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THIRD DIVISION

[G.R. No. 230649; April 26, 2023]

PEOPLE OF THE PHILIPPINES, *Petitioner*, *v.* **NOEL M. CARIÑO, FERDINAND T. SANTOS, ROBERT JOHN L. SOBREPEÑA, EXEQUIEL E. ROBLES, ROBERTO J. CHAN, SUSANA S. CHAN, RUBEN C. SY, SOFIA C. SY, VICENTE SANTOS, and IGMIDIO ROBLES,** *Respondents*.

D E C I S I O N

DIMAAMPAO, *J.*:

This Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court challenges the Decision[2] and the Resolution[3] of the Court of Appeals (CA), which affirmed the dismissal of the criminal charge against respondents for violation of Section 12.7 in relation to Section 73 of Republic Act (RA) No. 8799, or the Securities Regulation Code, for lack of probable cause; and which denied petitioner's motion for reconsideration, respectively, in CA-G.R. SP No. 139734.

The case originated from an Information[4] accusing respondents Noel M. Cariño, Ferdinand T. Santos, Robert John L. Sobrepeña, Exequiel E. Robles, Roberto J. Chan, Susana S. Chan, Ruben C. Sy, Sofia C. Sy, Vicente Santos, and Igmidio Robles [collectively,

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1 *Rollo*, pp. 11-51. Petition for Review on *Certiorari* dated April 26, 2017.

2 Id. at 58-70. The Decision dated May 26, 2016 was penned by Associate Justice Edwin D. Sorongon, with the concurrence of Associate Justices Ricardo R. Rosario (now a Member of this Court) and Marie Christine Azcarraga-Jacob.

3 Id. at 72-74. The Resolution dated March 6, 2017 was penned by Associate Justice Edwin D. Sorongon, with the concurrence of Associate Justices Ricardo R. Rosario (now a Member of this Court) and Marie Christine Azcarraga-Jacob.

4 Id. at 296-299. Information dated May 15, 2013.

respondents], in their capacities as incorporators, board of directors/members, and officers of Caliraya Springs Golf Club, Inc. (Caliraya), of violating Section 12.7, in relation to Section 73, of RA No. 8799, or the Securities Regulation Code. The Information reads:

> That on or about April 1997, and dates prior and subsequent thereto, in Mandaluyong City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, as incorporators, board of directors/members, and officers [of] Caliraya Springs Golf Club, Inc., fraudulently made [an] untrue statement or material fact in the Regulation Statement in the following manner: by did then and there declare July 1999 as the expected date of completion of Caliraya Springs Golf Club, Inc. golf course and clubhouse project at Caliraya, Laguna described as follows: "1) Two 18-hole 72-par golf courses which will encompass 131 hectares of the property[;] 2) A golf clubhouse which will contain dining facilities as well as a pro shop with the latest golf paraphernalia and sports gear; and 3) men's and ladies' locker rooms which will contain dressing rooms and showers for residents and guests to freshen up after such game." When in truth and in fact the same is untrue, misleading and fraudulent, the truth of the matter being up to now the project is still incomplete in violation of the Securities Regulation Code.
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> CONTRARY TO LAW.[5]

As borne from the records, the relevant facts are as follows:

In 1997, Caliraya filed a Registration Statement[6] with the Securities and Exchange Commission (SEC) for the registration of its securities. Respondents were indicated therein as incorporators, members of the board, and officers of Caliraya.[7]

In its Registration Statement, Caliraya declared that it sought to sell its shares via secondary offering to finance its project, *i.e.*, the construction of two 18-hole golf courses, a golf clubhouse, and other facilities in Caliraya, Laguna to promote social, recreational, and athletic activities for its members.[8] The shares were made to

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5 Id. at 297.

6 Id. at 178-207. Registration Statement dated April 29, 1997.

7 Id. at 182-183.

8 Id. at 181 and 188-189.

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be sold *via* secondary offering because the landowner, Atlanta Land Corporation, will be issued shares in exchange for the lot to be contributed, and the developers, Fil-Estate Properties, Inc. and Sta. Lucia Realty and Development Corporation, would be issued shares for the development costs they will shoulder in the construction of the golf course and its attendant facilities.[9]

The project was expected to be completed by July 1999,[10] and the following timetable was provided in the Project Information Memorandum[11] that was appended to the Registration Statement:[12]

YEAR	LAKESIDE COURSE	UPLAND FALLS COURSE	CLUBHOUSE
1996	1.0%	1.0%	1.0%
1997	33.0%	33.0%	33.0%
1998	33.0%	33.0%	33.0%
1999	33.0%	33.0%	33.0%
TOTAL	**100.0%**	**100.0%**	**100.0%**

The problem arose when Caliraya's 2003 quarterly report was reviewed by the SEC Corporation Finance Department and it was discovered that the corporation failed to comply with its undertaking under its Project Information Memorandum. The Corporation Finance Department ordered Caliraya to amend its Registration Statement to reflect the true and accurate status of the project, to explain why it should not be required to publish a notice of amendment and right to refund by purchasers of their investment, and to show cause why it should not be held liable for misrepresentation under the Securities Regulation Code.[13]

Later, the Corporation Finance Department issued a Final Notice dated January 8, 2004 to Caliraya, following up on the

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[9] Id. at 189.

[10] Id. at 193.

[11] Id. at 209-227. Project Information Memorandum dated April 1997.

[12] Id. at 222.

[13] Id. at 230. Letter of the Securities and Exchange Commission dated November 14, 2003.

corporation's compliance with its earlier directive.[14] For its failure to comply, the SEC ordered the revocation of Caliraya's registration of securities and permit to sell the same to the public in its Order dated February 4, 2004.[15]

In its Annual Report[16] for fiscal year ending in September 30, 2005, Caliraya declared that "the first 18 holes has been completed and the same is already playable. The last 18 holes shall be made available to club members upon completion."[17] It added that as of September 30, 2005, "the accomplishment [of the project] is at 52%."[18] Conspicuously, at the time, the stockholders of Caliraya still comprised of respondents, the landowner, and the two developers.[19] Caliraya had also not yet started operations.[20]

In October of 2009, the SEC Corporation Finance Department sent another letter to Caliraya and to respondents asking them to show cause why they should not be held liable with respect to the misrepresentations made as to the project's development.[21] When no reply or explanation was provided, the Corporation and Finance Department referred the matter to the SEC's Enforcement and Prosecution Department for its appropriate action.[22]

Proceedings then ensued, which included an ocular inspection of the project revealing that, as of March 5, 2010, the facilities and clubhouse were 100% completed, but only the first 18-hole

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[14] Id. at 231. Letter of the Securities and Exchange Commission dated January 8, 2004.

[15] Id. at 232. Order of the Securities and Exchange Commission dated February 4, 2004.

[16] Id. at 234-252. Annual Report for fiscal year ending in September 30, 2005.

[17] Id. at 238.

[18] Id.

[19] Id. at 237.

[20] Id. at 241 and 247.

[21] Id. at 254-255. Notice issued by the Securities and Exchange Commission dated October 13, 2009.

[22] Id. at 258. Memorandum issued by the Securities and Exchange Commission dated January 13, 2010.

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golf course was finished.[23] Several conferences and hearings were conducted but to no avail.[24] This led the SEC to file a complaint-affidavit[25] before the Department of Justice against Caliraya and herein respondents for violating Section 12.7, in relation to Section 73, of the Securities Regulation Code.[26] Eventually, the above-mentioned Information was filed before the Regional Trial Court of Mandaluyong City, Branch 211, and docketed as Criminal Case No. MC13-15299.[27]

Through an Order,[28] the trial court initially dismissed the criminal case given that the evidence on record "clearly fail[ed] to establish probable cause for violation of Section 12.7, in relation to Section 73, of the Securities Regulation Code."[29] It ratiocinated that there was neither an untrue statement of fact made nor was there misrepresentation in Caliraya's Registration Statement. It was evident that "July 1999" was "only the approximate or likely time that the project will be finished."[30] The trial court added that it was "not uncommon for corporations to state an estimated time within which to complete a certain project but it does not mean that the date stated would be adhered to since certain factors could cause the delay of its completion."[31] Moreover, even if it were to ignore this fact, the trial court held further that there was no evidence propounded to show that the respondents were directly responsible for the violation they were accused of, especially since Caliraya itself was not charged in the Information.[32]

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[23] Id. at 259. Memorandum issued by the Securities and Exchange Commission dated March 8, 2010.

[24] Id. at 261-280. Various Notices of Conference issued to Caliraya.

[25] Id. at 281-295. Complaint-affidavit dated December 1, 2010.

[26] Id. at 281-282.

[27] Id. at 300. Regional Trial Court Order dated November 29, 2013.

[28] Id. at 300-303. The Order dated November 29, 2013 was signed by Presiding Judge Ofelia L. Calo.

[29] Id. at 303.

[30] Id. at 302.

[31] Id.

[32] Id.

The petitioner, through the public prosecutor, moved for reconsideration,[33] which was granted by the trial court.[34] The trial court afforded petitioner another chance to introduce new pieces of evidence to support a finding of probable cause.[35]

In compliance,[36] petitioner presented additional pieces of evidence consisting of the submissions of Caliraya to the SEC, and the letters and reports issued by the latter to the former in the course of the proceedings leading up to the filing of the complaint-affidavit.[37] While petitioner conceded that the declared project completion date was a forward looking statement—the truth or falsity of which could only be determined at the time the expected event is supposed to happen—it insisted that the Securities Regulation Code does not distinguish between historical statements and forward looking statements. Petitioner maintained that what the law punishes is making untrue statements and those which tend to mislead investors, as in this case.[38] Petitioner likewise faulted respondents for not disclosing that they were encountering difficulties in the completion of the project, and in failing to file an amended registration statement to reflect that the project would not be completed as scheduled.[39]

Ruling of the Regional Trial Court

In its Order[40] dated June 23, 2014, the trial court still ruled that there was insufficient evidence to establish probable cause against respondents. It held that the mere fact that respondents were incorporators and/or members of the board of Caliraya

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[33] Id. at 304-308. Motion for Reconsideration dated January 2, 2014.

[34] Id. at 319-322. The Order dated May 9, 2014 was signed by Presiding Judge Ofelia L. Calo.

[35] Id. at 322.

[36] Id. at 323-330. Compliance dated May 16, 2014.

[37] See id. at 323-324.

[38] Id. at 325-326.

[39] Id. at 326.

[40] Id. at 75-76. The Order dated June 23, 2014 was signed by Presiding Judge Ofelia L. Calo.

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would not suffice to impute criminal liability as it must be shown that they had direct knowledge of the act complained.[41] The dispositive portion reads:

WHEREFORE, premises considered and pursuant to Section 5 Rule 112 of the Rules on Criminal Procedure, the above-entitled case is hereby **DISMISSED** since the evidence on record fails to establish probable cause for the issuance of warrants of arrest.[42]

With petitioner's bid for reconsideration being denied by the trial court,[43] it filed a petition for *certiorari*[44] before the CA.

Ruling of the Court of Appeals

In the impugned Decision,[45] the Court of Appeals dismissed the petition for lack of merit. The *fallo* states:

WHEREFORE, in view of the foregoing premises, the Petition for Certiorari is hereby **DISMISSED** for lack of merit. The Orders dated June 23, 2014 and January 21, 2015 of the Regional Trial Court of Mandaluyong City, Branch 211 in *Criminal Case No. MC13-15299* are hereby **AFFIRMED**.[46]

At the outset, the appellate court held that the petition was immediately dismissible for being the wrong remedy. It observed that the assailed Order dated June 23, 2014 was a final order which should have been appealed by the petitioner.[47] In any event, the CA found that even on the merits, the petition must fail as there was no grave abuse of discretion on the part of the trial court in

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41 Id. at 75.

42 Id.

43 Id. at 77-79. The Order dated January 21, 2015 was signed by Presiding Judge Ofelia L. Calo.

44 Id. at 80-119. Petition for *Certiorari* dated March 23, 2015.

45 Id. at 58-70. The Decision dated May 26, 2016 was penned by Associate Justice Edwin D. Sorongon, with the concurrence of Associate Justices Ricardo R. Rosario (now a Member of this Court) and Marie Christine Azcarraga-Jacob.

46 Id. at 69.

47 Id. at 64-66.

rendering the assailed Orders. The appellate court agreed that the purportedly "untrue statement" as to the project's completion date was not the false or fraudulent material statement contemplated and punished by the Securities Regulation Code.[48] It likewise affirmed the trial court's conclusion that petitioner failed to demonstrate how respondents were probably liable for the false claims in the Registration Statement.[49]

Petitioner moved for reconsideration, but the same was denied in the challenged Resolution.[50] Hence, it instituted the present petition.[51]

During the pendency of the petition, the Court, in its Resolution[52] dated February 3, 2021, directed petitioner and respondents to submit their respective memoranda to clarify their arguments and to limit the issues. In compliance therewith, the parties submitted their separate memoranda.[53]

Issues

From the memoranda submitted, the primary issues tendered for this Court's resolution are whether the CA erred in holding that: (*1*) the proper remedy from a final order of dismissal in a criminal case is appeal and not *certiorari*; and (*2*) the trial court committed no grave abuse of discretion in dismissing the criminal case against respondents for lack of probable cause.[54]

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48 Id. at 67-68.

49 Id. at 68-69.

50 Id. at 72-74. The Resolution dated March 6, 2017 was penned by Associate Justice Edwin D. Sorongon, with the concurrence of Associate Justices Ricardo R. Rosario (now a Member of this Court) and Marie Christine Azcarraga-Jacob.

51 Id. at 11-51. Petition for Review on *Certiorari* dated April 26, 2017.

52 Id. at 536-538. Court Resolution dated February 3, 2021.

53 Id. at 539-703. Memoranda of petitioner and respondents.

54 Id. at 551, 577, 624-626 and 673. Respondents Roberto Chan, Sofia Sy and Ruben Sy's Memorandum dated May 14, 2021; respondents Exequiel Robles, Vicente Santos and Igmidio Robles' Memorandum dated May 28, 2021; respondents Noel Cariño, Ferdinand T. Santos and Robert John Sobrepeña's

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THE RULING OF THE COURT

The Petition is devoid of merit.

As to the first issue raised, the CA did not err in holding that petitioner's case was dismissible outright for having availed of the wrong remedy.[55]

"The dismissal of the criminal Information . . ., was a final judgment **because it finally disposed of the case.** With the dismissal of the Information, the trial court's task was ended as far as deciding the controversy was concerned. **There was nothing left to be done by the trial court.**"[56]

Undoubtedly, the trial court's Order dated June 23, 2014, which dismissed the Information against respondents, was a final order given that it conclusively terminated the criminal proceedings lodged before it. Resultantly, the said Order should have been impugned *via* an ordinary appeal before the CA in accordance with Sections 1[57] and 2(b)[58] of Rule 122 of the Rules of Criminal Procedure, and not a petition for *certiorari* under Rule 65, as was done by petitioner.

Settled is the rule that "where an appeal is available to the aggrieved party, the action for *certiorari* will not be entertained,"[59] as the "[r]emedies of appeal, including petitions

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Memorandum dated May 19, 2021 and petitioner People of the Philippines' Memorandum dated July 8, 2021.

[55] Id. at 66. Court of Appeals Decision dated May 26, 2016.

[56] *Domingo v. Macapagal*, G.R. No. 242577, February 26, 2020. Emphasis supplied.

[57] Section 1. Who may appeal. — Any party may appeal from a judgment or final order, unless the accused will be placed in double jeopardy. (2a)

[58] Section 2. Where to appeal. — The appeal may be taken as follows:
x x x x
(b) To the Court of Appeals or to the Supreme Court in the proper cases provided by law, in cases decided by the Regional Trial Court; x x x

[59] *People v. Villaber*, G.R. No. 247248, June 16, 2021.

for review, and *certiorari* are mutually exclusive, not alternative, or successive."[60]

While this general rule admits of exceptions,[61] an assiduous review of the records of the case reveals that none are present here.

Nevertheless, if only to promote substantial justice and to write *finis* to the controversy, the Court shall pass upon the merits of the case as the final arbiter to all judicial disputes.

At this juncture, the Court clarifies that its review of the inveighed Decision and Resolution of the CA is limited to determining and correcting any error of law committed in the exercise of the appellate court's jurisdiction as is consistent with the nature of a Rule 45 petition;[62] specifically, the Court will evaluate the case in the prism of whether the CA correctly determined the presence or absence of grave abuse of discretion on the part of the trial court,[63] as this was the mode of review elected by petitioner in instituting its petition for *certiorari*.

Considered in this light, the Court of Appeals correctly held that there was no grave abuse of discretion in the Order of the Regional Trial Court, which dismissed the Information against respondents for lack of probable cause.

Grave abuse of discretion implies "such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction."[64] The abuse of discretion must be "grave, as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law."[65]

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[60] Id.

[61] Id.

[62] See *Denila v. Republic*, G.R. No. 206077, July 15, 2020.

[63] Id.

[64] *People v. Celorio*, G.R. No. 226335, June 23, 2021.

[65] Id.

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Necessarily, not every error committed by the trial court in the exercise of its jurisdiction is correctible by a writ of *certiorari* and is limited to such acts so capricious and whimsical in nature as to amount to an absence of jurisdiction.

Viewed under such lens, no grave abuse of discretion may be imputed in the trial court's challenged Order.

To recall, the Information was already dismissed as early as the trial court's Order dated November 29, 2013 for petitioner's failure to establish probable cause to implicate respondents in the crime charged in the Information.[66] But when petitioner moved for reconsideration, the trial court afforded the State the opportunity to bolster its case and to submit additional pieces of evidence in the interest of justice.[67] Still, the evidence petitioner submitted could not concretely link respondents to the crime charged and this resulted in the dismissal of the Information in the trial court's Orders dated June 23, 2014 and January 21, 2015. Rather than "disregarding" the evidence petitioner submitted,[68] the trial court merely found the same insufficient after applying the provision of law involved in the crime charged. Certainly, such determination does not appear capricious nor whimsical as to warrant the issuance of a writ of *certiorari*.

It bears stressing that the trial court's actions here are in accord with Section 6, Rule 112 of the Rules of Criminal Procedure, which reads:

> Section 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

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[66] *Rollo*, p. 303. Regional Trial Court Order dated November 29, 2013.

[67] Id. at 322. Regional Trial Court Order dated May 9, 2014.

[68] Id. at 97. Petition for *Certiorari* dated March 23, 2015.

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 issue must be resolved by the court within thirty (30) days from the filing of the complaint of information. (Emphasis supplied)

In the conduct of criminal proceedings, the trial court is well within its authority to order the prosecution to submit additional evidence. This is necessarily because the judge himself must be personally satisfied of the existence of probable cause before placing the accused under custody;[69] absent probable cause, the judge cannot be forced to issue a warrant of arrest.[70]

The determination of probable cause "is and will always entail a review of the facts of the case."[71] Moreover, when the trial court's conclusion over a factual issue is affirmed by the CA, as in this case,[72] it is accorded the highest respect by this Court.[73]

Indeed, the lower courts' determination of absence of probable cause centers on two points: (1) that there was no violation of Section 12.7 in relation to Section 73 of the Securities Regulation Code as an "untruthful statement" therein does not contemplate a forward looking statement, or a mere estimated completion date; and (2) that respondents' probable culpability has not been established through specific evidence linking them to the alleged violation.

On the first point, there is a need for the Court to correct the lower courts' misconception.

The violation complained of pertains to Section 12.7 in relation to Section 73 of the Securities Regulation Code, the full text of which reads:

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[69] See *People v. Alcantara, et al.*, 835 Phil. 635, 645-646 (2018).

[70] Id. at 646.

[71] *P/C Supt. Pfleider v. People*, 811 Phil. 151, 160 (2017).

[72] *Rollo*, pp. 67-68. Court of Appeals Decision dated May 26, 2016.

[73] *Saulo v. People*, G.R. No. 242900, June 8, 2020.

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SECTION 12. Procedure for Registration of Securities. — x x x x

x x x x

12.7. Upon effectivity of the registration statement, the issuer shall state under oath in every prospectus that all registration requirements have been met and that all information are true and correct as represented by the issuer or the one making the statement. **Any untrue statement of fact or omission to state a material fact required to be stated therein or necessary to make the statement therein not misleading shall constitute fraud.**

SECTION 73. Penalties. — Any person who violates any of the provisions of this Code, or the rules and regulations promulgated by the Commission under authority thereof, or any person who, in a registration statement filed under this Code, **makes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading**, shall, upon conviction, suffer a fine of not less than Fifty thousand pesos (₱50,000.00) nor more than Five million pesos (₱5,000,000.00) or imprisonment of not less than seven (7) years nor more than twenty-one (21) years, or both in the discretion of the court. If the offender is a corporation, partnership or association or other juridical entity, the penalty may in the discretion of the court be imposed upon such juridical entity and upon the officer or officers of the corporation, partnership, association or entity responsible for the violation, and if such officer is an alien, he shall in addition to the penalties prescribed, be deported without further proceedings after service of sentence. (Emphasis supplied)

The contention here revolves around whether a contingent or projected date of completion may fall under the definition of "making an untrue statement" if the project or event does not come to pass on the said date.

To this, the Court answers in the negative.

To be sure, the Securities Regulation Code and its implementing rules do not define an untrue statement. Thus, the word should be interpreted in its "natural, plain and ordinary acceptation and signification, unless it is evident that the legislature intended a technical or special legal meaning to those words," as "[t]he intention of the lawmakers—who are, ordinarily, untrained philologists and

lexicographers—to use statutory phraseology in such a manner is always presumed."[74]

An untruthful statement means one not in accord with facts or one made in deceit for ulterior motives.[75] Certainly, a statement may be factually untrue, with or without the knowledge of the maker, or one made intentionally false with ill-intent. However, the Securities Regulation Code goes a step further and assumes all untrue statements, whether intentional or unintentional, shall constitute fraud, as is evident in the express wording of Section 12.7, as above-quoted. Given that the law does not distinguish, the courts should likewise not distinguish.[76] *Ubi lex non distinguit, nec nos distinguere debemus*.[77]

However, the very nature of contingent or forward looking statements means that, at the time they are made, their inherent truth or falsity is not evident even to the issuer itself. To recall, what the law punishes is making an untruthful statement at the time the registration statement is filed. This is necessarily impossible to do for projected events that rely on external factors for its completion that may be beyond the control of the issuer. Consequently, at the time the alleged violation occurred in April 1997, *i.e.*, when the Registration Statement was first filed, there could have been no untruthful statements made on the part of Caliraya as to the completion date of its project. Nevertheless, this is not to say that Caliraya was not without fault. Its failure to amend its Registration Statement after the lapse of the original estimated completion date based on its own timeline, despite repeated notices from the SEC, would have rendered it liable for a separate clause under Section 12.7, *i.e.*, "**[omitting] to state any material fact** required to be stated therein or **necessary to make the statements therein not**

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[74] *People v. Palabrica III*, G.R. Nos. 250590-91, November 17, 2021.

[75] See "Untrue." Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/untrue> Last accessed March 23, 2023; and "False Statement." The Law Dictionary, <https://thelawdictionary.org/false-statement/> Last accessed March 23, 2023.

[76] *Villanueva v. People*, G.R. No. 237864, July 8, 2020.

[77] Id.

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misleading."[78] Indeed, when it became clear that such estimate would not come to pass, it was incumbent on the registered issuer to amend its registration statement to correct the same in order to reasonably protect the investing public. This Caliraya failed to do.

However, three barriers prevent criminal liability from being imputed to respondents themselves. First, the Information charges respondents for making an untruthful statement in the Registration Statement which, as above-discussed, is not the proper mode involved in this particular instance constituting a violation of Section 12.7 of the Securities Regulation Code. Second, the Information does not charge Caliraya, but only private respondents in their capacity as incorporators, members of the Board, and corporate officers. Third, nothing in the record directly links the respondents to the purported violation.

Generally, corporate agents are not personally liable for violations of the corporation unless they willfully and knowingly vote for or assent to a patently unlawful act, or are guilty of gross negligence or bad faith.[79] In either case, their liability should not be presumed but must be proved.

Even the Securities Regulation Code recognizes this limited culpability by only imposing a penalty on officers of the corporation "responsible for the violation."[80]

Thus, unless it is shown how respondents were directly responsible for failing to correct the Registration Statement, no criminal liability may be imputed on them. Thus, the lower courts did not err in concluding that no probable cause existed to hold them **personally** liable for Caliraya's seeming violation of Section 12.7 in relation to Section 73 of the Securities Regulation Code.

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[78] Emphasis and underscoring supplied.

[79] Section 31, Corporation Code of the Philippines, Batas Pambansa Blg. 68. Approved on May 1, 1980.

[80] Section 73, Securities Regulation Code.

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Probable cause refers to the existence of such facts and circumstances as would engender the belief, in a reasonable mind, that the person charged was guilty of the crime for which he was prosecuted.[81] To the Court's mind, the facts presented do not support a finding that respondents are probably guilty of the crime charged.

Consequently, the trial court correctly dismissed the Information against them.

THE FOREGOING DISQUISITIONS CONSIDERED, the Petition for Review on *Certiorari* is hereby **DENIED**. The Decision dated May 26, 2016 and the Resolution dated March 6, 2017 of the Court of Appeals in CA-G.R. SP No. 139734 are **AFFIRMED** in accordance with this Decision.

SO ORDERED.

Caguioa (Chairperson), Inting, Gaerlan, and *Singh, JJ.*, concur.

APPEARANCES OF COUNSEL

Office of the Solicitor General for petitioner.

Poblador Bautista & Reyes for respondents Noel Cariño, Ferdinand T. Santos & Robert John Sobrepeña.

Igmidio Robles & Vicente Santos Albis & Associates Law Office for respondent Exequiel Robles et al.

E.C. Baligod & Associates for respondents Robert J. Chan, Susan S. Chan, Ruben C. Sy & Sofia Sy.

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[81] *People v. Go*, 845 Phil. 15, 39 (2018).