



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-18-CRM-0003

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

-versus-

**ARTHUR C. YAP, RONILLO
A. BERONIO, JOHNIFER G.
BATARA, FE D. LAYSA,
WILLIAM G. PADOLINA,
WINSTON C. CORVERA,
GELIA T. CASTILLO,
SENEN C. BACANI, AND
RODOLFO C. UNDAN,**

Accused,

X-----X

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-18-CRM-0004

For: Violation of Section 3 (g) of R.A.
No. 3019

-versus-

**ARTHUR C. YAP, JOHNIFER
G. BATARA, FE D. LAYSA,
WILLIAM G. PADOLINA,
WINSTON C. CORVERA,
GELIA T. CASTILLO, SENEN
C. BACANI, RODOLFO C.
UNDAN, RONILLO A.
BERONIO AND FE N.
LUMAWAG,**

Accused,

X-----X

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-18-CRM-0005

For: Violation of Section 3 (h) of R.A. No. 3019

-versus-

RONILLO A. BERONIO,
Accused,

PRESENT:

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

Promulgated:

FEB 27 2019 

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RESOLUTION

MIRANDA, J.:

This resolves the: 1) Motion for Reconsideration dated December 20, 2018 of accused Ronilo A. Beronio (Beronio); 2) Motion for Reconsideration dated January 9, 2019 of accused Arthur C. Yap (Yap); 3) Opposition dated January 9, 2019 of the Prosecution; 4) Motion for Reconsideration dated January 10, 2019 of accused Johnifer G. Batara (Batara), Fe D. Laysa (Laysa), Senen C. Bacani (Bacani), and Rodolfo C. Undan (Undan); and 5) Manifestation dated January 14, 2019 of the Prosecution.

In his motion for reconsideration, accused Beronio claims that his rights to due process and to a speedy disposition of the case were violated when the Office of the Ombudsman took more than 10 years to conduct its fact-finding investigation and preliminary investigation in SB-18-CRM-0003, SB-18-CRM-0004, and SB-18-CRM-0005.

In his motion for reconsideration, accused Yap alleges that: 1) the rulings of the Supreme Court in *People v. Navarro*¹ and related cases should

¹ G.R. No. L-1 and L-2, December 4, 1945; In this case, the judge of the Court of First Instance in Mindoro ordered the quashal of the informations for arbitrary detention on the ground of failure to charge an offense. During the pre-trial of the cases, the judge asked the parties, their attorneys and the provincial fiscal some



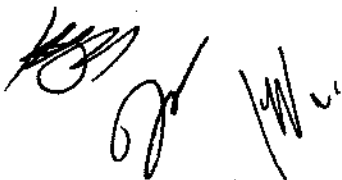
be applied in quashing the informations filed against him; 2) his absence in the 54th meeting of the Board of Trustees of the Philippine Rice Institute (PhilRice) during which the subject car plans and Hold Out Agreements (HOAs) were discussed and approved destroys the *prima facie* truth of the allegations in the informations; 3) the informations did not allege that Yap, as member of the PhilRice Board of Trustees, approved the said HOAs; 4) the period of three and a half years, as computed by this Court, already constitutes inordinate delay; 5) there is no law or rule that requires respondents in preliminary proceedings to follow up their cases with the Office of the Ombudsman; and 6) the delay has unduly prejudiced him.

In their motion for reconsideration, accused Batara, Laysa, Bacani and Undan contend that: 1) the informations in SB-18-CRM-0003 and SB-18-CRM-0004 against them should be quashed on the ground of their non-participation in the formulation and implementation of the PhilRice Car Plan guidelines, HOAs, and other related documents; 2) as members of the Board of Trustees, they are involved in the day to day operation and management of PhilRice; 3) the fact-finding investigation by the Office of the Ombudsman, which started in June 2009, should be considered by the Court in determining the length of delay; 4) they cannot be faulted for the prolonged period of preliminary investigation because they did not request for an extension of time to submit their counter-affidavits and other pleadings in these cases; 5) they have not abandoned or waived their right to a speedy disposition of the case; and 6) the charges imputed against them in these cases have tainted their reputation as public officials and as individuals.

In its opposition, the Prosecution, through the Office of the Special Prosecutor (OSP), seeks the denial of the motion for reconsideration filed by accused Yap for being a mere rehash of the issues and arguments already raised in his motion to quash informations. The Prosecution claims that the Court has already resolved the said issues and arguments in its Resolution dated December 5, 2018.

In its Manifestation dated January 14, 2019, the Prosecution adopted its arguments and discussion in its Opposition dated January 9, 2019 in seeking

questions. Admissions were, however, made by the provincial fiscal that the detainees were in fact lawfully committed to the provincial jail of Mindoro by order of the Commanding General of Western Visayas Task Force, United States Army. Holding that the detention was not arbitrary, the judge ordered the quashal of the information.



the denial of the motions for reconsideration filed by accused Beronio, and accused Batara, Laysa, Bacani and Undan, respectively.

After a restudy, the Court finds nothing new in the arguments raised by accused Beronio, Yap, Batara, Laysa, Bacani, and Undan in their respective motions for reconsideration. Accordingly, the motions for reconsideration are **DENIED** for lack of merit.

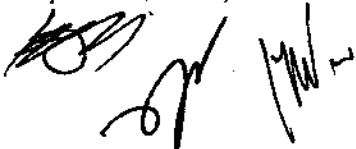
The informations in SB-18-CRM-0003 and SB-18-CRM-0004 sufficiently state the elements of violation of Sections 3(e) and 3(g) of R.A. No. 3019

Again, the fundamental test in determining the adequacy of the averments in an information is whether the facts alleged, if hypothetically admitted, would establish the essential elements of the crime.² Evidence *aliunde* or matters extrinsic to the information are not to be considered.³ Matters of defense are considered evidence *aliunde*. As discussed in the assailed resolution, the evidence showing that accused Yap was absent during the 54th meeting of the Board of Trustees of PhilRice during which the PhilRice Car Plan was approved, and that accused Batara, Laysa, Bacani and Undan did not participate in the formulation and implementation of said Car Plan, the HOAs, and related documents, are matters of defense because they seek to establish a fact contrary to that alleged in the assailed informations. These issues are evidentiary in nature, and should be threshed out in a full-blown trial.

In the Resolution dated December 5, 2018, the Court found that the Information dated September 29, 2017 in SB-18-CRM-0003 and the Information dated September 29, 2017 in SB-18-CRM-0004 sufficiently stated the elements of violation of Sections 3(e) and 3(g) of R.A. No. 3019, respectively. The said informations included all the details required by Sections 6 and 9, Rule 110 of the Rules of Court. The Information dated September 29, 2017 in SB-18-CRM-0003 and the Information dated September 29, 2017 in SB-18-CRM-0004 are, thus, sufficient to inform the accused of the offenses they are being charged of and for this Court to pronounce judgment after trial on merits.

² *Cabrera v. Sandiganbayan*, G.R. Nos. 162314-17, October 25, 2004.

³ *Ingco v. Sandiganbayan*, G.R. No. 112584, May 23, 1997, citing Florenz Regalado, *Remedial Law Compendium*, Vol. 2, Seventh Revised ed. [1995], p. 392.



There was no inordinate delay in the preliminary investigation of cases in SB-18-CRM-0003, SB-18-CRM-0004, and SB-18-CRM-0005.

The Supreme Court has consistently emphasized that the constitutional right to a speedy disposition of the case is a relative and flexible concept.⁴ To reiterate, *each case must be decided upon the facts peculiar to it.*⁵ A mere mathematical reckoning of time involved would not be sufficient.⁶ The conduct and interests of both the Prosecution and the accused are considered and balanced in determining whether the right to the speedy disposition of cases has been violated.⁷

Based on the records, SB-18-CRM-0003, SB-18-CRM-0004, and SB-18-CRM-0005 arose from three (3) separate complaints filed before the Office of the Deputy Ombudsman for Luzon. The complaints were separately docketed as OMB-C-C-13-0179, OMB-C-C-13-0317, and OMB-C-C-13-0298. In all cases, the period of fact-finding investigation was excluded in the computation of the period of the alleged delay.

In the fairly recent case of *Cagang v. Sandiganbayan*,⁸ the Supreme Court held that the fact-finding investigation is not counted in determining whether or not the right of the accused to a speedy disposition of the case 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 formal complaint and the subsequent conduct of the preliminary investigation.⁹

The total period of *one (1) year and fifteen (15) days* in OMB-C-C-13-0179, *eleven (11) months and nine (9) days* in OMB-C-C-13-0317, and *one (1) year, one (1) month, and twelve (12) days* in OMB-C-C-13-0298, was also excluded from the time spent by the Office of the Ombudsman to complete the preliminary investigation, and for the OSP to file the corresponding informations with the Sandiganbayan. These periods were spent by accused

⁴ *Dela Pea v. Sandiganbayan*, G.R. No. 144542, June 29, 2001

⁵ *Benares v. Lim*, G.R. No. 173421, December 14, 2006.

⁶ *Id.*

⁷ *Gonzales v. Sandiganbayan*, G.R. No. 94750, July 16, 1991.

⁸ G.R. Nos. 206438, 206458, 210141-42, July 31, 2018.

⁹ *Id.*



Beronio, Yap, Batara, Laysa, Bacani, and Undan, and their co-respondents in preparing and filing their counter-affidavits and motions for reconsideration, the FIO in filing its consolidated reply, and the government agencies in complying with subpoena *duces tecum*.

Therefore, the total period attributable to the Office of the Ombudsman was only *three (3) years, six (6) months, and two (2) days* in OMB-C-C-13-0179, *three (3) years, six (6) months, and twenty-nine (29) days* in OMB-C-C-13-0317, and *three (3) years, four (4) months, and eight (8) days* in OMB-C-C-13-0298.

In the Resolution dated December 5, 2018, the Court considered these periods reasonable because the investigating prosecutor had to carefully evaluate the complaints and the supporting documents to determine whether probable cause for violation of Sections 3(e), 3(g) and 3(h) of R.A. No 3019 existed against the accused-movants. The Office of the Ombudsman had to consider their right to due process and the OSP had to review the cases again so that only the cases that could stand the rigors of trial would be filed. Under these circumstances, the said period is not capricious, oppressive and vexatious.

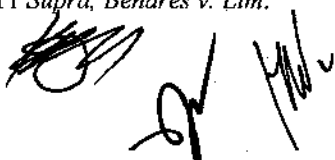
All other matters raised by accused Beronio, Yap, Batara, Laysa, Bacani, and Undan in their respective motions for reconsideration and by the Prosecution in its opposition, such as the inexcusable delay by the Office of the Ombudsman in the conduct of the preliminary investigation, the non-waiver by the accused-movants of their constitutional right to a speedy disposition of the case, the prejudice that they suffered because of the alleged delay, and the application of Supreme Court rulings to these cases, were already passed upon and resolved by the Court in the assailed resolution.

Each case involving an alleged violation of the right of the accused to a speedy disposition of the case is judged on a case-to-case basis. The Court is required to do more than a computation of the number of years that elapsed in the conduct of the preliminary investigation and filing of the information in court. The inquiry as to whether or not an accused has been denied such right is not susceptible by precise qualification. Particular regard must be had to peculiar circumstances attendant of each case.¹⁰

The rights given to the accused by the Constitution and the Rules of Court are shields, not weapons; hence, courts are to give meaning to that intent.¹¹ There being no new matters or issues raised to warrant a reversal

¹⁰ *Ombudsman v. Jurado*, G.R. No. 154155, August 6, 2008.

¹¹ *Supra*, *Benares v. Lim*.




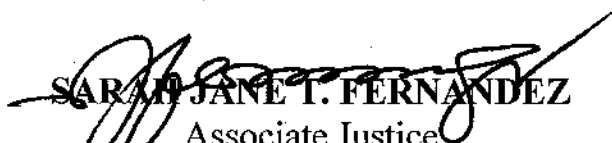
thereof, the Court is not inclined to grant accused Beronio, Yap, Batara, Laysa, Bacani, and Undan's separate motions for reconsideration.

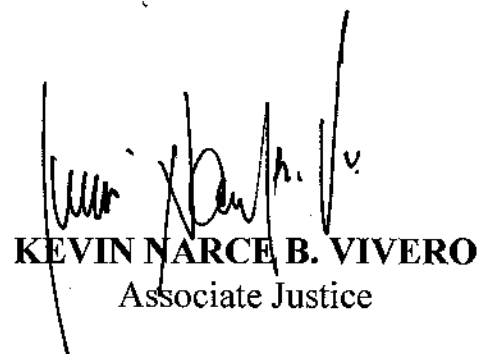
WHEREFORE, the Motion for Reconsideration dated December 20, 2018 of accused Ronilo A. Beronio; 2) Motion for Reconsideration dated January 9, 2019 of accused Arthur C. Yap; and 3) Motion for Reconsideration dated January 10, 2019 of accused Johnifer G. Batara, Fe D. Laysa, Senen C. Bacani, and Rodolfo C. Undan are **DENIED**. The Resolution of the Court promulgated on December 5, 2018 is **AFFIRMED**.

The Manifestation dated January 14, 2019 of the Prosecution is **NOTED**.

SO ORDERED.


KARL B. MIRANDA
Associate Justice


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCE B. VIVERO
Associate Justice

People v. Arthur C. Yap, et al. (SB-18-CRM-0003 to 0005)

(The respective *Motions for Reconsideration* of accused Beronio, Yap, Batara, Laysa, Bacani and Undan)

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.

As held in *Tumbocon v. Sandiganbayan*,¹ wherein the Supreme Court applied its ruling in *Cagang v. Sandiganbayan*,² the time spent for the fact-finding investigation should be excluded from the computation for determining the length of delay. At any rate, even if the ruling in *Cagang* was not applied, and the time for the fact-finding investigation is included in the computation of the length of delay, there would nevertheless be no violation of said 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*,³ 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.:*

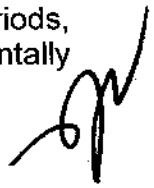
At this juncture, this Court takes judicial notice of the fact that these cases are not the only ones pending before the OMB. As can be gleaned from the assailed resolutions, these circumstances were not considered by the court *a quo* as it, evidently, merely ventured into a mathematical computation 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

¹ G.R. Nos. 235412-15, November 5, 2018

² G.R. Nos. 206438, 206548 and 210141-42, July 31, 2018

³ G.R. Nos. 232197-98, April 16, 2018



SEPARATE CONCURRING OPINION

People v. Yap, et al.

SB-18-CRM-0003 to 0005

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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.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson