



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **03 January 2022** which reads as follows:*

“G.R. No. 256601 (*Rico John Colorines Garcia v. People of the Philippines, Ellen May C. Famoso and Arnel P. Perin*). – This is a Petition with Motion to Consolidate Cases¹ assailing the Joint Resolution² dated January 11, 2021 and Order³ dated March 1, 2021 of the Regional Trial Court (RTC), Branch 2, Tagum City, Davao del Norte. At the same time, petitioner Rico John Colorines Garcia (petitioner) prays that the present petition be consolidated with G.R. No. 254408⁴ (*Rico John Colorines Garcia v. People of the Philippines, Kristen Marie L. Gaid and Jes Angelo Masangnay*) pending with the Third Division as both cases have similar issues and involve the same assailed cases/indictments.⁵

The Antecedents

Respondents Ellen May Famoso⁶ and Arnel P. Perin⁷ filed their respective complaint-affidavits with the Office of the City Prosecutor (OCP) accusing petitioner of Syndicated *Estafa* under Presidential Decree No. 1689, in relation to Article 315, paragraph 2(a) of the Revised Penal Code (RPC). Later, the OCP of Tagum City found probable cause to charge petitioner and several other individuals, with

¹ *Rollo*, p. 3-23.

² *Id.* at 102-106; penned by Presiding Judge Ma. Susana T. Baua

³ *Id.* at 122; penned by Acting Presiding Judge Arlene I. Lirag-Palabrica.

⁴ Per Resolution dated September 27, 2021, the Court through the Third Division already denied G.R. No. 254408 for being a wrong mode of appeal under Section 1, Rule 41 of the Rules of Court.

⁵ *Rollo*, p. 122.

⁶ *Id.* at 27-32, 123-126.

⁷ *Id.* at 123-126.

the crime of Syndicated *Estafa*.⁸

Feeling aggrieved, petitioner filed a Motion to Dismiss⁹ alleging that the RTC lacked jurisdiction to hear and determine the cases against him.¹⁰

Ruling of the RTC

On January 11, 2021, the RTC issued the Joint Resolution¹¹ denying petitioner's Motion to Dismiss.¹² It held that petitioner's arguments were absurd and explained that the jurisdiction of a court in criminal cases is based on the penalty attached to each case and not on the amount involved therein.¹³ The RTC likewise found the Informations sufficient to establish probable cause against petitioner.¹⁴ It decreed as follows:

WHEREFORE, premises considered, the Motions to Quash of accused Rosenda Colorines Garcia in Crim. Cases Nos. 26397 and 26399 and the Motions to Dismiss of accused Rico John Colorines Garcia in Crim. Cases Nos. 26600 and 26603, are all DENIED.

x x x x.

SO ORDERED.¹⁵

Petitioner moved to reconsider the Joint Resolution of the RTC, but the RTC denied it for lack of merit.¹⁶

Thus, the present petition praying for the dismissal of petitioner's cases.

Ruling of the Court

The Court resolves to dismiss the present petition for being procedurally infirm.

⁸ *Id.* at 66.

⁹ *Id.* at 71-83.

¹⁰ *Id.* at 82.

¹¹ *Id.* at 102-106.

¹² *Id.* at 71-83.

¹³ *Id.* at 105.

¹⁴ *Id.* at 103-104.

¹⁵ *Id.* at 105-106.

¹⁶ *Id.* at 122.

The ground relied upon by petitioner in his Motion to Dismiss,¹⁷ which is the lack of jurisdiction of the RTC to hear and determine his cases, is actually one of the grounds provided under a Motion to Quash in Section 3(b),¹⁸ Rule 117 of the Revised Rules of Criminal Procedure.

Settled is the rule that a denial of a motion to quash is not appealable as it is merely interlocutory. An appeal from interlocutory orders is proscribed to avoid multiplicity of appeals in a single action, which inevitably results in delay.¹⁹ Besides, a denial of the motion to quash can still be raised in the appeal of a judgment of conviction. Under the circumstances, the adequate, plain and speedy remedy is to proceed to trial and to determine the guilt or innocence of the accused.²⁰ The Court explained in one case:

The reason of the law in permitting appeal only from a final order or judgment, and not from interlocutory or incidental one, is to avoid multiplicity of appeals in a single action, which must necessarily suspend the hearing and decision on the merits of the case during the pendency of the appeal. If such appeal were allowed, the trial on the merits of the case should necessarily be delayed for a considerable length of time, and compel the adverse party to incur unnecessary expenses; for one of the parties may interpose as many appeals as incidental questions may be raised by him and interlocutory orders rendered or issued by the lower court.²¹

Significantly, on September 27, 2021, the Court already denied a similar petition in G.R. No. 254408, involving the same parties, issues and assailed indictments, for being a wrong mode of appeal under the Rules.

The same rule applies in the present petition. Under Section 1(b), Rule 41 of the Rules of Court, no appeal may be taken from an interlocutory order. In a denial of a motion to quash information, as in this case, the plain and speedy remedy is to proceed to trial of the case on the merits and if the decision is adverse, to reiterate the issue on appeal.

¹⁷ *Id.* at 71-83.

¹⁸ **Section 3. Grounds.** — The accused may move to quash the complaint or information on any of the following grounds:

XXXX

(b) That the court trying the case has no jurisdiction over the offense charged;

¹⁹ *Jalandoni v. Casimiro*, G.R. No. 211751, May 10, 2021.

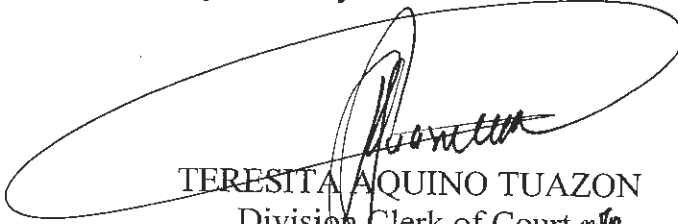
²⁰ *Cagang v. Sandiganbayan*, G.R. Nos. 206438 and 206458, July 31, 2018.

²¹ *Miranda v. Sandiganbayan*, 815 Phil. 123, 139 (2017).

WHEREFORE, the petition is DISMISSED.

SO ORDERED.”

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court
10 MAY 2022

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 2
Tagum City, Davao del Norte
(Crim. Case No. 26603)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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GR256601. 01/03/2022(230)URES