

**GERARDA H. VILLA, PETITIONER, V. STANLEY FERNANDEZ,
FLORENTINO AMPIL, JR., AND NOEL CABANGON, RESPONDENTS.***G.R. No. 219548. October 17, 2018*

Ponente: CARPIO, J.

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Before us is a Petition for Review on Certiorari[1] filed by petitioner Gerarda H. Villa (Villa) seeking to reverse the Decision[2] dated 13 February 2015 and the Resolution[3] dated 23 July 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 127891, which dismissed Criminal Case No. C-38340 against respondents Stanley Fernandez (Fernandez), Florentino Ampil, Jr.[4] (Ampil), and Noel Cabangon (Cabangon).

The Facts

The present case stemmed from the death of Leonardo "Lenny" H. Villa, a neophyte-participant at the initiation rites of the Aquila Legis Fraternity (Aquila) in 1991.

Because of his death, an Amended Information charging 35 members of the Aquila with the crime of Homicide was filed on 15 November 1991. Out of the 35 members, 26 members were charged with homicide in Criminal Case No. C-38340(91), while 9 members were charged with homicide in Criminal Case No. C-38340. The 26 members were jointly tried, while the trial against the remaining 9 members was held in abeyance.

After the promulgation of the decision against the 26 members who were tried separately, the Regional Trial Court of Caloocan City (RTC), Branch 121, ordered for: (a) the issuance of warrants of arrest against five of the nine members, namely: Enrico de Vera III (de Vera), Anselmo Adriano (Adriano), Marcus Joel Ramos (Ramos), Fernandez, and Cabangon; and (b) the arraignment of four of the nine members, namely: Crisanto Saruca, Jr. (Saruca), Manuel Escalona II (Escalona), Reynaldo Concepcion (Concepcion), and Ampil on 24 November 1993.[5] A few days after, all of the nine members entered a plea of not guilty.

On 5 August 2002, the RTC Branch 130 granted the Motion to Dismiss Criminal Case No. C-38340 against Concepcion, upon finding that the failure of the prosecution to prosecute the case for an unreasonable period of time violated his right to speedy trial.[6]

On the other hand, on 29 October 2003, the RTC Branch 130 denied the separate Motions to Dismiss filed by Saruca, Escalona, and Adriano. On 18 January 2005, the RTC Branch 130 also denied the Motion to Dismiss filed by Ramos. The RTC Branch 130 reasoned out that the trial against the remaining eight members could now proceed, since the prosecution could already obtain the original records of the case from the CA, which already decided the appeal of the 26 members.[7] Upon denial of their motions to dismiss, Ramos, Saruca, Escalona, and Adriano appealed to the CA.

Meanwhile, on 8 March 2005, the RTC Branch 130 denied: (1) the "Motion to Quash Amended Information"

filed by Ampil on 10 October 1994; and (2) the "Urgent Omnibus Motion (a) To Adopt the Motion to Quash Amended Information of Accused Florentino L. Ampil; and (b) To Quash Amended Information" filed by Fernandez on 19 October 1994.[8]

On 25 October 2006, the CA granted the appeal of Ramos, Saruca, Escalona, and Adriano and dismissed Criminal Case No. C-38340 against them after finding that their right to speedy trial was violated.

On 5 December 2006, Fernandez, Ampil, and Cabangon filed a Joint Motion to Dismiss[9] with the RTC Branch 130, alleging that: (1) their constitutional right to a speedy trial was violated because the suit has been pending for more than 15 years, or since the filing of the Amended Information on 15 November 1991; (2) the CA's Decision dismissing Criminal Case No. C-38340 against Ramos, Saruca, Escalona, and Adriano due to the violation of their right to speedy trial should also apply to them because they are similarly situated with Ramos, Saruca, Escalona, and Adriano; and (3) their participation in the initial stages of the trial did not preclude the filing of a motion to dismiss on the ground of violation of their right to speedy trial.

