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THIRD DIVISION

[G.R. Nos. 251270 and 251291-301. September 5, 2022]

PEOPLE OF THE PHILIPPINES, *Petitioner*, *v*. **COURT OF TAX APPEALS - THIRD DIVISION, L.M. CAMUS ENGINEERING CORPORATION, and LINO D. MENDOZA,**[*] *Respondents*.

D E C I S I O N

DIMAAMPAO, *J.*:

This Petition for *Certiorari*[1] inveighs against the *Resolutions* dated 7 August 2019[2] and 29 November 2019[3] of the Court of Tax Appeals (CTA), Third Division in CTA Criminal Case Nos. O-395 to O-406, which granted the Demurrer to Evidence filed by the respondents, thereby acquitting them of several violations of Sections 254 and 255 of the National Internal Revenue Code (NIRC) with respect to deficiency income tax and value-added tax (VAT) for taxable years 1997 to 1999, and which denied the petitioner's motion for partial reconsideration, respectively.

The case draws its origin in the following Amended Informations filed before the CTA against the respondent corporation L.M. Camus Engineering Corporation (L.M. Camus), and Luis M. Camus (Camus) and respondent Lino D. Mendoza (Mendoza) in their capacity as President and Comptroller of the respondent corporation, respectively:

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[*] The Petition for *Certiorari* erroneously impleaded Luis M. Camus as a respondent. However, he has yet to be arraigned by the Court of Tax Appeals in the criminal proceedings below. See *rollo*, p. 59.

[1] *Rollo*, pp. 4-30.

[2] Id. at 40-78. Signed by Court of Tax Appeals Associate Justices Erlinda P. Uy, Ma. Belen M. Ringpis-Liban, and Maria Rowena Modesto-San Pedro.

[3] Id. at 34-39.

Supreme Court E-Library

CTA Crim. Case No. O-395[4]

That sometime in 1999 or until the scheduled deadline for the filing of the Value-Added Tax (VAT) Return under the BIR-Economic Recovery Assistance Program (ERAP) and the corresponding payment of VAT for taxable year 1998, in Quezon City and within the jurisdiction of this Honorable Court, accused L.M. Camus Engineering Corporation, and accused Luis M. Camus and Lino D. Mendoza, being the corporate and responsible officers of L.M. Camus Engineering Corporation, did then and there willfully, unlawfully and feloniously failed to supply correct and accurate information in the tax return by not declaring all the sales or exchange of services of L.M. Camus Engineering Corporation for taxable year 1998, which resulted to the corporation's basic VAT deficiency in the amount of Twenty-Three Million Five Hundred Ninety-Five Thousand Eight Hundred Thirteen Pesos and Ninety-Five Centavos (₱23,595,813.95), exclusive of surcharges and interest, to the damage and prejudice of the government.

CONTRARY TO LAW.

CTA Crim. Case No. O-396[5]

That sometime in April 2000 or until the scheduled deadline for the filing of the Annual Income Tax Return (ITR) under the BIR-Voluntary Assessment Program (VAP) and the corresponding payment of income tax for taxable year 1999, in Quezon City and within the jurisdiction of this Honorable Court, accused L.M. Camus Engineering Corporation, and accused Luis M. Camus and Lino D. Mendoza, being the corporate and responsible officers of L.M. Camus Engineering Corporation, did then and there willfully, unlawfully and feloniously attempt to evade or defeat tax by under-declaring or by not declaring all the income of L.M. Camus Engineering Corporation for taxable year 1999, which resulted to the corporation's basic deficiency income tax in the amount of Fifty-Three Million Eight Hundred Sixty-Two Thousand Six Hundred Thirty-Six Pesos and Sixty-Seven Centavos (₱53,862,636.67), exclusive of surcharges and interest, to the damage and prejudice of the government.

CONTRARY TO LAW.

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[4] CTA Records (Crim. Case No. O-395, Vol. I), pp. 212-214.

[5] CTA Records (Crim. Case No. O-395, Vol. I), pp. 383-385.

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CTA Crim. Case No. O-397[6]

That sometime in April 1998 or until the scheduled deadline for the filing of the annual Income Tax Return (ITR) in relation to the BIR program and the corresponding payment of income tax for all income earned and received in the year 1997, in Quezon City and within the jurisdiction of this Honorable Court, accused L.M. Camus Engineering Corporation, and accused Luis M. Camus and Lino D. Mendoza, being the corporate and responsible officers of L.M. Camus Engineering Corporation, did then and there willfully, unlawfully and feloniously attempt to evade or defeat tax by under-declaring or by not declaring all the income of L.M. Camus Engineering Corporation for taxable year 1997, which resulted to the corporation's basic deficiency income tax in the amount of Sixty-Five Million Three Hundred Seventy Thousand Seven Hundred Sixty Pesos and Twenty-Nine Centavos (₱65,370,760.29), exclusive of surcharges and interest, to the damage and prejudice of the government.

CONTRARY TO LAW.

CTA Crim. Case No. O-398[7]

That sometime in April 2000 or until the scheduled deadline for the filing of the annual Income Tax Return (ITR) under the BIR-Voluntary Assessment Program (VAP) and the corresponding payment of income tax for all income earned and received in the year 1999, in Quezon City and within the jurisdiction of this Honorable Court, accused L.M. Camus Engineering Corporation, and accused Luis M. Camus and Lino D. Mendoza, being the corporate and responsible officers of L.M. Camus Engineering Corporation, did then and there willfully, unlawfully and feloniously failed to supply correct and accurate information in the tax return by not declaring all the income of L.M. Camus Engineering Corporation for taxable year 1999, which resulted to the corporation's basic deficiency income tax in the amount of Fifty-Three Million Eight Hundred Sixty-Two Thousand Six Hundred Thirty-Six Pesos and Sixty-Seven Centavos (₱53,862,636.67), exclusive of surcharges and interest, to the damage and prejudice of the government.

CONTRARY TO LAW.

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6 CTA Records (Crim. Case No. O-395, Vol. I), pp. 388-390.

7 CTA Records (Crim. Case No. O-395, Vol. I), pp. 393-395.

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CTA Crim. Case No. O-399[8]

That sometime in April 1999 or until the scheduled deadline for the filing of the annual Income Tax Return (ITR) under the BIR-Economic Recovery Assistance Program (ERAP) and the corresponding payment of income tax for all income earned and received in the year 1998, in Quezon City and within the jurisdiction of this Honorable Court, accused L.M. Camus Engineering Corporation, and accused Luis M. Camus and Lino D. Mendoza, being the corporate and responsible officers of L.M. Camus Engineering Corporation, did then and there willfully, unlawfully and feloniously failed to supply correct and accurate information in the tax return by not declaring all the income of L.M. Camus Engineering Corporation for taxable year 1998, which resulted to the corporation's basic deficiency income tax in the amount of Fifty-One Million Twenty-Three Thousand Five Hundred Seventy Pesos and Ten Centavos (₱51,023,570.10), exclusive of surcharges and interest, to the damage and prejudice of the government.

CONTRARY TO LAW.

CTA Crim. Case No. O-400[9]

That sometime in 1999 or until the scheduled deadline for the filing of the Value-Added Tax (VAT) Return under the BIR-Economic Recovery Assistance Program (ERAP) and the corresponding payment of VAT for taxable year 1998, in Quezon City and within the jurisdiction of this Honorable Court, accused L.M. Camus Engineering Corporation, and accused Luis M. Camus and Lino D. Mendoza, being the corporate and responsible officers of L.M. Camus Engineering Corporation, did then and there willfully, unlawfully and feloniously attempt to evade and defeat the correct payment of VAT by underdeclaring or by not declaring all the sales or exchange of services of L.M. Camus Engineering Corporation for taxable year 1998, which resulted to the corporation's basic VAT deficiency in the amount of Twenty-Three Million Five Hundred Ninety-Five Thousand Eight Hundred Thirteen Pesos and Ninety-Five Centavos (₱23,595,813.95), exclusive of surcharges and interest, to the damage and prejudice of the government.

CONTRARY TO LAW.

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8 CTA Records (Crim. Case No. O-395, Vol. I), pp. 398-400.

9 CTA Records (Crim. Case No. O-400), pp. 222-224.

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CTA Crim. Case No. O-401[10]

That sometime in 2000 or until the scheduled deadline for the filing of the Value-Added Tax (VAT) Return under the BIR-Economic Recovery Assistance Program (ERAP) and the corresponding payment of VAT for taxable year 1999, in Quezon City and within the jurisdiction of this Honorable Court, accused L.M. Camus Engineering Corporation, and accused Luis M. Camus and Lino D. Mendoza, being the corporate and responsible officers of L.M. Camus Engineering Corporation, did then and there willfully, unlawfully and feloniously attempt to evade and defeat the correct payment of VAT by underdeclaring or by not declaring all the sales or exchange of services of L.M. Camus Engineering Corporation for taxable year 1999, which resulted to the corporation's basic VAT deficiency in the amount of Twenty-Four Million Six Hundred Nine Thousand Six Hundred Forty-Three Pesos and Forty-Nine Centavos (₱24,609,643.49), exclusive of surcharges and interest, to the damage and prejudice of the government.

CONTRARY TO LAW.

CTA Crim. Case No. O-402[11]

That sometime in 2000 or until the scheduled deadline for the filing of the Value-Added Tax (VAT) Return under the BIR-Voluntary Assessment Program (VAP) and the corresponding payment of VAT for taxable year 1999, in Quezon City and within the jurisdiction of this Honorable Court, accused L.M. Camus Engineering Corporation, and accused Luis M. Camus and Lino D. Mendoza, being the corporate and responsible officers of L.M. Camus Engineering Corporation, did then and there willfully, unlawfully and feloniously failed to supply correct and accurate information in the tax return by not declaring all the sales or exchange of services of L.M. Camus Engineering Corporation for taxable year 1999, which resulted to the corporation's VAT deficiency in the amount of Twenty-Four Million Six Hundred Nine Thousand Six Hundred Forty-Three Pesos and Forty-Nine Centavos (₱24,609,643.49), exclusive of surcharges and interest, to the damage and prejudice of the government.

CONTRARY TO LAW.

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[10] CTA Records (Crim. Case No. O-401), pp. 214-215.

[11] CTA Records (Crim. Case No. O-395, Vol. I), pp. 403-405.

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CTA Crim. Case No. O-403[12]

That sometime in 1999 or until the scheduled deadline for the filing of the annual Income Tax Return (ITR) under the BIR-Economic Recovery Assistance Program (ERAP) and the corresponding payment of income tax for all income earned and received in the year 1998, in Quezon City and within the jurisdiction of this Honorable Court, accused L.M. Camus Engineering Corporation, and accused Luis M. Camus and Lino D. Mendoza, being the corporate and responsible officers of L.M. Camus Engineering Corporation, did then and there willfully, unlawfully and feloniously attempt to evade or defeat tax by under-declaring or by not declaring all income of L.M. Camus Engineering Corporation for taxable year 1998, which resulted to the corporation's basic deficiency income tax in the amount of Fifty-One Million Twenty-Three Thousand Five Hundred Seventy Pesos and Ten Centavos (₱51,023,570.10), exclusive of surcharges and interest, to the damage and prejudice of the government.

CONTRARY TO LAW.

CTA Crim. Case No. O-404[13]

That sometime in 1998 or until the scheduled deadline for the filing of the Value-Added Tax (VAT) Return under the BIR-Economic Recovery Assistance Program (ERAP) and the corresponding payment of VAT for taxable year 1997, in Quezon City and within the jurisdiction of this Honorable Court, accused L.M. Camus Engineering Corporation, and accused Luis M. Camus and Lino D. Mendoza, being the corporate and responsible officers of L.M. Camus Engineering Corporation, did then and there willfully, unlawfully and feloniously failed to supply correct and accurate information in the tax return by not declaring all the sales or exchange of services of L.M. Camus Engineering Corporation for taxable year 1997, which resulted to the corporation's basic VAT deficiency in the amount of Twenty-Eight Million Four Hundred Nineteen Thousand Seven Hundred Thirty-Six [Pesos] and Eighty-One Centavos (₱28,419,736.81), exclusive of surcharges and interest, to the damage and prejudice of the government.

CONTRARY TO LAW.

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[12] CTA Records (Crim. Case No. O-395, Vol. I), pp. 408-410.

[13] CTA Records (Crim. Case No. O-404), pp. 215-217.

