Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, **G.R. No. 185503**
Petitioner,

-versus-

HONORABLE SANDIGANBAYAN (SECOND DIVISION) and THADEO Z. OUANO,
Respondents.
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PEOPLE OF THE PHILIPPINES, **G.R. No. 187603**
Petitioner,

-versus-

HONORABLE SANDIGANBAYAN (SECOND DIVISION) and ISABELO A. BRAZA,
Respondents.
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PEOPLE OF THE PHILIPPINES,
Petitioner,

-versus-

HONORABLE SANDIGANBAYAN (SECOND DIVISION) and ROBERT F. LALA, GLORIA R. DINDIN, MARLINA S. ALVIZO, PUREZA A. FERNANDEZ, AGUSTINO P. HERMOSO, LUIS A. GALANG, CRESENCIO T. BAGOLOR, BUENAVENTURA C. PAJO, and RESTITUTO R. DIANO,
Respondents.

G.R. No. 192166

Present:

LEONEN,
HERNANDO,
INTING,
DELOS SANTOS, and
LOPEZ, J., *JJ.*

Promulgated:
May 3, 2021

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DECISION

LEONEN, *J.*:

Once an information has been filed in the Sandiganbayan, dismissal of the criminal case depends on the court's independent assessment of the merits of the motion seeking such dismissal. Although the Ombudsman has the power to file a motion to withdraw a criminal case, the Sandiganbayan is not obligated to grant such motion.

These consolidated cases[1] arose from a case filed by petitioner before the Sandiganbayan.

Sometime in January 2007, the Public Assistance and Corruption Prevention Office (PACPO) of the Office of the Ombudsman-Visayas, in collaboration with several cause-oriented groups, initiated a fact-finding investigation on the streetlamps installed along the streets of Cebu City, Mandaue City, and Lapu-Lapu City for the 12th ASEAN Summit.[2] Afterwards, a Final Evaluation Report dated March 23, 2007 was submitted to the Director of PACPO, concurrently then the OIC-Deputy of the Office of the Ombudsman-Visayas, recommending that a criminal complaint be filed against respondents for violation of Republic Act No. 3019.[3] Thereafter, the

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1 *Rollo*, G.R. No. 192166, pp. 2–58, G.R. No. 187603, pp. 2–59; G.R. No. 185503, pp. 2–44.
2 *Rollo*, G.R. No. 192166, p. 9.
3 Id. at 9.

Office of the Ombudsman-Visayas conducted a preliminary investigation.[4]

Respondents Robert G. Lala, Gloria R. Dindin, Marlina S. Alvizo, Pureza A. Fernandez, Agustino P. Hermoso, Luis A. Galang, Cresencio T. Bagolor, Restituto R. Diano, and Buenaventura C. Pajo (collectively, Lala, et al.) filed a Consolidated Motion for Inhibition, Suspension of the Proceeding and Extension of Time dated April 26, 2007 (Consolidated Motion for Inhibition).[5] They informed the Office of the Ombudsman-Visayas that the Final Evaluation Report and attachments furnished to them was missing certain pages, and prayed that they be given additional time to file their counter-affidavits.[6]

In a May 31, 2007 Order,[7] the Office of the Ombudsman-Visayas denied the Consolidated Motion for Inhibition, but did not resolve the Motion for Extension.[8] Thus, respondents Lala, et al. filed an Omnibus Motion for Reconsideration and to Resolve the Motion for Extension dated July 2, 2007 (Motion to Resolve).[9] They pointed out that the missing pages, documents, or attachments are so numerous and substantial that they must be furnished with it so that they could be fully apprised of the charge against them and intelligently prepare their respective counter-affidavits.[10] On August 28, 2007, respondents Lala, et al. filed an Urgent Motion to Resolve Omnibus Motion for Reconsideration and to Resolve the Motion for Extension, praying that their Motion to Resolve be decided.[11]

The Office of the Ombudsman-Visayas directed respondents Lala, et al. to submit a verified position paper and other additional relevant affidavits or documentary evidence.[12] Respondents Lala, et al. filed a motion reiterating that they could not effectively prepare their defenses until the missing pages were furnished to them.[13] The Office of the Ombudsman-Visayas denied this motion and directed respondents Lala, et al. to file their position paper.[14]

Respondents Lala, et al. filed a Motion for Reconsideration and to Furnish the Missing Pages/Documents/Attachments (Motion to Furnish),[15] which was likewise denied in a November 6, 2007 Order.[16] Consequently, respondents Lala, et al. filed a Petition for Certiorari and Mandamus docketed as CA G.R. Sp. No. 03141 before the Court of Appeals, on the ground that the

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4 Id. at 10.
5 Id. at 235-236.
6 Id. at 234-235.
7 Id. at 236.
8 Id. at 237.
9 Id
10 Id.
11 Id.
12 Id. at 238.
13 Id.
14 Id. at 238–239.
15 Id. at 239.
16 Id. at 239-240.

Office of the Ombudsman-Visayas committed grave abuse of discretion amounting to lack of or in excess of jurisdiction when it did not furnish respondents Lala, et al. with the missing pages, documents, or attachments of the Final Evaluation Report.[17] The Court of Appeals set aside the November 6, 2007 Order.[18]

On April 22, 2008, after preliminary investigation had been concluded,[19] a January 24, 2008 Information was filed before the Sandiganbayan and docketed as SB-08-CRM-0271.[20] The Information reads:

> That on or about the 25th day of September 2006, and for sometime prior or subsequent thereto, at the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, accused GLORIA P. DINDIN, a public officer, being then the Assistant Regional Director of the Department of Public Works and Highways (DPWH) Regional Office No. VII, Cebu City, with authority to represent the Republic of the Philippines (through the DPWH) in a contract, accused ROBERT G. LALA, and PUREZA A. FERNANDEZ, also public officers being then the Regional Director, and OIC-Chief, Maintenance Division, respectively, of the DPWH Regional Office No. VII, and accused THADEO Z. OUANO, MIDELISA P. LATONIO, GREGORIO J. OMO, MARIO S. GEROLAGA, ALFREDO R. SANCHEZ, SR., ROSALINA M. DENQUE, also public officer[s] being then the City Mayor, OIC-City Engineer, Assistant Engineer, and Engineer II, of Mandaue City, and as such officers that are tasked to prepare the Program of Works and Detailed Estimates for infrastructure projects, and accused MARLINA S. ALVIZO, AGUSTINITO [sic] P. HERMOSO, LUIS A. GALANG, RESTITUTO R. DIANO, and BUENEVENTURA C. PAJO, also public officers, being the Chairman and Members, [respectively,] of the Bids and Awards Committee (BAC) of the DPWH Regional Office No. VII, and as such officers are respondents [sic] for ensuring that procurement contracts are awarded in accordance with the standards set forth in R.A. No. 9184, and shall among others, conduct the evaluation of bids and recommend award of contracts, in such capacity and committing the offense in relation to offense [sic], conniving and confederating together and actually [sic] helping each other and with accused ISABELO A. BRAZA, a private individual, being the President and Chairman of the Board of FABMIK Construction and Equipment Supply Co., Inc., with deliberate intent, and with intent of gain and defraud, did then and there willfully, unlawfully and feloniously, on behalf of the Republic of the Philippines, prepare and approve the Program of Work and Detailed Estimates for the supply and installation of street lighting facilities consisting of seventy-eight (78) sets of street lighting single arm assembly, costing about Seventy-Two Thousand Five Hundred Pesos (P72,500.00), Philippine Currency, per set[;] fifty-eight (58) sets of street lighting double arm assembly costing about Eighty-Five Thousand Five Hundred Pesos (P85,500.00), Philippine Currency, per set; and four sets of street lighting triple arm assembly costing about Ninety-Five Thousand Pesos (P95,000.00), per set; along the approaches to and vicinity of the Cebu International Convention Center, Mandaue City, and along Plaridel Sr., W.O. Sano St., C.D. Seno St., Ouano Avenue, and Soriano Avenue,

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17 Id. at 240.
18 Id. at 241.
19 Id. at 10–13.
20 Id. at 13.

> Mandaue City (Contract ID No. 06H00021), conduct the bidding[,] recommend the award of the contract to FABMIK Construction and Equipment Supply Co., Inc., and afterwards enter into the corresponding contract with accused ISABELO A. BRAZA, which contract or transaction was manifest and grossly disadvantageous to the Republic of the Philippines, as the said cost of P72,500.00 and P85,500.00 exceeded the prevailing price of only about Six Thousand Pesos (P6,000.00), Philippine Currency, per set of single arm assembly, Seven Thousand Five Hundred Pesos (P7,500.00), Philippine Currency, per set of double arm assembly, and Eleven Thousand Pesos (P11,000.00), Philippine Currency per set of triple arm assembly, to the damage and prejudice of the government.
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> CONTRARY TO LAW.[21]

On April 28, 2008, respondent Thadeo Z. Ouano (Ouano) filed a Motion for Reconsideration[22] with the Office of the Ombudsman-Visayas.

