

**SILVERINA E. CONSIGNA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, THE HON. SANDIGANBAYAN (THIRD DIVISION), AND EMERLINA MOLETA, RESPONDENTS.**

*G.R. No. 175750-51. April 02, 2014*

Ponente: PEREZ, J.

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**PEREZ, J.:**

For review on certiorari is the Decision[1] of the Honorable Sandiganbayan dated 12 December 2006, finding Silverina E. Consigna (petitioner) guilty for violation of Section 3(e) of Republic Act (R.A.) No. 3019, otherwise known as Anti-Graft and Corrupt Practices Act, and Estafa, as defined and penalized under Article 315 (2)(a) of the Revised Penal Code (RPC).

The facts as culled from the records are as follows:

On or about 14 June 1994, petitioner, the Municipal Treasurer of General Luna, Surigao del Norte, together with Jose Herasmio, obtained as loan from private respondent Hermelina Moleta (Moleta), the sum of P320,000.00, to pay for the salaries of the employees of the municipality and to construct the municipal gymnasium as the municipality's Internal Revenue Allotment (IRA) had not yet arrived. As payment, petitioner issued three (3) Land Bank of the Philippines (LBP) checks signed by Jaime Rusillon (Rusillon), the incumbent mayor of the Municipality of General Luna: (1) Check No. 11281104 for P130,000.00 dated 14 June 1994; (2) Check No. 9660500 for P130,000.00 dated 14 June 1994; and (3) Check No. 9660439 for P60,000.00 dated 11 July 1994.

Between 15 June 1994 and 18 August 1994, in several attempts on different occasions, Moleta demanded payment from petitioner and Rusillon, but to no avail.

Thus, on 18 August 1994, Moleta deposited the three (3) LBP checks to her account in Metrobank-Surigao Branch. Upon presentation for payment, Metrobank returned the checks to Moleta as the checks had no funds. The following day, Moleta again deposited the checks. This time, however, she deposited the checks to her LBP account. Upon presentation for payment, the checks were again returned for the reason, "Signature Not on File." Upon verification, LBP informed Moleta that the municipality's account was already closed and transferred to Development Bank of the Philippines, and that petitioner, the municipal treasurer, has been relieved from her position.

Hence, Moleta filed with the Sandiganbayan two (2) sets of Information against petitioner, in the latter's capacity as Municipal Treasurer and Rusillon, in his capacity as Municipal Mayor of General Luna, Surigao del Norte, to wit:

(1) Criminal Case No. 24182 - Sec. 3(e) of R.A. 3019, otherwise known as Anti-Graft and Corrupt Practices Act:

That on or about 15 June 1994, or sometime after said date, at the General Luna, Surigao del Norte, and within the jurisdiction of this Honorable Court accused Municipal Treasurer Silverina Consigna (with Salary Grade below 27), and Municipal Mayor Jaime Rusillon (with Salary Grade 27) did then and there, willfully and

unlawfully, with evident bad faith, in cooperation with each other, and taking advantage of their official positions and in the discharge for the functions as such, borrow the amount of P320,000.00 from one Emerlina Moleta to whom they misrepresented to be for the municipality of General Luna, when in fact the same is not; and fail to pay back said amount thereby causing undue injury to said Emerlina Moleta in the amount of P320,000.00.[2]

(2) Criminal Case No. 24183 – Art. 315 of the RPC, otherwise known as Estafa:

That on or about 15 June 1994, or sometime after said date, at the General Luna, Surigao del Norte, and within the jurisdiction of this Honorable Court, accused Municipal Treasurer Silverina Consigna (with Salary Grade below 27), and Municipal Mayor Jaime Rusillon (with Salary Grade 27), did then and there, willfully and unlawfully, with evident bad faith, in cooperation with each other, representing themselves to be transacting in behalf of the [M]unicipality of Gen. Luna, in truth and in fact they are not, contract a loan from one Emerlina Moleta in the amount of P320,000.00 for which they issued three (3) checks: LBP Check No. 11281104 dated 14 June 1994 in the amount of P130,000.00, LBP Check No. 9660500 dated 14 June 1994 in the amount of P130,000.00, and LBP Check no. 9660439 dated 11 July 1994 in the amount of P60,000.00, all in favor of said Emerlina Moleta, knowing fully well that the account belongs to the Municipality of the (sic) Gen. Luna, and that they have no personal funds [of] the same account such that upon presentation of the said checks to the bank, the same were dishonored and refused payment, to the damage and prejudice of said Emerlina Moleta in the amount of P320,000.00.[3]

