



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on August 22, 2017.

Present:

MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Chairperson
ZALDY V. TRESPESES ----- Associate Justice
BAYANI H. JACINTO* ----- Associate Justice

The following resolution was adopted:

Criminal Case No. SB-16-CRM-0120 – People v. Teresa Pepito Alegado

This resolves the following:

1. Accused Teresa Pepito Alegado's "MOTION TO LIFT PREVENTIVE SUSPENSION" dated July 3, 2017;
2. Prosecution's "COMMENT/OPPOSITION" dated July 14, 2017;
3. Prosecution's "MOTION FOR RECONSIDERATION (TO THE DECISION DATED JUNE 28, 2017)" dated July 17, 2017; and
4. Accused Teresa Pepito Alegado's "COMMENT/OPPOSITION (TO THE PROSECUTION'S MOTION FOR RECONSIDERATION DATED JULY 17, 2017)" dated August 10, 2017.

The Court promulgated its Decision on June 28, 2017 acquitting accused Teresa Pepito Alegado ["**accused**"] of the crime of unlawful appointment for the failure of the Prosecution to establish her guilt beyond reasonable doubt.

Aggrieved, the Prosecution now filed a *Motion for Reconsideration*, insistent that this Court erred in its appreciation of the evidence presented, and that the conviction of accused was warranted under the circumstances. Contrary to the Court's findings, it asserted, among others, that: (1) accused cannot deny the ineligibilities of Engineer Danilo A. Capangpangan ["**Engr. Capangpangan**"] because the fact that Engr. Capangpangan had occupied the said position for a long period of time was an unmistakable indication that he

* Per Administrative Order No. 284-2017 dated August 18, 2017

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was unqualified for the said position; (2) accused, as the sole appointing authority, cannot pass the buck to the Personnel Selection Board and Sangguniang Bayan, whose roles were merely to assist the local chief executive and concur with appointments already made; (3) accused had prepared the Notice of Vacancy, which posted the qualification standards for the position of GSO, which was made evident by her signature and approval; and (4) accused, in her Memorandum of Appeal, admitted that she hastily appointed Engr. Capangpangan as GSO despite his shortcomings.

In her *Comment/Opposition*, accused invoked her right against double jeopardy. The grounds relied upon by the Prosecution had already been sufficiently weighed and passed upon in the judgment of acquittal rendered by the Court. Moreover, the Prosecution was not denied due process as they were given their day in court.

To begin with, the *Revised Rules of Criminal Procedure* provides for the modification only of judgments of conviction. Section 7 of Rule 120, *supra*, provides:

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. xxx (Emphasis Supplied)

The Supreme Court explained the nature and effect of a judgment of acquittal in *People v. Nazareno, et al.*,¹ 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

¹ G.R. No. 168982, August 5, 2009

been entered; and (e) when the accused was acquitted or convicted, or the case was dismissed or otherwise terminated without his express consent.

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. xxx (Boldface supplied; italics in the original)

In *Lejano v. People*,² it was held:

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

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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.

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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 for Reconsideration* is prefaced on the very grounds that would support its outright denial. Accused's right against double jeopardy proscribes this Court from revisiting *facts it may have missed or evidence it may have inadvertently misappreciated*. Errors or irregularities, which do not render the proceedings a nullity, will not defeat a plea of *autrefois acquit*.³ Not only does the *Motion* raise arguments pertaining to this Court's appreciation of evidence, these arguments touch upon issues already carefully considered and squarely resolved by this Court in the questioned Decision.

As correctly argued by accused, the exception to the double jeopardy rule attaches only when the trial court commits grave abuse of discretion due to a violation of due process, i.e., that the prosecution was denied the opportunity to present its case or that the trial was sham.⁴ The Prosecution

² *Resolution on Motion for Reconsideration*, G.R. Nos. 176389 and 176864, January 18, 2011

³ *People v. Judge Hernando*, G.R. No. L-55213, October 9, 1981

⁴ *Metropolitan Bank and Trust Company v. Veridiano, et al.*, G.R. No. 118251, June 29, 2001

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has not alleged that it was denied due process, or that this Court had no jurisdiction to render the Decision sought to be reconsidered. In fact, the Prosecution's arguments have already been considered, and failed to persuade, this Court.

The Prosecution's *Motion for Reconsideration* should, therefore, be denied.

By reason of her judgment of acquittal, accused filed a *Motion to Lift Preventive Suspension* where she desires to return to her position as Municipal Mayor.

The Prosecution, however, counters that preventive suspension is not a penalty, its purpose being to prevent the accused public officer from influencing the proceedings or committing additional acts of malfeasance while in office. As such, its imposition against accused is not dependent on the final judgment of the criminal case. Additionally, the Prosecution pointed out that the present case has not yet attained finality.

Preventive suspension, or suspension *pendente lite*, is a precautionary measure. Its *raison d'être* is to thwart an accused from using his or her position as a public officer and the powers and prerogatives of the office to influence potential witnesses or tamper with records which may be vital in the prosecution of the case against him or her.⁵

Section 13 of *Republic Act No. 3019* provides:

SECTION 13. Suspension and loss of benefits. — Any incumbent public officer against whom any criminal prosecution under a valid information under this Act or under Title 7, Book II of the Revised Penal Code or for any offense involving fraud upon government or public funds or property whether as a simple or as a complex offense and in whether stage of execution and mode of participation, is pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, **but if he is acquitted, he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension, unless in the meantime administrative proceedings have been filed against him.**

In the event that such convicted officer, who may have already been separated from the service, has already received such benefits he shall be liable to reconstitute the same to the Government. (Emphasis supplied)

As a rule, *a judgment of acquittal is immediately final and executory.*⁶ The prosecution cannot appeal the acquittal lest the constitutional prohibition against double jeopardy be violated.⁷ The reason therefor is explained by the Highest Court in *People v. Nazareno* quoting *People v. Velasco*⁸:

⁵ *Villaseñor v. Sandiganbayan (Fifth Division)*, G.R. No. 180700, March 4, 2008 which cited *Quimbo v. Gervacio*, G.R. No. 155620, August 9, 2005

⁶ *Morillo v. People*, G.R. No. 198270, December 9, 2015.

⁷ *Ibid.*

⁸ G.R. No. 168982, August 5, 2009 which quoted G.R. No. 127444, September 13, 2000

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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 "the 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 to live in a continuing state of anxiety and 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.

While the offended party or the accused may appeal the civil aspect of the judgment despite the acquittal of the accused, the public prosecutor has generally no interest in appealing the civil aspect of a decision acquitting the accused.⁹ An acquittal ends the work of the public prosecutor and the case is terminated as far as he or she is concerned.¹⁰

Considering accused's acquittal of the crime charged, and inasmuch as there is nothing on record suggesting that she is currently faced with pending administrative proceedings, perforce, her *reinstatement* to her former position as Municipal Mayor and the *salaries and benefits* which she failed to receive during suspension follow as a matter of course under *R.A. 3019*.

WHEREFORE, this Court resolves as follows:

1. Prosecution's *Motion for Reconsideration* is **DENIED** for lack of merit.
2. In view of her acquittal of the crime charged, accused Teresa Pepito Alegado's *Motion to Lift Preventive Suspension* is **GRANTED**. Conformably with Section 13 of *R.A. 3019*, in the absence of any pending administrative proceedings against her, this Court **ORDERS** the immediate reinstatement of Teresa Pepito Alegado as Municipal Mayor of Consolacion, Cebu and restitution of the salaries and benefits which she failed to receive during her suspension.

⁹ *Cruz v. Court of Appeals*, G.R. No. 123340, August 29, 2002

¹⁰ *Ibid*

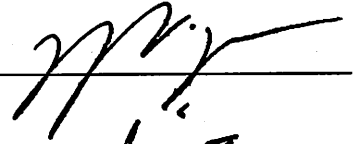
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SO ORDERED.

GOMEZ-ESTOESTA, J., Chairperson



TRESPESES, J.



JACINTO, J.

