

SPECIAL SIXTEENTH DIVISION

[CA-G.R. SP No.130308, May 08, 2014]

ELIZABETH S. VENDIOLA, PETITIONER-APPELLANT, VS. PEOPLE OF THE PHILIPPINES, MAXIE V. ALLAGONEZ[*], REPRESENTED BY ATTY. ELLEN DIRIGE-CABATU AND HON. HOMER JAY RAGONJAN, RESPONDENTS-APPELLEES.

D E C I S I O N

MACALINO, J:

On appeal are the Orders dated February 28, 2013^[1] ("1st Assailed Order") and March 21, 2013^[2] ("2nd Assailed Order") both issued by the Regional Trial Court, Narvacan, Ilocos Sur, Branch 72 ("RTC") in Special Civil Action No. 3564-N. The decretal portion of the 1st Assailed Order states:

"Accordingly, the petition is hereby **DISMISSED**. The Orders dated November 7, 2012 and January 24, 2013, respectively, of the 4th Municipal Circuit Trial Court are hereby **AFFIRMED**. With costs against the Petitioner.

SO ORDERED."^[3]

Whereas, the dispositive portion of the 2nd Assailed Order reads:

"There being no cogent reason to deviate from the ruling of this Court dismissing the instant petition, the motion for reconsideration is hereby **DENIED**."^[4]

Antecedent Facts

On May 15, 2009, a case for perjury defined and penalized under Article 183 of the Revised Penal Code was filed against Elizabeth S. Vendiola ("petitioner-appellant") before the 4th Municipal Circuit Trial Court, Narvacan, Ilocos Sur ("MCTC") by private respondent Maxie V. Allagonez ("Allagonez"). The Information reads thus:

"That on or about the 15th day of October, 2004, in the municipality of Narvacan, Province of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, falsely testifying under oath before the OIC-Actg. Branch Clerk of Court, RTC Br. 72, Narvacan, in her Notice of Loss that sometime in the year 2003, she lost the Owner's duplicate Copy of TCT Nos. T-15875 and T-15876 in the name of Juan Vendiola and that despite utmost and diligent efforts and that of other members of her family to locate said TCT Nos. T-15875 and T-15876, the same cannot anymore be found, retrieved and recovered,

when in fact and in truth, said documents are in the possession of the representative of Maxie V. Allagonez, to whom that had been delivered.

Contrary to law.”^[5]

After the arraignment of petitioner-appellant and pre-trial, trial ensued^[6] where the prosecution presented testimonial and documentary evidence. Atty. Ellen Cabatu (“Atty. Cabatu”) was presented by the prosecution to prove that petitioner-appellant lied when she said she lost her land titles. Atty. Cabatu stated in open court that the land titles were not lost and that they were still in her possession. They were allegedly given to her by Allagonez as the former is the latter's counsel. On cross-examination, Atty. Cabatu testified that she did not inform petitioner-appellant that she had in her possession the land titles and neither did she had knowledge whether Allagonez informed petitioner-appellant of the situation.

Thereafter, the prosecution rested its case. Petitioner-appellant, believing that the prosecution failed to prove her guilt beyond reasonable doubt filed a Motion to Dismiss by Way of Demurrer to Evidence^[7] with Leave of Court. In their Opposition to the Demurrer to Evidence, the prosecution argued that: petitioner-appellant and Juan Vendiola (“Juan”) had been living separate lives for several decades until the latter's death; that on September 1, 1988, by virtue of a Deed of Quitclaim, Juan ceded and renounced in favor of his sister Concepcion Vendiola (“Concepcion”) parcels of land covered by TCT Nos. T-15875 and T-15876; that since then, Concepcion had been exercising her rights over the said properties; that after the death of Concepcion, her sister, Allagonez became the owner of said properties by operation of law and that the Owner's Duplicate Copy of the said titles are in the possession of Concepcion from the time the Deed of Quitclaim had been executed.^[8]

In the MCTC's Order dated November 7, 2012^[9], the Motion to Dismiss by Way of Demurrer to Evidence was denied and directed petitioner to present her evidence. Petitioner-appellant's Motion for Reconsideration^[10] was likewise denied in the MCTC's Order^[11] dated December 6, 2012.

On January 15, 2013, petitioner-appellant filed a petition for *certiorari*^[12] before the RTC docketed as Special Civil Action No. 3564-N. Petitioner-appellant imputed grave abuse of discretion on the part of the MCTC in denying her Motion to Dismiss by Way of Demurrer to Evidence. The RTC, finding no grave abuse of discretion on the part of the MCTC, dismissed the petition for *certiorari* in its 1st Assailed Order and ratiocinated that under Rule 119, Section 23, if the Demurrer to Evidence is filed with leave of court, the denial of which is not reviewable by *certiorari* before judgment. Petitioner-appellant filed a Motion for Reconsideration but the same was denied in the RTC's 2nd Assailed Order.

Hence, this appeal^[13] based on the sole assignment of error, viz:

“I. WHETHER OR NOT THE REGIONAL TRIAL COURT ERRED IN AFFIRMING THE MUNICIPAL TRIAL COURT'S ORDERS DATED 07 NOVEMBER 2012 AND 06 DECEMBER 2012, DENYING THE PETITIONER-APPELLANT'S MOTION TO DISMISS BY WAY OF DEMURRER TO EVIDENCE.”^[14]

Petitioner-appellant maintains that the denial of the motion to dismiss by way of demurrer to evidence is attended by grave abuse of discretion amounting to lack of jurisdiction. She avers that the prosecution's evidence was insufficient to convict her of the crime of perjury, hence, dismissal of the criminal case is proper.

Under Article 183 of the Revised Penal Code, the following elements must concur to sustain a conviction for the crime of perjury:

1. The accused made a statement under oath or executed an affidavit upon a material matter;
2. The statement or affidavit was made before a competent officer authorized to receive and administer oath;
3. In that statement or affidavit, the accused made a willful and deliberate assertion of a falsehood; and,
4. The sworn statement or affidavit containing the falsity is required by law or made for a legal purpose.

A demurrer to evidence is defined as "an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue."^[15] The party demurring challenges the sufficiency of the whole evidence to sustain a verdict.^[16] In passing upon the sufficiency of the evidence raised in a demurrer, the court is merely required to ascertain whether there is competent or sufficient proof to sustain the indictment or to support a verdict of guilt.^[17]

If the petitioner disagrees with the denial of her motion for leave to file demurrer to evidence, her remedy is not to file a petition for *certiorari* but to proceed with the presentation of her evidence and to appeal any adverse decision that may be rendered by the trial court. The last sentence of Section 23, Rule 119 of the Rules of Court, provides that "the order denying a motion for leave of court to file a demurrer to evidence or the demurrer itself shall not be reviewable by appeal or *certiorari* before judgment."^[18]

But the rule is not absolute and admits an exception.^[19] When the assailed interlocutory order is patently erroneous or issued with grave abuse of discretion, the remedy of *certiorari* lies.^[20]

Having established that a writ of *certiorari* may be issued in exceptional circumstances, we are now tasked to determine whether the present case falls under the exception; that is, whether the RTC indeed committed a patent error or grave abuse of discretion in denying petitioner-appellant's demurrer to evidence.^[21]

Here, there are competent and sufficient pieces of evidence to sustain the indictment or to support a verdict of guilt against petitioner-appellant. Thus, we find that the denial of the motion to dismiss by the RTC is not patently erroneous or cannot be regarded as capricious and whimsical or tainted with grave abuse of discretion amounting to lack or excess of jurisdiction.