



Republic of the Philippines  
*Sandiganbayan*  
Quezon City  
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SEVENTH DIVISION

*MINUTES of the proceedings held on November 24, 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-15-CRM-0111**

**PEOPLE v. GODOFREDO R. SADIUA, ET AL.**

Before the Court are the following:

1. The Prosecution's "MOTION FOR RECONSIDERATION (Re: Resolution dated 20 October 2017)" dated October 27, 2017; and
2. Accused Alberto D. Roque's "COMMENT/OPPOSITION (To the Prosecutor's Motion for Reconsideration Dated 27 October 2017)" dated November 10, 2017.

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This resolves the Prosecution's *Motion for Reconsideration* of this Court's Resolution dated October 20, 2017 granting Alberto D. Roque's *Demurrer to Evidence*, and acquitting him of falsification of public documents in the instant case.

In its *Motion for Reconsideration*,<sup>1</sup> the Prosecution maintained that it has presented sufficient evidence to establish the accused's conspiracy in committing the crime charged. It reiterated that the testimony of its lone witness, Francisco Pergis, that no work was done on the subject project, was sufficient to prove that the Daily Wage Payroll was spurious.

In his *Comment*,<sup>2</sup> Roque remarked that the Prosecution merely rehashed its arguments in its earlier Comment on his *Demurrer to Evidence*. The

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\* Per A.O. No. 284-2017 dated August 18, 2017

<sup>1</sup> *Records*, Vol. 2, pp. 422-425

<sup>2</sup> *Id.*, pp. 434-437

*J. J. J.*

physical presentation of the alleged falsified document itself was crucial, and the Prosecution failed in this respect. The lone testimony of Francisco Pergis was insufficient to prove the commission of the crime charged; in fact, he never even mentioned Roque's name.

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.*:<sup>3</sup>

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.*,<sup>4</sup> 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

<sup>3</sup> G.R. No. 174504, March 21, 2011

<sup>4</sup> G.R. No. 168982, August 5, 2009

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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.

**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*,<sup>5</sup> 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)**

As properly observed by Roque, the Prosecution's *Motion* raised issues already carefully considered and squarely resolved by this Court in the questioned Decision. Verily, the Daily Wage Payroll having been excluded, there is not even a falsified document to consider.

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

SO ORDERED.

*J. V. S.*

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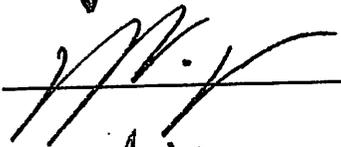
<sup>5</sup> Resolution on Motion for Reconsideration, G.R. Nos. 176389 and 176864, January 18, 2011

**GOMEZ-ESTOESTA, J.,** *Chairperson*



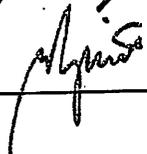
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**TRESPESES, J.**



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**JACINTO, J.**



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