



Republic of the Philippines  
Sandiganbayan  
Quezon City

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**FIFTH DIVISION**

PEOPLE OF THE PHILIPPINES,

*Plaintiff,*

-versus-

TEODORO BRAWNER BAGUILAT,  
VIRGINIA DA-ANG FARRO,  
SAMUEL AQUINO MARINAY,  
JOSE MAN BAMBA SINGH,

*Accused.*

Crim. Case No. SB-18-CRM-0099

For: Violation of Sec. 3(e) of

R.A. No. 3019

Present:

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

Promulgated: June 21, 2018 *jal*

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**RESOLUTION**

Before the Court are the following incidents, *viz:*

1. **Jose Man Bamba Singh's Motion to Dismiss and/or Quash** dated April 26, 2018 filed on April 27, 2018;
2. **Samuel A. Marinay's Motion to Dismiss** dated April 27, 2018 filed on even date;
3. **Samuel A. Marinay's Motion to Dismiss** dated May 2, 2018 filed on April 30, 2018;
4. **Virginia Da-Ang Farro's Motion to Dismiss** dated April 23, 2018 filed on May 3, 2018, which the prosecution adopted as its comment to the Motion to Dismiss filed by Farro during the May 4, 2018 hearing;
5. **Prosecution's Joint Comment/Opposition to the Motion to Dismiss** filed by Accused Samuel A. Marinay and Jose Man Bamba Singh dated May 2, 2018 filed on even date;
6. **Jose Man Bamba Singh's Reply/Rejoinder to the Comment/Opposition to the Motion to Dismiss** dated May 9, 2018 filed on May 21, 2018.

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*21*

The common antecedent of the foregoing motions is the anonymous letter dated May 9, 2014 filed before the Office of the Ombudsman pertaining to the alleged irregular purchase of a second-hand Isuzu Trooper Wagon during the term of Baguilat, Jr., as Governor of the Province of Ifugao in 2003. A fact-finding investigation was conducted, and on July 20, 2015, the Field Investigation Unit [FIU] of the Office of the Ombudsman filed a complaint against **Teodoro Brawner Baguilat, Jr., Samuel A. Marinay** [Provincial Treasurer], **Virginia D. Farro** [Provincial Budget Officer], all from the Province of Ifugao, and private individual **Jose Man Singh, Jr.** for violation of RA 3019 Section 3 [e]. Pursuant to its *Consolidated Resolution* dated **April 10, 2017** finding probable cause against accused relative to the anonymous letter, the Ombudsman filed before this Court on **February 9, 2018** Information against all the named accused for violation of Section 3 (e) docketed as SB-18-CRM-0099, whereas, Baguilat, Jr. is additionally charged of violation of RA 3019, Section 3[g] docketed as SB-18-CRM-0100.

The record shows that in a Resolution promulgated by this Court on April 19, 2018, both cases were dismissed as against accused Baguilat, Jr. for the inordinate delay of the Ombudsman in resolving the complaint filed against him. A Motion for Reconsideration thereof was also denied in a Resolution promulgated on June 4, 2018.

### **Singh's Motion to Dismiss and/or Quash**

Singh argues that the instant case should be dismissed on the ground of inordinate delay of the Ombudsman in resolving the anonymous letter-complaint dated May 9, 2014; and that the facts charged against him in the Information do not constitute an offense as he never participated in any bidding or governmental functions in the procurement of the vehicle except to give his quotation in the canvass paper which is a legal act as requested; it is normal as a vendor in a contract of sale to profit from it; and he was not implicated in the findings of the COA.

### **Marinay's Motion to Dismiss filed on April 27, 2018 & April 30, 2018**

Marinay argues for the dismissal of this case alleging that he had no participation in the purchase of the questioned vehicle except to affix his signature on the abstract of bids, which was already prepared and initialed by his Assistant Provincial Treasurer. He cites the cases of *People vs. Joson III Joson* where the Supreme Court ruled that a person who signs or initials documents based on standard operating procedures does not automatically become a conspirator in a crime which transpired at a stage where he had no participation.

He further anchors his motion to dismiss on the alleged long delay in the investigation of his case citing the case of *People vs. Sandiganbayan*,<sup>1</sup> which ruled that the adjudication of cases must not only be done in an orderly manner that is in accord with the established rules of procedure but must also be promptly decided to better serve the ends of justice, such that the long delay in the investigation from 2003 to the filing of the FIU complaint on September 29, 2015 is undeniably a violation of the constitutional right to due process and speedy trial. He invokes this Court's *Resolution* dated April 19, 2018 finding merit on co-accused Baguilat Jr.'s *Motion to Dismiss* on the basis of inordinate delay of the Office of the Ombudsman in investigating the case.

### Farro's Motion to Dismiss

Similarly, accused Farro anchors her move to dismiss on the Ombudsman's alleged unreasonable delay in the investigation of the case from the filing of the anonymous complaint on May 19, 2004 up to its Consolidated Resolution dated April 10, 2017 finding probable cause, citing the case of *Corpus vs. Sandiganbayan and Almeda v. Office of the Ombudsman (Mindanao)* on the right of the accused to speedy trial pursuant to Section 16, Article III of the 1987 Constitution.

### The Prosecution's Joint Comment/Opposition

In opposing the move for dismissal of accused Singh, Marinay and Farro, the prosecution argues basically that these accused are not in the same situation as that of accused Baguilat Jr. Unlike the latter, Marinay, Farro and Singh were impleaded as respondents in the case in the year 2013 pursuant to the Memorandum of the Hon. Ombudsman dated December 19, 2013, hence, the reckoning period should only start from 2013 when the preliminary investigation against them ensued. Also, said accused did not invoke their right to speedy disposition of their case at the earliest time possible.

The prosecution cites the case of *Perez vs. People* in justifying the alleged delay in the disposition of the case against Marinay, Singh and Farro, invoking the application of the "balancing test" in assessing whether the delay violates the accused's right to speedy disposition of cases considering the (1) length of delay, (2) the reason for the delay, (3) the defendant's assertion of his right, and (4) prejudice to the defendant. Taking these factors into account, the prosecution avers that: **First, the length of delay is not**

<sup>1</sup> G.R. No. 199151-56, July 25, 2016

unreasonable as the same is not attended by vexatious, capricious, and oppressive delays. Accused Marinay, Singh and Farro were only impleaded in 2013 and their respective counter-affidavits were filed only in 2015. **Second**, there was a justifiable reason for the delay due to the degree of diligence required to arrive at a fair resolution of the cases, the pleadings and the supporting documents of each and every respondent had to be examined, reviewed and analyzed thoroughly. **Third**, during the preliminary investigation, the accused-movants failed to assert their right to speedy disposition of cases against them, *sans* motion to dismiss on such ground nor motion for early resolution was filed. **Fourth**, there was no prejudice to the accused-movants that could place them at a disadvantage since during the fact-finding investigation, they were not yet facing any criminal charges relevant to these transactions and there were no restrictions on their constitutional rights.

In so far as the claim of accused Singh that he did not participate in the bidding process and that he was not implicated by the COA in its finding, the prosecution counters that the very fact that there was no bidding on the purchase of the subject vehicle made the purchase irregular, and that the questionable profit price margin of more than half the price of the vehicle is unjustifiable.

### The Ruling of the Court

The Court finds for the accused-movants.

The record is highlighted by the long delay of investigation by the Ombudsman relative to the anonymous letter-complaint filed with it on May 19, 2004, where it took the said office a period of **about thirteen (13) years** to come up with its *Consolidated Resolution* dated April 10, 2017 finding probable cause against all the herein accused for violation of RA 3019 Section 3[e] and the filing of the corresponding Information on February 9, 2018 docketed as SB-18-CRM-0099.

In its Resolution promulgated on April 19, 2018 in SB-18-CRM-0099 and 0100 anent accused's Baguilat, Jr.'s argument of inordinate delay, this Court already ruled:

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. Other circumstances may be looked into as held in *Dela Pena vs. Sandiganbayan*,<sup>2</sup> such as the length of delay, the reasons for the delay, the assertion or failure to assert such right and the prejudice caused by the delay. This principle, in fact, was reiterated in *Torres vs. Sandiganbayan*,<sup>3</sup> citing the cases of *Braza vs. The Hon. Sandiganbayan* and *Dela Pena vs. Sandiganbayan*, that the constitutional guarantee to a speedy

<sup>2</sup> G.R. No. 144542, June 29, 2001

<sup>3</sup> G.R. No. 221562-69 October 5, 2016

disposition of cases is “a relative or flexible concept” and “depends upon the circumstances peculiar to each case.” This was followed by the pronouncement in the case of *Remulla vs. Sandiganbayan*,<sup>4</sup> holding that the “[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>5</sup> it was explained how the balancing factors of the balancing test should be weighed particularly the prejudice caused by the delay, to wit:

x x x 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 would be impaired. Of these, the most serious is the last, because of the inability of the defendant to adequately 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 the cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed and is subjected to public obloquy.

Considering the following factors, to wit: extraordinary length of time that elapsed before the Ombudsman was able to dispose of the anonymous *Letter* complaint subject of the *FIU Complaint* x x x coupled with the apparent prejudice to the accused by such delay in the terms laid down in the aforementioned case of *Corpuz vs. Sandiganbayan*, the burden is upon the prosecution to adduce valid reasons for delay and convince the Court why the instant cases should not be dismissed for that matter.

In the instant motions of accused Singh, Marinay and Farro, the prosecution merely argues that they are not similarly situated with that of co-accused Baguilat, Jr. since they were impleaded only in 2013 upon the Memorandum of the Ombudsman, so that there is no unreasonable delay as against them.

The Court does not agree.

Basically, the subject of the anonymous letter-complaint filed on May 19, 2004 is the alleged irregular purchase of second-hand Isuzu Trooper by the Province of Ifugao, which transpired in 2003. Even if the names of Marinay, Singh and Farro came about only in 2013 when they were impleaded as respondents upon Memorandum of the Ombudsman is of no moment, since it traces its roots to the anonymous complaint filed in 2004. Notably, the FIU completed the fact-finding investigation only with the filing of the FIU complaint on July 20, 2015 against Baguilat, Jr., Marinay, Singh and Farro, or after a period of about eleven (11) years, whereas, the preliminary investigation was terminated two (2) years thereafter on

<sup>4</sup> G.R. No. 218040 April 17, 2017

<sup>5</sup> G.R. No. 191411/GR No. 191871, 484 PHL 899, 917 (2004), July 15, 2013

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April 10, 2017 when the Ombudsman issued its Consolidated Resolution finding probable cause against them.

There is no issue that fact-finding proceeding should be included in determining inordinate delay in the disposition of cases by the Ombudsman consistent with the ruling in the case of *Torres vs. Sandiganbayan*,<sup>6</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 the fact-finding investigations conducted prior to the preliminary investigation proper. x x x

The contention that accused Marinay, Singh and Farro did not invoke the right to speedy disposition of their case at the earliest time does not detract from the fact of delay in the investigation. In *Enriquez vs. Office of the Ombudsman*,<sup>7</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. Non-compliance with this duty finds no excuse from the accused’s failure to invoke such right during investigation. On the contrary, it is incumbent upon the Ombudsman to guard against vexatious and oppressive delays in the disposition of complaints filed before it.

As the record stands, there is no valid justification why a complaint involving a single transaction of alleged irregular purchase of second-hand Isuzu Trooper without public bidding would take a total of thirteen (13) years from the fact-finding investigation until the eventual filing of the Information in court on February 9, 2018.

The prosecution invokes the “balancing test” in determining whether the delay is oppressive or vexatious.

In *Corpuz vs. Sandiganbayan*,<sup>8</sup> it was explained how the balancing factors of the balancing test should be weighed particularly the prejudice caused by the delay, to wit:

x x x 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 would be impaired. Of these, the most serious is the last, because of the inability of the defendant to adequately 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

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<sup>6</sup> *Supra*

<sup>7</sup> G.R. No. 174902-06, February 15, 2008, 545 SCRA 618, 626.

<sup>8</sup> G.R. No. 191411/GR No. 191871, 484 PHL 899, 917 (2004), July 15, 2013

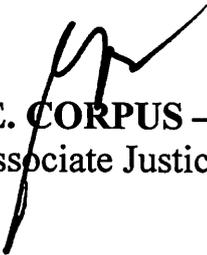
still disadvantaged by restraints on his liberty and by living under the cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed and is subjected to public obloquy.

Considering the extraordinary length of time that elapsed before the Ombudsman was able to dispose of the anonymous letter- complaint, the prejudice caused to the accused is apparent. As argued by Farro, she could no longer locate the documents and her witnesses to her defense as she could only vaguely recall what transpired in 2003 or fifteen (15) years ago, thus, putting her and her co-accused in a disadvantageous position in facing the charge. Certainly, this is one situation sought to be prevented by the Constitution in guaranteeing a person's right to speedy disposition his case.

Considering the foregoing, the Court finds no need to deal with accused Singh's and Marinay's contention of failure to charge an offense for their alleged lack of participation in the subject transaction.

**WHEREFORE**, the Court finds merit to the motions filed by accused Jose Man Bamba Singh, Samuel Aquino Marinay and Virginia Da-ang Farro, hence, this case against them is hereby **DISMISSED**.

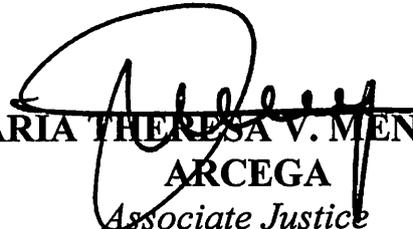
**SO ORDERED.**

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

**WE CONCUR:**

  
**RAFAEL R. LAGOS**

*Associate Justice*  
*Chairperson*

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