

ELEUTERIO C. PEREZ, PETITIONER, VS. COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 80838. November 29, 1988

Ponente: CORTES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-80838/>

CORTES, J.:

Petitioner Eleuterio Perez raises both procedural and substantive issues in this petition to review the decision of respondent Court of Appeals in CA-G.R. CR No. 04789 dated October 8, 1987 and its resolution of November 12, 1987 denying his motion for reconsideration.

The facts of this case are undisputed.

On October 21, 1974 Yolanda Mendoza filed a criminal complaint against Eleuterio Perez for Consented Abduction docketed as Criminal Case No. 618 of the Court of First Instance of Pampanga, Branch VI. The accused pleaded not guilty and trial on the merits ensued. On June 28, 1980 a judgment of conviction was rendered against Perez.

On appeal, the Court of Appeals reversed, and acquitted Perez of the crime of Consented Abduction. In said decision, promulgated on October 29, 1982, the Court of Appeals made the following statement:

xxx xxx xxx

This is not to say that the appellant did nothing wrong. With promises of marriage, appellant succeeded in having sexual intercourse with her, twice, that night before they returned. She was seduced by appellant, as it turned out that he made those promises just to accomplish his lewd designs. That was "seduction and not abduction," as explained by Justice Ramon Aquino. [Rollo, p. 40.]

xxx xxx xxx

Subsequent to petitioner's acquittal complainant Yolanda Mendoza filed another criminal complaint against Perez on July 22, 1983, this time for Qualified Seduction, docketed as Criminal Case No. 83-8228 of the Municipal Trial Court of Pampanga, Branch IV[*] Petitioner Perez filed a motion to quash invoking double jeopardy and waiver and/or estoppel on the part of the complainant. However, this motion and petitioner's motion for reconsideration were denied.

Whereupon, petitioner Perez filed a petition for certiorari and prohibition with the Supreme Court docketed as G.R. No. 68122 questioning the denial of his motions to quash and for reconsideration filed with the Municipal Trial Court in Criminal Case No. 83-8228. In a resolution of the Second Division dated August 8, 1984, the Court referred the case to the Intermediate Appellate Court.

On December 16, 1985 the Intermediate Appellate Court dismissed the petition, without prejudice to its refiling in the proper Regional Trial Court. Said the Intermediate Appellate Court:

As the order sought to be annulled is that of an inferior court, the petition in this case should have been filed with

the appropriate Regional Trial Court in accordance with Rule 65, sec. 4. We have already ruled in several cases that BP 129, sec. 9, in giving this court jurisdiction over applications for writs of certiorari and prohibition "whether or not in aid of its appellate jurisdiction," was never meant to authorize the filing of petitions which, conformably to Rule 65, sec. 4, should be filed with the Regional Trial Courts because they relate to acts of inferior courts. The purpose of BP 129 is to enable this Court to take cognizance of petitions which, because of the limitation imposed by the requirement that the petition must be "in aid of its appellate jurisdiction" could only be filed before with the Supreme Court (*Diocese of Cabanatuan v. Delizo*, AC-G.R. SP No. 06410, Oct. 28, 1985; *Uy v. Antonio*, AC-G.R. SP No. 05568, March 7, 1985; *De Guzman v. Andres*, AC-G.R. SP No. 04494, Oct. 25, 1984). [Rollo, p. 70.]

Complying with this, Perez filed a petition for certiorari and prohibition with the Regional Trial Court of Pampanga docketed as Special Civil Case No. 7623. Upon evaluation of the case, the court dismissed this petition and Perez' motion for reconsideration.

Petitioner Perez thereafter filed a petition for review with the Court of Appeals. In a decision dated October 8, 1987 this petition was denied, being inappropriate, aside from the fact that the decision sought to be reviewed had become final and executory. As explained by the Court of Appeals:

xxx xxx xxx

... it is to be observed that what petitioner filed in the Regional Trial Court was an original petition for certiorari and prohibition which was dismissed by the Regional Trial Court of San Fernando, Pampanga. The appropriate remedy for such dismissal is an appeal from said decision (by filing a notice of appeal with the RTC concerned), and not a petition for review. Under the 1983 Interim Rules of Court, all appeals, except in habeas corpus cases and in the cases where a record on appeal is required, must be taken within fifteen (15) days from notice of the judgment, order, resolution or award appealed from. (par. 19). An appeal from the Regional Trial Courts to the Court of Appeals in actions or proceedings originally filed in the former shall be taken by filing a notice of appeal with the court that rendered the judgment or order appealed from (par. 20, 1983 Interim Rules of Court). . . .

For not having filed a notice of appeal with the Regional Trial Court of San Fernando, Pampanga, the decision of said court in the petition for certiorari and prohibition . . . has become final and executory (*CIR v. Visayan Electric Co.*, 19 SCRA 696, 698) on July 12, 1987, fifteen (15) days after receipt by petitioner of the decision of said court on May 18, 1987, deducting the period during which his motion for reconsideration of said decision was pending resolution before said court. . . . Petitioner might plead liberality in the interpretation of the rules of procedure, but this plea cannot be conceded because it involves the appellate jurisdiction of this Court. It has been repeatedly held that compliance with the manner and period for perfecting an appeal is mandatory and jurisdictional (*Garganta vs. Cabangon*, 109 Phil. 150 [1960]; *Bilbao vs. Republic*, 80 SCRA, 177 [1977]; *Volkschen Labor Union vs. National Labor Relations Commission*, 98 SCRA 314, 322 [1980]). [Rollo, pp. 93-94.]

Petitioner's motion for reconsideration was denied. Hence, this petition for review.

I. Petitioner claims that what he filed with the Regional Trial Court was not an original petition for certiorari and prohibition but an appeal from the resolutions of the Municipal Trial Court in Criminal Case No. 83-8228 denying his motions to quash and for reconsideration. Hence, when the Regional Trial Court dismissed his certiorari and prohibition case, he invoked the proper remedy which is a petition for review.

There is no merit in petitioner's claim.

Well-established is the rule that appeal is not the proper remedy from a denial of a motion to quash [*People v.*

Macandog, G.R. Nos. L-18601-2, January 31, 1963, 7 SCRA 195; *Newsweek, Inc. v. Intermediate Appellate Court*, G.R. No. 63559, May 30, 1986, 142 SCRA 171; *Milo v. Salanga*, G.R. No. L-37007, July 20, 1987, 152 SCRA 113.] This is so because an order denying a motion to quash is an interlocutory order and does not finally dispose of a case. Under the Rules on Criminal Procedure prior to its amendment in 1985[**], after the denial of defendant's motion to quash, he should immediately enter his plea and go to trial and, if convicted, raise on appeal the same question covered by his motion to quash [See Sec. 1 of Rule 117 of the Rules of Court and *Chuatoco v. Aragon*, G.R. No. L-20316, January 30, 1968, 22 SCRA 346.]

Further, the record shows that what petitioner actually filed was a special civil action for certiorari and prohibition as evidenced by his prayer for (1) the annulment and setting aside of the municipal trial judge's resolutions of April 11, 1984 and June 11, 1984 denying his motions to quash and for reconsideration, respectively, and, (2) the prohibition of the same judge from further taking cognizance of the criminal case for Qualified Seduction. [Annexes "K" and "L".]

A special civil action for certiorari is an original or independent action and not a continuation or a part of the trial resulting in the rendition of the judgment complained of [*Palomares v. Jimenez*, 90 Phil. 773, 776 (1952)]. The same holds true in case of a special civil action for prohibition. These writs may be issued by the Supreme Court, the Court of Appeals and the Regional Trial Court [Art. X, Sec. 5 (1) of the 1987 Constitution and Secs. 9 (1) and 21 (1) of *Batas Pambansa Blg. 129*.]

