

REPUBLIC OF THE PHILIPPINES  
**SANDIGANBAYAN**  
QUEZON CITY

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**SB-17-CRM-1163 to 1170**  
For: Violation of Section 7,  
R.A. No. 3019

- versus -

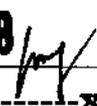
**SB-17-CRM-1171 to 1178**  
For: Violation of Article 183,  
Revised Penal Code

**CECILIA SEARES-LUNA,**  
*Accused.*

*Present:*

**FERNANDEZ, SJ, J.,**  
*Chairperson*  
**MIRANDA, J.,**  
**FERNANDEZ, B,\* J.**

*Promulgated:*

**OCT 24 2018** 

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**RESOLUTION**

**FERNANDEZ, SJ, J.:**

This resolves the *Motion for Reconsideration*<sup>1</sup> filed by accused Cecilia Seares-Luna on August 22, 2018, together with the *Comment/Opposition*<sup>2</sup> filed by the prosecution on August 28, 2018.

Accused Luna asks this Court to: a) Reconsider its August 17, 2018 Resolution denying her *Motion to Quash* 

\* Associate Justice Bernelito R. Fernandez participated in the Resolution dated August 17, 2018.

<sup>1</sup> Dated August 20, 2018

<sup>2</sup> (To the Accused's *Motion for Reconsideration*) dated August 24, 2018 

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Informations; b) Quash the present Information on the ground of inordinate delay; and, c) Dismiss the cases against her.<sup>3</sup>

Accused Luna argues:

- a. The present cases are not different from that of former Congressman Abraham Mitra, which was earlier dismissed by the Sandiganbayan on the ground of violation of the right to speedy disposition of cases. Just as in the instant case, the Information charging former Congressman Mitra was also filed after more than 5 years of a delayed preliminary investigation.
- b. The Court can take judicial notice of the Sandiganbayan's findings in: (i) *People vs. Uldarico Andutan, et al.*; (ii) *People vs. Winston Garcia, et al.*; (iii) *People vs. Lito Lapid, et al.*; (iv) *People vs. Pedro Cuerpo*; (v) *People vs. Antonio Kho*; (vi) *People vs. Salvacion Perez*; (vii) *People vs. Eduardo Zialcita*; (viii) *People vs. Antonio Cuenco*; and (ix) *People vs. Antonio Yapha, Jr.*, among others, where similar pronouncements of inordinate delay on the part of the Ombudsman justified the quashal or dismissal of the respective criminal Information.
- c. There is inordinate delay in the conduct of preliminary investigation, which is unjustified, vexatious, capricious, and oppressive. It took the Office of the Ombudsman more or less 7 years to complete the preliminary investigation and almost 12 years from the fact finding inquiry, or, about 9 years from the filing of the complaint to the filing of the Information before this Court.

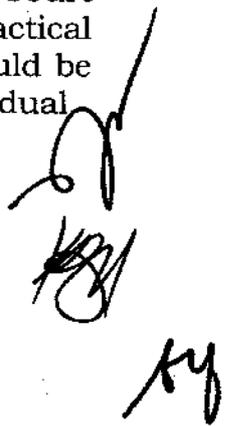
No less than the Supreme Court in the case of *Tatad vs. Sandiganbayan*,<sup>4</sup> declared that a delay of close to 3 years before the termination of the preliminary investigation cannot be deemed reasonable and justifiable and is violative of the right of the accused to due process and speedy disposition of cases.

- d. In *Coscolluela vs. Sandiganbayan*,<sup>5</sup> the Supreme Court ruled that the looming unrest as well as the tactical disadvantages carried by the passage of time should be weighed against the State and in favor of the individual

<sup>3</sup> Motion for Reconsideration dated August 20, 2018, pp. 1 & 13

<sup>4</sup> 59 SCRA 70 [1988]

<sup>5</sup> 701 SCRA 188 [2013]



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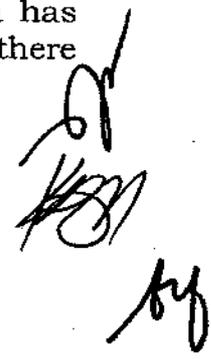
- e. In the 9 long years it took to terminate the preliminary investigation, this court cannot deny that accused Luna was exposed to undue anxiety as well as mental and emotional anguish as she was left to await her fate like the Sword of Damocles hanging over her head. As a result, there is clear and undeniable prejudice resulting from the delay of the Office of the Ombudsman.
- f. There is no failure to assert the right to a speedy disposition of the case. There is no obligation on the part of accused to follow-up the progress of her criminal case. It is the State's obligation to afford her a speedy disposition of her case. It is her right which is not conditioned upon her invocation of the same. There is no specific period within which to invoke the speedy disposition of one's case to constitute a waiver. But the longer the delay takes, with more reason must it be taken against the state and in favor of the accused. Hence, in the cases decided by the Supreme Court, as well as the cases of *Mitra, Lapid, Andutan, Garcia, Cuerpo, Kho, Zialcita, Perez, Cuerpo, and Yapha*, the accused did not raise the issue of delay at the first instance with the Office of the Ombudsman. The same standard should be applied to accused Luna.
- g. This Court could not be selective in its appreciation of the **Coscolluela** ruling. This court elected to focus only on the ruling of the Supreme Court regarding the failure to assert the constitutional right to speedy disposition of cases, and even misapplied the same in order to impute fault on accused Luna.
- h. While the facts of the present case indeed differ from **Tatad, Coscolluela** and **Corpuz vs. Sandiganbayan**,<sup>6</sup> the commonality is in the long delay in the conduct of the preliminary investigation.
- i. This Court ruled that **Tatad** does not apply here since **Tatad** involved political motivations as the basis for activating and compelling the prosecutorial process, unlike in the present case. However, in **Duterte vs. Sandiganbayan**,<sup>7</sup> the Supreme Court clarified that the right to speedy disposition of cases is not limited to those cases involving political persecution.
- j. **People vs. Sandiganbayan and Gamos**<sup>8</sup> cannot be applied to sustain its findings that accused Luna has already waived her constitutional right. In **Gamos**, there

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<sup>6</sup> 442 SCRA 294 [2004]

<sup>7</sup> 289 SCRA 721 [1998]

<sup>8</sup> G.R. No. 232197-98, April 16, 2018

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is only a span of 1 year and 3 months from the receipt of the last pleading on March 9, 2012 to conclude the investigation and find probable cause against respondents. Moreover, in the *Gamos* case, the Supreme Court noted that the respondents only asserted the right to speedy trial in their Motion to Dismiss after 1 year and 8 months from the time the Information were filed. The circumstances of the instant case are entirely different.

- k. The last pleading was filed on December 22, 2008. The OMB Joint Resolution dated November 14, 2011 finding probable cause to indict accused Luna was approved only on November 13, 2015. The Information charging accused Luna of 8 counts of violation of Article 183, Revised Penal Code and 8 counts of violation of Section 7, R.A. No. 3019 were filed only on June 13, 2017 while accused Luna's *Motion to Quash Information and to Defer Arraignment* was filed on September 20, 2017 or 3 months later.

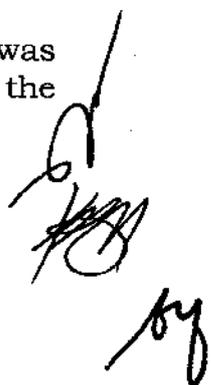
There is nothing to support this Court's conclusion that accused Luna waived her constitutional right to a speedy disposition of her case. *Coscolluela* is the controlling jurisprudence, which prevails over the cases cited by this Court and which clarified that the respondent/accused cannot be faulted for his failure to assert his rights during the pendency of the preliminary investigation.

- l. It is clear that there is no plausible explanation for the long delay on the completion of the preliminary investigation in the instant case and the accused had no part in prolonging the completion of the preliminary investigation. Like the numerous cases dismissed by this Court on the ground of inordinate delay, there is no justifiable reason to rule otherwise in this case.<sup>9</sup>

In its *Comment/Opposition*, the prosecution argued:

- a. The instant motion is a mere rehash of the arguments raised by accused-movant in her *Motion to Quash Informations and to Defer Arraignment* dated 19 September 2017.
- b. The amount of time questioned by accused-movant was deemed reasonable to allow the Office of the

<sup>9</sup> Motion for Reconsideration dated August 20, 2018, pp. 2-13



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Ombudsman to properly evaluate and resolve the existence of probable cause.

- c. The claim of delay of more than 12 years was due to the inclusion of the period between the submission of the alleged fact-finding investigation in 2005 by the Office of the Ombudsman and the filing of the Complaint by FIO. The time spent in the fact-finding investigation should not be considered in the determination of the accused' constitutional right to speedy disposition of the case. Said fact-finding did not prejudice accused-movant.
- d. Accused-movant's claim of inordinate delay must fail due to her inaction. It is clear from the records that accused-movant herein filed on 14 December 2015 her *Motion for Partial Reconsideration (re: Joint Resolution dated 14 November 2011)* dated 07 December 2015. Said Motion discussed her arguments and defenses, without questioning the now claimed undue, vexatious delay attendant in the case. If she was indeed prejudiced by the contended delay incurred by the Office of the Ombudsman in resolving the Complaint for almost seven (7) years from its filing, it would have been argued in the Motion. Further, the records bore the absence of any motion for early resolution of the complaint filed by the accused-movant.
- e. The subject motion is nothing more than a dilatory procedural tactic that serves to delay the proceedings of this case, and, therefore, should be denied for lack of merit.<sup>10</sup>

**RULING**

The *Motion for Reconsideration* filed by accused Cecilia Seares-Luna is denied for lack of merit. The matters raised therein are mere rehash and reiterations of the arguments in accused Luna's *Motion to Quash Informations*, and were already passed upon by this Court in its August 17, 2018 *Resolution*. As this Court ruled, there was no violation of accused Luna's right to a speedy disposition of her case since:

- 1. The period of 9 years, 1 month and 4 days for the Office of the Ombudsman to conduct the fact-finding investigation and the preliminary investigation constitutes delay. However, the factual

<sup>10</sup> Comment/Opposition dated August 24, 2018, pp. 2-3



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circumstances in the instant cases do not justify the drastic remedy of dismissal in favor of the accused.

2. Accused Luna failed to timely assert her right to the speedy disposition of her case.
3. Accused Luna failed to demonstrate how the delay prejudiced her.

The Court finds no need to reiterate its reasons for denying accused Luna's *Motion to Quash*. However, it must be added that the prejudice alleged in the *Motion for Reconsideration*, i.e., anxiety, mental and emotional anguish, would not sufficiently tilt the balance for the Court to rule that there was a violation of accused Seares-Luna's right to a speedy disposition of her case, to the prejudice of public justice. Anxiety, mental and emotional anguish on the part of a defendant or respondent would expectedly result from the filing and the pendency of a case, more so a criminal case. But mere allegation, without proof, that such actually prejudiced the accused is not enough. What is apparent in this case is that the supposed prejudice was not compelling enough for the accused to ask the Office of the Ombudsman to speed up the disposition of her cases.

The Court will proceed to rule on the ancillary matters raised by accused Luna in her *Motion for Reconsideration*.

First. Accused Luna's invocation of ***Duterte vs. Sandiganbayan***<sup>11</sup> to assail this Court's conclusion that *Tatad* does not apply to her case is misplaced. A perusal of the Resolution dated August 17, 2018 will readily show that this Court did not declare that a case may be dismissed on the ground of inordinate delay only when political motivations are involved. The ruling of the Court is that *Tatad* does not apply because unlike in *Tatad* where the Supreme Court found that "political motivations played a vital role in activating and propelling the prosecutorial process in this (said) case," the prosecution of accused Luna does not appear to have been politically motivated. This Court's reading of *Tatad* is consistent with the recent case of

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<sup>11</sup> *Supra*



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**Cagang vs. Sandiganbayan**,<sup>12</sup> where the Supreme Court explained:

Tatad, as qualified by Angchangco, likewise mandates the dismissal of the case if there is a violation of the right to speedy disposition of cases. The immediate dismissal of cases is also warranted if it is proven that there was malicious prosecution, if the cases were politically motivated, or other similar instances. Once these circumstances have been proven, there is no need for the defense to discharge its burden to prove that the delay was inordinate.

Verily, as there is no showing that the present cases were politically motivated, there is no basis to immediately dismiss them. The Court had to, as it did in its August 17, 2018 Resolution, apply the balancing test<sup>13</sup> in relation to the fourfold factors, as enunciated in **Remulla vs. Sandiganbayan**<sup>14</sup> and **Corpuz vs. Sandiganbayan**.<sup>15</sup>

Second. Accused Luna's claim that this Court selectively and erroneously applied **Coscolluela vs. Sandiganbayan**<sup>16</sup> is similarly without basis. This Court acknowledged the Supreme Court's pronouncement in **Coscolluela** that "it was not the petitioner's duty to follow up on the prosecution of their case." However, this Court pointed out that in the more recent case of **People vs. Sandiganbayan and Gamos**,<sup>17</sup> the Supreme Court, in reversing the Sandiganbayan's finding of inordinate delay, called out the Sandiganbayan's failure to consider that therein accused failed to invoke his right to a speedy disposition of his case. Thus, this Court similarly concluded that accused Seares-Luna waived her right to a speedy disposition of her case when she did not assert the same during the proceedings before the Office of the Ombudsman where the alleged delay occurred.

<sup>12</sup> G.R. Nos. 206438 and 206458, July 31, 2018

<sup>13</sup> First introduced in **Martin vs. Ver**, G.R. No. L-62810, July 25, 1983; Referred to as *Barker* balancing test in **Cagang vs. Sandiganbayan**, *Supra*.

<sup>14</sup> G.R. No. 218040, April 17, 2017.

<sup>15</sup> *Supra*

<sup>16</sup> *Supra*

<sup>17</sup> *Supra*

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Significantly, in **Cagang**, the Supreme Court disposed that failure to timely invoke one's right to the speedy disposition of his case constitutes a waiver, *viz*:

The period for the determination of whether inordinate delay was committed shall commence from the filing of a formal complaint and the conduct of the preliminary investigation. The periods for the resolution of the preliminary investigation shall be that provided in the Rules of Court, Supreme Court Circulars and the periods to be established by the Office of the Ombudsman. Failure of the defendant to file the appropriate motion after the lapse of the statutory or procedural periods shall be considered a waiver of his or her right to speedy disposition of cases.

Finally, the decisions and/or resolutions of one division of this Court do not bind or prejudice the ruling of the other divisions of this Court. The Supreme Court, in **Francisco vs. Rojas**,<sup>18</sup> stressed that a ruling of a particular division of the Court of Appeals, while may be taken cognizance of in some cases, cannot bind or prejudice a ruling of another division thereof, the former being a co-ordinate authority, *viz*:

In a hierarchical judicial system like ours, the decisions of the higher courts bind the lower courts; the courts of co-ordinate authority do not bind each other; and the one highest court does not bind itself, it being invested with the innate authority to rule according to its best lights. The principle of *stare decisis* enjoins adherence by lower courts to doctrinal rules established by the Supreme Court in its final decisions. Thus, a ruling of a particular division of the CA, while may be taken cognizance of in some cases, cannot bind or prejudice a ruling of another division thereof, the former being a co-ordinate authority and, relative to Us, is still considered as a lower court albeit empowered with an appellate jurisdiction.<sup>19</sup>

Similarly, this Division is not bound by the pronouncements of the other divisions of the Sandiganbayan in *People vs. Mitra*, *People vs. Andutan*, *People vs. Garcia*, *People vs. Lapid*, *People vs. Cuerpo*, *People vs. Kho*, *People vs. Perez*, *People vs. Zialcita*, *People vs. Cuenco*, and, *People vs. Yapha*. Only the rulings and decisions of the Supreme Court

<sup>18</sup> 723 SCRA 423 [2014]

<sup>19</sup> At p. 443



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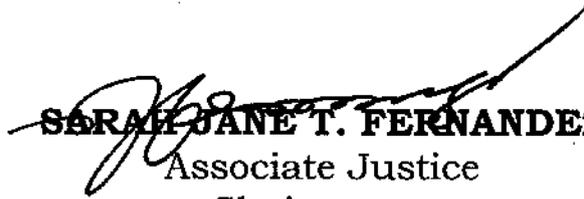
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serve as binding precedents to the decisions and resolutions to be made by the Sandiganbayan.

**WHEREFORE**, the *Motion for Reconsideration* filed by accused Cecilia Seares-Luna, is **DENIED** for lack of merit.

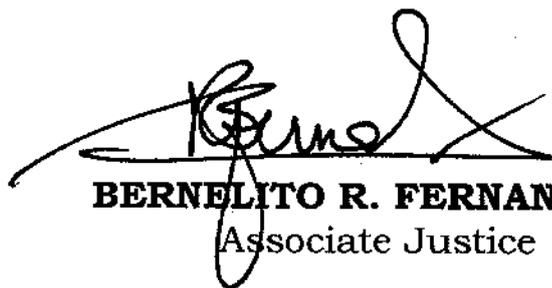
**SO ORDERED.**

Quezon City, Metro Manila.

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**WE CONCUR:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**BERNELITO R. FERNANDEZ**  
Associate Justice