MARILOU ALMADEN, CIPRIANO LUSPO, MORLY STEWART NUEVA, HAROLD JAMES NUEVA, NORBERT VIDANES, AND MEL FELICIANO, PETITIONERS, VS. HON. LEILI CRUZ SUAREZ, AS ACTING PRESIDING JUDGE ...

Ponente: PERALTA, JR., E. B., J.

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PERALTA, JR., E. B., J.:

What spawned constitutional and procedural questions aired before Us by petitioners, through Rule 65, was the legal aftermath of the stampede during the first anniversary episode of the defunct “Wowowee” noontime game show of ABS-CBN Corporation at the Philippine Arena on February 4, 2006.

In a nutshell, when an assessment of probable cause against petitioners was determined over an indictment for Reckless Imprudence Resulting in Multiple Homicide and Multiple Physical Injuries, petitioners pressed for the dismissal of the charge but the trial court was not convinced.[1]

We now plow through some significant details of the backdrop.

Following the unfortunate headlong rush of people during the incident in question, an Investigating Panel was formed by the Department of Justice (DOJ) to conduct a preliminary investigation for reckless imprudence resulting in multiple homicide and multiple physical injuries. In its Resolution of October 9, 2006, the Investigating Panel found probable cause and recommended the filing of the Information against petitioners.[2] The case was raffled to RTC, Branch 261, Pasig on July 3, 2008.[3]

Resolving petitioners' Motion for Determination of Probable Cause, then Presiding Judge, now Justice Agnes Reyes-Carpio of this Court, issued an Order on December 2, 2008 which dismissed the criminal case against accused Ma. Rosario Santos-Concio, Ma. Socorro Vidanes, Engr. Jesus Bolardo and Erlinda Reis for lack of probable cause and suspended proceedings relative to the remaining co-accused, who were production staff or security of Wowowee, pending completion of the investigation by the DOJ on the alleged culpability of the public officials charged for the same offense,[4] thusly:

> WHEREFORE, in view of the foregoing, the Court finds no probable cause against accused Ma. Rosario Santos-Concio, Ma. Socorro Vidanes, Engr. Jesus Belardo and Erlinda Reis. Accordingly, the instant case is hereby DISMISSED against them.
>
> As to the other accused, the proceedings in this case are hereby SUSPENDED pending the completion of the DOJ investigation on the possible culpability of the other public officials who are charged for the same offense.
>
> SO ORDERED. (Emphasis Supplied)[5]

To cause a similar jettison of the charge, petitioners filed a Motion for Partial Reconsideration of the foregoing Order on January 20, 2009,[6] which was denied by the trial court per its May 29, 2009 Order.[7] The Order of May 29, 2009 also directed the completion of the preliminary investigation for the public officials within thirty

days.[8]

While preliminary investigation on the alleged culpability of some of the accused was pending, the trial court issued its February 11, 2010 Order, pertinent portions of which are reproduced:[9]

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>
> On July 23, 2009, Prosecutor Dennis Pastrana, in a written manifestation, requested for an extension of time "until such matter shall have been clarified." The request was granted in an Order, dated July 20, 2009. To date, Prosecutor Pastrana has not advised this Court regarding the matter of the preliminary investigation.
>
> At any rate, the prosecution was given more than ample time to conduct further investigation on the alleged culpability of some persons, including certain public officials, not named in the pertinent Amended Information xxx
>
> At the same time, the pendency of such preliminary investigation, does not preclude the Court from proceeding with the hearing of this case. After all, a valid Amended Information against herein accused had been filed and the Court had acquired jurisdiction over the subject matter of this case, insofar as said accused are concerned.
>
> xxx
>
> In light of all the foregoing, the Court may now proceed to hear this case.
>
> WHEREFORE, finding probable cause against herein accused, set their arraignment on March 3, 2010.
>
> xxx

Aggrieved by the Office of the Pasig City Prosecutor's failure to promptly conduct the preliminary investigation, petitioners filed an Omnibus Motion on August 10, 2010 based on their rights to a speedy disposition of the case, to equal protection, due process and an impartial trial. In the alternative, petitioners moved for the quashal of the Information because the facts charged therein do not constitute an offense.[10]

On October 8, 2010, or after almost two years from the directive to complete the preliminary investigation, and four years after the preliminary investigation started, the Pasig prosecutor's office issued its Resolution which absolved the public officials involved in the case.[11]

In her December 15, 2010 Order, Judge Leili Cruz Suarez rejected petitioners' pleas for the dismissal of criminal case ratiocinating that the delay in the conduct of the preliminary investigation was justified.[12] Judge Suarez likewise denied petitioners' alternative prayer to quash the Information and ordered the arraignment of petitioners on February 9, 2011.[13] In their Motion (with Urgent Motion to Defer Arraignment) dated January 18, 2011, petitioners moved for reconsideration of the December 5, 2010 Order, reinvestigation and deferment of arraignment.[14] A Supplement to the Motion was filed by petitioners on January 26, 2011.[15]

On May 5, 2011, the RTC issued its Order which denied petitioners' Motion and its Supplement thereto and re-scheduled the arraignment on June 29, 2011 at 8:30 in the morning.[16]

Hence, the instant recourse was utilized to impute grave abuse of discretion on the part of the trial court:[17]

> ... IN REFUSING TO DISMISS THE CRIMINAL CASE FOR VIOLATION OF THE PETITIONERS' RIGHT TO SPEEDY DISPOSITION OF CASES
>
> ... IN FAILING TO QUASH THE INFORMATION

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THIS COURT'S RULING:

On the First Issue: Right to Speedy Disposition of Cases

Petitioners claimed that their right to speedy disposition of cases was transgressed because of the unjustified delay in the conduct of the preliminary investigation. According to petitioners, there was manifest delay in the prosecution of the case when the Pasig prosecutor's office failed to comply with the December 2, 2008 Order, relative to the completion of the preliminary investigation against the local public officials. Petitioners asserted that, as early as June 18, 2009, Prosecutor Dennis Pastrana was designated to handle the preliminary investigation of the case. Instead of proceeding therewith, Prosecutor Pastrana sought clarification from the DOJ as to who should conduct the preliminary investigation. On February 4, 2010, Chief State Prosecutor Jovencito R. Zuño directed the Pasig prosecutor's office to proceed with the preliminary investigation.[18]

The preliminary investigation was resumed only on August 6 and 13, 2010[19] and it was concluded only on October 8, 2010, or almost two (2) years subsequent to the issuance of the December 2, 2008 directive.[20]

We resolve against petitioners.

The right to speedy disposition of cases, like the right to speedy trial, is violated only when the proceedings are attended by vexatious, capricious and oppressive delays. In the determination of whether said right has been violated, particular regard must be taken of the facts and circumstances peculiar to each case. The conduct of both the prosecution and the defendant, the length of the delay, the reasons for such delay, the assertion or failure to assert such right by the accused, and the prejudice caused by the delay are the factors to consider and balance. A mere mathematical reckoning of time involved would not be sufficient.[21]

In the instant case, other than the fact that it took the Investigating Panel one and a half (1½) years from the December 2, 2008 Order to complete the preliminary investigation of the case[22] supposedly due to redundant clarifications of the Pasig prosecutor's office as to who shall conduct the preliminary investigation,[23] petitioners failed to show that the delay was oppressive and vexatious.

Although petitioners adamantly claimed that it was the clarifications sought by the Pasig prosecutor's office which prompted the delay in the resolution of the case, the record, however, was bereft of copies of the alleged clarifications sought by the Pasig prosecutor and confirmations from the DOJ for the Pasig prosecutor's office to proceed with the investigation of the case,[24] which data could have aided this Court in evaluating petitioners' assertion of unjustified delay.

It can hardly be ignored, too, that the criminal action against petitioners was spawned by a stampede that resulted in the death of seventy-one (71) persons and injuries to more than eight hundred (800) persons.[25] Hence, to expect the prosecution arm to wind up its evaluation within the 30-day period to resolve the preliminary investigation of the case, per the December 2, 2008 Order, would amount to a tall Order, so to speak, in the light of the sheer volume of hapless victims and the record therefor. Citing Francisco Guerrero v. Court of Appeals, et al. [26] the Supreme Court in Dansal v. Fernandez et al.,[27] declared:

> The preliminary investigation in subject cases against the petitioners took more than one year and four months to finish. But such a happenstance alone, or any like delay, for that matter, should not be cause for an unfettered abdication by the court of its duty to try cases and to finally make a determination of the controversy after the presentation of evidence. In Francisco Guerrero vs. Court of Appeals, et al., the Court had this to say:
> "While this Court recognizes the right to speedy disposition quite distinctly from the right to a speedy trial, and although this Court has always zealously espoused protection from oppressive and vexatious delays not attributable to the party involved, at the same time, we hold that a party's individual rights should not work against and preclude the people's equally important right to public justice. In the instant case, three people died

> as a result of the crash of the airplane that the accused was flying. It appears to us that the delay in the disposition of the case prejudiced not just the accused but the people as well. Since the accused has completely failed to assert his right seasonably and inasmuch as the respondent judge was not in a position to dispose of the case on the merits due to the absence of factual basis, we hold it proper and equitable to give the parties fair opportunity to obtain (and the court to dispense) substantial justice in the premises."

The protection under the right to a speedy disposition of cases should not operate as to deprive the government of its inherent prerogative in prosecuting criminal cases or generally in seeing to it that all who approach the bar of justice be afforded a fair opportunity to present their side.

Moreover, from the factual circumstances of this case, it was apparent that petitioners had a hand in the sluggish resolution of their case. It may be recalled that the Information against petitioners was filed sometime in July, 2008.[28] Thereafter, petitioners filed a Motion for Determination of Probable Cause.[29] On December 2, 2008, then Presiding Judge Agnes Reyes-Carpio issued an Order which dismissed the case against some of the accused and deferred court proceedings insofar as the remaining co-accused pending determination by the DOJ of the possible culpability of the accused public officials.[30]

Petitioners then filed a Motion for Partial Reconsideration thereto on January 20, 2009[31] but it was denied by the trial court in its Order of May 29, 2009.[32] In the same Order, the trial court justified the suspension of the proceedings, ratiocinating thusly:[33]

> xxx
> Hence, the Court believes that it would be more prudent to suspend the proceedings in this case pending the final resolution of the investigating prosecutor. To proceed with the trial of this case without waiting for the final resolution of the investigation as to the other accused public officials may result in a great probability that some facts or evidence may be overlooked or misapplied by the Court and would alter the result of the case later on. Orderly procedure must be followed if injurious surprises and annoying delays in the administration of justice are to be avoided. Evidence cannot be given piecemeal. Thus, the accused later on cannot claim that they were denied of their right to a preliminary investigation.

Subsequently, on October 8, 2010, the Pasig prosecutor’s office issued its Resolution which absolved the local public officials.[34] After rejection by the trial court of petitioners' Omnibus Motion dated August 10, 2010 and the court's schedule for petitioners' arraignment on February 9, 2011,[35] petitioners once more filed a Motion (with Urgent Motion to Defer Arraignment) dated January 18, 2011 on January 19, 2011[36] and a Supplement thereto on January 26, 2011.[37] When the trial court, in its May 5, 2011, denied both Motions and re-scheduled petitioners' arraignment from February 9, 2011 to June 29, 2011,[38] petitioners sought recourse with this Court by filing the instant Petition with prayer for the issuance of a Temporary Restraining Order and Preliminary Injunction.[39]

Certainly, on account of the several Motions and other pleadings prior to the slated arraignment, petitioners, themselves, partly contributed to the delay in the prosecution and resolution of the subject criminal action. It was clear that the trial court was bent in pursuing the arraignment of petitioners, as shown by its February 11, 2010 Order,[40] December 15, 2010 Resolution[41] and May 5, 2011 Order,[42] which proceeding could have actually progressed were it not for petitioners' efforts to impugn them.

Neither can it be conveyed that petitioners timely asserted their right to speedy disposition of their case. As aptly observed by the trial court:[43]

> xxx More importantly, the Court also observed that accused slept on their right to invoke the speedy disposition of their case. Based on the records, the Order to conduct further preliminary investigation was issued in 2008 and nothing was heard from the accused on their alleged right to speedy disposition of cases,

> but it was only when this Court set the case for arraignment that they invoked such right. And even then, accused, despite several settings for arraignment, has not been arraigned due to the filing of several motions one after the other. If, indeed, accused is desirous of invoking their right to speedy disposition of their case, the remedy is to go to trial and present their evidence.

