

SECOND DIVISION

[G.R. NO. 150325, August 31, 2006]

EDGARDO V. QUESADA, PETITIONER, VS. THE DEPARTMENT OF JUSTICE AND CLEMENTE TERUEL, RESPONDENTS.

DECISION

SANDOVAL-GUTIERREZ, J.:

For our resolution is the Petition for *Certiorari*^[1] (with prayer for a temporary restraining order and/or preliminary injunction) assailing the Resolutions dated January 17, 2001 and September 17, 2001 issued by the Secretary of Justice in I.S. No. 00-29780-C, entitled "Clemente M. Teruel, *complainant*, versus Ramon P. Camacho, Jr., Edgardo V. Quesada and Rodolfo Corgado, *respondents*."

On March 1, 2000, Clemente M. Teruel, herein respondent, filed with the Office of the City Prosecutor, Mandaluyong City, an affidavit-complaint^[2] charging Edgardo V. Quesada (herein petitioner), Ramon P. Camacho, Jr., and Rodolfo Corgado with the crime of estafa under Article 315, paragraphs 2 and 3 of the Revised Penal Code, docketed as I.S. No. 00-29780-C. The affidavit-complaint alleges that on June 13, 1998 at Shangrila Plaza Hotel, EDSA, Mandaluyong City, Quesada, Camacho, and Corgado represented themselves to Teruel as the president, vice-president/treasurer, and managing director, respectively, of VSH Group Corporation; that they offered to him a telecommunication device called Star Consultant Equipment Package which provides the user easy access to the internet via television; that they assured him that after he pays the purchase price of P65,000.00, they will immediately deliver to him two units of the internet access device; that relying on their representations, he paid them P65,000.00 for the two units; and that despite demands, they, did not deliver to him the units.

It was only petitioner Quesada who filed a counter-affidavit.^[3] He alleged that he, Camacho, and Corgado are Star Consultant Trainers of F.O.M. Philippines, Inc., a corporation engaged in the business of selling and marketing telecommunication products and technologies; that they formed the VSH Group as a corporation "for the principal purpose of pooling the commissions they will receive as Star Consultant Trainers and then dividing said commissions among themselves according to their agreement"; that while he admitted that the two units of internet access devices purchased by herein respondent Teruel were not delivered to him, however, this was not due to their alleged fraudulent representations since they merely acted as sales agents of F.O.M. Phils., Inc.; and that they found out too late that the said company could not cope with its commitment to them as it ran short of supplies of telecommunication products.

On April 25, 2000, Assistant City Prosecutor Esteban A. Tacla, Jr. issued a Resolution^[4] finding probable cause against petitioner Quesada, Camacho, and Corgado, and recommending the filing of the corresponding Information.

Consequently, an Information for estafa against petitioner Quesada, Camacho, and Corgado was filed with the Regional Trial Court (RTC), Mandaluyong City, docketed as Criminal Case No. MC-00-2510. This case was later raffled off to Branch 208.

In the meantime, petitioner filed with the Department of Justice a Petition for Review challenging the April 25, 2000 Resolution of the Investigating Prosecutor. On January 17, 2001, the Secretary of Justice issued a Resolution^[5] dismissing the petition. Petitioner's motion for reconsideration was denied in a Resolution^[6] dated September 17, 2001.

While the RTC was hearing Criminal Case No. MC-00-2510, petitioner filed with this Court the instant Petition for *Certiorari* alleging that the Secretary of Justice, in dismissing his Petition for Review in I.S. No. 00-29780-C, acted with grave abuse of discretion amounting to lack or excess of jurisdiction. Petitioner contends that the element of fraud or deceit in the crime of estafa is not present^[7] and that there is no evidence which will prove that the accused's promise to deliver the purchased items was false or made in bad faith.^[8]

The Solicitor General, in his Comment, maintains that the Secretary of Justice, in finding a probable cause against the three accused, did not act with grave abuse of discretion and prayed for the dismissal of the instant petition for being unmeritorious.

Initially, we observe that the present petition was directly filed with this Court, in utter violation of the rule on hierarchy of courts.

A **petition for certiorari** under **Rule 65** of the 1997 Rules of Civil Procedure, as amended, must be filed with the **Court of Appeals** whose decision may then be **appealed to this Court** by way of a **petition for review on certiorari** under **Rule 45** of the same Rules.^[9] A direct recourse to this Court is warranted only where there are special and compelling reasons specifically alleged in the petition to justify such action. Such ladder of appeals is in accordance with the rule on hierarchy of courts. In *Vergara, Sr. v. Suelto*,^[10] we stressed that this should be the constant policy that must be observed strictly by the courts and lawyers, thus:

x x x. **The Supreme Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the fundamental charter and immemorial tradition.** It cannot and should not be burdened with the task of dealing with causes in the first instance. **Its original jurisdiction to issue the so-called extraordinary writs should be exercised only where absolutely necessary or where serious and important reasons exist therefor.** Hence, that jurisdiction should generally be exercised relative to actions or proceedings before the Court of Appeals, or before constitutional or other tribunals, bodies or agencies whose acts for some reason or another are not controllable by the Court of Appeals. **Where the issuance of an extraordinary writ is also within the competence of the Court of Appeals or a Regional Trial Court, it is in either of these courts that the specific action for the writ's procurement must be presented. This is and should continue to be the policy in**