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**SECOND DIVISION**

[G.R. No. 162416. January 31, 2006]

**CHESTER DE JOYA,** *petitioner, vs.* **JUDGE PLACIDO C. MARQUEZ, in his capacity as Presiding Judge of Branch 40, Manila-RTC, PEOPLE OF THE PHILIPPINES and THE SECRETARY OF THE DEPARTMENT OF JUSTICE,** *respondents.*

**SYLLABUS**

**1. REMEDIAL LAW; CRIMINAL PROCEDURE; PRELIMINARY INVESTIGATION; AS 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.** — Probable cause to issue 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. It bears remembering that "in determining probable cause, the average man weighs facts and circumstances without resorting to the calibrations of our technical rules of evidence of which his knowledge is nil. Rather, he relies on the calculus of common sense of which all reasonable men have an abundance." Thus, the standard used for the issuance of a warrant of arrest is less stringent than that used for establishing the guilt of the accused. As 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.

**2. ID.; ID.; ID.; JUDGES DO NOT CONDUCT A *DE NOVO* HEARING TO DETERMINE THE EXISTENCE OF PROBABLE CAUSE.** — It need not be shown that the accused are indeed guilty of the crime charged. That matter should be left to the trial. it should be emphasized that before issuing warrants of arrest, judges merely determine personally the probability, not the certainty, of guilt of an accused. Hence, judges do not conduct a *de novo* hearing to determine the existence of probable cause.

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They just personally review the initial determination of the prosecutor finding a probable cause to see if it is supported by substantial evidence. In case of doubt on the existence of probable cause, the Rules allow the judge to order the prosecutor to present additional evidence. In the present case, it is notable that the resolution issued by State prosecutor Benny Nicdao thoroughly explains the bases for his findings that there is probable cause to charge all the accused with violation of Article 315, par. 2(a) of the Revised Penal Code in relation to P.D. No. 1689.

3. **ID.; SPECIAL CIVIL ACTIONS; *CERTIORARI*; GENERALLY, SUPREME COURT DOES NOT REVIEW THE FACTUAL FINDINGS OF THE TRIAL COURT.** — The general rule is that this Court does not review the factual findings of the trial court, which include the determination of probable cause for the issuance of warrant of arrest. It is only in exceptional cases where this Court sets aside the conclusions of the prosecutor and the trial judge on the existence of probable cause, that is, when it is necessary to prevent the misuse of the strong arm of the law or to protect the orderly administration of justice. The facts obtaining in this case do not warrant the application of the exception.

4. **ID.; COURTS; JURISDICTION; HE WHO INVOKES THE COURT'S JURISDICTION MUST FIRST SUBMIT TO ITS JURISDICTION.** — Again, there is no exceptional reason in this case to allow petitioner to obtain relief from the courts without submitting to its jurisdiction. On the contrary, his continued refusal to submit to the court's jurisdiction should give this Court more reason to uphold the action of the respondent judge. 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. His evasive stance shows an intent to circumvent and frustrate the object of this legal process. It should be remembered that he who invokes the court's jurisdiction must first submit to its jurisdiction.

**APPEARANCES OF COUNSEL**

*Garcia Villacarlos & Garcia Law Offices* for petitioner.
*The Solicitor General* for respondents.

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## DECISION

**AZCUNA, *J.*:**

This is a petition for *certiorari* and prohibition that seeks the Court to nullify and set aside the warrant of arrest issued by respondent judge against petitioner in Criminal Case No. 03-219952 for violation of Article 315, par. 2(a) of the Revised Penal Code in relation to Presidential Decree (P.D.) No. 1689. Petitioner asserts that respondent judge erred in finding the existence of probable cause that justifies the issuance of a warrant of arrest against him and his co-accused.

Section 6, 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 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.

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This Court finds from the records of Criminal Case No. 03-219952 the following documents to support the motion of the prosecution for the issuance of a warrant of arrest:

1. The report of the National Bureau of Investigation to Chief State Prosecutor Jovencito R. Zuño as regards their

[1] Italics supplied.

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investigation on the complaint filed by private complainant Manuel Dy Awiten against Mina Tan Hao @ Ma. Gracia Tan Hao and Victor Ngo *y* Tan for syndicated estafa. The report shows that Hao induced Dy to invest more than a hundred million pesos in State Resources Development Management Corporation, but when the latter's investments fell due, the checks issued by Hao in favor of Dy as payment for his investments were dishonored for being drawn against insufficient funds or that the account was closed.[2]

2. Affidavit-Complaint of private complainant Manuel Dy Awiten.[3]

3. Copies of the checks issued by private complainant in favor of State Resources Corporation.[4]

4. Copies of the checks issued to private complainant representing the supposed return of his investments in State Resources.[5]

5. Demand letter sent by private complainant to Ma. Gracia Tan Hao.[6]

6. Supplemental Affidavit of private complainant to include the incorporators and members of the board of directors of State Resources Development Management Corporation as participants in the conspiracy to commit the crime of syndicated estafa. Among those included was petitioner Chester De Joya.[7]

7. Counter-Affidavits of Chester De Joya and the other accused, Ma. Gracia Hao and Danny S. Hao.

Also included in the records are the resolution issued by State Prosecutor Benny Nicdao finding probable cause to indict

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[2] Original Records, pp. 36-40.

[3] *Id.* at 42-43.

[4] Original Records, pp. 45-48.

[5] *Id.* at 49-62.

[6] *Id.* at 64.

[7] *Id.* at 65-67.

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petitioner and his other co-accused for syndicated estafa,[8] and a copy of the Articles of Incorporation of State Resources Development Management Corporation naming petitioner as incorporator and director of said corporation.

This Court finds that these documents sufficiently establish the existence of probable cause as required under Section 6, Rule 112 of the Revised Rules of Criminal Procedure. Probable cause to issue 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. It bears remembering that "in determining probable cause, the average man weighs facts and circumstances without resorting to the calibrations of our technical rules of evidence of which his knowledge is nil. Rather, he relies on the calculus of common sense of which all reasonable men have an abundance."[9] Thus, the standard used for the issuance of a warrant of arrest is less stringent than that used for establishing the guilt of the accused. As 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.

The foregoing documents found in the records and examined by respondent judge tend to show that therein private complainant was enticed to invest a large sum of money in State Resources Development Management Corporation; that he issued several checks amounting to ₱114,286,086.14 in favor of the corporation; that the corporation, in turn, issued several checks to private complainant, purportedly representing the return of his investments; that said checks were later dishonored for insufficient funds and closed account; that petitioner and his co-accused, being incorporators and directors of the corporation, had knowledge of its activities and transactions. These are all that need to be shown to establish probable cause for the purpose

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[8] *Id.* at 22-33.

[9] *Webb v. De Leon*, 247 SCRA 652 (1995).

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of issuing a warrant of arrest. It need not be shown that the accused are indeed guilty of the crime charged. That matter should be left to the trial. It should be emphasized that before issuing warrants of arrest, judges merely determine personally the probability, not the certainty, of guilt of an accused. Hence, judges do not conduct a *de novo* hearing to determine the existence of probable cause. They just personally review the initial determination of the prosecutor finding a probable cause to see if it is supported by substantial evidence.[10] In case of doubt on the existence of probable cause, the Rules allow the judge to order the prosecutor to present additional evidence. In the present case, it is notable that the resolution issued by State Prosecutor Benny Nicdao thoroughly explains the bases for his findings that there is probable cause to charge all the accused with violation of Article 315, par. 2(a) of the Revised Penal Code in relation to P.D. No. 1689.

The general rule is that this Court does not review the factual findings of the trial court, which include the determination of probable cause for the issuance of warrant of arrest. It is only in exceptional cases where this Court sets aside the conclusions of the prosecutor and the trial judge on the existence of probable cause, that is, when it is necessary to prevent the misuse of the strong arm of the law or to protect the orderly administration of justice. The facts obtaining in this case do not warrant the application of the exception.

In addition, it may not be amiss to note that petitioner is not entitled to seek relief from this Court nor from the trial court as he continuously refuses to surrender and submit to the court's jurisdiction. Justice Florenz D. Regalado explains the requisites for the exercise of jurisdiction and how the court acquires such jurisdiction, thus:

> x x x Requisites for the exercise of jurisdiction and how the court acquires such jurisdiction:

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[10] *Ibid.*

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a. *Jurisdiction over the plaintiff or petitioner*: This is acquired by the filing of the complaint, petition or initiatory pleading before the court by the plaintiff or petitioner.

b. ***Jurisdiction over the defendant or respondent:*** *This is acquired by the voluntary appearance or submission by the defendant or respondent to the court or by coercive process issued by the court to him, generally by the service of summons.*

c. *Jurisdiction over the subject matter*: This is conferred by law and, unlike jurisdiction over the parties, cannot be conferred on the court by the voluntary act or agreement of the parties.

d. *Jurisdiction over the issues of the case*: This is determined and conferred by the pleadings filed in the case by the parties, or by their agreement in a pre-trial order or stipulation, or, at times by their implied consent as by the failure of a party to object to evidence on an issue not covered by the pleadings, as provided in Sec. 5, Rule 10.

e. *Jurisdiction over the res (or the property or thing which is the subject of the litigation).* This is acquired by the actual or constructive seizure by the court of the thing in question, thus placing it in *custodia legis*, as in attachment or garnishment; or by provision of law which recognizes in the court the power to deal with the property or subject matter within its territorial jurisdiction, as in land registration proceedings or suits involving civil status or real property in the Philippines of a non-resident defendant.

Justice Regalado continues to explain:

In two cases, the court acquires jurisdiction to try the case, even if it has not acquired jurisdiction over the person of a nonresident defendant, as long as it has jurisdiction over the *res*, as when the action involves the personal status of the plaintiff or property in the Philippines in which the defendant claims an interest. In such cases, the service of summons by publication and notice to the defendant is merely to comply with due process requirements. Under Sec. 133 of the Corporation Code, while a foreign corporation doing business in the Philippines without a license cannot sue or intervene

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in any action here, it may be sued or proceeded against before our courts or administrative tribunals.[11]

Again, there is no exceptional reason in this case to allow petitioner to obtain relief from the courts without submitting to its jurisdiction. On the contrary, his continued refusal to submit to the court's jurisdiction should give this Court more reason to uphold the action of the respondent judge. 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. His evasive stance shows an intent to circumvent and frustrate the object of this legal process. It should be remembered that he who invokes the court's jurisdiction must first submit to its jurisdiction.

**WHEREFORE**, the petition is *DISMISSED*.

No costs.

**SO ORDERED.**

*Puno (Chairperson), Sandoval-Gutierrez, Corona,* and *Garcia, JJ.,* concur.

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[11] Remedial Law Compendium, Vol. 1, pp. 7-9.