Republic of the Philippines
Sandiganbayan
Quezon City
***

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

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

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

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

Promulgated:

June 27, 2018

x - x

RESOLUTION

CORPUS - MAÑALAC, J.:

This treats of the prosecution's *Motion for Reconsideration* of the *Resolution* dated March 23, 2018 dismissing this case as against accused Jonathan A. Bayogan for inordinate delay in the disposition of his case.

The prosecution argues that: (1) the fact-finding investigation should not be considered in the mathematical computation of delay in the proceedings as there was yet no jeopardy incurred by the accused at this stage of the proceedings; and (2) the purported delay is not vexatious, capricious, and oppressive.

Allegedly, the "power to investigate" by the office of the Ombudsman includes both: (a) the fact-finding inquiry; and (b) the preliminary investigation proper. The fact finding investigation is only an evaluation stage, where the investigators gather evidence for the filing of a complaint for preliminary investigation such that it is only preparatory and cannot be considered to be part of the preliminary investigation. During this stage, the Office of the Ombudsman adopts a "no-contact policy" with the person being investigated to avoid

tampering, loss or destruction of the evidence which may be at his disposal so that there is no prejudice caused to the person investigated at this stage.

It avers that though the Office of the Ombudsman has plenary powers of investigation, and should act promptly on complaints brought before it, the same should not be mistaken with a hasty resolution of cases at the expense of thoroughness and correctness. The purported delay is not vexatious, capricious, and oppressive considering that only one (1) year and five (5) months was utilized for the preliminary investigation. Citing the case of ***Raro v. Sandiganbayan,***[1] wherein the Supreme Court reckoned the delay only after the petitioner filed his *Counter-Affidavit*, it was only on January 20, 2016 that preliminary investigation allegedly started since this was the time when the *Joint-Order* directing the accused to submit their counter-affidavits was issued. That when the *Order* dated June 15, 2017 denying accused's *Supplement to the Motion for Reconsideration* was issued, only (1) year and (5) months has lapsed from the issuance of *the Joint-Order*.

Accused Jonathan A. Bayogan opposes the motion alleging that the issues raised were mere stale arguments which were already passed upon correctly by this Court.

The Court's Ruling

The Court agrees with the accused, therefore, it is not persuaded to reconsider.

The argument that the fact-finding investigation should not be considered in the mathematical computation of delay in the disposition of the case was already raised and squarely addressed in the assailed *Resolution*, *viz*:

> The prosecution argues that a "complaint that is under case build up or fact-finding investigation, however, shall not be considered a pending case" and should therefore not be considered in determining the presence of inordinate delay in investigation.
>
> The argument is not well-taken.
>
> A similar issue was raised and ruled upon by the Supreme Court adverse to the aforesaid contention of the prosecution in the case of *People vs. Sandiganbayan*, *viz*:
>
> > 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.

[1] Raro v. Sandiganbayan, G.R. No. 108431, July 14, 2000

> 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 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 speedy disposition of their cases had been violated.
>
> The much recent case of *Torres vs. Sandiganbayan* is elucidating, where the Supreme Court made the following pronouncement, to wit:
>
> 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, including fact-finding investigations conducted prior to the preliminary investigation proper. x x x

The prosecution begs the issue when it argues that the delay is not oppressive, vexatious or capricious as the preliminary investigation was completed in less than two (2) years computed from the service of the *Joint Order* to file counter-affidavit. Apparently in so arguing, it downplayed the period of the fact-finding investigation when, as ruled in the above-cited jurisprudence, the fact-finding period shall be taken into consideration. There being no sufficient justification for the delay, the filing of the instant Information before this Court on January 12, 2018 after a prolonged fact-finding inquiry and preliminary investigation of an aggregate period of more than six (6) years for an offense alleged to have been committed twelve (12) years ago in 2006, is prejudicial to the accused, particularly in the preparation of his defense. Indeed, it is vexatious and oppressive.

In ***Licomcen Incorporated vs. Foundation Specialists, Inc.***,[2] citing ***Ortigas and Company Limited Partnership vs. Velasco***, [3] the Supreme Court held that:

> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual

[2] Licomcen Incorporated vs. Foundation Specialists, Inc., G.R. Nos. 167022 & 169678, August 31,2007
[3] Ortigas and Company Limited Partnership vs. Velasco, G.R. Nos. 109645 & 112564, March 4, 1996

> invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; x x x It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

Considering the arguments raised are not new which have been passed upon in the assailed Resolution dated March 23, 2018, there is no cogent reason for this Court to grant the motion.

WHEREFORE, the prosecution's *Motion for Reconsideration* is hereby **DENIED**.

SO ORDERED.

MARYANN E. CORPUS – MAÑALAC
Associate Justice

WE CONCUR:

RAFAEL R. LAGOS
Chairperson
Associate Justice

MARIA THERESA V. MENDOZA–ARCEGA
Associate Justice