



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Petitioner,

G.R. No. 214300

Present:

CARPIO, J., Chairperson,
PERALTA,
MENDOZA,
LEONEN, and
MARTIRES, JJ.

-versus-

MANUEL ESCOBAR,
Respondent.

Promulgated:

26 JUL 2017

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Alcalá perfectis

X

DECISION

LEONEN, J.:

This Rule 45 Petition assails the Court of Appeals Decision to grant the accused's second petition for bail. *Res judicata* applies only in a final judgment in a civil case,¹ not in an interlocutory order in a criminal case.² An order disposing a petition for bail is interlocutory.³ This order does not attain finality when a new matter warrants a second look on the application for bail.

Respondent Manuel Escobar (Escobar) filed a petition for bail (First Bail Petition), which was denied by the Regional Trial Court in the Order⁴

¹ *Trinidad v. Office of the Ombudsman*, 564 Phil. 382, 389 (2007) [Per J. Carpio-Morales, En Banc]; *Alvarez v. People of the Philippines*, 668 Phil. 216, 253 (2011) [Per J. Villarama, Jr., First Division].

² *Macahilig v. Magalit*, 398 Phil. 802, 817-18 (2000) [Per J. Panganiban, Third Division].

³ *Pobre v. Court of Appeals*, 501 Phil. 360, 369 (2005) [Per J. Austria-Martinez, Second Division].

⁴ *Rollo*, p. 38, as cited in the Court of Appeals Decision dated March 24, 2014. Copies of the Regional Trial Court Order and the First Petition for Bail are not attached to the records.

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dated October 6, 2008 and by the Court of Appeals in the Decision⁵ dated March 8, 2011. A subsequent development in the accused's case⁶ compelled him to file a second petition for bail (Second Bail Petition). On April 26, 2012, the Regional Trial Court denied⁷ this on the ground of *res judicata*. In the Decision⁸ dated March 24, 2014, the Court of Appeals overturned the Regional Trial Court Order and granted the Second Bail Petition.

Escobar was suspected of conspiring in the kidnap for ransom of Mary Grace Cheng-Rosagas (Mary Grace), daughter of Filipino-Chinese businessman Robert G. Cheng (Robert), and two (2) other victims.⁹ Robert was the owner of Uratex Foam, Philippines,¹⁰ a manufacturing company of foams and mattresses.¹¹

On June 18, 2001 at 7:40 a.m., Mary Grace, her bodyguard Valentin B. Torres (Torres), and her driver Dionisio F. Burca (Burca) were passing by the front of Malcolm Hall, University of the Philippines, Diliman, Quezon City when a vehicle blocked their way.¹² Another group of suspects helped as lookouts.¹³

Clad in police uniform, four (4) armed men forced Mary Grace, Burca, and Torres inside the vehicle.¹⁴ The incident happened in broad daylight.

Alleged group leader Rolando Villaver (Villaver) and some of the suspects then travelled and detained Mary Grace, Burca, and Torres in an undisclosed location in Batangas.¹⁵ Afterwards, the group headed to Club Solvento, a resort¹⁶ in Calamba, Laguna owned by Escobar,¹⁷ who

⁵ Id. at 51–61. The Decision, docketed as CA-G.R. SP No. 107641, was penned by Associate Justice Rodil V. Zalameda and concurred in by Associate Justices Mario L. Guariña III and Apolinario D. Bruselas, Jr. of the Eighth Division of the Court of Appeals, Manila.

⁶ Id. at 137, Comment.

⁷ Id. at 40, as cited in the Court of Appeals Decision dated March 24, 2014. A copy of the Regional Trial Court Order dated April 26, 2012 is not attached to the records.

⁸ Id. at 36–46. The Decision, docketed as CA-G.R. SP No. 128189, was penned by Associate Justice Mario V. Lopez and concurred in by Associate Justices Jose C. Reyes, Jr. and Socorro B. Inting of the Eighth Division of the Court of Appeals, Manila.

⁹ Id. at 12.

¹⁰ Id.

¹¹ See <<https://www.uratex.com.ph/>>

¹² *Rollo*, p. 36.

¹³ Cecille Suerte Felipe, *15 charged for Cheng Kidnap*, PHILIPPINE STAR, August 10, 2001 <<http://www.philstar.com/metro/129492/15-charged-cheng-kidnap>> (last visited July 17, 2017).

¹⁴ *Rollo*, p. 36 and 38.

¹⁵ Id.

¹⁶ Included in the list of private pools and resorts in Calamba, Laguna is a “Club Solviento,” not a “Club Solvento” (see <http://www.lagunatravelguide.com/index.php?page=directory-of-private-pools-and-resorts-in-laguna>). Club Solviento is also in the Yellow Pages directory of resorts in Calamba, Laguna (<http://www.yellow-pages.ph/search/hot-springs/laguna/page-1>). The records do not state whether Club Solviento is the same as Club Solviento. The only information available is that it is a place where guests may dine and sleep.

