

Republic of the Philippines
SANDIGANBAYAN
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case Nos. SB-16-CRM-1068-1075

**For: Falsification of Public
Documents (Article 171 (4), Revised
Penal Code)**

-versus-

Present:

**Herrera, Jr., J., Chairperson
Musngi, J. &
Pahimna, J.**

AUGUSTO BACULIO y HOJAS,
Accused.

Promulgated:

July 7, 2017

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RESOLUTION

PAHIMNA, J:

This pertains to the ***Motion to Quash Informations*** filed by accused Augusto Baculio y Hojas through counsel on January 27, 2017, together with the ***Comment/Opposition to Accused Baculio's Motion to Quash Information*** filed by the plaintiff through the Office of the Special Prosecutor, Office of the Ombudsman, on March 03, 2017.

According to the accused, a former Representative of the Second Legislative District of Misamis Oriental for three (3) consecutive terms from 1998-2007, on December 10, 2009, or after a period of more than two (2) years following his stint in public service, he allegedly received a copy of the Ombudsman's Joint Order dated May 23, 2009, requiring him to file his counter-affidavit to the May 20, 2009 Complaint of the Field Investigation Office (FIO), Office of the Ombudsman, charging him with the crimes of (a) violation of Republic Act No. 1379 or the "Act Declaring Forfeiture in Favor of the State any Property Found to have been Unlawfully Acquired by any Public Officer or Employee"; (b) Falsification of Public Documents under Article 171, paragraph 4, in relation to Article 172 of the Revised Penal Code, and, (c) Serious Dishonesty, Grave Misconduct, and Conduct Prejudicial to the Best Interest of Service punished under Section 52, Civil

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Service Commission (CSC) Resolution No. 991936. After he filed his Counter-Affidavit on January 19, 2010, the case was deemed submitted for resolution and no further proceedings took place. Then, on June 16, 2016, or more than seven (7) years after the filing of the Complaint, he received a copy of Ombudsman's Joint Resolution dated January 25, 2016, finding probable cause for eight (8) counts of Falsification of Public Documents under Article 171 (4) of the Revised Penal Code, due to his alleged failure to include in his 1999 to 2006 Statements of Assets, Liabilities and Networth (SALN) some personal properties. Subsequently, on June 21, 2016, he filed a Motion for Reconsideration and a Supplemental Motion for Reconsideration on July 19, 2016. On October 17, 2016, he received a copy of the Ombudsman's Joint Order dated July 29, 2016, denying his motions. Finally, on November 8, 2016, eight (8) Informations, each for Falsification of Public Documents under Article 171 (4) of the Revised Penal Code, were filed against him.

Thus, the accused asserts inordinate delay in the conduct of the Ombudsman investigation. It argues that the Ombudsman resolved his case after a period of seven (7) years from FIO's institution of its complaint in 2009. He is also being held liable for a crime he allegedly committed seventeen (17) years ago. Thus, such delay had already reached the point of oppression, vexation, and caprice, impairing his defense and denying him of his right to speedy disposition of cases and due process of law.

Citing *People of the Philippines v. Sandiganbayan*,¹ for violation of his constitutional right to speedy disposition of case and due process, the accused posits that the Ombudsman was ousted of its authority to file the instant Informations. Consequently, under Section 3(d), Rule 117, Revised Rules of Criminal Procedure, the present Informations may be quashed and the cases dismissed.

On the other hand, the plaintiff, in its ***Comment/Opposition to Accused's Baculio's Motion to Quash Information*** denied violating accused's right to speedy disposition of his case. It countered that there is no fixed time for it to finish the preliminary investigation. It likewise argued that the accused is already in laches for failing to move for the immediate resolution of his case. It further pointed out that the accused failed to specify the prejudice against his person, and, other than the mathematical reckoning of the period of the delay, he allegedly failed to show the attendant circumstances constituting vexatious delay.

¹ G.R. No. 188165, December 11, 2013.

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In addition, the plaintiff explained that it handles voluminous cases and that the change of administration from the resignation of then Ombudsman Merceditas Gutierrez in April 2011, and the appointment of the incumbent Ombudsman Conchita Carpio Morales in July 2011, paved the way for new policies and careful review of resolutions, including that of the accused's, so as not to indict innocent people.

Accused's motion is impressed with merit.

A person's right to speedy disposition of his case is constitutionally enshrined under Section 16, Article III, 1987 Philippine Constitution, which states:

SEC 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

"Speedy disposition" is a relative term and necessarily, a flexible concept. In the case of *Corpuz vs. Sandiganbayan*,² the Supreme Court illumined on the concept and provided the four (4) factors to consider in determining whether there has been infringement of the right to speedy disposition, thus:

The right of the accused to a speedy trial and to a speedy disposition of the case against him was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him for an indefinite time, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases. Such right to a speedy trial and a speedy disposition of a case is violated only when the proceeding is attended by vexatious, capricious and oppressive delays. The inquiry as to whether or not an accused has been denied such right is not susceptible by precise qualification. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept.

While justice is administered with dispatch, the essential ingredient is orderly, expeditious and not mere speed. It cannot be definitely said how long is too long in a system where justice is supposed to be swift, but deliberate. It is consistent with delays and depends upon circumstances. It secures rights to the accused, but it does not preclude the rights of public justice. Also, it must be borne in mind that the rights given to the accused by the Constitution and the Rules of Court are shields, not weapons; hence, courts are to give meaning to that intent.

² G.R. No. 162214, November 11, 2004.



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A balancing test of applying societal interests and the rights of the accused necessarily compels the court to approach speedy trial cases on an *ad hoc* basis.

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

Here, the Court, after carefully weighing the four (4) factors, is convinced that inordinate delay attended the preliminary investigation. Consider these: **the FIO Complaint dated May 20, 2009, was filed sometime in 2009;**³ the accused then filed his Counter-Affidavit on January 19, 2010;⁴ the **Joint Resolution of the Ombudsman finding probable cause against the accused** (for eight (8) counts of Falsification of Public Documents under Article 171 (4) of the Revised Penal Code, due to his alleged failure to include in his 1996 to 2006 Statements of Assets and Liabilities (SALN) some personal properties) **and directing the filing of the corresponding Informations was then issued on January 25, 2016;**⁵ the accused filed a Motion for Reconsideration and Supplemental Motion respectively on June 21, 2016 and July 19, 2016; **on July 29, 2016 the Joint Order denying accused's motions was issued;** ⁶and **on November 08, 2016, the corresponding Informations were finally filed on November 08, 2016.**

Clearly, more than six (6) years had elapsed from the time the complaint was filed against the accused until the same was finally resolved by the Office of the Ombudsman and the informations correspondingly filed in Court. This period is intolerably long. The plaintiff did also not tender any reasonable explanation for the delay. Heavy workload and the change of administration are unacceptable justifications which could override the constitutionally guaranteed right of the accused to speedy disposition of his case. Likewise, the records do not show, and there is even no pretense from the plaintiff, that the case of the accused involved voluminous records, intricate questions of fact, or complex interpretation of laws, that would have necessitated a period of more than six (6) long years to resolve.

³ The copy of the Complaint on record does not show when it was filed. The Joint Resolution of the Ombudsman likewise failed to allege when it was filed.

⁴ Record, pp. 261-293.

⁵ Record, pp. 5-19.

⁶ Record, pp. 22-26.

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“To emphasize, it is incumbent for the State to prove that the delay was reasonable, or that the delay was not attributable to it. In both regards, the State miserably failed.”⁷

Moreover, the accused invoked his constitutional right to speedy disposition of case at the earliest opportunity to do so, that is, through his Motion for Reconsideration from the Joint Resolution of the Office of the Ombudsman dated January 25, 2016. As it was, the Office of the Ombudsman simply brushed aside the argument. Further, it is procedurally infirm and unsound for the Office of the Ombudsman to expect and wait for the accused to move for an early resolution of his case before it terminates the preliminary investigation. No less that the Constitution imposes upon it the duty to resolve the case with reasonable dispatch. Section 12, Article XI, 1987 Philippine Constitution, mandates-

Section 12. The Ombudsman and his Deputies, as protectors of the people, **shall act promptly on complaints** filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof. (Emphasis supplied)

In *Coscolluela v. Sandiganbayan*⁸ the Supreme Court expounded:

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.” This great responsibility cannot be simply brushed aside by ineptitude. **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. (Emphasis supplied)

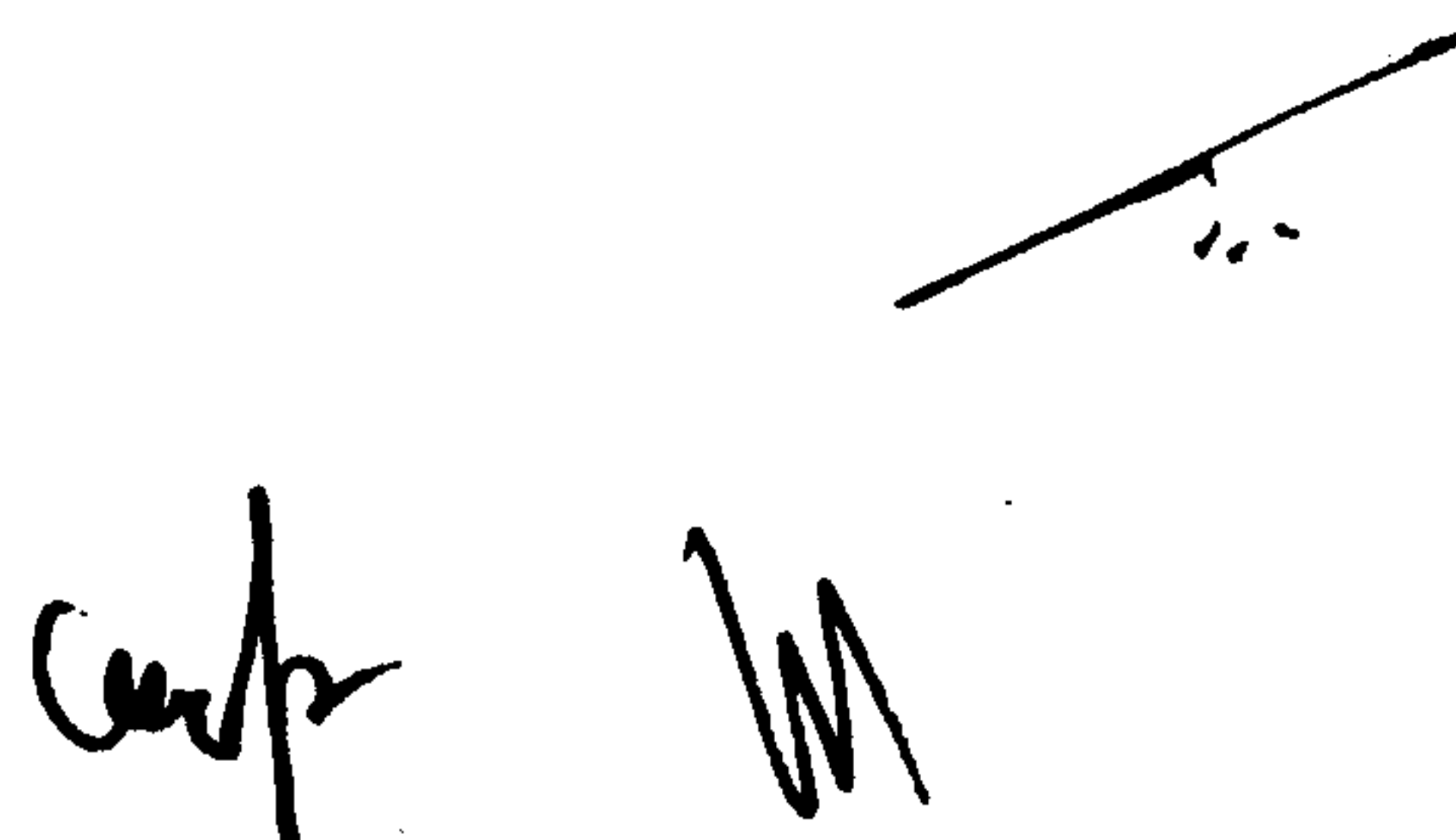
And, citing *Barker v. Wingo*,⁹ the Supreme Court went on to state:

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**

⁷ Supra note 1.

⁸ G.R. No. 191411, July 15, 2013.

⁹ 407 U.S. 514 (1972).

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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.(Emphasis supplied)

In addition, the inordinate delay has undeniably caused prejudice to the accused. The long passage of time weakens his defense as he may be deprived of an accurate recollection of the distant past as well as full access to evidence. This not to mention that in the unduly-stretched interim, the accused has undoubtedly lived under a cloud of anxiety pending the resolution of his case. As further pronounced in the aforementioned *Corpuz vs. Sandiganbayan*¹⁰-

x x x Prejudice should be assessed in the light of the interest of the defendant that the speedy trial was designed to protect, namely: to prevent oppressive pre-trial incarceration; to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired. **Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system. There is also prejudice if the defense witnesses are unable to recall accurately the events of the distant past. Even if the accused is not imprisoned prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed, and he is subjected to public obloquy.** (Emphasis supplied)

Consequently, given the clear violation of the constitutional right of the accused, the prosecution is ousted of any authority to file the present informations.¹¹ Accordingly, the quashal of the same and the dismissal of the cases are in order.

WHEREFORE, the instant *Motion to Quash Informations* filed by accused Augusto Baculio y Hojas through counsel on January 27, 2017, is hereby **GRANTED**.

Accordingly, the Informations filed against the accused are **QUASHED** and these cases are hereby **DISMISSED**.

¹⁰ Supra note 2.

¹¹ Supra note 1.

The bottom of the page features three handwritten marks. At the top right is a long, diagonal slash with a small '2.' written below it. Below this, on the left, is a signature that appears to be 'Cafu'. To the right of this signature is another signature that looks like 'M'.

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Moreover, the December 5, 2016 Hold Departure Order issued against the accused is **LIFTED** and **SET ASIDE**, and the bond he posted for his provisional liberty under O.R. No. 7381961 O dated January 4, 2017, in the amount of PhP96,000.00 is ordered **RELEASED** to him.

Meanwhile, the Supplemental Motion to Quash Informations filed by the accused through counsel on July 15, 2017, is **SIMPLY NOTED**.

SO ORDERED.


LORIFEL L. PAHIMNA

Associate Justice

WE CONCUR:


OSCAR C. HERRERA, JR.

Chairperson


MICHAEL FREDERICK L. MUSNGI

Associate Justice