

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. BENEDICTO BAO, DEFENDANT AND APPELLEE.

G.R. No. 12102. September 29, 1959

Ponente: GUTIERREZ DAVID, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-12102/>

GUTIERREZ DAVID, J.:

This is an appeal by the Government from an order of the Court of First Instance of Misamis Occidental, dismissing, upon defendant-appellee's motion, the case against him for serious oral defamation.

The record reveals that on May 13, 1955, Benedicto Bao was charged with oral defamation in the Justice of the Peace Court of Aloran, Misamis Occidental, in a complaint filed by the offended party, Maximina Banguis. The said complaint was later amended to charge the crime of serious oral defamation. The defendant having waived his right to the preliminary investigation and the justice of the peace court being of the opinion that the case did not fall within its jurisdiction, the record of the case was forwarded to the Court of First Instance of the province for trial on the merits. In that court, the provincial fiscal filed the following information:

"The undersigned Provincial Fiscal accuses Benedicto Ba-o of the crime of Serious Oral Defamation, committed as follows: "That on or about the 22nd day of April, 1955, and for sometime prior thereto, in the barrio of Casusan, municipality of Aloran, province of Misamis Occidental, Philippines, and within the jurisdiction of this Honorable Court, the .said accused, with the deliberate intent of bringing one Maximina Banguis into discredit, disrepute and public contempt, did then and there wilfully, unlawfully, feloniously and publicly speak and utter against the latter the following insulting and defamatory words and expressions, to wit: 'Si Maximina Banguis, airing nakuha' (Maximina Banguis was carnally taken by me) and other words of similar import and meaning implying that the offended party is no longer a virgin despite her being a single woman, thus exposing her to public contempt, disrepute and ridicule, to her material and moral damage in the amount of not less than P1,000.00. "Contrary to Law,"

Upon arraignment, the accused entered a plea of not guilty and the case was tried. After the prosecution had rested its case, the accused, thru his counsel, filed a motion to quash on the grounds that the facts alleged in the information did not constitute the crime of serious oral defamation and that the evidence presented was insufficient to convict him of any criminal offense. The prosecution opposed the motion to quash, but the trial court, in its order of November 3, 1956—finding that the evidence adduced by the prosecution established the crime of intriguing against honor penalized by article 364 of the Revised Penal Code, which is within the exclusive jurisdiction of the justice of the peace court to try, and not oral defamation as defined and punished under article 358 of the same code—granted the motion and dismissed the case with costs de oficio. In that same order the court directed the provincial fiscal to file the corresponding action before the proper justice of the peace court. The prosecution moved for reconsideration of the order but the motion having been denied, it appealed directly to this Court.

We believe the appeal is bereft of merit. This Court has already held that the dismissal of a criminal case on the ground of variance between the allegations in the information and the evidence amounts to an acquittal. (People

vs. Opemia, et al., 98 Phil., 698; 52 Off. Gaz., 1951.) And while there appears to be merit in the Solicitor General's contention that the offense of intriguing against honor is necessarily included in the crime of serious oral defamation charged in the information and therefore the accused could be validly convicted by the trial court of that crime under the same information, the fact remains that the case was dismissed after the prosecution had rested its case and upon motion by the defendant on the grounds that the facts alleged in the information did not constitute the crime charged and that, at any rate, the evidence presented was not sufficient to establish his guilt. This dismissal, likewise, amounts to an acquittal or discharge of the defendant, from which the prosecution cannot appeal without doing violence to the constitutional provision on double jeopardy. (People vs. Cabarles, 54 Off. Gaz., 7051, and the cases cited therein.) It goes without saying that such dismissal constitutes a bar to another prosecution not only for the offense charged, but also "for any offense which necessarily includes (it) or is necessarily included" therein. (Section 9, Rule 113, Rules of Court; People vs. Martinez, 55 Phil., 6; People vs. Besa, 74 Phil., 57; People vs. Diaz, 94 Phil., 714.

The accused herein filed no brief on appeal raising the question of double jeopardy. Nevertheless, the provision of section 2 of Rule 118 of the Rules of Court that "The People of the Philippines cannot appeal if the defendant would be placed thereby in double jeopardy," must be given force and effect. (People vs. Ferrer, 100 Phil., 124; 52 Off. Gaz., [4] 620.) And neither may the fact that the order of dismissal complained of was upon motion or at the instigation of the accused preclude the application of the principle of double jeopardy. In several cases where the trial court's order of dismissal amounted to an acquittal, this Court sustained the theory of double jeopardy despite the fact that the dismissal was secured upon motion of the accused. (People vs. Robles, 105 Phil., 1016; 57 Off. Gaz., 61; People vs. Tacneng et al., G. R. No. L-12082, April 30, 1959, and the cases cited therein; see also People vs. Cabarles, supra, and People vs. Opemia et al., supra.)

Wherefore, the appeal filed on behalf of the Government must be, as it is hereby, dismissed with costs de oficio.

Paras, C. J. Begzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, and Barrera, JJ., concur.

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.