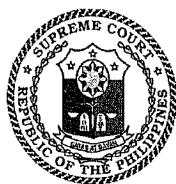


SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
RECEIVED
NOV 22 2019
BY:
TIME: 8:21

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ZENAIDA E. SILVER and NELSON SALCEDO,
Petitioners,

- versus -

JUDGE MARIVIC TRABAJO DARAY, in her capacity as Judge Designate, Regional Trial Court, 11th Judicial Region, Branch 11, Davao City, PEOPLE OF THE PHILIPPINES, LORETO HAO, KENNETH HAO, ATTY. AMADO L. CANTOS, ZENAIDA TALATTAD and MAUREEN ELLA M. MACASINDIL,
Respondents.

G.R. NO. 219157

Present:

*CARPIO, *Chairperson*
CAGUIOA,
REYES, J.C., JR.,
LAZARO-JAVIER, and
ZALAMEDA, *JJ.*

Promulgated:

14 AUG 2019

x--x

DECISION

LAZARO-JAVIER, *J.:*

The Case

This Petition for Review assails the following issuances of the Court of Appeals in CA-G.R. SP No. 05161-MIN entitled *"Zenaida E. Silver and Nelson Salcedo v. Hon. Judge Marivic Trabajo Daray, in her capacity as*

* On official leave.

Judge Designate, Regional Trial Court, Branch 11, Davao City, People of the Philippines, Loreto Hao, Kenneth Hao, Atty. Amado L. Cantos, Zenaida Talattad and Maureen Ella M. Macasindil":

1) Decision[1] dated August 14, 2014, sustaining the trial court's finding of probable cause for violation of RA 6539[2] or the "*Anti-Carnapping Act of 1972*" against petitioners Zenaida Silver and Nelson Salcedo; and

2) Resolution[3] dated June 2, 2015, denying petitioners' motion for reconsideration.

Antecedents

Zenaida Silver's Affidavit-Complaint dated May 10, 2005

Petitioner Zenaida Silver was engaged in "buy and sell" of motor vehicles under the business name "ZSH Commercial." On February 10, 2005, she participated in the auction sale of several units of vehicles and assorted surplus parts and accessories held at the Bureau of Customs (BOC), General Santos City. She entered a bid of ₱5,790,100.00 and ended up as the winning bidder for all the items. She loaned the amount from private respondent Loreto Hao.[4]

The terms and conditions of the loan were embodied in their Memorandum of Agreement dated February 4, 2005 in which they essentially stipulated: a) By reason of the loan, Zenaida Silver agreed to execute a deed of sale in Loreta Hao's favor indicating the purchase price of ₱7,527,100.00; b) five percent (5%) of the profits to be earned from the resale of the vehicles will go to Loreto Hao as loan payment; c) after full payment of the loan, whatever succeeding proceeds may be earned from the property they shall divide at 70-30 in Zenaida Silver's favor; d) loan payment shall be based on the parties' diminishing balance arrangement; e) Zenaida Silver shall furnish Loreto Hao a detailed pricelist of the units; f) all expenses relative to the transport, lot rentals, and other necessary expenses shall be on the account of Loreto Hao, albeit the same may be advanced by Zenaida Silver.[5]

As agreed, she executed the deed of absolute sale, but Loreto Hao did not make good his end of the bargain. The latter did not release the loan in question. The deed of absolute sale was intended to ensure that she pays back

---

[1] Penned by Associate Justice Pablito A. Perez with the concurrence of Associate Justices Edgardo A. Camello and Henri Jean Paul B. Inting (now a member of this Court), all members of the Twenty-Second Division, *rollo*, pp. 221-233;

[2] AN ACT PREVENTING AND PENALIZING CARNAPPING.

[3] *Rollo*, pp. 242-243.

[4] *Id.* at 37.

[5] *Id.* at 37-38.

said loan. As it was, Loreto Hao went directly to the BOC and paid there the bid price. The corresponding receipt was issued in the name of her company, ZSH Commercial. Ninety-five (95) units of motor vehicles and various parts and accessories were released by the BOC to her company. Since most of the units needed repairs and rehabilitation, she agreed with Loreto Hao's suggestion to have them transferred to the Honasan Compound in Panacan, Davao City.[6]

She also agreed to give Loreto Hao access to the Honasan compound where the vehicles were parked. For this purpose, she authorized Loreto Hao's nephew, private respondent Kenneth Hao, to sell the items and act as her liaison officer. This authority was covered by a corresponding special power of attorney. Then, things went wrong between Zenaida Silver and Kenneth Hao. Zenaida Silver claimed Kenneth Hao allegedly disposed of sixty-four (64) items without her knowledge or any accounting coming from Kenneth Hao's end. The total sales had already reached ₱10,094,000.00 or more than the amount she owed Loreto Hao, including interest. Further complicating things, Loreto Hao and Kenneth Hao had caused several motor vehicles to be registered in the names of third persons,[7] including private respondents Zenaida Talattad and Maureen Ella Macasindil.[8]

