

SPS. HENRY AND ROSARIO UY, PETITIONERS, VS. HON. JUDGE ARSENIO P. ADRIANO, IN HIS CAPACITY AS PAIRING JUDGE OF RTC, BR. 64, TARLAC CITY, CITY PROSECUTOR ALIPIO C. YUMUL AND PIÑA...

G.R. NO. 159098. October 27, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Challenged in this instant Petition for Review on Certiorari is the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 62103 which affirmed the Orders of the Regional Trial Court (RTC) of Tarlac City[2] denying the motion to quash the Information in Criminal Case Nos. 6512-94.

Based on a confidential information that petitioner Henry Uy had been engaged in manufacturing, delivering, and selling "fake" Marca Piña soy sauce,[3] Orlando S. Bundoc, Intelligence Officer II of the Economic Intelligence and Investigation Bureau (EIIB), applied for a search warrant[4] for unfair competition which was granted on February 14, 1994. When the search warrant was implemented on even date, Atty. Francisco R. Estavillo, agent of the National Bureau of Investigation (NBI) in Tarlac, seized fifty-five (55) bottles of label Marca Piña soy sauce.[5]

Consequently, a criminal complaint was filed in the Municipal Trial Court (MTC) of Tarlac City on March 23, 1994, charging petitioner Henry Uy with violation of Article 189 (Unfair Competition) of the Revised Penal Code.[6]

On November 8, 1994, private respondent Piñakamasarap Corporation moved to amend the criminal charge by including Henry's spouse, petitioner Rosario Uy.[7] The court granted the motion in its Order dated November 15, 1994 and admitted the amended criminal complaint which reads:

The undersigned, LUIS E. GONZALES, Comptroller of PIÑAKAMASARAP CORPORATION of 583 Sta. Veronica St., Novaliches, Quezon City, and by authority of the said corporation, under oath accuses HENRY UY, ROSARIO GUTIERREZ UY and a certain JOHN DOE of Violation of Article 189 of the Revised Penal Code, committed as follows:

That on or about February 14, 1994, and for sometimes (sic) prior thereto, in Municipality of Tarlac, Tarlac, Philippines, the said Rosario G. Uy accused, being then the owner of a business establishment with principal address at Phase I, Northern Hills Subdivision, San Vicente, Tarlac, Tarlac, and her co-accused, husband, HENRY UY, and a certain John Doe, did then and there, willfully, unlawfully and feloniously conspire and confederate together and help one another engaged in unfair competition with the intention of deceiving and defrauding the public in general and the consuming public in general and PIÑAKAMASARAP Corporation, the manufacturer and bottler of soy sauce under the name "MARCA PIÑA," a [trademark] duly registered with the Philippine Patent Office and sell or offer for sale soy sauce manufactured by them with the brand name "Marca Piña" which is a bastard version of the trademark, and using the bottles of Piñakamasarap Corporation

and substituted the contents thereof with those manufactured by the accused and passing to the public that said products to be the products of Piñakamasarap Corporation which is not true, thereby inducing the public to believe that the above-mentioned soy sauce sold or offered for sale by said accused are genuine "MARCA PIÑA" soy sauce manufactured by PIÑAKAMASARAP CORPORATION, and of inferior quality to the damage and prejudice of the Piñakamasarap Corporation.

Contrary to law.

Tarlac, Tarlac, November 8, 1994.[8]

After preliminary examination of the prosecution witnesses, the court found probable cause to indict petitioners.[9] On January 30, 1995, the court issued a warrant of arrest against petitioners.[10] They were released after posting a cash bond on February 1, 1995.[11] On July 10, 1995, petitioners were arraigned, assisted by counsel, and pleaded not guilty to the charge.[12] Petitioners, through counsel, waived the pre-trial conference on October 25, 1995. The initial trial was set on November 27, 1995.[13]

However, it was only on February 26, 1996 that the first witness of the prosecution, Atty. Estavillo of the NBI, testified. In the meantime, in October 1996, this Court issued Administrative Order (A.O.) No. 104-96 providing, inter alia, that the RTC shall have exclusive jurisdiction over violations of Articles 188 and 189 of the Revised Penal Code and Republic Act (R.A.) No. 166, as amended, thus:

VIOLETIONS OF INTELLECTUAL PROPERTY RIGHTS SUCH AS, BUT NOT LIMITED TO, VIOLETIONS OF ART. 188 OF THE REVISED PENAL CODE (SUBSTITUTING AND ALTERING TRADEMARKS, TRADE NAMES, OR SERVICE MARKS), ART. 189 OF THE REVISED PENAL CODE (UNFAIR COMPETITION, FRAUDULENT REGISTRATION OF TRADEMARKS, TRADE NAMES, OR SERVICE MARKS, FRAUDULENT DESIGNATION OF ORIGIN, AND FALSE DESCRIPTION), P.D. NO. 49 (PROTECTION OF INTELLECTUAL PROPERTY RIGHTS), P.D. NO. 87 (AN ACT CREATING THE VIDEOGRAM REGULATORY BOARD), R.A. NO. 165, AS AMENDED (THE PATENT LAW), AND R.A. NO. 166, AS AMENDED (THE TRADEMARK LAW) SHALL BE TRIED EXCLUSIVELY BY THE REGIONAL TRIAL COURTS IN ACCORDANCE WITH THE ESTABLISHED RAFFLE SCHEME EXCEPT THOSE COVERED BY ADMINISTRATIVE ORDER NO. 113-95 DATED 2 OCTOBER 1995, IN WHICH CASE, THE DESIGNATED REGIONAL TRIAL COURTS SHALL CONTINUE TO OBSERVE THE PROVISIONS THEREIN.

CONSIDERING THAT JURISDICTION FOR VIOLETIONS OF INTELLECTUAL PROPERTY RIGHTS HEREINBEFORE MENTIONED IS NOW CONFINED EXCLUSIVELY TO THE REGIONAL TRIAL COURTS, THE DESIGNATION OF METROPOLITAN TRIAL COURTS AND MUNICIPAL TRIAL COURTS IN CITIES UNDER ADMINISTRATIVE ORDER NO. 113-95 IS DELETED AND WITHDRAWN.

Despite the administrative order of the Court, the MTC continued with the trial. Gloria P. Tomboc, Analyst of the Bureau of Food and Drugs Administration (BFAD), testified on August 25, 1997. In the meantime, Articles 188 and 189 of the Revised Penal Code were amended by R.A. No. 8293, otherwise known as the Intellectual Property Code. Two years thereafter, Alfredo Lomboy, supervisor of Piñakamasarap Corporation, testified on August 30, 1999.

On December 12, 1999, the prosecution filed its formal offer of evidence.[14] In the meantime, on October 22, 1999, Atty. Joselito L. Lim had moved to withdraw his appearance as counsel for petitioners;[15] the court had granted the motion on October 25, 1999;[16] and the new counsel of petitioners, Balbastro and Associates, had entered its appearance on November 24, 1999.[17]

On February 15, 2000, the court resolved to admit the documentary evidence of the prosecution except Exhibit

"E" which was rejected by the court, and Exhibits "I" and "J" which were withdrawn.[18] The prosecution rested its case.

On March 10, 2000, petitioners, through their new counsel, filed a Motion for Leave to File Demurrer to Evidence.[19] The court granted the motion. In their demurrer,[20] petitioners argued that a judgment of acquittal is proper since no sufficient evidence was presented to prove beyond reasonable doubt that they are guilty of the offense charged. The prosecution was not able to establish that they gave their goods the general appearance of another manufacturer or dealer and that they had the intent to defraud the public or Piñakamasarap Corporation. Moreover, under both R.A. No. 166, as amended, and its repealing law, R.A. No. 8293, the RTC had jurisdiction over the crime charged; hence, the amended complaint should be quashed.

The prosecution opposed the demurrer to evidence, contending that it had presented proof beyond reasonable doubt of the guilt of petitioners for the crime charged. The prosecution maintained that, under Batas Pambansa (B.P.) Blg. 129, the MTC had jurisdiction over the crime charged in the light of the imposable penalty for unfair competition under Article 189 of the Revised Penal Code.[21]

In its Resolution dated May 16, 2000,[22] the court held that there was prima facie evidence which, if un rebutted or not contradicted, would be sufficient to warrant the conviction of petitioners. However, the court ruled that the RTC was vested by law with the exclusive and original jurisdiction to try and decide charges for violation of R.A. No. 166 as amended by R.A. No. 8293. Accordingly, the court denied the demurrer to evidence and ordered the records of the case forwarded to the Office of the Provincial Prosecutor for appropriate action.

The City Prosecutor forwarded the case records to the Clerk of Court of RTC, Br. 63, Tarlac City.[23] On June 19, 2000, the RTC ordered the City Prosecutor to conduct the requisite preliminary investigation and to file the necessary Information if he found probable cause against petitioners.

The City Prosecutor found probable cause based on the findings of the MTC in its May 16, 2000 Resolution that there was a prima facie case against petitioners.[24] He filed an Information in the RTC on July 18, 2000 for violation of Article 189 of the Revised Penal Code.[25] The Information reads:

That on or about February 14, 1994 and sometime prior thereto, at Tarlac City, and within the jurisdiction of this Honorable Court, the accused, being the owner of a business establishment with principal address at Phase I, Northern Hills Subd., San Vicente, Tarlac City, the accused, conspiring, confederating and helping one another did then and there willfully, unlawfully and feloniously, in unfair competition with the intention of deceiving and defrauding the public in general and the PIÑAKAMASARAP CORPORATION, the name "MARCA PIÑA," and sell or offer for sale soy sauce manufactured by them with the brand name "Marca Piña," which is a version of the trademark, and using the bottles of Piñakamasarap Corporation and substituted the contents thereof with those manufactured by the accused and passing to the public the products, thereby inducing the public to believe that the soy sauce sold or offered for sale by the accused are genuine "MARCA PIÑA" soy sauce, to the damage and prejudice of PIÑAKAMASARAP CORPORATION.

CONTRARY TO LAW.[26]

Petitioners filed a Motion to Quash the Information,[27] alleging that their rights to due process and speedy trial had been violated. Other than the notice of hearing sent by the court, they never received a subpoena which required them to submit their evidence during a preliminary investigation. Petitioners further averred that certain delays in the trial are permissible, especially when such delays are due to uncontrollable circumstances or by accident. In this case, the inordinate delay was obviously brought by the lackadaisical attitude taken by the prosecutor in prosecuting the case. Petitioners pointed out that there was already a delay of six (6) long years from the time the initial complaint was filed, and that they had already been prejudiced. Their life, liberty and property,

not to mention their reputation, have been at risk as there has been no determination of the issue of whether or not to indict them. Thus, the case should be dismissed in order to free them from further capricious and oppressive dilatory tactics of the prosecution. Indeed, their right to a speedy trial is part of due process, both of which are guaranteed by no less than the fundamental law itself. They insisted that they should not be made to unjustly await the prosecution of the charges against them.

In opposition, the City Prosecutor clarified that subpoenas were sent to the parties during the preliminary investigation. In fact, petitioner Henry Uy appeared and submitted the case for resolution without submitting additional evidence. Also, the proceedings in the MTC were not part of preliminary investigation but the trial on the merits.[28]

On September 8, 2000, the court issued an Order denying the motion to quash.[29] The court ruled that:

While there must have been a protracted trial since the case was originally filed before the Municipal Trial Court, a period of about six (6) years, as the accused contends, nevertheless the delay if any, is partly attributable to the accused. [They] allowed the prosecution to rest the evidence in chief before raising the issue of lack of jurisdiction. Had the accused immediately raised the issue of lack of jurisdiction, this case could have been filed anew before the RTC. The accused allowed themselves to be arraigned without raising the issue of jurisdiction. In fact, the prosecution [had] rested its evidence in chief.

The parties may[,] however[,] stipulate in the pre-trial that all the proceedings taken before the Municipal Trial Court are automatically reproduced and are considered part of the prosecution's evidence, so that the trial will now be with respect to the reception of defense evidence.[30]

Petitioners filed a motion for reconsideration of the Order[31] which the trial court denied.[32] At the same time, the court granted the oral motion of the prosecution to amend the Information to reflect in its caption that the law violated by the accused is R.A. No. 8293 and not Article 189 of the Revised Penal Code. On October 12, 2000, the City Prosecutor filed an amended Information. The inculpatory portion reads:

That on or about February 14, 1994 and sometimes prior thereto, at Tarlac City, and within the jurisdiction of this Honorable Court, the accused, being the owner of a business establishment with principal address at Phase I, Northern Hills Subd., San Vicente, Tarlac City, the accused, conspiring, confederating and helping one another did then and there willfully, unlawfully and feloniously, in Violation of Sec. 168 of R.A. No. 8293 with the intention of deceiving and defrauding the public in general and the PIÑAKAMASARAP CORPORATION, the name "MARCA PIÑA," and sell or offer for sale soy sauce manufactured by them with the brand name "Marca Piña," which is a version of the trademark, and using the bottles of Piñakamasarap Corporation and substituted the contents thereof with those manufactured by the accused and passing to the public the products, thereby inducing the public to believe that the soy sauce sold or offered for sale by the accused are genuine "MARCA PIÑA" soy sauce, to the damage and prejudice of PIÑAKAMASARAP CORPORATION.

CONTRARY TO LAW.[33]

Petitioners then filed before the CA a petition for certiorari with prayer for temporary restraining order and preliminary injunction,[34] on the sole ground that respondent judge committed grave abuse of discretion in denying their motion to quash based on violation of their right to a speedy trial. They claimed that there was no active effort on their part to delay the case as they merely attended the scheduled hearings and participated in the preliminary investigation. On the contrary, it is the prosecution that has the unmitigated obligation to immediately file the Information with the proper court. The public prosecutor is supposedly knowledgeable of the existing laws and jurisprudence since his office has the delicate task of prosecuting cases in behalf of the State. Under the Rules on Criminal Procedure, he is the officer responsible for the direction and control of criminal prosecutions. In the

case at bar, the public prosecutor failed in his bounden duty by neglecting to file the case in the court of competent jurisdiction. The prosecution could not advance a single reason to justify the procedural error and instead pointed its accusing finger to petitioners who are just ordinary citizens. Their failure to call the attention of the prosecution is neither acquiescence nor consent on their part. While their former lawyer was obviously lackluster in their defense, the act of the counsel should not deprive them of their constitutional right to a speedy trial. For petitioners, the prosecution's blunder in procedure and ignorance of existing laws and jurisprudence far outweigh whatever minimal participation, if any, they had in the protracted proceedings.

On March 21, 2003, the CA dismissed the petition.[35] The fallo of the decision reads:

WHEREFORE, premises considered, the instant petition is hereby DISMISSED for lack of merit. The Orders dated September 8, 2000 and October 9, 2000 of the public respondent are hereby DISMISSED.[36]

In dismissing the petition, the appellate court ratiocinated that:

[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" (Castillo v. Sandiganbayan, 328 SCRA 69, 76); "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." (Binay v. Sandiganbayan, 316 SCRA 65, 93)

In the instant case, aside from the fact that it took almost six years for the prosecution to complete the presentation of its evidence, petitioners failed to show that the delay, if ever there is any, was caused solely by the prosecution. Neither did the petitioners show that the proceedings before the Municipal Trial Court was attended by vexatious, capricious and oppressive delays attributable to the prosecution or that unjustified postponements of the trial were asked for and secured by the prosecution to the prejudice of the petitioners. The fact alone that the prosecution had consumed six (6) years to complete its presentation of evidence, without any allegation or proof that the prosecution has caused unreasonable delays or that the proceeding was attended by vexatious, capricious and oppressive delays, to Our minds is not sufficient for the application upon the petitioners of their Constitutional right to speedy trial. "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." (Binay v. Sandiganbayan, supra, p. 93). In the case at bar, petitioners failed to present, for Our perusal, the circumstances attending the trial of their case before the Municipal Trial Court.

The only controversy of the instant case lies in the fact that the Municipal Trial Court which heard the case has no jurisdiction over the said case. While it may be conceded that the prosecution erred in not filing the information against the petitioners to a proper court, still, petitioners are not blameless in this regard. Petitioners, through their counsel, had actively participated in the proceedings before the Municipal Trial Court. Petitioners had to wait for almost six (6) years to elapse before they brought to the attention of the Municipal Trial Court that it had no jurisdiction to hear the case against the petitioners. Petitioners have, by reason of their participation in the proceedings before the Municipal Trial Court and also by reason of their silence and inaction, allowed the Municipal Trial Court to proceed with a case for six (6) years despite absence of jurisdiction of such court to hear the case. We cannot allow the petitioners to reap from their acts or omissions. "A litigation is not a game of technicalities in which one, more deeply schooled and skilled in the subtle art of movement and position, entraps and destroys the other." (Fortune Corporation v. Court of Appeals, 229 SCRA 355, 364)

"The constitutional privilege was never intended as furnishing a technical means for escaping trial." (Esguerra v. Court of First Instance of Manila, et al., 95 Phil. 609, 611-612) "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 indicting criminals. It secures rights to an accused, but it does not preclude the rights of

public justice. (Domingo v. Sandiganbayan, 322 SCRA 655, 667)[37]

Petitioners filed a motion for reconsideration, which the appellate court denied.[38]

Petitioners sought relief from this Court on a petition for review, alleging that:

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT AFFIRMED THE COURT A QUO'S DENIAL OF PETITIONERS' MOTION TO QUASH, BASED ON VIOLATION OF THEIR RIGHT TO SPEEDY TRIAL (SEC. 16, ART. 3, 1987 CONSTITUTION).[39]

Petitioners reiterate their arguments in the CA to support the present petition. They aver that:

In this case, the prosecution took six (6) long and grueling years before it filed an Information with a competent court, despite the fact that jurisdiction of the Regional Trial Courts over trademark cases remained unchanged since the birth of the Trademark Law. Surely, this inordinate delay can be considered a "vexatious, capricious and oppressive delay" which is constitutionally impermissible in this jurisdiction pursuant to the right of the accused to speedy trial.

Indeed, petitioners have been prejudiced. Their lives, liberty and property, not to mention their reputation have all been put at risk for so long.

The public prosecutor failed to explain the reason for the delay. Truth to tell, even at this last stage, the public prosecutor chooses to remain silent why it had unjustifiably taken him too long to file this case before a competent court. Unfortunately, the Court of Appeals deliberately ignored this glaring flaw committed by the public prosecutor and instead focused on petitioners' alleged negligence in not raising the issue of jurisdiction earlier. It further ruled that due to this fact, petitioners are thus not entirely blameless for the delay of the trial.

Truth to tell, these findings of the Court of Appeals are palpably erroneous.

Firstly, it is elementary that jurisdiction over the subject matter may be raised at any stage of the proceedings. This is because no amount of waiver can confer jurisdiction on a court over an offense for which such jurisdiction has not been conferred by law in the first place.

Secondly, even assuming that petitioners failed to raise the issue of jurisdiction earlier, still, they could not be estopped from invoking their right to speedy trial. The delay to be considered "partly attributable" to the accused (which could work against him in invoking the right to speedy trial) presupposes an active effort of the defendant to delay the case (Manabat v. Timbang, 74 Phil. 295). There is no violation of the right to speedy trial where the delay is imputable to the accused (Solis v. Agloro, 63 SCRA 370). Here, it was the prosecution that had the unmitigated obligation to file the Information with the correct court, within a reasonable time. It did not. Such blunder was fatal to its cause.

To emphasize, petitioners need not even call the attention of the prosecution that it had failed to file the case with the proper court, contrary to the opinion of the Court of Appeals. x x x[40]

x x x x

Although petitioners agree with the Court of Appeals that mere mathematical reckoning of time would not be sufficient for the application of the right to speedy trial, still, the public prosecutor's blunder should already be considered "vexatious, capricious and oppressive" warranting the dismissal of the case.

Indeed, to condone the public prosecutor's manner of having directed this case, just like what the Court of Appeals did, might give rise to a disturbing precedent where the constitutional right of the accused could very well be set aside to justify the mishandling of the prosecution by officers of the State.[41]

Section 1(h), Rule 115 of the Revised Rules of Criminal Procedure provides that the accused is entitled to a

speedy, impartial and public trial. Section 2, Rule 119 of the said Rules provides that trial, once commenced, shall be continuous until terminated:

Sec. 2. Continuous trial until terminated; postponements. - Trial, once commenced, shall continue from day to day as far as practicable until terminated. It may be postponed for a reasonable period of time for good cause.

The court shall, after consultation with the prosecutor and defense counsel, set the case for continuous trial on a weekly or other short-term trial calendar at the earliest possible time so as to ensure speedy trial. In no case shall the entire trial period exceed one hundred eighty (180) days from the first day of trial, except as otherwise authorized by the Supreme Court.

The time limitations provided under this section and the preceding section shall not apply where special laws or circulars of the Supreme Court provide for a shorter period of trial.

However, any period of delay resulting from a continuance granted by the court *motu proprio*, or on motion of either the accused or his counsel, or the prosecution, if the court granted the continuance on the basis of its findings set forth in the order that the ends of justice is served by taking such action outweigh the best interest of the public and the accused on a speedy trial, shall be deducted.

The trial court may grant continuance, taking into account the following factors:

(a) Whether or not the failure to grant a continuance in the proceeding would likely make a continuation of such proceeding impossible or result in a miscarriage of justice; and

(b) Whether or not the case taken as a whole is so novel, unusual and complex, due to the number of accused or the nature of the prosecution, or that it is unreasonable to expect adequate preparation within the periods of time established therein.

In addition, no continuance under section 3(f) of this Rule shall be granted because of congestion of the court's calendar or lack of diligent preparation or failure to obtain available witnesses on the part of the prosecutor.[42]

Under the Constitution and Section 1(7) of Rule 115 of the Revised Rules of Criminal Procedure, the accused shall be entitled to have a speedy and impartial trial. "Speedy trial" is a relative term and necessarily a flexible concept.[43] In determining whether the right of the accused to a speedy trial was violated, the delay should be considered, in view of the entirety of the proceedings.[44] Indeed, mere mathematical reckoning of the time involved would not suffice[45] as the realities of everyday life must be regarded in judicial proceedings which, after all, do not exist in a vacuum.[46]

Apart from the constitutional provision and Section 115, Section 1(i) of the Rules of Criminal Procedure, A.O. No. 113-95 of the Court provides that:

The trial of cases for violation of Intellectual Property Rights covered by this Administrative Order shall be immediately commenced and shall continue from day to day to be terminated as far as practicable within sixty (60) days from initial trial. Judgment thereon shall be rendered within thirty (30) days from date of submission for decision.

More than a decade after the 1972 leading U.S. case of *Barker v. Wingo*[47] was promulgated, this Court, in *Martin v. Ver*,[48] began adopting the "balancing test" to determine whether a defendant's right to a speedy trial has been violated. As this test necessarily compels the courts to approach speedy trial cases on an *ad hoc* basis, the conduct of both the prosecution and defendant are weighed *apropos* the four-fold factors, to wit: (1) length of the delay; (2) reason for the delay; (3) defendant's assertion or non-assertion of his right; and (4) prejudice to defendant resulting from the delay.[49] None of these elements, however, is either a necessary or sufficient

condition; they are related and must be considered together with other relevant circumstances. These factors have no talismanic qualities as courts must still engage in a difficult and sensitive balancing process.[50]

A. Length of the Delay

The length of delay is to some extent a "triggering mechanism." Until there is some delay, which is presumptively prejudicial, there is no necessity to inquire into the other three factors. Nevertheless, due to the imprecision of the right to a speedy trial, the length of delay that will provoke such an inquiry is necessarily dependent upon the peculiar circumstances of the case.[51]

B. Reason for the Delay

Under Section 9, Rule 119 of the Revised Rules of Criminal Procedure, the accused have the burden to prove the factual basis of the motion to quash the Information on the ground of denial of their right to a speedy trial.[52] They must demonstrate that the delay in the proceedings is vexatious, capricious, and oppressive; or is caused by unjustified postponements that were asked for and secured; or that without cause or justifiable motive, a long period of time is allowed to elapse without the case being tried.[53] On the other hand, the prosecution is required to present evidence establishing that the delay was reasonably attributed to the ordinary processes of justice, and that petitioners suffered no serious prejudice beyond that which ensued after an inevitable and ordinary delay.[54]

The records bear out the contention of petitioners that there had been a considerable delay in the trial in the MTC. Upon motion/agreement of petitioners and the prosecution, or because of the joint absences, the trial of the case was delayed for more than 11 months.[55] In its own instance, the MTC also reset some of the trial dates in order to correct mistakes in scheduling or because the witnesses were not duly notified,[56] thus, delaying the trial of the case for an additional seven months. Even petitioners contributed to the delay of more than five months - they or their former counsel were either absent or moved for postponements to attend another pending case or due to health concerns.[57] The delay of about 21 months, covering 15 re-settings, can be attributed to the prosecution. However, except in five instances, when the trial was reset because the private prosecutor had to attend to some professional[58] and personal matters,[59] the delays were brought about because of the recent engagement of legal service,[60] absence of the public prosecutor,[61] and unavailability of documents[62] and witnesses.[63]

Not only the petitioners but the State as well were prejudiced by the inordinate delay in the trial of the case. It took the prosecution more than four years to rest its case after presenting only three witnesses. Had the prosecution, petitioner and the trial court been assiduous in avoiding any inordinate delay in the trial, the prosecution could have rested its case much earlier. The court even failed to order the absent counsel/prosecutor/witnesses to explain/justify their absences or cite them for contempt. The speedy trial mandated by the Constitution and the Revised Rules of Criminal Procedure is as much the responsibility of the prosecution, the trial court and petitioners to the extent that the trial is inordinately delayed, and to that extent the interest of justice is prejudiced.

The case before the RTC should not be dismissed simply because the public prosecution did not move for the dismissal of the case in the MTC based on A.O. No. 104-96 declaring that the RTC has exclusive jurisdiction over cases under Articles 188 and 189 of the Revised Penal Code; or for failure of the MTC to *motu proprio* dismiss the case on that ground. The City Prosecutor then believed in good faith, albeit erroneously, that under R.A. No. 7691 which amended B.P. Blg. 129, the MTC had jurisdiction over the crime charged.

The mistake of the City Prosecutor and the failure of the MTC to dismiss the case *motu proprio* should not prejudice the interest of the State to prosecute criminal offenses and, more importantly, defeat the right of the offended party to redress for its grievance. Significantly, petitioners do not attribute to the prosecution or to the

MTC any malice aforethought or conscious disregard of their right to a speedy trial; nor have substantially proven the same by clear and convincing evidence. Hence, absent showing of bad faith or gross negligence, delay caused by the lapse of the prosecution is not in itself violative of the right to a speedy trial.

Different weights should be assigned to various reasons by which the prosecution justifies the delay. A deliberate attempt to delay the trial in order to hamper the defense should be weighed heavily against the prosecution. A more neutral reason such as negligence or overcrowded courts should be weighed less heavily but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with defendant.[64]

In *Corpuz v. Sandiganbayan*,^[65] the Court had carefully balanced the societal interest in the case, which involved the so-called "tax credit certificates scam," and the need to give substance to the defendants' constitutional rights. In said suit, we upheld the decision of the Sandiganbayan (Special Fourth Division) that the dismissal of the cases was too drastic, precipitate and unwarranted. While the Court recognized that defendants were prejudiced by the delay in the reinvestigation of the cases and the submission of a complete report by the Ombudsman/Special Prosecutor to the Sandiganbayan, we underscored that the State should not be prejudiced and deprived of its right to prosecute cases simply because of the ineptitude or nonchalance of the Ombudsman/Special Prosecutor. "An overzealous or precipitate dismissal of a case may enable defendant, who may be guilty, to go free without having been tried, thereby infringing the societal interest in trying people accused of crimes by granting them immunization because of legal error."^[66]

The same observation was made in *Valencia v. Sandiganbayan*.^[67] Here, the Court noted the haphazard manner by which the prosecutor handled the litigation for the State when he rested the case without adducing evidence for the prosecution and simply relying on the Joint Stipulation of Facts, which the accused did not even sign before its submission to the Sandiganbayan. In allowing the prosecution to present additional evidence and in dismissing the claim of the accused that his constitutional right to a speedy trial had been violated, we ruled:

As significant as the right of an accused to a speedy trial is the right of the State to prosecute people who violate its penal laws. The right to a speedy trial is deemed violated only when the proceeding is attended by vexatious, capricious and oppressive delays x x x [T]o erroneously put premium on the right to speedy trial in the instant case and deny the prosecution's prayer to adduce additional evidence would logically result in the dismissal of the case for the State. There is no difference between an order outrightly dismissing the case and an order allowing the eventual dismissal thereof. Both would set a dangerous precedent which enables the accused, who may be guilty, to go free without having been validly tried, thereby infringing the interest of the society.^[68]

Certainly, the right to speedy trial cannot be invoked where to sustain the same would result in a clear denial of due process to the prosecution. It should not operate in depriving the State of its inherent prerogative to prosecute criminal cases or generally in seeing to it that all those who approach the bar of justice is afforded fair opportunity to present their side.^[69] For it is not only the State; more so, the offended party who is entitled to due process in criminal cases.^[70] In essence, the right to a speedy trial does not preclude the people's equally important right to public justice.^[71] Thus, as succinctly decreed in *State v. McTague*:^[72]

The constitutional and statutory provisions for a speedy trial are for the protection of the defendant, but that does not mean that the state is the only one that may initiate action. There is really no reason for the courts to free an accused simply because a dilatory prosecutor has "gone to sleep at the switch" while the defendant and his counsel rest in silence. These solicitous provisions are not to be used as offensive weapons, but are for the benefit of defendants who claim their protection. They are a shield, and they "must not be left hanging on the wall of the armory." It is for the protection of personal rights, not to embarrass the administration of the criminal law nor to defeat public justice.

Be that as it may, the conduct of the City Prosecutor and the MTC must not pass without admonition. This Court must emphasize that the State, through the court and the public prosecutor, has the absolute duty to insure that the criminal justice system is consistent with due process and the constitutional rights of the accused. Society has a particular interest in bringing swift prosecutions, and the society's representatives are the ones who should protect that interest. The trial court and the prosecution are not without responsibility for the expeditious trial of criminal cases. The burden for trial promptness is not solely upon the defense. The right to a speedy trial is constitutionally guaranteed and, as such, is not to be honored only for the vigilant and the knowledgeable.[73]

C. Petitioners' Assertion of the Right

The assertion of the right to a speedy trial is entitled to strong evidentiary weight in determining whether defendant is being deprived thereof. Failure to claim the right will make it difficult to prove that there was a denial of a speedy trial.[74]

Except in only one instance in this case,[75] the records are bereft of any evidence that petitioners, through counsel, have bothered to raise their objection to the several re-setting of the trial dates. This is not unexpected since, as already shown, the reasons for the delay are not in themselves totally inexcusable or unreasonable. Moreover, petitioners actively participated in the trial when the prosecution presented its evidence, as they scrutinized the documentary evidence and cross-examined the witnesses. Until the filing of the motion to quash in the RTC, they never contested the prosecutorial proceedings nor timely challenged the pendency of the case in the MTC.

While it is true that lack of jurisdiction may be assailed at any stage of the proceedings, such defense must be seasonably raised at the earliest possible opportunity. Otherwise, active participation in the trial would estop a party from later challenging such want of jurisdiction.[76]

In the same vein, one's failure to timely question the delay in the trial of a case would be an implied acceptance of such delay and a waiver of the right to question the same. Except when otherwise expressly so provided, the speedy trial right, like any other right conferred by the Constitution or statute, may be waived when not positively asserted.[77] A party's silence may amount to laches.[78] The right to a speedy trial is a privilege of the accused. If he does not claim it, he should not complain. R.A. No. 8493 (Speedy Trial Act of 1998) is a means of enforcing Section 14(2), Article III of the Constitution.[79] The spirit of the law is that the accused must go on record in the attitude of demanding a trial or resisting delay. If he does not do this, he must be held, in law, to have waived the privilege.

This Court cannot subscribe to petitioners' untiring argument that, being "ordinary citizens," they should not be made to suffer from the "lackluster" performance of their former counsel who failed to recognize the MTC's want of jurisdiction. Too often we have held that a client is bound by the acts, mistakes or negligence of his counsel.[80] This is, as it should be, since a counsel has the implied authority to do all acts which are necessary or, at least, incidental to the prosecution and management of the suit in behalf of his client. Any act performed within the scope of his general and implied authority is, in the eyes of the law, regarded as the act of the client.[81] If the rule were otherwise, there would be no end to litigation so long as a new counsel could be employed who would allege and show that the prior counsel had not been sufficiently diligent, experienced, or learned.[82] It would enable every party to render inutile an adverse order or decision through the simple expedient of alleging gross negligence on the part of the counsel.[83] Every shortcoming of a counsel could be the subject of challenge by his client through another counsel who, if he is also found wanting, would likewise be disowned by the same client through another counsel, and so on ad infinitum.[84] Proceedings would then be indefinite, tentative and at times, subject to reopening by the simple subterfuge of replacing counsel.[85]

While the rule admits of certain exceptions,[86] we find none present in this case. Other than his obvious failure to assert lack of jurisdiction, Atty. Lim undeniably represented the cause of his clients in the MTC proceedings. Interestingly, their new counsel, wittingly or unwittingly, raised the issue of jurisdiction only four months after it entered its appearance,[87] thus, adding to the delay.

D. Prejudice to the Petitioners

In the Barker case,[88] the different interests of a defendant which may be affected by the violation of the right to a speedy trial were identified. It was held that prejudice should be assessed in the light of the interests of a defendant which the speedy trial right was designed to protect, namely: (1) to prevent oppressive pretrial incarceration; (2) to minimize anxiety and concern of the accused; and (3) to limit the possibility that the defense will be impaired. Of these, the most serious is the last, because the inability of a defendant to adequately prepare his case skews the fairness of the entire system. If witnesses die or disappear during a delay, the prejudice is obvious. There is also prejudice if defense witnesses are unable to recall accurately events of the distant past. Loss of memory, however, is not always reflected in the record because what has been forgotten can rarely be shown. Even if an accused is not incarcerated prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion, and often hostility.[89] After all, arrest is a public act that may seriously interfere with the defendant's liberty, whether he is free on bail or not, and that may disrupt his employment, drain his financial resources, curtail his associations, subject him to public obloquy, and create anxiety in him, his family and friends.[90]

Again, a perusal of the records failed to reveal that the delay in bringing petitioners to trial in a court of competent jurisdiction caused them any prejudice tantamount to deprivation of their right to a speedy trial. Petitioners in this case were not subjected to pretrial incarceration, oppressive or otherwise, thus eliminating the first Barker consideration bearing on prejudice.

As to the minimization of anxiety and concern of the accused, there is no showing that petitioners suffered undue pressures in this respect. Mere reference to a general asseveration that their "life, liberty and property, not to mention reputation" have been prejudiced is not enough. There must be conclusive factual basis, as this Court cannot rely on pure speculation or guesswork. Surely, a pending criminal case may cause trepidation but, as stressed in Barker, the standard here is minimization, not necessarily elimination of the natural consequences of an indictment. While this is not to be brushed off lightly, it is not by itself sufficient to support a claim of denial of the right to a speedy trial.

There is no factual basis for the claim of petitioners that we are not supplied with any specific allegation in the record, nor witnesses or evidence may become unavailable because of the delays in this case. To repeat, the claim of impairment of defense because of delay must be specific and not by mere conjecture. Vague assertions of faded memory will not suffice. Failure to claim that particular evidence had been lost or had disappeared defeats speedy trial claim.

As neither the specific types of prejudice mentioned in Barker nor any others have been brought to the Court's attention, we are constrained to dismiss petitioners' claim. The passage of time alone, without a significant deprivation of liberty or impairment of the ability to properly defend oneself, is not absolute evidence of prejudice. The right to a speedy trial is not primarily intended to prevent prejudice to the defense caused by the passage of time; that interest is protected primarily by the due process clause and the statutes of limitations.[91]

In several cases where it is manifest that due process of law or other rights guaranteed by the Constitution or statutes has been denied, this Court has not faltered to accord the so-called "radical relief" to keep accused from enduring the rigors and expense of a full-blown trial.[92] In this case, however, there appears no persuasive, much

less compelling, ground to allow the same relief for absence of clear and convincing showing that the delay was unreasonable or arbitrary and was seasonably objected to by petitioners.

IN LIGHT OF ALL THE FOREGOING, the instant petition is DENIED for lack of merit. The March 21, 2003 Decision and July 17, 2003 Resolution of the Court of Appeals are AFFIRMED. The Regional Trial Court, Branch 64, Tarlac City, is directed to proceed with the trial on the merits of the criminal case with all reasonable and judicious dispatch consistent with the right of petitioners to a speedy trial. No costs.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice B.A. Adefuin-De la Cruz (retired), with Associate Justices Mercedes Gozo-Dadole (retired) and Mariano C. Del Castillo, concurring; rollo, pp. 20-24.

[2] Penned by Judge Arsenio P. Adriano.

[3] Records, p. 57.

[4] Id. at 57-58.

[5] Id. at 3.

[6] Id. at 1-30.

[7] Id. at 45-47.

[8] Id. at 46.

[9] Id. at 165.

[10] Id. at 169.

[11] Id. at 171, 173.

[12] Id. at 178, 184, 186.

[13] Id. at 192.

[14] Id. at 440-442.

[15] Id. at 420-421.

[16] Id. at 422.

[17] Id. at 430-431.

[18] Id. at 495-496.

[19] Id. at 499-501.

[20] Id. at 502-512.

[21] Id. at 515-531.

[22] Id. at 553-555.

[23] Id. at 556.

[24] Id. at 565.

[25] Id. at 559-560.

[26] Id. at 559.

[27] Id. at 567-573.

[28] Id. at 574-575.

[29] Id. at 579-580.

[30] Id. at 580.

[31] Id. at 581-586.

[32] Id. at 601-603.

[33] Id. at 605-606.

[34] CA rollo, pp. 2-22.

[35] Rollo, pp. 20-24.

[36] Id. at 23.

[37] Id. at 22-23.

[38] Id. at 25.

[39] Id. at 10.

[40] Id. at 12-13.

[41] Id. at 14-15.

[42] Section 4, Rule 119, Revised Rules of Criminal Procedure.