Respondents Lala, et al. filed a May 14, 2008 Motion for Reconsideration before the Office of the Ombudsman-Visayas.[23] Respondents Lala, et al. also filed their May 19, 2008 Consolidated Urgent Motions: 1. To Dismiss; 2. Suspend Proceeding If No Dismissal; 3. Defer The Issuance of a Warrant of Arrest and if one is Issued to Recall the Same; 4. In the Event of No Dismissal Order the Conduct of Preliminary Investigation (Consolidated Urgent Motions) before the Sandiganbayan,[24] on the following grounds:

> 1. Accused were not accorded preliminary investigation.
>
> 2. The Office of the Ombudsman committed violation of due proeess in the conduct thereof. It was a judge, complainant and prosecutor at the same time.
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> 3. The Court of Appeals 20th Division, which is a co-equal court, had already issued a Decision in the case entitled Engineer Robert G. Lala et. al. vs. Office of the Ombudsman (Visayas), et. al. (CA G.R. SP NO. 03141) nullifying in effect the earlier Order dated November 6, 2007 of the Office of the Ombudsman which refused to furnish herein accused of more than two hundred or about three hundred missing pages that were made the basis of the charge and finding that there was violation of due process of law. Such Decision renders the preliminary investigation allegedly conducted by the Ombudsman as null and void.[25]

On May 23, 2008, the Sandiganbayan set the arraignment and pre-trial of all the accused on July 30, 2008.[26]

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21 Id. at 10–12.
22 *Rollo*, G.R. No. 185503, p. 11.
23 *Rollo*, G.R. No. 192166, p. 13.
24 Id. at 14–15.
25 Id. at 244
26 Id. at 13.

Upon motion, respondent Isabelo A. Braza (Braza) was conditionally arraigned on June 18, 2003, in view of his travel abroad.[27]

However, during the July 30, 2008 hearing, the Sandiganbayan, on motion of respondents Lala, et al., rescheduled their arraignment to September 15, 2008, due to their pending Consolidated Urgent Motions.[28]

On August 13, 2008, because of the suspension of arraignment, respondent Ouano filed a Motion for Reconsideration of the Sandiganbayan's July 30, 2008 Order and prayed that an earlier setting of his arraignment be made on September 15, 2008.[29] The grounds relied upon by respondent Ouano are as follows:

I

ARRAIGNMENT IS A PERSONAL ACT. IT IS A MATTER OF AN ACCUSED SIMPLY ENTERING HIS PLEA TO THE CRIME WITH WHICH HE IS BEING CHARGED. IT IS WHOLLY DIFFERENT FROM PRESENTATION OF EVIDENCE WHERE A "PIECEMEAL" PRESENTATION WOULD INDEED BE WASTEFUL OF THE TIME AND RESOURCES OF THE HONORABLE COURT.

II

THE DELAY IN ACCUSED OUANO'S ARRAIGNMENT CONSTITUTES A VIOLATION OF HIS RIGHT TO SPEEDY TRIAL.

III

THE ADMISSION MADE BY THE PROSECUTION THAT ITS CASE IS WEAK AND THAT IT INTENDS TO AMEND THE INFORMATION CANNOT OPERATE AS A BAR TO ACCUSED OUANO'S RIGHT TO ENTER HIS PLEA AND THUS ASSURE HIS RIGHT AGAINST DOUBLE JEOPARDY.[30]

Respondent Braza filed an August 22, 2008 Motion for Reinvestigation, praying that the proceedings be suspended, and to direct the Office of the Ombudsman, through the Office of the Special Prosecutor, to conduct reinvestigation or reconsideration of the finding of probable cause.[31]

Due to the pendency of the above-mentioned Motions, the September 15, 2008 arraignment was again cancelled and reset to December 4, 2008.[32]

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27 *Rollo*, G.R. No. 185503, p. 12.
28 *Rollo*, G.R. No. 192166, p. 14.
29 *Rollo*, G.R. No. 185503, p. 13.
30 Id. at 318.
31 *Rollo*, G.R. No. 187603, pp. 15-16.
32 Id. at 16.

Respondent Ouano filed an August 13, 2008 Motion for Reconsideration, to set his arraignment to an earlier date. This was opposed by petitioner in an August 21, 2008 Opposition. In an October 6, 2008 Resolution, the Sandiganbayan granted respondent Ouano's Motion for Reconsideration and set his arraignment to October 17, 2008:[33]

> We find the motion meritorious not only as an invocation on the part of the movant-accused of a statutory prerogative but likewise as a strong plea for his right under the constitution.
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> As argued by the movant in his motion, to be arraigned as the dictates of speedy justice warrant is enshrined not only in R.A. 1998 which ordains the arraignment and the pre-trial within thirty (30) days from the date the Court acquires jurisdiction over the person of the accused, but also in our Constitution which provides that all persons shall have the right to speedy disposition of their case before all judicial, quasi-judicial or administrative bodies. This case was filed with this Court as early as April 22, 2008 and We can not see any valid reason why the arraignment as well as pre-trial shall not proceed.
>
> Moreover, the Court is persuaded that the holding of the arraignment of one of the accused can hardly be considered as contributory to piecemeal proceedings which was the basis of its order in open court in postponing the arraignment.[34]

Petitioner then filed an October 15, 2008 Motion to Withdraw Information:

> 1. That On 18 September 2008, the panel of Prosecutors stated in its Comment to accused Braza's Motion for Investigation dated 22, 2008 [*sic*] to wit:
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> > "the alleged spurious and falsified import documents are matters that are material not only to the resolution of the case but more importantly for the determination whether there is a need to suspend further proceeding of the instant case without passing the issue of falsification. However, the prosecution is not in the position to determine whether or not the overpriced lighting poles were indeed anchored on spurious and falsified import documents submitted by the Bureau of Customs as they were not the ones who conducted the who conducted the [*sic*] Preliminary Investigation of the case, but the Office of the Ombudsman-Visayas.
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> > x x x x
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> > Considering the intricacies of the issues raised by the accused, it would seem that a further study of the above-entitled case is imperative."
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> ...

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[33] Id. at 17.

[34] *Rollo*, G.R. No. 185503, p. 334.

> 3. That after a thorough study, the Office of the Ombudsman-Visayas, recommended the conduct of further investigation with the end in view of obtaining additional evidence in the light of the Audit Report prepared by the Commission on Audit relative to the procurement of street lighting facilities during the 12th ASEAN Summit held in Cebu City and to determine whether or not the Office of the Ombudsman Visaya's (*sic*) finding of gross overpricing of the lighting poles are based on spurious and falsified import documents coming from the Bureau of Customs;
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> ...
>
> WHEREFORE, it is respectfully prayed that the instant Motion to Withdraw Information be GRANTED and that the case be dismissed without prejudice and that the scheduled arraignment of accused Ouano on 17 October 2008 be cancelled.[35]

On October 17, 2008, during the hearing on the Motion to Withdraw and the arraignment of respondent Ouano, the Sandiganbayan gave all the accused 10 days within which to file their respective comments. However, as regards respondent Ouano, the Sandiganbayan denied petitioner's Motion to Withdraw verbally and in open court. Petitioner's verbal Motion for Reconsideration was likewise verbally denied, and respondent Ouano was arraigned.[36]

Thus, petitioner filed a Petition[37] before this Court, docketed as G.R. No. 185503. Petitioner prayed mainly that this Court nullify respondent Sandiganbayan's order in open court, denying petitioner's Motion to Withdraw Information in so far as respondent Ouano is concerned, and his consequent arraignment.[38]

In response to the Motion to Withdraw Information, respondent Braza filed a November 14, 2008 Manifestation with Motion (to Vacate Information and Dismiss the Case with Prejudice)[39] (Motion to Vacate). He moved that the Information against him be vacated for lack of probable cause, and the case against him be dismissed with prejudice on the ground that petitioner is "guilty of abusing its investigatory and prosecutorial powers," and violated his right to the speedy disposition of his case.[40]

In a March 10, 2009 Resolution,[41] the Sandiganbayan granted respondent Braza's Motion to Vacate, finding that the prosecution, in seeking dismissal of the case, violated the right of the accused to a speedy disposition

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35 Id. at 336-338.
36 Id. at 18.
37 Id. at 2-40
38 Id. at 39.
39 *Rollo* (G.R. No. 187603), pp. 295–306.
40 Id. at 297.
41 Id. at 63-71. Penned by Acting Presiding Justice Edilberto G. Sandoval (Chairman) and concurred in by Associate Justices Teresita V. Diaz-Baldos and Samuel R. Martires (now a retired Member of this Court)

of his case:

> From the foregoing, the moot point of the instant controversy which this Court is called upon to resolve revolves around the right of the accused as enshrined in Article III, Section 16 of the Constitution.
>
> Accused's Motion is impressed with merit.
>
> It is not the proceedings *as had* which is being challenged by the accused; rather, it is the dismissal *as sought* by the Prosecution. This was the point made by the accused Braza in his *Manifestation and Motion*:
>
> > 6. Accused Braza hereby moves that the Information be vacated for lack of probable cause and the case be dismissed with prejudice on the following GROUND:
> >
> > By admitting the absence of probable cause and seeking the remand of the case for further investigation proceedings for purposes of obtaining additional evidence in the hope of sustaining, this time, a finding of probable cause, the prosecution is guilty of abusing its investigatory and prosecutorial powers and violating the basic right of the accused to speedy disposition of his case, thereby warranting its dismissal with prejudice.[42] (Emphasis in the original)

The Sandiganbayan expounded on why it could not grant the Motion to Withdraw the Information:

> The key in understanding the invocation by the accused of his constitutional right is to scrutinize the motive of the Prosecution in asking for a dismissal of the case without prejudice.
>
> Essentially, the plea of the Prosecution for such a dismissal is an appeal that it be granted permission to conduct anew a preliminary investigation. This we can not sanction....
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> ...
>
> Hence, if this Court were to dismiss the case without prejudice in order for the Prosecution to conduct further investigation, we are, in effect, giving them the imprimatur to do indirectly what they can not do directly.[43]

Thus, petitioner filed a Petition[44] before this Court docketed as G.R. No. 187603, praying that the Sandiganbayan's March 10, 2009 Resolution be set aside.

On March 13, 2009, respondents Lala, et al. filed a Supplemental

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42 Id. at 64–65.
43 Id. at 65–66.
44 Id. at 2–59.

Motion to Dismiss the Case with Prejudice.[45]

The Sandiganbayan issued a July 28, 2009 Resolution,[46] resolving the following:

> 1. Accused Robert G. Lala et. al's **CONSOLIDATED URGENT MOTION: (1) TO DISMISS (2) SUSPEND PROCEEDINGS IF NO DISMISSAL (3) DEFER THE ISSUANCE OF WARRANT OF ARREST AND IF ONE IS ISSUED TO RECALL THE SAME (4) IN THE EVENT OF NO DISMISSAL ORDER THE CONDUCT OF PRELIMINARY INVESTIGATION** dated May 19, 2008. With Plaintiff's **OPPOSITION** dated June 17, 2008, and Accused Robert G. Lala et. al's **REPLY** dated July 16, 2008.
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> 2. **PROSECUTION'S MOTION TO WITHDRAW INFORMATION** dated October 15, 2008 with Accused Ouano's **COMMENT** dated October 24, 2008.
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> 3. Accused Robert Lala's **SUPPLEMENTAL MOTION TO DISMISS THE CASE WITH PREJUDICE** dated March 16, 2009 with Prosecution's **OPPOSITION** dated April 21, 2009, and Accused Robert Lala's **REPLY** dated May 11, 2009.[47] (Emphasis in the original)

The Sandiganbayan found that the Office of the Ombudsman-Visayas violated respondent Lala, et al.'s right to due process during the preliminary investigation by not supplying them with more than 200 pages of documents.[48] It held that the right to preliminary investigation is a component of due process and a substantive right. Further, it stated that to deny an accused of preliminary investigation is to deprive him of his right to due process.[49]

The Sandiganbayan applied the standards of due process laid down in *Ang Tibay v. Court of Industrial Relations*[50] and concluded that the Ombudsman's finding of probable cause was tainted with grave abuse of discretion, and violated respondent Lala, et al.'s right to due process of law.[51] Further, the Sandiganbayan relied on statements made by the prosecution in open court, where the prosecution stated that the evidence on record is not sufficient to establish probable cause.[52] Based on the foregoing, the Sandiganbayan dismissed the case against respondent Lala, et al., stating that there was no evidence against them.[53]

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45 *Rollo*, G.R. No. 192166, p. 246.
46 Id. at 61-69.
47 Id. at 61-62.
48 Id. at 62-63.
49 Id. at 66.
50 69 Phil. 635 (1940) [Per J. Laurel].
51 *Rollo*, G.R. No. 192166, p. 66.
52 Id. at 67-68.
53 Id. at 68.

Resolving petitioner's Motion for Reconsideration of the July 28, 2009 Resolution, the Sandiganbayan held that the preliminary investigation conducted was "hasty and injudicious":[54]

> It was admitted by the prosecution that this case has no sufficient evidence to fuel its fire as evidenced by their move to withdraw the Information. purposely to better it. or to drop the charges against accused. There certainly is abuse. In seeing their case through they completely ignored their obligation to accused not to subject them to an insubstantial case. They themselves are not convinced to prosecute the case at a stage when they should be. Now. that is their obligation, an obligation which requires responsibility.[55]

Thus, petitioners filed a Petition[56] with this Court, docketed as G.R. No. 192166.

In G.R. No. 185503, petitioner argues that filing a motion to withdraw is an exercise of the constitutionally-mandated power of the Office of the Ombudsman to investigate and prosecute cases.[57] Petitioner argues that the Sandiganbayan cannot compel petitioner to prosecute when petitioner is not convinced that it has the quantum of evidence at hand to support the averments in the information filed.[58] Petitioner also argues that the Sandiganbayan placed too much premium on the right of the accused to speedy trial, which results in forcing petitioner to litigate though it has no case against the accused. Thus, petitioner's grounds for initiating G.R. No. 1875503 are:

> A. THAT THE RESPONDENT COURT ACTED WITHOUT JURISDICTION OR IN EXCESS OF OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT PROCEEDED WITH THE ARRAIGNMENT OF PRIVATE OUANO DESPITE THE PEOPLE'S MOTION TO DEFER THE ARRAIGNMENT ON ACCOUNT OF THE PENDENCY OF SEVERAL MOTIONS AFFECTING THE INFORMATION AND MOTION [TO] WITHDRAW THE INFORMATION IN SB08-CRM-0271; AND
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> B. THAT THE RESPONDENT COURT'S RULING DENYING BOTH THE DEFERMENT OF THE ARRAIGNMENT OF RESPONDENT OUANO AND THE MOTION TO WITHDRAW INFORMATION BY THE PEOPLE EFFECTIVELY FORECLOSED THE LATTER'S RIGHT TO FAIRLY PROSECUTE ERRING GOVERNMENT OFFICIALS AND THEIR CAHOOTS.[59]

Respondent Ouano argues that proceeding with his arraignment was

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54 Id. at 70–71.
55 Id. at 71.
56 Id. at 2–45.
57 *Rollo*, G.R. No 185503, pp. 27 29.
58 Id. at 29.
59 Id. at 25 26.

pursuant to the right of the accused to a speedy trial.[60] As regards the dismissal of the case, this was perfectly within the Sandiganbayan's discretion.[61]

In G.R. No. 187603, petitioner argues that: (1) petitioner's supposed "admission" regarding the amount of evidence should not have been relied on without taking into consideration petitioner's other motions;[62] (2) there was no inordinate delay during the preliminary investigation of the case;[63] (3) petitioner's prayer to withdraw the information and conduct a new preliminary investigation is not malicious and oppressive prosecution;[64] (4) it is premature to assume that petitioner will conduct a new preliminary investigation for a period that will violate the right of the accused to a speedy trial;[65] and (5) petitioner must also be afforded due process in the prosecution of the case.[66]

Respondent Braza claims that the petition is barred by the rule on double jeopardy.[67] He argues further that, in any case, the Sandiganbayan did not commit grave abuse of discretion in dismissing his case,[68] pointing out that petitioner categorically admitted that it has no case against him.[69] Further, the withdrawal of the information to enable petitioner to obtain additional evidence is prejudicial to respondent Braza's right to a speedy disposition of his case.[70]

In G.R. No. 192166, petitioner argues that: (1) the Sandiganbayan should not have ruled on the Motion to Withdraw Information in its July 28, 2009 Resolution, considering it had already denied the same in open court in its October 17, 2008 Order;[71] (2) the Sandiganbayan committed grave abuse of discretion when it stated in its March 24, 2010 Resolution that the case against respondent Ouano was dismissed with prejudice, when no order dismissing the case had been issued;[72] (3) the Office of the Ombudsman's preliminary investigation against respondent Ouano was not attended with abuse;[73] and (4) the Sandiganbayan erred by dismissing the case outright and ruling that petitioner had no sufficient evidence against respondent Ouano.[74]

Petitioner argues that preliminary investigation is not the occasion for

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[60] Id. at 357–358.
[61] Id. at 360–363.
[62] *Rollo*, G.R. No. 187603, p. 27.
[63] Id. at 29.
[64] Id. at 29.
[65] Id. at 43.
[66] Id. at 45.
[67] Id. at 465–469.
[68] Id. at 469–470.
[69] Id. at 470–475.
[70] Id. at 475–477.
[71] *Rollo*, G.R. No. 192166, p. 23.
[72] Id. at 32.
[73] Id. at 34–35.
[74] Id. at 44.

the full and exhaustive display of the parties' evidence.[75] Moreover, the presence or absence of probable cause is to be determined from the material averments of the information and the appendages thereof.[76] Petitioner says it is an error to dismiss the case outright by ruling that the prosecution has no sufficient evidence against the accused.[77] The sudden haste by which the Sandiganbayan dismissed the case deprived petitioner of its right to due process during the pre-trial stage.

Respondents Lala, et al. insist that petitioner deprived them of due process during the preliminary investigation,[78] and that petitioner has no sufficient evidence against them to proceed to trial.[79]

In G.R. No. 185503, this Court required respondent Ouano to file a comment on the petition, and petitioner to submit a proper verification.[80] Respondent Ouano filed a Motion for Extension of Time to File Comment[81] while petitioner filed its Compliance.[82] Thereafter, respondent Ouano filed his Comment (to Plaintiff's Petition).[83] Petitioner then filed its Reply.[84]

Respondent Braza filed his Comment in G.R. No. 187603.[85]

After G.R. No. 192166 was filed, this Court consolidated G.R. No. 185503 with G.R. Nos. 187603 and 192166,[86] and required respondents in G.R. No. 192166 to file a comment on the petition.[87] Respondents filed their Comment,[88] after which petitioner filed its Reply dated January 29, 2010.[89]

For this Court's resolution are the following issues:

First, whether or not the Sandiganbayan erred in denying petitioner's Motion to Withdraw;

Second, whether or not the Sandiganbayan committed grave abuse of discretion in dismissing the cases in G.R. No. 187603 against respondent Isabelo A. Braza, and G.R. No. 192166 against respondents Robert Lala, et al.;

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75 Id. at 41.
76 Id. at 44.
77 Id.
78 Id. at 249-259.
79 Id. at 259-261.
80 *Rollo*, G.R. No. 185503, p. 342.
81 Id. at 344.
82 Id. at 348–349.
83 Id. at 355–366.
84 Id. at 377–405.
85 *Rollo*, G.R. No. 187603, pp. 447–497.
86 *Rollo*, G.R. No. 185503, p. 501.
87 *Rollo*, G.R. No. 192166, p. 210.
88 Id. at 233–266.
89 *Rollo*, G.R. No. 187603, p. 576–599.

Third, whether or not the Sandiganbayan erred in proceeding with the arraignment of respondent Thadeo Z. Ouano despite several pending motions;

Fourth, whether or not the petitions assailing the dismissal of the cases against respondent Isabelo A. Braza and respondents Robert Lala, et al. are barred by the proscription against double jeopardy;

Fifth, whether or not the Sandiganbayan violated respondent Isabelo A. Braza's right to speedy trial; and

Lastly, whether or not the Sandiganbayan committed grave abuse of discretion in stating that the case against respondent Thadeo Z. Ouano had been dismissed with prejudice.

The Petition for Certiorari and Prohibition in G.R. No. 185503 is denied. The Petitions for Certiorari in G.R. Nos. 187603 and 192166 are granted.

I

Once an information has been filed in court, the court acquires jurisdiction over the criminal case. Dismissal of the criminal case depends on the court's independent assessment of the merits of the motion seeking such dismissal.[1]

Crespo v. Mogul[2] is instructive:

> The filing of a complaint or information in Court initiates a criminal action. The Court thereby acquires jurisdiction over the case, which is the authority to hear and determine the case. When after the filing of the complaint or information a warrant for the arrest of the accused is issued by the trial court and the accused either voluntarily submitted himself to the Court or was duly arrested, the Court thereby acquired jurisdiction over the person of the accused.
>
> The preliminary investigation conducted by the fiscal for the purpose of determining whether a *prima facie* case exists warranting the prosecution of the accused is terminated upon the filing of the information in the proper court. In turn, as above stated, the filing of said information sets in motion the criminal action against the accused in Court. Should the fiscal find it proper to conduct a reinvestigation of the case, at such stage, the permission of the Court must be secured. After such reinvestigation the finding and recommendations of the fiscal should be submitted to the Court for appropriate action. While it is true that the fiscal has the quasi-judicial discretion to determine whether or not a criminal case should be filed in

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[1] *Crespo v. Mogul*, 235 Phil. 465 (1987) [Per J. Gancayco, En Banc].

[2] Id.

> court or not. once the case had already been brought to Court whatever disposition the fiscal may feel should be proper in the case thereafter should be addressed for the consideration of the Court. The only qualification is that the action of the Court must not impair the substantial rights of the accused or the right of the People to due process of law.
>
> *Whether the accused had been arraigned or not and whether it was due to a reinvestigation by the fiscal or a review by the Secretary of Justice whereby a motion to dismiss was submitted to the Court, the Court in the exercise of its discretion may grant the motion or deny it and require that the trial on the merits proceed for the proper determination of the case.*
>
> However, one may ask, if the trial court refuses to grant the motion to dismiss filed by the fiscal upon the directive of the Secretary of Justice will there not be a vacuum in the prosecution? A state prosecutor to handle the case cannot possibly be designated by the Secretary of Justice who does not believe that there is a basis for prosecution nor can the fiscal be expected to handle the prosecution of the case thereby defying the superior order of the Secretary of Justice.[92] (Emphasis supplied, citations omitted)

Applying the doctrine in *Crespo*, after the information against private respondents was filed with the Sandiganbayan, the dismissal of the criminal case depended on its independent assessment of the merits of the motion. Therefore, whether to grant or deny petitioner's Motion to Withdraw was within the discretion of the Sandiganbayan.

In any case, the Motion to Withdraw was properly denied, as it did not show, or even mention, any legal ground as basis for its grant. Glaringly, the Motion to Withdraw did not even cite absence of probable cause as its basis.[93]

The Motion to Withdraw, as filed, was based solely on the recommendation by the Office of the Ombudsman-Visayas that petitioner conduct further investigation. Citing *People vs. Velez*,[94] petitioner argues that granting the Motion to Withdraw was proper, as jurisprudence recognizes the power of the Office of the Ombudsman to investigate and prosecute cases, and asserts that the Motion to Withdraw was filed pursuant to this power.[95]

This is unconvincing. Although the Office of the Ombudsman may move to withdraw an information filed in court, in *Velez*,[96] this Court pointed out that whether to allow the withdrawal is discretionary upon the Sandiganbayan:

> While the Office of the Ombudsman has the discretion to determine whether an Information should be withdrawn and a criminal case should be dismissed, and to move for the withdrawal of such Information or dismissal

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92 Id. at 474–475.
93 *Rollo* G.R. No. 185503, pp. 336-338. .
94 445 Phil. 784 (2003) [Per J. Callejo, Second Division].
95 *Rollo*, G.R. No. 185503, pp. 27-28.
96 445 Phil. 784 (2003) [Per J. Callejo, Second Division].

> of a criminal case, the final disposition of the said motion and of the case is addressed to the sound discretion of the SB subject only to the caveat that the action of the SB must not impair the substantial rights of the accused and of the right of the People to due process of law. In this case, the Court holds that the SB acted in the exercise of its sound judicial discretion in granting the motion of respondents and ordering the dismissal of Criminal Case No. 24307.[97] (Citation omitted)

Petitioner also cites *Punzalan v. Dela Peña*[98] to argue that respect for the authority of the prosecuting agency should be properly accorded. This argument is misplaced, because the denial of the Motion to Withdraw did not interfere with this authority.

In *Crespo*, this Court expounded on the role of the prosecutor when its motion to withdraw is denied:

> The role of the fiscal or prosecutor as We all know is to see that justice is done and not necessarily to secure the conviction of the person accused before the Courts. Thus, in spite of his opinion to the contrary, it is the duty of the fiscal to proceed with the presentation of evidence of the prosecution to the Court to enable the Court to arrive at its own independent judgment as to whether the accused should be convicted or acquitted. The fiscal should not shirk from the responsibility of appearing for the People of the Philippines even under such circumstances much less should he abandon the prosecution of the case leaving it to the hands of a private prosecutor for then the entire proceedings will be null and void. The least that the fiscal should do is to continue to appear for the prosecution although he may turn over the presentation of the evidence to the private prosecutor but still under his direction and control.[99] (Citations omitted)

It is basic that the Office of the Ombudsman has the authority to direct the prosecution of the criminal case filed, and may thus file a motion to withdraw. This authority, however, does not correspond to an obligation on the part of the Sandiganbayan to automatically grant it.[100] Rather, the Sandiganbayan has full discretion to deny a motion to withdraw, and the Office of the Ombudsman should not shirk from the responsibility of appearing for the People of the Philippines even under such circumstances.

II

Once a case has been filed in court, the court cannot grant a motion to withdraw or a motion to dismiss without an independent evaluation and assessment of the merits of the case against the accused.[101] Thus, when

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97 Id. at 800.

98 478 Phil. 771 (2004) [Per J. Ynares-Santiago, First Division]; *Rollo*, G.R. No. 185503, pp. 28-29.

99 235 Phil. 465, 475–476 (1987) [Per J. Gancayco, En Banc].

100 *Mendoza v. People*, 733 Phil. 603 (2014) [Per. J. Leonen, Third Division].

101 *Summerville General Merchandising & Co., Inc. v. Hon. Antonio M. Eugenio, Jr.*, 556 Phil. 121 (2007) [Per J. Velasco, Jr., Second Division].

confronted with a motion to withdraw an information on the ground of lack of probable cause based on a resolution of the Secretary of the Department of Justice, the duty of a trial court is to make an independent assessment of the merits of a case.[102]

Pursuant to this bounden duty, a trial court may not rely solely on the recommendations of the prosecutor in determining whether to dismiss a case. Thus, it is grave abuse of discretion to grant the prosecution's motion to dismiss where it is evident that the trial court did not make an independent evaluation or assessment of the case. In *Perez v. Hagonoy Rural Bank, Inc.*:[103]

> The above quoted Order allowing the amendment of the information to exclude petitioner therefrom effectively dismissed the criminal case against the latter. That the trial judge did not make an independent evaluation or assessment of the merits of the case is apparent from the foregoing order. Judge Masadao's reliance on the prosecutor's averment that the Secretary of Justice had recommended the dismissal of the case against the petitioner was, to say the least, an abdication of the trial court's duty and jurisdiction to determine a *prima facie* case, in blatant violation of this Court's pronouncement in *Crespo v. Mogul* as reiterated in the later case of *Martinez v. Court of Appeals*, to wit:
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> > "In other words, the grant of the motion to dismiss was based upon considerations other than the judge's own personal individual conviction that there was no case against the accused. Whether to approve or disapprove the stand taken by the prosecution is not the exercise of discretion required in cases like this. The trial judge must himself be convinced that there was indeed no sufficient evidence against the accused, and this conclusion can be arrived at only after an assessment of the evidence in the possession of the prosecution. What was imperatively required was the trial judge's own assessment of such evidence, it not being sufficient for the valid and proper exercise of judicial discretion merely to accept the prosecution's word for its supposed insufficiency.
> >
> > "As aptly observed by the Office of the Solicitor General, in failing to make an independent finding of the merits of the case and merely anchoring the dismissal on the revised position of the prosecution, the trial judge relinquished the discretion he was duty bound to exercise. In effect, it was the prosecution, through the Department of Justice which decided what to do and not the court which was reduced to a mere rubber stamp in violation of the ruling in *Crespo v. Mogul*."[104] (Citations omitted)

In other words, a trial judge may dismiss a criminal case for lack of

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[102] *Ark Travel Express, Inc. v. The Presiding Judge of the Regional Trial Court of Makati, Branch 150, Hon. Zeus Abrogar*, 457 Phil. 189 [Per J. Austria-Martinez, Second Division].

[103] 384 Phil. 322 (2000) [Per J. De Leon, Jr., Second Division]

[104] Id. at 332–333.

probable cause only after an assessment of the prosecution's evidence.

In G.R. No. 187603, the Sandiganbayan dismissed the case against respondent Braza without first making an independent assessment of the evidence available. Instead, it relied solely on petitioner's purported admissions as to the lack of evidence against private respondents. In dismissing the case against respondent Braza, the only mention of the substance of the case was this:

> During the hearing on the motion of the Prosecution to withdraw the Information, they have stated on record that they have no case against the accused.[105]

It is apparent that the Sandiganbayan did not make an independent evaluation of the evidence available. By dismissing the case against respondent Braza without such independent assessment of the evidence, it abdicated its duty.

The Sandiganbayan similarly dismissed the case against respondents Lala, et al. in G.R. No. 192166 without the required independent assessment of evidence. Even worse, it's primary reason for dismissing the case was petitioner's supposed grave abuse of discretion during the preliminary investigation.

Once an information has been filed in the proper court, the preliminary investigation conducted for the purpose of determining whether a *prima facie* case exists is terminated.[106] Consequently, a petition for certiorari questioning the validity of the preliminary investigation in any other venue is rendered moot by the issuance of a warrant of arrest and the conduct of arraignment. In *De Lima v. Reyes*:[107]

> Here, the trial court has already determined, independently of any finding or recommendation by the First Panel or the Second Panel, that probable cause exists for the issuance of the warrant of arrest against respondent. Probable cause has been judicially determined. Jurisdiction over the case, therefore, has transferred to the trial court. A petition for certiorari questioning the validity of the preliminary investigation in any other venue has been rendered moot by the issuance of the warrant of arrest and the conduct of arraignment.[108]

Consequently, any grave abuse of discretion that may have occurred during the preliminary investigation is, as a general rule, rendered moot and academic once a judge has made a judicial determination of probable cause.

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[105] *Rollo*, G.R. No. 187603, p. 66.
[106] *Crespo v. Mogul*, 235 Phil. 465 (1987) [Per J. Gancayco, En Banc].
[107] *De Lima v. Reyes*, 776 Phil. 623 (2016) [Per J. Leonen, Second Division].
[108] Id. at 652.

Despite this, in the assailed July 16, 2009 Resolution, the Sandiganbayan discussed the right of the accused to due process, in relation to preliminary investigation, and ruled that the Ombudsman's finding of probable cause was tainted with grave abuse of discretion:

> Cognizant of these considerations, We hold that the Ombudsman's finding of probable cause is tainted with grave abuse of discretion thereby violating Accused-Movants right to due process of law.[109]

Similarly, in denying petitioner's Motion for Reconsideration, the Sandiganbayan did not mention that it evaluated the evidence against respondents, but chastised petitioner for the manner by which the investigation was conducted:

> A reading of the records of this case would present circumstances which would indicate that the manner in which the investigation was handled was hasty and injudicious. It was admitted by the prosecution that this case has no sufficient evidence to fuel its fire as evidenced by their move to withdraw the Information, purposely to better it, or to drop the charges against accused. There certainly is abuse. In seeing their case through they completely ignored their obligation to accused not to subject them to an insubstantial case. They themselves are not convinced to prosecute the case at a stage when they should be. Now, that is their obligation, an obligation which requires responsibility.[110]

The Sandiganbayan thus committed grave abuse of discretion in dismissing a criminal case already pending before it based on grave abuse of discretion allegedly committed during petitioner's preliminary investigation.

In *Ho v. People*,[111] this Court discussed at length the constitutional mandate of the courts in judicially determining the existence of probable cause. It noted that Article III, Section 2 of the Constitution introduced the requirement that judges determine probable cause "personally," and emphasized that this demonstrates the expanded responsibility of trial court judges in the issuance of warrants of arrest. It differentiated a judge's duty to determine probable cause from a prosecutor's findings based on preliminary investigation, and expounded on the relationship between the two:

> We should stress that the 1987 Constitution requires the judge to determine probable cause "personally." The word "personally" does not appear in the corresponding provisions of our previous Constitutions. This emphasis shows the present Constitution's intent to place a greater degree of responsibility upon trial judges than that imposed under the previous Charters.

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[109] *Rollo*, G.R. No. 192166, p. 66.
[110] Id. at 71.
[111] 345 Phil. 597 (1997) [Per J. Panganiban, En Banc].

While affirming *Soliven*, *People vs. Inting* elaborated on what "determination of probable cause" entails, differentiating the judge's object or goal from that of the prosecutor's.

> "First, the determination of probable cause is a function of the Judge. It is not for the Provincial Fiscal or Prosecutor nor for the Election Supervisor to ascertain. Only the Judge and the Judge alone makes this determination.
>
> "Second, the preliminary inquiry made by a Prosecutor does not bind the Judge. It merely assists him to make the determination of probable cause. The Judge does not have to follow what the Prosecutor presents to him. By itself, the Prosecutor's certification of probable cause is ineffectual. It is the report, the affidavits[,] the transcripts of stenographic notes (if any), and all other supporting documents behind the Prosecutor's certification which are material in assisting the Judge to make his determination.
>
> "And third, Judges and Prosecutors alike should distinguish the preliminary inquiry which determines probable cause for the issuance of a warrant of arrest from the preliminary investigation proper which ascertains whether the offender should be held for trial or released. Even if the two inquiries are conducted in the course of one and the same proceeding, there should be no confusion about the objectives. The determination of probable cause for the warrant of arrest is made by the Judge. The preliminary investigation proper — whether or not there is reasonable ground to believe that the accused is guilty of the offense charged and, therefore, whether or not he should be subjected to the expense, rigors and embarrassment of trial — is the function of the Prosecutor."

And clarifying the statement in *People vs. Delgado* — that the "trial court may rely on the resolution of the COMELEC to file the information, by the same token that it may rely on the certification made by the prosecutor who conducted the preliminary investigation, in the issuance of the warrant of arrest" — this Court underscored in *Lim Sr. vs. Felix* that "[r]eliance on the COMELEC resolution or the Prosecutor's certification presupposes that the records of either the COMELEC or the Prosecutor have been submitted to the Judge and he relies on the certification or resolution because the records of the investigation sustain the recommendation." We added, "The warrant issues not on the strength of the certification standing alone but because of the records which sustain it." Summing up, the Court said:

> "We reiterate the ruling in *Soliven vs. Makasiar* that the Judge does not have to personally examine the complainant and his witnesses. The Prosecutor can perform the same functions as a commissioner for the taking of the evidence. However, there should be a report and necessary documents supporting the Fiscal's bare certification. All of these should be before the Judge.
>
> The extent of the Judge's personal examination of the

> report and its annexes depends on the circumstances of each case. We cannot determine beforehand how cursory or exhaustive the Judge's examination should be. The Judge has to exercise sound discretion for, after all, the personal determination is vested in the Judge by the Constitution. It can be as brief or as detailed as the circumstances of each case require. To be sure, the Judge must go beyond the Prosecutor's certification and investigation report whenever necessary. He should call for [the] complainant and [the] witnesses themselves to answer the court's probing questions when the circumstances of the case so require."

