

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-13-CRM-0559 to 0562

For: Malversation of Public Funds
through Falsification of Public
Document

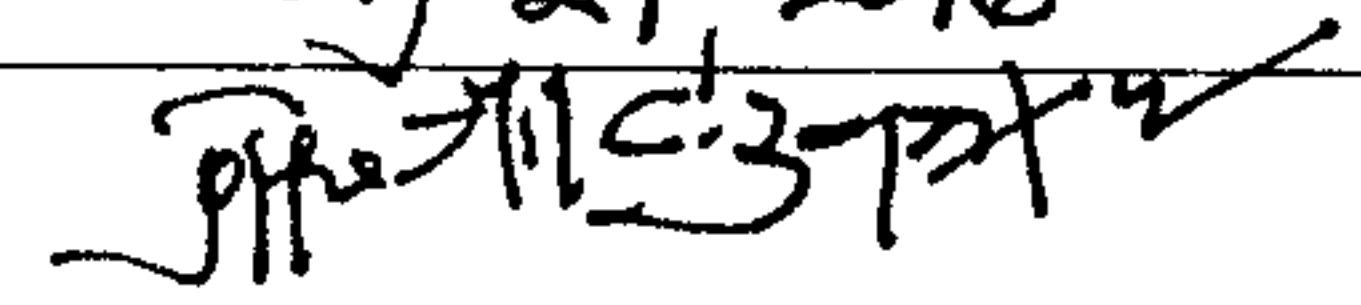
Present:

HERNANDEZ, J., Chairperson,
QUIROZ, J., and
ECONG, J.

-versus-

MARLENE A. LIBRADO
Former City Councilor,
Sangguniang Panglungsod,
Davao City,
Accused.

Promulgated on:

JULY 29, 2016


X-----X

RESOLUTION

Quiroz, J.:

This resolves the "Cautelary Omnibus Motion for A.) To Dismiss; B.) Recommendation; C.) Judicial Determination of Probable Cause, Suspend Service and Implementation of Warrant" dated April 16, 2015, received by this Court on April 21, 2015, filed by accused Marlene A. Librado through counsel; the "Comment/Opposition" thereto dated May 18, 2015, filed on May 20, 2015 by the







prosecution; and the “Reply (to the Opposition/Comment dated May 18, 2015)” dated June 15, 2015, received by this Court on June 18, 2015, filed by Librado, through counsel.

ANTECEDENTS

Sometime in 1999, the Commission on Audit conducted a special audit on Davao City, and submitted SAO Report No. 99-15 to the Office of the Ombudsman-Mindanao wherein the audit team recommended the filing of charges against certain public officials, including Librado.¹

In its Resolution dated November 25, 2002, the Office of the Ombudsman-Mindanao found probable cause to believe that Marlene A. Librado and Tomas J. Monteverde IV, both former City Councilors of Davao City, committed falsification.² Librado filed a Motion for Reconsideration of the said Resolution.³

In its Order dated July 10, 2012, the Office of the Ombudsman denied her Motion and modified the charge against her from falsification to malversation through falsification of public document.⁴

Accordingly, on July 10, 2012, four Informations were filed against accused-movant with this Court, charging her with four counts of malversation of public funds through falsification of public document, defined and penalized under Article 217 and paragraph 6 of Article 171 in relation to Article 48 of the Revised Penal Code, filed and docketed as SB-13-CRM-0559 to 0562.⁵

On May 23, 2013, Librado filed an “Urgent Motion for Judicial Determination of Probable Cause with Prayer for Suspension of Issuance of

¹ Records, pp. 13-88.

² Order dated July 10, 2012; Records, pp. 6-12.

³ *Id.*

⁴ *Id.*

⁵ Records, pp. 1-3; and in three separate folders thereto.



Warrants of Arrest (*Ad Cautelam*).”⁶ In its Minute Resolution dated June 13, 2014,⁷ this Court declared that said Motion became moot and academic in view of its Minute Resolution dated June 11, 2014⁸ wherein it granted a reinvestigation in the cases filed against her.

In its Order dated November 26, 2014, the Office of the Special Prosecutor of the Office of the Ombudsman denied the Motion for Reinvestigation and upheld its earlier findings against Librado.⁹

In its Minute Resolution dated March 18, 2015, this Court found probable cause and issued a warrant of arrest against Librado.¹⁰ Librado thereafter filed the present Cautelary Omnibus Motion,¹¹ to which the prosecution filed a Comment/Opposition.¹² Librado then filed a Reply thereto.¹³

In its Resolution dated March 10, 2016, this Court disposed of the pending incidents with regard to Librado as follows:

1. DENYING her Motion for Reconsideration of this Court’s Resolution dated March 18, 2015;
2. RENDERING MOOT and ACADEMIC the Motion for Judicial Determination;
3. GRANTING the suspension of service or implementation of the Warrant of Arrest dated March 23, 2015 and, instead ISSUING an *alias* warrant of arrest; and
4. HOLDING IN ABEYANCE her Motion to Dismiss until after the law has acquired physical custody over Librado.¹⁴

⁶ Records, pp. 213-233.
⁷ *Id.*, p. 258.
⁸ *Id.*, pp. 256-257.
⁹ *Id.*, pp. 270-277.
¹⁰ *Id.*, pp. 318-319.
¹¹ *Id.*, pp. 325-336.
¹² *Id.*, pp. 354-358.
¹³ *Id.*, pp. 359-368.
¹⁴ *Id.*, pp. 473-474.

