

(RET.) P/SUPT. ANER J. TADEOS, PETITIONER, VS. HON. ARTHUR O. MALABAGUIO, PSI RICARDO V. MUÑOZ AND PO2 LAURENCE LAO-AY LICLIC, RESPONDENTS.

Ponente: LOPEZ, J.

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LOPEZ, J.:

Petitioner Aner Tadeos was charged with two cases of simple estafa, docketed as Criminal Case Nos. Q-03-122021 and Q-04-124548, and with violation of the Securities Regulation Code (R.A. 8799) docketed as Criminal Case No. Q-04-124549. The three cases, though eventually consolidated, have different antecedents.

Records show that for Criminal Case No. Q-03-122021, the Regional Trial Court (RTC) of Quezon City issued an Order on October 19, 2005 remanding the case to the City Prosecutor for Preliminary Investigation. Probable cause was found against Tadeos and he asked for reconsideration of the City Prosecutor's findings. The motion was denied. Tadeos then filed a petition for review before the Department of Justice (DOJ).[1] While the petition is pending, Tadeos filed a motion to defer the proceedings before the trial court on May 30, 2007. The motion was granted in the trial court's June 22, 2007 Order.[2]

For Criminal Case No. Q-04-124548, the Amended Information was filed on October 24, 2005 before the RTC of Quezon City, Branch 98.[3] Tadeos alleged that the prosecutor filed a Motion to Admit Amended Information on February 27, 2006 and a Motion to Revive Case on March 10, 2006.[4] While these were pending, Tadeos filed on August 26, 2006 a "Special Appearance with Omnibus Motion to Reset Hearing (due to Conflict in Court Schedule of Counsel), Motion to Defer Proceedings (because of pendency of Motion for Reconsideration with the City Prosecutor), and Motion for Reconsideration (to the Order reviving case)".[5] Subsequently, as in Criminal Case No. Q-03-122021, Tadeos filed a motion to defer the proceedings before the trial court because of a petition for review before the DOJ. The motion was granted on June 22, 2007.[6]

For Criminal Case No. Q-04-124549, the Amended Information[7] was filed on February 11, 2004, before the RTC of Quezon City, Branch 93, charging Tadeos and his former wife Proserfina Tadeos of violating Section 8 of R.A. 8799[8]. Tadeos was arraigned and pleaded "not guilty" on May 17, 2005.[9] On June 20, 2005, Tadeos filed a Motion to Dismiss claiming that the Securities and Exchange Commission (SEC) has jurisdiction over the case. The motion was denied in the trial court's July 26, 2005 Order. Tadeos moved for reconsideration which was likewise denied.[10] Pre-trial was conducted on November 9, 2005.[11] Tadeos filed a second motion to dismiss on February 8, 2006, reiterating that the trial court has no jurisdiction and adding that the Amended Information was void for vagueness. On May 9, 2006, the trial court issued an order denying the motion.[12] Tadeos filed a Motion for Reconsideration (MR).[13] On June 21, 2006, the trial court issued an Order submitting the MR for resolution.[14]

Subsequently, the three cases were consolidated at the RTC of Quezon City, Branch 93.[15] On October 11 and November 9, 2011, Tadeos filed a Status of Cases reminding the trial court of the petitions for review pending before the DOJ in Criminal Case Nos. Q-03-122021 and Q-04-124548, and of the pending MR in Criminal Case

No. Q-04-124549. Since “no activity has occurred over a long period of time”[16], Tadeos filed a Motion to Dismiss the Cases Provisionally on March 6, 2012.[17]

On March 18, 2013, Tadeos filed a motion to inhibit Prosecutor Kathleen dela Cruz Espinosa from appearing as public prosecutor. According to Tadeos, Prosecutor Espinosa failed to probe the prosecution evidence for weaknesses and was indifferent to factors that can lead to wrongful conviction.[18]

On March 19, 2013, the RTC issued an Order denying Tadeos' motions to dismiss and setting the cases for trial, to wit:

Counsel for the accused likewise informed the Court that the Motion to Reconsider the Motion to Dismiss (Based on Lack of Jurisdiction) filed on July 15, 2006 has not yet been ruled upon by the Court. To expedite the proceedings, the Court hereby Denies the same, considering that the arguments raised by the defense have already been passed upon by the Court in its previous Order denying the same.

