



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on April 26, 2023 in Tagbilaran City, Bohol.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA -----Chairperson

Justice ZALDY V. TRESPESES -----Member

Justice GEORGINA D. HIDALGO -----Member

The following resolution was adopted:

SB-23-CRM-0044 – People v. Herbert Constantine Maclang Bautista, et al.

This resolves the following:

1. Accused Herbert M. Bautista's "**Urgent Omnibus Motion [To: (A) Quash the Information; and (B) Dismiss the Case With Prejudice]**" dated March 24, 2023; and
2. Prosecution's "**Comment Ex Abundanti Ad Cautelam**" dated April 13, 2023.

GOMEZ-ESTOESTA, J.:

The questions posed for the court's resolution are: does the *Information* contain sufficient allegations to sustain the indictment against accused Herbert M. Bautista? Was his constitutional right to speedy disposition of cases violated?

In his *Urgent Omnibus Motion*, accused Herbert M. Bautista ("**accused Bautista**") contended that his indictment is procedurally infirm and that there was inordinate delay committed by the Office of the Ombudsman during its preliminary investigation, and as such, he now seeks the quashal of the *Information* and the dismissal of the present case. His arguments in support thereof are condensed below:

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Motion to Quash the Information

Accused Bautista anchored the motion to quash on the following main contentions: (a) that the facts charged do not constitute an offense; and (b) that the *Information* contains averments which, if true, would constitute a legal justification.

A. The facts charged do not constitute an offense

Accused Bautista averred that the *Information* failed to state any factual averments constituting the elements of Violation of Section 3 (e) of *Republic Act No. 3019* (“*R.A. 3019*”). He highlights that his indictment is solely anchored on the allegation that he entered into a contract with Geodata Solutions, Inc. (“**Geodata**”) absent a specific appropriation ordinance enacted by the Sangguniang Panlungsod for the purpose, and without complete delivery of the Project¹ having been made. In chief, he argues that the execution of such contract does not automatically mean that he had acted with manifest partiality, evident bad faith, or gross inexcusable negligence, such that he particularly favored Geodata over other entities based in part on the following circumstances:

- i. A public bidding was conducted in which accused Bautista had no participation because the same was within the purview of the Bids and Awards Committee (“**BAC**”) and, in his capacity as the local chief executive, he was neither the Chairman nor a member thereof. Furthermore, the prosecution failed to implead any members of the BAC as co-accused, which allegedly belies the existence of manifest partiality.
- ii. As the former Mayor of Quezon City, accused Bautista relied in good faith on his subordinates, citing *Arias v. Sandiganbayan*,² who were responsible for the preparation of bidding documents, purchase of supplies, and negotiations.
- iii. The efficient and prompt implementation of the Project was supported by the existence of the following:
 - a. Ordinance No. 2827, s. 2019;
 - b. Ordinance No. 2771, s. 2018;
 - c. Ordinance No. 2827, s. 2019;

¹ Referring to the procurement by Quezon City of a web-based application that offers a system for the online processing of occupational permits (e.g., business permits and licenses).

² G.R. Nos. 81563 & 82512, December 19, 1989.

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- d. the Annual Procurement Plan of Quezon City under the Projects Programs and Activities-Property Plant and Equipment;
 - e. the Certification issued by City Budget Officer Ms. Marian C. Oryani on the Obligation Request who certified on the existence of available appropriation;³ and
 - f. the Certification issued by OIC-City Accounting Department Ms. Ruby G. Manangu on the Disbursement Voucher who certified that supporting documents were complete, and OIC-City Treasurer Ms. Ruby Rosa G. Guevarra who likewise certified on the same document that funds were available.⁴
- iv. Accused Bautista derived no personal gain from the Project because the same was for the benefit of his constituents.
 - v. The implementation of the Project followed the regular procedure in the release of funds, the delivery and acceptance of the Project was established by various supporting documents, and the funds were only released after due inspection; and that training was-conducted on the use of the application.
 - vi. No adverse findings were discovered by the Commission on Audit (“COA”) in either the 2019 and the 2020 Annual Audit; and that no notice of disallowance was issued by COA for the Project.

Accused Bautista also disputed the allegation that he was part of any conspiracy to commit the crime charged. The *Information* did not cite his individual acts that would establish the existence of a conspiracy. He contended that conspiracy cannot be established by his entering into a contract with Geodata, the release of funds, and that co-accused Cuña signed the Purchase Request and Box A of the Obligation Request.

B. It contains averments which, if true, would constitute a legal justification.

In this regard, accused Bautista advanced that having acted in his official capacity as Mayor of Quezon City, he was obliged to implement the Project as provided by Ordinance No. 2827. Citing the justifying circumstance of fulfillment of a duty per paragraph 5 of Article 11 of the *Revised Penal Code*,⁵ he posited that criminal liability did not arise from the crime charged.

³ Annex “F” of the Complaint-Affidavit dated December 13, 2019.

⁴ Annex “M” of the Complaint-Affidavit dated December 13, 2019.

⁵ The cited provision reads:

Article 11. Justifying circumstances. - The following do not incur any criminal liability:

xxx xxx xxx

5. Any person who acts in the fulfillment of a duty or in the lawful exercise of a right or office.

xxx xxx xxx

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Motion to Dismiss

On another angle, accused Bautista decried the alleged violation of his constitutional right to a speedy disposition of his case. He pointed out that the complaint against him before the Office of the Ombudsman (“Ombudsman”) was filed on **December 13, 2019**, and it took said office more than **three years** to conclude the preliminary investigation of the charge. Specifically, the *Information* charging him of the present offense was filed before the court only on **March 15, 2023**. He thus prayed for the dismissal of the instant case based on inordinate delay which violated his constitutionally guaranteed right to speedy disposition.

Prosecution’s Comment

The prosecution defended that the recital of facts and circumstances in the *Information* was sufficient to constitute the offense charged. It argued that all of the elements of Violation of Section 3 (e) of *R.A. 3019* were established when accused Bautista entered into a contract with Geodata for the Project, and also by accused Cuña’s signing of the Purchase Request and Box A of the Obligation Request.

The prosecution highlighted that the matters raised by accused Bautista, such as his supposed compliance with the procurement law, *inter alia*, are issues outside of the four corners of the *Information* which are not proper for consideration in the quashal of the charge. This is because the sufficiency of averments on the *Information* is limited to whether the facts alleged, if hypothetically admitted, constitute the elements of the offense; matters *aliunde* will not be considered. All the references made by accused Bautista comprised of evidence which, at this stage of the proceedings, are not authenticated or offered as exhibits by any of the parties. Moreover, the *Arias* doctrine does not apply in favor of the accused because it was irregular for the city mayor to enter into a contract, much less, facilitate and release full payment without prior appropriation and complete delivery.

Finally, the prosecution pointed out that there was no violation of accused’s constitutional right to speedy disposition of cases. The case was initiated on December 13, 2019 which was prior to the onset of the COVID-19 pandemic in March 2020. This global public health emergency caused the shutdown of several government offices during the intervening period. It was only until June 2022 that most of the cities in the National Capital Region were placed on Alert Level 1 and several restrictions were relaxed. Furthermore, the prosecution partly blames the accused for delaying the intervening period because they had filed several pleadings which exacerbated the length of the preliminary investigation.

Thus, the prosecution prayed that the motions be denied.

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THE COURT'S RULING

The present *Information* charges accused Bautista, together with his then City Administrator Aldrin Chin Cuña, with Violation of Section 3 (e) of *R.A. 3019* alleging that public funds were paid to Geodata, a supplier of information communication technology systems, supposedly without an appropriation ordinance or complete delivery of the project, viz:

That on June 27, 2019, or sometime prior or subsequent to this date, in Quezon City, and within the jurisdiction of this Honorable Court, accused HERBERT CONSTANTINE MACLANG BAUTISTA, City Mayor, and ALDRIN CHIN CUNA, City Administrator, both of Quezon City, while in the performance of their official functions, acting with evident bad faith, manifest partiality, or gross inexcusable negligence and in conspiracy with one another, did then and there willfully, unlawfully, and criminally confer unwarranted benefits and advantage to **Geodata Solutions, Inc.** (Geodata) and cause undue injury to the government through the following acts: 1) Bautista entered into a contract with Geodata for the "Procurement of Online Occupational Permitting and Tracking System and Others" (Project) and facilitated and approved the release of the full payment of THIRTY-TWO MILLION ONE HUNDRED SEVEN THOUSAND NINE HUNDRED TWELVE PESOS and FIFTY CENTAVOS (Php 32,107,912.50) to Geodata for the Project, **despite the absence of a specific appropriation ordinance enacted by the Sangguniang Panlungsod for the purpose; and without complete delivery of the Project** having been made; while 2) Cuña signed the Purchase Request and signed Box A of the Obligation Request, thereby certifying that the charge to the appropriation was lawful and under his direct supervision, thereby causing damage and prejudice to the government in the said amount of Php 32,107,912.50, more or less.

CONTRARY TO LAW. (Emphasis supplied)

For the purpose of determining whether the charge levied against the accused passes the test of sufficiency, an examination of the allegations of the *Information* need only be made.

On its face, the Information hurdles the test of sufficiency. The matters raised by the accused are extrinsic issues which cannot be considered at all in testing the sufficiency of the allegations in the Information.

In examining a motion to quash on ground that the facts charged do not constitute an offense, the litmus test to be applied is "whether the facts alleged, if hypothetically admitted, would establish the essential elements of the offense charged as defined by law. The trial court may not consider a situation contrary to that set forth in the criminal complaint or information."⁶ Evidence

⁶ *Soriano v. People*, G.R. No. 162336, February 1, 2010.

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aliunde or matters extrinsic of the information are not considered.⁷ Also excluded in evaluating the sufficiency of the information are evidentiary details or matters of defense that have no place in an information, or statements amounting to rulings on the merits that a court cannot issue before trial.⁸ *People v. Sandiganbayan (Fourth Division)* enunciates:⁹

For as long as the ultimate facts constituting the offense have been alleged, an **Information charging a violation of Section 3 (e) of RA No. 3019 need not state, to the point of specificity, the exact amount of unwarranted benefit granted nor specify, quantify or prove, to the point of moral certainty, the undue injury caused.** We have consistently and repeatedly held in a number of cases that an Information need only state the ultimate facts constituting the offense and **not the finer details of why and how the crime was committed.** (Emphasis supplied)

Regarding charging the accused with conspiracy, jurisprudence further provides that the specific acts of an accused in the alleged conspiracy, as well as the details on how the accused had taken part in the planning and preparation of the alleged conspiracy, need not be set forth in the information as these are evidentiary matters and, as such, are to be shown and proved during trial.¹⁰

The following table illustrates the elements of the crime charged vis-à-vis the allegations in the *Information*, as contrasted to the factual matters and legal issues raised by accused Bautista, viz:

Violation of Section 3 (c) of R.A. 3019		
Elements ¹¹	Allegations in the Information dated December 27, 2022	Factual Matters and Legal Issues Raised by the Accused
1. The accused must be a public officer discharging administrative, judicial or official functions.	“accused HERBERT CONSTANTINE MACLANG BAUTISTA, City Mayor [...] while in the performance of their official functions”	Justifying circumstance—accused, in his capacity as Mayor, was obliged to implement the Project as provided by Ordinance No. 2827.
2. The accused must have acted with manifest partiality, evident bad faith or gross inexcusable negligence.	“acting with evident bad faith, manifest partiality, or gross inexcusable negligence and in conspiracy with one another”	The subject procurement was subject to regular public bidding by the BAC. Accused was not a BAC member.
3. That accused’s action caused any	“did then and there willfully, unlawfully, and criminally confer	The bidding process was complied by the BAC in the procurement and

⁷ *Keh v. People*, G.R. Nos. 217592-93, July 13, 2020.

