



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

ROLANDO MAGAÑA PACURIBOT,  
Petitioner,

G.R. Nos. 247414-18

Present:

- versus -

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

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

Promulgated:

July 6, 2022

*Mis + DCBatt*

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DECISION

CAGUIOA, J.:

This is a Petition for *Certiorari* with application for the issuance of a Temporary Restraining Order and/or a Writ of Preliminary Injunction<sup>1</sup> (Petition) filed under Rule 65 of the Rules of Court, assailing the following resolutions of the Sandiganbayan, Second Division: (a) Resolutions dated October 24, 2018<sup>2</sup> and March 4, 2019<sup>3</sup> in Criminal Case No. SB-18-CRM-0137; (b) Resolutions dated October 17, 2018<sup>4</sup> and March 4, 2019<sup>5</sup> in Criminal Case No. SB-18-CRM-0229; (c) Resolutions dated November 27,

<sup>1</sup> *Rollo*, pp. 3-24.

<sup>2</sup> *Id.* at 29-34. Penned by Associate Justice Oscar C. Herrera, Jr., with Associate Justices Michael Frederick L. Musngi and Lorifel L. Pahimna, concurring.

<sup>3</sup> No copy attached to the petition but is listed in the Notice of Resolutions (3 Sets) issued by the Sandiganbayan Second Division, *rollo*, p. 80.

<sup>4</sup> *Id.* at 73-79. Penned by Associate Justice Oscar C. Herrera, Jr., with Associate Justices Michael Frederick L. Musngi and Lorifel L. Pahimna, concurring.

<sup>5</sup> *Id.* at 81. Approved by Associate Justices Oscar C. Herrera, Jr., Michael Frederick L. Musngi and Lorifel L. Pahimna.

2018<sup>6</sup> and March 4, 2019<sup>7</sup> in Criminal Case Nos. SB-18-CRM-0395 and SB-18-CRM-0405; and (d) Resolutions dated December 10, 2018<sup>8</sup> and March 15, 2019<sup>9</sup> in Criminal Case No. SB-18-CRM-0274 of the Sandiganbayan, Special Second Division.

### Facts

Petitioner Rolando Magaña Pacuribot (Pacuribot), at the time of filing of the Petition, was the City Engineer of Cagayan de Oro City. On February 3, 2015, one Antonio M. Nuñez, Jr. (Nuñez) filed a complaint against Pacuribot and several other former officials of the province of Misamis Oriental, charging them with illegally awarding lease contracts of various machinery and heavy equipment to Equiprent Corporation (Equiprent) and Earth Tools Development Corporation (Earth Tools) without the benefit of public bidding and despite the two corporations being mere dummies, as they had the same set of officers.<sup>10</sup>

Nuñez's complaint was referred to the Office of the Ombudsman (OMB)-Mindanao Field Investigation Unit (FIU) which, after conducting a fact-finding investigation, subsequently filed several Complaints against Pacuribot and his then co-respondents for twenty-four (24) counts of violation of Section 3(e) of Republic Act No. (RA) 3019,<sup>11</sup> four (4) counts of falsification of public documents under Article 171, paragraph 2 of the Revised Penal Code, and twenty-four (24) administrative cases for Grave Misconduct.<sup>12</sup> The FIU's investigation was concluded on October 30, 2015, and adopted the observations contained in the Special Audit Report for 2007 to 2012 issued by the Commission on Audit.<sup>13</sup> As a result, the various transactions with Equiprent and Earth Tools and their corresponding Notices of Suspension were docketed as follows:<sup>14</sup>

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<sup>6</sup> Id. at 65-71. Penned by Associate Justice Oscar C. Herrera, Jr., with Associate Justices Michael Frederick L. Musngi and Lorifel L. Pahimna, concurring.

<sup>7</sup> Id. at 82. Approved by Associate Justices Oscar C. Herrera, Jr., Michael Frederick L. Musngi and Lorifel L. Pahimna.

<sup>8</sup> Id. at 36-42. Penned by Associate Justice Oscar C. Herrera, Jr., with Presiding Justice Amparo M. Cabotaje-Tang and Associate Justice Lorifel L. Pahimna, concurring; and Associate Justices Michael Frederick L. Musngi and Geraldine Faith A. Econg, dissenting.

<sup>9</sup> Id. at 84-86. Penned by Associate Justice Oscar C. Herrera, Jr., with Presiding Justice Amparo M. Cabotaje-Tang and Associate Justice Lorifel L. Pahimna, concurring; and Associate Justices Michael Frederick L. Musngi and Geraldine Faith A. Econg, dissenting.

<sup>10</sup> See Verified Complaint, id. at 176-185.

<sup>11</sup> ANTI-GRAFT AND CORRUPT PRACTICES ACT, approved on August 17, 1960.

<sup>12</sup> *Rollo*, p. 5.

<sup>13</sup> See Office of the Special Prosecutor's Comment, id. at 540.

<sup>14</sup> Id.

OMB Case No.	Transaction Involved
OMB-M-C-15-0445 <sup>15</sup>	Lease of one unit of vibratory roller from Earth Tools from January 1 to July 31, 2008 in the total amount of ₱2,349,270.00
OMB-M-C-15-0448 <sup>16</sup>	Lease of one vibratory roller from Earth Tools from August 1 to October 31, 2008 in the total amount of ₱1,108,905.00
OMB-M-C-15-0453 <sup>17</sup>	Lease of one unit of excavator from Equiprent from June 1 to 30, 2011 in the total amount of ₱524,475.00
OMB-M-C-15-0454 <sup>18</sup>	Lease of one unit of excavator from Equiprent from August 1 to October 31, 2008 in the total amount of ₱1,678,740.00
OMB-M-C-15-0437 <sup>19</sup>	Lease of Isuzu Elf Fuel Tanker from Equiprent from November 1 to December 31, 2012 in the total amount of ₱80,915.63

After the parties were given the opportunity to respond to the complaints, the OMB Mindanao prepared Resolutions finding probable cause against Pacuribot and his co-respondents for violation of Section 3(e) of RA 3019.<sup>20</sup> These Resolutions were submitted for the approval of then Ombudsman Conchita Carpio Morales (Ombudsman Carpio Morales), and became the basis of filing various Informations before the Sandiganbayan. The following is a summary of the timeline of these events, as regards the cases subject of this Petition:

Sandiganbayan Criminal Case No.	OMB Case No.	Resolution	Approved by Ombudsman Carpio Morales	Pacuribot's Motion for Reconsideration	Information Filed on
SB-18-CRM-0137 <sup>21</sup>	OMB-M-C-15-0445	June 20, 2017	August 7, 2017		February 23, 2018
SB-18-CRM-0229 <sup>22</sup>	OMB-M-C-15-0448	June 1, 2017 <sup>23</sup>	August 7, 2017		March 9, 2018
SB-18-CRM-0395 <sup>24</sup>	OMB-M-C-15-0453	June 1, 2017 <sup>25</sup>		September 5, 2017 <sup>26</sup>	May 28, 2018

<sup>15</sup> Id. See also Resolution dated October 24, 2018, id. at 31-32.

<sup>16</sup> Id. at 540. See also Resolution dated October 17, 2018, id. at 76.

<sup>17</sup> See Resolution dated November 27, 2018, id. at 67-68.

<sup>18</sup> Id. at 68.

<sup>19</sup> See Resolution dated December 10, 2018, id. at 38.

<sup>20</sup> Id. at 540-541.

<sup>21</sup> Id. at 541.

<sup>22</sup> Id.

<sup>23</sup> Id. at 264-274.

<sup>24</sup> Id. at 541.

<sup>25</sup> Id. at 291-305.

<sup>26</sup> Id. at 306-329.

SB-18-CRM-0405 <sup>27</sup>	OMB-M-C-15-0454	June 2, 2017 <sup>28</sup>			June 18, 2018
SB-18-CRM-0274 <sup>29</sup>	OMB-M-C-15-0437	September 6, 2016 <sup>30</sup>	May 24, 2017	June 27, 2017 <sup>31</sup>	April 6, 2018

On May 18, 2018, Pacuribot filed Omnibus Motions (with Urgent Prayer to Defer Arraignment) in Criminal Case Nos. SB-18-CRM-0137,<sup>32</sup> SB-18-CRM-0274,<sup>33</sup> and SB-18-CRM-0229.<sup>34</sup> On July 10, 2018, he filed a similar Omnibus Motion in Criminal Case Nos. SB-18-CRM-0395 and SB-18-CRM-0405.<sup>35</sup> All his Omnibus Motions sought to quash the five (5) informations on the ground that the facts charged therein do not constitute an offense, and that there was inordinate delay in the conduct of the preliminary investigation in violation of Pacuribot's right to speedy disposition of cases.

The Sandiganbayan denied Pacuribot's Omnibus Motions on October 24, 2018 for Criminal Case No. SB-18-CRM-0137,<sup>36</sup> October 17, 2018 for Criminal Case No. SB-18-CRM-0229,<sup>37</sup> November 27, 2018 for Criminal Case Nos. SB-18-CRM-0395 and SB-18-CRM-0405,<sup>38</sup> and December 10, 2018 for Criminal Case No. SB-18-CRM-0274.<sup>39</sup> Pacuribot filed Motions for Reconsideration, which were also denied on March 4, 2019 for Criminal Case Nos. SB-18-CRM-0137, SB-18-CRM-0229, SB-18-CRM-0395 and SB-18-CRM-0405;<sup>40</sup> and on March 15, 2019 for Criminal Case No. SB-18-CRM-0274.<sup>41</sup>

Hence, this Petition.

Pacuribot argues that the Sandiganbayan acted with grave abuse of discretion amounting to lack or excess of jurisdiction in denying his Omnibus Motions and his subsequent Motions for Reconsideration. He reiterates that there was indeed inordinate delay in the OMB's conduct of preliminary investigation, since it took three (3) years for it to act on and finally resolve Nuñez's original complaint. Pacuribot also points to

<sup>27</sup> Id. at 541.

<sup>28</sup> Id. at 275-290.

<sup>29</sup> Id. at 541.

<sup>30</sup> Id. at 253-263.

<sup>31</sup> Id. at 346-361.

<sup>32</sup> Id. at 371-379.

<sup>33</sup> Id. at 393-400.

<sup>34</sup> Id. at 383-390.

<sup>35</sup> Id. at 403-411.

<sup>36</sup> Supra note 2.

<sup>37</sup> Supra note 4.

<sup>38</sup> Supra note 6.

<sup>39</sup> Supra note 8.

<sup>40</sup> Supra notes 3, 5 and 7.

<sup>41</sup> Supra note 9.

individual stages of the preliminary investigation where he believes the OMB unduly delayed in taking action.

In its Comment,<sup>42</sup> respondent People of the Philippines, through the Office of the Special Prosecutor (OSP), argues that the Sandiganbayan was well within its jurisdiction when it ruled that Pacuribot's right to speedy disposition of cases was not violated, since the alleged violation was based on a mere mathematical reckoning of the time involved, and the Sandiganbayan correctly applied the "balancing test" in determining whether the delay was inordinate.

### Issue

The sole issue for resolution of the Court is whether the Sandiganbayan acted with grave abuse of discretion in finding that Pacuribot's right to speedy disposition of cases was not violated.

### Ruling of the Court

The Petition is impressed with merit.

In the case of *Cagang v. Sandiganbayan, 5<sup>th</sup> Division, Quezon City, et al.*<sup>43</sup> (*Cagang*), the Court prescribed guidelines for analyzing cases involving alleged violations of 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

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<sup>42</sup> Id. at 537-556.

<sup>43</sup> 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 x x x 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.<sup>44</sup> (Italics in the original)

Pursuant to the foregoing guidelines, the Court shall first proceed to look into the alleged delay *vis-à-vis* the applicable time periods in Supreme Court issuances, and the rules promulgated by the OMB.

At the time of the events complained of in this case, the Rules of Procedure of the Office of the Ombudsman (OMB Rules) then in force did not prescribe specific time periods for the conduct of preliminary

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<sup>44</sup> Id. at 880-882. Citation omitted



investigation.<sup>45</sup> However, the OMB Rules did indicate in Section 4 of Rule II that preliminary investigation of cases falling under the jurisdiction of the Sandiganbayan and Regional Trial Courts shall be conducted in the manner prescribed in Section 3, Rule 112 of the Rules of Court, which states:

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

(a) The complaint shall state the address of the respondent and shall be accompanied by the affidavits of the complainant and his[her] witnesses, as well as other supporting documents to establish probable cause. They shall be in such number of copies as there are respondents, plus two (2) copies for the official file. The affidavits shall be subscribed and sworn to before any prosecutor or government official authorized to administer oath, or, in their absence or unavailability, before a notary public, each of who must certify that he personally examined the affiants and that he[she] is satisfied that they voluntarily executed and understood their affidavits.

**(b) Within ten (10) days after the filing of the complaint, the investigating officer shall either dismiss it if he[she] 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.**

The respondent shall have the right to examine the evidence submitted by the complainant which he[she] may not have been furnished and to copy them at his[her] expense. If the evidence is voluminous, the complainant may be required to specify those which he intends to present against the respondent, and these shall be made available for examination or copying by the respondent at his[her] expense.

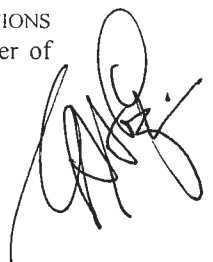
Objects as evidence need not be furnished a party but shall be made available for examination, copying, or photographing at the expense of the requesting party.

**(c) Within ten (10) days from receipt of the subpoena with the complaint and supporting affidavits and documents, the respondent shall submit his[her] counter-affidavit and that of his[her] witnesses and other supporting documents relied upon for his[her] defense.** The counter-affidavits shall be subscribed and sworn to and certified as provided in paragraph (a) of this section, with copies thereof furnished by him to the complainant. The respondent shall not be allowed to file a motion to dismiss in lieu of a counter-affidavit.

(d) If the respondent cannot be subpoenaed, or if subpoenaed, does not submit counter-affidavits within the ten (10) day period, the investigating officer shall resolve the complaint based on the evidence presented by the complainant.

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<sup>45</sup> On August 15, 2020, and in response to the Court's decision in *Cagang*, the OMB issued Administrative Order No. 1, s. 2020, "PRESCRIBING THE PERIODS IN THE CONDUCT OF INVESTIGATIONS BY THE OFFICE OF THE OMBUDSMAN". This Administrative Order was published in a newspaper of general circulation on September 10, 2020, and became effective fifteen days thereafter.



(e) The investigating officer may set a hearing if there are facts and issues to be clarified from a party or a witness. The parties can be present at the hearing but without the right to examine or cross-examine. They may, however, submit to the investigating officer questions which may be asked to the party or witness concerned.

**The hearing shall be held within ten (10) days from submission of the counter-affidavits and other documents or from the expiration of the period for their submission. It shall be terminated within five (5) days.**

(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.** (Emphasis supplied)

The Rules of Court in general is also made to apply in a suppletory character pursuant to Section 3, Rule V of the OMB Rules. Given this, the Court also finds relevant Section 4, Rule 112 of the Rules of Court, which states:

*Section 4. Resolution of investigating prosecutor and its review. —* If the investigating prosecutor finds cause to hold the respondent for trial, he[*/she*] shall prepare the resolution and information. He[*/She*] shall certify under oath in the information that he[*/she*], or as shown by the record, an authorized officer, has personally examined the complainant and his[*/her*] witnesses: that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him[*/her*]; and that he[*/she*] was given an opportunity to submit controverting evidence. Otherwise, he[*/she*] shall recommend the dismissal of the complaint.

**Within five (5) days from his[*/her*] resolution, he[*/she*] shall forward the record of the case to the provincial or city prosecutor or chief state prosecutor, or to the Ombudsman or his[*/her*] deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction. They shall act on the resolution within ten (10) days from their receipt thereof and shall immediately inform the parties of such action.**

No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.

Where the investigating prosecutor recommends the dismissal of the complaint but his[*/her*] recommendation is disapproved by the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his[*/her*] deputy on the ground that a probable cause exists, the latter may, by himself[*/herself*], file the information against the respondent, or direct any other assistant prosecutor or state prosecutor to do so without conducting another preliminary investigation.





