



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **13 July 2020** which reads as follows:*

“G.R. No. 252172 (Erlinda J. Alcabasa and Rosita J. Aquino v. Hon. Maria Concepcion M. Serrano-Altea, in her capacity as the Presiding Judge, Municipal Trial Court in Cities, Biñan City, Laguna, People of the Philippines and Perciveranda A. Potenciano). –

The Facts

On 07 January 2019, the Municipal Trial Court in Cities of Biñan, Laguna (MTCC) rendered a Decision¹ finding private respondent Perciveranda A. Potenciano (Respondent) guilty beyond reasonable doubt of Falsification of Public Document. It was determined that respondent made untruthful statements in a narration of facts in an Extrajudicial Settlement of Estate (EJ Settlement)² to the effect that she and her siblings were the sole heirs of deceased Agapito Almazan. This was false because respondent was aware that the decedent had other grandchildren, including Erlinda J. Alcabasa and Rosita J. Aquino (petitioners), and thus, were likewise entitled to a share in the property.³

Respondent filed a Motion for Reconsideration⁴ and attached therein a Certification⁵ dated 01 February 2019 prepared by Atty. Fernando M. Diaz (Atty. Diaz), the notary public before whom the EJ Settlement was acknowledged. In the Certification, he stated that while the EJ Settlement

¹ Penned by Presiding Judge Maria Concepcion M. Serrano-Altea, *rollo*, pp. 117-122.

² Id. at 128-129.

³ Id. at 10.

⁴ Id. at 123-126.

⁵ Id. at 127. The relevant portions of the Certification dated 01 February 2019 provide:

This is to certify that the undersigned Notary Public notarized on August 8, 2011 that document denominated as Extrajudicial Settlement of Estate executed by Perciveranda A. Potenciano in Biñan, Laguna on even date, in my law office in 487 Rizal Blvd., Brgy. Tagapo, Sta. Rosa City, Laguna as shown by the word “Sta. Rosa City, Laguna” I stamped over the words “City of Biñan” written in the upper most right side of page 2 of the said document, where my acknowledgment is written. x x x.

was executed in Biñan, Laguna, it was notarized in his law office in Sta. Rosa City, Laguna. This Certification was not identified, marked, nor presented at trial, but was presented for the first time on Motion for Reconsideration.

On 13 March 2019, the MTCC, presided over by public respondent Judge Maria Concepcion M. Serrano-Altea (Judge Serrano-Altea) granted the Motion for Reconsideration and acquitted respondent. In its Resolution,⁶ the MTCC acquitted respondent on the ground of improper venue, which it held was one of the essential elements of jurisdiction. It ratiocinated that unlike in civil cases where venue could be waived; in criminal cases, an accused is not estopped from questioning the jurisdiction of the court even after arraignment and trial on the merits. Since the falsified EJ Settlement became a public document in Sta. Rosa City, Laguna, the MTCC (of Biñan, Laguna) had no jurisdiction over the case.

Petitioners filed a Motion for Reconsideration.⁷ Petitioners alleged, among others, that Atty. Diaz was commissioned as a notary public for the entire province of Laguna, not only for the City of Sta. Rosa. Petitioners emphasized that Atty. Diaz's Certification should not have been considered by Judge Serrano-Altea in reversing her earlier Decision for being belatedly filed. Finally, petitioners stressed that respondent never questioned the Information⁸ charging her before the MTCC and even actively participated in the trial without questioning the court's jurisdiction.

In a Resolution⁹ dated 16 April 2019, the MTCC denied the motion for failure to raise any new matters for review.

Aggrieved, petitioners filed a Petition for *Certiorari* under Rule 65 directly with the Court of Appeals (CA) praying for the nullification of the MTCC Resolutions. Petitioners alleged that Judge Serrano-Altea acted with grave abuse of discretion in a wanton, capricious, and whimsical manner, and contrary to pertinent law and jurisprudence when she gave full weight to the Certification which had not been offered into evidence.¹⁰

CA Ruling

On 20 September 2019, the CA issued a Resolution¹¹ dismissing the Petition for *Certiorari* on the following grounds: (i) lack of personality or legal standing to question MTCC Resolutions; and (ii) violation of the doctrine of hierarchy of courts. The CA ruled that only the Office of the Solicitor General (OSG) can bring actions on behalf of the State in criminal proceedings, and further noted that in actuality, petitioners sought

⁶ Id. at 93-95.

⁷ Id. at 96-100.

⁸ Id. at 101-102.

⁹ Id. at 92.

¹⁰ Id. at 25-26.

¹¹ Penned by Associate Justice Walter S. Ong, with Associate Justices Ricardo R. Rosario and Zenaida T. Galapate-Laguilles, concurring; id. at 50-55.

reconsideration of the criminal, rather than the civil aspect of the case.

In their Motion for Reconsideration,¹² petitioners averred, among others, that the appellate court has the power, authority, and jurisdiction under Rule 65 to hear and decide petitions for *certiorari* and explained that respondent had power and influence in the City of Biñan, Laguna to justify immediate resort to the CA. Likewise, petitioners emphasized that the underlying issue in the petition is a pure question of law, that is, whether or not the subject Certification was properly admitted upon Motion for Reconsideration.

In a Resolution¹³ dated 03 March 2020, the CA denied the motion.

The Issues

- I. Whether or not petitioners, as the offended parties in the falsification of public document case, lack legal personality to institute the Petition for *Certiorari* before the CA.
- II. Whether or not the Petition for *Certiorari* filed by petitioners before the CA constitutes a violation of the doctrine of heirarchy of courts.
- III. Whether or not the admission of the Certification dated 01 February 2019 which had not been marked, presented, and offered into evidence during the trial on the merits but only attached to the Motion for Reconsideration constitutes grave abuse of discretion.

The Court's Ruling

After a judicious study of the case, the Court resolves to deny the Petition for failure to show that the CA committed any reversible error in dismissing the Petition for *Certiorari* filed by petitioners for lack of legal personality and for violation of the doctrine of hierarchy of courts.

In support of their contention that they have the legal personality to file a Petition for *Certiorari* to assail the MTCC Resolutions, petitioners make reference to a letter¹⁴ received from the OSG by their undersigned counsel.¹⁵ Briefly, they contend that their undersigned counsel faced a similar predicament but rather than dismiss their petition outright, the appellate court therein directed them to secure the conformity of the OSG in filing the petition. More importantly, in response to their undersigned counsel's letter-request,¹⁶ the OSG replied that private offended parties have the right to bring special civil actions for *certiorari* in their name on the ground of grave abuse of discretion amounting to excess or lack of

¹² Id. at 56-64.

¹³ Id. at 41-48.

¹⁴ Id. at 65-67.

¹⁵ Id. at 16.

¹⁶ Id. at 16-17, quoting the pertinent portions of the Reply letter dated 29 January 2016 by Assistant Solicitor General Renan E. Ramos and State Solicitor Leney L. Layug-Delfin.

jurisdiction.

At the outset, it bears stressing that the Court is not bound by the opinions of the OSG, more so when it refers to another case with no relation to the instant controversy. It cannot be overemphasized that each case must be evaluated based on its own merits, having in mind the particular factual circumstances attendant therein. Thus, petitioners' reference to the past experience of their undersigned counsel cannot persuade the Court.

While petitioners are correct in stating that there have been instances where the Court has recognized that a private offended party can have standing to file a petition for *certiorari* under Rule 65 to appeal the dismissal or acquittal in a criminal case, it must be underscored that this is the exception rather than the general rule. Explicit from the provisions of the Administrative Code of 1987¹⁷ is the general rule that in criminal cases or proceedings, only the Solicitor General may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or State. The rationale behind this rule is the principle that in a criminal case, the real party in interest is the State and not the private offended party, whose role is limited to that of a witness for the prosecution.¹⁸ The interest of the private complainant or the private offended party is limited only to the civil liability. Thus, it should ideally be along this thin framework that the Court may entertain questions regarding the dismissals or acquittals of criminal cases instituted by private offended parties.¹⁹

As explained in *Cu v. Ventura*²⁰ the two exceptions to the general rule mandating the participation of the OSG in appeals involving the dismissal of a criminal case or an acquittal are: (1) when there is denial of due process of law to the prosecution and the State, or its agents refuse to act on the case to the prejudice of the State and the private offended party and; (2) when the private offended party questions the civil aspect of a decision of a lower court. The first exception contemplates a situation where the State and the offended party are deprived of due process because the prosecution is remiss in its duty to protect the interest of the State and the offended party.²¹ Meanwhile in the second exception, it is assumed that a decision on the merits had already been rendered by the lower court and it is the civil aspect of the case which the offended party is appealing. The offended party, who is not satisfied with the outcome of the case, may question the amount of the grant or denial of damages made by the court below even without the participation of the Solicitor General.²²

Being exceptions to the general rule, petitioners are burdened to prove that their petition falls within these parameters. Lamentably, neither exception was alleged nor established by petitioners.