With regard to the Motion to Dismiss previously filed by the accused before this Court on March 6, 2012, the Court hereby Denies the same on the ground that the delay in the proceedings of this Court could not have been averted as suspension of the proceedings had to be made due to the motions and other pleadings filed by the accused pertaining to the different petitions for review lodged with the DOJ concerning cases tried jointly by this Court.

With respect to the Motion to Inhibit The Assigned Public Prosecutor filed by the defense on March 18, 2013, ACP Kathleen dela Cruz Espinosa is hereby given a period of five (5) days from today to submit comment thereto.

Set these cases for hearing on April 30, 2013 at eight-thirty o'clock in the morning.

SO ORDERED.[19]

On April 15, 2013, the RTC issued an Order denying Tadeos' motion to inhibit Prosecutor Espinosa, viz:

There is no valid and cogent reason for this Court to grant the motion filed by the accused. There is no legal fiat that this Court could pass upon the propriety of such motion to inhibit the trial prosecutor. To rule otherwise would be tantamount to an unauthorized interference by this Court with the Office of the City Prosecutor's prerogative to appoint the Trial Prosecutor for this Court. The motion to inhibit the trial prosecutor should have been filed with the Office of the City Prosecutor and not before this Court.

WHEREFORE, in view of the foregoing, the Motion to Inhibit Fiscal Kathleen Dela Cruz Espinosa from appearing as Public Prosecutor in these cases against the accused is hereby DENIED for lack of merit.

SO ORDERED.[20]

Tadeos then filed this petition for certiorari, under Rule 65 of the Rules of Court, imputing grave abuse of discretion upon the trial court for: (1) denying his motions to dismiss in contravention with his right to speedy trial; (2) refusing to dismiss Criminal Case No. Q-04-124549 even though the Information is void for vagueness; and (3) denying his motion to disqualify the public prosecutor for manifest bias and partiality on the excuse that it is the City Prosecutor's prerogative to appoint the trial prosecutor.[21]

Section 16, Article III of the Constitution provides that all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial or administrative bodies. This right, like the right to a speedy trial, is deemed violated when the proceedings are attended by vexatious, capricious, and oppressive delays.[22] A mere mathematical reckoning of the time involved is not sufficient. The doctrinal rule is that in the determination of whether that right has been violated, the factors that may be considered and balanced are the length of the delay,

the reasons for the delay, the aggrieved party's assertion or failure to assert such right, and the prejudice caused by the delay.[23] Here, petitioner Tadeos' right to the speedy disposition of his cases was violated.

In Criminal Case Nos. Q-03-122021 and Q-04-124548, after the Amended Informations were filed, the trial court issued an Order on June 22, 2007 deferring the proceedings for the two cases because petitions for review were pending before the DOJ. Hence, in both cases, the petitioner's arraignment was suspended.[24] While the pendency of a petition for review is a ground for suspension of the arraignment, Section 11, Rule 116 of the Rules of Court limits the deferment of the arraignment to a period of 60 days reckoned from the filing of the petition with the reviewing office. After the expiration of the period, the trial court is bound to arraign the accused or to deny the motion to defer arraignment.[25] It is now 2014 and the petition is still pending at the DOJ. In other words, seven years have lapsed since the petition for review was filed before the DOJ and petitioner is yet to be arraigned in the two simple estafa cases. No explanation was given for the delay in resolving the petition for review. Considering that it is the duty of the prosecutor to speedily resolve the complaint, as mandated by the Constitution, regardless of whether the petitioner did not object to the delay or that the delay was with his acquiescence,[26] the petitioner's constitutional right to a speedy disposition of the cases was violated.

Regarding Criminal Case No. Q-04-124549, We recall that petitioner was arraigned on May 17, 2005.[27] He filed a motion to dismiss which was denied on July 26, 2005.[28] Pre-trial was conducted and, a Pre-trial Order was issued, on November 9, 2005.[29] He filed a second motion to dismiss which was denied on May 9, 2006.[30] He next filed an MR which was submitted for resolution on June 21, 2006.[31] At this point, proceedings on the case stalled until petitioner filed a Status of Cases on October 11, 2011 and reminded the trial court of the unresolved MR.[32] Still, no action was done until petitioner filed a Motion to Dismiss the Cases on March 6, 2012.[33] The trial court then denied the MR in the assailed March 19, 2013 Order. Section 1, Rule 119 of the Rules of Court provides that after a plea of not guilty is entered, the accused shall have at least fifteen days to prepare for trial. The trial shall commence within thirty days from receipt of the pre-trial order. Evidently, on November 9, 2005, the Pre-Trial Order was issued but no trial commenced since then. While delay in the trial was initially caused by the petitioner when he filed his motions to dismiss, such delay cannot justify the one caused by the trial court when it inexplicably failed to act on the MR for almost seven years, i.e. from June 21, 2006 until March 19, 2013, prompting petitioner to finally invoke his right to speedy trial.

At this juncture, We remind the prosecution and the trial court of the oft-repeated dictum: justice delayed is justice denied. This dictum is not a meaningless concept that can be taken for granted by those who are tasked with the dispensation of justice.[34] The constitutional guarantee against unreasonable delay in the disposition of cases was intended to stem the tide of disenchantment among the people in the administration of justice by our judicial and quasi-judicial tribunals.[35] The adjudication of cases must not only be done in an orderly manner that is in accord with the established rules of procedure, but must also be promptly decided to better serve the ends of justice. Excessive delay in the disposition of cases renders the rights of the people guaranteed by the Constitution and by various legislations inutile.[36]

Given Our findings that petitioner's right to the speedy disposition of his cases was violated, We deem it unnecessary to resolve the other issues.

ACCORDINGLY, the petition is GRANTED. Criminal Case Nos. Q-03-122021, Q-04-124548 and Q-04-124549 are hereby DISMISSED. Let a copy of this decision be furnished to the Court Administrator and the Department of Justice for its information and appropriate action.

SO ORDERED.

Reyes, Jr., J.C., (Chairperson) and Inting, S.B., JJ., concur.

[1] Petition for Certiorari, Rollo, pp. 14-15. Compliance (Recount of last incidents of the case) filed on December 4, 2012, id., p. 85. N.B. The records do not state which Branch of the RTC of Quezon City the Information was filed.

[2] See April 15, 2013 Order, narrating ACP Espinosa's Comment on the Motion to Inhibit, id., p. 121.

[3] The Original Information was filed on July 8, 2003 before the RTC of Quezon City, Branch 98. On January 23, 2004, Tadeos filed a motion to post and fix the amount of bail with urgent supplemental motion to defer arraignment but it was denied. Tadeos filed a Motion for Reconsideration (MR) but the delayed resolution of the MR obliged Tadeos' sister to file an administrative complaint against Judge Evelyn-Corpus Cabochan before the Office of the Court Administrator. Judge Cabochan then recused herself and the case was re-raffled to Branch 226 presided over by Judge Leah S. Domingo-Regala. On February 10, 2005, Branch 226 issued an Order setting the arraignment, pre-trial conference and hearing on the petition for bail on the same day. Tadeos refused to be arraigned without his counsel de parte, shouting and storming out of the courtroom while hearing was going on. He was cited for contempt. Consequently, Tadeos filed a petition for certiorari and prohibition before the Supreme Court. On October 12, 2005, the Supreme Court issued a Resolution granting Tadeos' motion for bail but affirming the decision citing him for contempt. Subsequently, an amended information for simple estafa docketed as Criminal Case No. Q-04-124548 was filed on October 24, 2005. [See October 12, 2005 Supreme Court Resolution, id., pp. 35-44.]

[4] Petition for Certiorari, id., p. 14. Compliance (Recount of last incidents of the case) filed on December 4, 2012, id., pp. 82-83.

[5] Compliance (Recount of last incidents of the case) filed on December 4, 2012, id., p. 92.

[6] Supra at note 2.

[7] The Amended Information reads:

That on or about the 24th day of June, 2002 in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping each other, without a registration statement duly filed with and approved by the Securities and Exchange Commission, did, then and there, willfully, unlawfully and knowingly sell or offer for sale or distribution investment contract to the general public, in violation of the aforesaid law. CONTRARY TO LAW. [Id., p. 48.]

[8] R.A. 8799. Section 8. Requirement of Registration of Securities.— 8.1. Securities shall not be sold or offered for sale or distribution within the Philippines, without a registration statement duly filed with and approved by the Commission. Prior to such sale, information on the securities, in such form and with such substance as the Commission may prescribe, shall be made available to each prospective purchaser. xxx

[9] May 17, 2005 Order, Rollo, p. 50.

[10] The motion for reconsideration was denied in the October 24, 2005 Order, as narrated in the Petition for Certiorari, id., pp. 15-16.

[11] Pre-trial Order, id., pp. 51-52.

[12] The trial court held:

After a careful and judicious review of the allegations raised in the Motion to Dismiss filed by the accused P/Supt. Aner J. Tadeos as well as the respective responsive pleadings relating thereto, the court resolves to deny the motion as it finds meritorious the allegations of the prosecution that (1) the allegations in the information are sufficient to apprise the accused of the nature and cause of the allegations against him; and (2) the other allegations are but matters of defense that can be better addressed during trial. SO ORDERED. [Id., p. 64.]

[13] Id., pp. 65-84.

[14] Id., p. 87.

[15] The exact date when the three cases were consolidated cannot be found in the records. However, from the captions of the pleadings on record, the cases were consolidated after the June 21, 2006 Order submitting the MR in Criminal Case No. Q-04-124549 for resolution and before the March 6, 2012 Motion to Dismiss the Cases Provisionally.

[16] Rollo, p. 96.

[17] Id., pp. 95-98. According to Tadeos, seven years have lapsed since the trial court ordered the preliminary investigation on October 18, 2005 for Criminal Case No. Q-03-122021; six years have lapsed since the prosecution filed its motion to admit the amended information on August 3, 2006 for Criminal Case No. Q-04-124548; and six years have lapsed since the MR on the denial to dismiss was submitted for resolution on June 21, 2008 for Criminal Case No. Q-04-124549.

[18] Id. pp. 100-116.

[19] Id., pp. 117-119. Incidentally, on March 27, 2013, Tadeos filed a petition before the Office of the Court Administrator to change the venue of cases from RTC of Quezon City, Branch 93 “to any RTC within Metro Manila”. [See 1st Indorsement dated April 10, 2013 issued by the Office of the Court Administrator, directing Judge Arthur O. Malabaguio to comment on Tadeos' petition for change of venue. Id., p. 123.]

[20] Id., pp. 121-122.

[21] Id., pp. 23-32. Petition for Certiorari.

N.B. On June 11, 2013, this Court issued a Resolution directing private respondents to file their Comment on the Petition. On November 26, 2013 private respondent Laurence Lao-ay Liclic manifested that he will adopt the public respondent's Comment. The Manifestation was noted without action considering that public respondent was not directed to file Comment on the Petition. [Id., pp. 126-128; 157-158; 161.]

[22] Alfredo R. Enriquez, Gener C. Endona and Rhandolfo B. Amansec v. Office of the Ombudsman, G.R. Nos. 174902-06, February 15, 2008 citing Dela Peña v. Sandiganbayan, G.R. No. 144542, June 29, 2001, 360 SCRA 478.

[23] Id., citing Dela Peña v. Sandiganbayan, supra, citing Binay v. Sandiganbayan, 316 SCRA 65 (1999); Castillo v. Sandiganbayan, 328 SCRA 69, 76 (2000).

[24] Rules of Court, Rule 116, Section 1. Arraignment and plea, how made. -

xxx (g) Unless a shorter period is provided by special law or Supreme Court circular, the arraignment shall be held within thirty (30) days from the date the court acquires jurisdiction over the person of the accused. The time of the pendency of a motion to quash or for a bill of particulars or other causes justifying suspension of the

arraignment shall be excluded in computing the period.

[25] See *Spouses Alexander Trinidad and Cecilia Trinidad v. Victor Ang*, G.R. No. 192898, January 31, 2011 citing *Samson v. Daway*, G.R. Nos. 160054-55, July 21, 2004, 434 SCRA 612.

[26] See *Elpidio C. Cervantes v. Sandiganbayan*, G.R. No. 108595, May 18, 1999.

[27] *Supra* at note 9.

[28] *Supra* at note 10.

[29] *Supra* at note 11.

[30] *Supra* at note 12.

[31] *Supra* at note 14.

[32] *Supra* at note 16.

[33] *Supra* at note 17.

[34] *Alfredo R. Enriquez, Gener C. Endona and Rhandolfo B. Amansec v. Office of the Ombudsman*, *supra*, citing *Licaros v. Sandiganbayan*, G.R. No. 145851, November 22, 2001, 370 SCRA 394.

[35] *Id.*, citing Cruz, *Constitutional Law*, 2007 Edition, p. 295.

[36] *Id.*, citing *Matias v. Plan*, A.M. No. MTJ-98-1159, August 3, 1998, 293 SCRA 532.

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