

## THIRD DIVISION

[ G.R. No. 154155, August 06, 2008 ]

**THE OMBUDSMAN, PETITIONER, VS. BEN C. JURADO,  
RESPONDENT.**

### D E C I S I O N

**REYES, R.T., J.:**

NO less than Our Constitution guarantees the right not just to a speedy trial but to the speedy disposition of cases.<sup>[1]</sup> However, it needs to be underscored that speedy disposition is a relative and flexible concept. A mere mathematical reckoning of the time involved is not sufficient. Particular regard must be taken of the facts and circumstances peculiar to each case.<sup>[2]</sup>

This is a petition for review on *certiorari* of the Decision<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 58925. The CA reversed and set aside the decision and resolution of the Ombudsman finding respondent Bureau of Customs Division Chief administratively liable for neglect of duty, penalizing him with suspension for six months without pay.

#### The Facts

Sometime in 1992, Maglei Enterprises Co., (Maglei), a partnership owned by Rose Cuyos and John Elvin C. Medina, filed an application before the Bureau of Customs for the operation of a Customs Bonded Warehouse (CBW)-Manufacturing Warehouse. As part of the evaluation of Maglei's application, CBW Supervisor Juanito A. Baliwag conducted an inspection of Maglei's compliance with structural requirements. Baliwag submitted a report<sup>[4]</sup> recommending approval of the application.

On March 16, 1992, respondent Jurado, who was then the Chief of the Warehouse Inspection Division, adopted the recommendation of Baliwag. Then he indorsed the papers of Maglei to the Chief of the Miscellaneous Manufacturing Bonded Warehouse Division (MMBWD). The indorsement letter, in full, reads:

1<sup>st</sup> Indorsement  
16 March 1992

Respectfully forwarded to the Chief, MMBWD, This Port, the within papers relative to the request of MAGLEI ENTERPRISES CO., to establish and operate a Customs Manufacturing Bonded Warehouse, pursuant to CMO 39-91, to be located at 129 Jose Bautista St., Caloocan City, together with the attached report submitted by CBW Supervisor J. A.

Baliwag of this Office, inviting attention to the recommendation stated

therein to which the undersigned concurs.

(Sgd.)

Atty. Ben C. Jurado

Chief

Warehousing Inspection Division<sup>[5]</sup>

Maglei's application was submitted to Rolando A. Mendoza, Chief of the MMBWD for his comment and recommendation. In a Memorandum (for the District Collector of Customs) dated March 20, 1992, Mendoza reported that Maglei has substantially complied with the physical and documentary requirements relative to their application for the operation of a Customs Bonded Warehouse. Mendoza further recommended that Maglei's application be approved. Following the indorsements of the different divisions of the Bureau of Customs - Emma M. Rosqueta (District Collector of Customs); Titus B. Villanueva (Deputy Commissioner for Assessment and Operations); and Atty. Alex Gaticales (Executive Director of the Customs - SGS Import Valuation and Classification Committee) - Maglei's application was recommended for approval.

On June 25, 1992, Maglei was finally granted the authority to establish and operate CBW No. M-1467 located at 129 J. Bautista, Caloocan City. By virtue of such authority, Maglei imported various textile materials which were then transferred to the said warehouse. The textiles were to be manufactured into car covers for exportation.

Subsequently, on July 8 and 22, 1992, MMBWD Senior Storekeeper Account Officer George O. Dizon was tasked by MMBWD Chief Mendoza to check and verify the status of Maglei's CBW. Dizon reported that the subject CBW was existing and operating. However, upon further verification by the Bureau of Customs, it was discovered that the purported CBW of Maglei did not exist at the alleged site in Caloocan City. Rather, what was reported located at the site was a School of the Divine Mercy. Only a small signboard bearing the name "Maglei Enterprises Company" was posted inconspicuously in the corner of the lot. Further investigation revealed that Maglei's shipment of textile materials disappeared, without proof of the materials being exported or the corresponding taxes being paid.

### **Ombudsman Disposition**

On August 11, 1992, the Bureau of Customs initiated a complaint against George P. Dizon, Rose Cuyos and John Elvin C. Medina for prosecution under the Tariff and Customs Code. After receiving a copy of the resolution, the Ombudsman conducted the investigation on the complaint.

On February 13, 1996, the Evaluation and Preliminary Investigation Bureau (EPIB) of the Office of the Ombudsman (OMB) recommended that the Resolution of the Bureau of Customs be reversed. The EPIB further recommended that the complaint against George P. Dizon be dismissed and another one be filed against Emma Rosqueta and Atty. Rolando Mendoza, subject to further fact-finding investigation by the Fact Finding Bureau (FFB) of the OMB. With regard to the case against Rose Cuyos and John Medina, the EPIB recommended that the charges be taken up together with those of Rosqueta and Atty. Mendoza. The case was then forwarded to

the FFB.

On September 29, 1997, the FFB submitted its report with the following recommendations:

WHEREFORE, premises considered; the undersigned investigators respectfully recommend the following:

1. That criminal charges for violation of Section 3(e) of RA 3019 and Section 3081 of the Tariff and Customs Code be filed against the following officials namely:

- a. Emma M. Rosqueta  
Director Collector, Port of Manila
  - b. Rolando A. Mendoza  
Chief, Miscellaneous Manufacturing  
Bonded Warehouse Division
  - c. Alex Gaticales  
Executive Staff, Deputy Commissioner
  - d. **Ben C. Jurado**  
**Chief, Warehouse Inspection Division**  
**CBW Supervisor**
  - e. Juanito A. Baliwag  
CBW Supervisor
  - f. George P. Dizon  
Senior Storekeeper
- All of the Bureau of Customs, and
- g. Rose Cuyos and John Elvin C. Medina  
Owner, Maglei Enterprises  
Private Respondents

2. That records of this case be forwarded to the EPIB, this Office for the conduct of the required preliminary investigation

3. That administrative charges for dishonesty and gross misconduct be likewise filed against the above-named BOC officials before the AAB, this Office.<sup>[6]</sup>

On October 17, 1997, the OMB approved the above recommendation.

On August 2, 1999, the OMB dismissed the criminal complaint for falsification of public documents and violation of Section 3(e) of Republic Act (R.A.) No. 3019 and Section 3601 of the Tariff and Customs Code filed against respondent. The complaint was dismissed on the ground of lack of *prima facie* evidence to charge respondent of the crime.

On the other hand, on August 16, 1999, the Administrative Adjudication Bureau (AAB) of the OMB rendered judgment finding respondent administratively liable, penalizing him with suspension for six (6) months without pay. Respondent's motion for reconsideration of his suspension was likewise denied by the Ombudsman.

Aggrieved, respondent appealed to the CA. In his appeal, respondent argued, among others, that his right to a speedy disposition of his case had been violated; that the administrative case against him should have been dismissed following the dismissal of the criminal charges against him; and that there is no substantial evidence on record to make him administratively liable.

### **CA Disposition**

In a Decision dated July 3, 2002, the CA reversed and set aside the questioned decision and resolution of the OMB. The dispositive part of the CA decision runs in this wise:

Foregoing premises considered, the Petition is **GIVEN DUE COURSE**. Resultantly, the challenged Decision/Resolution of the Ombudsman is hereby **REVERSED** and **SET ASIDE**. No costs.

SO ORDERED.<sup>[7]</sup>

In ruling in favor of respondent, the appellate court ratiocinated:

Indeed, we are in accord with Petitioner's arguments that his right to speedy disposition of cases had been violated. To be sure, Section 16, Article III of the 1987 Constitution provides thus:

"All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial or administrative bodies."

X X X X

In the case at bench, the incident which gave rise to the complaint against Petitioner happened on March 16, 1992. And yet it was only on November 20, 1997 or a lapse of more than five (5) years that the case relative to the said incident was filed against him. Records disclose that on August 11, 1992, the complaint only charged George O. Dizon and 2 others. Then on February 13, 1996 or after almost 4 years, the Evaluation and Preliminary Investigation Bureau of the OMB made another recommendation which ultimately included Petitioner as among those to be charged. From February 13, 1996 to November 20, 1997 or a period of more than one (1) year, what took them so long to decide that Petitioner be included in the charges?

From the foregoing unfolding of events, it is quite clear that it took the Ombudsman almost six (6) years to decide that a case be filed against Petitioner. Under such circumstances, We cannot fault Petitioner for invoking violation of his right to speedy disposition of his case.

More importantly, We do not agree that Petitioner, under attendant facts and circumstances can be held liable for negligence. First of all, Petitioner as, Deputy Commissioner for Assessment and Operation, did not have the duty to make inspection on the alleged warehouse. Such duty belongs to other personnel/officers. Secondly, in Petitioner's 1<sup>st</sup> Indorsement dated March 22, 1992, he merely stated thus:

"Respectfully forwarded to the Chief, MMBWD, This Port, the within papers relative to the request of MAGLEI ENTERPRISES CO., to establish and operate a Customs Manufacturing Bonded Warehouse, pursuant to CMO 39-91, to be located at 129 Jose Bautista St., Caloocan City, together with the attached report submitted by CBW Supervisor J.A. Baliwag of this Office, inviting attention to the recommendation stated therein to which the undersigned concurs." (p. 185, *Rollo*)

A careful reading of said 1<sup>st</sup> Indorsement undoubtedly shows that Petitioner invited attention to the inspector's (Supervisor Baliwag) qualified recommendation, to wit:

"Approval respectfully recommended, subject to re-inspection, before transfer of imported goods." (Underscoring for emphasis.)

After Petitioner made the indorsement, he no longer had any participation nor was he under obligation or duty to make a re-inspection. If afterwards damage was suffered, Petitioner cannot be faulted but rather only those who had the duty to make re-inspection. It is precisely because of such fact that the criminal complaint filed against Petitioner did not prosper. Where there is no duty or responsibility, one should not be held liable for neglect, as what has been done to Petitioner.

[8]

### **Issues**

Petitioner Ombudsman now comes to this Court, raising twin issues:

I.

WHETHER OR NOT RESPONDENT'S RIGHT TO SPEEDY TRIAL WAS VIOLATED;

II.

WHETHER OR NOT RESPONDENT WAS NEGLIGENT IN THE PERFORMANCE OF HIS DUTY, AS THE CHIEF OF THE WAREHOUSING INSPECTION DIVISION, DESPITE THE FACT THAT HE DID NOT ENSURE THAT THE SUPPOSED WAREHOUSE WAS NOT IN EXISTENCE. [9]

### **Our Ruling**

***No violation of respondent's right***