



REPUBLIC OF THE PHILIPPINES

**Sandiganbayan**

Quezon City

Fifth Division

**PEOPLE OF THE PHILIPPINES,**      **Criminal Case No. 28345**  
***Plaintiff,***

- versus -

**CESAR P. GOPILAN, ELMER  
AYTONA & JORGE JAVIER,**

***Accused.***

**Present:**

**LAGOS, J., Chairperson,  
CRUZ\*, and  
MENDOZA-ARCEGA, JJ.**

**Promulgated:**

May 08, 2017 jcd

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**RESOLUTION**

***LAGOS, J.:***

The prosecution filed a *Motion for Reconsideration*<sup>1</sup> of the Court's Decision promulgated on 25 January 2017. Accused Gopilan, Aytona, and Javier filed their separate oppositions.<sup>2</sup>

The prosecution does not deny that it is filing its motion for reconsideration to comply with the requirements for the filing of a petition for *certiorari* under Rule 65. It claims that the Court committed grave abuse of discretion, and it points out matters of evidence that were not correctly considered. The thrust of the motion for reconsideration is its claim that the Court apparently reversed its earlier declarations in the resolution denying the accused's demurrer to evidence.

In their oppositions, all the accused argue that the decision cannot be reconsidered since this will place them in double jeopardy. They contend that

\*Designated as Special Member per Administrative Order No. 025-2017 dated 1 February 2017.

<sup>1</sup> Dated 10 February 2017; Records, Vol. 7, pp. 122-130.

<sup>2</sup> Accused Gopilan and Aytona filed a joint opposition dated 5 March 2017; Records, Vol. 7, pp. 147-151. Accused Javier filed his opposition dated 3 March 2017; Records, Vol. 7, pp. 152-163.

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the prosecution has only pointed out errors of judgement and not errors of jurisdiction.

The motion for reconsideration lacks merit.

The decision sought to be reconsidered is one that acquitted all the accused in this case. It is well-settled that a judgment of acquittal is immediately final and executory.<sup>3</sup> Such judgment cannot be reconsidered because to do so would place the accused under double jeopardy.<sup>4</sup>

In *Argel v. Pascua*,<sup>5</sup> the Supreme Court elucidated:

“Too elementary is the rule that a **decision once final is no longer susceptible to amendment or alteration** except to correct errors which are clerical in nature, to clarify any ambiguity caused by an omission or mistake in the dispositive portion, or to rectify a travesty of justice brought about by a *moro-moro* or mock trial. A final decision is the law of the case and is immutable and unalterable regardless of any claim of error or incorrectness.

In criminal cases, a **judgment of acquittal is immediately final upon its promulgation. It cannot be recalled for correction or amendment** except in the cases already mentioned **nor withdrawn by another order reconsidering the dismissal of the case** since the inherent power of a court to modify its order or decision does not extend to a judgment of acquittal in a criminal case.”<sup>6</sup>

In *Bangayan v. Bangayan*,<sup>7</sup> the Supreme Court explained the constitutional right against double jeopardy and the exceptions thereto:

“**Double jeopardy attaches if the following elements are present: (1) a valid complaint or information; (2) a court of competent jurisdiction; (3) the defendant had pleaded to the charge; and (4) the defendant was acquitted, or convicted or the case against him was dismissed or otherwise terminated without his express consent.** However, jurisprudence allows for certain exceptions when the dismissal is considered final even if it was made on motion of the accused, to wit:

(1) Where the dismissal is based on a demurrer to evidence filed by the accused after the prosecution has rested, which has the effect of a judgment on the merits and operates as an acquittal.

(2) Where the dismissal is made, also on motion of the accused, because of the denial of his right to a speedy trial which is in effect a failure to prosecute.

<sup>3</sup> Cruz v. Court of Appeals, G.R. No. 123340, 29 August 2002; People v. Hon. Tria-Tirona, G.R. No. 130106, 15 July 2005.

<sup>4</sup> Lejano v. People, G.R. Nos. 176389 & 176864, 18 January 2011.

<sup>5</sup> Argel v. Pascua, A.M. No. RTJ-94-113, 20 August 2001.

<sup>6</sup> Emphases supplied. Footnotes in the original omitted.

<sup>7</sup> G.R. No. 172777 & 172792, 19 October 2011.

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The only instance when the accused can be barred from invoking his right against double jeopardy is when it can be demonstrated that the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction, **such as where the prosecution was not allowed the opportunity to make its case against the accused or where the trial was a sham. For instance, there is no double jeopardy (1) where the trial court prematurely terminated the presentation of the prosecution's evidence and forthwith dismissed the information for insufficiency of evidence; and (2) where the case was dismissed at a time when the case was not ready for trial and adjudication.**" (Emphases supplied)

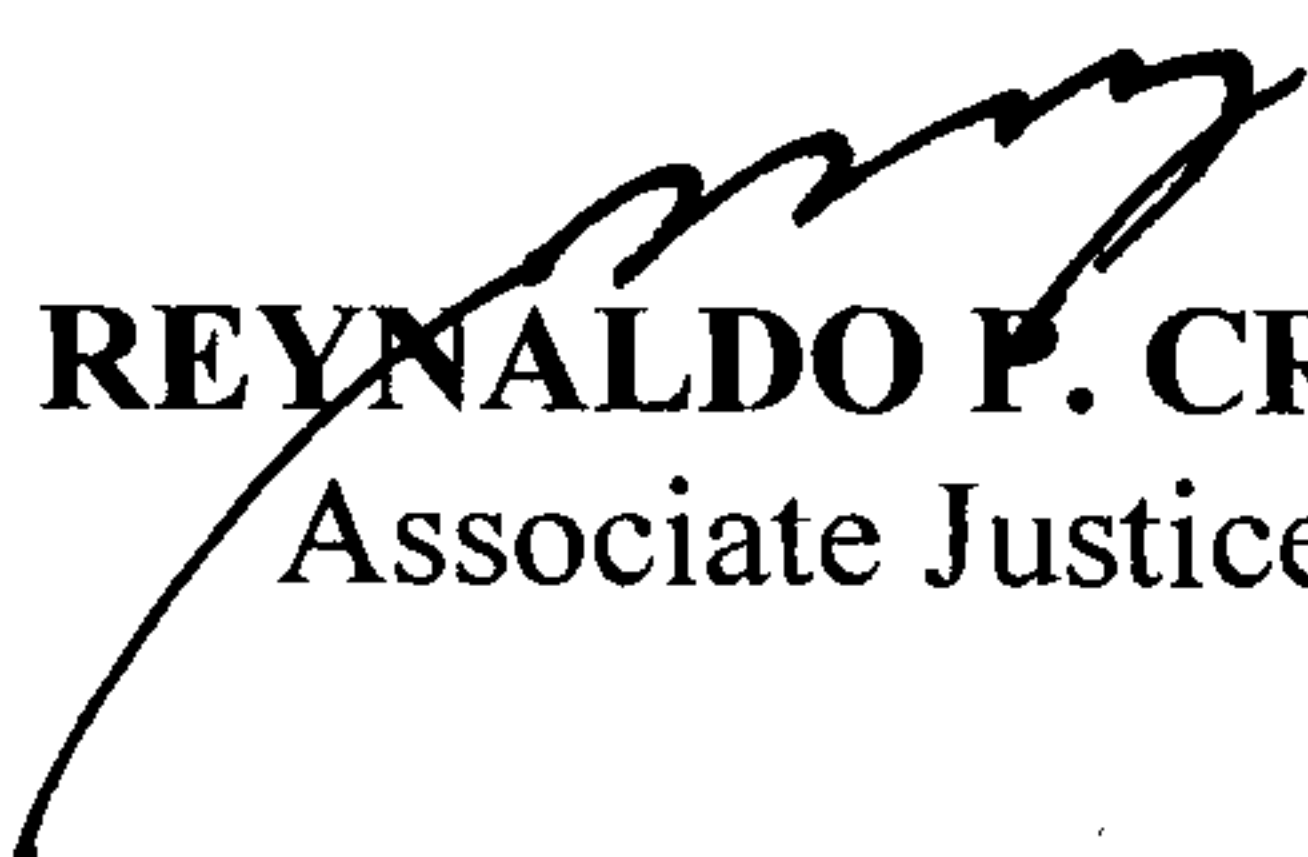
None of the cited exceptions to the double jeopardy rule is present in this case. The prosecution was afforded the full opportunity to present its case. A proper trial was conducted, after which a decision was duly promulgated. Thus, there is no legal basis to reconsider or reverse the assailed decision.

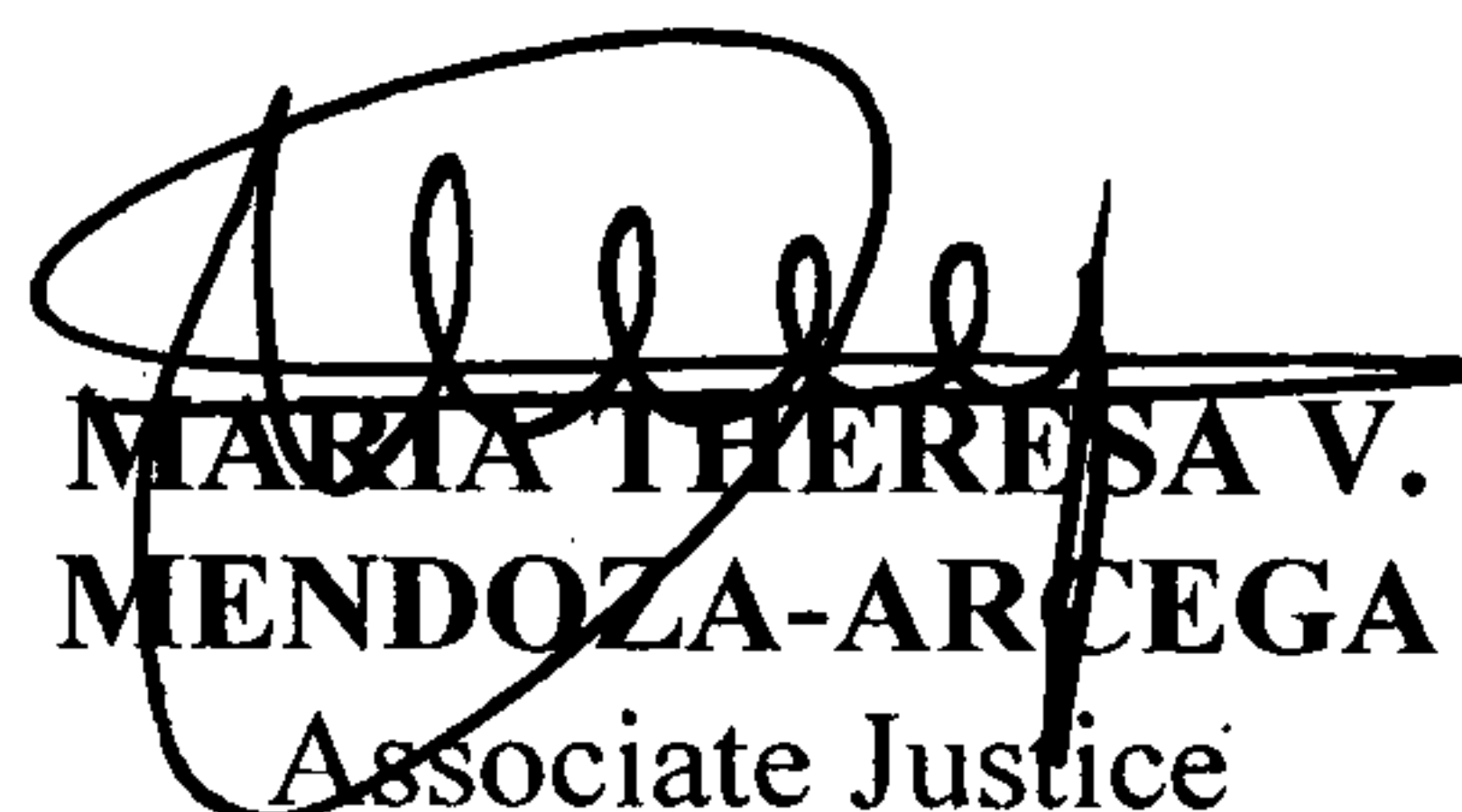
**WHEREFORE**, the motion for reconsideration is hereby **DENIED**.

**SO ORDERED.**

  
**RAFAEL R. LAGOS**  
Associate Justice  
Chairperson

**WE CONCUR:**

  
**REYNALDO P. CRUZ**  
Associate Justice

  
**MARIA TERESA V.  
MENDOZA-ARCEGA**  
Associate Justice