She later on confronted them about these things and thereafter rescinded the SPA she issued in Kenneth Hao's favor. But Loreto Hao and Kenneth Hao and their cohorts continued to pull out, and dispose of, the remaining motor vehicles. By reason thereof, private respondents and their cohorts committed grave coercion, qualified theft, and carnapping.[9]

Loreto Hao's
Counter-Affidavit and Counter-Charges
dated June 23, 2005

The Memorandum of Agreement dated February 4, 2005 referred to Zenaida Silver's bid at the BOC's auction sale held on January 26, 2005. Zenaida Silver's bid, however, was invalidated because she failed to pay the full bid price within forty-eight (48) hours after she entered her bid. As it was, an auction sale was scheduled the following week for the same items. He offered to participate in the next auction but was told he was disqualified.[10]

Zenaida Silver convinced him to finance the enterprise. She suggested that he take advantage of her business permit and accreditation. He would pay for the auction price. To ensure that he gets back his money and given a share in the profits, she would execute a deed of absolute sale in his favor. The next auction was held on February 10, 2005 and Zenaida Silver entered the winning

---

[6] *Id.* at 38-39.
[7] *Id.* at 39-40.
[8] *Id.* at 222-223.
[9] *Id.* at 40-42.
[10] *Id.* at 44.

bid on his behalf. He gave her two manager's checks for ₱5,212,530.00 and ₱579,130.00, respectively. As part of their agreement, Zenaida Silver executed a Deed of Absolute Sale and Assignment of Rights dated February 12, 2005 in his favor pertaining to the vehicles and spare parts in question.[11]

He took possession of these items and hauled them away via several container vans. He asked Zenaida Silver to liquidate the expenses by selling the items to her claimed "sure buyers" of the eighty-five (85) units. Zenaida Silver suggested the vehicles be repaired first so they could command a higher price. He agreed subject to the condition Zenaida Silver would shoulder the repair expenses. A few days later, the BOC informed him that twelve (12) vehicles and two (2) container vans carrying spare parts would not be released because Zenaida Silver had an unpaid balance.[12]

Zenaida Silver was able to withdraw from the BOC the two (2) container vans which carried the spare parts. She informed him that she was able to do so because of her right connections. She was thereafter able to sell the spare parts for ₱120,960.00 and she gave him a check for ₱114,912.00, representing his share in the profits.[13]

He wrote the BOC that Zenaida Silver had sold all the vehicles and spare parts to him. Consequently, the BOC released to him the Certificates of Payment over the ninety-five (95) vehicles. He followed-up with Zenaida Silver about the "sure buyers" for the eighty-five (85) and the money he entrusted her. Later on suspecting that he was being deceived, he called Zenaida Silver to a conference. He told her he would sell the merchandise to other buyers so he could recoup his investment. They also revoked the Memorandum of Agreement dated February 4, 2005. She further got a discount of ₱20,000.00 for every vehicle she sold. They also agreed that he would have sole ownership over the vehicles and the spare parts. They executed and signed an Agreement dated March 17, 2005. To facilitate the complete withdrawal of the vehicles and spare parts from the BOC, she also executed an irrevocable Special Power of Attorney dated March 17, 2005 in favor of Kenneth Hao.[14]

He decided to move the units to his compound at Obrero, Davao City to save on storage costs. He subsequently received letters from Zenaida Silver cancelling the documents she had executed, including the SPA she issued to Kenneth Hao. He informed her that she cannot unilaterally do so. On April 19, 2005, he received reports from his security guards that Zenaida Silver, her companions, and two (2) policemen had forcibly entered the compound and was attempting to retrieve the vehicles. He and his associates were able to stop her by locking the gate. He also showed his papers to the police officers, who respected the same.[15]

---

[11] *Id.* at 45-46.
[12] *Id.* at 46-47.
[13] *Id.* at 47-48.
[14] *Id.* at 48.
[15] *Id.* at 49.

He countercharged Zenaida Silver with perjury, falsification, estafa, qualified theft, and carnapping. The carnapping charge arose from Zenaida Silver's alleged withdrawal of eleven (11) vehicles from the BOC without his knowledge and consent.[16]

Zenaida Silver's complaints for replevin and other charges of carnapping

Petitioner Zenaida Silver filed before different branches of the Regional Trial Court in Davao City complaints for recovery of possession of the vehicles. One such complaint was raffled to RTC-Branch 16, which issued Order[17] dated October 17, 2005, commanding Sheriff Abe Andres to seize twenty-two (22) motor vehicles subject of the complaint and place them under *custodia legis*. Sheriff Andres was able to seize nine (9) motor vehicles from several individuals. He moved them to a compound at Diversion Road, Buhangin, Davao City. Zenaida Silver, and companions, however, later on caused eight (8) vehicles to be moved out of the compound, sans permission from the court.[18]

For what Zenaida Silver et. al did, Loreto Hao once again filed countercharges of carnapping against Zenaida Silver, Sheriff Andres, and five (5) others, including co-petitioner SPO4 Nelson Salcedo. SPO4 Salcedo was among the police officers who accompanied Sheriff Andres in moving out the motor vehicles from the Buhangin compound. Loreto Hao asserted he was the real owner of the vehicles by virtue of a deed of absolute sale and assignment of rights, which Zenaida Silver allegedly executed in his favor.[19]

Proceedings before the Office of the City Prosecutor and the DOJ

By Joint Resolution[20] dated November 17, 2005, the Office of the City Prosecutor of Davao City dismissed the complaints.

The parties then went up to the Department of Justice (DOJ) via their respective petitions for review.

Through Joint Resolution[21] dated June 27, 2007, the DOJ modified. It affirmed the dismissal of the complaints against Loreto Hao, Kenneth Hao,

[16] *Id.* at 52-54.
[17] *Id.* at 64-65.
[18] *Id.* at 223.
[19] *Id.*
[20] *Id.* at 80-89.
[21] This resolution resolved the petitions for review of the resolutions of the City Prosecutor of Davao City in: (1) I.S. No. 05-K-6388 suspending the preliminary investigation on the complaint filed by Loreto Hao,

Atty. Amado Cantos and others, but found probable cause against Zenaida Silver, SPO4 Nelson Salcedo, and six (6) others for violation of RA 6539,[22] thus:

> WHEREFORE, the assailed resolutions are MODIFIED. The City Prosecutor of Davao City is hereby directed to file the corresponding criminal informations (8 counts) against respondents Zenaida Silver, Nelson Salcedo, Paul Henson Egca, Edward Salcedo, Robert Gloria, Richard Ramos, Rodrigo Tampos, and Sheriff Abe C. Andres for violation of Republic Act No. 6539 before the Regional Trial Court of Davao City, and to report to this Office the action taken therein within five (5) days from receipt hereof.
>
> SO ORDERED.[23]

The eight (8) Informations were raffled to RTC-Branch 14, Davao City and warrants of arrest were issued. The prosecution, though, subsequently withdrew the Informations in view of its subsequent findings on reinvestigation that no probable cause existed against the accused. Branch 14 granted the motion to withdraw and dismissed the case.[24]

On Loreto Hao et al.'s petition for review, the DOJ, by Resolution[25] dated July 10, 2009, directed the City Prosecutor of Davao City to reinstate the Informations.

Proceedings before the Trial Court

The eight (8) Informations were raffled to RTC-Branch 11, Davao City, and respectively docketed Crim. Case Nos. 66,237-09 to 66,244-09. After due proceedings, Branch 11, under Order[26] dated April 28, 2011, directed warrants of arrest to be issued on the accused except Sheriff Abe Andres, thus:

> WHEREFORE, in view of all the foregoing, and it appearing from the investigation conducted that the crime of Violation of Section 2 of R.A. 6539, otherwise known as Anti-Carnapping Act of 1972, has been committed and that there is probability that accused ZENAIDA SILVER, SPO4 NELSON SALCEDO, ROBERTO BOBONG GLORIA, EDWARD SALCEDO, RICHARD RAMOS, RODRIGO TAMPOS and PAUL HENSON EGCA alias NONOY have committed the same, let warrant for their arrest be issued. As to accused ABE C. ANDRES the Prosecution is directed to submit additional evidence which will establish probable cause

---

Kenneth Hao, and Atty. Amado Cantos against respondents Zenaida Silver, Sheriff Abe C. Andres, Atty. Oswaldo Macadangdang, SPO4 Nelson Salcedo, Paul Henson Egca, Edward Salcedo, Robert Gloria, Richard Ramos and Rodrigo Tampos for carnapping under R.A. No. 6539, and (2) I.S. No. 05-L-7463 and 05-L-7464 dismissing the complaint for carnapping and theft filed by Zenaida Talattad and Maureen Ella M. Macasindil, also against the above-named respondents, including Nonoy Abelardo, *rollo*, pp. 97-106.

[22] Paul Henson Egca, Edward Salcedo, Robert Gloria, Richard Ramos, Rodrigo Tampos, and Sheriff Abe C. Andres.

[23] *Rollo*, p. 105.

[24] *Id.* at 224.

[25] *Id.* at 129-134.

[26] *Id.* at 151-154.

for the arrest of the accused or evidence that will engender a well-founded belief that said accused conspired with the other accused in committing the offense charged.

SO ORDERED.[27]

Petitioners Zenaida Silver and SPO4 Nelson Salcedo sought to reconsider but it was denied under Joint Order[28] dated September 14, 2012.

Proceedings Before the Court of Appeals and its Rulings

Petitioners sought relief from the Court of Appeals via a special civil action for certiorari. They essentially argued that Judge Danilo Belo who issued the warrants of arrest, and Judge Marivic Trabajo Daray who denied their subsequent motion for reconsideration --- did not personally determine the existence of probable cause to justify warrants of arrest issued on them.[29]

By its assailed Decision dated August 14, 2014, the Court of Appeals dismissed the petition because there was no showing that the trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding probable cause against petitioners et al. It keenly noted that Judge Belo examined the prosecutor's report, the supporting documents, evidence, and pleadings on record. He, too, conducted a hearing for the purpose of determining probable cause during which the parties were given the opportunity to present their respective evidence.[30]

Further, both judges were justified in issuing the warrants of arrest because Land Transportation Office (LTO) certificates of registration on record showed that private respondents owned eight (8) vehicles. When petitioners moved these cars from the compound, there was taking in the concept of violation of RA 6539 or carnapping.[31]

Petitioners' motion for reconsideration[32] was denied per Resolution dated June 2, 2015.

The Present Petition

Petitioners now fault the Court of Appeals for sustaining the warrants of arrest issued on them. They assert that the questionable ownership over the eight (8) vehicles subject of the replevin cases, negates the commission of the alleged carnapping. Further, the trial court did not make an explicit finding

---

[27] *Id.* at 153-154.
[28] *Id.* at 176-178.
[29] *Id.* at 229.
[30] *Id.* at 232.
[31] *Id.*
[32] *Id.* at 234-239.

that it was necessary for them to be placed under arrest. The purported existence of probable cause alone does not suffice to issue a warrant of arrest.[33]

On the other hand, private respondents riposte: the vehicles were under *custodia legis*, thus, petitioners' act of taking them amounted to violation of RA 6539 or carnapping. Intent to gain on petitioners' part was established by the act itself. By virtue of the Deed of Absolute Sale and Assignment of Rights dated February 12, 2005, Zenaida Silver had already ceded to Loreto Hao ownership of subject vehicles and spare parts. Zenaida Silver was in fact merely Loreto Hao's agent per their Agreement dated March 17, 2005, stipulating that Zenaida Silver would have a ₱20,000.00 commission or discount for every vehicle she sold.[34]

Petitioners' reply essentially repeats the arguments in the petition.[35]

The Office of the Solicitor General (OSG), through Solicitor General Florin Hilbay, State Solicitor Donalita Lazo, and Assistant Solicitor Ron Winston Reyes, submits that the trial court's orders directing the issuance of warrants of arrest on petitioners, et al., on their face reflected that the judges concerned personally examined the evidence on record before concluding that there was probable cause.[36]

Issue

Did the Court of Appeals err in sustaining the trial court's finding of probable cause against petitioners for violation of RA 6539?

Ruling

The petition utterly lacks merit.

Section 6(a), Rule 112 of the Revised Rules of Criminal Procedure provides:

> Sec. 6. When warrant of arrest may issue. – (a) By the Regional Trial Court. – Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 7 of this Rule. In

[33] *Id.* at 5-32.
[34] *Id.* at 319-336.
[35] *Id.* at 393-402.
[36] *Id.* at 292-307.

> case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issuance must be resolved by the court within thirty (30) days from the filing of the complaint or information.
>
> x x x

Probable cause for the purpose of issuing a warrant of arrest pertains to facts and circumstances which would lead a reasonably discreet and prudent person to believe that an offense has been committed by the person sought to be arrested. In determining probable cause, the average person weighs facts and circumstances without resorting to the calibration of our technical rules of evidence of which his or her knowledge may be nil. Rather, the person relies on the calculus of common sense of which all reasonable persons have an abundance. Thus, the standard used for issuance of a warrant of arrest is less stringent than that used for establishing the guilt of the accused. So long as the evidence presented shows a *prima facie* case against the accused, the trial court judge has sufficient ground to issue a warrant of arrest against him or her.[37]

Section 5(a) of Rule 112 of the Revised Rules on Criminal Procedure grants the trial court three (3) options upon the filing of the criminal complaint or Information. It may: a) dismiss the case if the evidence on record clearly failed to establish probable cause; b) issue a warrant of arrest if it finds probable cause; or c) order the prosecutor to present additional evidence within five days from notice in case of doubt on the existence of probable cause.[38]

If the trial court decides to issue a warrant of arrest, such warrant must have been issued after compliance with the requirement that probable cause be personally determined by the judge. At this stage, the judge is tasked to merely determine the probability, not the certainty, of guilt of the accused. In doing so, the judge need not conduct a de novo hearing; he or she only needs to personally review the prosecutor's initial determination and see if it is supported by substantial evidence.[39] ***Roberts, Jr. v. Court of Appeals***[40] expounded on how trial courts should determine probable cause:

> Section 2, Article III of the present Constitution provides that no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce.
>
> Under existing laws, warrants of arrest may be issued (1) by the Metropolitan Trial Courts (MeTCs) except those in the National Capital Region, Municipal Trial Courts (MTCs), and Municipal Circuit Trial Courts (MCTCs) in cases falling within their exclusive original jurisdiction; in

---

[37] *De Joya v. Marquez*, 516 Phil. 717, 721 (2016).
[38] *Fenix v. Court of Appeals*, 789 Phil. 391, 405 (2016).
[39] *Hao v. People*, 743 Phil. 204, 213 (2014).
[40] 324 Phil. 568, 602-609 (1996).

cases covered by the rule on summary procedure where the accused fails to appear when required; and in cases filed with them which are cognizable by the Regional Trial Courts (RTCs); and **(2) by the Metropolitan Trial Courts in the National Capital Region (MeTCs-NCR) and the RTCs in cases filed with them after appropriate preliminary investigations conducted by officers authorized to do so other than judges of MeTCs, MTCs and MCTCs.**

As to the first, a warrant can issue only if the judge is satisfied after an examination in writing and under oath of the complainant and the witnesses, in the form of searching questions and answers, that a probable cause exists and that there is a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice.

As to the second, this Court held in *Soliven vs. Makasiar* that the judge is not required to personally examine the complainant and the witnesses, but

> **[f]ollowing established doctrine and procedure, he shall: (1) personally evaluate the report and supporting documents submitted by the fiscal regarding the existence of probable cause and, on the basis thereof, issue a warrant of arrest; or (2) if on the basis thereof he finds no probable cause, he may disregard the fiscal's report and require the submission of supporting affidavits of witnesses to aid him in arriving at a conclusion as to the existence of probable cause.**

Sound policy supports this procedure, "otherwise judges would be unduly laden with the preliminary examination and investigation of criminal complaints instead of concentrating on hearing and deciding cases filed before their courts." It must be emphasized that judges must not rely solely on the report or resolution of the fiscal (now prosecutor); they must evaluate the report and the supporting documents. In this sense, the aforementioned requirement has modified paragraph 4(a) of Circular No. 12 issued by this Court on 30 June 1987 prescribing the Guidelines on Issuance of Warrants of Arrest under Section 2, Article III of the 1987 Constitution, which provided in part as follows:

> 4. In satisfying himself of the existence of a probable cause for the issuance of a warrant of arrest, the judge, following established doctrine and procedure, may either:
>
> (a) Rely upon the fiscal's certification of the existence of probable cause whether or not the case is cognizable only by the Regional Trial Court and on the basis thereof, issue a warrant of arrest. x x x

This requirement of evaluation not only of the report or certification of the fiscal but also of the supporting documents was further explained in *People vs. Inting*, where this Court specified what the documents may consist of, *viz.*, "the affidavits, the transcripts of stenographic notes (if any), and all other supporting documents behind the Prosecutor's certification which are material in assisting the Judge to make his determination of probable cause. Thus:

> We emphasize the important features of the constitutional mandate that "x x x no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge x x x" (Article III, Section 2, Constitution).
>
> First, the determination of probable cause is a function of the Judge. It is not for the Provincial Fiscal or Prosecutor nor the Election

> Supervisor to ascertain. Only the Judge and the Judge alone makes this determination.
>
> **Second, the preliminary inquiry made by a Prosecutor does not bind the Judge. It merely assists him to make the determination of probable cause. The Judge does not have to follow what the Prosecutor presents to him. By itself, the Prosecutor's certification of probable cause is ineffectual. It is the report, the affidavits, the transcripts of stenographic notes (if any), and all other supporting documents behind the Prosecutor's certification which are material in assisting the Judge to make his determination.**

In adverting to a statement in *People vs. Delgado* that the judge may rely on the resolution of the Commission on Elections (COMELEC) to file the information by the same token that it may rely on the certification made by the prosecutor who conducted the preliminary investigation in the issuance of the warrant of arrest, this Court stressed in *Lim vs. Felix* that

> Reliance on the COMELEC resolution or the Prosecutor's certification presupposes that the records of either the COMELEC or the Prosecutor have been submitted to the Judge and he relies on the certification or resolution because the records of the investigation sustain the recommendation. The warrant issues not on the strength of the certification standing alone but because of the records which sustain it.

And noting that judges still suffer from the inertia of decisions and practice under the 1935 and 1973 Constitutions, this Court found it necessary to restate the rule "in greater detail and hopefully clearer terms." It then proceeded to do so, thus:

> We reiterate the ruling in Soliven vs. Makasiar that the Judge does not have to personally examine the complainant and his witnesses. The Prosecutor can perform the same functions as a commissioner for the taking of the evidence. However, there should be a report and necessary documents supporting the Fiscal's bare certification. All of these should be before the Judge.
>
> **The extent of the Judge's personal examination of the report and its annexes depends on the circumstances of each case. We cannot determine beforehand how cursory or exhaustive the Judge's examination should be. The Judge has to exercise sound discretion for, after all, the personal determination is vested in the Judge by the Constitution. It can be as brief as or detailed as the circumstances of each case require. To be sure, the Judge must go beyond the Prosecutor's certification and investigation report whenever, necessary. He should call for the complainant and witnesses themselves to answer the court's probing questions when the circumstances of the case so require.**

This Court then set aside for being null and void the challenged order of respondent Judge Felix directing the issuance of the warrants of arrest against petitioners Lim, et al., solely on the basis of the prosecutor's certification in the informations that there existed probable cause "without having before him any other basis for his personal determination of the existence of a probable cause."

In *Allado vs. Diokno,* this Court also ruled that "before issuing a warrant of arrest, the judge must satisfy himself that based on the evidence submitted there is sufficient proof that a crime has been committed and that the person to be arrested is probably guilty thereof."

x x x

> **The teachings then of *Soliven, Inting, Lim, Allado,* and *Webb* reject the proposition that the investigating prosecutor's certification in an information or his resolution which is made the basis for the filing of the information, or both, would suffice in the judicial determination of probable cause for the issuance of a warrant of arrest. In Webb, this Court assumed that since the respondent Judges had before them not only the 26-page resolution of the investigating panel but also the affidavits of the prosecution witnesses and even the counter-affidavits of the respondents, they (judges) made personal evaluation of the evidence attached to the records of the case.** (Emphasis supplied)

In sum, the judge must (1) personally evaluate the report and supporting documents submitted by the prosecutor regarding the existence of probable cause and, on the basis thereof, issue a warrant of arrest; or (2) if on the basis thereof he finds no probable cause, he may disregard the fiscal's report and require the submission of supporting affidavits of witnesses to aid him in arriving at a conclusion as to the existence of probable cause. Note that supporting documents include but are not limited to affidavits, the transcripts of stenographic notes (if any), and all other supporting documents behind the prosecutor's certification which are material in assisting the judge to make his determination of probable cause.

The trial court's Order dated April 28, 2011 on its face shows that it took into account the history of the case, the eight (8) Informations filed by the prosecution, the relevant DOJ resolutions on the existence of probable cause against petitioners et al., the previous order of RTC-Branch 14, Davao City issuing warrants of arrest on petitioners et al., and the prosecution's ex-parte manifestation for issuance of warrants of arrest and petitioners et al.'s opposition thereto. As noted by the Court of Appeals, Judge Belo even held a clarificatory hearing on the matter of probable cause. And on the basis of these documents and the information he gathered during the hearing, Judge Belo undeniably had made a personal assessment of the existence of probable cause.

As for Judge Daray, through her Joint Order dated September 14, 2012, she evaluated petitioners' motion for reconsideration, the prosecution's opposition, petitioners' reply, private respondents' rejoinder, and the parties' respective position papers. She aptly observed:

> A careful reading of the motion for reconsideration and the opposition filed against it leads this court to conclude that the matters raised in the instant motion are clearly defenses which the accused need to prove in the course of the trial. As it is, the court still needs to conduct a thorough hearing in order to be convinced that indeed the matters raised are true and would really exculpate the accused in this case. The documents found on record and which were submitted with the motion for reconsideration need to be properly testified to, identified and offered as evidence so that this Court can make a definitive finding as to its truthfulness and as to whether

h

such facts will really support the claim of the accused that they could not be held liable for the instant charges of carnapping.[41]

Verily, both Judges Belo and Daray personally examined the eight (8) Informations filed by the prosecution, the relevant DOJ resolutions on the existence of probable cause against petitioners et al., the previous order of RTC-Branch 14, Davao City issuing warrants of arrest on petitioners et al., the prosecution's ex-parte manifestation for issuance of warrants of arrest and petitioners et al.'s opposition thereto, petitioners' motion for reconsideration of Order dated April 28, 2011, the prosecution's opposition, petitioners' reply, private respondents' rejoinder, and the parties' respective position papers. Based thereon, they independently concluded that there was probable cause to issue warrants of arrest on petitioners et al., in compliance with the directive of Section 6(a), Rule 112 of the Revised Rules of Criminal Procedure. On this score, the Court of Appeals correctly ruled:

> A close examination of the assailed Orders shows that Judge Belo made a personal determination of the existence of the probable cause by examining not only the prosecutor's report but also the supporting evidence, documents and pleadings attached thereto. Notably, prior to the issuance of the April 28, 2011 Order by Judge Belo, the court a quo conducted a hearing specifically for determination of probable cause to issue warrant of arrest against Silver, Salcedo and their companions. In the said hearing, the parties were given opportunity to present their respective evidence and supporting documents. Thereafter, the parties were required to submit their respective pleadings in support of their positions.
>
> Similarly in the September 14, 2012 Joint Order of respondent Judge Daray, she also mentioned that she carefully evaluated the pleadings of the parties consisting of the motion for reconsideration, the opposition to motion for reconsideration, Reply, Rejoinder, and the respective position papers in issuing the assailed Order. Clearly, the assailed Orders were arrived at after an independent assessment and careful scrutiny of all the documents, pleadings and affidavits submitted by the parties.[42]
>
> x x x
>
> Records show that the ownership of the said motor vehicles remains dubious. While Silver anchored her ownership on the basis of the award given to her by the BOC where she emerged as the highest bidder, respondents on the other hand are asserting ownership thereof pursuant to a certificate of registration issued by the Land Transportation Authority (LTO) (sic) in their names. In *Amante v. Serwelas*, the Supreme Court has held that between one who is armed with a certificate of registration clearly establishing his ownership and another whose claims is supported only by unconvincing allegations, we do not hesitate to rule for the former.
>
> Hence, respondent Judge and Judge Belo before her, cannot be faulted in finding probable cause for the issuance of the warrant of arrest of petitioners as it took into consideration the observation of the DOJ that

---

[41] *Rollo*, p. 177.
[42] *Id.* at 230-231.

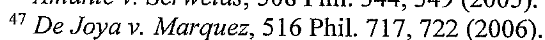
> certificate of registration covering the subject vehicles are issued by the LTO in the name of respondents, there is, therefore, a strong presumption of ownership in their favor vis-à-vis petitioner Silver. We note further that the motor vehicles were subject of a replevin case at the time they were taken out by the petitioners from the premises where they were kept for safekeeping. Hence, at that time, the ownership of the vehicles is yet to be determined by the court. We therefore find no error in the observation of respondent Judge Daray that the arguments raised by petitioners in the pleadings are defenses which need to be proved in the course of the trial. As it is, the court still needs to conduct a thorough hearing in order to be convinced that indeed the matters raised are true and would really exculpate the petitioners for the offense charged.[43]

Section 2 of RA 6539, as amended defines "carnapping" as "the taking, with intent to gain, of a motor vehicle belonging to another without the latter's consent, or by means of violence against or intimidation of persons, or by using force upon things." The elements of carnapping are thus: (1) the taking of a motor vehicle which belongs to another; (2) the taking is without the consent of the owner or by means of violence against or intimidation of persons or by using force upon things; and (3) the taking is done with intent to gain.[44]

As found by the Court of Appeals and the Department of Justice, the vehicles subject of Criminal Case Nos. 66,237-09 to 66,244-09 are registered with the LTO under the names of private respondents.[45] A certificate of registration of a motor vehicle creates a strong presumption of ownership in favor of one in whose name it is issued, unless proven otherwise.[46] Evidently, petitioners et al. took away the eight (8) vehicles which Sheriff Andres parked inside a compound on Diversion Road, Buhangin, Davao City. They did so without permission from the court which itself decreed the eight (8) vehicles to be placed under *custodia legis*. Nor did private respondents, in whose names the vehicles were registered, consent to petitioners et al.'s act of moving the eight (8) vehicles from the compound in question. In fine, probable cause here exists for the purpose of issuing warrants of arrest on petitioners et al.

As a rule, the Court does not review the factual findings of the trial court, including the determination of probable cause for issuance of a warrant of arrest. It is only in exceptional cases where the Court sets aside such factual conclusions, when it is necessary to prevent the misuse of the strong arm of the law or to ensure the orderly administration of justice.[47] The facts here do not warrant a departure from the general rule.

Lastly, the rule that the trial court must make a categorical finding "*that there is a necessity of placing the respondent under immediate custody in*



[43] *Id.* at 232.
[44] *People v. Bustinera*, 475 Phil. 190, 203 (2004).
[45] *Rollo*, p. 132.
[46] *Amante v. Serwelas*, 508 Phil. 344, 349 (2005).
[47] *De Joya v. Marquez*, 516 Phil. 717, 722 (2006).

order not to frustrate the ends of justice" applies only to warrants of arrest issued by first-level courts (municipal trial courts), not by second-level courts (regional trial courts). Section 6(b), Rule 112 of the Revised Rules of Criminal Procedure states:

> (b) By the Municipal Trial Court. — When required pursuant to the second paragraph of section 1 of this Rule, the preliminary investigation of cases falling under the original jurisdiction of the Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court, or Municipal Circuit Trial Court may be conducted by either the judge or the prosecutor. When conducted by the prosecutor, the procedure for the issuance of a warrant or arrest by the judge shall be governed by paragraph (a) of this section. When the investigation is conducted by the judge himself, he shall follow the procedure provided in section 3 of this Rule. If the findings and recommendations are affirmed by the provincial or city prosecutor, or by the Ombudsman or his deputy, and the corresponding information is filed, he shall issue a warrant of arrest. **However, without waiting for the conclusion of the investigation, the judge may issue a warrant of arrest if he finds after an examination in writing and under oath of the complainant and his witnesses in the form of searching question and answers, that a probable cause exists and that there is a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice.** (emphasis supplied)

So must it be.

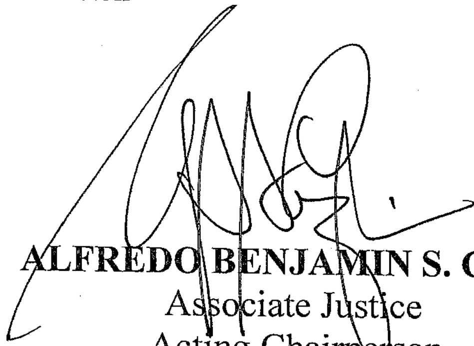
ACCORDINGLY, the petition is **DENIED**, and the assailed Decision dated August 14, 2014 and Resolution dated June 2, 2015 of the Court of Appeals in CA-G.R. SP No. 05161-MIN, **AFFIRMED.**

SO ORDERED.

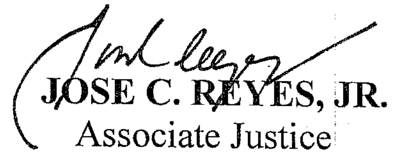
AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:

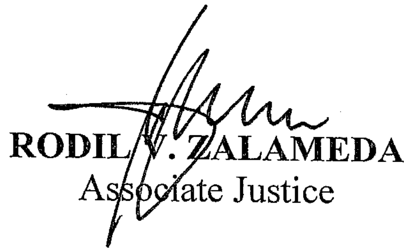
(On official leave)
ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson



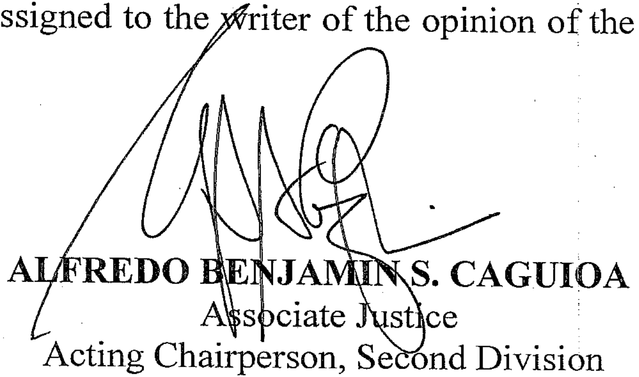
JOSE C. REYES, JR.
Associate Justice



RODIL V. ZALAMEDA
Associate Justice

ATTESTATION

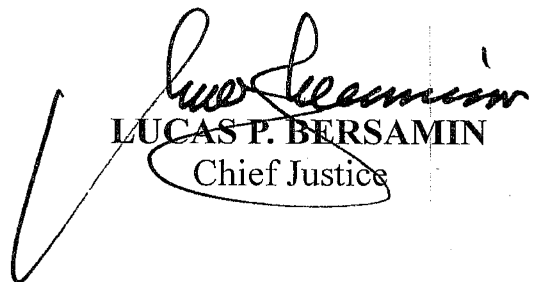
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the above Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice