

**COOK SIONG G. ANG, PETITIONER, VS. LOUIELYN VALENCIA
ASSISTED AND REPRESENTED BY HER MOTHER, EMELYN VALENCIA
AND HONORABLE CIRILE MADURO FOJA IN HIS CAPACITY AS
ACTING PRESIDING...**

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GALAPATE-LAGUILLES, J:

Petitioner Cook Siong G. Ang filed the instant Petition for Certiorari[1] assailing the Order[2] dated August 28, 2013 rendered by public respondent Acting Presiding Judge Cirile Maduro Foja, Third Municipal Circuit Trial Court (MCTC), Looc-Alcantara-Sta. Fe-San Jose, Looc, Romblon in Civil Case No. L-245 for Damages denying herein petitioner's Demurrer to Evidence. The assailed Order reads in part:

“The Court now rules.

It is not denied by defendant Cook Siong G. Ang that defendants Jomar Ehurango and Johnny Ibabao were under his employ when the incident happened and the Canter Truck is owned by him. These two (2) employees were on their way back from Brgy. Comod-om in Alcantara, Romblon where they brought a laborer who did work for Cook Siong G. Ang when the incident happened. If defendant Cook Siong G. Ang alleges that during that time they were not acting in his service or within their assigned tasked, it is incumbent upon him to prove it in Court. The rule is one who alleges a fact has the burden of proving it and a mere allegation is not evidence (Republic vs. Marcos II, 595 SCRA 43).

If the Court will dismiss this case at this point of the litigation, the Court assuming already that Jomar Ehurango and Johnny Ibabao exceeded their duties as employees of Cook Siong G. Ang and that is not fair. Defendant Cook Siong G. Ang should prove what he alleged.

WHEREFORE, premises considered, the Demurrer to Evidence is hereby DENIED for lack of merit.

Set this case for initial reception of evidence for defendant Cook Siong G. Ang.

SO ORDERED.”

Likewise assailed is the Order[3] of the MCTC dated November 20, 2013 denying petitioner's Motion for Reconsideration.

We dismiss the petition for non-observance of the hierarchy of courts.

Every litigant who brings petitions for the extraordinary writs of certiorari, prohibition and mandamus should ever be mindful of the policy on the hierarchy of courts, the observance of which is explicitly defined and enjoined in Section 4, Rule 65 of the Rules of Court,[4] viz:

“Section 4. When and where petition filed. - The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of the said motion.

The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in the aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed in and cognizable only by the Court of Appeals. (Emphasis supplied)

x x x x.”

Applying the aforesaid provision, the petitioner should have filed the instant Petition for Certiorari before the Regional Trial Court (RTC) exercising jurisdiction over the territorial area over the first level court, the Third Municipal Circuit Trial Court, Looc-Alcantara-Sta. Fe-San Jose of Romblon. While this Court's jurisdiction to issue writs of certiorari (as well as prohibition, mandamus, quo warranto, habeas corpus and injunction) is shared with the Regional Trial Court and the Supreme Court, that does not give the parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed.[5] There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level (“inferior”) courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals.[6]

We emphasize that the concurrence of jurisdiction among the Supreme Court, Court of Appeals and the Regional Trial Courts to issue the writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction did not give petitioners the unrestricted freedom of choice of court forum. An undue disregard of this policy against direct resort to the Court will cause the dismissal of the recourse.[7] In the case of *Banez, Jr. v. Concepcion*[8], the Supreme Court explained the reason why the policy on the hierarchy of courts must be observed, to wit:

“The Court must enjoin the observance of the policy on the hierarchy of courts, and now affirms that the policy is not to be ignored without serious consequences. The strictness of the policy is designed to shield the Court from having to deal with causes that are also well within the competence of the lower courts, and thus leave time to the Court to deal with the more fundamental and more essential tasks that the Constitution has assigned to it. x x x x.”

From the foregoing, We hold that petitioner's recourse to this Court instead of the RTC clearly violates

established policy of strict observance of the hierarchy of courts. The hierarchy of courts determines the appropriate forum for such petition.[9] Thus, the petition for the issuance of such extraordinary writ against the Municipal Circuit Trial Court should have been filed with the RTC of Romblon.

WHEREFORE, the petition is hereby DISMISSED.

SO ORDERED.

Librea-Leagogo, (Chairperson) and Diamante, JJ., concur.

[1] Rollo, pp. 3-11.

[2] Id., pp. 52-53.

[3] Id., p. 61.

[4] See *Spouses Dacudao v. Secretary of Justice Raul Gonzales*, G.R. No. 188056, January 8, 2013.

[5] See *Banez Jr. v. Hon. Concepcion, et al.*, G.R. No. 159508, August 29, 2012.

[6] Id.

[7] *Supra* note at 4.

[8] *Supra* note at 5.

[9] *Cabarles v. Hon. Judge Bonifacio Sanz Maceda, et al.*, G.R. No. 161330, February 20, 2007.

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