

THIRD DIVISION

[G.R. No. 173637, April 21, 2009]

**DANTE T. TAN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on *Certiorari* filed under Rule 45 of the Revised Rules of Court seeking the reversal and setting aside of the Decision^[1] dated 22 February 2006 and Resolution^[2] dated 17 July 2006 issued by the Court of Appeals in CA-G.R. SP No. 83068 entitled, "*People of the Philippines v. Hon. Briccio C. Ygana, in his capacity as Presiding Judge of Branch 153, Regional Trial Court, Pasig City and Dante Tan.*"

The assailed Decision reinstated Criminal Case No. 119830, earlier dismissed by the trial court due to an alleged violation of petitioner Dante T. Tan's right to speedy trial. The assailed Resolution denied his Motion for Reconsideration and Motion to Inhibit.

The factual and procedural antecedents of the instant petition are as follows:

On 19 December 2000, a Panel of Prosecutors of the Department of Justice (DOJ), on behalf of the *People of the Philippines* (People), filed three Informations against Dante T. Tan (petitioner) before the Regional Trial Court (RTC) of Pasig City. The cases were docketed as Criminal Cases No. 119830, No. 119831 and No. 119832, all entitled, "*People of the Philippines v. Dante Tan.*"

Criminal Case No. 119830^[3] pertains to allegations that petitioner employed manipulative devices in the purchase of Best World Resources Corporation (BW) shares. On the other hand, Criminal Cases No. 119831^[4] and No. 119832^[5] involve the alleged failure of petitioner to file with the Securities and Exchange Commission (SEC) a sworn statement of his beneficial ownership of BW shares.

In two other related cases, two Informations were filed against a certain Jimmy Juan and Eduardo G. Lim for violation of the Revised Securities Act involving BW shares of stock. These were docketed as Criminal Cases No. 119828 and No. 119829.

On the same day, the DOJ, through Assistant Chief State Prosecutor Nilo C. Mariano, filed a Motion for Consolidation praying that Criminal Cases No. 119830, No. 119831 and No. 119832 be consolidated together with Criminal Cases No. 119828 and No. 119829, which the trial court granted.

On 21 December 2000, Criminal Cases No. 119830, No. 119831 and No. 119832 were raffled off to the Pasig RTC, Branch 153, presided by Judge Briccio C. Ygana.

Criminal Cases No. 119828 and No. 119829 also went to the same court.

Petitioner was arraigned on 16 January 2001, and pleaded not guilty to the charges.
[6]

On 6 February 2001, the pre-trial was concluded, and a pre-trial order set, among other things, the first date of trial on 27 February 2001.^[7]

Atty. Celia Sandejas of the Securities and Exchange Commission (SEC), under the direct control and supervision of Public Prosecutor Nestor Lazaro, entered her appearance for the People; Atty. Agnes Maranan for petitioner Dante Tan; Atty. Sigfrid Fortun for Eduardo Lim, Jr.; and Atty. Rudolf Brittanico for Jimmy Juan. State Prosecutors Susan Dacanay and Edna Villanueva later on took over as lawyers for the People.

The People insists that during the pendency of the initial hearing on 27 February 2001, the parties agreed that Criminal Cases No. 119831 and No. 119832 would be tried ahead of Criminal Case No. 119830, and that petitioner would not interpose any objection to its manifestation, nor would the trial court disapprove it.

Thereafter, the People presented evidence for Criminal Cases No. 119831 and No. 119832. On 18 September 2001, the prosecution completed the presentation of its evidence and was ordered by the RTC to file its formal offer of evidence within thirty days.

After being granted extensions to its filing of a formal offer of evidence, the prosecution was able to file said formal offer for Criminal Cases No. 119831 and No. 119832 on 25 November 2003.^[8]

On 2 December 2003, petitioner moved to dismiss Criminal Case No. 119830 due to the People's alleged failure to prosecute. Claiming violation of his right to speedy trial, petitioner faults the People for failing to prosecute the case for an unreasonable length of time and without giving any excuse or justification for the delay. According to petitioner, he was persistent in asserting his right to speedy trial, which he had allegedly done on several instances. Finally, he claimed to have been substantially prejudiced by this delay.

The prosecution opposed the Motion, insisting on its claim that the parties had an earlier agreement to defer the trial of Criminal Case No. 119830 until after that of Criminal Cases No. 119831-119832, as the presentation of evidence and prosecution in each of the five cases involved were to be done separately. The presentation of evidence in Criminal Cases No. 119831-119832, however, were done simultaneously, because they involved similar offenses of non-disclosure of beneficial ownership of stocks proscribed under Rule 36(a)-1^[9] in relation to Sections 32(a)-1^[10] and 56^[11] of Batas Pambansa Bilang 178, otherwise known as the "Revised Securities Act." Criminal Case No. 119830 pertains to alleged violation of Section 27 (b),^[12] in relation to Section 56 of said act.

On 22 December 2003, Judge Briccio C. Ygana of the Pasig RTC, Branch 153, ruled that the delays which attended the proceedings of petitioner's case (Criminal Case No. 119830) were vexatious, capricious and oppressive, resulting in violation of

petitioner's right to speedy trial. The RTC ordered^[13] the dismissal of Criminal Case No. 119830, disposing as follows:

WHEREFORE, foregoing premises duly considered and finding the motion to dismiss to be meritorious, the Court hereby orders Criminal Case No. 119830 DISMISSED.

On motion for reconsideration, the prosecution insisted that the parties agreed to hold separate trials of the BW cases, with petitioner acquiescing to the prosecution of Criminal Cases No. 119831 and No. 119832 ahead of Criminal Case No. 119830. In an Order dated 20 January 2004, the RTC denied the Motion for Reconsideration for lack of merit.

The RTC's order of dismissal was elevated to the Court of Appeals *via* a petition for *certiorari*, with the People contending that:

RESPONDENT JUDGE GRAVELY ABUSED HIS DISCRETION IN RULING THAT THE PEOPLE VIOLATED DANTE TAN'S RIGHT TO SPEEDY TRIAL, ALBEIT, THE LATTER AND RESPONDENT JUDGE HIMSELF HAVE CONFORMED TO THE DEFERMENT OF CRIMINAL CASE NO. 119830 PENDING HEARING OF THE TWO OTHER RELATED CASES.

Setting aside the trial court's order of dismissal, the Court of Appeals granted the petition for *certiorari* in its Decision dated 22 February 2006. In resolving the petition, the appellate court reinstated Criminal Case No. 119830 in this wise:

WHEREFORE, the petition is granted and the assailed Orders dated December 22, 2003 and January 20, 2004 are set aside. Criminal Case No. 119830 is reinstated and the trial court is ordered to conduct further proceedings in said case immediately.^[14]

Petitioner moved for a reconsideration of the Decision and filed a motion for inhibition of the Justices who decided the case.

On 17 July 2006, the Court of Appeals denied both motions.

Petitioner Dante Tan, henceforth, filed the instant petition for review on *certiorari*, raising the following issues:

I.

WHETHER OR NOT THE ACTING SECRETARY OF JUSTICE MAY VALIDLY EXECUTE THE CERTIFICATE OF NON-FORUM SHOPPING ATTACHED TO THE PETITION FOR CERTIORARI FILED BY THE PEOPLE WITH THE COURT OF APPEALS EVEN THOUGH THE CRIMINAL ACTION WAS INSTITUTED BY A COMPLAINT SUBSCRIBED BY THE AUTHORIZED OFFICERS OF THE SECURITIES AND EXCHANGE COMMISSION.

II.

WHETHER OR NOT THE PETITION FOR CERTIORARI VIOLATED TAN'S RIGHT AGAINST DOUBLE JEOPARDY.

III.

WHETHER OR NOT CRIMINAL CASE NO. 119830 WAS CORRECTLY DISMISSED BY THE TRIAL COURT ON THE GROUND OF VIOLATION OF TAN'S RIGHT TO SPEEDY TRIAL.

IV.

WHETHER OR NOT THE TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION.

We first resolve the preliminary issues.

In an attempt at having the instant petition dismissed, petitioner contends that the certificate of non-forum shopping attached to the People's appeal before the Court of Appeals should have been signed by the Chairman of the SEC as complainant in the cases instead of Acting DOJ Secretary Merceditas N. Gutierrez.

Petitioner's argument is futile. The Court of Appeals was correct in sustaining the authority of Acting DOJ Secretary Merceditas Gutierrez to sign the certificate of non-forum shopping of the petition for *certiorari* before said court. It must be stressed that the certification against forum shopping is required to be executed by the plaintiff.^[15] Although the complaint-affidavit was signed by the Prosecution and Enforcement Department of the SEC, the petition before the Court of Appeals originated from Criminal Case No. 119830, where the plaintiff or the party instituting the case was the People of the Philippines. Section 2, Rule 110 of the Rules of Court leaves no room for doubt and establishes that criminal cases are prosecuted in the name of the People of the Philippines, the offended party in criminal cases. Moreover, pursuant to Section 3, paragraph (2) of the Revised Administrative Code, the DOJ is the executive arm of the government mandated to investigate the commission of crimes, prosecute offenders and administer the probation and correction system. It is the DOJ, through its prosecutors, which is authorized to prosecute criminal cases on behalf of the People of the Philippines.^[16] Prosecutors control and direct the prosecution of criminal offenses, including the conduct of preliminary investigation, subject to review by the Secretary of Justice. Since it is the DOJ which is the government agency tasked to prosecute criminal cases before the trial court, the DOJ is best suited to attest whether a similar or related case has been filed or is pending in another court of tribunal. Acting DOJ Secretary Merceditas N. Gutierrez, being the head of the DOJ, therefore, had the authority to sign the certificate of non-forum shopping for Criminal Case No. 119830, which was filed on behalf of the People of the Philippines.

The preliminary issues having been resolved, the Court shall proceed to discuss the main issues.

At the crux of the controversy is the issue of whether there was a violation of petitioner Dante Tan's right to speedy trial.

Petitioner Dante Tan assails the Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 83068. The appellate court determined that he "impliedly agreed" that Case No. 119830 would not be tried until after termination of Criminal Cases No. 119831-119832, which finding was grounded entirely on speculations, surmises

and conjectures.

Both parties concede that this issue is factual. It is a basic rule that factual issues are beyond the province of this Court in a petition for review, for it is not our function to review evidence all over again.^[17] Rule 45 of the Rules of Court provides that only questions of law may be raised in this Court in a petition for review on *certiorari*.^[18] The reason is that the Court is not a trier of facts.^[19] However, the rule is subject to several exceptions.^[20] Under these exceptions, the Court may delve into and resolve factual issues, such as in cases where the findings of the trial court and the Court of Appeals are absurd, contrary to the evidence on record, impossible, capricious or arbitrary, or based on a misappreciation of facts.

In this case, the Court is convinced that the findings of the Court of Appeals on the substantial matters at hand, while conflicting with those of the RTC, are adequately supported by the evidence on record. We, therefore, find no reason to deviate from the jurisprudential holdings and treat the instant case differently.

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 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.^[21] Intimating historical perspective on the evolution of the right to speedy trial, we reiterate the old legal maxim, "justice delayed is justice denied." 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.^[22]

Following the policies incorporated under the 1987 Constitution, Republic Act No. 8493, otherwise known as "The Speedy Trial Act of 1998," was enacted, with Section 6 of said act limiting the trial period to 180 days from the first day of trial.^[23] Aware of problems resulting in the clogging of court dockets, the Court implemented the law by issuing Supreme Court Circular No. 38-98, which has been incorporated in the 2000 Rules of Criminal Procedure, Section 2 of Rule 119.^[24]

In *Corpuz v. Sandiganbayan*,^[25] the Court had occasion to state -

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.*