



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

MARVIN CRUZ and FRANCISCO CRUZ, in his capacity as Bondsman, **G.R. No. 224974**
 Petitioners, Present:

CARPIO, J.,*
 PERALTA,** *Acting Chairperson,*
 MENDOZA,
 LEONEN, and
 MARTIRES, JJ.

-versus-

PEOPLE OF THE PHILIPPINES,
 Respondent.

Promulgated:

03 JUL 2017

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DECISION

LEONEN, J.:

The trial court's failure to comply with procedural rules constitutes grave abuse of discretion and may be the subject of a petition for certiorari before the Court of Appeals.

This is a Petition for Review on Certiorari¹ assailing the Decision² dated January 18, 2016 and Resolution³ dated June 1, 2016 of the Court of

* On official leave.

** Designated Acting Chairperson per S.O. No. 2445 dated June 16, 2017.

¹ Rollo, pp. 12–29.

² Id. at 34–37. The Decision, docketed as CA-G.R. SP No. 141009, was penned by Associate Justice Agnes Reyes-Carpio and concurred in by Presiding Justice Andres B. Reyes, Jr. and Associate Justice Romeo F. Barza of the First Division, Court of Appeals, Manila.

³ Id. at 31–32. The Resolution was penned by Associate Justice Agnes Reyes-Carpio and concurred in by Presiding Justice Andres B. Reyes, Jr. and Associate Justice Romeo F. Barza of the First Division, Court of Appeals, Manila.

Appeals, which dismissed the Petition for Certiorari filed by Marvin Cruz (Cruz) and his bondsman, Francisco Cruz (Francisco) for being the wrong remedy. They filed the Petition before the Court of Appeals to assail the Regional Trial Court's denial of their Motion to Release Cash Bond after the criminal case against Cruz was dismissed.

In an Information⁴ dated September 19, 2013, Cruz, along with seven (7) others, was charged with Robbery in an Uninhabited Place and by a Band for unlawfully taking four (4) sacks filled with scraps of bronze metal and a copper pipe worth ₱72,000.00 collectively.⁵ Cruz posted bail through a cash bond in the amount of ₱12,000.00.⁶

The private complainant in the criminal case subsequently filed an Affidavit of Desistance⁷ stating that he was no longer interested in pursuing his complaint against Cruz.⁸ On October 23, 2014, Assistant City Prosecutor Deborah Marie Tan filed a Motion to Dismiss,⁹ which was granted by Branch 170, Regional Trial Court, City of Malabon in an Order¹⁰ dated October 24, 2014.

Cruz, through his bondsman Francisco, filed a Motion to Release Cash Bond.¹¹ In an Order¹² dated January 7, 2015, the Regional Trial Court denied the Motion on the ground that the case was dismissed through desistance and not through acquittal. The Motion for Reconsideration¹³ filed by Francisco was likewise denied in an Order¹⁴ dated April 6, 2015.

Cruz and Francisco filed a Petition for Certiorari¹⁵ with the Court of Appeals, arguing that the Regional Trial Court committed grave abuse of discretion in dismissing the Motion to Release Cash Bond.

On January 18, 2016, the Court of Appeals rendered a Decision¹⁶ dismissing the Petition.

The Court of Appeals anchored its dismissal on the ground that Cruz and Francisco should have filed an appeal, instead of a petition for certiorari,

⁴ Id. at 62.

⁵ Id.

⁶ Id. at 35.

⁷ Id. at 64.

⁸ Id. at 35.

⁹ Id. at 63.

¹⁰ Id. at 65.

¹¹ Id. at 57.

¹² Id. at 56.

¹³ Id. at 59–60.

¹⁴ Id. at 55.

¹⁵ Id. at 38–54.

¹⁶ Id. at 34–37.

to question the denial of their Motion to Release Cash Bond.¹⁷ The Court of Appeals further stated that it could not treat the Petition for Certiorari as an appeal since the period for appeal had lapsed before its filing.¹⁸

Cruz and Francisco filed a Motion for Reconsideration but this was denied in the Resolution¹⁹ dated June 1, 2016. Hence, this Petition²⁰ was filed.

Petitioners Cruz and Francisco insist that the filing of a petition for certiorari was proper since the Regional Trial Court's denial of their Motion to Release Cash Bond amounted to grave abuse of discretion. They point out that under Rule 114, Section 22²¹ of the Rules of Court, bail is deemed automatically cancelled upon the dismissal of the case regardless of whether the case was dismissed through acquittal or desistance.²²

The Office of the Solicitor General, however, points out that while Rule 114, Section 22 calls for automatic cancellation, the cancellation is without prejudice to any liabilities on the bond.²³ Thus, it posits that while the cancellation is automatic, the release of the bond is still subject to further proceedings. It adds that if the trial court erred in dismissing petitioners' Motion to Release Cash Bond, the error is "perhaps . . . a mistake in the application of the law" and not grave abuse of discretion, which should not be the subject of a petition for certiorari.²⁴

Considering the parties' arguments, the sole issue to be resolved is whether the Court of Appeals erred in dismissing the petition for certiorari for being the wrong remedy to question the denial of a motion to release cash bond.

The writ of certiorari is not issued to correct every error that may have been committed by lower courts and tribunals. It is a remedy specifically to keep lower courts and tribunals within the bounds of their jurisdiction. In our judicial system, the writ is issued to prevent lower courts and tribunals from committing grave abuse of discretion in excess of their jurisdiction. Further, the writ requires that there is no appeal or other plain, speedy, and

¹⁷ Id. at 36.

¹⁸ Id. at 36-37.

¹⁹ Id. at 31-32.

²⁰ Id. at 12-29.

²¹ RULES OF COURT, Rule 114, sec. 22 provides:

Section 22. Cancellation of bail. — Upon application of the bondsmen, with due notice to the prosecutor, the bail may be cancelled upon surrender of the accused or proof of his death.

The bail shall be deemed automatically cancelled upon acquittal of the accused, dismissal of the case, or execution of the judgment of conviction.

In all instances, the cancellation shall be without prejudice to any liability on the bail.

²² *Rollo*, pp. 18-19.

²³ Id. at 105.

²⁴ Id. at 106-108.

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adequate remedy available to correct the error. Thus, certiorari may not be issued if the error can be the subject of an ordinary appeal. As explained in *Delos Santos v. Metrobank*:²⁵

We remind that the writ of certiorari — being a remedy narrow in scope and inflexible in character, whose purpose is to keep an inferior court within the bounds of its jurisdiction, or to prevent an inferior court from committing such grave abuse of discretion amounting to excess of jurisdiction, or to relieve parties from arbitrary acts of courts (i.e., acts that courts have no power or authority in law to perform) — is not a general utility tool in the legal workshop, and cannot be issued to correct every error committed by a lower court.

In the common law, from which the remedy of certiorari evolved, the writ of certiorari was issued out of Chancery, or the King's Bench, commanding agents or officers of the inferior courts to return the record of a cause pending before them, so as to give the party more sure and speedy justice, for the writ would enable the superior court to determine from an inspection of the record whether the inferior court's judgment was rendered without authority. The errors were of such a nature that, if allowed to stand, they would result in a substantial injury to the petitioner to whom no other remedy was available. If the inferior court acted without authority, the record was then revised and corrected in matters of law. The writ of certiorari was limited to cases in which the inferior court was said to be exceeding its jurisdiction or was not proceeding according to essential requirements of law and would lie only to review judicial or quasi-judicial acts.

The concept of the remedy of certiorari in our judicial system remains much the same as it has been in the common law. In this jurisdiction, however, the exercise of the power to issue the writ of certiorari is largely regulated by laying down the instances or situations in the Rules of Court in which a superior court may issue the writ of certiorari to an inferior court or officer. Section 1, Rule 65 of the Rules of Court compellingly provides the requirements for that purpose[.]

....

Pursuant to Section 1, *supra*, the petitioner must show that, one, the tribunal, board or officer exercising judicial or quasi-judicial functions acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction, and, two, there is neither an appeal nor any plain, speedy and adequate remedy in the ordinary course of law for the purpose of amending or nullifying the proceeding.²⁶ (Citations omitted)

²⁵ 698 Phil. 1 (2012) [Per J. Bersamin, Second Division].

²⁶ *Id.* at 14–16 citing *Estares v. Court of Appeals*, 498 Phil. 640 (2005) [Per J. Austria- Martinez, Second Division]; *Cushman v. Commissioners' Court of Blount County*, 49 So. 311, 312, 160 Ala. 227 (1909); *Ex parte Hennies*, 34 So.2d 22, 23, 33 Ala. App. 377 (1948); *Schwander v. Feeney's Del. Super.*, 29 A.2d 369, 371 (1942); *Worcester Gas Light Co. v. Commissioners of Woodland Water Dist. in Town of Auburn*, 49 N.E.2d 447, 448, 314 Mass. 60 (1943); *Toulouse v. Board of Zoning Adjustment*, 87 A.2d 670, 673, 147 Me. 387 (1952); *Greater Miami Development Corp. v. Pender*, 194 So. 867, 868, 142 Fla. 390 (1940).

An essential requisite for filing a petition for certiorari is the allegation that the judicial tribunal acted with grave abuse of discretion amounting to lack or excess of jurisdiction.²⁷ Grave abuse of discretion has been defined as a “capricious or whimsical exercise of judgment that is patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law.”²⁸ In order to determine whether the Court of Appeals erred in dismissing the Petition for Certiorari for being the wrong remedy, it is necessary to find out whether the Regional Trial Court acted with grave abuse of discretion as to warrant the filing of a petition for certiorari against it.

Rule 114, Section 22 of the Rules of Court states:

Section 22. Cancellation of bail. — Upon application of the bondsmen, with due notice to the prosecutor, the bail may be cancelled upon surrender of the accused or proof of his death.

The bail shall be deemed automatically cancelled upon acquittal of the accused, dismissal of the case, or execution of the judgment of conviction.

In all instances, the cancellation shall be without prejudice to any liability on the bail.

The provisions of the Rules of Court are clear. Bail shall be deemed automatically cancelled in three (3) instances: (1) the acquittal of the accused, (2) the dismissal of the case, or (3) the execution of the judgment of conviction. The Rules of Court do not limit the cancellation of bail only upon the acquittal of the accused.

The Office of the Solicitor General made the same observation in its Comment²⁹ before the Court of Appeals:

The trial court denied the motion to release cash bond on the ground that the dismissal was only due to the desistance of the complainant and not because the accused was acquitted or that the crime was not proved beyond reasonable doubt.

Such ruling, however, has no legal basis. In fact, the provision of Section 22, Rule 114 is clear: the dismissal of the criminal case results to the automatic cancellation of the bail bond.³⁰ (Citation omitted)

²⁷ See RULES OF COURT, Rule 65, sec.1.

²⁸ *Rodriguez v. Hon. Presiding Judge of the Regional Trial Court of Manila, Branch 17, et al.*, 518 Phil. 455, 462 (2006) [Per J. Quisumbing, En Banc] citing *Zarate v. Maybank Philippines, Inc.*, 498 Phil. 825 (2005) [Per J. Callejo, Sr., Second Division].

²⁹ *Rollo*, pp. 66–72.

³⁰ *Id.* at 68.

Non-compliance with the Rules of Court is not, as the Office of the Solicitor General asserts, a mere error of judgment. It constitutes grave abuse of discretion. In *Crisologo v. JEWMA Agro-Industrial Corporation*:³¹

This manifest disregard of the basic rules and procedures constitutes a grave abuse of discretion.

In *State Prosecutors II Comilang and Lagman v. Judge Medel Belen*, the Court held as inexcusable abuse of authority the trial judge's "obstinate disregard of basic and established rule of law or procedure." Such level of ignorance is not a mere error of judgment. It amounts to "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law," or in essence, grave abuse of discretion amounting to lack of jurisdiction.

Needless to say, judges are expected to exhibit more than just a cursory acquaintance with statutes and procedural laws. They must know the laws and apply them properly in good faith as judicial competence requires no less.³² (Citations omitted)

When a court or tribunal renders a decision tainted with grave abuse of discretion, the proper remedy is to file a petition for certiorari under Rule 65 of the Rules of Court. Rule 65, Section 1 states:

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.

Considering that the trial court blatantly disregarded Rule 114, Section 22 of the Rules of Court, petitioners' remedy was the filing of a petition for certiorari with the proper court.

The Court of Appeals, however, focused on the Office of the Solicitor

³¹ 728 Phil. 315 (2014) [Per J. Mendoza Third Division].

³² Id. at 328 citing *State Prosecutors II Comilang and Lagman v. Judge Medel Belen*, 689 Phil. 134 (2012) [Per Curiam, En Banc]; *Nationwide Security and Allied Services, Inc. v. Court of Appeals*, 580 Phil. 135, 140 (2008) [Per J. Quisumbing, Second Division]; *Enriquez v. Judge Caminade*, 519 Phil. 781 (2006) [Per C.J. Panganiban, First Division], and *Abbariao v. Beltran*, 505 Phil. 510 (2005) [Per J. Panganiban, Third Division].

General's argument that petitioners availed the wrong remedy. It cited *Belfast Surety and Insurance Company, Inc. v. People*³³ and *Babasa v. Linebarger*³⁴ as bases to rule that appeal was the proper remedy for a denial of a motion to release cash bond.

In *Belfast Surety*,³⁵ the trial court declared a forfeiture of cash bond under Rule 114, Section 15³⁶ of the 1964 Rules of Criminal Procedure³⁷ for failure of the accused to appear on trial. This Court stated that while appeal would be the proper remedy from a judgment of forfeiture of bond, certiorari is still available if the judgment complained of was issued in lack or excess of jurisdiction:

While appeal is the proper remedy from a judgment of forfeiture, nevertheless, certiorari is available despite the existence of the remedy of appeal where the judgment or order complained of was either issued in excess of or without jurisdiction. Besides, appeal under the circumstances of the present case is not an adequate remedy since the trial court had already issued a writ of execution. Hence, the rule that certiorari does not lie when there is an appeal is relaxed where, as in the present case, the trial court had already ordered the issuance of a writ of execution.³⁸ (Citations omitted)

Babasa, meanwhile, states that an appeal should be available in denials of petitions for the cancellation of a bond. Nothing in *Babasa*, however, limits the remedy to an appeal only:

Inasmuch as the said petition to procure the cancellation of the bond was denied without further process of law, it is unquestionable that the order of court denying it could be appealed from, for the reason that if this last decision were not appealable, it would become final, without ulterior remedy, and would work irreparable injury to the petitioner.³⁹

Thus, a party may still file a petition for certiorari in instances where the lower court commits grave abuse of discretion in excess of jurisdiction.

The automatic cancellation of bail, however, does not always result in the immediate release of the bail bond to the accused. A cash bond, unlike a

³³ 197 Phil. 361 (1982) [Per J. Concepcion, Jr., Second Division].

³⁴ 12 Phil. 766 (1906) [Per J. Torres, En Banc].

³⁵ 197 Phil. 361 (1982) [Per J. Concepcion, Jr., Second Division].

³⁶ 1964 RULES OF COURT, Rule 114, sec. 15 provides:

Section 15. Forfeiture of bail. — When the appearance of the defendant is required by the court, his sureties shall be notified to produce him before the court on a given date. If the defendant fails to appear as required, the bond is declared forfeited and the bondsmen are given thirty (30) days within which to produce their principal and to show cause why a judgment should not be rendered against them for the amount of their bond. Within the said period of thirty (30) days, the bondsmen (a) must produce the body of their principal or give the reason for its non-production; and (b) must explain satisfactorily why the defendant did not appear before the court when first required so to do. Failing in these two requisites, a judgment shall be rendered against the bondsmen.

³⁷ See RULES OF COURT, Rule 114, Section 15.

³⁸ Id. at 371–372.

³⁹ *Babasa v. Linebarger*, 12 Phil 766, 769 (1906) [Per J. Torres, En Banc].

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corporate surety or a property bond, may be applied to fines and other costs determined by the court.⁴⁰ The excess shall be returned to the accused or to the person who deposited the money on the accused's behalf.⁴¹ Here, the Order dated October 24, 2014 reads:

Acting on the Motion to Dismiss filed by Assistant City Prosecutor Deborah Marie O. Tan, based on the Affidavit of Desistance executed by private complainant Efren C. Ontog, which states, among others, that he is no longer interested in the further prosecution of this case, hence, without the active participation of the said private complainant, the prosecution could no longer effectively obtain the required evidence to sustain the conviction of the accused, the motion to dismiss is granted.

WHEREFORE, this case of "Robbery in Uninhabited Place and by a Band" against Marvin Cruz (MNU) is hereby DISMISSED.

SO ORDERED.


City of Malabon, October 24, 2014.⁴²

There was no fine imposed on Cruz. The Order does not specify any costs of court that he must answer for. There was, thus, no lien on the bond that could prevent its immediate release. Considering these circumstances, petitioners could not have been faulted for filing a petition for certiorari before the Court of Appeals since there was no legal basis for the Regional Trial Court to deny their Motion to Release Cash Bond.

Instead of addressing the merits of the case, the Court of Appeals instead chose to focus on procedural technicalities, dismissing the petition for certiorari based on cases that did not actually prohibit the filing of a petition for certiorari. While procedural rules are necessary for the speedy disposition of justice, its indiscriminate application should never be used to defeat the substantial rights of litigants.⁴³

WHEREFORE, the Decision dated January 18, 2016 and Resolution dated June 1, 2016 in CA-G.R. SP No. 141009 are **REVERSED** and **SET ASIDE**. The case is hereby **REMANDED** to the Court of Appeals for a resolution on the merits of the case.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

⁴⁰ See RULES OF COURT, Rule 114, sec. 14. See also *Esteban v. Hon. Alhambra*, 481 Phil. 162 (2004) [Per J. Sandoval-Gutierrez, Third Division].


⁴¹ See RULES OF COURT, Rule 114, sec. 14.

⁴² *Rollo*, p. 65.

⁴³ See *A-One Feeds v. Court of Appeals*, 188 Phil. 577 (1980) [Per J. De Castro, First Division].

WE CONCUR:

On official leave
ANTONIO T. CARPIO
Associate Justice



DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson


JOSE CATRAL MENDOZA
Associate Justice


SAMUEL R. MARTIRES
Associate Justice


ATTESTATION

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


DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice