

## SECOND DIVISION

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

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

### D E C I S I O N

**PERLAS-BERNABE, J.:**

Before the Court is a petition for review on *certiorari*<sup>[1]</sup> filed by petitioner Angelito Magno (petitioner) assailing the Decision<sup>[2]</sup> dated September 16, 2016 and the Resolution<sup>[3]</sup> dated February 15, 2017 of the Sandiganbayan (SB) in SB-15-SCA-0001, which nullified and set aside the Orders dated September 30, 2013<sup>[4]</sup> and November 28, 2014<sup>[5]</sup> 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<sup>[6]</sup> 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.<sup>[7]</sup> 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.<sup>[8]</sup> 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,<sup>[9]</sup> 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).<sup>[10]</sup>

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.<sup>[11]</sup>

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.<sup>[12]</sup> The prosecution moved for reconsideration<sup>[13]</sup> but the same was denied in an Order dated August 18, 2006.<sup>[14]</sup> 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.<sup>[15]</sup>

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<sup>[16]</sup> 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<sup>[17]</sup> to petitioner's motion, and at the same time, prayed that it be allowed to present further evidence.<sup>[18]</sup>

### **The RTC Ruling**

In an Order<sup>[19]</sup> 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.<sup>[20]</sup> 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.<sup>[21]</sup>

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

## **The SB Ruling**

In a Decision<sup>[25]</sup> 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.<sup>[26]</sup> 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.<sup>[27]</sup>

Petitioner moved for reconsideration<sup>[28]</sup> but the same was denied in a Resolution<sup>[29]</sup> 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.<sup>[30]</sup>

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.<sup>[31]</sup>

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