



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on June 7, 2017.

Present:

ALEXANDER G. GESMUNDO ----- Chairperson
MA. THERESA DOLORES C. GOMEZ-ESTOESTA ---- Associate Justice
ZALDY V. TRESPESSES ----- Associate Justice

The following resolution was adopted:

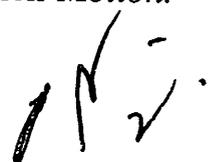
CRIMINAL CASES NO. SB-16-CRM-0841 to 0848

PEOPLE v. JORGE V. SEGOVIA, et al.

Before the Court are the following:

1. Accused-movant Segovia, Baladad, Reyes, Zaragoza, Balonglong, Nobleza and Cabading's "MOTION TO QUASH WITH PRAYER TO DEFER ARRAIGNMENT PENDING RESOLUTION OF MOTION" dated March 20, 2017;
2. Accused-movant's "SUPPLEMENTAL MOTION TO QUASH" dated April 20, 2017;
3. The Prosecution's "COMMENT/OPPOSITION RE: ACCUSED'S MOTION TO QUASH WITH PRAYER TO DEFER ARRAIGNMENT PENDING RESOLUTION OF THE MOTION" dated April 17, 2017;
4. The Prosecution's "OPPOSITION RE: ACCUSED'S SUPPLEMENTAL MOTION TO QUASH" dated May 2, 2017;
5. Accused-movants' "REPLY [To Plaintiff's 2 May 2017 *Opposition (Re: Supplemental Motion to Quash)*] dated May 18, 2017; and
6. The Prosecution's MANIFESTATION (RE: ACCUSED'S MOTION TO QUASH INFORMATIONS; ACCUSED'S SUPPLEMENTAL MOTION TO QUASH; AND FORMAL ENTRY OF APPEARANCE OF NATIONAL UNION OF PEOPLE'S LAWYERS AS PRIVATE PROSECUTOR) dated May 26, 2017.

For resolution are accused Segovia, Baladad, Reyes, Zaragoza, Balonglong, and Nobleza's *Motion to Quash* and its supplement. The accused likewise move to defer arraignment pending the resolution of their *Motion*.



The accused anchor their *Motion* on the following grounds: (a) The *Informations* are not in the form prescribed by the Rules, as the allegation that the crimes were committed “on February 7, 2010 or sometime prior or subsequent thereto” covers an infinite period of time, tantamount to a total omission of an approximate date; (b) The *Informations* allege more than one offense, *i.e.*, the violation of Sections 4(a) and 4(b) of R.A. 7438, alternatively; and (c) there was inordinate delay in the conduct of preliminary investigation, which is a violation of the accused’s right to speedy disposition of cases. The *Informations* were filed 6 years, 8 months, and 19 days after the supposed acts complained of; 4 years, 5 months, and 23 days after the Joint Complaint-Affidavit was filed; or 3 years, 5 months, and 23 days from receipt of the last affidavit during preliminary investigation.

The Prosecution counters that the *Informations* sufficiently allege the date of commission of the offenses. In fact, in *People v. Estrada*,¹ the Supreme Court clarified that the phrase “on or about 04 February 2000 or sometime prior or subsequent thereto” alleged a date proximate to such date. There is no duplicity in the charges alleged as this Court has already ruled that the *Informations* allege the violation of Section 4(b) of R.A. 7438, and not Section 4(a). In a *Manifestation* dated May 26, 2017, the Prosecution signified its intention to move for the amendment of the caption from violation of Sec. 4(a) to Sec. 4(b). Finally, the Prosecution asserts that the time it took the Office of the Ombudsman to complete the preliminary investigation cannot be regarded as vexatious as to constitute a violation of the accused’s right to speedy disposition of cases. The accused themselves contributed to their perceived delay by seeking extensions to file their affidavits. At no time did the case remain dormant except for the period from June 3, 2013 to November 3, 2015, or a period of about 2 years and 5 months from the filing of the last affidavit to the issuance of the Resolution, owing to the number of parties and affidavits to consider, the offenses charged and issues presented, and the necessity of review and approval of the Resolution. The filing of the *Informations* was set back because of the filing of a Motion for Reconsideration of the Resolution finding probable cause.

In their *Reply*, the accused rejoin that the extensions they sought during preliminary investigation did not contribute to the delay. The Prosecution was unable to explain the lull in proceedings for 2 years and 5 months, as its justification of many layers of review and meticulous scrutiny has lost its novelty and was no longer appealing, as the Supreme Court pronounced in *Coscolluella v. Sandiganbayan*.² Finally, they had no better opportunity than now to assert such violation caused by the delay in the filing of the *Informations*, which caused them anxiety, hostility, legal expenses, and restricted their personal and professional lives. Guided by the four jurisprudential factors, *i.e.*, (a) length of delay, (b) reasons for delay, (c) assertion or failure to assert such right, and (d) prejudice caused by delay,

¹ G.R. Nos. 164368-69, April 2, 2009

² G.R. No. 191411, July 15, 2013

there clearly was inordinate delay in the Ombudsman's disposition of these cases.

The *Motion* is devoid of merit.

First, this Court cannot subscribe to the accused's hyperbolic depiction of the date "February 7, 2010 or sometime prior or subsequent thereto" as encompassing all dates "from the dawn of time until the present day". And certainly, it is not analogous to the date alleged in *US v. Dichao*³ cited by the accused, which spans two years. The Prosecution properly relies on *People v. Estrada*⁴ wherein the Supreme Court interpreted the phrase "or sometime prior or subsequent thereto" as implying that all the transactions therein took place only on the date alleged or on another single date sometime before or after such date. Besides, in their supplemental motion to quash, the accused recognize that the offense was allegedly committed in February 2010, a clear indication that they were properly apprised of the date of the commission of the offense, as far as the *Informations* are concerned.

Second, the *Informations* do not charge more than one offense. As the accused allege, this Court has already found probable cause against them for **violation of Sec. 4(b) of R.A. 7438** in its *Resolution* dated January 10, 2017.⁵ To avoid confusion, the Prosecution has signified its intention to seek the amendment of the caption of the *Informations* from Sec. 4(a) to Sec. 4(b).

The Rules prohibit the filing of a duplicitous information to avoid confusing the accused in preparing his defense.⁶ The categorical finding by this Court of probable cause for violation of 4(b) of R.A. 7438, together with the corresponding amendment of the *Informations* to unequivocally spell this out, leaves no room for any likelihood of confusion.

Finally, the accused juxtapose the durations of the preliminary investigations conducted in these cases with those in *Tatad v. Sandiganbayan*,⁷ *Duterte v. Sandiganbayan*,⁸ and *People v. Sandiganbayan*,⁹ and on the basis thereof asseverate that their constitutional right to speedy disposition of cases was violated.

It appears, however, that the parallelism between these cases and the cases cited by the accused is mathematical at best. It has been held that the concept of speedy disposition is relative or flexible, and mere mathematical reckoning of the time involved is not sufficient. Particular regard must be taken of the facts and circumstances peculiar to each case. Hence, the doctrinal rule is that in the determination of whether that right has been violated, the factors that may be considered and balanced are as follows: (1)

³ 27 Phil. 421 (1914)

⁴ G.R. Nos. 164368-69, April 2, 2009

⁵ *Records*, Vol. 2, pp. 101-112

⁶ *Soriano, et al. v. People, et al.*, G.R. No. 159517-18, June 30, 2009

⁷ G.R. No. 82335-39, March 21, 1988

⁸ G.R. No. 130191, April 27, 1998

⁹ G.R. No. 188165, December 11, 2013

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 the delay.¹⁰

While this Court finds this stage of the proceedings a reasonable time to raise the matter of inordinate delay, as in the cases of *Tatad*, *Duterte*, and *People v. Sandiganbayan*, wherein such matter was raised after the filing of the *Information*, it finds that the other factors have not been established by the accused.

In *Tatad v. Sandiganbayan*, the Supreme Court ruled that Tatad's prosecution was attended by political motivations, and that there was a deviation from established procedures prescribed for preliminary investigation. The delay of close to three years from the filing of the last affidavit was not reasonable, as three of the five cases were for his failure to file his SALN, and as such, did not necessitate a gruelling scrutiny of evidence. The other two cases for bribery and giving of unwarranted benefits to a relative, while presenting more substantial legal and factual issues, did not justify the period of three years to resolve the case.

In *Duterte v. Sandiganbayan*, the Supreme Court also found that preliminary investigation was irregularly conducted. The petitioners were merely asked to file their comment instead of counter-affidavits and were unaware that the investigation against them was still ongoing. The delay of four years from the filing of petitioners' comment to the filing of the *Information* was unwarranted as the incident did not involve complicated factual and legal issues, especially since the subject computerization contract had been mutually cancelled.

In *People v. Sandiganbayan*, it took more than seven years from the supposed commission of, to the filing of the *Information* for, a simple offense of robbery, two years of which were spent for fact-finding investigation.

From the timetable presented by the Prosecution in its *Comment* on the *Supplemental Motion to Quash*, which the accused do not contest, it would appear that the instant case moved with reasonable continuity during preliminary investigation, and became idle only from the filing of the last affidavit up to the resolution of the complaint by the Ombudsman, which spanned two years and five months. The Prosecution attributes this delay to the evaluation by the investigating prosecutor of ten separate counter-affidavits and subsequent reply and rejoinder affidavits; the complexity of offenses charged; and the review and approval of the Resolution by the Bureau Director, Assistant Ombudsman, and the Ombudsman herself.

Unlike in the cases cited by the accused, preliminary investigation in these cases was conducted for three offenses, *i.e.*, violation of R.A. 9745, R.A. 7438, and Article 294 of the Revised Penal Code, involving multiple parties. The Resolution was subject to review by the Acting Director and the Ombudsman. There was no political motive that propelled vexatious prosecution as in *Tatad*, no irregular preliminary investigation as in *Duterte*,

¹⁰ *Dela Peña v. Sandiganbayan*, G.R. No. 144542, June 29, 2001

and no protracted fact-finding and preliminary investigation of a simple offense, as in *People v. Sandiganbayan*. Finally, this case is not analogous to *Coscolluela*, where the Supreme Court held that six years only to review the investigating prosecutor's resolution was an unreasonable length of time.

The Supreme Court imparts in *Braza v. Sandiganbayan*:¹¹

Section 16, Article III of the Constitution declares in no uncertain terms that "[A]ll persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies." **The right to a speedy disposition of a case is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays, or when unjustified postponements of the trial are asked for and secured, or when without cause or justifiable motive, a long period of time is allowed to elapse without the party having his case tried.** The constitutional guarantee to a speedy disposition of cases is a relative or flexible concept. It is consistent with delays and depends upon the circumstances. **What the Constitution prohibits are unreasonable, arbitrary and oppressive delays which render rights nugatory.** (emphases supplied)

Given the circumstances discussed, this Court does not deem vexatious or oppressive the length of time it took for the Office of the Ombudsman to complete preliminary investigation and to file the *Informations*.

Finally, this Court does not deem the prejudice described by the accused as one caused by inordinate delay. To a certain extent, persons subject to preliminary investigation go through anxiety, expenses and constraints, but in this case, the accused have not shown how they suffered any more prejudice than is attributable to the nature of preliminary investigation. As held in *Corpuz v. Sandiganbayan*,¹² for the government to sustain its right to try the accused despite a delay, it must show two things: (a) that the accused suffered no serious prejudice beyond that which ensued from the ordinary and inevitable delay; and (b) that there was no more delay than is reasonably attributable to the ordinary processes of justice. As discussed above, regular and reasonable conduct of preliminary investigation accounted for the time utilized therefor, with due regard for the accused's right to speedy disposition of cases.

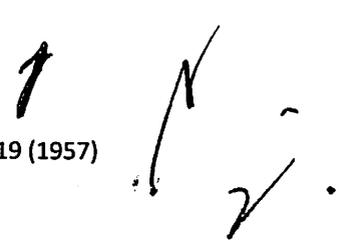
WHEREFORE, in view of the foregoing, the accused's *Motion to Quash* is **DENIED** for lack of merit.

Let the arraignment of the accused on June 29, 2017 at 8:30 a.m. proceed, as scheduled.

SO ORDERED.

¹¹ G.R. No. 195032, February 20, 2013

¹² G.R. No. 162214, November 11, 2004, citing *Williams v. United States*, 250 F.2d. 19 (1957)



GESMUNDO, J., Chairperson



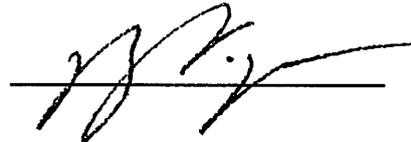
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GOMEZ-ESTOESTA, J.



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TRESPESES, J.



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