

WILLY TAN Y CHUA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENTS.*G.R. No. 148194. April 12, 2002*

Ponente: VITUG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-148194/>**VITUG, J.:**

On 12 December 1996, petitioner Willy Tan was found guilty of bigamy by the Regional Trial Court, Branch 75, of San Mateo, Rizal. He was sentenced to suffer a prison term of prison correccional in its medium period ranging from two (2) years, four (4) months, and one (1) day, to four (4) years and two (2) months. On 23 December 1996, petitioner applied for probation. On 8 January 1997, the application was granted by the trial court but the release order was withheld in view of the filing by the prosecution, on 21 January 1997, of a motion for modification of the penalty. The prosecution pointed out that the penalty for bigamy under Article 349 of the Revised Penal Code was prison mayor and the imposable penalty, absent any mitigating nor aggravating circumstance, should be the medium period of prison mayor, or from eight (8) years and one (1) day to ten (10) years. Thus, the prosecution argued, petitioner was not eligible for probation.

The trial court denied the motion of the prosecution for having been filed out of time since the decision sought to be modified had already attained finality. Indeed, petitioner had meanwhile applied for probation. Upon motion of the prosecution, however, the trial court reconsidered its order and rendered an amended decision, promulgated on 10 July 1998, concluding thusly:

“WHEREFORE, premises considered, judgment is hereby rendered finding accused Willy Tan GUILTY beyond reasonable doubt of the crime of Bigamy and applying the Indeterminate Sentence Law, is hereby sentenced to suffer a minimum prison term of prison [correccional] TWO (2) YEARS, FOUR (4) MONTHS AND ONE (1) DAY to a maximum prison term of EIGHT (8) YEARS AND ONE (1) DAY.”[1]

On 13 July 1998, petitioner filed a notice of appeal with the trial court and elevated the case to the Court of Appeals, contending that -

“THE LOWER COURT ERRED IN AMENDING THE FIRST DECISION INCREASING THE PENALTY AFTER THE SAME HAD ALREADY BECOME FINAL AND EXECUTORY.”[2]

The Court of Appeals, in a decision, dated 18 August 2000, dismissed petitioner’s appeal on the ground that petitioner raised a pure question of law. Citing Article VIII, Section 5(2)(e), of the Constitution, the appellate court explained that jurisdiction over the case was vested exclusively in the Supreme Court and that, in accordance with Rule 122, Section 3(e), of the Rules of Criminal Procedure, the appeal should have been brought up by way of a petition for review on certiorari with this Court and not by merely filing a notice of appeal before the trial court.

Petitioner filed a motion for reconsideration which, on 18 May 2001, was denied by the appellate court. The petition for review on certiorari before this Court raised the following issues:

“I.

THE COURT OF APPEALS GRAVELY ERRED IN APPLYING SECTION 2, RULE 50 ON DISMISSAL OF IMPROPER APPEAL TO THE COURT OF APPEALS AS THE SAID SECTION REFERS TO AN APPEAL UNDER RULE 41 IN ORDINARY CIVIL ACTION BUT NOT TO AN APPEAL IN CRIMINAL CASES WHICH IS GOVERNED BY RULE 122 OF THE REVISED RULES ON CRIMINAL PROCEDURE.

“II.

THE COURT OF APPEALS ERRED IN HOLDING THAT THE SUPREME COURT HAS EXCLUSIVE APPELLATE JURISDICTION ON PURE QUESTIONS OF LAW.

“III.

THE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT BECAUSE THE APPEAL RAISED PURE QUESTIONS OF LAW, IT IS WITHOUT JURISDICTION TO RESOLVE THE ISSUE RAISED IN THE APPEAL.

“IV.

THE COURT OF APPEALS GRAVELY ERRED IN DISMISSING THE APPEAL OUTRIGHT INSTEAD OF DECLARING THE AMENDED DECISION VOID FOR UTTER WANT OF JURISDICTION.

“V.

THE COURT OF APPEALS ERRED IN HOLDING THAT RULE 65 IS THE PROPER REMEDY TO RAISE THE ISSUE OF JURISDICTION AND IF SO IN NOT TREATING THE APPEAL AS A SPECIAL CIVIL ACTION FOR CERTIORARI.”[3]

In all criminal prosecutions, the accused shall have the right to appeal in the manner prescribed by law.[4] While this right is statutory, once it is granted by law, however, its suppression would be a violation of due process, itself a right guaranteed by the Constitution.[5] Section 3(a), Rule 122 of the Rules of Criminal Procedure states:

“Section 3. How appeal is taken. –

(a)

The appeal to the Regional Trial Court, or 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 by serving a copy thereof upon the adverse party. (Emphasis supplied).

The above rule is plain and unambiguous – the remedy of ordinary appeal by notice of appeal, although not necessarily preclusive of other remedies provided for by the rules, is open and available to petitioner.

The notice of appeal was timely filed by petitioner on 13 July 1998, three days after the questioned decision was promulgated.[6] It was a remedy that the law allowed him to avail himself of, and it threw the whole case effectively open for review on both questions of law and of fact whether or not raised by the parties.

Neither the Constitution nor the Rules of Criminal Procedure exclusively vests in the Supreme Court the power to hear cases on appeal in which only an error of law is involved.[7] Indeed, the Court of Appeals, under Rule 42 and 44 of the Rules of Civil Procedure, is authorized to determine “errors of fact, of law, or both.”[8] These rules are expressly adopted to apply to appeals in criminal cases,[9] and they do not thereby divest the Supreme Court of its ultimate jurisdiction over such questions.

Anent the argument that petitioner should have filed a petition for certiorari under Rule 65, it might be pointed out that this remedy can only be resorted to when there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law.[10] Appeal, being a remedy still available to petitioner, a petition for certiorari would have been premature.

In fine, petitioner had taken an appropriate legal step in filing a notice of appeal with the trial court. Ordinarily, the Court should have the case remanded to the Court of Appeals for further proceedings. The clear impingement upon petitioner’s basic right against double jeopardy,[11] however, should here warrant the exercise of the prerogative by this Court to relax the stringent application of the rules on the matter. When the trial court increased the penalty on petitioner for his crime of bigamy after it had already pronounced judgment and on which basis he then, in fact, applied for probation, the previous verdict could only be deemed to have lapsed into finality.

Section 7, Rule 120, of the Rules on Criminal Procedure that states –

“Sec. 7. Modification of judgment. – A judgment of conviction may, upon motion of the accused, be modified or set aside before it becomes final or before appeal is perfected. Except where the death penalty is imposed, a judgment becomes final after the lapse of the period for perfecting an appeal, or when the sentence has been partially or totally satisfied or served, or when the accused has waived in writing his right to appeal, or has applied for probation”-

implements a substantive provision of the Probation Law which enunciates that the mere filing of an application for probation forecloses the right to appeal.

“SEC. 4. Grant of Probation. – Subject to the provisions of this Decree, the trial court may, after it shall have convicted and sentenced a defendant, and upon application by said defendant within the period for perfecting an appeal, suspend the execution of the sentence and place the defendant on probation for such period and upon such terms and conditions as it may deem best: Provided, That no application for probation shall be entertained or granted if the defendant has perfected the appeal from the judgment or conviction.

“Probation may be granted whether the sentence imposes a term of imprisonment or a fine only. An application for probation shall be filed with the trial court. The filing of the application shall be deemed a waiver of the right to appeal.

“An order granting or denying probation shall not be appealable. (As amended by PD 1257, and by PD 1990, Oct. 5, 1985.)”[12]

Such a waiver amounts to a voluntary compliance with the decision and writes finis to the jurisdiction of the trial court over the judgment.[13] There is no principle better settled, or of more universal application, than that no court can reverse or annul, reconsider or amend, its own final decree or judgment.[14] Any attempt by the court to thereafter alter, amend or modify the same, except in respect to correct clerical errors, would be unwarranted.

WHEREFORE, the petition is given due course. The assailed amendatory judgment of the trial court is SET ASIDE and its decision of 12 December 1996 is REINSTATED. No costs.

SO ORDERED.

Davide, Jr., C.J., Melo, Puno, Kapunan, Ynares-Santiago, Sandoval-Gutierrez, and Carpio, JJ., concur.

Mendoza, J., see dissent.

Belosillo, Quisumbing, and De Leon, Jr., JJ., joins the dissenting opinion of J. Mendoza.

Panganiban, J., in the result.

[1] Rollo, pp. 109 – 112.

[2] Appellant's Brief, p. 5.

[3] Petition, p. 11; Rollo, p. 15.

[4] Section 1(i), Rule 115, Rules of Criminal Procedure.

[5] *Estoya vs. Abraham-Singson*, 237 SCRA 1.

[6] See Section 6, Rule 122, Rules of Criminal Procedure.

[7] Sec. 5. The Supreme Court shall have the following powers:

x x x x x x x x

(2) Review, revise, reverse, modify, or affirm on appeal or certiorari as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

(a)

All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.

(b)

All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto.

(c)

All cases in which the jurisdiction of any lower court is in issue.

(d)

All criminal cases in which the penalty imposed is reclusion perpetua or higher.

(e)

All cases in which only an error or question of law is involved.

[8] Section 2, Rule 42; Section 15, Rule 44, Rules of Civil Procedure

[9] Section 18, Rule 124, Rules of Criminal Procedure.

[10] Section 1, Rule 65, Rules of Civil Procedure.

[11] *Gregorio vs. Director of Prisons*, 43 Phil. 650; *US vs. Hart*, 24 Phil. 578.

[12] Establishing A Probation System, Appropriating Funds Therefor And For Other Purposes (P.D. No. 968, as amended by P.D. 1990.

[13] *Lanestosa vs. Santamaria*, 52 Phil. 67.

[14] *United States vs. Ballard and Tamaray*, 35 Phil. 15.

Justice Jose Feria, commenting on the 1985 Rules on Criminal Procedure, has this to say –

“A judgment of conviction may now be modified by the court rendering it only ‘upon motion of the accused.’ This provision changes the previous rulings of the Supreme Court to the effect that such modification may be made upon motion of the fiscal, provided the same is made before the judgment has become final or an appeal has been perfected.” (Feria, Philippine Legal Studies Series No. 2.)

DISSENTING OPINION

MENDOZA, J.:

The reasons for my disagreement with the majority will be spelled out in detail, but in brief they are as follows:

(1) The case before the Court of Appeals did not involve an error of judgment but an alleged error of jurisdiction and, therefore, appeal was not the appropriate remedy to bring the matter to that court. (2) Even assuming the case involved an error of judgment and therefore appeal was the appropriate remedy open to petitioner, the appeal should have been brought before this Court and not the Court of Appeals, and it should not be by mere notice of appeal but by a petition for review. (3) The correct remedy is certiorari. (4) Even equity will not excuse petitioner’s failure to observe the rules for seeking a review, and this Court is not justified in deciding the issue which petitioner should have first brought before the Court of Appeals.

There is no dispute as to the following facts.

Petitioner Willy Tan and Mildred Gococo-Tan were married on January 14, 1979. On November 28, 1981, while their marriage was subsisting, petitioner contracted marriage with Estela G. Infante. On the complaint of Mildred Gococo-Tan, petitioner and Estela G. Infante were charged with bigamy. The case was filed before the Regional Trial Court, Branch 75, San Mateo, Rizal, which, on December 12, 1996, found petitioner Willy Tan guilty of bigamy and sentenced him “to suffer a prison term of prision correccional in its medium period ranging from two (2) years, four (4) months and one (1) day to four (4) years and two (2) months.” The case against Estela G. Infante, who was at large, was ordered archived without prejudice to its revival upon her arrest.

On the basis of the penalty imposed on him, petitioner applied for probation on December 23, 1996. His application was granted by the trial court in its order of January 8, 1997, but release of the order was withheld in view of the filing on January 21, 1997 by the prosecution of a motion for modification of the penalty. The prosecution pointed out that the penalty for bigamy prescribed under Art. 349 of the Revised Penal Code is prision mayor and that the maximum imposable penalty, in the absence of any mitigating or aggravating circumstances, is the medium period of prision mayor, which is from eight (8) years and one (1) day to ten (10) years. Petitioner was thus not eligible for probation, it was argued.

On August 5, 1997, the trial court denied the prosecution’s motion for having been filed out of time, the decision sought to be modified having become final when petitioner applied for probation. However, upon motion of the prosecution, the trial court reconsidered its order and, on April 14, 1998, amended the dispositive portion of its decision as follows:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Willy Tan GUILTY beyond reasonable doubt of the crime of Bigamy and applying the Indeterminate Sentence Law, is hereby sentenced to suffer a minimum prison term of prision [correccional] of TWO (2) YEARS, FOUR (4)

MONTHS AND ONE (1) DAY to a maximum prison term of EIGHT (8) YEARS AND ONE (1) DAY.[1]

The decision, as thus amended, was promulgated on July 10, 1998.

Petitioner appealed to the Court of Appeals by filing a notice of appeal with the trial court on July 13, 1998. Petitioner contended that —

THE LOWER COURT ERRED IN AMENDING THE FIRST DECISION INCREASING THE PENALTY AFTER THE SAME HAD ALREADY BECOME FINAL AND EXECUTORY.[2]

In its decision, dated August 18, 2000, now the subject of this review, the Court of Appeals[3] dismissed for lack of jurisdiction petitioner's appeal on the ground that it raised a pure question of law. Petitioner filed a motion for reconsideration, but his motion was denied by the Court of Appeals in its resolution of May 18, 2001.

In dismissing petitioner's appeal from the amended decision of the Regional Trial Court, the Court of Appeals held that the appeal raised only a question of law; that, pursuant to Art. VIII, §5(2)(e) of the Constitution, appellate jurisdiction over the case was vested exclusively in the Supreme Court; and that, in accordance with Rule 122, §3(e) of the Rules of Criminal Procedure, the appeal should be brought by filing with this Court a petition for review on certiorari, not by filing a notice of appeal in the trial court.

This is a petition for review on certiorari of the decision of the Court of Appeals.

Rule 122, §3 of the Rules of Criminal Procedure provides:

How appeal taken. —

(a) The appeal to the Regional Trial Court, or 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 by serving a copy thereof upon the adverse party.

(b) The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review under Rule 42.

(c) The appeal to the Supreme Court in cases where the penalty imposed by the Regional Trial Court is reclusion perpetua or life imprisonment, or where a lesser penalty is imposed but for offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more serious offense for which the penalty of death, reclusion perpetua, or life imprisonment is imposed, shall be by filing a notice of appeal in accordance with paragraph (a) of this section.

(d) No notice of appeal is necessary in cases where the death penalty is imposed by the Regional Trial Court. The same shall be automatically reviewed by the Supreme Court as provided in section 10 of this Rule.

(e) Except as provided in the last paragraph of section 13, Rule 124, all other appeals to the Supreme Court shall be by petition for review on certiorari under Rule 45.

The majority holds that petitioner's appeal to the Court of Appeals by mere notice is justified under Rule 122, §3(a) as above quoted. Petitioner argues that Rule 44, §15 in fact allows assignments of errors to be made concerning questions of law or fact in appeals to the Court of Appeals. The Court thus sustains the following contention of petitioner:

. . . Rule 122 governing appeals in criminal cases does not direct as it does in ordinary appeals in civil cases under Rule 41 which provides that in all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45.

Under Rule 122(a), the appeal to the Regional Trial Court, or to the Court of Appeals in criminal 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 by serving a copy thereof upon the adverse party unfettered by any restriction on the questions that may be raised on appeal[.] Section 3(d) Rule 122 of the 1985 Rules on Criminal Procedure transposed to par. (e) cited in the footnote by the Court of [A]ppeals decision merely provides that “All other appeals to the Supreme Court shall be by petition for certiorari.” As worded in the present rule “Except as provided in the last paragraph of section 13, Rule 124, all other appeals to the Supreme Court shall be by petition for review on certiorari under Rule 45.”

It did not direct as it does in Rule 41 that appeal in criminal cases on pure questions of law shall only be to the Supreme Court. What the rule directs is that when an appeal is to be made to the Supreme Court the appeal shall be by petition for review.

Rule 41 cannot likewise be applied by analogy in appeals in criminal cases since Rule 41 is not among the rules that was expressly adopted to apply to appeals in criminal cases. Under Section 18 of Rule 124:

SEC. 18. Application of certain rules in civil procedure to criminal cases.— The provisions of Rules 42, 44 to 46 and 48 to 56 relating to procedure in the Court of Appeals and in the Supreme Court in original and appealed civil cases shall be applied to criminal cases insofar as they are applicable and not inconsistent with the provisions of this Rule.

The exclusion of Rule 41 which refers to appeals in civil cases from Rule 122 which refers to appeals in criminal cases clearly indicates that the modes of appeal in ordinary civil actions is not applicable in criminal cases. On the other hand, Section 18 of the Rule 122 expressly provides that Rule 44 on procedure in the Court of Appeals in ordinary appealed cases shall be applied in criminal cases. As will hereafter be shown[,] Rule 44, like Rules 42 and 43 alternatively allows assignment of errors on questions of fact or of law, meaning a[n] assignment of error only on pure questions of law are allowable in appeals to the Court of Appeals. Section 18 clearly connotes that when the rules allow the application of a particular rule in a particular situation, it does so expressly. Note that Rule 47 on Annulment of Judgments was also excluded.

I respectfully disagree with the majority ruling for the following reasons:

First. Appeal is not the appropriate remedy because it is not an error of judgment, but an error of jurisdiction allegedly committed by the trial court, which petitioner was raising in the Court of Appeals. The question whether the trial court could correct an error in computing the penalty after its decision had become final was not passed upon by the trial court in deciding the criminal case before it but was determined by it only as an incident of the case. Indeed, the issue in that case was whether petitioner Willy Tan y Chua was guilty of bigamy as the trial court found. If petitioner did not agree with his conviction, an appeal by mere notice to that effect would have been perfectly correct under Rule 122, §3(a).

But the decision of the trial court on this question has never been disputed by petitioner. No error of judgment had been imputed to the trial court. Rather, what petitioner questioned was the power of the trial court to amend its decision to correct a mistake it had made in fixing the maximum term of the sentence, after the decision had become final. This is a question of jurisdiction. There is therefore no basis for applying Rule 122, §3(a) of the Rules of Criminal Procedure.

While a question of jurisdiction may be raised on appeal, in the context of this case, this was not possible because the majority's premise is precisely that the trial court had lost jurisdiction over the case as its decision had become final while at the same time saying that appeal was petitioner's appropriate remedy. Nor can it be argued that petitioner could not have appealed until the trial court modified its judgment because petitioner was not questioning the original decision but only the decision as modified. Amendments retroact to the date of the

original judgment. At any rate, this only shows the absurdity of allowing appeal when the reason of the majority is that the decision of the trial court could no longer be modified because it had become final. This brings me to my second point.

Second. Even assuming that appeal was the appropriate remedy, because it was a question of law that petitioner wanted to raise, the appeal should have been to this Court, not the Court of Appeals, and it should have been by petition for review on certiorari, not by mere notice of appeal.

Art. VIII, §5(2)(e) of the Constitution provides that the Supreme Court shall have appellate jurisdiction over “all cases in which only an error or question of law is involved.” This jurisdiction of the Supreme Court is exclusive by reason of §17, par. 4(4) of the Judiciary Act of 1948, which provides:

SEC. 17. Jurisdiction of the Supreme Court. —

The Supreme Court shall further have exclusive jurisdiction to review, revise, reverse, modify or affirm on certiorari as the law or rules of court may provide, final judgments and decrees of inferior courts as herein provided, in —

. . . .

(4) All other cases in which only errors or questions of law are involved: Provided, however, That if, in addition to constitutional, tax or jurisdictional questions, the cases mentioned in the three next preceding paragraphs also involve questions of fact or mixed questions of fact and law, the aggrieved party shall appeal to the Court of Appeals; and the final judgment or decision of the latter may be reviewed, revised, reversed, modified or affirmed by the Supreme Court on writ of certiorari; . . . (Emphasis added)

Art. VIII, §5(2)(e) of the Constitution provides that the appeal shall be “by certiorari as the law or the rules of court may provide.” Accordingly, Rule 122, §3(d) states that “all other appeals to the Supreme Court [in criminal cases other than those involving the imposition of reclusion perpetua or life imprisonment or death] shall be by a petition for review on certiorari under Rule 45.” As petitioner simply filed a mere notice of appeal with the trial court, his appeal was correctly dismissed by the Court of Appeals.

The majority contends that the Court of Appeals has appellate jurisdiction over cases in which the only question is a question of law that may be brought by mere notice of appeal filed with the trial court because of Rule 42, §2 and Rule 44, §15 of the 1997 Rules of Civil Procedure, which are made applicable to criminal cases by Rule 124, §18[4] of the Rules of Criminal Procedure. These Rules state:

RULE 42, §2. Form and contents. — The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition. . . . (Emphasis added)

RULE 44, §15. Questions that may be raised on appeal. — Whether or not the appellant has filed a motion for new trial in the court below, he may include in his assignment of errors any question of law or fact that has been raised in the court below and which is within the issues framed by the parties. (Emphasis added)

Mixed questions of fact and law may be raised in the Court of Appeals but not pure questions of law. This is clear

from §17, par. 4(4) of the Judiciary Act of 1948 as quoted above. The exclusive jurisdiction of this Court over appeals in which only errors or questions of law are involved is affirmed in B.P. Blg. 129, §9 defining the jurisdiction of the Court of Appeals. This provision reads in part:

SEC. 9. Jurisdiction. — The Court of Appeals shall exercise:

....

(3) Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders, or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions, including the Securities and Exchange Commission, the Social Security Commission, the Employees Compensation Commission and the Civil Service Commission, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor Code of the Philippines under PD No. 442, as amended, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948. . . . (Emphasis added)

The phrase “errors of fact or law or both” found in Rule 42, §2 and the phrase “any question of law or fact” in Rule 44, §15 must, therefore, be understood to mean “question of fact or mixed questions of fact and law” when referring to cases falling within the appellate jurisdiction of the Court of Appeals. The reason for this is simple. Rule 42, §2 and Rule 44, §15 are procedural rules, and it is conventional learning that procedural rules cannot amend or change substantive laws, such as the Constitution, the Judiciary Act of 1948 (R.A. No. 296), and the Judiciary Reorganization Act of 1980 (B.P. Blg. 129).

As petitioner’s appeal did not involve either a question of fact or a mixed question of fact and law, but solely a question of law, resort to the Court of Appeals by mere notice of appeal was erroneous, and therefore the appeal was correctly dismissed. Under no circumstance can the appeal be taken to the Court of Appeals without violating the Judiciary Act of 1948 and B.P. Blg. 129.

Third. Petitioner’s remedy was to file a petition for certiorari under Rule 65, §1 for, as already shown, the question raised is not an error of law but an alleged error of jurisdiction. Such petition should be filed in the Court of Appeals pursuant to B.P. Blg. 129, §9 by means of a special civil action of certiorari. Such petition should have been brought within 60 days from notice to petitioner of the ruling of the trial court, which is now long over.

Nonetheless, the majority argues that this Court should relax the rules and decide directly the question raised by petitioner in the Court of Appeals, namely, whether the trial court could correct the penalty imposed on petitioner after its decision had become final. It is contended that this is necessary because a constitutional right of petitioner has been violated, i.e., the right of petitioner not to be placed in double jeopardy.

Rules governing jurisdiction and the procedure for appeals as discussed above are not mere technicalities. They are part and parcel of the system of doing justice. It is JUSTICE ACCORDING TO LAW which we administer. As the majority notes, Rule 115, § 1(i) gives every accused the right to appeal from a judgment of conviction. The same Rule provides, however, that the exercise of the right to appeal must be “in the manner prescribed by law.”

Nor is it tenable to invoke “demands of substantial justice” in this case as ground for setting aside the rules. Justice is due the State and the complainant in the criminal case as much as it is due petitioner. Again and again, the majority harps on the fact that the decision of the trial court had already become final and therefore it could no longer be modified even if that was to correct a plain error in computing the penalty. We are told that petitioner has the right not to be placed in double jeopardy of punishment for the same offense. This is not however the issue before this Court. The issue here is whether the Court of Appeals erred in dismissing petitioner’s appeal (1) because appeals in cases in which the only error assigned is a question of law are exclusively cognizable by this Court and petitioner should have filed a petition for review on certiorari, not a mere notice of appeal given to the

trial court and (2) because petitioner's remedy was really a special civil action of certiorari under Rule 65.

It is I think misplaced sentimentality to argue on the constitutional right of petitioner when he had his remedies to seek vindication of this right but lost them by default by failing to avail himself of those remedies in the law. What about the right of the State and of complainant to have the correct penalty imposed on petitioner who does not question his conviction? After all, the mistake in the imposition of the penalty was that of the trial court, not that of the State and the complainant.

The demands of justice would seem to indicate that petitioner be not allowed to invoke the finality of the erroneous sentence in order to escape his just deserts. After all, what the trial court did in this case was to correct an error it had made in fixing the maximum term of the sentence on petitioner. Petitioner, who does not question his liability for bigamy, can claim no vested right in the erroneous sentence.

To summarize then, petitioner had remedies available to him for the correction of an error allegedly committed by the trial court. But he lost those remedies by default. We cannot set aside the rules just so he will be able to raise the questions which he sought to raise in the Court of Appeals. We must abide by our rules. This is the essence of the Rule of Law.

I vote therefore to affirm the decision of the Court of Appeals.

[1] CA Decision, p. 1; Rollo, pp. 109-112.

[2] Appellant's Brief, p. 5; id., p. 97.

[3] Through Justice Salvador J. Valdez, Jr. (ponente) and Justices Fermin A. Martin, Jr. and Remedios Salazar-Fernando.

[4] This provision states: "Application of certain rules in civil procedure to criminal cases. —The provision of Rule 42, 44 to 46 and 48 to 56 relating to procedure in the Court of Appeals and in the Supreme Court in original and appealed civil cases shall be applied to criminal cases insofar as they are applicable and not inconsistent with the provisions of this Rule."

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.