ABELARDO B. LICAROS, PETITIONER, VS. THE SANDIGANBAYAN AND THE SPECIAL PROSECUTOR, RESPONDENTS.

G.R. No. 145851. November 22, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The unreasonable delay of more than ten (10) years to resolve a criminal case, without fault on the part of the accused and despite his earnest effort to have his case decided, violates the constitutional right to the speedy disposition of a case. Unlike the right to a speedy trial, this constitutional privilege applies not only during the trial stage, but also when the case has already been submitted for decision.

The Case

Before this Court is a Petition for Mandamus[1] under Rule 65 of the Rules of Court, seeking to compel the Sandiganbayan (First Division) to dismiss Criminal Case No. 6672 against herein petitioner, who is charged as an accessory.

The Facts

Undisputed by the special prosecutor[2] and the Sandiganbayan[3] are the material facts as narrated by petitioner in this wise:

> "4.1 On 5 June 1982, the Legaspi City Branch of the Central Bank was robbed and divested of cash in the amount of P19,731,320.00.
>
> "4.2 In the evening of June 6, 1982, Modesto Licaros (no relation to herein petitioner), one of the principal accused, together with four companions, delivered in sacks a substantial portion of the stolen money to the Concepcion Building in Intramuros, Manila where Home Savings Bank had its offices, of which herein petitioner was then Vice Chairman and Treasurer. The delivery was made on representation by Modesto Licaros to former Central Bank Governor Gregorio Licaros, Sr., then Chairman of the Bank and father of herein petitioner, that the money to be deposited came from some Chinese businessmen from Iloilo who wanted the deposit kept secret; that Governor Licaros left for the United States on May 28, 1982 for his periodic medical check-up, so left to his son, herein petitioner, to attend to the proposed deposit.
>
> "4.3 Even the prosecution admits in their Reply Memorandum that from the evidence presented, that in the evening of June 8, 1982, herein petitioner attempted to report the incident to General Fabian Ver but he could not get in touch with him because the latter was then out of the country; that it was only the following day, June 9, 1982, when herein petitioner was able to arrange a meeting with then Central Bank Governor Jaime C. Laya, Senior Deputy Governor Gabriel Singson, and Central Bank Chief Security Officer, Rogelio Navarete, to report his suspicion that the money being deposited by Modesto Licaros may have been stolen money. With the report or information supplied by herein petitioner, then CB Governor Laya called up then NBI Director Jolly Bugarin and soon after the meeting, the NBI, Metrocom and [the] CB security guards joined forces for the recovery of the money and the apprehension of the principal accused.

"4.4 All the aforesaid Central Bank officials executed sworn statements and testified for herein petitioner, particularly CB Governor Jaime C. Laya, CB Senior Deputy Governor Gabriel Singson and CB Director of [the] Security and Transport Department Rogelio Navarette, and were one in saying that it was the report of herein petitioner to the authorities that broke the case on 9 June 1982 and resulted in the recovery of the substantial portion of the stolen money and the arrest of all the principal accused.

"4.5 On July 6, 1982, after preliminary investigation, the Tanodbayan (now Special Prosecutor) filed an Information for robbery with the Sandiganbayan docketed as Crim. Case No. 6672 against two groups of accused:
Principals:

(1)

Modesto Licaros y Lacson, [P]rivate [I]ndividual

(2)

Leo Flores y Manlangit, CB [S]ecurity [G]uard

(3)

Ramon Dolor y Ponce, CB Assistant Regional Cashier

(4)

Glicerio Balansin y Elaurza, CB Security [G]uard

(5)

Rolando Quejada y Redequillo, Private Individual

(6)

Pio Edgardo Flores y Torres, Private Individual

(7)

Mario Lopez Vito y Dayungan, Private Individual

(8)

Rogelio De la Cruz y Bodegon, Private Individual

Accessory After the Fact:

(1)

Abelardo B. Licaros, Vice Chairman and Treasurer, Home Savings Bank and Trust Co. (HSBTC), Private Individual.

