

SPECIAL SIXTH DIVISION

[CA-G.R. SP No. 130767, May 30, 2014]

JULIETA H. ONG, PETITIONER, VS. JUDGE ALEXANDER P. TAMAYO, IN HIS CAPACITY AS PRESIDING JUDGE OF REGIONAL TRIAL COURT, BRANCH 15 OF MALOLOS CITY, BULACAN AND ARMELIA AMPARO, RESPONDENTS.

D E C I S I O N

ABDULWAHID, J.:

This petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure filed by petitioner Julieta H. Ong, seeks to annul and set aside the following decision and order of the Regional Trial Court, (RTC) Branch 20, Malolos City, Bulacan, to wit: (1) Decision^[1] dated April 30, 2013, finding petitioner civilly liable for the payment of the full amount of the obligation; and (2) Order^[2] dated June 20, 2013, denying her motion for reconsideration thereof.

Records show^[3] that sometime in May, 2007, certain Fred Lunaria approached private respondent Armelia Amparo and offered a re-discounting of PNB Check No. 0700647 in the amount of P100,000 belonging to and allegedly issued by, petitioner Julieta H. Ong. Lunaria alleged that he was merely told by petitioner to look for somebody for the re-discounting of the said check. Private respondent acceded, considering her good long business dealings with petitioner and the latter's good credit line. Two (2) days after and every two (2) days thereafter, Lunaria came back for a re-discounting of each check, to wit:

Check	June
No.	30, 30,000
0700638	2007
Check	July
No.	4,143,000
0700659	2007
Check	July
No.	6,100,000
0700655	2007
Check	July
No.	10,143,000
0700660	2007
Check	July
No.	15,105,000
0700673	2007
Check	July
No.	18, 50,000
0700629	2007
Check	Aug. 25,000
No.	20,

0700651 2007
Check Aug.
No. 30, 25,000
0028317 2007
Check Sept.
No. 30, 85,000
0027246 2007

When presented/deposited for encashment, all the said checks, except the last two (2), had been dishonored by the drawee bank for reason "account closed". Thereafter, demands were made upon petitioner, but she failed and refused to pay the amount of the checks. Thus, private respondent filed a complaint, charging petitioner for eight (8) counts of violation of B.P. 22 before the MTCC of Meycauayan, Bulacan.^[4]

After the presentation of the prosecution's evidence, petitioner filed a demurrer to evidence by way of motion to dismiss on the ground that the prosecutions evidence is insufficient to prove her guilt beyond reasonable doubt. The MTCC through a Resolution^[5] dated May 12, 2010, granted petitioner's demurrer to evidence, dismissing the cases filed against her. The MTCC held that the prosecution failed to prove adequate notice of dishonor. Likewise, it failed to prove that Lunaria is an agent acting for and in behalf of petitioner.^[6] Consequently, according to the MTCC, with the granting of the demurrer to evidence which is equivalent to an acquittal, petitioner's civil liability found no factual support.^[7]

Private respondent appealed the decision with respect to the civil aspect of the case to the RTC of Bulacan, which in a Decision^[8] dated September 6, 2010, set aside the Resolution dated May 12, 2010 issued by the MTCC. The RTC held that while proof beyond reasonable doubt is required to sustain a conviction, one's entitlement to the award of civil liability requires only a preponderance of evidence. While petitioner did not present evidence with respect to both the criminal and civil aspects of the case in view of her filing of the demurrer to evidence, however, private respondent presented her own evidence.^[9] The RTC declared that the foregoing evidence is sufficient to constitute preponderance of evidence to hold petitioner civilly liable, which was not rebutted by evidence to the contrary,^[10] Accordingly, the RTC remanded the case to the court of origin for further proceedings to enable petitioner to present evidence.

On May 31, 2012, the MTCC rendered a Decision^[11] in favor of private respondent, the dispositive portion of which states:

WHEREFORE, premises considered, judgment on the civil aspect is hereby rendered in favor of complainant Armelia A. Amparo, ordering:

Fred Lunaria to pay in full the amount of Php 696,00.00 unto Amelia A. Amparo with interest thereon of 12% a year until such time of full payment of the same;

Julieta Ong is jointly and solidarily liable on the full amount of the loan.

SO RESOLVED.

Petitioner appealed the decision to the RTC. However, the RTC in its assailed Decision^[12] dated April 30, 2013 denied the appeal and affirmed the decision of the MTCC with modification by excluding Fred Lunaria from joint and solidary liability with petitioner.

Petitioner filed a motion for reconsideration, but the motion was denied by the RTC in its assailed Order^[13] dated June 20, 2013.

Aggrieved, petitioner filed this petition for certiorari, raising the lone issue, to wit:
^[14]

WHETHER [OR NOT PETITIONER] JULIETA ONG SHALL BE MADE CIVILLY LIABLE TO PAY THE FULL AMOUNT OF PHP 696,000.00 TO [PRIVATE RESPONDENT] ARMELIA AMPARO WITH THE INTEREST OF 10% A YEAR UNTIL FULL PAYMENT OF THE OBLIGATION WAS MADE, CONSIDERING THAT SHE HAS BEEN ACQUITTED IN THE CRIMINAL CASE FOR B.P. 22 AND IT WAS THE PERSON OF WITNESS FRED LUNARIA WHO HAD RECEIVED THE MONEY FROM [PRIVATE RESPONDENT]. (*Emphasis ours*)

Petitioner claims that only Fred Lunaria should be held civilly liable, since, he was the one who transacted with private respondent and received the proceeds of the checks.^[15] Petitioner also argues that the instant case had passed the stage of appeal, and the trial court had acted with grave abuse of discretion in denying her motion for reconsideration.^[16] On the other hand, private respondent claims that petitioner should have filed a petition for review under Rule 42 of the Rules of Court to assail the April 30, 2013 Decision and June 20, 2013 Order issued by the RTC. The petition should be dismissed, since, an appeal was available to petitioner and a petition for certiorari cannot be a substitute for a lost appeal.^[17] Further, no grave abuse of discretion was manifested in the issuance of the assailed Decision and Order of the trial court.^[18]

The petition is not meritorious.

With regard to the procedural aspect of this case, this Court agrees with private respondent's contention that petitioner had availed of the wrong remedy. Petitioner should have filed a petition for review under Rule 42 of the Rules of Court, and not a petition for certiorari under Rule 65. It bears stressing that the extraordinary remedy of certiorari can be availed only if there is no appeal nor any plain, speedy, and adequate remedy in the ordinary course of law.^[19] On the other hand, a petition for review may be filed by a party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction.^[20] In this case, when the RTC issued the assailed decision and order, it did so in the exercise of its appellate jurisdiction. Hence, the proper remedy therefrom is a petition for review under Rule 42 .

In any case, even granting that the petition can be properly filed under Rule 65 of the Rules of Court, the same should still be dismissed.

It should be noted that as a legal recourse, the special civil action of *certiorari* is a limited form of review. It is restricted to resolving errors of jurisdiction, not errors of judgment. Indeed, as long as the lower courts act within their jurisdiction, alleged