

## THIRD DIVISION

[ G.R. No. 231144, February 19, 2020 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS.  
SANDIGANBAYAN (SPECIAL SECOND DIVISION) AND LEONARDO  
B. ROMAN, RESPONDENTS.**

### DECISION

**LEONEN, J.:**

While the Constitution guarantees the right of the accused to speedy disposition of cases, this constitutional right is not a magical invocation which can be cunningly used by the accused for his or her advantage. This right is not a last line of remedy when accused find themselves on the losing end of the proceedings. The State's duty to prosecute cases is just as equally important and cannot be disregarded at the whim of the accused, especially when it appears that the alleged violation was raised as a mere afterthought.

This resolves a Petition for Certiorari<sup>[1]</sup> filed by the People of the Philippines assailing the Sandiganbayan Resolutions in Criminal Case No. SC-15-CRM-0100, which granted the Urgent Motion to Quash Information<sup>[2]</sup> filed by Leonardo B. Roman (Roman). The Sandiganbayan ruled that Roman's right to speedy disposition of cases was violated.

Roman was the former Governor of the Province of Bataan. In November 2003, Roman entered into a contract with V.F. Construction for the construction of a mini-theater in Bataan State College Abucay Campus. The project costs P3,660,000.00.<sup>[3]</sup>

On February 23, 2004, Roman executed a Certificate of Acceptance, attesting that the project was fully completed in accordance with the contract per the Accomplishment Report and other documents. Roman further executed an Affidavit reiterating the completion of the project.<sup>[4]</sup>

Following the purported completion of the project, two (2) Land Bank of the Philippines checks were issued by Roman and Provincial Treasurer Pastor P. Vichuaco in favor of V.F. Construction in the total amount of P3,310,636.36.<sup>[5]</sup> V.F. Construction then issued receipts acknowledging the payments made.<sup>[6]</sup>

However, in August 2004, Enrique T. Garcia, Jr. (Garcia), Roman's successor, inspected the project and found that the construction remained unfinished, contrary to Roman's claim.<sup>[7]</sup>

Thus, a September 1, 2004 Complaint was filed against Roman, other local government officials of the Province of Bataan, and the owner of V.F. Construction for Malversation of Public Funds through Falsification of Public Documents punished under Article 217, in relation to Article 171 of the Revised Penal Code, and violation

of Section 3(a) and (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.<sup>[8]</sup>

Subsequently, the Office of the Ombudsman issued a May 30, 2006 Resolution dismissing the Complaint against Roman and his co-accused for lack of probable cause.<sup>[9]</sup> The Office of the Ombudsman reasoned that the mere signature on the voucher or certification is not enough evidence to establish conspiracy among the accused.<sup>[10]</sup> However, the case for falsification of public documents proceeded against other officials.<sup>[11]</sup>

On June 23, 2008, the Resolution was approved by the Ombudsman.<sup>[12]</sup>

Garcia then moved for a partial reconsideration of the Resolution, but it was denied on October 9, 2009.<sup>[13]</sup> Thus, on July 22, 2011, Garcia filed a Petition for Certiorari before this Court, asserting that the Office of the Ombudsman acted with grave abuse of discretion in dismissing the complaint against Roman and his co-accused.<sup>[14]</sup>

On November 19, 2014, this Court issued a Decision,<sup>[15]</sup> partially reversing the findings of the Office of the Ombudsman and ordering the filing of an Information for violation of Section 3(e) of Republic Act No. 3019 against Roman and his co-accused.<sup>[16]</sup> The dispositive portion reads:

WHEREFORE, the petition is PARTLY GRANTED. The Resolution dated May 30, 2006 and the Order dated October 9, 2009 of the Office of the Ombudsman in OMB-L-C-05-0084-A, insofar as they dismissed the criminal charge against respondents Leonardo B. Roman, Romeo L. Mendiola, Pastor P. Vichuaco, Aurora J. Tiambeng, and Numeriano G. Medina (respondents), for Malversation of Public Funds through Falsification of Public Documents, are AFFIRMED. However, the said Resolution and Order, insofar as they dismissed the criminal charge against respondents for violation of Section 3(e), Republic Act No. (RA) 3019 of the "Anti-Graft and Corrupt Practices Act" are REVERSED and SET ASIDE. The Ombudsman is ORDERED to file in the proper court the necessary information for violation of Section 3(e), RA 3019 against respondents. Finally, for reasons herein discussed, the criminal charge against respondents for Technical Malversation is DISMISSED, without prejudice to its proper re-filing.<sup>[17]</sup>

Hence, on February 13, 2015, the Office of the Ombudsman filed an Information before the Sandiganbayan, charging Roman and his co-accused.<sup>[18]</sup> The Information reads:

That from April 30 to June 2, 2004, or sometime prior or subsequent thereto, in the Province of Bataan, Philippines, and within the jurisdiction of this Honorable Court, accused Provincial Governor Leonardo B. Roman, Executive Assistant Romeo L. Mendiola, Provincial Treasurer Pastor P. Vichauco, Provincial Budget Officer Aurora Tiambeng and Provincial Accountant Numeriano G. Medina, all of the Province of Bataan, Philippines, all public officers, committing the crime charged in relation to their duties and taking advantage of their official positions, acting with evident bad faith, manifest partially or at the very least, gross

inexcusable negligence, and conspiring and confederating with each other, did then and there, willfully, unlawfully and criminally caused undue injury to the government and give unwarranted benefit, advantage or preference to V.F. Construction, by awarding a contract for the construction of a Mini-Theater Project, and causing the disbursement/payment/release of public funds in the amount of THREE MILLION SIX HUNDRED SIXTY THOUSAND PESOS (Php3,660,000.00) in favor of V.F. Construction, despite the fact that the project was not completed and notwithstanding the absence of a valid allotment and/or appropriation for the said project as found by the Commission on Audit (COA) in its Audit Observation Memorandum (AOM), which rendered all accused's authorizations, approval and/or certification for the payment thereof irregular and illegal, in violation of pertinent laws and government auditing and accounting rules and regulations, thereby causing undue injury to the government in the aforesaid amount and giving unwarranted benefits, advantage of preference to V.F. Construction, to the damage and prejudice of the government.

CONTRARY TO LAW.<sup>[19]</sup>

Roman moved for the reconsideration of this Court's Decision. He likewise filed motions with the Sandiganbayan, seeking the suspension of the proceedings that were waiting for the resolution of his motion for reconsideration.<sup>[20]</sup>

In a September 16, 2015 Resolution, pending Roman's Motion for Reconsideration before this Court, the Sandiganbayan denied his motions explaining that a Rule 65 petition does "not interrupt the course of the lower court[,]" unless there is a directive from this Court for the lower court to defer action on the case.<sup>[21]</sup>

Roman moved for the reconsideration of the Sandiganbayan's September 16, 2015 Resolution, which was then granted in the February 15, 2016 Resolution. In granting the motion, the Sandiganbayan opined that it was more prudent to await the Court's resolution on Roman's Motion for Reconsideration.<sup>[22]</sup>

The prosecution moved for the reconsideration of the Sandiganbayan's Resolution. Pending the resolution of this motion before the Sandiganbayan, this Court denied with finality Roman's Motion for Reconsideration.<sup>[23]</sup>

On October 14, 2016, Roman then filed an Urgent Motion to Quash Information, arguing that his right to a speedy disposition of the case was violated.<sup>[24]</sup> He asserts that 11 years have already lapsed since the filing of the Complaint before the Ombudsman until the Information was filed before the Sandiganbayan. Roman avers that this constituted inordinate delay, which warrants the quashal of the information.<sup>[25]</sup>

The prosecution opposed the motion, contending that the delay in the proceedings cannot be deemed "vexatious" to merit the dismissal of the case.<sup>[26]</sup> It stressed that there is no delay in the preliminary investigation, considering that it only took less than two (2) years from the filing of the complaint until the issuance of the Ombudsman's Resolution.<sup>[27]</sup>

It also emphasized that it only took the Ombudsman a year to resolve Roman's Motion for Reconsideration.<sup>[28]</sup> Moreover, the prosecution avers that the period of the case's elevation to this Court should not be taken into consideration when determining the existence of inordinate delay.<sup>[29]</sup> It argued that Roman already waived his right to a speedy disposition of the case when he failed to invoke this right before the Office of the Ombudsman and this Court.<sup>[30]</sup>

On December 14, 2016, the Sandiganbayan issued a Resolution,<sup>[31]</sup> granting Roman's Urgent Motion to Quash the Information, thus:

WHEREFORE, in the light of the foregoing, the Court hereby GRANTS the *Urgent Motion to Quash Information* filed by accused Leonardo B. Roman on the ground of violation of his constitutional right to speedy disposition of cases. Accordingly, the case against accused is DISMISSED.<sup>[32]</sup>  
(Emphasis in the original)

The Sandiganbayan explained that Roman's right to speedy disposition of cases was violated when the preliminary investigation was terminated only after five (5) years. The Sandiganbayan noted that the Complaint was filed on September 1, 2004 but the Order denying the motion for reconsideration was issued only on October 9, 2009.<sup>[33]</sup>

Further, the Sandiganbayan ruled that the prosecution failed to present a justification for the delay in the preliminary investigation, particularly, why it needed two (2) years to resolve the preliminary investigation and one (1) year to resolve the motion for reconsideration.<sup>[34]</sup>

The Sandiganbayan ruled that Roman timely asserted his right. He could not have raised the contention at an earlier time because the complaint was initially dismissed by the Ombudsman, and Garcia's subsequent motion for reconsideration was also denied. The Information was only filed on February 13, 2016; thus, it cannot be said that Roman allowed the case to drag on before he raised this issue.<sup>[35]</sup> The Sandiganbayan further ruled that Roman was not required to follow up on the prosecution on the case.<sup>[36]</sup>

Lastly, the Sandiganbayan concluded that Roman was prejudiced due to the prolonged resolution of the case. It explained that the case caused Roman: (1) anxiety; (2) hostility; (3) additional expenses; and (4) a weakened defense due to the passage of time, considering that there is an increased risk of losing witnesses and evidence.<sup>[37]</sup>

The prosecution then moved for the reconsideration of the Resolution, but it was denied.<sup>[38]</sup> Hence, this Petition was filed.<sup>[39]</sup>

Petitioner argues that private respondent Roman (private respondent) failed to seasonably assert his right during the conduct of the preliminary investigation and during the pendency of the case before this Court. Petitioner points out that private respondent did not raise the issue at the first instance after the Information was filed before the Sandiganbayan. In fact, it was a mere afterthought since private respondent only raised the issue after this Court denied his Motion for Reconsideration.<sup>[40]</sup>

According to petitioner, respondent Sandiganbayan erred in ruling that defendants in a preliminary investigation are not required to follow up on their case. Citing jurisprudence,<sup>[41]</sup> petitioner avers that the inaction of private respondent translates to his acquiescence to the delay.<sup>[42]</sup>

Petitioner further disagrees that private respondent was prejudiced by any delay in the preliminary investigation proceedings. If he had been prejudiced, he should have moved for the early resolution of the complaint, or private complainant Garcia's (private complainant) motion for reconsideration, before the Ombudsman.<sup>[43]</sup> However, private respondent slept on his right.<sup>[44]</sup> Further, petitioner argues that respondent Sandiganbayan's finding that private respondent suffered prejudice is only a conjecture.<sup>[45]</sup> Respondent Sandiganbayan's conclusion that private complainant suffered "tactical disadvantages...especially on the preparation of his defense" is not specific to satisfy the requirement of prejudice.<sup>[46]</sup>

Further, while respondent Sandiganbayan initially agreed that the pendency of the petition before this Court should not be taken into account in reckoning delay, it contradicted itself when it counted this period in determining the length of delay.<sup>[47]</sup>

Petitioner contends that the pendency of the petition before this Court should not be regarded as part of the preliminary investigation because the petition is an independent action.<sup>[48]</sup> Moreover, the proceedings before this Court should be excluded under Section 10 of Republic Act No. 8493, otherwise known as the Speedy Trial Act.<sup>[49]</sup>

Nevertheless, petitioner points out that the period that lapsed is reasonable and respondent Sandiganbayan miserably failed to consider the factors that justified the preliminary investigation's delay. In particular, there were multiple respondents to the case, voluminous documents to be evaluated, and the resolution had to go through various levels of approval processes while the Office of the Ombudsman is swamped with a heavy docket.<sup>[50]</sup>

Petitioner further argues that respondent Sandiganbayan grossly misappreciated the facts of the case. For instance, respondent Sandiganbayan inadvertently stated that the Complaint was filed on September 1, 2004, but the records show that it was received by the Office of the Ombudsman only on January 18, 2005.<sup>[51]</sup>

Records also show that private respondent contributed to the delay when he requested for additional time to file his counter-affidavit before the Office of the Ombudsman twice. In fact, it was only received by the Ombudsman on April 18, 2005. Meanwhile, private complainant asked thrice for an extension to file his Reply-Affidavit.<sup>[52]</sup>

Petitioner further contends that respondent Sandiganbayan erred in including the period when the complaint was not yet ripe for resolution. Petitioner points out that due process dictates that it is premature to resolve a case while awaiting receipt of the last pleading. Thus, the length of delay should have been counted from June 29, 2005, when the Ombudsman received the consolidated Reply-Affidavit of private complainant.<sup>[53]</sup>