

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **CRIM. CASE NO. SB-16-CRM-0460**
Plaintiff, *For: Violation of Section 3(e) of*
Republic Act No. 3019

- versus -

AIDA V. ESTONIDO, ET AL.,
Accused.

Present:
FERNANDEZ, SJ,¹ J., Chairperson
MIRANDA, J., Associate Justice
MUSNGI, J.,² Associate Justice
DE LA CRUZ, J.,³
PAHIMNA, J.⁴

MAY 31 2018

Promulgated

RESOLUTION

MUSNGI, J.:

The Court resolves the *Motion for Reconsideration*⁵ filed on 15 January 2018 by the plaintiff, through the Office of the Special Prosecutor, to which accused Aldo P. Turiano (“Turiano”), through counsel, filed his *Comment/Opposition [To: Motion for Reconsideration dated 15 January 2018]*⁶ on 14 February 2018.

On 08 January 2018, the Court issued a Resolution which granted the *Motion to Dismiss*⁷ filed by accused Aida V. Estonido (“ESTONIDO”) and

¹ J. Ponferrada, Chairperson of the 6th Division when the present incident was submitted for resolution, retired on 13 September 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 13 September 2017 and pursuant to Sec. 3, Rule XII of the Revised Internal Rules of the Sandiganbayan)

² At the time the present incident was submitted for resolution, J. Musngi was designated as a temporary member of the 6th Division in view of the vacancy therein per A.O. No. 124-2017 dated 04 April 2017 and Sec. 3, Rule XII of the the Revised Internal Rules of the Sandiganbayan.

³ Special Member of the 6th Division per A.O. No. 14-C-2017 dated 06 November 2017 and Sec. 1, Rule XIII of the Revised Internal Rules of the Sandiganbayan.

⁴ *Ibid.*

⁵ Sandiganbayan Records, Vol. II, pp. 192-198.

⁶ *Ibid.*, pp. 206-212.

⁷ *Ibid.*, pp. 81-86.

[Handwritten signatures and initials]

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Edwin F. Lapuz ("LAPUZ") on 12 April 2017, which was adopted by accused Turiano in open Court,⁸ and accordingly dismissed the instant cases for violation of their constitutional right to speedy disposition of cases. The dispositive portion of the Court's *Resolution*⁹ reads, thus:

"WHEREFORE, in light of the foregoing, the Court **GRANTS** the *Motion to Dismiss* filed by accused Aida V. Estonido, Edwin F. Lapuz and Atty. Aldo P. Turiano on the ground of violation of their constitutional right to speedy disposition of cases. Accordingly, **CRIMINAL CASE NO. SB-16-CRM-0460** is hereby **DISMISSED**.

The hold departure order issued by the Court against the accused is hereby **LIFTED** and **SET ASIDE**, and the cash bonds they respectively posted are ordered **RELEASED**, subject to the usual accounting and auditing procedures.

SO ORDERED."

The plaintiff prays for the reconsideration of the above Resolution imputing error to the Court "when it considered the fact-finding investigation as part of the preliminary investigation" and found that the constitutional right to speedy disposition of cases of accused Estonido, Lapuz and Turiano was violated. It submits that the Court completely disregarded that the fact-finding investigation of the Office of the Ombudsman is separate and distinct from its power to conduct a preliminary investigation. The plaintiff insists that the accused were not yet subjected to prejudice at the fact-finding phase because they were only regarded as "persons of interest" at the time. Thus, whatever delay which was attendant therein could not have concerned them at all.

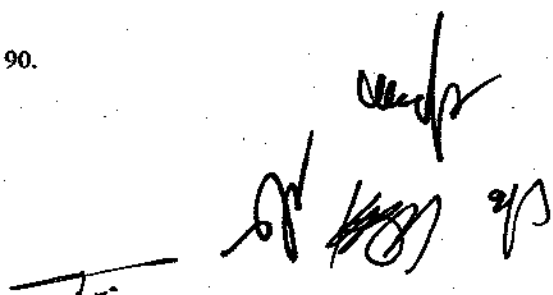
On the other hand, accused Turiano prays that the plaintiff's motion be denied for utter lack of merit and basis. Citing the case of *People of the Philippines v. Sandiganbayan*,¹⁰ he contends that it has already been held by the Supreme Court that the fact-finding investigation is part of the preliminary investigation and, thus, cannot be disregarded in the determination of the period of delay in the disposition of these cases.

Moreover, accused Turiano asserts that even if the period for the fact-finding investigation is disregarded in the determination of inordinate delay in these cases, the remaining period of more than five (5) years within which the Office of the Ombudsman conducted the preliminary investigation is more than enough basis to hold that the accused's constitutional right to speedy disposition of cases has been violated.

⁸ Order dated 27 April 2017, Sandiganbayan Records Vol. II, p. 90.

⁹ *Supra* note 5, pp. 162-184.

¹⁰ G.R. No. 188165, 11 December 2013.



RULING

The Court **denies** the instant motion for lack of merit.

Verily, the main issue presented by the plaintiff in its *Motion for Reconsideration* is a mere rehash of one of its arguments raised in its *Comment/Opposition*¹¹ to the accused's *Motion to Dismiss*,¹² which has already been judiciously passed upon by the Court in the assailed *Resolution*. Hence, the Court finds no need to repetitively discuss the same.¹³

Suffice it to say that the Court, in its assailed *Resolution*, categorically recognized that the fact-finding and the preliminary investigation duties of the Office of the Ombudsman are different, to wit:

“The duty of the Office of the Ombudsman to conduct a fact-finding inquiry is indeed distinct from its power to conduct preliminary investigation. However, the issue on the inclusion of the period for conducting the fact-finding inquiry in the computation of the attendant delay has already been settled by the Supreme Court in a number of cases.”

Although the said investigations serve a distinct purpose, it is already an established rule that the speedy disposition of cases covers all stages to which the accused are subjected, including the fact-finding investigation conducted prior to the preliminary investigation proper.¹⁴

More importantly, a reconsideration of the Court's *Resolution* dated 08 January 2018 would violate the accused's constitutional right against double jeopardy. It is likewise an established rule in this jurisdiction that the dismissal of a case based on a violation of the accused's right to speedy disposition of cases is immediately final and executory.

In *Bangayan, Jr. v. Bangayan*,¹⁵ the Supreme Court enumerated the elements for the application of the rule on double jeopardy, to wit:

“Double jeopardy attaches if the following elements are present: (1) a valid complaint or information; (2) a court of competent jurisdiction; (3) the defendant had pleaded to the charge; and (4) the defendant was acquitted, or convicted or the case against him was dismissed or otherwise terminated without his express consent. However, jurisprudence allows for certain

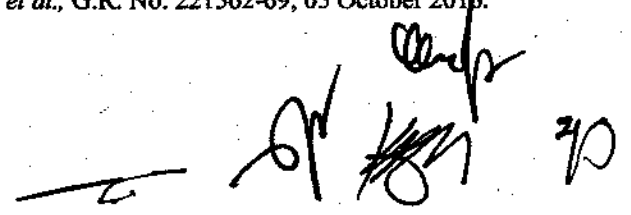
¹¹ *Supra* note 5, pp. 92-108.

¹² *Ibid.*, pp. 81-86.

¹³ *League of Cities of the Philippines v. Commission on Elections, et al.*, G.R. No. 176951, 177499 and 178056, 28 June 2011.

¹⁴ *Commo. Lamberto R. Torres (Ret.) v. Sandiganbayan, et al.*, G.R. No. 221562-69, 05 October 2015.

¹⁵ G.R. Nos. 172777 & 172792, 19 Oct. 2011.



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exceptions when the dismissal is considered final even if it was made on motion of the accused, to wit:

'(1) Where the dismissal is based on a demurrer to evidence filed by the accused after the prosecution has rested, which has the effect of a judgment on the merits and operates as an acquittal.'

'(2) Where the dismissal is made, also on motion of the accused, because of the denial of his right to a speedy trial which is in effect a failure to prosecute.'

The above-mentioned elements are present herein: *First*, the plaintiff filed a valid *Information* for violation of Section 3(e) of Republic Act No. 3019, as amended, otherwise known as the *Anti-Graft and Corrupt Practices Act*, against the accused; *Second*, the Court has jurisdiction to try the case; *Third*, the accused had pleaded to the charge against them; and *Finally*, the cases against the accused were dismissed by the Court in its assailed *Resolution* for violation of their constitutional right to speedy disposition of cases.

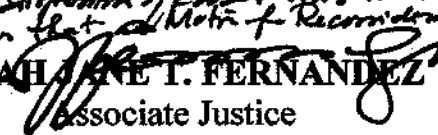
WHEREFORE, in light of the foregoing, the *Motion for Reconsideration* filed by the plaintiff on 15 January 2018 is hereby **DENIED** for lack of merit.


SO ORDERED.

Quezon City, Philippines.


MICHAEL FREDERICK L. MUSNGI
Associate Justice

WE CONCUR:

I concur in the result. I maintain my position that the right of the accused to the speedy disposition of cases was not violated. Point of Concomitancy of Motion for Reconsideration is not the proper issue as the absence of double jeopardy will be placed in double jeopardy.

SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

Karl - I respectfully join Sarah Jane T. Fernandez' position in this case.

KARL B. MIRANDA
Associate Justice


EFREN N. DE LA CRUZ
Associate Justice


LORIFEL L. PAHIMNA
Associate Justice