FRANCISCO MAGESTRADO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND ELENA M. LIBROJO RESPONDENTS.

G.R. NO. 148072. July 10, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This Petition for Review on Certiorari seeks to reverse the (1) Resolution[1] dated 5 March 2001 of the Court of Appeals in CA-G.R. SP No. 63293 entitled, "Francisco Magestrado v. Hon. Estrella T. Estrada, in her capacity as the Presiding Judge of Regional Trial Court, Branch 83 of Quezon City, People of the Philippines and Elena M. Librojo," which dismissed petitioner Francisco Magestrado's Petition for Certiorari for being the wrong remedy; and (2) Resolution[2] dated 3 May 2001 of the same Court denying petitioner's motion for reconsideration.

Private respondent Elena M. Librojo filed a criminal complaint[3] for perjury against petitioner with the Office of the City Prosecutor of Quezon City, which was docketed as I.S. No. 98-3900.

After the filing of petitioner's counter-affidavit and the appended pleadings, the Office of the City Prosecutor recommended the filing of an information for perjury against petitioner. Thus, Assistant City Prosecutor Josephine Z. Fernandez filed an information for perjury against petitioner with the Metropolitan Trial Court (MeTC) of Quezon City. Pertinent portions of the information are hereby quoted as follows:

> That on or about the 27[th] day of December, 1997, in Quezon City, Philippines, the said accused, did then and there willfully, unlawfully and feloniously and knowingly make an untruthful statement under oath upon a material matter before a competent officer authorized to receive and administer oath and which the law so require, to wit: the said accused subscribe and swore to an Affidavit of Loss before Notary Public Erlinda B. Espejo of Quezon City, per Doc. No. 168, Page No. 35, Book No. CLXXIV of her notarial registry, falsely alleging that he lost Owner's Duplicate Certificate of TCT No. N-173163, which document was used in support of a Petition For Issuance of New Owner's Duplicate Copy of Certificate of Title and filed with the Regional Trial Court of Quezon City, docketed as LRC# Q-10052 (98) on January 28, 1998 and assigned to Branch 99 of the said court, to which said Francisco M. Mag[e]strado signed and swore on its verification, per Doc. 413 Page 84 Book No. CLXXV Series of 1998 of Notary Public Erlinda B. Espejo of Quezon City; the said accused knowing fully well that the allegations in the said affidavit and petition are false, the truth of the matter being that the property subject of Transfer Certificate of Title No. N-173163 was mortgaged to complainant Elena M. Librojo as collateral for a loan in the amount of P 758,134.42 and as a consequence of which said title to the property was surrendered by him to the said complainant by virtue of said loan, thus, making untruthful and deliberate assertions of falsehoods, to the damage and prejudice of the said Elena M. Librojo.[4]

The case was raffled to the MeTC of Quezon City, Branch 43, where it was docketed as Criminal Case No. 90721 entitled, "People of the Philippines v. Francisco Magestrado."

On 30 June 1999, petitioner filed a motion[5] for suspension of proceedings based on a prejudicial question. Petitioner alleged that Civil Case No. Q-98-34349, a case for recovery of a sum of money pending before the

Regional Trial Court (RTC) of Quezon City, Branch 84, and Civil Case No. Q-98- 34308, a case for Cancellation of Mortgage, Delivery of Title and Damages, pending before the RTC of Quezon City, Branch 77, must be resolved first before Criminal Case No. 90721 may proceed since the issues in the said civil cases are similar or intimately related to the issues raised in the criminal action.

On 14 July 1999, MeTC-Branch 43 issued an Order[6] denying petitioner's motion for suspension of proceedings, thus:

> Acting on the "Motion for Suspension of Proceedings" filed by the [herein petitioner Magestrado], thru counsel, and the "Comment and Opposition thereto, the Court after an evaluation of the same, finds the aforesaid motion without merit, hence, is hereby DENIED, it appearing that the resolution of the issues raised in the civil actions is not determinative of the guilt or innocence of the accused.
>
> Hence, the trial of this case shall proceed as previously scheduled on July 19 and August 2, 1993 at 8:30 in the morning.

On 17 August 1999, a motion[7] for reconsideration was filed by petitioner but was denied by the MeTC in an Order[8] dated 19 October 1999.

Aggrieved, petitioner filed a Petition for Certiorari[9] under Rule 65 of the Revised Rules of Court, with a prayer for Issuance of a Writ of Preliminary Injunction before the RTC of Quezon City, Branch 83, docketed as Civil Case No. Q-99-39358, on the ground that MeTC Judge Billy J. Apalit committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying his motion to suspend the proceedings in Criminal Case No. 90721.

On 14 March 2000, RTC-Branch 83 dismissed the petition and denied the prayer for the issuance of a writ of preliminary injunction, reasoning thus:

> Scrutinizing the complaints and answers in the civil cases abovementioned, in relation to the criminal action for PERJURY, this Court opines and so holds that there is no prejudicial question involved as to warrant the suspension of the criminal action to await the outcome of the civil cases. The civil cases are principally for determination whether or not a loan was obtained by petitioner and whether or not he executed the deed of real estate mortgage involving the property covered by TCT No. N-173163, whereas the criminal case is for perjury which imputes upon petitioner the wrongful execution of an affidavit of loss to support his petition for issuance of a new owner"s duplicate copy of TCT No. 173163. Whether or not he committed perjury is the issue in the criminal case which may be resolved independently of the civil cases. Note that the affidavit of loss was executed in support of the petition for issuance of a new owner's duplicate copy of TCT No. N-173163 which petition was raffled to Branch 99 of the RTC. x x x.[10]

Again, petitioner filed a motion for reconsideration[11] but this was denied by RTC- Branch 83 in an Order[12] dated 21 December 2000.

Dissatisfied, petitioner filed with the Court of Appeals a Petition for Certiorari[13] under Rule 65 of the Revised Rules of Court, which was docketed as CA-G.R. SP No. 63293. Petitioner alleged that RTC Judge Estrella T. Estrada committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying the Petition for Certiorari in Civil Case No. Q-99-39358, and in effect sustaining the denial by MeTC-Branch 43 of petitioner's motion to suspend the proceedings in Criminal Case No. 90721, as well as his subsequent motion for reconsideration thereof.

On 5 March 2001, the Court of Appeals dismissed[14] the Petition in CA-G.R. SP No. 63293 on the ground that petitioner's remedy should have been an appeal from the dismissal by RTC-Branch 83 of his Petition for Certiorari in Q-99-39358. The Court of Appeals ruled that:

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> Is this instant Petition for Certiorari under Rule 65 the correct and appropriate remedy?
>
> We rule negatively.
>
> The resolution or dismissal in special civil actions, as in the instant petition, may be appealed x x x under Section 10, Rule 44 of the 1997 Rules of Civil Procedure and not by petition for certiorari under Rule 65 of the same rules. Thus, the said rule provides:
>
> Section 10. Time for filing memoranda on special cases. In certiorari, prohibition, mandamus, quo warranto and habeas corpus cases, the parties shall file in lieu of briefs, their respective memoranda within a non-extendible period of thirty (30) days from receipt of the notice issued by the clerk that all the evidence, oral and documentary, is already attached to the record x x x.
>
> WHEREFORE, in consideration of the foregoing premises, the instant Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure is hereby DISMISSED.[15]

The Court of Appeals denied petitioner's Motion for Reconsideration[16] in a Resolution[17] dated 3 May 2001.

