Republic of the Philippines
SUPREME COURT
Manila

CERTIFIED TRUE COPY
WILFREDO V. LAPIÑAN
Division Clerk of Court
Third Division
AUG 10 2018

THIRD DIVISION

ELPIDIO TAGAAN MAGANTE,
Petitioner,

- versus -

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

G.R. Nos. 230950-51

Present:

VELASCO, JR., *J.*, Chairperson,
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO, *JJ.*

Promulgated:

July 23, 2018

x----------x

DECISION

VELASCO, JR., *J.*:

Like the proverbial sharp sword of Damocles, the protracted pendency of a case hangs overhead by the slenderest single strand. And as Cicero quipped: *"...there can be nothing happy for the person over whom some fear always looms."*

Nature of the Case

For this Court's resolution is the Petition for *Certiorari* and Prohibition under Rule 65 of the Rules of Court assailing the Resolutions dated January 9, 2017 [1] and March 24, 2017 [2] of herein respondent Sandiganbayan, 3rd Division, in Criminal Case Nos. SB-16-CRM-0773-0774, denying petitioner Elpidio Tagaan Magante's Motion to Dismiss the two separate informations filed against him, and the subsequent Motion for Reconsideration thereof.

The antecedents, as found by the Sandiganbayan, are as follows:

---

[1] Penned by Presiding Justice and Chairperson Amparo Cabotaje-Tang and concurred in by Associate Justices Sarah Jane T. Fernandez and Zaldy V. Trespeses, *rollo*, pp. 24-36.
[2] Id. at 57-62.

In view of the Office of the Ombudsman's Resolution[3] dated April 25, 2016[4] in OMB-V-C-11-0008-A, two separate informations for Falsification of Public Documents,[5] docketed as SB-16-CRM-0773,[6] and for Splitting of Contracts,[7] docketed as SB-16-CRM-0774,[8] were filed against petitioner and his five (5) co-respondents therein on October 7, 2016 before the Sandiganbayan.

Thereafter, petitioner filed a Motion to Dismiss[9] the cases against him on the ground that inordinate delay attended the conduct of the preliminary investigation of his alleged crimes, in violation of his constitutional right to a speedy disposition of cases. In concrete, petitioner claimed that it took the Ombudsman about seven (7) years, reckoned from the commencement of the fact-finding investigation in 2009 up to 2016, to issue its Resolution directing the filing of two separate informations against him. Petitioner reckoned the period from April 21, 2009, the date of the Affidavit and Narrative Audit Report that was submitted by Delfin P. Aguilar, Regional Director of the Commission on Audit Regional Office No. VII, which led to the commencement of a fact-finding investigation by the Ombudsman.

Petitioner likewise asserted that even if the period were to be counted from February 15, 2011, which is the date when the Ombudsman issued an Order directing him and his co-respondents therein to submit their respective counter-affidavits, up to the approval of its Resolution, still, there is a clear inordinate delay of five (5) years and two (2) months in resolving his case. He even cited several cases wherein this Court held that the delay of three, five, six, or eight years in the termination of the preliminary investigation of the case amounts to a violation of the constitutional rights of the accused to due process and to a speedy disposition of cases.[10] Specifically, petitioner invoked the Court's pronouncements in *Tatad v. Sandiganbayan*,[11] *Angchangco v. Ombudsman*,[12] *Roque v. Ombudsman*,[13] *Coscolluela v. Sandiganbayan*,[14] and *People v. Sandiganbayan*[15] to advance his theory.

In response thereto, the prosecution (herein respondent People of the Philippines) filed its Comment/Opposition averring that petitioner's Motion to Dismiss deserved scant consideration and maintained that the

---

[3] Id. at 63-82.

[4] Date of approval of the Resolution by Ombudsman Conchita Carpio-Morales.

[5] Article 171(4), of the Revised Penal Code (RPC).

[6] *Rollo*, pp. 83-86.

[7] Section 65(4) in relation to Sections 52 & 54 of Republic Act No. 9184 (RA 9184), known as Government Reform Procurement Act, and Sections 52 & 54 of the Implementing Rules and Regulations (IRR) of RA 9184.

[8] *Rollo*, pp. 87-90.

[9] Id. at 37-47.

[10] Sandiganbayan Resolution dated January 9, 2017, id. at 25-27; Motion to Dismiss dated January 23, 2017, id. at 38-46.

[11] G.R. Nos. 72335-39, March 21, 1988.

[12] G.R. No. 122728, February 13, 1997.

[13] G.R. No. 129978, May 12, 1999.

[14] G.R. No. 191411, July 15, 2013.

[15] G.R. No. 188165, December 11, 2013.

Ombudsman did not incur inordinate delay in the conduct of the preliminary investigation.

The prosecution stressed the fact that there was neither hiatus, inaction, nor any intentional delay on the part of the Ombudsman from the time that the letter-complaint of Delfin P. Aguilar[16] against petitioner was received by the OMB-Visayas on September 1, 2009, until the approval of the Final Evaluation Report dated June 30, 2010 by the then Ombudsman Merceditas Gutierrez (Gutierrez) on November 18, 2010. The Final Evaluation Report recommended the upgrading of the fact-finding investigation into a criminal and administrative case before the Ombudsman. Pursuant thereto, the Public Assistance and Corruption Prevention Office of the Deputy Ombudsman for Visayas (PACPO-OMB-Visayas) filed a formal complaint against petitioner on January 7, 2011.

The Ombudsman had taken proper action in the ordinary course of things and in accord with its mandate. However, the Resolution finding probable cause was only promulgated on April 15, 2016 due to the fact that there were ten (10) respondents in the complaint and each of them was afforded the right to explain themselves. The records of the case were also voluminous that entailed considerable time to study and analyze.[17]

The prosecution further claimed that petitioner failed to assert his right to a speedy disposition of his cases all throughout the proceedings, and, thus, like any other constitutional right, the same may be waived. The prosecution likewise disputed the applicability of the cases cited by petitioner in his Motion to Dismiss as their factual milieu differs with the present cases.[18]

Ruling of the Sandiganbayan

On January 9, 2017, the Sandiganbayan rendered its first assailed Resolution denying the petitioner's Motion to Dismiss for utter lack of merit. In disposing of the case, the Sandiganbayan made the following disquisitions:

> The Court agrees with the prosecution [herein respondent People of the Philippines] that the rulings in the cases cited by [herein petitioner] in his [Motion to Dismiss] are inapplicable to the cases at bar because of the material differences in their factual milieu. To stress, the Supreme Court has consistently held that in the application of the constitutional guarantee of the right to a speedy disposition of cases, particular regard must also be taken of the facts and circumstance peculiar to each case.
>
> x x x x

---

[16] Regional Director of the Commission on Audit (COA) Regional Office No. VII, Cebu City.
[17] Sandiganbayan Resolution dated January 9, 2017, *rollo*, pp. 27, 29.
[18] Id. at 30.

x x x in ***Tatad***, there were peculiar circumstances attendant to the three-year delay in terminating the preliminary investigation against him. According to the Supreme Court, "*political motivations played a vital role in activating and propelling the prosecutorial process*;" and, there was a departure from the established procedure in conducting the preliminary investigation and that the issues involved were simple.

Unlike in ***Tatad***, the present cases involve no imputation of any political motivation in the filing of the present *Informations* against the [petitioner].

Likewise in ***Roque***, the High Tribunal declared as violation of therein petitioner's right to due process and speedy disposition of cases the delay of six (6) years on the part of the Office of the Ombudsman in resolving the complaints against the petitioner. The Supreme Court so ruled because "*no explanation was given why it took almost six years for the [Ombudsman] to resolve the complaints.*" Similarly, in ***People v. Sandiganbayan*** (citation omitted), the Supreme Court held that there was inordinate delay on the part of the Office of the Ombudsman when it resolved a complaint-affidavit only on April 15, 2008, notwithstanding the fact that it was filed on December 23, 2002.

In contrast to the abovementioned cases, **the attendant circumstances in these cases do not show a deliberate attempt to delay the proceedings**. The prosecution appropriately explained the circumstances surrounding the drafting of the two (2) *Informations* against the ten (10) respondents, all of whom were accorded their constitutional right to be heard. Based thereon, this Court does not find that the proceedings before the Office of the Ombudsman were attended by any vexatious, capricious and oppressive delays.

x x x x

In ***Achangco, Jr.***, the Supreme Court x x x held the delay of more than six (6) years in resolving the complaints x x x amounted to a violation of the accused's constitutional right to due process and speedy disposition of cases for two (2) reasons, namely: [1] the administrative aspect of the case had already been dismissed; and [2] petitioner's several motions for early resolution and motion to dismiss remained unacted even at the time of the petition for mandamus before the Supreme Court.

The factual circumstances of the abovementioned case differ substantially from the cases at bar. Here, the [petitioner] did not file any *motion* or letter seeking the early resolution of the case against him and signifying that he was not waiving his right to its speedy disposition.

Also, [petitioner's] reliance on ***Coscolluela*** is misplaced.

In the said case, x x x the circumstances x x x showed that the petitioners therein were unaware that a preliminary investigation against them was on-going; hence, the Court ruled that they could not be faulted for their alleged failure to assert their right to speedy disposition of cases.

Here, [petitioner] was very much aware that there was a pending investigation against him, as in fact he filed his counter-affidavit before the OMB-Visayas on May 6, 2011. He also later filed a *Motion for*

> *Reconsideration* of an adverse *Resolution* of the Office of the Ombudsman on May 31, 2015. Surely he cannot now invoke ***Coscolluela*** for he actively participated in the proceedings before the Office of the Ombudsman and failed to assert his right to a speedy disposition of cases.
>
> x x x **the [petitioner] must be deemed to have waived said right for his failure to assert it with reasonable promptitude**. The Supreme Court held in the case of ***Philippine Coconut Producers, Inc. v. Republic*** (citation omitted), that the right to speedy disposition of cases is lost unless seasonably invoked x x x[19] (Emphasis partly in the original and partly supplied; italics in the original.)

The petitioner moved for its reconsideration but it was also denied in the second assailed Resolution dated March 24, 2017 for being *pro forma* and/or lack of merit.

Hence, this Petition.

The Issue

The sole issue raised in the petition is framed in the following manner:

> WHETHER OR NOT THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE ASSAILED RESOLUTIONS WITHOUT REGARD TO THE CONSTITUTIONAL RIGHT OF THE PETITIONER TO SPEEDY DISPOSITION OF THE INVESTIGATION OF THE CASE AS PRESCRIBED IN SECTION 16, ARTICLE III OF THE 1987 CONSTITUTION AND TO THE VARIOUS SUPREME COURT DECISIONS UPHOLDING SAID CONSTITUTIONAL RIGHT.[20]

Succinctly, petitioner calls upon this Court to guard his constitutionally enshrined right to speedy disposition of cases[21] against the perceived inordinate delay of the Ombudsman in conducting the preliminary investigation pertaining to the pending criminal action.

The Court's Ruling

We find merit in the petition.

The right to speedy disposition of cases and the Ombudsman's bounden duty to observe the same

---

[19] Id. at 31-34.

[20] Petition for *Certiorari* and Prohibition dated April 24, 2017, id. at 7.

