



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

CERTIFIED TRUE COPY:

FIRST DIVISION

ESTELA TERESITA C. ROSETTE
Executive Clerk of Court III
First Division 10-04-16

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No. SB-15-CRM-0286

FOR: Violation of Section 3 (e) in
relation to Section 3 (g) of R. A. No.
3019 (Anti-Graft and Corrupt
Practices Act)

-versus-

Present:

MANUEL MERCADO LAPID, ET AL.,
Accused,

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

Promulgated on:

SEP 30 2016

X -----X

RESOLUTION

CRUZ, J.

This resolves the (1) Urgent Motion 1. For Dismissal of the case; 2. For Deferment and/or Suspension of Proceedings; and 3. For Production of the Records of Preliminary Investigation dated 08 January 2016, of accused Manuel M. Lapid (accused Lapid for brevity); (2) Prosecution's Opposition to the Urgent Motion dated 19 January 2016; (3) Reply to the Prosecution's Opposition dated 11 February 2016, of accused Lapid; (4) Motion to Quash dated 10 February 2016, of accused Benjamin G. Yuzon (accused Yuzon for brevity); (5) Prosecution's Comment/Opposition to the Motion to Quash dated 01 and 03 March 2016; (6) Supplemental Arguments to the Motion to Dismiss dated 27 April 2016, of accused Ma. Victoria M. Aquino-Abubakar and Leolita M. Aquino (accused Aquino-Abubakar, et al. for brevity); (7) Prosecution's Motion to Admit Attached Comment/Opposition (on the Supplemental Arguments to the Motion to Dismiss dated 27 April 2016) and (8) Prosecution's Opposition, both dated 17 May 2016.

* Sitting as Special Member as per Administrative Order No. 204-2016, dated June 29, 2016.

x ----- x

In his Urgent Motion,¹ accused Lapid urges the dismissal of the instant case on the ground that the inordinate delay committed by the Office of the Ombudsman (Ombudsman for brevity) in the conduct of their fact-finding investigation and preliminary investigation until the subsequent filing of the Information violated his right to due process as well as his right to the speedy disposition of his case. To support his claim, he recounted the incidents of the proceedings before the Ombudsman, and cited the similarities of the case at bar with the case of *Tatad vs. Sandiganbayan* insisting that the ruling thereon should be applied in the instant case. Moreover, he faults the Ombudsman for its alleged failure to furnish him with the supporting documents upon which the Complaint and the Ombudsman Resolution were based. He claims that this action of the Ombudsman further violates his right to due process because he was deprived of his right to confront and rebut the allegations made against him.

Furthermore, accused Lapid states that there is no probable cause to indict him for violation of Section 3 (e) in relation to Section 3 (g) of R. A. No. 3019. He argues that the provisions of Republic Act (R. A.) No. 9184 and its Implementing Rules and Regulations (IRR) were not violated because the direct purchase of Macro-Micro Foliar Fertilizers – a product with no suitable substitute – from its exclusive seller, Malayan Pacific Trading Corporation (MPTC), is justified under Section 50 thereof. He also denies the allegation that the said fertilizer was overpriced explaining that the other fertilizers in the market failed to meet the technical specifications or quality of Macro-Micro Foliar Fertilizer. Hence, the absence of comparable products removes the basis of comparison for the prices, thereby negating the conclusion that the purchased fertilizer was overpriced. Thus, also, the said fertilizer purchase cannot be characterized as grossly and manifestly disadvantageous to the government. He insists that the government did not sustain undue injury by reason of the said purchase; he did not act with manifest partiality, evident bad faith or gross inexcusable negligence in order to extend unwarranted benefits, preference and advantage to any of his co-accused; and there is no evidence of conspiracy to support the Ombudsman's findings of probable cause. All the foregoing, he maintains, also support his prayer for dismissal of the case.

The prosecution opposes² the urgent motion alleging that

¹ Records, pp. 189-213

² Records, pp. 260-275

x-----x

there is no violation of accused Lapid's rights to due process and to a speedy disposition of his case. It insists that the fact-finding investigation period is not included in determining whether the right to speedy disposition of a case was violated because a fact-finding investigation is a case build-up process wherein the subject of the investigation is not yet in jeopardy of being held for trial and punishment. The prosecution asserts that (1) the length of delay; (2) the reasons for delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay – are the determining factors to consider if such right was violated. Corollary, the right to speedy disposition of cases is deemed violated only when the proceedings are attended by vexations, capricious and oppressive delays. As such, the prosecution concludes, the preliminary investigation was conducted within a reasonable time considering the voluminous records and the surrounding circumstances of the case which require a thorough evaluation and review before coming up with a fair resolution. It emphasizes that the Office of the Ombudsman receives a steady stream of cases, and naturally the disposition of these cases would take some time.

The prosecution affirms that the complaint and its annexes have been furnished to accused Lapid to give him the full opportunity to rebut the allegations against him. But, it rejected the latter's plea for judicial determination of probable cause claiming that the Ombudsman Resolution dated 18 September 2013 has extensively discussed the existence of probable cause against him. Furthermore, such request is mooted since the Court already conducted the same as per Resolution³ dated 09 November 2015.

Accused Lapid filed a Reply⁴ to the prosecution's opposition mainly stressing that there are no exceptional circumstances that would justify the delay in the conduct of the Preliminary Investigation. He expounds on the pertinent rules on the period for the resolution of a Preliminary Investigation, and puts emphasis on the Ombudsman's Rules which are tailored to expedite such proceedings. He contends that his right to speedy disposition of his case was violated, and characterizes the delay in the proceedings as vexatious, capricious and oppressive, as he highlights the effects of the lapse of time on the availability of witnesses, documents and evidence which he would use in court as his defense.

For his part, accused Yuzon filed a Motion to Quash⁵ the

³ Records, p. 155

⁴ Records, pp. 284-293

⁵ Records, pp. 294-306

x ----- x

Information claiming that the facts do not constitute the offense charged. Essentially, accused Yuzon contends that his action in relation to the anomalous purchase of the fertilizer is not criminal as he was only performing his duty when he signed the disbursement voucher for the release of the payment therefor. He argues that the mere act of signing neither establishes the essential elements of the crime nor does it satisfy the existence of conspiracy to hold him liable for the offense charged. He also calls the Court's attention to the fact that the bidding process under R.A. No. 9184 is the responsibility of the Bids and Awards Committee and the head of the procuring entity, and that direct contracting as an alternative method of procurement is allowed under R. A. No. 9184 and its IRR.

In its Comment/Opposition⁶ to accused Yuzon's motion to quash, the prosecution asserts that the averments in the Information sufficiently alleged the facts constituting the offense. It opines that the act of accused Yuzon in signing the disbursement vouchers for the payment of fertilizers purchased without public bidding is illegal. The prosecution notes the responsibility of accused Yuzon as provincial accountant to protect the coffers of the municipality in all transactions and this includes the bidding process under R. A. No. 9184. Clearly, the provisions of R. A. No. 9184 and its IRR mandate that all procurement shall be done through competitive public bidding. Hence, the non-observance of this mandate coupled with the concurrence of all the elements of the crime charged makes accused Yuzon and his co-accused liable.

Meanwhile, accused Aquino-Abubakar, et al., and accused Dexter Vasquez (Vasquez for brevity) filed their respective Manifestations,⁷ both dated 09 March 2016, adopting the motion of accused Lapid.

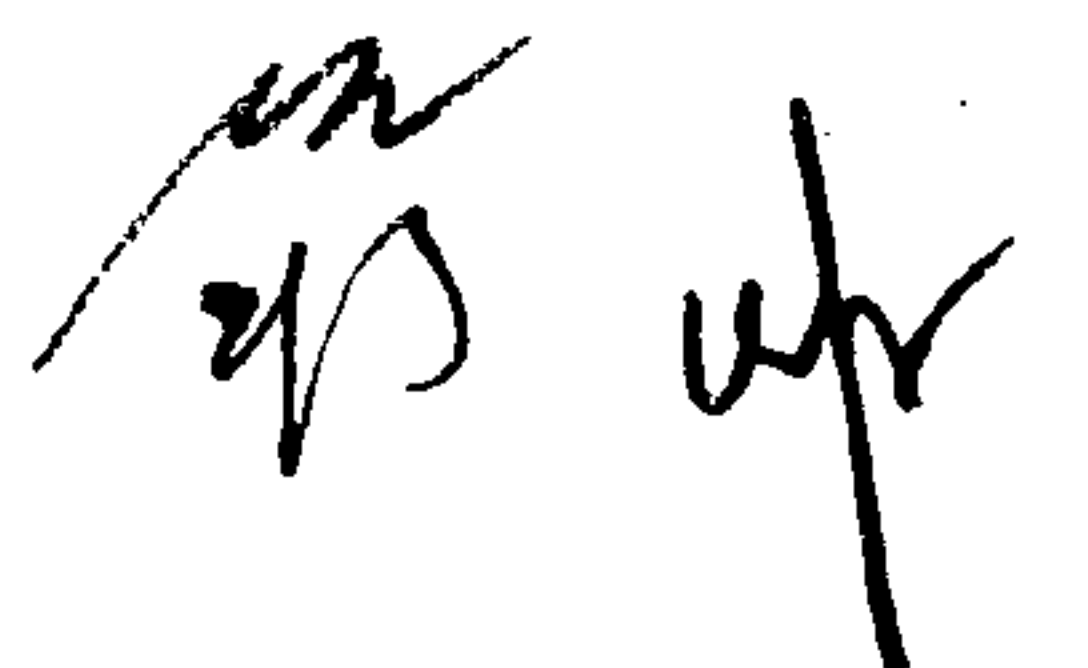
Accused Aquino-Abubakar, et al., subsequently filed their Supplemental Arguments to the Motion to Dismiss,⁸ echoing the same defenses proffered by accused Lapid in his motion, to wit: (1) the inordinate and oppressive delay in the fact-finding investigation, the filing of the complaint, and the resolution of the case by the Ombudsman violated their rights to due process and speedy disposition of their cases; and (2) the records shows no probable cause to indict them of the offense charged. The prosecution opposed⁹ the supplemental argument in essentially the same way it

⁶ Records, pp. 352-362

⁷ Records, pp. 377-380

⁸ Records, pp. 413-424

⁹ Records, pp. 446-460



x ----- x

did the motion filed by accused Lapid.

The Urgent Motion of accused Lapid is impressed with merit.

The right to speedy disposition of a case is provided under Article III, Section 16 of the Constitution which states that, "*all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.*"¹⁰ Although the Constitution guarantees the observance of this right, jurisprudence recognizes that the right to speedy disposition of a case is a relative and flexible concept.¹¹ A mere mathematical reckoning of the time involved is not sufficient.¹² And, particular regard must be taken of the facts and circumstances peculiar to each case.¹³ Stated differently, it means that the grant of such relief depends on the facts as well as the circumstances surrounding a case.

Accused Lapid invokes his right to a speedy disposition of his case contending that there was an inordinate delay in the conduct of the Ombudsman's fact-finding and preliminary investigation. Allegedly, the Ombudsman started its fact-finding investigation sometime in 2006 when its Field Investigation Office (FIO) sent *subpoenas duces tecum* to various government offices. However, the complaint was only filed five (5) years thereafter or on 02 May 2011.

Even as the prosecution maintains, as mentioned previously, that the fact-finding investigation phase is not included in reckoning whether or not the right to speedy disposition of a case has been violated, a thorough review of the records of this case yielded no evidence to confirm the statements of accused Lapid that the Ombudsman indeed commenced and conducted a fact-finding investigation as early as 2006. It is a fundamental rule that mere allegation is not evidence and is not equivalent to proof.¹⁴ Thus, his bare allegation cannot be given credence.

It is worth emphasizing that not all "delay" is tantamount to a violation of the accused's right to speedy disposition of his case. Jurisprudence dictates that the right is deemed violated only when the proceeding is attended by vexatious, capricious and oppressive

¹⁰ 561 SCRA 135, 146 *The Ombudsman vs. Ben C. Jurado* (06 August 2008)

¹¹ *Id.*

¹² 712 SCRA 359, 411 *People of the Philippines vs. Sandiganbayan, et al.* (11 December 2013)

¹³ *Supra*, footnote 10

¹⁴ 598 SCRA 341, 350 *Dr. Castor C. De Jesus vs. Rafael D. Guerrero II, et al.* (04 September 2009)

x-----x

delay.¹⁵ Even if the Ombudsman did conduct a fact-finding investigation as lengthy as alleged by accused Lapid, the Court still fails to see how he could have been prejudiced thereby. The undisputed fact is that he was not in any manner involved in the said investigation. From his own submission, the subpoenas issued by the Ombudsman in the course of the said proceeding were addressed to various government offices and not to him. Whatever delay there may have been in the said investigation could not have concerned him at all, much less been vexatious, capricious and oppressive as to him. The case of the Ombudsman vs. Ben C. Jurado¹⁶ is instructive, viz.:

“xxx Prior to the fact-finding report of the FFB of the OMB, respondent was never the subject of any complaint or investigation relating to the incident surrounding Maglei’s non-existent customs bonded warehouse. In fact, in the original complaint filed by the Bureau of Customs, respondent was not included as one of the parties charged with violation of the Tariff and Customs Code. With respect to respondent, there was no *vexatious, capricious, and oppressive delays* because he was not made to undergo any investigative proceeding prior to the report and findings of the FFB.

Simply put, prior to the report and recommendation by the FFB that respondent be criminally and administratively charged, respondent was neither investigated nor charged. That respondent was charged only in 1997 while the subject incident occurred in 1992, is not necessarily a violation of his right to the speedy disposition of his case. The record is clear that prior to 1997, respondent had no case to speak of – he was not made the subject of any complaint or made to undergo any investigation. xxx”

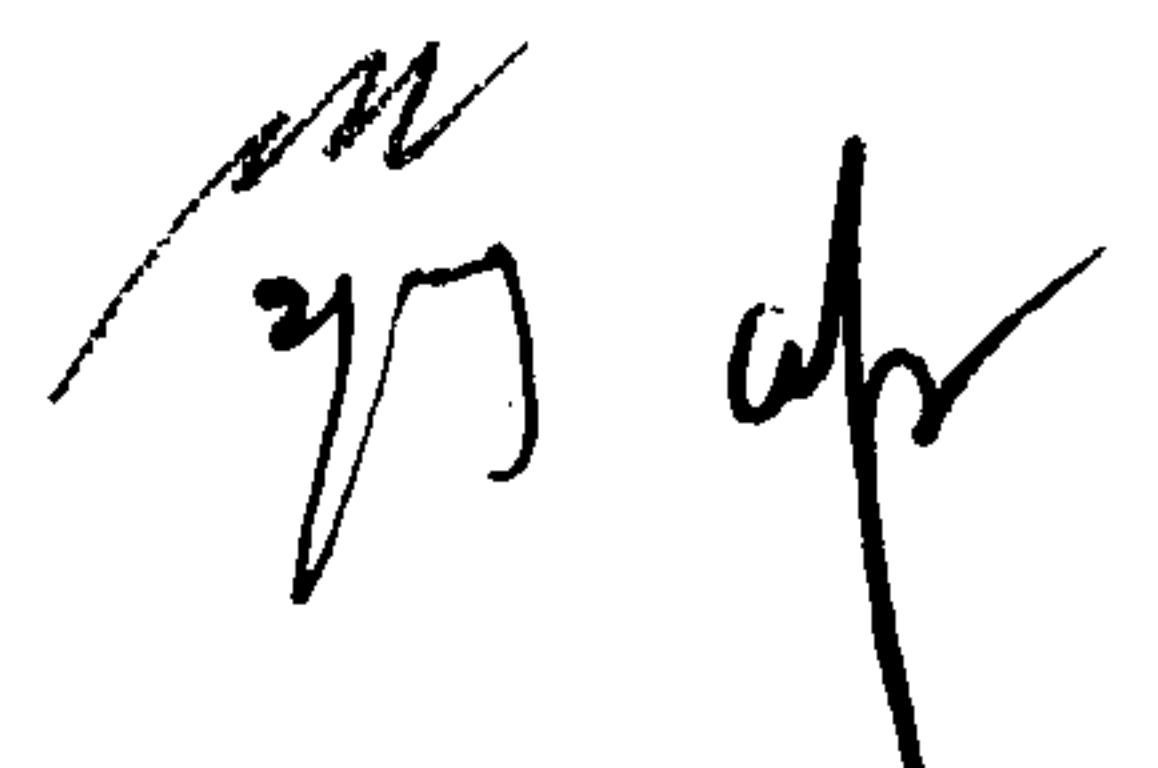
Given all the foregoing, the Court now turns its attention – as urged by the prosecution – to the preliminary investigation proper. There is no dispute that this was commenced with the filing of the Complaint¹⁷ against accused Lapid, et al. on 02 May 2011. Two (2) years and four (4) months after the filing of the complaint, the Ombudsman found probable cause for the filing of the Information in its Resolution¹⁸ dated 18 September 2013 which was finally approved on 03 June 2014. Sometime in July 2014, accused Lapid and Yuzon filed their respective Motions for Reconsideration.

¹⁵ *Supra*, footnote 10

¹⁶ 561 SCRA 135, 147, 06 August 2008

¹⁷ Records, pp. 36-57

¹⁸ Records, pp. 10-30



RESOLUTION

PP vs. Manuel Mercado Lapid, et al.
Case No. SB-15-CRM-0286

Page 7 of 14

x ----- x

Thereafter, the Information¹⁹ was filed before this Court on 04 November 2015.

From the foregoing timeline, it appears that four (4) years and six (6) months had lapsed from the time of the filing of the Complaint in 2011 until the time the information was filed in 2015. Three (3) years and one (1) month out of this said period was consumed in the Ombudsman's preliminary investigation.

The prosecution describes this lapse of time as reasonable delay, bearing in mind the voluminous records, the number of participants involved in the case, and the time needed to evaluate the evidence submitted by each party. The reason proffered by the prosecution is unacceptable as recent jurisprudence has called attention to the constitutional mandate of the Ombudsman as the "protector of the people," such that it is expected to act promptly on all complaints lodged before it.²⁰ The Supreme Court had occasion to emphasize this in the case of *Rafael L. Coscolluela vs. Sandiganbayan and People of the Philippines*,²¹ to wit:

"xxx 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. xxx **Precisely, the Office of the Ombudsman has the inherent duty not only to carefully go through the particulars of cases but also to resolve the same within the proper length of time. Its dutiful performances should not only be gauged by the quality of the assessment but also by the reasonable promptness of its dispensation.** xxx" (*emphasis ours*)

This doctrine is further strengthened by the dictates of procedural due process which entails substantial adherence to the

¹⁹ Records, pp. 1-5

²⁰ 701 SCRA 188, 197 *Rafael L. Coscolluela vs. Sandiganbayan and People of the Philippines* (15 July 2013)

²¹ *Id.*

X ----- X

requirement of the law governing the conduct of preliminary investigation, and this necessarily includes the prosecutor's substantial compliance with the limitation prescribed by law for the resolution of the case.²² The ruling in *Alfredo R. Enriquez, et al. vs. Office of the Ombudsman*²³ is instructive:

“xxx Clearly, respondent's inaction does not only violate petitioners right to speedy disposition of their cases guaranteed by the Constitution, but is also opposed to its role as the vanguard in the promotion of efficient service by the government to the people and in ensuring accountability in public office. Considering that respondent is tasked to determine the causes of inefficiency in the Government, and make recommendations for (its) elimination and the observance of high standards of ethics and efficiency, its prolonged delay is manifestly a violation of due process.

xxx

xxx

xxx

Here, respondent, the very protector of the people, became the perpetrator of the dictum that justice delayed is justice denied. Indeed, the said dictum is not a meaningless concept that can be taken for granted by those who are tasked with the dispensation of justice. **The constitutional guarantee against unreasonable delay in the disposition of cases was intended to stem the tide of disenchantment among the people in the administration of justice by our judicial and quasi-judicial tribunals. The adjudication of cases must not only be done in an orderly manner that is in accord with the established rules of procedure, but must also be promptly decided to better serve the ends of justice. Excessive delay in the disposition of cases renders the rights of the people guaranteed by the Constitution and by various legislations inutile.** The peoples respect and confidence in the Office of the Ombudsman are measured not only by its impartiality, fairness, and correctness of its acts, but also by its capacity to resolve cases speedily. xxx” (*emphasis ours*)

It bears stressing that in case of delay, the duty is upon the State to prove that the delay was reasonable, or that the delay was not attributable to it.²⁴ But, the prosecution clearly failed to hurdle this burden since no plausible explanation was given to justify the delay in the Ombudsman's preliminary investigation.

Corollary: the right of the accused to speedy disposition of

²² 159 SCRA 70, 82 *Francisco S. Tatad vs. The Sandiganbayan and The Tanodbayan* (21 March 1988)

²³ 545 SCRA 618, 630-631, 633, 15 February 2008

²⁴ 712 SCRA 359, 413 *People of the Philippines vs. Sandiganbayan, et al.* (11 December 2013)

x ----- x

cases is deemed violated when the proceedings are attended by vexatious, capricious, and oppressive delays; or when unjustified postponement of the trial are asked for and secured; or even without cause or justifiable motive, a long period of time is allowed to elapse without the party having his case tried.²⁵

This Court further notes, as adverted to previously, that it took the Ombudsman the better part of nine (9) months merely to approve the 18 September 2013 Resolution finding probable cause against Lapid, et al. And, again, no satisfactory explanation has been furnished the Court. All in all, the unjustified delay during the Ombudsman's preliminary investigation qualifies as vexatious, capricious, and oppressive. Without a reasonable explanation, the delay in the latter's proceedings is unwarranted considering the adverse effects and/or prejudice that such long delay may cause upon the defense of the accused. In *Monico V. Jacob, et al. vs. Sandiganbayan, et al.*,²⁶ it was held that:

"xxx In determining whether the accused has been deprived of his right to a speedy disposition of the case and to a speedy trial, four factors must be considered: (a) length of delay; (b) the reason for the delay; (c) the defendant's assertion of his right; and (d) prejudice to the defendant. 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 the 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.** xxx" (*emphasis ours*)

The case of *Rafael L. Coscolluela vs. Sandiganbayan and People of the Philippines*,²⁷ also adds, thus:

"xxx Lest it be misunderstood, the right to speedy disposition of

²⁵ 701 SCRA 188, 195 (*Rafael L. Coscolluela vs. Sandiganbayan and People of the Philippines* (15 July 2013))

²⁶ 635 SCRA 94, 108, 11 November 2010

²⁷ 701 SCRA 188, 199-200, 15 July 2013

X-----X

cases is not merely hinged towards 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. Akin to the right to speedy trial, its 'salutary objective' is to assure that an innocent person may be free from 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 whatever legitimate defense he may interpose. **This looming unrest as well as the tactical disadvantage carried by the passage of time should be weighed against the State and in favor of the individual.** xxx" (*emphasis ours*)

From the foregoing discussions, the Court is constrained to grant the dismissal of the case on the ground of violation of the right of accused Lapid to the speedy disposition of his case.

