

REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
Quezon City

FIFTH (5<sup>th</sup>) DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff,*

CRIM. CASE NO.  
SB-18-CRM-0279 to 0282

FOR: Violation of Sec. 3(e)  
of R.A. No. 3019

- versus -

*Present:*  
LAGOS, J., *Chairperson*  
MENDOZA-ARCEGA, J.  
CORPUS-MAÑALAC, J.

ROQUE R. ABLAN, EDITHA V.  
JACABAN, ET AL.,  
*Accused.*

*Promulgated:*  
January 16, 2023  
*Suzel E. Sigra*

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RESOLUTION

**LAGOS, J.:**

For resolution is the *Omnibus Motion*<sup>1</sup> dated November 9, 2022, filed by accused Editha Villanueva Jacaban, and the prosecution's *Comment/Opposition*<sup>2</sup> dated November 18, 2022.

Accused Jacaban moves for the quashal of the Informations filed against her, in Criminal Case Nos. SB-018-CRM-0279 to 0282, on the ground of violation of her right to a speedy disposition of cases. She avers that the dismissal of the cases against her is warranted, similar to her co-accused Lourdes V. Gonzales and Francisco C. Casil, whose cases were previously dismissed by the Court on the basis of inordinate delay. There being no motion for reconsideration or other remedies taken by the prosecution of the Resolution dated January 19, 2019<sup>3</sup> that dismissed the cases as to accused Casil, which merely reiterated the discussions in the August 22, 2018 Resolution<sup>4</sup> that dismissed the cases against accused Gonzales, herein accused posits that the findings therein have become the "law of the case" and that it should be applied to her since her situation

<sup>1</sup> Records, Vol. 2, pp. 305-318

<sup>2</sup> *Ibid.*, pp. 324-329

<sup>3</sup> *Id.*, pp. 145-150

<sup>4</sup> *Id.*, pp. 48-54

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falls under the same facts, circumstances, and conditions as the said co-accused.

Accused Jacaban claims that she learned of the cases filed against her only this year, 2022, when she was supposed to travel overseas but was held up by immigration officials pursuant to a Hold Departure Order issued by the Court in relation to these cases. According to her, the notices from the Office of the Ombudsman (OMB) during the preliminary investigation were sent to an address in Quezon City which she no longer occupied as she was already back in her hometown in Davao City at that time.

Thus, accused Jacaban argues that the OMB had no reason to delay the filing of criminal information against her since the complaint was uncontroverted or uncontested due to her lack of knowledge of the investigation and the consequent failure to submit a counter-affidavit. For the same reason, she submits that this is her first opportunity to invoke the right to speedy disposition of cases. Moreover, she claims that the period consisting of the delay of more than five (5) years of investigation and another four (4) years before she learned of the pendency of the cases before the Sandiganbayan is prejudicial to her because she no longer has access to documents needed for her defense. Worth noting is the fact that she is already sixty (60) years old and will be compelled to attend the trial here in Metro Manila, far from her hometown.

In opposing the motion, the prosecution contends that the previous resolutions issued by the Court dismissing the cases against Jacaban's co-accused do not apply to her. It stresses the fact that said co-accused submitted their respective counter-affidavits and participated in the proceedings before the OMB, while Jacaban did not. Thus, since she admitted in her motion that she came to know of the cases against her only recently, there is no actual prejudice suffered because she has never been exposed to the stress, anxiety, and ridicule brought about by these cases.

The prosecution, in sum, concludes that there is no basis for the alleged violation of the right to speedy disposition of the cases due to Jacaban's failure to prove that she was prejudiced or has endured any vexatious process, from the fact-finding phase until the filing of her present motion. It maintains that nothing in the records would show that the investigation was characterized by delay which is oppressive to her as she never participated in any proceeding related to these cases – any delay during the fact-finding phase could not have affected her.



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**RULING**

The Constitution guarantees that all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.<sup>5</sup> It must be noted, however, that this right should be understood as a relative or flexible concept; it is consistent with delays and depends upon the circumstances. What the Constitution prohibits are unreasonable, arbitrary and oppressive delays which render rights nugatory.<sup>6</sup>

In determining whether the right has been denied, the Supreme Court, in a catena of cases, has applied the “balancing test” which compels the courts to approach such cases on an *ad hoc* basis and to consider and balance the following factors: (1) the length of delay; (2) the reasons for the delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay.<sup>7</sup> More recently, courts are further guided by the ruling in *Cagang v. Sandiganbayan*<sup>8</sup> which laid down the mode of analysis<sup>9</sup> in situations where the right to

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<sup>5</sup> Article III, Section 16.

<sup>6</sup> *Braza v. Sandiganbayan*, G.R. No. 195032, February 20, 2013.

<sup>7</sup> See *Martin v. Ver*, G.R. No. L-62810 July 25, 1983; *Dela Peña v. Sandiganbayan*, G.R. No. 144542, June 29, 2001; *Remulla v. Sandiganbayan*, G.R. No. 218040, April 17, 2017; *Republic v. Sandiganbayan*, G.R. No. 231144, February 19, 2020.

<sup>8</sup> G.R. Nos. 206438 and 206458, July 31, 2018.

<sup>9</sup> “*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 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.

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speedy disposition of cases or the right to speedy trial is invoked, the crux of which is summed up in the following pronouncements:

**“To summarize, inordinate delay in the resolution and termination of a preliminary investigation violates the accused's right to due process and the speedy disposition of cases, and may result in the dismissal of the case against the accused. The burden of proving delay depends on whether delay is alleged within the periods provided by law or procedural rules. If the delay is alleged to have occurred during the given periods, the burden is on the respondent or the accused to prove that the delay was inordinate. If the delay is alleged to have occurred beyond the given periods, the burden shifts to the prosecution to prove that the delay was reasonable under the circumstances and that no prejudice was suffered by the accused as a result of the delay.**

The determination of whether the delay was inordinate is not through mere mathematical reckoning but through the examination of the facts and circumstances surrounding the 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. If there has been delay, the prosecution must be able to satisfactorily explain the reasons for such delay and that no prejudice was suffered by the accused as a

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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.

*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.” (*Underscoring Supplied*)

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result. The timely invocation of the accused's constitutional rights must also be examined on a case-to-case basis." (*Emphasis and underscoring supplied*)

From the foregoing guidelines, the Court is led to the conclusion that, as will be explained below, accused Jacaban's right to a speedy disposition of her cases was violated.

First, as to which party carries the burden proof, it must be recalled that in this Court's previous Resolutions<sup>10</sup> which dismissed the cases against accused Gonzales and Casil, there has been a finding of delay and it was already determined that the length of five (5) years and five (5) months, reckoned from the filing of the complaint on November 12, 2012 up to the filing of the Information on April 13, 2018, is inordinate. Thus, the burden to prove that the delay was reasonable under the circumstances has shifted to the prosecution that failed to discharge the said burden. In the same resolutions, the Court held that the case cannot be considered voluminous to require the length of more than five (5) years of investigation and resolution. Also, no sufficient justifications were given for the delay that transpired between the Ombudsman's approval<sup>11</sup> of the OMB Resolution<sup>12</sup> finding probable cause against the accused and the filing of the Information before the Court.

Also noteworthy is the fact that the prosecution, in this instance, did not specifically object as to the existence of delay and no further attempt was made to satisfactorily explain such delay. Thus, the previous findings of the Court with regard to the *length* of and *reason* for the delay are maintained and shall equally apply to herein accused Jacaban.

Next, as regards the *assertion of the right*, the prosecution likewise did not raise a counter-argument. However, a discussion on the matter is necessitated by some differences in the circumstances of accused Jacaban and that of her co-accused.

Accused Jacaban filed the present motion to quash prior to being arraigned and did so following her voluntary submission to the jurisdiction of the Court upon posting bail on October 12, 2022.<sup>13</sup> As claimed by the accused, she only learned of the cases against her a few months ago by virtue of the Hold Departure Order<sup>14</sup> issued against her. Prior to that, she was not able to participate in the preliminary

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<sup>10</sup> *Supra* at Notes 3 and 4

<sup>11</sup> Dated July 17, 2017 (Records, Vol. 1, p. 33)

<sup>12</sup> Dated April 20, 2017 (Records, Vol. 1, pp. 8-35)

<sup>13</sup> Records, Vol. 2, pp. 258-264

<sup>14</sup> Records, Vol. 1, p. 337

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investigation nor was she aware of its conduct since the notices were served at an address in Quezon City which she no longer occupied.

In *Javier v. Sandiganbayan*,<sup>15</sup> among other cases similarly decided by the Supreme Court,<sup>16</sup> it was held that a motion to quash grounded on inordinate delay filed before arraignment is considered a timely assertion of the right at the earliest opportunity, especially when the respondent did not have an occasion to do so previously. Thus, accused Jacaban timely asserted her right to a speedy disposition of her cases as this is the first and earliest chance for her to raise the issue of inordinate delay. She could not be reasonably expected to move for the dismissal at an earlier time.

Finally, with regard to *prejudice*, given the finding of delay, the prosecution also carries the burden of proving that no prejudice was suffered by the accused resulting therefrom. Its opposition to the motion hinges specifically on the contention that, by admitting that she was not able to participate in the preliminary investigation and only learned of the cases just recently, accused Jacaban suffered no actual prejudice, hence, her right to a speedy disposition of cases was not violated. The accused, on the other hand, asserts that prejudice lies in the lapse of almost ten (10) years – from the filing of the complaint up to the time she learned of these cases – which is detrimental to her defense as she no longer has access to documents that she can present in court as evidence.

The question of whether lack of awareness as to the conduct of preliminary investigation negates prejudice on the part of the defendant is, to borrow from *People v. Sandiganbayan and Rico Rey S. Holganza*,<sup>17</sup> “far from being novel.”

In the said case, the prosecution pointed out that Holganza admitted becoming aware of the case against him only after the filing of the information, therefore, he was not prejudiced by the delay in the preliminary investigation. Cited and discussed in length therein is the case of *Torres v. Sandiganbayan*,<sup>18</sup> where accused Torres only learned of the case against him before the Sandiganbayan by virtue of a Hold Departure Order issued against him, similar to herein accused Jacaban. The prosecution raised the same objection that no prejudice was caused to the accused because he never participated in the preliminary investigation and was actually never been informed of the proceedings.

<sup>15</sup> G.R. No. 237997, June 10, 2020.

<sup>16</sup> See *Magante v. Sandiganbayan*, G.R. Nos. 230950-51, July 23, 2018; *Figuerola v. Sandiganbayan*, G.R. Nos. 235965-66, February 15, 2022; *Camsol v. Seventh Division of the Sandiganbayan*, G.R. No. 242892, July 6, 2022.

<sup>17</sup> G.R. No. 232737, October 02, 2019.

<sup>18</sup> G.R. Nos. 221562-69, October 05, 2016.

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In both *Holganza* and *Torres*, it was held that the mere fact a respondent is unaware of the proceedings against him or her does not mean that he or she is not prejudiced thereby. To rule otherwise would invite abuse as when “the prosecution may deliberately exclude certain individuals from the investigation only to file the necessary cases at another, more convenient time, to the prejudice of the accused.”<sup>19</sup> In arriving at its conclusions, the Supreme Court cited the case of *Coscolluela v. Sandiganbayan*<sup>20</sup> which tackled the issue of prejudice as follows:

“[x x x] the Court finally recognizes the prejudice caused to the petitioners by the lengthy delay in the proceedings against them.

Lest it be misunderstood, the right to speedy disposition of cases is not merely hinged towards the objective of spurring dispatch in the administration of justice but also to prevent the oppression of the citizen by holding a criminal prosecution suspended over him for an indefinite time. Akin to the right to speedy trial, its “salutary objective” is to assure that an innocent person may be free from the anxiety and expense of litigation or, if otherwise, of having his guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he may interpose. This looming unrest as well as the tactical disadvantages carried by the passage of time should be weighed against the State and in favor of the individual. In the context of the right to a speedy trial, the Court in *Corpuz v. Sandiganbayan*<sup>21</sup> (*Corpuz*) illumined:

A balancing test of applying societal interests and the rights of the accused necessarily compels the court to approach speedy trial cases on an *ad hoc* basis.

Prejudice should be assessed in the light of the interest of the defendant that the speedy trial was designed to protect, namely: to prevent oppressive pre-trial incarceration; to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired. Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system. There is also prejudice if the defense witnesses are unable to recall accurately the events of the distant past. Even if the accused is not imprisoned prior to trial, he is still disadvantaged by restraints on his

<sup>19</sup> *Ibid.*

<sup>20</sup> G.R. No. 191411, July 15, 2013.

<sup>21</sup> G.R. No. 162214, November 11, 2004.

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liberty and by living under a cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed, and he is subjected to public obloquy.

Delay is a two-edge sword. It is the government that bears the burden of proving its case beyond reasonable doubt. The passage of time may make it difficult or impossible for the government to carry its burden. The Constitution and the Rules do not require impossibilities or extraordinary efforts, diligence or exertion from courts or the prosecutor, nor contemplate that such right shall deprive the State of a reasonable opportunity of fairly prosecuting criminals. As held in *Williams v. United States*,<sup>22</sup> for the government to sustain its right to try the accused despite a delay, it must show two things: (a) that the accused suffered no serious prejudice beyond that which ensued from the ordinary and inevitable delay; and (b) that there was no more delay than is reasonably attributable to the ordinary processes of justice.

Closely related to the length of delay is the reason or justification of the State for such delay. [x x x].”  
(*Emphasis and underscoring supplied*)

This is precisely where accused Jacaban’s claim of prejudice is anchored. In its comment to the motion, the prosecution cited the U.S. case of *Barker vs. Wingo*,<sup>23</sup> which introduced the “balancing test” adopted in our jurisdiction, and quoted the portion thereof which originally laid down the foregoing interests of a defendant that the right to speedy trial, or in this case, to a speedy disposition of cases, was designed to protect. As early as *Barker*, it was already determined that the possibility of impairing the defense is the most serious among those interests as “the inability of the defendant adequately to prepare his [or her] case skews the fairness of the entire system.” The prosecution, thus, cannot harp on the argument that there is a complete absence of prejudice on the part of the accused.

The Court recognizes this form of prejudice caused to accused Jacaban. “Delay is most serious when a defendant is rendered unable to adequately prepare their case.”<sup>24</sup> Considering that these cases cover transactions in the government which took place in 2004,<sup>25</sup> almost two decades ago, and that accused is a private individual imputed on

<sup>22</sup> 250 F.2d. 19 (1957)

<sup>23</sup> 407 U.S. 514 (1972)

<sup>24</sup> *Campa, Jr. v. Hon. Paras*, G.R. No. 250504, July 12, 2021.

<sup>25</sup> Information (Records, Vol. 1, pp. 1-3)



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allegations of conspiracy with public officials, the passage of such a long period has already deprived her of the ability to adequately prepare for her case as necessary documents or essential witnesses needed for her defense may no longer be available.

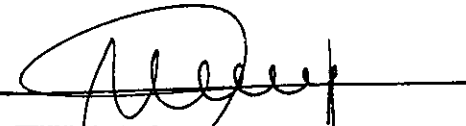
Accordingly, with the foregoing findings that herein accused has undoubtedly been prejudiced, coupled with her timely invocation of the right to speedy disposition of cases and the absence of sufficient justification for the delay, the dismissal of the criminal cases against her on account of inordinate delay is warranted.

**WHEREFORE**, premises considered, the motion to quash on the ground of inordinate delay filed by accused EDITHA VILLANUEVA JACABAN is hereby **GRANTED**. The charges against her in Criminal Case Nos. SB-18-CRM-0279 to 0282 are **DISMISSED** for violation of her right to speedy disposition of cases.

**SO ORDERED.**

  
**RAFAEL R. LAGOS**  
*Associate Justice*  
*Chairperson*

WE CONCUR:

  
**MARIA THERESA V. MENDOZA-ARCEGA**  
*Associate Justice*

  
**MARYANN E. CORPUS-MAÑALAC**  
*Associate Justice*

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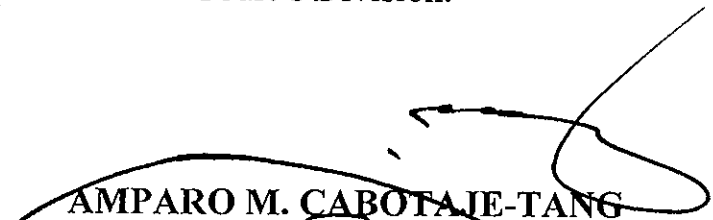
**ATTESTATION**

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**RAFAEL R. LAGOS**  
*Associate Justice*  
*Chairperson*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**AMPARO M. CABOTAJE-TANG**  
*Presiding Justice*

