



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, **SB-15-CRM-0092**

Plaintiff, For: Violation of Sec. 3(e)
R.A. No. 3019, as amended

SB-15-CRM-0093

For: Falsification of Public/Official
Document

Present

- versus -

CABOTAJE-TANG, P.J.,

Chairperson

MARTIRES, J. and

FERNANDEZ, J.

**MARIANO M. MALONES,
ET AL.,**

Accused.

Promulgated:

SEPTEMBER 6, 2016

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RESOLUTION

FERNANDEZ, J.

This resolves the *Motion for Reconsideration (with prayer for immediate suspension of the implementation of the order for Suspension Pendente Lite)*¹ of accused Mariano M. Malones and Edna M. Madarico.

In their Motion for Reconsideration, accused Malones and Madarico assail this Court's Resolution dated June 7, 2016² granting the prosecution's *Motion for Suspension Pendente Lite of Accused Malones* and denying their Motion to Dismiss. They now seek reconsideration of the said Resolution on the following grounds:

¹ Dated June 17, 2016, pp. 319-339, Record

² pp. 302-311, Record

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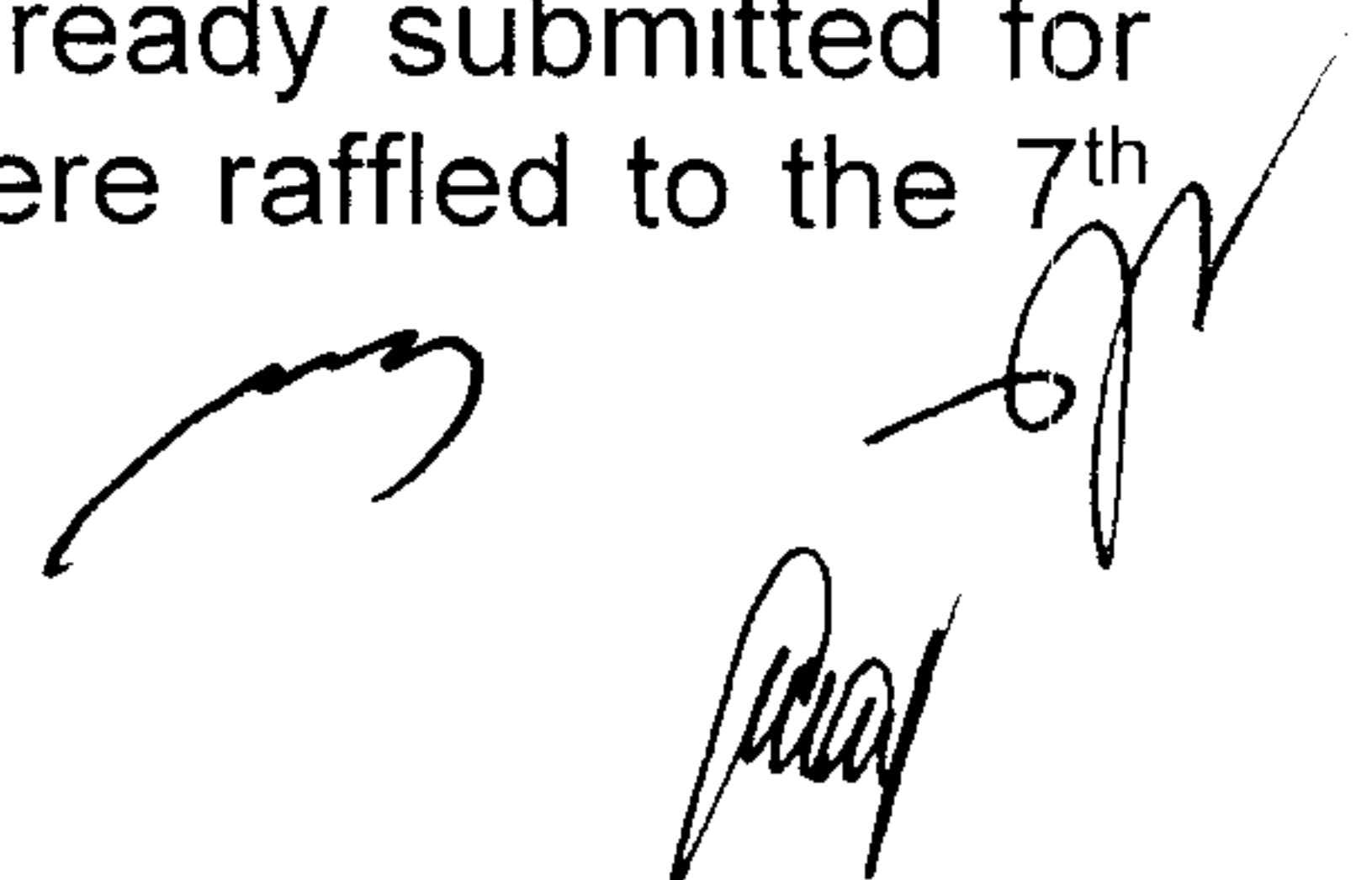
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- a) This Court's Resolution dated June 7, 2016 is not valid because it was promulgated after the present cases were raffled to the 7th Division of the Sandiganbayan (7th Division). Considering that the 7th Division had already taken cognizance of the present cases, the said incident should be resolved by the 7th Division.
- b) Their right to speedy disposition of cases was violated. The prosecution who has the burden to explain the delay in the termination of the preliminary investigation, failed to give a valid justification for the same. Because of the delay, there is now difficulty in obtaining evidence to prove their innocence.
- c) The delay in the termination of the preliminary investigation is unreasonable. The PDAF cases, which involved truckloads of evidence, were initiated in March 2013 and were resolved after a short period of time. The present cases involve only a single transaction. A delay of ten (10) years in the termination of the preliminary investigation cannot be justified.
- d) Insofar as accused Malones' suspension *pendente lite* is concerned, implementing the suspension order will not only violate his constitutional rights, but also the right of those who voted him in office—in particular, their right of suffrage, which includes the right to have the full services of the persons they have voted into office.

On the other hand, the prosecution, in its *Comment/Opposition (to the Motion for Reconsideration with prayer for the immediate suspension of the implementation of the order for Suspension Pendente Lite)*,³ counters:

- 1) Rule XII, Sec. 3 of the Revised Internal Rules of the Sandiganbayan provides that “[c]ases assigned to a Division of the Sandiganbayan shall remain with said Division notwithstanding changes in its composition. All matters raised therein shall be resolved by all the Justices who are members of the Division at the time said matters were submitted for resolution.” The subject incidents were already submitted for resolution even before the instant cases were raffled to the 7th

³ Dated July 1, 2016; pp. 344-348, Record



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Division. Hence, this Court issued the assailed Resolution in accordance with the Sandiganbayan's internal rules.

- 2) The accused based their assertion on a mere mathematical reckoning of time involved and refused to recognize that the right to speedy disposition of cases is a relative and flexible concept.
- 3) Preventive suspension will not violate the constitutional rights of the accused who is still entitled to the presumption of innocence.

In their *Reply to Comment/Opposition to Motion for Reconsideration (with prayer for immediate suspension of the implementation of the order for Suspension Pendente Lite)*,⁴ accused Malones and Madarico reiterate that their right to speedy disposition of cases was violated. Moreover, they insist on the invalidity of this Court's Resolution dated June 7, 2016.

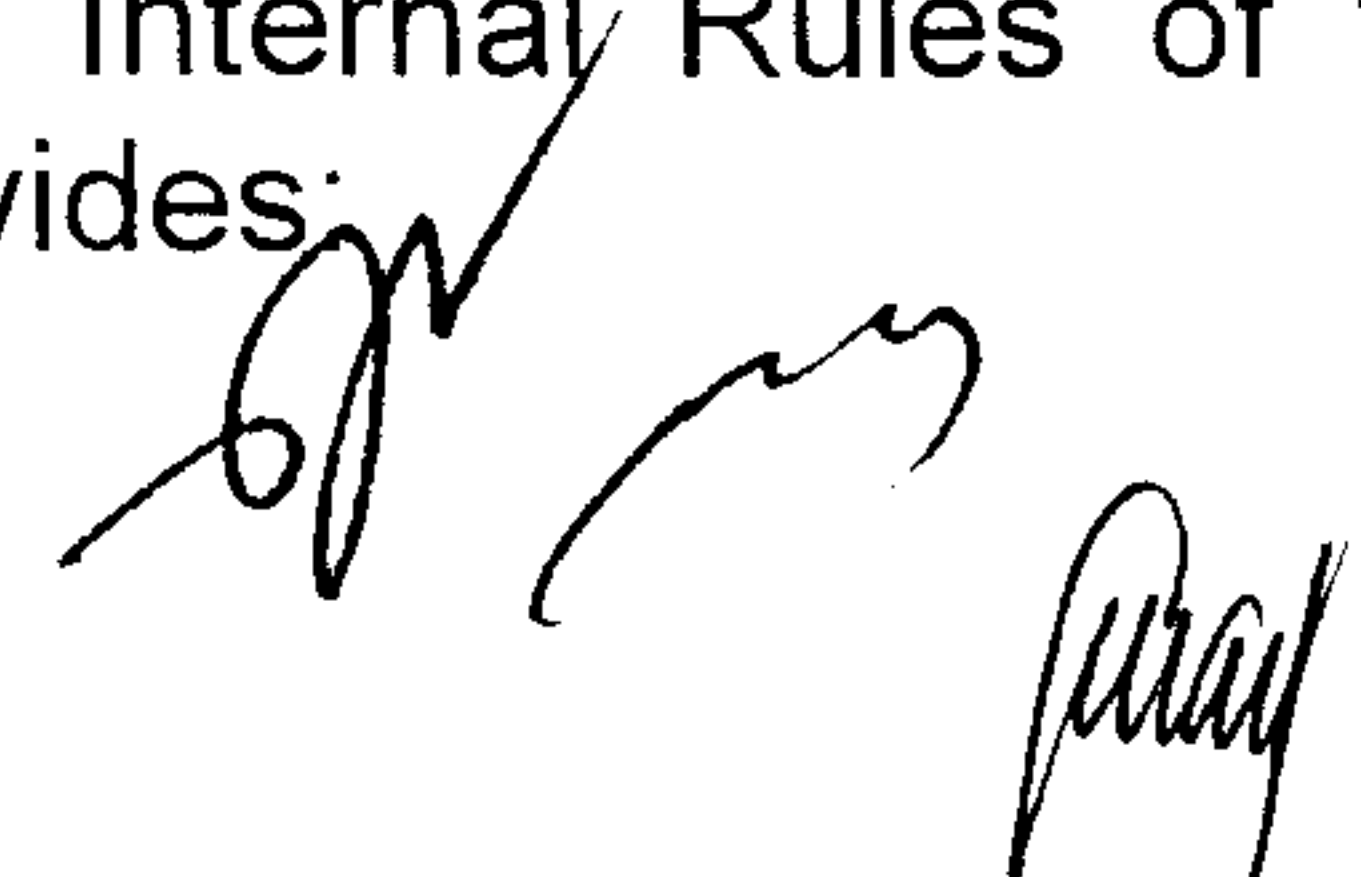
They contend that the correct interpretation of the pertinent provision of the Sandiganbayan's internal rules is that matters shall be resolved by the Justices in the Division where the case was assigned, not by the Justices in the Division where the case was deemed submitted for resolution. Even if the prosecution's interpretation is followed, the said Resolution will nevertheless be null and void because the Justices who resolved the motion were not the same Justices who issued the order submitting the motion for resolution.

THE COURT'S RULING

The Motion for Reconsideration of accused Malones and Madarico is bereft of merit and should be denied.

Validity of this Court's Resolution dated June 7, 2016

The pertinent provision of the Revised Internal Rules of the Sandiganbayan⁵ is Rule XII, Sec. 3, which provides:



⁴ Dated July 17, 2016; pp. 361-366, Record

⁵ Effective October 1, 2002; Approved by the Supreme Court in A.M. No. 02-6-07-SB, August 28, 2002

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Section 3. *Assignment of Cases; Permanent.* – Cases assigned to a Division of the Sandiganbayan shall remain with said Division notwithstanding changes in its composition. All matters raised therein shall be resolved by all the Justices who are members of the Division at the time said matters were submitted for resolution. However, only such Justices who are members of the Division at the time the case is submitted for decision shall take part in the resolution of the case. If a member of the Division ceases to be a member of the Sandiganbayan for any reason whatsoever, the Associate Justice chosen to fill the vacancy in accordance with the manner provided in Sec. 4 or 5, Rule II of these Rules shall participate in the resolution of said case.

(underscoring supplied)

First, the accused argue that because the cases have already been raffled to the 7th Division, it should have been the one to resolve the Motions, and not this Court. This Court disagrees.

Under the aforequoted provision of the Revised Internal Rules, matters shall be resolved by the Justices who are members of the Division at the time the said matters were submitted for resolution. Here, the present cases were pending before this Court when the subject incidents were submitted for resolution. Therefore, it is the 3rd Division, not the 7th Division, that should resolve the said Motions.

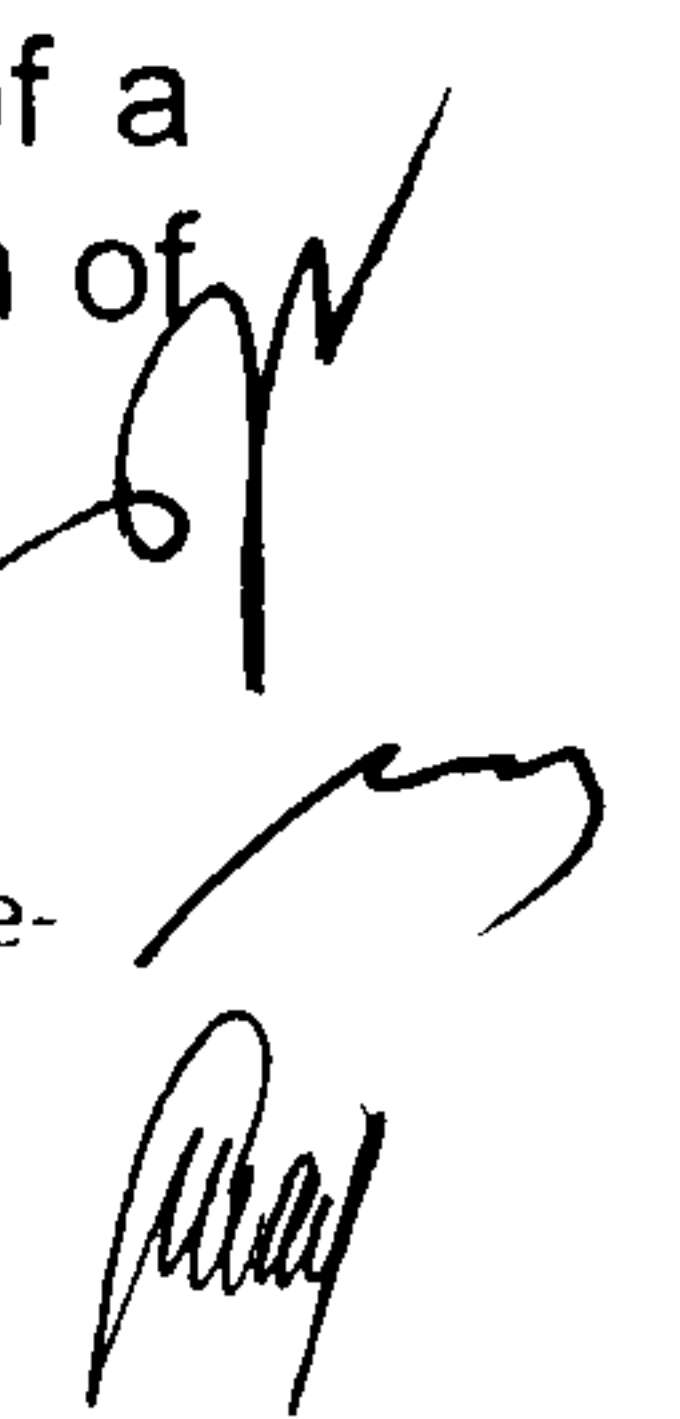
The foregoing rule is being uniformly applied in all the cases recently re-raffled to the newly-created Divisions of the Sandiganbayan.

Next, the accused contend that the assailed Resolution is null and void because the Justices who resolved it⁶ were not the same Justices who issued the order⁷ submitting the motions for resolution. This contention is likewise untenable.

Indeed, the Justices who resolved the subject incidents were members of the Division at the time the same were submitted for resolution. That one of the Justices is absent on the day the incidents were submitted for resolution is immaterial. A Justice of a Division does not cease to be a member of that Division by reason of

⁶ Resolved by Justice Sarah Jane T. Fernandez, Presiding Justice Amparo M. Cabotaje-Tang and Justice Samuel R. Martires

⁷ p. 282, Record; Resolution dated March 14, 2016, Approved by Presiding Justice Amparo M. Cabotaje-Tang, Justice Sarah Jane T. Fernandez and Justice Ma. Theresa Dolores C. Gomez-Estoesta (As per Administrative Order No. 071-2016 dated March 14, 2016)



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temporary absence. The composition of this Court at the time that the motions were submitted for resolution was the same as that at the time of the issuance of the assailed Resolution.

In fine, the assailed Resolution was issued in accordance with the Revised Internal Rules of the Sandiganbayan.

Suspension *pendente lite* and Motion to Dismiss

Accused Malones and Madarico's claim that the delay of more than ten (10) years in the termination of the preliminary investigation in the present cases is unjustifiable because the preliminary investigation in the PDAF cases took a shorter time to terminate.

At the risk of repetition, the accused' right to speedy disposition of cases is a flexible concept.⁸ In determining if there is a violation of such right, the Court must consider the facts and circumstances peculiar to each case.⁹ Hence, length of delay, by itself, is not determinative. Notwithstanding the fact that the Office of the Ombudsman took more than ten (10) years to dispose of the matter before it, if it is not clearly shown that the proceedings are attended by vexatious, capricious and oppressive delays, there is no violation of the right to speedy disposition of cases.

Aside from making a comparison between the present cases and the PDAF cases, accused Malones and Madarico raise no new arguments in their Motion for Reconsideration. They merely reiterate and rehash their arguments in their *Opposition to Motion for the Suspension Pendente Lite of Accused Malones And Motion to Dismiss*,¹⁰ and **Reply to Prosecution's Comment/Opposition to Accused's 1. *Opposition to Motion for the Suspension Pendente Lite of Accused Malones* and 2. *Motion to Dismiss***.¹¹ The Court had already judiciously considered and addressed the same in its June 7, 2016 Resolution, and hence, there is no more need to discuss them anew

⁸ *Corpuz v. Sandiganbayan*, G.R. No. 162214, November 11, 2004

⁹ *Ombudsman v. Jurado*, G.R. No. 154155, August 6, 2008

¹⁰ Dated February 2, 2016; pp. 242-252, Record

¹¹ Dated March 7, 2016; pp. 269-281, Record

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In the Supreme Court's Resolution of the Motion for Reconsideration in *Government of the United States of America v. Purganan*,¹² it held:

AT BOTTOM, private respondent's Motion for Reconsideration presents no new or substantial arguments which have not been presented in his prior pleadings and which have not been taken up in our Decision. His present allegations and asseverations are mere rehashes of arguments previously presented to us or are mere restatements of the Separate and Dissenting Opinions which were already adequately discussed in our Decision. In short, private respondent has not given any compelling reason to warrant a reversal or modification of our earlier rulings.

At any rate, accused Malones and Madarico have failed to convince this Court that their Motion for Reconsideration is impressed with merit.

WHEREFORE, the *Motion for Reconsideration* of accused Mariano M. Malones and Edna M. Madarico is hereby DENIED for lack of merit.

Pursuant to this Court's Resolution dated June 7, 2016, the Court hereby orders the suspension *pendente lite* of accused MARIANO M. MALONES as Municipal Mayor of the Municipality of Maasin, Province of Iloilo, and from any other public position he may now or hereafter hold for a period of NINETY (90) DAYS from the implementation of this resolution.

Let a copy of this resolution be furnished the Secretary of the Department of Interior and Local Government (DILG) for the implementation of this order of suspension. The Secretary is requested to inform the Court of the action taken thereon within fifteen (15) days from receipt hereof.

The suspension of the accused shall automatically be lifted upon the expiration of the ninety-day period from the implementation of this resolution.

SO ORDERED.



¹² G.R. No. 148571, December 17, 2002

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SARAH JANE T. FERNANDEZ
Associate Justice

WE CONCUR:


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson


SAMUEL R. MARTIRES
Associate Justice