

CAPT. WILFREDO G. ROQUERO, PETITIONER, VS. THE CHANCELLOR OF UP-MANILA; THE ADMINISTRATIVE DISCIPLINARY TRIBUNAL (ADT) OF UP-MANILA; ATTY. ZALDY B. DOCENA; EDEN PERDIDO; ISABELL...

G.R. No. 181851. March 09, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

This is a petition for review on certiorari under Rule 45 seeking to set aside the Decision[1] dated 22 March 2007, and the Resolution[2] dated 1 February 2008, of the Court of the Appeals in CA-G.R. SP No. 87776 entitled, "Capt. Wilfredo G. Roquero v. The Chancellor of the University of the Philippine-Manila (UP Manila), et al.," a petition for Certiorari under Rule 65 of the Rules of Civil Procedure with Prayer for the Issuance of a Temporary Restraining Order (TRO), which sought to reverse and set aside the Orders dated 8 June 2004[3] and 9 November 2004[4] of the Administrative Disciplinary Tribunal (ADT) of UP-Manila, chaired by Atty. Zaldy B. Docena with Eden Perdido and Isabella Lara as members.

The undisputed facts of the case as found by the Court of Appeals are as follows:

Petitioner Wildredo G. Roquero is an employee of UP-Manila assigned at the Philippine General Hospital (PGH) Security Division as Special Police Captain. Private respondent Imelda O. Abutal is a Lady Guard of Ex-Bataan Security Agency who was applying for a position in the security force assigned at UP-PGH.

The instant controversy arose from a complaint by private respondent Abutal with then Chancellor of UP-Manila Perla D. Santos-Ocampo for Grave Misconduct against petitioner Capt. Roquero. The formal charge filed on 1 October 1998 and docketed as ADM Case No. UPM-AC 97-007 reads as follows:

After preliminary investigation duly conducted in accordance with the Rules and Regulations on the Discipline of UP Faculty and Employees, a prima facie case has been found to exist against you for GRAVE MISCONDUCT punishable under the University Rules and Regulations on the Discipline of UP Faculty and Employees in relation to the Civil Service Law, committed as follows:

That you, Capt. Wilfredo Roquero of the UP Manila Police Force, sometime in April 1996, while conducting an interview on MS. IMELDA ABUTAL who was then applying for the position of Lady Guard of Ex-Bataan Security Agency to be assigned at UP-PGH, proposed to her that if she agreed to be your mistress, you would facilitate her application and give her a permanent position; that despite the fact the MS. ABUTAL rejected your proposal, you still insisted on demanding said sexual favor from her; that you, therefore, are liable for GRAVE MISCONDUCT under Section 22, paragraph (c) of Rule XIV of the Omnibus Rules Implementing Book V of E.O. 292 on Civil Rules.

x x x x.

On 1 October 1998, the petitioner was placed under preventive suspension for ninety (90) days by Chancellor Santos-Ocampo, the material portion of said Order reads:

Considering the gravity of the offense charged and pursuant to Section 19 of Rules and Regulations on the Discipline of UP Faculty Members and Employees and Section 26 and 27 Rule XIV of Book V of Executive Order No. 292 and Omnibus Rules, you are hereby preventively suspended for ninety (90) days effective upon receipt hereof.

While on preventive suspension, you are hereby required to appear before the Administrative Disciplinary Tribunal (ADT) whenever your presence is necessary.

Thereafter, the Administrative Disciplinary Tribunal (ADT) composed of Atty. Zaldy B. Docena, Eden Perdido and Isabella Lara, was organized to hear the instant case. Atty. Paul A. Flor, as University Prosecutor, represented the prosecution. He was later on replaced by Atty. Asteria Felicen. Petitioner was represented by Atty. Leo G. Lee of the Public Attorneys Office (PAO) who was then replaced by Public Attorney Philger Inovejas.

The Prosecution presented its only witness, private respondent Abutal. After the completion of the cross-examination on the prosecution's only witness, the prosecution agreed to submit its Formal Offer of Evidence on or before 16 July 1999.

x x x x

The prosecution, however, failed to submit its formal offer of evidence within the period agreed upon.

