



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ESTELITA Q. BATUNGBACAL,
Petitioner,

G.R. No. 255162

Present:

- versus -

CAGUIOA, J., *Chairperson,*
INTING,
GAERLAN,
DIMAAMPAO,* and
SINGH, JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:
November 28, 2022

X-----~~Misdebat~~-----X

D E C I S I O N

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ filed by Estelita Q. Batungbacal (petitioner) seeking the reversal of the Decision² dated August 24, 2020 and the Resolution³ dated January 8, 2021 of the Court of Appeals (CA) in CA-G.R. SP No. 162808. The CA affirmed the Decision⁴ dated November 26, 2018 and the Consolidated Resolution⁵ dated June 19, 2019 of Branch 2 of the Regional Trial Court (RTC), Balanga City, Bataan in C.V. No. 10714 that affirmed the Joint Resolution⁶ dated April 18, 2017 and the Order⁷ dated July 19, 2017 of the Municipal Trial Court in Cities (MTCC), Balanga City, Bataan in Criminal Case Nos. 10428 and 10496.

* On official leave.

¹ *Rollo*, pp. 3-55.

² *Id.* at 57-73. Penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Ronaldo Roberto B. Martin and Alfredo D. Ampuan.

³ *Id.* at 96-99.

⁴ *Id.* at 454-465. Penned by Presiding Judge Antonio Ray A. Ortiguera.

⁵ *Id.* at 502-506.

⁶ *Id.* at 384-397. Penned by Acting Judge Maricar P. Dela Cruz-Buban.

⁷ *Id.* at 398-404.

The Antecedents

Sometime in 2004, petitioner's husband Avelino Batungbacal (Avelino), former general manager and stockholder of Balanga Rural Bank (BRB), offered to purchase a parcel of land covered by Transfer Certificate of Title (TCT) No. T-214727 registered in the name of BRB (subject property). On September 6, 2005, the Board of Directors of BRB issued Board Resolution No. 05-67 authorizing the sale of the subject property to Avelino and petitioner (collectively, Spouses Batungbacal). A Deed of Absolute Sale (DOAS) was executed between BRB and Spouses Batungbacal for the purchase of the subject property for ₱1,100,000.00.⁸

Thereafter, Spouses Batungbacal sold the subject property to Diosdado and Luvimin Vitug⁹ (Luvimin) (collectively, Spouses Vitug) for ₱1,475,000.00. Spouses Batungbacal requested BRB to transfer the title of the subject property directly to Spouses Vitug to avoid payment of higher capital gains tax, in accordance with the common practice of BRB. Despite BRB's refusal, it later discovered two falsified documents: (1) Board Resolution No. 05-67 authorizing the sale of the subject property to Spouses Vitug for ₱500,000.00; and (2) DOAS between BRB and Spouses Vitug. BRB's corporate secretary Emiliano S. Pomer (Pomer) and bank manager Benedicta G. Balderia (Balderia) both denied executing the documents.¹⁰ On June 22, 2007, Balderia filed a complaint-affidavit¹¹ against Spouses Batungbacal before the Office of the City Prosecutor of Balanga City (OCP).

On July 30, 2010, the OCP issued a subpoena¹² to Spouses Batungbacal. Spouses Batungbacal filed their counter-affidavit¹³ on August 26, 2010. The OCP finally issued its Resolution¹⁴ on July 21, 2016 which provides:

WHEREFORE, premises considered, let the corresponding Informations for falsification of Absolute Deed of Sale and Resolution No. 05-67 as defined under Article 172 (1) of the Revised Penal Code in relation to Article 171 of the same code be filed

⁸ Id. at 58-59.

⁹ Referred to as Luzvimin in some parts of the *rollo* (see id. at 153-155, 159, 199).

¹⁰ Id. at 59-60.

¹¹ Id. at 101-102.

¹² Id. at 111. Signed by City Prosecutor Oscar M. Lasam.

¹³ Id. at 115-123.

¹⁴ Id. at 152-159. Penned by Assistant City Prosecutor Arceli C. Punay and approved by City Prosecutor Oscar M. Lasam.

against Avelino R. Batungbacal, Estelita Batungbacal, Luzvimin [sic] Vitug and Diosdado Vitug, Jr.

SO ORDERED.¹⁵

Thus, two (2) Informations dated July 25, 2016 charging Spouses Batungbacal and Spouses Vitug with Falsification of Public Document under Article 172(1) in relation to Article 171 of Act No. 3815, or the Revised Penal Code, were filed before the MTCC.¹⁶ Spouses Batungbacal filed a Motion for Reinvestigation/Reconsideration¹⁷ with the OCP on August 12, 2016. The OCP denied it in its Resolution¹⁸ dated August 24, 2016. Spouses Batungbacal then filed a Petition for Review¹⁹ with the Department of Justice (DOJ), but it was still pending when petitioner filed the present petition before the Court.²⁰

On January 20, 2017, Spouses Batungbacal filed an Omnibus Motion²¹ in Criminal Case No. 10428 and a Motion to Quash Information in Criminal Case No. 10496 before the MTCC.²² They prayed for: (1) the recall of the Warrant of Arrest; (2) the suspension of the proceedings pending the resolution of case by the DOJ; or (3) the dismissal of the case with prejudice.²³

The MTCC Ruling

The MTCC rendered its Joint Resolution²⁴ on April 18, 2017, the *fallo* of which states:

IN VIEW THEREOF, the Omnibus Motion in Criminal Case No. 10428 and Motion to Quash Information in Criminal Case No. 10496 are hereby **DENIED** for lack of merit.

Accordingly, the court finds probable cause in two (2) cases, thus, accused are directed to post a new bail bond in Criminal Case No. 10496 within ten (10) days from receipt of this Order, otherwise, warrant of arrest will be issued against them.

¹⁵ Id. at 159.

¹⁶ Id. at 60.

¹⁷ Id. at 160-166.

¹⁸ Id. at 197-200. Penned by Assistant City Prosecutor Arceli C. Punay and approved by City Prosecutor Oscar M. Lasam.

¹⁹ Id. at 201-224.

²⁰ Id. at 8.

²¹ Id. at 167-179.

²² Id. at 60.

²³ Id. at 178.

²⁴ Id. at 384-397.

Meanwhile, since Rule 117, Section 11 (c) of the Revised Rules of Criminal Procedure limits the deferment of the arraignment to a period of 60 days reckoned from the filing of the petition for review with the reviewing office, and the same was filed on September 13, 2016, thus, the arraignment of accused Sps. Avelino and Estelita Batungbacal and Sps. Diosdado and Luvimin Vitug in both cases is set on **May 11, 2017 at 2:00 o'clock in the afternoon as previously scheduled.**

SO ORDERED.²⁵ (Emphases in the original.)

According to the MTCC, there is no showing that the cases filed against Spouses Batungbacal were politically motivated. Spouses Batungbacal's allegation that the cases were filed out of retaliation and harassment are mere assumptions that must be proven. In addition, Spouses Batungbacal were given the opportunity to refute the charges against them through their counter-affidavit.²⁶ The MTCC found no evidence that the preliminary investigation was attended by vexatious, capricious, and oppressive delay that deprived them of their right to speedy trial.²⁷ The MTCC also ruled that the crimes have not prescribed.²⁸ Further, it held that probable cause exists in the case.²⁹

Spouses Batungbacal filed a motion for reconsideration which the MTCC denied in its Resolution³⁰ dated July 19, 2017. Thereafter, Spouses Batungbacal filed a Petition for *Certiorari* and Prohibition³¹ with the RTC.

The RTC Ruling

The RTC ruled as follows in its Decision³² dated November 26, 2018:

WHEREFORE, in view of the foregoing, the petition is DENIED and the Joint Resolution dated April 18, 2017 and Order dated July 19, 2017 of the Municipal Trial Court in Cities, Balanga City, in Criminal Case Nos. 10428 and 10496 are AFFIRMED in toto.

²⁵ Id. at 396.

²⁶ Id. at 390.

²⁷ Id. at 390-392.

²⁸ Id. at 392-393.

²⁹ Id. at 393-396.

³⁰ Id. at 398-404.

³¹ Id. at 405-451.

³² Id. at 454-466.

SO ORDERED.³³

The RTC agreed with the MTCC that the crimes have not prescribed because the 10-year prescriptive period, which began when the DOAS was registered in October 2005, was interrupted with the filing of the complaint on June 22, 2007.³⁴ The RTC also found that the MTCC did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in finding probable cause against Spouses Batungbacal and in issuing warrants of arrest against them.³⁵ As for the alleged violation of Spouses Batungbacal's right to speedy disposition of cases, the RTC held that the OCP followed the prescribed procedure. It found that the preliminary investigation was neither attended by malice nor politically motivated, noting that there was institutional delay because there was only one prosecutor in Balanga City from 2004 to 2014. The RTC noted that two prosecutors were detailed during that period but only for a short time. A regular prosecutor was finally appointed on February 3, 2014, and two more prosecutors were appointed thereafter.³⁶ Finally, the RTC ruled that Spouses Batungbacal were remiss in invoking their right to speedy disposition. It also found that Spouses Batungbacal were not prejudiced as a result of the delay.³⁷

Spouses Batungbacal filed a Respectful Motion to Recuse³⁸ and a Motion for Reconsideration.³⁹ The RTC denied both motions in its Consolidated Resolution⁴⁰ dated June 19, 2019. Thereafter, Spouses Batungbacal appealed to the CA.⁴¹ While the appeal was pending, Avelino died on July 15, 2020.⁴²

The CA Ruling

The CA denied the appeal in its Decision⁴³ dated August 24, 2020; thus:

WHEREFORE, premises considered, the appeal is **DENIED**.
The Decision dated 26 November 2018 and Consolidated Resolution

³³ Id. at 465.

³⁴ Id. at 455-457.

³⁵ Id. at 457-459.

³⁶ Id. at 459-463.

³⁷ Id. at 463-465.

³⁸ Id. at 497-501.

³⁹ Id. at 467-488.

⁴⁰ Id. at 502-506.

⁴¹ See Notice of Appeal dated July 15, 2019; id. at 507-508.

⁴² See Certificate of Death; id. at 81.

⁴³ Id. at 57-73.

dated 19 June 2019 of the Regional Trial Court, Branch 02, Balanga City, Bataan are **AFFIRMED**.

SO ORDERED.⁴⁴ (Emphases in the original.)

First, the CA concurred with the RTC that Spouses Batungbacal's right to speedy disposition of cases was not violated and that the lack of prosecutors in Balanga City was a sufficient justification for the delay. The CA also agreed that Spouses Batungbacal belatedly raised the alleged violation of their right to speedy disposition of cases, as they could have raised it in their counter-affidavit but did not do so. Likewise, Spouses Batungbacal were not prejudiced by the delay because they were able to provide their own version of what happened throughout all the proceedings. The CA pointed out that should Spouses Batungbacal have trouble of recollection, they can refer to the evidence submitted to the MTCC.⁴⁵ *Second*, the CA upheld the RTC's finding that the crimes have not prescribed.⁴⁶ *Third*, the CA ruled that the RTC was correct in finding probable cause against Spouses Batungbacal.⁴⁷ *Finally*, Spouses Batungbacal's Respectful Motion to Recuse was properly denied.⁴⁸

After the CA denied petitioner's Motion for Reconsideration⁴⁹ in its Resolution⁵⁰ dated January 8, 2021, she filed the Petition for Review on *Certiorari*⁵¹ before the Court.

The Issues

- I. Whether the crimes have prescribed;
- II. Whether RTC Judge Antonio Ray A. Ortiguera (Judge Ortiguera) should have inhibited from the case; and
- III. Whether petitioner's right to speedy disposition of cases was violated.

⁴⁴ Id. at 72.

⁴⁵ Id. at 62-68.

⁴⁶ Id. at 68-69.

⁴⁷ Id. at 69-71.

⁴⁸ Id. at 71-72.

⁴⁹ Id. at 74-80.

⁵⁰ Id. at 96-99.

⁵¹ Id. at 3-55.

The Court's Ruling

The Court grants the petition.

The crimes have not prescribed.

Falsification of Public Documents under Article 172(1)⁵² in relation to Article 171⁵³ of the Revised Penal Code is punishable by *prisión correccional* in its medium and maximum periods and a fine of not more than ₱5,000.00. Although the fine was later increased to ₱1,000,000.00 under Republic Act No. RA 10951, the original penalty applies in the case as the incident took place before RA 10951 took effect on September 16, 2017.⁵⁴ RA 10951 cannot be retroactively applied because it would be prejudicial to petitioner. This is consistent with Article 22⁵⁵ of the Revised Penal Code and Section 100⁵⁶ of RA 10951.

⁵² ARTICLE 172. *Falsification by Private Individuals and Use of Falsified Documents.* — The penalty of *prisión correccional* in its medium and maximum periods and a fine of not more than 5,000 pesos shall be imposed upon:

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document; x x x

⁵³ ARTICLE 171. *Falsification by Public Officer, Employee or Notary or Ecclesiastic Minister.* — The penalty of *prisión mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;
2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
4. Making untruthful statements in a narration of facts;
5. Altering true dates;
6. Making any alteration or intercalation in a genuine document which changes its meaning;
7. Issuing in authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such copy a statement contrary to, or different from, that of the genuine original; or
8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons.

⁵⁴ *Reside v. People*, G.R. No. 210318, July 28, 2020.

⁵⁵ ARTICLE 22. *Retroactive Effect of Penal Laws.* — Penal laws shall have a retroactive effect in so far as they favor the person guilty of a felony, who is not a habitual criminal, as this term is defined in rule 5 of Article 62 of this Code, although at the time of the publication of such laws a final sentence has been pronounced and the convict is serving the same.

⁵⁶ SECTION 100. *Retroactive Effect.* — This Act shall have retroactive effect to the extent that it is favorable to the accused or person serving sentence by final judgment.

Article 25 of the Revised Penal Code classifies *prision correccional* as a correctional penalty. Under Article 90 of the same law, a crime punishable with a correctional penalty prescribes in ten (10) years. As to when the prescriptive period shall begin to run, Article 91 provides:

ARTICLE 91. *Computation of Prescription of Offenses.* —

The period of prescription shall commence to run from the day on which the crime is discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him.

In cases involving Falsification of Public Documents, the registration of the public document is the reckoning point of the prescriptive period.⁵⁷ Here, the DOAS⁵⁸ between BRB and Spouses Vitug indicates that it was received by the Registry of Deeds on October 3, 2005, while the spurious Board Resolution No. 05-67⁵⁹ was received on October 4, 2005. As such, Balderia's filing of a complaint on June 22, 2007 was done within the prescriptive period, thereby interrupting its running. None of the circumstances mentioned in Article 91 are present in the case.⁶⁰ Therefore, the prescriptive period has not run again after the complaint was filed. Necessarily, the prosecution of the crimes charged against petitioner has not yet prescribed.

Judge Ortiguera's voluntary inhibition was not warranted.

Section 1, Rule 137 of the Rules of Court states:

SECTION 1. *Disqualification of judges.* — No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the

⁵⁷ *Lim, v. People*, 830 Phil. 669, 693 (2018).

⁵⁸ *Rollo*, p. 106.

⁵⁹ *Id.* at 110.

⁶⁰ See *id.* at 68-69.

subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

In addition, Section 5, Canon 3 of A.M. No. 03-05-01-SC, or the New Code of Judicial Conduct for the Philippine Judiciary (New Code of Judicial Conduct), provides:

SECTION 5. Judges shall disqualify themselves from participating in any proceedings in which they are unable to decide the matter impartially or in which it may appear to a reasonable observer that they are unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where:

(a) The judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;

(b) The judge previously served as a lawyer or was a material witness in the matter in controversy;

(c) The judge, or a member of his or her family, has an economic interest in the outcome of the matter in controversy;

(d) The judge served as executor, administrator, guardian, trustee or lawyer in the case or matter in controversy, or a former associate of the judge served as counsel during their association, or the judge or lawyer was a material witness therein;

(e) The judge's ruling in a lower court is the subject of review;

(f) The judge is related by consanguinity or affinity to a party litigant within the sixth civil degree or to counsel within the fourth civil degree; or

(g) The judge knows that his or her spouse or child has a financial interest, as heir, legatee, creditor, fiduciary, or otherwise, in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceedings.

Petitioner argued that Judge Ortiguera should have inhibited because his father was the partner of BRB's counsel, now Municipal Circuit Trial Court Judge Juliet D. Sangalang-Salaria (Judge Salaria), at the Ortiguera Zuniga Pomer Salaria Law Office⁶¹ (OZPS Law Office).⁶² This is clearly not one of the grounds for mandatory inhibition under Section 1, Rule 137 of the Rules of Court or Section 5, Canon 3 of the

⁶¹ Referred to as "Ortiguera Zuniga Pomer Salaria Law Office" (see *rollo*, pp. 497, 499) and as "Ortiguera Zuniga Pomer Salaria Law Office" in some parts of the *rollo* (see *id.* at 45-46).

⁶² *Id.* at 45-47.

New Code of Judicial Conduct. Thus, what petitioner prayed for is the voluntary inhibition of Judge Ortiguera.

Voluntary inhibition rests on the sound discretion of the judge. In the exercise of their discretion, judges are called upon to rely on their conscience.⁶³ Some of the factors considered by the Court in evaluating whether a judge should voluntarily inhibit from a case are: (1) whether the party moving for a judge's inhibition was deprived of a fair and impartial trial; (2) whether the judge had an interest, personal or otherwise, in the prosecution of the case in question; and (3) whether the bias and prejudice were shown to have stemmed from an extrajudicial source, the result of which the judge's opinion on the merits was formed on the basis of something outside of what the judge learned from participating in the case. Clear and convincing evidence must be presented to show the bias and prejudice of the judge whose voluntary inhibition is sought.⁶⁴

Judge Ortiguera admitted in the Consolidated Resolution⁶⁵ dated June 19, 2019 that his father was part of the OZPS Law Office. His father retired after suffering a stroke in November 2012 and subsequently died in August 2018.⁶⁶ Apart from the connection of Judge Ortiguera's father to BRB's counsel, petitioner has not given any other basis for his inhibition. Moreover, it was duly pointed out in the Consolidated Resolution that BRB's Counsel was Judge Salaria and not the OZPS Law Office.⁶⁷ In any event, Judge Ortiguera's father was no longer connected with the OZPS Law Office by the time that the Informations were filed on July 25, 2016.⁶⁸

The Court emphasizes that "the right of a party to seek the inhibition or disqualification of a judge who does not appear to be wholly free, disinterested, impartial and independent in handling the case must be balanced with the latter's sacred duty to decide cases without fear of repression."⁶⁹ Absent clear and convincing evidence of Judge

⁶³ *Baterina v. Hon. Musngi*, G.R. Nos. 239203-09 (Resolution), July 28, 2021.

⁶⁴ *Tan II v. People*, G.R. No. 242866, July 6, 2022.

⁶⁵ *Rollo*, pp. 502-506.

⁶⁶ *Id.* at 503-504.

⁶⁷ *Id.* at 504. See also private complainant's Comment/Opposition (to the Omnibus Motion Filed by Spouses Avelino and Estelita Batungbacal) and Manifestation; *id.* at 248, 338.

⁶⁸ See *id.* at 60.

⁶⁹ *Republic v. Sereno*, 831 Phil. 271, 378 (2018).

Ortiguera's bias and partiality, the presumption that he will perform his duty of dispensing justice without fear or favor stands.⁷⁰

Petitioner's right to speedy disposition of cases was violated.

The right to speedy disposition of cases is enshrined in Section 16, Article III of the Constitution, *viz.*:

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

The Court laid down the following guidelines in *Cagang v. Sandiganbayan*⁷¹ (*Cagang*) for determining whether there has been a violation of the right to speedy disposition of cases or the right to speedy trial under Section 14(2), Article III of the Constitution:

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

⁷⁰ See *id.* at 386.

⁷¹ 837 Phil. 815 (2018).

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 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.⁷² (Emphases in the original; citations omitted.)

Although *Cagang* involved a case within the jurisdiction of the Office of the Ombudsman, the Court adopted the guidelines therein for a

⁷² Id. at 880-882.

criminal case pending before the regular courts in *Campa, Jr. v. Hon. Paras*⁷³ (*Campa*). Accordingly, the Court shall follow the same guidelines in determining whether petitioner's right to speedy disposition of cases has been violated.

First, it is undisputed that what is involved here is petitioner's right to speedy disposition of cases and not her right to speedy trial. Petitioner assails the delay from the time that the complaint was filed by Balderia until the Informations were filed against her and Avelino.⁷⁴ She does not question the period of the proceedings before the courts *a quo*.

Second, there was a delay in the resolution of the preliminary investigation. Balderia filed her complaint on June 22, 2007.⁷⁵ Under Section 3(b), Rule 112⁷⁶ of the Revised Rules of Criminal Procedure, the investigating officer should have either dismissed the complaint or issued a subpoena to Spouses Batungbacal within 10 days from the filing of the complaint. Hence, Balderia's complaint should have led to the issuance of a subpoena by July 2, 2007. However, a subpoena was only issued to Spouses Batungbacal on July 30, 2010,⁷⁷ or almost three years after the complaint was filed.

Spouses Batungbacal filed their counter-affidavit on August 26, 2010.⁷⁸ Section 3(e) of Rule 112⁷⁹ provides that a hearing may be held within 10 days from the filing of the counter-affidavits and supporting documents or from the expiration of the period within which to file them. The hearing must be terminated within five days and the investigating officer must determine whether there is sufficient ground to

⁷³ G.R. No. 250504, July 12, 2021.

⁷⁴ *Rollo*, pp. 14-15.

⁷⁵ *Id.* at 101.

⁷⁶ SECTION 3. *Procedure*.— The preliminary investigation shall be conducted in the following manner: x x x

b) Within ten (10) days after the filing of the complaint, the investigating officer shall either dismiss it if he finds no ground to continue with the investigation, or issue a subpoena to the respondent attaching to it a copy of the complaint and its supporting affidavits and documents. x x x

⁷⁷ *Rollo*, p. 111.

⁷⁸ *Id.* at 115.

⁷⁹ (e)The investigating officer may set a hearing if there are facts and issues to be clarified from a party or a witness. The parties can be present at the hearing but without the right to examine or cross-examine. They may, however, submit to the investigating officer questions which may be asked to the party or witness concerned.

The hearing shall be held within ten (10) days from submission of the counter-affidavits and other documents or from the expiration of the period for their submission. It shall be terminated within five (5) days.

hold trial 10 days after the investigation.⁸⁰ The investigating officer must then forward the records of the case to the provincial or city prosecutor or chief state prosecutor within five days from his or her resolution pursuant to Section 4 of Rule 112.⁸¹ The provincial or city prosecutor or chief state prosecutor must act on the resolution within 10 days from his or her receipt. Section 58(3)⁸² of the 2008 Revised Manual for Prosecutors likewise requires the termination and resolution of preliminary investigations involving crimes cognizable by the MTCC within 60 days from the date of assignment to the investigating prosecutor.⁸³

Here, the OCP issued its Resolution on July 21, 2016,⁸⁴ or almost six years after the filing of the counter-affidavit and more than nine years after the filing of the complaint. Clearly, the OCP incurred delay beyond the period provided under the law. Consequently, the prosecution bears the burden of proving: (a) that it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; (b) that the complexity of the issues and the volume of evidence

⁸⁰ Sec. 3(f), Rule 112, Revised Rules of Criminal Procedure.

⁸¹ SECTION 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. x x x

⁸² SEC. 58. *Period to resolve cases under preliminary investigation.* — The following periods shall be observed in the resolution of cases under preliminary investigation:

x x x

3. In cases of complaints involving crimes cognizable by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, the preliminary investigation—should the same be warranted by the circumstances—shall be terminated and resolved within sixty (60) days from the date of assignment to the Investigating Prosecutor.

In all instances, the total period (from the date of assignment to the time of actual resolution) that may be consumed in the conduct of the formal preliminary investigation shall not exceed the periods prescribed herein.

⁸³ Under Section 4.7.14 of 2017 Revised Manual for Prosecutors, the preliminary investigation must be terminated and resolved within 60 days from assignment to the investigating prosecutor, with a maximum of two 15-day extensions in the following cases: (a) capital offenses; (b) complex issues; (c) with counter-charges; (d) consolidation of related complaints; (e) reassignment; and (f) other urgent and valid reasons. Pursuant to R.A. 9165, the preliminary investigation of drugs cases shall be terminated within thirty (30) days from filing.

⁸⁴ *Rollo*, p. 159.

made the delay inevitable; and (c) that no prejudice was suffered by the accused as a result of the delay.⁸⁵

Third, the prosecution was not able to offer sufficient justification for the delay. The courts *a quo* excused the delay incurred by the OCP on the ground that there was only one prosecutor in Balanga City from 2004 to 2014.⁸⁶ Although another prosecutor was assigned during this period, she was only required to report twice a week for a total of eight months. An additional full-time prosecutor was finally assigned to Balanga City on February 3, 2014.⁸⁷ The Court recognized in *Cagang* the difficulties faced by government lawyers with mounting caseloads that causes delay in the resolution of cases. As such, institutional delay should not be taken against the State in the proper context.⁸⁸ Nonetheless, the Court clarified in *Campa* that institutional delay cannot be used as a justification if the respondent did not cause or contribute to the delay in the resolution of the case.⁸⁹ Similar to *Campa*, petitioner did not contribute to the delay of the resolution of the case before the OCP.⁹⁰ There is no showing that petitioner employed dilatory tactics before the OCP. Accordingly, the delay is solely attributable to the OCP.

While it is understandable that the OCP would have found it difficult to strictly observe the period stated Section 3, Rule 112 of the Revised Rules of Criminal Procedure and the 2008 Revised Manual for Prosecutors, the amount of time that it took to resolve the case is still unacceptable. The case does not involve complicated questions of law and fact or voluminous records that required a significant amount of time for the OCP to study. The subject of Balderia's complaint was the allegedly falsified DOAS and Board Resolution No. 05-67. Aside from these falsified documents, Balderia attached the following in support of her complaint: (1) the DOAS⁹¹ between BRB and Spouses Batungbacal; (2) handwritten receipt⁹² written by Spouses Batungbacal; (3) handwritten checks⁹³ in favor of petitioner; (4) the Affidavit⁹⁴ of Pomer; and (5) the authentic version of Board Resolution No. 05-67.⁹⁵

⁸⁵ *Cagang v. Sandiganbayan, Fifth Division, Quezon City*, supra note 71 at 881.

⁸⁶ *Rollo*, p. 463.

⁸⁷ See Certification dated January 19, 2017; *id.* at 281. Signed by Regional Prosecutor Jesus C. Simbulan.

⁸⁸ *Cagang v. Sandiganbayan, Fifth Division, Quezon City*, supra note 71 at 873.

⁸⁹ *Campa, Jr. v. Paras*, supra note 73.

⁹⁰ See *rollo*, p. 30.

⁹¹ *Id.* at 102.

⁹² *Id.* at 103, 105.

⁹³ *Id.* at 104.

⁹⁴ *Id.* at 107-108.

⁹⁵ *Id.* at 109-110.

As for Spouses Batungbacal, they submitted the following documents together with their counter-affidavit: (1) Certificate Authorizing Registration⁹⁶ dated September 13, 2005; (2) BIR Form 2000 for Documentary Stamp Tax Declaration Form/Return;⁹⁷ (3) BIR Form 1606 for Withholding Tax Remittance Return;⁹⁸ and (4) Certification⁹⁹ dated September 14, 2005 from the City Treasurer of Balanga City.

Maria Rosario R. Banzon (Banzon), President and Chairperson of BRB, also filed a Joint Counter-Affidavit and Reply-Affidavit¹⁰⁰ together with Balderia after Spouses Batungbacal accused her of perjury and swindling. Attached to their affidavit were: (1) Secretary's Certificate¹⁰¹ dated March 5, 2007; (2) Letter¹⁰² of Avelino dated November 9, 2004; (3) Letter¹⁰³ of petitioner dated August 17, 2005; and (4) Order¹⁰⁴ dated August 6, 2004 of Branch 3 of the RTC of Balanga City in Civil Case No. 7922.

Spouses Batungbacal filed a Rejoinder-Affidavit and Reply-Affidavit¹⁰⁵ accompanied by: (1) Affidavit¹⁰⁶ of Luvimin; (2) TCT No. T-214727;¹⁰⁷ (3) Avelino's Statement of Account with the BRB;¹⁰⁸ and (4) Letter of Banzon dated January 21, 2008.¹⁰⁹

Although several documents were submitted by the parties, these would hardly qualify as voluminous so as to justify the resolution of the case almost 10 years after the complaint was filed. Moreover, the prosecution failed to establish that petitioner suffered no prejudice because of the delay. On the contrary, petitioner duly alleged that she could no longer accurately recall the events subject of the case considering her advanced age.¹¹⁰ This is a consequence of the delay that is undoubtedly prejudicial to petitioner.¹¹¹

⁹⁶ Id. at 124.

⁹⁷ Id. at 125.

⁹⁸ Id. at 126.

⁹⁹ Id. at 127.

¹⁰⁰ Id. at 128-130.

¹⁰¹ Id. at 131.

¹⁰² Id. at 132.

¹⁰³ Id. at 133.

¹⁰⁴ Id. at 134.

¹⁰⁵ Id. at 135-141.

¹⁰⁶ Id. at 142.

¹⁰⁷ Id. at 145.

¹⁰⁸ Id. at 144.

¹⁰⁹ Not attached to the *rollo*. See id. at 140.

¹¹⁰ Id. at 3-4, 17.

Fourth, petitioner timely assailed the violation of her right to speedy disposition of cases. In *Javier v. Sandiganbayan*,¹¹² the Court held that the accused is not obliged to follow up on the case. Likewise, the accused therein did not have any legitimate avenue to assert their right to speedy disposition of cases because the Ombudsman's Rules of Procedure prohibit the filing of a motion to dismiss except on the ground of lack of jurisdiction.¹¹³ In petitioner's case, Section 3(c), Rule 112¹¹⁴ of the Revised Rules of Criminal Procedure similarly prohibits the filing of a motion to dismiss during the preliminary investigation. As such, petitioner cannot be faulted for not moving for the dismissal of Balderia's complaint before the OCP. Notably, Spouses Batungbacal filed an Omnibus Motion and a Motion to Quash before their arraignment.¹¹⁵ Therefore, petitioner timely raised the violation of her right to speedy disposition of cases.

The objective of the constitutional right to speedy disposition of cases is to ensure that an innocent person is freed from anxiety and expense of litigation by having his or her guilt determined in the shortest time possible compatible with his or her legitimate defenses.¹¹⁶ The inordinate delay in the resolution of the case is inconsistent with this objective and is a violation of petitioner's right to speedy disposition of cases. No less than the dismissal of the cases against petitioner is warranted as a consequence of this violation.

WHEREFORE, the petition is **GRANTED**. The Decision dated August 24, 2020 and the Resolution dated January 8, 2021 of the Court of Appeals in CA-G.R. SP No. 162808 are **REVERSED** and **SET ASIDE**. The criminal charges for Falsification of Public Document under Article 172 (1) in relation to Article 171 of the Revised Penal Code against petitioner Estelita Q. Batungbacal in Criminal Case Nos. 10428 and 10496 pending before the Municipal Trial Court in Cities of Balanga City, Bataan are **DISMISSED**.

¹¹¹ See *Campa, Jr. v. Paras*, supra note 73, citing *Magante v. Sandiganbayan*, 836 Phil. 1108, 1125 (2018).

¹¹² G.R. No. 237997, June 10, 2020.

¹¹³ *Id.*

¹¹⁴ (c) Within ten (10) days from receipt of the subpoena with the complaint and supporting affidavits and documents, the respondent shall submit his counter-affidavit and that of his witnesses and other supporting documents relied upon for his defense. The counter-affidavits shall be subscribed and sworn to and certified as provided in paragraph (a) of this section, with copies thereof furnished by him to the complainant. The respondent shall not be allowed to file a motion to dismiss in lieu of a counter-affidavit.

¹¹⁵ *Rollo*, p. 60.

¹¹⁶ *Hong v. Aragon*, G.R. No. 209797, September 8, 2020.

SO ORDERED.



HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson



SAMUEL H. GAERLAN
Associate Justice

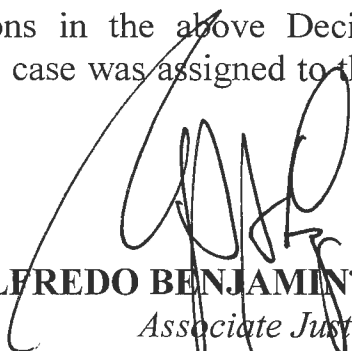
(On official leave)
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION


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



ALFREDO BENJAMIN S. CAGUIOA
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

PH