THIRD DIVISION

[G.R. No. 216146. August 24, 2016]

ALFREDO L. CHUA, TOMAS L. CHUA and MERCEDES P. DIAZ, *petitioners, vs.* **PEOPLE OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; FORUM SHOPPING; RULES ON VERIFICATION AND CERTIFICATION AGAINST FORUM SHOPPING SUMMARIZED IN THE CASE OF *FUJI TELEVISION NETWORK, INC. V. ESPIRITU*.— *Fuji Television Network, Inc. v. Espiritu* summarizes the rules on verification against forum shopping, *viz.*: 1) A distinction must be made between non[-]compliance with the requirement on or submission of defective verification, and non[-]compliance with the requirement on or submission of defective certification against forum shopping. 2) As to verification, non[-]compliance therewith or a defect therein does not necessarily render the pleading fatally defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby. 3) Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct. 4) As to certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of "substantial compliance" or presence of "special circumstance or compelling reasons." 5) The certification against forum shopping must be signed by all the plaintiffs or petitioners in a case; otherwise, those who did not sign will be dropped as parties to the case. Under reasonable or justifiable circumstances, however, as when all the plaintiffs or petitioners share a common interest and invoke a common cause of action or defense, the

signature of only one of them in the certification against forum shopping substantially complies with the Rule.

2. ID.; CRIMINAL PROCEDURE; AFFIDAVIT OF DESISTANCE EXECUTED AFTER AN ACTION HAS ALREADY BEEN INSTITUTED IN COURT IS NOT A GROUND FOR DISMISSAL OF ACTION.— "By itself, an affidavit of desistance or pardon is not a ground for the dismissal of an action, once the action has been instituted in court." In the case at bench, Rosario's affidavit, which was executed during the pendency of the petition for review before the CA, did not abate the proceedings. This properly springs from the rule that in a criminal action already filed in court, the private complainant loses the right or absolute privilege to decide whether the charge should proceed.

3. COMMERCIAL LAW; CORPORATION LAW; DISSOLUTION OF CORPORATION; CONTINUATION OF BODY CORPORATE FOR THREE YEARS AFTER DISSOLUTION; STOCKHOLDER'S RIGHT TO INSPECT CORPORATE RECORDS SUBSISTS DURING THE PERIOD OF LIQUIDATION.— *Yu, et al. v. Yukayguan, et al.* instructs that: [T]he corporation continues to be a body corporate for three (3) years after its dissolution for purposes of prosecuting and defending suits by and against it and for enabling it to settle and close its affairs, culminating in the disposition and distribution of its remaining assets. x x x The termination of the life of a juridical entity does not by itself cause the extinction or diminution of the rights and liabilities of such entity x x x nor those of its owners and creditors. x x x Sections 122 and 145 of the Corporation Code explicitly provide for the continuation of the body corporate for three years after dissolution. The rights and remedies against, or liabilities of, the officers shall not be removed or impaired by reason of the dissolution of the corporation. Corollarily then, a stockholder's right to inspect corporate records subsists during the period of liquidation. Hence, Joselyn, as a stockholder, had the right to demand for the inspection of records. Lodged upon the corporation is the corresponding duty to allow the said inspection.

4. ID.; ID.; SECTION 74 IN RELATION TO SECTION 144 OF THE CORPORATION CODE ON THE RIGHT OF STOCKHOLDER TO INSPECT CORPORATE RECORDS;

VIOLATION WARRANTED THE PENALTY OF ₱10,000.00 FINE INSTEAD OF 30 DAYS IMPRISONMENT.— While a cloud of doubt is cast upon the existence of criminal intent on the part of the petitioners, it is jurisprudentially settled that proof of malice or deliberate intent (*mens rea*) is not essential in offenses punishable by special laws, which are *mala prohibita.* In the case at bar, the petitioners were charged with violations of Section 74, in relation to Section 144, of the Corporation Code, a special law. Accordingly, since Joselyn was deprived of the exercise of an effective right of inspection, offenses had in fact been committed, regardless of the petitioners' intent. The Corporation Code provides for penalties relative to the commission of offenses, which cannot be trivialized, lest the public purpose for which they are crafted be defeated and put to naught. x x x In lieu of the penalty of thirty (30) days of imprisonment, a **FINE** of **TEN THOUSAND PESOS** (₱10,000.00) each is imposed upon the petitioners.

