



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-23-CRM-0001 to 0016**
Plaintiff, For: Violation of Section 3(e)
of Republic Act No. 3019

SB-23-CRM-0017 to 0032
For: Violation of Section 3(h)
of Republic Act No. 3019

Present

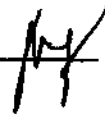
- versus -

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

SULTAN USMAN TANTAO
SARANGANI, ET AL.,

Accused.

Promulgated:

May 25, 2023 

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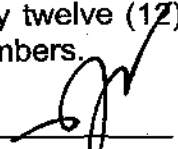
RESOLUTION


FERNANDEZ, SJ, J.

This resolves accused Sultan Usman Tantao Sarangani's *Motion for Reconsideration*,¹ and the prosecution's *Comment/Opposition (Re: Motion for Reconsideration of the Resolution Dated 10 May 2023)*.²

In his *Motion for Reconsideration*, accused Sarangani prays that the Court grant his instant Motion. He avers:

1. Of the sixteen (16) Disbursement Vouchers which were the subject of the investigation of the Ombudsman for Mindanao, only twelve (12) have corresponding Informations with docket numbers.


¹ Dated May 16, 2023 and filed on even date


² Dated May 19, 2023 and filed on May 22, 2023



RESOLUTION

People vs. Sarangani, et al.
SB-23-CRM-0001 to 0032

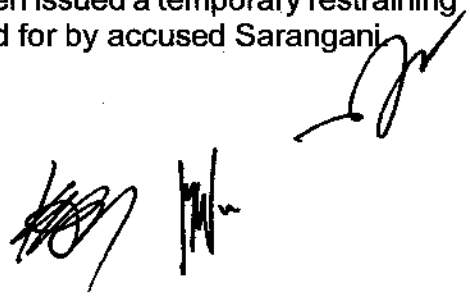
Page 2 of 8

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2. With respect to the Disbursement Vouchers with corresponding docket numbers, he was not aware of the existence of the said Disbursement Vouchers, and he was not given an opportunity to rebut the prosecution's documentary evidence.
3. He is not precluded from raising the matter of inordinate delay at this stage of the proceedings. He did not waive his right to speedy disposition of cases.
4. When he received the Ombudsman's denial of his Motion for Reconsideration on February 23, 2022, he filed a Verified Petition for Review with the Supreme Court, docketed as G.R. No. 259071 on March 10, 2022.
5. He did not waive his right to speedy disposition of cases. In *Escobar v. People*,³ the Supreme Court held that it is the prosecutor's duty to speedily resolve the complaint, regardless of whether therein petitioner did not object to the delay or that the delay was with his acquiescence provided that it was not due to causes directly attributable to him.

In its *Comment/Opposition*, the prosecution counters:

1. Each of the sixteen (16) Disbursement Vouchers correspond to two (2) Information – one for violation of Sec. 3(e) and another for violation of Sec. 3(h), both of R.A. No. 3019.
2. Accused Sarangani cannot feign ignorance of the said Disbursement Vouchers. In his Counter-Affidavit dated 16 August 2017, he merely denied having pecuniary interest in accused Nanayaon M. Dibratun's businesses. Accused Sarangani's claim that he was not aware of the Disbursement Vouchers is a mere afterthought, made after his initial motion to dismiss the sixteen (16) Informations was denied.
3. Accused Sarangani indeed filed the Verified Petition for Review dated March 7, 2022 with the Supreme Court. However, the filing of the same is bereft of merit, and accused Sarangani has not shown any ground for the dismissal of the present cases. The Supreme Court has not even issued a temporary restraining order (TRO), which was prayed for by accused Sarangani.



³ G.R. Nos. 228349 and 228353, and G.R. Nos. 229895-96, September 19, 2018

RESOLUTION

People vs. Sarangani, et al.
SB-23-CRM-0001 to 0032

Page 3 of 8

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THE COURT'S RULING

The Court resolves to deny accused Sarangani's *Motion for Reconsideration*.

With respect to accused Sarangani's claim of violation of his right to speedy disposition of cases, the arguments he raises in his *Motion for Reconsideration* had already been addressed in the Resolution dated May 10, 2023. For convenience, the pertinent portions⁴ of the assailed Resolution are hereunder quoted:

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

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, 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

⁴ Resolution dated May 10, 2023, pp. 4-9

RESOLUTION

People vs. Sarangani, et al.
SB-23-CRM-0001 to 0032

Page 4 of 8

X -----X

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.

Here, the Field Investigation Unit (FIU), Mindanao Area Office, Office of the Ombudsman, filed its Complaint-Affidavit against six (6) respondents, including herein accused, on March 28, 2016. The respondents were directed to file their respective counter-affidavits in the Joint Orders dated April 22, 2016 and July 10, 2017. All respondents, except for accused Dibratun, filed their respective counter-affidavits. On July 13, 2018, then Ombudsman Conchita Carpio Morales approved the Resolution dated June 4, 2018, finding probable cause to indict accused Sarangani and Dibratun for 16 counts each of violation of Section 3(e) and (h) of R.A. No. 3019. Accused Sarangani filed his Omnibus Motion seeking reconsideration of the said Resolution. The said Omnibus Motion was denied in the Office of the Ombudsman's Order dated September 25, 2018, which was approved by Ombudsman Samuel R. Martires on February 6, 2020. Subsequently, the present Informations, approved by Ombudsman Martires on February 11, 2021, were filed with the Sandiganbayan on January 3, 2023.

From the filing of the FIU's Complaint-Affidavit to the approval of the Resolution dated June 4, 2018, a period of two (2) years, three (3) months and eighteen (18) days passed. From the approval of the said Resolution to the date of the approval of the Order denying accused Sarangani's Omnibus Motion, another one (1) year, six (6) months and twenty-one (21) days passed. Altogether, it took the

RESOLUTION

People vs. Sarangani, et al.
SB-23-CRM-0001 to 0032

Page 5 of 8

X -----X

Office of the Ombudsman three (3) years, ten (10) months and nine (9) days to complete the preliminary investigation.

Sec. 4, Rule II of the *Rules of Procedure of the Office of the Ombudsman* provides:

Section 4. Procedure – The preliminary investigation of cases falling under the jurisdiction of the Sandiganbayan and Regional Trial Courts shall be conducted in the manner prescribed in Section 3, Rule 112 of the Rules of Court, subject to the following provisions:

x x x

Sec. 3(f), Rule 112 of the Rules of Court provides:

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

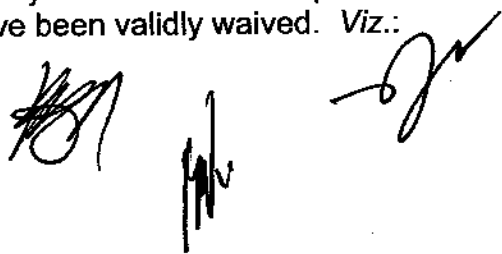
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(f) Within ten (10) days after the investigation, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial.

Here, it took the Office of the Ombudsman ten (10) months and twenty-one (21) days from the filing of accused Sarangani's Counter-Affidavit on August 22, 2017 to approve the Resolution dated June 4, 2018 on July 13, 2018. It is clear that the delay occurred beyond the periods provided in the Office of the Ombudsman's Rules of Procedure and in the Rules of Court. Thus, the prosecution has the burden of justifying the delay.

Aside from stating that there were four (4) other respondents in addition to accused Sarangani and Dibaratun, and that measures taken to prevent the spread of the COVID-19 infection caused unavoidable delays, the prosecution failed to provide a satisfactory explanation, much less, justification for the delay. This Court must further point out that there was already a delay in the preliminary investigation even before the first Enhanced Community Quarantine was imposed over Luzon on March 17, 2020. In fact, the preliminary investigation was terminated in February 2020.

Nonetheless, the Court denies accused Sarangani's Motion because there is nothing in the record to show that the investigation was motivated by malice or brought to harass the accused. More importantly, accused Sarangani failed to timely assert his right to speedy disposition of cases. In *Cagang*, the Supreme Court held 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.:*



RESOLUTION

People vs. Sarangani, et al.
SB-23-CRM-0001 to 0032

Page 6 of 8

X -----X

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)*, the Supreme Court held that despite the inordinate delay 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.

RESOLUTION

People vs. Sarangani, et al.
SB-23-CRM-0001 to 0032

Page 7 of 8

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Hence, the Court finds that petitioners, except for Plaza, waived their right to a speedy disposition of case [sic].

Similarly, accused Sarangani failed to file the appropriate motion upon the lapse of the statutory or procedural periods, or within ten (10) days after the investigation. Moreover, there is nothing to show that he invoked his right to speedy disposition of cases in his Omnibus Motion seeking reconsideration of the Ombudsman's Resolution. Hence, accused Sarangani is deemed to have waived such right.

That accused Sarangani filed his Verified Petition for Review with the Supreme Court after he received the Office of the Ombudsman's Order denying his Motion for Reconsideration will not change the fact that he did not make a timely invocation of his right to speedy disposition of cases.

Next, accused Sarangani insists that he was not aware of the existence of the subject Disbursement Vouchers, and that he was not given the opportunity to rebut the prosecution's documentary evidence. The Court is not persuaded.

According to the prosecution,⁵ and as stated in the Ombudsman's Resolution dated June 4, 2018,⁶ accused Sarangani submitted his Counter-Affidavit wherein he merely denied having pecuniary interest in the subject transactions. After the Ombudsman issued the said Resolution, accused Sarangani filed his Omnibus Motion seeking reconsideration of the said Resolution dated June 4, 2018.⁷ The said Omnibus Motion was denied in the Office of the Ombudsman's Order dated September 25, 2018.⁸

Thereafter, in his *Comment (To Prosecution's Motion to Amend Informations)*, accused Sarangani included what appear to be scans of portions of the Ombudsman's Resolution dated June 4, 2018, enumerating the subject Disbursement Vouchers and the details pertaining to each.⁹ In the said *Comment*, accused Sarangani prayed that that the Court issue an order for the Office of the Special Prosecutor to withdraw the sixteen (16) Informations which were

⁵ Prosecution's *Comment/Opposition* dated May 19, 2023, p. 2

⁶ Ombudsman's Resolution, pp. 2-3, 5; Record, pp. 99-100, 102

⁷ Office of the Ombudsman's Order dated September 15, 2018, p. 1; Record, p. 107

⁸ Office of the Ombudsman's Order dated September 15, 2018, p. 2; Record, p. 108

⁹ Accused Sarangani's *Comment (To Prosecution's Motion to Amend Informations)* dated March 27, 2023, pp. 2-3; Record, pp. 389-390

RESOLUTION

People vs. Sarangani, et al.
SB-23-CRM-0001 to 0032

Page 8 of 8

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allegedly not included in the Ombudsman's Resolution dated June 4, 2018.

In the Resolution dated May 10, 2023, this Court ruled that the filing of thirty-two (32) Informations was appropriate, and pointed out that there were no additional Disbursement Vouchers not included in the Ombudsman's Resolution. The Court indicated the Informations—one for Violation of Sec. 3(e) of R.A. No. 3019 and the other for Violation of Sec. 3(h) of the same law—pertaining to each of the sixteen (16) Disbursement Vouchers in the Ombudsman's Resolution. Accused Sarangani cannot now claim that he was not made aware of the existence of the subject Disbursement Vouchers, and that he was not given an opportunity to rebut the same after (1) he was allowed to submit, and he in fact, submitted his Counter-Affidavit, (2) he filed his Omnibus Motion seeking reconsideration of the Ombudsman's Resolution dated June 4, 2018, and (3) he included in his *Comment (To Prosecution's Motion to Amend Informations)*, as well as in his instant *Motion for Reconsideration*, scans of portions of the Ombudsman's Resolution dated June 4, 2018, enumerating the sixteen (16) Disbursement Vouchers subject of these cases.

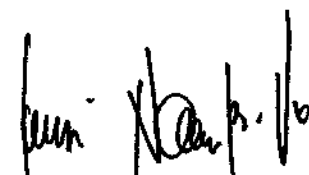
WHEREFORE, accused Sarangani's *Motion for Reconsideration* is hereby DENIED for lack of merit.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice