



REPUBLIC OF THE PHILIPPINES

*S*andiganbayan

Quezon City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, **CASE NO. SB-15-CRM-0283**

*Plaintiff, For: Violation of Section 3(e) of RA 3019,*

- versus -

Present:

**RENE L. RELAMPAGOS,  
ET AL.,**

*Accused.*

**DE LA CRUZ, J.,** *Chairperson*  
**PONFERRADA, J.**  
**LAGOS, JJ.**

Promulgated on:

JAN 21 2016

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RESOLUTION

**DE LA CRUZ, J.**

This resolves the following:

1. Accused Rene L. Relampagos' *Omnibus Motion (1) To Dismiss Based on Lack of Probable Cause; and/or (2) To Quash the Information for Violation of Accused's Right to Speedy Disposition of Cases*, dated October 26, 2015;
2. *Motion to Dismiss*, dated November 2, 2015, of accused Edgardo M. Chatto, Isabelito B. Tongco, Concepcion O. Lim, Tomas D. Abapo, Jr. and Felix R. Uy (Chatto, et al.);
3. Accused Dennis C. Villareal's *Omnibus Motion (1) For the Outright Dismissal of the Case; or Alternatively (2) For Judicial Determination of Probable Cause; (3) For Deferment and/or Suspension of Proceedings; and (4) For Production of the Records of Preliminary Investigation*, dated November 9, 2015;
4. Prosecution's *Consolidated Comment/Opposition*, dated December 1, 2015;

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5. Accused Relampagos' *Reply*, dated December 29, 2015;  
and

6. Accused Villareal's *Reply* (To the Office of the Special Prosecutor's Consolidated Comment/Opposition dated 1 December 2015).

In their separate motions, the accused-movants are one in claiming that the preliminary investigation of this case was attended by capricious, vexatious, oppressive, and unjustified delay violative of their constitutional right to speedy disposition of cases, as shown by the following material dates.

1. October 25, 2000.—A criminal complaint against the accused was filed before the Office of the Deputy Ombudsman for the Visayas.

2. February 22, 2001.—Graft Investigation Officer II (GIO II) Sarah Jo A. Vergara prepared a Resolution recommending the dismissal of the complaint for lack of merit. Her Resolution was reviewed and approved by Graft Investigation Officer III Virginia Palanca Santiago.

3. March 21, 2001.—The Resolution dismissing the complaint was recommended for approval by Deputy Ombudsman for the Visayas Primo C. Miro to then Ombudsman Aniano A. Desierto.

4. July 2, 2008.—Then Acting Ombudsman Orlando C. Casimiro approved the dismissal of the complaint.

5. August 5, 2013.—Assistant Special Prosecutor III (ASP III) Faye B. Isaguirre-Singson prepared a resolution reversing the dismissal of the complaint.

6. August 22, 2014.—Ombudsman Conchita Carpio-Morales approved ASP III Isaguirre-Singson's resolution for the filing of the Information.

7. October 23, 2015.—The subject Information was filed before the Sandiganbayan.

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In addition, accused Relampagos and accused Villareal separately argue that there is no probable cause to charge them of violation of Section 3(g) of Republic Act 3019. They likewise point out that the dismissal of the complaint had long attained finality when private complainant did not further question the dismissal. According to accused Villareal, the reasons of the Office of the Ombudsman—only a *photocopy of the 2001 Resolution (dismissing the complaint) was signed and the same was not attached to the records of the case; there was no showing that Acting Ombudsman Casimiro was duly designated to approve the dismissal*—are not justifications to disturb the finality and immutability of the 2001 Resolution.

By way of opposition, the prosecution refutes that the Office of the Ombudsman committed inordinate delay in the resolution of the complaint against the accused-movants. It contends that the delay was never intended to oppress the accused but to ensure that the Office issues a correct or valid resolution or order. The prosecution further points out that the accused never moved for the early disposition of the complaint during its pendency before the Office of the Ombudsman.

Finally, the prosecution insists that all the elements of Section 3(g) are present to warrant the finding of probable cause for the filing of the Information against the accused.

The motions to dismiss are impressed with merit.

The case of *People v. Coscolluela*,<sup>1</sup> invoked by the accused-movants has emphasized the essential factors to determine whether the Office the Ombudsman has violated the constitutional right of the accused to a speedy disposition of their case that will warrant its dismissal, thus:

[T]he right to 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.<sup>2</sup>

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<sup>1</sup> 701 SCRA 188

<sup>2</sup> at p. 195

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[I]n the determination of whether the defendant has been denied his right to a speedy disposition of a case, the following factors may be considered and balanced: (1) the length of delay; (2) the reasons for the delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay.<sup>3</sup>

[I]t was not the petitioners' duty to follow up on the prosecution of their case. Conversely, it was the Office of the Ombudsman's responsibility to expedite the same within the bounds of reasonable timeliness in view of its mandate to promptly act on all complaints lodged before it.<sup>4</sup>

[T]here is no complete resolution of a case under preliminary investigation until the Ombudsman approves the investigating officer's recommendation to either file an Information with the SB or to dismiss the complaint.<sup>5</sup>

Guided by the foregoing principles, the Court is convinced that the Office of the Ombudsman incurred inordinate and unjustified delay in the conduct of the preliminary investigation of this case in violation of the right of the accused to a speedy disposition of their case.

The above-enumerated material dates are not disputed. The criminal complaint was **filed on October 25, 2000** and **terminated only on October 23, 2015** with the filing of the Information before this Court, which means that it took the Office of the Ombudsman **fifteen (15) long years** to conclude the preliminary investigation. In this span of years, the Court does not see any intervening event that will excuse the Office of the Ombudsman to stretch the proceedings to such unreasonable length. In fact, the prosecution in its opposition has not even offered a plausible explanation for the delay. The prosecution simply harps on the argument that the February 22, 2001 Resolution dismissing the complaint and approved on July 2, 2008 has not attained finality for being void, because Acting Deputy Ombudsman Casimiro only signed a photocopy of the Resolution and there is no showing that he was authorized to sign the same. Be that as it may, this does not negate the fact that the Office of the Ombudsman committed capricious and vexatious delay.

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<sup>3</sup> at pp. 195-196

<sup>4</sup> at p. 199

<sup>5</sup> at p. 196S

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Granting *ex-argumenti* that the February 22, 2001 Resolution approved on July 2, 2008 did not become final, however, the Office of the Ombudsman spent more than **five (5) years** counted from the approval of the dismissal in 2008 to reverse itself in a Resolution, dated August 5, 2013, prepared by ASP III Isaguirre-Singson, and another period of more than **two (2) years** from the reversal to file the Information with the Sandiganbayan on October 23, 2015. It is inconceivable that the Office of the Ombudsman needed five (5) years just to realize that Acting Deputy Ombudsman Casimiro signed only a photocopy of the subject Resolution and that he was not supposedly authorized to do so. Certainly, the bases of the Office of the Ombudsman for reversing itself did not involve difficult questions of law or complicated facts needing five (5) years to answer.

On the other hand, the procedural antecedents will reveal that the accused-movants have sensibly believed that the complaint against them was already terminated in 2008. After all, there was no motion for reconsideration or other actions filed assailing the dismissal of the complaint. It is ludicrous to expect from the accused-movants to assume that they could not rest on that dismissal despite the lack of further challenge and after the lapse of years.

The accused-movants are not precluded from challenging the inordinate delay of the Ombudsman before this Court merely because they did not do so when the complaint was still pending before the said office. As held in *Coscolluela*,<sup>6</sup> it is not the duty of the accused-movants to follow-up the prosecution of their case. "A defendant has no duty to bring himself to trial; the State has that duty as well as the duty of insuring that the trial is consistent with due process."<sup>7</sup>

Having settled the threshold issue, the Court finds it unnecessary to discuss the other issues.

**WHEREFORE**, in light of all the foregoing, the Court resolves to **GRANT** the separate motions to dismiss of accused Rene L.

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<sup>6</sup> Supra

<sup>7</sup> at p. 199, citing *Baker v. Wingo*, 407 U.S. 514 (1972)



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Relampagos, accused Edgardo M. Chatto, Isabelito B. Tongco, Concepcion O. Lim, Tomas D. Abapo, Jr. and Felix R. Uy, and accused Dennis C. Villareal, and hereby accordingly **DISMISS** the case for violation of their constitutional right to speedy disposition of their case.

The hold-departure orders issued by the Court against the said accused are hereby **LIFTED** and **SET ASIDE**, and the bonds they posted for their provisional liberty are ordered **RELEASED**, subject to the usual accounting and auditing procedures.

**SO ORDERED.**

  
**EFREN N. DE LA CRUZ**  
Chairperson/Associate Justice

**WE CONCUR:**

  
**RODOLFO A. PONFERRADA**  
Associate Justice

  
**RAFAEL R. LAGOS**  
Associate Justice