If upon petition by a proper party under such rules as the Department of Justice may prescribe or *motu proprio*, the Secretary of Justice reverses or modifies the resolution of the provincial or city prosecutor or chief state prosecutor, he[*/she*] shall direct the prosecutor concerned either to file the corresponding information without conducting another preliminary investigation, or to dismiss or move for dismissal of the complaint or information with notice to the parties. The same rule shall apply in preliminary investigations conducted by the officers of the Office of the Ombudsman. (Emphasis supplied)

Considering the foregoing time periods, the allegations of the parties, and the available records of the case, the Court finds that there was delay by the OMB, specifically in the approval by the Ombudsman herself of the Resolutions finding probable cause, as well as in the filing of the Informations before the Sandiganbayan. The Resolutions finding probable cause for violation of Section 3(e) of RA 3019 were issued on September 6, 2016; June 1 and 2, 2017 (three Resolutions were issued on these days); and June 20, 2017. Ombudsman Carpio Morales approved these resolutions on the following dates, and took the corresponding time periods to do so:

Sandiganbayan Case No.	OMB Case No.	Resolution	Approved by Ombudsman Morales	Time elapsed
SB-18-CRM-0137	OMB-M-C-15-0445	June 20, 2017	August 7, 2017	48 days
SB-18-CRM-0229	OMB-M-C-15-0448	June 1, 2017	August 7, 2017	67 days
SB-18-CRM-0395	OMB-M-C-15-0453	June 1, 2017		
SB-18-CRM-0405	OMB-M-C-15-0454	June 2, 2017		
SB-18-CRM-0274	OMB-M-C-15-0437	September 6, 2016	May 24, 2017	260 days

Relevantly, Section 4, Rule 112 of the Rules of Court provides that, upon forwarding the record of the case by the investigating prosecutor to the Ombudsman or his/her deputy, the latter shall act thereon within ten (10) days from receipt and shall immediately inform the parties of such action. Clearly, in Pacuribot's case, there was a significant delay in this stage of the proceedings.

Pacuribot also complains of delays in the following stages of the preliminary investigations: (a) the Ombudsman's action on the verified complaint filed by Nuñez; (b) issuance of the Ombudsman's directive to submit counter-affidavits; (c) the Ombudsman's determination of probable cause; and (d) the filing of Informations before the Sandiganbayan. However, the Court cannot give credence to these as it is unclear from the

Petition and the *rollo* on what dates he is reckoning the counting of the period of delay. Indeed, *Cagang* decrees that the determination of the length of delay should not be mechanical; courts must consider the entire context of the case.

The Court notes, however, that in Criminal Case No. SB-18-CRM-0274 (which corresponds to OMB-M-C-15-0437 before the OMB) the case was decided by a special division of five (5) justices, with dissenting opinions<sup>46</sup> from Associate Justice Michael Frederick L. Musngi and Associate Justice Geraldine Faith A. Econg. Both dissents contain a timeline of events, portions of which reveal the following developments:<sup>47</sup>

June 29, 2017	Separate Motions for Reconsideration of the Resolution finding probable cause, filed by Pacuribot and Danilo O. Maputol (the last pleadings filed in this particular case before the OMB)
August 22, 2017	Order issued by the OMB denying the several Motions for Reconsideration of the Resolution finding probable cause
September 4, 2017	Deputy Ombudsman for Mindanao Rodolfo Elman recommended the approval of the Order by the Ombudsman
October 27, 2017	Ombudsman Carpio Morales approved the Order dated August 22, 2017
April 6, 2018	Date of filing of the Information with the Sandiganbayan

Counted from the last pleadings filed by Pacuribot and his co-respondents in the preliminary investigation before the OMB, it is clear from the above that the OMB took 281 days or nine (9) months and one (1) week to file the Information before the Sandiganbayan. Even counting from the date that Ombudsman Carpio Morales approved the Order denying the motions for reconsideration, one would still arrive at a period of 161 days or five (5) months and one (1) week. While neither the Rules of Court nor the OMB Rules prescribe a specific period within which the OMB may file the Information before the Sandiganbayan, the Court still counts this as a delay by the OMB. In fact, the Court has previously considered periods of two (2) months<sup>48</sup> and four (4) months<sup>49</sup> from the denial of respondent's motion for reconsideration as delays in the conduct of preliminary investigation.

<sup>46</sup> *Rollo*, pp. 43-50 and 51-63.

<sup>47</sup> *Id.* at 46-47 and 55-56.

<sup>48</sup> *Perez v. Sandiganbayan*, G.R. No. 245862, November 3, 2020.

<sup>49</sup> *Catamco v. Sandiganbayan Sixth Division*, G.R. Nos. 243560-62 & 243261-63, July 28, 2020.

Upon a finding that there were indeed delays in the conduct of the preliminary investigation, and applying the guidelines in *Cagang*, the burden of proof then shifts to the prosecution to establish “*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.”<sup>50</sup>

In its Comment, the OSP argues that the period spent in conducting preliminary investigation is not capricious, vexatious, or oppressive. It admits that there was delay, but claims that it was neither inordinate nor violative of Pacuribot’s right to speedy disposition of cases.

The OSP further cites these circumstances as justification for the delay: (a) the number of transactions and documents involved; (b) the number of respondents; and (c) the participatory delay on the part of Pacuribot and his co-respondents, in recognition of their right to due process. According to the OSP, the Sandiganbayan correctly found that the total period of three (3) years within which the OMB conducted preliminary investigation was reasonable considering that:

x x x [The] preliminary investigation x x x was not confined to the five subject cases, but nineteen other criminal cases for violation of Section 3(e) of RA 3019 (or a total of twenty-four Informations for said charge including the five subject cases pending before the Second Division of the [Sandiganbayan]) and four criminal cases for Falsification of Public Documents under Art. 171 of the RPC. The records of the preliminary investigation, as amply described in the OMB’s set of five Resolutions finding probable cause, also listed varying numbers of respondents, all of whom were given the opportunity to face the accusations against them.<sup>51</sup>

The OSP also points out that the time accorded to the respondents by the OMB to file their respective counter-affidavits and motions for reconsideration also contributed to the accumulation of the three (3)-year period complained of by Pacuribot.<sup>52</sup> According to the OSP, Pacuribot did not suffer any prejudice by reason of the delay since he was still able to raise his defenses in his Motions for Reconsideration before the OMB.<sup>53</sup>

There is merit in the OSP’s argument that the time given to the respondents in a preliminary investigation to exercise their right to be heard on their defenses should not be taken against the OMB. However, the delays pinpointed by the Court — *i.e.*, the Ombudsman’s approval of the

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<sup>50</sup> *Cagang v. Sandiganbayan, Fifth Division, Quezon City, et al.*, supra note 43, at 881.

<sup>51</sup> *Rollo*, pp. 547-548.

<sup>52</sup> *Id.* at 545-546.

<sup>53</sup> *Id.* at 549.



Resolutions drafted by the investigating officers finding probable cause, and the filing of Informations before the Sandiganbayan — are at stages of the proceedings wherein no further pleadings or motions are expected or forthcoming from the respondents. On this point, the OSP's arguments fail.

The claim that the delays were necessitated by the complexity of the case and the sheer number of transactions and respondents likewise fails. While this argument may be relevant during the investigation process, where the investigation officer of the OMB evaluates evidence and arguments from the complainant and the respondents, it fails to convince when the delay in question is at the stage of the Ombudsman's approval of the Resolutions finding probable cause and the filing of the Informations. While the Ombudsman is expected to review the investigation officer's findings, such a review is not expected to be as exhaustive as a reinvestigation of the case. At the very least, the time it will take to approve these resolutions should not balloon into delays of 48, 67, and 260 days, as they did in this case, when Section 4, Rule 112 of the Rules of Court prescribes a period of only ten (10) days.

All the more should the argument of complexity of the cases be disregarded when there is significant delay in filing the Informations before the Sandiganbayan. What further analysis of records and evidence is necessary here? The OMB's findings of fact and conclusions of law at this stage should already be determined; no further evaluation of evidence is expected to be done. Why should this stage in the proceedings incur a delay of about five (5) months, as it did in OMB-M-C-15-0437?

These unjustified delays undoubtedly caused prejudice to Pacuribot. While there is no showing that Pacuribot was deprived of any of his defenses as a result of the delay, he had to face the difficulties and anxieties embedded in the experience of an unduly prolonged state inquiry into his supposed guilt. In *Corpuz v. Sandiganbayan*,<sup>54</sup> also cited in *Cagang*,<sup>55</sup> the Court said:

x x x 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,**

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<sup>54</sup> 484 Phil. 899 (2004).

<sup>55</sup> Supra note 43. at 874.



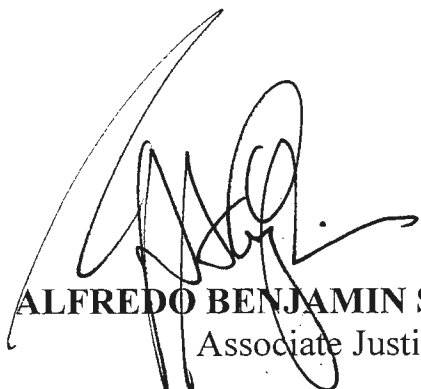
**hostility. His financial resources may be drained, his association is curtailed, and he is subjected to public obloquy.**<sup>56</sup> (Emphasis supplied)

Lastly, consistent with *Cagang*, the Court finds that Pacuribot timely asserted his right to speedy disposition of his cases. As early as November 18, 2015, Oscar S. Moreno, on behalf of his co-respondents (including Pacuribot) wrote to the Deputy Ombudsman for Mindanao to follow-up on the progress and status of their submissions which sought to refute the original complaint filed by Nuñez.<sup>57</sup> Subsequently, before he could be arraigned in any of the cases, Pacuribot filed Omnibus Motions<sup>58</sup> praying that the Informations filed against him and his then co-accused be quashed, and that the cases against them be dismissed as there was inordinate delay in the conduct of preliminary investigation. Hence, it cannot be said that Pacuribot slept on his rights.

Given the foregoing, and consistent with the guidelines in *Cagang*, the Court finds that there was inordinate delay in the conduct of preliminary investigation against Pacuribot, and the cases against him should be dismissed due to violation of his right to speedy disposition of cases.

**WHEREFORE**, premises considered, the Petition is **GRANTED**. The (a) Resolutions dated October 24, 2018 and March 4, 2019 in Criminal Case No. SB-18-CRM-0137, (b) Resolutions dated October 17, 2018 and March 4, 2019 in Criminal Case No. SB-18-CRM-0229, (c) Resolutions dated November 27, 2018 and March 4, 2019 in Criminal Case Nos. SB-18-CRM-0395 and SB-18-CRM-0405, of the Sandiganbayan, Second Division, and (d) Resolutions dated December 10, 2018 and March 15, 2019 in Criminal Case No. SB-18-CRM-0274 of the Sandiganbayan, Special Second Division, are hereby **REVERSED** and **SET ASIDE**. The Sandiganbayan is likewise ordered to **DISMISS** the foregoing cases for violation of the constitutional right to speedy disposition of cases of petitioner Rolando Magaña Pacuribot.

**SO ORDERED.**

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

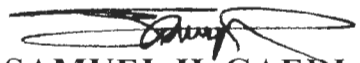
<sup>56</sup> *Corpuz v. Sandiganbayan*, supra note 54, at 918. Citations omitted


<sup>57</sup> *Rollo*, pp. 414-416.

<sup>58</sup> *Id.* at 371-411.

WE CONCUR:

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

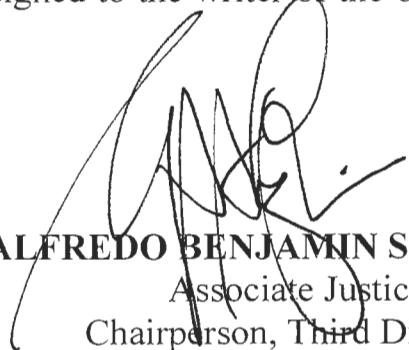
  
**SAMUEL H. GAERLAN**  
Associate Justice

  
**JAPAR B. DIMAAMPAO**  
Associate Justice

  
**MARIA FILOMENA D. SINGH**  
Associate Justice

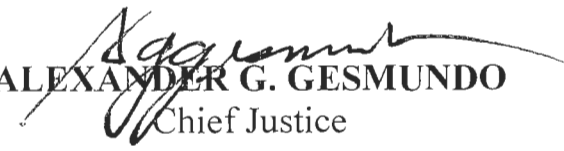
**ATTESTATION**

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, 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