¹⁷ *Rollo*, p. 37, 51.

personally served them food.¹⁸

Some of the accused¹⁹ stayed in Club Solvento to rest or sleep while the others, namely, Villaver, Cesar Olimpiada, a certain Cholo, and Biboy Lugnasin, left to negotiate the price for the victims' release.²⁰ Cheng paid the ransom of ₱15,000,000.00.²¹

At 7:00 p.m. on the same day, Villaver's group returned to Club Solvento,²² followed by co-accused brothers Rolando and Harold Fajardo (the Fajardo brothers), who were alleged advisers of Villaver.²³ The group then locked themselves in a room where Villaver partitioned the ransom money.²⁴ Cancio Cubillas (Cubillas), the group's driver,²⁵ confessed to have received a total of ₱1,250,000.00 for the kidnapping operation.²⁶

At 10:30 p.m. on the same day, Mary Grace, Burca, and Torres were finally released.²⁷ They were freed somewhere in Alaminos, Laguna, more than 12 hours since they were abducted.²⁸

Cubillas became a state witness.²⁹ On June 3, 2002, he executed an extrajudicial confession and implicated respondent Escobar as an adviser for Villaver.³⁰ Cubillas believed that Escobar was involved after he saw Escobar talk to Villaver while they were in Club Solvento.³¹ In his extrajudicial confession, Cubillas also claimed that Escobar received a portion of the ransom money from Villaver.³²

On February 17, 2004, an Amended Information was filed before the Regional Trial Court charging Escobar as a co-conspirator³³ in the kidnapping for ransom.³⁴ The charging portion stated:

¹⁸ Id. at 51.

¹⁹ Id. at 52. Those who stayed in Club Solvento were Jun Jun Villaver, Ning Ning Villaver, Danny Velasquez, Mike Celebre, Alan Celebre, and Cancio Cubillas.

²⁰ Id. at 57.

²¹ Id. at 12.

²² Id. at 37-38.

²³ Id.

²⁴ Id. at 37.

²⁵ Id. at 24.

²⁶ Id. at 37.

²⁷ Id. at 12.

²⁸ Id.

²⁹ Id. at 36-37.

³⁰ Id.

³¹ Id. at 38.

³² Id. at 37.

³³ Id. at 38. The other co-accused were Rolando Villaver y Libores, Edgardo Decipulo y Didal, Eugene Radam, Florente Concepcion y Navelgas, Joven Arcado y Patag, Nicomedes Gerilla y Dela Cruz, Cancio Cubillas y Ignacio, Jun Jun Villaver, Ning Ning Villaver, Vicente Lugnasen, Danny Velasquez, Cesar Olimpiada, Chris Opuencia, Abner Opuencia, Apolonio Opuencia, Rolly Fajardo, Harold Fajardo, Allan Celebre, Idoy Trota, Lito Mercado, and three (3) John Does.

³⁴ Id. at 38.

That on or about June 18, 2001 at around 7:40 in the morning, at Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another and grouping themselves together, with others not present during the actual kidnapping but performing some other peculiarly contributory roles, did, then and there, by force and intimidation, with the use of long firearms and clad in police uniform, willfully, unlawfully and feloniously take, carry away and thereafter detain at some undisclosed place, after having blocked their car in front of Malcolm Hall, Osmena Avenue, UP Campus, Diliman, Quezon City, MARY GRACE CHENG-ROSAGAS, her driver DIONISIO F. BURCA and her bodyguard VALENTIN B. TORRES, against their will and consent thereby depriving them of their liberty for more than twelve (12) hours for the purpose of extorting ransom for their release in the amount of FIFTEEN MILLION PESOS (P15,000,000.00), and which amount was in fact paid by Mary Grace's father, Mr. Robert Cheng, owner of Uratex Foam, Philippines, and have the same delivered at E. Rodriguez Compound, Calamba, Laguna thereby resulting to the release of the kidnap victims somewhere in Alaminos, Laguna at about 10:30 p.m. of the same day all to the damage and prejudice of the three (3) victims and their families in such amount as may be awarded to them and their families under the provisions of the Civil Code.

CONTRARY TO LAW.³⁵

Escobar was arrested on February 14, 2008.³⁶

On June 3, 2008, Escobar filed the First Bail Petition before the Regional Trial Court.³⁷ During the hearing on Escobar's bail application, Cubillas testified that Escobar and the Fajardo brothers were Villaver's advisers.³⁸

In the Order dated October 6, 2008, the Regional Trial Court denied³⁹ Escobar's First Bail Petition. The dispositive portion read:

The Petition for Bail filed by accused Manny Escobar is denied for lack of merit considering that state witness Cancio Cubillas positively identified said accused as the owner of Club Solvento located in Calamba, Laguna; that he was the one who served food to the group of Rolando Villaver, Jun Jun Villaver, Ning Ning Villaver, Danny Velasquez, Cholo, Cesar Olimpiada, Mike, Alan Celebre, Biboy Lugnasin and witness himself, Cancio Cubillas; that it was also in said Club Solvento where Cancio Cubillas, Jun Jun Villaver, Ning Ning Villaver, Danny Velasquez, Mike and Alan Celebre rested and slept after Rolando Villaver, Cholo, Biboy Lugnasin and Cesar Olimpiada left to negotiate for the ransom of kidnap victim Mary Grace Cheng Rosagas, and that on the night of June 18, 2001, Cubillas saw accused Rolando Villaver gave part of the ransom

³⁵ Id. at 52–53.

³⁶ Id. at 72.

³⁷ Id. at 38.

³⁸ Id.

³⁹ Id. at 51.

money to him.

SO ORDERED.⁴⁰

Escobar appealed before the Court of Appeals.⁴¹ On March 8, 2011, the Court of Appeals affirmed⁴² the denial of the First Bail Petition. It recognized that Cubillas' extrajudicial confession was generally incompetent evidence against his co-accused and was admissible against himself only⁴³ for being hearsay and for violating the *res inter alios acta* rule.⁴⁴ Nevertheless, the Court of Appeals invoked an exception to this rule and held that the Regional Trial Court "did not rely solely on the extrajudicial confession of Cubillas"; rather, the trial court also relied on Cubillas' testimony during the bail hearing.⁴⁵

Escobar moved to reconsider the Court of Appeals' March 8, 2011 Decision.⁴⁶

Pending the proceedings on Escobar's case, the police arrested one (1) of the co-accused Fajardo brothers, Rolando Fajardo (Rolando),⁴⁷ who applied for bail before the Regional Trial Court.⁴⁸ As in Escobar's bail hearing, the prosecution relied solely on Cubillas' statements to establish the strength of Fajardo's guilt.⁴⁹ In an Order dated September 13, 2011, the Regional Trial Court denied Rolando's petition for bail.⁵⁰

However, in an Order dated October 14, 2011, the Regional Trial Court reversed its previous order and granted Rolando's bail application.⁵¹ The Regional Trial Court stated:

To summarize, the evidence for the prosecution does *not* establish that accused Rolando Fajardo participated during the actual abduction of Rosagas, Burca and Torres or that during the actual abduction, accused Rolando Fajardo gave advice or instruction to the other accused herein. The evidence for the prosecution likewise does not establish that accused Rolando Fajardo acted as adviser to accused Rolando Villaver and his group in connection with the kidnapping of the victims herein. *There is no testimony as to what advice or instructions were made by accused Rolando Fajardo in connection with the kidnapping of the victims herein. There is thus a paucity of evidence establishing the participation of*

⁴⁰ Id. at 51–52.

⁴¹ Id. at 38–39.

⁴² Id. at 51–61.

⁴³ Id. at 58.

⁴⁴ Id.

⁴⁵ Id. at 59.

⁴⁶ Id. at 39.

⁴⁷ Id. at 137.

⁴⁸ Id. at 39.

⁴⁹ Id. at 137.

⁵⁰ Id.

⁵¹ Id. at 39.

*accused Rolando Fajardo in the kidnapping of Rosagas, Burca and Torres.*⁵² (Emphasis supplied)

The reversal came about after the trial court considered that, according to Cubillas, “[Rolando] was not present before, during and after the kidnapping.”⁵³ There was paucity of evidence on Rolando’s alleged participation.⁵⁴

Meanwhile, on October 27, 2011, the Court of Appeals denied Escobar’s motion for reconsideration.⁵⁵ He no longer appealed before this Court.⁵⁶

By January 2012, only Escobar was left in detention pending the final judgment on the merits of the case as all the other accused who had active participation in the kidnapping had been granted bail.⁵⁷ Escobar saw Rolando’s release on bail as a new “development which warrant[ed] a different view” on his own bail application.⁵⁸

Thus, on January 27, 2012, Escobar filed another petition for bail (Second Bail Petition) before the Regional Trial Court.⁵⁹ He noted that Cubillas could not explain how either Rolando or Escobar advised Villaver and that both Rolando and Escobar were absent before, during, and after the kidnapping.⁶⁰ Hence, if Rolando’s petition for bail was granted based on the unreliability of Cubillas’ testimony, Escobar reasoned that the trial court should likewise grant him provisional release.⁶¹

On April 26, 2012, the Regional Trial Court denied⁶² Escobar’s Second Bail Petition on the ground of *res judicata*,⁶³ reasoning thus: “[i]n deference to the Decision of the Court of Appeals which has already attained finality, accused’s Petition for Bail which is actually a second petition for bail[,] must be necessarily denied.”⁶⁴

Escobar moved for reconsideration but this was denied by the

⁵² Id., *See footnote 10.*

⁵³ Id. at 137.

⁵⁴ Id. at 39–40.

⁵⁵ Id. at 39, *See footnote 8.*

⁵⁶ Id. at 62–63. The judgment became final and executory on June 19, 2012.

⁵⁷ Id. at 39–40.

⁵⁸ Id. at 39.

⁵⁹ Id., *See footnote 11.*

⁶⁰ Id. at 39–40. *See footnote 10.*

⁶¹ Id. at 40.

⁶² Id. at 64. The Order was penned by Acting Presiding Judge/Pairing Judge Charito B. Gonzales of Branch 81, Regional Trial Court, Quezon City.

⁶³ Id. at 41.

⁶⁴ Id. at 64.

Regional Trial Court.⁶⁵ On January 14, 2013, he appealed before the Court of Appeals via Rule 65, arguing that the trial court committed grave abuse of discretion in denying his Second Bail Petition.⁶⁶

In the Decision dated March 24, 2014, the Court of Appeals granted⁶⁷ the petition for certiorari and ordered the Regional Trial Court to determine the appropriate bail for Escobar's provisional liberty. The dispositive portion read:

WHEREFORE, the petition is **GRANTED**. The April 26, 2012, September 14, 2012, September 17, 2012 and November 6, 2012 Orders are **SET ASIDE**. The trial court is directed to determine the appropriate bail for the provisional liberty of the petitioner, Manuel Escobar, with dispatch.

SO ORDERED.⁶⁸

The Court of Appeals denied the prosecution's Motion for Reconsideration.⁶⁹ According to the Court of Appeals, Escobar's Second Bail Petition was not barred by *res judicata*, which applies only if the former judgment is a final order or judgment and not an interlocutory order.⁷⁰ An order denying a petition for bail is interlocutory in nature.⁷¹

On April 4, 2014, the Regional Trial Court fixed⁷² Escobar's bail at ₱300,000.00. The dispositive portion read:

In view of the Decision rendered by the Court of Appeals on 24 March 2014, the bail for the provisional liberty of accused Manuel Escobar is hereby fixed at Three Hundred Thousand Pesos (Php300,000.00).

SO ORDERED.⁷³

In the Resolution dated September 11, 2014, the Court of Appeals denied⁷⁴ the prosecution's Motion for Reconsideration.

⁶⁵ Id. at 40.

⁶⁶ Id. at 65–113.

⁶⁷ Id. at 36–46.

⁶⁸ Id. at 45.

⁶⁹ Id. at 114–118.

⁷⁰ Id. at 41–44.

⁷¹ Id.

⁷² Id. at 185. The Order was penned by Presiding Judge Madonna C. Echiverri of Branch 81, Regional Trial Court, Quezon City.

⁷³ Id.

⁷⁴ Id. at 47–50-B. The Resolution was penned by Associate Justice Mario V. Lopez and concurred in by Associate Justices Jose C. Reyes, Jr. and Socorro B. Inting of the Former Eighth Division, Court of Appeals, Manila.

On November 6, 2014, the prosecution, through the Office of the Solicitor General, filed a Petition for Review⁷⁵ via Rule 45 before this Court. In its Petition, the prosecution does not pray for the issuance of a temporary restraining order of the Court of Appeals Decision;⁷⁶ rather, in assailing the grant of Escobar's Second Bail Petition, the prosecution avers that the doctrine of *res judicata* must be respected.⁷⁷

On October 19, 2015, Escobar filed his Comment,⁷⁸ arguing that *res judicata* did not apply here,⁷⁹ that there was no strong evidence of his guilt,⁸⁰ and that the Court of Appeals could rectify errors of judgment in the greater interest of justice.⁸¹ According to Escobar:

13. Due to this sudden development of the grant of bail to his co-accused, [Rolando], and considering that both [Rolando] and [Escobar]'s alleged participation in the crime are based on the same court-declared unreliable "speculations" of the state witness Cubillas, who even admitted he was lying when questioned during [Escobar]'s own bail hearings, it was in the interest of justice and fairness to re-open the matter of bail with respect to [Escobar] and thereby grant the same. And the Honorable Court of Appeals agreed.⁸²

This Court's program to decongest holding jails led City Jail Warden Randel H. Latoza (City Jail Warden Latoza) to review Escobar's case.⁸³ In his manifestation dated August 18, 2016, City Jail Warden Latoza informed this Court that there was no temporary restraining order against the Regional Trial Court April 4, 2014 Order, which fixed Escobar's provisional liberty at ₱300,000.00. He also acknowledged the Court of Appeals March 24, 2014 Decision granting Escobar the right to bail.⁸⁴ He mentioned that Escobar had posted the ₱300,000.00 bail, as ordered by the trial court.⁸⁵ Thus, he moved to allow Escobar's provisional release on bail.⁸⁶

City Jail Warden Latoza alleged that Escobar had paid the necessary surety bond⁸⁷ and attached a copy of Traveller's Insurance Surety Corporation's surety bond undertaking to his manifestation.⁸⁸ However, the attached surety bond undertaking was neither notarized nor approved by the

⁷⁵ Id. at 10–35.

⁷⁶ Id. at 28.

⁷⁷ Id. at 18–19.

⁷⁸ Id. at 133–147.

⁷⁹ Id. at 134.

⁸⁰ Id. at 138.

⁸¹ Id. at 137.

⁸² Id.

⁸³ Id. at 180.

⁸⁴ Id. at 180–183.

⁸⁵ Id. at 183.

⁸⁶ Id.

⁸⁷ Id.

⁸⁸ Id. at 186.

Regional Trial Court judge.⁸⁹

In a Letter dated May 15, 2017, the Commission on Human Rights wrote to Associate Justice Antonio T. Carpio to ask for the speedy resolution of the case as Escobar was already 78 years old.⁹⁰

For resolution are the following issues:

First, whether Manuel Escobar's second petition for bail is barred by *res judicata*; and

Finally, whether respondent should be granted bail.

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Bail is the security given for the temporary release of a person who has been arrested and detained but “whose guilt has *not* yet been proven” in court beyond reasonable doubt.⁹¹ The right to bail is cognate to the fundamental right to be presumed innocent. In *People v. Fitzgerald*:⁹²

The right to bail emanates from the [accused's constitutional] right to be presumed innocent. It is accorded to a person in the custody of the law who may, by reason of the presumption of innocence he [or she] enjoys, be allowed provisional liberty upon filing of a security to guarantee his [or her] appearance before any court, as required under specified conditions.⁹³ (Citations omitted)

Bail may be a matter of right or judicial discretion. The accused has the right to bail if the offense charged is “not punishable by death, *reclusion perpetua* or life imprisonment” before conviction by the Regional Trial Court.⁹⁴ However, if the accused is charged with an offense the penalty of which is death, *reclusion perpetua*, or life imprisonment—“regardless of the stage of the criminal prosecution”—*and* when evidence of one's guilt is not strong, then the accused's prayer for bail is subject to the discretion of the trial court.⁹⁵

In this case, the imposable penalty for kidnapping for ransom is

⁸⁹ Id.

⁹⁰ Id. at 213.

⁹¹ *Leviste v. Court of Appeals*, 629 Phil. 587, 597 (2010) [Per J. Corona, Third Division].

⁹² 536 Phil. 413 (2006) [Per J. Austria-Martinez, First Division].

⁹³ Id. at 424.

⁹⁴ RULES OF COURT, Rule 114, sec. 4.

⁹⁵ RULES OF COURT, Rule 114, sec. 5 in relation to sec. 7.

death,⁹⁶ reduced to *reclusion perpetua*.⁹⁷ Escobar's bail is, thus, a matter of judicial discretion, provided that the evidence of his guilt is not strong.⁹⁸

Rule 114 of the Revised Rules on Criminal Procedure states:

Section 4. Bail, a matter of right; exception. – All persons in custody shall be admitted to bail as a matter of right, with sufficient sureties, or released on recognizance as prescribed by law or this Rule (a) before or after conviction by the Metropolitan Trial Court, Municipal Trial Court, Municipal Trial Court in Cities, or Municipal Circuit Trial Court, and (b) before conviction by the Regional Trial Court of an offense not punishable by death, reclusion perpetua, or life imprisonment.

....

Section 7. Capital offense or an offense punishable by reclusion perpetua or life imprisonment, not bailable. – No person charged with a capital offense, or an offense punishable by reclusion perpetua or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution.

The Regional Trial Court denied⁹⁹ Escobar's Second Bail Petition on the ground of *res judicata*. The Court of Appeals overturned¹⁰⁰ this and correctly ruled that his Second Bail Petition was not barred by *res judicata*.

In its literal meaning, *res judicata* refers to “a matter adjudged.”¹⁰¹ This doctrine bars the re-litigation of the same claim between the parties, also known as claim preclusion or bar by former judgment.¹⁰² It likewise bars the re-litigation of the same issue on a different claim between the same parties, also known as issue preclusion or conclusiveness of judgement.¹⁰³ It “exists as an obvious rule of reason, justice, fairness, expediency, practical necessity, and public tranquillity.”¹⁰⁴

⁹⁶ REV. PEN. CODE, art. 267. Kidnapping and serious illegal detention. — Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death:

1. If the kidnapping or detention shall have lasted more than five days.
2. If it shall have been committed simulating public authority.
3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained, or if threats to kill him shall have been made.
4. If the person kidnapped or detained shall be a minor, female or a public officer.

The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above-mentioned were present in the commission of the offense. (As amended by Republic Act Nos. 18 and 1084).

⁹⁷ See Rep. Act No. 9346, sec. 2.

⁹⁸ *Ocampo v. Bernabe*, 77 Phil. 55, 58(1946) [Per CJ Moran, En Banc].

⁹⁹ *Rollo*, p. 40, as cited in the Court of Appeals Decision dated March 24, 2014. A copy of the Regional Trial Court Order dated April 26, 2012 is not attached to the records.

¹⁰⁰ *Id.* at 36–46.

