

## SECOND DIVISION

[ G.R. No. 131483, October 26, 1999 ]

**TAI LIM, PETITIONER, VS. THE HON. COURT OF APPEALS, HON.  
FE TORRES-ARCILLA AS PRESIDING JUDGE, RTC BRANCH 84,  
MALOLOS, BULACAN, AND PEOPLE OF THE PHILIPPINES,  
RESPONDENTS.**

### DECISION

**BUENA, J.:**

This is a petition for review on *certiorari* to set aside the Decision rendered by the Court of Appeals on November 14, 1997 in CA-G.R. SP No. 44428 which affirmed the order of the Regional Trial Court of Malolos, Bulacan, denying petitioner's motion to dismiss Crim. Case No. 645-M-95 for violation of R.A. 6425 invoking his right to a speedy trial.

On August 8, 1995, the petitioner was arraigned and pleaded not guilty to the charge. Thereafter, the initial trial of the case was set on September 7, 1995 which, however, was reset 11 times for the following reasons, *viz.*:

September 7, 1995 - the court was not informed that the offices of the witnesses for the prosecution (the Anti-Narcotics Unit), were transferred from Bocaue, Bulacan to Sta. Maria, Bulacan, so that subpoena were not duly served on them;

October 3, 1995 - there were no returns as yet on the service of the subpoena on the witnesses of the prosecution;

October 24, 1995 - there was no proof in the record of the service of the subpoena on the witnesses of the prosecution;

November 23, 1995 - reset on the plea of the prosecution that it be accorded opportunity to adduce its evidence;

December 14, 1995 - SP01 Efren Suguitan was present but the Prosecutor assigned to the trial court was absent;

January 11, 1996 - the Forensic Chemist was subpoenaed to appear before another court and therefore not available for trial in the case a quo;

February 27, 1996 - trial was reset because the case was reraffled to Branch 84;

June 11, 1996 - reset because the petitioner was without counsel;

July 1, 1996 - reset to July 29, 1996;

July 29, 1996 – the newly engaged counsel of the petitioner was not available;

August 14, 1996 - none of the prosecution witnesses appeared;

September 17, 1996 - witnesses of the prosecution were notified but failed to appear for trial.

Forthwith, petitioner filed a "Motion to Dismiss" the case invoking his right to a speedy trial. The prosecution failed to file its Comment within the period granted it. In the interim, the building housing the court was burned on October 14, 1996 and the court records had to be reconstituted. Upon the trial court's order issued on February 13, 1997, the Prosecution filed its Comment to the Motion to Dismiss, to which the petitioner filed its Reply, followed by the prosecution's Rejoinder and petitioner's Sur-Rejoinder. On February 26, 1997, the trial court issued an Order denying petitioner's motion to dismiss. On May 2, 1997, the trial court denied petitioner's motion for reconsideration.

Petitioner filed with the Court of Appeals a petition for *certiorari* and mandamus praying that the writs of *certiorari* and mandamus be granted and that Crim. Case No. 645-M-95 of the RTC of Malolos, Bulacan be ordered dismissed for failure of the prosecution to prove its case despite eleven (11) postponements spread over an unreasonably long period of one year and three months in violation of the right of petitioner, as an accused, to speedy trial. The Court of Appeals dismissed the petition. The pertinent portions of the Decision read:

"We find and so declare that the Respondent Judge did not abuse her judicial discretion in denying Petitioner's "Motion to Dismiss" and his "Motion for Reconsideration" in the light of the factual milieu in the present recourse. However, prescinding from our Decision in the present recourse, the Prosecution is urged and admonished to henceforth, proceed with the prosecution of the case with reasonable dispatch, unfettered by the yoke of ineptitude, insure the availability of its witnesses during the scheduled trials and terminate its evidence without further delays. It bears stressing that the Petitioner is a detention prisoner and inordinate delays in the prosecution of the case will be grossly prejudicial not only to the petitioner but to the State as well and the administration of justice.

"IN THE LIGHT OF ALL THE FOREGOING, the Petition is DENIED DUE COURSE and is hereby DISMISSED. With costs against the Petitioner."

Hence, this petition.

Petitioner avers that "(t)he manifestly unreasonable lengthy period the proceedings had dragged on with the charge remaining unproved by reason of its unpreparedness for lack of witnesses demonstrably and eloquently attests that there has been 'vexatious, capricious and oppressive delay,' which is anathema to the right of an accused to speedy trial with its salutary objective 'to assure that an innocent person may be freed from anxiety and expense of a court litigation, or of otherwise having his guilt determined within the shortest time compatible with the presentation and consideration of whatever legitimate defense he may interpose.'"