

Republic of the Philippines
Sandiganbayan
Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0099 & 0100

For: Violation of Sec. 3(e) and
(g) of R.A. 3019, as amended

- versus -

TEODORO BRAWNER
BAGUILAT, JR., et al.,

Accused.

Present:

Lagos, L, Chairperson,
Mendoza - Arcega and
Corpus - Mañalac, II.

Promulgated: June 04, 2018 *lal*

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RESOLUTION

CORPUS-MAÑALAC, J.:

This treats of the prosecution's *Motion for Reconsideration*¹ filed on May 2, 2018 from the court's Resolution dated April 19, 2018, as well as accused Baguilat's *Coment/Opposition*² thereto filed on May 17, 2018.

The assailed Resolution dated April 19, 2018 granted accused Bagulat's *Motion to Dismiss* due to inordinate delay. Citing the case of *Torres vs. Sandiganbayan*,³ it ruled 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 the fact-finding investigation conducted prior to the preliminary investigation proper.

In its motion, the prosecution reiterates that it could not be faulted for the delay in the result of investigation, considering the record which shows that the letter-complaint filed in 2004 was endorsed to the COA for appropriate action and it was only in September 2009 when the COA issued its Report recommending the filing of charges against accused Baguilat. It again asseverates that the delay is not vexatious and oppressive because there was already an "initial resolution"

¹ Record, pp. 461-468

² Id., pp. 500-506

³ GR No. 221562-69, October 5, 2016

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by the Office of the Ombudsman dated November 25, 2011, which was however delayed due to a *Memorandum* addressed to the Hon. Ombudsman dated December 19, 2013 recommending to implead additional respondents, and the need to consolidate the *FIU* complaint with the *Sanggunian Bayan* complaint. The Ombudsman took into account the right to due process of the impleaded respondents, which allegedly rationalizes the delay in investigation.

The accused, in its opposition, argues that the motion violates Section 4, Rule 14 of the Revised Rules of Court, for failure to include the mandatory Notice of Hearing, thus, it is *pro forma*. On the substantive aspect, it was argued that the motion is merely a reiteration of the same arguments raised, considered and rejected by this Court.

The Court rules:

The alleged violation of Section 4 and 5, Rule 15 of the Rules of Court may be brushed aside, considering that the accused was nonetheless given the opportunity to be heard and argue against the motion. In fact, accused Baguilat filed his *Comment/Opposition* thereto. In *Sun Uy Giok vs. Matusa*,⁴ it was held that even if the notice in the motion is defective for failure to state the exact date of hearing, the defect is cured by the court's taking cognizance thereof and the fact that the adverse party was otherwise notified of the existence of said pleading.

However, as aptly argued by the accused, the issues raised were mere reiterations of those already considered and passed upon. The arguments that: (1) the prosecution cannot be faulted for the delay in investigation by COA (2) there was an initial resolution of by the Ombudsman which was subsequently deferred; (3) the need to include additional respondents; and (4) consolidation of the FIU complaint with the Sanggunian complaint, were squarely addressed in the assailed Resolution, *viz*:

The prosecution points to an alleged recommended "initial resolution" dated November 25, 2011 which was not acted upon because of an alleged intervening Memorandum to the Ombudsman recommending to implead additional accused and to file additional charges to validate the time that elapsed in the disposition of the complaints.

This, again, does not justify the period of delay of almost **eight (8) years** computed from the *Sangguniang Complaint* filed on September 24, 2009 and a period of about **thirteen (13) years** from the anonymous *Letter* complaint filed on May 19, 2004 subject of the *FIU Complaint* filed on July 20, 2015 in coming up with a *Consolidated Resolution* dated April 10, 2017. Even if additional respondents were to be impleaded that requires the reception of their counter-affidavits, the length of time that elapsed to complete the resolution thereof remains unreasonable, considering the issue involves a single transaction of alleged irregularity in the procurement of a second-hand Isuzu Trooper Wagon. Such long

⁴ 101 Phil 727

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delay in resolution is obviously vexatious and oppressive particularly since the accused had been inquiring for the status of the case, and moving for dismissal due to inordinate delay, which apparently fell on deaf ears. Simply put, there appears to be no justifiable basis as to why the Ombudsman could not have earlier resolved these cases against the accused.

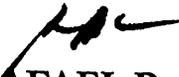
Nothing new was raised in the motion. The delay in investigation is not justified by the brazen excuse that the COA belatedly submitted its report. Even if the COA submitted its Report only in September 2009, still, it took the Ombudsman a fact-finding period of six (6) years computed therefrom up to July 20, 2015 when the *FIU* filed its complaint. This is highly unreasonable. The consolidation of the *FIU* complaint with the *Sanggunian* complaint also filed in 2009, as well as the impleading of additional respondents, do not sensibly explain why the Ombudsman came up with its Consolidated Resolution only on April 10, 2017, or about eight (8) years thereafter.

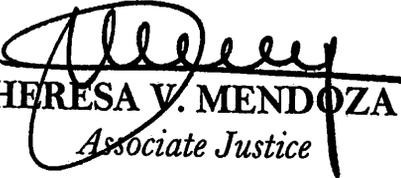
WHEREFORE, finding no reason to deviate from the assailed Resolution dated April 19, 2018, the prosecution's Motion for Reconsideration thereof is hereby DENIED.

SO ORDERED.


MARYANN E. CORPUS – MAÑALAC
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Chairperson
Associate Justice


MARIA THERESA V. MENDOZA –ARCEGA
Associate Justice