

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS.
ISABELO MONTEMAYOR, ET AL., DEFENDANTS. CARLOS
CARAMONTE, DEFENDANT-APPELLEE.**

G.R. No. L-29599. January 30, 1969

Ponente: FERNANDO, J.

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FERNANDO, J.:

There is an attempt here by the State to appeal from a judgment of acquittal, the prosecuting fiscal evidently nurturing the deeply rooted belief that the decision sought to be reviewed constituted a flagrant act of maladministration of justice. That may well be so; such instances, though rare, have been known to happen before and may occur again. After all the fallibility of human judgment is one of the facts of life. As so aptly noted, there is no guarantee of justice in the long run except the personality of the judge.[1]

Nonetheless, this appeal by the State is doomed to fail. It cannot be given due course. That is the teaching of our decisions, impressive both as to number and as to certitude, on that particular point.

This appeal started with a communication of September 30, 1968 from the Deputy Clerk of Court of the 12th Judicial District forwarding to us the record of *People v. Caramonte*, [2] including the minutes of the proceeding and the lists of exhibits presented during the trial, an appeal having been interposed by the Acting City Fiscal of Cadiz City against the decision of September 7, 1968, rendered by the Presiding Judge, acquitting the accused, Carlos Caramonte. Then came on October 7, 1968, an urgent motion *ex parte* for leave to file a memorandum in support of appeal by the Acting City Fiscal Zulueta of Cadiz, Negros Occidental, wherein it was alleged that there was a decision of acquittal, that the original records had already been forwarded to us and that since the appeal was unusual "and in view of the enormity of the injustice" allegedly perpetrated by the trial Judge, he would plead for the opportunity to file a memorandum to support the step taken by him of appealing from such judgment of acquittal.

We then issued a resolution under date of October 16, 1968, requiring the Solicitor General to comment within ten days from notice on such urgent motion of Acting City Fiscal Zulueta. On November 29, 1968, after three extensions were granted, the then Solicitor General Antonio P. Barredo, now a member of this Court, filed his comment expressing the view that "the appeal invoked by the Acting City Fiscal from said judgment will constitute double jeopardy which should not be allowed."

The comment thus submitted by the then Solicitor General is fully supported by the applicable decisions. The appeal, to repeat, should be dismissed.

In the first case decided by us after the Constitution took effect, *People v. Bringas*, [3] we rejected the contention of the then Solicitor General that the doctrine in *Kepner v. United States* [4] be overruled. In that case, it was held by the United States Supreme Court that under the first organic act, the Philippine Bill of 1902, applicable to the Philippines during the period of American administration, an appeal from a judgment of acquittal by the State would be obnoxious to the principle of double jeopardy. We made clear in the *Bringas* decision that none of the

reasons adduced in support of a plea for the adoption of a new doctrine was of sufficient weight to induce a modification of the prevailing rule, adhered to for many years, one which is moreover in consonance with the governing constitutional provision.

In our first decision after liberation, *People v. Hernandez*,^[5] such a doctrine was once again adhered to, it being stressed by us that an appeal after a judgment of dismissal places the accused in a second jeopardy. Subsequently, a lower court decision, that aroused public interest in view of the notorious acts of the accused therein and the penalty being considered rather light, the accused having killed the pilot and the purser of a plane, was appealed to us. Notwithstanding the force of the argument advanced by the then Solicitor General, we had to dismiss such appeal in view of the aforesaid *Kepner* ruling. We likewise had occasion to stress: "No error, however, flagrant, committed by the court against the state, can be reserved by it for decision by the supreme court when the defendant has once been placed in jeopardy and discharged, even though the discharge was the result of the error committed'."^[6]

Then shortly after, in 1955, came *People v. Pomeroy*.^[7] One of the several accused pleaded guilty as a result of which the penalty of twelve years prision correccional was imposed by the lower court for the crime of rebellion charged in the information. Again, the prosecution under the belief that a more severe penalty should have been meted out elevated the matter to us. The first question, according to the opinion of the present Chief Justice, was whether such an appeal could prosper? Relying on *People v. Ang Cho Kio*, he answered the question in the negative.

The opinion of the present Chief Justice likewise contained the following: "The prosecution in the case at bar urges a re-examination of the question decided in the *Ang Cho Kio* and a reconsideration of the view therein expressed by this Court. To our mind, however, the reasons advanced by the Solicitor General in support of his pretense are not sufficiently weighty to warrant a reversal of said view which is a mere corollary of the practice established in the Philippines and in the United States, for so long a time as to form part and parcel, not merely of the settled juris-prudence, but, also, of the constitutional law, in both jurisdictions."^[8]

It is thus crystal clear that the appeal in the present case does not lie. The accepted doctrine on double jeopardy, compelling us to respect a judgment of acquittal by virtue of such a guarantee, constitutes an insurmountable barrier.

WHEREFORE, the appeal is dismissed, without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Capistrano, and Teehankee, JJ., concur.

Barredo, J., did not take part.

[1] Cardozo quoting Ehrlich, *The Nature of Judicial Process*, pp. 16-17 (1921).

[2] L-29599.

[3] 70 Phil. 528 (1940).

[4] 195 US 100 (1904); 11 Phil. 669.

[5] 94 Phil. 49 (1953).

[6] *State v. Rook*, 49 L.R.A. 186, 61 Kan. 382, 59 Pac. 653, as quoted in *People v. Ang Cho Kio*, 95 Phil. 475, 480.

[7] 97 Phil. 927.

[8] Ibid, p. 940. See also *People v. Paet*, 100 Phil. 357 (1956); *People v. Sanchez*, 101 Phil. 745 (1957) and *People v. Cabarles*, 102 Phil. 926 (1958).

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