

SECOND DIVISION

[G.R. No. 204267, July 25, 2016]

**LUZ S. ALMEDA, PETITIONER, VS. OFFICE OF THE OMBUDSMAN
(MINDANAO) AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

DEL CASTILLO, J.:

This Petition for *Certiorari*^[1] seeks to set aside the September 6, 2012 Order^[2] of the Office of the Ombudsman for Mindanao (Ombudsman) in OMB-MIN-01-0183 denying herein petitioner's Motion for Reconsideration^[3] of the Ombudsman's March 19, 2003 Resolution^[4] indicting her for violation of Section 3(g) of Republic Act No. 3019 (RA 3019);^[5] and directing that the corresponding Information therefor be filed with the Regional Trial Court of Dapa, Surigao del Norte.

Factual Antecedents

In 2001, petitioner Luz S. Almeda, then Schools Division Superintendent of the Department of Education, Culture and Sports (DepEd), Surigao del Norte, and several other public officers and employees were charged administratively and criminally before the Ombudsman, in connection with the alleged improper use and disbursement of the Countrywide Development Fund (CDF) allotted to petitioner's co-respondent Constantino H. Navarre, Jr. (Navarro), Surigao del Norte Congressman, and implemented through the Department of Interior and Local Government (DILG) and the DepEd. The criminal charges were consolidated and docketed as OMB-MIN-01-0183. On March 19, 2003, a Resolution was issued in said case by Graft Investigation and Prosecution Officer (GIPO) II Hilde C. dela Cruz-Likit (dela Cruz-Likit), to the effect that probable cause existed to indict petitioner and her co-accused for violation of Sections 3(e) and (g) of RA 3019.^[6] This Resolution was disapproved in part by then Ombudsman Simeon V. Marcelo (Marcelo), who made minor modifications and instructions thereto.

The Office of the Special Prosecutor (OSP) then took over the case, and it prepared the corresponding Information against petitioner, which was approved by then Special Prosecutor Dennis M. Villa-Ignacio and Marcelo. On May 19, 2003, the Information was forwarded to the Deputy Ombudsman for Mindanao, who in turn indorsed and forwarded the same, together with the Ombudsman's Resolution, to the Provincial Prosecutor of Surigao del Norte on June 3, 2003, for appropriate filing in court.^[7]

Petitioner received a copy of the Ombudsman's March 19, 2003 Resolution on May 29, 2003. On July 3, 2003, she filed via a commercial courier service^[8] her Motion for Reconsideration, with a prayer for reversal of the Ombudsman's ruling and to

hold in abeyance the filing of an information against her until the motion is resolved. An advance copy of the motion was transmitted to the Ombudsman by fax on June 16, 2003.^[9]

On July 7, 2003, petitioner filed a Motion to Hold in Abeyance the Filing of Information^[10] before the Office of the Provincial Prosecutor of Surigao del Norte, which in turn referred the said motion to the Ombudsman.^[11]

On July 18, 2003, dela Cruz-Likit issued an Order^[12] giving due course to petitioner's Motion for Reconsideration and a similar motion filed by one of her co-respondents. The Order states, among others:

In their Motions for Reconsiderations [sic], both respondents-movants are united in pointing to co-respondent ex-Congressman Constantino H. Navarro, Jr., as the one who entered into the transaction of purchasing the nine computers delivered to DepEd Siargao, which transaction is made the basis of their indictment for Violation of Section 3(g) of RA 3019.

Before taking further action on the motions, thus filed, let copies thereof be served to respondent Constantino H. Navarro Jr. and to complainant, or them to file their respective Comment or Opposition thereto.

WHEREFORE, PREMISES considered, this office resolves to give due course to the motions under consideration. Accordingly, let copies of the Motions for Reconsideration and Motion to Hold in Abeyance the Filing of Information be served to then Representative Constantino H. Navarro, Jr. and to COA Auditors Rosalinda G. Salvador and Mila L. Lopez, who are hereby directed to file their Comment and or [sic] Opposition thereto within ten (10) days from receipt hereof. Failure to comply with this order will be deemed a waiver and the herein motions will be resolved accordingly.

SO ORDERED.^[13]

Navarro filed his Comment^[14] to petitioner's Motion for Reconsideration.

On August 25, 2003, petitioner filed before the Ombudsman her Supplemental motion for reconsideration.^[15]

Through a June 16, 2004 Indorsement of the Ombudsman for Mindanao, petitioner's motion for reconsideration and all other pleadings, orders, and communications relative thereto were forwarded to Marcelo for appropriate action, pursuant to Office Order No. 31 entitled "Review and Consideration of Motions for Reconsideration Filed in Relation to Orders and Resolutions Issued by the Tanodbayan," which pertains to cases where the Ombudsman disapproves orders, resolutions, or decisions emanating from sectoral offices, and considering that the OSP has taken over the case.^[16]

In another Indorsement dated October 11, 2004, then Deputy Ombudsman for Mindanao Antonio E. Valenzuela forwarded a copy of an October 11, 2004 Order

which ultimately closed and terminated OMB-MIN-01-0183 as far as the Ombudsman for Mindanao is concerned, pursuant to an August 4, 2004 Order issued by Marcelo ordering the OSP to conduct the preliminary investigation of the case.
[17]

On May 25, 2010, petitioner sent a letter of, even date to the Ombudsman, seeking the early resolution of her motions.^[18] However, the letter was not acted upon, as the handling Graft Investigation and Prosecution Officer (GIPO), dela Cruz-Likit, was then on official study leave and no GIPO was as yet assigned to the case.^[19]

On September 1, 2011, petitioner filed before the Ombudsman a Manifestation,^[20] seeking resolution of her Motion for Reconsideration. On November 18, 2011, she filed a second Manifestation^[21] with the Ombudsman with a prayer for dismissal of OMB-MIN-01-0183 as against her.

Meanwhile, petitioner received copies of Indorsements dated September 28, 2011 and December 9, 2011 and signed by Deputy Ombudsman for Mindanao Humphrey T. Monteroso, referring and forwarding to the OSP petitioner's September 1, 2011 Manifestation and other pleadings and documents filed in OMB-MIN-01-0183, and noting and informing that the entire record of the case has been forwarded previously to the OSP.^[22]

On August 8, 2012, petitioner filed a third Manifestation before the Ombudsman, instead of the OSP, entitled "Manifestation Reiterating the Right of the Accused to Speedy Trial with Prayer for Dismissal of the Case."^[23] This time petitioner bewailed the inaction and procedure taken by the Ombudsman and OSP in not taking cognizance of OMB-MIN-01-0183 and instead indorsing and repeatedly tossing the case back and forth to each other. She cited a June 18, 2012 Memorandum^[24] within the OSP recommending that her Motion for Reconsideration and Manifestations be resolved by the Ombudsman for Mindanao instead and not the OSP, which had no jurisdiction over petitioner since she is not a high-ranking public official charged before the *Sandiganbayan*; she also noted a June 21, 2012 Indorsement^[25] by the OSP to the Ombudsman for Mindanao, referring back petitioner's Motion for Reconsideration and Manifestations for action by the latter. She claimed that as a result, her Motion for Reconsideration remained unresolved to date; that said flip-flopping attitude of these two offices resulted in unwarranted delay and unending torment, which has unduly affected her work; and consequently, her constitutional right to speedy trial was violated. Petitioner thus prayed for dismissal of her case.

On September 6, 2012, the Ombudsman through dela Cruz-Likit issued the assailed Order denying petitioner's Motion for Reconsideration, stating as follows:

This resolves the Motions for Reconsideration filed by respondents Luz S. Almeda and Miguela S. Ligutom, seeking reconsideration to [sic] the Resolution dated March 19, 2003, indicting them for Violation of Section 3(g) of RA No. 3019.

x x x x

The motions should be denied.

As informed by respondent Almeda, she received a copy of the approved Resolution on May 29, 2003. Her motion for reconsideration dated June 12, 2003, with request to hold in abeyance the filing of the Information in court, was sent through the Courier on July 3, 2003. On the other hand, respondent Ligutom's Motion for Reconsideration, with request to hold in abeyance the filing of the Information in court, was filed on June 9, 2003. While counsel of respondent Almeda sent by fax an advance copy of the Motion for Reconsideration on June 16, 2003, both motions were still filed out of time.

Section 7(a), Rule II, of Administrative Order No. 07, which provides for the Ombudsman Rules of Procedure in criminal cases, states:

"Only one motion for reconsideration or reinvestigation of an approved order or resolution shall be allowed, the same to be filed within five (5) days from notice thereof with the Office of the Ombudsman, or the proper Deputy Ombudsman as the case may be, with corresponding leave of court in cases where the information has already been filed in court."

Accordingly, the motions, on procedural grounds, should be denied.

On the other hand, the matters raised by respondents Almeda and Ligutom in their motions for reconsideration were already passed upon by this Office, and need not be discussed all over again. Moreover, these are evidentiary in nature, and are best threshed out in court.

x x x x

We also took note of respondents Almeda's [sic] and Ligutom's manifestation for the dismissal of the case for alleged violation of their right to speedy trial, on the ground that until now, no information was filed in court, and that their Motions for Reconsideration were not resolved despite the lapse of a considerable period of time.

OMB-MIN could not be faulted for the non-filing of the Information in court because as the records would show, both respondents Almeda and Ligutom were the ones who moved to hold in abeyance the filing of the Information. The motions to hold in abeyance the filing of the Information were not only filed with this Office, but also with the Office of the Provincial Prosecutor of Surigao del Norte, and as shown by the records, the Information was already indorsed to the OPP but was indorsed back to OMB-MIN, in view of the motions to hold in abeyance the filing of such Information in court. Significantly, OMB-MIN has nothing to do with the delay in the resolution of the motions for reconsideration because as the records would show, all motions and pleadings filed by respondents were appropriately and timely acted upon.

WHEREFORE, Premises considered, the motions for reconsideration are hereby DENIED. Let the corresponding Information for Violation of

Section 3(g) of RA No. 3019 approved by then Ombudsman Simeon V. Marcelo, be filed with the Regional Trial Court of Dapa, Surigao del Norte.

SO ORDERED.^[26]

Hence, the instant Petition.

Issues

In a February 5, 2014 Resolution,^[27] this Court resolved to give due course to the instant Petition, which contains the following assignment of errors:

V.a

DID PUBLIC RESPONDENT VIOLATE PETITIONER'S CONSTITUTIONAL RIGHT TO SPEEDY TRIAL AND PROMPT DISPOSITION OF CASES WHEN IT FAILED TO RESOLVE THE MOTION FOR RECONSIDERATION AND MOTION TO HOLD IN ABEYANCE THE FILING OF INFORMATION FOR A PERIOD OF NINE (9) YEARS FROM THE DATE OF ITS FILING?

V.b

GIVEN THE FACTS OF THE CASE, DID THE RESPONDENT OMBUDSMAN ACT WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT REFUSED TO ORDER THE DISMISSAL OF THE CASE DESPITE THE CLEAR AND PATENT VIOLATION OF THE PETITIONER'S CONSTITUTIONAL RIGHT TO SPEEDY TRIAL AND PROMPT DISPOSITION OF CASES?^[28]

Petitioner's Arguments

In seeking reversal of the assailed Order and dismissal of OMB-MIN-01 -0183 as against her, with additional prayer for injunctive relief, petitioner contends in her Petition and Opposition^[29] to the Ombudsman's Comment, which the Court treats as her Reply,^[30] that the Ombudsman's failure to promptly act on her case for nine years from the filing of her motion for reconsideration, or from July 2003 to September 2012, is a violation of her constitutional right to a speedy disposition of her case; that despite her repeated manifestations and follow-ups, no action was taken on her case; that the Ombudsman and OSP's actions constitute gross neglect and indifference; that the Ombudsman's erroneous action of endorsing her case to the OSP despite the fact that the latter had no jurisdiction over her is the sole cause of the long period of inaction and delay which prejudiced her; and that contrary to the Ombudsman's argument, she should not be deemed estopped, for filing a motion to suspend the filing of the information against her, from claiming her right to a speedy disposition of her case.

Respondents' Arguments

In their joint Comment,^[31] respondents contend that there is no grave abuse of discretion on the part of the Ombudsman in denying petitioner's motion for reconsideration; that her constitutional right to speedy disposition of her case was