

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CTA CRIM. CASE NO. O-815

For: Violation of Section 255 of
the NIRC of 1997, as amended

- versus -

Members:

CASTAÑEDA, JR., *Chairperson*, and
BACORRO-VILLENA, JJ.

LUCKY FORT FOOD VENTURES,
INC., ROBERTO V. GARCIA and
VALERIE ANNE G. MALIG,
Accused.

Promulgated: **MAR 18 2021**

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9:20 a.m.

RESOLUTION

For the Court's Resolution are the following:

- i. Accused's "Omnibus Motion (1) For Leave of Court to File the instant Motion for Reinvestigation and/or to Conduct Preliminary Investigation and to Suspend Proceedings; (2) For Reinvestigation and/or to Conduct Preliminary Investigation and to Suspend Proceedings; and, (3) To Hold in Abeyance or to Recall the Issuance of Warrants of Arrest" (**Omnibus Motion**), filed on 06 July 2020 with the prosecution's Comment/Opposition, filed on 25 August 2020; and,
- ii. Prosecution's "Motion for Reconsideration (to the Resolution of this Honorable Court dated 13 July 2020)" (**MR**) filed on 16 November 2020.

The records show that on 13 July 2020, the Court dismissed the Information filed against the accused, without prejudice to its re-filing, on the basis of the prosecution's failure to comply with the

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Court's Order dated 12 March 2020 to submit the original or a certified true copy of the subpoenas sent to accused Roberto V. Garcia and Valerie Anne G. Malig. Prior thereto, the Court received the accused's Omnibus Motion on 06 July 2020.

On 20 July 2020, the prosecution was able to file its "Compliance and Manifestation" (**Compliance**) attaching thereto a copy of the required subpoenas.

On 16 November 2020, the prosecution filed its MR citing the disruptions caused by the current pandemic on its ability to monitor incoming notices. According to Assistant State Prosecutor Robert D.G. Ong, he was only notified of the Information's dismissal on 04 November 2020 upon personally inquiring with the Court's Judicial Records Division.

On 01 March 2021, the accused filed an "*Ad Cautelam Manifestation*" indicating their submission to the Court's 13 July 2020 Resolution.

We resolve.

The two (2) subpoenas submitted by the prosecution in its Compliance show that they were sent to the following addresses: (1) U-1065 Skyway Tower, Pasig City; and, (2) 8 Sparrow St., Green Meadows, Quezon City. In its Comment/Opposition to the *Ad Cautelam* Omnibus Motion, the prosecution further attaches third subpoena addressed to Lucky Fort Food Ventures' office at Quadrant Space 1F06 BGC retail Promenade City, Fort Bonifacio, Ususan, Taguig City.

The accused, in their Omnibus Motion however, contend that they were not informed of the complaint filed against them with the Department of Justice (**DOJ**).

Other than the accused's bare claim, no countervailing evidence of such non-receipt was proffered. It is shown further that the addresses to where the subpoenas were sent were lifted from the General Information Sheet (**GIS**) of the accused Lucky Fort Food Ventures, Inc. (**accused LFFVI**) as filed with the Securities and Exchange Commission (**SEC**). Apparently, these addresses were

supplied in the GIS by the accused themselves. With these and given the prosecution's compliance with this Court's order, the Court is inclined to presume the regularity of the subpoenas' service over the allegations of non-receipt thereof by the accused.¹

Finding thus merit in the prosecution's MR, the Court is mandated to personally determine the existence of probable cause after its personal evaluation of the prosecutor's resolution and the supporting evidence for the crime charged. These provisions command the judge to refrain from making a mindless acquiescence to the prosecutor's findings and to conduct his own examination of the facts and circumstances presented by both parties.² It bears emphasis that the purpose of a warrant of arrest is to place the accused under the custody of the law to hold him for trial of the charges against him.

After consideration of the allegations in the Information and personally evaluating the supporting documents, this Court finds the existence of probable cause to issue a warrant of arrest against accused Roberto V. Garcia and Valerie Anne G. Malig.

Consequently, insofar as accused's prayer to hold the issuance of the warrant of arrest, the same is denied accordingly.

On the accused's prayer for the Court to direct the reinvestigation of the case and suspend the proceedings, similarly, the Court is constrained to deny the same.

First, as stated above, the accused presented no proof that they did not receive the subpoenas sent to the addresses appearing on their own GIS as filed with the SEC. *Second*, the presumption of regularity in the performance of official duties is an aid to the effective and unhampered administration of government functions. Without such benefit, every official action could be negated with minimal effort from litigants, irrespective of merit or sufficiency of evidence to support such challenge. To this end, our body of jurisprudence has

¹ Rule 131, Section 3 (m) of the Rules of Court, provide:
...
Section 3. *Disputable presumptions.* — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:
(m) That official duty has been regularly performed[.]
...
² *Ma. Gracia Hao and Danny Hao vs. People of the Philippines*, G. R. No. 183345, September 17, 2014.

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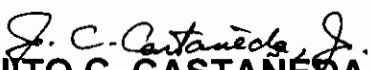
been consistent in requiring nothing short of clear and convincing evidence to the contrary to overthrow such presumption.³ The three accused have failed to forward such kind of proof. *Third*, in *Abugotal v. Tiro, et al.*⁴, the Supreme Court had long expressed the preference of trial over reinvestigation, to wit:

...
It cannot be denied that in the search for truth, a trial has distinct merits over a reinvestigation. A preliminary investigation or reinvestigation, unlike a trial, is summary in nature. The direct examination of witnesses is substituted by the complainant's sworn statement and that of his witnesses, and by the counter-affidavits of the respondent and his witnesses. While the respondent may be present at the investigation, he has no right to cross-examine the witnesses against him. To ferret out the truth, therefore, a trial is to be preferred to a reinvestigation. Rather than delay the trial of private respondents waiting for the conduct and outcome of a reinvestigation, it is best that respondent Judge set the case for immediate trial.
...

WHEREFORE, the foregoing considered, plaintiff's "Motion for Reconsideration (to the Resolution of this Honorable Court dated 13 July 2020)" filed on 16 November 2020 is hereby **GRANTED**. Accordingly, the Order dated 13 July 2020 dismissing the case is **SET ASIDE**. Let a Warrant of Arrest be issued against accused **Roberto V. Garcia** and **Valerie Anne G. Malig**. The bail bond for their provisional liberty is hereby fixed at SIXTY THOUSAND PESOS (P60,000.00) each.

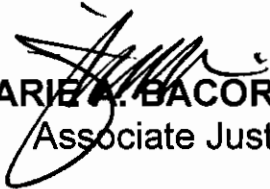
On the other hand, accused's "Omnibus Motion (1) For Leave of Court to File the instant Motion for Reinvestigation and/or to Conduct Preliminary Investigation and to Suspend Proceedings; (2) For Reinvestigation and/or to Conduct Preliminary Investigation and to Suspend Proceedings; and, (3) To Hold in Abeyance or to Recall the Issuance of Warrants of Arrest", filed on 06 July 2020, is **DENIED**.

SO ORDERED.


JUANITO C. CASTANEDA, JR.
Associate Justice

³ *Yap v. Lagtapon*, G.R. No. 196347, 13 January 2017.

⁴ G.R. No. L-40552, 20 August 1975.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice