

SECOND DIVISION

[G.R. No. 198589, July 25, 2012]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE
HONORABLE COURT OF APPEALS, FOURTH DIVISION AND
JULIETA G. ANDO, RESPONDENTS.**

R E S O L U T I O N

REYES, J.:

This is a petition for *certiorari* under Rule 65 of the Rules of Court filed by private complainant Willie Tee (Tee) from the Decision^[1] dated July 28, 2011 of the Court of Appeals (CA) in CA-G.R. CR No. 32680, the dispositive portion of which states:

WHEREFORE, premises considered, the instant petition is **GRANTED**. The November 6, 2008 and May 2, 2008 Decisions of the Regional Trial Court of Manila, Branch 34, and the Metropolitan Trial Court of Manila, Branch 26, respectively, are **REVERSED** and **SET ASIDE**, and the petitioner is **ACQUITTED** of the offenses charged.

SO ORDERED.^[2]

Respondent Julieta G. Ando (Ando) was convicted by the Metropolitan Trial Court of Manila (MeTC), Branch 26 of three (3) counts of Falsification of Public Documents under Article 172(1) in relation to Article 171(2) of the Revised Penal Code (RPC). In a Decision^[3] rendered on May 2, 2008, the MeTC found Ando guilty beyond reasonable doubt of making it appear that Tee's father, Tee Ong, who was the owner of To Suy Hardware, signed, executed and sworn a Deed of Sale, an Affidavit, and a Transfer of Rights on January 31, 1996. Ando's conviction was premised on the following factual findings: (i) Tee Ong was already dead at the time the allegedly falsified documents were executed and notarized on January 31, 1996; (ii) Ando was in possession of the allegedly falsified documents, giving rise to the presumption that she was responsible therefor; and (iii) Ando used the allegedly falsified documents to cause the transfer in her favor of the rights to the business name "TO SUY HARDWARE".^[4]

On appeal, Branch 34 of the Regional Trial Court (RTC) of Manila affirmed the MeTC's findings. In a Decision^[5] dated November 6, 2008, the RTC predicated Ando's guilt on the falsity of the subject documents as being undisputed and stipulated upon by the parties.^[6]

The CA gave due course to Ando's appeal and reversed the RTC Decision dated November 6, 2008. According to the CA, Ando deserves to be acquitted of the charges against her in view of the prosecution's failure to prove that the subject

documents were indeed falsified. Specifically, the prosecution did not present any expert witness or caused the examination of the subject documents to determine whether Tee Ong's thumb mark and signature were indeed forged. The CA found the lower courts to have erred in sweepingly concluding that the signatures on the Deed of Sale, Affidavit, and Transfer of Rights were forged on the basis of the undisputed fact that Tee Ong was already dead at the time that such documents were notarized on January 31, 1996. According to the CA the prosecution did not eliminate the possibility that Tee Ong may have signed the said documents before he died on December 15, 1995, thus, clouding Ando's supposed guilt with moral uncertainty. What the CA found as certain from the evidence of the prosecution is the notarization of the subject documents after Tee Ong's death and not the impossibility of Tee Ong's voluntary execution thereof before his death. Accordingly, it is the notary public who notarized the subject documents, not Ando, who should be held liable for any irregularities that may have attended the notarization. The execution and notarization of the subject documents are two (2) different acts and the irregularities attending their notarization do not necessarily affect the validity of their execution.

In this petition, Tee attributes grave abuse of discretion on the part of the CA, alleging that the latter has no reason to reverse the MeTC's and RTC's finding of guilt as the inconsistencies in Ando's statements and her possession and use of the subject documents prove beyond reasonable doubt that she was the one who forged Tee Ong's thumb mark and signature. There was likewise no necessity to produce an expert witness to determine if Tee Ong's thumb mark and signature were forged. That Tee Ong was already dead at the time the subject documents were executed and notarized coupled with Ando's use thereof to her benefit sufficed to conclude that there was forgery and that Ando was responsible therefor.^[7]

Tee claimed that he filed this Petition under the authority and supervision of the Office of the Solicitor General (OSG).^[8] Tee had also dispensed with the filing of a motion for reconsideration, claiming that the same has been rendered futile by the immediately executory nature and finality of an acquittal.^[9]

The OSG filed a Manifestation and Motion^[10] dated October 6, 2011, stating that it is adopting Tee's petition as its own.

Dismissal of this petition is inevitable in view of the principle of double jeopardy, making it unnecessary to address and extrapolate on the numerous factual issues raised by Tee against the CA's Decision dated July 28, 2011 and the procedural lapses Ando attributes to Tee. The mere fact that the decision being brought for this Court's review is one for acquittal alerts one's attention to a possible violation of the rule against double jeopardy.

In *People v. Hon. Tria-Tirona*,^[11] this Court reiterated that mistrial is the only exception to the well-settled, even axiomatic, principle that acquittal is immediately final and cannot be appealed on the ground of double jeopardy. This Court was categorical in stating that a re-examination of the evidence without a finding of mistrial will violate the right to repose of an accused, which is what is protected by the rule against double jeopardy.^[12]

This petition does not allege a mistrial and the sole challenge posed by Tee and the