

**HON. NENITA M. SUYAO, AS MUNICIPAL MAYOR OF KALILANGAN,
BUKIDNON, LEONETO A. CASTANARES, RIZA L. MALEFICIO,
JOSEFINA C. CHAVEZ, SIA T. SALUDARES, BASILIA A. PELADOR AND
MARCIAL ...**

Ponente: SINGH, J.

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SINGH, J.:

For resolution is petitioners' motion[1] for reconsideration of Our Resolution dated May 21, 2014, which dismissed the above-captioned petition for being the wrong mode of appeal.

Petitioners, in the present motion, contend that to assail the decision of the Bids and Awards Committee (BAC) of Kalilangan, Bukidnon, the respondent availed of the remedy of a petition for certiorari under Rule 65 of the Rules of Court before the Regional Trial Court (RTC), Branch 10 of Malaybalay City because it is the only mode of appeal allowed by Section 58 of Republic Act (R.A.) No. 9184,[2] which provides:

"Section 58. Report to Regular Courts; Certiorari. – Court action may be resorted to only after the protests contemplated in this Article shall have been completed. Cases that are filed in violation of the process specified in this Article shall be dismissed for lack of jurisdiction. The regional trial court shall have jurisdiction over final decision of the head of the procuring entity. Court actions shall be governed by Rule 65 of the 1997 Rules of Civil Procedure.

This provision is without prejudice to any law conferring on the Supreme Court the sole jurisdiction to issue temporary restraining orders and injunctions relating to Infrastructure Projects of Government." (*Italics Ours*)

Allegedly, in filing the petition (docketed as Special Civil Action No. 572-12), the respondent invoked the appellate jurisdiction of the RTC and not the latter's original jurisdiction. Thus, petitioners maintain that an appeal from the decision of the RTC in said petition should be via a petition for review under Rule 42 and not by an ordinary appeal as contemplated under Rule 41.

Petitioners' argument fails to persuade. While the above-quoted provision of R.A. No. 9184 clearly vests upon the RTC exclusive jurisdiction over actions involving final decisions of the head of the procuring entity and prescribes that said actions can be brought only via the remedies under Rule 65 (i.e., petitions for certiorari, prohibition an/or mandamus), nowhere is it declared therein that availing of such remedies shall be in the nature of an appeal. Neither can it be inferred from said provision that any petition filed pursuant thereto is automatically divested of its nature as an original action.

Consequently, this Court maintains that the present petition for review under Rule 42, which the petitioners availed of, is the wrong mode of appeal to assail the April 18, 2013 Resolution of the RTC in Special Civil Action No. 572-12, the correct remedy being by ordinary appeal pursuant to Section 2 (a) of Rule 41.

The Rule is clear. A petition for certiorari under Rule 65 is an original action. Since the decision of the RTC on the petition for certiorari under Rule 65 was rendered in the exercise of its original jurisdiction, appeal from the

said RTC decision to the Court of Appeals should be made by filing a notice of appeal under Rule 41, not a petition for review under Rule 42.[3]

WHEREFORE, petitioners' motion for reconsideration is DENIED for lack of merit.

SO ORDERED.

Borja, (Chairman), and Badelles, JJ., concur.

[1] Rollo, pp. 199-207.

[2] An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes

[3] BF Citiland Corp. v. Otake, G.R. No. 173351, July 29, 2010 citing Tomas Claudio Memorial College, Inc. v. Court of Appeals, 467 Phil. 541 (2004).

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