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[G.R. No. 188056, January 08, 2013]

SPOUSES AUGUSTO G. DACUDAO AND OFELIA R. DACUDAO, PETITIONERS, VS. SECRETARY OF JUSTICE RAUL M. GONZALES OF THE DEPARTMENT OF JUSTICE, RESPONDENT.

D E C I S I O N

BERSAMIN, J.:

Petitioners residents of Bacaca Road, Davao City - were among the investors whom Celso G. Delos Angeles, Jr. and his associates in the Legacy Group of Companies (Legacy Group) allegedly defrauded through the Legacy Group's "buy back agreement" that earned them check payments that were dishonored. After their written demands for the return of their investments went unheeded, they initiated a number of charges for syndicated *estafa* against Delos Angeles, Jr., *et al.* in the Office of the City Prosecutor of Davao City on February 6, 2009. Three of the cases were docketed as NPS Docket No. XI-02-INV.-09-A-00356, Docket No. XI-02-INV.-09-C-00752, and Docket No. XI-02-INV.-09-C-00753.[1]

On March 18, 2009, the Secretary of Justice issued Department of Justice (DOJ) Order No. 182 (DO No. 182), directing all Regional State Prosecutors, Provincial Prosecutors, and City Prosecutors to forward all cases already filed against Delos Angeles, Jr., *et al.* to the Secretariat of the DOJ Special Panel in Manila for appropriate action.

DO No. 182 reads:[2]

> All cases against Celso G. delos Angeles, Jr., et al. under Legacy Group of Companies, may be filed with the docket section of the National Prosecution Service, Department of Justice, Padre Faura, Manila and shall be forwarded to the Secretariat of the Special Panel for assignment and distribution to panel members, per Department Order No. 84 dated February 13, 2009.
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> However, cases already filed against Celso G. delos Angeles, Jr. et al. of Legacy group of Companies in your respective offices with the exemption of the cases filed in Cagayan de Oro City which is covered by Memorandum dated March 2, 2009, should be forwarded to the Secretariat of the Special Panel at Room 149, Department of Justice, Padre Faura, Manila, for proper disposition.
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> For information and guidance.

Pursuant to DO No. 182, the complaints of petitioners were forwarded by the Office of the City Prosecutor of Davao City to the Secretariat of the Special Panel of the DOJ.[3]

Aggrieved by such turn of events, petitioners have directly come to the Court *via* petition for *certiorari*, prohibition and *mandamus*, ascribing to respondent Secretary of Justice grave abuse of discretion in issuing DO No. 182. They claim that DO No. 182 violated their right to due process, their right to the equal protection of the laws, and their right to the speedy disposition of cases. They insist that DO No. 182 was an obstruction of justice and a violation of the rule against enactment of laws with retroactive effect.

Petitioners also challenge as unconstitutional the issuance of DOJ Memorandum dated March 2, 2009 exempting from the coverage of DO No. No. 182 all the cases for syndicated *estafa* already filed and pending in the Office of the City Prosecutor of Cagayan de Oro City. They aver that DOJ Memorandum dated March 2, 2009 violated their right to equal protection under the Constitution.

The Office of the Solicitor General (OSG), representing respondent Secretary of Justice, maintains the validity of DO No. 182 and DOJ Memorandum dated March 2, 2009, and prays that the petition be dismissed for its utter lack of merit.

Issues

The following issues are now to be resolved, to wit:

1. Did petitioners properly bring their petition for *certiorari*, prohibition and *mandamus* directly to the Court?

2. Did respondent Secretary of Justice commit grave abuse of discretion in issuing DO No. 182?

3. Did DO No. 182 and DOJ Memorandum dated March 2, 2009 violate petitioners' constitutionally guaranteed rights?

Ruling

The petition for *certiorari*, prohibition and *mandamus*, being bereft of substance and merit, is dismissed.

Firstly, petitioners have unduly disregarded the hierarchy of courts by coming directly to the Court with their petition for *certiorari*, prohibition and *mandamus* without tendering therein any special, important or compelling reason to justify the direct filing of the petition.

