused and the subject matter in a criminal action, are hereby abandoned.

FACTS

An Information for corruption of public officials under Article 212 of the Revised Penal Code was filed with the Regional Trial Court (RTC) against Gina Villa Gomez (Gomez). It was certified by Assistant City Prosecutor Rainald C. Paggao (ACP Paggao).

The RTC issued an Order, without any motion from either Gomez or the Prosecution, perfunctorily dismissing the criminal case because ACP Paggao had no authority to prosecute the case as the Information he filed does not contain the signature or any indication of approval from City Prosecutor Feliciano Aspi (City Prosecutor Aspi) himself; and ACP Paggao's lack of authority to file the Information is "a jurisdictional defect that cannot be cured." Aggrieved, the Prosecution filed a Motion for Reconsideration which the RTC denied.

Unsated, the Prosecution, through the Office of the Solicitor General (OSG), filed a Petition for *Certiorari* under Rule 65 with the Court of Appeals (CA). CA rendered a Decision that granted the Petition for *Certiorari* and held that the records show that the OCP's September 21, 2010 Resolution was indeed signed by City Prosecutor Aspi himself. Gomez filed a Motion for Reconsideration which the CA denied. Hence, this present Petition for Review on *Certiorari.*

ISSUE

Should the Information be quashed on the ground of absence of jurisdiction relative to ACP Paggao's failure to secure a prior written authority or stamped approval from City Prosecutor Aspi to file the same pleading?

RULING

NO. Under Section 3(d) of Rule 117 of the Rules of Court, that the officer who filed the information had no authority to do so is a ground for the quashal of an Information. Correlatively, Section 9 of Rule 117 is clear that an accused must move for the quashal of the Information before entering his or her plea during the arraignment. Failure to file a motion to quash the Information before pleading in an arraignment shall be deemed a waiver on the part of the accused to raise the grounds in Sec. 3, except if the grounds are based on paragraphs (a), (b), (g), and (i) of Sec. 3:

> (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 criminal action or liability has been extinguished; and
> (d) 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,

Nevertheless, the prevailing jurisprudence is of the view that paragraph (d) of Sec. 3, that the officer who filed the Information had no authority to do so, also cannot be waived by the accused like those in paragraphs (a), (b), (g) and (i).

It was first held in *Villa v. Ibañez* (*Villa*) that "It is a valid information signed by a competent officer which, among other requisites, confers jurisdiction on the court over the person of the accused and the subject matter of the accusation. In consonance with this view, an infirmity of the nature noted in the information [cannot] be cured by silence, acquiescence, or even by express consent."

The same ruling was reinforced in *People v. Garfin* (*Garfin*) which was further supplemented by the rulings in *Turingan v. Garfin* (*Turingan*) and *Tolentino v. Paqueo, Jr.* (*Tolentino*) where the Court declared that an Information filed by an investigating prosecutor without prior written authority or approval of the provincial, city, or chief state prosecutor (or the Ombudsman or his deputy)

constitutes a jurisdictional defect which cannot be cured and waived by the accused.

Furthermore, the Court in *Quisay v. People* (*Quisay*) also reinforced the doctrines established in *Villa, Garfin, Turingan,* and *Tolentino* by unequivocally maintaining that "the filing of an Information by an officer without the requisite authority to file the same constitutes a jurisdictional infirmity which cannot be cured by silence, waiver, acquiescence, or even by express consent"; and "such ground may be raised at any stage of the proceedings." It also added that resolutions issued by an investigating prosecutor finding probable cause to indict an accused of some crime charged cannot be considered as "prior written authority or approval of the provincial or city prosecutor."

Finally, the Court in *Maximo v. Villapando, Jr.* (*Maximo*) finally institutionalized Villa when it categorically declared that:

> (a) an Information, when required by law to be filed by a public prosecuting officer, cannot be filed by another;
> (b) the court does not acquire jurisdiction over the case because there is a defect in the Information; and
> (c) there is no point in proceeding under a defective Information that could never be the basis of a valid conviction.

As deduced from the aforementioned rulings, it now becomes sensible to conclude that the following reasons first laid down in Villa have been the Court's *raison d'être* of why an officer's lack of authority in filing an Information is considered a jurisdictional infirmity, to wit:

> (a) Lack of jurisdiction over the person of the accused; and
> (b) Lack of jurisdiction over the subject matter or nature of the offense.

In view of the aforementioned observation, the Court deems it inevitably necessary to revisit the aforementioned doctrines laid down in *Villa, Garfin, Turingan, Tolentino, Quisay, Maximo* and other rulings of similar import on account of this glaring realization:

Lack of prior written authority or approval on the face of the Information by the prosecuting officers authorized to approve and sign the same has nothing to do with a trial court's acquisition of jurisdiction in a criminal case.

For a clearer understanding, the Court now finds it necessary to dissect the relationship between the concepts relative to jurisdiction and the handling prosecutor's authority to file an Information.

Jurisdiction in General

In a broad and loose sense, it is the authority of law to act officially in a particular matter in hand. In a refined sense, it is "the power and authority of a court [or quasi-judicial tribunal] to hear, try, and decide a case."

Relatedly, the concept of jurisdiction has several aspects, namely:

(a) jurisdiction over the subject matter;
(b) jurisdiction over the parties;
(c) jurisdiction over the issues of the case; and
(d) in cases involving property, jurisdiction over the res or the thing which is the subject of the litigation.

Additionally, a court must also acquire jurisdiction over the remedy in order for it to exercise its powers validly and with binding effect. As to the acquisition of jurisdiction in criminal cases, there are three (3) important requisites which should be satisfied, to wit:

(a) the court must have jurisdiction over the subject matter;
(b) the court must have jurisdiction over the territory where the offense was committed;
(c) the court must have jurisdiction over the person of the accused.

In the case at hand, the relevant aspects of jurisdiction being disputed are:

(a) over the subject matter or, in criminal cases, over the nature of the offense charged;
(b) over the parties, or in criminal cases, over the person of the accused.

At this juncture, the Court will now proceed to determine how these aspects of jurisdiction are supposedly affected by the handling prosecutor's authority to sign and file an Information.

Jurisdiction Over the Subject Matter or Nature of the Offense

As applied to criminal cases, jurisdiction over a given crime is vested by law upon a particular court and may not be conferred thereto by the parties involved in the offense. More importantly, jurisdiction over an offense cannot be conferred to a court by the accused through an express waiver or otherwise. Here, a trial court's jurisdiction is determined by the allegations in the Complaint or Information and not by the result of proof. These allegations pertain to ultimate facts constituting elements of the crime charged. Such recital of ultimate facts apprises the accused of the nature and cause of the accusation against him or her.

Clearly, the authority of the officer in filing an Information has nothing to do with the ultimate facts which describe the charges against the accused. The issue on whether or not the handling prosecutor secured the necessary authority from his or her superior before filing the Information does not affect or change the cause of the accusation or nature of the crime being attributed to the accused. The nature and cause of the accusation remain the same with or without such required authority.

In fact, existing jurisprudence even allows the Prosecution to amend an Information alleging facts which do not constitute an offense just to make it line up with the nature of the accusation.

Viewed from a different angle, the law conferring a court with jurisdiction over a specific offense does not cease to operate in cases where there is lack of authority on the part of the officer or handling prosecutor filing an Information. As such, the authority of an officer filing the Information is irrelevant in relation to a trial court's power or authority to take cognizance of a criminal case according to its nature as it is determined by law. Therefore, absence of authority or prior approval of the handling prosecutor from the city or provincial prosecutor cannot be considered as among the grounds for the quashal of an Information which is non-waivable.

Jurisdiction Over the Person of the Accused

Jurisdiction over the person of the accused is acquired upon his or her:

(a) arrest or apprehension, with or without a warrant; or
(b) voluntary appearance or submission to the jurisdiction of the court.

Akin to the foregoing discussions on the trial court's acquisition of jurisdiction over the subject matter, the authority of an officer or handling prosecutor in the filing of an Information also has nothing to do with the voluntary appearance or validity of the arrest of the accused. Voluntary appearance entirely depends on the volition of the accused, while the validity of an arrest strictly depends on the apprehending officers' compliance with constitutional and statutory safeguards in its execution.

Therefore, a handling prosecutor's lack of prior authority or approval from the provincial, city, or chief state prosecutor in the filing of an Information may be waived by the accused if not raised as a ground in a motion to quash before entering a plea.

A Handling Prosecutor's Legal Standing and Authority to Appear

In criminal cases, the filing of a Complaint or Information in court initiates a criminal action. Such act of filing signifies that the handling prosecutor has entered his or her appearance on behalf of the People of the Philippines and is presumably clothed with ample authority from the agency concerned such as the Department of Justice or the Office of the Ombudsman. However, the appearance of a handling prosecutor, in the form of filing an Information against the accused, is conditioned by Sec. 4 of Rule 112 of the Rules of Court (which was based on Sec. 1 of Republic Act No. 5180). Thus, it provides:

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

However, Sec. 1 of R.A. No. 5180 (as embodied in Sec. 4 of Rule 112) merely provides the guidelines on how handling prosecutors, who are subordinates to the provincial, city, or chief state prosecutor, should proceed in

formally charging a person imputed with a crime before the courts. It neither provides for the power or authority of courts to take cognizance of criminal cases filed before them nor imposes a condition on the acquisition or exercise of such power or authority to try or hear the criminal case. Instead, it simply imposes a duty on investigating prosecutors to first secure a "prior authority or approval" from the provincial, city, or chief state prosecutor before filing an Information with the courts.

In effect, the operative consequence of filing an Information without prior written authority or approval from the provincial, city or chief state prosecutor is that the handling prosecutor's representation as counsel for the State may not be recognized by the trial court as sanctioned by the procedural rules enforced by the Court pursuant to its constitutional power to promulgate rules on pleading, practice, and procedure.

All told, the handling prosecutor's authority, particularly as it does not appear on the face of the Information, has no connection to the trial court's power to hear and decide a case. Hence, Sec. 3(d), Rule 117, requiring a handling prosecutor to secure a prior written authority or approval from the provincial, city or chief state prosecutor before filing an Information with the courts, may be waived by the accused through silence, acquiescence, or failure to raise such ground during arraignment or before entering a plea. If, at all, such deficiency is merely formal and can be cured at any stage of the proceedings in a criminal case.

Moreover, both the State and the accused are entitled to the constitutional guarantee of due process — especially when the most contentious of issues involve jurisdictional matters. A denial of such guarantee against any of the parties of the case amounts to grave abuse of discretion.

Henceforth, all previous doctrines laid down by the Court, holding that the lack of signature and approval of the provincial, city or chief state prosecutor on the face of the Information shall divest the court of jurisdiction over the person of the accused and the subject matter in a criminal action, are hereby abandoned.

It is sufficient for the validity of the Information or Complaint, as the case may be, that the Resolution of the investigating prosecutor recommending for the filing of the same in court bears the imprimatur of the provincial, city or chief

state prosecutor whose approval is required by Sec. 1 of R.A. No. 5180 and is adopted under Sec. 4, Rule 112 of the Rules of Court.

NURULLAJE SAYRE y MALAMPAD @ "INOL" *v.* HON. DAX GONZAGA XENOS, *et al.*
G.R. Nos. 244413, 244415-16, 18 February 2020, *EN BANC* (Carandang, *J.*)

DOCTRINE OF THE CASE

The DOJ Circular No. 27 provision pertaining to acceptable plea bargain for Section 5 of R.A. No. 9165 did not violate the rule-making authority of the Court. DOJ Circular No. 27 merely serves as an internal guideline for prosecutors to observe before they may give their consent to proposed plea bargains.

While A.M. No. 18-03-16-SC is a rule of procedure established pursuant to the rule-a plea bargain still requires mutual agreement of the parties and remains subject to the approval of the court.

FACTS

Nurullaje Sayre (Sayre) was charged with violation of Sections 5, 11, and 12, Article II of Republic Act No. 9165 (R.A. No. 9165), in three separate Informations. Sayre filed a Motion for Approval of Plea-Bargaining Proposal with Modification, proposing to plea bargain the charge of Illegal Sale of Dangerous Drugs to the lower offense of Possession of Paraphernalia for Dangerous Drugs under Section 12 in accordance with the guidelines provided by the Supreme Court in Office of the Court Administrator (OCA) Circular No. 90-2018.

City Prosecutor Jennifer Namoc-Yasol (City Prosecutor Namoc-Yasol) filed a Comment and Counter-Proposal, arguing that they are bound by Department of Justice (DOJ) Circular No. 27, rejecting Sayre's plea bargain from Illegal Sale of Dangerous Drugs to Possession of Drug Paraphernalia, and insisting that "any plea bargaining outside the DOJ circular is not acceptable."

In an Order, the Regional Trial Court (RTC) denied Sayre's Motion to Plea Bargain and set the case for Pre-Trial. His Motion for Reconsideration having been denied, Sayre filed the present petition for *Certiorari* and prohibition.

ISSUE

Is the provision in DOJ Circular No. 27 unconstitutional for contravening OCA Circular No. 90-2018, a procedural rule issued pursuant to the Supreme Court's rule-making power?

RULING

NO. Plea bargaining has been defined as "a process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case subject to court approval." There is a give-and-take negotiation common in plea bargaining. The essence of the agreement is that both the prosecution and the defense make concessions to avoid potential losses. Properly administered, plea bargaining is to be encouraged because the chief virtues of the system — speed, economy, and finality — can benefit the accused, the offended party, the prosecution, and the court.

The DOJ Circular No. 27 provision pertaining to acceptable plea bargain for Section 5 of R.A. No. 9165 did not violate the rule-making authority of the Court. DOJ Circular No. 27 merely serves as an internal guideline for prosecutors to observe before they may give their consent to proposed plea bargains.

While A.M. No. 18-03-16-SC is a rule of procedure established pursuant to the rule-making power of the Supreme Court under Section 5(5), Article VIII of the 1987 Constitution, a plea bargain still requires mutual agreement of the parties and remains subject to the approval of the court.

Section 2, Rule 116 of the Rules of Court expressly states that "at arraignment, the accused, with the consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily included in the offense charged."

The use of the word "may" signifies that the trial court has discretion whether to allow the accused to make a plea of guilty to a lesser offense. Moreover, plea bargaining requires the consent of the accused, offended party, and the prosecutor. It is also essential that the lesser offense is necessarily included in the offense charged.

Taking into consideration the requirements in pleading guilty to a lesser offense, the Court finds it proper to treat the refusal of the prosecution to adopt the acceptable plea bargain for the charge of Illegal Sale of Dangerous Drugs provided in A.M. No. 18-03-16-SC as a continuing objection that should be resolved by the RTC. This harmonizes the constitutional provision on the rule making power of the Court under the Constitution and the nature of plea

bargaining in Dangerous Drugs cases. DOJ Circular No. 27 did not repeal, alter, or modify the Plea Bargaining Framework in A.M. No. 18-03-16-SC.

PEOPLE OF THE PHILIPPINES *v.* BRENDO P. PAGAL a.k.a "DINDO"
G.R. No. 241257, 29 September 2020, *EN BANC* (Gesmundo, *J.*)

DOCTRINE OF THE CASE

It is evident that the trial court failed miserably to comply with the duties imposed by the 2000 Revised Rules. As regards the first duty, the trial court failed to conduct a searching inquiry to determine the voluntariness and full comprehension by Brendo of his plea of guilty. The Court scanned the records of the case to see compliance with the said duty. The search, however, was in vain. The records are barren of any proceeding where the trial court gauged the mindset of Brendo when he pleaded guilty. There is no transcript of stenographic notes which would reveal what actually took place, what words were spoken, what warnings were given, if a translation was made and the manner by which it was made, and whether or not the guidelines for a searching inquiry were duly observed. Brendo's plea of guilt is therefore improvident.

What compounded the RTC's strenuous oversight is the fact that the trial court penalized Brendo of the crime charged despite failure of the prosecution to present evidence of his guilt. This is in direct contravention of the mandate of the second duty stated in Sec. 3, Rule 116 of the 2000 Revised Rules. In this regard, the Court agrees with the CA that Brendo's guilt for the crime of murder was not proven beyond reasonable doubt. It is beyond cavil that the prosecution did not present any witness, despite being given four (4) separate hearing dates to do so. Thus, the RTC's conviction of Brendo relied solely on his improvident plea of guilty.

Lastly, as regard the third requisite, the October 5, 2011 Order of the RTC stated that Brendo, despite the non-reception of prosecution's evidence, opted not to present any evidence in his behalf." It would appear that Brendo waived his right to present evidence under Sec. 3, Rule 116 of the 2000 Revised Rules. However, the same Order and the records of the case are bereft of any showing that the trial court complied with the guidelines promulgated by the Court in People v. Bodoso. Such cavalier attitude of the trial court to the Rules of Court and existing jurisprudence leaves much to be desired.

FACTS

Brendo P. Pagal (Brendo) was indicted under an Information charging him of the crime of murder. During his arraignment, he pleaded guilty to the crime charged. The Regional Trial Court (RTC) found the plea to be voluntary and with full understanding of its consequences. Thus, it directed the prosecution to present evidence to prove the guilt of Brendo and to determine the exact degree

of his culpability in accordance with Section 3, Rule 116 of the 2000 Revised Rules of Criminal Procedure (2000 Revised Rules).

The RTC found Brendo guilty beyond reasonable doubt based solely on his plea of guilty. It stated that Brendo maintained his plea despite being apprised that he will be sentenced and imprisoned on the basis thereof.

Brendo appealed the RTC Order to the Court of Appeals (CA) on the ground that the RTC erred in convicting him of the crime charged solely on the basis of the latter's plea of guilt and despite the failure of the prosecution to prove his guilt beyond reasonable doubt. The CA held that the RTC failed to comply with the requirements of Section 3, Rule 116 regarding the treatment of a plea of guilty to a capital offense, particularly the conduct of a searching inquiry into Brendo's voluntariness and full comprehension of the consequences of his plea.

Also, the CA observed that the prosecution's evidence was insufficient to sustain a judgment of conviction independent of the plea of guilty. The CA noted that the prosecution did not present any evidence; thus, it remanded the case to the RTC. Hence, this recourse.

ISSUES

(1) Did the RTC err in convicting Brendo on the sole basis of his guilty plea despite the failure of the prosecution to prove his guilt beyond reasonable doubt?

(2) Is it correct for the case to be remanded to the trial court for further proceedings so that the trial court may comply with the requirements of Sec. 3, Rule 116?

RULING

(1) **YES.** It must be noted that murder remains a capital offense despite the proscription against the imposition of death as a punishment. Thus, when Brendo pleaded guilty during his arraignment, he pleaded to a capital offense. For this, Sec. 3, Rule 116 of the 2000 Revised Rules is relevant since it provides that when the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and shall require the prosecution to prove his guilt and the precise degree of culpability.

The 2000 Revised Rules retained the salient points of the 1985 amendment. Hence, at present, the three (3)-fold duty of the trial court in instances where the accused pleads guilty to a capital offense is as follows:

(a) conduct a searching inquiry;
(b) require the prosecution to prove the accused's guilt and precise degree of culpability;
(c) allow the accused to present evidence on his behalf.

The present rules formalized the requirement of the conduct of a searching inquiry as to the accused's voluntariness and full comprehension of the consequences of his plea. Further, it made mandatory the reception of evidence in cases where the accused pleads guilty to a capital offense. Most importantly, the present rules require that the prosecution prove beyond reasonable doubt the guilt of the accused. Evidently, starting with the 1985 Rules, the accused may no longer be convicted for a capital offense on the sole basis of his plea of guilty.

The duty of conducting a searching inquiry means more than informing cursorily the accused that he faces a jail term but also, the exact length of imprisonment under the law and the certainty that he will serve time at the national penitentiary or a penal colony. The searching inquiry of the trial court must be focused on:

(a) the voluntariness of the plea, and
(b) the full comprehension of the consequences of the plea.

