

**ATTY. ERNESTO A. TABUJARA III AND CHRISTINE S. DAYRIT,
PETITIONERS, VS. PEOPLE OF THE PHILIPPINES AND DAISY AFABLE,
RESPONDENTS.**

G.R. No. 175162. October 29, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This petition assails the 24 February 2004 Decision of the Court of Appeals in CA-G.R. SP No. 63280 denying petitioners' petition for review and directing the Municipal Trial Court of Meycauayan, Bulacan, Branch 11, to proceed with the trial of Criminal Cases Nos. 99-29037 and 99-29038, as well as the 23 October 2006 Resolution denying the motion for reconsideration.

The antecedent facts are as follows:

On 17 September 1999, respondent Daisy Dadivas-Afable simultaneously filed two criminal complaints against petitioners for Grave Coercion and Trespass to Dwelling. The complaints read, thus:

Art. 286 (Grave Coercion)

That on the 14[th] day of September 1999 at around 6:00 o'clock in the morning more or less, in Brgy. Iba, Municipality of Meycauayan, Province of Bulacan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused without authority of law, by conspiring, confederating and mutually helping to (sic) one another, did then and there willfully, unlawfully and feloniously forced to go with them one DAISY DADIVAS-AFABLE and against the latter's will.

Art. 280, par. 2 (Trespass to Dwelling)

That on the 14[th] day of September 1999 at around 6:00 o'clock in the morning more or less, in Brgy. Iba, Municipality of Meycauayan, Province of Bulacan, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused being then a (sic) private persons, by conspiring, confederating and mutually helping to (sic) one another, did then and there willfully, unlawfully and feloniously enter the house owned by one DAISY DADIVAS-AFABLE by opened the gate and against the latter's will.[1]

On 18 October 1999, petitioners filed their Joint Counter-Affidavit.[2] Thereafter, or on 21 December 1999, petitioner Tabujara filed a Supplemental Counter-Affidavit.[3]

Petitioners denied the allegations against them. They argued that on 14 September 1999, they went to the house of respondent to thresh out matters regarding some missing pieces of jewelry. Respondent was a former employee of Miladay Jewels, Inc., a company owned by the Dayrits and who was then being administratively investigated in connection with missing jewelries. Despite several summons to appear, respondent went on AWOL (absence without official leave).

Judge Calixtro O. Adriatico of the Municipal Trial Court of Meycauayan, Bulacan, Branch II, conducted the preliminary examination. On 7 January 2000, he issued an Order dismissing the complaints for lack of probable cause, thus:

After a careful perusal of the allegation setforth in the complaint-affidavit, taking into consideration the allegation likewise setforth in the counter-affidavit submitted by the respondents and that of their witnesses, the Court finds no probable cause to proceed with trial on the merits of the above-entitled cases.

The Court believes and so holds that the instant complaints are merely leverage to the estafa[4] case already filed against private complainant herein Daisy Afafe by the Miladay Jewels Inc. wherein respondent Atty. Tabujara III is its legal counsel; while respondent Dayrit appears to be one of the officers of the said company.

As could be gleaned from the record, private complainant herein Daisy Afafe is being charged with the aforesaid estafa case for having allegedly embezzled several pieces of jewelry from the Miladay Jewels Inc., worth P2,177,156.00.

WHEREFORE, let these cases be dismissed for lack of probable cause.[5]

Respondent filed a Motion for Reconsideration alleging that when she filed the complaints for grave coercion and trespass to dwelling on 17 September 1999 against petitioners, no information for estafa has yet been filed against her. In fact, the information was filed on 5 October 1999.

In their Opposition to the Motion for Reconsideration, petitioners argued that even before respondent filed the criminal complaints for grave coercion and trespass to dwelling, she was already being administratively investigated for the missing jewelries; that she was ordered preventively suspended pending said investigation; that the theft of the Miladay jewels was reported to the Makati Police on 7 September 1999 with respondent Afafe being named as the primary suspect; that on 17 September 1999, which corresponded to the date of filing of the criminal complaints against petitioners, the employment of respondent with Miladay, Jewels, Inc. was terminated. Petitioners further alleged that respondent filed the criminal complaints for grave coercion and trespass to dwelling as leverage to compel petitioners to withdraw the estafa case.

