

MIGUEL DRACULAN ESCOBAR, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND SANDIGANBAYAN (THIRD DIVISION), RESPONDENTS.

G.R. Nos. 228349 and 228353. September 19, 2018

Ponente: TIJAM, J.

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TIJAM, J.:

This is a consolidated case stemming from the Resolutions dated January 13, 2015[1] and November 22, 2016[2] of the Sandiganbayan in Criminal Case Nos. SB-12-CRM-0129 and SB-12-CRM-0130 denying petitioners Miguel D. Escobar (Escobar) and Reynaldo F. Constantino's (Constantino) motions dated July 19, 2012 and September 22, 2012, respectively. Escobar assails the foregoing issuances through a Verified Petition for Review[3] under Rule 45 of the Rules of Court; while Constantino challenges the same issuances through a Petition for Certiorari with Injunction[4] under Rule 65 of the Rules of Court, both on the ground of violation of their constitutional right to speedy disposition of cases.

Antecedent Facts

Petitioners Miguel Draculan Escobar (Escobar) and Reynaldo F. Constantino (Constantino) were elected officers of the Province of Sarangani (Province). Escobar served as a governor for the period 2001 to 2004;[5] while Constantino was the Vice Mayor of Malungon, Sarangani Province.[6]

Sometime in 2003, various anonymous complaints were filed before the Office of the Ombudsman for Mindanao (OMB-Mindanao) against officers and employees of the Province for allegedly utilizing dummy cooperatives and people's organizations as beneficiaries of funds sourced out from Grants and Aids and from the Countrywide Development Fund (CDF) of Representative Erwin Chiongbian.[7] The complaints were assigned the reference codes CPL-M-03-0163 and CPL-M-03-0729,[8] and later as OMB-CPL-M-03-0163 and OMB-CPL-M-03-0792.

On October 29, 2003, the OMB-Mindanao issued a Joint Order directing petitioners to file their counter-affidavits. The cases were then re-docketed for preliminary investigation as OMB-M-C-03-0487-J.[9]

On August 11, 2004, Graft Investigation and Prosecution Officers (GIPOs) issued a Resolution in OMB-M-C-03-0487-J, finding probable cause against the provincial officers, among them was Escobar, for Malversation through Falsification of Public Documents and violation of Section 3(e) of Republic Act (R.A.) No. 3019,[10] and recommended the filing of the corresponding information.[11]

On April 15, 2005, the GIPOs issued another Resolution in OMB-M-C-04-0479-K, a case connected to OMB-M-C-03-0487-J, finding probable cause against Constantino for the same crime allegedly committed by Escobar. The GIPOs recommended that Constantino be included as one of the accused in the information.[12]

On August 8, 2011, the OMB-Mindanao issued a Memorandum, approving the recommendation of the GIPOs.[13]

Eventually, on May 7, 2012, two (2) Informations, one for Malversation through Falsification of Public Documents docketed as Criminal Case No. SB-12-CRM-0129 and another for violation of Section 3(e) of R.A. No. 3019, docketed as Criminal Case No. SB-12-CRM-0130, were filed against petitioners with the Sandiganbayan. The Informations accused petitioners in conspiracy with other officers of the Province of having taken advantage of their office in falsifying Disbursement Voucher No. 401-2002-5-63 dated May 29, 2002, by making it appear that financial assistance in the amount of P250,000.00 had been requested by Bamboo Craftsman of Datal Batong, Malungon, Sarangani Province, which resulted to the damage and prejudice of the government.[14]

Escobar filed an Omnibus Motion (i) for Dismissal Prohibition; (ii) for Quashal of Information/Reinvestigation[15] dated July 19, 2012, arguing among others, that the piecemeal filing of criminal informations against him, seven (7) years apart from each other, is violative of his constitutional right to due process, his right to speedy disposition of cases, and the basic tenets of fairplay.

For his part, Constantino filed an Omnibus Motion (A) for Dismissal of Cases; and (B) for Quashal of Information, or (C) for Reinvestigation dated September 22, 2012,[16] and a Supplemental Motion to Dismiss[17] dated October 1, 2013. In both motions, Constantino argued among others, that the Ombudsman's act in filing the Informations on May 7, 2012 or a span of more than seven (7) years from its April 15, 2005 Resolution, violated his constitutional right to due process and speedy disposition of cases, including the constitutional mandate of the Ombudsman to act promptly on complaints submitted before it.[18]

On January 13, 2015, the Sandiganbayan issued a Resolution[19] denying the Omnibus Motions to Dismiss separately filed by petitioners. The Sandiganbayan held, among others, that there is no inordinate delay in the filing of the Informations to warrant their dismissal based on the following factors: limited resources of the prosecution; volume of the case record; and the investigation ordered by then Tanodbayan Simeon V. Marcelo (Tanodbayan Marcelo) on the numerous individuals who used fictitious names in encashing the checks, including the persons who purportedly signed the documents involved in the case.

On November 22, 2016, the Sandiganbayan issued another Resolution[20] denying Constantino's Manifestation with Urgent Motion for Reconsideration dated March 9, 2015 and Escobar's Motion for Reconsideration dated March 13, 2015.

Aggrieved, the petitioners sought a review of the Sandiganbayan's twin resolutions.

Escobar filed a Verified Petition for Review under Rule 45 of the Rules of Court and raised this sole issue:

WHETHER OR NOT THE RESPONDENTS COMMITTED CERTIORARIABLE ERROR IN FINDING THE DELAY OF EIGHT (8) YEARS IN THE FILING OF THE TWO (2) INFORMATIONS NOT INORDINATE JUSTIFIED AND DID NOT VIOLATE THE RIGHT TO SPEEDY DISPOSITION OF CASES AGAINST [ESCOBAR].[21]

Constantino, on the other hand, in his Petition for Certiorari with Injunction under Rule 65 of the Rules of Court, advanced the following arguments:

- PETITION FOR CERTIORARI UNDER RULE 65 OF THE RULES OF COURT IS THE PROPER REMEDY TO ASSAIL THE SUBJECT RESOLUTIONS.
- THE HONORABLE THIRD DIVISION OF THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF EXCESS OF JURISDICTION WHEN IT DISREGARDED THE VIOLATION OF THE RIGHT TO DUE PROCESS OF [CONSTANTINO] BY DENYING HIS MOTION TO DISMISS AND TO QUASH.

- THE HONORABLE THIRD DIVISION OF THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DENIED THE MANIFESTATION WITH URGENT MOTION FOR RECONSIDERATION OF [CONSTANTINO].[22]

Ruling of the Court

The petitions are meritorious.

The OMB-Mindanao, for its failure within a reasonable time, to resolve the criminal charges, let alone to file the same with the Sandiganbayan, violated petitioners' right to speedy disposition of their cases, as well as its own constitutional duty to act promptly on complaints filed before it.

We explain.

In no uncertain terms, the Constitution declares that "all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial or administrative bodies." [23] This right, like the right to a speedy trial, is deemed violated when the proceedings is attended by vexatious, capricious, and oppressive delays; [24] or when unjustified postponements of the trial are asked for and secured; "or [even] without cause or justifiable motive, a long period of time is allowed to elapse without the party having his case tried." [25] "Equally applicable is the balancing test used to determine whether a defendant has been denied his right to a speedy trial, or a speedy disposition of a case for that matter, in which the conduct of both the prosecution and the defendant are weighed." [26] The constitutional guarantee to a speedy disposition of case is a relative or flexible concept. [27] "While justice is administered with dispatch, the essential ingredient is orderly, expeditious and not mere speed. 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 the circumstances." [28] "What the Constitution prohibits are unreasonable, arbitrary and oppressive delays which render rights nugatory." [29]

In *Capt. Roquero v. The Chancellor of UP-Manila, et al.*, [30] the Court held that:

The doctrinal rule is that in the determination of whether that right has been violated, the factors that may be considered and balanced are as follows: (1) the length of delay; (2) the reasons for the delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay. [31] (Citation omitted)

Following these principles vis-à-vis the factual milieu of the case, the Court finds that there was a violation of petitioners' constitutional right to a speedy disposition of their cases.

Length of Delay

The records show that the complaint that gave rise to the criminal informations pending in the Sandiganbayan was filed with the OMB-Mindanao sometime in 2003. [32] After finding of probable cause, the OMB-Mindanao issued a Resolution dated August 11, 2004, recommending the indictment of Escobar and another Resolution dated April 15, 2005, for the indictment of Constantino, both for Malversation Through Falsification of Public Documents and Violation of Section 3(e) of R.A. No. 3019. Thereafter, the Office of Special Prosecutor issued a Memorandum dated August 8, 2011, approving the resolutions recommending the filing of the Informations with the Sandiganbayan. Eventually, the Informations were filed with the Sandiganbayan on May 7, 2012. [33]

From the chronology of events, the following conclusion may be gathered, thus:

I. The length of time in finding probable cause up to the approval of the recommendation for the filing of the Informations with the Sandiganbayan:

A. On Escobar: six (6) years, eleven (11) months and twenty-eight (28) days, reckoned from August 11, 2004 to August 8, 2011.

B. On Constantino: six (6) years, three (3) months and twenty-four (24) days, reckoned from April 15, 2005 to August 8, 2011.

II. The length of time before the Informations were filed with the Sandiganbayan:

A. On Escobar: seven (7) years, eight (8) months and twenty-six (26) days, reckoned from August 11, 2004 to May 7, 2012.

B. On Constantino: seven (7) years and twenty-two (22) days, reckoned from April 15, 2005 to May 7, 2012.

Based on the foregoing, it is clear that the preliminary investigation by the OMB-Mindanao lasted more than six (6) years before its approval; and the filing of the Informations with the Sandiganbayan took seven (7) long years counted from the finding of probable cause.

Indeed, the OMB-Mindanao had taken an unusually long period of time to investigate the criminal complaint and to determine whether to file the Informations, criminally charging petitioners in the Sandiganbayan. To our mind, such long delay was inordinate and oppressive, so as to constitute, under the factual backdrop of the case, an outright violation of petitioners' constitutional right to the speedy disposition of their cases.

The stalling in this case measures up to the unreasonableness of the delay in the disposition of cases as held by the Courts in its long line of decisions, to wit:

In *Tatad v. Sandiganbayan*,^[34] the delay of close to three (3) years in the termination of the preliminary investigation conducted by the Tanodbayan constituted a violation of the constitutional right of the accused under the broad umbrella of the due process clause and his constitutional guarantee to speedy disposition of cases.

In *Lopez, Jr. v. Office of the Ombudsman*,^[35] due to the Ombudsman's failure to resolve the complaints against petitioner pending for almost four (4) years, this Court dismissed the same for being a violative of petitioner's constitutional right to speedy disposition of his cases.

In *People v. Sandiganbayan, et al.*,^[36] this Court held that the delay on the part of the Ombudsman in the conduct of its fact-finding and preliminary investigation for nearly five (5) years and five (5) months, was vexatious, capricious and oppressive.

In *Roque v. Office of the Ombudsman*,^[37] this Court held that the failure of the Ombudsman to resolve a complaint that has been pending for six (6) years is a clear violation of the petitioners' right to due process and to a speedy disposition of their cases.

In *Inocentes v. People, et al.*,^[38] this Court ruled that petitioner's right to speedy disposition of his case was violated due to the delay of at least seven (7) years before the informations against him were filed with the Sandiganbayan.

Evidently, if in those precedents, this Court considered the periods mentioned therein as violative of the Constitutional right to speedy disposition of cases, there is a similar reason for Us to hold so in the petitioners' case. The circumstances of this case do not warrant or justify the length of time, i.e., 6 years, as to the termination of the preliminary investigation; and, 7 years, as to the filing of the Informations in Court, it took the OMB-Mindanao to resolve the case.

Reasons for the delay

The aforementioned discussion in the OMB-Mindanao's delay remains unjustified. We cannot subscribe to the Sandiganbayan's sweeping statement that the delay was caused by the prosecution's limited resources; the volume of the case record; and the further fact that, then Tanodbayan Marcelo ordered the investigation on the persons

who used fictitious names in encashing checks, among others. This is insufficient. What glares from the records is the fact that the completion of the preliminary investigation accounted for six (6) years and the filing of the Informations were more than seven (7) years. What transpired during the interval or inactivity has not been adequately proven and justified.

Clearly, the delay in this case is a disregard of the Ombudsman's Constitutional mandate to be the "protector of the people" and as such, required to act promptly on complaints filed in any form or manner against officers and employees of the Government, or of any subdivision, agency or instrumentality thereof, in order to promote efficient service.[39]

Invocation of the constitutional right

The records show that petitioners invoked their right to speedy disposition of cases immediately after the Informations were filed with the Sandiganbayan. Escobar filed his Omnibus Motion (i) for Dismissal/Prohibition; (ii) for Quashal of Information/Reinvestigation dated July 19, 2012;[40] while Constantino filed his Omnibus Motion (i) for Dismissal of Cases and (b) for Quashal of Information or (c) for Reinvestigation dated September 22, 2012.[41] In both motions, the petitioners consistently harped on the OMB-Mindanao's protracted delay before it opted to file the Informations with the Sandiganbayan. In fact, even in the absence of said motions, the petitioners could not be faulted for allegedly failing to raise the issue of the OMB-Mindanao's inordinate delay. This is not their duty, but that of the OMB-Mindanao's and its special prosecutors. As we have emphatically held in *Cervantes v. Sandiganbayan*:[42]

It is the duty of the prosecutor to speedily resolve the complaint, as mandated by the Constitution, regardless of whether the petitioner did not object to the delay or that the delay was with his acquiescence provided that it was not due to causes directly attributable to him.[43]

Similarly, we pointed out in *Coscolluela v. Sandiganbayan, et al.*,[44] that:

Being the respondents in the preliminary investigation proceedings, it was not the petitioners' duty to follow up on the prosecution of their case. Conversely, it was the Office of the Ombudsman's responsibility to expedite the same within the bounds of reasonable timeliness in view of its mandate to promptly act on all complaints lodged before it. As pronounced in the case of *Baker v. Wingo*:

A defendant has no duty to bring himself to trial; the State has that duty as well as the duty of insuring that the trial is consistent with due process.[45] (Citation omitted)

Prejudice caused by the delay

The passage of more than seven (7) years before the OMB-Mindanao elected to file the Informations with the Sandiganbayan is certainly prejudicial to the petitioners' constitutional right to speedy disposition of cases. It defeats the salutary objective of said right, which is "to assure that an innocent person may be free from anxiety and expense of litigation or, if otherwise, of having his guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he may interpose." [46] To perpetuate a violation of this right by the lengthy delay would result to petitioners' inability to adequately prepare for their case and would create a situation where the defense witnesses are unable to recall accurately the events of the distant past,[47] leading to the impairment of petitioners' possible defenses. This, we cannot countenance without running afoul to the Constitution.

In view of the unjustified passage of time surrounding the OMB-Mindanao's resolution of the case and the resultant prejudice that the inordinate delay has caused, it is indubitable that petitioners' constitutional right to speedy disposition of case had been infringed. Perforce, the assailed resolutions must be set aside and the criminal

cases filed against petitioners be dismissed.

WHEREFORE, the petitions are hereby GRANTED. The Resolutions dated January 13, 2015 and November 22, 2016 of the Third Division of the Sandiganbayan are ANNULLED and SET ASIDE. The Sandiganbayan is likewise ORDERED to DISMISS Criminal Case Nos. SB-12-CRM-0129 and SB-12-CRM-0130, for violation of the Constitutional rights to speedy disposition of cases of petitioners Miguel D. Escobar and Reynaldo F. Constantino.

SO ORDERED.

Leonardo-De Castro, C.J., (Chairperson), Bersamin, Del Castillo, and Jardeleza, JJ., concur.

[1] Rollo (G.R. Nos. 229895-96), pp. 56-102.

[2] Id. at 103-112.

[3] Rollo (G.R. Nos. 228349 and 228353), pp. 22-31.

[4] Rollo (G.R. Nos. 229895-96), pp. 3-44.

[5] Rollo (G.R. Nos. 228349 and 228353), p. 24.

[6] Rollo (G.R. Nos. 229895-96), p. 49.

[7] Rollo (G.R. Nos. 229895-96), p. 160.

[8] Id. at 160; rollo (G.R. Nos. 228349 and 228353), pp. 59-60.

[9] Rollo (G.R. Nos. 229895-96), pp. 75 and 164.

[10] ANTI-GRAFT AND CORRUPT PRACTICES ACT. Approved August 17, 1960.

Sec. 3. Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

[11] Rollo (G.R. Nos. 229895-96), pp. 76-85.

[12] Id. at 85.

[13] Id. at 86.

[14] Id. at 86-88.

[15] Rollo (G.R. Nos. 228349 and 228353), pp. 166-185.

[16] Rollo (G.R. Nos. 229895-96), p. 61.

[17] Id. at 45-53.

[18] Id. at 61.

[19] Id. at 56-102.

[20] Id. at 103-113.

[21] Rollo (G.R. Nos. 228349 and 228353), pp. 27-28.

[22] Rollo (G.R. Nos. 229895-96), pp. 14-15.

[23] 1987 Philippine Constitution, Article III, Section 16.

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

[24] *Dela Peña v. Sandiganbayan*, 412 Phil. 921, 929 (2001).

[25] *Perez v. People, et al.*, 568 Phil. 491, 514 (2008), citing *Gonzales v. Sandiganbayan* (1st Division), 276 Phil. 323, 334 (1991).

[26] *Lumanlaw v. Judge Peralta, Jr.*, 517 Phil. 588, 598 (2006).

[27] *Enriquez v. Office of the Ombudsman*, 569 Phil. 309, 316 (2008).

[28] *Corpuz v. Sandiganbayan*, 484 Phil. 899, 917 (2004).

[29] *Braza v. Sandiganbayan*, 704 Phil. 476, 495 (2013).

[30] 628 Phil. 628 (2010).

[31] Id. at 640.

[32] The date is February 10, 2003, as mentioned in J. Martires' dissenting opinion, rollo (G.R. Nos. 229895-96), p. 117.

[33] Id.

[34] 242 Phil. 563 (1988).

[35] 417 Phil. 39 (2001).

[36] 723 Phil. 444 (2013).

[37] 366 Phil. 568 (1999).

[38] 789 Phil. 318 (2016).

[39] 1987 Philippine Constitution, Article XI, Section 12.

Sec. 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

[40] Rollo (G.R. Nos. 228349 and 228353), pp. 166-185.

[41] Rollo (G.R. Nos. 229895-96), p. 11.

[42] 366 Phil. 602 (1999).

[43] Id. at 609.

[44] 714 Phil. 55 (2013).

[45] Id. at 64.

[46] Id. at 65.

[47] Corpuz v. Sandiganbayan, 484 Phil. 899, 918 (2004).

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