

Republic of the Philippines  
**SANDIGANBAYAN**  
Quezon City

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Second Division

People of the Philippines,  
Plaintiff,

Crim. Case No. SB-16-CRM-0132

For: Violation of Section 3(e) in relation  
to Sec. 3(g) of R.A. 3019

-versus-

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

Percianita G. Racho, et al.,  
Accused.

Promulgated:

August 21, 2017

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**RESOLUTION**

***HERRERA, JR., J:***

For resolution of the Court is an ***Urgent Motion***<sup>1</sup> dated November 7, 2016, filed by accused Percianita G. Racho, through counsel, praying that the instant case be dismissed, for violation of her Constitutional right to speedy disposition of cases. The prosecution, through the Office of the Special Prosecutor, Office of the Ombudsman, filed an ***Opposition***<sup>2</sup> dated December 2, 2016, to which accused Racho, through counsel, filed a ***Reply (To Prosecution's Opposition)***<sup>3</sup> dated January 4, 2017.

Accused Racho, in her ***Urgent Motion***, claims that from the filing of the complaint, it took a period of four (4) years and nine (9) months to file the information. In her ***Reply (To Prosecution's Opposition)***, accused Racho gave a timeline and clarification relative to her contention, to wit:

"2.2a. Lest being repetitive, the timeline involved in the instant case is shown below:

DATE	FACTUAL INCIDENTS
2010-01-20	Filing of the Complaint
2014-07-04	Approval of Ombudsman Resolution
2014-10-22	Filing of Information

<sup>1</sup> Record, pp. 300-347

<sup>2</sup> Id, pp. 350-356

<sup>3</sup> Id, pp. 357-417

2.2b. In other words, reckoned from the filing of the Complaint on 20 January 2010 up to the filing of the Information on 22 October 2014, it took the Office of the Ombudsman four (4) years and nine (9) months to conclude its Preliminary Investigation.

2.2c. The foregoing period did not even consider the delay attendant to the Fact-Finding Investigation that covered an unexplained gap of five (5) years, reckoned from the filing of the Letter-Complaint up to the execution of the Affidavit-Complaint that paved way to the conduct of the Preliminary Investigation, thus -

DATE	FACTUAL INCIDENTS
2004-07-19	COA Audit Order Memorandum No. 2004-11
2014-07-04	Letter-Complaint of Laura O. Acuña
2014-10-22	Affidavit-Complaint of Marco Anacleto Buena

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After a careful study, the Court rules that the ***Urgent Motion*** of accused Racho must necessarily be denied.

The Supreme Court has laid down the guiding principles in determining whether the right of an accused to speedy disposition of cases has been violated.

In ***Dansal, et. al. v. Fernandez, et. al.***,<sup>5</sup> the Supreme Court explained:

*“In the determination of whether or not the constitutional right invoked by petitioners has been violated, the factors to consider and balance are the duration of the delay, reason thereof, assertion of the right or failure to assert it and the prejudice caused by such delay. The desideratum of a speedy disposition of cases should not, if at all possible, result in the precipitate loss of a party’s right to present evidence....”*

*A mere mathematical reckoning of the time involved, therefore would not be sufficient. In the application of the constitutional guarantee of the right to a speedy disposition of cases, particular regard must also be taken of the facts and circumstances peculiar to each case.”*

<sup>4</sup> Id, pp. 360-361  
<sup>5</sup> 327 SCRA 145

In *Dela Peña, et al. v. Sandiganbayan*,<sup>6</sup> reiterated in *Coscolluela v. Sandiganbayan*,<sup>7</sup> the High Court declared:

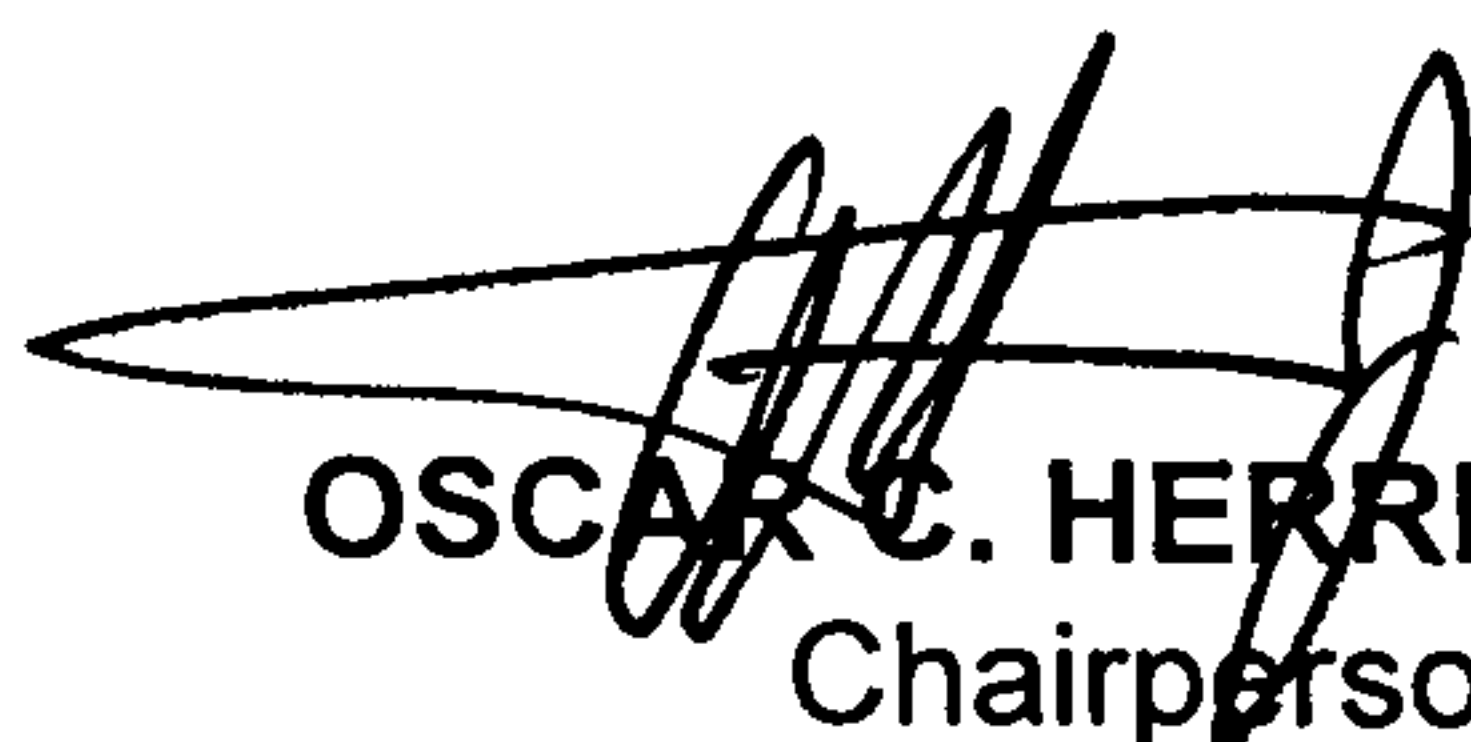
“The right to “a speedy disposition of cases” is guaranteed by the Constitution. Section 16 of Article III thereof provides: All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial or administrative bodies. This right, however, like the right to a speedy trial, **is deemed violated only when the proceedings is attended by vexatious, capricious and oppressive delays.**”

contended that there was a violation of his right to speedy disposition of cases. There is no specific allegation of prejudice caused to her by the alleged delay in the investigation that would warrant a characterization that it was vexatious, capricious and oppressive.


WHEREFORE, the *Urgent Motion* dated November 7, 2016, filed by accused Percianita G. Racho, through counsel, is hereby denied.

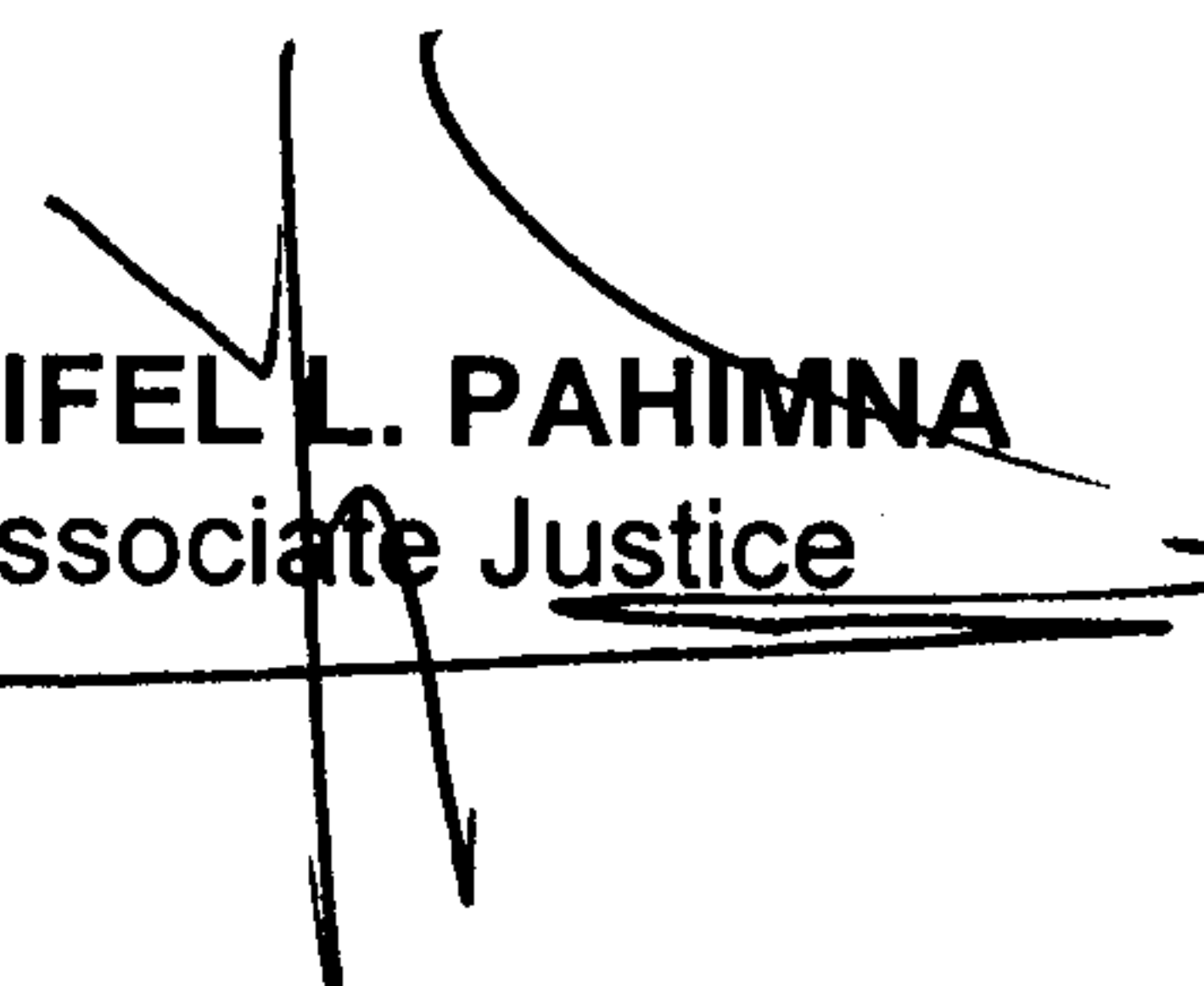
The arraignment of accused Racho is set on October 6, 2017 at 1:30 o'clock in the afternoon.

SO ORDERED.

  
OSCAR C. HERRERA, JR.  
Chairperson

*We concur:*

  
MICHAEL FREDERICK L. MUSNGI  
Associate Justice

  
LORIFEL L. PAHIMNA  
Associate Justice

<sup>6</sup> 360 SCRA 484-485  
<sup>7</sup> 701 SCRA 188