APPEARANCES OF COUNSEL

Cruz Neria & Carpio Law Offices for petitioners.
Office of the Solicitor General for respondent.

D E C I S I O N

REYES, *J.*:

Before the Court is a petition for review on *certiorari*[1] challenging the Resolutions dated September 23, 2014[2] and January 6, 2015[3] of the Court of Appeals (CA) in CA-G.R. CR No. 36764. The assailed resolutions affirmed the Decision[4] dated March 27, 2014 of the Regional Trial Court (RTC)

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[1] *Rollo*, pp. 7-22.

[2] Penned by Associate Justice Vicente S.E. Veloso, with Associate Justices Jane Aurora C. Lantion and Nina G. Antonio-Valenzuela concurring; *id*. at 25-26.

[3] *Id*. at 27.

[4] Rendered by Presiding Judge Reynaldo B. Daway; *id*. at 76-83.

of Quezon City, Branch 90, in Criminal Case No. 107079 and Judgment[5] dated November 23, 2012 of the Metropolitan Trial Court (MeTC) of Quezon City, Branch 43, which sentenced herein petitioners Alfredo L. Chua (Alfredo), Tomas L. Chua (Tomas) and Mercedes P. Diaz (Mercedes) (collectively referred to as the petitioners) to suffer the penalty of thirty (30) days of imprisonment for violation of Section 74,[6] in relation to Section 144,[7] of the Corporation Code.

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[5] Rendered by Presiding Judge Manuel B. Sta. Cruz, Jr.; *id*. at 58-63.

[6] **Sec. 74.** ***Books to be kept; stock transfer agent***. x x x.

The records of all business transactions of the corporation and the minutes of any meetings shall be open to inspection by any director, trustee, stockholder or member of the corporation at reasonable hours on business days and he may demand, writing, for a copy of excerpts from said records or minutes, at his expense.

Any officer or agent of the corporation who shall refuse to allow any director, trustees, stockholder or member of the corporation to examine and copy excerpts from its records or minutes, in accordance with the provisions of this Code, shall be liable to such director, trustee, stockholder or member for damages, and in addition, shall be guilty of an offense which shall be punishable under Section 144 of this Code: Provided, That if such refusal is made pursuant to a resolution or order of the board of directors or trustees, the liability under this section for such action shall be imposed upon the directors or trustees who voted for such refusal: and Provided, further, That it shall be a defense to any action under this section that the person demanding to examine and copy excerpts from the corporation's records and minutes has improperly used any information secured through any prior examination of the records or minutes of such corporation or of any other corporation, or was not acting in good faith or for a legitimate purpose in making his demand.

xxx xxx xxx (Underscoring ours)

[7] **Sec. 144.** ***Violations of the Code***. - Violations of any of the provisions of this Code or its amendments not otherwise specifically penalized therein shall be punished by a fine of not less than one thousand (₱1,000.00) pesos but not more than ten thousand (₱10,000.00) pesos or by imprisonment for not less than thirty (30) days but not more than five (5) years, or both, in the discretion of the court. If the violation is committed by a corporation, the same may, after notice and hearing, be dissolved in appropriate proceedings before the Securities and Exchange Commission: Provided, That such dissolution shall not preclude the institution of appropriate action against the director, trustee or officer of the corporation responsible for said violation:

Antecedent Facts

The Office of the Solicitor General (OSG) aptly summed up the antecedents leading to the filing of the Complaint-Affidavit[8] of Joselyn Chua (Joselyn) against the petitioners:

> [Joselyn] was a stockholder of Chua Tee Corporation of Manila. x x x [Alfredo] was the president and chairman of the board, while [Tomas] was the corporate secretary and also a member of the board of the same corporation. x x x [Mercedes] was the accountant/ bookkeeper tasked with the physical custody of the corporate records.
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> On or about August 24, 2000, Joselyn invoked her right as a stockholder pursuant to Section 74 of the Corporation Code to inspect the records of the books of the business transactions of the corporation, the minutes of the meetings of the board of directors and stockholders, as well as the financial statement[s] of the corporation. She hired a lawyer to send demand letters to each of the petitioners for her right to inspect to be heeded. However, she was denied of such right to inspect.
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> Joselyn likewise hired the services of Mr. Abednego Velayo (Mr. Velayo) from the accounting firm of Guzman Bocaling and Company to assist her in examining the books of the corporation. Armed with a letter request[,] together with the list of schedules of audit materials, Mr. Velayo and his group visited the corporation's premises for the supposed examination of the accounts. However, the books of accounts were not formally presented to them and there was no list of schedules[,] which would allow them to pursue their inspection. Mr. Velayo testified that they failed to complete their objective of inspecting the books of accounts and examine the recorded documents.[9] (Citations omitted)

In the Complaint-Affidavit filed before the Quezon City Prosecutors' Office, Joselyn alleged that despite written demands, the petitioners conspired in refusing without valid cause the

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Provided, further, That nothing in this section shall be construed to repeal the other causes for dissolution of a corporation provided in this Code. x x x. (Underscoring ours)

[8] *Rollo*, pp. 29-32.

