

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. OSCAR L. LEVISTE, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 97, AND ARNULFO C. TALISIC, RESPONDENTS.

G.R. No. 104386. March 28, 1996

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-104386/>

PANGANIBAN, J.:

In deciding the case at bench, the Court reminds members of the bench and the bar alike that the right of an accused to a speedy trial is not violated by well-grounded motions for postponement, and that courts should not be too hasty in denying reasonable continuance so as not to deprive the prosecution of its day in court. In the end, precipitate dismissals, instead of unclogging court dockets and easing the burden of the accused, unnecessarily delay cases and, ironically enough, cause the very evil sought to be avoided.

This is a petition for certiorari under Rule 65 of the Rules of Court filed by the Solicitor General to set aside the order of the respondent Judge dismissing Criminal Case No. Q-91-17782, on the ground that the prosecution was not prepared for the first scheduled hearing of the case due to the non-availability of its witness who was out of town on official business.

The Antecedent Facts

The following Information[1] for libel was filed against private respondent Arnulfo C. Talisic in the Regional Trial Court of Quezon City:

"That on or about the 10th day of April 1990, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with malicious intent of impeaching the honesty, virtue and reputation of one DEMOCRITO T. MENDOZA, a well-known labor leader in Cebu and with the malicious intent of injuring and exposing said Democrito T. Mendoza to public hatred, contempt and ridicule, did then and there wilfully, unlawfully and feloniously caused (sic) to be published in Sun Star Daily, a newspaper of general circulation in the Philippines based in Cebu City an article with the following statements:

‘x x x Meanwhile, Liloan Councilor Arnulfo Talisic has called the attention of the National Government, especially the Department of Environment and National Resources (DENR) to speed up the resolution of the Silot Bay problem.

‘Silot Bay, according to Talisic, had been allegedly "grabbed" by an influential labor leader resulting in the deprivation of livelihood of small fishermen in the area.

‘Silot Bay, Talisic alleged, had been titled in the name of a former Marcos man in connivance with corrupt DENR officials.

‘Talisic said the government has already ruled in favor of the protesting residents, but its reopening until now has been deferred for unknown reasons.’ (italics supplied)

wherein the offended party was portrayed to be a landgrabber having grabbed Silot Bay and caused the same to be titled in his name and of his children: accused knowing fully well that the same is not true, thereby causing dishonor, discredit or contempt upon the person of said Democrito T. Mendoza, to the damage and prejudice of the said offended party in such amount as may be awarded under the provisions of the Civil Code.

CONTRARY TO LAW."

On May 3, 1991, private respondent entered a plea of not guilty. Trial of Criminal Case No. Q-91-17782 was scheduled for July 29, 1991.[2]

Three days before said scheduled hearing or on July 26, 1991, private prosecutor Amado A. Caballero filed an urgent motion for postponement,[3] citing as ground therefor, the fact that the complainant, Atty. Democrito T. Mendoza, "would still be out of town during said date for the reason that he would be in Cebu City to attend to the strike of some workers in some firms in Cebu City and his personal presence thereat is very necessary." Since said witness "would be out of the country during the month of August 1991 to attend to some official transaction relative to the International Labor Movement" and would be back during the first week of September 1991, private prosecutor prayed that the scheduled hearing be reset to a later day, preferably on September 9 or 13, 1991 at 8:30 a.m. Only the City Prosecutor of Quezon City was furnished a copy of this motion.

Also on July 26, 1991, private respondent, through Atty. Lorenda Estrella-Amion of the Public Attorney's Office, filed a motion to dismiss the case on the ground that the facts charged in the Information do not constitute an offense.[4] Invoking *Kunkle vs. Cablenews-American and Lyons*[5] holding it not sufficient that the offended party recognized himself as the person attacked or defamed but that a third person must be able to identify the complainant as the object of the libelous publication, private respondent claimed that the Information did not identify the person allegedly alluded to in the article and neither did it state that a third person could identify said Democrito T. Mendoza as the object thereof. Private respondent stressed that he did not write the article nor cause its publication, and never had the intention to publish the same. The Office of the City Prosecutor was duly served a copy of this motion.

On July 29, 1991, the day of the scheduled hearing, private prosecutor manifested in open court that he had filed an urgent motion for postponement, and moved for the cancellation of hearing for that day due to the unavailability of the prosecution witness. The public prosecutor did not object to the postponement. On the other hand, the defense manifested that it had filed a motion to dismiss. The respondent Judge then issued in open court the following Order[6] now being assailed:

"There being no showing that the prosecution is ready for this morning (sic) scheduled hearing, in view of the manifestation of counsel for the accused, that they have filed a Motion to Dismiss dated July 25, 1991, this case is hereby ordered DISMISSED.

The Cash Bond of accused Arnulfo G. Talisic in the amount of P4,200.00 covered by Official Receipt No. 0498706 S dated March 8, 1991 is hereby ordered returned to him.

Furthermore, upon motion of the private prosecutor, he is hereby allowed to file a motion for reconsideration.

SO ORDERED."

The private prosecutor filed an urgent motion for the reconsideration of said Order, stating that the prosecution had no opportunity to file an objection to the motion to dismiss as it was served a copy thereof only on the day of hearing itself. He insisted that the court should have considered as valid the reason for the absence of the prosecution's principal witness, as his presence in Cebu City was duly certified to by the Officer-in-Charge of the National Conciliation and Mediation Board.[7]

On August 7, 1991, the trial court gave the defense five (5) days from notice within which "to file a comment to the motion for reconsideration furnishing copy to the opposing counsel who shall have five (5) days to file a reply, after which the matter shall be deemed submitted." [8]

On August 14, 1991, Atty. Estrella-Amion withdrew her appearance as counsel for accused (private respondent), which the court duly approved. [9] On the same day, Atty. Gregorio Tanaka Viterbo, Jr. of the Free Legal Assistance Group (FLAG) entered his appearance as counsel for private respondent. In compliance with the August 7, 1991 order of the trial court, he also filed an opposition to the motion for reconsideration filed by the prosecution. [10]

On November 5, 1991, the trial court denied the motion for reconsideration in an Order which reads:

"For the reasons stated by the complaining witness through his Private Prosecutor in his Urgent Motion for Reconsideration, dated July 31, 1991, and considering the opposition interposed by the accused through his counsel, the Court finds said Motion to be untenable and hereby denies the same for lack of merit.

SO ORDERED." [11]

Hence, the present recourse.

The Parties' Submissions

Petitioner claims that respondent Judge committed grave abuse of discretion in dismissing Criminal Case No. Q-91-17782 because the absence of the complaining witness during the scheduled hearing was neither capricious nor designed to delay the proceedings in the case. [12] He adds that the trial court likewise gravely abused its discretion in denying the motion for the reconsideration of the dismissal order on the strength of private respondent's opposition thereto, notwithstanding that the same was filed by a "stranger" to the case as the FLAG lawyer who filed it was not the counsel so directed by the court. [13]

Private respondent, on the other hand, argues that since he was not served a copy of the motion for postponement, it was nothing but a scrap of paper which the clerk of court should not even have received for filing. He contends that the dismissal of the case was based on the right of the accused to speedy trial as the prosecution was not ready and could not present any other witness on the day set for hearing. He further avers that a reopening of the case will place him in double jeopardy as the dismissal was without his express consent. [14]

The Issues

From the foregoing submissions and assertions of the parties, the issues may be simply stated as follows:

- (1) Was the order of dismissal tainted with grave abuse of discretion? Put differently, would the grant of the prosecution's motion for postponement have violated the accused's right to a speedy trial? and
- (2) Would the reversal of the trial court's assailed Orders place the accused in double jeopardy?

