



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 27 January 2021 which reads as follows:

“G.R. No. 253330 (*Dra. Gemma Fe Lorenzo v. Sylvan Lorenzo y Dalupang*). – The Court resolves to **DENY** the petition for review on *certiorari* for failure to sufficiently show that the Court of Appeals committed reversible error in rendering its assailed Decision¹ dated August 26, 2020 as to warrant the Court’s exercise of its discretionary appellate jurisdiction.

First. *Bangayan, Jr. v. Bangayan*,² citing *People v. Santiago*,³ held:

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

¹ Penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Fernanda Lampas Peralta and Tita Marilyn B. Payoyo-Villordon, *rollo*, pp. 32-39.

² 675 Phil. 656, 664-665 (2011).

³ 255 Phil. 851, 861-862 (1989).

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 name of said complainant. (Emphases supplied)

Here, we keenly note that the civil aspect of the case had long been settled with the trial court's approval of the parties' compromise agreement thereon. Consequently, petitioner Dra. Gemma Fe Lorenzo had already lost her legal standing to intervene in the case in the pursuit of her claim for damages, cost, and other fees before any forum. As for the criminal aspect though, she, from the beginning, being a mere witness, is devoid of any personality to prosecute the same, let alone, appeal the trial court's dispositions thereon. For only the Office of the Solicitor General (OSG) as appellate counsel of the People has such statutory authority.

In *Anlud Metal Recycling Corporation v. Ang*,⁴ the Court ruled that since petitioner therein did not appeal to protect his alleged pecuniary interest as an offended party of the crime, but sought the reinstatement of the criminal action against the respondents, the right to prosecute pertains exclusively to the People, as represented by the OSG. Thus, as private offended party, petitioner here did not have the requisite legal standing to appeal the acquittal of the respondent.

Second. A demurrer to evidence is a motion to dismiss on ground of insufficiency of evidence. If the court finds that the evidence is not sufficient and grants the demurrer to evidence, such dismissal of the case is one on the merits, which is equivalent to the acquittal of the accused. Courts cannot review an order granting the demurrer to evidence because to do so will place the accused in double jeopardy.⁵

The 1987 Constitution guarantees the right of the accused against double jeopardy.⁶ Section 7, Rule 117 of the 1985 and 2000 Rules on Criminal Procedure⁷ strictly adhere to the constitutional proscription against double jeopardy.

⁴ 766 Phil. 676, 687 (2015).

⁵ *Bangayan, Jr. v. Bangayan*, supra note 2, at 666-667.

⁶ Section 21, Article III of the 1987 Constitution provides: "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."

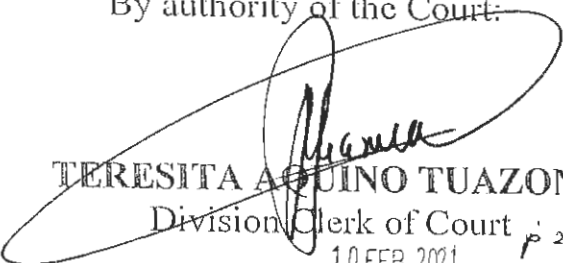
⁷ Section 7. *Former conviction or acquittal; double jeopardy.* — When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.

While it is true that the rule on double jeopardy is subject to the following exceptions: 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,⁸ none of these exceptions are present here. Both prosecution and the defense were amply heard on their respective positions, thus, there was no deprivation of due process or mistrial to speak of.

WHEREFORE, the petition is **DENIED**, and the Decision dated August 26, 2020 of the Court of Appeals in CA-G.R. SP No. 150819, **AFFIRMED**.

SO ORDERED." (J. Lopez, J., designated Additional Member per S.O. No. 2813 dated January 26, 2021)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court p 2/9
10 FEB 2021

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HON. PRESIDING JUDGE (reg)
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Cauayan City, 3305 Isabela
(Crim. Case No. 19-9074)

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However, the conviction of the accused shall not be a bar to another prosecution for an offense which necessarily includes the offense charged in the former complaint or information under any of the following instances:

- (a) the graver offense developed due to supervening facts arising from the same act or omission constituting the former charge;
- (b) the facts constituting the graver charge became known or were discovered only after a plea was entered in the former complaint or information; or
- (c) the plea of guilty to the lesser offense was made without the consent of the prosecutor and of the offended party except as provided in section 1 (f) of Rule 116.

In any of the foregoing cases, where the accused satisfies or serves in whole or in part the judgment, he shall be credited with the same in the event of conviction for the graver offense.

⁸ *People v Alejandro*, 823 Phil. 684, 692 (2015).