



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-16-CRM-0830

-vs-

CALIXTO R. CATAQUIZ, et al.,
Accused.

Present:
LAGOS, J., Acting Chairperson
MENDOZA-ARCEGA and
CRUZ**, JJ.

Promulgated:

May 16, 2017 led

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RESOLUTION

MENDOZA-ARCEGA, J.:

This resolves the Motion for Reconsideration, filed by the prosecution, through counsel, on March 20, 2017. Accused opposed said motion through a "Comment/Opposition" filed on April 11, 2017.

The prosecution in the said motion states that in the interest of substantial justice and societal interest that should be protected, they should be allowed to prosecute the case, for the injured party is not only the government but persons who have long been occupying a land that has been declared a public land. Moreover, the accused cannot be said to have been prejudiced by the period it took the Office of the Ombudsman to resolve the complaint, because the accused ran again for mayoralty of San Pedro, Laguna in 2013 and his wife succeeded him as Mayor in the 2016 elections, all of which occurred during the pendency of the complaint. It

**As per Administrative Order No. 025-2017 dated February 1, 2017

only shows that there was neither restraint on his liberty nor was he subjected to public obloquy as he and his wife still won the elections. He was not also incarcerated, thus there was no vexation nor oppression to speak of. Furthermore, the prosecution as the representative of the people against those who abuse the powers of their office, should be given the chance to prosecute the instant case, since the accused did not deny his involvement with the bank and his participation in the purchase of the mortgaged land which gave unwarranted benefit to his family-owned bank.

The accused in his comment avers that the filing of the motion for reconsideration is violative of the right of the accused against double jeopardy. The dismissal of the information due to the violation of the right of the accused to speedy disposition of cases is equivalent to an acquittal and a decision of acquittal is immediately executory and would bar any subsequent re-indictment for the same offense included in the offense charged.

The incident was submitted for resolution on April 18, 2017.

Double Jeopardy

In the case of *Salcedo vs. Mendoza*,² the Supreme Court held that:

xxx a dismissal predicated on the right of the accused to speedy trial upon his own motion or express consent, amounts to an acquittal which will bar another prosecution of the accused for the same offense This is an exception to the rule that a dismissal upon the motion or with the express consent of the accused will not be a bar to the subsequent prosecution of the accused for the same offense as provided for in Section 9, Rule 113 of the Rules of Court. The moment the dismissal of a criminal case is predicated on the right of the accused to speedy trial even if it is upon his own motion or express consent, such dismissal is equivalent to acquittal and any attempt to prosecute the accused for the same offense will violate the constitutional prohibition that "no person shall be twice put in jeopardy of punishment for the same offense" (New Constitution, Article IV, Sec 22).

The dismissal of the criminal case for violation of the accused's right to a speedy trial is equivalent to an acquittal. Double jeopardy will apply even if the dismissal is made with the express consent of the accused, or upon his own motion.³ The same reasoning may be asserted for a dismissal based on an accused's right to speedy disposition of his or her case.

Moreover, herein accused Cataquiz can invoke double jeopardy. First, the Information's validity was already ruled upon by the Court when it resolved the Omnibus Motion dated January 19, 2017; second, the jurisdiction of the Court was not contested; third, accused Cataquiz was already arraigned on January 6, 2017; fourth, the dismissal based on speedy trial and speedy disposition of cases is an exception to the fourth element of double jeopardy because a dismissal with or without the express consent of the accused will be a bar to the subsequent

² G.R. No. L-49375, February 28, 1979.

³ *De la Cuesta vs. Sandiganbayan*, G.R. Nos. 164068-69, November 19, 2013.

prosecution of the accused for the same offense. In effect, the dismissal of the instant case is equivalent to an acquittal, as a recognition of the accused's right to speedy disposition of cases.

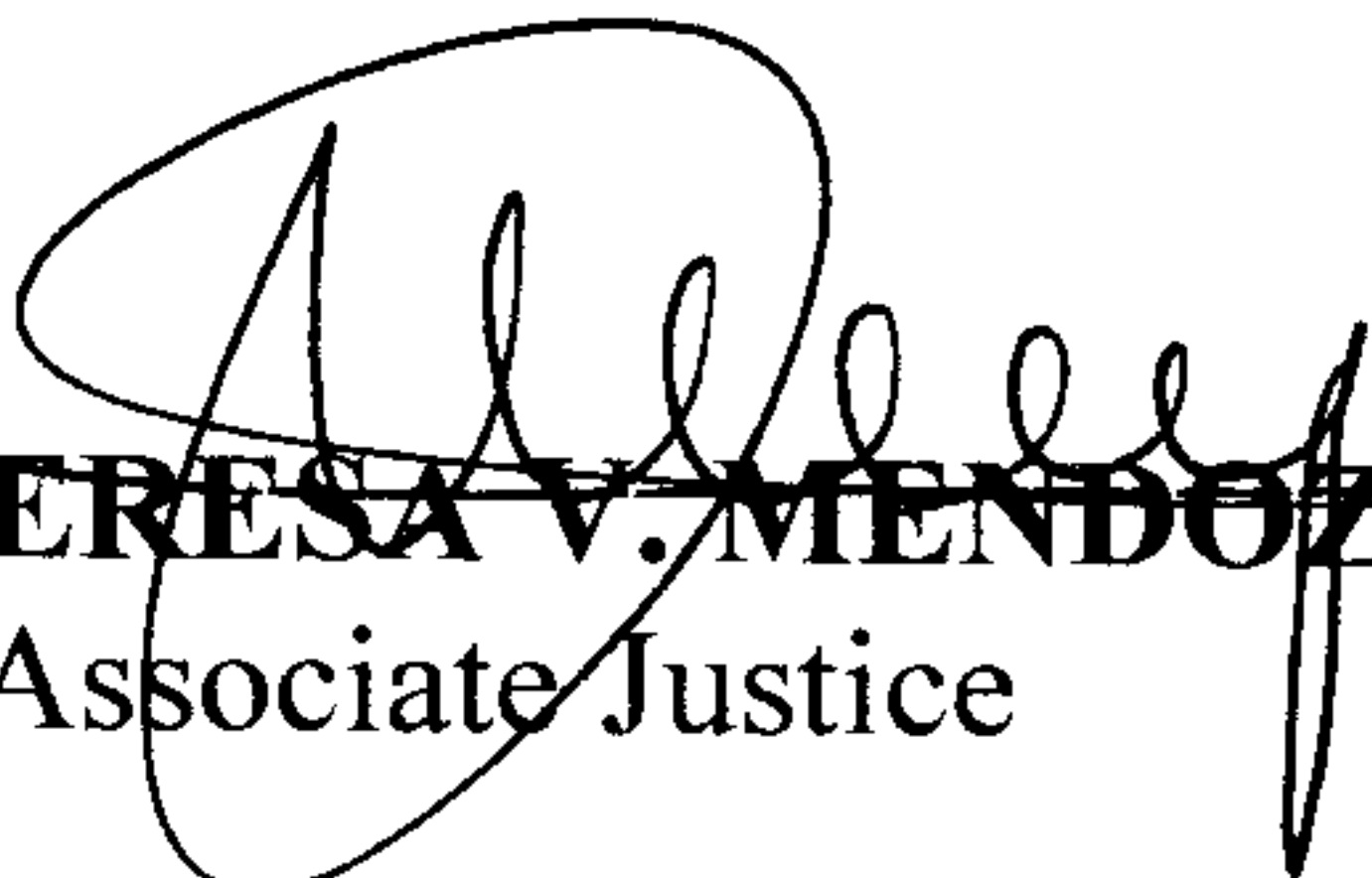
Opportunity of the People to be heard

The prosecution was given sufficient opportunity to be heard and to prosecute the accused, however such opportunity was outweighed by the accused's right to speedy disposition of cases, considering the inordinate delay incurred during the preliminary investigation of this case. The prosecution cannot deny the glaring fact that it took four (4) years eleven (11) months to finish the preliminary investigation of this case, which did not involve complex factual and legal issues.

The same is a recognition of the primacy of the Bill of Rights over the power and authority of the State to prosecute crimes. Moreover, the prosecution was given the opportunity to answer the allegations of the accused and to justify the delay it caused in the resolution of the complaint against the accused, however, it failed to give a reasonable explanation as to why it took their Office almost five years to finally resolve the complaint filed before it, which undeniably burdened and prejudiced the accused.

WHEREFORE, in view of the foregoing, and considering that the issues raised by the prosecution are mere reiterations, it is our considered opinion that said dismissal bars the subsequent prosecution of the accused for the same offense and, by reason thereof, the Motion for Reconsideration is hereby **DENIED**.

SO ORDERED.


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Chairperson


REYNALDO P. CRUZ
Associate Justice