

**DESIDERIO DE LOS REYES AND MYRNA VILLANUEVA, PETITIONERS,  
VS. PEOPLE OF THE PHILIPPINES AND HON. ANTONIO M. EUGENIO,  
JR., PRESIDING JUDGE, REGIONAL TRIAL COURT, CALAMBA,  
LAGUNA,...**

*G.R. NO. 138297. January 27, 2006*

Ponente: SANDOVAL-GUTIERREZ, J.

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**SANDOVAL-GUTIERREZ, J.:**

For our resolution is the instant Petition for Certiorari assailing the Order[1] dated February 16, 1998 of the Regional Trial Court (RTC), Branch 34, at Calamba, Laguna, in Civil Case No. 2494-97-C and its Order dated March 31, 1998.

The instant case stemmed from a complaint filed with the Municipal Trial Court (MTC) of Calauan, Laguna by the Philippine Coconut Authority against Desiderio De los Reyes and Myrna Villanueva, petitioners, and several others for violation of Republic Act No. 8048, otherwise known as The Coconut Preservation Act of 1995, docketed as Criminal Case No. 6768. The complaint reads:

That on August, September and October 1996 in Brgy. Imok, Calauan, Laguna, the above named respondents did then and there willfully, unlawfully and feloniously cut down and processed more or less FOUR HUNDRED and FORTY (440) coconut trees without the required permit to cut from the Philippine Coconut Authority in gross violation of the provisions of R.A. 8048 or the Coconut Preservation Act of 1995.

On January 31, 1997, the MTC ordered the accused, including petitioners, to file their counter-affidavits within ten (10) days from notice.

On March 4, 1997, petitioners, instead of submitting their counter-affidavits, filed a Motion for Preliminary Investigation.

On May 13, 1997, the MTC denied the motion on the ground that in cases cognizable by the MTCs, an accused is not entitled to a preliminary investigation.

On June 4, 1997, petitioners filed a Motion To Quash the complaint on the ground that the allegations therein do not constitute an offense.

On October 15, 1997, the MTC issued an Order denying the motion and requiring anew all the accused to file their counter-affidavits within five (5) days from notice.

Petitioners then filed a petition for certiorari, prohibition, and mandamus with the RTC, docketed as Civil Case No. 2494-97-C. They alleged that the MTC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it denied their Motion To Quash.

In an Order dated February 16, 1998, the RTC dismissed the petition and ruled that the MTC did not gravely abuse its discretion considering that the allegations in the complaint, if hypothetically admitted, are sufficient to

constitute the elements of the offense.

Petitioners seasonably filed a motion for reconsideration, but this was denied by the RTC in its Order of March 31, 1998.

Petitioners then interposed an appeal to the Court of Appeals.

On November 20, 1998, the Appellate Court rendered its Decision affirming the RTC Orders dated February 16 and March 31, 1998, holding that since petitioners are raising a question of law, they should have filed a petition for review on certiorari with the Supreme Court.

Petitioners filed a motion for reconsideration but it was denied by the Court of Appeals in its Resolution of March 19, 1999.

Thus, petitioners filed with this Court the instant petition for certiorari assailing the Orders of the RTC in Civil Case No. 2494-97-C dismissing their petition for certiorari on the ground that the RTC did not gravely abuse its discretion.

There was no procedural lapse when petitioners initially appealed the RTC Orders to the Court of Appeals. But what they should have done after the Appellate Court rendered its Decision affirming the RTC Orders was to seasonably file with this Court an appeal via a petition for review on certiorari pursuant to Rule 45 of the 1997 Rules of Civil Procedure, as amended. Instead, as earlier mentioned, what they filed with this Court is this petition for certiorari under Rule 65 of the same Rules. Time and again, we have ruled that certiorari is not a substitute for a lost appeal.[2]

Even assuming that the instant petition for certiorari is in order, still we have to dismiss the same. Petitioners failed to observe the principle of hierarchy of courts. They should have filed their petition for certiorari with the Court of Appeals. Pursuant to Section 9 of Batas Pambansa Blg. 129, as amended, the Court of Appeals has original jurisdiction to issue, among others, a writ of certiorari.

Moreover, records indicate that they filed with this Court the instant petition for certiorari on May 6, 1999. They received a copy of the RTC Order denying their motion to dismiss on March 2, 1998. On April 21, 1998, they received a copy of the Order denying their motion for reconsideration. Under Section 4, Rule 65 of the same Rules, they had sixty (60) days from April 21, 1998 to file this petition for certiorari. However, they filed it only on May 6, 1999, or after one (1) year.

Even on the merits of the case, this petition is vulnerable to dismissal. It is a dictum that when a motion to quash in a criminal case is denied, the remedy is not certiorari, but for petitioners to go to trial without prejudice to reiterating the special defenses invoked in their motion to quash.[3] In the event that an adverse decision is rendered after trial on the merits, an appeal therefrom is the next legal step.

WHEREFORE, we DISMISS the instant petition. Costs against petitioners.

SO ORDERED.

Puno, (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

[1]Rollo, pp. 23-25.

[2] Land Bank of the Philippines v. Continental Watchman Agency, Inc., G.R. No. 136114, January 22, 2004, 420 SCRA 624; Nidoy v. Court of Appeals, G.R. No. 146017, February 18, 2004, 423 SCRA 233; Sevilla Trading Company v. Semana, G.R. No. 152456, April 28, 2004, 428 SCRA 239; The President, Philippine Deposit Insurance Corporation v. Court of Appeals, G.R. No. 151280, June 10, 2004, 431 SCRA 682.

[3] Yap v. Intermediate Appellate Court, G.R. No. 68464, March 22, 1993, 220 SCRA 245, 253, citing Acharon v. Purisima, 13 SCRA 309 (1965).

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