



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No. SB-19-CRM-0052

For: Violation of Sec. 3(e) of R.A. No. 3019,
as amended.

-versus-

GRACE G. SINGSON,
BERNARDITA B. MATI,
ELISEO V. GACUSANA,
PROSPERO G. BELLO,
PERLA W. GAPATAN,
JERRY B. MALAMION,
ESTEBAN F. MARTINEZ,
REYNALDO P. QUERUBIN,
NAULIE G. CABANTING,
ELYNETTE MARIE M. MARTINEZ,
ALAIN C. LEE

Accused.

Present:

QUIROZ, J. *Chairperson*
CRUZ, J.
JACINTO, J.

Promulgated on:

SEP 03 2019

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RESOLUTION

CRUZ, J.

This resolves the (1) Motion for Reconsideration (Re: Resolution dated 19 June 2019) dated 05 July 2018 of accused Grace G. Singson, Bernardita B. Mati, Eliseo V. Gacusana, Perla W. Gapatan, Jerry B. Malamion, Esteban F. Martinez, Reynaldo P. Querubin, and Naulie G. Cabanting, as adopted¹ by accused Alain C. Lee and Elynette Marie Martinez (hereinafter collectively referred

¹ Per Order dated 05 July 2019 (attached to the records of the case)

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to as “accused” for brevity); and the (2) Prosecution’s Comment and/or Opposition (*to Motion for Reconsideration*) dated 15 July 2019.

In their motion,² the accused alleged that the Court issued the assailed Resolution³ without considering the additional allegations and arguments stated in their Supplemental Motion to Dismiss⁴ dated 27 May 2019. Accordingly, they argue that the factual circumstances and the arguments raised in the said Supplemental Motion to Dismiss would convince the Court that the long delay in the preliminary investigation was inordinate and oppressive, and thus, constituted a violation of their right to speedy disposition of cases. In the main, they claim that the right to speedy disposition of cases is violated not only when the proceeding was attended by vexatious, capricious and oppressive delay, but also when the prosecution is protracted for an extensive period of time and no reasonable cause or motive is offered by the State to justify the delay. Here, they insist that the Ombudsman failed to justify the delay of six (6) years and two (2) months to complete is preliminary investigation. They aver that there is nothing in the present case that requires exigency since the facts and issues therein exude simplicity. Furthermore, they persist in saying that the indicia of delay seen in the resolution of the preliminary investigation was due to other factors that are not based on compliance with the prescribed procedure. They state that they already raised their right to speedy disposition of case when they filed their Supplemental Motion for Reconsideration⁵ dated 25 January 2018 before the Office of the Ombudsman, and they continue to point out that they were prejudiced by the oppressive delay during the preliminary investigation.

As to the sufficiency of the Information, the accused said that the facts charged therein were insufficient to constitute the offense charged. Citing sections 6 and 9 of Rule 110 of the Rules of Court, they maintain that the herein Information was defective because it failed to allege the specific overt acts done by each of them in pursuance of the conspiracy to commit the crime charged. They also add that the factual allegations in the Information do not charge an offense insofar as accused Singson is concerned. Based on jurisprudence, they explain that accused Singson’s participation (by merely giving her approval and signature in order for the questioned transaction to proceed) is not enough to show that a conspiracy

² Records, Vol. II, pp. 42-62

³ Records, Vol. II, pp. 22-31

⁴ Records, Vol. I, pp. 504-516

⁵ Records, Vol. I, pp. 518-533

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existed and that she conspired with her co-accused to violate the crime charged.

The prosecution opposed⁶ the motion, claiming that there is no need for the Court to review the accused's Supplemental Motion to Dismiss. The prosecution points out that the accused's previously filed Omnibus Motion and their subsequent Supplemental Motion to Dismiss are essentially the same because the said pleadings raised similar arguments; the only exception is that the latter motion concentrated more on the concept of inordinate delay. This is the reason why the prosecution opted not to file another comment and/or opposition to the accused's Supplemental Motion to Dismiss as it has exhaustively opposed all the arguments relating to inordinate delay in its comment and/or opposition to the accused's Omnibus Motion. The prosecution also posits that it can be inferred from the assailed Resolution that the Court has considered the accused's Supplemental Motion to Dismiss since the Court discussed the case of *Magante vs. Sandiganbayan, et al.*, which the accused cited and quoted as their authority in the said motion. The prosecution thus maintains that all the pleadings of the parties, including their oral arguments during the hearings of the Omnibus Motion as well as the Supplemental Motion to Dismiss were considered by the Court in rendering the assailed Resolution.

In addition, the prosecution further declares that the arguments in the instant motion were mere repetitions of the matters raised in the accused's Omnibus Motion and Supplemental Motion to Dismiss. The prosecution contends that the Court has correctly found, considering the attendant circumstances, that the delay was justifiable. Moreover, the prosecution asserts that the Court did not err in finding that the Information herein had sufficiently alleged all the elements of the crime charged, and that if the allegations therein were hypothetically admitted, the essential elements of the crime would be established. The prosecution affirms that the allegations in the Information were sufficient to formally inform the accused of the facts and the acts constituting the offense, enabling them to suitably prepare for their defense.

The accused's motion is without merit.


The accused fault the Court for allegedly disregarding their Supplemental Motion to Dismiss dated 27 May 2019, stating that the allegations therein would solidify their arguments that there is inordinate delay during the preliminary investigation, which resulted

⁶ Records, Vol. II, pp. 87-92

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in the violation of their right to the speedy disposition of their cases. At the outset, the Court must point out that the accused's Omnibus Motion was already submitted⁷ for resolution when their Motion for Leave to Admit Attached Supplemental Motion to Dismiss⁸ was filed in court on 28 May 2019. Nonetheless, even if their motion for leave was granted and their attached Supplemental Motion to Dismiss was admitted, the allegations therein still fail to persuade the Court from denying their motion.

It must be underscored that not all delays in the proceedings result in the violation of the accused's right to speedy disposition of cases. Jurisprudence states that the concept of "speedy disposition of cases" is consistent with reasonable delays.⁹ In effect, delays *per se* are understandably attendant to all prosecution and are constitutionally permissible, as long as the attendant delay must not be oppressive.¹⁰ Concomitantly, it is doctrinal that the right to speedy disposition of cases is violated only when the proceeding is attended by vexatious, capricious, and oppressive delays.¹¹ In this case, the Court observes that none of the accused's pleadings, including this present motion for reconsideration, were able to establish that the proceedings herein was attended by unreasonable delay. As found in this Court's assailed Resolution, the perceived delay during the preliminary investigation was justifiably explained by the prosecution as it narrates how the case progress from the filing of the complaint until the filing of the Information in court. Institutional delay, in the proper context, should not be taken against the State.¹² As the rule now stands, a case should not precipitately be dismissed simply because the case dragged beyond the reasonable periods.¹³ The prosecution must be given the chance to prove to the satisfaction of the Court that it followed the prescribed procedure in the prosecution of the case.¹⁴ Corollary, the Court is called to balance the duty of the State to effectively prosecute crimes alongside the Constitutional right of the accused to a speedy disposition of their case.¹⁵ It must be remembered that the right of the accused to speedy disposition of cases is as significant as the right of the State to prosecute people who violate its penal laws.¹⁶ Thus, the Ombudsman should not be faulted if the delay in the

 ⁷ Records, p. 415-A

⁸ Records, pp. 500-503

⁹ *Madeleine Mendoza-Ong vs. Sandiganbayan and People of the Philippines* (G. R. Nos. 146368-69, October 18, 2004)

¹⁰ *Cesar M. Cagang vs. Sandiganbayan, et al.* (G. R. Nos. 206438 and 206458, July 31, 2018)

¹¹ *Id.*

¹² *Id.*

¹³ *People of the Philippines vs. Sandiganbayan, et al.* (G. R. No. 233557-67, June 19, 2019)

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

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proceedings is only attributable to the ordinary processes of justice.¹⁷

The Court also maintains its finding that the accused did not timely invoke their right to speedy disposition of cases. It is a settled rule that the right to speedy disposition of cases must be timely raised, and that the respondent/accused is mandated to file the appropriate motion upon the lapse of the statutory or procedural periods.¹⁸ Under Section 4, Rule II of Administrative Order No. 7, Rules of Procedure of the Office of the Ombudsman, the preliminary investigation of cases falling under the jurisdiction of this Court shall be conducted in the manner prescribed in Section 3, Rule 112 of the Rules of Court (Rules). In turn, Section 3 (f) of Rule 112 of the said Rules states that “within ten (10) days after the investigation, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial.” Here, the accused claim that they did invoke their right to speedy disposition of cases before the Ombudsman when they filed their Supplemental Motion for Reconsideration¹⁹ on 26 January 2018. Significantly, they were fully aware that the preliminary investigation was not terminated within the prescribed period, and yet, they waited for nearly five (5) years to invoke their right to speedy disposition of cases.²⁰ This kind of inaction is frowned upon in jurisprudence, as this could indicate the accused’s acquiescence of the delay, which could amount to laches, resulting in the waiver of the right to invoke the right to speedy disposition of cases.²¹ In the case of *Cesar M. Cagang vs. Sandiganbayan, et al.*,²² citing *Dela Peña v. Sandiganbayan*, it was held, thus:

xxx They slept on their right – a situation amounting to laches. The matter could have taken a different dimension if during all those four years, they showed signs of asserting their right to a speedy disposition of their cases or at least made some overt acts, like filing a motion for early resolution, to show that they were not waiving their right. Their silence may, therefore be interpreted as a waiver of such right. As aptly stated in *Alvizo*, the petitioner therein was “insensitive to the implications and contingencies” of the projected criminal prosecution posed against him “by not taking any step whatsoever to accelerate the disposition of the matter, which inaction conduces to the perception that the supervening delay seems to have been without his objection, [and] hence impliedly with his acquiescence. xxx

¹⁷ People of the Philippines vs. Sandiganbayan, et al. (G. R. No. 233557-67, June 19, 2019)

¹⁸ Cesar M. Cagang vs. Sandiganbayan, et al. (G. R. Nos. 206438 and 206458, July 31, 2018)

¹⁹ Records, Vol. II, pp. 63-78

²⁰ Records, Vol. II, p. 50

²¹ *Supra*, footnote 18

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Finally, the Court had also dealt with the sufficiency of the questioned Information, confirming that the elements of the crime charged have been accurately alleged, and specified with such particularity in order to serve its purpose of ensuring that all of the accused are formally informed of the facts and the acts constituting the offense, enabling them to suitably prepare their defenses.

Considering that the matters raised herein are basically the same as those that have been submitted to and thoroughly discussed by this Court in its assailed resolution; the instant motion, therefore, had failed to present a new and substantial issue that would warrant a reconsideration, much less a reversal, of this Court's ruling.

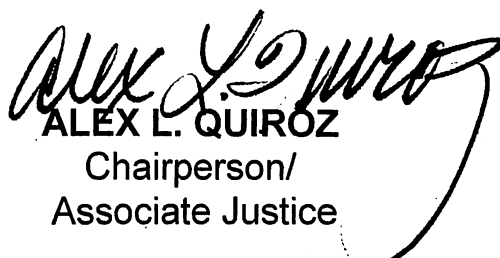
WHEREFORE, premises considered, the Motion for Reconsideration (Re: Resolution dated 19 June 2019) dated 05 July 2018 of accused Grace G. Singson, Bernardita B. Mati, Eliseo V. Gacusana, Perla W. Gapatan, Jerry B. Malamion, Esteban F. Martinez, Reynaldo P. Querubin, and Naulie G. Cabanting, as adopted by accused Alain C. Lee, and Elynette Marie Martinez, is hereby **DENIED** for lack of merit.

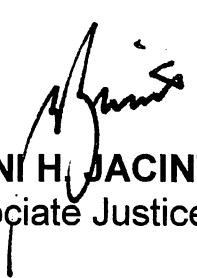
Let the Arraignment of the herein accused and the Pre-trial of this case set on 13 September 2019 at 1:30 in the afternoon, proceed as scheduled.

SO ORDERED.


REYNALDO P. CRUZ
Associate Justice

We Concur:


ALEX L. QUIROZ
Chairperson/
Associate Justice


BAYANI H. JACINTO
Associate Justice