

**MARIALEN C. CORPUZ AND ANTONIO H. ROMAN, SR., PETITIONERS,
VS. THE SANDIGANBAYAN (SPECIAL FOURTH DIVISION) AND THE
PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

G.R. No. 162214. November 11, 2004

Ponente: CALLEJO, SR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-162214/>

CALLEJO, SR., J.:

This is a petition for certiorari for the nullification of the February 4, 2002 Resolution of the Sandiganbayan (Division of Five Members)[1] setting aside the verbal Order of Justice Narciso S. Nario, the Chairman of its Fourth Division, ordering the dismissal of Criminal Cases Nos. 25911-25915; 25917-25939; 25983-26016; and its December 12, 2003 Resolution denying the motions for reconsideration of the petitioners and the other accused in said cases,[2] as well as their petition for mandamus to compel the Sandiganbayan to dismiss the said cases.

The Antecedents

After the termination of the requisite preliminary investigation in OMB Cases Nos. 0-99-2188 to 2205, the Office of the Ombudsman issued a Resolution on July 27, 2000 finding probable cause against petitioners Antonio H. Roman, Sr. and Marialen C. Corpuz, the President and Vice-President of FILSYN Corporation, respectively, and several others. On April 10, 2000, the petitioners, the Undersecretary of Finance Antonio P. Belicena, and the officers of the Petron Corporation, were charged with violation of Section 3(e) of Republic Act No. 3019, involving the so-called “tax credit scam” in an Information docketed as Criminal Case No. 25922 which reads:

The undersigned Ombudsman Prosecutors, Office of the Ombudsman, hereby accuse ANTONIO P. BELICENA, ULДАРICO P. ANDUTAN, JR., MONICO V. JACOB, CELSO L. LEGARDA, ABDULAZIZ F. AL-KHAYYAL, APOLINARIO G. REYES, REYNALDO V. CAMPOS, RAFAEL S. DIAZ, JR., ANTONIO H. ROMAN, SR., AND MARIALEN C. CORPUZ, of violation of Section 3(e) of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, committed as follows:

That, during the period from 13 May 1994 to 09 June 1997, or for sometime prior or subsequent thereto, in the City of Manila, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the aforementioned first two (2) accused Antonio P. Belicena and Uldarico P. Andutan, Jr., both public officers, being then the Assistant Secretary/Administrator, and Deputy Executive Director, respectively, of the One Stop Shop Inter-Agency Tax Credit & Duty Drawback Center, Department of Finance, Manila, while in the performance of their official functions and acting with evident bad faith and manifest partiality, conspiring and confederating with each other, together with accused Monico V. Jacob, Celso L. Legarda, Abdulaziz F. Al-Khayyal, Apolinario G. Reyes, Reynaldo V. Campos and Rafael S. Diaz, Jr., all officials of Petron Corporation, and Antonio H. Roman, Sr. and Marialen C. Corpuz, both officers of Filsyn Corporation, did then and there, willfully, unlawfully and (sic) recommend and criminally approve the transfer of the following Tax Credit Certificates purportedly issued to Filsyn Corp., to wit:

TCC No.

Amount

0159

P 713,213.00

0164

1,399,912.00

0205

1,313,576.00

1106

1,128,118.00

1010

2,268,599.00

1029

956,662.00

1030

2,243,517.00

1165

1,282,215.00

1180

1,399,950.00

1189

1,884,327.00

1204

702,105.00

1208

563,121.00

1245

562,551.00

1496

1,826,342.00

1497

2,453,521.00

1498
731,196.00
1499
418,534.00
1564
1,431,912.00
1592
2,006,920.00
1633
784,148.00
1634
1,213,080.00
1667
1,649,799.00
1732
119,795.00
1756
2,663,711.00
1798
2,436,946.00
1805
602,212.00
2160
2,375,949.00
19762
948,215.00
19763
2,011,753.00
2205
3,701,703.00
2219

4,792,190.00

2253

441,461.00

2273

1,081,349.00

2274

1,237,078.00

2308

1,805,291.00

2309

1,044,837.00

2331

1,474,537.00

2420

1,807,435.00

2421

1,351,385.00

2422

687,520.00

2423

1,508,715.00

2424

501,893.00

2430

1,609,726.00

2436

901,146.00

2463

1,016,673.00

2465

337,001.00

2482
1,960,916.00
2583
593,876.00
2587
1,588,883.00
2602
1,770,638.00
2727
1,487,893.00
2728
1,402,612.00
2755
1,499,909.00
2762
1,163,789.00
2763
1,854,245.00
3113
1,079,770.00
3131
99,578.00
3164
459,986.00
3202
3,699,103.00
3204
1,225,135.00
3288
408,000.00
3289

7,228,572.00

3291

2,844,774.00

3530

374,272.00

3549

1,658,172.00

3550

613,410.00

3416

653,750.00

3653

370,500.00

3670

805,480.00

3708

2,899,693.00

3909

1,867,139.00

3910

1,509,529.00

4009

2,308,264.00

4035

2,790,331.00

4042

6,326,431.00

4147

5,317,781.00

4299

3,336,559.00

4557

4,987,214.00

Total

P131,547,043.00

from Filsyn Corporation, represented by accused Antonio H. Roman, Sr. and Marialen C. Corpuz, unto and in favor of Petron Corp., represented by accused Monico V. Jacob, Cesar L. Legarda, Abdulaziz F. Al-Khayyal, Apolinario G. Reyes, Reynaldo V. Campos or Rafael S. Diaz, Jr., without legal basis and proper/required documentation, thereby causing undue injury and damage to the government in the aforestated amount and at the same time giving unwarranted benefit, preference or advantage to the said private firms.

CONTRARY TO LAW.[3]

Aside from the aforestated case, sixty-one (61) similar Informations were filed by the Office of the Ombudsman against some fifty (50) public officials and private individuals relating to the issuance of tax credit certificates.

The accused Monico V. Jacob and Celso Legarda were arraigned and pleaded not guilty.[4]

As narrated by the petitioners, the following events transpired in the Sandiganbayan/Office of the Ombudsman:

4.2 Criminal Case No. 25922, along with other cases involving allegedly anomalous TCC transfers, namely, Criminal Cases Nos. 25911-25915, 25917-25921, 25923-25939, and 25983-26016 were raffled to the Fourth Division of the Sandiganbayan.

4.3 On 17 April 2000, petitioners filed with the Office of the Ombudsman a "Very Urgent Motion for Leave to File Motion for Reconsideration or Reinvestigation" dated 16 April 2000, with an attached "Motion for Reconsideration or Reinvestigation (Re: Resolution dated 27 March 2000)" dated 17 April 2000, through which they sought reversal of the Office of the Ombudsman's 27 March 2000 "Resolution" which directed the filing of the "Information" in Criminal Case No. 25922. A copy of petitioners' "Very Urgent Motion for Leave to File Motion for Reconsideration or Reinvestigation" dated 16 April 2000, with their "Motion for Reconsideration or Reinvestigation (Re: Resolution dated 27 March 2000)" dated 17 April 2000 attached to it as its Annex "1", is attached to this "Petition", and made an integral part of it, as its Annex "D."

4.4 On 28 April 2000, the Fourth Division of the Sandiganbayan issued an "Order" granting petitioners, among other movants, leave to file their respective motions for reinvestigation or reconsideration, and gave the Prosecution sixty (60) days to resolve the said motions.

4.5 The sixty (60) day deadline given the Prosecution to complete its reinvestigations and report its findings in relation to such reinvestigations passed without the Prosecution resolving petitioners' Motion for Reconsideration or Reinvestigation (Re: Resolution dated 27 March 2000)" dated 17 April 2000.

4.6 The Prosecution's failure to resolve the motions for reconsideration filed by petitioners and the other accused in Criminal Cases Nos. 25911-25939 and 25983-26016 dragged on into the middle of 2001.

4.7 At the hearing of Criminal Cases Nos. 25911-25939 and 25983-26016 held on 1 June 2001, the Prosecution was specifically warned by the court that should it fail to resolve the accused's pending motions for reconsideration, it was possible that Criminal Cases Nos. 25911-25939 and 25983-26016 would be dismissed.

4.9 The court's warning notwithstanding, the Prosecution, in a "Manifestation" dated 21 June 2001, again sought cancellation of the arraignment and pre-trial conference in Criminal Cases Nos. 25911-25939 and 25983-26016 set on 2 July 2001, but the court denied that request in a "Resolution" dated 26 June 2001, in which the court again reminded the Prosecution that Criminal Cases Nos. 25911-25939 and 25983-26016 had

been pending for more than a year and that further delay caused by it would not be countenanced.

4.10 Despite the court's warning, the Prosecution still failed to resolve the pending motions for reinvestigation by the time of the scheduled arraignment and pre-trial conference set on 2 July 2001, prompting the court to issue an order which gave the Prosecution an additional ten (10) days to resolve the motions, and reset the scheduled arraignment and pre-trial conference to 17 July 2001.

4.11 Despite the lapse of the ten (10) day additional period given it, the Prosecution again failed to complete, and submit the results of, its reinvestigation, and instead filed a "Manifestation" requesting the cancellation and resetting of the arraignment and pre-trial conference set on 17 July 2001.

4.12 In an "Order" dated 17 July 2001, the court directed the Prosecution to complete its reinvestigation, and submit the results of that reinvestigation to the court, by 16 August 2001, and granted the Prosecution's request for a resetting by canceling the scheduled arraignment and pre-trial conference and setting it on 20 August 2001.

4.13 On 16 August 2001, the Prosecution again failed to report completion of the reinvestigation process, but only filed an "Omnibus Motion" in which it informed the court only that the prosecutor concerned had already made a recommendation to the Office of the Special Prosecutor. There being no resolution of the pending motions for reinvestigation yet, the Prosecution sought yet another cancellation of the scheduled arraignment and pre-trial conference on 20 August 2001.

4.14 The Prosecution repeated its request for deferment of the scheduled arraignment and pre-trial conference at the scheduled hearing on 20 August 2001, but this time, the request was denied by Justice Nario, who issued an oral order dismissing the case on account of the long delay associated with the Prosecution's resolution of the motions for reinvestigation filed by accused.

4.15 However, since Justice Nario and the other (2) regular members of the Fourth Division of the Sandiganbayan could not reach unanimity on upholding Justice Nario's dismissal of Criminal Cases Nos. 25911-25939 and 25983-26016, a Special Fourth Division composed of five (5) members of the Honorable Sandiganbayan was constituted pursuant to Section 1(b) of Rule XVIII of the 1984 Revised Rules of the Sandiganbayan.

4.15 On 4 February 2002, a bare majority of respondent court,[5] overruling dissents by Justice Nario and Justice Raoul Victorino, issued its first questioned "Resolution" dated 4 February 2002, the dispositive portion of which set aside the order of dismissal issued by Justice Nario in open court at the hearing of 20 August 2001 in the following manner:

"WHEREFORE, the dismissal of these cases orally ordered in open court by the Chairman of the Fourth Division during its court session held on August 20, 2001, and reiterated in his subsequent ponencia, is hereby set aside. xxx."

4.16 Petitioners filed their "Motion for Reconsideration" dated 11 February 2002 from the questioned "Resolution" dated 4 February 2002 on 18 February 2002. A copy of petitioners' "Motion for Reconsideration" dated 11 February 2002 is attached to this "Petition", and made an integral part of it, as its Annex "E." [6]

Several of the other accused also filed similar motions for reconsideration and/or motions to quash/dismiss which the prosecution opposed. [7]

On December 12, 2003, the Sandiganbayan, by unanimous vote, issued a Resolution denying all the motions respectively filed by the accused, including the petitioners:

WHEREFORE, for lack of merit, the court issues an Omnibus Resolution denying all the above described motions for reconsideration.

This disposition renders moot and academic the resolution of the court dated May 6, 2002 penned by Justice Narciso S. Nario, which deferred action on the Manifestation of the prosecution considering that there is no need for the court to act on the same, as the Manifestation was filed merely for the court's information on the action taken by the Office of the Special Prosecutor on the various motions for reconsideration filed by the accused in these cases.

SO ORDERED.[8]

Only the petitioners filed their petition for certiorari and mandamus assailing the February 4, 2002 and the December 12, 2003 Resolutions of the Sandiganbayan, asserting that the graft court committed a grave abuse of its discretion amounting to excess or lack of jurisdiction in issuing the same.[9]

In its Comment on the petition, the Office of the Ombudsman, through the Office of the Special Prosecutor, avers that the delay in the submission to the Sandiganbayan of its report on its reinvestigation was caused by the pendency of the other cases of equal, if not of more importance, not to mention the filing of twenty-two (22) other motions for reconsideration and/or reinvestigation by the other accused in the said cases.[10] It asserts that the more than one-year delay is not capricious, much less, intolerably capricious. It also contends that the oral dismissal of the cases by Justice Narciso S. Nario was too drastic, as it deprived the respondent of its right to prosecute the cases and prove the guilt of the petitioners beyond reasonable doubt for the crimes charged.

The Ruling of the Court

The petition is denied due course.

For a petition for certiorari to be granted, it must set out and demonstrate, plainly and distinctly, all the facts essential to establish a right to a writ.[11] The petitioners must allege in their petition and establish facts to show that any other existing remedy is not speedy or adequate[12] and that (a) the writ is directed against a tribunal, board or officer exercising judicial or quasi-judicial functions; (b) such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to excess or lack of jurisdiction; and, (c) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.[13]

The public respondent acts without jurisdiction if it does not have the legal power to determine the case; there is excess of jurisdiction where the respondent, being clothed with the power to determine the case, oversteps its authority as determined by law. There is grave abuse of discretion where the public respondent acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of its judgment as to be said to be equivalent to lack of jurisdiction.[14] Mere abuse of discretion is not enough.

In a petition for certiorari, the jurisdiction of the court is narrow in scope. It is limited to resolving only errors of jurisdiction. It is not to stray at will and resolve questions or issues beyond its competence such as errors of judgment. Errors of judgment of the trial court are to be resolved by the appellate court in the appeal or via a petition for review on certiorari in this Court under Rule 45 of the Rules of Court. Certiorari will issue only to correct errors of jurisdiction. It is not a remedy to correct errors of judgment.[15] An error of judgment is one in which the court may commit in the exercise of its jurisdiction, and which error is reversible only by an appeal. As long as the court acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than mere errors of judgment, correctible by an appeal or a petition for review under Rule 45 of the Rules of Court.[16] An error of jurisdiction is one where the act complained of was issued by the court without or in excess of jurisdiction and which error is correctible only by the extraordinary writ of certiorari.[17]

Generally, the performance of an official act or duty which necessarily involves the exercise of discretion or judgment cannot be compelled by mandamus. However, a writ of mandamus may issue where there is grave

abuse of discretion, manifest injustice, or palpable excess of authority.[18]

In this case, we find and so rule that the Sandiganbayan did not commit grave abuse of discretion amounting to excess or lack of jurisdiction in issuing the assailed resolutions. We also held that the petitioners are not entitled to a writ of mandamus.

The Verbal Order of Dismissal

By Justice Nario Is A Nullity

In the unanimous Resolution of December 12, 2003, the Sandiganbayan ruled as follows:

In the cases at bar, the dismissal made in open court by the Chairman, which was not reduced in writing, is not a valid dismissal or termination of the cases. This is because the Chairman cannot unilaterally dismiss the same without the approval or consent of the other members of the Division. The Sandiganbayan is a collegiate court and under its internal rules prevailing at the time (Rule XVIII, Section 1(b) of the 1984 Revised Rules of the Sandiganbayan, which is now Section 1(b), Rule VIII of the 2002 Revised Internal Rules of the Sandiganbayan), an order, resolution or judgment, in order to be valid – that is to say, in order to be considered as an official action of the Court itself – must bear the unanimous approval of the members of the division, or in case of lack thereof, by the majority vote of the members of a special division of five.[19]

We agree with the foregoing ratiocination. Section 1, Rule 120 of the Revised Rules of Criminal Procedure, mandates that a judgment must be written in the official language, personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts and the law upon which it is based. The rule applies to a final order dismissing a criminal case grounded on the violation of the rights of the accused to a speedy trial.[20] A verbal judgment or order of dismissal is a violation of the provision; hence, such order is, in contemplation of law, not in esse, therefore, ineffective. Justice Nario failed to issue a written resolution dismissing the criminal cases for failure of the prosecution to submit its report on the reinvestigation of the cases within the sixty-day period fixed by the graft court. Moreover, the verbal order was rejected by majority vote of the members of the Sandiganbayan Special Division. In fine, there has been no valid and effective order of dismissal of the cases. The Sandiganbayan cannot then be faulted for issuing the assailed resolutions.

Neither are the petitioners entitled to a writ of mandamus to compel the Sandiganbayan to reinstate the cases, considering that the verbal order of Justice Nario as aforestated does not exist at all in contemplation of law.

In Criminal Cases, the Accused

Is Entitled To a Speedy

Disposition of the Cases

against Him

No less than Section 16, Article III of the 1987 Constitution provides that all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial or administrative bodies. The “judicial bodies” envisaged in the said provision include the Office of the Ombudsman and the Office of the Special Prosecutor.

Rule 115, Section 1(h) of the Revised Rules of Criminal Procedure further provides that the accused has the right to have a speedy, impartial and public trial. The said rule requires that the arraignment of the accused should be held within thirty (30) days from the date the court acquired jurisdiction over the person of the accused, unless a shorter period is provided by special law or unless excusable delays as provided in Rule 119, Section 10 of the Rules are attendant.[21] Such rights to due process, speedy trial and disposition of the case were first articulated as early as 1297 in England: “To none will we see, to none will we deny or delay right or justice.”[22]

It cannot be overstressed that the accused in all criminal prosecutions are entitled to due process as much as the

prosecution. In *Tatad v. Sandiganbayan*,^[23] we held that substantial adherence to the requirements of the law governing the conduct of preliminary investigation, including substantial compliance with the time limitation prescribed by the law for the resolution of the case by the prosecutor, is part of the procedural due process constitutionally guaranteed by the fundamental law. This ruling clearly applies to reinvestigations authorized by the trial courts, including the Sandiganbayan.

The right of the accused to a speedy trial and to a speedy disposition of the case against him was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him for an indefinite time, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases.^[24] Such right to a speedy trial and a speedy disposition of a case is violated only when the proceeding is attended by vexatious, capricious and oppressive delays. The inquiry as to whether or not an accused has been denied such right is not susceptible by precise qualification. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept.^[25]

While justice is administered with dispatch, the essential ingredient is orderly, expeditious and not mere speed.^[26] It cannot be definitely said how long is too long in a system where justice is supposed to be swift, but deliberate. It is consistent with delays and depends upon circumstances. It secures rights to the accused, but it does not preclude the rights of public justice.^[27] Also, it must be borne in mind that the rights given to the accused by the Constitution and the Rules of Court are shields, not weapons; hence, courts are to give meaning to that intent.^[28]

A balancing test of applying societal interests and the rights of the accused necessarily compels the court to approach speedy trial cases on an ad hoc basis.^[29]

In determining whether the accused has been deprived of his right to a speedy disposition of the case and to a speedy trial, four factors must be considered: (a) length of delay; (b) the reason for the delay; (c) the defendant's assertion of his right; and (d) prejudice to the defendant. Prejudice should be assessed in the light of the interest of the defendant that the speedy trial was designed to protect, namely: to prevent oppressive pre-trial incarceration; to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired. Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system. There is also prejudice if the defense witnesses are unable to recall accurately the events of the distant past.^[30] 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.^[31] His financial resources may be drained, his association is curtailed, and he is subjected to public obloquy.^[32]

Delay is a two-edge sword. It is the government that bears the burden of proving its case beyond reasonable doubt. The passage of time may make it difficult or impossible for the government to carry its burden.^[33] The Constitution and the Rules do not require impossibilities or extraordinary efforts, diligence or exertion from courts or the prosecutor, nor contemplate that such right shall deprive the State of a reasonable opportunity of fairly prosecuting criminals.^[34] As held in *Williams v. United States*,^[35] for the government to sustain its right to try the accused despite a delay, it must show two things: (a) that the accused suffered no serious prejudice beyond that which ensued from the ordinary and inevitable delay; and (b) that there was no more delay than is reasonably attributable to the ordinary processes of justice.

Closely related to the length of delay is the reason or justification of the State for such delay. Different weights should be assigned to different reasons or justifications invoked by the State. For instance, a deliberate attempt to delay the trial in order to hamper or prejudice the defense should be weighted heavily against the State. Also, it is

improper for the prosecutor to intentionally delay to gain some tactical advantage over the defendant or to harass or prejudice him.[36] On the other hand, the heavy case load of the prosecution or a missing witness should be weighted less heavily against the State. Corollarily, Section 4, Rule 119 of the Revised Rules of Criminal Procedure enumerates the factors for granting a continuance.[37]

The Delay in the Arraignment And
The Trial of the Petitioners was
Caused By Them, the Other
Accused and the Ombudsman/
Special Prosecutor

In its February 4, 2002 Resolution, the Sandiganbayan overruled the verbal Order of Justice Nario for the following reasons:

In the present case, (1) there is already a delay of the trial for more than one year now; (2) but it is not shown that the delay is vexatious, capricious and oppressive; (3) it may be that, as stated in the herein dissented Resolution, “at the hearings conducted in these cases, the defense orally, openly and consistently asked for the dismissal of these cases;” however, these oral manifestations were more of “knee-jerk reactions” of the defense counsel in those hearings everytime the prosecution requested for postponement than anything else as said defense counsel did not seriously pursue the dismissal of these cases, such as by reducing their “request” in a formal written motion to dismiss and/or insisting that the court formally rule on their request for dismissal and go on certiorari if denied; and (4) considering the nature and importance of the cases, if there is any prejudice that may have resulted as a consequence of the series of postponements, it would be more against the government than against any of the accused; however, be that as it may, none of the herein accused has come out to claim having been thus prejudiced.[38]

The records show that the failure of the petitioners and the other accused to be arraigned and the case against them tried was caused by (1) the filing of their motion for reconsideration and/or reinvestigation which was granted by the Sandiganbayan; and (2) the failure of the Ombudsman/Special Prosecutor to terminate his reinvestigation and submit his report thereon within the sixty-day period fixed by the graft court.

The Ombudsman/Special Prosecutor filed the Informations on April 10, 2000 even before the lapse of the five-day period within which to file a motion for reconsideration or the reinvestigation thereof as provided in Administrative Order No. 15 of the Ombudsman.[39] This impelled the petitioners to file on April 17, 2000 a very urgent motion for leave to file a motion for reconsideration of the said resolution finding probable cause against them or the reinvestigation thereof, on the ground that there was no factual and legal basis for their indictment for violation of Section 3(e) of Rep. Act No. 3019.

On April 28, 2000, the Sandiganbayan issued a Resolution granting the motion of the petitioners and gave the prosecutor a period of sixty (60) days from notice within which to conduct a reinvestigation of the case. However, aside from the petitioners, the other accused filed 23 separate motions for reconsideration/reinvestigation in Criminal Cases Nos. 25911-25939 and 25983-26016.

The arraignment of the accused including the petitioners and the pre-trial of the cases had to be suspended by the Sandiganbayan until after the Ombudsman/Special Prosecutor had completed the consolidated reinvestigation of the cases and submitted his consolidated report to the graft court. However, the Prosecutor failed to terminate his reinvestigation of the cases within the period given him, which impelled the Sandiganbayan, over the verbal objections of the petitioners, to repeatedly reset the arraignment of the petitioners and that of the other accused. Thereafter, Justice Nario verbally dismissed the cases on August 20, 2001, despite the “Omnibus Motion” of the Prosecution on August 16, 2001 informing the Sandiganbayan that he had already submitted his recommendation

on his reinvestigation to the Office of the Special Prosecutor for the latter's consideration and approval.

The Petitioners were Burdened to
Prove the Factual and Legal Basis
For Motion Nolle Prosequi;
The Prosecutor was Burdened
To Prove a Valid Justification
For Non-Compliance with
The Order of the Sandiganbayan
And the Motion for Continuance

Prefatorily, we find it unfair for the majority members of the Sandiganbayan to brand the verbal motions nolle prosequi of the petitioners as a mere "knee-jerk reaction/action" to the Prosecutor's repeated motions for continuance. Although the petitioners failed to file written motions for the dismissal of the cases, their verbal motions should not be brushed aside as trivial. Ideally, the petitioners should file formal motions for the dismissal of the cases. However, they are not precluded from orally moving for the dismissal of the said cases. In *McCandles v. District Court*,^[40] the appellate court held that the proper method of making demands for speedy trial is by motions filed in the case or made in open court. A demand therefor must be made in court. The Sandiganbayan would have acted beyond its authority if it had dismissed the case against the accused simply because the prosecutor had gone to sleep at the switch while the defendant and his counsel rested in silence.^[41] The accused must not be rewarded by the dismissal of the case and the State and society punished by the neglect of the prosecutor unless the accused himself calls the attention of the court to the matter.^[42]

Under Section 9, Rule 119 of the Revised Rules of Criminal Procedure, the petitioners had the burden of proving the factual basis for their motions for the dismissal of the Informations on the ground of a denial of their right to a speedy trial and to a speedy disposition of the cases against them. They were burdened to prove that such delay caused by the Prosecutor was vexatious, capricious or whimsical. On the other hand, the Prosecutor was burdened to present evidence to establish that the delay in the submission of his report on the reinvestigation of the cases was reasonably attributed to the ordinary process of justice, and that the accused suffered no serious prejudice beyond that which ensued after an inevitable and ordinary delay.

Indubitably, there was an undue and inordinate delay in the reinvestigation of the cases by the Ombudsman/Special Prosecutor, and, consequently, the submission of his report thereon. Despite the lapse of more than one year, he failed to comply with the Orders of the Sandiganbayan. It bears stressing that a reinvestigation is summary in nature, and merely involves a reexamination and re-evaluation of the evidence already submitted by the complainant and the accused, as well as the initial finding of probable cause which led to the filing of the Informations after the requisite preliminary investigation. Undeniably, the Ombudsman/Special Prosecutor is saddled with "cases of equal, if not of more importance" than the cases against the petitioners. However, this is not a valid justification for an inordinate delay of one (1) year in the termination of the reinvestigation of the cases. The Prosecutor should have expedited the reinvestigation not only because he was ordered by the Sandiganbayan to submit a report within sixty (60) days, but also because he is bound to do so under the Constitution, and under Section 13 of Rep. Act No. 6770:

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 results thereof. (Section 12, Article XI of the 1987 Constitution)

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 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. (Section 13, Republic Act No. 6770)

In *Hodges v. United States*,^[43] it was emphasized that the government, and for that matter, the trial court, is not without responsibility for the expeditious trial for criminal cases. The burden for trial promptness does not solely rest upon the defense. The right to a speedy trial is not to be honored only for the vigilant and the knowledgeable.^[44] In *De Vera v. Layague*,^[45] we also held that:

The constitutional mandate to promptly dispose of cases does not only refer to the decision of cases on their merits, but also to the resolution of motions and other interlocutory matters, as the constitutional provisions explicitly mention “cases” and “matters.” Therefore, respondent judge must not be excused for his delay in resolving the incident in Civil Case No. 17,215.

The Dismissal of the Information Was Too Drastic

We note that the Prosecutor informed the Sandiganbayan on August 16, 2001 that he had already submitted his recommendation on the reinvestigation of the cases to the Special Prosecutor, and requested for continuance anew. The graft court again obliged, and reset the arraignment of the accused to August 20, 2001, only to be informed by the Prosecutor that his recommendation had not yet been acted upon by the Special Prosecutor/Ombudsman. The unexplained delay by the Ombudsman/Special Prosecutor of his compliance with the Sandiganbayan’s directive brings to mind the trite and distressing observation of this Court in *Abardo v. Sandiganbayan*:^[46]

Clearly, the delay in this case disregarded the Ombudsman’s duty, as mandated by the Constitution and Republic Act No. 6770, to enforce the criminal liability of government officers or employees in every case where the evidence warrants in order to promote efficient service to the people. The fact that up to this time no trial has been set, apparently due to the inability of the Ombudsman to complete the reinvestigation is a distressing indictment of the criminal justice system, particularly its investigative and prosecutory pillars.

The Sandiganbayan, for its part, is not free of blame. In resolving the motions for reconsideration of the petitioners and the other accused, it should have required the Ombudsman/Special Prosecutor, under pain of contempt, to explain and justify the inordinate delay in the submission of the report on the reinvestigation. The Sandiganbayan failed to do so. The graft court was content to issue mere orders denying the motions for reconsideration of the petitioners and the other accused.

The Court is wont to stress that the State, through the Sandiganbayan and the Ombudsman/Special Prosecutor, has the duty of insuring that the criminal justice system is consistent with due process and the constitutional rights of the accused. Society has a particular interest in bringing swift prosecutions and society’s representatives are the ones who should protect that interest.^[47] It has been held that the right to a prompt inquiry into criminal charges is fundamental and the duty of the charging authority is to provide a prompt disposition of the case.^[48]

Prescinding from the foregoing, we agree with the Sandiganbayan that the dismissal of the cases was precipitate and unwarranted. The State should not be prejudiced and deprived of its right to prosecute the cases simply because of the ineptitude or nonchalance of the Ombudsman/Special Prosecutor.

Under Section 9, Rule 119 of the Revised Rules of Criminal Procedure, the trial court may dismiss a criminal case on a motion *nolle prosequi* if the accused is not brought to trial within the prescribed time and is deprived of his

right to a speedy trial or disposition of the case on account of unreasonable or capricious delay caused by the prosecution.[49] En contrario, the accused is not entitled to a dismissal where such delay was caused by proceedings or motions instituted by him.[50] But it must be understood that an overzealous or precipitate dismissal of a case may enable the defendant, who may be guilty, to go free without having been tried, thereby infringing the societal interest in trying people accused of crimes rather than granting them immunization because of legal error.[51] Not too long ago, we emphasized that:

...[T]he State, like any other litigant, is entitled to its day in court, and to a reasonable opportunity to present its case. A hasty dismissal such as the one in question, instead of unclogging dockets, has actually increased the workload of the justice system as a whole and caused uncalled-for delays in the final resolution of this and other cases. Unwittingly, the precipitate action of the respondent court, instead of easing the burden of the accused, merely prolonged the litigation and ironically enough, unnecessarily delayed the case – in the process, causing the very evil it apparently sought to avoid. Such action does not inspire public confidence in the administration of justice.[52]

There can be no denying the fact that the petitioners, as well as the other accused, were prejudiced by the delay in the reinvestigation of the cases and the submission by the Ombudsman/Special Prosecutor of his report thereon. So was the State. We have balanced the societal interest involved in the cases and the need to give substance to the petitioners' constitutional rights and their quest for justice, and we are convinced that the dismissal of the cases is too drastic a remedy to be accorded to the petitioners. The cloud of suspicion may still linger over the heads of the petitioners by the precipitate dismissal of the cases. We repeat -- the cases involve the so-called tax credit certificates scam and hundreds of millions of pesos allegedly perpetrated by government officials in connivance with private individuals. The People has yet to prove the guilt of the petitioners of the crimes charged beyond reasonable doubt. We agree with the ruling of the Sandiganbayan that before resorting to the extreme sanction of depriving the petitioner a chance to prove its case by dismissing the cases, the Ombudsman/Special Prosecutor should be ordered by the Sandiganbayan under pain of contempt, to explain the delay in the submission of his report on his reinvestigation.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED DUE COURSE.

SO ORDERED.

Austria-Martinez, and Chico-Nazario, JJ., concur.
Puno, (Chairman), J., on official leave.
Tinga, J., on leave.

[1] Penned by Associate Justice Nicodemo T. Ferrer, with Associate Justices Rodolfo G. Palattao and Catalino R. Castañeda, Jr., concurring, and with Associate Justices Narciso S. Nario and Raoul V. Victorino, dissenting.

[2] Penned by Associate Justice Rodolfo G. Palattao, with Associate Justices Gregory S. Ong, Norberto Y. Germaldez, Raoul U. Victorino and Diosdado M. Peralta, concurring.

[3] Rollo, pp. 72-74.

[4] Id. at 64.

[5] SEC. 2. Resolution on Interlocutory or Incidental Motions. – Rulings on all written motions on interlocutory or incidental matters submitted to any regular Division for resolution shall be reached in consultation among and by the unanimous vote of the three (3) Justices participating in the consideration thereof: Provided, however, that rulings on oral motions or objections made in the course of the trial or hearing shall be made by the Chairman of

the Division: Provided, further, that oral motions or objections on substantial but interlocutory or incidental matters maybe ordered reduced into writing and shall likewise be resolved by the unanimous vote of the three (3) Justices of the Division.

In case a unanimous vote cannot be obtained, a Special Division of five (5) Justices shall be constituted pursuant to Section 1 (b), Rule VIII. A majority vote of such Special Division shall suffice to decide interlocutory or incidental motions.

...

(b) In Division – The unanimous vote of three (3) Justices in a Division shall be necessary for the rendition of a judgment or final order. In the event a unanimous vote is not obtained, the Presiding Justice shall designate by raffle and on rotation basis two (2) Justices from all the other members of the Sandiganbayan to sit temporarily with them, forming a Special Division of five (5) Justices, and the vote of a majority of such Special Division shall be necessary for the rendition of a judgment or final order.

[6]Rollo, pp. 9-14.

[7] Id. at 62-64.

[8]Id. at 69-70.

[9] Penned by Associate Justice Rodolfo G. Palattao (retired), with Associate Justices Gregory S. Ong, Norberto Y. Geraldez, Raoul V. Victorino and Diosdado M. Peralta, concurring.

[10] Rollo, pp. 140-143.

[11] Henry v. Finta, 559 So.2d 434 (1990).

[12]Alabama Power Co. v. City of Fort Payne, 187 So. 632 (1939).

[13] Sanchez v. Court of Appeals, 279 SCRA 647 (1997).

[14]Condo Suite Club Travel, Inc. v. NLRC, 323 SCRA 679 (2000).

[15] People v. Court of Appeals, 308 SCRA 687 (1999).

[16] Ibid.

[17]Toh v. Court of Appeals, 344 SCRA 831 (2000).

[18]Licaros, Jr. v. Sandiganbayan, 370 SCRA 394 (2001); Angchangco, Jr. v. Ombudsman, 268 SCRA 301 (1997).

[19] Id. at 68.

[20]Rivera, Jr. v. People, 189 SCRA 831 (1990).

[21] SEC. 10. Exclusions.-The following periods of delay shall be excluded in computing the time within which trial must commence:

(a) Any period of delay resulting from other proceedings concerning the accused, including but not limited to the following:

(1) delay resulting from an examination of the accused, and hearing on his/her mental competency, or physical incapacity;

- (2) delay resulting from trials with respect to charges against the accused;
- (3) delay resulting from interlocutory appeals;
- (4) delay resulting from hearings on pre-trial motions; Provided, That the delay does not exceed thirty (30) days;
- (5) delay resulting from orders of inhibition, or proceedings relating to change of venue of cases or transfer from other courts;
- (6) delay resulting from a finding of the existence of a valid prejudicial question; and
- (7) delay reasonably attributable to any period, not to exceed thirty (30) days, during which any proceeding concerning the accused is actually under advisement.

(b) Any period of delay resulting from the absence or unavailability of the accused or an essential witness.

For purposes of this subparagraph, an accused or an essential witness shall be considered absent when his/her whereabouts are unknown and, in addition, he/she is attempting to avoid apprehension or prosecution or his/her whereabouts cannot be determined by due diligence. An accused or an essential witness shall be considered unavailable whenever his/her whereabouts are known but his/her presence for trial cannot be obtained by due diligence or he/she resists appearing at or being returned for trial.

(c) Any period of delay resulting from the fact that the accused is mentally incompetent or physically unable to stand trial.

(d) If the information is dismissed upon motion of the prosecution and thereafter a charge is filed against the accused for the same offense, or any offense required to be joined with that offense, any period of delay from the date the charge was dismissed to the date the time limitation would commence to run as to the subsequent charge had there been no previous charge.

(e) A reasonable period of delay when the accused is joined for trial with a co-accused over whom the court has not acquired jurisdiction, or as to whom the time for trial has not run and no motion for severance has been granted.

(f) Any period of delay resulting from a continuance granted by any justice or judge *motu proprio* or on motion of the accused or his/her counsel or at the request of the public prosecutor, if the justice or judge granted such continuance on the basis of his/her findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. No such period of delay resulting from a continuance granted by the court in accordance with this subparagraph shall be excludable under this section unless the court sets forth, in the record of the case, either orally or in writing, its reasons for finding that the ends of justice served by the granting of such continuance outweigh the best interest of the public and the accused in a speedy trial.

[22] C. 29 of King Edward's Charter of 1297 (1225).

[23] 159 SCRA 70 (1988).

[24] *State v. Frith*, 194 So. 1 (1940).

[25] *Ibid.*

[26] *Smith v. United States*, 3 L.Ed.2d 1041 (1959).

[27] *Barker v. Wingo*, 33 L.Ed.2d 101 (1972).

[28] McCandles v. District Court, 61 N.W.2d. 674 (1954).

[29] Barker v. Wingo, supra.

[30] Ibid.

[31] Id.

[32] United States v. Marion, 30 L.Ed.2d 468 (1971).

[33] United States v. Hawk, 88 L.Ed.2d 640 (1986).

[34] State v. Frith, supra.

[35] 250 F.2d. 19 (1957).

[36] Barker v. Wingo, supra.

[37] Under Rule 119, Section 4 of the Revised Rules of Criminal Procedure, the following factors shall be considered by the trial court:

SEC. 4. Factors for granting continuance. – The following factors, among others, shall be considered by a court in determining whether to grant a continuance under Section 3(f) of this Rule.

a)

Whether or not the failure to grant a continuance in the proceeding would likely make a continuation of such proceeding impossible or result in a miscarriage of justice; and

b)

Whether or not the case taken as a whole is so novel, unusual and complex, due to the number of accused or the nature of the prosecution, or that it is unreasonable to expect adequate preparation within the periods of time established therein.

In addition, no continuance under Section 3(f) of this Rule shall be granted because of congestion of the court's calendar or lack of diligent preparation or failure to obtain available witnesses on the part of the prosecutor (Sec. 10, Cir. 38-98).

[38] Rollo, pp. 46-47.

[39] WHEREFORE, pursuant to the above-quoted Section 27, R.A. No. 6770, in the interest of justice, Section 7, Rule II, Administrative Order No. 07 is hereby amended as follows:

Section 7, Motion for Reconsideration –

a)

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

b)

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

[40] 61 N.W.2d.674 (1954).

[41] State v. McTague, 216 N.W.787 (1927).

[42] McCandles v. District Court, supra.

[43]408 F.2d. 543 (1969).

[44] Barker v. Wingo, supra.

[45] 341 SCRA 67 (2000).

[46] 355 SCRA 641 (2001).

[47] Barker v. Wingo, supra.

[48] Dickey v. State of Florida, 398 U.S. 30 (1970).

[49] Rule 119, Section 9 of the Revised Rules of Criminal Procedure provides that:

SEC. 9. Remedy where accused is not brought to trial within the time limit. – If the accused is not brought to trial within the time limit required by Section 1(g), Rule 116 and Section 1, as extended by Section 6 of this rule, the information may be dismissed on motion of the accused on the ground of denial of his right to speedy trial. The accused shall have the burden of proving the motion but the prosecution shall have the burden of going forward with the evidence to establish the exclusion of time under Section 3 of this Rule. The dismissal shall be subject to the rules on double jeopardy.

Failure of the accused to move for dismissal prior to trial shall constitute a waiver of the right to dismiss under this section. (sec. 14, cir. 38-98)

[50]United State v. Lustman, 258 F.2d 475 (1958).

[51]Barker v. Wingo, supra.

[52] People v. Leviste, 255 SCRA 238 (1996).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.