



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

FOURTH DIVISION

EMMANUEL F. REYES,
Petitioner,

SB-18-SCA-0016
(Crim. Cases Nos. 16-329767-77)

- versus -

FOR: Petition for *Certiorari* under Rule 65 of the Rules of Court

HON. ACEREY C. PACHECO,
As Acting Presiding Judge
Regional Trial Court, Branch 7
Manila, and

PRESENT:
Quiroz, J., *Chairperson*
Cruz, J.
Jacinto, J.

PEOPLE OF THE PHILIPPINES,
Respondents.

PROMULGATION:

August 22, 2018 *amb*

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DECISION

QUIROZ, J.:

This is a Petition for *Certiorari* under Rule 65 of the Rules of Court filed by petitioner on February 7, 2018,¹ assailing the Orders dated July 7, 2017² and November 3, 2017³ of the Regional Trial Court, Branch 7, Manila City, denying accused Emmanuel F. Reyes' *Motion to Quash* filed on April 17, 2016⁴ and *Motion to Dismiss* filed on May 21, 2017,⁵ as well as his *Motion for Reconsideration* dated July 26, 2017.

THE ANTECEDENT FACTS

Sometime in 2005, a complaint was filed before the Office of the Ombudsman against Emmanuel F. Reyes, then Customs Operations Officer V of the Bureau of Customs at the Port Area, Manila, and his wife, Ligaya E. Reyes. The complaint was docketed as CPL-C-05-0591.

On August 18, 2011, the Field Investigation Office (FIO), as nominal complainant, filed a *Sworn Complaint* against Emmanuel F. Reyes and Ligaya E. Reyes.

On April 10, 2012, the respondents were directed to file their Counter-Affidavit. Thus, on May 15, 2012, Emmanuel Reyes and Ligaya Reyes filed

¹ Records, pp. 1 - 15.
² Records, pp. 16 - 20.
³ Records, pp. 21 - 22.
⁴ Records, pp. 90 - 99.
⁵ Records, pp. 100 - 110.

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their *Consolidated Joint Counter-Affidavit*. In response, the Complainant filed his/her *Reply-Affidavit* on May 25, 2012.

In the meantime, respondent Emmanuel F. Reyes retired from government service on October 13, 2009.

On July 19, 2013, the Office of the Ombudsman issued a *Joint Resolution*⁶ finding probable cause against respondent Emmanuel F. Reyes. The Resolution was approved on January 14, 2016

On March 7, 2016, respondent Emmanuel Reyes received a copy of the *Joint Resolution*. A week later, on March 14, 2016, he filed a *Motion for Partial Reconsideration with Motion to Defer the Filing of Information*.

On May 13, 2016, the *Joint Order* dated April 12 2016, denying respondent Emmanuel Reyes's *Motion*, was approved.

In view of the denial of his motion for reconsideration, respondent Emmanuel Manuel Reyes elevated the case to the Supreme Court via a *Petition for Certiorari (with Prayer for Issuance of Temporary Restraining Order and/or Preliminary Mandatory Injunction)* dated July 26, 2016. The *Petition* was however dismissed on August 17, 2016.

On October 28, 2016, eleven (11) criminal informations for *Falsification of Public Documents* were filed against accused Emmanuel F. Reyes before the Regional Trial Court of Manila.

On April 17, 2017 and May 21, 2017, the accused filed a *Motion to Quash* in Criminal Cases Nos. 16-326767-73 and a *Motion to Dismiss* in Criminal Cases Nos. 16-329774-77, respectively.

On July 7, 2017, the *court a quo* issued an Order denying Reyes's *Motion to Quash* and *Motion to Dismiss*. Accused Reyes moved for reconsideration. In an Order dated November 3, 2017, accused Reyes's *Motion for Reconsideration* was however denied.

Thus, the present petition.

THE COURT'S RULING

The petition assails the respective *Orders* dated July 7, 2017 and November 3, 2017, claiming that the public respondent acted with grave abuse of discretion in denying the *Motion to Quash* and *Motion to Dismiss* of the accused.

The *court a quo* held that there has been no violation of the constitutional right of the accused to speedy disposition of cases and emphasized that the six-year period spanning 2005 to 2011, devoted by the Office of the Ombudsman in the conduct of the fact-finding

⁶ Records, pp. 23 - 37.

investigation, should not be included in the computation of the period of delay. It also ruled that the length of time spent in the conduct of the preliminary investigation, spanning five (5) years and one (1) month, cannot be characterized as violative of the constitutional guarantee on speedy disposition of cases, considering that mere mathematical reckoning, without due regard to the reason for the delay, the assertion or failure to assert such right, and the prejudice caused by the delay. The *court a quo* then pointed out that contributing to the delay was the accused himself who filed a *Motion for Partial Reconsideration and Motion To Defer the Filing of Information* before the Office of the Ombudsman and, upon its denial, a *Petition for Certiorari (with Prayer for Issuance of Temporary Restraining Order and/or Preliminary Mandatory Injunction)* before the Supreme Court.

Citing the ruling of the Supreme Court in *People v. Sandiganbayan* (G.R. No. 188165, December 11, 2013), the accused asserts that “the fact-finding investigation should not be deemed separate from the preliminary investigation conducted by the Office of the Ombudsman if the aggregate time spent for both constitutes inordinate and oppressive delay in the disposition of any case.”

The accused-petitioner also cites *Tatad v. Sandiganbayan* (G.R. Nos. 72335-39, March 21, 1988) and *Angchangco, Jr. v. Sandiganbayan* (G.R. No. 122728, February 13, 1997) to emphasize that the Supreme Court had found a 3-year delay and a six-year delay to be inordinate.

We find the petition impressed with merit.

The following is the timeline of this case: the fact-finding investigation commenced **sometime 2005**; the preliminary investigation started on **August 18, 2011**; the *Joint Resolution* finding probable cause against Emmanuel F. Reyes was issued on **July 19, 2013**; the July 19, 2013 *Joint Resolution* was approved on January 14, 2016; Emmanuel F. Reyes moved for reconsideration of the *Joint Resolution* on March 14, 2016; the *Joint Order* denying accused Emmanuel F. Reyes’s motion for reconsideration was issued on April 12, 2016; the *Joint Order* was approved on **May 13, 2016**; and the Informations against Emmanuel F. Reyes was filed on **October 28, 2016**.

The Court agrees that the period from 2005 to 2011 spent in fact-finding investigation should not be included in the computation of the period of delay, considering that the pronouncement of the Supreme Court in *People v. Sandiganbayan* was with the qualification that the period for the fact-finding investigation and the preliminary investigation would both be taken into account if the aggregate time spent for both constitutes inordinate and oppressive delay in the disposition of any case. Proceeding therefrom, in the case of herein petitioner, the Court finds that the period allotted in the conduct of fact-finding investigation could not be characterized as oppressive, taking into account the fact that petitioner was able to secure clearance and actually retire from government service on

October 13, 2009, while his case was still undergoing fact-finding investigation before the Office of the Ombudsman.

The Court however holds a contrary view with respect to the delay obtaining in the conduct of the preliminary investigation against petitioner Emmanuel F. Reyes and finds that public respondent committed grave abuse of discretion in holding otherwise.

By grave abuse of discretion is meant, "*such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by law, or to act at all in contemplation of law,*"⁷ as in this case where respondent judge ought to have upheld the constitutional right of the accused by taking into account, first and foremost, the fact that the adverse resolution finding probable cause against the accused that was issued as early as July 19, 2013 was only approved 30 months later, on January 14, 2016, without any justifiable reasons therefor having been advanced by the Office of the Ombudsman.

Respondent judge insists that petitioner Reyes contributed to the delay when he filed the *Motion for Partial Reconsideration and Motion To Defer the Filing of Information* before the Office of the Ombudsman and, upon its denial, a *Petition for Certiorari (with Prayer for Issuance of Temporary Restraining Order and/or Preliminary Mandatory Injunction)* before the Supreme Court. Firstly, petitioner Reyes was entitled to move for reconsideration and to have done so was certainly not a mere caprice on his part; and, secondly, both the motion for reconsideration and petition for certiorari were resolved within a reasonable time and could not have in any way contributed to the delay that has been so far incurred at that point. The *Motion for Partial Reconsideration and Motion To Defer the Filing of Information* was filed on March 14, 2016 and resolved in the Joint Order dated April 12, 2016 of the Office of the Ombudsman, while the *Petition for Certiorari (with Prayer for Issuance of Temporary Restraining Order and/or Preliminary Mandatory Injunction)* which was filed on July 26, 2016 was resolved by the Supreme Court on August 17, 2016.

As correctly claimed by petitioner Emmanuel F. Reyes, the assailed *Orders* of public respondent were evidently issued with grave abuse of discretion so patent and gross as to amount to a virtual refusal to perform the duty enjoined by law, or to act in contemplation of law.

All told, the Court finds that respondent Judge failed to uphold the constitutional guarantee to speedy disposition of cases to which the accused was entitled, the significance of the said provision having been elucidated by the Supreme Court in the case of *Corpuz, et.al. v. Sandiganbayan* (G.R. No. 162214, November 11, 2004), viz-

⁷ *Cirilo Alafriz v. Mariano Nable, et.al.*, G.R. No. L-47780, June 10, 1941.

DECISION

People v. Hon. Acerey C. Pacheco, et.al.

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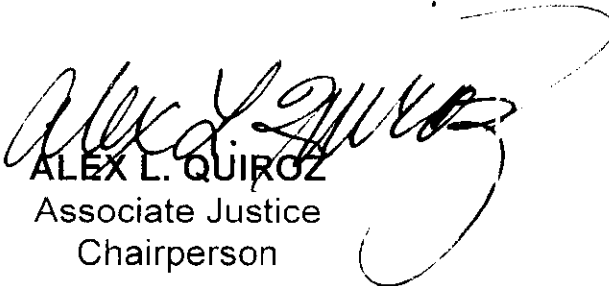
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The right of the accused to a speedy trial and to a speedy disposition of the case against him was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him for an indefinite time, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases. x x x

WHEREFORE, premises considered, the Petition for Certiorari dated February 6, 2018, filed by petitioner Emmanuel F. Reyes, is hereby **GRANTED**. The *Order* dated July 7, 2017 and the *Order* dated November 3, 2017, both issued by Hon. Acerey C. Pacheco in Criminal Cases Nos. 16-329767-77 of the Regional Trial Court, Branch 7, Manila City, are hereby **NULLIFIED** and **SET ASIDE**. Accordingly, Criminal Cases Nos. 16-329767-77 are hereby **DISMISSED**.

SO ORDERED.

Quezon City, Philippines.

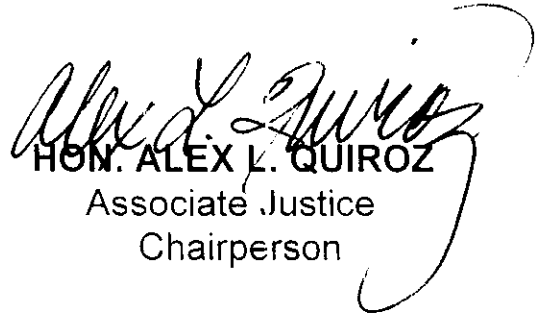

ALEX L. QUIROZ
Associate Justice
Chairperson


REYNALDO P. CRUZ
Associate Justice


BAYANI H. JACINTO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


HON. ALEX L. QUIROZ
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


HON. AMPARO M. CABOTAJE-TANG
Presiding Justice