

**ROMULO DELA ROSA, PETITIONER, VS. COURT OF APPEALS AND BENJAMIN MAGTOTO, RESPONDENTS.***G.R. No. 116945. February 09, 1996*

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-116945/>**PANGANIBAN, J.:**

Does the dismissal of a criminal action for violation of the constitutional right to a speedy trial constitute a bar to a subsequent prosecution for the same offense? May the offended party, on his own and independently of the Solicitor General, appeal a trial court's order dismissing a criminal case? These are the main issues resolved in this special civil action for certiorari under Rule 65 of the Rules of Court, to set aside the Decision<sup>[1]</sup> of the Court of Appeals<sup>[2]</sup> promulgated on August 31, 1994 in CA-G.R. SP No. 31665 which reversed the Orders dated November 17, 1992 and May 24, 1993 of the Regional Trial Court of Manila, Branch 54<sup>[3]</sup> in Criminal Cases Nos. 91-99715 to 91-99723.

Private respondent filed his Comment on November 14, 1994 while petitioner sent his Reply on November 29, 1994. By resolution dated November 13, 1995, the First Division transferred this case to the Third. After due deliberation and consultation on the foregoing submissions, the Court tasked the undersigned ponente with the writing of this Decision.

**The Facts**

The facts are not disputed.

On October 22, 1991, nine (9) separate informations (Criminal Cases Nos. 91-99715 to 91-99723) were filed against petitioner, charging the latter with violation of B.P. Big. 22 before the Regional Trial Court of Manila, Branch 54, upon complaint of private respondent.

At the scheduled arraignment set on May 18, 1992, petitioner failed to appear, prompting the trial court to issue a warrant for his arrest. The next day, petitioner filed a motion to lift the order of arrest and for the continuance of his bail bond, stating that his failure to appear was due to illness. The motion was granted by the trial court.

During the arraignment on June 10, 1992, petitioner, assisted by counsel de oficio, pleaded not guilty. The trial court set hearings on the following dates: August 4, 10, 18, 25 and September 2, 9, 16, 23, 1992.

The hearings set for August 4, 10, and 18, 1992 were all cancelled at the instance of petitioner, who claimed that he had not yet secured the services of his counsel de parte.

On August 25, 1992, private respondent presented his first witness, Romy Antonio of the Philippine Bank of Communications. On motion of petitioner, the cross-examination of the said witness was deferred to September 2, 1992.

The trials scheduled on September 2 and 9, 1992 were likewise cancelled upon written motion of petitioner, who claimed that his counsel had prior commitments.

On September 10, 1992, private respondent moved for the postponement of the trial set for September 16, 1992, on the ground that Antonio was not available due to work-related matters. The trial court granted the motion without any objection from petitioner.

The cross-examination of witness Antonio was completed on September 23, 1992. Two additional trial dates (October 21 and November 17, 1992) were set by the trial court.

On October 19, 1992, private respondent moved for the postponement of the hearing set for October 21, 1992 due to a previous out-of-town commitment. The same was granted by the trial court without any objections from petitioner.

On November 17, 1992, counsel for private respondent, in open court, moved for the postponement of the trial set on that date on the ground that private respondent had doubts "as to his inability to bring out the details of the transaction" (Records, p. 73). Petitioner objected to the postponement and invoked his constitutional right to a speedy trial. Consequently, the trial court dismissed all the nine cases against petitioner in its questioned order dated November 17, 1992, on the following:[4]

"Considering that according to the private prosecutor and without objection or qualification on the part of the public prosecutor, the prosecution is not ready to present the complainant who is the second and maybe the last witness for the prosecution, on the ground that the private complainant is having serious doubts as to the details of the cases and is not ready to testify; considering the manifestation of counsel for the accused invoking his client's constitutional right to speedy trial; considering that the cases had been filed before this Court on October 22, 1991 or more than a year ago and during this period the complainant should have taken steps to gather all details and refresh his memory as to all other matters pertaining to these cases, considering that as stated by the private prosecutor himself that the cases involve a large amount, and the complainant is not here today; the motion of counsel for the accused is hereby granted, (and) all these cases are dismissed x x x"

Private respondent's motion for reconsideration was denied by the trial court on May 24, 1993.

Aggrieved, private respondent appealed to the Court of Appeals, which rendered a Decision setting aside the two orders of the trial court and reinstating the cases,[5] as follows:

"WHEREFORE, the petition for certiorari is GRANTED. The Orders dated November 17, 1992 and May 24, 1993 of the RTC-Manila, Branch 54, are SET ASIDE. Criminal Cases Nos. 91-99715 to 91-99723 are REINSTATED and REMANDED to the lower court for further proceedings."

Attributing grave abuse of discretion on the part of the Court of Appeals, petitioner filed this special civil action.

The Issues: Speedy Trial and Double Jeopardy

Petitioner contends that since the dismissal of the cases against him by the trial court was based on his constitutional right to a speedy trial, the reinstatement and remand of the same would place him in double jeopardy.

In *Gonzales vs. Sandiganbayan*,[6] we held:

"It must be here emphasized that the 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 the 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."

Records show that the delay in the trial of the case was mainly due to petitioner's fault. As found by the respondent Court of Appeals, to wit:

"x x x. His arraignment set for May 18, 1992 was canceled due to his non-appearance. From the time he was arraigned on June 10, 1992, to the first trial date on August 4, 1992, he failed to secure the services of a lawyer. which led to the postponement of the hearing scheduled for that day and the trials set for August 10 and 18, 1992. It is unusual for private respondent dela Rosa to fail to have a lawyer on the trial dates set by the lower court. He had enough time to secure the services of a counsel de parte, or counsel of his choice to represent him. If indeed private respondent dela Rosa was wary of his right to a speedy trial, he should not have moved for the postponement of the scheduled trials on September 2 and 9, 1992, and objected to the cancellation of the trials set for September 16 and October 21, 1992 x x x."

Indeed, the several postponements sought and obtained by petitioner, in effect, amounted to a waiver or abandonment of his right to a speedy trial.[7] Delay of his own making cannot be oppressive to him.[8]

On the other hand, private respondent's reasons for the postponement of the trials set on September 16, 1992, October 21, 1992 and November 17, 1992 cannot be said to be vexatious, capricious and oppressive as to result in the denial of petitioner's right to a speedy trial.

In asking for the postponement of the trial set on November 17, 1992, private respondent reasoned out that "x x x there are details which we feel are important for our case, and there are numerous transactions here involving the accused and the private complainant (herein private respondent). We wish to ask for a postponement to give our witness more time to refresh his memory, x x x"[9]. It will be noted that the amount involved in these nine criminal cases amounted to more or. less P13 million. The postponement of this trial date would not in any way have prejudiced the accused considering that accused himself as stated earlier is guilty of delay. The more prudent thing would have been for the trial court to reset the case to another date to give the prosecution another opportunity to present its case.[10] The trial court's dismissal of the case on the ground that the petitioner is entitled to a speedy trial is capricious and unwarranted under the circumstances obtaining in this case.

Neither does double jeopardy apply in the instant case. The requisites that must occur for legal jeopardy to attach are: (a) a valid complaint or information; (b) a court of competent jurisdiction; (c) the accused has pleaded to the charge; and (d) the accused has been convicted or acquitted or the case dismissed or terminated without the express consent of the accused.[11] The fourth requisite is lacking. The dismissal of the cases was upon the motion of petitioner as shown by the following:

"COURT: You insist (sic) the right to speedy trial. ATTY. LOPEZ: Yes, I do insist.

COURT: So make a (sic) oral motion.

ATTY. LOPEZ: Yes, Your Honor.

Your Honor please, in todays (sic) hearing, the complainant (sic) is not around and he is scheduled to testify, Your Honor. The accused is present, Your Honor, together with his counsel and we are ready for trial, but, Your Honor, in as much as the private prosecutor is not ready, on the ground that his client, who is the private complainant, has problems or have (sic) doubt about the details of this case before, Your Honor, then, we respectfully plea (sic) that the case be dismissed, invoking the constitutional right of the accused for speedy and an expensive (sic) public trial, Your Honor."[12] (Italics supplied)

Solicitor General's Intervention Not Necessary

Petitioner further alleges that private respondent as a private offended party in a criminal case cannot file a special civil action for certiorari to question the validity of the judgment of dismissal without the intervention of the Solicitor General.

In the case of *People vs. Santiago*, [13] this Court said:

"It is well-settled that in criminal cases where the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability. Thus, in the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution. If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General. Only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not take such appeal. However, the said offended party or complainant may appeal the civil aspect despite the acquittal of the accused.

"In a special civil action for certiorari filed under Section 1, Rule 65 of the Rules of Court wherein it is alleged that the trial court committed a grave abuse of discretion amounting to lack of jurisdiction or on other jurisdictional grounds, the rules state that the petition may be filed by the person aggrieved. In such case, the aggrieved parties are the State and the private offended party or complainant. The complainant has an interest in the civil aspect of the case so he may file such special civil action questioning the decision or action of the respondent court on jurisdictional grounds. In so doing, complainant should not bring the action in the name of the People of the Philippines. The action may be prosecuted in (the) name of said complainant." (italics supplied)

In the instant case, the recourse of the complainant to the respondent Court was therefore proper since it was brought in his own name and not in that of the People of the Philippines. That the said proceedings benefited the People is not a reversible error. Neither does it constitute grave abuse of discretion. There being no violation of the double jeopardy doctrine, the prosecution of the case may still resume in the trial court, as decided by the Court of Appeals.

WHEREFORE, the Petition is hereby DENIED. The Decision of the respondent Court of Appeals dated August 31, 1994 is AFFIRMED. Costs against petitioner.

**SO ORDERED.**

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

[1] Rollo pp. 16-25.

[2] Twelfth Division, composed of Jaime M. Lantin, chairman and ponente, and JJ. Angelina S. Gutierrez and Conchita Carpio Morales, members.

[3] Presided over by Judge Manuel T. Muro.

[4] Rollo, p. 26.

[5] Rollo, p. 25.

[6] 199 SCRA 298 (July 16, 1991) , at p. 307.

[7] *Andres vs. Cacdac, Jr.*, 113 SCRA 216 (March 29, 1982).

[8] *Medina vs. Orozco, Jr.*, 18 SCRA 1168 (December 22, 1966).

[9] Records, p. 74.

[10] People vs. Decalaro, 170 SCRA 142 (February 9, 1989).

[11] People vs. Gines, 197 SCRA 481 (May 27, 1991); see also People vs. Declaro, *supra*.

[12] TSN. November 17, 1992. PP. 15-16; records, pp. 85-86.

[13] 174 SCRA 143, at pp. 152-153 (June 20, 1989).

**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.