



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

MANUEL T. UBARRA, JR.,
Petitioner;

G.R. No. 249890

Present:

GESMUNDO, C.J.,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO,* and
MARQUEZ, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

OCT 09 2024

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DECISION

HERNANDO, J.:

Our Constitution protects the right to due process of both the State and the accused in criminal cases. Thus, the guarantee against double jeopardy does not preclude the Court from declaring a judgment of acquittal as void when it has been rendered in violation of the State's right to be heard and prosecute its case.

This is a petition¹ filed by Manuel T. Ubarra, Jr. (Ubarra) from the Decision² and the Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No.

* On official business.

¹ *Rollo*, vol. 1, pp. 11-75.

² *Id.* at 76-83. The March 19, 2019 Decision in CA-G.R. SP No. 148915 was penned by Associate Justice Germano Francisco D. Legaspi and concurred in by Associate Justices Sesinando E. Villon and Edwin D. Sorongon of the Seventh Division, Court of Appeals, Manila.

³ *Id.* at 85-87. The October 15, 2019 Resolution in CA-G.R. SP No. 148915 was penned by Associate Justice Germano Francisco D. Legaspi and concurred in by Associate Justices Franchito N. Diamante and Edwin D. Sorongon of the Special Former Seventh Division, Court of Appeals, Manila.

148915. The assailed CA rulings set aside the Decision⁴ of Branch 92 of the Regional Trial Court (RTC), Quezon City, National Capital Judicial Region, which acquitted Ubarra from the crime of perjury.⁵

The Antecedents

This case stemmed from a verified complaint-affidavit executed by Ubarra, in his capacity as CJH Development Corporation's Vice-President for Litigation, and filed before the Office of the Ombudsman on July 4, 2012.⁶ Ubarra, in his complaint-affidavit, charged Atty. Arnel Paciano D. Casanova (Atty. Casanova), Chief Executive Officer (CEO) of the Bases Conversion and Development Authority (BCDA), with violations of Republic Act No. 3019, Republic Act No. 6713, and Presidential Decree No. 807.⁷

Ubarra stated in his complaint-affidavit that Atty. Casanova failed to promptly and correctly respond to the December 29, 2009 and the May 28, 2010 letters from CJH Development Corporation.⁸ However, the letters from CJH Development Corporation referred to and attached to the complaint-affidavit were addressed not to Ubarra but to General Narciso L. Abaya (Gen. Abaya) as BCDA President and CEO, and to Mr. Aloysius Santos as Chairperson.⁹ Moreover, BCDA's March 1, 2010 Letter to CJH Development Corporation, which Ubarra claimed was written by Atty. Casanova, indicates that it was written by Gen. Abaya.¹⁰

On September 13, 2012, BCDA, through Atty. Casanova, filed a complaint-affidavit charging Ubarra with perjury.¹¹ An Information was thereafter filed against Ubarra, the accusatory portion of which reads:

That on or about the 4th day of July 2012, in the City of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there willfully, unlawfully and feloniously make untruthful statements under oath upon a material matter before a competent person authorized to administer oath which the law requires to wit: said accused stated in his Complaint Affidavit docketed as OMB Cases No. C-C-12-0287-G and C-A-12-0308-G before the Office of the Ombudsman, Quezon City that Arnel Paciano D. Casanova failed to act promptly on letters and requests from him in violation of Section 5 of Republic Act No. 6713, accused knowing well that said

⁴ *Id.* at 389–394. The August 17, 2016 Decision in Criminal Case No. R-QZN-16-00906-CR was penned by Presiding Judge Eleuterio Larisma Bathan of Branch 92, Regional Trial Court, Quezon City.

⁵ *Id.* at 95–96.

⁶ *Rollo*, vol. 2, pp. 544–568.

⁷ *Id.* at 545.

⁸ *Id.* at 549–550.

⁹ *Rollo*, vol. 1, pp. 201–206, 209–210.

¹⁰ *Id.* at 207–208. *Rollo*, vol. 2, pp. 549–550.

¹¹ *Rollo*, vol. 2, p. 523.

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material statement was false and thereby making a willful and deliberate assertion of falsehood contrary to law.

CONTRARY TO LAW.¹²

The case was docketed as Criminal Case No. M-QZN-13-02420-CR and raffled to Branch 41, Metropolitan Trial Court (MeTC), Quezon City. When arraigned on January 30, 2014, Ubarra refused to enter a plea. Thus, the trial court entered a plea of not guilty to the crime charged. The case was later re-raffled to MeTC Branch 32.¹³

Prior to the pre-trial conference, and on August 15, 2014, the private prosecutor filed through registered mail the judicial affidavits of the prosecution's four witnesses, including Atty. Casanova's, before the MeTC.¹⁴ Both parties enumerated their respective witnesses during pre-trial conference.¹⁵

During trial, the prosecution presented the testimonies of the afore-stated witnesses, including that of Atty. Casanova, before the trial court.¹⁶ After the formal offer of evidence, the MeTC admitted the prosecution's exhibits as part of the case record through its February 27, 2015 Order.¹⁷

Ubarra filed a demurrer to evidence, which was denied.¹⁸ Thus, the defense presented its evidence, including Ubarra's testimony and judicial affidavit.¹⁹ Ubarra admitted that Atty. Casanova was erroneously included in the July 4, 2012 complaint-affidavit before the Ombudsman; he explained that the document was prepared by his counsel, and he belatedly noticed the error after the filing of the perjury complaint against him.²⁰ He maintained that the error was not intentional and merely a mistake.²¹

Ruling of the Metropolitan Trial Court

The MeTC rendered a Decision²² dated November 16, 2015 which declared Ubarra guilty of perjury. The *fallo* thereof reads:

¹² *Id.* at 584.

¹³ Rollo, vol. 1, p. 77.

¹⁴ Rollo, vol. 2, pp. 586-614, 616-619.

¹⁵ Rollo, vol. 1, 77.

¹⁶ Rollo, vol. 2, pp. 620-731.

¹⁷ *Id.* at 732-739.

¹⁸ Rollo, vol. 1, pp. 211-238, 260-262.

¹⁹ Rollo, vol. 2, pp. 740-785.

²⁰ *Id.* at 777-780.

²¹ *Id.* at 772.

²² Rollo, vol. 1, pp. 483-494. The November 16, 2015 Decision in Criminal Case No. 02420 was penned by Presiding Judge Janet Abergos-Samar of Branch 32, Metropolitan Trial Court, Quezon City, National Capital Judicial Region.

WHEREFORE, premises considered, Manuel Ubarra, Jr. y Tagunicar is **GUILTY** beyond reasonable doubt of the crime of Perjury, and is sentenced to suffer the indeterminate penalty of imprisonment ranging from 1 month and 1 day of *arresto mayor*, as minimum, to 1 year and 8 months of *prision correccional*, as maximum.

SO ORDERED.²³ (Emphasis in the original)

Dissatisfied, Ubarra appealed before the RTC.²⁴

Ruling of the Regional Trial Court

The RTC acquitted Ubarra in its August 17, 2016 Decision. The *fallo* thereof reads:

WHEREFORE, on ground of reasonable doubt as to the identity of the accused, accused **MANUEL T. UBARRA, JR.**, is hereby **ACQUITTED**.

The cash bond he posted in the amount of [PHP] 6,000.00 is hereby **ORDERED** release[d] to him subject to the presentation of the original Official Receipt No. 2177725 dated July 30, 2013.

Attorneys Demetrio C. Custodio, Jr., Eloysa G. Sicam and Jian Paulo P. Roller of Custodio Acorda Sicam De Castro & Panganiban Law Offices with address at 15th Floor, Citibank Tower, 8741 Paseo de Roxas corner Villar Street, Salcedo Village, Makati City are hereby **DIRECTED** to explain in writing within fifteen (15) days from receipt of this Order why they should not be cited in contempt of court for misleading the Court by stating in the Formal Offer of Exhibit dated February 16, 2015 that the Judicial Affidavit of the principal complaining witness was filed with the trial court on August 15, 2014, which in fact, not formed part of the record.

SO ORDERED.²⁵ (Emphasis in the original)

The RTC anchored Ubarra's acquittal on the absence of testimony from Atty. Casanova positively identifying Ubarra as the person responsible for the imputed crime. However, the RTC impliedly admitted that it did not consider the contents of Atty. Casanova's judicial affidavit in declaring the acquittal, as the judicial affidavit was not part of the record transmitted to the RTC, and ordered the private prosecutors to explain why it misled the Court by stating in its formal offer that Atty. Casanova's judicial affidavit was transmitted to the trial court. The relevant portion of the Decision reads:

²³ *Id.* at 494.

²⁴ *Id.* at 78.

²⁵ *Id.* at 159.

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Judicious reading of the Information charging [Ubarra] of the crime of perjury, the principal complaining witness is Arnel Paciano D. Casanova. Being the principal complaining witness, [Casanova] was the one that executed a complaint-affidavit indicting [Ubarra] of violation of Article 183 of the Revised Penal Code that led to the filing of the Information dated July 1, 2013 charging [Ubarra] of the crime of perjury. But there was direct testimony [pinpointing Ubarra] as the perpetrator of the crime charged. *There was no showing that [Casanova] pinpointed [Ubarra] in open court to positively establish the identity of the accused.* There was proof in the record that [Ubarra] made an admission as regards [t]his during pre-trial. In fact, there was no admission or stipulations of facts made during pre-trial conference. *Per TSN dated November 17, 2014, principal complaining witness Arnel Paciano D. Casanova testified and utilized his Judicial Affidavit as his direct testimony, but there is no such thing as Judicial Affidavit in the records of the case.* Per last paragraph of private prosecution's written formal offer of exhibits which was filed on February 27, 2015 (Rollo, page 855), it says: "Exhibits "A" to "L" were attached to Atty. Arnel Paciano D. Casanova's Judicial Affidavit dated 15 August 2014, which was filed with the Honorable Court on 15 August 2014, furnishing copies on counsel for Accused on the same date." However, per record, from pages 753 to 761, in particular volume two of the records, the records which are intact are . . . *The Court took extra efforts to locate from the records the principal witness' Judicial Affidavit which was allegedly filed on August 15, 2014, but the efforts proved futile. There is no such principal witness' Judicial Affidavit in the record. The purpose of the Court in locating the said JA is to determine if there is a categorical testimony that positively pinpointed the accused proving the latter's positive identification.*

While it is true that other witness made such process of identification, but the person that is responsible to positively identify the accused is the principal complaining witness. Failure of the complaining witness to comply with this cardinal requirements in prosecuting a criminal case, is fatal to the prosecution's case. Absent of such clear and categorical identification process, the accused is entitled to acquittal.

On this ground alone, and **NO NEED TO DWELL** on other matters, as that would be academic if not at all surplusage, the appealed case is meritorious, and therefore **GRANTABLE**.²⁶ (Emphasis supplied)

Aggrieved, the Office of the Solicitor General filed a Petition for *Certiorari*²⁷ before the CA. The State ascribed grave abuse of discretion on the part of the RTC when it acquitted Ubarra on the basis of the purported absence of Atty. Casanova's judicial affidavit on the records of the case, and disregarding the other evidence on record.²⁸

Ruling of the Court of Appeals

The CA granted the State's Rule 65 petition in a Decision²⁹ dated March 19, 2019. The *fallo* thereof reads:

²⁶ *Id.* at 392-393.

²⁷ *Id.* at 76.

²⁸ *Id.* at 79.

²⁹ *Id.* at 76-83.

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WHEREFORE, premises considered, the instant petition for certiorari is **GRANTED**. The Decision dated August 17, 2016 of the public respondent in Criminal Case No. R-QZN-16-00906-CR of the Regional Trial Court of Quezon City, Branch 92 is **SET ASIDE**. The public respondent is **DIRECTED** to require the prosecution to **EXPLAIN** the absence of the judicial affidavit of Arnel Paciano D. Casanova in the record and to **DECIDE** the case thereafter.

SO ORDERED.³⁰ (Emphasis in the original)

The CA ruled that the RTC clearly committed grave abuse of discretion and disregarded the basic tenets of due process when it concluded that Atty. Casanova's judicial affidavit was never filed on the basis of the document's absence on the records transmitted to the RTC, despite ample showing in the record that the judicial affidavit was duly filed with the MeTC, and without directing the prosecution to explain the absence of the judicial affidavit in the record and to submit the judicial affidavit, if warranted. Moreover, the CA stressed that the prosecution was unduly prejudiced by the loss of an important document without being heard on the matter, since it was only in the same judgment of acquittal that the prosecution was given a chance to explain, through a show cause order, the judicial affidavit's absence in the record.³¹

Ubarra sought reconsideration,³² but it was denied by the CA in a Resolution³³ dated October 15, 2019.

Hence, this Petition. In essence, Ubarra asserts that the CA violated Ubarra's right against double jeopardy when it overturned Ubarra's acquittal and remanded the case to the trial court.³⁴

Issue

Did the CA violate Ubarra's constitutional right against double jeopardy when it reversed the RTC's judgment of acquittal for perjury?

Our Ruling

The petition is denied.

³⁰ *Id.* at 82.

³¹ *Id.* at 81–82.

³² *Id.* at 85–86.

³³ *Id.* at 85–87.

³⁴ *Id.* at 43–69.

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It is fundamental that a judgment of acquittal is final, unappealable, and immediately executory upon its promulgation.³⁵ To once again rule on the innocence or guilt of the accused of the same crime transgresses the Constitutional prohibition on placing a person in double jeopardy, to wit:

Section 21. 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, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.³⁶

Thus, the Court cannot, even on an appeal based on an alleged misappreciation of evidence, review the verdict of acquittal of the trial court. This constitutional protection is to afford the defendant, who has been acquitted, final repose and safeguard from government oppression through the abuse of criminal processes.³⁷

This tenet has a single, narrow exception that finds anchor in the due process guarantee of our Constitution: grave abuse of discretion that has resulted in the violation of the State's right to due process, thereby rendering the judgment of acquittal void, such as when: (a) the prosecution is denied the opportunity to present evidence, (b) the trial is a sham, or (c) there is a mistrial.³⁸ Both the State and the accused are entitled to due process, and a denial of this guarantee against any of the parties of the case amounts to a grave abuse of discretion.³⁹ The capricious dismissal of an Information deprives the State of a fair opportunity to prosecute and convict; it denies the prosecution its day in court. Accordingly, it is a dismissal that is void and inexistent, and thus will not constitute a proper basis for the claim of double jeopardy.⁴⁰

Pertinently, grave abuse of discretion means such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and gross as to amount to an evasion of positive duty, or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.⁴¹

Verily, the party questioning the acquittal of an accused should clearly establish that the trial court blatantly abused its discretion such that it was deprived of its authority to dispense justice.⁴² Double jeopardy cannot be

³⁵ *Villareal v. Aliga*, 724 Phil. 47, 62 (2014) [Per J. Peralta, Third Division]. (Citation omitted)

³⁶ CONST., art. III, sec. 21.

³⁷ *People v. De Leon*, 756 Phil. 570, 585 (2015) [Per J. Perez, First Division]. (Citations omitted)

³⁸ *Torres v. AAA*, 889 Phil. 1206, 1212 (2020) [Per J. Carandang, First Division]. (Citations omitted)

³⁹ *Gomez v. People*, 889 Phil. 915, 980 (2020) [Per J. Gesmundo, *En Banc*]. (Citations omitted)

⁴⁰ *People v. Gomez*, 126 Phil. 640, 645 (1967) [Per J. Bengzon, J.P., *En Banc*]. (Citations omitted)

⁴¹ *People v. Terrado*, 580 Phil. 79, 86 (2008) [Per J. Nachura, Third Division]. (Citations omitted)

⁴² *People v. Ting*, 844 Phil. 868, 884 (2018) [Per J. Peralta, Third Division]. (Citation omitted)

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invoked against this Court's setting aside of the trial courts' judgment of acquittal where the prosecution, which represents the sovereign people in criminal cases, is denied due process.⁴³

After a careful review of the record, and in light of the foregoing legal precepts, the Court finds that the RTC committed grave abuse of discretion resulting to a violation of the State's right to due process. Hence, Ubarra's acquittal is a nullity and must be set aside.

First, the RTC summarily imputed the absence of Atty. Casanova's judicial affidavit to alleged deceit on the part of the State when the prosecution stated that they filed a judicial affidavit. In so concluding, the RTC blatantly disregarded several clear indications in the record that Atty. Casanova's judicial affidavit was duly filed, offered in evidence, and admitted by the MeTC.

At the outset, a plain reading of the MeTC's Decision shows that the prosecution presented Atty. Casanova in Court as one of the witnesses, with the judge summarizing his direct testimony in the body of the decision. After summarizing the prosecution witnesses' testimony, the MeTC further stated that "[t]he prosecution witnesses affirmed and confirmed their respective Judicial Affidavits."⁴⁴

Moreover, it is evident from the transcript of Atty. Casanova's direct examination on November 17, 2014 that Atty. Casanova's counsel showed him a physical copy of his judicial affidavit dated August 15, 2014, consisting of seven pages, and Atty. Casanova affirmed the contents of the affidavit.⁴⁵ When asked, Atty. Casanova even pointed out corrections to his Judicial Affidavit, and that his counsel requested the correction of the court's copy as well:

[Atty. Sicam]: Do you have any corrections to this Judicial Affidavit?
A: I think there's a typographical error, ma'am.

[Atty. Sicam]: Could you point out the typographical error?
A: In paragraph 3, my answer, it says here I was the President of the Philippines. I meant I was the President and CEO of the Bases Conversion and Development Authority (BCDA) under the office of the President, ma'am.

Q: Okay. That's on page 2?
A: Yes, ma'am.

⁴³ *Galman v. Sandiganbayan*, 228 Phil. 42, 87 (1986) [Per C.J. Teehankee, *En Banc*]. (Citations omitted)

⁴⁴ RTC records, pp. 485-486.

⁴⁵ TSN, Atty. Arnel Casanova, November 17, 2014, pp. 5-6; *rollo*, pp. 649-650.

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[Atty. Sicam]: Could you make the correction on the Judicial Affidavit? May I borrow the records, your Honor. I would like the court copy to be corrected and counter-sign by the witness. I'm showing the witness the court copy. You said your answer in paragraph 3, page 2, could you make correction on the record?

A: Yes, ma'am.

[Atty. Sicam]: The witness is writing his correction. Could you put the date?

A: Yes, ma'am.⁴⁶

Finally, a perusal of the records showed that the private prosecutor duly submitted the Judicial Affidavits of its witnesses on August 15, 2014, with the registry receipt stamped.⁴⁷

Second, instead of taking other measures, such as giving the State the opportunity to clarify or submit the judicial affidavit or directing the MeTC to explain the absence of Atty. Casanova's judicial affidavit, the RTC prematurely acquitted Ubarra based on an incomplete record that lacked Atty. Casanova's judicial affidavit. Consequently, the State's presentation of Atty. Casanova's judicial affidavit in the MeTC level was rendered futile since the RTC no longer considered the same piece of evidence because of its absence in the record.

The direct testimony of the main complaining witness in criminal cases often serves as a key piece of evidence of the prosecution in establishing the elements of the crime charged. The crucial role of Atty. Casanova's judicial affidavit to the State's cause is further bolstered by a perusal of the prosecution's formal offer of exhibits, which shows that a majority of the documentary evidence formally offered by the prosecution were submitted as annexes to Atty. Casanova's judicial affidavit, which were conspicuously missing from the records when it reached the RTC – from the complaint-affidavit charging Atty. Casanova, the letters referenced in the complaint-affidavit, Atty. Casanova's letter of appointment and oath of office, and news articles submitted by the prosecution to prove the damage to Atty. Casanova's reputation as a result of the filing of the complaint-affidavit.

Thus, the absence of Atty. Casanova's judicial affidavit would ultimately be detrimental to the case of the prosecution, who is tasked to prove the guilt of the accused beyond a reasonable doubt. While the State was granted due process in the MeTC level, it was denied its day in court when its case reached the RTC on appeal and the accused was acquitted on the basis of a grossly incomplete record.

⁴⁶ TSN, Atty. Arnel Casanova, November 17, 2014, pp. 6–8; *Rollo*, pp. 650–652.

⁴⁷ *Rollo*, vol. 1, p. 586.

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At this juncture, mention may be made of the Court's rulings when the prosecution convincingly demonstrated that they were deprived of the chance to fully establish the merits of their case and thus, denied due process.

In *People v. Bocar*,⁴⁸ the Court set aside the acquittal of an accused after observing that the proceedings before the trial court are marred with irregularities – the prosecution was not given a chance to introduce and offer its evidence formally in accordance with the Rules of Court, and parties were not placed under oath before they answered the queries of the respondent Judge.⁴⁹ The Court held thus:

Where the prosecution is deprived of an opportunity to prosecute and prove its case, its right to due process is thereby violated. . .

The cardinal precept is that where there is a violation of basic constitutional rights, courts are ousted of their jurisdiction. Thus, the violation of the State's right to due process raises a serious jurisdictional issue ... which cannot be glossed over or disregarded at will. Where the denial of the fundamental right of due process is apparent, a decision rendered in disregard of that right is void for lack of jurisdiction... Any judgment or decision rendered notwithstanding such violation may be regarded as a "lawless thing, which can be treated as an outlaw and slain at sight, or ignored wherever it exhibits its head."⁵⁰

In *Gorion v. RTC of Cebu Branch 17*,⁵¹ the Court ruled that an order dismissing a criminal case after the accused had been arraigned – which had been issued in open court through inadvertence or mistake during a hearing that had already been cancelled – may be set aside by the court, and the case tried without placing the accused in double jeopardy. In so ruling, the Court stressed that the erroneous dismissal order was issued capriciously and arbitrarily, and unquestionably deprived the State of a fair opportunity to present and prove its case. Considering the State's right to due process was violated, the dismissal order was declared void, which may be set aside without violating the accused's right to double jeopardy.⁵²

Further, in *Saldana v. Court of Appeals*,⁵³ the trial court prematurely terminated the presentation of the prosecution's evidence and dismissed the information for insufficiency of evidence. The appellate court then set aside the judgment of acquittal and reinstated the criminal case for further hearing. The Court ruled that the CA's action of reinstating the criminal case for further hearing by the trial court does not violate the rule on double jeopardy since one of the elements of double jeopardy is a competent court. The Court observed that the trial court was ousted from its jurisdiction when it violated the right of

⁴⁸ *People v. Bocar*, 222 Phil. 468 (1985) [Per C. J. Makasiar, Second Division]. (Citations omitted)

⁴⁹ *Id.* at 468–471.

⁵⁰ *Id.* at 471.

⁵¹ 287 Phil. 1078 (1992) [Per J. Davide, Jr., Third Division]

⁵² *Id.* at 1084–1085.

⁵³ 268 Phil. 424 (1990) [Per J. Grino-Aquino, First Division].

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the prosecution to due process by aborting its right to complete the presentation of its evidence. Hence, the first jeopardy had not been terminated, and the remand of the case for further hearing or trial is merely a continuation of the first jeopardy.⁵⁴

In *Portugal v. Reantaso*,⁵⁵ the respondent judge therein, during a hearing to resolve the defense's motion to dismiss, denied said motion and on the same date called the case for hearing on the merits and presentation of the prosecution's evidence. The prosecuting officer and witnesses were not notified before the case was tried on the merits on the said date, as the only incident for said hearing was the motion to dismiss. The private prosecutor requested for postponement on the ground that complainant and his witnesses were not notified of the hearing and thus not ready for trial, as well as the absence of representative from the fiscal's office. However, the judge dismissed the case on motion of the counsel for the accused, solely on the ground of failure of the prosecution to adduce evidence during the day's hearing.⁵⁶

In setting aside the dismissal of the case, the Court stressed that it was not possible for the prosecution to present its evidence on that date because of lack of notice, as well as the private prosecutor's inability to conduct trial without authority from the prosecutor's office. The need for proper notice of any material action in all cases is fundamental to due process; litigants should be given the fullest opportunity to establish the merits of their cases.⁵⁷

In *People v. Pablo*,⁵⁸ the Court also set aside an order of acquittal, which was later amended to dismissal of the case, for having been issued with grave abuse of discretion. The dismissal order was issued when the prosecution moved for postponement upon its inability to produce its last but vital witness, which would prove the causal relation between the wounds inflicted by the accused who assaulted the victim and the victim's death. The Court observed that the respondent judge could have taken several other actions with fairness to both parties, as demanded by his function of dispensing justice and considering the gravity of the crime charged, but he utterly failed to do so.⁵⁹

The foregoing cases illustrate that when the State is unfairly prevented from establishing the merits of their case during trial, the Court may rectify such denial of due process by declaring the judgment of acquittal null and void. In a similar fashion, the State in the case at bench ably demonstrated that it was deprived of due process – albeit not during trial, but on appeal – when the key pieces of evidence it had painstakingly presented before the MeTC to build its case was rendered inutile when it reached the RTC because of the evidence's

⁵⁴ *Id.* at 428–431.

⁵⁵ 249 Phil. 671 (1988) [Per J. Bidin, Third Division]

⁵⁶ *Id.* at 678–679.

⁵⁷ *Id.* at 679.

⁵⁸ 187 Phil. 190 (1980) [Per J. De Castro, First Division].

⁵⁹ *Id.* at 192–201.

unexplained disappearance in the record, coupled with the premature acquittal of the accused before the State could be given a fair chance to explain such disappearance or to resubmit the missing judicial affidavit and its annexes.

Hence, the CA properly overturned Ubarra's acquittal in light of the denial of the State's fair opportunity to maintain their case, which it had already established during trial, in the appellate level. Needless to state, the parties' right to due process must also be upheld in appellate proceedings.

Third, the RTC's acquittal of Ubarra - on the basis of the prosecution's failure to identify him in open court as the one who committed perjury - rests on flimsy grounds. It is settled that identification of the accused in open court is essential only when there is doubt on whether the one alleged to have committed the crime is the same person who is charged in the Information and subject of the trial.⁶⁰

Here, Ubarra judicially admitted in his Judicial Affidavit that he executed and filed the subject Complaint-Affidavit with the Ombudsman.⁶¹ Further, Ubarra never denied that he is the person indicted in the Information and subject of the proceedings. Thus, there is no doubt in the instant case that the one alleged to have committed the crime is the same person charged in the Information and subject of the trial. Ubarra should not have been acquitted on the sole basis of the prosecution's failure to identify Ubarra in open court.

Ubarra invokes *People v. Pimentel*⁶² to argue that even if testimony is not attached to the record, courts cannot change a judgment of acquittal.⁶³ However, the factual milieu in *Pimentel* is different from the case at bench. At the outset, the Court in *Pimentel* stressed that a judgment of acquittal may only be assailed in a petition for *certiorari* under Rule 65 and on the basis of grave abuse of discretion.⁶⁴ In disregard of this rule, the trial court in *Pimentel* withdrew the judgment of acquittal on the basis of a mere manifestation filed by the prosecution, and such acquittal was not even questioned on the basis of grave abuse of discretion.⁶⁵ This is in stark contrast to the case before Us, where the State duly availed of the proper remedy to assail Ubarra's acquittal and alleged grave abuse of discretion on the part of the RTC.

Moreover, the Court in *Pimentel* appreciated the acquittal of the accused therein as a mere mistake in failing to consider the private complainant's testimony into account.⁶⁶ In the case at bench, and as alleged and demonstrated

⁶⁰ *People v. Mapalo*, 543 Phil. 651, 669 (2007) [Per J. Chico-Nazario, Third Division].

⁶¹ Judicial Affidavit of Atty. Ubarra, p. 8; *Rollo*, vol. 1, p. 779.

⁶² 823 Phil. 684, 694 (2018) [Per J. Tijam, First Division].

⁶³ *Rollo*, vol. 1, pp. 52-56.

⁶⁴ *People v. Pimentel*, 823 Phil. 684, 692 (2018) [Per J. Tijam, First Division].

⁶⁵ *Id.* at 693-694.

⁶⁶ *Id.* at 691-692, 694.

by the State, the RTC's premature judgment of acquittal goes beyond erroneous disregard of Atty. Cananova's testimony; it is tantamount to grave abuse of discretion that violated the State's right to due process.

In the same vein, *Argel v. Judge Pascua*⁶⁷ cited by Ubarra is not in all fours with the instant case. In *Argel*, Judge Pascua was found grossly ignorant of the law for recalling a judgment of acquittal she rendered herself after rereading her notes and discovering that she mistakenly disregarded a witness who positively identified the accused before rendering the judgment of acquittal, since the witness' testimony was not attached to the records at the time.⁶⁸ In finding Judge Pascua grossly ignorant of the law, the Court highlighted the judicial precept that the inherent power of a court to modify its own order or decision does not extend to a judgment of acquittal in a criminal case.⁶⁹ This differs to the case at bench, where the CA set aside the RTC's decision after the State duly alleged and demonstrated grave abuse of discretion on the part of the RTC through a Rule 65 petition.

All told, the RTC's acquittal of Ubarra on the basis of a grossly incomplete record and notwithstanding several clear indications that Atty. Casanova's judicial affidavit was missing, as well as the deprivation of the State to explain such absence prior to Ubarra's acquittal, surpasses mere misappreciation of evidence or erroneous application of the law. It clearly constitutes grave abuse of discretion that has resulted to depriving the State of due process of law, thereby ousting the courts of its very function of dispensing justice. The accused's right against double jeopardy may not be invoked against such an acquittal, being void and no judgment at all.⁷⁰

In fine, Ubarra's acquittal must be set aside. For a complete and proper resolution of the case against Ubarra, We remand the case to the court of origin for further proceedings. The RTC is directed to resolve Criminal Case No. R-QZN-16-00906-CR with utmost dispatch.

ACCORDINGLY, the petition is **DENIED**. The Decision and the Resolution dated March 19, 2019, and October 15, 2019, respectively, of the Court of Appeals in CA-G.R. SP No. 148915, are **AFFIRMED**.

Criminal Case No. R-QZN-16-00906-CR is **REMANDED** to Branch 92 of the Regional Trial Court, Quezon City to determine whether Manuel T. Ubarra, Jr. is guilty of perjury beyond a reasonable doubt. The court *a quo* is **DIRECTED** to resolve Criminal Case No. R-QZN-16-00906-CR with utmost dispatch.

⁶⁷ 415 Phil. 608 (2001) [Per J. Bellosillo, Second Division].

⁶⁸ *Id.* at 610-611.

⁶⁹ *Id.* at 613.

⁷⁰ 228 Phil. 42, 90 (1986) [Per C.J. Teehankee, *En Banc*]. (Citations omitted)

W

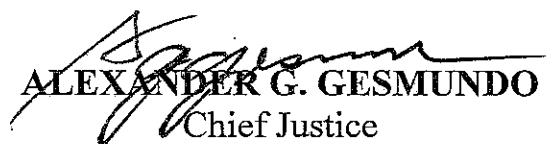
SO ORDERED.



RAMON PAUL L. HERNANDO

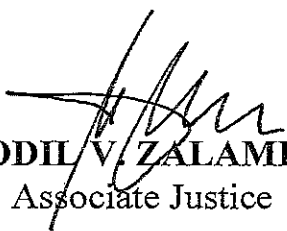
Associate Justice
Working Chairperson

WE CONCUR:



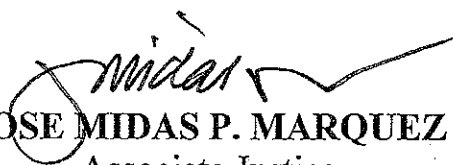
ALEXANDER G. GESMUNDO

Chief Justice
Chairperson



RODIL V. ZALAMEDA
Associate Justice

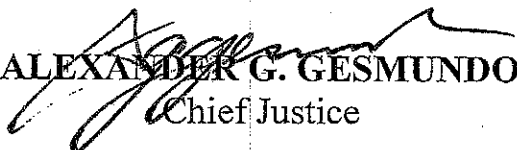
On official business
RICARDO R. ROSARIO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

