



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
QUEZON CITY

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**SPECIAL SEVENTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff,

Crim. Case Nos.  
**SB-17-CRM-1480 to 1482**

-versus-

**CARLOS JOSE V. LOPEZ,**  
Accused.

Present:  
Gomez-Estoesta, J., *Chairperson*  
Trespeses, J., and  
Jacinto, J.\*

Promulgated:  
June 27, 2018 *yp*

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**RESOLUTION**

**GOMEZ-ESTOESTA, J.:**

Before this Court is the Prosecution's *Motion for Reconsideration* of this Court's Decision dated May 28, 2018 granting Carlos Jose V. Lopez's *Demurrer to Evidence*, and its Supplement.

In its *Motion for Reconsideration*,<sup>1</sup> the Prosecution claims that the assailed Decision was rendered in violation of the State's right to have its evidence considered. Still lamenting the exclusion of the subject letters (Exhibits "B", "C", and "D") issued by Lopez allegedly on usurped authority, the Prosecution saw the need to file a supplement to the motion for reconsideration<sup>2</sup> to emphasize that these letters should have been admitted as they have in fact been stipulated on by Lopez. Furthermore, having been issued by a public officer to another public officer, these letters were actually public documents. The Prosecution submits that a reversal of the decision

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

<sup>1</sup> *Records*, Vol. 2, pp. 215-219

<sup>2</sup> *Supplemental Motion* dated June 8, 2018, *id.*, pp. 231-235

*yp*

acquitting Lopez would not constitute double jeopardy “considering the propriety of the proceedings and the peculiarities of the pieces of evidence”.

In the same breath, the Prosecution faults this Court for interpreting these letters in favor of the accused, when they were clearly imperative and not just recommendatory. The mere act of issuing these letters constituted usurpation, regardless of how they were to be implemented.

In his *Comment/Opposition*,<sup>3</sup> Lopez points out that the Prosecution’s *Motion* was not served on him within the required three (3) days before the date it was set for hearing, in violation of Sec. 4 of Rule 15 of the Rules of Court. In any event, he denies having stipulated on these letters, as in fact he had consistently objected to their admissibility. As correctly found in the assailed Decision, the Prosecution failed to establish that he acted under pretense of official function.

The *Motion* is bereft of merit.

The issue of the admissibility of Exhibits “B”, “C”, and “D”, which were mere photocopies, has been more than adequately addressed in this Court’s Resolution on the Prosecution’s Formal Offer of Evidence, the denial of its motion for reconsideration thereof, and the assailed Decision. More importantly, this issue has been rendered moot when this Court eventually weighed and considered the existence of these letters, albeit initially excluded, in view of Lopez’s admission of their contents in his Demurrer to Evidence. Simply put, the Prosecution seeks a reversal of this Court’s Decision on grounds that have already been passed upon and cogently scrutinized by this Court.

Besides, this Court may no longer reverse Lopez’s acquittal on the grounds cited by the Prosecution. 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>4</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:

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<sup>3</sup> *Id.*, pp. 239-246

<sup>4</sup> G.R. No. 174504, March 21, 2011

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*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>5</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 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>6</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.

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

<sup>6</sup> Resolution on Motion for Reconsideration, G.R. Nos. 176389 and 176864, January 18, 2011

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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)

Ironically, the Prosecution contests both the exclusion of these letters and this Court's appreciation of these letters in the assailed Decision. This is a factual finding that could no longer be disturbed without violating Lopez's right against double jeopardy. In any event, this has already been carefully considered and squarely resolved in the questioned Decision.

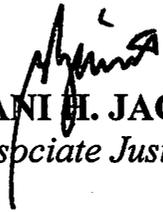
WHEREFORE, in view of the foregoing, the *Motion for Reconsideration* filed by the Prosecution, as supplemented by its *Supplemental Motion*, is **DENIED** for lack of merit.

SO ORDERED.

  
MA. THERESA DOLORES C. GOMEZ-ESTOESTA  
*Associate Justice, Chairperson*

WE CONCUR:

  
ZALDY V. TRESPESES  
*Associate Justice*

  
BAYANI H. JACINTO  
*Associate Justice*