

CONSUELO S. BLANCO, MILAGROS V. CABUAG AND ROMUALDO P. CABUAG, PETITIONERS, VS. SANDIGANBAYAN, RESPONDENT.

G.R. Nos. 136757-58. November 27, 2000

Ponente: DE LEON, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-136757-58/>

DE LEON, JR., J.:

Before us is a petition for certiorari[1] and prohibition with preliminary injunction seeking to annul and set aside the Resolutions[2] dated September 14, 1998 and November 19, 1998 of respondent Sandiganbayan[3] denying petitioners' Motion to Quash and Motion for Reconsideration, respectively, for allegedly having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction, and to restrain respondent court from proceeding with petitioners' arraignment and trial in Criminal Cases Nos. 23339 and 23341 for violation of Sec. 3(e) of R.A. 3019 and Article 141, paragraph 4 of the Revised Penal Code.

The pertinent facts are as follows:

On September 13, 1988, the Office of the Ombudsman received an anonymous letter-complaint charging petitioner Consuelo S. Blanco, former President of the Mariano Marcos State University (MMSU) in Batac, Ilocos Norte, with allegedly malversing the amount of eleven (11) million pesos in connection with undelivered materials from Jacinto Steel Mill.[4] The case was docketed as OMB Case No. 88-2267.

On October 11, 1988, the Office of the Ombudsman referred the case to Director Antonio M. Carpio of the National Bureau of Investigation (NBI), Manila, for fact-finding investigation and report.[5] The case was assigned to Agents Villar and Rigodon of the Anti-Graft Section (AGS) of the NBI. In the Report dated February 1, 1989, the said NBI agents recommended that the case be forwarded to NBI Laoag sub-office, Ilocos Norte for further investigation and report inasmuch as the general vouchers and other pertinent documents are on file with the MMSU and with the provincial office of the Commission on Audit in Batac, Ilocos, Norte.[6] The case was then assigned to Agent Hector Geologo.

After investigation, Agent Geologo, in his Report dated August 31, 1989, recommended the filing of charges, for violation of R.A. 3019, against petitioners and other officials of MMSU. The report was forwarded to the Legal and Evaluation Division (LED) of the NBI, Manila.[7]

In his report dated November 6, 1989, Gerarda G. Galang, Officer-in-Charge of LED of the NBI requested that the case be returned to the NBI Laoag sub-office to further investigate certain specified matters. NBI Agent Villar concurred with the said request. Thus, on January 3, 1990, the same case was forwarded anew to the NBI Laoag sub-office.[8]

On November 23, 1994, the Office of the Ombudsman received a copy of the NBI's Evaluation Comment dated November 17, 1994; and the Agent's Report dated October 4, 1994 with its annexes. In its Evaluation Comment, the NBI recommended that Consuelo Blanco, Abelardo Velasco, Milagros Cabuag, Romualdo Cabuag, Prisca Tayag and Bienvenido Magno be charged and prosecuted for falsification of official documents under Article 171,

paragraph 4 of the Revised Penal Code. It was also recommended that Consuelo Blanco be prosecuted for violation of Section 3(a) and (e) of R.A. No. 3019 (Anti-Graft Law) while Bienvenido Magno, Romualdo Cabuag, Abelardo Velasco, Milagros Cabuag and Prisca Tayag be charged with violation of Section 3(e) of the same law.[9]

In his Indorsement dated March 20, 1995, Abelardo L. Aportadera, Assistant Ombudsman and head of the Evaluation and Preliminary Investigation Bureau (EPIB), directed that a preliminary investigation be conducted in these cases. Consequently, in an Order dated April 18, 1995, Consuelo Blanco, Abelardo Velasco, Romualdo Cabuag, Milagros Cabuag, Prisca Tayag and Bienvenido Magno were required to file their counter-affidavits. Instead of filing their counter-affidavits, all the said persons except Consuelo Blanco, filed five (5) motions for extension of time to file their counter-affidavits. Thus the deadline for submission of their counter-affidavits was moved to June 8, 1995, then to June 23, July 8, July 28 and lastly to August 12, 1995, up to which date no counter-affidavits were filed. As for Consuelo Blanco, the notice for her to file her counter-affidavit was returned undelivered with a notation that she can no longer be located.[10]

Graft Investigation Officer Maria Linda L. Llagas-Vicente submitted a Resolution dated December 28, 1995, recommending the prosecution of Blanco, Velasco, Milagros Cabuag, Romualdo Cabuag, Tayag and Magno for violation of Article 171, paragraph 4 of the Revised Penal Code and Section 3(e) of R.A. No. 3019. Said recommendation was approved by the Ombudsman on April 26, 1996.[11]

On May 2, 1996, four (4) Informations, one (1) for violation of Section 3(e) of R.A. No. 3019[12] and three (3) for violation of Article 171, paragraph 4 of the Revised Penal Code[13] were filed before the Sandiganbayan and raffled to the Third Division.

On July 23, 1996, herein petitioners Milagros V. Cabuag and Romualdo P. Cabuag, through counsel, filed a Motion to Defer Arraignment. The Sandiganbayan in its Order dated July 26, 1996 gave petitioners fifteen (15) days to file their motion for reconsideration directly with the Office of the Special Prosecutor.[14]

Meanwhile, an alias warrant of arrest[15] was issued against petitioner Blanco, who on August 22, 1997 filed an Omnibus Motion for Reconsideration/ Reinvestigation, Reduction of Bail and a Grant of Authority to Travel to the United States.[16]

The Sandiganbayan allowed petitioner Blanco to travel to the United States from August 25, 1997 to September 24, 1997 and to file her counter-affidavit with the Office of the Special Prosecutor within fifteen (15) days from her return to enable the said Office to conduct a reinvestigation. Blanco returned to the Philippines on September 16, 1997 and filed her Counter-Affidavit with the Office of the Special Prosecutor on October 9, 1997.[17]

On December 2, 1997, Prosecutor Joselito R. Ferrer subpoenaed all the accused and Atty. Villanueva, counsel for Cabuag, for a clarificatory hearing.[18]

On February 2, 1998, Prosecutor Ferrer filed a Preliminary Report with the Sandiganbayan alleging that he has already completed the reinvestigation of the said cases but his Memorandum is still awaiting the action thereon of his superior.

On April 17, 1998, Prosecutor Ferrer filed a Motion[19] with the Sandiganbayan praying:

1. That the Information in Criminal Cases Nos. 23340 and 23342 be withdrawn;
2. That Abelardo D. Velasco, Prisca Tayag and Bienvenido B. Magno be dropped from the Information in Criminal Case No. 23339; and
3. That Abelardo D. Velasco, Romualdo P. Cabuag, Prisca Tayag and Bienvenido B. Magno be dropped from

the Information in Criminal Case No. 23341.

The Sandiganbayan, in its Resolution dated May 28, 1998 granted said motion.[20]

On July 28, 1988, petitioners Blanco, Milagros and Romualdo Cabuag filed with the Sandiganbayan a Motion to Quash the Informations on the ground that the Ombudsman's long delay in resolving the preliminary investigation resulted in the violation of their constitutional rights to due process and speedy disposition of cases.[21]

The respondent court, in its Resolutions dated September 14, 1998 and November 19, 1998, respectively, denied the Motion to Quash and the Motion for Reconsideration thereof.[22]

Hence, this petition.

Petitioners raise a lone assignment of error, to wit:

RESPONDENT SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NOT DISMISSING THE REMAINING CASES AGAINST THE PETITIONERS DESPITE THE LONG DELAY IN THE TERMINATION BY THE OMBUDSMAN OF THE CRIMINAL COMPLAINTS AGAINST THEM IN VIOLATION OF THEIR CONSTITUTIONAL RIGHT TO DUE PROCESS AND SPEEDY DISPOSITION OF THE CASES AGAINST THEM.

Invoking the ruling enunciated in the case of *Tatad v. Sandiganbayan*,[23] petitioners assert that their constitutional rights to due process and to a speedy disposition of cases were violated when the informations were filed with the Sandiganbayan after almost ten (10) years from the time the complaint was lodged with the Office of the Tanodbayan (Ombudsman).

Petitioners likewise allege that some of their evidence, which may be material in establishing their innocence, have already been lost, and that the delay in the termination of the preliminary investigation cannot be attributed to them considering that it is within the discretion of the Ombudsman to terminate the same after the expiration of the period granted to file their respective counter-affidavits.

The petition is not meritorious.

Settled is the rule that the right to a speedy disposition of cases, like the right to a speedy trial, is deemed violated only when the proceeding is attended by vexatious, capricious, and oppressive delay.[24] In the determination of whether or not that right has been violated, the factors that may be considered and balanced 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.[25]

In the *Tatad* case relied upon by petitioners, this Court held that a long delay of close to three (3) years in the termination of the preliminary investigation conducted by the Tanodbayan constitutes a violation not only of the constitutional right of the accused under the broad umbrella of the due process clause, but also of the constitutional guarantee to "speedy disposition" of cases as embodied in Section 16 of the Bill of Rights (both in the 1973 and the 1987 Constitutions). In so ruling, the Court took into consideration the following attendant circumstances: that political motivation played a vital role in activating and propelling the prosecutorial process; that there was a blatant departure from the established procedure prescribed by law for the conduct of a preliminary investigation; and that the long delay in resolving the preliminary investigation cannot be justified on the basis of the facts on record.[26]

In the present case, after evaluating the undated anonymous letter-complaint[27] against Blanco and co-petitioners, the Office of the Ombudsman referred the said letter-complaint to the NBI, an independent investigating body for fact-finding investigation.[28] It took more than (5) years for the NBI to render a report

which recommended that Blanco, Velasco, Romualdo Cabuag, Milagros Cabuag, Tayag and Magno be prosecuted for falsification of official documents under Article 171, paragraph 4 of the Revised Penal Code.

The Office of the Ombudsman received a copy of the NBI's Evaluation Comment, the Agent's Report and its annexes only on November 23, 1994. Assistant Ombudsman Abelardo Aportadera, in his Indorsement dated March 20, 1995, directed that a preliminary investigation be conducted in these cases. Thus, in the Order dated April 18, 1995, all the accused were required to file their counter-affidavits, but, instead of filing their counter-affidavits, all the accused, except petitioner Blanco,[29] filed five (5) Motions for Extensions of Time to file the same. As of August 12, 1995, the last extension date, no counter-affidavits were ever filed. Consequently, on May 2, 1996, four (4) Informations, one (1) for violation of Section 3(e) of R.A. No. 3019 and three (3) for violation of Article 171, paragraph 4 of the Revised Penal Code, were filed before the Sandiganbayan.

However, on July 23, 1996, all the accused, except petitioner Blanco, filed a Motion to Defer Arraignment. In its Order dated July 26, 1996, the Sandiganbayan gave petitioners fifteen (15) days within which to file their motion for reconsideration with the Office of the Special Prosecutor. In the meantime, petitioner Blanco was served with an alias warrant of arrest. On August 22, 1997, Blanco filed a Motion for Reinvestigation and subsequently her counter-affidavit on October 9, 1997.

From the foregoing facts, it appears that the preliminary investigation begun not on September 13, 1988, when the Office of the Ombudsman received the anonymous letter-complaint, but rather actually on March 20, 1995, when Assistant Ombudsman Aportadera directed that a preliminary investigation be conducted in the said cases. The preliminary investigation was only deemed submitted for resolution on August 18, 1995, expiry date of the last extension given to petitioners to file their counter-affidavits. Before the cases were filed with the Sandiganbayan, it took the Ombudsman one (1) year and one (1) month from March 20, 1995 when an Order was issued directing the conduct of a preliminary investigation and nine (9) months from the date the case was submitted for resolution.

A perusal of the records shows that the delay cannot be attributed to the Ombudsman but rather to the accused themselves including petitioners Milagros and Romualdo Cabuag who filed five (5) motions for extensions of time to file their counter-affidavits, the last of which was filed on August 18, 1995. Likewise, with regards to their Motion for Reconsideration, the same was duly resolved within three (3) months from the date the last counter-affidavit was filed on January 8, 1998. Petitioners Blanco, Milagros Cabuag and Romualdo Cabuag filed their counter-affidavits on October 9, 1997, January 8, 1998 and January 8, 1998, respectively. Hence, the Informations in these two cases, were filed in due time, and the Tatad case may not properly be invoked in these cases at bar.

Lastly, petitioners allege that there is no sufficient ground to hold them for trial for the crimes charged. As consistently held in a number of cases, this Court will refrain from interfering with the exercise by the Ombudsman of his constitutionally mandated investigatory and prosecutory power. It is not for this Court to review the Ombudsman's exercise of discretion in prosecuting or dismissing a complaint filed before his Office. Such initiative and independence are inherent in the Ombudsman who, beholden to no one, acts as the champion of the people and preserver of the integrity of the public service.[30]

WHEREFORE, there being no showing that the impugned resolutions of respondent Sandiganbayan are tainted by grave abuse of discretion or jurisdictional defect, the instant petition is DISMISSED for lack of merit.

SO ORDERED.

Bellosillo, (Chairman) Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Under Rule 65 of the Revised Rules of Court.

[2] Penned by Associate Justice Minita Chico-Nazario and concurred in by Associate Justices Anacleto D. Badoy, Jr. and Godofredo L. Legaspi.

[3] Fifth Division.

[4] Rollo, p. 46.

[5] Id., p. 45.

[6] Annex "C"; Rollo, pp. 43-44.

[7] Annex "D"; Rollo, pp. 47-49.

[8] Respondent's Comment, Rollo, p. 106.

[9] Rollo, pp. 52-56.

[10] Respondent's Comment, pp. 106-107.

[11] Annex "F"; Rollo, pp. 57-65.

[12] Docketed as Criminal Case No. 23339.

[13] Docketed as Criminal Cases Nos. 23340 to 23342.

[14] Original Records, pp. 20-22; 35.

[15] Id., p. 38.

[16] Id., pp. 47-49.

[17] Id., p. 55, 67.

[18] Respondent's Comment, Rollo, p. 108.

[19] Original Records, pp. 94-96.

[20] Id., p. 115.

[21] Id., pp. 133-143.

[22] Id., pp. 163-172; 215. In this case, the Supreme Court held that an undue delay of close to three (3) years in the termination of the preliminary investigation in the light of the circumstances obtaining in that case warranted the dismissal of the case.

[23] 159 SCRA 70 (1988).

[24] *Gonzales v. Sandiganbayan*, 199 SCRA 298, 307.

[25] *Alvizo v. Sandiganbayan*, 220 SCRA 55, 63-64, citing *Baker v. Wingo*, 407 U.S. 514 (1972).

[26] 159 SCRA 70, 81-82. [1988].

[27] Received by the Office of the Ombudsman on September 13, 1988.

[28] Resolution dated September 14, 1998, pp. 6-7; Rollo, pp. 37-38.

[29] Who up to that date the respondent court has not yet acquire jurisdiction.

[30] Alba v. Nitorreda, 254 SCRA 753, 765-766 [1996]; Ocampo IV v. Ombudsman, 225 SCRA 725; Fernando v. Sandiganbayan, 212 SCRA 680, 687 [1992].

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.