



**REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY**

SPECIAL THIRD DIVISION

**PEOPLE OF THE PHILIPPINES,
Plaintiff,**

-versus -

JUDY J. SYJUCO, et al.,

Accused.

**Criminal Cases Nos. SB-16-
CRM-0780-0781**

For: Violation of Section 3(e) of
Republic Act (R. A.) No. 3019
and Malversation Through
Falsification of Public
Documents

Present:

**CABOTAJE-TANG, PJ
FERNANDEZ, B., J. and
FERNANDEZ, S.J.,¹ J.**

Promulgated

APRIL 19, 2018

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RESOLUTION

CABOTAJE-TANG, P.J.:

This resolves accused Domingo Samuel Jonathan L. Ng's
*Motion for Reconsideration on the Resolution promulgated on
December 21, 2017 dated January 22, 2018.*²

¹ J. Sarah Jane T. Fernandez is a signatory to the assailed Resolution.

² pp. 760-765, Record, Vol. IV

Resolution

Criminal Cases No. SB-16--CRM-0780 to 0781

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Accused Ng prays for a reconsideration of the Court's Resolution promulgated on December 21, 2017, which denied his motion to dismiss based on inordinate delay. He points out that he filed a motion to remand the case for reinvestigation because he was not informed of the proceedings before the Office of the Ombudsman. Allegedly, this shows the "apparent recklessness on the part of the OMB on the manner of OMB's handling of the preliminary investigation against accused Ng." He insists that there was inordinate delay on the part of the Ombudsman in the resolution of these cases. He reiterates that he was prejudiced by the delay because he was not able to participate in public biddings which affected his business. Citing **Torres vs. Sandiganbayan**,³ he argues that the right to speedy disposition of cases includes the period before, during and after trial.⁴

The prosecution opposes the subject motion. It argues that a careful perusal of the accused-movant's motion for reconsideration shows that no new issue was raised therein but it merely reiterates his earlier arguments. It also argues that the issue of inordinate delay was already raised by the other accused in these cases and was passed upon by the Court in its Resolution promulgated on August 10, 2017.⁵

The Court finds the motion for reconsideration bereft of merit.

An examination of the motion for reconsideration shows that accused Ng did not raise any new argument that would warrant a reversal of this Court's Resolution promulgated on December 21, 2017. To be sure, accused Ng pleads the same arguments to support his contention that there was inordinate delay in the resolution of these cases by the Office of the Ombudsman which warrants the dismissal of the cases against him. This Court had squarely passed upon the aforesaid arguments in its questioned Resolution, to wit:⁶

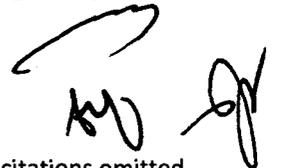
As the prosecution points out, the issue of the alleged violation of the accused's right to speedy

³ 805 SCRA 455 (2016)

⁴ pp. 760-765, Vol. IV, Record

⁵ pp. 792-795, Vol. IV, Record

⁶ pp. 2-5, Resolution promulgated on December 21, 2017; pp; 323-326, Vol. IV, Record; citations omitted

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disposition of cases was considered and passed upon by the Court in its Resolution promulgated on August 10, 2017. Therein, this Court found that there was no inordinate delay in the termination of the preliminary investigation in these cases; hence, there was no violation of the accused-movants' right to speedy disposition of their cases.

At any rate, the Court will discuss anew its finding that there was no inordinate delay in the conduct of the preliminary investigation in these cases.

The concept of speedy disposition is relative or flexible. A mere mathematical reckoning of the time involved is not sufficient. Particular regard must be taken of the facts and circumstances peculiar to each case. For this reason, a balancing test of applying societal interests and the rights of the accused necessarily compels the court to approach speedy trial cases on an *ad hoc* basis.⁷ The conduct of both the prosecution and defendant are weighed *apropos* the four-fold factors, to wit: (1) length of the delay; (2) reason for the delay; (3) defendant's assertion or non-assertion of his right; and (4) prejudice to defendant resulting from the delay. None of these elements, however, is either a necessary or sufficient condition. They are related and must be considered together with other relevant circumstances. These factors have no talismanic qualities as courts must still engage in a difficult and sensitive balancing process.⁸

Applying the balancing test, the Court finds that accused Ng's right to speedy disposition of cases was not violated.

The preliminary investigation in these cases was terminated after three (3) years and four (4) months reckoned from the time the supplemental complaint was filed by the Field Investigation Office (FIO) on June 13, 2013,⁹ until the Informations were filed with the Court on October 18, 2016.

It is true that the initial complaint was filed before the Office of the Ombudsman-Visayas on August 17, 2006. However, it had to be endorsed to the

⁷ *Almeda vs. Office of the Ombudsman (Mindanao)*, 798 SCRA 131 (2016)

⁸ *Spouses Uy vs. Adriano*, 505 SCRA 625 (2006)

⁹ The supplemental complaint was filed to include accused Antonio Cruz.

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Ombudsman-Luzon which has jurisdiction over the complaint for preliminary investigation and administrative adjudication on September 6, 2006. Pursuant to the Ombudsman's procedure, the case was transferred to the Field Investigation Office (FIO) for the conduct of the fact-finding investigation. The records were forwarded to the FIO on March 20, 2009, which submitted a Fact-Finding Report dated September 16, 2010, to the Ombudsman for approval. After the said approval, the FIO consequently filed its initial complaint on April 4, 2011, and its supplemental complaint on June 13, 2013, to include accused Antonio Cruz. On July 28, 2013, the records were then endorsed to the PAMO for preliminary investigation.¹⁰ The Office of the Ombudsman issued an Order dated August 7, 2013, directing the respondents (now accused) to file their respective counter-affidavits.¹¹ After receipt of the respective counter-affidavits/answer of the respondents, the Office of the Ombudsman issued a Resolution dated August 4, 2014, finding probable cause to charge them with violation of Section 3(e) of R. A. No. 3019 and malversation through falsification. The accused's motions for reconsideration were denied by the Office of the Ombudsman in its Joint Order dated March 17, 2015.¹²

The above chronology of events clearly shows that there was no unreasonable or oppressive delay to speak of in the conduct of the preliminary investigation including the fact-finding investigation. The delay was reasonable being part of the ordinary processes of justice. To be sure, the concept of speedy disposition is consistent with delays and depends upon the circumstances. What the Constitution prohibits are unreasonable, arbitrary and oppressive delays which render rights nugatory.¹³ Further, there is no showing that the prosecution deliberately delayed the proceedings to gain an advantage or for other impermissible reasons. Thus, the fact that it took the Office of the Ombudsman several years to resolve the accused's case and file the corresponding Informations does not, by itself, amount

¹⁰ pp. 2-3, Resolution dated August 4, 2014; pp. 9-10, Record, Vol. I

¹¹ pp. 261-270, Prosecution's Opposition to the Motion to Dismiss filed by accused Judy Syjuco

¹² pp. 38-50, Record, Vol. I

¹³ *Caballero vs. Alfonso, Jr.*, 153 SCRA 153 (1987)

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to a violation of the accused Ng's right to speedy disposition of cases.

Accused Ng further claims that the delay incurred by the Office of the Ombudsman caused him prejudice because he was not able to participate in other public biddings which affected his business.

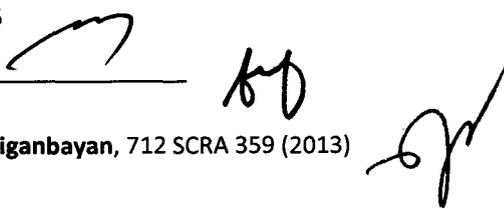
To be sure, accused Ng had filed a *Motion to Remand Case for Reinvestigation* dated January 16, 2017,¹⁴ claiming that he neither received any order from the Office of the Ombudsman (OMB) pertaining to the complaint against him nor was he informed of the proceedings undertaken by the said office in connection with the said complaint; he was not served with any resolution or decision from the OMB and he was not given any opportunity to file a motion for reconsideration thereof; and, that it was only on December 8, 2016, that he became aware of the pendency of these criminal cases after his counsel received a copy of the prosecution's *Compliance* dated November 10, 2016.

Said motion of accused Ng was granted by the Court in its Resolution promulgated on March 1, 2017. Clearly, accused Ng could not claim any alleged prejudice during the conduct of the preliminary investigation because he did not even know based on his own representation that a preliminary investigation was conducted.

Finally, as held in **Torres**, the speedy disposition of cases covers not only the period within which the preliminary was conducted; it also covers all stages to which an accused is subjected including the fact-finding investigation; the right to speedy disposition of cases includes the period before, during and after trial. However, for the purpose of determining whether a person's right to a speedy disposition of cases had been violated, the aggregate time spent for both investigations (fact-finding investigation and preliminary investigation) must constitute inordinate and oppressive delay in the disposition of any case.¹⁵

¹⁴ p. 53, Record

¹⁵ *People vs. Sandiganbayan*, 712 SCRA 359 (2013)



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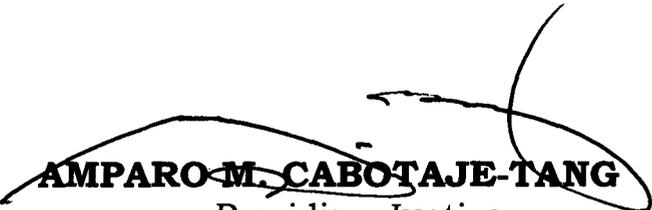
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As exhaustively discussed in the assailed Resolution, the Court finds that there was no unreasonable or oppressive delay to speak of in the conduct of the preliminary investigation including the fact-finding investigation in these cases. Thus, there was no violation of accused-movant's right to speedy disposition of the cases against him.

WHEREFORE, the Court **DENIES** accused Domingo Samuel Jonathan L. Ng's *Motion for Reconsideration of the Resolution promulgated on December 21, 2017* dated January 22, 2018, for lack of merit.

SO ORDERED.

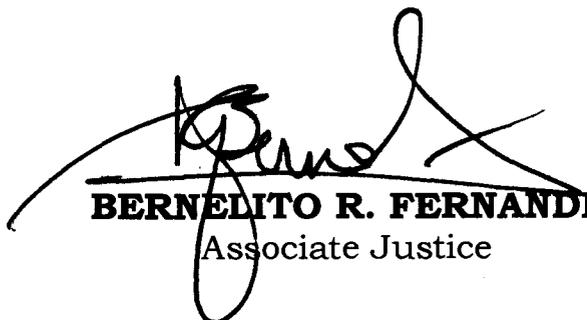
Quezon City, Metro Manila.



AMPARO M. CABOTAJE-TANG

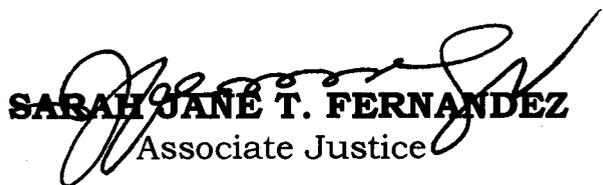
Presiding Justice
Chairperson

WE CONCUR:



BERNEDITO R. FERNANDEZ

Associate Justice



SARAH JANE T. FERNANDEZ

Associate Justice