

Republic of the Philippines
SANDIGANBAYAN
Quezon City

Second Division

**PEOPLE OF THE
PHILIPPINES,**

CRIM. CASE NO. SB-11-CRM-0101

For: Violation of Sec. 3(e) of RA
3019

-versus-

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

**LEANDRO B. VERCELES,
JR., ET AL.,**
Accused.

Promulgated:
October 19, 2017
A

X-----X

RESOLUTION

PAHIMNA, J.:

For resolution of the Court is the ***Motion for Reconsideration***¹ dated August 23, 2017 filed by accused **Leandro B. Verceles**, through counsel.

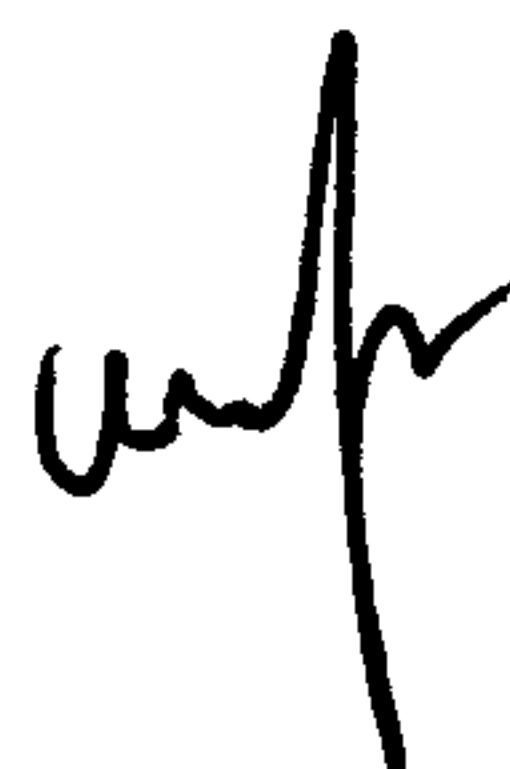
In connection with the aforementioned ***Motion***, the following were also filed:

- a) ***Manifestation to Adopt***² filed by accused Ireneo del Rosario, Abelardo A. Abundo, Jr., Hilda V. Arcilla, Herbert DLS Evangelista, Sr., and Julieta M. Tasarra on September 8, 2017 through counsel.
- b) ***Supplement to the Motion for Reconsideration***³ filed by accused Leandro B. Verceles, Jr. on September 15, 2017 through counsel.

¹ Records, p. 1031, vol. 3

² Id, pp. 1093 vol. 3

³ Id, pp. 1096 vol. 3



c) **Consolidated Comment/Opposition⁴** filed on September 19, 2017 by the plaintiff.

In his **Motion for Reconsideration**, Movant, Leandro B. Verceles, Jr. alleges that the **Motion to Dismiss the Information (Due to the Recent Rulings of the Sandiganbayan)** was not dilatory. They were already arraigned way back on August 1, 2013 but eight months went by and still there was no pre-trial. Hence, in the protection of his statutory right, was obliged to file a motion to dismiss alleging among other grounds that his right to speedy trial under RA 8493 was violated. Further, he alleged that he was entitled to equal protection as the six Sandiganbayan resolutions stated in his said **Motion to Dismiss the Information** are on all squares with the instant case.

Movant Verceles insists that the five Sandiganbayan resolutions are on all fours with the instant case, and arguing the need to include the fact-finding stage as an integral part of the preliminary investigation, citing *People vs. Sandiganbayan*, G.R. 188165 and *People vs. Sandiganbayan*, 2nd Division, *Hernando Benito Perez, et. al.*, G.R. 189063. By including the fact-finding stage as an integral part of the preliminary investigation, the numbers would tell a different story wherein the preliminary investigation that includes the fact-finding stage took 6 years, 5 months.

Movant further argues that the onus upon the Ombudsman to prove there was no inordinate delay was not refuted and no evidence submitted by the prosecution to the contrary.

The prosecution, on the other hand, in its **Consolidated Comment/Opposition** thereto, contends that movant's arguments are misguided. He cannot blindly rely on the promulgation of the Supreme Court in ***People vs. Sandiganbayan, Hernando Perez, et. al⁵*** as the delay could not be considered vexatious, capricious, arbitrary or oppressive.

The prosecution further maintains that the circumstances of the cited cases by the movant are not on all fours with the instant case. The fact finding investigation was devoted to data gathering to substantiate the allegations in this case. Requests for additional information were sent to different agencies as the subject matter of the case. Hence, the period of the fact-finding could not be considered vexatious, capricious, arbitrary or oppressive. It was a process

⁴ Records, pp. 1105, vol. 3

⁵ G.R. No. 1989063, 11 December 2013



necessitated by the form, manner and nature of the allegation as well as the requirements of due process and thorough investigative work.

RULING

After a careful study, the Court rules to deny the motions.

There is nothing in the subject **Motion for Reconsideration** which has not been passed upon thoroughly in the assailed Resolution that could warrant a reversal of the same. Movant has not included any new argument which would convince this Court to rule otherwise. He merely reiterated and insisted that the rulings of the Sandiganbayan in the different cases he cited are on all fours with the instant case but these arguments have already been discussed in the aforesaid **Resolution**.

To reiterate, a portion of the assailed **Resolution** reads:

*Gleaned from the records, accused Rodolfo G. Maliñana filed a **Motion to Dismiss the Information with Leave of Court**⁶ on May 20, 2014, which was adopted by herein movant, this time on the ground of impairment of the accused's constitutional right to a speedy trial pursuant to RA 8493, otherwise known as the Speedy Trial Act of 1998. But then again, the said motion was denied by this Court in its **Resolution**⁷ finding no violation of the Speedy Trial Act reasoning that the applicability of the Hernando Perez ruling is misplaced. It further ruled that:*

*"The concept of speedy disposition of cases remains to be a relative and flexible concept that must be decided upon the peculiar circumstances of every case. In **Perez**, the charge involved is simply crime of robbery. This case, on the other hand, involves the alleged misuse of fertilizer fund, necessarily involving numerous individuals and requiring an examination and study of copious amount of documents and evidence. Even with these complexities, this Court fails to see any instance by which the Ombudsman could be adjudged to have dawdled in carrying out its investigation.⁸*

xxx

This court does not likewise find any violation of the Speedy Trial Act. Delay arising from the change of venue or transfer of court is one of the excludable delays recognized under the Speedy Trial Act. The time it took the Sandiganbayan First Division to resolve the various motions filed by the accused was adequately explained by the justifiable postponements and delay warranted, which were all warranted by the situation.

In sum, this Court sees no inordinate delay in the conduct of investigation that violated the constitutional right of the accused to the speedy disposition of cases."⁹

⁶ Records, p. 46

⁷ Records, p. 528

⁸ Records, p. 535

⁹ Records, p. 536

Handwritten signatures and initials at the bottom of the page. There are three distinct marks: a signature on the left, a signature in the middle, and a set of initials on the right.

On November 21, 2016, the Supreme Court affirmed the assailed **Resolutions**¹⁰ which states in part:

“Considering the allegations, issues and arguments adduced in the joint petition for certiorari with prayer for issuance of a temporary restraining Order assailing the Resolutions dated 27 February 2015 and 21 July 2016 of the Sandiganbayan, Special Second Division, Quezon City in Crim. Case No. SB-11-CRM-0101, the Court resolves to DISMISS the petition for failure to sufficiently show that the questioned resolutions are tainted with grave abuse of discretion.”¹¹”

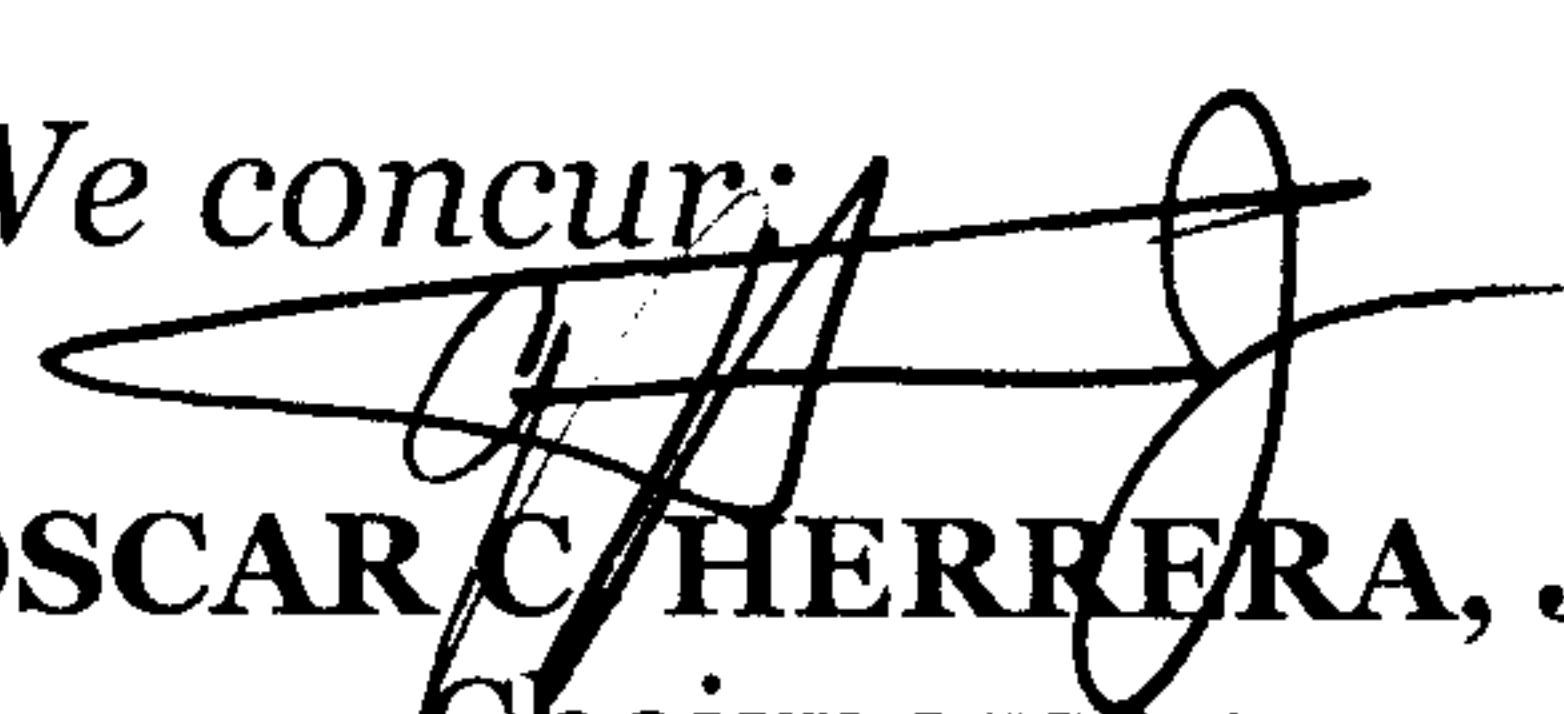
Verily, the issue of inordinate delay has already been passed upon thoroughly in the assailed **Resolution** which was even affirmed by the Supreme Court and this Court finds no cogent reason to disturb further the said ruling considering there are no new allegations but mere rehash of previous arguments made by herein movant.

In sum, the delay being imputed by herein movant is not inordinate so as to warrant dismissal of the instant case as the circumstances attending the same cannot be said as capricious, vexatious or oppressive.

WHEREFORE, finding no cogent reason to disturb **Resolution** promulgated on August 2, 2017, the **Motion for Reconsideration** filed on August 23, 2017, by accused Leandro Vercelles, Jr. through counsel, is hereby **DENIED**.

SO ORDERED.


LORIFEL L. PAHIMNA
Associate Justice

We concur:

OSCAR C. HERRERA, JR.
Chairperson
Associate Justice


MICHAEL FREDERICK L. MUSNGI
Associate Justice

¹⁰ Records, pp. 528-537 and pp.697-702

¹¹ Vercelles, Jr. vs. Sandiganbayan [2nd Division], G.R. No. 227149, November 21, 2016