The case, as against accused Aquino-Abubakar, et al., and accused Vasquez, is likewise dismissed, they having adopted the motion of accused Lapid.

Nevertheless, the dismissal of the case does not leave the Province of Pampanga without recourse. Section 2, Rule 111 of the Rules of Court states that "an acquittal in a criminal case does not bar the private offended party from pursuing a subsequent civil case based on the delict, unless the judgment of acquittal explicitly declares that the act or omission from which the civil liability may arise did not exist."²⁸ Accordingly, the case of Rafael L. Coscolluela vs. Sandiganbayan and People of the Philippines²⁹ citing the case of *Banal vs. Tadeo, Jr.*, explains the application of this remedy, viz.:

"xxx Based on the violation of petitioners' right to speedy disposition of cases as herein discussed, the present case stands to be dismissed even before either the prosecution or the defense has been given the chance to present any evidence. Thus, the Court is unable to make a definite pronouncement as to whether petitioners indeed committed the acts or omissions from which any civil liability on their part might arise as prescribed under Section 2, Rule 120 of the Rules of Court. Consequently, the Province is not precluded from instituting a subsequent civil case based on the delict if only to recover the amount of P20,000,000.00 in public funds attributable to the petitioner's alleged malfeasance. xxx"

²⁸ 701 SCRA 188, 202-203 *Rafael L. Coscolluela vs. Sandiganbayan and People of the Philippines* (15 July 2013)

²⁹ 701 SCRA 188, 204. 15 July 2013

X ----- X

Similarly, the Province of Pampanga can still recover, in a subsequent civil proceeding, any civil liability proven against the aforementioned accused in this case.

Turning now to accused Yuzon's Motion to Quash, on the ground that the facts charged in the Information³⁰ dated 08 October 2015 do not constitute an offense, as they do not state the essential elements of the crime nor how he participated in the allegedly anomalous transaction.

The contention of accused Yuzon is entirely devoid of merit.

An examination of the Information discloses that accused Yuzon's liability is rooted in the conspiracy between him and his co-accused in perpetrating the crime. In this case, conspiracy is not charged as the crime *per se* but it is the mode for committing the offense.³¹ Therefore, it is not necessary for the Information to state his individual participation since conspiracy is not the gravamen of the offense.³² The conspiracy is significant only because it changes the criminal liability of all the accused in the conspiracy and makes them answerable as co-principals regardless of the degree of their participation in the crime.³³ The case of Felicisimo F. Lazarte, Jr., vs. Sandiganbayan, et al.,³⁴ provides the guidelines on how to properly allege conspiracy as a mode of committing the offense in an Information, viz.:

"xxx A conspiracy indictment need not, of course, aver all the components of conspiracy or allege all the details thereof, like the part that each of the parties therein have performed, the evidence proving the common design or the facts connecting all the accused with one another in the web of the conspiracy. Neither is it necessary to describe conspiracy with the same degree of particularity required in describing a substantive offense. xxx.

x x x Verily, the information must state that the accused have confederated to commit the crime or that there has been a community of design, a unity of purpose or an agreement to commit the felony among the accused. Such an allegation, in the absence of the usual usage of the words conspired or confederated or the phrase acting in conspiracy, must aptly appear in the information in the form of definitive acts constituting conspiracy. In fine, the agreement to commit the crime, the unity of purpose or the community of design among the accused must be conveyed such as either

³⁰ *Supra*, footnote 19

³¹ 581 SCRA 431, 448. *Felicisimo Lazarte, Jr. vs. Sandiganbayan, et al.* (13 March 2009)

³² *Id.*

³³ *Id.*

³⁴ 581 SCRA 431, 449 (13 March 2009)

x-----x

by the use of the term conspire or its derivatives and synonyms or by allegations of basic facts constituting the conspiracy. xxx”

Significantly, the fundamental test in reflecting on the viability of a motion to quash on the ground that the facts charged do not constitute an offense is whether or not the facts asseverated, if hypothetically admitted, would establish the essential elements of the crime defined in law.³⁵ Matters *aliunde* will not be considered.³⁶

Here, accused Yuzon and his co-accused were charged with the violation of Section 3 (e) in relation to Section 3 (g) of R. A. No. 3019 (Anti-Graft and Corrupt Practices Act). The essential elements of Section 3 (e) of R. A. No. 3019 are:

1. That the accused are public officers or private persons charged in conspiracy with them;
2. That said public officers committed the prohibited acts during the performance of their official duties or in relation to their public positions;
3. That they caused undue injury to any party, whether the Government or private party;
4. That such injury was caused by giving unwarranted benefits, advantage or preference to such parties; and
5. That the public officers acted with manifest partiality, evident bad faith or gross inexcusable negligence.³⁷

On the other hand, the essential elements of Section 3 (g) of the same law are:

1. The offender is a public officer;
2. He entered into a contract or transaction in behalf of the government; and
3. The contract or transaction is manifestly and grossly disadvantageous to the government.³⁸

A careful analysis of the allegations in the Information readily shows that the facts stated therein sufficiently establish all the aforementioned essential elements, to wit:

³⁵ 581 SCRA 431, 445 *Felicisimo Lazarte, Jr. vs. Sandiganbayan, et al.* (13 March 2009)

³⁶ *Id.*

³⁷ 417 SCRA 242, 247 *Graciano P. Dela Chica, et al. vs. Sandiganbayan, et al.* (08 December 2003)

³⁸ 691 SCRA 471, 490 *Isabelo A. Braza vs. Sandiganbayan* (20 February 2013)

X ----- X

1. Manuel M. Lapid, Benjamin D.G. Yuzon and Vergel B. Yabut are public officers who conspired with private individuals Ma. Victoria M. Aquino-Abubakar, Leolita M. Aquino and Dexter Alexander S.D. Vasquez;
2. They committed the prohibited act while in the performance of their official functions;
3. They acted with evident bad faith, manifest partiality or gross inexcusable negligence causing undue injury to the government and gave unwarranted benefits, preference and advantage to their co-accused Ma. Victoria M. Aquino-Abubakar, Leolita M. Aquino and Dexter Alexander S.D. Vasquez by entering into a transaction on behalf of the Provincial Government of Pampanga; and
4. Such transaction was manifestly and grossly disadvantageous to the government.

Accordingly, the question that needs to be answered is, whether or not the facts contained in the Information, if hypothetically admitted, would establish a violation of the law, specifically the cited provisions of R.A. 3019. The answer is easily in the affirmative and in no way supports accused Yuzon's prayer for the quashal of the said Information as against him.

WHEREFORE, premises considered, the Urgent Motion dated 08 January 2016, filed by accused Manuel M. Lapid, and adopted by accused Ma. Victoria M. Aquino-Abubakar, Leolita M. Aquino, and Dexter Alexander S.D. Vasquez, is **GRANTED**. Accordingly, the case against them is hereby ordered **DISMISSED**, for violation of their rights to the speedy disposition of their cases, without prejudice to any civil liability which the Province of Pampanga may file against them.

On the other hand, accused Benjamin G. Yuzon's Motion to Quash Information dated 10 February 2016, is hereby **DENIED** for lack of merit.

SO ORDERED.



REYNALDO P. CRUZ
Associate Justice





x-----x

We Concur:


EFREN N. DE LA CRUZ
Chairperson/
Associate Justice


MICHAEL FREDERICK L. MUSNGI*
Associate Justice

* Sitting as Special Member as per Administrative Order No. 204-2016, dated June 29, 2016.

