

**ERLINDA CARIÑO-APRECIO, ADORACION CARIÑO-SALVATERA AND
ALFREDO CARIÑO, PETITIONERS, VS. HON. CAROLINE S.
ROJAS-JAUCIAN, SHIRLEY CARIÑO-QUEZADA, VIRGILIO CARIÑO,
AND ROSENDA CARL...**

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

The instant Petition for Certiorari[1] under Rule 65 of the 1997 Rules of Civil Procedure is marred by several procedural infirmities warranting its outright dismissal.

Firstly, the proper remedy to assail the Decision[2] dated June 23, 2014 and Order[3] dated August 14, 2014 of the Regional Trial Court (RTC), First Judicial Region, Branch 26, San Fernando, La Union, which dispositions were rendered in the exercise of its original jurisdiction, is through an ordinary appeal under Rule 41 of the 1997 Rules of Civil Procedure, and not through a special civil action for certiorari under Rule 65. It should be borne in mind that one of the requisites of certiorari is that there be no available appeal or any plain, speedy and adequate remedy.[4] Thus, in this case, certiorari will not lie as appeal under Rule 41 was an adequate remedy in the ordinary course of law.

As the August 14, 2014 Order was received by the petitioners on August 15, 2014[5], they only had until September 1, 2014[6] to file a Notice of Appeal, which they failed to do. It appears that after having lost the available remedy of appeal, petitioners filed the instant petition for certiorari way beyond the fifteen-day reglementary period, which maneuver cannot be countenanced as it offends the most rudimentary principles of remedial law. Certiorari under Rule 65 cannot be resorted to as a substitute for the lost remedy of appeal, especially if such lapse was occasioned by petitioners' neglect or error in the choice of remedies.[7]

Indeed, where appeal is available, certiorari will not prosper even if the ground availed of is grave abuse of discretion.[8] By pursuing the wrong or inappropriate mode of appeal, the petition merits an outright dismissal pursuant to Supreme Court Circular No. 2-90.[9]

Secondly, the docket fees paid by the petitioners are short of ₱30.00[10], while the jurat[11] in the Certification Against Forum Shopping contains no competent evidence of their identity as required under Rule II, Section 12 of the 2004 Rules on Notarial Practice.[12]

Lastly, this Court cannot fail to notice that copies of all relevant pleadings and documents were not attached to the petition, in violation of Rule 65, Section 1 of the Revised Rules of Court, as the only annexes are the June 23, 2014 Decision, petitioners' Motion for Reconsideration, and the August 14, 2014 Order.

It bears emphasis that the right to appeal is not a constitutional, natural or inherent right.[13] It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law. The party who seeks to avail of the same must comply with the requirements of the Rules.[14] These procedural mandates are there to be followed, otherwise, they are useless.

WHEREFORE, premises considered, the Petition for Certiorari is hereby DENIED DUE COURSE and ordered DISMISSED.

SO ORDERED.

Garcia, and Bueser, JJ., concur.

[1] Rollo, pp. 3-9

[2] Rollo, pp. 20-29

[3] Rollo, pp. 33-36

[4] Madrigal Transport, Inc. v. Lapanday Holdings Corp., G.R. No. 156067. August 11, 2004.

[5] Rollo, p. 5

[6] August 30, 2014 fell on a Saturday

[7] Republic v. Court of Appeals, G.R. No. 132425. August 31, 1999; Mercedes Gonzales v. Nilo Rosas, G.R. No. 145363. February 23, 2004.

[8] Tible & Tible Company, Inc. v. Royal Savings and Loan Association, G.R. No. 155806. April 8, 2008.

[9] Sea Power Shipping Enterprises, Inc. v. Court of Appeals, G.R. No. 138270. June 28, 2001.

[10] Rollo, p. 1

[11] Rollo, p. 8

[12] A.M. No. 02-8-13-SC, amended on February 19, 2008.

[13] Republic v. Court of Appeals, G.R. No. 132425. August 31, 1999.

[14] Heirs of Barredo v. Spouses Asis, G.R. No. 153306. August 27, 2004.

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