



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 20 June 2018.

Present:

Justice ZALDY V. TRESPESES ----- Acting Chairperson
Justice BERNELITO R. FERNANDEZ ----- Member*
*Justice KEVIN NARCE B. VIVERO** ----- Member*

The following resolution was adopted:

Crim. Case No. SB-18-CRM-0013 - People vs. AUGUSTO "BOBOY" LIMCACO SYJUCO, JR., et al.

This resolves the following:

1. Accused Augusto L. Syjuco, Jr.'s "MOTION TO QUASH INFORMATION (Re: Inordinate Delay in Violation of the Constitutional Frights of the Accused to Due Process and Speedy Disposition)" dated May 22, 2018;¹

2. The prosecution's "OPPOSITION [TO: MOTION TO QUASH INFORMATION DATED 22 MAY 2018]" dated June 6, 2018.²

This resolves the Motion to Quash Information filed by accused Augusto L. Syjuco, Jr., and the prosecution's Opposition thereto.

ACCUSED'S MOTION

In his motion, accused Syjuco prays that the case against him be dismissed on the ground that there is inordinate delay that violated his constitutional rights to due process and speedy disposition of the case.

Accused alleges that the initiatory complaint was filed on 16 February 2010 by Annie Enriquez Geron. On 17 September 2012, accused Syjuco filed his Counter-Affidavit with the Office of the Ombudsman

*Sitting as Special Member per Administrative Order No. 066-2018 dated January 30, 2018.

** Sitting as Special Member per Administrative Order No. 301-2018 dated May 31, 2018 in lieu of Justice Ma. Theresa Dolores C. Gomez-Estoesta.

¹ *Rollo*, Vol. 2, pp. 285-335.

² *Id.* at 390-398.

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(Ombudsman). On 02 February 2015 or after the lapse of five years, the Field Investigation Office (FIO) filed a Complaint with the Ombudsman. Finally, on 23 January 2018 or more than eight years from the time of the filing of the initiatory complaint, the Ombudsman filed the Information with this Court.

Accused Syjuco asserts that the reason and length of delay is without justification. To indict accused after more than five years from the time of the filing of the complaint is a prejudice that must not be condoned.

PROSECUTION'S OPPOSITION

In its Opposition, the prosecution counters that there was no inordinate delay in the present case and thus, the motion to quash must be denied for utter lack of merit.

The prosecution alleges that contrary to accused Syjuco's claim, the complaint of Annie Geron is not part of the present case. It explains that the instant case stemmed from a complaint initiated by the Field Investigation Office (FIO) of the Office of the Ombudsman represented by one Janice O. Baltazar-De Guzman, via a Complaint-Affidavit dated 4 December 2014.

Moreover, accused Syjuco's claim about the sheer length of time is just one of the factors in determining whether inordinate delay is present in this case. Particular regard must be taken of the facts and circumstances peculiar to each case. Hence, in determining whether the right has been violated, the following factors must be considered and balanced: (a) length of delay; (b) the reason for the delay; (c) the assertion or failure to assert such right by accused; and (d) the prejudice caused by the delay.

The prosecution maintains that the length of two years for the fact-finding investigation and another two years to terminate the preliminary investigation, or a total of four (4) years is not whimsical, capricious and oppressive. The prosecution argues that the case is complicated as it involves millions of pesos. Also, there were 33 respondents implicated, and some even sought motions for additional time to file counter-affidavits, which lengthens the alleged delay. Thus, assuming that there was delay, the prosecution is not entirely to be blamed.

The prosecution adds that there was no evidence on record that the Ombudsman intentionally delayed the case to gain some technical advantage over accused or to harass or prejudice him. Also, accused did not assert his right to speedy disposition of cases and even failed to state in his motion why the delay in the preliminary investigation prejudiced him.

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OUR RULING

We deny the motion for lack of merit.

Art. III, Sec. 16 of the Constitution guarantees that all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

The right of the accused to a speedy disposition of the case against him was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him for an indefinite time.³ It is a relative or flexible concept such that a mere mathematical reckoning of the time involved is not sufficient.⁴ Therefore, particular regard must be taken of the facts and circumstances peculiar to each case.⁵

In determining whether or not the right to speedy disposition has been violated, the following factors must be considered and balanced: (a) the length of the delay; (b) the reasons for the delay; (c) the assertion or failure to assert such right by the accused; and (d) the prejudice caused by the delay.

Length of Delay

Accused Syjuco insists that the instant case stemmed from the complaint filed by Geron on 16 February 2010. However, there is nothing in the Complaint filed by the FIO that would show that the fact-finding investigation was conducted on the basis of the complaint filed in 2010. What is apparent is that the subject transaction took place in October 2007, and on 29 July 2009, the COA disallowed in audit the payment for the said transaction.⁶

The records do not reflect the date when the fact-finding investigation started but accused Syjuco alleges that he filed his counter-affidavit with the Ombudsman on 17 September 2012. It was at this period when accused Syjuco became aware of the case against him.

After the termination of the fact-finding investigation, the FIO filed on 02 February 2015 the Complaint with the Ombudsman praying that after preliminary investigation an Information be filed against accused for violation of Sec. 3 (e), (g) of RA No. 3019 and Art. 171, par. 4 of the Revised Penal Code.⁷ Thus, from September 2012 until February 2015, only two years and five months were spent for the fact-finding investigation.

³ *De Lima v. Guerrero*, G.R. No. 229781, 10 October 2017.

⁴ *Coscolluela v. Sandiganbayan*, 714 Phil. 55-69 (2013).

⁵ *Almeda v. Ombudsman*, G.R. No. 204267, 25 July 2016.

⁶ *Rollo*, Vol. 1, p. 76 (Complaint filed by FIO).

⁷ *Id.* at 89 (Complaint filed by FIO).

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On 09 June 2016, the Ombudsman issued its Resolution finding probable cause against accused. The said resolution was approved by Ombudsman Conchita Carpio-Morales on 13 September 2016. Respondents in the case separately filed their motions for reconsideration, which were denied by the Ombudsman in its Order dated 23 December 2016 and approved by Ombudsman Morales on 24 February 2017. Finally, the Information was filed with this Court on 23 January 2018.

The period from the filing of the complaint by the FIO in February 2015 until the filing of the Information in Court in January 2018 amounts to only two years and 11 months. Adding the period of two years and five months spent for the fact-finding investigation, that would only make a total of *five years and four months*.

This period is not considered lengthy or capricious, oppressive and vexatious. As earlier stated, a mere mathematical reckoning of the time involved would not be sufficient. As will be discussed hereunder, the facts and circumstances surrounding the filing of the Information must also be considered.

Reason for the delay

The right to a speedy disposition of a case, like the right to speedy trial, is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays, or when without cause or justifiable motive, a long period of time is allowed to elapse without the party having his case tried.⁸

In *Tai Lim v. Court of Appeals*,⁹ the Supreme Court emphasized that:

"The right has been defined by our Supreme Court in *Gregorio Kalaw versus Segundo Apostol, et al.*, 64 Phil. 852," as a trial conducted according to law of criminal procedure and the rules and regulations, free from vexatious, capricious and oppressive delays. As the Appellate Court put it in *Steward versus State*, 13 Arkansas, 720": "what the constitution prohibits is vexatious, capricious and oppressive delays, manufactured by them ministers of justice." ***Not every delay in the trial is vexatious, capricious or oppressive.*** In the legal firmament. The terms have distinct connotations. ***Vexatious suggests an act which is willful and without reasonable cause, for the purpose of annoying and embarrassing another or one lacking justification and intended to harass*** (page 2548, Third Edition, Webster's International Dictionary). ***Oppressive connotes an unjust or cruel exercise of power or authority. Capricious action, on the other hand, means willful and unreasoning action"***

⁸ *Remulla v. Sandiganbayan (Second Division)*, G.R. No. 218040, 17 April 2017.

⁹ 375 Phil. 971-977 (1999).

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Thus, any delay in the investigation and prosecution of cases must be duly justified. The prosecution must also prove that the delay was reasonable, or that the delay was not attributable to it.¹⁰

In the instant case, records show that there were 33 respondents charged in the complaint filed by the FIO, and some of them have requested for extension of time to file counter-affidavit. As such, any apparent delay could not be validly attributed to the prosecution.

The prosecution also argues that the documents relating to the present case are voluminous. In fact, the Complaint reflects that the annexes reached up to "Annex OOOOOO," or a total of 156 annexes. Moreover, the assailed disbursement involved in this case amounts to ₱30 Million. For this amount, the prosecution alleges that any investigating prosecutor would take caution to resolve, which would necessarily require more time.

Thus, given the complexity of the case, the amount involved and considering the number of respondents implicated, there is merit in the prosecution's assertion that a considerable amount of time is needed to complete the investigation for purposes of establishing probable cause. The reasons proffered by the prosecution are acceptable, as they are reasonable and logical.

*Assertion by accused of his
right to speedy disposition*

Accused Syjuco was aware of the case against him as of 17 September 2012, the time he filed his counter-affidavit with the Ombudsman. Despite his knowledge, accused failed to assert his right to speedy disposition of his case or at the very least made some overt acts such as filing for early resolution during the preliminary investigation. Instead, he kept silent and raised this matter only for the first time after the Information has been filed in Court.

Prejudice caused by the delay

Other than the bare allegation that his constitutional right to due process and speedy disposition of the case has allegedly been violated, accused did not specify any prejudice caused to him by reason of the supposed delay in the disposition of the case.

To recapitulate, the length of delay is not the only factor in determining whether the right to speedy disposition of the case has been violated since speed alone is not the chief objective of a trial. Courts must balance various

¹⁰ Torres v. Sandiganbayan, G.R. No. 221562-69, 5 October 2016.

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factors such as the duration of the delay, the reason therefor, the assertion of the right, and prejudice to the defendant.¹¹

Based on all the foregoing considerations, this Court finds that there was no violation of accused's right to speedy disposition of the case against him.

WHEREFORE, premises considered, accused Augusto L. Syjuco, Jr.'s Motion to Quash Information is **DENIED** for lack of merit.

Let the arraignment and Pre-trial of accused Syjuco be set on **August 14, 2018 at 8:30 in the morning at the Fourth Division Courtroom.**

SO ORDERED.

TRESPESES, J. Acting Chairperson _____

FERNANDEZ, J. _____

VIVERO, J. _____

¹¹ Supra note 3.