¹⁷ Administrative Code of 1987, Section 35 (1), Chapter 12, Title III, Book III.

¹⁸ *Rural Bank of Mabitac, Laguna, Inc. v. Canicon*, G.R. No. 196015, 27 June 2018.

¹⁹ *Anlud Metal Recycling Corp. v. Ang*, 766 Phil. 676, 687 (2015).

²⁰ G.R. No. 224567, 26 September 2018.

²¹ *Heirs of Delgado v. Gonzales*, 612 Phil. 817, 844 (2009).

²² *Cu v. Ventura*, supra note 20.

For the decision of the court to be declared null and void for lack of due process, it must be shown that a party was deprived of his opportunity to be heard.²³ In this case, petitioners were given a chance to present their evidence and thereafter, seek reconsideration thereof. Moreover, a reading of the Petition for *Certiorari*²⁴ reveals that petitioners are not concerned with the civil liability of respondent. Such finding by the CA was not disputed by petitioners. The only relief they sought was the reinstatement of the MTCC Decision finding respondent guilty beyond reasonable doubt for falsification. Even in their Petition for Review on *Certiorari*²⁵ before the Court, petitioners make no mention of these exceptions but rather, maintain that Judge Serrano-Altea acted with grave abuse of discretion in giving probative value to the Certification of Atty. Diaz. It is thus evident that the resolution of this issue pertains to the criminal aspect of the case which can only be appealed by the OSG and not by petitioners as the private offended parties.

The Court likewise sustains the appellate court's conclusion that petitioners violated the principle of hierarchy of courts when they directly sought relief with the CA from the MTCC Decision.

The Petition for *Certiorari* is dismissible outright on this procedural ground.²⁶ Judicial hierarchy dictates that petitions for the issuance of extraordinary writs against first level courts should be filed with the Regional Trial Court (RTC), and those against the latter, with the CA.²⁷ It must be stressed that the concurrence of jurisdiction is not to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed.²⁸ Said rule is an important component of the orderly administration of justice and not imposed merely for whimsical and arbitrary reasons. Thus, trifling with the rule on hierarchy of courts is looked upon with disfavor by the Court. While there are well-established exceptions to the doctrine of hierarchy of courts,²⁹ none of these were alleged by petitioners. Notably on Motion for Reconsideration, petitioners averred that respondent wielded power, connection, and influence in Biñan.³⁰ Needless to state, this allegation aside from being unsubstantiated, does not constitute a compelling reason why direct recourse to the CA should be allowed.

Finally, petitioners' insistence that their petition should be decided on the merits rather than dismissed on the basis of pure technicality³¹ cannot be countenanced. Indeed, while it is true that litigation is not a game of technicalities – it is equally true, however, that every case must be established in accordance with the prescribed procedure to ensure an orderly

²³ *Bangayan, Jr. v. Bangayan*, 675 Phil. 656, 669 (2011).

²⁴ *Rollo*, pp. 68-91.

²⁵ *Id.* at 3-36.

²⁶ *Flaminiano v. Adriano*, 567 Phil. 573, 577-578 (2008).

²⁷ *Holy Trinity Realty Development Corporation v. Spouses Abacan*, 709 Phil. 653, 659 (2013).

²⁸ *Gios-Samar, Inc. v. DOTC*, G.R. No. 217158, 12 March 2019.

²⁹ See *Aala v. Uy*, 803 Phil. 36 (2017).

³⁰ *Rollo*, p. 60.

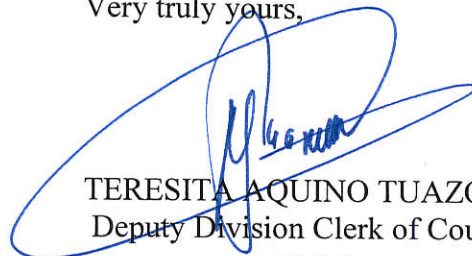
³¹ *Id.* at 21.

and speedy administration of justice. In view of the foregoing disquisitions which clearly establish valid grounds for the dismissal of the petition, the Court shall no longer belabor the propriety of admitting the Certification of Atty. Diaz.

WHEREFORE, the Petition for Review on *Certiorari* under Rule 45 is **DENIED**. The Resolutions dated 20 September 2019 and 03 March 2020 of the Court of Appeals in CA-G.R. SP. No. 162423 are hereby **AFFIRMED**.

SO ORDERED.” (*J. Gaerlan, designated Additional Member per Special Order No. 2780 dated May 11, 2020.*)

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *Whh 9/10*
10 SEP 2020

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