

ALFREDO R. ENRIQUEZ, GENER C. ENDONA, and RHANDOLFO B. AMANSEC, Petitioners, vs. OFFICE OF THE OMBUDSMAN, Respondent.

G.R. Nos. 174902-06. February 15, 2008

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us for resolution is a petition for mandamus[1] filed by Alfredo R. Enriquez, Gener C. Endona and Rhandolfo B. Amansec, petitioners, praying that the Office of the Ombudsman, respondent, be ordered to dismiss the following administrative and criminal cases against them:

- OMB-ADM-0-00-0415, entitled “Fact-Finding and Intelligence Bureau vs. Alfredo R. Enriquez, Enrico V. Enriquez, Edgardo V. Castro, Rachel E. Saldariega, Rhandolfo B. Amansec and Ricardo R. Arandilla, for violation of Section 4(a) of Republic Act No. 6713, otherwise known as The Code of Conduct and Ethical Standards for Public Officials and Employees, and Section 22 (a), (c), (i), (k) and (t), Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292, The Administrative Code of 1987”;
- OMB-ADM-0-00-0416, entitled “Fact-Finding and Intelligence Bureau vs. Alfredo R. Enriquez, Rachel E. Saldariega, Rhandolfo B. Amansec, Ricardo R. Arandilla, Edilberto Feliciano and Cynthia T. Ignacio, for dishonesty and grave misconduct”;
- OMB-ADM-0-00-0417, entitled “Fact-Finding and Intelligence Bureau vs. Alfredo R. Enriquez, Ricardo F. Arandilla, Edilberto Feliciano, Cynthia T. Ignacio, Gener C. Endona, Macario dela Pena and Rosalinda G. Alonzo, for gross neglect of duty, inefficiency, incompetence in the performance of official duties, non-compliance with the requirements of Republic Act No. 7718, as amended, and its implementing rules and regulations”;
- OMB-0-00-0873, entitled “Fact-Finding and Intelligence Bureau vs. Alfredo R. Enriquez, Enrico V. Enriquez, Edgardo C. Castro, Rachel E. Saldariega, Rhandolfo B. Amansec and Ricardo R. Arandilla, for violation of Section 3(b) and (c) of Republic Act No. 3019, as amended”; and
- OMB-0-00-0874, entitled “Fact-Finding and Intelligence Bureau vs. Alfredo R. Enriquez, Rachel E. Saldariega, Rhandolfo B. Amansec, Ricardo R. Arandilla, Edilberto Feliciano and Cynthia T. Ignacio, for violation of Section 3(e) of Republic Act No. 3019, as amended.”[2]

The undisputed facts are:

On May 9, 2000, the Fact-Finding and Intelligence Bureau (FFIB), Office of the Ombudsman, filed with the Administrative Adjudication Bureau, same Office, separate Complaints-Affidavits[3] of even date, charging, among others, herein petitioners Alfredo R. Enriquez, Administrator, Land Registration Authority (LRA), Gener C. Endona, LRA Legal Officer and member of the Pre-qualifications, Bids and Awards Committee, and Rhandolfo B. Amansec, Chief, LRA Inspection and Investigation Division, with administrative and criminal offenses enumerated above, in connection with the bidding of the Land Titling Computerization Project of the LRA.

Finding sufficient basis to proceed with the investigation of the complaints, respondent required petitioners to submit their counter-affidavits and controverting evidence.

In their Joint Counter-Affidavit,[4] petitioners vehemently denied the charges.

Thereafter, respondent conducted several hearings.

On June 15, 2001, complainant FFIB filed its Formal Offer of Evidence,[5] to which petitioners filed their Comment dated July 10, 2001.[6]

On January 29, 2002, petitioners likewise formally offered their evidence. On April 17, 2002, complainant FFIB filed its Comment thereon.[7]

Petitioners then waited for respondent's resolution on the parties' respective formal offers of evidence, but there was none.

This prompted petitioners, on July 12, 2002, to file a Motion to Set Date for the Simultaneous Filing of Memorandum by Each Party.[8]

Respondent, however, did not act on petitioners' motion.

