

Republic of the Philippines  
Supreme Court  
Manila

EN BANC

**IRENE S. ROSARIO,**  
Petitioner,

**G.R. No. 253686**

GESMUNDO, *Chief Justice*,  
PERLAS-BERNABE,  
LEONEN,  
CAGUIOA,  
HERNANDO,  
CARANDANG,  
LAZARO-JAVIER,  
INTING,  
ZALAMEDA,  
LOPEZ,  
DELOS SANTOS,  
GAERLAN,  
ROSARIO, and  
J. LOPEZ, *JJ.*

-versus-

**COMMISSION ON AUDIT,**  
Respondent.

Promulgated:

June 29, 2021

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**DECISION**

**LAZARO-JAVIER, J.:**

**The Case**

Irene S. Rosario (petitioner) seeks to annul the following dispositions of the Commission on Audit (COA):

- a. **Decision No. 2014-334**<sup>1</sup> dated November 11, 2014 reinstating petitioner's liability under Notice of Disallowance No. ECC 2006-001 dated October 31, 2006; and
- b. **Resolution No. 2020-151**<sup>2</sup> dated January 28, 2020 denying petitioner's motion for reconsideration.

### Antecedents

As early as 2001, the Employee's Compensation Commission (ECC) undertook to renovate its antiquated building along Sen. Gil J. Puyat Avenue, Makati City. It required the construction of an additional floor, installation of equipment, wall partitions and modular work stations but budgetary constraints halted the plan. The renovation finally commenced in 2004 when the Government Service Insurance System (GSIS) remitted ECC's operating budget.

In March 2004, ECC conducted a public bidding of the renovation project, except the manufacture of modular work stations. Executive Director Elmor Juridico (Executive Director Juridico) preferred contemporary and *state-of-the-art* work stations over traditional prototypes and, thus, entrusted the job to specialty providers. He directed Engr. Nelson Buenaflor (Engr. Buenaflor) to devise the technical specifications<sup>3</sup> to tailor the configuration of the modular work stations to the building's architecture.

Only UB Office Systems HK Ltd. met the required specifications. Notably, UB Office Systems HK Ltd. had an exclusive distributorship<sup>4</sup> with Accent Systems Inc. in the Philippines. In turn, the clientele of Accent Systems included the Land Bank of the Philippines, Bureau of Internal Revenue, Philippine Charity Sweepstakes Office, and Pag-Ibig Fund.

On November 25, 2004, the ECC Bids and Awards Committee (BAC) convened to select the mode of procurement for the supply and installation of the modular work stations. Deputy Executive Director Evelyn Tablang presided over the meeting, with the following members present: Cynthia Morada, Milagros C. Balteza (Balteza), Leah A. Garcia, and petitioner Irene S. Rosario. They discussed the supply and installation of modular work stations with the Technical Working Group and Engr. Buenaflor as they had little expertise on modular office systems.

In Memorandum dated December 1, 2004,<sup>5</sup> the BAC decided to recommend direct contracting as an alternative to competitive bidding because the required specifications matched only one distributor, rendering

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<sup>1</sup> Signed by COA Commissioners Heidi L. Mendoza and Jose A. Fabia, with COA Chairperson Ma. Gracia M. Pulido Tan, *On Official Travel Abroad, rollo*, pp. 29-37.

<sup>2</sup> Signed by COA Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Roland C. Pondoc, *rollo*, pp. 38-45.

<sup>3</sup> *Rollo*, pp. 46-49.

<sup>4</sup> *Id.* at 50.

<sup>5</sup> *Id.* at 51.



competitive bidding impractical. The BAC recommendation was made in accordance with Section 50 of both Republic Act (RA) 9184 and its Implementing Rules and Regulations (IRR) which state that "Direct Contracting" may be resorted to when the items to be procured are sold by any exclusive dealer or manufacturer which does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the Government.

After Executive Director Juridico approved the BAC's recommendation, negotiations with Accent Systems ensued. Eventually, the parties agreed on the supply and installation of work stations valued at P3,834,262.72, viz.:

Deputy Executive Director (Staff Workstation)	P	84,784.72
Cluster of 8 at 4 <sup>th</sup> Floor (Staff Workstation)		1,508,958.08
Executive Director (Staff Workstation)		84,784.72
Commission on Audit (Staff Workstation)		115,885.72
Cluster of 8 at 5 <sup>th</sup> Floor (Staff Workstation)		1,508,958.08
Deputy Executive Director's Table		104,091.82
Executive Director's Table		94,572.58
Division Chief and COA Exec. Tables		191,476.22
Boardroom		140,750.78
Total	P	<u>3,834,262.72</u>

On March 2, 2005, the modular work stations, latest in style, were delivered and installed accordingly.<sup>6</sup>

On **June 14, 2005**, State Auditor IV Teodulfo L. La Torre issued Audit Observation Memorandum No. 2005-003<sup>7</sup> to Executive Director Juridico, directing the latter to submit an explanation on the following observations and findings pertaining to ECC's acquisition of modular work stations, viz.:<sup>8</sup>

- a. ECC's budget for the procurement of its workstations was sourced from its rental income of P17,339,752.87. But the Department of Budget and Management approved the utilization of said rental income specifically for the maintenance and upkeep of the building only, excluding capital outlay;
- b. In the proposed special budget of 2004, the item for the acquisition of modular workstations was deleted;
- c. The acquisition of modular workstations was not among the items in the approved Corporate Operating Budget of the ECC for 2005, albeit P3,958,000.00 was appropriated for capital outlay; and
- d. In the Bills of Materials Summary as of April 2003 of Architect Norris Lagera, an item for office workstations amounting to P2,160,000.00 was included. This was

<sup>6</sup> *Id.* at 52-53.

<sup>7</sup> *Id.* at 54-55.

<sup>8</sup> *Id.* at 52.

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short of the P3,834,262.72 reported cost of the modular workstations acquired in February 2005.

In response, Executive Director Juridico expressed regret for the error committed and gave an assurance that it was not done to favor the Accent Systems but because of the need for immediate delivery in view of ECC's upcoming 30<sup>th</sup> anniversary. While the work stations were initially part of the ECC building renovation subject to public bidding, the ECC strongly believed that it should be undertaken by an expert to suit the agency's requirements.

### **Rulings of the COA Legal and Adjudication Office - Corporate**

By **Notice of Disallowance No. ECC-2006-001 dated October 31, 2006**,<sup>9</sup> Director IV Janet D. Nacion of the Legal and Adjudication Office – Corporate disallowed ECC's payment of P3,834,262.72 to Accent Systems relative to the supply, delivery, and installation of the modular work stations. She, too, held Executive Director Juridico, certifying officers Ms. Milagros M. Balteza and Ma. Teresa M. Urbano, members of the BAC including petitioner, and payee Accent Systems solidarily liable for the disallowed amount, thus:

Please be informed that the payments relative to the supply, delivery and installation of office system furniture at the 4<sup>th</sup> and 5<sup>th</sup> floors of the ECC building amounting to P3,834,262.72 have been disallowed in audit due to the following deficiencies:

1. The purchase of the workstations over and above the estimates made by Architect Norris Lagera, which is P2,160,000.00, is in violation of COA Circular No. 85-55A dated September 8, 1985 issued for the prevention of irregular, unnecessary, excessive or extravagant expenditures or uses of government funds and properties;
2. Failure to conduct public bidding as required under Section 10 of R.A. 9184;
3. The grant of the 15% advance payment in the amount of P575,139.41 for the said purchase was in violation of Section 88 of P.D. 1445 which states that "(1) x x x the government shall not be obligated to make advance payment for services not yet rendered or for supplies and materials not yet delivered under any contract therefore. x x x"
4. The 10% retention or any form of performance security was not required from the supplier in violation of Section 573, GAAM Volume I; and
5. Violation of Section 85 of P.D. 1445 which provides that "(1) "No contract involving the expenditure of public funds shall be entered into unless there is an appropriation therefor, x x x".

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<sup>9</sup> *Id.* at 56-59.



Reference		Payee	Amount Disallowed	Persons Liable
Date	DV No.			
12-29-04	78-04-12-109	Accent Systems, Inc.	P 575,139.41	<p>The persons liable thereon based on their participation in the subject transactions, are as follows:</p> <p><b>Ms. MILAGROS M. BALTEZA</b> Chief, Finance &amp; Administrative Division – for certifying that the expenses were necessary, lawful and incurred under her direct supervision;</p> <p><b>Ms. MA. TERESA M. URBANO</b> OIC, Accounting Division – for certifying that the supporting documents are complete and proper: and [those] funds are available;</p> <p><b>Mr. ELMOR D. JURIDICO</b> Executive Director – for approving the transaction and payment.</p> <p><b>Members of the ECC Bids &amp; Awards Committee</b></p> <ol style="list-style-type: none"> <li>1. Ms. EVELYN FLORENDO-TABLANG – Chairperson</li> <li>2. Ms. CYNTHIA B. MORADA</li> <li>3. Ms. LEAH A. GARCIA</li> <li>4. Ms. MILAGROS M. BALTEZA</li> <li>5. Ms. IRENE S. ROSARIO – for recommending that the project be done through exclusive distributorship;</li> </ol> <p><b>ACCENT SYSTEMS, INC.</b> - for being the payee</p>
3-10-05	05-03-039		<u>3,259,123.31</u>	
<b>Total</b>			<b>P 3,834,262.73</b>	

Please direct the above-named persons to settle immediately the above disallowance. Failure to do so shall compel this Office to take necessary steps to enforce settlement thereof.

Disallowances not appealed within six (6) months as prescribed under Section 48, 50 and 51 of P.D. 1445 shall become final and executory.

On **31 May 2007**, petitioner sought reconsideration<sup>10</sup> of the notice of disallowance, arguing that under Section 12 of RA 9184, the BAC's inputs were merely recommendatory. In this case, the BAC's recommendation was based on the report of the Technical Working Group regarding the proposal of Accent Systems, the sole and exclusive distributor in the Philippines of the particular modular work station model required by the ECC. Too, the BAC's recommendation was in accordance with Section 48(b), RA 9184 which specifically allows "direct contracting" under certain conditions.

The other members of the BAC<sup>11</sup> also sought reconsideration of the notice of disallowance.

<sup>10</sup> *Id.* at 60-62.

<sup>11</sup> *Id.* at 63-70.

Under **Legal and Adjudication Office Corporate (LAO-Corporate) Decision No. 2008-046**<sup>12</sup> dated August 5, 2008, Director Nacion modified the notice of disallowance, exonerating Ma. Teresa M. Urbano as well as all members of the BAC including petitioner, *viz.*:

**WHEREFORE**, premises considered, this Office hereby **AFFIRMS** ND No. ECC-2006-001 dated October 31, 2006 with modifications. All the members of the BAC and Ms. Urbano are hereby **EXCLUDED** from liability while the liabilities of Mr. Juridico and Ms. Balteza are hereby **AFFIRMED** for the reasons discussed above.

Director Nacion agreed that the BAC's actions may be justified under Section 12, RA 9184 which provides that in proper cases, the BAC may recommend to the head of the procuring entity the use of alternative methods of procurement. Meanwhile, Section 50 of the IRR allows "direct contracting" as an alternative mode of procurement for items sold by exclusive dealers or manufacturers which do not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the government.

Satisfied with the decision, petitioner no longer filed an appeal. Subsequently, due to the untimely death of her husband, petitioner resigned from her post in the ECC and returned to her province to care for her children.

Meanwhile, Balteza, Chief of ECC's Finance and Administrative Division and among those who remained liable for the disallowed amount,<sup>13</sup> filed an appeal<sup>14</sup> with the COA Proper.

### **Rulings of the COA Proper**

On January 7, 2015 or more than six (6) years after her exoneration, petitioner received **Decision No. 2014-334**<sup>15</sup> dated November 11, 2014 of the COA Proper affirming the notice of disallowance and reinstating the liability of all persons initially held liable thereon, albeit at the reduced amount of P1,642,262.72, *viz.*:

**WHEREFORE**, foregoing premises considered, the instant appeal from LAO-Corporate Decision No. 2008-046 dated August 5, 2008 is hereby **DENIED** for lack of merit. Accordingly, Notice of Disallowance No. ECC 2006-001 dated October 31, 2006 on the procurement of modular workstations is hereby **AFFIRMED** with **MODIFICATION**, to the effect that all persons held liable in the ND shall remain liable and the amount is reduced to the difference between the ECC cost estimate of P2,160,000.00 and the actual cost of work stations installed by the supplier amounting to P3,834,262.72, or a total amount of P1,642,262.72.

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<sup>12</sup> *Id.* at 71-84.

<sup>13</sup> *Id.* at 83.

<sup>14</sup> *Id.* at 85-94.

<sup>15</sup> *Id.* at 29-37.

The COA Proper ruled that Balteza's appeal was devoid of merit, noting that it was a mere rehash of the arguments she raised in her motion for reconsideration of Notice of Disallowance No. ECC-2006-001. As it was, her arguments were all exhaustively discussed and pointedly addressed in LAO-Corporate Decision No. 2008-046.

Meanwhile, in reinstating the liability of Urbano and all the members of the BAC, the COA Proper held that the BAC failed to present sufficient evidence to justify their recommendation to resort to direct contracting for the procurement of modular work stations. More, the technical specifications of the work stations and the submitted proposal of Accent Systems bear striking similarities, leading to the conclusion that the technical specifications actually referred to a specific brand name in violation of Section 18, RA 9184. Thus, all ECC officials indicated in Notice of Disallowance No. ECC 2006-001 were made solidarily liable to return P1,642,262.72, representing the discrepancy between the cost estimate of the work stations and the amount actually paid to Accent Systems.

Petitioner filed a Motion for Reconsideration<sup>16</sup> on January 23, 2015 or merely sixteen (16) days after she received the same. She asserted that Decision No. 2014-334 dated November 11, 2014 of the COA Proper violated her substantive rights and was contrary to law. She essentially argued that the LAO-Corporate Decision No. 2008-046 dated August 5, 2008 had become final and executory as far as she was concerned, considering that no one questioned her exoneration. Only Balteza filed an appeal, which she did not even receive a copy thereof. She was only informed of the continued proceedings when, much to her surprise, the COA Proper reinstated her liability after more than six (6) years from her exoneration.

With regard to her liability, petitioner alleged that the BAC's participation in this case was limited to recommending an alternative mode of procurement in accordance with Section 50 of the IRR of RA 9184.

By **Resolution No. 2020-151<sup>17</sup> dated January 28, 2020**, which petitioner received on even date, the COA Proper exonerated Urbano once again but maintained petitioner's liability as with the rest of the members of the BAC but this time, to the full amount of P3,834,262.72, *viz.*:

**WHEREFORE**, premises considered, the Motion for Reconsideration (MR) of Ms. Maria Teresa M. Urbano, is hereby **GRANTED**. The MR of Ms. Irene S. Rosario is **DENIED**. Accordingly, the Notice of Disallowance (ND) No. ECC-2006-001 dated October 31, 2006, on the procurement of modular work stations amounting to P3,834,262.72 is **AFFIRMED** with **MODIFICATION**, in that Ms. Urbano is excluded from liability, while the rest of the persons named liable in the ND shall remain liable therefor.

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<sup>16</sup> *Id.* at 85-94.

<sup>17</sup> *Id.* at 38-45.

The Prosecution and Litigation Office, Legal Services Sector, this Commission, is directed to forward the records of the case to the Office of the Ombudsman for investigation and filing of appropriate action against the persons liable for the transaction, if warranted.

The COA Proper held that rulings of COA Directors which reverse, modify, or alter the findings of the auditor are subject to its automatic review or approval. This is explicitly ordained in Section 6, Rule V of the 1997 Rules and Regulations of Procedure – Commission on Audit (RRPC) and restated in Section 7, Rule V of the 2009 RRPC. Thus, when the LAO excluded Urbano and the members of the BAC including petitioner from liability, the matter was brought to the COA Proper for automatic review. In other words, the LAO-Corporate Decision No. 2008-046 dated August 5, 2008 could not have lapsed into finality as to petitioner though no one questioned her exoneration.

On the merits, the COA Proper held that although the BAC's actions are merely recommendatory, the BAC is nevertheless expected to be proficient on procurement laws, rules and regulations. They are not bound by the recommendation of the Technical Working Group but should adhere to the requirements under Section 12 and 50 of RA 9184, as well as Sections 48.3 and 50 of the law's IRR. As it was, the BAC members failed to comply with the parameters set forth under the law and its IRR when they recommended direct contracting with Accent Systems for the procurement of modular work stations.

### **The Present Petition**

Petitioner seeks to annul the dispositions of the COA Proper and prays for her exclusion from liability under Notice of Disallowance No. ECC 2006-001 dated October 31, 2006. She essentially argues:

**First**, the COA Proper committed a gross violation of her right to a speedy disposition of her case which dragged on for fourteen (14) years. The attendant circumstances here bear the earmarks of a vexatious, capricious, and oppressive delay. It took the COA Proper six (6) years to promulgate its Decision No. 2014-334 dated November 11, 2014, setting aside LAO-Corporate Decision No. 2008-046 dated August 5, 2008, and needed five (5) more years to resolve her motion for reconsideration. Counting from the Notice of Disallowance No. ECC-2006-001 dated October 31, 2006, the case had mercilessly dragged her for fourteen (14) long years.

**Second**, the assailed decision blatantly disregarded the doctrine of finality of judgements. A decision becomes final as against a party who does not appeal the same.

**Third**, the COA proper acted in grave abuse of its discretion when it held petitioner and other BAC members liable for the disallowance despite their faithful adherence to the requirements of procurement laws. The



participation of the BAC herein was limited to recommending an alternative mode of procurement, which is allowed under Section 50, IRR of RA 9184.

**Finally**, petitioner acted in good faith and in the regular performance of her duties.

In its comment,<sup>18</sup> the COA, through the Office of Solicitor General posits that petitioner's right to speedy disposition of her case was not violated by the mere fact of delay. Balteza's appeal behooved the COA Proper to study the merits thereof until it rendered its Decision No. 2014-334 dated November 11, 2014. It cannot also be said that the COA Proper sat on the case when it issued Resolution No. 2020-151 on January 28, 2020 inasmuch as it had yet to pass upon the arguments and issues raised by petitioner. At any rate, petitioner failed to prove that the period of time it took to resolve her case was characterized by vexatious, capricious, or oppressive delays.

In another vein, LAO-Corporate Decision No. 2008-046 dated August 5, 2008 could not have lapsed into finality as it was subject to automatic review and approval of the Commission Proper pursuant to Section 6, Rule V of the 1997 RRPC and Section 7, Rule V of the 2009 RRPC. In any event, Balteza's appeal opened the entire case for review.

As for the BAC's recommendation to resort to an alternative mode of procurement, this is contrary to public policy which dictates that all government procurement shall be done through competitive public bidding. The BAC's supposed good faith in making the recommendation is unavailing as petitioner failed to show that all the requirements for resorting to direct contracting had been satisfied.

### **Threshold Issue**

Did the COA Proper violate petitioner's right to speedy disposition of her case?

### **Our Ruling**

We grant the petition.

Article III, Section 16 of the 1987 Constitution guarantees the right to speedy disposition of cases, *viz.*:

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

The right to speedy disposition of cases may be invoked against all judicial, quasi-judicial or administrative bodies, in civil, criminal, or

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<sup>18</sup> *Id.* at 104-124.



administrative cases before them. Inordinate delay in the resolution of cases warrant their dismissal. Delay, however, is not determined through simple mathematical reckoning but through the examination of facts and circumstances surrounding each particular case. Courts should appraise a reasonable period from the point of view of how much time a competent and independent public officer would need in relation to the complexity of a given case.<sup>19</sup>

Prevailing jurisprudence on the right to speedy disposition of cases is sourced from the landmark ruling of the United States Supreme Court in *Barker v. Wingo*<sup>20</sup> wherein a delicate balancing test was crafted to determine whether said right had been violated:<sup>21</sup>

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.

**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

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<sup>19</sup> *Cagang v. Sandiganbayan*, 875 SCRA 374, 446 (2018).

<sup>20</sup> 407 U.S. 514 (1972).

<sup>21</sup> *Magante v. Sandiganbayan*, 836 Phil. 1108, 1124-1125 (2018).

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.<sup>22</sup>

Applying the balancing test to *Navarro v. Commission on Audit*,<sup>23</sup> the Court *En Banc* ruled that the COA violated the constitutional right of therein petitioners to speedy disposition of their cases when it took more than seven (7) years from the issuance of the Audit Observation Memorandum to render a decision, *viz.*:

Section 16, Article III of the 1987 Constitution guarantees that all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial and administrative bodies. This constitutional right is not only afforded to the accused in criminal proceedings but extends to all parties in all cases pending before judicial, quasi-judicial and administrative bodies – any party to a case can demand expeditious action from all officials who are tasked with the administration of justice.

Nevertheless, the right to a speedy disposition of cases is not an iron-clad[-]rule such that it is a flexible concept dependent on the facts and circumstances of a particular case. Thus, it is doctrinal that in determining whether the right to speedy disposition of cases, the following factors are considered and weighed: (1) length of delay; (2) the reasons for the delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay.

In the present case, it is undisputed that it took more than seven years from the time AOM No. Dep Ed RO13-2009-003 was issued on February 17, 2009, until the COA promulgated its November 9, 2016 Decision against petitioners. Particularly, it took more than five years from the time the case was elevated to the COA for automatic review before a decision was rendered on November 9, 2016. Thus, the length of delay is not in doubt.

In responding to petitioners' claim of denial of the right to speedy disposition of cases, the COA merely brushed it aside and claimed that they failed to show that the delay was vexatious or oppressive. It must be remembered, however, that it is incumbent upon the State to prove that the delay was reasonable, or that the delay was not attributable to it. In other words, it is not for the party to establish that the delay was capricious or

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<sup>22</sup> *Id.*

<sup>23</sup> *See* G.R. No. 238676, November 19, 2019.

oppressive as it is the government's burden to attest that the delay was reasonable under the circumstances or that the private party caused the delay. Here, the COA miserably failed to establish that the delay of more than seven years was reasonable or that petitioners caused the same. It erroneously shifted the burden to petitioners.

In addition, the right to speedy disposition of cases serves to ensure that citizens are free from anxiety and unnecessary expenses brought about by protracted litigations. In the present case, the ND holds petitioners solidarily liable to refund the P18,298,789.50 covering the disallowed purchase of reference materials. Surely, the substantial amount involved is a Sword of Damocles hovering over petitioners' heads subjecting them to constant distress and worry. As such, the COA should have been more circumspect in observing petitioners' rights to speedy disposition of cases and not to set it aside trivially. It should have addressed the allegations of delay more concretely and assuage petitioners' concerns that the delay was not due to vexation, oppression or caprice, or that the cause of delay was not attributable to COA.

Similarly, we apply the balancing test here to determine whether the COA violated petitioner's right to speedy disposition of her case.

#### **First factor: The length of the delay**

Counting from the Notice of Disallowance No. ECC-2006-001 dated October 31, 2006, this case had mercilessly dragged petitioner for fourteen (14) long years. After LAO-Corporate Decision No. 2008-046 dated August 5, 2008 exonerated petitioner from liability, it took the COA Proper six (6) years to promulgate its Decision No. 2014-334 dated November 11, 2014 reinstating the notice of disallowance. After which, the COA Proper needed five (5) more years to issue Resolution No. 2020-151 dated January 28, 2020, resolving petitioner's Motion for Reconsideration. The length of delay is therefore indubitable.

#### **Second Factor: Reason for the Delay**

In its attempt to justify the delay, the COA riposted that when Balteza appealed from LAO-Corporate Decision No. 2008-046, it behooved the COA Proper to study the merits thereof until it rendered its first assailed ruling on November 11, 2014. It did not sit on the case; it simply needed time to pass upon the issues raised on appeal. At any rate, petitioner failed to prove that the period of time it took respondent was characterized by vexatious, capricious or oppressive delays.

We are not convinced.

As borne in Decision No. 2014-334 dated November 11, 2014, the COA Proper stated in no uncertain terms that **Balteza's appeal was a mere rehash of her previous arguments**,<sup>24</sup> thus:

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<sup>24</sup> *Rollo*, p. 32.



This Commission finds the herein appeal devoid of merit. *Appellant raised the same arguments contained in the appeal dated May 16, 2007, which were all exhaustively discussed in the decision subject of the appeal.* These are reiterated in the discussion that follows. (Emphasis and italics supplied)

Thus, contrary to the argument of the OSG that “*it behoove[d] the [COA Proper] to study the merits of Ms. Balteza’s assertions*”,<sup>25</sup> there was apparently very little which the COA Proper needed to study. The case was not inexplicably complex as the appeal contained the same arguments earlier raised and exhaustively discussed in LAO-Corporate Decision No. 2008-046. There was therefore no reason for the COA Proper to have taken six (6) years to resolve the same.

Even Resolution No. 2020-151 dated January 28, 2020 of the COA Proper did not add anything new to the discussion. It merely reaffirmed Notice of Disallowance No. ECC 2006-001 issued way back in October 31, 2006. Yet it took the COA Proper five (5) years to issue said resolution.

All told, blaming Balteza for filing an appeal, which was well within her rights, does not justify the unconscionable delay in resolving petitioner’s case for eleven (11) long years. More so, as the COA basically admitted that there was no earthshaking issue which required a long period to decide.

### **Third Factor: Assertion of the Right**

Petitioner was excluded from liability under LAO-Corporate Decision No. 2008-046 dated August 5, 2008. Thereafter, she resigned from her post in the ECC and returned to her province to care for her children. For the next six (6) years, without any notice from the COA, she believed that she was already exonerated. It was only after receiving the COA Proper’s decision that she discovered that the case had been proceeding without her knowledge.

Petitioner’s actions, or inaction, did not amount to acquiescence. For during the six (6) years of inaction on her part, she never knew that the case was ongoing as she had already resigned. The COA also failed to notify her of the developments of the case much less seek her response thereto. Thus, petitioner did not have any legitimate avenue to assert her fundamental right to speedy disposition of cases during the six (6) year period.

But when petitioner received copy of the decision of the COA Proper decision on January 7, 2015, she immediately filed a motion for reconsideration sixteen (16) days thereafter, alleging her substantive rights have been violated by respondent. Her allegation that the COA Proper took six (6) long years to reinstate her liability should have put it on notice that it

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<sup>25</sup> *Id.* at 112.



had already violated her right to speedy disposition of her case. Instead, the COA Proper took five (5) more years of her life before resolving her motion for reconsideration.

Petitioner then sought refuge before this Court, specifically raising in issue the violation of her right to speedy disposition of her case. Considering her peculiar circumstances, the Court finds that she timely asserted her constitutional right.

#### **Fourth Factor: The Delay caused Prejudice to Petitioner**

To recall, petitioner was already long resigned from the ECC when she discovered the reinstatement of her liability under the notice of disallowance. More, she had also returned to the province to care for her children after her husband passed away. Under these premises, petitioner no longer had access to the BAC documents relative to the procurement of the modular work stations. This certainly impeded her ability to raise a complete defense against her supposed liability.


Worse, respondent's inexplicable delay of eleven (11) long years brought petitioner to a "roller coaster ride" of emotions. The initial shock and dismay of finding out that she was liable after having been exonerated after such a long time did not wear down and subjected her to constant distress and worry. Aside from that, she was made solidarily liability to P1,642,262.72 under the decision of the COA Proper which more than doubled the amount to P3,834,262.72 in its subsequent resolution. Given her situation as a resigned government employee and widow, these twin rulings of the COA Proper would have surely caused her much anxiety and anguish.

Verily, the COA Proper violated petitioner's constitutional right to speedy disposition of her case. The inordinate delay by which the COA Proper disposed of petitioner's case warrants the reversal of its rulings. To continue with this case is to further subject petitioner to needless distress and constant worry, and violation of her constitutional right. To quote the Court's opening statement in *Magante v. Sandiganbayan*:<sup>26</sup> Like the proverbial sharp sword of Damocles, the protracted pendency of a case hangs overhead by the slenderest single strand. And as Cicero quipped: "*x x x there can be nothing happy for the person over whom some fear always looms*".


**ACCORDINGLY**, the petition is **GRANTED**. Insofar as petitioner Irene S. Rosario is concerned, the Decision No. 2014-334 dated November 11, 2014 and Resolution No. 2020-151 dated January 28, 2020 of the Commission on Audit Proper are **ANNULLED** and **SET ASIDE**, and LAO-Corporate Decision No. 2008-046 dated August 5, 2008, **REINSTATED**.

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<sup>26</sup> Supra 20 at 1112.

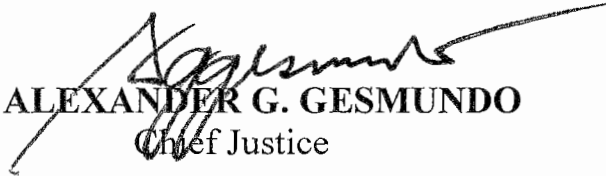


**SO ORDERED.**




**AMY C. LAZARO-JAVIER**  
Associate Justice


**WE CONCUR:**



**ALEXANDER G. GESMUNDO**  
Chief Justice

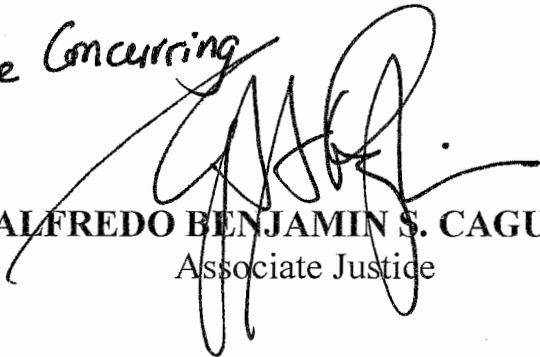


**ESTELA M. PERLAS-BERNABE**  
Associate Justice

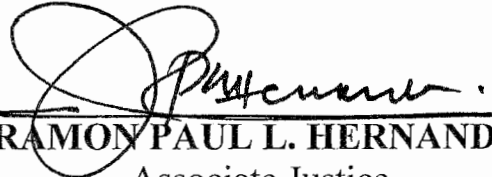


**MARVIC M.V.F. LEONEN**  
Associate Justice

*Please See Concurring  
Opinion.*




**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



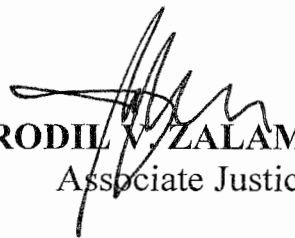
**RAMON PAUL L. HERNANDO**  
Associate Justice



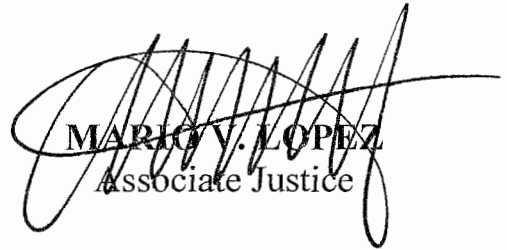
**ROSMARI D. CARANDANG**  
Associate Justice



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





**RODIL V. ZALAMEDA**  
Associate Justice



**MARIO V. LOPEZ**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice

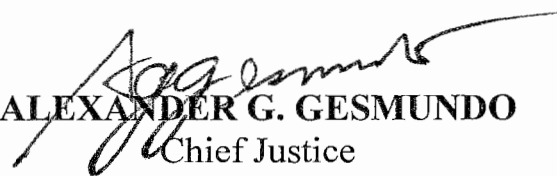
  
**SAMUEL H. GAERLAN**  
Associate Justice

  
**RICARDO R. ROSARIO**  
Associate Justice

  
**JHOSEP Y. LOPEZ**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VII of the Constitution, 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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

