



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on June 9, 2017.

Present:

ALEXANDER G. GESMUNDO ----- Chairperson
MA. THERESA DOLORES C. GOMEZ-ESTOESTA ---- Associate Justice
ZALDY V. TRESPESES ----- Associate Justice

The following resolution was adopted:

CRIMINAL CASES NO. SB-06-CRM-0008

PEOPLE v. ALFONSITO S. PALMA

Before the Court are the following:

1. The Prosecution's "MOTION FOR RECONSIDERATION (On the Resolution dated March 22, 2017)" dated April 11, 2017.

This resolves the Prosecution's *Motion for Reconsideration* of this Court's Decision dated March 22, 2017 granting the demurrer to evidence filed by Alfonsito Palma and acquitting him of the violation of Sec. 3(e) of R.A. 3019.

In its *Motion*, the Prosecution differed from this Court's finding that it failed to prove that Palma caused the release of the Isuzu Elf Truck containing 19 units of assorted motorbikes. It adverted to the testimony of Benjamin Magtoto that Palma was unable to present payments of duties and taxes from the Bureau of Customs before the release of the motorbikes.

Despite having been given time to file his Comment on the *Motion*, Palma failed to do so.

At the outset, a dismissal order arising from the grant of a demurrer to evidence, as in this case, amounts to an acquittal. As explained in *People v. Sandiganbayan, et al.*:¹

¹ G.R. No. 174504, March 21, 2011

[Handwritten initials]

In criminal cases, **the grant of a demurrer is tantamount to an acquittal** and the dismissal order may not be appealed because this would place the accused in double jeopardy. Although the dismissal order is not subject to appeal, it is still reviewable but only through certiorari under Rule 65 of the Rules of Court. For the writ to issue, the trial court must be shown to have acted with **grave abuse of discretion amounting to lack or excess of jurisdiction** such as where the prosecution was denied the opportunity to present its case or where the trial was a sham thus rendering the assailed judgment void. The burden is on the petitioner to clearly demonstrate that the trial court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice. (emphases supplied)

The Rules of Criminal Procedure provide for the modification only of judgments of conviction and on motion of the accused. Thus, Rule 120, Section 7 provides:

Section 7. Modification of judgment. — A judgment of **conviction** may, upon motion of the accused, be modified or set aside before it becomes final or before appeal is perfected. x x x (emphasis supplied)

Clearly, no modification can be made to a judgment of acquittal, even if initiated by the Prosecution. The Supreme Court explained the nature and effect of a judgment of acquittal in *People v. Nazareno, et al.*,² thus:

Section 21, Article III of the Constitution provides that “no person shall be twice put in jeopardy of punishment for the same offense.” Section 7, Rule 117 of the Rules of Court, which implements this particular constitutional right, reads:

SEC. 7. Former conviction or acquittal; double jeopardy. — When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.

Double jeopardy exists when the following requisites are present: (1) a first jeopardy attached prior to the second; (2) the first jeopardy has been validly terminated; and (3) a second jeopardy is for the same offense as in the first. A first jeopardy attaches only (a) after a valid indictment; (b) before a competent court; (c) after arraignment; (d) when a valid plea has been entered; and (e) when the accused was acquitted or convicted, or the case was dismissed or otherwise terminated without his express consent.

² G.R. No. 168982, August 5, 2009

A judgment of acquittal is final and is no longer reviewable. It is also immediately executory and the State may not seek its review without placing the accused in double jeopardy. x x x (boldface supplied; italics in the original)

In *Lejano v. People*,³ it was held:

But, as a rule, a judgment of acquittal cannot be reconsidered because it places the accused under double jeopardy. x x x

x x x

Of course, on occasions, a motion for reconsideration after an acquittal is possible. But the grounds are exceptional and narrow as when the court that absolved the accused gravely abused its discretion, resulting in loss of jurisdiction, or when a mistrial has occurred. In any of such cases, the State may assail the decision by special civil action of certiorari under Rule 65.

x x x

Ultimately, what the complainant actually questions is the Court's appreciation of the evidence and assessment of the prosecution witnesses' credibility. He ascribes grave error on the Court's finding that Alfaro was not a credible witness and assails the value assigned by the Court to the evidence of the defense. In other words, private complainant wants the Court to review the evidence anew and render another judgment based on such a re-evaluation. This is not constitutionally allowed as it is merely a repeated attempt to secure Webb, et al.'s conviction. The judgment acquitting Webb, et al. is final and can no longer be disturbed. (emphases supplied)

The Prosecution's *Motion* does not only raise arguments pertaining to this Court's appreciation of evidence, it touches upon issues already carefully considered and squarely resolved by this Court in the questioned Decision.

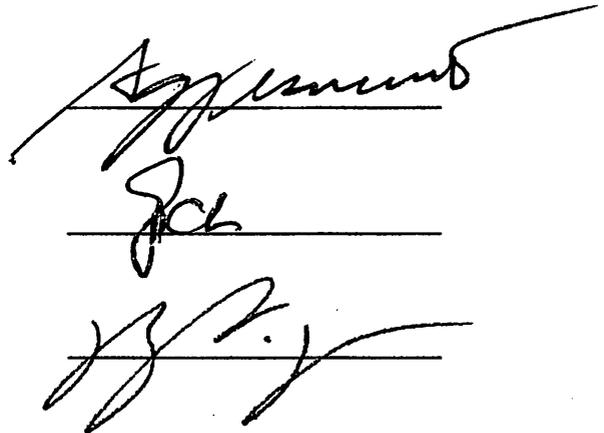
WHEREFORE, in view of the foregoing, the *Motion for Reconsideration* filed by the Prosecution is **DENIED** for lack of merit.

SO ORDERED.

GESMUNDO, J., *Chairperson*

GOMEZ-ESTOESTA, J.

TRESPESES, J.



The image shows three handwritten signatures in black ink, each written over a horizontal line. The first signature is for Gesmundo, J., the second for Gomez-Estoesta, J., and the third for Trespeses, J. The signatures are stylized and cursive.

³ Resolution on Motion for Reconsideration, G.R. Nos. 176389 and 176864, January 18, 2011