We emphasize that the concurrence of jurisdiction among the Supreme Court, Court of Appeals and the Regional Trial Courts to issue the writs of *certiorari*, prohibition, *mandamus, quo warranto, habeas corpus* and injunction did not give petitioners the

unrestricted freedom of choice of court forum.[4] An undue disregard of this policy against direct resort to the Court will cause the dismissal of the recourse. In *Bañez, Jr. v. Concepcion*,[5] we explained why, to wit:

> The Court must enjoin the observance of the policy on the hierarchy of courts, and now affirms that the policy is not to be ignored without serious consequences. The strictness of the policy is designed to shield the Court from having to deal with causes that are also well within the competence of the lower courts, and thus leave time to the Court to deal with the more fundamental and more essential tasks that the Constitution has assigned to it. The Court may act on petitions for the extraordinary writs of *certiorari,* prohibition and *mandamus* only when absolutely necessary or when serious and important reasons exist to justify an exception to the policy. This was why the Court stressed in *Vergara, Sr. v. Suelto*:
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> > x x x. **The Supreme Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the fundamental charter and immemorial tradition**. It cannot and should not be burdened with the task of dealing with causes in the first instance. **Its original jurisdiction to issue the so-called extraordinary writs should be exercised only where absolutely necessary or where serious and important reasons exist therefor**. Hence, that jurisdiction should generally be exercised relative to actions or proceedings before the Court of Appeals, or before constitutional or other tribunals, bodies or agencies whose acts for some reason or another are not controllable by the Court of Appeals. **Where the issuance of an extraordinary writ is also within the competence of the Court of Appeals or a Regional Trial Court, it is in either of these courts that the specific action for the writ's procurement must be presented. This is and should continue to be the policy in this regard, a policy that courts and lawyers must strictly observe.** (Emphasis supplied)

In *People v. Cuaresma*, the Court has also amplified the need for strict adherence to the policy of hierarchy of courts. There, noting "a growing tendency on the part of litigants and lawyers to have their applications for the so-called extraordinary writs, and sometimes even their appeals, passed upon and adjudicated directly and immediately by the highest tribunal of the land," the Court has cautioned lawyers and litigants against taking a direct resort to the highest tribunal, *viz*:

> x x x. **This Court's original jurisdiction to issue writs of *certiorari* (as well as prohibition, *mandamus, quo warranto, habeas corpus* and injunction) is not exclusive.** It is shared by this Court with Regional Trial Courts

> x x x, which may issue the writ, enforceable in any part of their respective regions. It is also shared by this Court, and by the Regional Trial Court, with the Court of Appeals x x x, although prior to the effectivity of *Batas Pambansa Bilang* 129 on August 14, 1981, the latter's competence to issue the extraordinary writs was restricted to those "in aid of its appellate jurisdiction." **This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed**. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. **A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is established policy. It is a policy that is necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket**. Indeed, the removal of the restriction on the jurisdiction of the Court of Appeals in this regard, *supra*— resulting from the deletion of the qualifying phrase, "in aid of its appellate jurisdiction" — was evidently intended precisely to relieve this Court *pro tanto* of the burden of dealing with applications for the extraordinary writs which, but for the expansion of the Appellate Court corresponding jurisdiction, would have had to be filed with it.
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> x x x x
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> **The Court therefore closes this decision with the declaration for the information and evidence of all concerned, that it will not only continue to enforce the policy, but will require a more strict observance thereof.** (Emphasis supplied)

Accordingly, every litigant must remember that the Court is not the only judicial forum from which to seek and obtain effective redress of their grievances. As a rule, the Court is a court of last resort, not a court of the first instance. Hence, every litigant who brings the petitions for the extraordinary writs of *certiorari*, prohibition and *mandamus* should ever be mindful of the policy on the hierarchy of courts, the observance of which is explicitly defined and enjoined in Section 4 of Rule 65, *Rules*

of Court, viz:

> Section 4. *When and where petition filed*. - The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of the said motion.
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> **The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in the aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi- judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals.**
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> In election cases involving an act or an omission of a municipal or a regional trial court, the petition shall be filed exclusively with the Commission on Elections, in aid of its appellate jurisdiction.[6]

Secondly, even assuming *arguendo* that petitioners' direct resort to the Court was permissible, the petition must still be dismissed.

The writ of *certiorari* is available only when any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law.[7] "The sole office of the writ of *certiorari*," according to *Delos Santos v. Metropolitan Bank and Trust Company*:[8]

> x x x is the correction of errors of jurisdiction, which includes the commission of grave abuse of discretion amounting to lack of jurisdiction. In this regard, mere abuse of discretion is not enough to warrant the issuance of the writ. **The abuse of discretion must be grave, which means either that the judicial or quasi-judicial power was exercised in an arbitrary or despotic manner by reason of passion or personal hostility, or that the respondent judge, tribunal or board evaded a positive duty, or virtually refused to perform the duty enjoined or to act in contemplation of law, such as when such judge, tribunal or board exercising judicial or quasi-judicial powers acted in a capricious or whimsical manner as to be equivalent to lack of jurisdiction**.

For a special civil action for *certiorari* to prosper, therefore, the following requisites must concur, namely: (*a*) it must be directed against a tribunal, board or officer