

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. CLEMENTE BAUTISTA, RESPONDENT.

G.R. NO. 168641. April 27, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a Petition for Review on Certiorari filed by the People of the Philippines assailing the Decision[1] of the Court of Appeals (CA) dated June 22, 2005 in CA-G.R. SP No. 72784, reversing the Order of the Regional Trial Court (RTC), Branch 19, Manila and dismissing the criminal case for slight physical injuries against respondent on the ground that the offense charged had already prescribed.

The undisputed facts are as follows.

On June 12, 1999, a dispute arose between respondent and his co-accused Leonida Bautista, on one hand, and private complainant Felipe Goyena, Jr., on the other.

Private complainant filed a Complaint with the Office of the Barangay of Malate, Manila, but no settlement was reached. The barangay chairman then issued a Certification to file action dated August 11, 1999.[2]

On August 16, 1999, private complainant filed with the Office of the City Prosecutor (OCP) a Complaint for slight physical injuries against herein respondent and his co-accused. After conducting the preliminary investigation, Prosecutor Jessica Junsay-Ong issued a Joint Resolution dated November 8, 1999 recommending the filing of an Information against herein respondent. Such recommendation was approved by the City Prosecutor, represented by First Assistant City Prosecutor Eufrocino A. Sulla, but the date of such approval cannot be found in the records. The Information was, however, filed with the Metropolitan Trial Court (MeTC) of Manila, Branch 28 only on June 20, 2000.

Respondent sought the dismissal of the case against him on the ground that by the time the Information was filed, the 60-day period of prescription from the date of the commission of the crime, that is, on June 12, 1999 had already elapsed. The MeTC ruled that the offense had not yet prescribed.

Respondent elevated the issue to the RTC via a Petition for Certiorari, but the RTC denied said petition and concurred with the opinion of the MeTC.

Respondent then filed a Petition for Certiorari with the CA. On June 22, 2005, the CA rendered its Decision wherein it held that, indeed, the 60-day prescriptive period was interrupted when the offended party filed a Complaint with the OCP of Manila on August 16, 1999. Nevertheless, the CA concluded that the offense had prescribed by the time the Information was filed with the MeTC, reasoning as follows:

In the case on hand, although the approval of the Joint Resolution of ACP Junsay-Ong bears no date, it effectively terminated the proceedings at the OCP. Hence, even if the 10-day period for the CP or ACP Sulla, his designated alter ego, to act on the resolution is extended up to the utmost limit, it ought not have been taken as late as the last day of the year 1999. Yet, the information was filed with the MeTC only on June 20, 2000, or

already nearly six (6) months into the next year. To use once again the language of Article 91 of the RPC, the proceedings at the CPO was "unjustifiably stopped for any reason not imputable to him (the accused)" for a time very much more than the prescriptive period of only two (2) months. The offense charged had, therefore, already prescribed when filed with the court on June 20, 2000. x x x[3] (Emphasis supplied)

The dispositive portion of the assailed CA Decision reads as follows:

WHEREFORE, we hereby REVERSE and SET ASIDE the appealed Orders of both courts below and Criminal Case No. 344030-CR, entitled: "People of the Philippines, Plaintiff, -versus- Clemente Bautista and Leonida Bautista, Accused," is ordered DISMISSED. Costs de officio.

SO ORDERED.[4]

Petitioner now comes before this Court seeking the reversal of the foregoing CA Decision. The Court gives due course to the petition notwithstanding the fact that petitioner did not file a Motion for Reconsideration of the decision of the CA before the filing of herein petition. It is not a condition sine qua non for the filing of a petition for review under Rule 45 of the Rules of Court.[5]

The Court finds merit in the petition.

It is not disputed that the filing of the Complaint with the OCP effectively interrupted the running of the 60-day prescriptive period for instituting the criminal action for slight physical injuries. However, the sole issue for resolution in this case is whether the prescriptive period began to run anew after the investigating prosecutor's recommendation to file the proper criminal information against respondent was approved by the City Prosecutor.

The answer is in the negative.

Article 91 of the Revised Penal Code provides thus:

Art. 91. Computation of prescription of offenses. — The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him.

The term of prescription shall not run when the offender is absent from the Philippine Archipelago. (Emphasis supplied)

The CA and respondent are of the view that upon approval of the investigating prosecutor's recommendation for the filing of an information against respondent, the period of prescription began to run again. The Court does not agree. It is a well-settled rule that the filing of the complaint with the fiscal's office suspends the running of the prescriptive period.[6]

The proceedings against respondent was not terminated upon the City Prosecutor's approval of the investigating prosecutor's recommendation that an information be filed with the court. The prescriptive period remains tolled from the time the complaint was filed with the Office of the Prosecutor until such time that respondent is either convicted or acquitted by the proper court.

The Office of the Prosecutor miserably incurred some delay in filing the information but such mistake or negligence should not unduly prejudice the interests of the State and the offended party. As held in *People v. Olarte*,[7] it is unjust to deprive the injured party of the right to obtain vindication on account of delays that are not under his control. All that the victim of the offense may do on his part to initiate the prosecution is to file the requisite complaint.[8]

The constitutional right of the accused to a speedy trial cannot be invoked by the petitioner in the present petition considering that the delay occurred not in the conduct of preliminary investigation or trial in court but in the filing of the Information after the City Prosecutor had approved the recommendation of the investigating prosecutor to file the information.

The Office of the Solicitor General does not offer any explanation as to the delay in the filing of the information. The Court will not be made as an unwitting tool in the deprivation of the right of the offended party to vindicate a wrong purportedly inflicted on him by the mere expediency of a prosecutor not filing the proper information in due time.

The Court will not tolerate the prosecutors' apparent lack of a sense of urgency in fulfilling their mandate. Under the circumstances, the more appropriate course of action should be the filing of an administrative disciplinary action against the erring public officials.

WHEREFORE, the Petition is hereby GRANTED. The Decision of the Court of Appeals in CA-G.R. SP No. 72784 is hereby REVERSED and SET ASIDE and the Decision of the Regional Trial Court of Manila in Civil Case No. 02-103990 is hereby REINSTATED.

Let the Secretary of the Department of Justice be furnished a copy of herein Decision for appropriate action against the erring officials.

SO ORDERED.

Ynares-Santiago, Callejo, Sr., Chico-Nazario, and Nachura, JJ., concur.

[1] Penned by Associate Justice Salvador J. Valdez, Jr. (retired) and concurred in by Associate Justices Mariano C. Del Castillo and Magdangal M. De Leon; rollo, pp. 31-44.

[2] Section 410 (c), Republic Act No. 7160, otherwise known as Local Government Code provides:

Section 410. (c) Suspension of prescriptive periods of offense — While the dispute is under mediation, conciliation, or arbitration the prescriptive periods for offenses and cause of action under existing laws shall be interrupted upon filing the complaint with the punong barangay. The prescriptive periods shall resume upon receipt by the complainant of the complaint or the certificate of repudiation or of the certification to file action issued by the lupon or pangkat secretary: Provided, however, That such interruption shall not exceed sixty (60) days from the filing of the complaint with the punong barangay.

[3] Rollo, p. 42.

[4] Id. at 43.

[5] *Almora v. Court of Appeals*, 369 Phil. 23, 35 (1999); *Commissioner of Internal Revenue v. Hantex Trading Co., Inc.*, G.R. No. 136975, March 31, 2005, 454 SCRA 301, 320.

[6] *Arambulo v. Laqui, Sr.*, 396 Phil. 914, 923 (2000); *Francisco v. Court of Appeals*, 207 Phil. 471, 477 (1983); *People v. Olarte*, 125 Phil. 895, 902 (1967).

[7] *People v. Olarte*, id.

[8] Id.

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