



The first assailed Resolution denied the Omnibus Motion<sup>4</sup> filed by Salacnib F. Bateria (petitioner) which sought to quash, among others, the seven (7) Informations filed against him based on the Joint Resolution<sup>5</sup> dated May 4, 2016 of the Office of the Ombudsman (OMB). The second assailed Resolution, on the other hand, denied the Motion for Reconsideration<sup>6</sup> of the first assailed Resolution.

### *The Antecedents*

The facts pertinent to the case are as follows:

The case stemmed from the Priority Development Assistance Fund (PDAF) cases filed against Mario Relampagos, *et al.*,<sup>7</sup> involving the utilization of the PDAF or pork barrel funds of certain lawmakers, including herein petitioner, as then Representative of the 1<sup>st</sup> District of Ilocos Sur from 1998 to 2007.<sup>8</sup>

On November 29, 2013, the National Bureau of Investigation (NBI) filed a complaint (NBI-Baligod Complaint) docketed as OMB-C-C-13-0409 against petitioner on several charges involving the misuse of his PDAF allotment for 2007 amounting to ₱35,000,000.00 covering Special Allotment Release Order (SARO) No. 07-00710.<sup>10</sup>

The amount was allegedly released to Technology Resource Center (TRC) through three SAROs issued by then Budget Secretary Rolando G. Andaya, Jr. The TRC transferred the whole amount to Philippine Development Foundation, Inc. and Kaagapay Magpakailanman Foundation, Inc. allegedly to cover the implementation of various livelihood projects in the 1<sup>st</sup> District of Ilocos Sur.<sup>11</sup>

<sup>4</sup> *Id.* at 355-406.

<sup>5</sup> *Id.* at 237-307.

<sup>6</sup> *Id.* at 437-464.

<sup>7</sup> The following are the respondents to the Priority Development Assistance Fund (PDAF) case: herein Salacnib F. Bateria, Zenaida G. Cruz-Ducut, Antonio Y. Ortiz, Dennis L. Cunanan, Francisco B. Figura, Ma. Rosalinda M. Lacsamana, Marivic V. Jover, Mario L. Relampagos, Rosario S. Nuñez, Marilou D. Bare, Lalaine N. Paule, Sylvia P. Montes, Jerry A. Calayan, Janet Lim Napoles and Evelyn D. De Leon.

<sup>8</sup> *Rollo*, p. 600.

<sup>9</sup> *Id.* at 72-88.

<sup>10</sup> *Id.* at 600-601.

<sup>11</sup> *Id.* at 600.

On July 25, 2014, petitioner filed his Counter-Affidavit<sup>12</sup> in compliance with the OMB Order dated June 19, 2014.

Thereafter, a new investigation was initiated by the Field Investigation Office (FIO) of the OMB.

On May 29, 2015, a complaint (FIO-Complaint)<sup>13</sup> docketed as OMB-C-C-15-0150 was filed covering the same SARO subject of the NBI-Baligod Complaint and in addition, included the PDAF covered by SARO Nos. D-07-03368 and ROCS 07-03009.<sup>14</sup>

Petitioner alleged that he filed his Counter-Affidavit<sup>15</sup> to the FIO-Complaint on July 21, 2015. However, per the OMB, petitioner did not file his Counter-Affidavit. Hence, he was considered to have waived the filing thereof.

On May 4, 2016, the OMB issued a Joint Resolution<sup>16</sup> finding probable cause to indict petitioner and other respondents in the case for three counts of violation of Section 3(e) of RA 3019 and three counts of Malversation, defined and penalized under Article 217 of the RPC. Also, a separate Information for Direct Bribery under Article 210 of the RPC was filed against petitioner.

On June 24, 2016, petitioner filed a Motion for Reconsideration,<sup>17</sup> which the OMB denied in a Joint Order<sup>18</sup> dated November 7, 2016.

On March 17, 2017, seven (7) Informations were filed with the Sandiganbayan and raffled to the Second Division.<sup>19</sup>

On May 25, 2017, petitioner filed an Omnibus Motion<sup>20</sup> before the Sandiganbayan seeking to quash the seven criminal Informations filed

<sup>12</sup> *Id.* at 117-135.

<sup>13</sup> *Id.* at 136-185.

<sup>14</sup> *Id.* at 601.

<sup>15</sup> *Id.* at 204-236.

<sup>16</sup> *Id.* at 237-307.

<sup>17</sup> *Id.* at 308-327.

<sup>18</sup> *Id.* at 328-351.

<sup>19</sup> *Id.* at 426.

<sup>20</sup> *Id.* at 355-406.

against him on the following grounds: (1) these were allegedly filed in violation of his constitutional right to due process of law; (2) the preliminary investigations conducted by the OMB were allegedly flawed; and (3) there was an inordinate delay in the filing of the Informations.

On September 22, 2017, the Sandiganbayan issued the first assailed Resolution<sup>21</sup> denying the Omnibus Motion for lack of merit.

Petitioner filed a Motion for Reconsideration<sup>22</sup> which the Sandiganbayan denied in the second assailed Resolution<sup>23</sup> dated December 12, 2017 on the ground that there was no cogent reason to disturb the OMB's earlier pronouncement.

Hence, the present petition.

*Grounds in Support of the Petition*

Petitioner laid the following grounds for consideration of the Court:

I

WITH ALL DUE RESPECT, THE HONORABLE SANDIGANBAYAN, SECOND DIVISION ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN RULING THAT THE OMBUDSMAN HAS THE POWER TO ORDER FACT FINDING INVESTIGATION ON AN ALREADY COMPLETED PRELIMINARY INVESTIGATION WHICH THE OMBUDSMAN HAD LATER ORDERED INITIATED, SUCH THAT THE COMPLETED PRELIMINARY INVESTIGATION WAS SUSPENDED RESOLUTION, ONLY TO BE CONJOINED AND BUNDLED UP NINE (9) MONTHS LATER WITH A NEW COMPLAINT FILED BY THE FACT-FINDING INVESTIGATORS SO THAT THE RESOLUTION BECAME A JOINT RESOLUTION USING AND CO-MINGLING NEW DATA GATHERED WITH OLD DATA TO MODIFY OR CURE THE BRIBE AMOUNT IN THE FIRSTS [SIC] COMPLAINT.

<sup>21</sup> *Id.* at 425-436.

<sup>22</sup> *Id.* at 437-463.

<sup>23</sup> *Id.* at 467-470.

## II

WITH ALL DUE RESPECT, THE HONORABLE SANDIGANBAYAN, SECOND DIVISION ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT VALIDATED THE INTERPRETATION OF THE OMBUDSMAN TO GATHER DATA ON SUBJECTS THAT ARE ALREADY VENTILATED IN AN EARLIER COMPLETED PRELIMINARY INVESTIGATION. [SIC] WHICH THE OMBUDSMAN CLAIMS AUTHORITY FROM SECTION 1 AND 2, RULE II OF ADMINISTRATIVE ORDER NO. 07 OTHERWISE KNOWN AS THE RULES OF PROCEDURE IN CRIMINAL CASES OF THE OFFICE OF THE OMBUDSMAN. THE HONORABLE RESPONDENT COURT BY ITS TOTAL ADAPTION OF THE OMBUDSMAN CLAIM OF AUTHORITY DESERTED ITS DUTY TO INTERPRET LAWS AND RULES THEREBY COMMITTING GRAVE ABUSE OF DISCRETION WHICH IS TANTAMOUNT TO LACK OF JURISDICTION.

## III

WITH ALL DUE RESPECT, THE HONORABLE SANDIGANBAYAN ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT CLOSED ITS EYES TO THE VIOLATIONS OF THE CONSTITUTIONAL RIGHT OF THE ACCUSED TO DUE PROCESS WHEN IT DID NOT RECOGNIZE THE MANY VEXATIONS UPON THE PETITIONER, SUCH AS DECLARATION OR RULING OF NON-RECEIPT OF THE COUNTER-AFFIDAVIT, THE MANNER OR FACT OF NON-RECEIPT AND DECLARATION THAT THE PETITIONER LOST HIS RIGHT TO CONTROVERT THE FIO-COMPLAINT, THE NON-INCLUSION OF THE MISSING COUNTER-AFFIDAVIT IN THE DETERMINATION OF PROBABLE CAUSE, THE DESTRUCTION OF THE DEFENSE OF THE PETITIONER BY THE CHANGE OF THE ALLEGED BRIBE. THAT WITHOUT THESE VIOLATIONS OF THE OMBUDSMAN, THE FILING OF THE SEVEN (7) INFORMATIONS WOULD NOT HAVE BEEN POSSIBLE. THEREBY, THE HONORABLE RESPONDENT COURT DESERTED ITS DUTY TO PROPERLY DISPENSE JUSTICE AND ACTED WITHOUT OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION.

## IV

WITH ALL DUE RESPECT, THE HONORABLE

SANDIGANBAYAN ACTED WITHOUT OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT DID NOT RECOGNIZE THE BIAS OF THE HEAD OF TASK FORCE PDAF WHO PRESIDED OVER THE DETERMINATION OF PROBABLE CAUSE; THE ISSUE OF BIAS WAS APPEALED UPON SANDIGANBAYAN, SECOND DIVISION IN THE OMNIBUS MOTION ON ITEM NO [SIC] 14, PAGE 34, OMNIBUS MOTION.

V

WITH ALL DUE RESPECT, THE HONORABLE SANDIGANBAYAN ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT RULED THERE WAS NO UNWARRANTED AND INORDINATE DELAY AND THE LENGTHY DEPLETION OF TIME FROM INITIATION OF PRELIMINARY INVESTIGATION TO THE FILING OF THE INFORMATIONS WHICH DELAY FOR THREE (3) YEARS, THREE (3) MONTHS AND (18) EIGHTEEN DAYS MUST OUST THE SANDIGANBAYAN OF ITS JURISDICTION OVER THE CASES.<sup>24</sup>

*Issues*

1. Whether the Sandiganbayan acted with grave abuse of discretion amounting to lack of jurisdiction in ruling that the OMB has the power to order a fact-finding investigation after it has already initiated a preliminary investigation on the NBI-Baligod Complaint pursuant to Section 2, Rule II of OMB Administrative Order (AO) No. 07, otherwise known as the Rules of Procedure of the Office of the Ombudsman.
2. Whether the Sandiganbayan acted with grave abuse of discretion amounting to lack of jurisdiction in ruling that petitioner was not denied due process of law.
3. Whether the Sandiganbayan acted with grave abuse of discretion amounting to lack of jurisdiction in ruling that the right of petitioner to a speedy disposition of a case had not been violated.

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<sup>24</sup> *Id.* at 33-35.

*The Court's Ruling*

*The Sandiganbayan is correct in affirming that the OMB may refer the case for further fact-finding investigation pursuant to Section 2, Rule II of OMB AO No. 07.*

Section 2, Rule II of the OMB AO No. 07 provides:

SECTION 2. Evaluation. — Upon evaluating the complaint, the investigating officer shall recommend whether it may be:

- a) dismissed outright for want of palpable merit;
- b) referred to respondent for comment;
- c) indorsed to the proper government office or agency which has jurisdiction over the case;
- d) forwarded to the appropriate office or official for fact-finding investigation;
- e) referred for administrative adjudication; or
- f) subjected to a preliminary investigation.<sup>25</sup>

Petitioner argues that once the OMB has made its choice on which item to take, the OMB must not seek another action included in the enumeration. He explains that when the OMB is done with the evaluation of the NEI-Baligod Complaint, it must either: (a) dismiss the complaint; or (b) refer to respondent for comment or if it finds that some other government agency has jurisdiction over it; or (c) indorse the complaint to that agency.<sup>26</sup>

However, if it finds out or there is a need for further study, the OMB will (d) forward the complaint to the appropriate office or official for fact-finding investigation; or if it sees the need, (e) refer the complaint for administrative adjudication; or (f) recommend preliminary investigation, and then file the proper complaint or Information if it finds that there is a probable cause.<sup>27</sup>

<sup>25</sup> Rules of Procedure of the Office of the Ombudsman, Ombudsman Administrative Order No. 07, April 10, 1990.

<sup>26</sup> *Rollo*, p. 38.

<sup>27</sup> *Id.*

For petitioner, the period within which the OMB finds the presence of probable cause is the preliminary investigation stage where the subject complaint is either dismissed or transformed into an Information to be filed before the proper court.<sup>28</sup>

The Court disagrees.

*First*, the arguments proffered by petitioner appear to be his own version and personal interpretation of the application of OMB's Rules of Procedure. He insists on his own understanding of the OMB's procedure which gives the impression that he is more knowledgeable than the Graft Investigation and Prosecution Officers, whose primary function includes initiating and conducting a preliminary investigation for purposes of finding whether a probable cause exists.

A careful reading of petitioner's lengthy petition shows how confused he is as to the stages of the proceeding before the OMB such that he asserts that the NBI-Baligod Complaint had already completed the preliminary investigation stage when the FIO-Complaint was initiated.

However, as can be gathered from the records of the case, the FIO-Complaint was filed on May 29, 2015.<sup>29</sup> Then, on July 14, 2015, a Reply-Letter was sent to petitioner in connection with his Letter dated July 9, 2015 inquiring as to the status of NBI-Baligod Complaint, which reads:

X X X X

please be informed that *NBI v. Baterina, et al.* (OMB-C-C-13-0409) is currently undergoing preliminary investigation by this Office's Task Force PDAF.

X X X X.<sup>30</sup> (Italics in the original and supplied.)

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<sup>28</sup> *Id.* at 39.

<sup>29</sup> *Id.* at 136.

<sup>30</sup> *Id.* at 50.

Notably, petitioner's objection to the FIO investigation on the ground that it was an intrusion *into an already completed NBI-Baligod preliminary investigation*<sup>31</sup> is bereft of merit.

Further, there is no truth to petitioner's argument that with the filing of FIO-Complaint, there is already a redundancy or an overlap as to the matter already covered in the NBI-Baligod Complaint.<sup>32</sup>

For the knowledge of petitioner, during the NBI investigation, the functions of the agency are merely investigatory and informational in nature. The NBI has no judicial or quasi-judicial powers and is bereft of power to grant reliefs to the parties. More so, the NBI cannot determine probable cause as this function pertains to the fiscals or prosecutors. In other words, the NBI is an investigative agency whose findings are merely recommendatory. The NBI's findings are still subject to the prosecutor's actions for purposes of finding the existence of probable cause.<sup>33</sup>

Therefore, the Court finds that the Sandiganbayan is correct in holding that the OMB was only exercising its investigative and prosecutorial power when the FIO filed another complaint. Notably, the OMB may refer the case for further fact-finding investigation to the appropriate office or official pursuant to Section 2, Rule II of OMB AO No. 07. For emphasis, the OMB is not bound by the complaint or findings of the NBI because the latter may still subject it for further fact-finding investigation.

*Second*, taking petitioner's arguments altogether shows that he is questioning the propriety of the conduct of preliminary investigation and the finding of probable cause of the OMB against him. This consequently led to the OMB's filing of the seven (7) criminal Informations with the Sandiganbayan which became the subject of petitioner's Omnibus Motion before the latter.

The Court takes judicial notice that petitioner was arraigned on February 23, 2018, but refused to enter a plea. The Sandiganbayan then

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<sup>31</sup> *Id.* at 37.

<sup>32</sup> *Id.* at 52.

<sup>33</sup> *Id.*, citing *Shu v. Dee*, 734 Phil. 204 (2014).

ordered that a plea of not guilty be entered on record for him. With this supervening event, the Sandiganbayan had already acquired jurisdiction over the person of petitioner without the need for the issuance of warrant of arrest for his apprehension and incarceration.<sup>34</sup> *Therefore, the issue as to the OMB's finding of probable cause to indict petitioner is rendered moot.*<sup>35</sup>

However, for purposes of discussion, the Court deems it proper to elucidate further the present issue.

Petitioner argues that after the OMB received his Counter-Affidavit to the NBI-Baligod Complaint, it then ordered the reinvestigation of Benhur Luy (Luy) to vary, modify, and alter the latter's affidavit specifically to change the amount of bribe from ₱7,500,000.00 to ₱3,000,000.00. Allegedly, the reinvestigation was initiated to make Luy's allegations more credible because the project supposed to be funded amounted to only ₱9,500,000.00.<sup>36</sup> For petitioner, the fact-finding investigation of the OMB was no longer data verification, but rather a generation, invention, or manufacture of probable cause.<sup>37</sup>

Petitioner has to be reminded that the courts do not naturally interfere with the exercise of constitutional mandate granted to the OMB.<sup>38</sup> The authority of the OMB emanates from both the Constitution and Republic Act No. 6770<sup>39</sup> which give it a wide latitude to act on criminal complaints against public officials and government employees.<sup>40</sup> Verily, this is the rule on *non-interference* which is based on "*respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman.*"<sup>41</sup> The Court in *Dichaves v. Office of the Ombudsman, et al.*<sup>42</sup> enunciated that:

<sup>34</sup> *People v. Sandiganbayan*, 432 Phil. 613, 629 (2004).

<sup>35</sup> *Relampagos v. Sandiganbayan (Second Division)*, G.R. No. 235480, January 27, 2021, citing *Roquero v. Sandiganbayan (First Division)*, G.R. Nos. 203563, 203693-94, 203740-41, 203955-56, 203978-79 & 204200-09 (Notice), August 23, 2016.

<sup>36</sup> *Rollo*, p. 39.

<sup>37</sup> *Id.*

<sup>38</sup> See *Roxas v. Office of the Ombudsman*, G.R. No. 239968 (Notice), July 9, 2018.

<sup>39</sup> The Ombudsman Act of 1989, approved on November 17, 1989.

<sup>40</sup> *Roxas v. Ombudsman, supra*.

<sup>41</sup> *Id.*

<sup>42</sup> 802 Phil. 564 (2016).

An independent constitutional body, the Office of the Ombudsman is “beholden to no one, acts as the champion of the people[,] and [is] the preserver of the integrity of the public service.” Thus, it has the sole power to determine whether there is probable cause to warrant the filing of a criminal case against an accused. This function is executive in nature.

The executive determination of probable cause is a highly factual matter. It requires probing into the “existence of such facts and circumstances as would excite the belief, in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he [or she] was prosecuted.”

The Office of the Ombudsman is armed with the power to investigate. It is, therefore, in a better position to assess the strengths or weaknesses of the evidence on hand needed to make a finding of probable cause. As this Court is not a trier of facts, we defer to the sound judgment of the Ombudsman.<sup>43</sup>

Lastly, it is evident that what petitioner is raising is in the nature of an evidentiary matter which is best threshed out during the trial of the case.

As correctly ruled by the Sandiganbayan, the function of the OMB is only to determine the existence of probable cause; that the finding of probable cause “*need not be based on clear and convincing evidence of guilt, not on evidence establishing guilt beyond reasonable doubt, and definitely not on evidence establishing absolute certainty of guilt.*”<sup>44</sup> More so, the determination of probable cause “*does not depend on the validity or merits of a party's accusation or defense or on the admissibility or veracity of testimonies presented.*”<sup>45</sup>

*The Sandiganbayan is correct in ruling that petitioner was not denied due process of law.*

Petitioner maintains that he was denied of his right to be heard when his Counter-Affidavit to FIO-Complaint was not considered by the OMB in the determination of probable cause. He accused the Task Force

<sup>43</sup> *Id.* at 589-590. Italics omitted.

<sup>44</sup> *Rollo*, p. 431, citing *Aguirre v. DOJ, et al.*, 717 Phil. 808 (2013).

<sup>45</sup> *Id.* citing *Sen. Estrada v. Office of the Ombudsman, et al.*, 751 Phil. 821, 873 (2015).

PDAF to have hidden his Counter-Affidavit and pretended that it did not receive a copy.<sup>46</sup>

To sum up, petitioner insists that he was denied due process of law on the following grounds: (1) the declaration or ruling of non-receipt of the Counter-Affidavit; (2) the declaration that petitioner lost his right to controvert the FIO-Complaint; and (3) the failure to acknowledge the receipt of his Counter-Affidavit for the purpose of accepting the new amount intended to modify the too large amount of bribe as stated in the NBI-Baligod Complaint.<sup>47</sup>

The Court is not persuaded.

Whether or not petitioner indeed filed his Counter-Affidavit is immaterial because when he filed his Motion for Reconsideration on the Joint Resolution<sup>48</sup> dated June 24, 2016, he already exercised his right to be heard.

The Court in *Nestle Philippines, Inc. v. Puedan, et al.*<sup>49</sup> reiterated its previous ruling in *Gonzales v. Civil Service Commission*<sup>50</sup> stressing that “[a]ny seeming defect in [the] observance [of due process] is cured by the filing of a motion for reconsideration,”<sup>51</sup> and that “denial of due process cannot be successfully invoked by a party who [was] afforded the opportunity to be heard x x x.”<sup>52</sup>

Also, in *Auencio v. City Administrator Mañara*,<sup>53</sup> the Court emphasized that defects in the procedural due process may be cured when the party has been afforded the opportunity to seek reconsideration of the action or ruling complained of just like in the present case.<sup>54</sup> Thus, when petitioner raised his defenses and arguments in the motion for reconsideration of the OMB Joint Resolution and as these were already considered in the OMB Joint Order dated November 7, 2016, then

<sup>46</sup> *Id.* at 47.

<sup>47</sup> *Id.* at 47-48.

<sup>48</sup> *Id.* at 308-327.

<sup>49</sup> 804 Phil. 583 (2017).

<sup>50</sup> 524 Phil. 271 (2006).

<sup>51</sup> *Id.* at 278, citing *Abalo v. Civil Service Commission*, 273 Phil. 284 (1991).

<sup>52</sup> *Id.*, citing *Rubenevia v. CSC*, 314 Phil. 612, 631 (1995).

<sup>53</sup> 489 Phil. 752 (2005).

<sup>54</sup> *Id.* at 760-761.

clearly, he was not denied due process of law. Petitioner was, in fact, afforded the fair and reasonable opportunity to explain his side.

*The Sandiganbayan is correct when it ruled that the right of petitioner to a speedy disposition of a case had not been violated.*

Petitioner argues that from the time of the filing of the NBI-Baligod Complaint on November 29, 2013, to the date of the filing of seven (7) Informations on March 17, 2017 with the Sandiganbayan, the total time that had elapsed is three years, three months, and 18 days.<sup>55</sup>

Still, as correctly ruled by the Sandiganbayan, four factors must be considered in determining whether petitioner has been deprived of his right to a speedy disposition of the case and to a speedy trial, to wit: “(a) length of delay; (b) the reason for the delay; (c) the defendant’s assertion of his right; and (d) prejudice to the defendant.”<sup>56</sup>

Thus, applying the factors in the present case, the Court affirms that petitioner’s right to speedy disposition of the criminal case had not been violated. Taken from the explanation offered by the prosecution, the transactions involved in the case pertain to three SAROs in the total amount of ₱35,000,000.00, implicating around 20 respondents from four government agencies and three non-government organizations who are all charged for their respective participations in the three counts of violation of Section 3(e) of RA 3019, three counts of Malversation, Direct Bribery, and Corruption of Public Officials.<sup>57</sup> The OMB also wrote letters to the 11 Municipalities of the First District of Ilocos Sur to ascertain whether there was an implementation of the subject SAROs.<sup>58</sup> Taking all these together, it only took the OMB less than two years to conduct the preliminary investigation counted from the time the FIO-Complaint was filed.<sup>59</sup>

Furthermore, the Sandiganbayan also made mention that the issue of delay was raised by petitioner only for the first time in his Omnibus

<sup>55</sup> *Rollo*, p. 55.

<sup>56</sup> *Corpuz v. Sandiganbayan*, 484 Phil. 899, 918 (2004).

<sup>57</sup> *Rollo*, p. 435.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 436.

Motion before it.<sup>60</sup> Emphatically, petitioner could have asserted his right at the very first opportunity when he filed his Motion for Reconsideration on the Joint Resolution<sup>61</sup> of the OMB.

Therefore, considering the complexity of the case and the issues involved, the period of three years, three months, and 18 days is justified and is considered not to have prejudiced the rights of petitioner.

Petitioner insists that OMB failed to follow procedure. He persistently casts doubt as to how OMB conducted its fact-finding investigation relating to the kickback he allegedly received under SARO Nos. D-07-03367 and ROCS-0703009.<sup>62</sup> He alleges that most of the discussion in the FIO-Complaint was taken from the COA Report and the NBI-Baligod Complaint.<sup>63</sup> In his own words, petitioner concludes, "*It is thus safe to state that the FIO had not done a full work of its assignment. x x x. The FIO proved by their Complaint that they harvested from the Reports of the COA and the NBI. They did not go into the field. The Field Investigation Office used its time unwisely to squander time on Benhur Luy's SARO.*"<sup>64</sup>

In addition, petitioner alleges that there is bias on the part of M.A. Christian O. Uy, the Investigating Prosecutor, who was condescending towards him by copying the mistakes petitioner committed in his letter-request to the OMF.<sup>65</sup> According to petitioner, it was made with the sole intent to humiliate him.<sup>66</sup>

Petitioner needs to be reminded that the Court "*does not rule on allegations which are manifestly conjectural, as these may not exist at all. The Court deals with facts, not fancies; on realities, not appearances. When the Court acts on appearances instead of realities, justice and law will be short-lived.*"<sup>67</sup>

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<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 308-327.

<sup>62</sup> *Id.* at 58-59.

<sup>63</sup> *Id.* at 58.

<sup>64</sup> *Id.* at 58-59.

<sup>65</sup> *Id.* at 48-51.

<sup>66</sup> *Id.*

<sup>67</sup> *Abakada Guro Party List v. Hon. Exec. Sec. Ermita*, 506 Phil. 1, 116 (2005).

As things stand, petitioner failed to sufficiently show in the present petition that the Sandiganbayan gravely abused its discretion in denying the Omnibus Motion.

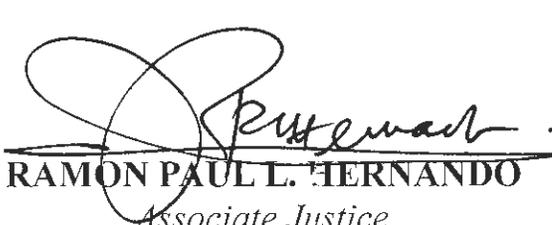
**WHEREFORE**, the instant petition is **DISMISSED**. The Resolutions dated September 22, 2017 and December 12, 2017 of the Sandiganbayan, Second Division, are **AFFIRMED**.

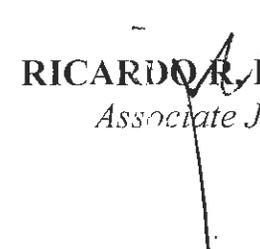
**SO ORDERED**.

  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

WE CONCUR:

  
**MARVIC M.V.F. LEONEN**  
*Associate Justice*  
*Chairperson*

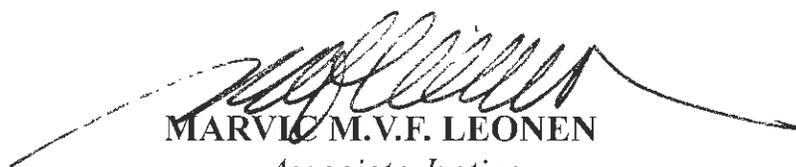
  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

  
**RICARDO R. ROSARIO**  
*Associate Justice*

  
**JHOSEP V. LOPEZ**  
*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**  
*Associate Justice*  
*Chairperson*

**CERTIFICATION**

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

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*