



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

FELILIBETH AGUINALDO and G.R. No. 176033
BENJAMIN PEREZ,
Petitioners, **Present:**

- versus -

VELASCO, JR., J., *Chairperson,*
PERALTA,
VILLARAMA, JR.,
REYES, and
JARDELEZA, JJ.

REYNALDO P. VENTUS and Promulgated:
JOJO B. JOSON,
Respondents. **March 11, 2015 .**

X-----*[Signature]*-----X

DECISION

PERALTA, J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, seeking to nullify and set aside the Decision¹ dated August 11, 2006 of the Court of Appeals (CA) and its December 4, 2006 Resolution² in CA-G.R. SP No. 92094. The CA dismissed for lack of merit the Petition for *Certiorari* under Rule 65 filed by petitioners Felilibeth Aguinaldo and Benjamin Perez, praying for the following reliefs: (1) the issuance of a Writ of Preliminary Injunction and/or Temporary Restraining Order to enjoin the public respondent Judge Felixberto T. Olalia from implementing the Orders dated May 16, 2005 and August 23, 2005; (2) the issuance of a Writ of *Certiorari* to annul the said Orders, and (3) the dismissal of the estafa case against them for having been prematurely filed and for lack of cause of action.

¹ Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justices Rosalinda Asuncion-Vicente and Sesinando E. Villon, concurring; *rollo*, pp. 29-45.

² CA *rollo*, pp. 179-180

The procedural antecedents are as follows:

On December 2, 2002, private respondents Reynaldo P. Ventus and Jojo B. Joson filed a Complaint-Affidavit³ for estafa against petitioners Aguinaldo and Perez before the Office of the City Prosecutor (*OCP*) of Manila. Claiming to be business partners in financing casino players, private respondents alleged that sometime in March and April 2002, petitioners connived in convincing them to part with their Two Hundred Sixty Thousand (₱260,000.00) Pesos in consideration of a pledge of two motor vehicles which the latter had misrepresented to be owned by Aguinaldo, but turned out to be owned by one Levita De Castro, manager/operator of LEDC Rent-A-Car.

On January 15, 2003, Perez filed his Counter-Affidavit,⁴ denying the accusation against him, and claiming that his only participation in the transaction between private respondents and Aguinaldo was limited to having initially introduced them to each other.

On January 22, 2003, private respondents filed their Reply-Affidavit,⁵ asserting that Perez was the one who showed them photocopies of the registration paper of the motor vehicles in the name of Aguinaldo, as well as the one who personally took them out from the rent-a-car company.

On January 29, 2003, Perez filed his Rejoinder-Affidavit,⁶ stating that neither original nor photocopies of the registration was required by private respondents to be submitted to them because from the very start, they were informed by Aguinaldo that she merely leased the vehicles from LEDC Rent-a-Car.

On February 25, 2003, Assistant City Prosecutor (*ACP*) Renato F. Gonzaga issued a Resolution⁷ recommending both petitioners to be indicted in court for estafa under Article 315, paragraph (2) of the Revised Penal Code (*RPC*). He also noted that Aguinaldo failed to appear and to submit any controverting evidence despite the subpoena.

On July 16, 2003, an Information⁸ (I.S. No. 02L-51569) charging petitioners with the crime of estafa under Article 315, paragraph 2 (a) of the *RPC* was filed with the Regional Trial Court of Manila. Docketed as Criminal Case No. 03-216182, entitled "*People of the Philippines v.*

³ Records, pp. 6-8.

⁴ *Id.* at 13-15.

⁵ *Id.* at 16-17.

⁶ *Id.* at 18-19.

⁷ *Id.* at 3-4.

⁸ *Id.* at 1-2.

Felilibeth Aguinaldo and Benjamin Perez,” the case was raffled to the public respondent.

On July 31, 2003, Perez was arrested, so he filed an Urgent Motion for Reduction of Bail to be Posted in Cash, which the public respondent granted in an Order of even date.⁹

On the same day, petitioners filed through counsel a Very Urgent Motion to Recall or Quash Warrants of Arrest,¹⁰ alleging that the Resolution dated February 25, 2003 has not yet attained finality, and that they intended to file a motion for reconsideration.