On July 4, 2016, Librado posted bail and her Motion to Dismiss was submitted for resolution on the same date.¹⁵

Considering that the pending incidents involving accused-movant have already been resolved by this Court, what is left for consideration is the Motion to Dismiss alleging there has been inordinate delay in the resolution of the cases.

ANALYSIS AND DISCUSSION

In her Motion to Dismiss, Librado invokes her right to the speedy disposition of her case citing *People v. Anonas*¹⁶ wherein the preliminary investigation conducted by the Ombudsman took more than four (4) years.¹⁷ In the present case, she maintains that there was inordinate delay as it allegedly took the Office of the Ombudsman ten years or from November 25, 2002 to July 10, 2012 to issue an Order denying her Motion for Reconsideration to the Ombudsman Resolution indicting her of falsification.

On the other hand, in its Comment/Opposition, the prosecution argues that Librado belatedly raised her right to a speedy disposition of her case, as she allegedly cited the same only when a warrant of arrest had been issued against her. It also cited the cases of *Bernat v. Sandiganbayan*¹⁸ and *Tello v. People*¹⁹ wherein the Supreme Court denied petitioners' claims of denial of their rights to a speedy disposition of cases despite the delay of eight (8) and ten (10) years, respectively.

In her Reply, Librado asserts that she has raised her right to a speedy disposition of the cases against her as early as in her Motion for Judicial Determination of Probable Cause and for Reinvestigation. She further claims that the *Bernat* case cited by the prosecution is misplaced as it refers to a case that was

¹⁵ Order dated July 4, 2016.

¹⁶ G.R. No. 156847, January 31, 2007, 513 SCRA 552.

¹⁷ *Id.*, p. 558.

¹⁸ G.R. No. 158018, May 20, 2004, 428 SCRA 787.

¹⁹ G.R. No. 165781, June 5, 2009, 588 SCRA 519.

already pending in the court and awaiting resolution, while her present case concerns the delay in the preliminary investigation.

The Supreme Court ruling in *Mendoza-Ong v. Sandiganbayan*²⁰ is instructive in determining whether or not the accused has been deprived of the right to a speedy disposition of his or her case. *Mendoza* states that:

The right to speedy disposition of cases, like the right to speedy trial, is violated only when the proceedings are attended by vexatious, capricious and oppressive delays. In the determination of whether said right has been violated, particular regard must be taken of the facts and circumstances peculiar to each case. The conduct of both the prosecution and the defendant, the length of the delay, the reasons for such delay, the assertion or failure to assert such right by the accused, and the prejudice caused by the delay are the factors to consider and balance. **A mere mathematical reckoning of time involved would not be sufficient.** (emphasis supplied)²¹

The Office of the Ombudsman, particularly the special prosecutor, has the constitutional duty to act promptly on complaints filed before it.²² In *Coscolluela v. Sandiganbayan*, the Supreme Court explained that:

Verily, the Office of the Ombudsman was created under the mantle of the Constitution, mandated to be the “protector of the people” and as such, required to “act promptly on complaints filed in any form or manner against officers and employees of the Government, or of any subdivision, agency or instrumentality thereof, in order to promote efficient service.” This great responsibility cannot be simply brushed aside by ineptitude. Precisely, the Office of the Ombudsman has the inherent duty not only to carefully go through the particulars of a case but also to resolve the same within the proper length of time. Its dutiful performance should not only be gauged by the quality of the assessment but also by the reasonable promptness of its dispensation. Thus, barring any extraordinary complication, such as the degree of difficulty of the questions involved in the case or any event external thereto that effectively stymied its normal work activity – any of which have not been adequately proven by the prosecution in the case at bar – there appears to be no justifiable basis as to why the Office of the Ombudsman could not have earlier resolved the preliminary investigation proceedings against the petitioners.²³

²⁰ G.R. Nos. 146368-69, October 18, 2004, 440 SCRA 423.

²¹ G.R. Nos. 146368-69, October 18, 2004, 440 SCRA 423, 425-426.

²² *Tatad v. Sandiganbayan*, G.R. Nos. 72335-39, March 21, 1988, 159 SCRA 70, 82; *Angchangco, Jr. v. Ombudsman*, G.R. No. 122728, February 13, 1997, 268 SCRA 301, 306; *Cervantes v. Sandiganbayan*, G.R. No. 108595, May 18, 1999, 307 SCRA 149, 155; *Rafael L. Coscolluela v. Sandiganbayan (First Division) and People of the Philippines*, G.R. No. 191411, July 15, 2013.

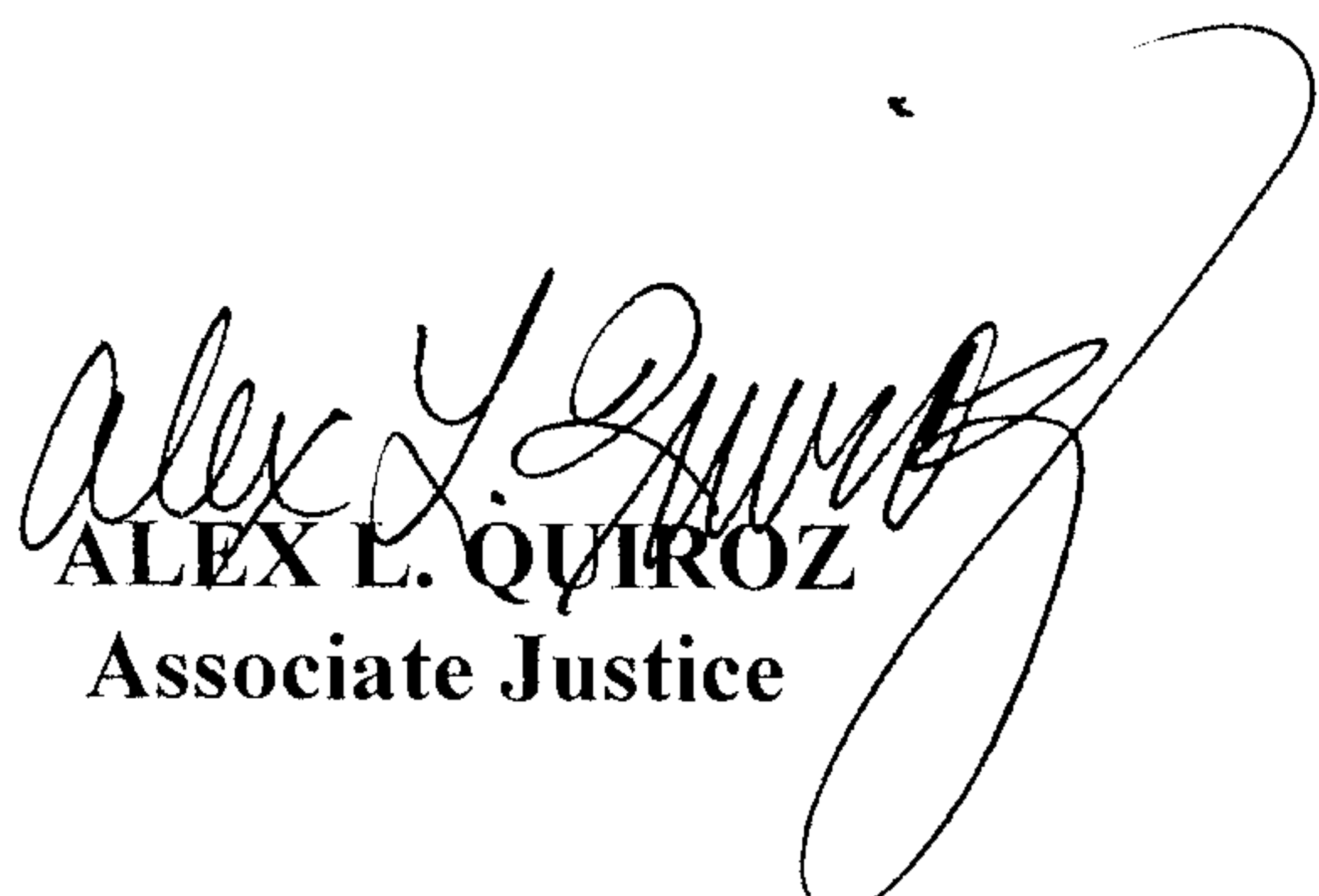
²³ *Rafael L. Coscolluela v. Sandiganbayan (First Division) and People of the Philippines*, G.R. No. 191411, July 15, 2013.

In the present cases, Librado maintains that the resolution of her Motion for Reconsideration took almost ten years. This Court observes that the Order issued by the Ombudsman resolving Librado's Motion for Reconsideration does not show when it was received by the parties. Although it is dated July 10, 2012, the signature of Ombudsman Conchita Carpio Morales approving the said Order is dated February 12, 2013. This is an unusually long period of time for the Office of the Ombudsman to study the charges filed against Librado, such that even if this Court would reckon the period from July 10, 2012, the date of the Order in question, it would certainly be considered an inordinate delay, particularly when the prosecution did not explain to the satisfaction of this Court why the Ombudsman took so long to resolve the Motion filed by Librado.


The right of the accused to a speedy disposition of cases, which is provided for under Section 16, Article III of the 1987 Constitution, cannot be stressed enough. It is not fair to subject Librado to prolonged uncertainty with regard to her cases; thus, this Court is inclined to dismiss the cases against her.


WHEREFORE, in light of the foregoing, this Court **GRANTS** the "Cautelary Omnibus Motion (to Dismiss)" filed by Marlene A. Librado, and the cases are accordingly **DISMISSED**.

SO ORDERED.


ALEX L. QUIROZ
Associate Justice

WE CONCUR:


JOSE R. HERNANDEZ
Associate Justice
Chairperson


GERALDINE FAITH A. ECONG
Associate Justice