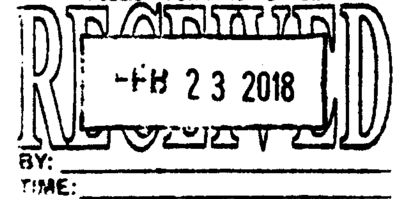

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- versus -

LINO ALEJANDRO *y* PIMENTEL,
Accused-Appellant.

G.R. No. 223099

Present:

SERENO, *C.J.*,
Chairperson,
LEONARDO-DE CASTRO,
PERALTA,*
DEL CASTILLO, and
TIJAM, *JJ.*

Promulgated:

JAN 11 2018

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DECISION

TIJAM, *J.*:

This is an appeal from the Decision[1] dated February 17, 2015 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05256, which affirmed the July 26, 2011 Joint Decision[2] rendered by the Regional Trial Court (RTC) of Cauayan City, Isabela, Branch 20 in Criminal Case Nos. Br. 20-6096 & 20-6097, finding accused-appellant Lino Alejandro *y* Pimentel guilty beyond reasonable doubt of two counts of rape.

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*Designated as additional Member as per Raffle dated June 28, 2017.

[1] Penned by Associate Justice Ramon A. Cruz, and concurred in by Associate Justices Remedios A. Salazar-Fernando and Eduardo B. Peralta, Jr., *rollo*, pp. 2-12.

[2] Penned by Judge Reymundo L. Aumentado, CA *rollo*, pp. 16-23.

Accused-appellant was charged with two counts of rape, defined and penalized under Article 266-A, paragraph 1(a) of the Revised Penal Code, in relation to Republic Act No. 8369[3], of a 12-year old minor, AAA.[4] Upon arraignment, accused-appellant entered a plea of not guilty and trial ensued.

During trial, AAA testified that accused-appellant followed her, grabbed her, and brought her to the back of a school. There, accused-appellant removed AAA's shorts and t-shirt, laid on top of her, and inserted his penis into her vagina.[5]

Two months later, accused-appellant went inside AAA's house through a window one night, undressed himself and AAA, and inserted his penis inside her vagina. On both occasions, accused-appellant threatened to kill AAA if she told anybody what had happened.[6]

AAA eventually told her mother, BBB, about the incident. BBB brought her to the Municipal Health Office where she was examined by Dr. CCC. Dr. CCC testified that she found, among others, deep, healed, old and superficial lacerations in the hymen of AAA and concluded that these indicated positive sexual intercourse.[7]

Accused-appellant, through his counsel, manifested in open court that he would no longer present any evidence for the defense and submitted the case for decision.[8]

On July 26, 2011, the RTC promulgated a Decision acquitting the accused-appellant. On the same day, however, the RTC recalled the said decision and issued an Order, stating:

> Upon manifestation of Assistant Provincial Prosecutor Roderick Cruz that there were Orders that were inadvertently placed in the record of Criminal Case No. Br. 20-4979 involving the same accused but different private complainant-victim, XXX, which if considered will result in a different verdict. The Order dated September 24, 2007, showed that private complainant-victim, AAA, in the above[-]quoted cases, Crim. Case No. Br-20-6096 & 6097, has actually testified in Court.

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[3]Otherwise known as the "*Family Courts Act of 1997*".

[4]Pursuant to *People v. Cabalquinto,* 533 Phil. 703 (2006), the real name and personal circumstances of the victim, and any other information tending to establish or compromise her identity, including those of her immediate family or household members, are not disclosed.

[5]Id.

[6]Id. at 3-4.

[7]Id. at 4.

[8]Id.

WHEREFORE, to rectify the error committed and in order to prevent the miscarriage of justice, the Decision promulgated today acquitting the accused is hereby RECALLED and SET ASIDE.

SO ORDERED.[9]

Accused-appellant filed a Motion for Reconsideration[10] arguing that a judgment of acquittal is immediately final and executory and can neither be withdrawn nor modified, because to do so would place an accused-appellant in double jeopardy.

The RTC denied the motion in an Order[11] dated July 26, 2011, explaining its denial, thus:

Admittedly, the Court erroneously declared in its Decision that private complainant AAA did not testify in Court. When in truth and in fact said private complainant took the witness stand on September 3, 2008 as evidenced by the Order dated September 3, 2008 which was mistakenly captioned as Crim. Case No. 4979 instead of Crim. Cases Nos. Br. 20-6096 & 6097 and as a result thereof, the Order dated September 3, 2008 was erroneously attached by the Court employee to the records of another criminal case entitled People of the Philippines versus Lino Alejandro, wherein the private complainant is a certain xxx.

Section 14, Article 8 of the 1997 Constitution requires that the Decision should be based on facts and the law. The Court believes and so holds that the Decision contravenes the highest law of the land because it is not in accordance with the law and the facts, and therefore, the judgment of acquittal is invalid. As dispenser of truth and justice, the Court should be candid enough to admit its error and rectify itself with dispatch to avoid grave miscarriage of justice.[12]

A Joint Decision[13] dated July 26, 2011 was rendered by the RTC, finding accused-appellant guilty of two counts of rape and disposed as follows:

WHEREFORE, finding the accused LINO ALEJANDRO y PIMENTEL guilty beyond reasonable doubt of two (2) counts of Simple Rape as defined and penalized under Article 266-A paragraph (D) of the Revised Penal Code, as amended by Republic Act 8353, he is hereby sentenced to suffer, in each count, the penalty of *reclusion perpetua* and to indemnify the victim, minor AAA in the amount of FIFTY THOUSAND PESOS (P50,000.00) and FIFTY THOUSAND PESOS (P50,000.00) as moral damages for each count.

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[9] Original Records, p. 40.
[10] CA *rollo*, p. 79-80.
[11] Id. at 82.
[12] Id.
[13] Id. at 83-90.

Costs to be paid by the accused.

SO ORDERED.[14]

Accused-appellant appealed to the CA, contending that the RTC gravely erred in recalling its previously promulgated decision acquitting the accused-appellant; and for convicting the accused-appellant despite the prosecution's failure to prove his guilt beyond reasonable doubt.[15]

The Office of the Solicitor General (OSG) countered that there was no error in the recall of the acquittal. It ratiocinated that the public prosecutor's manifestation was filed on the same day of the promulgation of the recalled decision, pointing out that AAA actually testified during the trial and her testimony, if considered, would result in a different verdict. The OSG stressed that what was proscribed under the double jeopardy clause was the filing of an appeal to allow the prosecutor to seek a second trier of facts of defendant's guilt after having failed with the first.[16]

The CA dismissed the appeal and held that the RTC's Order of recalling and setting aside the judgment of acquittal was justified. It found that:

> The initial decision of the RTC acquitting the accused failed to express clearly and distinctly the facts of the case, as the records on which the acquittal was based was incomplete and inaccurate. Judges are expected to make complete findings of facts in their decisions, and scrutinize closely the legal aspects of the case in the light of the evidence presented. Obviously, with the unintentional exclusion of the testimony of the private complainant from the records of the two criminal cases, the RTC could not have made complete findings of facts in the initial decision. The verdict of acquittal had no factual basis. It was null and void, and should have necessarily been recalled and set aside.[17]

The CA affirmed the conviction of accused-appellant and modified the award of damages, as follows:

> **WHEREFORE,** premises considered, the appeal is hereby **DISMISSED** and the July 26, 2011 Joint Decision of the Regional Trial Court of Cauayan City, Isabela, Branch 20, in Criminal Case Nos. Br. 20-6096 and 20-6097, finding Lino Alejandro y Pimentel guilty beyond reasonable doubt of two (2) counts of rape is **AFFIRMED WITH MODIFICATION**, in that Alejandro is ordered to pay legal interest on

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[14]Id. at 90.
[15]Id. at 64.
[16]Id. at 113-114.
[17]Id. at 130.

> the moral damages awarded to the victim at the rate of six percent (6%) *per annum* from the date of finality of this decision until fully paid.
>
> **SO ORDERED.**[18]

Hence, this petition for review.

Accused-appellant argues that despite the RTC's error and misapprehension of facts, it still had no power to rectify such mistake as said acquittal had attained finality after valid promulgation. The error committed by the RTC cannot be validly recalled without transgressing the accused-appellant's right against double jeopardy. He insists that not only was the decision of acquittal final and executory, the manifestation of the public prosecutor, which was the catalyst in having the decision recalled, was equivalent to a motion for reconsideration of the decision. He also points out that the CA erred in sustaining the conviction for rape despite AAA's incredible testimony.[19]

The OSG did not submit a supplemental brief and adopted its Appellee's Brief before the CA where it stated that the recall of the earlier decision of the trial court, by reason of the manifestation filed by the public prosecutor, does not actually result in double jeopardy. The OSG maintained that what is proscribed under the double jeopardy clause is the filing of an appeal that would allow the prosecutor to seek a second trier of fact of defendant's guilt after having failed with the first. It stressed that here, the OSG only manifested that the court overlooked a fact, which if not considered, will result to a great injustice to the private complainant. It pressed that there was no double jeopardy because there was no presentation of additional evidence to prove or strengthen the State's case.

The appeal has merit.

In our jurisdiction, We adhere to the finality-of-acquittal doctrine, that is, a judgment of acquittal is final and unappealable.[20]

The 1987 Constitution guarantees the right of the accused against double jeopardy, thus:

> Section 7, Rule 117 of the 1985 and 2000 Rules on Criminal Procedure strictly adhere to the constitutional proscription against double jeopardy and provide for the requisites in order for double jeopardy to attach. For double jeopardy to attach, the following elements must concur: *(1)* a valid information sufficient in form and substance to sustain a

[18] Id. at 134.

[19] *Rollo*, pp. 35-36.

[20] *People v. Hon. Asis, et al.*, 643 Phil. 462, 469 (2010).

> conviction of the crime charged; *(2)* a court of competent jurisdiction; *(3)* the accused has been arraigned and had pleaded; and *(4)* the accused was convicted or acquitted or the case was dismissed without his express consent.[21]

Here, all the elements were present. There was a valid information for two counts of rape over which the RTC had jurisdiction and to which the accused-appellant entered a plea of not guilty. After the trial, a judgment of acquittal was thereafter rendered and promulgated on July 25, 2011. What is peculiar in this case is that a judgment of acquittal was rendered based on the mistaken notion that the private complainant failed to testify; allegedly because of the mix-up of orders with a different case involving the same accused-appellant. This, however, does not change the fact that a judgment of acquittal had already been promulgated. Indeed, a judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation.[22]

The rule on double jeopardy, however, 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. We find that these exceptions do not exist in this case.[23] Here, there was no deprivation of due process or mistrial because the records show that the prosecution was actually able to present their case and their witnesses.

A mere manifestation also will not suffice in assailing a judgment of acquittal. A petition for *certiorari* under Rule 65 of the Rules should have been filed. A judgment of acquittal may only be assailed in a 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.[24]

In *People v. Laguio, Jr.,*[25] this Court stated that the only instance when double jeopardy will not attach is when the RTC acted with grave abuse of discretion, thus:

> **x x x The only instance when double jeopardy will not attach is when the <u>trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction</u>, such as where the prosecution was denied the opportunity to present its case or where the trial was a sham.** However,

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[21] *Chiok v. People, et al.,* 774 Phil. 230, 247-248 (2015).
[22] *Villareal v. Aliga,* 724 Phil. 47, 62 (2014).
[23] Id. at 64.
[24] Id. at 60.
[25] 547 Phil. 296 (2007).

> while certiorari may be availed of to correct an erroneous acquittal, the petitioner in such an extraordinary proceeding must clearly demonstrate that the trial court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.[26]

In this case, the acquittal was not even questioned on the basis of grave abuse of discretion. It was only through a supposed mere manifestation of the prosecutor, a copy of which was not in the records, that the RTC was apprised of the supposed mistake it committed.

A similar instance had been ruled upon by this Court in *Argel v. Judge Pascua,*[27] where the Judge was sanctioned for gross ignorance of the law for recalling a judgment of acquittal, thus:

> As stated earlier, complainant was accused of murder in Crim. Case No. 2999-V of the RTC of Vigan, Ilocos Sur. On 13 August 1993 judgment was promulgated acquitting him on the ground that there was no witness who positively identified him as the perpetrator of the crime. **However after respondent's attention was called by the private complainant's counsel to the fact that there was such a witness and confirmed by respondent upon re-reading her notes, she issued an Order dated 16 August 1993 stating her intention to "revise" the previous judgment of acquittal, branded the same as "uncalled for" and "not final," and reset the case for another "rendering of the decision." The reason given was that the judgment of acquittal was rendered without all the facts and circumstances being brought to her attention.**
>
> Respondent Judge explained that the transcript of stenographic notes of the testimony of eyewitness Tito Retreta was not attached to the records when she wrote her decision. **Thus, in a Decision dated 19 August 1993, respondent Judge declared herein complainant Miguel Argel guilty beyond reasonable doubt of murder** on the basis of the eyewitness account of Tito Retreta, sentenced complainant Argel to seventeen (17) years, four (4) months and one (1) day of *reclusion temporal* to *reclusion perpetua*, and to pay the heirs of the victim P50,000.00 as civil indemnity and P60,000.00 for actual damages.
>
> **Too elementary is the rule that a decision once final is no longer susceptible to amendment or alteration except to correct errors which are clerical in nature, to clarify any ambiguity caused by an omission or mistake in the dispositive portion or to rectify a travesty of justice brought about by a *moro-moro* or mock trial. A final decision is the law of the case and is immutable and unalterable regardless of any claim of error or incorrectness.**
>
> **In criminal cases, a judgment of acquittal is immediately final upon its promulgation. It cannot be recalled for correction or amendment except in the cases already mentioned nor withdrawn by**

[26] Id. at 315.

[27] 415 Phil. 608 (2001).

> **another order reconsidering the dismissal of the case since the inherent power of a court to modify its order or decision does not extend to a judgment of acquittal in a criminal case.**
>
> **Complainant herein was already acquitted of murder by respondent in a decision promulgated on 13 August 1993. Applying the aforestated rule, the decision became final and immutable on the same day.** As a member of the bench who is always admonished to be conversant with the latest legal and judicial developments, more so of elementary rules, respondent should have known that she could no longer "revise" her decision of acquittal without violating not only an elementary rule of procedure but also the constitutional proscription against double jeopardy. When the law is so elementary, not to know it constitutes gross ignorance of the law. (Emphasis Ours)[28]

Similarly, in this case, the RTC was reminded of the fact that private complainant AAA testified during the trial, only after it had already rendered and promulgated the judgment of acquittal. The RTC then realized that had AAA's testimony been taken into account, the case would have had a different outcome. Consequently, the RTC issued an Order recalling the judgment of acquittal for the purpose of rectifying its error, and thereafter, rendered a Decision convicting the accused-appellant for two counts of rape. This, however, cannot be countenanced for a contrary ruling would transgress the accused-appellant's constitutionally-enshrined right against double jeopardy.

WHEREFORE, the appeal is hereby **GRANTED**. The Decision dated February 17, 2015 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05256, which affirmed the July 26, 2011 Joint Decision rendered by the Regional Trial Court (RTC) of Cauayan City, Isabela, Branch 20 in Criminal Case Nos. Br. 20-6096 & 20-6097, finding accused-appellant Lino Alejandro *y* Pimentel guilty beyond reasonable doubt of two counts of rape, is hereby **REVERSED and SET ASIDE**.

Accused-appellant Lino Alejandro *y* Pimentel is hereby **ACQUITTED** and is ordered immediately **RELEASED** from custody, unless he is being held for another lawful cause.

Let a copy of this Decision be furnished to the Director of the Bureau of Corrections, Muntinlupa City for immediate implementation, who is then also directed to report to this Court the action he has taken within five (5) days from receipt of this Decision.

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[28] Id. at 611-612.

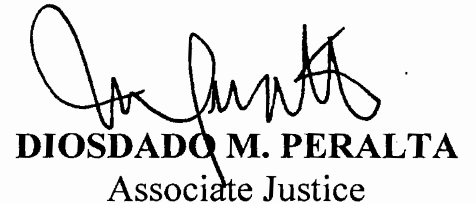
SO ORDERED.

NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:

MARIA LOURDES P.A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

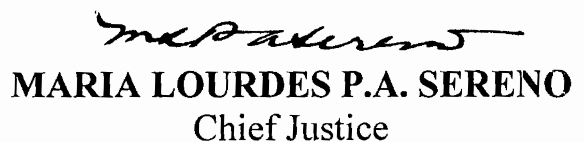


DIOSDADO M. PERALTA
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII 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.



MARIA LOURDES P.A. SERENO
Chief Justice