

HEIRS OF CARLITO VALERIO REPRESENTED BY ELIZABETH CRUZ, PETITIONER-APPELLANT, VS. MALYN MASIAN AND ALL PERSONS CLAIMING RIGHTS UNDER HER, CAROLINA J. ESGUERRA, IN HER CAPACITY A...

Ponente: DIAMANTE, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/e5553bd670bf/>

DIAMANTE, J.:

This is an ordinary appeal directed against the May 9, 2014 Decision[1] of the Makati City Regional Trial Court, Branch 134, in Civil Case No. 14-113.

It appears from the records that a Complaint for Ejectment was filed by herein petitioner-appellant against private respondent Malyn Masian before the City of Makati Metropolitan Trial Court (MeTC), raffled off to Branch 66 and docketed as Civil Case No. 104589.

Several pleadings were filed by the parties that led to the issuance by the aforesaid branch of MeTC of the Order[2] dated January 24, 2013, the fallo of which reads:

“Finally, after going over the allegations in the omnibus motion and comment filed by the defendant and plaintiff, respectively, the court resolves, that pending the disposition of the instant case, the plaintiff is directed to allow defendant and any persons claiming rights under her, entry and exit of the leased premises.

Notify the parties of this order by personal service.

SO ORDERED.”

Herein petitioner-appellant filed a Motion for Reconsideration[3] from the aforesaid Order but the same was apparently denied[4] by public respondent.

Aggrieved, petitioner-appellant instituted a Petition for Certiorari[5] before the Makati City Regional Trial Court (RTC), raffled off to Branch 134, seeking to annul the Order dated January 24, 2013 issued by the Makati City MeTC, Branch 66 and the Order dated December 3, 2013 issued by the Makati City MeTC, Branch 64.

Noting that it was not shown in the petition how the assailed Orders could have been issued without jurisdiction, with grave abuse of discretion amounting to lack or excess of jurisdiction nor was it shown that petitioner-appellant had no plain, speedy and adequate remedy in the ordinary course of law, not to mention the failure on the part of petitioner-appellant to observe Section 3, Rule 46 of the Rules of Court, and taking into consideration Section 19 (g) of the 1991 Revised Rules on Summary Procedure, the Makati City RTC, Branch 134, disposed of the case as follows:

“WHEREFORE, premises considered, the petition for certiorari is hereby DISMISSED for lack of merit.

SO ORDERED.”[6]

Dissatisfied with the outcome of the case, petitioner-appellant elevated the matter before Us and assigned the

following as errors[7] allegedly committed by the Makati City RTC in the exercise of its original jurisdiction:

- “(1) That the Honorable Second Level Court erred in stating that the petitioner has not demonstrated how the assailed orders could have been issued without jurisdiction, in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction;
- (2) That the Honorable Second Level Court erred in stating that the petitioner failed to comply with any of the requirements for the issuance of a writ of Certiorari;
- (3) That the Honorable Second Level Court erred in holding that the herein controversy is an off-shoot of an ejectment suit which is covered by the Revised Rules on Summary Procedure.”

On January 26, 2015, verification[8] from this Court's Case Management Information System (CMIS) showed that private respondent did not file an appellee's Memorandum despite having received the Notice to file the same on August 27, 2014.[9] Thus, private respondent is deemed to have waived the filing of Memorandum and the case is now submitted for decision sans appellee's Memorandum.

We have ploughed through the records of this case and is convinced that the RTC did not err when it dismissed the Petition for Certiorari filed by petitioner-appellant.

First. The assailed Order issued by MeTC – Branch 66 is an interlocutory order having been issued pending the disposition of the Ejectment case filed by herein petitioner-appellant. As aptly pointed out by the RTC, the assailed Order is an offshoot of the aforesaid Ejectment case. Rule 70, Section 13 (7) of the Rules of Court is explicit that Petition for certiorari, mandamus, or prohibition against any interlocutory order issued by the court, inter alia shall not be allowed. Moreover, Ejectment cases are governed by summary procedure.[10] As such, the petition for certiorari of an interlocutory order of the MeTC is a prohibited pleading under Sec. 19(g) of the Rules on Summary Procedure.

Second. Petitioner-appellant alleged that the dismissal by the RTC of the petition for certiorari was attended with grave abuse of discretion. Jurisprudence, however, dictates that it should be established that the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction. This is so because "grave abuse of discretion" is well-defined and not an amorphous concept that may easily be manipulated to suit one's purpose.[11] The Supreme Court's disquisition in the case of *Yu vs. Judge Reyes-Carpio*[12] is instructive on the issue of grave abuse of discretion, thus:

“The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." Furthermore, the use of a petition for certiorari is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross.

x x x”

As can be gathered from the Comment on the Petition for Certiorari[13] filed by private respondent, she alleged that she has a contract of lease with the late Carlito Valerio, who was then represented by Ronalyn Cacha (Ronalyn) and Ela Cacha (Ela), which leased premises she also sublet to others; that the rental payments were received by Ronalyn and Ela; that when Carlito Valerio died, petitioner-appellant, without yet the proper Special Power of Attorney, took over the administration of the building and locked private respondent and her boarders

out of the building. It is safe to conclude then that the MeTC was trying to maintain the status quo ante, thus, the order allowing private respondent and those claiming rights under her, entry to and egress from the leased premises while the issues in the Ejectment suit are being threshed out. There was no grave abuse of discretion on the part of the MeTC when it issued the assailed order absent any capricious or whimsical exercise of judgment on its part. Furthermore, the said Order was not an error of jurisdiction.

Assuming ex-gratia argumenti that the MeTC was incorrect in allowing private respondent and those claiming rights under her access to the leased premises, such mistake was an error in judgment not correctable by the writ of certiorari.[14]

Moreover, a petition for certiorari questioning the interlocutory Order of the MeTC is unnecessary and the rules provide petitioner-appellant with adequate relief. At the proper time, petitioner-appellant has the right to appeal the outcome of the Ejectment case before the RTC. We are of the view that in the meantime, no injustice will be caused to petitioner-appellant while waiting for the MeTC to finish resolving the Ejectment suit.

It must be pointed out, however, that while petitioner-appellant was assailing the January 24, 2013 Order of the MeTC – Branch 66, what was impleaded in the petition filed before the RTC was the Acting Presiding Judge of MeTC – Branch 64.

Third. It must be stressed that Elizabeth Cruz, as petitioner, representing the Heirs of Carlito Valerio, had the obligation to comply with the basic requirements for the filing of a petition for certiorari under Rule 65 of the Rules of Court, specifically to accompany the petition with a “certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.”

Meanwhile, Section 3, Rule 46 of the Rules of Court expressly provides that: “The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.”

It is noted that while petitioner-appellant was assailing two Orders, one issued by MeTC – Branch 66 and the other, issued by MeTC – Branch 64, there was no copy of the assailed Order issued by the latter. Public respondent was, likewise, not furnished with a copy of the Complaint for Ejectment and Answer thereto, nor with copies of the pertinent pleadings which led to the issuance by the MeTC of the assailed Orders, which were necessary for a better understanding and resolution of the issues raised before the former.

WHEREFORE, in view of the foregoing, the instant appeal is hereby DENIED. The assailed Decision dated May 9, 2014 of the Makati City RTC, Branch 134, in Civil Case No. 14-113 is hereby AFFIRMED.

SO ORDERED.

Dimaampao, J.B., Chairperson and Manahan, C.S.,J.J., concur.

[1] Records, pp. 49-53.

[2] Id. at 12-13.

[3] Id. at 8-11.

[4] Vide Order dated December 5, 2013; id. at 7.

[5] Id. at 1-6.

[6] Id. at 53.

[7] Rollo, p. 24.

[8] Id. at 74.

[9] Id. at 72.

[10] Rule 70, Sec. 3 of the Revised Rules of Court.

[11] *Malayang Manggagawa ng Stayfast Phils., Inc. vs. NLRC, et al.*, G.R. No. 155306, August 28, 2013.

[12] G.R. No. 189207, June 15, 2011 as cited in *Malayang Manggagawa ng Stayfast Phils., Inc. vs. NLRC, et al.*, *ibid.*

[13] Records, pp. 15-18.

[14] G.R. No. 151007, July 17, 2006.

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.