

Republic of the Philippines
SANDIGANBAYAN
Quezon City

Second Division

People of the Philippines,
Plaintiff,

Crim. Case No. SB-17-CRM-0223 to
SB-17-CRM-0249

*For: Violation of Section 52(g) of
R.A. 8291 (Government Service
Insurance System Act of 1997)*

-versus-

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

Rosario Mediatix P. Fernandez,
et al.,

Accused.

Promulgated:

November 8, 2017

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RESOLUTION

HERRERA, JR., J:

Before the Court is a ***Motion To Dismiss [For Accused Imelda M. Celebrar]***¹ dated September 5, 2017, filed by accused Imelda M. Celebrar (Movant for short), through counsel, to which the plaintiff, through the Office of the Special Prosecutor, Office of the Ombudsman, filed a ***Comment/Opposition [To the Motion to Dismiss filed by Accused Imelda M. Celebrar]***² dated October 6, 2017.

Movant contends that there was inordinate delay in the investigation and resolution of the cases by the Office of the Ombudsman that resulted to a violation of her constitutional right to speedy disposition of cases. In support thereof, movant alleges that:

“2. This case arose from the complaint filed by Engr. Remie P. Conte, former Sangguniang Bayan Member of the Municipality of San Enrique, Iloilo;

3. On December 5, 2012, Engr. Conte filed a complaint before the Office of the Ombudsman (Visayas), for alleged

¹ Record, Vol. 2, pp. 31-38

² Id, pp. 17-25

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violation of R.A. 8291 and R.A. 9679 of the accused in the above-captioned cases;

4. Thereafter, the Field Investigating Office of the Office of the Ombudsman (Visayas), conducted a fact-finding investigation on the alleged complaint filed by Engr. Conte;

5. On April 30, 2014, Ma. Sonnette S. Daquita, Graft Investigation and Prosecution Officer I, Office of the Ombudsman – Iloilo Regional Office, filed a complaint before the Office of the Ombudsman, Visayas, Cebu City;

6. On June 21, 2014, accused submitted its counter-affidavit together with all controverting evidences;

7. On September 3, 2014, in compliance with the Order of the Office of the Ombudsman, accused filed its Position Paper;

8. On April 1, 2016, accused received a copy of the Resolution dated February 16, 2016’;

9. On February 10, 2017, accused received the Information dated January 23, 2017 filed before the Honorable Sandiganbayan.

10. Clearly, there was an inordinate delay in the final resolution of the case before the Office of the Ombudsman. It should be noted that the complaint was initiated on December 5, 2012, and thereafter, the Office of the Ombudsman already started its fact-finding investigation.

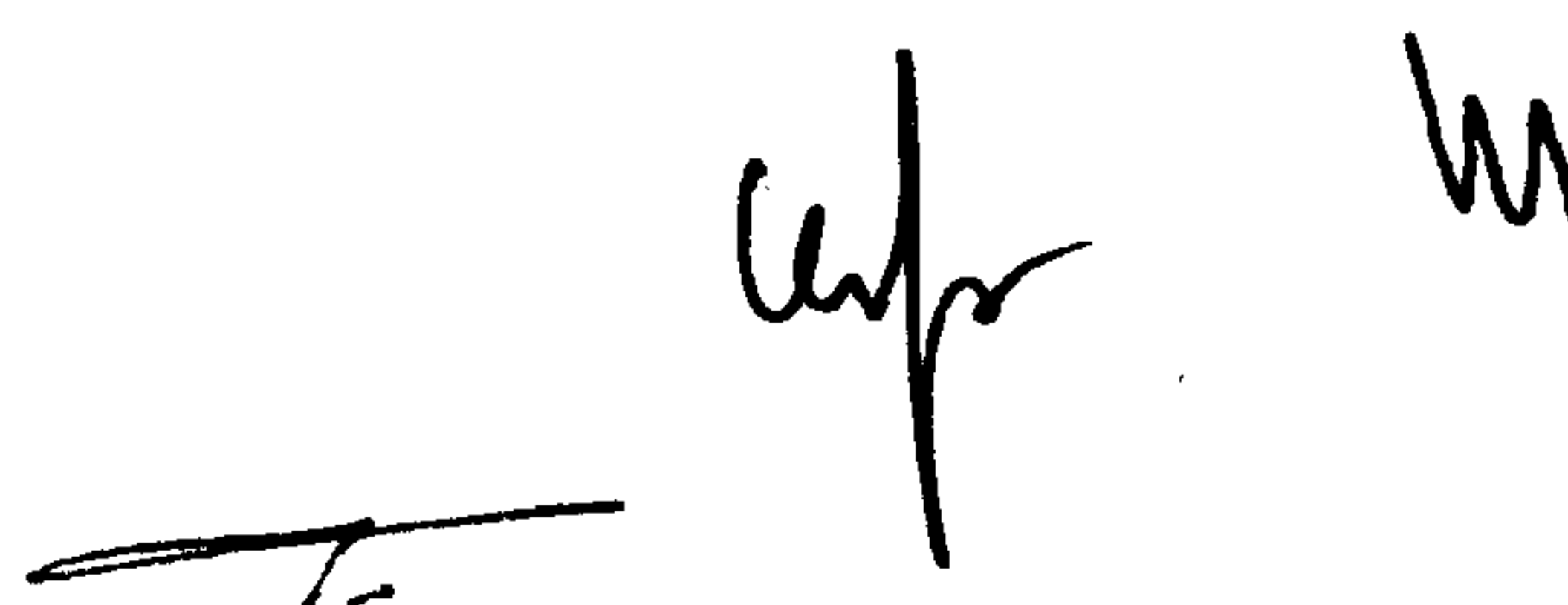
11. After undergoing thorough investigation, it was only on January 23, 2017 that an Information was finally filed before the Honorable Sandiganbayan.”³

The plaintiff claims that there was no inordinate delay. After the Office of the Ombudsman received the letter-complaint dated December 5, 2012, a fact-finding investigation was first conducted. The plaintiff explains that:

“10. Finding enough basis to proceed with the preliminary investigation, on March 19, 2014 a criminal complaint was filed with the Ombudsman-Visayas.

11. On April 30, 2014, Mayor Fernandez and Municipal Treasurer Celebrar were required to submit their Counter-Affidavit;

³ Id, pp. 31-32



12. Instead of filing the required counter-affidavit, on June 8, 2014 both filed a Motion for extension of time to file Counter-Affidavit;

13. On June 30, 2014 they filed their respective Counter-Affidavits;

14. On September 3, 2014, accused Celebrar filed her Position Paper;

15. On January 22, 2015, a draft Resolution was prepared and reviewed;

16. On February 16, 2016 after finding probable cause against Fernandez and Celebrar, a Resolution was issued for Violation of R.A. 8291 as regards delayed remittances to the GSIS and for Violation of R.A. 9679 with respect to the delayed remittances to Pag-ibig;

17. Aggrieved, on April 6, 2016 Celebrar filed a Motion for Reconsideration while on April 14, 2016 Fernandez also filed a Motion for Reconsideration;

18. On April 18, 2016, an Order was issued denying their motion for reconsideration;

19. On February 10, 2017 Criminal Informations were filed before the Sandiganbayan against Fernandez and Celebrar for 16 counts of Violation of Sec. 5(g) of R.A. 8291 and 11 counts of Violation of R.A. 9679;

20. From the above narration of facts, it cannot be said that there was an inordinate delay in the termination of the preliminary investigation.

21. It must be underscored that the right to speedy disposition of cases should be understood to be a relative or flexible concept such that a mere mathematical reckoning of the time involved would not be sufficient."⁴

The explanation of the plaintiff is satisfactory and acceptable. Considering the peculiar circumstances, the period of time spent in the fact-finding and preliminary investigation of the cases cannot be characterized as one attended by inordinate delay, or that which is vexatious, capricious and oppressive. Of significance is the fact that movant was accorded due process and given all the opportunity to be heard during the preliminary investigation. She was able to file her counter-

⁴ Id, pp. 19-21



affidavit and, thereafter, a motion for reconsideration of the finding of probable cause against her.

In *Dansal, et. al. v. Fernandez, et. al.*,⁵ 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.”

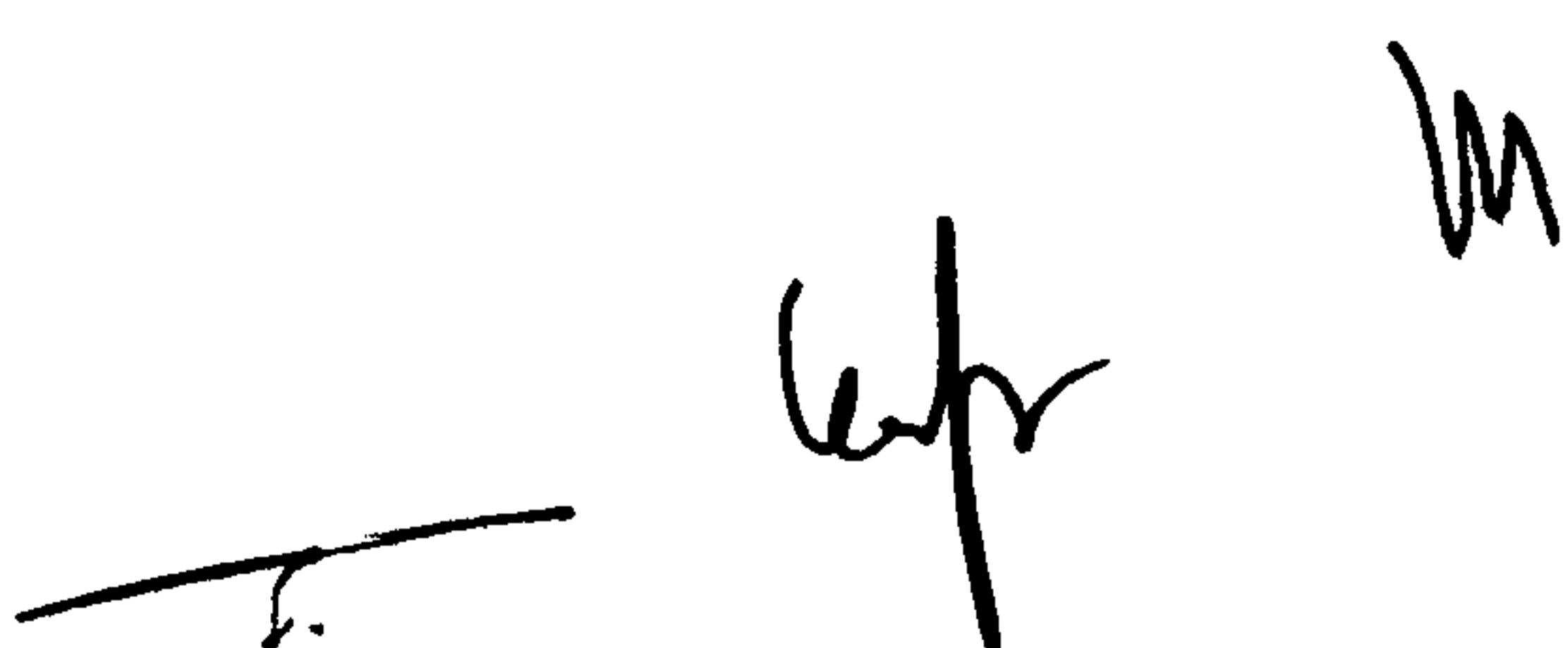
In *Dela Peña, et al. v. Sandiganbayan*,⁶ reiterated in *Coscolluela v. Sandiganbayan*,⁷ the High Court declared:

“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.”

WHEREFORE, premises considered, the ***Motion To Dismiss [For Accused Imelda M. Celebrar]*** dated September 25, 2017, filed by accused Imelda Celebrar, through counsel, is hereby denied.

SO ORDERED.

⁵ 327 SCRA 145
⁶ 360 SCRA 484, 485
⁷ 701 SCRA 188

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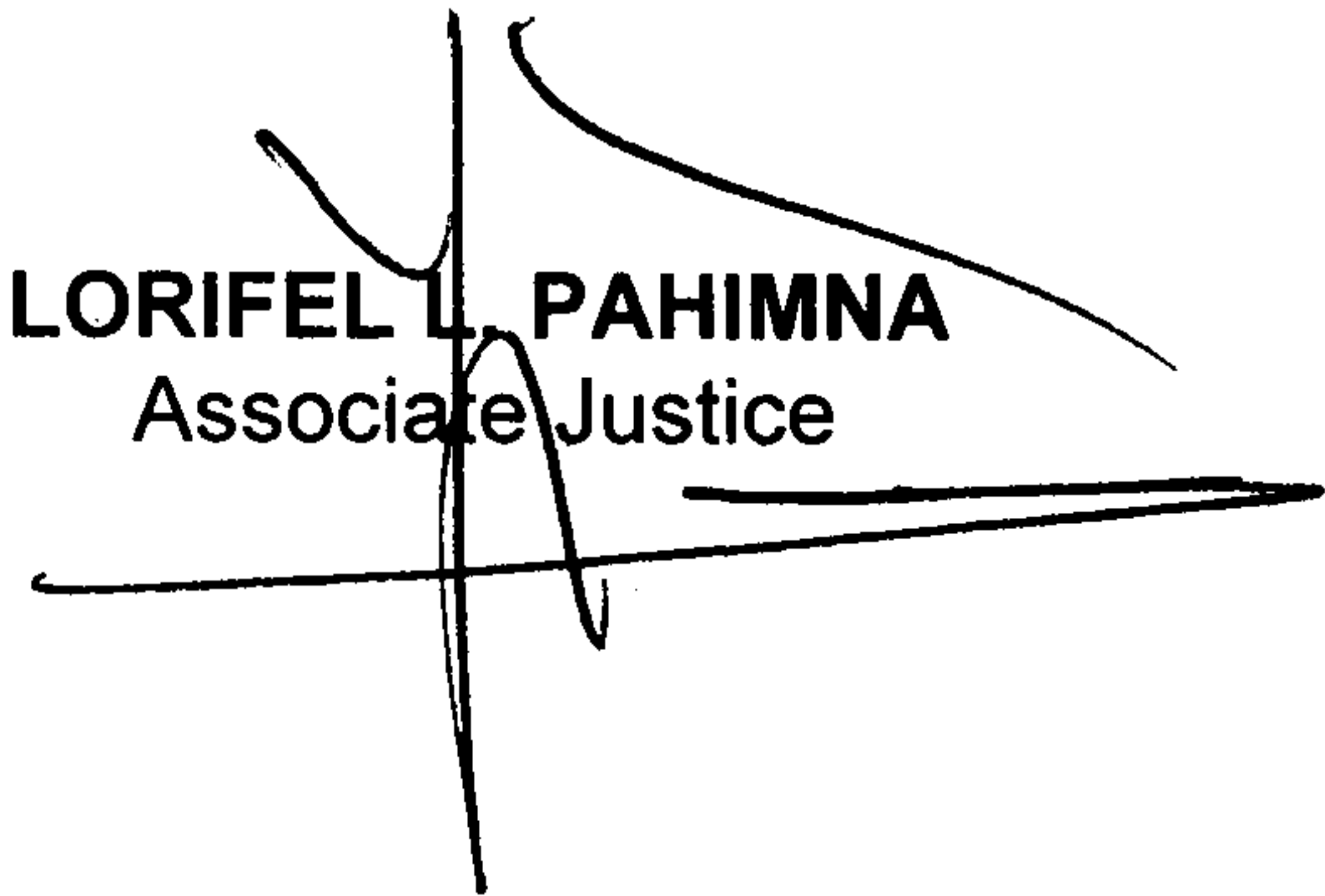
OSCAR D. HERRERA, JR.
Chairperson

We concur:

on the result.



MICHAEL FREDERICK L. MUSNGI
Associate Justice



LORIFEL L. PAHIMNA
Associate Justice