We hold that respondent Judge acted with grave abuse of discretion, and in the process effectively deprived the State of due process.

The first Issue: Speedy Trial

To be perfectly clear, we restate the general rule: motions for postponement are granted only upon meritorious grounds and no party has the right to assume that this motion will be granted. The grant or denial of a motion for postponement is addressed to "the sound discretion of the court, (which) should always be predicated on the consideration that more than the mere convenience of the courts or of the parties in the case, the ends of justice and fairness should be served thereby. After all, postponements and continuances are part and parcel of our procedural system of dispensing justice." [15] Thus, when no substantial rights are affected and the intention to

delay is not manifest, the corresponding motion to transfer the hearing having been filed accordingly, it is sound judicial discretion to allow the same to the end that the merits of the case may be fully ventilated. Unless grave abuse of discretion is shown, such discretion will not be interfered with either by mandamus or appeal.[16]

While it is true that any motion that does not comply with the requirements of Rule 15 should not be accepted for filing and, if filed, is not entitled to judicial cognizance,[17] this Court has likewise held that where a rigid application of the rule will result in a manifest failure or miscarriage of justice, technicalities may be disregarded in order to resolve the case. Litigations should, as much as possible, be decided on the merits and not on technicalities.[18] As this Court held in *Galvez vs. Court of Appeals*[19] "an order of the court granting the motion to dismiss despite the absence of a notice of hearing, or proof of service thereof, is merely an irregularity in the proceedings xxx (which) cannot deprive a competent court of jurisdiction over the case."

In the case at bench, the postponement of the July 29, 1991 hearing was the very first one ever requested by the private prosecutor. And it was for a valid reason: the principal prosecution witness, a labor lawyer, had to be in Cebu City to attend a conciliation meeting concerning a strike/picket. Such reason is likewise easily verifiable, and as already mentioned, was in fact certified into writing by the National Conciliation and Mediation Board's officer-in-charge in Cebu City. There being no showing that any substantial right of the accused would have been duly prejudiced by the postponement, respondent Judge should have granted the motion to afford the prosecution a fair opportunity to prosecute its case. As it is, his precipitate dismissal of the case is tantamount to denying the State due process. In *People vs. Navarro*[20] this Court held that:

A trial court may not arbitrarily deny a timely and well-founded motion of the prosecution for reconsideration of an order of dismissal or acquittal and that such arbitrary refusal to reopen the case will be set aside to give the State its day in court and an opportunity to prove the offense charged against the accused and to prevent miscarriage of justice, especially when no substantial right of the accused would be prejudiced thereby."

The right of an accused to speedy trial is not violated by the mere postponement of scheduled hearings of the case. Unjustified postponements which prolong the trial for an unreasonable length of time are what offend the right of the accused to speedy trial. The right to speedy trial allows reasonable continuance so as not to deprive the prosecution its day in court.[21] As held in *Gonzales vs. Sandiganbayan*:

x x x (T)he right to a speedy disposition of a case, like the right to speedy trial, is deemed violated only when the proceeding is attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of trial are asked for and secured, or when without cause or justifiable motive a long period of time is allowed to elapse without the party having his case tried. Equally applicable is the balancing test used to determine whether a defendant has been denied his right to a speedy trial, or a speedy disposition of a case for that matter, in which the conduct of both the prosecution and the defendant are weighed, and such factors as length of the delay, reason for the delay, the defendant's assertion or non-assertion of his right, and prejudice to the defendant resulting from the delay, are considered."[22]

The Second Issue: Double Jeopardy

Anent private respondent's claim that a reopening of the case would place him in double jeopardy, this Court previously ruled in *Tampal* that:

"x x x The three (3) requisites of double jeopardy are: (1) a first jeopardy must have attached prior to the second, (2) the first jeopardy must have been validly terminated, and (3) a second jeopardy must be for the same offense as that of the first. Legal jeopardy attached only: (1) upon a valid indictment, (2) before a competent court, (3) after arraignment, (4) when a valid plea has been entered, and (5) when the defendant was acquitted or convicted, or the case was dismissed or otherwise terminated without the express consent of the accused. (italics supplied)

In the instant case, the termination of the case was precisely sought by accused (private respondent) through his motion to dismiss.

In any event, private respondent's right to speedy trial not having been violated, he cannot invoke the right against double jeopardy:

"It is true that in an unbroken line of cases, we have held that the dismissal of cases on the ground of failure to prosecute is equivalent to an acquittal that would bar further prosecution of the accused for the same offense. It must be stressed, however, that these dismissals were predicated on the clear right of the accused to speedy trial. These cases are not applicable to the petition at bench considering that the right of the private respondents to speedy trial has not been violated by the State. For this reason, private respondents cannot invoke their right against double jeopardy."^[23] (italics supplied)

In sum, it must be emphasized that the state, like any other litigant, is entitled to its day in court, and to a reasonable opportunity to present its case. A hasty dismissal such as the one in question, instead of unclogging dockets, has actually increased the workload of the justice system as a whole and caused uncalled-for delays in the final resolution of this and other cases. Unwittingly, the precipitate action of the respondent court, instead of easing the burden of the accused, merely prolonged the litigation and ironically enough, unnecessarily delayed the case - in the process, causing the very evil it apparently sought to avoid. Such action does not inspire public confidence in the administration of justice.

WHEREFORE, the instant petition for certiorari is hereby GRANTED. The Order of July 29, 1991 as well as the Order of November 5, 1991 dismissing Criminal Case No. Q-91-17782 are hereby ANNULLED and SET ASIDE. The respondent Judge is ordered to proceed with the trial and resolution of the case with judicious and deliberate dispatch, with a stern warning to avoid similar unjustified and unwarranted dismissals in the future.

SO ORDERED.

Narvasa, C.J. (Chairman), Melo and Francisco, JJ., concur.

Davide, Jr., J., submits that this grave abuse of discretion lies in the dismissal because the prosecution was not ready despite the pendency of the motion to dismiss (or quash) filed by accused which should have been first resolved.

[1] Rollo, pp. 33-34.

[2] Ibid., p. 35.

[3] Ibid., pp. 40-41.

[4] Ibid., pp. 42-45.

[5] 42 Phil. 757(1922).

[6] Rollo, p. 24.

[7] Ibid., p. 46.

[8] Ibid p. 52.

[9] Ibid., p. 222.

[10] Ibid., pp. 53, 54-61.

[11] Ibid., p. 25.

[12] Ibid., pp. 149-150.

[13] Ibid., pp. 12-15.

[14] Ibid., pp. 134-138.

[15] De Guia vs. Guerrero, Jr., 234 SCRA 625, 629 (August 1, 1994), citing People vs. Hon. Bonifacio Sanz-Maceda, 188 SCRA 530 (August 13, 1990).

[16] Intestate Estate of the Late Ricardo P. Presbiterio, sr. vs. Court of Appeals, 217 SCRA 372, 380-381 (January 21, 1993); Garces vs. Valenzuela, 170 SCRA 745, 749 (February 28, 1989). See also De Guia vs. Guerrero, Jr., supra.

[17] Del Castillo vs. Aguinaldo, 212 SCRA 169 (August 5, 1992).

[18] Goldloop Properties, Inc. vs. Court of Appeals, 212 SCRA 498 (August 11, 1992).

[19] 237 SCRA 685 (October 24, 1994).

[20] 63 SCRA 264 (March 25, 1975).

[21] People vs. Tampal, 244 SCRA 202 (May 22, 1995).

[22] 199 SCRA 298 (July 16, 1991), reiterated in People vs. Tampal, supra.

[23] People vs. Tampal, supra, at pp. 208-209.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.