



REPUBLIC OF THE PHILIPPINES

**Sandiganbayan**

Quezon City

Fifth Division

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**Crim. Case Nos. 23750, 23751;  
23765, 23766; 23768; 23771, 23772;  
23774 & 23776**

- versus -

**PONCIANO BATUTAY, ET AL.**

**For: Violations of Section 3(g) of  
Rep. Act No. 3019**

**Present:**

**LAGOS, J., Chairperson,  
MENDOZA-ARCEGA and  
CORPUS-MAÑALAC, JJ.**

**Promulgated:**

June 26, 2018 *jal*

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**RESOLUTION**

**LAGOS, J.:**

This resolves the prosecution's *Motion for Reconsideration*<sup>1</sup> of the Court's Decision promulgated on 20 March 2018, which acquitted Norberto Aparicio and Carmelita Marban of all the charges against them. Marban filed her comment/opposition.<sup>2</sup> Aparicio did not file his comment despite notice.

The prosecution argues that it proved the elements of the offense charged. It claims that the method used in the COA report, while different, showed the differences of the quotations from the market prices and so it

<sup>1</sup> Dated 3 April 2018. Records, Vol. 20, pp. 562-568.

<sup>2</sup> Dated 6 May 2018, Records, Vol. 20, pp. 579-581.

*NJ*

established gross overpricing. It also claims that the counsel for the accused stipulated on the matter of her being a public officer.

Marban counters that the arguments raised in the motion were already passed upon and such motion should be considered *pro forma*. She asserts that the acquittal can no longer be reversed as it would place her in double jeopardy.


The motion lacks merit.

The Decision sought to be reconsidered is one which acquitted the erstwhile accused Marban and Aparicio. A judgment acquitting an accused is final and immediately executory upon its promulgation.<sup>3</sup> Thus, it can no longer be reviewed or reconsidered. Such acquittal is final and unappealable on the ground of double jeopardy, whether it happens at the trial court or on appeal.<sup>4</sup>


The arguments raised by the prosecution were already raised before and were duly considered and passed upon. The Court has discussed why it failed to prove the alleged overpricing in this case. Also, only agreements and admissions signed by an accused personally may be used against him or her.<sup>5</sup>

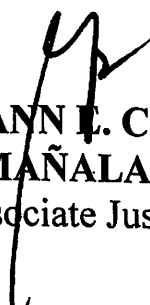
**WHEREFORE**, the Motion for Reconsideration is hereby **DENIED**.

**SO ORDERED.**

  
**RAFAEL R. LAGOS**  
Associate Justice  
Chairperson

**WE CONCUR:**

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

  
**MARYANN E. CORPUS-  
MAÑALAC**  
Associate Justice

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<sup>3</sup> Villareal v. Aliga, G.R. No 166995, 13 January 2014.

<sup>4</sup> Id.

<sup>5</sup> Rule 118, sec. 2 of the Rules of Court.