

FIRST DIVISION

[G.R. Nos. 204568-83. April 26, 2023]

HERMAN G. LIMBO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

[G.R. Nos. 207028-30]

CECILIA LI, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

ZALAMEDA, J.:

Both the banking industry and government funds are imbued with public interest. Bank officers who are likewise government employees, by the very nature of their work involving money owned by the public and/or the government, typically handling millions of pesos in their daily transactions, are certainly expected to act with utmost honesty, integrity, and accountability.

The Case

These are consolidated petitions^[1] filed under Rule 45 of the Rules of Court, assailing the Decision^[2] dated 22 November 2012 in Criminal Case Nos. 25400-25415 and Resolution^[3] dated 24 April 2013 in Criminal Case Nos. 25400 25413, 25415 of the Sandiganbayan finding petitioner Herman G. Limbo (Limbo) and petitioner Cecilia Li (Li) guilty of violating Section 3(e) of Republic Act No. (RA) 3019.^[4]

Antecedents

Limbo. was a high-ranking public officer, being an Assistant Department Manager of the Philippine National Bank (PNB or Bank) assigned to the Cagayan de Oro Branch (“PNB-CDO”). He was charged with violating Sec. 3(e) of RA 3019, together with other PNB-CDO officers and employees for allegedly giving unwarranted benefits to PNB-CDO’s “valued” clients, namely: Li, Rebuan Saripada (Saripada), Rosita Mejia (Mejia), Jesus Louis Lee, and Trinidad Lee (collectively referred to as the “Valued Clients”). The offense allegedly committed by Limbo and Li took place at a time when PNB was still owned by the

government. Limbo and his other co-accused, Erlinda Archinas (Archinas), Vice President of PNB-CDO, several low-ranking employees of the same bank, their “valued” clients and other persons, were charged with 16^[5] counts of violations of Sec. 3(e) of RA 3019 in separate Informations. In three of those 16 Informations,^[6] Li was jointly charged with Limbo, among other accused. The said Informations were similarly worded except as to the dates, amounts, and accused involved, with the subject checks allowed for clearance without approval of PNB-CDO, negotiated for encashment, and returned either due to “account closed” or “drawn against insufficient funds” (DAIF). The relevant Informations against both Limbo and Li are reproduced hereunder:

For Criminal Case No. 25407

That sometime on April 18, 1995, in Cagayan de Oro City; and within the jurisdiction of this Honorable Court, the abovenamed accused, Erlinda Archinas and Herman Limbo, then both high ranking public officers, being the Assistant Vice-President and Assistant Dept. Manager, Philippine National Bank (PNB), Cagayan de Oro City Branch, and Raul dela Cruz, then a low ranking public officer being the Teller, also of PNB, all while in the performance of their official functions, committing the offense in relation to office, taking advantage of their official positions, giving unwarranted benefits through evident bad faith and manifest partiality to accused Cecilia Li, conspiring and confederating with the said accused, did there and then, willfully, unlawfully and feloniously, without the prior clearance of the concerned drawee banks, allow the encashment of CBC check no. 006410 for P 1,992,400.00, RCBC check no. 18733 for P1,989,400.00, PNB check no. 087558 for P1,996,000.00 and PNB check no. 566675 for P1,985,750.00, which checks were all negotiated by accused Cecilia Li for encashment, despite knowing fully well that the said checks were unfunded, hence, returned by the drawee bank for reason of “Account Closed/DAIF”, thereby causing undue injury to the government up to the total amount of the uncleared checks amounting to P7,963,550.00.

CONTRARY TO LAW.^[7]

For Criminal Case No. 25412

That sometime on April 19, 1995, in Cagayan de Oro City, and within the jurisdiction of this Honorable Court, the abovenamed accused, Erlinda Archinas

and Herman Limbo, then both high ranking public officers, being the Assistant Vice-President and Assistant Dept. Manager, respectively, Philippine National Bank (PNB), both while in the performance of their official functions, committing the offense in relation to office, taking advantage of their official positions, giving unwarranted benefits through evident bad faith and manifest partiality to accused Cecilia Li, and by conspiring and confederating with the said accused, did there and then, willfully, unlawfully and feloniously, without the prior clearance of the concerned drawee banks, allow the encashment of PNB check no. 087559 for P1,998,000.00, CBC check no. 038013 for P1,995,420.00, CBC check no. 038082 for P1,986,700.00, RCBC check no. 018726 for P1,975,400.00 and CBC check no. 006414 for P1,986,350.00, which checks were all negotiated by accused Cecilia Li for encashment, despite knowing fully well that the said checks were unfunded, hence, returned by the drawee bank for reason of "Payment Stopped, Account Closed or DAIF", thereby causing undue injury to the government up to the total amount of the uncleared checks amounting to P9,941,870.00.

CONTRARY TO LAW.^[8]

For Criminal Case No. 25413

That sometime on April 20, 1995, in Cagayan de Oro City, and within the jurisdiction of this Honorable Court, the abovenamed accused, Erlinda Archinas and Herman Limbo, then both high ranking public officers, being the Assistant Vice-President and Asst. Dept. Manager, respectively, Philippine National Bank (PNB), Cagayan de Oro City Branch, and Raul dela Cruz, then a low ranking public officer, being the Teller, also of PNB, all while in the performance of their official functions, committing the offense in relation to office, taking advantage of their official positions, giving unwarranted benefits through evident bad faith and manifest partiality to accused Cecilia Li and by conspiring and confederating with the said accused, did there and then, willfully, unlawfully and feloniously, without the prior clearance of the drawee banks, allow the encashment of PNB check no. 087560 for P1,997,000.00, RCBC check no. 018712 for P1,983,000.00, CBC check no. 006462 for P1,989,700.00, RCBC check no. 018719 for P2,795,300.00, PNB check no. 087561 for P1,998,000.00, PNB check no. 566655

for P1,988,240.00, and CBC check no. 030529 for P1,994,500.00, which checks were all negotiated by accused Cecilia Li for encashment despite knowing fully well that the said checks were unfunded, hence, returned by the drawee banks for reason of "Account Closed", thereby causing undue injury to the government up to the amount of the uncleared checks amounting to P14,745,740.00.

CONTRARY TO LAW.^[9]

Meanwhile, a summary of details of the remaining Informations is provided below for brevity:

	Criminal Case No.	Accused Involved	Checks Involved	Amounts	Reason for Return of the Check/s
1	25400 ^[10]	Erlinda P. Archinas, Herman Limbo, and Raul de la Cruz, all from PNB, their client, Rebuan Saripada, and Castan Ponduma	CBC Check Nos. 033787 and 033788	P1,200,000.00 and P3,980,000.00, respectively	Account closed
2	25401 ^[11]	Erlinda P. Archinas, Herman Limbo, and Lourdes Escoro, all from PNB, their client, Rebuan Saripada, along with Castan Ponduma, and Alexander Vistan	CBC Check Nos. 033783 and 033784	P2,990,000.00 and P2,995,000.00, respectively	Account closed
3	25402 ^[12]	Erlinda P. Archinas, Herman Limbo, and Ma. Theresa G. Rubic, all from PNB, their client, Rosita Mejia, along with Monena Arcaya	CBC Check No. 037864	P2,900,000.00	DAIF
4	25403 ^[13]	Erlinda P. Archinas, Herman Limbo, and Ma. Theresa G. Rubic, all from PNB, their client, Rosita Mejia, along with Carlo Mejia	DBP check No. 1834400	P1,550,000.00	Account closed

5	25404 ^[14]	Erlinda P. Archinas, Herman Limbo, and Ma. Theresa G. Rubic, all from PNB, their client, Rosita Mejia, along with Rosita Mangana	CBC check No. 037718	P1,950,000.00	DAIF
6	25405 ^[15]	Erlinda P. Archinas, Herman Limbo, and Raul dela Cruz, all from PNB, their client Jesus Louis Lee, along with Steve Factura, and Rosita Mangana	CBC check Nos. 033845 and 033849	P1,980,000.00 and P1,995,000.00, respectively	DAIF
7	25406 ^[16]	Erlinda P. Archinas, Herman Limbo, and Raul dela Cruz, all from PNB, their client, Rebuan Saripada, along with Castan Pandurna	CBC Check Nos. 033793 and 033794	P2,890,000.00 and P2,80,000.00 (sic), respectively	Account Closed
8	25408 ^[17]	Erlinda Archinas, Herman Limbo, and Ma. Theresa G. Rubio, all from PNB, and their client, Rosita Mejia, along with Monena Arcaya and Carlo Mejia	CBC Check No. 037866 and DBP Check No. 1834386	P2,750,000.00 and P1,900,000.00 respectively	Account Closed
9	25409 ^[18]	Erlinda Archinas, Herman Limbo, and Ma. Lourdes Escoro, all from PNB, and their client, Rebuan Saripada, along with Castan Panduma	CBC Check Nos. 033796, 033797 and 033798	P2,980,000.00, P2,980,000.00 and P380,000.00, respectively	Account Closed
10	25410 ^[19]	Erlinda P. Archinas and Herman Limbo, both from PNB, and their client, Jesus Louis Lee, with Steve Factura	CBC check Nos. 033847, 033850 and 033851	P1,990,000.00, P2,530,000.00 and P2,372,000.90, respectively	Account Closed

11	25411 ^[20]	Erlinda P. Archinas, Herman Limbo and Ma. Lourdes Escoro, all from PNB, and their client, Rebuan Saripada, along with Castan Panduma	CBC Check Nos. 033799, 033800 and 039201	P2,980,000.00, P2,990,000.00 and P2,800,000.00, respectively	Account Closed
12	25414 ^[21]	Erlinda Archinas, Herman Limbo, Ma. Theresa Rubic and Blan Sabanal, all from PNB, their client, Rosita Mejia, with Rosita Mangana and Rebuan Saripada	CBC Check No. 037719, PVB check No. 038334, PVB check No. 040252, and PBCom Check No. 173740	P2,750,000.00, P2,500,000.00, P1,000,000.00 and P2,000,000.00, respectively	Account Closed or DAIF
13	25415 ^[22]	Erlinda P. Archinas, Herman Limbo, Raul de la Cruz and Ma. Lourdes Escoro, all from PNB, their client, accused Jesus Louis Lee, with Steve Factura and Trinidad Lee	CBC check Nos. 033852, 033853, 033854 and 033848	P2,520,000.00, P2,498,000.00, P1,995,000.00 and P1,898,000.00, respectively	Account Closed

Limbo, Saripada, Mejia, Raul De la Cruz (De la Cruz), Ma. Lourdes Escoro (Escoro), Blan Sabanal (Sabanal), and Li pleaded not guilty to the charges against them.^[23] After termination of pre-trial proceedings, trial on the merits ensued.

Evidence for the Prosecution

The prosecution presented Ceferino Jimenez (Jimenez), Carolina Diez (Diez), and Philip Pagutayao-Ahmee (Pagutayao-Ahmee) as witnesses. Jimenez was a Bank Executive Officer assigned to investigate violation of bank policies and their manner of commission, including the relevant incidents in PNB-CDO. He was a member of the PNB Task Force Kiting, Vis-Min Group. He has been an investigator for over 10 years. Diez was a State Auditor IV of the Commission on Audit (COA) assigned as resident auditor at PNB-CDO. Pagutayao-Ahmee was the Sales and Service Head of the PNB Limketkai Branch ("PNB-Limketkai").^[24]

In the Special Audit Report on PNB-CDO for the period from 01 December 1994 to 30 April 1995 ("Special Audit Report"),^[25] COA Auditor Diez summarized the different types of checks and whether these may be subject to encashment, or deposit/collection only. To wit:

- “On Us” Checks** - these are checks and drafts drawn on a PNB office where
- (1) the check is presented for negotiation or clearing. This means that a check is
 -) **drawn against a deposit account maintained with that branch** or a draft is issued by or drawn on that branch.

In general, “On Us” checks are accepted **for immediate encashment** upon verification and proper identification.

- (2) **“Out-of-Town” Checks** - these are checks and drafts **drawn on another PNB branch or other banks**, located within or outside the locality which are **subject to clearing or for collection**.

As a general rule, out-of-town checks should be accepted by the bank **for deposit or collection only** and **not for outright encashment**. The direct encashment of these checks is purely an act of accommodation as the bank is not obliged to pay these checks. Approval of these checks for payment should be done on a very selective basis, depending on the merits of each case, and **always on the approving officer’s responsibility**.^[26]

Similarly, the PNB Manual of Policies on Cash, Check and Other Cash Items (COCI) and Deposit Operations (PNB Manual)^[27] states that as a general rule,. out-of-town checks shall be accepted only for deposit or collection.^[28]

Jimenez testified on the findings of the PNB Task Force-Kiting, Vis-Min Group. They discovered that check kiting was being committed in PNB-CDO by the Valued Clients through the bank’s officers and employees.^[29] In gist, kiting is the use of the float period through the use of a check. It requires a certain cycle so that it can be used.^[30] It is an unsound banking practice wherein one depositor maintains two or more bank accounts in one bank or two or three banks, giving the impression that the same depositor has money in the subject accounts by taking advantage of the float days or clearing dates before his check is cleared by the original check.^[31] During direct examination, COA Auditor Diez provided the following illustration:

“I have two banks maintaining. I have a bank account with PNB CDO branch, and then, I have another bank account in Banco De Oro. I drew a PNB check in my account in my name, and then deposited it in Banco De Oro which at then, I can deposit with the original amount I drew the check I issued at PNB bank. Actually, I did not deposit. Actually, in Banco De Oro they just agreed to temporarily credit me for that check without waiting for the check to clear. Meaning, to say to be

collected by them. So, I can withdraw. I get the money in cash, and then from some later date before the PNB check I issued originally with them, I will be able to deposit or fund the check.”^[32]

According to Jimenez and based on the Special Audit Report, the out-of-town checks in this case should have been cleared first before withdrawal could be allowed. Both Jimenez and COA Auditor Diez found that, as early as 1994, there had been instances of kiting through drawing against uncollected deposits (DAUD) involving the Valued Clients.^[33]

In the Special Audit Report,^[34] Diez stated the following findings, among others: (1) losses due to check kiting amounting to P112,554,160.00;^[35] (2) a large number and amount of out-of-town checks were being negotiated for direct encashment which proved to be beyond the signing authority of the Assistant Department Manager II (Assistant Manager) and Assistant Vice-President (Branch Manager);^[36] and (3) there were specific favored clients, including Li, whose out-of-town checks were regularly allowed for encashment and the face amount of said checks involved millions of pesos.^[37]

COA Auditor Diez also indicated in the Special Audit Report that the discovered irregularity was brought to the attention of Archinas, then Assistant Vice-President (Branch Manager), and Limbo during a dialogue on 31 January 1995. Another dialogue was held on 14 February 1995. At first, management committed to reduce or eliminate the irregular practice, but it never materialized. COA then issued Audit Observation Memorandum No. 02 dated 18 April 1995, citing among others, the check kiting operations and recommended its immediate discontinuance. Finally, after noting the management’s indifference, COA submitted a report to PNB’s Board of Directors, identifying the following officers as the persons directly responsible for the noted irregularities; and recommended that appropriate administrative cases and/or criminal charges be filed against them:

(
1 Archinas - in her capacity as the head of office - immediately and primarily
) responsible for all funds and property pertaining to her agency, for her
contributory negligence who made no firm and concrete action to deter the
apparent check kiting operation despite her full knowledge and COA’s
repeated reminders, and gross violation of existing bank rules and regulations;
and

(
2 Limbo - in his capacity as the approving officer, for gross violation of existing
) bank rules and regulations and conduct inimical to the interest of PNB.^[38]

Pagutayao-Ahmee testified on the due execution of the documents in the custody and safekeeping of PNB-Limketkai.^[39]

The prosecution admitted that all of Li's obligations arising out of her dishonored checks were eventually restructured on 10 April 1996.^[40]

Evidence for the Defense

Limbo testified on his behalf, while Li presented Elizabeth Diaz who was her personal assistant.

Prior to being Assistant Department Manager of PNB-CDO, Limbo was the Manager of PNB-Limketkai. He did not deny allowing the encashment of the checks, but merely argued that it had been a long-standing practice in PNB-CDO to accommodate out-of-town and "other bank" checks of the Valued Clients, and that Archinas instructed him to continue said practice through the Memorandum dated 29 December 1994 ("Memorandum"). He understood that said accommodation is given because of their standing domestic bills purchase line (DBPL) with the Bank.^[41]

Diaz testified that Li was not fluent in English; thus, as her personal assistant, she explained to Li all documents written in English. She also represented Li in dealing with customers, suppliers, banks, and lawyers. According to Diaz, Li's discounting line (DL) and DBPL with PNB-CDO were secured credit lines as Li mortgaged properties to secure them and signed promissory notes, like in a revolving credit line. She understood that the DL allowed Li to negotiate or encash post-dated customer's checks. If the checks will be funded by the customers, the amount of the checks was treated as additional loan, and Li will be asked to sign promissory notes and submit additional collateral. On the other hand, the DBPL allowed Li to negotiate the encashment of current-dated customers' checks. If the checks are not funded, the amounts will be booked as additional loans, and she will be required to sign promissory notes or provide additional collateral. Diaz also said that Li could encash local or out-of-town checks.^[42]

Eulogio Bona, a retired bank employee, was also presented as witness for the defense. He testified that the Valued Clients were given privileges like omnibus credit lines, preferred interest rates, and reduced bank commissions. They were also able to draw against uncollected deposits through out-of-town checks.^[43]

Ruling of the Sandiganbayan

The 16 cases were consolidated and jointly tried because of the commonality of facts, evidence and issues.^[44] During trial, the following were established: (a) Limbo was a public officer being an employee of PNB-CDO; (b) he wrote the word “encashment” on all the checks (except for DBP Check No. 1834400),^[45] initialed and dated the checks at their dorsal side; (c) tellers De la Cruz, Sabanal, and Escoro validated the payment of all checks (except DBP Check No. 1834400) presented to them because of Limbo’s “encashment” notation; (d) the face amount of the checks negotiated by the Valued Clients were credited to their accounts with PNB-CDO before the checks were cleared; (e) after clearing, all these checks were dishonored/returned because of any of the following reasons: insufficient funds, payment being stopped, or the drawer’s account being closed; and (f) the Valued Clients had existing current/savings account with PNB-CDO and had credit lines, including DBPL. Li’s DBPL amounted to P6,100,000.00.^[46]

The prosecution’s theory is that Limbo, with the permission or under instruction from Archinas, allowed the encashment of out-of-town or other bank checks negotiated by the Valued Clients, prior to being cleared, in violation of the Bangko Sentral ng Pilipinas (BSP) regulations and PNB’s policies. Those who validated the payments are likewise culpable as they followed the orders given by Limbo to encash the checks prior to clearing. Similarly, the Valued Clients are liable because they conspired with Archinas and Limbo, and succeeded in getting these PNB-CDO officers to approve the encashment of checks, which were later found to be unfunded.^[47]

Specific to Criminal Case Nos. 25407, 25412, and 25413, the Sandiganbayan discussed the following scheme employed by Limbo and Li:

Li issued six checks, namely: Check No. A-087558-M, Check No. A-087559-M, Check No. A-087560-M, Check No. A-087561-M, Check No. VCA-A038013, and Check No. VCA-A038082. The first four checks were drawn against Li’s PNB-Valencia. Current Account, while the last two checks were drawn (1 against her China Bank-Valencia Current Account. The PNB checks were) drawn on different dates in 1995 (14, 16, 18, and 20 April) and were presented on 18, 19, and 20 April 1995; while the China Bank checks were drawn on three days apart (15 and 18 April), but presented on the same day (19 April). The PNB checks were drawn from the same book and the same account, judging from the successive check numbers.

On 18 April 1995, before the checks were brought for clearing, there was a withdrawal from her PNB-CDO checking account in the amount of P6,350,000.00. This was made possible through her instruction in a debit (2 memo withdrawal in PNB-Limketkai to withdraw the amount from her) checking account in PNB-CDO. This was **deposited on the same day to her checking account in PNB-Valencia**. Then, the check presented on April 18, which was worth P1,996,000.00, was **used to purchase a telegraphic transfer for credit to Li's PNB-Valencia Current Account**.

The checks presented on 19 April 1995 were **used to purchase manager's checks payable to Li**. Said manager's checks were later negotiated and presented to China Bank in Cagayan de Oro. Lastly, the checks presented on (3 April 20 were used to purchase three manager's checks, which were) negotiated to China Bank in Cagayan de Oro. These checks, where Li was the drawer herself, amounted to P11,971,120.00. Eventually the PNB checks were returned because they were drawn against insufficient funds (DAIF), while the China Bank checks were returned because payment for the checks was stopped. ^[48]

In sum, based on the testimonies of the witnesses and the documents presented, the prosecution proved that Limbo allowed the Valued Clients to encash a total of 49 checks with an aggregate value of P110,604,160.00 despite the fact that the checks presented to PNB-CDO for encashment had not undergone the required clearing process. These uncleared checks were all subsequently dishonored and returned by their respective drawee banks either for insufficient funds, payment having been stopped, or the account having been closed. Essentially, Limbo released in favor of the Valued Clients funds in the face amounts of their uncleared checks and thus, lost said amounts, or at least lost interest income on the same for the entire duration that they remained unrefunded or unpaid.

The Sandiganbayan concluded that the allegations show that the indictments were not strictly for check kiting, but likewise, whether or not the accused are guilty of violating Sec. 3(e) of RA 3019. Particular to Limbo and Li, the Sandiganbayan ruled in the affirmative. Thus, the dispositive portion of the Sandiganbayan's *Decision* dated 22 November 2012 reads:

WHEREFORE, premises considered, the Court renders judgment as follows:

A. In Criminal Cases. Nos. 25400, 25401, 25402, 25404, 25405, 25406, 25407, 25408, 25409, 25410, 25411, 25412, 25413, 25414, and 25415, the Court finds accused Herman Limbo, **GUILTY** beyond reasonable doubt, of violating Section 3

(e) of R.A. 3019. He is, therefore, sentenced to the indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to seven (7) years, as maximum, with perpetual disqualification from public office, in each of these cases. Considering that the civil liability arising from his acts in Criminal Cases Nos. 25400, 25401, 25406, 25407, 25409, 25411, 25412, 25413 have been extinguished through the restructuring and settlement/payments entered into by and between PNB and Rebuan Saripada and Cecilia Li, no civil liability is adjudged against him in the aforesaid cases.

As civil liability arising from his criminal acts in Criminal Cases Nos. 25402, 25404, 25405, 25408, 25410, 25414, and 25415, accused Herman Limbo is ordered to pay the government the amount of P35,200,061.56 with interest until fully paid. B. In Criminal Cases Nos. 25407, 25412, and 25413, the Court finds accused Cecilia Li, **GUILTY** beyond reasonable doubt, of violating Section 3 (e) of R.A. 3019, for acting in conspiracy with Herman Limbo in these cases. She is, therefore, sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to seven (7) years, as maximum, with perpetual disqualification from public office in each of these cases. Considering that the civil liability arising from her acts have been extinguished through the restructuring and settlement of the same with PNB, no further civil liability is adjudged against her.

x x x x

G. In Criminal Case No. 25403, the Court finds accused Herman G. Limbo **NOT GUILTY** and is therefore **ACQUITTED** of the offense charged for insufficient evidence. His bail bond is deemed cancelled and ordered released and the, hold departure order issued against him is ordered **LIFTED** and **SET ASIDE**.

x x x x

SO ORDERED.^[49] (Emphasis supplied.)

As to the other co-accused, the Sandiganbayan convicted Saripada, Limbo's co-conspirator in Criminal Case Nos. 25400, 25401, 25406, 25409, and 25411. De la Cruz, Escoro, and Sabanal were acquitted for failure of the prosecution to prove their guilty beyond reasonable doubt. Meanwhile, the cases against Archinas, Mejia, Ma. Theresa Rubio, Castan

Ponduma, Arcaya, Alexander Vistan, Steve Factura, Rosita Mangana, Jesus Louis Lee, and Trinidad Lee were archived, to be revived when they are brought to the court's jurisdiction.

In its *Resolution* dated 24 April 2013, the Sandiganbayan denied Li's motion for reconsideration. Before us, Limbo and Li filed separate petitions under Rule 45 of the Rules of Court, docketed as G.R. Nos. 204568-83 and G.R. Nos. 207028-30, respectively.^[50] In our *Resolution* dated 15 January 2014, We ordered the consolidation of the cases.^[51]

Issues

Limbo contends that the Sandiganbayan erred on the following:

A. IN RULING THAT HE IS GUILTY OF ALLEGED VIOLATION OF ANTI-GRAFT AND CORRUPT PRACTICES ACT FOR CAUSING UNDUE INJURY TO GOVERNMENT WHEN IN TRUTH AND IN FACT HE DISCHARGED FUNCTIONS IN THE PERFORMANCE OF HIS REGULAR DUTIES IN ACCORDANCE WITH EXISTING BANK POLICIES SANCTIONED BY BANK MANAGEMENT AND IS THEREFORE A CONVICTION NOT IN ACCORD WITH LAW OR WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT.

B. IN CONVICTING HIM, THE SANDIGANBAYAN WENT AGAINST THE FACTUAL FINDINGS OF AN ADMINISTRATIVE TRIBUNAL WHICH RULED THAT THE HE DID NOT PERFORM ILLEGAL ACTS AND WAS IN FACT MERELY DISCHARGING HIS OFFICIAL DUTIES AS A GOVERNMENT BANK EMPLOYEE.

For her part, Li raises the following in her petition:

A. HER CONVICTION FOR AN ACT MATERIALLY DIFFERENT FROM THAT ALLEGED IN THE INFORMATION IS UNCONSTITUTIONAL, UNJUST AND OPPRESSIVE.

B. THE SANDIGANBAYAN ITSELF CONCLUDED THAT SHE WAS IN REALITY GIVEN A CLEAN LOAN BY PNB, WHICH LOAN SHE ALREADY SETTLED. HENCE, NO CRIMINAL LIABILITY UNDER SECTION 3(E) OF RA 3019 CAN BE IMPUTED TO HER.

C. THE ALLEGATION THAT SHE WAS GIVEN UNWARRANTED BENEFITS THAT

CAUSED UNDUE INJURY TO THE GOVERNMENT THROUGH EVIDENT BAD FAITH AND MANIFEST PARTIALITY HAS NO LEG TO STAND ON BECAUSE THE MAIN ACT ALLEGED IN THE INFORMATION, WHICH IS THE ENCASHMENT OF UNFUNDED CHECKS, HAS NOT BEEN PROVED.

In addition, Li invokes the following in her Motion for reconsideration before this court:

D. HER CONVICTION WAS WRONGFUL, UNJUST AND VIOLATES HER CONSTITUTIONAL RIGHT TO DUE PROCESS AND TO EQUAL PROTECTION OF THE LAWS AND SHOULD BE SET ASIDE SO THAT TRUE JUSTICE MAYBE SERVED.

E. UNLESS THE SANDIGANBAYAN DECISION IS REVERSED AND SET ASIDE, SHE WOULD BE IMPRISONED FOR DEBT IN VIOLATION OF ARTICLE III, SECTION 20 OF THE CONSTITUTION.

F. THE SANDIGANBAYAN PREJUDGED HER GUILT BASED ON APPEARANCES LONG BEFORE IT RENDERED ITS ASSAILED DECISION, DEDUCED AND INFERRED HER GUILT FROM THE EVIDENCE THAT FAILED TO ESTABLISH GUILT WITH MORAL CERTAINTY.

Stated differently, Limbo contends that: (1) he merely followed his superior's instruction when he approved the Valued Clients' out-of-town checks for encashment prior to clearing; and (2) relative to the illegal dismissal complaint that he filed, the factual findings of the National Labor Relations Commission (NLRC) therein are binding to the Supreme Court in the present criminal case for violation of Section 3(e) of RA 3019. For her part, Li essentially argues that: (1) there was a variance between what was alleged and proved by the prosecution; and (2) she should be exonerated from criminal liability considering that her loan to PNB was already paid or settled.

Simply put, the issue before us is whether or not Limbo and Li are guilty of violating Sec. 3(e) of RA 3019.

Ruling of the Court

The Black's Law Dictionary defines **kiting** as "[t]he wrongful practice of taking advantage

of the float; the time that elapses between the deposit of a check in one bank and its collection at another. Method of drawing checks by which the drawer uses funds which are not his by drawing checks against deposits which have not yet cleared through the banks.”^[52] Meanwhile, **check kiting** is described as “practice of writing a check against a bank account where funds are insufficient to cover it and hoping that before it is deposited, the necessary funds will have been deposited. **Transfer of funds between two or more banks to obtain unauthorized credit from bank during the time it takes checks to clear. In effect, a kite is a bad check used temporarily to obtain credit.**”^[53]

In the Association of Certified Fraud “Examiners (ACFE) Fraud Examiners Manual, check kiting has been described as one of the original white crimes. It involves multiple bank accounts and is made possible through floating. In turn, floating is defined as “the additional value of funds generated in the process of collection and arises because the current holder of funds has been given credit for the funds before the cheque clears the financial institution upon which it is drawn.” With the more recent technology, check kiting has become more difficult to commit because of the reduced float period. In any case, unless detected, this scheme can continue indefinitely, covering one check written against insufficient funds with another check.^[54] Necessarily, the effect of check kiting includes artificial inflation of both fund balance and interest since the money “deposited” to an account does not in fact exist. Given the nature of check kiting, its discovery requires an extensive investigation process.

After a judicious review of the case records, We find that the scheme employed in this case constitutes check kiting based on the foregoing definition that it is the transfer of funds between two or more banks to obtain unauthorized credit from the bank during the time it takes checks to clear..

Moreover, the Sandiganbayan correctly convicted Limbo of Sec. 3(e) of RA 3019 in Criminal Case Nos. 25400, 25401, 25402, 25404, 25405, 25406, 25408, 25409, 25410, 25411, 25414, and 25415. However, We find that the prosecution failed to prove Limbo and Li’s guilt beyond reasonable doubt in Criminal Case Nos. 25407, 25412, and 25413. Thus, their acquittal under the circumstances is warranted. As to Saripada, the Sandiganbayan’s decision is final and executory in Criminal Case Nos. 25400, 25401, 25406, 25409, and 25411, insofar as he is concerned since he failed to appeal his conviction.^[55]

I. The prosecution was able to establish Limbos guilt by proof beyond reasonable doubt as to Criminal Case Nos. 25400, 25401, 25402, 25404, 25405, 25406, 25408, 25409, 25410, 25411, 25414, and 25415

A. All essential elements of Sec. 3(e) of RA 3019 are present.

The elements of violation of Sec. 3(e) of RA 3019 are as follows: (1) that the accused must be a public officer discharging administrative, judicial, or official functions; (2) that he acted with manifest partiality, evident bad faith, or inexcusable negligence; and (3) that his action caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of his functions.^[56] As will be discussed in *seriatim*, all essential elements of the offense charged against Limbo are present in the case at bar.

(1) Limbo is a public officer

It is undisputed that Limbo is a public officer, being the Assistant Department Manager of PNB-CDO.

(2) Limbo acted with manifest partiality and evident bad faith

In the case of *Garcia v. Sandiganbayan*,^[57] We defined manifest partiality, evident bad faith, and gross inexcusable negligence, thus:

The second element provides the different modes by which the crime may be committed, that is, through ‘manifest partiality,’ ‘evident bad faith,’ or ‘gross inexcusable negligence.’ In *Uriarte v. People*, this Court explained that Section 3(e) of RA 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa*, as when the accused committed gross inexcusable negligence. There is ‘**manifest partiality**’ when there is a clear, notorious, or plain inclination or predilection to favor one side or

person rather than another. '**Evident bad faith**' connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. 'Evident bad faith' contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. '**Gross inexcusable negligence**' refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.^[58] (Emphasis supplied.)

The terms partiality, bad faith, and gross negligence have been explained as follows:

"Partiality" is synonymous with "bias" which "excites a disposition to see and report matters as they are wished for rather than as they are." **"Bad faith** does not simply connote bad judgment or negligence; it imputes a' dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud." **"Gross negligence** has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property."^[59] (Emphasis supplied.)

Here, Limbo acted with clear bias in favor of the Valued Clients as they enjoyed privileges which are not otherwise allowed under BSP regulations and PNB's policy. Moreover, considering Limbo's experience in banking, being a former Manager of PNB-Limketkai, we are convinced that he is conscious of the dishonest and fraudulent purpose of approving the outright encashment of the Valued Client's out-of-town checks.

(3) Limbo acts caused undue injury to the government, and gave unwarranted benefits, advantage, and preference to the Valued Clients

There was undue injury to PNB-CDO because, even prior to clearing, the amounts of the checks were already approved for encashment. During the period of float, PNB-CDO had to back these amounts with the bank's assets. A definite chunk of PNB-CDO's assets were effectively earmarked to service these accounts. In effect, PNB-CDO was obligated to honor encashments or any withdrawals from the accounts of these Valued Clients to the extent of the face value of the checks.

Further, as pointed out by the Sandiganbayan, this entailed lost interest to PNB-CDO. According to COA Auditor Diez, the commercial loan prime rate during the period from 1 September to 18 October 1994 was 13% per annum. The encashments approved by Limbo effectively meant grant of interest-free loans, resulting to PNB-CDO's lost interest income.

The word "unwarranted" means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason.^[60] Limbo gave unwarranted benefits, advantages, and preference to PNB-CDO's Valued Clients when he approved the encashment of the checks, without prior clearing, when this was not justified or authorized by existing rules and policies. Worse, he continued this practice even after the management's attention was called by COA of its irregularity. As indicated in the Special Audit Report, Limbo was present during the dialogue with COA on 31 January 1995 regarding the problematic practice of approving outright encashment of out-of-town checks. Yet, he still accommodated the requests by the Valued Clients for encashment of their checks on various dates in April 1995.

B. Limbo's repeated acts of allowing encashments of the Valued Clients' uncleared checks were not in performance of his legal duties and responsibilities, but a violation of the same

Contrary to Limbo's contention, there was nothing in the Memorandum that states an instruction to Limbo to approve outright encashment of out-of-town checks. Said Memorandum merely states the charges/fees to be imposed on late-funded checks issued by the Valued Clients. There is nothing in the Memorandum that instructs Limbo or any officer to authorize the outright encashment of uncleared checks.

Under Section X202 of the BSP's 1993 Manual of Regulations for Banks, which was then in effect, DAUDs shall be prohibited except when the drawings are made against uncollected

deposits representing manager's/cashier's/treasurer's checks, treasury warrants, postal money orders and duly funded "on-us" checks which may be permitted at the discretion of the bank.^[61] Relatedly, under the PNB Manual, out-of-town checks can generally only be negotiated for deposit or collection, not encashment. Ordinarily, on the check's due date, a holder of a check may either proceed directly to the drawee bank and present the same for payment, or he may deposit it in his account with his bank known as the depository bank or collecting bank. The check undergoes the process of check clearing.^[62]

In the Special Audit Report, COA Auditor Diez discussed that, by way of exception, direct encashment of these checks may be done merely as an act of accommodation. In such case the approval of encashment should be made on a very selective basis, depending on the merits of each case, and always on the approving officer's responsibility.

Verily, when Limbo approved the Valued Clients' out-of-town checks for encashment, he violated the BSP regulations and PNB's policy on the matter. He also went beyond his approving authority. Therefore, he could not be considered as merely performing his official functions.

*C. The conclusions of the NLRC
in the illegal dismissal
complaint filed by Limbo is not
binding to this court in the
instant criminal case*

Before us, Limbo insists that the NLRC's findings in the illegal dismissal complaint that he filed should bind the Supreme Court in the present criminal case for violation of Sec. 3(e) of RA 3019.

Consistent with *Paredes v. CA*,^[63] in resolving a criminal case, We are not bound by the findings of another agency in an administrative case. To wit:

It is indeed a fundamental principle of administrative law that administrative cases are independent from criminal actions for the same act or omission. Thus, ***an absolution from a criminal charge is not a bar to an administrative prosecution, or vice versa.*** One thing is administrative liability; quite another thing is the criminal liability for the same act.

Verily, the fact that the required quantum of proof was not adduced to hold

petitioner administratively liable for falsification, forgery, malversation, grave dishonesty, and conduct unbecoming of a public officer in OMB-VIS-ADM-97-0536 does not ipso facto mean that Criminal Cases Nos. 99-525 to 99-531 filed against petitioner for Estafa through Falsification of a Commercial Document before the RTC should be dismissed. ***The failure to adduce substantial evidence against petitioner in the former is not a ground for the dismissal of the latter. These two cases are separate and distinct; hence, independent from each other.***

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It is well settled that a single act may offend against two or more distinct and related provisions of law, or that the same act may give rise to criminal as well as administrative liability. As such, they may be prosecuted simultaneously or one after another, so long as they do not place the accused in double jeopardy of being punished for the same offense.”^[64]

Hence, it is of no moment that Limbo secured a favorable ruling in his illegal dismissal complaint against PNB. Said case is separate and distinct from the present criminal cases.

At any rate, We note that while NLRC ruled Limbo was illegally dismissed on both substantive and procedural grounds, the NLRC refused to award him with backwages to penalize him for “his contributory act in approving indiscriminately for encashment of the checks of the four alleged valued clients, even if the amount is more than his approval amount.”^[65] The NLRC even proceeded to rule that he knew of the issue as he was around during the discussion with COA, yet he failed to exercise due prudence and vigilance, even if the amounts involved are in millions. The NLRC also faulted Limbo for carrying out or implementing a wrongful instruction.^[66]

II. The prosecution was not able to establish Limbo and Li’s guilt by proof beyond reasonable doubt in Criminal Case Nos. 25407, 25412, and 25413

A. The prosecution failed to prove the allegation that Li negotiated the checks for encashment

Li invokes a violation of her right to due process, claiming that there was a variance between what was alleged as against what was proved. She asserts that the prosecution failed to establish the fact of “encashment” of checks, considering that the evidence merely points to the crediting of her bank account at PNB-CDO for the amount of the checks, her subsequent procurement of manager’s checks and a telegraphic transfer later in the day.^[67]

The Office of the Special Prosecutor (OSP), on the other hand, argues that her conviction was proper. Citing the Special Audit Report, OSP insists that check encashments may be made through payment in cash, manager’s check, and outgoing telegraphic transfer.

There is merit to Li’s contention.

In criminal cases, where the life and liberty of the accused is at stake, due process requires that the accused be informed of the nature and cause of the accusation against him. An accused cannot be convicted of an offense unless it is clearly charged in the complaint or information. To convict him or her of an offense other than that charged in the complaint or information would be a violation of this constitutional right. The important end to be accomplished is to describe the act with sufficient certainty in order that the accused may be appraised of the nature of the charge against him or her and to avoid any possible surprise that may lead to injustice. Otherwise, the accused would be left in the unenviable state of speculating why he or she is made the object of a prosecution.^[68]

The rules on variance between the allegation and proof are laid down under Sections 4 and 5, Rule 120 of the Rules of Court.^[69] In case of variance between the allegation and proof, a defendant may be convicted of the offense proved when the offense charged is included in or necessarily includes the offense proved, or of the offense charged which is included in the offense proved.

We have applied the foregoing principles in several cases. In *Burgos vs. Sandiganbayan*,^[70] the Information alleged that the accused failed to repair and render functional surveying instruments. What was proven was the said instruments were not repaired in the manner specified in the job order. Similarly, in the earlier case of *Evangelista v. People*,^[71] the allegation in the Information was that a tax certification was falsified although what was proved was that there was a failure to identify with certainty the kinds of taxes paid by the taxpayer. Then, in *Andaya v. People*,^[72] where petitioner was charged in the Information with causing damage to Armed Forces and Police Savings and Loan Association, Inc. (AFPSLAI) in the amount of P21,000.00 because he caused it to appear in the disbursement

voucher that an AFPSLAI general clerk was entitled to a P21,000.00 finder's fee when in truth and in fact AFPSLAI owed no such amount to said clerk, but he was convicted by the trial court of falsifying the voucher with criminal intent to cause damage to the government because the trial court found that petitioner's acts were designed to lower the tax base of another person and aid the latter in evading payment of taxes on the finder's fee.^[73] **In all these cases, We acquitted the accused and upheld their right to be informed of the nature and cause of the accusation against them.**^[74]

Here, **the Informations under Criminal Case Nos. 25407, 25412, and 25413 against Limbo and Li were for "encashment," but the prosecution proved other acts, i.e., crediting of Li's checking account, purchasing of manager's checks, and instructing telegraphic transfer.** Thus, applying the foregoing rules and jurisprudence, it would be a violation of Limbo and Li's constitutional right to convict them for an act that was not proven by the prosecution.

We cannot subscribe to OSP's assertions that term encashment may be interpreted to also include payment through manager's check, and outgoing telegraphic transfer. Under the Rules of Court, the acts or omissions complained of must be stated in "ordinary and concise language" and "in terms sufficient to enable a person of common understanding to know what offense is being charged."^[75] The ordinary meaning of check encashment is simply that, "the payment in cash of a note, draft, etc."^[76] As Limbo and Li may be concentrating their defense that there was no encashment, based on the ordinary meaning of the word, it would then be clearly unfair and underhanded to convict them for its alternative meanings based on the Special Audit Report. Further, We take note that the prosecution endeavored to indict the other accused in this case by categorically stating in the Informations what encashment entailed for each check. In Criminal Case No. 25401, the Information stated that upon encashment, the proceeds of the checks were used to buy manager's checks. Significantly, this was not reflected in Criminal Case Nos. 25407, 25412, and 25413.

While it was only Li who raised this defense, this should likewise benefit Limbo as they were both charged as co-conspirators for the same offense and the same scheme in these three cases. We note, however, that as to Archinas, the other co-conspirator in these three cases, she was not arraigned and the cases against her were archived by the Sandiganbayan. Thus, We cannot make any pronouncement as to Archinas considering that jurisdiction over her person has not been acquired.

As We previously ruled, the real question in convicting an accused is *not* whether he or she

committed a crime given in the law some technical and specific name, but whether he or she performed the acts alleged in the Information. To wit:

From a legal point of view, and in a very real sense, it is of no concern to the accused what is the technical name of the crime of which he stands charged. It in no way aids him in a defense on the merits. Whatever its purpose may be, its result is to enable the accused to vex the court and embarrass the administration of justice by setting up the technical defense that the crime set forth in the body of the information and proved in the trial is not the crime characterized by the fiscal in the caption of the information. That to which his attention should be directed, and in which he, above all things else, should be most interested, are the facts alleged. The real question is **not** did he commit a crime given in the law some technical and specific name, but **did he perform the acts alleged in the body of the information in the manner therein set forth.** The real and important question to him is, "Did you perform the acts alleged in the manner alleged?" not, "Did you commit a crime named murder?" If he performed the acts alleged, in the manner stated, the law determines what the name of the crime is and fixes the penalty therefor.... If the accused performed the acts alleged in the manner alleged, then he ought to be punished and punished adequately, whatever may be the name of the crime which those acts constitute.^[77] (Emphasis supplied.)

Indeed, the conviction of the accused must rest not on the weakness of the defense but on the strength of the prosecution. It is thus required that every circumstance favoring the innocence of the accused must be taken into account. The overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt. Even the strongest suspicion must not be permitted to sway judgment.^[78] As We declared in *People v. Mamalias*, the great goal of our criminal law and procedure is not to send people to the gaol but to do justice. Thus, when the evidence for the prosecution is not enough to sustain a conviction, it must be rejected and the accused absolved and released at once.^[79]

III. The penalty and civil liability imposed on Limbo should be modified.

The Sandiganbayan sentenced Limbo with the indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to seven (7) years, as maximum, with perpetual disqualification from public office, in each of these cases. However, consistent with recent jurisprudence,^[80] this should be modified to an indeterminate period of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification from public office.

As to his civil liability, in line with *Nacar v. Gallery Frames*,^[81] the amount of P35,200,061.56 shall earn legal interest of: (1) twelve percent (12%) per *annum*, reckoned from the filing of the criminal Informations until 30 June 2013; (2) six percent (6%) per *annum* from 01 July 2013 until finality of the Decision; and (3) six percent (6%) per *annum* on the total outstanding amount from such finality until fully paid.

In view of the foregoing, we find that the conviction of Limbo for violation of RA 3019 was proper in Criminal Case Nos. 25400, 25401, 25402, 25404, 25405, 25406, 25408, 25409, 25410, 25411, 25414, and 25415. However, both Limbo and Li should be acquitted in Criminal Case Nos. 25407, 25412, and 25413.

WHEREFORE, the foregoing premises considered, the consolidated petitions are **PARTLY GRANTED**. The Decision dated 22 November 2012 in Criminal Case Nos. 25400-25415 and Resolution dated 24 April 2013 in Criminal Case Nos. 25400-25413, 25415 of the Sandiganbayan are hereby **AFFIRMED WITH MODIFICATION** in that petitioner Cecilia Li is hereby **ACQUITTED** of the charge of violating Section 3(e) of Republic Act No. 3019 for failure of the prosecution to prove her guilt beyond reasonable doubt.

On the other hand, the conviction of petitioner Herman G. Limbo for violation of Section 3(e) of Republic Act No. 3019 is **MODIFIED** as follows:

In **Criminal Case Nos. 25400, 25401, 25402, 25404, 25405, 25406, 25408, 25409, 25410, 25411, 25414, and 25415**, the Court finds petitioner Herman Limbo, **GUILTY** beyond reasonable doubt of twelve (12) counts of violation of Section 3 (e) of Republic Act No. 3019. He is, therefore, sentenced to the indeterminate penalty of imprisonment, for each count, of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification from public office, in each of these cases.

On the other hand, in **Criminal Case Nos. 25407, 25412, and 25413**, he is hereby **ACQUITTED** of the charge of violating Section 3(e) of Republic Act No. 3019 for failure of the prosecution to prove his guilt beyond reasonable doubt.

Considering that the civil liability arising from his acts in **Criminal Case Nos. 25400, 25401, 25406, 25409, and 25411** have been extinguished through the restructuring and settlement/payments, no civil liability is adjudged against him in the aforesaid cases.

As civil liability arising from his criminal acts in **Criminal Case Nos. 25402, 25404, 25405, 25408, 25410, 25414, and 25415**, he is ordered to pay the government the amount of P35,200,061.56, which shall earn legal interest of: (i) twelve percent (12%) per *annum*, reckoned from the filing of the criminal Informations until 30 June 2013; (ii) six percent (6%) per *annum* from 01 July 2013 until finality of the Decision; and (iii) six percent (6%) per *annum* on the total outstanding amount from such finality until fully paid.

SO ORDERED.

Hernando (Working Chairperson), Marquez, and Singh, ^{}JJ., concur.*
*Rosario, ^{**}J., on official leave.*

^{*} Gesmundo, *CJ.*, took no part; Singh, *J.*, designated additional Member per Raffle dated 05 April 2023.

^{**} On official leave.

^[1] *Rollo*, p. 290. Supreme Court Notice of Resolution dated 15 January 2014; Petition filed by Limbo (*Id.* at 92-121); Petition filed by Li (*Id.* at 3-34).

^[2] *Id.* at 122-192.

^[3] *Id.* at 115-125.

^[4] Entitled "ANTI-GRAFT AND CORRUPT PRACTICES ACT" 17 August 1960.

^[5] For Criminal Case Nos. 25400, 25401, 25402, 25403, 25404, 25405, 25406, 25407, 25408, 25409, 25410, 25411, 25412, 25413, 25414, and 25415.

^[6] For Criminal Case Nos. 25407, 25412, and 25413.

^[7] *Rollo*, pp. 128-129.

^[8] *Id.* at 131.

^[9] *Id.*

^[10] *Id.* at 126.

^[11] *Id.*

^[12] *Id.* at 126-127.

^[13] *Id.* at 127.

^[14] *Id.* at 127-128.

^[15] *Id.* at 128.

^[16] *Id.*

^[17] *Id.* at 129.

^[18] *Id.* at 129-130.

^[19] *Id.* at 130.

^[20] *Id.* at 130-131.

^[21] *Id.* at 131-132.

^[22] *Id.* at 132.

^[23] *Id.* at 132-134.

^[24] *Id.* at 135-143.

^[25] *Id.* at 262-286; Marked as Exhibit "A."

^[26] *Id.* at 267-268; Emphasis supplied.

^[27] *Id.* at 519-524; Marked as Exhibit "EE-5."

^[28] *Id.* at 274.

^[29] *Id.* at 135.

^[30] *Id.* at 139.

^[31] *Id.* at 141.

^[32] *Id.*

^[33] *Id.* at 139-140.

^[34] *Id.* at 262-286.

^[35] *Id.* at 141, 273.

^[36] *Id.* at 273.

^[37] *Id.*

^[38] *Id.* at 274-276.

^[39] *Id.* at 141-142.

^[40] *Id.* at 133.

^[41] *Id.* at 145-146; 161-162.

^[42] *Id.* at 143.

^[43] *Id.* at 154.

^[44] *Id.* at 159.

^[45] *Id.* at 176. DBP Check No. 1834400 was the subject of Criminal Case No. 25403. Said check was marked for “deposit,” not “encashment.” There was also no rubber stamp mark “Payment Received” in the check’s dorsal side. It appears that this check went through the usual clearing process.

^[46] *Id.* at 155-156.

^[47] *Id.* at 160.

^[48] *Id.* at 180.

^[49] *Id.* at 75-78.

^[50] *Id.* at 994; In Supreme Court Notice of Resolution dated 10 July 2013, We denied Li’s petition (G.R. Nos. 207028-30) for failure to sufficiently show any reversible error in the assailed judgment. Thus, Li moved for reconsideration.

^[51] *Id.* at 1037.

^[52] Black’s Law Dictionary (Abridged 5th Edition), p. 450.

^[53] Black’s Law Dictionary (Abridged 5th Edition), p. 123; Emphasis supplied.

^[54] ACFE Fraud Examiners Manual (2014 International Edition), p. 1.904.

^[55] Section 11, Rule 122 of the Rules of Court.

^[56] **Ferrer, Jr. v. People, G.R. No. 240209**, 10 June 2019.

^[57] 730 Phil. 521 (2014).

^[58] *Id.* at 535.

^[59] **Fuentes v. People**, 808 Phil. 586, 593-594 (2017).

^[60] **Ambil v. Sandiganbayan, G.R. No. 175457**, 669 Phil. 32, 55 (2011).

^[61] Section X202 (Temporary Overdrawings; Drawings Against Uncollected Deposits).

^[62] *Rollo*, pp. 166-167.

^[63] 555 Phil. 538 (2007).

^[64] **Paredes v. Court of Appeals**, 555 Phil. 538, 549-550 (2007), *citing* **People v. Judge Toledano**, 387 Phil. 957, 964 (2000); **Tan v. Commission on Elections**, 307 Phil. 367 (1994), *citing* **Office of the Court Administrator v. Enriquez, A.M. No. P-89-290**, 29 January 1993; **Paredes, Jr. v. Sandiganbayan**, 322 Phil. 709, 730 (1996); Emphasis supplied.

^[65] *Rollo*, p. 214. NLRC Decision in the case entitled, “**Herman G. Limbo v. Philippine National Bank**,” docketed as RAB Case No. 10-02-00237-99, p. 13.

^[66] *Id.*

^[67] *Id.* at 11.

^[68] **Burgos v. Sandiganbayan**, 459 Phil. 794, 806 (2003), citing **People v. Cruz**, 259 SCRA 109 (1996), **People v. Ortega, Jr.**, 276 SCRA 166 (1997), **U.S. vs. Alabot**, 38 Phil. 698 (1918), **People v. Zulueta**, 89 Phil. 755 (1951), and **People v. Mencias**, 46 SCRA 88 (1972).

^[69] Section 4. *Judgment in case of variance between allegation and proof.* — When there is variance between the offense charged in the complaint or information and that proved, and the offense as charged is included in or necessarily includes the offense proved, the accused shall be convicted of the offense proved which is included in the offense charged, or of the offense charged which is included in the offense proved.

Section 5. *When an offense includes or is included in another.* — An offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter. And an offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form a part of those constituting the latter.

^[70] *Id.*

^[71] *Supra* note 68.

^[72] **Andaya v. People**, 526 Phil. 480 (2006).

^[73] *Id.* at 489-490.

^[74] Section 1. *Rights of accused at the trial.* — In all criminal prosecutions, the accused shall be entitled to the following rights: x x x (b) To be informed of the nature and cause of the accusation against him; Emphasis supplied.

^[75] Section 9. *Cause of the accusation.* — The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in **ordinary and concise language** and not necessarily in the language used in the statute but **in terms sufficient to enable a person of common understanding to know what offense is being charged** as well as its qualifying and aggravating circumstances and for the court to pronounce judgment. (Emphasis supplied)

^[76] <https://www.websters1913.com/words/Encashment>, last accessed: 27 March 2023).

^[77] **Burgos v. Sandiganbayan** citing Justice Moreland in **US v. Lim San**, 17 Phil. 273 (1910).

^[78] **People v. Marquita**, 383 Phil. 786, 797 (2000).

^[79] **People v. Mamalias**, 385 Phil. 499, 514 (2000).

^[80] **Villanueva v. People, G.R. No. 218652**, 23 February 2022.

^[81] **Nacar v. Gallery Frames**, 716 Phil. 267 (2013).

Date created: July 28, 2023