On December 12, 2002, Edilberto R. Feliciano, one of those charged with petitioners, filed a Motion for Early Resolution[9] expressing alarm over the "inaction of the Office of the Ombudsman," and praying that the cases be resolved immediately considering that all the evidence have been formally offered and the parties' arguments have been submitted.

Despite all these and petitioners' repeated personal follow-ups, still, respondent failed to resolve the cases.

On March 24, 2006, or six (6) years from the filing of the complaints- affidavits and more than four (4) years after the parties formally offered their evidence on January 29, 2002, petitioners filed a Motion to Dismiss[10] all the cases against them as respondent's "inordinate delay" constitutes a violation of their constitutional right to a speedy disposition of their cases. They alleged that such delay "has not only besmirched their reputation but also caused them severe anxiety and great and irreparable injustice as they have been denied employment opportunities and retirement benefits rightfully due them."

Significantly, complainant FFIB, despite notice, did not interpose any objection to petitioners' motion to dismiss. Yet, the cases have remained unresolved.

Owing to respondent's "stubborn inaction," petitioners, on October 20, 2006, filed the present petition, invoking their constitutional right to a speedy disposition of their cases. They alleged therein that respondent acted with grave abuse of discretion amounting to lack or excess of jurisdiction in not resolving expeditiously the cases without any justification, thereby causing them to suffer grave injustice and agony.

In its Comment,[11] filed through Solicitor General Agnes VST Devanadera, respondent maintains that it did not violate petitioners' right to a speedy disposition of their cases; that petitioners cannot resort to the remedy of mandamus because dismissing the administrative and criminal cases against them involves respondent's exercise of discretion; and that respondent did not act with grave abuse of discretion for failing to resolve the cases, contending that "the prosecutors assigned to these cases are merely exercising extreme care in verifying, evaluating and assessing the charges against petitioners to enable them to arrive at a just determination of the cases" and that "the delay in the ongoing review is not vexatious, capricious or oppressive."

The Issues

I.

Whether the petition for mandamus is an appropriate remedy.

II.

Whether respondent violated petitioners' constitutional right to a speedy disposition of their cases.

The Court's Ruling

The petition is meritorious.

First Issue:

Mandamus is the Appropriate Remedy

Ordinarily, a petition for a writ of mandamus is proper to compel the public official concerned to perform a ministerial act which the law specifically enjoins as a duty resulting from an office, trust or station.[12] However, it is inaccurate to say that the writ will never issue to control the public official's discretion. Our jurisprudence is replete with exceptions to that rule. Thus, this Court held that if the questioned act was done with grave abuse of discretion, manifest injustice or palpable excess of authority, the writ will be issued to control the exercise of such discretion.[13] Likewise, mandamus is a proper recourse for citizens who seek to enforce a public right and to compel the performance of a public duty, most especially when mandated by the Constitution.[14] Thus, a party to a case may demand expeditious action from all officials who are tasked with the administration of justice.[15]

Under the undisputed facts before us, we hold that respondent acted with grave abuse of discretion amounting to lack or excess of jurisdiction by failing to resolve the administrative and criminal cases against petitioners even to this day, or a period of almost eight (8) years from the filing of their complaints- affidavits.

Second Issue:

The Right to a Speedy Disposition of Cases

"All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial or administrative bodies," so the Constitution[16] declares in no uncertain terms. This right, like the right to a speedy trial, is deemed violated when the proceedings are attended by vexatious, capricious, and oppressive delays.[17]

In a number of cases, this Court ruled that the right to a speedy disposition of a case is a relative or flexible concept. A mere mathematical reckoning of the time involved is not sufficient. Particular regard must be taken of the facts and circumstances peculiar to each case. Hence, the doctrinal rule is that in the determination of whether that right has been violated, the factors that may be considered and balanced are the length of the delay, the reasons for the delay, the aggrieved party's assertion or failure to assert such right, and the prejudice caused by the delay.[18]

In determining whether these factors exist in the instant cases, let us first examine the constitutional and statutory mandate, powers and duties of respondent.

