

FIRST DIVISION

[G.R. No. 158018, May 20, 2004]

**JAIME T. BERNAT, PETITIONER, VS. THE HONORABLE
SANDIGAN- BAYAN (5TH DIVISION) AND PEOPLE OF THE
PHILIPPINES REPRESENTED BY THE SPECIAL PROSECUTORS OF
THE OFFICE OF THE OMBUDSMAN, RESPONDENTS.**

D E C I S I O N

AZCUNA, J.:

This is a petition for *certiorari* with application for temporary restraining order, under Rule 65 of the Rules of Court.

Petitioner Jaime T. Bernat raises only one issue for the Court's consideration: Is there a violation of the constitutional prohibition against unreasonable delay in the disposition of a criminal case which stands undecided until now although submitted for decision on August 25, 1994?

The assailed twin resolutions^[1] dated February 7, 2003 and April 25, 2003, respectively, of the Sandiganbayan Fifth Division ^[2] ruled in the negative, finding that there was no inordinate delay in the disposition of said case.^[3]

The facts of the case, relevant to the issue on hand, are as follows:^[4]

On August 14, 1991, petitioner, along with several co-accused, were charged before the Sandiganbayan with violation of Section 3(e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.^[5] After arraignment and the presentation of the parties' testimonial and documentary evidence, the case was eventually submitted for decision on August 23, 1994 before the Second Division. Thereafter, the case remained pending and unacted upon until the reorganization of the Sandiganbayan pursuant to Administrative Order 266-97, and the case was unloaded to the newly created Fifth Division.

The case was originally assigned to Justice Godofredo Legaspi. Later, it was re-assigned to Justice Ma. Cristina G. Cortez-Estrada upon her assumption of office on November 3, 1998.

In the early part of 2002, when Justice Cortez-Estrada was writing the decision of the case, she found out that the Transcript of Stenographic Notes (TSN) for November 26, 1993 was missing from the records turned over to her. Thus, the Clerk of Court of the Fifth Division informed the parties of this development and ordered them to attend a conference on April 19, 2002 to discuss the matter.

Instead of attending the conference, petitioner filed a comment manifesting that he

is strongly averse to any further proceeding occasioned by the lack of stenographic notes, which contained his cross-examination, as he should not be prejudiced by the fault or negligence of another. In the same comment, he reserved his right to file a motion to dismiss.

On September 4, 2002, petitioner filed his Motion to Dismiss.^[6] There, petitioner argued that more than 8 years had elapsed since the case was submitted for decision but the case remained undecided, resulting in a patent denial of petitioner's constitutional right to a speedy disposition of his case and warranting its dismissal. The Sandiganbayan denied the motion to dismiss, as well as the subsequent motion for reconsideration.

Petitioner now maintains that the Sandiganbayan acted with grave abuse of discretion amounting to lack or excess of jurisdiction in not dismissing the case against him.

Section 16 of Article III of the Constitution guarantees the right of all persons to a "speedy disposition of their cases." Nevertheless, this right is deemed violated only when the proceedings are attended by vexatious, capricious and oppressive delays.

^[7] Moreover, the determination of whether the delays are of said nature is relative and cannot be based on a mere mathematical reckoning of time. Particular regard must be taken of the facts and circumstances peculiar to each case.^[8] As a guideline, the Court in *Dela Peña v. Sandiganbayan* mentioned certain factors that should be considered and balanced, namely: 1) length of delay; 2) reasons for the delay; 3) assertion or failure to assert such right by the accused; and 4) prejudice caused by the delay. ^[9]

Following these principles, the Court finds there was no violation of petitioner's right to a speedy disposition of his case. As jurisprudential support, the Court recalls a decided case in point, *Guerrero v. Court of Appeals*.^[10]

In that case, the petitioner was charged with triple homicide through reckless imprudence on November 16, 1971. The case was eventually submitted for decision upon the filing of the last pleading on December 21, 1979. The case was later re-assigned to two other judges before, on March 14, 1990, the last judge found out that the transcript of stenographic notes was incomplete and ordered the parties to have the same completed. When the parties could not comply, the judge ordered the retaking of the testimonies of the witnesses. On November 7, 1990, petitioner therein filed a motion to dismiss on the ground that his right to a speedy trial had been violated by the failure to render a prompt judgment.

The Court ruled that there was no such violation because petitioner failed seasonably to assert his rights. Petitioner merely sat and waited after the case was submitted for resolution in 1979. It was only in 1990, after the new judge ordered the retaking of the testimonies, that the petitioner became zealous in invoking his right to speedy trial and disposition. The Court reasoned, as follows:

In the present case, there is no question that petitioner raised the violation against his own right to speedy disposition only when the respondent trial judge reset the case for rehearing. It is fair to assume that he would have just continued to sleep on his right — a situation