⁸ *Vide: People v. Romualdez*, G.R. No. 166510, July 23, 2008.

⁹ G.R. No. 160619, September 9, 2015.

¹⁰ *Go v. Sandiganbayan*, G.R. No. 172602, April 13, 2007.

¹¹ *Cabrera v. People*, G.R. No. 191611-14, July 29, 2019.

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<p>undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his or her functions.</p>	<p>unwarranted benefits and advantage to Geodata Solutions, Inc. (Geodata) and cause undue injury to the government through the following acts: 1) Bautista entered into a contract with Geodata for the "Procurement of Online Occupational Permitting and Tracking System and Others" (Project) and facilitated and approved the release of the full payment of THIRTY-TWO MILLION ONE HUNDRED SEVEN THOUSAND NINE HUNDRED TWELVE PESOS and FIFTY CENTAVOS (Php 32,107,912.50) to Geodata for the Project, despite the absence of a specific appropriation ordinance enacted by the Sangguniang Panlungsod for the purpose; and without complete delivery of the Project having been made; while 2) Cuña signed the Purchase Request and signed Box A of the Obligation Request, thereby certifying that the charge to the appropriation was lawful and under his direct supervision, thereby causing damage and prejudice to the government in the said amount of Php 32,107,912.50, more or less."</p>	<p>implementation of the Project.</p> <p><i>Arias Doctrine</i>—accused in good faith relied on his subordinates who were responsible for the preparation of bidding documents.</p> <p>Accused was duly authorized to execute the procurement in question by:</p> <ul style="list-style-type: none">a. Ordinance No. 2827, s. 2019;b. Ordinance No. 2771, s. 2018; andc. Ordinance No. 2827, s. 2019. <p>Accused obtained no personal gain; the Project was for the benefit of his constituents.</p> <p>The non-use of the application by the succeeding administration of the LGU cannot be imputed to the accused.</p> <p>No adverse findings were issued by the COA in the 2019 and the 2020 Annual Audit</p> <p>No notice of disallowance was issued by COA for the Project.</p> <p>Conspiracy cannot be proven with accused entering into a contract with Geodata, and that co-accused Cuña signed the Purchase Request and Box A of the Obligation Request.</p>
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If read through only within the confines of the Information, it is at once clear that the issues raised by the accused *cannot* be considered in evaluating the sufficiency of the Information because the same largely pertain to extrinsic matters or evidence *aliunde*. They not only highlight factual allegations that

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require evidence presentation but more so, relegate legal issues that require a conclusion from the court when trial is yet to begin.

As such, the references raised by accused Bautista will be better ventilated during trial on the merits. This holds especially true for accused Bautista's invocation of the justifying circumstance of fulfillment of a duty because he will then have the opportunity to submit his own evidence in support of such defense. Further, an invocation of the *Arias* doctrine this early on can only be considered as speculative, without factual basis to support such deduction.

The quashal of the Information can only be predicated on the allegations contained in the four corners of the Information itself excluding extrinsic matters. Verily, neither the *Rules* nor jurisprudence require an information to state the finer details of how and why the alleged crime was committed by the accused. Viewed within these parameters, it is apparent that on its face, the Information stated all the essential elements of the charge or the ultimate facts constituting the crime of Violation of Section 3 (e) of R.A. 3019. It thus satisfactorily hurdles the litmus test.

Accused's move for a quashal, therefore, should only be struck out.

What remains to be seen is whether inordinate delay set in.

No inordinate delay obtained in the course of three years it took the Ombudsman to complete its preliminary investigation.

The *Constitution* guarantees that "[a]ll persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies."¹²

An accused's right to speedy disposition of cases is violated when "the proceedings are attended by *vexatious*, *capricious*, and *oppressive* delays; or when unjustified postponements of the trial are asked for and secured; or when without cause or justifiable motive a long period of time is allowed to elapse without the party having his case tried."¹³

In support of his argument that his constitutional right was contravened, accused Bautista cited the 2013 case of *People v. Sandiganbayan*,¹⁴ which ruled that a five-year delay in the fact-finding investigation and preliminary investigation violated the accused's right to a speedy disposition of cases. He

¹² PHIL. CONST. art. 3, § 16.

¹³ *People v. Sandiganbayan*, G.R. Nos. 188165 & 189063, December 11, 2013.

¹⁴ G.R. Nos. 188165 & 189063; December 11, 2013.

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also relied upon the 2019 case of *People v. Sandiganbayan*,¹⁵ which held that said right was infringed due to a four-year delay from the time of the filing of the complaint against the accused until the filing of the Information.

While the accused cited the 2013 case of *People v. Sandiganbayan*¹⁶ which included the time taken by the fact-finding investigation in its consideration of inordinate delay, more contemporary jurisprudence has taken a different direction in its regard of the fact-finding phase. Recently, in *Quemado v. Sandiganbayan*,¹⁷ the Supreme Court now holds that the period spent for fact-finding investigations of the Ombudsman prior to the filing of the formal complaint is irrelevant.

In any case, accused Bautista solely focuses on the length of time occupied by the preliminary investigation.

At this juncture, however, it must be emphasized that delay is not determined through mere mathematical reckoning but through the examination of the facts and circumstances surrounding each case.¹⁸

Still, accused Bautista brought up the cases of *Coscolluela v. Sandiganbayan*¹⁹ (“*Coscolluela*”) and *Inocentes v. People*²⁰ (“*Inocentes*”) as authorities which support his legal stance.

In *Coscolluela*, it was held that the protracted time that it took for the Ombudsman to complete its preliminary investigation prejudiced the constitutional right of the accused absent any extraordinary complication proven by the prosecution. The accused were not faulted for their failure to assert their right to speedy disposition of cases because they were unaware that the investigation against them was still on-going. The accused were only informed of the outcome of the preliminary investigation only after the lapse of six (6) long years, or when they received notice that an Information was filed before this Court on June 19, 2009.

In *Inocentes*, the considerable delay it took to transfer the records from one court to another constituted inordinate delay and violated the constitutionally guaranteed right of the accused to speedy disposition of cases. The Court could not find any fault on the part of accused for merely filing several motions considering the six years it took after the Ombudsman ordered the withdrawal of the informations on March 14, 2006 from the RTC in Tarlac City, to the transfer of records and the filing of said charges before the Sandiganbayan on May 2, 2012.

¹⁵ G.R. No. 229656, August 19, 2019.

¹⁶ *Supra*, note 14.

¹⁷ G.R. No. 225404, September 14, 2020.

¹⁸ *Cagang v. Sandiganbayan*, G.R. Nos. 206438, 206458 & 210141-42, July 31, 2018.

¹⁹ G.R. Nos. 191411 & 191871, July 15, 2013.

²⁰ *Inocentes v. People*, G.R. Nos. 205963-64, July 7, 2016.

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The right of speedy disposition of cases is a relative and flexible concept consistent with *reasonable* delay,²¹ which takes into consideration the unique facts and circumstances of each case. While the cases accused Bautista cited illustrated violations of the constitutional rights of the accused therein, the same conclusion is not automatically warranted in the instant case. Presently, accused Bautista focuses almost entirely on the length of delay committed by the Ombudsman, but other than a mere mathematical reckoning of time taken in the disposition of his case, he could not draw any parallelisms from the prosecution's deviation in standard procedures as prevalent in *Coscolluela* or in *Inocentes* to his particular predicament.

The length of time taken by the Ombudsman to complete its preliminary investigation and to file the Information, by itself, cannot be deemed as vexatious, capricious, or oppressive.

In *Remulla v. Sandiganbayan*, the Court laid down the **balancing test** to evaluate the violation of the right to speedy disposition of cases, which requires courts to approach cases on an *ad hoc* basis and weigh the conduct of both the prosecution and defendant in light of the following four 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.²²

None of these elements, however, is either a necessary or sufficient condition; they are related and must be considered together with other relevant circumstances.²³ These factors have no talismanic qualities as courts must still engage in a difficult and sensitive balancing process.²⁴ Appreciation of delay entails a balancing act to make sure that the state's right to public justice is weighed alongside a party's individual rights.²⁵

Of more recent vintage, *Cagang v. Sandiganbayan* ("**Cagang**"), cited by *Republic v. Desierto*, was issued by the Court which provided the guidelines in resolving issues pertaining the right to speedy disposition of cases, in this wise:²⁶

This Court now clarifies the mode of analysis in situations 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,

²¹ *Barza v. Sandiganbayan*, G.R. No. 195032, February 20, 2013; *Dansal v. Fernandez*, G.R. No. 126814, March 2, 2000.

²² *Remulla v. Sandiganbayan*, G.R. No. 218040, April 17, 2017.

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ See *Guerrero v. Court of Appeals*, G.R. No. 107211, June 28, 1996.

²⁶ *Cagang v. Sandiganbayan*, G.R. Nos. 206438, 206458 & 210141-42, July 31, 2018, cited by *Republic v. Desierto*, G.R. No. 136506, January 16, 2023.

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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.

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.

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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. (Emphasis supplied)

The asseverations made by accused Bautista find no way out of the *Cagang* guidelines. He only delineated on the perceived length of time of delay, without necessarily vexing on the other elements.

In determining the time periods to be followed by the Ombudsman in the conduct of preliminary investigations, *Administrative Order No. 1 ("A.O. No. 1")*, series of 2020 states:

Section 7. Commencement of Preliminary Investigation. — Without prejudice to the Procedure in Criminal Cases prescribed under Rule II of Administrative Order No. 07, as amended, **a preliminary investigation is deemed to commence whenever a verified complaint, grievance or request for assistance is assigned a case docket number under any of the following instances:**

a) Upon referral by an Ombudsman case evaluator to the preliminary investigation units/offices of the Office of the Ombudsman, after determining that the verified complaint, grievance or request for assistance is sufficient in form and substance and establishes the existence of a prima facie case against the respondent/s; or

b) At any time before the lapse of the period for the conduct of a fact-finding investigation whenever the results thereof support a finding of prima facie case.

In all instances, the complaint, grievance or request for assistance with an assigned case docket number shall be considered as pending for purposes of issuing an Ombudsman clearance.

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 (12) months for simple cases or twenty-four months (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 for 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

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Prosecutor/Deputy Ombudsman concerned for justifiable reasons, which extension shall not exceed one (1) year.

Section 9. Termination of Preliminary Investigation. — A preliminary investigation shall be deemed terminated **when the resolution of the complaint, including any motion for reconsideration** filed in relation to the result thereof, as recommended by the Ombudsman investigator/prosecutor and their immediate supervisors, **is approved by the Ombudsman or the Overall Deputy Ombudsman/Special Prosecutor/Deputy Ombudsman concerned.** (Emphasis supplied)

At present, the table below shows the significant timeline of events from the stage of preliminary investigation until the filing of the charge against the accused before the court:

Timeline	
Date	Occurrence
December 13, 2019	Filing of Complaint-Affidavit before the Ombudsman
September 29, 2020	Motion for extension of time to submit Counter-Affidavit dated September 28, 2020 by accused Bautista
September 29, 2020	Motion for extension of time to submit Counter-Affidavit dated September 28, 2020 by accused Cuña
November 3, 2020	Motion for extension of time to submit Counter-Affidavit dated November 3, 2020 by accused Cuña
November 4, 2020	Manifestation and Motion for extension of time to submit Counter-Affidavit dated November 3, 2020 by Garry C. Domingo
November 18, 2020	Entry of Appearance with Motion for Time dated November 13, 2020 by accused Cuña
January 4, 2021	Motion for additional time to submit Counter-Affidavit dated December 1, 2020 by Garry C. Domingo
January 4, 2021	Motion for additional time to submit Counter-Affidavit dated December 1, 2020 by accused Cuña
January 6, 2021	Motion to admit the attached Counter-Affidavit dated December 15, 2020 by accused Cuña
January 6, 2021	Motion to admit the attached Counter-Affidavit dated December 15, 2020 by Garry C. Domingo
October 15, 2021	Resolution finding probable cause for Violation of Section 3 (e) of R.A. 3019 against accused Bautista, accused Cuña, and Garry Domingo.
December 10, 2021	Resolution dated October 15, 2021 approved by Ombudsman Samuel R. Martires
January 18, 2022	Motion for Reconsideration by accused Bautista
February 9, 2022	Motion for Reconsideration by accused Cuña
February 10, 2022	Motion for Reconsideration by Garry C. Domingo
October 24, 2022	Supplemental Motion for Reconsideration by accused Bautista
December 27, 2022	Order resolving the motions for reconsideration filed by the respondents
February 3, 2023	Order dated December 27, 2022 approved by Ombudsman Samuel R. Martires
March 15, 2023	Filing of the present Information before the court

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While the 12 or 24-month period required under *A.O. No. 1, s. 2020* has already lapsed, counting from the filing of the complaint on **December 13, 2019** until the resolution of the complaint—including the order treating of the motions of reconsideration of respondents *a quo*—was approved by the Ombudsman on **February 3, 2023**, it is only for the court to determine the existence of inordinate delay based on the entire context of the case and not merely based on the length of time involved.

One significant factor which had considerable impact and prolonged the timeline of events is the onset of the COVID-19 pandemic, when the first of several quarantines was imposed on March 12, 2020. Judicial notice can be given at this instance, being a worldwide phenomenon. Strict measures were enacted by the government, which only gradually eased following the acquisition and subsequent rollout of COVID vaccines in the early part of 2021. Nonetheless, continuous surges of infections resulted in the sporadic imposition of strict community quarantines nationwide, including Metro Manila.²⁷

Additionally, the prolonged period in the termination of the preliminary investigation can also be partly attributed to accused Bautista and his co-respondents who aggregately filed no less than seven motions for additional time to submit their respective counter-affidavits and who each submitted motions for reconsideration of the order finding probable cause for their indictment.


Given the entirety of the events surrounding the preliminary investigation carried out by the Ombudsman and considering that the accused only faults the prosecution based solely on its mathematical computation of time lapsed, the delay attributable to the preliminary investigation does not appear to be unreasonable. Neither did the accused aver that the lapse of time prejudiced him, such as his ability to swiftly secure evidence for his defense. To stress, the concept of speedy disposition is relative. Absent any vexatious, capricious or oppressive delays, and without any unjustified postponements of proceedings during preliminary investigation, it is unwarranted to conclude that the accused's constitutional right to speedy disposition of cases was infringed.

WHEREFORE, the *Urgent Omnibus Motion [To: (A) Quash the Information; and (B) Dismiss the Case With Prejudice]* dated March 24, 2023 filed by accused Herbert Constantine Maclang Bautista is **DENIED**.

Let the arraignment and pre-trial of said accused **PROCEED**, as scheduled, on May 18, 2023 at 8:30 in the morning before the Fourth and Seventh Division Courtroom.

²⁷ COVID-19 Response: A Timeline of Community Quarantine, Lockdowns, Alert Levels available at <https://mb.com.ph/2021/11/09/covid-19-response-a-timeline-of-community-quarantine-lockdowns-alert-levels/> (last accessed April 17, 2023).

SO ORDERED.


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson

WE CONCUR:


ZALBY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice