

FIRST DIVISION

[G.R. Nos. 236177-210, February 03, 2021]

JOAN V. ALARILLA, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN(FOURTH DIVISION) AND THE PEOPLE OF THE PHILIPPINES,RESPONDENTS,

DECISION

ZALAMEDA, J.:

Although delay is not to be determined solely from the length of time taken for the conduct of the preliminary investigation, a long delay is inordinate unless the Office of the Ombudsman suitably justifies it.^[1] The lapse of almost nine (9) years to conduct a preliminary investigation does not, by itself, immediately equate to a violation of a person's right to speedy disposition of cases. However, courts must take such unusually long periods into careful consideration when determining whether inordinate delay exists. Otherwise, the Constitutionally guaranteed right to speedy disposition of cases would be reduced to nothing but an illusory promise.

The Case

Before the Court is a petition for *certiorari*^[2] filed by petitioner Joan V. Alarilla assailing the Resolution^[3] dated 18 October 2017 wherein the Sandiganbayan denied her *Omnibus Motion (Re: Dismissal and/or Judicial Determination of Probable Cause)*; and the Resolution^[4] issued on 17 November 2017 denying her motion for reconsideration, on the ground that the Sandiganbayan committed grave abuse of discretion amounting to lack or excess in jurisdiction.

Antecedents

In May 2007, petitioner was elected city mayor of fvleycauayan, Bulacan. Subsequently, she was re-elected mayor in the 2010 and 2013 elections. On 18 January 2008, or a few months into her first term, Rolando L. Lorenzo (Lorenzo) filed a complaint against petitioner and her now deceased husband, Eduardo A. Alarilla, who was the former city mayor and later, general consultant for Meycauayan, before the Office of the Ombudsman for malversation through falsification of public documents as well as grave misconduct and dishonesty. On 21 January 2008, Lorenzo filed an amended complaint alleging the same offense but reducing the amount involved.^[5]

In his complaint, Lorenzo alleged that during the months of July and August of 2007, petitioner and her husband misappropriated a total of Php5,130,329.14 by issuing and receiving the proceeds of 43 checks drawn from public funds kept in the

Philippine National Bank accounts owned by the local government of Meycauayan. According to Lorenzo, petitioner and her husband falsely misrepresented these checks as payment for goods and services from suppliers but in truth there were no actual goods delivered or services rendered.^[6]

On 07 May 2008, the Ombudsman directed petitioner and her husband to file their counter-affidavits and other controverting evidence. Pursuant thereto, petitioner and her husband filed a joint counter-affidavit vehemently denying the accusations against them on 09 July 2008. Later, on 04 March 2009, petitioner's husband passed away while the case was still pending with the Ombudsman.^[7] Eight (8) years after, or on 07 March 2017, petitioner received a Resolution^[8] dated 03 November 2016 finding probable cause to indict her for 33 counts of malversation of public funds through falsification and for violation of Section 3(e) of Republic Act No. (RA) 3019.^[9]

Petitioner moved for reconsideration on 13 March 2017, alleging that the Ombudsman erred in finding probable cause. On 24 March 2017, petitioner filed a supplemental motion for reconsideration emphasizing that her right to speedy disposition of cases was violated since the Ombudsman took nine (9) years to resolve the case.^[10]

In an Order dated 24 March 2017, the Ombudsman denied petitioner's motion for reconsideration. Thereafter, on 11 September 2017, one (1) Information for violation of Section 3(e) of RA 3019 and 33 Informations for malversation of public funds through falsification were filed before the Sandiganbayan against petitioner, docketed as SB-17-CRM-1679 and SB-17-CRM-1681 to SB-17-CRM-1713.^[11]

On 15 September 2017, petitioner presented her *Omnibus Motion (Re: Dismissal and/or Judicial Determination of Probable Cause)* asserting that there was inordinate delay in resolving the criminal case before the Ombudsman, which violated her Constitutional right to speedy disposition of cases.

Ruling of the Sandiganbayan

In the assailed Resolution^[12] dated 18 October 2017, the Sandiganbayan denied petitioner's omnibus motion. The dispositive provides:

IN LIGHT OF THE FOREGOING, accused Joan V. Alarilla's **Omnibus Motion (Re: Dismissal and/or Judicial Determination of Probable Cause)** dated September 15, 2017 is hereby **DENIED**.

The **arraignment** and **pre-trial** on **October 27, 2017** at **1:30 in the afternoon** will proceed as scheduled. ^[13]

The Sandiganbayan found there was no delay of the kind that could have unduly prejudiced the rights of herein petitioner. It further considered the timeline of proceedings before the Ombudsman and the consolidated cases lodged against petitioner and her husband. Finally, the Sandiganbayan inferred that petitioner failed to timely assert her right to speedy of disposition of cases.^[14]

Petitioner moved for reconsideration, but the Sandiganbayan denied the motion through the second assailed Resolution dated 17 November 2017.^[15] Hence, the instant petition for *certiorari*.

Issue

Petitioner raised the sole issue of whether or not the Sandiganbayan acted with grave abuse of discretion amounting to lack or excess of jurisdiction in ruling that her right to speedy disposition of cases was not violated.^[16]

Ruling of the Court

We find merit in the petition. The Sandiganbayan gravely abused its discretion in denying petitioner's motions despite her timely and consistent assertion of the right to speedy disposition of cases.

The right to speedy disposition of cases is enshrined under Section 16, Article III of the Constitution, *viz*:

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

Notably, Section 12, Article XI of the Constitution further requires the Ombudsman to act promptly on all complaints filed before it:

Section 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.

This same mandate can be found in Section 13 of RA 6670, otherwise known as the Ombudsman Act of 1989:

Section 13. Mandate. - The Ombudsman and his Deputies, as protectors of the people, 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.

In resolving issues involving the right to speedy disposition of cases, the Court laid down the following guidelines in *Cagang v. Sandiganbayan, Fifth Division*^[17] (*Cagang*):

First, the right to speedy disposition of cases is different from the right to speedy trial. While the rationale for both rights is the same, the right to speedy trial may only be invoked in criminal prosecutions against courts of law. The right to speedy disposition of cases, however, may be invoked before any tribunal, whether judicial or quasi-judicial. What is important is that the accused may already be prejudiced by the proceeding for the right to speedy disposition of cases to be invoked.

Second, a case is deemed initiated upon the filing of a formal complaint prior to a conduct of a preliminary investigation. This Court acknowledges, however, that the Ombudsman should set reasonable periods for preliminary investigation, with due regard to the complexities and nuances of each case. Delays beyond this period will be taken against the prosecution. The period taken for fact-finding investigations prior to the filing of the formal complaint shall not be included in the determination of whether there has been inordinate delay.

Third, courts must first determine which party carries the burden of proof. If the right is invoked within the given time periods contained in current Supreme Court resolutions and circulars, and the time periods that will be promulgated by the Office of the Ombudsman, the defense has the burden of proving that the right was justifiably invoked. If the delay occurs beyond the given time period and the right is invoked, the prosecution has the burden of justifying the delay.

If the defense has the burden of proof, it must prove first, whether the case is motivated by malice or clearly only politically motivated and is attended by utter lack of evidence, and second, that the defense did not contribute to the delay.

Once the burden of proof shifts to the prosecution, the prosecution must prove first, that it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; second, that the complexity of the issues and the volume of evidence made the delay inevitable; and third, that no prejudice was suffered by the accused as a result of the delay.

Fourth, determination of the length of delay is never mechanical. Courts must consider the entire context of the case, from the amount of evidence to be weighed to the simplicity or complexity of the issues raised.

An exception to this rule is if there is an allegation that the prosecution of the case was solely motivated by malice, such as when the case is politically motivated or when there is continued prosecution despite utter lack of evidence. Malicious intent may be gauged from the behavior of the prosecution throughout the proceedings. If malicious prosecution is properly alleged and substantially proven, the case would automatically be dismissed without need of further analysis of the delay.

Another exception would be the waiver of the accused to the right to speedy disposition of cases or the right to speedy trial. If it can be