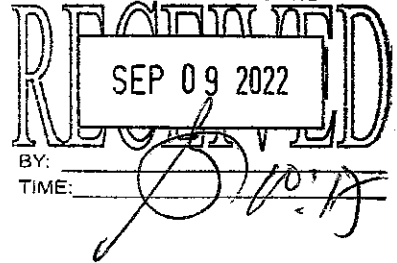




Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



THIRD DIVISION

ROSETTE Y. LERIAS, PEDRO C.  
LLEVARES, JR., MA. LUCINA L.  
CALAPRE, JOSEPH A. DUARTE,  
AND CATALINO O. OLAYVAR,

Petitioner,

VERSUS

THE HON. OMBUDSMAN and the  
FIELD INVESTIGATION OFFICE,  
OFFICE OF THE OMBUDSMAN,  
Respondents.

G.R. No. 241776

Present:

LEONEN, J., Chairperson,  
LAZARO-JAVIER,  
LOPEZ, M. V.,  
LOPEZ, J. Y., and  
KHO, JR., JJ.

Promulgated:

March 23, 2022

MISDCB-H

X-----X

DECISION

LOPEZ, J., J.:

The Constitution guarantees that the right of the people to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies. The Court has shown that it is a staunch defender of this constitutional guarantee. However, the invocation of inordinate delay is not a magical phrase that when implored would automatically result in the dismissal of a criminal indictment. The person claiming that there was unreasonable delay must clearly show that the source of the lag in the disposition of their case is solely attributable to the State's ineptness. After proving that there was inordinate delay, the burden is shifted to the State to prove that the delay was justified and that it did not cause prejudice to the person.

9

### *The Case*

This is a Petition for *Certiorari*<sup>1</sup> under Rule 65 of the Rules of Court with an application for a preliminary injunction, assailing the: (1) Resolution<sup>2</sup> dated June 14, 2017, of the Office of the Ombudsman (*OMB*) in OMB-C-C-13-0170; and (2) Order<sup>3</sup> dated April 30, 2018, denying the motion for reconsideration.

### *Antecedents*

On June 14, 2017, Field Investigation Office (*FIO*) of the Office of the Ombudsman (*OMB*) filed a complaint for malversation of public funds and violation of Section 3(e) of Republic Act No. 3019 (*R.A. No. 3019*) against Provincial Governor Rosette Y. Lerias (*Lerias*), Provincial Agriculturist Eluterio V. Tibon (*Tibon*), Provincial Treasurer Pedro C. Llevares, Jr. (*Llevares, Jr.*), Inspection Officer Ameo S. Capistrano (*Capistrano*), OIC-Provincial Accountant Ma. Lucina L. Calapre (*Calapre*), Provincial Budget Officer Joseph A. Duarte (*Duarte*), and Provincial General Services Officer Catalino O. Olayvar (*Olayvar*), all of the Provincial Local Government Unit (*PLGU*) of Southern Leyte; Leo P. Cañeda (*Cañeda*) of the Region Field Unit VIII of the Department of Agriculture (*DA RFU VIII*); and Clemente CH. Fernandez (*Fernandez*), sales manager of Philippine Phosphate Fertilizers Corporation (*Philphos*).<sup>4</sup>

The complaint alleged that Lerias *et al.* conspired to defraud the government in using ₱3,250,000.00 to purchase 4,394 bags of various grades of fertilizers from Philphos without conducting public bidding, as required by Republic Act (*R.A.*) No. 9184. The complaint showed that the Fertilizer and Pesticide Authority (*FPA*) had previously accredited two suppliers of fertilizers in Southern Leyte.<sup>5</sup>

The FIO further averred that on April 29, 2004, the PLGU Southern Leyte received the first tranche of the *Ginintuang Masaganang Ani* from the DA RFU VII in the amount of ₱3,250,000.00. On April 30, 2004, Tibon prepared, and Lerias approved, a purchase request for 4,394 bags of various grades of fertilizers. On May 5, 2004, Tibon prepared an unnumbered purchase order signed by Calapre, Duarte, Llevares, Jr., and Olayvar, and approved by Lerias. On May 20, 2004, the PLGU Southern Leyte paid ₱3,217,381.20 to Philphos. Tibon certified that there was no suitable substitute of substantially the same quality of fertilizers available at a lower

<sup>1</sup> *Rollo*, pp. 3-37.

<sup>2</sup> Penned by Graft Investigation and Prosecution Officer II Feliz Marie M. Guerrero-Manlangit, Graft Investigation and Prosecution Officer IV Teresita P. Butardo-Tacata and Deputy Ombudsman for Luzon Gerard A. Mosquera; *id.* at 43-55.

<sup>3</sup> Penned by Graft Investigation and Prosecution Officer III Charmaine C. Ruiz; *id.* at 86-92.

<sup>4</sup> *Id.* at 44.

<sup>5</sup> *Id.* at 45.

price. In the inspection and acceptance report dated May 4, 2004, Capistrano certified that the quantity and specification of the fertilizers were acceptable.<sup>6</sup>

Lastly, the FIO claimed that Lerias *et al.* violated R.A. No. 9184 and its Implementing Rules and Regulations when they adopted a direct contracting or single source procurement as an alternative method of procurement instead of conducting a public bidding. They allegedly accomplished this by making it appear that Philphos is the exclusive manufacturer of the procured fertilizers. The FIO claims that the FPA has previously accredited two suppliers of fertilizers in Southern Leyte.<sup>7</sup>

In their joint counter-affidavit, Lerias, Capistrano, Duarte, and Calapre contended that resorting to direct contracting is not contrary to law as long as the conditions provided by R.A. No. 9184 were met. They explained that Philphos is the exclusive distributor within Region 8 while Nican Enterprises and EBR Marketing Corporation are merely distributors of fertilizers in Ormoc City.<sup>8</sup> They maintained that directly contracting with Philphos proved to be more beneficial to the government and it helped improve the province's overall rice production.<sup>9</sup> Olayvar echoed the arguments of Lerias, Capistrano, Duarte, and Calapre.<sup>10</sup>

For his part, Tibon alleged in his counter-affidavit that he retired in December 2004. He denied having committed the charges against him and stated that the signatures that appeared in the documents were those of Daniel Mayorca, the provincial agriculturist who replaced him.<sup>11</sup>

On the part of Fernandez, he asserted that he had no personal knowledge of the bidding procedure conducted by the PLGU-Southern Leyte. He admitted that he had knowledge of the purchase order with the caveat that he did not participate in the transaction. He acknowledged that ₱3,217,381.20 was paid to Philphos by the PLGU-Southern Leyte although he did not personally receive the same and thus, did not issue the official sales receipt.<sup>12</sup>

Llevares, Jr. and Caneda did not submit any counter-affidavit despite notice.<sup>13</sup>

The OMB found probable cause to charge Lerias, Llevares, Jr., Calapre, Duarte, and Olayvar for violation of Section 3(e) of R.A. No. 3019 by

---

<sup>6</sup> *Id.* at 45-46.

<sup>7</sup> *Id.* at 46.

<sup>8</sup> *Id.* at 47.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 48.

<sup>11</sup> *Id.* at 47.

<sup>12</sup> *Id.* at 48.

<sup>13</sup> *Id.*

conspiring in releasing the funds in favor of Philphos without undergoing the correct procurement process.<sup>14</sup>

The OMB observed that Lerias acted with manifest partiality when she approved the procurement of different fertilizers from Philphos without complying with the requirements of R.A. No. 9184 as to the conduct of a thorough canvass for similar suppliers.<sup>15</sup>

As to the liability of Llevares, Jr., Calapre, Duarte, and Olayvar, the OMB noted that they were in conspiracy as can be gleaned from their act of signing the purchase order, disbursement voucher, and other documents. There was allegedly no proof that they consulted the resident auditor of the Commission on Audit (COA) to determine the aptness of the mode that they undertook.<sup>16</sup>

Tibon was absolved by the OMB as it was established that the signature appearing above his name in all the documents was that of Daniel Mayorca.<sup>17</sup>

Likewise, the OMB saw no wrongdoing on the part of Capistrano as he was not involved in the procurement through direct contracting with Philphos as he merely inspected the delivery of the assorted fertilizers.<sup>18</sup>

With regard to Cañeda, the OMB found no evidence that he acted with evident bad faith or with intent to defraud the government when he signed the memorandum of agreement representing DA-RFU VIII. The OMB observed that his participation was limited to the transfer of funds to the PLGU of Southern Leyte and that he had no direct participation in the procurement process.

In relation to Fernandez's culpability, the OMB saw no basis to charge him together with the other accused as there was no showing that his signature appeared in any of the documents attached in the complaint.<sup>19</sup>

With respect to the charge of malversation of public funds, the same was dismissed based on the findings of the OMB that there was no evidence to show that Lerias, Tibon, Llevares, Jr., Capistrano, Calapre, and Duarte misappropriated or allowed any person to appropriate funds for their personal benefit.<sup>20</sup>

---

<sup>14</sup> *Id.* at 48-49.

<sup>15</sup> *Id.* at 49.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 51.

<sup>18</sup> *Id.* at 52.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

9

On March 26, 2018, Calapre, Duarte, and Olayvar filed a joint motion for reconsideration while Lerias filed a separate motion for reconsideration. They alleged that the OMB's findings were erroneous due to the fact that (a) Philphos was the sole manufacturer of inorganic fertilizer in Region VIII from 1987 up to November 2012; (b) Philphos had no suitable substitute; (c) there was no evidence that Nican Enterprise and EBR Marketing Corporation were licensed fertilizer distributors in 2004; (d) the terms offered by Philphos were already inclusive of storage, insurance, security, and delivery; and (e) the exclusive distributorship requirement under Republic Act No. 9184 does not refer to a manufacturer and does not include subdealers selling at lower prices.<sup>21</sup>

They further claimed that their signatures in the purchase order, disbursement voucher and/or check are part of their regular functions. They maintained that there was no criminal design and undue injury as the fertilizers were reasonably and completely delivered. With regard to Lerias, she stated that her reliance on her subordinate was justified and reasonable. Lastly, they argued that their right to a speedy disposition of their case was violated because of the fact that the OMB took four years to resolve the case from the time the complaint was filed in 2013 and 11 years from the time the audit report of the COA came out.<sup>22</sup>

On April 30, 2018, the OMB denied the motions for reconsideration.<sup>23</sup>

Hence, the instant petition.

Petitioners claim that the OMB glaringly abused its discretion when it indicted them despite the unjustified and inordinate delay in the investigation of the complaint against them.<sup>24</sup> Petitioners elaborate that the transaction in question happened way back in 2004 and yet it took 14 years or specifically until March 23, 2018 to charge them for an offense.<sup>25</sup>

The petitioners further point out that: (1) Philphos was an exclusive manufacturer of inorganic fertilizer; (2) Philphos does not have subdealers selling at lower prices; and (3) inorganic fertilizers had no suitable substitute that can be obtained at more advantageous terms to the government. These facts were allegedly supported by the certification issued by FPA certifying that Philphos was the exclusive manufacturer of inorganic fertilizers in Region VIII and the certification issued by the Provincial Agriculturist Tibon, certifying that there was no suitable substitute of substantially the same quality of fertilizers at a lower price.<sup>26</sup>

---

<sup>21</sup> *Id.* at 87-88.

<sup>22</sup> *Id.* at 90.

<sup>23</sup> *Id.* at 91.

<sup>24</sup> *Id.* at 14.

<sup>25</sup> *Id.* at 15.

<sup>26</sup> *Id.* at 21-22.

9

The petitioners likewise claim that the OMB blatantly abused its discretion when it excluded the pieces of evidence submitted to it, in particular: (1) the certification from the FPA that Philphos is the sole manufacturer of solid inorganic fertilizer in Region VIII; (2) the certification from Philphos certifying the fact that it has been the sole manufacturer and distributor of inorganic phosphate fertilizer in Region VIII since the company started commercial operations in 1987; and (3) the certification from Provincial Agriculturist Tibon, certifying that there was no suitable substitute of substantially the same quality of fertilizers at a lower price.<sup>27</sup>

Lastly, two interrelated claims are being objected by the petitioners. They assert that the complaint that resulted in the challenged resolution of the OMB was just a feeble attempt to resurrect recycled charges.<sup>28</sup> The petitioners also maintain that the principle of conclusiveness of judgement applies to the complaint previously filed by Santiago I. Astorga against the petitioners for the same charge, which was already dismissed in the case of *Astorga v. Lerias, et al.*<sup>29</sup>

The OMB through the Office of the Solicitor General (*OSG*) counters that the OMB did not commit inordinate delay in resolving the complaint to the prejudice of the petitioners.<sup>30</sup> The *OSG* posits that while the audit report dated January 17, 2006 of the COA RFU VIII found irregularities in the implementation of the ₱49,000,000.00 Farm Inputs/Farm Implements Program (*FIFIP*), it was only upon the receipt of the complaint filed on December 19, 2012 by Associate Graft Investigation Officer II Gerhard G. Basco when petitioners learned that their involvement in the *FIFIP* is the subject of a case before the OMB. Thus, it was only from such date that the case became adversarial against them.<sup>31</sup>

The *OSG* claims that the OMB did not commit unwarranted delay when it took the OMB more than three years after the counter-affidavits were submitted and for the one month it took to resolve the motions for reconsideration. The *OSG* points to the fact that the case involved eight public respondents coming from two different offices and one private respondent based on another location that involved administrative and criminal aspects. In short, the *OSG* postulates that the complaint involved a complex issue that required a thorough investigation by the OMB.<sup>32</sup>

The *OSG* also maintains that the OMB did not commit grave abuse of discretion when it excluded the submissions of the petitioners to support their motions for reconsideration. The *OSG* points out that the certifications from

---

<sup>27</sup> *Id.* at 24-25.

<sup>28</sup> *Id.* at 28.

<sup>29</sup> *Id.* at 30-32.

<sup>30</sup> *Id.* at 463.

<sup>31</sup> *Id.* at 466.

<sup>32</sup> *Id.*

9

the FPA and the Philphos cannot be considered as newly discovered evidence since the concerned offices could have easily issued the same after the complaint was filed against the petitioners.<sup>33</sup> As to Tibon's certification, the OSG avers that such is self-serving as he is one of the respondents in the complaint.<sup>34</sup>

Finally, the OSG avows that the doctrine of conclusiveness of judgement is not applicable in the present case. The OSG highlights that OMB Criminal Cases C-C-07-0142-C and C-C-131070 both emanated from the failure to conduct public bidding involving some of the petitioners, the factual circumstances are entirely different. The evidence on record in OMB C-C-07-0142-C showed that the subject procured goods, Bigante hybrid rice seeds, were supplied by an exclusive distributor. Unlike in this case, resort to alternative mode of procurement was improper.<sup>35</sup>

The petitioners submitted a reply that contains the same arguments they raised in their petition.

### *Our Ruling*

The petition is impressed with merit.

The Bill of Rights, in particular Section 16, declares the right of all to persons to a speedy disposition of their cases, to wit:

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

With specific application to the OMB, the Constitution expressly commands it to promptly resolve complaints lodged before it. Section 12, Article XI of the Constitution directs:

Section 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

The constitutional duty lodged in the OMB is further echoed in Section 13 of Republic Act No. 6770, otherwise known as The Ombudsman Act of 1989, which reads:

---

<sup>33</sup> *Id.* at 468.

<sup>34</sup> *Id.* at 469.

<sup>35</sup> *Id.* at 476.



Section 13. Mandate. — The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people.

In assessing whether the right to speedy disposition of cases has been violated, the Court has employed the balancing test. Thus, the following factors should be considered in determining if there was delay in the disposition of cases: (1) length of the delay, (2) reasons for the delay, (3) assertion of right by the accused, and (4) prejudice to the respondent.<sup>36</sup>

Integrating all relevant jurisprudence on the matter, the Court, in *Cagang v. Sandiganbayan*<sup>37</sup> (*Cagang*), clarified the mode of analysis in situations where the right to speedy disposition of cases or the right to speedy trial is invoked, thus:

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.

<sup>36</sup> *Daep v. Sandiganbayan*-Fourth Division, G.R. No. 244649, June 14, 2021. See also *Magante v. Sandiganbayan*, 836 Phil. 1108, 1124-1125 (2018); *Martinez III v. People*, October 1, 2019, 921 SCRA 242, 251; *People v. Sandiganbayan (First Division)*, August 19, 2019, 914 SCRA 445, 459; *Campa, Jr. v. Paras*, G.R. No. 250504, July 12, 2021; and *Mamansual v. Sandiganbayan (5<sup>th</sup> Division)*, G.R. Nos. 240378-84, November 3, 2020.

<sup>37</sup> 837 Phil. 815 (2018).



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 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.<sup>38</sup>

“[A] mere mathematical reckoning of the time involved is not sufficient in determining whether or not there was inordinate delay on the part of the investigating officer.”<sup>39</sup> This notion is specifically applicable in cases involving the conduct of the preliminary investigation and the filing of the information by the OMB as there is no threshold period set by any law or rule as the maximum period for the conduct of preliminary investigation before the OMB as compared to the preliminary investigation conducted by the National Prosecution Service, which has a specific period to resolve.

In the present case, the submission of the counter-affidavit by the petitioners on September 14, 2013 should be the starting point for the determination if there is inordinate delay in the conduct of preliminary

<sup>38</sup> *Id.* at 880-882. (Emphasis supplied and citation omitted)

<sup>39</sup> *Magante v. Sandiganbayan*, *supra* note 36, at 1127.

9

investigation. This is because at this point the OMB should now determine if there is probable cause to file an information against the petitioners. It is thus wrong for the petitioners to claim that it took 14 years for the OMB to file the case before the Sandiganbayan since it is already an established doctrine that the 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.<sup>40</sup>

As there is no provision in any statute as to the length for the resolution of a criminal case lodged before the OMB, the provisions of Rule 112 of the Revised Rules of Criminal Procedure shall fill the gap for the procedure and duration of the determination of probable cause for the filing of the information in court.<sup>41</sup> The pertinent provisions of Rule 112 read:

RULE 112  
Preliminary Investigation

SEC. 3. Procedure. — The preliminary investigation shall be conducted in the following manner:

xxx

xxx

xxx

(f) **Within ten (10)** days after the investigation, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial.

SEC. 4. Resolution of investigating prosecutor and its review. — If the investigating prosecutor finds cause to hold the respondent for trial, he shall prepare the resolution and information. He shall certify under oath in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he was given an opportunity to submit controverting evidence. Otherwise, he shall recommend the dismissal of the complaint.

Within five (5) days from his resolution, he shall forward the record of the case to the provincial or city prosecutor or chief state prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction. They shall act on the resolution within ten (10) days from their receipt thereof and shall immediately inform the parties of such action.

A cursory reading of the provisions of Rule 112 would reveal that the investigating prosecutor or officer of the OMB has 10 days from submission of the case for resolution, or upon submission of the counter-affidavits to conclude the preliminary investigation and submit their resolution to the Ombudsman for approval. Upon receipt, the Ombudsman has, in turn, 10

<sup>40</sup> *Cagang v. Sandiganbayan*, *supra* note, 37 at 880.

<sup>41</sup> See *Mamansual v. Sandiganbayan* (5<sup>th</sup> Division), *supra* note 36.

days from receipt within which to act upon the investigating officer's resolution and to immediately inform the parties of its action.<sup>42</sup>

As earlier discussed, petitioners submitted their counter-affidavit on September 14, 2013. The resolution of the OMB finding probable cause to charge them with violation of R.A. 3019 was promulgated on June 14, 2017. However, it was pointed out by the petitioners in their motion for reconsideration filed before the OMB that the June 14, 2017 Resolution was signed by the Team Leader only on June 29, 2017, then by the Deputy Ombudsman for Luzon the following day, June 30, 2017. It took seven months for the same to be approved by then Ombudsman Conchita Carpio-Morales. It is worthy to note that these allegations were not rebutted in the discussion of the OMB when it denied the petitioners' motion for reconsideration or in any pleading or submission to this Court.<sup>43</sup>

The Court notes that it took the OMB investigating officer and the OMB a total of 1370 days or 3 years, 9 months, and 1 day to determine probable cause to file an information against the petitioners. This is obviously beyond the period provided for the determination of whether there is probable cause to file an information in the Sandiganbayan. Clearly, petitioners were able to demonstrate that there was a delay in the resolution of the preliminary investigation of the case filed against them as co-accused and such delay was not attributable to them. Thus, the burden of evidence shifts to the State to prove that the delay was justified and not capricious, malicious, or motivated by political agenda. The prosecution ought to establish that "[first], 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."<sup>44</sup>

The Court, after a thorough examination of the case, finds that the OMB's reason for the lull in the disposition of the case was not justified. First, it is undeniable that the prosecution followed the procedure laid out in Section 4, Rules of Procedure of the OMB particularly in giving the petitioners the opportunity to submit their counter-affidavits. However, as earlier noted the OMB failed to comply with the time limit for the conduct of the preliminary conference. This is an obvious deviation from the Rules of Procedure of the OMB in relation to the Rule 112 of the Revised Rules of Criminal Procedure.

Second, the justification proffered by the OMB was flimsy and unacceptable. The April 30, 2018 Resolution of the OMB stated that it was a complex case since it involved serious allegations of irregularity in the

---

<sup>42</sup> *Ibid.*

<sup>43</sup> *Rollo*, pp. 61-62.

<sup>44</sup> *Cagang v. Sandiganbayan*, *supra* note 37, at 881.

disbursement of at least ₱49,000,000.00 released to different local government units, nongovernmental organizations, and/or people's organizations in Region VIII justified the duration of the fact-finding and preliminary investigation of the case.<sup>45</sup> The argument of the State was repeated in its comment submitted to the Court, wherein it highlighted that the case involved eight public respondents coming from two different offices and one private respondent based on another location that involved administrative and criminal aspects.<sup>46</sup> The Court rejects the determination of the OMB that the case involves complex issues; on the contrary, the case involves a linear or straightforward determination that does not require years of examination. We also observe that the documents involved were readily accessible and available, and demanded no forensic examination or any highly technical evaluation.

In *Martinez III v. People*,<sup>47</sup> a case involving a charge for violation of Section 3 (e) of R.A. No. 3019 in relation to the local government's purchase, We did not accept the excuse tendered by the State when We declared:

The representation by the OSG that the Office of the Ombudsman had investigated the present case in conjunction with the other Fertilizer Fund scam cases did not sufficiently justify the close to five years spent in conducting the preliminary investigation. There was no allegation, to start with, that the petitioners had conspired with those involved in the other so-called Fertilizer Fund scam cases, which might have explained the long period necessary for the preliminary examination. The delay was really inordinate and oppressive considering that the informations ultimately filed against the petitioners did not appear to have resulted from a complex preliminary investigation that involved the review of voluminous documentary and other evidence. Moreover, the petitioners were only initially charged for their non-compliance with COA Circular No. 96-003 that concerned accounting and auditing guidelines on the release of fund assistance to NGOs and people's organizations. Under the circumstances, the protracted preliminary investigation by the Office of the Ombudsman evidently ran counter to the aforementioned express constitutional mandate to promptly act on complaints filed with it.<sup>48</sup>

Similarly, in *Javier v. Sandiganbayan*,<sup>49</sup> a case part of the so-called fertilizer fund scam, We rejected the oft-repeated excuse by the State that the standstill in the disposition of the case was brought by the heavy work load of the OMB. We elucidated as follows:

At this juncture, it is well to point out that the Ombudsman cannot repeatedly hide behind the "steady stream of cases that reach their office" despite the Court's recognition of such reality. The Court understands the reality of clogged dockets — from which it suffers as well — and recognizes

<sup>45</sup> *Rollo*, p. 90.

<sup>46</sup> *Id.* at 466.

<sup>47</sup> G.R. No. 232574, October 1, 2019, 921 SCRA 242.

<sup>48</sup> *Id.* at 252-253. (Citations omitted)

<sup>49</sup> G.R. No. 237997, June 10, 2020.

the current inevitability of institutional delays. However, “steady stream of cases” and “clogged dockets” are not talismanic phrases that may be invoked at whim to magically justify each and every case of long delays in the disposition of cases. Like all other facts that courts take into consideration in each case, the “steady stream of cases” should still be subject to proof as to its effects on a particular case, bearing in mind the importance of the right to speedy disposition of cases as a fundamental right.

In *Catamco v. Sandiganbayan Sixth Division*,<sup>50</sup> We noted that a preliminary investigation that lasted for more than two years is not justified despite the number of the persons being the subject of the investigation, the pertinent portion of Our ruling provides:

Moreover, a perusal of the Ombudsman's Resolution and the Informations filed against petitioners shows that the issues in this case are simple, straightforward and are easily determinable **considering that only one transaction is involved**. There was also no allegation that petitioners herein had conspired with those involved in the other so called “Fertilizer Fund Scam” cases. In fact, the Ombudsman's primary findings that petitioners violated the Procurement Law and that the transaction was made with undue haste are mere reiterations of the audit findings and previous issuances of the COA. While a meticulous review and verification of documents may have been necessary given the number of respondents in this case, a protracted investigation of more than two (2) years from the time the last counter-affidavit was filed is still quite unreasonable **especially considering that, at the end of the day, the Ombudsman merely relied on, and even adopted as its only facts, the audit findings and previous issuances of the COA**. In this light, the Ombudsman's delay in the termination of the preliminary investigation against all respondents was clearly unjustified.<sup>51</sup>

Third, We find that there was prejudice suffered by the petitioners on account of the OMB's delay in the disposition of their case.

The Court discussed in *Cagang*<sup>52</sup> the nature and extent of prejudice in relation to the right to speedy disposition of cases in this manner:

The prosecution must likewise prove that no prejudice was suffered by the accused as a result of the delay. *Corpuz v. Sandiganbayan* defined prejudice to the accused as:

Prejudice should be assessed in the light of the interest of the defendant that the speedy trial was designed to protect, namely: to prevent oppressive pre-trial incarceration; to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired. Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire

<sup>50</sup> G.R. No. 243560-62 & G.R. Nos. 243261-63, July 28, 2020.

<sup>51</sup> *Id.* (Emphases and underscoring supplied, citation omitted)

<sup>52</sup> *Supra* note 37.

system. There is also prejudice if the defense witnesses are unable to recall accurately the events of the distant past. Even if the accused is not imprisoned prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed, and he is subjected to public obloquy.

In *Coscolluela v. Sandiganbayan*:

Lest it be misunderstood, the right to speedy disposition of cases is not merely hinged towards the objective of spurring dispatch in the administration of justice but also to prevent the oppression of the citizen by holding a criminal prosecution suspended over him for an indefinite time. Akin to the right to speedy trial, its "salutary objective" is to assure that an innocent person may be free from the anxiety and expense of litigation or, if otherwise, of having his guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he may interpose. This looming unrest as well as the tactical disadvantages carried by the passage of time should be weighed against the State and in favor of the individual.<sup>53</sup>

The Court concludes that the 1370 days utilized in the conduct of the preliminary investigation prejudiced the petitioners as they were put in an intermediate state of waiting. Even if petitioners were not preventively imprisoned, they suffered agonizing anxiety, inconvenience, and expenses to hire their counsel of choice for the protracted determination of their culpability by the OMB. The petitioners, mostly public officials, may be rejected promotion or appointment due to the stigma that the case brings to them. As to Lerias, the perception of her performance while in public office was gravely eroded even if this was her first time to be the subject of a criminal investigation. In this case, after timely submitting their counter-affidavits with the attached documents seeking to prove that they have not committed any administrative or criminal wrongdoing when they collectively approved the purchase of the fertilizers from Philphos, the OMB should have resolved with haste the determination of their culpability.

Lastly, the Court finds that petitioners timely invoked their rights at the earliest possible time as it was one of the main points raised in their motion for reconsideration.<sup>54</sup>

As there was unreasonable delay in the conduct of the preliminary investigation and in relation to the resulting damage or prejudice that such delay caused to the petitioners, their right to the speedy disposition of their case was violated. Thus, the complaint filed against them should be dismissed with prejudice against the State.

---

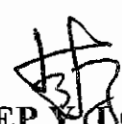
<sup>53</sup> *Id.* at 874-875. (Citations omitted)

<sup>54</sup> *Rollo*, p. 90.

9


**WHEREFORE**, the Court **NULLIFIES** and **SETS ASIDE** the Resolution and Order promulgated by the Office of the Ombudsman on June 14, 2017 and April 30, 2018 in OMB-C-C-13-0170. The Court **DISMISSES** OMB-C-C-13-0170 on the ground that the Office of the Ombudsman violated the right of the petitioners Rosette Y. Lerias, Pedro C. Llevares, Jr., Ma. Lucina L. Calapre, Joseph A. Duarte, and Catalino O. Olayvar to the speedy disposition of their case.

**SO ORDERED.**




**JHOSEP Y. LOPEZ**  
Associate Justice

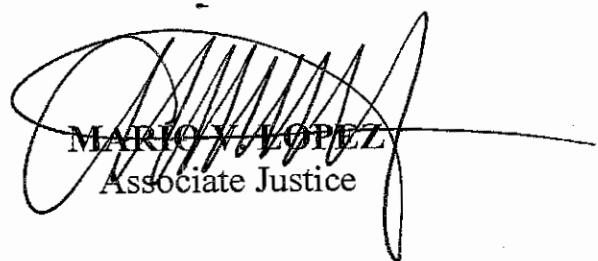
**WE CONCUR:**



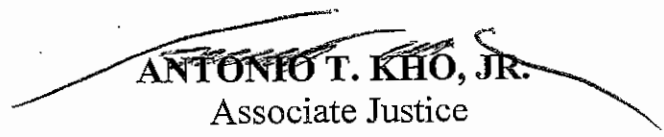
**MARVIC M.V.F. LEONEN**  
Associate Justice



**AMY C. LAZARO-JAVIER**  
Associate Justice




**MARIO Y. LOPEZ**  
Associate Justice



**ANTONIO T. KHO, JR.**  
Associate Justice

**ATTESTATION**

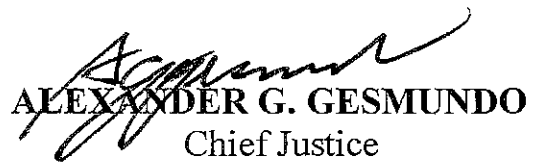
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M.V.F. LEONEN**  
Associate Justice  
Chairperson, Third Division

**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