REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

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FIFTH DIVISION

PEOPLE OF THE PHILIPPINES, **Plaintiff,**	**SB-16-CRM-1206** **For: Violation of Sec. 3 (h) of R.A. No. 3019**
-vs-	
REYNALDO O. PAROÑINOG, SR., ET AL., **Accused.**	*Present:* **LAGOS, *J.*, *Chairperson*** **MENDOZA-ARCEGA *J.*, and** **CRUZ, *J.******
	Promulgated: June 14, 2017

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RESOLUTION

MENDOZA-ARCEGA, J.:

For resolution is the Motion for Reconsideration filed by the prosecution dated 27 April 2017.

In the said motion, the prosecution asserts that there are no circumstances in the instant case which constitute oppressive delay which prejudiced the rights of the accused. Moreover, it alleges that the proper period should be counted only from the time of the filing of the Affidavit-Complaint by the Field Investigation Office (FIO) for preliminary investigation. Furthermore, it avers that there is no deviation from

*** Sitting as special member pursuant to Administrative Order No. 025-2017 dated 1 February 2017.

the usual procedures in the conduct of the investigation nor was the case politically motivated. Finally, it posits that the quashal of the information on the ground that the facts charged do not constitute an offense is unnecessary as it should have been given an opportunity to amend the information under Section 14, Rule 14 of the Rules of Court.

On May 22, 2017, accused, through counsel, filed an Opposition stating that the instant motion is violative of the rights of the accused as it already places them in double jeopardy. Secondly, the motion for reconsideration failed to comply with the pertinent rules on the filing and service of motions under Rule 15 of the Rules of Court. Records reveal that the prosecution filed the present motion on April 26, 2017, however, it set the same for hearing only on May 12, 2017, which is beyond the 10-day period. Moreover, the counsel for the accused received the motion only on May 11, 2017, a day before the hearing date of the same. Thirdly, there was clearly an unjustified, capricious and inordinate delay on the part of the prosecution during the preliminary investigation proceedings instituted against the accused. As to the length of delay, it took the Office of the Ombudsman six (6) years and 112 days from receipt of the anonymous complaint up to the filing of the instant case before this Court. Secondly, the prosecution did not present an acceptable justification for the delay. Moreover, the case of Coscolluella v. Sandiganbayan elucidated that a defendant has no duty to bring himself to trial. Furthermore, the accused suffered prejudice not only in the inordinate delay in the termination of the cases, but also the prolonged anxiety and stress of having a criminal case. Lastly, the delay incurred by the Office of the Ombudsman prevents the accused to present the best possible defense considering the ageing and recovery of documents and the availability of witnesses.

Hence, this resolution.

RULING

A reading of the instant motion readily shows that it failed to address the finding in Our resolution dated April 7, 2017 that the fact-finding investigation period must be considered in determining whether there was inordinate delay, as ruled in People v. Sandiganbayan and Torres v. Sandiganbayan. As stated in Our resolution:

> The Office of the Ombudsman referred the anonymous complaint for a special audit to the Commission on Audit. The COA came up with an audit report and submitted the same to the Office of the Ombudsman. Interestingly, it took the COA just less than one year to complete the investigation, audit and report.
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> Following settled jurisprudence, the relevant period needed to be examined is from the time the Office of the Ombudsman officially took cognizance of the case, which is from the date of its referral to the COA,

up to the filing of the Information in this case. This amounts to a total time period of five (5) years and eleven (11) months.

Within the time period, the period attributable to the accused is only a little over one month. This is counted from the date their first motion for extension of time, on January 27, 2016, up to the actual filing of their Counter-affidavit, on March 3, 2016. The filing of additional pleadings or documents is not necessary for the resolution of the case by the Office of the Ombudsman. Thus, the total time period that the case was pending in the Ombudsman, subtracting the time period attributable to the accused, is about five (5) years and ten (10) months. This should be considered as the relevant time period for purposes of determining if there had been a violation of the right to speedy disposition of cases.

Moreover, records reveal that the instant motion was dated April 25, 2017, the same was filed in Court on April 27, 2017 and was set for hearing on May 12, 2017. It is apparent that there was a violation of Rule 15, Section 5 which states that the notice of hearing must be set not later than ten (10) days after the filing of the motion. Since the motion was filed on April 27, 2017, the same should have been set not later than May 8, 2017, considering that May 7, the tenth day was a Sunday. Moreover, the prosecution failed to furnish the accused a copy of the motion at least three (3) days before the date of the hearing. Both violations are fatal and consequently, the filing of the instant motion did not toll the running of the prescriptive period.

Sections 4 and 5, Rule 15 of the Rules of Court provide that:

Sec. 4. Hearing of motion. – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

Sec. 5. Notice of hearing. – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

The general rule is that the three-day notice requirement in motions under Sections 4 and 5 of the Rules of Court is mandatory. It is an integral component of procedural due process.[1] The purpose of the three-day notice requirement, which was established not for the benefit of the movant but rather for the adverse party, is

[1] Jehan Shipping Corporation v. National Food Authority, 514 Phil. 166, 173 (2005).

to avoid surprises upon the latter and to grant it sufficient time to study the motion and to enable it to meet the arguments interposed therein.[2]

A motion that does not comply with the requirements of Sections 4 and 5 of Rule 15 of the Rules of Court is a worthless piece of paper which the clerk of court has no right to receive and which the court has no authority to act upon.[3] Being a fatal defect, in cases of motions to reconsider a decision, the running of the period to appeal is not tolled by their filing or pendency.[4]

The failure of the prosecution to furnish the accused with a copy of the instant motion at least three (3) days before the date of the hearing, deprived the accused time to study and answer the arguments in the said motion, which is an integral element of due process and thus runs afoul with the mandatory provision of the Rules of Court. In consequence, the present motion is reduced to a mere scrap of paper which deserves scant consideration from this Court.

Lastly, the prosecution did not address Our finding that the information as worded, does not sufficiently allege facts constituting the offense as charged. The prosecution simply, but wrongly, anticipated that We will reverse Our finding that there was inordinate delay, thus giving them the right to amend the information.

WHEREFORE, in the light of the foregoing, the motion for reconsideration is DENIED.

SO ORDERED.

MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

WE CONCUR:

RAFAEL R. LAGOS
Chairperson

REYNALDO P. CRUZ
Associate Justice

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[2] United Pulp and Paper Co. Inc. v. Acropolis Central Guaranty Corporation, G.R. No. 171750, January 25, 2012, 664 SCRA 65, 78.
[3] Pallada v. RTC of Kalibo, Aklan, Br. 1, 364 Phil. 81, 89 (1999).
[4] Nuñez v. GSIS Family Bank, 511 Phil. 735, 747-748 (2005).