

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ASUNCION M. MAGDAET,
Petitioner,

G.R. Nos. 230869-70

Present:

CAGUIOA, *Acting Chairperson,*
REYES, J. JR.,
CARANDANG,*
LAZARO-JAVIER, *and*
LOPEZ, *JJ.*

- versus -

**SANDIGANBAYAN and PEOPLE
OF THE PHILIPPINES,**
Respondents.

Promulgated:

SEP 16 2020

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DECISION

REYES, J. JR., J.:

Before the Court is a Petition¹ for *Certiorari* filed under Rule 65 of the Rules of Court seeking the annulment of Sandiganbayan Resolutions dated April 1, 2016² and December 14, 2016³ in Criminal (Crim.) Case Nos. SB-13-CRM-0603 to 04 with prayer for the issuance of a *status quo* order or a temporary restraining order.

* Designated as additional member in lieu of Chief Justice Diosdado M. Peralta per Raffle dated September 14, 2020.

¹ *Rollo*, pp. 19-39.

² Penned by Associate Justice Teresita V. Diaz-Baldos, with Associate Justices Napoleon E. Inoturan and Michael Frederick L. Musngi, concurring; *id.* at 48-52.

³ Penned by Associate Justice Michael Frederick L. Musngi, with Associate Justices Samuel R. Martires (now Ombudsman) and Geraldine Faith A. Econg (sitting as a Special Member per Administrative Order No. 242-2016 dated August 9, 2016); *id.* at 45-47.

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The Facts

The present case stemmed from a Complaint Affidavit⁴ dated April 5, 2002 filed by Deputy Director Fermin S. Nasol of the Special Investigation Service of the National Bureau of Investigation (NBI) before the Office of the Ombudsman (Ombudsman) against public officials and employees of the One-Stop Shop Inter-Agency Tax Credit and Drawback Center of the Department of Finance (DOF-Center) and certain private individuals who were corporate officers and stockholders of Nikko Textile Mills, Inc. (NTMI).

In a Resolution⁵ dated May 12, 2003 (2003 Resolution), Graft Investigation Officer I Myrna A. Corral (GIO Corral) of the Office of the Ombudsman Evaluation and Preliminary Investigation Bureau recommended the filing of criminal charges against DOF Undersecretary Antonio P. Belicena (Belicena), Deputy Executive Director Uldarico P. Andutan, Jr. (Andutan), Evaluator Purita S. Napeñas, herein petitioner Supervising Tax Specialist Asuncion M. Magdaet (Magdaet), in conspiracy with Charles Uy (Uy), Ma Uy Yu (Yu),⁶ Yu Chin Tong (Tong), and Emerito Guballa (Guballa) for: *i*) violation of Section 3(e) in relation to Section 3(j) of Republic Act (R.A.) No. 3019⁷; and *ii*) *estafa* through falsification under the Revised Penal Code. In connection with her 2003 Resolution, GIO Corral drafted two Informations which read:

Crim. Case No. SB-13-CRM-0603
(Violation of Section 3(e) of R.A. No. 3019)

That on November 15, 1996 and/or sometime prior or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, accused [Belicena], [Andutan], [Napeñas] and [Magdaet], all public officers being then the Undersecretary of Department of Finance, Deputy Executive Director, Evaluator and supervising Tax Specialist II, respectively, of the [DOF-Center], while in the performance of their official functions, committing the offense in relation to the office, conspiring with each other, together with accused [Uy], [Tong], [Yu] and [Guballa], all private individuals, all connected with [NTMI]) through manifest partiality and evident bad faith did then and there willfully, unlawfully and criminally cause undue injury to the government and give unwarranted benefits, advantage or preference to [NTMI] by causing the processing, evaluation, recommending the approval and approving through the issuance of Tax Credit Certificate No. 006355 in the amount of [P]2,411,773.00 the tax credit claimed/applied by [NTMI] which was granted as tax credit on raw materials under Article 39(k) of Executive Order No. 226, as amended for the 83,144.88 kilograms of 70D Nylon Filament Yarn which it falsely represented through falsified documents submitted in support of the tax credit application, such as among others, Import Entry and Internal Revenue Declaration No. 02103839, Bill of Lading No. BSMAD 6-0080 and Bureau of Customs' Official Receipt No. 59994543 to have been imported from Sunkyong Industries, Korea for which taxes and other fees were paid and which purported Nylon Knitted Fabrics end product in the total quantity of 80,731.00

⁴ Id. at 136-143.

⁵ Id. at 102-135.

⁶ Also referred to as "May Uy Yu" and "Mary Uy Yu" in some parts of the *rollo*.

⁷ ANTI-GRAFT AND CORRUPT PRACTICES ACT.

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kilograms were falsely represented through false documents submitted in support of the tax credit application such as among others, Bill of Lading No. NB44SB7528 and Bill of Lading No. NB46SB7651 to have been exported to Bright Sun Asia International, Singapore, despite the fact which the accused knew fully well that [NTMI] did not import and export as represented to be entitled to the tax credit claimed/applied and once in possession of Tax Credit Certificate No. 006355, [NTMI] through its accused officers and stockholders, utilized the full amount thereof in payment of its taxes duties and fees to the damage, undue injury and prejudice of the Government.

CONTRARY TO LAW.⁸

Crim. Case No. SB-13-CRM-0604
(Estafa through Falsification of Public Documents)

That on November 15, 1996 and/or sometime prior or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, accused [Belicena], [Andutan], [Napeñas]and [Magdaet], all public officers being then the Undersecretary of Department of Finance, Deputy Executive Director, Evaluator and supervising Tax Specialist II, respectively, of the [DOF-Center], while in the performance of their official functions, committing the offense in relation to office, conspiring with each other, together with accused [Uy], [Tong], [Yu] and [Guballa], all private individuals, all connected with [NTMI]with intent to defraud through deceit, false pretense and abuse of confidence did then and there willfully, unlawfully and feloniously cause the processing, evaluation, recommending the approval and approving through the issuance of Tax Credit Certificate No. 006355 in the amount of [P]2,411,773.00, the tax credit claimed/applied by [NTMI] which was granted as tax credit on raw materials under Article 39(k) of Executive Order No. 266, as amended for the fictitious/non-existent importation of 83,144.88 kilograms 70D Nylon Filament Yarn from Sunkyong Industries by [NTMI], which purported Nylon Knitted Fabrics end product in the total quantity of 80,731.00 kilograms were exported to Bright Sun Asia International, Singapore, falsely made to exist by the accused by falsifying, fabricating and simulating several documents, which were used/submitted in support of the tax credit application, such as, among others, Import Entry and Internal Revenue Declaration No. 02103839, Bill of Lading No. BSMAD 6-0080, Bureau of Customs' Official Receipt No. 59994543, by making it appear that [NTMI] imported 83,144.88 kilograms 70D Nylon Filament Yarn from Sunkyung Industries, Korea on May 6, 1996, paid the corresponding taxes/fees therefor; Bill of Lading No. NB44SB7528 and Bill of Lading No. NB46SB7651 by making it appear that [NTMI] shipped/exported, through vessel Neptune Beryl a total of 80,731 kilograms of Nylon Knitted Fabrics on August 20, 1996 and September 9, 1996 respectively to Bright Sun Asia International, Singapore when in truth and in fact, as the accused knew fully well, no such import, payment of taxes/fees and shipment/export were ever made by [NTMI], and once in possession of Tax Credit Certificate No. 006355, [NTMI] through its accused officers and stockholders, utilized the full amount thereof in payment of its taxes duties and fees to the damage and prejudice of the Government.

CONTRARY TO LAW.⁹

⁸ *Rollo*, pp. 80-81.

⁹ *Id.* at 84-85.

As it happened, the two Information were reviewed by the Office of the Special Prosecutor (OSP) and both were signed by Assistant Special Prosecutor III Irenio M. Paldeng (ASP Paldeng) on March 2, 2007.¹⁰

On March 2, 2012, then Ombudsman Conchita Carpio Morales (Ombudsman Morales) approved the 2003 Resolution along with the two Information.¹¹ Ultimately, on May 22, 2013, the two Informations were filed before the SB.¹²

Thereafter, Magdaet filed a Consolidated Motion to Quash Information¹³ grounded solely on Section 3(d) of Rule 117¹⁴ of the Revised Rules of Criminal Procedure and argued that her right to speedy disposition of cases and to due process were violated by the Ombudsman's inordinate delay of more than 10 years in determining whether or not to file charges against her in court.

In its Opposition (To Magdaet's Motion to Quash Information),¹⁵ the OSP showed a timeline of the case and disclosed that it was incumbent upon former Ombudsman Merceditas N. Gutierrez (Ombudsman Gutierrez) to act on the 2003 Resolution including the two Informations reviewed by the OSP. It begged the Sandiganbayan to consider the political episode that was the troubled leadership of Ombudsman Gutierrez. According to the OSP, said political episode was of general knowledge and constituted political history that heavily affected the affairs of the Ombudsman as an institution and the normal hierarchical process therein. In addition, the OSP faulted Magdaet for not asserting her right to the speedy disposition of her case at the soonest opportunity.

The Sandiganbayan Ruling

The Sandiganbayan, in the herein assailed Resolution dated April 1, 2016, ruled:

WHEREFORE, in view of all the foregoing, the Court hereby **DENIES** the Consolidated Motion to Quash Informations filed by accused Asuncion Magdaet for utter lack of merit.

SO ORDERED.¹⁶

¹⁰ Id. at 90.

¹¹ Id. at 134.

¹² Id. at 90.

¹³ Id. at 53-57.

¹⁴ RULE 117 – *Motion to Quash*

x x x x

SECTION 3. *Grounds.* — The accused may move to quash the complaint or information on any of the following grounds:

x x x x

(d) That the officer who filed the information had no authority to do so[.]

¹⁵ *Rollo*, pp. 87-97.

¹⁶ Id. at 51.

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In denying the Consolidated Motion to Quash Information, the Sandiganbayan, citing *Alvizo v. Sandiganbayan*,¹⁷ held that structural reorganization in prosecutorial agencies was a valid reason for delay. Further, the Sandiganbayan ruled that the delay cannot be entirely attributed to the Ombudsman but to Magdaet as well for failing to timely demand her right to the prompt resolution of her case.

Magdaet's Consolidated Motion for Reconsideration¹⁸ was likewise denied in the Sandiganbayan Resolution dated December 14, 2016.

Hence, this Petition ascribing grave abuse of discretion on the part of the Sandiganbayan.

Magdaet insists that there was an unexplained and undue delay on the conduct and termination of the preliminary investigation by the Ombudsman which lasted for more than 10 years counted from the time of filing of the complaint up to the filing of the Information in the Sandiganbayan. She asserts that such inordinate delay is violative of her constitutional right to speedy disposition of cases.

In its Comment,¹⁹ respondent People of the Philippines, represented by the Ombudsman through the OSP, prayed for the dismissal of the petition arguing that the Sandiganbayan did not abuse its discretion when it issued the assailed Resolutions as they were rendered "in accordance with existing laws and jurisprudence." Moreover, it maintained that Magdaet's constitutional rights to speedy disposition of cases and to due process were not violated seeing as the Ombudsman acted promptly on the complaint against Magdaet. Lastly, respondent pointed out that while her other co-accused had been actively participating in the trial proceedings before the Sandiganbayan, it was only in November 2014 that Magdaet decided to show up to file a Motion for Reduction of Bail, and when the said motion was granted, she then failed to appear for arraignment and instead filed a Consolidated Motion to Quash Information.

The Court's Ruling

Plainly stated, the issue is: was there a violation of Magdaet's constitutional right to a speedy disposition of her case?

To this, the Court answers in the affirmative.

¹⁷ 292-A Phil. 144 (1993).

¹⁸ *Id.* at 58-62.

¹⁹ *Id.* at pp. 313-336.

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“Justice delayed is justice denied” is a time-honored and oft-repeated legal maxim which requires the expeditious resolution of disputes, more so in criminal cases where an accused is constitutionally guaranteed²⁰ the right to a speedy disposition of cases.²¹ Albeit commonly invoked in criminal proceedings, the said constitutional right also extends to proceedings either judicial or *quasi*-judicial so much so that a party to a case may demand expeditious action from all officials who are tasked with the administration of justice, including the Ombudsman²² – which in itself is Constitutionally committed²³ and mandated²⁴ to act promptly on complaints filed therewith. However, even with all these provisions enabling the Ombudsman, there is still no period nor a criterion specified to determine what duration of disposition could be considered “prompt.”²⁵

Consequently, the Court stepped in and listed factors to consider in treating petitions asserting the right to speedy disposition of cases keeping in mind that delay is not determined through mere mathematical computation but through the examination of the totality of facts and circumstances peculiar in each case.²⁶

On August 19, 2019, the Court, in *People v. Sandiganbayan (First Division)*²⁷ citing *Cagang v. Sandiganbayan, Fifth Division*,²⁸ made a definitive ruling on the concept of inordinate delay, *viz.*:

(1) The right to speedy disposition of cases is different from the right to speedy trial.

The former may only be invoked in criminal prosecutions against courts of law while the latter may be invoked before any tribunal as long as the respondent may already be prejudiced by the proceeding.

(2) For purposes of determining inordinate delay, a case is deemed to have commenced from the filing of the formal complaint and the subsequent conduct of the preliminary investigation.

²⁰ Article III, Section 16 provides:

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

²¹ *Magno v. People*, G.R. No. 230657, March 14, 2018.

²² *Magante v. Sandiganbayan (Third Division)*, G.R. Nos. 230950-51, July 23, 2018.

²³ Article XI, Section 12 provides:

SEC. 12. The Ombudsman and his Deputies, as protectors of the people, **shall act promptly on complaints filed in any form or manner** against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof. (Emphasis supplied).

²⁴ Sec. 13 of R.A. No. 6770, otherwise known as “THE OMBUDSMAN ACT OF 1989” states:

SEC. 13. Mandate. — The Ombudsman and his Deputies, as protectors of the people, **shall act promptly on complaints filed in any form or manner** against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people. (Emphasis supplied).

²⁵ *Supra* note 22.

²⁶ *Tumbocon v. Sandiganbayan Sixth Division*, G.R. Nos. 235412-15, November 5, 2018.

²⁷ G.R. No. 229656, August 19, 2019.

²⁸ G.R. Nos. 206438, 206458 & 210141-42, July 31, 2018.

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Cagang, thus, abandoned *People v. Sandiganbayan*. The Ombudsman should set reasonable periods for preliminary investigation and delays beyond this period will be taken against the prosecution.

(3) Courts must determine which party carries the burden of proof.

If it has been alleged that there was delay within the time periods (*i.e.*, according to the time periods that will be issued by the Ombudsman), the burden is on the defense to show that there has been violation of their rights to speedy disposition of case or to speedy trial. The defense must prove: (a) that the case took much longer than was reasonably necessary to resolve and (b) that efforts were exerted to protect their constitutional rights.

If the delay occurs beyond the given time period and the right is invoked, the prosecution has the burden of justifying the delay. The prosecution must prove: (a) that it followed the prescribed procedure in the conduct of preliminary investigation and case prosecution; (b) the delay was inevitable due to the complexity of the issues and volume of evidence; and (c) accused was not prejudiced by the delay.

(4) Determination of the length of delay is never mechanical.

Courts must consider the entire context of the case, the amount of evidence and the complexity of issues involved. An examination of the delay is no longer necessary to justify the dismissal of the case if the prosecution of the case was solely motivated by malice.

(5) 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.

Applying the foregoing tenets to the case at bench, the Court finds that the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying Magdaet's Consolidated Motion to Quash Information.

Here, the criminal complaint against Magdaet was filed on **April 24, 2002**.²⁹ On **September 20, 2002**, Magdaet submitted her Counter-Affidavit.³⁰ Then, on **May 12, 2003**, the Ombudsman, through GIO Corral, issued a Resolution finding probable cause against Magdaet. This Resolution was accompanied by two draft Informations which ASP Paldeng reviewed and signed on **March 2, 2007**. On **March 2, 2012**, Ombudsman Morales approved the 2003 Resolution and the two Informations against Magdaet were filed on **May 22, 2013**.

Strikingly, it took eight years, nine months, and 19 days to conclude the preliminary investigation and for the Ombudsman to approve the resolution of GIO Corral, and another one year, two months, and 20 days just to file the

²⁹ *Rollo*, p. 88.

³⁰ *Id.* at 174-185.

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Information before the Sandiganbayan. Evidently, the said time span is beyond the reasonable period of 90 days to determine probable cause.³¹ Left unsatisfactorily explained, too, is the noticeable gap between May 12, 2003 (the date when GIO Corral found probable cause to indict Magdaet) and March 2, 2007 (the day when ASP Paldeng supposedly reviewed the Information that accompanied the Resolution).

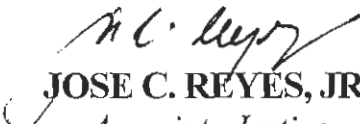
Verily, as stated in *Cagang*, the burden of proving the justification of the delay rests upon the prosecution, or in this case, respondent. For its part, respondent contended that the delay in the filing of the Information was due to a political episode that resulted in the disruption of the hierarchy within the Ombudsman.

The Court does not tolerate such a flimsy excuse to not resolve the case at the earliest opportunity. In *People v. Sandiganbayan (Fifth Division)*,³² the Court held that “the prolonged investigation of the case from 1998 to 2009 by three Ombudsmen with divergent views as to what charges should be filed and the persons to be indicted cannot be sufficient justification for the unreasonable length of time it took to resolve the controversy.”

Contrary to the ruling of the Sandiganbayan, respondent did not offer any plausible explanation for the excessive delay in resolving Magdaet’s case. The period of 2002 to 2013 to resolve a case is clearly an inordinate delay, blatantly intolerable, and grossly prejudicial to the constitutional right of speedy disposition of cases. Thus, Magdaet was clearly prejudiced because of the excessive delay in the disposition of her case by the Ombudsman, and thus warranting the dismissal of the criminal case against her.³³ Such unjustified delay in the disposition of cases renders the rights of the people guaranteed by the Constitution and by various legislations inutile.³⁴

WHEREFORE, the present Petition is **GRANTED**. The Resolutions dated April 1, 2016 and December 14, 2016 of the Sandiganbayan in SB-13-CRM-0603 to 04 are hereby **REVERSED** and **SET ASIDE**. The criminal case filed against Asuncion M. Magdaet is hereby **DISMISSED** for violation of her Constitutional right to speedy disposition of cases.

SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

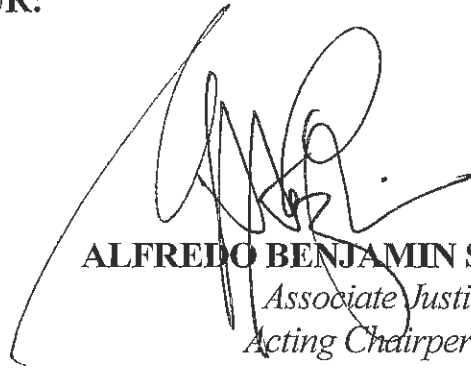
³¹ *People v. Sandiganbayan*, 723 Phil. 444 (2013).

³² 791 Phil. 37 (2016).

³³ *Supra* note 26.

³⁴ *Supra* note 32.

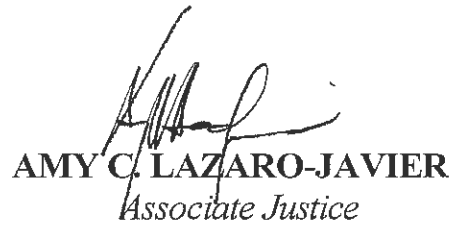
WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson



ROSMARI D. CARANDANG
Associate Justice



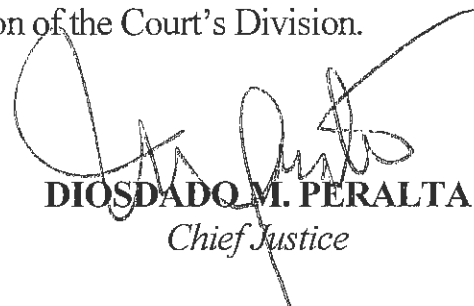
AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I 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