



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

EDUARDO M. COJUANGCO,
JR.,*

G.R. No. 247982

Petitioner,

Present:

- versus -

LEONEN, J.,
 Chairperson,
 HERNANDO,
 INTING,
 DELOS SANTOS, and
 LOPEZ, J., JJ.

SANDIGANBAYAN and the
PRESIDENTIAL COMMISSION
ON GOOD GOVERNMENT
(PCGG),

Promulgated:

Respondents.

April 28, 2021

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DECISION

DELOS SANTOS, J.:

Before the Court is a Petition for Prohibition¹ under Rule 65 of the Rules of Court which seeks to enjoin the Sandiganbayan from further exercising jurisdiction over Civil Case Nos. 0033-B, 0033-C, 0033-D, 0033-E, 0033-G, and 0033-H, involving complaints for recovery of ill-gotten wealth filed by respondent Presidential Commission on Good Government (PCGG) against petitioner Eduardo M. Cojuangco, Jr. (petitioner) and other defendants, and for the Court to order the dismissal of the aforesaid cases on the reason that the Sandiganbayan has unjustly allowed the same to be pending for more than 32 years without commencing trial proper and without exerting any effort to dispose them, in violation of petitioner's constitutional rights to due process and speedy disposition of cases.

* Petitioner died on June 16, 2020 per Manifestation filed by his counsel on July 15, 2020, *rollo*, pp. 230-232.

¹ Id. at 7-41.

Antecedents

On February 28, 1986, then President Corazon C. Aquino issued Executive Order (E.O.) No. 1,² creating the PCGG which was tasked, among others, of assisting the President in the recovery of all ill-gotten wealth accumulated by former President Ferdinand E. Marcos (former President Marcos), his immediate family, relatives, subordinates, and close associates. In E.O. No. 2,³ dated March 12, 1986, PCGG has likewise been primarily charged with the responsibility of recovering the assets and properties illegally acquired or misappropriated by former President Marcos and/or Imelda R. Marcos, their close relatives, subordinates, business associates, dummies, agents, or nominees. The jurisdiction to try and decide “ill-gotten wealth” cases of former President Marcos and of the other cases under E.O. No. 1 and E.O. No. 2 was vested in the Sandiganbayan under E.O. No. 14,⁴ as amended by E.O. No. 14-A.⁵ Section 2 of E.O. No. 14 provides that the PCGG shall file all such cases, whether civil or criminal, with the Sandiganbayan, which shall have exclusive and original jurisdiction thereof.⁶ Said jurisdiction remained with the Sandiganbayan even after the passing and effectivity of Republic Act (R.A.) No. 7975⁷ and R.A. No. 8249.⁸

On July 31, 1987, the PCGG, on behalf of the Republic of the Philippines (Republic), instituted before the Sandiganbayan Civil Case No. 0033 against petitioner, allegedly a close associate of former President Marcos, and other defendants for the recovery of ill-gotten wealth under E.O. No. 1. The complaint filed in 1987 was amended three times, the latest of which was on August 23, 1991.

In a Resolution dated March 24, 1999, the Sandiganbayan allowed the subdivision of the complaint into eight complaints,⁹ to wit:

Case No.	Subject Matter
Civil Case No. 0033-A	Anomalous Purchase and Use of First United Bank (now United Coconut Planters Bank)

² Creating the Presidential Commission on Good Government.

³ Regarding the Funds, Moneys, Assets, and Properties Illegally Acquired or Misappropriated by Former President Ferdinand Marcos, Mrs. Imelda Romualdez Marcos, Their Close Relatives, Subordinates, Business Associates, Dummies, Agents, or Nominees.

⁴ Defining the Jurisdiction Over Cases Involving the Ill-gotten Wealth of Former President Ferdinand E. Marcos, Mrs. Imelda R. Marcos, Members of Their Immediate Family, Close Relatives, Subordinates, Close and/or Business Associates, Dummies, Agents and Nominees, dated May 7, 1986.

⁵ Dated August 18, 1986.

⁶ See *Republic v. Sandiganbayan*, 255 Phil. 71, 79 (1989).

⁷ An act to Strengthen the functional and Structural Organization of the Sandiganbayan, Amending for that Purpose Presidential Decree No. 1606, as Amended, dated March 30, 1995.

⁸ An Act Further Defining the Jurisdiction of the Sandiganbayan, Amending for the Purpose Presidential Decree No. 1606, as Amended, Providing Funds Therefor, and for Other Purposes, dated February 5, 1997.

⁹ *Rollo*, pp. 13-14.

Civil Case No. 0033-B	Creation of Companies Out of Coco Levy Funds
Civil Case No. 0033-C	Creation and Operation of Bugsuk Project and Award of P998 Million Damages to Agricultural Investors, Inc.
Civil Case No. 0033-D	Disadvantageous Purchases and Settlement of the Accounts of Oil Mills Out of Coco Levy Funds
Civil Case No. 0033-E	Unlawful Disbursement and Dissipation of Coco Levy Funds
Civil Case No. 0033-F	Acquisition of SMC shares of stock
Civil Case No. 0033-G	Acquisition of Pepsi-Cola
Civil Case No. 0033-H	Behest Loans and Contracts

Of the eight subdivided cases mentioned above, petitioner alleged that Civil Case Nos. 0033-A and 0033-F have been fully resolved insofar as he is concerned. Accordingly, the subject of his petition are the six cases: Civil Case Nos. 0033-B, 0033-C, 0033-D, 0033-E, 0033-G, and 0033-H (subject cases). Relevant thereto, the following are the stages and the timeline in subject cases since the partition of Civil Case No. 0033, starting from the filing of the PCGG's subdivided complaints, to wit:¹⁰

Case No.	Complaint	Petitioner's Answer	PCGG Pre-Trial Brief	Petitioner's Pre-Trial Brief	Termination/Suspension/ Last Incident in the Pre-Trial
0033-B	February 28, 1995	June 23, 1999	June 9, 2000	February 11, 2000	May 21, 2001
0033-C	April 28, 1995	July 5, 1999	July 31, 2000	February 28, 2000	August 9, 2000
0033-D	May 12, 1995	June 23, 1999	June 23, 2000	February 17, 2000	July 5, 2000
0033-E	February 28, 1995	June 23, 1999	July 24, 2000	March 8, 2000	October 27, 2000
0033-G	May 12, 1995	June 23, 1999	January 16, 2004	March 8, 2000	September 30, 2003
0033-H	February 27, 1995	July 5, 1999	July 28, 2000	March 10, 2000	June 1, 2001

Subsequently, the respective pre-trial hearings in Civil Case Nos. 0033-C (in 2000), 0033-D (in 2000), and 0033-E (in 2003) were terminated. Meanwhile, while pre-trial hearings were being conducted in the other cases, the PCGG filed, on various dates, motions for partial summary judgment and/or judgment on the pleadings, in all of the subject cases except in Civil Case No. 0033-H. As a result, pre-trial hearings were halted and the proceedings were directed towards the resolution of the aforesaid motions. The timeline of this incident, including the pertinent Resolutions of the Sandiganbayan, is as follows:¹¹

¹⁰ Id. at 16.

¹¹ Id. at 17.

