

**MICROSOFT CORPORATION, PETITIONER, VS. BEST DEAL
COMPUTER CENTER CORPORATION, PERFECT DEAL
CORPORATION, MARCOS C. YUEN DOING BUSINESS AS PERFECT
BYTE COMPUTER CENTER AND HON....**

G.R. No. 148029. September 24, 2002

Ponente: BELLOSILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-148029/>

BELLOSILLO, J.:

MICROSOFT CORPORATION assails the Order of Judge Florentino M. Alumbres, RTC-Br. 255, Las Piñas City, dated 26 December 2001 in its Civil Case No. 00-0237 denying its application for an ex parte order for the seizure and impounding of relevant and infringing evidence and the Order dated 1 March 2001 denying reconsideration thereof.

Petitioner is a US-based corporation. It is not doing business in the Philippines but has sued in the court below solely to protect its intellectual property rights.

On 4 December 2000 petitioner filed a complaint for Injunction and Damages with Ex Parte Application for Temporary Restraining Order and the Provisional Measure of Preservation of Evidence against Best Deal Computer Center Corporation, Perfect Deal Corporation and Marcos C. Yuen doing business as Perfect Byte Computer Center. It alleged that defendants without authority or license copied, reproduced, distributed, installed and/or loaded software programs owned by Microsoft into computer units sold by them to their customers in violation of its intellectual property rights. It prayed for the issuance of a writ of preliminary injunction to restrain and enjoin defendants from illegally reproducing, selling and distributing unlicensed software programs. It also applied for the issuance of an ex parte order for the seizure and impounding of relevant evidence that can be or may be found at defendants' business premises.

On 26 December 2000 the Las Piñas trial court set petitioner's prayer for a temporary restraining order for hearing but at the same time denied its application for an ex parte order ratiocinating that the Intellectual Property Code does not expressly allow its issuance and that, in any case, the TRIPS (Trade-Related Aspects of Intellectual Property Rights) AGREEMENT[1] cannot prevail over it. The court a quo also opined that petitioner's application partook of a search and seizure order available only in criminal cases. Petitioner moved for reconsideration but the same was denied on 9 January 2001.

In the instant petition for certiorari under Rule 65 of the Revised Rules of Court petitioner submits that the court a quo gravely abused its discretion amounting to lack or excess of jurisdiction when it ruled that the law does not allow an ex parte provisional remedy of seizure and impounding of infringing evidence. It maintains that Sec. 216.2, Part IV, of RA 8293[2] authorizes such order. It concedes though that while RA 8293 does not expressly mention the provisional and ex parte nature of the remedy, nonetheless, Art. 50 of the TRIPS Agreement amply supplies the deficiency.

Petitioner allegedly resorted to the instant recourse because it had no appeal or any plain, speedy and adequate remedy in the ordinary course of law. It automatically invoked the jurisdiction of this Court supposedly because of the importance of the issue involved. It bypassed the Court of Appeals on the premise that it would be useless to first seek recourse thereat as the party aggrieved by the appellate court's ruling would nonetheless elevate the matter to this Court. By then, petitioner surmised, the level of intellectual piracy would have worsened. Likewise, petitioner presumes that direct resort to this Court is justified as the petition involves a pure question of law.

Will the extraordinary writ of certiorari lie? For certiorari to lie, it must be shown that the tribunal, board or officer exercising judicial functions acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction, and that there is no appeal nor any plain, speedy and adequate remedy in the ordinary course of law for the purpose of amending or nullifying the proceeding.[3] The sole office of the writ of certiorari is the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack of jurisdiction, and does not include correction of public respondent's evaluation of the evidence and factual findings thereon.[4]

The petition for certiorari must be based on jurisdictional grounds because as long as the respondent acted with jurisdiction, any error committed by him or it in the exercise thereof will amount to nothing more than an error of judgment which may be reviewed or corrected only by appeal. Even an abuse of discretion is not sufficient by itself to justify the issuance of a writ of certiorari.[5]

We find that the court below acted within its jurisdiction when it took cognizance of the complaint for injunction and damages filed by petitioner. Section 19, par. (8), BP Blg. 129, as amended,[6] provides that Regional Trial Courts in Metro Manila shall have exclusive original jurisdiction in all cases in which the demand, exclusive of interest, damages of whatever kind, attorneys fees, costs or the value of the property in controversy exceeds P200,000.00. In the complaint filed before the court a quo, petitioner averred that it incurred no less than P750,000.00 in attorney's fees, investigation and litigation expenses and another P2,000,000.00 by way of moral damages. Clearly, the above amounts fall within the jurisdiction of the Regional Trial Court. Also, the complaint was properly lodged in the Regional Trial Court of Las Piñas considering that one of the principal defendants was residing thereat.

Having determined that the court below had jurisdiction to entertain the complaint filed by petitioner, we now resolve whether respondent tribunal gravely abused its discretion amounting to lack or excess of jurisdiction in denying petitioner's application for an ex parte order.

A special civil action for certiorari will prosper only if grave abuse of discretion is manifested.[7] For an abuse to be grave the power must be exercised in an arbitrary or despotic manner by reason of passion or personal hostility.[8] The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty, or a virtual refusal to perform the duty enjoined or act in contemplation of law.[9] There is grave abuse of discretion when respondent acts in a capricious or whimsical manner in the exercise of its judgment as to be equivalent to lack of jurisdiction.[10]

Petitioner asserts that respondent trial court gravely abused its discretion in denying its application for the issuance of an ex parte order. However, other than this bare allegation, petitioner failed to point out specific instances where grave abuse of discretion was allegedly committed. It was never shown how respondent tribunal supposedly exercised its power in a despotic, capricious or whimsical manner. There being no hint of grave abuse of discretion that can be attributed to the lower court, hence, it could be safely held that the assailed orders were rendered in the proper exercise of its jurisdiction.

Significantly, even assuming that the orders were erroneous, such error would merely be deemed as an error of

judgment that cannot be remedied by certiorari. As long as the respondent acted with jurisdiction, any error committed by him or it in the exercise thereof will amount to nothing more than an error of judgment which may be reviewed or corrected only by appeal.[11] The distinction is clear: A petition for certiorari seeks to correct errors of jurisdiction while a petition for review seeks to correct errors of judgment committed by the court. Errors of judgment include errors of procedure or mistakes in the court's findings. Where a court has jurisdiction over the person and subject matter, the decision on all other questions arising in the case is an exercise of that jurisdiction. Consequently, all errors committed in the exercise of such jurisdiction are merely errors of judgment.[12] Certiorari under Rule 65 is a remedy designed for the correction of errors of jurisdiction and not errors of judgment.[13] Petitioner's rights can be more appropriately addressed in the appeal.

True, petitioner invokes the jurisdiction of this Court in the interest of speedy justice. It conjectures that any further delay in the resolution of the instant petition will be prejudicial not only to petitioner but to all those similarly situated. Thus petitioner brought the instant petition directly to this Court on the premise that if it were to first seek a ruling from the Court of Appeals, a party aggrieved by such ruling would take the matter to this Court for final resolution. By then, the level of intellectual piracy would have worsened.

This Court is not persuaded. The quest for speedy justice should not be used as a device to trample upon other equally laudable policies of this Court. Petitioner's direct resort to this Court in the guise of speedy justice was in utter disregard of the hierarchy of courts. We find no exceptional or compelling reason not to observe the hierarchy of courts. Our pronouncement in *People v. Cuaresma*[14] is most instructive -

This Court's original jurisdiction to issue writs of certiorari is not exclusive. It is shared by this Court with Regional Trial Courts and with the Court of Appeals. This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. There is after all a hierarchy of courts. A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is established policy. It is a policy that is necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket. Indeed, the removal of the restriction on the jurisdiction of the Court of Appeals in this regard, *supra* - resulting from the deletion of the qualifying phrase, "in aid of its appellate jurisdiction" - was evidently intended precisely to relieve this Court *pro tanto* of the burden of dealing with applications for the extraordinary writs which, but for the expansion of the Appellate Court's corresponding jurisdiction, would have had to be filed with it.

The Court feels the need to reaffirm that policy at this time, and to enjoin strict adherence thereto in the light of what it perceives to be a growing tendency on the part of litigants and lawyers to have their applications for the so-called extraordinary writs, and sometimes even their appeals, passed upon and adjudicated directly and immediately by the highest tribunal of the land.

The Court therefore closes this decision with the declaration for the information and guidance of all concerned, that it will not only continue to enforce the policy, but will require a more strict observance thereof.

WHEREFORE, the instant petition is DISMISSED. The assailed order dated 26 December 2001 of the RTC-Br. 255, Las Piñas City, which denied petitioner's application for an *ex parte* order for the seizure and impounding of relevant and infringing evidence as well as its order dated 1 March 2001 denying reconsideration thereof is SUSTAINED. Costs against petitioner.

SO ORDERED.

Mendoza, Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Annexed to the Trade-Related Aspects of Intellectual Property Rights Agreement Establishing the World Trade Organization.

[2] An Act Prescribing the Intellectual Property Code and Establishing the Intellectual Property Office, Providing for its Powers and Functions, and For Other Purposes.

[3] Philippine Commercial and Industrial Bank v. Court of Appeals, G.R. No. 120739, 20 July 2000.

[4] Jalandoni v. Drilon, G.R. Nos. 115239-40, 2 March 2000, citing Building Care Corporation v. National Labor Relations Commission, 268 SCRA 666.

[5] See Note 4.

[6] The Judiciary Reorganization Act of 1980.

[7] See Note 4.

[8] Ibid.

[9] Banco Filipino Savings and Mortgage Bank v. Court of Appeals, G.R. No. 132703, 23 June 2000, 334 SCRA 305.

[10] Workers of Antique Electric Cooperative, Inc. v. NLRC, G.R. No. 120062, 8 June 2000, 333 SCRA 181.

[11] See Note 4.

[12] See Note 9.

[13] Ampeloquio, Sr. v. Court of Appeals, G.R. No. 124243, 15 June 2000, 333 SCRA 465.

[14] G.R. No. 67787, 18 April 1989, 172 SCRA 415.

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.