



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**MARIANO MALONES y
MALIFICIO and EDNA M.
MADARICO,**

Petitioners,

- versus -

**SANDIGANBAYAN (THIRD &
SEVENTH DIVISIONS) AND -
PEOPLE OF THE PHILIPPINES,**

Respondents.

G.R. Nos. 226887-88

Present:

CAGUIOA, J., *Chairperson*,
INTING,
GAERLAN,
DIMAAPAO, and
SINGH, JJ.

Promulgated:
July 20, 2022

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DECISION

GAERLAN, J.:

This is a Petition for *Certiorari*¹ under Rule 65 of the Rules of Court, as amended, assailing, on grounds of grave abuse of discretion amounting to lack or excess of jurisdiction, the Resolutions dated June 7, 2016² and September 6, 2016³ of the Sandiganbayan, Third Division, in Criminal Case Nos. SB-15-CRM-0092 and SB-15-CRM-0093. The assailed issuances denied, *inter alia*, petitioners' motion to dismiss the complaints filed against them for violation of their constitutional right to speedy disposition of cases.

Antecedents

Proceedings before the Ombudsman

Petitioners Mariano Malones (Malones) and Edna M. Madarico (Madarico) (together, petitioners) were the Mayor and the Treasurer, respectively, of the Municipality of Maasin, Iloilo.

¹ *Rollo*, pp. 8-30.

² Id. at 34-43; penned by Associate Sarah Jane T. Fernandez with Presiding Justice Amparo M. Cabotaje-Tang and Associate Justice Samuel R. Martires (a former Member of this Court) concurring.

³ Id. at 46-52.

On May 31, 2002,⁴ Winefredo C. Maternal (Maternal) a former Member of the Sangguniang Bayan of Maasin, Iloilo, filed a complaint-affidavit⁵ against petitioners before the Office of the Ombudsman, for irregularities in the acquisition of a garbage compactor truck from Tomitzu Corporation without any public bidding, thereby leading to the loss of public funds amounting to ₱380,000.00.

On August 27, 2002, the Ombudsman referred⁶ Maternal's complaint to the Regional Office VI of the Commission on Audit (COA) which, in turn, submitted an Evaluation Report⁷ on its findings on March 25, 2004.⁸

On September 28, 2011, the Public Assistance and Corruption Prevention Office (PACPO) of the Ombudsman issued a Final Evaluation Report⁹ recommending the filing of formal criminal charges against petitioners and one Ma. Theresa Tan Delos Reyes a.k.a. Maritess Tan Delos Reyes (Delos Reyes).

PACPO filed its formal complaint-affidavit against petitioners before the Ombudsman on March 12, 2012.¹⁰

On April 13, 2012, the Ombudsman issued an Order¹¹ directing petitioners and Delos Reyes to file their counter-affidavits.

The Ombudsman received the respective counter-affidavits of Malones and Madarico on July 18, 2012 and August 9, 2012, respectively.¹² Delos Reyes did not file her counter-affidavit.

In their Position Paper¹³ before the Ombudsman which was filed on July 29, 2013 per Registry Receipt No. 2270,¹⁴ petitioners asserted that their constitutional right to speedy disposition of cases was violated by the Ombudsman. They contended that even though Maternal's complaint-

⁴ Id. at 86.

⁵ Id. at 87-93.

⁶ Id. at 234.

⁷ Id. at 236-241.

⁸ Id. at 235.

⁹ Id. at 94-104. The Final Evaluation Report was signed by Theodore P. Banderado, Graft Investigation and Prosecution Officer I, and reviewed by Carla Juris Narvios-Tanco, Acting Director-PACPO, and Virginia Palanca-Santiago, Assistant Ombudsman. It was recommended for approval by Pelagio S. Apostol, Deputy Ombudsman for the Visayas, and, ultimately, approved by Ombudsman Conchita Carpio Morales.

¹⁰ Id. at 111.

¹¹ Id. at 149-150.

¹² Id. at 221.

¹³ Id. at 105-110.

¹⁴ Id. at 110.

affidavit was filed in 2002, it was only in 2011 that they were ordered by the Ombudsman to submit their respective counter-affidavits.

On August 29, 2013, the Ombudsman rendered a Resolution¹⁵ recommending the filing of Informations against petitioners and Delos Reyes. Petitioners filed a Motion for Reconsideration¹⁶ but the same was denied by the Ombudsman in its Order¹⁷ dated November 3, 2014.

On August 27, 2014, two Informations were filed before the Sandiganbayan for violation of Section 3(e) of Republic Act (R.A.) No. 3019 and for Falsification of Public/Official Documents, respectively, the accusatory portions of which reading as follows:

Criminal Case No. SB-15-CRM-0092

That on or about 5 September 2001, or sometime prior or subsequent thereto, in the Municipality of Maasin, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, **MARIANO M. MALONES** and **EDNA M. MADARICO**, both public officers, being then the Mayor, and Treasurer, respectively, of the Municipality of Maasin, committing the offense while in the discharge of their respective functions though in abuse thereof, taking advantage of the public office, conspiring, confederating, and mutually aiding one another and with accused **MA. THERESA TAN DELOS REYES (A.K.A. MARITESS TAN DELOS REYES)**, the attorney-in-fact and or authorized representative of Tomitzu Corporation, acting with manifest partiality, evident bad faith, and or gross inexcusable negligence, did then and there willfully, unlawfully, and criminally cause the acquisition/purchase of One (1) Unit Fuso Canter Isuzu Garbage Compactor Truck with Chassis No. FE315BN-442164, from Tomitzu Corporation, in the amount of Three Hundred Eighty Thousand Pesos (PhP380,000.00), without conducting public/competitive bidding as required by law/rules, thereby giving unwarranted benefits, advantage or preference to Tomitzu Corporation, and depriving the Municipality of Maasin of the lowest calculated responsive bid, to the prejudice thereto.

CONTRARY TO LAW.¹⁸

Criminal Case No. SB-15-CRM-0093

That on or about 6 September 2001, or sometime prior or subsequent thereto, in the Municipality of Maasin, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, **MARIANO M. MALONES (MALONES)**, public officer,

¹⁵ Id. at 111-128. The Resolution was signed by Llorene Grace Razo-Ompod, Graft Investigation and Prosecution Officer II, reviewed by Euphemia B. Bacalso, Acting Director-Evaluation and Investigation Office (EIO), and, ultimately, approved by Ombudsman Conchita Carpio-Morales.

¹⁶ Id. at 129-144.

¹⁷ Id. at 154-159.

¹⁸ Id. at 160-161.

being then the Mayor of the Municipality of Maasin, committing the offense in relation to office, taking advantage of his official position, conspiring, confederating, and mutually aiding with accused **MA. THERESA TAN DELOS REYES (A.K.A. MARITESS TAN DELOS REYES)**, the attorney-in-fact and or authorized representative of R.H. International Co. Ltd./Hiroyuki Tsuchiya, with deliberate intent, did then and there willfully, unlawfully, feloniously falsify public/official documents, consisting of the Deed of Donation and Deed of Acceptance, both dated September 6, 2001, by making it appear therein that R.H. International Co. Ltd. donated to the Municipality of Maasin a One (1) Unit Fuso Canter Isuzu Garbage Compactor Truck, with Chassis No. FE315BN-442164, which the Municipality accepted through accused **MALONES**, when in truth and in fact accused very well knew, that the said Garbage Compactor Truck was acquired by the local government of Maasin through sale from Tomitzu Corporation, in the amount of Three Hundred Eighty Thousand Pesos (PhP380,000.00), thereby making untruthful in a narration of facts, to the damage and prejudice of the Municipality of Maasin or the government.

