



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0351 to 0366
For: Violation of Sec. 3(e) of
R.A. 3019, and Malversation
of Public Funds

- versus -

REINERIO B. BELARMINO, Jr.,
et al.,

Accused.

Present:

FERNANDEZ, SJ, J.
Chairperson
MIRANDA, J. and
VIVERO, J.

Promulgated:

NOV 05 2018

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RESOLUTION

VIVERO, J.:

For resolution is accused Francisco Cabuloy Casil's *Motion for Reconsideration*¹ dated 22 August 2018.

Accused Casil prays that this Court reconsider its Resolution dated 17 August 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 Motion for Reconsideration dated 22 August 2018, pp. 1-8.

² Id. 7.

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1. The Ombudsman failed to justify the delay and that the same is not vexatious, capricious, and oppressive;³
2. A careful re-examination of the incidents in the present case would clearly reveal that accused-movants' right to a speedy disposition of their criminal case had been violated;⁴ and
3. By mere mathematical computation, there is considerable length of delay in resolving the complaint before the Office of the Ombudsman.⁵

In its *Manifestation*⁶ dated 9 October 2018, the prosecution states that it will just adopt its comment/opposition filed in the motion for reconsideration of accused Gonzales as its own comment/opposition to the instant motion.

THE COURT'S RULING

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

The Court already fully explained in its Resolution dated 17 August 2018 that mere mathematical computation of the time involved is not the sole consideration in determining whether or not there was inordinate delay. Rather, the totality of facts and circumstances peculiar to each case must be examined.

It is relevant to mention that the Supreme Court ruled in the case of *Braza v. The Honorable Sandiganbayan (1st Division)*⁷, 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

³ Id. 2.

⁴ Id. 3.

⁵ Ibid.

⁶ Manifestation (On the Motion for Reconsideration dated August 22, 2018) dated 9 October 2018, pp. 1-3.

⁷ G.R. No. 195032, February 20, 2013.

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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.

Also, in *Benares v. Lim*,⁸ the Supreme Court ruled that the 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 failure to assert such right by the accused, and the prejudice caused by the delay.

The Court agrees with the prosecution that the case of *Coscolluella v. Sandiganbayan*⁹ was superseded by a more recent jurisprudence entitled *People v. Honorable Sandiganbayan (Fourth Division), Alejandro E. Gamos, and Rosalyn G. Gile*,¹⁰ where the Supreme Court held that the delay of seven (7) years in the conduct of the preliminary investigation is not sufficient reason to warrant dismissal of the case due to inordinate delay. There must be proof that the accused during the preliminary investigation were persecuted, oppressed or made to undergo vexatious process during the investigation period and there was timely invocation of the violation of the right to speedy disposition of cases.

Finally, in *Cesar Matas Cagang v. Sandiganbayan, Fifth Division, Quezon City, et. al.*,¹¹ 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*¹² that fact finding investigations are included in the period for

⁸ G.R. No. 173421, December 14, 2006.

⁹ G.R. No. 191411, July 15, 2013.

¹⁰ G.R. Nos. 232197-98, April 16, 2018.

¹¹ G.R. Nos. 206438, 206458 and 210141-42, July 31, 2018.

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determination of inordinate delay is ABANDONED." (Emphasis and capitalization ours.)

To reiterate, the right to "a speedy disposition of cases" is enshrined in the 1987 Constitution. Section 16, Article III of the Constitution provides: "All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial or administrative bodies." Violation of this right, however, arises only when the proceedings are attended by vexatious, capricious, and oppressive delays,¹³ which are absent in this case.

In sum, the Court finds no basis to reconsider its *Resolution* dated 17 August 2018.

WHEREFORE, the *Motion for Reconsideration* of accused Francisco Cabuloy Casil is hereby denied for lack of merit.

SO ORDERED.



KEVIN NARCE B. VIVERO
Associate Justice

WE CONCUR:



SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson



KARL B. MIRANDA
Associate Justice

¹² 723 Phil. 444 (2013).

¹³ People vs. Sandiganbayan, Fourth Division, G.R. No. 232197-98, April 16, 2018; The Ombudsman vs. Jurado, G.R. No. 154155, August 6, 2008; 561 SCRA 135; Mendoza-Ong vs. Sandiganbayan, G.R. Nos. 146368-69, October 18, 2004, 440 SCRA 423.