



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

SB-17-CRM-0198 - 0200

For: Violation of Section 8(A) of
R.A. No. 6713

-versus-

PRESENT:

FERNANDEZ, S.J., J.,¹ *Chairperson*

MIRANDA, J, &

MUSNGI, J.²

**JAY CAPISTRANO DE
CASTRO,**

Accused,

Promulgated:

NOV 28 2017

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RESOLUTION

MIRANDA, J.:

This resolves: 1) the Prosecution's Motion for Reconsideration (Re: Resolution dated August 9, 2017) dated August 23, 2017; and 2) Accused Jay Capistrano De Castro's Opposition (to Motion for Reconsideration) dated September 5, 2017.

In its motion for reconsideration, the Prosecution, through the Office of the Special Prosecutor (OSP) alleges that: 1) The fact-finding investigation is a separate and distinct proceeding from the preliminary

¹ J. Ponferrada, who participated in the assailed Resolution, retired on September 13, 2017. J. Fernandez, SJ will participate in the resolution of the present incident in view of her assumption as Chairperson of the 6th Division on the same date. (As per Administrative Order (A.O.) No. 314-2017 dated September 13, 2017; Revised Internal Rules of the Sandiganbayan, Rule XII, Section 3).

² J. Musngi participated in the assailed Resolution (Per Administrative Order No. 124-2017 dated April 4, 2017; Revised Internal Rules of the Sandiganbayan, Rule IX, Sec. 2[a]).

investigation; 2) The accused failed to assert any prejudice or anxiety caused by the alleged delay; 3) The completion of the preliminary investigation until the filing of the information is reasonable considering the accused submitted a counter-affidavit with attachments consisting of almost 200 pages; and 4) The failure of the accused to assert his right to speedy disposition of cases at the earliest possible opportunity constitutes a waiver of said right.

In his opposition, the accused asserts that: 1) The motion for reconsideration is a *pro forma* motion because the arguments therein were already passed upon and found unmeritorious by the Court in its Resolution dated August 9, 2017; 2) The speedy disposition of cases includes the period of fact-finding investigation; 3) The counter-affidavit of the accused consists only of twelve (12) pages while the other pages consist of annexes already in the possession of the Office of the Ombudsman in three (3) previous cases; and 4) These are simple cases of failure or non-filing of Statements of Assets, Liabilities, and Net Worth (SALNs) which do not involve complicated legal and factual issues.

After a restudy of the grounds raised in the motion for reconsideration, the Court finds no valid reason to reconsider its Resolution dated August 9, 2017 dismissing the cases against the accused for violation of his right to speedy disposition of cases. The issues and arguments raised by the Prosecution in its motion for reconsideration are a mere rehash and a repetition of the same issues and arguments raised in its Opposition (Re: Accused's Amended Motion to Quash) dated May 9, 2016 (sic). These issues and arguments have already been considered and passed upon by the Court in its assailed Resolution dated August 9, 2017. There being no new matters or issues raised to warrant a reversal thereof, the motion for reconsideration must be **denied**.

To reiterate, the speedy disposition of cases covers the period of the preliminary investigation, and all stages to which the accused is subjected to including fact-finding investigations conducted prior to the preliminary investigation proper. This is because the right of an accused to a speedy disposition of his case includes the periods before, during, and after trial.³

The fact-finding investigation should not be deemed separate from the preliminary investigation conducted by the Office of the Ombudsman if the

³ *People v. Torres*, G.R. Nos. 221562-69, October 5, 2016.

Handwritten signatures of the court members, including a signature that appears to be 'Carp'.

aggregate time spent for both constitutes inordinate and oppressive delay in the disposition of any case.⁴

The Office of the Ombudsman spent a total of *seven (7) years and five (5) months* to finish its fact-finding investigation and preliminary investigation, approve the resolution finding probable cause, and file the information in Court. The significant factor that contributed to the inordinate delay was the Deputy Ombudsman's approval of the resolution finding probable cause which took two (2) years, four (4) months, and twenty-two (22) days. This period was way longer than the preliminary investigation proper conducted by the Graft Investigation and Prosecution Officer which took only five (5) months and three (3) days. The Court cannot understand this delay considering that these are only simple cases of failure to file SALNs the elements of which can easily be determined from the records.

It is not the duty of the accused to follow-up the prosecution of his cases. Rather, it is the responsibility of the Office of the Ombudsman to expedite the same within the bounds of reasonable timeliness in view of its mandate to promptly act on all complaints lodged before it. It is not the duty of the accused to bring himself to trial. The State has that duty as well as the duty of insuring that the trial is consistent with due process.⁵

Moreover, the right to speedy disposition of cases is not merely hinged towards the objective of spurring dispatch in the administration of justice but also to prevent the oppression of the citizen by holding a criminal prosecution suspended over him for an indefinite time. Akin to the right to speedy trial, its salutary objective is to assure that an innocent person may be free from the anxiety and expense of litigation or, if otherwise, of having his guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he may interpose.⁶ The right to speedy disposition of the case guaranteed under Section 16, Article III of the Constitution includes the periods before, during and after trial, and affords broader protection than Section 14(2), which guarantees just the right to a speedy trial.⁷

A dismissal on the ground of violation of the right to speedy trial will have the effect of acquittal that would bar further prosecution of the accused for the same offense.⁸ A judgment of acquittal is final, unappealable, and immediately executory upon its promulgation and cannot be recalled for

⁴ *People v. Sandiganbayan*, G.R. Nos. 188165 and 189063, December 11, 2013.

⁵ *Coscolluela v. Sandiganbayan*, G.R. Nos. 191411, July 15, 2013.

⁶ *Id.*

⁷ *Dansal v. Fernandez*, G.R. No. 126814, March 2, 2000.

⁸ *Bonsubre, Jr. v. Yerro*, G.R. No. 205952, February 11, 2015.



correction or amendment because of the doctrine that nobody may be put twice in jeopardy of punishment for the same offense. This is known as the “finality of acquittal rule.”⁹ A judgment of acquittal may be assailed only in a petition for certiorari under Rule 65 of the Rules of Court.¹⁰

Since a dismissal of a case on the ground of violation of the right to speedy trial results in acquittal that is barred by double jeopardy, it follows that the dismissal of a case based on violation of the right to speedy disposition of the case should also result in the acquittal of the accused in these cases. Accordingly, the acquittal ends the case in which the accused is being prosecuted and the same cannot be appealed or reopened because of the doctrine of double jeopardy.

In sum, the right of the accused to the speedy disposition of his cases was violated because of the failure of the Office of the Ombudsman to explain the delay of more than seven (7) years in terminating the preliminary investigation, and the Deputy Ombudsman’s approval of the resolution finding probable cause which took two (2) years, four (4) months, and twenty-two (22) days. The filing of the motion for reconsideration is barred by the constitutional proscription on double jeopardy.

WHEREFORE, the Prosecution’s Motion for Reconsideration dated August 23, 2017 is **DENIED**. The Resolution of the Court promulgated on August 9, 2017 is **AFFIRMED**.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


MICHAEL FREDERICK L. MUSNGI
Associate Justice

⁹ *Chiok v. People*, G.R. No. 176814, December 7, 2015; *People v. Velasco*, G.R. No. 127444, September 13, 2000.

¹⁰ *Villareal v. Aliga*, G.R. Nos. 166995, January 13, 2014.