

## THIRD DIVISION

[ G.R. No. 237039, June 10, 2019 ]

**LEONARDO V. REVUELTA, PETITIONER, V. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

Before *Us* is a Petition for *Certiorari* under Rule 65 of the Rules of Court, with prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction, seeking the reversal of the Sandiganbayan's Resolutions dated September 6, 2017,<sup>[1]</sup> and November 28, 2017,<sup>[2]</sup> which respectively denied petitioner's Motion to Dismiss and Motion for Reconsideration.

Petitioner was charged before the Sandiganbayan for Violation of Section 3 (e) of Republic Act (R.A.) No. 3019 under an Information filed by the Office of Ombudsman on July 1, 2015. The Ombudsman's Information stemmed from the Complaint-Affidavit dated March 9, 2009 filed by private complainants Justiano N. Calvaria, Guillermo O. Maulawin, Jesus A. Astillo, Oscar A. Aguirre and Albelio C. Reyes.

On January 30, 2017, petitioner filed a Motion to Dismiss before the Sandiganbayan on the ground that the inordinate delay of more than six (6) years in resolving the complaint (from the time of the complaint to the filing of information) violated his constitutional rights to speedy disposition and resolution of cases, and to due process.

Summarized in the Sandiganbayan Sixth Division's assailed September 6, 2017 Resolution, the factual antecedents are as follows:

On March 16, 2009, the Office of the Deputy Ombudsman for Luzon received a Complaint-Affidavit dated March 9, 2009 from Justiniano N. Calvaria, Guillermo O. Maulawin, Jesus A. Astillo, Oscar A. Aguirre and Albelio C. Reyes (Complainants) charging Isaias Ubana, Municipal Mayor of Lopez, Quezon with Malversation, Falsification and Violation of R.A. No. 3019. Said complaint-affidavit alleged irregularities in the procurement and deliveries of glass wares and plastic wares to recipient barangays in the municipality. On March 23, 2009, the complaint-affidavit was docketed for fact-finding investigation.

On April 9, 2009 and August 13, 2009, the Deputy Ombudsman for Luzon directed the Municipal Accountant of Lopez, Quezon and COA LGS-Cluster of Lucena, respectively, to submit documents relevant to the investigation. On August 28, 2009, the fact-finding investigation was terminated and the case was re-docketed as a criminal case.

On November 9, 2009, the said criminal case was assigned to Graft Investigation and Prosecution Officer (GIPO) J.S. Ong (Ong) for preliminary investigation. On November 23, 2009, GIPO J.S. Ong received the records of the case.

The preliminary investigation ensued against Ubana being the only respondent in the case. On November 16, 2009, the Deputy Ombudsman for Luzon issued a subpoena to accused Ubana for the submission of his counter-affidavit,

On December 17, 2009, the Deputy Ombudsman for Luzon unloaded the case to GIPO Albert Almojuela (Almojuela).

On January 5, 2010, accused Ubana filed a Motion for Extension of Time to Submit Counter-affidavit. On January 26, 2010, for the second time, accused Ubana sought an extension of time to submit his counter-affidavit. This was opposed by the complainants on February 3, 2010. On February 10, 2010, accused Ubana filed his third Motion for Extension of Time to Submit Counter-affidavit. After filing three (3) Motions for Extension of Time to Submit Counter-Affidavit, accused Ubana finally submitted his Counter-Affidavit dated February 18, 2010, or *three (3) months and two (2) days* from the date of issuance of the subpoena.

On April 18, 2011, the case was re-assigned to GIPO Expedito Allado, Jr. (Allado, Jr.), In a Memorandum dated September 12, 2011, GIPO Allado, Jr. sought the inclusion of accused Revuelta and Nieva, and co-respondents Abelia Norada Villasenor (Villasenor), Hermes Arche Argante (Argante), and Esmeraldo L. Erandio (Erandio) in the case.

On September 21, 2011, the Deputy Ombudsman for Luzon issued an order directing accused Revuelta and Nieva, and co-respondents Villasenor, Argante, and Erandio to submit their counter-affidavits.

Accused Revuelta and Nieva failed to submit their counter affidavits despite personal receipt of the order to file the same. From the foregoing, the investigatory process against accused Revuelta and Nieva started only when they were impleaded as co-respondents in the case on September 12, 2011 or *two (2) years, five (5) months and twenty-six (26) days* after the filing of the complaint-affidavit, or *one (1) year, five (5) months and three (3) days* after the start of the preliminary investigation against accused Ubana.

Pending resolution of the case, complainants submitted the COA audit observation memorandum on September 25, 2011 and COA fact finding investigation report on October 26, 2011. On September 25, 2012, the complainants sought the admission of said documents as additional evidence.

This prompted the Deputy Ombudsman for Luzon to re-evaluate the records. On March 4, 2013, the case was transferred to Ombudsman-Zero Backlog Unit (ZBU) for continuation of the preliminary investigation. The Ombudsman-ZBU then issued an Order dated July 15, 2013 directing the accused and their co-respondents to submit their comments on the

said COA audit observation memorandum and fact finding report submitted by the complainants.

Within the period July 24, 2013 to August 6, 2013, accused Ubana and Nieva and their co-respondents, filed separate motions seeking an extension of time to submit their comments. On August 27, 2013, accused Ubana and Nieva and their co-respondents, submitted their comments on the COA memorandum and report.

On August 30, 2013, the Ombudsman-ZBU directed COA to produce a certified copy of its report in the case. Dissatisfied with their 2011 reports, COA's Fraud Audit Office conducted another fact-finding investigation which resulted in a 2013 Fact-Finding Report. On September 6, 2013, complainants filed a motion for the immediate resolution of the case.

On August 18, 2014, a draft resolution finding probable cause for Violation of R.A. No. 3019 against accused Ubana, Nieva and Revuelta, and for Falsification against accused Ubana and Nieva, and dismissing the charges against respondents Villasenor, Argante and Erandio for lack of probable cause, was submitted for approval by Assistant Ombudsman Leilanie Bernadette C. Cabras (Cabras) to Ombudsman Conchita Carpio-Morales (Carpio-Morales). On August 20, 2014, Ombudsman Carpio-Morales approved the said draft resolution.

Thereafter, accused Ubana, Nieva and Revuelta sought a partial reconsideration of the same. This was denied by the Ombudsman on January 30, 2015. Thereafter, the OSP filed the informations in these cases before this Court on July 1, 2015, or *five (5) months, nineteen (19) days* after the denial of their motion for partial reconsideration.<sup>[3]</sup>

Based on the foregoing facts, the Sandiganbayan denied for lack of merit petitioner's Motion to Dismiss per its assailed Resolution dated September 6, 2017. The court a quo's disquisitions, in so far as relevant to petitioner's claim of inordinate delay, run as follows:

The period from February 18, 2010 to September 21, 2011, or *one (1) year, seven (7) months and three (3) days*, should be attributed to the Deputy Ombudsman for Luzon. During this period, the case was unloaded from GIPO Almojuela to GIPO Allado, Jr., for reasons unstated. At this point, GIPO Allado, Jr. requested the inclusion in the case of accused Revuelta and Nieva, and co-respondents Villasenor, Argante, and Erandio. On September 21, 2011, the Deputy Ombudsman for Luzon issued orders to accused Revuelta and Nieva, and co-respondents Villasenor, Argante, and Erandio requiring the submission of their respective counter-affidavits. The Deputy Ombudsman for Luzon's actions were put on hold pending the submission by accused Nieva and Revuelta of their respective counter-affidavits. During this period, again, accused Ubana neither questioned any delay nor sought the separate resolution of his case.

However, the above period of *two (2) years, five (5) months and seventeen (17) days* from March 16, 2009 to September 21, 2011, should not be counted in the case of accused Revuelta and Nieva.

Prior to this period, accused Revuelta and Nieva **were not** subjects of any investigation related to alleged irregularities and ghost deliveries of glass wares and plastic wares to recipient Barangays in the Municipality of Lopez, Quezon. In fact, the complaint and preliminary investigation were first initiated against accused Ubana only.

Accused Revuelta and Nieva were only impleaded as co-respondents when the Deputy Ombudsman for Luzon ordered their inclusion in the case on September 12, 2011 upon the recommendation of GIPO Allado, Jr. Thereafter, on September 21, 2011, they were required by the Deputy Ombudsman for Luzon to submit their respective counter affidavits. Thus, there is no proof that they endured any vexatious, capricious, and oppressive delay during this period because they had not undergone any investigative proceeding before September 12, 2011.

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The period from September 21, 2011 to September 6, 2013, or *one (1) year, eleven (11) months and sixteen (16) days*, should not be visited upon the Deputy Ombudsman for Luzon and the accused. The Complainants' late submission of additional documents, i. e., the COA audit observation memorandum and fact-finding report, relative to the case was beyond the Deputy Ombudsman's control. The verification and further evaluation of these documents with the COA is inevitable. During this period, the COA was also given an opportunity to conduct another fact-finding investigation which resulted in their 2013 Fact-Finding Report. These incidents are beyond the control of the Deputy Ombudsman for Luzon and the accused.

The period from September 6, 2013 to August 20, 2014, or *eleven (11) months and fourteen (14) days*, is attributable to the Office of the Ombudsman. The period spent by the Deputy Ombudsman for Luzon in finishing the preliminary investigation and drafting the resolution in these cases is *eleven (11) months and twelve (12) days*. The Resolution dated August 18, 2014 recommending the filing of a case for Violation of R.A. No. 3019 against accused Ubana, Nieva and Revuelta, and for Falsification against accused Ubana and Nieva, and dismissing the charges against respondents Villasenor, Argante and Erandio for lack of probable cause, was approved by Ombudsman Carpio-Morales after *two (2) days*. There is no inordinate delay here because the Office of the Ombudsman spent less than a year in terminating the preliminary investigation from the date of the last pleading filed on September 6, 2013. This period is justified because the Office of the Ombudsman needed to ensure that the proper, correct, and strong cases are filed against the accused. In fact, the accused benefited from this lapse of time because the Deputy Ombudsman for Luzon found probable cause only for violation of R.A. 3019 and falsification and dismissed all the other criminal and administrative charges against them.

The period from August 20, 2014 to January 30, 2015, or *five (5) months and ten (10) days*, is attributed to the accused because of the exercise of their right to procedural due process. During this period, accused Ubana, Revuelta and Nieva sought to assail the finding of probable cause against

them before the filing of the informations in Court. The Office of the Ombudsman cannot be faulted for granting them sufficient opportunity to exercise said right.

The period from January 30, 2015 to July 1, 2015, or *five (5) months and one (1) day*, is attributable to the Office of the Ombudsman. This period is, however, justified because the OSP reviewed the cases again and made sure that only those cases that could stand the rigors of trial would be filed. On the other hand, accused Nieva benefited from this lapse of time because the OSP filed an information for only one (1) count of falsification instead of the seven (7) counts recommended by the Office of the Deputy Ombudsman for Luzon.

Based on the foregoing, the total period of *six (6) months and twenty-three (23) days*, is attributed to accused Ubana, and the period of *five (5) months and ten (10) days*, to accused Nieva and Revuelta. This period should be excluded from the time spent by the Office of the Ombudsman to terminate the fact-finding and preliminary investigation, respectively, and for the OSP to file the corresponding informations in this Court.

The total period of two (2) years, four (4) and twenty-eight (28) days should also be excluded from the computation of the period attributed to the Office of the Ombudsman. As explained above, this period covers those incidents beyond the control of the Office of Ombudsman and the accused.

Subtracting the periods attributable to the accused and those beyond the control of the Office of the Ombudsman, the total period it took the Office of the Ombudsman to finish its fact-finding investigation and preliminary investigation, and for the OSP to file the corresponding informations is only *three (3) years, three (3) months and twenty-six (26) days* in the case of accused Ubana, while *eleven (11) months and five (5) days* in the case of accused Nieva and Revuelta.<sup>[4]</sup>

Petitioner's Motion for Reconsideration<sup>[5]</sup> dated September 22, 2017 was denied by the Sandiganbayan in its Resolution<sup>[6]</sup> dated November 28, 2017. Hence, petitioner filed this petition for *certiorari* ascribing grave abuse of discretion on the Sandiganbayan.

Petitioner asserts that there was inordinate delay in the conduct of preliminary investigation which lasted for more than six (6) years counted from the time of filing of the complaint before the Office of the Ombudsman up to the filing of the information in the Sandiganbayan. He contends that the undue delay in the conduct and termination of the preliminary investigation and in the disposition of the case violated, his constitutional right to speedy trial and speedy disposition of case which covers not only the period of preliminary investigation, but includes even fact-finding investigations conducted prior thereto. Petitioner insists that it was the duty of the Ombudsman to act promptly and speedily resolve complaints even without invocation of such rights, and that failure to comply with such duty, without any justifiable reason, warrants a dismissal of the complaint against him. While he concedes that rights may be waived, he, however, argues that such waiver may not be inferred by mere failure on the part of the accused to assert and urge the