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**REPUBLIC OF THE PHILIPPINES**  
**SANDIGANBAYAN**  
**Quezon City**  
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**Seventh Division**

PEOPLE OF THE PHILIPPINES,  
Plaintiff,

Criminal Case No.  
SB-17-CRM-1187 to 1384

- versus -

*Present:*

FELIPE G. PICAZO and  
CONRADO G. GANADEN,  
Accused.

Gomez-Estoesta, J.  
*Chairperson*  
Trespeses, J.  
Jacinto, J.<sup>1</sup>

*promulgated: October 18, 2017*  
*ip*

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**RESOLUTION**

Submitted for Resolution is the prosecution's 26 September 2017 Motion for Reconsideration<sup>2</sup> of the Court's Resolution dated 20 September 2017.<sup>3</sup>

The Court's 20 September 2017 Resolution granted accused Felipe G. Picazo (Picazo) and Conrado C. Ganaden's (Ganaden) Motion to Dismiss the cases herein on the ground of violation of their right to speedy disposition.

In the four-page body of its motion, the prosecution argues that length of delay alone does not prove violation of the right to speedy disposition. It also bemoans that the accused claimed violation of their right to speedy disposition only after they received the Ombudsman's 2 March 2015 Order. It claims that the accused should have filed a motion for early resolution or to be apprised of the status of their case earlier. This is because generally,

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<sup>1</sup> Sitting as Special Member of the Seventh Division by virtue of Administrative Order No. 284-2-17 dated 18 August 2017.

<sup>2</sup> *Rollo*, pp.180-185.

<sup>3</sup> *Id.* at 152-175.

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the right to speedy trial may be waived and must be asserted.<sup>4</sup> The prosecution then cited decade-old cases<sup>5</sup> where the principle was illustrated.

In their Opposition,<sup>6</sup> accused Picazo and Ganaden stress that the cases against them were initiated before the Ombudsman on 28 January 2004. However, the Informations herein were filed only on 19 June 2017. Accused reiterate that it is not their duty to follow up the prosecution of their case. Conversely, it is the mandate of the Ombudsman to promptly act on all complaints lodged before it.<sup>7</sup>

**We deny** the prosecution's motion for reconsideration.

Contrary to what the prosecution makes it appear, our 20 September 2017 Resolution ruling (that there was a violation of the accused's right to speedy disposition of cases) was *not* solely based on the length of delay of the proceedings before the Ombudsman.

In fact, in determining whether the accused's right to speedy disposition had been violated, our Resolution discussed the balancing test and the four factors that it consists of, namely: (1) the length of delay; (2) the reason for the delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay.<sup>8</sup>

The sub-headings in the assailed Resolution reflect the gist of the discussions concerning these four factors, to wit:

- (1) there was an inordinate delay of thirteen years from the time the complaint was filed with the Ombudsman until the Informations were filed with the Sandiganbayan;
- (2) there is nothing on record that justified that delay in the preliminary investigation before the Ombudsman;
- (3) the prosecution itself alleges that the accused asserted their right to speedy disposition before they received the Ombudsman's Resolution; and
- (4) the lengthy delay prejudices both parties, adversely affecting their ability to prosecute/defend their cases.

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<sup>4</sup> *Guiani v. Sandiganbayan*, 435 Phil. 467-481 (2002).

<sup>5</sup> *Dela Pena v. Sandiganbayan*, 412 Phil. 921-933 (2001); *Alvizo v. Sandiganbayan*, G.R. No. 101689, 17 March 1993; *Guerrero v. CA*, 327 Phil. 496-510 (1996); *Republic v. Desierto*, 438 Phil. 201-214 (2002) and *Valencia v. Sandiganbayan*, 510 Phil. 70-91 (2005).

<sup>6</sup> *Rollo*, pp. 188-192.

<sup>7</sup> *Coscolluela v. Sandiganbayan*, 714 Phil. 55-69 (2013).

<sup>8</sup> *Remulla v. Sandiganbayan*, G.R. No. 218040, 17 April 2017.

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As to length of delay, we stress that it took the Ombudsman thirteen (13) years from its fact-finding investigation before it filed the Informations against the accused with the Sandiganbayan. That there was a lengthy delay in the preliminary investigation cannot, therefore, be denied.

Anent the reason for the delay, we underscore that the records of the case do not contain any justification for the delay in the Ombudsman's resolution of these cases. Worse, it appears that the matters for resolution before the Ombudsman were fairly straightforward, with no complex factual or legal issues. This glaring absence of any explanation for the Ombudsman's delay was plainly pointed out by the Court in the assailed ruling. Notwithstanding this, the prosecution, even now, continues to obstinately refuse to even mention the possible reasons that would account for the delay incurred in these cases. Hence, the prosecution's present motion for reconsideration has frustratingly failed to change this finding.

Regarding the assertion of the accused's right to speedy disposition, we note that the prosecution itself alleged that prior to their receipt of the Ombudsman's Resolution signed by Ombudsman Conchita Carpio Morales on 25 April 2016, the accused already objected to the violation of their right to speedy disposition.<sup>9</sup> Thus, there is no factual basis for the prosecution's claim that the accused failed to timely assert this right.

Neither is there legal basis for the prosecution's objection on this score. As discussed in the assailed resolution, it is the Constitutional duty of the prosecutor to speedily resolve the case, whether or not the accused objects to the delay, provided that the delay was not due to causes directly attributable to the latter.<sup>10</sup>

Finally, on the matter of prejudice caused by the delay, we emphasize that in the context of speedy disposition, prejudice should be assessed in the light of the interest of the accused, whose right it was designed to protect, namely: to prevent oppressive pre-trial incarceration; to minimize anxiety and concerns of the accused to trial; and the most serious, to limit the possibility that his defense will be impaired.<sup>11</sup>

In this regard, the lengthy passage of time adversely affects both the availability of witnesses and the quality of their recollection, as well as the physical integrity of the documents and other pieces of evidence that may be presented in these cases.

In particular, we recognize that documents pertaining to the cases supposedly issued from 1998 to 2001 are important for the accused to

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<sup>9</sup> *Rollo*, p. 111.

<sup>10</sup> *Almeda v. Office of the Ombudsman*, G.R. No. 204267, 25 July 2016.

<sup>11</sup> *Supra* at note 8.

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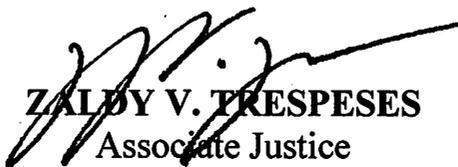
exculpate themselves from the charges against them, or for the prosecution to prove its case.

However, we note that even fourteen (14) years ago, the Commission on Audit's (COA) Investigating Team had already reported that it "could not ascertain the validity of the findings reported in the Special Audit Report of COA's Region I Audit Team due to the latter's failure to support their findings with complete working papers and/or to present vouchers along with the supporting documents" and that it has not "received the said working papers and documents save for the photocopies of purchase orders and other documents which were not properly indexed, thus, could hardly be properly identified with the corresponding transaction."<sup>12</sup> Similarly, "(t)he validation of the reported actual cost of the building (₱24,475,300.00 as of December 31, 2001) could not be accomplished as the audit working papers bearing thereon could not be presented by the COA RO I Audit Team. Neither could the actual labor cost imputable to the cost of the building be ascertained, due to the aforementioned non-submission of the audit working papers and the related payroll vouchers."<sup>13</sup>

Evidently, the Court has also considered the factor of prejudice in determining that the accused's right to speedy disposition was violated.

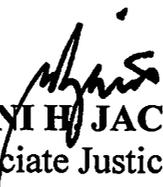
**WHEREFORE**, in view of the foregoing, the prosecution's MOTION TO FOR RECONSIDERATION is **DENIED** for lack of merit.

SO ORDERED.

  
**ZALBY V. TRESPESES**  
Associate Justice

**WE CONCUR:**

  
**MA. THERESA DOLORES C. GOMEZ-ESTOESTA**  
Associate Justice, Chairperson

  
**BAYANI H. JACINTO**  
Associate Justice\*

<sup>12</sup> *Rollo*, p 107.

<sup>13</sup> *Id.* at 75-84.

\* Sitting as Special Member of the Seventh Division by virtue of Administrative Order No. 284-2-17 dated 18 August 2017.