



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0337
For: Violation of Sec. 3(e)
of R.A. No. 3019

SB-18-CRM-0338 and 0339
For: Malversation (Art. 217 of
the Revised Penal Code)

Present

- versus -

EDGAR G. RAMA, ET AL.

Accused.

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
VIVERO, J.

Promulgated:

AUG 07 2018

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the following:

1. *Motion to Quash*¹ filed by accused Edgar G. Rama and William G. Surbano;
2. *Motion to Dimiss* [sic] *Cases and/or To Quash Informations*² filed by accused Nancy A. Catamco; and
3. The *Motion to Dismiss*³ filed by accused Pompey M. Perez;

¹ Dated May 30, 2018; Record, Vol. 1, pp. 410-465

² Dated June 1, 2018; Record, Vol. 1, pp. 498-522

³ Dated June 13, 2018; Record, Vol. 2, pp. 266-283

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In their *Motion to Quash*, accused Rama and Surbano pray for the dismissal of the present cases on the ground of violation of their right to speedy disposition of cases. They aver:

1. There was an unreasonable delay in the conduct of the investigation.
 - a. The accused allegedly committed the crimes in May and December 2004 or sometime prior or subsequent thereto.
 - b. The Office of the Ombudsman created Task Force Abono under the Field Investigation Office (FIO) sometime in 2005.
 - c. The accused filed their Counter-Affidavit in 2015. The Office of the Ombudsman resolved the case pending before it only in August 2017. The motion for reconsideration was resolved on January 11, 2018.
2. The Information in the present cases were filed only in 2018.
3. The time spent for the fact-finding investigation is included in computing the length of delay.
4. The Office of the Ombudsman's basis for conducting the investigation against the accused was the Audit Observation Memorandum (AOM) dated July 2004 issued by the Commission on Audit (COA).
5. Said AOM was already in the possession of the Office of the Ombudsman as early as 2004. There was no explanation as to why it took the Office of the Ombudsman eight (8) years to upgrade the fact-finding investigation into a formal case, and another five (5) years to complete the preliminary investigation.
6. The Supreme Court, in several cases,⁴ held that dismissal of the case is warranted if there is a violation of the right to speedy disposition of cases.

In her *Motion*, accused Catamco similarly prays for the dismissal of the present cases. She contends:

1. Her constitutional right to speedy disposition of cases was violated by the Office of the Ombudsman.

⁴ *People v. Sandiganbayan*, G.R. Nos. 199151-56, July 25, 2016; *Remulla v. Sandiganbayan*, G.R. No. 218040, April 17, 2017; *Torres v. Sandiganbayan*, G.R. Nos. 221562-69, October 5, 2016; *Inocentes v. People*, G.R. No. 205963-64, July 7, 2016; *Almeda v. Office of the Ombudsman (Mindanao)*, G.R. No. 204267, July 25, 2016

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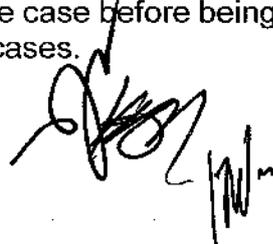
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2. It took the Office of the Ombudsman a total of twelve (12) years before it filed the Information in the present cases.
 - a. The subject transactions occurred as early as 2004.
 - b. The Complaint dated July 17, 2012 shows that it was primarily based on AOM No. 2004-003 dated July 6, 2004, the undated AOM No. 2005-06, and the Notices of Disallowance (ND) No. 2005-001-100 (2004), L2-05-153-34-029 and 2005-002-100 (2004), L2-05-153-34-028, issued by the COA.
 - c. The Office of the Ombudsman directed the respondents to file their respective counter-affidavits only on July 19, 2013.
 - d. She received copies of the said Order and Complaint only on March 27, 2015. She filed her Counter-Affidavit on April 24, 2015.
 - e. The Office of the Ombudsman issued the Resolution finding probable cause to indict the accused in Court on July 17, 2017. Said Resolution was approved on August 1, 2017.
 - f. In her motion for reconsideration filed on August 23, 2017, she raised the issue of the violation of her right to speedy disposition of cases.
 - g. On January 26, 2018, the Office of the Ombudsman issued the Order dated November 10, 2017 denying her motion for reconsideration.
3. The Office of the Ombudsman provided no explanation as to why it took twelve (12) years to conduct its investigation and to find probable cause against the accused.
4. The COA spent only over a year to complete its own fact-finding investigation, the same having been terminated with the issuance of the NDs, which clearly enumerated the persons liable in the alleged violations, as well as the reasons for the disallowance.
5. There was no reason why it had to take the Office of the Ombudsman twelve (12) years to arrive at the same conclusion in its investigation.
6. She could not have asserted her right to speedy disposition of cases prior to the preliminary investigation because she never received copies of the NDs.
7. As a respondent, she had no duty to bring herself to trial. It is not mandatory for an accused to follow up on the case before being able to invoke the right to speedy disposition of cases.



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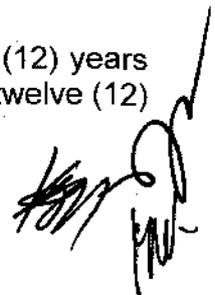
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8. The delay in the preliminary investigation is not attributable to her.
9. She suffered undue prejudice as a result of the delay in the investigations conducted by the Office of the Ombudsman.
 - a. Important records pertaining to the subject transactions, in particular, those with respect to her exclusive dealership with the manufacturer of the liquid fertilizer, have been lost.
 - b. She had lost contact with the officers of the manufacturer of the liquid fertilizer subject of the present cases.
10. The inordinate delay of more than twelve (12) years also violates her right to due process.
11. The violation of her rights to due process and to speedy disposition of cases effectively stripped the Office of the Ombudsman of any authority to file the Information in the present cases.

Accused Perez, in his *Motion to Dismiss*, also prays that the cases against him be dismissed and his arraignment be deferred pending the resolution of his motion. He argues:

1. The Court had already lost its jurisdiction over the present cases even before the Office of the Ombudsman filed the Informations by reason of the violation of his right to speedy disposition of cases.
2. As early as 2006, the Office of the Ombudsman *motu proprio* started its own investigation, and created Task Force Abono to investigate transactions involved, including those subject of the present cases, in the so-called Fertilizer Scam.
3. The Office of the Ombudsman directed the respondents to submit their respective counter-affidavits only on July 19, 2013, or more than seven (7) years after it started the investigations.
4. He received a copy of the Order directing the respondents to file their respective counter-affidavits only on March 27, 2015, or around two (2) years after its issuance.
5. In the Resolution dated July 17, 2017, which resulted in the filing of the Informations before the Court, there was no explanation as to why the Office of the Ombudsman failed to timely serve upon him the Order directing the respondents to file their respective counter-affidavits.
6. The Office of the Ombudsman wasted more than twelve (12) years before filing the Informations with the Court. He suffered twelve (12)



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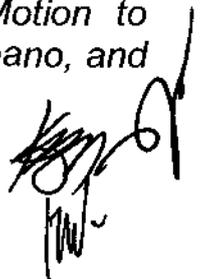
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years of agony and anxiety only to find out that he would still have to defend himself in Court.

7. Had he simply submitted himself to jail in 2006, while the Office of the Ombudsman wasted twelve (12) years conducting the investigation, he could have been available for parole, or could have completely served the possible sentence for the alleged crimes.
8. The delay in the filing of the Informations is vexatious, capricious and oppressive.
9. The Office of the Ombudsman committed grave abuse of discretion in finding that he conspired with his co-accused.
 - a. Despite conducting the investigation for twelve (12) years, the Office of the Ombudsman seemingly made a shotgun ruling, finding that all those who participated in the subject transactions were involved in the conspiracy. The Office of the Ombudsman failed to indicate his specific acts, which could have served as the basis for the allegation of conspiracy.
 - b. He was included in the present cases only because his name appeared in the records as one of the partners or owners of PERZEBROS company. However, at the time of the alleged transactions, he did not perform any of the functions of a partner or owner in said company. His name appeared in the records only because of his former relation as a spouse of accused Catamco.
 - c. At the time of the alleged commission of the crimes in May 2004, an annulment proceeding docketed as Civil Case No. 2004-52 entitled *Nancy Catamco Perez v. Pompey M. Perez* was pending before the Regional Trial Court, Branch 17 in Kidapawan City, Province of Cotabato. The Decision declaring their marriage null and void became final on April 8, 2008.
 - d. He could not have conspired with accused Catamco and the other accused public officials when at the time of the alleged commission of the crimes, he was already separated *de facto* from accused Catamco.
 - e. Aside from accused Catamco, he does not know his other co-accused. He was completely unaware of the alleged transactions.

In its Consolidated Comment/Opposition (To the Motion to Quash filed by accused Edgar G. Rama and William G. Surbano, and



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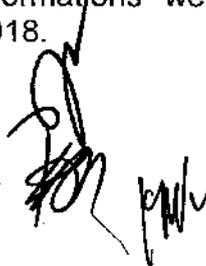
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the Motion to Dismiss Cases and/or to Quash Informations filed by accused Nancy A. Catamco),⁵ the prosecution counters:

1. The right to a speedy disposition is a relative or flexible concept, and is violated only when there are unreasonable, arbitrary and oppressive delays. Speedy disposition of cases is consistent with delays and depends upon the circumstances. In determining if such right was violated, the Supreme Court adopted the balancing test that considers the following factors: (a) length of delay, (b) reason for the delay, (c) defendant's assertion of such right, and (d) prejudice to the defendant.
2. It is erroneous to compute the length of delay from the issuance of the AOM and NDs. When the COA issued said AOM and NDs, there was no case to speak of yet. The prosecutorial process commenced upon the filing of the Complaint on June 21, 2013. Said Complaint was the basis of the Informations in the present cases.
3. In the Order dated July 19, 2013, the Office of the Ombudsman directed the fourteen (14) respondents to file their respective counter-affidavits, the affidavits of their witnesses, if any, and other controverting evidence.
4. The accused contributed to the delay when they filed their respective motions for extension of time to file their counter-affidavits. The Office of the Ombudsman received the Counter-Affidavit of accused Catamco and Perez only on April 24, 2015. On the other hand, it received accused Rama's Counter-Affidavit, filed by registered mail, only on May 13, 2015. The last counter-affidavits were filed on May 20, 2015.
5. The Ombudsman approved the Resolution dated July 17, 2017 on August 1, 2017.
6. Accused Catamco filed her Motion for Reconsideration on August 23, 2017, while the motion for reconsideration of accused Rama, Surbano and the accused municipal councilors was received by the Office of the Ombudsman on September 25, 2017. Accused Carcellar, on the other hand, filed his motion for reconsideration on September 28, 2017.
7. Said motions for reconsideration were denied in the Order dated November 10, 2017 and approved on January 11, 2018. Thereafter, the three (3) Informations were filed with the Sandiganbayan on April 27, 2018.

⁵ Dated June 18, 2018; Record, Vol. 2, pp. 334-343



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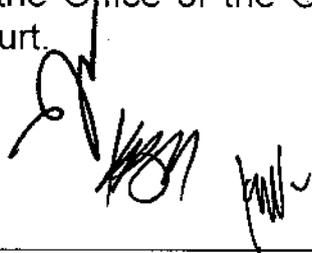
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8. Because of the need to meticulously review and evaluate the numerous records, the time it took to conclude the investigation in the present cases cannot be considered as inordinate delay.
9. In *Dansal v. Fernandez*, the Supreme Court took judicial notice of the fact that a steady stream of cases reaches the Office of the Ombudsman.
10. The right to speedy disposition of cases may be waived. Thus, such right must be asserted at the earliest opportunity.
11. The accused asserted their right to speedy disposition of cases only after they received the adverse Resolution finding probable cause to indict them for violation of Sec. 3(e) of R.A. No. 3019 and malversation.
12. The accused failed to show how the delay in the preliminary investigation can be characterized as arbitrary, vexatious and oppressive. They did not show how the delay was intended to harass, annoy or embarrass them. Neither did they show any unjust or malicious exercise of power, or willful or arbitrary action on the part of the Office of the Ombudsman.
13. Accused Rama and Surbano failed to show how they suffered prejudice as a result of the delay. Accused Catamco only made a general statement of her inability to adequately prepare for the defense.
14. The accused' claim that their right to speedy disposition of cases was violated is based solely on the length of delay.
15. The Office of the Ombudsman had not been ousted of the authority to file the Information in the present cases.

