



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**JAY CANDELARIA and
ERIC BASIT,**
Petitioners,

G.R. No. 173861

- versus -

Present:

**REGIONAL TRIAL COURT,
BRANCH 42, CITY OF SAN
FERNANDO; (Pampanga)
represented by its Presiding Judge
HON. MARIA AMIFAITH S.
FIDER-REYES, OFFICE OF THE
PROVINCIAL PROSECUTOR,
CITY OF SAN FERNANDO,
PAMPANGA and ALLIED
DOMECQ PHILIPPINES, INC.,**
Respondents.

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

Promulgated:

JUL 14 2014

X - - - - -

DECISION

DEL CASTILLO, J.:

In this Petition for *Certiorari* with Application for Preliminary Injunction¹ filed under Rule 65 of the Rules of Court, petitioners Jay Candelaria and Eric Basit (petitioners) seek to nullify and set aside two Orders of the Regional Trial Court (RTC), Branch 42, City of San Fernando, Pampanga, to wit: Order dated October 12, 2005² denying their Motion to Suppress/Exclude Evidence³ and Order dated July 14, 2006⁴ denying their Motion for Reconsideration⁵ thereto. *Mark*

* Per Special Order No. 1712 dated June 23, 2014.

¹ *Rollo*, pp. 3-21.

² Records, Vol. 1, pp. 183-185; penned by Acting Judge Divina Luz P. Aquino-Simbulan.

³ Id. at 118-127.

⁴ Id. at 303-306; penned by Presiding Judge Maria Amifaith S. Fider-Reyes.

⁵ Id. at 239-247.

Factual Antecedents

During an alleged buy-bust operation conducted in the evening of June 22, 2001, petitioners were arrested at the corner of Gueco St. and MacArthur Highway, Balibago, Angeles City for delivering, with the intention to sell, five cases of counterfeit Fundador Brandy. On the strength of the Joint Affidavit⁶ of the police operatives, petitioners were formally charged in an Information⁷ dated July 6, 2004 with violation of Section 155 in relation to Section 170 of Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines.

After they were arraigned and had pleaded not guilty to the charge on May 31, 2005,⁸ petitioners filed on June 17, 2005 a Motion to Suppress/Exclude Evidence⁹ based on inadmissibility of evidence. They contended that the evidence the prosecution intended to present were obtained in violation of their constitutional right against unreasonable searches and seizures. This is considering that at the time the alleged counterfeit products were seized, they were neither committing nor attempting to commit a crime in the presence of the arresting officers as to justify the conduct of search and seizure following their unlawful arrest.

Ruling of the Regional Trial Court

On October 12, 2005, the RTC issued the first assailed Order¹⁰ denying the Motion to Suppress/Exclude Evidence. Observing that the motion was anchored on petitioners' alleged illegal arrest, it cited jurisprudence¹¹ wherein it was held that any objection to an arrest must be made before an accused enters his plea on arraignment. Having failed to move for the quashal of the information before the arraignment, an accused is estopped from questioning the legality of his arrest. Notwithstanding this reference, the RTC based its denial of the subject motion on its examination of the Joint Affidavit of the arresting officers. According to the said court, since it appears from the said affidavit that the search and seizure was

⁶ Id. at 35-36.

⁷ Id. at 1-2. The accusatory part reads:

That on or about the 22nd day of June, 2001, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually aiding [and] abetting one another, did then and there willfully, unlawfully and feloniously use in commerce, without the consent of Pedro Domecq, S.A., the owner of duly registered FUNDADOR trademark, a reproduction, copy, counterfeit, or colorable imitation of said FUNDADOR trademark in connection with [their] sale and/or offering for sale of the following counterfeit FUNDADOR products: five (5) cases (each case containing 12 bottles) of counterfeit Fundador Brandy worth ₱2,160.00 per case and which use is likely to cause confusion or to cause mistake or deceive the consuming public, to the damage and prejudice of PEDRO DOMEQCQ, S.A.

CONTRARY TO LAW.

⁸ Id. at 108.

⁹ Id. at 118-127.

¹⁰ Id. at 183-185.

¹¹ *People v. Tampis*, 455 Phil. 371, 382 (2003).

incidental to a valid warrantless arrest of the accused who were caught in *flagrante delicto*, any evidence obtained during such search and seizure is admissible in evidence.

Not satisfied, petitioners filed a Motion for Reconsideration,¹² which the RTC denied in its assailed Order¹³ of July 14, 2006.

Issue

Hence, the present recourse under Rule 65 of the Rules of Court, anchored on the sole ground of:

WHETHER X X X THE REGIONAL TRIAL COURT, BRANCH 42 OF THE CITY OF SAN FERNANDO, PAMPANGA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING THE MOTION OF THE PETITIONERS TO SET THE CASE FOR SUPPRESSION HEARING.¹⁴

The Petition is bereft of merit.

Petitioners failed to allege that there is no appeal nor any plain, speedy and adequate remedy in the ordinary course of law.

It is to be stressed that in every special civil action under Rule 65, a party seeking the writ whether for *certiorari*, prohibition or mandamus, must be able to show that his or her resort to such extraordinary remedy is justified by the absence of an appeal or any plain, speedy and adequate remedy in the ordinary course of law. “[H]e must allege in his petition and establish facts to show that any other existing remedy is not speedy or adequate x x x.”¹⁵ As held in *Visca v. Secretary of Agriculture and Natural Resources*:¹⁶

x x x [I]t is incumbent upon an applicant for a writ of *certiorari* to allege with certainty in his verified petition facts showing that “there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law,” because this is an indispensable ingredient of a valid petition for *certiorari*. “Being a special civil action, petitioner-appellant must allege and prove that he has no other speedy and adequate remedy.” “Where the existence of a remedy by appeal or

¹² Records, Vol. 1, pp. 239-247.

¹³ Id. at 303-306.

¹⁴ *Rollo*, p. 10.

¹⁵ *Lee v. People*, 483 Phil. 684, 699 (2004).

¹⁶ 255 Phil. 213 (1989).

some other plain, speedy and adequate remedy precludes the granting of the writ, the petitioner *must allege* facts showing that any existing remedy is impossible or unavailing, *or that excuse petitioner* for not having availed himself of such remedy. A petition for *certiorari* which does not comply with the requirements of the rules may be dismissed.¹⁷

Pursuant to the foregoing, the instant Petition for *Certiorari* is dismissible for failure to allege that there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law as to justify resort to *certiorari*.

*Assuming the assailed October 12, 2005
Order to be erroneous, the mistake is an
error in judgment which is beyond the
ambit of certiorari.*

In *Triplex Enterprises, Inc. v. PNB-Republic Bank*,¹⁸ the Court held that:

The writ of *certiorari* is restricted to truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void. Moreover, it is designed to correct errors of jurisdiction and not errors in judgment. The rationale of this rule is that, when a court exercises its jurisdiction, an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed. Otherwise, every mistake made by a court will deprive it of its jurisdiction and every erroneous judgment will be a void judgment.

When the court has jurisdiction over the case and person of the defendant, any mistake in the application of the law and the appreciation of evidence committed by a court may be corrected only by appeal. The determination made by the trial court regarding the admissibility of evidence is but an exercise of its jurisdiction and whatever fault it may have perpetrated in making such a determination is an error in judgment, not of jurisdiction. Hence, settled is the rule that rulings of the trial court on procedural questions and on admissibility of evidence during the course of a trial are interlocutory in nature and may not be the subject of a separate appeal or review on *certiorari*. They must be assigned as errors and reviewed in the appeal properly taken from the decision rendered by the trial court on the merits of the case.¹⁹

Here, it is undisputed that the RTC had jurisdiction over the case and the person of the petitioners. As such, any perceived error in its interpretation of the law and its assessment of evidence is correctible by appeal, not *certiorari*, as the same would only be considered an error of judgment and not of jurisdiction. In particular, the RTC's denial of the Motion to Suppress/Exclude Evidence based on its assessment that the evidence sought to be suppressed/excluded is admissible, was done in the proper exercise of its jurisdiction. Assuming that the RTC's

¹⁷ Id. at 216-217; italics in the original; citations omitted.

¹⁸ 527 Phil. 685 (2006).

¹⁹ Id. at 690-691.

determination is erroneous, the mistake is clearly not an error of jurisdiction but of judgment which is not correctible by *certiorari*.

No grave abuse of discretion.

Even assuming that petitioners' resort of *certiorari* is proper, the Petition must still be dismissed for their failure to show that the RTC acted in grave abuse of discretion as to amount to lack of jurisdiction. "Grave abuse of discretion is the capricious and whimsical exercise of judgment on the part of the public officer concerned which is equivalent to an excess or lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility."²⁰

In this case, petitioners miserably failed to show how the RTC supposedly abused its discretion. In fact, we note that the main issue raised by petitioners in their Petition is when is the proper time to file a motion to suppress/exclude evidence.²¹ They even conceded that this is a pure question of law.²²

In any case, our perusal of the records shows that the RTC did not abuse, much more, gravely abuse its discretion. The RTC thoroughly considered the pleadings submitted by the parties, to wit: Motion to Suppress/Exclude Evidence; Opposition (to the Motion to Suppress Evidence); Reply; Rejoinder; and Sur-Rejoinder; as well as the Joint affidavit submitted by the arresting officers. Only after a careful analysis of the submissions of the parties did the RTC render its judgment.

Petitioners violated the principle of hierarchy of courts.

It also did not escape our attention that from the RTC, petitioners made a direct recourse to this Court. This is against the well-settled principle dictating that a petition for *certiorari* assailing the interlocutory orders of the RTC should be filed with the Court of Appeals and not directly with the Supreme Court. It was held in *Rayos v. City of Manila*²³ that:

Indeed, this Court, the Court of Appeals and the Regional Trial Courts exercise concurrent jurisdiction to issue writs of *certiorari*, prohibition,

²⁰ *Singian, Jr. v. Sandiganbayan*, G.R. Nos. 195011-19, September 30, 2013. Citation omitted.

²¹ *Rollo*, p. 11.

²² *Id.*

²³ G.R. No. 196063, December 14, 2011, 662 SCRA 684.

mandamus, quo warranto, habeas corpus and injunction. However, such concurrence in jurisdiction does not give petitioners unbridled freedom of choice of court forum. In *Heirs of Bertuldo Hinog v. Melicor*, citing *People v. Cuaresma*, the Court held:

This Court's original jurisdiction to issue writs of *certiorari* is not exclusive. It is shared by this Court with Regional Trial Courts and with the Court of Appeals. This concurrence of jurisdiction is not, however, 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. **There is after all a hierarchy of courts.** That hierarchy is determinative of the venue of appeals, and also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. **A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition.** This is [an] established policy. It is a policy necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket.²⁴


Clearly, a direct invocation of this Court's original jurisdiction may only be allowed if there are special and important reasons clearly and specifically set out in the petition which, however, are not obtaining in this case.

WHEREFORE, premises considered, the Petition for *Certiorari* is **DISMISSED**.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice


WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

²⁴ Id. at 689; emphasis and italics in the original; citations omitted.



ARTURO D. BRION
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

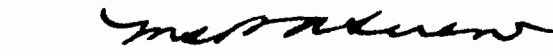
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice

