



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on June 7, 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-10-CRM-0229

PEOPLE v. PEDRO ACHARON, JR., et al.

Before the Court are the following:

1. The Prosecution's "MOTION FOR RECONSIDERATION" dated April 12, 2017;
2. Accused Pedro B. Acharon, Jr.'s "OPPOSITION TO MOTION FOR RECONSIDERATION" dated May 19, 2017; and
3. Accused Orlando Acharon and Minda Atendido's "OPPOSITION TO THE PLAINTIFF'S MOTION FOR RECONSIDERATION" dated May 22, 2017.

Despite the final and executory nature of a judgment of acquittal, the Prosecution comes to this Court with its *Motion for Reconsideration* asserting that while this Court has found proof on the existence of the first and second elements,¹ it was error for it to necessitate proof on undue injury, and where it found none, base its judgment of acquittal on such. It postures that the only issue this Court should have considered was whether accused Orlando Acharon and Minda Atendido could each be qualified as a "private party" given unwarranted benefit, advantage or preference, in relation to the offense

¹ The essential elements for violation of Section 3 (e) of RA 3019 are:

- (1) The accused must be a public officer discharging administrative, judicial or official functions;
- (2) He must have acted with manifest partiality, evident bad faith or inexcusable negligence; and
- (3) That his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.

charged. It then argues that said accused could not have duly proceeded with the travel in their official capacity following the disapproval of their travel authority by the DILG Secretary and hence, they should necessarily only be considered as “private parties.”

The accused, in their respective *Opposition*, jointly raised the issue on double jeopardy to bar a consideration of the *Motion*.

The *Motion* fails to persuade.

The Revised 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)

A contrario, 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. (Emphasis supplied)

Accordingly, accused's right against double jeopardy proscribes this Court from revisiting the third element of the crime. Not only does the *Motion* raise arguments pertaining to this Court's appreciation of the evidence, these arguments likewise touch upon issues already carefully considered and squarely resolved by this Court in the questioned Decision. This cannot be done. As relevantly held in *Chiok v. People, et al.*:⁴

A judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation. This is referred to as the "finality-of-acquittal" rule. The rationale for the rule was explained in *People v. Velasco*:

The fundamental philosophy highlighting the finality of an acquittal by the trial court cuts deep into "the humanity of the laws and in a jealous watchfulness over the rights of the citizen, when brought in unequal contest with the State. . . ." Thus, Green expressed the concern that "(t)he underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him in live in a continuing state of anxiety and

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

⁴ G.R. No. 179814. December 7, 2015.

insecurity, as well as enhancing the possibility that even though innocent, he may be found guilty."

It is axiomatic that on the basis of humanity, fairness and justice, an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal. The philosophy underlying this rule establishing the absolute nature of acquittals is "part of the paramount importance criminal justice system attaches to the protection of the innocent against wrongful conviction." The interest in the finality-of-acquittal rule, confined exclusively to verdicts of not guilty, is easy to understand: it is a need for "repose," a desire to know the exact extent of one's liability. **With this right of repose, the criminal justice system has built in a protection to insure that the innocent, even those whose innocence rests upon a jury's leniency, will not be found guilty in a subsequent proceeding.** Related to his right of repose is the defendant's interest in his right to have his trial completed by a particular tribunal. This interest encompasses his right to have his guilt or innocence determined in a single proceeding by the initial jury empanelled to try him, for society's awareness of the heavy personal strain which the criminal trial represents for the individual defendant is manifested in the willingness to limit Government to a single criminal proceeding to vindicate its very vital interest in enforcement of criminal laws. The ultimate goal is prevention of government oppression; the goal finds its voice in the finality of the initial proceeding. x x x. [Emphasis supplied]

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.

