



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

**LEILANIE B.
PAGDANGANAN,**

Petitioner,

-versus-

SB-17-SCA-0004

(Crim. Case No. R-PSY-13-06745-CR)

Petition for *Certiorari* with
Application for *Ex-Parte*
Temporary Restraining Order
and/or Writ of Preliminary
Injunction

**HON. ROWENA NIEVES A.
TAN, in her capacity as
Presiding Judge of the
Regional Trial Court of Pasay
City, Branch 118, and the
PEOPLE OF THE
PHILIPPINES**

Respondents,

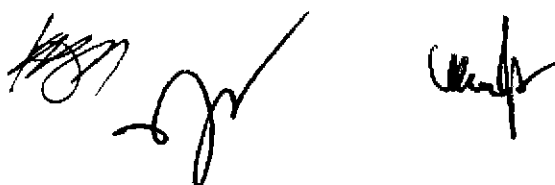
PRESENT:

FERNANDEZ, SJ, J., *Chairperson*
MIRANDA, &
MUSNGI¹, JJ.

Promulgated:

NOV 20 2018 

¹ At the time this case was submitted for decision, J. Musngi was designated as a temporary member of the Sixth Division, in view of the vacancy therein (as per A.O. No. 007-2018 dated January 8, 2018; Revised Internal Rules of the Sandiganbayan, Rule XII, Section 3).



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DECISION

MIRANDA, J.:

This is a Petition for *Certiorari* with Application for *Ex-Parte* Temporary Restraining Order and/or Writ of Preliminary Injunction dated April 24, 2017 under Rule 65 of the Rules of Court,² filed by petitioner Leilanie B. Pagdanganan (petitioner) against public respondent Honorable Rowena Nieves A. Tan (public respondent), Presiding Judge of the Regional Trial Court of Pasay City, Branch 118 (trial court), assailing the following supplemental order and decision for grave abuse of discretion amounting to lack or excess of jurisdiction:

- 1) Supplemental Order dated January 8, 2016³, admitting Exhibits E, G, H, P, Q, I, J, K, M, N, S, T, U, V, and R of the Prosecution in Criminal Case No. R-PSY-13-06745-CR entitled, "*People of the Philippines, Plaintiff versus Leilani B. Pagdanganan, Accused*"; and
- 2) Decision dated February 15, 2016⁴, denying the motion for reconsideration filed by the Petitioner.

FACTUAL ANTECEDENTS

Petitioner was charged with Violation of Section 3 (h) of Republic Act (R.A.) No. 3019 in Criminal Case No. R-PSY-13-06745-CR before the trial court. The Information dated October 13, 2011⁵ reads:

That on or about July 2006, or sometime prior or subsequent thereto, in the City of Pasay, Philippines, and within the jurisdiction of this Honorable Court, accused Leilanie B. Pagdanganan, a low ranking public officer, being then the Senior Accountant B of Manila International Airport, taking advantage of her official function as such, did then and there willfully, unlawfully, and criminally solicit and

² Records, Vol. 1, pp. 2-42.

³ Records, Vol. 1, pp. 43-44.

⁴ Records, Vol. 1, pp. 45-46.

⁵ Records, Vol. 1, pp. 100-101.



accept directly or indirectly 5% commission on every loan extended by her financier in favor of Ma. Girlie P. Jose, in which she was prohibited by law from having any interest, to the damage and prejudice of Ms. Jose and the public interest.

CONTRARY TO LAW.

The Prosecution presented the following witnesses in the course of the trial: 1) Atty. Dennis Agustin Mendoza, a Field Investigation Officer of the Office of the Ombudsman;⁶ 2) Jocelyn Brigola Mapanao, the Manager from the Accounting Division of the Manila International Airport (MIAA);⁷ 3) Alice Ramos Natividad, the Officer-in-Charge of the Personnel Division of MIAA;⁸ 4) Ellen Catigbe Sarefe, a Cashier from the Landbank of the Philippines – Baclaran Branch;⁹ and 5) Josephine Lazaro Baes, a State Auditor III of the Commission on Audit (COA).¹⁰

Thereafter, the Prosecution offered Exhibits A, B, C, D, E, F, G, H, I, J, K, L, M, N, P, Q, R, S, T, U, V, W, X, Y, Z, AA, and BB, with sub-markings.¹¹ Petitioner filed a Comment dated June 26, 2015 objecting to the said documentary exhibits.¹²

On July 2, 2015, public respondent ordered the admission of Exhibits A, B, C, D, F, L, W, X, Y, Z, AA, and BB, with sub-markings, for the Prosecution.¹³ The said order, however, did not contain any ruling on the other exhibits offered by the Prosecution.¹⁴

On July 13, 2015, petitioner sought leave of court to file a demurrer to evidence.¹⁵ The Prosecution objected in its Opposition to the Motion for Leave of Court to File Demurrer to Evidence dated July 24, 2015.¹⁶

⁶ Judicial Affidavit dated July 21, 2014, Records, Vol. 1, pp. 102-111.

⁷ Judicial Affidavit dated August 15, 2014, Records, Vol. 1, pp. 213-220.

⁸ Judicial Affidavit dated October 10, 2014, Records, Vol. 1, pp. 245-248.

⁹ Judicial Affidavit dated January 9, 2015, Records, Vol. 1, pp. 280-284.

¹⁰ Judicial Affidavit dated March 2, 2015, Records, Vol. 1, pp. 309-312.

¹¹ Formal Offer of Documentary Exhibits for the Prosecution dated May 7, 2015, Records, Vol. 1, pp. 385-492.

¹² Records, Vol. 1, pp. 493-511.

¹³ Records, Vol. 1, p. 512.

¹⁴ *Ibid.*

¹⁵ Motion for Leave of Court to File Demurrer to Evidence dated July 13, 2015, Records, Vol. 1, pp. 513-515.

¹⁶ Records, Vol. 1, pp. 516-519.



On October 7, 2015, public respondent granted petitioner's leave of court to file a demurrer to evidence.¹⁷

On October 26, 2015, petitioner filed a Demurrer to Evidence of even date alleging that the evidence of the Prosecution is insufficient to support a conviction of the crime charged against her.¹⁸ On November 10, 2015, the Prosecution filed an opposition to the said demurrer to evidence.¹⁹

On January 8, 2016, public respondent issued the assailed supplemental order, admitting Exhibits E, G, H, P, Q, I, J, K, M, N, S, T, U, V, and R, with sub-markings, for the Prosecution.²⁰ Public respondent explained that these exhibits were vital in the case and its omission in the Order dated July 2, 2015 was made by mere inadvertence of the court.²¹

On January 18, 2016, public respondent denied the petitioner's demurrer to evidence.

On **January 19, 2016**, petitioner received a copy of the assailed Supplemental Order dated January 8, 2016.²²

On February 3, 2016, petitioner sought the reconsideration of the said supplemental order, which was denied by the public respondent in the Order dated February 15, 2016.²³ In the assailed order, public respondent explained that the court has the inherent power to amend and control its processes to make them conformable to law and justice.²⁴ This includes the authority to modify its previous order, which admitted some but not all of the exhibits offered by the Prosecution.²⁵

On **March 4, 2016**, petitioner received a copy of the assailed Decision dated February 15, 2016, denying her motion for reconsideration.

¹⁷ Records, Vol. 1, pp. 520-521.

¹⁸ Records, Vol. 1, pp. 522-535.

¹⁹ Records, Vol. 1, pp. 536-539.

²⁰ *Supra*, Records, Vol. 1, pp. 43- 44.

²¹ *Id.*

²² *Supra*, Records, Vol. 1, pp. 2-42, 3.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*



On **May 3, 2016**, petitioner filed a Petition for *Certiorari* dated May 3, 2016²⁶ before the Court of Appeals, which was docketed as CA-G.R. SP. No. 145392. In the said petition, petitioner assailed the issuance by the trial court of the Supplemental Order dated January 8, 2016, and Decision dated February 15, 2016 for grave abuse of discretion amounting to lack or excess of jurisdiction.

On **September 28, 2016**, petitioner received the Resolution dated September 20, 2016²⁷ of the Court of Appeals dismissing the petition outright for lack of jurisdiction. On **October 13, 2016**, petitioner sought the reconsideration of said resolution.²⁸

On **April 21, 2017**, petitioner received the Resolution dated April 4, 2017²⁹ of the Court of Appeals denying her motion for reconsideration and affirming its lack of jurisdiction on the petition. The Court of Appeals, however, granted petitioner a period of fifteen (15) days from the finality of said resolution within which to seek recourse from the Sandiganbayan.

On **May 22, 2017**, petitioner filed the instant petition with this Court.³⁰

On **June 7, 2017**, the Court denied petitioner's application for an *ex-parte* temporary restraining order and/or writ of preliminary injunction, due to the non-existence of extreme urgency, grave injustice, and irreparable injury.³¹

On **February 8, 2018**, pending the resolution of this case, the trial court convicted the petitioner of Violation of Section 3 (h) of R.A. No. 3019 in Criminal Case No. R-PSY-13-06745-CR and sentenced her to suffer the indeterminate penalty of imprisonment of nine (9) years and one (1) day, as minimum, to twelve (12) years, as maximum, and the accessory penalty of perpetual disqualification from holding public office.³²

²⁶ Records, Vol. 1, pp. 48-85.

²⁷ Records, Vol. 1, pp. 86-89.

²⁸ Motion for Reconsideration dated October 13, 2016, Records, Vol. 1, pp. 90-96.

²⁹ Records, Vol. 1, pp. 98-99.

³⁰ Records, Vol. 1, pp.

³¹ Resolution dated June 7, 2017, Records, Vol. 1, pp. 569-570.

³² Decision dated February 8, 2018, Records, Vol. 2, pp. 44-69.



ISSUES

Petitioner anchors the petition on the following grounds:

I.


IN ADMITTING THE EXCLUDED EXHIBITS, RESPONDENT JUDGE, WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION, GROSSLY IGNORED THE RULES OF EVIDENCE.

II.

THE BELATED ADMISSION OF THE EXCLUDED EXHIBITS SHOWS GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION ON THE PART OF RESPONDENT JUDGE, AND CLEAR BIAS AGAINST THE PETITIONER.

In her first assignment of error, petitioner ascribes grave abuse of discretion amounting to lack or excess of jurisdiction to the public respondent for her “obstinate disregard of basic and established rules of law or procedure” in admitting the “excluded exhibits” despite her meritorious objections. She claims that public respondent admitted the said exhibits without considering her objections on the formal offer of the Prosecution.

In her second assignment of error, petitioner claims that the belated admission of some of the documentary exhibits of the Prosecution violated the basic rule of procedure and fair play, and showed bias and personal proclivities of public respondent. She alleges that public respondent can no longer modify her previous ruling on the offer after receiving a copy of her demurrer to evidence which was based on the insufficiency of evidence of the Prosecution.



DISCUSSION AND RULING

The petition for certiorari is dismissed for being moot.

In *Gunsi, Sr. v. Commissioners, The Commission on Elections*, the Supreme Court defined a moot and academic case as one that ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value.³³ As a rule, courts decline jurisdiction over such case, or dismiss it on ground of mootness.³⁴

Here, the conviction of the petitioner pending the resolution by this Court of her petition for *certiorari* has rendered the same moot and subject of dismissal.

The petition for certiorari was filed out of time.

Section 4, Rule 65 of the Rules of Court, as amended by A.M. No. 07-7-12-SC, provides:

Sec. 4. When and where petition filed. – The petition shall be filed not later than sixty (60) days from notice of the judgment or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.

If the petition relates to an act or an 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. It may also be filed with the Court of Appeals or with the Sandiganbayan, whether or not the same is in aid of the court's appellate jurisdiction. If the petition involves an act or an omission of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed with and be cognizable only by the Court of Appeals.

In election cases involving an act or an omission of a municipal or a regional trial court, the petition shall be filed exclusively with the Commission on Elections, in aid of its appellate jurisdiction.³⁵

³³ G.R. No. 168792, February 23, 2009.

³⁴ *Ibid.*

³⁵ Emphasis supplied.



A petition for *certiorari* should, therefore, be instituted within a period of sixty (60) days from notice of the judgment, order, or resolution sought to be assailed. **The 60-day period is inextendible to avoid any unreasonable delay that would violate the constitutional rights of parties to a speedy disposition of their case.**³⁶

In this case, petitioner filed her petition for *certiorari* with this Court only on May 22, 2017, or **one (1) year, four (4) months, and three (3) days** from notice of the assailed supplemental order, and **one (1) year, two (2) months, and eighteen (18) days** from notice of the assailed decision. These periods are clearly beyond the inextendible 60-day period provided by the rules.

The Supreme Court has consistently emphasized that procedural rules do not exist for the convenience of the litigants.³⁷ Procedural rules are established primarily to provide order to, and enhance the efficiency of, our judicial system.³⁸ While procedural rules are liberally construed, the provisions on reglementary periods are strictly applied in order to prevent needless delays, and for the orderly and speedy discharge of judicial business.³⁹ **The timeliness of filing a pleading is a jurisdictional caveat that even this Court cannot trifle with.**⁴⁰

Before filing the instant petition with this Court, records show that petitioner **erroneously** instituted a similar petition for *certiorari* with the Court of Appeals on May 3, 2016. It is considered a mistake so gross, reckless, and inexcusable in the realm of law and procedural technique because it is the Sandiganbayan that has the exclusive appellate jurisdiction over final judgments, resolutions, or orders issued by the Regional Trial Courts (RTC) in the exercise of their original or of their appellate jurisdiction for crimes committed by public officers in relation to their office.

Section 4 (c) of Presidential Decree No. 1606, as amended by R.A. No. 8249, provides:

Section 4. Jurisdiction. The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

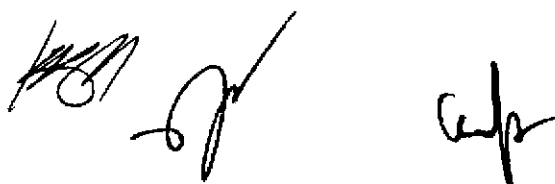
³⁶ *Laguna Metts Corporation v. Court of Appeals*, G.R. No. 185220, July 27, 2009, citing *De Los Santos v. Court of Appeals*, G.R. No. 147912, April 26, 2006.

³⁷ *Mejillano v. Lucillo*, G.R. No. 154717, June 19, 2009.

³⁸ *Id.*

³⁹ *Villa v. Heirs of Enrique Altavas*, G.R. No. 162028, July 14, 2008.

⁴⁰ *National Power Corporation v. Laohoo*, G.R. No. 151973, July 23, 2009.



A. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corruption Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, 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

B. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection of this section in relation to their office.

C. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

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 or PNP officers 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 orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

The Sandiganbayan shall have exclusive original jurisdiction over petitions for the issuance of the writs of *mandamus*, prohibition, *certiorari*, *habeas corpus*, injunctions, and other ancillary writs and processes in aid of its appellate jurisdiction and over petitions of similar nature, including *quo warranto*, arising or that may arise in cases filed or which may be filed under Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986: Provided, That the jurisdiction over these petitions shall not be exclusive of the Supreme Court.⁴¹

X X X

XXX

X X X

⁴¹ Emphasis supplied.

In *Abbot v. Mapayo*,⁴² the Supreme Court explained the exclusive original jurisdiction of the Sandiganbayan over petitions for issuance of the *writs of mandamus*, prohibitions, *certiorari*, *habeas corpus*, injunction, and other ancillary writs and processes in aid of its appellate jurisdiction, *to wit*:

After the promulgation of the *Garcia, Jr. v. Sandiganbayan* decision herein cited, Congress enacted RA 7975, *An Act to Strengthen the Functional and Structural Organization of the Sandiganbayan, Amending for that Purpose Presidential Decree No. 1606, as Amended*, which took effect 6 May 1995. In Sec. 4(c) thereof, the jurisdiction of the *Sandiganbayan* was expanded to include petitions for the issuance of writs of *mandamus*, prohibition, *certiorari*, *habeas corpus*, injunction, and other ancillary writs and processes in aid of its appellate jurisdiction. Thus -

Sec. 4. *Jurisdiction.* - (c) x x x The Sandiganbayan shall have exclusive original jurisdiction over petitions for issuance of the *writs of mandamus*, prohibitions, *certiorari*, *habeas corpus*, injunction, and other ancillary writs and processes in aid of its appellate jurisdiction: *Provided:* That the jurisdiction over these petitions shall not be exclusive of the Supreme Court.

In effect, our ruling in *Garcia, Jr. v. Sandiganbayan* was supplanted in RA 7975 which was the law already in force at the time of the commission of the offense charged. Hence, both the Court of Appeals and the Office of the Solicitor General are correct in concluding that it is the *Sandiganbayan* which has jurisdiction over the questioned *Petition for Certiorari with Prohibition*. No grave abuse of discretion could therefore be imputed to the Court of Appeals in refusing to take cognizance of the oft-mentioned *Petition for Certiorari with Prohibition*.⁴³

Petitioner's reliance on the ruling of the Supreme Court in *Magno v. People*⁴⁴ is misplaced. In that case, petitioner Magno questioned the appearance of a private prosecutor in the prosecution of a criminal case for malversation thru falsification of public document against him before the trial court. The trial court ruled that the Ombudsman is the proper, legal, and authorized entity to prosecute the case to the exclusion of any other entity or person other than those authorized under Republic Act No. 6770. The Ombudsman and the private prosecutor thereafter filed a petition for *certiorari* before the Court of Appeals alleging grave abuse of discretion by the trial court in prohibiting the appearance of the private prosecutor in the said criminal case. The Court of Appeals ordered that the private prosecutor may

⁴² G.R. No. 134102, July 6, 2000.

⁴³ Citations omitted.

⁴⁴ G.R. No. 171542, April 6, 2011.

appear for the private offended parties in the criminal case. Failing to obtain a reconsideration of the order of the Court of Appeals, petitioner Magno filed a petition for review on *certiorari* before the Supreme Court alleging that the Court of Appeals did not have jurisdiction to entertain the petition for *certiorari* filed by the Ombudsman and the private prosecutor. The Supreme Court ruled that the Sandiganbayan, not the Court of Appeals, has appellate jurisdiction over the trial court's decision not to allow the private prosecutor to prosecute in behalf of the Ombudsman. The Court of Appeals therefore incorrectly took cognizance of the petition for *certiorari* filed by the Ombudsman and the private prosecutor instead of dismissing the same outright. The Supreme Court, however, gave the Ombudsman and the private prosecutor at least fifteen (15) days from the finality of its decision to seek recourse from the Sandiganbayan.

Contrary to the ruling in *Magno*, the Court of Appeals in this case properly denied the petition for *certiorari* filed by petitioner, and dismissed the same outright for lack of jurisdiction. Petitioner therefore had enough time under the rules, which is not later than sixty (60) days from notice of the judgment or resolution, to file a petition for *certiorari* before the Sandiganbayan after the outright denial of her petition by the Court of Appeals.

While it is true that an interlocutory order, such as the assailed supplemental order and decision, issued by the RTC is reviewable by *certiorari*, the said petition was **incorrectly** filed with the Court of Appeals. The period of fifteen (15) days granted by the Court of Appeals in the dispositive portion of its Resolution dated April 4, 2017 **neither modified nor extended** the mandatory period of sixty (60) days within which to file a petition for *certiorari* with this Court. The same degree of leniency granted by the Supreme Court in *Magno* is not applicable in this case. Thus, the instant petition was filed out of time even if it was filed within the fifteen (15) days granted by the Court of Appeals.

There is no rule in procedural law as basic as the precept that jurisdiction is conferred by law, and any judgment, order, or resolution issued without jurisdiction is void and cannot be given any effect.⁴⁵ This rule applies even if the issue on jurisdiction was raised for the first time on appeal or even after final judgment.⁴⁶

⁴⁵ *Id.*

⁴⁶ *Id.*



In *Felicitas v. Gatdula*,⁴⁷ the Supreme Court reiterated:

Jurisdiction over a subject matter is conferred by law and not by the parties' action or conduct. Estoppel generally does not confer jurisdiction over a cause of action to a tribunal where none, by law, exists. In *Lozon v. NLRC*, we declared that:

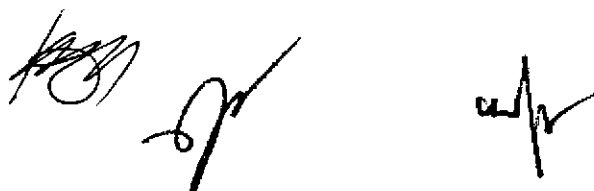
Lack of jurisdiction over the subject matter of the suit is yet another matter. Whenever it appears that the court has no jurisdiction over the subject matter, the action shall be dismissed. This defense may be interposed at any time, during appeal or even after final judgment. Such is understandable, as this kind of **jurisdiction is conferred by law and not within the courts, let alone the parties, to themselves determine or conveniently set aside.**⁴⁸

There are, however, recognized exceptions to the strict observance of procedural rules *viz*: 1) most persuasive and weighty reasons; 2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; 3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; 4) the existence of special or compelling circumstances; 5) the merits of the case; 6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; 7) a lack of any showing that the review sought is merely frivolous and dilatory; 8) the other party will not be unjustly prejudiced thereby; 9) fraud, accident, mistake or excusable negligence without appellant's fault; 10) peculiar legal and equitable circumstances attendant to each case; 11) in the name of substantial justice and fair play; 12) importance of the issues involved; and 13) exercise of sound discretion by the judge guided by all the attendant circumstances.⁴⁹ **Petitioner's case does not fall in any of these exceptions.** The error of the petitioner in filing a petition for *certiorari* with the Court of Appeals when it should have been filed before this Court is clearly inexcusable. Absent any justifiable ground, this Court must not deviate from the strict observance of the procedural rules.

⁴⁷ G.R. No. 156287, February 16, 2010.

⁴⁸ Emphasis supplied.

⁴⁹ *Lim v. Delos Santos*, G.R. No. 172574, July 31, 2009; *Villena v. Rupisan*, G.R. No. 167620, April 3, 2007.



No grave abuse of discretion was committed by the public respondent in the issuance of the assailed supplemental order and decision.

A petition for *certiorari* may be filed to assail an interlocutory order if it is issued without jurisdiction, or with excess of jurisdiction, or in grave abuse of discretion amounting to lack or excess of jurisdiction. This is because there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law with respect to said order. Rule 65 of the Rules of Court expressly provides:

Section 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.

An interlocutory order deals with preliminary matters and the trial on the merits is yet to be held and the judgment rendered.⁵⁰ Compared to a final order that disposes of the subject matter in its entirety or terminates a particular proceeding or action, leaving nothing more to be done except to enforce by execution what the court has determined, an interlocutory order does not completely dispose of the case but leaves something else to be decided upon.⁵¹

In this case, the assailed supplemental order and decision are mere interlocutory orders. Thus, the remedy of *certiorari* under Rule 65 of the Rules of Court is appropriate as the assailed supplemental order and decision are not appealable and there is no plain, speedy, or adequate remedy in the ordinary course of law.⁵²

⁵⁰ *Miranda v. Court of Appeals*, G.R. No. L-33007, June 18, 1976.

⁵¹ *Tan v. Republic*, G.R. No. 170740, May 25, 2007.

⁵² *New Frontier Sugar Corporation v. Regional Trial Court, Branch 39, Jolo City*, G.R. No. 165001, January 31, 2007.



Section 1, Rule 41 of the Rules of Court states:

Section 1. Subject of appeal. — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

- (a) An order denying a motion for new trial or reconsideration;
- (b) An order denying a petition for relief or any similar motion seeking relief from judgment;
- (c) An interlocutory order;
- (d) An order disallowing or dismissing an appeal;
- (e) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;
- (f) An order of execution;
- (g) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and
- (h) An order dismissing an action without prejudice.

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.⁵³

In *Pahila-Garrido v. Tortogo, et al.*,⁵⁴ the Supreme Court explained the nature of *certiorari*:

Certiorari is a writ issued by a superior court to an inferior court of record, or other tribunal or officer, exercising a judicial function, requiring the certification and return to the former of some proceeding then pending, or the record and proceedings in some cause already terminated, in cases where the procedure is not according to the course of the common law. The remedy is brought against a lower court, board, or officer rendering a judgment or order and seeks the annulment or modification of the proceedings of such tribunal, board or officer, and the granting of such incidental reliefs as law and justice may require. It is available when the following indispensable elements concur, *to wit*:

⁵³ Emphasis supplied.

⁵⁴ G.R. No. 156358, August 17, 2011.