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CTA Crim. Case No. O-405[14]

That sometime in 1998 or until the scheduled deadline for the filing of the annual Income Tax Return (ITR) in relation to the BIR program and the corresponding payment of income tax for all income earned and received in the year 1997, in Quezon City and within the jurisdiction of this Honorable Court, accused L.M. Camus Engineering Corporation, and accused Luis M. Camus and Lino D. Mendoza, being the corporate and responsible officers of L.M. Camus Engineering Corporation, did then and there willfully, unlawfully and feloniously failed to supply correct and accurate information in the tax return by not declaring all the income of L.M. Camus Engineering Corporation for taxable year 1997, which resulted to the corporation's basic deficiency income tax in the amount of Sixty-Five Million Three Hundred Seventy Thousand Seven Hundred Sixty Pesos and Twenty-Nine Centavos (₱65,370,760.29), exclusive of surcharges and interest, to the damage and prejudice of the government.

CONTRARY TO LAW.

CTA Crim. Case No. O-406[15]

That sometime in 1998 or until the scheduled deadline for the filing of the Value-Added Tax (VAT) Return in relation to the BIR Program and the corresponding payment of VAT for taxable year 1997, in Quezon City, and within the jurisdiction of this Honorable Court, accused L.M. Camus Engineering Corporation, and accused Luis M. Camus and Lino D. Mendoza, being the corporate and responsible officers of L.M. Camus Engineering Corporation, did then and there willfully, unlawfully and feloniously attempt to evade or defeat tax by under-declaring or by not declaring all the sales or exchange of services of L.M. Camus Engineering Corporation for taxable year 1997, which resulted to the corporation's VAT deficiency in the amount of Twenty-Eight Million Four Hundred Nineteen Thousand Seven Hundred Thirty-Six [Pesos] and Eighty-One Centavos (₱28,419,736.81), exclusive of surcharges and interest, to the damage and prejudice of the government.

CONTRARY TO LAW.

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[14] CTA Records (Crim. Case No. O-405), pp. 227-229.

[15] CTA Records (Crim. Case No. O-395, Vol. I), pp. 413-415.

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The foregoing Amended Informations may be summarized as follows:[16]

Case No.	Section of the NIRC which the Accused are Charged with Violating	Type of Tax	Taxable Year Covered	Amount of Tax
O-397	Section 254	Income Tax	1997	₱65,370,760.29
O-405	Section 255	Income Tax	1997	₱65,370,760.29
O-406	Section 254	VAT	1997	₱28,419,736.81
O-404	Section 255	VAT	1997	₱28,419,736.81
O-403	Section 254	Income Tax	1998	₱51,023,570.10
O-399	Section 255	Income Tax	1998	₱51,023,570.10
O-400	Section 254	VAT	1998	₱23,595,813.95
O-395	Section 255	VAT	1998	₱23,595,813.95
O-396	Section 254	Income Tax	1999	₱53,862,636.67
O-398	Section 255	Income Tax	1999	₱53,862,636.67
O-401	Section 254	VAT	1999	₱24,609,643.49
O-402	Section 255	VAT	1999	₱24,609,643.49

After determining the existence of probable cause, the CTA issued warrants of arrest against respondents.[17] Both Camus and Mendoza voluntarily appeared and posted the required bail bonds for their provisional liberty.[18] The various criminal cases were likewise consolidated by the CTA.[19]

Respondents then filed separate motions to dismiss and/or motions to quash the Informations,[20] but the same were denied by the CTA in its Resolution[21] dated 18 December 2015. Respondents moved for reconsideration but it suffered the same fate in the CTA's Resolution[22] dated 28 April 2016. Thereafter, respondents

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16 See *Rollo*, p. 56.

17 Id. at 45.

18 Id.

19 Id. at 47.

20 Id. at 48.

21 Id. at 82-94.

22 CTA Records (Crim. Case No. O-395, Vol. II), pp. 571-580.

Supreme Court E-Library

elevated these two Resolutions before this Court through petitions for *certiorari*, which were denied in the Resolution[23] dated 4 July 2016 for being the wrong remedy and for failing to show that the CTA committed reversible error in issuing the same. Subsequently, this Resolution by the Court became final and executory on 6 September 2016.[24]

During the arraignment, Mendoza pled not guilty to the crimes charged.[25]

On the other hand, Camus, through his guardian, filed a "Motion to Drop/Exclude Accused Luis M. Camus as Co-Accused,"[26] which was denied by the CTA on 19 September 2017.[27] However, the CTA granted the subsequent motion to defer Camus' arraignment until further orders from the tax court given that he was medically indisposed.[28]

Preliminary conference then proceeded against both Mendoza and L.M. Camus.[29] After the filing of the parties' Joint Limited Stipulations of Facts and Issues,[30] the CTA terminated the Pre-trial and issued a Pre-trial Order on 23 May 2018.[31]

Trial then ensued. The prosecution presented its lone witness, Atty. Sixto C. Dy, Jr. (Atty. Dy), who testified by way of Judicial Affidavit and was cross-examined by the respondents.[32] The testimony of Atty. Dy was presented to prove that L.M. Camus was liable to pay income tax and VAT for taxable years 1997, 1998, and 1999 but it evaded such payment by willfully supplying

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23 CTA Records (Crim. Case No. O-395, Vol. II), p. 993.

24 *Rollo*, p. 57.

25 Id.

26 CTA Records (Crim. Case No. O-395, Vol. II), pp. 517-518.

27 *Rollo*, p. 58.

28 Id. at 59.

29 Id. at 58.

30 CTA Records (Crim. Case No. O-395, Vol. IV), pp. 2060-2061.

31 *Rollo*, p. 59.

32 Id.

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incorrect information of the income it earned for the said years in its income tax returns (ITRs) and VAT returns.[33] Thereafter, the prosecution filed its Formal Offer of Evidence (FOE).[34]

In its Resolution[35] dated 30 July 2018, the CTA denied admission of the prosecution's several exhibits, including L.M. Camus' quarterly VAT returns for taxable year 1999, and its annual ITRs for taxable years 1997 and 1998.[36] Praying for the admission of the denied Exhibits as secondary evidence, the prosecution moved for partial reconsideration of the CTA's Resolution, which the CTA denied in its Resolution[37] dated 16 November 2018.

