

THIRD DIVISION

[G.R. No. 139571-72, March 28, 2001]

**ROGER N. ABARDO, PETITIONER, VS. THE HONORABLE
SANDIGANBAYAN (FOURTH DIVISION), RESPONDENT.**

D E C I S I O N

GONZAGA-REYES, J.:

Before us is a Petition for Review on Certiorari^[1] which seeks to set aside the following Resolutions of the Sandiganbayan^[2] in Criminal Case Nos. 16744 and 16745: (1) the Resolution dated December 1, 1998, which denied petitioner Roger N. Abardo's Motion to Dismiss and/or Motion for Reinvestigation and the Supplemental Motion to Dismiss; and (2) the Resolution dated July 16, 1999, which denied petitioner's motion for reconsideration.

The facts, as gathered from the records, are as follows:

On May 21, 1991, the Office of the Ombudsman filed before the Sandiganbayan two separate informations for falsification of public documents^[3] docketed as Criminal Case Nos. 16744 and 16745, against herein petitioner who was then the provincial assessor of Camarines Sur.

The information in Criminal Case No. 16744^[4] charged petitioner and six others with falsifying Tax Declarations Nos. 008-13, 008-14, 008-15, 008-17, 008-18, 008-19, 008-20 and 008-21 on or about December 8, 1988 by making it appear that property consisting of 1,887 hectares had been declared in the name of the United Coconut Planters Bank (UCPB) since 1985 and that, having been reclassified to first-class unirrigated land, the market value thereof has increased to P16,008.00 per hectare when in fact said property, which was formerly classified as pasture land under Tax Declarations Nos. 3915 and 3916 issued in the name of Rosita Alberto, had a market value of only P1,524.00 per hectare and was declared in the name of UCPB only in 1988. The same property was subsequently transferred by UCPB to Sharp International Marketing (Phil.) Inc. (Sharp) and the tax declarations issued in the name of Sharp are the subject of Criminal Case No. 16745^[5]. In the latter case, petitioner and five others were charged with falsifying Tax Declarations Nos. 008-22 to 008-29 on or about December 8, 1988, by making it appear that the property covered therein was transferred from UCPB to Sharp, and by also increasing its appraisal to first-class unirrigated riceland when in truth and in fact the same is cogonal and mountainous.

At the scheduled arraignment on July 8, 1991, petitioner filed a Motion to Quash^[6] on the grounds that the facts charged in the informations do not constitute the crime of falsification of public documents; that the informations contain averments which constitute a legal excuse or justification; and that the criminal offense of

falsification of public documents cannot be validly filed against petitioner. In view of the pendency of the said motions, petitioner's arraignment was postponed until further notice. On July 24, 1991, the Office of the Special Prosecutor filed an Opposition^[7] to petitioner's Motion to Quash.

On September 3, 1991, the Sandiganbayan issued a Resolution^[8] denying the Motion to Quash for lack of merit on the ground that with the filing thereof, petitioner hypothetically admitted the material allegations in the information; that petitioner may not raise facts in his motion to quash which would negate the allegations in the informations; and that the informations sufficiently allege all the elements of the crime of falsification of public documents as charged. A motion to reconsider the said resolution was denied.

Eventually, petitioner filed with the Supreme Court a Petition for Certiorari and Prohibition seeking to set aside the Resolution issued by the Sandiganbayan on September 3, 1991 denying his motion to quash. As a consequence, the arraignment scheduled for October 7, 1991 was reset to November 28, 1991, upon motion of petitioner's counsel.^[9]

Thereafter, petitioner's arraignment was reset several times upon motion of his counsel and for the same reason, as follows: the arraignment scheduled on November 28, 1991 was reset to January 16, 1992;^[10] on January 16, 1992, the arraignment was again reset to March 3, 1992;^[11] while on March 3, 1992, the arraignment was reset to May 28, 1992.^[12] Thereafter, in an Order^[13] dated May 28, 1992, the arraignment of petitioner was cancelled and reset to July 28, 1992, in view of the reorganization of the Sandiganbayan.

In a Resolution dated March 5, 1992,^[14] the Supreme Court dismissed the petition, no grave abuse of discretion being imputable to the Sandiganbayan. Similarly, the motion for reconsideration filed by petitioner was denied. The Supreme Court dismissed the petition, principally, on the ground that the issues raised by petitioner in his motion to quash are matters of defense which should be raised and proved during the trial.

On July 28, 1992, petitioner was arraigned and pleaded not guilty to both cases.^[15] On even date, the Sandiganbayan issued an Order setting the trial of petitioner "on the date of trial of his co-accused whose cases are being reinvestigated."^[16]

In a letter dated March 20, 1997 to the Office of the Ombudsman, petitioner requested for the payment of his retirement benefits which had been withheld since his compulsory retirement in 1994 due to the pendency of the subject criminal cases.^[17] This letter was brought to the attention of the Sandiganbayan in a letter dated September 22, 1997.^[18]

In a Resolution adopted on November 4, 1997, the Sandiganbayan "set for a conference all the lawyers of the defense and the prosecution on November 19, 1997 at 8:30 a.m. to see how these cases can move faster."^[19] In an Order dated November 19, 1997,^[20] the two cases (Criminal Cases Nos. 16744 and 16745) together with eight other cases were set for preliminary conference and pre-trial on

January 27 & 30, 1998 and trial on February 2, 3, 5 & 6, 1998, all at 8:30 a.m.

On January 7, 1998, co-accused Salvador P. Pejo filed a Motion for Leave to Participate in the Reinvestigation of the Cases^[21] which was granted in an Order dated January 9, 1998.^[22]

In an Order dated January 27, 1998,^[23] the Sandiganbayan gave the prosecution a period of sixty days to conduct a thorough reinvestigation of Criminal Cases Nos. 16739 to 16749 involving all the accused therein and ordering it to submit its report within the same period containing its findings and recommendation together with the action taken by the Ombudsman, and consequently, the settings on January 30, 1998 and February 2,3,4,5 and 6, 1998, were cancelled.

On August 12, 1998, petitioner filed a Motion to Dismiss and/or Motion for Reinvestigation^[24] on the ground that "the ultimate purchase by the Philippine government of the Garchitorena estate at the price of P33,000.00 has veritably rendered all the pending criminal cases moot and academic." On August 17, 1998, the Sandiganbayan issued a Resolution giving the prosecution fifteen (15) days to file its Comment to petitioner's Motion to Dismiss and/or Motion for Reinvestigation. On October 12, 1998, petitioner filed a Supplemental Motion to Dismiss^[25] on the ground that "the criminal cases should now be dismissed to implement the provisions of Republic Act No. 8493, otherwise known as the Speedy Trial Act of 1998" considering that "the two pending criminal cases against petitioner have already exceeded the extended time limit under Section 7 of Supreme Court Circular No. 38-98"; and that "petitioner is duty-bound to move for the dismissal of the two cases before trial, otherwise, he will be deemed to have waived his rights to dismiss under Section 14, Supreme Court Circular No. 38-98."

On December 1, 1998, petitioner filed a Motion for Early Resolution^[26] to speed up the early judgment and resolution of the above-entitled cases.

In a Resolution^[27] dated December 1, 1998, the Sandiganbayan denied for lack of merit petitioner's two motions (Motion to Dismiss and/or Motion for Reinvestigation and the Supplemental Motion to Dismiss). His motion for reconsideration was likewise denied in a Resolution dated July 16, 1999.^[28]

Hence, the instant petition on the following grounds:

I. THE ULTIMATE PURCHASE BY THE PHILIPPINE GOVERNMENT OF THE GARCHITORENA ESTATE AT THE PRICE OF P33,000,000.00 HAS VERITABLY RENDERED ALL THE CRIMINAL CASES MOOT AND ACADEMIC.

II. THAT CRIMINAL CASES NOS. 16744 AND 16745 AGAINST THE HEREIN PETITIONER SHOULD NOW BE DISMISSED TO IMPLEMENT THE PROVISIONS OF REPUBLIC ACT NO. 8493, OTHERWISE KNOWN AS THE "SPEEDY TRIAL ACT OF 1998" AS DIRECTED IN SEC. 15 THEREOF, AND BY REASON OF THE IMPLEMENTING RULES AND REGULATIONS PROMULGATED BY THE SUPREME COURT IN ITS CIRCULAR NO. 38-98."

Anent the first ground, petitioner argues that the supervening event of purchase by the government of the Garchitorena estate and its distribution to the farmer-beneficiaries have rendered the issues in the criminal cases moot and academic.

This contention is palpably without merit.

Petitioner was charged with two counts of falsification of public documents under Article 171, paragraph 4 of the Revised Penal Code which punishes "any public officer who, taking advantage of his official position, shall falsify a document by making untruthful statements in a narration of facts." In gist, the first information filed with the Sandiganbayan alleged that petitioner falsified Tax Declarations Nos. 008-13 to 008-21 by making it appear that property consisting of 1,887 hectares had been declared in the name of UCPB since 1985 and that, having been reclassified to first-class unirrigated land, the market value thereof has increased to P16,008.00 per hectare. The truth is, the property was classified as pasture land under Tax Declarations Nos. 3915 and 3916, issued in the name of Rosita Alberto, with a market value of only P1,524.00 per hectare. The second information alleged that petitioner falsified Tax Declarations Nos. 008-22 to 008-29 by making it appear that the property covered therein was transferred from UCPB to Sharp, and by also increasing its appraisal to first-class unirrigated riceland when in truth, the same is cogonal and mountainous. The statements adequately express, in essence, the elements of the crime of falsification of public documents under Article 177, paragraph 4 of the Revised Penal Code.

