

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. NAZAR U. CHAVEZ, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 18 OF THE REGIONAL TRIAL COURT OF CAGAYAN DE ORO CITY, AND SPO1 REY...**

*G.R. No. 140690. June 19, 2001*

Ponente: GONZAGA-REYES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-140690/>

---

**GONZAGA-REYES, J.:**

Before us is a petition for review under Rule 45 of the 1997 Rules of Court brought against the Decision[1] of the Court of Appeals dated July 2, 1998 dismissing the petition for certiorari filed by the Office of the Solicitor General (hereafter petitioner), the subsequent Resolution dated October 20, 1998 denying petitioner's motion for reconsideration and the Resolution dated November 5, 1999 denying petitioner's motion to recall entry of judgment.

The facts of this case are as follows:

For the shooting of Jeffrey G. Wabe on September 21, 1996 at Cogon Market, Cagayan De Oro City, respondent SPO1 Reynaldo Lim de la Victoria (hereafter respondent SPO1 de la Victoria) was charged with murder, docketed as Criminal Case No. 96-822 with Branch 18 of the Regional Trial Court, Cagayan de Oro City, presided by respondent Judge Nazar U. Chavez (hereafter respondent judge).

On September 8, 1997, respondent SPO1 de la Victoria filed an application for bail with respondent judge.

The prosecution opposed the application for bail and in the hearing conducted by respondent judge, the prosecution presented two witnesses in the persons of Marcos Dabodado who allegedly witnessed the shooting of the victim and Diosdado Wabe who allegedly saw respondent SPO1 de la Victoria fleeing from the scene of the crime immediately after the shooting.

On October 9, 1997, respondent judge granted the application for bail of respondent SPO1 de la Victoria on the ground that the evidence of guilt is not strong.

On December 2, 1997, the Office of the Solicitor General, herein petitioner, received the letter-request of the Chief State Prosecutor for the filing of a petition for certiorari of the October 9, 1997 Resolution of the trial court.

On January 30, 1998, the People through petitioner filed a petition for certiorari assailing the October 9, 1997 Resolution granting the application for bail of respondent SPO1 de la Victoria. The petition was docketed as CA-G.R. SP No. 46678 with the Court of Appeals.

Respondent SPO1 de la Victoria filed his comment on the petition.

On July 2, 1998, the Court of Appeals dismissed the petition on these grounds: (i) certiorari is available only to correct defects on jurisdiction and not errors of judgment; and (ii) petitioner did not file a motion for

reconsideration to afford the trial judge the opportunity to correct his mistake.

On July 24, 1998, petitioner moved for the reconsideration of said decision of the Court of Appeals.

In a Resolution dated August 3, 1998, the Court of Appeals required respondents therein to comment on petitioner's motion for reconsideration. Petitioner allegedly did not receive the comment of respondent.

On June 4, 1999, petitioner received an Entry of Judgment that states that:

"This is to certify that on July 2, 1998, a decision/resolution rendered in the above-entitled case was filed in this Office, the dispositive part of which reads as follows:

`WHEREFORE, the petition is DISMISSED.'

and that the same has, on November 13, 1998 become final and executory and is hereby recorded in the Book of Entries of Judgments."[2]

On July 15, 1999, petitioner filed a Motion to Recall Entry of Judgment on the ground that the entry of judgment was premature since petitioner had not yet received any resolution from the Court of Appeals resolving petitioner's motion for reconsideration.

In a Resolution dated November 5, 1999, the Court of Appeals denied petitioner's Motion to Recall Entry of Judgment, thus:

"Petitioner through the Office of the Solicitor General (OSG), filed a motion (to recall entry of judgment), alleging that `OSG has not as yet received any resolution relative to its Motion for Reconsideration dated July 23, 1998.'

The motion is without merit. The Division Clerk has submitted the following report, dated October 27, 1999:

`The record shows that the Resolution dated October 20, 1998 denying petitioner's Motion for Reconsideration was received by the Office of the Solicitor General on October 28, 1998. Furthermore, the Resolution dated May 5, 1999 authorizing the issuance of the entry of judgment was received by the OSG on May 13, 1999.'

WHEREFORE, the motion (to recall entry of judgment) is DENIED."[3]

Hence this petition wherein petitioner insists that the Court of Appeals decided a question of substance in a way which is not in accord with law and the applicable decisions of this Court by-

"I

Depriving petitioner of its right to due process in denying the Motion (to Recall Entry of Judgment) without giving petitioner any chance to prove that it did not indeed receive any Court of Appeals' resolution resolving the pending Motion for Reconsideration dated July 23, 1998.

II

Dismissing the petition for certiorari thereby allowing respondent de la Victoria to post bail in a capital offense (murder) despite the fact that the evidence of guilt against the latter is strong.

III

Dismissing the petition for certiorari for failure of petitioner to file a motion for reconsideration with the court a quo, notwithstanding the doctrine that such motion for reconsideration is no longer necessary when urgent relief is sought and there is no plain, speedy and adequate remedy in the ordinary course of law."[4]

In the instant petition, petitioner objects to the entry of judgment made by the Court of Appeals which in effect

dismissed petitioner's petition for certiorari with finality. Petitioner claims that the entry of judgment is premature considering that petitioner allegedly did not receive the October 20, 1998 Resolution of the Court of Appeals denying its motion for reconsideration. It is the theory of petitioner that since it did not actually receive said resolution, the Decision of the Court of Appeals dated July 2, 1998 dismissing its petition for certiorari, did not attain finality. The entry of judgment, petitioner opines, should then have been recalled based on these pertinent portions of Section 2, Rule 36 and Section 8, Rule 120 of the 1997 Rules of Civil Procedure that respectively state that:

"Sec. 2. Entry of judgments and final orders. -If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final order shall forthwith be entered by the clerk in the book of entries of judgments." (emphasis supplied)

"Sec. 8. Entry of Judgment.- After a judgment has become final, it shall be entered in accordance with Rule 36."[5] (emphasis supplied)

Petitioner explains why it did not receive the Resolution of the Court of Appeals denying its motion for reconsideration. Allegedly, petitioner discovered upon further investigation that an OSG docket employee signed a logbook in the Administrative Section, which is in charge of opening mail matters, making it appear that the OSG received said Resolution. Petitioner avers that said Resolution never reached the OSG Docket Section and no entry was ever made in its logbook as is the usual course and regular procedure for receipt of court processes and resolutions. Hence, petitioner argues that the purported receipt by it of the Resolution was anomalous and highly irregular.

Based on the foregoing, petitioner asserts that the mere signature of an OSG Docket employee in the OSG Administrative Division's logbook did not in any way validate petitioner's alleged receipt of the Resolution as the latter had to be actually received and entered in the OSG Docket Section's logbook. Since this procedure was not allegedly followed, petitioner contends that there was no official receipt by it of the aforesaid Resolution and the signature of an OSG Docket employee on the OSG Administrative Division's logbook is not tantamount to a receipt by petitioner as contemplated by law.

Petitioner claims that it was deprived due process when the Court of Appeals denied petitioner's Motion (to Recall Entry of Judgment) without giving it a chance to prove that it did not receive a copy of said court's Resolution denying its motion for reconsideration. Petitioner bewails the Court of Appeals' sole reliance and acceptance of the Division Clerk of Court's Report of the OSG's supposed receipt of the Court of Appeals Resolution. Petitioner then invokes the principle that in the performance of a governmental function, the state is not bound by the neglect of its agents and officers. Therefore, as the statutory counsel of the People, petitioner believes that it is not bound by the negligence or irregularity committed by the OSG Docket Division employee/s.

It is also the contention of petitioner that the Court of Appeals erred in affirming the trial court's alleged capricious and whimsical grant of bail despite the strong evidence presented against respondent SPO1 de la Victoria. Petitioner questions the ruling of the Court of Appeals that petitioner's failure to file a motion for reconsideration of the resolution of the trial court granting bail is fatal. While petitioner recognizes the general rule that the filing of a motion for reconsideration is a prerequisite before the institution of an action for certiorari, petitioner maintains that in this case, the urgency of detaining respondent to prevent him from harassing the prosecution witnesses warranted the immediate filing of certiorari.

After a review of the circumstances surrounding the alleged non-receipt by petitioner of the Resolution of the Court of Appeals denying its motion for reconsideration, we agree with petitioner that the entry of judgment as ordered by the Court of Appeals was indeed premature. It appears that some OSG Docket employee/s signed

receipt of the Resolution in the Administrative Division's logbook instead of signing in the OSG Docket Section's logbook, a fact that renders highly suspicious petitioner's supposed receipt of said Resolution. Petitioner's anomalous receipt of said Resolution is now in fact the subject of an investigation conducted by petitioner OSG.

With the peculiar circumstances of this case in mind, the precipitate entry of judgment worked injustice against petitioner, and the People whom petitioner represents. In effect, the entry of judgment, done in haste, foreclosed petitioner's right to appeal the adverse decision of the Court of Appeals to this Court. Petitioner's right to appeal in this case must be upheld. We have declared that while the right to appeal is a statutory, not a natural right, "it is an essential part of our judicial system and courts should proceed with caution so as not to deprive a party of the right to appeal, but rather, ensure that every party-litigant has the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities." [6]

It must be pointed out that petitioner manifested in its Motion to Recall Entry (of Judgment) before the Court of Appeals that it did not receive said Resolution. The Court of Appeals from then on should have seriously considered the allegation of petitioner by requiring petitioner to prove its claim and by awaiting petitioner's acknowledgment of its receipt of the Resolution in question.

