

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

CTA Crim. Case No. O-424

For: Violation of Section 254 of the
National Internal Revenue Code of
1997 (NIRC), as amended.
(Attempt to Evade or Defeat Tax)

FERDINAND P. MAHUSAY,
Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

CTA Crim. Case No. O-426

For: Violation of Section 255 of the
National Internal Revenue Code of
1997 (NIRC), as amended.
(Failure to File Income Tax Return)

Members:

DEL ROSARIO, P.J., *Chairperson,*
UY, and
MINDARO-GRULLA, JJ.

FERDINAND P. MAHUSAY,
Accused.

Promulgated:

AUG 03 2018 9:00 am.

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R E S O L U T I O N

MINDARO-GRULLA, J.:

Submitted for resolution is a "Motion for Reconsideration (of the Decision promulgated on April 4, 2018)" seeking the reversal of the Decision¹ dated April 4, 2018 acquitting herein accused for failure of the prosecution to prove his guilt beyond reasonable doubt. As per Records

¹ Docket, pp.1053-1082.

Hence, We resolve.

At the outset, the Motion for Reconsideration must be **DENIED**. Let plaintiff be reminded that a judgment of acquittal cannot be reconsidered because it places the accused under double jeopardy. The Constitution provides in Section 21, Article III, that:

"Section 21. No person shall be twice put in jeopardy of punishment for the same offense. x x x "

Accordingly, Section 7, Rule 117² of the Revised Rules of Criminal Procedure strictly adhere to the constitutional proscription against double jeopardy and provide for the requisites in order for double jeopardy to attach. For double jeopardy to attach, the following elements must concur: (1) a valid information sufficient in form and substance to sustain a conviction of the crime charged; (2) a court of competent jurisdiction; (3) the accused has been arraigned and had pleaded; and (4) the accused was convicted or acquitted or the case was dismissed without his express consent.³

In the case at bar, all the elements were clearly present. After trial on the merits, a judgment of acquittal was rendered by this Court. While plaintiff insists that this Court committed grave and patent error in the appreciation of the evidence presented, this, however, does not change the fact that a judgment of acquittal had already been promulgated. Notably, a judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation.⁴

² Rule 117, Section 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.

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³ Wilfred N. Chiok vs. People of the Philippines and Rufina Chua, G.R. No. 179814, December 07, 2015.

⁴ Dennis T. Villareal vs. Consuelo C. Aliga, G.R. No. 166995, January 13, 2014.

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We submit, however, that the rule on double jeopardy is not without exceptions, to wit: **(1) Where there has been deprivation of due process and where there is a finding of a mistrial, or (2) Where there has been a grave abuse of discretion under exceptional circumstances.**

In *People of the Philippines vs. Honorable Perfecto A.S. Laguio, Jr., in his capacity as Presiding Judge, Branch 18, RTC, Manila, and Lawrence Wang y Chen*,⁵ this Court stated that the only instance when double jeopardy will not attach is when the RTC acted with grave abuse of discretion, thus:

"x x x The only instance when double jeopardy will not attach is when the trial court 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. However, while *certiorari* may be availed of to correct an erroneous acquittal, the petitioner in such an extraordinary proceeding must 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."

On these bases, We find that these exceptions do not exist in this case. There was no deprivation of due process nor grave abuse of discretion because the records reveal that the plaintiff was actually able to present their case and their witnesses.

Likewise, it bears stressing that in assailing a judgment of acquittal, a petition for *certiorari* under Section 1 of Rule 65⁶ of the Rules of Court should have been filed. If in case

⁵People of the Philippines vs. Honorable Perfecto A.S. Laguio, Jr., in his capacity as Presiding Judge, Branch 18, RTC, Manila, and Lawrence Wang y Chen, G.R. No. 128587, March 16, 2007.

⁶ Rule 65, Section 1. *Petition for certiorari.* —

When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

the petition, regardless of its nomenclature, prays for an ordinary review of the findings of the court *a quo*, the constitutional right of the accused against double jeopardy would be violated.⁷

In sum, **a decision once final is no longer susceptible to amendment or alteration except to correct errors which are clerical in nature, a final decision is the law of the case and is immutable and unalterable regardless of any claim of error or incorrectness.**

Applying the afore-stated rule, the decision of this Court became final and immutable already. As members of the bench who are always admonished to be conversant with the latest legal and judicial developments, more so of elementary rules, We can no longer "revise" the decision of acquittal without violating not only an elementary rule of procedure but also the constitutional proscription against double jeopardy. When the law is so elementary, not to know it constitutes gross ignorance of the law.⁸

To reiterate, to reconsider a judgment of acquittal places the accused twice in jeopardy of being punished for the crime of which he has already been absolved. There is reason for this provision of the Constitution. In criminal cases, the full power of the State is ranged against the accused. If there is no limit to attempts to prosecute the accused for the same offense after he has been acquitted, the infinite power and capacity of the State for a sustained and repeated litigation would eventually overwhelm the accused in terms of resources, stamina, and the will to fight.⁹

WHEREFORE, premises considered, the Motion for Reconsideration is hereby **DENIED** for lack of merit.

⁷ *Id.*,

⁸ Atty. Hugolino V. Balayon, Jr. vs. Judge Oscar E. Dinopol, Regional Trial Court, Branch 24, Koronadal City, A.M. No. RTJ-06-1969 (Formerly OCA IPI No. 05-2159-RTJ).

⁹ Antonio Lejano vs. People of the Philippines, G.R. No. 176389, and People of the Philippines vs. Hubert Webb, et.al., G.R. No. 176864, January 18, 2011

SO ORDERED.


CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


ERLINDA P. UY
Associate Justice