



Republic of the Philippines
SANDIGANBAYAN
Quezon City

Fifth (5th) Division

PEOPLE OF THE PHILIPPINES

Plaintiff,

—versus—

**NASSER C. PANGANDAMAN, ET
AL.**

Accused.

**Crim. Case Nos. SB-21-
CRM-0014 to 0053**

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

**Crim. Case Nos. SB-21-
CRM-0054 to 0093**

For: Malversation of Public
Funds through Falsification of
Public Documents

Present:

**LAGOS, J., Chairperson,
MENDOZA-ARCEGA, and
MAÑALAC, JJ.**

Promulgated:

21 June 2022
[Signature]

X-----X

RESOLUTION

LAGOS, J.:

For the Court's consideration are the (1) **Motions for Reconsideration** filed by accused (i) Nasser C. Pangandaman¹ (Pangandaman), (ii) Teresita Legaspi Panlilio² (Panlilio), (iii) Ronald De Juan Venancio³ (Venancio), and (iv) Angelita Villapa Cacananta⁴ (Cacananta), and (2) the Prosecution's

¹ Records, Vol. III, p. 365, dated May 18, 2022

² Id., p. 380, dated May 17, 2022

³ Id., p. 401, dated May 18, 2022

⁴ Id., p. 412, dated May 18, 2022

[Handwritten initials]

Consolidated Opposition⁵ thereto dated June 6, 2022, relative to the Court's May 12, 2022 **Resolution**⁶ wherein herein accused's motions to quash/dismiss were denied.

In its **Consolidated Opposition**, the prosecution contends that the motions for reconsideration are "mere reiterations of the grounds raised in the respective Motions to Quash separately filed by the accused. Summed up,⁷ the accused asserts the following:

"For Accused Pangandaman:

- a. There was inordinate delay in the preliminary investigation;
- b. Accused Pangandaman timely asserted his right to speedy disposition of cases;
- c. The inordinate delay of the disposition of cases unnecessarily prejudiced the accused;
- d. The prosecution had the burden to explain the delay in the preliminary investigation.

"For Accused Panlilio:

- a. Accused Panlilio's constitutional right to due process and speedy disposition of cases were violated;
- b. Accused Panlilio's constitutional right to equal protection was violated;

"For Accused Venancio:

- a. There is delay in the conduct of the preliminary investigation by the Office of the Ombudsman and the delay is unjustified, resulting to a violation of accused's constitutional right.

"For Accused Cacananta:

- a. The Honorable Court erred in declaring that the accused was not denied of her right to speedy disposition of the case filed against her;
- b. This Honorable Court erred in finding that the fact charged in the information against the herein accused constitutes an offense."

⁵ Records, Vol. III, p. 439, dated June 6, 2022

⁶ Id., p. 301

⁷ Id., pp. 339-340

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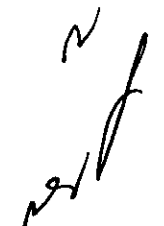
The prosecution cites the following factors⁸ were attendant to the conduct of the preliminary investigation up to the filing of the Information in these cases, to wit:

- “A. The complexity of the case which involves the utilization of the P200 million Pesos for the FSABD [Fund Support for Agri-Business Development] project of the Department of Agrarian [R]eform in 2007 which used 40 LGUs [Local Government Units] as beneficiaries and 7 NGOs [Non-Governmental Organizations] established and controlled by Napoles;
- B. The herculian efforts to locate and secure resource persons and documents to fully investigate the case;
- C. The necessity to scrutinize each and every transaction which carries with it the examination of voluminous records during the investigation;
- D. The supervening events that took place including evidence subsequently gathered and discovered leading to the filing of an “Amended Complaint;”
- E. The number of respondents involved;
- F. The filing of Motions for Extension of Time/Motions for Reconsideration and Motion for Reinvestigation by then respondents which dictated the period of time that the investigation was finally terminated by the Office of the Ombudsman[;]
- G. Several government issuances in response to the pandemic brought about by the Corona Virus Disease resulting to lockdown and community restrictions which uncontrollably halted government operations such that any delay the ensued cannot be attributed to any party by reason of force majeure.”

The bedrock issue here rests on the amount of time that the Office of the Ombudsman (OMB) spent in the conduct of its preliminary investigation of the complaint against the accused, until the present cases were filed in court. The alleged violation of the accused’s constitutional right to speedy disposition of cases and the concomitant prejudice therefrom are the meat of the accused’s claim of inordinate delay.

Accused Panlilio argues that the Prosecution utterly failed to address the fact that the Ombudsman took 3 years and 4 months from the time the Ombudsman issued its Order dated July 18, 2018 denying her Motion for Reconsideration of the Consolidated Order until the filing of the criminal Informations on November 23, 2021, despite the express statement in said Order that an immediate filing of the Informations with the Sandiganbayan is

⁸ Records, Vol. III, p. 441



recommended. The Ombudsman had more than 1 year to file the said Informations before the public health crisis even occurred hence, the Ombudsman cannot consider the COVID-19 pandemic, which is almost 2 years, as total impairment. Moreover, accused Panlilo claims that “there is a great probability that documentary evidence that will exonerate Accused Panlilio have already been lost or destroyed, and the witnesses that could corroborate the defense may no longer be available; or if available, it might be that their memories of what transpired more than a decade ago may have already failed”.⁹ In short, she will not be able to adequately raise her defense due to the delay caused by the Office of the Ombudsman.

Accused Venancio claims that beginning June 06, 2013, he was already subjected to the rigors and stress of preliminary investigation and was further extended when complaint was amended on May 15, 2015. When the Ombudsman denied his Motion for Reconsideration on December 04, 2018 to the Consolidated Resolution and found probable cause to indict him, it had the entire 2019 to file the Information but it only did so in November 23, 2021. While it is true that accused Venancio filed motions for extension of time during the preliminary investigation stage and caused some delay, such, taken collectively, did not even cause more than a month of delay, if any. Also, he argues that there was an unexplained delay of more than 3 years during the preliminary investigation which is not attributed to him and that for the Court to consider that period of delay as justified constitutes double standard which is prejudicial to his constitutional rights as an accused.

Accused Cacananta points out that prior to the filing of the complaint by the OMB-FIO, the said office already conducted its fact-finding investigation and had already gathered all evidence needed to prosecute the case. Thus, all the OMB did was to determine the existence of probable cause which should not have taken a long period of time because despite the voluminous documents, the numerous transactions were similar in nature. Specifically, the prosecution simply examined the disbursement vouchers the accused signed without investigating on whether the standard procedures of DAR’s accounting division were observed and those vouchers are the only documents used to implead her in the alleged conspiracy.

Accused Pangandaman asserts that, “As this Honorable Court itself narrated in the Assailed Resolution, the complaint dated 6 June 2013 was filed on 05 August 2013 for the First case. Yet, this Honorable Court conveniently started counting of the period for the consideration of inordinate delay, not from the filing of the Complaint on 05 August 2013, but from the filing of the Amended Complaint which occurred two (2) years later on 14 July 2015 effectively reducing the period favoring accused Pangandaman (as well as the other accused) for the counting of inordinate delay by two (2) years. xxx” He

⁹ Records, Vol. III, p.387

then surmised, “If that were the case, then it would be easier for the Ombudsman to avoid an accusation of inordinate delay with the simple expedience of filing an Amended Complaint to possibly ‘reset’ back to zero the counting of the period for preliminary investigation, setting a dangerous precedence as well as holding the accused as a gross disadvantage, because the accused (still respondents at that stage) would be forced to obtain the services of counsel to defend himself anew. xxx”.¹⁰

RULING

The Court finds no merit in the *Motions for Reconsideration* filed by the accused. The *Motions for Reconsideration* failed to raise substantial and/or compelling matters to warrant the reconsideration of the Court’s previous *Resolution*.

The Court finds accused Pangandaman’s claim as pure conjecture. It was never for convenience that the Court reckoned the period involved from the filing of the Amended Complaint or that the amended complaint was filed purely for expediency to “reset to zero the counting of the period for preliminary period.” He never claimed that the original complaint and the amended complaint are similar either in form and substance. The Court cannot presume bad faith on the part of the Ombudsman investigators that the filing of the amended complaint was to circumvent the issue of inordinate delay. Per the FIO’s Consolidated Resolution, the original complaint involved alleged “violation of Article 171, paragraph (1) and 2) of the Revised Penal Code (RPC), Section 3(e) of RA No 3019 [Anti-Graft and Corrupt Practices Act], and Estafa through Falsification of Public Documents.”¹¹ (Citations omitted.) The amended complaint, on the other hand, covered alleged “violation of RA 7080 [Anti Plunder Law], Section[s] 3(e) and (g) of RA 3019, Malversation through Falsification of Public Documents, and Section 65(a4) of RA 9184 [Government Procurement Reform Act],”¹² (Citations omitted.)

Accused Pangandaman also labels as insufficient the factors considered by the Court to justify, in his own words, “the absurd length of time when the Office of the Ombudsman failed to resolve the Cases,”¹³— particularly the following factors: “xxx first, the magnitude of the case – the number of persons, transactions, organizations, and LGUs, the voluminous documents, and amount of money involved; second, the various pleadings filed by multiple respondents on varying dates, notably, the *Motions for Extension of Time* filed; third the occurrence of supervening events and emergence of new evidence which warranted an amended Complaint; and fourth, the COVID-19

¹⁰ Records, Vol. III, pp.366-367

¹¹ Id., Vol. I, p. 16

¹² Id., p. 17

¹³ Id., Vol. III, p. 367

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pandemic that affected the country. xxx”¹⁴ He posits that “[w]hile the number of persons, transactions, organizations, and LGUs subject of the cases are admittedly numerous, the cases involve similar transactions allegedly made by the various accused. Being similar in nature, they can be analyzed and disposed of in a few months to a year at the most. xxx [H]owever, the Ombudsman nevertheless took almost fourteen (14) years from the time the alleged offenses were committed to the time when the Informations were actually filed before this Honorable Court.”¹⁵

To be sure, the Court cannot close its eyes on the incredible volume of documents/records in these cases. When filed in court, the OMB through the Office of the Special Prosecutor (OSP) submitted a staggering amount of documents which now comprise seven (7) thick and stich-bound folders, numbered Folders 1, 1-A, 1-B, 1-C, 1-D, 1-E and 1-F, bulging with documents marked as Annexes “A” through “FFF”, all with numerous sub-markings. They may not even be the complete records of the preliminary investigation, but select documents that are considered material and relevant to these cases; part of the “**herculean**” efforts of the FIO, as described by the prosecution in its Consolidated Opposition, to locate and secure resource persons and documents to during preliminary investigation. Integral parts of these records are the sworn statements of the mayors or representatives of the different LGUs identified or named in the anomalous FSABD transactions, corporate records of the NGOs and their officials, and financial records or statements, among others. The various sworn statements were taken by or given to FIO lawyers/investigators at various locations, such as the FIO/OMB Offices in Quezon City, Cagayan de Oro City, Davao City, FIO/OMB at COA Offices in Butuan City and Zamboanga del Sur Provincial Office in Pagadian City, including Lianga in Surigao del Sur, and one before the FIO/OMB lawyer in Marilao, Bulacan. These cases involve **40 different LGUs** in different parts of the country, different municipalities alleged as beneficiaries of the P200 million FSAB Project, covering **14 different provinces**, namely: Surigao del Norte (10 municipalities), Surigao del Sur (7 municipalities), Agusan del Norte (3 municipalities), Agusan del Sur (5 municipalities), Isabela (2 municipalities), Bulacan (3 municipalities), Pangasinan (2 municipalities), Cagayan Valley (2 municipalities), and one municipality each, or a total of 6 municipalities, in the provinces of Masbate, Cavite, Leyte, Zamboanga del Sur, Zamboanga Sibugay, and Batangas. It was uncovered during the OMB investigation that the funding of the FSABD project was based on purported individual letter-requests of the mayors of the 40 LGUs above-mentioned, each seeking Five Million Pesos for financial assistance and/or purchase of agricultural inputs/implements and indorsing the seven NGOs as partners in project implementation. By their sworn statements, the mayors (or their representatives) gave sworn statements denying their participation and/or

¹⁴ Records, Vol. III, p. 367

¹⁵ Id., pp. 367-368

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involvement in various documents, such as the letter-requests for funding, the MOAs, Reports of Disbursement, Delivery Reports and Certificates of Acceptance involving the subject municipalities; and these mayors/other resource persons asserted that their signatures were forged and they never received or accepted any farm inputs or implements relative to the FSABD project or any form of farm support from the DAR or their partner NGOs; that no “FSABD project was implemented” was corroborated by the concerned **Provincial and Municipal Agrarian Reform Officers (PAROs/MAROs).**”¹⁶

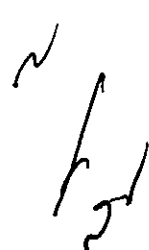
The tedious process of data gathering, including face-to-face interview with resource persons and COA auditors, must have demanded a tremendous amount of time and effort to accomplish. But the job did not end there. The FIO investigators had to marshal the facts and study the law to be able to come up with a legally tenable and judicious recommendation to the Ombudsman by way of its **Resolution**. The Ombudsman, on the other hand, cannot be simply a rubber stamp of the FIO investigators. It needed time to review the findings, vis-à-vis the records thus gathered, and approve their findings and recommendations. The Ombudsman needed to be satisfied with the thoroughness of the preliminary investigation and the appropriateness of the recommended charges before acting on the same.

Moreover, the Court cannot infringe on the OMB’s prerogative in handling the pandemic. The OMB issued its own rules covering lockdowns and suspension of work, to address the situation. This necessarily resulted to loss of time. One thing sure, however, both government and private offices, families and individuals, here and abroad, have inexorably been adversely impacted by the pandemic. The pandemic introduced people to several acronyms as ECQ, MECQ, GCQ, MGCQ, as well as the dreaded “quarantine” and “isolation,” and the fact of hospitals flooded and overflowing with victims of the pandemic.

Pangandaman also argues that “Recent jurisprudence has shown the Honorable Supreme Court lay down guidelines in resolving issues involving the right to speedy disposition of cases.” He cited (i.) *Cagang v. Sandiganbayan (Fifth Division), et al.*, (G.R. No. 206438 and 206458, July 31, 2018); (ii.) *Martinez III v. People, et al.*, (G.R. No. 232574, October 1, 2019); (iii.) *Javier v. Sandiganbayan (Sixth Division), et al.*, (G.R. No. 237997, June 10, 2020); (iv.) *Catamco v. Sandiganbayan, et al.*, (G.R. Nos. 243560-62, July 28, 2020) and *Perez v. Sandiganbayan (Sixth Division)*, (G.R. Nos. 243261-63, July 28, 2020); and (v.) *Alarilla v. Sandiganbayan (4th Division), et al.* (G.R. Nos. 236177-210, February 3, 2021).

Except in *Cagang*, the Supreme Court found inordinate delay in these. However, these cases had their own peculiar set of facts and circumstances,

¹⁶ Records, Vol. III, p. 30; citations omitted; underscoring supplied.




such that in each case “delay is not to be determined solely from the length of time taken for the conduct of the preliminary investigation.”¹⁷

Cagang laid down the premise that, “Every accused has the right to due process and to speedy disposition of cases. Inordinate delay in the resolution and termination of preliminary investigation will result in the dismissal of the case against the accused. Delay, however, is not determined through mere mathematical reckoning but through the examination of the facts and circumstances surrounding each case. Courts should appraise a reasonable period from the point of view of how much time a competent and independent public officer would need in relation to the complexity of a given case. Nonetheless, the accused must invoke his or her constitutional rights in a timely manner. The failure to do so could be considered by the courts as a waiver of right.” On that premise, the High Court found, “The records of the case show that the **transactions investigated are complex and numerous.** As respondent points out there were a hundred individuals investigated, and eventually 40 of them were determined to have been involved in 81 different anomalous transactions. Even granting that the Commission on Audit’s Report exhaustively investigated each transaction, ‘the prosecution is not bound by the findings of the Commission on Audit; it must rely on its own independent judgment in the determination of probable cause.’ Delays in the investigation and review would have been inevitable in the hands of a competent and independent Ombudsman.” (Emphasis supplied, citations omitted.) In this particular case, the Supreme Court denied the *Petitions* and remanded to the case to the Sandiganbayan.

In *Martinez III v. People*, the Supreme Court ruled that “The representation by the OSG that the Office of the Ombudsman had investigated the present case in conjunction with the other Fertilizer Fund scam cases did not sufficiently justify the close to five years spent in conducting the preliminary investigation. There was no allegation, to start with, that the petitioners had conspired with those involved in the other so-called Fertilizer Fund scam cases, which might have explained the long period necessary for the preliminary investigation.” It held that, “The delay was really inordinate and oppressive considering that the informations ultimately filed against the petitioners did not appear to have resulted from a complex preliminary investigation that involved the review of voluminous documentary and other evidence. x x x” (Emphasis supplied.)

In *Javier*, the High Court determined that, “...[T]he prosecution in its *Comment/Opposition* to the Motion to Quash, justified the delay of five years by **merely claiming** that the case had voluminous records, without offering any proof as to the said assertion or at least specifying how voluminous such records were. The prosecution basically relied on such unsubstantiated claim,

¹⁷ *Martinez III v. Republic of the Philippines, et al.*, G.R. No. 232574, October 1, 2019.



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and rested on the Court's recognition in a previous case that there is a steady stream of cases that reaches their office." (Underscoring supplied.)

In *Catamco*, the High Court had established that, "[A]perusal of the Ombudsman Resolution and the Informations filed against petitioners shows that the issues in this case are **simple, straightforward and easily determinable considering that only one (1) transaction is involved**. There was also no allegation that petitioners herein had conspired with those involved in the other so-called "Fertilizer Fund Scam" cases. In fact, the Ombudsman's primary findings that petitioners violated the Procurement Law and that the transaction was made with undue haste are mere reiterations of the audit findings and previous issuances of the COA. While a meticulous review and verification of documents may have been necessary given the number of respondents in this case, a protracted investigation of more than two (2) years from the time the last counter-affidavit was filed is still quite unreasonable especially considering that, at the end of the day, the Ombudsman merely relied on, and even adopted as its only facts, the audit findings and previous issuances of the COA. In this light, the Ombudsman's delay in the termination of the preliminary investigation against all respondents was clearly unjustified." (Emphasis in the original, some supplied.)

The *Alarilla* case brought to light Ombudsman's Administrative Order (A.O.) No. 1, Series of 2020, *Prescribing the Periods in the Conduct of Investigations by the Office of the Ombudsman*, which specified time periods for conducting not only preliminary investigations and fact-finding investigations. It was issued by Ombudsman Samuel R. Marinez on August 15, 2020 and took effect fifteen days following the completion of their publication in a newspaper of general publication. It was published in *The Manila Times* on September 10, 2020. This administrative order recognizes that "[t]he complexity of the cases shall be determined on the basis of the 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."¹⁸

It is, therefore, clear that the cited cases in Pangandaman's motion do not squarely support his argument that there was inordinate delay.

To reiterate, a "reasonable time" to resolve a proceeding is not determined by mere mathematical computation, but must be "appraised from the point of view of how much time a competent and independent public officer would need in relation to the complexity of a given case."¹⁹ Multiple

¹⁸ A.O. No. 1, Sec. 8 (a), Rule II

¹⁹ *People of the Philippines v. Hon. Sandiganbayan (First Division), Manuel M. Lapid, Ma. Victoria M. Aquino-Abubakar, Leolita M. Aquio, and Dexter Alexander S.D. Vasquez*, G.R. No. 229656, August 19, 2019.

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factors such as: “(1) the time required to investigate the complaint and to file the information; (2) the happening of unforeseen circumstances, such as unavoidable postponements or *force majeure*; (3) the complexity of the issues involved; and (4) the conduct of the lawyers.” should be taken into consideration in determining the amount of time needed to resolve a case.²⁰

As previously discussed, the voluminous records representing numerous transactions speak for themselves, and the Court recognizes that the prosecution’s claim of such volume was not unfounded. The Court however, cannot assume anything as to why the Ombudsman had not filed the Information in court immediately after concluding the preliminary investigation. But taking into consideration the overall circumstances of this case as earlier discussed in the Court’s *Resolution*, whatever delay incurred in the proceedings cannot be taken against the prosecution because institutional delay, in the proper context, should not be taken against the State.²¹ Consequently, inordinate delays likewise makes it difficult for the prosecution to perform its duty to prove the guilt of the accused beyond reasonable doubt when the case is filed in court, thus, it is not only the respondent who stands to suffer prejudice from any delay in the investigation of his case.²²

With respect to accused Cacananta’s argument that the facts alleged in the Information do not constitute an offense because it should contain a factual allegation of conspiracy on her part, the same is a rehash of her previous argument and was already addressed and discussed in the Court’s *Resolution* of May 12, 2022. Her defense will be better threshed out in a full-blown trial on the merits. Her claims of inordinate delay have been addressed per the disquisitions above.

Accused Panlilio’s arguments of violation of equal protection clause, which she raised for the first time in her *Motion for Reconsideration*, is an afterthought and deemed waived pursuant to the Omnibus Motion Rule which provides that “a motion attacking a pleading, order, judgment, or proceeding shall include all objections then available, and all objections not so included shall be deemed waived.”²³ Whatever defenses accused Panlilio has can also be ventilated during trial. Her arguments about inordinate delay are also addressed above.

Since accused Venancio’s arguments echoes those raised by accused Pangandaman, his motion should also be denied in accord with the disquisition expressed above regarding Pangandaman’s motion.

²⁰ Id.

²¹ Cagang v. Sandiganbayan (Fifth Division), et al., G.R. No. 206438, July 31, 2018.

²² Magante v. Sandiganbayan (Third Division), et al., G.R. Nos. 230950-51, July 23, 2018.

²³ Rule 15, Section 9, the 2019 amendments to the 1997 Rules of Civil Procedure.

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WHEREFORE, premises considered, the *Motions for Reconsideration* filed by accused Pangandaman, Panlilio, De Juan Venancio, and Cacananta, respectively, are DENIED for lack of merit.

Accordingly, their arraignment shall proceed on 24 June 2022 at 8:30 in the morning, as previously set.

SO ORDERED.

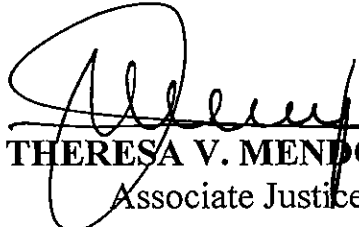


RAFAEL R. LAGOS

Associate Justice

Chairperson

WE CONCUR:



MARIA THERESA V. MENDOZA-ARCEGA

Associate Justice



MARYANN E. CORPUS-MAÑALAC

Associate Justice