

**FRANCISCO LAGUNILLA, PETITIONER, VS. HON. JUAN O. REYES,
JUDGE OF THE COURT OF FIRST INSTANCE, SAN FERNANDO, LA
UNION, THE PROVINCIAL FISCAL OF LA UNION AND FERMIN MOTAS,
RESPON...***G.R. No. 17377. April 29, 1961*

Ponente: REYES, J.B.L., J.

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Upon complaint of one Fermin Motas, petitioner Francisco Lagunilla was charged before the Justice of the Peace Court of Bangar, La Union, with the crime of slight physical injuries and, after trial, convicted of the crime charged and ordered to pay a fine P20.00. Lagunilla appealed to the Court of First Instance of La Union, where the provincial fiscal filed the corresponding information on February 16, 1960 (Criminal Case No. 2925). The case was set for trial on July 7, 1960, and at the hearing on said date, the accused entered a plea of not guilty. After the plea, the case was called for trial, but the assistant provincial fiscal moved for postponement on the ground that the complainant Fermin Motas and his witnesses were not present although according to the fiscal himself, "* * * complainant appeared in his office yesterday (July 6, 1960) and informed him (sic) of the trial of this case that is set for this morning" (Order of July 7, 1960, Annex "B", Petition). Whereupon, the accused moved for the dismissal of the case, but the Court waited until 10:30 for the complainant and his witnesses to appear. When they still failed to show up, the Court promulgated the following order dismissing the case:

"ORDER"

(Information, Filed February 16, 1960; Hearing, July 7, 1960; Case Dismissed July 7, 1960.) (sic)

When this case was called for the arraignment of the accused and trial of the case, the accused appeared with his counsel. Upon arraignment, he entered a plea of not guilty. The Fiscal in charge moved for the postponement of the hearing on the ground that neither the complainant nor his witnesses are now present although according to the Fiscal the complainant appeared in his office yesterday and informed him of the trial of this case that is set for this morning.

In view of the apparent lack of interest on the part of the complainant to further prosecute this case as shown by his failure to appear today (the Court waited until 10:30 a.m.), on motion of the defense this case is hereby dismissed with costs de oficio. The bail bond filed for the provisional liberty of the accused is declared cancelled and whatever papers submitted to support said bail bond may be returned to the respective owners or to the counsel of the accused.

IT IS SO ORDERED."

(Annex B, Petition)

On July 11, 1960, the assistant provincial fiscal filed a motion to reconsider the above order on the ground that his witnesses were not present at the trial because complainant Fermin Motas "had not been duly served with

subpoena", that while it is true that one day before the trial, the Chief of Police accompanied said Fermin Motas to his (the fiscal's) office because of a previous subpoena issued to him, "perhaps the said complaining witness and his witness may have thought that the hearing of the said case was on that day"; and that it was not true that complainant lacked interest in the prosecution, of the case and that if the order of dismissal was reconsidered, complainant and his witnesses would be present at the hearing (Annex "C", Petition). Accused Lagunilla opposed the motion for reconsideration, insisting that the fiscal himself had informed the court that complainant Motas knew of the date of the hearing, and that anyway, the dismissal was equivalent to an acquittal and reconsideration of the same would place him twice in jeopardy for the same offense. In spite of the opposition, however, the trial court, on July 26, 1960, reconsidered its previous order, setting the same aside, and ordered that the case be set for trial on August 22, 1960. Unable to obtain reconsideration of this second order, accused Lagunilla interposed this petition for certiorari with prohibition.

We find the petition well-taken.

In the case of *Gandicela vs. Hon. Lutero*, 88 Phil., 299, we held that if the prosecution asks for the postponement of the hearing and the court believes that the hearing cannot be postponed without violating the right of the accused to a speedy trial, the court should deny the postponement and proceed with the trial, and if the fiscal fails to prove the defendant's guilt beyond a reasonable doubt, the court, upon the motion of the defendant, should dismiss the case; and that this dismissal is not in reality a dismissal in the general sense but an acquittal based on the failure of the prosecution to prove the defendant's guilt, which bars another prosecution for the same offense.

Later, in the case of *People vs. Diaz*, 94 Phil., 714, wherein the prosecution was not even present at the trial, we reiterated the *Gandicela* ruling, pointing out that there was more reason to dismiss the case upon the instance of the accused because the prosecution was not even present on the day of the trial so as to be in a position to proceed with the presentation of evidence to prove the guilt of the accused, and that said dismissal should likewise be regarded as an acquittal.

Still later, in *People vs. Tacneng*, L-12082, April 30, 1959, wherein the prosecution, after asking for several postponements, confessed to the court that it was not ready for trial because none of its witnesses had appeared, and the accused, invoking his constitutional right to a speedy trial, asked for dismissal, and the court dismissed the case, we also ruled that such dismissal amounted to an acquittal.

Finally, in the case of *People vs. Robles*, 105 Phil., 1016, wherein the court ordered dismissal of the case upon the motion of the accused because the prosecution was still not prepared for trial after several postponements, we again held that the dismissal was tantamount to an acquittal that would bar further prosecution of the accused for the same offense.

In the case now before us, the lower court ordered the dismissal of the criminal case against petitioner because of the apparent lack of interest of the complainant to prosecute the case. Such dismissal, made unconditionally and without reservation, after plea of not guilty, and apparently predicated on the constitutional right of the accused to a speedy trial, is, following the above-cited authorities, equivalent to an acquittal. And being an order of acquittal, it became final immediately after promulgation and could no longer be recalled for correction or reconsideration (*People vs. Sison*, L-11669, January 30, 1959; *Catilo vs. Abaya*, 94 Phil., 1014; 50 Off. Gaz., [6] 2477; *People vs. Yelo*, 83 Phil., 618; 46 Off. Gaz., [11th Supp.] 71), with or without good reason.

Wherefore, the order of the court below of July 26, 1960 is set aside and the order of dismissal of July 7, 1960 reinstated, with costs de oficio.

Bengzon, C.J., Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, and Dizon, JJ., concur.

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