

ARTILE GARBO AND ALMABELLA GARDOSE, PETITIONERS, VS. THE COURT OF APPEALS, PEOPLE OF THE PHILIPPINES, REGIONAL TRIAL COURT, BRANCH 21, MAMBUSAO, CAPIZ AND ERLINDA ARTUZ, RESPOND...

G.R. No. 100474. September 10, 1993

Ponente: VITUG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-100474/>

VITUG, J.:

The sisters Artile Garbo and Almabella Gardose are public school teachers of San Nicolas Elementary School at Tapaz, Capiz. As the petitioners herein, they seek to avail themselves of the benefits of probation, that have been denied to them by the Court of Appeals in its various appealed resolutions.

The duo were charged with, and convicted for, direct assault and were both sentenced by the Regional Trial Court (RTC) in Criminal Case No. 937 "to (undergo) an indeterminate penalty of (imprisonment for) One (1) Year and One (1) Day, as minimum, to Three (3) Years, Six (6) Months and Twenty One (21) Days, as maximum, and to pay a fine of P1,000 each xxx." [1]

On appeal by the petitioners, docketed as CA-G.R. CR 03109, the Court of Appeals affirmed on 01 June 1988 the conviction but modified the sentence by additionally imposing subsidiary imprisonment, in case of insolvency, for the P1,000 fine. (This decision [2] has since become final and executory).

On 05 July 1988, the petitioners applied for probation, which the RTC granted in its order [3] of 22 December 1988. The petitioners each paid the P1,000 fine.

The private respondent, Erlinda Artuz, the complainant in the criminal charge and a co-teacher of the petitioners, moved for the reconsideration of the RTC's order granting probation to the petitioners. Having been denied in an order, dated 19 April 1989, the private respondent petitioned the Court of Appeals, this time docketed as CA-G.R. 17647, to annul the RTC's above stated orders. On 31 January 1990, the Court of Appeals ruled:

"WHEREFORE, certiorari for annulment of the challenged orders, dated December 22, 1988 and April 19, 1989, respectively, in so far as they granted probation to private respondent Almabella Gardose, is DENIED; however, the annulment of that part of the same orders granting probation to private respondent Artile Garbo is GRANTED; although execution of her sentence in Criminal Case No. 1558 is now moot since she has paid the fine. Costs against petitioner." [4]

Parenthetically, Criminal Case No. 1558, referred to in the above quoted dispositive portion, was another criminal case where petitioner Garbo was convicted of grave oral defamation (that arose out of the same incident subject matter of RTC Criminal Case No. 937) and sentenced to pay a fine of P200 which she paid.

In CA-G.R. No. CR 03109, the private respondent filed on 07 February 1991 a motion to clarify whether or not, under the decision (of the Court of Appeals) of 01 June 1988, the petitioners would be subject to the prison term aside from the subsidiary imprisonment. The appellate court, in its resolution [5], dated 11 March 1991, said that

there was nothing to clarify since its decision was clear, and it thereby ordered its execution; viz:

"WHEREFORE, the Honorable Julius L. Abela, presiding judge of Branch 21 of the Regional Trial Court of Capiz, is hereby directed to execute within ten (10) days from notice hereof the decision in Criminal Case No. 937 as affirmed by this Court on June 1, 1988 and herein clarified."

The events that followed have been summarized well by the Solicitor General, which we here adopt; viz:

"On March 26, 1991, petitioners filed an urgent motion for reconsideration of the above resolution claiming that they were already under probation in respect to the penalty of imprisonment and that they had already paid the fine imposed.

"On April 22, 1991, however, without waiting for the resolution on their urgent motion, petitioners filed with this x x x Court a Petition for Certiorari and Prohibition with Prayer for the Issuance of Preliminary Injunction and Restraining Order wherein they prayed, among other things, that the Resolution dated March 11, 1991 of the Court of Appeals clarifying its decision be declared null and void.

"On April 29, 1991, this x x x Court dismissed the petition for certiorari for failure, among other (things), to comply with Memorandum Circular No. 1-88. Thereafter, petitioners on May 10, 1991 went through the motion of "withdrawing" the already dismissed petition.

"On May 13, 1991, the Court of Appeals issued a resolution holding that since petitioners had filed a petition for certiorari with the Supreme Court, the Urgent Motion for Reconsideration is deemed abandoned and withdrawn.

"On May 22, 1991, petitioners filed a motion for reconsideration of the Court of Appeals May 13, 1991 resolution holding that the Urgent Motion for Reconsideration was considered abandoned and withdrawn.

"On May 24, 1991, petitioners filed an amended motion for reconsideration. The motion was denied by the Court of Appeals in a Resolution dated June 14, 1991 on two grounds: first, when petitioners filed their motion to withdraw their petition for certiorari and prohibition before this x x x Court, the Court had already dismissed the petition, hence there was nothing to withdraw; and second, the Amended Motion for Reconsideration dated May 24, 1991 was actually a second motion for reconsideration prohibited by the Rules of Court.

"In the meantime, on June 6, 1991, the RTC denied petitioners' motion to hold in abeyance the promulgation of decision, stating:

"The motion to hold in abeyance the promulgation of decision, is hereby DENIED.

"The decision of this case is already final as per resolution of the Court of Appeals dated March 11, 1991, directing the execution of the decision within ten (10) days from notice hereof; and this Court has not received any restraining order from the Supreme Court.'

"On June 21, 1991, petitioners filed a motion for reconsideration alleging that the Resolution dated March 11, 1991 of the Court of Appeals was not a final order but merely interlocutory hence, did not become final.

"The motion was denied by the Court of Appeals in a Resolution dated June 28, 1991 which states:

"The motion for reconsideration filed by the accused praying for the reconsideration of the resolution of this Court dated May 24, 1991, is DENIED not only because it is a prohibited motion, it being a third motion for reconsideration, but also because it is not meritorious."

The instant petition for certiorari now seeks to annul the resolutions of 11 March 1991, 13 May 1991, 14 June 1991 and 28 June 1991 of the Court of Appeals, and to rescind the warrant of arrest, dated 11 June 1991, issued by the RTC. In our resolution of 15 July 1991, we issued the temporary restraining order prayed for.[6]

From the foregoing factual and case settings, it is clear that the grant of probation in favor of petitioner Almabella Gardose can no longer be questioned. When applied for by the herein petitioners, the RTC, in its order of 22 December 1988 has said:

"Considering finally, that the reasons manifested in the Post Sentence Investigation submitted to this Court by reason of this case by aforesaid Lourdes M. Bacalangco, PSI of the Probation Administration Office for the Province of Capiz and the City of Roxas, duly approved by the Probation Officer, Vicente V. Diaz, to be well grounded, the petition for Probation subject hereof is hereby granted.

"Petitioner-accused, Artile Garbo and Almabella Gardose, are hereby granted probation. That by reason of the granting of probation to the petitioners, the Motion for Promulgation of Decision personally filed by private complainant Erlinda Artuz, on December 20, 1988, is hereby denied."

The above order, when appealed (CA-G.R. 17647), was affirmed by the Court of Appeals in its decision of 31 January 1990 insofar as petitioner Gardose is concerned but the part which granted probation to petitioner Artile Garbo was annulled in this wise:

"However, petitioner also faults respondent judge with having granted probation to private respondent Artile Garbo despite the fact that she was disqualified from the benefits of probation, because, convicted of grave oral defamation in Criminal Case No. 1558 by the Municipal Circuit Trial Court of Dumalag-Tapaz, Capiz, she had been sentenced to pay a fine of P200.00, which she paid on April 1, 1986.

Again, the non-applicability of PD 1990 is invoked in behalf of said respondent Garbo in support of the proposition that she was not disqualified from the benefits of probation, as claimed by petitioner, with the argument that under PD 968 one was disqualified only if the person was sentenced to a fine of "not more than P200.00" while under PD 1990 it is "not less than P200.00." In the case of respondent Garbo, it is urged that since the fine imposed on her was P200.00, this amount was certainly not more than P200.00. Of course, such a contention is absurd: for it can also be said that her fine was "not less than P200.00."

Be that as it may, but in this matter of disqualification, it is of no moment whether the sentence of said respondent Garbo was handed down, and service thereof by her was satisfied, before or after the effectivity of PD 1990; or whether the fine imposed on her was not more or not less than P200.00. What is decisive is that she had already served her sentence of fine by paying it at the time she applied for probation which, as stated above, was granted by respondent Judge in his said challenged order.

Respondent Garbo applied for probation on July 5, 1988, after PD 1990, amending PD 968, had taken effect. Section 4 of PD 968, as amended by PD 1990 provides that "Probation may be granted whether the sentence imposes a term of imprisonment or a fine only." and Section 9 thereof provides that the benefits of probation shall not be extended to those "who are already serving sentence at the time the substantive provisions of this Decree became applicable pursuant to Section 33 thereof." Section 33 simply provides that "That Decree shall take effect upon its approval: Provided, however, That the application of its substantive provisions concerning the grant of probation shall only take effect on January 3, 1978."

Clearly, respondent Garbo was one of those disqualified from the benefits of probation at the time she filed her application therefor."

This order of the appellate court became final. The subsequent order, dated 11 March 1991, therefore, of the same court in CA-G.R. CR 03109, directing the execution of the decision in Criminal Case No. 937 did not prejudice and did not have the effect of nullifying the previous final order granting petitioner Gardose's application for probation. Evidently, a decision or an order that has become final and executory can no longer be disturbed.[7] The confusion would not have likely occurred had the appellate court's attention been invited to its decision of 31 January 1990 in CA G.R. No. 17647.

Petitioner Artile Garbo is likewise concluded by the final and executory decision of the Court of Appeals in CA-G.R. 17647, nullifying the grant of probation to her. We take note of the fact that while the denial of her probation had been decided by the Court of Appeals on 31 January 1990 in CA-G.R. 17647, the motion to clarify the same court's judgment in CA--G.R. CR 03109 was only filed on 07 February 1991, where the probation question, strangely enough, was again brought up. We do not see any cogent or compelling reason to allow the same issue to be opened anew either before the appellate court below or in the instant petition. As a settled rule, once a judgment or an order has become final, the issues therein should be laid to rest.[8] The reason is grounded on the fundamental considerations of public policy and sound practice that, at the risk of occasional error, the judgments or orders of courts must become final at some definite date fixed by law.[9] So, too, the judgment of conviction in Regional Trial Court Criminal Case No. 937 and CA-G.R. CR 03109 has long become final and executory but which is yet to be implemented because of the legal maneuvers extensively pursued by the parties, the private respondent not excluded, that, wittingly or unwittingly, have stayed it to this day.

WHEREFORE, the appealed resolutions, dated 11 March 1991, 13 May 1991, 14 June 1991, and 28 June 1991 of the Court of Appeals are hereby **AFFIRMED** as regards the petitioner Artile Garbo, and the same are **SET ASIDE** insofar as petitioner Almabella Gardose is concerned. The warrant issued by the Regional Trial Court dated 11 June 1991 for the arrest of Almabella Gardose is hereby **DISSOLVED**. No costs.

SO ORDERED.

Bidin, Romero, and Melo, JJ., concur.
Feliciano, J., (Chairman), on leave.

[1] Rollo, 22.

[2] Penned by Justice Ricardo Pronove, Jr., concurred in by Justices Florenciana Castro Bartolome and Bonifacio Cacdac, Jr. (Sixth Division); Rollo, 20--27.

[3] Rollo, 28-29.

[4] Penned by Justice Jesus Elbinias, concurred in by Antonio Martinez and Minerva Reyes (Former Fifth Division); Rollo, 32-38.

[5] Rollo, 46-48.

[6] Rollo, 71-73.

[7] *F. David Enterprises v. Insular Bank of Asia and America*, G.R. No. 78714, 191 SCRA 516 /1990/.

[8] *Enriquez v. CA*, G.R. No. 83720, 202 SCRA 487/1991/.

[9] *Turqueza v. Hernando*, G.R. No. L-51626, 97 SCRA 483/1980/.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.