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Misael Domingo C. Battung III
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Third Division

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SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

DEEPAK KUMAR,
Petitioner,

G.R. No 247661

Present:

-versus-

LEONEN, J., Chairperson,
GESMUNDO,
CARANDANG,
ZALAMEDA, and
GAERLAN, JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:
June 15, 2020

Misael Domingo C. Battung III

X-----X

DECISION

LEONEN, J.:

The remedy facilitated by Rule 45 of the Rules of Court is appeal by certiorari. For any petition for review on certiorari to prosper and warrant attention by this Court, it must satisfy the basic procedural requisites imposed by Rule 45. Among others, it must not only raise pure questions of law but also questions of such substance as to be of distinctly significant consequence and value. A Rule 45 petition that fails to readily demonstrate “special and important reasons[,]” as required by Rule 45, Section 6, may be denied due course, and disposed without further action by this Court.

This resolves a Petition for Review on Certiorari¹ under Rule 45 of the Rules of Court praying that the assailed Decision² and Resolution³ of the

¹ Rollo, pp. 9–27.

² Id. at 29–36. The Decision dated November 23, 2018 was penned by Associate Justice Marlene Gonzales-Sison (Chairperson), and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Perpetua T. Atal-Paño of the Thirteenth Division of the Court of Appeals, Manila.

Court of Appeals in CA-G.R. SP No. 156711 be reversed and set aside. The assailed Decision denied petitioner Deepak Kumar's (Kumar) Petition for Certiorari under Rule 65 of the Rules of Court and found no grave abuse of discretion on the part of the Regional Trial Court in declining to entertain Kumar's Notice of Appeal, as the trial court decision which Kumar sought to appeal had lapsed into finality. The assailed Resolution denied Kumar's Motion for Reconsideration.

In an August 18, 2016 Joint Decision,⁴ the Regional Trial Court of Muntinlupa City found Kumar guilty for charges of violating Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and Their Children Act of 2004 (the "Anti-VAWC Law"), specifically, that he choked his wife, hit her head, pulled her hair, and forced her into sexual activity. The dispositive portion of this Decision read:

WHEREFORE, the Court finds accused Deepak Kumar guilty beyond reasonable doubt in Criminal Case No. 11-544 for violation of Section 5(a) of Republic Act No. 9262 and is sentenced to a straight penalty of four (4) months of *arresto mayor* in its medium in the absence of an aggravating or mitigating circumstance, and is further ordered to pay the private complainant P5,000.00 as and for civil indemnity; P10,000.00 as and for moral damages; P5,000.00 as and for temperate damages; and P10,000.00 as and for exemplary damages, all with 6% per annum [interest] from the finality of this decision.

The court also finds accused Deepak Kumar guilty beyond reasonable doubt in Criminal Case No. 11-545 for violation of Section 5(g) of Republic Act No. 9262 and is sentenced to an indeterminate penalty of four (4) years and two (2) months of *prision correccional* in its medium as the minimum to eight (8) years and one (1) day of *prision mayor* in its medium, as the maximum period, in the absence of a mitigating or an aggravating circumstance, with all the accessory penalties under the Revised Penal [Code] and other laws. He is further ordered to pay the private complainant P20,000.00 as and for civil indemnity; P20,000.00 as and for moral damages; P5,000.00 as and for temperate damages[;] and P20,000.00 as and for exemplary damages, all with 6% per annum [interest] from the finality of this decision.

In both cases, the accused is prohibited from threatening or attempting to threaten, personally or through another, the private complainant and her family, or from harassing, annoying, telephoning, contacting, or otherwise communicating with the private complainant, directly or indirectly, and is further ordered to stay away from the private complainant or any member of her family or household, or from their residence or places the private complainant usually goes, at a distance of 500 meter radius. Accused is further prohibited from any use [sic] or possession of any firearm or deadly weapon, and is ordered to surrender the same to the court for appropriate disposition. Accused is warned that

³ Id. at 38–39. The Resolution dated May 21, 2019 was penned by Associate Justice Marlene Gonzales-Sison (Chairperson), and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Perpetua T. Atal-Pano of the Former Thirteenth Division of the Court of Appeals, Manila.

⁴ Id. at 47–59. The Joint Decision was penned by Presiding Judge Philip A. Aguinaldo of the Regional Trial Court of Muntinlupa City, Branch 207.

any violation of this protection order is punishable by contempt, or it is basis to file another criminal case against him.

SO ORDERED.⁵

Despite notice, Kumar was absent during the promulgation of judgment.⁶ In any case, a copy of this Decision was received by Kumar's counsel of record on August 23, 2016. As no motion, pleading, or any other submission in reference to this Decision was ever filed before the Regional Trial Court, this Decision lapsed into finality. Entry of judgment was thereafter made. Kumar's counsel of record was served notice of such entry on September 8, 2016.⁷

A year and a half later, on March 14, 2018, D Dimayacyac Law Firm filed before the Regional Trial Court an Entry of Appearance with Notice of Appeal.⁸

In a March 27, 2018 Order, the Regional Trial Court, still through Judge Aguinaldo, denied the Notice of Appeal as the Decision sought to be appealed had become final.⁹

Following the denial of his Motion for Reconsideration, Kumar filed a Petition for Certiorari before the Court of Appeals.¹⁰

In its assailed November 23, 2018 Decision,¹¹ the Court of Appeals dismissed Kumar's Rule 65 Petition as it found no grave abuse of discretion on the part of Judge Aguinaldo in denying Kumar's Notice of Appeal.

Following the denial of his Motion for Reconsideration,¹² Kumar filed the present Petition.

For this Court's resolution is the sole issue of whether or not the Court of Appeals erred in not finding grave abuse of discretion amounting to lack or excess of jurisdiction on the part of Regional Trial Court Judge Philip A. Aguinaldo in refusing to entertain petitioner Deepak Kumar's Notice of Appeal.

This Court dispenses with the filing of a Comment by respondent and outright denies due course to the present Petition. It fails to present any

⁵ Id. at 30–31.

⁶ Id. at 34.

⁷ Id. at 31.

⁸ Id.

⁹ Id.

¹⁰ Id. at 29.

¹¹ Id. at 29–36.

¹² Id. at 38–39.

consideration of such character as those identified in Rule 45, Section 6 of the Rules of Court and as would warrant the exercise of this Court's power of judicial review.

I

Petitioner comes to this Court by way of a Petition for Review on Certiorari under Rule 45 of the Rules of Court. Other than appeals brought to this Court concerning "criminal cases where the penalty imposed is death, reclusion perpetua or life imprisonment[.]"¹³ a Petition for Review on Certiorari is the sole procedural vehicle through which appeals may be taken to this Court.

The entirety of Rule 45 reads:

SECTION 1. *Filing of Petition with Supreme Court.* — A party desiring to appeal by certiorari from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall **raise only questions of law, which must be distinctly set forth.** The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

SECTION 2. *Time for filing; extension.* — The petition shall be **filed within fifteen (15) days from notice** of the judgment or final order or resolution appealed from, or of the denial of the petitioner's motion for new trial or reconsideration filed in due time after notice of the judgment. On motion duly filed and served, with full payment of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Supreme Court may for justifiable reasons grant an extension of thirty (30) days only within which to file the petition.

SECTION 3. *Docket and other lawful fees; proof of service of petition.* — Unless he has theretofore done so, the petitioner shall pay the corresponding docket and other lawful fees to the clerk of court of the Supreme Court and deposit the amount of P500.00 for costs at the time of the filing of the petition. Proof of service of a copy, thereof on the lower court concerned and on the adverse party shall be submitted together with the petition.

SECTION 4. *Contents of petition.* — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a

¹³ RULES OF COURT, Rule 45, Sec. 9.

motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court a quo and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42.

SECTION 5. *Dismissal or denial of petition.* — The *failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents* which should accompany the petition shall be sufficient ground for the dismissal thereof.

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is *without merit*, or is *prosecuted manifestly for delay*, or that the *questions raised therein are too unsubstantial to require consideration*.

SECTION 6. *Review discretionary.* — A review is not a matter of right, but of sound judicial discretion, and will be *granted only when there are special and important reasons therefor*. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of the reasons which will be considered:

- (a) When the court a quo has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or
- (b) When the court a quo has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision.

SECTION 7. *Pleadings and documents that may be required; sanctions.* — For purposes of determining whether the petition should be dismissed or denied pursuant to section 5 of this Rule, or where the petition is given due course under section 8 hereof, the Supreme Court may require or allow the filing of such pleadings, briefs, memoranda or documents as it may deem necessary within such periods and under such conditions as it may consider appropriate, and impose the corresponding sanctions in case of non-filing or unauthorized filing of such pleadings and documents or non-compliance with the conditions therefor.

SECTION 8. *Due course; elevation of records.* — If the petition is given due course, the Supreme Court may require the elevation of the complete record of the case or specified parts thereof within fifteen (15) days from notice.

SECTION 9. *Rule applicable to both civil and criminal cases.* — The mode of appeal prescribed in this Rule shall be applicable to both civil and criminal cases, except in criminal cases where the penalty imposed is

death, reclusion perpetua or life imprisonment. (Emphasis supplied)

From Rule 45's provisions will be gleaned basic procedural standards which a petitioner must satisfy if one's Rule 45 Petition is to be entertained:

- (1) that the petition does not only exclusively raise questions of law, but also that it distinctly sets forth those legal issues;¹⁴
- (2) that it be filed within 15 days of notice of the adverse ruling that impels it;¹⁵
- (3) that docket and other lawful fees are paid;¹⁶
- (4) that proper service is made;¹⁷
- (5) that all matters that Section 4 specifies are indicated, stated, or otherwise contained in it;¹⁸
- (6) that it is manifestly meritorious;¹⁹
- (7) that it is not prosecuted manifestly for delay;²⁰ and
- (8) that that the questions raised in it are of such substance as to warrant consideration.²¹

Failing in these, this Court is at liberty to deny outright or deny due course to a Rule 45 Petition. Any such denial may be done without the need of any further action, such as the filing of responsive pleadings or submission of documents, the elevation of records, or the conduct of oral arguments.

Furthermore, this Court's denial may come in the form of a minute resolution which does not go into the merits of the case, and instead merely states which among the eight (8) standards it is based. A denial by minute resolution does not violate the constitutional imperative that judicial decisions "[express]. . . clearly and distinctly the facts and the law on which [they are] based."²² This is because any such minute resolution is not a judgment on a case, but is a declaration that a Rule 45 petition is insufficient in form and substance.

Hence, it is that petition's manifest inadequacies that prevent it from proceeding any further, not the ultimate quality of its factual and legal assertions.

Rule 45, Section 6 expounds on the eighth standard. Thus, to say that the questions raised in a Rule 45 Petition must be of such substance as to

¹⁴ RULES OF COURT, Rule 45, sec. 1.

¹⁵ RULES OF COURT, Rule 45, sec. 2.

¹⁶ RULES OF COURT, Rule 45, sec. 5 (1), in relation to sec. 3.

¹⁷ RULES OF COURT, Rule 45, sec. 5 (1).

¹⁸ RULES OF COURT, Rule 45, sec. 5 (1), in relation to Sec. 4.

¹⁹ RULES OF COURT, Rule 45, sec. 5 (2).

²⁰ RULES OF COURT, Rule 45, sec. 5 (2).

²¹ RULES OF COURT, Rule 45, sec. 5 (2).

²² CONST., art. 8, sec. 14.

warrant consideration is to say that judicial review shall proceed “only when there are *special and important* reasons.”²³ The use of the conjunctive “and” *vis-à-vis* the adjectives “special” and “important” means that the reasons invoked for review must be of distinctly significant consequence and value. Rule 45, Section 6 (a) and (b) illustrate the gravity of reasons which would move this Court to act:

- (a) When the court *a quo* has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or
- (b) When the court *a quo* has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision. (Emphasis in the original)

From these, this Court is better advised to stay its hand and not entertain the appeal when there is no novel legal question involved, or when a case presents no doctrinal or pedagogical value whereby it is opportune for this Court to review and expound on, rectify, modify and / or clarify existing legal policy, or lay out novel principles and delve into unexplored areas of law.

This Court may decline to review cases when all that are involved are settled rules for which nothing remains but their application. Also, when there is no manifest or demonstrable departure from legal provisions and/or jurisprudence. So too, when the court whose ruling is assailed has not been shown to have so wantonly deviated from settled procedural norms or otherwise enabled such deviation.

Litigants may very well aggrandize their petitions, but it is precisely this Court’s task to pierce the veil of what they purport to be questions warranting this Court’s sublime consideration. It remains in this Court’s exclusive discretion to determine whether a Rule 45 Petition is attended by the requisite important and special reasons.

II

The stringent requirements for Rule 45 petitions to prosper and the immense discretion vested in this Court are in keeping with the basic nature of a Rule 45 Petition as an “appeal by certiorari[.]”²⁴

Nominally, the remedy of a Petition for Review on Certiorari is a

²³ RULES OF COURT, Rule 45, sec. 6.

²⁴ RULES OF COURT, Rule 45, sec. 1.

novel creation of the 1997 Rules of Civil Procedure. However, this Court has existed and has been the court of last resort long before 1997. For obvious reasons, the present remedy provided by Rule 45 is not the first time that our procedural rules have stipulated on how appeals may be taken to this Court. A petition for review on certiorari under Rule 45 is but the contemporary iteration of what the present Rules of Court's predecessors have themselves, also denominated as an "appeal by certiorari[.]"

Concerning appeals from the Court of Appeals to this Court, Rule 45 of the 1964 Rules of Court provided:

RULE 45

Appeal from Court of Appeals to Supreme Court

SECTION 1. *Filing of Petition with Supreme Court.* — A party may ***appeal by certiorari***, from a judgment of the Court of Appeals, ***by filing with the Supreme Court a petition for certiorari***, within fifteen (15) days from notice of judgment or of the denial of his motion for reconsideration filed in due time, and paying at the same time, to the clerk of said court the corresponding docketing fee. The petition shall not be acted upon without proof of service of a copy thereof to the Court of Appeals. (Emphasis supplied)

The 1964 Rules of Court echoed the 1940 Rules of Court in providing for appeal by certiorari as the vehicle for assailing rulings of the Court of Appeals before this Court. Rule 46, Section 1 of the 1940 Rules of Court provided:

RULE 46

Appeal from Court of Appeals to Supreme Court

SECTION 1. *Filing of Petition with Supreme Court.* — A party may ***appeal by certiorari*** from a judgment of the Court of Appeals, ***by filing with the Supreme Court a petition for certiorari***, within ten (10) days from the date of entry of such judgment, and paying at the same time, to the clerk of said court the corresponding docketing fee. Copy of the petition shall be furnished the Court of Appeals within the time herein provided. (Emphasis supplied)

Under the 1964 Rules of Court, appeals may also be taken to this Court from Courts of First Instance. This was governed by Rule 42. Rule 42 Section 1 provided for the mode of appeal and referenced the "rules governing appeals to the Court of Appeals." Rule 42, Section 2 also implied that appeals from courts of first instance to this Court need not involve pure questions of law:

RULE 42

Appeal from Courts of First Instance to Supreme Court

SECTION 1. *Procedure.* — The procedure of appeal to the Supreme Court from Courts of First Instance shall be ***governed by the same rules governing appeals to the Court of Appeals***, except as hereinafter provided.

SECTION 2. *Appeal on Pure Question of Law.* — Where the appellant states in his notice of appeal or record on appeal that he will raise only questions of law, no other questions shall be allowed, and the evidence need not be elevated. (Emphasis supplied)

Rule 41, Section 3 of the 1964 Rules of Court provided for the mode of appeal from courts of first instance to the Court of Appeals:

RULE 41

Appeals from Courts of First Instance and the Social Security Commission to Court of Appeal

....

SECTION 3. *How Appeal Is Taken.* — Appeal may be taken ***by serving upon the adverse party and filing with the trial court within thirty (30) days from notice of order or judgment, a notice of appeal, an appeal bond, and a record on appeal.*** The time during which a motion to set aside the judgment or order or for a new trial has been pending shall be deducted, unless such motion fails to satisfy the requirements of Rule 37.

Under the 1964 Rules of Court, appeals may also be taken to this Court from specified quasi-judicial agencies, the Court of Agrarian Relations, the Court of Industrial Relations, and the Court of Tax Appeals. On these, Rule 43, Section 1 and Rule 44, Section 1 provided:

RULE 43

Appeal From an Order or Decision of Securities and Exchange Commission, Land Registration Commission, Court of Agrarian Relations, Social Security Commission, Secretary of Labor Under Section 7 of the Minimum Wage Law, Court of Industrial Relations, Civil Aeronautics Board, Workmen's Compensation Commission and Commission on Elections

SECTION 1. *How Appeal Taken.* — Any party may appeal from a final order, ruling or decision of the Securities and Exchange Commission, the Land Registration Commission, the Court of Agrarian Relations, the Social Security Commission, the Secretary of Labor under Section 7 of the Minimum Wage Law, the Court of Industrial Relations, the Civil Aeronautics Board, the Workmen's Compensation Commission, and the

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Commission on Elections *by filing with said bodies a notice of appeal and with the Supreme Court* twelve (12) printed or mimeographed copies of *a petition for certiorari or review* of such order, ruling or decision, *as the corresponding statute may provide*. A copy of the petition shall be served upon the court, commission, board or officer concerned and upon the adverse party, and proof of service thereof attached to the original of the petition.

.....

RULE 44

Appeal from an Award, Order or Decision of Public Service Commission, Patent Office, Agricultural Inventions Board, Court of Tax Appeals, and General Auditing Office

SECTION 1. *How Appeal Taken*. — An appeal from a final award, order or decision of the Public Service Commission, the Patent Office, the Agricultural Inventions Board, the Court of Tax Appeals, and the General Auditing Office, shall be perfected *by filing with said bodies a notice of appeal and with the Supreme Court* twelve (12) copies of a petition for review of the award, order or ruling complained of, within a period of thirty (30) days from notice of such award, order or decision. (Emphasis supplied)

The 1997 Rules of Court thereby consolidated and streamlined the manner by which appeals are brought to this Court. Previously, one could appeal through an appeal by certiorari, by filing a notice of appeal (accompanied by an appeal bond and record on appeal), or through a petition for review, depending on which court's or body's ruling is being assailed.

Under the present Rules of Court, with the exception of “criminal cases where the penalty imposed is death, reclusion perpetua or life imprisonment[.]”²⁵ rulings of lower courts may be assailed in this Court only through a petition for review on certiorari where, as a rule, factual issues cannot be entertained. Further, no longer may appeals be taken from quasi-judicial bodies. Rather, under Rule 43, petitions for review are to be filed with the Court of Appeals.²⁶

The present Rule 45's continuing use of the term “appeal by certiorari” is telling. Even as a petition filed under Rule 45 is now called a “petition for *review on certiorari*,” rather than a “petition for certiorari” (as was the case with the 1964 and 1940 versions of the Rules of Court), Rule 45 continues to hearken to relief obtained by way of the issuance of the prerogative writ of certiorari.

Heirs of Zoleta v. Land Bank of the Philippines,²⁷ extensively

²⁵ RULES OF COURT, Rule 45, sec. 9.

²⁶ RULES OF COURT, Rule 43, sec. 1.

²⁷ *Heirs of Zoleta v. Land Bank of the Philippines*, 816 Phil. 389 (2017) [Per J. Leonen, Third Division].

discussed the origin and history of certiorari, how it was “[c]onceived in England, transplanted into our jurisdiction during American occupation, and presently [exists] under the 1987 Constitution,”²⁸ as well as how it “was and remains [to be] a means for superior judicial bodies to undo the excesses of inferior tribunals.”²⁹ It explained:

The writ of certiorari was a prerogative writ “issued by the King by virtue of his position as fountain of justice and supreme head of the whole judicial administration.”

....

While most writs were issued *de cursu* and upon proper demand, there remained writs reserved only for the King’s Bench: *certiorari*, *mandamus*, *prohibition*, and *quo warranto*. Consistent with the status of the King’s Bench as “the highest court in the land,” it “controlled the action of the other courts” through these writs. Nevertheless, the King’s Bench issued these writs “only in extraordinary cases . . . and only when some gross injustice was being done by other authorities.” They were used only sparingly and in the most urgent of circumstances: “It remained the function of the King, through his court of King’s Bench, to [be the] judge of the necessity for their issue, and they accordingly came to be known as prerogative writs.”

Spouses Delos Santos v. Metropolitan Bank and Trust Company recounted the purposes of and circumstances under which writs of certiorari were issued by the King’s Bench:

In the common law, from which the remedy of certiorari evolved, the writ of certiorari was issued out of Chancery, or the King’s Bench, commanding agents or officers of the inferior courts to return the record of a cause pending before them, so as to give the party more sure and speedy justice, for the writ would enable the superior court to determine from an inspection of the record whether the inferior court’s judgment was rendered without authority. The errors were of such a nature that, if allowed to stand, they would result in a substantial injury to the petitioner to whom no other remedy was available. If the inferior court acted without authority, the record was then revised and corrected in matters of law. The writ of certiorari was limited to cases in which the inferior court was said to be exceeding its jurisdiction or was not proceeding according to essential requirements of law and would lie only to review judicial or quasi-judicial acts.

The United States of America carried this English tradition. There, historically, only the courts which “have inherited the jurisdiction of the English court of King’s Bench” could issue a writ of *certiorari*.

The writ of certiorari, as a means of judicially rectifying a jurisdictional error, was adopted by the Philippines from the California Code of Civil Procedure. ...

²⁸ Id. at 401.

²⁹ Id.

....
As *Spouses Delos Santos v. Metropolitan Bank and Trust Company* further explained:

The concept of the remedy of certiorari in our judicial system remains much the same as it has been in the common law. In this jurisdiction, however, the exercise of the power to issue the writ of certiorari is largely regulated by laying down the instances or situations in the Rules of Court in which a superior court may issue the writ of certiorari to an inferior court or officer.³⁰ (Emphasis in the original, citations omitted)

It is in keeping with this basic nature of certiorari as a prerogative writ that is issued only in extraordinary circumstances that Rule 45 of the Rules of Court sets stringent standards that must be satisfied before this Court is impelled to commit its limited time and resources to reviewing a case. As it seeks the issuance of an extraordinary prerogative writ, every Rule 45 petition must initially demonstrate itself to be compliant with the eight (8) standards previously discussed. Among others, it must raise questions of substance (i.e., issues that are of distinctly significant consequence and value) and not merely involve settled rules that need only be applied.

III

This Court finds the present Petition to be so utterly devoid of merit and so woefully failing to present questions of substance. This Petition merits outright denial through a mere minute resolution. The only consideration that justified the issuance of this full Decision is how the fact of the Petition being so utterly devoid of merit makes it an opportune illustrative case to discuss the standards for when Rule 45 petitions ought to be denied due course.

It is basic that appeal is not a matter of right. Parties wishing to appeal must comply with the rules, otherwise they lose their opportunity to appeal:

[T]he right to appeal is not a natural right or a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law. The party who seeks to avail of the remedy of appeal must comply with the requirements of the rules; otherwise, the appeal is lost. Rules of procedure are required to be followed, except only when, for the most persuasive of reasons, they may be relaxed to relieve the litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.³¹ (Citation omitted)

³⁰ Id. at 401-406.

³¹ *Gabriel v. Court of Appeals*, 561 Phil. 673, 681-682 (2007) [Per J. Nachura, Third Division].

It was therefore incumbent on petitioner, and on those representing him, to timely act on the adverse judgment that he later sought to appeal. Failure to do so meant the adverse judgment's lapsing into finality as a matter of course. Such is the case here when, following proper service upon petitioner's counsel of record on August 23, 2016 of the Regional Trial Court's August 18, 2016 Joint Decision, that Decision lapsed into finality. Accordingly, entry of judgment was made. Notice of such entry was further served on petitioner's counsel of record on September 8, 2016.

The finality of the Regional Trial Court's Decision means that it can no longer be disturbed:

[A] decision that has acquired finality becomes immutable and unalterable. As such, it may no longer be modified in any respect even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land.³² (Citation omitted)

From these, it is clear that Judge Aguinaldo merely acted in keeping with settled principles in declining to entertain the Notice of Appeal filed by petitioner through another counsel a year and a half after entry of judgment was made. This is not at all grave abuse of discretion amounting to lack or excess of jurisdiction.

The Court of Appeals, thus, did not err in dismissing petitioner's Rule 65 Petition.

Petitioner would insist on a more basic error: that the Regional Trial Court erred in promulgating its Joint Decision in his absence. He would claim that service of prior and subsequent notices on his counsel of record was ineffectual as this counsel had already withdrawn.³³ However, as noted by both the Regional Trial Court and the Court of Appeals, the records show no indication of any such withdrawal.³⁴ This claim of withdrawal remains to be nothing more than an unsubstantiated, self-serving allegation.

Thus, promulgation of the Joint Decision in petitioner's absence "by recording [it] in the criminal docket and serving a copy [thereof]. . . thru his counsel"—pursuant to the fourth paragraph of Rule 120, Section 6 of the Rules of Court³⁵—was validly conducted by the Regional Trial Court.³⁶

³² *Republic v. Catubag*, G.R. No. 210580, April 18, 2018, 861 SCRA 697, 707 [Per J. Reyes, Jr., Second Division].

³³ *Rollo*, p. 34.

³⁴ *Id.*

³⁵ RULES OF COURT, Rule 120, sec. 6 (4) provide:
SECTION 6. *Promulgation of judgment.* —

.....

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WHEREFORE, in view of petitioner's failure to show that the discretionary power of the Court to review meets the requirements of Rule 45, Section 6 of the Rules of Court, the Petition is **DENIED DUE COURSE**. The assailed November 23, 2018 Decision and May 21, 2019 Resolution of the Court of Appeals in CA-G.R. SP No. 156711 are **AFFIRMED**.

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice


WE CONCUR:



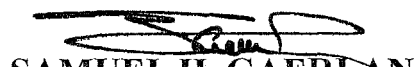
ALEXANDER G. GESMUNDO
Associate Justice



ROSMARID. CARANDANTE
Associate Justice



RODIL V. ZALAMEDA
Associate Justice



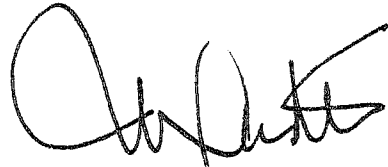
SAMUEL H. GAERLAN
Associate Justice

In case the accused fails to appear at the scheduled date of promulgation of judgment despite notice, the promulgation shall be made by recording the judgment in the criminal docket and serving him a copy thereof at his last known address or thru his counsel.

³⁶ See *Rollo*, p. 34.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY

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MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division
OCT 13 2020

