

Republic of the Philippines  
**SANDIGANBAYAN**  
Quezon City

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Second Division

People of the Philippines,  
Plaintiff,

Crim. Case No. SB-16-CRM-0510

For: Violation of Section 3(e)  
of R.A. No. 3019

-versus-

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

Eulalio G. Maderazo, et al.,  
Accused.

Promulgated:

August 23, 2017

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**RESOLUTION**

**HERRERA, JR., J:**

For resolution of the Court is a ***Motion To Quash (The Information Dated 03 June 2016)***<sup>1</sup> dated June 19, 2017, filed by accused Eulalio G. Maderazo (Movant for short), through counsel, to which the plaintiff, through the Office of the Special Prosecutor, Office of the Ombudsman, filed an ***Opposition (re: Motion to Quash)***<sup>2</sup> dated July 4, 2017.

Movant is charged in this case, along with others, with ***Violation of Section 3(e) of Republic Act (R.A.) No. 3019***, also known as the ***Anti-Graft and Corrupt Practices Act***, under an ***Information***<sup>3</sup> dated June 3, 2016.

In his instant ***Motion To Quash, etc.***, movant invokes the following grounds: 1) The facts charged in the ***Information*** dated June 3, 2016 do not constitute an offense; and 2) There was inordinate delay by the Office of the Ombudsman in the resolution of the complaint against him.

<sup>1</sup> Record, pp. 371-384

<sup>2</sup> Id, pp. 447-456

<sup>3</sup> Id, pp. 1-3



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After a careful study, the Court finds the *Motion To Quash, etc.* devoid of merit.

On the first ground invoked by movant, it is settled that a motion to quash on the ground that the facts alleged in the information do not constitute an offense should be resolved on the basis alone of said allegations whose truth and veracity are hypothetically admitted.<sup>4</sup> The fundamental test is whether or not the facts alleged in the information, if hypothetically admitted, would establish the essential elements of the offense charged as defined by law.<sup>5</sup> Facts which constitute the defense of accused against the charge in the information must be proved during the trial. Such facts or circumstances do not constitute proper grounds for a motion to quash the information.<sup>6</sup>

**Section 3(e) of R.A. 3019** provides:

“Sec. 3. Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

xxx.

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.”

The elements<sup>7</sup> of **Section 3(e) of R.A. 3019** are as follows:

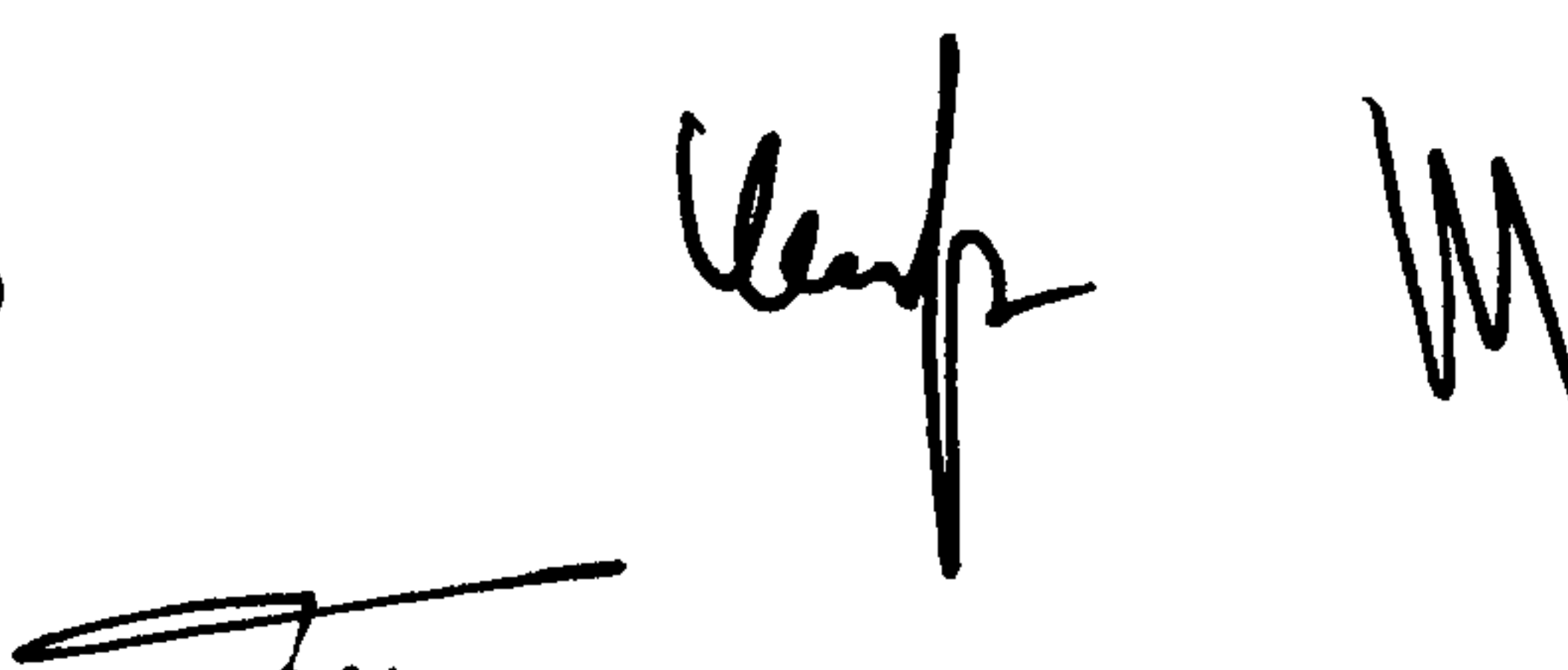
1. The accused must be a public officer discharging administrative, judicial or official functions;
2. He must have acted with manifest partiality, evident bad faith or gross inexcusable negligence, and

<sup>4</sup> People v. Ferrer, 101 Phil. 234

<sup>5</sup> Lazarte v. Sandiganbayan, 581 SCRA 432

<sup>6</sup> Soriano v. People, 591 SCRA 257-258

<sup>7</sup> Jacinto v. Sandiganbayan, 178 SCRA 254, 259

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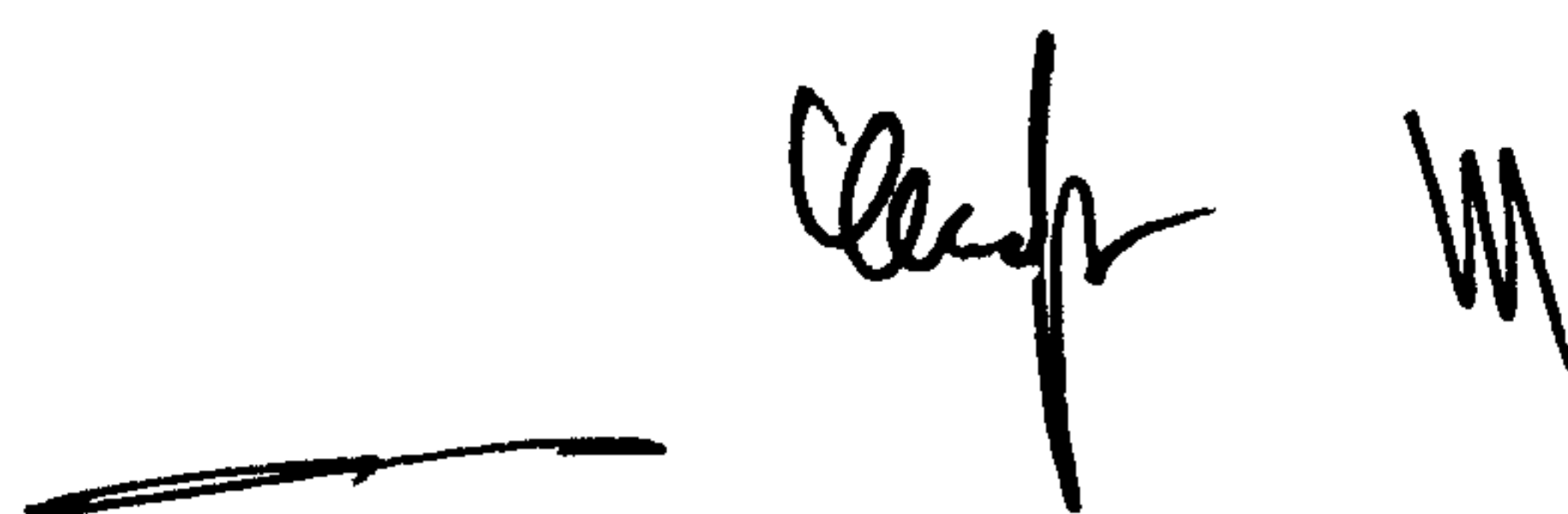
3. His action caused undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions.

On the other hand, the accusatory portion of the *Information* dated June 3, 2016 reads:

“That on or about August 2010 or sometime prior or subsequent thereto, at the Municipality of Caibiran, Province of Biliran, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused **EULALIO G. MADERAZO**, Municipal Mayor; **LORETO SURDANO SERDEÑA, JR.**, Municipal Treasurer; and **RODOLFO GARIN BAGUNA**, Officer-In-Charge, Municipal Accountant, all of the Municipality of Caibiran, Province of Biliran, public officers discharging official/administrative functions, in such capacity and committing the offense in relation to office, conniving, conspiring and confederating together and mutually helping one another, with evident bad faith, manifest partiality or gross inexcusable negligence, did then and there willfully, unlawfully and criminally effect the purchase from and payment of medicines to Andrea Medi Center using public funds in the amount of Two Hundred Ninety-Nine Thousand Three Hundred Seventy Three Pesos (P299,373.00), Philippine Currency, without public bidding and participation of the Bids and Awards Committee, contrary to the provisions of Republic Act No. 9184 (Government Procurement Reform Act) and its Implementing Rules and Regulations, thereby giving unwarranted benefits, advantage and preference to the supplier, Andrea Medi Center, to the prejudice and damage to the government, particularly the Municipality of Caibiran, Biliran.

CONTRARY TO LAW.”

Very clearly, the aforementioned information alleges the following: 1) that movant, as Municipal Mayor, is a public officer discharging official/administrative functions; 2) that in conspiracy with others, he acted with evident bad faith, manifest partiality or gross inexcusable negligence in effecting the purchase from and payment of medicines to Andrei Medi Center using public funds in the amount of P299,373.00 without public bidding, etc.; and 3) that the action gave unwarranted benefits, advantage and preference to the supplier to the prejudice and damage to the government. Hence, the information sufficiently alleges all the elements of the offense charged.

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Anent the alleged inordinate delay in the investigation conducted by the Office of the Ombudsman, movant alleges that anonymous letter-complaints were filed with the Office of the Deputy Ombudsman for the Visayas in 2011, followed by complaint-affidavits the latest of which was the Complaint-Affidavit dated July 24, 2014 of the Field Investigation Group of the Deputy Ombudsman for the Visayas. On basis of this, the case was docketed as OMB-V-C-14-0541, entitled "Public Assistance and Corruption Prevention Office, Ombudsman (Visayas) Regional Office No. VIII v. Eulalio G. Maderazo, et al.", for **Violation of Section 3(e) of R.A. 3019**. On March 11, 2015, movant filed his **Counter-Affidavit** dated February 16, 2015 and a **Resolution** dated June 25, 2015 was issued finding probable cause to file the case in court, which was approved by the Ombudsman on October 8, 2015. Movant filed a **Motion For Reconsideration** dated October 25, 2015 and this was denied by the Office of the Ombudsman in an **Order** dated November 5, 2015. It was approved by Ombudsman herself on March 2016 and the **Information** dated June 3, 2016 was filed in Court on August 10, 2016.

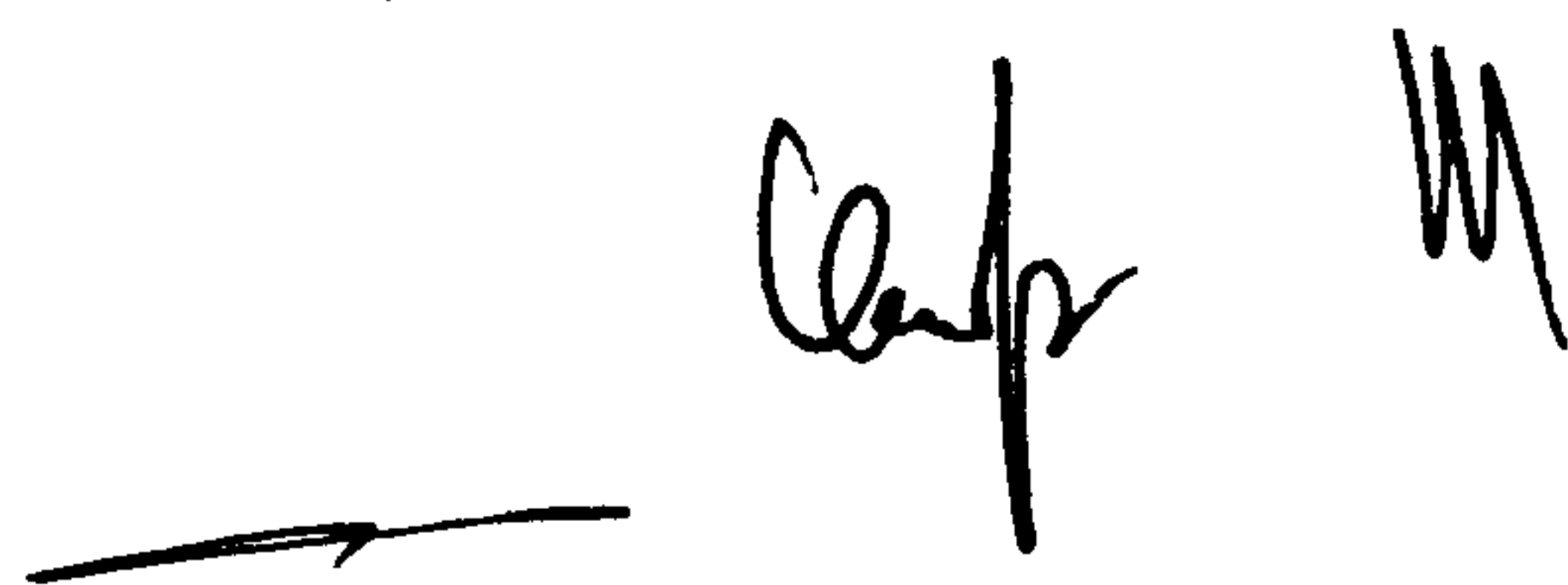
Movant contends that from the time the anonymous letter-complaint was filed in 2011 up to the time the Information was filed in Court in August 10, 2016, five (5) years, six (6) months and twenty (20) days had elapsed constituting inordinate and oppressive delay that violated his Constitutional right to speedy disposition of cases under **Section 16, Article III of the 1987 Constitution**.<sup>8</sup>

The plaintiff contends that there was no inordinate delay in the investigation of the case. The plaintiff thus explained that:

"9. The records of the case would reveal that the last pleading submitted during the preliminary investigation was the counter-affidavit of the accused movant dated February 16, 2015. The investigating officer found probable cause in a Resolution signed on June 25, 2015 and approved by the Ombudsman on October 8, 2015 or for a period of almost ten (10) months.

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<sup>8</sup> Record, pp. 377-378

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10. In connection with the finding of the probable cause, accused-movant filed a motion for reconsideration dated October 26, 2015 which was denied by the Office of the Ombudsman in an Order dated November 5, 2015.
11. The Information dated June 3, 2016 was thereafter filed in court after the accused-movant was notified of the denial of his motion for reconsideration;
12. There is evidently no inordinate delay by which the preliminary investigation was conducted and concluded.”<sup>9</sup>

The Court finds satisfactory and acceptable the explanation given by the plaintiff regarding the time spent by the Office of the Ombudsman in the investigation of the case. Considering the peculiar circumstances, the time spent cannot be characterized as one attended by inordinate delay, or that which is vexatious, capricious and oppressive.

The Court notes that movant himself admits that he submitted a counter-affidavit against the complaint against him. When a resolution was issued finding probable cause to charge him in court, he filed a motion for reconsideration which was denied. These demonstrated that he was accorded due process and given all the opportunity to be heard during the investigation.

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>10</sup> the Supreme Court explained:

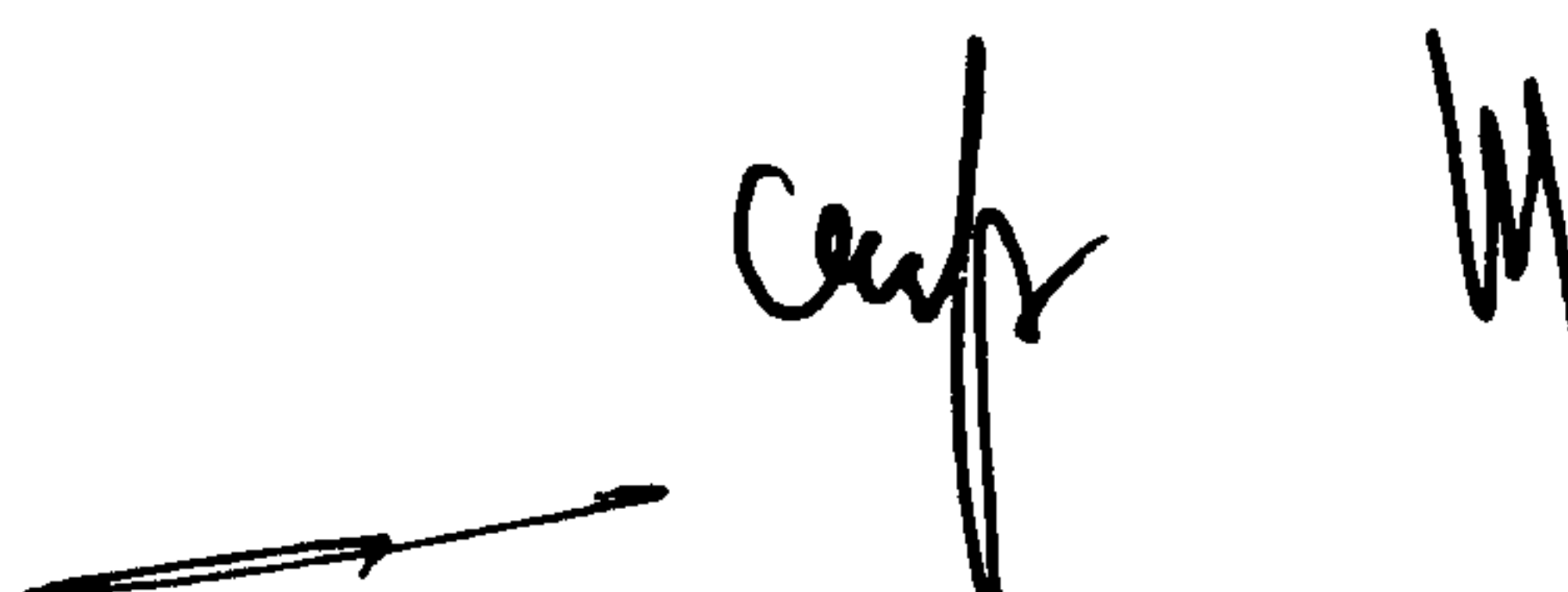
*“In the determination of whether or not the constitutional right invoked by petitioners has been violated, the factors to consider and balance are the duration of the delay, reason thereof, assertion of the right or failure to assert it and the prejudice caused by such delay. The desideratum of a speedy 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.”*

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<sup>9</sup> Id, pp. 448-449

<sup>10</sup> 327 SCRA 145

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In *Dela Peña, et al. v. Sandiganbayan*,<sup>11</sup> reiterated in *Coscolluela v. Sandiganbayan*,<sup>12</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.**”

Here, movant only made a mathematical reckoning of the time involved in the investigation of the case, and then summarily declared that there was a violation of his right to speedy disposition of cases. There is no specific allegation of prejudice caused to him by the alleged delay in the investigation that would warrant a characterization that it was vexatious, capricious and oppressive.

WHEREFORE, the *Motion To Quash (Information dated 03 June 2016)* dated June 19, 2017, filed by accused Eulalio G. Maderazo, through counsel, is hereby denied.

SO ORDERED.

  
OSCAR C. HERRERA, JR.  
Chairperson

*We concur:*

  
MICHAEL FREDERICK L. MUSNGI  
Associate Justice

  
LORIFEL L. PAHIMNA  
Associate Justice

<sup>11</sup> 360 SCRA 484-485

<sup>12</sup> 701 SCRA 188