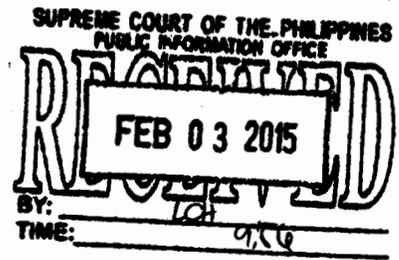




Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 12, 2015**, which reads as follows:*

“G.R. No. 171680 (Judge Adoracion G. Angeles vs. Hon. Manuel C. Domingo, et al.)¹. – Before us is a special civil action for *certiorari* under Rule 65 of the Rules of Court, dated March 15, 2006,² filed by (Retired) Judge Adoracion G. Angeles (*Angeles*), seeking to annul and set aside the Resolutions dated September 28, 2005³ and March 2, 2006,⁴ respectively, of the Court of Appeals for issuing the same with grave abuse of discretion.

To recapitulate, on April 12, 1999, Maria Mercedes Vistan was taken by Michael Vistan, her half-brother from the custody of petitioner Angeles without the latter's consent. Thus, on April 13, 1999, petitioner filed a complaint for kidnapping against Michael Vistan and others. Subsequently, Maria Mercedes Vistan filed a complaint against petitioner for violation of the *Special Protection of Children against Child Abuse, Exploitation and Discrimination Act* (R.A. No. 7610). The case was assigned to respondent State Prosecutor Emmanuel Y. Velasco (*Velasco*) for purposes of preliminary investigation.

Velasco, through a Resolution dated June 20, 1999, recommended that an information for violation of R.A. No. 7610 be filed against Judge Angeles. Said Resolution was subsequently approved by the Chairman of the Task Force on Child Protection of the Department of Justice in behalf of the Chief State Prosecutor.

Petitioner filed a motion to reconsider the aforementioned resolution. The motion was denied by State Prosecutors Rosario Rodrigo-Lanacas and Rosarine Balauag. Petitioner filed a petition to review the said resolution. The assailed resolution was reversed. Thus, the Department of Justice ordered the withdrawal of the information filed against the petitioner.

¹ Respondent should be the Court of Appeals as per petition for *certiorari* dated March 15, 2006.
² *Rollo*, pp. 3-13.
³ *Id.* at 14-23.
⁴ *Id.* at 24-30.

On, June 6, 2001, petitioner filed an administrative complaint against Velasco for the malicious handling of the preliminary investigation. Then DOJ Secretary Hernando B. Perez dismissed the complaint. On February 18, 2002, a motion to reconsider the dismissal was denied with finality. Petitioner filed a petition for review before the Office of the President, but was dismissed for lack of merit. The motion to reconsider was likewise denied.

Before the Court of Appeals, petitioner assailed the Resolutions of the Office of the President in dismissing the complaint against Velasco.

In the assailed Decision dated September 28, 2005, the Court of Appeals affirmed the Resolutions dated February 19, 2003 and February 19, 2004 of the Office of the President. Petitioner moved for reconsideration, but was denied on March 2, 2006. Thus, the instant petition.

We see no reason to disturb the appellate court's decision.

Section 1, Rule 65 of the Rules of Court clearly sets forth when a petition for certiorari can be used as a proper remedy:

SECTION 1. *Petition for certiorari.* –When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its jurisdiction, or with **grave abuse of discretion amounting to lack or excess of jurisdiction**, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.⁵

Thus, for a special civil action for *certiorari* to prosper, the following requisites must concur, namely: (a) it must be directed against a tribunal, board or officer exercising judicial or quasi-judicial functions; (b) the tribunal, board, or officer must have acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (c) there is no appeal nor any plain, speedy, and adequate remedy in the ordinary course of law. The burden of proof lies on petitioner to demonstrate that the assailed order was issued without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction.

Petitioner failed to comply with these requisites. She merely alleged that the appellate court had acted without or in excess of its jurisdiction, but failed to show in her petition in what manner and at what point did the

⁵ Emphasis ours.

January 12, 2015

appellate court in resolving the case, acted without or in excess of his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. In fact, a perusal of the petition would show that the issues raised therein were rehash of the same arguments she raised before the DOJ and the Office the President.

Likewise, the appellate court's decision was not without basis. Indeed, the finding of probable cause against petitioner is an exercise of discretion to which Velasco cannot be prosecuted for even assuming the same was reversed on appeal. The determination of probable cause for purposes of filing of information in court is essentially an executive function that is lodged, at the first instance, with the public prosecutor and, ultimately, to the Secretary of Justice. The prosecutor and the Secretary of Justice have wide latitude of discretion in the conduct of preliminary investigation, and their findings with respect to the existence or non-existence of probable cause are generally not subject to review by the Court.⁶

The issues raised herein basically questioned the appellate court's findings and giving credence on the evidence as presented by the Office of the President. Thus, in effect, what petitioner assailed was the appellate court's purported errors of judgment or those involving misappreciation of evidence or errors of law, which, as aforesaid, cannot be raised and be reviewed in a Rule 65 petition. Even assuming that the appellate court indeed erred in its judgment, we have previously held that the mere fact that a court erroneously decides a case does not necessarily deprive it of jurisdiction.⁷

It is our view that the conclusions arrived at by the appellate court cannot be characterized as capricious, whimsical or arbitrary. Furthermore, considering that the petition basically raises issues pertaining to alleged errors of judgment and not errors of jurisdiction, we need not embark upon review of the factual and evidentiary issues as these are obviously not within the realm of Our jurisdiction.⁸ It is not for this Court to re-examine conflicting evidence, re-evaluate the credibility of the witnesses, or substitute the findings of fact of the court *a quo*.⁹

Finally, we note that Velasco already died during the pendency of this petition, however, it does not render the same moot because of the importance of the issues involved.

⁶ *Unilever Philippines, Inc. v. Michael Tan*, G.R. No. 179367, January 29, 2014, 715 SCRA 36, 44.

⁷ *Ysidoro v. First Divison of the Sandiganbayan*, G.R. No. 171513 and G.R. No. 190963, February 6, 2012, 665 SCRA 1, 16.

⁸ *Villareal v. Aliga*, G.R. No 166995, January 13, 2014, 713 SCRA 52, 73-74.

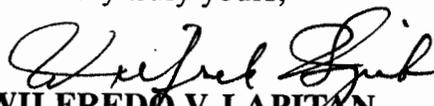
⁹ *First Corporation v. Former Sixth Division of the Court of Appeals*, 553 Phil. 526, 541 (2007).

January 12, 2015

WHEREFORE, in consideration of the foregoing, the petition is **DISMISSED**. The assailed Resolutions dated September 28, 2005 and March 2, 2006 of the Court of Appeals in CA-G.R. SP No. 82819 dismissing the petitioner's appeal are **AFFIRMED**. (*Velasco, Jr., J.*, no part; *Sereno, C.J.*, designated Acting Member per Raffle dated August 22, 2014)

SO ORDERED.”

Very truly yours,


WILFREDO V. LAPITAN
Division Clerk of Court

1/27/15

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Pros. Emmanuel Y. Velasco
Deceased

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Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila