

DENNIS T. VILLAREAL, PETITIONER, VS. CONSUELO C. ALIGA, RESPONDENT.

G.R. No. 166995. January 13, 2014

Ponente: PERALTA, J.

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PERALTA, J.:

Challenged in this petition for review on certiorari under Rule 45 of the 1997 Revised Rules of Civil Procedure (Rules) are the April 27, 2004 Decision[1] and August 10, 2004 Resolution,[2] of the Court of Appeals (CA) in CA-G.R. CR No. 25581 entitled *People of the Philippines v. Consuelo Cruz Aliga* which acquitted respondent Consuelo C. Aliga (Aliga) from the offense charged and, in effect, reversed and set aside the July 12, 2001 Decision[3] of the Regional Trial Court (RTC), Branch 147, Makati City.

On October 31, 1996, an Information was filed against respondent Aliga for the crime of Qualified Theft thru Falsification of Commercial Document, committed as follows:

That on or about the 30th day of October 1996, in the City of Makati, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, being then an accountant of Dentrade Inc., herein represented by Dennis T. Villareal, and who has access to the company's checking accounts did then and there willfully, unlawfully and feloniously with grave abuse of confidence, with intent [to] gain and without the consent of the owner thereof, take, steal and carry away from complainant's office, United Coconut Planters Bank Check No. HOF 681039 dated October 24, 1996 in the amount of P5,000.00, once in possession of said check, did then and there willfully, unlawfully and feloniously falsify the amount by changing it to P65,000.00 and having the same encashed with the bank, thereafter misappropriate and convert to her own personal use and benefit the amount of P60,000.00 to the damage and prejudice of the herein complainant, Dentrade Inc., in the aforementioned amount of P60,000.00.[4]

During her arraignment on December 6, 1996, respondent Aliga pleaded not guilty.[5] After the RTC resolved to deny petitioner's motion for issuance of a hold departure order against respondent Aliga and the latter's motion to suspend proceedings,[6] trial on the merits ensued. Both the prosecution and the defense were able to present the testimonies of their witnesses and their respective documentary exhibits.

The Court of Appeals, substantially adopting the trial court's findings, narrated the relevant facts as follows:

Apart from the documentary exhibits "A" to "F", the combined testimonies of the prosecution witnesses Elsa Doroteo, Diosdado Corompido, Yolanda Martinez and NBI agent John Leonard David tend to establish the following factual milieu:

Complainant Dennis T. Villareal is the President and General Manager of Dentrade, Inc., a corporation with principal office address at the 7/F Citibank Center 8741 Paseo de Roxas, Makati City. As a businessman, Villareal maintains checking accounts with the head office of China Banking Corporation (Chinabank) in Paseo de Roxas and United Coconut Planters Bank (UCPB) in Makati Avenue, both banks are located in Makati City. He has under his employ, Elsa Doroteo, as executive secretary, Diosdado Corompido, as messenger, Yolanda Martinez, as chief accountant, [respondent] Consuelo Cruz Aliga and Annaliza Perez, as

accounting clerks.

[Respondent] has custody of the personal checks of Villareal. She prepares the personal checks by typing its contents and submits them to Villareal for his signature. After the signed checks are delivered to her, she in turn, gives the checks to the messenger for encashment with the bank.

Sometime in October 1996, Villareal's governess asked Doroteo for the payment covering the year 1995 for his children's teacher in horseback riding. Doroteo replied that the said fees had been paid. To verify the matter, Doroteo instructed Perez, one of the accounting clerks, to produce the originals of the returned checks from [the] personal account of Villareal. Upon examining the returned checks, Doroteo found out that the fees for the horseback riding instructor had indeed been paid and that there were large encashments reflected on the checks in typewritten form. Doroteo informed Villareal of her findings. Villareal examined the returned checks and was surprised as he never authorized the large encashments.

Upon advice of his lawyer, Atty. Victor Lazatin of the ACCRA Law Offices, Mr. Villareal sent a letter to the National Bureau of Investigation (NBI) asking for assistance in the investigation of the matter (Exh. "A"). A few days thereafter, NBI agents John Leonard David and Rafael Ragos arrived at the Dentrade office. They examined the particular checks which involved large amounts and interviewed Doroteo.

When asked by the two NBI agents, Villareal told them that there were three (3) checks pending for his signature, UCPB checks, all in petty cash: one check was for P1,000.00, another for P5,000.00, and the last one for P6,000.00. They were all in typewritten form which [respondent] prepared. As suggested by the NBI agents, Villareal signed the three (3) checks. Doroteo had the three checks photocopied then released their originals to [respondent].

On instruction of Villareal, Doroteo and NBI agent David went to UCPB the next day hoping that one of the checks will be encashed. At or about 3:00 p.m. on that day, Doroteo asked the bank teller if Villareal's three checks were encashed. The bank teller informed Doroteo that UCPB check in the amount of P65,000.00 was encashed. Doroteo was surprised because she was then holding a photocopy of the original check for P5,000.00 while she saw the teller holding a check for P65,000.00 but the check number and date were exactly the same as that of its photocopy. Obviously, the number "6" was intercalated in the check by adding the said number before the digits "5,000.00." Upon Doroteo's request, the teller gave her a photocopy of the supposedly altered check.

Doroteo reported back to the Dentrade office and handed to Villareal the photocopy of the check bearing the amount of P65,000.00. When summoned, [respondent] arrived then executed a statement voluntarily giving back the amount of P60,000.00 to Villareal in the presence of his lawyers Lazatin and Vallente, and Doroteo. The said statement was in the handwriting of [respondent] (Exh. "D"), which reads:

"After being confronted by Mr. Dennis T. Villareal, I am voluntarily surrendering the P60,000.00 as part of the proceeds of UCPB check # 681039 dated October 30, 1996 as follows (in P1,000.00 bills)

(serial no. of P1,000.00 bills subject of the statement)."

Doroteo photocopied the P1,000.00 bills (Exh. "E"). After [respondent] admitted the taking of the excess amount of P60,000.00, the NBI agents placed her under arrest and took her to the NBI detention center.

According to witness Corompido, Villareal's messenger, at 10:00 a.m. of October 30, 1996, he was bound for UCPB, Makati Avenue branch. [Respondent] requested him to pay her "Extelcom" bill and asked him to meet her at the UCPB bank. After several minutes, the two met at the bank. [Respondent] handed to Corompido her "Extelcom" bill and one personal check of Villareal in the amount of P65,000.00. [Respondent] returned to the Dentrade [office]. Corompido gave to the teller [respondent's] "Extelcom" payment and also the personal check of Villareal for P65,000.00. The teller release the P65,000.00 to Corompido who signed on the stamped portion of the check.

[Respondent] Aliga has a different version for her defense. She claimed that on October 30, 1996 at around 2:30 p.m., the NBI agents arrested her but they did [not] inform [her] of her constitutional rights to remain silent and to be assisted by counsel; that she was actually an accounting assistant to Dentrade's chief accountant, Yolanda Martinez, the accounting clerk being Annaliza Perez; that she was not in charge of Villareal's personal checking account, but Martinez; that Perez was the one in custody of the [checkbooks] pertaining to the personal checking accounts of Villareal with UCPB and [Chinabank]; that Doroteo was in possession of another [checkbook] and kept it in Villareal's residence.

[Respondent] admitted that the UCPB and Chinabank checks were also used for the replenishment of the cash advances made by Villareal; that the replenishment was prepared using a typewriter by Martinez, Perez, Doroteo and herself; that there was no regulation or control mechanism in their office where the responsibility for preparing any particular check on the personal account of Villareal could be identified; that the issuance of checks against the personal checking accounts at the UCPB and Chinabank were frequent, from 5 to 12 checks daily; and that there were no accompanying vouchers to record the purposes for which the checks were issued; and that it was Martinez who monitors Villareal's personal checks at the UCPB and Chinabank.[7]

Additionally, respondent Aliga claimed that Perez, Doroteo, and Martinez are also using typewriter in the check preparation.[8] Moreover, at the time she was summoned by Villareal inside his office, the two NBI agents (David and Ragos) and Villareal's counsels (Attys. Lazatin and Vallente) were joined in by NBI Director Toledo.[9] The extent of the NBI's participation is disputed. While respondent Aliga[10] maintained that she was already arrested by the NBI at the moment she was called to the office of Villareal, David[11] testified that they were merely silent spectators therein, just witnessing the confrontation or interview conducted by Villareal and not even talking to respondent Aliga.

The RTC succinctly opined that the evidence of the prosecution is very clear that respondent Aliga must have been the one who made the intercalation in the subject check, and that even without her written admission (Exhibit "D"), the evidence presented constitutes proof beyond reasonable doubt. The July 12, 2001 Decision disposed:

WHEREFORE, in view of the foregoing, the Court, finding the accused CONSUELO CRUZ ALIGA guilty beyond reasonable doubt of the crime charged, hereby sentences her to suffer an indeterminate sentence of 14 years, 8 months of reclusion temporal as the minimum to 20 years of reclusion temporal as the maximum.

It appearing that the amount of P60,000.00 subject of the offense was already returned by the accused, the Court hereby absolves the accused of civil liability in this case.

SO ORDERED.[12]

Respondent Aliga appealed to the CA, which, on April 27, 2004, reversed and set aside the judgment of the RTC on the grounds that: (1) her admission or confession of guilt before the NBI authorities, which already qualifies as a custodial investigation, is inadmissible in evidence because she was not informed of her rights to remain silent and to have competent and independent counsel preferably of her own choice; and (2) the totality of the circumstantial evidence presented by the prosecution is insufficient to overcome the presumption of innocence of the accused.

Petitioner's motion for reconsideration was denied by the CA on August 10, 2004; hence, this petition raising the issues for resolution as follows:

I.

THE COURT OF APPEALS GRAVELY ERRED IN DECLARING INADMISSIBLE RESPONDENT'S

VOLUNTARY ADMISSION OF GUILT, ON ITS CLEARLY SPECULATIVE AND CONJECTURAL PREMISE THAT RESPONDENT'S FREEDOM OF ACTION WAS IMPAIRED WHEN SHE MADE THE ADMISSION, CONSIDERING THAT:

- AS LAID DOWN BY THIS HONORABLE COURT, AN ADMISSION OF GUILT SHIFTS THE BURDEN TO THE DEFENSE TO SHOW THAT IT WAS EXTRACTED BY FORCE OR DURESS.

- CONTRARY TO THE JURISPRUDENTIAL GUIDELINES LAID DOWN BY THIS HONORABLE COURT, THE COURT OF APPEALS ERRONEOUSLY CONCLUDED THAT RESPONDENT WAS "EFFECTIVELY PLACED UNDER CUSTODIAL INVESTIGATION" BY THE SHEER PHYSICAL PRESENCE OF THE NBI AGENTS WHEN THE ADMISSION WAS MADE.

- RESPONDENT'S VOLUNTARY ADMISSION WAS MADE TO A PRIVATE INDIVIDUAL, I.E., PETITIONER HEREIN.

II.

THE COURT OF APPEALS GRAVELY ERRED, IF NOT ACTED IN EXCESS OF ITS JURISDICTION, WHEN IT CONCLUDED THAT THE PROSECUTION'S EVIDENCE WAS INSUFFICIENT TO OVERCOME RESPONDENT'S PRESUMPTION OF INNOCENCE, CONSIDERING THAT:

- CONTRARY TO THIS HONORABLE COURT'S JURISPRUDENTIAL RULING, THE COURT OF APPEALS ENTIRELY OVERLOOKED THE EVIDENCE ON RECORD AND EXACTED DIRECT EVIDENCE FROM THE PROSECUTION.

- THE COURT OF APPEALS' ERRONEOUS CONCLUSION THAT RESPONDENT IS INNOCENT IS BASED ON ITS FINDING OF A SUPPOSED INSUFFICIENCY OF EVIDENCE WHICH IS CONTRADICTED BY THE EVIDENCE ON RECORD.

- THE COURT OF APPEALS DEPARTED FROM SETTLED JURISPRUDENCE, REQUIRING FROM THE PROSECUTION A QUANTUM OF EVIDENCE GREATER THAN PROOF BEYOND REASONABLE DOUBT, WHEN IT:

- ERRONEOUSLY RULED THAT THE PROSECUTION FAILED TO DISCOUNT THE POSSIBILITY THAT SOMEONE ELSE COULD HAVE CAUSED THE ALTERATION ON THE CHECK; AND

- FAULTING THE PROSECUTION FOR NOT PRESENTING PETITIONER AS A WITNESS.

