



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:

NOV 20 2018 *[Signature]*

RESOLUTION

VIVERO, J.:

For resolution is accused Vicente Bediones Bermejo's *Motion for Reconsideration*¹ dated 6 October 2018.

Accused Bermejo prays that this Court reconsider its Resolution dated 1 October 2018 and, consequently, quash the Information against him on the ground that his constitutional right to due process and speedy disposition of cases was violated.² In support thereof, the accused argues that:

1. The amount of time it took the Office of the Ombudsman to prepare for the filing of the Information was excessive and unjustified;³

¹ Motion for Reconsideration dated 6 October 2018, pp. 1-24; Record, pp. 256-279.

² Id. 278.

³ Id. 261.

[Signature]

x----- x

2. The lengthy delay in the resolution of the preliminary investigation definitely prejudiced him;⁴ and
3. The pronouncement of the Supreme Court in *Coscolluela v. Sandiganbayan (First Division), et al.*, 701 SCRA 188 (2013), finds significance and is equally applicable for the dismissal of the present case:

Thus, in view of the unjustified length of time miring the Office of the Ombudsman's resolution of the case as well as the concomitant prejudice that the delay in this case has caused, it is undeniable that petitioner's constitutional right to due process and speedy disposition of cases had been violated. As the institutional vanguard against corruption and bureaucracy, the Office of the Ombudsman should create a system of accountability in order to ensure that cases before it are resolved with reasonable dispatch and to equally expose those who are responsible for its delays, as it ought to determine this case.⁵

In its *Comment/Opposition*⁶ dated 6 October 2018, the prosecution counters that:

1. The grounds stated in present Motion are mere rehash of the arguments in his Motion to Quash Information. The issues raised in this Motion had been resolved by this Court in the assailed Resolution;⁷
2. Accused failed to show that this Court, in ruling to deny his ~~Motion~~ Motion to Quash information, committed errors of law and facts that would warrant the reversal of the assailed Resolution;⁸ and

⁴ Id. 272.

⁵ Id. 278

⁶ Comment/Opposition dated 18 September 2018, pp. 1-3; Record, pp. 280-282.

⁷ Id. 280.

⁸ Id. 281.

x----- x

3. It must be emphasized that accused is raising the alleged violation of his right to speedy disposition of his case only after he has been arraigned. Prior to the filing of the Information in Court, accused was very well aware of the pending preliminary investigation being conducted by the Office of the Ombudsman. Despite such awareness, he appears to have been insensitive to the implications and contingencies thereof by not taking any step whatsoever to accelerate the disposition of the matter. As reiterated in the recent case of *Cagang v. Sandiganbayan, Fifth Division*, the right to speedy disposition of cases or the right to speedy trial must be timely raised. The respondent of 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.⁹

THE COURT'S RULING

The Court resolves to deny accused Bermejo's Motion for Reconsideration.

As correctly pointed out by the prosecution, accused Bermejo failed to show that this Court, in ruling to deny his Motion to Quash Information¹⁰, committed errors of law and facts that would warrant the reversal of the assailed Resolution dated 1 October 2018.

In *Elpidio Tagaan Magante v. Sandiganbayan (Third Division) and People of the Philippines*,¹¹ the Supreme Court held:

"We must distinguish between fact-finding investigations conducted before and after the filing of a formal complaint. When a formal criminal complaint had been initiated by a private complainant, the burden is upon such complainant to substantiate his allegations by appending all the necessary evidence for establishing probable cause. The fact-finding investigation conducted by the Ombudsman after the complaint is filed should

⁹ Ibid.

¹⁰ 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, Record, pp. 127-158.

¹¹ G.R. Nos. 230950-51, July 23, 2018.

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then necessarily be included in computing the aggregate period of the preliminary investigation.

“On the other hand, if the fact-finding investigation precedes the filing of a complaint as in incidents investigated *motu proprio* by the Ombudsman, such investigation should be excluded from the computation. The period utilized for case build-up will not be counted in determining the attendance of inordinate delay.”

“It is only when a formal verified complaint had been filed would the obligation on the part of the Ombudsman to resolve the same promptly arise. Prior to the filing of a complaint, the party involved is not yet subjected to any adverse proceeding and cannot yet invoke the right to the speedy disposition of a case, which is correlative to an actual proceeding. In this light, the doctrine in *People v. Sandiganbayan* should be revisited.

“With respect to investigations relating to anonymous complaints or *motu proprio* investigations by the Ombudsman, the date when the Ombudsman receives the anonymous complaint or when it started its *motu proprio* investigations and the periods of time devoted to said investigations cannot be considered in determining the period of delay. For the respondents, the case build up phase of an anonymous complaint or a *motu proprio* investigation is not yet exposed to an adversarial proceeding. The Ombudsman should of course be aware that a long delay may result in the extinction of criminal liability by reason of the prescription of the offense.

“Even if the person accused of the offense subject of said anonymous complaint or *motu proprio* investigations by the Ombudsman is asked to attend invitations by the Ombudsman for the fact finding investigations, this directive cannot be considered in determining inordinate delay. These conferences or meetings with the persons subject of the anonymous complaints or *motu proprio* investigations are simply conducted as preludes to the filing of a formal complaint if it finds it proper. This should be distinguished from the exercise by the Ombudsman of its prosecutor powers which involve determination of probable cause to file information with the court resulting from official preliminary investigation. Thus, the period spent for fact-finding investigations of the ombudsman prior to the filing of the formal complaint by the Field Investigation Office of the Ombudsman is irrelevant in determining inordinate delay.

“In sum, the reckoning point when delay starts to run is the date of the filing of a formal complaint by a private complainant or the filing by the Field Investigation Office with the Ombudsman of a formal complaint based on an anonymous complaint or as a result of its *motu proprio* investigations. **The period devoted to the fact-**

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finding investigations prior to the date of the filing of the formal complaint with the Ombudsman shall NOT be considered in determining inordinate delay. After the filing of the formal complaint, the time devoted to fact finding investigations shall always be factored in." (Underscoring and capitalization ours.)

Also, in *Cesar Matas Cagang v. Sandiganbayan, Fifth Division, Quezon City, et. al.*,¹² it was held:

"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.

"The ruling in *People v. Sandiganbayan, Fifth Division*¹³ that fact finding investigations are included in the period for determination of inordinate delay is **ABANDONED.**" (Emphasis and capitalization ours.)

To reiterate the Court's declaration in the assailed Resolution, the delay can hardly be considered as excessive, unwarranted and oppressive. The period during 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, including the thoroughness of analysis must be considered as reasonable processes of justice.

The rest of accused Bermejo's arguments are a mere rehash of those in his Motion to Quash Information,¹⁴ which have been squarely passed upon by the Court in the Resolution sought to be reconsidered.

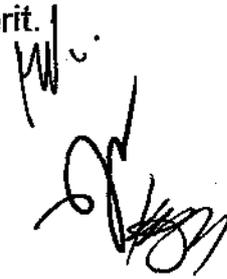
In sum, the Court finds no basis to reconsider its Resolution dated 1 October 2018.

WHEREFORE, the *Motion for Reconsideration* of accused Vicente Bediones Bermejo is hereby denied for lack of merit.

¹² G.R. Nos. 206438, 206458 and 210141-42, July 31, 2018.

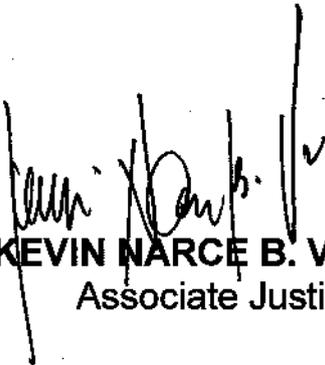
¹³ 723 Phil. 444 (2013).

¹⁴ Supra, footnote 10.



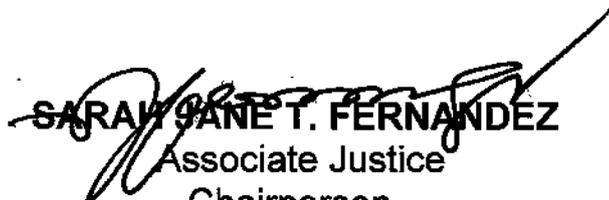
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SO ORDERED.



KEVIN NARCE B. VIVERO
Associate Justice

WE CONCUR:



SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson



KARL B. MIRANDA
Associate Justice