IRENORIO B. BALABA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 169519. July 17, 2009

Ponente: CARPIO, J.

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CARPIO, J.:

This petition for review[1] assails the 15 December 2004 Decision[2] and 24 August 2005 Resolution[3] of the Court of Appeals in CA-G.R. CR No. 27178. In its 15 December 2004 Decision, the Court of Appeals dismissed petitioner Irenorio B. Balaba's (Balaba) appeal of the 9 December 2002 Decision[4] of the Regional Trial Court of Loay, Bohol, Branch 50 (trial court), finding him guilty of Malversation of Public Funds. In its 24 August 2005 Resolution, the Court of Appeals denied Balaba's motion for reconsideration.

On 18 and 19 October 1993, State Auditors Arlene Mandin and Loila Laga of the Provincial Auditor's Office conducted an examination of the cash and accounts of the accountable officers of the Municipality of Guindulman, Bohol. The State Auditors discovered a cash shortage of P56,321.04, unaccounted cash tickets of P7,865.30 and an unrecorded check of P50,000 payable to Balaba, or a total shortage of P114,186.34. Three demand letters were sent to Balaba asking him to explain the discrepancy in the accounts. Unsatisfied with Balaba's explanation, Graft Investigation Officer I Miguel P. Ricamora recommended that an information for Malversation of Public Funds, as defined and penalized under Article 217 of the Revised Penal Code, be filed against Balaba with the Sandiganbayan.[5]

In an Information[6] dated 26 April 1995, the Office of the Special Prosecutor charged Balaba with the crime of Malversation of Public Funds.[7] The Information against Balaba reads as follows:

> That on or about October 19, 1993, in the Municipality of Guindulman, Bohol, Philippines, and within the jurisdiction of this Honorable Court, the said accused, Assistant Municipal Treasurer of Guindulman, Bohol and accountable public officer for the funds collected and received by virtue of his position, willfully, unlawfully and feloniously misappropriate, embezzle and take away from said funds, the total amount of P114,186.34, which he converted to his personal use and benefit, to the damage and prejudice of the government.
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> CONTRARY TO LAW.[8]

During his arraignment on 17 May 1996, Balaba entered a plea of not guilty. Trial soon followed.

On 9 December 2002, the trial court found Balaba guilty. The dispositive portion of the 9 December 2002 Decision reads:

> PREMISES CONSIDERED, the Court resolves that the prosecution has proved beyond reasonable doubt the guilt of the accused. Accordingly, pursuant to law, the Court has no recourse but to sentence the accused, Irenorio B. Balaba, to an indeterminate sentence of 10 YEARS AND ONE DAY as minimum, to 17 YEARS, 4 MONTHS AND ONE DAY of Reclusion Temporal as maximum. He shall suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed which is P114,186.34.

SO ORDERED.[9]

On 14 January 2003, Balaba filed his Notice of Appeal, where he indicated that he would file his appeal before the Court of Appeals.[10] On 6 August 2003, Balaba filed his Appellant's Brief.[11]

The Office of the Solicitor General, instead of filing an Appellee's Brief, filed a Manifestation and Motion[12] praying for the dismissal of the appeal for being improper since the Sandiganbayan has exclusive jurisdiction over the appeal.

In its 15 December 2004 Decision, the Court of Appeals dismissed Balaba's appeal. The Court of Appeals declared that it had no jurisdiction to act on the appeal because the Sandiganbayan has exclusive appellate jurisdiction over the case.

On 27 January 2005, Balaba filed a Motion for Reconsideration and asked that he be allowed to pursue his appeal before the proper court, the Sandiganbayan.[13] In its 24 August 2005 Resolution, the Court of Appeals denied Balaba's motion.

On 7 October 2005, Balaba filed his present petition before this Court where he raised the sole issue of whether the Court of Appeals erred in dismissing his appeal instead of certifying the case to the proper court. Balaba claims that it was due to inadvertence that the notice of appeal was filed before the Court of Appeals instead of the Sandiganbayan. Balaba adds that his appeal was dismissed on purely technical grounds. Balaba asks the Court to relax the rules to afford him an opportunity to correct the error and fully ventilate his appeal on the merits.

The petition has no merit.

Upon Balaba's conviction by the trial court, his remedy should have been an appeal to the Sandiganbayan. Paragraph 3, Section 4(c) of Republic Act No. 8249 (RA 8249),[14] which further defined the jurisdiction of the Sandiganbayan, reads:

> The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of the regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided. (Emphasis ours)

There is nothing in said paragraph which can conceivably justify the filing of Balaba's appeal before the Court of Appeals instead of the Sandiganbayan. Clearly, the Court of Appeals is bereft of any jurisdiction to review the judgment Balaba seeks to appeal.

In Melencion v. Sandiganbayan,[15] we ruled:

> An error in designating the appellate court is not fatal to the appeal. However, the correction in designating the proper appellate court should be made within the 15-day period to appeal. Once made within the said period, the designation of the correct appellate court may be allowed even if the records of the case are forwarded to the Court of Appeals. Otherwise, the second paragraph of Section 2, Rule 50 of the Rules of court would apply. The second paragraph of Section 2, Rule 50 of the Rules of Court reads:
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> "An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright." (Emphasis ours)

In this case, Balaba sought the correction of the error in filing the appeal only after the expiration of the period to appeal. The trial court promulgated its Decision on 9 December 2002. Balaba filed his notice of appeal on 14 January 2003. The Court of Appeals issued the Decision declaring its lack of jurisdiction on 15 December 2004. Balaba tried to correct the error only on 27 January 2005, clearly beyond the 15-day period to appeal from the decision of the trial court. Therefore, the Court of Appeals did not commit any error when it dismissed Balaba's

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appeal because of lack of jurisdiction.

WHEREFORE, we DENY the petition. We AFFIRM the 15 December 2004 Decision and 24 August 2005 Resolution of the Court of Appeals in CA-G.R. CR No. 27178.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Leonardo-De Castro, and Bersamin, JJ., concur.

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[1] Under Rule 45 of the Rules of Court.

[2] Rollo, pp. 55-58. Penned by Associate Justice Vicente L. Yap with Associate Justices Mercedes Gozo-Dadole and Pampio A. Abarintos, concurring.

[3] Id. at 64-65.

[4] Id. at 24-36. Penned by Executive Judge Dionisio R. Calibo, Jr.

[5] Records, pp. 4-5. Graft Investigation Officer III Edgardo C. Labella recommended the approval of the recommendation. Deputy Ombudsman for the Visayas Arturo C. Mojica approved the recommendation.

[6] Rollo, pp. 22-23.

[7] The Information was originally filed with the Sandiganbayan but was subsequently transferred to the trial court on 30 June 1995 upon the effectivity of Republic Act No. 7975.

[8] Rollo, p. 22.

[9] Id. at 36.

[10] Id. at 37.

[11] Id. at 39-49.

[12] Id. at 50-53.

[13] CA rollo, pp. 111-113.

[14] Entitled "An Act Further Defining The Jurisdiction Of The Sandiganbayan, Amending For The Purpose Presidential Decree No. 1606, As Amended, Providing Funds Therefor, And For Other Purposes." Approved on 5 February 1997.

[15] G.R. No. 150684, 12 June 2008, 554 SCRA 345, 353.

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