

**A.L. ANG NETWORK, INC., PETITIONER, VS. EMMA MONDEJAR,  
ACCOMPANIED BY HER HUSBAND, EFREN MONDEJAR,  
RESPONDENT.**

*G.R. No. 200804. January 22, 2014*

Ponente: PERLAS-BERNABE, J.

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**PERLAS-BERNABE, J.:**

This is a direct recourse[1] to the Court from the Decision[2] dated November 23, 2011 and Order[3] dated February 16, 2012 of the Regional Trial Court of Bacolod City, Branch 45 (RTC) in RTC Case No. 11-13833 which dismissed, on the ground of improper remedy, petitioner A.L. Ang Network, Inc.'s (petitioner) petition for certiorari from the Decision[4] dated June 10, 2011 of the Municipal Trial Court in Cities of Bacolod City, Branch 4 (MTCC) in Civil Case No. SCC-1436, a small claims case for sum of money against respondent Emma Mondejar (respondent).

**The Facts**

On March 23, 2011, petitioner filed a complaint[5] for sum of money under the Rule of Procedure for Small Claims Cases[6] before the MTCC, seeking to collect from respondent the amount of P23,111.71 which represented her unpaid water bills for the period June 1, 2002 to September 30, 2005.[7]

Petitioner claimed that it was duly authorized to supply water to and collect payment therefor from the homeowners of Regent Pearl Subdivision, one of whom is respondent who owns and occupies Lot 8, Block 3 of said subdivision. From June 1, 2002 until September 30, 2005, respondent and her family consumed a total of 1,150 cubic meters (cu. m.) of water, which upon application of the agreed rate of P113.00 for every 10 cu.m. of water, plus an additional charge of P11.60 for every additional cu. m. of water, amounted to P28,580.09.[8] However, respondent only paid the amount of P5,468.38, thus, leaving a balance of P23,111.71 which was left unpaid despite petitioner's repeated demands.[9]

In defense, respondent contended that since April 1998 up to February 2003, she religiously paid petitioner the agreed monthly flat rate of P75.00 for her water consumption. Notwithstanding their agreement that the same would be adjusted only upon prior notice to the homeowners, petitioner unilaterally charged her unreasonable and excessive adjustments (at the average of 40 cu.m. of water per month or 1.3 cu.m. of water a day) far above the average daily water consumption for a household of only 3 persons. She also questioned the propriety and/or basis of the aforesaid P23,111.71 claim.[10]

In the interim, petitioner disconnected respondent's water line for not paying the adjusted water charges since March 2003 up to August 2005.[11]

**The MTCC Ruling**

On June 10, 2011, the MTCC rendered a Decision[12] holding that since petitioner was issued a Certificate of Public Convenience (CPC)[13] by the National Water Resources Board (NWRB) only on August 7, 2003, then, it

can only charge respondent the agreed flat rate of P75.00 per month prior thereto or the sum of P1,050.00 for the period June 1, 2002 to August 7, 2003. Thus, given that respondent had made total payments equivalent to P1,685.99 for the same period, she should be considered to have fully paid petitioner.[14]

The MTCC disregarded petitioner's reliance on the Housing and Land Use Regulatory Board's (HLURB) Decision[15] dated August 17, 2000 in HLURB Case No. REM C6-00-001 entitled Nollie B. Apura, et al. v. Dona Carmen I Subdivision, et al., as source of its authority to impose new water consumption rates for water consumed from June 1, 2002 to August 7, 2003 in the absence of proof (a) that petitioner complied with the directive to inform the HLURB of the result of its consultation with the concerned homeowners as regards the rates to be charged, and (b) that the HLURB approved of the same.[16]

Moreover, the MTCC noted that petitioner failed to submit evidence showing (a) the exact date when it actually began imposing the NWRB approved rates; and (b) that the parties had a formal agreement containing the terms and conditions thereof, without which it cannot establish with certainty respondent's obligation.[17] Accordingly, it ruled that the earlier agreed rate of P75.00 per month should still be the basis for respondent's water consumption charges for the period August 8, 2003 to September 30, 2005.[18] Based on petitioner's computation, respondent had only paid P300.00 of her P1,500.00 obligation for said period. Thus, it ordered respondent to pay petitioner the balance thereof, equivalent to P1,200.00 with legal interest at the rate of 6% per annum from date of receipt of the extrajudicial demand on October 14, 2010 until fully paid.[19]

Aggrieved, petitioner filed a petition for certiorari[20] under Rule 65 of the Rules of Court before the RTC, ascribing grave abuse of discretion on the part of the MTCC in finding that it (petitioner) failed to establish with certainty respondent's obligation, and in not ordering the latter to pay the full amount sought to be collected.

#### The RTC Ruling

On November 23, 2011, the RTC issued a Decision[21] dismissing the petition for certiorari, finding that the said petition was only filed to circumvent the non-appealable nature of small claims cases as provided under Section 23[22] of the Rule of Procedure on Small Claims Cases. To this end, the RTC ruled that it cannot supplant the decision of the MTCC with another decision directing respondent to pay petitioner a bigger sum than that which has been awarded.

Petitioner moved for reconsideration[23] but was denied in an Order[24] dated February 16, 2012, hence, the instant petition.

#### The Issue Before the Court

The sole issue in this case is whether or not the RTC erred in dismissing petitioner's recourse under Rule 65 of the Rules of Court assailing the propriety of the MTCC Decision in the subject small claims case.

#### The Court's Ruling

The petition is meritorious.

Section 23 of the Rule of Procedure for Small Claims Cases states that:

SEC. 23. Decision. — After the hearing, the court shall render its decision on the same day, based on the facts established by the evidence (Form 13-SCC). The decision shall immediately be entered by the Clerk of Court in the court docket for civil cases and a copy thereof forthwith served on the parties.

The decision shall be final and unappealable.

Considering the final nature of a small claims case decision under the above-stated rule, the remedy of appeal is not allowed, and the prevailing party may, thus, immediately move for its execution.[25] Nevertheless, the

proscription on appeals in small claims cases, similar to other proceedings where appeal is not an available remedy,[26] does not preclude the aggrieved party from filing a petition for certiorari under Rule 65 of the Rules of Court. This general rule has been enunciated in the case of *Okada v. Security Pacific Assurance Corporation*,[27] wherein it was held that:

In a long line of cases, the Court has consistently ruled that “the extraordinary writ of certiorari is always available where there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law.” In *Jaca v. Davao Lumber Co.*, the Court ruled:

x x x Although Section 1, Rule 65 of the Rules of Court provides that the special civil action of certiorari may only be invoked when “there is no appeal, nor any plain, speedy and adequate remedy in the course of law,” this rule is not without exception. The availability of the ordinary course of appeal does not constitute sufficient ground to prevent a party from making use of the extraordinary remedy of certiorari where appeal is not an adequate remedy or equally beneficial, speedy and sufficient. It is the inadequacy – not the mere absence – of all other legal remedies and the danger of failure of justice without the writ that usually determines the propriety of certiorari.

This ruling was reiterated in *Conti v. Court of Appeals*:

Truly, an essential requisite for the availability of the extraordinary remedies under the Rules is an absence of an appeal nor any “plain, speedy and adequate remedy” in the ordinary course of law, one which has been so defined as a “remedy which (would) equally (be) beneficial, speedy and sufficient not merely a remedy which at some time in the future will bring about a revival of the judgment x x x complained of in the certiorari proceeding, but a remedy which will promptly relieve the petitioner from the injurious effects of that judgment and the acts of the inferior court or tribunal” concerned. x x x (Emphasis supplied)

In this relation, it may not be amiss to placate the RTC’s apprehension that respondent’s recourse before it (was only filed to circumvent the non-appealable nature of [small claims cases], because it asks [the court] to supplant the decision of the lower [c]ourt with another decision directing the private respondent to pay the petitioner a bigger sum than what has been awarded.”[28] Verily, a petition for certiorari, unlike an appeal, is an original action[29] designed to correct only errors of jurisdiction and not of judgment. Owing to its nature, it is therefore incumbent upon petitioner to establish that jurisdictional errors tainted the MTCC Decision. The RTC, in turn, could either grant or dismiss the petition based on an evaluation of whether or not the MTCC gravely abused its discretion by capriciously, whimsically, or arbitrarily disregarding evidence that is material to the controversy.[30]

In view of the foregoing, the Court thus finds that petitioner correctly availed of the remedy of certiorari to assail the propriety of the MTCC Decision in the subject small claims case, contrary to the RTC’s ruling.

Likewise, the Court finds that petitioner filed the said petition before the proper forum (i.e., the RTC). To be sure, the Court, the Court of Appeals and the Regional Trial Courts have concurrent jurisdiction to issue a writ of certiorari.[31] Such concurrence of jurisdiction, however, does not give a party unbridled freedom to choose the venue of his action lest he ran afoul of the doctrine of hierarchy of courts. Instead, a becoming regard for judicial hierarchy dictates that petitions for the issuance of writs of certiorari against first level courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals, before resort may be had before the Court.[32] This procedure is also in consonance with Section 4, Rule 65 of the Rules of Court.[33]

Hence, considering that small claims cases are exclusively within the jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, and Municipal Circuit Trial Courts,[34] certiorari petitions assailing its dispositions should be filed before their corresponding Regional Trial Courts. This petitioner complied with when it instituted its petition for certiorari before the RTC which, as previously

mentioned, has jurisdiction over the same. In fine, the RTC erred in dismissing the said petition on the ground that it was an improper remedy, and, as such, RTC Case No. 11-13833 must be reinstated and remanded thereto for its proper disposition.

WHEREFORE, the petition is GRANTED. The Decision dated November 23, 2011 and Resolution dated February 16, 2012 of the Regional Trial Court of Bacolod City, Branch 45 are REVERSED and SET ASIDE. RTC Case No. 11-13833 is hereby REINSTATED and the court a quo is ordered to resolve the same with dispatch.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Perez, JJ., concur.

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[1] See Petition for Review on Certiorari dated March 12, 2012; rollo, pp. 3-35 [2] Id. at 290-292. Penned by Presiding Judge Eliseo C. Geolingo.

[3] Id. at 306-307.

[4] Id. at 145-152. Penned by Judge Francisco S. Pando.

[5] Id. at 40-45.

[6] A.M. No. 08-8-7-SC, effective October 1, 2008.

[7] Rollo, p. 149.

[8] Id. at 147.

[9] Id.

[10] Id. at 146-147.

[11] Id. at 146.

[12] Id. at 145-152.

[13] Id. at 191-192.

[14] Id. at 149.

[15] Id.

[16] Id. at 149-151.

[17] Id. at 151.

[18] Id. at 152.

[19] Id.

[20] Id. at 153-176.

[21] Id. at 290-292.

[22] *Infra*.

[23] Id. at 293-305.

[24] Id. at 306-307.

[25] Section 24, Rule of Procedure for Small Claims Cases.

[26] See Republic v. Narceda, G.R. No. 182760, April 10, 2013, 695 SCRA 483, 489-490, citing Republic v. Tango, G.R. No. 161062, July 31, 2009, 594 SCRA 560, 566-567 involving summary proceedings for petitions for the declaration of presumptive death; see also Saron v. National Labor Relations Commission, G.R. No. 185280, January 18, 2012, 663 SCRA 394, 411-425, involving illegal dismissal cases decided by the NLRC; Section 1, Rule 65 of the Rules of Court.

[27] G.R. No. 164344, December 23, 2008, 575 SCRA 124, 141-142, citing Jaca v. Davao Lumber Co., 198 Phil. 493, 517 (1982) and Conti v. CA, 336 Phil. 956, 965 (1999).

[28] Rollo, p. 291.

[29] Dy v. Hon. Bibat-Palamos, G.R. No. 196200, September 11, 2013.

[30] Leonis Navigation Co., Inc. v. Villamater, G.R. No. 179169, March 3, 2010, 614 SCRA 182, 192.

[31] Rayos v. The City of Manila, G.R. No. 196063, December 14, 2011, 662 SCRA 684, 689.

[32] Id.

[33] SEC. 4. When and where to file the petition. – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. x xx

If the petition relates to an act or omission of a municipal trial court or of a corporation, a board, an officer or a person, it shall be filed with the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. x xx.

[34] Sections 2 and 4 of the Rule of Procedure for Small Claims Cases.

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