



Republic of the Philippines  
**SANDIGANBAYAN**  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**

Plaintiff,

SB-17-CRM-2197 - 2198

For: Violation of Section 3 (e) of  
Republic Act (R.A.) No. 3019 and  
Malversation through Falsification of  
Public Documents

-versus-

**ROMEO CHAN REALES,**  
Accused,

PRESENT:

FERNANDEZ, SJ, J., *Chairperson*  
MIRANDA, J., &  
VIVERO, J.

Promulgated:

**NOV 14 2018**

X-----X

**RESOLUTION**

**MIRANDA, J.:**

For resolution are the: (1) Omnibus Motion a) To Quash and/or Dismiss on the Ground of Violation of Right to Speedy Disposition of Cases; and b) To Defer Arraignment dated July 19, 2018 filed by accused Romeo Chan Reales (Reales) on July 20, 2018; and (2) Comment/Opposition (To Accused's Reales' Omnibus Motion dated July 19, 2018) dated July 24, 2018 filed by the Prosecution on July 26, 2018.

In his omnibus motion, the accused alleges that: 1) the fact-finding investigation should not be deemed separate from preliminary investigation conducted by the Office of the Ombudsman if the aggregate time spent for both constitutes inordinate and oppressive delay in the disposition of any case; 2) it took the Office of the Ombudsman more or less five (5) years from fact-finding investigation to file the cases in court; and 3) he is prejudiced by the delay in the filing of these cases because he can no longer recall the events that transpired in 2005 and the names of potential witnesses who can corroborate his defense.

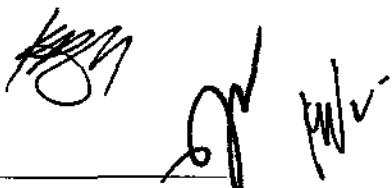
In its comment/opposition on the omnibus motion, the Prosecution, through the Office of the Special Prosecutor (OSP), alleges that: 1) the time spent by the Office of the Ombudsman in conducting the fact-finding investigation and preliminary investigation was reasonable because the records needed to be scrutinized and evaluated properly; 2) during the fact-finding investigation, the graft investigator travelled from the Regional Office in Tacloban City, Leyte to Catbalogan City, Samar, which is more or less 100 kilometers, to check the veracity of the complaint; 3) the records of the case had to be forwarded to the Office of the Ombudsman Visayas in Cebu City for preliminary investigation, and to the Office of the Ombudsman Central Office in Quezon City for final approval; 4) the preliminary investigation was concluded in more or less two (2) years and eight (8) months; and 5) judicial notice should be taken of the steady stream of cases reaching the Office of the Ombudsman.

The factual antecedents in this case are summarized as follows:

Incidents	Date
The Office of the Ombudsman Visayas received the Affidavit/Complaint dated March 21, 2011 of private complainant Aurelio A. Bardaje, Jr. charging the accused and several other persons for violation of Section 3(e) of R.A. No. 3019, Dishonesty, Malversation of Public Funds through Falsification of Public Documents, and Conduct Prejudicial to the Best Interest of the Service. <sup>1</sup>	May 8, 2012
The Office of the Ombudsman Visayas received the Supplemental Affidavit dated May 8, 2014 of nominal complainant Field Investigation Group of the Office of the Ombudsman Visayas Regional Office No. VIII. <sup>2</sup>	May 12, 2014

  
<sup>1</sup> Affidavit/Complaint dated March 21, 2011, Records, pp. 20-73.  
<sup>2</sup> Comment/Opposition dated July 24, 2018.

<b>Incidents</b>	<b>Date</b>
The Field Investigation Group filed a complaint charging the accused and Bienvenido Z. Sabenecio (Sabenecio) for violation of Section 3(e) of R.A. No. 3019, Malversation of Public Funds or Property under Article 217 of the Revised Penal Code (RPC), and/or Falsification by Public Officer, Employee, Notary or Ecclesiastic Minister under Article 171 of the RPC. <sup>3</sup>	October 20, 2014
The Office of the Ombudsman Visayas issued an Order dated December 15, 2014 directing the accused and Sabenecio to file their counter-affidavits. <sup>4</sup>	December 15, 2014
The Office of the Ombudsman Visayas received the Counter-Affidavit dated February 16, 2015 of the accused. <sup>5</sup>	March 11, 2015
The Office of the Ombudsman Visayas received the counter-affidavit of Sabenecio. <sup>6</sup>	
Graft Investigation and Prosecution Officer (GIPO) I Maria Bernadeth S. Andal-Subaan drafted a resolution finding probable cause against the accused for violation of Section 3(e) of R.A. No. 3019 and for Malversation through Falsification of Public Documents, and dismissing the criminal charges against Sabenecio for lack of probable cause. <sup>7</sup>	June 26, 2015
GIPO II Amy Rose A. Soler-Rellin reviewed the draft resolution. <sup>8</sup>	
Deputy Ombudsman for Visayas Paul Elmer M. Clemente recommended the draft resolution for approval of the Ombudsman. <sup>9</sup>	December 19, 2016
Ombudsman Conchita Carpio-Morales (Carpio-Morales) approved the draft resolution. <sup>10</sup>	January 26, 2017
Assistant Special Prosecutor (ASP) III Jorge B. Espinal drafted two (2) informations. <sup>11</sup>	September 29, 2017
Ombudsman Carpio-Morales approved the informations. <sup>12</sup>	October 4, 2017



<sup>3</sup> Resolution dated June 26, 2015, Records, pp. 8-9.

<sup>4</sup> Comment/Opposition dated July 24, 2018.

<sup>5</sup> Counter-Affidavit dated February 16, 2015, Records, pp. 74-91.

<sup>6</sup> Resolution dated June 26, 2015, Records, p. 11.

<sup>7</sup> *Id.*, Records, pp. 8-19.

<sup>8</sup> *Id.*, Records, p. 19.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Informations, all dated September 29, 2017, Records, pp. 1-6.

<sup>12</sup> *Id.*

Incidents	Date
The OSP filed two (2) informations, all dated September 29, 2017, for violation of Section 3(e) of R.A. No. 3019 and Malversation through Falsification of Public Documents with the Sandiganbayan. <sup>13</sup>	December 1, 2017
The accused filed an omnibus motion seeking to quash and/or dismiss the cases on the ground of violation of his right to speedy disposition of cases, and to defer his arraignment. <sup>14</sup>	July 20, 2018
The OSP filed its comment/opposition. <sup>15</sup>	July 26, 2018

After a thorough review of the case records, the Court resolves to **deny** the omnibus motion to quash/dismiss the cases for violation of the right of the accused to speedy disposition of the case and to defer arraignment for lack of merit.

Each case must be decided upon the **facts peculiar** to it.<sup>16</sup> A mere mathematical reckoning of time involved would not be sufficient.<sup>17</sup>

Article III, Section 16 of the Constitution provides that, *all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies*. The constitutional right to speedy disposition of cases is not limited to the accused in criminal proceedings but extends to all parties in all cases, including civil and administrative cases, and in all proceedings, including judicial and quasi-judicial hearings. Hence, under the Constitution, any party to a case may demand expeditious action from all officials who are tasked with the administration of justice.<sup>18</sup>

Due regard must be given to the facts and circumstances surrounding each case. The right to a speedy disposition of a case, like the right to speedy trial, 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 time is allowed to elapse without the party having his case tried. Just like the constitutional guarantee of speedy trial, speedy disposition of cases is a flexible concept. It is consistent with delays

<sup>13</sup> Informations, all dated September 29, 2017, Records, pp. 1-6.

<sup>14</sup> Omnibus Motion (1. To Quash and/or Dismiss on the Ground of Violation of Right to Speedy Disposition of Cases; and 2. To Defer Arraignment) dated July 19, 2018, Records, pp. 161-167.

<sup>15</sup> Comment/Opposition (To Accused Reales' Omnibus Motion dated 19 July 2018) dated July 24, 2018.

<sup>16</sup> *Benares v. Lim*, G.R. No. 173421, December 14, 2006.

<sup>17</sup> *Bernat v. Sandiganbayan*, G.R. No. 158018, May 20, 2004.

<sup>18</sup> *The Ombudsman v. Jurado*, G.R. No. 154155, August 6, 2008.

and depends upon the circumstances. What the Constitution prohibits are unreasonable, arbitrary and oppressive delays which render rights nugatory.<sup>19</sup>

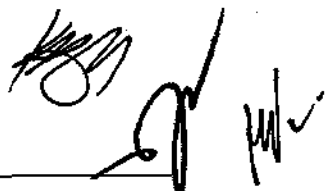
The conduct of both the Prosecution and the Defense, the length of the delay, the reasons for such delay, the assertion or failure to assert such right by the accused, and the prejudice caused by the delay are the factors to consider and balance.<sup>20</sup>

In determining whether the right to speedy disposition of cases is violated or not, equally applicable is the balancing test which weighs the conduct of both the Prosecution and the defendant.<sup>21</sup>

The doctrinal rule is that in the determination of whether the right to speedy disposition of cases has been violated, the following factors **may** be considered and balanced: (1) **length** of delay; (2) **reasons** for the delay; (3) **assertion or failure** to assert such right by the accused; and (4) **prejudice** caused by the delay.<sup>22</sup>

The period from the filing of the Affidavit/Complaint dated March 21, 2012 by private complainant Bardaje, Jr. on May 8, 2012 until the filing of the complaint by the Field Investigation Group on October 20, 2014, or *two (2) years, five (5) months and twelve (12) days*, constitutes the fact-finding investigation and should not be attributed to the Office of the Ombudsman Visayas.

In the very recent case of *Cagang v. Sandiganbayan*,<sup>23</sup> the Supreme Court held that fact-finding investigation is not counted in determining whether or not the right of the accused to speedy disposition of cases was violated. When an anonymous complaint is filed or the Office of the Ombudsman conducts a *motu proprio* fact-finding investigation, the proceedings are not yet adversarial. Even if the accused is invited to attend these investigations, this period cannot be counted since these are merely preparatory to the filing of a complaint. At this point, the Office of the Ombudsman will not yet determine if there is probable cause to charge the accused. A case is deemed to have commenced only from the filing of the



<sup>19</sup> *The Ombudsman v. Jurado*, G.R. No. 154155, August 6, 2008.

<sup>20</sup> *Ty-Dazo v. Sandiganbayan*, G.R. Nos. 143885-86, January 21, 2002.

<sup>21</sup> *Remulla v. Sandiganbayan and Maliksi*, G.R. No. 218040, April 17, 2017.

<sup>22</sup> *Roquero v. Chancellor of UP Manila, et al.*, G.R. No. 181851, March 9, 2010.

<sup>23</sup> G.R. Nos. 206438, 206458, 210141-42, July 31, 2018.

formal complaint and the subsequent conduct of the preliminary investigation.<sup>24</sup>

The preliminary investigation of the Office of the Ombudsman Visayas, which lasted from the filing of the complaint by the Field Investigation Group on October 20, 2014 to the approval of the draft resolution finding probable cause against the accused on January 26, 2017, or *two (2) years, three (3) months and six (6) days*, is not entirely attributable to the Office of the Ombudsman Visayas.

The period from October 20, 2014 to December 15, 2014, or *one (1) month and twenty-five (25) days*, is ascribed to the Office of the Ombudsman Visayas as this was the time it spent to order the accused and Sabenecio to submit their counter-affidavits and controverting evidence.

The period from December 15, 2014 to March 11, 2015, or *two (2) months and twenty-four (24) days*, is credited to the accused. During this period, the accused prepared and submitted his counter-affidavit. While Sabenecio submitted his counter-affidavit with the Office of the Ombudsman Visayas, the records, however, are bereft of any information as to when the said counter-affidavit was filed by Sabenecio or received by the Office of the Ombudsman Visayas. Since Sabenecio was not included in the cases, the Court will consider the date of receipt of the counter-affidavit of the accused by the Office of the Ombudsman Visayas as the date when the last counter-affidavit was filed.

The period from March 11, 2015 to January 26, 2017, or *one (1) year, ten (10) months, and fifteen (15) days*, is visited upon the Office of the Ombudsman Visayas because this was the time it spent in the drafting of the resolution finding probable cause and the informations, and the approval thereof by Ombudsman Carpio-Morales.

The period from January 26, 2017 to December 1, 2017, or *ten (10) months and five (5) days*, is ascribed to the Office of the Ombudsman, through the OSP, for the filing of the information with the Sandiganbayan. Neither the accused nor Sabenecio sought reconsideration of the resolution finding probable cause against them.

In sum, the total periods of *two (2) months and twenty-four (24) days* (attributable to the accused) and *two (2) years, five (5) months, and twelve (12) days* (fact-finding investigation) should be excluded from the time spent by the Office of the Ombudsman Visayas to terminate the preliminary

<sup>24</sup> *Cagang v. Sandiganbayan*, G.R. Nos. 206438, 206458, 210141-42, July 31, 2018.

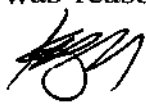
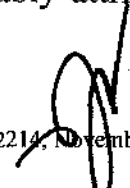

investigation, and for the OSP to file the corresponding informations with the Sandiganbayan.

Subtracting the periods attributable to the accused and the fact-finding investigation, the total period it took the Office of the Ombudsman Visayas to finish its preliminary investigation, and for the OSP to file the corresponding informations is only *two (2) years, ten (10) months, and fifteen (15) days*. The Court considers this period reasonable because the investigating prosecutor had to carefully evaluate the complaint and the supporting documents to determine whether probable cause for violation of Section 3(e) of R.A. No 3019 and Malversation through Falsification of Public Documents existed against the accused. The Office of the Ombudsman had to consider the right of the accused to due process. The OSP had to review the case again so that only the case that could stand the rigors of trial would be filed. Under these circumstances, the said period is not capricious, oppressive and vexatious.

Delay is a two-edge sword. It is the government that bears the burden of proving its case beyond reasonable doubt. The passage of time may make it difficult or impossible for the government to carry its burden. The Constitution and the Rules do not require impossibilities or extraordinary efforts, diligence or exertion from courts or the prosecutor, nor contemplate that such right shall deprive the State of a reasonable opportunity of fairly prosecuting criminals.<sup>25</sup>

Closely related to the length of delay is the reason or justification of the State for such delay. Different weights should be assigned to different reasons or justifications invoked by the State. For instance, a deliberate attempt to delay the trial in order to hamper or prejudice the defense should be weighted heavily against the State. Also, it is improper for the prosecutor to intentionally delay to gain some tactical advantage over the defendant or to harass or prejudice him. On the other hand, the heavy case load of the prosecution or a missing witness should be weighted less heavily against the State.<sup>26</sup>

The accused had the burden of proving the factual basis for his motion to quash and/or dismiss on the ground of violation of his right to speedy disposition of the case, and that the delay was vexatious, capricious, or whimsical. On the other hand, the Prosecution had the burden to establish that any delay was reasonably attributed to the ordinary process of justice,

  
  
  
<sup>25</sup> *Corpuz v. Sandiganbayan*, G.R. No. 162214, November 11, 2004.  
<sup>26</sup> *Id.*

and that the accused did not suffer serious prejudice beyond that which ensued after an inevitable and ordinary delay.<sup>27</sup>

In *People vs. Sandiganbayan and Gamos*,<sup>28</sup> the Supreme Court held that there was no inordinate delay when there is no allegation, much less proof, that respondents therein were persecuted, oppressed, or made to undergo any vexatious process during the investigation period before the filing of the informations. It is important to emphasize that what the Constitution prohibits are unreasonable, arbitrary, and oppressive delays which render rights nugatory. Considering the foregoing disquisition, there is no such delay in this case amounting to a violation of the constitutional rights of the respondents therein.

Applying the foregoing principles in these cases, the Court rules that the accused failed to state any factual basis of the alleged violation of his right to the speedy disposition of his cases. There is also no indication that the cases against the accused were instituted for the purpose of harassing him or for some malicious motive

Prejudice should be assessed in the light of the interest of the defendant that the speedy trial was designed to protect, namely: to prevent oppressive pre-trial incarceration; to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired. Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system. There is also prejudice if the defense witnesses are unable to recall accurately the events of the distant past. Even if the accused is not imprisoned prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed, and he is subjected to public obloquy.<sup>29</sup>

The accused alleges that he unreasonably and unjustly experienced continuous anxiety, prolonged agony, and prejudice because of his old age, physical limitations, and inability to recall the names of possible witnesses and the circumstances of the charges against him which transpired at least thirteen (13) years ago.

While the accused may have suffered some form of prejudice, the same, however, does not appear to have been caused by inordinate delay.

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<sup>27</sup> *Corpuz v. Sandiganbayan*, G.R. No. 162214, November 21, 2004.

<sup>28</sup> G.R. No. 232197-98, April 16, 2018.

<sup>29</sup> *Corpuz v. Sandiganbayan*, G.R. No. 162214, November 11, 2004.



The said prejudice is a result of the mere passage of time regardless of the existence of inordinate delay. In this case, the prescriptive period of violation of Section 3(e) of R.A. No. 3019 is fifteen (15) years.<sup>30</sup> The complaint against the accused could have been filed at any time within the prescriptive period of the crimes charged. Had the informations been filed near the end of such prescriptive period, the result would have been the same.

The accused was not suspended from office and was given all the opportunity to present his defenses during the preliminary investigation. In fact, the accused filed his counter-affidavit detailing his defenses on the charges against him.

Apart from the allegations of the accused, he failed to show how the delay prejudiced him. He did not submit any evidence showing that he can neither retrieve documents nor secure potential witnesses who could establish his innocence. He also failed to establish that he was persecuted, oppressed, or made to undergo any vexatious process during the investigation period before the filing of the informations.

Moreover, the accused waived his right to question the violation of his right to speedy disposition of the case.

In *Barcelona v. Lim*,<sup>31</sup> the Supreme Court held that the petitioner therein was considered to have waived his right to the speedy disposition of his case because of his failure to assert it. The right to speedy trial, as well as other rights conferred by the Constitution or statute, may be waived except when otherwise expressly provided by law.

In *Tilendo v. Ombudsman and Sandiganbayan*,<sup>32</sup> the Supreme Court held that the right of the petitioner therein to speedy disposition of his cases was not violated because he slept on his right and did not take any step whatsoever to accelerate the disposition of his cases. The inaction of the petitioner gave an impression that he did not object to the supervening delay, hence, it was impliedly with his acquiescence. He did not make any overt act, like filing a motion for early resolution.

In *Bernat v. Sandiganbayan and People*,<sup>33</sup> the petitioner therein raised the violation of his right to speedy disposition only when the trial court

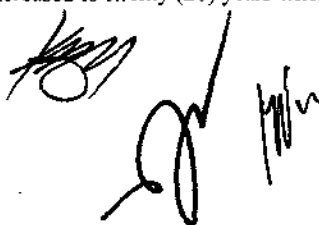
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<sup>30</sup> The prescriptive period for violation of Section 3(e) of R.A. No. 3019 during the time material to these cases is fifteen years. The prescriptive period was increased to twenty (20) years when R.A. No. 10910 took effect in 2016.

<sup>31</sup> G.R. No. 189171, June 3, 2014.

<sup>32</sup> G.R. No. 165975, September 13, 2007.

<sup>33</sup> G.R. No. 158018, May 20, 2004.



judge reset the case for rehearing. The Supreme Court held that it is fair to assume that the petitioner therein would have just continued to sleep on his right, a situation amounting to laches had the trial court judge not taken the initiative of determining the non-completion of the records and ordering the remedy precisely so he could dispose of the case. The matter could have taken a different dimension if during all those ten years between 1979 when accused filed his memorandum and 1989 when the case was re-raffled, the petitioner showed signs of asserting his right which was granted him in 1987 when the new Constitution took effect, or at least made some overt act (like a motion for early disposition or a motion to compel the stenographer to transcribe stenographic notes) that he was not waiving it. As it is, his silence would have to be interpreted as a waiver of such right.

In the case before the Court, the accused failed to seasonably assert his right to the speedy disposition of his case. He neither filed any motion for early resolution with the Office of the Ombudsman nor made any overt acts questioning the alleged inordinate delay. His inaction shows acquiescence and waiver to question any violation of his right to the speedy disposition of his case.

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. 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.<sup>34</sup>

Considering the number of times that the case had to be reviewed, the levels of review that the case had to undergo, waiver of the right to the speedy disposition of the case, and the lack of prejudice to the accused, the period that lapsed could not be considered vexatious, capricious and oppressive. Under the circumstances, this cannot be considered inordinate delay. The accused cannot now seek the protection of the law to benefit from the adverse effects of his own conduct in this case. The assertion of the accused that his right to speedy disposition of the case against him has been violated must necessarily fail.



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<sup>34</sup> *People v. Sandiganbayan and Gamos*, G.R. No. 232197-98, April 16, 2018.

The case on inordinate delay cited by the accused in his omnibus motion is not applicable in the case against him now pending before this Court.

In *Coscolluela v. Sandiganbayan and People*,<sup>35</sup> the Supreme Court found the presence of inordinate delay because it took the Ombudsman eight (8) years to complete the preliminary investigation. Petitioners therein could not be faulted for failing to assert their right to speedy disposition of their cases because they were not aware that the preliminary investigation was still on-going. They were merely asked to comment and not to file any counter-affidavits. Thereafter, the resolution finding probable cause and the information were issued and filed, respectively, only after six (6) years. They could have reasonably assumed that the proceedings were already terminated.

The omnibus motion praying for the dismissal of the cases on the ground of inordinate delay must be resolved on the basis of the particular facts of the case. The circumstances of inordinate delay in the foregoing case is not present in the case now before this Court. There was neither political motivation nor blatant departure from prescribed procedures in the preliminary investigation. The accused was aware that a preliminary investigation was being conducted against him. He was served a copy of the complaint and given the opportunity to file his counter-affidavit. The Prosecution gave sufficient justification for the time it took the Office of the Ombudsman to conduct its preliminary investigation and to file the informations with the Sandiganbayan.

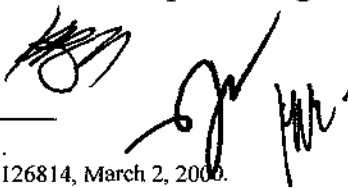
The protection under the right to the speedy disposition of the case should not operate to deprive the government of its inherent prerogative in prosecuting criminal cases or in generally seeing to it that all who approach the bar of justice are afforded a fair opportunity to present their side.<sup>36</sup>

This Court is not unmindful of the duty of the Ombudsman under the Constitution and R.A. No. 6770 to act promptly on complaints brought before it. Such duty, however, should not be mistaken with a hasty resolution of cases at the expense of thoroughness and correctness.<sup>37</sup> 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

<sup>35</sup> G.R. No. 191411, July 15, 2013.

<sup>36</sup> *Dansal v. Fernandez*, G.R. No. 126814, March 2, 2000.


<sup>37</sup> *Id.*



personnel. A steady stream of cases reaching the Ombudsman inevitably results. Naturally, disposition of those cases would take some time.<sup>38</sup>

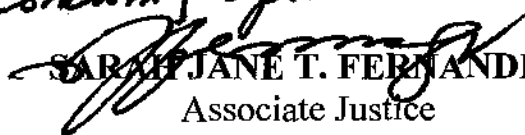
**WHEREFORE**, the Omnibus Motion a) To Quash and/or Dismiss on the Ground of Violation of Right to Speedy Disposition of Cases; and b) To Defer Arraignment dated July 19, 2018 of accused Romeo Chan Reales is **DENIED**. Arraignment and pre-trial of the accused shall proceed on November 21, 2018 as scheduled.

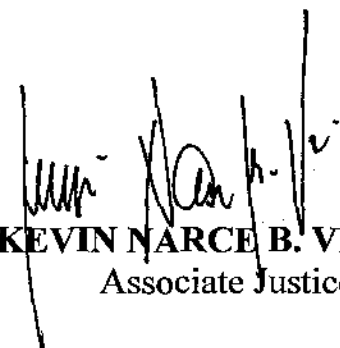
**SO ORDERED.**

  
**KARL B. MIRANDA**  
Associate Justice

WE CONCUR:

*Pls. see separate  
concurring opinion.*

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

  
**KEVIN NARCE B. VIVERO**  
Associate Justice

<sup>38</sup> *Mendoza-Ong v. Sandiganbayan and People*, G.R. Nos. 146368-69, October 23, 2003.

**People v. Romeo Chan Reales (SB-17-CRM-2197 and 2198)**

**SEPARATE CONCURRING OPINION**

**FERNANDEZ, SJ, J.:**

I concur with the finding in the main opinion that there was no violation of the accused' right to speedy disposition of cases. However, I submit that even if the time from the filing of private complainant Aurelio A. Bardaje, Jr.'s Affidavit/Complaint on May 8, 2012, to the filing of the formal complaint on October 20, 2014, is included in the computation of the length of delay, there would nevertheless be no violation of the accused' right to speedy disposition of cases.

Length of delay is but one of the factors that the Court must consider in determining if there was a violation of the right to speedy disposition of cases. The Court must also consider the reason for the delay, the accused' assertion or failure to assert such right, and the prejudice caused by the delay, together with the peculiar circumstances surrounding each case.

As the Supreme Court emphasized in *People v. Sandiganbayan*,<sup>1</sup> a mere mathematical computation of the period from the filing of the complaint to the filing of the Information will not suffice. And while the rules provide for periods within which complaints and motions must be acted upon, these periods are not absolute. Jurisprudence continues to adopt the view that speedy disposition is a relative term and must necessarily be a flexible concept. *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.

Here, it does not appear that the proceedings before the Office of the Ombudsman lingered in any stage for an unreasonably long period. Neither was it shown that the case was brought against the accused for the

<sup>1</sup> G.R. Nos. 232197-98, April 16, 2018

**SEPARATE CONCURRING OPINION**

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purpose of harassing him, or for some other malicious motive. Also considering the steady stream of cases reaching the Office of the Ombudsman,<sup>2</sup> the time spent by the Office of the Ombudsman to resolve the complaint was not unreasonable.

As noted in the main opinion, it does not appear that the accused suffered serious prejudice caused by inordinate delay. Furthermore, the accused is deemed to have waived his right to speedy disposition of cases for his failure to timely assert such right.

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

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<sup>2</sup> *Dansal v. Fernandez*, G.R. No. 126814, March 2, 2000; *Mendoza-Ong v. Sandiganbayan*, G.R. Nos. 146368-69, October 18, 2004; *People v. Sandiganbayan*, G.R. Nos. 232197-98, April 16, 2018