

SECOND DIVISION

[G.R. No. 144332, June 10, 2004]

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS (ELEVENTH DIVISION), EFREN S. ALMUETE, JOHNNY ILA Y RAMEL AND JOEL LLOREN Y DELA CRUZ, RESPONDENTS.

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court of the Decision^[1] of the Court of Appeals in CA-G.R. SP No. 49953 granting the petition for certiorari of the private respondents.

The Antecedents

Respondents Efren S. Almuete, Johnny Ila and Joel Lloren were charged with violating Presidential Decree No. 705, as amended, in the Regional Trial Court of Bayombong, Nueva Vizcaya, Branch 27, docketed as Criminal Case No. 2672. The accusatory portion reads:

That on or about the early morning of August 15, 1993, at night time purposely sought to better accomplish their end and facilitate the commission of their offense, at Barangay Uddiawan, Municipality of Solano, Province of Nueva Vizcaya, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping each other, and with the use of motor vehicles, more particularly two six-by-six trucks bearing plate numbers BAW-150 and BBP-606, did then and there wilfully, unlawfully and feloniously, with intent of gain, gather, collect, remove, possess, smuggle and transport three hundred fifty-seven pieces of sawn timber of various sizes of the common hardwood species with a total volume of four thousand seven hundred fifty-one (4,751) board feet valued at fifty-seven thousand and twelve pesos (P57,012.00), Philippine currency, plus imposable forest charges, surcharges and other penalties, without having first secured and obtained from the proper authorities the necessary permit and/or supporting legal documents as required under existing forestry laws, rules and regulations, to the damage and prejudice of the Republic of the Philippines in the aforesaid amount.

CONTRARY TO LAW.^[2]

After due proceedings, the trial court set the promulgation of its decision on September 8, 1998. When the case was called, Atty. Rodolfo Lorenzo, the counsel of the respondents, informed the trial court that Almuete and Lloren were ill, and that Ila was not in court because he was not notified of the scheduled promulgation. The

counsel presented to the court a medical certificate attesting to the illness of respondents Lloren and Almuete. The trial court found the absence of the respondents unjustified and proceeded with the promulgation of its decision, finding them guilty of the crime charged. The decretal portion of the decision reads:

WHEREFORE, finding the accused, namely, Efren S. Almuete, Johnny Ila y Ramel and Joel Lloren y dela Cruz GUILTY beyond reasonable doubt of violation of Section 68, P.D. No. 705, as amended, they are each sentenced to suffer the penalty of 18 years, 2 months and 21 days of reclusion temporal as minimum period to 40 years of reclusion perpetua as maximum period. Costs against the said accused.

SO ORDERED.^[3]

The court also cancelled the bail bonds of the respondents. The latter filed a motion for the reconsideration of the decision on the following grounds: (a) they were deprived of their right to be present at the promulgation of the trial court's decision; (b) lack of factual and legal basis for their conviction of the crime charged; and, (c) the penalty imposed by the court was excessive. The respondents prayed, thus:

WHEREFORE, premises well considered, it is most respectfully prayed that the promulgation be set aside as being null and void and the bail posted by them reinstated. In the event that the Court refuses to set aside the promulgation that the Decision be reconsidered and order the acquittal of the accused; that in the event the Court denies the reconsideration that the accused be allowed to be free under their own bail and/or be required to post additional bail for their provisional liberty during the pendency of this case. Further, accused prays for other reliefs which are just and proper under the circumstances.^[4]

On October 12, 1998, the trial court issued an Order denying the motion of the respondents for lack of merit.^[5]

The respondents filed a petition for certiorari under Rule 65 of the Rules of Court with the Court of Appeals, docketed as CA-G.R. SP No. 49953. They, likewise, prayed for the issuance of a temporary restraining order and for the reversal of the trial court's decision. The respondents claimed that the penalty of eighteen (18) years and two (2) months and twenty-one (21) days of reclusion temporal as minimum, to forty (40) years as maximum, was in excess of the maximum imposable penalty for violation of Article 309 of the Revised Penal Code. They claimed that the trial court erroneously applied Article 310 of the Revised Penal Code, and insisted that their absence at the scheduled promulgation of the decision was justified. The petitioners prayed that judgment be rendered in their favor, thus:

WHEREFORE, it is respectfully prayed:

- a) That the promulgation of the decision be set aside as having been done with undue haste and, therefore, is void ab initio;
- b) To declare the decision as null and void as the decision is not based on competent clear and convincing evidence;
- c) That in the alternative that the decision be modified and/or amended

in accordance with law;

d) That in the meantime, a temporary restraining order is prayed for to prevent further damage and injuries to the accused-petitioners;

e) To issue an injunction against the respondent judge pending the resolution of this case;

f) To restore the bail of the accused which have been ordered cancelled by respondent judge in the meanwhile that the case is pending.

Petitioners pray for other reliefs which are just and proper under the circumstances.^[6]

On May 19, 2000, the Court of Appeals (CA) rendered judgment granting the petition. The appellate court ordered a re-promulgation of the decision of the trial court against Ila and Lloren, but acquitted petitioner Almuete, the head (deacon) of the *Iglesia ni Cristo*, on the ground that the prosecution failed to prove his guilt for the crime charged beyond a reasonable doubt. The decretal portion of the decision reads:

WHEREFORE, premises considered, the present petition is hereby GRANTED. On the basis of the evidence on record, accused Efren S. Almuete should be, as he is hereby ACQUITTED of the charge against him.

The court a quo is ORDERED to re-promulgate the decision in the presence of the accused Ila and Lloren, duly assisted by counsel of their own choice, after notice and allow them to appeal. Let the complete records of this case be remanded to the court a quo.

SO ORDERED.^[7]

Respondents Lloren and Ila filed a motion for the reconsideration of the decision of the appellate court, praying that they also be acquitted, on the ground that the prosecution failed to prove their guilt for the crime charged. The appellate court denied the said motion.

Aggrieved, the People of the Philippines now assails the decision of the CA. It contends that the appellate court acted beyond its jurisdiction when it acquitted respondent Almuete of the crime charged on a petition for certiorari under Rule 65 of the Rules of Court, and that it erred when it ordered a re-promulgation of the trial court's decision.

In his comment on the petition, respondent Almuete asserts that the filing of the petition at bar would place him in double jeopardy; hence, the petition should be dismissed. He cites the ruling of this Court in *Central Bank of the Philippines v. Court of Appeals*^[8] to buttress his stance. The respondent also asserts that in acquitting him of the crime charged, the appellate court acted within its jurisdiction because it merely acted on his plea for acquittal. It was, likewise, only proper for the appellate court to look into the merits of the trial court's decision in his petition for certiorari, since the settled rule is that on appeal, the entire record of the case is

open for review by the appellate court.

Respondents Lloren and Ila, for their part, contend that the appellate court did not err in ordering a re-promulgation of the RTC decision, given the appellate court's findings and ratiocinations in its decision. By way of reply, the petitioner argues that since the CA acted without jurisdiction in acquitting respondent Almuete, its decision is null and void; as such, the respondent was never placed in first jeopardy.

The Issues

The issues for resolution are the following: (a) whether the CA acted in excess of its jurisdiction or without jurisdiction when it acquitted private respondent Almuete in a petition for certiorari for the nullification of the trial court's decision; and, (b) whether the RTC acted with grave abuse of its jurisdiction amounting to excess or lack of jurisdiction when it promulgated its decision, even in the absence of the private respondents.

The Ruling of the Court

For a petition for certiorari or prohibition to be granted, it must set out and demonstrate, plainly and distinctly, all the facts essential to establish a right to a writ.^[9] The petitioner must allege in his petition and establish facts to show that any other existing remedy is not speedy or adequate^[10] and that (a) the writ is directed against a tribunal, board or officer exercising judicial or quasi-judicial functions; (b) such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to excess or lack of jurisdiction; and, (c) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.^[11]

The public respondent acts without jurisdiction if it does not have the legal power to determine the case; there is excess of jurisdiction where the respondent, being clothed with the power to determine the case, oversteps its authority as determined by law. There is grave abuse of discretion where the public respondent acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of its judgment as to be said to be equivalent to lack of jurisdiction.^[12] Mere abuse of discretion is not enough. A remedy is plain, speedy and adequate if it will promptly relieve the petitioner from the injurious effects of that judgment and the acts of the tribunal or inferior court.^[13] A petition for certiorari cannot co-exist with an appeal or any other adequate remedy. The existence and the availability of the right to appeal are antithetical to the availment of the special civil action for certiorari. These two remedies are mutually exclusive.^[14]

In a petition for certiorari, the jurisdiction of the court is narrow in scope. It is limited to resolving only errors of jurisdiction. It is not to stray at will and resolve questions or issues beyond its competence such as errors of judgment. Errors of judgment of the trial court are to be resolved by the appellate court in the appeal by and of error or via a petition for review on certiorari in this Court under Rule 45 of the Rules of Court. Certiorari will issue only to correct errors of jurisdiction. It is not a remedy to correct errors of judgment.^[15] An error of judgment is one in which the court may commit in the exercise of its jurisdiction, and which error is reversible