JENNIFER N. ACHURRA AND ANTONIO A. ACHURRA, PETITIONERS, VS. RAUL R. SABERON, HON. JUDGE FLORITO S. MACALINO AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

Ponente: CARANDANG, J.

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CARANDANG, J.:

Before Us is a petition for certiorari, prohibition and mandamus under Rule 65 of the Rules of Court seeking to nullify the following Orders and Decision of public respondent Hon. Judge Florito S. Macalino of the Regional Trial Court (RTC) of Pasig City, Branch 267 – (1) Order[1] dated January 11, 2000 which gave due course to private respondent Raul S. Saberon's Petition for Certiorari/Mandamus docketed as SCA Case No. 1922; (2) Order[2] dated December 4, 2000 denying petitioners' Motion to Suppress said petition; (3) Order[3] dated April 16, 2001 denying petitioners' Motion for Reconsideration; (4) Decision[4] dated January 7, 2002 granting private respondent's Petition and reviving Criminal Cases Nos. 50051 and 50052.; and (5) Order[5] dated June 17, 2002, denying petitioners' Motion for Reconsideration.

Petitioners likewise seek to prohibit the respondents from further proceeding in Criminal Cases No. 50051 and 50052 and to compel respondent Judge to dismiss SCA Case No, 1922 with finality.

The antecedent facts:

Petitioners Jennifer N. Achurra and Antonio A. Achurra were separately charged for violation of B.P. 22, docketed as Criminal Cases Nos. 50051 and 50052, respectively, before the Metropolitan Trial Court (MeTC), Branch 57, San Juan, Metro Manila.

After the prosecution rested its case, petitioners filed a Motion to Dismiss by way of Demurrer to Evidence with prior leave of court. The MTC granted the demurrer in the Order of August 25, 1999, dismissing both criminal cases. Criminal Case No. 50051 was dismissed for want of jurisdiction[6] while Criminal Case No. 50052 was dismissed for lack of notice of dishonor to the accused, whether personal or by substitution.[7] Private complainant, Raul S. Saberon, private respondent herein, with the conformity of the public prosecutor, moved for reconsideration but the same was denied in the Order of October 22, 1999.[8]

Consequently, private respondent filed a Petition for Certiorari/Mandamus[9] before the RTC, Branch 267, Pasig City, docketed as SCA Case No. 1922. The RTC issued the January 11, 2000 Order giving due course to the petition, and directed herein petitioners to file comment within ten (10) days from notice.

Petitioners thereafter filed a Motion to Suppress[10] anchored on two (2) basic grounds: 1) prescription of action, the petition for certiorari/mandamus being filed out of time, and 2) double jeopardy. On December 4, 2000, the RTC issued an Order denying the motion, pertinent portion of the Order states:

> "A meticulous of the records reveal that respondents through counsel received a copy of this Court dated January 11, 2000 which found the petition to be sufficient in form and substance on May 10, 2000 yet the instant motion was filed only on August 11, 2000 or after a period of three (3) months. Granting arguendo that

> the Court erred in finding that the petition was filed on January 7, 2000 instead of the reglementary period of January 1 or 2, 2000, on account of the numerous holidays during the Christmas and New Year season, the petition can still be rightfully heard by the court in the interest of substantial justice and fair play."

Petitioners moved for reconsideration. They alleged that their failure to file a motion for reconsideration of the January 11, 2000 Order was because there was no valid service of the Order as present counsel was not yet counsel of petitioners then. Even assuming that the service was valid, the Order is interlocutory, and hence it is not subject to the 15-day finality rule. Petitioners went on to reiterate their argument on double jeopardy.

.The RTC denied the motion for lack of merit in the Order[11] of April 16, 2001, without passing on the issue of double jeopardy.

On January 7, 2002, public respondent issued the assailed Decision granting private respondent's petition for certiorari/mandamus, the dispositive portion of which reads as follows:

> "WHEREFORE, finding the instant petition to be impressed with sufficient merit, the same is hereby GRANTED. Accordingly, the Orders both dated 25 August 1999 and the order dated 22 October 1999 is hereby SET ASIDE and declared NULL AND VOID. For having been issued with grave abuse of discretion tantamount to lack of jurisdiction. The Metropolitan Trial Court of San Juan, Metro Manila, Branch 57, is hereby directed to revive Criminal Cases Nos. 50051 and 50052 and to immediately order the presentation of defense evidence.
>
> SO ORDERED."

Aggrieved, petitioners filed a motion for reconsideration but it was denied in the Order of June 17, 2002.

Hence, this petition. Petitioners assign the following issues for consideration, to wit:

> -I-
>
> WHETHER OR NOT RESPONDENT HON. JUDGE COMMITTED GRAVE ABUSE OF DISCRETION IN GIVING DUE COURSE TO THE PETITION, NOTWITHSTANDING THAT IT WAS FILED OUT OF TIME.
>
> -II-
>
> WHETHER OT NOT RESPONDENT HON. JUDGE COMMITTED GRAVE ABUSE OF DISCRETION IN REVIVING CRIMINAL CASES NOS. 50051 AND 50052, NOTWITHSTANDING THEIR DISMISSAL ON DEMURRER TO EVIDENCE.

The petition is meritorious.

Although the proper remedy of the petitioners to impugn the decision of the trial court in a case tried in its original jurisdiction is a regular appeal under Rule 41 (certiorari on appeal), We resolve to give due course to this petition for certiorari since the questioned Decision/Order of the Regional Trial Court dated January 7, 2002 was issued with grave abuse of discretion amounting to lack of jurisdiction.

Thus, the instant petition will be resolved on the merits, more so since the issue of double jeopardy, which was not discussed by the lower court, is a paramount constitutional right of the accused and is worthy to be passed upon.

Petitioners' maintain that the RTC should have dismissed the petition for certiorari filed by private respondent on the ground of double jeopardy. Criminal Cases Nos. 50051 and 50052 was dismissed on demurrer to evidence, which necessarily means that petitioners have been arraigned, the prosecution had presented its evidence and

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thereafter rested its case. The dismissal of the case on the merits is tantamount to an acquittal of the accused. Thus, the reopening or revival of the case would be violative of their constitutional right against double jeopardy.

We agree.

The principle of double jeopardy finds constitutional or legal basis in Section 21, Article III of the Constitution, which provides that:

> "No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, the conviction or acquittal under either shall constitute a bar to another prosecution for the same act."

Implementing this constitutional provision, paragraph 1, Section 7, Rule 117 of the Rules of Criminal Procedure on double jeopardy states:

> "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."

For the defense of double jeopardy to be available, the following requisites must be present:

(1) There must be a complaint or information or other formal charge sufficient in form and substance to sustain a conviction;

(2) The complaint or information must be filed before a court of competent jurisdiction;

(3) The accused has been arraigned and has pleaded to the charge;

(4) The accused must have been convicted or acquitted of the case against him and that the case was dismissed or otherwise terminated without his express consent.[12]

On the last element, the rule is that a dismissal with the express consent or upon motion of the accused does not result in double jeopardy. However, this rule is subject to two exceptions, namely, if the dismissal is based on insufficiency of evidence or on the denial of the right to speedy trial.[13] A dismissal upon demurrer to evidence falls under the first exception.[14]

In this case, petitioners filed a demurrer to evidence with prior leave of court, after the prosecution had presented its evidence and had rested its case. On the basis of the evidence adduced by the prosecution, both documentary and testimonial, the MeTC dismissed Criminal Cases Nos. 50051 and 50052. The dismissal of the criminal cases was based on the appreciation of the MeTC of the evidence offered and said dismissal is a dismissal of the case on the merits, tantamount to an acquittal of the accused.[15]

Verily, all the elements of double jeopardy are present in this case. There was a valid Information for violation of BP 22 sufficient in form and substance to sustain a conviction of the crime charged. The MeTC had jurisdiction over the case and over the persons of petitioners. Petitioners were duly arraigned. And the criminal cases were dismissed after the prosecution has rested its case, amounting to the acquittal of petitioners. Consequently, petitioners can properly invoke the right against double jeopardy. When the MeTC granted the demurrer to evidence, the same constituted a valid acquittal and any further prosecution of petitioners on the same charge would expose them to being put twice in jeopardy for the same offense.[16]

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As held in the case of People vs. Sandiganbayan[17]:

> "The demurrer to evidence in criminal cases, such as the one at bar, is "filed after the prosecution had rested its case," and when the same is granted, it calls "for an appreciation of the evidence adduced by the prosecution and its sufficiency to warrant conviction beyond reasonable doubt, resulting in a dismissal of the case on the merits, tantamount to an acquittal of the accused." Such dismissal of a criminal case by the grant of demurrer to evidence may not be appealed, for to do so would be to place the accused in double jeopardy. The verdict being one of acquittal, the case ends there." (Italics in the original).

It was, thus, grave abuse of discretion on the part of the RTC when it entertained the petition for certiorari filed by private respondent, granted the same, which resulted to the revival of Criminal Cases Nos. 50051 and 50052, without taking into consideration the applicability of the principle of double jeopardy which was properly invoked by petitioners. When private respondent filed the petition for certiorari, he was in effect appealing from a judgment of acquittal. Courts are barred from reviewing the order acquitting the accused, since it will place the latter in double jeopardy.

Like any other rule, the rule barring appeals from judgment of acquittal admits of an exception. Such, however, is narrowly drawn and limited to the case where the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction due to a violation of due process, i.e., that the prosecution was denied the opportunity to present its case, or that the trial was a sham.[18] However, while certiorari may be resorted to cure an abusive acquittal, the petitioner in such 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.[19]

In the case at bench, the prosecution was not denied due process of law for they had the opportunity to present its case. Neither can it be said that the trial was a sham. What private respondent asserts as basis of grave abuse of discretion on the part of the MeTC was the way it appreciated the evidence presented by the prosecution. However, this error committed by the MeTC can only be an error of judgment and not of jurisdiction. The mere fact that the court decides the question wrong is utterly immaterial to the question of jurisdiction. The writ of certiorari issues for the correction of errors of jurisdiction only or grave abuse of discretion amounting to lack or excess of jurisdiction. It cannot be legally used to correct errors of procedure or mistakes in the judge's findings or conclusions.[20]

Hence, even assuming that there was erroneous disposition by the MeTC arising from its misappreciation of the evidence adduced and erroneous application of the law and applicable jurisprudence, the dismissal of the criminal cases tantamount to an acquittal of petitioners can no longer be reviewed either on appeal or on petition for certiorari for it would run counter to the petitioner's constitutional guarantee against double jeopardy. A perusal of the Order of the MeTC granting the demurrer to evidence and dismissing the criminal cases shows that the lower court considered the evidence received at trial. The evidence consisted of the testimonies of Raul Saberon, the private complainant, and Jason Castro, the bank representative, as well as the following documentary evidence: picture of the accused (Exh. "A"), Allied Bank Check No. 87004834 (Exh. "B" and its submarkings), the signature card (Exh. "C"), the Savings Account Signature Card (Exh. "D"), the Ledger Card (Exh. "E"), and the demand letter (Exh. ""F"). On the basis of the evidence presented, the lower court, in Criminal Case No. 50051, granted the demurrer to the evidence finding that there is insufficiency of evidence to prove that the court has jurisdiction over the case. Likewise, in Criminal Case No. 50052, the lower court dismissed the case there being no sufficient evidence to prove that petitioner received a notice of dishonor, whether personal or by substitution.

While the appreciation of the foregoing evidence may have resulted in possible lapses in evidence appreciation by the MeTC judge, it nevertheless does not detract from the fact that the evidence was considered and passed upon

by the lower court. Thus, no matter how erroneous the order of the MeTC is, and although a miscarriage of justice resulted from said order, such error cannot now be righted because of the timely plea of double jeopardy.[21]

As enunciated in the case of Central Bank vs. Court of Appeals[22],

> "Section 2 of Rule 122 of the Rules of Court provides that "the People of the Philippines cannot appeal if the defendant would be placed thereby in double jeopardy." The argument that the judgment is tainted with grave abuse of discretion and therefore, null and void, is flawed because whatever error may have been committed by the lower court was merely an error of judgment and not of jurisdiction. It did not affect the intrinsic validity of the decision. This is the kind of error that can no longer be rectified on appeal by the prosecution no matter how obvious the error may be. The rule therefore, in this jurisdiction is that a judgment of acquittal is not reviewable by a higher court, for an appeal by the government from the judgment would put the accused in second jeopardy for the same offense."

This Court takes judicial notice that a judgment has been rendered by the lower court convicting the petitioners of violation of BP 22. Nonetheless, We will not subordinate Our duty to correct errors of jurisdiction or grave abuse of discretion committed by the RTC only because a judgment of conviction has been rendered by the lower court. Considering that the abuse of discretion committed by the RTC is so patent and gross when it granted the petition for certiorari and revived the criminal cases, in utter disregard to the more substantial right of the accused against double jeopardy, the error needs to be corrected.

It should be noted that the right of the accused against double jeopardy vouchsafed no less by the Constitution is more paramount and supreme than the right of the State to revive a case or nullify a judgment of acquittal by way of a petition for certiorari, as in this case. Such is the magnitude of the accused's right against double jeopardy. As observed in Lockhart vs. Nelson, "(t)he fundamental tenet animating the Double Jeopardy Clause is that the State should not be able to oppress individuals through the abuse of the criminal process."[23]

Since the dismissal of Criminal Cases Nos. 55051 and 50052 as a consequence of the granting of the demurrer to evidence filed by petitioners, which as pronounced by the landmark case of People vs. City Court of Silay, results in a dismissal of the case on the merits, tantamount to an acquittal of the accused, the finality-of-acquittal doctrine applies. The strict rule against appellate review of judgments of acquittal was explained in People vs. Velasco,[24] which also expound the finality-of-acquittal rule, thus –

> The fundamental philosophy highlighting the finality of an acquittal by the trial court cuts deep in to the "the humanity of the laws and in jealous watchfulness over the rights of the citizen, when brought in unequal contest with the State x x x x" Thus Green expressed the concern that "(t)he underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent, he may be found guilty."
>
> It is axiomatic that on the basis of humanity, fairness and justice, an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal. The philosophy underlying this rule establishing the absolute nature of acquittals is "part of the paramount importance criminal justice system attaches to the protection of the innocent against wrongful conviction." The interest in the finality-of-acquittal rules, confined exclusively to verdicts of not guilty, is easy to understand: it is a need for "repose," a desire to know the exact extent of one's liability. With this right of repose, the criminal justice system has built in a protection to insure that the innocent, even those innocence rests upon a jury's leniency, will not be found guilty in a subsequent proceeding." (Emphasis supplied)

Given the foregoing, the assailed Orders and Decision of the RTC granting the petition for certiorari are nullified

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and set aside. The revival of the criminal cases clearly violated petitioners' constitutionally protected right against double jeopardy, which ought to be corrected through this extraordinary writ of certiorari. The proceedings conducted by the lower court, as a result of the remand of the case, are of no moment. The dismissal of Criminal Cases Nos. 50051 and 50052 stands.

WHEREFORE, premises considered, finding grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC, the instant petition for certiorari is hereby GRANTED. The assailed Orders of the Regional Trial Court of Pasig City, Branch 267, dated January 11, 2000, December 4, 2000, April 16, 2001 and June 17, 2002 and the Decision dated January 7, 2001 are hereby declared NULL and VOID. However, petitioners' acquittal does not mean a complete exoneration from their civil liabilities.

SO ORDERED.

Dacudao, (Chairman) and Perlas-Bernabe, JJ., concur.

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[1] Records, p. 80.

[2] Records, pp. 109-111.

[3] Records, p. 130.

[4] Records, pp. 139-143.

[5] Records, p. 161.

[6] Records, pp. 18-19.

[7] Records, pp. 20-22.

[8] Records, p. 23.

[9] Records, pp. 3-17.

[10] Records, pp. 97-101.

[11] Records, p. 130.

[12] Alonto vs. People, 445 SCRA 626, December 9, 2004.

[13] Philippine Savings Bank vs. Bermoy, 471 SCRA 94, September 26, 2005, citing People vs. Bans, 239 SCRA 48, December 8, 1994.

[14] Ibid.

[15] People vs. City Court of Silay, 74 SCRA 247, December 9, 1976.

[16] Ong vs. People, 342 SCRA 372, October 9, 2000.

[17] 447 SCRA 291, cited in People vs. Uy, 471 SCRA 668 (2005).

[18] People vs. Sandiganbayan, 376 SCRA 74, February 4, 2002.

[19] Ibid, citing People vs. Court of Appeals, 308 SCRA 687 (1999).

[20] Central Bank vs. Court of Appeals, 171 SCRA 49, March 8, 1989.

[21] People vs. City Court of Silay, supra.

[22] 171 SCRA 49, March 8, 1989.

[23] Cited in People vs. Velasco, infra.

[24] 340 SCRA 207, September 13, 2000.

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