



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 56-2023

TO : ALL JUDGES OF THE FIRST AND SECOND LEVEL COURTS

SUBJECT : RULE TO BE OBSERVED WITH RESPECT TO THE LEGAL STANDING OF PRIVATE COMPLAINANT IN ASSAILING JUDGMENTS OR ORDERS IN CRIMINAL PROCEEDINGS BEFORE THE SUPREME COURT AND THE COURT OF APPEALS.

In its most recent decision, the Court, through Associate Justice Mario V. Lopez, formulated an edifying rule in *Mamerto Austria v. AAA and BBB*, *G.R. No. 205275*, promulgated on 28 June 2022, particularly on the private complainant's legal standing to question judgments or orders in criminal proceedings, thus:

(1) The private complainant has the legal personality to appeal the civil liability of the accused or file a petition for certiorari to preserve his or her interest in the civil aspect of the criminal case. The appeal or petition for certiorari must allege the specific pecuniary interest of the private offended party. The failure to comply with this requirement may result in the denial or dismissal of the remedy.

The reviewing court shall require the OSG to file comment within a non-extendible period of thirty (30) days from notice if it appears that the resolution of the private complainant's appeal or petition for certiorari will necessarily affect the criminal aspect of the case or the right to prosecute (ie., existence of probable cause, venue or territorial jurisdiction, elements of the offense, prescription, admissibility of evidence, identity of the perpetrator of the crime, modification of penalty, and other questions that will require a review of the substantive merits of the criminal

proceedings, of the nullification/reversal of the entire ruling, or cause the reinstatement of the criminal action or meddle with the prosecution of the offense, among other things). The comment of the OSG must state whether it conforms or concurs with the remedy of the private offended party. The judgment or order of the reviewing court granting the private complainant's relief may be set aside if rendered without affording the People, through the OSG, the opportunity to file a comment.

(2) The private complainant has no legal personality to appeal or file a petition for certiorari to question the judgments or orders involving the criminal aspect of the case or the right to prosecute, unless made with the OSG's conformity.

The private complainant must request the OSG's conformity within the reglementary period to appeal or file a petition for certiorari. The private complainant must attach the original copy of the OSG's conformity as proof in case the request is granted within the reglementary period. Otherwise, the private complainant must allege in the appeal or petition for certiorari the fact of pendency of the request for conformity, the Court shall dismiss the appeal or petition for certiorari for lack of legal personality of the private complainant.

(3) The reviewing court shall require the OSG to file comment within a non-extendible period of thirty (30) days from notice on the private complainant's petition for certiorari questioning the acquittal of the accused, the dismissal of the criminal case, and the interlocutory orders in criminal proceedings on the ground of grave abuse of discretion or denial of due process.

(4) These guidelines shall be prospective in application.

For the guidance of all concerned.

13 February 2023


RAUL B. VILLANUEVA
Court Administrator