



REPUBLIC OF THE PHILIPPINES

*Sandiganbayan*

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-16-CRM-0769**  
Plaintiff, For: Violation of Sec. 3(e)  
of R.A. No. 3019

*Present*

- versus -

**BENJAMIN S. ABALOS, SR.,**  
Accused.

**FERNANDEZ, SJ, J.,**  
Chairperson  
**MIRANDA, J. and**  
**FERNANDEZ, B,\* J.**

*Promulgated:*

**OCT 25 2017**

X-----X

**RESOLUTION**

***FERNANDEZ, SJ, J.***

This resolves the *Motion to Dismiss on the Ground of 8 Years (2008) Inordinate Delay in Violation of Accused' Constitutional Right to Speedy Disposition of Case<sup>1</sup>* of accused Benjamin S. Abalos, Sr.

The accused prays that the present case be dismissed, and that his arraignment be deferred or suspended pending the resolution of his Motion. He avers:

1. The following events transpired from the alleged commission of the offense until the filing of the Information before this Court:
  - a. In 2003, the Commission on Elections (COMELEC) authorized the purchase of two (2) vehicles for its use. Said vehicles were purchased through canvass/shopping, an alternative mode of procurement.

## RESOLUTION

*People. vs. Abalos*

*Criminal Case Nos. SB-16-CRM-0769*

*Page 2 of 5*

X-----X

- b. In connection with the purchase of said vehicles, he issued a certification to the effect that the procurement of said vehicles is "necessary, lawful and incurred under my direct supervision." He also signed and approved the Purchase Order.
  - c. The Field Investigation Office of the Office of the Ombudsman filed a complaint against him in October 2008, after the expiration of his term of office as COMELEC Chairman.
  - d. In the Order dated September 23, 2014, he was directed to file his Counter-Affidavit, which he filed on October 29, 2014.
  - e. The Resolution dated July 30, 2015, recommending the filing of the Information against him, was approved on August 5, 2015.
  - f. He filed his Motion for Reconsideration on August 27, 2015, which was denied in the Order dated February 19, 2016.
  - g. The Information dated August 1, 2016, charging him with violation of Section 3(e) of Republic Act No. 3019 (R.A. No. 3019), was filed on October 7, 2016.
2. It took around eight (8) years from the filing of the complaint to the filing of the Information in the present case. This period constitutes inordinate delay.
  3. In *Corpuz v. Sandiganbayan*,<sup>2</sup> it was held that prejudice caused by the inordinate delay in the termination of the preliminary investigation warrants the finding of a violation of the right to speedy disposition of cases. The Supreme Court, in the same case, recognized that such prejudice could be in the form of impairment of the accused' defense.
  4. In the present case, aside from the impairment of his defense, his health has been similarly impaired due to old age. Thus, such circumstances justify some leniency in procedural matters and also in allowing a more meticulous and searching evaluation of his arguments.
  5. In *Tatad v. Sandiganbayan*,<sup>3</sup> it was held that a delay of close to three (3) years in the conduct of the preliminary investigation cannot be deemed reasonable and justifiable, and is violative of

## RESOLUTION

*People. vs. Abalos*

*Criminal Case Nos. SB-16-CRM-0769*

Page 3 of 5

X-----X

the right of the accused to due process and speedy disposition of cases.

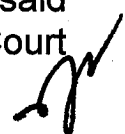
6. In *People v. Sandiganbayan*,<sup>4</sup> the fact-finding investigation and the preliminary investigation conducted by the Office of the Ombudsman took nearly five years and five months. Such delay was considered inordinate and oppressive.
7. In *Coscolluela v. Sandigabayan*,<sup>5</sup> the Supreme Court ruled that the looming unrest as well as the tactical disadvantages carried by the passage of time should be weighted against the State and in favor of the individual.
8. From *Solar Team Entertainment, Inc. v. How*,<sup>6</sup> it is clear that the grounds for suspension of arraignment are not limited to those in Rule 116, Section 12<sup>7</sup> of the Rules of Court. Therefore, the pendency of the resolution of his Motion may be a valid ground for the suspension or deferment of his arraignment.

The prosecution orally argued its opposition during the hearing of the accused' Motion on October 13, 2017.

It points out that the accused had previously filed a Motion to Quash invoking inordinate delay as a ground, and that after the Court denied said Motion, he moved for the reconsideration of the Resolution dated February 2, 2017. Moreover, the filing of accused' Motion to Dismiss constitutes forum shopping and such Motion must be treated as a mere scrap of paper that was intended merely to delay the proceedings. The prosecution moved that the accused and his counsel be held in contempt of court therefor.

### THE COURT'S RULING

The Court notes that the accused filed his *Motion to Quash Information with Very Urgent Prayer to Postpone Arraignment*,<sup>8</sup> praying for the dismissal of the present case on the ground of violation of his right to speedy disposition of cases. This Court denied said Motion to Quash in the Resolution dated February 2, 2017.<sup>9</sup> This Court



<sup>4</sup> G.R. Nos. 188165 and 189063, December 11, 2013

<sup>5</sup> G.R. Nos. 191411 and 191871, July 15, 2013

<sup>6</sup> G.R. No. 140863, August 22, 2000

<sup>7</sup> Now Sec. 11

RESOLUTION

People. vs. Abalos

Criminal Case Nos. SB-16-CRM-0769

Page 4 of 5

X-----X

also denied the accused' Motion for Reconsideration <sup>10</sup> in the Resolution dated May 18, 2017.<sup>11</sup> Undaunted, he filed a second Motion for Reconsideration,<sup>12</sup> which was likewise denied in the Resolution dated August 31, 2017.<sup>13</sup> Pending the resolution of his second Motion for Reconsideration, he filed a Petition for Certiorari<sup>14</sup> with the Supreme Court, assailing the denial of his first Motion for Reconsideration. He withdrew said Petition pending before the Supreme Court on September 4, 2017.<sup>15</sup>

From a perusal of the accused' instant Motion, it is apparent that the arguments therein are the very same arguments he previously raised in his Motion to Quash. Being a mere reiteration and rehash of arguments already judiciously considered, and found to be without merit by this Court in the resolution denying his Motion to Quash, there is no need to discuss the same anew.

In *Komatsu Industries (Phils.) Inc. v. Court of Appeals*,<sup>16</sup> it was held:

In the same manner, we readily found that, despite the lengthy and repetitious submissions of petitioner in its pleadings filed with this Court as earlier enumerated, all the arguments therein are also mere rehashed versions of what it posited before respondent court. We have patiently given petitioner's postulates the corresponding thorough and objective review but, on the real and proper issues so completely and competently discussed and resolved by respondent court, petitioner's obvious convolutions of the same arguments are evidently unavailing. x x x

The filing by counsel for the accused of the motion under consideration – a rehash of the accused' Motion to Quash, which, along with his two Motions for Reconsideration, had all been denied – appears to be nothing but a dilatory tactic or a misuse of Court processes, in contravention of the Code of Professional Responsibility,<sup>17</sup> and which runs counter to the objective of the Rules

<sup>10</sup> Dated February 15, 2017; Record, Vol. 1, pp. 135-145

<sup>11</sup> Record, Vol. 1, pp. 196-203

<sup>12</sup> Dated June 6, 2017; Record, Vol. 1, pp. 214-219

<sup>13</sup> Record, Vol. 1, pp. 517-522

<sup>14</sup> Dated and filed on July 19, 2017, Record, Vol. 1, pp. 289-315

<sup>15</sup> By registered mail, received on September 11, 2017

<sup>16</sup> G.R. No. 127682, April 24, 1998

<sup>17</sup> **Rule 10.03** – A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice

**RESOLUTION**

*People. vs. Abalos*

*Criminal Case Nos. SB-16-CRM-0769*

*Page 5 of 5*

X-----X

of securing a just, speedy and inexpensive disposition of every action and proceeding.<sup>18</sup>

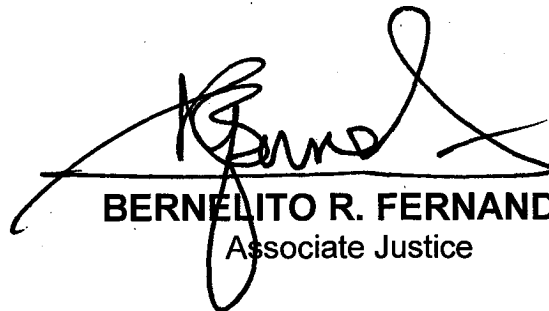
**WHEREFORE**, the motion of the accused is hereby **DENIED**. Counsel for the accused is **STERNLY WARNED** that continued misuse of judicial processes shall be dealt with more severely.

**SO ORDERED.**

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**We Concur:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**BERNELITO R. FERNANDEZ**  
Associate Justice

<sup>18</sup> *Rules of Court, Rule 1, Sec. 6, Construction* – These Rules shall be liberally construed in order to promote