



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SPECIAL SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0140

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-0141

For: Falsification of Public Document

- versus -

EDNA V. CENTENO, ET AL.,
Accused.

Present

FERNANDEZ, SJ, J.,

Chairperson

MIRANDA, J.

MUSNGI,* J.

QUIROZ, J. and**

LAGOS, J.**

X-----X

Promulgated:

OCT 15 2018

X-----X

RESOLUTION

FERNANDEZ, SJ, J.

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

* J. Musngi participated in the assailed Resolution (Per Administrative Order No. 057-2018 dated January 29, 2018; *Revised Internal Rules of the Sandiganbayan*, Rule IX, Sec. 2[a]).

** J. Quiroz and J. Lagos participated in the assailed Resolution (Per Administrative Order No. 9-C-2018 dated May 21, 2018; *Revised Internal Rules of the Sandiganbayan*, Rule IX, Sec. 2[a]).

¹ Dated August 1, 2018; Record, pp. 344-349

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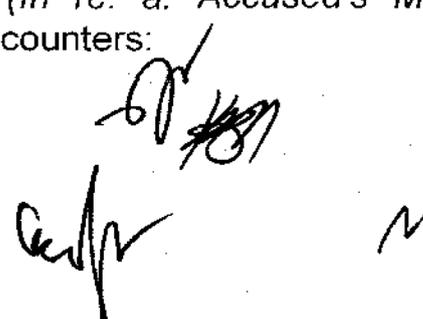
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In their Motion, the accused pray that the Resolution dated July 26, 2018 be reconsidered and a new one directing the dismissal of the Informations against them be issued. They argue:

1. It took the Office of the Ombudsman almost three (3) years to terminate the preliminary investigation. This violates their right to speedy disposition of cases.
 - a. Under the Rules of Procedure of the Office of the Ombudsman, the preliminary investigation shall be conducted in the manner prescribed in Rule 112, Sec. 3 of the Rules of Court.
 - b. Sec. 3(f) of Rule 112 of the Rules of Court requires the investigating officer to determine whether or not there is sufficient ground to hold the respondent for trial within ten (10) days.
 - c. Their Motion for Reconsideration was resolved as early as March 10, 2017. It took the Office of the Ombudsman almost one (1) year to file the Informations.
 - d. The Information in the present cases were filed only on February 23, 2018—around two (2) years and four (4) months from the filing of the complaint.
2. There is no acceptable reason for the delay of almost three (3) years in the termination of the preliminary investigation. The case before the Office of the Ombudsman was the 67th case covering the same set of facts and the same set of accused.
3. There was no difficulty in obtaining evidence for the preliminary investigation, considering that the different cases pending before the Office of the Ombudsman were based mostly on the same evidence.
4. The piecemeal filing of cases against them is vexatious, capricious and oppressive. The same caused constant anxiety and public humiliation, and prevented the possibility of the consolidation of cases despite being based on the same facts and transactions.

In its *Comment/Opposition (In re: a. Accused's Motion for Reconsideration)*,² the prosecution counters:

² Dated and filed on August 6, 2018

Handwritten signatures and initials, including a large signature on the left and several smaller ones on the right.

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1. The accused merely reiterated their arguments in their *Urgent Motion to Dismiss*.³ Such arguments had already been passed upon by the Court.
2. The Court ruled that the period spent during the preliminary investigation is not unreasonable.
3. The accused represented that they received the Resolution dated July 26, 2018 on August 1, 2018. However, the truth is that both parties received copies of the same on July 27, 2018, during the scheduled marking of exhibits.

THE COURT'S RULING

The arguments of the accused in their *Motion for Reconsideration* are nothing but a reiteration or rehash of their arguments in their *Urgent Motion to Dismiss*. This Court, in the Resolution dated July 26, 2018,⁴ had already considered, and found the same to be without merit. Hence, it is unnecessary to discuss them anew.

In *Mendoza-Ong v. Sandiganbayan*,⁵ it was held:

Concerning the first ground abovesited, the Court notes that the motion contains merely a reiteration or rehash of arguments already submitted to the Court and found to be without merit. Petitioner fails to raise any new and substantial arguments, and no cogent reason exists to warrant a reconsideration of the Court's Resolution. It would be a useless ritual for the Court to reiterate itself.

Notably, the accused' contention that their right to speedy disposition of cases was violated is primarily based on the fact that it took the Office of the Ombudsman almost three (3) years to terminate the preliminary investigation, when it should have taken only ten (10) days under the Rules of Procedure of the Office of the Ombudsman and the Rules of Court. This Court, in the assailed Resolution, disagreed, and found that the period of around two (2) years and four (4) months it took to terminate the preliminary investigation is not unreasonable. For convenience, the pertinent portion⁶ of the assailed Resolution is hereunder quoted:

³ Record, pp. 234-240

⁴ Record, pp. 323-338

⁵ G.R. Nos. 146368-69, October 18, 2004

⁶ p. 8; Record, p. 330

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This Court is not inclined to agree with the prosecution's contention that accused Centeno and Garcia contributed significantly to the delay. While it is true that they requested for an extension of time for the filing of their counter-affidavit, such extension was only for a period of sixteen (16) days. This Court notes that they filed their Joint Counter-Affidavit one (1) month after they were directed to do so.

This Court, nevertheless, finds that the two (2) years and four (4) months it took the Office of the Ombudsman to file the Informations is not unreasonable. In *Mendoza-Ong v. Sandiganbayan*, citing *Dansal v. Fernandez*, the Supreme Court recognized that the number of cases being handled by the Office of the Ombudsman may cause delays. *Viz.:*

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)

Breaking down the period from the filing of the Complaint-Affidavit to the filing of the Informations with the Court, it does not appear that the case stagnated for an overly long time at any stage of the preliminary investigation. The Resolution finding probable cause to indict the accused was prepared around eleven (11) months after the accused filed their respective counter-affidavits, and was approved by the Ombudsman around one (1) month thereafter. The Order denying the accused' Joint Motion for Reconsideration was approved around three (3) months after the filing of such motion. Finally, the Informations were filed around nine (9) months from the approval of the Order denying the accused' Joint Motion for Reconsideration.

In the more recent case of *People v. Sandiganbayan*,⁷ the Supreme Court had the occasion to reiterate that in determining if there is a violation of the right to speedy disposition of cases, courts should not venture into a mere mathematical computation of the period from the filing of the complaint to the filing of the Information. And more pertinent to the present cases, while procedural rules provide for periods within which complaints must be resolved, such rules are not absolute. *viz.:*

⁷ G.R. Nos. 232197-198, April 16, 2018

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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.

In fine, there is no reason to warrant the reversal of the assailed Resolution.

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

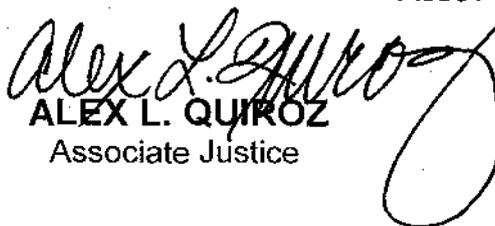
SO ORDERED.


SARAH JANE T. FERNANDEZ

Associate Justice
Chairperson

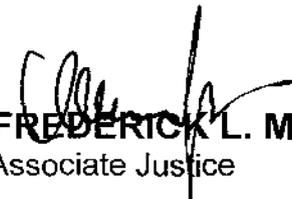
WE CONCUR:


KARL B. MIRANDA
Associate Justice


ALEX L. QUIROZ
Associate Justice


RAFAEL R. LAGOS
Associate Justice

I DISSENT:


MICHAEL FREDERICK L. MUSNGI
Associate Justice