The above rulings in *Soliven*, *Inting* and *Lim Sr.* were iterated in *Allado vs. Diokno* where we explained again what probable cause means. Probable cause for the issuance of a warrant of arrest is the existence of such facts and circumstances that would lead a reasonably discreet and prudent person to believe that an offense has been committed by the person sought to be arrested. Hence, the judge, before issuing a warrant of arrest, "must satisfy himself that based on the evidence submitted there is sufficient proof that a crime has been committed and that the person to be arrested is probably guilty thereof." At this stage of the criminal proceeding, the judge is not yet tasked to review in detail the evidence submitted during the preliminary investigation. It is sufficient that he personally evaluates such evidence in determining probable cause. In *Webb vs. De Leon*, we stressed that the judge merely determines the probability, not the certainty, of guilt of the accused and, in doing so, he need not conduct a de novo hearing. He simply personally reviews the prosecutor's initial determination finding probable cause to see if it is supported by substantial evidence.

...

In light of the aforecited decisions of this Court, such justification cannot be upheld. Lest we be too repetitive, we only wish to emphasize three vital matters once more: *First*, as held in *Inting*, the determination of probable cause by the prosecutor is for a purpose different from that which is to be made by the judge. Whether there is reasonable ground to believe that the accused is guilty of the offense charged and should be held for trial is what the prosecutor passes upon. The judge, on the other hand, determines whether a warrant of arrest should be issued against the accused, i.e. whether there is a necessity for placing him under immediate custody in order not to frustrate the ends of justice. Thus, even if both should base their findings on one and the same proceeding or evidence, there should be no confusion as to their distinct objectives.

Second, since their objectives are different, the judge cannot rely solely on the report of the prosecutor in finding probable cause to justify the issuance of a warrant of arrest. Obviously and understandably, the contents of the prosecutor's report will support his own conclusion that there is reason to charge the accused of an offense and hold him for trial. However, the judge must decide independently. Hence, he must have supporting evidence, other than the prosecutor's bare report, upon which to legally sustain his own findings on the existence (or nonexistence) of probable cause to issue an arrest order. This responsibility of determining personally and independently the existence or nonexistence of probable cause is lodged in him by no less than the most basic law of the land. Parenthetically, the prosecutor could ease the burden of the judge and speed up the litigation process by forwarding to the latter not only the information and his bare

> resolution finding probable cause, but also so much of the records and the evidence on hand as to enable His Honor to make his personal and separate judicial finding on whether to issue a warrant of arrest.
>
> *Lastly*, it is not required that the complete or entire records of the case during the preliminary investigation be submitted to and examined by the judge. We do not intend to unduly burden trial courts by obliging them to examine the complete records of every case all the time simply for the purpose of ordering the arrest of an accused. What is required, rather, is that the judge must have sufficient supporting documents (such as the complaint, affidavits, counter-affidavits, sworn statements of witnesses or transcripts of stenographic notes, if any) upon which to make his independent judgment or, at the very least, upon which to verify the findings of the prosecutor as to the existence of probable cause. The point is: he cannot rely solely and entirely on the prosecutor's recommendation, as Respondent Court did in this case. Although the prosecutor enjoys the legal presumption of regularity in the performance of his official duties and functions, which in turn gives his report the presumption of accuracy, the Constitution, we repeat, commands the judge to personally determine probable cause in the issuance of warrants of arrest. This Court has consistently held that a judge fails in his bounden duty if he relies merely on the certification or the report of the investigating officer.[112] (Citations omitted)

Considering that the Sandiganbayan set the case for arraignment multiple times, it presumably judicially determined, based on the records, that probable cause exists to proceed to trial. Thus, even assuming that the Office of the Ombudsman's preliminary investigation of respondents Lala, et al. was tainted with grave abuse of discretion, such grave abuse of discretion was rendered moot after the Sandiganbayan judicially determined that probable cause existed to proceed with trial against respondents.

Regarding the issue of evidence, the Sandiganbayan's lone statement is:

> In the case at bench, it is clear from the manifestation of the People and from the facts extant on the records that there is no evidence against the accused. The dismissal of the case is warranted. After all this is the immediate consequence of the move of the Prosecution to withdraw the information to which the Court accords its approval.[113]

Although it mentions "facts extant on the records," it is evident from the March 10, 2009 Resolution, taken together with the July 28, 2009 and March 28, 2010 Resolutions, that the Sandiganbayan relied entirely on the purported "admissions" of petitioner to determine that there is no evidence against respondents. It appears that the "facts extant on the records" refer to petitioner's grave abuse of discretion in conducting the preliminary investigation, and perhaps its supposed admission on record that it has no

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[112] Id. at 606-612.

[113] *Rollo*, G.R. No. 192166, p. 68.

evidence against respondents.

In any case, reliance on admissions of the prosecutor as to the quality of evidence against respondents does not satisfy the duty of the court to independently assess the evidence before dismissing a criminal case when faced with a motion to withdraw an information. This rule is especially significant where the prosecution itself appears undecided as to how to proceed with the case. Thus, in *Summerville General Merchandising & Co., Inc. v. Hon. Antonio M. Eugenio, Jr.*,[114] this Court held:

> We have ruled time and again that once a case is filed with the court, any disposition of it rests on the sound discretion of the court. This rule, however, is not without restrictions. We held in *Santos v. Orda, Jr.* that:
>
> > [T]he trial court is not bound to adopt the resolution of the Secretary of Justice since it is mandated to independently evaluate or assess the merits of the case and it may either agree or disagree with the recommendation of the Secretary of Justice. Reliance alone on the resolution of the Secretary of Justice would be an abdication of the trial court's duty and jurisdiction to determine a *prima facie* case.
>
> Thus, the courts should not blindly follow the resolutions issued by the DOJ. On the contrary, it should determine on its own whether there is probable cause to hold the accused for trial.
>
> In this case, it can be readily seen from the October 24, 2001 Order of Judge Eugenio, granting the withdrawal of the Information, that the trial court glaringly failed to conduct its own determination of a *prima facie* case, and simply adopted the September 28, 2001 Resolution issued by the Secretary of Justice. Where the prosecution is, as in this case, disappointingly unsure, irresolute, and uncertain on whether it should prosecute the accused, the court should have been most circumspect and judicious in the resolution of the Motion to Withdraw Information, and should have conducted its own determination whether or not there is probable cause to hold the accused for trial.
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> This failure of Judge Eugenio to independently evaluate and assess the merits of the case against the accused violates the complainant's right to due process and constitutes grave abuse of discretion amounting to excess of jurisdiction. And, all other acts which trace their roots from this act committed in excess of his jurisdiction, including the assailed Orders, lose their standing and produce no effect whatsoever. Thus, it is only but proper for this Court to remand the case to the trial court to rule on the merits of the case to determine if a *prima facie* case exists and consequently resolve the Motion to Withdraw Information anew.[115] (Citation omitted)

Thus, as in *Perez v. Hagonoy Rural Bank, Inc.*,[116] where this Court held that the trial judge abdicated its duty and jurisdiction when it did not make an

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[114] 556 Phil. 121 (2007) [Per J. Velasco, Jr., Second Division].
[115] Id. at 127–128.
[116] 384 Phil. 322 (2000) [Per J. De Leon, Jr., Second Division].

independent evaluation or assessment of the merits of the case, the Sandiganbayan committed grave abuse of discretion when it dismissed the cases against respondent Braza and respondents Lala, et al. without the required independent evaluation of the evidence.

III

The arraignment of an accused shall be held within 30 days from the filing of the information.[117]

Petitioner claims that the Sandiganbayan acted with grave abuse of discretion when it proceeded with respondent Ouano's arraignment despite several pending motions. However, in this case, the Sandiganbayan arraigned respondent Ouano almost six months after the case was filed with it. Considering the 30-day time limit imposed by the Speedy Trial Act of 1998, the Sandiganbayan was correct to proceed with the arraignment of respondent Ouano.

A court is required to suspend an arraignment only under specific grounds. Rule 116, Section 11 of the Rules of Court provides:

> SEC. 11. *Suspension of Arraignment.* – Upon motion by the proper party, the arraignment shall be suspended in the following cases:
>
> (a) The accused appears to be suffering from an unsound mental condition which effectively renders him unable to fully understand the charge against him and to plead intelligently thereto. In such case, the court shall order his mental examination and, if necessary, his confinement for such purpose;
>
> (b) There exists a prejudicial question; and
>
> (c) A petition for review of the resolution of the prosecutor is pending at either the Department of Justice, or the Office of the President; *Provided*, that the period of suspension shall not exceed sixty (60) days counted from the filing of the petition with the reviewing office.

Thus, the court is required to suspend an arraignment where the accused suffers from an unsound mental condition, where a prejudicial question exists, or where a petition for review is pending before the Department of Justice. None of these grounds exist in this case.

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[117] Republic Act No. 8493 (Speedy Trial Act of 1998) provides:
Section 7. ***Time Limit Between Filing of Information and Arraignment and Between Arraignment and Trial.*** — The arraignment of an accused shall be held within thirty (30) days from the filing of the information, or from the date the accused has appeared before the justice, judge or court in which the charge is pending, whichever date last occurs. Thereafter, where a plea of not guilty is entered, the accused shall have at least fifteen (15) days to prepare for trial. Trial shall commence within thirty (30) days from arraignment as fixed by the court.

The rule on the period for conducting arraignment is not merely recommendatory. Even when a trial court suspends an arraignment due to a pending petition for review with the Department of Justice, it must proceed with the arraignment after the lapse of 60 days. Thus, in *ABS-CBN Corporation v. Gozon*,[118] this Court stressed:

> While the pendency of a petition for review is a ground for suspension of the arraignment, *the . . . provision limits the deferment of the arraignment to a period of 60 days reckoned from the filing of the petition with the reviewing office. It follows, therefore, that after the expiration of said period, the trial court is bound to arraign the accused or to deny the motion to defer arraignment.*
>
> We clarify that the suspension of the arraignment should always be within the limits allowed by law.[119] (Emphasis in the original)

Further, it appears that petitioner filed its Motion to Withdraw in an attempt to avoid the arraignment of respondent Ouano. It bears noting that petitioner filed this Motion to Withdraw only two days before respondent Ouano's scheduled arraignment on October 17, 2008, and waited nearly six months after the information was filed in court. Further, the Sandiganbayan had initially set the arraignment on July 30, 2008, which was subsequently rescheduled to September 15, 2008, and then again to October 17, 2008. Yet, petitioner waited until October 15, 2008 to file a Motion to Withdraw.

As discussed earlier, before the Sandiganbayan grants a motion to withdraw, it must first independently assess the evidence. This assessment would necessarily take some time. However, a pending unresolved motion to withdraw is not an obstacle to proceed with a scheduled arraignment.

Clearly, in the absence of any legal ground to warrant the suspension of respondent Ouano's arraignment, the Sandiganbayan properly proceeded with the same.

IV

The rule on double jeopardy admits of several situations where the state may appeal the acquittal of an accused. In *Villareal v. People*,[120] this Court held:

> The rule on double jeopardy is one of the pillars of our criminal justice system. It dictates that when a person is charged with an offense,

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[118] 755 Phil. 709 (2015) [Per J. Leonen, Second Division]
[119] Id. at 725-726.
[120] 680 Phil. 527 (2012) [Per J. Sereno, Second Division].

and the case is terminated — either by acquittal or conviction or in any other manner without the consent of the accused — the accused cannot again be charged with the same or an identical offense. This principle is founded upon the law of reason, justice and conscience. It is embodied in the civil law maxim *non bis in idem* found in the common law of England and undoubtedly in every system of jurisprudence. It found expression in the Spanish Law, in the Constitution of the United States, and in our own Constitution as one of the fundamental rights of the citizen, *viz*:

> Article III — Bill of Rights
>
> Section 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

Rule 117, Section 7 of the Rules of Court, which implements this particular constitutional right, provides as follows:

> SEC. 7. *Former conviction or acquittal; double jeopardy.* – When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.

The rule on double jeopardy thus prohibits the state from appealing the judgment in order to reverse the acquittal or to increase the penalty imposed either through a regular appeal under Rule 41 of the Rules of Court or through an appeal by *certiorari* on pure questions of law under Rule 45 of the same Rules. The requisites for invoking double jeopardy are the following: (a) there is a valid complaint or information; (b) it is filed before a competent court; (c) the defendant pleaded to the charge; and (d) the defendant was acquitted or convicted, or the case against him or her was dismissed or otherwise terminated without the defendant's express consent.

As we have reiterated in *People v. Court of Appeals and Galicia*, "[a] verdict of acquittal is immediately final and a reexamination of the merits of such acquittal, even in the appellate courts, will put the accused in jeopardy for the same offense. The finality-of-acquittal doctrine has several avowed purposes. Primarily, it prevents the State from using its criminal processes as an instrument of harassment to wear out the accused by a multitude of cases with accumulated trials. It also serves the additional purpose of precluding the State, following an acquittal, from successively retrying the defendant in the hope of securing a conviction. And finally, it prevents the State, following conviction, from retrying the defendant again in the hope of securing a greater penalty." We further stressed that "an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal."

> This prohibition, however, is not absolute. The state may challenge the lower court's acquittal of the accused or the imposition of a lower penalty on the latter in the following recognized exceptions: (1) where the prosecution is deprived of a fair opportunity to prosecute and prove its case, tantamount to a deprivation of due process; (2) where there is a finding of mistrial; or (3) where there has been a grave abuse of discretion.
>
> The third instance refers to this Court's judicial power under Rule 65 to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government. Here, the party asking for the review must show the presence of a whimsical or capricious exercise of judgment equivalent to lack of jurisdiction; a patent and gross abuse of discretion amounting to an evasion of a positive duty or to a virtual refusal to perform a duty imposed by law or to act in contemplation of law; an exercise of power in an arbitrary and despotic manner by reason of passion and hostility; or a blatant abuse of authority to a point so grave and so severe as to deprive the court of its very power to dispense justice. In such an event, the accused cannot be considered to be at risk of double jeopardy.[121] (Citations omitted)

Thus, an exception to the rule against double jeopardy is that the state may challenge an acquittal where there has been grave abuse of discretion. Here, the cases against respondents Braza and Lala, et al. were dismissed with grave abuse of discretion, considering that the Sandiganbayan abdicated its duty to make an independent assessment of the merits of the cases against them. Thus, the Petitions assailing the dismissals are not barred by the proscription against double jeopardy.

V

The right of the accused to the speedy disposition of his case is deemed violated only when a case is attended by delays which are vexatious, capricious, and oppressive. In *Mendoza-Ong v. Sandiganbayan*,[122] this Court explained:

> The right to speedy disposition of cases, like the right to speedy trial, is violated only when the proceedings are attended by vexatious, capricious and oppressive delays. In the determination of whether said right has been violated, particular regard must be taken of the facts and circumstances peculiar to each case. The conduct of both the prosecution and the defendant, the length of the delay, the reasons for such delay, the assertion or failure to assert such right by the accused, and the prejudice caused by the delay are the factors to consider and balance. A mere mathematical reckoning of time involved would not be sufficient.
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> In this case, the Graft Investigation Officer released his resolution finding probable cause against petitioner on August 16, 1995, less than six months from the time petitioner and her co-accused submitted their counter-

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[121] Id. at 555-558.

[122] 483 Phil. 451 (2004) [Per J. Quisumbing, Special Second Division].

> affidavits. On October 30, 1995, only two and a half months later, Ombudsman Aniano Desierto had reviewed the case and had approved the resolution. Contrary to petitioner's contention, the lapse of only ten months from the filing of the complaint on December 13, 1994, to the approval of the resolution on October 30, 1995, is by no means oppressive. "Speedy disposition of cases" is consistent with reasonable delays. The Court takes judicial notice of the fact that the nature of the Office of the Ombudsman encourages individuals who clamor for efficient government service to lodge freely their complaints against alleged wrongdoing of government personnel. A steady stream of cases reaching the Ombudsman inevitably results. Naturally, disposition of those cases would take some time. Moreover, petitioner herself had contributed to the alleged delay when she asked for extension of time to file her counter-affidavit.[123] (Citations omitted)

In *People v. Hon. Declaro*,[124] this Court held that even where trial has been delayed due to the prosecution, any instance of delay is not necessarily a violation of the right of the accused to a speedy trial:

> Thus, while a violation of the right of the accused to a speedy trial can serve as a basis for the dismissal of a case, this must be balanced with the right of the prosecution to due process.
>
> It is true that in some cases where the prosecution was not prepared for trial since the complainant and/or his witnesses did not appear at the trial, this court held that the dismissal is equivalent to an acquittal that would bar further prosecution of the defendant for the same offense. A review of these cases shows, however, that the prosecution sought postponement of the trial on two or more occasions. Thus, this Court considered the dismissal of the criminal cases therein to be equivalent to an acquittal, even if they were made at the instance and with the consent of the accused, since such dismissals were predicated on the right of the accused to a speedy trial.
>
> In the instant case, the complaining witness and the prosecutor failed to appear only in the first hearing. Even if the court did not dismiss the case but merely postponed the hearing to another date, there would not have been a denial of the right of the accused to a speedy trial. The right of the accused to have a speedy trial is violated when unjustified postponements of the trial are asked for and secured, or when, without good cause or justifiable motive, a long period of time is allowed to elapse without his case being tried. None of said situations exists in the present case. Surely, it cannot be said that there was a violation of the constitutional right of the accused to a speedy trial. As we observed, the more prudent step that the court *a quo* should have taken was to postpone the hearing to give the prosecution another opportunity to present its case. The court *a quo* had in fact reconsidered its order of dismissal of Criminal Case No. 1028-N and reset it for trial. It should have maintained said action instead of granting the motion for reconsideration of the accused. The dismissal of the case by the trial court on the ground that the accused is entitled to a speedy trial is unwarranted under the circumstances obtaining in this case.[125] (Citations omitted)

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[123] Id. at 454–455.

[124] 252 Phil. 139 (1989) [Per J. Gancayco, First Division].

[125] Id. at 145–146.

Cagang v. Sandiganbayan,[126] clarified the approach to analyzing whether the right to speedy disposition of a case or to speedy trial has been violated:

> *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

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[126] G.R. Nos. 206438, 206458 & 210141-42 (July 31, 2018) <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64581> [Per J. Leonen, En Banc].

> properly alleged and substantially proven, the case would automatically be dismissed without need of further analysis of the delay.
>
> Another exception would be the waiver of the accused to the right to speedy disposition of cases or the right to speedy trial. If it can be proven that the accused acquiesced to the delay, the constitutional right can no longer be invoked.
>
> In all cases of dismissals due to inordinate delay, the causes of the delays must be properly laid out and discussed by the relevant court.
>
> *Fifth*, the right to speedy disposition of cases or the right to speedy trial must be timely raised. The respondent or the accused must file the appropriate motion upon the lapse of the statutory or procedural periods. Otherwise, they are deemed to have waived their right to speedy disposition of cases.[127] (Citation omitted)

Applying the foregoing principles and considering the approach laid out in *Cagang*, this Court finds no violation of the right to speedy trial in this case.

The records of G.R. No. 187603 do not show that any delay attended the proceedings, and how the delays were vexatious, capricious, and oppressive. In G.R. No. 187603, the Sandiganbayan made a pronouncement regarding the respondents' right to speedy trial:

> Accused Braza, however, in his *Manifestation with Motion (To Vacate Information and Dismiss the Case with Prejudice)* dated 14 November 2008, vehemently opposed the prayer of the Prosecution contending that the dismissal as sought constitutes an abuse of its powers and is an outright violation of his right to a speedy disposition of his case. Quick to defend its stance, the Prosecution, in its *Comment/Opposition (to Accused Isabelo A. Braza's "Manifestation with Motion to Vacate Information and Dismiss the Case with Prejudice" dated 14 November 2008)* dated 26 November 2008, reiterated the long standing rule that the right invoked by the accused is violated only when the proceedings is attended by vexatious, capricious and oppressive delays. Inasmuch as the delay that attended the case was by reason of the various motions filed before the Office of the Ombudsman by the fifteen (15) named accused, it is the proposition of the Prosecution that the same can not be characterized as oppressive and in no way attributable to them.
>
> From the foregoing, the moot point of the instant controversy which this Court is called upon to resolve revolves around the right of the accused as enshrined in Article III, Section 16 of the Constitution.
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> Accused's Motion is impressed with merit.
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> ...
>
> The Records show that as early as 9 January 2007 several cause-oriented organizations (Bagong Alyansang Makabayan-Central Visayas,

[127] Id.

> Pinaghugpong sa Kabus sa Dakbayan-KADAMAY, Panaghiusa sa Gagmay'ng Mangingisda sa Sugbo, Alyansa sa Mamumu-o sa Sugbo, etc.) through their officers and members wrote the Office of the Ombudsman-Visayas a letter about this transaction in question and because of which the Office of the Ombudsman-Visayas issued a Final Evaluation Report dated 23 [M]arch 2007 recommending among others that the "*xxx...complaint be upgraded to a criminal case in violation of R.A. 3019...xxx*" against the accused herein, and thereafter preliminary investigation was conducted during which the accused submitted their respective counter-affidavits.
>
> After about ten (10) months, the Office of the Ombudsman-Visayas rendered its Resolution dated 24 January 2008 (approved by Ombudsman Gutierrez on 18 April 2008) recommending the filing of charges with the Sandiganbayan.
>
> On 22 April 2008, this Information was filed with us. In effect, the preliminary investigation was conducted for a period of more than twelve (12) months – that is from 23 March 2007 up to April 2008.
>
> ...
>
> **WHEREFORE**, all premises considered, the motion of accused Isabelo A. Braza is **GRANTED**. The case as against him is ordered dismissed.[128] (Emphasis in the original)

It appears that the Sandiganbayan granted respondent Braza's November 14, 2008 Manifestation with Motion (To Vacate Information and Dismiss the Case with Prejudice) (Motion to Vacate) based on his right to a speedy disposition of the case against him. However, from the assailed resolution, it is not apparent that the proceedings against respondent Braza were attended with delay, or that any purported delays were vexatious and oppressive. The Information was filed before the Sandiganbayan on April 22, 2008, and respondent Braza filed his Motion to Vacate less than seven months later, on November 14, 2008. The record does not show that any delay that may have occurred during that seven-month period was due to petitioner. Rather, it appears that the Sandiganbayan deemed the filing of the Motion to Withdraw, in and of itself, a violation of respondent Braza's right to speedy disposition of the case against him.

Considering that the Sandiganbayan denied petitioner's Motion to Withdraw in open court on the very day it was set for hearing, it cannot be argued that the act of filing the Motion to Withdraw resulted in any delay, oppressive or not. Considering further that the filing of the Motion to Withdraw did not violate the right of the accused to a speedy trial, it was improper to dismiss the case against respondents on the basis of the right to a speedy trial.

The Sandiganbayan discussed the delays that *might* occur if it granted the Motion to Withdraw, and discussed the potential for a lengthy

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[128] *Rollo*, G.R. No. 187603, pp. 64–70.

reinvestigation before the Office of the Ombudsman. However, these were mere speculations. If it found that granting petitioner's Motion to Withdraw would violate the right of the accused to a speedy trial, the prudent step would be to deny said Motion to Withdraw and proceed with trial.

Further, dismissing a criminal case based on respondent Braza's right to speedy disposition of the case against him less than seven months after the case was filed in court is premature, as seven months, particularly considering the number of accused in the criminal case, is neither vexatious nor oppressive.

VI

Petitioner claims that in the March 24, 2010 Resolution dismissing the case against respondents Lala, et al., the Sandiganbayan committed grave abuse of discretion in stating that the case against respondent Ouano had already been dismissed with prejudice:

> Quite appalling in the March 24, 2010 Resolution is the pronouncement of the Respondent Court that the case against Thadeo Ouano, one of the Respondent's co-accused, was already dismissed with prejudice. Respondent Court pointedly stressed that -
>
> > *"There is no contrast in ruling the withdrawal of the information and proceeding with the arraignment of accused Ouano. The difference would only be in the implications of these two separate actions of this Court.* ***In the case of Accused Ouano, the dismissal was with prejudice****. Clearly, this is what the prosecution is trying to avoid." (Underscoring supplied)*
>
> Such a pronouncement came to all as a surprise. There was neither a resolution nor order issued by the Respondent Court alluding to the dismissal of the case against Ouano except in this assailed Resolution. Worst, the dismissal was made with prejudice.
>
> What is extant from the records is that Ouano was already arraigned and there was a certiorari filed by the Petitioner before this Honorable Court. Records is (*sic*) also bare that a subsequent resolution or order was issued by Respondent Court dismissing the case against Ouano with prejudice, save only in the declaration as contained in the assailed resolution of March 24, 2010. Thus, for all legal intents and purposes, the case against Ouano (just like the case against his other co-accused Latorio, Omo, Gerlolaga, and Denque, whose Motion to Quash was denied by the Respondent Court) is still pending before the Respondent Court, contrary to the latter's declaration [129] (Emphasis in the original)

Petitioner claims that this was grave abuse of discretion because, in fact, the Sandiganbayan did not issue an order dismissing the case against

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[129] *Rollo*, G.R. No. 192166, pp. 32–33.

respondent Ouano.

Even assuming, however, that the Sandiganbayan misstated the status of the case against respondent Ouano, such an error would be inconsequential vis-à-vis the case against respondents Lala, et al. The March 24, 2010 Resolution assailed in G.R. No. 192166 disposed of the case against respondents Lala, et al., and not respondent Ouano. Whether or not the case against respondent Ouano had been dismissed with prejudice was irrelevant to the dismissal of the case against respondents Lala, et al.

Further, although the Sandiganbayan stated that "the dismissal [of the case against respondent Ouano] was with prejudice,"[130] a dismissal with prejudice of the case against respondent Ouano would have no bearing on the case against respondents Lala, et al. It appears that when the Sandiganbayan stated "In the case of Accused Ouano, the dismissal was with prejudice,"[131] it may have been referring to a hypothetical dismissal of the case against respondent Ouano, which would have been with prejudice.

WHEREFORE, the Petition for Certiorari and Prohibition in G.R. No. 185503 is **DENIED**, and the October 17, 2008 Order of respondent Sandiganbayan in open court denying petitioner's Motion to Withdraw is hereby **AFFIRMED.** The Petitions for Certiorari in G.R. Nos. 187603 and 192166 are **GRANTED**, and the Resolutions dated March 10, 2009, July 28, 2009, and March 28, 2010, are hereby **REVERSED and SET ASIDE.** The cases in G.R. Nos. 187603 and 192166 are hereby **REMANDED** to the Sandiganbayan to independently evaluate or assess the merits of the case to determine whether or not probable cause exists to hold the accused for trial.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

RAMON PAUL L. HERNANDO
Associate Justice

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[130] Id. at 32.
[131] Id.

HENRI JEAN PAUL B. INTING
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice