

THIRD DIVISION

[G.R. NO. 152444, February 16, 2005]

**FRANCISCO C. BASA, MANUEL H. OSMEÑA, MARK PHILIP L. BASA
AND RENATO H. UY, PETITIONERS, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Petition for review on certiorari^[1] assailing the Decision^[2] dated October 30, 2001 and Resolution^[3] dated March 11, 2002 of the Court of Appeals in CA-G.R. CR No. 24767, the dispositive portion of which reads:

"WHEREFORE, premises considered, the instant petition for review is hereby DENIED DUE COURSE, and is hereby DISMISSED.

SO ORDERED."

On January 12, 2000, Francisco C. Basa, Manuel H. Omeña, Mark Philip L. Basa and Renato H. Uy, herein petitioners, were charged with swindling under paragraph 2, Article 316 of the Revised Penal Code; and falsification of public document under paragraph 4, Article 171 of the same Code, before the Metropolitan Trial Court (MeTC), Branch 65, Makati City, docketed as Criminal Cases Nos. 279220 and 279220. The two (2) Informations^[4] read:

CRIMINAL CASE NO. 279220

"That or about and during the period covering March 1998, in Makati City, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and all of them mutually helping and aiding with one another, did then and there willfully, unlawfully and feloniously defrauded complainant, POINTER CONSTRUCTION INTERNATIONAL CORPORATION, represented by Ofelia P. Trinidad, in the following manner, to wit: the said accused, being the corporate officers of One World Land and Properties Corporation, through Company Board Resolution No. 98-001 dated March 11, 1998, approved and mortgage a property covered by TCT No. 21163 of the Registry of Deeds of Makati City to Pioneer Insurance and Surety Corporation for the amount of P60,000,000.00, through false and fraudulent representation that said property was free and clear from any encumbrance, when in truth and in fact as the accused well knew that said real property covered by TCT No. 21163 was indeed and actually encumbered per annotation appearing on the back of TCT No. 210429 and 210430, under Primary Entry No. 98250/21049 – agreement which reads as follows:

'EXECUTED BY AND BETWEEN POINTER CONSTRUCTION & ONE WORLD LAND AND PROPERTIES CORPORATION WITH CONDITIONS AMONG OTHERS THAT THE PROPERTIES WILL BE TRANSFERRED INTO ITS NAME AND THE PAYMENT OF 40 MILLION WILL BE PAID TO POINTER CONSTRUCTION INTERNATIONAL CORPORATION IN THE FORM OF CONDO UNITS OR COMMERCIAL SPACES OF EQUAL WORTH FROM THE DEVELOPMENT MADE ON THE PROPERTIES. MAKATI, DECEMBER 9, 1997.'

which annotation/inscription of the new title (TCT No. 21163) was not carried over by the Registry of Deeds of Makati City on the new title to the damage and prejudice of private complainant in the amount of P60,000,000.00 as mortgaged.

CONTRARY TO LAW."

CRIMINAL CASE NO. 279221

"That on or about and during the period covering January up to February, 1998, in Makati City, a place within the jurisdiction of this Honorable Court, the above-named accused, who are all private individuals and corporate officers of One World Land and Properties Corporation, conspiring and confederating together, and all of them mutually helping and aiding with one another, did then and there willfully, unlawfully and feloniously caused the cancellation of Transfer Certificate of Title Nos. 210429 and 210430 of the Registry of Deeds of Makati City, and thereafter caused the falsification of a new Transfer Certificate of Title No. 211643 also of the Registry of Deeds of Makati City, hence, a public document by causing it to appear in the new Transfer Certificate of Title No. 211643 that it was not encumbered when in truth and in fact as all the accused well knew that said new TCT No. 211643 was encumbered per Primary Entry No. 90250/210429 annotated/inscribed as the back of the cancelled Transfer Certificate of Tile Nos. 210429 and 210430 which reads:

'EXECUTED BY AND BETWEEN POINTER CONSTRUCTION & ONE WORLD LAND AND PROPERTIES CORPORATION WITH CONDITIONS AMONG OTHERS THAT THE PROPERTIES WILL BE TRANSFERRED INTO ITS NAME AND THE PAYMENT OF 40 MILLION WILL BE PAID TO POINTER CONSTRUCTION INTERNATIONAL CORPORATION IN THE FORM OF CONDO UNITS OR COMMERCIAL DEVELOPMENTS MADE ON THE PROPERTIES. MAKATI, DECEMBER 9, 1997.'

which encumbrance the accused have all the legal obligation to disclose to the Registry of Deeds of Makati City but which the accused did not do so and was deliberately made with the wrongful intent, causing damage to POINTER CONSTRUCTION COMPANY, INC., represented by Ofelia Trinidad, thereby ultimately making it appear that the new Transfer Certificate of Title No. 211643 was unencumbered, free and clean from any encumbrances to the damage and prejudice of POINTER CONSTRUCTION COMPANY and of the public interest in violation of Article

171, paragraph four (4) of the Revised Penal Code.

CONTRARY TO LAW.”

On February 23, 2000, petitioners, through counsel, filed a Joint Motion to Quash^[5] on the ground that the facts charged in each Information do not constitute an offense.

On March 27, 2000, the MeTC issued an order granting petitioners’ motion, thus:

“WHEREFORE, premises considered, this Court hereby grants accused’s Joint Motion to Quash. Accordingly, the Informations in Criminal Cases Nos. 279220-21 are hereby quashed for the facts charged therein do not constitute an offense.

SO ORDERED.”

Subsequently, Ofelia Trinidad, private complainant, with the conformity of the Public Prosecutor, filed a motion for reconsideration but was denied in an Order^[6] dated May 24, 2000.

On appeal, the Regional Trial Court (RTC), Branch 65, Makati City, rendered its Decision in Criminal Cases Nos. 289220-21 reversing the appealed Order and directing the continuation of the proceedings, thus:

“WHEREFORE, judgment is hereby rendered SETTING ASIDE, for lack of merit, the Order dated 27 March 2000 of the Metropolitan Trial Court, Branch 65, Makati City, and in lieu thereof, the Prosecution may proceed with the prosecution of the instant cases against the accused.

SO ORDERED.”

Forthwith, petitioners filed their motion for reconsideration but was denied in an Order dated November 23, 2000.

Thereafter, petitioners filed with the Court of Appeals a petition for review pursuant to Section 3(b), Rule 122 of the Revised Rules of Criminal Procedure, in relation to Rule 42 of the 1997 Rules of Civil Procedure, as amended.

On October 30, 2001, the Court of Appeals rendered its Decision dismissing the petition on the ground that their remedy of appeal from the RTC Decision is improper. This Decision is actually **interlocutory** in nature.

Petitioners’ motion for reconsideration was likewise denied in a Resolution dated February 27, 2002.

Hence, the instant petition for review on certiorari.

Petitioners contend in the main that, contrary to the Court of Appeals ruling, their remedy of appeal by way of petition for review from the Decision of the RTC is proper. They maintain that “(t)he reversal by the RTC of the quashal order appealed from did not revert the case to its original status x x x. Petitioners still have a right to challenge that (reversal) before a higher court.”^[7]