Thereafter, on 10 August 1999, when the case was called, only petitioner and his counsel appeared. Atty. Flor merely called by telephone and requested Atty. Docena to reset the case to another date. Atty. Docena then ordered the resetting of the hearing on the following dates: 11 August and 21 August 1999. On 11 August 1999, only petitioner and his counsel came. No representative from the prosecution appeared before the ADT. Atty. Flor again called and asked for the postponement of the hearing. By reason thereof, Atty. Docena issued an Order, which reads as follows:

The continuation of the hearing of this case is hereby set to September 29, 1999 at 2:00 p.m., with the understanding that if and when the parties fail to appear at said hearing date, this case shall be deemed submitted for resolution based on the evidences already obtaining in the record of the case.

SO ORDERED.

11 August 1999.

On said date, the representative from the prosecution again failed to appear.

On 22 October 1999, petitioner filed a Motion through counsel praying that complainant (private respondent herein) be declared to have waived her rights to formally offer her exhibits since complainant was not able to file her Formal Offer within the given period of fifteen (15) days from 1 July 1999 or up to 16 July 1999.

The ADT was not able to act on the said Motion for almost five (5) years. Due to the unreasonable delay, petitioner, on 19 May 2004 filed another Motion asking for the dismissal of the administrative case against him. The Motion to Dismiss was anchored on the following reasons: that the prosecution had not formally offered its evidence; that the ADT had failed to act on the motion filed on 22 October 1999; that the unfounded charges in the administrative complaint were filed just to harass him; and that he is entitled to a just and speedy disposition of the case.

On 26 May 2004, the prosecution, represented by Atty. Felicen in view of the resignation of Atty. Flor in August 1999, filed its Comment/Opposition to the Motion to Dismiss. The prosecution alleged that a Formal Offer of Documentary Exhibits had been filed on 24 January 2004, of which a copy thereof was received by Atty. Lee, petitioner's counsel, on 30 January 2004, per registry return receipt. However, petitioner has not filed his

comment to the said Formal Offer.

Furthermore, the prosecution explained in its Comment/Opposition that in view of the resignation of Atty. Flor in August 1999 but who had been on leave by mid-July 1999, the Formal Offer could not be prepared by another counsel until all the transcript of stenographic notes have been furnished to the counsel that replaced Atty. Flor. Meanwhile, the stenographer, Jamie Limbaga, had been in and out of the hospital due to a serious illness, thus the delay in the filing of the prosecutor's Formal Offer of Documentary Exhibits.

On 8 June 2004, Atty. Docena issued the assailed Order denying petitioner's motion to dismiss, to wit:

Acting on respondent's Motion to Dismiss, as well as the University Prosecutor's Comment and/or Opposition to said Motion, and finding that said Motion to Dismiss to be bereft of merit, the same is hereby DENIED.

In view of the failure of the respondent to file his comment on the Prosecution's Formal Offer of Evidence, the Exhibit's ("A" to "G-1") of the Prosecution are hereby ADMITTED for the purpose for which the same have been offered.

The respondent is hereby directed to present his evidence on June 22, 2004 at 10:30 in the morning.

SO ORDERED.

A motion for reconsideration was filed by petitioner but the same was denied in an Order dated 9 November 2004.[5]

Petitioner Captain Wilfredo Roquero then filed with the Court of Appeals a Petition for Certiorari under Rule 65, docketed as CA-G.R. SP No. 87776, alleging therein that the ADT committed grave abuse of discretion when it denied the motion to dismiss the administrative case filed against him.

In a Decision dated 22 March 2007, the Honorable Court of Appeals denied the petition with prayer for TRO of Roquero reasoning that the ADT did not commit grave abuse of discretion in issuing the assailed orders.

The Court of Appeals ruled, thus:

The main issue to be resolved is whether the ADT gravely abused its discretion amounting to lack or excess of jurisdiction when it issued the Order denying petitioner's motion to dismiss the administrative case filed against him.

We rule in the negative.

Petitioner argues that the administrative case against him should be dismissed because of the failure of the prosecution to file its Formal Offer of Evidence within the agreed period.

We do not agree.

The appropriate rule in this case is Section 27 of the Uniform Rules on Administrative Cases in the Civil Service, which provides, to wit:

When the presentation of evidence has been concluded, the parties shall formally offer their evidence either orally or in writing and thereafter objections thereto may also be made either orally or in writing. After which, both parties may be given time to submit their respective memorandum which in no case shall [be] beyond five (5) days after the termination of the investigation. Failure to submit the same within the given period shall be considered a waiver thereof.

