

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. SIMACO BELLOSILLO, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-18512. December 27, 1963*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/aaae76013093/>

This is an appeal, taken by the prosecution, from an order of the Court of First Instance of Iloilo dismissing the information in the above entitled case, with costs de oficio.

It is not disputed that, sometime in 1959, an information was filed with the Court of First Instance of Iloilo and docketed therein as criminal case No. 7689, charging defendants herein Simaco Bellosillo, Fernando Diopido, Arturo Palacio, Crisostomo Gonzales and Fedevioo Francisco with, the crime of theft of coconuts, valued P300.00 and belonging to Pe Julian Lao, allegedly committed on December 23, 1958. Predicated on the ground that, upon a reinvestigation conducted at the request of the accused, it turned out that the property from which the coconuts were allegedly stolen was involved in a civil case between the complainant on the one hand and the accused on the other, said criminal case was, on motion of the prosecution, and "with the express conformity" of the accused, dismissed on January 4, 1960. However, soon thereafter, or on March 23, 1960, the prosecution filed against the accused an identical information which was docketed as criminal case No. 7997 of the same court, and is the case at bar.

Before arraignment, the accused moved to quash the last information upon the ground that the facts alleged therein do not constitute an offense, and that the previous information therefor had been dismissed. The lower court granted this motion, upon the theory that, having failed to move for a reconsideration of the order of dismissal of January 4, 1960, or to appeal therefrom, the prosecution may no longer maintain the present action. Hence, this appeal.

The order appealed from is untenable. The order of January 4, 1960, dismissing case No. 7689, cannot be an obstacle to the institution of the present case for, not being a decision on the merits, said order cannot bar the present case upon the principles of res adjudicate, and the provision of Rule 30, section 3, of the Rules of Court, to the effect that a "dismissal shall have the effect of an adjudication upon the merits, unless otherwise provided by the Court," does not apply to criminal cases.

Neither does the present action place the accused twice in jeopardy of punishment for the same offense, not only because he had never been in jeopardy of punishment therefor in the previous case, the same having been dismissed before arraignment and plea, but, also, because its dismissal took place with the express consent of the accused (Rule 113, section 9, Rules of Court; U.S. vs. Palisoc, 4 Phil., 207; U.S. vs. Solis, 6 Phil., 676; U.S. vs. Sobrevinas, 35 Phil., 32; People vs. Turla, 50 Phil., 676; People vs. Romero, 89 Phil. 672; July 31, 1951; Gaudicela vs. Lutero, 88 Phil, 299 Resolution of May 21, 1951; People vs. Reyes, 98 Phil., 646).

Wherefore, the order appealed from is hereby set aside and the case remanded to the lower court for further proceedings, with costs de oficio. It is so ordered.

Bengzon, CJ., Padilla, Bautista Angelo, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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