While petitioners claimed that they promptly asserted their right to speedy disposition of their case when they filed a Motion for Partial Reconsideration of the Order dated December 2, 2008,[44] Our perusal thereof, however, did not yield such exculpation. A contrario, what was cited on petitioners' Motion for Partial Reconsideration, as an argument for the dismissal of the criminal case against petitioners, was the prosecution's failure to establish probable cause against them.[45]

Second issue: Quashal of the Information

Per this Court's scrutiny, the record of the case was mute with respect to the copy of the Information against petitioners for reckless imprudence resulting in multiple homicide and multiple physical injuries. On account of such hiatus, and prescinding simply from the assumption that pertinent excerpts of the Information,[46] as echoed on the body of Petition for Certiorari were accurate, We concur with the Office of the Solicitor General's perception that the Information was sufficient to sustain an indictment for reckless imprudence. In particular, relevant portions of the Information against petitioners, as quoted on the subject Petition, alleged:[47]

> That on February 4, 2006, or thereabout, on the occasion of the first anniversary show of “Wowowee”, a daily noontime television variety/game, at the Philsports Arena (formerly known as ULTRA), in Pasig City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully, criminally, and with reckless imprudence, do or fail to do an act which resulted in the stampede that caused the death of seventy-one (71) victims, xxx and physical injuries to several others xxx by reason of the inexcusable lack of reasonable care, precaution, vigilance and due reflection on the part of the above-name(sic) accused, taking into consideration their employment or occupation, degree of intelligence, as well as the physical condition and other circumstances regarding persons, time and place obtaining at that time, more particularly, to wit: accused MARILOU ALMADEN, CIPRIANO “Rene” LUSPO, MORLY STEWART NUEVA, HAROLD JAMES NUEVA, REY CAYABYAB, FRANCISCO B. RIVERA and JEAN OWEN ERCIA, being members either of the security or production staff of “Wowowee”, despite having reasonably expected a massive audience turnout of around 30,000 people, did then and there, willfully, unlawfully and criminally, fail to exercise reasonable care and precaution in the management and control of the crowd converged at the ULTRA, as in fact the above-named accused failed to come up with any adequate plan, provision or arrangement for crowd management and control, and despite having reasonably foreseen the likelihood of a stampede considering the circumstances of persons, time and place obtaining at that time, the above-named accused did then and there willfully, unlawfully and feloniously fail to exercise reasonable care and precaution to avoid the impending harm and injury, in reckless disregard of the safety of the viewing public; xxx accused NORBERT VIDANES and MEL FELICIANO, being respectively, the director and assistant director of Wowowee's first anniversary show knowing fully well of the limited capacity of the venue as well as of the crow's (sic) perilous build up outside ULTRA, did then and there willfully, unlawfully, feloniously, and in reckless disregard of the safety of the public, fail to exercise reasonable care and precaution to avoid any harm or injury to the public; xxx

It is hornbook precept in criminal law that reckless imprudence consists of voluntarily doing or failing to do, without malice, an act from which material damage results by reason of an inexcusable lack of precaution on the part of the person performing or failing to perform such act.[48]

As preconditions for the felony referred to in Article 365 of the Revised Penal Code, the quasi-offense contemplates that: (1) the offender does or fails to do an act; (2) the doing of or failure to do that act is voluntary; (3) it be without malice; (4) material damage results; (5) there is inexcusable lack of precaution on the part of the

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offender, taking into consideration: (a) his employment or occupation; (b) degree of intelligence, physical condition; and (c) other circumstances regarding persons, time and place.[49]

In Cabrera v. Sandiganbayan,[50] We reiterate that the fundamental test in determining the adequacy of the averments in an Information is whether the facts alleged, if hypothetically admitted, would establish the essential elements of the crime. Matters extrinsic or evidence aliunde should not be considered.[51]

Clearly, the foregoing averments as depicted on the Information, if hypothetically admitted, will suffice for reckless imprudence. Petitioners' assertions that the alleged material damages that resulted from the stampede occurred outside the ULTRA and that it was the local public officials' failure to maintain peace and order in the area which directly caused the stampede[52] will not necessarily exempt petitioners from the indictment inasmuch as such ideas are better ventilated in a full-blown trial. As underscored by the trial court, and to which We concur:[53]

> xxx Assuming for the sake of argument that, indeed, the crime happened outside ULTRA, as claimed by the accused, this fact alone does not absolve them from liability. Further evidence must be adduced to determine their participation before, after and during the stampede as records show that they were fully aware of the growing number of people gathered outside the ULTRA a few hours before the occurrence of the stampede.

Withal, petitioners' theory that it was the failure of the public officials to maintain peace and order in the area which directly caused the stampede[54] had been rendered moot in view of the Resolution dated October 8, 2010 of the Assistant City Prosecutor Robinson A. Landicho of the Office of the City Prosecutor, Pasig City, which exonerated the public officials involved:[55]

> "...xxx
>
> "WHEREFORE, it is resolved that the complaint against Former Pasig City Mayor Vicente Eusebio, Former Pasig City Police Chief P/Supt. Raoul Z. Medina, Former Pasig City Police Community Precint 15 Station Commander P/Insp. Henry N. Asuela, Former Chief Pasig City Traffic and Parking Management Office P/Insp. Khaddafy Bitor, Former Philsports Complex Security Coordinator Eugenio Cabingas, and Barangay Oranbo, Pasig City Chairman Richard Pua be DISMISSED due to insufficiency of evidence."
>
> WHEREFORE, in view of the foregoing, the instant Omnibus Motion is hereby DENIED for lack of merit.
>
> Set the arraignment of the accused on February 9, 2011.
>
> SO ORDERED."

Jurisprudence has defined grave abuse of discretion amounting to lack or excess of jurisdiction in this wise:[56]

> Grave abuse of discretion is defined as capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.[57]

On the basis of Our discourse, petitioners' disquisition was inadequate to denigrate the disputable inference of lawful exercise of the faculty conferred upon magistrates[58] when it expressed apathy towards dismissal of the criminal case against petitioners.

WHEREFORE, by reason of the foregoing premises, the Petition for Certiorari dated June 27, 2011 is hereby DISMISSED.

SO ORDERED.

Reyes, Jr. J.C., Chairperson, and Acosta, F. P., JJ., concur.

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[*] Per Office Order No. 15-15-ABR dated January 20, 2015 effective February 2, 2015.

[1] Rollo, pp. 41-46, 47-49.

[2] Id., pp 7-8.

[3] Id., page 8.

[4] Id., page 9.

[5] See December 2, 2008 Order, Rollo, page 61.

[6] Rollo, page 9; See also Motion for Partial Reconsideration, Rollo, pp. 62-84.

[7] Ibid.; See also May 29, 2009, Rollo, page 91.

[8] Rollo, page 91, xxx

> "(3) REMAND the case to the Office of the City Prosecutor/DOJ Panel to complete the conduct of preliminary investigation within thirty (30) days from receipt of this Order.
>
> SO ORDERED.

[9] See Order dated February 11, 2010, Rollo, pp. 169-170.

[10] Rollo, pp. 10-11; See Omnibus Motion, Rollo, page 92.

[11] Id., page 11.

[12] See Order dated December 15, 2010, Rollo, pp. 42-44

[13] Rollo, page 11, See also Rollo, page 46.

[14] Rollo, page 11; See also Motion (with Urgent Motion to Defer Arraignment) dated January 18, 2011, Rollo, pp. 109-130.

[15] Rollo, pp. 133-137.

[16] Rollo, page 11, See also Order dated May 5, 2011, Rollo, pp. 47-49.

[17] Rollo, page 12.

[18] Rollo, page 15.

[19] See Order dated May 5, 2011, Rollo, page 47, "On February 4, 2010, the DOJ directed the OCP-Pasig to proceed with the preliminary investigation, and the preliminary investigation was resumed only on August 6 and 13, 2010, or two years from the issuance of the Court's Order, (sic) dated December 2, 2008."

[20] Rollo, page 11.

[21] Ong v. Sandiganbayan et al., G.R. No. 146368-69, October 18, 2004.

[22] See Petition, Rollo, page 10, "At this point, the resultant delay in the completion of the investigation amounted to almost (4) years from the time the Investigating Panel resolved to file the Information against the

Petitioners, or one and a half (1 ½ years) from the 2 December 2008 Order."

[23] Rollo, page 10.

[24] Id., page 10.

[25] See Petition, Rollo, page 7; See also Petition citing pertinent portions of the Information charging petitioners with reckless imprudence resulting in Multiple Homicide and Multiple Physical Injuries, as defined and penalized under Rule 365, in relation to Articles 249, 263 265, and 265 of the Revised Penal Code, Rollo, pp. 8-9.

[26] 257 SCRA 703, 716.

[27] G.R. No. 126814, March 2, 2000.

[28] See Petition, Rollo, page 8, "On 3 July 2008, after almost two years from the time the Investigating Panel recommended the filing of the Information, the Criminal Case was raffled to Branch 261 of RTC- Pasig".

