



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-22-CRM-0195**
Plaintiff, For: Violation of Sec. 3(e)
of R.A. No. 3019

SB-22-CRM-0196
For: Violation of Sec. 3(g)
of R.A. No. 3019

- versus -

Present

RICARDO M. CAMACHO,
ET AL.,

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
VIVERO, J.

Accused.

Promulgated:

10 MAR 2023 p.

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the following:

1. *Motion to Quash*¹ filed by accused Willy L. Chua;
2. *Motion to Dismiss/Quash*² filed by accused Ricardo M. Camacho; and,
3. The prosecution's *Consolidated Opposition (Re: Motions to Dismiss/Quash of Accused Camacho and Chua)*.³

¹ Dated January 4, 2023; Record, pp. 395-416

² Dated January 18, 2023; Record, pp. 444-453

³ Dated February 27, 202 and filed on February 28, 2023

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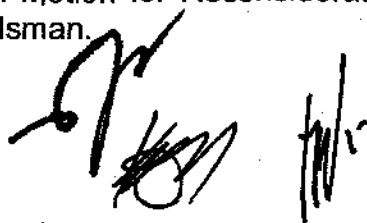
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In his *Motion to Quash*, accused Chua prays that the Information be quashed and that he be discharged on the ground that his right to speedy disposition of cases was violated. He avers:

1. The complaint was filed on December 1, 2017, but the Office of the Ombudsman issued its Joint Resolution only on May 30, 2022, or after the lapse of almost five (5) years.
2. The issue in the present case is simple and not complicated. Furthermore, there was a previous complaint involving the same case filed by Filipina P. Alcantara.

In his *Motion to Dismiss/Quash*, accused Camacho similarly prays that the present cases be dismissed for violation of his right to speedy disposition of cases. He avers:

1. The formal complaint was filed on December 1, 2017 and the last pleading, the Rejoinder Affidavit, was filed on May 30, 2018. However, it took the Ombudsman around four (4) years to issue the resolution dated May 30, 2022 finding probable cause against the accused.
2. Considering that the issues raised in the complaint are simple, the preliminary investigation should have been concluded within twelve (12) months from the filing of the last pleading. Even assuming that the issues raised are complex, there was still inordinate delay because the resolution was not issued within twenty-four (24) months from the filing of the last pleading.
3. The Office of the Ombudsman did not comply with the said periods. Hence, the delay is attributable solely to the Office of the Ombudsman.
4. The filing of the cases is politically motivated.
5. He was prejudiced by the inordinate delay in the resolution of the cases because such delay gave his political opponents, including complainant Cezar T. Quiambao, the opportunity to use the pendency of the cases before the Office of the Ombudsman to destroy his reputation during the 2019 and 2021 [sic] elections. As a result, he lost in his Mayoralty bids.
6. He made a timely assertion of his right to speedy disposition of cases through the filing of his instant Motion. In fact, it is not the first time he invoked such right because he asserted the same in his Supplemental Motion for Reconsideration filed with the Office of the Ombudsman.



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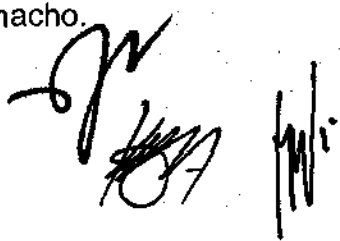
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In its *Consolidated Opposition*, the prosecution counters:

1. The timeline of the preliminary investigation is as follows:
 - a. Cezar T. Quiambao filed his Complaint with the Office of the Ombudsman on December 1, 2017.
 - b. On March 8, 2018, the Office of the Ombudsman directed the respondents to file their counter-affidavits, affidavits of their witnesses, and other supporting documents.
 - c. From April 13, 2018 to June 8, 2018, the respondents and complainant filed their respective Counter-Affidavits, Reply-Affidavits, and Rejoinder Affidavits.
 - d. The Office of the Ombudsman prepared the Joint Resolution on May 30, 2022, and the Ombudsman approved the same on July 6, 2022.
 - e. The Informations were filed with the Sandiganbayan on September 22, 2022.
2. While it took three (3) years, eleven (11) months and twenty-two (22) days from the filing of the last pleading to the preparation of the Joint Resolution, the delay cannot be considered vexatious, capricious, and oppressive absent proof that it was deliberately employed to harass and violate the accused's rights to due process and speedy disposition of cases.
3. From March 2020 until year 2022, the country was placed under a series of lockdowns and different classifications of community quarantine because of the global pandemic. The Office of the Ombudsman took steps to prevent the spread of the COVID-19 infection, including the imposition of work suspensions, mandatory quarantine of infected and exposed employees, observation of skeleton workforce, setting up of alternative working arrangements, and limiting access to office premises. These contributed to unavoidable delays.
4. Accused Camacho's defeat in the elections cannot be attributed to the pendency of the instant cases. Furthermore, he failed to show how the Ombudsman acted arbitrarily in resolving the case.
5. The *Tatad* case does not apply because there is nothing to show that the Office of the Ombudsman was politically motivated, or was coerced into filing criminal charges against accused Camacho.



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6. The Supreme Court recognized the steady stream of cases reaching the Office of the Ombudsman, and naturally, the disposition of such cases would take some time. In *Dansal v. Fernandez*, the Supreme Court held that it is not unmindful of the Ombudsman's duty to act promptly on Complaints, but such duty should not be mistaken with a hasty resolution of cases at the expense of thoroughness and correctness.
7. While the Office of the Ombudsman took around four (4) years, six (6) months and six (6) days to complete the preliminary investigation, the period is reasonable considering the voluminous pleadings filed by the parties, the complex issues raised, and the different defenses offered by the three (3) respondents.
8. The accused failed to assert their right to speedy disposition of cases. They raised the issue of inordinate delay only after the issuance of the Joint Resolution and after the Informations were filed with the Court. They were not prejudiced by the alleged delay prior to the issuance of the said Joint Resolution, and they complained only when the result was unfavorable to them.

THE COURT'S RULING

The Court Resolves to deny the respective Motions of accused Camacho and Chua.

In *Cagang v. Sandiganbayan*,⁴ the Supreme Court laid down the guidelines for resolving questions involving the right to speedy disposition of cases. To wit:

This Court now clarifies the mode of analysis where the right to speedy disposition of cases or the right to speedy trial is invoked.

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

⁴ G.R. Nos. 206438 and 206458, and 210141-42, July 31, 2018

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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.

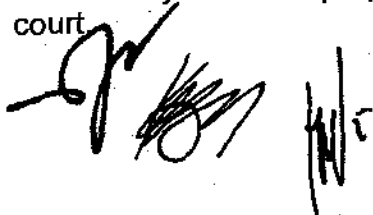
Once the burden of proof shifts to the prosecution, the prosecution must prove *first*, that it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; *second*, that the complexity of the issues and the volume of evidence made the delay inevitable; 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 first 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.



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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.

Office of the Ombudsman Administrative Order No. 1, Series of 2020 (A.O. No. 1, s. 2020) provides for the period for the conduct of the preliminary investigation. To wit:

Section 8. Period for the conduct of Preliminary Investigation.

– Unless otherwise provided for in a separate issuance, such as an Office Order creating a special panel of investigators/prosecutors and prescribing the period for completion of the preliminary investigation, the proceedings therein shall not exceed twelve months for simple cases or twenty-four (24) months for complex cases, subject to the following considerations:

- (a) The complexity of the case shall be determined on the basis of 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.
- (b) Any delay incurred in the proceedings, whenever attributable to the respondent, shall suspend the running of the period of purposes of completing the preliminary investigation.
- (c) The period herein prescribed may be extended by written authority of the Ombudsman, or the Overall Deputy Ombudsman/Special Prosecutor/Deputy Ombudsman concerned for justifiable reasons, which extension shall not exceed one (1) year.

The preliminary investigation in the present cases commenced on December 1, 2017, when Cezar T. Quiambao filed his Complaint-Affidavit.⁵ After the Office of the Ombudsman directed the respondents to file their respective counter-affidavits, therein respondents and complainant filed their respective Counter-Affidavits, Reply-Affidavits, and Rejoinder Affidavits, the last of which was filed on June 8, 2018.⁶ The Ombudsman approved the Joint Resolution dated May 30, 2022 on July 6, 2022.⁷ From the filing of the Complaint-Affidavit to the approval of the Joint Resolution, a period of four (4)

⁵ Record, p. 67

⁶ Prosecution's Consolidated Opposition, pp. 1-2

⁷ Record, p. 39

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years, seven (7) months and five (5) days passed. Applying the periods under Sec. 8 of A.O. No. 1, s. 2020,⁸ it is clear that there was delay in the preliminary investigation. Even if the case is considered complex because of the number of the respondents, offenses charges and volume of documents, the time it took the Office of the Ombudsman to complete the preliminary investigation was still beyond the period provided under A.O. No. 1, s. 2020.

According to the prosecution, the delay is not unreasonable because the measures taken to prevent the spread of COVID-19 caused unavoidable delays. However, it must be pointed out that even before the first Enhanced Community Quarantine was imposed over Luzon on March 17, 2020, there was already a delay in the preliminary investigation.

Although the prosecution failed to justify the delay, the Court nonetheless denies accused Camacho and Chua's Motions because there is nothing in the record to show that the investigation was motivated by malice or brought to harass the accused, and more importantly, the said accused failed to make a timely assertion of their right to speedy disposition of cases. *Cagang* instructs that the right to speedy disposition of cases must be invoked once the delay has already become prejudicial to the respondent. Otherwise, the right is deemed to have been validly waived. *Viz.:*

The right to speedy disposition of cases, however, is invoked by a respondent to any type of proceeding once delay has already become *prejudicial* to the respondent. The invocation of the constitutional right does not require a threat to the right to liberty. Loss of employment or compensation may already be considered as sufficient to invoke the right. Thus, waiver of the right does not necessarily require that the respondent has already been subjected to the rigors of criminal prosecution. The failure of a respondent to invoke the right even when [he] or she has already suffered or will suffer the consequences of delay constitutes a valid waiver of the right.

In the more recent case of *Magaluna v. Office of the Ombudsman (Mindanao)*,⁹ the Supreme Court held that despite the inordinate delay

⁸ A.O. No. 1, s. 2020. Section 17. *Applicability.* – These rules shall apply to all cases, complaints, grievances, or requests for assistance filed or brought after they take effect and to further proceedings in cases then pending, except to the extent that their application would not be feasible or would cause injustice to any party. (underscoring supplied)

⁹ G.R. No. 214747, July 18, 2022

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on the part of the Ombudsman Mindanao, therein petitioners may no longer invoke their right to speedy disposition of cases because they acquiesced to the delay or failed to timely raise their right. *Viz.:*

Despite the inordinate delay committed by Ombudsman Mindanao, petitioners, except for Plaza, failed to timely invoke their right to speedy disposition of cases.

The guidelines set forth in *Cagang* specifies that the right may no longer be invoked if the person being investigated acquiesced to the delay or failed to timely raise it.

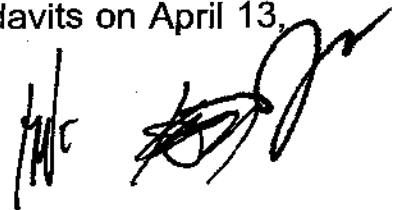
The case of *Dela Peña v. Sandiganbayan*, expounds the concept of acquiescing to the delay, to wit:

"Moreover, it is worth to note that it was only on 21 December 1999, after the case was set for arraignment, that petitioner raised the issue of the delay in the conduct of the preliminary investigation. As stated by them in their Motion to Quash/Dismiss, "[o]ther than the counter-affidavits, [they] did nothing." Also, in their petition, they averred: "Aside from the motion for extension of time to file counter-affidavits, petitioners in the present case did not file nor send any letter-queries addressed to the Office of the Ombudsman for Mindanao which conducted the preliminary investigation." **They slept on their right – a situation amounting to laches.** The matter could have taken a different dimension if during all those four years, they showed signs of asserting their right to a speedy disposition of their cases or at least made some overt acts, like filing a motion for early resolution, to show that they were not waiving that right. Their silence may, therefore be interpreted as a waiver of such right."

Here, petitioners, except for Plaza, cannot deny that they knew that the preliminary investigation was still ongoing as they were asked to file counter-affidavits as early as May 2009. They submitted their counter-affidavits and did nothing until the resolution of the case on April 2014 or five (5) years later. Petitioners, except for Plaza, slept on their rights amounting to laches.

Petitioners also failed to timely raise their right. Following *Cagang*, they failed to file the appropriate motion upon the lapse of the statutory or procedural periods or within ten (10) days after the investigation. They even failed to raise the right in their motion for reconsideration before the Ombudsman Mindanao. Petitioners for the first time invoked their right to speedy disposition of cases in their Petition for *Certiorari* before this Court. Hence, the Court finds that petitioners, except for Plaza, waived their right to a speedy disposition of case. [sic]

Similarly, herein accused Camacho and Chua knew that the preliminary investigation proceedings were ongoing because when they were directed to file their counter-affidavits on March 8, 2018, accused Camacho and Chua filed their counter-affidavits on April 13,



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2018 and May 7, 2018, respectively, and they did not receive a copy of the resolution dismissing the charges against them.¹⁰

Thereafter, accused Camacho did nothing until the Ombudsman approved the Joint Resolution on July 6, 2022, despite supposedly suffering prejudice as a result of the delay. He did not even assert his right to speedy disposition of cases in his *Motion for Reconsideration*.¹¹ Indeed, as accused Camacho claims, he invoked his right in his *Supplemental Motion for Reconsideration*,¹² but this seems to be a mere afterthought. The said *Supplemental Motion for Reconsideration* was filed only on November 15, 2022, or two (2) months and twenty-one (21) days from the filing of his *Motion for Reconsideration*. By then, the Informations were already filed with the Court. Accused Chua also did nothing until after the Informations were filed with the Court.

WHEREFORE, the respective Motions of accused Camacho and Chua are hereby DENIED for lack of merit.

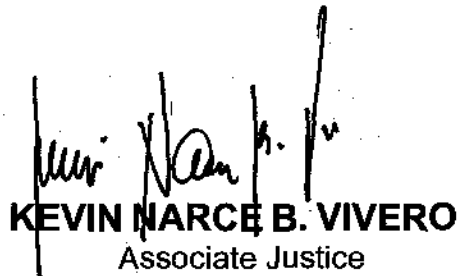
Accused Chua's *Reply (on the Opposition to the Motion to Quash)*¹³ is NOTED.¹⁴

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

¹⁰ *Rules of Procedure of the Office of the Ombudsman. Rule II, Section 6. Notice to parties.* – The parties shall be served with a copy of the resolution as finally approved by the Ombudsman or by the proper Deputy Ombudsman.

¹¹ A copy is attached to accused Camacho's *Motion to Defer/Suspend Arraignment* dated November 15, 2022; Record, pp. 338-342

¹² A copy is attached to accused Camacho's *Motion to Defer/Suspend Arraignment* dated November 15, 2022; Record, pp. 347-350

¹³ Dated March 1, 2023 and filed on March 2, 2023

¹⁴ *2018 Revised Internal Rules of the Sandiganbayan. Rule VII, Sec. 4.* x x x Reply and memorandum shall not be allowed.

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OFFICE OF THE OMBUDSMAN
SANITIZING UNIT