



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-16-CRM-0633

- versus -

**For: Violation of Section 3 (e) of R.A.
No. 3019**

MARIO JOEL T. REYES, et al.,
Accused.

Present:
**LAGOS, J., Chairperson, CRUZ* and
MENDOZA-ARCEGA, JJ.**

Promulgated:

May 08, 2017 Jod

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RESOLUTION

LAGOS, J.:

For resolution is the Motion to Quash Information/Dismiss the Case of accused Mario Joel T. Reyes¹ and the prosecution's Comment/Opposition².

In said motion, accused Reyes alleges that, in a Resolution dated March 15, 2017, the Court granted the Motion to Quash Information and/or Dismiss the Case filed by accused Rodolfo Guieb, which accused Dennis Araullo adopted. The accused recounts that, in said Resolution, the Information as against Guieb and Araullo was dismissed on the ground of violation of the right to speedy disposition of cases. Accused claims that the same Resolution, its logic and the laws and jurisprudence it relied upon apply, and there is no reason not to apply the same squarely, to Reyes who is among those originally charged in the first complaint in this case and is similarly situated with accused Guieb and Araullo.

* As per Administrative Order No. 025-2017 dated February 1, 2017.

¹ Records, Vol. II, pp. 217-225.

² Records, Vol. II, pp. 232-238.

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According to the accused, the records of the preliminary investigation in this case, and as may be inferred from, among others, the Resolution of the Office of the Ombudsman dated November 12, 2014 in OMB-C-C-11-0212-E; Guieb and Araullo's Motion to Quash and/or Dismiss the Case; the Prosecution's Comment/ Opposition thereto; and, the Resolution dated March 15, 2017 itself, commonly reveal the similarity of the circumstances among Reyes, Guieb and Araullo, as follows:

- a. The transactions subject matter of the complaint commonly imputed against Reyes and Guieb, and subsequently against Araullo transpired in 2004;
- b. The fact-finding investigation commenced in 2004;
- c. The Complaint against Reyes and Guieb, among others, was filed by complainant Task Force Abono on May 2, 2011, while that against Araullo was signed on August 28, 2013;
- d. Guieb submitted his counter-affidavit on June 21, 2011 while Reyes filed his counter-affidavit shortly thereafter or on July 22, 2011;
- e. The Information commonly indicting Reyes, Guieb and Araullo, among others, of the present charge was filed before this Court on September 14, 2016.
- f. No dilatory tactics may be attributed to Reyes, Guieb and Araullo as they submitted their pleadings promptly.

Accused Reyes, therefore, surmises that the inordinate and unreasonable delay in the preliminary investigation; the lack of a valid excuse on the part of the Ombudsman; the timeliness of the assertion of respondent-movants' rights; and, the prejudice suffered by the respondents, all found by the Court as attendant in this case, and as applied in favor of Guieb and Araullo are present in his case.

On the other hand, the prosecution objects and states that the right to speedy disposition of cases is a relative and flexible concept, such that a mere mathematical reasoning of the time involved would not be sufficient and the facts and circumstances peculiar to each case must be determined. The prosecution alleges that there is necessary delay when the length of time spent in evaluating the case was intended to afford the respondent/accused the full opportunity to ventilate his/her defenses in observance of the due process clause.

The prosecution adds that there is reasonable delay occasioned by the steady stream of cases being filed with the investigating body or the existence of levels of review in the course of such investigation. Allegedly, there is inordinate delay caused by an unmistakable departure from the normal procedures of investigation as that adjudged in *Tatad v.*

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Sandiganbayan (G.R. No. 72335-39, March 21, 1988) and Duterte v. Sandiganbayan (G.R. No. 130191, April 27, 1998).

The prosecution submits that if there was delay in the resolution of this case by the Office of the Ombudsman, the same was not vexatious, oppressive and capricious. The prosecution insists that there was no more delay in this case than is reasonably attributable to the ordinary processes of justice.

According to the prosecution, the preliminary investigation of the herein case only started from the time the Task Force Abono filed a Complaint before the Ombudsman Central Records Division on May 2, 2011, and not at the time the Fact Finding was started by the said Task Force in May 24, 2004. The Fact Finding made by the Task Force did not cause any prejudice to accused yet and the period attributable to such Fact Finding should not be considered in determining whether the Office of the Ombudsman incurred inordinate delay.

The prosecution posits that, from August 24, 2011 to September 14, 2016, the case was never in a state of hibernation nor did it go to sleep. Between these periods, the prosecution alleges that respondents were given ample opportunity to rebut the allegations against them.

Likewise, when the Special Panel on Task Force Abono cases issued a resolution finding probable cause against Reyes, Araullo, Guieb, Sula, and Nathan Tan for violation of Section 3 (e) as amended on November 12, 2014, respondents Guieb, Araullo and Reyes were able to file their separate motions for reconsideration. From then on, the period between November 2014 to the filing of the Information of the instant case with the Sandiganbayan on September 14, 2016 was necessarily expended to thresh out and resolve the numerous and intricate issues pertaining to the case and, thus, considered part and parcel of the ordinary processes of justice.

The prosecution adds that the records will bear that accused suffered no serious prejudice beyond that which ensued from the ordinary and inevitable delay during the time that the preliminary investigation was pending. Moreover, the prosecution points out that accused Reyes did not file any pleadings or motions for the early resolution of his case.

Instead of being prejudicial to the accused, the prosecution asserts that the intervening periods are considered more beneficial to the respondents in that these were intended to afford them the opportunity to refute the charges against them. As such, the said delay in the proceedings

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was justified and should not be taken against the Office of the Ombudsman which ensured that due process was afforded to all of the accused.

RULING

In determining whether an accused has been deprived of the right to speedy disposition of cases, four factors must be considered: (a) length of delay; (b) reason of the delay; (c) the defendant's assertion of his right; and (d) prejudice of the defendant.³

Length of Delay

As this Court noted in the March 15, 2017 Resolution, per the prosecution's own timeline:

Date	Factual Antecedents
May 24, 2004 June 3, 2004 September 5, 2005 November 17, 2005	Complaints were filed then ensued the Fact Finding by the Task Force Abono of the Field Investigation Office, Office of the Ombudsman
May 2, 2011	Task Force Abono filed a Complaint before the Office of the Ombudsman Central Records Division
May 27, 2011	The Preliminary Investigation Administrative Adjudication and Review Bureau (The PARB) ordered respondents to submit a Counter-Affidavit within ten (10) days
June 15, 2011	The respondent Guieb received the May 27, 2011 Order
June 22, 2011	Guieb submitted his Consolidated Counter-Affidavit dated June 21, 2011
June 23, 2011	Respondent Raymundo E. Braganza (Braganza) filed a Motion for Extension of Time to File a Counter-Affidavit/Answer dated June 23, 2011
June 27, 2011	Respondent Marina Sula (Sula) Masaganang Ani para sa Magsasaka Foundation, Inc. (MAMFI) filed a

³ Commo. Lamberto Torres v. Sandiganbayan (First Division) and People of the Philippines (G.R. Nos. 221562-69, October 5, 2016).

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	request for extension in OMB-D-C-11-0212-E
June 28, 2011	The PARB granted Braganza additional ten (10) days from June 23, 2011, or until July 3, 2011 to file his Counter-Affidavit
June 28, 2011	PARB Director issued an Order granting Sula fifteen (15) days from June 27, 2011, or until July 12, 2011 to file her Counter-Affidavit
July 4, 2011	Sula filed her Counter-Affidavit dated July 4, 2011
July 4, 2011	Braganza filed his Counter-Affidavit June 23, 2011
July 12, 2011	Respondent Mario Joel T. Reyes (Reyes) moved for additional time to file Counter-Affidavit; TOPACIO Law Office filed its Formal Entry of Appearance
July 13, 2011	Reyes was granted fifteen (15) days from July 8, 2011, or until July 23, 2011 to file his Counter-Affidavit
July 22, 2011	Reyes filed his Counter-Affidavit dated July 22, 2011
August 1, 2011	Respondent Lorna Ramirez (Ramirez) filed her Counter-Affidavit dated July 29, 2011
August 24, 2011	Respondent Nelson Salvador (Salvador) filed his Counter-Affidavit dated August 11, 2011
August 12, 2013	The New Special Panel to Handle the Criminal and Administrative Cases arising from the so-called Fertilizer Fund Scam recommended the amendment of the complaint to include Regional Director Dennis R. Araullo (Araullo) and Accountant Jasmine Cabucol, DA-RFU IV-B
December 2, 2013	The cases were submitted to the Special Panel on Fertilizer Fund Scam
August 28, 2013	The Supplemental Complaint charging Dennis B. Araullo was

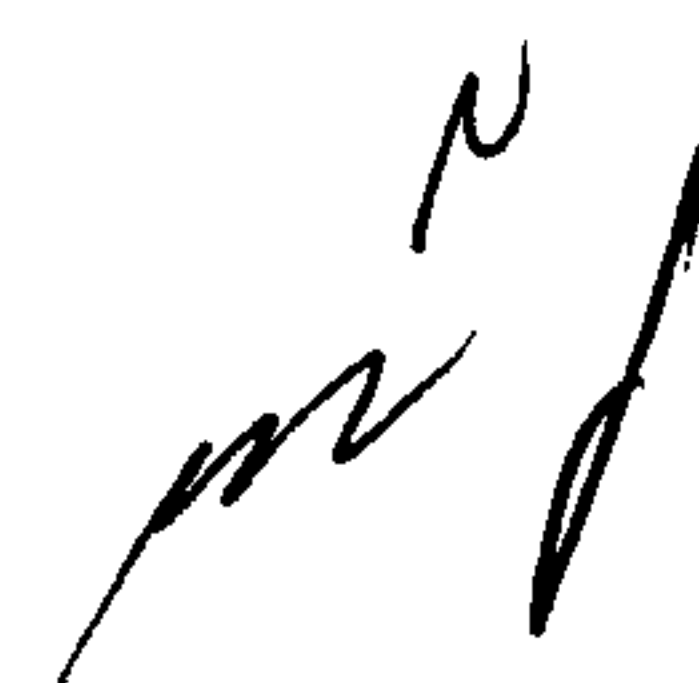
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	signed by the Task Force Abono-Field Investigation Office I
April 4, 2014	Araullo was ordered by the Special Panel on Fertilizer Fund Scam Cases to file a Counter-Affidavit within ten (10) days from receipt
May 27, 2014	Araullo filed his Counter-Affidavit dated May 26, 2014
November 12, 2014	The Special Panel on Task Force Abono Cases issued a Resolution dated November 12, 2014 finding probable cause against Reyes, Araullo, Guieb, Sula, Nathan Tan (Tan) for violation of Section 3 (e), as amended. While the case against other respondents were dismissed.
September 3, 2015	The Honorable Ombudsman approved the November 12, 2014 Order
October 28, 2015	Guieb filed a Motion for Reconsideration dated October 28, 2015
October 29, 2015	Office of the Secretary, Department of Agriculture submitted a letter to Assistant Ombudsman Manalili informing the Office that Guieb has no longer been reporting for office since January 2015
November 4, 2015	Araullo filed a Motion for Reconsideration dated November 4, 2015
November 9, 2015	Reyes filed a Motion for Partial Reconsideration dated November 6, 2015
February 19, 2016	Deputy Ombudsman for Luzon/Chairman of the Task Force Abono Panel, Gerard A. Mosquera (Chairman Mosquera), referred to the Honorable Ombudsman the Joint Order on the Subject case, OMB-C-C-11-0212-E and OMB-C-A-11-0214-E, FIO v. Reyes, et al. and FIO v. Salvador, et al.

