



Republic of the Philippines  
Sandiganbayan  
Quezon City

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**FIFTH DIVISION**

PEOPLE OF THE PHILIPPINES,  
Plaintiff,

SB-18-CRM-0002  
For: Violation of Sec. 3(e)  
of R.A. No. 3019, as amended

- versus -

JONATHAN ANOYA BAYOGAN, *et al.*,  
Accused.

Present:

Lagos, J., Chairperson,  
Mendoza – Arcega and  
Corpus - Mañalac, JJ.

Promulgated:

June 27, 2018 *Jal*

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**RESOLUTION**

***CORPUS - MAÑALAC, J.:***

Up at bench for resolution are the following incidents, to wit:

1. Accused Airma C. Ladera and Vivian Labasano's *Motion to Quash and/or Dismiss Information* filed on May 4, 2018,<sup>1</sup> as well as the *Opposition* thereto filed by the *prosecution* on May 24, 2018<sup>2</sup>; and
2. Accused Erlinda Bernal Patosa's *Omnibus Motion: (1) To Dismiss the Case Due to Violation of the Right to Speedy Disposition of Case; and (2) To Defer/Cancel the Arraignment of Accused*, filed on May 17, 2018,<sup>3</sup> as well as the *Opposition* thereto filed by the *prosecution* on May 24, 2018.<sup>4</sup>

<sup>1</sup> Record, pp. 379-385

<sup>2</sup> Record, pp. 390-399

<sup>3</sup> Record, pp. 400-409

<sup>4</sup> Record, pp.411-420

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Accused Ladera, Labasano and Patosa allege that their right to a speedy disposition of their case pursuant to Section 16, Article II of the 1987 Constitution had been violated because it took the Ombudsman more than six (6) years before it resolved the complaint against them, which is vexatious, capricious and oppressive.

They recount that the anonymous letter-complaint pertaining to the alleged 2006 anomalous purchase of medical supplies and equipment by the Davao Oriental State College of Science and Technology (DOSCSST), was filed with the Office of the Ombudsman in November 2011, but only after more than four (4) years, on December 18, 2015, when the Field Investigating Unit (FIU) executed a complaint against the accused for violation of Republic Act No. 3019. The *Resolution* dated October 5, 2016 finding probable cause was affirmed by the Ombudsman in its Orders dated June 6 and 15, 2017, while the corresponding *Information* was filed in Court on January 12, 2018. The said accused postulate that the more than six (6) years of delay in investigation is inordinate citing the cases of *Tatad vs. Sandiganbayan*,<sup>5</sup> *Corpuz vs. Sandiganbayan*,<sup>6</sup> *Angchangco, Jr. vs. Ombudsman*,<sup>7</sup> and *Roque vs. Office of the Ombudsman*.<sup>8</sup>

Meanwhile, in its separate *Comment/Opposition*, the prosecution opposes the move alleging that the accused failed to raise inordinate delay in their respective counter-affidavits. It was only after this Court's *Resolution* dated March 23, 2018 pertaining to accused Bayogan that they appeared in Court and posted bail. Hence, the timing of their motions is rather of suspect and puts in question their sincerity in asserting their constitutional right.

It further asserts that there is no inordinate delay because the fact-finding proceeding must not be included in the mathematical computation of the alleged delay. That preliminary investigation commenced on January 20, 2016 with the issuance of the *Joint-Order* directing the accused to submit their counter-affidavits. The accused filed on February 9, 2016 and February 11, 2016 a Motion for Extension of Time to File Counter-Affidavit and Controverting Evidence and an Urgent Motion for Extension of Time to File Counter Affidavits, respectively. Only fifteen (15) days after the filing of the last counter-affidavit, the Ombudsman issued a *Resolution* finding probable cause while the motions for reconsideration thereof were denied in the Orders dated June 6, 2017 and July 11, 2017. Additionally, the prosecution claims that this Court's *Resolution* dated March 23, 2018 pertaining to accused Jonathan A. Bayogan is particular to him. It does not automatically apply to all other accused since the constitutional right in question must be determined in light of the circumstances peculiar to each of the accused.

<sup>5</sup> *Tatad vs. Sandiganbayan*, G.R. Nos. 72335-39, March 21, 1988

<sup>6</sup> *Corpuz vs. Sandiganbayan*, G.R. No. 162214, November 11, 2004

<sup>7</sup> *Angchangco, Jr. vs. Ombudsman*, 268 SCRA 20, February 13, 1997

<sup>8</sup> *Roque vs. Office of the Ombudsman*, 307 SCRA 104, May 12, 1999

### The Ruling of the Court

The factual antecedents particularly of the timeline leading to the filing of the *Information* are undisputed.

It took the Ombudsman more than four (4) years to complete the fact-finding proceeding between November 29, 2011 - the date when the Ombudsman received the anonymous complaint and December 18, 2015 - when the Field Investigation Unit (FIU) executed a *Complaint* charging herein accused Ladera, Labasano and Patosa, among others, of violation of RA 3019. Another period of one year (1) year and five (5) months, by the court's reckoning, was spent by the Ombudsman to conduct the preliminary investigation from January 20, 2016 - the date when it issued the *Joint Order* directing accused to file their counter-affidavits; and June 6, 2017 and July 11, 2017 - when accused motions for reconsideration of its *Resolution* dated October 5, 2016 was denied. Whereas, the *Information* was filed on January 12, 2018 after an aggregate investigation period of more than six (6) years.

Considering the extended length of time that lapsed before the Ombudsman was able to dispose of the complaint before it, it is incumbent upon the prosecution to prove that the delay in investigation was reasonable, or that the delay was not attributable to it. Reviewing the anonymous complaint, it appears that more than enough documentary leads were specified to facilitate the conduct and earlier termination of the fact-finding investigation, but the FIU took more than four (4) years from its filing on November 29, 2011 up to January 20, 2016 to build the case and come up with a complaint for preliminary investigation.

To this, the prosecution merely argues that a complaint under case build-up shall not be considered, and that there is no inordinate delay since there is yet no jeopardy to the accused during the fact-finding proceeding.

The Court does not agree. In the case of *People vs. Sandiganbayan*,<sup>9</sup> the Supreme Court ruled:

The State further argues that the fact-finding investigation should not be considered a part of the preliminary investigation because the former was only preparatory in relation to the latter; and that the period spent in the former should not be factored in the computation of the period devoted to the preliminary investigation.

The argument cannot pass fair scrutiny.

The guarantee of speedy disposition under Section 16 of Article III of the Constitution applies to *all* cases pending before *all* judicial, quasi-judicial or administrative bodies. The guarantee would be defeated or rendered inutile if the hair-splitting distinction by the State is accepted. Whether or not the fact-finding

<sup>9</sup> *People vs. Sandiganbayan*, G.R. No. 188165, December 11, 2013

investigation was separate from the preliminary investigation conducted by the Office of the Ombudsman should not matter for purposes of determining if the respondents' right to the speedy disposition of their cases had been violated.

A similar issue of whether or not the fact-finding proceeding should be excluded in determining inordinate delay in the disposition of cases was raised and ruled upon in the case of *Torres vs. Sandiganbayan*,<sup>10</sup> viz:

We find it necessary to emphasize that the speedy disposition of cases covers not only the period within which the preliminary investigation was conducted, but also all stages to which the accused is subjected, **even including fact-finding investigations** conducted prior to the preliminary investigation proper.

The ratiocination of "no prejudice" to the accused during fact-finding was debunked by the Supreme Court in the said case of *Torres vs Sandiganbayan*<sup>11</sup>, when it ruled:

As for the prejudice caused by the delay, respondents claim that no prejudice was caused to petitioner from the delay in the second set of investigations because he never participated therein and was actually never even informed of the proceedings anyway. We cannot agree with this position. A similar assertion was struck down by this Court in *Coscolluela*, to wit:

Lest it not be misunderstood, 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. This looming unrest as well as the tactical disadvantages carried by the passage of time should be weighed against the State and in favor of the individual.

Accused Ladera, Labasano and Patosa were specifically implicated in the anonymous complaint involving the reported irregular procurement of medical supplies and equipment by the Davao Oriental State College of Science and Technology (DOSCST). Their names were mentioned in the aforesaid complaint, viz: Ladera as *then Director for Administrative Services and BAC chair*, Labasano as *OIC of the Director for Administrative Services who presided the BAC meeting*, and Patosa, the alleged *Accountant who prepared the disbursement voucher*.

<sup>10</sup> Torres vs. Sandiganbayan, Supra, Note 6

<sup>11</sup> Torres vs. Sandiganbayan, Supra, Note 6

Charges hang over their heads so that they, too, are entitled to the right to obtain a speedy disposition of the charge brought before the fact-finding panel.

True, it is not the sheer length of time that elapsed that is solely to be considered in determining a violation of right to speedy case disposition but the totality of the facts of the case, as held in *Dela Pena vs. Sandiganbayan*,<sup>12</sup> such as the length of the delay, the reasons for the delay, the assertion or failure to assert such right and the prejudice caused by the delay. The case of *Remulla vs. Sandiganbayan*,<sup>13</sup> pronounced that "[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," In *Corpuz vs. Sandiganbayan*,<sup>14</sup> how the factors of the balancing test should be weighed, particularly the prejudice caused by the delay was explained, to wit:

Prejudice should be assessed in the light of the interest of the defendant that the speedy trial was designed to protect, namely: to prevent oppressive pre-trial incarceration; to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired. Of these, the most serious is the last, because of the inability of a defendant adequately to prepare his case skews the fairness of the entire system. There is also prejudice if the defense witnesses are unable to recall accurately the events of the distant past. Even if the accused is not imprisoned prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed~ and he is subjected to public obloquy.

In this case, the *Information* was filed in 2018 or about twelve (12) years after the alleged irregular procurement took place in 2006. While the anonymous complaint was filed only in 2011, it is with more reason that the FIU should have doubled its time in the completing its fact-finding. The period of more than four (4) years to finish the same is disadvantageous to the accused, who may have failed to recount the events and retrieve their witnesses and documentary evidence. Indeed, it is simply unreasonable and oppressive.

Neither should the accused be blamed for not raising inordinate delay as an issue before the Ombudsman. In *Corpuz vs. Sandiganbayan*,<sup>15</sup> the Supreme Court held:

Being the respondents in the preliminary investigation proceedings, it was not the petitioners' duty to follow up on the prosecution of their case. Conversely, it was the Office of the Ombudsman's responsibility to expedite the same within the bounds of reasonable timelines in view of its mandate to promptly act on all complaints lodged before it.

<sup>12</sup> *Dela Peña vs. Sandiganbayan*, G.R. No. 144542, June 29, 2001

<sup>13</sup> *Remulla vs. Sandiganbayan*, G.R. No. 218040, April 17, 2017

<sup>14</sup> *Corpuz vs. Sandiganbayan*, Supra, Note 4

<sup>15</sup> *Corpuz vs. Sandiganbayan*, Id

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In *Enriquez vs. Office of the Ombudsman*,<sup>16</sup> the Supreme Court consistently pronounced that the Ombudsman is primarily tasked to be the "protector of the people" and thus, required to act promptly on all complaints filed *in any form or manner* against government officials and employees in order to promote efficient service. Regrettably, this duty was not observed in the present case. There appears to be no justifiable basis as to why the Ombudsman could not have earlier completed the disposition of this case against the accused.

**WHEREFORE**, the respective *motions to quash/dismiss* filed by accused Airma C. Ladera, Vivian Labasano and Erlinda Bernal Patosa are hereby **GRANTED**. The case against accused **Ladera, Labasano** and **Patosa** are hereby **DISMISSED**.

SO ORDERED.

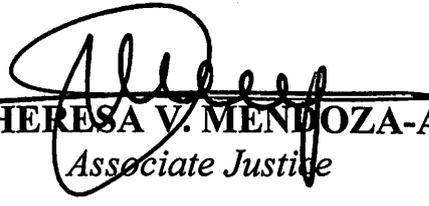


**MARYANN E. CORPUS – MAÑALAC**  
Associate Justice

**WE CONCUR:**



**RAFAEL R. LAGOS**  
*Chairperson*  
Associate Justice



**MARIA THERESA V. MENDOZA-ARCEGA**  
*Associate Justice*

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<sup>16</sup>Enriquez vs. Sandiganbayan, G.R. No. 174902-06, February 15, 2008, 545 SCRA 618, 626