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Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

SALVACION ZALDIVAR-  
PEREZ,

Petitioner,

-versus-

HON. FIRST DIVISION OF THE  
SANDIGANBAYAN, PEOPLE OF  
THE PHILIPPINES, represented  
by ASSISTANT SPECIAL  
PROSECUTOR III MA.  
HAZELINA TUJAN-  
MILITANTE, OFFICE OF THE  
SPECIAL PROSECUTOR,  
OFFICE OF THE OMBUDSMAN,  
Respondents.

G.R. No. 204739

Present:

PERLAS-BERNABE, J.,  
Chairperson,  
REYES, A. JR.,  
HERNANDO,  
INTING,\* and  
ZALAMEDA,\*\* JJ.

Promulgated:

13 NOV 2019

X ----- X

DECISION

HERNANDO, J.:

Before this Court is a Petition for *Certiorari*<sup>1</sup> (under Rule 65 of the Rules of Court) with Prayer for Temporary Restraining Order assailing the August 28, 2012<sup>2</sup> and October 10, 2012<sup>3</sup> Resolutions of the Sandiganbayan in Criminal Case No. SB-12-CRM-0149, entitled *People v. Salvacion Z. Perez*, for having been rendered with grave abuse of discretion. The August 28, 2012 Resolution denied petitioner Salvacion Zaldivar-Perez's (Perez) Urgent Motion to Dismiss with Notice of Entry of Appearance and Prayer for

\* On official leave.

\*\* Designated Additional Member per Special Order No. 2727 dated October 25, 2019.

<sup>1</sup> *Rollo*, pp. 3-29.

<sup>2</sup> *Id.* at 30-38; penned by Associate Justice Efren N. De la Cruz and concurred in by Associate Justices Rodolfo A. Ponferrada and Rafael L. Lagos.

<sup>3</sup> *Id.* at 39-41.

Deferment of Arraignment, while the October 10, 2012 Resolution denied her Motion for Reconsideration.

The case stemmed from the following facts:

A Complaint-Affidavit<sup>4</sup> dated April 28, 2006 for Unlawful Appointment, defined and penalized under Article 244 of the Revised Penal Code (RPC), was filed on May 17, 2006 with the Office of the Provincial Prosecutor of San Jose, Antique (OPP-Antique), Department of Justice, by Numeriano Tamboong (Tamboong) against petitioner Perez, who was then the Provincial Governor of Antique. Tamboong alleged that petitioner Perez appointed Atty. Eduardo S. Fortaleza (Fortaleza) on January 30, 2006 as the Provincial Legal Officer of the province despite knowing that he did not meet the minimum requirement of five (5) years in the practice of law under Section 481, Article XI, Title V of the Local Government Code of 1991.<sup>5</sup>

In her Counter-Affidavit<sup>6</sup> dated September 20, 2006, petitioner Perez argued that the appointment of Fortaleza is well-deserved because during his tenure as Provincial Legal Officer, he has been performing his duties and responsibilities with competence, honesty and integrity. She added that the position is confidential and co-terminus, thus experience can be dispensed with as provided under Rule X, Section 1(e) of the Omnibus Rules on Appointments and Other Personnel Actions under the Civil Service Commission (CSC) Memorandum Circular (MC) No. 40, Series of 1998.<sup>7</sup> She also averred that as Provincial Governor, she is authorized to appoint employees embraced in the Non-Career Service in the Government.

In its Resolution<sup>8</sup> dated August 6, 2009, the OPP-Antique ruled that there was sufficient evidence to support the existence of probable cause for Violation of Article 244 (Unlawful Appointments) of the RPC committed by petitioner Perez. It was noted that at the time of his appointment as Provincial Legal Officer, Fortaleza was a member of the Philippine Bar for only three (3) years, eight (8) months and twenty-eight (28) days, which is short of the 5-year minimum experience requirement as provided in Section 481 of the Local Government Code of 1991. In finding untenable petitioner Perez's justification that experience can be dispensed with as Fortaleza's position is confidential, the OPP-Antique opined that CSC MC No. 1, series of 1977, is a rule of general application with respect to appointment and other personnel

<sup>4</sup> *Id.* at 174-177.

<sup>5</sup> SECTION 481. *Qualifications, Term, Powers and Duties.* — (a) No person shall be appointed legal officer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, and a member of the Philippine Bar. He must have practiced his profession for at least five (5) years in the case of the provincial and city legal officer, and three (3) years in the case of the municipal legal officer.

<sup>6</sup> *Rollo*, pp. 51-59.

<sup>7</sup> e. Appointees to confidential/personal staff must meet only the educational requirements prescribed under CSC MC 1, s. 1997. The civil service eligibility, experience, training and other requirements are dispensed with.

<sup>8</sup> *Rollo*, pp. 181-184.

action, thus it cannot amend a specific provision of a law. It is only the legislature that has the plenary power to repeal, abrogate or revoke existing laws. Thus, the OPP-Antique, in its August 6, 2009 Resolution, recommended that a criminal complaint for Violation of Article 244 of the RPC (Unlawful Appointments) be filed against petitioner Perez.

The original records of the case, together with the August 6, 2009 Resolution, were forwarded and received by the Deputy Ombudsman for Visayas on October 8, 2009 for approval.<sup>9</sup>

On October 12, 2009, the Deputy Ombudsman for Visayas endorsed<sup>10</sup> the August 6, 2009 Resolution, together with the records of the case, to the Preliminary Investigation, Administrative Adjudication and Review Bureau, an office under the supervision of Overall Deputy Ombudsman Orlando C. Casimiro (Deputy Ombudsman Casimiro) who has the investigative jurisdiction over the case, pursuant to the July 10, 2008 Memorandum of Ombudsman Ma. Merceditas Gutierrez (Ombudsman Gutierrez).

The initial indorsement of the Review Resolution of the said August 6, 2009 Resolution, recommending the approval of the filing of the Information against petitioner Perez for the offense complained of, was made on March 3, 2011 to Ombudsman Gutierrez.<sup>11</sup> As there was a change of leadership in the Office of the Ombudsman (OMB), a Review dated September 8, 2011 of the August 6, 2009 Resolution was again indorsed on September 26, 2011 by Deputy Ombudsman Casimiro to the newly appointed Ombudsman Conchita Carpio Morales<sup>12</sup> who approved the said Resolution on April 24, 2012.<sup>13</sup> Petitioner Perez was furnished a copy of the September 8, 2011 Review on May 10, 2012.

On May 24, 2012, an Information<sup>14</sup> indicting petitioner Perez for Violation of Article 244 of the RPC (Unlawful Appointments) was filed before the Sandiganbayan. On May 28, 2012, the Sandiganbayan issued a Resolution directing the Bureau of Immigration to bar petitioner Perez from leaving the country without its prior approval. Petitioner Perez received a copy of the May 28, 2012 Resolution of the Sandiganbayan on May 30, 2012.

Incidentally, petitioner Perez filed a Motion for Reconsideration<sup>15</sup> of the September 8, 2011 Review on June 19, 2012<sup>16</sup> with the Office of the Overall Deputy Ombudsman who in turn indorsed the same to the OPP-Antique on June 26, 2012.

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<sup>9</sup> *Id.* at 179.

<sup>10</sup> *Id.* at 180.

<sup>11</sup> *Id.* at 185.

<sup>12</sup> *Id.* at 186.

<sup>13</sup> *Id.* at 189.

<sup>14</sup> *Id.* at 191-192.

<sup>15</sup> *Id.* at 195-210.

<sup>16</sup> *Id.* at 195.

On July 3, 2012, the OPP-Antique received<sup>17</sup> petitioner Perez's Urgent Motion to Dismiss with Notice of Entry of Appearance and Prayer for Deferment of Arraignment dated July 2, 2012 which was set for hearing<sup>18</sup> on July 5, 2012. In the said Motion, petitioner Perez complained of the delay in the preliminary investigation both before the OPP-Antique and the OMB-Visayas,<sup>19</sup> which violated her constitutional right to a speedy disposition of the case, thus prayed for the dismissal of her case.<sup>20</sup> According to petitioner Perez, it took the OPP-Antique more than three (3) years from the filing of the Affidavit-Complaint to conclude the preliminary investigation and to arrive at the Resolution dated August 6, 2009, which it indorsed to the Deputy Ombudsman for Visayas on October 8, 2009 for approval, while it took the OMB almost two (2) years from the date the Resolution of the OPP-Antique was endorsed to them up to the time the Review Resolution came out and almost three years from the date of the Resolution of the OPP-Antique to the filing of the Information before the Sandiganbayan. Petitioner Perez argued that this protracted delay in the disposition of her case was prejudicial to her rights.

On July 12, 2012, the prosecution filed its Comment/Opposition<sup>21</sup> dated July 11, 2012 to the Petitioner's Urgent Motion to Dismiss with Notice of Entry of Appearance and Prayer for Deferment of Arraignment. It argued that "there was no intentional delay on the part of the Office of the Ombudsman in the conduct of the preliminary investigation[,] neither was the proceeding attended by vexatious, capricious or oppressive delays [as] to prejudice the [petitioner] in her right to speedy disposition of her case."<sup>22</sup>

### **Ruling of the Sandiganbayan**

On August 28, 2012, the Sandiganbayan issued its first assailed Resolution denying Petitioner Perez's Motion to Dismiss with Notice of Entry of Appearance and Prayer for Deferment of Arraignment for lack of merit.

While the Sandiganbayan agreed with petitioner Perez that the Constitution guarantees her right to due process and speedy disposition of her case, however, it found that based on the circumstances obtaining in this case, both the OPP-Antique and the OMB-Visayas committed no violation of petitioner Perez's aforesaid rights. The Sandiganbayan noted that although there was a long delay in the preliminary investigation of the case starting from the OPP-Antique, the record does not show that petitioner Perez had ever asserted her right to the speedy resolutions of the said preliminary

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<sup>17</sup> *Id.* at 98.

<sup>18</sup> *Id.* at 97.

<sup>19</sup> *Id.* at 92.

<sup>20</sup> *Id.* at 92-93.

<sup>21</sup> *Id.* at 218-225.

<sup>22</sup> *Id.* at 221-222.

investigation by following it up after she submitted her counter-affidavit or by filing any motion for the early resolution of the same both before the OPP-Antique and OMB-Visayas. It was only after the arraignment was set on July 5, 2012 that petitioner Perez filed a Motion for Reconsideration raising delay in the conduct of the preliminary investigation. Having slept on her right to speedy disposition of her case for an unreasonable and unexplained length of time, the Sandiganbayan ruled that petitioner Perez cannot now invoke violation of such right to justify the dismissal of the case as her inaction was tantamount to the waiver of her right.

As to the contention of petitioner Perez that the proceeding in this case should be deferred because of the pendency of the Motion for Reconsideration before the OMB-Visayas, the Sandiganbayan ruled that the filing of the Information with the Court on May 24, 2012 did not affect the validity of the Information as it did not deprive her of her right to seek reconsideration of the said Resolution. Moreover, the only requirement under Section 7(a), Rule II of the Rules of Procedure of the OMB (Administrative Order No. 07, as amended) is that the Motion for Reconsideration should be filed within five (5) days from notice thereof with the OMB, or the Deputy Ombudsman as the case may be, with the corresponding leave of court in cases where the Information has already been filed in court. The prosecution alleged that petitioner Perez failed to comply with the said requirement when she filed her motion for reconsideration on the 21<sup>st</sup> day from receipt of the September 11, 2011 Review of the Resolution dated August 6, 2009. However, petitioner Perez argued that her Motion for Reconsideration was filed within the period required by law. At any rate, Section 7(b), Rule II of the Rules of Procedure of the OMB also provides that the "filing of a motion for reconsideration/reinvestigation shall not bar the filing of the corresponding information in Court on the basis of the finding of probable cause in the resolution subject of the motion."

In the end, the Sandiganbayan ruled:

**WHEREFORE**, in light of all the foregoing, the accused's *Urgent Motion to Dismiss With Notice of Entry of Appearance and Prayer for Deferral of Arraignment*, dated July 2, 2012, is hereby **DENIED** for lack of merit.

The arraignment of the accused is hereby set on September 27, 2012 at 8:30 in the morning.

SO ORDERED.<sup>23</sup>

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<sup>23</sup> *Id.* at 37-38.

Aggrieved, petitioner Perez filed a Motion for Reconsideration of the above Resolution of the Sandiganbayan which was opposed by the prosecution for being a reiteration of her arguments in her previous motion.<sup>24</sup>

In its Resolution<sup>25</sup> dated October 10, 2012, the Sandiganbayan denied petitioner Perez's Motion for Reconsideration on the ground that the arguments set forth therein were a mere rehash or reiteration of the arguments in her Urgent Motion to Dismiss, and Reply which the Court had already judiciously considered and passed upon, except for the issue that the Information was filed by the Investigating Prosecutor without the prior written authority or approval of the Provincial or City Prosecutor or Chief State Prosecutor or the Ombudsman or his Deputy.

Hence, this Petition for *Certiorari*.

Petitioner Perez seeks to reverse and set aside the August 28, 2012 and October 10, 2012 Resolutions of the Sandiganbayan on the ground that said court gravely abused its discretion when it refused: 1) to defer the proceeding in the criminal case in light of the pending Motion for Reconsideration filed before the OMB-Visayas; 2) to dismiss the criminal case despite the fact that an Information was filed without proper authority; and 3) to dismiss the criminal case despite the fact that there was undue and unjustifiable delay in the resolution of the said case by the OMB-Visayas in grave violation of her constitutional right to due process and speedy disposition of the case against her.

Petitioner Perez maintains that the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction when it refused to defer the proceeding in this case due to the pending Motion for Reconsideration before the OMB.

We hold otherwise.

The issue raised by petitioner has already been addressed by the Court in *Garcia v. Sandiganbayan*,<sup>26</sup> where We held:

From the filing of information, any disposition of the case such as its dismissal or its continuation rests on the sound discretion of the court, which becomes the sole judge on what to do with the case before it. Pursuant to said authority, the court takes full authority over the case, including the manner of the conduct of litigation and resort to processes that will ensure the preservation of its jurisdiction. Thus, it may issue warrants of arrest, HDOs and other processes that it deems warranted under the circumstances.

In this case, the Sandiganbayan acted within its jurisdiction when it issued the HDOs against the petitioner. *That the petitioner may seek*

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<sup>24</sup> *Id.* at 39.

<sup>25</sup> *Id.* at 39-41.

<sup>26</sup> G.R. Nos. 205904-06, October 17, 2018.

*reconsideration of the finding of probable cause against her by the OMB does not undermine nor suspend the jurisdiction already acquired by the Sandiganbayan. There was also no denial of due process since the petitioner was not precluded from filing a motion for reconsideration of the resolution of the OMB. In addition, the resolution of her motion for reconsideration before the OMB and the conduct of the proceedings before the Sandiganbayan may proceed concurrently.*

Moreover, the Rules of Procedure of the Office of the Ombudsman expressly provides that the filing of a motion of reconsideration does not prevent the filing of information. Section 7, Rule II of Administrative Order No. 07 reads:

Section 7. Motion for reconsideration

- a) Only one motion for reconsideration or reinvestigation of an approved order or resolution shall be allowed, the same to be filed within five (5) days from notice thereof with the Office of the Ombudsman, or the proper Deputy Ombudsman as the case may be, with corresponding leave of court in cases where information has already been filed in court;
- b) The filing of a motion for reconsideration/reinvestigation shall not bar the filing of the corresponding information in Court on the basis of the finding of probable cause in the resolution subject of the motion. (As amended by Administrative Order No. 15, dated February 16, 2000) x x x

As can be understood from the foregoing, an information may be filed even before the lapse of the period to file a motion for reconsideration of the finding of probable cause. The investigating prosecutor need not wait until the resolution of the motion for reconsideration before filing the information with the Sandiganbayan especially that his findings and recommendation already carry the stamp of approval of the Ombudsman. In any case, the continuation of the proceedings is not dependent on the resolution of the motion for reconsideration by the investigating prosecutor. In the event that, after a review of the case, the investigating prosecutor was convinced that there is no sufficient evidence to warrant a belief that the accused committed the offense, his resolution will not result to the automatic dismissal of the case or withdrawal of information already filed before the Sandiganbayan. The matter will still depend on the sound discretion of the court. Having acquired jurisdiction over the case, the Sandiganbayan is not bound by such resolution but is required to evaluate it before proceeding further with the trial and should embody such assessment in the order disposing the motion. Thus, in *Fuentes v. Sandiganbayan*, the Court emphasized:

The court is not limited to the mere approval or disapproval of the stand taken by the prosecution. The court must itself be convinced that there is indeed no sufficient evidence against the accused and this conclusion can only be reached after an assessment of the evidence in the possession of the prosecution. What is required is the court's own assessment of such evidence. (Citations omitted, emphasis supplied)

Petitioner Perez likewise alleges that the Information filed against her should be declared null and void because it was filed without the authority of the Ombudsman or her Deputy. She argues that the Information was prepared by the Investigating Prosecutor on September 8, 2011 and sworn to on the same date or months ahead of its approval by Ombudsman Carpio Morales on April 24, 2012.

Petitioner Perez's contention is not well-taken.

As correctly found by the Sandiganbayan, the prosecution did not commit any violation considering that the Ombudsman approved the September 8, 2011 Review of the August 6, 2009 Resolution on April 24, 2012 and when it was filed on May 24, 2012, the Information bore the approval of Ombudsman Carpio Morales.

Notwithstanding the foregoing, We hold that the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ruled that there was no violation of petitioner Perez's right to the speedy disposition of her case.

"The right to speedy disposition of cases x x x enshrined in Section 16, Article III of the Constitution x x x declares in no uncertain terms that '[a]ll persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.' [This constitutional mandate demands] the swift resolution or termination of a pending case or proceeding. The right to a speedy disposition of cases is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays. What the Constitution prohibits are unreasonable, arbitrary and oppressive delays which render rights nugatory."<sup>27</sup>

In *Dela Peña v. Sandiganbayan*,<sup>28</sup> the Court laid down certain guidelines to determine whether the right to speedy disposition of cases has been violated, to wit:

The concept of speedy disposition is relative or flexible. A mere mathematical reckoning of the time involved is not sufficient. Particular regard must be taken of the facts and circumstances peculiar to each case. Hence, the doctrinal rule is that in the determination of whether that right has been violated, the factors that may be considered and balanced are as follows: (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. (Citations omitted)

<sup>27</sup> *Salcedo v. Sandiganbayan*, G.R. Nos. 223869-960, February 13, 2019.

<sup>28</sup> 412 Phil. 921, 929 (2001).



After a careful review of the facts and circumstances of this case and following the above principle, We find that petitioner Perez's right to speedy disposition of the case against her has been transgressed.

*First*, as to the length of delay.

The records show that Tamboong's Complaint-Affidavit was filed before the OPP-Antique on May 17, 2006. On September 21, 2006, petitioner Perez filed her counter-affidavit dated September 20, 2006. On September 28, 2006, Tamboong filed his Reply-Affidavit. After finding probable cause, the OMB-Visayas issued a Resolution dated August 6, 2009 recommending that a criminal complaint for Unlawful Appointment be filed against petitioner Perez. On October 12, 2009, the August 6, 2009 Resolution was forwarded and received by the Deputy Ombudsman for Visayas for review. The initial indorsement of the Review Resolution of the August 6, 2009 Resolution was made on March 3, 2011 to Ombudsman Gutierrez. As there was a change of leadership in the OMB, a Review dated September 8, 2011 of the August 6, 2009 Resolution was again indorsed on September 26, 2011 to the newly appointed Ombudsman Carpio-Morales who approved the said Review Resolution on April 24, 2012. On May 24, 2012 an Information indicting petitioner Perez for Violation of Article 244 of the RPC (Unlawful Appointments) was filed with the Sandiganbayan.

From the foregoing facts, approximately six years had elapsed from May 17, 2006, the time when the complaint-affidavit was filed before the OPP-Antique, until May 24, 2012, when the case was filed before the Sandiganbayan. The OPP-Antique took almost three years from the filing of the Complaint-Affidavit within which to conclude the preliminary investigation and to arrive at its August 6, 2009 Resolution, while it took the OMB for Visayas more than three years from the date the August 6, 2009 Resolution was endorsed to it up to the time the Review Resolution was finalized on September 8, 2011 and approved by Ombudsman Carpio Morales on September 26, 2011. Still, it took the Ombudsman another eight months from the approval of the September 8, 2011 Review of the August 6, 2009 Resolution up to the filing of the complaint before the Sandiganbayan on May 24, 2012. This period to conduct and complete the preliminary investigation is already excessive. Such a long delay was unreasonable and inordinate so as to constitute an outright violation of the speedy disposition of petitioner Perez's case.

*Second*, as to the reason for the delay.

Valid reasons for the delay identified and accepted by the Court include, but are not limited to: (1) extraordinary complications such as the degree of difficulty of the questions involved, the number of persons charged,

the various pleadings filed, and the voluminous documentary and testimonial evidence on record; and (2) acts attributable to the respondents.<sup>29</sup>

We note that the prosecution offered no explanation regarding the delay in conducting the preliminary investigation and in its findings indicting petitioner Perez of the offense charged. The charge of Unlawful Appointment based on the ground that the appointee does not possess the minimum requirement for the said position is a simple case and does not involve a complicated and complex issue that would require the painstaking scrutiny and perusal of the Ombudsman that would warrant the protracted delay. It bears stressing that this case involved only petitioner Perez and the only pleading that she filed was her Counter-Affidavit and nothing else. Clearly, the delay in this case is a disregard of the Ombudsman's Constitutional mandate to be the "protector of the people" and as such, required to act promptly on complaints filed in any form or manner against officers and employees of the Government, or of any subdivision, agency or instrumentality thereof, in order to promote efficient service.<sup>30</sup>

*Third*, with regard to the assertion or failure to assert such right by the accused.

The Court disagrees with the ratiocination of the Sandiganbayan that laches had already set in because petitioner Perez failed or neglected for an unreasonable length of time to assert her right to a speedy termination of the preliminary investigation or to file a motion for early resolution of the said investigation before the OPP-Antique. It is not for the petitioner to ensure that the wheels of justice continue to turn. Rather, it is for the State to guarantee that the case is disposed within a reasonable period. Thus, it is of no moment that petitioner Perez did not file any motion before the Ombudsman to expedite the proceeding. It is sufficient that she raised the constitutional infraction prior to her arraignment before the Sandiganbayan.<sup>31</sup> In *Cervantes v. Sandiganbayan*,<sup>32</sup> we emphatically held:

It is the duty of the prosecutor to speedily resolve the complaint, as mandated by the Constitution, regardless of whether the 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.

Similarly, we pointed out in *Coscolluela v. Sandiganbayan*,<sup>33</sup> that:

Being the respondents in the preliminary investigation proceedings, it was not the petitioners' duty to follow up on the prosecution of their case. Conversely, it was the Office of the Ombudsman's responsibility to expedite

<sup>29</sup> *Magante v. Sandiganbayan*, G.R. Nos. 230950-51, July 23, 2018.

<sup>30</sup> *Escobar v. People*, G.R. Nos. 228349 and 228353, September 19, 2018.

<sup>31</sup> *Id.*

<sup>32</sup> 366 Phil. 602, 609 (1999).

<sup>33</sup> 714 Phil. 55, 64 (2013), citing *Barker v. Wingo*, 407 U.S. 514 (1972).

the same within the bounds of reasonable timeliness in view of its mandate to promptly act on all complaints lodged before it. As pronounced in the case of *Baker v. Wingo*:

A defendant has no duty to bring himself to trial; the State has that duty as well as the duty of insuring that the trial is consistent with due process. (Citation omitted)

*Fourth*, prejudice caused by the delay.

There is no doubt that petitioner Perez was prejudiced by the inordinate delay in the conduct of the preliminary investigation. The lapse of six years before the filing of the Information with the Sandiganbayan placed her in a situation of uncertainty. This protracted period of uncertainty over her case caused her anxiety, suspicion and even hostility. The inordinate delay defeats the salutary objective of the right to speedy disposition of cases, which is "to assure that an innocent person may be free from the anxiety and expense of litigation or, if otherwise, of having his guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he may interpose."<sup>34</sup> To perpetuate a violation of this right by the lengthy and unreasonable delay would result to petitioner Perez's inability to adequately prepare for her case and would create a situation where the defense witnesses were unable to recall accurately the events of the distant past, leading to the impairment of petitioner Perez's possible defenses.<sup>35</sup> This, we cannot countenance without running afoul to the Constitution.

Thus, in view of the foregoing, it is indubitable that petitioner Perez's constitutional right to speedy disposition of her case had been infringed. Perforce, the assailed resolutions must be set aside and the criminal case filed against petitioner Perez be dismissed.

**WHEREFORE**, the Petition for *Certiorari* is **GRANTED**. The August 28, 2012 and October 10, 2012 Resolutions of the Sandiganbayan in Criminal Case No. SB-12-CRM-0149 are **REVERSED and SET ASIDE**. Criminal Case No. SB-12-CRM-0149 against petitioner Salvacion Zaldivar-Perez is hereby **DISMISSED** on the ground of violation of her right to a speedy trial. The Temporary Restraining Order issued by this Court on January 16, 2013 enjoining the First Division of the Sandiganbayan, the respondents, their representatives, agents or other persons acting on their behalf from proceeding with Criminal Case No. SB-12-CRM-0149 and from executing the Resolutions dated August 28, 2012 and October 10, 2012 of the Sandiganbayan, First Division, is made **PERMANENT**.

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<sup>34</sup> *Id.* at 65.


<sup>35</sup> *Id.*

**SO ORDERED.**


  
**RAMON PAUL L. HERNANDO**  
Associate Justice

WE CONCUR:

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice  
Chairperson


  
**ANDRES B. REYES, JR.**  
Associate Justice

On official leave  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**RODIL V. ZALAMEDA**  
Associate Justice


**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I hereby certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**DIOSDADO M. PERALTA**  
Chief Justice