

## THIRD DIVISION

[ G.R. No. 128986, June 21, 1999 ]

### PEOPLE OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS AND CASAN MAQUILING, RESPONDENTS.

#### DECISION

##### PANGANIBAN, J.:

The rule against double jeopardy proscribes an appeal from a judgment of acquittal. If said judgment is assailed in a petition for *certiorari* under Rule 65 of the Rules of Court, as in the present case, the petitioner must prove that the lower court, in acquitting the accused, committed not merely reversible errors, but grave abuse of discretion amounting to lack or excess of jurisdiction. A judgment rendered with grave abuse of discretion or without due process is void, does not exist in legal contemplation and, thus, cannot be the source of an acquittal. However, where the petition demonstrate mere errors in judgment not amounting to grave abuse of discretion or deprivation of due process, the writ of *certiorari* cannot issue. A review of alleged errors of judgments cannot be made without trampling upon the right of the accused against double jeopardy.

#### The Case

Through the solicitor general, Petitioner People of the Philippines brings before this Court a special civil action for *certiorari* under Rule 65 of the Rules of Court, assailing the 65-page March 24, 1997 Decision<sup>[1]</sup> of the Court of Appeals (CA).<sup>[2]</sup> Petitioner prays that said Decision be annulled and the case remanded to the Regional Trial Court (RTC) of Lanao del Norte, Branch 5, so that the latter can effect the entry of its judgment<sup>[3]</sup> convicting herein Respondent Casan Maquiling of homicide and serious physical injuries.

The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, the decision of the Regional Trial Court of Lanao del Norte, Branch 5 dated September 25, 1995 is hereby SET ASIDE and a new order is hereby issued ACQUITTING the accused of the crimes charged.

xxx xxx xxx

"Costs de oficio."<sup>[4]</sup>

On the other hand, the dispositive portion of the RTC Decision reads:

"WHEREFORE, the foregoing premises considered, judgment is hereby rendered declaring the accused guilty beyond reasonable doubt of homicide for killing the deceased Frederick Pacasum, and of serious physical injuries for having physically injured Oligario Villarimo.

"For killing Frederick Pacasum, there being no aggravating or mitigating circumstances attendant, accused is condemned to suffer an indeterminate penalty of [n]ine (9) years of prision mayor to [f]ifteen (15) years reclusion temporal, and pay the civil liability herein above-awarded, including the cost of the suit.

"For the physical injuries of Oligario Villarimo, there being no aggravating and mitigating circumstance attendant too, accused is condemned to suffer a straight penalty of six (6) months ar[r]esto mayor.

"The period of detention that accused underwent during the pendency of trial shall be credited in full, in the service of his sentence."<sup>[5]</sup>

### **The Facts**

Both the prosecution's and the defense's versions of the incident that gave rise to this controversy were adequately summarized by the appellate court as follows:

"The prosecution's witnesses insisted that it was Ramil Maquiling who first boxed the deceased Frederick Pacasum who was compelled to box back. That the appellant, elder brother of Ramil, appeared from nowhere and boxed the deceased. Thereafter the accused and his brother (Ramil) ran out of the disco but when the deceased and his companions followed outside, Ramil Maquiling and his companions were waiting and another fist fight ensued.

"While the commotion was going on, appellant went to his parked Isuzu Trooper and got his .45 caliber pistol. Appellant then approached the deceased. Before he could reach him, Audie Pacasum who was with the group of the deceased, tried to prevent appellant from using his gun. Appellant then fired a warning shot causing the people around to scamper for safety. The deceased turned his back to see what was going on. At that moment, appellant shot the deceased twice on the left thigh. The deceased fell on the ground lying on his back with his hands clutching his left thigh. Appellant then approached the deceased and fired another shot hitting the deceased on the chest. Jojo Villarimo was himself shot in the leg. As a consequence of the gunshot wounds, Frederick Pacasum died while Jojo Villarimo suffered gunshot wounds on his upper right leg which required medical attendance for six (6) months.

"The accused and his witnesses on the other hand, maintained that while the accused was entertaining his guests at the Spectrum Disco located in the basement of Iligan Village Hotel, he saw Frederic[k] Pacasum and Ramil Maquiling, his younger brother, pointing at each other, then Frederick boxed Ramil who was hit on the face and fell on the floor. As he approached Ramil and Frederick, he saw Frederick hit Ramil on his head with a bottle as the latter was attempting to stand up causing him to fall anew on the floor. He also saw Frederick kick Ramil in several parts of his body. Hence, he attempted to intervene to stop Frederick from mauling Ramil. Instead, Frederick boxed appellant on the side of the cheek below his right eye. Appellant wanted to retaliate by boxing Frederick but could

not do so because of Raden Pacasum and Jojo Villarimo who were standing beside Frederick and who were much larger and bigger than appellant. The accused then opted to back out and left the disco. He then noticed the deceased Frederick and Raden Pacasum and Jojo Villarimo following him outside. He proceeded to his Isuzu Trooper which was parked about 12 meters from the entrance of the disco. As he was about to open the door of his vehicle, he looked back and saw Frederick coming from his vehicle and holding a shotgun. He then opened his trooper vehicle and got his .45 caliber pistol. Frederic[k] approached appellant holding the shotgun at hip level with the barrel pointed at the appellant. Appellant then fired two (2) warning shots to the air to deter the deceased from coming any closer. He then heard Raden Pacasum shout: `Barilin mo na.' Frederick fired the shotgun hitting the accused in the hip. The accused fell to the ground with his elbow and knees, his right hand still holding the pistol. He tried to stand up but could not. In a kneeling position with his right foot extended backward, he aimed at Frederick and shot him twice in the hip. His intention was not to kill but to disarm. But Frederick would not release the shotgun and instead prepared to aim the same at the accused. Left with no choice, the accused shot Frederick on the chest. Then Jojo Villarimo ran towards Frederick and picked up the shotgun. The accused then aimed at his leg to disarm him.

"After shooting Jojo Villarimo, appellant examined his pistol and finding the same to be empty, released the pistol's slide. He attempted to stand up but could not and just crawled to his trooper. Raden Pacasum then went near him and grabbed the pistol from his hand [,] pointed same at him and squeezed the trigger but the gun did not fire as it had no more bullets. Raden Pacasum then went away taking with him the pistol. The accused was thereafter loaded into a [T]amaraw vehicle which brought him to the Mindanao Sanitarium and Hospital where he was treated."<sup>[6]</sup>

On June 13, 1988, Iligan City Fiscal Ulysses V. Lagcao charged Respondent Casan Maquiling with homicide and frustrated homicide. Acting on the petition of the private complainants, the Department of Justice subsequently directed the upgrading of the charge of homicide to murder. The Amended Information reads:<sup>[7]</sup>

"That on or about June 3, 1988, in the City of Iligan, Philippines, and within the Jurisdiction of this Honorable Court, the said accused, armed with a deadly weapon, to wit[,], a cal. 45 pistol, by means of treachery and abuse of superior strength, and with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault, shoot and wound one Frederick Pacasum, thereby inflicting upon him the following physical injuries, to wit:

- gunshot wounds
- hemorrhage shock

which caused his death.

Contrary to and in violation of Article 248 of the Revised Penal Code, with

the aggravating circumstances of treachery and abuse of superior strength."

To both charges, Respondent Maquiling, assisted by Counsel *de Parte* Moises Dalisay Jr., entered a plea of not guilty upon his arraignment on June 5, 1989.<sup>[8]</sup> Trial ensued. Thereafter, the trial court rendered its Decision convicting private respondent of homicide and serious physical injuries.

### **Appellate Court's Ruling**

In reversing the trial court, the Court of Appeals accepted the claim of self-defense and ruled:

"xxx The witnesses have uniformly testified that a fight ensued between the deceased Frederick Pacasum and Ramil Maquiling in the course of which Frederick boxed Ramil causing him to fall on the floor. When the accused-appellant tried to pacify and stop Frederick from inflicting further harm on his brother, he was instead boxed on the right cheek by Frederick. And while he wanted to retaliate he could not do so because of the superiority in numbers and in strength of Frederick and his companions who were not only more in [number] but likewise taller and bigger. Hence accused had opted to leave the disco but was followed to his car by Frederick with a shotgun [i]n hand. The deceased Frederick not only aimed the shotgun [at] him but actually fired at the accused. And the accused shot at the deceased only after he was himself injured by the deceased who fired a shotgun at him. He likewise shot at Olegario `Jojo' Villaremo to disarm him as he likewise took possession of the shotgun.

"There was reasonable necessity of the means used to prevent and[/]or repel the unlawful aggression. The accused fired a warning shot to deter the deceased from attacking and even after he was himself hit by the shotgun. He had fired first at the left thigh of the deceased, as his intention was merely to disarm Frederick, not to kill him. But when the appellant perceived that Frederick was still aiming the shotgun [at] him, xxx he decided to fire the fatal shot.

"There was likewise lack of sufficient provocation on the part of the person defending himself. It was the deceased Frederick, with a shotgun [in] hand, [who] approached the accused who was then about to open his Isuzu trooper. When accused looked back, he saw Frederick coming with a shotgun. Accused then opened his trooper and got his .45 caliber pistol. The deceased also disregarded the warning shots fired by the accused and was the first to shoot at the accused."<sup>[9]</sup>

The appellate court also noted various "flaws and inconsistencies" in the testimonies of the prosecution witnesses, in effect strengthening the version set forth by the accused. It held:

"To the mind of the court, the discrepancies as to the manner the accused killed the deceased are material.

"Major and evident discrepancies in the testimony of witnesses on various aspects, cannot but raise well founded and overriding doubts on

their credibility. (xxx) Irreconcilable and unexplained contradictions in the testimonies of prosecution cast doubt on the guilt of the accused and such contradictory statements will not sustain a judgment of conviction (xxx)."<sup>[10]</sup>

Through this special civil action for *certiorari* before us, the solicitor general now seeks<sup>[11]</sup> to set aside Respondent Court's Decision, for having been allegedly rendered with grave abuse of discretion.

### **Assignment of Errors**

In its Memorandum, the Office of the Solicitor General raises a single issue:

"Whether or not the Assailed Decision, dated 24 March 1997, of respondent court is void ab initio, for having been rendered in denial of due process and with grave abuse of discretion."<sup>[12]</sup>

### **The Court's Ruling**

The petition is not meritorious.

### **Preliminary Matter: Procedural Remedies**

Ordinarily, the judicial recourse of an aggrieved party is to appeal the trial court's judgment to the Court of Appeals and thereafter, to the Supreme Court in a petition for review under Rule 45 of the Rules of Court. In such cases, this tribunal is limited to the determination of whether the lower court committed reversible errors<sup>[13]</sup> or, in other words, mistakes of judgment.<sup>[14]</sup> A direct review by the Supreme Court is the normal recourse of the accused, where the penalty imposed by the trial court is death, *reclusion perpetua* or life imprisonment.

The rule on double jeopardy, however, prohibits the state from appealing or filing a petition for review of a judgment of acquittal that was based on the merits of the case. Thus, Section 2, Rule 122 of the Rules of Court reads:

"Sec. 2. *Who may appeal.* -- Any party may appeal from a final judgment or order, except if the accused would be placed thereby in double jeopardy."

This rule stems from the constitutional mandate stating that "no person shall be put twice in jeopardy for the same offense. xxx"<sup>[15]</sup> It is rooted in the early case *U.S. v. Kepner*,<sup>[16]</sup> in which the United States Supreme Court, reviewing a Philippine Supreme Court decision, declared that an appeal by the prosecution from a judgment of acquittal would place the defendant in double jeopardy.<sup>[17]</sup>

Double jeopardy is present if the following elements concur: (1) the accused individuals are charged under a complaint or an information sufficient in form and substance to sustain their conviction; (2) the court has jurisdiction; (3) the accused have been arraigned and have pleaded; and (4) they are convicted or acquitted, or