On 2 May 2000, Judge Adriatico issued an Order reversing his earlier findings of lack of probable cause. This time, he found probable cause to hold petitioners for trial and to issue warrants of arrest, thus:

Acting on the "Motion for Reconsideration" filed by the private complainant herein on January 17, 2000, with "Opposition..." filed by the accused on January 27, 2000, taking into consideration the "Manifestation/Brief Memorandum" filed by the said private complainant on March 4, 2000, the Court found cogent reason to reconsider its order dated January 7, 2000.

The sworn allegation/statement of witness Mauro V. de Lara, which was inadvertently overlooked by the undersigned, and which states, among other things, that said witness saw the private complainant herein being forcibly taken by three persons, referring very apparently to the accused herein, from her residence is already sufficient to establish a prima facie evidence or probable cause against the herein accused for the crimes being imputed against them. It is likewise probable that accused herein could have committed the crime charged in view of their belief that the private complainant herein had something to do with the alleged loss or embezzlement of jewelries of the Miladay Jewels.

WHEREFORE, in order to ferret out the truth/veracity of the complainant's allegation and in order not to frustrate the ends of justice, let the above-entitled cases now be set for trial.

Let therefore warrant of arrest be issued against all the accused in Criminal Case No. 99-29038 (Grave Coercions), fixing their bail for their provisional liberty in the amount of P12,000.00 for each of them.

As regard Criminal Case No. 99-29037 (Trespass to Dwelling) the same shall be governed by the Rules on Summary Procedure.[6]

Petitioners filed a motion for reconsideration insisting that the alleged affidavit of Mauro V. de Lara on which the court a quo based its findings of probable cause was hearsay because it was not sworn before Judge Adriatico; that De Lara did not personally appear before the investigating judge during preliminary investigation. However, petitioners' motion for reconsideration was denied in the Order dated 14 July 2000, thus:

Acting on the "Motion for Reconsideration" filed by the accused, thru counsel. With comment from the counsel of the private complainant, the Court resolves to deny the same there being no cogent reason to reconsider the Court order dated May 2, 2000.

The Court has resolved to try the above-entitled cases on the merits so as to ferret out the truth of the private complainant's allegations and there being probable cause to warrant criminal prosecution of the same.

The accused's contention that the statement of witness Mauro de Lara is bereft of credibility and that the complaints at bar were initiated merely for harassment purposes could be ventilated well in a full blown trial.

WHEREFORE, in view of the foregoing reason, let the trial of these cases proceed as already scheduled.[7]

Petitioners moved for clarificatory hearings which were conducted on 23 August 2000 and 31 August 2000. However, before the court a quo could render a resolution based on said clarificatory hearings, petitioners filed on 15 September 2000 a petition for certiorari before the Regional Trial Court with prayer for issuance of temporary restraining order and writ of preliminary injunction.[8] Petitioners sought to annul the 2 May 2000 and 14 July 2000 Orders of the court a quo for having been issued with grave abuse of discretion. Petitioners argued that the court a quo gravely abused its discretion in issuing said Orders finding probable cause and ordering the issuance of warrants of arrest based solely on the unsworn statement of Mauro V. de Lara who never appeared during preliminary investigation and who was not personally examined by the investigating judge.

On 18 September 2000, Executive Judge Danilo A. Manalastas of the Regional Trial Court of Malolos, Bulacan, Branch 7, issued an Order[9] granting a 72-hour temporary restraining order and enjoining the Municipal Trial Court from proceeding with the prosecution of petitioners in Criminal Case Nos. 99-29037 and 99-29038.

The case was thereafter raffled to Branch 79 which rendered its Decision[10] denying the petition for annulment of the 2 May 2000 and 14 July 2000 Orders of the Municipal Trial Court. The Regional Trial Court found that after conducting clarificatory hearings, the court a quo issued an Order on 18 September 2000, finding probable cause. The Regional Trial Court further ruled that any defect in the issuance of the 2 May 2000 and 14 July 2000 Orders finding probable cause based solely on the unsworn statement of Mauro V. de Lara who failed to appear during the preliminary examination and who was not personally examined by the investigating judge, was cured by the issuance of the 18 September 2000 Order. The Regional Trial Court reasoned, thus:

While it is true that respondent Judge Hon. Calixto O. Adriatico dismisses both criminal cases last January 7, 2000 finding no probable cause and later on reverse himself by issuing the question Order dated May 2, 2000 alleging among others that said Judge inadvertently overlooked the statement of witness Mauro V. De Lara, the stubborn facts remain that whatever defects, or shortcomings on the parts of the respondent Judge was cured when he conducted clarificatory examination on the dates earlier mentioned in this Order.[11]

The dispositive portion of the Decision of the Regional Trial Court, reads:

RESPONSIVE OF ALL THE FOREGOING, the instant Petition for the Annulment of the Orders of the respondent Judge dated May 2, 2000 and July 14, 2000 in criminal cases nos. 99-29037 and 99-29038 (MTC-Meycauayan, Branch 2) should be as it is hereby denied for lack of merit.

ACCORDINGLY, the Presiding Judge of branch II, the Hon. Calixto O. Adriatico may now proceed to hear and decide crim. Cases nos. 99-29037 and 99-29038 pending before that Court.[12]

Petitioners filed a Petition for Review before the Court of Appeals asserting that the court a quo acted with grave abuse of discretion in basing its findings of probable cause and ordering the issuance of warrants of arrest solely on the unsworn statement of Mauro De Lara who never appeared during preliminary investigation and who was not personally examined by the investigating judge. Moreover, they argued that the 18 September 2000 Order was void because it was issued by the Municipal Trial Court while the temporary restraining order issued by the Regional Trial Court enjoining the court a quo to proceed further with the criminal complaints was in force.

However, the Court of Appeals denied the petition on the ground that petitioners resorted to the wrong mode of appeal; i.e., instead of an ordinary appeal, petitioners filed a petition for review. [13] The dispositive portion of the Decision of the Court of Appeals, reads:

WHEREFORE, in view of the foregoing, the instant Petition for Review is hereby DENIED. The Municipal Trial Court of Meycauayan, Bulacan, Branch II is directed to proceed with the trial of Criminal Case Nos. 99-29037 and 99-29038 and to dispose of them with deliberate dispatch.[14]

Petitioners filed a motion for reconsideration but it was denied.[15] Hence, the instant petition raising the following assignment of errors:

I.

THE COURT OF APPEALS ERRED IN NOT RULING THAT THE TRIAL COURT HAD ACTED WITH GRAVE ABUSE OF DISCRETION IN BASING ITS FINDING OF PROBABLE CAUSE TO HOLD PETITIONERS FOR TRIAL ON THE MERITS AND ISSUANCE OF WARRANTS OF ARREST AGAINST THEM, UPON AN UNSWORN STATEMENT OF A WITNESS WHO NEVER APPEARED BEFORE, NOR WAS PERSONALLY EXAMINED BY, THE TRIAL COURT.

A. THE CONSTITUTION GUARANTEES THAT NO WARRANT OF ARREST SHALL ISSUE EXCEPT UPON PROBABLE CAUSE TO BE DETERMINED PERSONALLY BY THE JUDGE AND AFTER PERSONALLY EXAMINING UNDER OATH THE COMPLAINANT AND WITNESSES.

II.

PETITIONERS ASSERT THEIR RIGHT GUARANTEED BY THE CONSTITUTION WHICH TAKES PRECEDENCE OVER RULES OF PROCEDURE OR TECHNICALITIES.

A. IT IS WELL-SETTLED THAT THIS HONORABLE COURT IS BOUND BY THE ALLEGATIONS IN THE PETITION AND NOT BY ITS CAPTION.[16]

Petitioners insist that the Orders of the court a quo dated 2 May 2000 and 14 July 2000 should be annulled for having been issued with grave abuse of discretion because the finding of probable cause was based solely on the unsworn statement of Mauro De Lara who never appeared during the preliminary examination. Petitioners also allege that since De Lara never appeared before the investigating judge, his statement was hearsay and cannot be used as basis for finding probable cause for the issuance of warrant of arrest or to hold petitioners liable for trial. Granting that the statement of De Lara was subscribed before "Judge Paguio," the same cannot be used as basis because the law requires that the statement be sworn to before the investigating judge and no other.

In its Comment, respondent People of the Philippines argue that the Court of Appeals correctly dismissed petitioners' petition because they resorted to the wrong mode of appeal.

On the other hand, respondent avers that the issue on the propriety of the issuance by the court a quo of the 2 May

2000 and 14 July 2000 Orders has become moot because clarificatory hearings were thereafter conducted and another Order dated 18 September 2000 was issued finding probable cause against petitioners; and, that the statement of Mauro De Lara was subscribed and sworn to before Judge Orlando Paguio although it was Judge Calixtro Adriatico who acted as the investigating judge.

The petition is meritorious.

Before proceeding to the substantive issues, we first address the issue of whether or not the Court of Appeals properly denied the petition for review filed by the petitioners under Rule 42 of the Rules of Court.

In denying the petition for review under Section 1,[17] Rule 42 of the 1997 Rules of Court filed by petitioners, the appellate court stressed that they availed of the wrong mode of review in bringing the case to it since the petitioners filed an original action under Rule 65 of the Rules of Court to the RTC, the remedy availed of should have been an appeal under Section 2(a) of Rule 41 of the Rules of Court:

SEC. 2. Modes of appeal. -

(a) Ordinary appeal. - The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner. (Emphasis supplied.)

It is only when the decision of the RTC was rendered in the exercise of appellate jurisdiction would a petition for review under Rule 42 be proper[18]

We do not agree in the conclusion arrived at by the Court of Appeals.

The present controversy involved petitioners' sacrosanct right to liberty, which is protected by the Constitution. No person should be deprived of life, liberty, or property without due process of law.[19]

While it is true that rules of procedure are intended to promote rather than frustrate the ends of justice, and while the swift unclogging of the dockets of the courts is a laudable objective, it nevertheless must not be met at the expense of substantial justice.[20]

The Court has allowed some meritorious cases to proceed despite inherent procedural defects and lapses. This is in keeping with the principle that rules of procedure are mere tools designed to facilitate the attainment of justice, and that strict and rigid application of rules which would result in technicalities that tend to frustrate rather than promote substantial justice must always be avoided. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case to attain the ends of justice, rather than dispose of the case on technicality and cause grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.[21]

In those rare cases to which we did not stringently apply the procedural rules, there always existed a clear need to prevent the commission of a grave injustice. Our judicial system and the courts have always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant is given the full opportunity for a just and proper disposition of his cause.[22]

The emerging trend in the rulings of this Court is to afford every party litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities. Time and again, we have consistently held that rules must not be applied so rigidly as to override substantial justice.[23]

The Court of Appeals should have looked beyond the alleged technicalities to open the way for the resolution of the substantive issues in the instance case. The Court of Appeals, thus, erred in dismissing petitioners' petition for review. By dismissing the said Petition, the Court of Appeals absolutely foreclosed the resolution of all the substantive issues petitioners were repeatedly attempting to raise before the Court of Appeals.

We now proceed to the resolution of the substantive issues raised by the petitioners.

Section 2, Article III, of the 1987 Constitution, provides:

SEC. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

It is constitutionally mandated that a warrant of arrest shall issue only upon finding of probable cause personally determined by the judge after examination under oath or affirmation of the complainant and the witnesses he/she may produce, and particularly describing the person to be seized.

To determine the existence of probable cause, a preliminary investigation is conducted. A preliminary investigation is an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial.[24]

A preliminary investigation is required to be conducted before the filing of a complaint or information for an offense where the penalty prescribed by law is at least 4 years, 2 months and 1 day without regard to the fine.[25] Thus, for cases where the penalty prescribed by law is lower than 4 years, 2 months and 1 day, a criminal complaint may be filed directly with the prosecutor or with the Municipal Trial court. In either case, the investigating officer (i.e., the prosecutor or the Municipal Trial Court Judge) is still required to adhere to certain procedures for the determination of probable cause and issuance of warrant of arrest.

In the instant case, respondent directly filed the criminal complaints against petitioners for grave coercion and trespass to dwelling before the Municipal Trial Court. The penalty prescribed by law for both offenses is *arresto mayor*, which ranges from 1 month and 1 day to 6 months. Thus, Section 9, Rule 112 of the Rules of Court applies, to wit:

SEC. 9. Cases not requiring a preliminary investigation nor covered by the Rule on Summary Procedure. -

x x x x

(b) If filed with the Municipal Trial Court. - If the complaint or information is filed with the Municipal Trial Court or Municipal Circuit Trial Court for an offense covered by this section, the procedure in section 3(a) of this Rule shall be observed. If within ten (10) days after the filing of the complaint or information, the judge finds no probable cause after personally evaluating the evidence, or after personally examining in writing and under oath the complainant and his witnesses in the form of searching questions and answers, he shall dismiss the same. He may, however, require the submission of additional evidence, within ten (10) days from notice, to determine further the existence of probable cause. If the judge still finds no probable cause despite the additional evidence, he shall, within ten (10) days from its submission or expiration of said period, dismiss the case. When he finds probable cause, he shall issue a warrant of arrest or a commitment order if the accused had already been arrested, and hold him for trial. However, if the judge is satisfied that there is no necessity for placing the accused under custody, he may issue summons instead of a warrant of arrest. (Emphasis supplied.)

Corollarily, Section 6 of the same Rule provides:

SEC. 6. When warrant of arrest may issue. - x x x

(b) By the Municipal Trial Court. - x x x [T]he judge may issue a warrant of arrest if he finds after an examination in writing and under oath of the complainant and his witnesses in the form of searching questions and answers, that a probable cause exists and that there is a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice.

Clearly, Judge Adriatico gravely abused his discretion in issuing the assailed 2 May 2000 and 14 July 2000 Orders finding probable cause to hold petitioners liable for trial and to issue warrants of arrest because it was based solely on the statement of witness Mauro De Lara whom Judge Adriatico did not personally examine in writing and under oath; neither did he propound searching questions. He merely stated in the assailed 2 May 2000 Order that he overlooked the said statement of De Lara; nevertheless, without conducting a personal examination on said witness or propounding searching questions, Judge Adriatico still found De Lara's allegations sufficient to establish probable cause. Plainly, this falls short of the requirements imposed by no less than the Constitution.

In *Sangguniang Bayan of Batac v. Judge Albano*,^[26] the Court found respondent judge guilty of ignorance of the law because he failed to comply with the procedure on the issuance of warrant of arrest, thus:

Failure to comply with such procedure will make him administratively liable. In the case at bar, respondent judge issued several warrants of arrest without examining the complainant and his witnesses in writing and under oath, in violation of Section 6 of Rule 112 which provides:

Sec. 6. When warrant of arrest may issue. - x x x

(b) By the Municipal Trial Court. - If the municipal trial judge conducting the preliminary investigation is satisfied after an examination in writing and under oath of the complainant and his witnesses in the form of searching questions and answers, that a probable cause exists and that there is a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice, he shall issue a warrant of arrest.

The records show that respondent judge has violated the rules on preliminary investigation and issuance of a warrant of arrest since the start of his term as municipal judge in Batac, Ilocos Norte in September 1991. The gross ignorance of respondent judge has immensely prejudiced the administration of justice. Parties adversely affected by his rulings dismissing their complaints after preliminary investigation have been denied their statutory right of review that should have been conducted by the provincial prosecutor. His practice of issuing warrants of arrest without examining the complainants and their witnesses is improvident and could have necessarily deprived the accused of their liberty however momentary it may be. Our Constitution requires that all members of the judiciary must be of proven competence, integrity, probity and independence. Respondent judge's stubborn adherence to improper procedures and his constant violation of the constitutional provision requiring him to personally examine the complainant and the witness in writing and under oath before issuing a warrant of arrest makes him unfit to discharge the functions of a judge.

When the investigating judge relied solely on the affidavit of witness De Lara which was not sworn to before him and whom he failed to examine in the form of searching questions and answers, he deprived petitioners of the opportunity to test the veracity of the allegations contained therein. Worse, petitioners' arguments that De Lara's affidavit was hearsay was disregarded by the investigating judge despite the fact that the allegations therein were completely rebutted by petitioners' and their witnesses' affidavits, all of whom appeared before and were personally examined by the investigating judge. It was thus incorrect for the court a quo to rule thus:

The accused's contention that the statement of witness Mauro de Lara is bereft of credibility and that the

complaints at bar were initiated merely for harassment purposes could be ventilated well in a full blown trial.[27]

In sum, De Lara's affidavit cannot be relied upon by the court a quo for its finding of probable cause.

In addition, this Court finds that the warrants of arrest were precipitously issued against petitioners. Deprivation of a citizen's liberty through the coercive process of a warrant of arrest is not a matter which courts should deal with casually. Any wanton disregard of the carefully-wrought out processes established pursuant to the Constitution's provisions on search warrants and warrants of arrest is a serious matter primarily because its effects on the individual wrongly-detained are virtually irremediable.[28]

The procedure described in Section 6 of Rule 112 is mandatory because failure to follow the same would amount to a denial of due process. With respect to the issuance by inferior courts of warrants of arrest, it is necessary that the judge be satisfied that probable cause exists: 1) through an examination under oath and in writing of the complainant and his witnesses; which examination should be 2) in the form of searching questions and answers. This rule is not merely a procedural but a substantive rule because it gives flesh to two of the most sacrosanct guarantees found in the fundamental law: the guarantee against unreasonable searches and seizures and the due process requirement.[29]

The issuance of warrants of arrest is not mandatory. The investigating judge must find that there is a necessity of placing the petitioners herein under immediate custody in order not to frustrate the ends of justice.[30] Perusal of the records shows no necessity for the immediate issuance of warrants of arrest. Petitioners are not flight risk and have no prior criminal records.

Respondent's contention that any defect in the 2 May 2000 and 14 July 2000 Orders of the court a quo has been cured by its 18 September 2000 Order is flawed. It will be recalled that on 15 September 2000, petitioners filed a petition for certiorari before the Regional Trial Court of Meycauayan, Bulacan. On 18 September 2000, Executive Judge Manalastas issued a temporary restraining order enjoining the court a quo from conducting further proceedings in Criminal Cases Nos. 99-29037 and 99-29038. However, in contravention of said restraining order, the court a quo issued its Order on even date, i.e., 18 September 2000, finding probable cause against petitioners holding them liable for trial and ordering the issuance of warrants of arrest. Considering that the court a quo's 18 September 2000 Order was issued during the effectivity of the temporary restraining order, the same is considered of no effect.

WHEREFORE, the petition is GRANTED. The assailed 24 February 2004 Decision of the Court of Appeals in CA-G.R. SP No. 63280 denying petitioners' petition for review and directing the Municipal Trial Court of Meycauayan, Bulacan, Branch 11, to proceed with the trial of Criminal Cases Nos. 99-29037 and 99-29038, as well as the 23 October 2006 Resolution denying the motion for reconsideration, are REVERSED and SET ASIDE. The Municipal Trial Court of Meycauayan, Bulacan, Branch 11, is DIRECTED to dismiss Criminal Cases Nos. 99-29037 and 99-29038 for lack of probable cause and to quash the warrants of arrest against petitioners for having been irregularly and precipitously issued.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio,[*] Azcuna,**] and Nachura, JJ., concur.

[*] Per Special Order No. 531, dated 20 October 2008, signed by Acting Chief Justice Leonardo A. Quisumbing, designating Associate Justice Antonio T. Carpio to replace Associate Justice Ma. Alicia Austria-Martinez, who is on leave.

[**] Per Special Order No. 521, dated 29 September 2008, signed by Chief Justice Reynato S. Puno, designating Associate Justice Adolfo S. Azcuna to replace Associate Justice Ruben T. Reyes, who is on official leave.

[1] Rollo, pp. 30-31.

[2] Id. at 35-39.

[3] Id. at 64-66.

[4] Entitled *People of the Philippines v. Daisy Afable*. Respondent was charged for Estafa. In an Information dated 18 November 1999 docketed as Criminal Case No. 00-078. (Rollo, p. 90.) A warrant for the arrest of private respondent dated 24 January 2000 was issued by the RTC of Makati. (Rollo, p. 92.) On 25 March 2003, the RTC Branch 142 Makati rendered a decision finding respondent guilty beyond reasonable doubt of the crime of Estafa. (CA rollo, p. 237.) This conviction was affirmed in the decision of the Court of Appeals dated 27 March 2007 in CA-G.R. CR No. 27515. Respondent elevated the case to this Court (G.R. No. 181047) but her petition was denied in this Court's resolution dated 24 March 2008.

Respondent also filed a Complaint for Illegal dismissal against Miladay Jewels Inc represented by its president Michelle Dayrit Soliven docketed as NLRC NCR Case No. 30-12-00756-99 which the labor arbiter decided on 13 October 2000. (CA rollo p. 260.) The records are silent as to the status of this case. Respondent filed two additional cases for Grave coercion and grave threats against petitioner Tabujara and the other Dayrit sisters, Michelle and Yvonne before the Makati City Prosecutors office which was dismissed by resolution of the Prosecutor's Office on 20 July 2000. (CA rollo, p. 244.)

[5] Rollo, p. 77.

[6] Id. at 94.

[7] Id. at 107.

[8] Id. at 108-120.

[9] Id. at 121-122; penned by Judge Danilo A. Manalastas.

[10] Id. at 127-145; penned by Judge Arturo G. Tayag.

[11] Id. at 144.

[12] Id. at 145.

[13] Id. at 147-157. Penned by Associate Justice Jose C. Reyes, Jr. with Associate Justices Romeo A. Brawner and Rebecca De Guia-Salvador, concurring.

[14] Id. at 157.

[15] Id. at 176-178. Penned by Associate Justice Regalado E. Maambong with Associate Justices Marina L. Buzon and Japar B. Dimaampao, concurring.

[16] Id. at 17-18.

[17] SECTION 1. How appeal taken; time for filing. - A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of P500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the

decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

[18] *De Liano v. Court of Appeals*, 421 Phil. 1033, 1049-1050 (2001).

[19] PHILIPPINE CONSTITUTION, Article III, Section 1; *Macasasa v. Sicad*, G.R. No. 146547, 20 June 2006, 491 SCRA 368, 383.

[20] *Wack Wack Golf and Country Club v. National Labor Relations Commission*, G.R. 149793, 15 April 2005, 456 SCRA 280, 294.

[21] *Id.*

[22] *Neypes v. Court of Appeals*, G.R. No. 141524, 14 September 2005, 469 SCRA 633, 643.

[23] *Peñoso v. Dona*, G.R. No. 154018, 3 April 2007, 520 SCRA 232, 240-241.

[24] RULES OF COURT, Rule 112, Sec. 1.

[25] *Id.*

[26] 329 Phil. 363, 374-375 (1996).

[27] *Rollo*, p. 107.

[28] *Cabilao v. Judge Sardido*, 316 Phil. 134, 141 (1995).

[29] *Id.* at 142.

[30] *Bagunas v. Judge Fabillar*, 352 Phil. 206, 221 (1998).

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