



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
 Quezon City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No. SB-16-CRM-0268 & 0269

FOR: Violation of Section 3 (h) of R. A. No. 3019 (Anti-Graft and Corrupt Practices Act), as amended.

-versus-

Present:

RONALD ALLAN G. CESANTE,
Accused.

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

Promulgated on:

SEP 28 2016

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RESOLUTION

CRUZ, J.

This resolves the (1) Motion to Quash Amended Information (for violation of the Constitutional Rights of the Accused to Due Process and to Speedy Disposition of Cases) dated 22 July 2016 of accused Ronald Allan G. Cesante (Cesante for brevity); (2) Prosecution's Comment/Opposition to Accused's Motion to Quash Amended Information dated 18 August 2016; and (3) accused Cesante's Comment (Re: Plaintiff's Comment/Opposition to Accused's Motion to Quash Amended Information) dated 04 September 2016.

In his motion,¹ accused Cesante prays for the dismissal of the instant case on the ground that his rights to due process and to the speedy disposition of cases have been violated. He contends that there is no plausible explanation for the Office of the Ombudsman ("Ombudsman," for brevity) to take more than three (3) years to complete its preliminary investigation, considering that the issue in

¹ Sitting as Special Member as per Administrative Order No. 204-2016, dated June 29, 2016.

² Records, pp. 126-135

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this case is simple and does not require a longer period of review. As a respondent in the proceedings before the Ombudsman, he has no obligation to follow up the case but he still filed two (2) Urgent Motions to Resolve just to expedite the same. Such unreasonable delay caused him to suffer so much distress, worries and sleepless nights; incur unnecessary legal expenses; and endure the adverse effects of the long passage of time on the availability of evidentiary documents and witnesses. Thus, he concludes, this unjustified delay constitutes a vexatious, capricious and oppressive delay which is tantamount to the violation of his aforementioned rights.

At the onset, the prosecution's opposition² to accused Cesante's motion cites as ground its prematurity, this Court having yet to issue a resolution on its Motion to Admit the Amended Information. This notwithstanding, the prosecution denies that there is an inordinate delay in the proceedings. It emphasizes that the right to speedy disposition of cases is a relative and flexible concept, and the grant thereof depends on the facts and circumstances peculiar to each cases. It insists that the length of time of the conduct of its preliminary investigation was justified, considering that its office is swamped with many cases coming from different sources. As required by law, all of these cases must pass the strict scrutiny of the Honorable Ombudsman before any Information may be filed in court. Therefore, any delay resulting from this should not be considered as vexatious, capricious and oppressive because this process ensures that due process is observed and only meritorious cases are filed. At all events, it asserts, there is no proof that accused Cesante suffered any prejudice by reason of the alleged delay in the proceedings. Neither can it be established that he moved for an expeditious resolution of his case nor did he do anything to expedite the proceedings.

Accused Cesante filed a Comment³ to the prosecution's opposition maintaining that he has a right to file a Motion to Quash the Amended Information at any time prior to his arraignment. He details his active participation in the proceedings before the Ombudsman and reiterates that the latter's proffered excuses are insufficient to justify the delay therein. He argues that prejudice should be presumed in every delay and the holding of a criminal prosecution for an indefinite time caused him to suffer serious anxiety. In sum, he emphasizes that it is the prosecution's duty to prove that the delay was not vexatious, capricious and oppressive

² Records, pp. 339-347

³ Records, pp. 349-357

but that the latter failed to overcome this burden.

The motion to quash is meritorious.

The right to a speedy disposition of cases is enshrined in Section 16 of Article III 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.*”⁴

Although the Constitution guarantees the observance of the right to a speedy disposition of cases, there are no hard and fast rules governing its application. In fact, jurisprudence often describes this right as a relative term and a flexible concept such that a mere mathematical reckoning of the time involved would not be sufficient.⁵ In applying this constitutional guarantee, due regard must also be given to the facts and circumstances surrounding each case.⁶

Here, the point of contention revolves around accused Cesante’s allegation that the Ombudsman failed to justify the unreasonable length of time it took to finalize its preliminary investigation and recommend the filing of the Information. Significantly, a review of the records confirms that three (3) years and two (2) months had lapsed from the time of the filing of the Complaint-Affidavit⁷ on 04 September 2012, until the completion of the Ombudsman’s preliminary investigation on 25 November 2015, upon the final approval of its Resolution dated 19 March 2013, finding probable cause to indict accused Cesante.⁸ Despite this apparent delay, there are still guidelines to follow in order to properly conclude that accused Cesante’s right to a speedy disposition of his case was indeed violated.

In making a determination of what constitutes a violation of the right to a speedy disposition of cases, jurisprudence proposes the employment of the balancing test.⁹ The balancing test is the middle ground where the conduct of both the prosecution and the accused are weighed¹⁰ based on the following four factors: (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

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

⁵ *Id.*, 195.

⁶ 561 SCRA 135, 145. *The Ombudsman vs. Ben C. Jurado*, 06 August 2008.

⁷ Records, pp. 26-30.

⁸ Records, pp. 4-10.

⁹ *Supra*, note 6, 149.

¹⁰ *Id.*, 149.

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the delay.¹¹

In this case, it is evident that the Ombudsman had already found probable cause against herein accused Cesante as early as 19 March 2013.¹² But, this resolution was finally approved only on 25 November 2015¹³ or around two (2) years and eight (8) months thereafter. Notably, the only justification offered by the prosecution for this long interval was that the Office of the Ombudsman receives a lot of cases and these cases necessarily pass through the strict scrutiny of the Honorable Ombudsman before any Information can be filed in court. This kind of excuse, however, is rejected and looked upon with disfavor in recent jurisprudence which underscores the constitutional mandate of the Ombudsman as the “protector of the people”.¹⁴ As such, the Ombudsman is required to act promptly on all complaints filed in any form or manner against officers and employees of the Government with the end goal to promote efficient government service.¹⁵ The case of *Rafael L. Coscolluela vs. Sandiganbayan and People of the Philippines*¹⁶ is instructive, viz :

“xxx 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 delay is further highlighted by the fact that the issue raised in this case is not that complicated, involving as it does a single transaction, *i.e.*, a Contract of Lease¹⁷ purportedly entered into by the accused with his wife. It certainly does not call for the extraordinary length of time that it took the Ombudsman to complete its investigation and file the corresponding information with this Court. Jurisprudence dictates that barring any extraordinary complication, such as the degree of difficulty of the questions involved in the case or any event external thereto that effectively

¹¹ Supra, note 4, 195

¹² Records, pp. 4-16

¹³ Records, p. 16

¹⁴ 545 SCRA 618, 627 *Alfredo R. Enriquez, et al. vs. Office of the Ombudsman*, 15 February 2008

¹⁵ *Id.*

¹⁶ Supra, note 4, 197

¹⁷ Records, pp. 31-34

obstructs its normal work activity,¹⁸ the Ombudsman should strive to quickly resolve its preliminary investigation.

Ultimately, the duty of the State *vis-à-vis* a claim of inordinate delay in its proceedings is to prove that the delay was reasonable or that the delay was not attributable to it.¹⁹ On both scores, the prosecution failed.

The prosecution lays the burden squarely on the shoulders of accused Cesante to prove that he either moved for the expeditious resolution of his case or that he did anything to expedite the Ombudsman's proceedings. This line of reasoning is skewed. At the onset, it must be emphasized that a defendant in a case has no obligation to bring himself to trial, that is the duty of the State.²⁰ Accordingly, being a respondent in a preliminary investigation, it is not the duty of accused Cesante to follow up on the prosecution of his case.²¹ Rather, it is the Ombudsman's responsibility to expedite the proceedings within the bounds of reasonable timeliness consistent with its mandate to promptly act on all the complaints lodged before it.²² This finds support in jurisprudence which affirms that the constitutional mandate of the Ombudsman to act promptly on all of its cases carries a correlative duty to speedily resolve the same.²³

Consequently, jurisprudence declares that some delays are presumptively prejudicial.²⁴ The rationale behind this doctrine is expounded in the same case of Rafael L. Coscolluela vs. Sandiganbayan and People of the Philippines,²⁵ to wit:

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

¹⁸ Supra note 4, 197.

¹⁹ G712 SCRA 359 (13 *People of the Philippines vs. Sandiganbayan, et al.* 11 December 2013)

²⁰ Supra note 4, 195.

²¹ *Id.*

²² *Id.*

²³ Supra note 14, 627.

²⁴ Supra note 6, 149.

²⁵ Supra note 4, 195.

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passage of time should be weighed against the State and in favor of the individual. xxx" (emphasis ours)

Under the peculiar circumstances of this case, it is apparent that the Ombudsman did take an unreasonably long period of time just to investigate the complaint-affidavit considering the simple issue raised therein. Sans a reasonable explanation, such long delay is deemed inordinate and oppressive²⁶ so as to sufficiently violate accused Cesante's rights under the Constitution to the speedy disposition of his case.