CONTRARY TO LAW.¹⁹

Proceedings before the Sandiganbayan

In the course of the trial of the foregoing cases, or on January 20, 2016, the Office of the Special Prosecutor (OSP) filed a Motion for the Suspension *Pendente Lite* of Accused Malones.²⁰ Opposing the said motion, Malones reiterated his position that the proceeding has violated his constitutional right to speedy disposition of cases.²¹

Meanwhile, on April 22, 2016, the consolidated cases were raffled²² to the Seventh Division²³ of the Sandiganbayan.

On June 7, 2016, the Third Division of the Sandiganbayan issued the first assailed Resolution²⁴ granting the motion to suspend Malones *pendente lite*, and denying petitioners' motion to dismiss.

With regard to petitioners' invocation of their right to speedy disposition, the Sandiganbayan reasoned that:

[A]ccused Malones and Madarico merely point out that the Office of the Ombudsman took action on the case only ten (10) years after the filing of

¹⁹ Id. at 163-164.

²⁰ Id. at 166-169.

²¹ Id. at 53-64.

²² Id. at 187.

²³ Id. at 189. The Seventh Division of the Sandiganbayan was composed of Associate Justice Alexander G. Gesmundo (now Chief Justice of the Supreme Court) as Chairperson, with Associate Justices Ma. Theresa Dolores C. Gomez-Estoesta and Zaldy V. Trespes as Members.

²⁴ Id. at 34-43.

the initiatory complaint, without showing other circumstances that clearly demonstrate how the delay can be characterized as vexatious, capricious and oppressive. It bears repeating that the lapse of time, by itself, is not sufficient to arrive at the conclusion that there was inordinate delay. x x x

Next, accused Malones and Madarico that the Office of the Ombudsman should have complied with Sec. 4, Rule II of the Rules of Procedure of the Ombudsman, which provides that preliminary investigation shall be conducted in the manner prescribed in Section 3, Rule 112 of the Rules of Court x x x.

x x x x

Verily, the Rules provide that the investigating officer should act on the complaint within ten (10) days from the filing thereof. However, the Supreme Court, in *Mendoza-Ong v. Sandiganbayan*, recognized that by reason of stream of cases reaching the Ombudsman, disposition of the same will necessarily take time. x x x

x x x x

x x x [T]he mere failure of the Office of the Ombudsman to comply with the ten-day period in Sec. 3(b), Rule 112 will not automatically result in violation of the right to speedy disposition of cases.

Finally, accused Malones and Madarico's claim that they suffered prejudice because witnesses' recollections might no longer be accurate and evidence is now more difficult to obtain, does not persuade.

Without doubt, the mere lapse of time may cause evidence to be more difficult to obtain – the longer the time that has passed from the alleged date of the commission of the offense, the more difficult it will be to obtain evidence. x x x

x x x x

However, prejudice does not always follow the mere fact of passage of time. Assuming that the criminal action against them had commenced near the end of the prescriptive period of the offenses, the effect would be the same – evidence would still be more difficult to obtain due to the lapse of time, but they will not be able to claim that they suffered prejudice.

Other than their assertion of difficulty in obtaining evidence, they failed to clearly show how they were prejudiced by reason of the delay in the termination of the preliminary investigation.²⁵

Petitioners interposed a Motion for Reconsideration²⁶ contending that the Third Division no longer had the authority to rule on the OSP's January 20, 2016 motion since the case had already been raffled to the Seventh

²⁵ Id. at 40-42.

²⁶ Id. at 65-85.

Division;²⁷ and that the inordinate delay of the Ombudsman was too protracted to be called reasonable and just.²⁸

The Sandiganbayan denied the said motion for reconsideration in the second assailed Resolution²⁹ dated September 6, 2016.

Hence, the present recourse.

Issues

Succinctly, the issues submitted before the Court are:

1. Whether or not the Third Division of the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction when it denied petitioners' invocation of their right to speedy disposition of cases as a ground for the dismissal of the criminal cases filed against them; and
2. Whether or not the Third Division of the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the herein assailed Resolutions despite the fact that the consolidated criminal cases have already been raffled to the Seventh Division of the said court.

Ruling of the Court

There is merit in the petition.

I.

Guaranteed by the Constitution,³⁰ the right to speedy disposition of cases recognizes the truism that justice delayed can mean justice denied.³¹ Because the wheels of justice must turn unhampered by undue delay,³² the right is paramount in the administration of justice.³³

²⁷ Id. at 67.

²⁸ Id. at 69.

²⁹ Id. at 46-52.

³⁰ *Dela Peña v. Sandiganbayan*, 412 Phil. 921, 929 (2001).

³¹ *Caballero v. Alfonso, Jr.*, 237 Phil. 154, 162 (1987).

³² *People v. Diaz*, 370 Phil. 607, 612 (1999).

³³ *Central Cement Corporation v. Mines Adjudication Board*, 566 Phil. 275, 288 (2008).

The right to speedy disposition of cases is not limited to the accused in criminal proceedings but extends to all parties in all cases, including civil and administrative cases, and in all proceedings, including judicial and quasi-judicial hearings.³⁴ Section 16, Article III of the Constitution so states:

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

Following this constitutional mandate, any party to a case can demand expeditious action from all officials who are tasked with the administration of justice.³⁵ Society has a particular interest in bringing swift prosecutions, and the society's representatives are the ones who should protect that interest.³⁶ To this end, courts have the avowed duty to uphold the right of all persons to a speedy disposition of their cases and avert the precipitate loss of rights.³⁷

Nowhere is this guaranty more significant and meaningful than in criminal cases where not only the fortune, but the life and liberty of the accused as well, are at stake.³⁸ In criminal cases, the right of an accused to the speedy disposition of cases is a sacrosanct right that must not only be respected by courts and tribunals, but must also be invoked only in clear instances of vexatious, capricious, and oppressive delays³⁹ which render rights nugatory.⁴⁰

Consistent with the protection of a person's right to speedy disposition of cases, Section 12,⁴¹ Article XI of the Constitution mandates upon the Ombudsman the duty to act promptly on complaints filed against all public officials and employees. This directive is replicated in Section 13⁴² of R.A. No. 6770, otherwise known as the Ombudsman Act of 1989. Accordingly, the right to speedy disposition is commonly invoked in fact-finding investigations and preliminary investigations conducted by the Ombudsman because while

³⁴ *Binay v. Sandiganbayan*, 374 Phil. 413, 446-447 (1999).

³⁵ *Navarro v. Commission on Audit Central Office*, G.R. No. 238676, November 19, 2019.

³⁶ *Arroyo v. Department of Justice*, 695 Phil. 302, 362 (2012).

³⁷ *Yuchengco v. Republic*, 388 Phil. 1039, 1062 (2000).

³⁸ *Cabarles v. Maceda*, 545 Phil. 210, 222 (2007).

³⁹ *People v. Sandiganbayan (First Division)*, G.R. Nos. 244557-67, June 19, 2019.

⁴⁰ *Ombudsman v. Jurado*, 583 Phil. 132, 145 (2008).

⁴¹ 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.

⁴² 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.

these proceedings do not form part of the criminal prosecution proper, the respondent may already be prejudiced by such proceedings.⁴³

Indeed, the right of the accused to a speedy trial and to a speedy disposition of the case against him/her was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him/her for an indefinite time, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases.⁴⁴ In the determination of whether said right has been violated, particular regard must be taken of the facts and circumstances peculiar to each case.⁴⁵ There can be no hard and fast rule measured mathematically in terms of years, months or days.⁴⁶ There occurs a violation of the right to a speedy disposition of a case only when the proceedings are attended by vexatious, capricious, and oppressive delays, or when unjustified postponements of the trial are sought and secured, or when, without cause or justifiable motive, a long period of time is allowed to elapse without the party having his or her case tried.⁴⁷

In *Cagang v. Sandiganbayan*⁴⁸ (*Cagang*), the Court laid down the following guidelines to be considered in resolving issues involving the right to speedy disposition of cases:

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

⁴³ *Daep v. Sandiganbayan-Fourth Division*, G.R. No. 244649, June 14, 2021.

⁴⁴ *Corpuz v. Sandiganbayan*, 484 Phil. 899, 917 (2004).

⁴⁵ *Mendoza-Ong v. Sandiganbayan*, 483 Phil. 451, 454 (2004).

⁴⁶ *Sumbang, Jr. v. Gen. Court Martial PRO-Region 6*, 391 Phil. 929, 934 (2000).

⁴⁷ *Spouses Dacudao v. Gonzales*, 701 Phil. 96, 113 (2013).

⁴⁸ 837 Phil. 815 (2018).

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 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.⁴⁹ (Citation omitted)

II.

A review of the timeline of the proceedings before the Ombudsman is in order:

⁴⁹ Id. at 880-882.

Documents Filed or Issued	Filed or Issued By	Date Filed, Issued or Received
Complaint-Affidavit	Winefredo C. Maternal	May 31, 2002
Referral to the Regional Office VI, COA, for fact-finding investigation	Primo C. Miro, Deputy Ombudsman for the Visayas	August 27, 2002
Evaluation Report	Regional Legal and Adjudication Office, Regional Office VI, COA	March 25, 2004
Final Evaluation Report	PACPO	September 28, 2011
Complaint-Affidavit	PACPO	March 12, 2012
Order directing petitioners and Delos Reyes to file their counter-affidavits	Ombudsman	April 13, 2012
Counter-Affidavit	Malones	July 18, 2012
Counter-Affidavit	Madarico	August 9, 2012
Resolution recommending the filing of Informations against petitioners and Delos Reyes	Ombudsman	August 29, 2013
Filing of the Informations before the Sandiganbayan, docketed as Criminal Case Nos. SB-15-CRM-0092 and SB-15-CRM-0093	Ombudsman	August 27, 2014
Resolution denying petitioners' motion for reconsideration	Ombudsman	November 3, 2014

As declared in *Cagang*, the period taken for fact-finding investigations prior to the filing of a formal complaint is not included in the determination of whether or not there was an inordinate delay on the part of the Ombudsman. This is so because during the conduct of the fact-finding investigation, the governments officials and employees concerned are not yet exposed to adversarial proceedings, but only for the purpose of determining whether a formal complaint against them should be filed based on the result of the said fact-finding investigation.⁵⁰

Accordingly, We cannot count as part of the determination of the presence of inordinate delay the period between the filing of Maternal's complaint-affidavit on May 31, 2002 until the day before the filing of PACPO's own complaint-affidavit on March 12, 2012 because the same forms part of the period within which the Ombudsman conducted a non-adversarial fact-finding investigation.

Thus, the period that must be used in order to determine the presence of inordinate delay, following *Cagang*, is reckoned from the date of filing of PACPO's formal complaint on March 12, 2012.

⁵⁰ *People v. Sandiganbayan (Fifth Division)*, G.R. No. 233063, February 11, 2019.

III.

At the time of the filing of PACPO's complaint, the Rules of Procedure of the Office of the Ombudsman⁵¹ did not provide for specific time periods to conclude preliminary investigations.⁵² However, Section 4⁵³ of R.A. No. 7975⁵⁴ decreed that the Rules of Court promulgated by the Supreme Court shall apply to all cases and proceedings filed with the Sandiganbayan.⁵⁵ Rule V, Section 3⁵⁶ of the Rules of Procedure of the Office of the Ombudsman likewise provides that the Rules of Court shall apply in a suppletory character or by analogy in all matters not provided therein.

Section 3(b),⁵⁷ Rule 112 of the Rules of Court provides that within 10 days after the filing of the complaint, the investigating officer shall either dismiss it or issue a subpoena to the respondents. Section 3(f)⁵⁸ of the same Rule mandates that an investigating officer has a period of 10 days after the investigation to determine if there is probable cause to formally indict a respondent.

On the other hand, a reading of Section 7,⁵⁹ Rule II of the Rules of Procedure of the Office of the Ombudsman reveals that it sanctions the immediate filing of an information in the proper court upon a finding of probable cause, even during the pendency of a motion for reconsideration.⁶⁰

⁵¹ Administrative Order No. 07 dated April 10, 1990.

⁵² *Javier v. Sandiganbayan*, G.R. No. 237997, June 10, 2020.

⁵³ SECTION 4. Section 9 of the same Decree is hereby amended to read as follows:

“Sec. 9. *Rules of Procedure*. – The Rules of Court promulgated by the Supreme Court shall apply to all cases and proceedings filed with the *Sandiganbayan*. The *Sandiganbayan* shall have no power to promulgate its own rules of procedure, except to adopt internal rules governing the allotment of cases among the divisions, the rotation of justices among them, and other matters relating to the internal operations of the court which shall be enforced until repealed or modified by the Supreme Court.”

⁵⁴ AN ACT TO STRENGTHEN THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 1606, as amended.

⁵⁵ *Re: Problem of Delays in Cases Before the Sandiganbayan*, 422 Phil. 246, 257 (2001).

⁵⁶ Section 3. *Rules of Court, application*. – In all matters not provided in these rules, the Rules of Court shall apply in a suppletory character, or by analogy whenever practicable and convenient.

⁵⁷ Section 3. *Procedure*. — The preliminary investigation shall be conducted in the following manner:

x x x x

(b) Within ten (10) days after the filing of the complaint, the investigating officer shall either dismiss it if he finds no ground to continue with the investigation, or issue a subpoena to the respondent attaching to it a copy of the complaint and its supporting affidavits and documents.

⁵⁸ RULES OF COURT, Rule 112, Section 3(f) reads:

(f) Within ten (10) days after the investigation, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial.

⁵⁹ Section 7. *Motion for Reconsideration*. —

a) Only one motion for reconsideration or reinvestigation of an approved order or resolution shall be allowed, the same to be filed within five (5) days from notice thereof with the Office of the Ombudsman, or the proper Deputy Ombudsman as the case may be, with corresponding leave of court in cases where the information has already been filed in court;

b) The filing of a motion for reconsideration/reinvestigation **shall not bar** the filing of the corresponding information in Court on the basis of the finding of probable cause in the resolution subject of the motion. (Emphasis supplied)

⁶⁰ *Ramiscal, Jr. v. Sandiganbayan*, 645 Phil. 69, 78 (2010).

The Ombudsman failed to comply with these directives.

Records show that the Ombudsman directed petitioners to file their respective counter-affidavits to PACPO's complaint-affidavit 32 days after the latter was filed. The Ombudsman received petitioners' respective affidavits on July 18, 2012 and August 9, 2012. And while Delos Reyes, petitioners' co-accused, did not file her counter-affidavit, the Ombudsman was under no obligation to await the same indefinitely. As it stands, the Ombudsman issued its Resolution finding probable cause against petitioners one year and 20 days after it received the last counter-affidavit which was filed by Madarico. Worse, the Ombudsman filed the Informations against petitioners 11 months and 29 days after the issuance of its August 29, 2013 Resolution.

In *Catamco v. Sandiganbayan*,⁶¹ We held that by virtue of the Ombudsman's failure to comply with the periods prescribed by the rules, the prosecution must bear the burden of establishing that the delay is reasonable and justified under the circumstances. This involves proving the following: (a) the prosecution followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; (b) the complexity of the issues and the volume of evidence made the delay inevitable; and (c) no prejudice was suffered by the accused as a result of the delay.⁶²

IV.

The prosecution failed to justify the inordinate delay in this case.

In its Comment/Opposition⁶³ to petitioners' motion to dismiss, the OSP acknowledged before the Sandiganbayan that the former had repeatedly raised the violation of their right to speedy disposition in every stage of the proceedings. However, the OSP merely brushed aside petitioners' argument as one that "only interrupts the orderly proceedings and wastes the time of the Honorable Court."⁶⁴

Too, in its Comment⁶⁵ to the instant petition, the OSP hinged on the principle of presumption of regularity in the performance of its duties in an

⁶¹ G.R. Nos. 243560-62, July 28, 2020.

⁶² *Perez v. Sandiganbayan*, G.R. No. 245862, November 3, 2020.

⁶³ *Rollo*, pp. 170-172.

⁶⁴ *Id.* at 171.

⁶⁵ *Id.* at 219-232.

attempt at shifting to petitioners the burden of proving how the inordinate delay oppressed them.⁶⁶

The present case involves only one transaction, *i.e.*, the acquisition of one garbage compactor truck worth ₱380,000.00. It does not involve a review of voluminous documents, nor does it require an assiduous study of complex legal issues. The failure of the prosecution to provide an adequate explanation for the Ombudsman's inordinate delay in the conduct of the preliminary investigation all but confirms that there was indeed a violation of petitioners' constitutional right to the speedy disposition of the cases filed against them.

As this Court has the solemn duty to protect the Constitution and the constitutional rights of individuals,⁶⁷ We must, perforce, order the dismissal of the complaints filed against petitioners. The Sandiganbayan is therefore permanently enjoined from proceeding with these cases.⁶⁸

Indeed, courts should not brook undue delays in the ventilation and determination of causes. It should be their constant effort to assure that litigations are prosecuted and resolved with dispatch.⁶⁹ The speedy disposition of cases is the obligation and goal not only of the judicial and quasi-judicial bodies but of the citizenry for whom this guarantee is made.⁷⁰ The Government should be the last to set an example of delay and oppression in the administration of justice.⁷¹

In view of the foregoing ruling, the Court finds it unnecessary to discuss the other issue raised by petitioners.

WHEREFORE, the petition is **GRANTED**. The Resolutions dated June 7, 2016 and September 6, 2016 of the Sandiganbayan, Third Division, in Criminal Case Nos. SB-15-CRM-0092 and SB-15-CRM-0093 are hereby **ANNULLED** and **SET ASIDE**. For violation of their constitutional right to speedy disposition of cases, the charges against petitioners **MARIANO MALONES y MALIFICIO** and **EDNA M. MADARICO** are ordered **DISMISSED**.

⁶⁶ *Id.* at 229.

⁶⁷ *People v. XYZ*, G.R. No. 244255, August 26, 2020.

⁶⁸ *Perez v. Sandiganbayan*, G.R. No. 245862, November 3, 2020.

⁶⁹ *Padua v. Ericta*, 244 Phil. 479, 481 (1988).

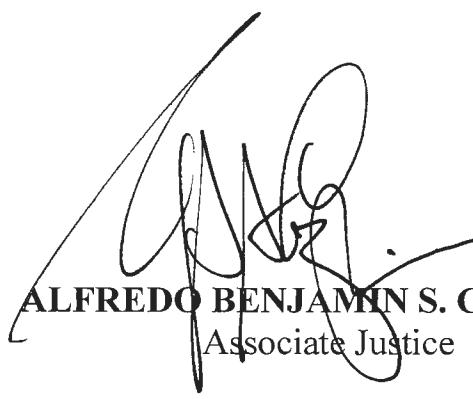
⁷⁰ *Almoite v. Pacific Architects & Engineers, Inc.*, 226 Phil. 526, 532 (1986).

⁷¹ *People v. Castañeda*, 63 Phil. 480, 486 (1936).

SO ORDERED.


SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

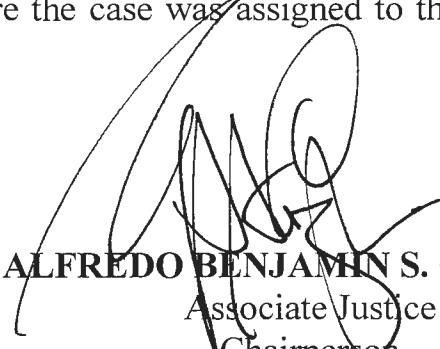

HENRI JEAN PAUL B. INTING
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice


MARIA FILOMENA D. SINGH.
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.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson

C E R T I F I C A T I O N

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