TAI LIM, PETITIONER, VS. THE HON. COURT OF APPEALS, HON. FE TORRES-ARCILLA AS PRESIDING JUDGE, RTC BRANCH 84, MALOLOS, BULACAN, AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 131483. October 26, 1999

Ponente: BUENA, J.

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BUENA, J.:

This is a petition for review on certiorari to set aside the Decision rendered by the Court of Appeals on November 14, 1997 in CA-G.R. SP No. 44428 which affirmed the order of the Regional Trial Court of Malolos, Bulacan, denying petitioner's motion to dismiss Crim. Case No. 645-M-95 for violation of R.A. 6425 invoking his right to a speedy trial.

On August 8, 1995, the petitioner was arraigned and pleaded not guilty to the charge. Thereafter, the initial trial of the case was set on September 7, 1995 which, however, was reset 11 times for the following reasons, viz.:

> September 7, 1995 - the court was not informed that the offices of the witnesses for the prosecution (the Anti-Narcotics Unit), were transferred from Bocaue, Bulacan to Sta. Maria, Bulacan, so that subpoena were not duly served on them;
>
> October 3, 1995 - there were no returns as yet on the service of the subpoena on the witnesses of the prosecution;
>
> October 24, 1995 – there was no proof in the record of the service of the subpoena on the witnesses of the prosecution;
>
> November 23, 1995 – reset on the plea of the prosecution that it be accorded opportunity to adduce its evidence;
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> December 14, 1995 - SP01 Efren Suguitan was present but the Prosecutor assigned to the trial court was absent;
>
> January 11, 1996 - the Forensic Chemist was subpoenaed to appear before another court and therefore not available for trial in the case a quo;
>
> February 27, 1996 – trial was reset because the case was reraffled to Branch 84;
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> June 11, 1996 – reset because the petitioner was without counsel;
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> July 1, 1996 - reset to July 29, 1996;
>
> July 29, 1996 – the newly engaged counsel of the petitioner was not available;
>
> August 14, 1996 - none of the prosecution witnesses appeared;
>
> September 17, 1996 - witnesses of the prosecution were notified but failed to appear for trial.

Forthwith, petitioner filed a "Motion to Dismiss" the case invoking his right to a speedy trial. The prosecution failed to file its Comment within the period granted it. In the interim, the building housing the court was burned on October 14, 1996 and the court records had to be reconstituted. Upon the trial court's order issued on February 13, 1997, the Prosecution filed its Comment to the Motion to Dismiss, to which the petitioner filed its Reply, followed by the prosecution's Rejoinder and petitioner's Sur-Rejoinder. On February 26, 1997, the trial court issued an Order denying petitioner's motion to dismiss. On May 2, 1997, the trial court denied petitioner's motion for reconsideration.

Petitioner filed with the Court of Appeals a petition for certiorari and mandamus praying that the writs of certiorari and mandamus be granted and that Crim. Case No. 645-M-95 of the RTC of Malolos, Bulacan be ordered dismissed for failure of the prosecution to prove its case despite eleven (11) postponements spread over an unreasonably long period of one year and three months in violation of the right of petitioner, as an accused, to speedy trial. The Court of Appeals dismissed the petition. The pertinent portions of the Decision read:

> "We find and so declare that the Respondent Judge did not abuse her judicial discretion in denying Petitioner's "Motion to Dismiss" and his "Motion for Reconsideration" in the light of the factual milieu in the present recourse. However, prescinding from our Decision in the present recourse, the Prosecution is urged and admonished to henceforth, proceed with the prosecution of the case with reasonable dispatch, unfettered by the yoke of ineptitude, insure the availability of its witnesses during the scheduled trials and terminate its evidence without further delays. It bears stressing that the Petitioner is a detention prisoner and inordinate delays in the prosecution of the case will be grossly prejudicial not only to the petitioner but to the State as well and the administration of justice.
>
> "IN THE LIGHT OF ALL THE FOREGOING, the Petition is DENIED DUE COURSE and is hereby DISMISSED. With costs against the Petitioner."

Hence, this petition.

Petitioner avers that "(t)he manifestly unreasonable lengthy period the proceedings had dragged on with the charge remaining unproved by reason of its unpreparedness for lack of witnesses demonstrably and eloquently attests that there has been 'vexatious, capricious and oppressive delay,' which is anathema to the right of an accused to speedy trial with its salutary objective 'to assure that an innocent person may be freed from anxiety and expense of a court litigation, or of otherwise having his guilt determined within the shortest time compatible with the presentation and consideration of whatever legitimate defense he may interpose.'"

Petitioner further contends that it is the duty of the prosecution to be ready at all times to present its case on the dates of the scheduled hearing sweeping aside all reasons adduced by the prosecution as unjustifiable.

The petition is without merit.

First, not all the eleven postponements were made at the instance of the prosecution. The hearing on June 11, 1996 was reset because the petitioner was without counsel, and on July 29, 1996, the hearing was reset because petitioner's newly engaged counsel was not available.

Second, contrary to petitioner's averment, the reasons for the prosecution's postponements were reasonable and were not intended merely to delay the proceedings of the case. The hearing of the case had to be postponed several times because there was no proof that the prosecution witnesses were duly served with subpoena. It would be unjust to pounce on the absence of the witnesses as a basis for dismissing the case when there was a valid excuse for their absence, that is, there was no proof that they were duly served with subpoena. The other reasons for the postponement of the hearing, such as the re-raffling of the case to another branch and the fire which razed the building housing the court and its records, are circumstances beyond the control of the prosecution.

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The right of an accused to a speedy trial is guaranteed to him by the constitution but the same shall not be utilized to deprive the State of a reasonable opportunity of fairly prosecuting criminals. It secures rights to an accused but it does not preclude the rights of the State to seek justice. Both the State and the accused are entitled to due process.

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.[1]

As aptly held by the Court of Appeals,

> "The right has been defined by our Supreme Court in Gregorio Kalaw versus Segundo Apostol, et al., 64 Phil. 852," as a trial conducted according to law of criminal procedure and the rules and regulations, free from vexatious, capricious and oppressive delays. As the Appellate Court put it in "Steward versus State, 13 Arkansas, 720": "what the constitution prohibits is vexatious, capricious and oppressive delays, manufactured by them ministers of justice." Not every delay in the trial is vexatious, capricious or oppressive. In the legal firmament. The terms have distinct connotations. Vexatious suggests an act which is willful and without reasonable cause, for the purpose of annoying and embarrasing another or one lacking justification and intended to harass (page 2548, Third Edition, Webster's International Dictionary). Oppressive connotes an unjust or cruel exercise of power or authority. Capricious action, on the other hand, means willful and unreasoning action xxx."[2]

The Court finds that there is no basis for petitioner's allegation that his constitutional right to speedy trial has been violated. One must take into account that a trial is always subject to reasonable delays and postponements, and in the absence of any showing that the same were capricious, the State should not be deprived of a reasonable opportunity of prosecuting petitioner.

In the recent case of Binay vs. Sandiganbayan, et al.[3] we held that the right to a speedy disposition of a case, like the right to speedy trial, is deemed violated only when the proceedings 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 ... A mere mathematical reckoning of the time involved, therefore, would not be sufficient.

WHEREFORE, the petition is DENIED for lack of showing that the Court of Appeals committed reversible error.

SO ORDERED.

Mendoza, (Acting Chairman), and De Leon, JJ., concur.

Bellosillo, (Chairman), J., on leave.

Quisumbing, J., on official business.

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[1] People vs. Leviste, 255 SCRA 238.

[2] Court of Appeals Decision, p. 6.

[3] October 1, 1999, G.R. Nos. 120681-83

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