



REPUBLIC OF THE PHILIPPINES

*Sandiganbayan*

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff,

SB-18-CRM-0464

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

SB-18-CRM-0465 to 0468

For: Falsification of Public Document

*Present*

- versus -

FERNANDEZ, SJ, J.,  
Chairperson

MIRANDA, J. and  
VIVERO, J.

ENRICO R. ECHIVERRI, ET AL.  
Accused.

*Promulgated:*

**OCT 25 2018**

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RESOLUTION

**FERNANDEZ, SJ, J.**

This resolves the *Motion for Reconsideration*<sup>1</sup> filed by accused Enrico R. Echiverri, Russel C. Ramirez, Edna V. Centeno, Evelina M. Garma and Jesusa C. Garcia.

In their Motion, the accused pray that this Court reconsider the Resolution dated October 1, 2018<sup>2</sup> and issue a new one dismissing the present cases on the ground of the violation of their right to speedy disposition of cases. They argue:

1. The Office of the Ombudsman violated its mandate to act promptly on the complaints before it.
2. It defied its own protocol as provided in Rule II, Sec. 4 of the *Rules of Procedure of the Office of the Ombudsman*.

<sup>1</sup> Dated October 10, 2018, Record, pp. 379-405

<sup>2</sup> Record, pp. 356-369

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3. The volume of transactions and the different levels of review in the Office of the Ombudsman do not justify the delay.
4. The Office of the Ombudsman should have conducted a clarificatory hearing to simplify the matter under investigation.
5. The prosecution never denied that there was delay.
6. The Office of the Ombudsman's administrative misconduct is tantamount to inordinate delay.
7. The First Division of the Sandiganbayan found that there was inordinate delay in the proceedings before the Office of the Ombudsman and dismissed the pertinent case.
8. The case dismissed by the First Division arose from a complaint filed by Jerryboy L. Mauricio, the same complainant in the present cases.
9. The manner by which the cases were gradually filed against the accused is unjust, capricious and vexatious.

In its *Comment/Opposition (To Accused's Motion for Reconsideration Dated 10 October 2018)*,<sup>3</sup> the prosecution counters:

1. The accused' arguments in their *Motion for Reconsideration* are a mere reiteration or rehash of those in their earlier motions. They raise no new issues that would warrant the reconsideration of the assailed Resolution.
2. The accused did not assert their right to speedy disposition of cases during the preliminary investigation stage. Thus, they are deemed to have waived such right.
3. This Court is not bound by the ruling of the First Division.

### THE COURT'S RULING

The accused failed to convince this Court that the reversal of the assailed Resolution is warranted. Hence, their *Motion for Reconsideration* should be denied.

The First Division's ruling does not bind this Court. First, the First Division and this Court are co-equal courts. Second, although the case

<sup>3</sup> Dated October 11, 2018; Record, pp. 406-409

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dismissed by the First Division and the present cases involve the same accused and the same complainant, the cases remain to be separate.

Next, this Court, in the assailed Resolution, had already addressed the accused' arguments with respect to the prosecution's justification for the delay in the proceedings before the Office of the Ombudsman. The pertinent portion<sup>4</sup> of said Resolution is hereunder quoted for convenience:

According to the prosecution, no prejudice was caused by the delay. The prejudice the accused claim to have suffered were simple vexations or inconveniences that naturally arise as a consequence of a criminal indictment. Moreover, their defense was not impaired because documents in connection with the subject transaction are readily available.

The Court finds that the prosecution's explanation justifies the delay.

To be sure, the Office of the Ombudsman has the inherent duty not only to carefully go through the particulars of each case, but also to resolve the same within the proper length of time. However, this Court must also consider the heavy workload of the Office of the Ombudsman.

In *Mendoza-Ong v. Sandiganbayan*, 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:

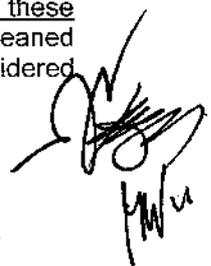
x x x. "Speedy disposition of cases" is consistent with reasonable delays. The Court takes judicial notice of the fact that the nature of the Office of the Ombudsman encourages individuals who clamor for efficient government service to lodge freely their complaints against alleged wrongdoing of government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

(underscoring supplied)

This was again recognized in *People v. Sandiganbayan*, wherein the Supreme Court 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

<sup>4</sup> Resolution dated October 1, 2018, pp. 9-12; Record, 364-367



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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.

(underscoring supplied)

Considering the numerous complaints pending before the Office of the Ombudsman—including those involving the transactions entered into by the City Government of Caloocan during accused Echiverri's term as City Mayor, and those not in connection with such transactions—the period of around two (2) years and eleven (11) months it took the Office of the Ombudsman to file the Informations with the Court cannot be considered unreasonable.

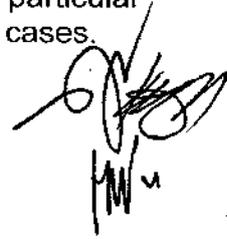
Next, the accused insinuate that the piecemeal filing of the cases against them was deliberately done for some ulterior motive. This Court disagrees.

There is nothing, aside from the accused' bare allegation, to show that piecemeal filing of the Informations was done with malice, or that the resultant delay can be characterized as vexatious, capricious, and oppressive, as defined in *Tai Lim v. Court of Appeals* as follows:

x x x

In *Dansal v. Fernandez*, it was held that the Office of the Ombudsman encourages individuals who clamor for efficient government service to freely lodge their Complaints against wrongdoings of government personnel. The number of complaints being filed with the Office of the Ombudsman is beyond its control, but all the same, it has to act on all such complaints.

