

EN BANC

G.R. No. 205275 — MAMERTO AUSTRIA, *petitioner, versus* AAA¹ and BBB,² *respondents.*

Promulgated:

June 28, 2022

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CONCURRING OPINION

CAGUIOA, J.:

I concur. The petition should be denied, and the criminal case against Mamerto Austria (Mamerto) must be remanded to the Regional Trial Court (RTC) for resolution of his motion for reconsideration.

Brief review of the facts

In Joint Decisions dated October 17 and 20, 2006, the RTC convicted Mamerto of five (5) counts of Acts of Lasciviousness committed against AAA and BBB, both of whom were 11-year-old female students of his. From this, Mamerto timely moved for reconsideration. However, before the presiding judge could rule on said motion, he was appointed as an Associate Justice of the Court of Appeals (CA). Executive Presiding Judge Wilfredo De Joya Mayor took over the case and resolved the motion for reconsideration, issuing the Joint Order dated August 15, 2008 (Joint Order) acquitting Mamerto of all charges.

At the center of the controversy is the Joint Order of the RTC. The Joint Order merely contained a summary of Mamerto's motion for reconsideration,³ his subsequent memorandum,⁴ and resolved the motion with a single-paragraph disposition of acquittal, which reads in full:

¹ The identity of the victim or any information which could establish or compromise his/her identity as well as those of his/her immediate family or household members, shall be withheld pursuant to R.A. No. 7610, titled "AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION AND FOR OTHER PURPOSES," approved on June 17, 1992; R.A. No. 9262, titled "AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFOR, AND FOR OTHER PURPOSES," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "RULE ON VIOLENCE AGAINST WOMEN AND THEIR CHILDREN" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013]. See also Amended Administrative Circular No. 83-2015, titled "PROTOCOLS AND PROCEDURES IN THE PROMULGATION, PUBLICATION, AND POSTING ON THE WEBSITES OF DECISIONS, FINAL RESOLUTIONS, AND FINAL ORDERS USING FICTITIOUS NAMES/PERSONAL CIRCUMSTANCES," dated September 5, 2017.)

² Id.

³ *Rollo*, pp. 123-124 (RTC Joint Order pp. 1-2).

⁴ Id. at 125-126 (RTC Joint Order pp. 3-4).



A perusal of the foregoing facts shows that the prosecution miserably failed to overcome the legal presumption of innocence of the accused beyond cavil of reasonable doubt and therefore, the DECISION dated October 20, 2006 is hereby reconsidered and set aside, and a new one is rendered DISMISSING the information filed against herein accused and consequently ACQUITTING him of the crimes charged.⁵

The private complainants, AAA and BBB, filed a petition for *certiorari* before the Court of Appeals arguing, in the main, that the RTC committed grave abuse of discretion in issuing the Joint Order as it ran afoul of Section 14, Article VIII of the 1987 Constitution⁶ for failing to state clearly and distinctly the facts and the law on which it is based.

In its assailed Decision, the CA granted the petition for *certiorari*, annulling and setting aside the Joint Order and reinstating the Joint Decisions convicting Mamerto of five (5) counts of Acts of Lasciviousness.

Finding no reversible error in the CA's Decision, the *ponencia* denies Mamerto's petition for review on *certiorari*, and affirms the assailed Decision.

The RTC indeed committed grave abuse of discretion when it rendered the Joint Orders

I express my full agreement with the *ponencia* that the Joint Order is indeed violative of Section 14, Article VIII of the Constitution. As such, I also submit that the Joint Order is void.

Section 14, Article VIII is in the Constitution as an additional guarantee of due process, which demands that the parties to a litigation be informed of how the case was decided, with an explanation of the factual and legal issues that led to the conclusions of the court.⁷ The mandate of Section 14, Article VIII is an imperative to assure the parties that, in reaching the judgment, the trial judge did so through the process of legal reasoning and is, thus, a safeguard against the impetuosity of the judge.⁸

In jurisprudence, the Court has declared void a number of decisions and final orders because of non-compliance with Section 14, Article VIII of the Constitution:

⁵ Id. at 127 (RTC Joint Order p. 5).

⁶ SECTION 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

⁷ *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto*, 555 Phil. 8, 23 (2007); *Chan v. Court of Appeals*, 497 Phil. 41, 50 (2005), citing *Insular Life Assurance Company, Ltd. v. Young*, 424 Phil. 675 (2002).

⁸ *People v. Bugarin*, 339 Phil. 570, 580 (1997).



1. In *People v. Lizada*,⁹ the trial court merely summarized the testimonies of the prosecution and of the accused on direct and cross examinations, made a cursory referral to documentary evidence, and then concluded that accused was guilty. It rendered judgment with a decretal portion stating that it did so based on the evidence for the prosecution. The Court found here that the trial court failed to state factual and legal issues and the basis for conviction;
2. In *People v. Pastor*,¹⁰ the trial court's decision of conviction was without any discussion of the facts of the case and the qualifying circumstances alleged in the Information. The Court noted that there was no evaluation of the evidence, and no reason given as to why the court found that the testimony of the private complainant was credible;
3. In *People v. Ferrer*,¹¹ the decision of the trial court finding the accused guilty consisted of a five-page summary of testimonial and documentary evidence and which abruptly concluded that, based on the evidence, the prosecution had proved the guilt of the accused beyond reasonable doubt without any evaluation of the evidence;
4. In *People v. Bugarin*,¹² the decision of the trial court did not contain an evaluation of the evidence and a discussion of the legal questions involved. The Court pointed out that the decision was carelessly prepared; and
5. In *People v. Bellaflor*,¹³ the Court reversed the Order acquitting the accused as it was not based upon a consideration of the evidence or the merits of the case. It was anchored on the mere supposition that the decision of conviction rendered by an earlier trial court judge was a nullity. Furthermore, the Court noted that the trial court judge acquitted the accused without expressing the facts and the law on which it is based.

In the above cases, the Court found Constitutional violations even in decisions and final orders which were markedly more substantial than the Joint Order in the present case. Thus, in this case, when the RTC merely summarized the arguments raised by Mamerto in his motion for

⁹ 444 Phil. 67 (2003).

¹⁰ 428 Phil. 976 (2002).

¹¹ 454 Phil. 431 (2003).

¹² Supra note 8.

¹³ 303 Phil. 209 (1994).



reconsideration and memorandum — without any discussion at all of the merits of the case built by the prosecution, a statement of the applicable laws and jurisprudence, and the assessment and conclusions therefrom¹⁴ — the resulting resolution undoubtedly fell short of the constitutional standard.

When a decision or final order violates Section 14, Article VIII of the Constitution, the Court has consistently held that said decision or final order is void and should be struck down for being a nullity.¹⁵ As the Court stated in *De Leon v. Court of Appeals*,¹⁶ “it is, on its face patently null and void. It could have never become final. A void judgment is not entitled to the respect accorded to a valid judgment, but may be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to it.”¹⁷

It is for this reason that I concur with the *ponencia*. As the Joint Order is void, Mamerto’s motion for reconsideration is, legally speaking, still pending as it has not been validly granted or denied.

The Court could validly order the remand of the case, and this would not be offensive to Mamerto’s right against double jeopardy. To recall, jeopardy is “[t]he risk of conviction and punishment that a criminal defendant faces at trial.”¹⁸ The rule on double jeopardy espouses that when a person is charged with an offense, and the case is terminated either by acquittal, conviction, or any other manner without the consent of the accused, he or she cannot be charged again with the same or identical offense.¹⁹

Jurisprudence has provided that for the right against double jeopardy to attach, the following requisites must be present: (1) a valid indictment, (2) a court of competent jurisdiction, (3) the arraignment of the accused, (4) a valid plea entered by him or her, and (5) the acquittal or conviction of the accused,

¹⁴ *People v. Baring, Jr.*, 425 Phil. 559, 568 (2002), citing *Oil and Natural Gas Commission v. Court of Appeals*, 373 Phil. 928 (1999).

¹⁵ *Yao v. Court of Appeals*, 398 Phil. 86, 106 (2000): “[t]hus, the Court has **struck down as void**, decisions of lower courts and even of the Court of Appeals x x x to have failed to comply with Section 14, Article VIII of the Constitution.” (Emphasis supplied); *Go v. East Oceanic Leasing and Finance Corp.*, 824 Phil. 1, 9 (2018): “the **assailed Decision is void**... the RTC failed to meet the standard set forth in Section 14, Article VII.” (Emphasis supplied); *So v. Valera*, 606 Phil. 309, 323 (2009): “RTC’s declaration of nullity **should be void for violation of the constitutional rule** x x x.” (Emphasis supplied); *Villongco v. Yabut*, 825 Phil. 61, 76 (2018): “We agree with the CA that the RTC **decision is null and void for violating the constitutional provision**.” (Emphasis supplied); *Suarez v. Court of Appeals*, 271 Phil. 188, 193-194 (1991): “the former order issued by the trial court x x x **is null and void for having been rendered in violation of the constitutional mandate** that no decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.” (Emphasis supplied); *Philippine National Bank v. Heirs of Entrapa*, 794 Phil. 526, 538 (2016): “A court must state the factual and legal basis for its decisions; **otherwise, its decisions are void**.” (Emphasis supplied); *Velarde v. Social Justice Society*, 472 Phil. 285, 295 & 321 (2004): “A decision that does not conform to the form and substance required by the Constitution and the law is **void and deemed legally in-existent** x x x. Decisions or orders issued in careless disregard of the constitutional mandate are a **patent nullity and must be struck down as void**.” (Emphasis supplied); *Ongson v. People*, 504 Phil. 214, 226 (2005): “the absence of relevant antecedents as well as the lack of evaluation of the evidence adduced by the parties and justification for its conclusion **render the instant decision void**.” (Emphasis supplied)

¹⁶ 435 Phil. 232 (2002).

¹⁷ *Id.* at 248, citing *Republic v. Court of Appeals*, 368 Phil. 412 (1999).

¹⁸ BLACK’S LAW DICTIONARY (9th ed. 2009), p. 912.

¹⁹ Separate Opinion of J. Caguioa, citing *Villareal v. People*, 680 Phil. 527, 555 (2012), in *Javier v. Gonzales*, 803 Phil. 631, 649 (2017).

or the dismissal or termination of the case against him or her without his or her express consent.²⁰

Hence, it is only after a defendant is deemed to have been put in former jeopardy that any subsequent prosecution of the defendant brings the guarantee against double jeopardy into play.²¹ This presumes that a prior jeopardy has first attached and then terminated with preclusive effect.²²

When the accused is arraigned and has pleaded not guilty to the crimes charged before the trial court, jeopardy attaches. Jeopardy continues until it results in “the acquittal or conviction of the accused, or the dismissal or termination of the case against him [or her] without his [or her] express consent.”²³ But if the judgment or final order is void and without legal effect, then it cannot be said that a prior jeopardy has terminated which would warrant the application of the doctrine of double jeopardy.

Otherwise stated, when prior jeopardy has not terminated, the rule on double jeopardy finds no application.²⁴ The final element in invoking the right against double jeopardy is, therefore, wanting.

Based on the foregoing, I thus agree with the *ponencia* that the case should be remanded to the RTC for disposition of Mamerto’s motion for reconsideration.

***The ponencia’s guidelines
on the legal personality of
private complainants to file
appeals in criminal cases***

Due to the fact that the petition for *certiorari* filed in the CA in this case was filed by the private complainants AAA and BBB, the *ponencia* uses the present case as a vehicle to streamline, for the guidance of the bench and the bar, the jurisprudence on the personality of private complainants to appeals or petitions for *certiorari* in criminal cases. The *ponencia* proposes the following guidelines:

To guide the bench and the bar, these rules should be observed with respect to the legal standing of the private complainant in assailing

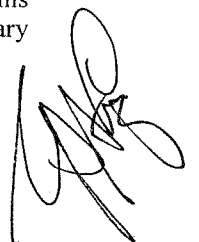
²⁰ Concurring Opinion of J. Caguioa, citing *Condrada v. People*, 466 Phil. 635, 641 (2003), in *Yokohama Tire Philippines, Inc. v. Reyes*, G.R. No. 236686, February 5, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65964>>.

²¹ See *State v. Angel*, 51 P.3d 1155, 1157 (N.M. 2002).

²² See *Serfass v. United States*, 420 U.S. 377, 388 (1975) (where the U.S. Supreme Court stated that courts must first establish when jeopardy attaches and terminates in a criminal proceeding to determine whether the case implicates the purposes and policies of the Double Jeopardy Clause).

²³ Concurring Opinion of J. Caguioa in *Yokohama Tire Philippines, Inc. v. Reyes*, supra note 20.

²⁴ Separate Opinion of J. Caguioa in *Javier v. Gonzales*, supra note 19, at 651: “These exceptionally ‘unusual’ circumstances show that the order of acquittal was void from the beginning, as indeed, this patently erroneous judgment was issued without any jurisdiction. Thus, the fourth element necessary for double jeopardy to attach was not satisfied.” (Underscoring in the original)



judgments or orders in criminal proceedings before the Supreme Court and the Court of Appeals, to wit:

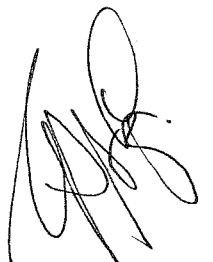
(1) The private complainant has the legal personality to appeal the civil liability of the accused or file a petition for *certiorari* to preserve his or her interest in the civil aspect of the criminal proceedings. The appeal or petition for *certiorari* must allege the specific pecuniary interest of the private offended party. The failure to comply with this requirement may result in the denial or dismissal of the remedy.

The reviewing court shall require the Office of the Solicitor General (OSG) to file a comment within a non-extendible period of 30 days from notice if it appears that the resolution of the private complainant's appeal or petition for *certiorari* will necessarily affect the criminal aspect of the case or the right to prosecute (*i.e., existence of probable cause, venue or territorial jurisdiction, elements of the offense, prescription, admissibility of evidence, identity of the perpetrator of the crime, modification of penalty, and other questions that will require a review of the substantive merits of the criminal proceedings, or the nullification/reversal of the entire ruling, or cause the reinstatement of the criminal action or meddle with the prosecution of the offense, among other things*). The comment of the OSG must state whether it conforms or concurs with the remedy of the private offended party. The judgment or order of the reviewing court granting the private complainant's relief may be set aside if rendered without affording the People, through the OSG, the opportunity to file a comment.

(2) The private complainant has no legal personality to appeal or file a petition for *certiorari* to question the judgments or orders involving the criminal aspect of the case or the right to prosecute, unless made with the OSG's conformity.

The private complainant must request the OSG's conformity within the reglementary period to appeal or file a petition for *certiorari*. The private complainant must attach the original copy of the OSG's conformity as proof in case the request is granted within the reglementary period. Otherwise, the private complainant must allege in the appeal or petition for *certiorari* the fact of pendency of the request. If the OSG denied the request for conformity, the Court shall dismiss the appeal or petition for *certiorari* for lack of legal personality of the private complainant.

(3) The reviewing court shall require the OSG to file comment within a non-extendible period of thirty (30) days from notice on the private complainant's petition for *certiorari* questioning the acquittal of the accused, the dismissal of the criminal case, and the interlocutory orders



in criminal proceedings on the ground of grave abuse of discretion or denial of due process.

(4) These guidelines shall be prospective in application.²⁵

I fully concur with the above guidelines. The OSG, as representative of the People of the Philippines — the real party-in-interest in criminal proceedings — is the only one with the legal personality to file before the CA or this Court cases affecting the criminal aspect of criminal proceedings. Since the private complainant has a limited interest — limited only to the civil aspect of the criminal proceedings — then he or she may only file an appeal or petition for *certiorari* before the appellate courts when what the petition assails refers to or affects strictly the civil aspect of the case, and will absolutely not affect the criminal aspect. This is, and should remain to be, the rule.

Section 5, Rule 110 of the Rules of Court commands that “[a]ll criminal actions commenced by a complaint or information shall be **prosecuted under the direction and control of the prosecutor.**”²⁶ Granting legal personality to private complainants will hamper prosecutors in fulfilling their mandates because private complainants will, in effect, be allowed to meddle with the case by filing petitions for *certiorari* on the conduct of the criminal case. This will only result in endless delays in criminal cases.

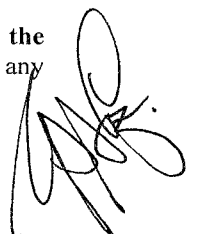
In addition, granting legal personality to private complainants will lead to practical problems as well, particularly possible multiplicity of suits and further clogging of the dockets. For one, it may lead to more than one petition being simultaneously filed in the appellate courts — one by the OSG, and another or others by the private complainant/s. It may also encourage private complainants to file petitions before the CA or this Court. As it is, despite having the rule that the OSG is the only one with the legal personality to appeal orders affecting the criminal aspect of cases, appellate courts have already been receiving petitions filed by private complainants. How many more petitions would be filed if the Court were to allow private complainants to, as a rule, have the legal personality to file petitions questioning decisions, resolutions, and even interlocutory orders of trial courts in criminal proceedings?

It was high time, therefore, to streamline jurisprudence, as the Court does through this *ponencia*, so that only the OSG may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or the State before the CA or this Court, **as this is the mandate of substantive law, specifically Section 35(1), Chapter 12, Title III, Book IV of the 1987 Administrative Code of the Philippines.**²⁷

²⁵ *Ponencia*, pp. 33-34.

²⁶ Emphasis supplied.

²⁷ 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

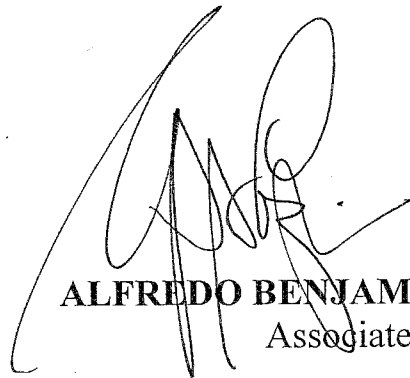


Conclusion

In sum, I agree with the result in that the case must be eventually remanded to the RTC because its ruling on Mamerto's motion for reconsideration is void for being offensive to Section 14, Article VIII of the Constitution.


Moreover, I agree in the guidelines provided in the *ponencia* as regards the legal personality of private complainants to file petitions to assail decisions, resolutions, or orders in criminal cases, and the procedure to be followed should their petition affect the criminal aspect of the cases. It is unnecessary, if not dangerous, for the Court to make it a policy or a rule to allow private complainants to file appeals or petitions for *certiorari* in criminal cases. Doing so will not only lead to negative practical consequences, but will, more importantly, be violative of substantive law.

Based on these premises, I vote to **DENY** the petition and to **REMAND** the case to the Regional Trial Court for the resolution of Mamerto Austria's motion for reconsideration.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFIED TRUE COPY



MARIA LUISA M. SANTILLA
Deputy Clerk of Court and
Executive Officer
OCC-En Banc, Supreme Court

litigation, proceeding, investigation or matter requiring the services of a lawyer x x x. 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:

- (1) **Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; 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. (Emphasis supplied)**