The impending dismissal of the present case, nonetheless, does not automatically release accused Cesante from any civil liability which the Municipality of Dalagute, Cebu may prove in a subsequent civil proceeding.²⁷ This remedy is allowed under Section 2, Rule 111 of the Rules of Court, which 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."

WHEREFORE, premises considered, the Motion to Quash Amended Information filed by accused Ronald Allan G. Cesante is hereby **GRANTED**, and the Amended Information filed against him 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 cash bond posted by him for his provisional liberty is ordered **RELEASED**, subject to the usual accounting and auditing procedures.

SO ORDERED.


REYNALDO P. CRUZ
Associate Justice

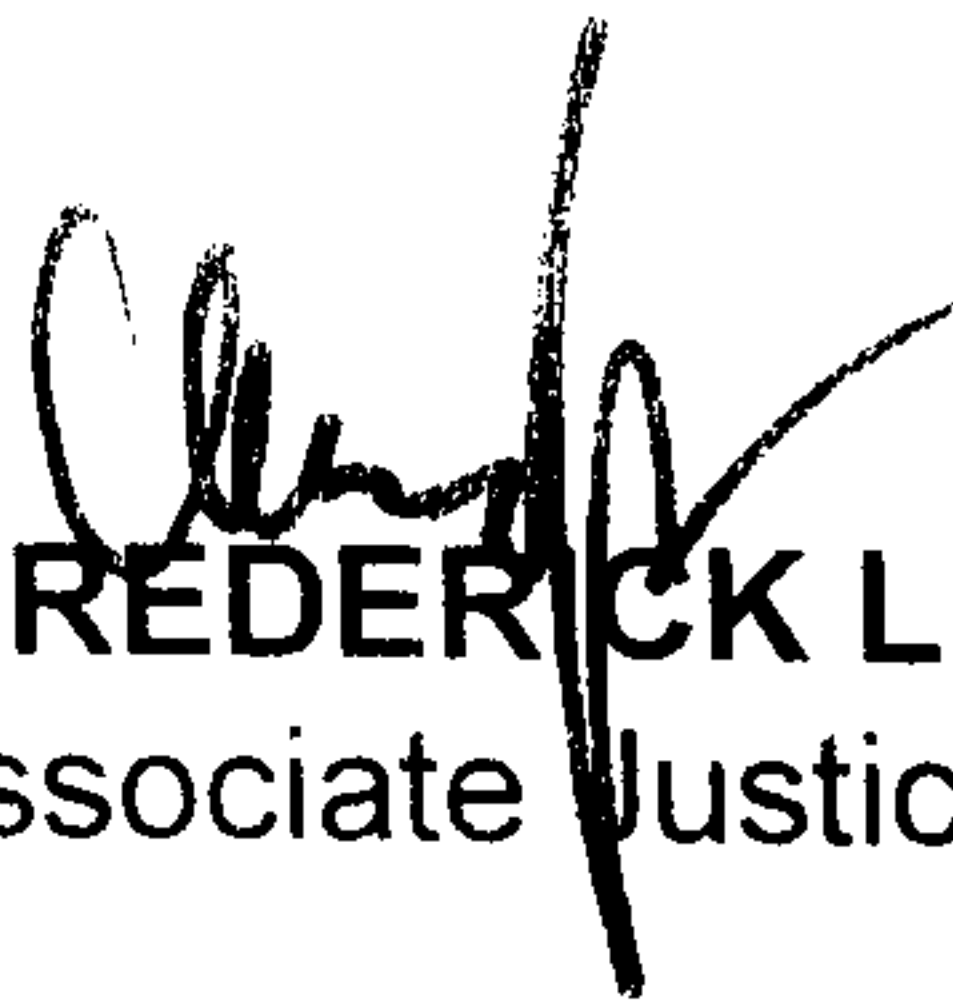
²⁶ In the case of G. R. No. 191411 *Rafael L. Coscolluela vs. Sandiganbayan and People of the Philippines* (15 July 2013), it was held that "xxx the right to speedy disposition of cases is deemed violated when the proceedings are attended by vexatious, capricious, and oppressive delay; or when unjustified postponements 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. xxx"

²⁷ *Supra* note 4, 202

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We Concur:

EFREN N. DE LA CRUZ
Chairperson/
Associate Justice


MICHAEL FREDERICK L. MUSNGI*
Associate Justice