[9] *Id*. at 124-125.

exercise of her right to inspect Chua Tee Corporation of Manila's (CTCM) business transactions records, financial statements and minutes of the meetings of both the board of directors and stockholders.[10]

In their Counter Affidavits,[11] the petitioners denied liability. They argued that the custody of the records sought to be inspected by Joselyn did not pertain to them. Besides, the physical records were merely kept inside the cabinets in the corporate office. Further, they did not prevent Joselyn from inspecting the records. What happened was that Mercedes was severely occupied with winding up the affairs of CTCM after it ceased operations. Joselyn and her lawyers then failed to set up an appointment with Mercedes. Joselyn, through counsel, then sent demand letters to inspect the records. Not long after, Joselyn filed two cases, one of which was civil and the other, criminal, against the petitioners.

On July 4, 2001, an Information[12] indicting the petitioners for alleged violation of Section 74, in relation to Section 144, of the Corporation Code was filed before the MeTC of Quezon City. The case was docketed as Criminal Case No. 107079, raffled to Branch 43.

The Proceedings before the MeTC and the RTC

On January 30, 2002, the petitioners filed before the MeTC a Motion to Quash[13] the Information filed against them. They argued that CTCM had ceased to exist as a corporate entity since May 26, 1999. Consequently, when the acts complained of by Joselyn were allegedly committed in August of 2000, the petitioners cannot be considered anymore as responsible officers of CTCM. Thus, assuming for argument's sake that the petitioners actually refused to let Joselyn inspect corporate records, no criminal liability can attach to an omission to perform

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[10] *Id*. at 31.

[11] *Id*. at 37-39, 40-42, 43-45.

[12] *Id*. at 46-47.

[13] *Id*. at 48-52.

a duty, which no longer existed. The MeTC, however, denied the petitioners' Motion to Quash.

Arraignment, pre-trial and trial then ensued. The prosecution offered the testimonies of Joselyn and Abednego Velayo (Velayo). On the other hand, the petitioners neither presented witnesses, nor filed any documentary evidence.[14]

On November 23, 2012, the MeTC rendered its Judgment[15] convicting the petitioners as charged, sentencing them to suffer the penalty of 30 days of imprisonment, and directing them to pay the costs of suit. The MeTC cited *Ang-Abaya, et al. v. Ang*[16] to stress that in the instant case, the prosecution had amply established the presence of the elements of the offense under Section 74 of the Corporation Code, to wit: (a) a stockholder's prior demand in writing for the inspection of corporate records; (b) refusal by corporate officers to allow the inspection; and (c) proofs adduced by the corporate officers of the stockholder's prior improper or malicious use of the records in the event that the same is raised as a defense for the refusal to allow the inspection.[17] Further invoking *Gokongwei, Jr. v. Securities and Exchange Commission*,[18] the MeTC explained that a stockholder's right to inspect corporate records is based upon the necessity of self-protection.[19] Thus, the exercise of the right at reasonable hours during business days should be allowed.

In the Order[20] dated March 26, 2013, the MeTC denied the petitioners' Motion for Reconsideration.[21]

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[14] *Id*. at 59.

[15] *Id*. at 58-63.

[16] 593 Phil. 530 (2008).

[17] *Rollo*, p. 61.

[18] 178 Phil. 266 (1979).

[19] *Rollo*, p. 62.

[20] *Id*. at 74-75.

[21] *Id*. at 64-73.

The petitioners filed an appeal, which the RTC denied in the Decision[22] rendered on March 27, 2014. The RTC agreed with the MeTC's ruling and stated that the petitioners should have presented their evidence to contradict or rebut the evidence presented by the prosecution that has overcome their constitutional right to be presumed innocent, before the lower court.[23]

In its Order[24] dated July 4, 2014, the RTC denied the petitioners' motion for reconsideration.[25]

The Proceedings before the CA

The petitioners filed before the CA a petition for review under Rule 42 of the Rules of Court. On September 23, 2014, the CA outrightly dismissed the petition on technical grounds, *i.e.*, failure to submit (a) true copies or duplicate originals of the MeTC's Judgment dated November 23, 2012 and Order dated March 26, 2013, and (b) a Special Power of Attorney (SPA) authorizing Alfredo to file the petition and sign the verification and certification of non-forum shopping in behalf of Tomas and Mercedes.[26]

On October 15, 2014, the petitioners filed a Motion for Reconsideration,[27] to which they appended their belated compliance with the formal requirements pointed out by the CA. Pending resolution of the motion, Rosario Sui Lian Chua (Rosario), mother of the now deceased Joselyn, filed an Affidavit of Desistance[28] dated December 11, 2014, which in part stated that:

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[22] *Id*. at 76-83.

[23] *Id*. at 83.

[24] *Id*. at 92.

[25] *Id*. at 84-90.

[26] *Id*. at 25-26.

[27] *Id*. at 93-97.

[28] *Id*. at 107-108.

3. After taking stock of the situation of the [petitioners] in the above-captioned case, and considering moreover that [Alfredo and Tomas] are both uncles of [Joselyn], and are brothers of my now also-deceased husband, I and the rest of my family, have decided to condone any and all possible criminal wrongdoings attributable to [the petitioners], and to absolve the latter of both civil and criminal liabilities in connection with the above-captioned case;

4. In any event, we have reason to believe that the filing of the instant criminal case was merely the result of serious misunderstanding anent the management and operation of [CTCM], which had long ceased to exist as a corporate entity even prior to the alleged commission of the crime in question, rather than by reason of any criminal intent or actuation on the part of the [petitioners].[29]

On January 6, 2015, the CA issued the second assailed Resolution[30] denying the petitioners' motion for reconsideration.

Issue

Unfazed, the petitioners filed before this Court the instant petition for review on *certiorari* raising the sole issue of the propriety of their conviction for alleged violation of Section 74, in relation to Section 144, of the Corporation Code.[31]

The petitioners reiterate their stance that since CTCM had ceased business operations prior to Joselyn's filing of her complaint before the MeTC, there was no longer any duty pertaining to corporate officers to allow a stockholder to inspect the records.[32] The petitioners also aver that the prosecution failed to prove by competent evidence that they had actually prevented Joselyn from exercising her right of inspection. They point out that when Joselyn was cross-examined, she admitted that the petitioners had allowed her to see the records. However, since

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[29] *Id*. at 107.

[30] *Id*. at 27.

[31] *Id*. at 10-11.

[32] *Id*. at 14.

she had designated her accountant to conduct the inspection, she was not able to physically view the records. Hence, she had no personal knowledge as to whether or not the inspection of the specific records she requested was allowed or denied.[33] Further, Velayo himself stated during the trial that the letters demanding for inspection of the records were addressed to CTCM and not to the petitioners. Velayo also declared that he had no personal dealings with the petitioners.[34] Besides, Rosario's Affidavit of Desistance proves the frivolous nature of Joselyn's complaint and the unjustness of the petitioners' conviction by the courts *a quo*.[35]

In its Comment,[36] the OSG points out that under Section 122 of the Corporation Code, a corporate entity, "*whose charter expires by its own limitation*" shall continue as "*a body corporate for three (3) years after the time when it would have been so dissolved, for the purpose of prosecuting and defending suits by or against it and enabling it to settle and close its affairs*." It follows then that CTCM continued as a body corporate until May of 2002.[37] Moreover, the board of directors is not rendered *functus officio* by reason of the corporation's dissolution.[38] Liabilities incurred by officers shall not be removed or impaired by the subsequent dissolution of the corporation.[39] It follows therefore that a stockholder's right to inspect corporate records subsists during the period of liquidation.[40]

The OSG also emphasizes Velayo's testimony that upon his visit to CTCM's corporate office, the books of accounts were

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[33] *Id*. at 15-16.

[34] *Id*. at 17.

[35] *Id*. at 19.

[36] *Id*. at 122-132.

[37] *Id*. at 129.

[38] *Id*., citing *Aguirre II, et al. v. FQB+7, Inc., et al.,* 701 Phil. 216, 229 (2013).

[39] *Rollo*, p. 130.

[40] *Id*.

not formally presented and no schedule was offered as to when the requested inspection can be conducted.[41]

Ruling of the Court

The Court affirms the conviction but directs the payment of fine, in lieu of the penalty of imprisonment imposed by the courts *a quo*.

Procedural Matters

The CA's outright dismissal of the petition for review filed before it

The CA outrightly dismissed on technical grounds the petition for review filed before it under Rule 42 of the Rules of Court. Thereafter, the petitioners filed their belated compliance to correct the procedural flaws referred to by the CA. They explained that their failure to immediately submit the requisite SPA authorizing Alfredo to sign the verification and certification against non-forum shopping, and act in behalf of Tomas and Mercedes was due to the fact that the latter two were out of the country when the petition was filed. Anent the petitioners' non-submission of true copies or duplicate originals of the MeTC judgment and order, they admitted their negligence, and prayed for the court's indulgence.[42]

Fuji Television Network, Inc. v. Espiritu[43] summarizes the rules on verification and certification against forum shopping, *viz*.:

1) A distinction must be made between non[-]compliance with the requirement on or submission of defective verification, and non[-] compliance with the requirement on or submission of defective certification against forum shopping.

2) As to verification, non[-]compliance therewith or a defect therein does not necessarily render the pleading fatally

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[41] *Id*. at 125.

[42] *Id*. at 94.

[43] G.R. Nos. 204944-45, December 3, 2014, 744 SCRA 31.

defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby.

3) Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.

4) As to certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons."

5) The certification against forum shopping must be signed by all the plaintiffs or petitioners in a case; otherwise, those who did not sign will be dropped as parties to the case. Under reasonable or justifiable circumstances, however, as when all the plaintiffs or petitioners share a common interest and invoke a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the Rule.

xxx xxx xxx[44] (Italics and underscoring deleted)

In the case at bar, the petitioners complied with the procedural requirements belatedly, defectively, or substantially. They explained the reasons for their lapses and begged for the court's understanding. It likewise bears noting that the petitioners share common interests and causes of action as regards the petition for review filed before the CA.

Tible & Tible Company, Inc., et al. v. Royal Savings and Loan Association, et al.[45] is emphatic that:

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[44] *Id*. at 54-55, citing *Altres, et al. v. Empleo, et al.*, 594 Phil. 246, 261-262 (2008).

[45] 574 Phil. 20 (2008).

Courts are not slaves or robots of technical rules, shorn of judicial discretion. In rendering justice, courts have always been, as they ought to be, conscientiously guided by the norm that on balance, technicalities take a backseat against substantive rights, and not the other way around.[46] (Italics in the original)

Prescinding therefrom, the Court finds that the CA had committed reversible error in outrightly dismissing the petition filed before it. The Court does not perceive intentional disregard of procedures on the part of the petitioners. The circumstances, thus, call for a relaxation of the rules in the interest of substantial justice.

The effect of an Affidavit of Desistance executed after an action has already been instituted in court

"By itself, an affidavit of desistance or pardon is not a ground for the dismissal of an action, once the action has been instituted in court."[47]

In the case at bench, Rosario's affidavit, which was executed during the pendency of the petition for review before the CA, did not abate the proceedings. This properly springs from the rule that in a criminal action already filed in court, the private complainant loses the right or absolute privilege to decide whether the charge should proceed.

On Substantive Matters

Despite the expiration of CTCM's corporate term in 1999, duties as corporate officers still pertained to the petitioners when Joselyn's complaint was filed in 2000.

Yu, et al. v. Yukayguan, et al.[48] instructs that:

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[46] *Id*. at 37, citing *Grand Placement and General Services Corporation v. CA*, 516 Phil. 541, 552 (2006).

[47] *Spouses Cabico v. Judge Dimaculangan-Querijero*, 550 Phil. 460, 473 (2007).

[48] 607 Phil. 581 (2009).

[T]he corporation continues to be a body corporate for three (3) years after its dissolution for purposes of prosecuting and defending suits by and against it and for enabling it to settle and close its affairs, culminating in the disposition and distribution of its remaining assets. x x x The termination of the life of a juridical entity does not by itself cause the extinction or diminution of the rights and liabilities of such entity x x x nor those of its owners and creditors. x x x.[49]

Further, as correctly pointed out by the OSG, Sections 122 and 145 of the Corporation Code explicitly provide for the continuation of the body corporate for three years after dissolution. The rights and remedies against, or liabilities of, the officers shall not be removed or impaired by reason of the dissolution of the corporation. Corollarily then, a stockholder's right to inspect corporate records subsists during the period of liquidation. Hence, Joselyn, as a stockholder, had the right to demand for the inspection of records. Lodged upon the corporation is the corresponding duty to allow the said inspection.

It is beyond the ambit of a petition filed under Rule 45 of the Rules of Court to recalibrate the evidence considered in the proceedings below. However, the Court notes circumstances justifying the modification of the assailed resolutions.

The Court notes that in the course of the trial, the petitioners presented neither testimonial nor documentary evidence to prove their innocence.[50] The MeTC rendered a judgment of conviction, which the RTC and the CA affirmed *in toto*.

It is settled that "a re-examination of factual findings is outside the province of a petition for review on *certiorari*,"[51] especially

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[49] *Id.* at 602.

[50] *Rollo,* p. 59.

[51] *Miro v. Vda. de Erederos, et al.,* 721 Phil. 772, 785 (2013).

in the instant petition where the MeTC, RTC and CA concurred in convicting the petitioners of the charges against them.

Be that as it may, the Court takes exception and notes the following circumstances: (a) during cross-examination, Joselyn admitted that permission was granted for her to see the documents, but she was unable to actually view them as she was represented by her accountant; (b) Joselyn lacked personal knowledge as to whether or not the petitioners in fact allowed or denied the checking of the records she had requested; (c) Velayo stated that the letter requesting for the examination of CTCM's records was addressed to the Accounting Department, and he and his colleagues did not have personal dealings with the petitioners.[52]

From the foregoing, it is apparent that a complete examination of CTCM's records did not occur resulting to an effective deprivation of Joselyn's right as a stockholder. However, from Joselyn and Velayo's testimonies, it can be inferred that permission to view the records was granted, albeit not fully effected. The petitioners, on their part, explained in the Counter-Affidavit filed before the Quezon City Prosecution Office that they never prevented Joselyn from exercising her right of inspection, but when the latter made her request, Mercedes was too occupied in winding up the affairs of CTCM.[53]

While a cloud of doubt is cast upon the existence of criminal intent on the part of the petitioners, it is jurisprudentially settled that proof of malice or deliberate intent (*mens rea*) is not essential in offenses punishable by special laws, which are *mala prohibita*.[54]

In the case at bar, the petitioners were charged with violations of Section 74, in relation to Section 144, of the Corporation Code, a special law. Accordingly, since Joselyn was deprived of the exercise of an effective right of inspection, offenses

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[52] *Rollo*, pp. 59-60.

[53] *Id*. at 38, 41, 44.

[54] *Zuño, Sr. v. Dizon,* A.M. No. RTJ-91-752, June 23, 1993, 223 SCRA 584, 604.

had in fact been committed, regardless of the petitioners' intent. The Corporation Code provides for penalties relative to the commission of offenses, which cannot be trivialized, lest the public purpose for which they are crafted be defeated and put to naught.

No exceptional grounds exist justifying the reversal of the conviction previously rendered by the MeTC, RTC and CA. However, in lieu of the penalty of 30 days of imprisonment, the Court finds it more just to impose upon each of the petitioners a fine of Ten Thousand Pesos (₱10,000.00) considering the reasons below. ***First***. Malicious intent was seemingly wanting. Permission to check the records was granted, albeit not effected. ***Second***. Joselyn had predeceased Alfredo and Tomas, her uncles, who are in their twilight years. ***Third***. Joselyn's mother, Rosario, had executed an Affidavit of Desistance stating that the filing of the complaint before was "*merely the result of [a] serious misunderstanding anent the management and operation of [CTCM], which had long ceased to exist as a corporate entity even prior to the alleged commission of the crime in question, rather than by reason of any criminal intent or actuation on the part of the [petitioners]*."[55]

WHEREFORE, IN VIEW OF THE FOREGOING, the conviction of Alfredo L. Chua, Tomas L. Chua and Mercedes P. Diaz for violations of Section 74, in relation to Section 144, of the Corporation Code is **AFFIRMED**, but **MODIFIED** to the extent that in lieu of the penalty of thirty (30) days of imprisonment, a **FINE** of **TEN THOUSAND PESOS** (₱10,000.00) each is imposed upon the petitioners.

SO ORDERED.

Velasco, Jr. (*Chairperson*), *Peralta, Perez,* and *Jardeleza, JJ.,* concur.

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[55] *Rollo*, p. 107.