

## SECOND DIVISION

[ G.R. No. 173861, July 14, 2014 ]

**JAY CANDELARIA AND ERIC BASIT, PETITIONERS, VS.  
REGIONAL TRIAL COURT, BRANCH 42, CITY OF SAN FERNANDO,  
(PAMPANGA) REPRESENTED BY ITS PRESIDING JUDGE HON.  
MARIA AMIFAITH S. FIDER-REYES, OFFICE OF THE PROVINCIAL  
PROSECUTOR, CITY OF SAN FERNANDO, PAMPANGA AND ALLIED  
DOMECQ PHILIPPINES, INC., RESPONDENTS.**

### DECISION

**DEL CASTILLO, J.:**

In this Petition for *Certiorari* with Application for Preliminary Injunction<sup>[1]</sup> filed under Rule 65 of the Rules of Court, petitioners Jay Candelaria and Eric Basit (petitioners) seek to nullify and set aside two Orders of the Regional Trial Court (RTC), Branch 42, City of San Fernando, Pampanga, to wit: Order dated October 12, 2005<sup>[2]</sup> denying their Motion to Suppress/Exclude Evidence<sup>[3]</sup> and Order dated July 14, 2006<sup>[4]</sup> denying their Motion for Reconsideration<sup>[5]</sup> thereto.

#### ***Factual Antecedents***

During an alleged buy-bust operation conducted in the evening of June 22, 2001, petitioners were arrested at the corner of Gueco St. and MacArthur Highway, Balibago, Angeles City for delivering, with the intention to sell, five cases of counterfeit Fundador Brandy. On the strength of the Joint Affidavit<sup>[6]</sup> of the police operatives, petitioners were formally charged in an Information<sup>[7]</sup> dated July 6, 2004 with violation of Section 155 in relation to Section 170 of Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines.

After they were arraigned and had pleaded not guilty to the charge on May 31, 2005,<sup>[8]</sup> petitioners filed on June 17, 2005 a Motion to Suppress/Exclude Evidence<sup>[9]</sup> based on inadmissibility of evidence. They contended that the evidence the prosecution intended to present were obtained in violation of their constitutional right against unreasonable searches and seizures. This is considering that at the time the alleged counterfeit products were seized, they were neither committing nor attempting to commit a crime in the presence of the arresting officers as to justify the conduct of search and seizure following their unlawful arrest.

#### ***Ruling of the Regional Trial Court***

On October 12, 2005, the RTC issued the first assailed Order<sup>[10]</sup> denying the Motion to Suppress/Exclude Evidence. Observing that the motion was anchored on petitioners' alleged illegal arrest, it cited jurisprudence<sup>[11]</sup> wherein it was held that

any objection to an arrest must be made before an accused enters his plea on arraignment. Having failed to move for the quashal of the information before the arraignment, an accused is estopped from questioning the legality of his arrest. Notwithstanding this reference, the RTC based its denial of the subject motion on its examination of the Joint Affidavit of the arresting officers. According to the said court, since it appears from the said affidavit that the search and seizure was incidental to a valid warrantless arrest of the accused who were caught in *flagrante delicto*, any evidence obtained during such search and seizure is admissible in evidence.

Not satisfied, petitioners filed a Motion for Reconsideration,<sup>[12]</sup> which the RTC denied in its assailed Order<sup>[13]</sup> of July 14, 2006.

### **Issue**

Hence, the present recourse under Rule 65 of the Rules of Court, anchored on the sole ground of:

WHETHER X X X THE REGIONAL TRIAL COURT, BRANCH 42 OF THE CITY OF SAN FERNANDO, PAMPANGA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DENYING THE MOTION OF THE PETITIONERS TO SET THE CASE FOR SUPPRESSION HEARING.<sup>[14]</sup>

The Petition is bereft of merit.

*Petitioners failed to allege that there is no appeal nor any plain, speedy and adequate remedy in the ordinary course of law.*

It is to be stressed that in every special civil action under Rule 65, a party seeking the writ whether for *certiorari*, prohibition or mandamus, must be able to show that his or her resort to such extraordinary remedy is justified by the absence of an appeal or any plain, speedy and adequate remedy in the ordinary course of law. "[H]e must allege in his petition and establish facts to show that any other existing remedy is not speedy or adequate x x x."<sup>[15]</sup> As held in *Visca v. Secretary of Agriculture and Natural Resources*:<sup>[16]</sup>

x x x [I]t is incumbent upon an applicant for a writ of *certiorari* to allege with certainty in his verified petition facts showing that "there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law," because this is an indispensable ingredient of a valid petition for *certiorari*. "Being a special civil action, petitioner-appellant *must allege* and prove that he has no other speedy and adequate remedy." "Where the existence of a remedy by appeal or some other plain, speedy and adequate remedy precludes the granting of the writ, the petitioner must allege facts showing that any existing remedy is impossible or unavailing, or that excuse petitioner for not having availed

himself of such remedy. A petition for *certiorari* which does not comply with the requirements of the rules may be dismissed.<sup>[17]</sup>

Pursuant to the foregoing, the instant Petition for *Certiorari* is dismissible for failure to allege that there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law as to justify resort to *certiorari*.

*Assuming the assailed October 12, 2005  
Order to be erroneous, the mistake is an  
error in judgment which is beyond the  
ambit of certiorari.*

In *Triplex Enterprises, Inc. v. PNB-Republic Bank*,<sup>[18]</sup> the Court held that:

The writ of *certiorari* is restricted to truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void. Moreover, it is designed to correct errors of jurisdiction and not errors in judgment. The rationale of this rule is that, when a court exercises its jurisdiction, an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed. Otherwise, every mistake made by a court will deprive it of its jurisdiction and every erroneous judgment will be a void judgment.

When the court has jurisdiction over the case and person of the defendant, any mistake in the application of the law and the appreciation of evidence committed by a court may be corrected only by appeal. The determination made by the trial court regarding the admissibility of evidence is but an exercise of its jurisdiction and whatever fault it may have perpetrated in making such a determination is an error in judgment, not of jurisdiction. Hence, settled is the rule that rulings of the trial court on procedural questions and on admissibility of evidence during the course of a trial are interlocutory in nature and may not be the subject of a separate appeal or review on *certiorari*. They must be assigned as errors and reviewed in the appeal properly taken from the decision rendered by the trial court on the merits of the case.<sup>[19]</sup>

Here, it is undisputed that the RTC had jurisdiction over the case and the person of the petitioners. As such, any perceived error in its interpretation of the law and its assessment of evidence is correctible by appeal, not *certiorari*, as the same would only be considered an error of judgment and not of jurisdiction. In particular, the RTC's denial of the Motion to Suppress/Exclude Evidence based on its assessment that the evidence sought to be suppressed/excluded is admissible, was done in the proper exercise of its jurisdiction. Assuming that the RTC's determination is erroneous, the mistake is clearly not an error of jurisdiction but of judgment which is not correctible by *certiorari*.

*No grave abuse of discretion.*

Even assuming that petitioners' resort of *certiorari* is proper, the Petition must still