

## EN BANC

[ G.R. No. 145851, November 22, 2001 ]

### ABELARDO B. LICAROS, PETITIONER, VS. THE SANDIGANBAYAN AND THE SPECIAL PROSECUTOR, RESPONDENTS.

#### DECISION

##### **PANGANIBAN, J.:**

The unreasonable delay of more than ten (10) years to resolve a criminal case, without fault on the part of the accused and despite his earnest effort to have his case decided, violates the constitutional right to the speedy disposition of a case. Unlike the right to a speedy trial, this constitutional privilege applies not only during the trial stage, but also when the case has already been submitted for decision.

#### The Case

Before this Court is a Petition for *Mandamus*<sup>[1]</sup> under Rule 65 of the Rules of Court, seeking to compel the Sandiganbayan (First Division) to dismiss Criminal Case No. 6672 against herein petitioner, who is charged as an accessory.

#### The Facts

Undisputed by the special prosecutor<sup>[2]</sup> and the Sandiganbayan<sup>[3]</sup> are the material facts as narrated by petitioner in this wise:

"4.1 On 5 June 1982, the Legaspi City Branch of the Central Bank was robbed and divested of cash in the amount of P19,731,320.00.

"4.2 In the evening of June 6, 1982, Modesto Licaros (no relation to herein petitioner), one of the principal accused, together with four companions, delivered in sacks a substantial portion of the stolen money to the Concepcion Building in Intramuros, Manila where Home Savings Bank had its offices, of which herein petitioner was then Vice Chairman and Treasurer. The delivery was made on representation by Modesto Licaros to former Central Bank Governor Gregorio Licaros, Sr., then Chairman of the Bank and father of herein petitioner, that the money to be deposited came from some Chinese businessmen from Iloilo who wanted the deposit kept secret; that Governor Licaros left for the United States on May 28, 1982 for his periodic medical check-up, so left to his son, herein petitioner, to attend to the proposed deposit.

"4.3 Even the prosecution admits in their Reply Memorandum that from the evidence presented, that in the evening of June 8, 1982, herein petitioner attempted to report the incident to General Fabian Ver but he could not get in touch with him because the latter was then out of the

country; that it was only the following day, June 9, 1982, when herein petitioner was able to arrange a meeting with then Central Bank Governor Jaime C. Laya, Senior Deputy Governor Gabriel Singson, and Central Bank Chief Security Officer, Rogelio Navarete, to report his suspicion that the money being deposited by Modesto Licaros may have been stolen money. With the report or information supplied by herein petitioner, then CB Governor Laya called up then NBI Director Jolly Bugarin and soon after the meeting, the NBI, Metrocom and [the] CB security guards joined forces for the recovery of the money and the apprehension of the principal accused.

"4.4 All the aforesaid Central Bank officials executed sworn statements and testified for herein petitioner, particularly CB Governor Jaime C. Laya, CB Senior Deputy Governor Gabriel Singson and CB Director of [the] Security and Transport Department Rogelio Navarete, and were one in saying that it was the report of herein petitioner to the authorities that broke the case on 9 June 1982 and resulted in the recovery of the substantial portion of the stolen money and the arrest of all the principal accused.

"4.5 On July 6, 1982, after preliminary investigation, the Tanodbayan (now Special Prosecutor) filed an Information for robbery with the Sandiganbayan docketed as Crim. Case No. 6672 against two groups of accused:

Principals:

- (1) Modesto Licaros y Lacson, [P]rivate [I]ndividual
- (2) Leo Flores y Manlangit, CB [S]ecurity [G]uard
- (3) Ramon Dolor y Ponce, CB Assistant Regional Cashier
- (4) Glicerio Balansin y Elaurza, CB Security [G]uard
- (5) Rolando Quejada y Redequillo, Private Individual
- (6) Pio Edgardo Flores y Torres, Private Individual
- (7) Mario Lopez Vito y Dayungan, Private Individual
- (8) Rogelio De la Cruz y Bodegon, Private Individual

Accessory After the Fact:

- (1) Abelardo B. Licaros, Vice Chairman and Treasurer, Home Savings Bank and Trust Co. (HSBTC), Private Individual.

"The Tanodbayan did not adopt the recommendation of the NBI that Abelardo B. Licaros be charged as principal apparently because no one of those whose statements were taken including the above principal accused ever testified that he participated in the planning or execution of the robbery so that he could be held 'also in the conspiracy' as alleged by the NBI.

"4.6 On November 26, 1982, the Tanodbayan filed an Amended Information naming the same persons as principals, except Rogelio dela Cruz who is now charged as an accessory, together with private respondent Abelardo B. Licaros. De la Cruz died on November 6, 1987 as per manifestation by his counsel dated and filed on November 17, 1987.

"4.7 On November 29, 1982, the accused were arraigned including herein petitioner, who interposed the plea of not guilty.

"4.8 On January 7, 1983, the Tanodbayan filed with the Sandiganbayan a 'Motion for Discharge' of herein petitioner to be utilized as a state witness which was granted in a Resolution dated February 11, 1983. The Supreme Court, however, on petition for certiorari filed by accused Flores, Modesto Licaros and Lopez Vito, annulled the discharge because it ruled that the Sandiganbayan should have deferred its resolution on the motion to discharge until after the prosecution has presented all its other evidence.

"4.9 At the close of its evidence, or on July 23, 1984, the prosecution filed a second motion for discharge of herein petitioner to be utilized as a state witness but the Sandiganbayan in a Resolution dated September 13, 1984 denied the Motion stating in part that the motion itself does not furnish any cue or suggestion on what petitioner will testify in the event he is discharged and placed on the stand as state witness.

"4.10 Meanwhile, as of March 8, 1983, the prosecution has presented ten (10) witnesses. Among those who testified were NBI Agents Victor Bessat and Apollo Sayo, who took and identified the sworn statements of accused Leo Flores, Ramon Dolor, Rogelio de la Cruz, Mario Lopez Vito and Modesto Licaros; M/Sgt Raynero Galarosa, who took and identified the sworn statement of accused Pio Flores and the sworn supplemental statement of accused Glicerio Balansin; Sgt. Eliseo Rioveros, who took and identified the sworn statement of accused Glicerius Balansin; and CIS Agent Maria Corazon Pantorial, who took the sworn statement of accused Rolando Quejada. None of these witnesses, nor any of the principal accused who executed the sworn statements implicated herein petitioner to the crime of robbery directly or indirectly.

"4.11 On September 17, 1984, the prosecution formally offered its documentary evidence. In a Resolution dated October 1, 1984, the Sandiganbayan admitted the evidence covered by said formal offer and the prosecution [was] considered to have rested its case.

"4.12 In a Resolution dated June 25, 1985, the Sandiganbayan granted the prosecution's motion to reopen the case to allow its witness Lamberto Zuniga to testify on the conspiracy and to identify a sworn statement given before the NBI on June 15, 1982. Having been established that petitioner was not part of the conspiracy, the testimony had no materiality nor relevance to the case insofar as petitioner is concerned.

"4.13 On January 14, 1986, petitioner filed a Motion for Separate Trial contending that the prosecution already closed its evidence and that his defense is separate and distinct from the other accused, he having been charged only as accessory. The [Motion] was granted in an Order dated January 17, 1986.

"4.14 Thereafter, herein petitioner commenced the presentation of his

evidence. Aside from his testimony and that of his late father, former Central Bank Governor Gregorio S. Licaros, petitioner presented the top officials of the Central Bank namely then Central Bank Governor Jaime C. Laya, then Senior Deputy Governor Gabriel C. Singson, then Central Bank Security and Transport Dept. Chief Rogelio M. Navarette who identified their sworn statements taken before the investigators and who testified that it was the petitioner's report on June 9, 1982 that broke the case and resulted in the recovery of the substantial portion of the stolen money and the apprehension of the principal accused.

"4.15 On August 8, 1986, petitioner filed his Formal Offer of Exhibits. On August 14, 1986, petitioner filed his Memorandum praying that judgment be rendered acquitting him of the offense charged.

"4.16 In a Resolution dated August 26, 1986, the Sandiganbayan, through Presiding Justice Francis E. Garchitorena (then newly appointed after the EDSA revolution), admitted all the exhibits covered by said Formal Offer of Exhibits at the same time, ordering the prosecution to file its Reply Memorandum, thereafter the case was deemed submitted for decision.

"4.17 On September 26, 1986, the prosecution filed its Reply Memorandum. Petitioner also filed his Reply Memorandum on September 29, 1986 praying that judgment be rendered acquitting him of the offense charged.

"4.18 In a Resolution dated October 8, 1986 copy of which was received by petitioner on October 15, 1986, the Sandiganbayan deferred the decision of the case regarding herein petitioner `until after the submission of the case for decision with respect to the other accused.'

"4.19 Petitioner filed his Motion for Reconsideration on October 16, 1986, but the Sandiganbayan in a Resolution dated December 16, 1986 and promulgated on January 6, 1987 denied the same, the dispositive portion of which read(s):

` IN VIEW OF THE FOREGOING, the Motion for Reconsideration filed by accused Abelardo B. Licaros is denied.

`The decision as to the accusation against him will be rendered together with the accusation against the other accused without relating the evidence separately presented at the separate proceeding held for the separate sets of accused one way or the other.'

"4.20 As admitted by the prosecution in its Comment on the Omnibus Motion dated March 31, 2000, the `case was submitted for decision on June 20, 1990.'

"4.21 As of this writing, and more than ten (10) years after the case submitted for decision, the Sandiganbayan has not rendered the Decision.

"4.22 The Sandiganbayan has not rendered the Decision even while the proceedings involving herein petitioner as an accessory in a separate trial were terminated as early as October 8, 1986, while those against all the principal accused were deemed submit[t]ed for decision on June 20, 1990.

"4.23 As early as October 16, 1986, herein petitioner already invoked his constitutional right to speedy justice when he filed a Motion on said date praying for, among other things, that the Sandiganbayan reconsider its Resolution dated October 8, 1986 deferring the decision of the case against herein petitioner `until after the submission of the case for decision with respect to the other accused' and that a judgment of acquittal be rendered.

"4.24 The Honorable Sandiganbayan has not also rendered a resolution on herein petitioner's Omnibus Motion to Dismiss filed on March 23, 2000 which was deemed submitted for resolution on May 5, 2000, the last pleading having been filed on said date. In the said Omnibus Motion, petitioner prays for the dismissal of the case insofar as it involves herein petitioner for violation of his constitutional right to speedy disposition of the case. Sad to say, even this motion to dismiss has not been acted upon.

"4.25 On 15 August 2000, herein petitioner filed his Motion to Resolve. This was followed by Reiterative Motion for Early Resolution filed on September 21, 2000.

"4.26 Notwithstanding the lapse of more than ten (10) years after the case was deemed submitted for decision, the Sandiganbayan has not rendered the Decision. Hence, this petition."<sup>[4]</sup>

### **The Issues**

Petitioner interposes the following issues for the consideration of this Court:

A

"The unexplained failure of the SANDIGANBAYAN to render the decision for more than ten (10) years after the case was deemed submitted for Decision is tantamount to gross abuse of discretion, manifest injustice or palpable excess of authority.

B

"The unexplained failure of the SANDIGANBAYAN to render the Decision for more than ten (10) years violated herein petitioner's constitutional right to due process and to a speedy disposition of the case.

C

"Recent Decisions of this Honorable Supreme Court mandate the