Republic of the Philippines  
**SUPREME COURT**  
Manila

THIRD DIVISION

**G.R. No. 152444             February 16, 2005**

**FRANCISCO C. BASA, MANUEL H. OSMEÑA, MARK PHILIP L. BASA and RENATO H. UY,** petitioners,   
vs.  
**PEOPLE OF THE PHILIPPINES,** respondent.

D E C I S I O N

**SANDOVAL-GUTIERREZ, *J.:***

Petition for review on *certiorari*[1](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt1) assailing the Decision[2](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt2) dated October 30, 2001 and Resolution[3](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt3) dated March 11, 2002 of the Court of Appeals in CA-G.R. CR No. 24767, the dispositive portion of which reads:

"**WHEREFORE**, premises considered, the instant petition for review is hereby DENIED DUE COURSE, and is hereby DISMISSED.

SO ORDERED."

On January 12, 2000, Francisco C. Basa, Manuel H. Omeña, Mark Philip L. Basa and Renato H. Uy, herein petitioners, were charged with swindling under paragraph 2, Article 316 of the Revised Penal Code; and falsification of public document under paragraph 4, Article 171 of the same Code, before the Metropolitan Trial Court (MeTC), Branch 65, Makati City, docketed as Criminal Cases Nos. 279220 and 279220. The two (2) Informations[4](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt4) read:

CRIMINAL CASE NO. 279220

"That or about and during the period covering March 1998, in Makati City, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and all of them mutually helping and aiding with one another, did then and there willfully, unlawfully and feloniously defrauded complainant, POINTER CONSTRUCTION INTERNATIONAL CORPORATION, represented by Ofelia P. Trinidad, in the following manner, to wit: the said accused, being the corporate officers of One World Land and Properties Corporation, through Company Board Resolution No. 98-001 dated March 11, 1998, approved and mortgage a property covered by TCT No. 21163 of the Registry of Deeds of Makati City to Pioneer Insurance and Surety Corporation for the amount of ~~P~~60,000,000.00, through false and fraudulent representation that said property was free and clear from any encumbrance, when in truth and in fact as the accused well knew that said real property covered by TCT No. 21163 was indeed and actually encumbered per annotation appearing on the back of TCT No. 210429 and 210430, under Primary Entry No. 98250/21049 – agreement which reads as follows:

‘EXECUTED BY AND BETWEEN POINTER CONSTRUCTION & ONE WORLD LAND AND PROPERTIES CORPORATION WITH CONDITIONS AMONG OTHERS THAT THE PROPERTIES WILL BE TRANSFERRED INTO ITS NAME AND THE PAYMENT OF 40 MILLION WILL BE PAID TO POINTER CONSTRUCTION INTERNATIONAL CORPORATION IN THE FORM OF CONDO UNITS OR COMMERCIAL SPACES OF EQUAL WORTH FROM THE DEVELOPMENT MADE ON THE PROPERTIES. MAKATI, DECEMBER 9, 1997.’

which annotation/inscription of the new title (TCT No. 21163) was not carried over by the Registry of Deeds of Makati City on the new title to the damage and prejudice of private complainant in the amount of ~~P~~60,000,000.00 as mortgaged.

CONTRARY TO LAW."

CRIMINAL CASE NO. 279221

"That on or about and during the period covering January up to February, 1998, in Makati City, a place within the jurisdiction of this Honorable Court, the above-named accused, who are all private individuals and corporate officers of One World Land and Properties Corporation, conspiring and confederating together, and all of them mutually helping and aiding with one another, did then and there willfully, unlawfully and feloniously caused the cancellation of Transfer Certificate of Title Nos. 210429 and 210430 of the Registry of Deeds of Makati City, and thereafter caused the falsification of a new Transfer Certificate of Title No. 211643 also of the Registry of Deeds of Makati City, hence, a public document by causing it to appear in the new Transfer Certificate of Title No. 211643 that it was not encumbered when in truth and in fact as all the accused well knew that said new TCT No. 211643 was encumbered per Primary Entry No. 90250/210429 annotated/inscribed as the back of the cancelled Transfer Certificate of Tile Nos. 210429 and 210430 which reads:

‘EXECUTED BY AND BETWEEN POINTER CONSTRUCTION & ONE WORLD LAND AND PROPERTIES CORPORATION WITH CONDITIONS AMONG OTHERS THAT THE PROPERTIES WILL BE TRANSFERRED INTO ITS NAME AND THE PAYMENT OF 40 MILLION WILL BE PAID TO POINTER CONSTRUCTION INTERNATIONAL CORPORATION IN THE FORM OF CONDO UNITS OR COMMERCIAL DEVELOPMENTS MADE ON THE PROPERTIES. MAKATI, DECEMBER 9, 1997.’

which encumbrance the accused have all the legal obligation to disclose to the Registry of Deeds of Makati City but which the accused did not do so and was deliberately made with the wrongful intent, causing damage to POINTER CONSTRUCTION COMPANY, INC., represented by Ofelia Trinidad, thereby ultimately making it appear that the new Transfer Certificate of Title No. 211643 was unencumbered, free and clean from any encumbrances to the damage and prejudice of POINTER CONSTRUCTION COMPANY and of the public interest in violation of Article 171, paragraph four (4) of the Revised Penal Code.*1ªvvphi1.nét*

CONTRARY TO LAW."

On February 23, 2000, petitioners, through counsel, filed a Joint Motion to Quash[5](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt5) on the ground that the facts charged in each Information do not constitute an offense.

On March 27, 2000, the MeTC issued an order granting petitioners’ motion, thus:

"WHEREFORE, premises considered, this Court hereby grants accused’s Joint Motion to Quash. Accordingly, the Informations in Criminal Cases Nos. 279220-21 are hereby quashed for the facts charged therein do not constitute an offense.

SO ORDERED."

Subsequently, Ofelia Trinidad, private complainant, with the conformity of the Public Prosecutor, filed a motion for reconsideration but was denied in an Order[6](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt6) dated May 24, 2000.

On appeal, the Regional Trial Court (RTC), Branch 65, Makati City, rendered its Decision in Criminal Cases Nos. 289220-21 reversing the appealed Order and directing the continuation of the proceedings, thus:

"WHEREFORE, judgment is hereby rendered SETTING ASIDE, for lack of merit, the Order dated 27 March 2000 of the Metropolitan Trial Court, Branch 65, Makati City, and in lieu thereof, the Prosecution may proceed with the prosecution of the instant cases against the accused.

SO ORDERED."

Forthwith, petitioners filed their motion for reconsideration but was denied in an Order dated November 23, 2000.

Thereafter, petitioners filed with the Court of Appeals a petition for review pursuant to Section 3(b), Rule 122 of the Revised Rules of Criminal Procedure, in relation to Rule 42 of the 1997 Rules of Civil Procedure, as amended.

On October 30, 2001, the Court of Appeals rendered its Decision dismissing the petition on the ground that their remedy of appeal from the RTC Decision is improper. This Decision is actually **interlocutory** in nature.

Petitioners’ motion for reconsideration was likewise denied in a Resolution dated February 27, 2002.

Hence, the instant petition for review on *certiorari*.

Petitioners contend in the main that, contrary to the Court of Appeals ruling, their remedy of appeal by way of petition for review from the Decision of the RTC is proper. They maintain that "(t)he reversal by the RTC of the quashal order appealed from did not revert the case to its original status x x x. Petitioners still have a right to challenge that (reversal) before a higher court."[7](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt7)

In his comment, the Solicitor General argues that petitioners’ contention lacks merit. He asserts that "the crimes charged in the two (2) Informations have been clearly and sufficiently defined for successful prosecution."[8](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt8)

The only issue for our resolution is whether petitioners’ appeal is proper.

Petitioners erroneously assume that the RTC Decision is final and appealable, when in fact it is **interlocutory**. Thus, they filed a petition for review with the Court of Appeals under Section 3(b), Rule 122 of the Revised Rules of Criminal Procedure, which provides:

"Sec. 3. How appeal taken. –

x x x

(b) The appeal to the Court of Appeals in cases decided by the Regional Trial Court in **the exercise of its appellate jurisdiction** shall be by **petition for review under Rule 42.**

x x x." (underscoring ours)

Section 1, Rule 42 of the 1997 Rules of Civil Procedure, as amended, states:

"Sec. 1. *How appeal taken; time for filing*. – A party desiring to **appeal** from a decision of the Regional Trial Court rendered **in the exercise of its appellate jurisdiction** may file a verified **petition for review** with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of ~~P~~500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. x x x." (underscoring ours)

The above provisions contemplate of an appeal from a **final** decision or order of the RTC in the exercise of its appellate jurisdiction. Thus, the remedy of appeal under Rule 42 resorted to by the petitioners is improper. To repeat, the RTC Decision is not final but **interlocutory** in nature.

A **final** order is one that which disposes of the whole subject matter or terminates a particular proceeding or action, leaving nothing to be done but to enforce by execution what has been determined.*l^vvphi1.net* Upon the other hand, an order is **interlocutory** if it does not dispose of a case completely, but leaves something more to be done upon its merits.[9](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt9)

Tested against the above criterion, the RTC Decision is beyond cavil interlocutory in nature. It is essentially a denial of petitioners’ motion to quash because it leaves something more to be done in Criminal Cases Nos. 279220-21, i.e., the continuation of the criminal proceedings until the guilt or innocence of the accused is determined. Specifically, the MeTC has yet to arraign the petitioners, then proceed to trial, and finally render the proper judgment.

It is axiomatic that an order denying a motion to quash on the ground that the allegations in the Informations do not constitute an offense cannot be challenged by an appeal.[10](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt10) This Court generally frowns upon this remedial measure as regards interlocutory orders. The evident reason for such rule is to avoid multiplicity of appeals in a single action.[11](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt11) To tolerate the practice of allowing appeals from interlocutory orders would not only delay the administration of justice but also would unduly burden the courts.[12](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt12)

In *Latican vs. Vergara*, this Court defined the proper procedure in case of denial of a motion to quash. The accused has to enter a plea, go to trial without prejudice on his part to present the special defenses he had invoked in his motion to quash and, if after trial on the merits, an adverse decision is rendered, to **appeal therefrom** in the manner authorized by law.[13](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt13)

Moreover, we agree with the Court of Appeals that the RTC properly denied petitioners’ motion to quash. In determining the sufficiency of a criminal Information, the elementary rule is that the elements of the offense of which the accused is charged must be stated therein with reasonable certainty to enable the accused to prepare his defense.[14](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt14) As correctly stated by the RTC in its Decision:

"In their Joint Motion to Quash, the accused (now petitioners) failed to analyze and point out specifically the elements of the crimes charged which are not alleged in the Informations. As movants, they have the burden of proof in showing that certain elements of the crimes charged in the Informations were not alleged by the prosecution. The accused failed to do so."

Also, the Court of Appeals in its assailed Decision aptly held:

"The RTC has determined, with authorities to support its findings, that the charges set forth in the criminal Informations are substantive and comprehensive enough to preclude deficiencies in the allegations, and that petitioners failed to prove the absence of some elements of the crimes.

"Petitioners in their Joint Motion to Quash hoped to discuss the merits of the allegations in the Information, and not particularly the sufficiency of the charges in establishing probable cause. The RTC, therefore, acted within the bounds of its authority when it reversed the ruling of the MTC. Any objection of the petitioners on this matter should be raised in any timely appeal they may file after the trial court has rendered its verdict on petitioners’ guilt."[15](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "fnt15)

**WHEREFORE**, the petition is DENIED. The Decision of the Court of Appeals in CA-G.R. CR No. 24767 is AFFIRMED. Costs against petitioners.

SO ORDERED.

Panganiban, (Chairman), Corona, Carpio-Morales, and Garcia, JJ., concur.

**Footnotes**

[1](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt1) Pursuant to Rule 45, 1997 Rules of Civil Procedure, as amended.

[2](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt2) Penned by *J*ustice Rodrigo V. Cosico and concurred in by *J*ustices Bienvenido L. Reyes and Eliezer R. de los Santos.

[3](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt3) Annex "B", Petition, at 64-66.

[4](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt4) Annexes "E" and "F", *id.* at 236-239.

[5](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt5) Annex "I", *id.* at 86-95.

[6](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt6) Annex "O", *id.* at 135-136.

[7](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt7) Petition, Rollo at 37.

[8](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt8) *Rollo* at 375.

[9](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt9) *Marcelo vs. de Guzman,* G.R. No. L-29077, June 29, 1982.

[10](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt10) [*Go vs. Court of Appeals, G.R. No. 128954*](http://www.lawphil.net/judjuris/juri1998/oct1998/gr_128954_1998.html), October 8, 1998, 297 SCRA 575.

[11](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt11) *Marcelo vs. De Guzman*, No. L-29077, June 29, 1982, 114 SCRA 657.

[12](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt12) *Go vs. Court of Appeals*, *supra.*

[13](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt13) [G.R. No. 108619](http://www.lawphil.net/judjuris/juri1997/jul1997/gr_108619_1997.html), July 31, 1997, 276 SCRA 519; citing [*Lee vs. People, G.R. No.137914*](http://www.lawphil.net/judjuris/juri2002/dec2002/gr_137914_2002.html), December 4, 2002, 393 SCRA 398; *Bulaong vs. Court of Appeals,* G.R. No. 78555, January 30, 1990, 181 SCRA 618; *Acharon vs. Purisima,* G.R. No. 23731, June 27, 1965, 13 SCRA 309.

[14](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt14) *Balitaan vs. CFI of Batangas,* 115 SCRA 729 (1982).

[15](http://www.lawphil.net/judjuris/juri2005/feb2005/gr_152444_2005.html" \l "rnt15) *Rollo* at 61-62.