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March 30, 2016	Chairman Mosquera recommended the approval for the Joint Order denying the separate Motions for Reconsideration filed by Guieb
June 30, 2016	The Information re: OMB-C-C-11-0212-E, For: Violation of Section 3 (e), R.A. No. 3019, as amended was reviewed and recommended for filing before the Sandiganbayan
November 6, 2016	The Joint Order denying the separate Motions for Reconsideration filed by Guieb dated November 6, 2015 was signed by the Special Panel on Task Force Abono Cases and submitted for approval of the Honorable Ombudsman
April 22, 2016	<p>The Honorable Ombudsman approved the Joint Order dated November 6, 2015 denying the separate Motions for Reconsideration filed by Guieb</p> <p>The Honorable Ombudsman approved the Order dated January 18, 2016 denying the Motion for Partial Reconsideration of Reyes and the Motion for Reconsideration of Araullo</p>
July 7, 2016	Information for SB-16-CRM-0633, the instant case, for Violation of Section 3 (e), R.A. No. 3019, as amended was recommended for approval and filing before the Sandiganbayan
September 14, 2016	The Information for SB-16-CRM-0633, the instant case, for violation of Section 3 (e), R.A. No. 3019, as amended was filed before the Sandiganbayan

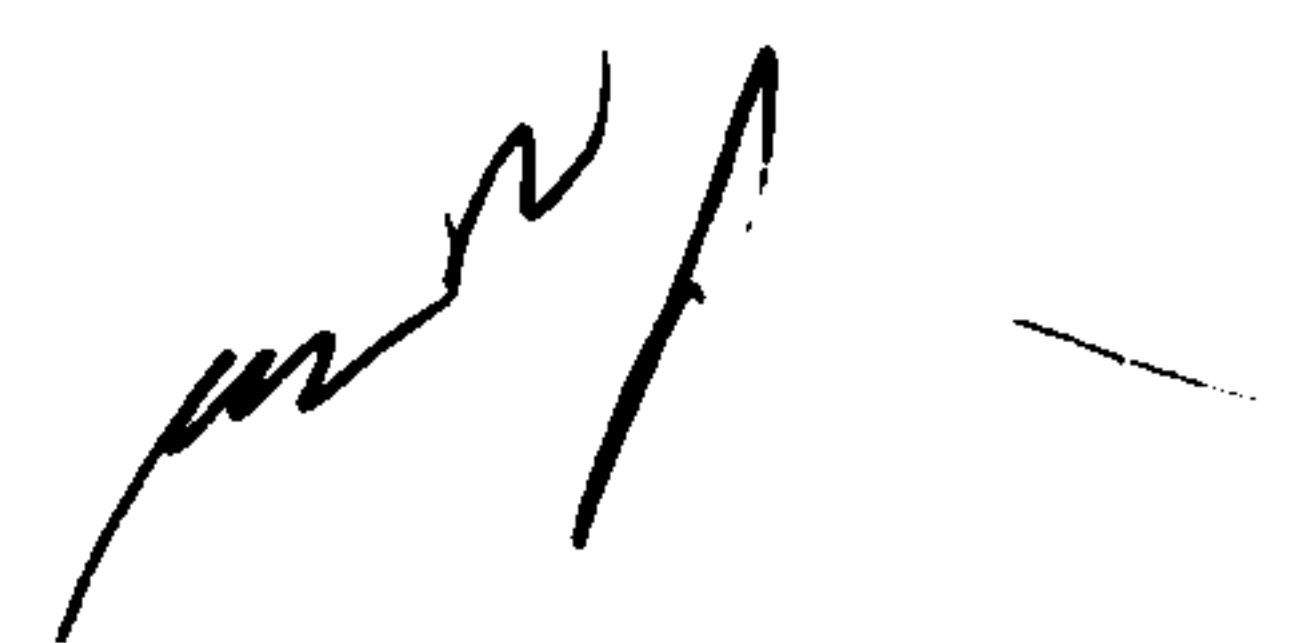
Also, in said Resolution dated March 15, 2017, We noted that:



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The prosecution claims that the preliminary investigation commenced in 2011 and terminated in 2016, when the case was filed in Court. In this period of five (5) years, respondents, including Guieb, availed of the remedy of filing Motions for Reconsideration. Some even filed requests for extensions, which contributed to the stretching of the time period of the preliminary investigation. Thus, the delay was not vexatious, capricious or oppressive.

However, from the prosecution's own timeline it appears that the Ombudsman issued the Order for the respondents to submit their counter-affidavits on May 27, 2011 and respondent Guieb received the same on June 15, 2011. Before the lapse of the period to file his counter-affidavit, accused-movant Guieb filed the same. In addition, even with the other respondents' motions for extension, the last of the counter-affidavits were submitted on August 24, 2011, which was a mere three months from the Ombudsman's order to file counter-affidavits. Again, from the prosecution's own timeline, nothing happened to the case until August 12, 2013 when The New Special Panel to Handle the Criminal and Administrative Cases arising from the Fertilizer Fund Scam recommended the amendment of the complaint to include accused-movant Araullo. Almost eight months after, on April 4, 2014, Araullo was ordered by the Special Panel to file a counter-affidavit, with which Araullo complied on May 27, 2014. On September 3, 2015, the Ombudsman approved the resolution finding probable cause to indict the accused in this case, including Guieb and Araullo. On October 28, 2015, November 4, 2015 and November 9, 2015, Guieb, Araullo and Reyes filed their separate motions for reconsideration of the resolution indicting them. Hence, as can be gleaned from the prosecution's own timeline, the time allowed for accused-movants' filing of their counter-affidavits and motions for reconsideration, at most, only amounts to six months, all in all. For large stretches of time, most notably from August 24, 2011 to April 4, 2014, the case languished with the Ombudsman. As accused-movant Guieb pointed out in his Reply, it took the Ombudsman eight months to even order Araullo to file his counter-



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affidavit. From the foregoing, by itself, the time that this case spent pending preliminary investigation with the Ombudsman already reeks of inordinate delay.

These same exact observations are likewise true in accused Reyes's case. The Ombudsman issued the Order for the respondents to submit their counter-affidavits on May 27, 2011. On July 12, 2011, Respondent Mario Joel T. Reyes (Reyes) moved for additional time to file Counter-Affidavit. Reyes filed his Counter-Affidavit dated July 22, 2011. After the last of the counter-affidavits were submitted on August 24, 2011, which was a mere three months from the Ombudsman's order to file counter-affidavits, nothing happened to the case until August 12, 2013 when The New Special Panel to Handle the Criminal and Administrative Cases arising from the Fertilizer Fund Scam recommended the amendment of the complaint to include accused-movant Araullo. Again, the case slept until almost eight months after, on April 4, 2014, when Araullo was ordered by the Special Panel to file a counter-affidavit. Araullo complied on May 27, 2014. On September 3, 2015, the Ombudsman approved the resolution finding probable cause to indict the accused in this case, including Reyes. On November 9, 2015, Reyes filed his motions for reconsideration to the resolution. Thus, as can be gleaned from the prosecution's own timeline, the time allowed for accused's filing of their counter-affidavits and motions for reconsideration, at most, only amounts to six months, all in all, a period which cannot be viewed as dilatory considering the length of time that the case remained stagnant with Office of the Ombudsman. As pointed out in Our earlier Resolution, for large stretches of time, most notably from August 24, 2011 to April 4, 2014, the case languished with the Ombudsman and as former accused-movant Guieb stated, it took the Ombudsman eight months to even order Araullo to file his counter-affidavit. From the foregoing, by itself, the time that this case spent pending preliminary investigation with the Ombudsman already reeks of inordinate delay.

Involving as it does the same set of facts and circumstances, particularly the same timeline, as provided by the prosecution itself, this Court is constrained to find that there was likewise inordinate delay in the investigation and resolution of accused Reyes's case on the part of the Office of the Ombudsman. As such, accused Reyes's Constitutional right to speedy disposition of cases, like accused Guieb's and Araullo's, was violated.

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In the same Resolution, this Court also noted that, in the recent case of *Commo. Lamberto Torres v. Sandiganbayan (First Division) and People of the Philippines*⁴, the Supreme Court pronounced that:

We find it necessary to emphasize that **the speedy disposition of cases covers not only the period within which the preliminary investigation was conducted, but also all stages to which the accused is subjected, even including fact-finding investigations conducted prior to the preliminary investigation proper.** We explained in *Dansal v. Fernandez, Sr.*:

Initially embodied in Section 16, Article IV of the 1973 Constitution, the aforesaid constitutional provision is one of the three provisions mandating speedier dispensation of justice. It guarantees the right of all persons to “a speedy disposition of their case”; includes within its contemplation the periods before, during and after trial, and affords broader protection than Section 14(2), which guarantees just the right to speedy trial. It is more embracing than the protection under Article VII, Section 15, which covers only the period after the submission of the case. The present constitutional provision applies to civil, criminal and administrative cases.

Considering that the subject transactions were allegedly committed in 1991 and 1992, and the fact-finding and preliminary investigations were ordered to be conducted by Tanodbayan Marcelo in 2004, the length of time which lapsed before the Ombudsman was able to resolve the case and actually file the Informations against the petitioner was undeniably long-drawn-out. (Emphasis ours.)

As We mentioned in Our earlier Resolution, the Supreme Court’s pronouncement, in the afore-quoted case, was unequivocal. The High Court has determined, in no uncertain terms, that the fact-finding investigation which leads to the filing of a complaint and, in turn, initiates the preliminary investigation is to be tacked and computed with the latter in determining the length of delay. Consequently, as in the cases of *Guieb* and *Araullo*, the same must be done in this case as well.

⁴ G.R. Nos. 221562-69, October 5, 2016.

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Considering that, according to the timeline of the prosecution, the fact-finding investigation commenced in May 24, 2004, June 3, 2004, September 5, 2005 and November 17, 2005 with the filing of complaints against respondents with Task Force Abono and the ensuing preliminary investigation ended on September 14, 2016 with the filing of the amended Information before this Court, the entire proceedings before the Office of the Ombudsman took close to twelve years, thereby further proving to this Court that there was inordinate delay in this case that violated accused Reyes's right to speedy disposition of cases.

Reasons for the Delay

The prosecution submits that if there was delay in the resolution of this case by the Office of the Ombudsman, the same was not vexatious, oppressive and capricious. The prosecution insists that there was no more delay in this case than is reasonably attributable to the ordinary processes of justice. The prosecution alleges that respondents were given ample opportunity to rebut the allegations against them and the time in which the case was pending with the Ombudsman for preliminary investigation was necessarily expended to thresh out and resolve the numerous and intricate issues pertaining to the case and, thus, considered part and parcel of the ordinary processes of justice.

The prosecution's reasoning does not, however, cover or sufficiently explain the long stretches of time, previously mentioned in the preceding section, that the case against the accused remained pending with no apparent action with the Office of the Ombudsman. Despite the prosecution's protestations, the prevailing jurisprudence dictates a strict adherence to the mandate of the Office of the Ombudsman to be the "protector of the people" and, as such, 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." The Supreme Court, in the case of *Coscolluella v. Sandiganbayan*⁵, goes on to say that this great responsibility cannot be simply brushed aside by ineptitude and, 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.

As We have previously resolved, the immense scope of the nationwide Fertilizer Fund Scam does not escape the cognizance of this Court.

⁵ G.R. No. 141411, July 15, 2013.



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Nevertheless, the delay of a decade cannot be countenanced lest We run afoul of the Constitutional protection afforded by the right to speedy disposition of cases. More than ten years to investigate a case is simply too lengthy to be reasonable even under the circumstances extant in the case at bar.

Defendant's Assertion of His Right

Even the prosecution, in its Comment/Opposition, admits that ***Coscolluela v. Sandiganbayan*** (G.R. No. 141411, July 15, 2013) teaches that it was not accused's Reyes' duty to follow up on the prosecution of his case. The prosecution merely points out that it is unusual for the accused to allow and let years pass without doing anything and let the investigation linger without filing a motion for resolution.

Similar to Our previous Resolution, as it stands, in the same case of ***Coscolluela***, it was the Office of the Ombudsman's responsibility to expedite the resolution of the case against the accused within the bounds of reasonable timeliness, in view of its mandate to promptly act on all complaints lodged before it. Absent dilatory tactics by the respondents or exceptional circumstances that might warrant delay, of which, as in Guieb's and Araullo's case, none were shown in this case, the prosecution cannot pass the blame on the accused by merely citing alleged unusual behavior on his part or the lack of a motion for resolution. As in the case of Guieb and Araullo, it is sufficient that accused Reyes has asserted his right before this Court in these early stages of the case.

Prejudice to the Defendant

Lastly, the prosecution asserts that no prejudice was shown on the part of accused Reyes. Instead, the prosecution asserts that the intervening periods are considered more beneficial to the respondents, including accused Reyes, in that these were intended to afford them the opportunity to refute the charges against them. As such, the said delay in the proceedings was justified and should not be taken against the Office of the Ombudsman which ensured that due process was afforded to all of the accused.

The prosecution again fails in this regard. As demonstrated by the prosecution's timeline above, much of the delay during the fact finding investigation and the preliminary investigation happened when the accused did not yet have the opportunity to refute the charges against him and when he has already answered the charges through his counter-affidavit and was only awaiting the resolution of the Ombudsman. Therefore, as it appears to this Court, the long stretches of time that constituted the delay happened



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for the benefit of the Office of the Ombudsman, for their “layers of review” and “ordinary processes of justice”, and not the accused.

As We previously ruled, the prejudice caused by the prolonged pendency of this case cannot be belittled considering that the events that gave rise to the charges transpired almost twelve years ago. Were trial to begin today, the difficulty of securing and preserving evidence is a foreseeable obstacle to mounting an effective defense for the accused. Likewise, the psychological, financial and emotional toll on the part of the accused must necessarily be taken into mind.

Nonetheless, the dismissal of these criminal cases against the accused does not necessarily mean that he is entirely exonerated from civil liability. Section 2, Rule 111 of the Rules of Court provides that:

Section 2. When separate civil action is suspended. —

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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 which the civil liability may arise did not exist.

Hence, applying the ruling in *Coscolluela*, although the criminal liability of the accused may be considered extinguished with the dismissal of this case, the prosecution may still go after the accused, as regards his civil liability that may arise from the alleged offense. According to the Supreme Court:

“While the foregoing pronouncement should, as 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.

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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




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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, absent this pronouncement, 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 petitioners' alleged malfeasance."⁶

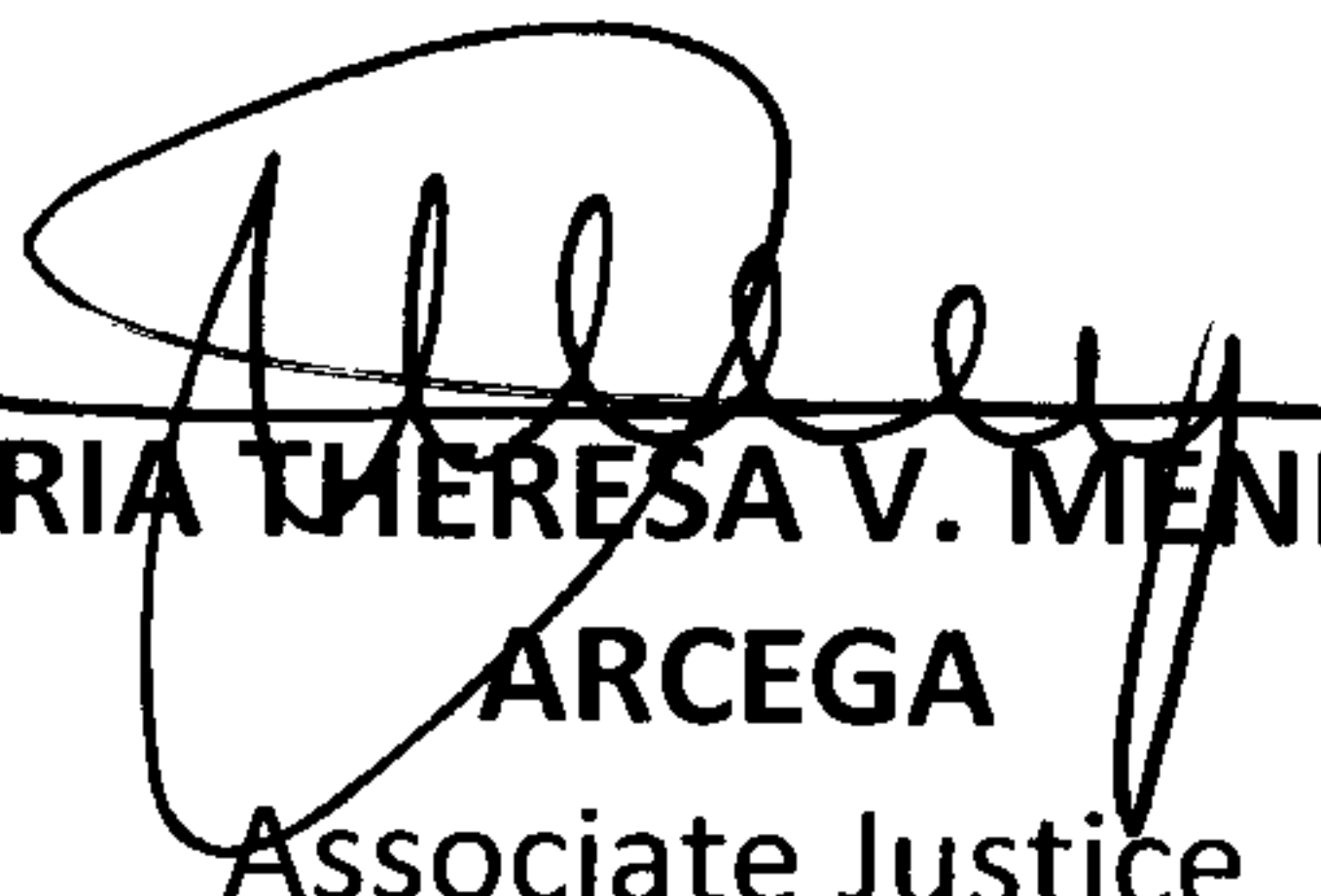
WHEREFORE, premises considered, the Motion to Quash Information/Dismiss the Case of accused MARIO JOEL T. REYES is hereby **GRANTED** and the Information against him is **DISMISSED**.

SO ORDERED.


RAFAEL R. LAGOS
Associate Justice
Chairperson

WE CONCUR:


REYNALDO P. CRUZ
Associate Justice


**MARIA THERESA V. MENDOZA-
ARCEGA**
Associate Justice

⁶Coscolluela v. Sandiganbayan, *supra*.