



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **05 October 2020** which reads as follows:*

“**G.R. No. 240855 (*Joseph C. Sy v. Sandiganbayan [Special Third Division] and People of the Philippines*)**. – After a careful review, the Court resolves to **DISMISS** the petition for failure to sufficiently show that the Sandiganbayan gravely abused its discretion amounting to lack or excess of jurisdiction in the assailed Resolutions.¹ As this is a Petition for *Certiorari*² under Rule 65 of the Rules of Court, the Court’s review is limited to whether the Sandiganbayan gravely abused its discretion amounting to lack or excess of jurisdiction in denying the Motion to Dismiss and to Defer Arraignment³ filed by Joseph C. Sy (petitioner) for lack of merit. Grave abuse of discretion involves capricious and whimsical exercise of judgment, so despotic and arbitrary in manner that it warrants judicial intervention.⁴ Contrary to petitioner’s claim, no such grave abuse can be ascribed to the Sandiganbayan in this case.

Petitioner insists that the Sandiganbayan should have dismissed the case against him because the Ombudsman conducted an overly protracted fact-finding and preliminary investigation which violated his right to a speedy disposition of the case. He also asserts that the case should be dismissed for the failure of the Ombudsman to prove probable cause for the issuance of a warrant of arrest against him.⁵

The Court does not agree with petitioner.

¹ *Rollo*, pp. 59-72 and 73-83; penned by Sandiganbayan Presiding Justice Amparo M. Cabotaje-Tang with Associate Justices Bernelito R. Fernandez and Zaldy V. Trespeses, concurring.

² *Id.* at 3-58.

³ *Id.* at 95-121.

⁴ *Casing v. Ombudsman*, 687 Phil. 468, 476 (2012).

⁵ *Rollo*, pp. 11-12.

With respect to the ground of denial of petitioner's right to speedy disposition of cases, since various factors have been considered in calibrating the alleged delay, including the length of time that has lapsed, the reason for it, the accused's assertion of his rights and the prejudice thereto, this ground is far from indubitable at this point.⁶

The right to a speedy disposition of cases should be understood to be a relative or flexible concept such that a mere mathematical reckoning of the time involved would not be sufficient. Case law teaches that the right is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for or secured, or even without cause or justifiable motive, a long period of time is allowed to elapse without a party having his case tried.⁷

In the early case of *People v. Gines*,⁸ the Court found that the right of the accused to a speedy trial was not violated and held that the dismissal of the case as regards the private respondents was premature and erroneous. According to the Court, the right to speedy trial shall not be utilized to deprive the State of a reasonable opportunity of fairly indicting criminals. It secures rights to a defendant but, certainly, it does not preclude the rights of public justice.⁹

More recently, in *Revuelta v. People*,¹⁰ the Court was confronted with the issue of whether the period spent from the filing of the complaint before the Ombudsman up to the time of filing of the information in the Sandiganbayan transgressed therein petitioner's constitutional right to a speedy disposition of his case. Ruling in the negative, the Court explained that a distinction must be made between fact-finding investigations conducted before and after the filing of a formal complaint for the purpose of establishing the reckoning point for computing the start of delay. The fact-finding investigation conducted by the Ombudsman *after* the filing of the complaint is necessarily included in computing the aggregate period of the preliminary investigation. However, the fact-finding investigation conducted *before* the filing of a

⁶ *Jacob v. Sandiganbayan Fourth Division*, 649 Phil. 374 (2010), citing *Corpuz v. Sandiganbayan*, 484 Phil. 899-927 (2004).

⁷ *Conscolluela v. Sandiganbayan*, 714 Phil. 55, 61 (2013), citing *Enriquez v. Office of the Ombudsman*, 569 Phil. 309, 316 (2008) and *Capt. Roquero v. The Chancellor of the UP-Manila*, 628 Phil. 628, 639 (2010).

⁸ 274 Phil. 770 (1991).

⁹ *Id.* at 777.

¹⁰ G.R. No. 237039, June 10, 2019.

formal complaint, as investigations relating to anonymous complaints or *motu proprio* investigations by the Ombudsman, will not be counted in determining the attendance of delay. During such fact-finding investigations and prior to the filing of a formal complaint, the party involved cannot yet invoke the right to speedy disposition of his case since he is not yet subjected to any adverse proceeding.¹¹

Applying the foregoing, the Court finds that petitioner's right to speedy disposition of his case has not been violated. It is undisputed that upon the filing of the complaint on March 5, 2013, the Ombudsman immediately directed the 15 accused, including petitioner, to file their respective counter-affidavits. After the accused filed their counter-affidavits and position papers from May 2013 to March 2015, the Ombudsman issued the probable cause Resolution. On January 26, 2017, Ombudsman Conchita Carpio-Morales approved the Resolution from which accused Ronaldo Gruyal (Gruyal) subsequently sought reconsideration. The Ombudsman, however, denied the motion and on October 13, 2017, the Information was filed with the Sandiganbayan. From the filing of the complaint up to the filing of the information before the Sandiganbayan, only a period of four years and seven months had elapsed. During this period, it must be emphasized that the Ombudsman had to investigate and provide all the 15 accused with sufficient opportunity to study the evidence against them and respond to the charges. Moreover, from the filing of the complaint up to the denial of Gruyal's Motion for Reconsideration, all the Ombudsman's resolutions went through different levels of review from the Graft Investigator, the Deputy Ombudsman for recommendation, and finally to the Ombudsman for approval. Due process considerations and other factors not attributable to the Ombudsman obviously factored in on the length of time consumed before the filing of the information in the Sandiganbayan.

Under the circumstances, therefore, the alleged delay in the investigation was far from being unreasonable or oppressive. As aptly stated by the Sandiganbayan, the chronology of events shows that all the accused were merely given ample opportunity to ventilate their defenses in the interest of justice. There was no showing that the prosecution deliberately delayed the proceedings to gain an advantage or for other impermissible reasons.¹²

¹¹ *Id.* citing *Magante v. Sandiganbayan (Third Division)*, G.R. Nos. 230950-51, July 23, 2018.

¹² *Rollo*, p. 68.

Anent petitioner's insistence of lack of probable cause for the issuance of a warrant of arrest against him, the Court finds such contention to be without merit. The Sandiganbayan already found the existence of probable cause in this case when it issued a warrant of arrest against petitioner. By invoking lack of probable cause as a ground for the dismissal of petitioner's case, he is effectively asking this Court to judicially re-determine the existence of probable cause which cannot be done. The Sandiganbayan explained:

A motion for judicial determination of probable cause is now a prohibited motion under the Revised Guidelines for Continuous Trial of Criminal Cases: x x x x.

Thus, accused Sy's motion for the dismissal of the case on lack of probable cause is necessarily prohibited.

x x x x.

The determination of probable cause for the purpose of an arrest warrant is judicial, performed by the judge to ascertain whether the accused should be placed under the court's custody. However, to move the court to conduct a judicial determination (or re-determination as in this case) of probable cause is a mere superfluity. For with or without such motion, the judge is duty-bound to personally evaluate the resolution of the public prosecutor and the supporting evidence. In fact, the task of the presiding judge when the Information is filed with the court is first and foremost to determine the existence or non-existence of probable cause for the arrest of the accused.

This is what the Court precisely did in this case. Upon the filing of the case with it, the Court determined the existence of probable cause. After it made a positive determination thereof, it issued warrants of arrest. Thus, it is superfluous for accused Sy to seek the judicial re-determination of probable cause on the pretext that the Court should still act and proceed independently of the executive determination of probable cause to charge the proper offense.¹³ (Emphasis supplied).

Here, the issuance by the Sandiganbayan of the warrant of arrest upon filing of the Information and supporting papers already implies the determination of probable cause for the offense charge.¹⁴ As such, it is superfluous for an accused to seek the judicial determination of probable cause because the Sandiganbayan already acted and proceeded

¹³ *Id.* at 75-76.

¹⁴ *Balindong, v. Court of Appeals*, 771 Phil. 456 (2015).

independently of the executive determination of probable cause.¹⁵

WHEREFORE, the Court **AFFIRMS** the Resolutions dated February 22, 2018 and June 6, 2018 of the Sandiganbayan (Special Third Division) in Criminal Case No. SB-17-CRM-2081.

SO ORDERED.” (BALTAZAR-PADILLA, J., on leave.)

By authority of the Court:



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11 NOV 2020

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GR240855. 10/05/2020(153)URES

¹⁵ *Id.*