Instead of presenting their own evidence, respondents filed, with leave of court, a Demurrer to Evidence[38] on 20 August 2018.[39] In response, the prosecution filed its Comment[40] thereto on 6 September 2018.[41]

Respondents contended that the prosecution failed to adduce proof beyond reasonable doubt to indict them of the crimes of "Tax Evasion" and "Failure to File Return, Supply Correct and Accurate Information" under Sections 254 and 255, respectively, of the NIRC.[42] Specifically, the prosecution purportedly failed to establish the amount of income tax and VAT paid by L.M. Camus, the alleged under-declared amounts that the BIR discovered, including the computation and imputation of the supposed tax fraud committed by respondents which led to the issuance of

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33 Id. at 63.

34 CTA Records (Crim. Case No. O-395, Vol. V), pp. 2139-2204.

35 CTA Records (Crim. Case No. O-395, Vol. V), pp. 2516-2518.

36 *Rollo*, p. 69.

37 CTA Records (Crim. Case No. O-395, Vol. VI), pp. 2709-2713.

38 *Rollo*, pp. 118-131.

39 Id. at 60.

40 CTA Records (Crim. Case No. O-395, Vol. V), pp. 2677-2688.

41 *Rollo*, p. 61.

42 Id. at 124.

Supreme Court E-Library

the deficiency tax assessments.[43] Given that the prosecution failed to present L.M. Camus' ITRs and VAT returns for taxable years 1997, 1998, and 1999, the *corpus delicti* of the crime defined and penalized under Section 255 of the NIRC was non-existent.[44] Moreover, the prosecution's sole witness failed to establish the actual fraud and cheating ostensibly committed by respondents. They faulted the prosecution for not presenting the BIR examiners who actually conducted the tax investigation on L.M. Camus' financial and accounting records to explain how the apparent tax fraud was committed. Furthermore, there were no verifiable and legally permissible supporting documents to validate the deficiency tax assessments issued by the BIR.[45]

For its part, the prosecution maintained that while some of its Exhibits were not originals, they should still be given weight as secondary evidence.[46] The prosecution likewise countered that Atty. Dy was a competent witness to identify the third party documents evidencing the income payments made by L.M. Camus given that his functions as Supervisor of the Tax Fraud Division (now the National Investigation Division) include "reviewing the reports, memoranda, access letters, letters of communication, attachments and other documents of the dockets indorsed to him; to approve reports of his group after audit or investigation; and to recommend the prosecution for criminal violations of the NIRC."[47]

The testimony of Atty. Dy allegedly proved the chain of events from which the inferences may be derived to prove the respondents' guilt beyond reasonable doubt.[48] Moreover, the prosecution argued that Mendoza, being the comptroller of the respondent corporation, occupied a management or senior executive level in L.M. Camus. As such, he was responsible for the accounting and financial reporting of the corporation. His corporate functions indicated

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[43] Id. at 126.

[44] Id. at 129.

[45] Id. at 61-62 and 124-126.

[46] Id. at 63.

[47] Id. at 62.

[48] Id. at 63.

Supreme Court E-Library

his "know-it-all" position as far as the financial capacity of the corporation was concerned. Since L.M. Camus was consistently committing tax evasion for three consecutive years, it was likely that Mendoza, as the comptroller, had direct participation over this situation.[49] Finally, the prosecution pointed out that it was the Supreme Court itself, in the case of *Commissioner of Internal Revenue v. Hon. Raul M. Gonzales, Secretary of Justice, L.M. Camus Engineering Corporation (represented by Luis M. Camus and Lino D. Mendoza)*, docketed as G.R. No. 177279,[50] which directed the inclusion of Mendoza in the Informations that should be filed by the Department of Justice (DOJ) against L.M. Camus for violations of Sections 254 and 255 of the NIRC.[51]

Pursuant to the Resolution dated 21 February 2019, the Demurrer to Evidence was submitted for the CTA's resolution.[52]

In the first challenged *Resolution*, the CTA granted the Demurrer to Evidence, thereby acquitting L.M. Camus and Mendoza.[53] The CTA noted that among the Exhibits which were denied admission were L.M. Camus' quarterly VAT returns for taxable year 1999 and its ITRs for 1997 and 1998. Additionally, the prosecution did not even bother presenting L.M. Camus' VAT returns for 1997 and 1998, and its ITR for 1999.[54] The absence of the foregoing returns was fatal to the prosecution's case as it prevented the CTA from determining whether L.M. Camus indeed derived income from sales of services other than what was declared therein.[55] It likewise could not verify the specific information which the respondent corporation supposedly failed to supply correctly or accurately. The prosecution relied heavily on the Statement of Accounts, Progress Payment Invoice, and

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[49] Id.

[50] Promulgated on 13 October 2010.

[51] Rollo, pp. 44 and 63.

[52] Id. at 61.

[53] Id. at 77-78.

[54] Id. at 69.

[55] Id. at 70.

Supreme Court E-Library

BIR Forms 2307 to show that payments had been made to L.M. Camus but failed to state the circumstances detailing how the respondents fraudulently concealed or omitted the same in their ITRs and VAT returns.[56] Moreover, the prosecution did not present the BIR revenue officers who examined these financial records to prove that the corresponding taxes were not paid and that there were under-declarations of L.M. Camus' income tax and VAT for taxable years 1997 to 1999.[57] Without the returns, the CTA was likewise unable to verify whether the respondents declared those payments incorrectly which would prove their intention to evade or defeat tax.

The CTA likewise pointed out that some of the Statement of Accounts were dated for the year 2000, which are outside the coverage of the instant case.[58] Furthermore, the CTA opined that it could not give weight to the Statement of Accounts, Progress Payment Invoice, and BIR Forms 2307 considering that both parties stipulated that Atty. Dy, who identified the same, had no personal knowledge as to the transactions and payments provided therein.[59] Additionally, Atty. Dy's testimony did not contain any explanation as to how the respondents evaded taxes nor how they failed to supply the correct information in the corresponding returns.

So, too, the records did not adequately prove whether Mendoza was indeed the comptroller of L.M. Camus from 1997 to 1999 in the same way as there was no proof that L.M. Camus engaged in other sale of services other than what was already declared in its returns. While the prosecution presented several contracts, the same were denied admission for failing to present the originals thereof.[60]

With the foregoing considerations, the CTA adjudged that the prosecution failed to present sufficient evidence to establish

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[56] Id. at 70-71.

[57] Id. at 70.

[58] Id.

[59] Id.

[60] Id. at 75.

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the essential elements for violations of Sections 254 and 255 of the NIRC. Nevertheless, the CTA held that the accompanying civil liability was not automatically extinguished. Consequently, the CTA directed L.M. Camus and Mendoza to present their evidence on the civil aspect of the consolidated cases.[61]

Aggrieved, the prosecution moved for reconsideration, but the same was denied by the CTA in the second impugned Resolution.[62]

With the denial of its motion for reconsideration, the BIR instituted the present Petition, avouching that it neither has an appeal nor any other plain, speedy, or adequate remedy given the constitutional proscription against double jeopardy.[63] In its Petition, the BIR ascribes grave abuse of discretion on the part of the CTA, Third Division when it granted respondents' Demurrer to Evidence. The BIR vehemently asserts that L.M. Camus' tax deficiencies were well established despite the denial of admission and non-presentation of the corporation's tax returns.[64]

For one thing, the CTA's denial of admission for L.M. Camus' VAT returns for 1999 and ITRs for 1997 and 1998 should not operate to negate the corporation's tax deficiencies.[65] It bears stressing that respondents themselves never disputed the existence thereof and the denial of its offer of these documents as evidence was solely based on the absence of the originals. In the same vein, the non-presentation of the VAT returns for 1997 and 1998 and the ITR for 1999 should not bolster respondents' cause because their apparent denial of the existence and filing of these returns is already tantamount to admitting a violation of Section 255 of the NIRC. *For another*, L.M. Camus' tax deficiencies were established by the supporting documents presented by the prosecution, *i.e.*, the audit reports prepared by the BIR

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61 Id. at 64-78.

62 Id. at 39.

63 Id. at 5.

64 Id. at 20-21.

65 Id. at 21.

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revenue officers and the assessment notices issued against L.M. Camus.[66] The BIR asserts that the issuance of a Letter of Authority alone already shows that there were preliminary findings of a *prima facie* violation of the NIRC. The various reports prepared by the BIR's audit team also established the fact of under-declaration of taxes. These documents carry the presumption of regularity and are, on their own, clear proofs which established the *corpus delicti* of the crimes charged.[67] The BIR brought to the fore the fact that respondents never disputed the assessment notices issued against it, which further accentuates that they were not confident in their tax compliance. The BIR laments that the grant of the Demurrer to Evidence entailed serious detriment to the government whose lifeblood are the taxes paid to it.[68] The BIR posits that, contrary to the conclusions of the CTA, the collective evidence presented by the prosecution more than established the elements of the crimes charged beyond reasonable doubt.[69]

In their Comment/Opposition,[70] L.M. Camus and Mendoza insist that the CTA did not commit grave abuse of discretion in rendering the oppugned *Resolutions*. The CTA arrived at its conclusion after due notice and hearing and a judicious consideration of the cumulative evidence presented by the prosecution.[71] Its factual findings were premised on the lack of primary and secondary evidence to show that L.M. Camus had undeclared income and VAT for taxable years 1997 to 1999.[72] The respondents asseverate that no conviction for factual fraud should rest on the presumption of regularity of an assessment. The burden of proof rests on the prosecution to present legally-permissible evidence to prove respondents' guilt beyond reasonable doubt,

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66 Id. at 21-23.

67 Id. at 23.

68 Id. at 26.

69 Id. at 20-27.

70 Id. at 101-117.

71 Id. at 109.

72 Id. at 110.

Supreme Court E-Library

which it failed to do.[73] Mere misappreciation of evidence or even misapplication of the law does not warrant the filing of a civil action for *certiorari* absent any proof that the CTA acted in an arbitrary or despotic manner or acted in a way that was so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform its enjoined duty.[74] Hence, respondents pray that the instant Petition be dismissed for lack of merit.[75]

Issue

Simply put, the main issue posited before this Court is whether or not the CTA, Third Division acted with grave abuse of discretion in issuing the challenged *Resolutions* which granted the Demurrer to Evidence filed by respondents.

The Court's Ruling

Foremost, it should be pointed out that the present Petition was filed by the Prosecution Division of the BIR instead of the Office of the Solicitor General (OSG). Perceivably, the OSG declined to institute the present action because it was of the opinion that the CTA, Third Division did not commit grave abuse of discretion in rendering the assailed *Resolutions*.[76] Nevertheless, the BIR insists that despite the OSG's contrary position, it is allowed to institute the present action independently pursuant to the doctrine in *Orbos v. Civil Service Commission*.[77]

The Court takes this opportunity to caution both the BIR and the OSG that the doctrine in *Orbos* is not an absolute rule. In fact, in the succeeding case of *Commissioner of Internal Revenue v. La Suerte Cigar & Cigarette Factory*,[78] the Court held that the NIRC did not do away with the established rule in requiring the OSG to represent the interest of the Republic in appellate proceedings before this Court. This is the clear import

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73 Id. at 110-114.

74 Id. at 116.

75 Id.

76 Id. at 80.

77 267 Phil. 476-486 (1990).

78 433 Phil. 463-469 (2002).

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of the provisions of the Executive Order No. 292, or the Revised Administrative Code, which provides in detail the duties of the OSG, *viz.*:[79]

> SECTION 35. Powers and Functions. — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the services of a lawyer. It shall have the following specific powers and functions:
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> (1) **Represent the Government in the Supreme Court and the Court of Appeals <u>in all criminal proceedings</u>**; represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party.[80]

As an independent office, the Court has recognized that the Solicitor General has a wide discretion in the management of cases, *i.e.*, "[h]e may start the prosecution of the case by filing the appropriate action in court or **he may opt not to file the case at all**. He may do everything within his legal authority but always conformably with the national interest and the policy of the government on the matter at hand."[81] Nevertheless, given the mandatory nature of the above-quoted provision as evident in the use of the word "shall" in the first paragraph thereof,[82] the Court has held that the Solicitor General cannot refuse to perform his duty to represent the government, its agencies, instrumentalities, officials, and agents **without a just and valid reason.**[83] In the same case of *Orbos*, it was edifyingly pronounced that "the Court appreciates

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[79] Book IV, Title III, Chapter 12, Section 35 (1) of the Revised Administrative Code of 1987.

[80] Emphases and underscoring supplied.

[81] See *Topacio v. Ong*, 595 Phil. 491, 502 (2008). Emphases supplied.

[82] See *Gumaru v. Quirino State College*, 552 Phil. 481, 492 (2007).

[83] *Republic v. Heirs of Cuizon*, 705 Phil. 596, 607 (2013). Emphases supplied.

Supreme Court E-Library

the participation of the Solicitor General in many proceedings and his continued fealty to his assigned task. He should not therefore desist from appearing before this Court even in those cases he finds his opinion inconsistent with the Government or any of its agents he is expected to represent. The Court must be advised of his position just as well."[84]

Necessarily, the Solicitor General is reminded of his solemn duty to still file a manifestation before this Court of his position, even if the same is inconsistent with that of the government agency he is mandated to represent.

All the same, the jugular issue now posed for this Court's resolution is whether or not the BIR may persist in questioning the CTA's acquittal of herein private respondents despite the OSG's assessment that there is no valid ground to do so.

The Court answers in the negative.

There is no gainsaying that the BIR is the primary agency tasked to administer and enforce the NIRC,[85] which necessarily includes the penal provisions therein, such as Sections 254 and 255. There is also no quibble that Section 220 of the NIRC explicitly provides that "[c]ivil and criminal actions and proceedings instituted in behalf of the Government under the authority of this Code or other law enforced by the Bureau of Internal Revenue shall be brought in the name of the Government of the Philippines **and shall be conducted by legal officers of the Bureau of Internal Revenue** . . ."[86] Hence, the BIR undoubtedly has a clear interest in the prosecution of violations of the Tax Code.

However, this authority should be tempered by other laws that find equal application, such as the provisions of Republic Act No. 10071, or the Prosecution Service Act of 2010, which provides that the National Prosecution Service under the

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[84] Supra note 78.

[85] See *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, 841 Phil. 114, 133 (2018).

[86] Emphases supplied.

Supreme Court E-Library

DOJ "shall be **primarily responsible** for the preliminary investigation **and prosecution of all cases involving violations of penal laws . . .**"[87] Undoubtedly, the prosecution of criminal tax cases necessitates coordination between the two bodies. This is evident in the issuances that the BIR has passed on the prosecution of tax evasion cases, such as the Run After Tax Evaders (RATE) Program which recognized that the prosecution of criminal cases must be done in coordination with the DOJ.[88]

In actual fact, in this particular instance, the OSG also cites the absence of a favorable endorsement from the DOJ as a ground to deny the BIR's request for representation.[89] It noted that "the endorsement for criminal cases intending to be assailed through Petition for Certiorari under Rule 65 of the 1997 Revised Rules on Civil Procedure before the Supreme Court should be issued by the Department of Justice (DOJ) Head Office in Padre Faura, City of Manila, aptly signed by the Honorable Prosecutor General."[90]

A perspicacious review of the Petition and its attachments confirm that no such endorsement or delegation of authority from the DOJ can be found to pursue the instant case. The attached Office Orders from the Office of the Prosecutor General only further confirm the BIR's lack of authority to institute the present case as they visibly limit the deputization of the BIR to prosecute tax criminal cases to those "in the first and second level courts and the Court of Tax Appeals," with no mention of cases instituted before this Court.[91]

On this ground alone, the Petition may already be dismissed.

However, even assuming that this Court turns a blind eye to such procedural *faux pas* and the Petition is not summarily dismissed,

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87 Section 3, Republic Act No. 10071.

88 See Revenue Memorandum Order No. 24-2008 and Revenue Memorandum Order No. 27-2010.

89 *Rollo*, p. 80.

90 Id.

91 Id. at 96-97.

Supreme Court E-Library

as it actually did in *La Suerte Cigar & Cigarette Factory*,[92] the Petition is still doomed to fail.

After an assiduous review of the arguments raised by the BIR, the Court found no grave abuse of discretion committed by the CTA in issuing the questioned Resolutions.

It is well-established that when a criminal case is dismissed based on demurrer to evidence, the grant amounts to an acquittal and any further prosecution of the accused violates the constitutional proscription against double jeopardy.[93] Hence, the only recourse left is to assail the acquittal through a petition for *certiorari* under Rule 65 of the Rules of Court.[94] However, "[i]n such a case, **the factual findings of the trial court are conclusive upon the reviewing court**, and the only legal basis to reverse and set aside the order of dismissal upon demurrer to evidence is by a clear showing that the trial court, in acquitting the accused, committed grave abuse of discretion amounting to lack or excess of jurisdiction or a denial of due process, thus, rendering the assailed judgment void."[95]

Grave abuse of discretion has been defined as "that capricious or whimsical exercise of judgment which is tantamount to lack of jurisdiction. 'The abuse of discretion must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.' The party questioning the acquittal of an accused should be able to clearly establish that the trial court blatantly abused its discretion such that it was deprived of its authority to dispense justice."[96]

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92 Supra note 80.

93 See *Republic v. Spouses Gimenez*, 776 Phil. 233, 252-253 (2016).

94 Id.

95 See *Bowden v. Bowden*, G.R. No. 228739, 17 July 2019, 909 SCRA 431, 444, citing *People v. Sandiganbayan*, 637 Phil. 147, 160 (2010). Emphases supplied.

96 See *People v. Go*, 740 Phil. 583, 603 (2014) citing *Bangayan, Jr. v. Bangayan*, G.R. Nos. 172777 & 172792, 19 October 2011, 659 SCRA 590, 602.

Supreme Court E-Library

Sifting through the Petition bares, however, that there were no allegations on the supposed acts constituting grave abuse of discretion adequate to reverse the CTA's *Resolutions*.

Rather, what is palpably evident, is that the BIR anchors its Petition on the CTA's purported misappreciation of its evidence. It is settled that the writ of *certiorari* does not include the correction of evaluation of evidence.[97] Certainly, "[n]o grave abuse of discretion may be attributed to a court simply because of its alleged misapplication of facts and evidence, and erroneous conclusions based on said evidence. *Certiorari* will issue only to correct errors of jurisdiction, and not errors or mistakes in the findings and conclusions of the trial court."[98]

As a final note, and contrary to the BIR's assertions, the grant of Demurrer to Evidence in this case would not necessarily result in "serious detriment of the government whose lifeblood are the taxes paid to it."[99] As the CTA correctly observed, an acquittal of the crimes charged in this case would not result in the extinguishment of the accused's civil liability.[100] "[T]he civil aspect of the criminal case can survive an acquittal when it is based on reasonable doubt,"[101] as the case at bench. This is also the express directive of Section 254 of the NIRC, which provides that "the conviction or acquittal obtained under this Section shall not be a bar to the filing of a civil suit for the collection of taxes."

GIVEN THE FOREGOING DISCOURSE, the Petition for *Certiorari* is hereby **DISMISSED**. The *Resolutions* dated 7 August 2019 and 29 November 2019 of the Court of Tax Appeals, Third Division in CTA Criminal Case Nos. O-395 to O-406 are **AFFIRMED**. Accordingly, respondents L.M. Camus Engineering Corporation and Lino D. Mendoza are **ACQUITTED** of the

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[97] *People v. Dr. Sobrepena, et al*., 801 Phil. 929, 937 (2016).

[98] See *People v. Arcega y Siguenza*, G.R. No. 237489, 27 August 2020 citing *Villareal v. Aliga*, 724 Phil. 47, 61 (2014).

[99] *Rollo*, p. 26.

[100] Id. at 76.

[101] *Horca v. People*, G.R. No. 224316, 10 November 2021.

Supreme Court E-Library

crimes charged for failure of the prosecution to prove their guilt beyond reasonable doubt.

The case, including the entirety of their records, are **ORDERED REMANDED** to the Court of Tax Appeals, Third Division to determine the civil liability of respondents, if any.

SO ORDERED.

Caguioa, J. (Chairperson), see concurring opinion.

Inting, Gaerlan, and *Singh, JJ.*, concur.

APPEARANCES OF COUNSEL

Office of the Solicitor General for petitioner.
Medel Arnaldo Belen for respondents.

CONCURRING OPINION

CAGUIOA, *J.*:

I concur with the *ponencia*. The Petition for *Certiorari*[1] (Petition) must be dismissed for lack of merit. I write this opinion to highlight that the instant Petition before the Court assailing the Resolutions dated August 7, 2019[2] and November 29, 2019[3] of the Court of Tax Appeals, Third Division (CTA) in CTA Criminal Case Nos. O-395 to O-406, which acquitted respondents L.M. Camus Engineering Corporation (L.M. Camus) and Lino D. Mendoza (Mendoza) (collectively, respondents) for insufficiency of evidence, is violative of respondents' constitutional right against double jeopardy.

Brief review of the facts

The case stemmed from twelve (12) Amended Informations

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1 *Rollo*, pp. 4-30.

2 Id. at 40-78. Signed by Associate Justices Erlinda P. Uy, Ma. Belen M. Ringpis-Liban and Maria Rowena Modesto-San Pedro.

3 Id. at 34-39.

Supreme Court E-Library

filed before the CTA against respondent corporation L.M. Camus, Luis M. Camus (Camus) and respondent Mendoza in their capacity as President and Comptroller, respectively, of L.M. Camus. The Amended Informations charged respondents with violation of Sections 254 and 255 of the National Internal Revenue Code of 1997, as amended (1997 NIRC), covering Income Tax and Value-Added Tax (VAT) for taxable years 1997, 1998 and 1999.[4]

Mendoza pled "not guilty" to the crimes charged; while Camus' arraignment was deferred until further orders from the CTA as he was medically indisposed.[5]

Trial ensued. The prosecution presented its lone witness, Atty. Sixto C. Dy, Jr. (Atty. Dy). Atty. Dy's testimony was presented to prove that L.M. Camus evaded payment of income tax and VAT for taxable years 1997, 1998, and 1999, by willfully supplying incorrect information in its tax returns. Thereafter, the prosecution filed its Formal Offer of Evidence.[6]

Respondents filed a Demurrer to Evidence[7] claiming, among others, that the prosecution failed to present proof of the alleged under-declared amounts and the supposed fraud or cheating that respondents allegedly committed. The prosecution filed its Comment insisting that the testimony of Atty. Dy established the chain of events which thus established inferences to prove respondents' guilt beyond reasonable doubt.[8]

In the first assailed Resolution dated August 7, 2019, the CTA granted the Demurrer to Evidence, thereby acquitting L.M. Camus and Mendoza. The CTA was convinced that the prosecution's evidence was insufficient to establish the essential elements of Sections 254 and 255 of the 1997 NIRC.[9] Nevertheless, the CTA

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4 See *ponencia*, pp. 2-7.

5 Id. at 7-8.

6 Id. at 8.

7 *Rollo*, pp. 118-131.

8 *Ponencia*, pp. 8-9.

9 Id. at 10-11.

Supreme Court E-Library

held that the accompanying civil liability is not automatically extinguished; hence, respondents were directed to present their evidence on the civil aspect of the cases.[10]

In the second assailed Resolution dated November 29, 2019, the CTA denied the prosecution's motion for reconsideration.[11]

Aggrieved, the Bureau of Internal Revenue (BIR), without the conformity of the Office of the Solicitor General (OSG), filed before the Court the instant Petition assailing respondents' acquittal. The BIR ascribes grave abuse of discretion on the part of the CTA when it granted respondents' Demurrer to Evidence. The BIR justified the direct recourse to the Court by claiming that it neither has an appeal nor any other plain, speedy, or adequate remedy given the constitutional proscription against double jeopardy.[12]

The *ponencia* dismisses the Petition and remands the case to the CTA for the determination of respondents' tax liability, if any,[13] noting that the prosecution, nonetheless, was able to present evidence on the tax liabilities of respondents.[14] The *ponencia* further rules that the BIR lacks the legal personality to pursue the Petition without the conformity of the OSG. Thus, on this ground alone, the *ponencia* explains, the Petition is dismissible.[15]

Even assuming that the Court turns a blind eye to this procedural defect, the *ponencia* still finds the Petition unmeritorious as it finds that the CTA did not commit grave abuse of discretion in granting respondents' Demurrer to Evidence.[16]

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[10] Id. at 11.

[11] Id.

[12] Id.

[13] Id. at 17.

[14] Id. at 11.

[15] Id. at 14-15.

[16] Id. at 15-16.

Supreme Court E-Library

The present Petition violates respondents' right against double jeopardy.

As stated at the outset, I concur with the *ponencia* in dismissing the present Petition. I agree that the BIR has no personality to file the instant Petition without the conformity of the OSG.

More importantly, I wish to emphasize that the Petition must be dismissed because it offends respondents' constitutional right against double jeopardy.

Section 21, Article III of the 1987 Constitution provides that "[n]o 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."

To implement this, Section 7, Rule 117 of the Rules of Criminal Procedure, as amended provides:

> SEC. 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.

Dissecting the foregoing rule, jurisprudence explains that for the right against double jeopardy to attach, the following requisites must be present: (1) a first jeopardy must have attached prior to the second; (2) the first jeopardy must have been validly terminated; and (3) the second jeopardy must be for the same offense as that in the first.[17] In turn, the first jeopardy attaches

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[17] *People v. Judge Declaro*, 252 Phil. 139, 143 (1989).

Supreme Court E-Library

only (1) upon a valid indictment; (2) before a competent court; (3) after arraignment; (4) when a valid plea has been entered; and (5) when the defendant was convicted or acquitted, or the case was dismissed or otherwise terminated without the express consent of the accused.[18]

All the foregoing requisites of double jeopardy are present in this case.

Respondents were indicted on the basis of twelve (12) criminal Informations for violation of Sections 254 and 255 of the 1997 NIRC filed before the CTA, which had jurisdiction over the cases. Mendoza was arraigned and pleaded not guilty to the charges. During trial, the prosecution was able to present all its documentary and testimonial evidence and formally offered the same to the CTA. Subsequently, asserting that the prosecution's evidence was insufficient, respondents filed a demurrer to evidence. The CTA granted respondents' demurrer to evidence and dismissed the case for insufficiency of evidence.

In *Sanvicente v. People*,[19] the Court explained that the grant or denial of a demurrer to evidence is left to the sound discretion of the court. In resolving the accused's demurrer to evidence, the court is tasked with ascertaining whether there is competent or sufficient evidence to support a conviction. Significantly, once the court grants the demurrer, such order amounts to acquittal and any further prosecution of the accused would violate the constitutional proscription on double jeopardy.[20]

Clearly, there was a valid termination of the first jeopardy in this case, and the present Petition filed before the Court, assailing respondents' acquittal, is a constitutionally offensive second jeopardy as it pertains to the same offense as the first jeopardy.

Moreover, the existence of double jeopardy in this case calls for the application of the "finality-of-acquittal" rule, which, as the

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[18] *People v. Hon. Nitafan*, 362 Phil. 58, 74 (1999).

[19] 441 Phil. 139 (2002).

[20] Id. at 146.

Supreme Court E-Library

name implies, makes a judgment of acquittal unappealable and immediately executory upon its promulgation.[21]

In *People v. Hon. Velasco*,[22] the Court explained the rationale behind the "finality-of-acquittal" doctrines as follows:

> The fundamental philosophy highlighting the finality of an acquittal by the trial court cuts deep into "the humanity of the laws and in a **jealous watchfulness over the rights of the citizen, when brought in unequal contest with the State**. x x x" Thus Green expressed the concern that "(t)he underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is **that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent, he may be found guilty**."
>
> It is axiomatic that on the basis of humanity, fairness and justice, an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal. The philosophy underlying this rule establishing the absolute nature of acquittals is "part of the paramount importance criminal justice system attaches to the protection of the innocent against wrongful conviction." The interest in the finality-of-acquittal rule, confined exclusively to verdicts of not guilty, is easy to understand: it is a need for "repose," a desire to know the exact extent of one's liability. With this right of repose, the criminal justice system has built in a protection to insure that the innocent, even those whose innocence rests upon a jury's leniency, will not be found guilty in a subsequent proceeding.[23] (Emphasis and underscoring supplied)

However, the "finality-of-acquittal" doctrine is not without exception. As I have explained in my *ponencia* in *Raya v. People*,[24] "[t]he finality-of-acquittal doctrine does not apply when

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[21] *People v. Hon. Sandiganbayan (Fourth Division)*, G.R. No. 228281, June 14, 2021, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67639>.

[22] 394 Phil. 517 (2000).

[23] Id. at 555-556.

[24] G.R. No. 237798, May 5, 2021, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67716>.

Supreme Court E-Library

the prosecution — the sovereign people, as represented by the State — was denied a fair opportunity to be heard. Simply put, the doctrine does not apply when the prosecution was denied its day in court — or simply, denied due process."[25]

The reason for this is because when the prosecution is deprived of due process, it could thus be said that the judgment of acquittal is void, which thereby means that the first jeopardy had not been validly terminated. As the second element for the right to attach is not yet present, then there could be no violation of the right against double jeopardy when an appellate court "reverses" a judgment of acquittal which resulted from a denial of the prosecution's right to due process. This explains why it is said that only through this ***narrow and limited exception*** would the remedy of *certiorari* be allowed without offending the constitutional right against double jeopardy.

Moreover, not every error in the trial or evaluation of the evidence by the court in question that led to the acquittal of the accused would be reviewable by *certiorari*. The writ of *certiorari*, being a remedy narrow in scope and inflexible in character, cannot be issued to correct every error committed by a lower court,[26] especially in cases where the accused is acquitted. As the Court has emphasized in *Republic v. Ang Cho Kio*,[27] "[n]o error, however, flagrant, committed by the court against the state, can be reserved by it for decision by the [S]upreme [C]ourt when the defendant has once been placed in jeopardy and discharged, even though the discharge was the result of the error committed."[28]

As applied to this case, it is immaterial whether the CTA erred in its appreciation of the prosecution's evidence. The fact remains that respondents' right against double jeopardy already attached when the CTA granted their demurrer to evidence and ordered their acquittal. Absent any proof or indication that the State was

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[25] Id.

[26] *Sps. Delos Santos v. Metropolitan Bank and Trust Company*, 698 Phil. 1, 14 (2012).

[27] 95 Phil. 475 (1954).

[28] Id. at 480.

Supreme Court E-Library

denied its day in court, which is clearly not obtaining in this case, the assailed Resolutions acquitting respondents cannot be revisited without putting them twice in jeopardy.

In light of the foregoing, I vote to **DISMISS** the instant Petition.