

CENTRAL BANK OF THE PHILIPPINES AND THE PEOPLE OF THE PHILIPPINES, PETITIONERS, VS. THE COURT OF APPEALS, FELIPE PLAZA CHUA AND MELCHOR AVILA CHUA, RESPONDENTS.

G.R. No. L-41859. March 08, 1989

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

This is a special civil action for certiorari[1] under Rule 65 of the Rules of Court, seeking to annul and set aside the decision[2] of respondent Court of Appeals acquitting private respondents Felipe Plaza Chua and Melchor Avila Chua of the crime of estafa.

The antecedent facts are as follows:

On April 14, 1961, herein private respondents Felipe Plaza Chua and Melchor Avila Chua, father and son, were elected President and Treasurer, respectively, of the Surigao Development Bank, a private development bank, with a capital of P1 Million, duly subscribed and paid-up. Out of its total capitalization, P500,000.00 was subscribed by the Development Bank of the Philippines (DBP) in accordance with Section 9 of Republic Act No. 85 as amended; the other P500,000.00 by private stockholders, as follows:

Felipe Plaza Chua P200,000.00

Celerina Chua 200,000.00

Lucia Limchiu 60,000.00

Melchor Avila Chua 20,000.00

Marinela G. Rama 10,000.00

Eufemio Darunday 5,000.00

Benjamin Lozada 5,000.00

TOTAL P500,000.00[3]

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Pursuant to a resolution of the Board of Directors, composed of the first five above- named stockholders and the directors- representatives of DBP, Benigno Orig and Anatolio Viray, the capital of P1 Million was deposited with the Pacific Banking Corporation in Manila and private respondents Felipe Plaza Chua as President and Melchor Avila Chua as Treasurer, were authorized to sign checks and withdrawal slips to effect withdrawal from the depository bank.[4] The Surigao Development Bank formally started operations on April 19, 1961. On the same date, said respondents started withdrawing from the deposit various amounts by means of checks drawn against the Pacific Banking Corporation amounting to a total of P999,000.00, leaving a balance of P1,000.00[5] as of

June 1962.

On September 12, 1961, an examination of the books of accounts as well as the operations of the Surigao Development Bank was conducted by the examiners of the Central Bank of the Philippines. The examination revealed a shortage of P480,000.00 which increased to P555,000.00 as of December 31, 1961.[6]

Based on their findings, Acting Superintendent of Banks Jose S. Martinez wrote herein private respondents, asking them to authorize the Pacific Banking Corporation to furnish the Central Bank with the records of deposits of Surigao Development Bank together with photocopies of the checks drawn against the latter, and further asking them for a conference regarding the examination. Due to the refusal of private respondents to come to Manila for the conference of the Acting superintendent of Banks referred the matter to the Monetary Board.

On July 10, 1962, the Monetary Board passed a resolution directing private respondents to refund and deposit with Pacific Banking Corporation the shortage of P555,000.00; to require their permanent separation as President and Treasurer, as the case may be; to disqualify them from being directors thereof and/or holders of such other positions therein as will enable them again to exercise influence over the management of the affairs and operations of said bank; and to limit the bank's activities to accepting loan re-payments and servicing of its deposit liabilities. On August 11, 1962, the private respondents wrote the Monetary Board denying the shortage and asking for a reconsideration of its decision.

On October 30, 1962, Resolution No. 1281 was passed by the Monetary Board denying the request. On January 10, 1964, an application by the Central Bank, the Superintendent of Banks was appointed receiver pendente lite of the Surigao Development Bank by the Court of First Instance of Surigao in Civil Case No. 1582. In another order dated July 30, 1964, the same Court directed the Pacific Banking Corporation to produce the bank statements of deposits and withdrawals of the Surigao Development Bank, but the Central Bank could not conduct the necessary examination due to an injunction issued by the Court of Appeals on February 5, 1964 in CA-G.R. No. 3315 which was lifted only on September 7, 1964.

On July 2, 1968, an information[7] was filed before the Court of First Instance of Manila, 6th Judicial Region, Branch V, charging herein private respondents Felipe Plaza Chua and Melchor Avila Chua with the crime of estafa, as follows:

"That in or about and during the period comprised between April 1961 to December 31, 1961, inclusive, in the City of Manila, Philippines, the said accused, being then the President and Treasurer, respectively, of the Surigao Development Bank, located at Surigao, Surigao del Norte, which is a private development bank organized under the provisions of Republic Act 2081, conspiring and confederating together and mutually helping each other, did then and there wilfully, unlawfully and feloniously defraud the Central Bank of the Philippines and the Development Bank of the Philippines, banking institutions duly organized and existing under and by virtue of the laws of the Republic of the Philippines, as follows, to wit: The said Surigao Development Bank, as such private development bank, began operations on April 19, 1961, in Surigao, Surigao del Norte, with the said accused Felipe Plaza Chua and Melchor Avila Chua as its President and Treasurer, respectively, and by virtue of a Certificate of Authority granted by the Monetary Board on March 29, 1961, 50% of the preferred shares with voting rights is owned by the Development Bank of the Philippines, while the remaining 50% also in the amount of P500,000.00, is in common shares, which funds of the Surigao Development Bank were deposited in trust with the depository bank, the Pacific Banking Corporation, Manila, and the said accused, as such President and Treasurer, respectively, of the said Surigao Development Bank, being then the only persons duly authorized in the Surigao Development Bank to sign checks against, or withdraw funds from the said Surigao Development Bank's deposit account with the Pacific Banking Corporation, withdrew and received from the said Pacific Banking Corporation, Manila, during the aforesaid period of time, the total sum of P555,000.00 for the purpose of turning over the said amount so withdrawn by

them to the Surigao Development Bank in Surigao, Surigao del Norte, and under the express obligation of accounting for the same to the Central Bank and the Development Bank of the Philippines from time to time, or upon demand, but the said accused, once in possession of the aforesaid sum and far from complying with their aforementioned obligation, wantonly failed and refused to do so, despite repeated demands made upon them to that effect and the length of time that has elapsed, and with intent to defraud, misappropriated, misapplied and converted the said amount to their own personal use and benefit, to the damage and prejudice of the Central Bank and Development Bank of the Philippines, in the aforesaid amount of P555,000.00, Philippine Currency.

"Contrary to law."

Both accused-private respondents pleaded not guilty to the crime charged. At the trial, the amount of shortage proved was P499,000.00, which represented the total unrecorded withdrawals, arrived at by comparing the ledger of the Surigao Development Bank as against the Statement of Account issued by the Pacific Banking Corporation.

On May 24, 1973, the trial court rendered its decision[8] finding private respondents guilty of the crime charged. The dispositive portion of the decision reads as follows:

"WHEREFORE, the Court finds the accused Felipe Plaza Chua and Melchor Avila Chua guilty beyond reasonable doubt as principals of the crime of swindling (estafa), as defined in paragraph 1(b) of Article 315 of the Revised Penal Code and penalized in its 1st penalty paragraph, without the attendance of any mitigating or aggravating circumstance to modify their liability and hereby sentences each of them to suffer imprisonment for an indeterminate term ranging from twelve (12) years of prision mayor as minimum to twenty (20) years of reclusion temporal, as maximum, to indemnify the offended parties Surigao Development Bank and Development Bank of the Philippines in the sum of P499,000.00, without subsidiary imprisonment in case of insolvency and to pay the costs.

"SO ORDERED."

Both private respondents appealed to the Court of Appeals. On May 21, 1975, the Court of Appeals promulgated its decision, holding that:

"The private stockholders having received the refund of their investments in the total amount of P499,000.00 and the DBP's prepared shares of P500,000.00 being fundable from the assets of P557,350.72, it is clear that there is no damage caused to the Surigao Development Bank or to the Development Bank of the Philippines.

"It is true that the accused-appellants disposed of the amount of P499,000.00 without right or authority, but conversion, to constitute estafa, must result in damage or prejudice to another, capable of pecuniary estimation."[9]

reversed the decision of the trial court and acquitted private respondents.

Hence, this special civil action for certiorari, petitioners defining the issues[10] as follows:

1. WHETHER OR NOT THE RESPONDENT COURT OF APPEALS HAS JURISDICTION TO RENDER A DECISION ENTIRELY DISREGARDING THE FINDINGS OF FACTS MADE BY THE TRIAL COURT WHICH ARE DULY SUPPORTED BY THE EVIDENCE CONSISTING MAINLY OF DOCUMENTS AND INSTEAD, ADOPT ITS OWN FINDINGS OF FACT BASED (a) ON SPECULATION AND CONJECTURES, (b) ON MISAPPREHENSION OF FACTS AND (c) CONTRARY TO THE DOCUMENTS AND EXHIBITS OF THE CASE, THUS, LEADING IT TO NO OTHER ALTERNATIVE BUT TO FORMULATE INFERENCES AND CONCLUSIONS WHICH ARE ABSURD AND POSITIVELY IMPOSSIBLE.

2. WHETHER OR NOT THE RESPONDENT COURT OF APPEALS HAS JURISDICTION TO RENDER A

DECISION BY RELYING ON AN EXHIBIT WHICH WAS NOT FORMALLY OFFERED, MUCH LESS ADMITTED IN EVIDENCE DURING THE TRIAL; and,

3. WHETHER OR NOT THE RESPONDENT COURT OF APPEALS HAS JURISDICTION TO RENDER A DECISION BY RELYING ON A DOCUMENT AND GIVING THE SAME A MEANING COMPLETELY CONTRARY TO ITS CONTENTS - THUS DISTORTING THE CORRECT CONTEXT OF THE SAME.

We rule in the affirmative.

Section 11 of Rule 124 of the Rules of Court defines the power of the appellate court on appeals taken to it, thus:

Section 11. Power of Appellate Court on Appeal.- Upon appeal from a judgment of the Court of First Instance, the appellate court may reverse, affirm or modify the judgment and increase or reduce the penalty imposed by the trial, remand the case to the Court of First Instance for new trial or retrial, or dismiss the case. (Underscoring supplied).

The reason behind this rule is that an appeal of a criminal case opens its entire record for review in order to resolve not only questions of law but also questions of facts. The Court of Appeals may thus re-examine and re-weigh all the evidence on record and affirm, modify or reverse the findings of facts and conclusions of the lower court.[11] That its findings of facts or conclusions are erroneous do not thereby deprive it of its jurisdiction over the appealed criminal case as the mere fact that the court decides the question wrongly is utterly immaterial to its jurisdiction.[12] Neither do these erroneous findings and conclusions render the appellate court vulnerable to the corrective writ of certiorari for where the court has jurisdiction over the case, even if its findings are not correct, they would, at most, constitute errors of law and not an abuse of discretion correctible by certiorari.[13]

In the case at bar, the appeal of private respondents having been regularly taken to the Court of Appeals, the appellate court was clothed with the power and authority to adjudicate upon the rights and obligations of the parties before it. In so doing, it re-examined and re-weighed the evidence on record and came to the conclusion that private respondents were not guilty of the crime charged as the withdrawal of the alleged shortage was done without intent to defraud nor was damage or prejudice caused thereby to Surigao Development Bank or the Development Bank of the Philippines. Whether this conclusion was based merely on speculations and conjecture, or on a misapprehension of facts and contrary to the documents and exhibits of the case, is not for us to determine in a petition for certiorari wherein only issues of jurisdiction may be raised. Neither can we determine whether the constructions given by the appellate court to a document is right or wrong as errors in the appreciation of evidence may not be reviewed by certiorari because they do not involve any jurisdictional question.[14]

The function of a writ of certiorari is to keep an inferior court within the bounds of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to excess of jurisdiction. It is available only for these purposes and not to correct errors of procedure or mistakes in the judge's findings or conclusions.[15] The mere fact that the court decides the question wrong is utterly immaterial to the question of its jurisdiction.[16] Thus, assuming *arguendo*; that the court had committed a mistake, the error does not vitiate the decision considering that it had jurisdiction over the case.[17] The writ of certiorari issues for the correction of errors of jurisdiction only or grave abuse of discretion amounting to lack or excess of jurisdiction. The writ of certiorari cannot be legally used for any other purpose.[18] If the court has jurisdiction of the subject matter and of the person, the orders and rulings upon all questions pertaining to the cause are orders and rulings within its jurisdiction and cannot be corrected by certiorari.[19]

Ordinarily, errors of judgment may be corrected in a timely appeal from the judgment on the merits. Such remedy, however, is not available in the case at bar, the decision involved being one of acquittal. An appeal therefrom by the People would run counter to the accused's constitutional guarantee against double jeopardy.

We discern in this petition for certiorari a subtle attempt to have us review the judgment of the appellate court on the merits. While the petition at bar is denominated special civil action for certiorari under Rule 65 of the Rules of Court and the issues raised therein ostensibly dealt with the jurisdiction of the appellate court, petitioners' attack on the appellate court's jurisdiction is premised on the conclusions that (a) the findings of facts of the appellate court were based on conjectures and speculations, or on misapprehension of facts and contrary to the documents and exhibits; (b) the exhibit relied upon by the appellate court has not been offered nor admitted in evidence during the trial; and (c) the appellate court gave to a document a meaning contrary to its contents. But how valid and tenable these premises are remains a question. To determine their validity would entail a review and re-evaluation of the evidence on record as well as the procedure taken vis-a-vis the conclusions arrived at by the appellate court; in effect, a review of the judgment of acquittal, which we cannot do in a petition for certiorari and without violating the private respondents' constitutional right against double jeopardy.

Section 2 of Rule 122 of the Rules of Court provides that "the People of the Philippines cannot appeal if the defendant would be placed thereby in double jeopardy." The argument that the judgment is tainted with grave abuse of discretion and therefore, null and void, is flawed because whatever error may have been committed by the lower court was merely an error of judgment and not of jurisdiction. It did not affect the intrinsic validity of the decision. This is the kind of error that can no longer be rectified on appeal by the prosecution no matter how obvious the error may be.[20] The rule therefore, in this jurisdiction is that a judgment of acquittal is not reviewable by a higher court, for an Appeal by the government from the judgment would put the accused in second jeopardy for the same offense.[21]

Moreover the case of *People vs. Ang Cho Kio* [22] tells us:

"No error, however flagrant, committed by the Court against the State can be reserved by it for decision by the Supreme Court when the defendant has once been in jeopardy and discharged, even though the discharge was the result of the error committed."

WHEREFORE, the instant petition is hereby DISMISSED. NO pronouncement as to costs. This decision is immediately executory.

SO ORDERED.

Feliciano, Bidin, and Cortes, JJ., concur.

Gutierrez, Jr., J., no part, one of the counsel for the Government in this case.

[1] Rollo, p. 1

[2] Rollo p. 61, promulgated on May 21, 1975 by the First Division with Justice Luis B. Reyes, ponente, and Ramon G. Gaviola, Jr. and Pacifico P. de Castro, JJ., concurring

[3] Rollo, p. 44

[4] Rollo, pp. 44-45

[5] Rollo, pp. 45, 79-80

[6] Rollo, pp. 45-46

[7] Rollo, pp. 49-50

[8] Rollo, pp. 44-59, penned by then Judge, now Ombudsman, Justice Conrado M. Vasquez

[9] Rollo, pp. 77-78

[10] Rollo, p. 5

[11] *People v. Pajarillo*, 94 SCRA 830 (1979)

[12] *Bustos vs. Moir*, 35 Phil. 415; *Estrada vs. Sto. Domingo*, No. L.-30570, July 29, 1969.

[13] *Casilan vs. Ibanez*, G.R. No. 19968, October 31, 1962; *Ramirez vs. Jimenez*, G.R. No. L-17062, October 31, 1962; *Director of Forestry vs. Geronimo*, L-29480, March 14, 1979.

[14] *Mujer v. Court of First Instance of Laguna*, 35 O.G. 1384; *Abig v. Constantino*, No. L-12460, May 31, 1961

[15] *Regala v. CFI of Bataan*, 77 Phil. 684; *Ong Sit v. Piccio*, 78 Phil. 785; *Ocucanim v. Hernandez*, 81 Phil. 161; *Verhomal v. Tan*, 88 Phil. 389; *Association of Beverages Employees v. Figueras*, G.R. No. L-4813, May 28, 1952; *Matute v. Macadaeg*, 99 Phil. 340

[16] *Estrada v. Sto. Domingo*, 28 SCRA 891 (1969)

[17] *People v. Francisco* 128 SCRA 110 (1984)

[18] *Silverio v. C.A.*, 141 SCRA 527 (1986)

[19] *Paramount Insurance Corp. v. Luna*, 148 SCRA 572 (1987)

[20] *Heirs of Tito Rillorta v. Firme*, 157 SCRA 522-523 (1988)

[21] *People vs. Montemayor*, 26 SCRA 687; *U.S. vs. Yam Tung Way*, 21 Phil. 67; *Kepner vs. U.S.*, 195 U.S. 100.

[22] 95 Phil. 475

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