



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

JOAN V. ALARILLA,
Petitioner,

G.R. Nos. 236177-210

Present:

- versus -

PERALTA, *CJ.*, Chairperson
CAGUIOA,
CARANDANG,
ZALAMEDA, and
GAERLAN, *JJ.*

**THE HONORABLE
SANDIGANBAYAN (FOURTH
DIVISION) and THE PEOPLE
OF THE PHILIPPINES,**
Respondents.

Promulgated:

FEB 03 2021

X ----- X

DECISION

ZALAMEDA, J.:

Although delay is not to be determined solely from the length of time taken for the conduct of the preliminary investigation, a long delay is inordinate unless the Office of the Ombudsman suitably justifies it.¹ The lapse of almost nine (9) years to conduct a preliminary investigation does not, by itself, immediately equate to a violation of a person's right to speedy disposition of cases. However, courts must take such unusually long periods into careful consideration when determining whether inordinate delay exists. Otherwise, the Constitutionally guaranteed right to speedy disposition of cases would be reduced to nothing but an illusory promise.

¹ *Martinez III v. People*, G.R. No. 232574, 01 October 2019 [Per CJ Bersamin].

The Case

Before the Court is a petition for *certiorari*² filed by petitioner Joan V. Alarilla assailing the Resolution³ dated 18 October 2017 wherein the Sandiganbayan denied her *Omnibus Motion (Re: Dismissal and/or Judicial Determination of Probable Cause)*; and the Resolution⁴ issued on 17 November 2017 denying her motion for reconsideration, on the ground that the Sandiganbayan committed grave abuse of discretion amounting to lack or excess in jurisdiction.

Antecedents

In May 2007, petitioner was elected city mayor of Meycauayan, Bulacan. Subsequently, she was re-elected mayor in the 2010 and 2013 elections. On 18 January 2008, or a few months into her first term, Rolando L. Lorenzo (Lorenzo) filed a complaint against petitioner and her now deceased husband, Eduardo A. Alarilla, who was the former city mayor and later, general consultant for Meycauayan, before the Office of the Ombudsman for malversation through falsification of public documents as well as grave misconduct and dishonesty. On 21 January 2008, Lorenzo filed an amended complaint alleging the same offense but reducing the amount involved.⁵

In his complaint, Lorenzo alleged that during the months of July and August of 2007, petitioner and her husband misappropriated a total of Php5,130,329.14 by issuing and receiving the proceeds of 43 checks drawn from public funds kept in the Philippine National Bank accounts owned by the local government of Meycauayan. According to Lorenzo, petitioner and her husband falsely misrepresented these checks as payment for goods and services from suppliers but in truth there were no actual goods delivered or services rendered.⁶

On 07 May 2008, the Ombudsman directed petitioner and her husband to file their counter-affidavits and other controverting evidence. Pursuant thereto, petitioner and her husband filed a joint counter-affidavit vehemently denying the accusations against them on 09 July 2008. Later, on 04 March 2009, petitioner's husband passed away while the case was still pending with the Ombudsman.⁷ Eight (8) years after, or on 07 March 2017,

² *Rollo*, pp. 3-36.

³ *Id.* at 42-43; by Associate Justices Alex L. Quiroz, Reynaldo P. Cruz, and Bayani H. Jacinto.

⁴ *Id.* at 44-45.

⁵ *Id.* at 8.

⁶ *Id.* at 8-9.

⁷ *Id.* at 9-11.



petitioner received a Resolution⁸ dated 03 November 2016 finding probable cause to indict her for 33 counts of malversation of public funds through falsification and for violation of Section 3(e) of Republic Act No. (RA) 3019.⁹

Petitioner moved for reconsideration on 13 March 2017, alleging that the Ombudsman erred in finding probable cause. On 24 March 2017, petitioner filed a supplemental motion for reconsideration emphasizing that her right to speedy disposition of cases was violated since the Ombudsman took nine (9) years to resolve the case.¹⁰

In an Order dated 24 March 2017, the Ombudsman denied petitioner's motion for reconsideration. Thereafter, on 11 September 2017, one (1) Information for violation of Section 3(e) of RA 3019 and 33 Informations for malversation of public funds through falsification were filed before the Sandiganbayan against petitioner, docketed as SB-17-CRM-1679 and SB-17-CRM-1681 to SB-17-CRM-1713.¹¹

On 15 September 2017, petitioner presented her *Omnibus Motion (Re: Dismissal and/or Judicial Determination of Probable Cause)* asserting that there was inordinate delay in resolving the criminal case before the Ombudsman, which violated her Constitutional right to speedy disposition of cases.

Ruling of the Sandiganbayan

In the assailed Resolution¹² dated 18 October 2017, the Sandiganbayan denied petitioner's omnibus motion. The dispositive provides:

IN LIGHT OF THE FOREGOING, accused Joan V. Alarilla's Omnibus Motion (Re: Dismissal and/or Judicial Determination of Probable Cause) dated September 15, 2017 is hereby DENIED.

The arraignment and pre-trial on October 27, 2017 at 1:30 in the afternoon will proceed as scheduled.¹³

⁸ *Id.* at 687-739.

⁹ *Id.* at 11-12.

¹⁰ *Id.* at 13.

¹¹ *Id.* at 14.

¹² *Id.* at. 42-43.

¹³ *Id.* at 43.



The Sandiganbayan found there was no delay of the kind that could have unduly prejudiced the rights of herein petitioner. It further considered the timeline of proceedings before the Ombudsman and the consolidated cases lodged against petitioner and her husband. Finally, the Sandiganbayan inferred that petitioner failed to timely assert her right to speedy disposition of cases.¹⁴

Petitioner moved for reconsideration, but the Sandiganbayan denied the motion through the second assailed Resolution dated 17 November 2017.¹⁵ Hence, the instant petition for *certiorari*.

Issue

Petitioner raised the sole issue of whether or not the Sandiganbayan acted with grave abuse of discretion amounting to lack or excess of jurisdiction in ruling that her right to speedy disposition of cases was not violated.¹⁶

Ruling of the Court

We find merit in the petition. The Sandiganbayan gravely abused its discretion in denying petitioner's motions despite her timely and consistent assertion of the right to speedy disposition of cases.

The right to speedy disposition of cases is enshrined under Section 16, Article III of the Constitution, *viz*:

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

Notably, Section 12, Article XI of the Constitution further requires the Ombudsman to act promptly on all complaints filed before it:

Section 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.

¹⁴ *Id.* at 42-43.

¹⁵ *Id.* at 44-45.

¹⁶ *Id.* at 18.



This same mandate can be found in Section 13 of RA 6670, otherwise known as the Ombudsman Act of 1989:

Section 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.

In resolving issues involving the right to speedy disposition of cases, the Court laid down the following guidelines in *Cagang v. Sandiganbayan, Fifth Division*¹⁷ (*Cagang*):

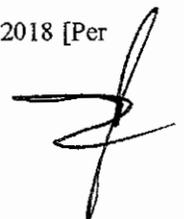
First, the right to speedy disposition of cases is different from the right to speedy trial. While the rationale for both rights is the same, the right to speedy trial may only be invoked in criminal prosecutions against courts of law. The right to speedy disposition of cases, however, may be invoked 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.

¹⁷ *Cagang v. Sandiganbayan, Fifth Division*, G.R. Nos. 206438, 206458 & 210141-42, 31 July 2018 [Per J. Leonen].



Once the burden of proof shifts to the prosecution, the prosecution must prove first, that it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; second, that the complexity of the issues and the volume of evidence made the delay inevitable; and third, that no prejudice was suffered by the accused as a result of the delay.

Fourth, determination of the length of delay is never mechanical. Courts must consider the entire context of the case, from the amount of evidence to be weighed to the simplicity or complexity of the issues raised.

An exception to this rule is if there is an allegation that the prosecution of the case was solely motivated by malice, such as when the case is politically motivated or when there is continued prosecution despite utter lack of evidence. Malicious intent may be gauged from the behavior of the prosecution throughout the proceedings. If malicious prosecution is properly alleged and substantially proven, the case would automatically be dismissed without need of further analysis of the delay.

Another exception would be the waiver of the accused to the right to speedy disposition of cases or the right to speedy trial. If it can be proven that the accused acquiesced to the delay, the constitutional right can no longer be invoked.

In all cases of dismissals due to inordinate delay, the causes of the delays must be properly laid out and discussed by the relevant court.

Fifth, the right to speedy disposition of cases or the right to speedy trial must be timely raised. The respondent or the accused must file the appropriate motion upon the lapse of the statutory or procedural periods. Otherwise, they are deemed to have waived their right to speedy disposition of cases.¹⁸

Under the recent rulings in *Martinez III v. People (Martinez)*,¹⁹ *Javier v. Sandiganbayan (Javier)*,²⁰ and *Catamco v. Sandiganbayan (Catamco)*,²¹ the Court further supplemented the parameters found in *Cagang*. By applying the foregoing line of cases, the Court finds that herein petitioner's right to speedy disposition of cases was indeed violated by the Ombudsman's inordinate delay in conducting preliminary investigation.

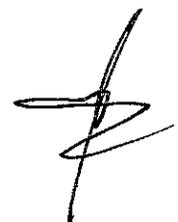
To determine whether inordinate delay exists, *Cagang* explains that a case is deemed initiated upon the filing of a formal complaint prior to the conduct of preliminary investigation. The court must examine whether the

¹⁸ *Id.*

¹⁹ *Supra* at note 1.

²⁰ G.R. No. 237997, 10 June 2020 [Per J. Caguioa].

²¹ G.R. No. 243560-62, 28 July 2020 [Per J. Caguioa].



Ombudsman followed the **specified time periods** for the conduct of the preliminary investigation.²²

In *Javier* and *Catamco*, the Court promptly observed that the rules of the Ombudsman did not provide for specific time periods to conclude preliminary investigations. Thus, as the Rules of Court find suppletory application to proceedings before the Ombudsman, the time periods provided therein would be deemed applicable. Accordingly, Section 3, Rule 112 of the Revised Rules of Criminal Procedure provides that the investigating prosecutor has 10 days "after the investigation x x x [to] determine whether or not there is sufficient ground to hold the respondent for trial." This 10-day period may seem short or unreasonable from an administrative standpoint. However, given the Court's duty to balance the right of the State to — prosecute violations of its laws — *vis-à-vis* the rights of citizens to speedy disposition of cases, the Court ruled that citizens ought not to be prejudiced by the Ombudsman's failure to provide for particular time periods in its own Rules of Procedure.²³

On 15 August 2020, mere weeks after the promulgation of *Javier* and *Catamco*, the Ombudsman introduced welcome developments to its rules of procedure through Administrative Order No. (AO) 1, Series of 2020. Under AO 1, the Ombudsman now has clearly specified time periods for conducting not only preliminary investigations, but also fact-finding investigations and administrative adjudications.

For preliminary investigations, AO 1 provides:

Section 8. Period for the conduct of Preliminary Investigation. - Unless otherwise provided for in a separate issuance, such as an Office Order creating a special panel of investigators/prosecutors and prescribing the period for completion of the preliminary investigation, the proceedings therein shall not exceed twelve (12) months for simple cases or twenty-four months (24) months for complex cases, subject to the following considerations:

(a) The complexity of the case shall be determined on the basis of factors such as, but not limited to, the number of respondents, the number of offenses charged, the volume of documents, the geographical coverage, and the amount of public funds involved.

(b) Any delay incurred in the proceedings, whenever attributable to the respondent, shall suspend the running of the period for purposes of completing the preliminary investigation.

²² *Supra* at note 17.

²³ *Supra* at note 20.



(c) The period herein prescribed may be extended by written authority of the Ombudsman, or the Overall Deputy Ombudsman/Special Prosecutor/Deputy Ombudsman concerned for justifiable reasons, which extension shall not exceed one (1) year.²⁴

In the present case, the the formal complaint was filed on **18 January 2008**. Petitioner and her husband were able to submit their joint counter-affidavit on **09 July 2008**. However, after filing their counter-affidavit, it took the Ombudman more than eight (8) years to issue the Resolution dated **03 November 2016** finding probable cause against petitioner.

Applying either the short 10-day period in *Javier* and *Catamco*, or the more generous 12 to 24-month periods under AO 1, it is apparent that the Ombudsman exceeded the **specified time period** for preliminary investigations. Thus, following *Cagang*, the burden of proof shifted to the prosecution, who must establish that the delay was reasonable and justified under the circumstances. Once the burden of proof shifts, the prosecution must prove the following: *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.²⁵

The prosecution failed to prove that the delay was reasonable and justified.

In its comment/opposition filed before the Sandiganbayan, the prosecution attempted to justify the length of delay incurred during preliminary investigation by pointing out that the Ombudsman had to consolidate a total of three (3) complaints, that these complaints involved numerous transactions evidenced by 265 checks, and that the consolidated cases raised complex issues. Further, the prosecution pointed to petitioner as having contributed to the delay by filing several extensions to file the counter-affidavit.²⁶

In *Coscolluela v. Sandiganbayan*,²⁷ the Court ruled that absent any extraordinary complication, which the Ombudsman must adequately prove,

²⁴ Administrative Order No. 1, Series of 2020, 15 August 2020 [Issued by Ombudsman Samuel R. Martires].

²⁵ *Supra* at note 21.

²⁶ *Rollo*, pp. 993-994.

²⁷ G.R. No. 191411, 15 July 2013, 714 Phil. 55 (2013) [Per J. Perlas-Bernabe].



such as the degree of difficulty of the questions involved in the case, or any event external thereto that effectively stymied the Ombudsman's normal work activity, any delay in the resolution of the preliminary investigation is not justified. Further, in *Cagang*, the Court held that once delay is established, the prosecution has the burden to prove, among others, that the issues are so complex and the evidence so voluminous, which rendered the delay inevitable.²⁸

Here, the prosecution relied on bare assertions and failed to provide clear proof of the circumstances causing the delay. In any event, the prosecution cannot depend on the excuse that the matter involved three (3) consolidated cases since one of the cases was filed solely against petitioner's deceased husband Eduardo A. Alarilla. When petitioner's husband died on 04 March 2009, the Ombudsman was duly notified and the case against him was eventually dismissed. On one hand, the other remaining case was a simple counter-charge filed by the local government of Meycauayan against the complainant Lorenzo and his main witness, a former city accountant, for malversation and qualified theft. Evidently, the prosecution's claim of complex issues were flimsy and unsubstantiated.

Moreover, the prosecution cannot pass blame unto petitioner in praying for an extension to file a counter-affidavit. Even if any delay was incurred due to said extension, it was not at all substantial. To recall, herein petitioner and her husband were required by the Ombudsman to submit a counter-affidavit through an Order dated 07 May 2008.²⁹ Soon thereafter, they were able to file a joint counter-affidavit on 09 July 2008.³⁰

Considering the foregoing, the Sandiganbayan erred when it blindly agreed with the Ombudsman's attempts to justify the lengthy delay of almost nine (9) years despite the latter's glaring lack of proof.

Petitioner timely and consistently raised her right to speedy disposition of cases before both the Ombudsman and the Sandiganbayan.

Finally, *Cagang* requires that the right to speedy disposition of cases must be timely raised. Directly relating to this requirement, *Javier* noted that the Ombudsman's own procedural rules prohibit motions to dismiss, except

²⁸ *Supra* at 21.

²⁹ *Rollo*, p. 702.

³⁰ *Id.* at 9.



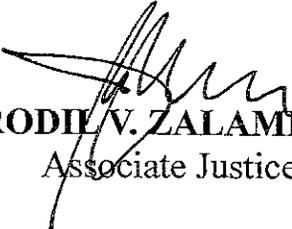
on the ground of lack of jurisdiction. Thus, persons with pending cases before the Ombudsman have no legitimate avenues to assert their fundamental right to speedy disposition of cases at the preliminary investigation level.³¹ As such, the Court held it was sufficient for them to timely assert their right at the earliest possible opportunity, even after preliminary investigation.

In this case, petitioner already asserted her right when she filed a supplemental motion for reconsideration before the Ombudsman.³² Thereafter, upon filing of Informations with the Sandiganbayan, petitioner again invoked her Constitutional right at the earliest possible opportunity before she was even arraigned. Ultimately, her consistent assertions showed that petitioner did not waive nor sleep on her right to speedy disposition of cases.

Given the inordinate delay of almost nine (9) years in the conduct of the preliminary investigation and the Ombudsman's clear failure to provide sufficient justification, the Sandiganbayan gravely abused its discretion when it refused to uphold the petitioner's timely asserted right to speedy disposition of cases. Consequently, the criminal actions filed against petitioner should be abated and dismissed.

WHEREFORE, the petition is hereby **GRANTED**. The assailed Resolutions dated 18 October 2017 and 17 November 2017 of the Sandiganbayan Fourth Division are **ANNULLED** and **SET ASIDE**. The Sandiganbayan is likewise ordered to **DISMISS** Criminal Case Nos. SB-17-CRM-1679 and SB-17-CRM-1681 to SB-17-CRM-1713 for violation of the Constitutional right to speedy disposition of cases of petitioner Joan V. Alarilla.

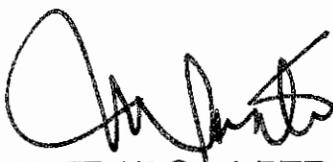
SO ORDERED.

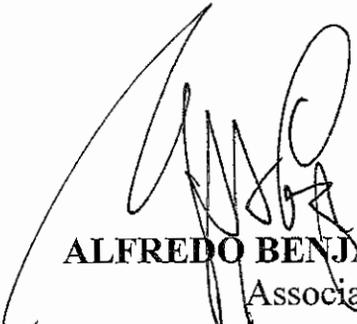

RODIL V. ZALAMEDA
Associate Justice

³¹ *Supra* at note 20.

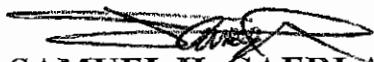
³² *Rollo*, p. 13.

WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice

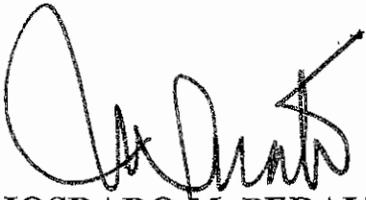

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ROSMARIE D. CARANDANG
Associate Justice


SAMUEL H. GAERLAN
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