



BY: XG
TIME: 3:19

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 15, 2020**, which reads as follows:*

“G.R. Nos. 240235-42 (Godofredo D. Juguilon, Jr. v. The Sandiganbayan [Fourth Division] and People of the Philippines). –This Petition for *Certiorari*¹ under Rule 65 assails the Resolutions dated January 16, 2018² and April 5, 2018³ of the Sandiganbayan, which denied the Omnibus Motion to Quash Information and to Defer the Issuance of and/or Quash the Warrant of Arrest and to Dismiss the Case⁴ on the ground of violation of petitioner MSgt. Godofredo P. Juguilon, Jr.’s (petitioner) right to speedy disposition of cases and failure to establish probable cause.

Facts of the Case

On April 21, 2017, an Information⁵ for violation of Section 3(a) of Republic Act No.(R.A.) 3019 was filed by the Ombudsman against Col. Arnolfo Palma (Palma), Capt. Rommel R. Cordova (Cordova), and petitioner.

The indictment stemmed from a complaint for malversation of public funds and graft involving the unused portion of cash advances received by petitioner in relation to the eight-man contingent bound for Anniston, Alabama, United States of America (Alabama mission) on official mission, which cash advances petitioner failed to return to the Armed Forces of the Philippines (AFP) Finance Center when the mission was terminated, and instead, deposited the same in his personal account.⁶

It was alleged that on November 20, 2002, Palma and Cordova induced petitioner to deposit the unused portion of the ₱563,406.75 cash advances he received in connection with the Alabama mission to his personal

¹ *Rollo*, pp. 3-20.

² Penned by Justice Alex L. Quiroz, with Justices Reynaldo P. Cruz and Bayani H. Jacinto, concurring; *id.* at 21-28.

³ *Id.* at 29-30.

⁴ *Id.* at 33-44.

⁵ *Id.* at 31-32-A.

⁶ *Id.* at 87.

bank account. Petitioner was claimed to have allowed himself to be induced by depositing the said amount instead of returning it to the AFP Finance Center as required under Commission on Audit (COA) Circular No. 97-002 requiring that when a cash advance is no longer needed or has not been used for a period of two months, it must be returned to or refunded to the collecting officer.⁷

Following the issuance of a hold departure order against him, petitioner filed with the Sandiganbayan an Omnibus Motion to Quash Information and Defer the Issuance of and/or Quash the Warrant of Arrest and to Dismiss the Case⁸ on the grounds of: (1) petitioner's right to due process and right to speedy disposition of the cases have been violated; (2) the certification in the Information was defective; (3) the facts charged in the Information do not constitute an offense; and (4) there was no evidence to support the finding of probable cause against petitioner.⁹

In its Comment,¹⁰ the prosecution averred that there was no inordinate delay in the prosecution of the case and that delay is a relative and flexible concept. It also insisted that all the elements of violation of Section 3(a) of R.A. 3019 were present in the case and the other points petitioner raised were evidentiary matters which are proper only in a full-blown trial.

In its Resolution¹¹ dated January 16, 2018, the Sandiganbayan denied the omnibus motion and ruled that there was no inordinate delay in the fact-finding investigation and preliminary investigation of the case.¹² The Sandiganbayan held that there were 13 respondents in the original complaint, five of whom filed individual counter-affidavits, while the other three filed a joint counter-affidavit. Since the Ombudsman had to evaluate the allegations and evidence presented by all the parties and resolve both the administrative and criminal aspects of the complaint, and that there is an unavoidable period required to be allotted per the required internal administrative process and reviews before cases are to be filed, there is a sufficient explanation as to why the indictments were filed on April 21, 2017.¹³

Additionally, the Sandiganbayan affirmed the Ombudsman's finding of probable cause. Section 3(a) of R.A. 3019 provides:

Section 3. Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

⁷ Id. at 31-32.

⁸ Id. at 33-44.

⁹ Id. at 87-88.

¹⁰ Id. at 50-61.

¹¹ Supra note 2.

¹² *Rollo*, p. 22.

¹³ Id. at 23.

(a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.

x x x x

The elements of the crime are the following: (1) the offender is a public officer; (2) the offender persuades, induces, or influences another public officer to perform an act, or the offender allows himself to be persuaded, induced, or influenced to commit an act; and (3) the act performed by the other public officer or committed by the offender constitutes a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duty of the latter.¹⁴ The Sandiganbayan found all the above-mentioned elements to be present in the case as the offenders are public officers and that petitioner was induced by Palma and Cordova to deposit the cash advances received for the Alabama mission to his bank account. It was also alleged that petitioner's act was contrary to the provisions of COA Circular No. 97-002.¹⁵

Aggrieved, petitioner moved for reconsideration, which was denied in a Resolution¹⁶ dated April 5, 2018. Hence, he filed this petition. The prosecution filed a Comment¹⁷ on January 22, 2019 and petitioner filed a Reply¹⁸ thereto on June 26, 2019.

The Court's Ruling

After a perusal of the records of the case, this Court resolves to dismiss the petition for failure to show that the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying the omnibus motion.

Jurisprudence used the "Barker balancing test" in order to determine the existence of inordinate delay in invoking the right to speedy disposition of cases. Under the test, the following factors should be considered: (1) the length of delay; (2) the reason for delay; (3) the defendant's assertion or non-assertion of his or her right; and (4) the prejudice to the defendant as a result of the delay.¹⁹

In the case of *Cagang v. Sandiganbayan*,²⁰ the Court ruled that the period of fact-finding investigations will not be counted in the determination

¹⁴ *Ampil v. Office of the Ombudsman*, 715 Phil. 733, 754-755 (2013).

¹⁵ *Rollo*, pp. 26-27.

¹⁶ *Supra* note 3.

¹⁷ *Rollo*, pp. 85-107.

¹⁸ *Id.* at 113-122.

¹⁹ *Gonzales v. Sandiganbayan*, 276 Phil. 323, 333-334 (1991).

²⁰ G.R. Nos. 206438 and 206458, July 31, 2018.

of whether inordinate delay exists because such proceedings are not yet adversarial and are merely preparatory to the filing of a formal complaint. It concluded that in determining whether inordinate delay exists, a case is deemed to have commenced from the filing of the formal complaint and the subsequent conduct of the preliminary investigation.

In this case, the complaint was filed by the Fact-Finding Investigation Bureau on August 30, 2012.²¹ Hence, for the purpose of determining the existence of inordinate delay, this will be the reckoning period. On September 27, 2012, an order was issued by the Ombudsman directing petitioner and other accused to file their respective counter-affidavits. The last counter-affidavit was filed on December 10, 2012. It was only during this time that the case was deemed submitted for resolution.²² The Consolidated Resolution²³ was finalized on July 24, 2015, which was approved by the Ombudsman on April 5, 2016. Thereafter, the parties were furnished copies of the Consolidated Resolution to which petitioner and his co-accused filed their separate motions for reconsideration. The order denying said motions was released on November 23, 2016.

Judging from the chronology of the events, it cannot be said that the Ombudsman incurred inordinate, vexatious and capricious delay in the conduct of the preliminary investigation prior to the filing of the Information in Court. There is no showing that it was attended by malice. There is likewise no evidence that it was politically motivated. As alleged by the prosecution, there were 13 respondents in the original complaint but 12 were subjected to investigation. The consideration given to each of their counter-affidavits and the review of the documents required a period of time to be completed.²⁴

Moreover, petitioner never raised his right to speedy disposition of cases before the Ombudsman. He waited until the Information against him was filed with the Sandiganbayan before invoking such right. Case law provides that the right should have been asserted during the preliminary investigation by moving for its early resolution.

Lastly, it cannot be said that the anxiety and the inconvenience brought about by the proceedings prejudiced the petitioner because such predicaments normally accompany the accused in criminal cases.

As to the finding of probable cause, this Court has consistently refrained from interfering with the discretion of the Ombudsman to determine the existence of probable cause and to decide whether an Information should be filed. The only exception to this is when there is grave abuse of discretion amounting to lack or excess of jurisdiction which is wanting in this case.²⁵

²¹ Id. at 92.

²² Id. at 93.

²³ Not attached to the *rollo*.

²⁴ *Supra* note 20 at 94.

²⁵ *Philippine Deposit Insurance Corp. v. Casimiro*, 768 Phil. 429, 436 (2015).

Probable cause, for the purpose of filing a criminal information, has been defined as such facts as are sufficient to engender a well-founded belief that a crime has been committed and that respondent is probably guilty thereof.²⁶ A preliminary investigation is not the occasion for the full and exhaustive display of evidence. The presence or absence of the elements of the crime is evidentiary in nature and is a matter of defense that may be passed upon after a full-blown trial on the merits.²⁷

In this case, as found by the Sandiganbayan, the elements of violation of Section 3(a) of R.A. No. 3019 are all present. Petitioner’s submission as to his non-culpability will be best threshed out during trial.

WHEREFORE, the petition is **DISMISSED.** The Court hereby **ADOPTS** the findings of the Sandiganbayan. The assailed Resolutions dated January 16, 2018 and April 5, 2018 of the Sandiganbayan in SB-17-CRM-0754 to 0761 denying the Omnibus Motion to Quash Information and to Defer the Issuance of and/or Quash the Warrant of Arrest and to Dismiss the Case filed by petitioner are **AFFIRMED.**

SO ORDERED.”

Very truly yours,

Misael DC Batt
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Deputy Division Clerk of Court
Jan 19/20

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²⁶ *Fenequito v. Vergara, Jr.*, 691 Phil. 335, 345 (2012).

²⁷ *Lee v. KBC Bank N.V.*, 624 Phil. 115, 126 (2016).