

SIXTH DIVISION[*]

[CA-G.R. SP NO. 120337, February 12, 2015]

MARILOU ALMADEN, CIPRIANO LUSPO, MORLY STEWART NUEVA, HAROLD JAMES NUEVA, NORBERT VIDANES, AND MEL FELICIANO, PETITIONERS, VS. HON. LEILI CRUZ SUAREZ, AS ACTING PRESIDING JUDGE OF BRANCH 261, REGIONAL TRIAL COURT OF THE NATIONAL CAPITAL JUDICIAL REGION IN PASIG CITY AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

DECISION

PERALTA, JR., E. B., J.:

What spawned constitutional and procedural questions aired before Us by petitioners, through Rule 65, was the legal aftermath of the stampede during the first anniversary episode of the defunct "Wowowee" noontime game show of ABS-CBN Corporation at the Philippine Arena on February 4, 2006.

In a nutshell, when an assessment of probable cause against petitioners was determined over an indictment for Reckless Imprudence Resulting in Multiple Homicide and Multiple Physical Injuries, petitioners pressed for the dismissal of the charge but the trial court was not convinced.^[1]

We now plow through some significant details of the backdrop.

Following the unfortunate headlong rush of people during the incident in question, an Investigating Panel was formed by the Department of Justice (DOJ) to conduct a preliminary investigation for reckless imprudence resulting in multiple homicide and multiple physical injuries. In its Resolution of October 9, 2006, the Investigating Panel found probable cause and recommended the filing of the Information against petitioners.^[2] The case was raffled to RTC, Branch 261, Pasig on July 3, 2008.^[3]

Resolving petitioners' Motion for Determination of Probable Cause, then Presiding Judge, now Justice Agnes Reyes-Carpio of this Court, issued an Order on December 2, 2008 which dismissed the criminal case against accused Ma. Rosario Santos-Concio, Ma. Socorro Vidanes, Engr. Jesus Bolardo and Erlinda Reis for lack of probable cause and suspended proceedings relative to the remaining co-accused, who were production staff or security of Wowowee, pending completion of the investigation by the DOJ on the alleged culpability of the public officials charged for the same offense,^[4] thusly:

*WHEREFORE, in view of the foregoing, the Court finds no probable cause against accused **Ma. Rosario Santos-Concio, Ma. Socorro Vidanes, Engr. Jesus Belardo and Erlinda Reis.** Accordingly, the instant case is hereby **DISMISSED** against them.*

*As to the other accused, the proceedings in this case are hereby **SUSPENDED** pending the completion of the DOJ investigation on the possible culpability of the other public officials who are charged for the same offense.*

SO ORDERED. (Emphasis Supplied)^[5]

To cause a similar jettison of the charge, petitioners filed a Motion for Partial Reconsideration of the foregoing Order on January 20, 2009,^[6] which was denied by the trial court per its May 29, 2009 Order.^[7] The Order of May 29, 2009 also directed the completion of the preliminary investigation for the public officials within thirty days.^[8]

While preliminary investigation on the alleged culpability of some of the accused was pending, the trial court issued its February 11, 2010 Order, pertinent portions of which are reproduced:^[9]

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On July 23, 2009, Prosecutor Dennis Pastrana, in a written manifestation, requested for an extension of time "until such matter shall have been clarified." The request was granted in an Order, dated July 20, 2009. To date, Prosecutor Pastrana has not advised this Court regarding the matter of the preliminary investigation.

At any rate, the prosecution was given more than ample time to conduct further investigation on the alleged culpability of some persons, including certain public officials, not named in the pertinent Amended Information
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At the same time, the pendency of such preliminary investigation, does not preclude the Court from proceeding with the hearing of this case. After all, a valid Amended Information against herein accused had been filed and the Court had acquired jurisdiction over the subject matter of this case, insofar as said accused are concerned.

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In light of all the foregoing, the Court may now proceed to hear this case.

WHEREFORE, finding probable cause against herein accused, set their arraignment on March 3, 2010.

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Aggrieved by the Office of the Pasig City Prosecutor's failure to promptly conduct the preliminary investigation, petitioners filed an Omnibus Motion on August 10, 2010 based on their rights to a speedy disposition of the case, to equal protection, due process and an impartial trial. In the alternative, petitioners moved for the quashal of the Information because the facts charged therein do not constitute an offense.

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On October 8, 2010, or after almost two years from the directive to complete the preliminary investigation, and four years after the preliminary investigation started, the Pasig prosecutor's office issued its Resolution which absolved the public officials involved in the case.^[11]

In her December 15, 2010 Order, Judge Leili Cruz Suarez rejected petitioners' pleas for the dismissal of criminal case ratiocinating that the delay in the conduct of the preliminary investigation was justified.^[12] Judge Suarez likewise denied petitioners' alternative prayer to quash the Information and ordered the arraignment of petitioners on February 9, 2011.^[13] In their Motion (with Urgent Motion to Defer Arraignment) dated January 18, 2011, petitioners moved for reconsideration of the December 5, 2010 Order, reinvestigation and deferment of arraignment.^[14] A Supplement to the Motion was filed by petitioners on January 26, 2011.^[15]

On May 5, 2011, the RTC issued its Order which denied petitioners' Motion and its Supplement thereto and re-scheduled the arraignment on June 29, 2011 at 8:30 in the morning.^[16]

Hence, the instant recourse was utilized to impute grave abuse of discretion on the part of the trial court:^[17]

... IN REFUSING TO DISMISS THE CRIMINAL CASE FOR VIOLATION OF
THE PETITIONERS' RIGHT TO SPEEDY DISPOSITION OF CASES

... IN FAILING TO QUASH THE INFORMATION

THIS COURT'S RULING:

On the First Issue: Right to Speedy Disposition of Cases

Petitioners claimed that their right to speedy disposition of cases was transgressed because of the unjustified delay in the conduct of the preliminary investigation. According to petitioners, there was manifest delay in the prosecution of the case when the Pasig prosecutor's office failed to comply with the December 2, 2008 Order, relative to the completion of the preliminary investigation against the local public officials. Petitioners asserted that, as early as June 18, 2009, Prosecutor Dennis Pastrana was designated to handle the preliminary investigation of the case. Instead of proceeding therewith, Prosecutor Pastrana sought clarification from the DOJ as to who should conduct the preliminary investigation. On February 4, 2010, Chief State Prosecutor Jovencito R. Zuño directed the Pasig prosecutor's office to proceed with the preliminary investigation.^[18]

The preliminary investigation was resumed only on August 6 and 13, 2010^[19] and it was concluded only on October 8, 2010, or almost two (2) years subsequent to the issuance of the December 2, 2008 directive.^[20]

We resolve against petitioners.

The right to speedy disposition of cases, like the right to speedy trial, is violated only when the proceedings are attended by vexatious, capricious and oppressive

delays. In the determination of whether said right has been violated, particular regard must be taken of the facts and circumstances peculiar to each case. The conduct of both the prosecution and the defendant, the length of the delay, the reasons for such delay, the assertion or failure to assert such right by the accused, and the prejudice caused by the delay are the factors to consider and balance. A mere mathematical reckoning of time involved would not be sufficient.^[21]

In the instant case, other than the fact that it took the Investigating Panel one and a half (1½) years from the December 2, 2008 Order to complete the preliminary investigation of the case^[22] supposedly due to redundant clarifications of the Pasig prosecutor's office as to who shall conduct the preliminary investigation,^[23] petitioners failed to show that the delay was oppressive and vexatious.

Although petitioners adamantly claimed that it was the clarifications sought by the Pasig prosecutor's office which prompted the delay in the resolution of the case, the record, however, was bereft of copies of the alleged clarifications sought by the Pasig prosecutor and confirmations from the DOJ for the Pasig prosecutor's office to proceed with the investigation of the case,^[24] which data could have aided this Court in evaluating petitioners' assertion of unjustified delay.

It can hardly be ignored, too, that the criminal action against petitioners was spawned by a stampede that resulted in the death of seventy-one (71) persons and injuries to more than eight hundred (800) persons.^[25] Hence, to expect the prosecution arm to wind up its evaluation within the 30-day period to resolve the preliminary investigation of the case, per the December 2, 2008 Order, would amount to a tall Order, so to speak, in the light of the sheer volume of hapless victims and the record therefor. Citing *Francisco Guerrero v. Court of Appeals, et al.* ^[26] the Supreme Court in *Dansal v. Fernandez et al.*,^[27] declared:

The preliminary investigation in subject cases against the petitioners took more than one year and four months to finish. But such a happenstance alone, or any like delay, for that matter, should not be cause for an unfettered abdication by the court of its duty to try cases and to finally make a determination of the controversy after the presentation of evidence. In Francisco Guerrero vs. Court of Appeals, et al., the Court had this to say:

"While this Court recognizes the right to speedy disposition quite distinctly from the right to a speedy trial, and although this Court has always zealously espoused protection from oppressive and vexatious delays not attributable to the party involved, at the same time, we hold that a party's individual rights should not work against and preclude the people's equally important right to public justice. In the instant case, three people died as a result of the crash of the airplane that the accused was flying. It appears to us that the delay in the disposition of the case prejudiced not just the accused but the people as well. Since the accused has completely failed to assert his right seasonably and inasmuch as the respondent judge was not in a position to dispose of the case on the merits due to the absence of factual basis, we hold it proper

and equitable to give the parties fair opportunity to obtain (and the court to dispense) substantial justice in the premises."

The protection under the right to a speedy disposition of cases should not operate as to deprive the government of its inherent prerogative in prosecuting criminal cases or generally in seeing to it that all who approach the bar of justice be afforded a fair opportunity to present their side.

Moreover, from the factual circumstances of this case, it was apparent that petitioners had a hand in the sluggish resolution of their case. It may be recalled that the Information against petitioners was filed sometime in July, 2008.^[28] Thereafter, petitioners filed a Motion for Determination of Probable Cause.^[29] On December 2, 2008, then Presiding Judge Agnes Reyes-Carpio issued an Order which dismissed the case against some of the accused and deferred court proceedings insofar as the remaining co-accused pending determination by the DOJ of the possible culpability of the accused public officials.^[30]

Petitioners then filed a Motion for Partial Reconsideration thereto on January 20, 2009^[31] but it was denied by the trial court in its Order of May 29, 2009.^[32] In the same Order, the trial court justified the suspension of the proceedings, ratiocinating thusly:^[33]

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Hence, the Court believes that it would be more prudent to suspend the proceedings in this case pending the final resolution of the investigating prosecutor. To proceed with the trial of this case without waiting for the final resolution of the investigation as to the other accused public officials may result in a great probability that some facts or evidence may be overlooked or misapplied by the Court and would alter the result of the case later on. Orderly procedure must be followed if injurious surprises and annoying delays in the administration of justice are to be avoided. Evidence cannot be given piecemeal. Thus, the accused later on cannot claim that they were denied of their right to a preliminary investigation.

Subsequently, on October 8, 2010, the Pasig prosecutor's office issued its Resolution which absolved the local public officials.^[34] After rejection by the trial court of petitioners' Omnibus Motion dated August 10, 2010 and the court's schedule for petitioners' arraignment on February 9, 2011,^[35] petitioners once more filed a Motion (with Urgent Motion to Defer Arraignment) dated January 18, 2011 on January 19, 2011^[36] and a Supplement thereto on January 26, 2011.^[37] When the trial court, in its May 5, 2011, denied both Motions and re-scheduled petitioners' arraignment from February 9, 2011 to June 29, 2011,^[38] petitioners sought recourse with this Court by filing the instant Petition with prayer for the issuance of a Temporary Restraining Order and Preliminary Injunction.^[39]

Certainly, on account of the several Motions and other pleadings prior to the slated arraignment, petitioners, themselves, partly contributed to the delay in the prosecution and resolution of the subject criminal action. It was clear that the trial court was bent in pursuing the arraignment of petitioners, as shown by its February