

ANGELITO MAGNO, PETITIONER, VS. PEOPLE PHILIPPINES, OF THE REPRESENTED BY THE OFFICE OF THE OMBUDSMAN THROUGH THE OFFICE OF THE SPECIAL PROSECUTOR, RESPONDENT.

G.R. No. 230657. March 14, 2018

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Before the Court is a petition for review on certiorari[1] filed by petitioner Angelito Magno (petitioner) assailing the Decision[2] dated September 16, 2016 and the Resolution[3] dated February 15, 2017 of the Sandiganbayan (SB) in SB-15-SCA-0001, which nullified and set aside the Orders dated September 30, 2013[4] and November 28, 2014[5] of the Regional Trial Court of Mandaue City, Branch 56 (RTC) in Crim. Case No. DU-10123, and found that petitioner's right to speedy trial was not violated.

The Facts

On May 14, 2003, an Information[6] was filed before the RTC charging, inter alia, petitioner (who was then serving as Investigative Agent IV of the National Bureau of Investigation) with Multiple Frustrated Murder and Double Attempted Murder.[7] After arraignment, petitioner objected to the formal appearance of one Atty. Adelino Sitoy (Atty. Sitoy), who intended to act as a private prosecutor for and in behalf of the Office of the Ombudsman (Ombudsman). In the Orders dated September 25, 2003 and October 1, 2003, the RTC ruled that only the Ombudsman may prosecute the instant case, to the exclusion of any other entity/person other than those authorized under Republic Act No. 6770.[8] The Ombudsman and Atty. Sitoy questioned the RTC's aforesaid Orders to the Court of Appeals (CA), which, in a Decision dated September 26, 2005, ruled that the private prosecutor may prosecute the case and appear for the People of the Philippines in collaboration with any lawyer deputized by the Ombudsman. Eventually, the matter reached the Court,[9] which nullified the CA's pronouncements on the ground of lack of jurisdiction, ratiocinating that the Ombudsman and Atty. Sitoy should have sought recourse from the SB instead (Private Prosecutor Case).[10]

While the Private Prosecutor Case was still pending before the CA, the latter court issued a temporary restraining order (TRO), and thereafter, a preliminary injunction enjoining the RTC from implementing its Orders dated September 25, 2003 and October 1, 2003. This notwithstanding and upon motion by the prosecution, the CA clarified in a Resolution dated January 19, 2005 that the injunctive writs do not operate to enjoin the proceedings in Crim. Case No. DU-10123, provided that it is conducted in the presence of the private prosecutor. Thus, the prosecution moved to set the case for trial and started presenting one of its witnesses on March 29, 2005. In the course of the prosecution's presentation of witnesses, the RTC sustained petitioner's objection on the admissibility of one of the witness's testimony, prompting the prosecution to elevate the matter to the SB (Objection Case). Initially, the SB issued a sixty (60)-day TRO enjoining the RTC from proceeding with Crim. Case No. DU-10123. In a Decision dated February 12, 2007, the SB dismissed the Objection Case.[11]

Meanwhile and after the expiration of the TRO in the Objection Case, petitioner filed on March 16, 2006 a

Motion to Set Case for Continuous Hearing before the RTC, invoking his right to speedy trial. In an Order dated June 16, 2006, the RTC granted petitioner's motion, and accordingly, set the hearing on September 1, 2006.[12] The prosecution moved for reconsideration[13] but the same was denied in an Order dated August 18, 2006.[14] Thus, under threat of being cited in contempt, the prosecution continued its presentation of witnesses on September 1, 2006. Such presentation continued all the way until June 7, 2007 when the prosecution requested to reset the hearing to August 16, 2007 due to the handling prosecutor's illness. However, it appears that from such postponement until around early 2010, no hearings were conducted in the case. In fact, records show that there were only two (2) incidents during that time, namely: (a) petitioner's Motion for Substitution of Bond and Cancellation of Annotation which was resolved on October 9, 2009; and (b) Philippine Charter Insurance Corporation's Motion to Release a vehicle involved in a case which was resolved on December 9, 2013.[15]

In view of the foregoing, petitioner moved for the continuation of the trial, the hearing of which was set on April 22, 2010, which was further reset to September 2, 2010. At the September 2, 2010 hearing, only petitioner's counsel appeared. Thus, on September 17, 2010, petitioner filed a Motion to Dismiss[16] on the ground of violation of his right to speedy trial. In such motion, petitioner not only pointed out the various postponements and cancellations of hearings by the prosecution from the filing of the information until 2007, but also highlighted the hibernation of the case from 2007 until his Motion to Set Case for Hearing filed in April 2010. For its part, the prosecution filed an Opposition[17] to petitioner's motion, and at the same time, prayed that it be allowed to present further evidence.[18]

The RTC Ruling

In an Order[19] dated September 30, 2013, the RTC granted petitioner's motion to dismiss on the ground of violation of the latter's right to speedy trial.[20] It found that Crim. Case No. DU-10123 had already been pending for thirteen (13) years and yet, remained unresolved. In particular, the RTC pointed out that from 2007 onwards, the case has ceased to move forward due to the inaction of the State.[21]

The prosecution moved for reconsideration,[22] which was, however, denied in an Order[23] dated November 28, 2014. Aggrieved, the prosecution filed a petition for certiorari[24] before the SB.

The SB Ruling

In a Decision[25] dated September 16, 2016, the SB set aside the RTC ruling and, accordingly, ordered the reinstatement of Crim. Case No. DU- 10123 and for the RTC to conduct further proceedings immediately.[26] It held that the RTC gravely abused its discretion in ruling that petitioner's right to speedy trial has been violated, pointing out that both the prosecution and petitioner contributed to the delays in the case. In this regard, the SB opined that it is equally the responsibility of both the prosecution and the defense to move for the continuation of the trial.[27]

Petitioner moved for reconsideration[28] but the same was denied in a Resolution[29] dated February 15, 2017; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the SB correctly ascribed grave abuse on the part of the RTC when the latter court found that petitioner's right to speedy trial has been violated.

The Court's Ruling

The petition is meritorious.

Preliminarily, the Court points out the distinct approach in dealing with Rule 45 petitions for review on certiorari

that seek to review a ruling of a lower court, such as the SB, regarding a Rule 65 petition for certiorari. In a Rule 45 review, the Court examines the correctness of the SB ruling in contrast with the review of jurisdictional errors under Rule 65. Furthermore, Rule 45 limits the review to questions of law. In ruling for legal correctness, the Court must view the SB ruling in the same context that the petition for certiorari was presented to the latter court. Hence, the Court has to examine the SB ruling from the prism of whether or not it correctly determined the presence or absence of grave abuse of discretion in the assailed ruling, i.e., that of the RTC.[30]

Grave abuse of discretion is the capricious and whimsical exercise of judgment. It is the exercise of a power in an arbitrary manner. It must be so patent or gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined or to act at all in contemplation of law. Case law provides that grave abuse of discretion exists when the act is: (a) done contrary to the Constitution, the law or jurisprudence; or (b) executed whimsically, capriciously or arbitrarily out of malice, ill will or personal bias.[31]

Guided by the foregoing considerations, the Court finds that the CA erred in ascribing grave abuse of discretion on the part of the RTC. As will be explained hereunder, the RTC ruling finding that petitioner's right to speedy trial has been violated finds support in prevailing law and jurisprudence.

An accused's right to "have a speedy, impartial, and public trial" is guaranteed in criminal cases by Section 14 (2), Article III of the 1987 Constitution. "This right to a speedy trial may be defined as one free from vexatious, capricious and oppressive delays, 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 guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he may interpose. Intimating historical perspective on the evolution of the right to speedy trial, the old legal maxim, 'justice delayed is justice denied' must be reiterated. This oft-repeated adage requires the expeditious resolution of disputes, much more so in criminal cases where an accused is constitutionally guaranteed the right to a speedy trial." [32] In *Tan v. People*, [33] the Court made a thorough discussion on the matter, to wit:

The right of the accused to a speedy trial and to a speedy disposition of the case against him was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him for an indefinite time, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases. Such right to a speedy trial and a speedy disposition of a case is violated only when the proceeding is attended by vexatious, capricious and oppressive delays. The inquiry as to whether or not an accused has been denied such right is not susceptible by precise qualification. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept.

While justice is administered with dispatch, the essential ingredient is orderly, expeditious and not mere speed. It cannot be definitely said how long is too long in a system where justice is supposed to be swift, but deliberate. It is consistent with delays and depends upon circumstances. It secures rights to the accused, but it does not preclude the rights of public justice. Also, it must be borne in mind that the rights given to the accused by the Constitution and the Rules of Court are shields, not weapons; hence, courts are to give meaning to that intent.

x x x x

A balancing test of applying societal interests and the rights of the accused necessarily compels the court to approach speedy trial cases on an ad hoc basis.

In determining whether the accused has been deprived of his right to a speedy disposition of the case and to a speedy trial, four factors must be considered: (a) length of delay; (b) the reason for the delay; (c) the defendant's assertion of his right; and (d) Prejudice to the defendant. x x x.

Closely related to the length of delay is the reason or justification of the State for such delay. Different weights should be assigned to different reasons or justifications invoked by the State. x x x.[34] (Emphases and underscoring supplied)

Thus, the right to speedy trial (as well as the right to speedy disposition of cases) should be understood as a relative or flexible concept such that a mere mathematical reckoning of the time involved would not be sufficient. Pertinently, this right 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 justifiable motive, a long period of time is allowed to elapse without the party having his case tried. Hence, in the determination of whether the defendant has been denied such right, the following factors may be considered and balanced: (a) the length of delay; (b) the reasons for the delay; (c) the assertion or failure to assert such right by the accused; and (d) the prejudice caused by the delay.[35]

Examining the incidents of this case vis-a-vis the aforesaid jurisprudential parameters in determining the existence of violation of such right, the Court holds that petitioner's right to speedy trial had been violated.

First, more than a decade has elapsed from the time the Information in Crim. Case No. DU-10123 was filed on May 14, 2003, until the RTC promulgated its Orders dated September 30, 2013 and November 28, 2014 dismissing the case on the ground of violation of petitioner's right to speedy trial. Notably, when the RTC dismissed the case, the prosecution has yet to complete the presentation of its evidence in chief.

Second, for the purpose of determining whether or not a violation of petitioner's right to speedy trial indeed exists, the Court deems it appropriate to highlight two (2) distinct periods, namely: (a) the period from the filing of the information on May 14, 2003 until June 7, 2007 when the prosecution requested to reset the hearing due to the handling prosecutor's illness (First Period); and (b) from June 7, 2007 until September 17, 2010 when petitioner finally filed a Motion to Dismiss on the ground of violation of his right to speedy trial (Second Period).

As may be gleaned from the records, the numerous delays and postponements that occurred during the First Period were excusable, as Crim. Case No. DU-10123 was plagued with various incidents that reached the higher courts, i.e., the Private Prosecutor and Objection Cases, which even issued TROs and/or preliminary injunctions that undeniably contributed to the hampering of the proceedings before the RTC.

On the other hand, the very long delay that occurred during the Second Period largely remains unjustified. Records reveal after trial was postponed on June 7, 2007 and reset to August 16, 2007, there is no showing that the August 16, 2007 setting or any hearing thereafter actually took place. During this time, it appears that the prosecution never lifted a finger to keep the proceedings in Crim. Case No. DU-10123 from stalling. Worse, despite the fact that two (2) incidents were raised in this case during the Second Period[36] which would have alerted the prosecution as to the long, drawn-out pendency of this case, the latter remained indifferent in pursuing the case and never pushed for the continuation of trial.

Third, petitioner was not remiss in asserting his right to speedy trial. Records show that during the First Period and after the TROs and/or injunctions issued by the higher courts enjoining the proceedings on the main were already dissolved, petitioner filed on March 16, 2006 a Motion to Set Case for Continuous Hearing, already invoking such right.[37] In fact, this directly resulted in the Court ordering the prosecution to continue with the presentation of its witnesses. Unfortunately, the case progress bogged down once again after the prosecution asked for a postponement of the June 7, 2007 hearing, and thereafter, failed to move forward with the proceedings. In fact, the prosecution only moved to continue the presentation of its evidence after petitioner moved to dismiss the case on the ground of violation of his right to speedy trial.

Fourth, the Court recognizes the prejudice caused to petitioner by the lengthy and unjustified delay in Crim. Case

No. DU-10123. To stress, the right to speedy trial is not merely hinged towards the objective of spurring dispatch in the administration of justice but also to prevent the oppression of the citizen by holding a criminal prosecution suspended over him for an indefinite time. As already adverted to, the "salutary objective" of this right is to assure that an innocent person may be free from the anxiety and expense of litigation or, if otherwise, of having his guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he may interpose. In *Coscolluela v. Sandiganbayan*,^[38] the Court stated that the tactical disadvantages as well as the looming unrest brought by this lengthy and unjustified passage of time should be weighed against the State and in favor of the individual, viz.:

Prejudice should be assessed in the light of the interest of the defendant that the speedy trial was designed to protect, namely: to prevent oppressive pre-trial incarceration; to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired. Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system. There is also prejudice if the defense witnesses are unable to recall accurately the events of the distant past. Even if the accused is not imprisoned prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed, and he is subjected to public obloquy.

Delay is a two-edge sword. It is the government that bears the burden of proving its case beyond reasonable doubt. The passage of time may make it difficult or impossible for the government to carry its burden. The Constitution and the Rules do not require impossibilities or extraordinary efforts, diligence or exertion from courts or the prosecutor, nor contemplate that such right shall deprive the State of a reasonable opportunity of fairly prosecuting criminals. As held in *Williams v. United States*, for the government to sustain its right to try the accused despite a delay, it must show two things: (a) that the accused suffered no serious prejudice beyond that which ensued from the ordinary and inevitable delay; and (b) that there was no more delay than is reasonably attributable to the ordinary processes of justice.

Closely related to the length of delay is the reason or justification of the State for such delay. Different weights should be assigned to different reasons or justifications invoked by the State. For instance, a deliberate attempt to delay the trial in order to hamper or prejudice the defense should be weighted heavily against the State. Also, it is improper for the prosecutor to intentionally delay to gain some tactical advantage over the defendant or to harass or prejudice him. On the other hand, the heavy case load of the prosecution or a missing witness should be weighted less heavily against the State.^[39] (Emphasis and underscoring supplied)

Thus, in view of the unjustified length of time miring the resolution of Crim. Case No. DU-10123 as well as the concomitant prejudice that the delay in this case has caused, the Court concludes that petitioner's right to speedy trial had been violated. As such, the RTC did not gravely abuse its discretion in ordering the dismissal of Crim. Case No. DU-10123 on this ground. While this pronouncement should, as a matter of course, result in the acquittal of petitioner that would bar his further prosecution for the same offense,^[40] it does not necessarily follow that he is entirely exculpated from any civil liability, assuming that the same is proven in a subsequent case which the private complainant/s may opt to pursue.^[41]

WHEREFORE, the petition is GRANTED. The Decision dated September 16, 2016 and the Resolution dated February 15, 2017 of the Sandiganbayan in SB-15-SCA-0001 are hereby NULLIFIED and SET ASIDE. The Orders dated September 30, 2013 and November 28, 2014 of the Regional Trial Court of Mandaue City, Branch 56 in Crim. Case No. DU-10123 are REINSTATED. Accordingly, Crim. Case No. DU-10123 is DISMISSED on the ground of violation of the accused's right to speedy trial, without prejudice to any civil action which the private complainant/s may file against him.

Let a copy of this Decision be furnished the Secretary of Justice for his information and guidance.

SO ORDERED.

Carpio,[*] Acting C. J., (Chairperson), Peralta, Caguioa, and Reyes, Jr., JJ., concur.

[*] Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

[1] Rollo, pp. 49-86.

[2] Id. at 92-105, including dorsal portions. Penned by Associate Justice Sarah Jane T. Fernandez with Presiding Justice Amparo M. Cabotaje-Tang and Associate Justice Samuel R. Martires (now a member of the Court) concurring.

[3] Id. at 106-109.

[4] Id. at 138-139. Penned by Presiding Judge Teresita A. Galanida.

[5] Id. at 140-141.

[6] Dated April 28, 2003. Id. at 175-179.

[7] See id. at 54-55.

[8] Entitled "AN ACT PROVIDING FOR THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE OFFICE OF THE OMBUDSMAN, AND FOR OTHER PURPOSES," approved on November 17, 1989.

[9] See *Magno v. People*, 662 Phil. 726 (2011).

[10] See rollo, pp. 92-96, including dorsal portions.

[11] See id. at 92-95, including dorsal portions.

[12] See id. at 64 and 94 (dorsal portion).

[13] Id. at 412-416.

[14] See id. at 94 (dorsal portion)-95.

[15] See id. at 95, including dorsal portion.

[16] Id. at 180-185.

[17] See Opposition to Motion to Dismiss dated October 14, 2010; id. at 186-190.

[18] See id. at 95 (dorsal portion)-96.

[19] Id. at 138-139.

[20] Id. at 139.

[21] Id.

[22] See Motion for Reconsideration (Re: Order dated 30 September 2013) dated October 27, 2014; id. at 195-205.

[23] Id. at 140-141.

[24] Dated February 16, 2015. Id. at 110-134.

[25] Id. at 92-105, including dorsal portions.

[26] Id. at 104 (dorsal portion).

[27] See id. at 98-104, including dorsal portions.

[28] See motion for reconsideration dated October 25, 2016; id. at 422-439.

[29] Id. at 106-109.

[30] See *University of Santo Tomas v. Samahang Manggagawa ng UST*, G.R. No. 184262, April 24, 2017, citing *Quebral v. Angbus Construction, Inc.*, G.R. No. 221897, November 7, 2016, 807 SCRA 176, 184.

[31] See *Imperial v. Armes*, G.R. Nos. 178842 and 195509, January 30, 2017, citing *Air Transportation Office v. CA*, 737 Phil. 61, 84 (2014).

[32] *Tan v. People*, 604 Phil. 68, 78-79 (2009).

[33] Id.

[34] Id. at 80, citing *Corpuz v. Sandiganbayan*, 484 Phil. 899, 917-919 (2004).

[35] See *Coscolluela v. Sandiganbayan*, 714 Phil. 55, 61 (2013); citations omitted.

[36] Namely: (a) petitioner's Motion for Substitution of Bond and Cancellation of Annotation; and (b) Philippine Charter Insurance Corporation's Motion to Release a vehicle involved in a case. (see rollo, pp. 95 [dorsal portion] and 100 [dorsal portion]-101.)

[37] See id. at 64 and 100, including dorsal portion.

[38] *Supra* note 35.

[39] Id. at 65-66, citing *Corpuz v. Sandiganbayan*, *supra* note 34, at 918-919.

[40] See *Bonsubre v. Yerro*, 753 Phil. 653, 661-662 (2015), citing *People v. Hernandez*, 531 Phil. 289, 305-306 (2006).

[41] See *Coscolluela v. People*, *supra* note 35, at 67.

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