

## **EIGHTH DIVISION**

**[ CA-G.R. SP. NO. 127891, February 13, 2015 ]**

**STANLEY FERNANDEZ, FLORENTINO AMPIL, AND NOEL CABANGON, PETITIONERS, VS. REGIONAL TRIAL COURT, BRANCH 130, CALOOCAN CITY, PEOPLE OF THE PHILIPPINES, AND GERARDA H. VILLA, RESPONDENTS.**

### **D E C I S I O N**

**ANTONIO-VALENZUELA, J.:**

This is the Petition for Certiorari, Prohibition and Mandamus (With Prayer for the Issuance of a Writ of Preliminary Injunction and/or Temporary Restraining Order),<sup>[1]</sup> filed by Stanley Fernandez ("petitioner Fernandez"), Florentino Ampil ("petitioner Ampil"), and Noel Cabangon ("petitioner Cabangon"), imputing grave abuse of discretion on the part of the Regional Trial Court, Branch 130, Caloocan for issuing: 1) the Order dated 9 January 2012<sup>[2]</sup> ("first assailed Order") which denied petitioners' Joint Motion to Dismiss,<sup>[3]</sup> and the Order dated 18 September 2012<sup>[4]</sup> ("second assailed Order"), which denied petitioners' Motion for Partial Reconsideration.<sup>[5]</sup>

### **FACTS**

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

Twenty-six members of Aquila were charged with homicide in Criminal Case No. C-38340(91), and nine members (*i.e.*: petitioner Fernandez; petitioner Ampil; petitioner Cabangon; Manuel Escalona II ["accused Escalona"]; Crisanto Saruca, Jr. ["accused Saruca"]; Anselmo Adriano ["accused Adriano"]; Marcus Joel Ramos ["accused Ramos"]; Reynaldo Concepcion ["accused Concepcion"]; Enrico de Vera III ["accused de Vera"]) were charged with homicide in Criminal Case No. C-38340.

The RTC Branch 121, Caloocan conducted joint trial in Criminal Case No. C-38340(91) for the 26 accused. However, the RTC Branch 130, Caloocan did not proceed with trial in Criminal Case No. C-38340 due to certain matters that had to be resolved first.<sup>[6]</sup>

### **CRIMINAL CASE NO. 38340(91)**

After trial, the RTC Branch 121, Caloocan convicted the 26 accused in Criminal Case No. C-38340(91) for homicide, in the Decision dated 8 November 1993. The 26 accused appealed to the Court of Appeals. The Court of Appeals in CA-G.R. No. 15520, modified the decision of the RTC Branch 121, Caloocan thus: it acquitted 19

accused of homicide;<sup>[7]</sup> convicted 4 accused of slight physical injuries; convicted 2 accused of homicide.<sup>[8]</sup> Both the defense and the prosecution appealed CA-G.R. No. 15520 to the Supreme Court. The Supreme Court in G.R. Numbers 155101 and 154954 ruled as follows: convicted 5 accused of reckless imprudence resulting in homicide; affirmed the acquittal of 20 of the accused.<sup>[9]</sup>

### ***CRIMINAL CASE NO. 38340***

There were nine accused (including petitioners) charged of homicide in Criminal Case No. C-38340, in Informations<sup>[10]</sup> and Amended Informations filed in 1991.<sup>[11]</sup>

On 24 November 1993, the RTC Branch 130, Caloocan issued warrants of arrest for the apprehension of petitioner Fernandez, petitioner Cabangon, accused de Vera, accused Adriano, and accused Ramos. The RTC Branch 130, Caloocan scheduled the arraignment of petitioner Ampil, accused Saruca, accused Escalona, and accused Concepcion for 29 November 1993.<sup>[12]</sup>

At the arraignment on 29 November 1993, petitioner Ampil, petitioner Cabangon, accused Saruca, accused Escalona, and accused Ramos refused to enter their respective pleas. Thus, the RTC Branch 130, Caloocan entered pleas of not guilty for them. The RTC Branch 130, Caloocan arraigned petitioner Fernandez on 3 December 1993. Petitioner Fernandez pleaded not guilty.<sup>[13]</sup>

It appears that the nine accused in Civil Case No. 38340 took different routes from this point.

Accused Concepcion filed the Motion for Partial Separate Trial. The RTC Branch 130, Caloocan granted the Motion in the Order dated 8 December 1993.<sup>[14]</sup>

On 15 December 1993, upon petitions to the Court of Appeals by the accused Concepcion (CA-G.R. SP No. 32973) and petitioner Ampil (CA-G.R. SP No. 32818), the Court of Appeals, issued a temporary restraining order for the suspension of the proceedings in Criminal Case No. 38340. Upon petition of the accused Adriano, the Court of Appeals issued another temporary restraining order on 29 December 1993 (CA-G.R. SP No. 32804).<sup>[15]</sup>

On motion by the accused Concepcion, the RTC Branch 130, Caloocan dismissed Criminal Case No. 38340 against accused Concepcion in the Order dated 5 August 2002, for failure of the prosecution to prosecute the case for an unreasonable period of time, with the RTC Branch 130, Caloocan finding that this was a violation of the accused Concepcion's constitutional right to speedy trial.<sup>[16]</sup>

The accused Escalona, Saruca, Ramos, and Adriano, all moved to dismiss Criminal Case No. 38340 before the RTC Branch 130, Caloocan. However, they were not successful. Thus, the accused Escalona, Ramos, and Saruca, filed the Petition for Certiorari before the Court of Appeals, docketed as CA-G.R. SP No. 89060. Accused Adriano filed the Petition for Certiorari before the Court of Appeals, docketed as CA-G.R. SP No. 90153. The Court of Appeals consolidated CA-G.R. SP No. 89060 and CA-G.R. SP No. 90153. In the Decision dated 25 October 2006, the Court of Appeals granted the two Petitions and dismissed Criminal Case No. 38340 as against accused

Escalona, Ramos, Saruca, and Adriano, based on the violation of their right to speedy trial.

Private complainant Gerarda H. Villa filed the Petition for Review on Certiorari with the Supreme Court, questioning the Court of Appeals Decision dated 25 October 2006 (regarding Criminal Case No. 38340). The Supreme Court consolidated private complainant Villa's Petition, with the petitions filed related to Criminal Case No. 38340 (91). Thus, on 1 February 2012, the Supreme Court, in G.R. Numbers 178057 and 178080, affirmed the dismissal of Criminal Case No. 38340 as against accused Escalona, Ramos, Saruca, and Adriano.

On 10 October 1994, petitioner Ampil filed the Motion to Quash Amended Information before the RTC Branch 130, Caloocan. On 19 October 1994, petitioner Fernandez filed the Urgent Omnibus Motion (a) To Adopt the Motion to Quash Amended Information of Accused Florentino Ampil; and (b) To Quash Amended Information before the RTC Branch 130, Caloocan. It was only on 8 March 2005 that the RTC Branch 130, Caloocan denied the two Motions.<sup>[17]</sup>

On 5 December 2006, petitioners filed the Joint Motion to Dismiss<sup>[18]</sup> with the RTC Branch 130, Caloocan, and alleged: petitioners could not be tried for the criminal charges filed against them because the Court of Appeals, in its decision in Criminal Case No. 383490 (91), already ruled out conspiracy among the accused, and the RTC Branch 130, Caloocan was bound by the findings of the Court of Appeals; petitioners' constitutional right to a speedy trial was violated because the suit has been pending since the filing of the Amended Information on 5 November 1991; the initial trial of petitioners' case commenced only on 28 March 2005 (14 years after the filing of the Amended Information); the Court of Appeals, in CA-G.R. SP No. 89060, and CA-G.R. SP No. 90153, already dismissed the Criminal Case No. 38340 against the accused Escalona, Ramos, Saruca, and Adriano upon a finding of the denial of their right to a speedy trial; the Court of Appeals noted that the prosecution's failure to secure the records from the Court of Appeals, and the inaction of the RTC Branch 130, Caloocan for almost seven years, resulted in the denial of the right to speedy trial of the accused Escalona, Ramos, Saruca, and Adriano; petitioners are similarly situated with the accused Escalona, Ramos, Saruca, and Adriano, thus when the Court of Appeals declared that the rights to speedy trial of accused Escalona, Ramos, Saruca, and Adriano were violated, the same declaration should apply to petitioners; petitioners' filing of motions to quash, and their participation in the initial stages of trial, did not preclude the filing of a motion to dismiss on the ground of violation of their right to speedy trial.

The private prosecutor filed Comment and/or Opposition (To the Joint Motion to Dismiss dated 5 December 2006),<sup>[19]</sup> and countered: the findings of the Court of Appeals in CA-G.R. No. 15520 regarding Criminal Case No. 38340(91) were not relevant to Criminal Case No. 38340 because the said decision had not yet attained finality, as the defense and the prosecution appealed to the Supreme Court; the accused in Criminal Case No. C-38340 did not object when the RTC ordered a separate trial for them, thus a trial *de novo*, without regard to the earlier decision in Criminal Case No. 38340(91) was proper; petitioners are not similarly situated with accused Escalona, Ramos, Saruca, and Adriano, because petitioners only raised the issue of alleged violation of their right to speedy trial after the promulgation of the Decision of the Court of Appeals dismissing Criminal Case No. 38340 as against

accused Escalona, Ramos, Saruca, and Adriano; petitioners did not promptly raise the issue of the alleged violation of their right to speedy trial, and instead petitioners actively participated in trial and had sought several affirmative reliefs from the RTC; by failing to assert their right to speedy trial within reasonable time, petitioners are deemed to have abandoned their right.

On 9 January 2012, the RTC Branch 130, Caloocan issued the first assailed Order. Its dispositive portion read:

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

*SO ORDERED.*

Petitioners filed the Motion for Partial Reconsideration,<sup>[20]</sup> and alleged: the Supreme Court, in the Decision dated 1 February 2012,<sup>[21]</sup> affirmed the Court of Appeals' ruling that the prosecution failed to prove the elements of conspiracy, and held that only those who had direct participation in the infliction of physical injuries were criminally liable; since petitioners did not directly participate in the infliction of physical injuries to deceased Villa, they should also be acquitted; the Supreme Court also affirmed the dismissal of Criminal Case No. 38340 against accused Escalona, Ramos, Saruca, and Adriano, based on the violation of these four accused's right to speedy trial; petitioners and the four accused were similarly situated, thus Criminal Case No. 38340 should also be dismissed as against petitioners; petitioners filed the Joint Motion to Dismiss on 5 December 2006, and Motion to Resolve on 25 April 2011, however the RTC Branch 130, Caloocan only resolved the Joint Motion to Dismiss on 9 January 2012 (or five years after the petitioners filed the motions).

The RTC Branch 130, Caloocan denied the Motion for Partial Reconsideration, in the second assailed Order.

Thus, this Petition, petitioners making the following assignment of errors:

### **ASSIGNMENT OF ERRORS**

**I. BY ISSUING THE ASSAILED ORDERS DATED JANUARY 9, 2012 AND SEPTEMBER 18, 2012, THE CALOOCAN RTC BRANCH 130 DENIED THE PETITIONERS' RIGHT TO SPEEDY TRIAL IN CONTRAVENTION OF THE CLEAR PROVISIONS OF THE CONSTITUTION, THE RULES OF COURT, REPUBLIC ACT NO. 8493, AND SUPREME COURT CIRCULAR NO. 38-98.**

**II. THE RESPONDENTS SHOULD BE COMMANDED BY THIS**

**HONORABLE COURT TO DESIST FROM CONDUCTING FURTHER PROCEEDINGS IN CRIMINAL CASE NO. 38340 FOR BEING VIOLATE (sic) OF THE CONSTITUTION, THE RULES OF COURT, REPUBLIC ACT NO. 8493, AND SUPREME COURT CIRCULAR NO. 38-98.**

**III. BY ISSUING THE ASSAILED ORDERS DATED JANUARY 9, 2012 AND SEPTEMBER 18, 2012, THE CALOOCAN RTC BRANCH 130 UNLAWFULLY NEGLECTED ITS JUDICIAL DUTY TO PROTECT AND PRESERVE THE RIGHT TO SPEEDY TRIAL OF THE PETITIONERS UNDER THE CONSTITUTION, THE RULES OF COURT, REPUBLIC ACT NO. 8493, AND SUPREME COURT CIRCULAR NO. 38-98.**

The pivotal issue is whether the RTC Branch 130, Caloocan committed grave abuse of discretion in denying petitioners' Joint Motion to Dismiss, which was based on the violation of petitioners' right to speedy trial.

### **THE PETITIONERS' ARGUMENTS**

Petitioners answer in the affirmative. The RTC committed grave abuse of discretion in denying the Joint Motion to Dismiss.

The Petition for Certiorari, Prohibition, and Mandamus<sup>[22]</sup> thrusts: through no fault nor negligence on the part of petitioners, the prosecution unreasonably failed to try Criminal Case No. C-38340 for more than ten years; the prosecution's failure to prosecute was unjustifiable; based on the principle of equal protection of the laws, Criminal Case No. 38340 as against petitioners should be dismissed because Criminal Case No. 38340 as against the accused Concepcion, Escalona, Ramos, Saruca, and Adriano has already been dismissed; petitioners did not waive their right to speedy trial because as early as 1994, petitioners filed the Motion to Quash, which remained unresolved for ten years, and the RTC Branch 130, Caloocan denied the motion only on 8 March 2005.

Petitioners filed the Memorandum<sup>[23]</sup> which reiterated their previous arguments.

### **THE PRIVATE PROSECUTION'S ARGUMENTS**

Private complainant Gerarda Villa answers in the negative. The RTC did not commit grave abuse of discretion in denying petitioners' Joint Motion to Dismiss.

The Comment (On the Petition for Certiorari, Prohibition and Mandamus)<sup>[24]</sup> parries: R.A. 8493 or the Speedy Trial Act of 1998 is not applicable to petitioners because the law became effective on 15 September 1998, or five years after petitioners Ampil and Cabangon, and petitioner Fernandez, were arraigned on 29 November 1993, and 3 December 1993, respectively; petitioners were not similarly situated with accused Escalona, Ramos, Saruca, and Adriano, because the Supreme Court expressly stated that its decision was limited to accused Escalona, Ramos, Saruca, and Adriano; petitioners cannot be treated alike with accused Concepcion because accused Concepcion actively prepared for his defense, while petitioners belatedly asserted their right to speedy trial; the alleged delays cannot be construed as vexatious and were all justified.