Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MICHAEL DAVID T. CASTAÑEDA, JUSTIN FRANCIS D. REYES, FRANCISCO JOSE TUNGPALAN VILLEGAS, DANIEL PAUL MARTIN C. BAUTISTA and VIC ANGELO G. DY, *Petitioners,*	**G.R. No. 241729** Present: PERLAS-BERNABE, *S.A.J.*, *Chairperson,* HERNANDO, INTING, DELOS SANTOS and GAERLAN,* *JJ.*
- *versus* -	
PEOPLE OF THE PHILIPPINES, *Respondent.*	Promulgated: 08 JUL 2020

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D E C I S I O N

INTING, *J.*:

It must be emphasized that the State, like any other litigant, is entitled to its day in court, and to a reasonable opportunity to present its case. A hasty dismissal, instead of unclogging dockets, has actually increased the workload of the justice system as a whole and caused uncalled - for delays in the final resolution of this and other cases.[1]

This Consolidated Verified Petition for Review on *Certiorari*[2] seeks to reverse and set aside the Decision[3] dated June 1, 2018 and the Resolution[4] dated August 16, 2018 of the Court of Appeals (CA) in CA-

* Designated additional member per Special Order No. 2780 dated May 11, 2020.

1 *People v. Hon. Leviste*, 325 Phil. 525, 538 (1996).

2 *Rollo*, pp. 3-29.

3 *Id.* at 113-137; penned by Associate Justice Amy C. Lazaro-Javier (now a Member of the Court) with Associate Justices Ramon A. Cruz and Ma. Luisa C. Quijano-Padilla, concurring.

4 *Id.* at 212.

G.R. SP No. 146064, which nullified the Orders dated December 22, 2015[5] and February 19, 2016[6] of Branch 57, Regional Trial Court (RTC), Makati City in Criminal Case No. 14-1950.

The Antecedents

Michael David T. Castañeda, Justin Francis D. Reyes, Francisco Jose Tungpalan Villegas, Daniel Paul Martin C. Bautista, and Vic Angelo G. Dy (petitioners) were charged with violation of Republic Act No. (RA) 8049 or the Anti-Hazing Law under an Information filed before the RTC of Makati City. Docketed as Criminal Case No. 14-1950, the Information stemmed from the death of Guillo Cesar Servando during the initiation rites of Tau Gamma Phi Fraternity, La Salle-College of Saint Benilde Chapter, on July 11, 2014 at One Archer's Place Condominium.

At the arraignment on December 8, 2015, petitioners pleaded "not guilty."[7] Trial ensued.

The prosecution was given three trial dates to present its evidence. It requested that subpoenas be issued to the following witnesses, namely: Aurelio Servando, Patricia Servando, John Paul Raval, Lorenze Anthony Agustin, Levin Roland Flores, Kurt Michael Almazan, Jemar Pajarito, and Luis Solomon Arevalo. The subpoena sent to Levin Roland Flores was returned with a notation "moved out" from the given address, while the subpoenas sent to Jemar Pajarito and Luis Solomon Arevalo, coursed through the Witness Protection Program (WPP), were returned with the information that they were discharged from the WPP. In the meantime, the subpoenas sent to witnesses Aurelio Servando, Patricia Servando, John Paul Raval, Lorenze Anthony Agustin, and Kurt Michael Almazan were served.[8]

During the December 10, 2015 hearing, no witnesses for the prosecution appeared. Upon the motion of the prosecution, the RTC issued a Notice to Explain to each of the witnesses ordering them to explain why they should not be cited for contempt for defying the

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5 *Id.* at 57-58; penned by Presiding Judge Honorio E. Guanlao, Jr.
6 *Id.* at 59.
7 *Id.* at 218.
8 *Id.* at 219

RTC's Order. The notices were sent through registered mail but until December 17, 2015, no return was received by the RTC.[9]

On December 15, 2015, when no witnesses appeared to testify, the prosecution moved for the issuance of warrants of arrest against the witnesses which the RTC denied for being premature.[10] On December 17, 2015, the prosecution once again moved for the issuance of warrants of arrest against the witnesses for being absent for the third time, but the motion was likewise denied by the RTC. At that point, the petitioners moved for the dismissal of the case, invoking their right to speedy trial.[11]

In an Order[12] dated December 22, 2015, the RTC dismissed the case insofar as the petitioners were concerned. It decreed:

> WHEREFORE, foregoing premises duly considered and finding the motion to dismiss to be meritorious, the Court hereby orders the above titled case DISMISSED in so far as the said accused/movants are concerned. Accordingly, accused Daniel Paul Martin Bautista, Francisco Jose Villegas, Justin Francis Reyes, Vic Angelo Dy and Michael David Castañeda are hereby ordered released immediately from detention, unless there is a valid cause for their continued detention.
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> SO ORDERED.[13]

The prosecution moved for a reconsideration of the Order, but the motion was denied on February 19, 2016.[14] In the same Order, the RTC granted the petitioners' motion to lift, set aside, and cancel the hold departure order earlier issued against them.

Subsequently, the People of the Philippines (respondent) filed a Petition for *Certiorari*[15] with the CA. In the assailed Decision, the CA reinstated Criminal Case No. 14-1950 and ordered the immediate resetting of the presentation of evidence of respondent. The CA said:

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9 *Id.*
10 *Id.* at 219.
11 *Id.*
12 *Id.* at 57-58.
13 *Id.* at 58.
14 See Order dated February 19, 2016, *id.* at 59.
15 *Id.* at 35-56.

> Indeed, the present case is peculiar in itself. As stated, the three settings in question were only a few days apart from each other and clustered all within a week's time. How can there be denial of private respondents' right to speedy trial when we only speak of no more than seven days of supposed delay and when the witnesses concerned were not even shown to have received the earlier notices to explain sent out to them by the trial court?
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> While courts recognize the accused's right to speedy trial and adheres to a policy of speedy administration of justice, the State may not be deprived of a reasonable opportunity to fairly prosecute criminals. The Supreme Court has invariably held that delay *per se* does not offend one's right to speedy trial. It is the unjustified delay which does.[16]

Petitioners filed an Urgent Motion for Reconsideration,[17] but it was denied by the CA in the assailed Resolution.

Hence, this petition raising the following issues:

1. WHETHER DOUBLE JEOPARDY HAS SET IN IN FAVOR OF PETITIONERS;

2. WHETHER THE FILING OF THE PETITION IN THE CA IS VIOLATIVE OF THE DOUBLE JEOPARDY RULE;

3. WHETHER THE PETITION IN THE CA WAS FILED OUT OF TIME; AND

4. WHETHER THE PETITION IN THE CA IS MOOT AND ACADEMIC.[18]

Petitioners averred that the absence of all the witnesses during the prosecution's chosen dates for its presentation of evidence is its fault[19] and that it was unfair to make them suffer for the subpoenaed witnesses' failure to testify. Furthermore, they should be accorded the

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[16] *Id.* at 133-135.
[17] *Id.* at 138-155.
[18] *Id.* at 9.
[19] *Id.* at 14.

benefit of speedy disposition and trial especially since they were subjected to continuous trial. They did no wrong and yet they are now being placed twice in jeopardy for the refusal of the prosecution's witnesses to testify.[20]

In its Comment,[21] the respondent, represented by the Office of the Solicitor General (OSG), asserted that double jeopardy has not set in against the petitioners. Considering the procedural antecedents of the case, no unreasonable delay attended the proceedings below. The prosecution was only given three trial dates to present its evidence all within a span of a week. From petitioners' arraignment on December 8, 2015, it took merely nine days for the trial court to dismiss the case.[22] It must also be pointed out that there were no returns yet as regards the Notices to Explain sent to each of the witnesses. Evidently, the postponements made by the prosecution were not without good cause and the alleged delays that may have attended the case were not unreasonable.[23]

In their Reply,[24] petitioners submitted that Criminal Case No. 14-1950 has long been quashed. As such, there was no longer any information or case for which proceedings may resume. To reinstate Criminal Case No. 14-1950 would violate their right to due process of law and is tantamount to grave abuse of discretion.[25]

The Court's Ruling

After a judicious study of the case, the Court resolves to deny the present petition for lack of merit.

The Court shall resolve first the preliminary issues.

First, petitioners claim that Criminal Case No. 14-1950 has already been quashed by the RTC of Makati City for failure of the respondent to make a second amendment to its Information.

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[20] *Id.* at 26.
[21] *Id.* at 217-238.
[22] *Id.* at 225.
[23] *Id.* at 226.
[24] *Id.* at 247-260.
[25] *Id.* at 256-257.

Nevertheless, the scanned copy of the alleged Resolution dated April 20, 2016 of the RTC printed in the present petition had no evidentiary value. It was nothing but a snapshot of a court's Order. At best, it is only a private document that could not be admitted as evidence in this judicial proceeding until it is first properly authenticated.

Second, petitioners contend that the respondent's Petition for *Certiorari* was filed out of time since the dismissal of the case on December 22, 2015 was immediately final and executory. According to them, the 60-day period to file the Petition for *Certiorari* commenced on December 22, 2015 and run up to February 21, 2016.

The petitioners are wrong.

Contrary to the petitioners' claim that there is no room for a reconsideration of the trial court's order of dismissal, settled is the rule that if a criminal case is dismissed by the trial court or if there is an acquittal, a reconsideration thereof may be undertaken, whenever legally feasible, insofar as the criminal aspect thereof is concerned. The remedy of reconsideration may be made only by the public prosecutor, or in the case of an acquittal, by the State, through the OSG. On the other hand, the offended party or private complainant may file a motion for reconsideration of such dismissal or acquittal, or appeal therefrom insofar as the civil aspect thereof is concerned. If the court denies the motion for reconsideration, the private complainant or offended party may appeal or file the petition for *certiorari* or *mandamus*, if grave abuse amounting to excess or lack of jurisdiction is shown and the aggrieved party has no right of appeal or adequate remedy in the ordinary course of law.[26]

The facts show that the OSG received the trial court's Order denying its motion for reconsideration on April 12, 2016. Therefore, it had until June 11, 2016 within which to file the petition for *certiorari* before the CA. Considering that June 11, 2016 fell on a Saturday, the filing of the petition on the next working day, June 13, 2016, was within the reglementary period. Section 1, Rule 22 of the Rules of Court provides:

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[26] *Cu v. Small Business Guarantee and Finance Corporation*, 815 Phil. 617, 628-629 (2017), citing *Mobilia Products, Inc. v. Umezawa*, 493 Phil. 85, 108 (2005).

> SECTION 1. *How to compute time.* — In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

Besides, an order, decision, or resolution rendered with grave abuse of discretion amounting to lack or excess of jurisdiction is a void judgment. It is no judgment at all in legal contemplation, and can never become final, contrary to petitioners' claim.[27] The Court discussed in one case:

> The petitioners are correct in claiming that an order or resolution of the Sandiganbayan ordering the dismissal of criminal cases becomes final and executory upon the lapse of 15 days from notice thereof to the parties, and, as such, is beyond the jurisdiction of the graft court to review, modify or set aside, if no appeal therefrom is filed by the aggrieved party. However, if the Sandiganbayan acts in excess or lack of jurisdiction, or with grave abuse of discretion amounting to excess or lack of jurisdiction in dismissing a criminal case, the dismissal is null and void. A tribunal acts without jurisdiction if it does not have the legal power to determine the case; there is excess of jurisdiction where a tribunal, being clothed with the power to determine the case, oversteps its authority as determined by law. **A void judgment or order has no legal and binding effect, force or efficacy for any purpose. In contemplation of law, it is non-existent. Such judgment or order may be resisted in any action or proceeding whenever it is involved.** It is not even necessary to take any steps to vacate or avoid a void judgment or final order; it may simply be ignored.[28] (Emphasis supplied)

Corollarily, inasmuch as the RTC's dismissal of the criminal case against petitioners was void for having been done with grave abuse of discretion amounting to lack or excess of jurisdiction, it is as if there was no acquittal or dismissal of the cases at all. Hence, double jeopardy does not exist in this case.

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[27] *People v. Sandiganbayan, (Fourth Division), et al.*, 829 Phil. 660, 673 (2018), citing *Guevarra v. 4th Division of the Sandiganbayan*, 494 Phil. 378, 388 (2005).

[28] *Guevarra v. 4th Division of the Sandiganbayan, id.*, citing *People v. Court of Appeals*, 475 Phil. 568, 576 (2004) and *Ramos v. Court of Appeals*, 259 Phil. 1122, 1135-1136 (1989).

This brings us to the main issue of the present petition: was there a violation of petitioners right to speedy disposition of their cases to warrant the dismissal thereof?

The Court answers in the negative.

Section 16, Article III of the Constitution guarantees every person's right to a speedy disposition of his case before all judicial, quasi-judicial or administrative bodies. This constitutional right is not limited to the accused in criminal proceedings but extends to all parties in all cases, be it civil or administrative in nature, as well as in all proceedings, either judicial or quasi-judicial. In this accord, any party to a case may demand expeditious action of all officials who are tasked with the administration of justice.[29]

Withal, it must be stressed that the right to a speedy disposition of cases should be understood to be a relative or flexible concept such that a mere mathematical reckoning of the time involved would not be sufficient. Case law teaches that the right is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for or secured, or even without cause or justifiable motive, a long period of time is allowed to elapse without a party having his case tried.[30] In dismissing criminal cases based on the right of the accused to speedy trial, courts carefully weigh the circumstances attending each case. They should balance the right of the accused and the right of the State to punish people who violate its penal laws.[31] Factors such as the length of delay, reason for the delay, the defendant's assertion or non-assertion of the right, and prejudice to the defendant resulting from the delay, must be considered [32]

In the early case of *People v. Hon. Gines, et al.*,[33] the Court found that the right of the accused to a speedy trial was not violated and held that the dismissal of the case as regards the private respondents was premature and erroneous. According to the Court, the right to a

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[29] *Revuelta v. People*, G.R. No. 237039, June 10, 2019, citing *Inocentes v. People, et al.*, 789 Phil. 318, 333-334 (2016)

[30] *Id.* citing *Conscolluela v. Sandiganbayan, et al.*, 714 Phil. 55, 61 (2013).

[31] *People v. Tampal*, 314 Phil. 35, 41 (1995).

[32] *Revuelta v. People*, *supra*, citing *Gonzales v. Sandiganbayan*, 276 Phil. 323, 334 (1991).

[33] 274 Phil. 770 (1991).

speedy trial shall not be utilized to deprive the State of a reasonable opportunity of fairly indicting criminals. It secures rights to a defendant but, certainly, it does not preclude the rights of public justice.[34]

In the same manner, in *Valencia v. Sandiganbayan*,[35] the Court emphasized that the right to speedy trial cannot be successfully invoked where to sustain it would result in a clear denial of due process to the prosecution. While justice is administered with dispatch, the essential ingredient is orderly, expeditious and not mere speed. It cannot be definitely said how long is too long in a system where justice is supposed to be swift, but deliberate. It is consistent with delays and depends upon circumstances. Verily, the rights given to the accused by the Constitution and the Rules of Court are shields, not weapons; hence, courts are to give meaning to that intent.[36]

In the petition at bench, a careful review of the series of events and the circumstances surrounding the proceedings before the trial court would show that there was no delay contemplated under the Constitution to support petitioners' assertion that their right to speedy disposition of the case against them were violated.

Consider the following:

After arraignment and pre-trial on December 8, 2015, the presentation of the respondent's evidence was set on December 10, 15, and 17, 2015. In the first hearing, the prosecution witnesses did not appear, prompting the trial court to send notices requiring them to explain their absence on the scheduled hearing date. Yet again, on December 15, 2015, the prosecution witnesses failed to attend the second scheduled hearing. Thereupon, the respondent moved for the issuance of warrants of arrest against the absent witnesses. The trial court denied the motion for being premature since there were still no returns on the Notices to Explain previously sent to the witnesses. On December 17, 2015, the prosecution moved once more for the issuance of the warrants of arrest against the witnesses for being absent for the third time. Lamentably, the motion was similarly denied by the trial court. In the same hearing, the petitioners moved for the dismissal of

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[34] *Id.* at 777. Citations omitted.
[35] 510 Phil. 70 (2005).
[36] *Id.* at 86, citing *Corpuz v. Sandiganbayan*, 484 Phil. 899, 917 (2004).

their case invoking their right to speedy trial. On December 22, 2015, trial court dismissed the case against petitioners even though it had not received the returns on its earlier Notices to Explain to the witnesses.

From the foregoing, it must be noted that Criminal Case No. 14-1950 was only postponed thrice and for a period of less than a month. The facts in field in no way indicate that the prosecution of the petitioners had been unjustly delayed by the prosecution, specifically the failure of its witnesses to attend the scheduled hearing. The trial court should have given the prosecution a fair opportunity to prosecute its case. The settled rule is that the right to speedy trial allows reasonable continuance so as not to deprive the prosecution of its day in court.[37] The CA explained:

> To begin with, the three supposed hearing dates were set and clustered all within the same week. The first hearing was set on December 10, 2015, where the prosecution witnesses did not appear. On that occasion, the trial court sent out notices to the prosecution witnesses requiring them to explain their absence during the first scheduled hearing date. During the second scheduled hearing on December 15, 2015, again, the prosecution witnesses did not come. This compelled the People to move for issuance of warrants of arrest against the absent witnesses. Respondent judge denied the motion for allegedly being premature since there were no returns yet on the earlier notices to explain sent out to these witnesses. During the third scheduled hearing on October 17, 2015, or only two days later, the trial court granted the defense's motion to dismiss, citing as ground respondents' right to speedy trial. This, notwithstanding the fact that at that time, the court still had not yet received the returns on its earlier notices to explain.
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> To recall, days before the dismissal of the case, the trial court itself refused to issue warrants of arrest on the witnesses because there were yet no returns on the notices to explain earlier sent out to the latter. Two days later, **the trial court dismissed the case, albeit at that time, the circumstances obtaining two days ago had not changed: there was still no proof that the witnesses were served with the trial court's notices to explain.**[38] (Emphasis supplied)

The Court appreciates the RTC's obedience to the newly implemented Revised Guideline for Continuous Trial of Criminal

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[37] *People v. Tampal*, *supra* note 31 at 44, citing *People v. Judge Pablo*, 187 Phil. 190 (1980).
[38] *Rollo*, pp. 129-130, 131.

Cases.[39] But, as discussed by the CA, strict adherence to the rules is never meant to collide with the constitutional right to due process. Although periods for trial have been stipulated, these periods are not absolute. Where periods have been set, certain exclusions are allowed by law. After all, one must recognize the fact that judicial proceedings do not exist in a vacuum and must contend with the realities of everyday life. In spite of the prescribed time limits, jurisprudence continues to adopt the view that the fundamentally recognized principle is that the concept of speedy trial is a relative term and must necessarily be a flexible concept.[40]

Finally, as mentioned earlier, petitioners cannot invoke their right against double jeopardy. The three requisites of double jeopardy are: *(1)* a first jeopardy must have attached prior to the second; *(2)* the first jeopardy must have been validly terminated; and *(3)* a second jeopardy must be for the same offense as that in the first. Legal jeopardy attaches only: *(1)* upon a valid indictment; *(2)* before a competent court; *(3)* after arraignment; *(4)* when a valid plea has been entered; and *(5)* when the defendant was acquitted or convicted, or the case was dismissed or otherwise terminated without the express consent of the accused.[41]

The Court has consistently held in an unbroken line of cases that dismissal of cases on the ground of failure to prosecute is equivalent to an acquittal that would bar further prosecution of the accused for the same offense. Be that as it may, these dismissals were predicated on the clear right of the accused to speedy trial. These cases are not applicable to this case considering that the right of the petitioners to a speedy trial has not been violated by the State.[42] In fact, the order of dismissal was rendered by the RTC, and as held by the CA, acted with grave abuse of discretion amounting to lack or excess of jurisdiction. Significantly, the criminal case was dismissed at petitioners' instance and thus, with their express consent. For these reasons, petitioners cannot invoke their rights against double jeopardy. There was no violation of petitioners' rights to speedy trial and the criminal case against them was correctly ordered to be reinstated.

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[39] Administrative Matter No. 15-06-10-SC.

[40] *Tan v. People*, 604 Phil. 68, 84 (2009), citing *Solar Team Entertainment, Inc. v. Judge How*, 393 Phil. 172, 184 (2000).

[41] *People v. Tampal*, *supra* note 31 at 44-45, citing *People v. Judge Vergara*, 293 Phil. 610, 616-618 (1993).

[42] *Id.* at 45.

WHEREFORE, the petition is **DENIED**. The Decision dated June 1, 2018 and the Resolution dated August 16, 2018 of the Court of Appeals in CA-G.R. SP No. 146064 are **AFFIRMED**. Accordingly, Branch 57, Regional Trial Court, Makati City is **DIRECTED** to proceed with judicious dispatch in concluding the case in accordance with law.

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

RAMON PAUL L. HERNANDO
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

SAMUEL H. GAERLAN
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.

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attention, 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.

DIOSDADO M. PERALTA
Chief Justice