On August 4, 2003, petitioners jointly filed with the OCP of Manila their “Motion for Reconsideration and Motion for the Withdrawal of the Information Prematurely Filed With the Regional Trial Court, Branch 8, City of Manila.”¹¹ Citing the Counter-Affidavit and Rejoinder-Affidavit of Perez, Aguinaldo asserted, among others, that no deceit or false pretenses was committed because private respondents were fully aware that she does not own the pledged motor vehicles.

On August 6, 2003, the public respondent issued an Order¹² granting the motion for withdrawal of information, and directing the recall of the arrest warrant only insofar as Aguinaldo was concerned, pending resolution of her motion for reconsideration with the OCP.

On August 9, 2003, petitioners filed an Urgent Motion for Cancellation of Arraignment, pending resolution of their motion for reconsideration filed with the OCP of Manila. Upon the prosecution's motion,¹³ the public respondent ordered the proceedings to be deferred until the resolution of petitioners' motion for reconsideration.¹⁴

On December 23, 2003, the public respondent ordered the case archived pending resolution of petitioners' motion for reconsideration with the OCP of Manila.¹⁵

On January 16, 2004, the OCP of Manila, through ACP Antonio M. Israel, filed a Motion to Set Case for Trial,¹⁶ considering that petitioners'

⁹ *Id.* at 28-29.

¹⁰ *Id.* at 38-42.

¹¹ CA *rollo*, pp. 45-58.

¹² Records, p. 44.

¹³ *Id.* at 48.

¹⁴ *Id.* at 50.

¹⁵ *Id.* at 53.

¹⁶ *Id.* at 54.

motions for reconsideration and for withdrawal of the information have already been denied for lack of merit.

On February 27, 2004, petitioners filed with the Department of Justice (DOJ) a petition for review¹⁷ in I.S. No. 02L-51569 for estafa, entitled “*Benjamin Perez and Felilibeth Aguinaldo v. Reynaldo P. Ventus and Jojo B. Josen.*”

Acting on the prosecution's recommendation for the denial of petitioners' motions for reconsideration and withdrawal of the information, and its motion to set the case for trial, the public respondent issued an Order¹⁸ dated March 15, 2004 directing the issuance of a warrant of arrest against Aguinaldo and the setting of the case for arraignment.

On March 26, 2004, petitioners filed an Urgent Motion to Cancel Arraignment and Suspend Further Proceedings,¹⁹ until their petition for review before the DOJ is resolved with finality. Petitioners reiterated the same prayer in their Urgent Motion for Reconsideration²⁰ of the Order dated March 15, 2004.

On April 16, 2004, the public respondent granted petitioners' urgent motion to cancel arraignment and suspend proceedings, and motion for reconsideration.²¹

On June 23, 2004, Levita De Castro, through the Law Firm of Lapeña and Associates, filed a Motion to Reinstate Case and to Issue Warrant of Arrest.²² De Castro alleged that she was the private complainant in the estafa case that had been ordered archived. Petitioners filed an Opposition with Motion to Expunge,²³ alleging that De Castro is not a party to the said case, which is in active file, awaiting the resolution of their petition for review before the DOJ.

On October 15, 2004, De Castro filed a Manifestation²⁴ informing the public respondent that the DOJ had already promulgated a Resolution dated September 6, 2004 denying petitioners' petition for review in I.S. No. 02G-29349 & 02G-28820 for estafa, entitled “*Levita De Castro v. Felilibeth Aguinaldo.*”²⁵

¹⁷ CA rollo, pp. 62-78.

¹⁸ *Id.* at 79.

¹⁹ *Id.* at 80-83.

²⁰ *Id.* at 85-88.

²¹ Records, p. 74.

²² *Id.* at 125-126.

²³ *Id.* at 129-130.

²⁴ *Id.* at 136-137.

²⁵ *Id.* at 138-139.

On May 16, 2005, the public respondent issued an Order granting the Motion to Reinstate Case and to Issue Warrant of Arrest, thus:

Pending with this Court are (1) Motion to Reinstate Case and to Issue Warrant of Arrest against accused Aguinaldo filed by private prosecutor with conformity of the public prosecutor. x x x

It appears from the records that:

- (1) the warrant of arrest issued against accused Aguinaldo was recalled pending resolution of the Petition for Review filed with the DOJ; x x x
- (2) the Petition for Review was subsequently dismissed
x x x
- (3) accused Aguinaldo has not yet posted bail bond.

In view of the foregoing, (the) Motion to Reinstate Case and to Issue Warrant of Arrest is GRANTED. Let this case be REINSTATED and let warrant of arrest be issued against accused Aguinaldo.

x x x x

SO ORDERED.²⁶

On May 30, 2005, petitioners filed a Motion for Reconsideration with Motion to Quash Warrant of Arrest.²⁷

On August 23, 2005, the public respondent issued an Order denying petitioners' Motion for Reconsideration with Motion to Quash Warrant of Arrest, and setting petitioners' arraignment, as the Revised Rules on Criminal Procedure (or *Rules of Court*) allows only a 60-day period of suspension of arraignment. Citing *Crespo v. Mogul*,²⁸ he also ruled that the issuance of the warrant of arrest is best left to the discretion of the trial court. He also noted that records do not show that the DOJ has resolved the petition for review, although photocopies were presented by De Castro.

Aggrieved, petitioners filed with the CA a Petition for *Certiorari* under Rule 65 of the Rules of Court, attributing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent in issuing the Orders dated May 16, 2005 and August 23, 2005. On August 11, 2006, the CA dismissed the petition for lack of merit. Petitioners filed a motion for reconsideration, but the CA denied it in a Resolution²⁹ dated December 4, 2006. Hence, this instant petition for review on *certiorari*.

²⁶ *Id.* at 155-156. (Citations omitted.)

²⁷ *Id.* at 162-165.

²⁸ 235 Phil. 465 (1987).

²⁹ *Rollo* pp. 44-45.

Petitioners raise the following issues:

I.

THE HONORABLE COURT OF APPEALS FAILED TO APPRECIATE THAT THE MOTION TO REINSTATE THE CASE AND ISSUE A WARRANT OF ARREST WAS FILED BY ONE LEVITA DE CASTRO WHO IS NOT A PARTY TO CRIMINAL CASE NO. 03-21[6]182.

II.

A PROCEDURAL TECHNICALITY THAT THE SUSPENSION ALLOWED FOR ARRAIGNMENT IS ALREADY BEYOND THE 60-DAY PERIOD MAY BE RELAXED IN THE INTEREST OF AN ORDERLY AND SPEEDY ADMINISTRATION OF JUSTICE.

III.

THE PRELIMINARY INVESTIGATION ON THE I.S. NO. 02L-51569 (CRIMINAL CASE NO. 03-21[6]182) BY THE OFFICE OF THE CITY PROSECUTOR OF MANILA HAS NOT YET BEEN COMPLETED.³⁰

On the first issue, petitioners argue that the public respondent erred in issuing the Order dated May 16, 2005 reinstating the case and issuing an arrest warrant against Aguinaldo. They point out that the Motion to Reinstate the Case and to Issue a Warrant of Arrest against Aguinaldo was filed by De Castro who is not a party in Criminal Case No. 03-216182, entitled "*People of the Philippines v. Felilibeth Aguinaldo and Benjamin Perez*," instead of private complainants Reynaldo P. Ventus and Jojo B. Josen. They also assert that said motion was erroneously granted based on the purported denial of their petition for review by the DOJ, despite a Certification showing that their actual petition in I.S. Number 02L-51569, entitled "*Reynaldo Ventus, et al. v. Felilibeth Aguinaldo*," has not yet been resolved and is still pending with the DOJ.

On the second issue, petitioners argue that the provision of Section 11, Rule 116 of the Rules of Court limiting the suspension for arraignment to only sixty (60) days is merely directory; thus, it cannot deprive petitioners of their procedural right to due process, as their petition for review has not yet been resolved by the DOJ.

On the third issue, petitioners take exception that even before they could receive a copy of the DOJ resolution denying their petition for review, and thus move for its reconsideration, the Information in Criminal Case No. 03-216182 had already been filed with the RTC on July 16, 2003. They contend that such precipitate filing of the Information and issuance of a warrant of arrest put petitioners at the risk of incarceration without the preliminary investigation having been completed because they were not

³⁰ *Id.* 16-17.

afforded their right to file a motion for reconsideration of the DOJ resolution. In support of their contention, they raise the following arguments: that the right to preliminary investigation is a substantive, not merely a procedural right; that an Information filed without affording the respondent his right to file a motion for reconsideration of an adverse resolution, is fatally premature; and, that a denial of a complete preliminary investigation deprives the accused of the full measure of his right to due process and infringes on his constitutional right to liberty.

The petition is denied for lack of merit.

On the first issue, petitioners are correct in pointing out that the Motion to Reinstate the Case and Issue a Warrant of Arrest³¹ was filed by one Levita De Castro who is not a party to Criminal Case No. 03-216182. Records show that De Castro is not even a private complainant, but a mere witness for being the owner of the vehicles allegedly used by petitioners in defrauding and convincing private respondents to part with their ₱260,000.00. Thus, the public respondent should have granted petitioners' motion to expunge, and treated De Castro's motion as a mere scrap of paper with no legal effect, as it was filed by one who is not a party to that case.

Petitioners are also correct in noting that De Castro's motion was granted based on the purported dismissal of their petition for review with the DOJ. In reinstating the case and issuing the arrest warrant against Aguinaldo, the public respondent erroneously relied on the DOJ Resolution dated September 6, 2004 dismissing the petition for review in a different case, *i.e.*, I.S. No. 02G-29349 & 02G-28820, entitled "Levita De Castro v. Felilabeth Aguinaldo, for two (2) counts of estafa." As correctly noted by petitioners, however, their petition for review with the DOJ is still pending resolution. In particular, Assistant Chief State Prosecutor Miguel F. Guido, Jr. certified that based on available records of the Office of the Chief State Prosecutor, their petition for review filed in I.S. Number 02L-51569, entitled "Reynaldo Ventus, et al. v. Felilabeth Aguinaldo" for estafa, is still pending resolution as of May 27, 2005.³² It bears stressing that their petition stemmed from Criminal Case No. 03-216812, entitled "People of the Philippines v. Felilabeth Aguinaldo and Benjamin Perez" wherein the public respondent issued the interlocutory orders assailed before the CA, and now before the Court.

On the second issue, the Court disagrees with petitioners' contention that the provision of Section 11 (c),³³ Rule 116 of the Rules of Court limiting

³¹ CA rollo, pp. 91-92.

³² *Id.* at. 97.

³³ Sec. 11. *Suspension of Arraignment.* – Upon motion by the proper party, the arraignment shall be suspended in the following cases:

the suspension for arraignment to only sixty (60) days is merely directory; thus, the estafa case against them cannot proceed until the DOJ resolves their petition for review with finality.

In *Samson v. Judge Daway*,³⁴ the Court explained that while the pendency of a petition for review is a ground for suspension of the arraignment, the aforesaid provision limits the deferment of the arraignment to a period of 60 days reckoned from the filing of the petition with the reviewing office. It follows, therefore, that after the expiration of said period, the trial court is bound to arraign the accused or to deny the motion to defer arraignment.³⁵

In *Diño v. Olivarez*,³⁶ the Court held that it did not sanction an indefinite suspension of the proceedings in the trial court. Its reliance on the reviewing authority, the Justice Secretary, to decide the appeal at the soonest possible time was anchored on the rule provided under Department Memorandum Order No. 12, dated 3 July 2000, which mandates that the period for the disposition of appeals or petitions for review shall be seventy-five (75) days.³⁷

In *Heirs of Feraren v. Court of Appeals*,³⁸ the Court ruled that in a long line of decisions, it has repeatedly held that while rules of procedure are liberally construed, the provisions on reglementary periods are strictly applied, indispensable as they are to the prevention of needless delays, and are necessary to the orderly and speedy discharge of judicial business. After all, rules of procedure do not exist for the convenience of the litigants, and they are not to be trifled with lightly or overlooked by the mere expedience of invoking “substantial justice.” Relaxation or suspension of procedural rules, or the exemption of a case from their operation, is warranted only by compelling reasons or when the purpose of justice requires it.³⁹

Consistent with the foregoing jurisprudence, and there being no such reasons shown to warrant relaxation of procedural rules in this case, the CA correctly ruled, thus:

x x x x

(c) A petition for review of the resolution of the prosecutor is pending at either the Department of Justice, or the Office of the President; Provided, that the period of suspension shall not exceed sixty (60) days counted from the filing of the petition with the reviewing office.

³⁴ 478 Phil. 784 (2004); *Trinidad v. Ang*, 656 Phil. 216 (2011).

³⁵ *Samson v. Judge Daway*, *supra*, at 478; *id.* at 221.

³⁶ 608 Phil. 362 (2009).

³⁷ *Diño v. Olivarez*, *supra*, at 377.

³⁸ G.R. No. 159328, October 5, 2011, 658 SCRA 569, 577.

³⁹ *Hon. Orlando C. Casimiro, in his capacity as Acting Ombudsman, et. al., v. Josefino N. Rigor*, G.R. No. 206661, December 10, 2014.

In the case at bar, the petitioners' petition for review was filed with the Secretary of Justice on February 27, 2004. As early as April 16, 2004, upon the petitioners' motion, the arraignment of the petitioners herein was ordered deferred by the public respondent. We believe that the period of one year and one month from April 16, 2004 to May 16, 2005 when the public respondent ordered the issuance of a warrant for the arrest of petitioner Aguinaldo, was more than ample time to give the petitioners the opportunity to obtain a resolution of their petition for review from the DOJ. The petitioners though submitted a Certification from the DOJ dated May 30, 2005 stating that their petition for review is pending resolution by the Department as of May 27, 2005. However, such delay in the resolution does not extend the period of 60 days prescribed under the afore-quoted Section 11(c), Rule 116 of the Revised Rules on Criminal Procedure. Besides, the petitioners may be faulted for the delay in the resolution of their petition. According to their counsel, she received the letter dated April 15, 2004 from the DOJ requiring her to submit the pertinent pleadings relative to petitioners' petition for review; admittedly, however, the same was complied with only on October 15, 2004. We therefore find that the trial court did not commit grave abuse of discretion in issuing the assailed orders.⁴⁰

On the third issue, the Court is likewise unconvinced by petitioners' argument that the precipitate filing of the Information and the issuance of a warrant of arrest put petitioners at the risk of incarceration without the preliminary investigation having been completed because they were not afforded their right to file a motion for reconsideration of the DOJ resolution.

While they are correct in stating that the right to preliminary investigation is a substantive, not merely a procedural right, petitioners are wrong in arguing that the Information filed, without affording the respondent his right to file a motion for reconsideration of an adverse DOJ resolution, is fatally premature. In support of their argument, petitioners cite *Sales v. Sandiganbayan*⁴¹ wherein it was held that since filing of a motion for reconsideration is an integral part of the preliminary investigation proper, an Information filed without first affording the accused his right to a motion for reconsideration, is tantamount to a denial of the right itself to a preliminary investigation.

The Court finds petitioners' reliance on *Sales*⁴² as misplaced. A closer look into said case would reveal that the accused therein was denied his right to move for a reconsideration or a reinvestigation of an adverse resolution in a preliminary investigation under the Rules of Procedure of the Ombudsman before the filing of an Information. In contrast, petitioners in this case were afforded their right to move for reconsideration of the adverse resolution in a

⁴⁰ *Rollo*, pp. 41-42. (Citations omitted)

⁴¹ 421 Phil. 176 (2001).

⁴² *Id.*

preliminary investigation when they filed their “Motion for Reconsideration and Motion for the Withdrawal of Information Prematurely Filed with the Regional Trial Court, Branch 8, City of Manila,”⁴³ pursuant to Section 3 of the 2000 National Prosecution Service (*NPS Rule on Appeal*)⁴⁴ and Section 56 of the Manual for Prosecutors⁴⁵.

With the Information for estafa against petitioners having been filed on July 16, 2003, the public respondent cannot be faulted with grave abuse of discretion in issuing the August 23, 2005 Order denying their motion to quash warrant of arrest, and setting their arraignment, pending the final resolution of their petition for review by the DOJ. The Court believes that the period of almost one (1) year and seven (7) months from the time petitioners filed their petition for review with the DOJ on February 27, 2004 to September 14, 2005⁴⁶ when the trial court finally set their arraignment, was more than ample time to give petitioners the opportunity to obtain a resolution of their petition. In fact, the public respondent had been very liberal with petitioners in applying Section 11 (c), Rule 116 of the Rules of Court which limits the suspension of arraignment to a 60-day period from the filing of such petition. Indeed, with more than eleven (11) years having elapsed from the filing of the petition for review and petitioners have yet to be arraigned, it is now high time for the continuation of the trial on the merits in the criminal case below, as the 60-day period counted from the filing of the petition for review with the DOJ had long lapsed.

On whether petitioners were accorded their right to a complete preliminary investigation as part of their right to due process, the Court rules in the affirmative. Having submitted his Counter-Affidavit and Rejoinder-Affidavit to the OCP of Manila before the filing of Information for estafa, Perez cannot be heard to decry that his right to preliminary investigation was not completed. For her part, while Aguinaldo was not personally informed of any notice of preliminary investigation prior to the filing of the Information, she was nonetheless given opportunity to be heard during such investigation. In petitioners' motion for reconsideration⁴⁷ of the February 25, 2003

⁴³ CA rollo, pp. 45-58.

⁴⁴ Department Circular No. 70. Section 3. *Period to appeal*. – The appeal shall be taken within fifteen (15) days from receipt of the resolution, or of the denial of the motion for reconsideration/reinvestigation if one has been filed within fifteen (15) days from receipt of the assailed resolution. Only one motion for reconsideration shall be allowed.

⁴⁵ Section. 56. *Motion for reconsideration*. - A motion for reconsideration may be filed within ten (10) days from receipt of the resolution. The motion shall be verified, addressed to the Provincial/City Prosecutor or the Chief State Prosecutor, and accompanied by proof of service of a copy thereof on the opposing party and must state clearly and distinctly the grounds relied upon in support of the motion.

A motion for reconsideration is still part of due process in the preliminary investigation. The denial thereof is a reversible error as it constitutes a deprivation of the respondent's right to a full preliminary investigation preparatory to the filing of the information against him. The court therefore may not proceed with the arraignment and trial pending resolution of the motion for reconsideration.

⁴⁶ CA rollo, p. 30.

⁴⁷ *Id.* 45-58. Captioned: “Motion for Reconsideration and Motion for the Withdrawal of Information Prematurely Filed with the Regional Trial Court, Branch 8, City of Manila.”

Resolution of ACP Gonzaga, Aguinaldo relied mostly on the Counter-Affidavit and Rejoinder-Affidavit of Perez to assail the recommendation of the prosecutor to indict her for estafa. Since the filing of such motion for reconsideration was held to be consistent with the principle of due process and allowed under Section 56 of the Manual for Prosecutors,⁴⁸ she cannot complain denial of her right to preliminary investigation.

Both petitioners cannot, therefore, claim denial of their right to a complete preliminary investigation as part of their right to due process. After all, “[d]ue process simply demands an opportunity to be heard. Due process is satisfied when the parties are afforded a fair and reasonable opportunity to explain their respective sides of the controversy. Where an opportunity to be heard either through oral arguments or through pleadings is accorded, there is no denial of procedural due process.”⁴⁹

In fine, the Court holds that public respondent erred in issuing the May 16, 2005 Order granting the Motion to Reinstate Case and to Issue Warrant of Arrest, as it was filed by one who is not a party to the case, and it was based on the DOJ's dismissal of a petition for review in a different case. Nevertheless, the Court upholds the CA ruling that the public respondent committed no grave abuse of discretion when he issued the August 23, 2005 Order denying petitioners' motion to quash warrant of arrest, and setting their arraignment, despite the pendency of their petition for review with the DOJ. For one, the public respondent had been very liberal in applying Section 11 (c), Rule 116 of the Rules of Court which allows suspension of arraignment for a period of 60 days only. For another, records show that petitioners were given opportunity to be heard during the preliminary investigation of their estafa case.

Considering that this case had been held in abeyance long enough without petitioners having been arraigned, the Court directs the remand of this case to the trial court for trial on the merits with strict observance of Circular No. 38-98 dated August 11, 1998, or the “Implementing the Provisions of Republic Act No. 8493, entitled 'An Act to Ensure a Speedy Trial of All Criminal Cases Before the Sandiganbayan, Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court and Municipal Circuit Trial Court, Appropriating Funds Therefor, and for Other Purposes.’” In this regard, suffice it to state that petitioners cannot invoke violation of their right to speedy trial because Section 9 (3) of Circular No. 38-98 excludes in computing the time within which trial must commence the delay resulting from extraordinary remedies against interlocutory orders, such as their petitions before the CA and the Court.

⁴⁸ *Ombudsman v. Castro*, 510 Phil. 380, 383 (2005).

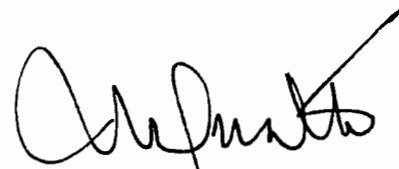
⁴⁹ *Catacutan v. People of the Philippines*, G.R. No. 175991, August 31, 2011, 656 SCRA 524, 632. (Citations omitted).

Finally, in order to avoid delay in the proceedings, judges are reminded that the pendency of a motion for reconsideration, motion for reinvestigation, or petition for review is not a cause for the quashal of a warrant of arrest previously issued because the quashal of a warrant of arrest may only take place upon the finding that no probable cause exists. Moreover, judges should take note of the following:

1. If there is a pending motion for reconsideration or motion for reinvestigation of the resolution of the public prosecutor, the court may suspend the proceedings upon motion by the parties. However, the court should set the arraignment of the accused and direct the public prosecutor to submit the resolution disposing of the motion on or before the period fixed by the court, which in no instance could be more than the period fixed by the court counted from the granting of the motion to suspend arraignment, otherwise the court will proceed with the arraignment as scheduled and without further delay.
2. If there is a pending petition for review before the DOJ, the court may suspend the proceedings upon motion by the parties. However, the court should set the arraignment of the accused and direct the DOJ to submit the resolution disposing of the petition on or before the period fixed by the Rules which, in no instance, could be more than sixty (60) days from the filing of the Petition for Review before the DOJ, otherwise, the court will proceed with the arraignment as scheduled and without further delay.


WHEREFORE, premises considered, the petition is **DENIED**. The Decision dated August 11, 2006 of the Court of Appeals and its Resolution dated December 4, 2006 in CA-G.R. SP No. 92094, are **AFFIRMED**. Considering that the proceedings in this criminal case had been held in abeyance long enough, let the records of this case be remanded to the trial court which is hereby **DIRECTED** to try the case on the merits with dispatch in accordance with the Court's Circular No. 38-98 dated August 11, 1998.

SO ORDERED.

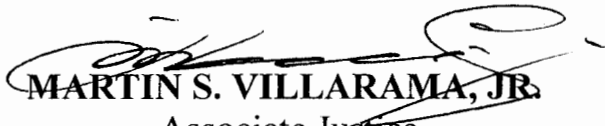


DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:



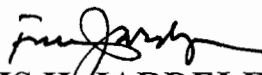
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



MARTIN S. VILLARAMA, JR.
Associate Justice




BIENVENIDO L. REYES
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

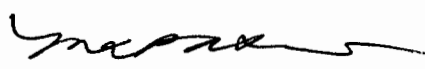
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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.



MARIA LOURDES P. A. SERENO
Chief Justice