As the accused admit, the complaints involving the transactions entered into by the City of Caloocan during accused Echiverri's term as Mayor alone are over a hundred in number. Each complaint, filed by a different complainant, on a different date, is treated as a separate case, and necessitates a separate investigation. It follows that the Informations pertaining to a particular case will be filed separately from those pertaining to other cases.



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The resolution of the cases related to the transactions of the City of Caloocan alone will take some time, considering the number of transactions involved. In addition to these cases, the Office of the Ombudsman also handles cases not related to such transactions. In fine, the Court finds that the time it took to terminate the preliminary investigations, as well as the piecemeal filing of Informations, are not unreasonable.

Finally, even disregarding this Court's finding that the time it actually took to conduct the preliminary investigation was not unreasonable, it must be emphasized that the accused are deemed to have waived their right to speedy disposition of cases because they failed to assert such right at the earliest possible opportunity.

In *People v. Sandiganbayan*,<sup>5</sup> the Supreme Court ruled that there was grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the Fourth Division of the Sandiganbayan when the latter dismissed the cases against therein respondents on the ground that they were deprived of their right to speedy disposition of cases. Aside from recognizing the heavy workload of the Office of the Ombudsman, the Supreme Court also found that the Fourth Division of the Sandiganbayan disregarded the fact that therein respondents failed to timely assert their right. *viz.:*

Another essential matter disregarded by the court *a quo* is the fact that there is nothing on record that would show that respondents asserted this right to speedy disposition during the OMB proceedings when they alleged that the delay occurred. In fact, it took respondents one year and eight months after the Informations were filed before the court *a quo* on March 30, 2015 before they finally asserted such right in their Motion to Dismiss filed on November 22, 2016.

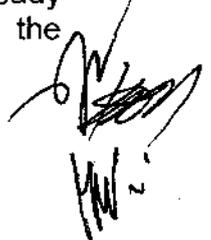
(emphasis and underscoring supplied)

In the more recent case of *Cagang v. Sandiganbayan*,<sup>6</sup> the Supreme Court *en banc* empathically held that the respondent's failure to timely invoke the right to speedy disposition of cases constitutes a valid waiver of such right. *viz.:*

The right to speedy disposition of cases, however, is invoked by a respondent to any type of proceeding once delay has already become *prejudicial* to the respondent. The invocation of the

<sup>5</sup> G.R. Nos. 232197-98, April 16, 2018

<sup>6</sup> G.R. Nos. 206438, 206458, and 210141-42, July 31, 2018



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constitutional right does not require a threat to the right to liberty. Loss of employment or compensation may already be considered as sufficient to invoke the right. Thus, waiver of the right does not necessarily require that the respondent has already been subjected to the rigors of criminal prosecution. The failure of the respondent to invoke the right even when or she has already suffered or will suffer the consequences of delay constitutes a valid waiver of that right.

x x x

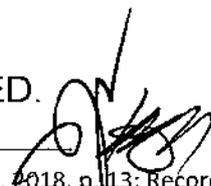
*Fifth*, the right to speedy disposition of cases or the right to speedy trial must be timely raised. The respondent or the accused must file the appropriate motion upon the lapse of the statutory or procedural periods. Otherwise, they are deemed to have waived their right to speedy disposition of cases.

As this Court found in the assailed Resolution, it does not appear that the accused made a timely invocation of their right to speedy disposition of cases.<sup>7</sup> They continue to harp on the fact that the Office of the Ombudsman took almost three (3) years to conduct the preliminary investigation, and that the same was prejudicial. However, despite such claims of prejudice, it appears that they were content to let the proceedings before the Office of the Ombudsman run its course. An examination of the Office of the Ombudsman's *Joint Order*<sup>8</sup> would show that the accused did not even deem it important to assert their right to speedy disposition of cases in their respective motions for reconsideration<sup>9</sup> of the Office of the Ombudsman's Resolution finding probable cause to indict them in court.

To be sure, there was a delay in the proceedings before the Office of the Ombudsman, but such delay was not unreasonable, and there is no doubt that the accused acquiesced to such delay. Such acquiescence is tantamount to a waiver of their right to speedy disposition of cases.

**WHEREFORE**, the *Motion for Reconsideration* of accused Echiverri, Ramirez, Centeno, Garma and Garcia is hereby DENIED for lack of merit.

SO ORDERED.

   
<sup>7</sup> Resolution dated October 1, 2018, p. 113; Record, p. 368

<sup>8</sup> Dated February 13, 2018; Record, pp. 46-54

<sup>9</sup> Summary of the respondents' arguments in their respective motions; *Joint Order*, pp. 2-3; Record, pp. 47-48

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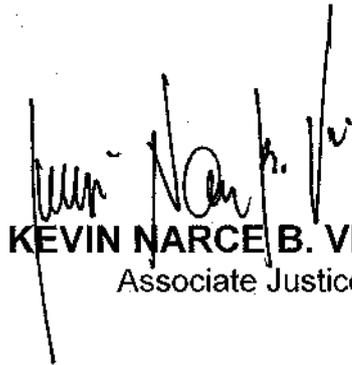
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**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**We Concur:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice