

**TEOFILO LABADOR, PETITIONER, VS. PEOPLE OF THE PHILIPPINES
AND HON. BENJAMIN P. ESTRADA IN HIS CAPACITY AS PRESIDING
JUDGE, RTC BRANCH 9, MALAYBALAY CITY, RESPONDENTS.**

Ponente: INTING, J.

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INTING, J.:

Before Us is a Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure praying that the Order dated January 14, 2011 denying the motion to quash search warrant and to exclude illegally seized evidence issued by public respondent Judge Benjamin P. Estrada of Regional Trial Court (RTC), Branch 9, Malaybalay City, Bukidnon, be annulled and set aside.

The facts[1] of the case are as follows:

On August 6, 2009, PO2 Dennis Dahino Penaso applied with the Regional Trial Court (RTC) of Malaybalay City for the issuance of a search warrant for illegal suertres tally sheets with different number combinations, illegal suertres tips and stubs, illegal suertres bet money, single motorcycle used as transportation for illegal suertres operation and other illegal suertres paraphernalia allegedly found at the residence of petitioner Teofilo Labrador at Purok 4 Norte, Don Carlos, Bukidnon.[2]

Later that same day, Executive Judge Josefina Gentiles Bacal issued Search Warrant No. 041-09 commanding the Special Operation Group (SOG) of the Philippine National Police (PNP) to “make an immediate search during daytime or nighttime, under extraordinary circumstances, with due regard to the constitutional rights of the suspect in his person and in the whole place/ premises, per submitted location map attached as Annex ‘A’ which is the sketch plan and forthwith seize and take possession of the above-described items and to bring items to the Court to be dealt with as the Court directs within ten (10) days from today.”[3]

On the strength of this warrant, members of the SOG-PNP of Malaybalay City, searched petitioner’s house on the same day it was issued. They were able to seize the following items:

- Tally board (control sheet);
- Thirty (30) pieces illegal suertres tally sheet with number entry combination dated August 6, 2009;
- Eight Hundred Pesos (Php 800.00) bet money in different denomination;
- Five (5) pieces Nokia cellphone;
- Seven (7) pieces assorted calculator;
- One (1) unit stapler;
- Eleven (11) pieces of ballpen;
- One (1) piece of staple remover; and

- Eight (8) pieces of booklet intermediate lengthwise paper utilized as record paper.[4]

The PNP Officers then issued a receipt of the items seized but the petitioner refused to sign it.

On August 31, 2010, petitioner filed a Motion to Quash Search Warrant and Exclude Illegally Seized Evidence for lack of probable cause before the Regional Trial Court (RTC), Branch 9, Malaybalay City, Bukidnon presided by public respondent Judge Benjamin P. Estrada.[5]

Thereafter, on January 14, 2011, the public respondent issued the assailed Order denying the Motion to Quash Search Warrant.[6]

Hence, this Petition.

Our Ruling

The petition is bereft of merit.

Petitioner contends that the findings of the public respondent is grounded on speculation and is patently unsupported by any single evidence. According to petitioner, applicant Dennis Dahino Penaso and his witness, PO1 Yodilito Aguirre Gabrinez, did not personally witness him instigate any illegal gambling in the vicinity and that the only basis for the application of the search warrant was the alleged information obtained from the female passenger of the motorcycle.

On the other hand, respondent People of the Philippines, through the Office of the Solicitor General (OSG) avers that a Petition for Certiorari under Rule 65 is not a proper remedy in the case at bar. The OSG opines that the remedy against an adverse Order of the court is not to resort forthwith to certiorari but to continue with the case in due course, i.e., to move for its reconsideration, then to file the instant petition in the manner authorized by law.

It also contends that respondent Judge acted well within his jurisdiction, with no abuse of discretion, when he issued the assailed Order denying the Motion to Quash Search Warrant and to Exclude Illegally Seized Evidence.

Anent the first contention raised by the OSG, although the general rule is that a motion for reconsideration is a condition sine qua non for the filing of a petition for certiorari. The rule is, however, circumscribed by well-defined exceptions, such as (a) where the order is a patent nullity, as where the court a quo had no jurisdiction; (b) where the questions raised in the certiorari proceeding have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceedings were ex parte, or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or where public interest is involved.[7]

We find that exception (b) falls squarely within the case at bar. The issue raised by the petitioner was already ventilated and ruled upon by the court a quo in its assailed Order dated January 14, 2011. Hence, the need to file a motion for reconsideration is already dispensed with.

Nevertheless, notwithstanding the propriety of filing a petition for certiorari under Rule 65 in lieu of a motion for reconsideration in this case, We find that the petition has no leg to stand on.

A special civil action for certiorari, under Rule 65, is an independent action based on the specific grounds therein

provided and will lie only if there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law. A petition for certiorari will prosper only if grave abuse of discretion is alleged and proved to exist. "Grave abuse of discretion," under Rule 65, has a specific meaning. It is the arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or the whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law. For an act to be struck down as having been done with grave abuse of discretion, the abuse of discretion must be patent and gross.[8]

In the case at bar, there is no evidence to show that the public respondent acted with grave abuse of discretion in issuing the assailed Order. On the contrary, the Order of the public respondent finding the search warrant to be valid was firmly rooted in law and jurisprudence.

Moreover, as testified to by the applicant and his witness, the information obtained from the female passenger was not the sole basis for the application of the search warrant. To ensure the veracity of the information obtained, they conducted surveillance on three separate occasions dated July 29, July 30 and August 1, 2009 outside the residence of petitioner. During the surveillance, they saw some persons riding a motorcycle and remitting tally sheets and bet money to the petitioner.

The witnesses were personally examined by the judge and the applicant and his witness testified solely on matters personally known to them. Thus, finding probable cause against the petitioner, a search warrant was issued.

Public respondent found that the search warrant was validly issued and concurred with the findings of RTC-Branch 9. We see no evidence that the Order was issued with arbitrariness, caprice or partiality.

It is well settled that a writ of certiorari may be issued only for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. The writ cannot be used for any other purpose, as its function is limited to keeping the inferior court within the bounds of its jurisdiction. The supervisory jurisdiction of this Court to issue a certiorari writ cannot be exercised in order to review the judgment of the lower court as to its intrinsic correctness, either upon the law or the facts of the case.[9]

WHEREFORE, the instant petition for certiorari is hereby DENIED.

SO ORDERED.

Camello (Chairperson) and Lopez, JJ., concur.

[1] As culled from the records.

[2] Rollo; p. 65.

[3] Ibid; p. 26.

[4] Ibid; p. 38.

[5] Ibid; pp. 15-25.

[6] Ibid; pp. 12-14.

[7] Tang v. Subic Bay Distribution; G.R. No. 162575; December 15, 2010.

[8] Beluso v. COMELEC; G.R. No. 180711; June 22, 2010.

[9] Ibid.

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