In a special civil action for certiorari, the petitioner seeks to annul or modify the proceedings of any tribunal, board, or officer exercising judicial functions that has acted without or in excess of jurisdiction, or with grave abuse of discretion [Rule 65, sec. 1.] On the other hand, in a petition for prohibition directed against any tribunal, corporation, board, or person whether exercising judicial or ministerial functions who has acted without or in excess of jurisdiction or with grave abuse of discretion, the petitioner prays that judgment be rendered commanding the respondent to desist from further proceeding in the action or matter specified in the petition [Rule 65, sec. 2.]

From a denial of a petition for certiorari and prohibition by the trial court, as in this case, the losing party's remedy is an ordinary appeal to the Court of Appeals by filing a notice of appeal with the court that rendered the judgment or order appealed from [Sec. 20, *Interim Rules of Court*.] Failure to appeal within fifteen (15) days from rendition of judgment renders the appealed decision final and executory.

A petition for review of a judgment of the regional trial court is proper only when the judgment sought to be reviewed is an appeal from the final judgment or order of a municipal, metropolitan or municipal circuit trial court [Sec. 22 (b), *Interim Rules of Court*.]

Petitioner likewise faults the respondent Court of Appeals for dismissing his petition for certiorari which "gave rise to the confusion caused by the case being tossed around from one court to another ending in its dismissal on mere technicality, thereby depriving [him] of his right to constitutional due process" [Rollo, p. 133.]

Petitioner's assertion that he was consequently denied due process is unfounded. Respondent court did not foreclose his right to seek his remedy elsewhere as it is clear from its decision that "the petition for certiorari and prohibition is DISMISSED, without prejudice to its refiling in the proper Regional Trial Court" [Rollo, p. 70.] Thus, petitioner was never denied recourse to the appropriate court. On the contrary, the Intermediate Appellate Court pointed the direction for petitioner to take.

II. Petitioner invokes double jeopardy to question the filing against him of an information for Qualified Seduction after he was acquitted for Consented Abduction.

The rule on double jeopardy is that, "No person shall be twice put in jeopardy of punishment for the same offense" [Article IV, Sec. 22 of the 1973 Constitution, Article III, Sec. 21 of the 1987 Constitution.] The term "same offense" means identical offense or any attempt to commit the same or frustration thereof or any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information. The rule on double jeopardy under the Rules of Court is explicit:

Sec. 7. Former conviction or acquittal; double jeopardy. - When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information. [Sec. 9, Rule 117 of the Rules of Court Procedure, now Sec. 7, Rule 117 of the 1985 Rules on Criminal Procedure.]

xxx xxx xxx

There is no question that petitioner was validly charged with the crime of Consented Abduction before a court of competent jurisdiction. That he had been arraigned and had pleaded not guilty to the charge for which he was subsequently acquitted is likewise undisputed. In the case at bar, the only issue posed by petitioner relates to the identity of the two offenses of Consented Abduction and Qualified Seduction.

In support of his argument that the filing of the subsequent information for Qualified Seduction is barred by his acquittal in the case for Consented Abduction, petitioner maintains that since the same evidence would support charges for both offenses, a trial and conviction for one, after he was acquitted for the other, would constitute double jeopardy. Stated otherwise, petitioner would rely on the "same evidence" test in support of his claim of double jeopardy.

It is true that the two criminal offenses for which petitioner was charged arose from the same facts. This, however, does not preclude the filing of another information against him if from those facts, two distinct offenses, each requiring different elements, arose. As this Court stated:

xxx xxx xxx

"A single act may be an offense against two statutes and if each statute requires proof of an additional fact which the other does not, an acquittal or conviction under either statute does not exempt the defendant from prosecution and conviction under the other." [U.S. v. Capurro, 7 Phil. 24, 34 (1906) citing In re Hans Neilsen (131 U.S., 176); Underscoring supplied.]

xxx xxx xxx

The plea of double jeopardy cannot therefore be accorded merit, as the two indictments are perfectly distinct in point of law howsoever closely they may appear to be connected in fact. It is a cardinal rule that the protection against double jeopardy may be invoked only for the same offense or identical offense. A single act may offend against two (or more) entirely distinct and unrelated provisions of law, and if one provision requires proof of an additional fact or element which the other does not, an acquittal or conviction or dismissal of the information under one does not bar prosecution under the other. Phrased otherwise, where two different laws (or articles of the same code) define two crimes, prior jeopardy as to one of them is no obstacle to a prosecution of the other, although both offenses arise from the same facts, if each crime involves some important act which is not an essential element of the other. [People v. Doriquez, G.R. Nos. L-24444-45, July 29, 1968, 24 SCRA 163, 171-172; Underscoring supplied.]

xxx xxx xxx

An examination of the elements of these two crimes would show that although they may have arisen from the same set of facts, they are not identical offenses as would make applicable the rule on double jeopardy.

There are similar elements between Consented Abduction and Qualified Seduction, namely: (1) that the offended party is a virgin, and, (2) that she must be over twelve (12) and under eighteen (18) years of age. However, two elements differentiate the two crimes. Consented Abduction, in addition to the two common elements, requires that: (1) the taking away of the offended party must be with her consent, after solicitation or cajolery from the offender, and, (2) the taking away of the offended party must be with lewd designs. On the other hand, an information for Qualified Seduction also requires that: (1) the crime be committed by abuse of authority, confidence or relationship, and, (2) the offender has sexual intercourse with the woman.

Moreover, the very nature of these two offenses would negate any identity between them. As this Court has stated:

xxx xxx xxx

. . . the gravamen of the offense of the abduction of a woman with her own consent, who is still under the control of her parents or guardians is "the alarm and perturbation to the parents and family" of the abducted person, and the infringement of the rights of the parent or guardian. But in cases of seduction, the gravamen of the offense is the wrong done the young woman who is seduced . . . [U. S v. Jayme, 24 Phil. 90, 94 (1913).]

xxx xxx xxx

III. Finally, petitioner avers that the complaint for Qualified Seduction is barred by waiver and/or estoppel on the part of Yolanda Mendoza, the latter having opted to consider the case as Consented Abduction. He also alleges that her delay of more than nine (9) years before filing the second case against him is tantamount to pardon by the offended party.

Petitioner's stance is unmeritorious. The complainant's filing of a subsequent case against him belies his allegation that she has waived or is estopped from filing the second charge against petitioner. Neither could she be deemed to have pardoned him, for the rules require that in cases of seduction, abduction, rape and acts of lasciviousness, pardon by the offended party, to be effective, must be expressly given [Rule 110, sec. 4 of the Rules of Court, Rule 110, sec. 5 of the 1985 Rules on Criminal Procedure.] Moreover the length of time it took her to file the second case is of no moment considering that she filed it within the ten (10)-year prescriptive period provided by Article 90 par. 3 of the Revised Penal Code for crimes punishable by a correctional penalty such as Qualified Seduction [See Article 24 of the Revised Penal Code.]

WHEREFORE, the petition is DENIED and the decision of the Court of Appeals is hereby AFFIRMED.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

[*] The crimes of consented abduction and qualified seduction are both punishable by prision correccional in its minimum and medium periods [Articles 342 and 337 of the Revised Penal Code, respectively] or 6 months and 1 day to 4 years and 2 months. The seeming discrepancy as to what court these two cases were filed notwithstanding similar penalties can be explained however by the reorganization and renaming of the courts by Batas Pambansa Blg. 129 in 1981 when the jurisdiction to hear criminal case punishable with imprisonment of not exceeding 4 years and 2 months was lodged with the inferior courts.

[**] Applicable to the instant case because the denial of petitioner's motion to quash happened in 1984.

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.