In its Comment and/or Opposition,[10] the private prosecutor alleged that: (1) Fernandez, Ampil, and Cabangon are not similarly situated with Ramos, Saruca, Escalona, and Adriano, because they only raised the alleged violation of their right to speedy trial after the promulgation of the CA Decision dismissing Criminal Case No. C-38340 against Ramos, Saruca, Escalona, and Adriano; and (2) considering that Fernandez, Ampil and Cabangon did not promptly raise the issue of the alleged violation of their right to speedy trial, they are deemed to have waived and abandoned their right.

On 1 February 2012, the Court, in *Villareal v. People of the Philippines (Villareal)*,[11] convicted 5 of the 26 members of Aquila charged in Criminal Case No. C-3 8340(91) with reckless imprudence resulting in homicide, and affirmed the acquittal of 20 of the 26 members. The case against one of the 26 members was closed and terminated due to his death during the pendency of the case. In the same case, the Court affirmed the dismissal of Criminal Case No. C-38340 against Ramos, Saruca, Escalona, and Adriano due to violation of the right to speedy trial.[12]

The Decision of the RTC

Meanwhile, on 9 January 2012, the RTC Branch 130 issued an Order denying the Joint Motion to Dismiss filed by Fernandez, Ampil, and Cabangon.

The RTC Branch 130 explained that the following incidents caused the slow progress of Criminal Case No. C-38340: (1) Presiding Judge Jaime T. Hamoy (Judge Hamoy), who handled the case, was dismissed from the service; (2) while Acting Presiding Judge Luisito Sardillo (Judge Sardillo) continued the proceedings of the case, nothing much was accomplished as he had to attend to both the proceedings in this sala as well as that of in his own sala; (3) another accused in this case filed a petition for certiorari before the CA, and the CA issued a restraining order enjoining the trial court from proceeding with the hearing of the case; and (4) the private prosecutor filed a Motion for Transfer of Trial Venue and Motion for Inhibition. Finding that the pending incidents were already resolved, the RTC Branch 130 held that it can now continue with the trial of the case. The dispositive portion of its Order reads:

WHEREFORE, premises considered, the Motion to Dismiss filed by accused Farley (sic) Ampil, Stanley Fernandez and Noel Cabangon is hereby DENIED for lack of merit. The Motion for Inhibition filed by the Private Prosecutor is likewise ordered DENIED for lack [of] merit.

In the meantime the continuation of the prosecution evidence is hereby set on February 9 and 24, and March 2, 9, and 23, 2012 at 8:30 o'clock in the morning.

Notify all the parties concerned thru the Sheriff of this Court with proper return.

SO ORDERED.[13]

Thereafter, the RTC Branch 130, in another Order[14] dated 18 September 2012, denied the Motion for Partial Reconsideration filed by Fernandez, Ampil, and Cabangon.

The Decision of the CA

In a Decision dated 13 February 2015, the CA reversed the findings of the RTC Branch 130 and dismissed Criminal Case No. C-38340 against Fernandez, Ampil, and Cabangon. The CA held that the RTC Branch 130 committed grave abuse of discretion in denying the Joint Motion to Dismiss filed by Fernandez, Ampil, and Cabangon, because it failed to recognize and uphold their constitutional right to speedy trial. The CA found that the delays in the proceedings against Fernandez, Ampil, and Cabangon were unjustified and not attributable to them. The CA also held that their active participation in the initial stages of trial was not deemed a waiver of their right to speedy trial.

The CA also found that Fernandez, Ampil, and Cabangon are similarly situated with Ramos, Saruca, Escalona, and Adriano, since they all experienced the same delay in the proceedings in Criminal Case No. C-38340. Thus, since the Court in Villareal already dismissed Criminal Case No. C-38340 against Ramos, Saruca, Escalona, and Adriano for violation of their right to speedy trial, Criminal Case No. C-38340 against Fernandez, Ampil, and Cabangon should also be dismissed applying the principle of equal protection of the law.

In a Resolution dated 23 July 2015, the CA denied Villa's motion for reconsideration, upon finding that there is no valid ground to modify, reverse, or set aside its decision. The CA also held that Villa has no personality to move for a reconsideration, because it is only the Solicitor General who may bring or defend actions on behalf of the State in all criminal proceedings before the appellate courts.

The Issues

Villa raises the following issues for resolution:

I.

WITH ALL DUE RESPECT, THE COURT OF APPEALS COMMITTED GRAVE, SERIOUS AND REVERSIBLE ERRORS IN FINDING THAT THE DELAY IN THE PROCEEDINGS IN CRIMINAL CASE NO. 38340 IS OF SUCH NATURE THAT VIOLATES THE RIGHT OF RESPONDENTS TO SPEEDY TRIAL.

II.

WITH ALL DUE RESPECT, THE COURT OF APPEALS COMMITTED GRAVE, SERIOUS AND REVERSIBLE ERRORS IN FINDING THAT RESPONDENTS ARE SIMILARLY SITUATED WITH THEIR FORMER CO-ACCUSED REYNALDO CONCEPCION, MANUEL ESCALONA II, MARCUS JOEL RAMOS, CRISANTO SARUCA, JR., AND ANSELMO ADRIANO, WHOSE CASES, IN CRIMINAL CASE NO. C-38340, WERE DISMISSED BY THE COURT OF APPEALS IN ITS DECISION IN CA G.R. S.P. NO. 89060 AND S.P. NO. 901532, ON THE GROUND OF VIOLATION OF THEIR RIGHT TO SPEEDY TRIAL.[15]

The Ruling of the Court

We do not find merit in the petition.

An accused's right to "have a speedy, impartial, and public trial" is guaranteed in criminal cases by Section 14(2)

of Article III of the 1987 Constitution.[16] Its salutary objective being to assure that an innocent person may be free from the anxiety and expense of a court litigation or, if otherwise, of having his or her guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he or she may interpose.[17] Thus, the right to speedy trial is deemed violated when the proceeding is attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured; or when without cause or justifiable motive a long period of time is allowed to elapse without the party having one's case tried.[18] Equally applicable is the balancing test used to determine whether a person has been denied the right to speedy trial, in which the conduct of both the prosecution and the defendant is weighed, and such factors as length of the delay, reason for the delay, the assertion or non-assertion of the right, and prejudice resulting from the delay, are considered.[19]

In *Villareal*, we held that the right to speedy trial of Ramos, Saruca, Escalona, and Adriano was violated, because the prosecution failed to comply with the Orders of the trial court requiring it to secure certified true copies of the records of the case from the CA and there was no action at all on the part of the trial court for a period of almost seven years. We also pointed out that: "on 10 January 1992, the final amended Information was filed against Escalona, Ramos, Saruca, Ampil, S. Fernandez, Adriano, Cabangon, Concepcion, and De Vera. On 29 November 1993, they were all arraigned. Unfortunately, the initial trial of the case did not commence until 28 March 2005 or almost 12 years after arraignment." [20]

In the present petition, Villa insists that the right to speedy trial of Fernandez, Ampil, and Cabangon was not violated because the reasons for the delay were attributable to them, and they failed to timely invoke their right, unlike Ramos, Saruca, Escalona, and Adriano.

Contrary to Villa's assertion, the CA's ruling, as supported by the records, reveals that the following circumstances delayed the proceedings against Fernandez, Ampil, and Cabangon: (1) the prosecution failed to comply with the Order of the RTC Branch 130 dated 21 September 1995, reiterated in another Order dated 27 December 1995, requiring it to secure the records of Criminal Case No. 38340(91) from the CA; (2) from Ampil's and Cabangon's arraignment on 29 November 1993 and Fernandez's arraignment on 3 December 1993, the initial trial of the case commenced only on 28 March 2005, or more than 11 years later; (3) the RTC Branch 130 resolved Ampil's motion to quash filed on 10 October 1994, and Fernandez's omnibus motion filed on 19 October 1994, only on 8 March 2005 or more than 10 years after the motions were filed; and (4) the RTC Branch 130 resolved Fernandez, Ampil, and Cabangon's Joint Motion to Dismiss filed on 5 December 2006, only on 9 January 2012, or more than five years after the motion was filed. Moreover, the RTC Branch 130, in its Order, stated the reasons for the delay of the proceedings before it, such as: (1) the dismissal from the service of Judge Hamoy; (2) Judge Sardillo's heavy workload; (3) the CA's order restraining the proceeding of the case; and (4) the Motion for Transfer of Trial Venue and the Motion for Inhibition filed by the prosecution. Clearly, the reasons for the delay of the proceedings against Fernandez, Ampil, and Cabangon are not attributable to them.

Moreover, the reasons for the delay in the proceedings against Ramos, Saruca, Escalona, and Adriano are similar to the reasons for the delay in the proceedings against Fernandez, Ampil, and Cabangon. In *Villareal*, we held that the prosecution's failure to comply with the Orders of the trial court and the inaction of the trial court for almost seven years amount to a violation of the right to speedy trial of Ramos, Saruca, Escalona, and Adriano. In this case, not only were the reasons for the delay in the proceedings against Ramos, Saruca, Escalona, and Adriano present as to Fernandez, Ampil, and Cabangon, but also more unjustifiable circumstances added delay to the proceedings against them, such as the RTC's delayed resolution of the motions to quash and motion to dismiss. Thus, there is more reason to apply our ruling in *Villareal* to Fernandez, Ampil, and Cabangon, and find that their right to speedy trial has been violated.

Furthermore, contrary to Villa's contention that Fernandez, Ampil, and Cabangon failed to invoke their right, Villa's petition before us states that: "[o]n 19 April 2005, Ampil filed a Manifestation vehemently objecting to the indefinite suspension of the pre-trial and trial proceedings of the case, xxx. On 09 May 2005, Fernandez, and Cabangon filed their Manifestation posting no objection to the Manifestation and/or Motion for Resumption of Hearing." [21] Moreover, Fernandez, Ampil, and Cabangon filed with RTC Branch 130 on 5 December 2006 the Joint Motion to Dismiss invoking violation of their right to speedy trial, which Motion to Dismiss was resolved only on 9 January 2012 or five years later. In *Almeda v. Office of the Ombudsman*, [22] we held that petitioner's letter and manifestations seeking the immediate resolution of her case cannot be considered late, and no waiver of her right to speedy trial or acquiescence may be attached to the same, as she was not required as a rule to follow up on her case; instead, it is the State's duty to expedite the same. Similarly in this case, we find that Fernandez, Ampil, and Cabangon timely invoked and did not waive their right to speedy trial.

WHEREFORE, we DENY the petition. We AFFIRM the Decision dated 13 February 2015 and the Resolution dated 23 July 2015 of the Court of Appeals in CA-G.R. SP No. 127891.

SO ORDERED.

Leonen, [*] Caguioa, A. Reyes, Jr., and J. Reyes, Jr., [**] JJ., concur.

[*] Designated additional member per Raffle dated 17 October 2018.

[1] Designated additional member per Special Order No. 2587 dated 28 August 2018.

[1] Rollo, pp. 28-76.

[2] *Id.* at 11-23. Penned by Associate Justice Nina G. Antonio-Valenzuela, with Associate Justices Magdangal M. de Leon and Jane Aurora C. Lantion concurring.

[3] *Id.* at 8-9.

[4] Sometimes referred to as "Florentino Ampil" in the records.

[5] Rollo, p. 250.

[6] *Id.* at 329-330.

[7] *Id.* at 333.

[8] *Id.* at 257.

[9] *Id.* at 123-154.

[10] *Id.* at 155-172.

[11] 680 Phil. 527 (2012).

[12] *Id.* at 607-608.

[13] Rollo, p. 175.

[14] *Id.* at 188.

[15] *Id.* at 46-47.

[16] Section 14(2) of the 1987 Constitution of the Philippines states: "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 is unjustifiable."

[17] *Almeda v. Office of the Ombudsman*, 791 Phil. 129, 143 (2016), citing *Coscolluela v. Sandiganbayan*, 714 Phil. 55 (2013); *Tan v. People of the Philippines*, 604 Phil. 68, 78-79 (2009).

[18] *Almeda v. Office of the Ombudsman*, *supra*, citing *Gonzales v. Sandiganbayan*, 276 Phil. 323 (1991).

[19] *Id.*; *Tan v. People of the Philippines*, *supra*, at 80, citing *Corpuz v. Sandiganbayan*, 484 Phil. 899 (2004).

[20] *Supra* note 11, at 554.

[21] *Rollo*, pp. 41-42.

[22] *Supra* note 17.

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