

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. JOVEN DE GRANO, ARMANDO DE GRANO, DOMINGO LANDICHO AND ESTANISLAO LACABA, RESPONDENTS.

G.R. No. 167710. June 05, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari, under Rule 45 of the Rules of Court, seeking to annul and set aside the Resolutions[1] dated January 25, 2005 and April 5, 2005, issued by the Court of Appeals (CA) in CA-G.R. SP No. 88160.

The antecedents are as follows:

On November 28, 1991, an Information for murder committed against Emmanuel Mendoza was filed with the Regional Trial Court (RTC), Branch 6, Tanauan, Batangas, against Joven de Grano (Joven), Armando de Grano (Armando), and Estanislao Lacaba (Estanislao), together with their co-accused Leonides Landicho (Leonides), Domingo Landicho (Domingo), and Leonardo Genil (Leonardo), who were at-large.[2] It was docketed as Criminal Case No. 2730, the pertinent portion of which reads:

That on April 21, 1991, between 9:00 o'clock and 10:00 o'clock in the evening, in Barangay Balakilong, [M]unicipality of Laurel, [P]rovince of Batangas, and within the jurisdiction of the Honorable Court, all the above named accused, conspiring, confederating, and helping one another, motivated by common design and intent to kill, did then and there, willfully, unlawfully, and feloniously, and by means of treachery and with evident premeditation, shoot EMMANUEL MENDOZA with firearms, inflicting upon him eight gunshot wounds and causing his death thereby, thus committing the crime of MURDER to the damage and prejudice of his heirs in the amount as the Honorable Court shall determine.[3]

Duly arraigned, Joven, Armando, and Estanislao pleaded "not guilty" to the crime as charged; while their co-accused Leonides, Leonardo, and Domingo remained at-large. Thereafter, respondents filed a motion for bail contending that the prosecution's evidence was not strong.[4]

Meanwhile, considering that one of the accused was the incumbent Mayor of Laurel, Batangas at the time when the crime was committed, Senior State Prosecutor Hernani T. Barrios moved that the venue be transferred from the RTC, Branch 6, Tanauan, Batangas to any RTC in Manila. Consequently, the case was transferred to the RTC Manila for re-raffling amongst its Branches. The case was re-docketed as Criminal Case No. 93-129988 and was initially re-raffled to Branches 6, 9, and 11 before being finally raffled to Branch 27, RTC, Manila.[5]

Before transferring the case to the RTC, Branch 27, Manila, the trial court deferred the resolution of respondents' motion for bail and allowed the prosecution to present evidence. Thereafter, the hearing of the application for bail ensued, wherein the prosecution presented Teresita and Dr. Leonardo Salvador. After finding that the prosecution's evidence to prove treachery and evident premeditation was not strong, the RTC, Branch 11, Manila, granted respondents' motion for bail. A motion for reconsideration was filed, but it was denied.[6]

The prosecution then filed a petition for certiorari with the CA, docketed as CA-G.R. SP No. 41110, which was denied. Aggrieved, they sought recourse before this Court in G.R. No. 129604. In a Resolution dated July 12, 1999, this Court granted the petition and set aside the decision of the CA together with the Order of the RTC granting bail to the respondents. The RTC was also ordered to immediately issue a warrant of arrest against the accused. The resolution was also qualified to be immediately executory.[7] As a result, Estanislao was re-arrested, but Joven and Armando were not.[8]

However, upon respondents' motion for reconsideration, this Court, in a Resolution dated September 4, 2001, resolved to remand the case to the RTC. We noted that, in view of the transmittal of the records of the case to this Court in connection with the petition, the trial court deferred the rendition of its decision. Consequently, the case was remanded to the RTC for further proceedings, including the rendition of its decision on the merits.

After the presentation of the parties' respective sets of evidence, the RTC rendered a Decision[9] dated April 25, 2002, finding several accused guilty of the offense as charged, the dispositive portion of which reads:

WHEREFORE, CONSIDERING ALL THE FOREGOING, this Court finds the accused JOVEN DE GRANO, ARMANDO DE GRANO, DOMINGO LANDICHO and ESTANISLAO LACABA, guilty beyond reasonable doubt of the crime of MURDER, qualified by treachery, and there being no modifying circumstance attendant, hereby sentences them to suffer the penalty of Reclusion Perpetua, and to indemnify the heirs of Emmanuel Mendoza the sum of P50,000.00 and to pay the costs.

