



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES,
Petitioner,

Civil Case No. 0167

*For: Forfeiture of
Unlawfully Acquired
Property under Republic
Act No. 1379, in relation
to Executive Order Nos. 1,
2, 14 and 14-a*

-versus-

ALFREDO T. ROMUALDEZ,
ET AL.,

Accused.

Present:
Cabotaje-Tang, A.M., PJ,
Chairperson
Fernandez, B.R., J. and
Moreno, R.B. J.

PROMULGATED:

JUNE 23, 2023

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RESOLUTION

Moreno, J.:

For resolution is the *Compliance*¹ filed by petitioner Republic of the Philippines (through the Office of the Solicitor General) on March 1, 2023,

¹ Record, vol. VIII, pp. 332-347.

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to which the respondents Robinson's Land Corporation (RLC) and Alfredo T. Romualdez filed their respective *Comment/Opposition*.²

In its *Compliance*, petitioner Republic prayed that: its Compliance be admitted "as sufficient justification to retain the Second Amended Supplemental Petition in the record and not to dismiss the Petition";³ and, it be given additional period within which to file its full compliance with this Court's May 17, 2022 Resolution.

The Republic admitted its failure to fully comply with the Court's May 17, 2022 Resolution, and claimed that the "oversight was solely due to voluminous workload consisting of hearings and preparation of pleadings in other equally important cases."⁴ It pointed out to the submission of its Partial Compliance and Second Partial Compliance on June and October 2022, respectively, as proof of its lack of intention to trifle with the proceedings of this Court.

The Republic alleged that it cannot yet fully comply with the subject resolution because the Presidential Commission on Good Government (PCGG) was still awaiting response from other government agencies like the National Bureau of Investigation, the Department of Trade and Industry, the Bureau of Immigration, the Securities and Exchange Commission and the Bureau of Internal Revenue "regarding any possible information on the addresses of other respondents and the Philippine residence of respondents Storton and Halston."⁵ It claimed that the PCGG had already requested an update to the concerned agencies via the correspondences dated February 23, 2023.

The Republic maintained that the second amendment to the Supplemental Petition was necessary to implead and afford due process to respondents Storton Investment Co., Inc. and Halston Investment Inc.. According to the Republic, it was constrained to file a *Motion for Leave of Court to Amend Supplemental Petition* for the purpose of impleading both Storton and Halston as respondents, since it inadvertently failed to implead them in the Supplemental Petition and in the Amended Supplemental Petition.

In its *Comment/Opposition*,⁶ Robinson's Land Corporation (RLC), through counsel, prayed for the dismissal of the petition filed by the Republic for failure to prosecute and for being violative of respondents' constitutional right to the speedy disposition of cases. In the alternative, it

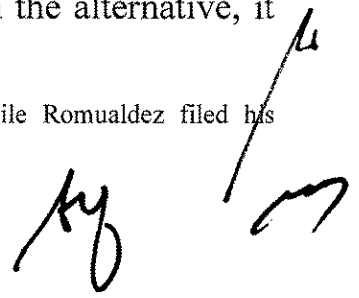
² RLC filed its *Comment/Opposition* x x x on March 16, 2023, while Romualdez filed his *Comment/Opposition* on March 24, 2023.

³ Supra, note 1 at 335.

⁴ *Id.* at 332.

⁵ *Id.* at 333.

⁶ Record, vol. VIII, pp. 358-376.



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prayed for the striking out from the records the petitioner's Second Amended Supplemental Petition dated June 9, 2020.

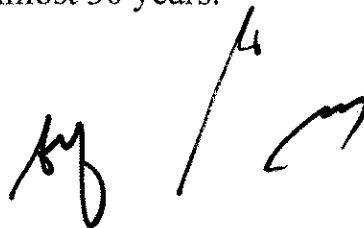
RLC claimed that the petitioner has ostensibly displayed want of due diligence in prosecuting the case with reasonable promptitude. It emphasized that the case has not reached the pre-trial stage yet despite having been pending for almost 27 years. It further argued that the petitioner took almost three decades to 'finalize' its petition; and that it filed a motion to postpone pre-trial in 2019 and motion to suspend proceedings in 2020 instead of promptly setting the case for pre-trial to avoid further delay.

RLC also highlighted the petitioner's failure to comply with the orders of this Court. It claimed that having voluminous workload was not acceptable as an excuse, more so in this case where the petitioner failed to substantiate such claim. RLC likewise countered that the petitioner could not shift the blame to the other government agencies to cover up for its negligence.

RLC further asserted that its constitutional right to a speedy disposition of cases had been violated when the petitioner took advantage of the Anti-Graft Court's liberality. It added that respondent's right over the subject property has been under a cloud of uncertainty for almost seven years, which resulted to damage to its (RLC's) business reputation and goodwill. RLC noted that it helplessly awaits for the petitioner to comply with this Court's resolutions before it could proceed to pre-trial and trial.

In his *Comment/Opposition*,⁷ Romualdez prayed that the petitioner's Second Amended Complaint be stricken off the records; and its petition be dismissed for failure to prosecute. He maintained that his right to a speedy disposition of cases had been violated. Romualdez emphasized that the case has been dragging on for almost three (3) decades already and added that allowing the petitioner to "further delay the proceedings by extending the time to comply with the order and give the required information will result in another round of protracted litigation"⁸ in violation of his right to speedy disposition of cases.

Romualdez further pointed out that that he is almost 90 years old, and that he has suffered long enough considering that the case has yet to reach the pre-trial stage even after almost 30 years.

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⁷ *Id.* at 377-388.

⁸ Record, vol. VIII, p. 384.

OUR RULING:

After due consideration, we **dismiss** Civil Case No. 0167 for violation of the respondents' right to speedy disposition of cases.

I. The constitutional right to speedy disposition of cases

Article III, Section 16 of the 1987 Constitution provides:

Section 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

First appearing in the 1973 Constitution, the right to speedy disposition of cases protects citizens from vexatious, capricious, and oppressive delays in the conduct of any case filed against them, whether the case be judicial, quasi-judicial, or administrative.⁹ No branch of government is, therefore, exempt from duly observing the constitutional safeguard and the right confirms immunity from arbitrary delay. Hence, under the Constitution, any party to a case may demand expeditious action on all officials who are tasked with the administration of justice. For sure, the right may be invoked in the proceedings before the Sandiganbayan.¹⁰

In *Cagang v. Sandiganbayan (Fifth Division)*,¹¹ the Supreme Court laid down the following guidelines in resolving issues involving the right to speedy disposition of cases, as follows:

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.

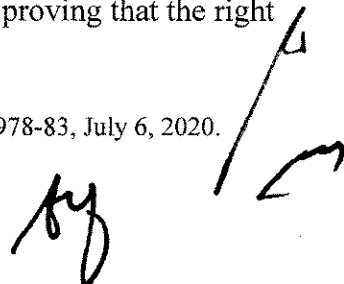
Second, a case is deemed initiated upon the filing of a formal complaint prior to a conduct of a preliminary investigation. This Court acknowledges, however, that the Ombudsman should set reasonable periods for preliminary investigation, with due regard to the complexities and nuances of each case. Delays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

⁹ See *Baya v. The Honorable Sandiganbayan (2nd Division)*, G.R. No. 204978-83, July 6, 2020.

¹⁰ See *Cojuangco v. Sandiganbayan*, G.R. No. 247982, April 28, 2021.

¹¹ G.R. Nos. 206438, 206458 & 210141-42, 31 July 2018



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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.

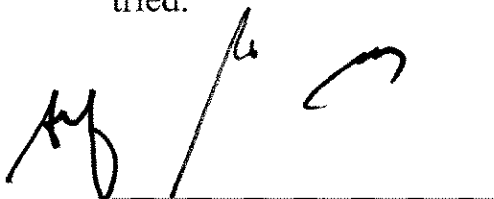
An exception to this rule is if there is an allegation that the prosecution of the case was solely motivated by malice, such as when the case is politically motivated or when there is continued prosecution despite utter lack of evidence. Malicious intent may be gauged from the behavior of the prosecution 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.

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.

The right to speedy disposition of cases should be understood to be a relative or flexible concept such that a mere mathematical reckoning of the time involved would not be sufficient. Jurisprudence dictates that the right is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured; or even without cause or justifiable motive, a long period of time is allowed to elapse without the party having his case tried.¹²



Accordingly, violation of the right to speedy disposition of cases has a serious consequence: it results in the dismissal of the case.¹³ In the determination of whether the defendant has been denied his right to a speedy disposition of a case, the following factors may be considered and balanced: (1) the length of the 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.¹⁴

In the present case, the totality of the attendant circumstances leads us to conclude that the respondents' right to speedy disposition of cases had been violated.

a. Length of delay

It is settled that the determination of the length of delay is never mechanical, and that 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.¹⁵ In the present case, the records disclosed that the original petition had been filed way back in March 6, 1996. The petitioner filed its *Omnibus Motion x x x* with the attached *Supplemental Petition* only after 16 years (or on May 2, 2012). After the lapse of 20 years from the filing of the original petition and more than four (4) years from the filing of its Supplemental Petition, the petitioner filed a *Motion for Leave of Court to Amend Supplemental Petition* to implead RLC as an additional respondent on the basis of a Deed of Absolute Sale executed in 2006, appending thereto the *Amended Supplemental Petition*. For accuracy and easy reference, we outline the timeline of events in this case, particularly with regard to the petitions, motions and compliance filed by the petitioner, viz:

Date:	What petitioner filed:
March 6, 1996	Petition re: Forfeiture of Unlawfully Acquired Property under R.A. 1379 in relation to E.O. Nos. 1, 2, 14 and 14-A
May 2, 2012	Supplemental Petition
October 14, 2016	Amended Supplemental Petition
November 7, 2019	Motion to Postpone Pre-trial
June 4, 2020	Motion to Admit Show Cause Explanation with Motion to Suspend Pre-trial and Other Proceedings
June 9, 2020	Motion for Leave of Court to Amend Amended Supplemental Petition with

¹³ Supra, note 9.

¹⁴ See *Bautista v. The Honorable Sandiganbayan*, G.R. No. 238579-80, July 24, 2019.

¹⁵ See *Cagang v. Sandiganbayan*, G.R. Nos. 206438; 206458; and 210141-42, July 31, 2018.

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	the attached 2020 Amended Supplemental Petition
June 15, 2022	Partial Compliance
October 25, 2022	Second Partial Compliance

It bears emphasizing that from the time of the filing of the original petition until present, *a period of 27 years had already elapsed.*

b. Reasons for the delay

We point out that the original petition in this case – filed way back in 1996 – had already undergone three (3) amendments that were all initiated by the petitioner for a period covering more than 20 years. We are at a loss as to why it took the petitioner 16 years to file a supplemental petition; another four (4) years to file its amended supplemental petition; and an additional four (4) years to file its second amended supplemental petition. We additionally note the petitioner already stated in its *Motion for Leave of Court to Amend Amended Supplemental Petition* that the specific averments of these two foreign corporations “have already been alleged in the Amended Supplemental Petition.”¹⁶ It thus baffles us why the petitioner sought to impleaded Storton and Halston only in 2020 when it was already aware as early as 2012 that Romualdez purportedly purchased all the shares in Storton and Halston in 1979 and 1981, respectively. We also note that on various dates in 2019 and 2020 – or more than 20 years from the filing of its original petition in 1996 – the petitioner has sought either to postpone pre-trial and/or suspend the proceedings.

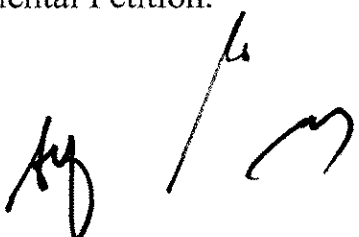
It is not lost on us that Romualdez also filed several motions and petitions before different courts. The records showed that he filed a motion to dismiss¹⁷ the 1996 petition before this Court, but we denied this motion in 2002. Romualdez then moved to reconsider¹⁸ this denial, but the Court denied his motion for reconsideration. In 2003, Romualdez filed a motion for preliminary investigation and suspension of proceedings,¹⁹ but we again denied this motion. He then filed a petition for *certiorari* and prohibition before the Honorable Supreme Court (docketed as G.R. No. 161602) to prevent this Court from further proceeding with Civil Case No. 0167 until another preliminary investigation had been conducted. The Supreme Court dismissed this petition in 2010. A perusal of the records also showed that Romualdez filed a motion for reconsideration of this Court’s August 27, 2013 resolution admitting the petitioner’s Supplemental Petition; and moved to partially reconsider this Court’s May 24, 2017 resolution admitting the petitioner’s Amended Supplemental Petition.

¹⁶ Record, vol. VI, p. 297.

¹⁷ Record, vol. VII, pp. 277-281.

¹⁸ *Id.* at 311-312.

¹⁹ *Id.* at 313-319.



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We emphasize, however, that Romualdez was merely exercising his rights when he filed the afore-mentioned motions and petitions. It does not, however, negate the fact that the petitioner filed its Supplemental Petition only in 2012; and sought to implead the two alleged dummy foreign corporations only in 2020. That Romualdez only filed his Answer to the Supplemental Petition in 2015 had been brought about by the fact that petitioner's Supplemental Petition was considered by this Court as not 'deemed filed.' For accuracy, we herein reproduce the pertinent portions of this Court's March 29, 2012 Resolution:

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Records show that this Court and the respondents have not received a copy of the Supplemental Petition. The petitioner was not able to provide the registry return card showing receipt of the Supplemental Petition by this Court and the respondents. The petitioner also failed to show a certification from the postmaster that notice was duly issued and delivered to the respondents such that service by registered mail may be deemed completed. It is the registry receipt issued by the mailing office and the affidavit of the person mailing which proves service made through registered mail. Absent one or the other, or worse both, there is no proof of service.

There being no proof of service, the Supplemental Petition allegedly filed through registered mail by the petitioner on December 21, 2001 cannot be deemed filed. Corollary thereto, there is no Supplemental Petition that the respondents should file a responsive pleading to. We agree with the respondent that the submission by the petitioner of a photocopy of the Supplemental Petition to clarify matters for this court does not constitute filing because the original of the pleading has not been presented to the Clerk of Court. The prayer therefore of the petitioner that respondents be directed to file an Answer to the Supplemental Petition is denied.²⁰

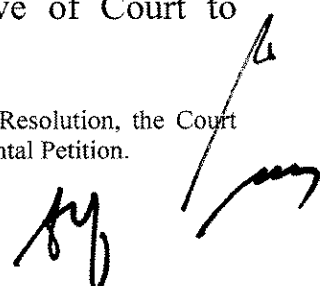
Notably, it was only in 2013 when the Court directed Romualdez, et al. to file their respective answers to both the Original and Supplemental Petitions.²¹

c. Assertion of the right

The assertion of the right to a speedy disposition of cases on the part of the respondents is supported by the records. As early as 2001 Romualdez – in his motion to dismiss Civil Case No. 0167 – already cited the petitioner's failure to diligently prosecute this case vis-à-vis his right to speedy trial as one of the grounds for dismissal of this case. Romualdez also invoked this right in his Motion for Reconsideration of the denial of his motion to dismiss. Romualdez likewise cited his right to speedy trial in his Comment/Opposition to the petitioner's Motion for Leave of Court to

²⁰ Record, vol II, pp. 492-493.

²¹ Resolution dated August 14, 2013, record, vol. II, pp. 644-646. In this Resolution, the Court reconsidered its March 29, 2012 ruling insofar as the non-admission of the Supplemental Petition.



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Amend Supplemental Petition, as well as in his Motion for Reconsideration of the Court's February 18, 2021 Resolution which, *inter alia*, admitted the petitioner's Second Amended Supplemental petition.

For its part, RLC asserted its right to a speedy disposition of cases via its *Manifestation and Motion for Preliminary Hearing on Affirmative Defenses* and in its *Comment* to the petitioner's motion to suspend proceedings.

d. Prejudice caused by the delay

The lapse of almost 30 years puts in question the ability of Romualdez to adequately prepare for the case, more so when we take into account that he is almost a nonagenarian. Verily, the passage of such a long period has made preparation it difficult for Romualdez to secure the availability of the pieces of testimonial and documentary evidence. In like manner, the lapse of time has also made it challenging for RLC to gather evidence to support its position. For several years already, a shadow of doubt lingers over its right over the property in question, causing damage to its reputation and goodwill.

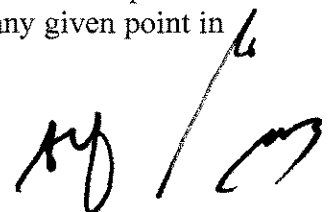
The fairly recent case of *Cojuangco, Jr. v. Sandiganbayan*²² involved complaints for recovery of ill-gotten wealth filed by respondent Presidential Commission on Good Government (PCGG) against petitioner Eduardo M. Cojuangco, Jr. and other defendants. The complaint was filed in 1987, and was amended three times, the latest of which was on August 23, 1991. This Court allowed the subdivision of the of the complaint into eight complaints in 1999. In 2003, the petitioner raised the issue of delay in the proceedings of the cases against him. In 2015, the petitioner filed motions to dismiss the subject cases on the ground of violation of his constitutional rights to due process and speedy disposition of cases. However, these cases were denied by the Sandiganbayan. In 2019, the petitioner filed a Petition for Prohibition alleging the violation of his constitutional rights to due process and to a speedy disposition of cases.

The Supreme Court granted the petition, and issued an order dismissing the cases for violation of the constitutional rights to due process and speedy disposition of cases of the principal defendant Cojuangco, Jr. It held that:

In this case, as mentioned earlier, two decades had already passed by from the time the respective pre-trial in Civil Case Nos. 0033-C, 0033-D, and 0033-E were terminated, and yet no pre-trial order has been issued as to set or schedule the trial dates, much less to commence trial and begin the presentation of petitioner's evidence. Needless to say, the delay is beyond the time periods provided in any of the rules applicable to the Sandiganbayan at any given point in

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G.R. No. 247982, April 28, 2021.



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time since the termination of the pretrial hearings. Thus, the burden of proof that there was no violation of the right to speedy disposition of cases clearly lies with the Republic.

One can only imagine that if no trial has been commenced yet in the subject cases for more than 30 years of being pending and 20 years since the termination or suspension of pre-trial, how long would the trial proper take and for the cases to be decided and put the issues and dispute therein to end. Absent any justifiable excuse, these incidents in the Sandiganbayan proceedings depict more than a perfect picture of an inordinate delay which is violative of one's right to speedy disposition of cases. It might not be amiss to point out that for shorter delays - three years in *Tatad*; four years in *Duterte v. Sandiganbayan*; five years in *Magante*; six years in *Angchangco, Jr. v. Ombudsman*; six years in *Roque v. Office of the Ombudsman*; six years in *Remulla*; seven years in *Inocentes v. People*; 10 years in *Licaros v. Sandiganbayan*; and 15 years in *People v. Sandiganbayan* - the Court has directed the dismissal of cases for violation of the constitutional rights to due process and speedy disposition of cases. These cited cases pale in comparison to what transpired in the subject cases thereby warranting a stronger reason for the Court to uphold the rights that petitioner invoked herein.²³

In the present case, we reiterate to the point of being repetitive that the case has been pending for 27 years, yet the ***pre-trial has not yet even started***. Considering the volume of documents needed to be presented in this case, it would not be far-fetched to conclude it would take some time before the case is resolved.

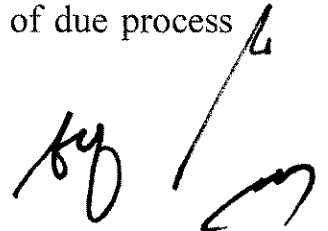
It is not lost on us that the importance of the right to speedy disposition of cases is more pronounced in criminal proceedings, where not only property but also the life and liberty of the respondent, or the accused once the case is filed in court, is at stake. It is for this reason that, apart from the right to speedy disposition of cases, an accused is guaranteed the right to speedy trial in the Constitution, the Speedy Trial Act, and the Revised Rules of Criminal Procedure.²⁴ As explained in *Corpuz v. Sandiganbayan*,²⁵ prejudice should be assessed in the light of the interest of the defendant that the speedy trial was designed to protect, namely: to prevent oppressive pre-trial incarceration; to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired.

The non-criminal nature of this case, however, does not make the delay less oppressive or vexatious to the respondents. Admittedly, the Court – in its previous resolutions – had been lenient towards the petitioner, particularly in granting its motions to amend. In this Court's February 18, 2021 resolution, we granted the petitioner's *Motion to Suspend Pre-trial and Other Proceedings* and *Motion for Leave of Court to Amend Amended Supplemental Complaint* in order to fulfill the requirements of due process

²³ *Id.* (citations omitted)

²⁴ *Supra*, note (Bayan)

²⁵ 484 Phil. 899, 918 (2004).



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and to avoid multiplicity of suits. In like manner, we denied the petitioner's motion for reconsideration, and affirmed our February 18, 2021 resolution in our June 22, 2021 resolution.²⁶ It should be borne in mind, however, that the Court's liberality also has its limits, more so when there is transgression of a constitutional right, as in this case.

II. Petitioner's failure to fully comply with this Court's orders and directives

The records also bear out that per our Resolution dated July 16, 2019, we ordered the petitioner to furnish us with the new address of respondents Fidelity Management, Incorporated and its president, Jesus Tapalar; and respondent Agnes Romualdez. After four (4) months, the petitioner moved to postpone pre-trial on the ground that the summonses have not yet been served on respondents R&S Transport, Inc. and Dio Island Resort, Inc. Without having complied with the Court's July 16, 2019 directive, the petitioner filed a *Motion to Admit Show Cause Explanation with Motion to Suspend Pre-trial and Other Proceedings* in June 2020.

In our Resolution of May 17, 2022, we directed the petitioner to: (a) submit the addresses of respondents R&S Transport, Inc., Fidelity Inc., Dio Island Resort, Inc., and Romson Realty, Inc.; (b) inform us whether respondents Storton and Halston have transacted or are doing business in the Philippines and if so, submit within 10 days the names and addresses of their resident agents, officers, directors or trustees within the country; and (c) submit the facsimile numbers and valid e-mail addresses of Storton and Halston, also within 10 days.

On June 15, 2022, and after the lapse of the given 10-day period, the petitioner filed a Partial Compliance containing only the information as regards Fidelity Inc. and its officers. After four months, or on October 25, 2022, the petitioner filed its Second Partial Compliance submitting the addresses of Agnes Romualdez, Fidelity Inc. and Dio Inc.

In the Court's Resolution of November 4, 2022, we gave the petitioner a *non-extendible period* of ten days from notice to explain why the Second Amended Supplemental Petition should not be stricken off the record, and the case be not entirely dismissed, for its failure to fully comply with our resolutions.²⁷

On January 31, 2023, we required the petitioner to explain why the 2022 Amended Supplemental Petition should not be stricken off the record and the case dismissed for the petitioner's failure to comply with the Court's resolutions.

²⁶ Record, vol. VII, pp. 79-85.

²⁷ Record, vol. VIII, p. 323.

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We point out that the petitioner has repeatedly failed to *fully* comply with this Court's resolutions. Its flimsy excuses of voluminous workload and the delayed response of several government agencies to the PCGG to justify its failure to fully comply with this Court's resolutions, fail to convince us. To be sure, the periods provided for in the Court's May 17, 2022 and November 4, 2022 resolutions were 'non-extendible.' The OSG's heavy workload was not unexpected considering that it is the defender of the Republic and the People's Tribune: it represented the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. At any rate, the respondents should not be put at the mercy of the government agencies' willingness to respond to the PCGG's request. To make matters worse, the pre-trial has not yet even began in this case even after the lapse almost three (3) decades.

It also bears noting that as early as February 2021, this Court already pointed out that "x x x more than one (1) year had elapsed since the original schedule of the conduct of pre-trial. This should have been more than ample time for the petitioner Republic to locate the new addresses of the other respondents."²⁸ More than two years have passed since our pronouncement, the petitioner is still relying on the response of several government agencies to the correspondences sent to them by the PCGG.

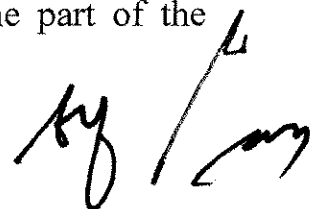
Corollary, Section 3, Rule 17 of the Rules of Court provides:

Section 3. *Dismissal Due to Fault of Plaintiff.* — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.

Under this Rule, the plaintiff's failure, without any justifiable cause, to comply with any order of the trial court or the Rules of Court, or to prosecute the action for an unreasonable length of time, may result in the dismissal of the complaint either *motu proprio* or on motion by the defendant.

The fundamental test for "failure to prosecute" contemplates want of due diligence attributable to the plaintiff in failing to proceed with reasonable promptitude. There must be unwillingness on the part of the

²⁸ Record, vol. VII, p. 21.



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plaintiff to prosecute, as manifested by any of the following instances: (1) plaintiff fails to appear at the time of trial; or (2) plaintiff fails to prosecute the action for an unreasonable length of time; or (3) plaintiff fails comply with the Rules of Court or any order of the court.²⁹

In the present case, we find that the petitioner has failed to prosecute its action for an unreasonable length of time; and, has failed to comply with the orders of this Court. While we are aware that delay is not determined through mere mathematical reckoning but through the examination of the facts and circumstances surrounding each case, the sheer length of time this case has been dragging on, coupled by the petitioner's failure to fully comply with our resolutions, rendered the delay inordinate, vexatious, and oppressive delays and, thus warranting the dismissal of the case.

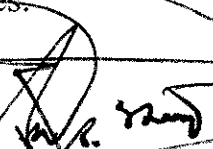
Indeed, PCGG's mandate to assist in the recovery of all ill-gotten wealth is an arduous task. In the exercise of the agency's power to investigate and prosecute criminal and civil cases for the recovery of the ill-gotten wealth, the constitutional safeguard against oppressive and vexatious delays, i.e., the right to speedy disposition of cases, should always be taken into account. As aptly held by the Supreme Court in *Cojuangco v. Sandiganbayan*, the Sandiganbayan as the nation's anti-graft court must be the first to avert opportunities for graft, uphold the right of all persons to a speedy disposition of their cases, and avert the precipitate loss of their rights.³⁰

WHEREFORE, in light of all the foregoing, the Court resolves to:

- (a) **NOTE** the *Compliance* filed by the petitioner Republic of the Philippines; and
- (b) **DISMISS** the present case (Civil Case No. 0167) for violation of the constitutional right to the speedy disposition of cases of the herein respondents.



SO ORDERED.

Quezon City, Philippines.


RONALD B. MORENO
Associate Justice



²⁹ See *Heirs of Bartolome J. Sanchez v. Heldelita Abantes, et al.*, G.R. No. 234999, August 4, 2021.

³⁰ G.R. No. 247982, April 28, 2021, citing *Re: Problem of Delays in Cases Before the Sandiganbayan*, 422 Phil. 246 (2001).

by  

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WE CONCUR:

 AMPARO M. CABOTAJE-TANG Presiding Justice <i>Chairperson</i>	 BERNEMITO R. FERNANDEZ Associate Justice
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