

ELEVENTH DIVISION

[CA-G.R. SP. NO. 93118, August 03, 2006]

MERCHANTS RURAL BANK OF TALAVERA, INC. AND HILARIO F. SORIANO, IN HIS CAPACITY AS MAJORITY STOCKHOLDER IN MERCHANTS RURAL BANK OF TALAVERA, INC., PETITIONERS, VS. MONETARY BOARD, BANGKO SENTRAL NG PILIPINAS, AND PHILIPPINE DEPOSIT INSURANCE CORPORATION, RESPONDENTS.

DECISION

TIJAM, J.:

Before Us is a *Petition for Certiorari*^[1] filed under Rule 65 of the Rules of Civil Procedure which seeks to nullify the *Resolution No. 98*,^[2] dated January 26, 2006, of the Respondent Monetary Board prohibiting Petitioner Merchants Rural Bank of Talavera, Inc. from doing business in the Philippines and placing it under receivership with Respondent Philippine Deposit Insurance Company.

The facts are as follows:

On March 21, 2005, the Bangko Sentral ng Pilipinas (BSP) *extended*^[3] an emergency loan of P100 Million to Petitioner Merchants Rural Bank of Talavera, Inc. (Bank). Pending the required general examination of the Bank's assets and affairs, the BSP released a portion of the loan amounting to P32.947 Million. The BSP *refused*^[4] to issue the remaining proceeds of the loan until the controlling stockholders have signed the required Deed of Negative Pledge, Surety Agreement and Joint and Several Undertaking.

The Bank's President, Atty. Peralta, thus, *requested*^[5] the BSP to place the Bank under Conservatorship in accordance with Section 29 of RA 7653 (*New Central Bank Act*) and reiterated their appeal for the release of the remaining proceeds of the loan. The BSP denied said request and held that assigning a Conservator is not proper and suitable considering the Bank's situation.

Subsequently, the BSP concluded its general examination in August 2005 and, on January 3, 2006, *found*^[6] that the Bank's liabilities exceeded its realizable assets by P26.28 Million. Thus, the BSP Supervisor and Examination Department IV recommended that the Bank be placed under Receivership pursuant to Section 30 of R.A. 7653.

Consequently, on January 26, 2006, the Respondent Monetary Board of BSP issued the assailed Resolution which reads:

"ACTION TAKEN

On the basis of the examination findings as of 01 July 2005 as reported by Mrs. Leilani M. Canullas, Director, Supervision and Examination Department IV, in a memorandum dated 18 January 2006, which findings showed that the Merchant Rural Bank of Talavera, Inc. (MRBTI) (a) has insufficient realizable assets to meet its liabilities; (b) is unable to pay its liabilities as they become due in the ordinary course of business; and (c) cannot continue in business without involving probable losses to its depositors and creditors unless fresh capital infusion is made; and considering the failure of the board of directors/management to restore MRBTI's viability despite ample time given, that MRBTI had been accordingly informed and given more than enough time to infuse additional capital to place it in a sound financial condition but no fresh capital infusion was made, and that MRBTI has been accorded due process, the Board decided as follows:

1. To prohibit MRBTI from doing business in the Philippines and to place its assets and affairs under receivership in accordance with Section 30 of Republic Act No. 7653;
2. To designate the Philippine Deposit Insurance Corporation as Receiver of MRBTI;

xxx"

Aggrieved, Petitioners filed this Petition raising the sole issue: "Whether or not a (*sic*) the Monetary Board committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the questioned resolution prohibiting Merchants Rural Bank of Talavera, Inc. from doing business in the Philippines and placing its assets and affairs under the receivership of the Philippine Deposit Insurance Corporation."

We deny the instant Petition.

Paragraph 2, section 4, Rule 65 of the Rules of Civil Procedure, on the venue for jurisdiction over a petition for certiorari, provides:

"SEC. 4. When and where petition filed. — xxx

The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, **board**, officer or person, **in the Regional Trial Court**^[7] exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals."

Although the Supreme Court, Court of Appeals and the Regional Trial Courts have concurrent jurisdiction to issue writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction, such concurrence does not give the Petitioners unrestricted freedom of choice of court forum.^[8]

This Court's original jurisdiction to issue writs of certiorari is not exclusive. It is shared by this Court with the Regional Trial Courts and the Supreme Court. This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs.^[9] A direct invocation of this Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is an established policy. It is a policy necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket.^[10]

Thus, this Court will not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts, and exceptional and compelling circumstances, such as cases of national interest and of serious implications, justify the availment of the extraordinary remedy of writ of certiorari, calling for the exercise of its primary jurisdiction.^[11]

Petitioners failed to allege, much less prove, that there exists a special and important reason or exceptional and compelling circumstance to justify direct recourse to this Court.^[12] The present petition should have been initially filed in the proper Regional Trial Court in strict observance of the doctrine on the hierarchy of courts. Failure to do so is sufficient cause for the dismissal of the petition at bar.^[13]

Clearly, Petitioners, in directly filing the instant petition before this Court, violated the established policy of strict observance of the judicial hierarchy of courts.^[14]

We likewise deny the instant Petition because Petitioners failed to file the required Motion for Reconsideration.

For the special civil action of certiorari to commence under Rule 65 of the Rules of Court, the *Rules*^[15] require that the petitioner be left with "*no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law.*" A motion for reconsideration of an assailed resolution is deemed a plain and adequate remedy provided by law.^[16]

The general rule is that a motion for reconsideration is indispensable before resort to the special civil action for certiorari.^[17] The law intends to afford the tribunal, board or office, an opportunity to rectify the errors and mistakes it may have lapsed into before resort to the courts of justice can be had.^[18] The rule is well-settled that the filing of a motion for reconsideration is an indispensable condition to the filing of a special civil action for certiorari, subject to the following exceptions:^[19]

- (a) where the order is a patent of nullity, as where the court a quo has no jurisdiction;
- (b) where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court;