



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0397

For: Violation of Section 3(e)
of Republic Act No. 3019

- versus -

ENRICO R. ECHIVERRI, ET AL.,
Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0398

For: Falsification of Public Document

- versus -

EDNA V. CENTENO, ET AL.,
Accused.

Present

FERNANDEZ, SJ, J.,

Chairperson

MIRANDA, J. and

VIVERO J.

X-----X

Promulgated:

SEP 14 2018

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the *Motion for Reconsideration*¹ filed by accused Enrico R. Echiverri, Edna V. Centeno and Jesusa C. Garcia.

The accused pray that this Court reconsider the Resolution dated August 22, 2018² and issue a new one dismissing the Informations.

They aver:

¹ Dated August 28, 2018; Record, pp. 264-269

² Record, pp. 251-260

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1. The delay in the preliminary investigation violated their rights to due process and to speedy disposition of cases.
2. Taken together with the piecemeal filing and resolution of the complaints against them, the delay in the proceedings before the Office of the Ombudsman is unjust, vexatious, capricious and oppressive.
3. It took the Office of the Ombudsman over two (2) years to conduct the investigation of over a hundred complaints covering the same set of accused for the same term the accused held their respective positions as City Mayor, Budget Officer and Accountant.
4. The Office of the Ombudsman cannot take refuge behind the judicial notice of its tremendous workload.
5. The only variation in said complaints were the names of the complainants. The Office of the Ombudsman should have no difficulty in obtaining evidence for the purpose of preliminary investigation considering that the cases were based on the same evidence as those for cases earlier filed.
6. The piecemeal filing of the complaints caused them public ridicule. Moreover, aside from having to suffer pointless incarcerations, they had to raise huge amounts of money for their bail bonds.
7. The piecemeal filing of the cases resulted in the same being at different stages of trial.

In its *Consolidated Comment/Opposition (To Accused's Motion for Reconsideration Dated 28 August 2018)*,³ the prosecution counters:

1. In their *Motion for Reconsideration*, the accused, invoking their right to speedy disposition of cases, merely reiterated their arguments in their earlier motion. They raise no new issues that would warrant reconsideration of the assailed Resolution.
2. In the assailed Resolution, the Court already ruled that the length of time spent in the conduct of the preliminary investigation is not unreasonable. Furthermore, the prejudice the accused claim to have suffered was caused by the number of cases filed against them, not by delay in the preliminary investigation.


³ Dated and filed on September 4, 2018

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3. The accused' invocation of their right to speedy disposition of cases is based not on the length of time, but on the prejudice caused by the number of cases against them.

THE COURT'S RULING

The Court resolves to deny the *Motion for Reconsideration* filed by accused Echiverri, Centeno and Garcia.

The accused insist that the piecemeal filing and resolution of the complaints by the Office of the Ombudsman caused the violation of their right to speedy disposition of cases. They argue that the complaint in the present cases are similar to those previously filed with the Office of the Ombudsman. All of these complaints are based on the same set of evidence, and thus, there is no justification for the delay in the conduct of the preliminary investigation. The Court is not convinced.

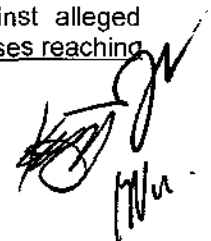
This matter had already been addressed in the assailed Resolution, the pertinent portion⁴ of which is hereunder quoted for convenience:

Here, the prosecution explained that the Office of the Ombudsman took over two (2) years to conduct the preliminary investigation because of the number of complaints involving the transactions entered into by accused Echiverri, Centeno and Garcia. Each complaint involves a particular transaction, and requires a separate investigation. As the accused admitted, there are over a hundred of such complaints. Considering the sheer volume of complaints that the Office of the Ombudsman had to evaluate, the time it took to conduct the preliminary investigation cannot be characterized as whimsical, oppressive or capricious.

This Court is inclined to agree with the prosecution. In *Mendoza-Ong v. Sandiganbayan*, citing *Dansal v. Fernandez*, the Supreme Court recognized that the number of cases reaching the Office of the Ombudsman may adversely affect the rate of the disposition of such cases. 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

⁴ pp. 7-8; Record, pp. 257-258



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the Ombudsman inevitably results. Naturally, disposition of those cases would take some time. x x x

(underscoring supplied)

In *People v. Sandiganbayan*, a case of more recent vintage, the Supreme Court recognized the large volume of cases pending before the Office of the Ombudsman. It was held that although the rules prescribe a certain period within which investigating officers must act upon complaints, such rules are not absolute. *Viz.:*

At this juncture, this Court takes judicial notice of the fact that these cases are not the only ones pending before the OMB. As can be gleaned from the assailed resolutions, these circumstances were not considered by the court *a quo* as it, evidently, merely ventured into a mathematical computation of the period from the filing of the First Complaint to the filing of the Informations before it.

It is relevant to note that while procedural periods to act upon complaints and motions are set by the rules, these may not be absolute. The law and jurisprudence allow certain exceptions thereto, as this Court and the law recognizes the fact that judicial, as well as investigatory, proceedings do not exist in a vacuum and must contend with the realities of everyday life. It bears stressing that in spite of the prescribed periods, jurisprudence continues to adopt the view that the fundamentally recognized principle is that the concept of speedy trial, or speedy disposition of cases for that matter, is a relative term and must necessarily be a flexible concept.

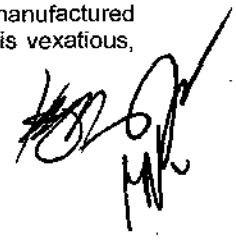
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Considering the numerous complaints pending before the Office of the Ombudsman—including those involving the transactions entered into by the City Government of Caloocan, and those not in connection with such transactions—the period of around one (1) year and two (2) months it took the Office of the Ombudsman to issue the Resolution dated September 2, 2016 cannot be considered unreasonable.

Furthermore, it does not appear that the piecemeal filing of the Informations was maliciously done. Neither does it appear that the period between the issuance of the Office of the Ombudsman's Resolution and the filing of the Informations with the Sandiganbayan was attended by vexatious, capricious, and oppressive delays, as defined in *Tai Lim v. Court of Appeals* as follows:

As aptly held by the Court of Appeals,

"The right has been defined by our Supreme Court in *Gregorio Kalaw versus Segundo Apostol, et al.*, 62 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,



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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...

(underscoring supplied)

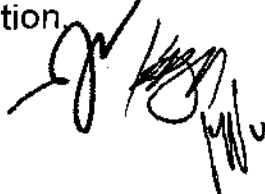
The Court could stop here, but for the sake of greater clarity, some further discussion is in order.

Indeed, it appears that the numerous complaints filed with the Office of the Ombudsman covered the same set of accused, and the same set of transactions entered into by the City of Caloocan during the same term wherein accused Echiverri held the position of Mayor. But it must be emphasized—and as admitted by the accused—that the number of transactions entered into by the City of Caloocan during accused Echiverri's term as Mayor was not a mere handful, but—as the accused repeatedly state—over a hundred.

The numerous complaints, filed by different complainants, on different dates, each involved a different transaction. Each transaction, in turn, were entered into on a different date, and involved a different contractor and a different set of documents. If the Office of the Ombudsman resolved the complaints not on the basis of the merits of the evidence for each particular complaint, but on the basis of evidence in complaints previously filed—as the accused now appear to suggest—then the result would, no doubt, be a faster resolution of the complaints, but at the cost of depriving them of their right to due process.

Considering that the numerous complaints were filed by different complainants, and on different dates, this Court finds no bad faith on the part of the Office of the Ombudsman in the conduct of separate investigations, and in the piecemeal resolution of complaints and filing of Informations, including those in the present cases. Further considering that the Office of the Ombudsman also handles other cases aside from those involving the transactions entered into by the City of Caloocan, the resultant delay in the conduct of the preliminary investigation in the present cases cannot be characterized as vexatious, capricious and oppressive.

In fine, the Court finds no reason that would warrant the reversal of the assailed Resolution.



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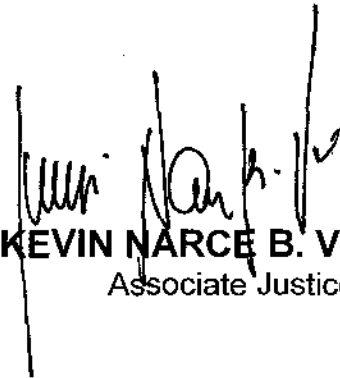
WHEREFORE, accused Echiverri, Centeno and Garcia's *Motion for Reconsideration* is hereby DENIED for lack of merit.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

WE CONCUR:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice