

EN BANC

[G.R. No. 126623, December 12, 1997]

**ERNESTO MORALES Y DELA CRUZ, PETITIONER, VS. COURT OF APPEALS, HON. ALFREDO J. GUSTILO, AS PRESIDING JUDGE OF RTC, PASAY CITY, BRANCH 116 AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.
D E C I S I O N**

DAVIDE, JR., J.:

The key issue in this case is whether, in light of R.A. No. 7659^[1] as interpreted in *People v. Simon*,^[2] and R.A. No. 7691,^[3] Regional Trial Courts have jurisdiction over violations of R.A. No. 6425, otherwise known as the Dangerous Drugs Act of 1972, as amended, when the imposable penalty is not more than six (6) years.

The petitioner was charged with the violation of Section 15 in relation to Section 20 of R.A. No. 6425, as amended by R.A. No. 7659, in an information filed before the Regional Trial Court (RTC) of Pasay City on 13 March 1996. The accusatory portion of the said information reads as follows:

That on or about the 11th day of March 1996, in Pasay, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Ernesto Morales y De la Cruz, without authority of law, did then and there wilfully, unlawfully and feloniously sell and deliver to another 0.4587 grams of Metamphetamine Hydrochloride (shabu), a regulated drug.

CONTRARY TO LAW. ^[4]

The case was docketed as Criminal Case No. 96-8443 and raffled to Branch 116 of the said court.

Upon his arraignment, the petitioner entered a plea of not guilty. ^[5] Subsequently, on 30 April 1996, the petitioner filed a Motion to Dismiss ^[6] on the ground that the RTC had no jurisdiction to try the case considering that pursuant to Section 20 of R.A. No. 7659 as construed in *People v. Simon*, ^[7] the penalty imposable for the offense charged should not exceed *prision correccional* or six (6) years and under R.A. No. 7691 it is the Metropolitan Trial Court which has jurisdiction over the case.

In its Order ^[8] of 9 May 1996, the RTC denied the motion. It held:

It is true that under the aforementioned provision, cases punishable with penalties of not more than six (6) years are within the exclusive jurisdiction of the Metropolitan Trial Courts. However, the exceptions are "cases falling within the exclusive original jurisdiction of the Regional Trial

Court..." Under Section 39 of Republic Act No. 6425, the Dangerous Drugs Act of 1972, the Court of First Instance now the Regional Trial Court and the Juvenile and Domestic Relations Court, which no longer exist, "shall have concurrent original jurisdiction over all cases involving offenses punishable under this Act." It is therefore clear that this case, which is a violation of Republic Act No. 6425, although punishable by a penalty of less than six (6) years, falls within the jurisdiction of the Regional Trial Court.

His motion for the reconsideration^[9] of the order having been denied,^[10] the petitioner filed with respondent Court of Appeals a petition for *certiorari* under Rule 65 of the Rules of Court.^[11] The case was docketed as CA-G.R. SP No. 40670.

In its Comment^[12] in CA-G.R. SP No. 40670, the Office of the Solicitor General (OSG) agreed with the petitioner that the RTC had no jurisdiction to try the criminal case. It, however, asserted that the Court of Appeals had no jurisdiction over the special civil action for *certiorari*, as the same involved only the question of jurisdiction of an inferior court, hence, cognizable by the Supreme Court alone pursuant to Section 9 of Batas Pambansa Bilang 129, in connection with Section 5(2)(c), Article VIII of the 1987 Constitution and Section 17 of Republic Act No. 5440. The OSG then recommended that the case be elevated to the Supreme Court for disposition, or that the Court of Appeals grant the petition and set aside the challenged order of the RTC should it rule that it had jurisdiction over petition.

In its Resolution ^[13] of 8 August 1996, the Court of Appeals dismissed the petition for *certiorari* for lack of jurisdiction over the action. Explaining its ruling, it declared:

In his Comment to the petition, the Solicitor General, inter alia, contended that this Court has no jurisdiction over the petition for it properly falls within the exclusive jurisdiction of the Supreme Court.

We fully agree.

Section 5, Article VIII of the Constitution provides:

"Sec. 5. The Supreme Court shall have the following powers; x x x

(2) Review, revise, reverse, modify, or affirm on appeal or certiorari as the law or the Rules of Court may provide, final judgments and orders of lower courts in: x x x

(c) All cases in which the jurisdiction of any lower court is in issue. x x x"

Section 17 of R.A. 5446 otherwise known as the Judiciary Act of 1948 says that the Supreme Court has exclusive jurisdiction to review, revise, reverse, modify or affirm on certiorari final judgments and decrees of inferior courts in all cases in which the jurisdiction of any inferior court is on issue. It is hereby stressed that the issue in the petition at bench is purely a question of jurisdiction which is resolvable on the basis of the records.

After the denial ^[14] on 13 September 1996 of his motion for reconsideration, ^[15] the petitioner came to this Court via this petition for review under Rule 45 of the Rules of Court raising the following issues:

I. WHETHER OR NOT THE COURT OF APPEALS HAS JURISDICTION TO ENTERTAIN A PETITION FOR CERTIORARI UNDER RULE 65 OF THE RULES OF COURT WHERE THE ISSUE IS THE JURISDICTION OF RESPONDENT RTC JUDGE TO TRY THE ALLEGED VIOLATION OF R.A. 6425; AND

II. WHETHER OR NOT RESPONDENT RTC JUDGE/COURT HAS JURISDICTION TO TRY ALLEGED VIOLATION OF SECTION 15, IN RELATION TO SECTION 20, ART. III OF R.A. 6425, AS AMENDED, INVOLVING ONLY 0.4587 GRAMS OF SHABU.

As to the first, the petitioner insists that respondent Court of Appeals has concurrent original jurisdiction with this Court over petitions for certiorari under Rule 65 of the Rules of Court involving decisions or orders of Regional Trial Courts pursuant to Section 9(1)^[16] of B.P. Blg. 129 in relation to Section 5(1)^[17] of Article VIII of the Constitution. He cites *De Jesus v. Court of Appeals* ^[18] wherein this Court held that the original jurisdiction of the Court of Appeals under Section 9 of B.P. Blg. 129 is concurrent with that of the Supreme Court, and with that of Regional Trial Courts for writs enforceable within their respective regions. The petitioner further maintains that Section 5(2)(c) of Article VIII of the Constitution and Section 17 of the Judiciary Act of 1948, as amended by R.A. No. 5440, relied upon by the Court Appeals are not applicable inasmuch as they relate to the appellate jurisdiction of this Court and not to an original action under Rule 65 of the Rules of Court.

As regards the second issue, the petitioner asserts that the RTC below has no jurisdiction over the offense charged considering that only 0.4587 grams of methamphetamine hydrochloride (shabu) is involved. In light of Section 20 of R.A. No. 7659,^[19] as interpreted in *People v. Simon* ^[20] and further explained in *People v. Santos* ^[21] and *Ordoñez v. Vinarao*, ^[22] the imposable penalty therefor would not exceed prison correccional, whose maximum period is six (6) years. Hence, under R.A. No. 7691 exclusive original jurisdiction therein is vested in Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts.

In its Comment on the petition, the OSG submits that all violations of R.A. No. 6425, as further amended by R.A. No. 7659, which are punishable by imprisonment not exceeding six years now fall under the jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts. Since on the basis of the quantity of the regulated drug involved in this case the penalty imposable does not exceed prison correccional, it is the Metropolitan Trial Court of Pasay City which has jurisdiction over the case. It disagreed with the opinion of the RTC that violations of R.A. No. 6425, as amended, still fall within the jurisdiction of the RTC because the latter's jurisdiction thereon mandated by Section 39 of R.A. No. 6425 has been preserved by the exception provided for in the opening sentence of Section 32 of B.P. Blg. 129, as amended by Section 2 of R.A. No. 7691. It submits that Section 39 of R.A. No. 6425 was repealed by Section 6 of R.A. No. 7691, which provides:

SEC. 6. All laws, decrees, and orders inconsistent with the provisions of this Act shall be considered amended or modified accordingly.

In support of its submission, it cites this Court's resolution in *Gulhoran v. Escaño, Jr.* ^[23]

The OSG further contends that respondent Court of Appeals was correct in

dismissing the petition for certiorari for lack of jurisdiction in view of Section 9(3) of B.P. Blg. 129; Sec. 5(2)(c) of Article VIII of the Constitution; and Section 17 of the Judiciary Act of 1948, as amended by R.A. No. 5440. Nevertheless, it prays that this petition “be given due course and that Criminal Case No. 96-8443 be remanded to the proper metropolitan trial court for further proceedings.”

We resolved to give due course to this petition.

The Court of Appeals erred in holding that it had no jurisdiction over petitioner’s special civil action for *certiorari* under Rule 65 of the Rules of Court.

Under Section 9(1) of B.P. Blg. 129, the Court of Appeals has concurrent original jurisdiction with the Supreme Court pursuant to Section 5(1) of Article VIII of the Constitution and Section 17(1) of the Judiciary Act of 1948, and with the Regional Trial Court pursuant to Section 21(1) of B.P. Blg. 129 to issue writs of *certiorari*, *mandamus*, *prohibition*, *habeas corpus*, and *quo warranto*.^[24] These are original actions, not modes of appeals.

Since what the petitioner filed in CA-G.R. SP No. 40670 was a special civil action for *certiorari* under Rule 65, the original jurisdiction of the Court of Appeals thereon is beyond doubt.

This error of the Court of Appeals was due to its misapplication of Section 5(2)(c) of Article VIII of the Constitution and of that portion of Section 17 of the Judiciary Act of 1948 vesting upon the Supreme Court exclusive jurisdiction to review, revise, reverse, modify, or affirm on *certiorari* as the law or rules of court may provide, final judgments and decrees of inferior courts in all cases in which the jurisdiction of any inferior court is in issue. It forgot that this constitutional and statutory provisions pertain to the appellate -- not original -- jurisdiction of the Supreme Court, as correctly maintained by the petitioner. An appellate jurisdiction refers to a process which is but a continuation of the original suit, not a commencement of a new action, such as that of a special civil action for *certiorari*. The general rule is that a denial of a motion to dismiss or to quash in criminal cases is interlocutory and cannot be the subject of an appeal or of a special civil action for *certiorari*. Nevertheless, this Court has allowed a special civil action for *certiorari* where a lower court has acted without or in excess of jurisdiction or with grave abuse of discretion in denying a motion to dismiss or to quash.^[25] The petitioner believed that the RTC below did so; hence, the special civil action for *certiorari* before the Court of Appeals appeared to be the proper remedy.

The next most logical step then is for us to simply set aside the challenged resolutions and to direct the Court of Appeals to resolve on the merits the petition in CA-G.R. SP No. 40670. But, that would further delay the case. Considering the special importance of the lone legal issue raised, which can be resolved on the basis of the pleadings heretofore filed, and the fact that this Court has concurrent jurisdiction over petitioner’s special action in CA-G.R. SP No. 40670, we deem it more practical and in the greater interest of justice not to remand the case to the Court of Appeals but, instead, to take direct cognizance thereof and resolve it once and for all.^[26]

We now address the second issue.

Applying by analogy the ruling in *People v. Simon*,^[27] *People v. De Lara*,^[28] *People v. Santos*,^[29] and *Ordoñez v. Vinarao*,^[30] the imposable penalty in this case which involves 0.4587 grams of shabu should not exceed *prision correccional*. We say by analogy because these cases involved marijuana, not methamphetamine hydrochloride (shabu). In Section 20 of R.A. No. 6425, as amended by Section 17 of R.A. No. 7659, the maximum quantities of marijuana and methamphetamine hydrochloride for purposes of imposing the maximum penalties are not the same. For the latter, if the quantity involved is 200 grams or more, the penalty of *reclusion perpetua* to death and a fine ranging from P500,000 to P10 million shall be imposed. Accordingly, if the quantity involved is below 200 grams, the imposable penalties should be as follows:

- a) *reclusion temporal* -- if the quantity involved is from 134 to 199 grams;
- b) *prision mayor* -- if the quantity involved is from 66 to 133 grams;
- c) *prision correccional* -- if the quantity involved is 65 grams or below.

Clearly, the penalty which may be imposed for the offense charged in Criminal Case No. 96-8443 would at most be only *prision correccional* whose duration is from six (6) months and one (1) day to six (6) years. Does it follow then that, as the petitioner insists, the RTC has no jurisdiction thereon in view of the amendment of Section 32 of B.P. Blg. 129 by R.A. No. 7691, which vested upon Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts exclusive original jurisdiction over all offenses punishable with imprisonment not exceeding six (6) years irrespective of the amount of fine and regardless of other imposable accessory or other penalties? This section 32 as thus amended now reads:

SEC. 32. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Criminal Cases.* -- Except in cases falling within the exclusive original jurisdiction of Regional Trial Court and of the Sandiganbayan, the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

(2) Exclusive original jurisdiction over all offenses punishable with imprisonment not exceeding six (6) years irrespective of the amount of fine, and regardless of other imposable accessory or other penalties, including the civil liability arising from such offender or predicated thereon, irrespective of kind, nature, value or amount thereof: Provided, however, That in offenses involving damage to property through criminal negligence, they shall have exclusive original jurisdiction thereof.

The exception in the opening sentence is of special significance which we cannot disregard. By virtue thereof, the exclusive original jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in criminal cases does not cover those cases which by provision of law fall within the exclusive original jurisdiction of Regional Trial Courts and of the Sandiganbayan regardless of the prescribed penalty. Otherwise put, even if such cases are punishable by imprisonment not exceeding six years (i.e., *prision correccional*, *arresto mayor*, or *arresto menor*), jurisdiction thereon is retained by the Regional Trial Courts or the Sandiganbayan, as the case may be.