It likewise compels the judge to content himself reasonably that the accused has not been coerced or placed under a state of duress - and that his guilty plea has not therefore been given improvidently - either by actual threats of physical harm from malevolent quarters or simply because of his, the judge's, intimidating robes.

Further, a searching inquiry must also expound on the events that actually took place during the arraignment, the words spoken and the warnings given, with special attention to the age of the accused, his educational attainment and socio-economic status as well as the manner of his arrest and detention, the provision of counsel in his behalf during the custodial and preliminary investigations, and the opportunity of his defense counsel to confer with him.

Lastly, the trial court must explain the essential elements of the crime he was charged with and its respective penalties and civil liabilities, and also direct a series of questions to defense counsel to determine whether he has conferred with the accused and has completely explained to him the meaning of a plea of guilty. This formula is mandatory and absent any showing that it was followed, a searching inquiry cannot be said to have been undertaken.

Corollary to this duty, a plea of guilty to a capital offense without the benefit of a searching inquiry or an ineffectual inquiry, as required by Sec. 3, Rule 116 of the 2000 Revised Rules, results to an improvident plea of guilty. It has been held that failure to comply with the said formula constitutes a violation of the accused's fundamental right to be informed of the precise nature of the accusation against him and a denial of his right to due process.

The duty to require the prosecution to still prove the guilt of the accused and the precise degree of his culpability is that the plea of guilt alone can never be sufficient to produce guilt beyond reasonable doubt. It must be remembered that a plea of guilty is only a supporting evidence or secondary basis for a finding of culpability, the main proof being the evidence presented by the prosecution to prove the accused's guilt beyond reasonable doubt. Once an accused charged with a capital offense enters a plea of guilty, a regular trial shall be conducted just the same as if no such plea was entered. The court cannot, and should not, relieve the prosecution of its duty to prove the guilt of the accused and the precise degree of his culpability by the requisite quantum of evidence.

The duty of giving the accused a reasonable opportunity to present evidence is to allow the accused to present exculpatory or mitigating evidence on his behalf in order to properly calibrate the correct imposable penalty. This duty, however, does not mean that the trial court can compel the accused to present evidence. Of course, the court cannot force the accused to present evidence when there is none. The accused is free to waive his right to present evidence if he so desires.

Applying the foregoing principles in this case, it is evident that the trial court failed miserably to comply with the duties imposed by the 2000 Revised Rules. As regards the first duty, the trial court failed to conduct a searching inquiry to determine the voluntariness and full comprehension by Brendo of his plea of guilty. The Court scanned the records of the case to see compliance with the said

duty. The search, however, was in vain. The records are barren of any proceeding where the trial court gauged the mindset of Brendo when he pleaded guilty. There is no transcript of stenographic notes which would reveal what actually took place, what words were spoken, what warnings were given, if a translation was made and the manner by which it was made, and whether or not the guidelines for a searching inquiry were duly observed. Brendo's plea of guilt is therefore improvident.

What compounded the RTC's strenuous oversight is the fact that the trial court penalized Brendo of the crime charged despite failure of the prosecution to present evidence of his guilt. This is in direct contravention of the mandate of the second duty stated in Sec. 3, Rule 116 of the 2000 Revised Rules. In this regard, the Court agrees with the CA that Brendo's guilt for the crime of murder was not proven beyond reasonable doubt. It is beyond cavil that the prosecution did not present any witness, despite being given four (4) separate hearing dates to do so. Thus, the RTC's conviction of Brendo relied solely on his improvident plea of guilty.

Lastly, as regard the third requisite, the October 5, 2011 Order of the RTC stated that Brendo, despite the non-reception of prosecution's evidence, opted not to present any evidence in his behalf." It would appear that Brendo waived his right to present evidence under Sec. 3, Rule 116 of the 2000 Revised Rules. However, the same Order and the records of the case are bereft of any showing that the trial court complied with the guidelines promulgated by the Court in *People v. Bodoso*. Such cavalier attitude of the trial court to the Rules of Court and existing jurisprudence leaves much to be desired.

(2) **NO.** The conviction of the accused simply depends on whether the plea of guilty to a capital offense was improvident or not. An indubitable admission of guilt automatically results to a conviction. Otherwise, a conviction on the basis of an improvident plea of guilt, on appeal, would be set aside and the case would be remanded for presentation of evidence. An exception to this is when, despite the existence of an improvident plea, a conviction will not be disturbed when the prosecution presented sufficient evidence during trial to prove the guilt of the accused beyond reasonable doubt. The existing rules, however, shifted the focus from the nature of the plea to whether evidence was presented during the trial to prove the guilt of the accused.

The plea of guilty of an accused cannot stand in place of the evidence that must be presented and is called for by Sec. 3 of Rule 116. Trial courts should no longer assume that a plea of guilty includes an admission of the attending circumstances alleged in the information as they are now required to demand that the prosecution prove the exact liability of the accused. The requirements of Sec. 3 would become idle and fruitless if we were to allow conclusions of criminal liability and aggravating circumstances on the dubious strength of a presumptive rule. As it stands, the conviction of the accused shall be based principally on the evidence presented by the prosecution. The improvident plea of guilty by the accused becomes secondary.

Accordingly, convictions involving improvident pleas are affirmed if the same are supported by proof beyond reasonable doubt. Otherwise, the conviction is set aside and the case remanded for further proceedings when the conviction is predicated solely on the basis of the improvident plea of guilt, meaning that the prosecution was unable to prove the accused's guilt beyond reasonable doubt. "Further proceedings" usually entail re-arraignment and reception of evidence from both the prosecution and the defense in compliance with Sec. 3, Rule 116. Jurisprudence has developed in such a way that cases are remanded back to the trial court for re-arraignment and re-trial when undue prejudice was brought about by the improvident plea of guilty.

In this case, the Court cannot sustain the conviction as there is nothing in the records that would show Brendo's guilt. Neither is it just to remand the case. This is not a situation where the prosecution was wholly deprived of the opportunity to perform its duties under the 2000 Revised Rules to warrant a remand. In this case, the prosecution was already given a reasonable opportunity to prove its case against Brendo. Regrettably, the State squandered its chances to the detriment of Brendo. If anything, the State, given its vast resources and awesome powers, cannot be allowed to vex an accused with criminal prosecution more than once. The State should, first and foremost, exercise fairness.

For the guidance of the bench and the bar, the Court adopts the following guidelines concerning pleas of guilty to capital offenses:

1. AT THE TRIAL STAGE. When the accused makes a plea of guilty to a capital offense, the trial court must strictly abide by the provisions of Sec. 3, Rule 116 of the 2000 Revised Rules of

Criminal Procedure. In particular, it must afford the prosecution an opportunity to present evidence as to the guilt of the accused and the precise degree of his culpability. Failure to comply with these mandates constitute grave abuse of discretion.

(a) In case the plea of guilty to a capital offense is supported by proof beyond reasonable doubt, the trial court shall enter a judgment of conviction.

(b) In case the prosecution presents evidence but fails to prove the accused's guilt beyond reasonable doubt, the trial court shall enter a judgment of acquittal in favor of the accused.

(c) In case the prosecution fails to present any evidence despite opportunity to do so, the trial court shall enter a judgment of acquittal in favor of the accused.

(d) In the above instance, the trial court shall require the prosecution to explain in writing within ten (10) days from receipt its failure to present evidence. Any instance of collusion between the prosecution and the accused shall be dealt with to the full extent of the law.

2. AT THE APPEAL STAGE:

(a) When the accused is convicted of a capital offense on the basis of his plea of guilty, whether improvident or not, and proof beyond reasonable doubt was established, the judgment of conviction shall be sustained.

(b) When the accused is convicted of a capital offense solely on the basis of his plea of guilty, whether improvident or not, without proof beyond reasonable doubt because the prosecution was not given an opportunity to present its evidence, or was given the opportunity to present evidence but the improvident plea of guilt resulted to an undue prejudice to either the prosecution or the accused,

the judgment of conviction shall be set aside and the case remanded for re-arraignment and for reception of evidence pursuant to Sec. 3, Rule 116 of the 2000 Revised Rules of Criminal Procedure.

(c) When the accused is ·convicted of a capital offense solely on the basis of a plea of guilty, whether improvident or not, without proof beyond reasonable doubt because the prosecution failed to prove the accused's guilt despite opportunity to do so, the judgment of conviction shall be set aside and the accused acquitted.

Said guidelines shall be applied prospectively.

DRS. REYNALDO ANG and SUSAN CUCIO-ANG *v.*
ROSITA DE VENECIA, ANGEL MARGARITO D. CARAMAT, JR., *et al.*
G.R. No. 217151, 12 February 2020, *SECOND DIVISION* (Reyes, A. Jr., *J.*)

DOCTRINE OF THE CASE

The CIAC was formed to resolve disputes involving transactions and business relationships within the construction industry; and it is for this reason that Section 4 prescribes that the CIAC shall only have jurisdiction over "disputes arising from, or connected with, contracts entered into by pa1ties involved in construction in the Philippines". The foregoing phrase limits the jurisdiction of the CIAC not only as to subject matter jurisdiction but also as to jurisdiction over the parties.

Thus, it is erroneous to consider a suit for damages caused by construction activities on an adjoining parcel of land as a "dispute arising from or connected with a construction contract", simply because an adjoining owner is not a party to a construction contract.

FACTS

Reynaldo Ang and Susan Cucio-Ang (Spouses Ang) own a two-storey residential house and lot. In 2008, their neighbor, Angel Caramat, Jr. (Caramat) started construction on a five-storey commercial building on the adjoining lot.

A year later, Spouses Ang noticed cracks in their walls and misalignment of their gate and several doors in their house. Suspecting that these were due to Caramat's construction works, Spouses Ang hired an architect to survey their house. The architect reported that the foundation of their house moved as the foundation of the five-storey building being constructed by Caramat required much deeper excavation compared to their house.

The matter was referred to the *barangay*, and a mediation hearing was conducted. Unsatisfied, Spouses Ang sought barangay mediation again but Caramat's contractor, MC Soto Construction (MC Soto), refused to conduct additional repairs, asserting that the damage was caused by the weakness in the house's foundation. Another attempt at mediation failed, prompting Spouses Ang to seek help from the City Engineer of Makati.

The City Engineer issued a formal demand letter ordering Caramat and MC Soto to comply with the requirements of the National Building Code to no avail.

Without any action from Caramat and Soto, Spouses Ang obtained a certification to file action from the *barangay*.

After their final demand went unheeded, Spouses Ang filed a Complaint in the Regional Trial Court (RTC). However, during the pendency of the case, Office of the Court Administrator (OCA) Circular No. 111-2014 was promulgated where it stated that all trial courts shall dismiss all pending cases involving construction disputes for referral to the Construction Industry Arbitration Commission (CIAC). The RTC, unaware of the full scope of CIAC's jurisdiction, suspended the proceedings, dismissed the case and referred it to the CIAC.

ISSUES

(1) Does the CIAC have jurisdiction over an ordinary civil case for damages filed by a non-party to a construction contract?

(2) Did the trial court err in dismissing the suit and in referring the same to the CIAC?

RULING

(1) **NO.** The jurisdiction of the CIAC is provided in Section 4 of Executive Order No. 1008, or the Construction Industry Arbitration Law. For the Board to acquire jurisdiction, the parties to a dispute must agree to submit the same to voluntary arbitration. This provision lays down three requisites for acquisition of jurisdiction by the CIAC:

First, a dispute arising from or connected with a construction contract;

Second, such contract must have been entered into by parties involved in construction in the Philippines; and

Third, an agreement by the parties to submit their dispute to arbitration.

Given the allegations in Spouses Ang's complaint and the issues raised in their petition before the Court, the foregoing requisites obviously do not apply for the simple reason that there is no construction contract between the Spouses Ang and Caramat. The Spouses Ang's cause of action does not proceed from any construction contract or any accessory contract thereto but from the alleged damage inflicted upon their property by virtue of their neighbor's construction

activities. Moreover, the spouses did not agree, and even rejected the referral of the dispute to the CIAC.

(2) **NO.** It is clear that the OCA Circular No. 111-2014 does not operate to *ipso facto* dismiss all construction disputes pending before the RTC; but instead directs all presiding judges to issue orders dismissing such suits.

Section 1, Rule 45 of the Rules of Court authorizes direct resort from the Regional Trial Courts to the Court on pure questions of law. The present petition does not raise any factual question. The petition poses a sole question: "which tribunal has jurisdiction over the suit for damages filed by the spouses Ang?" This question does not involve any determination or finding of truth or falsehood of the factual allegations raised by the Spouses Ang; but instead concerns the applicability of the construction arbitration laws to the suit filed by the spouses. Direct resort to the Court is therefore justified.

Both the trial court and De Venecia, *et al.* further justify CIAC jurisdiction over the case at bar by citing the construction tribunal's expertise in handling factual circumstances involving construction matters. Such justification loses sight of the fact that a trial court's main function is passing upon questions of fact. Time and again, the Court has held that factual matters are best ventilated before the trial court, as it has the power to receive and evaluate evidence first-hand. That the dispute at bar involves technical matters does not automatically divest the trial court of its jurisdiction.

PEOPLE OF THE PHILIPPINES *v.* JERRY SAPLA
G.R. No. 244045, 16 June 2020, *EN BANC* (Caguioa, *J.*)

DOCTRINE OF THE CASE

Law enforcers cannot act solely on the basis of confidential or tipped information. A tip is still hearsay no matter how reliable it may be. It is not sufficient to constitute probable cause in the absence of any other circumstance that will arouse suspicion. To be sure, information coming from a complete and anonymous stranger, without the police officers undertaking even a semblance of verification, on their own, cannot reasonably produce probable cause that warrants the conduct of an intrusive search.

With the glaring absence of probable cause that justifies an intrusive warrantless search, considering that the police officers failed to rely on their personal knowledge and depended solely on an unverified and anonymous tip, the warrantless search conducted on Sapla was an invalid and unlawful search of a moving vehicle.

FACTS

An Information was filed against Jerry Sapla (Sapla) for violating Section 5, Article II of R.A. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

On 10 January 2014, an officer on duty at the Regional Public Safety Battalion (RPSB) office received a phone call from a concerned citizen, who informed the officer that a certain male individual would be transporting marijuana from Kalinga and into the Province of Isabela. At around 1:00 in the afternoon, the RPSB hotline received a text message describing the clothes of the man transporting the marijuana, and the plate number of the passenger jeepney. Because of this tip, a joint checkpoint was strategically organized at the Talaca command post.

The passenger jeepney then arrived at around 1:20 in the afternoon, wherein the police officers at the Talaca checkpoint flagged down the said vehicle and told its driver to park on the side of the road. The police officer asked Sapla if he was the owner of the blue sack in front of him, which the latter answered in the affirmative. The said officers then requested Sapla to open the blue sack. After Sapla opened the sack, PO3 Labbutan and PO2 Mabiasan saw four (4) bricks of suspected dried marijuana leaves, wrapped in newspaper and an old calendar.

PO3 Labbutan subsequently arrested Sapla, informed him of the cause of his arrest and his constitutional rights in the Ilocano dialect. PO2 Mabiasan further searched Sapla and found one (1) LG cellular phone unit. Thereafter, PO2 Mabiasan seized the four (4) bricks of suspected dried marijuana leaves and brought them to their office at the Talaca detachment for proper markings.

At the said office, PO2 Mabiasan personally turned over the seized items to the investigator of the case, PO2 Oman, for custody, safekeeping and proper disposition. The initial examination revealed that the seized specimens with a total net weight of 3,9563.111 grams, yielded positive results for the presence of marijuana, a dangerous drug.

The Regional Trial Court (RTC) rendered a decision convicting Sapla for violating Section 5 of R.A. 9165. The Court of Appeals (CA) affirmed the conviction of the lower court. The CA found that although the search and seizure conducted on Sapla was without a search warrant, the same was lawful as it was a valid warrantless search of a moving vehicle. The CA held that the essential requisite of probable cause was present, justifying the warrantless search and seizure.

ISSUES

(1) Is there valid search and seizure conducted by the police officers?

(2) Does the mere reception of a text message from an anonymous person suffice to create probable cause that enables the authorities to conduct an extensive and intrusive search without a search warrant?

(3) Can the marijuana gathered in the search and seizure be used as evidence against Sapla?

RULING

(1) **NO.** The Court finds error in the CA's holding that the search conducted in the instant case is a search of a moving vehicle. The situation presented in the instant case cannot be considered as a search of a moving vehicle.

In *People v. Comprado*, the Court held that the search conducted "could not be classified as a search of a moving vehicle. In this particular type of search, the vehicle is the target and not a specific person." The Court added that "in search of a moving vehicle, the vehicle was intentionally used as a means to transport

illegal items. It is worthy to note that the information relayed to the police officers was that a passenger of that particular bus was carrying marijuana such that when the police officers boarded the bus, they searched the bag of the person matching the description given by their informant and not the cargo or contents of the said bus."

Applying the foregoing to the instant case, it cannot be seriously disputed that the target of the search conducted was not the passenger jeepney boarded by Sapla nor the cargo or contents of the said vehicle. The target of the search was the person who matched the description given by the person who called the RPSB Hotline, *i.e.*, the person wearing a collared white shirt with green stripes, a red ball cap, and carrying a blue sack. Therefore, the search conducted in the instant case cannot be characterized as a search of a moving vehicle.

(2) **NO.** The Court has already held with unequivocal clarity that in situations involving warrantless searches and seizures, "law enforcers cannot act solely on the basis of confidential or tipped information. A tip is still hearsay no matter how reliable it may be. It is not sufficient to constitute probable cause in the absence of any other circumstance that will arouse suspicion."

In the instant case, the police merely adopted the unverified and unsubstantiated suspicion of another person, *i.e.*, the person who sent the text through the RPSB Hotline. Apart from the information passed on to them, the police simply had no reason to reasonably believe that the passenger vehicle contained an item, article, or object which by law is subject to seizure and destruction.

What further militates against the finding that there was sufficient probable cause on the part of the police to conduct an intrusive search is the fact that the information regarding the description of the person alleged to be transporting illegal drugs, *i.e.*, wearing a collared white shirt with green stripes, red ball cap, and carrying a blue sack, was relayed merely through a text message from a completely anonymous person. The police did not even endeavor to inquire how this stranger gathered the information. The authorities did not even ascertain in any manner whether the information coming from the complete stranger was credible. After receiving this anonymous text message, without giving any second thought, the police accepted the unverified information as gospel truth and immediately proceeded in establishing the checkpoint. To be sure, information coming from a

complete and anonymous stranger, without the police officers undertaking even a semblance of verification, on their own, cannot reasonably produce probable cause that warrants the conduct of an intrusive search.

In fact, as borne from the cross-examination of PO3 Mabiasan, the authorities did not even personally receive and examine the anonymous text message. The contents of the text message were only relayed to them by a duty guard, whose identity the police could not even recall. The information received through text message was not only hearsay evidence; it is double hearsay.

Therefore, with the glaring absence of probable cause that justifies an intrusive warrantless search, considering that the police officers failed to rely on their personal knowledge and depended solely on an unverified and anonymous tip, the warrantless search conducted on Sapla was an invalid and unlawful search of a moving vehicle.

(3) **NO.** According to Article III, Section 3 (2) of the Constitution, any evidence obtained in violation of the right against unreasonable searches and seizures shall be inadmissible for any purpose in any proceeding.

Known as the exclusionary rule, "evidence obtained and confiscated on the occasion of such unreasonable searches and seizures is deemed tainted and should be excluded for being the proverbial fruit of a poisonous tree. In other words, evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding."

Therefore, with the inadmissibility of the confiscated marijuana bricks, there is no more need for the Court to discuss the other issues surrounding the apprehension of Sapla, particularly the gaps in the chain of custody of the alleged seized marijuana bricks, which likewise renders the same inadmissible.

The prosecution is left with no evidence left to support the conviction of Sapla. Consequently, Sapla is acquitted of the crime charged.