



REPUBLIC OF THE PHILIPPINES

*Sandiganbayan*

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff,

**SB-22-CRM-0096**

For: Violation of Section 3(e)  
of Republic Act No. 3019

**SB-22-CRM-0097**

For: Violation of Section 6(b) in relation  
To Sec. 52(g) of R.A. No. 8291

**SB-22-CRM-0098**

For: Violation of Section 81 in relation to  
Sec. 272(b) of R.A. No. 8424

*Present*

- versus -

VOLTAIRE ANTHONY C.  
VILLAROSA,

Accused.

**FERNANDEZ, SJ, J.,**

Chairperson

**MIRANDA, J. and**

**VIVERO, J.**

*Promulgated:*

**JUL 11 2022**

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## RESOLUTION

**FERNANDEZ, SJ, J.**

This resolves the *I. Urgent Motion to Quash/Dismiss (Due to Violation of the Right of the Accused to Speedy Disposition of Cases Resulting in Inordinate Delay); and II. Motion to Defer Regular Arraignment Pending Resolution of this Motion*<sup>1</sup> filed by accused Voltaire Anthony C. Villarosa; and the prosecution's *Comment/Opposition*<sup>2</sup>

<sup>1</sup> Dated June 20, 2022; Record, pp. 176-208

<sup>2</sup> Dated July 1, 2022; Record, pp. 246-254

RESOLUTION

People vs. Villarosa  
SB-22-CRM-0096 to 0098

Page 2 of 11

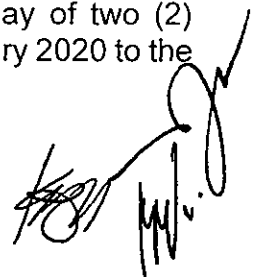
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In his Motion, the accused prays that these cases be dismissed due to inordinate delay. He avers:

1. The preliminary investigation before the Office of the Ombudsman took more than three (3) years to terminate.
  - a. Private complainant Angelina F. Trial [sic] filed the complaint with the Office of the Ombudsman on August 29, 2018.
  - b. On June 7, 2019, he received an Order from the Office of the Ombudsman requiring him to submit a counter-affidavit within ten (10) days from receipt thereof.
  - c. Ombudsman Samuel R. Martires approved the Resolution dated August 2, 2019 on January 7, 2020.
  - d. The three (3) Informations were filed on May 6, 2022.
2. In *Tatad v. Sandiganbayan*, it was held that "a delay of close to three (3) years cannot be deemed reasonable or justifiable in the light of the circumstances obtaining x x x."
3. The present cases are not complicated, and should not have required more than three (3) years to be resolved.
4. He was denied his right to due process because he and his counsel were not furnished a copy of the Ombudsman's Resolution. As a result, he was not given a chance to file his Motion for Reconsideration.

The prosecution counters:

1. There was no violation of the accused's right to speedy disposition of cases.
2. In several cases, the Supreme Court held that speedy disposition is a relative and flexible concept, and a mere mathematical reckoning of the time involved is not sufficient. Several factors must be considered and balanced, namely, (1) the length of delay; (2) the reasons for the delay; (3) assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay.
3. Contrary to the accused's claim, it took the Office of the Ombudsman less than three (3) months to conduct and terminate the preliminary investigation. The delay of two (2) years from the approval of the Resolution in January 2020 to the



RESOLUTION

People vs. Villarosa  
SB-22-CRM-0096 to 0098

Page 3 of 11

X-----X

filing of the Informations in May 2022 cannot be considered vexatious, capricious and oppressive.

- a. From March 2020 to January 2022, Metro Manila and other parts of the country were placed under a series of lockdowns and/or different classifications of community quarantine because of the COVID-19 pandemic.
  - b. During the said period, there were limitations on all forms of transportation, work suspensions, and restrictions in going to the office. Access to office premises was limited and required prior approval.
4. The right to speedy disposition of cases is violated only when the proceedings are attended by vexatious, capricious and oppressive delays.
  5. The accused failed to raise any specific details of the proceedings that were attended by vexatious, capricious and oppressive delays. Neither did he show how he was prejudiced by the delay.
  6. *Tatad* does not apply to the present cases. There, the Supreme Court found that (1) political motivations played a vital role in activating and propelling the prosecutorial process; (2) there was blatant departure from established procedures; and (3) the long delay in resolving the case cannot be justified on the basis of the facts on record. The same circumstances are not attendant in the present cases.
  7. A copy of the Ombudsman's Resolution was sent to the accused's last known addresses. Under Sec. 15, Rule 13 of the *2019 Amendments to the 1997 Rules of Civil Procedure*,<sup>3</sup> service by registered mail is deemed complete after five (5) calendar days from receipt of the postmaster's first notice. The postmaster made several attempts to deliver the mail, and gave several notices but the mail remained unclaimed. Thus, the service of the copy of the Resolution is deemed complete.

<sup>3</sup> Sec. 15. *Completeness of service.* – Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of ten (10) calendar days after mailing, unless the court otherwise provides. Service by registered mail is complete upon actual receipt by the addressee, or after five (5) calendar days from the date he or she received the first notice of the postmaster, whichever date is earlier. Service by accredited courier is complete upon actual receipt by the addressee, or after at least two (2) attempts to deliver by the courier service, or upon the expiration of five (5) calendar days after the first attempt to deliver, whichever is earlier.

RESOLUTION

People vs. Villarosa  
SB-22-CRM-0096 to 0098

Page 4 of 11

X-----X

THE COURT'S RULING

The Court resolves to deny the accused's Motion.

The accused argues that his constitutional right to speedy disposition of cases was violated because the preliminary investigation took more than three (3) years. This Court is not persuaded.

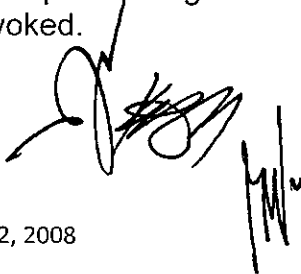
Sec. 16, Art. III of the Constitution provides:

**Sec. 16.** All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

In *Corpuz v. Sandiganbayan*,<sup>4</sup> the Supreme Court explained that the right to speedy disposition of cases is violated only when the proceedings are attended by vexatious, capricious and oppressive delays. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept. To determine if the right to speedy disposition of cases was violated, the Supreme Court applied the balancing test which considered and balanced the following factors: (1) length of delay; (2) reasons for the delay; (3) assertion or failure to assert such right by the accused; and (4) prejudice caused by the delay.<sup>5</sup>

Later, in *Cagang v. Sandiganbayan, Fifth Division*,<sup>6</sup> the Supreme Court, after considering the balancing test and other related jurisprudence, further clarified the mode of analysis in situations where the right to speedy disposition of cases is invoked. To wit:

*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.



<sup>4</sup> G.R. No. 162214, November 11, 2004

<sup>5</sup> *Perez v. People*, G.R. No. 164763, February 12, 2008

<sup>6</sup> G.R. No. 206438, July 31, 2018

RESOLUTION

People vs. Villarosa  
SB-22-CRM-0096 to 0098

Page 5 of 11

X -----X

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

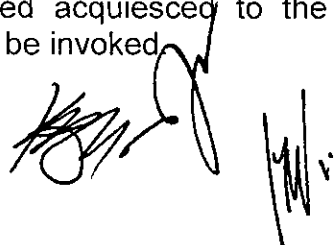
If the defense has the burden of proof, it must prove *first*, whether the case is motivated by malice or clearly only politically motivated and is attended by utter lack of evidence, and *second*, that the defense did not contribute to the delay.

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.

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RESOLUTION

People vs. Villarosa  
SB-22-CRM-0096 to 0098

Page 6 of 11

X -----X

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.

*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.

The record shows that a certain Angelina F. Tria filed her *Sworn Complaint Affidavit* against herein accused and three (3) other respondents before the Office of the Ombudsman on August 29, 2018.<sup>7</sup> In the Order dated June 4, 2019, the Office of the Ombudsman directed the accused to file his counter-affidavit within ten (10) days from receipt thereof.<sup>8</sup> In compliance with such directive, the accused filed his *Counter Affidavit* on June 27, 2019, after requesting for an extension of time to file the same.<sup>9</sup> Thereafter, the Resolution dated August 2, 2019,<sup>10</sup> directing that three (3) Informations be filed against herein accused and dismissing the charges against the other respondents, was reviewed by several officers of the Office of the Ombudsman, and was eventually approved by Ombudsman Samuel R. Martires on January 7, 2020. The three (3) Informations in these cases were filed with the Sandiganbayan on May 6, 2022, or more than two (2) years after the approval of the Ombudsman's Resolution.

The subject preliminary investigation was terminated long before the effectivity of the Ombudsman's Administrative Order No. 1, series of 2020.<sup>11</sup> On the other hand, Sec. 4, Rule II of the *Rules of Procedure of the Office of the Ombudsman*<sup>12</sup> provides that the preliminary investigation of cases falling under the jurisdiction of the Sandiganbayan shall be conducted in the manner prescribed in Sec. 3, Rule 112 of the Rules of Court, subject to the provisions in Sec. 4, Rule II of said *Rules of Procedure of the Office of the Ombudsman*. Sec. 3, Rule 112 of the Rules of Court provides for the periods pertinent to the conduct of the preliminary investigation. To wit:

**Sec. 3. Procedure.** – The preliminary investigation shall be conducted in the following manner:

<sup>7</sup> Record, p. 30

<sup>8</sup> Annex 1 of the accused's Motion; Record, p. 189

<sup>9</sup> Annexes 2 and 3 of the accused's Motion; Record, pp. 190-208

<sup>10</sup> Record, pp. 11-28

<sup>11</sup> Prescribing the Periods in the Conduct of Investigations by the Office of the Ombudsman

<sup>12</sup> Administrative Order No. 07, series of 1990

RESOLUTION

People vs. Villarosa

SB-22-CRM-0096 to 0098

Page 7 of 11

X -----X

(a) The complaint shall state the address of the respondent and shall be accompanied by the affidavits of the complainant and his witnesses, as well as other supporting documents to establish probable cause. They shall be in such number of copies as there are respondents, plus two (2) copies for the official file. The affidavits shall be subscribed and sworn to before any prosecutor or government official authorized to administer oath, or, in their absence or unavailability, before a notary public, each of whom must certify that he personally examined the affiants and that he is satisfied that they voluntarily executed and understood their affidavits.

(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.

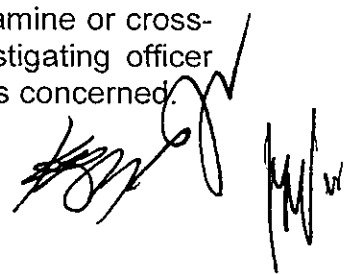
The respondent shall have the right to examine the evidence submitted by the complainant which he may not have been furnished and to copy them at his expense. If the evidence is voluminous, the complainant may be required to specify those which he intends to present against the respondent, and these shall be made available for examination or copying by the respondent at his expense.

Objects as evidence need not be furnished a party but shall be made available for examination, copying, or photographing at the expense of the requesting party.

(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.



RESOLUTION

People vs. Villarosa  
SB-22-CRM-0096 to 0098

Page 8 of 11

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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.

The Ombudsman’s Resolution was approved one (1) year, four (4) months, and nine (9) days after the *Sworn Complaint Affidavit* was filed. This period is without doubt beyond the period provided in the Rules of Court. But as early as *Dansal v. Fernandez*,<sup>13</sup> the Supreme Court took judicial notice of the steady stream of cases reaching the Office of the Ombudsman, and held that although under the Rules of Court, the Investigating Officer must issue a resolution within ten (10) days from the submission of the case, the period fixed by law is merely “directory,” although it cannot be disregarded or ignored completely, with absolute impunity. Later, in *Salcedo v. The Honorable Third Division of the Sandiganbayan*,<sup>14</sup> the Supreme Court reiterated that it has not set a threshold period for terminating the preliminary investigation proceedings before the Office of the Ombudsman. It further held that because the right to speedy disposition of cases is a relative or flexible concept, it cannot be quantified into specified number of days or months. Courts must consider the peculiar circumstances of each case in determining if such right was violated. Viz.:

The Court has never set a threshold period for terminating the preliminary investigation proceedings before the Office of the Ombudsman premised on the fact that the constitutionally guaranteed right to speedy disposition of cases is a relative or flexible concept. It is consistent with delays and depends upon the circumstances of a particular case, and thus, it cannot be quantified into specified number of days or months. It is quite difficult to ascertain with definiteness and precision when said right have been denied. The Court cannot exactly say how long is too long in a system where justice is supposed to be swift but thorough and correctly considered. Due to the imprecision of this right, the length of delay that will provoke an inquiry is necessarily dependent upon the peculiar circumstances of each case.

<sup>13</sup> G.R. No. 126814, March 2, 2000

<sup>14</sup> G.R. Nos. 223869-960, February 13, 2019



RESOLUTION

People vs. Villarosa  
SB-22-CRM-0096 to 0098

Page 9 of 11

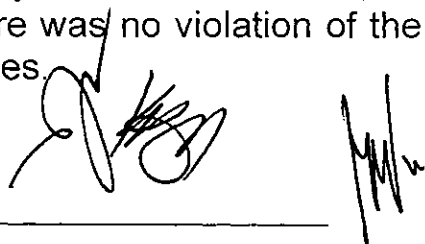
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Here, there is nothing to show that the investigation was motivated by malice or that it was brought about merely to harass herein accused. Moreover, unlike in *Tatad v. Sandiganbayan*,<sup>15</sup> it does not appear that there was blatant departure from established procedure during the preliminary investigation in this case. After the *Sworn Complaint Affidavit* was filed, the Office of the Ombudsman directed therein respondents to file their respective counter-affidavits and other controverting evidence. It appears that the Ombudsman's Resolution was already prepared on September 24, 2019, when Graft Investigation and Prosecution Officer III Irmina H. Bautista signed the same. The period of around three (3) months for evaluating the parties' respective affidavits and evidence is not overly long. Considering that the Office of the Ombudsman handles other cases, the period of another three (3) months, more or less, to review and eventually approve the said Resolution is not unreasonable.

This Court notes that there was also a much longer delay in filing the Informations with the Court after the approval of the Ombudsman's Resolution. However, in view of the circumstances, such delay cannot be considered unreasonable. To recall, on March 8, 2020, the President declared a State of Public Health Emergency throughout the Philippines due to COVID-19.<sup>16</sup> Thereafter, from March 2020 to January 2022, Metro Manila and other parts of the Philippines were placed under a series of community quarantines and Alert Levels because of the COVID-19 pandemic. These resulted in work suspensions and closure of courts, among others. The filing of the Informations with the Sandiganbayan only on May 6, 2022 is not unreasonable.

Finally, with regard to the accused's right to speedy disposition of cases, there is no allegation, much less, proof that he was prejudiced by the delay in the proceedings before the Office of the Ombudsman.

In fine, the Court finds that although there was delay in the preliminary investigation before the Office of the Ombudsman, such delay was not vexatious, capricious and oppressive, and therefore, there was no violation of the accused's right to speedy disposition of cases.



<sup>15</sup> G.R. Nos. 72335-39, March 31, 1988

<sup>16</sup> Proclamation No. 922 dated March 8, 2020

RESOLUTION

People vs. Villarosa

SB-22-CRM-0096 to 0098

Page 10 of 11

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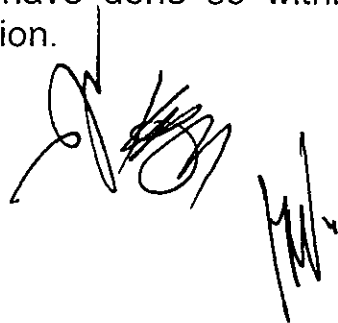
Next, the accused argues that he was deprived of due process because he was not furnished a copy of the Ombudsman's Resolution, and as a consequence, he was not given a chance to file his motion for reconsideration. The Court disagrees.

At the outset, this Court must emphasize that not being given the opportunity to file a motion for reconsideration of the Ombudsman's resolution is not a ground for the dismissal of the present cases before the Court. The proper remedy for the accused is to file a motion for reconsideration before the Office of the Ombudsman. Sec. 7, Rule II of the *Rules of Procedure of the Office of the Ombudsman* provides:

Section 7. Motion for reconsideration –

- a) Only one motion for reconsideration or reinvestigation of an approved order or resolution shall be allowed, the same to be filed within five (5) days from notice thereof with the Office of the Ombudsman, or the proper Deputy Ombudsman as the case may be, with corresponding leave of court in cases where information has already been filed in court;
- b) The filing of a motion for reconsideration/reinvestigation shall not bar the filing of the corresponding information in Court on the basis of the finding of probable cause in the resolution subject of the motion.

As evident from the aforequoted provision, and as held in *Garcia v. Sandiganbayan*,<sup>17</sup> the resolution of the motion for reconsideration before the Office of the Ombudsman and the conduct of proceedings before the Sandiganbayan may proceed concurrently. Herein accused was not precluded from filing his motion for reconsideration of the Ombudsman's Resolution, notwithstanding the fact that the Informations had already been filed with the Sandiganbayan, and he should have done so within five (5) days from notice of the said Resolution.



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<sup>17</sup> G.R. Nos. 205904-06, October 17, 2018

RESOLUTION

*People vs. Villarosa*

SB-22-CRM-0096 to 0098

Page 11 of 11

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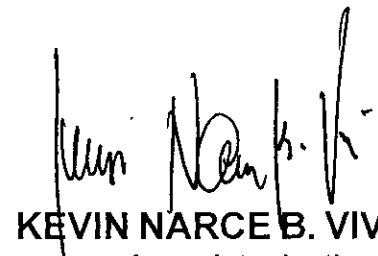
**WHEREFORE**, the accused's Motion is hereby DENIED for lack of merit. The hearing set on July 13, 2022, for the accused's arraignment, is maintained.

SO ORDERED.

  
SARAH JANE T. FERNANDEZ  
Associate Justice  
Chairperson

**We Concur:**

  
KARL B. MIRANDA  
Associate Justice

  
KEVIN NARCE B. VIVERO  
Associate Justice