Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

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| **PEOPLE OF THE PHILIPPINES,** *Petitioner,* | **G.R. No. 238877** |
| *- versus -* | Present: GESMUNDO, *CJ.*, Chairperson HERNANDO, ZALAMEDA, ROSARIO, and MARQUEZ,* *JJ.* |
| **SANDIGANBAYAN (FOURTH DIVISION), EVELIO RAMOS LEONARDIA, GOLDWYN V. NIFRAS, LUZVIMINDA S. TREYES, NELSON M. SEDILLO, SR., BELLY P. AGUILLON, EDUARDO H. RAVENA, ALADINO A. AGBONES, JARIES EBENIZER E. ENCABO, MELVIN B. RECABAR, and ANABELLE C. BADAJOS,** *Respondents.* | Promulgated: MAR 22 2023 |

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# DECISION

**ZALAMEDA, *J.*:**

This is a Petition for *Certiorari*[1] (Petition) filed under Rule 65 of the Rules of Court, seeking to annul and set aside the Resolutions dated 26

* On official business.
1 *Rollo*, pp. 475-519.

January 2018,[2] 01 March 2018,[3] and 05 April 2018[4] (assailed Resolutions) of public respondent Sandiganbayan, Fourth Division (Sandiganbayan) in Criminal Case No. SB-17-CRM-2165 for being issued with grave abuse of discretion, and seeking to remand the case to the court *a quo* for the continuation of proceedings.

The Sandiganbayan dismissed the case for violation of the constitutional right to speedy disposition of cases of private respondents Evelio Ramos Leonardia (Leonardia), Goldwyn V. Nifras (Nifras), Luzviminda S. Treyes (Treyes), Nelson M. Sedillo, Sr. (Sedillo), Belly P. Aguillon (Aguillon), Eduardo H. Ravena (Ravena), Aladino A. Agbones (Agbones), Jaries Ebenizer E. Encabo (Encabo), and Melvin B. Recabar (Recabar); and for lack of jurisdiction over private respondent Anabelle C. Badajos (Badajos) (collectively, respondents).

## Antecedents

On 14 October 2008, Francisco H. Puey sent an e-mail[5] complaint to the Office of the Ombudsman, Regional Office VI against respondent Nifras, Chairman of the Bids and Awards Committee (BAC) of the City Government of Bacolod, for the alleged irregularity in the award of the contract to Comfac Corporation (Comfac) for furniture and other fixtures for the Bacolod City New Government Center worth Fifty Million Pesos (₱50,000,000.00). On 28 October 2008, the Ombudsman Regional Office (Visayas) docketed the matter as CPL-V-08-0801.[6]

In the Final Evaluation Report[7] dated 09 May 2011 for CPL-V-08-0801, the Assistant Ombudsman for Visayas recommended that the complaint be considered closed and terminated because the legal and other documents of Comfac show that it is also engaged in the supply of furniture and other fixtures. The said Report was referred to Graft Investigation Officer I Lou Pagaran-Tila (GIO Pagaran-Tila) by the Deputy Ombudsman for the Visayas.[8]

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2 Id. at 521-523; Penned by Associate Justice Alex L. Quiroz and concurred in by Associate Justices Reynaldo P. Cruz and Bayani H. Jacinto.

3 Id. at 525-526; Penned by Associate Justice Alex L. Quiroz and concurred in by Associate Justices Reynaldo P. Cruz and Bayani H. Jacinto.

4 Id. at 528; Penned by Associate Justice Alex L. Quiroz and concurred in by Associate Justices Reynaldo P. Cruz and Bayani H. Jacinto.

5 Id. at 539.

6 Id. at 538.

7 Id. at 559-566.

8 Id.

On 24 May 2011, the Office of the Ombudsman for the Visayas (Ombudsman-Visayas) received an anonymous letter dated 19 May 2011,[9] requesting for the conduct of investigation on the alleged over-purchase of office furniture and fixtures in 2008 for the New Government Center in Bacolod City. The matter was docketed as CPL-V-11-0557.[10]

On 06 December 2012, then Ombudsman Conchita Carpio Morales (the Ombudsman) approved the Evaluation Report[11] dated 19 November 2012, which recommended the closure and consolidation of CPL-V-11-0557 with CPL-V-08-0801 as both reference numbers involved the same subject matter.[12]

On 26 December 2012, the Ombudsman approved the Review Final Evaluation Report[13] dated 16 October 2012 for CPL-V-08-0801 from GIO Pagaran-Tila, finding Comfac to be a preferred bidder, and recommending the investigation of the following:

1. Criminal case for violation of Section 3(e) of Republic Act No. (RA) 3019,[14] as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, and administrative case for Grave Misconduct and/or Gross Neglect of Duty against respondents BAC Chairperson and Vice Chairperson Nifras and Treyes, BAC Member Sedillo, Technical Working Group members Ravena, Aguillon, Agbones, and Encabo, and BAC Secretariat Recabar for giving unwarranted benefit/advantage/preference to Comfac; and

2. Criminal case for violation of Sec. 3(e) of RA No. 3019, as amended, and administrative cases for Grave Misconduct and/or Gross Neglect of Duty against respondents Bacolod City Mayor Leonardia, Officer-In-Charge (OIC) City Accountant Ravena, and City Treasurer Badajos for giving unwarranted benefit/advantage/preference to Comfac by allowing delayed delivery, and for causing undue injury to the government in the amount of Fourteen Million One Hundred Fifty Two Thousand Seven Hundred Seventeen Pesos and Eighty Centavos (₱14,152,717.80).[15]

Thus, on 01 March 2013, a Complaint Affidavit[16] for preliminary investigation was filed. It was docketed as OMB-V-C-13-0177 for violation

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9 Id. at 568.
10 Id.
11 Id. at 574-575.
12 Id.
13 Id. at 576-591.
14 Entitled "ANTI-GRAFT AND CORRUPT PRACTICES ACT." Approved: 17 August 1960.
15 *Rollo*, pp. 586-587.
16 Id. at 592-608.

of Sec. 3(e) of RA 3019; and OMB-V-A-13-0186 for Grave Misconduct and Gross Neglect of Duty.[17]

On 29 July 2013, the Ombudsman-Visayas issued an Order[18] dated 28 June 2013, ordering respondents Leonardia, Nifras, Treyes, Sedillo, Ravena, Badajos, Aguillon, Agbones, Encabo, and Recabar to file their counter-affidavit and other controverting evidence to the complaint.

Respondent Leonardia filed separate motions for additional time to submit his counter-affidavit on 23 September 2013, 07 October 2013, and 11 November 2013. Meanwhile, respondents Nifras, Treyes, Sedillo, Aguillon, Ravena, Agbones, Encabo, Recabar, and Badajos filed their joint motions for extension of time to file their counter-affidavit on 10 September 2013 and 07 October 2013.[19]

On 13 November 2013, respondents Nifras, Treyes, Sedillo, Recabar, Aguillon, Ravena, Agbones, and Encabo filed their Joint-Counter Affidavit[20] dated 24 October 2013. Thereafter, respondents Recabar and Ravena filed their Supplemental Joint Counter-Affidavit[21] on 18 November 2013. Respondent Leonardia followed suit and filed his Counter-Affidavit[22] on 18 November 2013 and a Supplemental Counter-Affidavit[23] on 16 December 2013.[24]

## Ruling of the Ombudsman

The Ombudsman, on 13 December 2016, approved the Joint Resolution[25] dated 02 December 2016 (Joint Resolution), which (1) found respondents guilty of Grave Misconduct and Gross Neglect of Duty for which they were dismissed from the service, with corresponding accessory penalties; (2) found probable cause to charge respondents for violation of Section 3(e) of RA 3019 arising from culpable violation of RA 9184[26] and its implementing rules and regulations (IRR); and (3) ordered the filing of Information against respondents.[27]

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17 Id.
18 Id. at 609-610.
19 Id. at 14-15.
20 Id. at 625-640.
21 Id. at 641-645.
22 Id. at 646-712.
23 Id. at 713-720.
24 Id. at 15.
25 Id. at 721-744.
26 Entitled "AN ACT PROVIDING FOR THE MODERNIZATION, STANDARDIZATION AND REGULATION OF THE PROCUREMENT ACTIVITIES OF THE GOVERNMENT AND FOR OTHER PURPOSES." Approved: 10 January 2003.
27 *Rollo*, pp. 721-744.

On 19 January 2017, respondent Nifras filed a motion for reconsideration. Respondent Leonardia also filed a motion for reconsideration on 25 January 2017, arguing, among others, that the Ombudsman committed inordinate delay in resolving the case, in violation of his right to speedy disposition of cases.[28] Thereafter, on 26 January 2017, respondents Treyes, Sedillo, Aguillon, Ravena, Agbones, Encabo, and Recabar filed their joint motion for reconsideration[29] likewise insisting, among others, the issue of inordinate delay. Meanwhile, Badajos did not file a similar motion.[30]

On 16 May 2017, the Ombudsman approved the Order[31] dated 08 May 2017 denying the separate motions for reconsideration of respondents. The Ombudsman likewise denied the supplemental motion for reconsideration of respondent Leonardia in its Order[32] dated 14 September 2017.

Thus, on 24 November 2017, the Office of the Special Prosecutor (the prosecution), on behalf of petitioner People of the Philippines, filed the Information before the Sandiganbayan against respondents for violation of Sec. 3(e) of RA No. 3019, as amended.[33]

**Ruling of the Sandiganbayan**

On 01 December 2017, respondent Leonardia filed a Motion to Dismiss with Opposition to the Issuance of Warrants of Arrest,[34] praying for the immediate dismissal of the criminal case for (1) violation of his constitutional right to speedy disposition of cases; and (2) lack of probable cause against him. He argued, among others, that the inordinate delay in the investigation and conduct of the proceedings violates his right to speedy disposition of cases. A similar Omnibus Motion to Dismiss, Suspend Proceedings, and Withhold Issuance of Warrant of Arrest[35] was filed by respondents Nifras, Treyes, Sedillo, Aguillon, Ravena, Agbones, Encabo, and Recabar likewise raising the issue of inordinate delay.

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28 Id. at 767-808.
29 Id. at 811-830.
30 Id.
31 Id. at 833-845.
32 Id. at 848-850.
33 Id. at 484-485.
34 Id. at 853-914.
35 Id. at 915-922.

In the assailed 26 January 2018 Resolution,[36] the Sandiganbayan granted the motions to dismiss and ordered the dismissal of the case, the dispositive portion of which reads:

> **WHEREFORE**, in view of the foregoing, the **Motion to Dismiss for Violation of the Constitutional Right to Speedy Disposition of Cases with Opposition to the Issuance of Warrants of Arrest for Lack of Probable Cause** filed by accused Evelio R. Leonardia[ ] and the **Omnibus Motion 1: To Dismiss 2: To Suspend Proceedings 3: To Withhold Issuance of Warrant of Arrest** filed by accused Goldwyn V. Nifras, Luzviminda S. Treyes, Nelson M. Sedillo, Sr., Belly P. Aguillon, Eduardo H. Ravena, Aladino A. Agbones, Jaries Ebenizer E. Encabo; and Melvin B. Recabar[ ] are **GRANTED**.
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> Accordingly, the case is hereby **DISMISSED** and the December 4, 2017 Hold Departure Order is ordered **LIFTED** and **SET ASIDE**.
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> **SO ORDERED.**[37] (Emphasis in the original.)

The Sandiganbayan also denied the prosecution's motion for reconsideration for lack of merit in the assailed Resolution[38] dated 01 March 2018. In the same Resolution, the Sandiganbayan also directed the prosecution to verify the salary grade of Badajos, the remaining accused.

The Sandiganbayan, in its second assailed Resolution[39] dated 05 April 2018 noted the prosecution's *ex-parte* compliance, and dismissed the case against Badajos for lack of jurisdiction because she occupied a position with equivalent salary grade "26." The dismissal was without prejudice for re-filing with the court of proper jurisdiction.

This prompted the People to file the instant Petition before this Court.

## Issue

The issue for the Court's resolution is whether the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in dismissing the criminal case against respondents.

According to the prosecution, the Sandiganbayan denied the State's right to prosecute the case and to due process, thereby committing grave abuse of discretion. It argues that the Sandiganbayan acted without or in excess of jurisdiction when it (1) ruled that respondents' constitutional right

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36 Id. at 52-54.
37 Id. at 522-523.
38 Id. at 525-526.
39 Id. at 528.

to speedy disposition of cases was violated based on a "mere mathematical computation of the period that lapsed;" and (2) dismissed the case against Badajos for lack of jurisdiction over her because she is occupying a position with Salary Grade "26."

In his Comment/Opposition[40] dated 05 November 2018, respondent Leonardia asserts that the Petition should be denied outright as it violates his constitutional right against double jeopardy. Even assuming that his acquittal may be assailed, the Petition was belatedly filed because petitioner's motion for reconsideration before the Sandiganbayan did not toll the reglementary period to file the petition. Moreover, the Petition did not raise errors of jurisdiction, and the Sandiganbayan was correct in its rulings because of the inordinate delay of eight years and two months in resolving the preliminary investigation.[41]

Respondents Nifras, Treyes, Sedillo, Aguillon, Ravena, Agbones, Encabo, and Recabar (Nifras, et al.) in their Comment[42] dated 26 October 2018, maintains that the proper remedy against the assailed Resolutions is a petition for review on *certiorari* under Rule 45 of the Rules of Court. Moreover, the Petition was filed out of time — 63 days after the prosecution received the Sandiganbayan Resolution dated 1 March 2018. They further claim that the Sandiganbayan acted within its jurisdiction in dismissing the case considering that the fact-finding investigation and preliminary investigation took more than eight years.[43]

Meanwhile, Badajos filed her Comment/Opposition[44] dated 24 June 2022, arguing that the length of delay of the Ombudsman was unjustifiable and violated its mandate to promptly act on complaints. She agrees that the Sandiganbayan had jurisdiction over her, thus, the acquittal of the other private respondents for violation of their constitutional right to speedy disposition of cases should also apply to her, invoking the equal protection clause under the Constitution.[45]

## Ruling of the Court

The Petition is denied.

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40 Id. at 956-988.
41 Id.
42 Id. at 1767-1778.
43 Id.
44 Id. at 1816-1828.
45 Id.

*The Sandiganbayan did not commit grave abuse of discretion*

It is settled that dismissal of a criminal case due to violation of the right to speedy disposition of cases results in the acquittal of the accused,[46] which, as acknowledged by petitioner, "bars the further prosecution of an accused for the same offense."[47] This is because of the principle "an acquittal is immediately final and cannot be appealed."[48]

Nonetheless, by way of exception, the "finality-of-acquittal" doctrine does not apply when the State assails an erroneous acquittal through a special civil action of *certiorari* under Rule 65 of the Rules of Court. In such case, the petitioner must clearly show that the court absolving the accused committed not merely reversible errors of judgment, but grave abuse of discretion amounting to lack or excess of jurisdiction or to denial of due process, which renders the assailed judgment void.[49] In particular, the petitioner "must clearly demonstrate that the trial court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice."[50]

Thus, the prosecution properly availed of the remedy of petition for *certiorari* under Rule 65 of the Rules of Court to question the Sandiganbayan's Resolutions dismissing the case for violation of respondents' right to speedy disposition of cases.

Notwithstanding, the prosecution failed to clearly demonstrate that the Sandiganbayan committed grave abuse of discretion as to render the said Resolutions void. As will be explained below, the Sandiganbayan did not commit grave abuse of discretion in dismissing the criminal case against respondents.

*Respondents' right to speedy disposition of cases was violated*

Article III, Section 16 of the 1987 Constitution provides that "[a]ll persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies."

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46 See *Coscolluela v. Sandiganbayan*, 714 Phil. 55, 67 (2013).
47 *Rollo*, p. 477.
48 *People v. Tria-Tirona*, 502 Phil. 31, 38 (2005).
49 See *People v. De Grano*, 606 Phil. 547, 567 (2009).
50 *Sanvicente v. People*, 441 Phil. 139, 147-148 (2002).

Relatedly, Article XI, Section 12 of the Constitution requires the Ombudsman to act promptly on all complaints filed before it, thus:

> 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. (Emphasis supplied.)

Section 13 of R.A. No. 6770, otherwise known as "The Ombudsman Act of 1989," similarly mandates the Ombudsman to act promptly, thus:

> 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. (Emphasis supplied.)

In *Cagang v. Sandiganbayan, Fifth Division*[51] (*Cagang*), the Court provided for the mode of analysis in cases before the Ombudsman where the right to speedy disposition of cases or right to speedy trial is invoked, thus:

> *First*, the right to speedy disposition of cases is different from the right to speedy trial. While the rationale for both rights is the same, the right to speedy trial may only be invoked in criminal prosecutions against courts of law. The right to speedy disposition of cases, however, may be invoked before any tribunal, whether judicial or quasi-judicial. What is important is that the accused may already be prejudiced by the proceeding for the right to speedy disposition of cases to be invoked.
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> *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.**
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> *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**

[51] 837 Phil. 815 (2018).

**occurs beyond the given time period and the right is invoked, the prosecution has the burden of justifying the delay.**

If the defense has the burden of proof, it must prove *first*, whether the case is motivated by malice or clearly only politically motivated and is attended by utter lack of evidence, and *second*, that the defense did not contribute to the delay.

**Once the burden of proof shifts to the prosecution, the prosecution must prove *first*, that it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; *second*, that the complexity of the issues and the volume of evidence made the delay inevitable; and *third*, that no prejudice was suffered by the accused as a result of the delay.**

*Fourth*, determination of the length of delay is never mechanical. Courts must consider the entire context of the case, from the amount of evidence to be weighed to the simplicity or complexity of the issues raised.

An exception to this rule is if there is an allegation that the prosecution of the case was solely motivated by malice, such as when the case is politically motivated or when there is continued prosecution despite utter lack of evidence. Malicious intent may be gauged from the behavior of the prosecution throughout the proceedings. If malicious prosecution is 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.[52] (Emphasis and underscoring supplied.)

Based on the foregoing guidelines, a case is deemed initiated upon the filing of a formal complaint prior to the conduct of a preliminary investigation. Thus, the period taken for fact-finding investigations prior to the filing of the formal complaint is not included in determining whether there has been inordinate delay in a case. **If the right is invoked and the delay occurs beyond the given time period in the rules of the Ombudsman or the current Supreme Court resolutions and circulars, as the case may be, the prosecution has the burden of justifying the delay.**

[52] Id. at 880-882.

To justify the delay, the prosecution must prove that (1) it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; (2) the complexity of the issues and the volume of evidence made the delay inevitable; and (3) no prejudice was suffered by the accused as a result of the delay.

Applying these guidelines, the Court finds that respondents' constitutional right to speedy disposition of cases was violated due to the Ombudsman's inordinate delay in concluding the preliminary investigation.

*The prosecution has the burden to justify the delay in this case*

Pursuant to *Cagang*, the Ombudsman promulgated on 15 August 2020 Administrative Order (A.O.) No. 1, Series of 2020, entitled *Prescribing the Periods in the Conduct of Investigations by the Office of the Ombudsman*. This took effect 15 days after its publication on 10 September 2020.[53]

Considering that the preliminary investigation of this case began on 1 March 2013, or upon filing of the formal complaint or complaint-affidavit, the said administrative order does not apply in this case. Instead, the rules of procedure of the Ombudsman and the Supreme Court resolutions and circulars effective at that time shall apply.

Rule V, Section 3 of the Rules of Procedure of the Office of the Ombudsman[54] (Ombudsman Rules) provides that the Rules of Court shall apply in a suppletory manner in all matters not provided therein. The Ombudsman Rules do not provide for the period of the termination of preliminary investigations. Hence, the Rules of Court shall apply in a suppletory manner in this case, particularly Rule 112, Section 3(f), which provides that the existence of probable cause must be determined **within 10 days after investigation**:

> Section 3. Procedure. -- The preliminary investigation shall be conducted in the following manner:
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> x x x

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[53] Office of the Ombudsman, Administrative Order No. 1, Series of 2020, *Prescribing the Periods in the Conduct of Investigations by the Office of the Ombudsman*, 15 August 2020 https://www.ombudsman.gov.ph/docs/08%20Resources/OMBUDSMAN%20ADMINISTRATIVE%20NO.%201_6X35_with%20note.pdf (last accessed on 22 February 2023).

[54] Office of the Ombudsman, Administrative Order No. 07, 10 April 1990.

> (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) (Emphasis and underscoring supplied.)

In this case, the preliminary investigation was concluded when the Ombudsman approved the Joint Resolution on 13 December 2016. Thus, the Ombudsman took **more than three years and nine months** to complete the preliminary investigation from the filing of the formal complaint on 01 March 2013. In *Republic v. Sandiganbayan*,[55] a delay of three years and a half was deemed beyond the prescribed period for preliminary investigation or the determination of probable cause.

Even if We commence the computation of delay from the filing of the last supplemental counter-affidavit on 16 December 2013, the Ombudsman took **almost three years,** instead of the mandated 10 days, to determine the existence of probable cause by approving the Joint Resolution on 13 December 2016.

It is thus clear that the delay in this case occurred beyond the given time period for the preliminary investigation. Consequently, the prosecution has the burden of proof to justify the delay in this case.

*The prosecution failed to justify the delay*

Pursuant to *Cagang*, the prosecution must prove the following to justify the delay: (1) it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; (2) the complexity of the issues and the volume of evidence made the delay inevitable; and (3) no prejudice was suffered by respondents as a result of the delay. It failed to do so.

In its Petition, the prosecution argued that (1) the Court's judicial notice of the Sandiganbayan's caseload as one of the valid reasons for the delay in the disposition of a case should also be extended to the Ombudsman; (2) the delay was "attributable to the steady stream of cases flooding the Office of the Ombudsman, and the numerous layers of review which the instant case had to pass through before finally reaching the dockets of the court;" and (3) respondents themselves contributed to the delay due to the multiple motions for extensions to file their counter-affidavits.[56]

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[55] G.R. No. 231144, 19 February 2020.
[56] *Rollo*, p. 493.

However, the Court has already rejected the oft-repeated excuse of "steady stream of cases" reaching the Ombudsman and ruled that "steady stream of cases" and "clogged dockets" are not talismanic phrases that may be invoked at whim to magically justify each and every case of long delays in the disposition of cases."[57] The Court has also held that the excuse of "many layers of review" and "meticulous scrutiny x x x has lost its novelty and is no longer appealing," especially when the case does not involve complicated factual and legal issues.[58]

While the Court has recognized the constraints in the Ombudsman's resources due to its increasing caseload, the Court has nonetheless ruled that "this in itself does not justify the belated resolution of the preliminary investigation against an accused," and that "the solitary explanation of heavy workload on the part of the party's counsel" is unacceptable.[59] Instead, the prosecution "must also establish that the issues are so complex and the evidence so voluminous as to render the delay inevitable," and the peculiar circumstances of the case justify the delay.[60] In other words, the prosecution must state specific reasons and justifications relating to the case.[61]

In this case, the prosecution failed to establish that the issues are so complex, the evidence are voluminous, and the peculiar circumstances of this case render the delay inevitable. In fact, the Petition is devoid of any allegation on these matters that the prosecution is obliged to prove. The prosecution did not state specific reasons relating to the circumstances of this case that would justify the delay. This was already observed by the Sandiganbayan, which held that "the prosecution still failed to advance any explanation or justification on the attendant delay" even in its motion for reconsideration.[62] Instead, the prosecution merely relied on the Court's previous recognition of the Ombudsman's heavy caseload.

Meanwhile, even if respondents' motions for extension are considered, which took three (3) months from the time the first motion was filed on 10 September 2013 until the last supplemental counter-affidavit was filed on 16 December 2013, the Ombudsman still took **almost three years** to determine the existence of probable cause as it approved the Joint Resolution only on 13 December 2016.

It is also worth noting that the Ombudsman took **more than eight months** between the Ombudsman's approval of the Order denying

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[57] *Javier v. Sandiganbayan*, G.R. No. 237997, 10 June 2020.
[58] See *Duterte v. Sandiganbayan*, 352 Phil. 557, 583 (1998)
[59] *Lorenzo v. Sandiganbayan*, G.R. Nos. 242506-10 & 242590-94, 14 September 2022.
[60] Id.
[61] *Camsol v. Seventh Division of the Sandiganbayan*, G.R. No. 242892, 06 July 2022.
[62] *Rollo*, p. 526.

respondents' motions for reconsideration on 16 May 2017 and the filing of the Information before the Sandiganbayan on 24 November 2017.

In *Pacuribot v. Sandiganbayan (Second Division)* (*Pacuribot*),[63] the Court rebuked the Ombudsman for taking five months to file the Informations before the Sandiganbayan, noting that this stage in the proceedings required no further pleadings, thus:

> All the more should the argument of complexity of the cases be disregarded when there is **significant delay in filing the Informations before the Sandiganbayan. What further analysis of records and evidence is necessary here? The OMB's findings of fact and conclusions of law at this stage should already be determined; no further evaluation of evidence is expected to be done. Why should this stage in the proceedings incur a delay of about five (5) months**, as it did in OMB-M-C-15-0437?[64] (Emphasis supplied.)

As mentioned, the prosecution must also prove that respondents suffered no prejudice as a result of the delay.

In *Corpuz v. Sandiganbayan* (*Corpuz*),[65] the concept of prejudice in relation to the rights to speedy disposition of cases and speedy trial of an accused was discussed, thus:

> x x x Prejudice should be assessed in the light of the interest of the defendant that the speedy trial was designed to protect, namely: to prevent oppressive pre-trial incarceration; **to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired. Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system.** There is also prejudice if the defense witnesses are unable to recall accurately the events of the distant past. **Even if the accused is not imprisoned prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion and often, hostility. His financial resources may be drained, his association is curtailed, and he is subjected to public obloquy.**
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> 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

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[63] G.R. Nos. 247414-18, 06 July 2022.
[64] Id. Emphasis supplied.
[65] 484 Phil. 899 (2004).

attributable to the ordinary processes of justice.[66] (Emphasis and underscoring supplied.)

In *Coscolluela v. Sandiganbayan*,[67] the Court further ruled that the "looming unrest as well as the tactical disadvantages carried by the passage of time should be weighed against the State and in favor of the individual."[68]

Thus, even before *Cagang*, the prosecution, in cases of delay, has the burden to prove that the accused suffered no prejudice in order to sustain its right to try the accused despite the delay.

In *Pacuribot*, the Court ruled that unjustified delays cause prejudice to an accused even if there was no showing that he or she was deprived of any defense as a result of the delay because the accused "had to face the difficulties and anxieties embedded in the experience of an unduly prolonged state inquiry into his supposed guilt."[69] In *Torres v. Sandiganbayan (First Division)*,[70] the Court held that the accused had been prejudiced by the delay of the resolution of the cases, having been retired for 15 years, and having to live under a cloud of anxiety even if he was not imprisoned or subjected to trial.[71]

In this case, the prosecution asserts that "there was no determination nor even an allegation on how [respondents] were prejudiced by the time that lapsed before their case was filed in court."[72] However, as discussed, respondents have no burden to prove that they suffered prejudice considering that it is the prosecution that should justify the delay in this case. Thus, the prosecution failed to prove that respondents were not prejudiced by the delay.

In any case, even if there was no showing that they suffered prejudice due to the delay, and even if they were not obliged to prove the same, the unjustified delay in this case undeniably caused prejudice to respondents.

Respondent Leonardia lamented that he was "faced with continuous anxiety and threat of impending litigation hanging over his head for an inordinate amount of time."[73]

Considering the foregoing, the prosecution failed to discharge its burden of justifying the delay in this case.

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66 Id. at 918.
67 Supra note 44.
68 Id. at 65.
69 Supra note 61.
70 796 Phil. 856 (2016).
71 Id. at 872.
72 *Rollo*, p. 502.
73 Id. at 986.

*Respondents, except Badajos, timely asserted their right to speedy disposition of cases*

The guidelines provided in *Cagang* likewise require that the right to speedy disposition of cases must be timely raised.

In *Javier v. Sandiganbayan* (*Alarilla*),[74] the Court noted that the Ombudsman Rules prohibit the filing of a motion to dismiss, except on the ground of lack of jurisdiction. Hence, respondents in pending cases before the Ombudsman have no legitimate avenue to assert their constitutional right to speedy disposition of cases during the preliminary investigation.

Accordingly, in *Javier*, the Court held that the accused therein timely asserted their rights when they filed a motion to quash at the earliest opportunity before they were arraigned before the Sandiganbayan. In *Alarilla*, the Court held that the accused therein consistently asserted and did not waive her right when she asserted the same in her supplemental motion for reconsideration before the Ombudsman, and again invoked the same before the Sandiganbayan before her arraignment.

In this case, respondents asserted their right to speedy disposition of cases in their motions for reconsideration before the Ombudsman.[75] In fact, the Ombudsman addressed this issue in its Order dated 08 May 2017 denying the motions for reconsideration, where it held that respondents may only invoke their right at the preliminary investigation stage, not during the fact-finding stage.[76] This fact was also noted by the Sandiganbayan in the assailed 26 January 2018 Resolution.[77] Thereafter, respondents further invoked their right before the Sandiganbayan in their respective motions to dismiss immediately after the filing of the Information and before their arraignment. Thus, respondents timely asserted their right.

Moreover, the Court has ruled that respondents in preliminary investigation proceedings have no duty to follow up on the prosecution of their case. Instead, the Ombudsman has the responsibility to expedite the case and resolve the same within reasonable periods and the given time periods, consistent with its mandate to promptly act on all complaints before it.[78]

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[74] Supra note 55.
[75] *Rollo*, pp. 803-807, 813-817.
[76] Id. at 841-844.
[77] Id. at 522.
[78] Supra note 44 at 64.

Thus, contrary to petitioner's allegations that respondents only raised the delay in resolving the complaint "for the first time before the Sandiganbayan" and that "no similar action [was] taken" before the Ombudsman,[79] respondents timely asserted and did not waive their right.

With regard to Badajos, however, We find that she failed to timely assert her right.

Unlike her co-respondents, Badajos did not file a motion for reconsideration before the Ombudsman to invoke her right to speedy disposition of cases. Moreover, unlike all the other respondents, she did not immediately filed a motion to dismiss to assert her right when the Information was filed before the Sandiganbayan. She only invoked her right when she filed her Comment before this Court.

Her failure to seasonably assert her right constituted waiver of such right and "indicated acquiescence with the delay and amounted to laches."[80] It likewise "implies that there has been no prejudice, vexation, or oppression caused by the delay."[81]

Neither do We find merit in Badajos' invocation of the equal protection clause to benefit from the dismissal of the case against the other respondents. Following the ruling in *Chingkoe v. Sandiganbayan*,[82] Badajos failed to prove that she committed identical acts with the other respondents for which they were charged with, that they have the same arguments and evidence, and that they underwent the same proceeding but were treated differently.

*The Sandiganbayan's dismissal of the case against Badajos cannot be remedied by certiorari*

Notwithstanding her failure to timely assert her right, the dismissal of the case against Badajos, stands.

Jurisprudence provides that in a petition for *certiorari*, the jurisdiction of the court is limited to resolving only errors of jurisdiction.[83] *Certiorari* is not a remedy to correct errors of judgment. Errors of jurisdiction pertain to acts issued by the court without or in excess of jurisdiction, or with grave

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79 Id. at 500.
80 Id.
81 Id.
82 *Chingkoe v. Sandiganbayan*, G.R. Nos. 232029-40 & 234975-84, 12 October 2022.
83 *Ligot v. Republic*, 705 Phil. 477, 496 (2013).

abuse of discretion which is tantamount to lack or in excess of jurisdiction.[84] Meanwhile, errors of judgment pertain to those acts which the court may commit in the exercise of its jurisdiction.[85] Hence, "[a]s long as the court acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than mere errors of judgment."[86]

In this case, the Sandiganbayan, in the assailed Resolution dated 05 April 2018, dismissed, without prejudice, the case against Badajos for lack of jurisdiction because she occupied a position with equivalent salary grade "26."

Badajos was charged in her capacity as then City Treasurer of Bacolod City. Although her position had an equivalent Salary Grade "26," Badajos falls under the exclusive original jurisdiction of the Sandiganbayan because city treasurers are included in the officials specifically enumerated in Section 4(A)(1) of RA 8249.[87]

While the prosecution is correct that Badajos falls under the jurisdiction of the Sandiganbayan, the Sandiganbayan's finding of lack of jurisdiction is not an error of jurisdiction, but only an error of judgment as it pertained only to the application of the law. *Certiorari* is not available to correct errors or mistakes in the trial court's findings and conclusions of law and fact.[88]

Moreover, the prosecution failed to establish that there was no plain, speedy, and adequate remedy in the ordinary course of law against the assailed 05 April 2018 Resolution. The prosecution did not seek reconsideration of the said Resolution, just as it did against the assailed Resolution dated 26 January 2018. Furthermore, the prosecution failed to show that it was deprived of due process of law, especially since the dismissal of the case against Badajos was without prejudice.

**WHEREFORE**, premises considered, the Petition for *Certiorari* is **DISMISSED** for lack of merit.

**SO ORDERED.**

**RODIL V. ZALAMEDA**
Associate Justice

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[84] *People v. Asis*, 643 Phil. 462, 473 (2010), citing *People v. Tria-Tirona*, supra note 46 at 39.
[85] Id.
[86] *Corpuz v. Sandiganbayan*, supra note 63 at 913.
[87] See *Duncano v. Sandiganbayan (2nd Division)*, 764 Phil. 67, 75 (2015).
[88] *La Campana Development Corp. v. See*, 525 Phil. 652, 657 (2006).

**WE CONCUR:**

**ALEXANDER G. GESMUNDO**
Chief Justice

**RAMON PAUL L. HERNANDO**
Associate Justice

**RICARDO R. ROSARIO**
Associate Justice

(On official business)
**JOSE MIDAS P. MARQUEZ**
Associate Justice

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

**ALEXANDER G. GESMUNDO**
Chief Justice