

SECOND DIVISION

[G.R. NO. 167400, June 30, 2006]

**PRISCILLA T. RIGOR, ENRICO T. RIGOR, JESUS ROMEO T. RIGOR
AND NINO ANGELO T. RIGOR, PETITIONERS, VS. TENTH
DIVISION OF THE COURT OF APPEALS AND MILAGROS
RODRIGUEZ, RESPONDENTS.**

DECISION

GARCIA, J.:

In this petition for certiorari under Rule 65 of the Rules of Court, petitioners seek to set aside the Decision^[1] dated September 30, 2004 of the Court of Appeals (CA) in CA-G.R. CV No. 80772, reversing that of the Regional Trial Court (RTC) of Cabanatuan City in a suit for injunction with prayer for temporary restraining order thereat commenced by them against the private respondent, and Resolution^[2] dated January 21, 2005, denying petitioners' motion for reconsideration.

We RESOLVE to dismiss the petition outright for being an improper remedy.

In certiorari proceedings under Rule 65, judicial review is limited to correcting errors of jurisdiction, including grave abuse of discretion amounting to lack or excess of jurisdiction.^[3] Rule 65 cannot be more explicit on this point. It reads:

Section.1. *Petition for certiorari.*- 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 its or his jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

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For a writ of certiorari to issue, a petitioner must not only prove that the tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction. He must also show that he has no plain, speedy and adequate remedy in the ordinary course of law against what he perceives to be a legitimate grievance. A recourse affording prompt relief from the injurious effects of the judgment or acts of a lower court or tribunal is considered "plain, speedy and adequate" remedy.^[4]

As culled from the underlying complaint initiated by the petitioners before the RTC,

the case is all about an alleged right-of-way of the petitioners over a portion of private respondent's property, and turns on the issue of whether or not private respondent can construct a gate thereon and fence her property, thereby denying petitioners access to and egress from their own property. After securing a favorable judgment from the trial court, but experiencing a reversal of fortune from the CA, petitioners would have the Court nullify the latter's ruling on jurisdictional considerations.

To be sure, the petition has not demonstrated that the CA, in reversing the earlier decision of the trial court, acted without or in excess of jurisdiction or with grave abuse of discretion. As it were, the assailed CA decision and resolution came about on account of an appeal thereto taken by the private respondent from an adverse judgment of the trial court. The jurisdictional competence of the CA to act on said appeal has never been put in issue by the petitioners.

Reading the petition, one key point is at once clearly discernable, *i.e.*, petitioners' assault against the CA decision is not anchored on flaws involving its jurisdiction, but on their assumption that the CA erred in its reversal disposition, or more specifically, in its appreciation of the issue/s involved and the evidence adduced. So it is that in this recourse, petitioners assert:

- a. The original action filed by the petitioners is for an injunction with prayer for a temporary restraining order whereas ... the [CA] instead of resolving the issue of whether or not the private respondent has a right to close the contested right of way chose to tackle on whether or not the petitioners has a right to the use of the contested right of way;
- b. However, none of the parties is in a position to prove with absolute certainty the real status of the petitioner's right to use the right of way since none of the parties is the owner of the right of way in question;
- c. Thus, the [CA] gravely abused its discretion when it rely (sic) on the private respondent's allegation, by way of defense to the original action of injunction that the petitioners have no right to use the road right of way, even if the indispensable party Ligaya Rodriguez, the owner of the contested right of way was never presented to substantiate her allegation;
- d. The [CA] chose to concentrate in the latter issue instead of the original issue raised by petitioners...^[5] (Words in bracket added)

But errors of judgment not relating to jurisdiction are, as a rule, correctable only by appeal, not by the extraordinary remedy of certiorari.^[6] For, as long as a court acts within its jurisdiction, any supposed error committed in the exercise thereof will amount to nothing more than an error of judgment reviewable and may be corrected by a timely appeal. To stress, the assailed CA decision came to the fore on account of private respondent's appeal thereto from the RTC decision. It is neither claimed nor pretended by the petitioners that the appellate court was without jurisdiction to entertain or act on that appeal, which appeal necessarily threw the whole case wide open for the consideration of the appellate court, not simply on the