In its *Manifestation (Re: Motion to Dismiss filed by accused Pompey M. Perez)*,⁶ the prosecution adopted its *Consolidated Comment/Opposition* dated June 18, 2018 to oppose the *Motion to Dismiss* filed by accused Perez. It further argues that the issues raised by accused Perez are matters that are better threshed out in a full-blown trial, and that the issue of grave abuse of discretion on the part of the Office of the Ombudsman is not within the jurisdiction of this Court.



⁶ Dated June 21, 2018; Record, pp. 344-347

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THE COURT'S RULING

Art. III, Sec. 16⁷ of the Constitution guarantees the right to speedy disposition of cases. In *Corpuz v. Sandiganbayan*,⁸ it was explained that this right was designed to prevent oppression by holding criminal prosecution suspended over the citizen for an indefinite time, and to prevent delays in the administration of justice. Such right is violated only when the proceeding is attended by vexatious, capricious and oppressive delays. In determining whether or not such right was violated, the circumstances surrounding each case must be taken into account. *Viz.:*

The right of the accused to a speedy trial and 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, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases. Such right to a speedy trial and a speedy disposition of a case is violated only when the proceeding is attended by vexatious, capricious and oppressive delays. The inquiry as to whether or not an accused has been denied such right is not susceptible by precise qualification. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept.

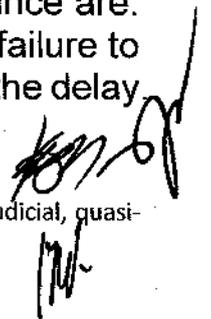
While justice is administered with dispatch, the essential ingredient is orderly, expeditious and not mere speed. It cannot be definitely said how long is too long in a system where justice is supposed to be swift, but deliberate. It is consistent with delays and depends upon circumstances. It secures rights to the accused, but it does not preclude the rights of public justice. Also, it must be borne in mind that the rights given to the accused by the Constitution and the Rules of Court are shields, not weapons; hence, courts are to give meaning to that intent.

To determine if there is a violation of the right to speedy disposition of cases, the Supreme Court adopted the balancing test, in which the conduct of both the prosecution and the defendant are weighed.⁹ The factors that the Court must consider and balance are: (1) length of delay; (2) reasons for the delay; (3) assertion or failure to assert such right by the accused; and (4) prejudice caused by the delay

⁷ Sec. 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

⁸ G.R. No. 162214, November 11, 2004

⁹ *Perez v. People*, G.R. No. 164763, February 12, 2008



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In the more recent case of *Remulla v. Sandiganbayan*,¹⁰ the Supreme Court, in harmonizing two (2) seemingly conflicting sets of cases, reiterated that the factors in the balancing test should be considered together with other relevant circumstances. To wit:

Accordingly, both sets of cases only show that "[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." To reiterate, none of the factors in the balancing test is either a necessary or sufficient condition; they are related and must be considered together with other relevant circumstances. x x x

Thus, this Court will apply the balancing test.

A. Length of delay

From the records, it appears that the present cases arose from the Complaint dated December 27, 2012, filed by Task Force Abono,¹¹ Field Investigation Office (FIO) of the Office of the Ombudsman, against respondents Edgar G. Rama, Ronald P. Carcellar, Ruben T. Estrera, Jr., Gorgonia E. Gonzales, Sergio G. Zurita, Nilo B. Gorgonio, Gregorio B. Dorog, William G. Surbano, Charry M. Costas, Ma. Roberto F. Ramos, Anna Lissa E. Booc, Helen C. Cabonegro and private respondents Nancy C. Perez and Pompey M. Perez.

In the Order dated July 19, 2013, the respondents were directed to file their respective counter-affidavits.¹² The respondents filed their respective counter-affidavits from September 12, 2014 to May 20, 2015, the last of which were filed on the latter date.¹³ In the Resolution dated July 17, 2017,¹⁴ the Office of the Ombudsman found probable cause to file Informations for one (1) count of violation of Sec. 3(e) of R.A. No. 3019 and two (2) counts of Malversation under Art. 217 of the Revised Penal Code. The Ombudsman approved said Resolution on August 1, 2017.

Thereafter, accused Catamco and Perez, Rama, and Carcellar filed their Motions for Reconsideration on August 23, 2017, September 25, 2017 and September 28, 2017, respectively. These were denied

¹⁰ G.R. No. 218040, April 17, 2017

¹¹ Record, Vol. 1, 44-74

¹² Record, Vol. 1, p. 19

¹³ Record, Vol. 1, pp. 19-21; May 4, 2015 (Rama), September 12, 2014 (Carcellar), April 27, 2015 (Perez and Catamco), May 20, 2015 (Booc, Ramos and Cabonegro, separately)

¹⁴ Record, Vol. 1, pp. 13-35

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in the Office of the Ombudsman's Order dated November 10, 2017,¹⁵ approved on January 18, 2018. The Information in the present cases were filed on April 27, 2018.

From the date of the Complaint filed by Task Force Abono to the approval of the Resolution dated July 17, 2017, a period of around four (4) years and seven (7) months passed. From the filing of the last counter-affidavit on May 20, 2015 to the approval of said Resolution, around two (2) years and two (2) months passed. From the filing of the last motion for reconsideration on September 28, 2017 to the approval of the Order denying said motions for reconsideration, a period of almost four (4) months passed. The Information in the present cases were filed almost four (4) months thereafter.

In *Tatad v. Sandiganbayan*,¹⁶ it was held that a delay of close to three (3) years in terminating the preliminary investigation cannot be deemed reasonable or justifiable. But it must be stressed that length of delay is but one of the factors in the balancing test. In *Tatad*, the Supreme Court found such length of delay unjustifiable in light of the circumstances surrounding that case.

B. Reason for the delay

In *Corpuz v. Sandiganbayan*, it was explained that closely related to the length of the delay is the reason for such delay. *Viz.:*

Closely related to the length of delay is the reason or justification of the State for such delay. Different weights should be assigned to different reasons or justifications invoked by the State. For instance, a deliberate attempt to delay the trial in order to hamper or prejudice the defense should be weighted heavily against the State. Also, it is improper for the prosecutor to intentionally delay to gain some tactical advantage over the defendant or to harass or prejudice him. On the other hand, the heavy case load of the prosecution or a missing witness should be weighted less heavily against the State. Corollarily, Section 4, Rule 119 of the Revised Rules of Criminal Procedure enumerates the factors for granting a continuance.

According to the prosecution, considering the voluminous records that the Office of the Ombudsman had to meticulously review,

¹⁵ Record, Vol. 1, pp. 37-42

¹⁶ G.R. No. 72335-39, March 21, 1988

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and the number of respondents, the delay in the termination of the preliminary investigation is justified.

This Court is inclined to agree with the prosecution. In *Mendoza-Ong v. Sandiganbayan*,¹⁷ citing *Dansal v. Fernandez*,¹⁸ the Supreme Court recognized that the steady stream of cases reaching the Office of the Ombudsman would inevitably cause some delay. To wit:

x x x. "Speedy disposition of cases" is consistent with reasonable delays. The Court takes judicial notice of the fact that the nature of the Office of the Ombudsman encourages individuals who clamor for efficient government service to lodge freely their complaints against alleged wrongdoing of government personnel. A steady stream of cases reaching the Ombudsman inevitably results. Naturally, disposition of those cases would take some time. x x x

(underscoring supplied)

As for the delay in the fact-finding investigation, nothing in the records indicate the exact date when the fact-finding investigation of the Office of the Ombudsman commenced. In any event, it appears that the Office of the Ombudsman created Task Force Abono, the nominal complainant in the preliminary investigation, to conduct an investigation on transactions in connection with the Fertilizer Fund Scam. Said Fertilizer Fund Scam did not involve only a handful of transactions, but numerous transactions, concerning many local government units and officials from several regions. This necessarily translates to voluminous records that the Office of the Ombudsman must evaluate.

The present cases involve only a few of such transactions, *i.e.*, those in the Municipality of Poro, Cebu. While this Court finds that the cases at bar do not involve unusually complex factual or legal issues, the time it took to conduct the fact-finding investigation is not unreasonable, considering the number of transactions subject of the fact-finding investigation. To be sure, individual cases not involving complex factual or legal issues should not take long to resolve. However, it is undeniable that numerous cases – both related and not related to the Fertilizer Fund Scam, regardless of the complexity involved, would take more time to dispose of.

¹⁷ G.R. Nos. 146368-69, October 18, 2004

¹⁸ G.R. No. 126814, March 2, 2000

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Similarly, this Court finds that the delay in the conduct of the preliminary investigation proper is not unreasonable. While it took the Office of the Ombudsman around four (4) years and seven (7) months from the filing of the Complaint, to issue the Resolution dated July 17, 2017, this Court notes that the Office of the Ombudsman waited for the respondents to file their respective affidavits. The accused-movants claim that they received the Order directing them to file their respective counter-affidavits only sometime in 2015. But it was not shown that the delay in their receipt of such order could be attributable to the Office of the Ombudsman. After the Office of the Ombudsman received the last counter-affidavit on May 20, 2015, it took only around two (2) years and two (2) months for the Ombudsman to approve the Resolution dated July 17, 2017.

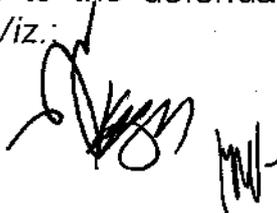
Clearly, the respondents, including those who did not file their respective counter-affidavits, were given ample opportunity to be heard when the Office of the Ombudsman waited for them to file their respective counter-affidavits and their motions for reconsideration before issuing its Resolution and Order, respectively. After the denial of the respondents' motions for reconsideration, the Office of the Ombudsman filed the Information in the present cases within a reasonable period.

C. Assertion or failure to assert the right to speedy disposition of cases

It appears that the respondents asserted their right to speedy disposition of cases as early as in their respective motions for reconsideration. But as previously discussed, this Court finds that the time spent conducting the preliminary investigation was not unreasonable.

D. Prejudice caused by the delay

In *Corpuz*, the Supreme Court recognized that inordinate delay may cause prejudice to the defendant. But it is not the defendant alone who may suffer prejudice. Delay may also make it harder for the prosecution, which has the burden of proving the guilt of the accused beyond reasonable doubt, to prove its case. Thus, there is a need to balance the prejudice to the defendant against the State's right to prosecute criminals. *Viz.:*



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

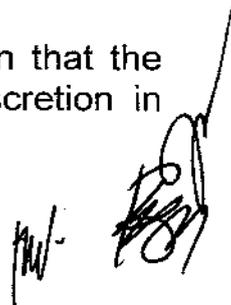
Delay is a two-edge sword. It is the government that bears the burden of proving its case beyond reasonable doubt. The passage of time may make it difficult or impossible for the government to carry its burden. The Constitution and the Rules do not require impossibilities or extraordinary efforts, diligence or exertion from courts or the prosecutor, nor contemplate that such right shall deprive the State of a reasonable opportunity of fairly prosecuting criminals. As held in *Williams v. United States*, for the government to sustain its right to try the accused despite a delay, it must show two things: (a) that the accused suffered no serious prejudice beyond that which ensued from the ordinary and inevitable delay; and (b) there was no more delay than is reasonably attributable to the ordinary processes of justice.