As defense, petitioner argued that the court a quo has no jurisdiction because (1) the crime as charged did not specify the provision of law allegedly violated, i.e., the specific type of Estafa; and (2) Sec. 3(e) of RA 3019 does not fall within the jurisdiction of the court a quo because the offense as charged can stand independently of public office and public office is not an element of the crime.[4]

The court a quo admitted that the Information for violation of Estafa did not specify the provision of law allegedly violated.[5] However, based on the allegations of deceit and misrepresentation, the court a quo allowed the prosecution to indict petitioner and Rusillon under Art. 315 (2)(a) of the RPC.

On the charge of graft and corruption, petitioner argued that, “[w]hen allegations in the information do not show that the official position of the [petitioner] was connected with the offense charged, the accused is not charged with an offense in relation to her official functions”. [6] Petitioner, citing *Lacson v. The Executive Secretary*, [7] further argued:

x x x [M]ere allegation in the information “that the offense was committed by the accused public officer in relation to his office is not sufficient. That phrase is a mere conclusion of law not a factual averment that would show the close intimacy between the offense charged and the discharge of accused’s official duties.” [8]

Petitioner also contends that there was no fraud or misrepresentation. By demanding payment from Rusillon, Moleta attested that there exists no fraud or misrepresentation. In petitioner’s words, “... why will she [Moleta] insist payment from [Rusillon] if she has no knowledge that the money loaned have reached him?” [9]

On the other hand, Rusillon maintained that he had no participation in the acts committed by petitioner. Based on his testimony, he signed the three (3) checks to pay the following: (1) payroll of the following day; (2) daily expenses of the municipal building; (3) construction of the municipal gymnasium; and (4) health office’s medical supplies. [10] As found by the court a quo, “the only link of Rusillon to [petitioner] with respect to the loan transaction is his signature on the three (3) checks which [petitioner] used as security to Moleta.” [11]

After trial, the Sandiganbayan, on 12 December 2006, found petitioner guilty, but exonerated Rusillon. The dispositive portion of the Decision reads: [12]

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

(1)

In Criminal Case No. 24182, accused SILVERINA E. CONSIGNA is found GUILTY beyond reasonable doubt of violation of Section 3(e) of the Republic Act No. 3019, and is hereby SENTENCED to suffer the penalty of imprisonment of six (6) years and one (1) month to eight (8) years.

Accused JAIME RUSILLON is ACQUITTED for failure of the prosecution to prove his guilt with moral certainty.

(2)

In Criminal Case No. 24183, accused SILVERINA E. CONSIGNA is found GUILTY beyond reasonable doubt of Estafa under Article 315 (2)(a) of the Revised Penal Code, and is hereby SENTENCED to the indeterminate prison term of six (6) years and one (1) day of prision mayor as MINIMUM, to twenty (20) years of reclusion temporal as MAXIMUM.

Accused JAIME RUSILLON is ACQUITTED as his guilt was not proven with moral certainty.

(3)

Accused SILVERIA E. CONSIGNA is ordered to pay private complainant Emerlina F. Moleta the amount of PhP368,739.20 by way of actual damages; PhP30,000.00 as moral damages, and the costs of suit; and

(4)

The hold departure order against accused JAIME RUSILLON in connection with these cases is hereby LIFTED.

Hence, this Petition.

Noticeably, the petitioner formulated its arguments, thus:

a. The court a quo committed grave abuse of discretion in making its finding of facts which amounts to lack of jurisdiction.

x x x x

b. The court a quo committed grave abuse of discretion when it convicted the accused on “false pretense, fraudulent act or means” made or executed prior to or simultaneously with the commission of fraud.

x x x x

c. The court a quo committed grave abuse of discretion when it made a conclusion that the petitioner acted with manifest partiality, evident bad faith or inexcusable negligence to justify its conclusion that all the elements of violations of Section 3(e) of RA 3019 are present.”[13]

Preliminarily, We here note a common disorder in petitions that mingle the concepts involved in a Petition for Review under Rule 45 and in the special civil action of certiorari under Rule 65, as a prevalent practice of litigants to cure a lapsed appeal.

We shall discuss the distinction.

With regard to the period to file a petition, in Rule 45, the period within which to file is fifteen (15) days from notice of the judgment or final order or resolution appealed from.[14] In contrast to Rule 65, the petition should be filed not later than sixty (60) days from notice of the judgment, order or resolution.[15]

Regarding the subject matter, a review on certiorari under Rule 45 is generally limited to the review of legal issues; the Court only resolves questions of law which have been properly raised by the parties during the appeal and in the petition.[16] A Rule 65 review, on the other hand, is strictly confined to the determination of the propriety of the trial court's jurisdiction — whether it has jurisdiction over the case and if so, whether the exercise of its jurisdiction has or has not been attended by grave abuse of discretion amounting to lack or excess of jurisdiction.[17] Otherwise stated, errors of judgment are the proper subjects of a Rule 45 petition; errors of jurisdiction are addressed in a Rule 65 petition.

The special civil action of certiorari under Rule 65 is resorted to only in the absence of appeal or any plain, speedy and adequate remedy in the ordinary course of law.[18] So when appeal, or a petition for review is available, certiorari cannot be resorted to; certiorari is not a substitute for a lapsed or lost appeal.[19] A Rule 65 certiorari petition cannot be a substitute for a Rule 45 petition so as to excuse the belatedness in filing the correct petition. Where an appeal is available, certiorari will not prosper, even if the ground therefor is grave abuse of discretion.[20]

Grave abuse of discretion means “such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or, in other words where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[21]

Petitioner was correct when she filed a Petition for Review under Rule 45. However, instead of raising errors of judgment as a proper subject of a petition for review under Rule 45, the petition formulated jurisdictional errors purportedly committed by the court a quo, i.e., whether or not the court a quo committed grave abuse of discretion,[22] which is the proper subject of a Petition for Certiorari under Rule 65. Noticeably, the petition does not allege any bias, partiality or bad faith by the court a quo in its proceedings;[23] and the petition does not raise a denial of due process in the proceedings before the Sandiganbayan.[24]

Importantly, however, the petition followed the period specified in Rule 45. It was timely filed. For that reason, we excuse the repeated referral to the supposed grave abuse of discretion of the Sandiganbayan and treat the petition as, nonetheless, one for review of the questioned decision. We thus recast the arguments as:

- Whether or not the court a quo committed a reversible error for finding petitioner guilty of estafa, based on information which does not specifically designate the provision allegedly violated.
- Whether or not petitioner is guilty of estafa as penalized under Art. 315 (2)(a) of the RPC.
- Whether or not petitioner is guilty of Sec. 3 (e) of RA 3019.

The Petition must fail.

1. On the first issue, petitioner insists that even if the court a quo already admitted that the Information failed to specifically identify the mode or manner by which estafa was committed by petitioner, it nonetheless went on to convict her by relying on the allegation in the Information of deceit and misrepresentation and applying par. (2)(a), Art. 315 of the RPC.

Entrenched in jurisprudence is the dictum that the real nature of the criminal charge is determined not from the caption or preamble of the information, or from the specification of the provision of law alleged to have been violated, which are mere conclusions of law, but by the actual recital of the facts in the complaint or information.[25] As held in *People v. Dimaano*: [26]

For complaint or information to be sufficient, it must state the name of the accused; the designation of the

offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate time of the commission of the offense, and the place wherein the offense was committed. What is controlling is not the title of the complaint, nor the designation of the offense charge or the particular law or part thereof allegedly violated, these being mere conclusions of law made by the prosecutor, but the description of the crime charged and the particular facts therein recited. The acts or omissions complained of must be alleged in such form as is sufficient to enable a person of common understanding to know what offense is intended to be charged, and enable the court to pronounce proper judgment. No information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged. Every element of the offense must be stated in the information. What facts and circumstances are necessary to be included therein must be determined by reference to the definitions and essentials of the specified crimes. The requirement of alleging the elements of a crime in the information is to inform the accused of the nature of the accusation against him so as to enable him to suitably prepare his defense. The presumption is that the accused has no independent knowledge of the facts that constitute the offense. (Emphasis supplied)

As early in *United States v. Lim San*,<sup>[27]</sup> this Court has determined that:

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. x x x. 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. If he did, it is of no consequence to him, either as a matter of procedure or of substantive right, how the law denominates the crime which those acts constitute. The designation of the crime by name in the caption of the information from the facts alleged in the body of that pleading is a conclusion of law made by the fiscal. In the designation of the crime the accused never has a real interest until the trial has ended. For his full and complete defense he need not know the name of the crime at all. It is of no consequence whatever for the protection of his substantial rights. 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. It is the province of the court alone to say what the name of the crime is or what it is named. x x x. (Emphasis and underscoring supplied)

Petitioner's argument is as outdated as it is erroneous. The averments in the two (2) sets of Information against petitioner and Rusillon clearly stated facts and circumstances constituting the elements of the crime of estafa as to duly inform them of the nature and cause of the accusation, sufficient to prepare their respective defenses.

2. Contrary to the submission of petitioner, false pretense and fraudulent acts attended her transaction with Moleta. The law explicitly provides that in the prosecution for Estafa under par. (2)(a), Art. 315 of the RPC, it is indispensable that the element of deceit, consisting in the false statement or fraudulent representation of the accused, be made prior to, or at least simultaneously with the commission of the fraud, it being essential that such false statement or representation constitutes the very cause or the only motive which induced the offended party to part with his money. Paragraph 2(a), Art. 315 of the RPC provides:

Art. 315. Swindling (estafa). – Any person who shall defraud another by any of the means mentioned hereinbelow x x x:

x x x x

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

x x x x

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceptions.

x x x x

The elements of estafa by means of deceit, whether committed by false pretenses or concealment, are the following: (a) there must be a false pretense, fraudulent act or fraudulent means; (b) such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud; (c) the offended party must have relied on the false pretense, fraudulent act or fraudulent means, that is, he was induced to part with his money or property because of the false pretense, fraudulent act or fraudulent means; and (d) as a result thereof, the offended party suffered damage.[28]

As borne by the records, petitioner's representations were outright distortions of the truth perpetrated for the sole purpose of inducing Moleta to hand to her the amount of P320,000.00 purportedly for the Municipality of General Luna. Being the Municipal Treasurer, there was reason for Moleta to rely on petitioner's representations that money is needed for the payment of the employees' salary as well as for the construction of the gymnasium. There was also a ring of truth to the deception that the share of the municipality from the IRA is forthcoming. Added to this, petitioner's representations were even supported by the issuance of three (3) LBP checks to guarantee payment taken from the account of the municipality and signed by no less than the municipal mayor, giving the impression that the loaned amount would indeed be utilized for public purposes.

As the court a quo correctly observed:

It is undisputed that Consigna obtained a loan from Moleta for the reason that the municipality lacked funds for the June 15, 1994 payroll of the employees and materials of the gymnasium. However, several circumstances point to the fact that Consigna's representation has no basis. She contradicted her own testimony that at the time she borrowed from Moleta on June 14, 1994, the municipality suffered a shortage of funds, with her admission that when she was relieved as a municipal treasurer, the Municipality had more than 1 million in Land Bank from the IRA of P600,000.00 a month for the past three months x x x. This means that when she left her post before the second week of July x x x, the municipality had money from the April to June 1994 IRA, enough to meet the need of P320,000.00. x x x[29]

The circumstances and the reason behind the issuance of the three (3) checks given to Moleta by petitioner was testified to by Rusillon:

He was the incumbent mayor of the Municipality of General Luna, Surigao del Norte, in 1994. In the morning of June 14, 1994, he received the amount of P268,800.00 from accused Consigna, as evidenced by a voucher (Exh. 1) signed by him on the same day. The money was to be used for the purchase of materials for the gymnasium of the municipality which construction started in 1992. After signing the voucher, he ordered Consigna to prepare a check for P130,000.00 (Exh. 2) for the June 15, 1994 payroll of the municipality's employees. After the check was prepared, he again ordered Consigna to make another two checks, one for P130,000.00 (Exh. 3) dated June 14, 1994 intended for the expenses of the municipal building and for the daily transactions of the municipality in the following days, and the other check was for P60,000.00 (Exh. 4) dated July 11, 1994 for the purchase of medicines for the municipality's health office. The latter check was postdated to July because it would be charged against the IRA in the 3rd quarter of 1994 since they bought medicines at that time on a quarterly basis as the budget allowed only P240,000.00 per year for such expenditure."[30]

3. Anent the issue on the alleged grave abuse of discretion amounting to lack of jurisdiction committed by the court a quo when it took cognizance of Criminal Case No. 24182, charging petitioner for "taking advantage of her

official position and the discharge of the functions as such,” petitioner averred that the charge was erroneous because borrowing of money is not a function of a Municipal Treasurer under the Local Government Code. Petitioner asserts that the last sentence of Sec. 3(e) of RA 3019 cannot cover her.

We find such reasoning misplaced.

The following are the essential elements of violation of Sec. 3(e) of RA 3019:

1. The accused must be a public officer discharging administrative, judicial or official functions;
2. He must have 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 giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.[31]

There is no doubt that petitioner, being a municipal treasurer, was a public officer discharging official functions when she misused such position to be able to take out a loan from Moleta, who was misled into the belief that petitioner, as municipal treasurer, was acting on behalf of the municipality.

In *Montilla v. Hilario*,[32] this Court described the "offense committed in relation to the office" as:

[T]he relation between the crime and the office contemplated by the Constitution is, in our opinion, direct and not accidental. To fall into the intent of the Constitution, the relation has to be such that, in the legal sense, the offense cannot exist without the office. In other words, the office must be a constituent element of the crime as defined in the statute, such as, for instance, the crimes defined and punished in Chapter Two to Six, Title Seven, of the Revised Penal Code.

Public office is not of the essence of murder. The taking of human life is either murder or homicide whether done by a private citizen or public servant, and the penalty is the same except when the perpetrator, being a public functionary took advantage of his office, as alleged in this case, in which event the penalty is increased.

But the use or abuse of office does not adhere to the crime as an element; and even as an aggravating circumstance, its materiality arises not from the allegations but on the proof, not from the fact that the criminals are public officials but from the manner of the commission of the crime. (Emphasis supplied)

In this case, it was not only alleged in the Information, but was proved with certainty during trial that the manner by which petitioner perpetrated the crime necessarily relates to her official function as a municipal treasurer. Petitioner’s official function created in her favor an impression of authority to transact business with Moleta involving government financial concerns. There is, therefore, a direct relation between the commission of the crime and petitioner’s office – the latter being the very reason or consideration that led to the unwarranted benefit she gained from Moleta, for which the latter suffered damages in the amount of P320,000.00. It was just fortunate that Rusillon instructed the bank to stop payment of the checks issued by petitioner, lest, the victim could have been the Municipality of General Luna.

As regards the two other elements, the Court explained in *Cabrera v. Sandiganbayan*[33] that there are two (2) ways by which a public official violates Sec. 3(e) of R.A. No. 3019 in the performance of his functions, namely: (a) by causing undue injury to any party, including the Government; or (b) by giving any private party any unwarranted benefits, advantage or preference. The accused may be charged under either mode or under both.[34] This was reiterated in *Quibal v. Sandiganbayan*,[35] where the Court held that the use of the disjunctive term “or” connotes that either act qualifies as a violation of Sec. 3(e) of R.A. No. 3019.

In this case, petitioner was charged of violating Sec. 3(e) of R.A. No. 3019 under the alternative mode of “causing undue injury” to Moleta committed with evident bad faith, for which she was correctly found guilty. “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 of self-interest or ill will or for ulterior purposes,[36] which manifested in petitioner’s actuations and representation.

The inevitable conclusion is that petitioner capitalized on her official function to commit the crimes charged. Without her position, petitioner would not have induced Moleta to part with her money. In the same vein, petitioner could not have orchestrated a scheme of issuing postdated checks meddling with the municipality’s coffers and defiling the mayor’s signature. As correctly found by the court a quo:

x x x Likewise worthy of stress is [petitioner’s] failure to establish that the amount she disbursed to Rusillon came from the money she loaned from Moleta. If indeed the P268,800.00 advanced to Rusillon was charged against the loan, then, this should have been reflected in the municipality’s books of accounts. The same is true with the P320,000.00 and the P32,000.00 given to Moleta if the proceeds of the loan really went to the municipality’s treasury. It is a standard accounting procedure that every transaction must be properly entered in the books of accounts of the municipality. A cash that comes in is a debit to the asset account and every loan incurred is a credit to the liability account.[37]

Given the above disquisition, it becomes superfluous to dwell further on the issue raised by petitioner that Sec. 3(e) applies only to officers and employees of offices or government corporations charged with the grant of licenses or other concessions. Nonetheless, to finally settle the issue, the last sentence of the said provision is not a restrictive requirement which limits the application or extent of its coverage. This has long been settled in our ruling in *Mejorada v. Sandiganbayan*,[38] where we categorically declared that a prosecution for violation of Sec. 3(e) of the Anti-Graft Law will lie regardless of whether or not the accused public officer is “charged with the grant of licenses or permits or other concessions.” Quoted hereunder is an excerpt from *Mejorada*: [39]

Section 3 cited above enumerates in eleven subsections the corrupt practices of any public officers (sic) declared unlawful. Its reference to “any public officer” is without distinction or qualification and it specifies the acts declared unlawful. We agree with the view adopted by the Solicitor General that the last sentence of paragraph [Section 3] (e) is intended to make clear the inclusion of officers and employees of officers (sic) or government corporations which, under the ordinary concept of “public officers” may not come within the term. It is a strained construction of the provision to read it as applying exclusively to public officers charged with the duty of granting licenses or permits or other concessions. (Emphasis and underscoring supplied)

The above pronouncement was reiterated in *Cruz v. Sandiganbayan*,[40] where the Court affirmed the *Mejorada* ruling that finally puts to rest any erroneous interpretation of the last sentence of Sec. 3(e) of the Anti-Graft Law.

All the elements of the crimes as charged are present in the case at bar. All told, this Court finds no justification to depart from the findings of the lower court. Petitioner failed to present any cogent reason that would warrant a reversal of the Decision assailed in this petition.

WHEREFORE, the petition is DENIED. The Decision of the Sandiganbayan in Criminal Case No. 24182-83 is AFFIRMED in toto.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Perlas-Bernabe, JJ., concur.

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[1] Penned by Associate Justice Efren N. De La Cruz, with Associate Justices Godofredo L. Legaspi and Norberto Y. Germaldez concurring; rollo, pp. 30-67.

- [2] Id. at 30-31.
- [3] Id. at 31.
- [4] Id. at 20.
- [5] Id. at 61.
- [6] Id. at 20.
- [7] 361 Phil. 251 (1999).
- [8] Id. at 282; rollo p. 20.
- [9] Rollo, p. 25.
- [10] TSN, 24 May 2005, pp. 9-12.
- [11] Rollo, p. 59.
- [12] Id. at 66-67.
- [13] Id. at 19-27.
- [14] Rules of Court, Rule 45, Section 2.
- [15] Rules of Court, Rule 65, Section 4.
- [16] Rules of Court, Rule 45, Section 1.
- [17] Rules of Court, Rule 65, Section 1.
- [18] Id.
- [19] Spouses Dycoco v. CA, G.R. No. 147257, 31 July 2013.
- [20] Id.
- [21] Freedom from Debt Coalition v. Energy Regulatory Commission, 476 Phil. 134, 214 (2004).
- [22] Rollo, pp. 19-27.
- [23] Mandy Commodities Co., Inc., v. International Commercial Bank of China, G.R. No. 166734, 3 July 2009, 591 SCRA 579, 587-588.
- [24] Ysidoro v. Leonardo-De Castro, G.R. Nos. 171513 and 190963, 6 February 2012, 665 SCRA 1, 15-16.
- [25] People v. Valdez, G.R. No. 175602, 18 January 2012, 663 SCRA 272, 286-287, citing Lacson v. Executive Secretary, *supra* note 7 at 279.
- [26] 506 Phil. 630, 649-650 (2005).
- [27] 17 Phil. 273, 278-279 (1910).
- [28] R.R. Paredes v. Calilung, 546 Phil. 198, 223 (2007).
- [29] Rollo, pp. 55-56.
- [30] Id. at 48.

[31] *Cabrera v. Sandiganbayan*, 484 Phil. 350, 360 (2004), citing *Jacinto v. Sandiganbayan*, 387 Phil. 872, 881 (2000).

[32] 90 Phil. 49, 51 (1951).

[33] *Supra* note 31.

[34] *Velasco v. Sandiganbayan*, 492 Phil. 669, 677 (2005).

[35] 314 Phil. 66 (1995).

[36] *Uriarte v. People*, 540 Phil. 477, 494 (2006), citing *Air France v. Carrasco*, 124 Phil. 722, 737 (1966).

[37] *Rollo*, pp. 57-58.

[38] 235 Phil. 400 (1987).

[39] *Id.* at 407-408.

[40] 504 Phil. 321 (2005).

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