

THIRD DIVISION

[G.R. No. 195248, November 22, 2017]

**JOHN DENNIS G. CHUA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES AND CRISTINA YAO, RESPONDENTS.**

DECISION

MARTIRES, J.:

This is a petition for review on certiorari assailing the Orders,^[1] dated 15 June 2010 and 28 December 2010 of the Regional Trial Court, Branch 160, Pasig City (*RTC*), in SCA No. 3338, which affirmed the Decision,^[2] dated 15 April 2009, of the Metropolitan Trial Court, Branch 58, San Juan City (*MeTC*), in Criminal Case No. 80165-68 finding petitioner John Dennis G. Chua (*petitioner*) guilty of four (4) counts of violation of Batas Pambansa Bilang 22 (*B.P. Blg. 22*).

THE FACTS

Respondent Cristina Yao (*Yao*) alleged that she became acquainted with petitioner through the latter's mother. Sometime in the year 2000, petitioner's mother mentioned that her son would be reviving their sugar mill business in Bacolod City and asked whether Yao could lend them money. Yao acceded and loaned petitioner P1 million on 3 January 2001; P1 million on 7 January 2001; and P1.5 million on 16 February 2001. She also lent petitioner an additional P2.5 million in June 2001. As payment, petitioner issued four (4) checks in these amounts but which were dishonored for having been drawn against a closed account. Upon dishonor of the checks, Yao personally delivered her demand letter to the office of the petitioner which was received by his secretary.^[3]

Petitioner was thus charged with four (4) counts of violation of B.P. Blg. 22. The cases were raffled to Branch 58, then presided by Judge Elvira DC Castro (*Judge Castro*). On 16 September 2004, petitioner pleaded "not guilty." After mediation and pre-trial conference, trial ensued before Pairing Judge Marianito C. Santos (*Judge Santos*) as Judge Castro was promoted to the RTC of Quezon City.^[4] On 25 July 2007, Judge Philip Labastida (*Judge Labastida*) was appointed Presiding Judge of Branch 58 and took over trial proceedings.^[5] Since petitioner failed to present evidence, the cases were submitted for decision and promulgation of judgment was set on 30 September 2008.^[6] Sometime in December 2008, Judge Labastida died.^[7] On 20 February 2009, Judge Mary George T. Cajandab-Caldona (*Judge Caldona*) was designated Acting Presiding Judge of Branch 58^[8] and she assumed office on 1 April 2009.^[9]

The MeTC Ruling

In a decision, dated 15 April 2009, signed by Judge Santos as the pairing judge, the

MeTC found petitioner guilty beyond reasonable doubt of four (4) counts of violation of B.P. Blg. 22, and sentenced him to pay a fine of P200,000.00 for each count.

The MeTC ruled that the prosecution was able to establish that the checks issued by petitioner were payments for a loan; and that upon dishonor of the checks, demand was made upon petitioner through his personal secretary. The *fallo* reads:

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

1. FINDING the accused JOHN DENNIS CHUA GUILTY beyond reasonable doubt [of] having violated the crime of Batas Pambansa Blg. 22 for which he is hereby sentenced to pay a FINE of TWO HUNDRED THOUSAND PESOS (P200,000.00) for each count, with subsidiary imprisonment not to exceed SIX (6) MONTHS for each count in case of insolvency;

2. HOLDING the accused civilly liable to the extent of the value of the four (4) subject checks or in the total amount of P6,082,000.00 with twelve (12%) interest per annum reckoned from date of extrajudicial demand which was made on April 2002 until the whole obligation shall have been fully paid and satisfied;

3. ORDERING the accused to pay the costs of suit.

SO ORDERED.^[10]

Aggrieved, petitioner filed a petition for certiorari with the RTC assailing Judge Santos' authority to render the decision.

The RTC Ruling

In an Order, dated 15 June 2010, the RTC affirmed the conviction of petitioner. It held that the expanded authority of pairing courts under Supreme Court Circular No. 19-98, dated 18 February 1998, clearly gave Judge Santos authority to resolve the criminal cases which were submitted for decision when he was still the pairing judge. The RTC added that Judge Santos was in a better position to resolve and decide the cases because these were heard and submitted for decision prior to the appointment of Judge Caldona as acting presiding judge on 20 February 2009 and her assumption to office on 1 April 2009. It observed that the promulgation of judgment was delayed merely because a motion for reconsideration was filed which was later denied. The RTC disposed the case thus:

WHEREFORE, the petition for certiorari is hereby DENIED for lack of merit.

SO ORDERED.^[11]

Unconvinced, petitioner moved for reconsideration, but the same was denied by the RTC in an Order, dated 28 December 2010.

Hence, this petition.

ISSUES

I.

WHETHER OR NOT A DECISION PROMULGATED AND EXECUTED BY A PAIRING JUDGE, DESPITE THE APPOINTMENT OF A PERMANENT JUDGE TO A COURT, IS VALID;

II.

WHETHER OR NOT A DECISION ADMITTING THE PROSECUTION'S FAILURE TO PROVE ALL THE ELEMENTS OF A CRIME, BUT STILL CONVICTING AN ACCUSED IN A CRIMINAL CASE IS AN ACT TANTAMOUNT TO GRAVE ABUSE OF DISCRETION AMOUNTING TO A LACK OR EXCESS OF JURISDICTION;

III.

WHETHER OR NOT A PETITION FOR CERTIORARI UNDER RULE 65 OF THE REVISED RULES OF COURT IS THE PROPER REMEDY FOR ACTS DONE BY A PRESIDING JUDGE SHOWING GRAVE ABUSE OF DISCRETION AMOUNTING TO A LACK OR EXCESS OF JURISDICTION.^[12]

Petitioner argues that pursuant to Circular No. 19-98, decisions rendered by pairing judges are valid only when the same are promulgated at the time when no presiding judge has been appointed, thus, the authority of pairing judges automatically ceases upon the appointment and assumption to duty of the new presiding judge; that Judge Caldonga assumed office on 1 April 2009; that on 15 April 2009, when the assailed decision was promulgated, only Judge Caldonga had the authority to promulgate a decision on the case; and that the prosecution failed to prove that a notice of dishonor was properly served upon petitioner.

In its comment,^[13] respondent People of the Philippines, through the Office of the Solicitor General (OSG), avers that the cases were submitted for decision as early as 30 September 2008 and that Judge Caldonga had not presided in a single hearing; that in view of these circumstances, Judge Caldonga was not familiar enough with the facts of the case to enable her to competently render a decision; that Judge Caldonga did not raise any opposition to the promulgation of the 15 April 2009 decision; that Circular No. 5-98 provides that "cases submitted for decision and those that passed the trial stage, i.e., where all the parties have finished presenting their evidence before such Acting/Assisting Judge at the time of the assumption of the Presiding Judge or the designated Acting Presiding Judge shall be decided by the former", that from the time of the untimely demise of Judge Labastida, Judge Santos was tasked to take over the cases as the designated pairing judge of Branch 58; and that Judge Santos was clothed with authority to promulgate the assailed 15 April 2009 decision.

In his reply,^[14] petitioner counters that Circular No. 5-98 is not applicable to the case as Circular No. 19-98 provides that "the judge of the paired court shall take cognizance of all the cases thereat as acting judge therein until the appointment and assumption to duty of the regular judge or the designation of an acting presiding judge", that the authority of Judge Santos was derived as a pairing judge, not as acting or assisting judge, of Branch 58; and that his authority automatically ceased on 20 February 2009, when Judge Caldonga was designated as Acting Presiding

THE COURT'S RULING

Appeal, not certiorari, is the proper remedy to question the MeTC decision.

At the outset, petitioner availed of the wrong remedy when he sought to assail the MeTC decision. *First*, it has been consistently held that where appeal is available to the aggrieved party, the special civil action of certiorari will not be entertained - remedies of appeal and certiorari are mutually exclusive, not alternative or successive. The proper remedy to obtain a reversal of judgment on the merits, final order or resolution is appeal. This holds true even if the error ascribed to the court rendering the judgment is its lack of jurisdiction over the subject matter, or the exercise of power in excess thereof, or grave abuse of discretion in the findings of fact or of law set out in the decision, order or resolution. The existence and availability of the right of appeal prohibits the resort to certiorari because one of the requirements for the latter remedy is the unavailability of appeal.^[15]

Second, even if a petition for certiorari is the correct remedy, petitioner failed to comply with the requirement of a prior motion for reconsideration. As a general rule, a motion for reconsideration is a prerequisite for the avilment of a petition for certiorari under Rule 65.^[16] The filing of a motion for reconsideration before resort to certiorari will lie is intended to afford the public respondent an opportunity to correct any actual or fancied error attributed to it by way of reexamination of the legal and factual aspects of the case.^[17]

Third, petitioner was not able to establish his allegation of grave abuse of discretion on the part of the MeTC. Where a petition for certiorari under Rule 65 of the Rules of Court alleges grave abuse of discretion, the petitioner should establish that the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction.^[18] In *Yu v. Judge Reyes-Carpio*,^[19] the Court explained:

The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to 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 and hostility." Furthermore, the use of a petition for certiorari is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross x x x.^[20]

As will be discussed, there was no hint of whimsicality, nor of gross and patent abuse of discretion as would 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 on

the part of Judge Santos.^[21] He was clothed with authority to decide the criminal cases filed against petitioner.

In addition, considering that petitioner filed with the RTC a petition for certiorari which is an original action, the proper remedy after denial thereof is to appeal to the Court of Appeals (CA) by way of notice of appeal.^[22] Hence, when petitioner filed a petition for review before this Court, not only did he disregard the time-honored principle of hierarchy of courts, he also availed of the wrong remedy for the second time.

Notwithstanding the foregoing procedural lapses committed by petitioner, in the interest of prompt dispensation of justice and to prevent further prolonging the proceedings in this case, the Court resolves to give due course to his petition and rule on the merits thereof.

Judge Santos had authority to render the assailed decision even after the assumption to office of the designated presiding judge of Branch 58.

Petitioner cites Circular No. 19-98 to support his contention that Judge Santos no longer had the authority to render the assailed decision at the time of its promulgation on 15 April 2009. The circular reads:

In the interest of efficient administration of justice, the authority of the pairing judge under Circular No. 7 dated September 23, 1974 (Pairing System for Multiple Sala Stations) to act on incidental or interlocutory matters and those urgent matters requiring immediate action on cases pertaining to the paired court shall henceforth be expanded to include all other matters. Thus, whenever a vacancy occurs by reason of resignation, dismissal, suspension, retirement, death, or prolonged absence of the presiding judge in a multi-sala station, ***the judge of the paired court shall take cognizance of all the cases thereat as acting judge therein until the appointment and assumption to duty of the regular judge or the designation of an acting presiding judge*** or the return of the regular incumbent judge, or until further orders from this Court. (emphasis supplied)

On the other hand, the OSG avers that Judge Santos was in due exercise of his authority as provided by Circular No. 5-98, viz:

1. Unless otherwise ordered by the Court, an Acting/Assisting Judge shall cease to continue hearing cases in the court where he is detailed and shall return to his official station upon the assumption of the appointed Presiding Judge or the newly designated Acting Presiding Judge thereat. Cases left by the former shall be tried and decided by the appointed Presiding Judge or the designated Acting Presiding Judge.
2. ***However, cases submitted for decision and those that passed the trial stage, i.e. where all the parties have finished presenting their evidence before such Acting/Assisting Judge at the time of the assumption of the Presiding Judge or the designated Acting Presiding Judge shall be decided by***