Here, accused Perez claims that he suffered anxiety during the conduct of the investigation. On the other hand, accused Catamco claims that documents pertaining to the subject transactions can no longer be found, and that she no longer had contact with the manufacturer of the liquid fertilizer in question.

This Court acknowledges that the accused suffered some form of prejudice. However, as discussed earlier, the time it took to conduct the fact-finding and preliminary investigations, while long, is not unreasonable, given the circumstances surrounding the present cases.

In fine, considering the factors in the balancing test, this Court finds that although there was delay in the conduct of the fact-finding and preliminary investigations, the right of accused Rama, Surbano, Catamco and Perez to speedy disposition of cases was not violated.

This Court cannot rule on accused Perez' contention that the Office of the Ombudsman committed grave abuse of discretion in



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finding that he conspired with his co-accused. In *Agdeppa v. Office of the Ombudsman*,¹⁹ citing *M.A. Jimenez Enterprises, Inc. v. Ombudsman*,²⁰ the Supreme Court held that the Ombudsman's determination of probable cause may only be assailed through certiorari proceedings before the Supreme Court. *Viz.:*

In general, the Court follows a policy of non-interference with the exercise by the Office of the Ombudsman of its investigatory and prosecutorial powers, in respect of the initiative and independence inherent in the said Office, which "beholden to no one, acts as the champion of the people and the preserver of the integrity of the public service." The Court expounded on such policy in *M.A. Jimenez Enterprises, Inc. v. Ombudsman*, thus:

It is well-settled that the determination of probable cause against those in public office during a preliminary investigation is a function that belongs to the Ombudsman. The Ombudsman is vested with the sole power to investigate and prosecute, *motu proprio* or upon the complaint of any person, any act or omission which appears to be illegal, unjust, improper, or inefficient. It has the discretion to determine whether a criminal case, given its attendant facts and circumstances, should be filed or not. As explained in *Esquivel v. Ombudsman*:

The Ombudsman is empowered to determine whether there exists reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof and, thereafter, to file the corresponding information with the appropriate courts. Settled is the rule that the Supreme Court will not ordinarily interfere with the Ombudsman's exercise of his investigatory and prosecutory powers without good compelling reasons to indicate otherwise. Said exercise of powers is based upon his constitutional mandate and the courts will not interfere with its exercise. The rule is based not only upon respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman, but upon practicality as well. Otherwise, innumerable petitions seeking dismissal of investigatory proceedings conducted by the Ombudsman will grievously hamper the functions of the office and the courts, in much the same way that courts will be swamped if they had to review the exercise of discretion on the part of public prosecutors each time they decided to file an information or dismiss a complaint by a private complainant.

The Court respects the relative autonomy of the Ombudsman to investigate and prosecute, and refrains from interfering when the latter exercises such powers either directly or through the Deputy Ombudsman, except when there is grave abuse of discretion. **Indeed, the Ombudsman's determination of probable cause may only be assailed through certiorari proceedings before**

¹⁹ G.R. No. 146376, April 23, 2014

²⁰ G.R. No. 155307, June 6, 2011

RESOLUTION

People vs. Rama, et al.

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this Court on the ground that such determination is tainted with grave abuse of discretion defined as such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. For there to be a finding of grave abuse of discretion, it must be shown that the discretionary power was exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and the abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act in contemplation of law.

(emphasis and underscoring supplied)

WHEREFORE, the Court rules as follows:

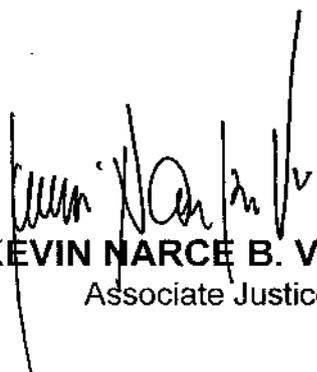
1. The *Motion to Quash* of accused Rama and Surbano is hereby DENIED for lack of merit.
2. The *Motion to Dimiss [sic] Cases and/or To Quash Informations* of accused Catamco is hereby DENIED for lack of merit.
3. The *Motion to Dismiss* of accused Perez is hereby DENIED for lack of merit.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice