



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0252,
For: Violation of Sec. 3(e) of
R.A. 3019

- versus -

**VICENTE BEDIONES
BERMEJO,**
Accused.

Present:
FERNANDEZ, SJ, J.
Chairperson
**MIRANDA, J. and
VIVERO, J.**

Promulgated:

OCT 01 2018

x-----x

RESOLUTION

VIVERO, J.:

For resolution is accused Vicente Bediones Bermejo's *Motion to Quash and/or Motion to Dismiss for Inordinate Delay or Violation of Accused's Constitutional Rights to Due Process and Speedy Disposition of His Case* dated 19 August 2018.

In his Motion, the accused prays that this Court quash the Information in the present case and dismiss the same on the ground of inordinate delay, among others. In support thereof, the accused contends that:

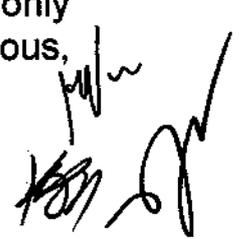
1. The violation of his right to speedy disposition of cases is a breach of procedural due process and more pertinently, effectively strips the Ombudsman of the authority to file an Information.
2. His constitutional rights to due process and speedy disposition of cases were violated because of the

inordinate delay in the completion of the preliminary investigation.

3. The Ombudsman allowed a total of approximately eight (8) years from the initiatory Letter-Complaint in September 2010 until the filing of the Information on 6 April 2018.

In its *Comment/Opposition to the Motion to Quash and/or Motion to Dismiss for Inordinate Delay or Violation of Accused's Constitutional Rights to Due Process and Speedy Disposition of His Case* dated 28 August 2018, the prosecution counters that:

1. The accused was arraigned on May 11, 2018, where he pleaded not guilty. He filed the present Motion more than four (4) months after his arraignment and solely on the ground that there was a violation of his right to speedy disposition of a case, thereby stripping the Ombudsman of its authority to file the Information. Further, the ground asserted by the accused that is violation of his right to disposition of case and/or lack of authority of the Ombudsman, is not one of the exceptions provided under the Rules, the timeliness of the filing of the motion to quash is material. Accordingly, by entering his plea, accused is deemed to have waived any objection he may have to the validity of the Information.
2. The right to a speedy disposition of a case is a relative or flexible concept such that not all delays attendant to the prosecution of a case automatically result in the violation of this right. What is constitutionally impermissible are unreasonable, arbitrary and oppressive delays which render rights nugatory.
3. The allegation of "inordinate delay" cannot be sufficiently supported by a "mathematical reckoning of time involved." Particular regard must be taken of the facts and circumstances peculiar to each case. Moreover, the right to speedy disposition of cases, like the right to speedy trial, is deemed violated only when the proceedings are attended by vexatious,



RESOLUTION

People vs. Bermejo

Criminal Case No. SB-18-CRM-0252

Page 3 of 8

x-----x

capricious and oppressive delays, or a long period of time is allowed to elapse without the party having his case tried.

4. In computing the length of delay, accused Bermejo reckoned the purported delay on the date appearing on the letter complaint of Roxas City Mayor Alan B. Celino, which is September 23, 2010.
5. Records of the Office of the Ombudsman disclose that when Mayor Celino forwarded his letter complaint to the Office of the Ombudsman, a fact-finding investigation was conducted. It must be pointed out that when the Office of the Ombudsman conducted the fact-finding investigation there was no case against accused to speak of yet.
6. The basis of the Information before this Court is the Complaint Affidavit of the Field Investigation Office (FIO) of the Office of the Ombudsman. It was only when the Complaint Affidavit of the FIO was filed on October 22, 2015 that the prosecutorial process against accused had commenced. Prior to the conduct of preliminary investigation, it cannot be said that accused was exposed to vexatious, capricious and oppressive delays as there was still no case against him. Therefore, it is erroneous to state that the alleged period of delay should be reckoned from the date of the letter complaint of Mayor Celino.
7. Hereunder are events from the preliminary investigation to the filing of the Information with the Court:
 - a. Complaint Affidavit of the FIO was filed on October 22, 2015.
 - b. Resolution dated May 23, 2017 was rendered by the Office of the Ombudsman finding probable cause to indict accused for violation of Section 3(e) of R.A. 3019.

A handwritten signature in black ink, appearing to be a stylized name, located at the bottom right of the page.

- c. On October 11, 2017, accused filed his Omnibus Motion (a) for partial reconsideration of the resolution dated 23 May 2017 and/or reinvestigation; and (b) to hold in abeyance the filing of Information or withdraw if one has already been filed.
 - d. In the Order dated November 27, 2017, the Office of the Ombudsman denied the foregoing Omnibus Motion filed by accused. Subsequently, on April 6, 2018, the Information for violation of Section 3(e) of R.A. 3019 was filed with the Sandiganbayan.
8. The right to speedy disposition of a case as any other constitutionally or statutory conferred right, except when otherwise expressly so provided by law, may be waived. It must, therefore, be timely asserted. Had the accused truly intended to assert his right to a speedy disposition of his case, he could have easily filed the motion to dismiss before his arraignment but did not. Instead, he participated in the proceedings before the Office of the Ombudsman and this Honorable Court.
9. Accused's active participation in the proceedings before this Court clearly indicates that he has waived his right to a speedy disposition of a case. Truly, the filing of the present motion is not for the purpose of claiming a right purportedly violated but a mere afterthought and serves no other purpose than to delay the proceedings, which should not be permitted.

A handwritten signature in black ink, appearing to be a stylized name, located at the bottom right of the page.

THE COURT'S RULING

The Court resolves to deny the Motion of accused Bermejo.

The pivotal issue in this case is whether or not the right to due process and to speedy disposition of a case of the accused was violated due to the alleged inordinate delay.

The accused contends that the excessive, unwarranted and oppressive delay in the resolution of the preliminary investigation before the Ombudsman was a clear breach of his human right, more particularly Section 16, Article III of the 1987 Constitution.

The accused's contention is bereft of merit.

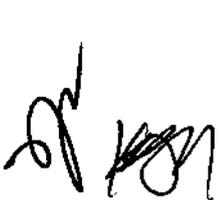
Section 16, Article III of the 1987 Constitution guarantees that "all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies."

However, in *BRAZA v. THE HONORABLE SANDIGANBAYAN (1st Division)*,¹ the Supreme Court emphasized that the right to a speedy disposition of a case is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays, or when unjustified postponements of the trial are asked for and secured, or when without cause or justifiable motive, a long period of time is allowed to elapse without the party having his case tried. The constitutional guarantee to a speedy disposition of cases is a relative or flexible concept. It is consistent with delays and depends upon the circumstances. What the Constitution prohibits are unreasonable, arbitrary and oppressive delays which render rights nugatory.

The Supreme Court ruled in the case of *Benares v. Lim*² that delay is not a mere mathematical computation of the time involved. Each case must be decided upon the facts peculiar to it. The following factors must be considered and balanced: the length of the delay, the reasons for such delay, the assertion or

¹ G.R. No. 195032, February 20, 2013

² G.R. No. 173421, December 14, 2006

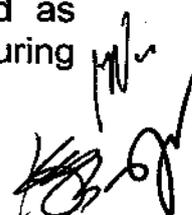


failure to assert such right by the accused, and the prejudice caused by the delay.

Using the foregoing yardstick, the Court finds that accused Bermejo's right to speedy disposition of the case has not been infringed.

Record shows that the Letter Complaint – On The Anomalous Transaction Involving Three (3) Government Vehicles Registered in the Name of the City of Roxas was filed in 23 September 2010, by Roxas City Mayor Angel Alan B. Celino before the Office of the Ombudsman (Visayas). Thereafter, in its Order dated 22 February 2011, the Office of the Ombudsman (Visayas) found enough basis to proceed with the administrative investigation of the case and ordered the accused to file his counter-affidavit, which the latter complied on 9 May 2011. Mayor Celino filed a Reply-Affidavit on 19 May 2011, while, the accused filed his Rejoinder-Affidavit against the reply of Mayor Celino. The Office of the Ombudsman (Visayas) issued a Resolution dated 7 January 2013, recommending that the Criminal Complaint against accused Bermejo be referred to the Public Assistance and Corruption Prevention, Office of the Ombudsman for further fact finding and that in the meantime the same be dismissed and terminated as far as the said office is concerned without prejudice to the outcome of the fact-finding investigation. The Field Investigation Office of the Office of the Ombudsman filed the Complaint Affidavit on 22 October 2015 and an Order was released by the Office of the Ombudsman directing the accused to file his counter-affidavit for violation of Section 3(h) of R.A. 3019. Subsequently, on 23 May 2017, the Office of the Ombudsman rendered a Resolution finding probable cause to indict accused for violation of Section 3(e) of R.A. 3019. On 11 October 2017, accused filed his Omnibus Motion (a) for partial reconsideration of the resolution dated 23 May 2017 and/or reinvestigation; and (b) and to hold in abeyance the filing of Information or to withdraw if one has already been filed which was denied by the Office of the Ombudsman in its Order dated 21 November 2017. Subsequently, on 6 April 2018, the Information for violation of Section 3(e) of R.A. 3019 was filed with the Sandiganbayan.

Quite clearly, the delay can hardly be considered as excessive, unwarranted and oppressive. The period during



RESOLUTION

People vs. Bermejo

Criminal Case No. SB-18-CRM-0252

Page 7 of 8

x-----x

which the records of this case were examined and reviewed for case build-up, the time poured into the research of pertinent laws and jurisprudence, the thoroughness of analysis must be considered as reasonable processes of justice. Moreover, the proceedings were done for the protection of the rights of the accused so that his rights will not be compromised at the altar of expediency.

In *Dansal v. Fernandez, Sr.*,³ the Supreme Court held:

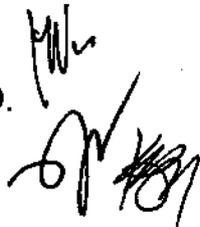
“The Court is not unmindful of the duty of the Ombudsman under the Constitution and Republic Act No. 6770 to act promptly on Complaints brought before him. But such duty should not be mistaken with a hasty resolution of cases at the expense of thoroughness and correctness. Judicial notice should be taken of the fact that the nature of the Office of the Ombudsman encourages individuals who clamor for efficient government service to freely lodge their Complaints against wrongdoings of government personnel, thus resulting in a steady stream of cases reaching the Office of the Ombudsman.”

Also, as earlier stated, mere mathematical reckoning of the time spent for the investigation is not a sufficient basis to conclude that there was inordinate delay.

In sum, for purposes of determining if the right to speedy disposition of cases was violated, it must be shown that there was serious prejudice caused by inordinate delay in the proceedings. The Court does not find any vexatious, capricious, and oppressive delay in the present case.

WHEREFORE, accused Vicente Bediones Bermejo's *Motion to Dismiss* dated 19 August 2018 is DENIED for lack of merit.

SO ORDERED.

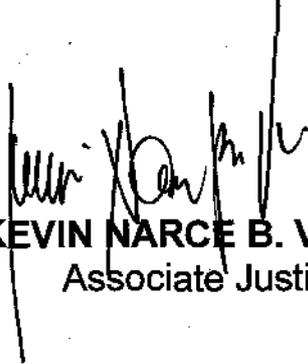


³ G.R. No. 126814, March 2, 2000

RESOLUTION
People vs. Bermejo
Criminal Case No. SB-18-CRM-0252

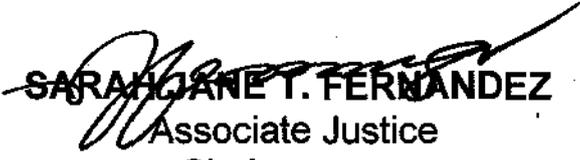
Page 8 of 8

X-----X



KEVIN NARCE B. VIVERO
Associate Justice

WE CONCUR:



SARAIJANE T. FERNANDEZ
Associate Justice
Chairperson



KARL B. MIRANDA
Associate Justice