Case No.	Motion for Partial Summary Judgment/Judgment on the Pleadings	Sandiganbayan Resolutions	
0033-B	September 8, 2002	June 2, 2016	DENIED
0033-C	October 31, 2013	September 10, 2016	DENIED
0033-D	October 9, 2002	June 2, 2016	DENIED
0033-E	January 25, 2006	June 17, 2011	DENIED
0033-G	January 16, 2004	January 23, 2006	DENIED
0033-H	None	None	None

Relatedly, as early as 2003, petitioner raised the issue of delay in the proceedings of the cases against him, particularly the fact that trial has not yet commenced therein. In his oppositions to PCGG's motions for partial summary judgment and/or judgment on the pleadings, petitioner emphasized that the cases against him have been pending since 1987 yet trial has not commenced. Thus, petitioner prayed that rather dealing further with PCGG's motions for partial judgment on the pleadings and/or partial summary judgment, the subject cases should be scheduled for trial.¹²

Sometime in 2013, petitioner reached out to PCGG reminding it of his right to speedy disposition of cases. While initially agreeing to proceed to trial, the PCGG retracted, explaining that to go directly to trial and to dispense with the filing of interlocutory motions are not in the best interest of the Republic.¹³ Thus, instead of proceeding to trial and to present evidence, the PCGG filed separate motions for reconsideration on the denial of its motions for partial summary judgment and/or judgment on the pleadings. In response, petitioner reiterated the issue on delay and on his right to speedy disposition of cases in his opposition to PCGG's aforesaid motions for reconsideration.¹⁴ The following is the timeline of the said incident, including the relevant Sandiganbayan Resolutions:¹⁵

Case No.	Motion for Reconsideration (Re: Motions for Partial Judgment and/or Judgment on the Pleadings)	Sandiganbayan Resolution	
0033-B	July 8, 2016	May 9, 2017	DENIED
0033-C	October 20, 2015	March 8, 2016	DENIED
0033-D	July 4, 2016	May 9, 2017	DENIED
0033-E	July 18, 2011	July 20, 2012	DENIED
0033-G	February 10, 2006	December 8, 2008	DENIED
0033-H	None	None	None

On the other hand, petitioner filed motions to dismiss the subject cases, except in Civil Case No. 0033-G, on the ground of violation of his constitutional rights to due process and speedy disposition of cases. The

¹² Id. at 17-18.

¹³ Id. at 26-27.

¹⁴ Id. at 18-19.

¹⁵ Id. at 28.

same, however, were invariably denied by the Sandiganbayan.¹⁶ The timeline of this incident is as follows:¹⁷

Case No.	Motion to Dismiss	Sandiganbayan Resolutions	
0033-B	April 30, 2015	April 18, 2017	DENIED
0033-C	April 30, 2015	Unresolved	—
0033-D	April 30, 2015	April 18, 2017	DENIED
0033-E	February 3, 2013	June 2, 2014	DENIED
0033-G	None	None	—
0033-H	April 30, 2015	April 18, 2017	DENIED

Despite the Resolutions of the Sandiganbayan denying the PCGG's Motions for Partial Summary Judgment and/or Judgment on the Pleadings and petitioner's motions to dismiss, no significant movement in the subject cases took place. In particular, trial proper in the subject cases never commenced.

On February 2, 2018, petitioner filed a manifestation and motion to include the subject cases in the court calendar of the Sandiganbayan. The same, however, were not acted upon by the Sandiganbayan.¹⁸ Accordingly, the subject cases remained idle and trial therein never commenced.

Frustrated of the fact that trial proper in the subject cases never commenced and of the slow or total absence of significant progress in the proceedings in the subject cases, petitioner filed the instant Petition for Prohibition on July 18, 2019, anchored on the following grounds:

- I. THE SANDIGANBAYAN ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION WHEN IT ALLOWED THE SUBJECT CASES TO BE PENDING FOR MORE THAN 32 YEARS AND MUST NOW BE PROHIBITED FROM ACTING ON THE SUBJECT CASES.
- II. THE COURT IS DUTY-BOUND TO DISMISS THE SUBJECT CASES FOR VIOLATION OF PETITIONER'S CONSTITUTIONAL RIGHTS TO DUE PROCESS AND SPEEDY DISPOSITION OF CASES.

Petitioner argues that he availed the proper remedy of Petition for Prohibition in asking the Court to prohibit the Sandiganbayan from acting on the subject cases, and that all the requisites for the issuance of a writ of prohibition are present in this case, namely: (a) it must be directed against a tribunal, corporation, board or person exercising judicial and ministerial

¹⁶ Id. at 29.

¹⁷ Id.

¹⁸ Id. at 30.

functions; (b) the tribunal, corporation, board, or person has acted without or in excess of its jurisdiction, or with grave abuse of discretion; and (c) there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law.¹⁹ Petitioner further contends that when all the factors in determining the violation of his right to speedy disposition of cases are balanced and considered, there can be no other conclusion in that the Sandiganbayan is guilty of violating his aforesaid right. In particular, petitioner highlighted the following circumstances: the length of delay of more than 32 years without trial proper; no justifiable reason in not allowing any of the subject cases to proceed to trial or at least include the same in the Sandiganbayan calendar for trial despite petitioner's demand for trial and despite invoking his right to speedy disposition of cases at the earliest opportunity; the prejudice caused by the delay — difficulty in preparing his defense, *i.e.*, witnesses and handling lawyers of petitioner may no longer be available; and financial losses from the properties that have been subject of sequestration.²⁰

On the other hand, the PCGG filed its Comment²¹ on February 13, 2020. It posits that the instant petition was filed out of time, explaining that the issues raised therein are essentially the same ones raised by petitioner in his motions to dismiss filed before the Sandiganbayan which had already been denied in the Resolutions which were not subject of any motion for reconsideration of an appeal to the Court. The instant petition, according to the PCGG, is a belated attempt to question the denial of petitioner's motions to dismiss and to cover-up his failure to file a motion for reconsideration or an appeal. As such, the PCGG maintains that the instant Petition for Prohibition should not be granted. Otherwise, the Court would be amending or modifying the resolutions of the Sandiganbayan which had long become final.²² Also, by filing the present petition, petitioner is guilty of forum shopping as his motion to dismiss, on the same ground of violation of petitioner's constitutional right to speedy disposition of cases, filed in Civil Case No. 0033-C is still pending resolution by the Sandiganbayan.²³

As to the main issue in the present petition, the PCGG asserts that the elements necessary to place petitioner in a situation where his right to speedy disposition of his cases may have been violated are not present in this case. The PCGG claims that aside from failing to seasonably assert his right to a speedy disposition of his case, petitioner has not presented any concrete proof that the proceedings before the Sandiganbayan have been marred by vexatious, capricious, and oppressive delays or unjustified postponements of the trial. The PCGG also blames petitioner's act of filing dilatory motions to dismiss which caused the delay in the proceedings before the

¹⁹ *Id.* at 31.

²⁰ *Id.* at 33-37.

²¹ *Id.* at 81-112.

²² *Id.* at 88-89.

²³ *Id.* at 92.

Sandiganbayan. With the aforesaid factors and with the complexity of the issues coupled with the voluminous records in the subject cases, the PCGG avers that the Sandiganbayan should be afforded reasonable time to hear and decide said cases.²⁴ Anent the non-inclusion of the subject cases in the calendar of the Sandiganbayan, the PCGG contends that the same is only consistent with the principle of judicial courtesy, noting that there are pending petitions for *certiorari* filed by the Republic/PCGG before the Court relating to the denial of its motions for summary judgment. It explains that the resolution in the said *certiorari* petitions will be rendered moot if the Sandiganbayan will proceed with the trial of the subject cases.²⁵

In his Reply²⁶ filed on March 13, 2020, petitioner rebuts the argument of the PCGG that the present petition cannot be used to modify or amend the Sandiganbayan Resolutions denying his motion to dismiss. He explains that said Resolutions are interlocutory orders which do not become final and may be modified any time.²⁷ Petitioner also postulates that he is not guilty of forum shopping despite the pendency of his motion to dismiss in Civil Case No. 0033-C since the present petition is not addressed to a specific Sandiganbayan Resolution but to its collective actions and inactions, which if viewed together lead to the ineluctable conclusion that the Sandiganbayan, as a court, had violated petitioner's constitutional rights to due process and speedy disposition of cases. Petitioner adds that there is no identity of parties in the motion to dismiss filed before the Sandiganbayan and the present petition.²⁸ Further, petitioner insists that his constitutional rights involved in the instant petition are more important than any of PCGG's procedural objections.²⁹ Finally, petitioner maintains his position that all the circumstances and factors surrounding his cases, support his claim that his rights to due process and speedy disposition of cases were violated.

Meanwhile, on July 15, 2020, counsel for petitioner filed a Manifestation³⁰ informing the Court that petitioner passed away on June 16, 2020.

The Court's Ruling

The petition is meritorious.

The Court disposes first the procedural objections of the PCGG.

²⁴ Id. at 94, 103-104.

²⁵ Id at 107.

²⁶ Id at 216-227.

²⁷ Id at 218.

²⁸ Id at 219.

²⁹ Id at 222.

³⁰ Id. at 230-234.

The PCGG argues that the instant petition for prohibition should be dismissed on the ground that the same seeks to amend and modify the long final and immutable Sandiganbayan Resolutions issued in 2014 and 2017 denying petitioner's motions to dismiss which were anchored on the same ground of violation of his rights to due process and speedy disposition of cases.

The Court disagrees.

In essence, the PCGG is saying that giving due course and granting the present petition would be violative of the principle of immutability of judgment, which is premised upon the existence of a final and executory judgment³¹ and mandates that final judgment may no longer be modified or amended by any court in any manner even if the purpose of the modification or amendment is to correct perceived errors of law or fact.³² It failed to consider, however, that the said principle does not apply in this case considering that the Sandiganbayan Resolutions, denying petitioner's motion to dismiss, are indisputably in the form of interlocutory orders, which settles only some incidental, subsidiary, or collateral matter arising in an action and there is something else that still needs to be done by the concerned tribunal in the primary case — the rendition of the final judgment,³³ as opposed to a final judgment, one that finally disposes of a case, leaving nothing more to be done by the Court in respect thereto. Being interlocutory orders, the same may be subject to modification before final judgment in the main cases. It is settled that an interlocutory order is always under the control of the Court and may be modified or rescinded upon sufficient grounds shown at any time before final judgment.³⁴ More so if there exists new developments, matter, or fact which may warrant a *different view*, such as those alleged in the instant petition — the failure of the Sandiganbayan to promptly dispose the petitioner's cases by proceeding to trial even after the denial of petitioner's motions to dismiss and of the Republic/PCGG's motions for summary judgment and/or judgment on the pleadings and ignoring petitioner's subsequent motion to include the subject cases in Sandiganbayan's trial calendar.³⁵ Relative thereto, rules of procedure should not be interpreted as to disadvantage a party and deprive him or her of fundamental rights and liberties,³⁶ such as petitioner's constitutionally-conferred rights to due process and speedy disposition of cases. A judgment or order may be modified where its execution in its present form is impossible or unjust in view of intervening facts or circumstances.³⁷

³¹ *Mercury Drug Corporation v. Spouses Huang*, 817 Phil. 434, 452 (2017).

³² *National Housing Authority v. Court of Appeals*, 731 Phil. 400, 405 (2014).

³³ *People v. Escobar*, 814 Phil. 840, 860 (2017).

³⁴ *Ley Construction and Development Corporation v. Union Bank*, 389 Phil. 788, 795 (2000).

³⁵ *Rollo*, pp. 9-10, 28.

³⁶ *People v. Escobar*, supra note 33, at 862.

³⁷ *Id.*

Moreover, the present petition is availed of by petitioner as a separate and independent remedy from his motions to dismiss or from the denial of said motions. If the intention of petitioner was otherwise, he could have filed a petition for *certiorari* specifically assailing the Sandiganbayan Resolutions and not a petition for prohibition. In this regard, it is necessary to point out that *certiorari* and *prohibition* differ as to purpose. For while *certiorari* is aimed at “*annulling or modifying*” a proceeding, prohibition is directed at “*commanding the respondent to desist from further proceedings in the action or matter specified in the petition.*”³⁸ Here, it is clear that the instant petition for prohibition is not aimed at nullifying, modifying, or amending the aforesaid Sandiganbayan Resolutions, but is particularly aimed at ousting the Sandiganbayan of its jurisdiction for being guilty of grave abuse of discretion in abdicating its constitutional duty to dispose of petitioner’s cases in relation to his rights to due process and speedy disposition of cases. That the present petition and petitioner’s motions to dismiss filed before the Sandiganbayan both mention that his rights to due process and speedy disposition of cases is more apparent than real and should not be allowed to dilute the distinction between the remedies taken by petitioner. To stress, the issue in the present petition is whether or not the Sandiganbayan’s assailed action or inaction is without or in excess of jurisdiction or with grave abuse of discretion which warrants its desistance from taking further proceedings in the subject cases. It is in light of this issue that the petition should be resolved. Certainly, the said issue was never the subject of petitioner’s motions to dismiss filed in the Sandiganbayan. More important, petitioner alleges new developments, matter or fact, as mentioned earlier, which were not considered in his motions to dismiss nor in the Sandiganbayan Resolutions denying the same — that petitioner wants the Court to consider in resolving the present petition for prohibition. This stresses further that the present petition is not meant as a continuation or a belated attempt to assail, modify, or amend the 2014 and 2017 Sandiganbayan Resolutions so as for the PCGG to claim that the said petition is filed out of time or that it would violate the doctrine of immutability.

In the same vein that the instant petition should be viewed as an independent and separate remedy from petitioner’s motions to dismiss filed in the Sandiganbayan, the PCGG’s claim that petitioner is guilty of forum shopping, in view of the pendency in Civil Case No. 0033-C of his motion for reconsideration of the denial of his motion to dismiss, should likewise fail. To reiterate, the present petition does not primarily aim to modify and nullify any of the Sandiganbayan Resolutions; it presents a different issue than what was raised in petitioner’s motion to dismiss; and that petitioner alleges an additional or new fact, matter, or development — that the Sandiganbayan failed to act on his motion for reconsideration in Civil Case No. 0033-C and on his motion to include the subject cases in the court

³⁸ *Pamana, Inc. v. Court of Appeals*, 499 Phil. 125, 133 (2005).

calendar — to support his claim that the Sandiganbayan committed grave abuse of discretion in not performing its constitutional duty to dispose of the subject cases with reasonable dispatch and that it should be prohibited from taking further proceedings in the subject cases.

Forum shopping exists when a party repetitively avails of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in or already resolved adversely by some other court.³⁹

In determining whether a party violated the rule against forum shopping, the most important factor to consider is **whether the elements of *litis pendentia* concur**, namely: (a) [there is] identity of parties, or at least such parties who represent the same interests in both actions; (b) [there is] identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) [that] the identity with respect to the two preceding particulars in the two cases is such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case.⁴⁰ Of the above-mentioned elements of forum shopping, what strikes this Court the most is the absence of the second element.

Hornbook is the rule that identity of causes of action does not mean absolute identity; otherwise, a party could easily escape the operation of *res judicata* by changing the form of the action or the relief sought. The test to determine whether the causes of action are identical is to ascertain **whether the same evidence will sustain both actions, or whether there is an identity in the facts essential to the maintenance of the two actions**. If the same facts or evidence would sustain both, the two actions are considered the same, and a judgment in the first case is a bar to the subsequent action. Hence, a party cannot, by varying the form of action or adopting a different method of presenting his case, escape the operation of the principle that one and the same cause of action shall not be twice litigated between the same parties or their privies. Among the several tests resorted to in ascertaining whether two suits relate to a single or common cause of action are: (1) whether the same evidence would support and sustain both the first and second causes of action; and (2) whether the defenses in one case may be used to substantiate the complaint in the other.⁴¹

In this case, the Court cannot help but re-emphasize that petitioner is alleging a new fact, matter, or circumstance subsequent to the denial of his

³⁹ *Heirs of Marcelo Sotto v. Palicte*, 726 Phil. 651, 653-654 (2014).

⁴⁰ *Daswani v. Banco De Oro Universal Bank*, 765 Phil. 88, 99 (2015).

⁴¹ *Yap v. Chua*, 687 Phil. 392, 401 (2012).

motions to dismiss, which he is asking for the Court to consider in appreciating his claim that the Sandiganbayan is guilty of grave abuse of discretion in relation to its failure to perform its constitutional duty of and for violation of petitioner's rights to due process and speedy disposition of cases. At the risk of being repetitive, this includes the failure of the Sandiganbayan to proceed to trial even after the denial of petitioner's motions to dismiss and of the Republic/PCGG's motions for summary judgment and/or judgment on the pleadings, failure to resolve petitioner's motions to dismiss in Civil Case No. 0033-C, and not acting on petitioner's motion to include the subject cases in Sandiganbayan's trial calendar. For sure, these matters involve different evidence and vary the facts previously considered by the Sandiganbayan in its 2014 and 2017 Resolutions, thereby negating the presence of forum shopping. Collorarily, the same allows the Court to take a new and fresh prospective in appreciating and evaluating the claim of petitioner that his constitutional rights were indeed violated, and that the Sandiganbayan, through this petition, may be declared to have committed grave abuse of discretion by abdicating its constitutional duty to live up with and protect the aforesaid constitutional rights of petitioner and should be prohibited from taking further proceedings in the subject cases.

Having disposed of the procedural objections of the PCGG, the Court now comes to the substantive issue in this case.

Prohibition is an extraordinary remedy available to compel any tribunal, corporation, board, or person exercising judicial or ministerial functions, to desist from further proceedings in an action or matter when the proceedings in such tribunal, corporation, board, or person are without or in excess of jurisdiction or with grave abuse of discretion, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law.⁴² It is the proper remedy to afford relief against usurpation of jurisdiction or power by an inferior court, or when, in the exercise of jurisdiction in handling matters clearly within its cognizance, the inferior court transgresses the bounds prescribed to it by the law.⁴³ Concomitantly, the cardinal precept is that, where there is a violation of basic constitutional rights, courts are ousted from their jurisdiction.⁴⁴ The reason being is that constitutional rights can be protected under the "grave abuse clause" through remedies of injunction or prohibition under Rule 65 of the Rules of Court.⁴⁵

For writs of prohibition, the requisites are: (1) it must be directed against a tribunal, corporation, board, or person exercising functions, judicial or ministerial; (2) the tribunal, corporation, board, or person has acted without or in excess of its jurisdiction, or with grave abuse of discretion; and

⁴² *Delfin v. Court of Appeals*, 121 Phil. 346, 348-349 (1965).

⁴³ *David v. Rivera*, 464 Phil. 1006, 1017 (2004).

⁴⁴ *Apo Cement Corporation v. Mingson Mining Industries Corporation*, 746 Phil. 1010, 1016 (2014).

⁴⁵ *See Secretary of National Defense v. Manalo*, 589 Phil. 1, 40 (2008).

(3) there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law.⁴⁶

Notably, of the elements mentioned above, the PCGG asserts that the second requisite is absent in this case. It is of the position that petitioner's rights to due process and speedy disposition of cases have not been violated, thus, petitioner failed to demonstrate that the Sandiganbayan acted with grave abuse of discretion amounting to lack or excess of jurisdiction in handling the subject cases.

The Court rules otherwise.

Before all else, the Court finds it fitting to briefly elucidate on the right to speedy disposition of cases and the jurisprudence relevant thereto.

The constitutional guarantee to speedy disposition of cases was first introduced in the 1973 Philippine Constitution⁴⁷ and was reproduced *verbatim* in Section 16, Article III of the 1987 version.⁴⁸ Presently, the provision pertinently provides:

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

The aforesaid constitutional guarantee is one of the three provisions mandating speedier dispensation of justice.⁴⁹ Though they are subsumed under the more basic tenet of procedural due process, the right to speedy disposition of cases — which includes within its contemplation the periods before, during, and after trial — affords broader protection than Section 14(2),⁵⁰ Article III of the 1987 Constitution, which guarantees just the right to a speedy trial, and is more embracing than the protection under Section

⁴⁶ See *Montes v. Court of Appeals*, 523 Phil. 98, 107 (2006); see also *Rivera v. Espiritu*, 425 Phil. 169, 179-180 (2002).

⁴⁷ Art. IV, Sec. 16 reads, "All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies."

⁴⁸ *Magante v. Sandiganbayan*, 836 Phil. 1108, 1118 (2018).

⁴⁹ *Dansal v. Hon. Fernandez, Sr.*, 383 Phil. 897, 905 (2000), citing Bernas, Joaquin G. (1996), *The 1987 Constitution of the Republic of the Philippines: A Commentary*, p. 489.

⁵⁰ Art. III, Sec. 14(2). In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to **have a speedy, impartial, and public trial**, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable. (Emphasis supplied)



15, Article VIII,⁵¹ which covers only the period after the submission of the case.⁵²

Moreover, the right to a speedy disposition of cases sweeps more broadly as it is not confined with criminal cases; it extends even to other adversarial proceedings before any judicial, quasi-judicial, and administrative tribunals,⁵³ be it civil or administrative in nature,⁵⁴ and may be invoked by all citizens, including those in the military.⁵⁵ 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.⁵⁶ For sure, the right may be invoked in the proceedings before the Sandiganbayan. In fact, the Court declared in its *En Banc* Resolution in *Re: Problem of Delays in Cases Before the Sandiganbayan*⁵⁷ that “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.”⁵⁸

It must be stressed, though, that the right to a speedy disposition of cases is a relative and flexible concept. 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.⁵⁹ Otherwise stated, the right must be consistent with reasonable delay⁶⁰ as the same is deemed violated only when there is inordinate delay, such as when the proceedings is attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured, or when without cause or unjustifiable motive, a long period of time is allowed to elapse without the party having his case tried.⁶¹

The concept of inordinate delay that defeats one’s right to speedy disposition of cases was first highlighted in *Tatad v. Sandiganbayan*.⁶² In that case, the Court explained that it would not hesitate to grant the so-called

⁵¹ CONSTITUTION, Art. VIII, Sec. 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.

⁵² See *Dansal v. Hon. Fernandez, Sr.*, supra note 49.

⁵³ *Magante v. Sandiganbayan*, supra note 48, at 1118-1119.

⁵⁴ *Coscolluela v. Sandiganbayan*, 714 Phil. 55, 61 (2013).

⁵⁵ *Lt. Gen. Abadia v. Court of Appeals*, 306 Phil. 690, 699 (1994).

⁵⁶ *Magante v. Sandiganbayan*, supra note 48, at 1119.

⁵⁷ 422 Phil. 246 (2001).

⁵⁸ *Re: Problem of Delays in Cases Before the Sandiganbayan*, id. at 280, citing *Yuchengco v. Republic*, 388 Phil. 1039, 1062 (2000).

⁵⁹ *People v. Sandiganbayan*, G.R. No. 233063, February 11, 2019.

⁶⁰ *Dansal v. Hon. Fernandez, Sr.*, supra note 49, at 906.

⁶¹ *Ty-Dazo v. Sandiganbayan*, 424 Phil. 945, 950-951 (2002).

⁶² 242 Phil. 563 (1988).

“radical relief” and to spare the accused from undergoing the rigors and expense of a full-blown trial where it is clear that he has been deprived of due process of law or other constitutionally guaranteed rights which may be determined from the facts and circumstances peculiar to each case. The Court then proceeded to dismiss the criminal cases against the accused therein after finding that there was a delay of three years in the termination of the preliminary investigation and subsequent filing of the information, and such delay was attended by several circumstances, such as (1) political motivations that play a vital role in activating and propelling the prosecutorial process; (2) blatant departure from the established procedural rules; and (3) the unjustified delay attending the investigation. The Court held that the inordinate delay in terminating the preliminary investigation and filing the information in the said case is violative of the constitutionally guaranteed right of the accused to due process and to a speedy disposition of the cases against him.

Stressing that the concept of speedy disposition is relative, subsequent jurisprudence adopted the “balancing test” which provides four factors as a guide in the determination of inordinate delay and on whether the defendant has been denied his right to a speedy disposition of cases. This test, first mentioned in the cases of *Martin v. Gen. Ver*⁶³ and *Caballero v. Judge Alfonso, Jr.*,⁶⁴ both citing the American case of *Barker v. Wingo*,⁶⁵ necessarily compels the courts to approach such cases on an *ad hoc* basis, the conduct of both the prosecution and the defendant are weighed *apropos* the four-fold factors, to wit: (1) length of the delay; (2) reason for the delay; (3) defendant’s assertion or non-assertion of his right; and (4) prejudice to defendant resulting from the delay. None of these elements, however, is either a necessary or sufficient condition; they are related and must be considered together with other relevant circumstances. These factors have no talismanic qualities as courts must still engage in a difficult and sensitive balancing process.⁶⁶ The balancing test was applied, reiterated, and expounded in the cases of *Gonzales v. Sandiganbayan*,⁶⁷ *Alvizo v. Sandiganbayan*,⁶⁸ *Cadalin v. Philippine Overseas Employment Administration*,⁶⁹ *Binay v. Sandiganbayan*,⁷⁰ and recently in the cases of *Bautista v. Sandiganbayan*,⁷¹ *People v. Sandiganbayan*,⁷² and *Magante v. Sandiganbayan*.⁷³

⁶³ 208 Phil. 658 (1983).

⁶⁴ 237 Phil. 154 (1987).

⁶⁵ 407 U.S. 514 (1972), <<http://supreme.justia.com/cases/federal/us/407/514/>> (visited February 26, 2021).

⁶⁶ *Remulla v. Sandiganbayan*, 808 Phil. 739, 748 (2017).

⁶⁷ 276 Phil. 323 (1991).

⁶⁸ 292-A Phil. 144 (1993).

⁶⁹ 308 Phil. 728 (1994).

⁷⁰ 374 Phil. 413 (1999).

⁷¹ G.R. Nos. 238579-80, July 24, 2019.

⁷² *Supra* note 59.

⁷³ *Supra* note 48.



Still, quite recently, through the well-written and elaborate *ponencia* of the Court's esteemed member, Justice Marvic M.V.F. Leonen, the Court *En Banc* in *Cagang v. Sandiganbayan*⁷⁴ found it imperative to set a mode of analysis in situations where the right to speedy disposition of cases or the right to speedy trial is invoked. As such, the introduction to our jurisprudence of the *Cagang* guidelines, to wit:

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.

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

⁷⁴ G.R. No. 206438, July 31, 2018.

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 foregoing discussion considered, the Court now proceeds to consider the facts and circumstances in this case and determine whether the petitioner's rights to due process and speedy disposition of cases has been violated.

Following the *Cagang* guidelines, it must be determined first as to who has the burden of proof. If the delay is beyond the time periods provided in the rules, the burden of proof shifts to the State⁷⁵ or, in this case, the Republic.

As recited in the antecedents of this petition, Civil Case No. 0033 was filed on July 31, 1987 and was subdivided into eight complaints in 1995. Petitioner filed his Answers to the complaints in 1999. Thereafter, pre-trial hearings commenced and were essentially terminated with regard to Civil Case Nos. 0033-C (in 2000), 0033-D (in 2000), and 0033-E (in 2003). Meanwhile, pre-trial hearings in Civil Case Nos. 0033-B and 0033-H were halted in 2001, while pre-trial hearings in Civil Case No. 0033-G was suspended in 2003. Fast forward to almost two decades upon the filing of the instant petition in 2019, the Sandiganbayan has not concluded pre-trial hearings in Civil Case Nos. 0033-B, 0033-G, and 0033-H. Neither did the Sandiganbayan include in its trial calendar nor has exert any effort to require petitioner to make an initial presentation of his evidence in any of the subject cases. In total, upon the filing of the present petition, the subject cases have been pending with the Sandiganbayan for 32 years from the time of the filing of the original complaint and 24 years from the subdivision thereof, yet, trial proper has not commenced.

⁷⁵ "If it has been alleged that there was delay beyond the given time periods, the burden of proof *shifts*." (*Cagang v. Sandiganbayan*, id.)

The Sandiganbayan was originally empowered to promulgate its own rules of procedure. However, on March 30, 1995, the Congress repealed the Sandiganbayan's power to promulgate its own rules of procedure and instead prescribed that the Rules of Court promulgated by the Supreme Court shall apply to all cases and proceedings filed with the Sandiganbayan.⁷⁶ The Court acknowledges that under the applicable rules, there is no specific period mandated for the Sandiganbayan to commence trial from the time the complaint in a civil case is filed. The same, however, does not give the Sandiganbayan an unbridled discretion as to when to terminate pre-trial and proceed to trial. It is still subject to the party's constitutionally-protected rights to due process and speedy disposition of cases *vis-à-vis* its relative and flexible nature. Otherwise, the parties would be held hostage and open to oppressive and prejudicial delays which the Constitution proscribes. It may be remembered that the right to a speedy disposition of a case is deemed violated when without cause or justifiable motive a long period of time is allowed to elapse without the party having his case tried.⁷⁷ Relative thereto, the Court finds that it should be the Republic who carries the burden of proof that there was no violation of the right to speedy disposition of cases for several reasons. *First*, the fact that 32 years has elapsed from the time of the filing of the original complaint and 24 years from the subdivision thereof without trial proper being commenced, on its face, constitutes delay by any reasonable standard. *Second*, the parties do not dispute that there is delay in this case; they only differ in their arguments as to whether such delay is unjustified. *Third*, under *Cagang*, the defendant would only carry the burden of proof if the right is invoked within the *given time periods*. The defendant's burden of proof is premised on a circumstance where he invokes his right while the time limits set by the rules has not expired yet, hence, he must prove that the case took much longer than was reasonably necessary to resolve.⁷⁸ Without a given period set by the rules as to when the Sandiganbayan should terminate pre-trial and commence trial proper from the time the complaint is filed, and in view of the delay of 32 years from the time of the filing of the complaint and 24 years from the subdivision thereof without having his case tried, the Court cannot reasonably place the burden of proof on petitioner. *Fourth*, a survey of jurisprudence reveals that most of the complaints dismissed for violation of the right to speedy disposition of a case stems from the failure of the State, or the Republic in this case, to satisfactorily explain the inordinate

⁷⁶ *Re: Problem of Delays in Cases Before the Sandiganbayan*, supra note 57, at 257, citing Republic Act No. 7975, Sec. 4.

⁷⁷ *Gonzales v. Sandiganbayan*, supra note 67, at 333-334; *Andres v. Hon. Cacdac, Jr.*, 198 Phil. 600, 608 (1982); *Acebedo v. Hon. Sarmiento*, 146 Phil. 820, 824 (1970); and *Kalaw v. Apostol*, 64 Phil. 852, 858-859 (1937).

⁷⁸ "These time limits must be strictly complied with. If it has been alleged that there was delay within the stated time periods, the burden of proof is on the defense to show that there has been a violation of their right to speedy trial or their right to speedy disposition of cases. The defense must be able to prove *first*, that the case took much longer than was reasonably necessary to resolve, and *second*, that efforts were exerted to protect their constitutional rights." (*Cagang v. Sandiganbayan*, supra note 74.)

delay,⁷⁹ except when there is a clear case of waiver in asserting the right to a speedy disposition of cases or when there is acquiescence to the delay.⁸⁰

Meanwhile, it is noteworthy that from the time respective pre-trial in Civil Case Nos. 0033-C (in 2000), 0033-D (in 2000), and 0033-E (in 2003) were terminated, almost two decades had already passed by and yet the Sandiganbayan never bothered to issue a pre-trial order and set the trial dates to begin the presentation of petitioner's evidence. On this point, it must be stressed that under the 1997 Rules of Civil Procedure, Section 7, Rule 18 thereof provides that the courts are mandated to issue a pre-trial order "upon termination" of the pre-trial. In 2004, the Court issued A.M. No. 03-01-09-SC,⁸¹ which provides, among others, that the judge shall issue the required pre-trial order "within 10 days after the termination of the pre-trial." This Court's issuance is deemed to apply to the 2002 Revised Internal Rules of the Sandiganbayan which states that "Rules of Court, resolutions, circulars, and other issuances promulgated by the Supreme Court relating to or affecting the Regional Trial Courts and the Court of Appeals, insofar as applicable, shall govern all actions and proceedings filed with the Sandiganbayan." Subsequently, the 2018 Revised Internal Rules of the Sandiganbayan provides that it shall strictly observe A.M. No. 03-01-09-SC, which provides, among others, that the judge shall issue the required pre-trial order "within 10 days after the termination of the pre-trial,"⁸² And presently, Section 2, Rule 18 of the 2019 Proposed Amendments to the 1997 Rules of Civil Procedure⁸³ provides that pre-trial should be terminated promptly, while Section 7 thereof mandates that "upon termination of the pre-trial, the court shall issue an order within 10 calendar days which shall recite in detail the matters taken up" in the pre-trial.⁸⁴

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,

⁷⁹ *Magante v. Sandiganbayan*, supra note 48, at 1133, citing *Tatad v. Sandiganbayan*, supra note 62, *Angchangco v. Ombudsman*, 335 Phil. 766 (1997); *Roque v. Ombudsman*, 366 Phil. 368 (1999); *Coscolluela v. Sandiganbayan*, supra note 54; and *People v. Sandiganbayan*, 723 Phil. 444 (2013).

⁸⁰ See *Dela Peña v. Sandiganbayan*, 412 Phil. 921, 932 (2001); *Salcedo v. Sandiganbayan*, G.R. Nos. 223869-960, February 13, 2019.

⁸¹ Dated July 13, 2004 and took effect on August 16, 2004.

⁸² A.M. No. 03-1-09-SC directed, among others, that during pre-trial, the judge shall ask parties to agree on specific trial dates, and to adhere to the case flow chart which shall contain the different stages of the proceedings and use the time frame for each stage in setting the trial dates. Thereafter, the judge shall issue pre-trial order within ten (10) days after the termination of the pre-trial. Said Order shall bind the parties, limit the trial to matters not disposed of and control the course of the action during trial.

⁸³ Effective May 1, 2020.

⁸⁴ Section 7. *Pre-Trial Order*. — Upon termination of the pre-trial, the court shall issue an order within ten (10) calendar days which shall recite in detail the matters taken up. The order shall include:

x x x x

(f) The specific trial dates for continuous trial, which shall be within the period provided by the Rules;

(g) The case flowchart to be determined by the court, which shall contain the different stages of the proceedings up to the promulgation of the decision and the use of time frames for each stage in setting the trial dates[.]

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 time since the termination of the pre-trial 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*,⁸⁵ four years in *Duterte v. Sandiganbayan*,⁸⁶ five years in *Magante*,⁸⁷ six years in *Angchangco, Jr. v. Ombudsman*,⁸⁸ six years in *Roque v. Office of the Ombudsman*,⁸⁹ six years in *Remulla*,⁹⁰ seven years in *Inocentes v. People*,⁹¹ 10 years in *Licaros v. Sandiganbayan*,⁹² and 15 years in *People v. Sandiganbayan*⁹³ — 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.

Bearing the burden of proof that there was no violation of petitioner's right to speedy disposition of cases, the Republic, as represented herein by the PCGG, must now show that the delay in disposing the subject cases, particularly in proceeding to trial, is justified. In particular, the Republic must prove that it followed the prescribed procedure; that the complexity of the issues and the volume of evidence made the delay inevitable; and that no prejudice was suffered by the accused as a result of the delay.

Based on the allegations of the PCGG, which are mostly based on the Sandiganbayan Resolutions denying petitioner's motions to dismiss, the justifications for the delay can be summarized into the following: the dilatory motions filed by petitioner; the need to resolve numerous pending

⁸⁵ Supra note 62.

⁸⁶ 352 Phil. 557 (1998).

⁸⁷ Supra note 48.

⁸⁸ Supra note 79.

⁸⁹ Supra note 79.

⁹⁰ Supra note 66.

⁹¹ 789 Phil. 318 (2016).

⁹² 421 Phil. 1075 (2001).

⁹³ 791 Phil. 37 (2016).

motions; the complexity of the issues involved coupled with voluminous records of the cases; extraordinary number of parties; frequent resort to the Court seeking review of the Sandiganbayan orders or resolutions; and observance of judicial courtesy.

The Court is not convinced that the above reasons justify the delay.

As to the allegation of petitioner's dilatory motions, it is noteworthy that the same is not proven or at least supported. The PCGG did not even bother to cite one particular motion to illustrate its claim. In addition, the Sandiganbayan did not even mention in its relevant resolutions that petitioner's motions are of such character. At its best, that petitioner contributed to the delay remains to be an allegation which does not warrant the Court's consideration. The same can be said to the alleged "complexities of the issues involved" and "voluminous records." The Court observes that there is no elucidation in the PCGG's pleadings or in the Sandiganbayan's resolutions as to what specific issue is too complex or what voluminous records are involved with what particular motions that justify the delay and failure or refusal of the Sandiganbayan to proceed to trial for three decades from the filing of the main complaint and two decades from the termination or suspension of pre-trial. The Court notes that what are involved up to this point are interlocutory motions and the subject cases are not yet submitted for decision so as to require such meticulous and much prolonged disposition by the Sandiganbayan. It would appear that the PCGG principally referred to the then pending motions for partial summary judgment and/or judgment on the pleadings and motions to dismiss as a major cause for the delay. It failed, however, to show that the delay in the resolution of those motions were due to issues so complex and evidence so voluminous, which render the delay inevitable. More, it must be noted that said motions, absent any extraordinary circumstances that effectively stymied Sandiganbayan's normal time table to resolve, do not involve a meticulous calibration of the evidence nor heavy review of records of the cases so as to warrant long delay to resolve. In a motion for summary judgment, courts merely determine if answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading.⁹⁴ Furthermore, in a motion for summary judgment, what needs to be determined is whether there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.⁹⁵ To be sure, matters not involving complex factual or legal issues should not take long to resolve. Meanwhile, in the motions to dismiss, the matters raised therein do not necessitate extraordinarily demanding review of the records nor involve issues so complex, as they point out a simple, straightforward and easily determinable issue on whether or not petitioner's right to speedy disposition of cases has been violated. It must be stressed that considering

⁹⁴ See *Adolfo v. Adolfo*, 756 Phil. 325, 341-342 (2015).

⁹⁵ *Id.* at 335.

that the subject cases have been pending for decades already, the Sandiganbayan ought to have resolved the pending motions therein with dispatch and should have proceeded to trial immediately. Interestingly, the Court observes that the Sandiganbayan has the intolerable habit to delay in the resolution of motions pending before it. For the PCGG's motions for partial summary judgment and/or judgment on the pleadings, it took the Sandiganbayan 14 years to solve the same in Civil Case Nos. 0033-B and 0033-D, five years in Civil Case No. 0033-E, and two years in Civil Case Nos. 0033-C and 0033-G; while the motions for reconsideration thereof were resolved from 5 to 34 months. On the other hand, petitioner's motions to dismiss were resolved invariably from 16 to 24 months, except for Civil Case No. 0033-C which was filed in 2015 and remain unresolved. Notably, the belated resolution and failure to resolve the aforesaid motions patently and miserably failed to meet the period to resolve pending matters in three months espoused in Section 6 of Presidential Decree No. 1606⁹⁶ and Section 3 of the 1984 Sandiganbayan Rules.⁹⁷ Obviously, this grave indiscretion on the part of the Sandiganbayan has chiefly contributed to the delay in the disposition of the subject cases.

Even then, the Sandiganbayan could have proceeded to trial after it has finally resolved the PCGG's motions for partial summary judgment and/or judgment on the pleadings and petitioner's motions to dismiss. Yet, it did not do so since 2008 in Civil Case No. 0033-G; since 2014 in Civil Case No. 0033-E; since 2016 in Civil Case No. 0033-C; and since 2017 in Civil Case Nos. 0033-B, 0033-D, and 0033-H. It even had the audacity to ignore petitioner's plea to include the subject cases in its trial calendar, as if taking a blind eye to the fact that the said cases have been pending for three decades. To recall, the Sandiganbayan has failed to act on petitioner's motion to include the subject cases in the trial calendar which was filed on February 2, 2018. These incidents turned out to be, on the part of petitioner, "the final straw that broke the camel's back" which compelled him to seek redress before the Court, feeling hopeless that his grievances anent the violation of his constitutional rights would forever be ignored by the tribunal concerned. Indeed, the Court cannot fault petitioner in doing and feeling so. Said latest indifference of the Sandiganbayan actually confirms its gross disregard and violation of petitioner's rights. Taken in its entirety, the acts of the Sandiganbayan pertaining to the subject cases shows a pattern constituting an abominable example of vexatious, capricious, and oppressive delay in the dispensation of justice that greatly prejudiced the constitutional

⁹⁶ Sec. 6. *Maximum period for termination of cases* – As far as practicable, the trial of cases before the Sandiganbayan once commenced shall be continuous until terminated and the judgment shall be rendered within three (3) months from the date the case was submitted for decision.

⁹⁷ Sec. 3. *Maximum Period to Decide Cases* – The judgment or final order of a division of the Sandiganbayan shall be rendered within three (3) months from the date the case was submitted for decision.

Under Article VIII, Section 5(5) of the Constitution "Rules of procedure of *special courts* and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court." (*See Re: Problem of Delays in Cases Before the Sandiganbayan*, supra note 58, at 258).

rights of petitioner to due process and speedy disposition of cases. These acts tantamount to grave abuse of discretion which is defined as “an act too patent and gross as to amount to an evasion of a duty, or to a virtual refusal to perform the duty enjoined or act in contemplation of law” or that the tribunal, board or officer with judicial or quasi-judicial powers “exercised its power in an arbitrary and despotic manner by reason of passion or personal hostility.”⁹⁸

The Court cannot also agree with the PCGG that the act of the Sandiganbayan in not proceeding with the trial is consistent with the principle of judicial courtesy in view of the *certiorari* petitions pending before the Court assailing the denial of the motions for partial summary judgment and/or judgment on the pleadings and the other Sandiganbayan resolutions. In fact, this is a violation of the prescribed and established procedure, as will be explained hereinafter.

Judicial courtesy is exercised by suspending a lower court’s proceedings although there is no injunction or an order from a higher court.⁹⁹

In *Republic v. Sandiganbayan*,¹⁰⁰ the Court rejected the idea that judicial courtesy applies and trial should be suspended when there are pending *certiorari* petitions assailing the Sandiganbayan interlocutory resolutions. In that case, the Court held that setting the case for trial would not have the effect of rendering the *certiorari* petition assailing the denial of a motion for partial summary judgment moot. It went further in reminding the Sandiganbayan that it should proceed with its proceedings when its interlocutory orders are on challenge before the Court, but no Temporary Restraining Order (TRO) or Writ of Preliminary Injunction has been issued and there is no strong probability that the issues raised before the Court would be rendered moot and moribund. Thus:

The earlier quoted Section 7 of Rule 65 provides the general rule that the mere pendency of a special civil action for *Certiorari* commenced in relation to a case pending before a lower court or court of origin does not stay the proceedings therein in the absence of a writ of preliminary injunction or temporary restraining order.

There are of course instances where even if there is no writ of preliminary injunction or temporary restraining order issued by a higher court, it would be proper for a lower court or court of origin to suspend its proceedings on the precept of judicial courtesy. x x x

x x x x

⁹⁸ *Philippine National Bank v. Gregorio*, 818 Phil. 321, 337 (2017).

⁹⁹ *Bro. Oca v. Custodio*, 814 Phil. 641, 675 (2017).

¹⁰⁰ 525 Phil. 804 (2006).

x x x No parity of circumstances obtains in the present case, however, where merely setting the case for trial would not have the effect of rendering the present petition moot.

This Court explained, however, that the rule on “judicial courtesy” applies where “there is a strong probability that the issues before the higher court would be rendered moot and moribund as a result of the continuation of the proceedings in the lower court [or court of origin].”

A final word. This Court takes notice that in most cases where its interlocutory orders are challenged before this Court, public respondent, Sandiganbayan, suspends proceedings in the cases in which these assailed interlocutory orders are issued despite the non-issuance by this Court of a temporary restraining order or writ of preliminary injunction and the absence of a strong probability that the issues raised before this Court would be rendered moot by a continuation of the proceedings before it (Sandiganbayan).

WHEREFORE, the URGENT MOTION FOR ISSUANCE OF TEMPORARY RESTRAINING ORDER AND/OR WRIT OF PRELIMINARY INJUNCTION filed by petitioner REPUBLIC OF THE PHILIPPINES is DENIED.

The SANDIGANBAYAN is, however, ORDERED, in light of the foregoing discussion, to continue the proceedings in Civil Case No. 0033-F, as well as in all other cases where its interlocutory orders are on challenge before this Court but no Temporary Restraining Order or Writ of Preliminary Injunction has been issued and there is no strong probability that the issues raised before this Court would be rendered moot and moribund.

SO ORDERED.¹⁰¹ (Underscoring supplied)

In view of the above ruling, the Court need not belabor on the subject argument of the PCGG. Here, no TRO or Writ of Preliminary Injunction has been issued in the subject cases, and the PCGG is not able to prove that there is strong probability that the issues raised before the Court would be rendered moot and moribund other than its speculative allegation that trial proceedings before the Sandiganbayan would prove futile in the event that its *certiorari* petitions pending before the Court would be decided in its favor. At the very least, the PCGG should have offered some explanation as to why or how the Sandiganbayan’s resumption of proceedings will render the issues in the *certiorari* petitions pending before the Court moot or moribund. However, not even a single issue out of the alleged complex issues was pleaded by the PCGG to justify the application of the principle of judicial courtesy.

At this point, the Court sees a need to reiterate for the guidance of the Bench and the Bar that the rules on judicial courtesy apply where “there is a strong probability that the issues before the higher court would be rendered

¹⁰¹ Id. at 808-810.

moot and moribund as a result of the continuation of the proceedings in the lower court [or court of origin].”¹⁰² However, such principle remains to be the exception rather than the rule.¹⁰³ Although practical and ethical considerations may justify the suspension of proceedings in unusual circumstances and in the absence of any injunctive writ from a superior court, the precept of judicial courtesy should not be applied indiscriminately and haphazardly if we are to maintain the relevance of Section 7, Rule 65 of the Rules of Court¹⁰⁴ which provides for the general rule that the mere pendency of a special civil action for *certiorari* commenced in relation to a case pending before a lower court or court of origin does not dismiss the proceedings therein in the absence of a writ of preliminary injunction or TRO.

Moving on, the Court finds that petitioner did not fail to assert his rights nor was there a delay in asserting them.

After the subdivision of Civil Case No. 0033 into eight complaints in 1995, petitioner filed his Answers in 1999 and Pre-Trial Brief in 2000, sufficient for the subject cases to move forward. Thereafter and in response to the subsequent incidents in the said cases, petitioner has ceaselessly reminded the Sandiganbayan of his constitutional right to speedy disposition of cases and moved that the case be set for trial in every chance he got. As early as in 2003, petitioner, in his oppositions to the PCGG’s motions for partial summary judgment and/or judgment on the pleadings, already highlighted the delay in the subject cases and the prejudice he suffered by the fact that no trial has been conducted.¹⁰⁵ Meanwhile, in 2008, in his opposition to PCGG’s motion for reconsideration of the Sandiganbayan’s Resolution dismissing Civil Case No. 0033-C, petitioner alleged that the dismissal should be confirmed not only on the ground of failure to prosecute, but also on the justification that the long delay in the termination of the case violated his rights to due process and speedy disposition of case.¹⁰⁶ In 2013 and 2015, petitioner filed motions to dismiss on the ground of inordinate delay which violates his constitutional rights.¹⁰⁷ Later, when the PCGG filed motions for reconsideration of Sandiganbayan’s resolutions denying its motion for partial summary judgment and/or judgment on the pleadings, petitioner continuously raised the issue of delay in his oppositions thereof filed in 2015 and 2016.¹⁰⁸ And the latest, in 2018, petitioner filed a motion to include the subject cases in the Sandiganbayan’s trial calendar.

¹⁰² Id. at 810.

¹⁰³ *Trajano v. Uniwide Sales Warehouse Club*, 736 Phil. 264, 278 (2014).

¹⁰⁴ *De Leon v. Public Estates Authority*, 640 Phil. 594, 609 (2010); and *Re: Complaint of Leonardo A. Velasco*, 701 Phil. 455 (2013).

¹⁰⁵ *Supra* note 12.

¹⁰⁶ *Rollo*, pp. 19-24.

¹⁰⁷ Id. at 29-30.

¹⁰⁸ *Supra* note 14.

The foregoing considered, the Court finds that petitioner has not been neglectful in asserting his right so as to say that he has already waived the same. As correctly pointed out by petitioner, while he did not raise the issue of delay in every pleading he filed, nor on a daily, weekly or monthly basis, to say that he has not done so is to be completely blind to the records of the subject cases. Here, the Court finds that petitioner did not acquiesce to the delay so clear and evident so as to conclude that there is a waiver on his part of his right to speedy disposition of cases or to say that the same should bar him from asserting his constitutional rights at this point of the proceedings.

Lastly, the PCGG failed to prove that no prejudice was suffered by the petitioner as a result of the delay.

“*Prejudice*,” as a criterion in the speedy disposition of cases, has been discussed in *Corpuz v. Sandiganbayan*¹⁰⁹ in the following manner:

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. Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system. There is also prejudice if the defense witnesses are unable to recall accurately the events of the distant past. Even if the accused is not imprisoned prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed, and he is subjected to public obloquy.

In this case, petitioner accentuated that there are properties attached and sequestered in the subject cases. As the delay continues in the proceedings before the Sandiganbayan, financial losses suffered by petitioner and of their current respective owners continue to pile up at an accelerating rate. He added that during the pendency of the subject cases for more than 30 years, many of the defendants and witnesses have passed away and those who are still alive may not be competent to remember with precision the matters that took place more than three decades ago. Too, with the considerable passage of time, gathering object or documentary evidence in regard to the properties involved in the subject cases may already be futile.

At this point, the Court recognizes that the inaction of the Sandiganbayan for more than 30 years has placed petitioner at a disadvantage in fully preparing and presenting his case. For the subject cases to proceed to trial at this point in time would certainly result to a very

¹⁰⁹ 484 Phil. 899, 918 (2004).

tilted judicial system against petitioner and would skew the fairness in hearing the subject matter of the cases, and in the course thereof, petitioner would be deprived of his right to property without due process. Moreover, at the time of the filing of the instant petition, the health condition of petitioner has already deteriorated. In fact, he has passed away before the petition is resolved. That he is not in the position to defend himself now or that his defense has been greatly prejudiced by the delay or passage of time is very obvious.

Remarkably, the PCGG did not dispute that the delay in the disposition of the subject cases has prejudiced petitioner. Need it be emphasized that under the *Cagang* guidelines, once the burden of proof shifts to the prosecution, or to the plaintiff in this case, it must prove that no prejudice was suffered by the accused [or defendant] as a result of the delay. On this score, the Court sees no reason not to rule in favor of petitioner.

In sum, the Court finds that petitioner's constitutional rights to due process and speedy disposition of cases have been violated in the subject cases, in which petitioner is the principal defendant, thereby necessitating the dismissal of the same. Notably, the inordinate delay attending the cases is primarily due to the Sandiganbayan's vexatious, capricious, and oppressive delays in the resolution of pending motions in the subject cases¹¹⁰ and to its patently unreasonable and baseless refusal to proceed to trial in utter disregard of petitioner's constitutional rights.¹¹¹ It appears that there is no intention on the part of the Sandiganbayan to put a stop to this seemingly unending litigation. Such travesty of the Bill of Rights cannot continue if we are to give life and meaning to the old legal maxim, "justice delayed is justice denied." An unwarranted slow down in the disposition of cases erodes the faith and confidence of our people in the judiciary, lowers its standards and brings it into disrepute.¹¹² Accordingly, such actions of the Sandiganbayan constitute grave abuse of discretion and as a result, the said hearing tribunal loses its jurisdiction to conduct further proceedings in the subject cases,¹¹³ which petitioner rightly prayed for in the present Petition for Prohibition.

Lastly, the Court has no doubt that the Republic, through the generations of leadership that had the duty and privilege to handle these cases, had all the resources to pursue cases of corruption and ill-gotten wealth. Also, the Court is not so naive to know that these cases are met with various challenges given that those who may be its defendants are not ordinary individuals without their own share of immense resources and

¹¹⁰ See discussion anent the "reasons for the delay."

¹¹¹ Id.

¹¹² *Marcelo-Mendoza v. Peroxide Philippines, Inc.*, 809 Phil. 248, 262 (2017).

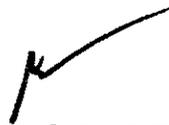
¹¹³ See *Martin v. Gen. Ver.*, supra note 63, at 663. It was declared therein that for denial of a constitutional right to the accused, the hearing tribunal may lose its jurisdiction to conduct further proceedings; see also *Apo Cement Corporation v. Mingson Mining Industries Corporation*, supra note 44.

power. However, the inordinate delay in this case — especially the long periods where no pre-trial orders were issued or no trial was calendared — may have made the situation worse for the respondents. Memories fade, documents and other exhibits can be lost and vulnerability of those who are tasked to decide increase with the passing of years. All these pales in comparison to the infringement of rights; the resources — of the government especially and also of the respondents — that have been wasted; and significantly, the faith of our people in the ability of the respondents to identify, prove, and recover alleged ill-gotten wealth.

What is expected of Us in this case is to exercise the cold impartiality of a Court concerned with enabling government to ensure accountability, but at the same time within the hardened frame of the rights enshrined by our most fundamental law. Unanimously, We do not shrink from that responsibility.

WHEREFORE, the Petition is **GRANTED**. A Writ of Prohibition is hereby issued **ENJOINING** the Sandiganbayan from taking further proceedings in Civil Case Nos. 0033-B, 0033-C, 0033-D, 0033-E, 0033-G, and 0033-H. An **ORDER** is hereby issued **DISMISSING** the said cases for violation of the constitutional rights to due process and speedy disposition of cases of petitioner Eduardo M. Cojuangco, Jr., the principal defendant therein.

SO ORDERED.



EDGARDO L. DELOS SANTOS
Associate Justice

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
 Associate Justice
 Chairperson


RAMON PAUL L. HERNANDO
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice


JHOSEP LOPEZ
 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.


MARVIC MARIO VICTOR F. LEONEN
 Associate Justice
 Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.


ALEXANDER G. GESMUNDO
 Chief Justice