

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

C.T.A. CRIM. CASE NO. O-149

Members:

- versus -

ACOSTA, *Chairperson*
UY, *and*
FABON-VICTORINO, JJ.

Promulgated:

JOSE B. ISONG,

Accused.

MAY 26 2011 ; 2:47 pm

x- - - - -x

RESOLUTION

Fabon-Victorino, J.:

On January 13 and 27, 2011, counsel for the People failed to appear to present further evidence, despite due notice. In view thereof and at the instance of accused, the prosecution was deemed to have waived its right to present further evidence.

Thereafter, the Court, in the Resolution dated February 14, 2011 and received on February 18, 2011, granted the prosecution thirty (30) days from notice to file its formal offer of exhibits. However, the period granted lapsed on March 20, 2011, without the prosecution having complied with the Court's directive. ✓

This notwithstanding and with utmost leniency, the Court, in the Resolution dated April 12, 2011, granted the prosecution a fresh but non-extendible period of fifteen (15) days from receipt to file the required formal offer of exhibits. Again, the prosecution, in utter disregard of the court process, failed to file any.

Section 3, Rule 17 of the Rules of Court, provides that the court may dismiss the complaint if for no justifiable cause, the plaintiff fails to appear on the presentation of the evidence-in-chief, or for his failure to prosecute his action for an unreasonable length of time.¹ The provision reads as follows:

SEC. 3. Dismissal due to fault of plaintiff.
-- If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

Thus, the Court may dismiss a case if any of the following circumstances occur: (1) if the plaintiff fails to appear at the time

¹ Sps. Zarate v. Maybank Philippines, G.R. No. 160976, June 8, 2005.

of trial; or (2) if he fails to prosecute the action for an unreasonable length of time; or (3) if he fails to comply with the Rules of Court or any order of the court.² The dismissal of the case for failure to prosecute has the effect of adjudication on the merits and it is understood to be with prejudice to the filing of another action unless otherwise provided in the order of dismissal. In other words, unless there be a qualification in the order of dismissal that it is without prejudice, the dismissal should be regarded as an adjudication on the merits and is with prejudice.³

Obviously, the instant case falls squarely within the parameter set by the above cited rule and jurisprudence. Plaintiff not only failed to appear on two consecutive hearings set for the presentation of its evidence-in-chief and to prosecute its action within a reasonable length of time, it also failed to comply with the orders of the Court, justifying the dismissal of the instant case. The prosecution is culpable for disregard if not defiance of the court process and for want of due diligence in failing to proceed with reasonable promptitude.⁴ ✓

² Gomez vs. Alcantara, G.R. No. 179556, February 13, 2009

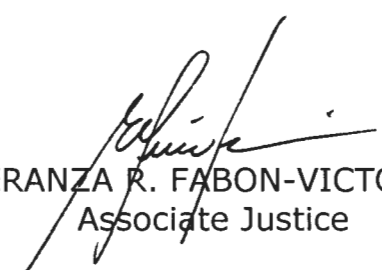
³ Justice Puno, De Knecht v. Court of Appeals, G.R. No. 108015, De Knecht v. Sayo, G.R. No. 109234, May 20, 1998.

⁴ Suarez vs. Villarama, Jr., G.R. NO. 124512, June 27, 2006

Note that every court has the power to enforce and compel obedience to its orders, judgments, and processes in all proceedings pending before it. This order is but a valid exercise of the said power.⁵

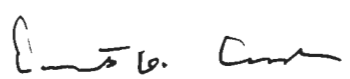
WHEREFORE, this case is hereby **DISMISSED**, for failure to prosecute.

SO ORDERED.



ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:



ERNESTO D. ACOSTA
Presiding Justice



ERLINDA P. UY
Associate Justice

⁵ Vicoy v. People, G.R. No. 138203, July 3, 2002.