

Republic of the Philippines  
**SANDIGANBAYAN**  
Quezon City

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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 Medatrix P. Fernandez,  
et al.,

Promulgated:

Accused.

*November 9, 2017*

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**RESOLUTION**

***HERRERA, JR., J:***

This resolves the ***Omnibus Motion (I) For Reconsideration (II) To Quash Information***<sup>1</sup> dated September 26, 2017, filed by accused Rosario Medatrix P. Fernandez (Movant for short), through counsel, to which the plaintiff, through the Office of the Special Prosecutor, Office of the Ombudsman, filed an ***Opposition (To the Motion for Reconsideration/Motion to Quash Information due to inordinate delay)***<sup>2</sup> dated October 4, 2017.

Movant first prays for reconsideration of the ***Resolution***<sup>3</sup> dated September 19, 2017, denying her ***Motion To Quash And/Or Dismiss For Lack Of Jurisdiction***<sup>4</sup> dated August 1, 2017. There, she contended that the Court has no jurisdiction because there is no allegation of damage to the government in an amount exceeding One Million Pesos (P1,000,000.00), invoking ***Section 2 of Republic Act (R.A.) No. 10660***, which amends ***Section 4 of Presidential Decree (P.D.) No. 1006***. Suffice

<sup>1</sup> Record, Vol. 1, pp. 461-473

<sup>2</sup> Record, Vol. 2, pp. 4-16

<sup>3</sup> Record, Vol. 1, pp. 455-457

<sup>4</sup> Id, pp. 308-317

*[Handwritten signatures]*

it to reiterate that the contention is incorrect because the requirement of allegation of damage in an amount exceeding One Million Pesos, for the Sandiganbayan to have jurisdiction, applies to offenses committed after the effectivity of **R.A. 10660**. Here, the dates of commission of the offenses charged in the **Informations** are 2011 and 2012, or before **R.A. 10660** took effect on May 5, 2015.

Anent her plea for quashal of the **Informations**, movant asserts that there was inordinate delay in the preliminary investigation conducted by the Office of the Ombudsman resulting to a violation of her constitutional right to speedy disposition of cases. In support thereof, movant avers, *inter alia*:

“21. The records of the would readily bear out that this case was initiated by Engineer Remie P. Conte thru his letter-complaint dated **December 5, 2012** and thereafter, a fact-finding by the Office of the Ombudsman ensued.

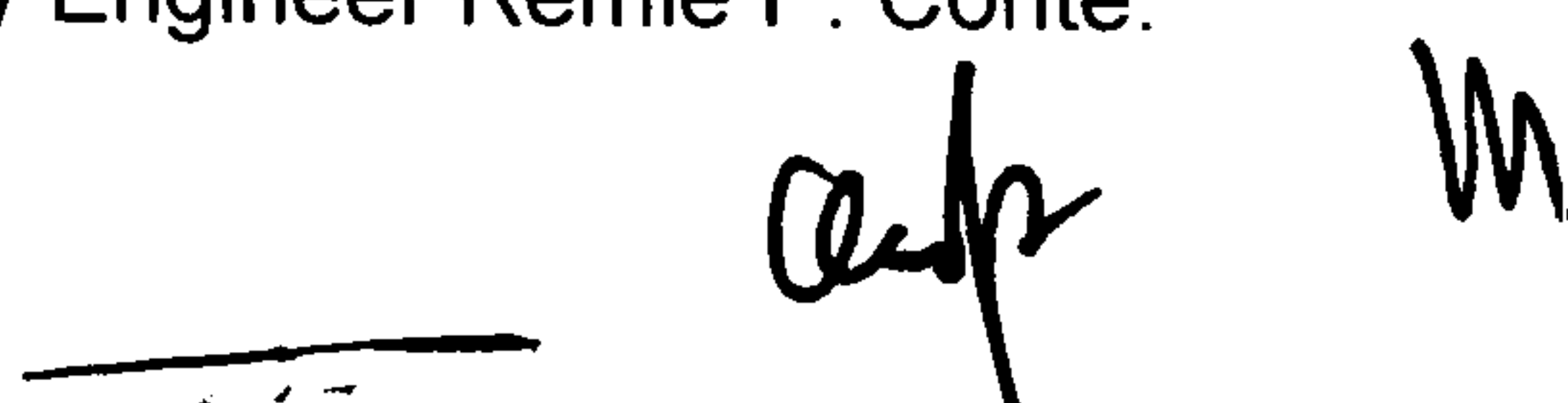
22. On **June 7, 2013**, an Affidavit-Complaint was executed by Ma. Sonnette Seville Daquita, a Grant Investigation and Prosecution Officer 1 of the Office of the Ombudsman.

23. For unknown reason, it was only on **March 19, 2014** that the criminal complaint was filed by the Office of the Ombudsman-Visayas Regional Office VI against herein Accused Fernandez for alleged Violations of Section 3(e) of R.A. 3019, R.A. No. 8291 or the Government Service Insurance Act of 1997 and R.A. 9679 or the Home Development Mutual Fund Law of 2009.

24. On **June 11, 2015**, an urgent Ex-Parte Motion for Early Resolution was filed by Accused Fernandez stating that almost eight (8) months had elapsed since the filing of the last pleading (Supplemental Position Paper).

25. It was only on **April 1, 2016** that Accused Fernandez received a copy of the Resolution of the Office of the Ombudsman dated **February 16, 2016** indicting her for sixteen (16) counts of alleged Violation of Section 52(g) of R.A. 8291 and eleven (11) counts of Violation of Section 3(a), Rule VII in relation to Section 1, Rule XII of the IRR or R.A. No. 9679.

26. That the subject twenty seven (27) Informations were only filed before the Honorable Court only on **February 10, 2017** or more than four (4) years since the time a letter complaint was filed by Engineer Remie P. Conte.

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27. Notably, the Office of the Ombudsman as early as **June 7, 2013** had already prepared the subject Affidavit-Complaint but it was only on **March 19, 2014** that a criminal complaint was filed before the Office of the Ombudsman. Further, the indictment issued on **February 16, 2016** and the subject Informations were only filed almost after the lapse of one (1) year on **February 10, 2017**.

28. Clearly, the Office of the Ombudsman is guilty of inordinate delay and therefore, these instant charges should be dismissed for the constitutional right to speedy trial of Accused Fernandez has been violated.”<sup>5</sup>

The plaintiff avers that upon receipt of the letter-complaint dated December 5, 2012, the Ombudsman-Visayas conducted a fact-finding investigation that started on February 9, 2013. Plaintiff then explains, as follows:

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

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

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

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

19. On January 22, 2015, a draft resolution was prepared and reviewed;

20. 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;

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

22. On April 8, 2016, an Order was issued denying their motion for reconsideration;

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<sup>5</sup> Id, pp. 468-469



23. On February 10, 2017 Criminal Informations were filed before the Sandiganbayan against movant 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;

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

25. 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.”<sup>6</sup>

The Court finds satisfactory and acceptable the explanation given by the plaintiff regarding the time spent by the Office of the Ombudsman in the investigation of the cases. Considering the peculiar circumstances, the said investigation cannot be characterized as one attended by inordinate delay, or that which is vexatious, capricious or oppressive.

The Court notes that movant and her co-accused were able to file their counter-affidavits after being granted an extension to do so. When a resolution was issued finding probable cause to charge them in court, they filed motions for reconsideration which were eventually denied. These demonstrated that movant was accorded due process and given all the opportunity to be heard during the investigation.

In *Dansal, et. al. v. Fernandez, et. al.*,<sup>7</sup> 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*

<sup>6</sup> Record, Vol. 2, pp. 11-13  
<sup>7</sup> 327 SCRA 145



**taken of the facts and circumstances peculiar to each case.”**

In *Dela Peña, et al. v. Sandiganbayan*,<sup>8</sup> reiterated in *Coscolluela v. Sandiganbayan*,<sup>9</sup> 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.**”

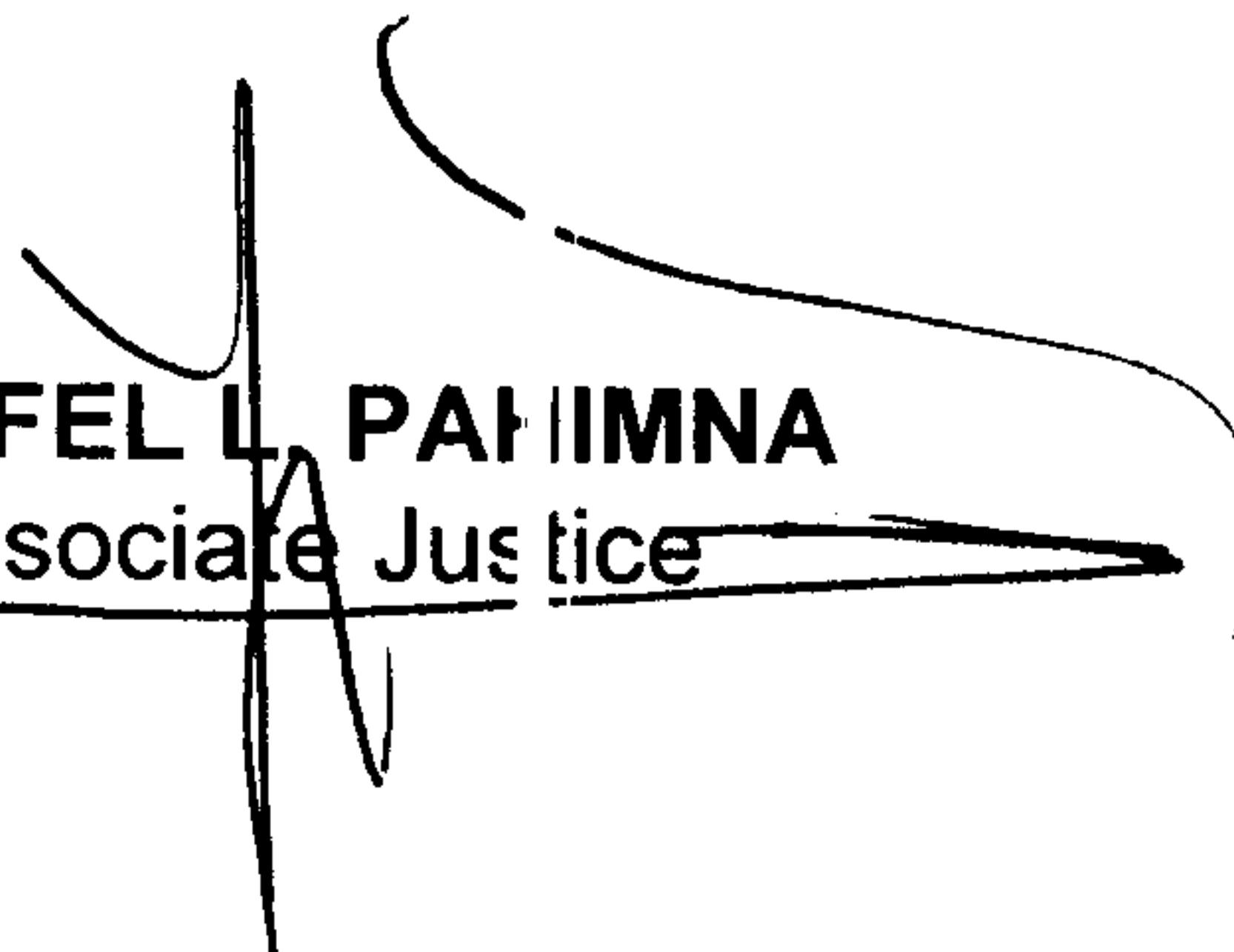
WHEREFORE, the *Omnibus Motion (I) For Reconsideration (II) To Quash Information* dated September 26, 2017, filed by accused Rosario Mediatrix P. Fernandez, through counsel, is hereby denied.

SO ORDERED.

  
OSCAR HERRERA, JR.  
Chairperson

*We concur:*

  
MICHAEL FREDERICK L. MUSNGI  
Associate Justice

  
LORIFEL L. PAHIMNA  
Associate Justice

<sup>8</sup> 360 SCRA 484, 485  
<sup>9</sup> 701 SCRA 188