

**HARVEY S. SMOLLER, PETITIONER, VS. THE PRESIDING JUDGE OF
REGIONAL TRIAL COURT BRANCH 276 MUNTINLUPA CITY,
ASSISTANT CITY PROSECUTOR VICENTE B. FRANCISCO AND
SPOUSES RODOLFO O. ...**

Ponente: INTING, S.B., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/6989adf41b63/>

INTING, S.B., J.:

This Petition for Certiorari [1] seeks to reverse and set aside the Orders dated: 1) 18 March 2013[2] granting the motion for withdrawal of the Information against herein private respondents-spouses; and 2) 20 May 2013[3] denying herein petitioner's Motion for Reconsideration of said Order issued by the Regional Trial Court (RTC), Branch 276, Muntinlupa City in Criminal Case No. 12-709 entitled "People of the Philippines, Plaintiff, -versus- Lolita L. Letaba and Rodolfo O. Letaba, Accused.,"

THE FACTS

The antecedents are as follows:

Lolita L. Letaba, who is married to Rodolfo O. Letaba (herein private respondent-spouses), is the owner of a house and lot covered by Transfer Certificate of Title (TCT) No. 146474 located at No. 223 Apitong St., Ayala Alabang Village, Muntinlupa City.

Private respondent-spouses bought this house and lot from the previous owner named Jose D. Micael. The lot was previously covered by TCT No. 14068 and the house, by Tax Declaration No. 126-00-024-25-009-1001.

Annotated in the title of Micael is a Notice of Lis Pendens[4] filed by petitioner Harvey Smoller, an American citizen, through his lawyer, Atty. Edward P. Buenaflor.

Said notice pertains to a Complaint filed by herein petitioner Smoller against Micael in Civil Case No. 08-091 before the Regional Trial Court, Muntinlupa City praying for the court to issue an order directing Micael to execute real estate mortgage documents in favor of petitioner Smoller and to be annotated in TCT No. 14068. During the pendency of the above-stated civil case, petitioner Smoller caused the annotation of Notice of Lis Pendens on Micael's title TCT No. 14068. Said notice was carried over and annotated on TCT No. 146474 when the property's title was transferred in the names of private respondent-spouses.

In July 2011, private respondent-spouses filed a Petition for Cancellation of Lis Pendens over the property located at No. 223 Apitong St., Ayala Alabang Village, Muntinlupa City, which they bought from Micael.

According to herein petitioner Smoller, private respondent-spouses Letaba made defamatory remarks against him in said petition, attacked his person and virtue as a person, and cast him in disrepute, thus, he filed a complaint for libel against the private respondent-spouses Letaba.

On 3 October 2012 Assistant State Prosecutor Salazar-Ruba resolved the complaint and found probable cause to charge private respondent-spouses of the crime of libel. Private respondent-spouses filed a motion for

reconsideration.

However, on 15 January 2013 the Office of City Prosecutor through Assistant Prosecutor Vicente B. Francisco reversed the finding of probable cause and granted private respondent-spouses' motion for reconsideration.

On 1 February 2013, the Office of the City Prosecutor through Assistant Prosecutor Vicente B. Francisco filed a Motion to Withdraw Information with the Regional Trial Court (RTC) of Muntinlupa City, Branch 276.

On 18 March 2013 the Regional Trial Court (RTC), Branch 276, Muntinlupa City issued an Order[5] the dispositive portion of which reads:

"WHEREFORE, premises considered the Motion to Withdraw Information is hereby GRANTED. Accordingly, let the Information be withdrawn and the case against the accused LOLITA LETABA and RODOLFO LETABA is hereby dismissed.

In view of this ruling, the setting on April 25, 2013 at 8:30 o'clock in the morning for the arraignment of the accused is hereby CANCELLED. Likewise, the motion for the issuance of Hold Departure Order, previously held in abeyance, is likewise DENIED for lack of basis.

SO ORDERED."[6]

Herein petitioner filed a motion for reconsideration.

On 18 March 2013 the trial court issued its Order[7], the pertinent portion of which reads:

"IN THE LIGHT OF THE FOREGOING, the MOTION FOR RECONSIDERATION is hereby DENIED for lack of merit.

IT IS SO ORDERED."[8]

Hence, this petition.

THE PETITION

Petitioner anchored his petition on these grounds:

A. THE RESPONDENT JUDGE GRANTED THE MOTION TO WITHDRAW INFORMATION BASED ON FINDING THAT THE STATEMENTS MADE BY THE SPOUSES FALL WITHIN THE PROTECTIVE MANTLE OF PRIVILEGED COMMUNICATION, WHICH IS NOT ACTIONABLE.

B. IN ORDER TO BE COMPLIANT WITH THE DOCTRINE LAID DOWN IN THE CRESPO CASE, THE RESPONDENT COURT SHOULD HAVE CONSIDERED PRIVATE RESPONDENTS' ARGUMENTS TO BE A MATTER OF DEFENSE WHICH MUST BE BETTER DETERMINED UPON TRIAL ON THE MERITS, INSTEAD OF A MERE CURSORY EXAMINATION OF THE PLEADINGS OF THE PARTIES."[9]

Petitioner ascribed abuse of discretion to the trial court. He claimed that issuance of the assailed orders amounted to the trial court's evasion of positive duty to hear the case according to its merits.

Petitioner contended that the trial court was mistaken when it held that the statements of private respondents in their Petition for Cancellation of Lis Pendens fall within the protective mantle of privileged communication.

THIS COURT'S RULING

Here, the crux of the controversy is whether the trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the case against private respondents and in denying herein petitioner's

motion for reconsideration of said order.

We rule in the negative.

A Petition for Certiorari under Rule 65 is the proper remedy in assailing that a judge has committed grave abuse of discretion amounting to lack or excess of jurisdiction. Section 1, Rule 65 of the Rules of Court clearly sets forth when a petition for certiorari can be used as a proper remedy:

"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 jurisdiction, or with grave abuse of discretion amounting to lack or excess of 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."

The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as constituting grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." [10] The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." [11] Furthermore, the use of a petition for certiorari is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." [12] From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross. [13]

Here, there is a need to determine whether the acts alleged to have been exercised with grave abuse of discretion – the Orders of the trial court in dismissing petitioner's case against private respondent-spouses and in denying reconsideration of the same – were patent and gross or that there is a compelling reason that would warrant striking down these acts through a petition for certiorari under Rule 65.

The determination of private respondent-spouses' culpability for libel hinges on the question of whether their statements in their petition to cancel the notice of lis pendens were made with malice.

Malice is a term used to indicate the fact that the offender is prompted by personal ill-will or spite and speaks not in response to duty, but merely to injure the reputation of the person defamed; it implies an intention to do ulterior and unjustifiable harm. [14] It is present when it is shown that the author of the libelous remarks made such remarks with knowledge that it was false or with reckless disregard as to the truth or falsity thereof. [15]

Article 354 of the Revised Penal Code states, as a general rule, that every defamatory imputation is presumed to be malicious, even if true, if no good intention and justifiable motive is shown. [16]

As an exception to the rule, the presumption of malice is done away with when the defamatory imputation qualifies as privileged communication. [17]

Privileged communication may either be absolutely privileged or conditionally privileged. The Court in *Orfanel v. People of the Philippines* [18] differentiated absolutely privileged communication from conditionally privileged communication in this manner:

... A communication is said to be absolutely privileged when it is not actionable, even if its author acted in bad faith. This class includes statements made by members of Congress in the discharge of their functions as such, official communications made by public officers in the performance of their duties, and allegations or statements made by the parties or their counsel in their pleadings or motions or during the hearing of judicial

proceedings, as well as the answers given by witnesses in reply to questions propounded to them, in the course of said proceedings, provided that said allegations or statements are relevant to the issues, and the answers are responsive or pertinent to the questions propounded to said witnesses. Upon the other hand, conditionally or qualifiedly privileged communications are those which, although containing defamatory imputations, would not be actionable unless made with malice or bad faith.[19] [Emphasis supplied]

In the trial court's order dated 18 March 2013 it stated that allegations and statements made by private respondent-spouses against herein petitioner are relevant to the issue raised in their Petition for Cancellation of the Notice of Lis Pendens and fall within the absolutely privileged communications which are not actionable. Thus, said court granted the motion of the Assistant City Prosecutor to withdraw the information filed against the private respondent-spouses and denied petitioner's motion for reconsideration.

Undeniably, based on the above-quoted jurisprudence, the statements or allegations which private respondent-spouses made in their Petition for Cancellation of the Notice of Lis Pendens are absolutely privileged and not actionable. It cannot be contradicted that said statements or allegations are relevant to the issue in their petition as said statements or allegations were the very grounds relied upon by private respondent-spouses to substantiate their petition against petitioner. This has been shown in the private respondent-spouses' petition.

In this regard, We are of the view that the trial court is correct in granting the motion for withdrawal filed by the Assistant City Prosecutor and in denying petitioner's motion for reconsideration. Thus, the RTC Orders cannot be said to have been done in a capricious or whimsical exercise of judgment.[20]

Certiorari implies an indifferent disregard of the law, arbitrariness and caprice, an omission to weigh pertinent considerations, a decision arrived at without rational deliberation.

All told, the petition has no merit. We find that the trial court did not commit grave abuse of discretion in its assailed orders. Thus, the trial court cannot be properly subjected to this Court's certiorari jurisdiction.

WHEREFORE, the premises considered, the Petition is hereby DISMISSED. The challenged orders dated 18 March 2013 and 20 May 2013 of the Regional Trial Court (RTC), Branch 276, Muntinlupa City STAND.

SO ORDERED.

Reyes, Jr., (Chairperson), and Lopez, JJ., concur.

[1] Filed under Rule 65 of the 1997 Rules of Court.

[2] Rollo, pp. 20-24.

[3] Rollo, pp. 25-27.

[4] Entry No. 82501 filed by Atty. Edward P. Buenaflor, counsel of herein petitioner in Civil Case No. 08-091 before Branch 276 of the Regional Trial Court of Muntinlupa City.

[5] Supra, note 2.

[6] Rollo, p. 24.

[7] Supra, note 3.

[8] Rollo, p. 27.

[9] Rollo, p. 9.

[10] Beluso v. Commission on Elections, 621 SCRA 450 [2010]; citing De Vera v. De Vera, 584 SCRA 506 [2009]; Fajardo v. Court of Appeals, 570 SCRA 156 [2008].

[11] Ibid.; 2 Jose Y. Feria & Maria Concepcion S. Noche, Civil Procedure Annotated 463 [2001].

[12] J.L. Bernardo Construction v. Court of Appeals, 324 SCRA 24 [2000].

[13] Supra, note 15.

[14] U.S. v. Cañete, 38 Phil. 253 (1918).

[15] New York Times v. Sullivan, 376 US. 254 (1964), cited in Vasquez v. Court of Appeals, 373 Phil. 238 (1999).

[16] Art. 354, par. 1.

[17] Art. 354, par. 2.

[18] 141 Phil. 519 (1969).

[19] Ibid.

[20] Deutsche Bank Manila v. Chua Yok See, 481 SCRA 672 [2006].

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.