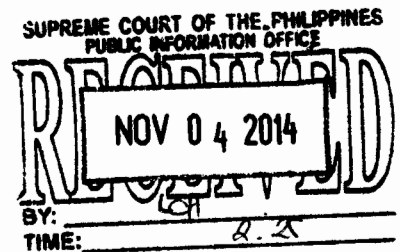




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 13, 2014** which reads as follows:*

“G.R. No. 199653 (*SMART Communications, Inc. v. People of the Philippines and Jose Leni Z. Solidum*). – The Court **DENIES due course to the appeal filed by petitioner under Rule 45 of the Rules of Court based on the grounds of (1) lack of standing to file the case and (2) double jeopardy.**

Before this Court, petitioner ultimately seeks the reversal of the consistent rulings of the court *a quo* for the dismissal of the **criminal case** against respondent for *other deceits*. However, petitioner has no standing to file the instant pleading. In *Rodriguez v. Gadiane*,¹ this Court explained that:

If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General. Only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or complainant may not take such appeal.

In special civil actions for certiorari, in which the private offended party invokes the interest of substantial justice, grave error committed by the judge, or lack of due process, the Court allows the appeal to prosper despite the non-participation of the Office of the Solicitor General.² But in the present Rule 45 Petition, we find no exceptional circumstances that would justify the allowance of the appeal.

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¹ 527 Phil. 691, 698 (2006).

² *Cariño v. De Castro*, 576 Phil. 634 (2008) citing *Mobilia Products, Inc. v. Umezawa*, 439 Phil. 85 (2005), *Narciso v. Sta. Romana-Cruz*, 385 Phil. 208 (2000), *Perez v. Hagonoy*, 384 Phil. 322 (2000), and *People v. Santiago*, 255 Phil. 851 (1989).

Even more, we rule that under Section 1, Rule 122 of the Revised Rules of Criminal Procedure,³ double jeopardy completely disallows the appeal filed by petitioner. The elements of double jeopardy are as follows: (1) the complaint or information was sufficient in form and substance to sustain a conviction; (2) the court had jurisdiction; (3) the accused had been arraigned and had pleaded; and (4) the accused was convicted or acquitted or the case was dismissed without the express consent of the accused.⁴ In this case, respondent has already been arraigned before the Metropolitan Trial Court under a valid Information for *other deceits*. The parties' remaining contention, therefore, lies in the correctness of the termination of the criminal proceedings on the grounds of the failure to prosecute and the violation of the right of the accused to a speedy trial.

The right to speedy trial requires a trial free from vexatious, capricious or oppressive delays. Unjustified postponements that prolong the trial for an unreasonable length of time are what offend the right of the accused to speedy trial.⁵

Here, based on the findings of fact enumerated by the courts *a quo*, numerous incidents, not attributable to respondent, caused the protracted trial. The Metropolitan Trial Court found that:⁶

It appears on record that this case is set for reception of prosecution's evidence way back on February 20, 2009. On February 10, 2009, the prosecution was given one last chance to present its evidence on April 1, 2009 at 1:30 P.M. The reception of prosecution evidence was thereafter reset to September 15, 2009 and then to December 15, 2009.

The Regional Trial Court, on the other hand, listed and explained the delays as follows:⁷

1. SMART filed a Motion to Defer Arraignment dated April 11, 2007.
2. SMART filed a Motion to Defer Arraignment and Suspend Proceedings dated October 4, 2007.
3. In view of the filing of SMART of a Petition for Review with the DOJ, Judge Quinagoran issued an Order dated October 8, 2007 suspending the arraignment of the accused for sixty (60) days, or until December 12, 2007.
4. SMART filed another Motion to Suspend Proceedings and Defer Arraignment on December 7, 2007.
5. SMART filed a Motion to Nullify Arraignment and Vacate Plea on January 21, 2008.

³ The provision reads:

Section 1. Who may appeal. — Any party may appeal from a judgment or final order, unless the accused will be placed in double jeopardy.

⁴ *Tiu v. Court of Appeals*, 604 Phil. 48 (2009).

⁵ *Co v. New Prosperity Plastic Products*, G.R. No. 183994, 30 June 2014.

⁶ Records, pp. 20-21.

⁷ *Rollo*, pp. 1092-1093.

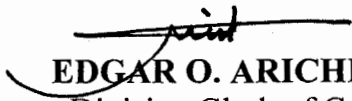
6. SMART filed a Manifestation and Motion praying to cancel the trial on February 10, 2009.
7. On February 10, 2009, since the prosecution is not ready to present its evidence on that day, the prosecution was given one (1) last chance to present its evidence on April 1, 2009.
8. On the scheduled trial on April 1, 2009, both the presiding judge and the public prosecutors did not appear.
9. On the scheduled trial on June 30, 2009, the public prosecutors again did not appear.
10. On September 14, 2009, SMART filed a Motion to Nullify Pre-Trial Conference.
11. On the scheduled trial on September 15, 2009, Judge Moreno rescheduled the trial on December 15, 2009 and ordered the parties to file their respective Comment and Reply to the Motion to Nullify Pre-Trial Conference.
12. On December 14, 2009, one day before the scheduled hearing on December 15, 2009, SMART filed three (3) motions, namely: 1) Motion for Reconsideration (Order dated November 17, 2009); 2) Urgent Manifestation and Motion (To Refer Case to Judge Moreno); and 3) Manifestation And Motion.

Based on the list above, petitioner filed at least six motions for the deferment of the proceedings, citing as reason the pendency of other unresolved incidents.⁸ The prosecutors themselves moved for two postponements of crucial trial dates because of their absence and failure to prepare for trial.⁹ With these clear instances of numerous and inordinate delays found by the lower courts, this Court affirms their holding to dismiss the proceedings for *other deceits*. In turn, given the justified dismissal of the criminal case, the constitutional right of respondent against double jeopardy already prohibits the instant appeal.¹⁰

IN VIEW THEREOF, the Petition filed on 20 January 2012 by petitioner SMART Communications, Inc. is hereby **DENIED**.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court

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⁸ These incidents are enumerated by the RTC in items 1, 2, 4, 6, 10, and 14. *See rollo*, pp. 301-307; records pp. 68-72 and 268-269; and *rollo*, pp. 606-610; 639-644 and 762.

⁹ These postponements are enumerated by the RTC in items 7 and 9. *See records* pp. 22.

¹⁰ *Villareal v. People*, G.R. No. 151258, 1 February 2012, 664 SCRA 519, 549.

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