¹⁰¹ *Degayo v. Magbanua-Dinglasan*, 757 Phil. 376, 382 (2015) [Per J. Brion, Second Division].

¹⁰² See *Degayo v. Magbanua-Dinglasan*, 757 Phil. 376 (2015) [Per J. Brion, Second Division].

¹⁰³ See *Degayo v. Magbanua-Dinglasan*, 757 Phil. 376 (2015) [Per J. Brion, Second Division].

¹⁰⁴ *Degayo v. Magbanua-Dinglasan*, 757 Phil. 376, 382 (2015) [Per J. Brion, Second Division].

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*Degayo v. Magbanua-Dinglasan*¹⁰⁵ held that “[t]he doctrine of *res judicata* is set forth in Section 47 of Rule 39”¹⁰⁶ of the Revised Rules of Civil Procedure, thus:

Sec. 47. Effect of Judgments or Final Orders. — The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

....

(b) [T]he judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

Escobar’s Second Bail Petition is not barred by *res judicata* as this doctrine is not recognized in criminal proceedings.¹⁰⁷

Expressly applicable in civil cases, *res judicata* settles with finality the dispute between the parties or their successors-in-interest.¹⁰⁸ *Trinidad v. Marcelo*¹⁰⁹ declares that *res judicata*, as found in Rule 39 of the Rules of Civil Procedure, is a principle in civil law and “has no bearing on criminal proceedings.”¹¹⁰ Rule 124, Section 18 of the Rules of Criminal Procedure states:

Section 18. Application of certain rules in civil procedure to criminal cases. – The provisions of Rules 42, 44 to 46 and 48 to 56 relating to procedure in the Court of Appeals and in the Supreme Court in original and appealed civil cases shall be applied to criminal cases insofar as they are applicable and not inconsistent with the provisions of this Rule.

Indeed, while certain provisions of the Rules of Civil Procedure may

¹⁰⁵ 757 Phil. 376 (2015) [Per J. Brion, Second Division].

¹⁰⁶ Id. at 384.

¹⁰⁷ RULES OF COURT, Rule 124, sec. 18.

¹⁰⁸ *Res judicata* is found in the Rules of *Civil* Procedure, but not in the Revised Rules of Criminal Procedure.

¹⁰⁹ 564 Phil. 382 (2007) [Per J. Carpio-Morales, En Banc].

¹¹⁰ Id. at 389.

be applied in criminal cases,¹¹¹ Rule 39 of the Rules of Civil Procedure is excluded from the enumeration under Rule 124 of the Rules of Criminal Procedure. In *Trinidad*:¹¹²

Petitioner's arguments — that *res judicata* applies since the Office of the Ombudsman twice found no sufficient basis to indict him in similar cases earlier filed against him, and that the *Agan* cases cannot be a supervening event or evidence per se to warrant a reinvestigation on the same set of facts and circumstances — do not lie.

Res judicata is a doctrine of civil law and thus has no bearing on criminal proceedings.

But even if petitioner's argument[s] were to be expanded to contemplate "*res judicata* in prison grey" or the criminal law concept of double jeopardy, this Court still finds it inapplicable to bar the reinvestigation conducted by the Office of the Ombudsman.¹¹³ (Emphasis supplied, citations omitted).

An interlocutory order denying an application for bail, in this case being criminal in nature, does not give rise to *res judicata*. As in *Trinidad*, even if we are to expand the argument of the prosecution in this case to contemplate "*res judicata* in prison grey" or double jeopardy, the same will still not apply.¹¹⁴ Double jeopardy requires that the accused has been convicted or acquitted or that the case against him or her has been dismissed or terminated without his express consent.¹¹⁵ Here, while there was an initial ruling on Escobar's First Bail Petition, Escobar has not been convicted, acquitted, or has had his case dismissed or terminated.

Even assuming that this case allows for *res judicata* as applied in civil

¹¹¹ See RULES OF COURT, Rule 124.

¹¹² 564 Phil. 382 (2007) [Per J. Carpio-Morales, En Banc].

¹¹³ Id. at 389.

¹¹⁴ 564 Phil. 382 (2007) [Per J. Carpio-Morales, En Banc].

¹¹⁵ RULES OF COURT, Rule 117, sec. 7 provides:

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.

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.

cases, Escobar's Second Bail Petition cannot be barred as there is no final judgment on the merits.

Res judicata requires the concurrence of the following elements:

1. The judgment sought to bar the new action must be *final*;
2. The decision must have been rendered by a court having jurisdiction over the parties and the subject matter;
3. The disposition of the case must be a *judgment on the merits*; and
4. There must be between the first and second actions, identity of parties, of subject matter, and of causes of action.¹¹⁶

In deciding on a matter before it, a court issues either a final judgment or an interlocutory order. A final judgment "leaves nothing else to be done" because the period to appeal has expired or the highest tribunal has already ruled on the case.¹¹⁷ In contrast, an order is considered interlocutory if, between the beginning and the termination of a case, the court decides on a point or matter that is not yet a final judgment on the entire controversy.¹¹⁸

An interlocutory order "settles only some incidental, subsidiary or collateral matter arising in an action";¹¹⁹ in other words, something else still needs to be done in the primary case—the rendition of the final judgment.¹²⁰ *Res judicata* applies only when there is a final judgment on the merits of a case; it cannot be availed of in an interlocutory order even if this order is not appealed.¹²¹ In *Macahilig v. Heirs of Magalit*:¹²²

Citing Section 49 of Rule 39, Rules of Court, petitioner insists that the September 17, 1997 [interlocutory] Order of the trial court in Civil Case No. 3517 bars it from rehearing questions on the ownership of Lot 4417. She insists that said Order has become final and executory, *because Dr. Magalit did not appeal it.*

We disagree. *Final*, in the phrase *judgments or final orders* found in Section 49 of Rule 39, has two accepted interpretations. In the first sense, it is an order that one can no longer appeal because the period to do so has expired, or because the order has been affirmed by the highest possible tribunal involved. The second sense connotes that it is an order that *leaves nothing else to be done*, as distinguished from one that is interlocutory. The phrase refers to a *final determination* as opposed to a judgment or an order that settles only some incidental, subsidiary or collateral matter arising in an action; for example, an order postponing a trial, denying a motion to dismiss or allowing intervention. *Orders that*

¹¹⁶ *Mallion v. Alcantara*, 536 Phil. 1049, 1055–1056 (2006) [Per J. Azcuna, Second Division].

¹¹⁷ *Macahilig v. Magalit*, 398 Phil. 802, 817–818 (2000) [Per J. Panganiban, Third Division].

¹¹⁸ *Pobre v. Court of Appeals*, 501 Phil. 360, 369 (2005) [Per J. Austria-Martinez, Second Division].

¹¹⁹ *Macahilig v. Magalit*, 398 Phil. 802, 817–818 (2000) [Per J. Panganiban, Third Division].

¹²⁰ *Id.*

¹²¹ *Macahilig v. Magalit*, 398 Phil. 802, 817–818 (2000) [Per J. Panganiban, Third Division].

¹²² 398 Phil. 802 (2000) [Per J. Panganiban, Third Division].

give rise to res judicata and conclusiveness of judgment apply only to those falling under the second category.

....

For example, an Order overruling a motion to dismiss does not give rise to *res adjudicata* [sic] that will bar a subsequent action, because *such order is merely interlocutory and is subject to amendments until the rendition of the final judgment.*¹²³ (Emphasis supplied, citations omitted)

A decision denying a petition for bail settles only a collateral matter¹²⁴—whether accused is entitled to provisional liberty—and is not a final judgment on accused’s guilt or innocence. Unlike in a full-blown trial, a hearing for bail is summary in nature: it deliberately “avoid[s] unnecessary thoroughness” and does not try the merits of the case.¹²⁵ Thus:

Summary hearing means such brief and speedy method of receiving and considering the evidence of guilt as is practicable and consistent with the purpose of the hearing which is merely to determine the weight of the evidence for purposes of bail. The course of the inquiry may be left to the discretion of the court which may confine itself to receiving such evidence as has reference to substantial matters avoiding unnecessary thoroughness in the examination and cross-examination of witnesses and reducing to a reasonable minimum the amount of corroboration particularly on details that are not essential to the purpose of the hearing.¹²⁶ (Emphasis in the original)

Here, the prosecution itself has acknowledged that “the first order denying bail is an interlocutory order.”¹²⁷ The merits of the case for kidnapping must still be threshed out in a full-blown proceeding.

Being an interlocutory order, the March 8, 2011 Court of Appeals Decision denying Escobar’s First Bail Petition did not have the effect of *res judicata*. The kidnapping case itself has not attained finality. Since *res judicata* has not attached to the March 8, 2011 Court of Appeals Decision, the Regional Trial Court should have taken cognizance of Escobar’s Second Bail Petition and weighed the strength of the evidence of guilt against him.

In any case, the Court of Appeals may still reverse its Decision, notwithstanding its denial of the First Bail Petition on March 8, 2011.

Rules of procedure should not be interpreted as to disadvantage a party and deprive him or her of fundamental rights and liberties. A judgment

¹²³ Id. at 817–818.

¹²⁴ See *Leviste v. Court of Appeals*, 629 Phil. 587, 597 (2010) [Per J. Corona, Third Division].

¹²⁵ *Santos v. How*, 542 Phil. 22, 30 (2007) [Per J. Austria- Martinez, Third Division].

¹²⁶ Id.

¹²⁷ *Rollo*, p. 20.

or order may be modified where executing it in its present form is impossible or unjust in view of intervening facts or circumstances:¹²⁸

[W]here facts and circumstances transpire which render [the] execution [of a judgment] impossible or *unjust* and it therefore becomes necessary, “in the interest of justice, to direct its modification in order *to harmonize the disposition with the prevailing circumstances.*”¹²⁹ (Emphasis supplied, citation omitted)

Appellate courts may correct “errors of judgment if blind and stubborn adherence to the doctrine of immutability of final judgments would involve the sacrifice of justice for technicality.”¹³⁰ Thus, an accused may file a second petition for bail, particularly if there are sudden developments or a “new matter or fact which warrants a *different view.*”¹³¹

Rolando’s release on bail is a new development in Escobar’s case.¹³² The Court of Appeals has pointed out that the other alleged co-conspirators are already out on bail: Rolando, in particular, was granted bail because Cubillas’ testimony against him was weak.¹³³ “[Escobar] and [Rolando] participated in the same way, but [Escobar]’s bail was denied.”¹³⁴ Escobar’s fundamental rights and liberty are being deprived in the meantime.

Article III, Section 13 of the 1987 Constitution states:

Section 13. All persons, except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is *strong*, shall, before conviction, be *bailable* . . . (Emphasis supplied)

The same evidence used by the trial court to grant bail to Rolando was not used similarly in Escobar’s favor. As the Court of Appeals found:¹³⁵

¹²⁸ *Industrial Timber Corp. v. National Labor Relations Commission*, 303 Phil. 621 (1994) [Per J. Cruz, First Division].

¹²⁹ *Id.* at 625.

¹³⁰ *Republic v. Ballocanag*, 593 Phil. 80, 99 (2008) [Per J. Nachura, Third Division].

¹³¹ See *People v. Kho* (409 Phil. 326 (2001) [Per J. Kapunan, First Division]. *Kho* involves three (3) petitions for bail filed before the Regional Trial Court. Then Regional Trial Court Judge Lucas Bersamin (now Supreme Court Associate Justice) denied the first bail petition, and then the second bail petition on the ground that there was no new matter or fact that would lead the trial court to reconsider its previous denial of the bail application. Judge Bersamin granted the third bail petition, ruling that the prosecution failed to establish any linkage between the accused and the alleged gunman. The case primarily involved the voluntary inhibition of Judge Bersamin after he granted the third bail application. This Court ordered Judge Bersamin to proceed with the trial of the case as his voluntary inhibition “was not in the exercise of sound discretion[.]” Simply put, this Court found nothing irregular about Judge Bersamin’s reversal of his earlier rulings that denied the bail application. At the very least, *Kho* implicitly recognized that a court may validly reverse its previous denials of a bail application.

¹³² *Rollo*, pp. 39–40.

¹³³ *Id.* at 42.

¹³⁴ *Id.* at 42–43.

¹³⁵ *Id.* at 36–46.

We cannot ignore the allegation of conspiracy and that the other accused were all granted bail except him. Specifically, [Rolando] was granted bail due to the weakness of Cubillas' testimony against him.¹³⁶

In light of the circumstances after the denial of Escobar's First Bail Petition, his Second Bail Petition should have been given due course. It should not be denied on the technical ground of *res judicata*.

II

The Court of Appeals already approved Escobar's bail petition. Meanwhile, City Jail Warden Latoza has informed this Court of the absence of any temporary restraining order against the Court of Appeals Decision granting the Second Bail Petition, as well as the Regional Trial Court Order fixing his bail at ₱300,000.00.¹³⁷ Thus, the Court of Appeals March 24, 2014 Decision granting Escobar's provisional liberty can be executed upon the approval of his bail bond, if he has indeed paid the surety bond.

In closing, no part of this Decision should prejudice the submission of additional evidence for the prosecution to prove Escobar's guilt in the main case. "[A] grant of bail does not prevent the trier of facts . . . from making a final assessment of the evidence after full trial on the merits."¹³⁸ As the Court of Appeals correctly ruled:

[T]his determination is only for the purpose of bail[;] it is without prejudice for the prosecution to submit additional evidence to prove [Escobar]'s guilt in the course of the proceedings in the primary case.¹³⁹

WHEREFORE, the Petition is **DENIED**. The Court of Appeals Decision dated March 24, 2014 in CA-G.R. SP No. 128189 is **AFFIRMED**.

Escobar may be provisionally released if he indeed has paid the surety bond that must be contained in a public document and approved by the Regional Trial Court judge. Otherwise, he is directed to post bail.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

¹³⁶ Id. at 42.

¹³⁷ Id. at 216.

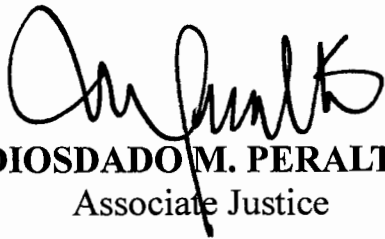
¹³⁸ *People v. Sandiganbayan*, 556 Phil. 596, 611 (2007) [Per J. Garcia, En Banc].

¹³⁹ *Rollo*, p. 45.

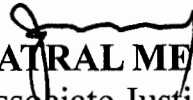
WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



SAMUEL R. MARTIRES
Associate Justice

ATTESTATION

I attest 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.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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