



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:

July 10, 2017 *led*

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RESOLUTION

LAGOS, J.:

For resolution of this Court is the prosecution's Motion for Reconsideration¹ of this Court's Resolution dated March 15, 2017², dismissing the case against Rodolfo Guieb and Dennis Araullo, and accused Rodolfo Guieb's Comment/Opposition³. Since the prosecution adopted their motion for reconsideration⁴ to ask this Court to reverse the dismissal of the case as against accused Mario Joel Reyes⁵ as well, this resolution also tackles the same and accused Reyes's Comment/Opposition to Motion for Reconsideration⁶.

The prosecution alleges that this Court erred in dismissing the cases against Guieb, Araullo and Reyes stating that the factors as stated in **Corpuz**

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

¹ Records, Vol. II, p. 208.

² Records, Vol. II, p. 177.

³ Records, Vol. II, p. 244.

⁴ Records, Vol. II, p. 279.

⁵ See Resolution dated May 8, 2017, Records, Vol. II, p. 258.

⁶ Records, Vol. II, p. 292.

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v. Sandiganbayan⁷ were not fully considered. The prosecution claims 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 submits that there was no more delay in this particular case than is reasonably attributable to the ordinary processes of justice. Allegedly, a detailed examination of the records of the case shows that from time the Preliminary Investigation Administrative Adjudication and Review Bureau (PARB) ordered then respondents to submit their counter affidavit until the time of the filing of the information, the case neither went into deep slumber, as claimed by accused, nor was it attended by inordinate delay to warrant its dismissal.

According to the prosecution, its timeline of the factual antecedents leading to the filing of the instant case, as incorporated in the Court's March 15, 2017 resolution, proves the prosecution's stance. Allegedly, not only were the accused very much aware of how the case against them transpired during the entire process, they were in control and on top of the situation, so to speak, as shown by the several pleadings submitted by the accused such as Guieb's Consolidated Counter Affidavit dated June 21, 2011, Araullo's May 26, 2014 Counter Affidavit, Guieb's Motion for Reconsideration dated October 28, 2015 and Araullo's Motion for Reconsideration dated November 4, 2015, among others. No less important, as per the prosecution, was the fact that the protracted period of investigation, specifically the period of August 2011 to August 2013, was necessary to thresh out and resolve the numerous documents pertaining to the case including the affidavits filed by all of the accused.

The prosecution adds that the records of the case 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. Allegedly, none of the accused were incarcerated or detained during the pendency of the preliminary investigation. Also, the prosecution notes that while the filing of the complaint against the accused may have caused anxiety and concern, they did not file any pleadings or motions for the early resolution of their case. Allegedly, although **Coscolluela v. Sandiganbayan** (G.R. No. 141411, July 15, 2013) teaches that it was not accused Guieb or Araullo or Reyes's duty to follow up on the prosecution of their case, still it is unusual for the accused to allow and let the years pass without doing anything and let investigation linger. Such actuations are contrary to the reaction of a person who is anxious about the consequences of the criminal charges against him.

⁷ G.R. No. 162214, November 11, 2004.

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The prosecution likewise asserts that apprehensions that it would be difficult to gather the necessary witnesses and documentary evidence more than 12 years after the transaction subject of the instant case transpired are not supported by solid evidence. No concrete evidence was ever presented by the accused to prove their assertions. Allegedly, conjectural supplications or prejudice or dubious invocations of constitutional rights will not suffice. The prosecution stresses that any apprehensions over the availability of witnesses or the availability of documents to be used are inevitably shared equally by the prosecution in building the case. Moreover, allegedly, accused will have their chance to prove their innocence during a full-blown trial of the case.

Accused Rodolfo Guieb, on the other hand, alleges that, as pointed out by this Court, the entire proceedings, up to the filing of the amended Information “took more than a decade, even close to twelve years.” If the prosecution believes that this period is not vexatious, oppressive and capricious, then it has an entirely different understanding of what these words mean. Unfortunately for the prosecution, no less than the 1987 Constitution, in Section 12, Article XI, mandates that the Office of the Ombudsman as “protectors of the people shall act promptly on complaints filed in any form or manner against officers and employees of the government xxx”

Accused Guieb further alleges that the periods provided for in the Department of Justice National Prosecution Service Manual should be considered as the reasonable time within which cases undergoing preliminary investigation in the Office of the Ombudsman must likewise be resolved. Certainly, according to Guieb, there may be valid reasons for extending these periods but to prolong it to more than five years as in this case is simply and plainly unreasonable.

Accused Guieb decries that it is unimaginable for the prosecution to state that this case never went into deep slumber when the fact is that, following the submission of all counter-affidavits, no other action was made by the Office of the Ombudsman for a full two-year period and when it finally acted, it was not to resolve the complaint but to make the very simple amendment of the same to include Regional Director Dennis Araullo and Accountant Jasmine Cabucol as additional respondents therein. The accused points out that, in all the other so-called Fertilizer Fund Scam cases, the regional director and the accountant were always included in the complaints. How the Office of the Ombudsman failed to include them from the start in this particular complaint is a great mystery considering the role of the said respondents in the transaction. But why it took the said office a full two years to make a simple determination to include them is a bigger mystery. Worse,



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it took the Office another eight months before it ordered the additional respondents to file their respective counter-affidavits. As per accused Guieb, this is certainly a vexatious, capricious and oppressive delay. If the two-year sleep of the dead that the complaint was consigned into and the subsequent eight months before a simple order to file counter-affidavit are what is considered by the prosecution as a resolution of the case with reasonable dispatch or reasonably attributed to the ordinary processes of justice, then the administration of justice in this country is really in deep trouble.

Accused Guieb also alleges that there is incontrovertible evidence that he is indeed anxious of the consequences of the criminal charges against him. He states that, when he received the order directing him to file his counter-affidavit within ten days from receipt thereof, he filed the same only on the sixth day, four days before the aforesaid deadline.

Accused Guieb also alleges that the prosecution's repeated statements regarding the accused's supposed duty to follow up on his case are actually out of touch with reality. Firstly, there are notices conspicuously posted in the Office of the Ombudsman strictly prohibiting the follow-up of cases. Secondly, it is of common knowledge that investigators and/or prosecutors at the said office take offense at motions for early resolution of cases and respondents therein file such motions at their own peril.

As regards the prosecution's claim regarding no evidence of prejudice, the accused alleges that this is a very disturbing statement coming from the State's representative. Firstly, the delay was not merely ordinary and inevitable but is, in fact, unreasonable and oppressive. Secondly, it is easy for the prosecution, which is backed up by the full resources of the State, to say that herein accused was not prejudiced during the entire almost twelve years that this case has been undergoing investigation. But the fact is that any person placed under investigation for such a lengthy period suffers emotional, reputational and even financial prejudice. It does not take a psychologist to make this conclusion and it was simply wrong for the prosecution to aver that this is conjectural.

As regards the claim that apprehension as to the availability of witnesses or documents to be used is shared by the prosecution, accused Guieb asserts that, the fact is that the prosecution has access to all resources to be able to present its case whereas accused is dependent only on his personal and family resources. Accused reiterates that he is now a complete stranger to in the Department of Agriculture – Regional Field Unit IV. His former co-employees who could have been requested to testify in his behalf are no longer with the department, having retired, resigned or were also dismissed. To get any of them to testify involves a lot of money for

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transportation. Also, allegedly, even a mere request for a copy of a single document takes a lot of resources that accused does not have. Finally, the documents relative to this case are no longer with the department, considering the long lapse of time. The questioned transaction occurred in 2004 and many of those documents that would have supported this case have already been disposed of.

Accused Reyes, on the other hand, alleges that, apart from the prosecution's motion being a mere rehash of its earlier arguments, this Court's ruling is factually and legally impregnable. According to the accused, the factual basis of this Court's ruling is uncontested as the prosecution does not assail the veracity of the Court's summary of the events that transpired which was derived from no less than the prosecution's own timeline.

As to the arguments of the prosecution that: a) accused suffered no prejudice from the reasonable delay; b) belated assertion of accused's right; and, c) the necessity of the protracted period to thresh out and resolve the numerous documents pertaining to the case, accused Reyes states that similar arguments have been resolved, and actually rejected by the Supreme Court, and, more recently, in the analogous case of **People v. Sandiganbayan**, G.R. No. 199151-56, July 25, 2016, where it was discussed, insofar as herein pertinent, as follows:

From the foregoing, it is clear that from the time the first Resolution was issued by the Office of the Ombudsman on April 12, 1996, it took more than thirteen (13) years to review and file the Informations on October 6, 2009. Otherwise stated, from the time the complaint was filed on December 28, 1994, it took petitioner almost fifteen (15) years to file the Informations.

According to *Angchangco, Jr. v. Ombudsman*, inordinate delay in resolving a criminal complaint, being violative of the constitutionally guaranteed right to due process and to the speedy disposition of cases, warrants the dismissal of the criminal case.

The question therefore is - was the delay on the part of the Office of the Ombudsman vexatious, capricious, and oppressive? We answer in the affirmative.

In *Tatad v. Sandiganbayan*, there was a delay of almost three (3) years in the conduct of the preliminary investigation by the Tanodbayan. In ruling that such delay constituted a violation of the constitutional rights of the accused to due process and to a speedy disposition of cases, this Court took into account the following circumstances: (1) the complaint was resurrected only after Tatad had a falling out with the former President Marcos, and hence, political motivations played a vital role in activating

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and propelling the prosecutorial process; (2) the Tanodbayan blatantly departed from the established procedure prescribed by law for the conduct of preliminary investigation; and (3) the simple factual and legal issues involved did not justify the delay. Likewise, in *Angchangco, Jr. v. Ombudsman* and *Roque v. Office of the Ombudsman*, this Court held that the delay of almost or more than six (6) years in resolving the criminal charges against the petitioners therein amounted to a violation of their constitutional rights to due process and to a speedy disposition of the cases against them, as well as the Ombudsman's own constitutional duty to act promptly on complaints filed before him.

In the present case, it took more than a decade for the Office of the Ombudsman to "re-evaluate" and "thoroughly review" the proper charges to file with the court and whether or not respondents Acot and Dulinayan should be charged. It must be stressed that the petitioner explicitly admitted in its reply to the comments of the private respondents that "the matter of the complexity of the legal issues involved was never raised by the prosecution as a reason for the delay." Instead, it tried to explain that the determination of probable cause in the instant case entails both factual and legal summations where allegedly more time was devoted to the "gathering, authentication, and validation of factual and verifiable assertions."

Specifically, the petition alleges that the belated filing of the case was caused by the following events: (a) the initial resolution issued by the MOLEO, dated April 12, 1996, took time because of the need to conduct clarificatory hearing and on account of the various motions filed by private respondents; (b) the MOLEO Resolution dated April 12, 1996 was subjected to numerous conflicting reviews by the senior officials/higher authority in the Office of the Ombudsman; (c) considering the conflict between the findings of the MOLEO investigators and the recommendation of the senior officials *vis-a-vis* the amount of money involved and the positions held by respondents Acot and Dulinayan, the case was re-opened in 2003 for another review; (d) the Office of the Ombudsman was in the midst of transferring to its new building in Agham Road, Quezon City in 2001; and (e) from 1998 to 2009, there were three (3) Ombudsmen who handled the case which affected the immediate resolution thereof in terms of the added layer of review and study before these cases were filed in court.

We are not persuaded by the reasons for the delay advanced by the petitioner. Anent the first reason, the unnecessary delay was not in the issuance of the initial Resolution on April 12, 1996 because the motions were filed before the Resolution was issued on April 12, 1996. The delay came after April 12, 1996, that is, in

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the evaluation, re-evaluation and "thorough review" of the initial Resolution.

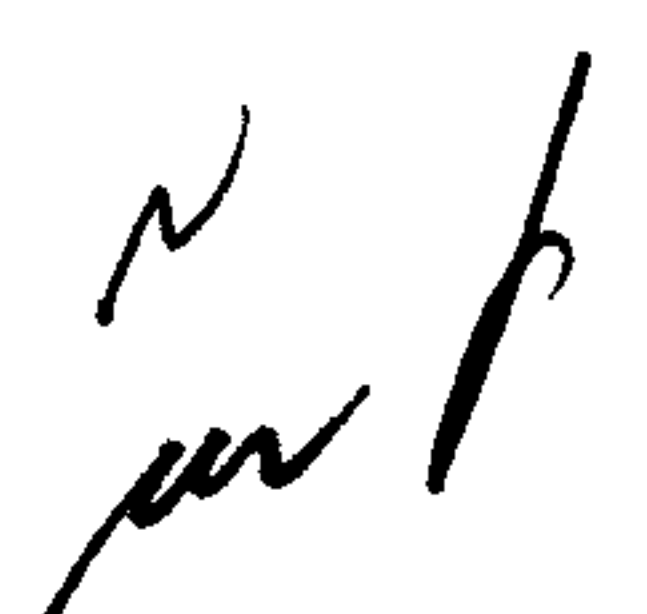
As to the second and third reasons, the Court cannot agree with the petitioner that the delay in the proceedings could be excused by the fact that the case had to undergo careful review and revision through the different levels in the Office of the Ombudsman before it is finally approved, in addition 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." Precisely, the Office of the Ombudsman has the inherent duty not only to carefully go through the particulars of the 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. Thus, barring any extraordinary complication, such as the degree of difficulty of the questions involved in the case or any event external thereto that effectively stymied its normal work activity - any of which have not been adequately proven by the petitioner in the case at bar - there appears to be no justifiable basis as to why the Office of the Ombudsman could not have earlier resolved the preliminary investigation proceedings against the private respondent

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In view of the unjustified length of time miring the Office of the Ombudsman's resolution of the case, as well as the concomitant prejudice that the delay in this case has caused, it is undeniable that respondent's constitutional right to due process and speedy disposition of cases had been violated. As the institutional vanguard against corruption and bureaucracy, the Office of the Ombudsman should create a system of accountability in order to ensure that cases before it are resolved with reasonable dispatch and to equally expose those who are responsible for its delays, as it ought to determine in this case.

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Petitioner likewise partly puts the blame on the respondents that they did not take any steps whatsoever to accelerate the disposition of the matter. In the case of *Celllantes v. Sandiganbayan*, wherein it was held that there was a delay of six (6) years, this Comi stated that it is the duty of the prosecutor to expedite the prosecution of the case regardless of whether the petitioner did not object to the delay or that the delay was with



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his acquiescence provided it was not due to causes attributable to him. This was explained in *Coscolluela v. Sandiganbayan*, to wit:

Records show that they could not have urged the speedy resolution of their case because they were unaware that the investigation against them was still on-going. They were only informed of the March 27, 2003 Resolution and Information against them only after the lapse of six (6) long years, or when they received a copy of the latter after its filing with the SB on June 19, 2009. In this regard, they could have reasonably assumed that the proceedings against them have already been terminated. This serves as a plausible reason as to why petitioners never followed-up on the case altogether. Instructive on this point is the Court's observation in *Duterte v. Sandiganbayan*:

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On the other hand, the Office of the Ombudsman failed to present any plausible, special or even novel reason which could justify the four-year delay in terminating its investigation. Its excuse for the delay - the many layers of review that the case had to undergo and the meticulous scrutiny it had to entail - has lost its novelty and is no longer appealing, as was the invocation in the Tatad case. The incident before us does not involve complicated factual and legal issues, specially (*sic*) in view of the fact that the subject computerization contract had been mutually cancelled by the parties thereto even before the Anti-Graft League filed its complaint. (*Emphasis and underscoring supplied*)

Being the respondents in the preliminary investigation proceedings, it was not the petitioners' duty to follow up on the prosecution of their case. Conversely, it was the Office of the Ombudsman's responsibility to expedite the same within the bounds of reasonable timeliness in view of its mandate to promptly act on all complaints lodged before it. As pronounced in the case of *Barker v. Wingo*.

A defendant has no duty to bring himself to trial; the State has that duty as well as the duty of insuring that the trial is consistent with due process.

Furthermore, the Court recognizes the prejudice caused to the private respondents caused by the lengthy delay in the proceedings against them. We do not agree with the petitioner that respondents did not suffer any damage because respondents Acot and Dulinayan were able to get their clearances. The right to speedy disposition of cases is not merely hinged towards the objective of spurring dispatch in the

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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 the 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 whatsoever legitimate defense he may interpose. This looming unrest, as well as the tactical disadvantages carried by the passage of time, should be weighed against the State and in favor of the individual. In the context of the right to a speedy trial, the Court in *Corpuz v. Sandiganbayan* stated:

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Accused Reyes also cites *Cervantes v. Sandiganbayan*⁸, which, allegedly, involved similar issues and where the Supreme Court ruled that it cannot accept the Special Prosecutor's ratiocination. Accused Reyes quotes the Supreme Court and states that it is the duty of the prosecutor to speedily resolve the complaint, as mandated by the Constitution, regardless of whether the petitioner did not object to the delay or that the delay was with his acquiescence provided that it was not due to causes directly attributable to him.

RULING

In this Court's resolutions dismissing the cases against accused Guieb, Araullo and Reyes, the following factors were considered: length of delay, reason of the delay, the defendant's assertion of his right and prejudice to the defendant. In resolving the prosecution's motion for reconsideration, the factors to be considered must likewise be the same.

Length of Delay

In both resolutions, this Court found that the preliminary investigation of the case against the accused took five years from filing of the complaint to the filing of the Information with this Court. This Court also found that, in addition to this five-year period, the period duration of the preceding fact-finding investigation is also to be tacked on as mandated by the recent Supreme Court pronouncement in *Commo. Lamberto Torres v. Sandiganbayan and the People of the Philippines*⁹. All in all, the length of delay prior to resolution of the case against the accused ran for almost twelve years. The prosecution's motion for reconsideration did not dispute this. Thus, the same is settled.

⁸ 307 SCRA 149 (1999).

⁹ G.R. Nos. 221562-69, October 5, 2016.

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Reason for the Delay

Instead of disputing the length of delay, the prosecution states that the protracted period of investigation, from August 2011 to August 2013, was necessary to thresh out and resolve the numerous documents pertaining to the case. This, however, does not even begin to justify or even explain the other ten years during which this case had been pending. The prosecution makes no attempt to explain this decade-long delay in its motion for reconsideration. Thus, the delay of ten years is still left unjustified.

The Defendant's Assertion of his Right

The prosecution alleges that the actions of the accused are contrary to the action of a person who was anxious of the consequences of the criminal charges filed against him. In the same breath, the prosecution also alleges that, while the filing of the complaint against the accused may have caused anxiety and concern, they did not file any pleadings or motions for early resolution of their case. While the prosecution speculates as to the feelings of the accused, what is clear, however, is that the current trend of jurisprudence led by the case of *Coscolluela v. Sandiganbayan*¹⁰ places the burden of efficient case resolution on the Office of the Ombudsman with no required prompting from the accused/respondent. At the current state of case law on the matter of speedy disposition of cases, it is sufficient that the accused have asserted their constitutional right before this Court at this stage of the proceedings.

Prejudice to the Defendant

The alleged lack of prejudice to the accused is the main thrust of the prosecution's motion. Allegedly, the length of time it took for the accused's case to be resolved was beneficial rather than prejudicial for them because it gave them the opportunity to refute the charges against them. The prosecution also adds that any prejudice is conjectural as no concrete evidence was presented to prove such a claim and if any of these were real then the prosecution shares the same burden.

This Court disagrees. First, the extended period of pendency of the proceedings before the Office of the Ombudsman cannot be viewed as beneficial to the accused considering the nature of evidence to be lost, to deteriorate and be forgotten. This is not a matter of conjecture but of normal human experience. Second, the prosecution cannot plead to be in the same

¹⁰ G.R. No. 191411, July 15, 2013.

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boat as the accused because it caused the delay itself. It is not, therefore, in the same position as the non-erring accused. Furthermore, the accused is correct in pointing out that their resources pale in comparison to the resources of the State. The two are simply not comparable. The prejudice caused by unjustly prolonged proceedings, whether economical, emotional, psychological or social is much more considerable when borne by a single individual as opposed to a government agency as the Office of the Ombudsman.

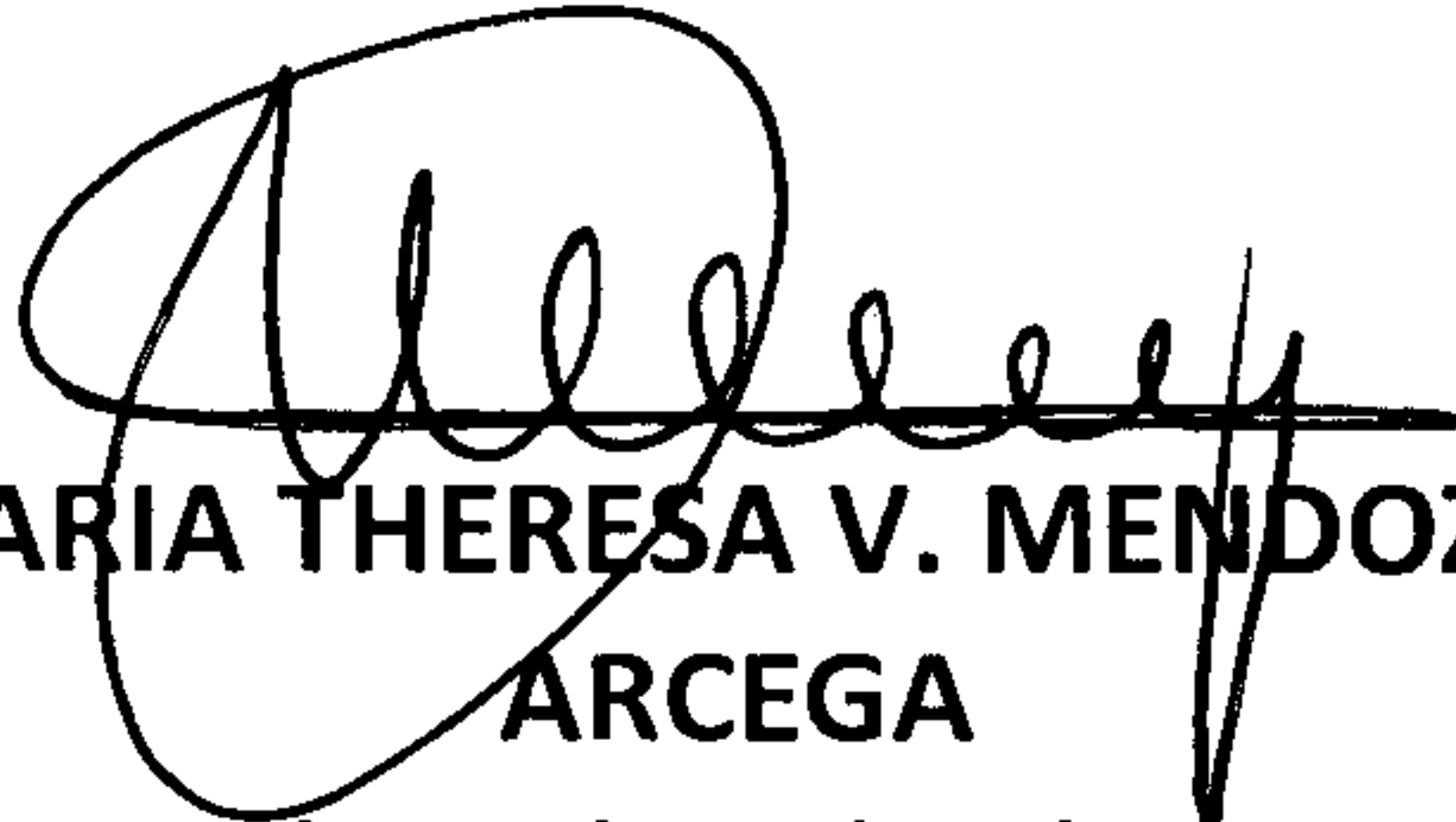
WHEREFORE, premises considered, the prosecution's Motion for Reconsideration is hereby DENIED for lack of merit. This Court's Resolutions dated March 15, 2017 and May 8, 2017 dismissing the case as against accused Rodolfo Guieb, Dennis Araullo and Mario Joel Reyes are AFFIRMED and the case against them DISMISSED. Accused Guieb, Araullo and Reyes's bail bonds are ordered RELEASED, subject to the usual accounting and auditing rules and regulations, and the Hold Departure Orders against them LIFTED and SET ASIDE.

SO ORDERED.


RAFAEL R. LAGOS
Associate Justice
Chairperson

WE CONCUR:


REYNALDO P. CRUZ
Associate Justice


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