



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ARTHUR CUA YAP
Petitioner,

G.R. Nos. 246318-19

Present:

- versus -

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

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

Promulgated:

January 18, 2023

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DECISION

DIMAAMPAO, J.:

At the maelstrom of this Petition for *Certiorari* (with application for the issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction)¹ filed by Arthur Cua Yap (petitioner) are the Resolutions dated December 5, 2018² and February 27, 2019³ of the Sandiganbayan (Sixth Division) in Criminal Case Nos. SB-18-CRM-0003 to SB-18-0004, which denied his Motion to Quash Informations⁴ and Motion for Reconsideration,⁵ respectively.

A diegesis of the case follows.

¹ *Rollo*, pp. 3-50.

² *Id.* at 56-86. The Resolution dated December 5, 2018 was penned by Associate Justice Karl B. Miranda, with the concurrence of Associate Justices Sarah Jane T. Fernandez and Zaldy V. Trespeses.

³ *Id.* at 87-93. The Resolution dated February 27, 2019 was penned by Associate Justice Karl B. Miranda, with the concurrence of Associate Justices Sarah Jane T. Fernandez and Kevin Narce B. Vivero.

⁴ *Id.* at 284-302.

⁵ *Id.* at 304-319.

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On November 25, 2008, the Board of Trustees (BOT) of the Philippine Rice Research Institute (PhilRice) held its 52nd meeting wherein petitioner, former Secretary of the Department of Agriculture (DA) and *ex-officio* Chairman of PhilRice, was one of the attendees. During the meeting, the board approved a car plan program for the benefit of PhilRice employees, subject to the availability of funds and the issuance by the PhilRice officers of an administrative order implementing the scheme on terms most advantageous to the government. As of the 53rd PhilRice BOT meeting on November 26, 2008, the implementing guidelines for the car plan had not yet been finalized and it was only in the following year, or on January 30, 2009, when PhilRice Executive Director Ronilo A. Beronio (Beronio) issued Administrative Order No. 2009-05 (AO No. 2009-05), detailing the rules for the implementation of the contentious project.⁶

On June 19, 2009, the BOT gathered once more for their 54th meeting, albeit petitioner was absent. The BOT tackled the execution of Hold Out Agreements (HOAs) with Philippine National Bank (PNB) in relation to the car plan. Notably, even at that point, they observed that AO No. 2009-05 appeared to be onerous and misleading.⁷ Nevertheless, the project was rolled out pursuant to AO No. 2009-05, which states that “(t)he acquisition of the vehicle shall be through financing by the Philippine National Bank for a period of 3 years payable on a monthly installment basis. The vehicle shall be mortgaged to the Philippine National Bank that has entered into a contract with the employee and PhilRice until full settlement of the selling price and interest.”⁸

Two years after the 54th BOT meeting, petitioner and the other members of the PhilRice Board of Trustees were implicated by the Office of the Ombudsman - Field Investigation Office (OMB-FIO) for violation of: 1) Section 3(e) of Republic Act (R.A.) No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act; 2) malversation of public funds and property, defined and penalized under Article 217 of the Revised Penal Code; and 3) grave misconduct and conduct prejudicial to the best interest of the service under Section 22, Rule 14 of Omnibus Rules Implementing Book V of Executive Order No. 292, as amended by Civil Service Commission Circular No. 19, s. 1999.⁹

In the main, the OMB-FIO averred that the approval by the PhilRice BOT of the car plan program paved the way for the realization of a scheme that was grossly and manifestly disadvantageous to the government, thus causing undue injury thereto while granting unwarranted benefits to the

⁶ *Id.* at 9–12.

⁷ *Id.* at 12–13.

⁸ *Id.* at 136.

⁹ *Id.* at 162–205.

beneficiaries of the project. The HDOs executed with PNB avowedly constrained PhilRice to maintain its deposit account or keep a sufficient amount therein to guarantee the HDOs. Moreover, the disbursement and taking of government funds as payment for the lease agreements with the employees-beneficiaries make out a case for malversation of public funds.¹⁰

Petitioner refuted the allegations in the complaint *via* his Consolidated Counter-Affidavit, asseverating that he neither had any participation in the formulation and/or issuance of AO No. 2009-05 nor did he participate or approve the disputatious HDOs. He likewise denied involvement in the execution and approval of the lease contracts between PhilRice and the employees-beneficiaries.¹¹

On September 1, 2016, the Office of the Ombudsman issued a Joint Resolution, finding probable cause to indict petitioner, *inter alia*, for violation of Section 3(e) and 3(g) of RA No. 3019. Meanwhile, it found no basis to charge petitioner and his co-respondents with malversation of public funds as they were not the accountable public officers contemplated by Article 217 of the Revised Penal Code.¹² In its Joint Order¹³ dated June 20, 2017, the Ombudsman gave short shrift to petitioner's bid for reconsideration of the Joint Resolution. At the interstice, he filed a petition for *certiorari* before this Court, ascribing grave abuse of discretion upon the Office of the Ombudsman after it found probable cause to charge him with the aforementioned offenses.

Thence, two separate Informations dated September 29, 2017 were filed against petitioner and the other members of the BOT before the Sandiganbayan for violation of Section 3(e) and 3(g) of RA No. 3019, the inculpatory averments thereof respectively read:

In Criminal Case No. SB-18-CRM-0003—

That from the year 2008 to 2009 or sometime prior or subsequent thereto, in Diliman, Quezon City, Philippines, and within this Honorable Court's jurisdiction, accused public officers **[PETITIONER]**, then Secretary of the Department of Agriculture (DA) and Chairman of the Board of Trustees of the Philippine Rice Research Institute (PhilRice), **RONILLO BORONIO y ALEJANDRO**, then Executive Director of PhilRice, **JOHNIFER BATARA y GALAMAY, FE D. LAYSA, WILLIAM PADOLINA y GONZALES, WINSTON C. CORVERA, GELIA CASTILLO y TAGUMPAY, SENEN BACANI y CARLOS, and RODOLFO UNDAN y CORPUZ**, all Members of PhilRice Board of Trustees, while in the performance of their administrative and/or official

¹⁰ *Id.*

¹¹ *Id.* at 208-233.

¹² *Id.* at 235-272.

¹³ *Id.* at 273-283.

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functions, conspiring with one another, acting with manifest partiality, evident bad faith and/or gross inexcusable negligence, did then and there willfully, unlawfully and criminally give unwarranted benefits and advantage to PhilRice Car Plan's beneficiary-employees, namely: Ronilo A. Beronio, Sophia T. Borja, Rolando T. Cruz, Rodolfo S. Escabarte, Jr., Sergio R. Francisco, Manuel G. Gaspar, Edgar M. Libetario, Mario M. Movillon, Evangeline B. Sibayan, and Artemio B. Vasallo, by instituting said Car Plan that allowed the said beneficiary-employees to obtain personal loans from the Philippine National Bank (PNB) for the purchase of their private cars, secured by the PhilRice funds through Hold Out Agreements with PNB; which private cars were then leased by PhilRice for the official use of the beneficiary-employee without the benefit of public bidding; with the beneficiary-employee being still entitled to transportation allowance despite the use of an official vehicle; thereby causing undue injury to PhilRice for it could not utilize its deposits with PNB during the subsistence of the loans and its failure to obtain the best possible car rental deals, among other things.

CONTRARY TO LAW.¹⁴

In Criminal Case No. SB-18-CRM-0004—

That in 2009 or sometime or prior thereto, in Diliman, Quezon City, Philippines, and within this Honorable Court's jurisdiction, accused public officers [**PETITIONER**], then Secretary of the Department of Agriculture (DA) and Chairman of the Board of Trustees of the Philippine Rice Research Institute (PhilRice), **JOHNIFER BATARA y GALAMAY, FE D. LAYSA, WILLIAM PADOLINA y GONZALES, WINSTON C. CORVERA, GELIA CASTILLO y TAGUMPAY, SENEN BACANI y CARLOS, and RODOLFO UN DAN y CORPUZ**, all Members of PhilRice Board of Trustees, PhilRice Executive Director **RONILLO BERONIO y ALEJANDRO** (Beronio) and Cashier IV **FE N. LUMAWAG** (Lumawag)(,) while in the performance of their administrative and/or official functions, conspiring with one another, did then and there willfully, unlawfully and criminally enter into contracts/transactions in behalf of the government that were manifestly and grossly disadvantageous to it, with Beronio and Lumawag signing the Hold Out Agreements (HOAs) with the Philippine National Bank (PNB), pursuant to the PhilRice Car Plan instituted by the PhilRice Board of Trustees comprised of the above-mentioned accused, subjecting PhilRice's deposit with PNB to the agreement that said deposit will not be withdrawn until the car/personal loans guaranteed are paid in full amounting to PhP15,780,000.00.

CONTRARY TO LAW.¹⁵

Petitioner filed his Motion to Quash Informations¹⁶ bringing to the fore his absence during the 54th PhilRice BOT meeting, during which the

¹⁴ *Id.* at. 96-99.

¹⁵ *Id.* at 100-103.

¹⁶ *Id.* at 284-302.

administrative order regarding the car plan program was presented, as well as his lack of participation in the execution of the HOAs with PNB. He avouched that the Informations failed to allege facts to constitute the offenses charged against him. So, too, he zeroed in on the inordinate delay in the preliminary investigation, which supposedly stripped off the Office of the Ombudsman's authority to file the subject Informations.¹⁷

On December 5, 2018, respondent Sandiganbayan (Sixth Division) issued the first assailed Resolution,¹⁸ the *fallo* of which provides:

WHEREFORE, the Motion to Quash Informations dated February 14, 2018 of accused [petitioner], the Motion to Quash/Motion to Dismiss dated February 14, 2018 of accused Johnifer G. Batara, Fe D. Laysa, Senen C. Bacani, and Rodolfo C. Undan, and the Motion to Quash dated February 12, 2018 of accused Ronillo A. Beronio, are **DENIED** for lack of merit.

The Manifestation dated March 6, 2018 of the Prosecution is **NOTED**.

SO ORDERED.¹⁹

Respondent Sandiganbayan (Sixth Division) adjudicated that the Informations in both SB-18-CRM-0003 and SB-18-CRM-0004 sufficiently stated the elements of violation of Sections 3(e) and 3(g) of RA No. 3019 but it likewise emphasized that a determination of the innocence or guilt of the accused may only be threshed out during trial. Anent petitioner's invocation of his right to speedy disposition of cases, respondent Sandiganbayan (Sixth Division) pronounced that a period of three years, six months, and two days was a reasonable time that afforded the investigating prosecutor the opportunity to carefully evaluate the complaints and supporting documents. It likewise held that petitioner's failed to demonstrate how the purported delay caused him prejudice and that he had waived his right to question the violation of his right to speedy disposition of the case as he raised the same only after the unfavorable resolution of the Ombudsman.

Petitioner's bid for a reconsideration of the foregoing disposition was struck down in the second impugned Resolution.²⁰

Unruffled, petitioner is before this Court *via* the present recourse, this time ascribing grave abuse of discretion amounting to lack or excess of jurisdiction upon respondent Sandiganbayan (Sixth Division) when it—

¹⁷ *Id.*

¹⁸ *Id.* at 56-86.

¹⁹ *Id.* at 86.

²⁰ *Id.* at 87-93.



A.
REFUSED TO QUASH THE INFORMATIONS DESPITE THE UNDENIABLE AND ADMITTED FACT THAT PETITIONER HAD NO PARTICIPATION IN THE ACTS CHARGED.

B.
ISSUED THE ASSAILED RESOLUTIONS AND FAILED TO DISMISS THE CRIMINAL CASES DESPITE THE INORDINATE DELAY IN THE PRELIMINARY INVESTIGATION PROCEEDINGS, IN VIOLATION OF MR. YAP'S CONSTITUTIONAL RIGHT TO SPEEDY DISPOSITION OF CASES.

Corollary thereto, petitioner prayed for the issuance of a temporary restraining order to enjoin respondent Sandiganbayan and all those acting under its orders and authority from proceeding with the prosecution of the subject cases with respect to him while the instant Petition is pending.

On May 3, 2019, this Court granted petitioner's request for the issuance of a temporary restraining order.²¹ Meanwhile, the Office of the Special Prosecutor (OSP), on behalf of respondent People of the Philippines, filed its Comment²² essentially arguing that the grounds relied upon by petitioner in his *certiorari* petition are factual matters, rather than errors of jurisdiction. At any rate, the allegations in the Informations were sufficient as they only needed to state the ultimate facts constituting the offense, and not the finer details of how the purported illegal acts resulted in undue injury and damage to the government. The OSP likewise pointed out that there was no violation of petitioner's right to speedy disposition of cases as the total period it took the Ombudsman to terminate its preliminary investigation, *i.e.*, three years, six months, and two days, is reasonable considering the need for the investigating prosecutor to carefully evaluate the case.

THE COURT'S RULING

The Petition holds sway.

Section 16, Article III of the Constitution guarantees the right to speedy disposition of cases, *viz.*:

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

Following this constitutional mandate, any party to a case can demand expeditious action from all officials who are tasked with the administration of justice, but nowhere is this guaranty more significant and meaningful than in

²¹ *Id.* at 320-321.

²² *Id.* at 568-598.



criminal cases, where not only the fortune, but the life and liberty of the accused as well, are at stake. In criminal cases, the right of an accused to the speedy disposition of cases is a sacrosanct right that must not only be respected by courts and tribunals, but must also be invoked only in clear instances of vexatious, capricious, and oppressive delays which render rights nugatory.²³

Apropos thereto, Section 12, Article XI of the Constitution provides that:

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)

In *Cagang v. Sandiganbayan, Fifth Division (Cagang)*,²⁴ this Court laid down the parameters in determining the presence of inordinate delay whenever the right to speedy disposition of cases or the right to speedy trial is invoked, thus:

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

Second, a case is deemed initiated upon the filing of a formal complaint prior to a conduct of a preliminary investigation. This Court acknowledges, however, that the Ombudsman should set reasonable periods for preliminary investigation, with due regard to the complexities and nuances of each case. Delays beyond this period will be taken against the prosecution. The period taken for fact-finding investigations prior to the filing of the formal complaint shall not be included in the determination of whether there has been inordinate delay.

Third, courts must first determine which party carries the burden of proof. If the right is invoked within the given time periods contained in current Supreme Court resolutions and circulars, and the time periods that will be promulgated by the Office of the Ombudsman, the defense has the burden of proving that the right was justifiably invoked. If the delay occurs beyond the given time period and the right is invoked, the prosecution has the burden of justifying the delay.

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

²³ See *Malones v. Sandiganbayan*, G.R. Nos. 226887-88, July 20, 2022 [Per J. Gaerlan, Third Division].

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

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.²⁵

Based on the foregoing, the period for the determination of whether the inordinate delay was committed shall commence from the filing of a formal complaint and the conduct of the preliminary investigation.²⁶ The period taken for fact-finding investigations prior to the filing of a formal complaint is not included in the determination of whether or not there was an inordinate delay on the part of the Ombudsman. This is so because during the conduct of the fact-finding investigation, the government officials and employees concerned are not yet exposed to adversarial proceedings, but only for the purpose of determining whether a formal complaint against them should be filed based on the result of the said fact-finding investigation.²⁷ The court must then

²⁵ *Id.* at 880-881.

²⁶ *See id.* at 868.

²⁷ *Supra* note 21 at 10. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

examine whether the Ombudsman followed the **specified time periods** for the conduct of the preliminary investigation.²⁸

Along this grain, the Rules of Court finds suppletory application pursuant to Rule V, Section 3 of the Rules of Procedure of the Office of the Ombudsman²⁹ as the Rules of the Ombudsman did not provide for specific time periods to conclude preliminary investigations at the time relevant to this case. Section 3(b), Rule 112 of the Rules of Court is explicit —

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

xxx xxx xxx

(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.

Meanwhile, Section 3(f) of the same Rule affords the investigating officer a period of ten days following the investigation to determine if there is probable cause to formally indict a respondent.

It is readily apparent that the time taken by the Ombudsman to terminate the preliminary investigation in this case, *i.e.*, *three years, six months, and two days*, substantially failed to meet the periods set by the Rules. The pronouncements of respondent Sandiganbayan (Sixth Division), as well as the OSP's own admission that such a period already excludes the time spent on fact-finding investigation speak volumes. Apart from averring that the period was reasonable considering that it allowed the investigating prosecutor to carefully evaluate the complaint and supporting documents, it is quite palpable that the prosecution miserably fell short of discharging its burden to justify the delay in contravention of the guidelines set in *Cagang*.

Withal, contrary to the pronouncement of respondent Sandiganbayan (Sixth Division), petitioner cannot be deemed to have waived his right to question the inordinate delay in the termination of the preliminary investigation as he invoked his right to speedy disposition of cases at the earliest opportunity. The recent case of *Javier v. Sandiganbayan*³⁰ provides an illuminating discourse on this matter, *viz.*:

²⁸ See *Alarilla v. Sandiganbayan (Fourth Division)*, G.R. Nos. 236177-210, February 3, 2021 [Per J. Zalameda, First Division] at 6–7. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

²⁹ Section 3. Rules of Court, application. — In all matters not provided in these rules, the Rules of Court shall apply in a suppletory character, or by analogy whenever practicable and convenient.

³⁰ G.R. No. 237997, June 10, 2020 [Per J. Caguioa, First Division].

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Another requisite provided for in *Cagang* is the timely assertion of the right. Once again, despite the *ponente's* reservation regarding the said requirement, the same would nevertheless be applied in this case.

The reason why the Court requires the accused to assert his right in a timely manner is to prevent construing the accused's acts, or to be more apt, his inaction, as acquiescence to the delay. As the Court stated in *Cagang*:

The defense must also prove that it exerted meaningful efforts to protect accused 's constitutional rights. In *Alvizo v. Sandiganbayan*, the failure of the accused to timely invoke the right to speedy disposition of cases may work to his or her disadvantage, since this could indicate his or her acquiescence to the delay[.]

Here, the Court holds that Javier and Tumamao's acts, or their inaction, did not amount to acquiescence. While it is true that the records are bereft of any indication that Javier and/or Tumamao "followed-up" on the resolution of their case, the same could not be construed to mean that they acquiesced to the delay of five years.

For one, the case of *Coscolluela v. Sandiganbayan (Coscolluela)* provides that respondents in preliminary investigation proceedings do not have any duty to follow up on the prosecution of their case. The Court categorically stated:

Being the respondents in the preliminary investigation proceedings, it was not the petitioners' duty to follow up on the prosecution of their case. Conversely, it was the Office of the Ombudsman 's responsibility to expedite the same within the bounds of reasonable timeliness in view of its mandate to promptly act on all complaints lodged before it.

The Court in *Cagang* did not explicitly abandon *Coscolluela* — considering that it explicitly abandoned *People v. Sandiganbayan* in the said case — and even cited it in one of its discussions. Thus, the pronouncements in *Coscolluela* remain good law, and may still be considered in determining whether the right to speedy disposition of cases was properly invoked.

Moreover, the Court is not unreasonable in its requirements. **The Ombudsman's own Rules of Procedure provides that motions to dismiss, except on the ground of lack of jurisdiction, are prohibited. Thus, respondents like Javier and Tumamao have no legitimate avenues to assert their fundamental right to speedy disposition of cases at the preliminary investigation level. It would be unreasonable to hold against them — and treat it as acquiescence — the fact that they never followed-up or asserted their right in a motion duly filed.**

Lastly, the Court holds that Javier and Tumamao timely asserted their rights because they filed the Motion to Quash at the earliest



opportunity. Before they were even arraigned, they already sought permission from the Sandiganbayan to file the Motion to Quash to finally be able to assert their right to speedy disposition of cases. To the mind of the Court, this shows that Javier and Tumamao did not sleep on their rights, and were ready to assert the same given the opportunity. Certainly, this could not be construed as acquiescence to the delay.³¹ (Emphasis supplied)

The foregoing jurisprudential precept was echoed in *Perez v. Sandiganbayan*,³² where this Court held thusly:

In ruling that Perez should have moved for the early resolution of his case, the Sandiganbayan effectively shifted the burden back to the accused, despite the manifest delay on the part of the prosecution to terminate the preliminary investigation. The filing of a motion for early resolution is not a mandatory pleading during a preliminary investigation. With or without the prodding of the accused, the Rules of Procedure of the OMB, as well as Section 3, Rule 112 of the Rules of Court, fixed the period for the termination of the preliminary investigation. In other words, the OMB has the positive duty to observe the specified periods under the rules. The Court's pronouncement in *Coscolluela v. Sandiganbayan (First Division)*, which was not abandoned in *Cagang*, remains good law, to wit:

Being the respondents in the preliminary investigation proceedings, it was not the petitioners' duty to follow up on the prosecution of their case. Conversely, it was the Office of the Ombudsman's responsibility to expedite the same within the bounds of reasonable timeliness in view of its mandate to promptly act on all complaints lodged before it. As pronounced in the case of *Barker v. Wingo*:

A defendant has no duty to bring himself to trial; the State has that duty as well as the duty of insuring that the trial is consistent with due process.

The Court cannot emphasize enough that Perez's supposed inaction - or, to be more accurate, his failure to prod the OMB to perform a positive duty - should not be deemed as nonchalance or acquiescence to an unjustified delay. The OMB is mandated to "act promptly on complaints filed in any form or manner against officers and employees of the Government, or of any subdivision, agency or instrumentality thereof, in order to promote efficient service." In conjunction with the accused's constitutionally guaranteed right to the speedy disposition of cases, it was incumbent upon the OMB to adhere to the specified time periods under the Rules of Court. Mere inaction on the part of the accused, without more, does not qualify as an intelligent waiver of this constitutional right.³³

³¹ *Id.* at 9-10. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

³² G.R. No. 245862, November 3, 2020 [Per J. Caguioa, First Division].

³³ *Id.* at 19-20. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

Although delay is not to be determined solely from the length of time taken for the conduct of the preliminary investigation, a long delay is inordinate unless the Office of the Ombudsman suitably justifies it. The courts must take unusually long periods into careful consideration when determining whether inordinate delay exists for otherwise, the Constitutionally guaranteed right to speedy disposition of cases would be reduced to nothing but an illusory promise.³⁴

Having passed upon the existence of an inordinate delay in the conclusion of the preliminary investigation in this case, the need to discuss other issues has been rendered nugatory.

THE FOREGOING DISQUISITIONS CONSIDERED, the Petition for *Certiorari* (with application for the issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction) is hereby **GRANTED**. The Resolutions dated December 5, 2018 and February 27, 2019 of the Sandiganbayan (Sixth Division) in Criminal Case Nos. SB-18-CRM-0003 to SB-18-0004, are **REVERSED** and **SET ASIDE**.

The charges against petitioner Arthur Yap y Cua are **ORDERED DISMISSED** for violation of his right to speedy disposition of cases. Accordingly, petitioner Arthur Yap y Cua is **ACQUITTED** of the crimes charged.

Let an entry of judgment be **ISSUED** immediately.

SO ORDERED.


JAPAR B. DIMAAMPAO
Associate Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

³⁴ *Supra* note 28.



HENRI JEAN PAUL B. INTING
Associate Justice



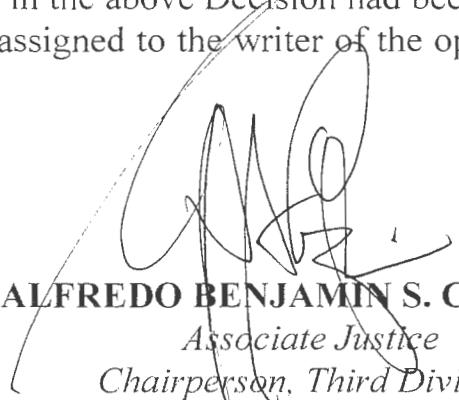
SAMUEL H. GAERLAN
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

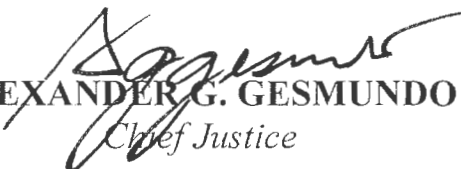
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice

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