SANTA B. TAN, PETITIONER, V. CZARINA ETHELMINA TAN SALAO, CARLO TAN SALAO, MARIA RUSTICA TAN VILLASI, AND THE HON. PRESIDING JUDGE, REGIONAL TRIAL COURT OF QUEZON CITY – BRANCH ...

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

For disposition is a Petition for Certiorari[1] filed under Rule 65 of the Rules of Court. The Petition assails the Resolution[2] dated November 21, 2011 issued by public respondent Hon. Maria Filomena D. Singh ("respondent Judge" for brevity) of the Regional Trial Court ("respondent court" for brevity), Branch 85 of Quezon City in Criminal Case No. Q-05-135388 for "Falsification of Public Document".

The antecedent facts are as follows:

Petitioner Santa B. Tan ("petitioner" or "petitioner Tan" for brevity) filed a "Complaint-Affidavit"[3] against private respondents Czarina Ethelmina Tan Salao, Carlo Tan Salao, Maria Rustica Tan Villasi ("private respondents" for brevity) before the Office of the City Prosecutor of Quezon City.

Subsequently, the City Prosecutor filed an Information[4] for "Falsification of Public Document" dated June 20, 2005 against private respondents.

After the prosecution had rested its case, private respondents filed a "Demurrer to Evidence"[5].

The rest of the facts are continued in respondent court's assailed Resolution[6] dated November 21, 2011, as follows:

> "In the accused's Demurrer to Evidence, the accused argue that contrary to the allegations in the Information charging the accused of the offense, all the accused never made untruthful statement of facts as regards the ages of the other parties in the assailed Kasulatan ng Bilihang Patuluyan, i.e., Cherry Pia Luz Siena Tan Salao, Cena Riza Lei Tan Salao and Mary Fermina Tan Villasi. The Notary Public who notarized the assailed Kasulatan must be held accountable for the said false declarations and not the herein accused who are merely parties to the assailed document. Besides, the accused contend that the action to annul the contracts entered into by minors shall be brought within four (4) years, pursuant to Article 1327 of the Civil Code of the Philippines. The action to contest the validity of the said Kasulatan has allegedly prescribed.
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> In its comment, the prosecution alleges that the parties to the sale of a valuable property have the obligation to ensure that the parties they deal with possess legal capacity and have the capacity to act, considering that the parties in the instant case are related to each other. As the parties stipulated that the respective ages of Cherry Pia Luz Siena Tan Salao, Cena Riza Lei Tan Salao and Mary Fermina Tan Villasi should be counted based on their respective Certificates of Live Birth, the conclusion may be drawn that Cherry Pia Luz, Siena Tan Salao, Cena Riza Lei Tan Salao and Mary Fermina Tan Villasi were still minors at the time of the execution of the said Kasulatan."[7] (Emphasis Supplied)

On November 21, 2011, respondent court issued its assailed Resolution[8], which granted private respondents' Demurrer to Evidence and dismissed the case for insufficiency of evidence. The dispositive portion of the Resolution[9] stated:

> "ACCORDINGLY, the Demurrer to Evidence filed by the accused Czarina Ethelmina Tan Salao, Carlo Tan Salao and Maria Rustica Tan Villasi is hereby granted. The instant case is hereby dismissed for insufficiency of evidence.
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> The cash bonds of the accused Czarina Ethelmina Tan Salao, Carlo Tan Salao and Maria Rustica Tan Villasi under Official Receipts (sic) No. 0995987 A in the amount of Php12,000.00, Official Receipts (sic) No. 0995988 A in the amount of Php12,000.00, and Official Receipt No. 0995983 A in the amount of Php12,000.00, respectively, are ordered refunded in favor of the accused subject to the existing rules and guidelines of the Office of the Clerk of Court of the Regional Trial Court of Quezon City.
>
> SO ORDERED."[10] (Emphasis was made in the original)

As a result, petitioner Tan filed the Petition for Certiorari[11] at bench, praying as follows:

> "WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court of Appeals that the Resolution dated 21 November 2011 be reversed and set aside, and that the instant case be remanded for the continuation of the proceedings, and herein Respondents be directed to present their evidence.
>
> Other relief[s] and remedies that are just and equitable under the circumstances are likewise prayed for."[12] (Emphasis was made in the original)

Petitioner raised this lone ground:

> "26. Herein Petitioner raises this Petition on the sole ground that the Public Respondent acted with grave abuse of discretion in granting herein Private Respondents' Demurrer to Evidence."[13]

To begin with, the Petition for Certiorari at bench is readily defective and dismissible. Petitioner could not, by herself, file the instant Petition for Certiorari. The general rule is that only the Solicitor General, on behalf of the State, may appeal from or question any ruling favoring the accused, such as the acquittal of the accused or the dismissal of the case against him. This was articulated by the Supreme Court in Elvira O. Ong vs. Jose Casim Genio, G.R. No. 182336, December 23, 2009, as follows:

> "Section 35(1), Chapter 12, Title III, Book IV of the Administrative Code of 1987 states 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. Likewise, the Solicitor General shall represent the Government in this Court and the CA in all criminal proceedings xxx

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> This doctrine is laid down in our ruling in Heirs of Federico C. Delgado and Annalisa Pesico v. Luisito Q. Gonzalez and Antonio T. Buenaflor, Cariño v. de Castro, Mobilia Products, Inc. v. Umezawa, Narciso v. Sta. Romana-Cruz, Perez v. Hagonoy Rural Bank, Inc., and People v. Santiago, where we held that only the OSG can bring or defend actions on behalf of the Republic or represent the People or the State in criminal proceedings pending in this Court and the CA.

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> 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

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> 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 offended party or complainant may appeal the civil aspect despite the acquittal of the accused." (Emphasis supplied)

Moreover, petitioner Tan failed to file a Motion for Reconsideration of the assailed Resolution before filing the Petition at bench. Such failure violated the following pronouncement of the Supreme Court in People of the Philippines vs. Arturo F. Duca, G.R. No. 171175, October 30, 2009:

> "On a procedural matter, the Court notes that petitioner filed the instant petition for certiorari under Rule 65 without filing a motion for reconsideration with the CA. It is settled that the writ of certiorari lies only when petitioner has no other plain, speedy, and adequate remedy in the ordinary course of law. Thus, a motion for reconsideration, as a general rule, must be filed before the tribunal, board, or officer against whom the writ of certiorari is sought. Ordinarily, certiorari as a special civil action will not lie unless a motion for reconsideration is first filed before the respondent tribunal, to allow it an opportunity to correct its assigned errors. xxx" (Emphasis Supplied)

No showing was also made by petitioner Tan that the Petition at bench fell under any of the exceptions[14] to the rule requiring the filing of a Motion for Reconsideration.

Even if the Petition could be allowed, still, any review of private respondents' acquittal, as sought for by petitioner Tan in her Petition for Certiorari, would place private respondents in Double Jeopardy.[15] This is because a review of respondent court's finding that no sufficient evidence was presented by petitioner Tan to prove the guilt of the accused involves a question on how the respondent court determined the weight of the parties' evidence.

The rule is entrenched, in that Certiorari does not lie to question the respondent court's appreciation of the evidence of the parties. This was as had been declared by the Supreme Court in People of the Philippines v. Hon. Sandiganbayan (Fifth Division) and Wilfredo Cunanan, G.R. No. 173396, September 22, 2010, to wit:

> "It is fitting to reiterate the holding of the Court in People v. Tria-Tirona, to wit:
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> xxx Certiorari will not be issued to cure errors by the trial court in its appreciation of the evidence of the parties, and its conclusions anchored on the said findings and its conclusions of law.
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> The Court further expounded in First Corporation v. Former Sixth Division of the Court of Appeals, thus:
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> It is a fundamental aphorism in law that a review of facts and evidence is not the province of the extraordinary remedy of certiorari, which is extra ordinem - beyond the ambit of appeal. In certiorari proceedings, judicial review does not go as far as to examine and assess the evidence of the parties and to weigh the probative value thereof. It does not include an inquiry as to the correctness of the evaluation of evidence. Any error committed in the evaluation of evidence is merely an error of judgment that cannot be remedied by certiorari. An error of judgment is one which the court may commit in the exercise of its jurisdiction. An error of jurisdiction is one where the act complained of was issued by the court without or in excess of jurisdiction, or with grave abuse of discretion, which is tantamount to lack or in excess of jurisdiction and which error is correctible only by the extraordinary writ of certiorari. Certiorari will not be issued to cure errors of the trial court in its appreciation of the evidence of the parties, or its conclusions anchored on the said findings and its conclusions of law. It is not for this Court to re-examine conflicting evidence, re-evaluate the credibility of the witnesses or substitute the findings of fact of the court a quo." (Emphasis made in the original)

Given that what petitioner Tan raised were errors of judgment, then any review of the evidence and findings of respondent court would violate private respondents' Constitutional right against Double Jeopardy. This was as had

been similarly ruled by the Supreme Court in People of the Philippines v. Hon. Enrique C. Asis, et al., G.R. No. 173089, August 25, 2010, to wit:

> "The arguments proffered in the said petition call for a review of the evidence and a recalibration of the factual findings. At the outset, the OSG faulted the trial court for giving full faith and credit to the testimonies of Abordo and his witnesses. It wrote:
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> In ruling that private respondent had no intent to kill private complainants, respondent judge thus accorded full faith and credit to the testimonies of private respondent and his witnesses Julito Bernadas and Melquiades Palconit. His findings, however, are contrary to law and the evidence. Therefore, he acted with grave abuse of discretion amounting to lack or excess of jurisdiction.
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> It further pointed out that the CA 'failed to notice certain relevant facts which, if properly considered, would justify a different conclusion.' Subsequently, in its memorandum, it merely reiterated the purported errors of the trial judge in appreciating and assessing the evidence of both the prosecution and the defense. Apparently, it wants a review of the trial court's judgment which it claimed to be erroneous.
>
> The OSG then proceeded to show how the evidence should have been appreciated by the trial court in its favor and against Abordo to demonstrate that there was intent to kill on his part.
>
> What the OSG is questioning, therefore, are errors of judgment. This, however, cannot be resolved without violating Abordo's constitutionally guaranteed right against double jeopardy. xxx" (Emphasis Supplied)

Besides, even as to the merits, contrary to petitioner Tan's sole ground, respondent court properly granted private respondents' Demurrer to Evidence, which resulted to the dismissal of the case. On this matter, petitioner Tan had argued as follows:

> "27. Herein Petitioner respectfully submits that the Public Respondent acted with grave abuse of discretion in granting the Private Respondents' Demurrer to Evidence, considering the factual antecedents relative to the instant case.
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> 28. In the assailed Resolution, the Public Respondent stated that 'the second element, therefore, that the accused committed an act of falsification is absent.' Herein Petitioner begs to disagree.
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> 30. However, herein Petitioner respectfully submits that the Public Respondent has glossed over the fact that all the Respondents therein were related. More specifically, the individuals belonging to a specific group in the Kasulatan knew the respective ages of those in their own group, being siblings with one another.
>
> 31. In fact, a simple perusal of the said Kasulatan would clearly show that the Private Respondents' declaration applies not to them individually, but to all of them belonging to one specific group. The said Kasulatan provides that, for each group, the members thereof stated that they were of legal age, or 'may mga sapat na gulang.'
>
> 32. As such, all of those in a particular group, including herein Private Respondents, attested to the truthfulness and veracity of the said statement for their group.
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> 33. Further, the statement made in the assailed Resolution that the said phrase 'may mga sapat na gulang' is pro forma does not even hold water or have any basis.
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> 34. It must be reiterated that the said individuals, including herein Private Respondents, by affixing their signatures on the said documents, attest that the matters stated therein are true and correct to their own knowledge. This is even buttressed by the fact that the document itself provides that the signatories thereto affirm its contents by using the phrase, 'sa katunayan ng lahat.'

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37. The attention of this Honorable Court of Appeals is likewise directed to the fact that the DOJ, in a Resolution promulgated 19 July 2007 xxx, has judiciously ruled, and in fact agreed, that there was probable cause to indict the Respondents therein, including herein Private Respondents, of the crime of Estafa through Falsification of Public Documents, taking into account their relations with one another.

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39. The above-quoted discussion of the Resolution of the DOJ, in conjunction with the statement in the Kasulatan itself, clearly debunk the argument that the Private Respondents were only declaring their own personal circumstances, and not of their siblings, and that they have no legal obligation to divulge the said matters.

40. Finally, the fact that the Private Respondents were grouped together with their minor siblings, more specifically those in Groups A and C, is already indicative of the intention of validating that all individuals in their specific group are of legal age, and possess the requisite capacity to enter into a contract. However, such was clearly not the case.

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45. From the documents submitted before the Public Respondents, as well as the admissions made therein, the same readily reveals that the Private Respondents had siblings born after them.

46. By simple mathematical computation, these siblings, being born after the Private Respondents, are evidently younger than them, and the Private Respondents evidently had knowledge thereof.

47. Such fact was even made more glaring as at the time of the execution of the said Kasulatan, two (2) of the Private Respondents, namely, Czarina Ethelmina Tan Salao and Maria Rustica Tan Villasi, had just reached the age of eighteen (18), the age of majority. Hence, their younger siblings are clearly minors under the contemplation of the law, and the statements of the Private Respondents in the subject Kasulatan that they are of legal age, or 'may mga sapat na gulang,' are evidently false."[16] (Emphasis supplied)

Defeating petitioner Tan's arguments however, is that the prosecution failed to sufficiently prove all the elements for the crime of "Falsification of Public Documents", more particularly the element that private respondents committed any of the acts of Falsification as enumerated in Article 171[17] of the Revised Penal Code. This is so, considering that the prosecution failed to show that it was private respondents who drafted the "Kasulatan ng Bilihang Patuluyan"[18] ("Kasulatan" for brevity) and who intentionally hid the minority (age) of their co-signatories in such Kasulatan. All of these matters were as similarly found by respondent court, to wit:

"Third, the prosecution charges the accused with having falsified the deed of sale allegedly for 'making it appear' that three of the other signatories were of legal age when in truth they were minors at the time.

The prosecution failed to prove how the herein accused made it appear that the said minors possess the legal capacity to enter into a contract, considering that what the accused-parties merely declared was the fact that they were all of legal age. The said accused cannot be held criminally responsible for a declaration that referred to themselves as being of legal age, without necessarily referring to the other parties in the contract. The declaration is a pro forma statement that is found in every contract and the prosecution failed to present an iota of evidence to prove that accused were solely responsible for drafting the contract AND they intentionally and maliciously hid the minority of their co-signatories.

There is even no motivation for the accused to commit the acts charged as the accused cannot be said to have benefited from the alleged falsification to the detriment of their co-signatories, considering that the latter were even given their share in the subject property.

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> It is not principally incumbent upon the accused to ascertain the identity of the parties and guard against any importunes and illegal arrangements in public documents such as the subject contract of sale, but on the notary public (Pacita Caalim-Verzonilla vs. Atty. Victoriano G. Pascua, A.C. No. 6655, 11 October 2011). The defense is correct in raising that the notary public should have been charged with the offense, considering that it is his obligation to determine the identity of the affiants and the voluntariness of their declaration, and he has the right to refuse the notarization of a falsified document, pursuant to Canon 10, Rule 10.01, Code of Professional Responsibility in relation to Rule IV, Section 4 of the 2004 Rules on Notarial Practice.
>
> The second element, therefore, that the accused committed an act of falsification is absent."[19] (Emphasis supplied)

Indeed, in all criminal proceedings, the prosecution had the burden of proving beyond reasonable doubt each element of the crime.[20]

After careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, respondent court, in issuing the assailed Resolution[21], was therefore shown not to have committed grave abuse of discretion, which in turn is meant as such capricious and whimsical exercise of judgment that is equivalent to an excess or lack of jurisdiction.[22]

IN VIEW OF ALL THESE, the Petition for Certiorari is DENIED.

SO ORDERED.

Dicdican (Chairman) and Dimagiba,[*] JJ., concur.

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[*] Acting Junior Member vice J. Paredes per Office Order No. 34-14-RSF dated January 30, 2014.

[1] Rollo, pp. 3 - 16

[2] Rollo, pp. 56 - 59

[3] Rollo, pp. 24 - 27

[4] Rollo, pp.30 - 31

[5] Rollo, pp. 38 - 48

[6] Rollo, pp. 56 - 59

[7] Rollo, p. 56

[8] Rollo, pp. 56-59

[9] Rollo, pp. 56-59

[10] Rollo, p. 58

[11] Rollo, pp. 3 - 16

[12] Rollo, pp. 12 - 13

[13] Rollo, p. 8

[14] People of the Philippines vs. Arturo F. Duca, G.R. No. 171175, October 30, 2009

[15] Goodland Company, Inc., vs. Abraham Co and Christine Chan, G.R. No. 196685, December 14, 2011

[16] Rollo, pp. 8 - 12

[17] Art. 171. Falsification by public officer, employee or notary or ecclesiastic minister. — The penalty of prision mayor and a fine not to exceed P5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;
2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
4. Making untruthful statements in a narration of facts;
5. Altering true dates;
6. Making any alteration or intercalation in a genuine document which changes its meaning;
7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original; or
8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.chanrobles virtual law library

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons.

[18] Rollo, pp. 20 - 23

[19] Rollo, pp. 57 - 58

[20] Jaime Alferez vs. People of the Philippines and Pingping Co, G.R. No. 182301, January 31, 2011

[21] Rollo, pp. 56 - 59

[22] First Women's Credit Corporation, et al. v. Glicerio Perez, G.R. No. 169026, June 15, 2006

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