THIRD DIVISION

**G.R. No. 216882 – MARILYN N. EVALLE,** Petitioner, **v. PEOPLE OF THE PHILIPPINES,** Respondent.

**Promulgated:**

FEB 19 2026

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## CONCURRING OPINION

**CAGUIOA, *J.*:**

I fully concur with the *ponencia*. I write only to share some thoughts regarding the application of the prohibition against double jeopardy in cases of simultaneous prosecutions.

To recall, what the State did in this case was take a single act and file two separate Informations against the same accused, both of which prospered and were taken to trial, leading to the present controversy.

The right against double jeopardy is enshrined under Article III, Section 21 of the 1987 Constitution which provides that "[n]o person shall be twice put in jeopardy of punishment for the same offense."[1] The provision is clear: it is a right that prohibits the State from ***putting a person in jeopardy twice*** for the same offense. In *Melo v. People*[2] (*Melo*), the Court said that:

> The rule of "double jeopardy" had a settled meaning in this jurisdiction at the time our Constitution was promulgated. It meant that when a person is charged with an offense and the case is terminated either by acquittal or conviction or in any other manner without the consent of the accused, the latter cannot again be charged with the **same or identical offense**. This principle is founded upon the law of reason, justice and conscience. It is embodied in the maxim of the civil law *non bis in idem*, in the common law of England, and undoubtedly in every system of jurisprudence, and instead of having specific origin it simply always existed. It found expression in the Spanish law and in the Constitution of the United States and is now embodied in our own Constitution as one of the fundamental rights of the citizens.[3] (Emphasis supplied)

It added that "[t]he phrase *same offense*, under the general rule, has always been construed to mean not only that the second offense charged is exactly the same as the one alleged in the first information, **but also that the**

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1 Article III, Section 21 provides:
Section 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 85 Phil. 766 (1950) [Per C. J. Moran, Second Division].

3 *Id.* at 768.

**two offenses are identical.**"[4] The Court in *Melo* alluded to the "same evidence test" used in the United States in determining the identical nature of offenses, whereby there is deemed to be "identity between the two offenses when the evidence to support a conviction for one offense would be sufficient to warrant a conviction for the other."[5] However, it added that the Rules of Criminal Procedure now has a more definite parameter in determining identity of offenses, namely, if the second offense is an attempt to commit the same or frustration thereof, or if the second offense necessarily includes or is necessarily included in the first offense.[6]

It must be emphasized, however, that the provisions of the Rules of Criminal Procedure do not set the metes and bounds of the right against double jeopardy. The Rules of Court are procedural rules meant to aid proceedings in courts, but it does not limit the Constitution nor does it prohibit the Court from further interpreting what the constitutional right means as cases come to it. It is for this reason that tests such as the "same evidence test" alluded to above exist in jurisprudence.[7]

In this case, for instance, the evidence presented to convict the accused for falsification of commercial documents in Branch 2, Municipal Circuit Trial Court in Cities, Olongapo City (MTCC) are the same evidence used to prove her guilt in the theft through falsification charge in Branch 4, Regional Trial Court, Olongapo City (RTC). Notably, the same photocopy of the check was presented in both trials, but the MTCC and the RTC differed merely on the issue of evidentiary weight to be given to the photocopy, which explains the difference in the outcome between the two cases. Thus, while it is arguable that "falsification of commercial documents" and "theft through falsification" are not the ***same*** offenses, they are, in the context of this case, ***identical***

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4 *Id.* (Italics in the original, emphasis supplied)

5 *Id.*

6 *Id.* at 768–769. *See also* Rule 117, Section 7 of the Rules of Criminal Procedure:

> Section 7. *Former Conviction or Acquittal; Double Jeopardy.* — When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.
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> However, the conviction of the accused shall not be a bar to another prosecution for an offense which necessarily includes the offense charged in the former complaint or information under any of the following instances:
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> (a) the graver offense developed due to supervening facts arising from the same act or omission constituting the former charge;
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> (b) the facts constituting the graver charge became known or were discovered only after a plea was entered in the former complaint or information; or
>
> (c) the plea of guilty to the lesser offense was made without the consent of the prosecutor and of the offended party except as provided in section 1(f) of Rule 116.
>
> In any of the foregoing cases, where the accused satisfies or serves in whole or in part the judgment, he shall be credited with the same in the event of conviction for the graver offense.

7 *See Melo v. People*, *supra* note 2. *See also* J. Regalado, Concurring and Dissenting Opinion in *People v. Quijada*, 328 Phil. 505, 561–590 (1996) [Per J. Davide, Jr., *En Banc*], as joined by C.J. Narvasa and JJ. Romero, Puno, Vitug, Kapunan, and Mendoza.

offenses. The acquittal in one thus correctly barred the other on the ground of double jeopardy.

As a final note, however, I would like to go a step further and say that not only does the outcome of one bar the other, but the filing itself of one should have already barred the other. After all, the constitutional prohibition calls upon the State not to put the same person twice in jeopardy for the same offense. The mere act of filing a case, followed by an arraignment therein, already constitutes the first jeopardy. Therefore, it is not necessary that the first case be concluded before the filing of another case for the same offense is barred. As the Court in *People v. Diaz*[8] reminds: "[a] defendant should not be harassed with various prosecutions based on the same act by splitting the same into various charges, all emanating from the same law violation, when the prosecution could easily and well embody them in a single information."[9]

Based on these premises, I vote to **GRANT** the Petition and **ACQUIT** petitioner Marilyn N. Evalle.

**ALFREDO BENJAMIN S. CAGUIOA**
Associate Justice

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8 94 Phil. 714 (1954) [Per J. Montemayor, *En Banc*].
9 *Id.* at 718.