



REPUBLIC OF THE PHILIPPINES

*Sandiganbayan*

Quezon City

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**CASE No. SB-15-CRM-0126**

- versus -

Present:

**WILFREDO A. CARBONQUILLO,**  
**ET AL.**

*Accused.*

**DE LA CRUZ, J.,** *Chairperson*  
**CRUZ, J.**  
**MUSNGI\*, JJ.**

**Promulgated on:**

AUG 17 2016

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**RESOLUTION**

**DE LA CRUZ, J.**

This resolves the *Motion to Quash Information (on the Grounds of Violation of the Accused' [sic] Right to Speedy Disposition of Cases and Right to Equal Protection of the Laws) with Urgent Motion to Defer Arraignment*, dated February 10, 2016, of accused Rey C. Chavez, Arnold Navales, Alfonso J. Laid and Rosindo J. Aimonte; the prosecution's Comment/Opposition (to Motion to Quash Information), dated February 29, 2016; and the accused-movants' Reply, dated March 11, 2016, to the said comment/opposition.

The accused's motion to quash is anchored on two grounds: (a) Their constitutional right to speedy disposition of cases was violated when it took the Office of the Ombudsman ten (10) years and eight (8) months to conclude the preliminary investigation of this case from the time the criminal complaint was filed on January 26, 2005 until the filing of the Motion to Admit Information with this Court on September 23, 2015; and (b) Their right to equal protection of the laws was violated, when the Board of Directors of the Davao City Water District (DCWD) and Roberto Puentespina,

\*Sitting as Special Member of the First Division as per Administrative Order No. 241-2016, dated August 9, 2016.

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President of Hydrock Wells, Inc., to which the well-drilling project was awarded, were not indicted.

The accused contend that the delay in the preliminary investigation of their case is oppressive, vexatious and capricious, citing the cases of *People v. Antonio P. Belicena, et al.* (SB-09-CRM-0059, December 18, 2015) and *People v. Rene L. Relampagos, et al.* (SB-15-CRM-0283, January 21, 2016), where this Court ruled that a vexatious delay in the conclusion of the preliminary investigation against the accused constitutes a violation of their right to speedy disposition of cases.

In addition, the accused claim that there is selective justice in this case because the persons who are allegedly most guilty of the offense charged were not indicted considering that there exists no substantial distinction between them and the said persons.

In its comment/opposition, the prosecution counters that there is no violation of the accused's right to speedy disposition of cases, citing the following antecedents or chronology of events which led to the filing of the case against the accused:

1. January 26, 2005: A Complaint-Affidavit was filed against the members of the PBAC-B of Davao City Water District for Violation of Republic Act No. 3019;
2. February 3, 2005: The accused were ordered to file their counter-affidavits;
3. March 2, 2005: Accused Yamson, Laid, Chavez and Almonte filed their Joint Counter-Affidavit;
4. March 14, 2005: Accused Navales filed his Counter-Affidavit;
5. March 14, 2005: The private complainants filed their Reply-Affidavit;
6. March 30, 2005: The accused filed a motion to admit their Joint Rejoinder-Affidavit;
7. April 11, 2005: The Joint Rejoinder-Affidavit was admitted;
8. After evaluating the records, it was found that accused William Guillen must also be impleaded as party-respondent;

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9. October 3, 2006: The Office of the Deputy Ombudsman for Mindanao ordered accused William V. Guillen to file a counter-affidavit;

10. October 26, 2006: In view of the fact that Guillen was no longer connected with the Davao City Water District and had left for England to join his family and could no longer file his own countervailing evidence, accused Laid, Navales, Chavez and Almonte requested that the countervailing evidence filed by Guillen in another case (VES #21) be considered;

11. July 31, 2007: GIPO II Grace H. Morales issued a Resolution which found probable cause for Violation of Section 3(e) of R.A. 3019 against respondents, herein accused Yamson, Chavez, Laid, Almonte, Carbonquillo, Navales and Guillen;

12. August 6, 2007: The Deputy Ombudsman for Mindanao approved the recommendation of GIPO II Grace H. Morales for the indictment of the accused for violation of Sec. 3(e) of R.A. 3019;

13. December 26, 2007: The complete records of the case were forwarded for review and approval to the Honorable Ombudsman;

14. February 11, 2008: ASP II Pamela Baring-Uy, after reviewing the records, modified the Information;

15. November 14, 2008: The Honorable Ombudsman approved the Information;

16. December 4, 2008: An Information was finally filed charging accused Yamson, Chavez, Laid, Almonte, Carbonquillo, Navales and Guillen of Violation of Section 3(e) of R.A. 3019. The same was raffled to the Special Second Division;

17. January 5, 2009: The counsel for accused Yamson, Chavez, Almonte and Laid filed Entry of Appearance with Motion to Dismiss or in the Alternative Judicial Determination of Probable Cause with Prayer for Deferment of Issuance of Warrant of Arrest;

18. January 9, 2009: The Special Second Division issued an Order for the prosecution to comment on the motion;

19. January 26, 2009: The prosecution filed its Comment to the said motion;

20. May 3, 2011: The Special Second Division of the Sandiganbayan issued a Resolution with the finding that the right of the accused to speedy disposition of cases has not been violated, but dismissed the case without prejudice to its being refiled in the future, if warranted, as the members of the Board of Directors of the Davao City Water District who approved the recommendation of the PBAC-B should likewise be indicted;

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21. June 24, 2011: Assistant Special Prosecutor Generoso Severo H. Plazo issued a Memorandum which recommended the conduct of a fact finding/preliminary investigation for the purpose of charging the members of the Board of Directors of DCWD who approved the recommendation of the PBAC-B and all those who conspired in the commission of the offense;

22. July 14, 2011: The recommendation of Assistant Special Prosecutor Plazo was duly approved by then Overall Deputy Ombudsman Orlando C. Casimiro;

23. August 10, 2011: GIPO II Grace H. Morales issued an Order which recommended that the entire case records be forwarded to the Field Investigation Unit (FIU) for the conduct of a fact-finding investigation to determine "the participation/liability of the members of the Board of Directors of DCWD and the private contractor, Hydrock Wells, Inc. and the filing of the corresponding complaint against them, if warranted";

24. August 18, 2011: The said Order was recommended for approval by the Deputy Ombudsman for Mindanao;

25. July 9, 2012: The same was approved by the Honorable Ombudsman;

26. May 5, 2014: Consistent with the Order to conduct fact-finding investigation, GIPO I Liwayway S. Rondina issued an Evaluation Report which found no conspiracy among the members of the Board of Directors of DCWD and the private contractor Hydrock Wells, Inc. She recommended that the case be remanded to GIPO II Grace H. Morales for the evaluation of the liability of the original respondents (the herein accused) of the offense charged;

27. May 9, 2014: The Deputy Ombudsman for Mindanao approved said Evaluation Report;

28. Meanwhile, the case records were then remanded to GIPO II Grace H. Morales;

29. August 6, 2014: GIPO II Grace H. Morales issued an Order which stated that there is no need for re-evaluation of the liability of the original respondents, hence, the finding of probable cause against herein accused remained;

30. December 1, 2014: The Honorable Ombudsman approved the aforesaid Order;

31. March 31, 2015: In a Memorandum, Assistant Special Prosecutor Generoso Severo H. Plazo recommended the approval of the draft Information

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32. April 29, 2015: The Memorandum and Information were approved by the Ombudsman;

33. June 5, 2015: The Information was filed with this Court;

34. September 23, 2015: The prosecution filed a Motion to Admit Amended Information.

The prosecution then argues that based on the foregoing antecedents, there is no inordinate delay to speak of because it took only about three (3) years from the filing of the complaint against the accused on January 26, 2005 up to the filing of the Information in Court on December 4, 2008. The prosecution further avers that it should not be faulted for the delay which ensued after the filing of the Information in Court.

Moreover, the prosecution contends that Hydrock Wells, Inc. or its President Roberto Puentespina was not indicted in the instant case despite a finding of conspiracy with the accused because of the prescription of the crime, while herein accused were indicted because there are ample grounds to hold them for trial. The circumstances obtaining as regards Roberto Puentespina are entirely different from the circumstances existing as regards the accused. Thus, there was no violation of the accused's right to equal protection of the laws.

In their Reply, the accused insist that the preliminary investigation was not concluded when the initial Information was filed with the Special Second Division of this Court. When the case was dismissed by the said Division on May 3, 2011, the Office of the Ombudsman resumed the preliminary investigation and the same was concluded only on June 5, 2015 when the Information was filed in court. The accused cannot comprehend why after more than four (4) years of re-evaluating the case, the prosecution allegedly did nothing but to re-file the same information which was previously dismissed by the Special Second Division. Indeed, the refiled Information contained almost exactly the same allegations as those in the initial Information, as in fact, the prosecution needed to file a Motion to Admit Amended Information.

With regard to the violation of the rights of the accused to the equal protection of the laws, the accused posit that the Office of the Ombudsman had been investigating the case since January

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2005, and during that time, the period to file charges for violation of RA 3019 had not yet prescribed because the crime was alleged to have been committed on January 10, 1998. Thus, the prescriptive period of fifteen (15) years was until January 10, 2013. According to the accused, the fact that the prosecution could have included the Board of Directors of DCWD and the President of Hydrock Wells, Inc. but intentionally did not include them in the charge, constitutes a violation of their rights to equal protection of the laws.

The motion to quash is impressed with merit.

The Court agrees with the accused that there was unreasonable, vexatious and inordinate delay in the preliminary investigation conducted by the Office of the Ombudsman.

Although it is not convinced of the accused's contention that the preliminary investigation lasted for ten (10) years and eight (8) months on the theory that the filing of the first Information before the Special Second Division of the Sandiganbayan (docketed as Crim. Case No. SB-09-CRM-0378) did not interrupt the period of preliminary investigation of the case considering that it was dismissed "without prejudice to its re-filing in the future if warranted,"<sup>1</sup> the Court is persuaded that the period corresponding to the re-evaluation of the case upon its dismissal by the Special First Division up to the filing of the second Information on June 5, 2015 (which lasted for more than four [4] years), should be considered as a resumption of the preliminary investigation for the purpose of determining whether the delay was unjustifiable, vexatious or inordinate.

Indeed, it took the Office of the Ombudsman three (3) years, ten (10) months and eight (8) days from the filing of the Complaint-Affidavit on January 26, 2005 up to the filing of the first Information with the Special Second Division on December 4, 2008. Adding this period to the period spent in the re-evaluation of the case which continued for over four (4) years, it took the Office of the Ombudsman almost eight (8) years to complete the preliminary investigation of the accused. This period, to the mind of the Court, is unreasonable, vexatious and inordinate, especially considering that the Office of the Ombudsman merely filed almost the same

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<sup>1</sup> Records, Volume 1, p. 277

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Information against the accused as in the first it filed with the Special First Division.

The timeline provided by the prosecution which shows the procedure involved in the hierarchical level of review of the work of the investigator cannot be a valid excuse for the delay in the preliminary investigation. Applying *Coscolluela v. Sandiganbayan*,<sup>2</sup> the Honorable Supreme Court in rejecting this contention, ruled:

To this end, the Court equally denies the SB's ratiocination that the delay in proceedings could be excused by the fact that the case had to undergo careful review and revision through the different levels in the Office of the Ombudsman before it is finally approved, in addition to the steady stream of cases which it had to resolve.

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 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.<sup>3</sup>  
(Underscoring supplied)

As the Supreme Court rejected the hierarchical levels of review as an excuse to justify delay, this Court likewise rejects the said contention of the prosecution, especially considering that the question involved in this case is not complex and difficult as aforestated.

<sup>2</sup> 701 SCRA 189

<sup>3</sup> At page 197

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As held in the case of *Tatad vs. Sandiganbayan*,<sup>4</sup> a delay of close to three (3) years cannot be deemed reasonable because the case did not involve complicated legal and factual issues necessitating such painstaking and grueling scrutiny as would justify a delay of almost three years in terminating the preliminary investigation.

The period of almost eight (8) years of preliminary investigation as aforesaid is certainly unwarranted, inordinate and oppressive, and transgresses the constitutional right of the accused to the speedy disposition of their cases. Section 16 of Article III (Bill of Rights) of the 1987 Constitution provides:

Section 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

In *Allado vs. Diokno*,<sup>5</sup> the Supreme Court held that “certainly in the hierarchy of rights, the Bill of Rights takes precedence over the right of the State to prosecute, and when weighed against each other, the scales of justice tilt towards the former.”

Accordingly, this Court held in the case of *People v. Antonio P. Belicena*,<sup>6</sup> that the delay of almost four (4) years in determining whether there exists probable cause constitutes a violation of the accused’s right to speedy disposition of cases.

As further stated by the Supreme Court in *Coscolluela*:

Lest it be misunderstood, the right to speedy disposition of cases is not merely hinged toward the objective of spurring dispatch in the administration of justice but also to prevent the oppression of the citizen by holding a criminal prosecution suspended over him for an indefinite time (*Corpuz vs. Sandiganbayan*, 484 Phil. 899, 917; 442 SCRA 294, 312 [2004]). Akin to the right to speedy trial, is “salutary objective” is to assure that an innocent person may be free from the anxiety and expense of litigation or, if otherwise, of having his guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he may interpose (*Mari v. Gonzales*, 657 SCRA 414, 423 [2011]). This looming unrest as well as the tactical

<sup>4</sup> 159 SCRA 70 (1998).

<sup>5</sup> 232 SCRA 192, 210.

<sup>6</sup> Decided by this Court on December 18, 2015.



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disadvantages carried by the passage of time should be weighed against the State and in favor of the individual. In the context of the right to a speedy trial, the Court in *Corpuz v. Sandiganbayan* (442 SCRA 294, 312) illumined:

A balancing test of applying societal interests and the rights of the accused necessarily compels the court to approach speedy trial cases on an *ad hoc* basis:

xxx Prejudice should be assessed in the light of the interest of the defendant that the speedy trial was designed to protect, namely: to prevent oppressive pre-trial incarceration; to minimize anxiety and concerns of the accused to trial, and to limit the possibility that his defense will be impaired. Of these, the most serious is the last, because inability of a defendant adequately to prepare his case skews the fairness of the entire system. There is also prejudice if the defense witnesses are unable to recall accurately the events of the distant past. Even if the accused is not imprisoned prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed, and he is subjected to public obloquy.<sup>7</sup>

It is worth stressing that except for the term "criminally" in the Information in this case, which in the Information in Crim. Case No. SB-09-CRM-0378 was alleged as "feloniously", and the insertion of the phrase "gross inexcusable negligence" in the Information in this case (which did not appear in SB-09-CRM-0378), the allegations in the Information in this case are exactly the same as those contained in the Information which was filed with and dismissed by the Special Second Division in Crim. Case No. SB-09-CRM-0378. Indeed, the Office of the Ombudsman gave no justification whatsoever why it took more than four (4) years to find that there is no need for re-evaluation of the liability of the original respondents and the filing of the same Information against the accused-movants.

<sup>7</sup> *Supra*, Note 2, at pages 199-200; underscoring supplied

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Furthermore, the accused are correct in saying that they cannot be faulted for not demanding expeditious resolution of the preliminary investigation as alleged by the prosecution. As held in *Coscolluela*, citing the case of *Barker v. Wingo* (407 U.S. 514 [1972]), “[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>8</sup>

All told, the Court is constrained to decree the dismissal of this case for violation of the constitutional right of the accused to speedy disposition of their case.

Be that as it may, the dismissal of the criminal case against the accused which, in effect, also results in their acquittal, does not necessarily follow that they are entirely exonerated from any civil liability. Section 2, Rule 111 of the Rules of Criminal Procedure provides:

**Sec. 2. When separate civil action is suspended.—xxx.**

The extinction of the penal action does not carry with it extinction of the civil action. However, the civil action based on *delict* shall be deemed extinguished if there is a finding in a final judgment in the criminal action that the act or omission from the civil liability may arise did not exist.

Again, applying *Coscuella*, although the criminal liability of the accused may be considered extinguished with the dismissal of the case, the Davao City Water District, may still go after the accused with regard to their civil liability that may arise from the malfeasance, thus:

While the foregoing pronouncement should, as a matter of course, result in the acquittal of the petitioners, it does not necessarily follow that petitioners are entirely exculpated from any civil liability, assuming that the same is proven in a subsequent case which the Province may opt to pursue. Consequently, absent this pronouncement, the Province is not precluded from instituting a subsequent civil case base on the delict if only to recover the amount of P20,000.00 in public funds attributable to petitioner’s alleged malfeasance.<sup>9</sup>

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<sup>8</sup> *Ibid.*, at page 199

<sup>9</sup> *Supra*, at page 202

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This Court deems it unnecessary to resolve the issue on the violation of the rights of the accused to the equal protection of the laws in view of the above ruling.

**WHEREFORE**, in light of all the foregoing, the Motion to Quash Information filed by accused Rey C. Chavez, Arnold Navales, Alfonso J. Laid and Rosindo J. Almonte is hereby **GRANTED**, and the Information filed against them in this case is ordered **QUASHED**. Accordingly, this case is **DISMISSED** for violation of the accused's right to speedy disposition of cases.

The hold-departure order issued by the Court against the accused is hereby **LIFTED** and **SET ASIDE**, and the respective cash bonds posted by them 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:**

  
**REYNALDO P. CRUZ**  
Associate Justice

  
**MICHAEL FREDERICK L. MUSNGI**  
Associate Justice