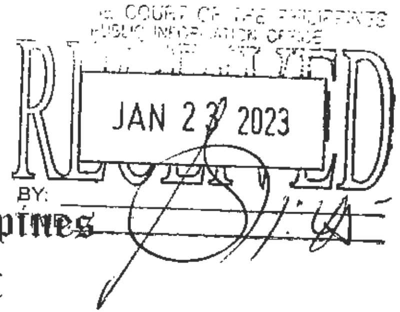

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

GRACE T. CHINGKOE,
Petitioner,

-versus-

SANDIGANBAYAN (FIRST DIVISION) and THE PEOPLE OF THE PHILIPPINES,
Respondents.

G.R. Nos. 232029-40

x---x x--------------------------------------x

ULDARICO P. ANDUTAN, JR.,
Petitioner,

-versus-

SANDIGANBAYAN (FIRST DIVISION) and THE PEOPLE OF THE PHILIPPINES,
Respondents.

G.R. Nos. 234975-84

Present:

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

Promulgated:
OCT 12 2022

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DECISION

LEONEN, *J.*:

A court may dismiss a case once it has established that the accused's right to speedy disposition of cases has been violated. However, the accused

must invoke this constitutional right in a timely manner. Otherwise, the court may consider the right waived.[1]

This resolves the two Petitions for Certiorari[2] separately filed by Grace T. Chingkoe (Chingkoe) and Uldarico P. Andutan, Jr. (Andutan), assailing the Resolutions[3] of the Sandiganbayan. Through the said Resolutions, the Sandiganbayan denied Chingkoe's Motion to Quash filed on the ground of violation of her constitutional rights to due process and speedy disposition of cases.

On March 18, 2003, the Special Presidential Task Force 156 filed a Complaint[4] against the officials and employees of the One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance, as well as private individuals,[5] in connection with the irregularities in the issuance of tax credit certificates. Among those accused were Chingkoe and Andutan.

Andutan, then deputy executive director of the One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, allegedly gave "unwarranted benefit, advantage[,] or preference to [Filstar Textile Industrial Corporation (Filstar), Petron Corporation (Petron) and Pilipinas Shell Petroleum Corporation (Shell)], through manifest partiality, evident bad faith[,] or at the very least, gross inexcusable negligence, by way of recommending approval of the evaluation reports of the tax credit applications of Filstar and for subsequently recommending the approval and transfer of the [tax credit certificates] from Filstar to Petron and Shell[.]"[6]

On the other hand, Chingkoe, the corporate secretary of Filstar,[7] allegedly "used and submitted spurious and falsified documents relative to the issuance of the [tax credit certificates] in favor of Filstar[,] as well as the

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1 *Cagang v. Sandiganbayan,* 837 Phil. 815 (2018) [Per J. Leonen, En Banc].

2 *Rollo* (G.R. Nos. 232029-40), pp. 10–26; *rollo* (G.R. Nos. 234975-84), pp. 3–17.

3 *Rollo* (G.R. Nos. 232029-40), pp. 32–34, 36–39. The December 7, 2016 and April 20, 2017 Resolutions in Criminal Case Nos. SB-09-CRM-0087, 0088, 0097, 0098, 0101, 0102, 0107, 0108, 0117, 0118, 0127, and 0128 were penned by Associate Justice Reynaldo P. Cruz and concurred in by Associate Justices Efren N. De La Cruz and Michael Frederick L. Musngi of the Special First Division of the Sandiganbayan, Quezon City.

4 Id. at 44–52. The Complaint was filed for violations of Republic Act No. 7080, or "An Act Defining and Penalizing the Crime of Plunder," Section 3(e) of Republic Act No. 3019, or "Anti-Graft and Corrupt Practices Act," and estafa thru falsification of public documents.

5 Id. at 44. The respondents were Antonio P. Belicena, Uldarico P. Andutan, Jr., Faustino T. Chingkoe, Gloria Eng Eng C. Chingkoe, Celso L. Legarda, Pacifico R. Cruz, Rowena P. Malonzo, Jane U. Aranas, Asuncion M. Magdaet, Emelita T. Tizon, Cherry L. Gomez, Sylvialina F. Daguimol, Charmelle P. Recoter, Anabelle J. Dino, Merose L. Tordesillas, Gemma E. Ortiz, Gregoria V. Cuento, Arsenio Costales, Emmanuel F. Lao-an, Menchie F. Laceda, Maximiano Acilo, Catalina Bautista, Amante F. Ares, Grace Chingkoe, Dynah Simonette D. Dolor, Rodel P. Rodriguez, Leonardo A. Tanseco, Crispulo Pangilinan, Reynaldo E. Jose, Reynato Andaya, Virgilio Pinon, Angel Chua, and Rodrigo R. Garcia.

6 Id. at 47.

7 Id. at 58.

subsequent transfer thereof to Petron and Shell in conspiracy with . . . former and present government officials and employees[.]"[8]

On August 20, 2003, Chingkoe filed her Counter-Affidavit,[9] denying the accusations against her and claiming that she was made liable solely due to her position as incorporator of Filstar.

On February 23, 2009, the Office of the Ombudsman rendered a Joint Resolution,[10] finding probable cause to indict Andutan and Chingkoe, among other respondents.[11] Overall Deputy Ombudsman Orlando Casimiro approved the Resolution on March 18, 2009.[12]

On March 26, 2009, several Informations[13] for violation of Section 3(e) of Republic Act No. 3019 and estafa through falsification of public Documents were filed by the Office of the Ombudsman against Chingkoe, Andutan, and other respondents before the Sandiganbayan.

On October 20, 2009, Chingkoe filed a Memorandum,[14] seeking reconsideration of the Joint Resolution of the Office of the Ombudsman.

On August 25, 2016, Chingkoe filed a Motion to Quash,[15] faulting the Office of the Ombudsman for the inordinate delay of six years in the termination of the preliminary investigation. She argued the Office has violated her constitutional rights to due process and speedy disposition of cases.[16] She claimed to have filed the Motion based on Rule 117, Sections 3(b) and (d) of the Rules of Court, adding that the violation of her constitutional rights ousted the prosecution of authority to file the cases against her and did not vest the court of jurisdiction over the offenses charged.[17] She argued that her arraignment did not bar her from questioning the jurisdiction of the court, as question on jurisdiction may be raised at any stage of the proceedings.[18]

Later, Andutan, together with Asuncion Magdaet, Emelita Tizon, and Catalina Bautista, adopted Chingkoe's Motion.[19]

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[8] Id. at 48.
[9] Id. at 53–55.
[10] Id. at 56–135. The February 23, 2009 Resolution was penned by Graft Investigation and Prosecution Officers Clarissa V. Tejada and Judy Anne Doctor-Escalona.
[11] Id. at 113.
[12] Id at 133.
[13] Id. at 136–188.
[14] Id. at 220–228.
[15] Id. at 213–219.
[16] Id. at 216.
[17] Id.
[18] Id. at 217.
[19] Id. at 34.

The prosecution filed its Consolidated Comment/Opposition,[20] claiming that Chingkoe's failure to assert the inordinate delay and lack of authority to file the Information prior to her arraignment operated as waiver of her right to object to the validity of the Information.[21]

Both Chingkoe and Andutan separately filed their Replies.[22]

In a Resolution,[23] the Sandiganbayan denied the Motion to Quash/Motion to Dismiss for lack of merit. It ruled that Chingkoe's Motion was belatedly filed after her arraignment, barring her right to object to the validity of the Information.[24]

The dispositive portion of the Resolution reads:

> WHEREFORE, premises considered, the Motion to Quash/Motion to Dismiss dated 24 August 2016, filed by accused Grace T. Chingkoe, and adopted by accused Uldarico Andutan, Jr., Asuncion M. Magdaet, Emelita T. Tizon and Catalina A. Bautista, is hereby DENIED for lack of merit.
>
> SO ORDERED.[25]

The Sandiganbayan also denied Chingkoe's and Andutan's Motions for Reconsideration for lack of merit.[26]

As stated earlier, both Chingkoe and Andutan separately filed their Petitions for *Certiorari* before this Court.[27]

In a Resolution,[28] we consolidated the Petitions filed by petitioner Chingkoe and petitioner Andutan and required the Office of the Special Prosecutor[29] to comment on the Petitions.

The Office of the Special Prosecutor, representing the People of the Philippines, filed its Consolidated Comment[30] on December 28, 2017.

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20 Id. at 229–235.
21 Id. at 233.
22 Id. at 237–243; *rollo* (G.R. Nos. 234975-84), pp. 45–51.
23 *Rollo* (G.R. Nos. 232029-40), pp. 32–34
24 Id. at 34.
25 Id.
26 Id. at 39.
27 *Rollo* (G.R. Nos. 232029-40), pp. 10–26; *rollo* (G.R. Nos. 234975-84), pp. 3–17.
28 *Rollo* (G.R. Nos. 232029-40), pp. 255–257.
29 This Court granted the request of the Office of the Solicitor General that it be excused from participating in this case since it is the Office of the Special Prosecutor that has the duty to represent People in cases within the jurisdiction of the Sandiganbayan.
30 *Rollo* (G.R. Nos. 232029-40), pp. 258–284.

In another Resolution,[31] we resolved to require the law firm of Santos, Parungao, Aquino, and Santos to submit the conformity of its client, petitioner Andutan, to its Motion to be Relieved as Counsel. On October 15, 2018, we required the law firm to exert more efforts to secure the conformity of petitioner Andutan.[32]

On January 6, 2020, we required petitioners to file their Replies to the Consolidated Comment.[33]

On March 6, 2020, petitioner Chingkoe filed her Reply.[34] Petitioner Andutan did not file a Reply.

In her Petition, petitioner Chingkoe alleges that public respondent Sandiganbayan did not acquire jurisdiction over the criminal cases filed against her and the Office of the Ombudsman was ousted of authority to file the Information given the violation of her constitutional rights to due process and speedy disposition of cases when the preliminary investigation lasted for six years from the time of the filing of the complaint.[35] She argues that her arraignment did not operate as waiver of her right to assert the violation of her rights and to assail the jurisdiction of public respondent.[36]

Petitioner Chingkoe also asserts denial of her constitutional right to equal protection of the law. She argues that despite being similarly situated with other accused, public respondent did not dismiss the criminal case against her on the same grounds as the dismissal of the criminal cases against the other accused.[37]

In support of her prayer for the issuance of a temporary restraining order and preliminary injunction, petitioner Chingkoe asserts that there is "clear and present danger that [she] would be prosecuted for crimes she should have been acquitted" of for violation of her constitutional rights, and she would suffer grave injustice and irreparable injury with her continued prosecution.[38]

Petitioner Andutan similarly alleges that the inordinate delay of more than five years from the filing of the complaint to the filing of the Informations violated his rights to due process and speedy disposition of cases.[39] He argues that the prosecution is ousted of authority to file the Informations, that those

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[31] Id. at 298–299.
[32] Id. at 318.
[33] Id. at 318-A.
[34] Id. at 324–331.
[35] Id. at 16–17.
[36] Id. at 20–21.
[37] Id. at 19–20.
[38] Id. at 23–24.
[39] *Rollo* (G.R. Nos. 234975-84), pp. 8–9.

Informations are invalid, and that public respondent Sandiganbayan is not vested with jurisdiction over the offenses charged.[40]

Petitioner Andutan likewise claims that the grounds for seeking the dismissal of the criminal cases fall not just under Rule 117, Section 3(d) of the Rules of Court, but also Rule 117, Section 3(b), which may be raised at any stage of the proceedings.[41] He claims that the Office of the Ombudsman lost its authority to file the Informations due to "vexatious, capricious, and oppressive delay" in filing the Informations, and his arraignment cannot bar the grant of his motion.[42]

In its Consolidated Comment, respondent People asserts that aside from the mathematical reckoning of the length of delay, petitioners failed to consider the other factors to support their allegation of violation of their right to speedy disposition of cases.[43] It argues that petitioners' motion was rightly dismissed based on the four-fold factors and on the absence of vexatious, capricious, and oppressive delay in the proceedings before the Office of the Ombudsman.[44]

Respondent further alleges that petitioners slept on their rights and acquiesced in the incurrence of delay as they never contested the proceedings and failed to timely challenge the pendency of the case.[45] Petitioners allegedly allowed seven and a half years to pass, counted from the filing of the Information on March 26, 2009 until the filing of the Motion to Quash on August 25, 2016, before they complained of the delay in the prosecution of their case.[46] Respondent claims that even disregarding petitioners' laches, there was still no inordinate delay in the prosecution of their cases.[47]

Respondent argues that the petitioners' failure to raise the lack of authority to file the Informations before arraignment constitutes as a waiver of their right to assail the validity of the Informations filed.[48] It further asserts that the lack of authority to file Informations under Rule 117, Section 3(d) of the Rules of Court occurs when the person who filed the information is not among those authorized by law to do so, and is not a result of inordinate delay in the conduct of preliminary investigation.[49]

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40 Id.
41 Id. at 11–14.
42 Id. at 14.
43 *Rollo* (G.R. Nos. 232029-40), pp. 267–268.
44 Id. at 271–275.
45 Id. at 276.
46 Id.
47 Id. at 279.
48 Id.
49 Id. at 280.

Lastly, respondent claims absence of factual and legal basis to grant the issuance of *status quo ante* order or temporary restraining order.[50]

In her Reply,[51] petitioner Chingkoe claims that respondent admits the inordinate and unexplained delay in the preliminary investigation.[52] She argues that respondent failed to explain the reason for the delay or that it was justified or not attributable to it.[53] She further claims to have raised the inordinate delay in the conduct of preliminary investigation in her Memorandum.[54]

Petitioner Chingkoe also insists that her arraignment did not place her differently from the other accused whose criminal cases were dismissed by public respondent due to the violation of their right to speedy disposition of cases. She further reiterates that her arraignment did not operate as waiver of her right to question the validity of the Informations and the lack of jurisdiction of public respondent.[55]

The main issue is whether or not petitioners Grace T. Chingkoe and Uldarico P. Andutan, Jr.'s right to speedy disposition of cases has been violated.

We dismiss the Petitions. Petitioners are deemed to have assented to the delay.

The Constitution mandates speedy dispensation of justice. Article III, Section 14(2) and Section 16 of the Constitution provide:

> SECTION 14(2). In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.
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> SECTION 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.[56]

Similarly, Article VIII, Section 15 (1) provides:

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50 Id. at 281.
51 Id. at 324–331.
52 Id. at 325.
53 Id.
54 Id. at 326.
55 Id. at 326–327.
56 We have observed the use of gender-sensitive language in other parts of the Decision.

> SECTION 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.

These provisions intend to prevent delay in the administration of justice:

> The right of the accused to a speedy trial and to a speedy disposition of the case against [them] was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over [them] for an indefinite time, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases. Such right to a speedy trial and a speedy disposition of a case is violated only when the proceeding is attended by vexatious, capricious[,] and oppressive delays. The inquiry as to whether . . . an accused has been denied such right is not susceptible by precise qualification. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept.
>
> While justice is administered with dispatch, the essential ingredient is orderly, expeditious and not mere speed. It cannot be definitely said how long is too long in a system where justice is supposed to be swift, but deliberate. It is consistent with delays and depends upon circumstances. It secures rights to the accused, but it does not preclude the rights of public justice. Also, it must be borne in mind that the rights given to the accused by the Constitution and the Rules of Court are shields, not weapons; hence, courts are to give meaning to that intent.[57] (Citations omitted)

The right to speedy disposition of cases under Article III, Section 16 of the Constitution provides the broadest scope of protection relative to the right to speedy trial under Article III, Section 14 (2) and the right guaranteed to have a case resolved within a specific period under Article VIII, Section 15 of the Constitution.[58] It may be invoked by any citizen before, during, and after trial before any judicial, quasijudicial, and administrative bodies:[59]

> The Bill of Rights provisions of the 1987 Constitution were precisely crafted to expand substantive fair trial rights and to protect citizens from procedural machinations which tend to nullify those rights. Moreover, Section 16, Article III of the Constitution extends the right to a speedy disposition of cases to cases "before all judicial, quasi-judicial and administrative bodies." This protection extends to all citizens, including those in the military and covers the periods before, during and after the trial, affording broader protection than Section 14(2) which guarantees merely the right to a speedy trial.[60]

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57 *Corpuz v. Sandiganbayan*, 484 Phil. 899, 917 (2004) [Per J. Callejo, Sr., Second Division].
58 *Dansal v. Fernandez*, Sr., 383 Phil. 897, 905 (2000) [Per J. Purisima, Third Division].
59 *Abadia v. Court of Appeals*, 306 Phil. 690 (1994) [Per J. Kapunan, En Banc].
60 Id. at 698–699.

It is true that the Rules did not specifically provide the violation of the right to speedy disposition of cases as a ground for dismissal of a case, unlike the right to speedy trial under Rule 119, Section 9.[61] Nonetheless, this does not prevent the courts from dismissing cases upon a finding of violation of the right to speedy disposition of cases as shown in *Tatad v. Sandiganbayan*:[62]

> In a number of cases, this Court has not hesitated to grant the so-called "radical relief" and to spare the accused from undergoing the rigors and expense of a full-blown trial where it is clear that [they have] been deprived of due process of law or other constitutionally guaranteed rights. Of course, it goes without saying that in the application of the doctrine enunciated in those cases, particular regard must be taken of the facts and circumstances peculiar to each case.[63] (Citations omitted)

As a "radical relief," courts may order the dismissal of cases against the accused if there is a proven violation of the right to speedy disposition of cases.[64]

In *Angchangco v. Ombudsman,*[65] this Court directly dismissed the criminal case against a trial court sheriff given the Office of the Ombudsman's inordinate delay in resolving the case, thereby transgressing their rights to due process and speedy disposition of cases. This was despite the petition being one for mandamus to compel the Office of the Ombudsman to dismiss the criminal cases.

In *Roque v. Office of the Ombudsman,*[66] this Court also directly dismissed the criminal cases upon finding of violation of the right to speedy disposition of cases. Similar to *Angchangco,* the petition filed before this Court was a petition for mandamus.

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[61] RULES OF COURT, rule 119, sec. 9 provides:
SECTION 9. *Remedy where accused is not brought to trial within the time limit.* — If the accused is not brought to trial within the time limit required by Section 1(g), Rule 116 and Section 1, as extended by Section 6 of this rule, the information may be dismissed on motion of the accused on the ground of denial of his right to speedy trial. The accused shall have the burden of proving the motion but the prosecution shall have the burden of going forward with the evidence to establish the exclusion of time under section 3 of this Rule. The dismissal shall be subject to the rules on double jeopardy.
Failure of the accused to move for dismissal prior to trial shall constitute a waiver of the right to dismiss under this section.

[62] 242 Phil. 563 (1988) [Per J. Yap, En Banc].

[63] Id. at 573.

[64] *Inocentes v. People,* 789 Phil. 318 (2016) [Per J. Brion, Second Division]; *Almeda v. Office of the Ombudsman (Mindanao),* 791 Phil. 129 (2016) [Per J. Del Castillo, Second Division]; *Tatad v. Sandiganbayan,* 242 Phil. 563 (1988) [Per J. Yap, En Banc].

[65] 335 Phil. 766 (1997) [Per J. Melo, Third Division].

[66] 366 Phil. 568 (1999) [Per J. Panganiban, Third Division].

The same decision was arrived at in *Lopez Jr. v. Office of the Ombudsman*,[67] where this Court ordered the dismissal of the case on the ground of violation of the right to speedy disposition of cases.

Thus, this Court has been directly dismissing cases on the ground of violation of the right to speedy disposition of cases.

It is therefore unnecessary to anchor the quashal of the Informations in this case on Rule 117, Sections 3(b) and 3(d) of the Rules of Court,[68] as petitioners Chingkoe and Andutan contend.

For an information to be quashed, "the lack of authority [of the officer who filed the information] must be evident on the face of the information."[69]

In petitioner Chingkoe's oft quoted case *Villa v. Ibanez,*[70] this Court invalidated the information filed by the person disqualified from being a special prosecutor under the law. It held that the officer's lack of authority cannot be cured nor waived even if raised after entering the plea, since it prevented the court from acquiring jurisdiction over the case. This Court held that the lack of authority "goes to the very foundations of jurisdiction."[71]

Villa has been upheld in *People v. Garfin*[72] and *Quisay v. People*,[73] where the lack of authority of the officers who filed the information is the primary issue ruled upon.

Unlike in *Villa, Garfin,* and *Quisay*, however, petitioners here did not even allege lack of authority of the prosecutors in filing the case. In fact, they admit the presence of their authority, which they argue was only removed due to the inordinate delay in resolving the case. Hence, the *Villa* ruling cannot be applied in this case.

Petitioners' allegation of lack of jurisdiction is also unmeritorious. It is premised on the argument of lack of the prosecution's authority to file the information, ousting the court of jurisdiction over the case. However,

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67 417 Phil. 39 (2001) [Per J. Gonzaga-Reyes, Third Division].

68 RULES OF COURT, rule 117, secs. 3(b) and 3(d) provide:
SECTION 3. Grounds. — The accused may move to quash the complaint or information on any of the following grounds:
. . . .
(b) That the court trying the case has no jurisdiction over the offense charged;
. . . .
(d) That the officer who filed the information had no authority to do so[.]

69 *Dio v. People,* 786 Phil. 726, 742 (2016) [Per J. Leonen, Second Division].

70 88 Phil. 402 (1951) [Per J. Tuason, En Banc].

71 Id. at 405.

72 470 Phil. 211 (2004) [Per J. Puno, Second Division].

73 778 Phil. 481 (2016) [Per J. Perlas-Bernabe, First Division].

jurisdiction over the offense charged is determined by law.[74] Courts cannot be easily ousted of jurisdiction once it has validly attached.

In any case, petitioners failed to substantiate this argument. It is thus unnecessary to delve on petitioners' allegation that their arraignment did not operate as waiver to question the authority of the filing officer or the jurisdiction of the court.

Now, we proceed to determine whether petitioners' right to speedy disposition of cases has been violated.

Speedy disposition of cases is a relative concept and depends upon the facts and circumstances of the case.[75] This Court recognizes the need to balance the right to speedy disposition of cases to the right of the State to prosecute people:

> The preliminary investigation in subject cases against the petitioners took more than one year and four months to finish. But such a happenstance alone, or any like delay, for that matter, should not be cause for an unfettered abdication by the court of its duty to try cases and to finally make a determination of the controversy after the presentation of evidence. In *Francisco Guerrero vs. Court of Appeals*, et al., the Court had this to say:
>
>> "While this Court recognizes the right to speedy disposition quite distinctly from the right to a speedy trial, and although this Court has always zealously espoused protection from oppressive and vexatious delays not attributable to the party involved, at the same time, we hold that a party's individual rights should not work against and preclude the people's equally important right to public justice. In the instant case, three people died as a result of the crash of the airplane that the accused was flying. It appears to us that the delay in the disposition of the case prejudiced not just the accused but the people as well. Since the accused has completely failed to assert his right seasonably and inasmuch as the respondent judge was not in a position to dispose of the case on the merits due to the absence of factual basis, we hold it proper and equitable to give the parties fair opportunity to obtain (and the court to dispense) substantial justice in the premises."
>
> The protection under the right to a speedy disposition of cases should not operate as to deprive the government of its inherent prerogative in prosecuting criminal cases or generally in seeing to it that all who approach the bar of justice be afforded a fair opportunity to present their side.[76]

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[74] *Cunanan v. Arceo,* 312 Phil. 106 (1995) [Per J. Feliciano, Third Division].
[75] *Caballero v. Alfonso,* 237 Phil. 154 (1987) [Per J. Padilla, En Banc].
[76] *Dansal v. Judge Fernandez, Sr.,* 383 Phil. 897, 907 (2000) [Per J. Purisima, Third Division].

A mere mathematical reckoning to determine whether the right to speedy disposition of cases has been violated has never been held sufficient.[77] Cognizant that not all delays are unreasonable, this Court considers the right violated only when there is inordinate delay in the proceeding "attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured, or when without cause or justifiable motive a long period of time is allowed to elapse without the party having [their] case tried."[78]

There are four factors considered by this Court in determining whether the right to speedy trial is violated. These include "length of delay, reason for the delay, assertion of the right or failure to assert it, and prejudice caused by the delay."[79] We have since held that these factors are also applicable in determining whether the right to speedy disposition of cases has been violated. In *Corpuz v. Sandiganbayan:*[80]

> In determining whether the accused has been deprived of [their] right to a speedy disposition of the case and to a speedy trial, four factors must be considered: (a) length of delay; (b) the reason for the delay; (c) the defendant's assertion of [their] right; and (d) prejudice to the defendant. 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 [their] defense will be impaired. Of these, the most serious is the last, because the inability of a defendant adequately to prepare [their] case skews the fairness of the entire 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, [they are] still disadvantaged by restraints on [their] liberty and by living under a cloud of anxiety, suspicion and often, hostility. [Their] financial resources may be drained, [their] association is curtailed, and [they are] subjected to public obloquy.
>
> Delay is a two-edge sword. It is the government that bears the burden of proving its case beyond reasonable doubt. The passage of time may make it difficult or impossible for the government to carry its burden. The Constitution and the Rules do not require impossibilities or extraordinary efforts, diligence or exertion from courts or the prosecutor, nor contemplate that such right shall deprive the State of a reasonable opportunity of fairly prosecuting criminals. As held in *Williams v. United States*, for the government to sustain its right to try the accused despite a delay, it must show two things: (a) that the accused suffered no serious prejudice beyond that which ensued from the ordinary and inevitable delay; and (b) that there was no more delay than is reasonably attributable to the ordinary processes of justice.
>
> Closely related to the length of delay is the reason or justification of the State for such delay. Different weights should be assigned to different

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77 *Dela Peña v. Sandiganbayan*, 412 Phil. 921 (2001) [Per C.J. Davide, Jr., En Banc]; *Binay v. Sandiganbayan*, 374 Phil. 413 (1999) [Per J. Kapunan, En Banc].

78 *Gonzales v. Sandiganbayan*, 276 Phil. 323, 333–334 (1991) [Per J. Regalado, En Banc].

79 *Caballero v. Alfonso*, 237 Phil. 154, 163 (1987) [Per J. Padilla, En Banc].

80 484 Phil. 899 (2004) [Per J. Callejo, Sr., Second Division].

reasons or justifications invoked by the State. For instance, a deliberate attempt to delay the trial in order to hamper or prejudice the defense should be weighted heavily against the State. Also, it is improper for the prosecutor to intentionally delay to gain some tactical advantage over the defendant or to harass or prejudice [them]. On the other hand, the heavy case load of the prosecution or a missing witness should be weighted less heavily against the State. Corollarily, Section 4, Rule 119 of the Revised Rules of Criminal Procedure enumerates the factors for granting a continuance.[81] (Citations omitted)

However, the variability of the application of the four factors prompted this Court to formulate a mode of analysis to resolve cases when a violation of the right to speedy disposition of cases is invoked:[82]

> *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.

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[81] Id. at 918–919.
[82] *Cagang v. Sandiganbayan*, 837 Phil. 815 (2018) [Per J. Leonen, En Banc].

> *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.[83]

Pursuant to this Court's recommendation in *Cagang v. Sandiganbayan,*[84] the Office of the Ombudsman issued Administrative Order No. 1, series of 2020, prescribing reasonable periods to conduct of investigations, wherein for preliminary investigation it is provided that:

> Section 8. *Period for the conduct of Preliminary Investigation.* - Unless otherwise provided for in a separate issuance, such as an Office Order creating a special panel of investigators/prosecutors and prescribing the period for completion of the preliminary investigation, the proceedings therein shall not exceed twelve months for simple cases or twenty-four months (24) months for complex cases, subject to the following considerations:
>
> (a) The complexity of the case shall be determined on the basis of factors such as, but not limited to, the number of respondents, the number of offenses charged, the volume of documents, the geographical coverage, and the amount of public funds involved.
>
> (b) Any delay incurred in the proceedings, whenever attributable to the respondent, shall suspend the running of the period for purposes of completing the preliminary investigation.
>
> (c) The period herein prescribed may be extended by written authority of the Ombudsman, or the Overall Deputy Ombudsman/Special Prosecutor/Deputy Ombudsman concerned for justifiable reasons, which extension shall not exceed one (1) year.

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[83] Id. at 880–882.

[84] 837 Phil. 815 (2018) [Per J. Leonen, En Banc].

Prior to the said Order, the Office of the Ombudsman's clear mandate under the Constitution and Republic Act No. 6770 is merely to "act promptly" on complaints filed before it:

> 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.[85]
>
> 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.[86]

Courts resort to the Rules of Court, as referred to in the Rules of Procedure of the Office of the Ombudsman,[87] in gauging a reasonable period within which the preliminary investigation may be conducted.

Rule 112, Sections 3 and 4 of the Rules of Court provide:

> SECTION 3. *Procedure.— The preliminary investigation shall be conducted in the following manner:*
>
> (a) The complaint shall state the address of the respondent and shall be accompanied by the affidavits of the complainant and his witnesses, as well as other supporting documents to establish probable cause. They shall be in such number of copies as there are respondents, plus two (2) copies for the official file. The affidavits shall be subscribed and sworn to before any prosecutor or government official authorized to administer oath, or in their absence or unavailability, before a notary public, each of whom must certify that he personally examined the affiants and that he is satisfied that they voluntarily executed and understood their affidavits.
>
> (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.

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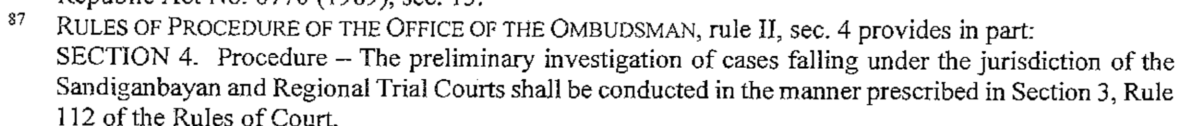
[85] CONST, art. XI, sec. 12.

[86] Republic Act No. 6770 (1989), sec. 13.

[87] RULES OF PROCEDURE OF THE OFFICE OF THE OMBUDSMAN, rule II, sec. 4 provides in part:



SECTION 4. Procedure – The preliminary investigation of cases falling under the jurisdiction of the Sandiganbayan and Regional Trial Courts shall be conducted in the manner prescribed in Section 3, Rule 112 of the Rules of Court.

The respondent shall have the right to examine the evidence submitted by the complainant which he may not have been furnished and to copy them at his expense. If the evidence is voluminous, the complainant may be required to specify those which he intends to present against the respondent, and these shall be made available for examination or copying by the respondent at his expense.

Objects as evidence need not be furnished a party but shall be made available for examination, copying, or photographing at the expense of the requesting party.

(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.

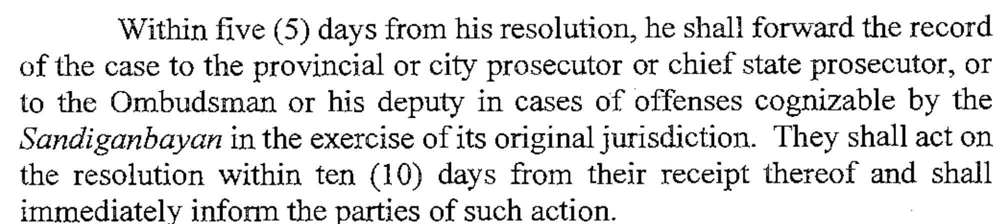
(d) If the respondent cannot be subpoenaed, or if subpoenaed, does not submit counter-affidavits within the ten (10)-day period, the investigating officer shall resolve the complaint based on the evidence presented by the complainant.

(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.

(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. (3a)

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.

> No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.
>
> Where the investigating prosecutor recommends the dismissal of the complaint but his recommendation is disapproved by the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy on the ground that a probable cause exists, the latter may, by himself, file the information against the respondent, or direct another assistant prosecutor or state prosecutor to do so without conducting another preliminary investigation.
>
> If upon petition by a proper party under such rules as the Department of Justice may prescribe or *motu proprio*,the Secretary of Justice reverses or modifies the resolution of the provincial or city prosecutor or chief state prosecutor, he shall direct the prosecutor concerned either to file the corresponding information without conducting another preliminary investigation, or to dismiss or move for dismissal of the complaint or information with notice to the parties. The same rule shall apply in preliminary investigations conducted by the officers of the Office of the Ombudsman. (4a)

Applying either the shorter 15-day period to conclude the hearing and 10-day period to determine probable cause under the Rules of Court, or the longer 12 to 24-month periods under Administrative Order No. 1, series of 2020, the Office of the Ombudsman evidently exceeded the specified period to conduct preliminary investigation. Here, the Complaint was filed on March 18, 2003, and petitioner Chingkoe submitted her Counter-Affidavit on August 20, 2003. Based on the records, it took the Office of the Ombudsman more than five years from the filing of the Counter-Affidavit to issue the Resolution finding probable cause against petitioners, among other accused.

Considering that the delay occurred beyond the given period and the violation of the right has been invoked, the burden of proof to justify the delay shifts to the prosecution.

In its Consolidated Comment, respondent People claims that there is no inordinate delay in the disposition of the criminal cases, and "whatever delay that may have happened during the preliminary investigation is reasonably attributable to the ordinary processes of justice."[88] The prosecution failed to provide other reasons to justify the delay. It also failed to establish that the complexity of the issues involved and the volume of evidence made the delay inevitable, or that it followed the prescribed procedure in the prosecution of the case, or that the accused did not suffer prejudice due to the delay.

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[88] *Rollo* (G.R. Nos. 232029-40), p. 279.

In *Cagang*, this Court noted the institutional delays plaguing the Office of the Ombudsman:

> Institutional delay, in the proper context, should not be taken against the State. Most cases handled by the Office of the Ombudsman involve individuals who have the resources and who engage private counsel with the means and resources to fully dedicate themselves to their client's case. More often than not, the accused only invoke the right to speedy disposition of cases when the Ombudsman has already rendered an unfavorable decision. The prosecution should not be prejudiced by private counsels' failure to protect the interests of their clients or the accused's lack of interest in the prosecution of their case.[89]

In *Mamansual v. Sandiganbayan*,[90] despite the unexplained delay on the part of the Office of the Ombudsman, we held that petitioners cannot invoke a violation of their right to speedy disposition of cases. Not only did they fail to timely assert this right, their requests to have the cases reinvestigated, referred for special audit, and even suspended reveal their willingness to prolong the proceedings. Thus, we noted that not all delay is disadvantageous to the defense, and an individual's acts may contradict any presumed prejudice allegedly suffered, implying acquiescence to the delay.

Thus, the right to speedy disposition of cases must be positively and timely asserted.[91]

In *Dela Peña v. Sandiganbayan*,[92] petitioners' failure to seasonably assert their rights to due process and speedy disposition of cases indicated acquiescence with the delay and amounted to laches:

> Moreover, it is worthy to note that it was only on 21 December 1999, after the case was set for arraignment, that petitioners raised the issue of the delay in the conduct of the preliminary investigation. As stated by them in their Motion to Quash/Dismiss, "[o]ther than the counter-affidavits, [they] did nothing." Also, in their petition, they averred: "Aside from the motion for extension of time to file counter-affidavits, petitioners in the present case did not file nor send any letter-queries addressed to the Office of the Ombudsman for Mindanao which conducted the preliminary investigation." They slept on their right — a situation amounting to laches. The matter could have taken a different dimension if during all those four years, they showed signs of asserting their right to a speedy disposition of their cases or at least made some overt acts, like filing a motion for early resolution, to show that they were not waiving that right. Their silence may, therefore be interpreted as a waiver of such right. As aptly stated in Alvizo, the petitioner therein was "insensitive to the implications and contingencies" of the projected criminal prosecution posed against him "by not taking any step

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[89] *Cagang v. Sandiganbayan,* 837 Phil. 815, 873 (2018) [Per J. Leonen, En Banc].
[90] G.R. Nos. 240378-84. November 3, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67032> [Per J. Caguioa, First Division].
[91] *Valencia v. Sandiganbayan,* 510 Phil. 70 (2005) [Per J. Ynares-Santiago, First Division].
[92] 412 Phil. 921 (2001) [Per C.J. Davide, Jr., En Banc].

whatsoever to accelerate the disposition of the matter, which inaction conduces to the perception that the supervening delay seems to have been without his objection, [and] hence impliedly with his acquiescence."[93]

The failure to seasonably raise the violation of this right implies that there has been no prejudice, vexation, or oppression caused by the delay.

In *Licaros v. Sandiganbayan*,[94] this Court dismissed the criminal case against petitioner on the ground of violation of the right to speedy disposition of cases. In that case, the 10-year delay was without fault from petitioner, was not justified by the Sandiganbayan, and caused petitioner undue vexation and oppression, prompting him to consistently assert his right before the courts:

> In the instant Petition, however, the accused had been assertively and assiduously invoking his right to a speedy disposition even before the case was submitted for decision on June 20, 1990. In fact, he has already filed an Omnibus Motion to Dismiss, a Motion to Resolve and a Reiterative Motion for Early Resolution, all of which have fallen on deaf ears in the Sandiganbayan. Thus, in the light of the foregoing circumstances, he cannot be said to have slept on his rights, much less waived the assertion thereof. Quite the contrary, he has been persistent in his demand for the eventual disposition of the criminal case against him.
>
> Indeed, petitioner has been kept in the dark as to the final outcome of the case, which was deemed submitted for decision more than ten years ago. And though such failure or inaction may not have been deliberately intended by respondent court, its unjustified delay has nonetheless caused just as much vexation and oppression, in violation of the right of petitioner to a speedy disposition of his case. Hence, his reliance on the aforementioned cases for the dismissal of the criminal case against him may be sustained, not so much on the basis of the right to a speedy trial, but on the right to a speedy disposition of his case, which is of broader and more appropriate application under the circumstances.
>
> . . . .
>
> As earlier discussed, more than ten years has lapsed since the subject case has been deemed submitted for decision. The delay cannot at all be attributed to petitioner, who has neither utilized dilatory tactics nor undertaken any procedural device to prolong the proceedings. As a matter of fact, he has been continuously pushing for the resolution of his case even during the early stages of the prosecution. Moreover, it is undeniable that such delay has caused much prejudice, distress and anxiety to herein petitioner, whose career as bank executive and businessman has suffered the stigma of being shackled to an unresolved criminal prosecution, virtually hanging like a Damocles' sword over his head for more than a decade. We need not stress the consequences and problems inherent in this pending litigation and/or criminal prosecution which include the prospects of unrealized business transactions, stagnant professional growth, hampered travel opportunities and a besmirched reputation. Furthermore, it is worth noting that petitioner has been charged merely as an accessory after the fact

[93] Id. at 932.
[94] 421 Phil. 1075 (2001) [Per J. Panganiban, En Banc].

> due to his being a senior executive of the bank where the principal accused tried to deposit the stolen money. Clearly then, the dismissal sought by herein petitioner is justified under the circumstances and in accordance with the guidelines set forth in the above-cited case.[95]

Meanwhile, this Court in *Alvizo v. Sandiganbayan*[96] found no violation of the right to the speedy disposition of the case. It ruled that there were valid reasons for the delay and that the delay was not oppressive to petitioner and even with his acquiescence for not taking any step to accelerate the disposition of his case:

> We recognize the concern often invoked that undue delay in the disposition of cases may impair the ability of the accused to defend [themselves], the usual advertence being to the possible loss or unavailability of evidence for the accused. We do not apprehend that such a difficulty would arise here. The records of this Court in the administrative case earlier discussed refer to the same offense charged in the present criminal case, with identical facts and evidence being involved, aside from the significant consideration that the determinative evidence therein presented and which would necessarily be submitted in the prospective proceedings before respondent court are principally documentary in nature.
>
> Consequently, whatever apprehension petitioner may have over the availability of such documents for his defense is inevitably shared in equal measure by the prosecution for building its case against him. This case, parenthetically, is illustrative of the situation that what is beneficial speed or delay for one side could be harmful speed or delay for the other, and vice-versa. Accordingly, we are not convinced at this juncture that petitioner has been or shall be disadvantaged by the delay complained of or that such delay shall prove oppressive to him. The just albeit belated prosecution of a criminal offense by the State, which was enjoined by this very Court, should not be forestalled either by conjectural supplications of prejudice or by dubious invocations of constitutional rights.[97]

The timely invocation of a violation of the right to speedy disposition of cases cannot be overemphasized.

In *Almeda v. Office of the Ombudsman*,[98] we held that there was a violation of petitioner's right to speedy disposition of her case when, despite her written manifestations seeking immediate resolution of her case, the prosecution incurred inordinate delay.

In *Angchangco,* this Court also upheld petitioner's claim of violation of right to speedy disposition of cases. Despite petitioner's filing of several motions for early resolution, the Office of the Ombudsman inordinately delayed the resolution of the charges against petitioner for more than six years.

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[95] Id. at 1092–1093.

[96] 292-A Phil. 144 (1993) [Per J. Regalado, En Banc].

[97] Id. at 156.

[98] 791 Phil. 129 (2016) [Per J. Del Castillo, Second Division].

Meanwhile, *Bernat v. Sandiganbayan*[99] details the denial of a claim of violation of right to speedy disposition of case. This Court found that the petitioner only complained of the eight-year delay in resolving his case after the new judge ordered the retaking of testimonies because of the missing transcripts of stenographic notes.

Similarly, in *Perez v. People*,[100] petitioner was held not deprived of his right to the speedy disposition of his case for failure to file a single motion that could indicate that he wanted to assert his right despite being well-represented by his counsel during the 12-year proceeding.

In *Corpuz*, different accused raised the violation of their right to speedy disposition of cases in the proceedings before the Sandiganbayan. This Court denied the claim and ruled that the dismissal of the information was too drastic considering all parties contributed to the delay:

> But it must be understood that an overzealous or precipitate dismissal of a case may enable the defendant, who may be guilty, to go free without having been tried, thereby infringing the societal interest in trying people accused of crimes rather than granting them immunization because of legal error. Not too long ago, we emphasized that:
>
> > [T]he State, like any other litigant, is entitled to its day in court, and to a reasonable opportunity to present its case. A hasty dismissal such as the one in question, instead of unclogging dockets, has actually increased the workload of the justice system as a whole and caused uncalled-for delays in the final resolution of this and other cases. Unwittingly, the precipitate action of the respondent court, instead of easing the burden of the accused, merely prolonged the litigation and ironically enough, unnecessarily delayed the case — in the process, causing the very evil it apparently sought to avoid. Such action does not inspire public confidence in the administration of justice.
>
> There can be no denying the fact that the petitioners, as well as the other accused, was prejudiced by the delay in the reinvestigation of the cases and the submission by the Ombudsman/Special Prosecutor of his report thereon. So was the State. We have balanced the societal interest involved in the cases and the need to give substance to the petitioners' constitutional rights and their quest for justice, and we are convinced that the dismissal of the cases is too drastic a remedy to be accorded to the petitioners. The cloud of suspicion may still linger over the heads of the petitioners by the precipitate dismissal of the cases. We repeat — the cases involve the so-called tax credit certificates scam and hundreds of millions of pesos allegedly perpetrated by government officials in connivance with private individuals. The People has yet to prove the guilt of the petitioners of the crimes charged beyond reasonable doubt. We agree with the ruling of the

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[99] 472 Phil. 869 (2004) [Per J. Azcuna, First Division].

[100] 568 Phil. 491 (2008) [Per J. R.T. Reyes, Third Division].

> Sandiganbayan that before resorting to the extreme sanction of depriving the petitioner a chance to prove its case by dismissing the cases, the Ombudsman/Special Prosecutor should be ordered by the Sandiganbayan under pain of contempt, to explain the delay in the submission of his report on his reinvestigation.[101]

In *Baya v. Sandiganbayan,*[102] we also found no violation of petitioner's right to speedy disposition of cases. For failure to assert his right to speedy disposition of cases at the prosecutor level, the petitioner was found to not have been prejudiced by the six years of preliminary investigation, and that he welcomed the delay. We also considered the nature of the "Aid to the Poor" program, the sheer number of respondents, and the voluminous testimonial evidence involved in justifying the six years it took the Office of the Ombudsman to file cases in court.

Here, petitioners filed their Motion to Quash after the lapse of almost six years, after their arraignment, and only after public respondent rendered its Resolutions.[103] It can be reasonably assumed that the filing of the Motion is a mere afterthought, and not because they experienced "vexatious, capricious, and oppressive delays"[104] during the preliminary investigation before the Office of the Ombudsman.

Moreover, the determination of whether the right to speedy disposition of cases has been violated depends upon the particular facts and circumstances of each case, and no single factor can determine such violation.

Contrary to petitioners' argument, the accused's arraignment cannot be the sole determining factor whether the right has been timely invoked.

Furthermore, although petitioner Chingkoe did raise the issue of inordinate delay in the preliminary investigation in her Memorandum[105] filed before the Office of the Ombudsman, she cannot reasonably expect the Office of the Ombudsman to act on it. Her Memorandum was a motion for reconsideration of the February 23, 2009 Resolution of the Office of the Ombudsman. Under Rules of Procedure of the Office of the Ombudsman,[106] a motion for reconsideration shall be filed within five days from notice with the Office of the Ombudsman, with corresponding leave of the court where the information was filed. Thus, petitioner Chingkoe filed her motion beyond the period allowed by the rules, and without leave of court before public respondent.

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[101] 484 Phil. 899, 926–927 (2004) [Per J. Callejo, Sr., Second Division].
[102] G.R. Nos. 204978-83, July 6, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66524> [Per J. Leonen, Third Division].
[103] *Rollo* (G.R. Nos. 232029-40), pp. 195–196.
[104] *Corpuz v. Sandiganbayan*, 484 Phil. 899, 917 (2004) [Per J. Callejo, Sr., Second Division].
[105] *Rollo* (G.R. Nos. 232029-40), pp. 222–227.
[106] RULES OF PROCEDURE OF THE OFFICE OF THE OMBUDSMAN, rule II, sec. 7(a).

For failing to follow the rules and sleeping on their right for almost six years, thereafter waiting until the Informations were filed with the respondent, after their arraignment, and only after finding out that the cases against the other accused were dismissed on the basis of violation of their right to speedy disposition of cases, petitioners evidently failed to timely assert their right to speedy disposition of cases. They are deemed to have assented to the delay.

Finally, we reject petitioners' claim of violation of their right to equal protection of the law.

The equal protection clause requires that "persons under like circumstances and falling within the same class are treated alike, in terms of 'privileges conferred and liabilities enforced.'"[107]

In *Santos v. People:*[108]

> The equal protection clause exists to prevent undue favor or privilege. It is intended to eliminate discrimination and oppression based on inequality. Recognizing the existence of real differences among [individuals], the equal protection clause does not demand absolute equality. It merely requires that all persons shall be treated alike, under like circumstances and conditions, both as to the privileges conferred and liabilities enforced.
>
> Petitioner was not able to duly establish to the satisfaction of this Court that she and Velasquez were indeed similarly situated, *i.e.*, that they committed identical acts for which they were charged with the violation of the same provisions of the NIRC; and that they presented similar arguments and evidence in their defense — yet, they were treated differently.[109]

Here, petitioners failed to prove that they committed identical acts with the other accused for which they were charged with. They also failed to show that they have the same arguments and evidence and that they underwent the same proceeding but treated differently.

Accordingly, there is no merit to their argument that their constitutional right to equal protection of the law has been violated.

In sum, we find that the Sandiganbayan did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in denying petitioners' Motion to Quash/Motion to Dismiss Informations.

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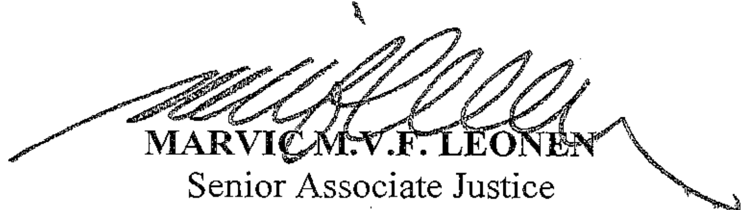
[107] *Sameer Overseas Placement Agency, Inc. v. Cabiles,* 740 Phil. 403, 434 (2014), [Per J. Leonen, En Banc].

[108] 585 Phil. 337 (2008), [Per J. Chico-Nazario, Third Division].

[109] Id. at 362.

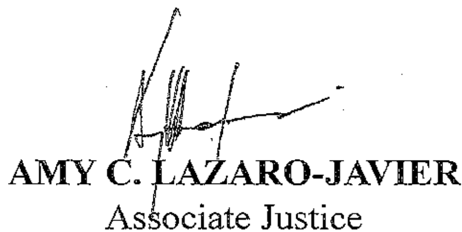
ACCORDINGLY, the Petitions for Certiorari are **DENIED**. The Sandiganbayan is hereby **DIRECTED** to dispose of Criminal Case Nos. SB-09-CRM-0087, 0088, 0097, 0098, 0101, 0102, 0107, 0108, 0117, 0118, 0127, and 0128 with reasonable dispatch.

SO ORDERED.

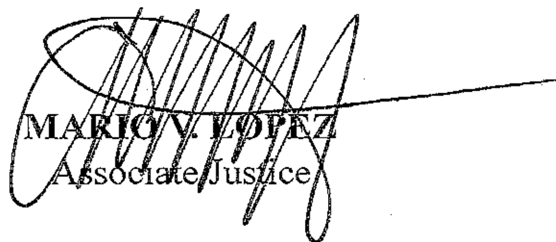


MARVIC M.V.F. LEONEN
Senior Associate Justice

WE CONCUR:



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

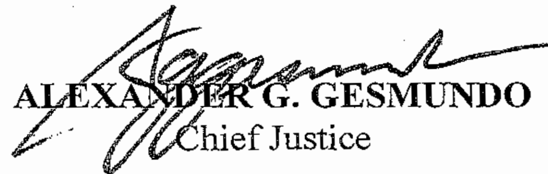
ATTESTATION

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
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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