



Republic of the Philippines  
**Supreme Court**  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

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FIRST DIVISION

BY: \_\_\_\_\_  
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**RENE C. FIGUEROA,**  
Petitioner,

**G.R. Nos. 235965-66**

Present:

— versus —

GESMUNDO, *CJ.*, Chairperson,  
CAGUIOA,  
LAZARO-JAVIER,  
LOPEZ, M., and  
LOPEZ, J., *JJ.*

**SANDIGANBAYAN, SPECIAL  
THIRD DIVISION, OFFICE OF  
THE OMBUDSMAN** represented  
by **THE OFFICE OF THE  
SPECIAL PROSECUTOR** and  
**PHILIPPINE AMUSEMENT  
AND GAMING CORPORATION,**  
Respondents.

Promulgated:

**FEB 15 2022**

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**DECISION**

**LOPEZ, M., J.:**

An accused has no duty to bring himself to trial.<sup>1</sup> The accused must be spared from the rigors and expense of a full-blown trial where it is clear that inordinate and vexatious delays crept the conduct of preliminary investigation which are violative of the constitutional guarantee to speedy disposition of cases.<sup>2</sup> We apply these precepts in this Petition for *Certiorari* and prohibition under Rule 65 of the Rules of Court assailing the Sandiganbayan's Resolution dated October 11, 2017 in SB16-CRM-0326 and SB16-CRM-0327.

**ANTECEDENTS**

On June 21, 2011, the Philippine Amusement and Gaming Corporation (PAGCOR) filed a Complaint against Rene Figueroa (Rene) and its other officers

<sup>1</sup> *Baker v. Wingo*, 407 U.S. 514 (1972). See also *Coscolluela v. Sandiganbayan*, 714 Phil. 55, 64 (2013).

<sup>2</sup> *Tatad v. Sandiganbayan*, 242 Phil. 563, 572 (1988).

for corruption.<sup>3</sup> On July 19, 2011, the complaint was endorsed for preliminary investigation.<sup>4</sup> On July 29, 2011, the Office of the Ombudsman directed Rene and the other officers to file their counter-affidavits within ten (10) days from notice. On August 16, 2011, Rene received a copy of the order and requested an additional ten (10) days within which to file his counter-affidavit.<sup>5</sup> On September 5, 2011, Rene filed his counter-affidavit.<sup>6</sup> On September 22, 2014, the Ombudsman recommended the filing of informations for two (2) counts of violation of Sections 3(e) of Republic Act (RA) No. 3019 against Rene and the other officers.<sup>7</sup>

Rene and the other officers sought reconsideration but was denied.<sup>8</sup> On June 3, 2016, the Ombudsman filed the corresponding charges before the Sandiganbayan docketed as SB16-CRM-0326 and SB16-CRM-0327.<sup>9</sup> Thereafter, the Office of the Special Prosecutor recommended the amendment of the informations to indicate the respective middle names of the accused and to indicate the correct designation of Rene as Executive Vice-President and Head of the Research and Development Department. On March 6, 2017, the Overall Deputy Ombudsman approved the recommendations.<sup>10</sup> On even date, the Ombudsman moved for the admission of the amended informations.<sup>11</sup> On July 4, 2017, the Sandiganbayan admitted the amended informations.<sup>12</sup> The Sandiganbayan found the proposed amendments as merely formal which did not change the nature of the offense charged. The theory of the prosecution remained the same and the accused's defenses are still applicable. In any case, Rene and his co-accused had not yet been arraigned thus both formal and substantial amendments may be made.

On July 20, 2017, Rene moved to quash the informations due to an inordinate delay in the handling of his case. Rene argued that more than six (6) years have lapsed from the filing of the complaint on June 21, 2011, up to the filing of the motion to quash. Yet, the Ombudsman has not decided what cases to file against Rene as shown by the motion to amend informations.<sup>13</sup> On October 11, 2017, the Sandiganbayan denied the motion to quash. The Sandiganbayan explained that the delay is reasonable and part of the ordinary process of justice. Moreover, Rene failed to raise the speedy disposition of his cases before the Ombudsman,<sup>14</sup> thus:

Accused Figueroa asserts that [the] Court has been ousted of its jurisdiction over his person predicated on the alleged violation of his right

<sup>3</sup> *Rollo*, pp. 46-70.

<sup>4</sup> *Id.* at 400.

<sup>5</sup> *Id.*; *id.* at 6.

<sup>6</sup> *Id.* at 221-244.

<sup>7</sup> *Id.* at 251-274.

<sup>8</sup> *Id.* at 275-292.

<sup>9</sup> *Id.* at 311-320.

<sup>10</sup> *Id.* at 332-338.

<sup>11</sup> *Id.* at 321-331; *id.* at 339-343.

<sup>12</sup> *Id.* at 344-361.

<sup>13</sup> *Id.* at 7.

<sup>14</sup> *Id.* at 26-35. Penned by Presiding Justice Amparo M. Cabotaje-Tang, with the concurrence of Associate Justices Sarah Jane T. Fernandez and Bernelito R. Fernandez.

to speedy disposition of cases and due process by the Office of the Ombudsman.

The Court finds accused Figueroa's contention untenable.

It is settled that the concept of speedy disposition is relative or flexible. A mere mathematical reckoning of the time involved is not sufficient. It is consistent with delays and depends upon the circumstances. What the Constitution prohibits are unreasonable, arbitrary and oppressive delays which render rights nugatory.

In the determination of whether or not the right to a "speedy trial" has been violated, certain factors may be considered and balanced against each other. These are length of delay, reason for the delay, assertion of the right or failure to assert it, and prejudice caused by the delay.

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**Considering the above cited reasons and the chronology of incidents, the Court finds that there was no unreasonable or oppressive delay to speak of in the conduct of the preliminary investigation. The delay was reasonable being part of the ordinary process of justice. To repeat, the concept of speedy disposition is consistent with delays and depends upon the circumstances. What the Constitution prohibits are unreasonable, arbitrary and oppressive delays which render rights nugatory. Further, there was no showing that the prosecution deliberately delayed the proceedings to gain an advantage or for other impermissible reasons. Thus, the fact that it took the Office of the Ombudsman five (5) years to resolve the cases against the accused and file the corresponding Informations does not, by itself, amount to a violation of the accused Figueroa's right to speedy disposition of cases.**

**Notably, accused Figueroa failed to raise the issue on speedy disposition of his case before the Office of the Ombudsman. It is only now that he is minded to put the issue to fore. This belated assertion of a violation of his right to speedy disposition of his cases before the Office of the Ombudsman should militate against accused Figueroa's claim.<sup>15</sup> (Emphases supplied.)**

Rene sought reconsideration but was denied.<sup>16</sup> Hence, this Petition for *Certiorari* and prohibition under Rule 65 of the Rules of Court.<sup>17</sup> Rene contends that the Sandiganbayan acted with grave abuse of discretion amounting to lack or excess of jurisdiction in denying his motion to quash the informations. Rene maintains that it took more than six (6) years for the Ombudsman and the Office of the Special Prosecutor to decide the appropriate informations to file against him — five (5) years from the filing of the complaint from June 21, 2011 until the filing of informations on June 3, 2016, and another year until the admission of the amended informations on July 4, 2017. The Ombudsman did not offer special reasons or circumstances for the delay. Despite this, the Sandiganbayan ruled that there was

<sup>15</sup> Id. at 29-32.

<sup>16</sup> Id. at 36-45.

<sup>17</sup> Id. at 3-25.

"no unreasonable delay" and that "the delay was reasonable being part of the ordinary process of justice." Rene adds that the delay amounted to a violation of the Ombudsman's duty to promptly act on the complaints filed before it. Finally, Rene claims that his failure to raise the issue of speedy disposition of cases before the Ombudsman did not result in the waiver of such right.

In its Comment,<sup>18</sup> the People of the Philippines argues that the Sandiganbayan acted well within the bounds of law and jurisprudence when it denied Rene's motion to quash. There was no inordinate delay amounting to a violation of the right to speedy disposition of cases. Further, the Sandiganbayan maintained a delicate balance between Rene's right to speedy disposition of cases and the right of the State to prosecute crimes.

### RULING

The petition is meritorious.

Article III, Section 16 of the 1987 Constitution guarantees the right of persons to a speedy disposition of cases before all judicial, quasi-judicial, or administrative bodies. In *Cagang v. Sandiganbayan*,<sup>19</sup> the Court clarified the mode of analysis in situations where the right to speedy disposition of cases or the right to speedy trial is invoked, thus:

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. [The] 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.

<sup>18</sup> Id. at 399-421.

<sup>19</sup> 837 Phil. 815, 880-882 (2018).

**If the defense has the burden of proof, it must prove first, whether the case is motivated by malice or clearly only politically motivated and is attended by utter lack of evidence, and second, that the defense did not contribute to the delay.**

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

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

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

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

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

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

We now apply these precepts *vis-à-vis* the material dates in Rene's case, to wit:

June 21, 2011	Complaint initiated by PAGCOR
July 19, 2011	Complaint endorsed for preliminary investigation
July 29, 2011	Ombudsman Order directing respondents to file counter-affidavits
August 16, 2011	Receipt by Rene of the order
August 22, 2011	Request by Rene for additional period of 10 days

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	to file his counter-affidavit
September 5, 2011	Counter-affidavit of Rene filed
September 22, 2014	Ombudsman Joint resolution finding probable cause against Rene and his other co-respondents
January 12, 2015	Motion for reconsideration of the joint resolution of Rene filed
January 28, 2015	Ombudsman Joint order denying the motions for reconsideration of Rene and his other co-respondents
June 3, 2016	Two informations against Rene and his other co-respondents filed
March 6, 2017	Motion to amend informations filed by the Office of the Ombudsman
July 20, 2017	Motion to quash filed by Rene

The first issue which must be resolved is whether there was a delay in the conduct of the preliminary investigation. Administrative Order No. 07 or the Rules of Procedure of the Office of the Ombudsman does not provide for a specific time period to conclude the preliminary investigation. Thus, the time periods in the Rules of Court are applied suppletorily to determine whether the Ombudsman committed delay in the conduct of the preliminary investigation.<sup>20</sup> Indeed, the Court has applied Section 3(f), Rule 112 of the Revised Rules of Criminal Procedure which states that the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial within ten (10) days after the investigation.<sup>21</sup> In *Alarilla v. Sandiganbayan*,<sup>22</sup> however, the Court observed that the Ombudsman introduced new provisions to its rules of procedure and has prescribed time periods for conducting a preliminary investigation,<sup>23</sup> viz.:

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.

<sup>20</sup> *Javier v. Sandiganbayan*, G.R. No. 237997, June 10, 2020.

<sup>21</sup> A.M. No. 00-5-03-SC, October 3, 2000.

<sup>22</sup> G.R. Nos. 236177-210, February 3, 2021.

<sup>23</sup> Administrative Order No. 1, Series of 2020.

(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.

(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.** (Emphases supplied.)

Obviously, whether the 10-day, 12-month or 24-month period is applied, it is clear that the Ombudsman exceeded the specified time for preliminary investigation. To be sure, the complaint against Rene and his co-accused was filed on June 21, 2011. On the other hand, the joint resolution finding probable cause against Rene and his co-accused was issued on September 22, 2014, or three (3) years and three (3) months after the filing of the complaint. As such, the Ombudsman must now justify the delay. To discharge this burden, the Ombudsman averred the following in its comment and opposition to the motion to quash, to wit:


7. Second, the reason for the delay, if any was indeed incurred, is reasonable. In the cases of *Ty-Dazo vs. Sandiganbayan* and *Mendoza-Ong vs. Sandiganbayan*, the highest Court of the land ruled that a mere mathematical reckoning of time involved would not be sufficient. **The review of the findings of the investigating lawyers ensure that the resolution carefully weighed and considered the arguments of both parties, the complainant and the respondents.**

8. **In order to come up with a fair resolution, it is imperative to carefully examine and weigh all the evidences gathered in these cases, as well as the allegations and defenses raised by the parties in the documents submitted in this case such as the Complaint, Counter-Affidavits, and their corresponding annexes.**

9. In resolving complaints against public officials, the Ombudsman is duty-bound to protect the right of the people to public justice. In *Dansal vs. Fernandez*, the Supreme Court emphasized that the heavy duty of the Ombudsman "should not be mistaken with a hasty resolution of cases at the expense of thoroughness and correctness. Judicial notice should be taken of the fact that the nature of the Office of the Ombudsman encourages individuals who clamor for efficient government service to freely lodge their complaints against erring government personnel, thus resulting in a steady stream of cases reaching the Office of the Ombudsman."<sup>24</sup>

Notably, the Ombudsman did not discuss the context of the case of Rene and his co-respondents, the amount of evidence to be weighed, or the complexity of the issues raised therein to explain the delay in the conclusion of the preliminary investigation. The Ombudsman merely argued that the delay, if any, was reasonable. The Ombudsman highlighted the importance of evaluating the allegations of the complainant, the defenses of the respondents, and the evidence

<sup>24</sup> *Rollo*, pp. 30-31.



gathered in a case before arriving at a resolution. The Ombudsman even relied on the steady stream of cases before it. Differently stated, the prosecution failed to prove that the delay was reasonable and justified.

The second question that must be determined is whether Rene waived his right to speedy disposition of cases when he failed to raise the matter before the Ombudsman. Verily, the renunciation of a constitutional right must be positively demonstrated. The implied waiver of such right cannot be presumed. To be sure, a valid waiver of a right requires the confluence of the following elements, to wit: (1) that the right exists; (2) that the person involved had knowledge of the existence of such right, either actual or constructive; and, (3) that said person had an actual intention to relinquish the right.<sup>25</sup> Moreover, the waiver should not only be voluntary but must also be knowingly and intelligently made. The waiver must be performed with sufficient awareness of the relevant circumstances and likely consequences. There must be persuasive evidence of an actual intention to relinquish the right. Mere silence of the holder of the right should not be easily construed as surrender thereof. The courts must indulge every reasonable presumption against the existence and validity of such waiver.<sup>26</sup>

In *Javier v. Sandiganbayan*,<sup>27</sup> the Ombudsman found probable cause to indict the petitioners for violation of Section 3(e) of RA No. 3019 five (5) years after the filing of the complaint against them. A month later, information was filed against the petitioners. The Sandiganbayan scheduled the arraignment. However, the petitioners manifested that they were not ready for arraignment as they intended to file a motion to quash on the ground of inordinate delay. The petitioners then filed a motion to quash which the Sandiganbayan denied. Aggrieved, the petitioners elevated the matter to the Court. In that case, the Court ruled that there was an inordinate delay in the preliminary investigation because it was terminated beyond the 10-day period provided in the Revised Rules of Criminal Procedure. The prosecution had the burden to prove that the petitioners' right to speedy disposition of cases was not violated which it failed to do so. Moreover, the Court held that the Ombudsman's claim that the case had voluminous records and that it had a "steady stream of cases" should still be subject to proof as to its effects on a particular case, bearing in mind the importance of the right to speedy disposition of cases as a fundamental right. The Court further explained that the petitioners did not waive their right to the speedy disposition of their case and that their inaction did not amount to acquiescence. While it is true that the records are bereft of any indication that the petitioners "followed up" on the resolution of their case, the same could not be construed to mean that they acquiesced to the delay. The Court clarified that the petitioners do not have any duty to follow up on the prosecution of their case. Instead, it is the Ombudsman's responsibility to expedite the preliminary investigation within the bounds of reasonable timeliness in view of its mandate to promptly act on all complaints lodged before it. The Ombudsman's own Rules of Procedure provide that motions to dismiss, except on the ground of lack of jurisdiction, are

<sup>25</sup> *Vda. de Garcia v. Loatin*, 65 Phil. 689, 694 (1938).

<sup>26</sup> *People v. Bodoso*, 446 Phil. 838, 850-851 (2003).

<sup>27</sup> G.R. No. 237997 June 10, 2020.



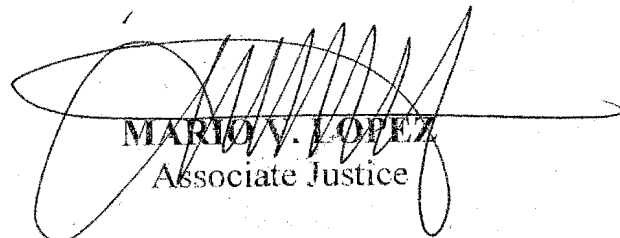
prohibited. Hence, the petitioners had no legitimate avenues to assert their fundamental right to speedy disposition of cases at the preliminary investigation level. Lastly, the petitioners' filing of a motion to quash before their arraignment shows that they did not sleep on their rights.

Similarly, the Court finds that Rene's failure to assert his right before the Ombudsman is not a ground for the denial of the motion to quash absent any pleading or act on his part that contributed to the deferral of the proceedings. Rene's request for an additional ten (10) days within which to file his counter-affidavit did not significantly contribute to the delay in the resolution of his cases. It is also of no moment that Rene did not file a motion to expedite the proceedings before the Ombudsman or raise his right to speedy disposition in his motion for reconsideration. The burden is not upon Rene to ensure that the wheels of justice continue to turn. Rather, it is for the State to guarantee that the cases are disposed of within a reasonable period. It is sufficient that Rene raised the constitutional violation after the Sandiganbayan admitted the amended informations and prior to his arraignment.<sup>28</sup>

At this point, the Court reiterates that the objective of the right to speedy disposition of cases is to spur dispatch in the administration of justice and to prevent the oppression of the citizen by holding a criminal prosecution suspended over him for an indefinite time. Akin to the right to a speedy trial, its objective is to assure that an innocent person may be free from the anxiety and expense of litigation or if otherwise, to have his guilt determined within the shortest possible time compatible with the presentation and consideration of whatever legitimate defense he may raise. This unrest and the tactical disadvantages carried by the passage of time should be weighed against the State and in favor of the individual.<sup>29</sup>

**FOR THESE REASONS**, the petition is **GRANTED**. The Sandiganbayan's Resolution dated October 11, 2017 in SB16-CRM-0326 and SB16-CRM-0327 is **SET ASIDE**. The criminal cases against Rene C. Figueroa are **DISMISSED** for violation of his constitutional right to the speedy disposition of cases.

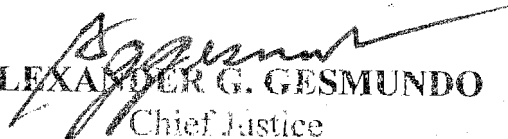
**SO ORDERED.**

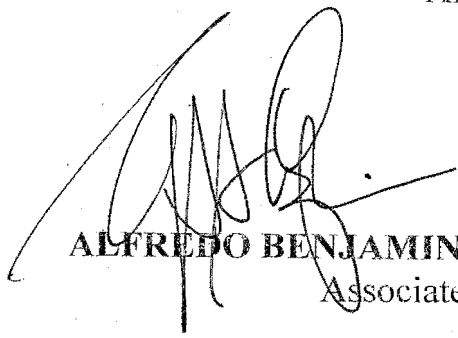
  
MARIO V. LOPEZ  
Associate Justice

<sup>28</sup> *Magante v. Sandiganbayan*, 836 Phil. 1108, 1138 (2018).

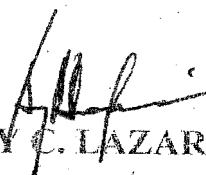
<sup>29</sup> *Coscolluela v. Sandiganbayan*, 714 Phil. 55, 65 (2013).

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Chief Justice  
Chairperson



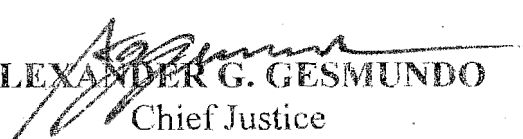
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

  
**JOSEFA LOPEZ**  
Associate Justice

**CERTIFICATION**

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

  
**ALEXANDER G. GESMUNDO**  
Chief Justice