DCJ

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEDRO C. LLEVARES, JR., Provincial Treasurer (Ret.), MA. LUCINA LAROA CALAPRE, Officer-In-Charge-Provincial Accountant (Ret.), JOSEPH ALTIVEROS DUARTE, Provincial Budget Officer, and CATALINO OPINA OLAYVAR, Provincial General Services Officer,
Petitioners,

- versus -

OFFICE OF THE OMBUDSMAN, and FIELD INVESTIGATION OFFICE 1, OFFICE OF THE OMBUDSMAN,
Respondents.

G.R. No. 251502

Present:

LEONEN, *S.A.J.*, Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, *JJ.*

Promulgated:
JUL 2 9 2024

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DECISION

KHO, JR., *J.*:

Before the Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court assailing the Decision[2] dated April 16, 2019 and the Resolution[3] dated January 16, 2020 of the Court of Appeals (CA), which affirmed the Decision[4] dated June 14, 2017 and the Order[5] dated April 30,

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1 *Rollo*, pp. 13–49.

2 *Id.* at 50–66. The April 16, 2019 CA Decision in CA-G.R. SP No. 156516 was penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Eduardo B. Peralta, Jr. and Gabriel T. Robeniol of the Tenth Division, Court of Appeals, Manila.

3 *Id.* at 67–68. The January 16, 2020 CA Resolution in CA-G.R. SP No. 156516 was penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Eduardo B. Peralta, Jr. and Gabriel T. Robeniol of the Former Tenth Division, Court of Appeals, Manila.

4 *Id.* at 108–120. The June 14, 2017 OMB Decision in OMB-C-A-13-0173 was penned by the Special Panel on Task Force Abono Cases Member Feliz Marie M. Guerrero-Manlangit, Team Leader, Team

2018 of the Office of the Ombudsman (OMB). The assailed rulings found petitioners Pedro C. Llevares, Jr. (Llevares), Ma. Lucina Laroa Calapre (Calapre), Joseph Altiveros Duarte (Duarte), and Catalino Opina Olayvar (Olayvar; collectively, petitioners) administratively liable for grave misconduct, serious dishonesty, and conduct prejudicial to the best interest of the service and imposed on them the penalty of dismissal from service with all the accessory penalties.

The Facts

This case arose from a Complaint[6] dated December 19, 2012 filed by Field Investigation Office 1 (FIO 1) of the OMB on **June 21, 2013**[7] against officials of the provincial local government unit (PLGU) of Southern Leyte, including petitioners and several others[8] (Llevares et al.), in their capacities as Provincial Treasurer, OIC-Provincial Accountant, Provincial Budget Officer, and Provincial General Services Officer, respectively, and members of the Bids and Awards Committee (BAC), charging them with grave misconduct and conduct prejudicial to the best interest of the service under Rule XIV, Section 22 (f), (a), and (c) of Executive Order No. 292, as amended by Civil Service Commission (CSC) Memorandum Circular No. 19, series of 1999.[9]

FIO 1 alleged that on April 22, 2004, the Department of Agriculture (DA)-Regional Field Unit VIII (RFU VIII) and the PLGU of Southern Leyte entered into a Memorandum of Agreement[10] (MOA) for the transfer from the former to the latter of the amount of PHP 5 million for the implementation of the DA's "Farm Inputs and Farm Implements Program," in accordance with existing government accounting and auditing procedures.[11]

On April 29, 2004, the PLGU of Southern Leyte received the amount of PHP 3,250,000.00, representing the first tranche of the fund. It entered into a contract with Philippine Phosphate Fertilizer Corporation (PHILPHOS) for the purchase of 4,394 bags of various grade fertilizers in

D Teresita P. Butardo-Tacata, and Chairman Gerard A. Mosquera, and approved by Ombudsman Conchita Carpio Morales.

5 *Id.* at 121–127. The April 30, 2018 OMB Order in OMB-C-A-13-0173 was reviewed by Acting Director Anna Isabel G. Aurellano, recommended for approval by Assistant Ombudsman Marilou B. Ancheta-Mejica, and Ombudsman Conchita Carpio Morales.

6 *Id.* at 133–146.

7 *Id.* at 109.

8 Including Rosette Y. Lerias, Eleuterio V. Tibon, Ameo Capsitrano (Capistrano), in their capacities as former Provincial Governor, Provincial Agriculturist, and Inspection Officer, Provincial Government of Southern Leyte, respectively; Leo P. Cañada, in his capacity as Regional Executive Director, DA RFU 8; and Clem Fernandez, in his capacity as Sales Manager of PHILPHOS. *Id.* at 133–134.

9 *Id.* at 143–144. The Complaint likewise charged them with violation of Article 217 of the Revised Penal Code, Section 3(e) of Republic Act No. (RA) 3019, in relation to Rule VI, Sections 10 and 18 of the same act, Section 50 of the Implementing Rules and Regulations (IRR) of RA 9184, and Section 65.3 of RA 9184.

10 *Id.* at 149–152.

11 *Id.* at 52, 134.

the amount of PHP 3,217,381.20 by direct contracting or single source procurement, instead of conducting a public bidding in accordance with Section 10[12] of the Implementing Rules and Regulations (IRR) of Republic Act No. (RA) 9184,[13] on the basis of its justification that PHILPHOS is the exclusive manufacturer of the various fertilizers.[14]

Subsequently, the Commission on Audit (COA) conducted an audit investigation on the funds released by the DA-RFU VIII, where it discovered multiple violations of the MOA, among others: (a) separate books were not maintained for the funds covered by the "Farm Inputs and Farm Implements Program;" (b) no copy of the project proposal stating that PHILPHOS shall be the supplier of fertilizers was submitted to DA-RFU VIII; (c) there was no submission of audited reports covering the procurement of the fertilizers; and (d) there was dubious distribution of fertilizers. Based on the records of the Fertilizer and Pesticide Authority (FPA), it has accredited two other suppliers of fertilizer in Southern Leyte.[15]

Thus, FIO 1 claimed that the concerned public officials knowingly, purposedly, and willfully signed the documents which facilitated the release of funds to PHILPHOS despite knowing full well the existence of other eligible manufacturers or distributors of fertilizers, and should thus be administratively held liable.[16]

Llevares failed to file his counter-affidavit or position paper despite due notice of the OMB's directives.[17]

Duarte and Calapre jointly filed their Counter-Affidavit[18] dated September 14, 2013[19] and Position Paper[20] dated March 23, 2014, essentially claiming that they could not be held administratively liable for procuring the fertilizers from PHILPHOS because it is the exclusive manufacturer of fertilizers within the region, adding that the Office of the Provincial Agriculturist certified that there was no suitable substitute of the same quality of fertilizers available at a price most advantageous to the government. Calapre further maintained that she could not be faulted for having certified the availability of funds because at the time of the transaction, there was sufficient fund for the questioned procurement.[21]

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12 Section 10. *Competitive Bidding*

All procurement shall be done through competitive bidding, except as provided in Rule XVI of this IRR-A.

13 Government Procurement Reform Act (2003).

14 *Rollo*, pp. 135–138.

15 *Id.* at 53–54. *See also* pertinent portions of the COA Audit Report dated January 17, 2006, *id.* at 173–179.

16 *Id.* at 54.

17 *Id.* at 55.

18 Not attached to the *rollo*.

19 Duarte and Calapre were joined by Capistrano in the Counter-Affidavit. *Rollo*, p. 112.

20 *Id.* at 202–209.

21 *Id.* at 55, 112.

On the other hand, Olayvar in his Counter-Affidavit[22] dated August 27, 2013 and Position Paper[23] dated March 26, 2015 claimed that he did not commit any wrong or violate any rule of law or standard of behavior when the PLGU of Southern Leyte procured and purchased from PHILPHOS despite the lack of public bidding. He maintained that PHILPHOS is the exclusive manufacturer of fertilizers within the region, as certified by the Office of the Provincial Agriculturist, and the procurement was approved by then Provincial Governor Rosette Y. Lerias (Lerias), the Head of the Procuring Entity.[24]

The OMB Ruling

In a Decision[25] dated June 14, 2017, the OMB found petitioners administratively liable for grave misconduct, serious dishonesty, and conduct prejudicial to the best interest of the service, and meted them the penalty of dismissal from service with all the accessory penalties.[26] The OMB found that petitioners committed illegal acts when they dispensed with the requirement of public bidding because the Office of the Provincial Agriculturist's Certification[27] that PHILPHOS was the exclusive manufacturer of fertilizers in the region was belied by documentary evidence from the FPA. Thus, their respective acts of signing the Purchase Order[28] (PO), Disbursement Voucher[29] (DV), and other documents paved the way for the release of public funds to PHILPHOS. There was also no consultation with the COA resident auditor to determine the propriety of the mode of procurement resorted to, and the undue haste in directly contracting with PHILPHOS.[30]

Petitioners filed their Joint Motion for Reconsideration,[31] challenging the correctness of the OMB's findings, further raising violation of their right to the speedy disposition of the case against them, considering that it took the OMB four years from the filing of the Complaint in 2013, and 11 years from the time the COA Audit Report was released in January 2006 to resolve the case.[32] However, the said motion was denied in an Order[33] dated April 30, 2018. Aggrieved, petitioners elevated the matter before the CA via a Petition for Review.[34]

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[22] *Rollo*, pp. 261–263.
[23] *Id.* at 192–200.
[24] *Id.* at 54, 112–113.
[25] *Id.* at 108–120.
[26] *Id.* at 117.
[27] *Id.* at 265.
[28] *Id.* at 264.
[29] *Id.* at 156.
[30] *Id.* at 113–116.
[31] Id. at 210–235.
[32] *Id.* at 123.
[33] Id. at 121–127.
[34] *Id.* at 77–107.

The CA Ruling

In a Decision[35] dated April 16, 2019, the CA affirmed the OMB's June 14, 2017 Decision, finding that petitioners were administratively liable for grave misconduct, serious dishonesty, and conduct prejudicial to the best interest of the service. Accordingly, the CA likewise affirmed the penalty imposed upon them, i.e., dismissal from service with all its accessory penalties.[36]

The CA explained that as members of the BAC, petitioners are mandated to ensure that the procurement procedure under RA 9184 and its IRR has been complied with in order to prevent damage and injury to the government and the consequent prejudice to the beneficiaries of the program. However, petitioners failed to comply with the same, and instead resorted to direct contracting without justification, pointing out that the existence of other duly licensed suppliers and distributors of fertilizers should have prompted them to conduct a public bidding. Thus, the CA held that petitioners actively participated in the procurement since they signed the PO, and Llevares and Calapre also signed the DVs, thereby occupying indispensable roles in the transactions which led to the illegal disbursement of taxpayers' money, making them individually liable for grave misconduct.[37]

The CA likewise upheld petitioners' liability for serious dishonesty considering their evident failure to disclose the irregularities in the procurement by failing to follow existing government accounting and auditing procedures in the disbursement of the funds, and to maintain a separate book of accounts relative thereto; thereby casting doubt on their ability to perform their duties with integrity and uprightness demanded of a public officer or employee. The CA also sustained petitioners' liability for conduct prejudicial to the best interest of the service as their acts tarnished not only the reputation of their respective offices but the entire PLGU of Southern Leyte.[38]

Petitioners jointly filed their motion for reconsideration,[39] but the same was denied in a Resolution[40] dated January 16, 2020.

Hence, this Petition.

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35 *Id.* at 50–66.
36 *Id.* at 65.
37 *Id.* at 61–65.
38 *Id.* at 64–65.
39 Not attached to the *rollo*.
40 *Rollo*, pp. 67–68.

The Issues Before the Court

The core issues raised for the Court's resolution are whether (a) there was inordinate delay in the administrative adjudication of the case, and (b) petitioners are administratively liable relative to the procurement of fertilizers by direct contracting from PHILPHOS.

Petitioners claim that the CA gravely abused its discretion when it failed to resolve the issue of violation of petitioners' right to speedy disposition of the case, when there was no factual basis for the OMB's claim of complexity of the case. They elaborate that the Complaint was filed after almost seven years from the issuance of the COA Audit Report. Thus, when they were directed to submit their Counter-Affidavits, over nine years had already passed from the time of the transaction in question, gravely prejudicing their ability to present evidence in their defense. Documentary and testimonial evidence pertinent to their defense had been lost with the passage of time, thereby depriving them of their substantial right to be fully heard.[41]

Petitioners further claim that they are not liable for resorting to direct contracting, pointing out that public bidding was not required considering that: (1) PHILPHOS was established to be the sole manufacturer of inorganic fertilizer in Region VIII per Certification[42] issued by the FPA; (2) there is no evidence that the other licensed area distributors of fertilizers were similarly licensed in 2004 when the questioned transactions took place; and (3) there was no suitable substitute of substantially the same quality of fertilizers as the ones purchased from PHILPHOS that can be obtained at a lower price or under more advantageous terms to the government as certified[43] by the Office of the Provincial Agriculturist.[44]

Petitioners likewise claim that their right to due process was violated when they were held liable for serious dishonesty, which was not even among the charges against them. Neither was there any basis for the OMB's holding that they had the reportorial duty with respect to the questioned transaction.[45]

For its part, the OMB, through the Office of the Solicitor General (OSG) counters[46] that it did not commit inordinate delay when it took a little over two years after Duarte, Calapre, and Olayvar filed their Position Papers to decide the case, and for the one month it took to resolve petitioners' Joint Motion for Reconsideration. Moreover, it contends that

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41 *Id.* at 44–45.
42 *Id.* at 240.
43 *Id.* at 265.
44 *Id.* at 28–34.
45 *Id.* at 35–40.
46 *See* OSG's Comment dated May 7, 2021. *Id.* at 559–585.

petitioners failed to prove that the proceedings were attended by vexatious, capricious, and oppressive delays.[47]

The Court's Ruling

The Petition is impressed with merit.

Article III, Section 16 of the Constitution guarantees every person's right to the speedy disposition of his/her case, to wit:

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

"This constitutional right is not limited to the accused in criminal proceedings but extends to all parties in all cases, be it civil or administrative in nature, as well as in all proceedings, either judicial or quasi-judicial. In this accord, any party to a case may demand expeditious action of all officials who are tasked with the administration of justice."[48]

Specifically, Article XI, Section 12 of the Constitution requires the OMB to act promptly on all complaints filed before it, thus:

> 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. (Emphasis supplied)

Further echoing the OMB's constitutional duty is Section 13 of RA 6770, otherwise known as "The Ombudsman Act of 1989," which reads:

> 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.

Thus, in assessing whether the right to speedy disposition of cases has been violated, the following factors should be considered in determining if there was delay in the disposition of cases: (1) length of the delay, (2)

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[47] *Id.* at 581–583.

[48] *Daep v. Sandiganbayan-Fourth Division*, 903 Phil. 783, 788 (2021) [Per J. J. Lopez, Third Division].

reasons for the delay, (3) assertion of right by the accused, and (4) prejudice to the respondent.[49]

In the landmark case of *Cagang v. Sandiganbayan*,[50] the Court set comprehensive guidelines for resolving alleged violations of the right to speedy trial or disposition of cases, *viz.*:

> *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.
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> *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.
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> 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.
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> 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

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49 *Lerias v. Ombudsman*, G.R. No. 241776, March 23, 2022 [Per J. J.Y. Lopez, Third Division] at 8.
50 837 Phil. 815 (2018) [Per J. Leonen, *En Banc*].

> 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.
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> *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.[51] (Emphasis supplied)

Based on the aforementioned standards, this Court finds that the OMB violated petitioners' right to speedy disposition of the administrative case against them.

At this juncture, the Court takes judicial notice that the related criminal case[52] of *Lerias v. Ombudsman*[53] against Llevares et al.— finding probable cause to file an information against them for violation of Section 3(e) of RA 3019 arising from the same act of releasing funds in favor of PHILPHOS without undergoing the correct procurement process, after a total of 1,370 days or three years, nine months, and one day from the filing of their Counter-Affidavits—had earlier been dismissed[54] by the Court ***on the ground that the OMB violated their right to the speedy disposition of their case***. Indeed, both the administrative and criminal cases stemmed from the same Complaint, involved the same facts, and were resolved within the same lengthy period. Consequently, the finding that petitioners' right to speedy disposition was violated because of the inordinate delay in the resolution finding probable cause, equally holds true with respect to the delayed resolution of the administrative case.[55]

Notably, at the time the Complaint was filed, Administrative Order No. 7[56] dated April 10, 1990, as amended by Administrative Order No. 17 dated September 15, 2003, pertinently provides the following procedure in the conduct of administrative adjudication:

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[51] *Id.* at 880–881.
[52] Docketed as OMB-C-C-13-0170 before the OMB.
[53] *Lerias v. Ombudsman*, G.R. No. 241776, March 23, 2022 [Per J. J.Y. Lopez, Third Division].
[54] *Id.* at 15
[55] *Alarilla v. Lorenzo*, G.R. No. 240124, August 31, 2022 [Per J. Gaerlan, Third Division] at 12.
[56] Rules of Procedure of the Office of the Ombudsman (1990).

Rule III
Procedure in Administrative Cases

....

SECTION 5. *Administrative adjudication; How conducted.* —

a) If the complaint is *docketed as an administrative case,* the respondent shall be furnished with a copy of the affidavits and other evidence submitted by the complainant, and shall be ordered to file his counter-affidavit and other evidence in support of his defense, within ten (10) days from receipt thereof, together with proof of service of the same on the complainant who may file his reply-affidavit within ten (10) days from receipt of the counter-affidavit of the respondent;

b) If the hearing officer finds no sufficient cause to warrant further proceedings on the basis of the affidavits and other evidence submitted by the parties, the complaint may be dismissed. Otherwise, he shall *issue an Order (or Orders) for any of the following purposes*:

1) To direct the parties to file, within ten (10) days from receipt of the Order, their respective verified position papers. The position papers shall contain only those charges, defenses and other claims contained in the affidavits and pleadings filed by the parties. Any additional relevant affidavits and/or documentary evidence may be attached by the parties to their position papers. **On the basis of the position papers, affidavits and other pleadings filed, the Hearing Officer *may consider the case submitted for resolution.***

2) **If the Hearing Officer decides *not to consider the case submitted for resolution* after the filing of the position papers, affidavits and pleadings, to conduct a *clarificatory hearing* regarding facts material to the case as appearing in the respective position papers, affidavits and pleadings filed by the** parties. At this stage, he may, at his discretion and for the purpose of determining whether there is a need for a formal trial or hearing, ask clarificatory questions to further elicit facts or information[.]

In the conduct of clarificatory hearings, the parties shall be afforded the opportunity to be present but without the right to examine or cross-examine the party/witness being questioned. The parties may be allowed to raise clarificatory questions and elicit answer from the opposing party/witness, which shall be coursed through the Hearing Officer who shall determine whether or not the proposed questions are necessary and relevant. In such cases, the Hearing Officer shall ask the question in such manner and phrasing as he may deem appropriate[.]

3) **If the Hearing Officer finds no necessity for further proceedings on the basis of the clarificatory hearings, affidavits, pleadings and position papers filed by the**

parties, he shall *issue an Order declaring the case submitted for resolution.* The Hearing Officer may also require the parties to simultaneously submit, within ten (10) days from receipt of the Order, their Reply Position Papers. The parties, if new affidavits and/or exhibits are attached to the other party's Position Paper, may submit only rebutting evidence with their Reply Position Papers.

4) **If the Hearing Officer finds the need to conduct a formal investigation on the basis of the clarificatory hearings, pleadings, affidavits and the position papers filed by the parties, an Order shall be issued for the purpose.** In the same Order, the parties shall be required to file within ten (10) days from receipt of the Order their respective pre-trial briefs which shall contain, among others, the nature of the charge(s) and defenses, proposed stipulation of facts, a definition of the issues, identification and marking of exhibits, limitation of witnesses, and such other matters as would expedite the proceedings. The parties are not allowed to introduce matters in the pre-trial briefs which are not covered by the position papers, affidavits and pleadings filed and served prior to issuance of the Order directing the conduct of a formal investigation.

c) **The conduct of formal proceedings by the Office of the Ombudsman in administrative cases shall be non-litigious in nature**[.]

....

g) The following pleadings shall be deemed prohibited in the cases covered by these Rules:

1. Motion to dismiss, although any ground justifying the dismissal of the case may be discussed in the counter-affidavit/pleadings of the party;

2. Motion for bill of particulars; and

3. Dilatory motions including, but not limited to, motions for extension of time, for postponement, second motions for reconsideration and/or reinvestigation.

Said pleadings shall be stricken off the records of the case.

SECTION 6. *Rendition of Decision.* — Not later than thirty (30) days after the case is declared submitted for resolution, the Hearing Officer shall submit a proposed decision containing his findings and recommendation for the approval of the Ombudsman. Said proposed decision shall be reviewed by the Directors, Assistant Ombudsmen and Deputy Ombudsmen concerned. With respect to low ranking public officials, the Deputy Ombudsman concerned shall be the approving authority. Upon approval, copies thereof shall be served upon the parties and the head of the office or agency of which the respondent is an official or employee for his information and compliance with the appropriate directive contained therein. (Emphasis supplied)

Ato

In the present case, after the filing of the Complaint on **June 21, 2013**,[57] the OMB required Llevares et al. to file their Counter-Affidavits. Olayvar filed his Counter-Affidavit dated **August 27, 2013**,[58] while Duarte and Calapre filed a joint Counter-Affidavit dated **September 14, 2013**.[59] On **February 27, 2015**, the OMB issued an Order directing the parties to file their verified position paper, but only Duarte and Calapre (jointly), and Olayvar submitted their Position Papers on **March 23 and 26, 2015**, respectively.[60] The submission of Position Papers, which appear to be the last pleadings submitted in the case should, thus, be the starting point for the determination of whether there was inordinate delay in the adjudication of the administrative case. At this point, the OMB should determine if the administrative case is ripe to be submitted for decision, and thereafter decided within the 30-day reglementary period.

Preliminarily, the Court finds petitioners to have timely invoked their right to speedy disposition of cases as one of the main points in their Joint Motion for Reconsideration since the OMB's own procedural rules prohibit motions to dismiss.[61]

Here, after the filing of the Position Papers dated **March 23 and 26, 2015**, it does not appear that the OMB found a need to conduct a clarificatory hearing or a formal investigation pursuant to Rule III, Section 5 of Administrative Order No. 7, as amended. Yet, ***it took over two years, or until June 14, 2017***, for the OMB to issue a Decision, ***and thereafter, over a month to be approved by Ombudsman Conchita Carpio Morales on July 21, 2017***. Furthermore, a copy of the OMB Decision was mailed to Llevares et al. ***only in 2018***, and received by Duarte, Calapre, and Olayvar on **March 20, 2018**.[62] ***Thus, the Court is convinced that there was indeed a delay in the resolution of the administrative case against Llevares* et al.*, and such delay was not attributable to them.***

In this instance, the burden of evidence shifts to the State to prove that the delay was justified and not capricious, malicious, or motivated by political agenda. The prosecution ought to establish that: (*a*) it followed the prescribed procedures in the administrative adjudication; (*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,[63] which, however, it failed to do. Verily, while 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,[64]

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57 *Rollo*, p. 109.
58 *Id.* at 261–263.
59 Duarte and Calapre were joined by Capistrano in the Counter-Affidavit. *Id.* at 112.
60 *Id.* at 192–200, 202–209.
61 Administrative Order No. 7 (1990), as amended by Administrative Order No. 17 (2003), Rule III, Sec. 5(g).
62 *Rollo*, p. 212.
63 *Cagang v. Sandiganbayan*, 837 Phil. 815, 877 (2018) [Per J. Leonen, *En Banc*].
64 *Id.* at 867.

the Court finds that the OMB nonetheless failed to justify its delay in resolving the administrative case against petitioners.

Firstly, the OMB failed to follow the prescribed procedures in the adjudication of the administrative case. As previously mentioned, it does not appear that the OMB found a need to conduct a clarificatory hearing or a formal investigation pursuant to Rule III, Section 5 of Administrative Order No. 7, as amended after the filing of the Position Papers dated March 23 and 26, 2015, yet it took it over two years or until June 14, 2017 to issue a Decision, which was approved by Ombudsman Conchita Carpio Morales over a month thereafter on July 21, 2017.

Secondly, as aptly observed by the Court in *Lerias*, the case involves a linear or straightforward determination that does not require years of examination, and the documents involved were readily accessible and available, and demanded no forensic examination or any highly technical evaluation.[65]

Thirdly, *Lerias* likewise acknowledged that there was prejudice suffered by the petitioners on account of the OMB's delay in the disposition of their case.[66]

In this regard, the Court reiterates its ruling in *Corpuz v. Sandiganbayan*,[67] where it defined prejudice to the defendant as follows:

> 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 pretrial incarceration; **to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired**. Of these, the most serious is the last, because *the inability of a defendant adequately to prepare his case skews the fairness of the entire system*. There is also prejudice if *the defense witnesses are unable to recall accurately the events of the distant past*. Even if the accused is not imprisoned prior to trial, he is still disadvantaged by restraints on his liberty and by *living under a cloud of anxiety, suspicion and often, hostility*. His financial resources may be drained, *his association is curtailed, and he is subjected to public obloquy*.[68] (Emphasis supplied)

In *Lerias*, the Court illumined that the OMB's delay in the conduct of the preliminary investigation prejudiced petitioners therein as *they were put in an intermediate state of waiting since they suffered agonizing anxiety, inconvenience, and expenses to hire their counsel of choice for the protracted determination of their culpability by the OMB*. The Court added

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65 *Lerias v. Ombudsman*, G.R. No. 241776, March 23, 2022 [Per J. J.Y. Lopez, Third Division] at 12.
66 *Id.* at 13–14.
67 484 Phil. 899 (2004) [Per J. Callejo, Sr., Second Division].
68 *Id.* at 918.

that petitioners, mostly public officials, may be rejected promotion or appointment due to the stigma that the case brings them. The Court pointed out that after timely submitting their Counter-Affidavits with the attached documents seeking to prove that they have not committed any administrative or criminal wrongdoing when they collectively approved the purchase of the fertilizers from PHILPHOS, the OMB should have resolved with haste the determination of their culpability. The Court finds that a similar prejudice applies to petitioners in the administrative adjudication arising from the same transaction covered by the same Complaint.

As there was unreasonable delay in the adjudication of the administrative case, resulting to damage or prejudice to petitioners, the Court finds that their right to the speedy disposition of their case was violated, warranting the dismissal of the complaint against them, with prejudice against the State.[69] "Certainly, the right to speedy disposition of cases is not an empty rhetoric, but a potent reminder for all government officials tasked with the administration of justice to act promptly on all cases."[70] The constitutional guarantee against unreasonable delay in the disposition of cases was intended to stem the tide of disenchantment among the people in the administration of justice by our judicial and quasi-judicial tribunals. The adjudication of cases must not only be done in an orderly manner that is in accord with the established rules of procedure but must also be promptly decided to better serve the ends of justice. Excessive delay in the disposition of cases renders the rights of the people guaranteed by the Constitution and by various legislations inutile. The people's respect and confidence in the OMB are measured not only by its impartiality, fairness, and correctness of its acts, but also by its capacity to resolve cases speedily.[71] Corollarily, considering that the administrative Complaint against petitioners is dismissible due to the violation of their right to the speedy disposition of the administrative case against them, this Court shall no longer belabor on the other issues raised.

ACCORDINGLY, the instant Petition is **GRANTED.** The Decision dated April 16, 2019 and the Resolution dated January 16, 2020 of the Court of Appeals in CA-G.R. SP No. 156516, which affirmed the Decision dated June 14, 2017 and the Order dated April 30, 2018 in OMB-C-A-13-0173 of the Office of the Ombudsman in OMB-C-A-13-0173, are hereby **REVERSED** and **SET ASIDE**. The Complaint against petitioners Pedro C. Llevares, Jr., Ma. Lucina Laroa Calapre, Joseph Altiveros Duarte, and Catalino Opina Olayvar is **DISMISSED** on the ground that the Office of the Ombudsman violated their right to speedy disposition of their case, with prejudice against the State.

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69 *Lerias v. Ombudsman*, G.R. No. 241776, March 23, 2022 [Per J. J.Y. Lopez, Third Division] at 14.

70 *Alarilla v. Lorenzo*, G.R. No. 240124, August 31, 2022 [Per J. Gaerlan, Third Division] at 12.

71 *Enriquez v. Office of the Ombudsman*, 569 Phil. 309, 322 (2008) [Per J. Sandoval-Gutierrez, First Division].

4/00

Let entry of judgement be issued immediately.

SO ORDERED.

ANTONIO T. KHO, JR.
Associate Justice

WE CONCUR:

MARVIC M.V.F. LEONEN
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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