OSCAR G. RARO, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN, (SECOND DIVISION), THE HONORABLE OMBUDSMAN AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 108431. July 14, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

The Issue In This Special Civil Action Of Certiorari And Prohibition Is Whether Or Not The Sandiganbayan Gravely Abused Its Discretion In Denying A Motion To Quash An Information On The Ground That The Preliminary Investigation Allegedly Violated The Right Of The Accused To Due Process Of Law.

Petitioner Oscar G. Raro, A Lawyer, Was The Corporate Secretary Of The Philippine Charity Sweepstakes Office (Pcso). As Such, Petitioner Was The Acting Manager Of The Special Projects Department That Was In Charge Of The Experimental Small Town Lottery (Stl), Which Under Pcso Resolution No. 118, Dated April 1987, Was To Be Operated In Certain Areas Of The Country. On July 30, 1987, The Pcso, Through Atty. Reynaldo E. Ilagan Of The Special Projects Department, Authorized Elmec Trading And Management Corporation (Elmec) To Operate The Stl In The Province Of Camarines Norte. Elmec In Turn Employed Luis (“Bing”) F. Abaño, A Resident Of Daet, Camarines Norte, As Provincial Manager Of The Experimental Stl In Said Province.[1] Abaño Allegedly Invested P100,000.00 In The Stl Operation In That Province.

In A Complaint That He Filed With The Tanodbayan In Manila On May 20, 1988, Abaño Alleged That Petitioner, In His Capacity As Pcso Corporate Secretary, “Personally And Directly Intervened In The Operation Of Said Lottery To His Financial Benefit And Advantage” By Committing The Following Acts:

> (1) Causing The Employment Of Members Of His Family In The Experimental Stl Project That Was Under His Supervision, In Violation Of Section 3 (D) Of The Anti-Graft Law;
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> (2) Deciding On The Dismissal Of Certain Lottery Employees And In Bad Faith Driving Abaño “To Sever From The Management Of Lottery” Which At That Time Was Grossing About P250,000.00 Daily Under A “Profit-Sharing” Agreement, Thus Causing Abaño “Damage And Injury” In The Amount Of P1,300,000.00, In Violation Of Section 3 (E) Of The Anti-Graft Law; And
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> (3) Regularly Demanding From Abaño Amounts Totaling More Than P100,000.00 As His Share In The Experimental Lottery, In Violation Of Section 3 (H) Of The Anti-Graft Law.

Abaño Maintained Further That Petitioner Got Mad At Him When He Gave Petitioner A Check Instead Of Cash, Which Petitioner Later Used To Accuse Abaño Of Issuing A Bouncing Check Notwithstanding That The Check Was Not Encashed. Abaño Added That Petitioner Was Not Only Dishonest But Displayed Such Dishonesty.[2] The Complaint Filed By Abaño’S Counsel Was Verified And Subscribed Before A Notary Public,[3] And Docketed In The Office Of The Ombudsman As Osp-88-01263.

Overall Ombudsman Jose G. Colayco, On July 1, 1988, Endorsed The Complaint To The National Bureau Of

Investigation (Nbi).[4] On May 11, 1989, Nbi-Led Officer-In-Charge Gerarda G. Galang Submitted A Report Stating That The Investigation Conducted By Nbi Senior Agent Salvador A. Duka Yielded The Following Findings:

> (A) On The Charge Of Employment Of Relatives, Abaño Charged That Petitioner Asked Him To Appoint His (Petitioner'S) Brother As Station Manager Of The Lottery In Labo, Camarines Norte. Likewise According To Abaño, Petitioner Imposed On Him The Appointment Of Petitioner'S Sister, Marissa Raro- Remigio As The Stl Provincial Cashier. Per The Joint Affidavit Of Yoly Malubay, Ruben Galeon, Rosalio Poblete And Francisco Villaluz, Petitioner'S Brother Named Antonio, The Lottery Station Manager, Signed Payrolls, Vouchers And Other Pertinent Papers Using The Name Joel Remigio, Marissa'S Husband. In 1988, Antonio Raro Was Appointed Assistant Provincial Operations Manager Of The Stl In Camarines Norte. On The Other Hand, Marissa Raro-Remigio Claimed That It Was Elmec That Offered Her The Position Of Treasurer Of The Stl And That On January 27, 1988, Elmec Terminated The Employment Of Abaño And The Employees He Had Hired. However, The Circumstances Surrounding Elmec'S Employment Of Petitioner'S Brother And Sister Were Not Verified From The Owners Of Elmec.
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> (B) With Respect To The Charge That Petitioner Demanded From Abaño The Total Amount Of P100,000.00, No Receipt Was Shown To Prove Petitioner'S Having In Fact Received That Sum Although Ruidera And Galeon, In Their Affidavits, Confirmed That Said Amount Was Given To Petitioner And To Atty. Ilagan. Since The Sworn Statements Of Ilagan And Cordez And Those Of Fernando Carrascoso And Rustico Manalo, Who Allegedly Received 25% Of The Proceeds Of The Stl, Had Not Yet Been Taken, There Were Certain Aspects Of The Charge That Should Be Considered. Hence, "No Definite Conclusion Could Be Made" Thereon.
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> (C) The Subject Of Dismissal Of Employees Was Not Yet Covered By The Investigation.

With These Findings, Galang Recommended That Further Investigation Be Conducted And That A Copy Of The "Evaluation Comment" Be Furnished The Ombudsman With The Information "That Further Investigation (Was) Still Being Conducted On Some Aspects Of The Case."[5] Accordingly, Nbi Director J. Antonio M. Carpio Endorsed On May 11, 1989 The "Evaluation Comment" And The Nbi Agent'S Report To The Ombudsman.[6]

On July 12, 1989, Nbi Agent Duka Submitted A Disposition Form Stating That Per The Joint Affidavit Of Yolly Manubay, Ruben Galeon, Rosario Poblete And Francisco Villaluz, Petitioner'S Brother, Antonio Raro Signed "Numerous Vouchers, Payrolls And Other Papers" In The Name Of Joel Remigio. The Sworn Statement Of Teddy Aguirre And Xerox Copies Of Vouchers Supported This. However, The Original Copies Of The Vouchers Could Not Be Secured On Account Of The Cessation Of Operation Of The Stl In Camarines Norte Since July 1988. Neither Could The Sworn Statement Of Antonio Raro Be Secured. Thus, Nbi Agent Duka Recommended That Further Investigation Be Conducted In Coordination With Lucso In Lucena City.[7]

Ombudsman Graft Investigation Officer Ii (Gio Ii) Theresa Medialdea-Caraos Submitted To Ombudsman Conrado Vasquez A Memorandum Dated March 15, 1990, With The Following Recommendation:

> "Recommended Action: The Initial Report Of The Nbi Points Only To The Anomalies Allegedly Committed By The Respondent'S Brother, Antonio. The Appointment Of His Sister Which Was Supposedly Imposed On The Complainant Is Not Supported By Evidence Other Than The Mere Allegation Of The Latter.
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> The Misdeeds Committed By Respondent Were Not Based On Facts As Presented By Nbi.
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> It Is Therefore Recommended That Further Investigation By Nbi Be Conducted In Order To Determine The Veracity Of The Charges."

The Memorandum Was Recommended For Approval By Acting Director Gualberto J. De La Llana And

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Approved On March 22, 1990 By Ombudsman Vasquez.[8]

On September 19, 1990, The Nbi Recommended The Prosecution Of Petitioner Based On Abaño'S Complaint.[9] Thus, On May 14, 1991, Gio Ii Caraos Formally Directed Petitioner To File His Counter-Affidavit And Controverting Evidence To The Complaint Of May 6, 1988, With A Warning That His Failure "To Do So Shall Be Construed As A Waiver Of His Right To Be Heard And The Preliminary Investigation Shall Proceed Accordingly."[10] On Petitioner'S Motion, The Ombudsman Granted Him Until September 7, 1991 Within Which To File His Counter-Affidavit. On September 7, 1991, Petitioner Sought Another Extension Within Which To File His Counter-Affidavit.[11]

Petitioner Filed His Counter-Affidavit On October 25, 1991.[12] He Asserted That He Removed Some Employees From The Lottery To Avoid Undue Injury To The Government. He Denied That He Hired Or Caused To Be Hired His Brother And Sister In The "Experimental Lottery Research" As They Maintained Their Affairs Without His Interference. He Also Denied Demanding Or Receiving Any Amount From Abaño Or From The Lottery Operator As It Was Impossible For Him To Demand Bribe Money In The Form Of A Check. He Claimed That Abaño'S Complaint Was A Desperate Effort To Malign Him.[13]

On November 29, 1991, Gio Ii Caraos Issued A Resolution Stating That:

> "Evaluating The Complaint, As Well As The Controverting Evidence Presented By The Respondent, We Find Prima Facie Case Against Herein Respondent For Violation Of R.A. 3019.
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> "At The Outset, It Must Be Stressed That In A Preliminary Investigation, It Is Not Required That All Reasonable Doubts On The Accused'S Guilt Must Be Removed; What Is Required Only Is That Evidence Be Sufficient To Establish Probable Cause That The Accused Committed The Offense Charged. Moreover, As Between The Positive Assertions Of Complainant Abano And The Mere Denials Of The Respondent, The Former Deserves More Credence As It Is Acknowledged That The Same Has Greater Evidentiary Value Than The Latter. Probable Cause Has Been Established By The Clear And Positive Testimonies Of The Complainant And His Witnesses Pointing To The Herein Respondent As Responsible For Various Acts Relative To The Operation Of The Lottery In Violation Of The Anti-Graft Law Specifically Sec. 3 (A), (B), (C), (H) And (K). Such Finding Is Duly Supported By The Recommendation Of The Nbi Report Which Also Recommended The Filing Of Proper Criminal Charge Against The Respondent.
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> "Furthermore, Most Of The Allegations Of The Respondents As Contained In His Counter-Affidavit Are Matters Of Defense Which Can Be Best Ventilated In Court During Trial. In Fact, The Other Allegations Of Respondents Which Are Mere Insinuations As To The Motive Of The Complainant In Filing The Case, Only Deserve Scant Consideration.
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> "Wherefore, All Legal Premises Considered, Let An Information Be Filed Before The Proper Court Against Respondent Raro.
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> "So Resolved."[14]

Director Cesar T. Palana Recommended Approval Of The Above Resolution On December 5, 1991.[15] However, On January 27, 1992, Assistant Ombudsman Abelardo L. Aportadera, Jr., Who Reviewed The Resolution, Recommended Its Disapproval And The Dismissal Of The Complaint, On The Ground That The Nbi Report Was "Based Merely On Testimonial Evidence" That "Would Not Suffice To Establish A Prima Facie Case" Against Herein Petitioner. He Averred That More Than Oral Evidence Should Support The Charge Of Extortion And That Petitioner'S Witnesses Had Amply Clarified The Charge Of Nepotism.[16]

On June 11, 1992, Special Prosecution Officer I (Spo I) Wendell E. Barreras-Sulit, After Reviewing The Resolution Of Gio Ii Caraos, Issued A Memorandum Finding That Said Resolution "Did Not Fully Discuss The

Evidence That Would Support The Particular Charges Recommended To Be Filed" Against Petitioner. After Analyzing Each Of The Charges, Spo I Barreras-Sulit Concluded That Petitioner Should Only Be Charged With Violation Of Section 3 (B) Of R.A. 3019 As There Was Prima Facie Case That Petitioner Received The Total Amount Of P116,000.00 On Four Different Occasions. Attached To The Memorandum Was The Information Charging Petitioner With Violation Of Section 3 (B) Of Republic Act No. 3019.[17]

Spo I Barreras-Sulit'S Memorandum Was Approved By Deputy Special Prosecutor Jose De G. Ferrer, Special Prosecutor Aniano A. Desierto And Ombudsman Vasquez.[18] Hence, On July 2, 1992, An Information Dated May 19, 1992 Prepared By Spo I Barreras-Sulit Was Filed With The Sandiganbayan,[19] Accusing Petitioner With Violation Of Section 3 (B) Of Republic Act No. 3019 Committed As Follows:

> "That On Or About The Period From October, 1987 To January 1988, In Daet, Camarines Norte, Manila And Quezon City, Philippines, And Within The Jurisdiction Of This Honorable Court, The Above Named Accused, A Public Officer Being Then The Corporate Secretary And Acting Department Manager Of The Special Projects Department Of The Philippine Charity Sweepstakes Office (Pcso), San Marcelino, Malate, Metro Manila, Tasked To Monitor And Oversee The Small Town Lottery Experimental Project Of The Pcso In Certain Areas Including Camarines Norte, Taking Advantage Of His Said Public Position And While In The Performance Of His Official Duties As Such, Did Then And There, Wilfully, Unlawfully And Criminally Demand And Receive On Four Different Occasions The Amount Totalling To One Hundred Sixteen Thousand Seven Hundred Ninety Nine Pesos And Ninety Nine Centavos (P116,799.99), Philippine Currency, From Mr. Luis "Bing" F. Abaño, Provincial Manager Of The Stl Operations In Camarines Norte, As His Share In The Net Proceeds Of The Said Stl Which Was Not Authorized Under The Law But Which Amount Was Given To And Received By Him In His Capacity As Overseer And Monitoring Arm Of The Pcso In The Small Town Lottery Operation In Camarines Norte.
>
> "Contrary To Law."

On July 6, 1992, The Sandiganbayan Issued An Order For Petitioner'S Arrest And Fixed Bail In The Amount Of P12,000.00.[20] On The Same Day, Petitioner Applied For Bail Before The Regional Trial Court Of Cabanatuan City, Branch 26,[21] Which Forthwith Approved The Application.[22] On July 8, 1992, Petitioner Filed With The Sandiganbayan A Manifestation And Motion For The Lifting Of The Order Of Arrest.[23] Accordingly, The Sandiganbayan Recalled Its Order Of Arrest The Following Day.[24]

Petitioner Subsequently Filed With The Sandiganbayan A Motion For The Reinvestigation Of The Resolution Of The Ombudsman Dated 11 June 1992,[25] Alleging That:

> 1. The "Prejudicial And Indecent Delay In The Preliminary Investigation" Violated His Rights To Due Process Of Law And To Speedy Disposition Of The Case Because While The Complaint Was Filed On May 20, 1988, The Information Against Him Was Filed More Than Four (4) Years Later.
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> 2. Despite The Delay In Filing The Information, Hastiness Attended The Proceedings In That He Was Not Furnished A Copy Of The Resolution On Which The Information Was Based. Moreover, The Information Was Dated May 19, 1992 Or Even Before The Resolution That Gave Rise To It Was Finished On June 11, 1992. There Was A Need For A Reinvestigation To Protect Him From Hasty, Malicious And Oppressive Prosecution.
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> 3. The Resolution Of June 11, 1992 Was A "Picture Of Legal And Factual Infirmities." While No Evidence Supported The Complaint Other Than The Reports Of Nbi Agents Duka And Lasala And The Affidavits Dated June 30, 1988 Of Rene Ruidera And Ben Galeon, These Bases For The Information Were "Worthless Pieces Of Documents." Moreover, He Was Not Furnished A Copy Of The Nbi Report Showing That He Received P116,000.00 From The Proceeds Of The Stl Operation, And The Nbi Never Conducted A Reinvestigation As Required By Nbi Director Carpio.

> 4. The Complaint Was Based Solely On The Affidavit Of Abaño And Those Of Ruidera And Galeon Who Were Mere Hearsay Witnesses. The Allegations In The Complaint Were Facts To Be Established (Factum Probandum) Requiring Further Evidentiary Facts (Factum Probans). The Only Source Of The Charges, Therefore, Were The Bare Assertions Of Abaño Who Was Not A Credible Witness. He Was "Consumed By Vengeance", Because Petitioner Had Him Audited For "Unexplained Disposition" Of Stl Funds During Abaño'S Campaign For Mayor Of Daet. Hence, To Get Back At Petitioner, Abaño Circulated "Fabrications And Fairy Tale" Against Him Even Before The Sandiganbayan.

After Hearing, The Sandiganbayan Granted The Petitioner'S Motion For Reinvestigation In A Resolution Dated July 28, 1992, And Ordered The Defense To File A Motion For Reconsideration And/Or Reinvestigation With The Office Of The Ombudsman Within Ten (10) Days From July 29, 1992, And The Prosecution To Conduct Such Reinvestigation And To Terminate It On Or Before August 31, 1992. Likewise, The Sandiganbayan Required The Prosecution To Furnish Petitioner A Copy Of The Nbi Report Of September 18, 1990, And Reset The Arraignment To September 8, 1992 At 8:30 A.M. The Sandiganbayan'S Directives Were Based On The Following Findings:

> "We Have Gone Over The Grounds And Arguments Alleged In Accused'S Aforesaid Motion And We Do Not Subscribe To The Claim That There Was Prejudicial And Indecent Delay In The Preliminary Investigation, Considering That The Initial Complaint Filed By Complainant Luis F. Abalo (Sic) On May 20, 1988 Had Been Referred To The National Bureau Of Investigation On July 1, 1988 And The Report Of The Latter Agency Was Only Submitted On September 18, 1990. Thereafter, Graft Investigator Ii Theresa M. Caraos Conducted A Preliminary Investigation, Wherein Accused Submitted His Counter-Affidavit Denying The Charges Levelled Against Him, Culminating In The Issuance Of A Resolution Dated November 29, 1991, Recommending The Filing Of The Proper Information With This Court.
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> "The Caraos' (Sic) Resolution Was Reviewed By Proper Officials In The Office Of The Ombudsman, The Latest Of Which Was Made By Special Prosecution Officer I Wendell E. Barreras-Sulit, Who Adopted The Recommendation For The Filing Only Of A Charge Under Section 3(B) Of R.A. 3019 In Her Resolution Of June 11, 1992. However, The Information, As Prepared By Atty. Barreras-Sulit, Is Dated May 19, 1992 And Approved By Ombudsman Conrado M. Vasquez On June 25, 1992 And Filed With This Court On July 2, 1992. On This Score, We Find Nothing Irregular With Respect To The Afore-Cited Dates, Despite The Contention Of The Accused That There Was "Hastiness Despite Delay." Moreover, The Doctrines Enunciated In Tatad (159 Scra 70) Are Not Entirely On All Fours With The Situation Depicted In The Case At Bar, Having Been Modified In Lecaroz (G.R. Nos. 918223-35, Promulgated June 7, 1990) And Gonzales (199 Scra 298).
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> "On The Other Hand, There Appears To Be Some Semblance Of Validity To Accused'S Other Grounds, To Wit, That He Was Not Furnished A Copy Of The Nbi Report During The Preliminary Investigation, Hence, He Was Not Able To Refute The Allegations Contained Therein And (2) (Sic) That He Was Not Furnished A Copy Of The Resolution Upon Which The Information Was Based Before The Filing Thereof, Thus, He Was Deprived Of His Right To File A Motion For Reconsideration. Under Administrative Order No. 09, Issued By The Ombudsman On October 15, 1991, Which Amended Rule Ii, Section 7 Of Rep. Act No. 6770 (Sic), A Respondent Has Five (5) Days From Receipt Of The Resolution Finding A Prima Facie Case Against Him Within Which To File A Motion For Reconsideration. Likewise, Under Section 7 Of Rule Ii, Supra, He May Move For A Reinvestigation Based On Errors Or Irregularities During The Preliminary Investigation Or On Newly-Discovered Evidence."[26]

Petitioner Filed With The Sandiganbayan A Motion For Extension Of Time To File His Motion For Reinvestigation,[27] Which Was Granted On August 13, 1992.[28]

On August 12, 1992, Complainant Abaño Wrote A Letter Addressed To Special Prosecution Officer Iii (Spo Iii)

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Roger Berbano, Sr. Of The Sandiganbayan, Alleging That:

> (1) Petitioner Was Not Able To Refute The Charges Against Him Of Violation Of Section 3 (A), (B), (C), (H) And (K) Of Republic Act No. 3019 “Except To Discredit The Truth About The P116,000.00 He Demanded And Got From Me;”
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> (2) Petitioner Admitted In A Press Conference The Existence Of A Check In The Amount Of P51,799.00 But His Claim That It Bounced Was Not True Because The Check With Atty. Reynaldo Ilagan As Payee Was In His (Abaño’S) Possession;
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> (3) The “Bribe Money” Was Good To The “Exact Centavo” Because It Was 25% Of The Daily Gross Earnings Of The Lottery;
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> (4) He Was Not A Dismissed Employee Of Elmec Because He Financed And Managed The Stl Operation “Upon The Prodding Of Pcso Through Atty. Raro” And He Received Commissions And Percentages As Late As March 1988 As Shown By Vouchers Signed By Marissa Raro-Remigio;
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> (5) His Candidacy For Mayor In The January 18, 1988 Elections Was Never Affected By Allegations Of Mismanagement; He Stayed As The General Manager Of Elmec Until March 1988; And
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> (6) The Findings Of Senator Maceda Of The Senate Committee On Games And Amusement That The Operation Of The Stl Was The Source Of Corruption And “Milking Cow Of Corrupt Pcso Officials” And Hence, Its Discontinuance Upon The Order Of The President, Was The “Best Evidence Of Corruption” Perpetrated By Petitioner.

On August 14, 1992, Spo Iii Berbano Issued An Order Stating That The Grounds And Issues Raised In Petitioner’S Motion For Reinvestigation Were “Clearly Matters Of Defense To Be Ventilated During The Trial Of The Case On The Merits.” Hence, He Recommended The Denial Of The Motion For Reinvestigation, Which Recommendation Was Approved By The Ombudsman, Conrado M. Vasquez, On August 26, 1992.[29]

In The Meantime, On August 18, 1992, Petitioner Filed With The Office Of The Ombudsman A Motion For The Reconsideration Of The Ombudsman’S Resolution Of June 11, 1992. He Asserted That Spo I Barreras-Sulit Based Her Resolution On The Nbi Report Of September 18, 1990 And The Affidavits Dated June 30, 1988 Of Rene Ruidera And Ben Galeon, All Of Which Had No Evidentiary Value Because They Are Hearsay And Basically Based On Information Furnished Them By Abaño. According To Petitioner, The Said Report Was Incomplete And Inconclusive Because The Findings Therein Needed Further Investigation. Reiterating His Arguments That Factum Probans Is Required During A Preliminary Investigation And That Abaño Is Not A Credible Witness, Petitioner Contended That He Should Be Spared From The Trouble, Expense And Anxiety As Well As The Stigma Resulting From An Open And Public Accusation Of A Crime.[30]

Subsequently, Petitioner Also Filed With The Tanodbayan A “Motion For A Last Review” Of The Special Prosecutor’S Order Of August 14, 1992. He Alleged That The Office Of The Special Prosecutor (Osp) Failed To Take Into Consideration The Very Motion For Reconsideration That Should Have Been The Subject Of That Order. He Contended That The Osp Might Not Have Been Aware Of The Motions He Filed For Extension Of Time Within Which To File The Motion For Reconsideration, And The Osp’S Preparation Of The Order Of August 14, 1992 Before It Received The Motion For Reconsideration Constituted A Gross Procedural Defect. Petitioner Further Asserted That “The Minimum Requirement For A Meaningful Determination Of ‘Probable Cause’ Should Take Into Consideration The Strength Of The Evidence Of The Accused And The Inherent Baselessness Of The Complainant’S.” He Thus Prayed That The Resolution Of June 11, 1992 Recommending The Filing Of An Information Against Him Be Reversed, The Complaint Dismissed, And The Information Filed With The Sandiganbayan Withdrawn.[31]

The Scheduled Arraignment Of Petitioner On September 8, 1992 Was Cancelled Considering That The Reinvestigation Ordered By The Sandiganbayan Had "Not Yet Been Terminated." The Sandiganbayan Granted Spo Iii Berbano A Twenty-Day Extension Within Which To Resolve The Motion For Reconsideration, And Reset The Arraignment For October 2, 1992.[32]

On September 24, 1992, Spo Iii Berbano Denied Petitioner'S Motion For Reconsideration And The Motion For A Last Review, Upon A Finding That The November 21, 1991 Resolution Of Gio Ii Caraos And The Memorandum Of Spo I Barreras-Sulit, Both Of Which Bore The Imprimatur Of The Ombudsman, "Simply Signify That There Exists A Prima Facie Case Or Probable Cause" Against Petitioner. Hence, He Reiterated That The Issues Raised Were Evidentiary In Nature And Should Be Resolved By The Sandiganbayan.[33]

Petitioner Did Not Appear At His Arraignment On October 2, 1992. Hence, Upon Motion Of The Prosecution, A Warrant For His Arrest Was Issued. However, Petitioner'S Counsel Arrived Late And Undertook To Bring The Proper Medical Certificate Showing That Petitioner Was Ill. The Sandiganbayan Reset The Arraignment For October 12, 1992.[34] Later, Petitioner Sought The Reconsideration Of The Order For His Arrest On The Ground That He Was Then Suffering From Viral Influenza And Submitted A Medical Certificate To That Effect.[35] The Sandiganbayan Considered That Incident Closed And Terminated, And Directed That The Arraignment Should Proceed On October 12, 1992.[36]

On That Date, Petitioner Filed With The Sandiganbayan A Motion To Quash The Information,[37] On The Ground That The Court Did Not Acquire Jurisdiction In View Of Violations Of Accused'S Constitutional Rights During The Preliminary Investigation. He Argued That The Determination Of Probable Cause By The Prosecuting Officer Does Not Preclude The Courts From Demanding Further Proof Thereon. Citing Brocka V. Enrile[38] Where This Court Held That A Sham And Hastily Conducted Preliminary Investigation May Be Lawfully Enjoined, Petitioner Pointed Out The Following As Indicia Of The "Falsity And Hastiness" Of The Proceedings Before The Ombudsman:

> 1. While The Resolution Recommending The Filing Of An Information Was Issued On June 11, 1992, The Information Was Already Prepared On May 19, 1992 Thereby Showing That Said Resolution Was No More Than A Formality. For Petitioner, The Situation Was Akin To "Birth Preced(Ing) Pregnancy."
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> 2. Spo Iii Berbano Denied The Motion For Reconsideration In His Order Of August 14, 1992 Or Four (4) Days Before He Filed The Motion For Reconsideration On August 18, 1992 Thereby Showing That The Prosecutors Were "Hell-Bent And Determined, Come High Or Low Waters, Reason Or No Reason, To Proceed" With Their Determination To Prosecute Him. That Procedure Also Made A Mockery Of The Sandiganbayan'S Resolution Of July 28, 1992 Directing The Ombudsman To Conduct A Reinvestigation Of The Case.
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> 3. At The Hearing On September 8, 1992, Spo Iii Berbano Confided To His Counsel, Atty. Tomas Z. Roxas, Jr., That On August 14, 1992, Abaño Had Sent Him A Letter With The Admonition That Berbano Should Not Be Like Petitioner'S U.P. Fraternity Brothers Who Would Cover Up Petitioner'S Corrupt And Foul Deeds. Berbano Was Pressured By Said Letter As Indicated By His Denial On August 14, 1992 "Of The Motion For Reconsideration Yet To Be Filed On 18 August 1992." After All, Berbano Was Aspiring For The Bench And It Was Not A "Far-Flung Conclusion" That A Favorable Consideration Of Said Motion For Reconsideration "May Prompt Abaño To Accuse Him Of Partiality, Berbano Being The Up Fraternity Brother Of The Accused." Berbano In Fact Admitted To Roxas That He Was Being Pressured To Deny Petitioner'S Motion For Reconsideration.
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> 4. Because The Crime Charged Was For Violation Of Section 3 (B) Of Republic Act No. 3019, Abaño Should Be Charged As The Briber. Abaño Never Applied For Immunity From Prosecution Because His "Testimony" Was Uncorroborated On Material Points. Moreover, While Petitioner Was Deprived Information On What Was Happening With The Case, Abaño Was Regularly Furnished With Progress Reports Thereon. Abaño

> Publicized Such Reports In Camarines Norte In Clear Violation Of P.D. No. 749 Mandating That Proceedings In Preliminary Investigations Shall Be Strictly Confidential To Protect The Reputation Of The Official Involved.

Petitioner Alleged Further That There Was A "Jurally And Constitutionally Defective Determination Of Probable Cause" As The Complainant And His Witnesses Were Never Personally Examined By Any Of The Officers At The Offices Of The Ombudsman And The Special Prosecutor. Neither Was The Complaint Ever Sworn To Before Them. He Argued Once Again On The Failure Of The Nbi To Conduct A Reinvestigation Of The Case And The Hearsay Nature Of The Affidavits Of Ruidera And Galeon.

On November 19, 1992, Spo Iii Berbano Filed An Opposition To The Motion To Quash, Arguing That All The Pleadings Filed By Petitioner Were Duly Considered, As Shown By The Orders Of August 14, 1992 And September 24, 1992, Both Of Which Were Approved By His Superiors, Including The Ombudsman. While Atty. Roxas "Is Himself A Fraternity Brod Of The Alpha Phi Beta Fraternity Of Up," Berbano Denied That He Was Ever Pressured Into Denying Petitioner'S Motion For Reconsideration. Furthermore, Berbano Averred That Petitioner'S Ground For The Motion To Quash, I.E., That The Sandiganbayan Never Acquired Jurisdiction Over An Information That Was The Result Of A Highly Anomalous Preliminary Investigation, May Only Be "Inferred" From Section 3 (B) Of Rule 117 Of The 1985 Rules On Criminal Procedure Requiring The Court To Have Jurisdiction Over The Offense Charged Or Over The Person Of The Accused. By Filing A Motion To Quash, Petitioner Was Deemed To Have Admitted The Allegations In The Information And Hence, There Was "Only One Way Clear Under The Circumstances," And That Was To Proceed With The Trial Of The Case.[39]

The Sandiganbayan[40] Denied The Motion To Quash For Lack Of Merit. It Found "No Persuasive Reason To Depart From Its Earlier Holding" In The Resolution Of July 28, 1992 "That There Was No Indecent Delay In The Manner By Which The Preliminary Investigation Was Held." It Ruled That The Long Period Of Time That The Preliminary Investigation Took Was Not Meant To Persecute Petitioner. Neither Was There Clear And Convincing Proof That Spo Iii Berbano Succumbed To Pressure And Considered Petitioner'S Pleadings With Partiality. The Sandiganbayan Stressed That Its Authority To Determine Probable Cause "Is Limited Only For The Purpose Of Issuing A Warrant Of Arrest, And Not For The Purpose Of Justifying The Filing Or Non-Filing Of The Information." It Found "No Compelling Justification To Disturb The Findings Made By The Prosecution Of The Existence Of Probable Cause That Caused It To File" The Information, And That The Objections Raised By Accused-Movant On This Point Involve Matters Which Could Be Best Passed Upon By This Court During Trial On The Merits. Thus, The Sandiganbayan Set Petitioner'S Arraignment On November 23, 1992.[41]

Petitioner'S Counsel Once Again Moved For The Resetting Of The Scheduled Arraignment On The Ground That He Was Filing A Motion For The Reconsideration Of The Resolution Denying His Motion To Quash. The Sandiganbayan Gave Him Fifteen (15) Days Within Which To File The Motion For Reconsideration And The Prosecution Ten (10) Days From Receipt Of Said Motion Within Which To Comment. Meanwhile, The Arraignment Was Reset To January 11, 1993.[42]

Petitioner'S Motion For Reconsideration Was Filed On December 8, 1992. He Reiterated Therein That The Preliminary Investigation Conducted Was "Sham And Attended By Irregularities Amounting To Violation Of The Very Purpose For Which Preliminary Investigation Was Instituted In Our Statute Books." He Emphasized That Spo Iii Berbano Was Indeed Pressured Into Denying His Motions Because Of His Application For Judgeship. He Claimed That The Sandiganbayan Erred When It Ruled That The "Court'S Power To Examine The Conclusions Drawn By The Prosecutor After The Preliminary Investigation Is Only For The Purpose Of Determining The Existence Of Just And Proper Cause To Issue A Warrant Of Arrest." Relying On The Ruling In Salonga V. Cruz Paño[43] Wherein This Court Reviewed The Prosecution'S Findings Of A Prima Facie Case

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Against Salonga, Petitioner Averred That It Is Infinitely More Important Than Conventional Adherence To General Rules Of Criminal Procedure To Respect The Citizen'S Right To Be Free Not Only From Arbitrary Arrest And Punishment But Also From Unwarranted And Vexatious Prosecution.

The Prosecution Did Not File A Comment Or Opposition To The Motion For Reconsideration. On January 5, 1993, The Sandiganbayan Issued A Resolution Denying Said Motion For Lack Of Merit And Setting Petitioner'S Arraignment On January 11, 1993. The Sandiganbayan Held That Petitioner'S Allegations That The Preliminary Investigation Was Sham And That Spo Iii Berbano Was Partial Are Not Supported By Competent Proof. Brushing Aside Said Allegations As Mere Speculations, The Sandiganbayan Found No Reason To Depart From Its Earlier Conclusion That There Was No Compelling Justification To Disturb The Prosecution'S Finding Of A Probable Cause.[44]

Hence, The Instant Petition For Certiorari And Prohibition With Application For The Issuance Of A Temporary Restraining Order To Enjoin Respondents Sandiganbayan, The Ombudsman And The People Of The Philippines From Proceeding With Criminal Case No. 17800. On February 4, 1993, This Court Denied The Prayer For Temporary Restraining Order And Required Respondents To Comment On The Petition.[45] Petitioner'S Arraignment Proceeded On February 19, 1993, Where He Entered A Plea Of Not Guilty To The Crime Charged.[46] On September 21, 1993, After Respondents Filed Their Comment And Petitioner His Reply Thereto, This Court Gave Due Course To The Instant Petition And Required The Parties To File Their Respective Memoranda.[47] Meanwhile, The Sandiganbayan Suspended Proceedings In Criminal Case No. 17800 On Account Of The Pendency Of The Instant Petition.[48]

Petitioner Alleges In This Petition For Certiorari And Prohibition That: (A) The Determination Of "Probable Cause" In Criminal Case No. 17800 Was Constitutionally Defective Because The Ombudsman, Before Filing The Information, And The Sandiganbayan, Before Issuing The Warrant Of Arrest, Failed To Examine The Complainant Under Oath; (B) The Preliminary Investigation Was Hasty, Malicious, Persecutory And Based On Inadmissible Evidence Thereby Violating His Right To Due Process Of Law, And (C) The Unexplained 4-Year Delay In Resolving The Preliminary Investigation, Coupled With The Favorable Consideration Of The Complaint Albeit Manifestly False And Politically Motivated, Violated His Constitutional Rights To Speedy Trial And To Due Process Of Law.[49]

At The Outset, It Is Settled That A Special Civil Action For Certiorari And Prohibition Is Not The Proper Remedy To Assail The Denial Of A Motion To Quash An Information. This Is Succinctly Underscored In Quiñon V. Sandiganbayan As Follows:

> "The Special Civil Action Of Certiorari Or Prohibition Is Not The Proper Remedy Against Interlocutory Orders Such As Those Assailed In These Proceedings; I.E., An Order Denying A Motion To Quash The Information, And One Declaring The Accused To Have Waived His Right To Present Evidence And Considering The Case Submitted For Decision. As Pointed Out By The Office Of The Solicitor General (Citing Nierras V. Dacuycuy, 181 Scra 1 [1990]), And Acharon V. Purisima, Et Al., 13 Scra 309; People V. Madaluyo, 1 Scra 990), The Established Rule Is That When Such An Adverse Interlocutory Order Is Rendered, The Remedy Is Not To Resort Forthwith To Certiorari Or Prohibition, But To Continue With The Case In Due Course And, When An Unfavorable Verdict Is Handed Down To Take An Appeal In The Manner Authorized By Law. It Is Only Where There Are Special Circumstances Clearly Demonstrating The Inadequacy Of An Appeal That The Special Civil Action Of Certiorari Or Prohibition May Exceptionally Be Allowed. The Court Has Been Cited To No Such Special Circumstances In The Cases At Bar."[50]

In The Case At Bar, There Is No Showing Of Such Special Circumstances. The Jurisdiction Of The Ombudsman Over The Complaint Is Not Even Questioned By Petitioner[51] As His Motion To Quash The Information Is

Based On The Allegedly "Highly Anomalous Preliminary Investigation" That Amounted To A Denial Of His Rights To Due Process And To Speedy Disposition Of The Charge Against Him. However, An Incomplete Preliminary Investigation[52]Or The Absence Thereof[53] May Not Warrant The Quashal Of An Information. In Such Cases, The Proper Procedure Is For The Sandiganbayan To Hold In Abeyance Any Further Proceedings Conducted And To Remand The Case To The Ombudsman For Preliminary Investigation Or Completion Thereof. However, Granting Arguendo That The Preliminary Investigation Was Sham And Highly Anomalous In This Case, That Defect Was Cured When The Above Procedure Was In Fact Observed By The Sandiganbayan. Hence, On The Issue Alone Of The Propriety Of The Remedy Sought By Petitioner, The Instant Petition For Certiorari And Prohibition Must Fail. However, In The Interest Of Justice, We Shall Resolve The Issue Of Whether Or Not The Ombudsman Conducted The Preliminary Investigation Erroneously And Irregularly.

Petitioner Contends That Both The Ombudsman And The Sandiganbayan Failed To Examine The Complainant Personally To Determine The Existence Of Probable Cause That Would Warrant The Filing Of An Information Against Him And, Consequently, The Issuance Of A Warrant Of Arrest. He Rues The Fact That The Complaint Filed By Abaño Against Him Was Subscribed To Before An Ordinary Notary Public And That The Sworn Statements Of Witnesses Against Him Were Sworn To Before A Provincial Fiscal, Not Deputized By The Ombudsman, But Acting Merely As An Officer Authorized To Administer Oaths.[54]

Article Xi, Section 12 Of The 1987 Constitution, Which Was In Force And Effect When Abaño Filed The Complaint Against Petitioner, Provides:

> "Sec. 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." (Underscoring Supplied.)

The Mandate To Act Promptly On Complaints Filed In Any Form Or Manner Against Officers Or Employees Of The Government Is Restated In Section 13 Of Republic Act No. 6770 ("The Ombudsman Act Of 1989"), Approved Into Law On November 17, 1989. The Same Authority To Act On Complaints "In Any Form, Either Verbal Or In Writing," Is Also Reiterated In Rule 1, Section 3 Of The Rules Of Procedure Of The Office Of The Ombudsman, Which Is Embodied In Administrative Order No. 07 Dated April 10, 1990, Issued Pursuant To The Rule-Making Power Of The Ombudsman Under Section 13 (8) Of The 1987 Constitution And Sections 18, 23 And 27 Of "The Ombudsman Act Of 1989."

In Accordance With The Foregoing Constitutional And Statutory Provisions, This Court, In Diaz V. Sandiganbayan,[55] Held Valid Charges That Were Not Made In Writing Or Under Oath. This Court Found As Sufficient Basis The Solicitor General'S Sworn Testimony At The Joint Fact-Finding Investigation Conducted By The Senate Blue Ribbon Committee And The Ombudsman For The Latter To Conduct An Investigation. On The Other Hand, In Olivas V. Office Of The Ombudsman,[56] Where The Complaint Against Petitioner Was Initiated By Anonymous Letters, This Court Held That The Pcgg, To Whom The Letters Were Addressed And Who Became The Complainant In The Proceedings, Should Have Reduced The Evidence It Had Gathered Into Affidavits. The Submission Of Affidavits, Provided For In Rule Ii, Section 4 (A) Of Administrative Order No. 07, Is Also Required By Due Process In Adversary Proceedings.[57] However, The Submission Of Affidavits Is Not Mandatory And Jurisdictional. Rule 1, Section 3 Of The Same Administrative Order Merely States That It Is "Preferable" That The Complaint "Be In Writing And Under Oath" For Its Speedier Disposition. Clearly In Consonance With The Provision That The Complaint May Be In Any Form, The Ombudsman Rules Of Procedure Does Not Require That The Complaint Be Subscribed Only Before The Ombudsman Or His Duly

Authorized Representative. In Any Event, The Issue Of The Sufficiency In Form Of The Complaint Was Rendered Moot And Academic By Petitioner'S Filing Of A Counter-Affidavit Wherein He Controverted The Allegations In The Complaint.[58]

The Referral Of The Complaint To The Nbi Does Not Mean That The Ombudsman Abdicated Its Constitutional And Statutory Duty To Conduct Preliminary Investigations. Article Xi, Section 13 Of The 1987 Constitution Vests In The Ombudsman The Powers, Functions And Duties To:

> "(2) Direct, Upon Complaint Or At Its Own Instance, Any Public Official Or Employee Of The Government, Or Any Subdivision, Agency Or Instrumentality Thereof, As Well As Of Any Government-Owned Or Controlled Corporation With Original Charter, To Perform And Expedite Any Act Or Duty Required By Law, Or To Stop, Prevent, And Correct Any Abuse Or Impropriety In The Performance Of Duties.
>
> (3) Direct The Officer Concerned To Take Appropriate Action Against A Public Official Or Employee At Fault, And Recommend His Removal, Suspension, Demotion, Fine, Censure, Or Prosecution, And Ensure Compliance Therewith." (Underscoring Supplied.)

Thus, By Referring Abano'S Complaint To The Nbi, The Ombudsman Did Not Thereby Delegate The Conduct Of The Preliminary Investigation Of The Case To That Investigative Bureau. What Was Delegated Was Only The Fact-Finding Function, Preparatory To The Preliminary Investigation Still To Be Conducted By The Ombudsman.[59] Notably, Under Rule Ii, Section 2 (D) Of Administrative Order No. 07, The Investigating Officer Has The Option To Forward The Complaint To The Appropriate Office Or Official For Fact-Finding Investigation. While Administrative Order No. 07 Took Effect In Mid-1990[60] Or After The Complaint In This Case Was Referred To The Nbi, The Inclusion Of That Constitutionally Sanctioned Practice In The Ombudsman Rules Of Procedure Lends Validity To The Ombudsman'S Action In This Case.

Under The Circumstances Of This Case, The Ombudsman'S Failure To Personally Administer Oath To The Complainant Does Not Mean That The Ombudsman Did Not Personally Determine The Existence Of Probable Cause To Warrant The Filing Of An Information.

Neither Did The Sandiganbayan Violate Petitioner'S Right To Due Process Of Law By Its Failure To Personally Examine The Complainant Before It Issued The Warrant Of Arrest. In A Preliminary Examination For The Issuance Of A Warrant Of Arrest, A Court Is Not Required To Review In Detail The Evidence Submitted During The Preliminary Investigation. What Is Required Is That The Judge "Personally Evaluates The Report And Supporting Documents Submitted By The Prosecution In Determining Probable Cause."[61] In The Absence Of Evidence That The Sandiganbayan Did Not Personally Evaluate The Necessary Records Of The Case, The Presumption Of Regularity In The Conduct Of Its Official Business Shall Stand.

At This Juncture, It Is Apropos To State Once Again The Nature Of A Preliminary Investigation. In Cruz, Jr. V. People, The Court Said:

> "It Must Be Stressed That A Preliminary Investigation Is Merely Inquisitorial, And It Is Often The Only Means Of Discovering The Persons Who May Be Reasonably Charged With A Crime, To Enable The Prosecutor To Prepare His Complaint Or Information. It Is Not A Trial Of The Case On The Merits And Has No Purpose Except That Of Determining Whether A Crime Has Been Committed And Whether There Is Probable Cause To Believe That The Accused Is Guilty Thereof, And It Does Not Place The Persons Against Whom It Is Taken In Jeopardy.
>
> "The Established Rule Is That A Preliminary Investigation Is Not The Occasion For The Full And Exhaustive Display Of The Parties' Evidence; It Is For The Presentation Of Such Evidence Only As May Engender A Well-Grounded Belief That An Offense Has Been Committed And That The Accused Is Probably Guilty

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> Thereof.
>
> xxx xxx xxx
>
> "The Main Function Of The Government Prosecutor During The Preliminary Investigation Is Merely To Determine The Existence Of Probable Cause, And To File The Corresponding Information If He Finds It To Be So. And, Probable Cause Has Been Defined As The Existence Of Such Facts And Circumstances As Would Excite The Belief, In A Reasonable Mind, Acting On The Facts Within The Knowledge Of The Prosecutor, That The Person Charged Was Guilty Of The Crime For Which He Was Prosecuted."[62]

In Determining Probable Cause, An Inquiry Into The Sufficiency Of Evidence To Warrant Conviction Is Not Required. It Is Enough That It Is Believed That The Act Or Omission Complained Of Constitutes The Offense Charged. The Trial Of A Case Is Conducted Precisely For The Reception Of Evidence Of The Prosecution In Support Of The Charge.[63] In The Performance Of His Task To Determine Probable Cause, The Ombudsman'S Discretion Is Paramount. Thus, In Camanag V. Guerrero, This Court Said:

> "x x x. (S)Uffice It To State That This Court Has Adopted A Policy Of Non-Interference In The Conduct Of Preliminary Investigations, And Leaves To The Investigating Prosecutor Sufficient Latitude Of Discretion In The Exercise Of Determination Of What Constitutes Sufficient Evidence As Will Establish 'Probable Cause' For Filing Of Information Against The Supposed Offender."[64]

Neither Is There Merit In Petitioner'S Contention That The Preliminary Investigation Conducted By The Ombudsman Was "Hasty, Malicious And Persecutory" And That It Was Based On Inadmissible Evidence.

Petitioner Emphasizes The Fact That While The Resolution Recommending The Filing Of The Information Was Issued On June 11, 1992, The Information Was Already Prepared Almost A Month Earlier On May 19, 1992.[65] This May Show Oversight In The Handling Of The Documents Pertinent To This Case Considering That The Date Of The Information Should Have Been Corrected To Conform To The Date Of The Resolution Where Its Filing Was Approved By The Prosecutor'S Superiors. However, Such Faux Pas Did Not Violate Petitioner'S Substantive Rights. The Error In The Date Of The Information Did Not Affect Its Validity, Especially Since The Recommendation To File It Was With The Imprimatur Of The Ombudsman Himself.

With Respect To The Denial By Spo Iii Berbano Of The Motion For Reinvestigation On August 14, 1992 Or Prior To Petitioner'S Filing Of His Motion For Reconsideration On August 18, 1992, The Record Shows That Petitioner Filed Two Motions For Extension Of Time To File The Motion For Reinvestigation Without The Knowledge Of Spo Iii Berbano. What The Latter Resolved On August 14, 1992 Was Petitioner'S Motion For Reinvestigation Before The Sandiganbayan. Likewise, Petitioner'S Allegation That Spo Iii Berbano Was Not An Impartial Prosecutor Cannot Be Given Credence For Lack Of Sufficient Proof Thereon. Spo Iii Berbano Is Presumed To Have Issued The Resolution Denying The Motion For Reinvestigation In The Regular Performance Of His Duties.

Neither Is There Factual Support To Petitioner'S Claim That The 4-Year Delay In The Completion Of The Preliminary Investigation Is Unexplained. The Record Clearly Shows That The Ombudsman Exerted Utmost Effort To Determine The Veracity Of Abaño'S Allegations Against Petitioner. That It Took The Nbi Almost Two Years To Complete Its Report On The Matter Does Not Mean That Petitioner'S Right To Speedy Disposition Of The Charge Was Brushed Aside. If Delay May Be Imputed In The Proceedings, The Same Should Be Reckoned Only From October 25, 1991 When Petitioner Filed His Counter-Affidavit.[66] Thirty-Six (36) Days Thereafter Or On November 29, 1991, Gio Ii Caraos Issued The Resolution Recommending The Filing Of The Information. Further Delay, If Indeed It Could Be Called One, Was Caused By The Review Of Gio Ii Caraos' Recommendation By Her Superiors. Some Seven And A Half Months Later, Or On June 11, 1992, The

Information Was Filed With The Sandiganbayan. There Is Thus No Reason To Conclude That The Ombudsman Ran Roughshod Over The Petitioner'S Right To A Speedy Preliminary Investigation. In The Determination Of Whether Or Not That Right Has Been Violated, The Factors That May Be Considered And Weighed Are "The Length Of Delay, The Reasons For Such Delay, The Assertion Or Failure To Assert Such Right By The Accused, And The Prejudice Caused By The Delay."[67]

The Length Of Time It Took Before The Conclusion Of The Preliminary Investigation May Only Be Attributed To The Adherence Of The Ombudsman And The Nbi To The Rules Of Procedure And The Rudiments Of Fair Play. The Allegations Of Abaño'S Complaint Had To Be Verified; The Ombudsman Did Not Believe The Same Hook, Line And Sinker. Recently, The Court Held That While The Rules Of Court Provides A Ten-Day Period From Submission Of The Case Within Which An Investigating Officer Must Come Out With A Resolution, That Period Of Time Is Merely Directory. Thus:

> "The Court Is Not Unmindful Of The Duty Of The Ombudsman Under The Constitution And Republic Act No. 6770 To Act Promptly On Complaints Brought Before Him. But Such Duty Should Not Be Mistaken With A Hasty Resolution Of Cases At The Expense Of Thoroughness And Correctness. Judicial Notice Should Be Taken Of The Fact That The Nature Of The Office Of The Ombudsman Encourages Individuals Who Clamor For Efficient Government Service To Freely Lodge Their Complaints Against Wrongdoings Of Government Personnel, Thus Resulting In A Steady Stream Of Cases Reaching The Office Of The Ombudsman."[68]

Finally, There Is No Ground To Give Credence To Petitioner'S Claim That The Complainant Should Be Charged As A Briber On Account Of His Admission That He Gave Petitioner Some Sum Of Money; Or That Evidence Presented During The Preliminary Investigation, Specifically The Affidavits Of Witnesses, Were Hearsay And Inadmissible. As We Stated Earlier, This Court Cannot Supplant The Ombudsman'S Discretion In The Determination Of What Crime To Charge An Accused.

All Told, This Court Finds No Reason To Reverse The Assailed Resolutions Of The Sandiganbayan. Petitioner'S Insinuation That He Was Subjected To The Proceedings Before The Ombudsman And The Sandiganbayan For Politically Motivated Reasons, Has Not Been Established With Sufficient Evidence. In The Absence Of Any Imputation That Public Respondents Were Impelled By Ill-Motive In Filing The Case Against Him, It Is Presumed That There Is No Such Motive And That Public Respondents Merely Filed The Case To Correct A Public Wrong.[69]

Wherefore, The Instant Petition For Certiorari And Prohibition Is Dismissed For Lack Of Merit. The Assailed Resolutions Of The Sandiganbayan Are Hereby Affirmed. The Sandiganbayan Is Directed To Proceed With Deliberate Dispatch In The Disposition Of Criminal Case No. 17800.

So Ordered.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and De Leon, Jr., JJ., Concur.

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[1] Rollo, P. 70.

[2] Ibid., Pp. 52-53.

[3] Ibid., P. 54.

[4] Ibid., P. 56.

[5] Ibid., Pp. 56-58.

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[6] Ibid., P. 55.

[7] Ibid., Pp. 59-61.

[8]Ibid., Pp. 62-63.

[9] Ibid.

[10] Ibid., P. 65.

[11] Ibid., P. 213.

[12] Ibid.

[13] Record Of Crim. Case No. 17800, P. 10.

[14] Ibid., Pp. 9-11.

[15] Ibid., P. 11.

[16] Rollo, P. 66.

[17] Ibid., Pp. 70-74.

[18] Ibid., P. 75.

[19] Record, Pp. 1-2.

[20] Ibid., P. 12.

[21] Ibid., P. 17, Presided By Judge Lino L. Diamsay.

[22] Record., P. 25.

[23] Ibid., P. 13.

[24] Ibid., P. 26, Per The Second Division Of The Sandiganbayan Composed Of Associate Justice Romeo M. Escareal As Chairman And Associate Justices Augusto M. Amores And Sabino R. De Leon, Jr., As Members.

[25] Rollo, Pp. 76-94.

[26] Rollo, Pp. 96-98.

[27] Record, Pp. 67 & 70.

[28] Ibid., P. 73.

[29] Ibid., P. 103.

[30] Ibid., Pp. 105-126.

[31] Ibid., Pp.127-132.

[32] Record, P. 92.

[33] Rollo, P. 134-135.

[34] Record., P. 96.

[35] Ibid., P. 97.

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[36] Ibid., P. 102.36

[37] Rollo, Pp. 136-167.

[38] G.R. Nos. 69863-65, December 10, 1990, 192 Scra 183.

[39] Record, Pp. 155-158.

[40] With Associate Justice Augusto M. Amores As Chairman And Associate Justices Romeo M. Escareal And Narciso T. Atienza As Members.

[41] Rollo, Pp. 168-175.

[42] Record, P. 160.

[43] 219 Phil. 402 (1985).

[44] Rollo, Pp. 189-192.

[45] Ibid., P. 203.

[46] Record, P. 199.

[47] Rollo, P. 260.

[48] Record., P. 224.

[49] Petition, Pp. 15-16.

[50] 338 Phil. 290, 309 (1997).

[51] See: Velasco V. Casaclang (G.R. No. 111130, August 19, 1998, 294 Scra 394, 409) Where The Court Held That The Deputy Ombudsman Did Not Err In Denying The Motion To Quash And The Motion For Reconsideration Because He Acted In Accordance With The Revised Rules Of Court And Section 4 (D) Of Administrative Order No. 07 Of The Ombudsman That Disallows “A Motion To Quash (Or Dismiss) Except On The Ground Of Lack Of Jurisdiction.”

[52] Torralba V. Sandiganbayan, G.R. No. 101421, February 10, 1994, 230 Scra 33, 41.

[53] Doromal V. Sandiganbayan, G.R. No. 85468, September 7, 1989, 177 Scra 354, 361.

[54] Petition, P. 19.

[55] G.R. No. 101202, March 8, 1993, 219 Scra 675, 686.

[56] G.R. No. 102420, December 20, 1994, 239 Scra 283.

[57] Ibid., At P. 295.

[58] See: Bautista V. Sandiganbayan, G.R. No. 126082, May 12, 2000.

[59] Rule Ii, Section 3 Of Administrative Order No. 07 States That The Following May Conduct Preliminary Investigation: (1) Ombudsman Investigators; (2) Special Prosecuting Officers; (3) Deputized Prosecutors; (4) Investigating Officials Authorized By Law To Conduct Preliminary Investigation; Or (5) Lawyers In Government Service, So Designated By The Ombudsman.

[60] Rule V, Section 4 Of Administrative Order No. 07 Provides That It Shall Take Effect Upon Completion Of Publication In The Official Gazette Or In Three (3) Newspapers Of General Circulation. The Administrative

Order Was Published In The May 1, 1990 Issue Of The Manila Bulletin (Rodriguez, The Sandiganbayan, The Ombudsman, The Pcgg, The Anti-Graft Laws And The Code Of Conduct For Public Officials, 3Rd Ed., P. 128).

[61] Cruz, Jr. V. People, G.R. No. 110436, June 27, 1994, 233 Scra 439, 455 Citing Enrile V. Salazar, G.R. No. 92163, June 5, 1990, 186 Scra 217.

[62] Supra, At Pp. 458-459.

[63] Pilapil V. Sandiganbayan, G.R. No. 101978, April 7, 1993, 221 Scra 349, 360.

[64] 335 Phil. 945, 969 (1997).

[65] Petition, P. 23.

[66] Under Rule 112, Sec. 3 Of The Rules Of Court, The Preliminary Investigation Shall Be Deemed Concluded After The Respondent Shall Have Submitted His Counter-Affidavit And Supporting Evidence, And/Or After Hearing Where Clarificatory Questions Propounded By The Investigating Officer Shall Have Been Answered.

[67] Alvizo V. Sandiganbayan, G.R. No. 101689, March 17, 1993, 220 Scra 55, 63-64.

[68] Dansal V. Hon. Fernandez, G.R. No. 126814, March 2, 2000.

[69] See: Santiago V. Vasquez, G.R. Nos. 99289-90, January 13, 1992, 205 Scra 162,169.

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