



Republic of the Philippines
SANDIGANBAYAN
Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

CRIM CASES NOS.

SB-06-CRM-0383-84

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

**ANTONIO P. BELICENA
ULDARICO ANDUTAN,
RAUL DE VERA,
ROSANNA P. DIALA and
JOSEPH CABOTAJE**

Accused.

Present:

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CABOTAJE-TANG, A.M.,
P.J./Chairperson
FERNANDEZ, B.R., J. and
MORENO, R.B., J.

Promulgated:

October 28, 2020 *jb*

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RESOLUTION

FERNANDEZ, B. R., J.

This resolves the Motion dated July 14, 2020 of accused-movant Elenita C. Mababangloob, seeking a reconsideration of the Resolution of this Court promulgated on June 22, 2020, denying her Motion to Dismiss dated February 5, 2020 for lack of merit.

jb *jb* *P*

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In her Motion, accused-movant Mababangloob alleges that her constitutional right to speedy disposition of cases was violated when the Ombudsman and the DOJ took six (6) years to resolve her cases. Although accused-movant Mababangloob agreed with this Court that she belatedly filed her Motion to Dismiss on the same ground, she argued that it was only upon her arrest when she learned that the cases against her already progressed.

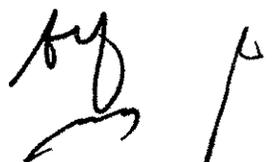
She further maintained that it was only recently that she learned that this Court issued its November 9, 2006 Order, submitting for resolution her Urgent Motion to reduce cash bail. However, this remained unresolved. She, likewise, emphasized that, during the pendency of her case, she never transferred residence.

When given time (Minutes, July 29, 2020), the prosecution, in its Opposition dated September 19, 2020, maintained its position that no inordinate delay occurred and that accused-movant Mababangloob belatedly raised this issue. It emphasized that a mere mathematical reckoning of the time involved will not suffice, citing factors, such as (a) the reason for the delay; (b) the assertion or failure to assert such right by the accused; and, (c) the prejudice caused by the delay, should be taken into consideration in determining whether there was inordinate delay in the disposition of cases during the preliminary investigation. Lastly, the prosecution argued that the Motion for Reconsideration is merely meant to delay her arraignment in the cases.

We now rule.

After a close perusal of the arguments raised in the subject Motion for Reconsideration of accused-movant Mababangloob and a second look into the records of the subject cases, this Court finds substantive grounds to maintain its Resolution promulgated in June 22, 2020.

Much of the arguments raised by accused-movant Mababangloob merely echo those similarly raised by her in her Motion to Dismiss dated February 5, 2020. These same arguments were already adequately considered and deliberated upon by this Court. Accused-movant Mababangloob had not presented convincing grounds for this Court to either amend, modify, revise or even reverse the

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assailed Resolution. Further amplification will only be superfluous.

However, it would be best to underscore the substantive findings in the assailed Resolution of June 22, 2020, to wit -

Notably, in **Cagang v. Sandiganbayan** (875 SCRA 374 (2018)), the Supreme Court *en banc* clarified that the afore-mentioned rulings in **Alvizo** and **Dela Peña** squarely applies to cases wherein the accused was fully aware that a preliminary investigation against his/her has not yet been fully terminated despite a considerable length of time (*id.*).

Here, the records unquestionably show that the accused-movant was fully aware that a preliminary investigation against her was conducted by the Office of the Ombudsman in connection with these cases. Thus, applying the above-mentioned rulings of the High Tribunal to these cases, the accused-movant should have raised the issue of inordinate delay with the Court in 2006, or at the time she filed a *motion to reduce bail*. Her failure to do so at the earliest opportunity and her utter refusal to participate in the proceedings of these cases, despite proper notice, further reinforces her implicit acquiescence to the time spent by the Office of the Ombudsman in the resolution of the *complaint* against her.

Additionally, this Court in the same assailed Resolution stated that - -

In the relatively recent case of **Cagang v. Sandiganbayan**, the Supreme Court ruled that for purposes of determining whether inordinate delay exists, a case is deemed to have commences from the filing of a formal *complaint* and the subsequent conduct of a preliminary investigation. Based thereon, the Court thus holds that the Office of the Ombudsman took approximately three (3) years to terminate the preliminary investigation in these cases, counted from the time the case against the accused was filed with the Office of the



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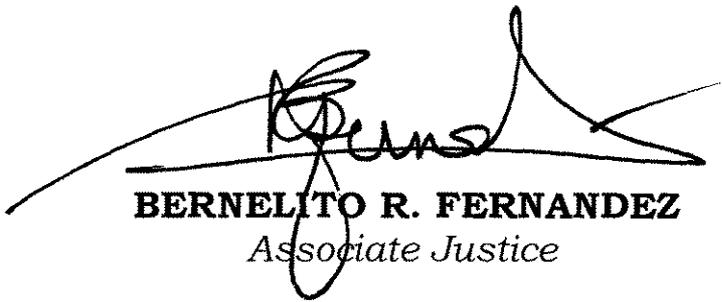
Ombudsman in 2003 up to the filing of the present *Informations* with the Court in 2006.

While the time spent by the Office of the Ombudsman in the conduct of the preliminary investigation of these cases may have been protracted, this should not be the sole determination on whether the accused-movant's constitutional right to speedy disposition of cases has been violated. To stress, the determination of the existence of inordinate delay is not measured through mere mathematical reckoning of the time involved but through the examination of the facts and circumstances surrounding each case.

As aptly pointed out by the prosecution, the accused-movant knew that the present cases were filed against her as early as 2006. In fact, the records of these cases show that she filed an "*Urgent Motion to Reduce Bail*" on **October 25, 2006**. Interestingly, after she filed the said *motion*, the accused-movant remained at-large and did not submit herself to the jurisdiction of this Court. She only filed the present *motion to dismiss* based on inordinate delay following the promulgation of the Court's *Decision* on October 25, 2019, with respect to her co-accused, and the issuance of an alias warrant of arrest against her which led to her arrest.

WHEREFORE, premises considered, the Motion for Reconsideration dated July 14, 2020 of accused movant Elenita C. Mababangloob is hereby **DENIED** for lack of merit.

SO ORDERED.



BERNELITO R. FERNANDEZ
Associate Justice



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We Concur:

AMPARO M. CABOTAJE-TANG
Presiding Justice/ Chairperson

RONALD B. MORENO
Associate Justice

