



Republic of the Philippines  
 Supreme Court  
 Manila

SECOND DIVISION

BBB,\*

G.R. No. 225410

*Petitioner,*

Present:

PERLAS-BERNABE, S.A.J.,

*Chairperson,*

HERNANDO,

INTING,

DELOS SANTOS, and

GAERLAN,\*\* JJ.

- versus -

AMY B. CANTILLA,

*Respondent.*

Promulgated:

17 JUN 2020

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DECISION

INTING, J.:

This is a Petition for Review on *Certiorari* under Rule 45<sup>1</sup> of the Rules of Court that seeks to set aside the Resolutions dated February 9, 2016<sup>2</sup> and June 23, 2016<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 143741. The challenged CA Resolutions dismissed BBB's (petitioner) petition for *certiorari* assailing the Orders dated July 10,

\* The identity of the victim or any information to establish or compromise her identity, as well as those of her immediate family or household members, shall be withheld pursuant to Republic Act No. (RA) 7610, "An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation and For Other Purposes;" RA 9262, "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefor, and For Other Purposes;" Section 40 of Administrative Matter No. 04-10-11-SC, known as the "Rule on Violence against Women and Their Children," effective November 15, 2004; *People v. Cabalquinto*, 533 Phil. 703 (2006); and Amended Administrative Circular No. 83-2015 dated September 5, 2017, Subject: Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances.

\*\* Designated additional member per Special Order No. 2780 dated May 11, 2020.

<sup>1</sup> *Rollo*, pp. 10-34.

<sup>2</sup> *Id.* at 38-39; penned by Associate Justice Nina G. Antonio-Valenzuela with Associate Justices Fernanda Lampas Peralta and Jane Aurora C. Lantion, concurring.

<sup>3</sup> *Id.* at 42-43.

2015<sup>4</sup> and October 12, 2015<sup>5</sup> of Branch 162, Regional Trial Court (RTC), Pasig City, San Juan Station, in Criminal Case No. 145929-SJ, a case for Child Abuse under Section 10(a) of Republic Act No. (RA) 7610,<sup>6</sup> in relation to Section 5(j) of RA 8369<sup>7</sup> for having been filed out of time.

### *The Antecedents*

In an Information,<sup>8</sup> Amy B. Cantilla (respondent) was charged with Child Abuse under RA 7610. It reads:

That, sometime between January to April 2006 in the City of San Juan, Philippines and within the jurisdiction of this Honorable Court the above-named accused in conspiracy with one another, did, then and there knowingly, unlawfully and criminally commit child abuse upon the person of one [AAA], then a 3 year old minor, child of [BBB] by then and there by hitting her with the use of slippers and her hand, feeding her only twice a day, spanking her right face and pinching both her arms, which acts of cruelty are prejudicial to the normal growth and development of the minor child [AAA] as a human being, in violation of the above-cited law.

CONTRARY TO LAW.<sup>9</sup>

Respondent pleaded not guilty on arraignment.

Trial ensued.

The prosecution alleged that sometime in 2006, petitioner hired the services of Belle Torres (Torres) as caretaker or *yaya* of her daughter AAA in addition to respondent, who was petitioner's househelper. Petitioner worked as flight attendant of Cathay Pacific Airlines and as such, she was usually on international flight for almost a week. Consequently, AAA was left at home in the care of her *yaya* and the respondent.<sup>10</sup>

Sometime in April 2006, petitioner's friend, Maria Antonina C. Espiritu (Espiritu), along with her daughter, and the latter's *yaya*, visited petitioner's house in [REDACTED]. After the visit,

<sup>4</sup> *Id.* at 254-260; penned by Presiding Judge Cesar Pabel D. Sulit.

<sup>5</sup> *Id.* at 261-266.

<sup>6</sup> Entitled "Special Protection of Children Against Abuse, Exploitation and Discrimination Act," approved on June 17, 1992.

<sup>7</sup> Entitled "Family Courts Act of 1997," approved on October 28, 1997.

<sup>8</sup> *Rollo.* at 88-89.

<sup>9</sup> *Rollo.* p. 88.

<sup>10</sup> *Id.* at 62.

Espiritu called up the petitioner and told her to change AAA's *yaya*. Espiritu never told petitioner of the reason, but she insisted that petitioner should change AAA's *yaya* and the other maid, herein respondent. As petitioner trusted Espiritu, she immediately terminated the services of Torres and respondent sometime in August 2006. It was only when Espiritu confided to petitioner that she learned of what Espiritu's *yaya* witnessed when they visited the petitioner's home. Espiritu's *yaya* saw respondent inflict physical harm on AAA, and Torres did not even bother to stop respondent. Petitioner then requested the administration of [REDACTED] to ban respondent from entering the premises.<sup>11</sup>

On August 15, 2010, petitioner was surprised to see respondent in the common area of [REDACTED]. She interviewed AAA for confirmation as to what Torres and respondent did to her when the two were still working for them. AAA then told her mother that respondent inflicted physical harm on her almost everyday. That she would hit her on her backside and on her hand, deprive her of her meals, and would only let her eat past her mealtime.<sup>12</sup>

During the trial of the case, the prosecution presented petitioner as witness to substantiate the allegations in the information and was cross-examined by the counsel of the respondent. The prosecution also presented NBI Supervising Agent Atty. Olga Angustia Gonzales, who testified that she was the one who took the sworn statement of AAA.<sup>13</sup> On January 28, 2014, the prosecution presented AAA as witness. She testified on the circumstances that gave rise to the charge of Child Abuse against the respondent.<sup>14</sup> Thereafter, the prosecution formally offered its documentary evidence on November 11, 2014.<sup>15</sup>

On April 13, 2015, respondent filed a Demurrer to Evidence with Manifestation.<sup>16</sup> Respondent argued that in the Pre-Trial Order<sup>17</sup> dated February 12, 2013, the prosecution lined up as witness one "Maritoni Espiritu," who allegedly witnessed the abuses committed by the respondent against AAA. However, the witness was not presented by the prosecution. According to the respondent, the non-presentation of the

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 63.

<sup>13</sup> *Id.* at 166-167.

<sup>14</sup> *Id.* at 197-243.

<sup>15</sup> *Id.* at 245-248.

<sup>16</sup> *Id.* at 250-253.

<sup>17</sup> *Id.* at 106-109.

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supposed eyewitness is fatal since her testimony would give substance to the allegations stated in the Information.<sup>18</sup> While the prosecution was able to present two witnesses during the trial, the witnesses, however, have no personal knowledge of the alleged abuses committed by respondent. As far as the testimony of AAA was concerned, the respondent argued that AAA's testimony was tainted with doubt. AAA was 12 years old when she testified of the incident that allegedly happened when she was still three years of age. Respondent questioned the delay of the petitioner in filing a case against respondent in year 2010, while the alleged incident took place in 2006.

In its Order<sup>19</sup> dated July 10, 2015, the RTC granted respondent's demurrer to evidence there being no sufficient evidence to support a conviction, *viz.*:

WHEREFORE, pursuant to Section 23, Rule 119 of the New Rules on Criminal Procedures and as the prosecution failed to present sufficient evidence to prove the guilt of Amy Cantilla, the criminal case against her is hereby DISMISSED.

x x x x.

SO ORDERED.<sup>20</sup>

On August 19, 2015, petitioner moved for reconsideration.<sup>21</sup> Subsequently, she moved for the inhibition of the presiding judge.<sup>22</sup>

The RTC denied both motions in an Order<sup>23</sup> dated October 12, 2015.

Aggrieved, petitioner elevated the case to the CA *via* a Petition for *Certiorari*.<sup>24</sup>

In the Resolution<sup>25</sup> dated February 9, 2016, the CA resolved to dismiss the petition for *certiorari* due to the following reasons, to wit: (1) for having been filed beyond the 60-day reglementary period in

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<sup>18</sup> *Id.* at 251.

<sup>19</sup> *Id.* at 254-260.

<sup>20</sup> *Id.* at 259-260.

<sup>21</sup> *Id.* at 267-270.

<sup>22</sup> *Id.* at 271-280.

<sup>23</sup> *Id.* at 261-266.

<sup>24</sup> *Id.* at 299-330.

<sup>25</sup> *Id.* at 38-39.

violation of Section 4, Rule 65 of the Rules of Court; (2) for failure to attach a valid Verification and Certification of Non-Forum Shopping, both not having been executed in accordance with Section 12, Rule II of the 2004 Notarial Rules on Notarial Practice; and (3) for failure to implead the People of the Philippines as respondent in violation of Section 7, Rule 3 of the Rules of Court.

Dismayed, petitioner filed a motion to reinstate petition arguing that she duly filed a motion for additional time to file petition for *certiorari*.

On June 23, 2016, the CA denied the petitioner's motion.<sup>26</sup>

Hence, this petition raising the following issues:

- I. WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE AND SERIOUS ERROR IN DISMISSING THE PETITION FOR CERTIORARI OF THE PETITIONER;
- II. WHETHER OR NOT RTC-162 COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION IN GRANTING THE DEMURRER TO EVIDENCE OF THE ACCUSED;
- III. WHETHER OR NOT THE PRESIDING JUDGE OF RTC-162 COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION IN REFUSING TO INHIBIT FROM HANDLING CRIMINAL CASE NO. 145929-SJ NOTWITHSTANDING THE FACT THAT HE EXPRESSED IN WRITING HIS PREJUDICE AND BIAS AGAINST THE MINOR VICTIM[.]<sup>27</sup>

The Court, in its Resolutions dated October 17, 2016<sup>28</sup> and July 4, 2018,<sup>29</sup> ordered respondent to file Comment on the Petition for Review on *Certiorari*. In his Compliance<sup>30</sup> dated October 1, 2018, Atty. Bonifacio F. Aranquez, Jr., counsel of respondent, stated that he could not possibly file the necessary comment on the petition for review on *certiorari* since he lost communication with the respondent and that he

<sup>26</sup> *Id.* at 42-43.

<sup>27</sup> *Id.* at 19.

<sup>28</sup> *Id.* at 238.

<sup>29</sup> *Id.* at 241.

<sup>30</sup> *Id.* at 242-243.

withdrew his representation as her counsel.<sup>31</sup>

The Court took note of the above-stated compliance in its Resolution<sup>32</sup> dated November 21, 2018 and required respondent to manifest her conformity to her counsel's withdrawal of representation within five days from notice thereof. However, respondent having failed to comply with the above-stated Resolution, the Court deemed her to have waived the filing thereof.

### *Ruling of the Court*

The petition is bereft of merit.

Basic is the rule that the grant of a demurrer is tantamount to an acquittal and an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal.<sup>33</sup> This rule, however, is not without exception. The rule on double jeopardy is subject to the exercise of judicial review by way of the extraordinary writ of *certiorari* under Rule 65 of the Rules of Court.<sup>34</sup>

In this case, the CA dismissed the Petition for *Certiorari* due to its findings that it was filed beyond the 60-day reglementary period, that the verification and certification against forum shopping did not contain the competent evidence of identity of the petitioners, and that the People of the Philippines was not impleaded.

In a last attempt to secure a reversal of the assailed resolutions, petitioner contends that granting that the petition was filed late, substantial justice begs that it be allowed and be given due course.

The Court disagrees.

While it is conceded that procedural rules are to be construed liberally, it is also true that the provisions on reglementary period must be applied *strictly*, as they are indispensable to the prevention of needless delays, and are necessary to the orderly and speedy discharge of

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<sup>31</sup> *Id.* at 242.

<sup>32</sup> *Id.* at 245.

<sup>33</sup> See *People v. Lagos*, 705 Phil. 570, 577 (2013), citing *People v. Court of Appeals and Galicia*, 545 Phil. 278, 292-293 (2007).

<sup>34</sup> *Id.* at 577-578.

judicial business.<sup>35</sup>

Section 4, Rule 65 of the Rules of Court, as amended by Administrative Matter No. 07-7-12-SC reads:

**SEC. 4. When and where to file petition. — 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 the notice of the denial of the 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 in 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 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. (Emphasis supplied.)

It is clear from the foregoing that the petition for *certiorari* must be filed not later than 60 days from notice of the judgment or resolution. The phrase that “[n]o extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days” which was previously found in Section 4, Rule 65 of the Rules was deleted by amendment.<sup>36</sup>

The reason for the amendment is essentially to prevent the use or abuse of the petition for *certiorari* under Rule 65 to delay a case or even defeat the ends of justice.<sup>37</sup> As the rule now stands, the 60-day period is inextendible in order to avoid any unreasonable delay that would violate the constitutional rights of parties to a speedy disposition of their case.<sup>38</sup>

In this case, petitioner failed to show any compelling reason for

<sup>35</sup> *Le Soleil Int'l Logistics Co., Inc., et al. v. Sanchez, et al.*, 769 Phil. 466, 473 (2015).

<sup>36</sup> Riano, *Civil Procedure (The Bar Lecture Series)*, Volume II (2012), p. 285.

<sup>37</sup> *Laguna Metts Corp. v. Court of Appeals, et al.*, 611 Phil. 530, 537 (2009).

<sup>38</sup> *Labao v. Flores*, 649 Phil. 213, 221 (2010), citing *Laguna Metts Corp. v. Court of Appeals, et al.*, *supra* note 37.

the grant of an extension. Hence, the Court quote with approval the findings of the CA in its Resolution<sup>39</sup> dated June 23, 2016, viz.:

There is no basis to grant the Motion to Reinstate Petition. Notably, we dismissed the Petition For Certiorari on grounds, including that the petitioner filed the Petition beyond the 60-day reglementary period. Although the Motion to Reinstate Petition admits that the petitioner filed the Petition beyond the reglementary period, the petitioner attempts to justify the failure to file the Petition on time by alleging that the failure was due to circumstances of her (petitioner's) counsel. However, we cannot give credence to the petitioner's explanation. Notably, counsel of record for the petitioner is the Salvador & Parungao Law Firm, and not an attorney who is in solo practice. If one attorney is unable to comply with the 60-day reglementary period, another attorney of the Law Firm can assist him.<sup>40</sup>

Just as a losing party has the right to appeal within the prescribed period, the winning party has the correlative right to enjoy the finality of the decision on the case.<sup>41</sup> After all, it is settled that a decision that has acquired finality becomes immutable and unalterable and may no longer be modified.<sup>42</sup>

At any rate, even if the Court considers the petition for *certiorari* as having been properly filed, it would still be denied for lack of merit.

A petition for *certiorari* is intended to correct errors of jurisdiction only or *grave abuse of discretion* amounting to lack or excess of jurisdiction.<sup>43</sup> Grave abuse of discretion is defined by jurisprudence as the capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, as where the power is exercised in an arbitrary and despotic manner because of passion or hostility.<sup>44</sup>

In order for double jeopardy to not attach, and for the writ of *certiorari* to issue, the petitioner must clearly demonstrate that the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction such as where the prosecution was denied the opportunity to present its case or where the trial was a sham; thus rendering the assailed

<sup>39</sup> *Rollo*, pp. 42-43.

<sup>40</sup> *Id.* at 43.

<sup>41</sup> *Labao v. Flores*, *supra* note 38, citing *Bello v. National Labor Relations Commission*, 559 Phil. 20, 29 (2007).

<sup>42</sup> *Id.*, citing *NAPOCOR v. Sps. Laohoo, et al.*, 611 Phil. 194, 218 (2009).

<sup>43</sup> *See People v. Sandiganbayan (2<sup>nd</sup> Division), et al.*, 765 Phil. 845, 858 (2015).

<sup>44</sup> *Id.*, citing *Jimenez, Jr. v. People*, 743 Phil. 468, 482 (2014).



judgment void.<sup>45</sup>


However, the petitioner failed to discharge this burden.

As aptly concluded by the RTC, the best evidence to sustain a conviction is the testimony of the eyewitness in the person of Espiritu, who allegedly saw how the respondent inflicted physical harm upon AAA. But the prosecution failed to present Espiritu to the court. As regards the testimony of AAA, it was noted that even during the pre-trial conference, there was already doubt on the nature of the testimony of AAA, and that despite allowing her to testify to prove matters “after the fact,” her testimony still failed to establish the guilt of the respondent beyond reasonable doubt.

Time and again, we have stressed that accusation is not synonymous with guilt. Hence, in instances where the the prosecution fails to discharge its burden of proving the crime beyond reasonable doubt, it is not only the right of the accused to be freed, it becomes the Court’s constitutional duty to acquit him.<sup>46</sup>

**WHEREFORE**, the petition is **DENIED** for lack of merit.

**SO ORDERED.**

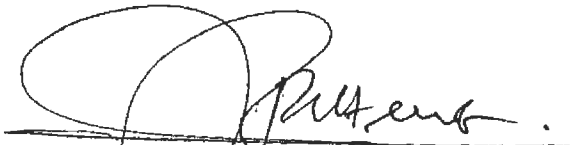
  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

WE CONCUR:

  
**ESTELA M. BERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

<sup>45</sup> See *Sanvicente v. People*, 441 Phil. 139, 147 (2002).

<sup>46</sup> *People v. Wagas*, 717 Phil. 224, 227-228 (2013).



**RAMON PAUL L. HERNANDO**  
*Associate Justice*




**EDGARDO L. DELOS SANTOS**  
*Associate Justice*



**SAMUEL H. GAERLAN**  
*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.



**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division 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.



**DIOSDADO M. PERALTA**  
*Chief Justice*