The failure to file a formal offer of evidence amounts to no more than a waiver of the right to file the same. In administrative cases, particularly, where the Uniform Rules on Administrative Cases in the Civil Service applies,

the absence of a formal offer of evidence does not bar the adverse party from presenting its evidence.

Section 3 of the Uniform Rules on Administrative Cases in the Civil Service provides:

Administrative investigations shall be conducted without necessarily adhering strictly to the technical rules of procedure and evidence applicable to judicial proceedings.

While under the Rules of Court, a formal offer may be indispensable because the rules on evidence so require it, the same is not true in administrative cases. There is no provision in the Uniform Rules on Administrative Cases in the Civil Service akin to Section 34, Rule 132 of the Rules of Court.

Furthermore, Section 27 of the Uniform Rules states that the failure to file a formal offer of evidence amounts to a mere waiver thereof, and not a dismissal of the action. As such, petitioner cannot claim a vested right to a dismissal of his case below just because a formal offer was not filed within the agreed period.

In addition thereto, the Uniform Rules give the hearing officer a leeway when it provided that x x x the hearing officer shall accept all evidence deemed material and relevant to the case. In case of doubt, he shall allow the admission of evidence subject to the objection interposed against its admission.

In the case at bar, records show that in fact, a formal offer of evidence was filed by the prosecution, a copy of which was received by petitioner's counsel. The action of the ADT in admitting the prosecution's exhibits was consistent with the above-mentioned Rules. Thus, the tribunal acted within the bounds of its authority.

Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or in other words, where the power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility, and it must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.

To reiterate, the admission of the exhibits for the prosecution is in accordance with Section 3, 27, and 28 of the Uniform Rules on Administrative Cases in the Civil Service. In admitting the exhibits for the prosecution, petitioner was not denied the opportunity to present his evidence. In fact, he could have presented his evidence as early as 11 August 1999 but he did not do so.

WHEREFORE, for utter lack of merit, the instant petition with prayer for temporary restraining order is hereby DENIED.[6]

Roquero moved for reconsideration of the Decision, but the same was likewise denied by the Court of Appeals in its Resolution promulgated on 1 February 2008.

Roquero is now before us seeking the reversal of the decision and resolution of the Court of Appeals.

The core issue of this case is whether the failure of the ADT to resolve Roquero's Motion (to declare complainant Imelda Abutal to have waived her right to submit her Formal Offer of Exhibit) which he seasonably filed on 22 October 1999 and the assailed Order of the ADT dated 8 June 2004 admitting the Formal Offer of Exhibit of complainant Imelda Abutal despite having filed after almost five years violated the constitutional right of Roquero to a speedy disposition of cases.

We find merit in the petition.

The Court of Appeals faulted petitioner for his failure to present his own evidence which "he could have done as early as 11 August 1999." [7] It must be noted, however, that petitioner's 22 October 1999 motion to declare complainant to have waived her right to submit her Formal Offer of Exhibit remained unresolved. This is reason enough for Roquero to defer presentation of his own evidence.

Indeed, while Section 27 of the Uniform Rules on Administrative Cases in Civil Service states that the failure to submit the formal offer of evidence within the given period shall be considered as waiver thereof, the ADT in fact allowed the prosecution to present its formal offer almost five (5) years later or on 24 January 2004. Starting on that date, petitioner was presented with the choice to either present his evidence or to, as he did, file a motion to dismiss owing to the extraordinary length of time that ADT failed to rule on his motion.

We cannot accept the finding of the Court of Appeals that there was no grave abuse of discretion on the part of the ADT because "a formal offer of evidence was filed by the prosecution, a copy of which was received by petitioners' counsel." [8] The admission by ADT on 8 June 2004 of the formal offer of exhibits belatedly filed did not cure the 5-year delay in the resolution of petitioner's 1999 motion to deem as waived such formal offer of evidence. Indeed, the delay of almost five (5) years cannot be justified.

The prosecution tried to explain in its Comment/Opposition dated 26 May 2004, that the resignation of Atty. Paul Flor in August 1999, who had by then already been on leave since mid-July 1999, contributed to the delay of the filing of the formal offer and that the formal offer could not be prepared by another counsel until all the transcripts of stenographic notes had been given to him. Also, it was pointed out that the stenographer, Jaime Limbaga, had been in and out of the hospital due to a serious illness. [9]

The ADT admitted this explanation of the prosecutor hook, line and sinker without asking why it took him almost five (5) years to make that explanation. If the excuses were true, the prosecution could have easily manifested with the ADT of its predicament right after Roquero filed his motion to declare the waiver of the formal offer. It is evident too that the prosecution failed to explain why it took them so long a time to find a replacement for the original prosecutor. And, the stenographer who had been in and out of the hospital due to serious illness should have been replaced sooner.

While it is true that administrative investigations should not be bound by strict adherence to the technical rules of procedure and evidence applicable to judicial proceedings, [10] the same however should not violate the constitutional right of respondents to a speedy disposition of cases.

Section 16, Article III of the 1987 Constitution provides:

Section 16. All person shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

The constitutional right to a "speedy disposition of cases" is not limited to the accused in criminal proceedings but extends to all parties in all cases, including civil and administrative cases, and in all proceedings, including judicial and quasi-judicial hearings. Hence, under the Constitution, any party to a case may demand expeditious action by all officials who are tasked with the administration of justice. [11]

The right to a speedy disposition of a case, like the right to a speedy trial, is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured; or even without cause or justifiable motive, a long period of time is allowed to elapse without the party having his case tried. Equally applicable is the balancing test used to determine whether a defendant has been denied his right to a speedy trial, or a speedy disposition of a case for that matter, in which the conduct of both the prosecution and the defendant is weighed, and such factors as the length of the delay, the reasons for such delay, the assertion or failure to assert such right by the accused, and the prejudice caused by the delay. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept. [12]

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 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.[13]

Applying the doctrinal ruling vis-a-vis the factual milieu of this case, the violation of the right to a speedy disposition of the case against petitioner is clear for the following reasons: (1) the delay of almost five (5) years on the part of ADT in resolving the motion of petitioner, which resolution petitioner reasonably found necessary before he could present his defense; (2) the unreasonableness of the delay; and (3) the timely assertions by petitioner of the right to an early disposition which he did through a motion to dismiss. Over and above this, the delay was prejudicial to petitioner's cause as he was under preventive suspension for ninety (90) days, and during the interregnum of almost five years, the trial of the accusation against him remained stagnant at the prosecution stage.

The Constitutional guarantee against unreasonable delay in the disposition of cases was intended to stem the tide of disenchantment among the people in the administration of justice by our judicial and quasi-judicial tribunals.[14] The adjudication of cases must not only be done in an orderly manner that is in accord with the established rules of procedure but must also be promptly decided to better serve the ends of justice. Excessive delay in the disposition of cases renders the rights of the people guaranteed by the Constitution and by various legislations inutile.[15]

WHEREFORE, the Petition is hereby GRANTED. The assailed Decision dated 22 March 2007 and Resolution dated 1 February 2008 of the Court of Appeals in CA-G.R. SP No. 87776 are hereby REVERSED and SET ASIDE. The Administrative Disciplinary Tribunal (ADT) of the University of the Philippines-Manila, Atty. Zaldy B. Docena, Eden Perdido and Isabella Lara, in their capacities as Chairman and Members of the ADT respectively, are hereby ORDERED to DISMISS the administrative case against Capt. Wilfredo G. Roquero for violation of his constitutional right to a speedy disposition of cases.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Abad, JJ., concur.

[1] Penned by Associate Justice Monina Arevalo Zeñarosa, with Associate Justices Marina L. Buzon and Edgardo F. Sundiam concurring. Rollo, pp. 17-27.

[2] Id. at 29-30.

[3] CA rollo, p. 18.

[4] Id. at 21.

[5] Id. at 18-23.

[6] Id. at 23-26.

[7] Rollo, p. 26.

[8] Id. at 25.

[9] Id. at 22.

[10] Section 3 of the Uniform Rules on Administrative Cases in Civil Service.

[11] Lopez, Jr. v. Office of the Ombudsman, 417 Phil. 39, 49 (2001) citing Cadalin v. POEA's Administrator, G.R. No. 104776, 5 December 1994, 238 SCRA 721, 765.

[12] Binay v. Sandiganbayan, G.R. Nos. 120681-83, 1 October 1999, 316 SCRA 65, 95.

[13] Dela Peña v. Sandiganbayan, 412 Phil. 921, 929 (2001) citing Alvizo v. Sandiganbayan, G.R. No. 101689, 17 March 1993, 220 SCRA 55, 63.

[14] CRUZ, Constitutional Law, 2007 Ed., p. 295.

[15] Matias v. Plan, A.M. No. MTJ-98-1159, 3 August 1998, 293 SCRA 532, 538-539.

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