

ATTY. REYNALDO P. DIMAYACYAC, PETITIONER, VS. HON. COURT OF APPEALS, HON. VICENTE Q. ROXAS, IRENE AGBADA-CRUZ, SIXTO AGBADA CRUZ, MERCEDES ARISTORENAS AND ROMEO GOMEZ AND PEOPLE...

G.R. No. 136264. May 28, 2004

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on certiorari assailing the Decision[1] of the Court of Appeals (CA for brevity) dated November 13, 1998 in CA-G.R. SP No. 43884, denying Atty. Reynaldo P. Dimayacyac's petition for certiorari and ruling that the Regional Trial Court (Branch 227) of Quezon City (RTC for brevity) was correct in denying petitioner's motion to quash the information charging petitioner with falsification of public documents, docketed as Criminal Case No. Q-93-49988.

The antecedent facts as borne out by the records of the case are accurately narrated in the CA Decision dated November 13, 1998, thus:

An information for falsification of public documents docketed as Criminal Case No. Q-91-18037 at the RTC of Quezon City was filed against petitioner along with some others. That information reads:

The undersigned Assistant City Prosecutor accuses LOURDES ANGELES, ESTRELLA MAPA, ATTY. PONCIANO R. GUPIT, and ATTY. REYNALDO P. DIMAYACYAC of the crime of FALSIFICATION OF PUBLIC DOCUMENT (under Article 172, first and last paragraph in relation to Article 171 paragraph 2 of the Revised Penal Code), committed as follows:

That on or about the 5th day of 1986, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, all private individuals, conspiring together, confederating with and mutually helping one another, did then and there willfully, unlawfully and feloniously commit the act of falsification of public documents, by then and there falsifying or causing the falsification of the following documents, to wit:

a) Certification dated March 10, 1986 purportedly signed by a certain Fernando Dizon, Record Management Analyst of the Bureau of Land, Central Office, Manila;

(b) Report dated May 5, 1986 purportedly signed by a certain Jose Mariano, Chief Record Management Division of Bureau of Land, Central Office, Manila; and

(c) Sales Certificate and Deed of Assignment allegedly issued by the Bureau of Land in favor of Lourdes Angeles; that despite the fact that said accused knew all the time that said documents are fake and spurious used the same in the Petition for Reconstitution of Records of the technical description of Lots Nos. 755, 777, 778 and 783 of the Piedad Estate covered by TCT No. 14, Decree No. 667, GLRO Record No. 5975 and the issuance of Title thereto filed by Estrella Mapa over and involving the aforesaid lots in Land Registration Case docketed as LRC Case No. 3369 (86) before Branch 99, Regional Trial Court, Quezon City and that by virtue of said falsification and the use of the same as evidence in Court Honorable Presiding Judge Godofredo

Asuncion issued an order dated June 30, 1986 granting said petition, and pursuant thereto the Register of Deeds of Quezon City issued Transfer Certificates of Titles Nos. 348156, 348291 and 348292 in the name of Estrella Mapa thereby embracing and/or encroaching the portions of the properties belonging to Romeo D. Gomez, Sixto Agbada, Irene Agbada-Cruz and Mercedes Aristorenas whose properties were embraced and included in the said Transfer Certificates of Titles and in such amount as may be awarded under the provisions of the Civil Code.

CONTRARY TO LAW.

Before his arraignment, petitioner moved to quash the information on two (2) grounds. First, that the officer who filed the information had no legal authority to do so, and second, that more than one offense was charged in the information.

Pending resolution of the motion to quash, petitioner was arraigned.

By Order of August 23, 1991, Judge Benigno T. Dayaw of Branch 80 of the Regional Trial Court of Quezon City to whose sala Criminal Case No. Q-91-18037 was raffled, holding that the “grant or denial of Motion to Dismiss whether the accused is arraigned or not is discretionary on the part of the Court,” it citing *People vs. IAC*, L-66939-41, January 10, 1987, granted the petitioner’s motion to quash upon the second ground. Accordingly, the information was quashed.

More than two (2) years after the quashal of the information in Criminal Case No. Q-91-18037 or on October 19, 1993, the Quezon City Prosecutor filed against the same accused including petitioner two (2) informations for falsification of public documents docketed at the Quezon City RTC as Criminal Case Nos. Q-93-49988 and 49989. The Informations arose from the questioned acts of falsification subject of the earlier quashed information in Criminal Case No. Q-91-18037.

Petitioner later filed with Branch 103 of the RTC of Quezon City to which the informations were raffled a motion for the quashal thereof on the ground of double jeopardy, citing Section 3(h) of Rule 117 of the Revised Rules of Court.

Petitioner argued at the court a quo that he would be placed in double jeopardy as he was indicted before for the same offenses and the case was dismissed or otherwise terminated without his express consent.

By the assailed Order of December 18, 1996, public respondent, Judge Vicente Q. Roxas of Branch 227 of the RTC of Quezon City to which the two (2) informations against petitioner, et al, were eventually lodged, held that the information in Criminal Case No. Q-93-49988 involved a different document as that involved in Criminal Case No. Q-91-18037 which had already been quashed. Resolution of the motion to quash the information in Criminal Case No. Q-93-49989 was stayed pending the submission by petitioner of the documents required by the court a quo. Public respondent thus denied the motion to quash the information in Criminal Case No. Q-93-49988 and ordered petitioner’s arraignment, he holding that said case did not place petitioner in double jeopardy.[2]

Herein petitioner then filed a petition for certiorari before the CA which denied his petition stating in its Decision that since the Information in Criminal Case No. Q-91-18037, on petitioner’s motion, was quashed on the ground that more than one offense was charged pursuant to Sec. 3 (e) of Rule 117 of the Revised Rules of Court,[3] he is not placed in double jeopardy by the filing of another Information for an offense included in the charge subject of the Information in Criminal Case No. Q-91-18037.[4]

Hence, herein petition for review on certiorari assigning the following errors of the CA, to wit:

- That the Honorable Court of Appeals ERRED in disregarding the legal doctrine that THERE IS DOUBLE

JEOPARDY, in the case now pending before Respondent Judge Vicente Q. Roxas;

- That the Honorable Court of Appeals ERRED in not adhering to the decisions of this Honorable Supreme Court, as well as to applicable jurisprudence on the matter;
- That the Honorable Court of Appeals ERRED in not taking into account that based on the “Manifestation and Motion (To Grant Petition) In Lieu of Comment” filed by the Office of the Solicitor General, the ORDER of dismissal of Honorable Judge Benigno T. Dayaw in Criminal Case No. Q-91-18037 on August 23, 1991 has become final and executory; and
- That the Honorable Respondent Court of Appeals ERRED in concluding that an ORDER sustaining the motion to quash is not a bar to another prosecution for the same offense, as it has no legal basis.[5]

On the other hand, the Office of the Solicitor General (OSG) contends that petitioner, by filing the motion to quash and refusing to withdraw it after he was arraigned, is deemed to have waived his right against double jeopardy, as his motion to quash constituted his express consent for the dismissal of the information. However, the OSG advances the view that the criminal case against herein petitioner may be dismissed for the inordinate delay in the conduct of preliminary investigation for the purpose of filing the proper information, which is a violation of the accused’s constitutional right to due process of law and to speedy disposition of cases.

Private respondent complainant Irene Agbada-Cruz, in turn, submits that the Court of Appeals committed no error since the dismissal or quashal of an information is not a bar to another prosecution except when the motion to quash is based on the ground that (1) the criminal action or liability has been extinguished or that (2) the accused has previously been convicted or in jeopardy of being convicted or acquitted of the offense charged, pursuant to Section 6 in relation to Section 3, Rule 117 of the Rules of Court, to wit:

Section 6. Order sustaining the motion to quash not a bar to another prosecution; exception. - An order sustaining the motion to quash is not a bar to another prosecution for the same offense unless the motion was based on the grounds specified in Section 3, sub-sections (f) and (h) of this Rule.

Section 3. Grounds. – The accused may move to quash the complaint or information on any of the following grounds:

(a)

That the facts charged do not constitute an offense;

(b)

That the court trying the case has no jurisdiction over the offense charged or the person of the accused;

(c)

That the officer who filed the information had no authority to do so;

(d)

That it does not conform substantially to the prescribed form;

(e)

That more than one offense is charged except in those cases in which existing laws prescribe a single punishment for various offenses;

(f)

That the criminal action or liability has been extinguished;

(g)

That it contains averments which, if true, would constitute a legal excuse or justification; and

(h)

That the accused has been previously convicted or in jeopardy of being convicted, or acquitted of the offense charged. (Emphasis supplied)

Thus, private respondent Cruz argues that since the previous information was quashed on the ground of duplicity of offenses charged, the subsequent filing of a proper information is, therefore, not barred.

In their Memorandum, private respondents-complainants Romeo Gomez and Mercedes Aristorenas contend that (1) jeopardy does not attach where the dismissal of the information was effected at the instance of the accused; and (2) there was no violation of petitioner's right to a speedy disposition of his case since he never raised this issue in the trial court nor in the appellate court, hence, his silence should be interpreted as a waiver of said right to a speedy trial.

The issues boil down to (1) whether or not the prosecution of petitioner under the Information docketed as Criminal Case No. Q-93-49988 would constitute double jeopardy, considering that when the Information in Criminal Case No. Q-91-18037 was previously quashed, he had already been arraigned, and (2) whether or not petitioner's constitutional right to a speedy disposition of his case has been violated.

With regard to the first issue, we are in accord with the ruling of the CA that not all the elements for double jeopardy exist in the case at bench. In *People vs. Tac-An*,^[6] we enumerated the elements that must exist for double jeopardy to be invoked, to wit:

Thus, apparently, to raise the defense of double jeopardy, three requisites must be present: (1) a first jeopardy must have attached prior to the second; (2) the first jeopardy must have been validly terminated; and (3) the second jeopardy must be for the same offense as that in the first.

Legal jeopardy attaches only (a) upon a valid indictment, (b) before a competent court, (c) after arraignment, (d) a valid plea having been entered; and (e) the case was dismissed or otherwise terminated without the express consent of the accused (*People vs. Ylagan*, 58 Phil. 851).

Was the duplicitous information a valid indictment? We answer in the affirmative. In *People vs. Bugayong*,^[7] we ruled that when an appellant fails to file a motion to quash within the time prescribed under Section 1, Rule 117 of the Rules of Court, he is thus deemed to have waived the defect in the Information. In *People vs. Manalili*,^[8] we held that an accused, who fails to object prior to arraignment to a duplicitous information, may be found guilty of any or all of the crimes alleged therein and duly proven during the trial, for the allegation of the elements of such component crimes in the said information has satisfied the constitutional guarantee that an accused be informed of the nature of the offense with which he or she is being charged. Verily, a duplicitous information is valid since such defect may be waived and the accused, because of such waiver, could be convicted of as many offenses as those charged in the information and proved during trial.

The validity of the information having been established, we go on to examine whether the other requisites for double jeopardy to attach are present. In the present case, although there was a valid indictment before a competent court and petitioner, as the accused, had already been arraigned therein, entering a valid plea of not guilty, the last requisite that the case was dismissed or otherwise terminated without his express consent, is not present.

It should be noted that the termination of Criminal Case No. Q-91-18037 was upon motion of petitioner who, on April 1, 1991, filed with the court an Urgent Motion to Quash which was granted by Resolution dated August 23, 1991. In *Sta. Rita vs. Court of Appeals*,^[9] we held that the reinstatement of criminal cases against the accused did not violate his right against double jeopardy since the dismissal of the information by the trial court had been effected at his own instance when the accused filed a motion to dismiss on the grounds that the facts charged do not constitute an offense and that the RTC had no jurisdiction over the case. In this case, considering that since the dismissal of the previous criminal case against petitioner was by reason of his motion for the quashal of the information, petitioner is thus deemed to have expressly given his consent to such dismissal. There could then be no double jeopardy in this case since one of the requisites therefore, i.e., that the dismissal be without accused's express consent, is not present.

As to whether the subsequent filing of the two informations docketed as Q-93-49988 and Q-93-49989 constitutes a violation of petitioner's constitutional right to a speedy disposition of cases,^[10] we rule in the negative. We are not convinced by the OSG's assertion that the cases of *Tatad vs. Sandiganbayan*^[11] or *Angchangco, Jr. vs. Ombudsman*,^[12] are applicable to the case before us. We see differently. There is no factual similarity between this case before us and the cases of *Tatad* and *Angchangco*.

In the *Tatad* case, there was a hiatus in the proceedings between the termination of the proceedings before the investigating fiscal on October 25, 1982 and its resolution on April 17, 1985. The Court found that "political motivations played a vital role in activating and propelling the prosecutorial process"^[13] against then Secretary Francisco S. Tatad. In the *Angchangco* case, the criminal complaints remained pending in the Office of the Ombudsman for more than six years despite the respondent's numerous motions for early resolution and the respondent, who had been retired, was being unreasonably deprived of the fruits of his retirement because of the still unresolved criminal complaints against him. In both cases, we ruled that the period of time that elapsed for the resolution of the cases against the petitioners therein was deemed a violation of the accused's right to a speedy disposition of cases against them.

In the present case, no proof was presented to show any persecution of the accused, political or otherwise, unlike in the *Tatad* case. There is no showing that petitioner was made to endure any vexatious process during the two-year period before the filing of the proper informations, unlike in the *Angchangco* case where petitioner therein was deprived of his retirement benefits for an unreasonably long time. Thus, the circumstances present in the *Tatad* and *Angchangco* cases justifying the "radical relief" granted by us in said cases are not existent in the present case.

We emphasize our ruling in *Ty-Dazo vs. Sandiganbayan*^[14] where we held that:

The right to a speedy disposition of cases, like the right to a 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 unjustifiable motive, a long period of time is allowed to elapse without the party having his case tried. In the determination of whether or not that right has been violated, the factors that may be considered and balanced are: 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.

A mere mathematical reckoning of the time involved, therefore, would not be sufficient. In the application of the constitutional guarantee of the right to speedy disposition of cases, particular regard must also be taken of the facts and circumstances peculiar to each case. (Emphasis supplied)

Thus, we shall examine how such aforementioned factors affected herein petitioner's right.

As to the length of delay, it is established that the prosecution did not take any action on petitioner's case for two

years. From the time that Criminal Case No. Q-91-18037 was dismissed on August 23, 1991, the prosecution failed to effect the very simple remedy of filing two separate informations against petitioner until October of 1993. Indeed, there was a delay in the refiling of the proper informations. However, the prosecution was never given the opportunity to explain the circumstances that may have caused such delay precisely because petitioner never raised the issue of the length of time it took the prosecution to revive the case. There is nothing on record to show what happened during the two-year lull before the filing of the proper informations. Hence, it could not be ascertained that peculiar situations existed to prove that the delay was vexatious, capricious and oppressive, and therefore, a violation of petitioner's constitutional right to speedy disposition of cases.

What the records clearly show is that petitioner never asserted his right to a speedy disposition of his case. The only ground he raised in assailing the subsequent filing of the two informations is that he will be subjected to double jeopardy. It was only the OSG that brought to light the issue on petitioner's right to a speedy disposition of his case, and only when the case was brought to the appellate court on certiorari. Even in this petition before us, petitioner did not raise the issue of his right to a speedy disposition of his case. Again, it was only the OSG that presented such issue to us in the Brief for the State which was only then adopted by petitioner through a Manifestation dated August 3, 1999. We are not convinced that the filing of the informations against petitioner after two years was an unreasonable delay. Petitioner himself did not really believe that there was any violation of his right to a speedy disposition of the case against him.

The case which is more in point with the present one before us is *Dela Peña vs. Sandiganbayan*[15] where we ruled that petitioner therein, for failing to assert their right to a speedy disposition of their cases, was deemed to have waived such right and thus, not entitled to the "radical relief" granted by the Court in the cases of *Tatad* and *Angchangco*. The factual circumstances surrounding herein petitioner's case do not demonstrate that there was any violation of petitioner's right to a speedy disposition of his case.

WHEREFORE, the petition is hereby DENIED for lack of merit. The temporary restraining order issued pursuant to our Resolution dated January 17, 2000 is hereby LIFTED and the Regional Trial Court of Quezon City (Branch 227) is hereby ORDERED to proceed with dispatch with petitioner's arraignment in Criminal Case No. Q-93-49988.

SO ORDERED.

Quisumbing, (Acting Chairman), Callejo, Sr., and Tinga, JJ., concur.
Puno, (Chairman), J., on official leave.

[1] Penned by then Associate Justice Conchita Carpio Morales (now Associate Justice of the Supreme Court) and concurred in by Associate Justices Jinal Rasul and Bernardo Abesamis.

[2] Rollo, pp. 130-133.

[3] Sec. 3. (e) That more than one offense is charged except in those cases in which existing laws prescribe a single punishment for various offenses.

[4] Rollo, p. 136.

[5] Rollo, pp. 25-26.

[6] 398 SCRA 373, 380 (2003), citing *Saldana vs. Court of Appeals, et al.*, 190 SCRA 396 (1990).

[7] 299 SCRA 528 (1998), citing *People vs. Manalili*, G.R. No. 121671, Aug. 14, 1998; *People vs. Conte*, 247

SCRA 583 (1995); *People vs. Dulay*, 217 SCRA 132 (1993); etc.

[8] 294 SCRA 220, 226 (1998).

[9] 247 SCRA 484 (1995).

[10] Section 16, Article III of the 1987 Constitution of the Philippines states that “[a]ll persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.”

[11] 159 SCRA 70 (1988).

[12] 268 SCRA 301 (1997).

[13] *Tatad vs. Sandiganbayan* 159 SCRA 70, 81 (1988).

[14] 424 Phil. 945, 950-951 (2002), citing *Binay vs. Sandiganbayan*, 316 SCRA 65 (1999); *Gonzales vs. Sandiganbayan*, 199 SCRA 298 (1991); and *Blanco vs. Sandiganbayan*, 346 SCRA 108 (2000).

[15] 360 SCRA 478 (2001) citing *Alvizo vs. Sandiganbayan*, 220 SCRA 55, 63 (1993); *Dansal vs. Fernandez*, 327 SCRA 145, 153 (2000); *Blanco vs. Sandiganbayan*, 346 SCRA 108 (2000).

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