Hence, petitioner comes before us via a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court raising the following issues:

> - Whether or not the Orders of Judge Estrella T. Estrada dated March 14, 2000 denying petitioner's Petition for Certiorari under Rule 65 of the Rules of Court, and her subsequent Order dated December 21, 2000, denying the Motion for Reconsideration thereafter filed can only be reviewed by the Court of Appeals thru appeal under Section 10, Rule 44 of the 1997 Rules of Civil Procedure.
>
> - Whether or not Judge Estrella T. Estrada of the Regional Trial Court, Branch 83, Quezon City, had committed grave abuse of discretion amounting to lack or in excess of her jurisdiction in denying the Petition for Certiorari and petitioner's subsequent motion for reconsideration on the ground of a prejudicial question pursuant to the Rules on Criminal Procedure and the prevailing jurisprudence.

After consideration of the procedural and substantive issues raised by petitioner, we find the instant petition to be without merit.

The procedural issue herein basically hinges on the proper remedy which petitioner should have availed himself of before the Court of Appeals: an ordinary appeal or a petition for certiorari. Petitioner claims that he correctly questioned RTC-Branch 83's Order of dismissal of his Petition for Certiorari in Civil Case No. Q-99-39358 through a Petition for Certiorari before the Court of Appeals. Private respondent and public respondent People of the Philippines insist that an ordinary appeal was the proper remedy.

We agree with respondents. We hold that the appellate court did not err in dismissing petitioner's Petition for Certiorari, pursuant to Rule 41, Section 2 of the Revised Rules of Court (and not under Rule 44, Section 10, invoked by the Court of Appeals in its Resolution dated 5 March 2001).

The correct procedural recourse for petitioner was appeal, not only because RTC-Branch 83 did not commit any grave abuse of discretion in dismissing petitioner's Petition for Certiorari in Civil Case No. Q-99-39358 but also because RTC-Branch 83's Order of dismissal was a final order from which petitioners should have appealed in accordance with Section 2, Rule 41 of the Revised Rules of Court.

An order or a judgment is deemed final when it finally disposes of a pending action, so that nothing more can be done with it in the trial court. In other words, the order or judgment ends the litigation in the lower court. Au contraire, an interlocutory order does not dispose of the case completely, but leaves something to be done as regards the merits of the latter.[18] RTC-Branch 83's Order dated 14 March 2001 dismissing petitioner's Petition

for Certiorari in Civil Case No. Q-99-39358 finally disposes of the said case and RTC-Branch 83 can do nothing more with the case.

Under Rule 41 of the Rules of Court, an appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by the Revised Rules of Court to be appealable. The manner of appealing an RTC judgment or final order is also provided in Rule 41 as follows:

Section 2. Modes of appeal. —

> (a) Ordinary appeal. — The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.

Certiorari generally lies only when there is no appeal nor any other plain, speedy or adequate remedy available to petitioners. Here, appeal was available. It was adequate to deal with any question whether of fact or of law, whether of error of jurisdiction or grave abuse of discretion or error of judgment which the trial court might have committed. But petitioners instead filed a special civil action for certiorari.

We have time and again reminded members of the bench and bar that a special civil action for certiorari under Rule 65 of the Revised Rules of Court lies only when "there is no appeal nor plain, speedy and adequate remedy in the ordinary course of law."[19] Certiorari cannot be allowed when a party to a case fails to appeal a judgment despite the availability of that remedy,[20] certiorari not being a substitute for lost appeal.[21]

As certiorari is not a substitute for lost appeal, we have repeatedly emphasized that the perfection of appeals in the manner and within the period permitted by law is not only mandatory but jurisdictional, and that the failure to perfect an appeal renders the decision of the trial court final and executory. This rule is founded upon the principle that the right to appeal is not part of due process of law but is a mere statutory privilege to be exercised only in the manner and in accordance with the provisions of the law. Neither can petitioner invoke the doctrine that rules of technicality must yield to the broader interest of substantial justice. While every litigant must be given the amplest opportunity for the proper and just determination of his cause, free from constraints of technicalities, the failure to perfect an appeal within the reglementary period is not a mere technicality. It raises a jurisdictional problem as it deprives the appellate court of jurisdiction over the appeal.[22]

The remedies of appeal and certiorari are mutually exclusive and not alternative or successive.[23] A party cannot substitute the special civil action of certiorari under Rule 65 of the Rules of Court for the remedy of appeal. The existence and availability of the right of appeal are antithetical to the availability of the special civil action for certiorari.[24] As this Court held in Fajardo v. Bautista[25]:

> Generally, an order of dismissal, whether right or wrong, is a final order, and hence a proper subject of appeal, not certiorari. The remedies of appeal and certiorari are mutually exclusive and not alternative or successive. Accordingly, although the special civil action of certiorari is not proper when an ordinary appeal is available, it may be granted where it is shown that the appeal would be inadequate, slow, insufficient, and will not promptly relieve a party from the injurious effects of the order complained of, or where appeal is inadequate and ineffectual. Nevertheless, certiorari cannot be a substitute for the lost or lapsed remedy of appeal, where such loss is occasioned by the petitioner's own neglect or error in the choice of remedies.

On 21 December 2000, petitioner received a copy of the Order of the RTC-Branch 83 denying his motion for reconsideration of the dismissal of his Petition for Certiorari in Civil Case No. Q-99-39358; hence, he had until 18 January 2001 within which to file an appeal with the Court of Appeals. The Petition for Certiorari filed by

petitioner on 19 February 2001 with the Court of Appeals cannot be a substitute for the lost remedy of appeal. As petitioner failed to file a timely appeal, RTC-Branch 83's dismissal of his Petition for Certiorari had long become final and executory.

For this procedural lapse, the Court of Appeals correctly denied outright the Petition for Certiorari filed by petitioner before it.

Moreover, there are even more cogent reasons for denying the instant Petition on the merits.

In the Petition at bar, petitioner raises several substantive issues. Petitioner harps on the need for the suspension of the proceedings in Criminal Case No. 90721 for perjury pending before MeTC-Branch 43 based on a prejudicial question still to be resolved in Civil Case No. Q-98-34308 (for cancellation of mortgage) and Civil Case No. Q-98-34349 (for collection of a sum of money) which are pending before other trial courts.

For clarity, we shall first discuss the allegations of petitioner in his complaint in Civil Case No. Q-98-34308 (for cancellation of mortgage) and that of private respondent in her complaint in Civil Case No. Q-98-34349 (for collection of a sum of money).

Civil Case No. Q-98-34308 is a complaint for Cancellation of Mortgage, Delivery of Title and Damages filed on 8 May 1988 by petitioner against private respondent with RTC-Branch 77. Petitioner alleges that he purchased a parcel of land covered by Transfer Certificate of Title No. N-173163 thru private respondent, a real estate broker. In the process of negotiation, petitioner was pressured to sign a Deed of Sale prepared by private respondent. Upon signing the Deed of Sale, he noticed that the Deed was already signed by a certain Cristina Gonzales as attorney-in-fact of vendor Spouses Guillermo and Amparo Galvez. Petitioner demanded from private respondent a special power of attorney and authority to sell, but the latter failed to present one. Petitioner averred that private respondent refused to deliver the certificate of title of the land despite execution and signing of the Deed of Sale and payment of the consideration. Petitioner was thus compelled to engage the services of one Modesto Gazmin, Jr. who agreed, for P100,000.00 to facilitate the filing of cases against private respondent; to deliver to petitioner the certificate of title of the land; and/or to cancel the certificate of title in possession of private respondent. However, Mr. Gazmin, Jr., did nothing upon receipt of the amount of P100,000.00 from petitioner. In fact, petitioner was even charged with perjury before the Office of the City Prosecutor, all because of Mr. Gazmin, Jr.'s wrongdoing. Petitioner further alleged that he discovered the existence of a spurious Real Estate Mortgage which he allegedly signed in favor of private respondent. Petitioner categorically denied signing the mortgage document and it was private respondent who falsified the same in order to justify her unlawful withholding of TCT No. N-173163 from petitioner. Thus, petitioner prayed for:

> - The cancellation of Real Estate Mortgage dated August 2, 1997 as null and void;
>
> - As well as to order [herein private respondent] to DELIVER the Owner's Duplicate Copy of Transfer Certificate of Title No. N-173163 to [herein petitioner];
>
> - Condemning [private respondent] to pay [petitioner] the sums of
>
> a) P100,000.00 as MORAL DAMAGES;
>
> b) P50,000.00 as EXEMPLARY DAMAGES;
>
> c) P50,000.00 as Attorney's fees and
>
> d) Cost of suit.
>
> - A general relief is likewise prayed for (sic) just and equitable under the premises.

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Civil Case No. Q-98-34349,[26] on the other hand, is a complaint for a sum of money with a motion for issuance of a writ of attachment filed by private respondent against petitioner on 14 May 1988 before RTC-Branch 84. Private respondent alleges that petitioner obtained a loan from her in the amount of P758,134.42 with a promise to pay on or before 30 August 1997. As security for payment of the loan, petitioner executed a Deed of Real Estate Mortgage covering a parcel of land registered under TCT No. N-173163. Petitioner pleaded for additional time to pay the said obligation, to which respondent agreed. But private respondent discovered sometime in February 1998 that petitioner executed an affidavit of loss alleging that he lost the owner's duplicate copy of TCT No. N-173163, and succeeded in annotating said affidavit on the original copy of TCT No. N-173163 on file with the Registry of Deeds of Quezon City. Private respondent further alleges that she also discovered that petitioner filed a petition for issuance of a new owner's duplicate copy of TCT No. N-173163 with the RTC of Quezon City, Branch 98, docketed as LRC Case No. Q-10052. Private respondent demanded that petitioner pay his obligation, but the latter refused to do so. Resultantly, private respondent prayed for the following:

> - That upon filing of this Complaint as well as the Affidavit of attachment and a preliminary hearing thereon, as well as bond filed, a writ of preliminary attachment is (sic) by the Honorable Court ordering the Sheriff to levy [herein petitioner] property sufficient to answer [herein private respondent's] claim in this action;
>
> - That after due notice and hearing, judgment be rendered in [private respondent's] favor as against [petitioner], ordering the latter to pay the former the sum of P758,134.42 plus interest thereon at 5% per month from September 1997 up to the date of actual payment; actual damages in the sums of P70,000.00 each under paragraphs 11 and 12 of the complaint; P200,000.00 as moral damages; P100,000.00 as exemplary damages; twenty (20%) of the principal claim as attorney's fees plus P2,500.00 per appearance honorarium; and P60,000.00 as litigation expense before this Honorable Court.
>
> [Petitioner] prays for such further relief in law, justice and equity.

As to whether it is proper to suspend Criminal Case No. 90721 for perjury pending final outcome of Civil Case No. Q-98-34349 and Civil Case No. Q-98-34308, we take into consideration Sections 6 and 7, Rule 111 of the Revised Rules of Court, which read:

> Sec. 6. Suspension by reason of prejudicial question. — A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be filed in the office of the prosecutor or the court conducting the preliminary investigation. When the criminal action has been filed in court for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests.
>
> Sec. 7. Elements of prejudicial question. — The elements of a prejudicial question are: (a) the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action; and (b) the resolution of such issue determines whether or not the criminal action may proceed.

The rationale behind the principle of suspending a criminal case in view of a prejudicial question is to avoid two conflicting decisions.[27]

A prejudial question is defined as that which arises in a case the resolution of which is a logical antecedent of the issue involved therein, and the cognizance of which pertains to another tribunal. The prejudicial question must be determinative of the case before the court but the jurisdiction to try and resolve the question must be lodged in another court or tribunal. It is a question based on a fact distinct and separate from the crime but so intimately connected with it that it determines the guilt or innocence of the accused.[28]

For a prejudicial question in a civil case to suspend criminal action, it must appear not only that said case involves facts intimately related to those upon which the criminal prosecution would be based but also that in the resolution

of the issue or issues raised in the civil case, the guilt or innocence of the accused would necessarily be determined.

Thus, for a civil action to be considered prejudicial to a criminal case as to cause the suspension of the criminal proceedings until the final resolution of the civil case, the following requisites must be present: (1) the civil case involves facts intimately related to those upon which the criminal prosecution would be based; (2) in the resolution of the issue or issues raised in the civil action, the guilt or innocence of the accused would necessarily be determined; and (3) jurisdiction to try said question must be lodged in another tribunal.[29]

If the resolution of the issue in the civil action will not determine the criminal responsibility of the accused in the criminal action based on the same facts, or there is no necessity "that the civil case be determined first before taking up the criminal case," therefore, the civil case does not involve a prejudicial question.[30] Neither is there a prejudicial question if the civil and the criminal action can, according to law, proceed independently of each other.[31]

However, the court in which an action is pending may, in the exercise of sound discretion, and upon proper application for a stay of that action, hold the action in abeyance to abide by the outcome of another case pending in another court, especially where the parties and the issues are the same, for there is power inherent in every court to control the disposition of cases on its dockets with economy of time and effort for itself, for counsel, and for litigants. Where the rights of parties to the second action cannot be properly determined until the questions raised in the first action are settled, the second action should be stayed.[32]

The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the cases on its dockets, considering its time and effort, those of counsel and the litigants. But if proceedings must be stayed, it must be done in order to avoid multiplicity of suits and prevent vexatious litigations, conflicting judgments, confusion between litigants and courts. It bears stressing that whether or not the trial court would suspend the proceedings in the criminal case before it is submitted to its sound discretion.[33]

Indeed, a judicial order issued pursuant to the court's discretionary authority is not subject to reversal on review unless it constitutes an abuse of discretion. As the United States Supreme Court aptly declared in Landis v. North American Co., "the burden of making out the justice and wisdom from the departure from the beaten truck lay heavily on the petitioner, less an unwilling litigant is compelled to wait upon the outcome of a controversy to which he is a stranger. It is, thus, stated that only in rare circumstances will a litigant in one case is compelled to stand aside, while a litigant in another, settling the rule of law that will define the rights of both is, after all, the parties before the court are entitled to a just, speedy and plain determination of their case undetermined by the pendency of the proceedings in another case. After all, procedure was created not to hinder and delay but to facilitate and promote the administration of justice."[34]

As stated, the determination of whether the proceedings may be suspended on the basis of a prejudicial question rests on whether the facts and issues raised in the pleadings in the civil cases are so related with the issues raised in the criminal case such that the resolution of the issues in the civil cases would also determine the judgment in the criminal case.

A perusal of the allegations in the complaints show that Civil Case No. Q-98-34308 pending before RTC-Branch 77, and Civil Case No. Q-98-34349, pending before RTC-Branch 84, are principally for the determination of whether a loan was obtained by petitioner from private respondent and whether petitioner executed a real estate mortgage involving the property covered by TCT No. N-173163. On the other hand, Criminal Case No. 90721 before MeTC-Branch 43, involves the determination of whether petitioner committed perjury in executing an affidavit of loss to support his request for issuance of a new owner's duplicate copy of TCT No. N-173163.

It is evident that the civil cases and the criminal case can proceed independently of each other. Regardless of the outcome of the two civil cases, it will not establish the innocence or guilt of the petitioner in the criminal case for perjury. The purchase by petitioner of the land or his execution of a real estate mortgage will have no bearing whatsoever on whether petitioner knowingly and fraudulently executed a false affidavit of loss of TCT No. N-173163.

MeTC-Branch 43, therefore, did not err in ruling that the pendency of Civil Case No. Q-98-34308 for cancellation of mortgage before the RTC-Branch 77; and Civil Case No. Q-98-34349 for collection of a sum of money before RTC-Branch 84, do not pose a prejudicial question in the determination of whether petitioner is guilty of perjury in Criminal Case No. 90721. RTC-Branch 83, likewise, did not err in ruling that MeTC-Branch 43 did not commit grave abuse of discretion in denying petitioner's motion for suspension of proceedings in Criminal Case No. 90721.

WHEREFORE, premises considered, the assailed Resolutions dated 5 March 2001 and 3 May 2001of the Court of Appeals in CA-G.R. SP No. 63293 are hereby AFFIRMED and the instant petition is DISMISSED for lack of merit. Accordingly, the Metropolitan Trial Court of Quezon City, Branch 43, is hereby directed to proceed with the hearing and trial on the merits of Criminal Case No. 90721, and to expedite proceedings therein, without prejudice to the right of the accused to due process. Costs against petitioner.

SO ORDERED

Ynares-Santiago, (Chairperson), Austria-Martinez, and Nachura, JJ., concur.

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[1] Penned by Associate Justice Bienvenido L. Reyes with Associate Justices Marina L. Buzon and Elvi John S. Asuncion concurring; rollo, pp. 27-29.

[2] Id. at 30.

[3] The date of filing of the criminal complaint does not appear from the Records.

[4] CA rollo, p. 21.

[5] Id. at 58-61.

[6] Penned by Judge Billy M. Apalit. Id. at 66.

[7] Id. at 67-70.

[8] Id. at 71.

[9] Id. at 72-81.

[10] Penned by Judge Estrella T. Estrada. Id. at 18.

[11] Id. at 67-70.

[12] Id. at 20.

[13] Id. at 2-16.

[14] Id. at 91-93.

[15] Id. at 92.

[16] Id. at 94-96.

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[17] Id. at 104-105.

[18] Diesel Construction Company, Inc. v. Jollibee Corp., 380 Phil 813, 824 (2000).

[19] De la Paz v. Panis, 315 Phil. 238, 248 (1995).

[20] Felizardo v. Court of Appeals, G.R. No. 112050, 15 June 1994, 233 SCRA 220, 223-224.

[21] David v. Cordova, G.R. No. 152992, 28 July 2005, 464 SCRA 385, 395.

[22] Delgado v. Court of Appeals, G.R. No. 137881, 21 December 2004, 447 SCRA 402, 413.

[23] Land Bank of the Philippines v. Court of Appeals, 456 Phil. 755, 785 (2003).

[24] Bell Carpets Int'l Trading Corporation v. Court of Appeals, G.R. No. 75315, 7 May 1990, 185 SCRA 35, 41.

[25] G.R. Nos. 102193-97, 10 May 1994, 232 SCRA 291, 298.

[26] This case was subsequently dismissed on 15 August 2000 on ground of litis pendentia (pendency of Civil Case No. 34308). The motion for reconsideration was denied on 27 December 2000. The case was appealed to the Court of Appeals.

[27] Te v. Court of Appeals, G.R. No. 126746, 29 November 2000, 346 SCRA 327, 335.

[28] Donato v. Luna, G.R. No. L-53642, 15 April 1988, 160 SCRA 441, 445; Quiambao v. Osorio, G.R. No. L-48157, 16 March 1988, 158 SCRA 674, 677-678; Ras v. Rasul, G.R. Nos. L-50441-42, 18 September 1980, 100 SCRA 125, 127.

[29] Prado v. People, 218 Phil 573, 577 (1984).

[30] Sabandal v. Tongco, 419 Phil. 13, 18 (2001).

[31] Rojas v People, 156 Phil. 224, 229 (1974).

[32] Quiambao v. Osorio, supra note 28 at 679.

[33] Security Bank Corporation v. Victorio, G.R. No. 156994, 31 August 2005, 468 SCRA 609, 628.

[34] Id. at 628.

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