We also agree with petitioner that in this case, the filing of a motion for reconsideration is not a condition precedent for the filing of certiorari. While as a general rule, a motion for reconsideration is a condition sine qua non for the grant of certiorari, this rule admits of an exception. A motion for reconsideration is no longer necessary where other special circumstances warrant the immediate and more direct action. [7] In this case, the fact that bail has been granted and accused is free to roam around, the filing of a motion for reconsideration can be dispensed with and the filing of a petition for certiorari is called for. [8]

The foregoing notwithstanding, we uphold the Court of Appeals' dismissal of petitioner's petition for certiorari on the ground that what petitioner sought before said court was a correction or evaluation of the evidence presented to the trial court during the hearing for bail. We have held in a number of cases [9] that a review of evidence cannot be secured in a petition for certiorari, prohibition, and mandamus. [10] Hence, certiorari is not the proper remedy to correct mistakes in the judge's findings and conclusions or to cure erroneous conclusions of law and fact. [11] Moreover, for certiorari to prosper, the burden is on petitioner to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent. [12] In jurisprudence, "grave abuse of discretion" implies such "capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be patent and gross as to amount to an evasion of positive duty or 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." [13]

Petitioner claims that the trial court committed grave abuse of discretion when it granted bail despite the strong evidence of guilt presented against SPO1 de la Victoria. However, petitioner fails to convince us that grave abuse of discretion attended the grant of bail.

Petitioner cites as an indicator of grave abuse of discretion the alleged rash dismissal of the testimony of prosecution witnesses, whom petitioner considers as credible, on the alleged trivial grounds of relationship of said witnesses to the victim and the minor inconsistencies in their testimonies. A careful perusal of the resolution of the trial court will however betray the paucity of evidence to support petitioner's claim that respondent judge arbitrarily set aside the testimony of the prosecution witnesses. It was on the basis of credibility or lack of it, that the trial court judge assessed the testimonies of the two prosecution witnesses. In fact, in the questioned resolution, respondent judge acknowledged the principle in law that relationship alone need not necessarily adversely affect a witness' testimony, if such testimony is otherwise consistent and credible in its material

aspects.[14] What militated against the evidence of the prosecution were the discrepancies in the testimonies of the prosecution witnesses, which respondent judge described as material and irreconcilable.[15]

Assuming arguendo that respondent judge erred in evaluating the evidence, certiorari will still not lie. As stated earlier, no grave abuse of discretion may be attributed to a court simply because of its alleged wrongful appreciation of facts and evidence.[16] In short, certiorari will issue only to correct errors of jurisdiction, not errors of procedure or mistakes in the findings or conclusions of the lower court.[17]

WHEREFORE, the petition is DENIED.

**SO ORDERED.**

Melo, (Chairman), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

---

[1] Per Associate Justice Oswaldo D. Agcaoili, concurred in by Associate Justices Corona Ibay-Somera and Renato C. Dacudao, Seventeenth Division.

[2] Rollo, p. 45; ANNEX "E".

[3] Records, p. 85; Resolution, pp. 1-2.

[4] Rollo, p. 14.

[5] Rollo, p. 15; Petition, p. 10

[6] Moslares vs. Court of Appeals, 291 SCRA 440 (1998), p. 448. See also Yambao vs. Court of Appeals, G.R. No. 140894, November 27, 2000.

[7] See Conti vs. Court of Appeals, 307 SCRA 486 (1999).

[8] See People vs. Dacudao, 170 SCRA 489 (1989).

[9] See Resoso vs. Sandiganbayan, 319 SCRA 238 (1999); GSIS vs. Olisa. 304 SCRA 421(1999) and People vs. Court of Appeals, 308 SCRA 687.

[10] Resoso, supra, p. 244.

[11] Ibid.

[12] Don Orestes Romualdez Electric Cooperative, Inc. vs. NLRC, 319 SCRA 255 (1999), p. 259.

[13] People vs. Court of Appeals, SCRA 308 SCRA 687 (1999), p. 698.

[14] Rollo, p. 34; Resolution, p. 2.

[15] Rollo, p. 36; Resolution, p. 4.

[16] People vs. Court of Appeals, supra, p. 699.

[17] Ibid.

**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.