

[SYLLABUS]

[G.R. No. 104386, March 28, 1996]

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. OSCAR L. LEVISTE, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 97, AND ARNULFO C. TALISIC, RESPONDENTS.

D E C I S I O N

PANGANIBAN, J.:

In deciding the case at bench, the Court reminds members of the bench and the bar alike that the right of an accused to a speedy trial is not violated by well-grounded motions for postponement, and that courts should not be too hasty in denying reasonable continuance so as not to deprive the prosecution of its day in court. In the end, precipitate dismissals, instead of unclogging court dockets and easing the burden of the accused, unnecessarily delay cases and, ironically enough, cause the very evil sought to be avoided.

This is a petition for certiorari under Rule 65 of the Rules of Court filed by the Solicitor General to set aside the order of the respondent Judge dismissing Criminal Case No. Q-91-17782, on the ground that the prosecution was not prepared for the first scheduled hearing of the case due to the non-availability of its witness who was out of town on official business.

The Antecedent Facts

The following Information^[1] for libel was filed against private respondent Arnulfo C. Talisic in the Regional Trial Court of Quezon City:

"That on or about the 10th day of April 1990, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with malicious intent of impeaching the honesty, virtue and reputation of one DEMOCRITO T. MENDOZA, a well-known labor leader in Cebu and with the malicious intent of injuring and exposing said Democrito T. Mendoza to public hatred, contempt and ridicule, did then and there wilfully, unlawfully and feloniously caused (sic) to be published in Sun Star Daily, a newspaper of general circulation in the Philippines based in Cebu City an article with the following statements:

'x x x Meanwhile, Liloan Councilor Arnulfo Talisic has called the attention of the National Government, especially the Department of Environment and National Resources (DENR) to speed up the resolution of the Silot Bay problem.

'Silot Bay, according to Talisic, had been allegedly "grabbed" by an

influential labor leader resulting in the deprivation of livelihood of small fishermen in the area.

'Silot Bay, Talisic alleged, had been titled in the name of a former Marcos man in connivance with corrupt DENR officials.

'Talisic said the government has already ruled in favor of the protesting residents, but its reopening until now has been deferred for unknown reasons.' (italics supplied)

wherein the offended party was portrayed to be a landgrabber having grabbed Silot Bay and caused the same to be titled in his name and of his children: accused knowing fully well that the same is not true, thereby causing dishonor, discredit or contempt upon the person of said Democrito T. Mendoza, to the damage and prejudice of the said offended party in such amount as may be awarded under the provisions of the Civil Code.

CONTRARY TO LAW."

On May 3, 1991, private respondent entered a plea of not guilty. Trial of Criminal Case No. Q-91-17782 was scheduled for July 29, 1991.^[2]

Three days before said scheduled hearing or on July 26, 1991, private prosecutor Amado A. Caballero filed an urgent motion for postponement,^[3] citing as ground therefor, the fact that the complainant, Atty. Democrito T. Mendoza, "would still be out of town during said date for the reason that he would be in Cebu City to attend to the strike of some workers in some firms in Cebu City and his personal presence thereat is very necessary." Since said witness "would be out of the country during the month of August 1991 to attend to some official transaction relative to the International Labor Movement" and would be back during the first week of September 1991, private prosecutor prayed that the scheduled hearing be reset to a later day, preferably on September 9 or 13, 1991 at 8:30 a.m. Only the City Prosecutor of Quezon City was furnished a copy of this motion.

Also on July 26, 1991, private respondent, through Atty. Lorenda Estrella-Amion of the Public Attorney's Office, filed a motion to dismiss the case on the ground that the facts charged in the Information do not constitute an offense.^[4] Invoking *Kunkle vs. Cablenews-American and Lyons*^[5] holding it not sufficient that the offended party recognized himself as the person attacked or defamed but that a third person must be able to identify the complainant as the object of the libelous publication, private respondent claimed that the Information did not identify the person allegedly alluded to in the article and neither did it state that a third person could identify said Democrito T. Mendoza as the object thereof. Private respondent stressed that he did not write the article nor cause its publication, and never had the intention to publish the same. The Office of the City Prosecutor was duly served a copy of this motion.

On July 29, 1991, the day of the scheduled hearing, private prosecutor manifested in open court that he had filed an urgent motion for postponement, and moved for the cancellation of hearing for that day due to the unavailability of the prosecution witness. The public prosecutor did not object to the postponement. On the other

hand, the defense manifested that it had filed a motion to dismiss. The respondent Judge then issued in open court the following Order^[6] now being assailed:

"There being no showing that the prosecution is ready for this morning (sic) scheduled hearing, in view of the manifestation of counsel for the accused, that they have filed a Motion to Dismiss dated July 25, 1991, this case is hereby ordered DISMISSED.

The Cash Bond of accused Arnulfo G. Talisic in the amount of P4,200.00 covered by Official Receipt No. 0498706 S dated March 8, 1991 is hereby ordered returned to him.

Furthermore, upon motion of the private prosecutor, he is hereby allowed to file a motion for reconsideration.

SO ORDERED."

The private prosecutor filed an urgent motion for the reconsideration of said Order, stating that the prosecution had no opportunity to file an objection to the motion to dismiss as it was served a copy thereof only on the day of hearing itself. He insisted that the court should have considered as valid the reason for the absence of the prosecution's principal witness, as his presence in Cebu City was duly certified to by the Officer-in-Charge of the National Conciliation and Mediation Board.^[7]

On August 7, 1991, the trial court gave the defense five (5) days from notice within which "to file a comment to the motion for reconsideration furnishing copy to the opposing counsel who shall have five (5) days to file a reply, after which the matter shall be deemed submitted."^[8]

On August 14, 1991, Atty. Estrella-Amion withdrew her appearance as counsel for accused (private respondent), which the court duly approved.^[9] On the same day, Atty. Gregorio Tanaka Viterbo, Jr. of the Free Legal Assistance Group (FLAG) entered his appearance as counsel for private respondent. In compliance with the August 7, 1991 order of the trial court, he also filed an opposition to the motion for reconsideration filed by the prosecution.^[10]

On November 5, 1991, the trial court denied the motion for reconsideration in an Order which reads:

"For the reasons stated by the complaining witness through his Private Prosecutor in his Urgent Motion for Reconsideration, dated July 31, 1991, and considering the opposition interposed by the accused through his counsel, the Court finds said Motion to be untenable and hereby denies the same for lack of merit.

SO ORDERED."^[11]

Hence, the present recourse.

The Parties' Submissions

Petitioner claims that respondent Judge committed grave abuse of discretion in

dismissing Criminal Case No. Q-91-17782 because the absence of the complaining witness during the scheduled hearing was neither capricious nor designed to delay the proceedings in the case.^[12] He adds that the trial court likewise gravely abused its discretion in denying the motion for the reconsideration of the dismissal order on the strength of private respondent's opposition thereto, notwithstanding that the same was filed by a "stranger" to the case as the FLAG lawyer who filed it was not the counsel so directed by the court.^[13]

Private respondent, on the other hand, argues that since he was not served a copy of the motion for postponement, it was nothing but a scrap of paper which the clerk of court should not even have received for filing. He contends that the dismissal of the case was based on the right of the accused to speedy trial as the prosecution was not ready and could not present any other witness on the day set for hearing. He further avers that a reopening of the case will place him in double jeopardy as the dismissal was without his express consent.^[14]

The Issues

From the foregoing submissions and assertions of the parties, the issues may be simply stated as follows:

(1) Was the order of dismissal tainted with grave abuse of discretion? Put differently, would the grant of the prosecution's motion for postponement have violated the accused's right to a speedy trial? and

(2) Would the reversal of the trial court's assailed Orders place the accused in double jeopardy?

We hold that respondent Judge acted with grave abuse of discretion, and in the process effectively deprived the State of due process.

The first Issue: Speedy Trial

To be perfectly clear, we restate the general rule: motions for postponement are granted only upon meritorious grounds and no party has the right to assume that this motion will be granted. The grant or denial of a motion for postponement is addressed to "the sound discretion of the court, (which) should always be predicated on the consideration that more than the mere convenience of the courts or of the parties in the case, the ends of justice and fairness should be served thereby. After all, postponements and continuances are part and parcel of our procedural system of dispensing justice."^[15] Thus, when no substantial rights are affected and the intention to delay is not manifest, the corresponding motion to transfer the hearing having been filed accordingly, it is sound judicial discretion to allow the same to the end that the merits of the case may be fully ventilated. Unless grave abuse of discretion is shown, such discretion will not be interfered with either by mandamus or appeal.^[16]

While it is true that any motion that does not comply with the requirements of Rule 15 should not be accepted for filing and, if filed, is not entitled to judicial cognizance,^[17] this Court has likewise held that where a rigid application of the rule will result in a manifest failure or miscarriage of justice, technicalities may be