



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-18-CRM-0428 and 0429

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

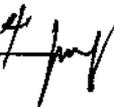
- versus -

Present:

MARCELINO C. LIBANAN, ET AL.,
Accused.

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

Promulgated:

February 29, 2024 

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RESOLUTION

FERNANDEZ, SJ, J.:

This resolves the *Motion for Reconsideration (of the Resolution issued on January 3, 2024)*¹ filed by accused Clotilde J. Salazar and Manuel B. Japzon, and the prosecution's *Comment/Opposition (Re: Motion for Reconsideration dated January 31, 2024 filed by Accused Clotilde J. Salazar and Manuel B. Japzon)*.²

In their *Motion for Reconsideration*, accused Salazar and Japzon pray that the Court reconsider its Resolution dated January 3, 2024 and grant their *Joint Manifestation*.³ They aver:

1. These cases were dismissed as to accused Libanan, Agda, Dorado, Bormate, and Ponferrada for violation of their right to speedy disposition of cases. These cases should also be dismissed as to them because they are similarly situated.


¹ Dated January 31, 2024 and filed by registered mail on February 1, 2024

² Dated February 5, 2024 and filed on even date

³ Dated November 3, 2023; Record, Vol. 14, pp. 331-334



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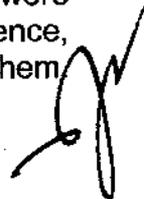
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- a. In 2004, accused Salazar was the governor of the Province of Eastern Samar, and accused Japzon was a member of the Bids and Awards Committee of the said province.
 - b. In 2012, a complaint was filed against them and the other accused before the Office of the Ombudsman in connection with the irregularities in the procurement of NBEM fertilizers. The Informations were filed with the Sandiganbayan only on June 22, 2018.
 - c. Accused Marcelino C. Libanan filed his *Motion to Quash Information and/or Dismiss the Case*, invoking his right to speedy disposition of cases. They filed their manifestation to adopt accused Libanan's Motion. However, the Court, in the Resolution dated October 26, 2018, denied the respective Motions of the accused. The Court also denied the respective motions for reconsideration of the accused in the Resolution dated February 20, 2019.
 - d. Thereafter, the other accused filed their respective Petitions for *Certiorari* with the Supreme Court, assailing the said Resolutions dated October 26, 2018 and February 20, 2019.
 - e. In the Resolution dated December 5, 2022, the Supreme Court granted the said petitions and ordered the dismissal of these cases against accused Libanan, Agda, Dorado, Bormate and Ponferrada.
2. The Court committed a reversible error when it disregarded Rule 122, Section 11 of the Rules of Criminal Procedure as a ground for dismissing these cases against them.

In its *Comment/Opposition*, the prosecution counters:

1. Accused Salazar and Japzon's *Motion for Reconsideration* should be denied outright for being filed beyond the five-day period for filing a motion for reconsideration of the resolution of a meritorious motion under A.M. No. 15-06-10-SC (*Revised Guidelines for Continuous Trial of Criminal Cases*).
2. The Court correctly ruled that accused Salazar and Japzon were not parties in the cases before the Supreme Court, and hence, the Supreme Court's ruling in those cases do not apply to them.



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- 3. Accused Salazar and Japzon's arguments are a mere rehash of their averments in their *Joint Manifestation*.

THE COURT'S RULING

Accused Salazar and Japzon's instant *Motion for Reconsideration* was filed beyond the period for filing the same. Under the *Revised Guidelines for Continuous Trial of Criminal Cases (Revised Continuous Trial Guidelines)*, a motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five calendar days from receipt of such resolution.⁴

Here, accused Salazar and Japzon received a copy of the assailed Resolution on January 22, 2024.⁵ Hence, they had until January 29, 2024—January 27 being a Saturday—within which to file a motion for reconsideration. But accused Salazar and Japzon, erroneously applying the 15-day period under the Rules on Civil Procedure, filed their instant *Motion for Reconsideration* only on February 1, 2024, which was already beyond the five-day period under the *Revised Continuous Trial Guidelines*.

Rules prescribing the time for doing specific acts or for taking certain proceedings are considered absolutely indispensable to prevent needless delays and to orderly and promptly discharge judicial business. By their very nature, these rules are regarded as mandatory.⁶ However, the Supreme Court has recognized that there are circumstances where, as an exception, these procedural rules may be relaxed,⁷ and it has also been held that the strict and rigid application of technicalities must be avoided if it tends to frustrate than promote substantial justice, as when the merit of a party's cause is apparent and outweighs consideration of noncompliance with certain formal requirements.⁸

⁴ REV. CONTINUOUS TRIAL GUIDELINES, III Procedure x x x 2. Motions, x x x The motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution, and the adverse party shall be given an equal period of five (5) calendar days from receipt of the motion for reconsideration within which to submit its comment. Thereafter, the motion for reconsideration shall be resolved by the court within a non-extendible period of five (5) calendar days from the expiration of the five (5)-day period to submit the comment. x x x

⁵ *Motion for Reconsideration*, p. 1

⁶ *Laguna Metts Corporation v. Court of Appeals*, G.R. No. 185220, July 27, 2009

⁷ *Sanchez v. Court of Appeals*, G.R. No. 152766, June 20, 2003

⁸ *Gacad v. Corpuz*, G.R. No. 216107, August 3, 2022, citing *Heirs of Deleste v. Land Bank of the Philippines* (G.R. No. 152766, June 20, 2003) and *Bañez v. Court of Appeals* (G.R. No. 119321, March 18, 1997)

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Here, the Court finds that the relaxation of the rules is warranted. There is merit in accused Salazar and Japzon's *Motion for Reconsideration*, and denying the same outright solely by reason of their counsel's erroneous application of the rules will result in injustice. In any event, the assailed Resolution is an interlocutory order, which is always under the control of the Court, and may be modified or rescinded upon sufficient grounds shown at any time before final judgment.⁹

Now with respect to the merits, first, the Court disagrees with accused Salazar and Japzon's contention that Rule 122, Section 11(a) of the Rules of Court applies. The Court already ruled on the matter in the assailed Resolution. The pertinent portion¹⁰ of the said Resolution reads:

Accused Salazar and Japzon's reliance on Sec. 11(a), Rule 122 of the Rules of Court is also misplaced. The said provision reads:

Sec. 11. Effect of appeal by any of several accused. –

(a) An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter.

x x x

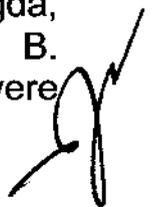
It is apparent from the aforementioned provision that it pertains to the effects of the judgment of the appellate court on [an] accused who did not appeal the trial court's judgment. The cases before the Supreme Court pertained to the consolidated Petitions for *Certiorari* assailing this Court's Resolutions dated October 26, 2018 and February 20, 2019. This Court has not yet rendered its judgment in the present cases. Consequently, there is nothing to appeal to the Supreme Court, and Sec. 11(a), Rule 122 of the Rules of Court finds no application.

Furthermore, it is settled that appeal and *certiorari* are two different remedies. They are generally not interchangeable, and are mutually exclusive.¹¹ The Petitions for *Certiorari* filed before the Supreme Court by accused Marcelino C. Libanan, Jesus A. Agda, Reynaldo C. Dorado, Necitas A. Ponferrada, and Ma. Vilma B. Bormate were governed by Rule 65 of the Rules of Court, and were

⁹ *Heirs of Timbang Daromimbang Dimaampao v. Alug*, G.R. No. 198223, February 18, 2015

¹⁰ Resolution dated January 3, 2024, pp. 5-6

¹¹ *Punongbayan-Visitacion v. People*, G.R. No. 194214, January 10, 2018



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not appeals. The Court reiterates its ruling in the assailed Resolution. Rule 122, Section 11(a), which specifically pertains to appeals, finds no application.

Notwithstanding the foregoing, the Court reconsiders the assailed Resolution, and resolves to dismiss these cases as to accused Salazar and Japzon.

To recall, in the Resolution dated December 5, 2022¹² in G.R. Nos. 244742-43 (*Reynaldo C. Dorado v. Sandiganbayan [Sixth Division] and People of the Philippines*); G.R. No. 244745 (*Jesus A. Agda v. Sandiganbayan [Sixth Division] and People of the Philippines*); G.R. Nos. 245910-11 (*Necitas A. Ponferrada v. Sandiganbayan [Sixth Division] and People of the Philippines*); and G.R. Nos. 246677-78 (*Ma. Vilma B. Bormate v. Sandiganbayan [Sixth Division]*, represented by Presiding Justice Sarah Jane T. Fernandez, Associate Justice Karl B. Miranda and Associate Justice Kevin Narce B. Vivero), the Supreme Court ordered the dismissal of these cases as to accused Libanan, Agda, Dorado, Ponferrada, and Bormate for violation of their right to speedy disposition of cases. The dispositive portion of the Supreme Court's Resolution reads:

WHEREFORE, the consolidated petitions are **GRANTED**. The Resolution dated October 26, 2018 and the Resolution dated February 20, 2019 of the Sandiganbayan (Sixth Division) are **ANNULLED** and **SET ASIDE**. The Sandiganbayan is ordered to **DISMISS** Criminal Case Nos. SB-18-CRM-0428 and SB-18-CRM-0429 for violation of petitioners' right to speedy disposition of cases.

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SO ORDERED.

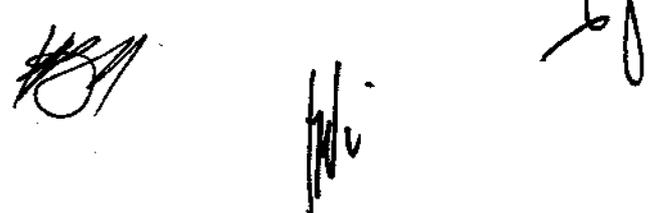
As accused Salazar and Japzon point out in their instant *Motion for Reconsideration*, they are similarly situated as accused Libanan, Agda, Dorado, Ponferrada, and Bormate.

The records would show that accused Salazar and Japzon were also respondents in the same preliminary investigation conducted by the Office of the Ombudsman.¹³ The Complaint dated October 9, 2012¹⁴ of Field Investigation Office I (FIO I) was filed against the

¹² Record, Vol. 14, pp. 54-59

¹³ Record, Vol. 1, pp. 16-17

¹⁴ Record, Vol. 1, pp. 39-56



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respondents, including accused Libanan, Agda, Dorado, Ponferrada, and Bormate, and accused Salazar and Japzon, on March 5, 2013.¹⁵ Accused Libanan, Agda, Dorado, Ponferrada, and Bormate, and accused Salazar and Japzon, then filed their respective counter-affidavits.¹⁶ Subsequently, the Office of the Ombudsman, in the Resolution dated March 28, 2017, found probable cause for indicting the respondents in court.¹⁷ Accused Libanan, Agda, Dorado, Japzon, and Salazar, then filed their respective *Motions for Reconsideration*¹⁸ of the said Resolution, which the Office of the Ombudsman denied in the Order dated October 19, 2017.¹⁹

After the Informations were filed with the Sandiganbayan on June 22, 2018, accused Libanan filed his *Motion to Quash Information and/or Dismiss the Case*,²⁰ and accused Salazar and Japzon adopted the same as their own.²¹ In the Resolution dated October 26, 2018,²² this Court denied the respective Motions of the accused. Thereafter, accused Libanan and Agda filed their *Joint Motion for Reconsideration* of the said Resolution,²³ and accused Salazar and Japzon, again, adopted accused Libanan's *Motion for Reconsideration*.²⁴ The accused's respective *Motions for Reconsideration* were then denied in this Court's Resolution dated February 20, 2019.²⁵

Accused Libanan, Agda, Dorado, Ponferrada, and Bormate then filed their respective Petitions for *Certiorari* with the Supreme Court, and in the above-mentioned Resolution dated December 5, 2022, the Supreme Court declared that there was a violation of accused Libanan, Agda, Dorado, Ponferrada, and Bormate's constitutional right to

¹⁵ Record, Vol. 1, p. 18

¹⁶ *Counter-Affidavit for Respondent Marcelino Chicano Libanan* dated April 8, 2014 (Record, Vol. 2, pp. 92-96); accused Agda's *Counter-Affidavit* dated March 25, 2014 (Record, Vol. 2, pp. 97-104); accused Dorado's *Counter-Affidavit* dated March 25, 2014 (Record, Vol. 2, pp. 114-121); accused Ponferrada's *Counter-Affidavits* dated July 19, 2013 and April 5, 2014 (Record, Vol. 2, pp. 74-80); accused Bormate's *Counter-Affidavits* dated July 13, 2013 and April 5, 2014 (Record, Vol. 2, pp. 67-73); accused Salazar's *Counter-Affidavits* dated July 3, 2013 and March 27, 2014 (Record, Vol. 2, pp. 85-91); accused Japzon's *Counter-Affidavits* dated July 20, 2013 and April 3, 2014 (Record, Vol. 2, pp. 60-66)

¹⁷ Record, Vol. 1, p. 26

¹⁸ Record, Vol. 1, p. 32

¹⁹ Record, Vol. 1, p. 35

²⁰ Record, Vol. 3, pp. 187-A to 187-N

²¹ *Manifestation to Adopt the Motion to Quash Information and/or Dismiss the Case Filed by Accused Marcelino Chicano Libanan* dated August 13, 2018; Record, Vol. 3, pp. 234-238

²² Record, Vol. 3, pp. 470-495

²³ *Accused Libanan's and Agda's Joint Motion for Reconsideration [Re: 26 October 2018 Resolution]* dated November 9, 2018; Record, Vol. 4, pp. 11-94

²⁴ *Motion to Adopt the Motion for Reconsideration (Re: 26 October 2018 Resolution)* dated November 19, 2018; Record, Vol. 4, pp. 203-206

²⁵ Record, Vol. 4, pp. 270-287



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speedy disposition of cases because there was inordinate delay in the preliminary investigation conducted by the Office of the Ombudsman. The pertinent portion²⁶ of the said Resolution reads:

In fine, We find the protracted period of over five years for the preliminary investigation inexcusable. Further, the prosecution failed to proffer an acceptable explanation for this delay. We thus rule that there was inordinate delay that violated petitioners' right to speedy disposition of cases.

Although accused Salazar and Japzon did not file a similar petition for *certiorari* with the Supreme Court, and they were not parties in the cases before the Supreme Court, these cases must also be dismissed as to them.

As previously discussed, accused Libanan, Agda, Dorado, Ponferrada, and Bormate, and accused Salazar and Japzon were the subjects of the same Complaint which was resolved in the same Resolution of the Office of the Ombudsman, and hence, within the same period. There is no doubt that they were the subjects of the same preliminary investigation which the Supreme Court held was attended by inordinate delay.

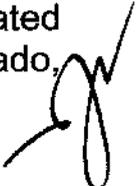
After the issuance of the Office of the Ombudsman's Resolution, only accused Libanan, Agda, Dorado, Salazar, and Japzon filed their respective motions for reconsideration of the same. Accused Ponferrada and Bormate did not file their motion for reconsideration. The said motions for reconsideration were denied in the same Order of the Office of the Ombudsman.²⁷ Notably, of the said accused who filed their motions for reconsideration, only accused Libanan, in his *Supplemental Motion for Reconsideration*, invoked his right to speedy disposition of cases in the proceedings before the Office of the Ombudsman.²⁸

Nonetheless, the Supreme Court, in the Resolution dated December 5, 2022, declared that accused Libanan, Agda, Dorado,

²⁶ *Dorado v. Sandiganbayan (Sixth Division)*, G.R. Nos. 244742-43; *Agda v. Sandiganbayan (Sixth Division)*, G.R. No. 244745; *Libanan v. Sandiganbayan (Sixth Division)*, G.R. No. 244746; *Ponferrada v. Sandiganbayan (Sixth Division)*, G.R. Nos. 245910-11; and *Bormate v. Sandiganbayan (Sixth Division)*, G.R. Nos. 246677-78, December 5, 2022 [Unsigned Resolution, First Division], p. 9; Record, Vol. 14, p. 58

²⁷ Record, Vol. 1, pp. 31-37

²⁸ Record, Vol. 1, p. 33



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Ponferrada, and Bormate timely invoked their rights. The pertinent portion²⁹ of the said Resolution reads:

We likewise find that petitioners timely invoked their rights.

In *Javier v. Sandiganbayan (Javier)*, We considered the filing of a motion to quash before arraignment as a timely assertion of the right to speedy disposition of cases:

Lastly, the Court holds that Javier and Tumamao timely asserted their rights because they filed the Motion to Quash at the earliest opportunity. Before they were even arraigned, they already sought permission from the Sandiganbayan to file the Motion to Quash to finally be able to assert their right to speedy disposition of cases. To the mind of the Court, this shows that Javier and Tumamao did not sleep on their rights, and were ready to assert the same given the opportunity. Certainly, this could not be construed as acquiescence to the delay.

Similarly, in *Perez v. Sandiganbayan (Perez)*, We held that the filing of a motion to quash negates any implied intention on the part of the accused to waive his or her constitutional right to the speedy disposition of cases.

In the present case, petitioners immediately invoked the same right in their motions to quash or dismiss upon the filing of the informations before the Sandiganbayan. Following *Javier* and *Perez*, these circumstances invariably show that petitioners did not sleep on their rights.

Like accused Libanan, Agda, Dorado, Ponferrada, and Bormate, accused Salazar and Japzon filed their own motion to quash or dismiss by adopting accused Libanan's *Motion to Quash Information and/or Dismiss the Case*. Later, they moved to reconsider this Court's Resolution denying their motion by, again, adopting accused Libanan's *Motion for Reconsideration*. The respective motions to quash of accused Libanan, Agda, Dorado, Ponferrada, and Bormate, and accused Salazar and Japzon were the subjects of the same Resolution dated October 26, 2018, denying the said motions. Similarly, the respective motions for reconsideration of accused Libanan, Agda, Dorado, Ponferrada, and Bormate, and accused Salazar and Japzon were the subjects of the same Resolution dated February 20, 2019, denying the said motions for reconsideration. Both Resolutions

²⁹ *Dorado v. Sandiganbayan (Sixth Division)*, G.R. Nos.244742-43; *Agda v. Sandiganbayan (Sixth Division)*, G.R. No. 244745; *Libanan v. Sandiganbayan (Sixth Division)*, G.R. No. 244746; *Ponferrada v. Sandiganbayan (Sixth Division)*, G.R. Nos. 245910-11; and *Bormate v. Sandiganbayan (Sixth Division)*, G.R. Nos. 246677-78, December 5, 2022 [Unsigned Resolution, First Division], p. 9; Record, Vol. 14, p. 58

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promulgated by this Court were later annulled as to accused Libanan, Agda, Dorado, Ponferrada, and Bormate in the Supreme Court's Resolution dated December 5, 2022.

In *Catamco v. Sandiganbayan Sixth Division*,³⁰ the Supreme Court ordered this Court to dismiss the cases as to Nancy A. Catamco and Pompey M. Perez (Catamco and Perez) for violation of their right to speedy disposition of cases. Thereafter, Edgar G. Rama, William G. Surbano, Gorgonia E. Gonzales, Sergio G. Zurita and Nilo B. Gorgonio (Rama, et al.), the co-accused of Catamco and Perez in *People v. Rama, et al.*,³¹ moved to dismiss the cases as to them on the ground that their right to speedy disposition of cases was also violated, and that they are similarly situated as Catamco and Perez. This Court denied Rama, et al.'s motion to dismiss and their motion for reconsideration on the ground that Rama, et al. were not parties in *Catamco*, and hence, the Supreme Court's order to dismiss the cases did not apply to them.

Rama, et al. then elevated the matter to the Supreme Court by filing their petition for *certiorari*. Eventually, in the Resolution dated July 23, 2021 in *Rama v. People*,³² the Supreme Court held that the Decision in *Catamco* dismissing the cases as to Catamco and Perez for violation of their right to speedy disposition of cases should also apply to Rama, et al. According to the Supreme Court, Catamco and Perez, and Rama, et al. are all similarly situated. Whatever inordinate delay experienced by Catamco and Perez during the preliminary investigation before the Ombudsman until the filing of the Informations in the Sandiganbayan were likewise suffered by Rama, et al., and hence, there is no reason why the ruling in *Catamco* should not be applied to Rama, et al.

Similarly, in the present cases, considering that the circumstances of accused Libanan, Agda, Dorado, Ponferrada, and Bormate, and accused Salazar and Japzon are the same in the proceedings before the Office of the Ombudsman, as well as in the proceedings before the Sandiganbayan, the Supreme Court's ruling that accused Libanan, Agda, Dorado, Ponferrada, and Bormate's right to speedy disposition of cases was violated should also apply to

³⁰ G.R. Nos. 243560-62; G.R. Nos. 243261-63, July 28, 2020

³¹ SB-18-CRM-0337 to 0339

³² G.R. Nos. 255962 and 255964-65, June 23, 2021 [Unsigned Resolution, First Division]

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accused Salazar and Japzon. These cases must also be dismissed as to accused Salazar and Japzon.

ACCORDINGLY, accused Salazar and Japzon's *Motion for Reconsideration* is hereby **GRANTED**. SB-18-CRM-0428 and 0429 are hereby **DISMISSED** as to them.

SO ORDERED.

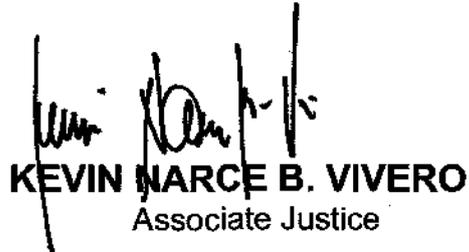


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:



KARL B. MIRANDA
Associate Justice



KEVIN NARCE B. VIVERO
Associate Justice