

## SECOND DIVISION

[ G.R. No. 164682, September 14, 2011 ]

**JOEL GALZOTE Y SORIAGA, PETITIONER, VS. JONATHAN BRIONES AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### DECISION

**BRION, J.:**

Before this Court is the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the twin resolutions<sup>[1]</sup> of the Court of Appeals (CA) dated April 30, 2004 and July 23, 2004 in CA-G.R. SP No. 76783. The assailed April 30, 2004 resolution dismissed the petition for *certiorari* filed by Joel S. Galzote (*petitioner*), while the challenged July 23, 2004 resolution denied his motion for reconsideration.

### ANTECEDENT FACTS

On January 23, 1997, the prosecution filed an Information for robbery in an uninhabited place against the petitioner before the Metropolitan Trial Court (*MeTC*), Branch 1, Manila. The accusatory portion of the Information reads:

The undersigned accuses JOEL GALZOTE Y SORIAGA of the crime of Robbery in an Uninhabited Place, committed as follows:

That on or about July 22, 1996, in the City of Manila, Philippines, the said accused, conspiring and confederating with one ROSENDO OQUINA Y ESMALI who is already charged with the same offense with the Metropolitan Trial Court of Manila, docketed as Criminal Case No. 304765, did then and there willfully, unlawfully and feloniously, with intent of gain, by means of force upon things, break into and enter the Administration Office of the Prince Town Inn Corporation located at Valenzuela Street, Sta. Mesa, this City, which is an uninhabited place, by then and there destroying the Jipson board ceiling of the said establishment with the use of a fan knife and passing through the same, an opening not intended for entrance or egress, and once inside, and without the knowledge and consent of the owner thereof, took, stole and carried away cash money in the amount of P109,000.00 belonging to said Prince Town Inn Corporation, to the damage and prejudice of said owner in the aforesaid amount of P109,000.00, Philippine Currency [sic].

Contrary to law.<sup>[2]</sup>

The petitioner moved to quash the above information by alleging that it was patently irregular and fatally flawed in form and in substance. The MeTC denied the

petitioner's motion to quash in its order of September 15, 1997.<sup>[3]</sup> Likewise, the MeTC denied the petitioner's motion for reconsideration of the order of denial.<sup>[4]</sup>

Via a petition for *certiorari*,<sup>[5]</sup> the petitioner elevated the unfavorable ruling of the MeTC to the Regional Trial Court (RTC), Branch 8, Manila. The petitioner argued that the MeTC committed grave abuse of discretion in not granting his motion to quash. Respondent Jonathan Briones (*respondent*) moved to dismiss the petition for *certiorari*, arguing that: (a) the petitioner failed to prosecute the petition for an unreasonably long period of time; (b) a petition for *certiorari* is not the proper remedy to address the denial of a motion to quash; and (c) the MeTC did not abuse its discretion in denying the petitioner's motion to quash.<sup>[6]</sup>

In its order<sup>[7]</sup> of March 22, 2002, the RTC granted the respondent's motion and dismissed the petition for *certiorari*. The RTC also denied the motion for reconsideration filed by the petitioner.<sup>[8]</sup>

**The petitioner filed a petition for *certiorari* before the CA,** docketed as CA-G.R. SP No. 76783. The CA dismissed the petition in its resolution of April 30, 2004.<sup>[9]</sup>

The CA held that the petitioner lost his right to appeal when he failed to appeal within the 15-day reglementary period under Rule 41 of the Revised Rules of Court. The CA explained that the petitioner should have filed an appeal, instead of a special civil action for *certiorari*, upon receipt of the RTC's denial of his motion for reconsideration. The CA also noted that the petitioner failed to implead the *People of the Philippines* as party-respondent in his petition.

The CA saw no merit in the petitioner's argument that the lower courts erred in denying his motion to quash. It explained that the allegation of conspiracy in his case need not be alleged with particularity since it was not charged as an offense in itself, but only as a manner of incurring criminal liability. The fact that the petitioner's alleged co-conspirator had been convicted of the lesser offense of malicious mischief in another case is not a bar to the petitioner's prosecution for the crime of robbery.

The petitioner moved to reconsider this resolution, but the CA denied his motion in its resolution<sup>[10]</sup> dated July 23, 2004.

### **THE PETITION**

In the present petition for review on *certiorari*, the petitioner claims that his recourse to a petition for *certiorari* before the CA was proper. He argues that both the MeTC and the RTC committed grave abuse of discretion when they denied his motion to quash. He alleges that the trial courts failed to see that the information filed against him was flawed both in form and in substance.

The petitioner additionally claims that his failure to implead the *People of the Philippines* as party-respondent was not fatal to his petition.

### **THE COURT'S RULING**

We **deny** the petition for lack of merit.

### Remedy from the Denial of a Motion to Quash

A preliminary consideration in this case relates to the propriety of the chosen legal remedies availed of by the petitioner in the lower courts to question the denial of his motion to quash. In the usual course of procedure, a denial of a motion to quash filed by the accused results in the continuation of the trial and the determination of the guilt or innocence of the accused. If a judgment of conviction is rendered and the lower court's decision of conviction is appealed, the accused can then raise the denial of his motion to quash not only as an error committed by the trial court but as an added ground to overturn the latter's ruling.

In this case, the petitioner did not proceed to trial but opted to immediately question the denial of his motion to quash *via* a special civil action for *certiorari* under Rule 65 of the Rules of Court.

As a rule, the denial of a motion to quash is an interlocutory order and is not appealable; an appeal from an interlocutory order is not allowed under Section 1(b), Rule 41 of the Rules of Court. Neither can it be a proper subject of a petition for *certiorari* which can be used only in the absence of an appeal or any other adequate, plain and speedy remedy.<sup>[11]</sup> The plain and speedy remedy upon denial of an interlocutory order is to proceed to trial as discussed above.

Thus, a direct resort to a special civil action for *certiorari* is an exception rather than the general rule, and is a recourse that must be firmly grounded on compelling reasons. In past cases, we have cited the interest of a "more enlightened and substantial justice";<sup>[12]</sup> the promotion of public welfare and public policy;<sup>[13]</sup> cases that "have attracted nationwide attention, making it essential to proceed with dispatch in the consideration thereof";<sup>[14]</sup> or judgments on order attended by grave abuse of discretion, as compelling reasons to justify a petition for *certiorari*.<sup>[15]</sup>

In grave abuse of discretion cases, *certiorari* is appropriate if the petitioner can establish that the lower court issued the judgment or order without or in excess of jurisdiction or with grave abuse of discretion, and the remedy of appeal would not afford adequate and expeditious relief. The petitioner carries the burden of showing that the attendant facts and circumstances fall within any of the cited instances.

### At the RTC

We find no compelling reason to justify a resort to a petition for *certiorari* against the orders of the MeTC as the petitioner failed to show that the factual circumstances of his case fall under any of the above exceptional circumstances. The MeTC in fact did not commit any grave abuse of discretion as its denial of the motion to quash was consistent with the existing rules and applicable jurisprudence. The ground used by the petitioner in his motion to quash (*i.e.*, that his co-conspirator had been convicted of an offense lesser than the crime of robbery) is not among the exclusive grounds enumerated under Section 3, Rule 117 of the 2000 Revised Rules of Criminal Procedure that warrant the quashal of a