REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CTA CRIM. CASE NO. O-668

For: Violation of Section 254 (Tax Evasion) of the National Internal Revenue Code of 1997, as amended.

- versus -

JOSELITO B. YAP,
Accused.

x-------------------------------------x

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CTA CRIM. CASE NO. O-669

For: Violation of Section 255 (Failure to File Return) of the National Internal Revenue Code of 1997, as amended.

- versus -

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, ***JJ.***

JOSELITO B. YAP,
Accused.

Promulgated: OCT 14 2020

1:45 p.m.

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is plaintiff's "Motion for Reconsideration (of the Decision dated 29 June 2020)" (**MR**) filed on 10 July 2020. It seeks the reversal of this Court's Decision on 29 June 2020 acquitting the accused of the offenses charged against him in the above-titled case. The dispositive portion of the assailed decision reads:

> ...
>
> **WHEREFORE,** premises considered, accused **JOSELITO B. YAP** is **ACQUITTED** of the offenses charged in CTA Crim. Case Nos. O-668 and O-669, respectively, for want of evidence that he committed the crimes charged and for reasonable doubt. Accordingly, the cash bail bonds of accused are hereby **DISCHARGED** and are to be **RELEASED** to him upon presentation of proper documents, in accordance with usual accounting rules and regulations.
>
> No pronouncement as to civil liability *ex delicto*.
>
> ...

First of all, plaintiff prays for a relief that the Court cannot grant without violating the 1987 Constitution. In its prayer, plaintiff pleads:

> ...
>
> **WHEREFORE,** it is respectfully prayed unto this Honorable Court that it set aside the Decision dated 29 June 2020 Acquitting Accused Joselito B. Yap of the offenses charged in CTA Crim. Case Nos. O-668 and O-669, and that another one be issued adjudging the Accused guilty beyond reasonable doubt for violation of Sections 254 and 255 of the Tax Code, as amended, and that he be held liable for deficiency income tax in the amount of Twenty Seven Million One Hundred Forty Thousand Four Hundred Fifty Four and 44/100 Pesos (P27,140,454.44), exclusive of charges and interest, for taxable year 2011.
>
> ...

Surely, plaintiff' is aware that the 1987 Constitution[1] secures the right of the accused against double jeopardy. In *Chiok v. People, et al.*[2], the Supreme Court explained, thus:

> ...
>
> ...Section 7, Rule 117 of the 1985 and 2000 Rules on Criminal Procedure strictly adhere to the constitutional proscription against double jeopardy and provide for the requisites in order for double jeopardy to attach. For double jeopardy to attach, the following elements must concur: (1) a valid information sufficient in form and substance to sustain a conviction of the crime charged; (2) a court of competent jurisdiction; (3) the accused has been arraigned and had pleaded; and (4) the accused was convicted or acquitted or the case was dismissed without his express consent.
>
> ...

We find all of the elements for double jeopardy present in this case. Although MR and not an appeal of accused's conviction, a judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation.[3] The Court cannot therefore, legally reverse Our decision of acquittal and place a finding of guilt in its stead.

As regards plaintiff's prayer for the Court to find the accused liable ₱27,140,454.44, as the Court has explained thoroughly in the assailed decision why no civil liability *ex delicto* can attach in the case at bar. Therefore, anent plaintiff's arguments, We cannot hold the accused civilly liable for the offenses charged especially, that his acquittal was based on want of evidence to establish the same. Put differently, the Court simply found no factual anchor on which the civil liability *ex delicto* may be based.

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1 Art. III, Sec. 21 of the 1987 Constitution

> **Sect. 21**. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

2 G.R. No. 179814, 07 December 2015.

3 *People v. Alejandro,* G.R. No. 223099, 11 January 2018.

WHEREFORE, the foregoing considered, plaintiff's "Motion for Reconsideration (of the Decision dated 29 June 2020)" filed on 10 July 2020 is hereby **DENIED** for lack of merit. Accordingly, the Decision promulgated on 29 June 2020 is **AFFIRMED**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice