

Republic of the Philippines
SANDIGANBAYAN
Quezon City

Second Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,


Crim. Case No. SB-21-CRM-0104

-versus-

Present:
Herrera, Jr., J. *Chairperson*
Musngi, J. &
Malabaguio, J.
Gomez-Estoesta, J.*
Fernandez, J.*

ALDRIN L. SAN PEDRO, ET AL.,
Accused.

Promulgated:

October 5, 2022 

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RESOLUTION

HERRERA, JR., J.:

For resolution of the Court are the following:

- 1) ***Motion For Reconsideration (Of the Resolution Dated July 15, 2022)***¹ dated August 2, 2022 filed by accused Aldrin L. San Pedro, through counsel; and
- 2) ***Motion For Reconsideration (of the Resolution dated 15 July 2022)***² dated August 2, 2022 filed by accused Angel P. Palmieri, through counsel.

The plaintiff, through the Office of the Special Prosecutor, Office of the Ombudsman, filed a ***Consolidated Comment/Opposition [Re: 1 -- Motion For Reconsideration (of the Resolution dated 15 July 2022) filed by accused Aldrin L. San Pedro dated 02 August 2022; and 2 -- Motion for***

*Sitting as Special Members per Administrative Order No. 4-C-2022, dated June 20, 2022

¹ Record, Vol. 4, pp. 113-130

² Id, pp. 139-146











Reconsideration (of the Resolution dated 15 July 2022) filed by accused Angel P. Palmiery dated 2 August 2022]³ dated August 12, 2022.

The **Resolution**⁴ of July 15, 2022 denied the separate motions of accused San Pedro and Palmiery for dismissal of the case on the ground of inordinate delay or alleged violation of their constitutional right to speedy trial.

In praying for reconsideration of the aforementioned **Resolution**, the two (2) accused insist that the investigation took twelve (12) years before the Office of the Ombudsman filed the information in court.

The insistence of the two (2) accused is bereft of merit.

The Court explained in the **Resolution** dated July 15, 2022 that:

"In **Cagang v. Sandiganbayan**, the Supreme Court clarified that in cases before the Office of the Ombudsman, the fact-finding investigation is not deemed included in the preliminary investigation for the purpose of determining the existence of inordinate delay, because the investigations are not yet adversarial proceedings against the accused. Thus, in evaluating cases where the right to speedy disposition of cases is invoked, **"a case is deemed to have commenced from the filing of the formal complaint and the subsequent conduct of the preliminary investigation"**.

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Here, from the timeline cited above, the formal complaint which ushered the start of the preliminary investigation was filed by the FIO on May 27, 2016. Following the conduct of the preliminary investigation, it culminated with the filing in Court of the **Information** on November 23, 2021.

In **Dansel, et.al. v. Fernandez, et.al.**, the Supreme Court explained:

"A mere mathematical reckoning of the time involved, therefore would not be sufficient. **In the application of the constitutional guarantee of the right to a speedy disposition of cases, particular regard must also be taken of the facts and circumstances peculiar to each case.**

³ Id, pp.148-151

⁴ Record, Vol. 3, pp. 482-501

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To repeat, the formal complaint that started the preliminary investigation was filed by the FIO on March 27, 2016 and the **Information** against the two (2) accused was filed in Court on November 23, 2021, covering a period of five (5) years. However, following the start of the preliminary investigation in the year 2016, a **Resolution** finding probable cause against the accused was already issued and signed by then Ombudsman Conchita-Carpio Morales on June 28, 2018, or after a period of two (2) years. The preliminary investigation involved thirty-one (31) respondents each one of whom was given ample time to submit his or her counter-affidavit and evidence in connection with the complaint for violation of the **Anti-Graft Law** and **Article 217 of the Revised Penal Code**.

The preliminary investigation which started in 2016 would have been terminated with the **Resolution** dated June 28, 2018 finding probable cause against the accused. It was not terminated because the accused themselves filed a motion for reconsideration which was resolved in an **Order** dated September 26, 2018 and which was signed by the new Ombudsman, Hon. Samuel R. Martires, on August 5, 2019. Ostensibly, the new Ombudsman had to review and study the complete records of the cases involving thirty-one (31) respondents in connection with offenses charged. In the meantime, the worldwide pandemic supervened so that the **Information** was filed in Court only on November 23, 2021.

The plaintiff, in its **Comment/Opposition, etc.**, explained:

"28. In the preliminary investigation, the respondents took almost a year for them to complete their submissions of CAs. Records revealed that for all the numerous assertions of all the parties, and the numerous respondents involved, the case was judiciously resolved – this notwithstanding the fact that respondents filed extensions of time to submit their CAs. If any, respondents were also guilty of contributing to the delay in the speedy disposition of this case.

29. While it may appear that there is a lapse of less than a year from the filing of the accused's MR up to the time that it was resolved in an Omnibus Order, such period was attributable to the change of leadership in the OMB due to the retirement of Hon. OMB Morales and the assumption of Hon. OMB Martires. To recall, the Resolution of the case was signed by Hon. OMB Morales on June 2018, while the Omnibus Order was signed by Hon. OMB Martires on Aug. 2019.

30. The declaration by the World Health Organization (WHO) – as early as January 2020 – of the outbreak of the novel coronavirus (2019-nCoV) as a Public Health Emergency of International Concern, and as a pandemic on March 2020, adversely affected all government functions

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and proceedings. The Philippines was not spared of the said health dangers that brought so much fatalities.

Due to the said pandemic, government's work was suspended and eventually the National Government ordered community quarantines – and the rest is history! Notwithstanding work suspensions and disruptions of government services due to the recurring surge of the 2019-nCov infections, the Information was filed on November 23, 2021.”⁵

The Court rules that the above-quoted findings and declarations contained in the **Resolution** dated July 15, 2022 stand.


WHEREFORE, premises considered, the Court resolves:

(1) To deny the **Motion for Reconsideration (Of the Resolution Dated July 15, 2022)** dated August 2, 2022 filed by accused Aldrin L. San Pedro, through counsel;


and

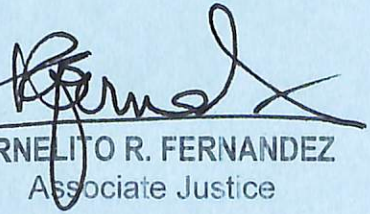
(2) To deny the **Motion for Reconsideration (of the Resolution dated 15 July 2022)** dated August 2, 2022 filed by accused Angel P. Palmieri, through counsel.

SO ORDERED.

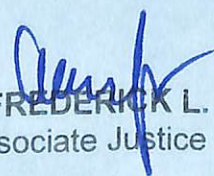

OSCAR C. HERRERA, JR.
Chairperson
Associate Justice

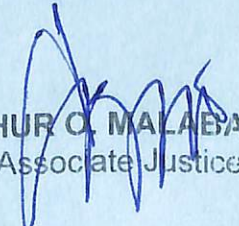
Concur:


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice


BERNELITO R. FERNANDEZ
Associate Justice

Dissent:


MICHAEL FREDERICK L. MUSNGI
Associate Justice


ARTHUR C. MALABAGUIO
Associate Justice

⁵ Id, pp. 486-488