Respondent was constitutionally created to be the "protector of the people," with the expressed mandate that it "shall act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people."[19]

To attain its mandate, Sections 15 and 16 of Republic Act No. 6770 (The Ombudsman Act of 1989) bestowed

upon respondent broad and tremendous powers and functions generally categorized as follows: investigatory power, prosecutory power, disciplinary power, contempt power, public assistance functions, authority to inquire and obtain information, and function to adopt, institute and implement preventive measures, thus:

SEC. 15. Powers, Functions and Duties.– The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases;

(2) Direct, upon complaint or at its own instance, any officer or employee of the Government, or of any subdivision, agency or instrumentality thereof, as well as any government-owned or controlled corporations 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 officer or employee at fault or who neglects to perform an act or discharge a duty required by law, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith; or enforce its disciplinary authority as provided in Section 21 of this Act: Provided, That the refusal by any officer without just cause to comply with an order of the Ombudsman to remove, suspend, demote, fine, censure, or prosecute an officer or employee who is at fault or who neglects to perform an act or discharge a duty required by law shall be a ground for disciplinary action against said officer;

(4) Direct the officer concerned, in any appropriate case, and subject to such limitations as it may provide in its rules of procedure, to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action;

(5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents;

(6) Publicize matters covered by its investigation of the matters mentioned in paragraphs (1), (2), (3) and (4) hereof, when circumstances so warrant and with due prudence: Provided, That the Ombudsman under its rules and regulations may determine what cases may not be made public: Provided, further, That any publicity issued by the Ombudsman shall be balanced, fair and true;

(7) Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government, and make recommendations for their elimination and the observance of high standards of ethics and efficiency;

(8) Administer oaths, issue subpoena and subpoena duces tecum, and take testimony in any investigation or inquiry, including the power to examine and have access to bank accounts and records;

(9) Punish for contempt in accordance with the Rules of Court and under the same procedure and with the same penalties provided therein;

(10) Delegate to the Deputies, or its investigators or representatives such authority or duty as shall ensure the effective exercise or performance of the powers, functions, and duties herein or hereinafter provided;

(11) Investigate and initiate the proper action for the recovery of ill-gotten and/or unexplained wealth amassed after February 25, 1986 and the prosecution of the parties involved therein.

The Ombudsman shall give priority to complaints filed against high ranking government officials and/or those

occupying supervisory positions, complaints involving grave offenses, as well as complaints involving large sums of money and/or properties.

SEC. 16. Applicability.— The provisions of this Act shall apply to all kinds of malfeasance, misfeasance, and non-feasance that have been committed by any officer or employee as mentioned in Section 13 hereof, during his tenure of office. (Underscoring supplied)

These powers, functions and duties are aimed to enable respondent to be “a more active and effective agent of the people in ensuring accountability in public office.”[20] Unfortunately, respondent has transgressed its constitutional and statutory duties. When the Constitution enjoins respondent to “act promptly” on any complaint against any public officer or employee, it has the concomitant duty to speedily resolve the same. But respondent did not act promptly or resolve speedily petitioners’ cases. The Rules of Procedure of the Office of the Ombudsman requires that the hearing officer is given a definite period of “not later than thirty (30) days” to resolve the case after the formal investigation shall have been concluded.[21] Definitely, respondent did not observe this 30-day rule.

Here, respondent did not resolve the administrative and criminal cases against petitioners although the investigation of the said cases had long been terminated when the latter formally offered their evidence way back on January 29, 2002. In fact, due to respondent’s inaction, petitioners, on March 24, 2006 or more than four (4) years from January 29, 2002, filed a motion praying the immediate dismissal of all the cases against them, contending that respondent’s “inordinate delay” in resolving them constitutes a violation of their constitutional right to a speedy disposition of their cases. Significantly, this motion was never resisted by complainant FFIB. Nonetheless, respondent did not even bother to act on the motion. Likewise, it did not inform petitioners why the cases remain unresolved.

It is unfortunate that while petitioners exerted diligent efforts by filing several motions urging respondent to resolve their cases speedily, respondent, up to now, refuses to take action thereon. Clearly, respondent’s inaction does not only violate petitioners’ right to speedy disposition of their cases guaranteed by the Constitution, but is also opposed to its role as the vanguard in the promotion of efficient service by the government to the people and in ensuring accountability in public office. Considering that respondent is tasked to “determine the causes of inefficiency ... in the Government, and make recommendations for (its) elimination and the observance of high standards of ethics and efficiency,”[22] its prolonged delay is manifestly a violation of due process.

Respondent’s belated excuse, as alleged in its Comment on the present petition, that the prosecutors assigned to these cases are still reviewing and evaluating them with extreme care to arrive at a just determination is not only unreasonable but also an afterthought. This same excuse was rejected by this Court in *Duterte v. Sandiganbayan*,[23] thus:

On the other hand, the Office of the Ombudsman failed to present any plausible, special or even novel reason which could justify the four-year delay in terminating its investigation. Its excuse for the delay – the many layers of review that the case had to undergo and the meticulous scrutiny it had to entail – has lost its novelty and is no longer appealing, as was the invocation in the *Tatad* case.

In *Tatad v. Sandiganbayan*,[24] this Court dismissed the Informations pending before the Sandiganbayan, holding that the “inordinate delay of three (3) years in terminating the preliminary investigation and in filing the Informations violated the constitutional right of the petitioner to due process and to a speedy disposition of the cases against petitioner.” This Court ruled:

We find the long delay in the termination of the preliminary investigation by the Tanodbayan in the instant case to be violative of the constitutional right of the accused to due process. 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. Not only under the broad umbrella of the due process clause, but under the constitutional guarantee of “speedy disposition” of cases as embodied in Section 16 of the Bill of Right (both in the 1973 and the 1987 Constitutions), the inordinate delay is violative of the petitioner’s constitutional rights. A delay of close to three (3) years can not be deemed reasonable or justifiable in the light of the circumstance obtaining in the case at bar. We are not impressed by the attempt of the Sandiganbayan to sanitize the long delay by indulging in the speculative assumption that “the delay may be due to a painstaking and grueling scrutiny by the Tanodbayan as to whether the evidence presented during the preliminary investigation merited prosecution of a former high-ranking government official.

Similarly, in *Roque v. Office of the Ombudsman*,^[25] this Court held that the failure of the Office of the Ombudsman to resolve a complaint that has been pending for six (6) years is clearly violative of the rights of petitioners to due process and to a speedy disposition of the cases against them. Thus, the complaints against petitioners were dismissed. Significantly, this Court was not even persuaded by respondent’s argument that the petition for mandamus became moot and academic when the complaints were later resolved by the Office of the Ombudsman and the Informations were filed thereafter, holding that “the same contention was rejected in *Tatad v. Sandiganbayan*, wherein the Court declared that the long and unexplained delay in the resolution of the criminal complaints against petitioners was not corrected by the eventual filing of the Informations.”

Also, in *Lopez, Jr. v. Office of the Ombudsman*,^[26] this Court dismissed the complaints against petitioner due to the failure of the Office of the Ombudsman to resolve the same that have been pending for almost four (4) years, ruling that such delay clearly violates petitioner’s constitutional right to speedy disposition of his cases.

These are only some of the cases showing respondent’s disregard of the person’s constitutional right to a speedy disposition of his case. Sadly, the list of cases is growing. This is alarming. Here, respondent, the very protector of the people, became the perpetrator of the dictum that “justice delayed is justice denied.” Indeed, the said dictum is not a meaningless concept that can be taken for granted by those who are tasked with the dispensation of justice.^[27] The constitutional guarantee against unreasonable delay in the disposition of cases was intended to stem the tide of disenchantment among the people in the administration of justice by our judicial and quasi-judicial tribunals.^[28] The adjudication of cases must not only be done in an orderly manner that is in accord with the established rules of procedure, but must also be promptly decided to better serve the ends of justice. Excessive delay in the disposition of cases renders the rights of the people guaranteed by the Constitution and by various legislations inutile.^[29] The people’s respect and confidence in the Office of the Ombudsman are measured not only by its impartiality, fairness, and correctness of its acts, but also by its capacity to resolve cases speedily.

WHEREFORE, we GRANT the instant petition. The administrative cases, docketed as OMB-ADM-0-00-0415, OMB-ADM-0-00-0416, and OMB-ADM-0-00-0417, as well as the criminal cases, docketed as OMB-0-00-0873 and OMB-0-00-0874, filed against petitioners, are ordered DISMISSED.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Leonardo- De Castro, JJ., concur.

[1] Filed under Rule 65 of the 1997 Rules of Civil Procedure, as amended.

[2] Solicitor General’s Comment, Rollo, pp. 425-427.

- [3] Annex “A,” Petition, *id.*, pp. 19-24.
- [4] Annexes “B,” “B-1” and “B-2,” *id.*, pp. 25-50, 137-164, 256-279.
- [5] Annex “C,” *id.*, pp. 339-350.
- [6] Annex “D,” *id.*, pp. 351-371.
- [7] Solicitor General’s Comment, *id.*, p. 430.
- [8] Annex “F,” Petition, *id.*, pp. 379-380.
- [9] Annex “G,” *id.*, pp. 381-382.
- [10] Annex “H,” *id.*, pp. 383-388.
- [11] *Id.*, pp. 425-436.
- [12] Section 3, Rule 65 of the 1997 Rules of Civil Procedure, as amended; *Lopez, Jr. v. Office of the Ombudsman*, G.R. No. 140529, September 6, 2001, 364 SCRA 569, citing *Roque v. Office of the Ombudsman*, 307 SCRA 104 (1999).
- [13] *Licaros v. Sandiganbayan*, G.R. No. 145851, November 22, 2001, 370 SCRA 394, citing *Chavez v. PCGG*, 307 SCRA 394 (1999); *Lopez, Jr. v. Office of the Ombudsman*, G.R. No. 140529, September 6, 2001, 364 SCRA 569; *Roque v. Office of the Ombudsman*, G.R. No. 129978, May 12, 1999, 307 SCRA 104; *Kant Kwong v. Presidential Commission on Good Government*, No. L-79484, December 7, 1987, 156 SCRA 222; *Angchangco, Jr. v. Ombudsman*, G.R. No. 122728, February 13, 1997, 268 SCRA 301; *First Philippine Holdings Corporation v. Sandiganbayan*, G.R. No. 88345, February 1, 1996, 253 SCRA 30; *Pio v. Marcos*, Nos. L-27849 & 34432, April 30, 1974, 56 SCRA 726; *Antiquera v. Baluyot, et al.*, No. L-3318, May 5, 1952, 91 Phil. 213.
- [14] *Licaros v. Sandiganbayan*, *supra*, citing *Chavez v. PCGG*, *supra*.
- [15] *Id.*, citing *Binay v. Sandiganbayan*, 316 SCRA 65 (1999); *Lopez, Jr. v. Office of the Ombudsman*, *supra.*, citing *Cadalín v. POEA’s Administrator*, 238 SCRA 722 (1994).
- [16] Section 16, Article III (Bill of Rights).
- [17] *Dela Peña v. Sandiganbayan*, G.R. No. 144542, June 29, 2001, 360 SCRA 478.
- [18] *Id.*, citing *Binay v. Sandiganbayan*, 316 SCRA 65 (1999); *Castillo v. Sandiganbayan*, 328 SCRA 69, 76 (2000).
- [19] Sections 5 and 12, Article XI of the 1987 Constitution; Section 13 of Republic Act No. 6770.
- [20] *Estarija v. Ranada*, G.R. No. 159314, June 26, 2006, 492 SCRA 652.
- [21] Section 6, Rule III of Administrative Order No. 7 (Rules of Procedure of the Office of the Ombudsman) provides:

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

[22] Section 15, par. 7, Republic Act No. 6770 (The Ombudsman Act of 1989).

[23] G.R. No. 130191, April 27, 1998, 289 SCRA 721.

[24] Nos. L-72335-39, March 21, 1988, 159 SCRA 70.

[25] Supra.

[26] Supra.

[27] Licaros v. Sandiganbayan, G.R. No. 145851, November 22, 2001, 370 SCRA 394.

[28] Cruz, Constitutional Law, 2007 Edition, p. 295.

[29] Matias v. Plan, A.M. No. MTJ-98-1159, August 3, 1998, 293 SCRA 532.

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