The case as against accused Leonides Landicho and Leonardo Genil is hereby sent to the files or archived cases to be revived as soon as said accused are apprehended.

Let alias warrants of arrest be issued against accused Leonardo Genil and Leonides Landicho.

Only Estanislao was present at the promulgation despite due notice to the other respondents.

Respondents, thru counsel, then filed a Joint Motion for Reconsideration dated May 8, 2002, praying that the Decision dated April 25, 2002 be reconsidered and set aside and a new one be entered acquitting them based on the following grounds, to wit:

1. The Honorable Court erred in basing the decision of conviction of all accused solely on the biased, uncorroborated and baseless testimony of Teresita Duran, the common-law wife of the victim;
2. The Honorable Court erred in not giving exculpatory weight to the evidence adduced by the defense, which was amply corroborated on material points;
3. The Honorable Court erred in not finding that the failure of the prosecution to present rebuttal evidence renders the position of the defense un rebutted;
4. The Honorable Court erred in adopting conditional or preliminary finding of treachery of the Supreme Court in its Resolution dated July 12, 1999; and
5. The Honorable Court erred in rendering a verdict [sic] of conviction despite the fact that the guilt of all the accused were not proven beyond reasonable doubt.[10]

In its Opposition, the prosecution pointed out that while the accused jointly moved for the reconsideration of the decision, all of them, except Estanislao, were at-large. Having opted to become fugitives and be beyond the judicial ambit, they lost their right to file such motion for reconsideration and to ask for whatever relief from the court.[11]

Acting on respondents' motion for reconsideration, the RTC issued an Order[12] dated April 15, 2004 modifying its earlier decision by acquitting Joven and Armando, and downgrading the conviction of Domingo and Estanislao

from murder to homicide. The decretal portion of the Order reads:

WHEREFORE, IN VIEW OF ALL THE FOREGOING, the Court modifies its decision and finds accused DOMINGO LANDICHO and ESTANISLAO LACABA, "GUILTY" beyond reasonable doubt, as principal of the crime of Homicide, and in default of any modifying circumstance, sentences them to an indeterminate prison term of SIX (6) YEARS and ONE (1) DAY of Prision Mayor, as minimum, to TWELVE YEARS [and] ONE DAY of Reclusion Temporal, as maximum. Said accused shall be credited with the full period of their preventive imprisonment pursuant to B.P. Blg. 85.

Accused ARMANDO DE GRANO and JOVEN DE GRANO are hereby ACQUITTED on the basis of reasonable doubt. They are likewise declared free of any civil liability.

To the extent herein altered or modified, the Decision dated April 25, 2002 stands.

SO ORDERED.[13]

Estanislao filed a Notice of Appeal, while the prosecution sought reconsideration of the Order arguing that:

- There was absolutely no basis for this Court to have taken cognizance of the "Joint Motion for Reconsideration" dated May 8, 2002, citing Sec. 6, Rule 120 of the Rules of Court.
- The testimony of Teresita Duran deserves credence. The delay in the taking of Ms. Duran's written statement of the events she witnessed is understandable considering that Joven de Grano was the mayor of the municipality where the crime was committed and that another accused, Estanislao Lacaba, was a policeman in the same municipality.
- The crime committed is murder.
- Accused Armando de Grano and Joven de Grano participated in the conspiracy.

On September 28, 2004, the RTC issued an Order[14] denying the motion and giving due course to Estanislao's notice of appeal.

Petitioner, thru Assistant City Prosecutor Cesar Glorioso of the Office of the Manila City Prosecutor, with the assistance of private prosecutor Atty. Michael E. David, filed a Petition[15] for certiorari under Rule 65 of the Rules of Court before the CA arguing that:

(a)

the private respondents, having deliberately evaded arrest after being denied bail and deliberately failing to attend the promulgation of the Decision despite due notice, lost the right to move for reconsideration of their conviction; and

(b)

the grounds relied upon by respondent RTC in modifying its Decision are utterly erroneous.[16]

Petitioner alleged that it had no other plain, adequate, and speedy remedy, considering that the State could not appeal a judgment of acquittal. However, by way of exception, a judgment of acquittal in a criminal case may be assailed in a petition for certiorari under Rule 65 of the Rules of Court upon a showing by the petitioner that the lower court, in acquitting the accused, committed not only reversible errors of judgment, but also grave abuse of discretion amounting to lack or excess of jurisdiction, or a denial of due process, thus rendering the assailed judgment void. Consequently, the accused cannot be considered at risk of double jeopardy.[17]

Respondent De Grano filed a Motion to Dismiss,[18] arguing that the verification and certification portion of the

petition was flawed, since it was signed only by counsel and not by the aggrieved party. Also, the petition did not contain the conformity of the Solicitor General.[19]

On January 31, 2005, petitioner, through the private prosecutor, filed an Opposition to Motion to Dismiss.[20] Petitioner explained that, for lack of material time, it failed to secure the conformity of the Office of the Solicitor General (OSG) when it filed the petition, but it would nevertheless obtain it. A day after filing the petition, the private prosecutor sought the OSG's conformity in a letter[21] dated January 12, 2005. The OSG, in turn, informed the private prosecutor that rather than affixing its belated conformity, it would rather await the initial resolution of the CA.[22] Also, so as not to preempt the action of the Department of Justice (DOJ) on the case, the OSG instructed the private prosecutor to secure the necessary endorsement from the DOJ for it to pursue the case. Anent the verification and certification of the petition having been signed by the private prosecutor, petitioner explained that private complainant Teresita was in fear for her life as a result of the acquittal of former Mayor Joven de Grano, but she was willing to certify the petition should she be given ample time to travel to Manila.[23]

However, in a Resolution[24] dated January 25, 2005, which was received by the petitioner on the same day it filed its Opposition or on January 31, 2005, the petition was dismissed outright by the CA on the grounds that it was not filed by the OSG and that the assailed Orders were only photocopies and not certified true copies. The dispositive portion of the Resolution reads:

WHEREFORE, premises considered, this petition is hereby OUTRIGHTLY DISMISSED.

Petitioner timely filed a Motion for Reconsideration.[25] In addition to the justifications it raised in its earlier Opposition to the Motion to Dismiss, petitioner argued that the petition was not only signed by the private prosecutor, it was also signed by the prosecutor who represented the petitioner in the criminal proceedings before the trial court. Petitioner also maintains that the certified true copies of the assailed Orders were accidentally attached to its file copy instead of the one it submitted. To rectify the mistake, it attached the certified true copies of the assailed Orders.[26] This was opposed by the respondents in their Comment/Opposition to Petitioner's Motion for Reconsideration.[27]

Meanwhile, in its 1st Indorsement[28] dated March 15, 2005, DOJ Secretary Raul M. Gonzalez, endorsed the petition filed by the Assistant City Prosecutor, with the assistance of the private prosecutor, to the Solicitor General for his conformity.

On April 5, 2005, the CA issued a Resolution[29] denying the motion, thus:

WHEREFORE, petitioner's motion for reconsideration is hereby DENIED.

In denying the motion, the CA opined that the rule on double jeopardy prohibits the state from appealing or filing a petition for review of a judgment of acquittal that was based on the merits of the case. If there is an acquittal, an appeal therefrom, if it will not put the accused in double jeopardy, on the criminal aspect, may be undertaken only by the State through the Solicitor General. It added that a special civil action for certiorari under Rule 65 of the Rules of Court may be filed by the person aggrieved. In such case, the aggrieved parties are the State and the private offended party or complainant. Moreover, the records reveal that the petition was not filed in the name of the offended party; and worse, the verification and certification of non-forum shopping attached to the petition was signed not by the private offended party, but by her counsel. Notwithstanding the efforts exerted by the petitioner to secure the confirmation of the OSG and the endorsement of the DOJ, there is no showing of any subsequent participation of the OSG in the case.

Hence, the petition raising the following issues:

WHETHER THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR AND GRAVE ABUSE OF

DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISMISSED THE PETITION FOR CERTIORARI ON THE GROUND OF DOUBLE JEOPARDY.

WHETHER THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR AND GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DISMISSED THE PETITION FOR CERTIORARI FOR NOT HAVING BEEN FILED BY THE OFFICE OF THE SOLICITOR GENERAL NOR IN THE NAME OF THE OFFENDED PARTY.

WHETHER THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR AND GRAVE ABUSE OF DISCRETION WHEN IT DISMISSED THE PETITION FOR CERTIORARI ON THE GROUND THAT THE VERIFICATION AND CERTIFICATION ATTACHED TO THE PETITION WAS SIGNED BY THE PRIVATE COUNSEL AND NOT BY THE OFFENDED PARTY.[30]

Petitioner, through the Solicitor General, argues that, except for Estanislao, none of the respondents appeared at the promulgation of the Decision. Neither did they surrender after promulgation of the judgment of conviction, nor filed a motion for leave to avail themselves of the judicial remedies against the decision, stating the reasons for their absence. The trial court thus had no authority to take cognizance of the joint motion for reconsideration filed by the respondents as stated in Section 6, Rule 120 of the 2000 Revised Rules of Criminal Procedure. As such, the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction. Having been issued without jurisdiction, the Order dated April 15, 2004 is void. Consequently, no double jeopardy attached to such void Order. The CA, therefore, committed reversible error when it dismissed the petition for certiorari on the ground of double jeopardy.[31]

Petitioner also contends that, with the endorsement of the DOJ and the letter of the OSG manifesting its intention to pursue the petition, the OSG had in fact conformed to the filing of the petition and agreed to pursue the same. Had the CA given the OSG ample time to file the necessary pleading, the petition would not have been dismissed for the reason that it was filed by the said office.[32]

With respect to the verification and certification of non-forum shopping, petitioner invokes a liberal application of the Rules for private complainant's failure to personally sign it. Petitioner maintains that out of extreme fear arising from the unexpected acquittal of Joven, private complainant was reluctant to travel to Manila. After she was taken out of the witness protection program, she took refuge in the Visayas and she was there at the time her signature was required. Since the period for filing the petition for certiorari was about to lapse, and it could not be filed without the verification and certification of non-forum shopping, the private prosecutor was left with no option but so sign it, instead of allowing the deadline to pass without filing the petition.[33]

Moreover, petitioner maintains that the OSG has the authority to sign the verification and certification of the present petition, because the real party-in-interest is the OSG itself as the representative of the State.[34]

On their part, respondents contend that the petition for certiorari questioning the order of acquittal is not allowed and is contrary to the principle of double jeopardy. Respondents argue that, contrary to the OSG's contention, respondents Joven and Domingo's absence during the promulgation of the Decision dated April 25, 2002 did not deprive the trial court of its authority to resolve their Joint Motion for Reconsideration, considering that one of the accused, Estanislao, was present during the promulgation.[35]

Joven, Armando, and Domingo maintain that while they were not present during the promulgation of the RTC Decision, Estanislao, who was under police custody, attended the promulgation of the said Decision. Thus, when they filed their Joint Motion for Reconsideration, which included that of Estanislao, the RTC was not deprived of its authority to resolve the joint motion.[36]

Respondents insist that the CA properly dismissed the petition for certiorari, as it was not instituted by the OSG

on behalf of the People of the Philippines, and that the verification and certification portion thereof was not signed by private complainant Teresita.[37]

Respondents also argue that the petition for certiorari before this Court should be dismissed, since the verification and certification thereof were signed by a solicitor of the OSG, not private complainant.

The petition is meritorious.

Before considering the merits of the petition, we will first address the technical objections raised by respondents.

As regards the issue of the signatory of the verification and certification of non-forum shopping, a liberal application of the Rules should be applied to the present case.

The purpose of requiring a verification is to secure an assurance that the allegations in the petition have been made in good faith; or are true and correct, not merely speculative. This requirement is simply a condition affecting the form of pleadings, and noncompliance therewith does not necessarily render it fatally defective.[38] Truly, verification is only a formal, not a jurisdictional, requirement. Hence, it was sufficient that the private prosecutor signed the verification.

With respect to the certification of non-forum shopping, it has been held that the certification requirement is rooted in the principle that a party-litigant shall not be allowed to pursue simultaneous remedies in different fora, as this practice is detrimental to an orderly judicial procedure.[39] However, this Court has relaxed, under justifiable circumstances, the rule requiring the submission of such certification considering that although it is obligatory, it is not jurisdictional.[40] Not being jurisdictional, it can be relaxed under the rule of substantial compliance.

In *Donato v. Court of Appeals*[41] and *Wee v. Galvez*,[42] the Court noted that the petitioners were already in the United States; thus, the signing of the certification by their authorized representatives was deemed sufficient compliance with the Rules. In *Sy Chin v. Court of Appeals*,[43] the Court upheld substantial justice and ruled that the failure of the parties to sign the certification may be overlooked, as the parties' case was meritorious. In *Torres v. Specialized Packaging and Development Corporation*,[44] the Court also found, among other reasons, that the extreme difficulty to secure all the required signatures and the apparent merits of the substantive aspects of the case constitute compelling reasons for allowing the petition.

