



Republic of the Philippines
Sandiganbayan
Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

Crim. Case No. SB-18-CRM-0295
For: Violation of R.A. No. 3019
Section 3(e)

TITO GUERRERO RAZALAN, *et al.*, *Present:*
Accused.

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

Promulgated:

August 07, 2018 *Jal*

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RESOLUTION

CORPUS - MAÑALAC, J.:

Before the Court are the following pleadings submitted for consideration,
viz.

1. Accused Tito Guerrero Razalan's *Motion for Reconsideration of the June 21, 2018 Resolution*,¹
2. Accused Jose De Guzman, Jr.'s *Motion for Reconsideration of the June 21, 2018 Resolution*,²
3. Accused Florence Bunao Bueno, Marilene Samaniego Bedania and Juan Mercado Bala's *Motion for Reconsideration of the June 21, 2018 Resolution*,³
4. Prosecution's *Consolidated Comment/Opposition [Re: Motion for Reconsideration of Accused Razalan and De Guzman]*,⁴
5. Prosecution's *Comment/Opposition [Re: Motion for Reconsideration of Accused Bueno, Bedania and Bala]* dated July 20, 2018;⁵

¹ Record, Vol. 2, pp. 404-411

² Id., Vol. 2, pp. 414-417

³ Id., Vol. 2, pp. 430-440

⁴ Id., Vol. 2, pp. 445-452

⁵ Id., Vol. 2, pp. 460-467

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The Motions

Tito Guerrero Razalan

Accused Razalan invokes the cases of *Coscolluela v. Sandiganbayan*⁶ and *People v. Sandiganbayan*⁷ as “more applicable in this case,” where the Supreme Court ruled that the unusual long delay in the investigation of cases by the Ombudsman is inordinate and oppressive and an outright violation of the accused’s right to speedy disposition of cases. Hence, the herein delay in investigation allegedly should also merit the dismissal of this case.

Jose De Guzman, Jr.

Accused De Guzman alleges that the Information does not charge an offense. He was not an employee of the Municipality of Mayantoc, Tarlac, when the contract for the Mayontoc Memorial Park Project was awarded to his firm, the JQG Construction. That it was not alleged in the Information that he unduly influenced the BAC or any of the officials of the municipality to obtain the award, and that his mere submission of bid application for the project is not an evidence of conspiracy with the Officials of Mayantoc.

Florence Bunao Bueno, Marilene S. Bedania and Juan Mercado Bala

Accused Bueno, Bedania and Bala again challenge the sufficiency of the Information, emphasizing that the factual basis of the charge is speculative. The contractor’s non-payment of Php5,000 for the bidding documents does not amount to bad faith as it is a common practice in the Municipality of Mayontoc not to collect any amount for the bidding documents. As such, the allegations do not constitute the offense charged. That the bidding process is a ministerial duty of the BAC which is distinct from the duties of the HOPE in entering into the contract despite the alleged non-payment of the 20% security. Moreover, they allege that conspiracy was not established so that they should be charged separately, and as they occupy positions below SG 27, this Court has no jurisdiction over them. Finally, they insist that the delay of four (4) years and ten (10) months in investigation is a violation of their Constitutional right to speedy disposition of the case that warrants its dismissal, citing the cases of *Coscolluela v. Sandiganbayan*,⁸ *People v. Sandiganbayan*,⁹ *Corpus v. Sandiganbayan* and *Dansal v. Fernandez*.

⁶ G.R. No. 191411, July 15, 2013

⁷ G.R. No. G.R. 189063/188165, December 11, 2013

⁸ G.R. No. 191411, July 15, 2013

⁹ G.R. No. G.R. 189063/188165, December 11, 2013

The Comment/Opposition

As against the Motions of Razalan and De Guzman

Citing Section 2(3), Rule 37 of the Rules of Court, the prosecution argues that the separate motions of Razalan and De Guzman failed to point out specifically the findings or conclusions of the assailed Resolution which are contrary to law; their belated claim that “the facts charged do not constitute an offense” is a matter not raised in their respective Motions to Quash, thus, not worthy of this Court’s consideration. On the other hand, Razalan’s reliance on the cases of *Coscolluela v. Sandiganbayan*¹⁰ and *People v. Sandiganbayan*,¹¹ which involve different factual considerations, is allegedly untenable. The prosecution posits that the best way for the accused to establish their innocence is to present evidence in a full-blown trial.

As against the Motion of Bueno, Bedania and Bala

Here, the prosecution contends that the motion is largely a reiteration of the issues already passed upon by the Court in the assailed resolution. Their reliance on the case of *Coscolluela* is not squarely in point as the same involves different factual circumstances from the instant case. Their belated claim for violation of their right to speedy disposition of cases should fail, as the perceived “total delay of six (6) years” was neither vexatious nor capricious. It reiterates that the counting of the period of delay should be from June 26, 2015 which was the time when the Field Investigating Unit (FIU) filed its complaint against Bueno, Bedania and Bala. The Ombudsman received Bala’s Counter-Affidavit on August 26, 2015 while the Joint Counter-Affidavit of Bueno and Bedania was received only on September 9, 2015. Thus, the Ombudsman Consolidated Resolution issued on February 14, 2017 was not vexatious, capricious and oppressive.

The Court’s Ruling

The issues raised and the arguments advanced by the accused are the same as those presented in their respective *Motions to Quash*. These have been passed upon, discussed extensively and judiciously resolved in the assailed Resolution. To the extent of being repetitious, the doctrine consistently laid down in various cases by the Supreme Court is that the Constitutional guarantee to a speedy disposition of cases is “a relative or flexible concept” and “depends upon the

¹⁰ G.R. No. 191411, July 15, 2013

¹¹ G.R. No. G.R. 189063/188165, December 11, 2013

circumstances peculiar to each case.”¹² In this particular case of Razalan, De Guzman, Bala, Bedania and Bueno, the Court had ruled:

Reviewing the chronology of events that transpired in the investigation of this case, the Court is not persuaded to hold that there was inordinate delay in the disposition thereof.

As regards the length of time, the fact-finding process involved a period of only about two (2) years, from the receipt of the complaint on April 17, 2012 up to the formal preliminary investigation which commenced on August 18, 2014 when the Order to file counter-affidavit was issued. The preliminary investigation was terminated only a year thereafter upon submission of the Consolidated Resolution dated November 10, 2015, although the same was approved by the Ombudsman on February 14, 2017 considering the layers of authority necessary to review the recommendation. It has to be noted that within this period of investigation, accused Bueno and Bedania filed a Motion for Extension of Time [to submit counter-affidavit] dated August 1, 2015, whereas accused Razalan and Corpuz filed their Joint Motion [for extension of time to submit counter-affidavit] dated September 8, 2014. They also filed their respective motions for reconsideration of the Consolidated Resolution, which altogether contributed to the perceived delay in the filing of Information in Court.

From the records, the time consumed in the investigation of the case was not vexatious, which rather appeared to have arisen from the regular course of action of the Office of the Ombudsman. The time needed to gather documents during the fact-finding, and the time necessary for the corresponding evaluation thereof during the preliminary investigation, inclusive of the time given for the respondents to refute the charges and avail of the remedy of reconsideration from the adverse resolution, have to be considered in determining if the delay was inordinate. Here, there is reason to justify the perceived delay in investigation. It is not oppressive or capricious.

Verily, as argued by the prosecution, the accused themselves never assailed before the Ombudsman the alleged delay in investigation. If they felt that they have already been prejudiced by the delay, they should have asserted the same at the earliest opportune time, but which they never did. The prejudice that may have been caused by the length of time of investigation is not apparent. On the contrary, the records show that they were given the full opportunity to defend themselves and avail of the remedies from the adverse resolution against them.

Gleaned from the above, the facts of the instant case are different from those of the *Coscolluela* case cited by the accused, where the Ombudsman Investigator prepared the March 27, 2003 Resolution finding probable cause for violation of RA 3019 Section 3[e] against therein respondents but the same was approved and signed by the Acting Ombudsman only on May 21, 2009.

¹² Torres vs. Sandiganbayan, GR No. 221562-69, October 5, 2016, citing the cases of Braza vs. The Hon. Sandiganbayan and Dela Pena vs. Sandiganbayan, GR No. 144542, June 29, 2001

On Bueno, Bedania and Bala's arguments regarding their alleged innocence of the charge in the absence of the element of bad faith, the assailed Resolution already found that these are matters of evidence. Their claim of lack of participation and absence of conspiracy cannot be passed upon summarily at this stage of the proceeding. They require proof using evidence as tools to merit the Court's consideration. It is pertinent to quote herein the Resolution when it ruled:

As regards the claim of Bueno, Bedania and Bala that there is no factual basis in the allegation of irregularity as (1) bidding requirements were complied with; (2) bad faith could not be assumed from mere non-payment of the fee for bidding documents by the bidders; and (3) they had no participation in the signing of the contract; it is basic to state that these are matters of evidence. The principle is that the *Information* shall allege only the ultimate facts establishing the elements of the crime charged; that the fundamental test in determining the sufficiency of the material averments thereof is whether or not the facts alleged, if hypothetically admitted, would establish the essential elements of the crime charged, whereas evidence *aliunde* or matters extrinsic of the information are not to be considered.¹³ Considering the averment of facts in the Information, the sufficiency of which has not been assailed in the in the first place, the Court concludes that the same sufficiently states the essential facts constituting the elements of violation of RA 3019, Section 3[e].

Glaringly, the arguments presented in the motions are not novel or substantial to merit the favorable consideration of the Court, much less warrant the reversal of the Resolution promulgated on June 21, 2018.

WHEREFORE, premises considered, herein Motions for Reconsideration filed respectively by accused Razalan, De Guzman, Bedania, Bueno and Bala, are DENIED for lack of merit.

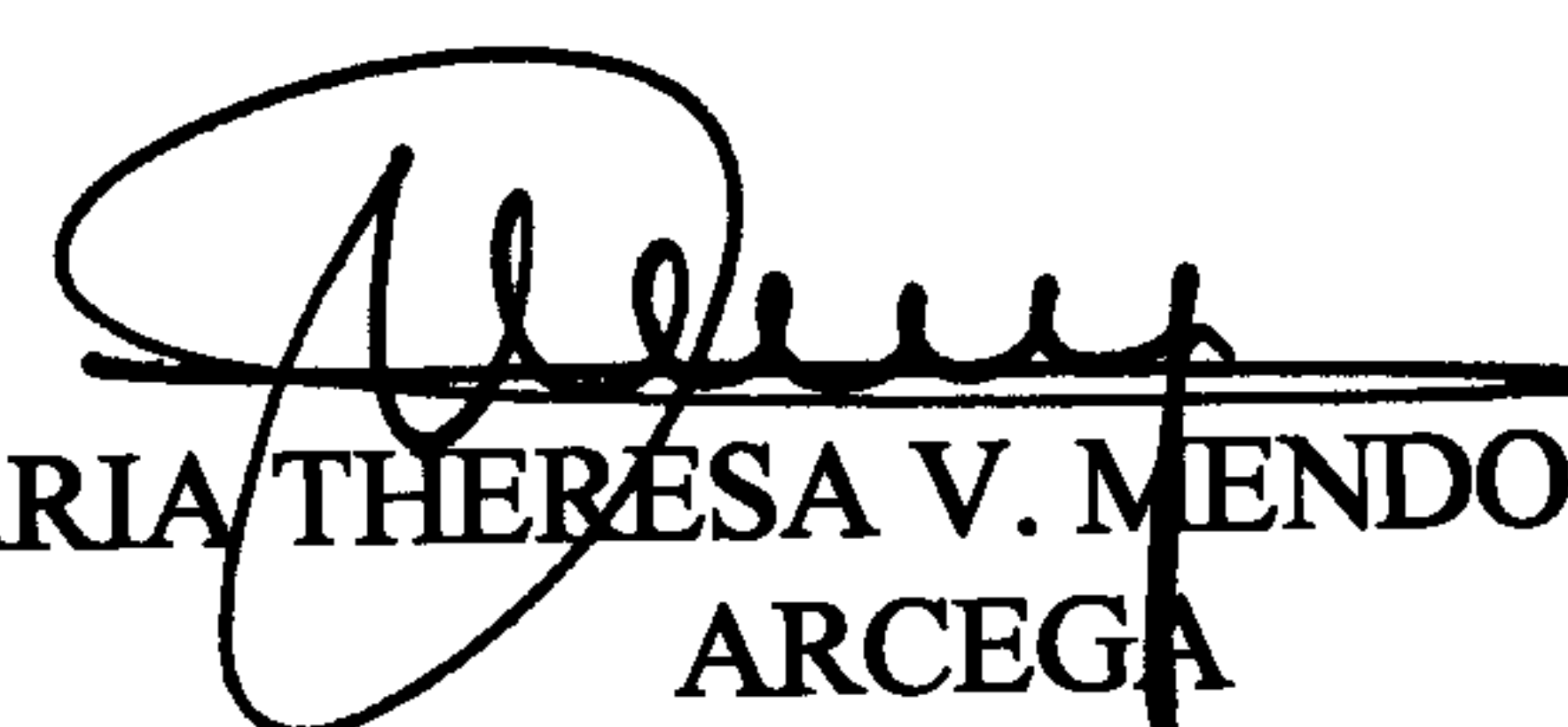
SO ORDERED.


MARYANN E. CORPUS – MAÑALAC
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS

*Associate Justice
Chairperson*


MARIA THERESA V. MENDOZA –
ARCEGA
Associate Justice

¹³ *Antone vs. Beronilla* GR No. 183824, December 8, 2010, 637 SCRA 615; *Domingo vs. Sandiganbayan*, G.R. No. 109376, January 20, 2000, 322 SCRA 655; *Cabrera vs. Sandiganbayan*, G.R. Nos. 162314-17, October 25, 2004.