

FIRST DIVISION

[G.R. No. 183373, January 30, 2009]

**GILDA C. ULEP, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,
RESPONDENT.**

R E S O L U T I O N

CORONA, J.:

This resolves the motion for reconsideration of the August 27, 2008 resolution of this Court denying petitioner's petition for review on certiorari (under Rule 45 of the Rules of Court) which sought to set aside the September 25, 2007 and June 6, 2008 resolutions^[1] of the Court of Appeals (CA) in CA-G.R. CR No. 30227.

Petitioner was a government employee serving as money order teller at the Fort Bonifacio Post Office with a salary grade lower than grade 27. She was charged with the crime of malversation of public funds under Article 217 of the Revised Penal Code in the Regional Trial Court (RTC) of Makati City, Branch 132. Subsequently, she was convicted as charged and was sentenced to suffer an indeterminate penalty of 10 years and 1 day of *prision mayor* as minimum to 19 years of *reclusion temporal* as maximum, to pay a fine of P113,768 and to pay Philippine Postal Corporation the same amount.

Petitioner filed the following notice of appeal in the trial court:

ACCUSED, by counsel, respectively gives notice that she is appealing the Judgment rendered by this Honorable Court against her in the above-entitled case in its Judgment dated May 3, 2006, (a copy of Decision was received by accused on May 3, 2006) on the grounds that the said Judgment is contrary to law and the evidence presented.

Acting on the notice of appeal, the trial court issued the following order:

Accused GILDA ULEP having filed her notice of Appeal, **let the records of the above-mentioned case, together with all the evidence, both oral and documentary, be forwarded to the Honorable Court of Appeals** for further proceedings.

x x x

SO ORDERED. (Emphasis supplied)

The CA, however, dismissed the appeal on the ground of lack of jurisdiction. It held that malversation belongs to the classification of public office-related crimes under subparagraph (b) of Section 4 of PD^[2] 1606^[3], as amended by RA^[4] 8249^[5]:

Sec. 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

- A. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

X X X X X X X X X

- B. **Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of this section in relation to their office.**

X X X X X X X X X

In cases where none of the accused are occupying positions corresponding to Salary Grade `27' or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officer mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129, as amended.

The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or order of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided. x x x (Emphasis supplied).

The appellate court held that, based on the foregoing, an appeal from the judgment of the RTC in such a case fell within the jurisdiction of the Sandiganbayan. Thus, petitioner's appeal to the CA was improperly made and should accordingly be dismissed pursuant to Section 2, Rule 50^[6] of the Rules of Civil Procedure.

Petitioner moved for reconsideration. She contended that the appellate court should have ordered the transfer of the records of the case to the Sandiganbayan instead of dismissing her appeal outright. She pointed out that there was no categorical statement in her notice of appeal on which court her appeal should be taken to. Rather, it was the trial court which ordered the records to be forwarded to the CA. The appellate court refused to reconsider its resolution.

Petitioner then filed a petition for review in this Court but it was denied for her failure to sufficiently show that the CA committed any reversible error warranting the exercise of this Court's discretionary appellate jurisdiction.

Petitioner filed this motion for reconsideration reiterating her argument that the