[29] See Order dated December 2, 2008, Rollo, page 50, "For resolution is the "Motion for Determination of Probable Cause" filed by the accused, through their respective counsels. (See Footnote 1 Motion to Determine Probable Cause [With Prayer to Hold in Abeyance Issuance of Warrant of Arrest] filed by the accused Ma. Rosario Santos- Concio ("Charo Santos-Concio" sic and Ms. Socorro V. Vidanes ("Cory Vidanes") dated July 14, 2008, Motion [for Determination of Probable Cause] filed by the accused Marilou Almaden, Cipriano Luspo, Morly Stewart Nueva, Harold James Nueva, Norbert Vidanes, Francisco Rivera, Mel Feliciano and Jean Owen Erica dated July 17, 2008; Manifestation filed by accused Rosenbar O. Villoria and Chito Payumo dated July 21, 2008; Motion to Suspend Arraignment with Manifestation filed by the accused Rey Cayabyab dated August 5, 2008 and Motion to Adapt filed by the accused Rosenbar O. Villoria and Chito Payumo dated August 11, 2008.)

[30] See Order dated December 2, 2008,Rollo, page 61, "WHEREFORE, in view of the foregoing, the Court finds no probable cause against accused Ma. Rosario Santos- Concio, Ma. Socorro Vidanes, Engr. Jesus Belardo and Erlina Reis. Accordingly, the instant case is hereby dismissed against them.

As to the other accused, the proceedings in this case are hereby SUSPENDED pending the completion of the DOJ investigation on the possible culpability of the other public officials who are charged for the same offense.

SO ORDERED." (Emphasis Supplied)

[31] Rollo, page 62.

[32] Id., page 91.

[33] Id., page 90

[34] As cited in petitioners' Petition, Rollo, page 11, "On October 8, 2010, or almost two years from the directive to complete the preliminary investigation and four (4) years after the preliminary investigation started, OCP-Pasig issued its Resolution absolving the public officials and finding no probable cause against them."

[35] See Order dated December 15, 2010, Rollo, page 46, "WHEREFORE, in view of the foregoing, the instant Omnibus Motion is hereby DENIED for lack of merit.

Set the arraignment of the accused on February 9, 2011."

[36] Rollo, page 109.

[37] Id., page 133.

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[38] See Order dated May 5, 2011, Rollo, page 49, “WHEREFORE, in view of the foregoing, the “Motion” and “Supplemental Motion” are hereby DENIED for lack of merit. Set the arraignment of the accused on June 29, 2011 at 8:30 o'clock in the morning.

SO ORDERED.”

[39] See Petition, Rollo, page 11.

[40] Rollo, page 170.

[41] Id., page 46.

[42] Id., page 49.

[43] See Order dated December 15, 2010, Rollo, pp. 43-44.

[44] See Petition, Rollo, page 17, “Lastly, the Petitioners cannot be faulted for belatedly invoking their right to speedy disposition of cases, Contrary to Judge Suarez's ruling, the Petitioners promptly invoked their right. As discussed, above, the petitioners filed a Motion for Partial Reconsideration. It would have been improper for the Petitioners to raise the matter of speedy disposition of cases during the pendency of said motion.”

[45] Rollo, pp. 63-80.

[46] See Petition, Rollo, pp. 18-19.

[47] See Petition, Rollo, pp. 18-19.

[48] Jarcia Jr, et al. v. People, G.R. No. 187926, February 15, 2012.

[49] Reyes, Revised Penal Code, Book Two, Sixteenth Edition, 2006, page 1003.

[50] 484 Phil. 350 (2004) as cited in People v. Balao, G.R. No 176819, January 26, 2011.

[51] People v. Balao G.R. No. 176819, January 26, 2011.

[52] See Petition, Rollo, page 22, “In the Criminal Case, the material damage resulted from the stampede which occurred outside the ULTRA. However, the Information fails to allege Petitioners' act or failure to act that directly caused the stampede. The stampede happened, not for the lack of any plan for crowd management, but because of the failure of the local government of Pasig, as well as its local enforcement agency, to maintain peace and order in the area. It is the failure of the public officials to maintain peace and order in the area which directly caused the stampede to occur. Hence, the allegations in the Information do not consitute the elements of the offense charge.”

[53] See Order dated May 5, 2011, Rollo, page 49.

[54] See Petition, Rollo, page 22.

[55] As cited in the Order dated December 15, 2010, Rollo, pp. 45-46.

[56] Ysidoro v. Hon. Leonardo-De Castro et al., G.R. No. 171513, February 6, 2012 also People v. First Division of the Sandiganbayan, G.R. No. 190963, February 6, 2012.

[57] Ibid., citing Ganaden, et al. v. Court of Appeals, G.R. Nos. 170500 and 170510-11,June 1, 2011.

[58] Section 3 (m) (n), Rule 131, Revised Rules on Evidence.

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