



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on April 5, 2024.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA -- Chairperson

Justice ZALDY V. TRESPESES ----- Member

Justice GEORGINA D. HIDALGO ----- Member

The following resolution was adopted:

Criminal Case Nos. SB-24-CRM-0001 to 0003 – People of the Philippines vs. Senandro Mendoza Jalgalado

This resolves the following:

1. Accused Senandro Mendoza Jalgalado's "***MOTION TO DISMISS AND TO SUSPEND PROCEEDINGS PRIOR RESOLUTION HEREOF***" dated March 20, 2024; and
2. The prosecution's "***COMMENT/OPPOSITION (TO THE MOTION TO DISMISS AND TO SUSPEND PROCEEDINGS PRIOR RESOLUTION HEREOF)***" dated March 22, 2024.

HIDALGO, J.:

On March 20, 2024, accused Senandro Mendoza Jalgalado (Jalgalado) filed a *Motion to Dismiss and to Suspend Proceedings Prior Resolution Hereof*, praying for the dismissal of the above-captioned cases on the ground of violation of his constitutional right to speedy disposition of cases, as well as his right to speedy trial, and further moves for the suspension of the proceedings in the meantime.

In said Motion to Dismiss, accused Jalgalado avers that on December 10, 2019, the Field Investigation Office of the Office of the Ombudsman (Ombudsman) filed a Complaint before the Ombudsman against then Congressman Renato J. Unico, Jr. (Unico, Jr.), accused Jalgalado, the former Municipal Mayor of Capalonga, Camarines Norte, and Rosie R. Parale (Parale), the former Municipal Treasurer of the same municipality, for: (1) Violation of Section 3(e) of Republic Act (R.A.) No. 3019; (2) Malversation

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of Public Funds under Article 217 of the Revised Penal Code (RPC); and (3) Falsification of Public Documents under Article 171 of the RPC, in connection with the 2011 Priority Development Assistance Fund (PDAF) Allocation, amounting to a total of ₱14,500,000.00, intended for the Lone District of Camarines Norte, represented by then Congressman Unico, Jr.

Accused Jalgalado states that on August 5, 2020, the Ombudsman directed him, together with Congressman Unico, Jr. and Parale, to file their respective Counter-Affidavits. He further narrates that on June 14, 2022, the Ombudsman issued a Resolution, finding probable cause for the charges to exist, thus, indicting him with one (1) count each for: (1) Violation of Section 3(e) of R.A. No. 3019; (2) Malversation under Article 217 of the RPC; and (3) Falsification of Public Documents under Article 171, Paragraphs 2 and 4 of the RPC. He likewise states that the Resolution was issued more than two (2) years from the filing of the Complaint.

In addition thereto, accused Jalgalado contends that the Ombudsman filed the corresponding Informations against him before the court only on January 10, 2024, or almost four (4) years from the filing of the Complaint.

Accused Jalgalado further argues that the incident subject of the above-captioned cases occurred in 2012, or more than a decade ago, making it difficult for him to locate the documents, which would serve as proof that the medicines purchased using the PDAF Allocation intended for the Lone District of Camarines Norte, were accounted for and liquidated.

Taking these into consideration, accused Jalgalado primarily invokes his constitutionally protected right to speedy disposition of cases, as well as his right to speedy trial, inasmuch as it took more than two (2) years for the Ombudsman to conduct its preliminary investigation, and approximately, another two (2) years to file the corresponding Informations before the court. He claims that the Ombudsman committed capricious and vexatious delay, which constitutes inordinate delay.

Hence, accused Jalgalado prays for the dismissal of the above-captioned cases for violation of his right to speedy disposition of cases and right to speedy trial. He further moves for the suspension of the proceedings in the meantime.

On the other hand, on March 22, 2024, the prosecution filed its *Comment/Opposition (to the Motion to Dismiss and to Suspend Proceedings Prior Resolution Hereof)*, praying that accused Jalgalado's Motion to Dismiss be denied for lack of merit.

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Particularly, in its Comment/Opposition, the prosecution pleads for the court to take judicial notice of the lockdowns imposed by the government to contain the spread of COVID-19, specifically, back in 2020 to 2022. It further states that the situation brought about the closing of offices and courts, which rendered it impossible to access case files and records. Thus, it caused delay to all pending investigations and cases before the Ombudsman and to other courts, as well.

The prosecution cites *Cagang v. Sandiganbayan*¹ (Cagang), providing for the mode of analysis in a situation where the right to speedy disposition of cases or right to speedy trial is invoked. It further mentions that the Ombudsman issued Administrative Order (A.O.) No. 1 Series of 2020, entitled, "*Prescribing the Periods in the Conduct of Investigations by the Office of the Ombudsman dated August 15, 2020 (Annex 'A')*,"² [or after the Complaint was filed on December 10, 2019]. That pursuant to Section 8 of A.O. No. 1, the above-captioned cases are considered complex cases, considering that: (1) the sum allegedly malversed and not liquidated amounted to a total of ₱14,500,000.00; and (2) the persons involved are high-ranking public officials, namely, former Congressman Unico, Jr. and former Municipal Mayor accused Jalgalado. As such, a period of twenty-four (24) months was provided to conduct the preliminary investigation.

Also, the prosecution stresses that accused Jalgalado filed three (3) motions for extension of time to file a Counter-Affidavit, yet he still failed to file the same. Thus, the issuance of a Resolution on June 14, 2022. It further adds that accused Jalgalado filed a motion for reconsideration of said Resolution, which was passed upon before the corresponding Informations were filed before the court.

Furthermore, the prosecution avers that accused Jalgalado ultimately contributed to the perceived delay and likewise emphasizes that he deliberately excluded the fact that he personally sought for postponements to file a Counter-Affidavit.

Moreover, the prosecution contends that the filing of the above-captioned cases is neither politically motivated nor motivated by malice, inasmuch as there are sufficient evidence to support the charges against accused Jalgalado.

And lastly, the prosecution argues that the issue of inordinate delay is a mere afterthought, considering that accused Jalgalado is raising it for the first

¹ G.R. Nos. 206438, 206458, and 210141-42, July 31, 2018.

² Office of the Ombudsman Administrative Order No. 1, Series of 2020, dated August 15, 2020.

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time, or only after the conclusion of the preliminary investigation and after his arraignment.

In sum, the prosecution asserts that the simple mathematical counting of four (4) years, from the filing of the Complaint up to the filing of the corresponding Informations before the court, failed to meet the guidelines laid down in *Cagang*. It further contends that even assuming that there was delay in the conduct of preliminary investigation, the delay was not inordinate, rather, it was caused by the acts of God, i.e., pandemic and lockdown, as well as the acts of accused Jalgalado, i.e., his postponements. Finally, it points out that the prayer to suspend proceedings has no further explanation and no legal basis to even stand on.

Thus, the prosecution prays that the Motion to Dismiss be denied for lack of merit.

The Court's Ruling

The Motion to Dismiss is without merit.

As enshrined under Article III, Section 16 of the 1987 Philippine Constitution (Constitution), "all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies."³ On the other hand, Article III, Section 14(2) of the Constitution provides that in all criminal prosecutions, the accused shall enjoy the right to have a speedy, impartial, and public trial.⁴

Pertinent thereto, *Cagang* enunciated the mode of analysis in situations where the right to speedy disposition of cases or the right to speedy trial is invoked, *viz*:

"First, the right to speedy disposition of cases is different from the right to speedy trial. While the rationale for both rights is the same, the right to speedy trial may only be invoked in criminal prosecutions against courts of law. The right to speedy disposition of cases, however, may be invoked before any tribunal, whether judicial or quasi-judicial. What is important is that the accused may already be prejudiced by the proceeding for the right to speedy disposition of cases to be invoked.

Second, a case is deemed initiated upon the filing of a formal complaint prior to a conduct of a preliminary investigation. This Court

³ 1987 Philippine Constitution, Article III, Section 16.

⁴ *Id.*, Article III, Section 14(2).

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acknowledges, however, that the Ombudsman should set reasonable periods for preliminary investigation, with due regard to the complexities and nuances of each case. Delays beyond this period will be taken against the prosecution. The period taken for fact-finding investigations prior to the filing of the formal complaint shall not be included in the determination of whether there has been inordinate delay.

Third, courts must first determine which party carries the burden of proof. If the right is invoked within the given time periods contained in current Supreme Court resolutions and circulars, and the time periods that will be promulgated by the Office of the Ombudsman, the defense has the burden of proving that the right was justifiably invoked. If the delay occurs beyond the given time period and the right is invoked, the prosecution has the burden of justifying the delay.

If the defense has the burden of proof, it must prove first, whether the case is motivated by malice or clearly only politically motivated and is attended by utter lack of evidence, and second, that the defense did not contribute to the delay.

Once the burden of proof shifts to the prosecution, the prosecution must prove first, that it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; second, that the complexity of the issues and the volume of evidence made the delay inevitable; and third, that no prejudice was suffered by the accused as a result of the delay.

Fourth, determination of the length of delay is never mechanical. Courts must consider the entire context of the case, from the amount of evidence to be weighed to the simplicity or complexity of the issues raised.

An exception to this rule is if there is an allegation that the prosecution of the case was solely motivated by malice, such as when the case is politically motivated or when there is continued prosecution despite utter lack of evidence. Malicious intent may be gauged from the behavior of the prosecution throughout the proceedings. If malicious prosecution is properly alleged and substantially proven, the case would automatically be dismissed without need of further analysis of the delay.

Another exception would be the waiver of the accused to the right to speedy disposition of cases or the right to speedy trial. If it can be proven that the accused acquiesced to the delay, the constitutional right can no longer be invoked.

In all cases of dismissals due to inordinate delay, the causes of the delays must be properly laid out and discussed by the relevant court.

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Fifth, the right to speedy disposition of cases or the right to speedy trial must be timely raised. The respondent or 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.”⁵ (Emphasis Supplied)

Applying the parameters laid down in *Cagang*, the court essentially finds that there is no inordinate delay on the part of the prosecution. As such, there is no violation of accused Jalgalado’s constitutional right to speedy disposition of cases and right to speedy trial.

A perusal of the records shows that the Complaint was filed before the Ombudsman on December 10, 2019. Upon termination of the conduct of preliminary investigation, a Resolution was issued on June 14, 2022. Thereafter, the corresponding Informations were filed before the court on January 10, 2024. As it stands, it took the prosecution **approximately four (4) years and one (1) month** to file the Informations before the court. For reference, the timeline is, as follows:

December 10, 2019	The Complaint was filed before the Ombudsman.
June 14, 2022	A Resolution was issued resolving the Complaint, finding probable cause to indict accused Jalgalado.
January 10, 2024	Three (3) Informations were filed before the court.

Pursuant to *Cagang*, a case is deemed initiated only upon the filing of a formal complaint prior to the conduct of a preliminary investigation. Moreover, cognizant of the disquisition in *Cagang*, the Ombudsman promulgated A.O. No. 1 on August 15, 2020. This prescribes the period for the conduct of preliminary investigation, which reads as follows:

“Section 7. Commencement of Preliminary Investigation. – Without prejudice to the Procedure in Criminal Cases prescribed under Rule II of Administrative Order No. 07, as amended, a preliminary investigation is deemed to commence whenever a verified complaint, grievance or request for assistance is assigned a case docket number under any of the following instances:

(a) Upon referral by an Ombudsman case evaluator to the preliminary investigation units/offices of the Office of the Ombudsman, after determining that the verified complaint, grievance or request for assistance is sufficient in form and substance and establishes the existence of a prima facie case against the respondent/s; or

⁵ *Cagang v. Sandiganbayan*, G.R. Nos. 206438, 206458, and 210141-42, July 31, 2018.

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(b) At any time before the lapse of the period for the conduct of a fact-finding investigation whenever the results thereof support a finding of prima facie case.

In all instances, the complaint, grievance or request for assistance with an assigned case docket number shall be considered as pending for purposes of issuing an Ombudsman clearance.

Section 8. Period for the conduct of Preliminary Investigation.
– Unless otherwise provided for in a separate issuance, such as an Office Order creating a special panel of investigators/prosecutors and prescribing the period for completion of the preliminary investigation, **the proceedings therein shall not exceed twelve months for simple cases or twenty-four months (24) months for complex cases**, subject to the following considerations:

(a) The complexity of the case shall be determined on the basis of factors such as, but not limited to, the number of respondents, the number of offenses charged, the volume of documents, the geographical coverage, and the amount of public funds involved.

(b) Any delay incurred in the proceedings, whenever attributable to the respondent, shall suspend the running of the period for purposes of completing the preliminary investigation.

(c) The period herein prescribed may be extended by **written authority of the Ombudsman, or the Overall Deputy Ombudsman/Special Prosecutor/Deputy Ombudsman concerned for justifiable reasons, which extension shall not exceed one (1) year.**

Section 9. Termination of Preliminary Investigation. – A preliminary investigation shall be deemed terminated when the resolution of the complaint, including any motion for reconsideration filed in relation to the result thereof, as recommended by the Ombudsman investigator/prosecutor and their immediate supervisors, is approved by the Ombudsman or the Overall Deputy Ombudsman/Special Prosecutor/Deputy Ombudsman concerned.”⁶
(Emphasis Supplied)

Here, the above-captioned cases are deemed initiated only upon the filing of the Complaint on December 10, 2019. As such, A.O. No. 1 finds no application in the instant cases, since it was promulgated only on August 15, 2020, or clearly, after the filing of the Complaint on December 10, 2019.

⁶ Office of the Ombudsman Administrative Order No. 1, Series of 2020, dated August 15, 2020.

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This likewise finds support in *Camsol v. Seventh Division of the Sandiganbayan*⁷ and *People of the Philippines v. Sandiganbayan, et al.*,⁸ where the Supreme Court recognized that A.O. No. 1 does not apply in said cases, considering that it was promulgated only after the preliminary investigations began, or after the filing of the Complaints.

However, prior to A.O. No. 1, there was no period prescribed for the conduct of preliminary investigation before the Ombudsman.⁹ The Ombudsman is merely mandated to act promptly on the complaints filed before it in accordance with Section 12, Article XI¹⁰ of the 1987 Philippine Constitution and Section 13¹¹ of R.A. No. 6770, otherwise known as, "*The Ombudsman Act of 1989*."¹²

Corollarily, in a plethora of cases,¹³ the Supreme Court finds for the suppletory application of the Rules of Court, particularly, Section 3, Rule 112 of the Rules of Criminal Procedure, in determining the reasonable period within which the preliminary investigation may be conducted, pursuant to Section 3, Rule V¹⁴ of the Ombudsman's A.O. No. 7, Series of 1990, entitled, "*Rules of Procedure of the Office of the Ombudsman*." The pertinent portions of Section 3, Rule 112 of the Rules of Court read as follows:

"Section 3. Procedure. — The preliminary investigation shall be conducted in the following manner:

....

⁷ G.R. No. 242892, July 6, 2022.

⁸ G.R. No. 238877, March 22, 2023.

⁹ *Camsol v. Seventh Division of the Sandiganbayan*, G.R. No. 242892, July 6, 2022.

¹⁰ "Section 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof." (1987 Philippine Constitution, Article XI, Section 12).

¹¹ "Section 13. Mandate. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people." (Republic Act No. 6770 (1989), Section 13).

¹² *Chingkoe v. Sandiganbayan and People of the Philippines*, G.R. Nos. 232029-40 & 234975-84, October 12, 2022; *People of the Philippines v. Sandiganbayan, et al.*, G.R. No. 238877, March 22, 2023.

¹³ *Camsol v. Seventh Division of the Sandiganbayan*, G.R. No. 242892, July 6, 2022; *Chingkoe v. Sandiganbayan and People of the Philippines*, G.R. Nos. 232029-40 & 234975-84, October 12, 2022; *People of the Philippines v. Sandiganbayan, et al.*, G.R. No. 238877, March 22, 2023; *Yap v. Sandiganbayan and People of the Philippines*, G.R. No. 246318-19, January 18, 2023.

¹⁴ "Section 3. Rules of Court, application. — In all matters not provided in these rules, the Rules of Court shall apply in a suppletory character, or by analogy whenever practicable and convenient." (Office of the Ombudsman Administrative Order No. 7, Series of 1990, dated April 10, 1990)

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(b) Within ten (10) days after the filing of the complaint, the investigating officer shall either dismiss it if he finds no ground to continue with the investigation, or issue a subpoena to the respondent attaching to it a copy of the complaint and its supporting affidavits and documents.

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(c) Within ten (10) days from receipt of the subpoena with the complaint and supporting affidavits and documents, the respondent shall submit his counter-affidavit and that of his witnesses and other supporting documents relied upon for his defense. The counter-affidavits shall be subscribed and sworn to and certified as provided in paragraph (a) of this section, with copies thereof furnished by him to the complainant. The respondent shall not be allowed to file a motion to dismiss in lieu of a counter-affidavit.

(d) If the respondent cannot be subpoenaed, or if subpoenaed, does not submit counter-affidavits within the ten (10) day period, the investigating officer shall resolve the complaint based on the evidence presented by the complainant.

(e) The investigating officer may set a hearing if there are facts and issues to be clarified from a party or a witness. The parties can be present at the hearing but without the right to examine or cross-examine. They may, however, submit to the investigating officer questions which may be asked to the party or witness concerned.

The hearing shall be held within ten (10) days from submission of the counter-affidavits and other documents or from the expiration of the period for their submission. It shall be terminated within five (5) days.

(f) 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.”¹⁵ (Emphasis Supplied)

Guided by the above-quoted rule of procedure, it is proper for the court to apply the same in a suppletory manner, inasmuch as the Complaint was filed only on December 10, 2019. Based on the periods stated under the Rules of Court, it is readily apparent that there was delay on the part of the prosecution, considering that it took **approximately two (2) years and six (6) months** to conduct the preliminary investigation (reckoned from the filing of the Complaint on December 10, 2019 to the issuance of the Resolution on June 14, 2022). Additionally, the prosecution took **almost one (1) year and seven (7) months** to file the corresponding Informations (reckoned from the

¹⁵ Rules of Court, Rule 112, Section 3.

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issuance of the Resolution on June 14, 2022 to the filing of the Informations before the court on January 10, 2024).

This notwithstanding, it is not axiomatic for the court to find the existence of inordinate delay in the instant cases. For inordinate delay is not measured by mathematical reckoning. Stated otherwise, while there may be delay in the disposition of cases, the delay may be justified by the prosecution. In *Chingkoe v. Sandiganbayan and the People of the Philippines*,¹⁶ the Supreme Court stressed that:

“A mere mathematical reckoning to determine whether the right to speedy disposition of cases has been violated has never been held sufficient. Cognizant that not all delays are unreasonable, this Court considers the right violated only when there is inordinate delay in the proceeding 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 long period of time is allowed to elapse without the party having their case tried.” (Emphasis Supplied)

It was likewise reiterated in *Ismael v. People of the Philippines*,¹⁷ that:

“[A] finding of delay in the proceedings does not necessarily evince a violation of the right to speedy disposition of a case or speedy trial to warrant the outright dismissal of the case. Essentially, these rights are relative and flexible concepts, which require particular regard of the facts and circumstances peculiar to each case. Invocation of these rights must be consistent with reasonable delay as they are deemed violated only when there is inordinate delay, such as in proceedings attended by vexatious, capricious, and oppressive delays; those unjustifiably postponed; or when, without cause or justifiable motive, a long period of time is allowed to elapse without the party having their case tried. As well, it should be noted that, like any other right, the rights to speedy disposition of cases and speedy trial may be waived. Hence, if proven through established jurisprudential standards that the accused acquiesced to the delay, the constitutional right can no longer be invoked.” (Emphasis Supplied)

Verily, to justify the delay, the prosecution must prove that: (1) it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; (2) that the complexity of the issues and the volume of evidence made the delay inevitable; and (3) that no prejudice was suffered by the accused as a result of the delay.¹⁸

¹⁶ G.R. Nos. 232029-40 & 234975-84, October 12, 2022.

¹⁷ G.R. Nos. 234435-36, February 6, 2023.

¹⁸ *Cagang v. Sandiganbayan*, G.R. Nos. 206438, 206458, and 210141-42, July 31, 2018.

Gauging from the circumstances that surround the above-captioned cases, the court finds that the delay in the disposition of cases, hurled against the prosecution, is justified.

First, the prosecution pleads for the court to take judicial notice of the numerous lockdowns that were enforced back in 2020 to 2022 to contain the spread of COVID-19, which led to the closing of the courts and offices. Such situation made it impossible to access case files and records, causing a delay to all pending investigations before the Ombudsman.

In *Almonte v. People of the Philippines*,¹⁹ the members of the Supreme Court, in their respective Separate Opinions,²⁰ collectively opined that judicial notice may be taken of the nature of COVID-19 and its adverse effects. Matters of judicial notice have the following requisites, namely: “(1) the matter must be one of common and general knowledge; (2) it must be well and authoritatively settled and not doubtful or uncertain; and (3) it must be known to be within the limits of the jurisdiction of the court. The principal guide in determining what facts may be assumed to be judicially known is that of notoriety. Hence, it can be said that judicial notice is limited to facts evidenced by public records and facts of general notoriety.”²¹

From the foregoing, the court deems it proper to take judicial notice of the COVID-19 pandemic, as well as the ensuing lockdowns back in 2020 to 2022, for the reason that such matters are facts of general notoriety in the Philippines, evidenced by public records, such as Presidential Proclamations, among others.

The court agrees that the lockdowns hindered official functions, which, undeniably, caused delay to all pending investigations and cases lodged before the Ombudsman. Accordingly, while there was indeed delay on the part of the prosecution, the delay in the conduct of the preliminary investigation and in the filing of the Informations was justified by the unforeseen circumstances, i.e., the COVID-19 pandemic and lockdowns, which fall within the purview of *force majeure*. This finds support in *Cagang*, where the Supreme Court ruled that a reasonable time to resolve a proceeding is not determined by mere mathematical reckoning. As such, “[u]nforeseen circumstances, such as unavoidable postponements or *force majeure*, must also be taken into account.”²²

¹⁹ G.R. No. 252117, July 28, 2020 (See Separate Opinions).

²⁰ In *Almonte*, the Supreme Court ruled that it is “fitting to have the other remaining issues threshed out in the separate opinions of its members that are attached to and made integral parts of this Decision.” (*Almonte v. People of the Philippines*, G.R. No. 252117, July 28, 2020).

²¹ *Almonte v. People of the Philippines*, G.R. No. 252117, July 28, 2020, citing *State Prosecutors v. Muro*, A.M. No. RTJ-92-876, September 19, 1994.

²² *Cagang v. Sandiganbayan*, G.R. Nos. 206438, 206458, and 210141-42, July 31, 2018.

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Second, while it is evident that accused Jalgalado is the sole accused in the above-captioned cases, these cases can be considered complex cases, considering: (1) that the amount involved is a total of ₱14,500,000.00, covered by the Special Allotment Release Order (SARO) No. BMB-G-11-T000004682; (2) that accused Jalgalado, the former Municipal Mayor of Capalonga, Camarines Norte, is a high-ranking public official, along with then Congressman Unico, Jr.; (3) that there are three charges against accused Jalgalado; and (4) that the evidence to be weighed is voluminous, given that there are numerous witnesses and various letters, receipts, certifications, vouchers, as well as other supporting documents, to be examined.

And, *third*, despite the presence of delay in the conduct of preliminary investigation and in the filing of the Informations, the records are bereft of any indication that accused Jalgalado seasonably invoked his right to speedy disposition of cases and right to speedy trial.

It bears emphasis that accused Jalgalado was fully aware of the delay in the conduct of preliminary investigation and in the filing of the Informations. Regardless, he raised the issue of inordinate delay only at this juncture, specifically, only after his arraignment. Notably, he had the opportunity to timely assert his rights in the Joint Partial Motion for Reconsideration (Motion for Reconsideration), which he filed on July 31, 2023, assailing the Resolution issued on June 14, 2022. He also had the opportunity to invoke his rights after the Informations were filed before the court. These, however, he failed to do.

To stress further, accused Jalgalado contributed to the perceived delay when he sought for postponements in the filing of a Counter-Affidavit. He filed three (3) motions for extension to file a Counter-Affidavit on November 15, 2020,²³ December 2, 2020,²⁴ and January 7, 2021.²⁵ He likewise filed a Motion for Reconsideration, assailing the Resolution.

As gleaned from his own actions, accused Jalgalado is deemed to have waived his right to speedy disposition of cases and right to speedy trial because he acquiesced to the delay. Thus, he can no longer invoke his rights for failure to assert the same at the earliest opportunity.

Summing up, the court finds that there is no capricious, vexatious, or inordinate delay in the instant cases. The prosecution of said cases is not solely motivated by malice, much more that there is no evidence to this effect.

²³ Records, Vol. I., Annex "D" of the Prosecution's Comment/Opposition dated October 29, 2020, pp. 476-477.

²⁴ *Id.*, Annex "F" of the Prosecution's Comment/Opposition dated November 13, 2020, pp. 479-480.

²⁵ *Id.*, Annex "G" of the Prosecution's Comment/Opposition dated November 28, 2020, pp. 481-482.

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Without sounding repetitive, while there may be delay, it cannot be determined by mere mathematical reckoning, considering that it resulted from unforeseen circumstances, i.e., the COVID-19 pandemic and lockdowns. More importantly, accused Jalgalado did not suffer from any significant prejudice resulting from said delay. With the foregoing, the court cannot dismiss the above-captioned cases on the ground of inordinate delay.


WHEREFORE, premises considered, the *Motion to Dismiss and to Suspend Proceedings Prior Resolution Hereof* filed by accused Senandro Mendoza Jalgalado is hereby **DENIED** for lack of merit.

Let the continuation of the pre-trial conference set on **April 23, 2024** at **2:00 in the afternoon** proceed, as scheduled.

SO ORDERED.


GEORGINA D. HIDALGO
Associate Justice

WE CONCUR:


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice
Chairperson


ZALBY V. TRESPESES
Associate Justice