

## FIRST DIVISION

[ G.R. No. 232574, October 01, 2019 ]

**CELESTINO A. MARTINEZ III, AND RHETT E. MINGUEZ,  
PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, AND HON.  
SIXTH DIVISION OF THE SANDIGANBAYAN, RESPONDENTS.**

### DECISION

**BERSAMIN, C.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.

#### The Case

The petitioners hereby assail on *certiorari* the resolution issued by the Sandiganbayan on March 1, 2017 denying their *Motion to Quash Information And/Or To Dismiss* alleging inordinate delay in the disposition of the case charging them with a violation of Section 3(e) of Republic Act No. 3019 (*Anti-Graft and Corrupt Practices Act*);<sup>[1]</sup> and the resolution issued on May 18, 2017 denying their motion for reconsideration,<sup>[2]</sup> on the ground that the Sandiganbayan thereby committed grave abuse of discretion amounting to lack or excess of jurisdiction.

#### Antecedents

In 2004, petitioner Celestino A. Martinez III, then the Mayor of the Municipality of Bogu in the Province of Cebu, entered into a Memorandum of Agreement (MOA) with Sikap Yaman Foundation, Inc. (Sikap Yaman), a non-stock, non-profit non-governmental organization (NGO) created for the specific purpose of implementing the projects of the Department of Agriculture (DA) through its Regional Field Office VII. By virtue of the MOA, the Municipality of Bogu, through its treasurer, co-petitioner Rhett E. Minguez, released the amount of P6,000,000.00 in favor of Sikap Yaman.<sup>[3]</sup>

On May 11, 2011, the Field Investigation Office-Task Force Abono (FIO-Task Force Abono) of the Office of the Ombudsman<sup>[4]</sup> filed criminal and administrative complaints charging the petitioners with having caused the execution of the MOA with Sikap Yaman despite the absence of a resolution from the Sangguniang Bayan authorizing petitioner Martinez III as Municipal Mayor to enter into the MOA. The complaints alleged that Sikap Yaman had not been an accredited NGO.<sup>[5]</sup>

After being directed on July 20, 2011 to submit their counter affidavits, the

petitioners complied on September 19, 2011, and attached to their counter-affidavits the resolution of the Sangguniang Bayan accrediting Sikap Yaman, and another resolution authorizing petitioner Martinez III to enter into the MOA with Sikap Yaman.

On October 30, 2014, the Special Panel formed to investigate the Task Force Abono Cases issued a resolution finding probable cause against the petitioners for a violation of Section 3(e) of R.A. No. 3019 in relation to the release of funds in favor of Sikap Yaman.<sup>[6]</sup>

The Ombudsman approved the resolution on February 2, 2015.

Following the denial of the petitioners' motion for reconsideration of the resolution of February 2, 2015, the Office of the Ombudsman filed in the Sandiganbayan an information on June 28, 2016 formally charging the petitioners with the violation of Section 3(e) of R.A. No. 3019, the accusatory portion of which reads thusly:

That in the year 2004 or sometime prior or subsequent thereto, in the Municipality of Bogu, Cebu, and within the jurisdiction of this Honorable Court, accused CELESTINO MARTINEZ III, a high-ranking public officer, being then the Mayor of the Municipality of Bogu, Cebu, and Municipal Treasurer RHETT E. MINGUEZ, while in the performance of their official functions and committing the offenses in relation to office, taking advantage of their official positions, acting with manifest partiality, evident bad faith, or gross inexcusable negligence, in conspiracy with each other, did then and there willfully, unlawfully, and criminally, give Sikap Yaman Foundation (Sikap Yaman), a non-stock and non-profit association, unwarranted benefits, privilege and advantage, by causing and/or approving the implementation of the Department of Agriculture's Farm Inputs and Farm Implements program (FIFIP), identifying Sikap Yaman as the project implementer despite its lack of qualifications under Commission on Audit Circular No. 96-003, and causing the release of fund in the total amount of P6,000,000.00 to said association, and by failing to monitor and ascertain the status of the project, the proper utilization of the fund, and the receipt of the fertilizers by the farmer beneficiaries, resulting and causing undue injury to the Municipality of Bogu, Cebu, in the total amount of P6,000,000.00.

**CONTRARY TO LAW.**<sup>[7]</sup>

On July 29, 2016, the petitioners filed a *Motion to Remand Case For Reinvestigation* but the Sandiganbayan denied the motion on November 28, 2016.<sup>[8]</sup>

On January 6, 2017, the petitioners presented their *Motion To Quash Information And/Or To Dismiss* asserting that there had been inordinate delay in the disposition of the complaints lodged against them.

In due course, the Office of the Special Prosecutor (OSP) filed an opposition to the motion.<sup>[9]</sup>

On March 1, 2017, the Sandiganbayan issued the first assailed resolution denying the *Motion To Quash Information And/Or To Dismiss* for lack of merit,<sup>[10]</sup> holding that the peculiar circumstances of the case had justified the length of time spent in the conduct of the preliminary investigation; that the petitioners did not also allege that the perceived delay had been vexatious, or capricious, or oppressive, and had caused prejudice; and that the filing of their *Motion To Remand Case For Reinvestigation* contradicted their claim of inordinate delay in the conduct of the preliminary investigation.

The petitioners moved to reconsider the resolution, but the Sandiganbayan denied the motion through the second assailed resolution dated May 18, 2017.<sup>[11]</sup>

### **Issues**

In this recourse, the petitioners submit the following issues, to wit:

#### **I**

WHETHER THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO ABSENCE OR LACK OF JURISDICTION WHEN IT RULED THAT THE PERIOD OF FOUR (4) YEARS AND NINE (9) MONTHS FOR THE OFFICE OF THE OMBUDSMAN TO FINISH THE PRELIMINARY INVESTIGATION OF THIS CASE DID NOT CONSTITUTE INORDINATE DELAY;

#### **II**

BY WAY OF A QUESTION OF LAW, WHETHER THE ULTIMATE DETERMINATION OF WHAT CONSTITUTES "CAUSING UNDUE INJURY" "GIVING UNWARRANTED BENEFITS AND ADVANTAGE" SHOULD BE LEFT TO THE INTERPRETATION AND OPINION OF THE INVESTIGATING PROSECUTOR OR THERE MUST BE SOME BASIS OF LAW OR SPECIFIC PROVISIONS OF LAW BEFORE THE CRIME OF VIOLATION OF SEC. 3(e) OF RA 3019 IS FILED IN COURT.<sup>[12]</sup>

The petitioners submit that although the delay in the issuance of the resolutions was largely unjustified, the Office of the Ombudsman did not present any plausible, special or even novel reason to justify the delay beyond stating that the delay emanated from the regular exercise of its prerogative in prosecuting criminal cases; that the lengthy, vexatious, capricious and oppressive delay in the proceedings prejudiced them especially after they had meanwhile been led to believe that they had already sufficiently answered the charges against them, and particularly because they had been unfairly made to answer to a new accusation through the allegation that they had not conducted monitoring activities of the project, without prior notice in violation of due process; that initially they had been accused only of entering into the MOA with Sikap Yaman without the proper accreditation from the Sangguniang Bayan of the Municipality of Bogó; and that after the Sangguniang Bayan had issued the accreditation as an NGO in favor of Sikap Yaman, the Office of the Ombudsman then unjustly came out with the new allegation in the information

without prior notice to them, thereby leaving them with no opportunity to intelligently refute the new allegation.<sup>[13]</sup>

The OSP counters that the petition for *certiorari* was filed out of time; that the petitioners did not attach thereto a sworn certification of non-forum shopping; that the mere mathematical reckoning of the time involved in the conduct of the preliminary investigation would not be sufficient in determining undue delay; that they did not also show that the proceedings before the Office of the Ombudsman had been attended with vexatious, capricious and oppressive delays; that the long period had been necessary to afford all parties the full opportunity to be heard and to present their respective sides; that Criminal Case No. SB-16-CRM-0413 had been only one of the numerous cases that had resulted from the conduct of several nationwide investigations into the "728 Million Pesos Fertilizer Fund Scam"; that they did not assert their right to speedy disposition at the earliest opportune time; and that the filing of their motion to remand the case clearly indicated their acquiescence to the period spent by the Office of the Ombudsman in the disposition of their case; and that the petitioners did not show that they had been prejudiced by the delay.<sup>[14]</sup>

### **Ruling of the Court**

The petition for *certiorari* is impressed with merit.

The Constitution guarantees under Section 16, Article III the right to the speedy disposition of cases, providing therein as follows:

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

To accord with such right, Section 12, Article XI of the Constitution mandates the Office of the Ombudsman to act promptly on complaints filed before it in any form or manner, *viz.*:

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.

The mandate is reiterated in Section 13 of R.A. No. 6670 (*The Ombudsman Act of 1989*), which provides:

Section 13. Mandate. – The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or