

## THIRD DIVISION

[ G.R. No. 221139, March 20, 2019 ]

**HA DATU TAWAHIG (RODERICK D. SUMATRA), TRIBAL CHIEFTAIN, HIGAONON TRIBE, PETITIONER, VS. THE HONORABLE CEBU CITY PROSECUTOR I LINETH LAPINID, CEBU CITY PROSECUTOR II FERNANDO GUBALANE, ASSISTANT CITY PROSECUTOR ERNESTO NARIDO, JR., CEBU CITY PROSECUTOR NICOLAS SELLON, AND THE HONORABLE JUDGE OF REGIONAL TRIAL COURT BRANCH 12, CEBU CITY ESTELA ALMA SINGCO, RESPONDENTS.**

### DECISION

**LEONEN, J.:**

The Philippine legal system's framework for the protection of indigenous peoples was never intended and will not operate to deprive courts of jurisdiction over criminal offenses. Individuals belonging to indigenous cultural communities who are charged with criminal offenses cannot invoke Republic Act No. 8371, or the Indigenous Peoples' Rights Act of 1997, to evade prosecution and liability under courts of law.

This resolves a Petition for Mandamus<sup>[1]</sup> under Rule 65 of the 1997 Rules of Civil Procedure filed by petitioner Roderick D. Sumatra (Sumatra), also known as Ha Datu Tawahig, praying that respondent Judge Estela Alma Singco (Judge Singco) and her co-respondents, all public prosecutors from Cebu City, be compelled to honor a January 3, 2007 Resolution<sup>[2]</sup> issued by a body known as the "Dadantulan Tribal Court," and be required to put an end to Sumatra's criminal prosecution. The Dadantulan Tribal Court absolved Sumatra, a tribal leader of the Higaonon Tribe, of liability for charges of rape and discharged him from criminal, civil, and administrative liability.

On November 14, 2006, Lorriane Fe P. Igot (Igot) filed a Complaint-Affidavit<sup>[3]</sup> before the Cebu City Prosecutor charging Sumatra with rape.

In her April 4, 2007 Resolution,<sup>[4]</sup> Prosecutor I Lineth Lapinid found probable cause to charge Sumatra with rape and recommended filing a corresponding information. After the Information was filed, the case was raffled to Branch 12 of the Regional Trial Court, Cebu City, and docketed as Criminal Case No. CBU-81130.<sup>[5]</sup>

In her September 13, 2007 Order,<sup>[6]</sup> Judge Singco directed the issuance of a warrant of arrest against Sumatra, but he would not be arrested until July 2, 2013.<sup>[7]</sup>

Following his arrest, Sumatra filed a Motion to Quash and Supplemental Motion to

Quash.<sup>[8]</sup> These motions cited as bases Sections 15<sup>[9]</sup> and 65<sup>[10]</sup> of the Indigenous Peoples' Rights Act, and were:

. . . predicated on the ground that the [Regional Trial Court] ha[d] no jurisdiction over *the person of the accused*, . . . Accused through counsel asserts that the present controversy is purely a dispute involving indigenous cultural communities over which customary laws must apply in accordance with their tribal justice system and under the jurisdiction of the National Commission on Indigenous Peoples.<sup>[11]</sup> (Emphasis supplied)

In her August 29, 2013 Order,<sup>[12]</sup> Judge Singco denied the Motion to Quash and Supplemental Motion to Quash. She reasoned that:

[T]he [Indigenous Peoples' Rights Act] does not apply [to] the prosecution of a "dispute" such as this case as it does not involve claims over ancestral domain nor it relates (sic) to the rights of indigenous communities/people which would require the application of customary laws and practices to resolve the "dispute" between the parties herein.  
<sup>[13]</sup>

On May 11, 2015, a certain Vicente B. Gonzales, Jr. (Gonzales), identifying himself as Datu Bontito Leon Kilat<sup>[14]</sup> and representing himself to be a "customary lawyer,"<sup>[15]</sup> filed a "Motion to Release the Indigenous Person,"<sup>[16]</sup> which was founded on grounds substantially the same as the Motion and Supplemental Motion to Quash.

In her June 5, 2015 Order,<sup>[17]</sup> Judge Singco noted Gonzales' Motion without action as it: (1) did not comply with the requirements of a valid pleading; (2) bore no indication that Igot was notified of the Motion; and (3) contained no notice of hearing. She further directed Gonzales to coordinate with Sumatra's counsel of record and/or secure prior authority from this Court to act as counsel.

In response to the June 5, 2015 Order, Gonzales filed before the trial court a Motion to allow him to appear as counsel for Sumatra.<sup>[18]</sup> He later filed a Motion to Issue Resolution<sup>[19]</sup> asking the trial court to rule on the Motion to allow him to appear for Sumatra.

In a September 11, 2015 Order,<sup>[20]</sup> Judge Singco reiterated the need for Gonzales to first produce proof of his authority or competence to act as counsel before a court of law.

Thus, Sumatra filed this Petition for Mandamus<sup>[21]</sup> on November 11, 2015. He notes that Igot had already brought her accusations against him before the concerned Council of Elders and that the Dadantulan Tribal Court was subsequently formed.<sup>[22]</sup> He adds that on January 3, 2007, the Dadantulan Tribal Court issued a Resolution<sup>[23]</sup> clearing him and declaring that he "should [be spared] from criminal, civil[,] and administrative liability."<sup>[24]</sup>

Relying on the Indigenous Peoples' Rights Act and "other related laws concerning cases involving indigenous peoples,"<sup>[25]</sup> petitioner maintains that a writ of mandamus must be issued to compel respondents to "uphold and respect"<sup>[26]</sup> the

Dadantulan Tribal Court Resolution, and "[t]hereby releas[e] [Sumatra] from jail to stop [his] continued arbitrary detention."<sup>[27]</sup>

For resolution is the issue of whether or not this Court may issue a writ of mandamus ordering respondents Judge Estela Alma Singco, City Prosecutor II Fernando Gubalane, City Prosecutor I Lineth Lapinid, City Prosecutor Nicolas Sellon, and Assistant City Prosecutor Ernesto Narido, Jr. to desist from proceeding with the rape case against petitioner Roderick D. Sumatra.

This Court denies the Petition.

Petitioner is well-served to disabuse himself of the notion that the Indigenous Peoples' Rights Act will shield him from prosecution and prospective liability for crimes.

## I

The 1987 Constitution vests this Court original jurisdiction over petitions for certiorari, prohibition, mandamus, quo warranto, and habeas corpus.<sup>[28]</sup> However, it is not only this Court that has the competence to issue writs of certiorari, prohibition, and mandamus. The Court of Appeals and regional trial courts are equally capable of taking cognizance of petitions for such writs.

Nonetheless, the original jurisdiction this Court shares with the Court of Appeals and regional trial courts is not a license to immediately seek relief from this Court. Petitions for certiorari, prohibition, and mandamus must be filed in keeping with the doctrine of hierarchy of courts.<sup>[29]</sup>

The doctrine of hierarchy of courts is grounded on considerations of judicial economy. In *Aala v. Mayor Uy*:<sup>[30]</sup>

The doctrine on hierarchy of courts is a practical judicial policy designed to restrain parties from directly resorting to this Court when relief may be obtained before the lower courts. The logic behind this policy is grounded on the need to prevent "inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction," as well as to prevent the congestion of the Court's dockets. Hence, for this Court to be able to "satisfactorily perform the functions assigned to it by the fundamental charter[,] it must remain as a "court of last resort." This can be achieved by relieving the Court of the "task of dealing with causes in the first instance."<sup>[31]</sup> (Citations omitted)

Applying this doctrine is not merely for practicality; it also ensures that courts at varying levels act in accord with their respective competencies. *The Diocese of Bacolod v. Commission on Elections*<sup>[32]</sup> noted that "[t]he doctrine that requires respect for the hierarchy of courts was created by this court to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner."<sup>[33]</sup> Thus:

Trial courts do not only determine the facts from the evaluation of the evidence presented before them. They are likewise competent to

determine issues of law which may include the validity of an ordinance, statute, or even an executive issuance in relation to the Constitution. To effectively perform these functions, they are territorially organized into regions and then into branches. Their writs generally reach within those territorial boundaries. Necessarily, they mostly perform the all-important task of inferring the facts from the evidence as these are physically presented before them. In many instances, the facts occur within their territorial jurisdiction, which properly present the 'actual case' that makes ripe a determination of the constitutionality of such action. The consequences, of course, would be national in scope. There are, however, some cases where resort to courts at their level would not be practical considering their decisions could still be appealed before the higher courts, such as the Court of Appeals.

The Court of Appeals is primarily designed as an appellate court that reviews the determination of facts and law made by the trial courts. It is collegiate in nature. This nature ensures more standpoints in the review of the actions of the trial court. But the Court of Appeals also has original jurisdiction over most special civil actions. Unlike the trial courts, its writs can have a nationwide scope. It is competent to determine facts and, ideally, should act on constitutional issues that may not necessarily be novel unless there are factual questions to determine.

This court, on the other hand, leads the judiciary by breaking new ground or further reiterating — in the light of new circumstances or in the light of some confusions of bench or bar — existing precedents. Rather than a court of first instance or as a repetition of the actions of the Court of Appeals, this court promulgates these doctrinal devices in order that it truly performs that role.<sup>[34]</sup> (Citation omitted)

The doctrine of hierarchy of courts admits of exceptions in *Aala*:<sup>[35]</sup>

However, the doctrine on hierarchy of courts is not an inflexible rule. In *Spouses Chua v. Ang*, this Court held that "[a] strict application of this rule may be excused when the reason behind the rule is not present in a case[.]" This Court has recognized that a direct invocation of its original jurisdiction may be warranted in exceptional cases as when there are compelling reasons clearly set forth in the petition, or when what is raised is a pure question of law.

In a fairly recent case, we summarized other well-defined exceptions to the doctrine on hierarchy of courts. Immediate resort to this Court may be allowed when any of the following grounds are present: (1) when genuine issues of constitutionality are raised that must be addressed immediately; (2) when the case involves transcendental importance; (3) when the case is novel; (4) when the constitutional issues raised are better decided by this Court; (5) when time is of the essence; (6) when the subject of review involves acts of a constitutional organ; (7) when there is no other plain, speedy, adequate remedy in the ordinary course of law; (8) when the petition includes questions that may affect public welfare, public policy, or demanded by the broader interest of justice; (9) when the order complained of was a patent nullity; and (10) when the

appeal was considered as an inappropriate remedy.<sup>[36]</sup> (Emphasis in the original, citations omitted)

It does not escape this Court's attention that an equally effective avenue for relief was available to petitioner through recourse to the Court of Appeals. This Court, however, takes cognizance of the Petition, in the interest of addressing the novel issue of whether the Indigenous Peoples' Rights Act works to remove from courts of law jurisdiction over criminal cases involving indigenous peoples.

It does not.

## II

Rule 65, Section 3 of the 1997 Rules of Civil Procedure provides for instances when recourse to a petition for mandamus is proper:

SECTION 3. *Petition for Mandamus.* — When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

The petition shall also contain a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

Rule 65, Section 3 indicates that a writ of mandamus is available in two (2) alternative situations:

A writ of mandamus may issue in either of two (2) situations: first, "when any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station"; second, "when any tribunal, corporation, board, officer or person . . . unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled."<sup>[37]</sup>

Petitioner asserts that, in light of the Indigenous Peoples' Rights Act, it was respondents' duty to desist from proceeding with the case against him. His plea for relief, therefore, falls under the first situation. For a writ of mandamus to be issued in such a situation, there must be a concurrence between: (1) a clear, duly established legal right pertaining to petitioner; and (2) a correlative, ministerial duty imposed by law upon respondent, which that respondent unlawfully neglects.<sup>[38]</sup>

*Lihaylihay v. Tan*<sup>[39]</sup> scrutinized these twin requirements and their defining components: