

SPECIAL TWELFTH DIVISION

[CA-G.R. SP. No. 124120, February 14, 2014]

SANTA B. TAN, PETITIONER, V. CZARINA ETHELMINA TAN SALAO, CARLO TAN SALAO, MARIA RUSTICA TAN VILLASI, AND THE HON. PRESIDING JUDGE, REGIONAL TRIAL COURT OF QUEZON CITY – BRANCH 85, RESPONDENTS.

D E C I S I O N

ELBINIAS, J.:

For disposition is a Petition for Certiorari^[1] filed under Rule 65 of the Rules of Court. The Petition assails the Resolution^[2] dated November 21, 2011 issued by public respondent Hon. Maria Filomena D. Singh ("respondent Judge" for brevity) of the Regional Trial Court ("respondent court" for brevity), Branch 85 of Quezon City in Criminal Case No. Q-05-135388 for "Falsification of Public Document".

The antecedent facts are as follows:

Petitioner Santa B. Tan ("petitioner" or "petitioner Tan" for brevity) filed a "Complaint-Affidavit"^[3] against private respondents Czarina Ethelmina Tan Salao, Carlo Tan Salao, Maria Rustica Tan Villasi ("private respondents" for brevity) before the Office of the City Prosecutor of Quezon City.

Subsequently, the City Prosecutor filed an Information^[4] for "Falsification of Public Document" dated June 20, 2005 against private respondents.

After the prosecution had rested its case, private respondents filed a "Demurrer to Evidence"^[5].

The rest of the facts are continued in respondent court's assailed Resolution^[6] dated November 21, 2011, as follows:

"In the accused's Demurrer to Evidence, the accused argue that contrary to the allegations in the Information charging the accused of the offense, all the accused never made untruthful statement of facts as regards the ages of the other parties in the assailed Kasulatan ng Bilihang Patuluyan, i.e., Cherry Pia Luz Siena Tan Salao, Cena Riza Lei Tan Salao and Mary Fermina Tan Villasi. The Notary Public who notarized the assailed Kasulatan must be held accountable for the said false declarations and not the herein accused who are merely parties to the assailed document. Besides, the accused contend that the action to annul the contracts entered into by minors shall be brought within four (4) years, pursuant to Article 1327 of the Civil Code of the Philippines. The action to contest the validity of the said Kasulatan has allegedly prescribed.

In its comment, the prosecution alleges that the parties to the sale of a valuable property have the obligation to ensure that the parties they deal with possess legal capacity and have the capacity to act, considering that the parties in the instant case are related to each other. As the parties stipulated that the respective ages of Cherry Pia Luz Siena Tan Salao, Cena Riza Lei Tan Salao and Mary Fermina Tan Villasi should be counted based on their respective Certificates of Live Birth, the conclusion may be drawn that Cherry Pia Luz, Siena Tan Salao, Cena Riza Lei Tan Salao and Mary Fermina Tan Villasi were still minors at the time of the execution of the said Kasulatan.”^[7] (*Emphasis Supplied*)

On November 21, 2011, respondent court issued its assailed Resolution^[8], which granted private respondents' Demurrer to Evidence and dismissed the case for insufficiency of evidence. The dispositive portion of the Resolution^[9] stated:

“ACCORDINGLY, the Demurrer to Evidence filed by the accused Czarina Ethelmina Tan Salao, Carlo Tan Salao and Maria Rustica Tan Villasi is hereby granted. The instant case is hereby dismissed for insufficiency of evidence.

The cash bonds of the accused Czarina Ethelmina Tan Salao, Carlo Tan Salao and Maria Rustica Tan Villasi under Official Receipts (sic) No. 0995987 A in the amount of Php12,000.00, Official Receipts (sic) No. 0995988 A in the amount of Php12,000.00, and Official Receipt No. 0995983 A in the amount of Php12,000.00, respectively, are ordered refunded in favor of the accused subject to the existing rules and guidelines of the Office of the Clerk of Court of the Regional Trial Court of Quezon City.

SO ORDERED.”^[10] (*Emphasis was made in the original*)

As a result, petitioner Tan filed the Petition for Certiorari^[11] at bench, praying as follows:

“WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court of Appeals that the Resolution dated 21 November 2011 be reversed and set aside, and that the instant case be remanded for the continuation of the proceedings, and herein Respondents be directed to present their evidence.

Other relief[s] and remedies that are just and equitable under the circumstances are likewise prayed for.”^[12] (*Emphasis was made in the original*)

Petitioner raised this lone ground:

“26. Herein Petitioner raises this Petition on the sole ground that the Public Respondent acted with grave abuse of discretion in granting herein Private Respondents' Demurrer to Evidence.”^[13]

To begin with, the Petition for Certiorari at bench is readily defective and dismissible. Petitioner could not, by herself, file the instant Petition for Certiorari. The general

rule is that only the Solicitor General, on behalf of the State, may appeal from or question any ruling favoring the accused, such as the acquittal of the accused or the dismissal of the case against him. This was articulated by the Supreme Court in ***Elvira O. Ong vs. Jose Casim Genio, G.R. No. 182336, December 23, 2009***, as follows:

"Section 35(1), Chapter 12, Title III, Book IV of the Administrative Code of 1987 states that the OSG shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation, or matter requiring the services of lawyers. Likewise, the Solicitor General shall represent the Government in this Court and the CA in all criminal proceedings xxx

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This doctrine is laid down in our ruling in *Heirs of Federico C. Delgado and Annalisa Pesico v. Luisito Q. Gonzalez and Antonio T. Buenaflor, Cariño v. de Castro, Mobilia Products, Inc. v. Umezawa, Narciso v. Sta. Romana-Cruz, Perez v. Hagonoy Rural Bank, Inc., and People v. Santiago*, where we held that **only the OSG can bring or defend actions on behalf of the Republic or represent the People or the State in criminal proceedings pending in this Court and the CA.**

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It is well-settled that in criminal cases where the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability. Thus, in the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution. If a criminal case is dismissed by the trial court or if there is an acquittal, **an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General. Only the Solicitor General may represent the People of the Philippines on appeal.** The private offended party or complainant may not take such appeal. However, the said offended party or complainant may appeal the civil aspect despite the acquittal of the accused." (*Emphasis supplied*)

Moreover, petitioner Tan failed to file a Motion for Reconsideration of the assailed Resolution before filing the Petition at bench. Such failure violated the following pronouncement of the Supreme Court in ***People of the Philippines vs. Arturo F. Duca, G.R. No. 171175, October 30, 2009***:

"On a procedural matter, the Court notes that petitioner filed the instant petition for certiorari under Rule 65 without filing a motion for reconsideration with the CA. **It is settled that the writ of certiorari lies only when petitioner has no other plain, speedy, and adequate remedy in the ordinary course of law. Thus, a motion for reconsideration, as a general rule, must be filed before the tribunal, board, or officer against whom the writ of certiorari is sought. Ordinarily, certiorari as a special civil action will not lie unless a motion for reconsideration is first filed before the respondent tribunal, to allow it an opportunity to correct its assigned errors. xxx**" (*Emphasis Supplied*)

No showing was also made by petitioner Tan that the Petition at bench fell under any of the exceptions^[14] to the rule requiring the filing of a Motion for Reconsideration.

Even if the Petition could be allowed, still, any review of private respondents' acquittal, as sought for by petitioner Tan in her Petition for Certiorari, would place private respondents in Double Jeopardy.^[15] This is because a review of respondent court's finding that no sufficient evidence was presented by petitioner Tan to prove the guilt of the accused involves a question on how the respondent court determined the weight of the parties' evidence.

The rule is entrenched, in that Certiorari does not lie to question the respondent court's appreciation of the evidence of the parties. This was as had been declared by the Supreme Court in ***People of the Philippines v. Hon. Sandiganbayan (Fifth Division) and Wilfredo Cunanan, G.R. No. 173396, September 22, 2010***, to wit:

"It is fitting to reiterate the holding of the Court in *People v. Tria-Tirona*, to wit:

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xxx ***Certiorari will not be issued to cure errors by the trial court in its appreciation of the evidence of the parties, and its conclusions anchored on the said findings and its conclusions of law.***

The Court further expounded in *First Corporation v. Former Sixth Division of the Court of Appeals*, thus:

It is a fundamental aphorism in law that a review of facts and evidence is not the province of the extraordinary remedy of *certiorari*, which is *extra ordinem* - beyond the ambit of appeal. In ***certiorari* proceedings, judicial review does not go as far as to examine and assess the evidence of the parties and to weigh the probative value thereof. It does not include an inquiry as to the correctness of the evaluation of evidence. Any error committed in the evaluation of evidence is merely an error of judgment that cannot be remedied by *certiorari*.** An *error of judgment* is one which the court may commit in the exercise of its jurisdiction. An *error of jurisdiction* is one where the act complained of was issued by the court without or in excess of jurisdiction, or with grave abuse of discretion, which is tantamount to lack or in excess of jurisdiction and which error is correctible only by the extraordinary writ of *certiorari*. *Certiorari* will not be issued to cure errors of the trial court in its appreciation of the evidence of the parties, or its conclusions anchored on the said findings and its conclusions of law. **It is not for this Court to re-examine conflicting evidence, re-evaluate the credibility of the witnesses or substitute the findings of fact of the court a quo.**"
(*Emphasis made in the original*)

Given that what petitioner Tan raised were errors of judgment, then any review of the evidence and findings of respondent court would violate private respondents'