



Republic of the Philippines
Sandiganbayan
Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

TEODORO BRAWNER BAGUILAT,
JR., *et al.*,

Accused.

SB-18-CRM-0099 & 0100
For: Violation of Sec. 3(e)
& 3(g) of R.A. No. 3019

Present:
Lagos, *J.*, *Chairperson,*
Mendoza-Arcega and
Corpus-Mañalac, *JJ.*

Promulgated:
August 10, 2018 *Jal*

X-----X

Resolution

CORPUS - MAÑALAC, J.:

At bench for resolution is the prosecution's **Partial Motion for Reconsideration'** of the Resolution dated July 13, 2018.

The Resolution dated July 13, 2018 lifted the Hold Departure Order (HDO) issued against accused Teodoro Baguilat, Jr., as well as released the cash and travel bonds he posted consequent to the dismissal of these cases filed against him. The said Resolution states:

Here, the June 4, 2018 Resolution denying the prosecution's Motion for Reconsideration of the April 9, 2018 Resolution dismissing the cases against accused Baguilat, Jr. was received by the prosecution on June 7, 2018. Hence, it had fifteen (15) days therefrom or until June 22, 2018 within which to file a petition for certiorari. To date, however, the *Records* of these cases are bereft of any showing that the prosecution had filed any. Considering the prosecution's failure to timely avail of the said remedy as provided for by the *Rules*, perforce, the Resolution of June 4, 2018 has attained finality. As such, there is no reason why this Court should not grant the accused's *Omnibus Motion*.

¹ Record, Vol. 2, pp. 148-151

Jal

During the hearing on the Partial Motion for Reconsideration held on August 3, 2018, the prosecution, thru Prosecutor Sheri P. Zales, clarified that it is not seeking to reconsider the Resolution dated July 13, 2018 as far as it lifted the HDO and released the cash/travel bonds posted by accused Baguilat, Jr. However, it insisted that the dismissal of these cases has not yet attained finality since its remedy therefrom is not limited to an Appeal within fifteen (15) days under Rule 45 of the Rules of Court. The prosecution claimed that it may also avail of the remedy under Rule 65 where a Petition for Certiorari may be filed within sixty (60) days from June 7, 2018 – the date it received the Resolution dated June 4, 2018 denying a reconsideration of the Resolution dated April 9, 2018 dismissing the cases. Considering that this sixty (60) day period has not yet expired, and in order that the prosecution will not be precluded from availing of the said remedy under Rule 65, the present motion was filed.

Accused Baguilat, Jr. was notified of the motion, as well as of the hearing set thereon, but failed to appear and register any opposition thereto.

RULING

Section 1, Rule 65 of the Rules of Court states when a party may avail of the special remedy of *certiorari*, viz:

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, nor 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. [Emphasis supplied.]

Jurisprudence repeatedly holds that the writ of *certiorari* may issue only when the following requirements are alleged in the petition and established: (1) the writ is directed against a tribunal, a board or any 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 amounting to lack or excess of jurisdiction; and (3) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.² The extraordinary remedy of *certiorari* is proper if the tribunal, board, or officer exercising judicial or quasi-judicial functions acted without or in grave abuse of discretion amounting to lack or excess of jurisdiction and there is no appeal or any plain, speedy, and adequate remedy in law.³

² Land Bank of the Philippines v. Court of Appeals, 456 Phil. 755, 784-785 (2003)

³ Sebastian v. Hon. Morales, 445 Phil. 595, 608 (2003)

Here, the remedy of Appeal under Rule 45 is a “plain, speedy and adequate remedy in the ordinary course of law” from the Resolution dismissing these cases. As held in this Court’s Resolution dated July 13, 2018, viz:

Pursuant to Section 5 of R.A. No. 8249, the available remedy of the prosecution from an adverse Resolution of this Court is the filing before the Supreme Court of a petition for review on certiorari under Rule 45 of the Rules of Court. It states:

Section 5. Section 7 of the same decree is hereby further amended to read as follows:

'SECTION 7. Form, Finality and Enforcement of Decisions. - All decisions and final orders determining the merits of a case or finally disposing of the action or proceedings of the Sandiganbayan shall contain complete findings of the facts and the law on which they are based, on all issues properly raised before it and necessary in deciding the case.

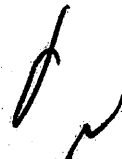

"A petition for reconsideration of any final order or decision may be filed within fifteen (15) days from promulgation or notice of the final order on judgment, and such motion for reconsideration shall be decided within thirty (30) days from submission thereon.

"Decisions and final orders of the Sandiganbayan shall be appealable to the Supreme Court by petition for review on certiorari raising pure questions of law in accordance with Rule 45 of the Rules of Court. Whenever, in any case decided by the Sandiganbayan, the penalty of reclusion perpetua, life imprisonment or death is imposed, the decision shall be appealable to the Supreme Court in the manner prescribed in the Rules of Court. (Emphasis supplied)

X x x x

In the case of **People vs. The Honorable Sandiganbayan**, the Supreme Court ruled:

It appears that petitioner resorted to the special civil action of *certiorari* because it failed to seasonably interpose an appeal. It must be noted that the Sandiganbayan promulgated the assailed resolution on 02 August 2002. Petitioner filed a motion for reconsideration thereof but the same was denied in a resolution dated 11 September 2002, a copy of which was received by the petitioner on 13 November 2002. The petitioners remedy would have been to file a petition for review on certiorari under Rule 45 before this Court, and, reckoning the fifteen-day period to file the same from receipt of the resolution denying the motion for reconsideration, the petitioner had until 28 November 2002 to file said petition for *certiorari* before this Court.



In the instant cases, the prosecution chose to let the period of fifteen (15) days to lapse without filing a Petition for Review on Certiorari under Rule 45, as it now banks on the remedy under Rule 65 where supposedly it has sixty (60) days from June 7, 2018 or until August 6, 2018 to file a petition.

Jurisprudentially, the latter remedy has been recognized to be availing. In *People vs. Sandiganbayan, Acot et.al.*⁴ the Supreme Court declared:

A petition for review on *certiorari* under Rule 45 of the Rules of Court and a petition for *certiorari* under Rule 65 of the Rules of Court are two and separate remedies. A petition under Rule 45 brings up for review errors of judgment, while a petition for *certiorari* under Rule 65 covers errors of jurisdiction or grave abuse of discretion amounting to excess or lack of jurisdiction. Grave abuse of discretion is not an allowable ground under Rule 45. A petition for review under Rule 45 of the Rules of Court is a mode of appeal:

Section 1. Filing of petition with Supreme Court. - A party desiring to appeal by *certiorari* from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court, or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition shall raise only questions of law which must be distinctly set forth.

However, the provision must be read in relation to Section 1, Rule 122 of the Revised Rules of Court, which provides that any party may appeal from a judgment or final order "unless the accused will thereby be placed in double jeopardy." Therefore, the judgment that may be appealed by the aggrieved party envisaged in Rule 45 is a judgment convicting the accused, and not a judgment of acquittal. The State is barred from appealing such judgment of acquittal by a petition for review.

Instead, a judgment of acquittal may be assailed by the People in a petition for *certiorari* under Rule 65 of the Rules of Court without placing the accused in double jeopardy. However, in such case, the People is burdened to establish that the court *a quo*, in this case, the Sandiganbayan, acted without jurisdiction or grave abuse of discretion amounting to excess or lack of jurisdiction or a denial of due process.

In the case of *People v. Asis*, it was held that:

A petition for *certiorari* under Rule 65, not appeal, is the remedy to question a verdict of acquittal whether at the trial court or at the appellate level. In our jurisdiction, We adhere to the finality-of-acquittal doctrine, that is, a judgment of acquittal is final and unappealable. The rule, however, is not without exception. In several cases, the Court has entertained petitions for *certiorari* questioning the acquittal of the accused in, or the dismissals of, criminal cases. x x x

⁴ *People vs. Sandiganbayan, Acot, et al.*, GR No. 199151-56, July 25, 2016

Thus, the instant petition for *certiorari* is the correct remedy in seeking to annul the Resolutions of public respondent Sandiganbayan for allegedly having been issued without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction which granted the motions to quash or dismiss filed by private respondents which were premised on the ground of inordinate delay in the conduct of the preliminary investigation amounting to a violation of their rights to speedy disposition of their cases.

However, the issue of whether or not a petition under Rule 45 or Rule 65 is the proper remedy has become irrelevant here, considering that to date, the prosecution has not filed any of such petition. The record shows that the periods of fifteen (15) days [*Rule 45*] and sixty (60) days [*Rule 65*] to file any of such petitions had already lapsed.

On the ground of mootness, thus, a favorable ruling on the Partial Motion for Reconsideration loses its purpose. It has been ruled that where the issue has become moot and academic, there is no justiciable controversy, and an adjudication thereon would be of no practical use or value as courts do not sit to adjudicate mere academic questions to satisfy scholarly interest, however intellectually challenging.⁵ In *Osmena III v. Social Security System of the Philippines*,⁶ cited in *Carpio vs. Court of Appeals*,⁷ the Supreme Court defined a moot and academic case or issue as follows:

A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness x x x


Verily, passing upon the merit of the issue raised in the motion has become moot as it does not have any more purpose to serve.

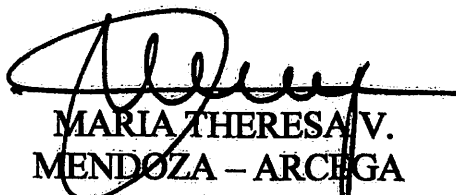
WHEREFORE, the Court refuses to favorably act on the Partial Motion for Reconsideration, for being moot and academic.

SO ORDERED.


MARYANN E. CORPUS – MAÑALAC
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Chairperson
Associate Justice


MARIA THERESA V.
MENDOZA – ARCEGA
Associate Justice

⁵ Republic vs. Edmundo Tan and the Hon Sandiganbayan (Fifth Division), G.R. No. 145255. March 30, 2004.

⁶ G.R. No. 165272, 13 September 2007, 533 SCRA 313

⁷ GR No. 183102, February 27, 2013