- THE COURT OF APPEALS GRAVELY ERRED WHEN, BASED ON NOTHING MORE THAN RESPONDENT'S DENIALS, IT DEPARTED FROM THE WELL-SETTLED RULE LAID DOWN BY THIS HONORABLE COURT THAT THE TRIAL COURT'S FINDINGS OF FACT AND CONCLUSIONS BASED THEREON, AS WELL AS ITS ASSESSMENT OF THE CREDIBILITY OF THE WITNESSES, ARE CONCLUSIVE UPON APPELLATE COURTS.[13]

On the other hand, respondent Aliga countered that:

I.

THE PETITION FOR REVIEW ON CERTIORARI SHOULD BE DISMISSED FOR RAISING ONLY QUESTIONS OF FACTS.

II.

THE PETITION FOR REVIEW ON CERTIORARI SHOULD BE DISMISSED ON THE GROUND OF DOUBLE JEOPARDY.

III.

PETITIONER HAS NO STANDING TO FILE THE INSTANT PETITION FOR REVIEW ON CERTIORARI.

IV.

WITHOUT PREJUDICE TO THE FOREGOING ARGUMENTS, THE PETITION FOR REVIEW ON CERTIORARI SHOULD BE DISMISSED FOR FAILURE TO SHOW THAT THE COURT OF APPEALS COMMITTED GRIEVOUS ERROR IN ISSUING THE 27 APRIL 2004 AND 10 AUGUST 2004 DECISIONS; ON THE CONTRARY, THE DECISIONS APPEAR TO BE IN ACCORD WITH THE FACTS AND THE APPLICABLE LAW AND JURISPRUDENCE.[14]

The petition is unmeritorious.

The petition should have been filed
by the State through the OSG

Petitioner took a procedural misstep when he filed the present petition without the representation of the Office of the Solicitor General (OSG). In *Bautista v. Cuneta-Pangilinan*,^[15] We underscored:

x x x The authority to represent the State in appeals of criminal cases before the Supreme Court and the CA is solely vested in the Office of the Solicitor General (OSG). Section 35 (1), Chapter 12, Title III, Book IV of the 1987 Administrative Code explicitly provides that the OSG shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. It shall have specific powers and functions to represent the Government and its officers in the Supreme Court and the CA, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party. The OSG is the law office of the Government.

To be sure, in criminal cases, the acquittal of the accused or the dismissal of the case against him can only be appealed by the Solicitor General, acting on behalf of the State. The private complainant or the offended party may question such acquittal or dismissal only insofar as the civil liability of the accused is concerned. In a catena of cases, this view has been time and again espoused and maintained by the Court. In *Rodriguez v. Gadiane*, it was categorically stated that if the criminal case is dismissed by the trial court or if there is an acquittal, the appeal on the criminal aspect of the case must be instituted by the Solicitor General in behalf of the State. The capability of the private complainant to question such dismissal or acquittal is limited only to the civil aspect of the case. The same determination was also arrived at by the Court in *Metropolitan Bank and Trust Company v. Veridiano II*. In the recent case of *Bangayan, Jr. v. Bangayan*, the Court again upheld this guiding principle.

Worthy of note is the case of *People v. Santiago*, wherein the Court had the occasion to bring this issue to rest. The Court elucidated:

It is well settled that in criminal cases where the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability. Thus, in the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General. Only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not take such appeal. However, the said offended party or complainant may appeal the civil aspect despite the acquittal of the accused.

In a special civil action for certiorari filed under Section 1, Rule 65 of the Rules of Court wherein it is alleged that the trial court committed a grave abuse of discretion amounting to lack of jurisdiction or on other

jurisdictional grounds, the rules state that the petition may be filed by the person aggrieved. In such case, the aggrieved parties are the State and the private offended party or complainant. The complainant has an interest in the civil aspect of the case so he may file such special civil action questioning the decision or action of the respondent court on jurisdictional grounds. In so doing, complainant should not bring the action in the name of the People of the Philippines. The action may be prosecuted in [the] name of said complainant.

Thus, the Court has definitively ruled that in a criminal case in which the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability arising therefrom. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal of the criminal aspect may be undertaken, whenever legally feasible, only by the State through the Solicitor General. As a rule, only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not undertake such appeal.[16]

In the case at bar, the petition filed essentially assails the criminal, not the civil, aspect of the CA Decision. It must even be stressed that petitioner never challenged before the CA, and in this Court, the RTC judgment which absolved respondent Aliga from civil liability in view of the return of the P60,000.00 subject matter of the offense on October 30, 1996. Therefore, the petition should have been filed only by the State through the OSG. Petitioner lacks the personality or legal standing to question the CA Decision because it is only the OSG which can bring actions on behalf of the State in criminal proceedings before the Supreme Court and the CA. Unlike in *Montañez v. Cipriano*[17] where we adopted a liberal view, the OSG, in its Comment on this case,[18] neither prayed that the petition be granted nor expressly ratified and adopted as its own the petition for the People of the Philippines. Instead, it merely begged to excuse itself from filing a Comment due to conflict of interest and for not having been impleaded in the case.

A judgment of acquittal may be
assailed only in a petition for certiorari
under Rule 65 of the Rules of Court

Petitioner also committed another procedural blunder. A petition for certiorari under Rule 65 of the Rules should have been filed instead of herein petition for review on certiorari under Rule 45. The People may assail a judgment of acquittal only via petition for certiorari under Rule 65 of the Rules. If the petition, regardless of its nomenclature, merely calls for an ordinary review of the findings of the court a quo, the constitutional right of the accused against double jeopardy would be violated.[19] The Court made this clear in *People v. Sandiganbayan* (First Div.),[20] thus:

x x x A petition for review on certiorari under Rule 45 of the Rules of Court and a petition for certiorari under Rule 65 of the Rules of Court are two and separate remedies. A petition under Rule 45 brings up for review errors of judgment, while a petition for certiorari under Rule 65 covers errors of jurisdiction or grave abuse of discretion amounting to excess or lack of jurisdiction. Grave abuse of discretion is not an allowable ground under Rule 45. A petition for review under Rule 45 of the Rules of Court is a mode of appeal. Under Section 1 of the said Rule, a party aggrieved by the decision or final order of the Sandiganbayan may file a petition for review on certiorari with this Court:

Section 1. Filing of petition with Supreme Court. - A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court, or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law which must be distinctly set forth.

However, the provision must be read in relation to Section 1, Rule 122 of the Revised Rules of Court, which provides that any party may appeal from a judgment or final order "unless the accused will thereby be placed in double jeopardy." The judgment that may be appealed by the aggrieved party envisaged in the Rule is a judgment

convicting the accused, and not a judgment of acquittal. The State is barred from appealing such judgment of acquittal by a petition for review.

Section 21, Article III of the Constitution provides that "no person shall be twice put in jeopardy of punishment for the same offense." The rule is that a judgment acquitting the accused is final and immediately executory upon its promulgation, and that accordingly, the State may not seek its review without placing the accused in double jeopardy. Such acquittal is final and unappealable on the ground of double jeopardy whether it happens at the trial court or on appeal at the CA. Thus, the State is proscribed from appealing the judgment of acquittal of the accused to this Court under Rule 45 of the Rules of Court.

x x x x

A judgment of acquittal may be assailed by the People in a petition for certiorari under Rule 65 of the Rules of Court without placing the accused in double jeopardy. However, in such case, the People is burdened to establish that the court a quo, in this case, the Sandiganbayan, acted without jurisdiction or grave abuse of discretion amounting to excess or lack of jurisdiction. Grave abuse of discretion generally refers to capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or virtual refusal to perform a duty imposed by law, or to act in contemplation of law or where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. No grave abuse of discretion may be attributed to a court simply because of its alleged misapplication of facts and evidence, and erroneous conclusions based on said evidence. Certiorari will issue only to correct errors of jurisdiction, and not errors or mistakes in the findings and conclusions of the trial court.[21]

The nature of certiorari action was expounded in *People v. Court of Appeals (Fifteenth Div.)*: [22]

x x x Certiorari alleging grave abuse of discretion is an extraordinary remedy. Its use is confined to extraordinary cases wherein the action of the inferior court is wholly void. Its aim is to keep the inferior court within the parameters of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to lack or excess of jurisdiction. No grave abuse of discretion may be attributed to the court simply because of its alleged misappreciation of facts and evidence. While certiorari may be used to correct an abusive acquittal, the petitioner in such extraordinary proceeding must clearly demonstrate that the lower court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.[23]

and further in *First Corporation v. Former Sixth Division of the Court of Appeals*: [24]

It is a fundamental aphorism in law that a review of facts and evidence is not the province of the extraordinary remedy of certiorari, which is extra ordinem – beyond the ambit of appeal. In certiorari proceedings, judicial review does not go as far as to examine and assess the evidence of the parties and to weigh the probative value thereof. It does not include an inquiry as to the correctness of the evaluation of evidence. x x x It is not for this Court to re-examine conflicting evidence, re-evaluate the credibility of the witnesses or substitute the findings of fact of the court a quo.[25]

The case does not fall within the exception to rule on double jeopardy

Indeed, a judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation.[26] The rationale for the rule is elucidated in the oft-cited case of *People v. Hon. Velasco*: [27]

The fundamental philosophy highlighting the finality of an acquittal by the trial court cuts deep into "the humanity of the laws and in a jealous watchfulness over the rights of the citizen, when brought in unequal contest with the State. 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 rule, 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 whose innocence rests upon a jury's leniency, will not be found guilty in a subsequent proceeding.

Related to his right of repose is the defendant's interest in his right to have his trial completed by a particular tribunal. This interest encompasses his right to have his guilt or innocence determined in a single proceeding by the initial jury empanelled to try him, for society's awareness of the heavy personal strain which the criminal trial represents for the individual defendant is manifested in the willingness to limit Government to a single criminal proceeding to vindicate its very vital interest in enforcement of criminal laws. The ultimate goal is prevention of government oppression; the goal finds its voice in the finality of the initial proceeding. As observed in *Lockhart v. 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." Because the innocence of the accused has been confirmed by a final judgment, the Constitution conclusively presumes that a second trial would be unfair.[28]

People v. Court of Appeals (Fifteenth Div.)[29] also stated:

x x x The finality-of-acquittal doctrine has several avowed purposes. Primarily, it prevents the State from using its criminal processes as an instrument of harassment to wear out the accused by a multitude of cases with accumulated trials. It also serves the additional purpose of precluding the State, following an acquittal, from successively retrying the defendant in the hope of securing a conviction. And finally, it prevents the State, following conviction, from retrying the defendant again in the hope of securing a greater penalty. In *People v. Velasco*, we stressed that an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal x x x.[30]

However, the rule against double jeopardy is not without exceptions, which are: (1) Where there has been deprivation of due process and where there is a finding of a mistrial, or (2) Where there has been a grave abuse of discretion under exceptional circumstances.[31] Unfortunately for petitioner, We find that these exceptions do not exist in this case.

First, there is no deprivation of due process or a mistrial. In fact, petitioner did not make any allegation to that effect. What the records show is that during the trial, both parties had more than sufficient occasions to be heard and to present their evidence. The same is true during the appeal before the CA. The State, represented by the OSG, was not deprived of a fair opportunity to prove its case.

And second, no grave abuse of discretion could be attributed to the CA. It could not be said that its judgment was issued without jurisdiction, and, for this reason, void. Again, petitioner did not even allege that the CA gravely abused its discretion. Instead, what he asserted was that the CA "gravely erred" in the evaluation and assessment of the evidence presented by the parties. Certainly, what he questioned was the purported errors of judgment or those involving misappreciation of evidence or errors of law, which, as aforesaid, cannot be raised and be reviewed in a Rule 65 petition. To repeat, a writ of certiorari can only correct errors of jurisdiction or those

involving the commission of grave abuse of discretion, not those which call for the evaluation of evidence and factual findings.

x x x Any error committed in the evaluation of evidence is merely an error of judgment that cannot be remedied by certiorari. An error of judgment is one in which the court may commit in the exercise of its jurisdiction. An error of jurisdiction is one where the act complained of was issued by the court without or in excess of jurisdiction, or with grave abuse of discretion which is tantamount to lack or in excess of jurisdiction and which error is correctible only by the extraordinary writ of certiorari. Certiorari will not be issued to cure errors by the trial court in its appreciation of the evidence of the parties, and its conclusions anchored on the said findings and its conclusions of law. Since no error of jurisdiction can be attributed to public respondent in her assessment of the evidence, certiorari will not lie.[32]

Upon perusal of the records, it is Our considered view that the conclusions arrived at by the CA cannot, by any measure, be characterized as capricious, whimsical or arbitrary. While it may be argued that there have been instances where the appreciation of facts might have resulted from possible lapses in the evaluation of the evidence, nothing herein detracts from the fact that relevant and material evidence was scrutinized, considered and evaluated as proven by the CA's lengthy discussion of its opinion. We note that the petition basically raises issues pertaining to alleged errors of judgment, not errors of jurisdiction, which is tantamount to an appeal, contrary to the express injunction of the Constitution, the Rules of Court, and prevailing jurisprudence. Conformably then, we need not embark upon review of the factual and evidentiary issues raised by petitioner, as these are obviously not within the realm of Our jurisdiction.

WHEREFORE, the instant petition is DISMISSED for lack of merit. The acquittal of herein respondent Consuelo C. Aliga by the Court of Appeals in its April 27, 2004 Decision and August 10, 2004 Resolution in CA-G.R. CR No. 25581, entitled *People of the Philippines v. Consuelo Cruz Aliga*, is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Mendoza, and Leonen, JJ. concur.

February 10, 2014

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on ____January 13, 2014____ a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on February 10, 2014 at 2:20 p.m.

Very truly yours,
(SGD)
LUCITA ABJELINA SORIANO
Division Clerk of Court

[1] Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Marina L. Buzon and Mariano C. Del Castillo (now a member of the Supreme Court), concurring; rollo, pp. 61-75.

- [2] Id. at 77-78.
- [3] Id. at 636-640.
- [4] Id. at 79.
- [5] Id. at 102.
- [6] Id. at 101, 155, 168.
- [7] Id. at 62-65.
- [8] Id. at 639.
- [9] TSN, March 9, 2001, pp. 7-9; id. at 510-512.
- [10] Id. at 5-7; id. at 508-510.
- [11] TSN, October 26, 2000, pp. 40-50; Rollo, pp. 392-402.
- [12] Rollo, p. 640.
- [13] Id. at 34-35.
- [14] Id. at 724-725.
- [15] G.R. No. 189754, October 24, 2012, 684 SCRA 521.
- [16] Bautista v. Cuneta-Pangilinan, *supra*, at 534-537 (Citations omitted)
- [17] G.R. No. 181089, October 22, 2012, 684 SCRA 315.
- [18] Rollo, pp. 744-760.
- [19] People v. Sandiganbayan (First Div.), 524 Phil. 496, 522 (2006).
- [20] *Supra*.
- [21] People v. Sandiganbayan (First Div.), *supra*, at 517-523. (Emphasis in the original)
- [22] 545 Phil. 278 (2007).
- [23] People v. Court of Appeals (Fifteenth Div.), *supra*, at 293-294. (Citations omitted)
- [24] 553 Phil. 526 (2007).
- [25] First Corporation v. Former Sixth Division of the Court of Appeals, *supra*, at 540-541.
- [26] See People v. Court of Appeals (Fifteenth Div.), *supra* note 22, at 292; People v. Sandiganbayan (First Div.), *supra* note 19, at 517; People v. Hon. Tria-Tirona, 502 Phil. 31, 37 (2005); and People v. Hon. Velasco, 394 Phil. 517, 554 (2000).
- [27] *Supra*.
- [28] People v. Hon. Velasco, *supra* note 26, at 555-557. (Citations omitted)
- [29] *Supra* note 22.
- [30] People v. Court of Appeals (Fifth Division), *supra* note 22, at 292-293. (Citations omitted)

[31] Id. at 293.

[32] People v. Hon. Tria-Tirona, supra note 26, at 39. See also First Corporation v. Former Sixth Division of the Court of Appeals, supra note 24, at 540-541.

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