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SECOND DIVISION

[G.R. No. 168771. July 25, 2012]

ROBERTO DIPAD and SANDRA DIPAD, *petitioners, vs.* **SPOUSES ROLANDO OLIVAN and BRIGIDA OLIVAN, and RUBIO GUIJON MADRIGALLO,** *respondents.*

SYLLABUS

1. TAXATION; NATIONAL INTERNAL REVENUE CODE; INCOME TAX RETURNS; SECTION 270 CITED BY PETITIONERS DOES NOT ADDRESS THE CONFIDENTIALITY OF ITRs.— The provision prohibits employees of the Bureau of Internal Revenue (BIR) from divulging the trade secrets of taxpayers. Section 270 obviously does not address the confidentiality of ITRs. Thus, petitioners cannot rely on the inappropriate provision, the Decisions including the cited *Cu Unjieng v. Posadas*, the rulings of the BIR, or issuances of the Department of Finance that apply that provision. Furthermore, in contrast to the interpretation by petitioners of the commentary that ITRs cannot be divulged, their very reference characterizes Section 71 as an exception to the rule on the unlawful divulgence of trade secrets: **Exceptions or acts which do not constitute unlawful divulgence of trade secrets.**–(a) Section 71 of the Tax Code makes income tax returns public records and opens them to inspection upon order of the President of the Philippines xxx.

2. LEGAL ETHICS; CODE OF PROFESSIONAL RESPONSIBILITY; A LAWYER SHALL NOT KNOWINGLY MISQUOTE OR MISREPRESENT THE CONTENTS OF A PAPER OR THE TEXT OF A DECISION OR AUTHORITY.— This Court then reminds the counsels of their duty of candor, fairness and good faith when they face the court. Canon 10.02 of the Code of Professional Responsibility instructs that a lawyer shall not knowingly misquote or misrepresent the contents of a paper; the language or the argument of opposing counsel, or the text of a decision or authority, or knowingly cite as law a provision

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already rendered inoperative by repeal or amendment; or assert as a fact that which has not been proved.

3. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; ONLY CORRECTS ERRORS OF JURISDICTION.— In this regard, we stress that it is basic in our jurisdiction that a petition for *certiorari* under Rule 65 is not a mode of appeal. The remedy, which is narrow in scope, only corrects **errors of jurisdiction**. Thus, if the issue involves an **error of judgment**, the error is correctible by an appeal via a Rule 45 petition, and not by a writ of *certiorari* under Rule 65 of the Rules of Court.

4. ID.; ID.; ID.; ERRORS OF JURISDICTION; DEFINITION. — As defined in jurisprudence, errors of jurisdiction occur when the court exercises jurisdiction not conferred upon it by law. They may also occur when the court or tribunal, although it has jurisdiction, acts in excess of it or with grave abuse of discretion amounting to lack of jurisdiction.

5. ID.; CIVIL ACTIONS; JURISDICTION; ERRORS OF JUDGMENT; DEFINITION. – On the contrary, errors of judgment are those that the court may commit in the exercise of its jurisdiction. They include errors of procedure or mistakes in the court's findings based on a mistake of law or of fact.

6. ID.; ID.; ID.; ID.; IN THE CASE AT BAR, THE ONLY ERROR PETITIONERS RAISE REFERS TO JUDGE CLAVECILLA'S MISTAKE OF NOT APPLYING SECTION 71.— Based on the definitions above, we conclude similarly as the RTC that if there is an error to speak of the error relates only to a mistake in the application of law, and not to an error of jurisdiction or grave abuse of discretion amounting to excess of jurisdiction. The only error petitioners raise refers to Judge Clavecilla's mistake of not applying Section 71, which allegedly prohibits the production of ITRs because of confidentiality.

APPEARANCES OF COUNSEL

Eustaquio S. Beltran for petitioners.

Salvador G. Cajot for respondents.

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R E S O L U T I O N

SERENO, *J.*:

Before this Court is a Rule 45 Petition, seeking to review the 6 May 2005 Regional Trial Court (RTC) Decision in Special Civil Action No. RTC 2005-0032. In that Decision, the RTC dismissed petitioners' Rule 65 Petition, which assailed the directive of Judge Marvel C. Clavecilla requiring Roberto Dipad to submit the latter's Income Tax Returns (ITRs) for the years 2001 to 2003.

The pertinent facts are as follows: [1]

Due to a collision between the car of petitioner spouses Dipad and the passenger jeep owned by respondents, the former filed a civil action for damages before the *sala* of Municipal Trial Court (MTC) Judge Clavecilla.

During trial, Roberto Dipad mentioned in his direct testimony that because he was not able to make use of his vehicle for his buy-and-sell business, he suffered damages by way of lost income for three months amounting to ₱40,000.[2] Then, during cross-examination, the defense required him **to produce his personal copy of his ITRs for the years 2001, 2002 and 2003**.[3]

Dipad vehemently objected on the ground of confidentiality of the ITRs. He also claimed that the demand therefor was incriminatory and in the nature of a fishing expedition.

By reason of the opposition, Judge Clavecilla suspended the trial and required petitioners to show their basis for invoking the confidentiality of the ITRs. After the parties submitted their respective Comments on the matter, the MTC in its 3 February 2005 Order required the production of the ITRs.

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[1] *Rollo*, pp. 14-17; Verified Petition for Review on *Certiorari* dated 25 July 2005.

[2] *Rollo*, p. 87, Memorandum for the Petitioners dated 12 April 2006.

[3] *Id.* at 15, Verified Petition for Review on *Certiorari* dated 25 July 2005.

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Aggrieved, the spouses Dipad filed a Motion for Reconsideration, which was denied by Judge Clavecilla. Thereafter, they instituted a Rule 65 Petition for *Certiorari* and Prohibition before the RTC, assailing the 3 February 2005 Order of the MTC for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. In that Petition, they opposed Judge Clavecilla's ruling in this wise:[4]

> x x x [T]he respondent Judge stated in his order dated February 3, 2005 (Annex "G") in Civil Case No. 11884 that the cited provision does not apply, stating that "what is being requested to be produced is plaintiffs' copy of their tax returns for the years 2001 to 2003 x x x," thereby ordering the plaintiffs therein, now the petitioners, "to furnish defendants' counsel within five (5) days from receipt of this order copy of their income tax returns for the years 2001 to 2003, inclusive."
>
> We beg to differ to such holding, because if a copy of a taxpayer's return filed with the Bureau of Internal Revenue can be open to inspection **only** upon the order of the President of the Philippines, such provision presupposes the confidentiality of the document; and with more reason that the taxpayer cannot be compelled to yield his copy of the said document. (Emphasis in the original)
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> xxx xxx xxx
>
> Thus, it is indubitable that compelling the petitioners to produce petitioner Roberto Dipad's Income Tax Returns and furnish copies thereof to the private respondents would be violative of the provisions of the National Internal Revenue Code on the rule on confidentiality of Income Tax return as discussed above x x x. (Underscoring supplied)

In its 6 May 2005 Decision,[5] the RTC dismissed the Rule 65 Petition for being an inappropriate remedy. According to the trial court, the errors committed by Judge Clavecilla were, if at all, mere errors of judgment correctible not by the extraordinary writ of *certiorari*, but by ordinary appeal. Petitioners moved for reconsideration, but their motion was denied by the RTC.[6]

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[4] *Id.* at 30-32, Petition for *Certiorari* and Prohibition dated 7 March 2005.

[5] *Id.* at 51-52.

[6] *Id.* at 56; Order dated 7 June 2005.

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Hence, this appeal.

The issue presented in this case is straightforward. Petitioners insist that that the RTC committed reversible error in dismissing their Rule 65 Petition as an improper appeal, since grave abuse of discretion amounting to excess of jurisdiction was committed by MTC Judge Clavecilla when he required the production of their ITRs.[7]

In support of their claim and to prove the confidentiality of the ITRs they cite Section 71 of the National Internal Revenue Code, which reads:[8]

> Section 71. *Disposition of Income Tax Returns, Publication of Lists of Taxpayers and Filers* — After the assessment shall have been made, as provided in this Title, the returns, together with any corrections thereof which may have been made by the Commissioner, shall be filed in the Office of the Commissioner and **shall constitute public records** and be **open to inspection** as such upon the order of the President of the Philippines, under rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner.
>
> The Commissioner may, in each year, cause to be prepared and published in any newspaper the lists containing the names and addresses of persons who have filed income tax returns.

They also quote from *National Internal Revenue Code* (2001) authored by Epifanio G. Gonzales and Celestina M. Robledo-Gonzales:[9]

> The general rule is that despite a court order, copies of the income tax returns cannot be furnished in view of the prohibition contained in Section 332 (now Section 286) of the Tax Code.
>
> However, under Section 11 of Regulation 33 of the Department of Finance the Commissioner of Internal Revenue may furnish copies

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[7] *Id.* at 19; Verified Petition for Review on *Certiorari* dated 25 July 2005.

[8] *Id.* at 20.

[9] *Id.* at 20-21.

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of income tax returns for use as evidence in court litigation "when the government of the Philippine Islands is interested in the result."

Thus, in the case of *Cu Unjieng vs. Posadas*, 58 Phil. 360, which involves the production of income tax returns in a criminal case, the Supreme Court held that copies of the returns can be furnished therein because a criminal case is a sort of a case in which, above all others, the government, as a corporate representative of all society, is highly and immediately interested.

But in a civil case where the government is not interested in the results, no income tax returns or tax census statements may be furnished the courts even if the production thereof is in obedience to the court order (see BIR Ruling No. 4, S. 1971).

RULING OF THE COURT

The appeal is lacking in merit.

Upon perusal of the reference, we find that petitioners inaccurately quoted the commentary.[10] The portions they lifted from the annotation purport to explain Section 270 of the NIRC.[11]

The provision prohibits employees of the Bureau of Internal Revenue (BIR) from divulging the trade secrets of taxpayers. Section 270 obviously does not address the confidentiality of ITRs. Thus, petitioners cannot rely on the inappropriate provision, the Decisions including the cited *Cu Unjieng v. Posadas*,[12] the

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[10] Epifanio G. Gonzales and Celestina M. Robledo-Gonzales, National Internal Revenue Code 664-665 (2001).

[11] SEC. 270. Unlawful Divulgence of Trade Secrets. - Except as provided in Section 71 of this Code and Section 26 of Republic Act No. 6388, any officer or employee of the Bureau of Internal Revenue who divulges to any person or makes known in any other manner than may be provided by law information regarding the business, income or estate of any taxpayer, the secrets, operation, style or work, or apparatus of any manufacturer or producer, or confidential information regarding the business of any taxpayer, knowledge of which was acquired by him in the discharge of his official duties, shall upon conviction for each act or omission, be punished by a fine of not less than Fifty thousand pesos (₱50,000) but not more than One hundred thousand pesos (₱100,000), or suffer imprisonment of not less than two (2) years but not more than five (5) years, or both.

[12] 58 Phil. 360 (1933).

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rulings of the BIR, or issuances of the Department of Finance that apply that provision.

Furthermore, in contrast to the interpretation by petitioners of the commentary that ITRs cannot be divulged, their very reference characterizes Section 71 as an exception to the rule on the unlawful divulgence of trade secrets:[13]

> **Exceptions or acts which do not constitute unlawful divulgence of trade secrets. –**
>
> (a) Section 71 of the Tax Code makes income tax returns public records and opens them to inspection upon order of the President of the Philippines. x x x.

This Court then reminds the counsels of their duty of candor, fairness and good faith when they face the court. Canon 10.02 of the Code of Professional Responsibility instructs that a lawyer shall not knowingly misquote or misrepresent the contents of a paper; the language or the argument of opposing counsel, or the text of a decision or authority, or knowingly cite as law a provision already rendered inoperative by repeal or amendment; or assert as a fact that which has not been proved.

Nevertheless, we proceed to the contention of petitioners against the RTC's dismissal of their Rule 65 Petition. In this regard, we stress that it is basic in our jurisdiction that a petition for *certiorari* under Rule 65 is not a mode of appeal.[14] The remedy, which is narrow in scope,[15] only corrects **errors of jurisdiction**.[16] Thus, if the issue involves an **error of judgment,** the error is

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[13] *Supra* note 10.

[14] *Abedes v. Court of Appeals*, G.R. No. 174373, 15 October 2007, 536 SCRA 268; *Camutin v. Sps. Potente,* G.R. No. 181642, 29 January 2009, 577 SCRA 151.

[15] *Republic of the Philippines (University of the Philippines) v. Legaspi, Sr.,* G.R. No. 177611, 18 April 2012.

[16] *Centro Escolar University Faculty and Allied Workers Union-Independent v. Court of Appeals,* 523 Phil. 427 (2006).

correctible by an appeal via a Rule 45 petition, and not by a writ of *certiorari* under Rule 65 of the Rules of Court.[17]

As defined in jurisprudence, errors of jurisdiction occur when the court exercises jurisdiction not conferred upon it by law.[18] They may also occur when the court or tribunal, although it has jurisdiction, acts in excess of it or with grave abuse of discretion amounting to lack of jurisdiction.[19]

On the contrary, errors of judgment are those that the court may commit in the exercise of its jurisdiction. They include errors of procedure or mistakes in the court's findings[20] based on a mistake of law or of fact.[21]

Here, it is patently clear that petitioners do not question whether the MTC has jurisdiction or authority to resolve the issue of confidentiality of ITRs. Rather, they assail the wisdom of the MTC's very judgment and appreciation of the ITR as not confidential. Specifically, they claim that the ruling violated the provisions of the NIRC on the alleged rule on confidentiality of ITRs.

Based on the definitions above, we conclude similarly as the RTC that if there is an error to speak of, the error relates only to a mistake in the application of law, and not to an error of jurisdiction or grave abuse of discretion amounting to excess of jurisdiction. The only error petitioners raise refers to Judge Clavecilla's mistake of not applying Section 71, which allegedly prohibits the production of ITRs because of confidentiality. Certainly, as correctly posited by the court *a quo*, if every error committed by the trial court is subject to *certiorari*, trial would

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[17] *Ysidoro v. Leonardo-De Castro*, G.R. No. 171513, 6 February 2012.

[18] *Cabrera v. Lapid,* G.R. No. 129098, 6 December 2006, 510 SCRA 55.

[19] *GSIS v. Olisa,* 364 Phil. 59 (1999).

[20] *Banco Filipino Savings v. Court of Appeals,* 389 Phil. 644 (2000).

[21] *Lopez v. Alvendia,* G.R. No. L-20697, 120 Phil. 1424 (1964).

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never come to an end, and the docket will be clogged *ad infinitum*.[22]

Therefore, given the issues raised by petitioners in their plea for the extraordinary writ of *certiorari*, the RTC did not grievously err in dismissing the Rule 65 Petition as an improper appeal. This ruling is only in keeping with the proper conduct of litigation before the courts and the prompt administration of justice at every level of the judicial hierarchy.[23]

IN VIEW THEREOF, the assailed 6 May 2005 Decision of the Regional Trial Court in Special Civil Action No. RTC 2005-0032 is **AFFIRMED.** The 25 July 2005 Petition for Review filed by petitioners is hereby **DENIED** for lack of merit.

SO ORDERED.

Carpio (Senior Associate Justice, Chairperson), del Castillo,[*] *Perez,* and *Reyes, JJ.,* concur.

FIRST DIVISION

[G.R. No. 176251. July 25, 2012]

ALFONSO LAGAYA *y* TAMONDONG, *petitioner, vs.* **PEOPLE OF THE PHILIPPINES and DR. MARILYN MARTINEZ,** *respondents.*

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[22] *Spouses Ampeloquio v. Court of Appeals*, 389 Phil. 13 (2000).

[23] *Id.*

[*] Designated as additional member in lieu of Associate Justice Arturo D. Brion per S.O. No. 1257 dated 19 July 2012.