

THIRD DIVISION

[G.R. NO. 149588, September 29, 2009]

**FRANCISCO R. LLAMAS AND CARMELITA C. LLAMAS,
PETITIONERS, VS. THE HONORABLE COURT OF APPEALS,
BRANCH 66 OF THE REGIONAL TRIAL COURT IN MAKATI CITY
AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

D E C I S I O N

GARCIA, J.:

In this petition captioned as "Annulment of Judgment and *Certiorari*, with Preliminary Injunction," petitioners assail, on the ground of lack of jurisdiction, the trial court's decision convicting them of "other form of swindling" penalized by Article 316, paragraph 2, of the Revised Penal Code (RPC).

The antecedent facts and proceedings that led to the filing of the instant petition are pertinently narrated as follows:

On August 16, 1984, petitioners were charged before the Regional Trial Court (RTC) of Makati with, as aforesaid, the crime of "other forms of swindling" in the Information,^[1] docketed as Criminal Case No. 11787, which reads:

That on or about the 20th day of November, 1978, in the municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, well knowing that their parcel of land known as Lot No. 11, Block No. 6 of the Subdivision Plan (LRC) Psd 67036, Cadastral Survey of Parañaque, LRC Record No. N-26926, Case No. 4869, situated at Barrio San Dionisio, Municipality of Parañaque, Metro Manila, was mortgaged to the Rural Bank of Imus, did then and there willfully, unlawfully and feloniously sell said property to one Conrado P. Avila, falsely representing the same to be free from all liens and encumbrances whatsoever, and said Conrado P. Avila bought the aforementioned property for the sum of P12,895.00 which was paid to the accused, to the damage and prejudice of said Conrado P. Avila in the aforementioned amount of P12,895.00.

Contrary to law.^[2]

After trial on the merits, the RTC rendered its Decision^[3] on June 30, 1994, finding petitioners guilty beyond reasonable doubt of the crime charged and sentencing them to suffer the penalty of imprisonment for two months and to pay the fine of P18,085.00 each.

On appeal, the Court of Appeals, in its February 19, 1999 Decision^[4] in CA-G.R. CR No. 18270, affirmed the decision of the trial court. In its December 22, 1999 Resolution,^[5] the appellate court further denied petitioners' motion for reconsideration.

Assailing the aforesaid issuances of the appellate court, petitioners filed before this Court, on February 11, 2000, their petition for review, docketed as G.R. No. 141208.^[6] The Court, however, on March 13, 2000, denied the same for petitioners' failure to state the material dates. Since it subsequently denied petitioners' motion for reconsideration on June 28, 2000,^[7] the judgment of conviction became final and executory.

With the consequent issuance by the trial court of the April 19, 2001 Warrant of Arrest,^[8] the police arrested, on April 27, 2001, petitioner Carmelita C. Llamas for her to serve her 2-month jail term. The police, nevertheless, failed to arrest petitioner Francisco R. Llamas because he was nowhere to be found.^[9]

On July 16, 2001, petitioner Francisco moved for the lifting or recall of the warrant of arrest, raising for the first time the issue that the trial court had no jurisdiction over the offense charged.^[10]

There being no action taken by the trial court on the said motion, petitioners instituted, on September 13, 2001, the instant proceedings for the annulment of the trial and the appellate courts' decisions.

The Court initially dismissed on technical grounds the petition in the September 24, 2001 Resolution,^[11] but reinstated the same, on motion for reconsideration, in the October 22, 2001 Resolution.^[12]

After a thorough evaluation of petitioners' arguments vis-à-vis the applicable law and jurisprudence, the Court denies the petition.

In *People v. Bitanga*,^[13] the Court explained that the remedy of annulment of judgment cannot be availed of in criminal cases, thus --

Section 1, Rule 47 of the Rules of Court, limits the scope of the remedy of annulment of judgment to the following:

Section 1. *Coverage.* --This Rule shall govern the annulment by the Court of Appeals of judgments or final orders and resolutions in **civil actions** of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner.

The remedy cannot be resorted to when the RTC judgment being questioned was rendered in a criminal case. The 2000 Revised Rules of