[43] Lumanlaw v. Hon. Peralta, Jr., G.R. No. 164953, February 13, 2006, 482 SCRA 396, 409; Caballes v. Court of Appeals, G.R. No. 163108, February 23, 2005, 452 SCRA 312, 332; People v. Tee, 443 Phil. 521, 544 (2003); Zuzuarregui, Jr. v. Judge Rosete, 431 Phil. 585, 596 (2002); Lopez, Jr. v. Office of the Ombudsman, 417 Phil. 39, 50 (2001); Abardo v. Sandiganbayan, G.R. Nos. 139571-72, March 28, 2001, 355 SCRA 641, 654; and Dansal v. Hon. Fernandez, Sr., 383 Phil. 897, 906 (2000).

[44] People v. Rama, 403 Phil. 155, 168 (2001).

[45] Lumanlaw v. Hon. Peralta, Jr., supra, at 409-410; Domondon v. Sandiganbayan, G.R. No. 166606, November 29, 2005, 476 SCRA 496, 505; People v. Tee, supra; Zuzuarregui, Jr. v. Judge Rosete, supra; Ty-Dazo v. Sandiganbayan, 424 Phil. 945, 951 (2002); Sumbang, Jr. v. Gen. Court Martial Pro-Region 6, Iloilo City, 391 Phil 929, 934 (2000); and Dansal v. Hon. Fernandez, Sr., supra, at 908.

[46] Lumanlaw v. Hon. Peralta, Jr., supra, at 409.

[47] 407 US 514, 92 S.Ct. 2182 (1972).

[48] No. L-62810, July 25, 1983, 123 SCRA 745.

[49] See *Lumanlaw v. Hon. Peralta, Jr.*, supra, at 410; *Yuchenco v. Sandiganbayan*, G.R. Nos. 149802, 150320, 150367, 153207, and 153459, January 20, 2006, 479 SCRA 1, 124-125; *Domondon v. Sandiganbayan*, supra, at 505; *Caballes v. Court of Appeals*, supra, at 332; *Corpuz v. Sandiganbayan*, G.R. No. 162214, November 11, 2004, 442 SCRA 294, 313; *People v. Tee*, supra, at 544; *Ty-Dazo v. Sandiganbayan*, supra, at 951; *Lopez, Jr. v. Office of the Ombudsman*, supra, at 49-50; *Abardo v. Sandiganbayan*, supra, at 654; *Blanco v. Sandiganbayan*, 399 Phil. 674, 682 (2000); *Sumbang, Jr. v. Gen. Court Martial Pro-Region 6, Iloilo City*, supra, at 935; and *Dansal v. Hon. Fernandez, Sr.*, supra, at 906.

[50] *Barker v. Wingo*, supra.

[51] *Barker v. Wingo*, supra; see also *Guiani v. Sandiganbayan*, 435 Phil. 467, 480 (2002), and *Sumbang, Jr. v. Gen. Court Martial Pro-Region 6, Iloilo City*, supra, at 934.

[52] *Corpuz v. Sandiganbayan*, supra, at 318.

[53] *Lumanlaw v. Hon. Peralta, Jr.*, supra, at 410; *Domondon v. Sandiganbayan*, supra, at 505; *People v. Tee*, supra, at 544-545; *Ty-Dazo v. Sandiganbayan*, supra, at 950-951; *Lopez, Jr. v. Office of the Ombudsman*, supra, at 49; *Abardo v. Sandiganbayan*, supra, at 653-654; *Blanco v. Sandiganbayan*, supra, at 682; *Sr. Arambulo v. Hon. Laqui*, 396 Phil. 914, 927-928 (2000); and *Sumbang, Jr. v. Gen. Court Martial Pro-Region 6, Iloilo City*, supra, at 935.

[54] *Corpuz v. Sandiganbayan*, supra note 54.

[55] The trial was reset from August 28, 1995 to October 25, 1995 (records, p. 188); from April 15, 1996 to May 20, 1996 (id. at 218); from August 27, 1996 to September 30, 1996 (id. at 225); from September 30, 1996 to November 12, 1996 (id. at 230); from November 12, 1996 to January 15, 1996 (id. at 234); from July 28, 1997 to August 25, 1997 (id. at 253); and from August 12, 1998 to October 14, 1998 (id. at 350).

[56] The trial was reset from November 27, 1995 to January 22, 1996 (records, p. 198); from January 15, 1997 to March 24, 1997 (id. at 228); from May 12, 1997 to June 9, 1997 (id. at 245); and from February 25, 1998 to April 22, 1998 (id. at 304).

[57] The trial was reset from September 20, 1994 to October 11, 1994 (records, p. 34); from November 26, 1997 to January 21, 1998 (id. at 296); and from June 14, 1999 to August 30, 1999 (id. at 379).

[58] The trial was reset from October 11, 1994 to November 15, 1994 (records, pp. 41-43); from December 20, 1994 to January 9, 1995 (id. at 145-149); from May 17, 1995 to June 10, 1995 (id. at 179-183); and from April 5, 1999 to June 14, 1999 (id. at 367, 372-375).

[59] The trial was reset from January 22, 1996 to February 26, 1996 (records, pp. 201-203).

[60] The trial was reset from September 20, 1994 to October 11, 1994 to November 15, 1994 (records, pp. 35-36, 43)

[61] The trial was reset from February 17, 1999 to April 5, 1999 (records, p. 363).

[62] The trial was reset from March 24, 1997 to May 12, 1997 (records, p. 243).

[63] The trial was reset from May 20, 1996 to July 8, 1996 (records, p. 221); from July 8, 1996 to August 27, 1996 (id. at 223); from January 21, 1998 to February 25, 1998 (id. at 301); from July 1, 1998 to August 12, 1998 (id. at 346); from October 14, 1998 to December 14, 1998 (id. at 354); from December 14, 1998 to February 17, 1999 (id. at 359); and from October 11, 1999 to November 15, 1999 (id. at 417).

[64] *Barker v. Wingo*, supra note 52.

[65] Supra note 51.

[66] Id. at 322.

[67] G.R. No. 165996, October 17, 2005, 473 SCRA 279.

[68] Id. at 295-296.

[69] See *Dansal v. Judge Fernandez, Sr.*, supra note 45, at 907.

[70] *Valencia v. Sandiganbayan*, supra note 69, at 294-295.

[71] *Corpuz v. Sandiganbayan*, supra note 54, at 313; *Guiani v. Sandiganbayan*, 435 Phil. 467, 480 (2002); *Abardo v. Sandiganbayan*, G.R. Nos. 139571-72, March 28, 2001, 355 SCRA 641, 653; *People v. Rama*, 403 Phil. 155, 168 (2001); and *Sumbang, Jr. v. Gen. Court Martial Pro-Region 6, Iloilo City*, 391 Phil. 929, 936-937 (2000).

[72] 173 Minn. 153, 216 N.W. 787 (1927); see also *McCandless v. District Court of Polk County*, 245 Iowa 599, 61 N.W.2d 674 (1953).

[73] See *Corpuz v. Sandiganbayan*, supra note 54, at 321; *Barker v. Wingo*, supra note 52.

[74] *Barker v. Wingo*, supra note 52.

[75] Records, p. 359.

[76] See *Ballesteros v. Abion*, G.R. No. 143361, February 9, 2006, 482 SCRA 23, 39, and *La'O v. Republic*, G.R. No. 160719, January 23, 2006, 479 SCRA 439, 446.

[77] *Valencia v. Sandiganbayan*, supra, at 299; *Guiani v. Sandiganbayan*, supra, at 480; and *Sumbang, Jr. v. Gen. Court Martial Pro-Region 6, Iloilo City*, supra, at 936.

[78] *Valencia v. Sandiganbayan*, supra, at 298, citing *Dela Peña v. Sandiganbayan*, 412 Phil. 921, 932 (2001).

[79] Article III, Section 14 (2) of the Constitution states:

Section 14. x x x (2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear in unjustifiable. (emphasis ours)

[80] *Basuel v. Fact-Finding and Intelligence Bureau (FFIB)*, G.R. No. 143664, June 30, 1996; *Callangan v. People*, G.R. No. 153414, June 27, 2006; *Tan v. Court of Appeals*, G.R. No. 157194, June 20, 2006; *Friend v. Union Bank of the Philippines*, G.R. No. 165767, November 29, 2005, 476 SCRA 453, 457; *GCP-Manny Transport Services, Inc. v. Hon. Principe*, G.R. No. 141484, November 11, 2005, 474 SCRA 555, 562; *R Transport Corporation v. Philippine Hawk Transport Corporation*, G.R. No. 155737, October 19, 2005, 473 SCRA 342, 347; *Spouses Que v. Court of Appeals*, G.R. No. 150739, August 18, 2005, 467 SCRA 358, 369; *Spouses Ragudo v. Fabella Estate Tenants Association, Inc.*, G.R. No. 146823, August 9, 2005, 466 SCRA 136, 145; *Spouses Zarate v. Maybank Philippines, Inc.*, G.R. No. 160976, June 8, 2005, 459 SCRA 785, 797; *Palanca v. Guides*, G.R. No. 146365, February 28, 2005, 452 SCRA 461, 473; and *Southech Development Corp. v. NLRC*, G.R. No. 149590, January 12, 2005, 448 SCRA 64, 70.

[81] Basuel v. Fact-Finding and Intelligence Bureau (FFIB), supra; Spouses Ragudo v. Fabella Estate Tenants Association, Inc., supra, 146; Victory Liner, Inc. v. Gammad, G.R. No. 159636, November 25, 2004, 444 SCRA 355, 361; and Air Philippines Corp. v. International Business Aviation Services Phils., Inc., G.R. No. 151963, September 9, 2004, 438 SCRA 51, 61.

[82] Basuel v. Fact-Finding and Intelligence Bureau (FFIB), supra; Tan v. Court of Appeals, G.R. No. 157194, June 20, 2006; Friend v. Union Bank of the Philippines, supra, at 457; GCP-Manny Transport Services, Inc. v. Hon. Principe, supra, at 562; Spouses Ragudo v. Fabella Estate Tenants Association, Inc., supra, at 145; Balgami v. Court of Appeals, G.R. No. 131287, December 9, 2004, 445 SCRA 591, 600; and Gacutana-Fraile v. Domingo, 401 Phil. 604, 615.

[83] Friend v. Union Bank of the Philippines, supra, at 457-458.

[84] Spouses Ragudo v. Fabella Estate Tenants Association, Inc., supra, at 146.

[85] Spouses Ragudo v. Fabella Estate Tenants Association, Inc., supra, at 146-147; Spouses Que v. Court of Appeals, supra.

[86] Among the recognized exceptions are: (1) where the gross, palpable, reckless and inexcusable negligence of counsel deprives the client of due process of law; (2) when its application will result in outright deprivation of the client's liberty or property through mere technicality; or (3) where the interests of justice so require (See Callangan v. People, G.R. No. 153414, June 27, 2006; Friend v. Union Bank of the Philippines, G.R. No. 165767, November 29, 2005, 476 SCRA 453, 457; GCP-Manny Transport Services, Inc. v. Hon. Principe, G.R. No. 141484, November 11, 2005, 474 SCRA 555, 562-563; R Transport Corporation v. Philippine Hawk Transport Corporation, G.R. No. 155737, October 19, 2005, 473 SCRA 342, 347; Spouses Que v. Court of Appeals, G.R. No. 150739, August 18, 2005, 467 SCRA 358, 369; Southech Development Corp. v. NLRC, G.R. No. 149590, January 12, 2005, 448 SCRA 64, 70; Victory Liner, Inc. v. Gammad, G.R. No. 159636, November 25, 2004, 444 SCRA 355, 361; Azucena v. Foreign Manpower Services, Inc., G.R. No. 147955, October 25, 2004, 441 SCRA 346, 356; Air Philippines Corp. v. International Business Aviation Services Phils., Inc., G.R. No. 151963, September 9, 2004, 438 SCRA 51, 62; Sarraga v. Banco Filipino Savings and Mortgage Bank, 442 Phil. 55, 64; Del Mar v. Court of Appeals, 429 Phil. 19, 28-29; and Gacutana-Fraile v. Domingo, 401 Phil. 604, 615.

[87] Balbastro and Associates entered its appearance on November 24, 1999. The Motion for Leave to File Demurrer to Evidence was filed on March 10, 2000.

[88] Supra note 49.

[89] Corpuz v. Sandiganbayan, supra note 51, at 313, citing Barker v. Wingo, supra note 49.

[90] US v. Marion, 404 US 307, 92 S.Ct. 455 (1971).

[91] U.S. v. Colombo, 852 F.2d 19 (1988), citing US v. MacDonald, 456 US 1, 102 S.Ct. 1497 (1982).

[92] See Mendoza-Ong v. Sandiganbayan, G.R. Nos. 146368-69, October 18, 2004, 440 SCRA 423; Dimayacyac v. Court of Appeals, G.R. No. 136264, May 28, 2004, 430 SCRA 121; Dela Peña v. Sandiganbayan, 412 Phil. 921 (2001); Dansal v. Hon. Fernandez, Sr., supra, at 908; Duterte v. Sandiganbayan, 352 Phil. 557 (1998); and Tatad v. Sandiganbayan, G.R. Nos. L-72335-39, March 21, 1998, 159 SCRA 70.

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