GILDA C. ULEP, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 183373. January 30, 2009

Ponente: CORONA, J.

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CORONA, J.:

This resolves the motion for reconsideration of the August 27, 2008 resolution of this Court denying petitioner's petition for review on certiorari (under Rule 45 of the Rules of Court) which sought to set aside the September 25, 2007 and June 6, 2008 resolutions[1] of the Court of Appeals (CA) in CA-G.R. CR No. 30227.

Petitioner was a government employee serving as money order teller at the Fort Bonifacio Post Office with a salary grade lower than grade 27. She was charged with the crime of malversation of public funds under Article 217 of the Revised Penal Code in the Regional Trial Court (RTC) of Makati City, Branch 132. Subsequently, she was convicted as charged and was sentenced to suffer an indeterminate penalty of 10 years and 1 day of prision mayor as minimum to 19 years of reclusion temporal as maximum, to pay a fine of P113,768 and to pay Philippine Postal Corporation the same amount.

Petitioner filed the following notice of appeal in the trial court:

> ACCUSED, by counsel, respectively gives notice that she is appealing the Judgment rendered by this Honorable Court against her in the above-entitled case in its Judgment dated May 3, 2006, (a copy of Decision was received by accused on May 3, 2006) on the grounds that the said Judgment is contrary to law and the evidence presented.

Acting on the notice of appeal, the trial court issued the following order:

> Accused GILDA ULEP having filed her notice of Appeal, let the records of the above-mentioned case, together with all the evidence, both oral and documentary, be forwarded to the Honorable Court of Appeals for further proceedings.
>
> x x x
>
> SO ORDERED. (Emphasis supplied)

The CA, however, dismissed the appeal on the ground of lack of jurisdiction. It held that malversation belongs to the classification of public office-related crimes under subparagraph (b) of Section 4 of PD[2] 1606[3], as amended by RA[4] 8249[5]:

> Sec. 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
>
> - Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

> x x x x x x x x x
>
> - Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of this section in relation to their office.
>
> x x x x x x x x x
>
> In cases where none of the accused are occupying positions corresponding to Salary Grade `27' or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officer mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129, as amended.
>
> The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or order of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided. x x x (Emphasis supplied).

The appellate court held that, based on the foregoing, an appeal from the judgment of the RTC in such a case fell within the jurisdiction of the Sandiganbayan. Thus, petitioner's appeal to the CA was improperly made and should accordingly be dismissed pursuant to Section 2, Rule 50[6] of the Rules of Civil Procedure.

Petitioner moved for reconsideration. She contended that the appellate court should have ordered the transfer of the records of the case to the Sandiganbayan instead of dismissing her appeal outright. She pointed out that there was no categorical statement in her notice of appeal on which court her appeal should be taken to. Rather, it was the trial court which ordered the records to be forwarded to the CA. The appellate court refused to reconsider its resolution.

Petitioner then filed a petition for review in this Court but it was denied for her failure to sufficiently show that the CA committed any reversible error warranting the exercise of this Court's discretionary appellate jurisdiction.

Petitioner filed this motion for reconsideration reiterating her argument that the appellate court should have ordered the transfer of the records of the case to the Sandiganbayan instead of dismissing her appeal outright. She asks this Court to reconsider its earlier resolution denying her petition for review since this case involves her constitutional right to liberty.

We grant the motion.

Petitioner did not even have to specify the court to which her appeal was to be taken. In Heirs of Pizarro v. Consolacion,[7] we held:

> It must be noted that in the notice of appeal it is not even required that the appellant indicate the court to which its appeal is being interposed. This requirement is merely directory and failure to comply with it or error in the court indicated is not fatal to the appeal. (Emphasis ours).[8]

Moreover, it appears that petitioner's failure to designate the proper forum for her appeal was inadvertent. The omission did not appear to be a dilatory tactic on her part. Indeed, petitioner had more to lose had that been the case as her appeal could be dismissed outright for lack of jurisdiction - which was exactly what happened in the CA.

The trial court, on the other hand, was duty bound to forward the records of the case to the proper forum, the Sandiganbayan. It is unfortunate that the RTC judge concerned ordered the pertinent records to be forwarded to the wrong court, to the great prejudice of petitioner. Cases involving government employees with a salary grade lower than 27 are fairly common, albeit regrettably so. The judge was expected to know and should have known

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the law and the rules of procedure. He should have known when appeals are to be taken to the CA and when they should be forwarded to the Sandiganbayan. He should have conscientiously and carefully observed this responsibility specially in cases such as this where a person's liberty was at stake.

WHEREFORE, the motion is hereby GRANTED. The August 27, 2008 resolution of this Court and the September 25, 2007 and June 6, 2008 resolutions of the Court of Appeals in CA-G.R. CR No. 30227 are SET ASIDE. The Court of Appeals is hereby directed to remand the records of this case, together with all the oral and documentary evidence, to the Regional Trial Court for transmission to the Sandiganbayan.

The Presiding Judge of Branch 132 of the Makati City RTC is hereby warned not to commit this error again, under pain of a more severe penalty.

SO ORDERED.

Carpio, (Acting Chairperson)[*], Austria-Martinez[**], Carpio Morales[**], and Leonardo-De Castro, JJ., concur.

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[*] Per Special Order No. 552-A dated January 15, 2009.

[**] Per Special Order No. 553 dated January 15, 2009.

[1] Both penned by Associate Justice Portia Alino-Hormachuelos and concurred in by Associate Justices Lucas P. Bersamin and Estela M. Perlas-Bernabe of the Former Second Division of the Court of Appeals. Rollo, pp. 13-17 and 19-20, respectively.

[2] Presidential Decree.

[3] Creating a Special Court To Be Known As "Sandiganbayan" and for Other Purposes.

[4] Republic Act.

[5] An Act Further Defining the Jurisdiction of the Sandiganbayan.

[6] Sec. 2. Dismissal of improper appeal to the Court of Appeals. - x x x

An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright.

[7] No. L-51278, 9 May 1988, 161 SCRA 186, 193.

[8] Id. It is worth mentioning that in the later cases of Moll v. Buban, 436 Phil. 627 (2002) and Arriola and Radan v. Sandiganbayan, G.R. No. 165711, 30 June 2006, 494 SCRA 344, we reiterated that error in the designation of the court does not necessarily affect the validity of the notice of appeal. However, designation of the proper court should be made within the 15-day period to appeal.

Moll and Arriola are not applicable in this case. In the aforementioned cases, what was involved was error in the designation of the court. In this case, petitioner inadvertently failed to specify in her notice of appeal the court where her appeal was to be taken. This omission should not be taken against her as Pizarro clearly stated that the requirement for the appellant to indicate the court to which the appeal is being interposed is merely directory. Furthermore, Pizarro is a civil case where the Court allowed the liberal application of the Rules of Court. Liberal interpretation of said rules should all the more be applicable in criminal cases to favor the accused.

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