SUPREME COURT
EN BANC

MANUEL Q. CABALLERO and LELITA A. CABALLERO,
***Petitioners*,**

-versus-

G.R. No. L-45647
August 21, 1987

HON. FEDERICO B. ALFONSO, JR., as Judge, Branch III, Court of First Instance of Misamis Oriental, HON. CONRADO ESTRELLA, as Secretary of the Department of Agrarian Reform, FERNANDO ESCONDE, GREGORIO BAKEREL, CESAR NAVARRO, AND FRANK RODRIGUEZ,
***Respondents*.**
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D E C I S I O N

PADILLA, *J.*:

Petition for Certiorari, Prohibition, and Mandamus with Preliminary injunction, to annul and set aside the Order issued by the respondent judge on 10 January 1977 in Special Civil Case No. 386-M of the Court of First Instance of Misamis Oriental, insofar as it ordered the suspension of the proceedings in said case, pending the comment

and/or certification thereon by the respondent Secretary of Agrarian Reform in accordance with PD 1038.

The facts of the case which led to the filing of the instant petition are as follows:

> On 19 November 1976, petitioners, spouses Manuel and Lelita Caballero, claiming to be the absolute owners of several contiguous parcels of land planted with coconut trees, situated in Salubsub, San Isidro, Gingoog City, filed a petition for injunction with restraining order and damages against the herein private respondents Fernando Esconde, Cesar Navarro, Gregorio Bakerel, and Francisco (Frank) Rodriguez, together with William Abatayo, Elmer Almonte, Teodorico Amoncio, and Pedro Amper, with the Court of First Instance of Misamis Oriental, docketed therein as Special Civil Case No. 386-M, for having allegedly entered the aforementioned parcels of land and illegally harvested the fruits of the coconut trees planted therein without petitioners' knowledge and consent, to the prejudice of said petitioners, for which they claimed damages in the sum of P7,000.00.[1]
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> Answering, the private respondents admitted that the petitioners are the lawful owners of the parcels of land described in the petition. They claimed, however, that the respondents Fernando Esconde, Cesar Navarro, and Gregorio Bakerel are the tenants on the land, while the rest, except Francisco (Frank) Rodriguez who is allegedly an investigator designated by the Land Reform Farmers' Association to organize the tenants into an association to put up a solid front in a program to help the New Society and to secure the success of the land reform program, are the harvesters of the coconut lands. They also contended that the court has no jurisdiction over the case, which is purely agrarian in nature and cognizable by the Court of Agrarian Relations. As counterclaim, said respondents alleged that they suffered moral damages for mental anguish, mental torture, wounded feelings, moral shock, serious anxiety and other inconveniences as a result of the filing of the case, for which they asked to be paid the sum of P172,000.00.[2]

> After hearing, or on 13 December 1976, the respondent judge found that the issuance of a temporary restraining order would be proper in the interest of justice and, consequently, ordered the respondents to cease and desist from gathering fruits from the coconut trees in the land until the petition for injunction shall have been heard and resolved.[3]
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> The respondents filed a motion for reconsideration of said order,[4] and on 10 January 1977, the respondent judge issued the controversial order suspending hearings on the case pending the comment and/or certification thereon by the Secretary of Agrarian Reform, in accordance with PD 1038.[5] The petitioners moved for reconsideration of this order, but their motion was denied.[6]

Hence, the present recourse.

Pertinent provisions of the Decree (PD 1038) requiring referral of cases involving landlord and tenant to the Secretary of Agrarian Reform read as follows:

> "SEC. 2. No judge of the courts of agrarian relations, courts of first instance, city or municipal courts, or any other tribunal or fiscal shall take cognizance of any ejectment case or any other case designed to harass or remove a tenant of an agricultural land primarily devoted to rice and/or corn, unless certified by the Secretary of Agrarian Reform as a proper case for trial or hearing by a court or judge or other officer of competent jurisdiction and, if any such case is filed, the case shall first be referred to the Secretary of Agrarian Reform or his authorized representative in the locality for a preliminary determination of the relationship between the contending parties. If the Secretary of Agrarian Reform or his authorized representative in the locality finds that the case is a proper case to hear, he shall so certify and such court, judge or other hearing officer may assume jurisdiction over the dispute or controversy.

> "The preliminary determination of the relationship between the contending parties by the Secretary of Agrarian Reform, or his authorized representative, is not binding upon the court, judge or hearing officer to whom the case is certified as a proper case for trial. Said court, judge or hearing officer may, after due hearing, confirm, reverse or modify said preliminary determination as the evidence and substantial merits of the case may warrant.
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> "SEC. 3. All cases still pending before any court, fiscal or other investigating body which are not yet submitted for decision or resolution shall likewise be referred to the Department of Agrarian Reform for certification as provided in the preceding section."

As may be noted, the law requires that an ejectment case or any case designed to harass or remove a tenant should first be referred to the Secretary of Agrarian Reform for a preliminary determination of the relationship between the parties. The Solicitor General, in his Memorandum for the public respondents,[7] explains that the referral of ejectment cases against a tenant to the Secretary of Agrarian Reform is intended to prevent the filing of suits designed to harass the tenant who can ill afford to engage in such suits. He says:

> "The requirement of preliminary determination by the Secretary of Agrarian Reform is intended to protect tenants in agricultural lands from vexatious and oppressive litigations and save them the expense and the anxiety of such trials. Courts can be trusted to protect tenants from malicious and oppressive lawsuits, but because of the nature of the adversary system they cannot act at the beginning so as to save tenants the expense and trouble of having to defend themselves against such cases. Under the adversary system tenants will have to defend themselves, which means that they have to hire counsel, pay for transportation of witnesses, and incur other expenses incident to trial before they may finally get vindication. The system thus compels them to go to trial and thereby go into expense."

Petitioners claim, however, that the decree, ordering the referral of cases to the Secretary of Agrarian Reform, is unconstitutional as it is

an undue encroachment on the independence of the judiciary and places courts of justice under the "control and supervision" of the Secretary of Agrarian Reform.

The contention is devoid of merit. It proceeds from an erroneous assumption that the Secretary of Agrarian Reform is the final arbiter on the question of whether or not an ejectment case (or a case designed to harass or remove a tenant) filed against a tenant, may be tried by the courts. A close look at the law in question will show that no such power has been granted the Secretary of Agrarian Reform. In the first paragraph of Section 2 of the law in question, it is stated that a case which seeks the ejectment, harassment or ouster of a tenant from the landholding should be referred to the Secretary of Agrarian Reform "for a preliminary determination of the relationship between the contending parties." However, the second paragraph of the same section provides that "the preliminary determination of the relationship between the contending parties by the Secretary of Agrarian Reform, or his authorized representative, is not binding upon the court, judge or hearing officer to whom the case is certified," and that "said court, judge or hearing officer may, after due hearing, confirm, reverse or modify said preliminary determination as the evidence and substantial merits of the case may warrant." Since the referral of ejectment and other cases against a tenant to the Secretary of Agrarian Reform is only for the preliminary determination of the relationship between the contending parties and the findings of the Secretary of Agrarian Reform are not binding on the courts, there is no diminution of judicial power involved in the operation of the law nor an encroachment on the independence of the judiciary by the Secretary of Agrarian Reform.

But, suppose, the Secretary of Agrarian Reform, after such preliminary determination of the relationship of the parties, refuses to certify the case to the court as proper for hearing? Then, resort to the courts may still be made. This Court has categorically declared that there is an underlying power in the courts to scrutinize the acts of agencies exercising quasi-judicial or legislative powers on questions of law and jurisdiction even though no right of judicial review is expressly given by statute.[8]

Petitioners contend that the law in question is not a valid exercise of police power by the state, mainly because it is not directed to produce the greatest benefit to all the members of society. They contend further that the actual operation of the challenged decree has caused hardship and injustice to many, hampered instead of hastened the social and economic progress of the community and wrought havoc and chaos in the orderly administration of justice, 9 because it ties the hands of the courts, while a case is pending before the Department of Agrarian Reform for certification. To underscore their claim, petitioners cite the "run-around" they have experienced in pursuing their cause. They state:

> "They have exhausted all the legal remedies available in the inferior courts such as the Courts of First Instance of Misamis Oriental, City Court of Gingoog City, including the Office of the City Fiscal of Gingoog City and the Civil Affairs Office of the Philippine Constabulary of Misamis Oriental as well as the Court of Agrarian Relations. All the parties herein have been at a "dead-end," occasioned by the "referral provisions" in some of the agrarian laws more specifically the pertinent Presidential Decrees. The first legal action taken by petitioners in the government offices below were the criminal charges of thefts against herein private respondents directly filed with the Office of the City Fiscal of Gingoog City but which the City Fiscal had to refer to the Regional Office of the Department of Agrarian Reform at Cagayan de Oro City as required by Presidential Decrees and which criminal cases up to now have not been "preliminarily determined" by the said Regional Office.
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> "Another case — a special civil action — was instituted by petitioners against private respondents herein in the Court of First Instance of Misamis Oriental, Branch II, at Medina, Misamis Oriental, but which Court of First Instance, after having taken cognizance of the case, had to "refer" the same to the Secretary of Agrarian Reform, Quezon City, "for his comment and/or certification.' Later on private respondents filed a civil case against one of petitioners herein before the Court of Agrarian Relations at Cagayan de Oro City, but the Agrarian Court held in abeyance the hearing of the case due to the pendency of that prior case in the Court of First Instance as

> well as the pendency of the present action before this Honorable Supreme Court. Even the Civil Affairs Office of the Provincial Command of the Philippines Constabulary in Misamis Oriental could not entertain the complaints and counter-complaints of the parties herein, because the PC authorities have to abide with the "referral provisions" which empower the Department of Agrarian Reform to exercise the authority of "certifying" to the "propriety" or "impropriety" of the subject-matter."[10]

The above allegations, however, eloquently show that the "run-around" which petitioners have gone through is more a product of their own doing rather than a flaw in the operation of the questioned law. Instead of moving from one forum to another, while their cases were pending before the Department of Agrarian Reform for certification, petitioners could have seasonably instituted an action to compel the Secretary of Agrarian Reform to issue said certification, one way or the other, after an unreasonable period of inaction.

Petitioners assert that the operation of the challenged law violates the constitutional provision on the right to a "speedy disposition of cases." Corollary to this, they submit that the challenged law complicates the prescriptive period of offenses and the criminal and civil liabilities provided in the Revised Penal Code and other penal laws. To nourish their argument, petitioners call attention to the fact that even prior to 30 November 1976, they had filed directly with the Office of the City Fiscal of Gingoog City, two (2) criminal complaints, one, for theft of bamboo poles and the other, for theft of coconuts, against private respondents. And as mandated by the challenged law, the City Fiscal forwarded both case, on 1 February 1977 and 1 July 1977, respectively, to the Office of the Department of Agrarian Reform in Misamis Oriental, for referral purposes. As a result, months have passed, and yet, no advice or resolution has been received by the City Fiscal from the Department of Agrarian Reform. Petitioners then conclude: "As to why as of July 1, 1977 no action has been taken by the Regional DAR on the referral cases (and this is so until now) is beyond comprehension. This obtaining actual situation is this not a violation of Sec. 16 of the Bill of Rights (sic)? Justice delayed is justice denied."[11]

The guarantee of the right to "a speedy disposition of cases," which the Constitution expressly provides,[12] recognizes the truism that justice delayed can mean justice denied. Likewise, the broad sweep that the guarantee comprehends, when it provides that the right is available before all judicial, quasi-judicial or administrative bodies, confirms that the application of the immunity from arbitrary and oppressive delays is not limited to an accused in a criminal proceeding but extends to all parties and in all cases. Hence, under the constitutional provision, any party to a case may demand expeditious action of the part of all who are officially tasked with he proper administration of justice.

However, "speedy disposition of cases" is a relative term. Just like the constitutional guarantee of "speedy trial"[13] accorded an accused in all criminal proceedings, "speedy disposition of cases" is a flexible concept.[14] It is consistent with delays and depends upon the circumstances. What the Constitution prohibits are unreasonable, arbitrary and oppressive delays which render rights nugatory.

In the determination of whether or not the right to a "speedy trial" has been violated, certain factors may be considered and balanced against each other. These are length of delay, reason for the delay, assertion of the right or failure to assert it, and prejudice caused by the delay.[15] The same factors may also be considered in answering judicial inquiry whether or not a person officially charged with the administration of justice has violated the "speedy disposition of cases" guarantee.

To strike down a law on the ground that it violates the guarantee of "speedy disposition of cases" requires more than a citation of what may be a misfeasance or malfeasance of a public officer whose duty and responsibility it is to apply and administer the law. The challenge must be based on a clear showing that it is the law, or its operation, and not merely its administration, which invades and impairs constitutionally protected personal or property rights. In the case at bar, it is true that the referral of cases to the Department of Agrarian Reform opens the door to more bureaucratic red tape and, perhaps, more opportunities for corrupt practices. The defects in the bureaucratic system do not, however, constitute valid arguments against the merits of legislative policy intended to protect the

legitimate tenant-tiller. Besides, it is not for this Court to determine the wisdom of PD 1038. This is a matter left for Congress to re-examine in the exercise of its legislative authority.

Contrary to the petitioners' argument, the challenged law does not complicate the prescriptive periods of offenses and criminal and civil liabilities as provided in the Revised Penal Code and other penal laws. Under Art. 91 of the Revised Penal Code, a period of prescription which has run before it is interrupted, commences to run again only in two instances: (1) when a proceeding based upon a complaint or an information terminates without the accused being convicted or acquitted or (2) when such a proceeding is unjustifiably stopped for any reason not imputable to an accused.

Applying these rules, once a complaint is filed with the fiscal and the latter refers the case to the Secretary of Agrarian Reform or his representative in the locality for preliminary determination, as a consequence of an allegation by the respondent of a tenant-landlord relationship between him and the complainant, and harassment by the latter, such a referral does not operate to resume the running of prescription. This is so because, under the challenged law, the referral of a case to the Secretary of Agrarian Reform does not "terminate," but merely suspends, a proceeding. To "terminate" means to put an end to, to make to cease or to end.[16] It connotes finality. On the other hand, the referral of a case to the Secretary of Agrarian Reform merely discontinues temporarily a proceeding, or stops it with an expectation of resumption. Likewise, when a proceeding before a fiscal is temporarily stopped by virtue of a faithful compliance with the challenged law, neither can the suspension be considered unjustifiable, and thus it is not a legal ground for the resumption of the running of the period of prescription.

Considering, therefore, that the referral of a case to the Secretary of Agrarian Reform does not permit the resumption of the running of the period of prescription, the argument that the challenged Decree provides a means by which offenses may prescribe during the pendency of cases involving such offenses before the Secretary of Agrarian Reform or his representative for preliminary determination, cannot be accepted seriously.

However, while we hold that the assailed Decree is constitutional, it is nonetheless clear that the order directing referral of the case to the Secretary of Agrarian Reform was issued on 10 January 1977. Ten (10) years have elapsed since then and the Secretary of Agrarian Reform has had more than sufficient time to conduct the required preliminary determination of the relationship of the parties, but he has evidently not done so. It is now time for said court to settle and decide the issues between the contending parties in this case, without waiting for the certification of the Secretary of Agrarian Reform.

WHEREFORE, the petition is granted. That portion of the Order issued on 10 January 1977 in Special Civil Case No. 386-M of the Court of First Instance of Misamis Oriental, entitled: "Manuel Q. Caballero, et al., petitioners versus Fernando Esconde, et al., respondents," which directed the suspension of the proceedings in said case, pending the comment and/or certification thereon by the Secretary of Agrarian Reform, is hereby set aside. The respondent judge is directed to hear and decide said case as expeditiously as possible. Without costs.

SO ORDERED.

Teehankee, *C.J.*, Yap, Fernan, Narvasa, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Bidin, Sarmiento and Cortes, *JJ.*, concur.

Melencio-Herrera, J., is on leave.

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[1] Rollo, p. 16.
[2] Id., p. 21.
[3] Id., p. 24.
[4] Id., p. 29.
[5] Id., p. 36.
[6] Id., pp. 4-5, Pars. VI & VII of Petition.
[7] Id., pp. 79-84.
[8] Dabuet vs. Roche Pharmaceuticals, Inc., G.R. No. L-45402, April 30, 1987, and cases cited therein.
[9] Memorandum for Petitioners, p. 23.
[10] Id., pp. 2-3.
[11] Id., p. 42.

[12] Cons. (1973), Art. IV, Sec. 16; Cons. (1987) Art. III, Sec. 16.
[13] Cons. (1973), Art. IV, Sec. 19; Cons. (1987) Art. 111, Sec. 14, Par. 2.
[14] On the aspect of "speedy trial," the U.S. Supreme Court, in the case of Barker vs. Wingo, 407 US 514 [1972], candidly said thus: "Finally, and perhaps most importantly, the right to speedy trial is a more vague concept than other procedural rights. It is, for example, impossible to determine with precision when the right has been denied. We cannot definitely say how long is too long in a system where justice is supposed to be swift and deliberative."
[15] Barker vs. Wingo, supra.
[16] Towne vs. Towne, 117 Mont. 453, 119 P. 2d 352. 357.