The eventual purchase by the Philippine government of the subject land and its distribution to farmer-beneficiaries does not render the criminal cases moot and academic or to put it more accurately, relieve petitioner of criminal liability. Criminal liability is incurred by any person committing a felony; and a felony is an act or omission punishable by the Revised Penal Code.^[29] Petitioner was charged with falsification of public documents as defined and punished in Article 177, paragraph 4 of the Revised Penal Code. The causes of extinction of criminal liability are provided in Article 89 of the Revised Penal Code which may be enumerated as follows: by the death of the convict, by service of the sentence, amnesty, absolute pardon, prescription of the crime, prescription of the penalty and by marriage of the offended woman, as provided in Article 344 of the Code. Verily, the supervening event adverted to by petitioner does not fall under any of the circumstances by which criminal liability may be extinguished. As aptly pointed out by the Office of the Special Prosecutor in its Comment on behalf of the People, "in the crime of falsification of a public document, the principal thing punished is the violation of public faith and the destruction of truth as therein solemnly proclaimed."^[30] In this regard, petitioner cannot seek refuge behind the argument that the criminal case has been rendered moot and academic as the purchase by the government of the Garchitorena estate does not foreclose the court's determination of whether a crime has been committed for which a public official may be answerable.

Next, petitioner argues that the two pending criminal cases against him have already exceeded the extended time limit under Section 7 of Supreme Court Circular No. 38-98 for the trial of cases. According to petitioner, after his arraignment on July 28, 1992, the trial of the cases have not commenced for unknown reasons. In this regard, petitioner invokes the remedy provided in Section 14 of the said circular in seeking a dismissal of the cases.

Unreasonable delay in the disposition of cases in judicial, quasi-judicial and administrative bodies is a serious problem besetting the administration of justice in the country. As one solution on the problem of delay in the disposition of criminal cases, Republic Act No. 8493, otherwise known as the "Speedy Trial Act of 1998", intended to ensure a speedy trial of all criminal cases before the Sandiganbayan, Regional Trial Court, Metropolitan Trial Court and Municipal Circuit Trial Court was passed by the Senate and the House of Representatives on February 4, 1998 and February 3, 1998, respectively. Supreme Court Circular No. 38-98 which was promulgated^[31] for the purpose of implementing the provisions thereof took effect on September 15, 1998.^[32]

Consistent with Republic Act No. 8493, SC Circular 38-98 sets a time limit for arraignment and pre-trial. Section 2 thereof provides that "arraignment, and the pre-trial if the accused pleads not guilty to the crime charged shall be held within thirty (30) days from the date the court acquires jurisdiction over the person of the accused." However, Section 7^[33] thereof, provides for an extended time limit with respect to *the period from arraignment to trial* for the three years following the statute's effectivity, as follows: for the first twelve-calendar-month period following its effectivity, the time limit shall be one hundred eighty (180) days; for the second twelve-month period, the time limit shall be one hundred twenty (120) days; for the third twelve-month period, the time limit shall be eighty (80) days. Petitioner then invokes Section 14^[34] of the circular in seeking the dismissal of the two criminal cases filed against him.

On the other hand, the Office of the Special Prosecutor submits that Republic Act No. 8493 does not apply to petitioner on the ground that the following circumstances may be considered as exceptions to the time within which arraignment, pre-trial and trial should commence: petitioner filed a petition for certiorari questioning the denial of his motion to quash; his counsel asked for postponement of his arraignment on October 7, 1991, November 28, 1991, January 16, 1992 and March 3, 1992; adding to the delay was the reorganization of the Sandiganbayan with the passage of RA 8249; Criminal Case Nos. 16744 and 16745 were consolidated with eight (8) other criminal cases and there are more than twenty (20) accused involved in these cases; separate motions for reinvestigation were filed.

In support of the submission that certain delays should be excluded in computing the time limits imposed by the statute and its implementing rules and regulations, the Special Prosecutor cites Section 9^[35] of Supreme Court Circular No. 38-98 which excludes the "period of the pendency of a motion to quash, bill of particulars, or other causes justifying suspension of arraignment" and Section 9 (a) (3) and (e)^[36] thereof which excludes "delay resulting from extraordinary remedies against interlocutory orders and when the accused is joined with a co-accused over whom the court has not acquired jurisdiction."

The time limits provided by Republic Act No. 8493 could not be applied to the case at bar as petitioner was arraigned way back in July 28, 1992. At that time, there was yet no statute which establishes deadlines for arraignment and trial; and the time limits for trial imposed by Republic Act No. 8493 are reckoned from the arraignment of the accused. Nevertheless, Republic Act No. 8493 does not preclude