

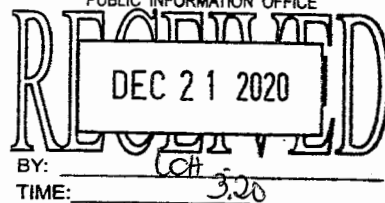


Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **February 24, 2020**, which reads as follows:

“**G.R. No. 250200 (People of the Philippines, Petitioner, v. Mark Anthony Fernandez y Lacsamana, Respondent)**. – Before the Court is a petition for review on certiorari under Rule 45 filed by the Office of the Solicitor General (OSG) assailing the 07 May 2019 Decision<sup>1</sup> and 29 October 2019 Resolution<sup>2</sup> of the Court of Appeals in CA-G.R. SP No. 157428, which affirmed the 21 December 2017 Resolution<sup>3</sup> and 09 May 2018 Order<sup>4</sup> of Branch 58, Regional Trial Court (RTC) of Angeles City, Pampanga granting the demurrer to evidence filed by respondent Mark Anthony Fernandez y Lacsamana (respondent).

**Antecedents**

On the night of 03 October 2016, members of Police Station 6, Angeles City Police Office were conducting an anti-criminality checkpoint along MacArthur Highway, *Brgy.* Virgen dela Remedios, Angeles City, Pampanga.<sup>5</sup> While manning the checkpoint, the police officers noticed a yellow Mustang car with no license plate approaching. The driver was flagged down and asked to stop. Police Officer 2 Fernando Ladrillo (PO2 Ladrillo) and PO2 Jayson Dimaculangan (PO2 Dimaculangan) approached the vehicle. PO2 Ladrillo asked for the driver’s license, while PO2 Dimaculangan inspected the vehicle. During his visual inspection of the car, PO2 Dimaculangan noticed an open dark colored bag containing marijuana inside and he called out the information to his companions. Upon hearing

<sup>1</sup> *Rollo*, pp. 56-70; penned by Associate Justice Franchito N. Diamante and concurred in by Presiding Justice Romeo F. Barza and Associate Justice Jhosep Y. Lopez of the First Division, Court of Appeals, Manila.

<sup>2</sup> *Id.* at 71-72; penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Jane Aurora C. Lantion and Jhosep Y. Lopez of the Court of Appeals, Manila.

<sup>3</sup> *Id.* at 333-357; penned by RTC Judge Ireneo P. Pangilinan, Jr.

<sup>4</sup> *Id.* at 358-365.

<sup>5</sup> *Id.* at 334-335.

this, the driver sped away in the direction of San Fernando City. A car chase ensued.<sup>6</sup>

Upon reaching San Fernando City, the yellow Mustang was forced to slow down due to heavy traffic but did not stop, prompting the police officers to shoot the vehicle's front tire. The police officers approached the vehicle and peered into the vehicle to verify the presence of the bag filled with marijuana. They then asked the driver to step out. The driver introduced himself as herein respondent.<sup>7</sup>

Thereafter, respondent was arrested. PO2 Ladrillo informed him of his violations: (1) Resistance and Disobedience to Persons in Authority, a violation of Article 151 of the Revised Penal Code; and (2) violation of Section 5, Article II of Republic Act No. (RA) 9165 for transporting marijuana.<sup>8</sup> He also informed respondent of his constitutional rights.<sup>9</sup>

On the way back to Police Station 6, they stopped at the nearest police station in the City of San Fernando, Telabastagan Police Station, to report the incident and log the same in the blotter.<sup>10</sup> Once at Police Station 6, the team prepared the Joint Judicial Affidavit of Arrest, the Confiscation Receipt, and the request for laboratory testing. The Confiscation Receipt was signed by the *barangay* representative that night, while the representatives from the Department of Justice and the media signed at different times the next day.<sup>11</sup>

On 04 October 2016, an Information for violation of Section 5, Article II, of RA 9165 was filed against respondent. During his arraignment, respondent refused to enter a plea and the RTC entered a plea of "not guilty" for him. Trial ensued and the prosecution presented its evidence.<sup>12</sup>

After the prosecution filed its Formal Offer of Evidence, respondent moved for leave to file a Demurrer to Evidence, which the court granted.<sup>13</sup>

### **Ruling of the RTC**

In its 21 December 2017 Resolution, the RTC granted respondent's Demurrer to Evidence, thus:

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<sup>6</sup> *Id.* at 335.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 338.

<sup>9</sup> *Id.* at 336.

<sup>10</sup> *Id.* at 340.

<sup>11</sup> *Id.* at 336.

<sup>12</sup> *Id.* at 333.

<sup>13</sup> *Id.* at 344.

**WHEREFORE**, the accused's Demurrer to Evidence is hereby **GRANTED**. Accused MARK ANTHONY L. FERNANDEZ is **ACQUITTED** of the charge against him for the crime of violation of Section 5, Article II of Republic Act No. 9165.

In view of the acquittal of the accused, the Warden of the Pampanga Provincial Jail is hereby directed to **release MARK ANTHONY FERNANDEZ y LACSAMANA** from detention immediately upon receipt thereof, unless he is being detained for some other lawful cause/s.

**SO ORDERED.**<sup>14</sup>

The RTC held that the police officers failed to comply with the procedural requirements under Section 21 (a) of the Implementing Rules and Regulations of RA 9165.

The RTC found that the physical inventory of the seized items was not done immediately at the scene of arrest,<sup>15</sup> or even at the nearest police station, but at Police Station 6, which was in another city. Once there, the inventory was done without the presence of the accused<sup>16</sup> or the three material witnesses. In fact, the police officers admitted that the Confiscation Receipt had already been filled out when it was signed by witnesses from the DOJ, media, and *barangay*, who had signed the document at the same time.<sup>17</sup> More importantly, the police officers failed to cite justifiable ground for their failure to follow the mandated procedure.<sup>18</sup>

Thus, the RTC ruled that such "procedural breaches cast doubt on the preservation of the integrity and evidentiary value of the seized items"<sup>19</sup> and the lack of plausible explanation for such non-compliance warranted the acquittal of the accused.<sup>20</sup>

The petitioner filed a Motion for Reconsideration, which the RTC denied in an Order on 09 May 2018.

Subsequently, the OSG filed a petition for *certiorari* under Rule 65 before the CA to annul the RTC's Resolution and Order on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction. The OSG argued that (1) the prosecution established the *corpus delicti* and complied with the chain of custody rule; and (2) the guilt of respondent was

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<sup>14</sup> *Id.* at 357.

<sup>15</sup> *Id.* at 350.

<sup>16</sup> *Id.* at 354.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 352.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 356.

proven beyond reasonable doubt.<sup>21</sup> The OSG asserted that since the arrest was done at night and along a highway after the respondent had fled the checkpoint, it was not practicable to conduct the inventory immediately. The OSG also noted that respondent admitted during pre-trial that he was the one driving the yellow Mustang<sup>22</sup> and also admitted in a television interview hours after he was arrested that the marijuana found in his vehicle was indeed his.<sup>23</sup>

### Ruling of the CA

On 07 May 2019, the CA issued its assailed Decision, the dispositive portion of which reads:

**IN LIGHT OF THE FOREGOING**, the instant petition is **DISMISSED**. Accordingly, the December 21, 2017 Resolution and May 9, 2018 Order of the Regional Trial Court, branch 58, Angeles City, in Criminal Case No. R-ANG-16-02946-CR are hereby **AFFIRMED**.

**SO ORDERED.**<sup>24</sup>

The CA ruled that while the Supreme Court has upheld the warrantless search and seizure of contraband at checkpoints, the same is not an excuse for non-compliance with Section 21, Article II of RA 9165.<sup>25</sup> The CA also noted that the police failed to provide any explanation for their procedural lapses.<sup>26</sup>

The CA also held that the RTC granted the demurrer to evidence after due consideration of the evidence<sup>27</sup> and such dismissal may not be appealed because it places the accused in double jeopardy.<sup>28</sup> The only exception is when the prosecution can establish that the trial court committed grave abuse of discretion, and even then the abuse must be shown to be patent and gross as to amount to an evasion of duty. In this case, the CA noted that petitioner does not even ascribe jurisdictional errors but only errors of judgment, which is outside the function of a petition for *certiorari*.

### Issues

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<sup>21</sup> *Id.* at 382.

<sup>22</sup> *Id.* at 399.

<sup>23</sup> *Id.* at 397.

<sup>24</sup> *Id.* at 69.

<sup>25</sup> *Id.* at 63.

<sup>26</sup> *Id.* at 68.

<sup>27</sup> *Id.* at 69.

<sup>28</sup> *Id.*

The issues for the Court's consideration are: (1) whether the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it granted respondent's demurrer to evidence; and (2) whether the judgment of acquittal should be reversed.

### Ruling of the Court

The petition is unmeritorious and must be denied.

Section 23, Rule 119<sup>29</sup> of the Revised Rules of Criminal Procedure allows the court to dismiss the case upon demurrer to evidence on the ground of insufficiency of evidence. In *People v. Sandiganbayan and Velasco*,<sup>30</sup> the Court explained:

Under Section 23, Rule 119 of the Revised Rules of Criminal Procedure, as amended, the trial court may dismiss the action on the ground of insufficiency of evidence upon a demurrer to evidence filed by the accused with or without leave of court. Thus, in resolving the accused's demurrer to evidence, the court is merely required to ascertain whether there is competent or sufficient evidence to sustain the indictment or support a verdict of guilt. The grant or denial of a demurrer to evidence is left to the sound discretion of the trial court, and its ruling on the matter shall not be disturbed in the absence of a grave abuse of discretion. Significantly, once the court grants the demurrer, such order amounts to an acquittal; and any further prosecution of the accused would violate the constitutional proscription on double jeopardy. This constitutes an exception to the rule that the dismissal of a criminal case made with the express consent of the accused or upon his own motion bars a plea of double jeopardy.

As such, ruling on a Demurrer to Evidence entails "an *appreciation of the evidence* adduced by the prosecution *and its sufficiency* to warrant conviction beyond reasonable doubt, resulting in a dismissal of the case on the merits, tantamount to an acquittal of the accused."<sup>31</sup> The trial court "must evaluate whether the prosecution evidence is sufficient enough to warrant the conviction of the accused beyond reasonable doubt."<sup>32</sup>

A review of the Resolution of the RTC easily reveals that the judge made his own determination of the merits of the case through the judicious examination of the evidence presented by the prosecution. After such

<sup>29</sup> Revised Rules on Criminal Procedure, Rule 119, Sec. 23 reads in part:

Section 23. Demurrer to evidence. – After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court. xxxx

<sup>30</sup> 426 Phil. 453-462 (2002); G.R. No. 140633, 04 February 2002; 376 SCRA 74, 77-78.

<sup>31</sup> *People v. Sandiganbayan et al.*, 637 Phil. 147-163 (2010); G.R. No. 164577, 05 July 2010; 623 SCRA 147, 159.

<sup>32</sup> *People v. Go, et al.*, 743 Phil. 583-615 (2014); G.R. No. 191015, 06 August 2014; 732 SCRA 216, 238.

examination, the judge concluded that the prosecution failed to prove respondent's guilt beyond reasonable doubt because it failed to establish the identity of the *corpus delicti* of the crime.

Generally, an order granting the accused's demurrer to evidence amounts to an acquittal,<sup>33</sup> and in this jurisdiction, the Court adheres to the *finality-of-acquittal doctrine*, that is, a judgment of acquittal is final and unappealable<sup>34</sup> on the ground of double jeopardy.<sup>35</sup> The only exceptions to this rule that the Court has recognized are the following: (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.<sup>36</sup>

For the finding of mistrial to be invoked as an exception to the double jeopardy rule, the same must result in a denial of due process.<sup>37</sup> On the other hand, the grave abuse of discretion must be such that "the prosecution was denied the opportunity to present its case or that the trial was a sham."<sup>38</sup>

None of these circumstances obtain in this case.

In the case at bar, the prosecution was able to fully present its case and file its Formal Offer of Evidence before respondent asked the RTC for leave to file his demurrer. In any event, whatever error the RTC committed did not amount to grave abuse of discretion that results in denial of due process.

Moreover, a perusal of petitioner's arguments reveals that they pertain to the judge's appreciation of the prosecution's evidence, in which case, "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."<sup>39</sup>

Therefore, the CA committed no reversible error and correctly dismissed the OSG's petition for certiorari.

Finally, the Court finds "no need to reexamine the evidence, because

<sup>33</sup> *Id.*

<sup>34</sup> *People v. Alejandro*, G.R. No. 223099, 11 January 2018, 851 SCRA 120, citing *People v. Hon. Asis, et al.*, 643 Phil. 462-473 (2010); G.R. No. 173089, 25 August 2010; 629 SCRA 250, 256.

<sup>35</sup> *People v. Hon. Tria-Tirona*, 502 Phil. 31-39 (2005); G.R. No. 130106, 15 July 2005; 463 SCRA 462, 467.

<sup>36</sup> *People v. Alejandro*, G.R. No. 223099, 11 January 2018, 851 SCRA 120, 128.

<sup>37</sup> *Supra* at note 35, p. 469

<sup>38</sup> *Metropolitan Bank and Trust Company v. Hon. Veridiano and Ong*, 412 Phil. 795806 (2001); G.R. No. 118251, 29 June 2001; 360 SCRA 359, 366.

<sup>39</sup> *Supra* at note 35, p. 470.

if we do so, we will be allowing an appeal to be made on an acquittal which would clearly be in violation of the accused's right against double jeopardy.”<sup>40</sup> Suffice it to say that since petitioner has failed to establish that the trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction, the Court will not disturb the proper exercise of authority.

The Court has long recognized that the “fundamental philosophy behind the constitutional proscription against double jeopardy is to afford the defendant, who has been acquitted, final repose and safeguard him from government oppression through the abuse of criminal processes.”<sup>41</sup> With the Court’s resolution in the case at bar, respondent “must be afforded rest and tranquility from repeated attempts by the State at conviction and their anxiety finally laid to rest” and his acquittal must therefore be accorded finality in faithful adherence to the rule against double jeopardy.<sup>42</sup>

**WHEREFORE**, the petition for review is hereby **DENIED**. The 07 May 2019 Decision and 29 October 2019 Resolution of the Court of Appeals in CA-G.R. SP No. 157428 are **AFFIRMED**. The 21 December 2017 Resolution and 09 May 2018 Order of Branch 58, Regional Trial Court of Angeles City, Pampanga in Criminal Case No. R-ANG-16-02946-CR stands and MARK ANTHONY FERNANDEZ y LACSAMANA is **ACQUITTED** of the charge of violation of Section 5, Article II of Republic Act No. 9165.

Accordingly, the case is considered **CLOSED and TERMINATED**.

**SO ORDERED.”**

Very truly yours,

*Misael C. Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court *Jan 24/2020*

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<sup>40</sup> *Id.*

<sup>41</sup> *People v. Court of Appeals et al.*, 468 Phil. 1-14 (2004); G.R. No. 142051, 24 February 2004; 403 SCRA 605, 615.

<sup>42</sup> *Id.* at 616.

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