

## FIRST DIVISION

[ G.R. NO. 164953, February 13, 2006 ]

**JOHN JOSEPH LUMANLAW Y BULINAO, PETITIONER, VS. HON. EDUARDO B. PERALTA JR., IN HIS CAPACITY AS ACTING PRESIDING JUDGE, REGIONAL TRIAL COURT (BRANCH 13), MANILA, RESPONDENT.**

### DECISION

#### **PANGANIBAN, CJ:**

Vexatious, oppressive, unjustified and capricious delays in the arraignment violates the constitutional right to speedy trial and speedy case disposition, particularly when the accused is detained. Under the circumstances of the present case, mandamus is a proper remedy for relief from prolonged detention. This Court safeguards liberty and will therefore always uphold the basic constitutional rights of the people, especially the weak and the marginalized.

#### The Case

Before us is a Petition for Mandamus<sup>[1]</sup> under Rule 65 of the Rules of Court, seeking (1) the dismissal of the Information filed against Petitioner John Joseph Lumanlaw y Bulinao; and (2) his release from the Manila City Jail.

#### The Facts

Culled from the parties' pleadings are the following undisputed facts.

Petitioner Lumanlaw was apprehended by the Western Police District near San Diego Street, Sampaloc, Manila, on the evening of November 26, 2002, for illegal possession of a dangerous drug. He was charged in an Information<sup>[2]</sup> filed with Branch 13 of the Regional Trial Court (RTC) of Manila, as follows:

"That on or about **November 24, 2002**, in the City of Manila, Philippines, the said accused, not being lawfully authorized to possess any dangerous drug, did then and there willfully, unlawfully and knowingly have in his possession, custody and control **one (1) heat sealed transparent plastic sachet containing zero point zero one one (0.011) grams of white crystalline substance known as SHABU** containing methamphetamine hydrochloride, a dangerous drug.

<sup>[3]</sup>

A Commitment Order<sup>[4]</sup> was consequently issued by Presiding Judge Luis J. Arranz directing the detention of petitioner in the Manila City Jail and setting the latter's arraignment on January 8, 2003. On even date, petitioner's counsel manifested<sup>[5]</sup> his intention to file a motion for preliminary investigation. Because of the

Manifestation, the arraignment was deferred to February 21, 2003. The aforesaid Motion<sup>[6]</sup> was filed together with a Petition to Reduce Bail<sup>[7]</sup> on January 17, 2003.

The resolution of these matters was overtaken by Judge Arranz's retirement from public service. Thus, the arraignment scheduled for February 21, 2003, had to be postponed. This Court designated herein respondent, Judge Eduardo B. Peralta, Jr., as acting presiding judge of Branch 13, Regional Trial Court, Manila, in Administrative Order No. 27-2003 issued on February 18, 2003.<sup>[8]</sup>

On March 26, 2003, the newly designated acting presiding judge issued an Order<sup>[9]</sup> setting the arraignment of petitioner on April 23, 2003. On the latter date, the arraignment was reset to June 25, 2003, due to the public prosecutor's absence.<sup>[10]</sup>

On June 25, 2003, petitioner's counsel received the lower court's Order granting Lumanlaw's Petition to Reduce Bail and denying his Motion for Preliminary Investigation for having been filed beyond the reglementary period.<sup>[11]</sup> In the same Order, the trial court set petitioner's arraignment on August 6, 2003.

The arraignment was postponed again, this time due to the absence of petitioner's counsel. According to him, he requested the court to proceed with the arraignment, with the public defender assisting the accused, but that respondent judge denied the request on the ground that petitioner was already represented by a counsel *de parte*.<sup>[12]</sup> The trial court then re-scheduled the arraignment on September 24, 2003.<sup>[13]</sup>

In what was beginning to be a pattern of laxity, the September 24 arraignment was likewise postponed in view of the scheduled meeting of presiding judges with accredited newspaper publishers and was thus reset to October 1, 2003.<sup>[14]</sup>

On the latter date, respondent judge issued the following Order:<sup>[15]</sup>

"In view of the draft Order dated August 6, 2003 which impeded the Produce Order for the arraignment and pre-trial conference this afternoon of defendant John Joseph Lumanlaw in relation to Criminal Case No. 02-208426, the arraignment and pre-trial conference are hereby reset on December 10, 2003 at 2:00 o'clock in the afternoon, on the date amenable to Atty. Ernesto Delfin, as well as the defendant."

Again, the arraignment did not occur on December 10, 2003, because petitioner had not been brought to the court by the wardens of the Manila City Jail. According to the trial court's Order,<sup>[16]</sup> there was no proof of service on the Manila City Jail. The arraignment was thus reset to March 1, 2004.

Notably, a year had passed since the filing of the Information, yet Lumanlaw remained uninformed of the charges against him, while continuing to be in detention and despair all throughout that period of limbo. Owing to this insufferable state of affairs, petitioner's counsel manifested his intention to file a motion to dismiss on account of the violation of his client's right to a speedy trial.<sup>[17]</sup> Accordingly, an Urgent Motion to Dismiss<sup>[18]</sup> was filed on December 19, 2003. The Motion was heard on February 20, 2004, but was promptly denied by the trial court. The

arraignment was reset yet again to March 17, 2004.<sup>[19]</sup>

The arraignment did not take place, however, because the accused was not produced in court by the jail wardens concerned. It turned out that the trial court had not issued a "produce order" to the Manila City Jail. Another resetting was ordered for April 16, 2004.<sup>[20]</sup>

Now frustrated with the repeated postponements, petitioner filed a Second Urgent Motion to Dismiss<sup>[21]</sup> on March 22, 2004. Relying on the provisions of the Revised Rules of Criminal Procedure, mandating that arraignment should be held within thirty (30) days from the date the court acquired jurisdiction over the accused, petitioner argued that the protracted delay of his arraignment violated his constitutional right to speedy trial.<sup>[22]</sup>

On April 16, 2004, the RTC could not proceed with the arraignment. What transpired on that date is evident from its Order:<sup>[23]</sup>

"Inasmuch as the Trial Prosecutor has just furnished a copy of her Comment dated April 12, 2004 to the defense counsel, as prayed for by Atty. Ernesto Delfin, counsel for accused John Joseph Lumanlaw in Criminal Case No. 02-208426, he is GRANTED five (5) days from today to submit his Reply. After which, the pending Second Urgent Motion to Dismiss dated March 21, 2004 filed on March 22, 2004 (page 33, Record in Criminal Case No. 02-208426) will be deemed submitted for resolution.

"Meanwhile, without prejudice to the resolution of the pending motion, the arraignment and pre-trial conference of John Joseph Lumanlaw are hereby tentatively scheduled on May 26, 2004 at 2:00 o'clock in the afternoon."

On May 26, 2004, the arraignment could not be conducted, again because of the Manila City Jail's failure to bring petitioner to the court *despite notice*.<sup>[24]</sup> On the same day, his counsel received<sup>[25]</sup> the trial court's Order<sup>[26]</sup> dated May 3, 2004, denying his Second Urgent Motion to Dismiss. The arraignment was reset to June 16, 2004.<sup>[27]</sup>

On this date, it was respondent judge's absence that caused the postponement of the arraignment, which was reset to July 21, 2004.<sup>[28]</sup> But on that date, no hearing was conducted in Branch 13 because of the ongoing semestral inventory of cases in respondent judge's regular sala, Branch 17.<sup>[29]</sup>

Hence, the present Petition.<sup>[30]</sup>

### **The Issues**

Petitioner raises the following issues for our consideration:

"Whether or not the failure of public respondent to conduct the arraignment of the petitioner despite the delay of one (1) year, nine (9)

months and four (4) days constitute undue and unjustifiable delay in violation of his constitutional right to speedy trial.

“Whether or not such undue and unjustifiable delay would warrant the dismissal of the Information filed against the petitioner.

“That should the decision by the Honorable Supreme Court be one finding merit in this Petition, whether or not the said decision is binding upon the newly appointed presiding judge of Regional Trial Court, Branch 13, Manila, as successor of public respondent.”<sup>[31]</sup>

On the other hand, respondent asks whether the Petition for Mandamus should be given due course. <sup>[32]</sup>

On the whole, the issues may be reduced to the following: 1) whether there was a violation of the right to speedy trial, warranting a quashal of the Information against petitioner; and 2) whether mandamus is the proper remedy.

### **The Court’s Ruling**

The Petition is meritorious.

#### **Main Issue:** **Right to Speedy Trial**

Arraignment is a vital stage in criminal proceedings in which the accused are formally informed of the charges against them.<sup>[33]</sup> The proper conduct of the arraignment is provided in Rule 116 of the Revised Rules on Criminal Procedure. A perusal of the provision shows that arraignment is not a mere formality, but an integral part of due process.<sup>[34]</sup> Particularly, it implements the constitutional right of the accused to be informed of the nature and cause of the accusation against them and their right to speedy trial.

On this point, petitioner argues that, by respondent’s failure to act expeditiously on his arraignment, his right to speedy trial was violated. He points out the fourteen postponements that resulted in his intolerable detention for almost two years. Moreover, he cites Section 2 of Supreme Court Circular No. 38-98 (implementing Republic Act No. 8493, otherwise known as “The Speedy Trial Act of 1998”), which provides that arraignment shall be held within thirty days from the date the court acquired jurisdiction over the accused.

On the other hand, respondent counters that there were no capricious and oppressive delays that would justify a dismissal of the Information. The Office of the Solicitor General points to the participation of petitioner himself in the protracted proceedings, such as his filing of a Motion for Preliminary Investigation and his counsel’s absence from one of the scheduled hearings.<sup>[35]</sup>

#### **Speedy Trial Construed**

The thirty-day period invoked by petitioner was construed in *Solar Team Entertainment, Inc. v. How*.<sup>[36]</sup> It was held in that case that the period was not

absolute. Certain delays were allowed by law and excluded from the computation of the time within which trial must commence. The Court ruled that those exclusions should “reflect the fundamentally recognized principle that the concept of ‘speedy trial’ is a ‘relative term and must necessarily be a flexible concept.’”<sup>[37]</sup> It held further that courts must strive to maintain a delicate balance between the demands of due process and the strictures of speedy trial, on the one hand; and, on the other, the right of the State to prosecute crimes and rid society of criminals.

Indeed, judicial proceedings do not exist in a vacuum. They must contend with the realities of everyday life. Thus, a sensible assessment of their conduct must consider several factors, rather than a mere mathematical calculation of periods that have elapsed between stages. Jurisprudence has set forth the following guidelines:

“x x x. [T]he right to a speedy disposition of a case, like the right to speedy trial, is deemed violated only when the proceeding is attended by *vexatious, capricious, and oppressive* delays; or when *unjustified* postponements of the trial are asked for and secured, or when without cause or justifiable motive a long period of time is allowed to elapse without the party having his case tried. Equally applicable is the balancing test used to determine whether a defendant has been denied his right to a speedy trial, or a speedy disposition of a case for that matter, in which the conduct of both the prosecution and the defendant are weighed, and such factors as length of the delay, reason for the delay, the defendant’s assertion or non-assertion of his right, and prejudice to the defendant *resulting* from the delay, are considered.”<sup>[38]</sup>

### **Reasonable Postponements**

It should be stressed that petitioner never acquiesced to the seemingly endless postponements of the arraignment. He asserted his right to speedy trial *twice*, but was denied by respondent in both instances. Considering that petitioner has been under detention since December 2002, we need not belabor the prejudice, distress, and anxiety he suffered as a result of the delayed arraignment.

We concede that the bases for some of the delays were completely sound, such as the retirement of Judge Arranz<sup>[39]</sup> and the manifestation of petitioner that the latter would be filing a Motion for Preliminary Investigation.<sup>[40]</sup> Those matters were manifestly not intended to delay the proceedings in Criminal Case No. 02-208426.

The delay caused by Judge Arranz’s retirement may be deemed a normal part of the ordinary conduct of court business and was not necessarily unreasonable. The second ground was the right of the accused accorded by Section 7 of Rule 112 of the Revised Rules on Criminal Procedure.<sup>[41]</sup> Verily, petitioner’s request for a preliminary investigation before arraignment was well-advised, in view of the rule that failure to do so would constitute a waiver of the right.<sup>[42]</sup> Thus, it has been held that though the conduct of a preliminary investigation may hold back the progress of a case, such investigation is necessary so that the defendant’s right will not be compromised or sacrificed at the altar of expediency.<sup>[43]</sup>

### **Unjustified Delay**