



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SPECIAL SEVENTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No. **SB-16-CRM-0800**

-versus-

EMILIANO P. MARASIGAN, JR.,
Accused.

Present:

Gomez-Estoesta, J., *Chairperson*
Trespeses, J., and
Jacinto, J.*

Promulgated:

July 12, 2018 *ija*

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RESOLUTION

GOMEZ-ESTOESTA, J.:

For resolution is the Prosecution's *Motion for Reconsideration*¹ of this Court's Decision dated May 31, 2018 granting Emiliano P. Marasigan's *Demurrer to Evidence*. In response thereto, Marasigan filed a *Motion to Expunge Prosecution's Motion for Reconsideration with Comment*.² This Court, in its *Order* dated July 6, 2018, denied Marasigan's *Motion to Expunge*, leaving his *Comment* to be considered in the resolution of the Prosecution's *Motion*.

In its *Motion for Reconsideration*, the Prosecution reiterated its argument in its opposition to Marasigan's demurrer that it was filed out of time. It took exception to this Court's ruling that the demurrer has not lapsed, as this was tantamount to ruling that a demurrer to evidence without leave of court could be filed by the accused at any time he realizes that the Prosecution's evidence is insufficient, even after he begins presenting his evidence or before the case is resolved. The Prosecution further alleged that this Court abandoned its own pronouncement in *People v. Gungob*³ giving the

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

¹ *Records*, pp. 379-385

² *Id.*, pp. 394-402

³ SB-15-CRM-0146

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accused therein ten (10) days from the denial of his Motion for Leave, to file his Demurrer to Evidence, pursuant to Sec. 23, Rule 119 of the Revised Rules of Criminal Procedure.

On the merits, the Prosecution assails this Court's finding that accused Marasigan had no interest in the transaction with AMGM, asserting that Marasigan's **own** financial or pecuniary interest in the transaction is his **direct** interest therein, and what needed to be proved was only Marasigan's indirect interest in the transaction, which it was able to prove, as this Court has found that Marasigan handpicked his mother's store as supplier. To go beyond the existence of mere relationship between Marasigan and his mother would be to establish direct, instead of indirect interest.

In his *Comment*, Marasigan counters that the *Motion for Reconsideration* raises mere errors of judgment and not jurisdiction. The Prosecution failed to prove his personal pecuniary interest in the transaction by its mere speculation and hypotheses.

The *Motion* is bereft of merit.

At the outset, this Court's finding that the demurrer was not filed out of time was based on Sec. 23 of Rule 119, which provides that a demurrer to evidence is to be filed after the prosecution rests its case, and itself determines whether or not an accused retains his right to present his evidence. It leaves no room for the Prosecution's interpretation that this Court's ruling would actually allow the accused to file a demurrer to evidence even after he has started presenting his evidence. Further, as this Court already held in the assailed Decision, its prior resolutions giving the accused time to file a Demurrer to Evidence after their motion for leave is denied, are not precedents in this case where no motion for leave was filed.

The Prosecution also claims that Marasigan's **own** financial or pecuniary interest is his **direct** interest in the transaction. That this Court found the transaction irregular as Marasigan handpicked his own mother as supplier shows his **indirect** interest in the transaction.

In so arguing, the Prosecution precludes the possibility of an accused having his own, personal, albeit *indirect*, financial interest in a transaction, and equates the pecuniary interest of *another person* to the accused's *indirect interest*. However, what Sec. 3(h) of R.A. 3019 clearly proscribes is the **public officer's direct or indirect financial or pecuniary interest** in the transaction.

The grant of Marasigan's demurrer to evidence, however, is not subject to review. A dismissal order arising from the grant of a demurrer to evidence amounts to an acquittal. As explained in *People v. Sandiganbayan, et al.*:⁴

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

⁴ G.R. No. 174504, March 21, 2011

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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.*,⁵ 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)

⁵ G.R. No. 168982, August 5, 2009

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In *Lejano v. People*,⁶ 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)

A re-examination of the elements of Section 3(h) of R.A. 3019, particularly on the direct or indirect pecuniary interest of the accused, can no longer be made. The Prosecution's arguments on Marasigan's alleged indirect interest have already been exhaustively considered by this Court in the assailed Decision.

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

SO ORDERED.


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

WE CONCUR:


ZALDY V. TRESPESSES
Associate Justice


BAYANI H. JACINTO
Associate Justice

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