



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 -

**SULTAN USMAN TANTAO**  
**SARANGANI, ET AL.,**

Accused.

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

*Promulgated:*

**MAY 10 2023** *ip*

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

This resolves accused Sultan Usman Tantao Sarangani's *Comment (To Prosecution's Motion to Amend Informations)*,<sup>1</sup> which the Court will consider as accused Sarangani's Motion to Dismiss, and the prosecution's *Comment/Opposition*.<sup>2</sup>

The prosecution previously filed its *Motion to Amend Informations*.<sup>3</sup> In his *Comment* thereto, accused Sarangani prays that (1) the Court issue an order for the Office of the Special Prosecutor to withdraw the sixteen (16) counts of Information not included in the

<sup>1</sup> Dated March 27, 2023; Record, pp. 388-394

<sup>2</sup> Dated April 28, 2023 and filed on May 2, 2023

<sup>3</sup> Dated March 14, 2023; Record, pp. 243-346

*[Handwritten signatures]*

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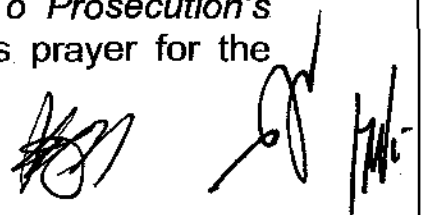
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Resolution; and (2) the present cases be dismissed for inordinate delay. He avers:

1. The Office of the Ombudsman committed inordinate delay.
  - a. On October 15, 2010, Sapia D. Casan filed an Affidavit Complaint against Nanayaon Mapandi Dibratun with the Ombudsman Mindanao.
  - b. After almost six (6) years, or on March 28, 2016, the Ombudsman Mindanao filed a complaint against his co-accused Dibratun for violation of the Anti-Graft and Corrupt Practices Act, gross neglect of duty and grave misconduct.
  - c. On June 4, 2018, the Office of the Ombudsman issued the Resolution, which was approved by then Ombudsman Conchita Carpio-Morales on July 13, 2018. He was included in the said Resolution because of the signature above his name in the sixteen (16) Disbursement Vouchers for payment for office supplies in the total amount of ₱3,512,500.00, which were procured without public bidding.
  - d. The Office of the Ombudsman took almost two (2) years to approve the thirty-two (32) Informations, and another almost two (2) years to file the same with the Court.
2. The prosecution and/or the Office of the Ombudsman violated his constitutional rights to be informed of the nature and cause of the accusations against him, to due process, and to equal protection of the laws.
  - a. He is charged in thirty-two (32) Informations but the Ombudsman's Resolution states that there were only sixteen (16) counts of alleged violation of Section 3(e) and (h) [of R.A. No. 3019].
  - b. He should not be charged for the additional sixteen (16) Disbursement Vouchers he was not made aware of, not given the opportunity to rebut, not presented in the investigation, and not part of the complaint.

In the Resolution dated April 24, 2023 granting the prosecution's *Motion to Amend Informations* and admitting the *Amended Information* in SB-23-CRM-0001 to 0032, the Court directed the prosecution to file its comment on accused Sarangani's *Comment (To Prosecution's Motion to Amend Informations)*, with respect to his prayer for the



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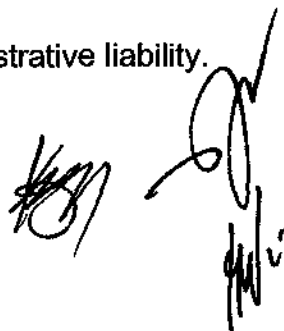
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withdrawal of sixteen (16) counts of Information and for the dismissal of the present cases.

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

1. The filing of the thirty-two (32) Informations against accused Sarangani is warranted.
  - a. The dispositive portion of the Ombudsman's Resolution clearly states that accused Sarangani and accused Dibratun shall be indicted for "16 counts each of violation of Section 3(e) and (h) of R.A. No. 3019."
  - b. The use of the word "each" indicates that the filing of the Informations for violation of Section 3(e) and 3(h) of R.A. No. 3019 shall be made separately. Thus, sixteen (16) Informations for violation of Sec. 3(e) of R.A. No. 3019 were filed, and another sixteen (16) Informations for violation of Sec. 3(h) of the same law were filed.
  - c. There were no additional sixteen (16) Disbursement Vouchers. Only sixteen (16) Disbursement Vouchers were utilized as evidence in the complaint.
2. There was no inordinate delay.
  - a. The complaint filed by Casan is not limited to violation of Sec. 3(h) of R.A. No. 3019. The matters involved are:
    - i. Accused Dibratun's manipulation of the purchase of office supplies from Ashley Ventures and Iftizah Ayezah Enterprises, both owned by her;
    - ii. Allowing the repeated drawing of cash advances of selective employees without submitting liquidation of previous cash advances;
    - iii. Non-remittance of government share, personal share and loan repayment to GSIS;
    - iv. Allowing the payment of representation and transportation allowance to employees that are not entitled to the same; and,
    - v. Accused Dibratun's administrative liability.



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- b. The said matters required a proper investigation, and the same were endorsed to the Commission on Audit (COA) – ARMM for appropriate action.
- c. The OMB-Mindanao Field Investigation Unit's (FIU) Complaint-Affidavit filed on March 28, 2016 was based on Casan's complaint and the result of the COA investigation. The allegations were trimmed down to three, *i.e.*, procurement of office supplies from Ashley Ventures and Iftizah Ayezah Enterprises, payment of RATA, and accused Dibratun's administrative liability.
- d. The period for the conduct of the preliminary investigation was reasonable because aside from accused Sarangani and Dibratun, there were four (4) other respondents.
- e. Accused Sarangani cannot fault the Office of the Ombudsman for the delay because he filed a *Motion for Extension of Time* to submit his counter-affidavit. Furthermore, even if there was delay, accused Sarangani should have raised the same in his counter-affidavit.
- f. Accused Sarangani did not raise the issue of delay before the issuance of the Resolution which was unfavorable to him. He is deemed to have waived his right to speedy disposition of his case.
- g. A global pandemic was declared sometime in March 2020 due to the emergence of the COVID-19 infection. From March 2020 until the later part of 2022, the entire country was placed under a series of lockdowns and different classifications of community quarantine. The measures put into place to prevent the spread of the COVID-19 infection caused work disruptions which resulted in unavoidable delays.

### THE COURT'S RULING

The Court resolves to deny accused Sarangani's Motion.

The Supreme Court laid down the guidelines for resolving questions involving the right to speedy disposition of cases in *Cagang v. Sandiganbayan*.<sup>4</sup> To wit:

<sup>4</sup> G.R. Nos. 206438 and 206458, 210142-42, July 31, 2018

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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.

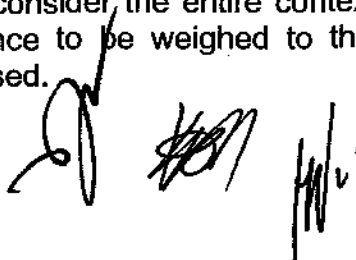
*Second*, a case is deemed initiated upon the filing of a formal complaint prior to a conduct of a preliminary investigation. This Court acknowledges, however, that the Ombudsman should set reasonable periods for preliminary investigation, with due regard to the complexities and nuances of each case. 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 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.



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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.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> Subsequently, the present Informations, approved by Ombudsman Martires on February 11, 2021, were filed with the Sandiganbayan on January 3, 2023.

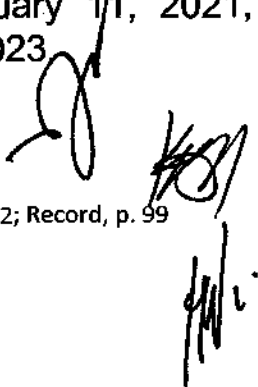
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<sup>5</sup> Record, p. 111

<sup>6</sup> Ombudsman's Resolution dated June 4, 2018, p. 2; Record, p. 99

<sup>7</sup> Record, p. 105

<sup>8</sup> Record, p. 108



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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 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*<sup>9</sup> 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:

x x x

(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<sup>10</sup> 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 Dibratun, and that measures taken to prevent the spread of the COVID-19 infection caused unavoidable delays, the prosecution failed to provide a satisfactory

<sup>9</sup> Administrative Order No. 07, Series of 1990

<sup>10</sup> Prosecution's *Comment/Opposition* dated April 28, 2023, p. 4

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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.:*

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)*,<sup>11</sup> 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:

<sup>11</sup> G.R. No. 214747, July 18, 2022



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"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.

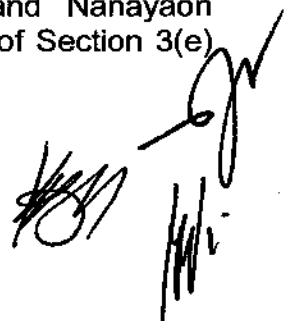
Petitioners also failed to timely raise their right. Following *Cagang*, they failed to file the appropriate motion upon the lapse of the statutory or procedural periods or within ten (10) days after the investigation. They even failed to raise the right in their motion for reconsideration before the 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, 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.

With respect to the filing of thirty-two (32) informations despite there being only sixteen (16) Disbursement Vouchers, the Court finds that the same was appropriate. The dispositive portion<sup>12</sup> of the Ombudsman's Resolution reads:

**WHEREFORE**, the Office finds probable cause to indict respondents Sultan Usman Tanta Sarangani and Nanayaon Mapandi Dibratun for 16 counts each of violation of Section 3(e)

<sup>12</sup> Ombudsman's Resolution dated June 4, 2018, p. 8; Record, p. 105



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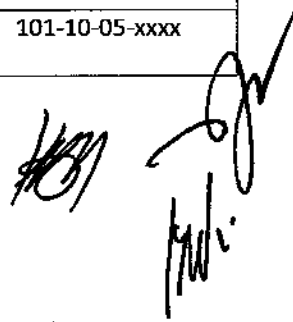
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and (h) of R.A. No. 3019. Let the corresponding Informations be filed with the appropriate Court.

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Accordingly, sixteen (16) Informations for Violation of Sec. 3(e) of R.A. No. 3019, and another sixteen (16) Informations for Violation of Sec. 3(h) of R.A. No. 3019 were filed with the Sandiganbayan. There are no additional Disbursement Vouchers not included in the Ombudsman's Resolution. The Informations for Violation of Sec. 3(e) of R.A. No. 3019 and those for Violation of Sec. 3(h) of the same law pertain to the same sixteen (16) Disbursement Vouchers. For convenience, the case numbers and the pertinent disbursement voucher numbers are summarized hereunder:

Case No.	Disbursement Voucher No.
SB-23-CRM-0001 SB-23-CRM-0017	101-10-03-0169
SB-23-CRM-0002 SB-23-CRM-0018	101-10-03-0179
SB-23-CRM-0003 SB-23-CRM-0019	101-10-03-0181
SB-23-CRM-0004 SB-23-CRM-0020	101-10-03-0182
SB-23-CRM-0005 SB-23-CRM-0021	101-10-03-0186
SB-23-CRM-0006 SB-23-CRM-0022	101-10-03-992
SB-23-CRM-0007 SB-23-CRM-0023	101-10-04-0045
SB-23-CRM-0008 SB-23-CRM-0024	101-10-04-0046
SB-23-CRM-0009 SB-23-CRM-0025	101-10-04-0067
SB-23-CRM-0010 SB-23-CRM-0026	101-10-04-0076
SB-23-CRM-0011 SB-23-CRM-0027	101-10-04-0077
SB-23-CRM-0012 SB-23-CRM-0028	101-10-04-0664
SB-23-CRM-0013 SB-23-CRM-0029	101-10-05-0092
SB-23-CRM-0014 SB-23-CRM-0030	101-10-05-0093
SB-23-CRM-0015 SB-23-CRM-0031	101-10-05-0094
SB-23-CRM-0016 SB-23-CRM-0032	101-10-05-xxxx



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

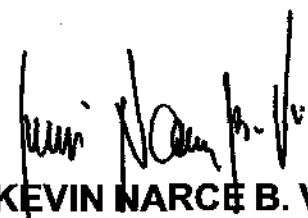
The prosecution is DIRECTED to submit an update on the status of Criminal Cases No. 13064 and 13065 pending before the Regional Trial Court in Koronadal City, Br. 43, which pertain to the same offenses as those charged in SB-23-CRM-0028 and SB-23-CRM-0018, respectively, within five (5) days from the receipt of this Resolution.

SO ORDERED.

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**We Concur:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice