

## THIRD DIVISION

[ G.R. No. 214163, July 01, 2019 ]

**RONALD GERALINO M. LIM AND THE PEOPLE OF THE  
PHILIPPINES, PETITIONERS, V. EDWIN M. LIM, RESPONDENT.**

### D E C I S I O N

**LEONEN, J.:**

The trial court's noncompliance with procedural rules constitutes grave abuse of discretion, which may be remedied by a petition for certiorari under Rule 65 of the Rules of Court.<sup>[1]</sup>

This Court resolves a Petition for Review on Certiorari<sup>[2]</sup> assailing the June 6, 2014 Decision<sup>[3]</sup> and August 27, 2014 Order<sup>[4]</sup> of the Regional Trial Court in Special Civil Action No. 14-32157. The Regional Trial Court decreed that the Municipal Trial Court in Cities committed grave abuse of discretion when it allowed the belated submission of the Judicial Affidavits of the prosecution's witnesses.

Ronald Geralino M. Lim (Ronald) filed before the Office of the City Prosecutor a Complaint<sup>[5]</sup> for grave threats against his brother Edwin M. Lim (Edwin). Acting favorably on the Complaint, the Office of the City Prosecutor filed an Information<sup>[6]</sup> against Edwin before the Municipal Trial Court in Cities, Branch 5, Iloilo City.<sup>[7]</sup> It read:

That on or about November 11, 2012, in the City of Iloilo, Philippines and within the jurisdiction of this Honorable Court, said accused, with deliberate intent and without any justifiable motive, did then and there willfully, unlawfully and feloniously threaten to kill Ronald Geralino Lim, by uttering threatening words, to wit, "*Pus-on ko ulo mo!*" and "*Patyon ta ikaw*" (I will smash your head!"..., (*sic*) I will kill you) having persisted in said threats.

CONTRARY TO LAW.<sup>[8]</sup>

On arraignment, Edwin pleaded not guilty to the crime charged.<sup>[9]</sup>

The case was then referred to the Philippine Mediation Center for mediation. But due to the parties' failure to reach a settlement, the case was referred back to the court.<sup>[10]</sup>

On August 12, 2013, the case was set for pre-trial. However, because of Ronald's and his counsel's absence, pre-trial was reset to September 5, 2013.<sup>[11]</sup>

After Edwin's counsel had filed a Motion for time to submit a counter-affidavit, pre-trial was again reset to October 17, 2013.<sup>[12]</sup>

On October 17, 2013, the defense counsel moved that the hearing be set at 10:00 a.m. However, because the private prosecutor was unavailable and the prosecution needed time to submit their judicial affidavits, pre-trial was reset to November 21, 2013 at 8:30 a.m.<sup>[13]</sup>

At the pre-trial on November 21, 2013, the prosecution, among others, moved that they be allowed to submit the Judicial Affidavits of Ronald and their witnesses later that day. It explained that it had completed the Judicial Affidavits earlier, but "for whatever reason,"<sup>[14]</sup> was not able to submit them.<sup>[15]</sup> Despite the defense counsel's insistent opposition, the Municipal Trial Court in Cities granted the Motion and gave the prosecution until 5:00 p.m. that day to submit the judicial affidavits.<sup>[16]</sup>

Aggrieved, Edwin moved for reconsideration.<sup>[17]</sup> He argued that the prosecution was deemed to have waived its right to submit its Judicial Affidavits when it failed to submit them at least five (5) days before pre-trial.<sup>[18]</sup>

In its December 20, 2013 Order,<sup>[19]</sup> the Municipal Trial Court in Cities denied Edwin's Motion. It reasoned that since it had already received the Judicial Affidavits and in the interest of justice, its November 21, 2013 Order stands. Nevertheless, it ordered the prosecution to pay a fine of P1,000.00 for its failure to file the Judicial Affidavits within the period prescribed by the Judicial Affidavit Rule.<sup>[20]</sup>

On January 29, 2014, Edwin filed before the Regional Trial Court a Petition for Certiorari and Prohibition with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction.<sup>[21]</sup> He contended that the Municipal Trial Court in Cities committed grave abuse of discretion when it allowed the belated filing of the Judicial Affidavits.<sup>[22]</sup>

In its Comment,<sup>[23]</sup> the prosecution argued that the Regional Trial Court did not acquire jurisdiction over them since no summons had been served upon Ronald and the Office of the Solicitor General.<sup>[24]</sup> In addition, they contended that a resort to a petition for certiorari was improper since the remedy of appeal was still available to them.<sup>[25]</sup>

In its June 6, 2014 Decision,<sup>[26]</sup> the Regional Trial Court ruled that the Municipal Trial Court in Cities committed grave abuse of discretion when it allowed the belated submission of the Judicial Affidavits.<sup>[27]</sup> The dispositive portion of the Decision read:

WHEREFORE, premises considered, judgment is hereby rendered, as follows:

- 1) the orders of the Hon. Ofelia M. Artuz dated November 21, 2013 and December 20, 2013 allowing submission of the Judicial Affidavits belatedly filed by respondents People of the Philippines and Ronald Geralino M. Lim in Crim. Case No. S-140-13 pending before the Municipal Trial Court in Cities, Branch 5, Iloilo City are hereby ordered SET ASIDE; and
- 2) the Judicial Affidavits filed by respondents People of the Philippines and Ronald Geralino M. Lim are hereby ordered

EXPUNGE[D] from the records of Crim. Case No. S-140-13.

Furnish parties copy of this order.

SO ORDERED.<sup>[28]</sup>

The Regional Trial Court emphasized that under the Judicial Affidavit Rule, the prosecution is required to submit the Judicial Affidavits of its witnesses not later than five (5) days before pre-trial. However, despite several postponements of the pre-trial, the prosecution still failed to comply with the express provision of the Judicial Affidavit Rule.<sup>[29]</sup>

The Regional Trial Court further decreed that while the Rule allows late submissions of judicial affidavits for valid reasons, the prosecution's justification—"for whatever reason"—was not a valid ground.<sup>[30]</sup>

Dissatisfied with the Decision, the prosecution and Ronald moved for reconsideration,<sup>[31]</sup> but the Motion was denied in the Regional Trial Court's August 27, 2014 Order.<sup>[32]</sup>

On September 29, 2014, petitioners filed before this Court a Petition for Review on Certiorari. They argue that the Regional Trial Court did not acquire jurisdiction over them as it had failed to serve the summons and copies of the Petition on Certiorari and Prohibition personally on petitioners. They maintain that under the Rules of Court, summons shall be served upon respondent himself, not his counsel.<sup>[33]</sup>

Petitioners, likewise, argue that since the Office of the Solicitor General is regarded in criminal cases as the appellate counsel of the People of the Philippines, it should have been given an opportunity to be heard on behalf of the People.<sup>[34]</sup>

Petitioners similarly contend that the filing of a Petition for Certiorari was improper since the remedy of appeal was available to respondent. They insist that since the prosecution has yet to present its witnesses in the criminal case, any question in the proceedings before the Municipal Trial Court in Cities should have been raised on appeal.<sup>[35]</sup>

Petitioners also maintain that the determination of a valid reason for the belated submission of the Judicial Affidavits depends upon the trial court judge's discretion.<sup>[36]</sup>

Finally, petitioners insist that respondent's failure to attach to his Petition for Certiorari and Prohibition a copy of the pre-trial's stenographic notes should have prompted the Regional Trial Court to dismiss his Petition outright.<sup>[37]</sup>

In its October 15, 2014 Resolution,<sup>[38]</sup> this Court required respondent to file a comment.

In his Comment,<sup>[39]</sup> respondent argues that the Petition for Review should have been instituted by the Office of the Solicitor General as the only party authorized to represent the People of the Philippines in cases brought before the Court of Appeals or this Court.<sup>[40]</sup> He stresses that the Petition was not even verified by the People, which is the main party in this case.<sup>[41]</sup>

As to the alleged non-acquisition of jurisdiction over petitioner Ronald, respondent contends that nowhere in the Rules of Court does it require that the summons be served on the respondents in a petition for certiorari. He insists that Rule 65 only states that if the court finds the petition for certiorari to be sufficient in form and substance, it shall issue an order requiring the respondents to comment on it.<sup>[42]</sup>

Respondent maintains that contrary to petitioners' assertion, a petition for certiorari is the proper remedy to assail the November 21, 2013 Order of the Municipal Trial Court in Cities. He claims that it is an interlocutory order from which no appeal may be taken.<sup>[43]</sup>

Moreover, respondent insists that the Municipal Trial Court in Cities committed grave abuse of discretion in allowing the Judicial Affidavits' belated submission. He asserts that while the Judicial Affidavit Rule allows their belated submission, the delay must be for a valid reason. He contends that the excuse offered—"for whatever reason"—does not constitute a valid justification warranting the relaxation of the rules.<sup>[44]</sup>

Finally, respondent claims that his failure to attach the stenographic notes was not a fatal error meriting the dismissal of his Petition for Certiorari and Prohibition. He maintains that his belated submission still constitutes substantial compliance with the rules.<sup>[45]</sup>

In its February 9, 2015 Order,<sup>[46]</sup> this Court required petitioners to file their reply.

In his Reply,<sup>[47]</sup> petitioner Ronald reiterates that the Judicial Affidavit Rule does not prohibit the belated submission of judicial affidavits. He insists that the Municipal Trial Court in Cities had the judicial discretion to admit the Judicial Affidavits submitted by petitioners.<sup>[48]</sup>

In its Reply,<sup>[49]</sup> the Office of the Solicitor General, on behalf of petitioner People of the Philippines, argues that while the Petition for Review was defective for petitioner Ronald's failure to secure its conformity, such defect was cured when it manifested its conformity and adopted the Petition as its own.<sup>[50]</sup>

Additionally, the Office of the Solicitor General argues that the Regional Trial Court erred in taking cognizance of the Petition for Certiorari and Prohibition, maintaining that it is a prohibited pleading under the Rules of Summary Procedure.<sup>[51]</sup>

Thus, for this Court's resolution are the following issues:

First, whether or not the Regional Trial Court acquired jurisdiction over petitioners Ronald Geralino M. Lim and People of the Philippines;

Second, whether or not the Petition for Certiorari and Prohibition was the proper remedy to question the November 21, 2013 Order of the Municipal Trial Court in Cities; and

Finally, whether or not the Municipal Trial Court in Cities committed grave abuse of discretion in allowing the belated submission of the Judicial Affidavits.

Petitioners' arguments lack merit.

Petitioners mainly argue that since no summons had been served upon them, the Regional Trial Court failed to acquire jurisdiction over them. As a result, they insist that the Regional Trial Court's June 6, 2014 Decision is void.

Contrary to petitioners' postulation, summons need not be issued in a petition for certiorari under Rule 65 of the Rules of Court.

Under the Rules of Court, there are two (2) types of civil actions: (1) ordinary civil actions; and (2) special civil actions. Both are governed by the rules for ordinary civil actions. However, special civil actions, such as petitions for certiorari, are further subject to certain specific rules.<sup>[52]</sup>

Rule 65, Section 6 of the Rules of Court states that the court, upon the filing of a petition for certiorari, shall determine if it is sufficient in form and substance. Once it finds the petition to be sufficient, it shall issue an order requiring the respondents to comment on the petition:

SECTION 6. Order to Comment. — If the petition is sufficient in form and substance to justify such process, the court shall issue an order requiring the respondent or respondents to comment on the petition within ten (10) days from receipt of a copy thereof. Such order shall be served on the respondents in such manner as the court may direct, together with a copy of the petition and any annexes thereto.

In petitions for certiorari before the Supreme Court and the Court of Appeals, the provisions of Section 2, Rule 56, shall be observed. Before giving due course thereto, the court may require the respondents to file their comment to, and not a motion to dismiss, the petition. Thereafter, the court may require the filing of a reply and such other responsive or other pleadings as it may deem necessary and proper.

Compared with an ordinary civil action, where summons must be issued upon the filing of the complaint,<sup>[53]</sup> the court need only issue an order requiring the respondents to comment on the petition for certiorari. "Such order shall be served on the respondents in such manner as the court may direct, together with a copy of the petition and any annexes thereto."<sup>[54]</sup>

In any case, despite petitioners' insistence that they were not served with summons, it must be noted that on January 29, 2014, the Regional Trial Court served the summons and a copy of the Petition on petitioner Ronald, through his counsel Attorney Alfredo Arungayan III (Atty. Arungayan).<sup>[55]</sup>

Similarly, the People of the Philippines, as represented by the City Prosecutor of Iloilo City, and Judge Ofelia M. Artuz, through her Branch Clerk of Court, were served with summons and copies of the Petition on January 30, 2014.<sup>[56]</sup>

Furthermore, it must be stressed that in *People's General Insurance Corporation v. Guansing*,<sup>[57]</sup> this Court reasoned that when a party participates in a proceeding despite improper service of summons, he or she is deemed to have voluntarily submitted to the court's jurisdiction.

Here, petitioners filed before the Regional Trial Court a Comment/Opposition to the prayer for the issuance of a temporary restraining order<sup>[58]</sup> on January 30, 2014