HEIRS OF SPOUSES TEOFILO M. RETERTA AND ELISA RETERTA, NAMELY: EDUARDO M. RETERTA, CONSUELO M. RETERTA, AND AVELINA M. RETERTA, PETITIONERS, VS. SPOUSES LORENZO MORES AND VIRGIN...

G.R. No. 159941. August 17, 2011

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

The original and exclusive jurisdiction over a complaint for quieting of title and reconveyance involving friar land belongs to either the Regional Trial Court (RTC) or the Municipal Trial Court (MTC). Hence, the dismissal of such a complaint on the ground of lack of jurisdiction due to the land in litis being friar land under the exclusive jurisdiction of the Land Management Bureau (LMB) amounts to manifest grave abuse of discretion that can be corrected through certiorari.

The petitioners, whose complaint for quieting of title and reconveyance the RTC had dismissed, had challenged the dismissal by petition for certiorari, but the Court of Appeals (CA) dismissed their petition on the ground that certiorari was not a substitute for an appeal, the proper recourse against the dismissal. They now appeal that ruling of the CA promulgated on April 25, 2003.[1]

Antecedents

On May 2, 2000, the petitioners commenced an action for quieting of title and reconveyance in the RTC in Trece Martires City (Civil Case No. TM-983),[2] averring that they were the true and real owners of the parcel of land (the land) situated in Trez Cruzes, Tanza, Cavite, containing an area of 47,708 square meters, having inherited the land from their father who had died on July 11, 1983; that their late father had been the grantee of the land by virtue of his occupation and cultivation; that their late father and his predecessors in interest had been in open, exclusive, notorious, and continuous possession of the land for more than 30 years; that they had discovered in 1999 an affidavit dated March 1, 1966 that their father had purportedly executed whereby he had waived his rights, interests, and participation in the land; that by virtue of the affidavit, Sales Certificate No. V-769 had been issued in favor of respondent Lorenzo Mores by the then Department of Agriculture and Natural Resources; and that Transfer Certificate of Title No. T-64071 had later issued to the respondents.

On August 1, 2000, the respondents, as defendants, filed a motion to dismiss, insisting that the RTC had no jurisdiction to take cognizance of Civil Case No. TM-983 due to the land being friar land, and that the petitioners had no legal personality to commence Civil Case No. TM-983.

On October 29, 2001, the RTC granted the motion to dismiss, holding:[3]

> Considering that plaintiffs in this case sought the review of the propriety of the grant of lot 2938 of the Sta. Cruz de Malabon Friar Lands Estate by the Lands Management Bureau of the defendant Lorenzo Mores through the use of the forged Affidavit and Sales Certificate No. V-769 which eventually led to the issuance of

> T.C.T. No. T-64071 to defendant Lorenzo Mores and wife Virginia Mores, and considering further that the land subject of this case is a friar land and not land of the public domain, consequently Act No. 1120 is the law prevailing on the matter which gives to the Director of Lands the exclusive administration and disposition of Friar Lands. More so, the determination whether or not fraud had been committed in the procurement of the sales certificate rests to the exclusive power of the Director of Lands. Hence this Court is of the opinion that it has no jurisdiction over the nature of this action. On the second ground relied upon by the defendants in their Motion To Dismiss, suffice it to state that the Court deemed not to discuss the same.
>
> IN VIEW OF THE FOREGOING, let this instant case be dismissed as it is hereby dismissed.
>
> SO ORDERED.

The petitioners then timely filed a motion for reconsideration, but the RTC denied their motion for reconsideration on February 21, 2002.[4]

On May 15, 2002, therefore, the petitioners assailed the dismissal via petition for certiorari, but the CA dismissed the petition on April 25, 2003, holding: [5]

> Thus, the basic requisite for the special civil action of certiorari to lie is that there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law.
>
> In the case at bench, when the court rendered the assailed decision, the remedy of the petitioners was to have appealed the same to this Court. But petitioners did not. Instead they filed the present special civil action for certiorari on May 15, 2002 after the decision of the court a quo has become final.
>
> The Order dismissing the case was issued by the court a quo on 29 October 2001, which Order was received by the petitioners on November 16, 2001. Petitioners filed a motion for reconsideration dated November 26, 2001 but the same was denied by the court a quo on 21 February 2002. The Order denying the motion for reconsideration was received by the petitioners on 20 March 2002.
>
> Petitioners filed this petition for certiorari on May 15, 2002. Certiorari, however cannot be used as a substitute for the lost remedy of appeal.
>
> In Bernardo vs. Court of Appeals, 275 SCRA 423, the Supreme Court had the following to say:
>
> "We have time and again reminded members of the bench and bar that a special civil action for certiorari under Rule 65 lies only when "there is no appeal nor plain, speedy and adequate remedy in the ordinary course of law." Certiorari cannot be allowed when a party to a case fails to appeal a judgment despite the availability of that remedy, certiorari not being a substitute for lost appeal. The remedies of appeal and certiorari are mutually exclusive and not alternative or successive."

WHEREFORE, in view of the foregoing, the instant petition is hereby DISMISSED.

SO ORDERED.

On September 9, 2003, the CA denied the petitioners' motion for reconsideration.[6]

Hence, this appeal.

Issues

The petitioners submit that:

> I.
>
> IT IS REVERSIBLE ERROR OF THE HONORABLE COURT OF APPEALS TO DISREGARD THE

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> PROVISIONS OF SECTION 1, RULE 41, SECOND PARAGRAPH, SUBPARAGRAPH (a), AND SECTION 9, RULE 37, 1997 RULES OF COURT;
>
> II.
>
> IT IS REVERSIBLE ERROR FOR THE HONORABLE COURT OF APPEALS TO APPLY THE RULING IN THE CASE OF ROSETE vs. COURT OF APPEALS, 339 SCRA 193, 199, NOTWITHSTANDING THE FACT THAT THE 1997 RULES OF CIVIL PROCEDURE ALREADY TOOK EFFECT ON JULY 1, 1997.
>
> III.
> IT IS REVERSIBLE ERROR FOR THE HONORABLE COURT OF APPEALS IN NOT FINDING THAT THE TRIAL JUDGE GRAVELY ABUSED ITS DISCRETION WHEN IT DISMISSED THE COMPLAINT RULING THAT IT HAS NO JURISDICTION OVER THE NATURE OF THE ACTION, AND IN NOT FINDING THAT THE TRIAL JUDGE HAS JURISDICTION OVER THE SAME.[7]

Briefly stated, the issue is whether or not the CA erred in dismissing the petition for certiorari.

Ruling

The appeal is meritorious.

1.
Propriety of certiorari as remedy
against dismissal of the action

The CA seems to be correct in dismissing the petition for certiorari, considering that the order granting the respondents' motion to dismiss was a final, as distinguished from an interlocutory, order against which the proper remedy was an appeal in due course. Certiorari, as an extraordinary remedy, is not substitute for appeal due to its being availed of only when there is no appeal, or plain, speedy and adequate remedy in the ordinary course of law.[8]

Nonetheless, the petitioners posit that a special civil action for certiorari was their proper remedy to assail the order of dismissal in light of certain rules of procedure, specifically pointing out that the second paragraph of Section 1 of Rule 37 of the Rules of Court ("An order denying a motion for new trial or reconsideration is not appealable, the remedy being an appeal from the judgment or final order") prohibited an appeal of a denial of the motion for reconsideration, and that the second paragraph of Section 1 of Rule 41 of the Rules of Court ("No appeal may be taken from: xxx An order denying a motion for new trial or reconsideration") expressly declared that an order denying a motion for reconsideration was not appealable. They remind that the third paragraph of Section 1 of Rule 41 expressly provided that in the instances "where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65."

The petitioners' position has no basis.

For one, the order that the petitioners really wanted to obtain relief from was the order granting the respondents' motion to dismiss, not the denial of the motion for reconsideration. The fact that the order granting the motion to dismiss was a final order for thereby completely disposing of the case, leaving nothing more for the trial court to do in the action, truly called for an appeal, instead of certiorari, as the correct remedy.

The fundamental distinction between a final judgment or order, on one hand, and an interlocutory order, on the other hand, has been outlined in Investments, Inc. v. Court of Appeals,[9] viz:

> The concept of `final' judgment, as distinguished from one which has `become final' (or `executory' as of right [final and executory]), is definite and settled. A `final' judgment or order is one that finally disposes of a case,

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> leaving nothing more to be done by the Court in respect thereto, e.g., an adjudication on the merits which, on the basis of the evidence presented at the trial declares categorically what the rights and obligations of the parties are and which party is in the right; or a judgment or order that dismisses an action on the ground, for instance, of res judicata or prescription. Once rendered, the task of the Court is ended, as far as deciding the controversy or determining the rights and liabilities of the litigants is concerned. Nothing more remains to be done by the Court except to await the parties' next move (which among others, may consist of the filing of a motion for new trial or reconsideration, or the taking of an appeal) and ultimately, of course, to cause the execution of the judgment once it becomes `final' or, to use the established and more distinctive term, `final and executory.'
>
> xxx
>
> Conversely, an order that does not finally dispose of the case, and does not end the Court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is `interlocutory,' e.g., an order denying a motion to dismiss under Rule 16 of the Rules, or granting a motion for extension of time to file a pleading, or authorizing amendment thereof, or granting or denying applications for postponement, or production or inspection of documents or things, etc. Unlike a `final' judgment or order, which is appealable, as above pointed out, an `interlocutory' order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case.

Moreover, even Section 9 of Rule 37 of the Rules of Court, cited by the petitioners, indicates that the proper remedy against the denial of the petitioners' motion for reconsideration was an appeal from the final order dismissing the action upon the respondents' motion to dismiss. The said rule explicitly states thusly:

> Section 9. Remedy against order denying a motion for new trial or reconsideration. - An order denying a motion for new trial or reconsideration is not appealable, the remedy being an appeal from the judgment or final order.

The restriction against an appeal of a denial of a motion for reconsideration independently of a judgment or final order is logical and reasonable. A motion for reconsideration is not putting forward a new issue, or presenting new evidence, or changing the theory of the case, but is only seeking a reconsideration of the judgment or final order based on the same issues, contentions, and evidence either because: (a) the damages awarded are excessive; or (b) the evidence is insufficient to justify the decision or final order; or (c) the decision or final order is contrary to law.[10] By denying a motion for reconsideration, or by granting it only partially, therefore, a trial court finds no reason either to reverse or to modify its judgment or final order, and leaves the judgment or final order to stand. The remedy from the denial is to assail the denial in the course of an appeal of the judgment or final order itself.

The enumeration of the orders that were not appealable made in the 1997 version of Section 1, Rule 41 of the Rules of Court - the version in force at the time when the CA rendered its assailed decision on May 15, 2002 - included an order denying a motion for new trial or motion for reconsideration, to wit:

> Section 1. Subject of appeal. -- 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 these Rules to be appealable.
>
> No appeal may be taken from:
>
> (a) An order denying a motion for new trial or reconsideration;
>
> (b) An order denying a petition for relief or any similar motion seeking relief from judgment;
>
> (c) An interlocutory order;

(d) An order disallowing or dismissing an appeal;

(e) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;

(f) An order of execution;

(g) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and

(h) An order dismissing an action without prejudice.

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65. (n)

It is true that Administrative Matter No. 07-7-12-SC, effective December 27, 2007, has since amended Section 1, Rule 41, supra, by deleting an order denying a motion for new trial or motion for reconsideration from the enumeration of non-appealable orders, and that such a revision of a procedural rule may be retroactively applied. However, to reverse the CA on that basis would not be right and proper, simply because the CA correctly applied the rule of procedure in force at the time when it issued its assailed final order.

2.
RTC or MTC has jurisdiction over the action
The settled rule precluding certiorari as a remedy against the final order when appeal is available notwithstanding, the Court rules that the CA should have given due course to and granted the petition for certiorari for two exceptional reasons, namely: (a) the broader interest of justice demanded that certiorari be given due course to avoid the undeserved grossly unjust result that would befall the petitioners otherwise; and (b) the order of the RTC granting the motion to dismiss on ground of lack of jurisdiction over the subject matter evidently constituted grave abuse of discretion amounting to excess of jurisdiction.

On occasion, the Court has considered certiorari as the proper remedy despite the availability of appeal, or other remedy in the ordinary course of law. In Francisco Motors Corporation v. Court of Appeals,[11] the Court has declared that the requirement that there must be no appeal, or any plain speedy and adequate remedy in the ordinary course of law admits of exceptions, such as: (a) when it is necessary to prevent irreparable damages and injury to a party; (b) where the trial judge capriciously and whimsically exercised his judgment; (c) where there may be danger of a failure of justice; (d) where an appeal would be slow, inadequate, and insufficient; (e) where the issue raised is one purely of law; (f) where public interest is involved; and (g) in case of urgency.

Specifically, the Court has held that the availability of appeal as a remedy does not constitute sufficient ground to prevent or preclude a party from making use of certiorari if appeal is not an adequate remedy, or an equally beneficial, or speedy remedy. It is inadequacy, not the mere absence of all other legal remedies and the danger of failure of justice without the writ, that must usually determine the propriety of certiorari.[12] A remedy is plain, speedy and adequate if it will promptly relieve the petitioner from the injurious effects of the judgment, order, or resolution of the lower court or agency.[13] It is understood, then, that a litigant need not mark time by resorting to the less speedy remedy of appeal in order to have an order annulled and set aside for being patently void for failure of the trial court to comply with the Rules of Court.[14]

Nor should the petitioner be denied the recourse despite certiorari not being available as a proper remedy against an assailed order, because it is better on balance to look beyond procedural requirements and to overcome the ordinary disinclination to exercise supervisory powers in order that a void order of a lower court may be

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controlled to make it conformable to law and justice.[15] Verily, the instances in which certiorari will issue cannot be defined, because to do so is to destroy the comprehensiveness and usefulness of the extraordinary writ. The wide breadth and range of the discretion of the court are such that authority is not wanting to show that certiorari is more discretionary than either prohibition or mandamus, and that in the exercise of superintending control over inferior courts, a superior court is to be guided by all the circumstances of each particular case "as the ends of justice may require." Thus, the writ will be granted whenever necessary to prevent a substantial wrong or to do substantial justice.[16]

The petitioners' complaint - self-styled as being for the "quieting of title and reconveyance, declaration of nullity of affidavit & Sales Certificate, reconveyance and damages" - would challenge the efficacy of the respondents' certificate of title under the theory that there had been no valid transfer or assignment from the petitioners' predecessor in interest to the respondents of the rights or interests in the land due to the affidavit assigning such rights and interests being a forgery and procured by fraud.

The petitioners' cause of action for reconveyance has support in jurisprudence bearing upon the manner by which to establish a right in a piece of friar land. According to Arayata v. Joya,[17] in order that a transfer of the rights of a holder of a certificate of sale of friar lands may be legally effective, it is necessary that a formal certificate of transfer be drawn up and submitted to the Chief of the Bureau of Public Lands for his approval and registration. The law authorizes no other way of transferring the rights of a holder of a certificate of sale of friar lands. In other words, where a person considered as a grantee of a piece of friar land transfers his rights thereon, such transfer must conform to certain requirements of the law. Under Director of Lands v. Rizal,[18] the purchaser in the sale of friar lands under Act No. 1120 is already treated by law as the actual owner of the lot purchased even before the payment of the full payment price and before the execution of the final deed of conveyance, subject to the obligation to pay in full the purchase price, the role or position of the Government becoming that of a mere lien holder or mortgagee.[19]

Thus, pursuant to Section 16 of Act No. 1120,[20] had grantee Teofilo Reterta perfected his title, the petitioners as his heirs would have succeeded him and taken title from him upon his death. By law, therefore, should the execution of the deed in favor of the respondents be held invalid, the interests of Teofilo Reterta should descend to the petitioners and the deed should issue in their favor. Adding significance to the petitioners' claim was their allegation in the complaint that they were in possession of the land. Moreover, as alleged in the petitioners' opposition to the motion to dismiss of the respondents, Teofilo Reterta had partially paid the price of the land.[21]

Given the foregoing, the petitioners' complaint made out a good case for reconveyance or reversion, and its allegations, if duly established, might well warrant the reconveyance of the land from the respondents to the petitioners. It did not matter that the respondents already held a certificate of title in their names. In essence, an action for reconveyance respects the incontrovertibility of the decree of registration but seeks the transfer of the property to its rightful and legal owner on the ground of its having been fraudulently or mistakenly registered in another person's name. There is no special ground for an action for reconveyance, for it is enough that the aggrieved party asserts a legal claim in the property superior to the claim of the registered owner, and that the property has not yet passed to the hands of an innocent purchaser for value.[22] On this score, it is also worthy to stress that the title of a piece of a friar land obtained by a grantee from the Government without conforming with the requirements set by the law may be assailed and nullified.

Was the petitioners' action for reconveyance within the jurisdiction of the regular court?

We answer the query in the affirmative.

The law governing jurisdiction is Section 19 (2) of Batas Pambansa Blg. 129,[23] as amended by Republic Act

No. 7691,[24] which provides:

> Section 19. Jurisdiction in Civil Cases. -- Regional Trial Courts shall exercise exclusive original jurisdiction:
> xxx
>
> xxx
>
> (2) In all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty thousand pesos (P20,000.00) or for civil actions in Metro Manila, where such value exceeds Fifty thousand pesos (P50,000.00) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts;
>
> xxx

Conformably with the provision, because an action for reconveyance or to remove a cloud on one's title involves the title to, or possession of, real property, or any interest therein, exclusive original jurisdiction over such action pertained to the RTC, unless the assessed value of the property did not exceed P20,000.00 (in which instance the MTC having territorial jurisdiction would have exclusive original jurisdiction). Determinative of which regular court had jurisdiction would be the allegations of the complaint (on the assessed value of the property) and the principal relief thereby sought.[25]

The respondents' reliance on Section 12 and Section 18 of Act No. 1120 to sustain their position that the Bureau of Public Lands (now LMB) instead had exclusive jurisdiction was without basis. The provisions read:

> Section 12. xxx the Chief of the Bureau of Public Lands shall give the said settler and occupant a certificate which shall set forth in detail that the Government has agreed to sell to such settler and occupant the amount of land so held by him, at the price so fixed, payable as provided in this Act at the office of the Chief of Bureau of Public Lands xxx and that upon the payment of the final installment together with all accrued interest the Government will convey to such settler and occupant the said land so held by him by proper instrument of conveyance, which shall be issued and become effective in the manner provided in section one hundred and twenty-two of the Land Registration Act xxx.
>
> Section 18. No lease or sale made by Chief of the Bureau of Public Lands under the provisions of this Act shall be valid until approved by the Secretary of the Interior.

As the provisions indicate, the authority of LMB under Act No. 1120, being limited to the administration and disposition of friar lands, did not include the petitioners' action for reconveyance. LMB ceases to have jurisdiction once the friar land is disposed of in favor of a private person and title duly issues in the latter's name. By ignoring the petitioners' showing of its plain error in dismissing Civil Case No. TM-983, and by disregarding the allegations of the complaint, the RTC acted whimsically and capriciously.

Given all the foregoing, the RTC committed grave abuse of discretion amounting to lack of jurisdiction. The term grave abuse of discretion connotes whimsical and capricious exercise of judgment as is equivalent to excess, or lack of jurisdiction.[26] The abuse must be so patent and gross as to amount to an evasion of a positive duty or to a 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 or hostility.[27]

The dismissal of Civil Case No. TM-983, unless undone, would leave the petitioners bereft of any remedy to protect their substantial rights or interests in the land. As such, they would suffer grave injustice and irreparable damage. In that situation, the RTC's dismissal should be annulled through certiorari, for the task of the remedy was to do justice to the unjustly aggrieved.[28]

WHEREFORE, the Court grants the petition for certiorari; sets aside the decision the Court of Appeals promulgated on April 25, 2003; and directs Branch 23 of the Regional Trial Court in Trece Martires City to resume the proceedings in Civil Case No. TM-983 with dispatch.

The respondents shall pay the costs of suit.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Villarama, Jr., JJ., concur.

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[1] Rollo, pp. 28-33; penned by Associate Justice Perlita J. Tria Tirona (retired), with the concurrence of Associate Justice Oswaldo D. Agcaoili (retired) and Associate Justice Edgardo F. Sundiam (deceased).

[2] Id., pp. 96-101

[3] Id., pp. 49-50.

[4] Id., p. 93.

[5] Supra note 1.

[6] Rollo, pp. 26-27.

[7] Id., p. 15.

[8] Section 1, Rule 65, Rules of Court.

[9] G.R. No. L-60036, 27 January 1987, 147 SCRA 334, 339-341.

[10] Section 1, paragraph (b), Rule 37, Rules of Court.

[11] G.R. Nos. 117622-23, October 23, 2006, 505 SCRA 8, 20.

[12] Jaca v. Davao Lumber Company, G.R. No. L-25771, March 29, 1982, 113 SCRA 107, 129.

[13] Metropolitan Bank and Trust Company, Inc. v. National Wages and Productivity Commission, G.R. No. 144322, February 6, 2007, 514 SCRA 346.

[14] Lu Ym v. Nabua, G.R. No. 161309, February 23, 2005, 452 SCRA 298, 311.

[15] Gutib v. Court of Appeals, G.R. No. 131209, August 13, 1999, 312 SCRA 365.

[16] Id.

[17] No. 28067, 51 Phil. 654 (1928).

[18] No. L-292587, 87 Phil. 806 (1950).

[19] Id., p. 814.

[20] The provision pertinently states: "xxx [i]n the event of death of a holder of a certificate the issuance of which is provided for in section twelve hereof, prior to the execution of a deed by the Government to any purchaser, the interest of the holder of the certificate shall descend and deed shall issue to the persons who under the laws of the Philippine Islands would have taken had the title been perfected before the death of the holder of the certificate."

[21] Rollo, p. 124.

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[22] Heirs of Valeriano S. Concha, Sr. v. Lumocso, G.R. No. 158121, December 12, 2007, 540 SCRA 1, 13-14.

[23] Judiciary Reorganization Act of 1980.

[24] An Act Expanding the Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts, Amending for the Purpose Batas Pambansa, Blg. 129, Otherwise Known as the Judiciary Reorganization Act of 1980. (Approved on March 25, 1994; effective on April 15, 1994).

[25] Heirs of Generoso Sebe v. Heirs of Veronico Sevilla, G.R. No. 174497, October 12, 2009, 603 SCRA 395, 400.

[26] Republic v. Sandiganbayan (Second Division), G.R. No. 129406, March 6, 2006, 484 SCRA 119; Litton Mills, Inc. v. Galleon Trader, Inc., G.R. No. L-40867, July 26, 1988, 163 SCRA 489.

[27] Angara v. Fedman Development Corporation, G.R. No. 156822, October 18, 2004, 440 SCRA 467; Duero v. Court of Appeals, G.R. No. 131282, January 4, 2002, 373 SCRA 11.

[28] E.g., Alba v. Nitorrada, G.R. No. 120223, March 13, 1996, 254 SCRA 753, ("That the petitioner and all other public officials are deprived of a legal recourse in the event that the Ombudsman or his Deputy `hastily, arbitrarily, if not oppressively and/or inhumanly, acts to find him administratively liable for an imagined violation of Sec. 4 of R.A. 6713 x x x" is belied by the fact that the remedy of filing a petition for certiorari under Rule 65 of the Rules of Court is always available to an aggrieved public official in such a case. The Rules of Court which apply suppletorily to the Rules of Procedure of the Office of the Ombudsman provides that in the absence of an appeal or any other plain, speedy and adequate remedy in the ordinary course of law, a person aggrieved by any decision rendered in excess of jurisdiction or with grave abuse of discretion by a tribunal, board or officer exercising judicial functions, may file a petition for certiorari with this Court"); Rodriguez v. Court of Appeals, G.R. No. 85723, June 19, 1995, 245 SCRA 150, 152 ("Certiorari is justified in order to prevent irreparable damages and injury to a party, where the trial judge capriciously and whimsically exercised his judgment, or where there may be a failure of justice.")

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