1. It is directed against a tribunal, board or officer exercising judicial or *quasi*-judicial functions;
2. Such tribunal, board or officer has acted without or in excess of jurisdiction or with grave abuse of discretion; and
3. There is no appeal nor any plain, speedy and adequate remedy in the ordinary course of law.

Certiorari being an extraordinary remedy, the party who seeks to avail of the same must strictly observe the rules laid down by law. The extraordinary writ of *certiorari* may be availed of only upon a showing, in the minimum, that the respondent tribunal or officer exercising judicial or *quasi*-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion.

For a petition for *certiorari* to prosper and be given due course, it must, therefore, be shown that: (a) the respondent judge or tribunal issued the order *without* or *in excess of* jurisdiction or *with grave abuse of discretion*; or (b) the assailed interlocutory order is *patently erroneous*, and the remedy of appeal cannot afford adequate and expeditious relief.⁵⁵ However, the allegation that the tribunal, board or officer exercising judicial or *quasi*-judicial functions has acted without or in excess of its or his jurisdiction or with grave abuse of discretion will not alone suffice. Equally imperative is that the petition must satisfactorily specify the acts committed or omitted by the tribunal, board or officer that constitute grave abuse of discretion.⁵⁶

In *Ganaden v. Court of Appeals*,⁵⁷ the Supreme Court defined grave abuse of discretion amounting to lack or excess of jurisdiction in this wise:

Grave abuse of discretion means such capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction. The abuse of discretion must be **patent** and **gross** as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.⁵⁸

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ G.R. Nos. 170500 and 170510-11, June 1, 2011.

⁵⁸ Emphasis supplied.

To justify the issuance of the writ of *certiorari*, the abuse of discretion must be **grave**, as when the power is **exercised in an arbitrary or despotic manner** by reason of passion or personal hostility, and the abuse must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined, or to act at all, in contemplation of law, as to be equivalent to having acted without jurisdiction.⁵⁹

In a petition for *certiorari*, the petitioner bears the burden of convincingly demonstrating that the public respondent gravely abused his or her discretion in the issuance of the assailed supplemental order and decision. **The Court finds that the Petitioner failed in this regard.**

Section 34, Rule 132 of the Rules of Court stipulates:

Section 34. Offer of evidence. — The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

A formal offer is necessary because judges are mandated to rest their findings of facts and their judgment only and strictly upon the evidence offered by the parties at the trial.⁶⁰ Its function is to enable the trial judge to know the purpose or purposes for which the proponent is presenting the evidence.⁶¹ On the other hand, this allows opposing parties to examine the evidence and object to its admissibility. Moreover, it facilitates review as the appellate court will not be required to review documents not previously scrutinized by the trial court.⁶² In the absence of a formal offer, the documentary exhibits are inadmissible as evidence, and cannot be considered by the court.

It is **undisputed** that Exhibits E, G, H, P, Q, I, J, K, M, N, S, T, U, V, and R, with sub-markings, of the Prosecution in Criminal Case No. R-PSY-13-06745-CR were **identified** by its witnesses, **marked** during the trial, and **offered** by the Prosecution in its Formal Offer of Documentary Exhibits for the Prosecution dated May 7, 2015.⁶³ The purpose or purposes of these exhibits were likewise alleged and explained by the Prosecution in its offer.⁶⁴ Petitioner had the opportunity to object to the said documentary exhibits through her Comment dated June 26, 2015.⁶⁵ She was able to present her own witnesses and documentary exhibits to rebut the evidence of the Prosecution before the

⁵⁹ *Supra, Ganaden v. Court of Appeals*.

⁶⁰ *Parel v. Prudencio*, G.R. No. 146556, April 19, 2006.

⁶¹ *People of the Philippines v. Alicante*, G.R. Nos. 127026-27, May 31, 2000.

⁶² *Ong v. Court of Appeals*, G.R. No. 117103, January 21, 1999.

⁶³ *Supra*, Records, Vol. 1, pp. 385-492.

⁶⁴ *Id.*

⁶⁵ *Supra*, Records, Vol. 1, pp. 493- 511.

trial court.⁶⁶ Petitioner had her day in court and was not deprived of her right to due process and to defend herself against the offense charged. Exhibits E, G, H, P, Q, I, J, K, M, N, S, T, U, V, and R, with sub-markings, can, therefore, be **validly considered** by public respondent in her ruling in the formal offer of documentary exhibits of the Prosecution.⁶⁷

Exhibits E, G, H, P, Q, I, J, K, M, N, S, T, U, V, and R, with sub-markings, cannot be considered as **excluded evidence**. Excluded evidence are documents or things offered in evidence that were excluded by the court because they are not relevant to the issue and are excluded by the law or the rules.⁶⁸ This is true even before the issuance of the assailed supplemental order and decision in the absence of a ruling on their exclusion, rejection or non-admission by public respondent. Public respondent, therefore, cannot be precluded from ruling on the rest of the documentary exhibits offered by the Prosecution in its assailed supplemental order and decision.

Section 5, Rule 135 of the Rules of Court provides for the inherent power of the court “to amend and control its process and orders so as to make them conformable to law and justice, *to wit*:

Section 5. Inherent powers of court. — Every court shall have power:

- (a) To preserve and enforce order in its immediate presence;
- (b) To enforce order in proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority;
- (c) To compel obedience to its judgments, orders and processes, and to the lawful orders of a judge out of court, in a case pending therein;
- (d) To control, in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a case before it, in every manner appertaining thereto;
- (e) To compel the attendance of persons to testify in a case pending therein;
- (f) To administer or cause to be administered oaths in a case pending therein, and in all other cases where it may be necessary in the exercise of its powers;
- (g) To amend and control its process and orders so as to make them conformable to law and justice;**

⁶⁶ Decision dated February 8, 2018, Records, Vol. 2, pp. 57-60.

⁶⁷ See Section 34, Rule 132 of the Rules of Court.

⁶⁸ See Section 3, Rule 128 and Section 40, Rule 132 of the Rules of Court.



(h) To authorize a copy of a lost or destroyed pleading or other paper to be filed and used instead of the original, and to restore, and supply deficiencies in its records and proceedings.⁶⁹

In *The Province of Bataan v. Hon. Villafuerte, Jr.*,⁷⁰ the Supreme Court ratiocinated:

In our jurisdiction, an escrow order issued by a court of law may find ample basis and support in the courts intrinsic power to issue orders and other ancillary writs and processes incidental or reasonably necessary to the exercise of its main jurisdiction. Evidently, **judicial power connotes certain incidental and inherent attributes reasonably necessary for an effective administration of justice.**

In a manner of speaking, **courts have not only the power to maintain their life, but they have also the power to make that existence effective for the purpose for which the judiciary was created. They can, by appropriate means, do all things necessary to preserve and maintain every quality needful to make the judiciary an effective institution of Government. Courts have therefore inherent power to preserve their integrity, maintain their dignity and to insure effectiveness in the administration of justice.**

To lend flesh and blood to this legal aphorism, Rule 135 of the Rules of Court explicitly provides:

Section 5. Inherent powers of courts- Every court shall have power:

XXX

(g) To amend and control its process and orders so as to make them conformable to law and justice.

Section 6. Means to carry jurisdiction into effect - When by law jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer, and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by law or by these rules, any suitable process or mode of

⁶⁹ Emphasis supplied.

⁷⁰ G.R. No. 129995, October 19, 2001.



proceeding may be adopted which appears conformable to the spirit of said law or rules.⁷¹

The power to amend and control its process and orders includes the power to issue supplemental orders when the court, in its honest opinion, has committed an error or mistake in judgment, and that to adhere to its previous order will cause injustice to a party-litigant.⁷² Records of this case indicate that public respondent issued the assailed supplemental order because she failed to rule on **all** of the documentary exhibits formally offered by the Prosecution.⁷³ **It appears that the supplemental order was issued to cure the said defect, and to prevent a miscarriage of justice.** Public respondent is considered to have acted within her authority in issuing the supplemental order and decision which admitted the rest of the exhibits of the Prosecution. The mere inadvertence of public respondent to give a complete ruling on the formal offer of documentary exhibits by the Prosecution, and the belated admission of the remaining documentary exhibits, fall short of the definition of grave abuse of discretion amounting to lack or excess of jurisdiction required by the law and rules.

Petitioner alleges that public respondent's admission of all the evidence offered by the Prosecution, including the "excluded exhibits", was unjustified, and showed personal bias and proclivities against her.

The Court is not persuaded.

The denial of petitioner's demurrer to evidence is not a subject of this petition. Thus, the grounds for denial of the demurrer to evidence filed by petitioner cannot be used to support the allegation of grave abuse of discretion amounting to lack or excess of jurisdiction of public respondent. To reiterate, the documentary exhibits admitted by public respondent in the assailed supplemental order and decision are **not** considered **excluded evidence** under the law. Petitioner's right to due process was also **not violated** as she was given sufficient opportunity by public respondent to object to the formal offer of documentary exhibits of the Prosecution and to present her own evidence against the evidence of the Prosecution, which she did.

Public respondent is, however, reminded to ensure that all incidents in the proceedings before her court are properly and completely disposed of to avoid the recurrence of similar incidents in the future.

⁷¹ Emphasis supplied.

⁷² *Sps. Astraquillo v. Javier, et al.*, G.R. No. L-20034, January 30, 1964.

⁷³ *Supra*, Records, Vol. 1, pp. 43-44.



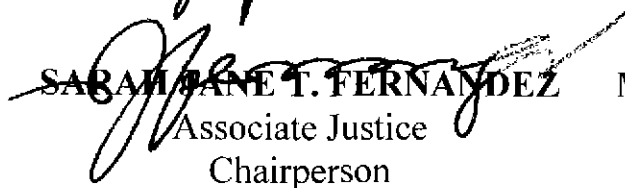
WHEREFORE, the Petition for *Certiorari* with Application for *Ex-Parte* Temporary Restraining Order and/or Writ of Preliminary Injunction April 24, 2017 of Petitioner Leilanie B. Pagdanganan is **DENIED**. The Supplemental Order dated January 8, 2016, and the Decision dated February 15, 2016 issued by Honorable Rowena Nieves A. Tan, Presiding Judge of the Regional Trial Court of Pasay City, Branch 118, is **AFFIRMED**.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:

*pleas see separate
concurring opinion*


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


MICHAEL FREDERICK L. MUSNGI
Associate Justice

ATTESTATION

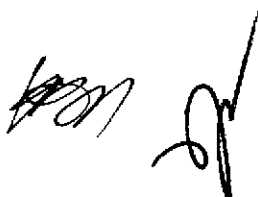
I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's division.


SARAH JANE T. FERNANDEZ
Chairperson, Sixth Division

CERTIFICATION

Pursuant to Article VII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice





**LEILANIE B. PAGDANGANAN v. HON. ROWENA NIEVES A. TAN, in
her capacity as Presiding Judge of the Regional Trial Court of Pasay
City, Branch 118, and the PEOPLE OF THE PHILIPPINES
(SB-17-SCA-0004)**

SEPARATE CONCURRING OPINION

FERNANDEZ, SJ, J.:

I concur with the *ponencia* of Justice Karl B. Miranda in holding that the instant Petition for *Certiorari*¹ should be denied. However, I take exception to the ruling that *certiorari* is the appropriate remedy in the present case.

In *Candelaria v. Regional Trial Court, Branch 42, City of San Fernando*,² the Supreme Court held that *certiorari* is proper only for errors of jurisdiction, and not errors of judgment. *viz.:*

In *Triplex Enterprises, Inc. v. PNB-Republic Bank*,³ the Court held that:

The writ of *certiorari* is restricted to truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void. Moreover, it is designed to correct errors of jurisdiction and not errors in judgment. The rationale of this rule is that, when a court exercises its jurisdiction, an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed. Otherwise, every mistake made by a court will deprive it of its jurisdiction and every erroneous judgment will be a void judgment.

When the court has jurisdiction over the case and person of the defendant, any mistake in the application of the law and the appreciation of evidence committed by a court may be corrected only by appeal. **The determination made by the trial court regarding the admissibility of evidence is but an exercise of its jurisdiction and whatever fault it may have perpetrated in making such a determination is an error in judgment, not of jurisdiction.** Hence, settled is the rule that rulings of the trial court on procedural questions and on admissibility of evidence during the course of a trial are interlocutory in nature and may not be the subject of a separate appeal or review on *certiorari*. **They must be assigned as errors and reviewed in the appeal properly taken from the decision rendered by the trial court on the merits of the case.**

(emphasis and underscoring supplied)

Herein petitioner is, in essence, assailing the trial court's ruling on the admissibility of certain exhibits offered by the prosecution. Such ruling was done in the exercise of the trial court's jurisdiction. Assuming that the trial court's admission of said exhibits was indeed erroneous, her remedy is to assign the same as an error in an appeal from the trial court's decision on the merits



¹ Dated April 24, 2017; Assailing the RTC's Supplemental Order dated January 8, 2016 (Record, Vol. 1, pp. 43-44), and the Decision dated February 15, 2016 (Record, Vol. 1, pp. 45-47) which resolved herein petitioner's Motion for Reconsideration of said Supplemental Order.

² G.R. No. 173861, July 14, 2014

³ G.R. No. 151007, July 17, 2006

SEPARATE CONCURRING OPINION

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At any rate, even assuming that the petitioner's resort to *certiorari* was proper, the present Petition was filed out of time. The fifteen (15)-day period granted by the Court of Appeals (CA) in the dispositive portion of the Resolution dated April 4, 2017 neither modified nor extended the mandatory period of sixty (60) days within which to file a petition for *certiorari*. The CA could not have granted such extension, precisely, because, having no jurisdiction, it could not have taken cognizance of the case.

Furthermore, assuming the petitioner moved for an extension of time to file her petition, there appears to be no ground for the grant thereof. In *Naguit v. San Miguel Corporation*,⁴ the Supreme Court held that although the grant of an extension of time to file a petition for *certiorari* is not absolutely prohibited, the party must be able to provide a reasonable or meritorious explanation for the failure to strictly comply with the rules. According to the Supreme Court, the following are some of the recognized exceptions to the strict application of the 60-day rule:⁵

[T]here are recognized exceptions to their strict observance, such as: (1) most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellants fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances. x x x

(underscoring supplied)

None of the aforementioned reasons appear to apply in the present case. It appears that the petitioner's failure to comply with said sixty (60)-day period was due to negligence, *i.e.*, the erroneous filing of a petition for *certiorari* with the CA, instead of the Sandiganbayan.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

⁴ G.R. No. 188839, June 22, 2015

⁵ Citing *Thenamaris Philippines, Inc. (Formerly Intermare Maritime Agencies, Inc.) v. Court of Appeals*, G.R. No. 191215, February 3, 2014