In *Ortiz v. Court of Appeals*[45] and similar rulings, the following has always been pointed out:

The attestation contained in the certification on non-forum shopping requires personal knowledge by the party who executed the same. To merit the Court's consideration, petitioners here must show reasonable cause for failure to personally sign the certification. The petitioners must convince the court that the outright dismissal of the petition would defeat the administration of justice.

Thus, petitioners need only show that there was reasonable cause for the failure to sign the certification against forum shopping, and that the outright dismissal of the petition would defeat the administration of justice.[46]

We find that the particular circumstances of this case advance valid reasons for private complainant's failure to sign the certification. As pointed out in the petition, it was out of extreme fear that private complainant failed to personally sign the certification. It is to be noted that when Armando and Joven were acquitted, Teresita was already out of the witness protection program and was in hiding in the Visayas. As such, she could not travel to Manila to personally sign the petition. Moreover, as maintained by the petitioner, since the period for filing the petition for certiorari was about to lapse, the private prosecutor was left with no option but to sign the verification and certification, instead of allowing the period to file the petition to pass without it being filed. A relaxation of

the procedural rules, considering the particular circumstances, is justified. The requirement was thus substantially complied with.

As summarized in *Bank of the Philippine Islands v. Court of Appeals*,^[47] when a strict and literal application of the rules on non-forum shopping and verification would result in a patent denial of substantial justice, they may be liberally construed. An unforgiving application of the pertinent provisions of the Rules will not be given premium if it would impede rather than serve the best interests of justice in the light of the prevailing circumstances in the case under consideration.

We reiterate our holding in *City Warden of the Manila City Jail v. Estrella*,^[48] that the signature of the Solicitor General on the verification and certification of non-forum shopping in a petition before the CA or with this Court is substantial compliance with the requirement under the Rules, considering that the OSG is the legal representative of the Government of the Republic of the Philippines and its agencies and instrumentalities; more so, in a criminal case where the People or the State is the real party-in-interest and is the aggrieved party.^[49]

Also, respondents' contention that there is no showing of any subsequent participation of the OSG in the petition before the CA does not hold water. In the letter dated January 18, 2004, the OSG instructed the private prosecutor to secure the necessary endorsement from the DOJ for it to pursue the case. In its 1st Indorsement dated March 15, 2005, DOJ Secretary Raul M. Gonzalez, endorsed the petition to the Solicitor General for his conformity. When the CA denied petitioner's Motion for Reconsideration for its outright dismissal of the petition, the OSG filed motions^[50] for extension of time to file the present petition. Moreover, the OSG filed a Comment^[51] on respondents' Motion for Reconsideration.^[52] Thus, any doubt regarding the endorsement, conformity, and participation of the OSG in the petitions is dispelled.

Now on the substantive aspect.

A peculiar situation exists in the instant case. Petitioner has sought recourse before the CA, via a petition for certiorari under Rule 65, from an Order of the trial court drastically modifying its earlier findings convicting the respondents of the crime of murder, by acquitting Joven and Armando, and downgrading the convictions of their co-accused from murder to homicide; this, notwithstanding that all the accused, except Estanislao Lacaba, failed to personally appear at the promulgation of the Decision despite due notice thereof.

Petitioner contends that its petition for certiorari under Rule 65 of the Rules of Court with the CA was the proper remedy, since the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it entertained the Joint Motion for Reconsideration with respect to Armando and Joven despite the fact that they had not regained their standing in court.

Petitioner's recourse to the CA was correct.

A writ of certiorari is warranted when (1) any tribunal, board or officer has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (2) there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law.^[53] An act of a court or tribunal may be considered as grave abuse of discretion when the same was performed in a capricious or whimsical exercise of judgment amounting to lack of jurisdiction. The abuse of discretion 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, as where the power is exercised in an arbitrary and despotic manner because of passion or hostility.^[54]

By way of exception, a judgment of acquittal in a criminal case may be assailed in a petition for certiorari under Rule 65 of the Rules of Court, but only upon a clear showing by the petitioner that the lower court, in acquitting the accused, committed not merely reversible errors of judgment but also grave abuse of discretion amounting to

lack or excess of jurisdiction, or to a denial of due process, thus rendering the assailed judgment void.[55] In which event, the accused cannot be considered at risk of double jeopardy — the revered constitutional safeguard against exposing the accused to the risk of answering twice for the same offense.

Double jeopardy has the following essential elements: (1) the accused is charged under a complaint or an information sufficient in form and substance to sustain a conviction; (2) the court has jurisdiction; (3) the accused has been arraigned and he has pleaded; and (4) he is convicted or acquitted, or the case is dismissed without his express consent.[56]

Although this Court does not absolutely preclude the availment of the remedy of certiorari to correct an erroneous acquittal, the petitioner must clearly and convincingly demonstrate that the lower court blatantly abused its authority to a point so grave and so severe as to deprive it of its very power to dispense justice.[57]

Under English common law, exceptions to the pleas of prior conviction or acquittal existed where the trial court lacked jurisdiction, the theory being that a defendant before such a court was not actually placed in jeopardy.[58] Hence, any acquittal or conviction before a court having no jurisdiction would not violate the principle of double jeopardy since it failed to attach in the first place.

Section 14(2),[59] Article III of the Constitution, authorizing trials in absentia, allows the accused to be absent at the trial but not at certain stages of the proceedings, to wit: (a) at arraignment and plea, whether of innocence or of guilt; (b) during trial, whenever necessary for identification purposes; and (c) at the promulgation of sentence, unless it is for a light offense, in which case, the accused may appear by counsel or representative. At such stages of the proceedings, his presence is required and cannot be waived.[60]

Section 6, Rule 120 of the Revised Rules of Criminal Procedure, the Rules applicable at the time the Decision was promulgated, provides:

Section 6. Promulgation of judgment. -The judgment is promulgated by reading it in the presence of the accused and any judge of the court in which it was rendered. However, if the conviction is for a light offense the judgment may be pronounced in the presence of his counsel or representative. When the judge is absent or outside the province or city, the judgment may be promulgated by the clerk of court.

If the accused is confined or detained in another province or city, the judgment may be promulgated by the executive judge of the Regional Trial Court having jurisdiction over the place of confinement or detention upon request of the court which rendered the judgment. The court promulgating the judgment shall have authority to accept the notice of appeal and to approve the bail bond pending appeal; provided, that if the decision of the trial court convicting the accused changed the nature of the offense from non-bailable to bailable, the application for bail can only be filed and resolved by the appellate court.

The proper clerk of court shall give notice to the accused, personally or through his bondsman or warden and counsel, requiring him to be present at the promulgation of the decision. If the accused was tried in absentia because he jumped bail or escaped from prison, the notice to him shall be served at his last known address.

In case the accused fails to appear at the scheduled date of promulgation of judgment despite notice, the promulgation shall be made by recording the judgment in the criminal docket and serving him a copy thereof at his last known address or thru his counsel.

If the judgment is for conviction and the failure of the accused to appear was without justifiable cause, he shall lose the remedies available in these Rules against the judgment and the court shall order his arrest. Within fifteen (15) days from promulgation of judgment however, the accused may surrender and file a motion for leave of court to avail of these remedies. He shall state the reasons for his absence at the scheduled promulgation and if he proves that his absence was for a justifiable cause, he shall be allowed to avail of said

remedies within fifteen (15) days from notice.[61]

Thus, the accused who failed to appear without justifiable cause shall lose the remedies available in the Rules against the judgment. However, within 15 days from promulgation of judgment, the accused may surrender and file a motion for leave of court to avail of these remedies. He shall state in his motion the reasons for his absence at the scheduled promulgation, and if he proves that his absence was for a justifiable cause, he shall be allowed to avail of said remedies within 15 days from notice.[62]

When the Decision dated April 25, 2002 was promulgated, only Estanislao Lacaba was present. Subsequently thereafter, without surrendering and explaining the reasons for their absence, Joven, Armando, and Domingo joined Estanislao in their Joint Motion for Reconsideration. In blatant disregard of the Rules, the RTC not only failed to cause the arrest of the respondents who were at large, it also took cognizance of the joint motion.

The RTC clearly exceeded its jurisdiction when it entertained the joint Motion for Reconsideration with respect to the respondents who were at large. It should have considered the joint motion as a motion for reconsideration that was solely filed by Estanislao. Being at large, Joven and Domingo have not regained their standing in court. Once an accused jumps bail or flees to a foreign country, or escapes from prison or confinement, he loses his standing in court; and unless he surrenders or submits to the jurisdiction of the court, he is deemed to have waived any right to seek relief from the court.[63]

Thus, Joven, Armando, and Domingo, were not placed in double jeopardy because, from the very beginning, the lower tribunal had acted without jurisdiction. Verily, any ruling issued without jurisdiction is, in legal contemplation, necessarily null and void and does not exist. In criminal cases, it cannot be the source of an acquittal.[64]

However, with respect to Estanislao, the RTC committed no reversible error when it entertained the Motion for Reconsideration. He was in custody and was present at the promulgation of the judgment. Hence, the RTC never lost jurisdiction over his person. Consequently, the RTC's ruling downgrading his conviction from murder to homicide stands. For Estanislao, and for him alone, the proscription against double jeopardy applies.

Factual matters cannot be inquired into by this Court in a certiorari proceeding. We can no longer be tasked to go over the proofs presented by the parties and analyze, assess and weigh them again to ascertain if the trial court was correct in according superior credit to this or that piece of evidence of one party or the other.[65] The sole office of a writ of certiorari is the correction of errors of jurisdiction, including the commission of grave abuse of discretion amounting to lack of jurisdiction, and does not include a review of the RTC's evaluation of the evidence and the factual findings based thereon.[66]

True, were it not for the procedural lapses of the RTC and its blatant disregard of the Rules, the finality of respondents' acquittal and their co-accused's conviction of homicide instead of murder would have been barred by the rule on double jeopardy.

We may tolerate an erroneous acquittal borne from an attempt to protect the innocent or from an attempt to uphold the accused's treasured right to a fair trial, but when these concerns are not evident, an erroneous acquittal is a source of substantial dismay and warrants this Court's corrective action via a special writ of error.

Moreover, although the CA dismissed the appeal filed before it, the RTC Judge cannot hide behind such fact considering that the dismissal of the appeal was not based on the validity of the assailed Order of the RTC, but was based on technical rules and the rule against double jeopardy.

It is to be stressed that judges are dutybound to have more than a cursory acquaintance with laws and jurisprudence. Failure to follow basic legal commands constitutes gross ignorance of the law from which no one

may be excused, not even a judge.[67] The Code of Judicial Conduct mandates that "a judge shall be faithful to the law and maintain professional competence." [68] It bears stressing that competence is one of the marks of a good judge. When a judge displays an utter lack of familiarity with the Rules, he erodes the public's confidence in the competence of our courts. Such is gross ignorance of the law. Having accepted the exalted position of a judge, he/she owes the public and the court the duty to be proficient in the law.[69]

WHEREFORE, the petition is GRANTED. The Resolutions dated January 25, 2005 and April 5, 2005, issued by the Court of Appeals in CA-G.R. SP No. 88160, are REVERSED and SET ASIDE. The pertinent portions of the Order dated April 15, 2004 issued by the Regional Trial Court, convicting Domingo Landicho of the crime of Homicide and acquitting Armando de Grano and Joven de Grano, are ANNULLED and DELETED. In all other aspects, the Order stands.

To the extent herein altered or modified, the pertinent portions of the Decision dated April 25, 2002 of the Regional Trial Court are REINSTATED.

The Office of the Court Administrator is DIRECTED to INVESTIGATE Judge Teresa P. Soriaso for possible violation/s of the law and/or the Code of Judicial Conduct in issuing the Order dated April 15, 2004 in Criminal Case No. 93-129988.

SO ORDERED.

Puno,[*] C.J., Ynares-Santiago, (Chairperson), Carpio,**] and Corona,[***] JJ., concur.

[*] Designated to sit as an additional member in lieu of Associate Justice Antonio Eduardo B. Nachura per Raffle dated March 25, 2009.

**] Designated to sit as an additional member, per Special Order No. 646 dated May 15, 2009.

***] Designated to sit as an additional member, per Special Order No. 631 dated April 29, 2009.

[1] Penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Rosmari D. Carandang and Monina Arevalo-Zenarosa concurring, rollo, pp. 61-63; 65-71.

[2] People of the Philippines v. Court of Appeals, Joven de Grano, Armando de Grano and Estanislao Lacaba, G.R. No. 129604, Resolution dated September 4, 2001.

[3] CA rollo, pp. 160-161.

[4] People of the Philippines v. Court of Appeals, Joven de Grano, Armando de Grano and Estanislao Lacaba, G.R. No. 129604, Resolution dated July 12, 1999.

[5] CA rollo, p. 161.

[6] Supra note 4.

[7] Id.

[8] Supra note 2.

[9] CA rollo, pp. 160- 214.

[10] Id. at 152.

[11] Id.

[12] Id. at 152-156.

[13] Id. at 156.

[14] Id. at 157-159.

[15] Id. at 2-32.

[16] Id. at 12-13.

[17] Id. at 13.

[18] Id. at 238-243.

[19] Id. at 238.

[20] Id. at 245-249.

[21] Id. at 375.

[22] Id. at 376.

[23] Id. at 247.

[24] Rollo, pp. 61-63.

[25] CA rollo, pp. 366-371.

[26] Id. at 377-381; 382-384.

[27] Id. at 397-400.

[28] Rollo, p. 115.

[29] Id. at 65-71.

[30] Id. at 28-29.

[31] Id. at 30-31.

[32] Id. at 51-52.

[33] Id. at 53-54.

[34] Id. at 188-189.

[35] Id. at 129-132.

[36] Id.

[37] Id. at 128-129.

[38] *Torres v. Specialized Packaging Development Corporation*, G.R. No. 149634, July 6, 2004, 433 SCRA 455, 463.

[39] Id. at 465.

[40] *Ateneo de Naga University v. Manalo*, G.R. No. 160455, May 9, 2005, 458 SCRA 325, 336-337.

[41] G.R. No. 129638, December 8, 2003, 417 SCRA 216.

- [42] G.R. No. 147394, August 11, 2004, 436 SCRA 96.
- [43] G.R. No. 136233, November 23, 2000, 345 SCRA 673.
- [44] *Supra* note 38.
- [45] G.R. No. 127393, December 4, 1998, 299 SCRA 708, 712; See also *Digital Microwave Corporation v. Court of Appeals*, G.R. No. 128550, March 16, 2000, 328 SCRA 286, 290. (*Italics supplied*)
- [46] *Torres v. Specialized Packaging Development Corporation*, *supra* note 38, at 467.
- [47] G.R. No. 146923, April 30, 2003, 402 SCRA 449, 454-455.
- [48] G.R. No. 141211, August 31, 2000, 364 SCRA 257.
- [49] *People v. Court of Appeals (12[th] Division)*, G.R. No. 154557, February 13, 2008, 545 SCRA 52, 60-61.
- [50] CA rollo, pp. 437-439; 442-443; 447-448;
- [51] *Id.* at 451-457.
- [52] *Id.* at 424-427.
- [53] Rules of Court, Rule 65, Sec. 1.
- [54] *Angeles v. Secretary of Justice*, G.R. No. 142612, July 29, 2005, 465 SCRA 106, 113-114.
- [55] *Yuchengco v. Court of Appeals*, G.R. No. 139768, February 7, 2002, 376 SCRA 531, 541.
- [56] *People v. Tampal*, G.R. No. 102485, May 22, 1995, 244 SCRA 202, 208 ; *Paulin v. Gimenez*, G.R. No. 103323, January 21, 1993, 217 SCRA 386, 389; *Gorion v. Regional Trial Court of Cebu, Br. 17*, G.R. No. 102131, August 31, 1992, 213 SCRA 138, 148.
- [57] *People v. Court of Appeals and Maquiling*, G.R. No. 128986, June 21, 1999, 308 SCRA 687, 704.
- [58] 6 Crim. Proc. § 25.1(d) (3d ed.).
- [59] Section 14. (2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused: Provided, that he has been duly notified and his failure to appear is unjustifiable.
- [60] *Lavides v. Court of Appeals*, G.R. No. 129670, February 1, 2000, 324 SCRA 321, 331.
- [61] *Italics supplied*.
- [62] *Pascua v. Court of Appeals*, G.R. No. 140243, December 14, 2000, 348 SCRA 197, 206.
- [63] *People v. Mapalao*, G.R. No. 92415, May 14, 1991, 197 SCRA 79, 87-88.
- [64] *Supra* note 57, at 690.
- [65] *Alicbusan v. Court of Appeals*, G.R. No. 113905, March 7, 1997, 269 SCRA 336, 341.
- [66] *Building Care Corporation v. NLRC*, G.R. No. 94237, February 26, 1997, 268 SCRA 666, 675; *Chua v. Court of Appeals*, G.R. No. 112948, April 18, 1997, 271 SCRA 546, 553-554; *Lalican v. Vergara*, G.R. No.

108619, July 31, 1997, 276 SCRA 518, 528-529.

[67] Tabao v. Lilagan, A.M. No. 98-551-RTJ, September 4, 2001, 364 SCRA 322, 332.

[68] Canon 3, Rule 3.01.

[69] Oporto, Jr. v. Judge Monserate, A.M. No. MTJ-96-1109, April 16, 2001, 356 SCRA 443, 450.

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