

FIRST DIVISION

[G.R. NO. 165996, October 17, 2005]

**RODOLFO G. VALENCIA, PETITIONER, VS. THE SANDIGANBAYAN,
RESPONDENT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

This petition for certiorari under Rule 65 of the Rules of Court assails the June 14, 2004 Order^[1] of respondent Sandiganbayan in Criminal Case No. 25160, which denied petitioner's motion for leave to file demurrer to evidence and set the case for presentation of evidence for the prosecution; as well as its July 28, 2004 Resolution^[2] denying petitioner's motion for reconsideration.

The undisputed facts show that on February 10, 1999, petitioner Rodolfo G. Valencia, then governor of Oriental Mindoro was charged before the Sandiganbayan with violation of Section 3(e) of Republic Act (RA) No. 3019, the Anti-graft and Corrupt Practices Act. The information filed against petitioner reads:

That on or about December 1, 1992, or sometime prior or subsequent thereto in the Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the Governor of the Province of Oriental Mindoro, while in the performance of his official functions, committing the offense in relation to his office, and taking advantage of his official position, acting with manifest partiality, evident bad faith or gross inexcusable negligence, did then and there wilfully, unlawfully and criminally cause undue injury to the Province of Oriental Mindoro, and at the same time give unwarranted benefits, advantage or preference to one CRESENTE UMBAO, a candidate who ran and lost in the 1992 election, by then and there appointing said Cresente Umbao as Sangguniang Bayan member of Pola, Oriental Mindoro, within the prohibitive period of one (1) year after an election, in flagrant violation of Sec. 6, Art IX B of the Constitution, to the damage and prejudice of the Province of Oriental Mindoro and to the government as a whole.^[3]

Upon arraignment on April 13, 1999, petitioner pleaded not guilty.^[4]

On March 24, 2003, the parties submitted a Joint Stipulation of Facts, to wit:

1. Mr. Rodolfo G. Valencia, had been the Governor of the Province of Oriental Mindoro, for having won in the gubernatorial race in the May 1992 local and provincial election;
2. During the 1992 election, Mr. Cresente Umbao of Pola, Oriental,

Mindoro also ran for the position of councilor in the Municipality of Pola, Oriental Mindoro but he lost;

3. On October 17, 1992, Councilor Antonio Mercene, Jr. of Pola, Oriental, Mindoro died thus creating a permanent vacancy in the membership position of Sanguniang Bayan of Pola, Oriental Mindoro.

4. On December 1, 1992 then Governor Rodolfo G. Valencia of Oriental, Mindoro, appointed Cresente Umbao to the position of a councilor in the Municipal Council of Pola, Oriental Mindoro on the vacancy left by the death of Councilor Mercene.

CONTENTION/ISSUES

The Prosecution contends that this appointment is in violation of Sec. 3(e) of R.A. 3019 as it gives among other, unwarranted benefit to Mr. Cresente Umbao who is disqualified to be appointed within a period of one year after having lost in May 1992 local election for councilor, while the accused, then Governor Rodolfo Valencia, maintains that the appointment of Lumbao was in the performance of his duty and that it was made in good faith pursuant to Sec. 45, Chapter 2, Title 2, of the Local Government Code (R.A. 7160).

The Parties reserve their rights to present documentary evidences as the need arise during the trial.

WHEREFORE, premises considered, the parties respectfully prays that this stipulation of facts be well taken by the Honorable Sandiganbayan for pre-trial purposes.^[5]

On March 26, 2003, the Sandiganbayan directed the parties to sign the Joint Stipulation of Facts, thus -

The Court orders both counsels and the accused to sign each and every page of the Joint Stipulation of Facts. Thereafter, let a pre-trial order be issued on the bases of the agreement of both parties as embodied in this Joint Stipulation of Facts.^[6]

The Joint Stipulation of Facts however remained unsigned by petitioner. Only the signature of the Special Prosecutor and petitioner's counsel appear on the last page thereof.

On January 12, 2004, Prosecutor Danilo F. Salindong rested the case based on the Joint Stipulation of Facts and waived the presentation of testimonial or documentary evidence for the prosecution.^[7]

Thereafter, petitioner filed on January 19, 2004 a Motion for Leave to File Demurrer to Evidence because the prosecution failed to **present, mark or offer** evidence that would substantiate the charge against him. Petitioner asserted that the Joint Stipulation of Facts is inadmissible because it lacks his signature. Even if the same be admitted, the information is dismissable for failure of the prosecution to submit evidence to establish the injury caused to the government and the presence of

manifest partiality, evident bad faith or gross inexcusable negligence in the appointment of Cresente Umbao, which are among the essential elements of the crime of violation of Section 3(e) of RA No. 3019.^[8]

The prosecution, now represented by Prosecutor Agnes B. Autencio-Daquis, filed an Opposition/Comment alleging that petitioner's Motion for Leave to File Demurrer to Evidence is premature because the prosecution has yet to formally offer the Joint Stipulation of Facts.^[9]

On February 20, 2004, the Sandiganbayan reiterated its March 26, 2003 Resolution directing petitioner and counsels to sign the Joint Stipulation of Facts.^[10] Petitioner filed a Manifestation with Motion for Reconsideration^[11] claiming that his former counsel was not authorized to enter into any agreement and that he came to know of the existence of said stipulations only on January 12, 2004.

On March 11, 2004, the Sandiganbayan issued a Pre-trial Order^[12] embodying the Joint Stipulation of Facts.

Considering petitioner's refusal to acknowledge the Joint Stipulation of Facts or to sign the Pre-trial Order, the Sandiganbayan issued the assailed June 14, 2004 Order recalling the Pre-trial Order; denying the motion for leave to file demurrer; and setting the case for presentation of the prosecution's evidence, thus -

This afternoon is supposed to be the initial presentation of the defense evidence. Prosecutor Danilo F. Salindong, former handling prosecutor of this case, rested his case on the basis of the Pre-Trial Order issued by this Court. However, accused Rodolfo Valencia refused to sign the pre-trial order as per his motion for reconsideration, to which Prosecutor Agnes Autencio Daquis commented that since the accused refused to sign the pre-trial order, that the same be abrogated and that trial on the merits ensued. Consequently, the Pre-Trial Order issued by this Court on March 11, 2004 is hereby recalled and set aside. In view of the refusal of the accused to enter into any stipulation of facts, let this case be scheduled for trial on the merits. The presentation of prosecution's evidence is hereby scheduled on August 31 and September 1, 2004 at 2:00 o'clock in the afternoon. The demurrer to evidence filed by the accused is therefore considered premature and is hereby stricken out of the records.^[13]

Petitioner's motion for reconsideration was denied on July 28, 2004, as follows:

The "Motion for Reconsideration (of June 14, 2004 Order)" dated June 29, 2004 filed by accused, thru counsels which met vigorous opposition from the prosecution's Comment/Opposition dated July 16, 2004 is denied for lack of merit. As clearly stated in the Order of June 14, 2004, the case for the prosecution was re-opened because of the refusal of accused to sign the pre-trial order on the basis of which the prosecution rested its case. Justice and fairness demand the re-opening of the evidence for the prosecution because of the unwarranted act of the accused in refusing to sign the pre-trial order.^[14]

Hence, the instant petition contending that the Sandiganbayan gravely abused its discretion in issuing the assailed June 14, 2004 Order and July 28, 2004 Resolution.

Meanwhile, there being no temporary restraining order nor preliminary injunction issued by this Court, the prosecution proceeded with the presentation of its evidence.^[15]

The issues for resolution are (1) was petitioner's Motion for Leave to File Demurrer to Evidence premature? (2) may the prosecution be allowed to present evidence after it orally manifested its intention to rest its case? (3) was petitioner denied his right to speedy trial?

Section 23, Rule 119 of the Rules of Court, provides:

SEC. 23. Demurrer to evidence. - After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.

Corollarily, Section 34, Rule 132 of the Rules of Court states:

SEC. 34. Offer of evidence. - The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

A demurrer to evidence tests the sufficiency or insufficiency of the prosecution's evidence. As such, a demurrer to evidence or a motion for leave to file the same must be filed after the prosecution rests its case. But before an evidence may be admitted, the rules require that the same be formally offered, otherwise, it cannot be considered by the court. A prior formal offer of evidence concludes the case for the prosecution and determines the timeliness of the filing of a demurrer to evidence.

As held in *Aquino v. Sison*,^[16] the motion to dismiss for insufficiency of evidence filed by the accused after the conclusion of the cross-examination of the witness for the prosecution, is premature because the latter is still in the process of presenting evidence. The chemistry report relied upon by the court in granting the motion to dismiss was disregarded because it was not properly identified or formally offered as evidence. Verily, until such time that the prosecution closed its evidence, the defense cannot be considered to have seasonably filed a demurrer to evidence or a motion for leave to file the same.

In the present case, petitioner's motion for leave to file demurrer to evidence is premature because the prosecution had yet to formally rest its case. When the motion was filed on January 19, 2004, the latter had not yet marked nor formally offered the Joint Stipulation of Facts as evidence. It is inconsequential that petitioner received by mail on January 27, 2004, a motion and formal offer of evidence dated *January 20, 2004* from Prosecutor Salindong,^[17] because, as aptly observed by the Office of the Ombudsman, the records of the Sandiganbayan bear no such motion or formal offer of evidence **filed** by the prosecution. The motion and formal offer found in the records are those attached as Annex "B"^[18] to petitioner's Manifestation with

Motion for Reconsideration^[19] and not copies filed by the prosecution. Under Section 12, Rule 13 of the Rules of Court, the filing of a pleading or paper shall be proved by its existence in the case records. The absence of the motion to rest the case in the records of the Sandiganbayan and the failure to offer the Joint Stipulation of Facts prove that the prosecution did not formally rest or conclude the presentation of its evidence, rendering petitioner's motion for leave to file demurrer to evidence, premature.

At any rate, had the prosecution actually filed said motion and formally offered the evidence before the Sandiganbayan, the motion for leave to file demurrer to evidence still suffers prematurity because it was filed on January 19, 2004, or one day before the date of the motion and offer, *i.e.*, *January 20, 2004*. In fact, even petitioner admitted in his motion for leave to file demurrer to evidence that the prosecution failed to **mark and offer** any evidence against him.^[20]

Anent the second issue, we find that the trial court did not abuse its discretion in granting the prosecution's request to present additional evidence. Admission of additional evidence is addressed to the sound discretion of the trial court. Considerable latitude is allowed and such discretion will not be disturbed absent a finding that the accused was denied due process of law. As early as the 1907 case of *United States v. Cinco*,^[21] the Court has consistently upheld such prerogative of the trial court, thus -

... The judges of the Courts of First Instance are judges of both fact and law, and after hearing all the evidence adduced by the attorneys, if the court is not satisfied, we see no reason why he should not be permitted to call additional witnesses for the purpose of satisfying his mind upon any questions presented during the trial of the case.

Indeed, in the furtherance of justice, the court may grant the parties the opportunity to adduce additional evidence bearing upon the main issue in question.^[22] Thus, in *Hon. Vega, etc., et al. v. Hon. Panis, etc., et al.*,^[23] the Court sustained the order of the trial court allowing the prosecution to present additional evidence after it had offered its evidence and rested its case and after the defense filed a motion to dismiss. It was stressed therein that while the prosecution had rested, the trial was not yet terminated and the case was still under the control and jurisdiction of the court. Hence, in the exercise of its discretion, the trial court may receive additional evidence.

We also held in *People v. Januario*,^[24] that strict observance of the order of trial or trial procedure outlined in Rule 119 of the Rules of Court depends upon the circumstance obtaining in each case at the discretion of the trial judge. Citing *United States v. Alviar*,^[25] the Court explained -

... The orderly course of proceedings requires, however, that the prosecution shall go forward and should present all of its proof in the first instance; but it is competent for the judge, according to the nature of the case, to allow a party who had closed his case to introduce further evidence in rebuttal. This rule, however, depends upon the particular circumstances of