

ESTRELLA TAGLAY, PETITIONER, VS. JUDGE MARIVIC TRABAJO DARAY AND LOVERIE PALACAY, RESPONDENTS.

G.R. No. 164258. August 22, 2012

Ponente: PERALTA, J.

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PERALTA, J.:

Before the Court is a special civil action for certiorari under Rule 65 of the Rules of Court seeking to reverse and set aside the Orders[1] of the Regional Trial Court (RTC) of Digos City, Branch 18, dated March 9, 2004 and June 7, 2004, in Criminal Case No. FC-71-02. The March 9, 2004 Order denied herein petitioner's Motion to Dismiss, while the June 7, 2004 Order denied her Motion for Reconsideration.

The instant petition arose from a Criminal Complaint[2] for Qualified Trespass to Dwelling filed by private respondent against herein petitioner with the 5[th] Municipal Circuit Trial Court (MCTC) of Sta. Maria-Malita-Don Marcelino, Davao del Sur on June 19, 2001.

Finding probable cause to indict petitioner, the Public Prosecutor assigned to handle the case filed an Information[3] against her on November 19, 2001. The Information reads as follows:

The undersigned Prosecutor accuses ESTRELLA TAGLAY of the crime of Qualified Trespass to Dwelling as defined and penalized under Article 280 of the Revised Penal Code, as amended, committed as follows:

That on June 2, 2001 at about 2:30 o'clock in the afternoon at Tibangao, Malita, Davao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the aforesaid accused, a private person and without any justifiable reason and by means of violence, did then and there willfully, unlawfully and feloniously enter into the dwelling of Loverie Palacay without her consent and against her will and once inside maltreated, boxed and choked her, to her damage and prejudice.

CONTRARY TO LAW.[4]

Upon arraignment on June 7, 2002, petitioner pleaded not guilty.[5] Pre-trial conference was set on August 13, 2002.

However, on August 15, 2002, the MCTC issued an Order,[6] to wit:

It appearing that private complainant Loverie Palacay was a minor on June 2, 2001, the date of the incident, since she was born on August 7, 1983, per Certification dated August 15, 2002 issued by Municipal Registrar Josephine A. Marquez, this case, upon manifestation of Prosecutor Perfecto P. Ordaneza and pursuant to Republic Act. No. 8369 and Circular 11-99, is hereby transferred to Branch 20, Regional Trial Court, Digos City, for proper disposition.

SO ORDERED.

Subsequently, the case was transferred to the RTC of Digos City where petitioner was brought to trial.

Witnesses were then presented by the prosecution. Prior to the presentation of the final witness for the

prosecution, petitioner filed a Motion to Dismiss on the ground of lack of jurisdiction. Petitioner contended that the RTC did not acquire jurisdiction over the case, because the MCTC erroneously transferred the case to the RTC instead of dismissing it. Petitioner also argued that the RTC's lack of jurisdiction was further aggravated when she was not arraigned before the RTC.

On March 9, 2004, the RTC issued its assailed Order[7] ruling that it acquired jurisdiction over the case when it received the records of the case as a consequence of the transfer effected by the MCTC; that the transfer of the case from the MCTC is authorized under Administrative Matter No. 99-1-13-SC and Circular No. 11-99; that there is no doubt that the offended party is a minor and, thus, the case falls within the original jurisdiction of Family Courts pursuant to Republic Act (R.A.) No. 8369. The RTC also held that even granting that there was defect or irregularity in the procedure because petitioner was not arraigned before the RTC, such defect was fully cured when petitioner's counsel entered into trial without objecting that his client had not yet been arraigned. Furthermore, the RTC noted that petitioner's counsel has cross-examined the witnesses for the prosecution. Consequently, the RTC denied petitioner's Motion to Dismiss.

Petitioner filed a Motion for Reconsideration, but the same was denied by the RTC via its Order[8] dated June 7, 2004.

Hence, the instant petition for certiorari.

Petitioner raises two main grounds.

First, petitioner contends that the RTC did not acquire jurisdiction over the case because Circular No. 11-99, which authorizes the transfer of Family Courts cases filed with first-level courts to the RTCs, is applicable only to cases which were filed prior to the effectivity of the said Circular on March 1, 1999. Petitioner argues that all Family Courts cases filed with first-level courts after the effectivity of the said Circular can no longer be transferred to the RTC; instead they should be dismissed. Considering that the Information in the instant case was filed with the MCTC on November 19, 2001, petitioner avers that the MCTC should have dismissed the case instead of ordering its transfer to the RTC.

Second, petitioner insists that she should have been arraigned anew before the RTC and that her arraignment before the MCTC does not count because the proceedings conducted therein were void.

The petition is meritorious.

At the outset, it is necessary to stress that, generally, a direct recourse to this Court in a petition for certiorari is highly improper for it violates the established policy of strict observance of the judicial hierarchy of courts.[9] While this Court has concurrent jurisdiction with the RTCs and the CA to issue writs of certiorari, this concurrence is not to be taken as an unrestrained freedom of choice as to which court the application for the writ will be directed.[10] There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs.[11] This Court is a court of last resort and must so remain if it is to satisfactorily perform the functions assigned to it by the Constitution and immemorial tradition.[12] A direct invocation of the Supreme Court's original jurisdiction to issue these extraordinary writs is allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition.[13]

However, it is also settled that this Court has full discretionary power to take cognizance of a petition filed directly with it if compelling reasons, or the nature and importance of the issues raised, so warrant.[14] Under the present circumstances, the Court will take cognizance of this case as an exception to the principle of hierarchy of courts, considering that the Information against petitioner was filed way back in November 2001.[15] Any further

delay in the resolution of the instant petition will be prejudicial to petitioner. Moreover, the principle may be relaxed when pure questions of law are raised as in this case.[16]

Now, on the merits of the petition.

It is significant to point out, at this juncture, the well-entrenched doctrine that the jurisdiction of a tribunal over the subject matter of an action is conferred by law.[17] Jurisdiction over the subject matter is determined by the statute in force at the time of the commencement of the action.[18] The Family Courts Act of 1997, which took effect on November 23, 1997.[19] Section 5 (a) of R.A. 8369 clearly provides that Family Courts have exclusive original jurisdiction over criminal cases where one or more of the accused is below eighteen (18) years of age but not less than nine (9) years of age, or where one or more of the victims is a minor at the time of the commission of the offense. In the present case, there is no dispute that at the time of the commission of the alleged offense on June 2, 2001, private respondent, who is also the private complainant, was a minor. Hence, the case falls under the original and exclusive jurisdiction of Family Courts.

Anent the first issue raised, the Court agrees that the Resolution of this Court in Administrative Matter No. 99-1-13-SC and Circular No. 11-99, issued pursuant thereto, is applicable only to Family Courts cases which were filed with first-level courts prior to the effectivity of the said Resolution on March 1, 1999.[20] This is evident in the language used by the Court in the third "Whereas" clause of the subject Resolution wherein it was stated that "pending the constitution and organization of the Family Courts and the designation of branches of the Regional Trial Courts as Family Courts in accordance with Section 17 (Transitory Provisions) of R.A. 8369, there is a need to provide guidelines in the hearing and determination of criminal cases falling within the jurisdiction of Family Courts which have heretofore been filed with first-level courts." The operative word, as correctly cited by petitioner, is "heretofore" which means "before this" or "up to this time." [21] Moreover, Section 1 of the same Resolution directs all first-level courts, within ten (10) days from receipt of a copy of the subject Resolution, to take an inventory of all criminal cases falling within the jurisdiction of the Family Courts which were filed with them (first-level courts), to prepare an appropriate inventory and to submit the same to the Court Management Office of the Office of the Court Administrator. Logic dictates that only those cases which were filed prior to the issuance of the Resolution shall be included in the inventory and, therefore, shall be subject to transfer by first-level courts to the appropriate RTCs. The necessary implication then is that all cases filed with first-level courts after the effectivity of the Resolution on March 1, 1999 should be dismissed for lack of jurisdiction. In the present case, the Information was filed against petitioner on November 19, 2001. Thus, the MCTC is already bereft of any authority to transfer the case to the RTC as the same no longer falls under the coverage of Circular No. 11-99. What the MCTC should have done was to dismiss the case for lack of jurisdiction.

More importantly, what justifies the dismissal of the case is that the Information filed with the MCTC cannot be used as a basis for the valid indictment of petitioner before the RTC acting as a Family Court, because there was no allegation therein of private complainant's minority. To proceed to trial before the RTC on the basis of the Information filed with the MCTC would be an exercise in futility as there is an infirmity in the Information constituting a jurisdictional defect which cannot be cured. There is no point in proceeding under a defective Information that could never be the basis of a valid conviction.[22] The Information filed with the MCTC must thus first be amended and thereafter filed with the RTC. Pending the filing of such Information, the RTC has not yet acquired jurisdiction because while a court may have jurisdiction over the subject matter, it does not acquire jurisdiction over the case itself until its jurisdiction is invoked with the filing of a valid Information.[23]

The Court also agrees with petitioner in her contention in the second issue raised that she should have been arraigned by the RTC.

It is true that petitioner was arraigned by the MCTC. However, the MCTC has no jurisdiction over the subject matter of the present case. It is settled that the proceedings before a court or tribunal without jurisdiction, including its decision, are null and void.[24] Considering that the MCTC has no jurisdiction, all the proceedings conducted therein, including petitioner's arraignment, are null and void. Thus, the need for petitioner's arraignment on the basis of a valid Information filed with the RTC.

It is also true that petitioner's counsel participated in the proceedings held before the RTC without objecting that his client had not yet been arraigned. However, it is wrong for the RTC to rely on the case of *People v. Cabale*,[25] because the accused therein was in fact arraigned, although the same was made only after the case was submitted for decision. In the similar cases of *People v. Atienza and Closa*[26] and *People v. Pangilinan*,[27] the accused in the said cases were also belatedly arraigned. The Court, in these three cases, held that the active participation of the counsels of the accused, as well as their opportunity to cross-examine the prosecution witnesses during trial without objecting on the ground that their clients had not yet been arraigned, had the effect of curing the defect in the belated arraignment. Moreover, the accused in these cases did not object when they were belatedly arraigned. The same, however, cannot be said in the instant case. There is no arraignment at all before the RTC. On the other hand, the arraignment conducted by the MCTC is null and void. Thus, there is nothing to be cured. Petitioner's counsel also timely raised before the RTC the fact that her client, herein petitioner, was not arraigned.

Arraignment is the formal mode and manner of implementing the constitutional right of an accused to be informed of the nature and cause of the accusation against him.[28] The purpose of arraignment is, thus, to apprise the accused of the possible loss of freedom, even of his life, depending on the nature of the crime imputed to him, or at the very least to inform him of why the prosecuting arm of the State is mobilized against him.[29] As an indispensable requirement of due process, an arraignment cannot be regarded lightly or brushed aside peremptorily.[30] Otherwise, absence of arraignment results in the nullity of the proceedings before the trial court.[31]

As a final note, it may not be amiss to stress that at all stages of the proceedings leading to his trial and conviction, the accused must be charged and tried according to the procedure prescribed by law and marked by observance of the rights given to him by the Constitution.[32] In the same way that the reading of the Information to the accused during arraignment is not a useless formality, so is the validity of the information being read not an idle ceremony.[33]

Criminal due process requires that the accused must be proceeded against under the orderly processes of law.[34] In all criminal cases, the judge should follow the step-by-step procedure required by the Rules.[35] The reason for this is to assure that the State makes no mistake in taking the life or liberty except that of the guilty.[36]

WHEREFORE, the petition is GRANTED. The assailed Orders of the Regional Trial Court of Digos City, Branch 18, dated March 9, 2004 and June 7, 2004, are REVERSED and SET ASIDE and a new one rendered dismissing the Information in Criminal Case No. FC-71-02, without prejudice to refile the same in the proper court.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Mendoza, and Perlas-Bernabe, JJ., concur

[1] Penned by Judge Marivic Trabajo Daray.

[2] Annex "A" to Petition, rollo, p. 21.

[3] Annex "C" to Petition, id. at 24.

[4] Id.

[5] See MCTC Order, Annex "D" to Petition, id. at 26.

[6] Annex "E" to Petition, id. at 27

[7] Annex "O" to Petition, id. at 40-41

[8] Annex "Q" to Petition, id. at 51.

[9] *Sarsaba v. Vda. de Te*, G.R. No. 175910, July 30, 2009, 594 SCRA 410, 424-425.

[10] *Anillo v. Commission on the Settlement of Land Problems*, G.R. No. 157856, September 27, 2007, 534 SCRA 228, 236.

[11] Id.

[12] Id at 236-237.

[13] Id. at 237.

[14] *Cabarles v. Maceda*, GR. No. 161330, February 20, 2007, 516 SCRA 303, 321.

[15] *Ark Travel Express, Inc. v. Abrogar*, GR. No. 137010, August 29, 2003, 410 SCRA 148, 157.

[16] *Miaque v. Patag*, GR. Nos. 170609-13, January 30, 2009, 577 SCRA 394, 398.

[17] *People v. Vanzuela*, GR. No. 178266, July 21, 2008, 559 SCRA 234, 242.

[18] *De Villa v. Court of Appeals*, GR. No. 87416, April 8, 1991, 195 SCRA 722, 726.

[19] *People v. Garin*, GR. No. 139069, June 17, 2004, 432 SCRA 394, 416.

[20] The subject Court Resolution authorizes first level courts to transfer Family Courts cases filed with them and provides the procedure for such transfer .

[21] Webster's Third New International Dictionary (Unabridged), p. 1059.

[22] *Miaque v. Patag*, supra note 16, at 400.

[23] *People v. Garfin*, GR. No. 153176, March 29, 2004, 426 SCRA 393, 408.

[24] *Figueroa v. People*, GR. No. 147406, July 14, 2008, 558 SCRA 63, 83.

[25] G.R. Nos. 73249-50, May 8, 1990, 185 SCRA 140.

[26] 86 Phil. 576 (1950).

[27] G.R. No. 171020, March 14, 2007, 518 SCRA 358.

[28] *People v. Pangilinan*, supra, at 371.

[29] Id.

[30] *Albert v. Sandiganbayan*, G.R. No. 164015, February 26, 2009, 580 SCRA 279, 287.

[31] *Borja v. Mendoza*, GR. No. L-45667, June 20, 1977, 77 SCRA 422, 425; *U.S. v. Palisoc*, 4 Phil. 207,208(1905).

[32] Romualdez v. Sandiganbayan, G.R. Nos. 143618-41, July 30, 2002, 385 SCRA 436, 446.

[33] Id.

[34] Id.

[35] Id.

[36] Id.

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