

CRESENCIA SIBUG Y DE LA CRUZ, ACCUSED-PETITIONER, VS. HON. JEAN MARIE A. BACORRO-VILLENA, PRESIDING JUDGE, RTC BRANCH 28, MANILA, AND PEOPLE OF THE PHILIPPINES, RESPONDENTS

Ponente: LANTION, J.A.C., J.

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LANTION, J.A.C., J.:

This Petition for Certiorari[1] under Rule 65 of the Rules of Court seeks to annul and set aside the Joint Decision[2] dated 15 December 2010 of the Regional Trial Court of Manila, Branch 28, in Criminal Case Nos. 98-165220 and 98-165221, as well as the Resolution[3] dated 5 July 2012 denying the Motion for New Trial and/or Reconsideration thereof. The dispositive portion of the Joint Decision dated 15 December 2010 reads:

“WHEREFORE, in view of the foregoing, the Court finds the accused CERSENCIA SIBUG y DE LA CRUZ, guilty beyond reasonable [doubt] of the offense charged in both informations and hereby sentences as follows:

1. In Criminal Case No. 98-165220, to serve the indeterminate penalty of six (6) months of arresto mayor, as minimum to four (4) years and two (2) months of prision correccional, as the maximum penalty; and
2. In Criminal Case No. 98-165221, to serve the indeterminate penalty of six (6) months of arresto mayor, as minimum to four (4) years and two (2) months of prision correccional, as the maximum penalty.

Cost against the accused.

The Branch Clerk of Court is hereby directed to turn-over the subject specimens to the Philippine Drug Enforcement Agency for proper disposition.

SO ORDERED.”[4]

THE FACTS

(As culled from the Records)

Accused-Petitioner Cresencia Sibug y De La Cruz (Accused-Petitioner) was charged under two (2) separate Informations[5] for violation of Section 15, Article III[6] of Republic Act No. 6425 (The Dangerous Drugs Act of 1972) as amended by Presidential Decree No. 1683[7], and by R.A. 7659[8].

When arraigned,[9] Accused-Petitioner, assisted by her counsel, pleaded "not guilty" to the charges leveled against her.

After the Pre-trial conference, trial on the merits ensued. The Prosecution presented its witnesses,[10] and rested its case. Accused-Petitioner thereafter filed a Demurrer to Evidence, but the same was denied by the court a quo, through then Presiding Judge Nina Antonio-Valenzuela, for lack of merit. Since then, Accused-Petitioner did not attend the trial. The notices of hearing sent to Accused-Petitioner's given address were all returned unserved.[11]

On 20 September 2010, counsel for Accused-Petitioner - Atty. Napoleon B. Cabrejas - manifested that

Accused-Petitioner had already stopped communicating with him and was already nowhere to be found.[12] Thus, the court a quo proceeded to hear the case on the basis of the evidence for the Prosecution.

On 15 December 2010, the court a quo rendered the herein assailed Decision finding Accused-Petitioner guilty of illegal sale of prohibited drugs.

Petitioner filed a Motion for New Trial and/or Reconsideration[13] of the assailed Decision, but the same was denied by the court a quo in its Resolution dated 5 July 2012. On 16 July 2012, Accused-Petitioner received a copy of the said Resolution denying her Motion for New Trial and/or Reconsideration.

Thus, the instant Petition.

ISSUE

I

THE TRIAL JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION, AND CONTRARY TO LAW AND SETTLED JURISPRUDENCE WHEN SHE DENIED FOR LACK OF MERIT THE MOTION FOR NEW TRIAL AND/OR RECONSIDERATION, ETC., SPECIFICALLY, THE TRIAL JUDGE BRUSHED ASIDE THE ABSENCE OF EFFECTIVE NOTICE THAT IS PREJUDICIAL TO THE SUBSTANTIAL RIGHTS OF SIBUG.

RULING

Prefatorily, this Court emphasizes that where the accused in a criminal case files from a judgment of conviction a motion for new trial or reconsideration, the accused is given 15 days (from his receipt of the resolution denying such motion) under Rule 41 of the Rules of Court to file a notice of appeal from such judgment of conviction.[14]

In this case, Accused-Petitioner filed a Motion for New trial and/or Reconsideration of the court a quo's judgment finding her guilty of illegal sale of prohibited drugs. On 16 July 2012, Accused-Petitioner received a copy of the Resolution denying her Motion. Instead of filing a notice of appeal within fifteen (15) days from her receipt of the said Resolution (until 31 July 2012), Accused-Petitioner filed the instant Petition for Certiorari on 13 September 2012.

It is well settled that a special civil action for certiorari, under Rule 65 of the Rules of Court, could only be availed of if there is no appeal or other plain, speedy, and adequate remedy available in the ordinary course of law. [15]

Here, the remedy of appeal under Rule 41 of the Rules of Court was still available to Accused-Petitioner until 31 July 2012. It was the plain, speedy, and adequate remedy to challenge the court a quo's judgment of conviction. Accused-Petitioner however failed to avail the same. In *Chinkoe vs. Republic*[16] the Supreme Court held:

“A petition for certiorari is not and cannot be a substitute for an appeal, especially if one's own negligence or error in one's choice of remedy occasioned such loss or lapse. When an appeal is available, certiorari will not prosper, even if the basis is grave abuse of discretion.”

In the similar case of *Tan vs. Antazo*,[17] petitioner therein likewise filed a motion for reconsideration of the trial court's Decision dated 25 July 2008. The trial court denied said motion on 21 August 2008. On 28 August 2008, petitioner received a copy of her motion's denial. Counting fifteen (15) days from said date of receipt, Petitioner had until 12 September 2008, within which to file her appeal, but none was made. On 2 October 2008, petitioner filed before the Court of Appeals a Petition for Certiorari, but the same was dismissed by the Court of Appeals for being a wrong mode of appeal. On petition for review, the Supreme Court affirmed the ruling of the Court of Appeals holding that “certiorari cannot be availed of as a substitute for the lost remedy of ordinary appeal.”

To Our mind, Accused-Petitioner herein merely availed the remedy of certiorari only to salvage her lost remedy of appeal. Conformably with *Tan vs. Antazo*, supra, that a certiorari cannot be availed of as substitute for a lost appeal, We dismiss the instant Petition for being a wrong mode of appeal.

Accused-Petitioner now invokes a liberal interpretation of the procedural rules in the interest of substantial justice.

We are not persuaded.

Even if, in the interest of substantial justice, We were to consider the instant Petition (filed on 13 September 2012) as an ordinary appeal under Rule 41 of the Rules of Court, the court a quo's judgment of conviction against Accused-Petitioner has already attained its finality after the lapse of the 15-day reglementary period (from her receipt of the Resolution denying her Motion for New Trial and/or Reconsideration) to file an appeal, which was on 1 August 2012. The rule is settled that the perfection of an appeal in the manner and within the period fixed by law is not only mandatory but jurisdictional. Non-compliance with the legal requirements is fatal to a party's cause as it will render the assailed judgment final and executory. The ruling of the Supreme Court in *Team Pacific Corporation vz. Daza*[18] is instructive, to wit:

“Once a decision attains finality, it becomes the law of the case irrespective of whether the decision is erroneous or not and no court — not even the Supreme Court — has the power to revise, review, change or alter the same. The basic rule of finality of judgment is grounded on the fundamental principle of public policy and sound practice that, at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final at some definite date fixed by law.”

Given that the court a quo's judgment of conviction has already attained its finality on 1 August 2012, the same is beyond the power of this Court to revise, review or alter. Thus, We dismiss the instant Petition.

WHEREFORE, the Petition is DISMISSED. The Joint Decision[19] dated 15 December 2010 and the Resolution[20] dated 5 July 2012 of the Regional Trial Court of Manila, Branch 28, in Criminal Case Nos. 98-165220 and 98-165221 are hereby AFFIRMED.

SO ORDERED.

De Leon, M.M., Chairperson and [*]Garcia-Fernandez, M.V., JJ., concur.

[*] Per raffle dated 16 March 2015, in view of Justice Nina G. Antonio-Valenzuela's inhibition.

[1] Rollo, pp. 3-15.

[2] Rollo, pp. 21-24.

[3] Rollo, pp. 17-20.

[4] Rollo, p. 23.

[5] Filed by Assistant City Prosecutor Liberato T. Cabaron, Rollo, p. 44 and p. 45.

[6] Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs.

[7] Amending Certain Sections of Republic Act No. 6425, as amended, Otherwise Known As The Dangerous Drugs Act of 1972 and for Other Purposes”; Took Effect on March 14, 1980.

[8] AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, OTHER SPECIAL LAWS AND FOR

OTHER PURPOSES"; The Act was approved on December 13, 1993 and took effect on December 31, 1993.

[9] Records, p. 28, dated 29 June 2006.

[10] PO3 Armando Casem, PO2 Raul Gutierrez and Forensic Chemist Gemma Sheila Orbeta-Badera.

[11] See RTC's Decision, p. 23.

[12] Id.

[13] Supra.

[14] Section 9, Rule 38 of the Rules of Court and Olayres vs. People of the Philippines, G.R. No. 192799. October 24, 2012.

[15] CHINGKOE, et al. vs. REPUBLIC OF THE PHILIPPINES, et al., G.R. No. 183608. July 31, 2013

[16] G.R. No. 183608. July 31, 2013.

[17] G.R. No. 187208. February 23, 2011.

[18] G.R. No. 167732, July 11, 2012.

[19] Rollo, pp. 21-24.

[20] Rollo, pp. Rollo pp. 52-54.

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