

## THIRD DIVISION

[ G.R. No. 244649, June 14, 2021 ]

**CARMENCITA C. DAEP, AMEIFE L. LACBAIN, ARNOLD B. CALCIÑA, AND ERNESTO M. MILLENA, PETITIONERS, VS. SANDIGANBAYAN - FOURTH DIVISION AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### DECISION

**LOPEZ, J., J.:**

The invocation of the constitutional right to a speedy disposition of cases is not without limitations. In determining whether dismissal is warranted on the ground of violation of this right, courts shall always take into account the facts and circumstances of the case. Only when the delay is inordinate shall the court grant relief.

This is a Petition for *Certiorari*<sup>[1]</sup> under Rule 65 of the Rules of Court filed by the People of the Philippines assailing the Resolutions dated October 16, 2018<sup>[2]</sup> and November 27, 2018<sup>[3]</sup> of the Sandiganbayan in SB-16-CRM-0459, which denied the Motion to Dismiss filed by petitioners on the ground of violation of their right to speedy disposition of cases.

#### *The Facts*

On August 3, 2016, an Information<sup>[4]</sup> was filed before the Sandiganbayan charging petitioners with violation of Section 3(e) of Republic Act (R.A.) No. 3019, as amended, committed as follows:

#### INFORMATION

THE UNDERSIGNED Assistant Prosecutor of the Office of the Special Prosecutor, accuses **CARMENCITA CARRETAS DAEP, AMEIFE LUMEN LACBAIN, DIOSCORO ASAYTUNO ARDALES, ROBERTO TOLEDO ALVARES, ARNOLD BANZUELA CALSIÑA and ERNESTO MATA MILLENA** of violation of Section 3(e) of Republic Act (RA) No. 3019, as amended, committed as follows:

That from March to April 2004, or sometime prior or subsequent thereto, in the Municipality of Manito, Province of Albay, Philippines and within the jurisdiction of this Honorable Court, accused Municipal Mayor CARMENCITA CARRETAS DAEP, Municipal Accountant AMEIFE LUMEN LACBAIN, Municipal Budget Officer and Bids and Awards Committee (BAC) Chairperson DIOSCORO ASAYTUNO ARDALES, Municipal Engineer and BAC Vice-Chairperson ROBERTO TOLEDO ALVAREZ, Revenue Collection Clerk I and BAC Member

ARNOLD BANZUELA CALSINA[,] and Municipal Treasurer and BAC Member ERNESTO MATA MILLENA, all of [the] Municipality of Manito, Province of Albay, all public officers, committing the offense in the discharge of their official functions, taking advantage of their official positions, acting with evident bad faith, manifest partiality and/or gross inexcusable negligence, and conspiring and confederating with each other, did then and there, willfully, unlawfully and criminally cause undue injury to the government and give unwarranted benefits, advantage or preference to HEXAPHIL AGRIVENTURES, INC. (Hexaphil), by awarding a contract for the purchase of 4,285 bottles of Hexapplus liquid fertilizer at P700.00 per bottle through direct contracting to Hexaphil, and causing the disbursement of public funds in the amount of TWO MILLION HUNDRED NINETY[-]NINE THOUSAND FIVE HUNDRED PESOS (P2,999,500.00) to Hexaphil, notwithstanding its ineligibility to transact business with the government, the absence of the conditions which justifies resort to the said alternative mode of procurement in violation of the Government Procurement Law and other pertinent government rules and regulations, and despite several irregularities and instances of fraud attending the transaction such as, but not limited to, the following: 1) Hexaphil was not registered with the Department of Trade and Industry; 2) Its registration with the Securities and Exchange Commission was revoked; 3) Hexaphil had no record of business/permit registration in Laguna where it supposedly held office; 4) At the inception of the procurement process, accused BAC members and accused Daep already identified Hexaphil as supplier; and 5) Prior to the release of the first tranche on April 5, 2004, the Purchase Request No. 291 dated March 1, 2004 was already prepared indicating therein the brand "Hexapplus"; to the damage and prejudice of the Municipality of Manito and/or the government.

CONTRARY TO LAW.

Quezon City, Philippines, June 9, 2016.

On August 16, 2016, petitioners filed an Urgent Motion for Judicial Determination of Probable Cause<sup>[5]</sup> before the Sandiganbayan, alleging that they did not conspire with one another and gave unwarranted benefits to Hexaphil Agriventures, Inc. through manifest partiality, evident bad faith, and gross inexcusable negligence.<sup>[6]</sup> Moreover, they argued that since there was inordinate delay in the filing of the case, it should be dismissed outright.<sup>[7]</sup> According to petitioners, the complaint against them was filed on May 16, 2011. They timely filed their counter-affidavits on September 12, 2011, but the Resolution of the Office of the Ombudsman was issued only on October 22, 2014.<sup>[8]</sup> Petitioners averred that this unreasonable delay in the termination of the preliminary investigation<sup>[9]</sup> was violative of their right to due process and speedy disposition of cases.<sup>[10]</sup>

In a Resolution<sup>[11]</sup> dated February 1, 2017, the Sandiganbayan denied the Urgent Motion for Judicial Determination of Probable Cause. It ruled that probable cause exists to charge petitioners for violation of Section 3(e) of R.A. 3019.<sup>[12]</sup> The Sandiganbayan also held that there was no inordinate delay in the filing of the case. It said that while it took the Office of the Ombudsman approximately three (3) years to terminate the preliminary investigation, this was justified as the prosecution was able to explain that the case consists of complex issues, voluminous documents, and various witnesses.<sup>[13]</sup> The Sandiganbayan denied petitioners' Motion for Reconsideration in a Resolution<sup>[14]</sup> dated April 6, 2018.

On June 14, 2018, petitioners filed a Motion to Dismiss<sup>[15]</sup> before the Sandiganbayan, again raising that there was a violation of their constitutional right to speedy disposition of cases.<sup>[16]</sup> They stated that the facts of the case arose sometime in 2004. The complaint, however, was filed only in 2011 and the Information five (5) years after, or in 2016.<sup>[17]</sup>

The Sandiganbayan, in a Resolution<sup>[18]</sup> dated October 16, 2018, stated that the Motion to Dismiss is already the third motion filed by petitioners to have the case dismissed against them on the ground of inordinate delay. It found no need to discuss the same arguments all over again and denied the Motion to Dismiss. Petitioners moved for reconsideration, but it was denied in a Resolution<sup>[19]</sup> dated November 27, 2018.

Hence, this Petition.

Petitioners argue that the Sandiganbayan acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it did not dismiss the case on the ground of inordinate delay.<sup>[20]</sup> They contend that since the complaint was filed in 2011 but the Information was only filed in 2016, there was sufficient ground to dismiss the case.<sup>[21]</sup> They further allege that the prosecution failed to provide convincing and sufficient reasons for the delay in the termination of the preliminary investigation.<sup>[22]</sup> The delay, according to petitioners, caused them undue prejudice because their witnesses are no longer available and some of the documents they could have used for their defense cannot be found anymore.<sup>[23]</sup>

In its Comment,<sup>[24]</sup> the People, through the Office of the Special Prosecutor (OSP), counters that there was no inordinate delay amounting to a violation of petitioners' right to speedy trial.<sup>[25]</sup> Citing the balancing-of-interest test, the OSP argues that in determining whether the accused's right to speedy trial was violated, the following factors may be considered and balanced: (1) length of delay; (2) reasons for the delay; (3) assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay.<sup>[26]</sup>

The OSP argues that the case filed against petitioners was one of the offshoot cases arising from a series of investigations over the "Fertilizer Fund" scam involving the misuse of the P728 Million Fund under the Department of Agriculture's GMA Program by high and low ranking government officials and bogus/dummy private organizations or entities.<sup>[27]</sup> Thus, the period that lapsed from the conduct of the preliminary investigation until the filing of the Information was necessitated by the complexity of financial interest and business dealing involved, the number of parties

investigated, and the review of the voluminous documents and records in relation to the claims and defenses of the parties.<sup>[28]</sup> Moreover, the OSP argues that its heavy caseload justifies the delay in the disposition of its cases.<sup>[29]</sup>

As to the claim of undue prejudice by petitioners, the OSP avers that this is self-serving and unsubstantiated. It points out that petitioners are in fact currently on bail and are "at liberty to move and do so as they will."<sup>[30]</sup> In sum, the OSP argues that a mere mathematical reckoning of the time involved is not sufficient.<sup>[31]</sup>

The petitioners filed a Reply,<sup>[32]</sup> insisting that because it took five (5) years and one (1) month before the preliminary investigation was concluded, there was inordinate delay, which was "blatantly intolerable and grossly prejudicial to [their] constitutional right. . . to a speedy disposition of cases."<sup>[33]</sup>

The sole issue for this Court's consideration is whether or not petitioners' right to speedy disposition of cases was violated.

## **I.**

The right to a speedy disposition of cases is guaranteed by Section 16, Article III of the Constitution. This constitutional right is not limited to the accused in criminal proceedings but extends to all parties in all cases, be it civil or administrative in nature, as well as in all proceedings, either judicial or quasi-judicial. In this accord, any party to a case may demand expeditious action of all officials who are tasked with the administration of justice.<sup>[34]</sup>

This right is commonly invoked in fact-finding investigations and preliminary investigations conducted by the Ombudsman because while these proceedings do not form part of the criminal prosecution proper, the respondent may already be prejudiced by such proceedings, and equally because the Ombudsman itself is constitutionally committed to act promptly on complaints filed before it.<sup>[35]</sup>

Neither the Constitution nor the applicable law in this case, RA. No. 6770<sup>[36]</sup> provides for the specific period within which an action is deemed "prompt," a deviation from which is considered violative of the right to a speedy disposition of cases. It is true that the Rules of Court<sup>[37]</sup> and the Rules of Procedure of the Office of the Ombudsman<sup>[38]</sup> provide for the periods within which preliminary investigation should be conducted by the Ombudsman. This Court, however, in a line of cases,<sup>[39]</sup> has ruled that a mere mathematical reckoning of the time involved is not sufficient, and that the fact that the preliminary investigation was terminated beyond the periods provided by the rules, is not, in itself, violative of the right to a speedy disposition of cases.

What jurisprudence teaches us is that the right to a speedy disposition of cases is a relative and flexible concept<sup>[40]</sup> and that the assertion of the right ultimately depends on the peculiar circumstances of the case.<sup>[41]</sup> Moreover, the right is deemed violated only when there is inordinate delay, such that the proceedings are attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured, or when without cause or unjustifiable motive, a long period of time is allowed to elapse without the party having his case tried.<sup>[42]</sup>

Synthesizing relevant jurisprudence on the matter, this Court, in *Cagang v. Sandiganbayan*,<sup>[43]</sup> clarified the mode of analysis in situations where the right to speedy disposition of cases or the right to speedy trial is invoked, thus:

*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.