

FRANCIS RAYMOND C. DE GUZMAN, PETITIONER, VS. HON. KEVIN NARCE B. VIVERO AND SPOUSES NENITA A. MENDEZ AND DANILO MENDEZ, RESPONDENTS.

Ponente: BRUSELAS, JR. J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ca6cba292641/>

BRUSELAS, JR. J.:

The petitioner herein seeks to nullify the 14 January 2014 and 23 October 2014 Orders[1] issued by the respondent Regional Trial Court (RTC)[2]. The petitioner mainly assails the trial court's premature grant of a demurrer to evidence in favor of the respondent spouses and the consequent dismissal of the case of estafa against them. The petitioner asserts that the respondent spouses merely filed a Motion for Leave of Court to File Demurrer to Evidence[3] and not the proper demurrer to evidence.

The petition, however, bears two noted deficiencies. First, the Verification/Certification of Non-Forum Shopping/Affidavit of Service/Explanation[4] failed to comply with Sections 6 and 12, Rule II of the 2004 Rules on Notarial Practice, as amended by A.M. No. 02-8-13-SC dated 19 February 2008, there being no properly accomplished jurat for want of showing that the affiant exhibited before the notary public competent evidence of his identity (i.e., at least one current identification document issued by an official agency bearing the photograph and signature of the affiant-petitioner).[5] Second, the notary public failed to indicate the serial number of the commission as well as the office address and place of commission as required by Section 2(b) and (c), Rule VIII of the 2004 Rules on Notarial Practice.

Even if we turn a blind eye to the noted deficiencies, the petition should be outrightly dismissed. The petitioner took a procedural misstep when he filed the instant petition without the representation of the Solicitor General. In *Bautista vs. Cuneta-Pangilinan*[6] the Supreme Court enunciated and we quote:

“xxx The authority to represent the State in appeals of criminal cases before the Supreme Court and the CA is solely vested in the Office of the Solicitor General (OSG). Section 35 (1), Chapter 12, Title III, Book IV of the 1987 Administrative Code explicitly provides that the OSG shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. It shall have specific powers and functions to represent the Government and its officers in the Supreme Court and the CA, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party. The OSG is the law office of the Government.”

It is well-settled that in criminal cases where the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability. Thus, in the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General. Only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not take such appeal. However, the said private offended party or complainant may appeal the civil aspect despite the acquittal of the accused⁷ whenever warranted by the

circumstances.

In a special civil action for certiorari filed under Section 1, Rule 65 of the Rules of Court wherein it is alleged that the trial court committed a grave abuse of discretion amounting to lack of jurisdiction or on other jurisdictional grounds, the rules provide that the petition may be filed by the person aggrieved. In such cases, the aggrieved parties are the State and the private offended party (or petitioner herein).

In the instant petition, however, what is assailed is the criminal, not the civil, aspect of the trial court's orders. Therefore, the petition should have been filed only by the Solicitor General. The private offended party who is the petitioner herein lacks the personality or legal standing to question the trial court's orders because it is only the Solicitor General who can bring actions on behalf of the State in criminal proceedings before the Court.

The petition is accordingly DISMISSED OUTRIGHT.

IT IS SO ORDERED.

Bueser and [*]Paredes, JJ., concur.

[*] Acting Junior Member per Office Order No. 55-15-ABR dated 2/23/15.

[1] Rollo, pp. 21 and 24.

[2] Issued by Judge Kevin Narce B. Vivero, RTC, Branch 71, Antipolo City in Crim. Case No. 03-26630.

[3] Rollo, p. 128.

[4] Rollo, p. 18.

[5] See rollo, p. 20.

[6] GR No. 189754, 24 October 2012, 684 SCRA 521.

[7] Benjamin B. Bangayan, Jr. vs. Sally Go Bangayan, GR No. 172777 and Resally De Asis Delfin vs. Sally Go Bangayan, GR No. 172792, 19 October 2011, 659 SCRA 590.

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.