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

The constitutional guarantee to speedy disposition of cases was first introduced in the 1973 Philippine Constitution [22] and was reproduced verbatim in Article III, Sec. 16 of the 1987 version. Presently, the provision pertinently provides:

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

The guarantee recognizes the truism that justice delayed can mean justice denied. [23] It expanded the speedy trial guarantee afforded to the accused in a criminal proceeding, which was already in place in the 1935 Constitution.[24] Though both concepts are subsumed under the more basic tenet of procedural due process, the right to speedy disposition of cases, to contrast with the right to speedy trial, sweeps more broadly as it is not confined with criminal cases; it extends even to other adversarial proceedings before any judicial, quasi-judicial, and administrative tribunals. No branch of government is, therefore, exempt from duly observing the constitutional safeguard and the right confirms immunity from arbitrary delay. Hence, under the Constitution, any party to a case may demand expeditious action on all officials who are tasked with the administration of justice,[25] including the Ombudsman.

Coincidentally, the seminal case on the speedy disposition of cases involved the conduct of preliminary investigation by the Tanodbayan, the predecessor of the OMB. Even though the right to speedy disposition of cases had been preserved under the Bill of Rights as early as 1973, the 1989 case of *Tatad v. Sandiganbayan (Tatad)*[26] was the first to have applied the provision as a personal right against the conduct of a proceeding, rather than as a constitutional challenge against a statute.[27]

In the said case, a "report" was filed with the Legal Panel of the Presidential Security Command in October 1974, containing charges for alleged violations of RA 3019 against then Secretary of Public Information Francisco S. Tatad (Tatad). No action was taken on the "report" until it became publicly known that Tatad had a falling out with then President Ferdinand Marcos. Following Tatad's resignation from the cabinet, the 1974 complaint was resurrected on December 12, 1979 in the form of a formal complaint filed with the Tanodbayan. All affidavits and counter-affidavits were already submitted by October 25, 1982 and the case was already for

---

[22] Article IV, Sec. 16 reads *"All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies."*

[23] *Caballero v. Alfonso, Jr.*, G.R. No. L-45647, August 21, 1987.

[24] Article III, Section 1(17) of the 1935 Constitution.

[25] *Lopez v. Office of the Ombudsman*, G.R. No. 140529, September 6, 2001, citing *Cadalin v. POEA Administrator*, G.R. Nos. 105029-32, December 5, 1994, 238 SCRA 722.

[26] G.R. Nos. 72335-39, March 21, 1988.

[27] The right to speedy disposition of cases was first in *Caballero*, supra note 23, not as a personal right but as a challenge against the validity of Presidential Decree No. 1038. Petitioner therein argued that the additional layer in the bureaucracy introduced by the law infringed on his right to speedy disposition of cases and is therefore unconstitutional.

disposition by then. However, it was only on June 5, 1985 when the Tanodbayan approved the resolution finding probable cause and ordering the filing of five (5) criminal informations against Tatad before the Sandiganbayan. Thereafter, Tatad filed a motion to quash the information on the ground that the prosecution deprived him of his right to due process of law and to a speedy disposition of the cases filed against him. The motion was denied by the anti-graft court, prompting Tatad to interpose a petition for certiorari before this Court to enforce his constitutional right.

In granting the petition in *Tatad*, the Court held that the trumped up charges against Tatad were politically motivated. More importantly, the three-year (3-year) delay from the day the investigation was submitted for resolution up to the date the informations were filed in Court was found to be a clear violation of Tatad's right to speedy disposition of cases. The Court observed there was not even substantial compliance with Presidential Decree No. (PD) 911 which prescribed a 10-day period for a prosecutor to resolve a case under preliminary investigation. And that although the period is merely directory, it cannot be disregarded with absolute impunity, lest it become meaningless dead letter. As ratiocinated in the case:

> We are not impressed by the attempt of the Sandiganbayan to sanitize the long delay by indulging in the speculative assumption that "the delay may be due to a painstaking and gruelling scrutiny by the Tanodbayan as to whether the evidence presented during the preliminary investigation merited prosecution of a former high ranking government official." In the first place, such a statement suggests a double standard of treatment, which must be emphatically rejected. Secondly, three out of the five charges against the petitioner were for his alleged failure to file his sworn statement of assets and liabilities required by Republic Act No. 3019, which certainly did not involve complicated legal and factual issues necessitating such "painstaking and gruelling scrutiny" as would justify a delay of almost three years in terminating the preliminary investigation. The other two charges relating to alleged bribery and alleged giving of unwarranted benefits to a relative, while presenting more substantial legal and factual issues, certainly do not warrant or justify the period of three years, which it took the Tanodbayan to resolve the case.
>
> It has been suggested that the long delay in terminating the preliminary investigation should not be deemed fatal, for even the complete absence of a preliminary investigation does not warrant dismissal of the information. True-but the absence of a preliminary investigation can be corrected by giving the accused such investigation. But an undue delay in the conduct of a preliminary investigation can not be corrected, for until now, man has not yet invented a device for setting back time.
>
> After a careful review of the facts and circumstances of this case, we are constrained to hold that the inordinate delay in terminating the preliminary investigation and filing the information in the instant case is violative of the constitutionally guaranteed right of the petitioner to due process and to a speedy disposition of the cases against him.[28] x x x

[28] Supra note 26.

But as later on clarified, more particularly in *Dansal v. Fernandez*,[29] the right embodied in Article III, Sec. 16 is not limited to the period from when a matter is submitted for resolution until the resolution is so approved. Instead, the broad protection embraces the periods before, during and after trial. Thus, it can properly be invoked even as early as preliminary investigation, even before the investigating officer renders his ruling on the determination of probable cause.

Consistently, no less than the 1987 Constitution expressly puts the OMB to the task of resolving the cases lodged before it with dispatch from the moment that a complaint has been filed therewith. Article XI, Sec. 12 of the Constitution is unequivocal on this matter:

> **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 added)

This constitutional command is further amplified by Sec. 13 of Republic Act No. 6770 (RA 6770), otherwise known as The Ombudsman Act of 1989, *viz*:

> **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 added)

To attain this mandate, Sec. 15 and 16 of RA 6770[30] bestowed unto the Ombudsman broad and tremendous powers and functions that are aimed

---

[29] G.R. No. 126814, March 2, 2000.

[30] **Section 15.** ***Powers, Functions and Duties.*** — The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient.t has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases;

(2) Direct, upon complaint or at its own instance, any officer or employee of the Government, or of any subdivision, agency or instrumentality thereof, as well as any government-owned or controlled corporations with original charter, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties;

(3) Direct the officer concerned to take appropriate action against a public officer or employee at fault or who neglect to perform an act or discharge a duty required by law, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith; or enforce its disciplinary authority as provided in Section 21 of this Act: provided, that the refusal by any officer without just cause to comply with an order of the Ombudsman to remove, suspend, demote, fine, censure, or prosecute an officer or employee who is at fault or who neglects to perform an act or discharge a duty required by law shall be a ground for disciplinary action against said officer;

towards enabling the office to be a more active and effective agent of the people in ensuring accountability in public office.[31] Regardless, the above-quoted provisions, as couched, do not specify a period for the OMB to render its ruling in cases or matters before it. Neither did the mentioned laws enumerate the criteria in determining what duration of disposition could be considered as "prompt."

The lack of statutory definition on what constitutes "prompt" action on a complaint opened the gates for judicial interpretation, which did not draw definite lines, but merely listed factors to consider in treating petitions invoking the right to speedy disposition of cases.

Attempts in jurisprudence to define "inordinate delay"

Prevailing jurisprudence on the speedy disposition of cases is sourced from the landmark ruling of the United States Supreme Court in *Barker v. Wingo*[32] *(Barker)* wherein a delicate balancing test was crafted to determine whether or not the right had been violated:

> A **balancing test** necessarily compels courts to approach speedy trial cases on an *ad hoc* basis. We can do little more than identify some of the factors which courts should assess in determining whether a particular defendant has been deprived of his right. Though some might express them in different ways, we identify four such factors: length of delay, the reason for the delay, the defendant's assertion of his right, and prejudice to the defendant.

---

(4) Direct the officer concerned, in any appropriate case, and subject to such limitations as it may provide in its rules of procedure, to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action;

(5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents;

(6) Publicize matters covered by its investigation of the matters mentioned in paragraphs (1), (2), (3) and (4) hereof, when circumstances so warrant and with due prudence: provided, that the Ombudsman under its rules and regulations may determine what cases may not be made public: provided, further, that any publicity issued by the Ombudsman shall be balanced, fair and true;

(7) Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government, and make recommendations for their elimination and the observance of high standards of ethics and efficiency;

(8) Administer oaths, issue subpoena and subpoena duces tecum, and take testimony in any investigation or inquiry, including the power to examine and have access to bank accounts and records;

(9) Punish for contempt in accordance with the Rules of Court and under the same procedure and with the same penalties provided therein;

(10) Delegate to the Deputies, or its investigators or representatives such authority or duty as shall ensure the effective exercise or performance of the powers, functions, and duties herein or hereinafter provided;

(11) Investigate and initiate the proper action for the recovery of ill-gotten and/or unexplained wealth amassed after February 25, 1986 and the prosecution of the parties involved therein.

The Ombudsman shall give priority to complaints filed against high ranking government officials and/or those occupying supervisory positions, complaints involving grave offenses as well as complaints involving large sums of money and/or properties.

Section 16. ***Applicability.*** — The provisions of this Act shall apply to all kinds of malfeasance, misfeasance, and non-feasance that have been committed by any officer or employee as mentioned in Section 13 hereof, during his tenure of office.

[31] *Enriquez v. Ombudsman*, G.R. Nos. 174902-06, February 15, 2008.

[32] 407 U.S. 514 (1972).

> **The length of the delay** is to some extent a triggering mechanism. Until there is some delay which is presumptively prejudicial, there is no necessity for inquiry into the other factors that go into the balance. Nevertheless, because of the imprecision of the right to speedy trial, the length of delay that will provoke such an inquiry is necessarily dependent upon the peculiar circumstances of the case. To take but one example, the delay that can be tolerated for an ordinary street crime is considerably less than for a serious, complex conspiracy charge.
>
> Closely related to length of delay is **the reason the government assigns to justify the delay**. Here, too, different weights should be assigned to different reasons. A deliberate attempt to delay the trial in order to hamper the defense should be weighted heavily against the government. A more neutral reason such as negligence or overcrowded courts should be weighted less heavily but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government, rather than with the defendant. Finally, a valid reason, such as a missing witness, should serve to justify appropriate delay.
>
> We have already discussed the third factor**, the defendant's responsibility to assert his right**. Whether and how a defendant asserts his right is closely related to the other factors we have mentioned. The strength of his efforts will be affected by the length of the delay, to some extent by the reason for the delay, and most particularly by the personal prejudice, which is not always readily identifiable, that he experiences. The more serious the deprivation, the more likely a defendant is to complain. The defendant's assertion of his speedy trial right, then, is entitled to strong evidentiary weight in determining whether the defendant is being deprived of the right. We emphasize that failure to assert the right will make it difficult for a defendant to prove that he was denied a speedy trial.
>
> **A fourth factor is prejudice to the defendant**. Prejudice, of course, should be assessed in the light of the interests of defendants which the speedy trial right was designed to protect. This Court has identified three such interests: (i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the 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. If witnesses die or disappear during a delay, the prejudice is obvious. There is also prejudice if defense witnesses are unable to recall accurately events of the distant past. Loss of memory, however, is not always reflected in the record, because what has been forgotten can rarely be shown. (emphasis added)

We have adopted this norm set forth in *Barker* in local jurisprudence to gauge whether or not inordinate delay attended the conduct of preliminary investigation.

Following *Tatad*, the right to speedy disposition of cases was once again invoked, albeit unsuccessfully, in *Gonzales v. Sandiganbayan (Gonzales)*.[33] The denial of the petition therein was grounded on the finding

[33] G.R. No. 90750, July 16, 1991.

that the delay was irremissibly imputable to petitioner's own conduct, barring him from benefitting from both the constitutional protection and his numerous motions that sought affirmative relief. Nevertheless, recognizing the similarity between the right to speedy disposition of cases and the right to speedy trial, the Court imposed the same criteria as in *Barker* in determining whether or not there is a violation of the constitutional right:

> It must be here emphasized that **the right to a speedy disposition of a case**, like the right to speedy trial, **is deemed violated only when the proceeding is attended by vexatious, capricious, and oppressive delays; or when unjustified postponements of the trial are asked for and secured, or when without cause or justifiable motive a long period of time is allowed to elapse without the party having his case tried.** Equally applicable is the **balancing test** used to determine whether a defendant has been denied his right to a speedy trial, or a speedy disposition of a case for that matter, in which the conduct of both the prosecution and the defendant are weighed, and such **factors as length of the delay, reason for the delay, the defendant's assertion or non-assertion of his right, and prejudice to the defendant resulting from the delay, are considered.** (emphasis added)

This criteria laid down in *Barker* and *Gonzales* would be echoed in *Alvizo v. Sandiganbayan (Alvizo)*.[34] Petitioner therein alleged that the criminal case against him, as in *Tatad*, was politically motivated and that the Tanodbayan took almost twelve (12) years from the commencement of criminal investigation in 1979 until the filing of information with the Sandiganbayan in 1990. The Court, however, ruled that petitioner's thesis was not supported by evidence on record. On the contrary, the records disclosed that investigation began in 1989, instead of 1979 as claimed by therein petitioner, and that the determination of probable cause was resolved, and the corresponding information was filed, in due time within a span of one (1) year.

Measured against the standard laid down in *Barker* and *Gonzales*, the Court ruled in *Alvizo* that the one-year "delay" could not have prejudiced therein petitioner since the determinative evidence for his case are documentary in nature and already formed part of the records of the case before the Sandiganabayan. The Court likewise took notice of petitioner's insensitivity to the implications and contingencies of the pending criminal case when he did not take any step whatsoever to accelerate the disposition of the matter. This inaction was perceived by the Court as acquiescence to any unobjected supervening delay. In any event, the delay, if at all, was justified because of the frequent amendments to procedural rules and structural reorganizations in the prosecutorial agencies during the martial law regime.

---

[34] G.R. No. 101689, March 17, 1993.

Factors to consider in determining inordinate delay

a. Length of the delay

The Court has never set a threshold period for concluding preliminary investigation proceedings before the Office of the Ombudsman premised on the idea that "speedy disposition" is a relative and flexible concept. It has often been held that a mere mathematical reckoning of the time involved is not sufficient in determining whether or not there was inordinate delay on the part of the investigating officer, and that particular regard must be taken of the facts and circumstances peculiar to each case.[35] This is diametrically opposed with Sec. 58 of the 2008 Manual for Prosecutors[36] observed by the National Prosecutorial Service, which states that the investigating prosecutor must terminate the preliminary investigation proceeding within sixty (60) days from the date of assignment, extendible to ninety (90) days for complaints charging a capital offense. And to further contradistinguish, the Judiciary is mandated by the Constitution to resolve matters and controversies within a definite timeline.[37] The trial courts are required to decide cases within sixty (60) days from date of submission, twelve (12) months for appellate courts, and two (2) years for the Supreme Court. The prescribed period for the Judicial branch at least gives the party litigants an idea on when they could reasonably expect a ruling from the courts, and at the same time ensures that judges are held to account for the cases not so timely disposed.

The Court is not unmindful of the duty of the Ombudsman under the Constitution and Republic Act No. 6770 to act promptly on complaints brought before him. This imposition, however, should not be mistaken with a hasty resolution of cases at the expense of thoroughness and correctness.[38] More importantly, this duty does not license this Court to fix a specific period for the office to resolve the cases and matters before it, lest We encroach upon the constitutional prerogative of the Ombudsman to promulgate its own rules and procedure.[39]

---

[35] *Ombudsman v. Jurado*, G.R. No. 154155, August 6, 2008.

[36] SEC. 58. *Period to resolve cases under preliminary investigation.* - The following periods shall be observed in the resolution of cases under preliminary investigation:

a) The preliminary investigation of complaints charging a capital offense shall be terminated and resolved within ninety (90) days from the date of assignment to the Investigating Prosecutor.

b) The preliminary investigation of all other complaints involving crimes cognizable by the Regional Trial Courts shall be terminated and resolved within sixty (60) days from the date of assignment.

c) In cases of complaints involving crimes cognizable by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, the preliminary investigation - should the same be warranted by the circumstances - shall be terminated and resolved within sixty (60) days from the date of assignment to the Investigating Prosecutor.

[37] Article VIII, Section 15(1) of the 1987 Constitution relevantly reads:

SECTION 15. (1) All cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty-four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts.

[38] *Flores v. Hernandez, Sr.*, G.R. No. 126894, March 2, 2000.

[39] Constitution, Article XI, Section 13 (8).

Be that as it may, the Court is not precluded from determining the inclusions and exclusions in determining the period of delay. For instance, in *People v. Sandiganbayan,*[40] We have ruled that the fact-finding investigation should not be deemed separate from the preliminary investigation conducted by the Office of the Ombudsman if the aggregate time spent for both constitutes inordinate and oppressive delay in the disposition of cases.

In the said case, the Ombudsman, on November 25, 2002, ordered the Philippine Anti-Graft Commission (PAGC) to submit documents relevant to the exposé on the alleged involvement of then Secretary of Justice Hernando Perez in acts of bribery. The following day, then Ombudsman Simeon Marcelo ordered Cong. Mark Jimenez to submit a complaint-affidavit on the exposé, which directive he complied with on December 23, 2002. On January 2, 2003, a Special Panel was created to evaluate and conduct preliminary investigation. The informations based on the complaint of Cong. Jimenez were all filed on April 15, 2008.

Upholding the dismissal of the criminal information by the Sandiganbayan, the Court ruled thusly:

> The State further argues that the fact-finding investigation should not be considered a part of the preliminary investigation because the former was only preparatory in relation to the latter; and that the period spent in the former should not be factored in the computation of the period devoted to the preliminary investigation.
>
> The argument cannot pass fair scrutiny.
>
> The guarantee of speedy disposition under Section 16 of Article III of the Constitution applies to *all* cases pending before *all* judicial, quasi-judicial or administrative bodies. The guarantee would be defeated or rendered inutile if the hair-splitting distinction by the State is accepted. Whether or not the fact-finding investigation was separate from the preliminary investigation conducted by the Office of the Ombudsman should not matter for purposes of determining if the respondents' right to the speedy disposition of their cases had been violated.[41] (emphasis added)

This ruling necessitates a re-examination.

In *Ombudsman v. Jurado*,[42] we ruled that:

> x x x It is undisputed that the FFB of the OMB recommended that respondent together with other officials of the Bureau of Customs be criminally charged for violation of Section 3(e) of R.A. No. 3019 and Section 3601 of the Tariff and Customs Code. The same bureau also recommended that respondent be administratively charged. Prior to the fact-finding report of the FFB of the OMB, respondent was never the subject of any complaint or investigation relating to the incident

---

[40] G.R. No. 188165, December 11, 2013
[41] Id.
[42] Supra note 35.

> surrounding Magleis non-existent customs bonded warehouse. In fact, in the original complaint filed by the Bureau of Customs, respondent was not included as one of the parties charged with violation of the Tariff and Customs Code. With respect to respondent, there were **no *vexatious, capricious, and oppressive delays* because he was not made to undergo any investigative proceeding prior to the report and findings of the FFB**.
>
> Simply put, prior to the report and recommendation by the FFB that respondent be criminally and administratively charged, respondent was neither investigated nor charged. That respondent was charged only in 1997 while the subject incident occurred in 1992, is not necessarily a violation of his right to the speedy disposition of his case. The record is clear that prior to 1997, respondent had no case to speak of he was not made the subject of any complaint or made to undergo any investigation. x x x (emphasis added)

We must distinguish between fact-finding investigations conducted before and after the filing of a formal complaint. When a formal criminal complaint had been initiated by a private complainant, the burden is upon such complainant to substantiate his allegations by appending all the necessary evidence for establishing probable cause. The fact-finding investigation conducted by the Ombudsman after the complaint is filed should then necessarily be included in computing the aggregate period of the preliminary investigation.

On the other hand, if the fact-finding investigation precedes the filing of a complaint as in incidents investigated *motu proprio* by the Ombudsman, such investigation should be excluded from the computation. The period utilized for case build-up will not be counted in determining the attendance of inordinate delay.

It is only when a formal verified complaint had been filed would the obligation on the part of the Ombudsman to resolve the same promptly arise. Prior to the filing of a complaint, the party involved is not yet subjected to any adverse proceeding and cannot yet invoke the right to the speedy disposition of a case, which is correlative to an actual proceeding. In this light, the doctrine in *People v. Sandiganbayan* should be revisited.

With respect to investigations relating to anonymous complaints or *motu proprio* investigations by the Ombudsman, the date when the Ombudsman receives the anonymous complaint or when it started its *motu proprio* investigations and the periods of time devoted to said investigations cannot be considered in determining the period of delay. For the respondents, the case build up phase of an anonymous complaint or a *motu proprio* investigation is not yet exposed to an adversarial proceeding. The Ombudsman should of course be aware that a long delay may result in the extinction of criminal liability by reason of the prescription of the offense.

Even if the person accused of the offense subject of said anonymous complaint or *motu proprio* investigations by the Ombudsman is asked to attend invitations by the Ombudsman for the fact finding investigations, this directive cannot be considered in determining inordinate delay. These conferences or meetings with the persons subject of the anonymous complaints or *motu proprio* investigations are simply conducted as preludes to the filing of a formal complaint if it finds it proper. This should be distinguished from the exercise by the Ombudsman of its prosecutory powers which involve determination of probable cause to file information with the court resulting from official preliminary investigation. Thus, the period spent for fact-finding investigations of the ombudsman prior to the filing of the formal complaint by the Field Investigation Office of the Ombudsman is irrelevant in determining inordinate delay.

In sum, the reckoning point when delay starts to run is the date of the filing of a formal complaint by a private complainant or the filing by the Field Investigation Office with the Ombudsman of a formal complaint based on an anonymous complaint or as a result of its *motu proprio* investigations. The period devoted to the fact-finding investigations prior to the date of the filing of the formal complaint with the Ombudsman shall NOT be considered in determining inordinate delay. After the filing of the formal complaint, the time devoted to fact finding investigations shall always be factored in.

b. Reasons for the delay

Valid reasons for the delay identified and accepted by the Court include, but are not limited to: (1) extraordinary complications such as the degree of difficulty of the questions involved, the number of persons charged, the various pleadings filed, and the voluminous documentary and testimonial evidence on record; and (2) acts attributable to the respondent.

The period for re-investigation cannot automatically be taken against the State. Re-investigations cannot generally be considered as "vexatious, capricious, and oppressive" practices proscribed by the constitutional guarantee since these are performed for the benefit of the accused. As *Braza v. Sandiganbayan*[43] *(Braza)* instructs:

> Indeed, the delay can hardly be considered as "vexatious, capricious and oppressive." x x x Rather, it appears that Braza and the other accused were merely afforded sufficient opportunities to ventilate their respective defenses in the interest of justice, due process and fair investigation. The re-investigation may have inadvertently contributed to the further delay of the proceedings but this process cannot be dispensed with because it was done for the protection of the rights of the accused. Albeit the conduct of investigation may hold back the progress of the case, the same was essential so that the rights of the accused will not be

[43] G.R. No. 195032, February 20, 2013.

> compromised or sacrificed at the altar of expediency. (emphasis added) x x x

A survey of jurisprudence reveals that most of the complaints dismissed for violation of the right to speedy disposition of a case stems from the Ombudsman's failure to satisfactorily explain the inordinate delay.[44]

c. Assertion of Right by the Accused

The Court had ruled in several cases that failure to move for the early resolution of the preliminary investigation or similar reliefs before the Ombudsman amounted to a virtual waiver of the constitutional right. *Dela Peña v. Sandiganbayan (Dela Peña)*, for example, ruled that the petitioners therein slept on their rights, amounting to laches, when they did not file nor send any letter-queries to the Ombudsman during the four-year (4-year) period the preliminary investigation was conducted. The Court, citing *Alvizo*, further held therein that:

> x x x The matter could have taken a different dimension if during all those four years, they showed signs of asserting their right to a speedy disposition of their cases or at least made some overt acts, like filing a motion for early resolution, to show that they are not waiving that right. Their silence may, therefore be interpreted as a waiver of such right. As aptly stated in Alvizo, the petitioner therein was insensitive to the implications and contingencies of the projected criminal prosecution posed against him by not taking any step whatsoever to accelerate the disposition of the matter, which inaction conduces to the perception that the supervening delay seems to have been without his objection, [and] hence impliedly with his acquiescence.

Following *Dela Peña*, it is the duty of the respondent to bring to the attention of the investigating officer the perceived inordinate delay in the proceedings of the formal preliminary investigation. Failure to do so may be considered a waiver of his/her right to speedy disposition of cases. If respondent fails to assert said right, then it may be presumed that he/she is allowing the delay only to later claim it as a ruse for dismissal. This could also address the rumored "parking fee" allegedly being paid by some respondents so that delay can be set up as a ground for the dismissal of their respective cases. Needless to say, investigating officers responsible for this kind of delay should be subjected to administrative sanction.

d. Prejudice to the respondent

The length of the delay and the justification proffered by the investigating officer therefor would necessarily be counterbalanced against any prejudice suffered by the respondent. Indeed, reasonable deferment of

---

[44] *Tatad v. Sandiganbayan*, *Angchangco v. Ombudsman*, *Roque v. Ombudsman*, *Coscolluela v. Sandiganbayan*, and *People v. Sandiganbayan*, supra notes 11-15.

the proceedings may be allowed or tolerated to the end that cases may be adjudged only after full and free presentation of evidence by all the parties, especially where the deferment would cause no substantial prejudice to any party.[45] As taught in *Coscolluela:*

> Lest it be misunderstood, the right to speedy disposition of cases is not merely hinged towards the objective of spurring dispatch in the administration of justice but also to prevent the oppression of the citizen by holding a criminal prosecution suspended over him for an indefinite time. Akin to the right to speedy trial, its "salutary objective" is to assure that an innocent person may be free from the anxiety and expense of litigation or, if otherwise, of having his guilt determined within the shortest possible time compatible with the presentation and consideration of whatsoever legitimate defense he may interpose. This 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.[46] x x x

"*Prejudice*," as a criterion in the speedy disposition of cases, has been discussed in *Corpuz v. Sandiganbayan*[47] in the following manner:

> 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.

In the macro-perspective, though, it is not only the respondent who stands to suffer prejudice from any delay in the investigation of his case. For inordinate delays likewise makes it difficult for the prosecution to perform its bounden duty to prove the guilt of the accused beyond reasonable doubt when the case is filed in court:

> 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

---

[45] *Padua v. Ericta*, No. L-38570, May 24, 1988.
[46] Supra note 14.
[47] G.R. No. 162214, November 11, 2004.

> delay; and (b) that there was no more delay than is reasonably attributable to the ordinary processes of justice.[48]

It is for the Courts then to determine who between the two parties was placed at a greater disadvantage by the delay in the investigation.

Time frame for resolution of criminal complaint

The Ombudsman has the power to formulate its own rules on pleading and procedure. It has in fact laid down its rules on preliminary investigation. All these controversies surrounding inordinate delay can easily be avoided had it prescribed a rule on the disposition period for the investigating graft officer to resolve the preliminary investigation of the formal complaints. Like the Department of Justice with respect to preliminary investigations by its prosecutors, it should provide a disposition period from the date of the filing of the formal complaint within which the graft prosecutor should determine the existence of probable cause. This will potentially solve all the motions and petitions that raise the defense of inordinate delay, putting the perennial issue to rest. In the meantime, the above-enunciated criteria shall be considered in determining the presence of inordinate delay.

Application in the case at bar

After a careful perusal of the records of this case, this Court finds grave abuse of discretion on the part of the Sandiganbayan in rendering its questioned Resolutions denying the petitioner's Motion to Dismiss.

Preliminarily, the Court must first determine the extent of the delay in the conduct of the preliminary investigation before the Ombudsman. In line with our earlier disquisitions, We deem the case against petitioner initiated not on April 21, 2009, the date of the Affidavit and Narrative Audit Report submitted to the Ombudsman, nor on September 1, 2009, when the letter-complaint of Delfin P. Aguilar was received by the office, but on January 7, 2011, when the PACPO-OMB-Visayas filed a formal complaint against petitioner. The fact-finding investigation, having preceded the filing of the formal complaint, is excluded in computing the duration of the delay. Thus, petitioner's preliminary investigation lasted from January 7, 2011 until April 15, 2016, or about five (5) years and three (3) months from the date of the filing of the formal complaint, and five (5) years and (2) months from February 15, 2011 when petitioner was ordered to file his counter-affidavit.

Since the duration of the preliminary investigation is excessive, it is incumbent then on the prosecution to justify the delay. Unfortunately, no circumstance in this case warranted the protracted period of investigation.

---

[48] *Caballes v. Court of Appeals*, G.R. No. 163108, February 23, 2005.

The prosecution harps on the fact that there were ten (10) respondents in the complaint filed with the OMB and each of them was afforded the right to explain themselves. Also, the records of the case were allegedly voluminous that entailed considerable time to study and analyze. These reasons, to Our mind, do not sufficiently explain the more than five-year long preliminary investigation. As per the prosecution:

> 6. Case records show that on November 18, 2010, then Ombudsman Merceditas Gutierrez approved the Final Evaluation Report of Rosanna Ortiz (Ms. Ortiz) recommending the upgrading of the Fact Finding Investigation docketed as CPL-V-09-1042 into an Ombudsman Criminal and Administrative Cases. Thereafter, a Supplemental Complaint-Affidavit was executed by Ms. Ortiz representing the [PACPO-OMB-Visayas] against ten respondents namely: 1) Elpidio Magante [Magante]; 2) Ma. Agnes B. Candug (Candug); 3) Ambrosio S. Orillos (Orillos); 4) Trinidad T. Castolo (Castolo); 5) Alan Jaum (Jaum); 6) Gaudioso C. Regenado, Jr. (Renegado Jr.); 7) Lorenzo T. Sarigumba (Sarigumba); 8) Ernesto Rulida (Rulida); 9) Raymundo T. Appari (Appari); and 10) Rochelle Cababan (Cababan). A case was thereafter docketed against the said respondents in 2011. In an Order dated February 25, 2011 the said respondents were directed to file their respective Counter-Affidavit. The Counter-Affidavits of Candug, Renegado, Jaum and Castolo were received by the OMB-Visayas on May 3, 2011. As to the Counter-Affidavits of Magante, Orillos, Sarigumba, Rulida and Appari these were received by the OMB-Visayas on May 6, 2011. In a Resolution dated 15 April 2016, the Office of the Ombudsman found probable cause x x x against Magante, Sarigumba, Orillos, Jaum, and Cababan.[49] x x x

Verily, the Order requiring respondents to file their counter-affidavits was issued on February 15, 2011. No clarificatory hearing or further investigation was conducted that could have added a new dimension to the case. On May 6, 2011, the criminal complaint was then already deemed submitted for resolution. Yet, it would only be on April 15, 2016 when petitioner would once again hear about the case, through his receipt of the adverse ruling finding probable cause to charge him with splitting of contracts and falsification of public documents. Noticeably, the prosecution did not offer any acceptable explanation for this gap between February 15, 2011 and April 15, 2016. Contrary to the finding of the Sandiganbayan, there is a hiatus on the part of the Ombudsman during this period. Left unsatisfactorily explained, this amounts to a violation of petitioner's constitutional right to a speedy disposition of case, corollarily warranting the dismissal of the criminal case against him.

The Court disagrees with the anti-graft court's ratiocinations for the denial of the Motion to Dismiss. The plea for dismissal cannot be premised on the finding that the instant criminal complaints were not politically-motivated unlike in *Tatad*. To recall, *Duterte* had modified the ruling to the effect that the Court is now agnostic of whether or not the political strong-arm is being flexed to prosecute the accused. That the filing of the criminal

---

[49] *Rollo*, pp. 27-28.

complaint is ill-motivated is then not a requisite before the right to a speedy disposition of a case can be invoked.

Likewise, petitioner's alleged failure to assert his right is not a veritable ground for the denial of the motion in the absence of any motion, pleading, or act on his part that contributed to the delay. It is not for him to ensure that the wheels of justice continue to turn. Rather, it is for the State to guarantee that the case is disposed within a reasonable period. Thus, it is of no moment that petitioner herein, unlike in *Angchangco*, did not file any motion before the Ombudsman to expedite the proceeding. It is sufficient that he raised the constitutional infraction prior to his arraignment before the Sandiganbayan.

Neither can petitioner be deemed to have waived his right to a speedy disposition of a case when he filed a motion for reconsideration against an adverse resolution of the Ombudsman on May 31, 2015. The filing of this singular motion cannot by itself be considered as active participation in the preliminary investigation proceeding that amounted to a waiver of a constitutional right. At most, this can only be weighed against herein petitioner in determining whether or not the delay in his investigation was justified. The ground for the refusal of the Sandiganbayan to apply *Coscoluella* is therefore misplaced.

Lastly, there could have been no grave prejudice suffered by the State from the delay since the criminal charges for falsification of public documents and splitting of contracts are offenses that chiefly rely on the presentation of documentary evidence that, at this point, has already formed part of the records of the case. The evidence of the prosecution is then sufficiently protected and preserved. This weighs heavily against the State and in favor of petitioner who is at a tactical disadvantage in going against the well-oiled machinery of the government and its infinite resources.

WHEREFORE, finding grave abuse of discretion on the part of the Sandiganbayan in denying the petitioner's Motion to Dismiss, as well as the subsequent Motion for Reconsideration thereof, the Court **GRANTS** the instant Petition for *Certiorari* and Prohibition and hereby **REVERSES** and **SETS ASIDE** Sandigabayan Resolutions dated January 9, 2017 and March 24, 2017 in Criminal Case Nos. SB-16-CRM-0773-0074. Let a new one be entered dismissing Criminal Case Nos. SB-16-CRM-0773-0074 for violating petitioner's constitutional right to a speedy disposition of his case.

SO ORDERED.

PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:

LUCAS P. BERSAMIN
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

SAMUEL R. MARTIRES
Associate Justice

ALEXANDER G. GESMUNDO
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.

PRESBITERO J. VELASCO, JR.
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.

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
AUG 10 2018