"The Tanodbayan did not adopt the recommendation of the NBI that Abelardo B. Licaros be charged as principal apparently because no one of those whose statements were taken including the above principal accused ever testified that he participated in the planning or execution of the robbery so that he could be held `also in the conspiracy' as alleged by the NBI.

"4.6 On November 26, 1982, the Tanodbayan filed an Amended Information naming the same persons as principals, except Rogelio dela Cruz who is now charged as an accessory, together with private respondent Abelardo B. Licaros. De la Cruz died on November 6, 1987 as per manifestation by his counsel dated and filed on

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November 17, 1987.

"4.7 On November 29, 1982, the accused were arraigned including herein petitioner, who interposed the plea of not guilty.

"4.8 On January 7, 1983, the Tanodbayan filed with the Sandiganbayan a `Motion for Discharge' of herein petitioner to be utilized as a state witness which was granted in a Resolution dated February 11, 1983. The Supreme Court, however, on petition for certiorari filed by accused Flores, Modesto Licaros and Lopez Vito, annulled the discharge because it ruled that the Sandiganbayan should have deferred its resolution on the motion to discharge until after the prosecution has presented all its other evidence.

"4.9 At the close of its evidence, or on July 23, 1984, the prosecution filed a second motion for discharge of herein petitioner to be utilized as a state witness but the Sandiganbayan in a Resolution dated September 13, 1984 denied the Motion stating in part that the motion itself does not furnish any cue or suggestion on what petitioner will testify in the event he is discharged and placed on the stand as state witness.

"4.10 Meanwhile, as of March 8, 1983, the prosecution has presented ten (10) witnesses. Among those who testified were NBI Agents Victor Bessat and Apollo Sayo, who took and identified the sworn statements of accused Leo Flores, Ramon Dolor, Rogelio de la Cruz, Mario Lopez Vito and Modesto Licaros; M/Sgt Raynero Galarosa, who took and identified the sworn statement of accused Pio Flores and the sworn supplemental statement of accused Glicerio Balansin; Sgt. Eliseo Rioveros, who took and identified the sworn statement of accused Glicerus Balansin; and CIS Agent Maria Corazon Pantorial, who took the sworn statement of accused Rolando Quejada. None of these witnesses, nor any of the principal accused who executed the sworn statements implicated herein petitioner to the crime of robbery directly or indirectly.

"4.11 On September 17, 1984, the prosecution formally offered its documentary evidence. In a Resolution dated October 1, 1984, the Sandiganbayan admitted the evidence covered by said formal offer and the prosecution [was] considered to have rested its case.

"4.12 In a Resolution dated June 25, 1985, the Sandiganbayan granted the prosecution's motion to reopen the case to allow its witness Lamberto Zuniga to testify on the conspiracy and to identify a sworn statement given before the NBI on June 15, 1982. Having been established that petitioner was not part of the conspiracy, the testimony had no materiality nor relevance to the case insofar as petitioner is concerned.

"4.13 On January 14, 1986, petitioner filed a Motion for Separate Trial contending that the prosecution already closed its evidence and that his defense is separate and distinct from the other accused, he having been charged only as accessory. The [Motion] was granted in an Order dated January 17, 1986.

"4.14 Thereafter, herein petitioner commenced the presentation of his evidence. Aside from his testimony and that of his late father, former Central Bank Governor Gregorio S. Licaros, petitioner presented the top officials of the Central Bank namely then Central Bank Governor Jaime C. Laya, then Senior Deputy Governor Gabriel C. Singson, then Central Bank Security and Transport Dept. Chief Rogelio M. Navarette who identified their sworn statements taken before the investigators and who testified that it was the petitioner's report on June 9, 1982 that broke the case and resulted in the recovery of the substantial portion of the stolen money and the apprehension of the principal accused.

"4.15 On August 8, 1986, petitioner filed his Formal Offer of Exhibits. On August 14, 1986, petitioner filed his Memorandum praying that judgment be rendered acquitting him of the offense charged.

"4.16 In a Resolution dated August 26, 1986, the Sandiganbayan, through Presiding Justice Francis E.

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Garchitorena (then newly appointed after the EDSA revolution), admitted all the exhibits covered by said Formal Offer of Exhibits at the same time, ordering the prosecution to file its Reply Memorandum, thereafter the case was deemed submitted for decision.

"4.17 On September 26, 1986, the prosecution filed its Reply Memorandum. Petitioner also filed his Reply Memorandum on September 29, 1986 praying that judgment be rendered acquitting him of the offense charged.

"4.18 In a Resolution dated October 8, 1986 copy of which was received by petitioner on October 15, 1986, the Sandiganbayan deferred the decision of the case regarding herein petitioner `until after the submission of the case for decision with respect to the other accused.'

"4.19 Petitioner filed his Motion for Reconsideration on October 16, 1986, but the Sandiganbayan in a Resolution dated December 16, 1986 and promulgated on January 6, 1987 denied the same, the dispositive portion of which read(s):

> `IN VIEW OF THE FOREGOING, the Motion for Reconsideration filed by accused Abelardo B. Licaros is denied.
>
> `The decision as to the accusation against him will be rendered together with the accusation against the other accused without relating the evidence separately presented at the separate proceeding held for the separate sets of accused one way or the other.'

"4.20 As admitted by the prosecution in its Comment on the Omnibus Motion dated March 31, 2000, the `case was submitted for decision on June 20, 1990.'

"4.21 As of this writing, and more than ten (10) years after the case submitted for decision, the Sandiganbayan has not rendered the Decision.

"4.22 The Sandiganbayan has not rendered the Decision even while the proceedings involving herein petitioner as an accessory in a separate trial were terminated as early as October 8, 1986, while those against all the principal accused were deemed submit[t]ed for decision on June 20, 1990.

"4.23 As early as October 16, 1986, herein petitioner already invoked his constitutional right to speedy justice when he filed a Motion on said date praying for, among other things, that the Sandiganbayan reconsider its Resolution dated October 8, 1986 deferring the decision of the case against herein petitioner `until after the submission of the case for decision with respect to the other accused' and that a judgment of acquittal be rendered.

"4.24 The Honorable Sandiganbayan has not also rendered a resolution on herein petitioner's Omnibus Motion to Dismiss filed on March 23, 2000 which was deemed submitted for resolution on May 5, 2000, the last pleading having been filed on said date. In the said Omnibus Motion, petitioner prays for the dismissal of the case insofar as it involves herein petitioner for violation of his constitutional right to speedy disposition of the case. Sad to say, even this motion to dismiss has not been acted upon.

"4.25 On 15 August 2000, herein petitioner filed his Motion to Resolve. This was followed by Reiterative Motion for Early Resolution filed on September 21, 2000.

"4.26 Notwithstanding the lapse of more than ten (10) years after the case was deemed submitted for decision, the Sandiganbayan has not rendered the Decision. Hence, this petition."[4]

The Issues

Petitioner interposes the following issues for the consideration of this Court:

A

"The unexplained failure of the SANDIGANBAYAN to render the decision for more than ten (10) years after the case was deemed submitted for Decision is tantamount to gross abuse of discretion, manifest injustice or palpable excess of authority.

B

"The unexplained failure of the SANDIGANBAYAN to render the Decision for more than ten (10) years violated herein petitioner's constitutional right to due process and to a speedy disposition of the case.

C

"Recent Decisions of this Honorable Supreme Court mandate the immediate dismissal of the case against herein petitioner."[5]

In brief, the main issue is whether petitioner's constitutional right to a speedy disposition of his case has been violated. We shall also discuss, as a side issue, the propriety of mandamus as a remedy under the circumstances in this case.

The Court's Ruling

The Petition is meritorious.[6]

Main Issue:
The Right to a Speedy Disposition

On June 20, 1990, Criminal Case No. 6672 was deemed submitted for the decision of the Sandiganbayan. Since then, no action has been taken by the anti-graft court. On March 23, 2000, petitioner filed an Omnibus Motion to Dismiss, grounded on the violation of his right to a speedy disposition. Unfortunately, even this Motion has not been ruled upon by public respondent.

Under Section 6 of PD 1606 amending PD 1486, the Sandiganbayan has only 90 days to decide a case from the time it is deemed submitted for decision. Considering that the subject criminal case was submitted for decision as early as June 20, 1990, it is obvious that respondent court has failed to decide the case within the period prescribed by law. Even if we were to consider the period provided under Section 15(1), Article III of the 1987 Constitution, which is 12 months from the submission of the case for decision, the Sandiganbayan would still have miserably failed to perform its mandated duty to render a decision on the case within the period prescribed by law. Clearly then, the decision in this case is long overdue, and the period to decide the case under the law has long expired.[7]

Even more important than the above periods within which the decision should have been rendered is the right against an unreasonable delay in the disposition of one's case before any judicial, quasi-judicial or administrative body.[8] This constitutionally guaranteed right finds greater significance in a criminal case before a court of justice, where any delay in disposition may result in a denial of justice for the accused altogether. Indeed, the aphorism "justice delayed is justice denied" is by no means a trivial or meaningless concept that can be taken for granted by those who are tasked with the dispensation of justice.

Indubitably, there has been a transgression of the right of petitioner to a speedy disposition of his case due to inaction on the part of the Sandiganbayan. Neither that court nor the special prosecutor contradicted his allegation of a ten-year delay in the disposition of his case. The special prosecutor in its Comment[9] even openly admitted the date when the case had been deemed submitted for decision, as well as respondent court's failure to act on it despite petitioner's several Motions to resolve the case. The special prosecutor stated as follows:

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"With the termination of presentation of evidence for the prosecution and the principal accused in this case, the same was deemed submitted for decision on June 20, 1990.

"Alleging violation by respondent court of his right to speedy disposition of the case, petitioner on March 23, 2000 filed an Omnibus Motion to Dismiss. His motion was deemed submitted for resolution by the respondent court on May 5, 2000.

"On August 15, 2000, petitioner filed before the respondent court a Motion to Resolve and a month thereafter a Reiterative Motion for Early Resolution. No decision has yet been rendered by respondent court."[10]

For its part, the Sandiganbayan candidly admitted that the said criminal case had not been ruled upon all this time, because it "was one of those cases that got buried"[11] in the archives during reorganization in that court. Presiding Justice Francis E. Garchitorena's explanation (contained in his Comment) is quoted in full hereunder:

"1. The factual narrative by the petitioner in the instant matter is substantially correct;

"2. Indeed, originally petitioner Licaros had filed a Motion for Resolution of his portion of the case after he submitted his evidence separately;

"3. Eventually, the instant case was submitted for decision;

"4. Indeed, it would have been ripe to resolve the instant case including that portion which pertained to petitioner Licaros;

"5. The matter was duly assigned for drafting of the decision (not the undersigned).

"6. Sometime in 1995, a draft of the Decision was submitted for consideration by the other justices of the Division;

"7. In the meantime, movements took place in the composition of the justices who constituted the First Division later.

"8. In 1997, the entire Court was re-organized with the addition of two (2) new Divisions and six (6) new justices;

"9. At this time, the cases in the Sandiganbayan, whether in progress or submitted were re-distributed from the original Divisions to which they had been raffled to the new Divisions;

"10. The instant case remained with this Division;

"11. While the burden of each Division has considerably lightened, the new justices had to undergo an orientation in this Court;

"12. Not all cases were immediately re-assigned to the different members. The instant case was one of them;

"13. Then, this Court relocated to its present premises which required not only packing and crating the records but the problem of not being able to unpack them very easily due to the absence of an adequate number of shelves and cabinets available;

"14. Due to the difficulty in funds, the Philippine Estate Authority which was supposed to have provided new furniture including shelves and cabinets out of the payments made to it, was unable to do so;

"15. To this date, the three original Divisions do not have all the needed shelves and many records remain in cardboard boxes both in chambers and in the offices of the Division Clerk of Court. (In the library and in the Archives, the boxes for books and old records remained unopened.);

"16. In all this, the instant matter was one of those that got `buried';

> "17. Significantly, when the records of this case were returned to the undersigned, the records of this case were not logged in the record book through some oversight of his staff which the undersigned cannot explain so that it did not appear in the tracking process of the records of this office;
>
> "18. At this time, work is being done on the case for the preparation and finalization of the decision which the undersigned has taken upon himself.
>
> "19. Insofar as this Division is concerned, the responsibility for this situation belongs exclusively to the undersigned, both in his capacity as chairman and as Presiding Justice;
>
> "The undersigned respectfully reiterates: there is indeed fault and the fault is exclusively that of the undersigned - for which the undersigned begs for the kindness of this Honorable Court and humbly submits to its wisdom and judgment."[12]

Citing Tatad v. Sandiganbayan,[13] Angchangco Jr. v. Ombudsman[14] and Roque v. Office of the Ombudsman,[15] petitioner claims that he is entitled to a dismissal of the criminal case against him. An unreasonable delay of three years in the disposition of a case violates the accused's constitutional rights, as the Court explained in Tatad v. Sandiganbayan:

> "Not only under the broad umbrella of the due process clause, but under the constitutional guarantee of `speedy disposition' of cases as embodied in Section 16 of the Bill of Rights (both in the 1973 and the 1987 Constitutions), the inordinate delay is violative of the petitioner's constitutional rights. A delay of close to three (3) years cannot be deemed reasonable or justifiable in the light of the circumstance obtaining in the case at bar."[16]

Because of an inordinate delay of more than six years in the disposition of Angchangco Jr. v. Ombudsman, the High Court ordered its dismissal, as follows:

> "After a careful review of the facts and circumstances of the present case, the Court finds the inordinate delay of more than six years by the Ombudsman in resolving the criminal complaints against petitioner to be violative of his constitutional guaranteed right to due process and to a speedy disposition of the cases against him, thus warranting the dismissal of said criminal cases pursuant to the pronouncement of the Court in Tatad vs. Sandiganbayan x x x."[17]

More recently, in Roque et. al. v. Office of the Ombudsman, the Court dismissed the criminal cases against petitioner therein, on the following explanation:

> "Clearly, the delay of almost six years disregarded the Ombudsman's duty, as mandated by the Constitution and Republic Act No. 6770, to act promptly on complaints before him. More important, it violated the petitioners' rights to due process and to a speedy disposition of cases filed against them. Although respondents attempted to justify the six months needed by Ombudsman Desierto to review the recommendation of Deputy Ombudsman Gervasio, no explanation was given why it took almost six years for the latter to resolve the Complaint."[18]

On the other hand, the special prosecutor contends that the above-cited rulings of the Court should not apply to the present case, because what was involved in those cases was a delay on the part of the Office of the Ombudsman or the Office of the Special Prosecutor (formerly Tanodbayan) with respect to the holding of a preliminary investigation. He argues that the case against herein petitioner has already been proven by the ombudsman with the filing of the corresponding Information before respondent court. Moreover, the prosecution has already fully discharged its mandated duty to present evidence against the accused. In other words, the special prosecutor is of the view that the accused's right to a speedy disposition of his case is not violated when the prosecution aspect of the case has already been duly performed.

We cannot accept the special prosecutor's limited and constrained interpretation of the constitutionally enshrined right to a speedy disposition of cases. It must be understood that in the ordinary course of a criminal proceeding, a court is responsible for the ultimate disposition of the case. This is true irrespective of the prosecution's punctual performance of its duty. Hence, notwithstanding the filing of the information, the presentation of evidence and the completion of the trial proper, the eventual disposition of the case will still depend largely on the timely rendition of judgment by a court. And where it does not act promptly on the adjudication of a case before it and within the period prescribed by law, the accused's right to a speedy disposition of the case is just as much prejudiced as when the prosecution is prolonged or deferred indefinitely. Accordingly, with all the more reason should the right to the speedy disposition of a case be looked upon with care and caution when that case has already been submitted to the court for decision.

In Abadia v. Court of Appeals,[19] the Court had the occasion to rule on the nature and the extent as well as the broader protection afforded by the constitutional right to the speedy disposition of a case, as compared with the right to a speedy trial. Thus, it ratiocinated as follows:

> "The Bill of Rights provisions of the 1987 Constitution were precisely crafted to expand substantive fair trial rights and to protect citizens from procedural machinations which tend to nullify those rights. Moreover, Section 16, Article III of the Constitution extends the right to a speedy disposition of cases to cases `before all judicial, quasi-judicial and administrative bodies.' This protection extends to all citizens, x x x and covers the periods before, during and after the trial, affording broader protection than Section 14(2) which guarantees merely the right to a speedy trial."[20] (Emphasis supplied)

It has been held that a breach of the right of the accused to the speedy disposition of a case may have consequential effects, but it is not enough that there be some procrastination in the proceedings. In order to justify the dismissal of a criminal case, it must be established that the proceedings have unquestionably been marred by vexatious, capricious and oppressive delays.[21]

In the case before us, the failure of the Sandiganbayan to decide the case even after the lapse of more than ten years after it was submitted for decision involves more than just a mere procrastination in the proceedings. From the explanation given by the Sandiganbayan, it appears that the case was kept in idle slumber, allegedly due to reorganizations in the divisions and the lack of logistics and facilities for case records. Had it not been for the filing of this Petition for Mandamus, petitioner would not have seen any development in his case, much less the eventual disposition thereof. The case remains unresolved up to now, with only respondent court's assurance that at this time "work is being done on the case for the preparation and finalization of the decision."[22]

In Guerrero v. Court of Appeals,[23] the Court denied a Petition seeking to dismiss a criminal case grounded on an alleged violation of the accused's right to a speedy disposition. However, the accused in the said case was deemed to have slept on his rights by not asserting them at the earliest possible opportunity. The Court explained its ruling in this wise:

> "In the case before us, the petitioner merely sat and waited after the case was submitted for resolution in 1979. It was only in 1989 when the case below was reraffled from the RTC of Caloocan City to the RTC of Navotas-Malabon and only after respondent trial judge of the latter court ordered on March 14, 1990 the parties to follow-up and complete the transcript of stenographic notes that matters started to get moving towards a resolution of the case. More importantly, it was only after the new trial judge reset the retaking of the testimonies to November 9, 1990 because of petitioner's absence during the original setting on October 24, 1990 that the accused suddenly became zealous of safeguarding his right to speedy trial and disposition.
>
> x x x x x x x x x
>
> "In the present case, there is no question that petitioner raised the violation against his own right to speedy

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> disposition only when respondent trial judge reset the case for rehearing. It is fair to assume that he would have just continued to sleep on his right - a situation amounting to laches - had the respondent judge not taken the initiative of determining the non-completion of the records and of ordering the remedy precisely so he could dispose of the case, The matter could have taken a different dimension if during all those ten years between 1979 when accused filed his memorandum and 1989 when the case was reraffled, the accused showed signs of asserting his right which was granted him in 1987 when the new constitution took effect, or at least made some overt act (like a motion for early disposition or a motion to compel the stenographer to transcribe the stenographic notes) that he was not waiving it. As it is, his silence would have to be interpreted as a waiver of such right."[24]

In the instant Petition, however, the accused had been assertively and assiduously invoking his right to a speedy disposition even before the case was submitted for decision on June 20, 1990.[25] In fact, he has already filed an Omnibus Motion to Dismiss,[26] a Motion to Resolve[27]and a Reiterative Motion for Early Resolution,[28] all of which have fallen on deaf ears in the Sandiganbayan. Thus, in the light of the foregoing circumstances, he cannot be said to have slept on his rights, much less waived the assertion thereof. Quite the contrary, he has been persistent in his demand for the eventual disposition of the criminal case against him.

Indeed, petitioner has been kept in the dark as to the final outcome of the case, which was deemed submitted for decision more than ten years ago. And though such failure or inaction may not have been deliberately intended by respondent court, its unjustified delay has nonetheless caused just as much vexation and oppression, in violation of the right of petitioner to a speedy disposition of his case. Hence, his reliance on the aforementioned cases for the dismissal of the criminal case against him may be sustained, not so much on the basis of the right to a speedy trial, but on the right to a speedy disposition of his case, which is of broader and more appropriate application under the circumstances.

In Dela Peña v. Sandiganbayan,[29] penned by Chief Justice Hilario G. Davide Jr., the Court laid down certain guidelines to determine whether the right to a speedy disposition has been violated, as follows:

> "The concept of speedy disposition is relative or flexible. A mere mathematical reckoning of the time involved is not sufficient. Particular regard must be taken of the facts and circumstances peculiar to each case. Hence, the doctrinal rule is that in the determination of whether that right has been violated, the factors that may be considered and balanced are as follows: (1) the length of the delay; (2) the reasons for the delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay."[30]

As earlier discussed, more than ten years has lapsed since the subject case has been deemed submitted for decision. The delay cannot at all be attributed to petitioner, who has neither utilized dilatory tactics nor undertaken any procedural device to prolong the proceedings. As a matter of fact, he has been continuously pushing for the resolution of his case even during the early stages of the prosecution. Moreover, it is undeniable that such delay has caused much prejudice, distress and anxiety to herein petitioner, whose career as bank executive and businessman has suffered the stigma of being shackled to an unresolved criminal prosecution, virtually hanging like a Damocles' sword over his head for more than a decade. We need not stress the consequences and problems inherent in this pending litigation and/or criminal prosecution which include the prospects of unrealized business transactions, stagnant professional growth, hampered travel opportunities and a besmirched reputation. Furthermore, it is worth noting that petitioner has been charged merely as an accessory after the fact due to his being a senior executive of the bank where the principal accused tried to deposit the stolen money. Clearly then, the dismissal sought by herein petitioner is justified under the circumstances and in accordance with the guidelines set forth in the above-cited case.

Procedural Issue:
Mandamus as an Appropriate Remedy

Mandamus is a proper recourse for citizens who seek to enforce a public right and to compel the performance of a public duty, most especially when mandated by the Constitution.[31] To reiterate, the right of the accused to the speedy disposition of a case is a right guaranteed under the fundamental law. Correlatively, it is the bounden duty of a court, as mandated by the Constitution, to speedily dispose of the case before it. Thus, a party to a case may demand, as a matter mandated by the Constitution, expeditious action from all officials who are tasked with the administration of justice.[32]

Ideally, a petition for mandamus lies to compel the performance of a ministerial but not of a discretionary duty.[33] More specifically, persons or public officials may be directed to act with or to exercise discretion, but not as to how that discretion should be exercised. However, our jurisprudence is replete with exceptions in this matter. Thus, it has been held that in a case where there is "gross abuse of discretion, manifest injustice or palpable excess of authority," the writ may be issued to control precisely the exercise of such discretion.[34]

As discussed above, the Sandiganbayan's inordinate delay in deciding the subject criminal case prejudiced the right of petitioner to a speedy disposition of his case. Such undue delay can be characterized as no less than a grave abuse of discretion, resulting in manifest injustice on the part of petitioner. In view of these circumstances, the case falls squarely into the established exception and will justify this Court's action of substituting the discretion of respondent with that of its own.

In the very recent case Lopez Jr. v. Office of the Ombudsman et al.,[35] the Court deemed it appropriate to dismiss directly the criminal suit before the Sandiganbayan in the interest of the speedy disposition thereof. Thus, it ruled as follows:

> "x x x [T]his Court applying the ruling in the Roque case, citing Tatad, likewise resolves to directly dismiss the informations already filed before the Sandiganbayan against petitioner `in the interest of the speedy disposition of case' x x x."

We find that the circumstances obtaining in the action cited above are similar to those in the instant Petition and thus warrant the same course of action; namely, dismissal of the case against herein petitioner. However, no administrative sanction against respondent court or its members can be meted out in the present proceedings. Due process requires that before such penalty can be imposed, the proper administrative proceedings must be conducted, as in fact one is already being undertaken in AM No. 00-8-05-SC entitled "Re: Problem of Delays in Cases Before the Sandiganbayan."

Epilogue

In sum, we hold that the dismissal of the criminal case against petitioner for violation of his right to a speedy disposition of his case is justified by the following circumstances: (1) the 10-year delay in the resolution of the case is inordinately long; (2) petitioner has suffered vexation and oppression by reason of this long delay; (3) he did not sleep on his right and has in fact consistently asserted it, (4) he has not contributed in any manner to the long delay in the resolution of his case, (5) he did not employ any procedural dilatory strategies during the trial or raised on appeal or certiorari any issue to delay the case, (6) the Sandiganbayan did not give any valid reason to justify the inordinate delay and even admitted that the case was one of those that got "buried" during its reorganization, and (7) petitioner was merely charged as an accessory after the fact.

For too long, petitioner has suffered in agonizing anticipation while awaiting the ultimate resolution of his case. The inordinate and unreasonable delay is completely attributable to the Sandiganbayan. No fault whatsoever can be ascribed to petitioner or his lawyer. It is now time to enforce his constitutional right to speedy disposition and to grant him speedy justice.

WHEREFORE, the Petition is hereby GRANTED and, as against petitioner, Criminal Case No. 6672 pending before the Sandiganbayan is DISMISSED. No costs.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Kapunan, Mendoza, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and Carpio, JJ., concur.
Vitug, J., in the result.

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[1] Rollo, pp. 37-53.

[2] See Comment of the Office of the Special Prosecutor, pp. 2-4.

[3] In his Comment, Presiding Justice Francis E. Garchitorena admits that the "factual narrative by the petitioner in the instant matter is substantially correct."

[4] Ibid., at pp. 11-18.

[5] Id., at p. 18.

[6] This case was deemed submitted for resolution on August 28, 2001, upon the Court's receipt of the Comment of Respondent Sandiganbayan. The pleadings of the other parties were submitted earlier.

[7] Bentulan v. Dumatol, 233 SCRA 168, June 15, 1994.

[8] Matias v. Plan, 293 SCRA 532, August 3, 1998.

[9] Rollo, pp. 137-145.

[10] Ibid., at pp. 139-140.

[11] Comment dated August 3, 2001; rollo, pp. 187-189.

[12] Ibid.

[13] 159 SCRA 70, March 21, 1988.

[14] 268 SCRA 301, February 13, 1997.

[15] 307 SCRA 104, May 12, 1999.

[16] Supra, at p. 82, per Yap, J. (later CJ).

[17] Supra, at p. 304, per Melo, J.

[18] Supra, at p. 311, per Panganiban, J.

[19] 236 SCRA 676, September 23, 1994.

[20] Ibid., at p. 682, per Kapunan, J.

[21] Cojuangco Jr. v. Sandiganbayan, 300 SCRA 367, December 21, 1998.

[22] Comment of Presiding Justice Garchitorena; rollo, pp. 187-189, at p. 189.

[23] 257 SCRA 703, June 28, 1996.

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[24] Ibid., at. pp. 714-716, per Panganiban, J.

[25] As early as October 16, 1986, petitioner already invoked this constitutional right by filing a Motion for Reconsideration of the Sandiganbayan's Resolution deferring the case against hin until after the submission of the case for decision with respect to the other accused. See also Annex "A" of the Petition; rollo, pp. 32-37.

[26] Filed on March 23, 2000. See Annex "C" of Petition; rollo, pp. 39-53.

[27] Filed on August 15, 2000. See Annex "G" of the Petition; rollo pp. 68-70.

[28] Filed on September 21, 2000. See Annex "H" of the Petition; rollo pp. 72-74.

[29] G.R. No. 144542, June 29, 2001.

[30] Ibid., per Davide, CJ.

[31] Chavez v. PCGG, 307 SCRA 394, May, 19, 1999.

[32] Binay v. Sandiganbayan, 316 SCRA 65, October 1, 1999.

[33] Go v. CA, 252 SCRA 564, January 29, 1996.

[34] Kant Kwong v. PCGG, 156 SCRA 222, December 7, 1987, per Melencio-Herrera, J.; First Philippine Holdings Corporation v. Sandiganbayan 253 SCRA 30, February 1, 1996, per Panganiban, J.; DM Consunji, Inc. v. Esguerra, 260 SCRA 74, July 30, 1996, per Panganiban, J.; Angchangco Jr. v. Ombudsman, 268 SCRA 301, February 17, 1997, per Melo, J.

[35] GR No. 140529, September 6, 2001.

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