

**SOLEMNIDAD M. BUAYA, PETITIONER, VS. THE HONORABLE  
WENCESLAO M. POLO, PRESIDING JUDGE, BRANCH XIX, REGIONAL  
TRIAL COURT OF MANILA AND THE COUNTRY BANKERS  
INSURANCE CORPORATION, ...**

*G.R. No. 75079. January 26, 1989*

Ponente: PARAS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-75079/>

---

**PARAS, J.:**

Petitioner, Solemnidad M. Buaya, in the instant petition for certiorari, seeks to annul and set aside the orders of denial issued by the respondent Judge of the Regional Trial Court of Manila, Branch XIX, on her Motion to Quash/Dismiss and Motion for Reconsideration in Criminal Case No. 83-22252 entitled "People of the Philippines vs. Solemnidad M. Buaya". The Motion to Dismiss was anchored on the following grounds - (a) the court has no jurisdiction over the case and (b) the subject matter is purely civil in nature.

It appears that petitioner was an insurance agent of the private respondent, who was authorized to transact and underwrite insurance business and collect the corresponding premiums for and in behalf of the private respondent. Under the terms of the agency agreement, the petitioner is required to make a periodic report and accounting of her transactions and remit premium collections to the principal office of private respondent located in the City of Manila. Allegedly, an audit was conducted on petitioner's account which showed a shortage in the amount of P358,850.72. As a result she was charged with estafa in Criminal Case No. 83-22252, before the Regional Trial Court of Manila, Branch XIX with the respondent Hon. Wenceslao Polo as the Presiding Judge. Petitioner filed a motion to dismiss which motion was denied by respondent Judge in his Order dated March 26, 1986. The subsequent motion for reconsideration of this order of denial was also denied.

These two Orders of denial are now the subject of the present petition. It is the contention of petitioner that the Regional Trial Court of Manila has no jurisdiction because she is based in Cebu City and necessarily the funds she allegedly misappropriated were collected in Cebu City.

Petitioner further contends that the subject matter of this case is purely civil in nature because the fact that private respondent separately filed Civil Case No 83-14931 involving the same alleged misappropriated amount is an acceptance that the subject transaction complained of is not proper for a criminal action.

The respondents on the other hand, call for adherence to the consistent rule that the denial of a motion to dismiss or to quash, being interlocutory in character, cannot be questioned by certiorari and it cannot be the subject of appeal until final judgment or order is rendered (Sec. 2, Rule 41, Rules of Court). The ordinary procedure to be followed in such a case is to enter a plea, go to trial and if the decision is adverse, reiterate the issue on appeal from the final judgment (*Newsweek Inc. v. IAC*, 142 SCRA 171).

The general rule is correctly stated. But this is subject to certain exceptions. The reason is that it would be unfair to require the defendant or accused to undergo the ordeal and expense of a trial if the court has no jurisdiction

over the subject matter or offense or it is not the court of proper venue.

Here, petitioner questions the jurisdiction of the Regional Trial Court of Manila to take cognizance of this criminal case for estafa.

It is well-settled that the averments in the complaint or information characterize the crime to be prosecuted and the court before which it must be tried (*Balite v. People*, L-21475, Sept. 30, 1966 cited in *People v. Masilang*, 142 SCRA 680).

In *Villanueva v. Ortiz, et al.* (L-15344, May 30, 1960, 108 Phil. 493) this Court ruled that in order to determine the jurisdiction of the court in criminal cases, the complaint must be examined for the purpose of ascertaining whether or not the facts set out therein and the punishment provided for by law fall within the jurisdiction of the court where the complaint is filed. The jurisdiction of courts in criminal cases is determined by the allegations of the complaint or information, and not by the findings the court may make after the trial (*People v. Mission*, 87 Phil. 641).

The information in the case at bar reads as follows:

"The undersigned accuses Solemnidad Buaya of the crime of estafa, committed as follows:

"That during the period 1980 to June 15, 1982, inclusive, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously defraud the Country Bankers Insurance Corporation represented by Elmer Banez duly organized and existing under the laws of the Philippines, with principal address at 9th Floor, G.R. Antonino Bldg., T.M. Kalaw, Ermita, in said City, in the following manner, to wit: the said accused having been authorized to act as insurance agent of said corporation, among whose duties were to remit collections due from customers thereat and to account for and turn over the same to the said Country Bankers Insurance Corporation represented by Elmer Banez, as soon as possible or immediately upon demand, collected and received the amount of P358,850.00 representing payments of insurance premiums from customers, but herein accused, once in possession of said amount, far from complying with her aforesaid obligation, failed and refused to do so and with intent to defraud, absconded with the whole amount thereby misappropriated, misapplied and converted the said amount of P358,850.00 to her own personal used and benefit, to the damage and prejudice of said Country Bankers Insurance Corporation in the amount of P358,850.00, Philippine Currency.

"CONTRARY TO LAW." (p. 44, Rollo)

Section 14(a), Rule 110 of the Revised Rules of Court provides: In all criminal prosecutions the action shall be instituted and tried in the court of the municipality or province wherein the offense was committed or any of the essential elements thereof took place.

The subject information charges petitioner with estafa committed "during the period 1980 to June 15, 1982 inclusive in the City of Manila, Philippines x x x." (p. 44, Rollo)

Clearly then, from the very allegation of the information the Regional Trial Court of Manila has jurisdiction.

Besides, the crime of estafa is a continuing or transitory offense which may be prosecuted at the place where any of the essential elements of the crime took place. One of the essential elements of estafa is damage or prejudice to the offended party. The private respondent has its principal place of business and office at Manila. The failure of the petitioner to remit the insurance premiums she collected allegedly caused damage and prejudice to private respondent in Manila.

Anent petitioner's other contention that the subject matter is purely civil in nature, suffice it to state that evidentiary facts on this point have still to be proved.

WHEREFORE, the petition is DISMISSED for lack of merit. The case is remanded to the Regional Trial Court of Manila, Branch XIX for further proceedings.

**SO ORDERED.**

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.