CTA Form No. 8

23-000097-0010

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. SCA-0005

PEOPLE OF THE PHILIPPINES,
Petitioner,

- versus -

Hon. REGIONAL TRIAL COURT OF THE CITY OF MANILA, BRANCH 21, LILY PEDROSO, ERNESTO PEDROSO and ELVIN LOUIE PEDROSO REYES,
Respondents.

NOTICE OF DECISION

To:

ATTY. CATHERINE ROSE R. TORTOLES
ATTY. JAMAICA KAY S. DELA CRUZ
ATTY. FRANCIS PRINCIPE
Bureau of Internal Revenue
Room 704, Prosecution Division,
BIR Road, Diliman, Quezon City

HON. ALMA CRISPINA B. COLLADO-LACORTE
Presiding Judge
Regional Trial Court
Branch 21, Manila

GALIAS & RIVERA LAW OFFICES
3/F, Prestige Tower, F. Ortigas Jr. Road
Ortigas Center, Pasig City

GREETINGS:

You are hereby notified by these presents that on **July 12, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **July 15, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
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THE PEOPLE OF THE PHILIPPINES,
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Respondents.

CTA SCA CASE NO. 0005

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:
JUL 12 2024 9:40 AM

x - x

DECISION

BACORRO-VILLENA, J.:

Before Us is a Petition for *Certiorari*[1] under Section 1[2], Rule 65 of the Rules of Civil Procedure, as amended[3], filed by petitioner People of the Philippines (**petitioner**), imputing grave abuse of discretion amounting to lack or excess of jurisdiction against the Regional Trial Court (RTC) of Manila, Branch 21 (**respondent court *a quo***). The latter

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1 Division Docket, pp. 5-36. Filed on 14 March 2023 through registered mail.

2 SEC. 1. *Petition for Certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require. ...

3 A.M. No. 19-10-20-SC.

granted the "Demurrer To Evidence (with Leave of Court)"[4] (**Demurrer**) filed by then accused Lily Pedroso, Ernesto Pedroso, and Elvin Louie Pedroso Reyes (now **private respondents**) in the cases filed against them for violations of Section 255[5] in relation to Sections 253(d)[6] and 256[7] of the National Internal Revenue Code (**NIRC**) of 1997, as amended. The Order dated 01 September 2022[8] (**assailed Order**) reads –

> ...
>
> IN VIEW OF THE FOREGOING, the Demurrer to Evidence with Leave of Court is granted and accused Lily Pedroso y Reyes, Ernesto Pedroso y Ong, and Elvin Louie Pedroso y Reyes are ACQUITTED of the crime charged in the respective Information for violation of Section 255 in relation to Sections 253 (d) and 256 of the NIRC of 1997, as amended, and docketed as Criminal Case Nos. R-MNL-19-03523-CR, R-MNL-19-03524-CR, R-MNL-19-03525-CR, R-MNL-19-03526-CR, R-MNL-19-03527-CR, R-MNL-19-03528-CR, R-MNL-19-03530-CR, R-MNL-19-03531-CR, R-MNL-19-03532-CR, R-MNL-19-03533-CR, R-MNL-19-03534-CR, and R-MNL-19-03535-CR.
>
> SO ORDERED.
>
> ...

Likewise, in the Order of 22 December 2022[9] (**second assailed Order**), respondent court *a quo* denied petitioner's Motion for Reconsideration[10] (**MR**) of the foregoing Order.

FACTS OF THE CASE

On 03 July 2014, Revenue Officers (**ROs**) Nelson V. Gonzales (**Gonzales**), Maxima DC. Mones (**Mones**), Jonas P. Punzal (**Punzal**), and Josefa C. Torrenueva (**Torrenueva**) filed a Joint Complaint-

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4 Division Docket, pp. 118-124.

5 **SEC. 255.** *Failure to File Return, Supply Correct and Accurate Information, Pay Tax Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.*

6 **SEC. 253.** *General Provisions.* – ...

...

(d) In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president, general manager, branch manager, treasurer, officer-in-charge, and the employees responsible for the violation.

7 **SEC. 256.** *Penal Liability of Corporations.*

8 Division Docket, pp. 43-51.

9 Id., pp. 52-55.

10 Id., pp. 172-188.

Affidavit[11] against R-Jell Marketing and Construction Company, together with the private respondents (as the company's general partners), for their alleged willful attempt to evade payment of tax and deliberate failure to supply correct and accurate information in their income tax returns (**ITRs**) and value added tax (**VAT**) returns, and to pay the corresponding taxes for taxable years (**TYs**) 2005, 2006, 2007 and 2008 under Sections 254[12] and 255 in relation to Sections 253(d) and 256 of the NIRC of 1997, as amended.

On 12 April 2019, petitioner (as then plaintiff) filed twelve (12) Informations with the respondent court *a quo* against private respondents. The cases were docketed sequentially as Criminal Case Nos. R-MNL-19-03523-CR up to R-MNL-19-03528-CR and R-MNL-19-03530-CR up to R-MNL-19-03535-CR and identically entitled as "*People of the Philippines v. Lily Pedroso y Reyes, Ernesto Pedroso y Reyes, Elvin Louie Pedroso y Reyes*". Subsequently, the cases were consolidated for trial.[13]

In the course of the proceedings before the respondent court *a quo*, private respondents filed a Motion to Quash (**MTQ**) on the ground that there was an inordinate delay of more than four (4) years from the filing of the Joint Complaint-Affidavit until the filing of the Informations in court. However, respondent court *a quo* denied the MTQ and proceeded with the presentation of petitioner's evidence.[14]

After petitioner completed the presentation of its evidence, private respondents sought leave from respondent court *a quo*. After leave of court was given, they filed their Demurrer stating that: (1) petitioner's documentary exhibits are inadmissible since the "Manifestation with Formal Offer of Evidence for the Prosecution"[15] (**FOE**) was without the conformity of the public prosecutor tasked with the prosecution of the case; (2) the assessment against them is void for lack of a valid Letter of Authority (**LOA**) authorizing RO Mones to

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11 Id., pp. 56-64.
12 **SEC. 254.** *Attempt to Evade or Defeat Tax.* – …
13 Based on the Orders of 02 December 2019 (Division Docket, pp. 210-214), 27 July 2020 (id., pp. 215-217), 23 May 2022 (id., pp. 151-152), 01 September 2022 (supra at note 8) and 22 December 2022 (supra at note 9), the court *a quo* rendered one resolution for all 12 criminal cases filed before it. Thus, it appears that the said cases were consolidated.
14 See Order dated 02 December 2019, Division Docket, pp. 210-214.
15 Id., pp. 65-116.

conduct the audit; (3) petitioner failed to prove and distinguish the identity of R-Jell Marketing and Construction Company from R-Jell Marketing; (4) the criminal offense in the Informations charged against them has already prescribed; (5) the third party information (**TPI**) from Amkor Technology, Inc. is inadmissible and has no probative value; (6) private respondents are not liable to pay VAT since their sales to Amkor Technology, Inc. are zero-rated; and, (7) there was no valid demand to pay the VAT.

Later, after petitioner filed its "Comment to Demurrer to Evidence"[16], respondent court *a quo* rendered the assailed Order of 01 September 2022[17] finding grounds to grant the private respondents' Demurrer. As a result, it dismissed the case and acquitted private respondents.

In the assailed Order of 01 September 2022, respondent court *a quo* explained that: (1) the FOE was filed with the conformity of the public prosecutor whose signature appeared thereon; (2) RO Mones joined the audit through an internal Memorandum; (3) there is no distinction between R-Jell Marketing and R-Jell Marketing and Construction Company as they have the same Tax Identification Number (**TIN**); (4) the criminal offense in the Informations has not yet prescribed since the ROs discovered that private respondents underdeclared their income from TYs 2005 to 2008, through the Sworn Certification dated 29 May 2013, and the appropriate Joint Complaint-Affidavit was filed before the Investigating Prosecutor on 03 July 2014, or well within the prescribed period; (5) apart from the TPI, there were several pieces of evidence which proved that private respondents underdeclared their sales to Amkor Technology, Inc.; (6) based on the same pieces of evidence, sales to Amkor Technology, Inc. do not qualify as zero-rated; and, (7) petitioner failed to adduce evidence to prove the demand of payment against private respondents for the pertinent quarterly VAT returns, *i.e.*, the existence and service of the Final Assessment Notice and Final Letter of Demand (**FAN/FLD**) to them.[18]

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16 Id., pp. 125-147.
17 Supra at note 8.
18 Id.

According to respondent court *a quo,* petitioner's evidence, particularly the FLD of 06 May 2016, merely covered the Income Tax (**IT**) assessment. Even with the manifestation of the private respondents' counsel that the said FLD does not include any VAT assessment, petitioner omitted to present any demand, details of discrepancies nor audit result assessment notices pertaining to the VAT assessment against them. Relying on *Commissioner of Internal Revenue v. T Shuttle Services, Inc.*[19], which cited *Commissioner of Internal Revenue v. Fitness by Design, Inc.*[20], respondent court *a quo* pointed out that without the FLD or any notice of assessment, petitioner failed to prove that private respondents were accorded due process and that they did not comply with the FAN/FLD prior to the institution of the criminal cases. Thus, the respondent court *a quo* ruled that petitioner failed to establish the guilt of private respondents beyond reasonable doubt and accordingly upheld the presumption of innocence on the latter's part.

Aggrieved, petitioner filed an MR[21] and argued that an assessment is not required to prove that the crimes charged had been committed. It contended that the cases filed, being criminal in nature, the service of the FAN/FLD is not necessary to establish or prove criminal liability. Petitioner added that the exact identity or name of the accused is also immaterial considering that R-Jell Marketing and Construction Company, R-Jell Marketing and Construction Corp., R-Jell Marketing and Construction Supply or other variations of trade names of R-Jell (as used in the documents) are one and the same entity for bearing the same TIN of 215-171-072-000.

In response to petitioner's arguments, in the "Comment (to [MR])"[22], private respondents emphasized that R-Jell Marketing and Construction Company was excluded from the Informations as accused even though they have been charged as responsible officers of the said partnership. As ruled in *Enviroaire, Inc., Represented by Tyrone N. Ong and Arlene Chua v. People of the Philippines*[23], by analogy, for failure to charge the partnership in the Informations, the court *a quo* never acquired jurisdiction over it, thus, the charges against them as officers thereof had no leg to stand on.

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[19] G.R. No. 240729 (Resolution), 24 August 2020.
[20] G.R. No. 215957, 09 November 2016.
[21] Supra at note 10.
[22] Division Docket, pp. 190-197.
[23] CTA EB Crim. No. 073, 25 November 2021.

In a Reply[24] to private respondents' arguments, petitioner contended that even if the company was not sued, it can still proceed with the prosecution of the erring officers as their liability is also provided under Section 253(d) of the NIRC of 1997, as amended. Moreover, as the company was used to perpetrate fraud, it is only proper to apply the doctrine of piercing the veil of corporate fiction and hold the individual officers liable.

The court *a quo* was unconvinced and issued the second assailed Order of 22 December 2022[25] denying the MR. Agreeing with private respondents, respondent court *a quo* ruled that the identification, indictment, and conviction of R-Jell Marketing and Construction Company are vital and indispensable since it is a partnership (as taxpayer) required by law to supply correct and accurate information under the provisions of the NIRC of 1997, as amended. Hence, the charges against private respondents must be dismissed as the company was not impleaded in the criminal cases.

PROCEEDINGS BEFORE THIS COURT

On 14 March 2023, petitioner, through the Bureau of Internal Revenue (**BIR**), filed a Petition for *Certiorari*[26] before this Court seeking relief from the assailed Orders. It prayed for the continuation of the proceedings in the trial court. The case was raffled to the Second Division.

On 14 April 2023, private respondents filed a "Comment (To Petition for *Certiorari*)"[27] (**Comment**) stating that: (1) the BIR has no legal standing or personality to file the petition for *certiorari*: (2) respondent court *a quo* did not err when it ruled on a matter that was not previously raised in the MTQ, *i.e.*, as regards Section 3(a), Rule 117[28] of the Revised Rules of Criminal Procedure, as amended[29], or the ground that the facts charged do not constitute an offense; and, (3) respondent court *a quo* correctly dismissed the case following

24 See Reply (to Accused's Comment to Motion for Reconsideration), Division Docket, pp. 198-208.
25 Supra at note 9.
26 Supra at note 1.
27 Division Docket, pp. 221-231.
28 MOTION TO QUASH.
29 A.M. No. 00-5-03-SC.

petitioner's failure to implead R-Jell Marketing and Construction Company as accused in the Informations. Thereafter, the Court ordered the parties to file their respective Memoranda.[30]

In the Minute Resolution dated 29 May 2023[31], the case was transferred to the First Division. Later, in compliance with the Court's directive, private respondents filed their Memorandum[32] on 30 May 2023, while petitioner filed its Memorandum[33] on 31 May 2023. In the Minute Resolution of 19 June 2023[34], the case was submitted for decision.

ISSUES

The main issue for this Court's resolution is —

WHETHER PUBLIC RESPONDENT REGIONAL TRIAL COURT OF MANILA, BRANCH 21, COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF DISCRETION IN GRANTING THE DEMURRER TO EVIDENCE OF THE PRIVATE RESPONDENTS LILY PEDROSO, ERNESTO PEDROSO, AND ELVIN LOUIE PEDROSO REYES.

ARGUMENTS

Here, petitioner maintains that the BIR has the legal personality to sue pursuant to Section 220[35] of the NIRC of 1997, as amended. According to it, the Office of the Solicitor General (**OSG**) is under the Department of Justice (**DOJ**). Thus, when the DOJ deputized the BIR lawyers, it similarly granted authority to the named lawyers to prosecute the tax offenses before the courts.[36] Moreover, the OSG and the BIR executed a Memorandum of Agreement[37] (**MOA**) on 17 March 2010 that deputized the BIR handling lawyers and defined their responsibilities regarding the handling of tax cases (in the instances wherein the OSG shall be the handling lawyer). Petitioner claims that in the said MOA,

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30 See Resolution dated 10 May 2023, Division Docket, pp. 233-234.
31 Id., p. 235.
32 Id., pp. 236-249.
33 Id., pp. 251-285.
34 Id., p. 296.
35 **SEC. 220.** *Form and Mode of Proceeding in Actions Arising under this Code.*
36 See Letter Recommendation dated 14 October 2022, Division Docket, pp. 286-287.
37 Id., pp. 288-292.

BIR lawyers are duly authorized to continue and prosecute the cases before this Court.

Petitioner also submits that the Informations charged private respondents with violations of the NIRC of 1997, as amended. Evidently, the facts as charged therein actually constitute an offense, contrary to private respondents' claim. It adds that the court *a quo*'s grounds of granting the Demurrer such as (1) the failure to prove the existence and service of the FAN/FLD; and, (2) the failure to implead or charge the company, are remote from a supposed determination of the sufficiency of the evidence it presented to show the commission of the offenses.

Moreover, petitioner avers that private respondents cannot automatically claim the VAT-zero rating sales to Amkor Technology, Inc. as they should first report the said sales to the BIR and request for approval or confirmation pursuant to Section 4.106-6[38] of Revenue Regulations (**RR**) No. 16-2005.[39] However, there is no evidence that private respondents sought such approval; instead, they did not declare the said sales in their VAT returns which ultimately led to the commission of the tax offenses.

Likewise, petitioner points out that the other arguments raised in the private respondents' Comment to herein Petition for *Certiorari* and in the Memorandum are mere rehash of those contained in the Demurrer which were already discussed in the assailed Order of 01 September 2022.

As for respondent court *a quo*, petitioner asserts that it committed grave abuse of discretion when it failed to take into consideration Sections 3(c)[40] and 3(h)[41], Section 117 of the Revised Rules of Criminal Procedure, as amended. According to petitioner, the respondent court *a quo* should have deemed the grounds relied on by private respondents in their Demurrer as waived following their failure to assert them in the

[38] SEC. 4.106-6. *Meaning of the Term "Effectively Zero-rated Sale of Goods and Properties"*.
[39] Consolidated Value-Added Tax Regulations of 2005.
[40] Sec. 3. Grounds. – The accused may move to quash the complaint or information on any of the following grounds: ... (c) That the court trying the case has no jurisdiction over the person of the accused[.]
[41] Sec. 3. Grounds. – The accused may move to quash the complaint or information on any of following grounds: ... (h) That it contains averments which, if true, would constitute a legal excuse or justification[.]

MTQ. Resultantly, the court *a quo* should no longer have considered the said grounds in the Demurrer.

Petitioner also questions the respondent court *a quo*'s reliance on the cited cases[42] in the assailed Orders as they pertain to civil cases (thus the need for an assessment). Petitioner contends further that in the case of *Commissioner of Internal Revenue v. Hon. Raul M. Gonzalez, et al.*[43], the only cited case in the assailed Orders relating to a criminal action, does not actually provide a basis for the requirement of an assessment to prove the commission of the crime. It adds that the acts of tax evasion under Section 255 of the NIRC of 1997, as amended, are punishable by mere commission of the offense even without proof of civil liability. Hence, respondent court *a quo* erred in relying on the said cases to grant the Demurrer.

As regards the finding that respondent court *a quo* lacked jurisdiction over R-Jell Marketing and Construction Company because it was not impleaded in the criminal cases, petitioner argues that in *Alfredo Ching v. The Secretary of Justice, et al.*[44], corporate officers or employees, through whose act, default, or omission the corporation commits a crime, are themselves individually guilty of the crime. Hence, there is no need to implead the juridical entity contrary to court *a quo*'s ruling in the second assailed Order.

Lastly, petitioner posits that respondent court *a quo* gravely abused its discretion when it predetermined the innocence of the private respondents notwithstanding the incriminating pieces of evidence submitted.

On the other hand, restating their arguments in their Comment to the Petition for *Certiorari*, private respondents contend that the BIR has no legal standing to file the instant petition. Citing *Mamerto Austria v. AAA and BBB*[45] (**Austria**), they point out that the BIR must first seek

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42 Public respondent cited the cases of *Commissioner of Internal Revenue v. Hon. Raul M. Gonzalez, et al.*, G.R. No. 177279, 13 October 2010; *Commissioner of Internal Revenue v. Enron Subic Power Corporation*, G.R. No. 166387, 19 January 2009; *Commissioner of Internal Revenue v. T Shuttle Services, Inc.*, G.R. No. 240729 (Resolution), 24 August 2020; and, *Fitness by Design, Inc. v. Commissioner of Internal Revenue*, G.R. No. 177982, 17 October 2008.

43 G.R. No. 177279, 13 October 2010, supra.

44 G.R. No. 164317, 06 February 2006.

45 G.R. No. 205275, 28 June 2022.

the conformity of the OSG within the reglementary period to appeal or file a Petition for *Certiorari*. However, in this case, the BIR failed to do so hence, the case must be dismissed.

Private respondents also side with respondent court *a quo*'s actions; particularly, when the latter considered the ground raised in the Demurrer, *i.e.*, "the facts charged do not constitute an offense" under Section 3[46], Rule 117 of the Revised Rules of Criminal Procedure, as amended. They noted that although it was not raised in the priorly-filed MTQ, this ground should not be deemed as waived pursuant to Section 9[47] of the same rule.

Private respondents further assert that they could not be held liable to pay or remit VAT as their sales to Amkor Technology, Inc. is zero-rated. Additionally, the respondent court *a quo* never acquired jurisdiction over R-Jell Marketing and Construction Company as it was not impleaded nor charged in the Informations.

Lastly, private respondents reiterate the grounds they previously raised in the Demurrer and pray for the dismissal of the instant case.

RULING OF THE COURT

Before We proceed to the merits of the case, We deem it propitious to determine first if the Court has jurisdiction over the instant petition.

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46 SEC. 3. *Grounds*. – The accused may move to quash the complaint or information on any of following grounds: (a) That the facts charged do not constitute an offense; (b) That the court trying the case has no jurisdiction over the offense charged; (c) That the court trying the case has no jurisdiction over the person of the accused; (d) That the officer who filed the information had no authority to do so; (e) That it does not conform substantially to the prescribed form; (f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law; (g) That the criminal action or liability has been extinguished; (h) That it contains averments which, if true, would constitute a legal excuse or justification; and (i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.

47 SEC. 9. ***Failure to move to quash or to allege any ground therefor***. – The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g), and (i) of section 3 of this Rule.

THE COURT HAS NO JURISDICTION OVER THE PETITION FOR *CERTIORARI*.

Section 1, Rule 65 of the Rules of Civil Procedure, as amended[48], states –

> ...
>
> SEC. 1. *Petition for Certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.
>
> The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.
>
> ...

Relative thereto, Section 4 of the same rule provides that in cases of an MR, a Petition for *Certiorari* shall be filed within 60 days from the receipt of the notice of the denial of the said MR, to wit –

> ...
>
> SEC. 4. *When and Where to File the Petition.* — The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. **In case a motion for reconsideration** or new trial is timely filed, whether such motion is required or not, **the petition shall be filed not later than sixty (60) days counted from the notice of the denial of the motion.**
>
> If the petition relates to an act or an omission of a municipal trial court or of a corporation, a board, an officer or a person, it shall be filed with the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed with the Court of Appeals or with the Sandiganbayan, whether or not

[48] A.M. No. 19-10-20-SC.

> the same is in aid of the court's appellate jurisdiction. If the petition involves an act or an omission of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed with and be cognizable only by the Court of Appeals.[49]
>
> ...

Applying the foregoing, petitioner (through the public prosecutor) received the second assailed Order of 22 December 2022 on **29 December 2022.**[50] Counting 60 days therefrom, petitioner had until **27 February 2023** to file the instant petition. However, as the petitioner was filed only on 14 March 2023, the same was belatedly filed.

In the case of *Marian Rebuta y Sedaño v. People of the Philippines*[51], the Supreme Court ruled that due to the OSG's belated filing of the petition for *certiorari* (which ascribed grave abuse of discretion on the lower court's rendition of the decision), the subject decision had already attained finality, and thus, could no longer be amended or modified –

> ...
>
> *First, the petition for certiorari was filed out of time.* ... **The People, through the public prosecutor, received a copy of the Joint Decision in open court on the date of its promulgation. Accordingly, it had sixty (60) days, or until January 15, 2016, within which to file a petition for *certiorari*.** The OSG admitted that it filed the motion three days late but prayed that the rules be relaxed alleging that it received the Indorsement of the Department of Justice (DOJ) only on January 15, 2016.
>
> Under Section 4, Rule 65 of the Rules of Court, a petition for *certiorari* must be filed within sixty (60) days from notice of the judgment, order, or resolution sought to be assailed. ... In addition, as correctly pointed out by petitioner, while a motion for extension to file a petition for *certiorari* is permissible in exceptional and meritorious circumstances, it must be filed before the expiration of the period sought to be extended. A motion for extension of time filed beyond the period to appeal, or beyond the period to file a petition for review on *certiorari*, has of no effect because there would no longer be any period to extend, and the judgment or order to be appealed from will have to become final and executory. **Applying the foregoing in the instant case, the RTC Joint Decision had already attained finality after the lapse of the period to file a petition for *certiorari*.**

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49 Italics in the original text and emphasis supplied.

50 See stamp receipt of the City Prosecutor's Office of Manila, Division Docket, p. 55.

51 G.R. No. 246306, 26 July 2023; Citations omitted, emphasis supplied and italics in the original text.

> Moreover, the public prosecutors had enough time to endorse the case to the OSG from the time they received a copy of the Joint Decision, but the endorsement was made only on January 11, 2016. **Verily, with the OSG's belated filing of the petition for *certiorari*, the Joint Decision of the RTC had already attained finality. It is a well-established rule that a judgment, once it has attained finality, can never be altered, amended, or modified, even if the alteration, amendment, or modification is to correct an erroneous judgment.**
>
> ...

In the same vein, as petitioner herein belatedly filed its Petition for *Certiorari* to question the court *a quo*'s action of granting the Demurrer, both the assailed Order of 01 September 2022 and the second assailed Order of 22 December 2022 had attained finality, and thus, We no longer have jurisdiction over the case.

At any rate, even assuming that the present Petition for *Certiorari* was timely filed and that We have successfully acquired jurisdiction over it, *the same would still fail.*

THE BUREAU OF INTERNAL REVENUE (BIR) HAS A LEGAL PERSONALITY TO FILE THE PETTION FOR *CERTIORARI.*

Private respondents claim in their Comment that there is no express authority from the OSG to bring the instant action on behalf of the Republic of the Philippines. They maintain that only the OSG may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or State in all criminal proceedings, citing *Austria*[52], and, thus, the petition filed in the name of the latter not initiated by the OSG (but filed by the BIR) is defective.

Private respondents' reliance on *Austria* is misplaced. In *Austria*, the Supreme Court held:

[52] Supra at note 45.

...

In any criminal case or proceeding, only the OSG may bring or defend actions on behalf of the Republic of the Philippines, or represent the People or State before the *Supreme Court (SC) and the CA*. This is explicitly provided under Section 35 (1), Chapter 12, Title III, Book III of the 1987 Administrative Code of the Philippines, thus:

> Section 35. *Power 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 service of a lawyer. It shall have the following specific power 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.

The rationale behind this rule is that in a criminal case, the state is the party affected by the dismissal of the criminal action and not the private complainant. The interest of the private offended party is restricted only to the civil liability of the accused. In the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution such that when a criminal case is dismissed by the trial court or if there is an acquittal, an appeal on the criminal aspect may be undertaken only by the State through the OSG. The private offended party may not take such appeal, but may only do so as to the civil aspect of the case. Differently stated, the private offended party may file an appeal without the intervention of the OSG, but only insofar as the civil liability of the accused is concerned. Also, the *private complainant* may file a special civil action for *certiorari* even without the intervention of the OSG, but only to the end of preserving his or her interest in the *civil aspect of the case*. Hence, the Court dismissed for lack of legal standing or personality the appeals or petitions for certiorari filed by the private offended parties *before the SC and CA, without the consent or conformity of the OSG*, questioning the dismissal of the criminal case or acquittal of the accused.[53]

...

[53] Id.; Citations omitted, emphasis in the original text, italics and underscoring supplied.

The same is likewise provided in Section 10, Rule 9 of the Revised Rules of the Court of Tax Appeals[54] (**RRCTA**):

> ...
>
> Sec. 10. *Solicitor General as counsel for the People and government officials sued in their official capacity.* - The Solicitor General shall represent the People of the Philippines and government officials sued in their official capacity in all cases brought to the Court in the exercise of its appellate jurisdiction. The former may deputize the legal officers of the Bureau of Internal Revenue in cases brought under the National Internal Revenue Code or other laws enforced by the Bureau of Internal Revenue, or the legal officers of the Bureau of Customs in cases brought under the Tariff and Customs Code of the Philippines or other laws enforced by the Bureau of Customs, to appear in behalf of the officials of said agencies sued in their official capacity: *Provided, however,* such duly deputized legal officers shall remain at all times under the direct control and supervision of the Solicitor General.
>
> ...

However, Section 220 of the NIRC of 1997, as amended, states:

> ...
>
> SEC. 220. *Form and Mode of Proceeding in Actions Arising under this Code.* - **Civil 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** but no civil or criminal action for the recovery of taxes or the enforcement of any fine, penalty or forfeiture under this Code shall be filed in court without the approval of the Commissioner.[55]
>
> ...

While the Court agrees that the Solicitor General is the "principal law officer and legal defender of the government" as vested under Section 35(1)[56], Chapter 12, Title III, Book III of the 1987 Administrative Code of

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[54] A.M. No. 05-11-07-CTA.

[55] Emphasis supplied and italics in the original text.

[56] **SEC. 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

the Philippines[57], this is not without exception. Section 220 of the NIRC of 1997, as amended, clearly vests the power to institute or commence any action relating to recovery of taxes and other violations of the NIRC of 1997, as amended, to petitioner on behalf of the government. Considering that what is filed before this Court is a Petition for *Certiorari*, which is an original special civil action[58], the same may be *instituted* by petitioner even though petitioner's legal officers are not deputized by the OSG. This is without prejudice to the OSG's primary responsibility to appear for the government in *appellate* proceedings.[59]

The same is echoed in the MOA between the BIR and the OSG (as circularized in Revenue Memorandum Circular [**RMC**] No. 025-10[60]) to wit:

> ...
> B. *Handling Cases*
>
> 1. Cases of first instance before the Court of Tax Appeals Divisions, Municipal Trial Courts, Metropolitan Trial Courts, Municipal Circuit Trial Courts, Regional Trial Courts, Department of Justice and other administrative agencies.
>
> a. **The BIR handling lawyers shall be the lead lawyer.** As lead lawyer, he/she shall have the following responsibilities:
>
> i. To appear before the courts; and
>
> ii. To prepare all pleadings, motions, orders, decisions, resolutions, communications and other papers/documents in connection with the case.

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[.]

57 Executive Order No. 292.

58 See *People of the Philippines v. Hon. Perfecto A.S. Laguio, Jr., et al.*, G.R. No. 128587, 16 March 2007.

59 See *Commissioner of Internal Revenue v. La Suerte Cigar and Cigarette Factory*, G.R. No. 144942 (Resolution), 04 July 2002.

60 Publishing the Full Text of the Memorandum of Agreement Between the Bureau of Internal Revenue (BIR) and the Office of the Solicitor General.

> b. Upon assignment of the case, the BIR handling lawyer shall ensure that the OSG shall be furnished with a copy of pleadings filed in relation to the case through registered mail.[61]

...

Further, in *People of the Philippines v. Court of Tax Appeals-Third Division, et al.*[62] (**People v. CTA**), the Supreme Court emphasized that it is actually the conformity of the DOJ that must be sought for in the prosecution of the criminal cases before the Court of Tax Appeals –

> ...
>
> There is no gainsaying that the BIR is the primary agency tasked to administer and enforce the NIRC, 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** . . ." 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 DOJ "shall be **primarily responsible** for the preliminary investigation and **prosecution of all cases involving violations of penal laws** . . ." <u>Undoubtedly, the prosecution of criminal tax cases necessitates coordination between the two bodies</u>. 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.
>
> 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. It noted that "*the endorsement for criminal cases intending to be assailed through Petition for Certiorari under Rules 65 of the 1997 Revised Rules on Civil Procedure before the Supreme Court should be issued by the Department of Justice*

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61 Emphasis supplied and italics in the original text.

62 G.R. Nos. 251270 & 251291-301, 05 September 2022; Citations omitted, emphasis in the original, italics and underscoring supplied.

> *(DOJ) Head Office in Padre Faura, City of Manila, aptly signed by the Honorable Prosecutor General."*
>
> 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.
>
> ...

An examination of the records reveals that the undersigned BIR lawyers were duly deputized and authorized to prosecute the instant case before Us through the letter recommendation dated 14 October 2022[63] issued by the DOJ, through Prosecutor General Benedicto A. Malcontento. Hence, based on the foregoing, petitioner's legal standing or personality to file the present Petition for *Certiorari* could no longer be doubted.

THE COURT *A QUO* DID NOT COMMIT GRAVE ABUSE OF DISCRETION WHEN IT GRANTED THE DEMURRER TO EVIDENCE.

We note that in this Petition for *Certiorari*, petitioner bids for the reversal and setting aside of the assailed Orders of respondent court *a quo*, citing grave abuse of discretion on the part of the latter. Thus, it ultimately calls for a review of its action on the Demurrer that acquitted private respondents from the criminal charges filed against them.

The Supreme Court has consistently held that once a demurrer to evidence has been granted in a criminal case, the grant amounts to an acquittal. Any further prosecution for the same offense would violate Article III, Section 21 of the 1987 Constitution.[64] Article III, Section 21 of the 1987 Constitution provides –

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63 Supra at note 36.

64 *People of the Philippines v. Honorable Sandiganbayan (Fourth Division), et al.*, G.R. No. 233437, 26 April 2021.

> ...
>
> Sec. 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.
>
> ...

The foregoing is otherwise known as the constitutional proscription against double jeopardy. The fundamental philosophy behind the constitutional proscription against double jeopardy is to afford the defendant, who has been acquitted, final repose and safeguard him from government oppression through the abuse of criminal processes.[65] 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.[66]

Under Section 23[67], Rule 119 of the Revised Rules of Criminal Procedure, as amended, the trial court may dismiss the action on the ground of insufficiency of evidence upon a demurrer filed by the accused with or without leave of court. In resolving a demurrer, the court is required to ascertain whether there is competent or sufficient

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65 *People of the Philippines v. The Honorable Court of Appeals (Fourth Division), et al.*, G.R. No. 142051, 24 February 2004.

66 Id.

67 **Sec. 23**. *Demurrer to evidence.* — After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.

If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution. (15a)

The motion for leave of court to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.

If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt.
The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment. (n)

evidence to sustain the indictment or support a verdict of guilt.[68] The grant or denial of a demurrer is left to the sound discretion of the trial court, and its ruling on the matter shall not be disturbed in the absence of a grave abuse of discretion.[69]

Significantly, as already stated, if the demurrer is granted, the same amounts to an acquittal and any further prosecution of the accused would violate the constitutional proscription on double jeopardy.[70] The only time when assailing the grant of a demurrer to evidence will not violate the right against double jeopardy is when the trial court is shown to have gravely abused its discretion, such that the prosecution's right to due process was violated, denying it the opportunity to present its case.[71] The petitioner must thus prove that the trial court "blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice".[72]

To not come within the proscription against double jeopardy, petitioner insisted on the presence of grave abuse on the part of respondent court *a quo* thus it brought the latter's action to Us *via* this Petition for *Certiorari*. If found to have gravely abused its discretion in the grant of the subject Demurrer then its assailed Orders will be deemed to have been made in excess of or without jurisdiction. Consequently, they will be voided and will not result in the breach of the prohibition against double jeopardy.[73]

Excess of jurisdiction as distinguished from absence of jurisdiction means that an act, though within the general power of a tribunal, board or officer is not authorized, and invalid with respect to the particular proceeding, because the conditions which alone authorize the exercise of the general power in respect of it are wanting.[74] *Without jurisdiction*

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68 *People of the Philippines v. The Sandiganbayan (Fourth Division), et al.*, G.R. No. 140633, 04 February 2002, citing *Arcangel Gutib v. Court of Appeals*, et al., G.R. No. 131209, 13 August 1999.

69 Id., citing *Arthur Te v. Court of Appeals, et al.*, G.R. No. 126746, 29 November 2000.

70 Id., citing *Rene S. Ong, et al., v. People of the Philippines, et al.*, G.R. No. 140904, 09 October 2000.

71 *People of the Philippines v. Honorable Sandiganbayan (Fourth Division), et al.*, supra at note 64, citing *People of the Philippines v. The Sandiganbayan (Fourth Division), et al.*, supra at note 68.

72 Id.

73 See *People of the Philippines v. Hon. Perfecto A.S. Laguio, Jr., et al.*, supra at note 58.

74 *Edgardo J. Angara v. Fedman Development Corporation*, G.R. No. 156822 (Resolution), 18 October 2004, citing *Toyota Motor Phils. Corporation Workers' Association (TMPCWA) v. The Hon. Court of Appeals (Fourth Division) Justices Roberto Barrios, et al.*, G.R. No. 148924, 24

means lack or want of legal power, right or authority to hear and determine a cause or causes, considered either in general or with reference to a particular matter. It means lack of power to exercise authority.[75]

Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction or, in other words, where the power is exercised in an arbitrary manner by reason of passion, prejudice, or personal hostility[76], and it must be so patent or gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[77]

In addition to the parameters set forth above, jurisprudence lay down the following as indicias of grave abuse of discretion: (*i*) when the trial court blatantly ignores facts[78]; (*ii*) when the court denies the prosecution its right to due process[79]; and, (*iii*) when the trial was a sham.[80]

To give life to the right against double jeopardy, the Supreme Court has likewise consistently adhered to the finality-of-acquittal doctrine - "a judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation".[81]

The finality-of-acquittal rule has the same animus as the right against double jeopardy. The existence of the doctrine finds its roots in guarding and freeing the individual, at some point, from any attempt to be prosecuted again despite a verdict of acquittal. While it is not without exception, the circumstances of the present case do not fall under this

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September 2003; *Land Bank of the Philippines v. Court of Appeals, et al.*, G.R. No. 129368, 25 August 2003.

75 Id.

76 Id., citing *Teresita Tanghal Okabe v. Hon. Pedro De Leon Gutierrez, et al.*, G.R. No. 150185, 27 May 2004; *Rebecca Ala-Martin v. Hon. Justo M. Sultan, et al.*, G.R. No. 117512, 02 October 2001.

77 Id., citing *Nicolas Uy De Baron v. Court of Appeals, et al.*, G.R. No. 140719, 26 October 2001.

78 See *Teophanie Christy L. Sy v. People of the Philippines*, G.R. No. 243617 (Notice), 05 May 2021.

79 See *People of the Philippines v. Louel Uy, et al.*, G.R. No. 158157, 30 September 2005.

80 See *Saturnina Galman, et al. v. Sandiganbayan, (First Division), et al.*, G.R. No. 72670, 12 September 1986.

81 See *Marwin B. Raya, et al., v. People of the Philippines*, G.R. No. 237798, 05 May 2021.

exception (*i.e.* when the prosecution was denied its day in court - or simply, denied due process).[82]

Here, in assailing the ruling of respondent court *a quo*, petitioner harps on its alleged erroneous reliance on judicial precedents invalidating tax assessments due to petitioner's failure to prove service of FAN/FLD to acquit private respondents. Petitioner also insists that respondent court *a quo* committed grave abuse of discretion in ruling (in the second assailed Order of petitioner's MR) that a failure to implead the statutory taxpayer, *i.e.*, R-Jell Marketing and Construction Company, is fatal to the subject criminal cases. From the foregoing, petitioner banks on errors or mistakes in the findings and conclusions of respondent court *a quo* or its alleged misapprehension of evidence with respect to the elements of the offense charged.

We agree with petitioner's contentions that respondent court *a quo* erred in granting the Demurrer to the extent that: (*i*) it held that an assessment is vital in the prosecution of a criminal offense; and, (*ii*) it did not acquire jurisdiction over private respondents due to the non-inclusion of the partnership R-Jell Marketing and Construction Company, as an accused in the Informations filed before the court.

On the first point, in *People of the Philippines v. Joel C. Mendez*[83], the Supreme Court has already clarified that in the prosecution of criminal offenses, a prior assessment is *not* required, to wit:

> ...
> ***Guidelines in the prosecution of criminal actions for violation of tax laws.***
>
> For the guidance of the bench and bar, the following rules shall govern the prosecution of criminal tax law violations and the corresponding civil liability for unpaid taxes:
>
> > (1) **When a criminal action for violation of the tax laws is filed, a prior assessment is not required. Neither a final assessment is a precondition to *collection* of delinquent taxes in the criminal tax case. The criminal action is deemed a collection case. Therefore, the government must**

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82 Id.
83 G.R. Nos. 208310-11, 28 March 2023; Italics and emphasis in the original text and supplied.

> **prove two things: *one*, the guilt of the accused by proof beyond reasonable doubt, and *two*, the accused's civil liability for taxes by competent evidence (other than an assessment).**
>
> (2) If *before* the institution of the criminal action, the government filed (1) a civil suit for collection, or (2) an answer to the taxpayer's petition for review before the CTA, the civil action or the resolution of the taxpayer's petition for review shall be suspended before judgment on the merits until final judgment is rendered in the criminal action. However, before judgment on the merits is rendered in the civil action, it may be consolidated with the criminal action. In such a case, the judgment in the criminal action shall include a finding of the accused's civil liability for unpaid taxes relative to the criminal case.

...

On the second point, in the more recent case of *Kingsam Express, Incorporation, et al. v. People of the Philippines*[84] *(*KEI*)*, the Supreme Court categorically declared that a juridical entity (being a legal fiction with no will of its own) need not be arraigned before its responsible officers may be prosecuted and held liable for the criminal acts committed –

...

> If the crime is committed by a corporation or other juridical entity, the directors, officers, employees or other officers responsible for the offense shall be charged and penalized for the crime. This is so since a corporation is a juridical entity created by law. It can act only through its board of directors or officers, in conformity with its articles of incorporation and by-laws. Consequently, **corporate officers or employees through whose act, default or omission the corporation commits a crime are themselves individually guilty of the crime.**
>
> However, a corporation, as a legal entity, cannot be arrested or imprisoned for it possesses no corporeal body. In the same manner, a corporation cannot be "arraigned" in the classical sense. As an artificial being existing by legal fiat, it does not have the faculty of cognition that triggers the constitutional right to be informed of the nature and cause of the charges against it; hence, the need to prosecute the responsible officers for the corporate criminal act.

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[84] G.R. No. 254086 (Notice), 07 September 2022; Citations omitted and emphasis supplied.

> With this in mind, We rule that KEI need not be arraigned separately since Santos, its president and responsible officer, was already arraigned. The arraignment of Santos is sufficient to put the corporation on notice that it is being prosecuted for a violation of the law.
>
> ...

However, even while we disagree with the disquisitions or holdings of the respondent court *a quo* on the foregoing matters, We are unable to consider these as falling under any of the instances that warrants the lifting of the protection against double jeopardy. In other words, despite the errors in the assailed Orders, these do not amount to grave abuse of discretion that, in turn, translate to an excess or absence of jurisdiction on the part of respondent court *a quo*.

It is equally propitious to point out that, notwithstanding the lapses mentioned, not every error in the trial or evaluation of the evidence by the court in question (that led to the acquittal of the accused in a criminal case) would merit the issuance of the writ of *certiorari*.

In the case of *Marwin B. Raya, et al v. People of the Philippines*[85], the Supreme Court held –

> ...
>
> Verily . . . 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*. Borrowing the words of the Court in *Republic v. Ang Cho Kio*, "[n]o error, **<u>however flagrant</u>**, 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."
>
> Applying the foregoing in the present case, there is no doubt that the right against double jeopardy and the finality-of-acquittal doctrine may be invoked. Raya and Borromeo were indicted on the basis of a valid criminal information filed before an RTC which had jurisdiction over the offense. Both of them were also arraigned, and pleaded not guilty to the charge. They were also effectively acquitted after the RTC granted their Demurrer. In *Sanvicente v. People*, the Court has categorically held that "once the court grants the demurrer,

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[85] Supra at note 81; Citations omitted, italics in the original text and emphasis supplied.

> such order amounts to an acquittal and **any further prosecution of the accused would violate the constitutional proscription on double jeopardy.**"
>
> The finality-of-acquittal rule thus applies, and it applies regardless of whether the Court, or any appellate court, believes that the particular accused should have been convicted. The Court, in *People v. Sandiganbayan*, elucidated:
>
> > When a defendant has been acquitted of an offense, the clause guarantees that the State shall not be permitted to make repeated attempts to convict him, 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.
>
> ....

In the above case, the Supreme Court highlighted an error in the grant of a demurrer of accused Raya and Borromeo. While holding that the demurrer should not have been granted in the first place, it deemed that the Court of Appeals (CA) was wrong in setting aside the trial court's order granting the demurrer. It found a breach of the prohibition against double jeopardy and finality-of-acquittal doctrine when the CA granted the petition for *certiorari* –

> ...
>
> At the outset, it is important to point out that the Court agrees with the CA at least to the extent that it held that the RTC should not have granted Raya and Borromeo's Demurrer.
>
> ...
>
> Clear from the foregoing is the RTC's complete lack of basis in granting the Demurrer. Not only did the police officers clearly testify as to the conduct of surveillance and the entrapment operation, it was likewise corroborated by one of the women who were being prostituted that night. It was manifest error therefore on the part of the RTC to focus on particular portions of the prosecution's evidence – instead of considering the totality of the evidence presented – and using these truncated portions as supposed bases for granting the Demurrer.
>
> Despite this error on the part of the RTC, however, **the CA should still not have granted the petition for *certiorari* filed by the People. This is so because "[c]*ertiorari* will issue only to**

> **correct errors of jurisdiction, and not errors or mistakes in the findings and conclusions of the trial court.**
>
> ...
>
> **Therefore, even if, as shown above, the RTC clearly erred in acquitting Raya and Borromeo by granting their Demurrer, the CA could not, and should not have, granted the petition for *certiorari* for this was in violation of their right against double jeopardy.**
>
> The grave abuses of discretion alleged by the People in its petition for *certiorari* constituted, in reality, **mere errors of judgment or misapprehension of evidence which do not justify the issuance of the writ of *certiorari*.** Ultimately, the CA erred in granting the petition for *certiorari* and reinstating the proceedings against Raya and Borromeo.[86]
>
> ...

Similarly, in *People v. CTA*[87], the Supreme Court emphasized that 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:

> ...
>
> ***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. Hence, the only recourse left is to assail the acquittal through a petition for *certiorari* under Rule 65 of the Rules of Court. 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."

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86 Supra at note 81.

87 Supra at note 62; Citations omitted, emphasis and italics in the original and underscoring supplied.

> ...
>
> 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. ...
>
> ...

In dismissing the petition for *certiorari* in *People v. CTA*[88], **the Supreme Court reiterated that no 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. Thus, *certiorari* will issue only to correct errors of jurisdiction, and not errors or mistakes in the findings and conclusions of the trial court.**[89]

With the foregoing disquisitions, this Court is constrained to uphold, as it unequivocally does, the constitutionally enshrined right of herein private respondents against double jeopardy.

WHEREFORE, premises considered, the Petition for *Certiorari* filed by petitioner People of the Philippines on 14 March 2023 is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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88 Supra at note 62.
89 Id.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice