SENATOR LEILA M. DE LIMA, PETITIONER, VS. HON. JUANITA GUERRERO, IN HER CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT OF MUNTINLUPA CITY, BRANCH 204, PEOPLE OF THE PHILIPPIN...

G.R. No. 229781. October 10, 2017

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

For consideration is the Petition for Certiorari and Prohibition with Application for a Writ of Preliminary Injunction, and Urgent Prayer for Temporary Restraining Order and Status Quo Ante Order[1] under Rule 65 of the Rules of Court filed by petitioner Senator Leila De Lima. In it, petitioner assails the following orders and warrant issued by respondent judge Hon. Juanita Guerrero of the Regional Trial Court (RTC) of Muntinlupa City, Branch 204, in Criminal Case No. 17-165, entitled "People vs. Leila De Lima, et al.:" (1) the Order dated February 23, 2017 finding probable cause for the issuance of warrant of arrest against petitioner De Lima; (2) the Warrant of Arrest against De Lima also dated February 23, 2017; (3) the Order dated February 24, 2017 committing the petitioner to the custody of the PNP Custodial Center; and finally, (4) the supposed omission of the respondent judge to act on petitioner's Motion to Quash, through which she questioned the jurisdiction of the RTC.[2]

Antecedents

The facts are undisputed. The Senate and the House of Representatives conducted several inquiries on the proliferation of dangerous drugs syndicated at the New Bilibid Prison (NBP), inviting inmates who executed affidavits in support of their testimonies.[3] These legislative inquiries led to the filing of the following complaints with the Department of Justice:

a) NPS No. XVI INV-16J-00313, entitled "Volunteers against Crime and Corruption (VACC), represented by Dante Jimenez vs. Senator Leila M. De Lima, et al.;"

b) NPS No. XVI-INV-16J-00315, entitled "Reynaldo Esmeralda and Ruel Lasala vs. Senator Leila De Lima, et al.;"

c) NPS No. XVI-INV-16K-00331, entitled "Jaybee Nino Sebastian, represented by his wife Roxanne Sebastian, vs. Senator Leila M. De Lima, et al.;" and

d) NPS No. XVI-INV-16K-00336, entitled "National Bureau of Investigation (NBI) vs. Senator Leila M. De Lima, et al."[4]

Pursuant to DOJ Department Order No. 790, the four cases were consolidated and the DOJ Panel of Prosecutors (DOJ Panel),[5] headed by Senior Assistant State Prosecutor Peter Ong, was directed to conduct the requisite preliminary investigation.[6]

The DOJ Panel conducted a preliminary hearing on December 2, 2016,[7] wherein the petitioner, through her counsel, filed an Omnibus Motion to Immediately Endorse the Cases to the Office of the Ombudsman and for the Inhibition of the Panel of Prosecutors and the Secretary of Justice ("Omnibus Motion").[8] In the main, the petitioner argued that the Office of the Ombudsman has the exclusive authority and jurisdiction to hear the four complaints against her. Further, alleging evident partiality on the part of the DOJ Panel, the petitioner contended that the DOJ prosecutors should inhibit themselves and refer the complaints to the Office of the Ombudsman.

A hearing on the Omnibus Motion was conducted on December 9, 2016,[9] wherein the complainants, VACC, Reynaldo Esmeralda (Esmeralda) and Ruel Lasala (Lasala), filed a Joint Comment/Opposition to the Omnibus Motion.[10]

On December 12, 2016, petitioner, in turn, interposed a Reply to the Joint Comment/Opposition filed by complainants VACC, Esmeralda and Lasala. In addition, petitioner submitted a Manifestation with Motion to First Resolve Pending Incident and to Defer Further Proceedings.[11]

During the hearing conducted on December 21, 2016, petitioner manifested that she has decided not to submit her counter-affidavit citing the pendency of her two motions.[12] The DOJ Panel, however, ruled that it will not entertain belatedly filed counter-affidavits, and declared all pending incidents and the cases as submitted for resolution. Petitioner moved for but was denied reconsideration by the DOJ Panel.[13]

On January 13, 2017, petitioner filed before the Court of Appeals a Petition for Prohibition and Certiorari[14] assailing the jurisdiction of the DOJ Panel over the complaints against her. The petitions, docketed as CA-G.R. No. 149097 and CA-G.R. No. SP No. 149385, are currently pending with the Special 6[th] Division of the appellate court.[15]

Meanwhile, in the absence of a restraining order issued by the Court of Appeals, the DOJ Panel proceeded with the conduct of the preliminary investigation[16] and, in its Joint Resolution dated February 14, 2017,[17] recommended the filing of Informations against petitioner De Lima. Accordingly, on February 17, 2017, three Informations were filed against petitioner De Lima and several co-accused before the RTC of Muntinlupa City. One of the Informations was docketed as Criminal Case No. 17-165[18] and raffled off to Branch 204, presided by respondent judge. This Information charging petitioner for violation of Section 5 in relation to Section (jj), Section 26(b), and Section 28 of Republic Act No. (RA) 9165, contained the following averments:

> That within the period from November 2012 to March 2013, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then an employee of the Department of Justice detailed to De Lima, all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading, in the following manner: De Lima and Ragas, with the use of their power, position, and authority, demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragas and Dayan, the proceeds of illegal drug trading amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison.[19]

On February 20, 2017, petitioner filed a Motion to Quash,[20] mainly raising the following: the RTC lacks jurisdiction over the offense charged against petitioner; the DOJ Panel lacks authority to file the Information the

Information charges more than one offense; the allegations and the recitals of facts do not allege the corpus delicti of the charge; the Information is based on testimonies of witnesses who are not qualified to be discharged as state witnesses; and the testimonies of these witnesses are hearsay.[21]

On February 23, 2017, respondent judge issued the presently assailed Order[22] finding probable cause for the issuance of warrants of arrest against De Lima and her co-accused. The Order stated, viz.:

> After a careful evaluation of the herein Information and all the evidence presented during the preliminary investigation conducted in this case by the Department of Justice, Manila, the Court finds sufficient probable cause for the issuance of Warrants of Arrest against all the accused LEILA M. DE LIMA, RAFAEL MARCOS Z. RAGOS and RONNIE PALISOC DAYAN.
>
> WHEREFORE, let Warrants of Arrest be issued against the above- mentioned accused.
>
> SO ORDERED.[23]

Accordingly, the questioned Warrant of Arrest dated February 23, 2017,[24] which contained no recommendation for bail, was issued against petitioner.

On February 24, 2017, the PNP Investigation and Detection Group served the Warrant of Arrest on petitioner and the respondent judge issued the assailed February 24, 2017 Order,[25] committing petitioner to the custody of the PNP Custodial Center.

On February 27, 2017, petitioner repaired to this court via the present petition, praying for the following reliefs:

> - Granting a writ of certiorari annulling and setting aside the Order dated 23 February 2017, the Warrant of Arrest dated the same date, and the Order dated 24 February 2017 of the Regional Trial Court Branch 204, Muntinlupa City, in Criminal Case No. 17-165 entitled People of the Philippines versus Leila M. De Lima, et al.;
>
> - Granting a writ of prohibition enjoining and prohibiting respondent judge from conducting further proceedings until and unless the Motion to Quash is resolved with finality;
>
> - Issuing an order granting the application for the issuance of temporary restraining order (TRO) and a writ of preliminary injunction to the proceedings; and
>
> - Issuing a Status Quo Ante Order restoring the parties to the status prior to the issuance of the Order and Warrant of Arrest, both dated February 23, 2017, thereby recalling both processes and restoring petitioner to her liberty and freedom.[26]

On March 9, 2017, the Office of the Solicitor General (OSG), on behalf of the respondents, interposed its Comment to the petition.[27] The OSG argued that the petition should be dismissed as De Lima failed to show that she has no other plain, speedy, and adequate remedy. Further, the OSG posited that the petitioner did not observe the hierarchy of courts and violated the rule against forum shopping. On substantive grounds, the OSG asserted inter alia that the RTC has jurisdiction over the offense charged against the petitioner, that the respondent judge observed the constitutional and procedural rules, and so did not commit grave abuse of discretion, in the issuance of the assailed orders and warrant.[28]

On petitioner's motion, the Court directed the holding of oral arguments on the significant issues raised. The Court then heard the parties in oral arguments on March 14, 21, and 28, 2017.[29]

In the meantime, the OSG filed a Manifestation dated March 13, 2017,[30] claiming that petitioner falsified the jurats appearing in the: (1) Verification and Certification against Forum Shopping page of her petition; and (2) Affidavit of Merit in support of her prayer for injunctive relief. The OSG alleged that while the adverted jurats

appeared to be notarized by a certain Atty. Maria Cecille C. Tresvalles-Cabalo on February 24, 2017, the guest logbook[31] in the PNP Custodial Center Unit in Camp Crame for February 24, 2017 does not bear the name of Atty. Tresvalles-Cabalo. Thus, so the OSG maintained, petitioner De Lima did not actually appear and swear before the notary public on such date in Quezon City, contrary to the allegations in the jurats. For the OSG, the petition should therefore be dismissed outright for the falsity committed by petitioner De Lima.

In compliance with an Order of this Court, petitioner filed the Affidavit of Atty. Maria Cecille C. Tresvalles-Cabalo dated March 20, 2017[32] to shed light on the allegations of falsity in petitioner's jurats.

The parties simultaneously filed their respective Memoranda on April 17, 2017.[33]

The Issues

From the pleadings and as delineated in this Court's Advisory dated March 10, 2017[34] and discussed by the parties during the oral arguments, the issues for resolution by this Court are:

> Procedural Issues:
>
> - Whether or not petitioner is excused from compliance with the doctrine on hierarchy of courts considering that the petition should first be filed with the Court of Appeals.
>
> - Whether or not the pendency of the Motion to Quash the Information before the trial court renders the instant petition premature.
>
> - Whether or not petitioner, in filing the present petition, violated the rule against forum shopping given the pendency of the Motion to Quash the Information before the Regional Trial Court of Muntinlupa City in Criminal Case No. 17-165 and the Petition for Certiorari filed before the Court of Appeals in C.A. G.R. SP No. 149097, assailing the preliminary investigation conducted by the DOJ Panel.
>
> Substantive Issues:
>
> - Whether the Regional Trial Court or the Sandiganbayan has the jurisdiction over the violation of Republic Act No. 9165 averred in the assailed Information.
>
> - Whether or not the respondent gravely abused her discretion in finding probable cause to issue the Warrant of Arrest against petitioner.
>
> - Whether or not petitioner is entitled to a Temporary Restraining Order and/or Status Quo Ante Order in the interim until the instant petition is resolved or until the trial court rules on the Motion to Quash.

OUR RULING

Before proceeding to a discussion on the outlined issues, We shall first confront the issue of the alleged falsification committed by petitioner in the jurats of her Verification and Certification against Forum Shopping and Affidavit of Merit in support of her prayer for injunctive relief.

In her Affidavit, Atty. Tresvalles-Cabalo disproves the OSG's allegation that she did not notarize the petitioner's Verification and Certification against Forum Shopping and Affidavit of Merit in this wise:

> 4. On February 24, 2017 at or around nine in the morning (9:00 AM), I went to PNP, CIDG, Camp Crame, Quezon City to notarize the Petition as discussed the previous night.
>
> 5. I met Senator De Lima when she was brought to the CIDG at Camp Crame and I was informed that the Petition was already signed and ready for notarization.

> 6. I was then provided the Petition by her staff. I examined the signature of Senator De Lima and confirmed that it was signed by her. I have known the signature of the senator given our personal relationship. Nonetheless, I still requested from her staff a photocopy of any of her government-issued valid Identification Cards (ID) bearing her signature. A photocopy of her passport was presented to me. I compared the signatures on the Petition and the Passport and I was able to verify that the Petition was in fact signed by her. Afterwards, I attached the photocopy of her Passport to the Petition which I appended to my Notarial Report/Record.
>
> 7. Since I already know that Sen. De Lima caused the preparation of the Petition and that it was her who signed the same, I stamped and signed the same.
>
> 8. To confirm with Senator De Lima that I have already notarized the Petition, I sought entry to the detention facility at or around three in the afternoon (3:00 PM). x x x
>
> x x x x
>
> 11. Since I was never cleared after hours of waiting, I was not able to talk again to Senator De Lima to confirm the notarization of the Petition. I then decided to leave Camp Crame.[35]

At first glance, it is curious that Atty. Tresvalles-Cabalo who claims to have "stamped and signed the [Verification and Certification and Affidavit of Merit]" inside Camp Crame, presumably in De Lima's presence, still found it necessary to, hours later, "confirm with Senator De Lima that [she had] already notarized the Petition." Nonetheless, assuming the veracity of the allegations narrated in the Affidavit, it is immediately clear that petitioner De Lima did not sign the Verification and Certification against Forum Shopping and Affidavit of Merit in front of the notary public. This is contrary to the jurats (i.e., the certifications of the notary public at the end of the instruments) signed by Atty. Tresvalles-Cabalo that the documents were "SUBSCRIBED AND SWORN to before me."

Such clear breach of notarial protocol is highly censurable[36] as Section 6, Rule II of the 2004 Rules on Notarial Practice requires the affiant, petitioner De Lima in this case, to sign the instrument or document in the presence of the notary, viz.:

> SECTION 6. Jurat. - "Jurat" refers to an act in which an individual on a single occasion:
>
> (a) appears in person before the notary public and presents an instrument or document;
>
> (b) is personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules;
>
> (c) signs the instrument or document in the presence of the notary; and
>
> (d) takes an oath or affirmation before the notary public as to such instrument or document. (Emphasis and underscoring supplied.)

While there is jurisprudence to the effect that "an irregular notarization merely reduces the evidentiary value of a document to that of a private document, which requires proof of its due execution and authenticity to be admissible as evidence,"[37] the same cannot be considered controlling in determining compliance with the requirements of Sections 1 and 2, Rule 65 of the Rules of Court. Both Sections 1 and 2 of Rule 65[38] require that the petitions for certiorari and prohibition must be verified and accompanied by a "sworn certificate of non-forum shopping."

In this regard, Section 4, Rule 7 of the Rules of Civil Procedure states that "[a] pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records." "A pleading required to be verified which x x x lacks a proper

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verification, shan be treated as an unsigned pleading." Meanwhile, Section 5, Rule 7 of the Rules of Civil Procedure provides that "[t]he plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed." "Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided x x x."

> In this case, when petitioner De Lima failed to sign the Verification and Certification against Forum Shopping in the presence of the notary, she has likewise failed to properly swear under oath the contents thereof, thereby rendering false and null the jurat and invalidating the Verification and Certification against Forum Shopping. The significance of a proper jurat and the effect of its invalidity was elucidated in William Go Que Construction v. Court of Appeals,[39] where this Court held that:
>
> In this case, it is undisputed that the Verification/Certification against Forum Shopping attached to the petition for certiorari in CA-G.R. SP No. 109427 was not accompanied with a valid affidavit/properly certified under oath. This was because the jurat thereof was defective in that it did not indicate the pertinent details regarding the affiants' (i.e., private respondents) competent evidence of identities.
>
> Under Section 6, Rule II of A.M. No. 02-8-13-SC 63 dated July 6, 2004, entitled the "2004 Rules on Notarial Practice" (2004 Rules on Notarial Practice), a jurat refers to an act in which an individual on a single occasion:
>
> x x x x
>
> In Fernandez v. Villegas (Fernandez), the Court pronounced that non- compliance with the verification requirement or a defect therein "does not necessarily render the pleading fatally defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby." "Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct." Here, there was no substantial compliance with the verification requirement as it cannot be ascertained that any of the private respondents actually swore to the truth of the allegations in the petition for certiorari in CA-G.R. SP No. 109427 given the lack of competent evidence of any of their identities. Because of this, the fact that even one of the private respondents swore that the allegations in the pleading are true and correct of his knowledge and belief is shrouded in doubt.
>
> For the same reason, neither was there substantial compliance with the certification against forum shopping requirement. In Fernandez, the Court explained that "non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of 'substantial compliance' or presence of 'special circumstances or compelling reasons.'" Here, the CA did not mention nor does there exist - any perceivable special circumstance or compelling reason which justifies the rules' relaxation. At all events, it is uncertain if any of the private respondents certified under oath that no similar action has been filed or is pending in another forum.
>
> x x x x
>
> Case law states that "[v]erification is required to secure an assurance that the allegations in the petition have been made in good faith or are true and correct, and not merely speculative." On the other hand, "[t]he

> certification against forum shopping is required based on the principle that a party-litigant should not be allowed to pursue simultaneous remedies in different fora." The important purposes behind these requirements cannot be simply brushed aside absent any sustainable explanation justifying their relaxation. In this case, proper justification is especially called for in light of the serious allegations of forgery as to the signatures of the remaining private respondents, i.e., Lominiqui and Andales. Thus, by simply treating the insufficient submissions before it as compliance with its Resolution dated August 13, 2009 requiring anew the submission of a proper verification/certification against forum shopping, the CA patently and grossly ignored settled procedural rules and, hence, gravely abused its discretion. All things considered, the proper course of action was for it to dismiss the petition.[40] (Emphasis and underscoring supplied.)

Without the presence of the notary upon the signing of the Verification and Certification against Forum Shopping, there is no assurance that the petitioner swore under oath that the allegations in the petition have been made in good faith or are true and correct, and not merely speculative. It must be noted that verification is not an empty ritual or a meaningless formality. Its import must never be sacrificed in the name of mere expedience or sheer caprice,[41] as what apparently happened in the present case. Similarly, the absence of the notary public when petitioner allegedly affixed her signature also negates a proper attestation that forum shopping has not been committed by the filing of the petition. Thus, the petition is, for all intents and purposes, an unsigned pleading that does not deserve the cognizance of this Court.[42] In Salumbides, Jr. v. Office of the Ombudsman,[43] the Court held thus:

> The Court has distinguished the effects of non-compliance with the requirement of verification and that of certification against forum shopping. A defective verification shall be treated as an unsigned pleading and thus produces no legal effect, subject to the discretion of the court to allow the deficiency to be remedied, while the failure to certify against forum shopping shall be cause for dismissal without prejudice, unless otherwise provided, and is not curable by amendment of the initiatory pleading. (Emphasis and italicization from the original.)

Notably, petitioner has not proffered any reason to justify her failure to sign the Verification and Certification Against Forum Shopping in the presence of the notary. There is, therefore, no justification to relax the rules and excuse the petitioner's non-compliance therewith. This Court had reminded parties seeking the ultimate relief of certiorari to observe the rules, since non-observance thereof cannot be brushed aside as a "mere technicality."[44] Procedural rules are not to be belittled or simply disregarded, for these prescribed procedures ensure an orderly and speedy administration of justice.[45] Thus, as in William Go Que Construction, the proper course of action is to dismiss outright the present petition.

Even if We set aside this procedural infirmity, the petition just the same merits denial on several other grounds.

PETITIONER DISREGARDED THE HIERARCHY OF COURTS

Trifling with the rule on hierarchy of courts is looked upon with disfavor by this Court.[46] It will not entertain direct resort to it when relief can be obtained in the lower courts.[47] The Court has repeatedly emphasized that the rule on hierarchy of courts is an important component of the orderly administration of justice and not imposed merely for whimsical and arbitrary reasons.[48] In The Diocese of Bacolod v. Commission on Elections,[49] the Court explained the reason for the doctrine thusly:

> The Court must enjoin the observance of the policy on the hierarchy of courts, and now affirms that the policy is not to be ignored without serious consequences. The strictness of the policy is designed to shield the Court from having to deal with causes that are also well within the competence of the lower courts, and thus leave time for the Court to deal with the more fundamental and more essential tasks that the Constitution has assigned to it.

The Court may act on petitions for the extraordinary writs of certiorari, prohibition and mandamus only when absolutely necessary or when serious and important reasons exist to justify an exception to the policy.

x x x x

The doctrine that requires respect for the hierarchy of courts was created by this court to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner. Trial courts do not only determine the facts from the evaluation of the evidence presented before them. They are likewise competent to determine issues of law which may include the validity of an ordinance, statute, or even an executive issuance in relation to the Constitution. To effectively perform these functions, they are territorially organized into regions and then into branches. Their writs generally reach within those territorial boundaries. Necessarily, they mostly perform the all-important task of inferring the facts from the evidence as these are physically presented before them. In many instances, the facts occur within their territorial jurisdiction, which properly present the "actual case" that makes ripe a determination of the constitutionality of such action. The consequences, of course, would be national in scope. There are, however, some cases where resort to courts at their level would not be practical considering their decisions could still be appealed before the higher courts, such as the Court of Appeals.

The Court of Appeals is primarily designed as an appellate court that reviews the determination of facts and law made by the trial courts. It is collegiate in nature. This nature ensures more standpoints in the review of the actions of the trial court. But the Court of Appeals also has original jurisdiction over most special civil actions. Unlike the trial courts, its writs can have a nationwide scope. It is competent to determine facts and, ideally, should act on constitutional issues that may not necessarily be novel unless there are factual questions to determine.

This court, on the other hand, leads the judiciary by breaking new ground or further reiterating - in the light of new circumstances or in the light of some confusion of bench or bar - existing precedents. Rather than a court of first instance or as a repetition of the actions of the Court of Appeals, this court promulgates these doctrinal devices in order that it truly performs that role.[50] (Emphasis supplied.)

Nonetheless, there are recognized exceptions to this rule and direct resort to this Court were allowed in some instances. These exceptions were summarized in a case of recent vintage, Aala v. Uy, as follows:

> In a fairly recent case, we summarized other well-defined exceptions to the doctrine on hierarchy of courts. Immediate resort to this Court may be allowed when any of the following grounds are present: (1) when genuine issues of constitutionality are raised that must be addressed immediately; (2) when the case involves transcendental importance; (3) when the case is novel; (4) when the constitutional issues raised are better decided by this Court; (5) when time is of the essence; (6) when the subject of review involves acts of a constitutional organ; (7) when there is no other plain, speedy, adequate remedy in the ordinary course of law; (8) when the petition includes questions that may affect public welfare, public policy, or demanded by the broader interest of justice; (9) when the order complained of was a patent nullity; and (10) when the appeal was considered as an inappropriate remedy.[51]

Unfortunately, none of these exceptions were sufficiently established in the present petition so as to convince this court to brush aside the rules on the hierarchy of courts.

Petitioner's allegation that her case has sparked national and international interest is obviously not covered by the exceptions to the rules on hierarchy of courts. The notoriety of a case, without more, is not and will not be a reason for this Court's decisions. Neither will this Court be swayed to relax its rules on the bare fact that the petitioner belongs to the minority party in the present administration. A primary hallmark of an independent judiciary is its political neutrality. This Court is thus loath to perceive and consider the issues before it through the

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warped prisms of political partisanships.

That the petitioner is a senator of the republic does not also merit a special treatment of her case. The right to equal treatment before the law accorded to every Filipino also forbids the elevation of petitioner's cause on account of her position and status in the government.

Further, contrary to her position, the matter presented before the Court is not of first impression. Petitioner is not the first public official accused of violating RA 9165 nor is she the first defendant to question the finding of probable cause for her arrest. In fact, stripped of all political complexions, the controversy involves run-of-the mill matters that could have been resolved with ease by the lower court had it been given a chance to do so in the first place.

In like manner, petitioner's argument that the rule on the hierarchy of court should be disregarded as her case involves pure questions of law does not obtain. One of the grounds upon which petitioner anchors her case is that the respondent judge erred and committed grave abuse of discretion in finding probable cause to issue her arrest. By itself, this ground removes the case from the ambit of cases involving pure questions of law. It is established that the issue of whether or not probable cause exists for the issuance of warrants for the arrest of the accused is a question of fact, determinable as it is from a review of the allegations in the Information, the Resolution of the Investigating Prosecutor, including other documents and/or evidence appended to the Information.[52] This matter, therefore, should have first been brought before the appellate court, which is in the better position to review and determine factual matters.

Yet, petitioner harps on the supposed judicial efficiency and economy of abandoning the rule on the hierarchy of courts in the present case. Indeed, the Court has considered the practical aspects of the administration of justice in deciding to apply the exceptions rather than the rule. However, it is all the more for these practical considerations that the Court must insist on the application of the rule and not the exceptions in this case. As petitioner herself alleges, with the President having declared the fight against illegal drugs and corruption as central to his platform of government, there will be a spike of cases brought before the courts involving drugs and public officers.[53] As it now stands, there are 232,557 criminal cases involving drugs, and around 260,796 criminal cases involving other offenses pending before the RTCs.[54] This Court cannot thus allow a precedent allowing public officers assailing the finding of probable cause for the issuance of arrest warrants to be brought directly to this Court, bypassing the appellate court, without any compelling reason.

THE PRESENT PETITION IS PREMATURE

The prematurity of the present petition is at once betrayed in the reliefs sought by petitioner's Prayer, which to restate for added emphasis, provides:

> WHEREFORE, premises considered, and in the interest of substantial justice and fair play, Petitioner respectfully prays the Honorable Court that judgment be rendered:
>
> - Granting a writ of certiorari annulling and setting aside the Order dated 23 February 2017, the Warrant of Arrest dated the same date, and the Order dated 24 February 2017 of the Regional Trial Court - Branch 204, Muntinlupa City, in Criminal Case No. 17-165 entitled People of the Philippines versus Leila M. De Lima et al.;
>
> - Granting a writ of prohibition enjoining and prohibiting respondent judge from conducting further proceedings until and unless the Motion to Quash is resolved with finality;
>
> - Issuing an order granting the application for the issuance of temporary restraining order (TRO) and a writ of preliminary injunction to the proceedings; and

> - Issuing a Status Quo Ante Order restoring the parties to the status prior to the issuance of the Order and Warrant of Arrest, both dated February 23, 2017, thereby recalling both processes and restoring petitioner to her liberty and freedom.[55]
>
> (Emphasis supplied)

Under paragraph (a), petitioner asks for a writ of certiorari annulling the Order dated February 23, 2017 finding probable cause, the warrant of arrest and the Order dated February 24, 2017 committing petitioner to the custody of the PNP Custodial Center. Clearly petitioner seeks the recall of said orders to effectuate her release from detention and restore her liberty. She did not ask for the dismissal of the subject criminal case.

More importantly, her request for the issuance of a writ of prohibition under paragraph (b) of the prayer "until and unless the Motion to Quash is resolved with finality," is an unmistakable admission that the RTC has yet to rule on her Motion to Quash and the existence of the RTC's authority to rule on the said motion. This admission against interest binds the petitioner; an admission against interest being the best evidence that affords the greatest certainty of the facts in dispute.[56] It is based on the presumption that "no man would declare anything against himself unless such declaration is true."[57] It can be presumed then that the declaration corresponds with the truth, and it is her fault if it does not.[58]

Moreover, petitioner under paragraphs (c) and (d) prayed for a TRO and writ of preliminary injunction and a status quo ante order which easily reveal her real motive in filing the instant petition-to restore to "petitioner her liberty and freedom."

Nowhere in the prayer did petitioner explicitly ask for the dismissal of Criminal Case No. 17-165. What is clear is she merely asked the respondent judge to rule on her Motion to Quash before issuing the warrant of arrest.

In view of the foregoing, there is no other course of action to take than to dismiss the petition on the ground of prematurity and allow respondent Judge to rule on the Motion to Quash according to the desire of petitioner.

This Court, in Solid Builders Inc. v. China Banking Corp., explained why a party should not pre-empt the action of a trial court:

> Even Article 1229 of the Civil Code, which SBI and MFII invoke, works against them. Under that provision, the equitable reduction of the penalty stipulated by the parties in their contract will be based on a finding by the court that such penalty is iniquitous or unconscionable. Here, the trial court has not yet made a ruling as to whether the penalty agreed upon by CBC with SBI and MFII is unconscionable. Such finding will be made by the trial court only after it has heard both parties and weighed their respective evidence in light of all relevant circumstances. Hence, for SBI and MFII to claim any right or benefit under that provision at this point is premature.[59] (Emphasis supplied)

In State of Investment House, Inc. v. Court of Appeals,[60] the Court likewise held that a petition for certiorari can be resorted to only after the court a quo has already and actually rendered its decision. It held, viz.:

> We note, however, that the appellate court never actually ruled on whether or not petitioner's right had prescribed. It merely declared that it was in a position to so rule and thereafter required the parties to submit memoranda. In making such a declaration, did the CA commit grave abuse of discretion amounting to lack of jurisdiction? It did not.
>
> x x x x
>
> All things considered, this petition is premature. The CA has decided nothing and whatever petitioner's vehement objections may be (to any eventual ruling on the issue of prescription) should be raised only after such ruling shall have actually been promulgated.

> The situation evidently does not yet call for a recourse to a petition for certiorari under Rule 65.[61] (Italicization from the original. Emphasis supplied.)

An analogous ruling was made by this Court in Diaz v. Nora, where it ruled in this wise:

> x x x In the case of the respondent labor arbiter, he has not denied the motion for execution filed by the petitioner. He merely did not act on the same. Neither had petitioner urged the immediate resolution of his motion for execution by said arbiter. In the case of the respondent NLRC, it was not even given the opportunity to pass upon the question raised by petitioner as to whether or not it has jurisdiction over the appeal, so the records of the case can be remanded to the respondent labor arbiter for execution of the decision.
>
> Obviously, petitioner had a plain, speedy and adequate remedy to seek relief from public respondents but he failed to avail himself of the same before coming to this Court. To say the least, the petition is premature and must be struck down.[62] (Emphasis supplied.)

The dissents would deny the applicability of the foregoing on the ground that these were not criminal cases that involved a pending motion to quash. However, it should be obvious from the afore-quoted excerpts that the nature of the cases had nothing to do with this Court's finding of prematurity in those cases. Instead, what was stressed therein was that the lower courts had not yet made, nor was not given the opportunity to make, a ruling before the parties came before this forum.

Indeed, the prematurity of the present petition cannot be over-emphasized considering that petitioner is actually asking the Court to rule on some of the grounds subject of her Motion to Quash. The Court, if it rules positively in favor of petitioner regarding the grounds of the Motion to Quash, will be pre-empting the respondent Judge from doing her duty to resolve the said motion and even prejudge the case. This is clearly outside of the ambit of orderly and expeditious rules of procedure. This, without a doubt, causes an inevitable delay in the proceedings in the trial court, as the latter abstains from resolving the incidents until this Court rules with finality on the instant petition.

Without such order, the present petition cannot satisfy the requirements set before this Court can exercise its review powers. Section 5 (2)(C) of Article VIII of the 1987 Constitution explicitly requires the existence of "final judgments and orders of lower courts" before the Court can exercise its power to "review, revise, reverse, modify, or affirm on appeal or certiorari" in "all cases in which the jurisdiction of any lower court is in issue," viz.:

> SECTION 5. The Supreme Court shall have the following powers:
>
> (1) Exercise original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for certiorari, prohibition, mandamus, quo warranto, and habeas corpus.
>
> (2) Review, revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:
>
> (a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.
>
> (b) All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto.
>
> (c) All cases in which the jurisdiction of any lower court is in issue.
>
> (d) All criminal cases in which the penalty imposed is reclusion perpetua or higher.
>
> (e) All cases in which only an error or question of law is involved. (Emphasis supplied.)

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In the palpable absence of a ruling on the Motion to Quash - which puts the jurisdiction of the lower court in issue - there is no controversy for this Court to resolve; there is simply no final judgment or order of the lower court to review, revise, reverse, modify, or affirm. As per the block letter provision of the Constitution, this Court cannot exercise its jurisdiction in a vacuum nor issue a definitive ruling on mere suppositions.

Succinctly, the present petition is immediately dismissible for this Court lacks jurisdiction to review a non-existent court action. It can only act to protect a party from a real and actual ruling by a lower tribunal. Surely, it is not for this Court to negate "uncertain contingent future event that may not occur as anticipated, or indeed may not occur at all," as the lower court's feared denial of the subject Motion to Quash.[63]

The established rule is that courts of justice will take cognizance only of controversies "wherein actual and not merely hypothetical issues are involved."[64] The reason underlying the rule is "to prevent the courts through avoidance of premature adjudication from entangling themselves in abstract disagreements, and for us to be satisfied that the case does not present a hypothetical injury or a claim contingent upon some event that has not and indeed may never transpire."[65]

Even granting arguendo that what is invoked is the original jurisdiction of this Court under Section 5 (1) of Article VIII, the petition nonetheless falls short of the Constitutional requirements and of Rule 65 of the Rules of Court. In the absence of a final judgment, order, or ruling on the Motion to Quash challenging the jurisdiction of the lower court, there is no occasion for this Court to issue the extraordinary writ of certiorari. Without a judgment or ruling, there is nothing for this Court to declare as having been issued without jurisdiction or in grave abuse of discretion.

Furthermore, it is a basic requirement under Rule 65 that there be "[no] other plain, speedy and adequate remedy found in law."[66] Thus, the failure to exhaust all other remedies, as will be later discussed, before a premature resort to this Court is fatal to the petitioner's cause of action.

Petitioner even failed to move for the reconsideration of the February 23 and 24, 2017 Orders she is currently assailing in this Petition. As this Court held in Estrada v. Office of the Ombudsman, "[a] motion for reconsideration allows the public respondent an opportunity to correct its factual and legal errors x x x [it] is mandatory before the filing of a petition for certiorari."[67] The reasons proffered by petitioner fail to justify her present premature recourse.

Various policies and rules have been issued to curb the tendencies of litigants to disregard, nay violate, the rule enunciated in Section 5 of Article VIII of the Constitution to allow the Court to devote its time and attention to matters within its jurisdiction and prevent the overcrowding of its docket. There is no reason to consider the proceedings at bar as an exception.

PETITIONER VIOLATED THE RULE AGAINST FORUM SHOPPING

It is settled that forum shopping exists when a party repetitively avails himself of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved adversely by, some other court. It is considered an act of malpractice as it trifles with the courts and abuses their processes.[68] Thus, as elucidated in Luzon Iron Development Group Corporation v. Bridgestone Mining and Development Corporation,[69] forum shopping warrants the immediate dismissal of the suits filed:

> Forum shopping is the act of litigants who repetitively avail themselves of multiple judicial remedies in different fora, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances; and raising substantially similar issues either pending in or already resolved

> adversely by some other court; or for the purpose of increasing their chances of obtaining a favorable decision, if not in one court, then in another. The rationale against forum-shopping is that a party should not be allowed to pursue simultaneous remedies in two different courts, for to do so would constitute abuse of court processes which tends to degrade the administration of justice, wreaks havoc upon orderly judicial procedure, and adds to the congestion of the heavily burdened dockets of the courts.
>
> x x x x
>
> What is essential in determining the existence of forum-shopping is the vexation caused the courts and litigants by a party who asks different courts and/or administrative agencies to rule on similar or related causes and/or grant the same or substantially similar reliefs, in the process creating the possibility of conflicting decisions being rendered upon the same issues.
>
> x x x x
>
> We emphasize that the grave evil sought to be avoided by the rule against forum-shopping is the rendition by two competent tribunals of two separate and contradictory decisions. To avoid any confusion, this Court adheres strictly to the rules against forum shopping, and any violation of these rules results in the dismissal of a case. The acts committed and described herein can possibly constitute direct contempt.[70]

This policy echoes the last sentence of Section 5, Rule 7 of the Rules of Court, which states that "[i]f the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt as well as a cause for administrative sanctions."

The test to determine the existence of forum shopping is whether the elements of litis pendentia, or whether a final judgment in one case amounts to res judicata in the other. Forum shopping therefore exists when the following elements are present: (a) identity of parties, or at least such parties representing the same interests in both actions; (b) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amount to res judicata in the action under consideration.[71]

Anent the first requisite, there is an identity of parties when the parties in both actions are the same, or there is privity between them, or they are successors-in-interest by title subsequent to the commencement of the action litigating for the same thing and under the same title and in the same capacity.[72]

Meanwhile, the second and third requisites obtain where the same evidence necessary to sustain the second cause of action is sufficient to authorize a recovery in the first, even if the forms or the nature of the two (2) actions are different from each other. If the same facts or evidence would sustain both, the two (2) actions are considered the same within the rule that the judgment in the former is a bar to the subsequent action; otherwise, it is not.[73]

All these requisites are present in this case.

The presence of the first requisite is at once apparent. The petitioner is an accused in the criminal case below, while the respondents in this case, all represented by the Solicitor General, have substantial identity with the complainant in the criminal case still pending before the trial court.

As for the second requisite, even a cursory reading of the petition and the Motion to Quash will reveal that the arguments and the reliefs prayed for are essentially the same. In both, petitioner advances the RTC's supposed lack of jurisdiction over the offense, the alleged multiplicity of offenses included in the Information; the purported lack of the corpus delicti of the charge, and, basically, the non-existence of probable cause to indict her. And, removed of all non-essentials, she essentially prays for the same thing in both the present petition and the Motion

to Quash: the nullification of the Information and her restoration to liberty and freedom. Thus, our ruling in Ient v. Tullet Prebon (Philippines), Inc.[74] does not apply in the present case as the petition at bar and the motion to quash pending before the court a quo involve similar if not the same reliefs. What is more, while Justice Caguioa highlights our pronouncement in Ient excepting an "appeal or special civil action for certiorari" from the rule against the violation of forum shopping, the good justice overlooks that the phrase had been used with respect to forum shopping committed through successive actions by a "party, against whom an adverse judgment or order has [already] been rendered in one forum."[75] The exception with respect to an "appeal or special civil action for certiorari" does not apply where the forum shopping is committed by simultaneous actions where no judgment or order has yet been rendered by either forum. To restate for emphasis, the RTC has yet to rule on the Motion to Quash. Thus, the present petition and the motion to quash before the RTC are simultaneous actions that do not exempt petitions for certiorari from the rule against forum shopping.

With the presence of the first two requisites, the third one necessarily obtains in the present case. Should we grant the petition and declare the RTC without jurisdiction over the offense, the RTC is bound to grant De Lima's Motion to Quash in deference to this Court's authority. In the alternative, if the trial court rules on the Motion to Quash in the interim, the instant petition will be rendered moot and academic.

In situations like the factual milieu of this instant petition, while nobody can restrain a party to a case before the trial court to institute a petition for certiorari under Rule 65 of the Rules of Court, still such petition must be rejected outright because petitions that cover simultaneous actions are anathema to the orderly and expeditious processing and adjudication of cases.

On the ground of forum shopping alone, the petition merits immediate dismissal.

THE REGIONAL TRIAL COURT HAS JURISDICTION

Even discounting the petitioner's procedural lapses, this Court is still wont to deny the instant petition on substantive grounds.

Petitioner argues that, based on the allegations of the Information in Criminal Case No. 17-165, the Sandiganbayan has the jurisdiction to try and hear the case against her. She posits that the Information charges her not with violation of RA 9165 but with Direct Bribery-a felony within the exclusive jurisdiction of the Sandiganbayan given her rank as the former Secretary of Justice with Salary Grade 31. For the petitioner, even assuming that the crime described in the Information is a violation of RA 9165, the Sandiganbayan still has the exclusive jurisdiction to try the case considering that the acts described in the Information were intimately related to her position as the Secretary of Justice. Some justices of this Court would even adopt the petitioner's view, declaring that the Information charged against the petitioner is Direct Bribery.

The respondents, on the other hand, maintain that the RTC has exclusive jurisdiction to try violations of RA 9165, including the acts described in the Information against the petitioner. The Sandiganbayan, so the respondents contend, was specifically created as an anti-graft court. It was never conferred with the power to try drug-related cases even those committed by public officials. In fact, respondents point out that the history of the laws enabling and governing the Sandiganbayan will reveal that its jurisdiction was streamlined to address specific cases of graft and corruption, plunder, and acquisition of ill--gotten wealth.

Before discussing the issue on jurisdiction over the subject matter, it is necessary to clarify the crime with which the petitioner is being charged. For ease of reference, the Information filed with the RTC is restated below:

> PEOPLE OF THE PHILIPPINES,

Plaintiff,

Versus Criminal Case No. 17-165

(NPS No. XVI-INV-16J-00315 and NPS No. XVI-INV-16K-00336)

LEILA M. DE LIMA For: Violation of the Comprehensive Dangerous Drugs Act of 2002, Section 5, in relation to Section 3(jj), Section 26 (b), and Section 28, Republic Act No. 9165 (Illegal Drug Trading)

(66 Laguna de Bay corner Subic Bay Drive, South Bay Village, Parañaque City and/or Room 502, GSIS Building, Financial Center, Roxas Boulevard, Pasay City), RAFAEL MARCOS Z. RAGOS (c/o National Bureau of Investigation, Taft Avenue, Manila) and RONNIE PALISOC DAYAN, (Barangay Galarin, Urbiztondo, Pangasinan), Accused.

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

INFORMATION

The undersigned Prosecutors, constituted as a Panel pursuant to Department Orders 706 and 790 dated October 14, 2016 and November 11, 2016, respectively, accuse LEILA M. DE LIMA, RAFAEL MARCOS Z. RAGOS and RONNIE PALISOC DAYAN, for violation of Section 5, in relation to Section 3 (jj), Section 26 (b) and Section 28, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Act of 2002, committed as follows:

That within the period from November 2012 to March 2013, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then the employee of the Department of Justice detailed to De Lima, all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading, in the following manner: De Lima and Ragos, with the use of their power, position, and authority demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the Senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison.

CONTRARY TO LAW.[76]

Notably, the designation, the prefatory statements and the accusatory portions of the Information repeatedly provide that the petitioner is charged with "Violation of the Comprehensive Dangerous Drugs Act of 2002, Section 5, in relation to Section 3(jj), Section 26(b), and Section 28, Republic Act No. 9165." From the very designation of the crime in the Information itself, it should be plain that the crime with which the petitioner is charged is a violation of RA 9165. As this Court clarified in Quimvel v. People,[77] the designation of the offense in the Information is a critical element required under Section 6, Rule 110 of the Rules of Court in apprising the accused of the offense being charged, viz.:

> The offense charged can also be elucidated by consulting the designation of the offense as appearing in the Information. The designation of the offense is a critical element required under Sec. 6, Rule 110 of the Rules of

> Court for it assists in apprising the accused of the offense being charged. Its inclusion in the Information is imperative to avoid surprise on the accused and to afford him of the opportunity to prepare his defense accordingly. Its import is underscored in this case where the preamble states that the crime charged is of "Acts of Lasciviousness in relation to Section 5(b) of R.A. No. 7610."[78] (Emphasis supplied.)

Further, a reading of the provisions of RA 9165 under which the petitioner is prosecuted would convey that De Lima is being charged as a conspirator in the crime of Illegal Drug Trading. The pertinent provisions of RA 9165 read:

> SECTION 3. Definitions. - As used in this Act, the following terms shall mean:
>
> x x x x
>
> (jj) Trading. - Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.
>
> x x x x
>
> SECTION 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.
>
> x x x x
>
> SECTION 26. Attempt or Conspiracy. - Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:
>
> x x x x
>
> (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
>
> x x x x
>
> SECTION 28. Criminal Liability of Government Officials and Employees. - The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees.

While it may be argued that some facts may be taken as constitutive of some elements of Direct Bribery under the Revised Penal Code (RPC), these facts taken together with the other allegations in the Information portray a much bigger picture, Illegal Drug Trading. The latter crime, described by the United Nations Office on Drugs and Crime (UNODC) as "a global illicit trade involving the cultivation, manufacture, distribution and sale of substances,"[79] necessarily involves various component crimes, not the least of which is the bribery and corruption of government officials. An example would be reports of recent vintage regarding billions of pesos' worth of illegal drugs allowed to enter Philippine ports without the scrutiny of Customs officials. Any money and bribery that may have changed hands to allow the importation of the confiscated drugs are certainly but trivial contributions in the furtherance of the transnational illegal drug trading - the offense for which the persons involved should be penalized.

Read as a whole, and not picked apart with each word or phrase construed separately, the Information against De Lima goes beyond an indictment for Direct Bribery under Article 210 of the RPC.[80] As Justice Martires articulately explained, the averments on solicitation of money in the Information, which may be taken as constitutive of bribery, form "part of the description on how illegal drug trading took place at the NBP." The averments on how petitioner asked for and received money from the NBP inmates simply complete the links of conspiracy between her, Ragos, Dayan and the NBP inmates in willfully and unlawfully trading dangerous drugs through the use of mobile phones and other electronic devices under Section 5, in relation to Section 3(jj), Section 26(b), and Section 28, of RA 9165.

On this score, that it has not been alleged that petitioner actually participated in the actual trafficking of dangerous drugs and had simply allowed the NBP inmates to do so is non sequitur given that the allegation of conspiracy makes her liable for the acts of her co-conspirators. As this Court elucidated, it is not indispensable for a co-conspirator to take a direct part in every act of the crime. A conspirator need not even know of all the parts which the others have to perform,[81] as conspiracy is the common design to commit a felony it is not participation in all the details of the execution of the crime.[82] As long as the accused, in one way or another, helped and cooperated in the consummation of a felony, she is liable as a co-principal.[83] As the Information provides, De Lima's participation and cooperation was instrumental in the trading of dangerous drugs by the NBP inmates. The minute details of this participation and cooperation are matters of evidence that need not be specified in the Information but presented and threshed out during trial.

Yet, some justices remain adamant in their position that the Information fails to allege the necessary elements of Illegal Drug Trading. Justice Carpio, in particular, would cite cases supposedly enumerating the elements necessary for a valid Information for Illegal Drug Trading. However, it should be noted that the subject of these cases was "Illegal Sale" of dangerous drugs - a crime separate and distinct from "Illegal Trading" averred in the Information against De Lima. The elements of "Illegal Sale" will necessary differ from the elements of Illegal Trading under Section 5, in relation to Section 3(jj), of RA 9165. The definitions of these two separate acts are reproduced below for easy reference:

> SECTION 3. Definitions. - As used in this Act, the following terms shall mean:
>
> x x x x
>
> (ii) Sell. - Any act of giving away any dangerous drug and/or controlled precursor and essential chemical whether for money or any other consideration.
>
> (jj) Trading. - Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.

It is obvious from the foregoing that the crime of illegal trading has been written in strokes much broader than that for illegal sale. In fact, an illegal sale of drugs may be considered as only one of the possible component acts of illegal trading which may be committed through two modes: (1) illegal trafficking using electronic devices; or (2) acting as a broker in any transactions involved in the illegal trafficking of dangerous drugs.

On this score, the crime of "illegal trafficking" embraces various other offenses punishable by RA 9165. Section 3(r) of RA 9165 provides:

> (r) Illegal Trafficking. - The illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of any dangerous drug and/or controlled precursor and essential chemical.

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In turn, the crimes included in the definition of Illegal Trafficking of drugs are defined as follows:

> (a) Administer. - Any act of introducing any dangerous drug into the body of any person, with or without his/her knowledge, by injection, inhalation, ingestion or other means, or of committing any act of indispensable assistance to a person in administering a dangerous drug to himself/herself unless administered by a duly licensed practitioner for purposes of medication.
>
> x x x x
>
> (d) Chemical Diversion. - The sale, distribution, supply or transport of legitimately imported, in-transit, manufactured or procured controlled precursors and essential chemicals, in diluted, mixtures or in concentrated form, to any person or entity engaged in the manufacture of any dangerous drug, and shall include packaging, repackaging, labeling, relabeling or concealment of such transaction through fraud, destruction of documents, fraudulent use of permits, misdeclaration, use of front companies or mail fraud.
>
> x x x x
>
> (i) Cultivate or Culture. - Any act of knowingly planting, growing, raising, or permitting the planting, growing or raising of any plant which is the source of a dangerous drug.
>
> x x x x
>
> (k) Deliver. - Any act of knowingly passing a dangerous drug to another, personally or otherwise, and by any means, with or without consideration.
>
> x x x x
>
> (m) Dispense. - Any act of giving away, selling or distributing medicine or any dangerous drug with or without the use of prescription.
>
> x x x x
>
> (u) Manufacture. - The production, preparation, compounding or processing of any dangerous drug and/or controlled precursor and essential chemical, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and shall include any packaging or repackaging of such substances, design or configuration of its form, or labeling or relabeling of its container; except that such terms do not include the preparation, compounding, packaging or labeling of a drug or other substances by a duly authorized practitioner as an incident to his/her administration or dispensation of such drug or substance in the course of his/her professional practice including research, teaching and chemical analysis of dangerous drugs or such substances that are not intended for sale or for any other purpose.
>
> x x x x
>
> (kk) Use. - Any act of injecting, intravenously or intramuscularly, of consuming, either by chewing, smoking, sniffing, eating, swallowing, drinking or otherwise introducing into the physiological system of the body, any of the dangerous drugs.

With the complexity of the operations involved in Illegal Trading of drugs, as recognized and defined in RA 9165, it will be quite myopic and restrictive to require the elements of Illegal Sale-a mere component act-in the prosecution for Illegal Trading.

More so, that which qualifies the crime of Illegal Trafficking to Illegal Trading may make it impossible to provide the details of the elements of Illegal Sale. By "using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms," the Illegal Trading can

be remotely perpetrated away from where the drugs are actually being sold; away from the subject of the illegal sale. With the proliferation of digital technology coupled with ride sharing and delivery services, Illegal Trading under RA 9165 can be committed without getting one's hand on the substances or knowing and meeting the seller or buyer. To require the elements of Illegal Sale (the identities of the buyer, seller, the object and consideration, in Illegal Trade) would be impractical.

The same may be said of the second mode for committing Illegal Trading, or trading by "acting as a broker" in transactions involved in Illegal Trafficking. In this instance, the accused may neither have physical possession of the drugs nor meet the buyer and seller and yet violate RA 9165. As pointed out by Justice Perlas-Bernabe, as early as 1916, jurisprudence has defined a broker as one who is simply a middleman, negotiating contracts relative to property with which he has no custody, viz.:

> A broker is generally defined as one who is engaged, for others, on a commission, negotiating contracts relative to property with the custody of which he has no concern; the negotiator between other parties, never acting in his own name, but in the name of those who employed him; he is strictly a middleman and for some purposes the agent of both parties.[84] (Emphasis and underscoring supplied.)

In some cases, this Court even acknowledged persons as brokers even "where they actually took no part in the negotiations, never saw the customer."[85] For the Court, the primary occupation of a broker is simply bringing "the buyer and the seller together, even if no sale is eventually made."[86] Hence, in indictments for Illegal Trading, it is illogical to require the elements of Illegal Sale of drugs, such as the identities of the buyer and the seller, the object and consideration.[87] For the prosecution of Illegal Trading of drugs to prosper, proof that the accused "act[ed] as a broker" or brought together the buyer and seller of illegal drugs "using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms" is sufficient.

The DOJ's designation of the charge as one for Illegal Drug Trading thus holds sway. After all, the prosecution is vested with a wide range of discretion-including the discretion of whether, what, and whom to charge.[88] The exercise of this discretion depends on a smorgasboard of factors, which are best appreciated by the prosecutors.[89]

As such, with the designation of the offense, the recital of facts in the Information, there can be no other conclusion than that petitioner is being charged not with Direct Bribery but with violation of RA 9165.

Granting without conceding that the information contains averments which constitute the elements of Direct Bribery or that more than one offence is charged or as in this case, possibly bribery and violation of RA 9165, still the prosecution has the authority to amend the information at any time before arraignment. Since petitioner has not yet been arraigned, then the information subject of Criminal Case No. 17-165 can still be amended pursuant to Section 14, Rule 110 of the Rules of Court which reads:

> SECTION 14. Amendment or Substitution. - A complaint or information may be amended, in form or in substance, without leave of court, at any time before the accused enters his plea. After the plea and during the trial, a formal amendment may only be made with leave of court and when it can be done without causing prejudice to the rights of the accused.

Now the question that irresistibly demands an answer is whether it is the Sandiganbayan or the RTC that has jurisdiction over the subject matter of Criminal Case No. 17-165, i.e., violation of RA 9165.

It is basic that jurisdiction over the subject matter in a criminal case is given only by law in the manner and form prescribed by law.[90] It is determined by the statute in force at the time of the commencement of the action.[91] Indeed, Congress has the plenary power to define, prescribe and apportion the jurisdiction of various courts. It

follows then that Congress may also, by law, provide that a certain class of cases should be exclusively heard and determined by one court. Such would be a special law that is construed as an exception to the general law on jurisdiction of courts.[92]

The pertinent special law governing drug-related cases is RA 9165, which updated the rules provided in RA 6425, otherwise known as the Dangerous Drugs Act of 1972. A plain reading of RA 9165, as of RA 6425, will reveal that jurisdiction over drug-related cases is exclusively vested with the Regional Trial Court and no other. The designation of the RTC as the court with the exclusive jurisdiction over drug-related cases is apparent in the following provisions where it was expressly mentioned and recognized as the only court with the authority to hear drug-related cases:

> Section 20. Confiscation and Forfeiture of the Proceeds or Instruments of the Unlawful Act, Including the Properties or Proceeds Derived from the Illegal Trafficking of Dangerous Drugs and/or Precursors and Essential Chemicals. - x x x x
>
> After conviction in the Regional Trial Court in the appropriate criminal case filed, the Court shall immediately schedule a hearing for the confiscation and forfeiture of all the proceeds of the offense and all the assets and properties of the accused either owned or held by him or in the name of some other persons if the same shall be found to be manifestly out of proportion to his/her lawful income:
>
> x x x x
>
> During the pendency of the case in the Regional Trial Court, no property, or income derived therefrom, which may be confiscated and forfeited, shall be disposed, alienated or transferred and the same shall be in custodia legis and no bond shall be admitted for the release of the same.
>
> x x x x
>
> Section 61. Compulsory Confinement of a Drug Dependent Who Refuses to Apply Under the Voluntary Submission Program. - x x x
>
> A petition for the confinement of a person alleged to be dependent on dangerous drugs to a Center may be filed by any person authorized by the Board with the Regional Trial Court of the province or city where such person is found.
>
> x x x x
>
> Section 62. Compulsory Submission of a Drug Dependent Charged with an Offense to Treatment and Rehabilitation. - If a person charged with an offense where the imposable penalty is imprisonment of less than six (6) years and one (1) day, and is found by the prosecutor or by the court, at any stage of the proceedings, to be a drug dependent, the prosecutor or the court as the case may be, shall suspend all further proceedings and transmit copies of the record of the case to the Board.
>
> In the event the Board determines, after medical examination, that public interest requires that such drug dependent be committed to a center for treatment and rehabilitation, it shall file a petition for his/her commitment with the regional trial court of the province or city where he/she is being investigated or tried: x x x
>
> x x x x
>
> Section 90. Jurisdiction. -The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.

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> The DOJ shall designate special prosecutors to exclusively handle cases involving violations of this Act.

Notably, no other trial court was mentioned in RA 9165 as having the authority to take cognizance of drug-related cases. Thus, in Morales v. Court of Appeals,[93] this Court categorically named the RTC as the court with jurisdiction over drug related-cases, as follows:

> Applying by analogy the ruling in People v. Simon, People v. De Lara, People v. Santos, and Ordonez v. Vinarao, the imposable penalty in this case which involves 0.4587 grams of shabu should not exceed prision correccional. We say by analogy because these cases involved marijuana, not methamphetamine hydrochloride (shabu). In Section 20 of RA. No. 6425, as amended by Section 17 of R.A. No. 7659, the maximum quantities of marijuana and methamphetamine hydrochloride for purposes of imposing the maximum penalties are not the same. For the latter, if the quantity involved is 200 grams or more, the penalty of reclusion perpetua to death and a fine ranging from P500,000 to P10 million shall be imposed. Accordingly, if the quantity involved is below 200 grams, the imposable penalties should be as follows:
>
> x x x x
>
> Clearly, the penalty which may be imposed for the offense charged in Criminal Case No. 96-8443 would at most be only prision correccional duration is from six (6) months and one (1) day to six (6) years. Does it follow then that, as the petitioner insists, the RTC has no jurisdiction thereon in view of the amendment of Section 32 of B.P. Blg. 129 by R.A. No. 7691, which vested upon Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts exclusive original jurisdiction over all offenses punishable with imprisonment not exceeding six (6) years irrespective of the amount of fine and regardless of other imposable accessory or other penalties? This Section 32 as thus amended now reads:
>
> x x x x
>
> The exception in the opening sentence is of special significance which we cannot disregard. x x x The aforementioned exception refers not only to Section 20 of B.P. Blg. 129 providing for the jurisdiction of Regional Trial Courts in criminal cases, but also to other laws which specifically lodge in Regional Trial Courts exclusive jurisdiction over specific criminal cases, e. g., (a) Article 360 of the Revised Penal Code, as amended by R.A Nos. 1289 and 4363 on written defamation or libel; (b) Decree on Intellectual Property (P. D. No. 49, as amended), which vests upon Courts of First Instance exclusive jurisdiction over the cases therein mentioned regardless of the imposable penalty and (c) more appropriately for the case at bar, Section 39 of R.A. No. 6425, as amended by P.D. No. 44, which vests on Courts of First Instance, Circuit Criminal Courts, and the Juvenile and Domestic Relations Courts concurrent exclusive original jurisdiction over all cases involving violations of said Act.
>
> x x x x
>
> That Congress indeed did not intend to repeal these special laws vesting exclusive jurisdiction in the Regional Trial Courts over certain cases is clearly evident from the exception provided for in the opening sentence of Section 32 of B.P. Blg. 129, as amended by R.A No. 7691. These special laws are not, therefore, covered by the repealing clause (Section 6) of R.A. No. 7691.
>
> Neither can it be successfully argued that Section 39 of RA. No. 6425, as amended by P.D. No. 44, is no longer operative because Section 44 of B.P. Blg. 129 abolished the Courts of First Instance, Circuit Criminal Courts, and Juvenile and Domestic Relations Courts. While, indeed, Section 44 provides that these courts were to be "deemed automatically abolished" upon the declaration by the President that the reorganization provided in B.P. Blg. 129 had been completed, this Court should not lose sight of the fact that the Regional Trial Courts merely replaced the Courts of First Instance as clearly borne out by the last two sentences of Section 44, to wit:
>
> x x x x

> Consequently, it is not accurate to state that the "abolition" of the Courts of First Instance carried with it the abolition of their exclusive original jurisdiction in drug cases vested by Section 39 of R.A. No. 6425, as amended by P. D. No. 44. If that were so, then so must it be with respect to Article 360 of the Revised Penal Code and Section 57 of the Decree on Intellectual Property. On the contrary, in the resolution of 19 June 1996 in Caro v. Court of Appeals and in the resolution of 26 February 1997 in Villalon v. Baldado, this Court expressly ruled that Regional Trial Courts have the exclusive original jurisdiction over libel cases pursuant to Article 360 of the Revised Penal Code. In Administrative Order No. 104-96 this Court mandates that:
>
> x x x x
>
> The same Administrative Order recognizes that violations of R.A. No. 6425, as amended, regardless of the quantity involved, are to be tried and decided by the Regional Trial Courts therein designated as special courts.[94] (Emphasis and underscoring supplied)

Yet, much has been made of the terminology used in Section 90 of RA 9165. The dissents would highlight the provision's departure from Section 39 of RA 6425 - the erstwhile drugs law, which provides:

> SECTION 39. Jurisdiction of the Circuit Criminal Court. - The Circuit Criminal Court shall have exclusive original jurisdiction over all cases involving offenses punishable under this Act.

For those in the dissent, the failure to reproduce the phrase "exclusive original jurisdiction" is a clear indication that no court, least of all the RTC, has been vested with such "exclusive original jurisdiction" so that even the Sandiganbayan can take cognizance and resolve a criminal prosecution for violation of RA 9165.

As thoroughly discussed by Justice Peralta in his Concurring Opinion, such deduction is unwarranted given the clear intent of the legislature not only to retain the "exclusive original jurisdiction" of the RTCs over violations of the drugs law but to segregate from among the several RTCs of each judicial region some RTCs that will "exclusively try and hear cases involving violations of [RA 9165]." If at all, the change introduced by the new phraseology of Section 90, RA 9165 is not the deprivation of the RTCs' "exclusive original jurisdiction" but the further restriction of this "exclusive original jurisdiction" to select RTCs of each judicial region. This intent can be clearly gleaned from the interpellation on House Bill No. 4433, entitled "An Act Instituting the Dangerous Drugs Act of 2002, repealing Republic Act No. 6425, as amended:"

> Initially, Rep. Dilangalen referred to the fact sheet attached to the Bill which states that the measure will undertake a comprehensive amendment to the existing law on dangerous drugs - RA No. 6425, as amended. Adverting to Section 64 of the Bill on the repealing clause, he then asked whether the Committee is in effect amending or repealing the aforecited law.
>
> Rep. Cuenco replied that any provision of law which is in conflict with the provisions of the Bill is repealed and/or modified accordingly.
>
> In this regard, Rep. Dilangalen suggested that if the Committee's intention was only to amend RA No. 6425, then the wording used should be "to amend" and not "to repeal" with regard to the provisions that are contrary to the provisions of the Bill.
>
> Adverting to Article VIII, Section 60, on Jurisdiction Over Dangerous Drugs Case, which provides that "the Supreme Court shall designate regional trial courts to have original jurisdiction over all offenses punishable by this Act," Rep. Dilangalen inquired whether it is the Committee's intention that certain RTC salas will be designated by the Supreme Court to try drug-related offenses, although all RTCs have original jurisdiction over those offenses.
>
> Rep. Cuenco replied in the affirmative. He pointed that at present, the Supreme Court's assignment of drug cases to certain judges is not exclusive because the latter can still handle cases other than drug-related cases.

> He added that the Committee's intention is to assign drug-related cases to judges who will handle exclusively these cases assigned to them.
>
> In this regard, Rep. Dilangalen stated that, at the appropriate time, he would like to propose the following amendment; "The Supreme Court shall designate specific salas of the RTC to try exclusively offenses related to drugs."
>
> Rep. Cuenco agreed therewith, adding that the Body is proposing the creation of exclusive drug courts because at present, almost all of the judges are besieged by a lot of drug cases some of which have been pending for almost 20 years.[95] (Emphasis and underscoring supplied.)

Per the "Records of the Bilateral Conference Committee on the Disagreeing Provisions of Senate Bill No. 1858 and House Bill No. 4433," the term "designation" of RTCs that will exclusively handle drug-related offenses was used to skirt the budgetary requirements that might accrue by the "creation" of exclusive drugs courts. It was never intended to divest the RTCs of their exclusive original jurisdiction over drug-related cases. The Records are clear:

> THE CHAIRMAN (REP. CUENCO). x x x [W]e would like to propose the creation of drug courts to handle exclusively drug cases; the imposition of a 60-day deadline on courts within which to decide drug cases; and No. 3, provide penalties on officers of the law and government prosecutors for mishandling and delaying drugs cases.
>
> We will address these concerns one by one.
>
> 1. The possible creation of drugs courts to handle exclusively drug cases. Any comments?
>
> x x x x
>
> THE CHAIRMAN (SEN. BARBERS). We have no objection to this proposal, Mr. Chairman. As a matter of fact, this is one of the areas where we come into an agreement when we were in Japan. However, I just would like to add a paragraph after the word "Act" in Section 86 of the Senate versions, Mr. Chairman. And this is in connection with the designation of special courts by "The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of court designated in each judicial region shall be based on the population and the number of pending cases in their respective jurisdiction." That is my proposal, Mr. Chairman.
>
> THE CHAIRMAN (REP. CUENCO). We adopt the same proposal.
>
> x x x x
>
> THE CHAIRMAN (SEN. BARBERS). I have no problem with that, Mr. Chairman, but I'd like to call your attention to the fact that my proposal is only for designation because if it is for a creation that would entail another budget, Mr. Chairman. And almost always, the Department of Budget would tell us at the budget hearing that we lack funds, we do not have money. So that might delay the very purpose why we want the RTC or the municipal courts to handle exclusively the drug cases. That's why my proposal is designation not creation.
>
> THE CHAIRMAN (REP. CUENCO). Areglado. No problem, designation. Approved.[96]

The exclusive original jurisdiction over violations of RA 9165 is not transferred to the Sandiganbayan whenever the accused occupies a position classified as Grade 27 or higher, regardless of whether the violation is alleged as committed in relation to office. The power of the Sandiganbayan to sit in judgment of high-ranking government officials is not omnipotent. The Sandiganbayan's jurisdiction is circumscribed by law and its limits are currently defined and prescribed by RA 10660,[97] which amended Presidential Decree No. (PD) 1606.[98] As it now

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stands, the Sandiganbayan has jurisdiction over the following:

> SEC. 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
>
> a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
>
> (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:
>
> x x x x
>
> (2) Members of Congress and officials thereof classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989;
>
> (3) Members of the judiciary without prejudice to the provisions of the Constitution;
>
> (4) Chairmen and members of the Constitutional Commissions, without prejudice to the provisions of the Constitution; and
>
> (5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.
>
> b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a. of this section in relation to their office.
>
> c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.
>
> Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One Million pesos (P1,000,000.00).

The foregoing immediately betrays that the Sandiganbayan primarily sits as a special anti-graft court pursuant to a specific injunction in the 1973 Constitution.[99] Its characterization and continuation as such was expressly given a constitutional fiat under Section 4, Article XI of the 1987 Constitution, which states:

> SECTION 4. The present anti-graft court known as the Sandiganbayan shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law.

It should occasion no surprise, therefore, that the Sandiganbayan is without jurisdiction to hear drug-related cases. Even Section 4(b) of PD 1606, as amended by RA 10660, touted by the petitioner and the dissents as a catch- all provision, does not operate to strip the RTCs of its exclusive original jurisdiction over violations of RA 9165. As pointed out by Justices Tijam and Martires, a perusal of the drugs law will reveal that public officials were never considered excluded from its scope. Hence, Section 27 of RA 9165 punishes government officials found to have benefited from the trafficking of dangerous drugs, while Section 28 of the law imposes the maximum penalty on such government officials and employees. The adverted sections read:

> SECTION 27. Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or

> Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any public office, shall be imposed upon any public officer or employee who misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in this Act.
>
> Any elective local or national official found to have benefited from the proceeds of the trafficking of dangerous drugs as prescribed in this Act, or have received any financial or material contributions or donations from natural or juridical persons found guilty of trafficking dangerous drugs as prescribed in this Act, shall be removed from office and perpetually disqualified from holding any elective or appointive positions in the government, its divisions, subdivisions, and intermediaries, including government-owned or -controlled corporations.
>
> SECTION 28. Criminal Liability of Government Officials and Employees. - The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees. (Emphasis supplied)

Section 4(b) of PD 1606, as amended by RA 10660, provides but the general rule, couched in a "broad and general phraseology."[100] Exceptions abound. Besides the jurisdiction on written defamations and libel, as illustrated in Morales[101] and People v. Benipayo,[102] the RTC is likewise given "exclusive original jurisdiction to try and decide any criminal action or proceedings for violation of the Omnibus Election Code,"[103] regardless of whether such violation was committed by public officers occupying positions classified as Grade 27 or higher in relation to their offices. In fact, offenses committed by members of the Armed Forces in relation to their office, i.e., in the words of RA 7055,[104] "service-connected crimes or offenses," are not cognizable by the Sandiganbayan but by court-martial.

Certainly, jurisdiction over offenses and felonies committed by public officers is not determined solely by the pay scale or by the fact that they were committed "in relation to their office." In determining the forum vested with the jurisdiction to try and decide criminal actions, the laws governing the subject matter of the criminal prosecution must likewise be considered.

In this case, RA 9165 specifies the RTC as the court with the jurisdiction to "exclusively try and hear cases involving violations of [RA 9165]." This is an exception, couched in the special law on dangerous drugs, to the general rule under Section 4(b) of PD 1606, as amended by RA 10660. It is a canon of statutory construction that a special law prevails over a general law and the latter is to be considered as an exception to the general.[105]

Parenthetically, it has been advanced that RA 10660 has repealed Section 90 of RA 9165. However, a closer look at the repealing clause of RA 10660 will show that there is no express repeal of Section 90 of RA 9165 and well entrenched is the rule that an implied repeal is disfavored. It is only accepted upon the clearest proof of inconsistency so repugnant that the two laws cannot be enforced.[106] The presumption against implied repeal is stronger when of two laws involved one is special and the other general.[107] The mentioned rule in statutory construction that a special law prevails over a general law applies regardless of the laws' respective dates of passage. Thus, this Court ruled:

> x x x [I]t is a canon of statutory construction that a special law prevails over a general law regardless of their dates of passage-and the special is to be considered as remaining an exception to the general.
>
> So also, every effort must be exerted to avoid a conflict between statutes. If reasonable construction is possible,

> the laws must be reconciled in that manner.
>
> Repeals of laws by implication moreover are not favored, and the mere repugnancy between two statutes should be very clear to warrant the court in holding that the later in time repeals the other.[108]

To reiterate for emphasis, Section 4(b) of PD 1606, as amended by RA 10660, is the general law on jurisdiction of the Sandiganbayan over crimes and offenses committed by high-ranking public officers in relation to their office; Section 90, RA 9165 is the special law excluding from the Sandiganbayan's jurisdiction violations of RA 9165 committed by such public officers. In the latter case, jurisdiction is vested upon the RTCs designated by the Supreme Court as drugs court, regardless of whether the violation of RA 9165 was committed in relation to the public officials' office.

The exceptional rule provided under Section 90, RA 9165 relegating original exclusive jurisdiction to RTCs specially designated by the Supreme Court logically follows given the technical aspect of drug-related cases. With the proliferation of cases involving violation of RA 9165, it is easy to dismiss them as common and untechnical. However, narcotic substances possess unique characteristics that render them not readily identifiable.[109] In fact, they must first be subjected to scientific analysis by forensic chemists to determine their composition and nature.[110] Thus, judges presiding over designated drugs courts are specially trained by the Philippine Judicial Academy (PhilJa) and given scientific instructions to equip them with the proper tools to appreciate pharmacological evidence and give analytical insight upon this esoteric subject. After all, the primary consideration of RA 9165 is the fact that the substances involved are, in fact, dangerous drugs, their plant sources, or their controlled precursors and essential chemicals. Without a doubt, not one of the Sandiganbayan justices were provided with knowledge and technical expertise on matters relating to prohibited substances.

Hard figures likewise support the original and exclusive jurisdiction of the RTCs over violations of RA 9165. As previously stated, as of June 30, 2017, there are 232,557 drugs cases pending before the RTCs. On the other hand, not even a single case filed before the Sandiganbayan from February 1979 to June 30, 2017 dealt with violations of the drugs law. Instead, true to its designation as an anti-graft court, the bulk of the cases filed before the Sandiganbayan involve violations of RA 3019, entitled the "Anti-Graft and Corrupt Practices Act" and malversation.[111] With these, it would not only be unwise but reckless to allow the tribunal uninstructed and inexperienced with the intricacies of drugs cases to hear and decide violations of RA 9165 solely on account of the pay scale of the accused.

Likewise of special significance is the proviso introduced by RA 10660 which, to reiterate for emphasis, states:

> Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).

The clear import of the new paragraph introduced by RA 10660 is to streamline the cases handled by the Sandiganbayan by delegating to the RTCs some cases involving high-ranking public officials. With the dissents' proposition, opening the Sandiganbayan to the influx of drug-related cases, RA 10660 which was intended to unclog the dockets of the Sandiganbayan would all be for naught. Hence, sustaining the RTC's jurisdiction over drug-related cases despite the accused's high-ranking position, as in this case, is all the more proper.

Even granting arguendo that the Court declares the Sandiganbayan has jurisdiction over the information subject of Criminal Case No. 17-165, still it will not automatically result in the release from detention and restore the liberty and freedom of petitioner. The RTC has several options if it dismisses the criminal case based on the grounds raised by petitioner in her Motion to Quash.

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Under Rule 117 of the Rules of Court, the trial court has three (3) possible alternative actions when confronted with a Motion to Quash:

1. Order the amendment of the Information;
2. Sustain the Motion to Quash; or
3. Deny the Motion to Quash.

The first two options are available to the trial court where the motion to quash is meritorious. Specifically, as to the first option, this court had held that should the Information be deficient or lacking in any material allegation, the trial court can order the amendment of the Information under Section 4, Rule 117 of the Rules of Court, which states:

> SECTION 4. Amendment of Complaint or Information. - If the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made.
>
> If it is based on the ground that the facts charged do not constitute an offense, the prosecution shall be given by the court an opportunity to correct the defect by amendment. The motion shall be granted if the prosecution fails to make the amendment, or the complaint or information still suffers from the same defect despite the amendment.

The failure of the trial court to order the correction of a defect in the Information curable by an amendment amounts to an arbitrary exercise of power. So, this Court held in Dio v. People:

> This Court has held that failure to provide the prosecution with the opportunity to amend is an arbitrary exercise of power. In People v. Sandiganbayan (Fourth Division):
>
> When a motion to quash is filed challenging the validity and sufficiency of an Information, and the defect may be cured by amendment, courts must deny the motion to quash and order the prosecution to file an amended Information. Generally, a defect pertaining to the failure of an Information to charge facts constituting an offense is one that may be corrected by an amendment. In such instances, courts are mandated not to automatically quash the Information; rather, it should grant the prosecution the opportunity to cure the defect through an amendment. This rule allows a case to proceed without undue delay. By allowing the defect to be cured by simple amendment, unnecessary appeals based on technical grounds, which only result to prolonging the proceedings, are avoided.
>
> More than this practical consideration, however, is the due process underpinnings of this rule. As explained by this Court in People v. Andrade, the State, just like any other litigant, is entitled to its day in court. Thus, a court's refusal to grant the prosecution the opportunity to amend an Information, where such right is expressly granted under the Rules of Court and affirmed time and again in a string of Supreme Court decisions, effectively curtails the State's right to due process.[112]

Notably, the defect involved in Dio was the Information's failure to establish the venue - a matter of jurisdiction in criminal cases. Thus, in the case at bar where petitioner has not yet been arraigned, the court a quo has the power to order the amendment of the February 17, 2017 Information filed against the petitioner. This power to order the amendment is not reposed with this Court in the exercise of its certiorari powers.

Nevertheless, should the trial court sustain the motion by actually ordering the quashal of the Information, the prosecution is not precluded from filing another information. An order sustaining the motion to quash the information would neither bar another prosecution[113] or require the release of the accused from custody. Instead, under Section 5, Rule 117 of the Rules of Court, the trial court can simply order that another complaint or information be filed without discharging the accused from custody. Section 5, Rule 117 states, thus:

> Section 5. Effect of sustaining the motion to quash. - If the motion to quash is sustained, the court may order that another complaint or information be filed except as provided in Section 6 of this rule. If the order is made, the accused, if in custody, shall not be discharged unless admitted to bail. If no order is made or if having been made, no new information is filed within the time specified in the order or within such further time as the court may allow for good cause, the accused, if in custody, shall be discharged unless he is also in custody for another charge.

Section 6, Rule 117, adverted to in the foregoing provision, prevents the re-filing of an information on only two grounds: that the criminal action or liability has already been extinguished, and that of double jeopardy. Neither was invoked in petitioner's Motion to Quash filed before the court a quo.

The third option available to the trial court is the denial of the motion to quash. Even granting, for the nonce, the petitioner's position that the trial court's issuance of the warrant for her arrest is an implied denial of her Motion to Quash, the proper remedy against this court action is to proceed to trial, not to file the present petition for certiorari. This Court in Galzote v. Briones reiterated this established doctrine:

> A preliminary consideration in this case relates to the propriety of the chosen legal remedies availed of by the petitioner in the lower courts to question the denial of his motion to quash. In the usual course of procedure, a denial of a motion to gnash filed by the accused results in the continuation of the trial and the determination of the guilt or innocence of the accused. If a judgment of conviction is rendered and the lower court's decision of conviction is appealed, the accused can then raise the denial of his motion to quash not only as an error committed by the trial court but as an added ground to overturn the latter's ruling.
>
> In this case, the petitioner did not proceed to trial but opted to immediately question the denial of his motion to quash via a special civil action for certiorari under Rule 65 of the Rules of Court.
>
> As a rule, the denial of a motion to quash is an interlocutory order and is not appealable; an appeal from an interlocutory order is not allowed under Section 1 (b), Rule 41 of the Rules of Court. Neither can it be a proper subject of a petition for certiorari which can be used only in the absence of an appeal or any other adequate, plain and speedy remedy. The plain and speedy remedy upon denial of an interlocutory order is to proceed to trial as discussed above.[114] (Emphasis and underscoring supplied)

At this juncture, it must be stressed yet again that the trial court has been denied the opportunity to act and rule on petitioner's motion when the latter jumped the gun and prematurely repaired posthaste to this Court, thereby immobilizing the trial court in its tracks. Verily, De Lima should have waited for the decision on her motion to quash instead of prematurely filing the instant recourse.

In the light of the foregoing, the best course of action for the Court to take is to dismiss the petition and direct the trial court to rule on the Motion to Quash and undertake all the necessary proceedings to expedite the adjudication of the subject criminal case.

RESPONDENT JUDGE DID NOT ABUSE HER DISCRETION IN FINDING PROBABLE CAUSE TO ORDER THE PETITIONER'S ARREST

The basis for petitioner's contention that respondent judge committed grave abuse of discretion in issuing the February 23, 2017 Order[115] finding probable cause to arrest the petitioner is two-pronged: respondent judge should have first resolved the pending Motion to Quash before ordering the petitioner's arrest; and there is no probable cause to justify the petitioner's arrest.

Grave abuse of discretion is the capricious and whimsical exercise of judgment equivalent to an evasion of positive duty or a virtual refusal to act at all in contemplation of the law.[116]

In the present case, the respondent judge had no positive duty to first resolve the Motion to Quash before issuing a warrant of arrest. There is no rule of procedure, statute, or jurisprudence to support the petitioner's claim. Rather, Sec.5(a), Rule 112 of the Rules of Court[117] required the respondent judge to evaluate the prosecutor's resolution and its supporting evidence within a limited period of only ten (10) days, viz.:

> SEC. 5. When warrant of arrest may issue.- (a) By the Regional Trial Court. - Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order when the complaint or information was filed pursuant to Section 6 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information.

It is not far-fetched to conclude, therefore, that had the respondent judge waited longer and first attended to the petitioner's Motion to Quash, she would have exposed herself to a possible administrative liability for failure to observe Sec. 5(a), Rule 112 of the Rules of Court. Her exercise of discretion was sound and in conformity with the provisions of the Rules of Court considering that a Motion to Quash may be filed and, thus resolved by a trial court judge, at any time before the accused petitioner enters her plea.[118] What is more, it is in accord with this Court's ruling in Marcos v. Cabrera-Faller[119] that "[a]s the presiding judge, it was her task, upon the filing of the Information, to first and foremost determine the existence or non-existence of probable cause for the arrest of the accused."

This Court's ruling in Miranda v. Tuliao[120] does not support the petitioner's position. Miranda does not prevent a trial court from ordering the arrest of an accused even pending a motion to quash the information. At most, it simply explains that an accused can seek judicial relief even if he has not yet been taken in the custody of law.

Undoubtedly, contrary to petitioner's postulation, there is no rule or basic principle requiring a trial judge to first resolve a motion to quash, whether grounded on lack of jurisdiction or not, before issuing a warrant of arrest. As such, respondent judge committed no grave abuse of discretion in issuing the assailed February 23, 2017 Order even before resolving petitioner's Motion to Quash. There is certainly no indication that respondent judge deviated from the usual procedure in finding probable cause to issue the petitioner's arrest.

And yet, petitioner further contends that the language of the February 23, 2017 Order violated her constitutional rights and is contrary to the doctrine in Soliven v. Makasiar.[121] Petitioner maintains that respondent judge failed to personally determine the probable cause for the issuance of the warrant of arrest since, as stated in the assailed Order, respondent judge based her findings on the evidence presented during the preliminary investigation and not on the report and supporting documents submitted by the prosecutor.[122] This hardly deserves serious consideration.

Personal determination of the existence of probable cause by the judge is required before a warrant of arrest may issue. The Constitution[123] and the Revised Rules of Criminal Procedure[124] command the judge "to refrain from making a mindless acquiescence to the prosecutor's findings and to conduct his own examination of the facts and circumstances presented by both parties."[125] This much is clear from this Court's niling in Soliven cited by the petitioner, viz.:

> What the Constitution underscores is the exclusive and personal responsibility of the issuing judge to satisfy himself the existence of probable cause. In satisfying himself of the existence of probable cause for the issuance of a warrant of arrest, the judge is not required to personally examine the complainant and his witnesses. Following established doctrine and procedure, he shall: (1) personally evaluate the report and the

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> supporting documents submitted by the fiscal regarding the existence of probable cause and, on the basis thereof, issue a warrant of arrest; or (2) if on the basis thereof he finds no probable cause, he may disregard the fiscal's report and require the submission of supporting affidavits of witnesses to aid him in arriving at a conclusion as to the existence of probable cause.[126]

It must be emphasized, however, that in determining the probable cause to issue the warrant of arrest against the petitioner, respondent judge evaluated the Information and "all the evidence presented during the preliminary investigation conducted in this case." The assailed February 23, 2017 Order is here restated for easy reference and provides, thusly:

> After a careful evaluation of the herein Information and all the evidence presented during the preliminary investigation conducted in this case by the Department of Justice, Manila, the Court finds sufficient probable cause for the issuance of Warrants of Arrest against all the accused LEILA M. DE LIMA x x x.[127] (Emphasis supplied.)

As the prosecutor's report/resolution precisely finds support from the evidence presented during the preliminary investigation, this Court cannot consider the respondent judge to have evaded her duty or refused to perform her obligation to satisfy herself that substantial basis exists for the petitioner's arrest. "All the evidence presented during the preliminary investigation" encompasses a broader category than the "supporting evidence" required to be evaluated in Soliven. It may perhaps even be stated that respondent judge performed her duty in a manner that far exceeds what is required of her by the rules when she reviewed all the evidence, not just the supporting documents. At the very least, she certainly discharged a judge's duty in finding probable cause for the issuance of a warrant, as described in Ho v. People:

> The above rulings in Soliven, Inting and Lim, Sr. were iterated in Allado v. Diokno, where we explained again what probable cause means. Probable cause for the issuance of a warrant of arrest is the existence of such facts and circumstances that would lead a reasonably discreet and prudent person to believe that an offense has been committed by the person sought to be arrested. Hence, the judge, before issuing a warrant of arrest, must satisfy himself that based on the evidence submitted, there is sufficient proof that a crime has been committed and that the person to be arrested is probably guilty thereof' At this stage of the criminal proceeding, the judge is not yet tasked to review in detail the evidence submitted during the preliminary investigation. It is sufficient that he personally evaluates such evidence in determining probable cause. In Webb v. De Leon we stressed that the judge merely determines the probability, not the certainty, of guilt of the accused and, in doing so, he need not conduct a de novo hearing. He simply personally reviews the prosecutor's initial determination finding probable cause to see if it is supported by substantial evidence.
>
> x x x x
>
> x x x [T]he judge cannot rely solely on the report of the prosecutor in finding probable cause to justify the issuance of a warrant of arrest. Obviously and understandably, the contents of the prosecutor's report will support his own conclusion that there is reason to charge the accused for an offense and hold him for trial. However, the judge must decide independently. Hence, he must have supporting evidence, other than the prosecutor's bare report, upon which to legally sustain his own findings on the existence (or non-existence) of probable cause to issue an arrest order. This responsibility of determining personally and independently the existence or nonexistence of probable cause is lodged in him by no less than the most basic law of the land. Parenthetically, the prosecutor could ease the burden of the judge and speed up the litigation process by forwarding to the latter not only the information and his bare resolution finding probable cause, but also so much of the records and the evidence on hand as to enable His Honor to make his personal and separate judicial finding on whether to issue a warrant of arrest.
>
> Lastly, it is not required that the complete or entire records of the case during the preliminary investigation be submitted to and examined by the judge. We do not intend to unduly burden trial courts by obliging them to

> examine the complete records of every case all the time simply for the purpose of ordering the arrest of an accused. What is required, rather, is that the judge must have sufficient supporting documents (such as the complaint, affidavits, counter-affidavits, sworn statements of witnesses or transcript of stenographic notes, if any) upon which to make his independent judgment or, at the very least, upon which to verify the findings of the prosecutor as to the existence of probable cause. The point is: he cannot rely solely and entirely on the prosecutor's recommendation, as Respondent Court did in this case. Although the prosecutor enjoys the legal presumption of regularity in the performance of his official duties and functions, which in turn gives his report the presumption of accuracy, the Constitution, we repeat, commands the judge to personally determine probable cause in the issuance of warrants of arrest. This Court has consistently held that a judge fails in his bounden duty if he relies merely on the certification or the report of the investigating officer.[128] (Emphasis supplied.)

Notably, for purposes of determining the propriety of the issuance of a warrant of arrest, the judge is tasked to merely determine the probability, not the certainty, of the guilt of the accused.[129] She is given wide latitude of discretion in the determination of probable cause for the issuance of warrants of arrest.[130] A finding of probable cause to order the accused's arrest does not require an inquiry into whether there is sufficient evidence to procure a conviction.[131] It is enough that it is believed that the act or omission complained of constitutes the offense charged.[132]

Again, per the February 23, 2017 Order, respondent judge evaluated all the evidence presented during the preliminary investigation and on the basis thereof found probable cause to issue the warrant of arrest against the petitioner. This is not surprising given that the only evidence available on record are those provided by the complainants and the petitioner, in fact, did not present any counter-affidavit or evidence to controvert this. Thus, there is nothing to disprove the following preliminary findings of the DOJ prosecutors relative to the allegations in the Information filed in Criminal Case No. 17-165:

> Thus, from November 2012 to March 2013, De Lima[,] Ragos and Dayan should be indicted for violation of Section 5, in relation to Section 3(jj), Section 26(b) and Section 28, of R.A. 9165, owing to the delivery of P5 million in two (2) occasions, on 24 November 2012 and 15 December 2012, to Dayan and De Lima. The monies came inmate Peter Co [were] proceeds from illicit drug trade, which were given to support the senatorial bid of De Lima.
>
> Also in the same period, Dayan demanded from Ragos money to support the senatorial bid of De Lima. Ragos demanded and received P100,000 tara from each of the high-profile inmates in exchange for privileges, including their illicit drug trade. Ablen collected the money for Ragos who, in turn, delivered them to Dayan at De Lima's residence.[133]

The foregoing findings of the DOJ find support in the affidavits and testimonies of several persons. For instance, in his Affidavit dated September 3, 2016, NBI agent Jovencio P. Ablen, Jr. narrated, viz.:

> - On the morning of 24 November 2012, I received a call from Dep. Dir. Ragos asking where I was. I told him I was at home. He replied that he will fetch me to accompany him on a very important task.
>
> - Approximately an hour later, he arrived at my house. I boarded his vehicle, a Hyundai Tucson, with plate no. RGU910. He then told me that he will deliver something to the then Secretary of Justice, Sen. Leila De Lima. He continued and said "Nior confidential 'to. Tayong dalawa lang ang nakakaalam nito. Dadalhin natin yung quota kay Lola. 5M 'yang nasa bag. Tingnan mo."
>
> - The black bag he was referring to was in front of my feet. It [was a] black handbag. When I opened the bag, I saw bundles of One Thousand Peso bills.
>
> - At about 10 o'clock in the morning, we arrived at the house located at Laguna Bay comer Subic Bay Drive,

South Bay Village, Paranaque City.

- Dep. Dir. Ragos parked his vehicle in front of the house. We both alighted the vehicle but he told me to stay. He then proceeded to the house.

- From our parked vehicle, I saw Mr. Ronnie Dayan open the gate. Dep. Dir. Ragos then handed the black handbag containing bundles of one thousand peso bills to Mr. Dayan.

- At that time, I also saw the then DOJ Sec. De Lima at the main door of the house. She was wearing plain clothes which is commonly known referred to as "duster."

- The house was elevated from the road and the fence was not high that is why I was able to clearly see the person at the main door, that is, Sen. De Lima.

- When Dep. Dir. Ragos and Mr. Dayan reached the main door, I saw Mr. Dayan hand the black handbag to Sen. De Lima, which she received. The three of them then entered the house.

- After about thirty (30) minutes, Dep. Dir. Ragos went out of the house. He no longer has the black handbag with him.

- We then drove to the BuCor Director's Quarters in Muntinlupa City. While cruising, Dep. Dir. Ragos told me "Nior 'wag kang maingay kahit kanino at wala kang nakita ha," to which I replied "Sabi moe. e di wala akong nakita."

- On the morning of 15 December 2012, Dep. Dir. Ragos again fetched me from my house and we proceeded to the same house located at Laguna Bay comer Subic Bay Drive, South Bay Village, Paranaque City.

- That time, I saw a plastic bag in front of my feet. I asked Dep. Dir. Ragos "Quota na naman Sir?" Dep. Dir. Ragos replied "Ano pa nga ba, 'tang ina sila lang meron."[134]

Petitioner's co-accused, Rafael Ragos, recounted in his own Affidavit dated September 26, 2016 a similar scenario:

- One morning on the latter part of November 2012, I saw a black handbag containing a huge sum of money on my bed inside the Director's Quarters of the BuCor. I looked inside the black handbag and saw that it contains bundles of one thousand peso bills.

- I then received a call asking me to deliver the black handbag to Mr. Ronnie Dayan. The caller said the black handbag came from Peter Co and it contains "Limang Manok" which means Five Million Pesos (Php5,000,000.00) as a "manor" refers to One Million Pesos (Php1,000,000.00) in the vernacular inside the New Bilibid Prison.

- As I personally know Mr. Dayan and knows that he stays in the house of the then DOJ Sec. Leila M. De Lima located at Laguna Bay corner Subic Bay Drive, South Bay Village, Paranaque City, I knew I had to deliver the black handbag to Sen. De Lima at the said address.

- Before proceeding to the house of Sen. De Lima at the above[-]mentioned address, I called Mr. Ablen to accompany me in delivering the money. I told him we were going to do an important task.

- Mr. Ablen agreed to accompany me so I fetched him from his house and we proceeded to the house of Sen. De Lima at the above-mentioned address.

- While we were in the car, I told Mr. Ablen that the important task we will do is deliver Five Million Pesos (Php5,000,000.00) "Quota" to Sen. De Lima. I also told him that the money was in the black handbag that was on the floor of the passenger seat (in front of him) and he could check it, to which Mr. Ablen complied.

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> - Before noon, we arrived at the house of Sen. De Lima located at Laguna Bay corner Subic Bay Drive, South Bay Village, Parañaque City.
>
> - I parked my vehicle in front of the house. Both Mr. Ablen and I alighted from the vehicle but I went to the gate alone carrying the black handbag containing the Five Million Pesos (Php5,000,000.00).
>
> - At the gate, Mr. Ronnie Dayan greeted me and opened the gate for me. I then handed the handbag containing the money to Mr. Dayan.
>
> - We then proceeded to the main door of the house where Sen. De Lima was waiting for us. At the main door, Mr. Dayan handed the black handbag to Sen. De Lima, who received the same. We then entered the house.
>
> - About thirty minutes after, I went out of the house and proceeded to my quarters at the BuCor, Muntinlupa City.
>
> - One morning in the middle part of December 2012, I received a call to again deliver the plastic bag containing money from Peter Co to Mr. Ronnie Dayan. This time the money was packed in a plastic bag left on my bed inside my quarters at the BuCor, Muntinlupa City. From the outside of the bag, I could easily perceive that it contains money because the bag is translucent.
>
> - Just like before, I fetched Mr. Ablen from his house before proceeding to the house of Sen. De Lima located at Laguna Bay comer Subic Bay Drive, South Bay Village, Paranaque City, where I know I could find Mr. Dayan.
>
> - In the car, Mr. Ablen asked me if we are going to deliver "quota." I answered yes.
>
> - We arrived at the house of Sen. De Lima at the above[-]mentioned address at noontime. I again parked in front of the house.
>
> - I carried the plastic bag containing money to the house. At the gate, I was greeted by Mr. Ronnie Dayan. At that point, I handed the bag to Mr. Dayan. He received the bag and we proceeded inside the house.[135]

The source of the monies delivered to petitioner De Lima was expressly bared by several felons incarcerated inside the NBP. Among them is Peter Co, who testified in the following manner:

> 6. Noong huling bahagi ng 2012, sinabi sa akin ni Hans Tan na nanghihingi ng kontribusyon sa mga Chinese sa Maximum Security Compound ng NBP si dating DOJ Sec. De Lima para sa kanyang planong pagtakbo sa senado sa 2013 Elections. Dalawang beses akong nagbigay ng tig-P5 Million para tugunan ang hiling ni Sen. De Lima, na dating DOJ Secretary;
>
> 7. Binigay ko ang mga halagang ito kay Hans Tan para maibigay kay Sen. Leila De Lima na dating DOJ Secretary. Sa parehong pagkakataon, sinabihan na lang ako ni Hans Tan na naibigay na ang pera kay Ronnie Dayan na siyang tumatanggap ng pera para kay dating DOJ Sec. De Lima. Sinabi rin ni Hans Tan na ang nagdeliver ng pera ay si dating OIC ng BuCor na si Rafael Ragos.
>
> 8. Sa kabuuan, nakapagbigay ang mga Chinese sa loob ng Maximum ng P10 Million sa mga huling bahagi ng taong 2012 kay dating DOJ Sec. De Lima para sa kanyang planong pagtakbo sa senado sa 2013 Elections. Ang mga perang ito ay mula sa pinagbentahan ng illegal na droga.[136]

All these, at least preliminarily, outline a case for illegal drug trading committed in conspiracy by the petitioner and her co-accused. Thus, the Court cannot sustain the allegation that respondent judge committed grave abuse of discretion in issuing the assailed Order for petitioner's arrest.

Petitioner would later confine herself to the contention that the prosecution's evidence is inadmissible, provided as they were by petitioner's co-accused who are convicted felons and whose testimonies are but hearsay evidence.

Nowhere in Ramos v. Sandiganbayan[137] - the case relied upon by petitioner - did this Court rule that testimonies given by a co-accused are of no value. The Court simply held that said testimonies should be received with great caution, but not that they would not be considered. The testimony of Ramos' co-accused was, in fact, admitted in the cited case. Furthermore, this Court explicitly ruled in Estrada v. Office of the Ombudsman[138] that hearsay evidence is admissible during preliminary investigation. The Court held thusly:

> Thus, probable cause can be established with hearsay evidence, as long as there is substantial basis for crediting the hearsay. Hearsay evidence is admissible in determining probable cause in a preliminary investigation because such investigation is merely preliminary, and does not finally adjudicate rights and obligations of parties.[139] (Emphasis supplied.)

Verily, the admissibility of evidence,[140] their evidentiary weight, probative value, and the credibility of the witness are matters that are best left to be resolved in a full-blown trial,[141] not during a preliminary investigation where the technical rules of evidence are not applied[142] nor at the stage of the determination of probable cause for the issuance of a warrant of arrest. Thus, the better alternative is to proceed to the conduct of trial on the merits for the petitioner and the prosecution to present their respective evidence in support of their allegations.

With the foregoing disquisitions, the provisional reliefs prayed for, as a consequence, have to be rejected.

WHEREFORE, the instant petition for prohibition and certiorari is DISMISSED for lack of merit. The Regional Trial Court of Muntinlupa City, Branch 204 is ordered to proceed with dispatch with Criminal Case No. 17-165.

SO ORDERED.

Sereno, C. J., See Dissenting Opinion.
Bersamin, Jardeleza, Reyes, Jr., and Gesmundo, JJ., concur.
Carpio, J., See Dissenting Opinion.
Leonardo-De Castro, J., See Separate Concurring Opinion.
Peralta, J., I concur. See Separate Opinion.
Del Castillo, J., I concur. See Separate Opinion.
Perlas-Bernabe, J., See Separate Concurring and Dissenting Opinion.
Leonen, J., I dissent. See Separate Opinion.
Caguioa, J., See Dissent.
Martires, J., See Dissent. This is to certify that J. Martires left his vote of concurrence. See his Concurring Opinion.
Tijam, J., See separate Concurring Opinion.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on October 10, 2017 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on October 13, 2017 at 5:15 p.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

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[1] Rollo, pp. 3-300.

[2] Id. at 8-9.

[3] Id. at 338.

[4] Id at 15.

[5] The members of the DOJ Panel are: Senior Assistant State Prosecutor Peter L. Ong, and Senior Assistant City Prosecutors Alexander P. Ramos, Leilia R. Llanes, Evangeline P. Viudez-Canobas, and Editha C. Fernandez.

[6] Rollo, p. 339.

[7] Id. at 16.

[8] Id. at 92-142. Annex "D" to Petition.

[9] Id. at 16.

[10] Id. at 17.

[11] Id.

[12] Id.

[13] Id at 18.

[14] Id. at 18 and 144-195. Annex "E" to Petition.

[15] Id.

[16] Id. at 340.

[17] Id. at 18 and 203-254. Annex "G" to Petition.

[18] Id. at 197- 201. Annex "F" to Petition.

[19] Id. at 197-198.

[20] Id. at 20 and 256-295. Annex "H" to Petition.

[21] Id.

[22] Id. at 20-21. Annex "A" to Petition.

[23] Id. at 85.

[24] Id. at 20 and 87. Annex "B" to Petition.

[25] Id. at 300.

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[26] Id. at 66.

[27] Id. at 336-431.

[28] Id. at 344-346.

[29] Id. at 302-306. Urgent Motion and Special Raffle and to Set the Case for Oral Argument dated February 27, 2017.

[30] Id. at 436-442.

[31] Id. at 446-606.

[32] Id. at 8689-8690.

[33] Id. at 8706-8769 and 8928-9028, for petitioner and respondents, respectively.

[34] Id. at 433-435.

[35] Id. at 8689-8690.

[36] Bides-Ulaso v. Noe-Lacsamana, 617 Phil. 1, 15 (2009).

[37] Camcam v. Court of Appeals, 588 Phil. 452, 462 (2008).

[38] RULE 65. Certiorari, Prohibition and Mandamus.

SECTION 1. Petition for Certiorari. - When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court. x x x. The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the paragraph of Section 3, Rule 46.

SECTION 2. Petition for Prohibition. - When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court. x x x.

The petition shall likewise be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46. (2a)

[39] G.R. No. 191699, April 19, 2016, 790 SCRA 309.

[40] Id. at 321-326.

[41] Kilosbayan Foundation v. Janolo, Jr., 640 Phil. 33, 46 (2010).

[42] Id.

[43] 633 Phil. 325, 331 (2010).

[44] Ramirez v. Mar Fishing Co., Inc., 687 Phil. 125, 137 (2012), citing Lanzaderas v. Amethyst Security and

General Services, 452 Phil. 621 (2003).

[45] Id. at 137, citing Bank of the Philippine Islands v. Dando, G.R. No. 177456, September 4, 2009, 598 SCRA 378.

[46] Barroso v. Omelia, 771 Phil. 199, 204 (2015).

[47] Aala v. Uy, G.R. No. 202781, January 10, 2017, citing Santiago v. Vasquez, 291 Phil 664, 683 (1993).

[48] Supra note 46.

[49] 751 Phil. 301, 328-330 (2015); Barroso v. Omelio, id. at 205.

[50] Id.

[51] G.R. No. 202781, January 10, 2017.

[52] Sarigumba v. Sandiganbayan, 491 Phil. 704, 720-721 (2005). See also Ocampo v. Abando, 726 Phil. 441, 465 (2014).

[53] Rollo, p. 8761. Memorandum for Petitioner, p. 56.

[54] Data from the Statistical Reports Division, Court Management Office, Supreme Court on Pending Cases as of June 30, 2017.

[55] Rollo, p. 66.

[56] Taghoy v. Spouses Tigol, Jr., 640 Phil. 385, 394 (2010), citing Heirs of Miguel Franco v. Court of Appeals, 463 Phil. 417, 428 (2003); Yuliongsiu v. PNB, 130 Phil. 575, 580 (1968).

[57] Id., citing Republic v. Bautista, G.R. No. 169801, September 11, 2007, 532 SCRA 598, 609; Bon v. People, 464 Phil. 125, 138 (2004).

[58] Id., citing Rufina Patis Factory v. Alusitain, 478 Phil. 544, 558 (2004).

[59] 708 Phil. 96, 117 (2013).

[60] State Investment House, Inc. v. Court of Appeals, 527 Phil. 443 (2006). See also Diaz v. Nora, 268 Phil. 433 (1990).

[61] Id. at 4540-451.

[62] Diaz v. Nora, 268 Phil. 433, 437-438 (1990).

[63] Lozano v. Nograles, 607 Phil. 334, 341 (2009).

[64] Albay Electric Cooperative, Inc. v. Santelices, 603 Phil. 104, 121 (2009).

[65] De Borja v. Pinalakas na Ugnayan ng Maliliit na Mangingisda ng Luzon, Mindanao at Visayas, G.R. Nos. 185320 & 185348, April 19, 2017, citing Abbott Laboratories v. Gardner, 387 U.S. 136 (1967).

[66] RULES OF COURT, Rule 65, Section 1.

[67] Estrada v. Office of the Ombudsman, 751 Phil. 821, 877-878 (2015).

[68] Fontana Development Corporation v. Vukasinovic, G.R. No. 222424, September 21, 2016.

[69] G.R. No. 220546, December 7, 2016.

[70] Id., citing Spouses Arevalo v. Planters Development Bank; 68 Phil. 236 (2012).

[71] Id.

[72] Chu v. Cunanan, G.R. No. 156185, September 12, 2011, 657 SCRA 379, 392, citing Taganas v. Emuslan, G.R. No. 146980, September 2, 2003, 410 SCRA 237.

[73] Benedicto v. Lacson, 634 Phil 154, 177-178 (2010), citing Vda. de Cruzo v. Carriaga, Jr., G.R. Nos. 75109-10, June 28, 1989, 174 SCRA 330, 342.

[74] Ient v. Tullett Prebon (Philippines), Inc., G.R. Nos. 189158 & 189530, January 11, 2017.

[75] Id.

[76] Rollo, pp. 197-198.

[77] G.R. No. 214497, April 18, 2017.

[78] Id.

[79] Legal Framework for Drug Trafficking <https://www.unodc.org/unodc/en/drug-trafficking/legal-framework.html> (visited October 5, 2017).

[80] ARTICLE 210. Direct Bribery. - Any public officer who shall agree to perform an act constituting a crime, in connection with the performance of his official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another, shall suffer the penalty of prision correccional in its minimum and medium periods and a fine of not less than the value of the gift and not more than three times such value, in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed.

If the gift was accepted by the officer in consideration of the execution of an act which does not constitute a crime, and the officer executed said act, he shall suffer the same penalty provided in the preceding paragraph; and if said act shall not have been accomplished, the officer shall suffer the penalties of arresto mayor in its maximum period and a fine of not less than the value of the gift and not more than twice such value.

If the object for which the gift was received or promised was to make the public officer refrain from doing something which it was his official duty to do, he shall suffer the penalties of arresto mayor in its medium and maximum periods and a fine of not less than the value of the gift and not more than three times such value.

In addition to the penalties provided in the preceding paragraphs, the culprit shall suffer the penalty of special temporary disqualification.

The provisions contained in the preceding paragraphs shall be made applicable to assessors, arbitrators, appraisal and claim commissioners, experts or any other persons performing public duties.

[81] People v. Peralta, 134 Phil. 703 (1968).

[82] Id.

[83] Id.

[84] Behn, Meyer & Co. v. Nolting, 35 Phil. 274 (1916). See also Collector of Internal Revenue v. Tan Eng Hong, 124 Phil. 1002 (1966).

[85] Medrano v. Court of Appeals, 492 Phil. 222, 234-235 (2005), citing Wickersham v. T. D. Harris, 313 F.2d

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468 (1963).

[86] Id. at 234, citing Tan v. Spouses Gullas, 441 Phil. 622, 633 (2002).

[87] People v. Marcelino, Jr., 667 Phil. 495, 503 (2011).

[88] People v. Peralta, 435 Phil. 743, 765 (2002). See also Gonzales v. Hongkong and Shanghai Bank, G.R. No. 164904, October 19, 2007; People v. Sy, 438 Phil. 383 (2002).

[89] Id.

[90] U.S. v. Castañares, 18 Phil. 210, 214 (1911); Yusuke Fukuzume v. People, 511 Phil. 192, 208 (2005); Treñas v. People, 680 Phil. 368, 385 (2012).

[91] Dela Cruz v. Moya, 243 Phil. 983, 985 (1988).

[92] Morales v. Court of Appeals, 347 Phil. 493, 506 (1997).

[93] Id. See also In re: Partial Report on the Results of the Judicial Audit Conducted in the MTCC, Branch 1, Cebu City, 567 Phil. 103 (2008).

[94] Morales v. Court of Appeals, id. at 504-508.

[95] Journal No. 72, 12[th] Congress, 1[st] Regular Session (March 6, 2002) <http://www.congress.gov.ph/legisdocs/journals_12/72.pdf> (visited August 8, 2017).

[96] Bicameral Conference Committee on the Disagreeing Provisions of Senate Bill No. 1858 and House Bill No. 4433 (Comprehensive Dangerous Drugs Act of 2002) April 29, 2002.

[97] Entitled An Act Strengthening Further the Functional and Structural Organization of the Sandiganbayan, Further Amending Presidential Decree No. 1606, As Amended, And Appropriating Funds Therefor. Approved on April 16, 2015.

[98] Entitled Revising Presidential Decree No. 1486 Creating A Special Court To Be Known as Sandiganbayan And For Other Purposes, December 10, 1978.

[99] Section 5, Article XIII of the 1973 Constitution: SECTION 5. The National Assembly shall create a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office as may be determined by law.

[100] People v. Benipayo, 604 Phil. 317 (2009).

[101] Supra note 92.

[102] Supra note 100.

[103] Section 268, Omnibus Election Code of the Philippines. Published in the Official Gazette, Vol. 81, No. 49, Page 5659 on December 9, 1985.

[104] Entitled An Act Strengthening Civilian Supremacy Over the Military Returning To The Civil Courts The Jurisdiction Over Certain Offenses Involving Members Of The Armed Forces Of The Philippines, Other Persons Subject To Military Law, And The Members Of The Philippine National Police, Repealing For The Purpose Certain Presidential Decrees, June 20, 1991.

[105] Phil. Amusement and Gaming Corp. v. Bureau of Internal Revenue, G.R. No. 215427, December 10, 2014.

[106] Lim v. Gamosa, G.R. No. 193964, December 2, 2015; Advocates for Truth in Lending, Inc. v. Bangko Sentral Monetary Board, 701 Phil. 483 (2013); Remo v. Secretary of Foreign Affairs, 628 Phil. 181 (2010).

[107] Republic v. Court of Appeals, 409 Phil. 695 (2001).

[108] Lopez, Jr. v. Civil Service Commission, 273 Phil. 147, 152 (1991). See also Valera v. Tuason, Jr., 80 Phil. 823 (1948); RCBC Savings Bank v. Court of Appeals, G.R. No. 226245 (Notice), November 7, 2016; Remo v. Secretary of Foreign Affairs, 628 Phil. 181 (2010), citing Sitchon v. Aquino, 98 Phil. 458, 465 (1956); Laxamana v. Baltazar, 92 Phil. 32, 35 (1952); De Joya v. Lantin, 126 Phil. 286, 290 (1967); Nepomuceno v. RFC, 110 Phil. 42, 47 (1960); Valera v. Tuason, Jr., 80 Phil. 823, 827 (1948); Republic v. Asuncion, 231 SCRA 211, 231 (1994), citing Gordon v. Veridiano II, No. L-55230, November 8, 1988, 167 SCRA 51, 58-59; People v. Antillon, 200 Phil. 144, 149 (1982).

[109] Mallillin y Lopez v. People, 576 Phil. 576, 588 (2008).

[110] Id.

[111] <http://sc.judiciary.gov.ph/libdocs/statistics/filed_Pending_Disposed_June_30_2017.pdf> (visited August 9, 2017.

[112] Dio v. People, G.R. No. 208146, June 8, 2016, 792 SCRA 646, 659; citation omitted.

[113] See Los Baños v. Pedro, 604 Phil. 215 (2009).

[114] 673 Phil. 165, 172 (2011), citing Santos v. People, G.R. No. 173176, August 26, 2008, 563 SCRA 341. See also Gamboa v. Cruz, 245 Phil. 598 (1988); Acharon v. Purisima, 121 Phil. 295 (1965). See also Lalican v. Vergara, 342 Phil. 485 (1997).

[115] Rollo, p. 85.

[116] Yang Kuang Yong v. People, G.R. No. 213870 (Notice), July 27, 2016.

[117] Formerly Section 6. The former Sec. 5 (Resolution of Investigating Judge and its Review) was deleted per AM. No. 05-8-26-SC, October 3, 2005.

[118] Section 1, Rule 117 of the Rules of Court. Time to move to quash. - At any time before entering his plea, the accused may move to quash the complaint or information. (Underscoring supplied)

[119] A.M. No. RTJ-16-2472, January 24, 2017.

[120] 520 Phil. 907 (2006).

[121] 249 Phil. 394 (1988).

[122] Rollo, pp. 38-39.

[123] Article III, Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

[124] See Section 5(a), Rule 112, infra.

[125] Hao v. People, 743 Phil. 204, 213 (2014).

[126] Soliven v. Makasiar, supra note 121, at 399.

[127] Rollo, p. 85.

[128] 345 Phil. 597, 608-612 (1997) (citations omitted).

[129] Supra note 125.

[130] Ocampo v. Abando, 726 Phil. 441, 465 (2014), citing Sarigumba v. Sandiganbayan, supra note 52.

[131] Marcos v. Cabrera-Faller, A.M. No. RTJ-16-2472, January 24, 2017.

[132] Id.

[133] Rollo, pp. 241-242. Joint Resolution, pp. 39-40.

[134] Rollo, pp. 3843-3844.

[135] Id. at 3854-3856.

[136] Id. at 3793.

[137] G.R. No. 58876, November 27, 1990, 191 SCRA 671.

[138] Supra note 67, at 874.

[139] Id.

[140] Dichaves v. Office of the Ombudsman, G.R. Nos. 206310-11, December 7, 2016, citing Atty. Paderanga v. Hon. Drilon, 273 Phil. 290 (1991)

[141] Andres v. Cuevas, 499 Phil. 36, 50 (2005), citing Drilon v. Court of Appeals, 258 SCRA 280, 286 (1996).

[142] Presidential Commission on Good Government v. Navarro-Gutierrez, 772 Phil. 99, 104 (2015), citing De Chavez v. Ombudsman, 543 Phil. 600, 620 (2007); Reyes v. Ombudsman, G.R. Nos. 212593-94, 213163-78, 213540-41, et al., March 15, 2016, 787 SCRA 354.

DISSENTING OPINION

SERENO, CJ:

The lis mota in this case is whether the offenses alleged to have been committed by the petitioner, an official with a Salary Grade level of 30, were committed in relation to her office such that it is the Sandiganbayan, and not the Regional Trial Court (RTC) that has jurisdiction over the criminal case against her that was lodged in the respondent court. The Solicitor General claims that regional trial courts, despite the language of the laws creating the Sandiganbayan, and thereafter amending it, cannot be ousted of their exclusive jurisdiction over the same.

Offenses Defined and Penalized Under R.A. 9165

An analysis of the offenses under Republic Act No. (R.A.) 9165 (Comprehensive Dangerous Drugs Act of 2002) would show the myriad ways through which public officers can commit a drug crime in relation to their office. This, together with the announcement that thousands of public officials are in the government's drug list, underscores the transcendental importance of resolving the issue of jurisdiction of courts over offenses committed by public officials with a salary grade level of at least 27, when the offenses are penalized under R.A. 9165, and when, as in this case, the petition alleges that they could not have been committed unless in relation to their office.

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There are a total of 49 drug offenses defined in R.A. 9165. The following six offenses specifically provide for public office as an element:

- Misappropriation, misapplication. or failure to account for the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment, including the proceeds or properties obtained from the unlawful act, committed by a public officer or employee under Section 27;[1]

- Violation of the confidentiality of records under Section 72;[2]

- Failure to testify as prosecution witnesses in dangerous drugs cases under Section 91;[3]

- Failure of the immediate superior of a public officer who failed to testify as prosecution witness in dangerous drugs cases, if the former does not exert reasonable effort to present the latter to the court, under Section 91;[4]

- Failure of the immediate superior to notify the court of an order to transfer or re-assign the public officer who failed to testify under Section 91;[5] and

- Delay and bungling in the prosecution of drug cases under Section 92.[6]

Since public office is an element of the foregoing offenses, these offenses are necessarily committed in relation to office.

Meanwhile, other offenses under R.A. 9165 do not specify public office as an essential element, but the means by which they can be committed are closely connected with the power, influence, resources, or privileges attached to a public office, so that public officers cannot commit those offenses unless aided by their position.

Section 4,[7] which penalizes the importation of dangerous drugs and/or controlled precursors and essential chemicals, refers to an offense that may be committed in relation to office through the use of a diplomatic passport, diplomatic facilities or any other means involving one's official status and intended to facilitate the unlawful entry of the dangerous drug and/or controlled precursor and essential chemical into the Philippines. It may also be committed by public customs officials who use their authority to facilitate and prevent the inspection of any parcel or cargo containing a dangerous drug and/or controlled precursor and essential chemical.

Section 5[8] penalizes the sale, trading, administration, dispensation, delivery, distribution, and transportation of dangerous drug and/or controlled precursors, as well as the act of being a broker in the aforementioned transactions. While public office is not an element of these offenses, they may be committed in relation to office in the case of conspiracy, where public officers use their influence, power, or position in coercing others to engage in the prohibited transactions. The nature of the office involved may also facilitate the commission of the offense as in the case of public health officials in charge of the care of patients and who have access to dangerous drugs, essential chemicals, or controlled precursors. Further, the law imposes the maximum penalty upon any person who uses minors or mentally incapacitated individuals as runners, couriers, and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade. This offense may be committed in relation to office by a public official in charge of institutions caring for minors or mentally incapacitated individuals.

Section 6[9] makes the maintenance of a den, dive, or resort a punishable offense under the law. Public office is not an element of the offense, but it can be committed in relation to office by public officers who use the power and influence of their office to maintain a place where any dangerous drug and/or controlled precursor and essential chemical is administered, delivered, stored for illegal purposes, distributed, sold, or used in any form. The offense may also be committed in relation to public office if the den, dive, or resort was maintained in a

public facility or property under the authority of the public official involved.

Section 8[10] penalizes the manufacture of dangerous drugs and/or controlled precursors and essential chemicals and does not include public office as an element. Nevertheless, Section 8(e) provides that the employment of a public official in the clandestine laboratory shall be considered as an aggravating circumstance to be appreciated against the manufacturer. Further, the offense may be committed in relation to office by a public health official engaged in the research and development of medicines.

Under Section 9,[11] illegal chemical diversion of controlled precursors and essential chemicals is penalized. This offense includes the sale, distribution, supply, or transport of legitimately imported, in-transit, manufactured, or procured controlled precursors and essential chemicals in diluted, mixtures, or in concentrated form to any person or entity engaged in the manufacture of any dangerous drug. It can be committed in relation to office by a public official engaged in the legitimate procurement of controlled precursors and essential chemicals.

Section 10[12] penalizes the manufacture, delivery, possession with intent to deliver, and use of equipment, instrument, apparatus, and other paraphernalia used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal dangerous drugs and/or controlled precursors and essential chemicals. Section 10 imposes the maximum penalty upon any person who uses a minor or a mentally incapacitated individual to deliver such equipment or instrument. Again, this offense may be committed in relation to office by a public official in charge of institutions caring for minors or mentally incapacitated individuals. With respect to the use of the illegal equipment or instrument in order to inject, ingest, inhale or otherwise introduce into the human body a dangerous drug, this offense may be committed in relation to office by a public health official in charge of the care of patients.

Section 11[13] penalizes the unauthorized possession of dangerous drugs. Public office is not an element of the offense, but there are numerous ways through which the offense can be committed by public officials in relation to their office. Using the influence, power, privileges, or resources attached to their office, they can easily gain access to or evade apprehension for the possession of dangerous drugs.

Likewise under Section 12,[14] public office is not specified as an element in the offense of unauthorized possession of an equipment, instrument, apparatus, and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body. But, as in Section 11, the influence, power, privileges, or resources attached to the office can be used by a public officer to gain access to or evade apprehension for the possession of the equipment or instrument identified in Section 12.

Sections 13[15] and 14[16] penalize the unauthorized possession of dangerous drugs and equipment or instruments for the consumption or administration of those drugs during parties, social gatherings or meetings. Public office is not an element of the offenses, but they can be committed in relation to office by public officers who are able to access and possess the dangerous drugs or the equipment or instrument by virtue of their office as described above. Further, public officers may be able to bring the illegal items to a party, social gathering, or meeting without any apprehension by virtue of the power or influence of their office.

The use of dangerous drugs is penalized in Section 15[17] of the law. While use is inherently personal, the commission of the offense may be facilitated by the public officer's power, influence, or authority, without which the use would not have been possible.

Section 16[18] penalizes the cultivation or culture of plants classified either as dangerous drugs or sources thereof. The offense can be committed in relation to office by public officers who use public lands or properties under their power or jurisdiction for these illegal activities. Further, they may personally engage in planting,

cultivating, or culturing dangerous drugs without interference by law enforcement agencies by virtue of the power and influence of their office.

Section 17[19] penalizes the offense of failure to maintain and keep original records of transactions on dangerous drugs and/or controlled precursors and essential chemicals in accordance with Section 40.[20] The offender under this section refers to the practitioner, manufacturer, wholesaler, importer, distributor, dealer, or retailer who deals with dangerous drugs and/or controlled precursors and essential chemicals. The offense may be committed in relation to office by public physicians or other government medical workers who are required to maintain original records of transactions on dangerous drugs.

Section 18[21] penalizes the unnecessary prescription of dangerous drugs, while Section 19[22] penalizes the unlawful prescription thereof. These offenses may be committed in relation to office by public officers, especially public physicians or medical workers, whose positions authorize or require them to prescribe drugs to patients.

Section 26 penalizes a mere attempt or conspiracy to commit the following offenses:

a) Importation of any dangerous drug and/or controlled precursor and essential chemical;

b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;

c) Maintenance of a den, dive or resort where any dangerous drug is used in any form;

d) Manufacture of any dangerous drug and/or controlled precursor and essential chemical; and

e) Cultivation or culture of plants that are sources of dangerous drugs.

With respect to an attempt to commit the enumerated offenses, since the included offenses can be committed in relation to public office, the mere commencement of their commission, as described above, directly by overt acts will also hold the public officer liable.

Conspiracy to commit the enumerated offenses can be committed in relation to office by public officers who use the power, influence, or moral ascendancy of their office to convince the co-conspirators to come into an agreement regarding the commission of the offense.

Penalized under Section 29[23] is the planting of evidence constituting any dangerous drug and/or controlled precursor and essential chemical - regardless of quantity and purity - in the person, house, effects or in the immediate vicinity of an innocent individual. The offense may be committed in relation to office by public officers whose position or job description enables them to plant evidence on innocent individuals.

Penalized under Section 30[24] is a juridical entity's partner, president, director, manager, trustee, estate administrator, or officer who knowingly authorizes, tolerates, or consents to the use of the vehicle, vessel, aircraft, equipment, or other facility of the juridical entity as an instrument in the importation, sale, trading, administration, dispensation, delivery, distribution, transportation, or manufacture of dangerous drugs, or chemical diversion. While public office is not an element thereof, the offense may be committed by public officers in relation to their office if they are employed in a government-owned or -controlled corporation.

Section 37[25] penalizes the issuance of false or fraudulent drug test results. It can be committed in relation to office by a public physician authorized, licensed, or accredited to conduct drug tests in a government hospital, clinic, or health center. The public officer may also be a technician or an assistant in a government drug-testing center who is able to facilitate the issuance, or acts in conspiracy with the physician in the issuance, of a false or fraudulent drug test result.

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The financing and protecting or coddling of persons involved in specific drug offenses are also penalized under R.A. 9165. Penalized specifically are the financing and protecting or coddling of those who import dangerous drugs; enter into sale and other transaction; maintain dens, dives, or resorts; manufacture dangerous drugs; manufacture equipment for dangerous drugs; and cultivate dangerous drugs.

Being a financier in these offenses can be committed in relation to office if public funds are used therefor. Being a protector or coddler - an offense that can be committed by public officers only in relation to their office - refers to the use of influence, power, or position in shielding, harboring, screening, or facilitating the escape of any person in order to prevent the latter's arrest, prosecution and conviction for the offenses enumerated above.

From the above recital of drug offenses, it can be seen that depending on the particular allegations in the charge, most of the offenses under R.A. 9165 can be committed by a public officer in relation to office.

The thousands of public officers included in the President's drug list vis-a-vis the numerous means through which a drug offense can be committed in relation to public office foreshadow chaos in the process of determining which prosecutorial body or tribunal has jurisdiction. This is not a question that we can leave for determination by the Department of Justice (DOJ) and the Office of the Ombudsman (Ombudsman) alone, as proposed by the Solicitor General during the oral arguments on 28 March 2017, to wit:

> CHIEF JUSTICE SERENO:
>
> x x x In fact, are you now trying to tell us that assuming that the President is correct, that there are thousands and thousands of government officials involved, that the Court is not going to decide on the question of jurisdiction now, while we have the opportunity to do so?
>
> SOLICITOR GENERAL CALIDA:
>
> Well, Your Honor, this case arose from the acts of De Lima in directly going to this Court, despite the pendency of the motion to quash, before Judge Guerrero, that is forum shopping at the very least, Your Honor. So, let's first, my humble submission is, Your Honor, let's decide the petition on its face, Your Honor, and not dig into substantive or evidentiary data, Your Honor, because this is not yet the time to do so. There will be a time for that, Your Honor, during the trial of this case before the RTC.
>
> CHIEF JUSTICE SERENO:
>
> Precisely, the timeliness is already being put forth before us, Justice Leonen already told you what will [happen] to all those thousands of officials. You're basically saying that the DOJ or the Ombudsman will decide which will assume jurisdiction over the investigation and they will on their own decide whether to file it before the RTC and the [Sandiganbayan], is that basically the effect of what you're saying, when you're saying, that we should dismiss this petition?
>
> SOLICITOR GENERAL CALIDA:
>
> Yes, Your Honor. First, of all, there is a defective jurat, the formal requisites of Section 1, Rule 65 of the Rules of Court was not complied with, this just a scrap of paper that deserves to be put in the trash can, Your Honor.[26]

It behooves this Court to clarify and settle the question of jurisdiction over drug crimes committed in relation to public office.

Alleged Acts of the Petitioner Could not Have Been Committed Unless in Relation to Her Office

The Court has held that an offense is deemed to be committed in relation to the public office of the accused when that office is an element of the crime charged.[27] However, even if public office is not an element of the offense,

the jurisdiction of the Sandiganbayan obtains when the relation between the crime and the office is direct and not accidental such that, in the legal sense, the offense cannot exist without the office.[28]

Petitioner argues that the acts allegedly committed by her constitute an offense exclusively cognizable by the Sandiganbayan, because (1) the inculpatory allegations in the Information constitute no offense other than direct bribery,[29] which is an offense defined and punished under Chapter II, Section 2, Title VII, Book II[30] of the Revised Penal Code; (2) petitioner, at the time of the alleged commission of the crime, was an official in the executive branch occupying a position classified as Grade 27 or higher;[31] and (3) the crime alleged is clearly in relation to the office of petitioner as former Secretary of Justice.[32]

On the other hand, respondents allege that although some elements of direct bribery may be present in the Information,[33] petitioner is ultimately being charged with violation of R.A. 9165.[34]

Regardless of whether the Information charges the crime of bribery or illegal drug trading, or regardless of how the Court classifies the crime, there is only one conclusion - the crime could not have been committed if not for petitioner's position as Secretary of Justice.

Inmates in the national prisons are classified into three security groups. Maximum security inmates are those who are highly dangerous or pose high security risk that requires a high degree of control and supervision.[35] Medium security inmates are those who cannot be trusted in less-secure areas, but whose conduct or behavior requires mmtmum supervision.[36] Minimum security inmates are those who can be reasonably trusted to serve their sentences under less restricted conditions.[37]

Inmates are also classified as follows according to their entitlement to privileges:

- Detainee;

- Third-class inmates or those who have either been previously committed for three or more times as a sentenced inmate, except those imprisoned for nonpayment of a fine and those who have been reduced from a higher class;

- Second-class inmates or those who have newly arrived, demoted from the first class, or promoted from the third class;

- First-class inmates or those whose known character and credit for work while in detention earned assignment to this class upon commencement of sentence, or who have been promoted from the second class; and

- Colonist.[38]

Colonists are the highest class of inmates entitled to special privileges.[39] They are those who were first-class inmates and has served one year immediately preceding the completion with good conduct of one-fifth of the maximum term of their prison sentence, or seven years in the case of a life sentence.[40]

Under the Bureau of Corrections (BuCor) Operating Manual issued on 30 March 2000, the transfer of inmates to another prison is done by the BuCor Director upon the recommendation of the Superintendent of the prison facility concemed.[41] On the other hand, the transfer to a prison and penal farm of inmates not eligible to be colonists is done by the Director upon the recommendation of the Classification Board.[42]

On 3 June 2011, petitioner, as then Secretary of Justice, issued Department Circular No. 025 ordering that all transfers of inmates to any of the penal colonies or penal farms shall bear the prior approval of the Secretary of Justice.

As alleged in the affidavits, the issue of transferring detainees as well as the grant of privileges became the modus by which petitioner influenced the proliferation of the drug trade inside the NBP. We will relate some of their

allegations here. Assuming all of these allegations to be true, it can only be concluded that petitioner could not have participated in any way in the drug trade unless she used her office for that purpose.

According to most of the inmate-witnesses, Jaybee Sebastian (Sebastian) wanted to monopolize the drug trade inside the National Bilibid Prison (NBP). He instructed them to deal drugs, the proceeds of which would supposedly be given to petitioner, who had demanded that the inmates contribute money for her candidacy for senator in the May 2016 elections. They were forced to follow his instruction for fear of certain repercussions. Among these was the possibility that they would be transferred to another detention center or a far-flung penal colony and taken away from their families.

In his affidavit, Wu Tuan Yuan a.k.a. Peter Co narrated that his kubol was searched and he was transferred, together with others, to the National Bureau of Investigation (NBI). Sebastian supposedly wanted them to understand that those who would not follow would be transferred to a penal colony.[43] In his affidavit, Jojo Baligad stated that he was transferred to the NBI, because his name was included in the list of people that Sebastian furnished petitioner, so that the latter could monopolize the drug trade.[44] Joel Capones also stated that Sebastian assured him that those who would fund petitioner's candidacy would be protected. At any rate, they had no choice but to follow, because Sebastian had the influence to have them killed or be transferred.[45] His word was law, according to Noel Martinez, because those who did not follow would be the victim of planted drugs or be transferred or killed.[46] Despite his belief that he would not be touched because he gave P3 million to petitioner and P1.2 million to BuCor Officer-in-Charge Rafael Z. Ragos (Ragos) monthly, Herbert Colanggo was transferred when he did not agree to centralize the drug trade through Sebastian.[47] According to Rodolfo Magleo, Sebastian was ultimately able to monopolize the drug trade after the Bilibid 19 had been transferred to the NBI. Allegedly, Sebastian gave P10 million to petitioner in order to effect the transfer.[48]

For his part, Sebastian denied that he was "untouchable" in the national penitentiary, but he confirmed that petitioner meddled in the administration of the prison by ordering the transfers of inmates to other detention facilities.[49]

Money was also alleged to have exchanged hands in order to prevent the transfers of inmates to a penal colony. Froilan "Poypoy" Trestiza narrated that he had been threatened with transfer to a penal colony, so he was compelled to pay P10,000 for this not to happen.[50] He also testified that when he was placed in the medium security compound of the NBP and he later wanted to be transferred back to the maximum security compound, he was told that petitioner could do so if he paid P200,000 to Jun Ablen and Ragos.[51]

Based on the affidavits, the transfers of inmates to a penal farm or penal colony morphed from a manner of rewarding good behavior inside the national penitentiary into a way of punishing those who did not contribute to or fund petitioner's candidacy. The imminent threat of transfer, which was then within the exclusive power of petitioner as Secretary of Justice, became a manner of keeping disobedience at bay, disobedience here meaning not engaging in the illegal drug trade. Presumably, without that threat, petitioner would not have been able to exact obedience from the inmates.

Note is also taken of the apparent fact that inmates considered the transfer from the maximum security to the medium security compound as a punishment, again contrary to the regulation that medium security inmates are provided relative freedom and less supervision than those classified as maximum security. According to the inmates, this power to transfer them to other security compounds or detention centers was also lodged in petitioner as a way to keep their behavior in check. Again "keeping their behavior in check" here meant that they should continue to engage in the illegal drug trade inside the NBP. The evolution of the maximum security compound into a "Little Las Vegas" appears to have been an important incentive for inmates to want to stay there.

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Rodolfo Magleo narrated that the maximum security compound of the NBP was nicknamed "Little Las Vegas" because it was rife with concerts, gambling and prostitution.[52] This allegation was confirmed by Sebastian.[53] Jojo Baligad disclosed that the weekly tara of P100,000 that their group paid to Ragos was in exchange for leniency in allowing contraband to be brought inside the prison.[54] Vicente Sy stated that he paid P1 million, so that he could bring and use appliances in the prison, and another P500,000 when they were actually delivered.[55] Engelberto Acenas Durano stated that Ronnie Dayan approached him and told him that if he needed protection for his business, the former would have to help with petitioner's candidacy.[56] Durano added that one could not refuse to be part of the drug trade inside the prison, because the privileges originally extended could be lost.[57] According to Jaime Patcho, Sebastian assured him that if they contributed to fund the candidacy of petitioner, they would not be harassed or disturbed in the enjoyment of privileges.[58] In fact, after they obeyed the instruction for them to engage in the drug trade for petitioner's candidacy, Joel Capones observed that new privileges were extended to them almost immediately.[59] German Agojo also disclosed that Sebastian assured the members of his group that they would receive protection and privileges if they would agree to deal drugs to earn money for petitioner's candidacy.[60]

The alleged grant by petitioner of special requests from the inmates was also alleged by Ragos. He stated that when he relayed these special requests to petitioner, she would just respond with a nod.[61] Nevertheless, Reynante Diaz disclosed that the Office of the Director also received bribe money in exchange for allowing women, liquor and concert equipment to be brought into the prison.[62]

Other allegations relate to the use of disciplinary powers by the petitioner. All of these again yield the same conclusion that she could not have committed them except, self-evidently, by using her power as Secretary of Justice. Under the existing rules, the commission of any prohibited acts[63] will subject the erring inmate to disciplinary action by the Board of Discipline established by the BuCor Director. The decision of the board is subject to the approval of the Superintendent of the prison facility.[64] The board can impose sanctions such as caution or reprimand; cancellation of recreation, education, entertainment or visiting privileges; deprivation of GCTA for a specific period; and change of security status to the next higher category, e.g., from medium to maximum.[65]

Considering that the Superintendent is required to strictly enforce all laws and rules and regulations relating to prisons,[66] these prohibited acts could not have been committed inside the prison without those in charge allowing them. Significantly, under Section 8 of R.A. 10575 (The Bureau of Corrections Act of 2013), the Department of Justice (DOJ) exercises administrative supervision over BuCor and retains the authority to review, reverse, revise or modify the latter's decisions in the exercise of the department's regulatory or quasi-judicial functions. Therefore, the power allegedly exercised by petitioner as narrated by the inmate-witnesses is affirmed by the legal framework instituted between the DOJ and BuCor through applicable laws and regulations.

Based on the narrations of the inmate-witnesses, leniency and special privileges were accorded in exchange for money. The inmates allegedly would not have forked in the money or engaged in illegal drug trade to be able to give the money, if they knew that their efforts would not matter anyway. Like a transfer, the grant or denial of special privileges was allegedly used as an incentive for obedience or a deterrent for refusal to follow what was required of the inmates by those in power.

Other than the above acts, petitioner is not charged with having committed any other act in a private, non-official capacity to further the trade in drugs. It is therefore indubitable that she is being charged in her former capacity as a public official and for having committed violations of R.A. 9165 by using her office as a means of committing the crime of illegal trading in dangerous drugs under Section 5 in relation to Section 3(jj), Section 26(b), and Section 28.

Sandiganbayan has Exclusive Jurisdiction

Respondents allege that under the Revised Penal Code, R.A. 6425 (The Dangerous Drugs Act of 1972), and R.A. 9165, the regional trial courts are vested by law with jurisdiction over cases involving illegal drugs, originally because of the imposable penalty and, later on, because of the nature of the offense.[67] They have exclusive and original jurisdiction in all cases punishable under R.A. 6425 and R.A. 9165.

Specifically, Section 90 of R.A. 9165 provides:

> Section 90. Jurisdiction. - The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.
>
> The DOJ shall designate special prosecutors to exclusively handle cases involving violations of this Act.
>
> The preliminary investigation of cases filed under this Act shall be terminated within a period of thirty (30) days from the date of their filing.
>
> When the preliminary investigation is conducted by a public prosecutor and a probable cause is established, the corresponding information shall be filed in court within twenty-four (24) hours from the termination of the investigation. If the preliminary investigation is conducted by a judge and a probable cause is found to exist, the corresponding information shall be filed by the proper prosecutor within forty-eight (48) hours from the date of receipt of the records of the case.
>
> Trial of the case under this Section shall be finished by the court not later than sixty (60) days from the date of the filing of the information. Decision on said cases shall be rendered within a period of fifteen (15) days from the date of submission of the case for resolution. (Emphasis supplied)

Additionally, respondents argue that the exclusive jurisdiction of regional trial courts over violations of R.A. 9165 finds further support in several provisions of R.A. 9165,[68] such as the following:

> Section 20. Confiscation and Forfeiture of the Proceeds or Instruments of the Unlawful Act, Including the Properties or Proceeds Derived from the Illegal Trafficking of Dangerous Drugs and/or Precursors and Essential Chemicals. - Every penalty imposed for the unlawful importation, sale, trading, administration, dispensation, delivery, distribution, transportation or manufacture of any dangerous drug and/or controlled precursor and essential chemical, the cultivation or culture of plants which are sources of dangerous drugs, and the possession of any equipment, instrument, apparatus and other paraphernalia tor dangerous drugs including other laboratory equipment, shall carry with it the confiscation and forfeiture, in favor of the government. of all the proceeds and properties derived from the unlawful act, including, but not limited to, money and other assets obtained thereby, and the instruments or tools with which the particular unlawful act was committed, unless they are the property of a third person not liable for the unlawful act, but those which are not of lawful commerce shall be ordered destroyed without delay pursuant to the provisions of Section 21 of this Act.
>
> After conviction in the Regional Trial Court in the appropriate criminal case filed, the Court shall immediately schedule a hearing for the confiscation and forfeiture of all the proceeds of the offense and all the assets and properties of the accused either owned or held by him or in the name of some other persons if the same shall be found to be manifestly out of proportion to his/her lawful income: Provided, however, That if the forfeited property is a vehicle, the same shall be auctioned off not later than five (5) days upon order of confiscation or forfeiture.
>
> During the pendency of the case in the Regional Trial Court, no property, or income derived therefrom, which may be confiscated and forfeited, shall be disposed, alienated or transferred and the same shall be in custodia legis and no bond shall be admitted for the release of the same.

> The proceeds of any sale or disposition of any property confiscated or forfeited under this Section shall be used to pay all proper expenses incurred in the proceedings for the confiscation, forfeiture, custody and maintenance of the property pending disposition, as well as expenses for publication and court costs. The proceeds in excess of the above expenses shall accrue to the Board to be used in its campaign against illegal drugs.
>
> x x x x
>
> Section 27. Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any public office, shall be imposed upon any public officer or employee who misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in this Act.
>
> Any elective local or national official found to have benefited from the proceeds of the trafficking of dangerous drugs as prescribed in this Act, or have received any financial or material contributions or donations from natural or juridical persons found guilty of trafficking dangerous drugs as prescribed in this Act, shall be removed from office and perpetually disqualified from holding any elective or appointive positions in the government, its divisions, subdivisions, and intermediaries, including government-owned or -controlled corporations.
>
> Section 28. Criminal Liability of Government Officials and Employees.- The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees. (Emphases supplied)

The reliance of respondents on Section 90 of R.A. 9165 stems from the phrase "exclusively try and hear cases involving violations of this Act." It is believed that the word "exclusively" denotes that jurisdiction lies with regional trial courts to the exclusion of all other courts.

It bears emphasis that the entire first sentence of Section 90 provides that "[t]he Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act." Thus, in recognition of the constitutional authority of the Supreme Court to supervise the administration of all courts, the legislature mandated it to designate special courts from among the regional trial courts that shall exclusively try and hear cases involving violations of R.A. 9165.

In Gonzales v. GJH Land, Inc.,[69] it was ruled that the power of this Court to designate special courts has nothing to do with the statutory conferment of jurisdiction, because, primarily, the Court cannot enlarge, diminish, or dictate when jurisdiction shall be removed.[70] As a general rule, the power to define, prescribe, and apportion jurisdiction is a matter of legislative prerogative.[71]

To emphasize the distinction between the power of the legislature to confer jurisdiction and that of the Supreme Court to supervise the exercise thereof, the Court enunciated:

> As a basic premise, let it be emphasized that a court's acquisition of jurisdiction over a particular case's subject matter is different from incidents pertaining to the exercise of its jurisdiction. Jurisdiction over the subject matter of a case is conferred by law, whereas a court's exercise of jurisdiction, unless provided by the law itself, is governed by the Rules of Court or by the orders issued from time to time by the Court. In Lozada v.

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> Bracewell, it was recently held that the matter of whether the RTC resolves an issue in the exercise of its general jurisdiction or of its limited jurisdiction as a special court is only a matter of procedure and has nothing to do with the question of jurisdiction.[72] (Emphases and underscoring in the original)

In the first sentence of Section 90 of R.A. 9165, the legislature called on the Supreme Court to rationalize the exercise of jurisdiction by the courts. This call for rationalization is evident from the words "to exclusively try and hear cases involving violations of this Act."

As will be shown below, the word "exclusively" in Section 90 of R.A. 9165 pertains to the courts' exercise of jurisdiction, and not to the legislature's conferment thereof.

In the En Banc Resolution dated 11 October 2005, the Court, answering the question "May special courts for drug cases be included in the raffle of civil and criminal cases other than drug related cases?" stated:

> The phrase "to exclusively try and hear cases involving violations of this Act" means that, as a rule, courts designated as special courts for drug cases shall try and hear drug-related cases only, i.e., cases involving violations of R.A. No. 9165, to the exclusion of other courts.
>
> The very title of Article XI of R.A. No. 9165, the article where Section 90 is included, reads: "Jurisdiction Over Drug Cases." It provides for the forum where drug cases are to be filed, tried and resolved: Regional Trial Courts (RTCs) designated by this Court as special drug courts. The jurisdiction of the designated courts is exclusive of all other courts not so designated.
>
> In our resolution in A.M. No. 00-8-01-SC on August 1, 2000, certain branches of the RTCs were designated as special courts for drug cases. They were tasked to hear and decide all criminal cases in their respective jurisdictions involving violations of R.A. No. [6425], otherwise known as the "Dangerous Drugs Act of 1972," as amended, regardless of the quantity of drugs involved. Among the guidelines issued to implement such designation was a directive to Executive Judges of the RTCs concerned to exclude the designated courts from the raffle of other cases subsequent to the assignment or transfer of drug cases to them.
>
> Even after the passage of R.A. No. 9165, the designated courts under A.M. No. 00-8-01-SC remained as special courts for drug cases. The resolution is still in effect insofar as it is not inconsistent with the new law. The fact that A.M. No. 00-8-01-SC has not been abandoned is evident in resolutions subsequently issued by the Court adding or replacing drug courts in different jurisdictions. These resolutions expressly state that the guidelines set forth in A.M. No. 00-8-01-SC should be observed, if applicable.
>
> The rationale behind the exclusion of drug courts from the raffle of cases other than drug cases is to expeditiously resolve criminal cases involving violations of R.A. No. 9165 (previously, of R.A. No. [6425]). Otherwise, these courts may be sidelined from hearing drug cases by the assignment of non-drug cases to them and the purpose of their designation as special courts would be negated. The faithful observance of the stringent time frame imposed on drug courts for deciding drug related cases and terminating proceedings calls for the continued implementation of the policy enunciated in A.M. No. 00-8-01-SC.[73] (Emphases supplied)

Clearly, only those designated as special courts for drug cases shall exercise the jurisdiction to try and hear drug-related cases, to the exclusion of all other courts not so designated. The rationale for the rule is for these special courts to expeditiously reso]ve cases within the stringent time frame provided by the law; i.e., the trial of the case shall be finished by the court not later than 60 days from the date of filing of the information, and the decision shall be rendered within a period of 15 days from the date of submission of the case for resolution.

The En Banc Resolution dated 11 October 2005 succinctly echoes the legislative intent of the framers of R.A. 9165 as shown below:

> REP. DILANGALEN. Under Section 60, we have here Jurisdiction Over Dangerous Drug Case. Section 60, it

states here: "The Supreme Court shall designate Regional Trial Courts to have original jurisdiction over all offenses punishable in this Act."

Mr. Speaker, what I know is, the Regional Trial Courts have original jurisdiction over offenses involving drugs.

REP. CUENCO. Yes.

REP. DILANGALEN. Is it the intention of the Committee that certain salas of the Regional Trial Courts be designated by the Supreme Court to try exclusively drugs related offenses?

REP. CUENCO. That is correct. That is the objective. What is happening right now, Gentleman from Maguindanao, is that although the Supreme Court has issued a directive requiring the creation of - the assignment of drugs cases to certain judges, but the assignment is not exclusive. These judges still handle other cases, aside from the drugs cases. Our intention really is to assign cases to judges which are exclusively drugs cases and they will handle no other cases.

REP. DILANGALEN. If that is the case, Mr. Speaker, at the appropriate time, I would like to propose the following amendment, "that the Supreme Court shall designate specific or salas of Regional Trial Courts to try exclusively offenses related to drugs.

REP. CUENCO. Yes. Simply stated, we are proposing the setting up of exclusive drug courts, just like traffic courts. Because almost all judges now are really besieged with a lot of drug cases. There are thousands upon thousands of drug cases pending for as long as twenty years.

REP. DILANGALEN. Yes, Mr. Speaker. I think we have here a convergence of ideas. We have no dispute here, but I am only more concerned with the phraseology of this particular provision.

REP. CUENCO. Then we will polish it.

REP. DILANGALEN. Thank you very much, Mr. Speaker.

So, at the appropriate time I would like to recommend an amendment that the Supreme Court shall designate particular salas of Regional Trial Courts to try exclusively all offenses punishable under this Act.

REP. CUENCO. Fine.

REP. DILANGALEN. Thank you very much, Mr. Speaker.

Under Article 60 also, we have here a provision, second paragraph on page 46, "Trial of the case under this Section shall be finished by the court not later than ninety (90) days from the date of the filing of the information. Decision on said cases shall be rendered within a period of fifteen (15) days from the date of submission of the case."

My question is, is it the intention of the Committee to make this particular provision merely directory as in...?

REP. CUENCO. Compulsory.

REP. DILANGALEN. If it is compulsory, what will happen if the case is not finished in ninety days?

REP. CUENCO. Well, administrative sanctions should be imposed on the judge by the Supreme Court.

REP. DILANGALEN. You know, Mr. Speaker, even under the Constitution, we have specific provisions here. The Supreme Court will decide certain cases from the time it is submitted for resolution within a specific period of time. That is true with the Court of Appeals, Regional Trial Courts and Municipal Trial Courts.

REP. CUENCO. Yes. Pero directory lang daw.

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> REP. DILANGALEN. But this provision of the Constitution is not followed. So, if we are going to make this particular provision not only directory but mandatory, will it be criminal if judges would fail?
>
> REP. CUENCO. I do not know whether we have the power to the Supreme Courts. The power to the Supreme Courts rests with the Supreme Court.
>
> REP. DILANGALEN. So, the intention of the Committee is only to mete administrative sanction.
>
> REP. CUENCO. Yes, that is the only power that the Congress would have against erring judges. You cannot send a judge to jail because he is a slowpoke.
>
> REP. DILANGALEN. Well, if that is the case, Mr. Speaker, then thank you very much for the information. There is no intention of filing criminal case against them but only administrative sanctions.
>
> Thank you very much.
>
> REP. CUENCO. Administrative sanctions should be imposed on him by the Supreme Court.[74] (Emphases supplied)

The intention behind the first sentence of Section 90 of R.A. 9165 was thus made clear: for the Supreme Court to assign regional trial courts that will handle drug cases exclusive of all other cases. Considering the foregoing, the exclusivity referred to therein pertains to the court's exercise of the jurisdiction conferred upon it by the legislature. There is no cogent reason to conclude that the legislature conferred jurisdiction on these special courts for them to take cognizance of violations of R.A. 9165 to the exclusion of all other courts.

The fact that it was not the intention of the legislature to confer jurisdiction on regional trial courts to the exclusion of all other courts was even highlighted during the bicameral conference committee meeting on the disagreeing provisions of House Bill No. 4433 and Senate Bill No. 1858, to wit:

> CHAIRMAN CUENCO. x x x
>
> On other matters we would like to propose the creation of drug courts to handle exclusively drug cases; the imposition of a sixty day deadline on courts within which to decide drug cases; and number three, provide penalties on officers of the law and government prosecutors for mishandling and delaying drug cases. We will address these concerns one by one. Number one, the possible creation of drug courts to handle exclusively drug cases, any comment? Congressman Ablan? First with the Chairman of the Senate Panel would like to say something.
>
> CHAIRMAN BARBERS. We have no objection on this proposal, Mr. Chairman. As a matter of fact, this is one of the areas where we come to an agreement when we were in Japan. However, I would just like to add a paragraph after the word "Act" in Section 86 of the Senate version, Mr. Chairman, and this is in connection with the designation of special courts by the Supreme Court. And the addendum that I'd like to make is this, Mr. Chairman, after the word "Act" - the Supreme Court of the Philippines shall designate special courts from among the existing regional trial courts in its judicial region to exclusively try and hear cases involving violations of this Act. The number of court designated in each division, region shall be based on the population and the number of cases pending in the respective jurisdiction. That is my proposal, Mr. Chairman.
>
> CHAIRMAN CUENCO. We adopt the same proposal.
>
> SEN. CAYETANO. Comment, comment.
>
> CHAIRMAN CUENCO. Pwede ba iyan? O sige Senator Cayetano.
>
> SEN CAYETANO. Mr. Chairman, first of all there is already an administrative order by the Supreme Court, Administrative Order 51 as amended by Administrative Order 104, if I'm not mistaken, in '96 designating

special courts all over the country that handles heinous crimes which include, by the way, violation of the present drug act where the penalty is life to death. Now, when it comes to crimes where the penalty is six years or below this is the exclusive jurisdiction not of the RTC, not of the regional trial court, but of the municipal courts. So my observation, Mr. Chairman, I think since there are already special courts we need not create that anymore or ask the Supreme Court. And number two, precisely because there are certain cases where the penalties are only six years and below. These are really handled now by the Municipal Trial Court. As far as the 60-day period, again in the Fernan Law, if I'm not mistaken, there is also a provision there that all heinous crimes now will have to be decided within 60 days. But if you want to emphasize as far as the speed by which all these crimes should be tried and decided, we can put it there. But as far as designation, I believe this may be academic because there are already special courts. And number 2, we cannot designate special courts as far as the municipal courts are concerned. In fact the moment you do that then you may limit the number of municipal courts all over the country that will only handled that to the prejudice of several other municipal courts that handles many of these cases.

CHAIRMAN CUENCO. Just a brief rejoinder, with the comments made by Senator Cayetano.

It is true that the Supreme Court has designated certain courts to handle exclusively heinous crime. Okay. But our proposal here is confined exclusively to drug cases, not all kinds of heinous crimes. There are so many kinds of heinous crimes, murder, piracy, rape, et cetera. The idea here is to focus the attention of a eourt, on that court to handle only purely drug cases. Now, in case the penalty, the penalty provided for by law is below 6 years wherein the regional trial courts will have no jurisdiction, then the municipal courts may likewise be designated as the trial court concerning those cases. The idea here really is to assign exclusively a sala of a regional trial court to handle nothing else except cases involving drugs, illegal drug trafficking. Right now there are judges who have been so designated by the Supreme Court to handle heinous crimes but they are not exclusive to drugs, eh. Aside from those heinous crimes, they also handle other cases, which are not even heinous.

So the idea here is to create a system similar to the traffic courts, which will try and hear exclusively traffic cases. So, in view of the gravity of the situation and in view of the urgency of the resolution of these drug cases because the research that we have made on the drug cases filed is that the number of decided cases not even 1% of those filed. There have been many apprehensions, thousands upon thousands of apprehensions, thousands upon thousands of cases filed in court but only about 1% have been disposed, The reason is that there is no special attention made or paid on these drug cases by our courts.

So that is my humble observation.

SEN. CAYETANO. No Problem.

CHAIRMAN CUENCO. You have no problem.

CHAIRMAN BARBERS. I have no problem with that, Mr. Chairman. But I'd like to call your attention to the fact that my proposal is only for a designation because if it is for creation that would entail another budget, Mr. Chairman. And almost always, the Department of Budget will tell us in the budget hearing that we lack funds, we do not have money. So that might delay the very purpose why we want the RTCs or the municipal courts to handle exclusively the drug cases. That's why my proposal is designation not creation.

CHAIRMAN CUENCO. Areglado. No problem. Designation. Approved.[75] (Emphases supplied)

Clearly, the legislature took into consideration the fact that certain penalties were not within the scope of the jurisdiction of regional trial courts; hence, it contemplated the designation of municipal trial courts to exclusively handle drug cases as well. Notably, under Section 32 of Batas Pambansa Blg. (B.P.) 129 (The Judiciary Reorganization Act of 1980), metropolitan trial courts, municipal trial courts and municipal circuit trial courts have exclusive original jurisdiction over all offenses punishable with imprisonment not exceeding six years,

irrespective of the amount of fine.

In this regard, Section 20 of B.P. 129 as amended finds relevance:

> Section 20. Jurisdiction in Criminal Cases. - Regional Trial Courts shall exercise exclusive original jurisdiction in all criminal cases not within the exclusive jurisdiction of any court, tribunal or body, except those now falling under the exclusive and concurrent jurisdiction of the Sandiganbayan which shall hereafter be exclusively taken cognizance of by the latter. (Emphasis supplied)

Section 20 of B.P. 129 is the legislature's conferment of jurisdiction on regional trial courts. However, the legislature explicitly removed from the jurisdiction of regional trial criminal cases falling under the exclusive and concurrent jurisdiction of the Sandiganbayan. Thus, Section 20 of B.P. 129 should be read in conjunction with Section 4[76] of Presidential Decree No. (P.D.) 1606[77] as amended.

As will be discussed more thoroughly in the following section of this opinion, the Court has ruled in a line of cases[78] that the following requisites must concur for an offense to fall under the exclusive original jurisdiction of the Sandiganbayan:

- The offense committed is (a) a violation of the Anti-Graft and Corrupt Practices Act as amended; (b) a violation of the law on ill-gotten wealth; (c) a violation of the law on bribery; (d) related to sequestration cases; or (e) all other offenses or felonies, whether simple or complexed with other crimes;

- The offender committing the offenses in items (a), (b), (c) and (e) is a public official or employee holding any of the positions enumerated in paragraph (a) of Section 4; and

- The offense committed is in relation to office.

In this case, an offense was allegedly committed by petitioner while she was Secretary of Justice, an official of the executive branch, and classified as Grade '27' or higher. Furthermore, as discussed above, the offense was allegedly committed in relation to her office. Thus, the offense charged falls under the exclusive original jurisdiction of the Sandiganbayan.

It follows that the Ombudsman has primary jurisdiction in the conduct of the investigation into the four complaints taken cognizance of by the DOJ panel of investigators[79] (panel) in this case. Section 15(1) of R.A. 6770 (The Ombudsman Act of 1989) as amended provides that the Ombudsman shall have primary jurisdiction over cases cognizable by the Sandiganbayan; and, in the exercise of this primary jurisdiction, the Ombudsman may take over, at any stage and from any investigatory agency of the government, the investigation of these cases.

The primary jurisdiction of the Ombudsman to investigate cases cognizable by the Sandiganbayan was operationalized by the former, together with the DOJ in the Memorandum of Agreement (MOA) executed on 29 March 2012. The pertinent portion of the MOA provides:

> I. Agreements
>
> A. Jurisdiction
>
> - The OMB has primary jurisdiction in the conduct of preliminary investigation and inquest proceedings over complaints for crimes cognizable by the Sandiganbayan.
>
> - If, upon the filing of a complaint, the prosecution office of the DOJ determines that the same is for a crime falling under the exclusive jurisdiction of the Sandiganbayan, it shall advise the complainant to file it directly with the OMB: Provided, That in case a prosecution office of the DOJ receives a complaint that is cognizable by the Sandiganbayan, it shall immediately endorse the same to the OMB. Provided further, That in cases

> where there are multiple respondents in a single complaint and at least one respondent falls within the jurisdiction of the Sandiganbayan, the entire records of the complaint shall be endorsed to the OMB.

However, the fact that the Ombudsman has primary jurisdiction to conduct an investigation into the four complaints does not preclude the panel from conducting any investigation of cases against public officers involving violations of penal laws. In Honasan II v. Panel of Investigating Prosecutors of the Department of Justice,[80] the Court ruled that accords between the Ombudsman and the DOJ, such as the MOA in this case, are mere internal agreements between them. It was emphasized that under Sections 2[81] and 4,[82] Rule 112 of the Rules of Court, DOJ prosecutors have the authority to conduct preliminary investigations of criminal complaints filed with them for offenses cognizable by the proper court within their respective territorial jurisdictions, including those offenses that fall under the original jurisdiction of the Sandiganbayan.[83]

Nevertheless, if the offense falls within the original jurisdiction of the Sandiganbayan, the prosecutor shall, after investigation, transmit the records and their resolutions to the Ombudsman or the latter's deputy for appropriate action.[84] Furthermore, the prosecutor cannot dismiss the complaint without the prior written authority of the Ombudsman or the latter's deputy; nor can the prosecutor file an Information with the Sandiganbayan without being deputized by, and without receiving prior written authority from the Ombudsman or the latter's deputy.[85]

Thus, after concluding its investigation in this case, the panel should have transmitted the records and their resolution to the Ombudsman for appropriate action.

Considering that an Information has already been filed before the Regional Trial Court of Muntinlupa City, Branch 204, this Court may order the quashal of the Information based on lack of jurisdiction over the offense charged, pursuant to Section 3(b),[86] Rule 117 of the Rules of Court.

Accordingly, Section 5 of Rule 117 shall apply:

Section 5. Effect of sustaining the motion to quash. - If the motion to quash is sustained, the court may order that another complaint or information be filed except as provided in Section 6 of this rule. If the order is made, the accused, if in custody, shall not be discharged unless admitted to bail. If no order is made or if having been made, no new information is filed within the time specified in the order or within such further time as the court may allow for good cause, the accused, if in custody, shall be discharged unless he is also in custody for another charge. (Emphasis supplied)

It would be necessary for the Court to provide the Ombudsman a certain period of time within which to file a new complaint or Information based on the records and resolution transmitted by the panel. Significantly, petitioner will not be discharged from custody. If, however, the Ombudsman finds that there is no probable cause to charge her, or if it fails to tile an Information before the Sandiganbayan within the period provided by this Court, petitioner should be ordered discharged, without prejudice to another prosecution for the same offense.[87]

Rationale for the Creation of the Sandiganbayan

The Sandiganbayan is a court that exists by constitutional fiat, specifically Section 5, Article XIII of the 1973 Constitution, which provides as follows:

> SECTION 5. The National Assembly shall create a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office as may be determined by law.

Pursuant to the Constitution and Proclamation No. 1081,[88] President Ferdinand Marcos issued P.D. No.

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1486[89] creating the Sandiganbayan. Its creation was intended to pursue and attain the highest norms of official conduct required of public officers and employees, based on the concept that public officers and employees shall serve with the highest degree of responsibility, integrity, loyalty and efficiency and shall remain at all times accountable to the people.[90] As an anti-graft court, the Sandiganbayan is structured as a collegiate body and is considered a trailblazing institution that arose from our unique experience in public governance.[91]

P.D. 1486 was expressly repealed by P.D. 1606, which elevated the Sandiganbayan to the level of the CA and expanded the former's jurisdiction. B.P. 129, P.D. 1860,[92] and P.D. 1861[93] subsequently amended P.D. 1606, further expanding the jurisdiction of the Sandiganbayan.

The existence and operation of the Sandiganbayan continued under the 1987 Constitution by express mandate, as follows:

> Section 4. The present anti-graft court known as the Sandiganbayan shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law.[94]

Subsequently, Executive Order Nos. (E.O.) 14[95] and 14-a,[96] as well as R.A. 7080,[97] further expanded the jurisdiction of the Sandiganbayan.

P.D. 1606 was further modified by R.A. 7975,[98] R.A. 8249,[99] and R.A. 10660,[100] which introduced amendments in the Sandiganbayan's composition, jurisdiction, and procedure.

The jurisdiction of the Sandiganbayan has undergone significant modifications through the years in order to keep up with the ever-evolving dynamics of public governance.

Section 4 of P.D. 1486 first defined the cases over which the Sandiganbayan shall have original and exclusive jurisdiction as follows:

(a)

Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act and Republic Act No. 1379;

(b)

Crimes committed by public officers or employees, including those employed in government-owned or controlled corporations, embraced in Title VII of the Revised Penal Code;

(c)

Other crimes or offenses committed by public officers or employees including those employed in government-owned or controlled corporations in relation to their office; Provided, that, in case private individuals are accused as principals, accomplices or accessories in the commission of the crimes hereinabove mentioned, they shall be tried jointly with the public officers or employees concerned.

Where the accused is charged of an offense in relation to his office and the evidence is insufficient to establish the of Tense so charged, he may nevertheless be convicted and sentenced for the offense included in that which is charged.

(d)

Civil suits brought in connection with the aforementioned crimes for restitution or reparation of damages, recovery of the instruments and effects of the crimes, or forfeiture proceedings provided for under Republic Act No. 1379;

(e)

Civil actions brought under Articles 32 and 34 of the Civil Code.

Exception from the foregoing provisions during the period of material law are criminal cases against officers and members of the Armed Forces of the Philippines, and all others who fall under the exclusive jurisdiction of the military tribunals.[101]

P.D. 1606 expressly repealed[102] P.D. 1486 and revised the jurisdiction of the Sandiganbayan. It removed therefrom the civil cases stated in Section 4(d) and (e) of P.D. 1486 and specified the penalty of prision correccional or its equivalent as the demarcation delineating the anti-graft court's jurisdiction over crimes or offenses committed in relation to public office.

Subsequently, Section 20 of B.P. 129[103] expanded the exclusive original jurisdiction of the Sandiganbayan over the offenses enumerated in Section 4 of P.D. 1606 to embrace all such offenses irrespective of the imposable penalty. This expansion caused a proliferation in the filing of cases before the Sandiganbayan, when the offense charged was punishable by a penalty not higher than prision correccional or its equivalent.[104]

P.D. 1606 was subsequently amended, first by P.D. 1860 and eventually by P.D. 1861, which made prision correccional or imprisonment for six years, or a fine of P6,000 the demarcation line limiting the Sandiganbayan's jurisdiction to offenses or felonies committed in relation to public office.[105] Appellate jurisdiction was then vested in the Sandiganbayan over the cases triable by the lower courts.[106]

Section 2 of R.A. 7975 subsequently redefined the jurisdiction of the anti-graft court as follows:

> Sec. 4. Jurisdiction. - The Sandiganbayan shall exercise original jurisdiction on all cases involving:
>
> a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code, where one or more of the principal accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
>
> (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade "27" and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:
>
> (a) Provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other provincial department heads;
>
> (b) City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers and other city department heads;
>
> (c) Officials of the diplomatic service occupying the position of consul and higher;
>
> (d) Philippine army and air force colonels, naval captains, and all officers of higher ranks;
>
> (e) PNP chief superintendent and PNP officers of higher rank;
>
> (f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;
>
> (g) Presidents, directors or trustees, or managers of government--owned or-controlled corporations, state universities or educational institutions or foundations;
>
> (2) Members of Congress and officials thereof classified as Grade "27" and up under the Compensation and

> Position Classification Act of 1989;
>
> (3) Members of the Judiciary without prejudice to the provisions of the Constitution;
>
> (4) Chairmen and members of Constitutional Commissions, without prejudice to the provisions of the Constitution; and
>
> (5) All other national and local officials classified as Grade "27" and higher under the Compensation and Position Classification Act of 1989.
>
> b. Other offenses or felonies committed by the public officials and employees mentioned in subsection (a) of this section in relation to their office.
>
> c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A
>
> In cases where none of the principal accused are occupying positions corresponding to salary grade "27" or higher, as prescribed in the said Republic Act No. 6758, or PNP officers occupying the rank of superintendent or higher, or their equivalent, exclusive jurisdiction thereof shall be vested in the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, and Municipal Circuit Trial Court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129.

The Grade '27' demarcation was first introduced in this amending law. As explained in People v. Magallanes,[107] under the amendments, the Sandiganbayan partially lost its exclusive original jurisdiction over cases involving violations of R.A. 3019; R.A. 1379; and Chapter II, Section 2, Title VII of the Revised Penal Code. The anti-graft court retains cases in which the accused are those enumerated in Section 4(a) of R.A. 7975 and, generally, national and local officials classified as Grade '27' and higher under R.A. 6758 (The Compensation and Position Classification Act of 1989). Moreover, the Sandiganbayan's jurisdiction over other offenses or felonies committed by public officials and employees in relation to their office is no longer determined by the prescribed penalty, as it is enough that they be committed by those public officials and employees enumerated in Section 4(a). However, the exclusive original jurisdiction over civil and criminal cases filed in connection with E.O. 1, 2, 14, and 14-A was retained.[108]

In 1997, R.A. 8249 was passed, further altering the jurisdiction of the anti-graft court as follows:

> Sec. 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
>
> a. Violations of Republic Act No. 3019, as amended, other known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
>
> (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:
>
> (a) Provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other city department heads;
>
> (b) City mayor, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads;
>
> (c) Officials of the diplomatic service occupying the position of consul and higher;
>
> (d) Philippine army and air force colonels, naval captains, and all officers of higher rank;

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(e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent or higher;

(f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;

(g) Presidents, directors or trustees, or managers of government--owned or -controlled corporations, state universities or educational institutions or foundations.

(2) Members of Congress and officials thereof classified as Grade '27' and up under the Compensation and Position Classification Act of 1989;

(3) Members of the judiciary without prejudice to the provisions of the Constitution;

(4) Chairmen and members of Constitutional Commission, without prejudice to the provisions of the Constitution; and

(5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

b. Other offenses of felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of this section in relation to their office.

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

In cases where none of the accused are occupying positions corresponding to Salary Grade '27' or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officer mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129, as amended.

As can be gleaned from the above-quoted portions, Section 4(a) and (c) of R.A. 8249 deleted the word "principal" before the word "accused" appearing in the Section 2(a) and (c) of R.A. 7975. Further, the phrase "whether simple or complexed with other crimes" was added in paragraph 4 of Section 4. The jurisdiction over police officials was also extended under paragraph a(1)(e) to include "officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintended or higher."

In Lacson v. Executive Secretary,[109] the requisites for a case to fall under the exclusive original jurisdiction of the Sandiganbayan under R.A. 8249 were enumerated as follows:

- The offense committed is a violation of (a) R.A. 3019, as amended (the Anti-Graft and Corrupt Practices Act); (b) R.A. 1379 (the law on ill-gotten wealth); (c) Chapter II, Section 2, Title VII, Book II of the Revised Penal Code (the law on bribery); (d) E.O. 1, 2, 14, and 14-A, issued in 1986; or (e) some other offense or felony whether simple or complexed with other crimes.

- The offender committing the offenses in items (a), (b), (c) and (e) is a public official or employee holding any of the positions enumerated in paragraph a of Section 4.

- The offense is committed in relation to office.

In Adaza v. Sandiganbayan,[110] this Court clarified the third element - that the offense committed is in relation to office:

R.A. 8249 mandates that for as long as the offender's public office is intimately connected with the offense

> charged or is used to facilitate the commission of said offense and the same is properly alleged in the information, the Sandiganbayan acquires jurisdiction. Indeed, the law specifically states that the Sandiganbayan has jurisdiction over all "other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of Section 4 in relation to their office." Public office, it bears reiterating, need not be an element of the offense charged.[111] (Emphasis supplied)

The latest amendment to P.D. 1606 was R.A. 10660 issued on 16 April 2015. While R.A. 10660 retained the list of officials under the Sandiganbayan s jurisdiction, it streamlined the anti-graft court's jurisdiction by adding the following proviso in Section 4 of P.D. 1606:

> Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).
>
> Subject to the rules promulgated by the Supreme Court, the cases falling under the jurisdiction of the Regional Trial Court under this section shall be tried in a judicial region other than where the official holds office.

In effect, the latest amendment transferred the jurisdiction over cases classified by the amending law's sponsors as minor[112] to regional trial courts, which have sufficient capability and competence to handle those cases.

An understanding of the structural framework of the Sandiganbayan would affirm its jurisdiction over the drug case involving petitioner herein. An analysis of the structure of the Sandiganbayan's jurisdiction would reveal the following salient points:

> - There is a marked focus on high-ranking officials.
>
> - Its jurisdiction covers offenses or felonies involving substantial damage to the government or public service.
>
> - These offenses or felonies involve those that are committed in relation to public office.

The foregoing points indicate what Justice Mario Victor Marvic F. Leonen terms "expertise-by-constitutional design."[113] The unique competence of the anti-graft court was also observed by Justice Antonio P. Barredo in his concurring opinion in Nuñez v. Sandiganbayan:[114]

> Constitutionally speaking, I view the Sandiganbayan as sui generis in the judicial structure designed by the makers of the 1971 Constitution. To be particularly noted must be the fact that the mandate of the Constitution that the National Assembly "shall create," it is not under the Article on the Judiciary (Article X) but under the article on Accountability of Public Officers. More, the Constitution ordains it to be "a special court." To my mind, such "special" character endowed to the Sandiganbayan carries with it certain concomitants which compel that it should be treated differently from the ordinary courts.[115]

Indeed, the jurisdiction of the Sandiganbayan contemplates not only an offense against the people, as in an ordinary crime, but an offense against the people committed precisely by their very defenders or representatives. It involves an additional dimension abuse of power - considered over and above all the other elements of the offense or felony committed.

The delineation of public officials who fall within the original and exclusive jurisdiction of the Sandiganbayan indicates the intention to focus on high-ranking officials, particularly including the following:

> (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

(a) Provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other city department heads;

(b) City mayor, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads;

(c) Officials of the diplomatic service occupying the position of consul and higher;

(d) Philippine army and air force colonels, naval captains, and all officers of higher rank;

(e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent or higher;

(f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;

(g) Presidents, directors or trustees, or managers of government--owned or -controlled corporations, state universities or educational institutions or foundations.

(2) Members of Congress and officials thereof classified as Grade '27' and up under the Compensation and Position Classification Act of 1989;

(3) Members of the judiciary without prejudice to the provisions of the Constitution;

(4) Chairmen and members of Constitutional Commission, without prejudice to the provisions of the Constitution; and

(5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

In Serana v. Sandiganbayan,[116] this Court clarified that while the first part of Section 4(a) covers only officials classified as Grade '27' and higher, its second part specifically includes other executive officials whose positions may not fall under that classification, but who are by express provision of the law placed under the jurisdiction of the anti-graft court. Therefore, more than the salary level, the focus of the Sandiganbayan's jurisdiction and expertise is on the nature of the position held by the public officer.

To put it simply, public officials whose ranks place them in a position of marked power, influence, and authority are within the exclusive original jurisdiction of the Sandiganbayan. While all government employees are public officers as defined by law, those with Grade '27' and higher and other officials enumerated are recognized as holding more concentrated amounts of power that enable them to commit crimes in a manner that lower-ranked public officers cannot. As clearly explained by this Court in Rodrigo v. Sandiganbayan,[117] the delineation of the jurisdiction of the Sandiganbayan in this manner frees it from the task of trying cases involving lower-ranking government officials and allows it to focus its efforts on the trial of those who occupy higher positions in government.

These high-ranking officials are the so-called "big fish" as o posed to the "small fry." The Explanatory Note of House Bill No. 9825,[118] which eventually became R.A. 7965 and introduced for the first time the delineation of the Sandiganbayan's jurisdiction based on salary grade, provides a very telling insight on the court's intended expertise. The Explanatory Note reads:

> One is given the impression that only lowly government workers or the so-called 'small fry' are expediently tried and convicted by the Sandiganbayan. The reason for this is that at present, the Sandiganbayan has the exclusive and original jurisdiction over graft cases committed by all officials and employees of the government, irrespective of rank and position, from the lowest-paid janitor to the highly-placed government

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> official. This jurisdiction of the Sandiganbayan must be modified in such a way that only those occupying high positions in the government and the military (the big fishes) may fall under its exclusive and original jurisdiction. In this way, the Sandiganbayan can devote its time to big time cases involving the "big fishes" in the government. The regular courts will be vested with the jurisdiction of cases involving less-ranking officials (those occupying positions corresponding to salary grade twenty-seven (27) and below and PNP members with a rank lower than Senior Superintendent.[119] (Emphasis supplied)

In other words, Congress deemed Grade '27' as the proper demarcation distinguishing the "big fish" from the "small fry." In fact, House Bill No. 9825 originally intended only officials of Grade '28' and above as falling within the exclusive and original jurisdiction of the Sandiganbayan, but the resulting law included officials of Grade '27.'[120]

It is the intention of Congress to focus the expertise of the Sandiganbayan not only on high-ranking public officials, but also on high- profile crimes committed in relation to public office. At the outset, the fact that the crime was committed by a high-ranking public official as defined by the Sandiganbayan law makes it a high-profile crime in itself. However, the most succinct display of the legislative intention is the recent passage of R.A. 10660, which transfers so-called minor cases to the regional trial courts. These minor cases refer to those in which the Information does not allege any damage to the government or any bribery, or alleges damage to the government or bribery in an amount not exceeding one million pesos.[121]

Senator Franklin Drilon, in his sponsorship speech before the Senate, expressed this specific intention:[122]

> The second modification under the bill involves the streamlining of the anti-graft court's jurisdiction, which will enable the Sandiganbayan to concentrate its resources in resolving the most significant cases filed against public officials. x x x With this amendment, such court will be empowered to focus on the most notorious cases and will be able to render judgment in a matter of months. (Emphases supplied)

That the Sandiganbayan's jurisdiction must focus on high-profile cases was also expressed during the committee deliberations on Senate Bill Nos. 470 and 472[123] as follows:

> MR. MARCELO. Sixty percent belong to this category of minor cases. It is my position, Your Honor, that the Sandigan should be able to focus their attention to major cases not to these minor cases. I don't know but during my time two-thirds of the justices in the Sandiganbayan are former regional trial court judges and they were handling much more complicated cases involving much higher amounts than this, than one million or less.
>
> x x x x
>
> So that's the amendment that I am proposing so that really the Sandiganbayan can really spend their time in high profile cases. (Emphases supplied)

From the foregoing, it can be gleaned that the Sandiganbayan's jurisdiction is intended to focus on major cases that involve bribery or damage to the government worth at least one million pesos, or is unquantifiable.

That allegations of unquantifiable bribery or damage remain within the Sandiganbayan's jurisdiction is shown by the legislative history of R.A. 10660. A review would show that in both House Bill No. 5283 and Senate Bill No. 2138, cases in which the Information alleges damage or a bribe that is unquantifiable are included among those to be transferred to the regional trial courts' jurisdiction. Even the sponsorship speech of Senator Drilon,[124] as well as the interpellations[125] before the Senate, notably included unquantifiable bribe or damage among the considerations. However, the Conference Committee Report on the Disagreeing Provisions of Senate Bill No. 2138 and House Bill No. 5283 adopted the House version as the working draft and deleted the phrase "(b) alleges damage or bribe that are unquantifiable."[126] While there was no reason available in the records explaining the

deletion of this phrase, the law retains, in effect, the Sandiganbayan's jurisdiction over cases involving allegations of an unquantifiable bribe or damage.

The latest amendment reflects the consistent legislative intent to streamline the jurisdiction of the Sandiganbayan by focusing it on high- ranking officials involved in high-profile or notorious cases involving public office.

In consideration of the caliber of the parties and cases falling within the ambit of the exclusive and original jurisdiction of the Sandiganbayan, the law has carefully crafted a judicial structure that especially addresses the intricacies of the issues that may arise before that court.

The Sandiganbayan is a collegial court presently composed of seven divisions of three members each.[127] The term "collegial" relates to a group of colleagues or a "collegium," which is "an executive body with each member having approximately equal power and authority."[128] As such, the members of the anti-graft court act on the basis of consensus or majority rule.[129]

This collegiate structure of the Sandiganbayan was acknowledged to be necessary in order to competently try the public officials and cases before it. As discussed by this Court in Jamsani-Rodriguez v. Ong:[130]

> Moreover, the respondents' non-observance of collegiality contravened the very purpose of trying criminal cases cognizable by Sandiganbayan before a Division of all three Justices. Although there are criminal cases involving public officials and employees triable before single-judge courts, PD 1606, as amended, has always required a Division of three Justices (not one or two) to try the criminal cases cognizable by the Sandiganbayan, in view of the accused in such cases holding higher rank or office than those charged in the former cases.[131] (Emphases supplied)

Aware of the political clout that high-ranking public officials may have, and how they could easily exert influence over single-judge courts, a division composed of three Justices was recognized to be less susceptible to the political reach of the public officers involved.

The foregoing intention is reflected in the latest amendment to R.A. 10660 which provides that the trial of cases transferred to regional trial courts shall be conducted in a judicial region other than where the official holds office.[132]

As discussed by the resource person during the committee deliberations on Senate Bill No. 2138:[133]

> Mr. Marcelo: x x x The only limitation that I suggest is that the Supreme Court should assign these cases to a region different from where any of the accused or the accused reside or have their place of office. That is the reason why these cases, most of them, involve officials who have salary grade 27 like mayors, most of these cases, these minor cases. And because of their political clout, you know, they can have connections, they may be partymates of the governor who may -
>
> Unfortunately in our judicial system right now, there are instances where maybe he can exert influence on the judges so the jurisdiction now - they made it that the jurisdiction belong to the Sandiganbayan. That is why we also propose an amendment that the Supreme Court in assigning these cases, what we call minor cases, to the RTCs will only assign it to a regional trial court in a different region so that there will be no possibility of political influence, Your Honors. (Emphases supplied)

This was noted again during the interpellation by Senator Angara:[134]

> Senator Angara. I see. In the proposed amendment that we are referring to, the second paragraph mentions that, "subject to the rules promulgated by the Supreme Court, the cases falling under the jurisdiction of the RTC shall be tried in a judicial region other than that where the official holds office".
>
> Mr. President, I understand the basic reasoning behind this provision, and this is probably to prevent that

> official from exerting influence over the RTC judge who is to try the case. Is this correct, Mr. President?
>
> Senator Pimentel. Yes, specifically, the concept of the other judicial region. Yes, that is the purpose, Mr. President. So, there is a presumption, in effect, that the public official of this rank has influence or wields influence in the judicial region where he holds office. That is the assumption in the amendment. (Emphases supplied)

The structural framework of the Sandiganbayan as discussed above is unique. There is no other court vested with this kind of jurisdiction and structured in this manner. The structure vests the anti-graft court with the competence to try and resolve high-profile crimes committed in relation to the office of a high-ranking public official as in the case at bar.

Here, we have a senator whose salary is above Grade '27.' She is being charged in the Information with a drug offense that was clearly described as committed in relation to her office as Secretary of Justice. There is an alleged bribe or damage to the government that is above the amount of one million pesos. Clearly, the case falls within the Sandiganbayan's jurisdiction. The drug courts specified in R.A. 9165 do not have the necessary machinery, expertise, or competence that the Sandiganbayan has to resolve the accusations against petitioner. Therefore, its structural framework further affirms the conclusion that as between a single-judge trial court and a collegiate Sandiganbayan, the latter retains original and exclusive jurisdiction over high-ranking officials accused of committing drug offenses in relation to their office.

A conclusion placing within the jurisdiction of the Sandiganbayan those drug offenses committed by public officers falling under Grade '27' and above is in consonance with a fundamental principle: the Court must construe criminal rules in favor of the accused. In fact, even the slightest doubt must be resolved in favor of the accused.[135] In my dissenting opinion in Corpuz v. People,[136] I extensively explained this principle in the following manner:

> This directive is moored on the equally vital doctrine of presumption of innocence. These principles call for the adoption of an interpretation which is more lenient. Time and again, courts harken back to the pro reo rule when observing leniency, explaining: "The scales of justice must hang equal and, in fact should be tipped in favor of the accused because of the constitutional presumption of innocence."
>
> This rule underpins the prospectivity of our penal laws (laws shall have no retroactive application, unless the contrary is provided) and its exception (laws have prospective application, unless they are favorable to the accused). The pro reo rule has been applied in the imposition of penalties, specifically the death penalty and more recently, the proper construction and application of the Indeterminate Sentence Law.
>
> The rationale behind the pro reo rule and other rules that favor the accused is anchored on the rehabilitative philosophy of our penal system. In People v. Ducosin, the Court explained that it is "necessary to consider the criminal, first, as an individual and, second, as a member of society. This opens up an almost limitless field of investigation and study which it is the duty of the court to explore in each case as far as is humanly possible, with the end in view that penalties shall not be standardized but fitted as far as is possible to the individual, with due regard to the imperative necessity of protecting the social order."[137]

Here, it is more favorable to petitioner and all other similar public officials accused of drug offenses committed in relation to their office to be placed within the Sandiganbayan's jurisdiction, as shown in the following two ways.

First, the appeal route is shorter, by virtue of the fact that the review of convictions is generally elevated to this Court via the discretionary mode of petition for review on certiorari under Rule 45.[138] On the other hand, convictions by the trial courts still undergo intermediate review before ultimately reaching this Court, if at all. If measured against the Speedy Trial Act[139] standards, a review of convictions by this Court will show a higher

speed of disposition.

Second, the direct elevation of a petition to the Supreme Court translates to the application of a tighter standard in the trial of the case. The three Justices of a Division, rather than a single judge, will naturally be expected to exert keener judiciousness and to apply broader circumspection in trying and deciding such cases.[140] As again observed by Justice Barredo in his concurring opinion in Nuñez v. Sandiganbayan:[141]

> I believe that the accused has a better guarantee of a real and full consideration of the evidence and the determination of the facts where there arc three judges actually seeing and observing the demeanor and conduct of the witnesses. It is Our constant jurisprudence that the appellate courts should rely on the evaluation of the evidence by the trial judges, except in cases where pivotal points are shown to have been overlooked by them. With more reason should this rule apply to the review of the decision of a collegiate trial court. Moreover, when the Court of Appeals passes on an appeal in a criminal case, it has only the records to rely on, and yet the Supreme Court has no power to reverse its findings of fact, with only the usual exceptions already known to all lawyers and judges. I strongly believe that the review of the decisions of the Sandiganbayan, whose three justices have actually seen and observed the witnesses as provided for in P.D. 1606 is a more iron-clad guarantee that no person accused before such special court will ever be finally convict without his guilt appearing beyond reasonable doubt as mandated by the Constitution.[142] (Emphases supplied)

In Cesar v. Sandiganbayan,[143] this Court discussed how, ultimately, the tighter standards in the Sandiganbayan translates into the application of the same standards before this Court:

> Considering further that no less than three senior members of this Court, Justices Teehankee, Makasiar, and Fernandez dissented from the Court's opinion in Nuñez partly because of the absence of an intermediate appeal from Sandiganbayan decisions, where questions of fact could be fully threshed out, this Court has been most consistent in carefully examining all petitions seeking the review of the special court's decisions to ascertain that the fundamental right to be presumed innocent is not disregarded. This task has added a heavy burden to the workload of this Court but it is a task we steadfastly discharge.[144]

Procedural Issues

The procedural issues identified all boil down to the propriety of filing the instant petition despite there being remedies available, and in fact availed of, before the Regional Trial Court of Muntinlupa City, Branch 204 (RTC) and the Court of Appeals (CA).

Notwithstanding the fact that petitioner failed to observe the hierarchy of courts, and opted not to wait for the resolution of her motion to quash the Information - which was a plain, speedy and adequate remedy under the premises - her petition has clearly established enough basis to grant relief.

There is substantial compliance with respect to the rule on the verification and certification against forum shopping.

It is conceded that there was failure on the part of petitioner to sign the Verification and Certification Against Forum Shopping in the presence of the notary public, Atty. Maria Cecile C. Tresvalles-Cabalo. Nevertheless, this defect is not fatal and does not warrant an automatic and outright dismissal of the present petition.

The purpose of requiring a verification is to secure an assurance that the allegations of the petition have been made in good faith or are true and correct, and not merely speculative.[145] This requirement is simply a condition affecting the form of pleadings, and noncompliance therewith does not necessarily render them fatally defective. Indeed, verification is only a formal, not a jurisdictional, requirement.[146]

On the other hand, the required certification against forum shopping is considered by this Court to be rooted in the

principle that a party-litigant shall not be allowed to pursue simultaneous remedies in different fora, as this practice is detrimental to an orderly judicial procedure.[147] Like the requirement of verification, the rule requiring the submission of certification, although obligatory, is not jurisdictional.[148]

Since the requirement of verification and certification against forum shopping is not jurisdictional, this Court has relaxed compliance therewith under justifiable circumstances, specifically (1) under the rule of substantial compliance,[149] and (2) in the presence of special circumstances or compelling reasons.[150]

In the present case, there is substantial compliance with the above rule. It is undisputed that petitioner herself personally signed the Verification and Certification Against Forum Shopping of the petition before this Court. She was qualified to sign the foregoing document, as she had sufficient knowledge to swear to the truth of the allegations therein. This principle is in accordance with this Court's ruling in Fernandez v. Villegas on substantial compliance as follows:

> 3) Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.
>
> 4) As to certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons."
>
> 5) The certification against forum shopping must be signed by all the plaintiffs or petitioners in a case; otherwise, those who did not sign will be dropped as parties to the case. Under reasonable or justifiable circumstances, however, as when all the plaintiffs or petitioners share a common interest and involve a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the Rule.[151]

The Decision cites William Go Que Construction v. Court of Appeals[152] as basis for the dismissal of the petition on the ground of a defective verification and certification against forum shopping. In that case, this Court ordered the dismissal of the petition for certiorari before the Court of Appeals for the failure of private respondents therein to substantially comply with the rule on verification and certification against forum shopping. The ruling hinged on the finding that the jurat therein was defective for its failure to indicate the pertinent details regarding the private respondent's competent evidence of identities. Because of the lack of evidence of identities, it could not be ascertained whether any of the private respondents actually swore to the truth of the allegations in the petition.

However, the above-cited jurisprudence is not apropos, as it does not consider substantial compliance, as in this case, by the present petitioner with the rule on verification and certification against forum shopping. While petitioner admittedly failed to sign the verification and certification against forum shopping in the presence of the notary public, the latter was able to sufficiently confirm the fom1er's identity as the signatory thereof.

As explained in her affidavit, Atty. Tresvalles-Cabalo examined the signature of petitioner. The notary was then able to confirm that it was genuine on account of her personal relationship with petitioner and after comparing the signatures in the petition and in the latter's valid passport. The passport is competent evidence of identification duly indicated in the jurat. Likewise notable is the fact that when the two of them met at the Criminal Investigation and Detection Group (CIDG) in Camp Crame, petitioner personally informed the notary public that she had already affixed her signature on the verification and certification against forum shopping. Under the foregoing circumstances, the identity of petitioner as the person who subscribed and swore to the truth of the

allegations in her petition can no longer be put into question.

More importantly, the vital issue presented by the present petition is whether it is the DOJ or Ombudsman that has jurisdiction. It is this issue that serves as the "special circumstance" or "compelling reason" for the Court to justify a liberal application of the rule on verification and certification against forum shopping.

As will be further expounded below, the threshold issue raised is novel, of transcendental importance, and its resolution is demanded by the broader interest of justice. Therefore, it behooves this Court to give the petition due course and resolve it on the merits.

The petition presents exceptions to the doctrine of hierarchy of courts.

While it is conceded that the Court must enjoin the observance of the hierarchy of courts, it is likewise acknowledged that this policy is not inflexible in light of several well-established exceptions. The Diocese of Bacolod v. Commission on Elections[153] enumerates and explains the different exceptions that justify a direct resort to this Court as follows:

> First, a direct resort to this court is allowed when there are genuine issues of constitutionality that must be addressed at the most immediate time. A direct resort to this court includes availing of the remedies of certiorari and prohibition to assail the constitutionality of actions of both legislative and executive branches of the government.
>
> x x x x
>
> A second exception is when the issues involved are of transcendental importance. In these cases, the imminence and clarity of the threat to fundamental constitutional rights outweigh the necessity for prudence. The doctrine relating to constitutional issues of transcendental importance prevents courts from the paralysis of procedural niceties when clearly faced with the need for substantial protection.
>
> x x x x
>
> Third, cases of first impression warrant a direct resort to this court. In cases of first impression, no jurisprudence yet exists that will guide the lower courts on this matter. In Government of the United States v. Purganan, this court took cognizance of the case as a matter of first impression that may guide the lower courts:
>
> In the interest of justice and to settle once and for all the important issue of bail in extradition proceedings, we deem it best to take cognizance of the present case. Such proceedings constitute a matter of first impression over which there is, as yet, no local jurisprudence to guide lower courts.
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> x x x x
>
> Eighth, the petition includes questions that are "dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy." In the past, questions similar to these which this court ruled on immediately despite the doctrine of hierarchy of courts included citizens' right to bear arms, government contracts involving modernization of voters' registration lists, and the status and existence of a public office.

The instant petition presents several exceptions to the doctrine of hierarchy of courts, which justifies the direct resort to this Court.

The issue involved is one of transcendental importance. There is an urgent necessity to resolve the question of whether it is the DOJ or the Ombudsman that should investigate offenses defined and penalized under R.A. 9165

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in view of the government's declared platform to fight illegal drugs. This avowed fight has predictably led to a spike in drug-related cases brought before the courts involving public officers. The President has already identified a large number of public officers allegedly involved in the drug trade. Our investigating and prosecutorial bodies must not be left to guess at the extent of their mandate.

As shown above, the offense charged falls under the jurisdiction of the Sandiganbayan, because it was allegedly committed by petitioner in relation to her public office as Secretary of Justice, which is classified as Grade '27' or higher.

Lastly, as the issue raised affects public welfare and policy, its resolution is ultimately demanded by the broader interest of justice. The difficulties in reading the various statutes in light of the 84,908 pending drug-related cases that are foreseen to sharply increase even more in the near future demands a clarification of the parameters; of jurisdiction that will guide the DOJ, the Ombudsman, the Sandiganbayan, and the lower courts in addressing these cases. This clarification will lead to a speedy and proper administration of justice.

The petition is not entirely premature.

In Arula v. Espino,[154] the Court explained the legal tenet that a court acquires jurisdiction to try a criminal case only when the following requisites concur: (a) the offense must be one that the court is by law authorized to take cognizance of; (b) the offense must have been committed within its territorial jurisdiction; and (c) the person charged with the offense must have been brought to its fcnum for trialinvoluntarily by a warrant of arrest or upon the person's voluntary submission to the court.

In the instant petition, petitioner ascribes grave abuse of discretion of the part of respondent judge for the following alleged acts and omissions:

- Issuance of the Order dated 23 February 2017 finding probable cause for the issuance of a warrant of arrest against all the accused, including petitioner;

- Issuance of a Warrant of Arrest dated 23 February 2017 against petitioner;

- Issuance of the Order dated 24 February 2017 committing petitioner to the Philippine National Police Custodial Center; and

- Failure or refusal to resolve the Motion to Quash through which petitioner seriously questions the jurisdiction of the RTC.

In the petition before us, petitioner is assailing the RTC's acquisition of jurisdiction to try the charge against her on two fronts. In assailing the trial court's finding of probable cause for the issuance of a warrant of arrest and the resulting issuance thereof, she is questioning the validity of the grounds on which she was brought before the RTC for trial. In insisting that the trial court resolve her motion to quash, she is saying that its resolution thereof will lead it to the conclusion that the offense with which she is charged is not one that it is authorized by law to take cognizance of.

Considering that the warrant of arrest has already been implemented and that she has already been brought into custody, it cannot be said that the instant petition is entirely premature. Her alleged "unmistakable admission that the RTC has yet to rule on her Motion to Quash and the existence of the RTC's authority to rule on the said motion"[155] relates to only one of the aspects of the trial court's assailed jurisdiction.

As regards the alleged failure of petitioner to move for reconsideration of the Orders dated 23 February 2017 and 24 February 2017 before filing the instant petition for certiorari, it is my opinion that her situation falls under the recognized exceptions.

In People v. Valdez,[156] we said:

> The general rule is that a motion for reconsideration is a condition sine qua non before a petition for certiorari may lie, its purpose being to grant an opportunity for the court a quo to correct any error attributed to it by a re-examination of the legal and factual circumstances of the case.
>
> However, the rule is not absolute and jurisprudence has laid down the following exceptions when the filing of a petition for certiorari is proper notwithstanding the failure to file a motion for reconsideration:
>
> a)
>
> where the order is a patent nullity, as where the court a quo has no jurisdiction;
>
> b)
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> where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court;
>
> c)
>
> where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the petition is perishable;
>
> d)
>
> where, under the circumstances, a motion for reconsideration would be useless;
>
> e)
>
> where petitioner was deprived of due process and there is extreme urgency for relief;
>
> f)
>
> where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable;
>
> g)
>
> where the proceedings in the lower court are a nullity for lack of due process;
>
> h)
>
> where the proceeding was ex parte or in which the petitioner had no opportunity to object; and,
>
> i)
>
> where the issue raised is one purely of law or public interest is involved.[157] (Emphasis supplied)

In that case, we recognized that the resolution of the question raised was of urgent necessity, considering its implications on similar cases filed and pending before the Sandiganbayan. In this case, the primordial interest, which is the observance of the rule of law and the proper administration of justice, requires this Court to settle once and for all the question of jurisdiction over public officers accused of violations of R.A. 9165.

Forum shopping was not willful and deliberate.

While petitioner may have indeed committed forum shopping when she filed the instant petition before this Court raising essentially the same arguments that she raised in her pending motion to quash before the RTC. However, I am of the view that her act of forum shopping was not willful and deliberate for the following reasons.

First, she clearly stated in the verification and certification against forum shopping attached to the instant Petition for Certiorari and Prohibition that she had a pending motion to quash filed before the RTC on 20 February 2017. She also reported therein the pendency of the Petition for Certiorari and Prohibition, which she had filed before the CA on 13 January 2017.

Second, the amount of publicity and media coverage received by petitioner in relation to the charge against her renders it practically impossible for her to hide the fact of the pendency of the other cases she has filed in pursuance of her defenses and arguments. It must be borne in mind that what is critical in determining the existence of forum shopping is the vexation caused the courts and parties-litigants by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or grant the same or substantially the same reliefs. It is this vexation that creates the possibility of conflicting decisions being rendered by different fora upon the same issues.[158] Such eventuality will not come to pass in this case.

We have occasions[159] to rule that when forum shopping is not willful and deliberate, the subsequent case shall be dismissed without prejudice on the ground of either litis pendentia or res judicata. However, we have also ruled in certain cases that the newer action is not necessarily the one that should be dismissed.[160]

In Medado v. Heirs of Consing,[161] we reiterated the relevant factors that courts must consider when they have to determine which case should be dismissed, given the pendency of two actions. These factors are (1) the date of filing, with preference generally given to the first action filed to be retained; (2) whether the action sought to be dismissed was filed merely to preempt the latter action or to anticipate its filing and lay the basis for its dismissal; and (3) whether the action is the appropriate vehicle for litigating the issues between the parties.

In this case, in determining the action or the relief that should be dismissed, I believe that the motion to quash filed by petitioner before the RTC should be the one disregarded by this Court. The instant petition for certiorari is the appropriate vehicle to settle the issue of whether it is the RTC or the Sandiganbayan that should try and hear the charge against petitioner.

Accordingly, I vote that the Court GRANT the petition. The Order dated 23 February 2017 and the Warrant of Arrest issued against petitioner should be annulled and set aside. Nevertheless, the Department of Justice panel of investigators should be directed to transmit the records and the resolution of the case to the Office of the Ombudsman for appropriate action.

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[1] Section 27. Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any public office, shall be imposed upon any public officer or employee who misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in this Act.

[2] Section 72. Liability of a Person Who Violates the Confidentiality of Records. - The penalty of imprisonment ranging from six (6) months and one (1) day to six (6) years and a fine ranging from One thousand pesos (P1,000.00) to Six thousand pesos (P6,000.00), shall be imposed upon any person who, having official custody of or access to the confidential records of any drug dependent under voluntary submission programs, or anyone who,

having gained possession of said records, whether lawfully or not, reveals their content to any person other than those charged with the prosecution of the offenses under this Act and its implementation. The maximum penalty shall be imposed, in addition to absolute perpetual disqualification from any public office, when the offender is a government official or employee. Should the records be used for unlawful purposes, such as blackmail of the drug dependent or the members of his/her family, the penalty imposed for the crime of violation of confidentiality shall be in addition to whatever crime he/she may be convicted of.

[3] Section 91. Responsibility and Liability of Law Enforcement Agencies and Other Government Officials and Employees in Testing as Prosecution Witnesses in Dangerous Drugs Cases. - Any member of law enforcement agencies or any other government official and employee who, after due notice, fails or refuses intentionally or negligently, to appear as a witness for the prosecution in any proceedings, involving violations of this Act, without any valid reason, shall be punished with imprisonment of not less than twelve (12) years and one (1) day to twenty (20) years and a fine of not less than Five hundred thousand pesos (P500,000.00), in addition to the administrative liability he/she may be meted out by his/her immediate superior and/or appropriate body.

The immediate superior of the member of the law enforcement agency or any other government employee mentioned in the preceding paragraph shall be penalized with imprisonment of not less than two (2) months and one (1) day but not more than six (6) years and a fine of not less than Ten thousand pesos (P10,000.00) but not more than Fifty thousand pesos (P50,000.00) and in addition, perpetual absolute disqualification from public office if despite due notice to them and to the witness concerned, the former does not exert reasonable effort to present the latter to the court.

The member of the law enforcement agency or any other government employee mentioned in the preceding paragraphs shall not be transferred or re-assigned to any other government office located in another territorial jurisdiction during the pendency of the case in court. However, the concerned member of the law enforcement agency or government employee may be transferred or re-assigned for compelling reasons: Provided, That his/her immediate superior shall notifY the court where the case is pending of the order to transfer or re-assign, within twenty-four (24) hours from its approval: Provided, further, That his/her immediate superior shall be penalized with imprisonment of not less than two (2) months and one (1) day but not more than six (6) years and a fine of not less than Ten thousand pesos (P10,000.00) but not more than Fifty thousand pesos (P50,000.00) and in addition, perpetual absolute disqualification from public office, should he/she tail to notify the court of such order to transfer or re-assign.

Prosecution and punishment under this Section shall be without prejudice to any liability for violation of any existing law.

[4] Id.

[5] Id.

[6] Section 92. Delay and Bungling in the Prosecution of Drug Cases. - Any government officer or employee tasked with the prosecution of drug-related cases under this Act, who, through patent laxity, inexcusable neglect, unreasonable delay or deliberately causes the unsuccessful prosecution and/or dismissal of the said drug cases, shall suffer the penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years without prejudice to his/her prosecution under the pertinent provisions of the Revised Penal Code.

[7] Section 4. Importation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall import or

bring into the Philippines any dangerous drug, regardless of the quantity and purity involved, including any and all species of opium poppy or any part thereof or substances derived therefrom even for floral, decorative and culinary purposes.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall import any controlled precursor and essential chemical.

The maximum penalty provided for under this Section shall be imposed upon any person, who, unless authorized under this Act, shall import or bring into the Philippines any dangerous drug and/or controlled precursor and essential chemical through the use of a diplomatic passport, diplomatic facilities or any other means involving his/her official status intended to facilitate the unlawful entry of the same. In addition, the diplomatic passport shall be confiscated and canceled.

The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[8] SECTION 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from

One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[9] Section 6. Maintenance of a Den, Dive or Resort. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person or group of persons who shall maintain a den, dive or resort where any dangerous drug is used or sold in any form.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person or group of persons who shall maintain a den, dive, or resort where any controlled precursor and essential chemical is used or sold in any form.

The maximum penalty provided for under this Section shall be imposed in every case where any dangerous drug is administered, delivered or sold to a minor who is allowed to use the same in such a place.

Should any dangerous drug be the proximate cause of the death of a person using the same in such den, dive or resort, the penalty of death and a fine ranging from One million (P1,000,000.00) to Fifteen million pesos (P15,000,000.00) shall be imposed on the maintainer, owner and/or operator.

If such den, dive or resort is owned by a third person, the same shall be confiscated and escheated in favor of the government: Provided, That the criminal complaint shall specifically allege that such place is intentionally used in the furtherance of the crime: Provided, further, That the prosecution shall prove such intent on the part of the owner to use the property for such purpose: Provided, finally, That the owner shall be included as an accused in the criminal complaint.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[10] Section 8. Manufacture of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall engage in the manufacture of any dangerous drug.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall manufacture any controlled precursor and essential chemical.

The presence of any controlled precursor and essential chemical or laboratory equipment in the clandestine laboratory is a prima facie proof of manufacture of any dangerous drug. It shall be considered an aggravating circumstance if the clandestine laboratory is undertaken or established under the following circumstances:

(a) Any phase of the manufacturing process was conducted in the presence or with the help of minor/s;

(b) Any phase or manufacturing process was established or undertaken within one hundred (100) meters of a residential, business, church or school premises;

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(c) Any clandestine laboratory was secured or protected with booby traps;

(d) Any clandestine laboratory was concealed with legitimate business operations; or

(e) Any employment of a practitioner, chemical engineer, public official or foreigner.

The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[11] Section 9. Illegal Chemical Diversion of Controlled Precursors and Essential Chemicals. - The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall illegally divert any controlled precursor and essential chemical.

[12] Section 10. Manufacture or Delivery of Equipment, Instrument, Apparatus, and Other Paraphernalia for Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person who shall deliver, possess with intent to deliver, or manufacture with intent to deliver equipment, instrument, apparatus and other paraphernalia for dangerous drugs, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal any dangerous drug and/or controlled precursor and essential chemical in violation of this Act.

The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed if it will be used to inject, ingest, inhale or otherwise introduce into the human body a dangerous drug in violation of this Act.

The maximum penalty provided for under this Section shall be imposed upon any person, who uses a minor or a mentally incapacitated individual to deliver such equipment, instrument, apparatus and other paraphernalia for dangerous drugs.

[13] Section 11. Possession of Dangerous Drugs. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug x x x, regardless of the degree of purity thereof.

[14] Section 12. Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs. - The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body: Provided, That in the case of medical practitioners and various professionals who are required to carry such equipment, instrument, apparatus and other paraphernalia in the practice of their profession, the Board shall prescribe the necessary implementing guidelines thereof.

The possession of such equipment, instrument, apparatus and other paraphernalia fit or intended for any of the

purposes enumerated in the preceding paragraph shall be prima facie evidence that the possessor has smoked, consumed, administered to himself/herself, injected, ingested or used a dangerous drug and shall be presumed to have violated Section 15 of this Act.

[15] Section 13. Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings. - Any person found possessing any dangerous drug during a party, or at a social gathering or meeting, or in the proximate company of at least two (2) persons, shall suffer the maximum penalties provided for in Section II of this Act, regardless of the quantity and purity of such dangerous drugs.

[16] Section 14. Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs During Parties, Social Gatherings or Meetings. - The maximum penalty provided for in Section 12 of this Act shall be imposed upon any person, who shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body, during parties, social gatherings or meetings, or in the proximate company of at least two (2) persons.

[17] Section 15. Use of Dangerous Drugs. - A person apprehended or arrested, who is found to be positive for use of any dangerous drug, after a confirmatory test, shall be imposed a penalty of a minimum of six (6) months rehabilitation in a government center for the first offense, subject to the provisions of Article VIII of this Act. If apprehended using any dangerous drug for the second time, he/she shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00): Provided, That this Section shall not be applicable where the person tested is also found to have in his/her possession such quantity of any dangerous drug provided for under Section II of this Act, in which case the provisions stated therein shall apply.

[18] Section 16. Cultivation or Culture of Plants Classified as Dangerous Drugs or are Sources Thereof. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who shall plant, cultivate or culture marijuana, opium poppy or any other plant regardless of quantity, which is or may hereafter be classified as a dangerous drug or as a source from which any dangerous drug may be manufactured or derived: Provided, That in the case of medical laboratories and medical research centers which cultivate or culture marijuana, opium poppy and other plants, or materials of such dangerous drugs for medical experiments and research purposes, or for the creation of new types of medicine, the Board shall prescribe the necessary implementing guidelines for the proper cultivation, culture, handling, experimentation and disposal of such plants and materials.

The land or portions thereof and/or greenhouses on which any of said plants is cultivated or cultured shall be confiscated and escheated in favor of the State, unless the owner thereof can prove lack ofknowledge of such cultivation or culture despite the exercise of due diligence on his/her part. If the land involved is part of the public domain, the maximum penalty provided for under this Section shall be imposed upon the offender.

The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[19] Section 17. Maintenance and Keeping of Original Records of Transactions on Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of imprisonment ranging from one (1) year and one

(1) day to six (6) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any practitioner, manufacturer, wholesaler, importer, distributor, dealer or retailer who violates or fails to comply with the maintenance and keeping of the original records of transactions on any dangerous drug and/or controlled precursor and essential chemical in accordance with Section 40 of this Act.

An additional penalty shall be imposed through the revocation of the license to practice his/her profession, in case of a practitioner, or of the business, in case of a manufacturer, seller, importer, distributor, dealer or retailer.

[20] Section 40. Records Required for Transactions on Dangerous Drugs and Precursors and Essential Chemicals. -

a) Every pharmacist dealing in dangerous drugs and/or controlled precursors and essential chemicals shall maintain and keep an original record of sales, purchases, acquisitions and deliveries of dangerous drugs, indicating therein the following information:

(l) License number and address of the pharmacist;

(2) Name, address and license of the manufacturer, importer or wholesaler from whom the dangerous drugs have been purchased;

(3) Quantity and name of the dangerous drugs purchased or acquired;

(4) Date of acquisition or purchase;

(5) Name, address and community tax certificate number of the buyer;

(6) Serial number of the prescription and the name of the physician, dentist, veterinarian or practitioner issuing the same;

(7) Quantity and name of the dangerous drugs sold or delivered; and

(8) Date of sale or delivery.

A certified true copy of such record covering a period of six (6) months, duly signed by the pharmacist or the owner of the drugstore, pharmacy or chemical establishment, shall be forwarded to the Board within fifteen (15) days following the last day of June and December of each year, with a copy thereof furnished the city or municipal health officer concerned.

(b) A physician, dentist, veterinarian or practitioner authorized to prescribe any dangerous drug shall issue the prescription therefor in one (1) original and two (2) duplicate copies. The original, after the prescription has been filled, shall be retained by the pharmacist for a period of one (1) year from the date of sale or delivery of such drug. One (I) copy shall be retained by the buyer or by the person to whom the drug is delivered until such drug is consumed, while the second copy shall be retained by the person issuing the prescription.

For purposes of this Act, all prescriptions issued by physicians, dentists, veterinarians or practitioners shall be written on forms exclusively issued by and obtainable from the DOH. Such forms shall be made of a special kind of paper and shall be distributed in such quantities and contain such information and other data as the DOH may, by rules and regulations, require. Such forms shall only be issued by the DOH through its authorized employees to licensed physicians, dentists, veterinarians and practitioners in such quantities as the Board may authorize. In emergency cases, however, as the Board may specifY in the public interest, a prescription need not be accomplished on such forms. The prescribing physician, dentist, veterinarian or practitioner shall, within three (3) days aftt:r issuing such prescription, inform the DOH of the same in writing. No prescription once served by the

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drugstore or pharmacy be reused nor any prescription once issued be refilled.

(c) All manufacturers, wholesalers, distributors, importers, dealers and retailers of dangerous drugs and/or controlled precursors and essential chemicals shall keep a record of all inventories, sales, purchases, acquisitions and deliveries of the same as well as the names, addresses and licenses of the persons from whom such items were purchased or acquired or to whom such items were sold or delivered, the name and quantity of the same and the date of the transactions. Such records may be subjected anytime for review by the Board.

[21] Section 18. Unnecessary Prescription of Dangerous Drugs. - The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) and the additional penalty of the revocation of his/her license to practice shall be imposed upon the practitioner, who shall prescribe any dangerous drug to any person whose physical or physiological condition does not require the use or in the dosage prescribed therein, as determined by the Board in consultation with recognized competent experts who are authorized representatives of professional organizations of practitioners, particularly those who are involved in the care of persons with severe pain.

[22] Section 19. Unlawful Prescription of Dangerous Drugs. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall make or issue a prescription or any other writing purporting to be a prescription for any dangerous drug.

[23] Section 29. Criminal Liability for Planting of Evidence. - Any person who is found guilty of "planting" any dangerous drug and/or controlled precursor and essential chemical, regardless of quantity and purity, shall suffer the penalty of death.

[24] Section 30. Criminal Liability of Officers of Partnerships, Corporations, Associations or Other Juridical Entities. - In case any violation of this Act is committed by a partnership, corporation, association or any juridical entity, the partner, president, director, manager, trustee, estate administrator, or officer who consents to or knowingly tolerates such violation shall be held criminally liable as a co-principal.

The penalty provided for the offense under this Act shall be imposed upon the partner, president, director, manager, trustee, estate administrator, or officer who knowingly authorizes, tolerates or consents to the use of a vehicle, vessel, aircraft, equipment or other facility, as an instrument in the importation, sale, trading, administration, dispensation, delivery, distribution, transportation or manufacture of dangerous drugs, or chemical diversion, if such vehicle, vessel, aircraft, equipment or other instrument is owned by or under the control or supervision of the partnership, corporation, association or juridical entity to which they are affiliated.

[25] Section 37. Issuance of False or Fraudulent Drug Test Results. - Any person authorized, licensed or accredited under this Act and its implementing rules to conduct drug examination or test, who issues false or fraudulent drug test results knowingly, willfully or through gross negligence, shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00).

An additional penalty shall be imposed through the revocation of the license to practice his/her profession in case of a practitioner, and the closure of the drug testing center.

[26] TSN, Oral Arguments for G.R. No. 229781, 28 March 2017, pp. 120-121.

[27] Alarilla v. Sandiganbayan, 393 Phil. 143 (2000).

[28] Montilla v. Hilario, 90 Phil. 49 (1951).

[29] Memorandum for Petitioner, pp. 28-30.

[30] Revised Penal Code, Article 210 (direct bribery), Article 211 (indirect bribery), Article 211-A (qualified bribery) and Article 212 (corruption of public officials).

[31] Memorandum for Petitioner, p. 30.

[32] Id. at 30-33.

[33] Office of the Solicitor General's Memorandum, pp. 63-65.

[34] Id. at 57-60.

[35] Bureau of Corrections Operating Manual, Book I, Part II, Chapter 3, Section 3(a).

Under this category are the following:

- Those sentenced to death;

- Those whose minimum sentence is 20 years imprisonment;

- Remand inmates or detainees whose sentence is 20 years and above, and those whose sentences are under review by this Court or the CA;

- Those with pending cases;

- Recidivists, habitual delinquents and escapees;

- Those confined at the Reception and Diagnostic center;35

- Those under disciplinary punishment or safekeeping; and

- Those who are criminally insane or those with severe personality or emotional disorders that make them dangerous to fellow inmates or the prison staff.

[36] Id. at Section 3(b).

Under this category are the following:

- Those whose minimum sentence is less than 20 year-imprisonment;

- Remand inmates or detainees whose sentences are below 20 years;

- Those who are 18 years of age and below, regardless of the case and sentence;

- Those who have two or more records of escape, who can be classified as medium security inmates if they have served eight years since their recommitment. Those with one record of escape must have served five years; and

- First offenders sentenced to life imprisonment, who may be classified as medium security inmates if they have served five years in a maximum security prison or less, upon the recommendation of the Superintendent. Those who were detained in a city and/or provincial jail shall not be entitled to this classification.

[37] Id. at Section 3(c).

Under this category are the following:

- Those with a severe physical handicap as certified by the chief medical officer of the prison;

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- Those who are 65 years old and above, without any pending case, and whose convictions are not on appeal;

- Those who have served one-half of their minimum sentence or one-third of their maximum sentence, excluding good conduct time allowance (GCTA); and

- Those who have only six months more to serve before the expiration of their maximum sentence.

[38] Id. at Section 5.

[39] Bureau of Corrections Operating Manual, Book I, Part II, Chapter 3, Section 7. The following are the special privileges:

- Credit of an additional GCTA of five days for each calendar month while retaining their classification, aside from the regular GCTA authorized under Article 9739 of the Revised Penal Code;

- Automatic reduction of the life sentence imposed to a sentence of 30 years;

- Subject to the approval of the Director, having their respective wives and children, or the women they desire to marry, live with them in the prison and penal farm.

- As a special reward to deserving colonists, the issuance of a reasonable amount of clothing and ordinary household supplies from the government commissary in addition to free subsistence; and

- The wearing of civilian clothes on such special occasions as may be designated by the Superintendent.

[40] Id. at Section 6.

[41] Id. at Chapter 5, Section 1.

[42] Id. at Section 4. The Classification Board is composed of the following: the Superintendent as Chairman; the Chief of the Reception and Diagnostic Center as Vice-Chairman; the Medical Officer, the Chief of the Education Section, the Chief of the Agro-lndustries Section as members; and the Chief Overseer as Secretary. (Id. at Chapter 3, Section 1)

[43] Affidavit of Wu Tuan Yuan a.k.a. Peter Co, page 4:

Hindi ko na ikinagulat na hindi nasali ang "kubol" ni Jaybee sa paggalugad. Hindi rin siya dinala sa NBI. Alam ko na dahil malakas siya kay dating Secretary De Lima. Alam ko rin na ang paggalugad sa aming mga "kubol" at pagdala sa amin sa NBI ay kanyang paraan na pagpaparating ng mensahe sa amin na ang hindi sumunod sa gusto niya na idaan ang lahat ng operasyon ng negosyo ng droga sa kanya ay kaya niyang ipalipat at ipatanggal ang espesyal na pribilehiyong tinatamasa sa loob ng Bilibid;

[44] Affidavit of Jojo Baligad, page 3:

Ayon sa mga naririnig ko, pinalipat daw kami ni Secretary DE LIMA kasi may ibinigay sa kanya si JAYBEE SEBASTIAN na lista ng mga pangalan namin. Gusto daw kasi ni JAYBEE na ma-solo ang sistema ng droga sa loob ng Bilibid at, sa aming pag-alis o paglipat, magagawa niya na ito na wala di-umanong kakumpitensya sa kalakal na ito.

[45] Affidavit of Joel Capones y Duro, page 1:

Ipinaliwanag niya rin sa amin na ang mga tutulong sa paglikom ng pondo para kay Sec. De Lima ay sagot niya at mapupruteksyunan at walang anumang magiging problema o panganib, samantalang ang babangga o sasalungat ay may paglalagyan. Ganunpaman, wala naman talaga kaming ibang mapagpipilian dahil kaya ni Jaybee na magpapatay at magpalipat sa malalayong piitan.

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[46] Affidavit of Noel Martinez y Golloso, page 1:

Sa katunayan, alam ng lahat dito sa Bilibid na ang sa/ita ni Jaybee ay parang batas. Ang sinumang hindi sasang-ayon sa gusto niya ay maaaring mamatay o taniman ng droga o itapon sa malalayong kolonya na tunay na kinatatakutan naming mga bilanggo dito sa Bilibid.

[47] Affidavit of Herbert Colanggo, page 1:

Noong buwan ng November 2014, kinausap muli ako ni Joenel Sanchez upang i-centralize ang operasyon at inatasan din niya ako na kuhanan ko ang mga bigtime drug lords ng droga ng may timbang na hindi bababa sa 30 to 50 kilos at pagkatapos ko makuha ang droga ay huwag na itong bayaran at sabihin na lang sa kanya ang pangalan ng mga drug lords na aking nakuhanan upang ang mga ito ay ipatapon nila sa ibang lugar.

Hindi ako pumayag na estapahin ang mga drug lords dahil naisip ko paano na kung wala na si Sec. De Lima o ang Director ng Bilibid Hindi ko rin naisip na ako ay ipapatapon dahil nagbibigay naman ako ng payola kay Sec. De Lima ng 3-Million at sa Director ng 1.2-Million kada buwan.

[48] Affidavit of Rodolfo Mag!eo y Tamayo, page 4:

Binigyan niya (Jaybee Sebastian) ng SAMPUNG MILYON (Php10,000,000.00) si DE LIMA para sa paglipat ng BILIBID 19 na kanyang kakumpitensiya at nagbibigay siya ng karagdagang ISANG MILYON (Php1,000,000.00) kada buwan.

Ang solo drug trading ni JB Sebastian sa loob ng Bilibid ay naging matagumpay sa loob ng walong (8) buwan at nagtapos noong nagbitiw si DE LIMA bilang DOJ Secretary sa kanyang paghahanda sa pagtakbo bilang senador.

[49] Affidavit of Jaybee Sebastian, page 5:

Dahil sa lagayan o corruption sa opisina ng BUCOR sa panahon na ito, wala ng disiplina at husti ya ang kapwa ko bilanggo. Dagdag pa nito ay ang pakikialam ni Secretary De Lima katulad ng pagtransfer ng Brigada 9A at paraan ng pagdidisiplina namin sa mga kakosa at ang pagbartolina sa amin na mga commander tuwing kami ay magrereklamo upang ayusin ang pagkain naming mga inmates. Kapag hindi sipsip kay Secretary De Lima ang Director, tulad ng nangyari kay Director Pangilinan, ay tanggal kaagad pero kapag sipsip sa kanya kahit anong palpak andiyan pa rin.

Page 9:

Na kinausap din ng aking abogado si Superintendent Richard Schwarzcopf ngunit sinabi ni Super sa aking abogado na tanging si Secretary De Lima lamang ang pwedeng makapigil sa aking paglipat sa Building 14.

[50] Affidavit of Froilan "Poypoy" Lacson Trestiza, page 2:

Habang ine-escortan ng mga opisyal ng BuCor noong unang lingo ng Nobyembre taong 2012, pinagbantaan ako ni MARTINEZ. Ang sabi niya sa akin, "ANONA NGAYON, POY, WALA NA ANG DIRECTOR MO PERO AKO CONSULTANT PA RIN Nl SOJ. SAAN MO BA GUSTONG IPATAPON?" x x x Dito niya po aka hiningan ng Sampung Libong Piso (P10,000.00). Upang hindi naman po ako mapatapon at malayo sa aking pamilya, sinikap ko pong makalikom ng halagang ito at ibinigay kay MARTINEZ.

[51] Testimony of Froilan "Poypoy" Lacson Trestiza before the House of Representatives on 20 September 2016:

Noong ika-tatlong lingo ng Disyembre taong 2012 matapos na mailipat na sa Maximum Security Compound ang ilan naming kasamahan na nabartolina sa Medium Security Compound, aka ay binalitaan ni (John) Herra at nagsabing nakausap daw niya si Jun Ablen. Si Ablen ay malapit kay noo y OIC BuCor Director Rafal Marcos

Ragos. Ang sabi ni Ablen sa akin ay pinagbibigay daw aka ni OIC Ragos ng dalawandaang libang pisa kung gusto ko no mailipat sa Maximum Security Compound. Ayon kay Ablen, sinabi daw ni Ragos na ang magdedesisyon ng aking paglipat ay si De Lima.

Ako po ay humingi ng tulong sa aking magulang at mga kapatid para maibigay ang hinihinging halaga ni Ragos sa akin. Sa pamamagitan ng aking kapatid at ni Herra, ay naiabot ang nasabing halaga kay Jun Ablen noong Disyembre 19, 2012. Dagdag ni Herra, sabi din daw ni Jun Ablen na ayon kay Ragos, susunduin daw aka mula sa Medium Security Compound at ihahatid sa Maximum Security Compound bilang patunay na natanggap na niya ang pero. Noong Disyembre 22 taang 2012, nangyari nga po ang pangakang pagsundo sa akin ni Ragos at ni Jun Ablen, kung kaya't siguradang natanggap na ni Ragos ang dalawandaang libang piso na hiningi niya.

[52] Affidavit of Rodolfo Magleo y Tamayo, page 1:

Noong mga kapanahunan ng pangangasiwa ni DOJ Secretary LEILA DE LIMA, ang Maximum Security Compound ng New Bilibid Prisons ay kinilala bilang "LITTLE LAS VEGAS" dahil sa talamak na paglipana ng droga, sugal, concert ng mga kilalang mga singer at celebrities at prostitusyon. Halos 80% ng mga inmate ay mayroong mga cell phones at gadgets.

[53] Affidavit of Jaybee Nino Manicad Sebastian, page 6:

Gusto ko pong linawin at pasinungalingan ang mga balita o paratang na aka diumano ay untouchable at malakas kay Secretary De Lima. Ang tatoo po ay si Colangco ang siyang tunay na malakas sa BUCOR at kay DOJ Secretary De Lima. Bilang patotoo nita, nagagawa niyang magpasok ng lahat ng kontrabando, babae, alak, mga matataas na kalibreng baril, mga mamaha!ing gamit at magpasimuno ng ibat-ibang sugal sa loob ng Bilibid kung saan ang pustahan nila ay milyun-milyong piso halos araw-araw, kasama na dito ang paggawa ng halos linggohang concert ni Colangco kung saan nagpapapasok siya ng truck-truck na beer at mga tao galing sa labas ng Bilibid upang manood ng kanyang concert.

[54] Affidavit of Jojo baligad y Rondal, page 1:

Noong unang lingo ng Enero 2013 ay pinuntahan aka ni Commander POY sa aking kubol. Sinabi niya sa akin na nagbigay nang "tara" sa pangkat naming si O.I.C. RAFAEL RAGOS na lsandaang Libong Piso (P100,000.00) kada lingo. Ang halagang ito ay kapalit ng pagluluwag dito sa loob ng NBP. Dahil sa pagluwag na ito, hindi na kinukumpiska ang mga kontrabando katulad ng drogang shabu at marijuana, mga cellphone, laptop computer, tablet, wifi receiver at signal booster. Dahil din sa pagluwag na ito, hindi na rin sinisita ang mga dapat sana y mga ipinagbabawal na gawain katulad ng pagbebenta at pag gamit ng droga, pagsusugal, pagiinom ng alak at pag gamit ng babae.

[55] Affidavit of Vicente M. Sy, page 5:

Humingi sa akin si George ng ONE MILLION PESOS (P1,000,000.00). Ang halagang ito ay sinabi ni George na para kay Justice Secretary Leila De Lima para papasukin ang mga appliances at para payagan ang paggamit ng mga ito sa loob ng Bilibid Bago magkaroon ng actual delivery, aka ay hiningian pa ulit ng karagdagang FIVE HUNDRED THOUSAND PESOS (P500,000.00) at ito ay sinabi sa akin na para din kay Justice Secretary Leila De Lima.

[56] Affidavit of Engelberto Acenas Durano, page 2:

Isang beses, tinawagan niya (Ronnie Dayan) aka at sinabi na kung kailangan ko ng "proteksiyon" sa aking "negosyo" ay tuiungan namin si Secretary De Lima sa kanyang pangangampanya bilang senador sa taong 2016.

[57] Id. at 5:

Bilang kalakaran sa loob ng preso, hindi ka maaaring tumanggi na maging bahagi ng pagbebenta ng illegal na droga sa loob ng NBP dahil matatanggalan ka ng mga benepisyo na ibinibigay tulad sa aming mga pinuno ng mga samahan sa loob ng NBP at ang malala ay ang posibilidad na pagbantaaan ang aming buhay kung hindi makikisama at magiging purte ng ganitong sistema.

[58] Affidavit of Jaime Patcho, page 1:

Kinausap niya (Jaybee Sebastian) aka at sabi niya tolongan ko siya para hinde na aka mapurhiwesyo at doon derekta niyang sinabi na bigyan siya bilang tolong sa paghahanda sa pagtakbo sa pagka senador sa darating na election ni DOJ Secretary Laila Dilima. At wag ako mangamba kasi sa kanya raw ang administrasyon.

[59] Affidavit of Joel Capones y Duro, page 2:

Halos kasabay nito, kami ay pinayagan na ng mga bagong pribilehiyo sa Maximum Security. Ako ay nagkaroon ng aircon at refrigerator sa aking kubol Pinayagan din aka na gumamit ng motorsiklo sa loob ng Maximum Security Compound. Naging mas maluwag din ang pamunuan ng NBP sa kanilang pagpapatupad ng mga patakaran sa amin.

[60] Affidavit of German Agojo y Luna, page 1:

Natatandaan ko na noong Enero 2014 pinulong ni Jaybee ang aking pangkat at kami ay inutusan na magbenta ng droga. Wala raw kaming dapat ikatakot. Kami raw ay malayang makakagalaw at kami ay puprotebyunan at bibigyan ng mga pribilehiyo. Ngunit kailangan naming makalikom ng halagang P20,000,000.00 para sa aming pangkat sa loob ng tatlong buwan, para raw sa suporta sa pagtakbo ni Sec. Leila Delima sa 2016 election para sa Senado. Ang hindi pagsang-ayon ay may kaukulang parusa.

[61] Affidavit of Rafael Z. Ragos, page 2:

During my tenure as Officer in Charge of the Bureau of Corrections, I also received several special requests from inmates such as long weekends, that is to allow their visitors to stay with them for a couple days, entry of construction materials, and conduct of celebrations inside the NBP. Inmate Herbert Colanggo made several requests to conduct a celebration inside the NBP. In making some of his requests, he told me that "Alam na ni secretary yan," referring to Sec. De Lima.

I would casually mention such celebration requests, including the request of inmate Colanggo, to Sec. De Lima whenever I have the opportunity to tell her, to which she would normally respond with a nod.

[62] Affidavit of Reynante Diaz y Delima, page 3:

Pagdating sa pagpasok ng mga banda at performers, may request kaming ginagawa una sa Commander of the Guards, tapos sa Office of the Superintendent, tapos i-routing at maghihintay na lang kami ng tawag ng Secretary ng Office of the Superintendent. Pero mas mabilis sa amin kasi dumidirekta kami sa Office of the Superintendent. May weekly kaming binibigay pero ang pinaka-sigurado ay every month sa Office of the Director, Superintendent, OIC at sa Commander of the Guards pati ang mga Prison Guards na nakabantay sa bawat gate. Pag nagpapasok kami ng babae, sinasabay namin sila sa mga bisita para hindi halala. Para sa mga gadgets, beer, alak at iba pa, sinisingit namin ang mga ito sa truck ng sound system. At kunwari i-checheck ng guards para hindi halala pero a/am nila yun. Mga 4 to 5 trucks ang pumapasok kasama ang generator na 350 kya na kayang pailawin ang buong maximum.

Page 5:

Kasi pag sobrang maramihan na ang guest, kunwari ine-endorse kami ng Office of the Director sa DOJ, para

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masabi lang na ginagawa din nila ang trabaho nila.

[63] Section 4, Chapter 1, Part IV, Book I of the BuCor Operating Manual, prohibits the commission of the following acts inside prisons:

- Participating in illegal sexual acts or placing oneself in situations or exhibiting behavior in a way that would encourage the commission of illegal sexual acts;

- Openly or publicly displaying photographs, pictures, drawings, or other pictorial representations of persons engaged in sexual acts (actual or simulated), masturbation, excretory functions or lewd or obscene exhibitions of the genitals;

- Possessing articles that pose a threat to prison security or to the safety and well-being of the inmates and staff;

- Giving gifts, selling or engaging in barter with prison personnel;

- Maligning or insulting any religious belief or group;

- Rendering personal services to or requiring personal services from a fellow inmate;

- Gambling;

- Exchanging uniforms with other inmates or wearing uniforms other than those that were officially issued to the inmate;

- Using profane, vulgar or obscene language or making loud or unusual noise of any kind;

- Loitering in the prison compound or reservation;

- Giving a gift or providing material or other assistance to fellow inmates or to the prison administration in general;

- Engaging in any private work for the benefit of a p1 ison officer or employee;

- Controlling the activities of other inmates except in organizations or groups recognized by prison authorities;

- Tattooing oneself or allowing oneself to be tattooed on any part of the body. The removal or alteration of tattoos may only be performed by a prison medical officer upon prior approval by the Superintendent;

- Disobeying legal orders of prison authorities promptly and courteously;

- Threatening, orally or in writing, the life of any employee or prison official;

- Possessing any communication device like a cellular telephone, pager or radio transceiver;

- Constructing, renovating or repairing, with personal funds, a prison building or structure;

- Making frivolous or groundless complaints; and

- In general, displaying any behavior that might lead to disorder or violence, or such other actions that may endanger the facility, the outside community or others.

Further, inmates are not allowed to engage in any revenue-generating or profit-making endeavor or profession, except when authorized to do so in writing by the Director or the Superintendent. (Section 5)

[64] Id. at Chapter 2, Section I and Section 2(f).

[65] Id. at Section 4.

[66] Id. at Book II, Part II, Section 2(a)(ii).

[67] Office of the Solicitor General's Memorandum, pp. 32-36.

[68] Id. at 39-41.

[69] G.R. No. 202664, 10 November 2015, 774 SCRA 243.

[70] Id.

[71] Id.

[72] Id. at 257.

[73] Re: Request for Clarification on whether Drug Courts should be included In the Regular Raffle, A.M. No. 05-9-03-SC, 11 October 2005.

[74] Plenary Deliberations (Period of Sponsorship and Debate) on R.A. 9165 (House Bill No. 4433), 7 March 2002.

[75] Bicameral Conference Committee Meeting on the Disagreeing Provisions of House Bill No. 4433 and Senate Bill No. 1858, 29 April 2002.

[76] Section 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

(1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification. Act of 1989 (Republic Act No. 6758), specifically including:

(a) Provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other provincial department heads;

(b) City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads;

(c) Officials of the diplomatic service occupying the position of consul and higher;

(d) Philippine army and air force colonels, naval captains, and all officers of higher rank;

(e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent and higher;

(f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;

(g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations.

(2) Members of Congress and officials thereof classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989;

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(3) Members of the judiciary without prejudice to the provisions of the Constitution;

(4) Chairmen and members of the Constitutional Commissions, without prejudice to the provisions of the Constitution; and

(5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a. of this section in relation to their office.

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).

Subject to the rules promulgated by the Supreme Court, the cases falling under the jurisdiction of the Regional Trial Court under this section shall be tried in a judicial region other than where the official holds office.

In cases where none of the accused are occupying positions corresponding to Salary Grade '27' or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129, as amended.

The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

The Sandiganbayan shall have exclusive original jurisdiction over petitions for the issuance of the writs of mandamus, prohibition, certiorari, habeas corpus, injunctions, and other ancillary writs and processes in aid of its appellate jurisdiction and over petitions of similar nature, including quo warranto, arising or that may arise in cases filed or which may be filed under Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986: Provided, That the jurisdiction over these petitions shall not be exclusive of the Supreme Court.

The procedure prescribed in Batas Pambansa Blg. 129, as well as the implementing rules that the Supreme Court has promulgated and may hereafter promulgate relative to appeals/petitions for review to the Court of Appeals, shall apply to appeals and petitions for review filed with the Sandiganbayan. In all cases elevated to the Sandiganbayan and from the Sandiganbayan to the Supreme Court, the Office of the Ombudsman, through its special prosecutor, shall represent the People of the Philippines, except in cases filed pursuant to Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees in the proper courts which shall exercise exclusive jurisdiction over them.

Any provisions of law or Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability shall at all times be simultaneously instituted with, and jointly determined in, the same proceeding by the Sandiganbayan or the appropriate courts, the filing of the

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criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized: Provided, however, That where the civil action had heretofore been filed separately but judgment therein has not yet been rendered, and the criminal case is hereafter filed with the Sandiganbayan or the appropriate court, said civil action shall be transferred to the Sandiganbayan or the appropriate court, as the case may be, for consolidation and joint determination with the criminal action, otherwise the separate civil action shall be deemed abandoned.

[77] Entitled "Revising Presidential Decree No. 1486 Creating a Special Court to be known as 'Sandiganbayan' and for Other Purposes."

[78] Adaza v. Sandiganbayan, 502 Phil. 702 (2005); Geduspan v. People, 491 Phil. 375 (2005); Lacson v. Executive Secretary, 361 Phil. 251 (1999).

[79] Chaired by Senior Asst. State Prosecutor Peter Ong, with members Senior Asst. City Prosecutor Alexander Ramos, Senior Asst. City Prosecutor Leila Llanes, Senior Asst. City Prosecutor Evangeline Viudes-Canobas, and Asst. State Prosecutor Editha Fernandez.

[80] 470 Phil. 721 (2004).

[81] Section 2. Officers Authorized to Conduct Preliminary Investigations. -

The following may conduct preliminary investigations:

(a) Provincial or City Prosecutors and their assistants;

(b) Judges of the Municipal Trial Courts and Municipal Circuit Trial Courts;

(c) National and Regional State Prosecutors; and

(d) Other officers as may be authorized by law.

Their authority to conduct preliminary investigations shall include all crimes cognizable by the proper court in their respective territorial jurisdictions.

[82] Section 4. Resolution of Investigating Prosecutor and its Review. - If the investigating prosecutor finds cause to hold the respondent for trial, he shall prepare the resolution and information. He shall certify under oath in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he was given an opportunity to submit controverting evidence. Otherwise, he shall recommend the dismissal of the complaint.

Within five (5) days from his resolution, he shall forward the record of the case to the provincial or city prosecutor or chief state prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction. They shall act on the resolution within ten (10) days from their receipt thereof and shall immediately inform the parties of such action.

No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.

Where the investigating prosecutor recommends the dismissal of the complaint but his recommendation is disapproved by the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy on the

ground that a probable cause exists, the latter may, by himself, file the information against the respondent, or direct another assistant prosecutor or state prosecutor to do so without conducting another preliminary investigation.

If upon petition by a proper party under such rules as the Department of Justice may prescribe or motu proprio, the Secretary of Justice reverses or modifies the resolution of the provincial or city prosecutor or chief state prosecutor, he shall direct the prosecutor concerned either to file the corresponding information without conducting another prelimmary investigation, or to dismiss or move for dismissal of the complaint or information with notice to the parties. The same rule shall apply in preliminary investigations conducted by the officers of the Office of the Ombudsman. (Emphases supplied)

[83] Honasan II v. Panel of Investigating Prosecutors of the Department of Justice, supra.

[84] Id.

[85] Id.

[86] Rules of Court, Rule 117, Section 3(b) provides:

Section 3. Grounds. - The accused may move to quash the complaint or information on any of the following grounds:

x x x

(b) That the court trying the case has no jurisdiction over the offense charged;

[87] Id. at Section 6, which provides:

Section 6. Order sustaining the motion to quash not a bar to another prosecution; exception. - An order sustaining the motion to quash is not a bar to another prosecution for the same offense unless the motion was based on the grounds specified in Section 3 (g) and (i) of this Rule.

Section 3(g) and (i) of Rule 117 provides:

Section 3. Grounds. - The accused may move to quash the complaint or information on any of the following grounds:

x x x

(g) That the criminal action or liability has been extinguished;

x x x

(i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.

[88] Proclaiming a State of Martial Law in the Philippines dated 21 September 1972.

[89] Creation of the Sandiganbayan, Presidential Decree No. 1486 dated 11 June 1978.

[90] WHEREAS Clause, Creation of the Sandiganbayan, Presidential Decree No. 1486 dated 11 June 1978.

[91] Co-Sponsorship Speech of Senator Franklin Drilon, S. Journal Sess. No. 75, at 33, 16[th] Congress, 1[st] Regular Session (26 February 2014).

[92] Amendments to P.D. No. 1606 and B.P. Blg. 129 Re: Jurisdiction of the Sandiganbayan, Presidential Decree

No. 1860, (14 January 1983).

[93] Amending P.D. No. 1606 and B.P. Blg. 129 Re: Jurisdiction of the Sandiganbayan, Presidential Decree No. 1861 (March 23, 1983).

[94] The 1987 CONSTITUTION, Art. XI. Sec. 4.

[95] Jurisdiction Over Cases Involving the Ill-Gotten Wealth of Former President Ferdinand E. Marcos, Executive Order No. 14 (7 May 1986).

[96] Amending E.O. No. 14 (May 7, 1986) Re: Ill-Gotten Wealth of Former President Ferdinand Marcos, Executive Order No. 14-A (18 August 1986).

[97] Anti-Plunder Act, Republic Act No. 7080 (12 July 1991).

[98] Amendments to P.D. No. 1606 Re: Organization of Sandiganbayan, Republic Act No. 7975 (30 March 1995).

[99] Defining the Jurisdiction of the Sandiganbayan, Republic Act No. 8249 (5 February 1997).

[100] Amendment to P.D. No. 1606 (Functional and Structural Organization of the Sandiganbayan), Republic Act No. 10660, 16 April 2015.

[101] P.D. 1486, Section 4.

[102] P.D. 1606, Section 16 provides:

Section 16. Repealing Clause. - This Decree hereby repeals Presidential Decree No. 1486 and all other provisions of law, General Orders, Presidential Decrees, Letters of instructions, rules or regulations inconsistent herewith.

[103] B.P. 129, Section 20 provides:

Section 20. Jurisdiction in Criminal Cases. - Regional Trial Courts shall exercise exclusive original jurisdiction in all criminal cases not within the exclusive jurisdiction of any court, tribunal or body, except those now falling under the exclusive and concurrent jurisdiction of the Sandiganbayan which shall hereafter be exclusively taken cognizance of by the latter.

[104] WHEREAS Clause, P.D. 1860 and 1861.

[105] P.D. 1860, Sec. 1.

[106] P.D. 1861, Sec. 1.

[107] 319 Phil. 319 (1995).

[108] Id.

[109] 361 Phil. 251 (1999).

[110] 502 Phil. 702 (2005).

[111] Id. at 720-721.

[112] Co-Sponsorship Speech of Senator Franklin Drilon, S. Journal Sess. No. 75, at 33, 16[th] Congress, 1[st] Regular Session (26 February 2014).

[113] Macapagal-Arroyo v. People, G.R. Nos. 220598 & 220953, 19 July 2016, Dissenting Opinion of J. Leonen.

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[114] Nuñez v. Sandiganbayan, 197 Phil. 407 (19K2), Concurring Opinion of J. Barredo.

[115] Id. at 434.

[116] 566 Phil. 224 (2008).

[117] 362 Phil. 646 (1999).

[118] Id.

[119] Id. at 664.

[120] Id.

[121] R.A. 10660, Sec. 4.

[122] Co-Sponsorship Speech of Senator Franklin Drilon, S. Journal Sess. No. 75, at 33, 16[th] Congress, 1[st] Regular Session (26 February 2014).

[123] Senate Committee on Justice and Human Rights, Discussion and Deliberation on Senate Bill No. 470 and 472, at 23-24 (13 February 2014).

[124] Co-Sponsorship Speech of Senator Franklin Drilon, S. Journal Sess. No. 75, at 32-33, 16[th] Congress, 1[st] Regular Session (26 February 2014).

[125] Senate Committee on Justice and Human Rights, Discussion and Deliberation on Senate Bill No. 470 and 472 (13 February 2014).

[126] S. Journal Sess. No. 69, at 196, 16[th] Congress, 1[st] Regular Session (12 May 2014).

[127] R.A. 10660, Section 1.

[128] Payumo v. Sandiganbayan, 669 Phil. 545 (2011), citing Webster's Third New World International Dictionary, 445 (1993).

[129] Id.

[130] 643 Phil. 14 (2010).

[131] Id. at 36.

[132] R.A. 10660, Section 2.

[133] Senate Committee on Justice and Human Rights, Discussion and Deliberation on Senate Bill No. 470 and 472, at 24-25 (13 February 2014).

[134] S. Journal Sess. No. 62, at 72, 16[th] Congress, 1[st] Regular Session (5 March 2014).

[135] People v. Milan, 370 Phil. 493 (1999).

[136] Corpuz v. People, 734 Phil. 353 (2014).

[137] Id. at 454-455.

[138] P.D. 1606, Section 7.

[139] R.A. 8493, 12 February 1998.

[140] Payumo v. Sandiganbayan, 669 Phil. 545 (2011).

[141] Nuñez v. Sandiganbayan, 197 Phil. 407 (1982). Concurring Opinion of J. Barredo.

[142] Id. at 436.

[143] G.R. No. L-54719-50, 17 January 1985, 134 SCRA 105.

[144] Id. at 121.

[145] Torres v. Specialized Packaging Development Corp., 447 Phil. 540 (2004).

[146] In-N-Out Burger. Inc. v. Sehwani, Inc., 595 Phil. 1119 (2008).

[147] People v. De Grano, 606 Phil. 547 (2009).

[148] Id.

[149] Fernandez v. Villegas, 741 Phil. 689 (2014).

[150] Id.

[151] Id. at 698.

[152] G.R. No. 191699, 19 April 2016.

[153] G.R. No. 205728, 21 January 2015, 747 SCRA 1, 45-50.

[154] 138 Phil. 570 (1969).

[155] Draft Decision, p. 15.

[156] G.R. Nos. 216007-09, 8 December 2015, 776 SCRA 672.

[157] Id. at 683-684.

[158] Grace Park International Corp. v. Eastwest Banking Corp., G.R. No. 210606, 27 July 2016.

[159] Phil. Pharmawealth, Inc. v. Pfizer, Inc., 649 Phil. 423 (2010); Chua v. Metropolitan Bank and Trust Co., 613 Phil. 143 (2009).

[160] Bandillion v. La Filipina Uygongco Corp., G.R. No. 202446, 16 September 2015, 770 SCRA 624; Espiritu v. Tankiansee, 667 Phil. 9 (2011).

[161] 681 Phil. 536 (2012).

DISSENTING OPINION

CARPIO, J.:

The petition primarily seeks to: (a) annul the Order[1] dated 23 February 2017 and the issuance of Warrants of Arrest against petitioner Senator Leila M. De Lima and the others accused in Criminal Case No. 17-165,[2] and (b) enjoin respondent Judge Juanita Guerrero from conducting further proceedings in Criminal Case No. 17-165 until the Motion To Quash is resolved with finality.

Petitioner's Motion To Quash raised the following issues: (1) the Regional Trial Court (RTC) has no jurisdiction over the offense charged against petitioner; (2) the Department of Justice (DOJ) Panel has no authority to file the Information; (3) the Information charges more than one offense, and (4) the allegations and recital of facts, both in

the Information and in the resolution of the DOJ Panel, do not allege the corpus delicti of the charge of violation of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act.

The petition should be GRANTED for the following substantive reasons:

(1)

The Information does not allege any of the essential elements of the crime of illegal sale or illegal trade of drugs under Section 5 of R.A. No. 9165, hence the charge of illegal trade of drugs is void ab initio;

(2)

The exclusive original jurisdiction over bribery, the offense actually alleged in the Information, lies with the Sandiganbayan; hence, the RTC has no jurisdiction over Criminal Case No. 17-165; and

(3)

In the Memorandum of Agreement dated 29 March 2012 between the DOJ and the Ombudsman, the DOJ expressly recognizes the Ombudsman's primary jurisdiction to conduct preliminary investigations in complaints for crimes cognizable by the Sandiganbayan; hence, the DOJ Panel had no authority to file the Information.

Substantive Matters

The Information does not allege any of the essential elements of the crime of illegal sale or illegal trade of drugs.

The Information in Criminal Case No. 17-165 filed by the DOJ Panel before the RTC of Muntinlupa City on 17 February 2017 states:

> The undersigned Prosecutors, constituted as a Panel pursuant to Department Orders 706 and 790 dated October 14, 2016 and November 11, 2016, respectively, accuse LEILA M. DE LIMA, RAFAEL MARCOS Z. RAGOS and RONNIE PALISOC DAYAN, for violation of Section 5 of R.A. No. 9165, in relation to Section 3(jj), Section 26(b), and Section 28, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, committed as follows:
> That within the period from November 2012 to March 2013, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then an employee of the Department of Justice detailed to De Lima, all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading, in the following manner: De Lima and Ragos, with the use of their power, position and authority, demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the Senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison.
>
> CONTRARY TO LAW.[3] (Emphasis supplied)

The allegations in the Information against petitioner do not constitute an offense under any provision of R.A. No. 9165. The investigation and eventual prosecution of her case fall under Section 4(b) of Presidential Decree (P.D.) No. 1606, specifically as amended by R.A. No. 10660, bringing her case within the exclusive original jurisdiction of the Sandigan bayan.

For immediate reference, Section 5, as well as Sections 3(jj), 26(b), and 28 of R.A. No. 9165, is reproduced below:

> Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.
>
> The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.
>
> If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.
>
> For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemical trade, the maximum penalty shall be imposed in every case.
>
> If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.
>
> The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.
>
> The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.
>
> Section 3. Definitions. As used in this Act, the following terms shall mean:
>
> x x x x
>
> (jj) Trading. - Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, email, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.
>
> Section 26. Attempt or Conspiracy. - Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:
>
> x x x x
>
> (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
>
> x x x x
>
> Section 28. Criminal Liability of Government Officials and Employees. - The maximum penalties of the

> unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees. (Emphasis supplied)

R.A. No. 9165 took effect on 7 June 2002. Our jurisprudence is replete with the enumeration of the essential elements of the crime of illegal sale of drugs under Section 5 of R.A. No. 9165. For the present case, I refer to the enumeration of these essential elements in a non- exhaustive recitation of cases prepared by the ponente and some incumbent Members of the Court.

In September 2009, the ponente affirmed the conviction of Hasanaddin Guiara.[4]

> In the prosecution of illegal sale of shabu, the essential elements have to be established, to wit: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and the payment therefor. (Emphasis supplied)

In December 2009, the ponente denied the parole of SPO3 Sangki Ara.[5]

> For the successful prosecution of the illegal sale of shabu, the following elements must be established: (1) the identity of the buyer and the seller, the object of the sale, and the consideration; and (2) the delivery of the thing sold and its payment. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence. (Emphasis supplied)

A few weeks later, the ponente enumerated the same elements in another case and affirmed the guilt of Victorio Pagkalinawan.[6]

> It bears stressing that what is material to the prosecution for illegal sale of drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti. In other words, the essential elements of the crime of illegal sale of prohibited drugs are: (1) the accused sold and delivered a prohibited drug to another; and (2) he knew that what he had sold and delivered was a prohibited drug. (Emphasis supplied)

The ponente affirmed the conviction of spouses Ewinie and Maria Politico in October 2010,[7] thus:

> In a successful prosecution for offenses involving the illegal sale of dangerous drugs under Sec. 5, Art. II of RA 9165, the following elements must concur: (1) the identities of the buyer and seller, object, and consideration; and (2) the delivery of the thing sold and the payment for it. Such elements are present in this case. What is material is proof that the transaction or sale actually took place, coupled with the presentation in court of the prohibited or regulated drug or the corpus delicti as evidence. (Emphasis supplied)

In a January 2011 case,[8] the ponente affirmed the conviction of Francisco Manlangit as a seller of shabu and cited the elements as written in People v. Macatingag.[9]

> People v. Macatingag prescribed the requirements for the successful prosecution of the crime of illegal sale of dangerous drugs, as follows:
> The elements necessary for the prosecution of illegal sale of drugs are (1) the identity of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment therefor. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti. (Emphasis supplied)

In January 2011, the ponente affirmed the conviction of Carlo Magno Aure and Melchor Austriaco using the same enumeration of elements.[10]

> In the prosecution for the crime of illegal sale of prohibited drugs under Sec. 5, Art. II of RA 9165, the following elements must concur: (1) the identities of the buyer and seller, object, and consideration; and (2) the

> delivery of the thing sold and the payment for it. (Emphasis supplied)

In the same month, the ponente affirmed the conviction of Nene Quiamanlon,[11] thus:

> Significantly, in the prosecution for the crime of illegal sale of prohibited drugs under Sec. 5, Art. II of RA 9165, the following elements must concur: (1) the identities of the buyer and seller, object, and consideration; and (2) the delivery of the thing sold and the payment for it. It is worth noting that what is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually occurred, coupled with the presentation in court of the substance seized as evidence.(Emphasis supplied)

Jacquiline Pambid's conviction[12] was affirmed under the same enumeration of elements:

> Essentially, all the elements of the crime of illegal sale of drugs have been sufficiently established, i.e., (1) the identity of the buyer and the seller, the object of the sale, and the consideration; and (2) the delivery of the thing sold and the payment for it. (Emphasis supplied)

The ponente used the enumeration of elements in the acquittal of Andrew Roble in April 2011.[13]

> In the crime of sale of dangerous drugs, the prosecution must be able to successfully prove the following elements: "(1) identities of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor." Similarly, it is essential that the transaction or sale be proved to have actually taken place coupled with the presentation in court of evidence of corpus delicti. Corpus delicti means the "actual commission by someone of the particular crime charged." (Emphasis supplied)

In June 2011, the ponente acquitted Garry dela Cruz.[14]

> For the prosecution of illegal sale of drugs to prosper, the following elements must be proved: (1) the identity of the buyer and seller, the object, and the consideration; and (2) the delivery of the thing sold and its payment. What is material is the proof that the transaction actually took place, coupled with the presentation before the court of the corpus delicti. (Emphasis supplied)

In August 2011, the ponente affirmed the conviction of Adriano Pascua.[15]

> In every case of illegal sale of dangerous drugs, the prosecution is obliged to establish the following essential elements: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and its payment. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence. The delivery of the illicit drug to the poseur-buyer and the receipt by the seller of the marked money successfully consummate the buy-bust transaction. (Emphasis supplied)

In October 2012, the ponente affirmed with modification the convictions of Asia Musa, Ara Monongan, Faisah Abas, and Mike Solalo,[16] thus:

> In determining the guilt of the accused for the sale of dangerous drugs, the prosecution is obliged to establish the following essential elements: (1) the identity of the buyer and the seller, the object of the sale and the consideration; and (2) the delivery of the thing sold and its payment. There must be proof that the transaction or sale actually took place and that the corpus delicti be presented in court as evidence. (Emphasis supplied)

The ponente repeated these essential elements in his decision in People v. Adrid,[17] a March 2013 case. This time, the ponente acquitted Edgardo Adrid and cited the elements as written in his previous ponencia in People v. Politico.[18]

> In every prosecution for illegal sale of dangerous drugs under Sec. 5, Art. II of RA 9165, the following elements must concur: (1) the identities of the buyer and seller, object, and consideration; and (2) the delivery of the thing sold and the payment for it. As it were, the dangerous drug itself forms an integral and key part of

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> the corpus delicti of the offense of possession or sale of prohibited drugs. Withal, it is essential in the prosecution of drug cases that the identity of the prohibited drug be established beyond reasonable doubt. This means that on top of the elements of possession or illegal sale, the fact that the substance illegally sold or possessed is, in the first instance, the very substance adduced in court must likewise be established with the same exacting degree of certitude as that required sustaining a conviction. (Emphasis supplied)

In similar manner, I also quote from the ponencias of other members of this Court to illustrate that any conviction or acquittal under Section 5 of R.A. No. 9165 goes through the test of proving the same essential elements. I limited my examples to the Justices' latest promulgated ponencias on the subject.

In People v. Arce,[19] penned by Chief Justice Sereno, the Court sustained the conviction of accused-appellant Adalton Arce. The Joint Judgment of the Court of Appeals convicted Arce of violating Sections 5 and 11, Article II of R.A. No. 9165.

> In every prosecution for the illegal sale of marijuana, the following elements must be proved: (1) the identity of the buyer and the seller; (2) the object and the consideration; and (3) the delivery of the thing sold and the payment therefor.
>
> On the other hand, in a prosecution for the illegal possession of marijuana, the following elements must be proved: (1) that the accused was in possession of the object identified as a prohibited or regulated drug; (2) that the drug possession was not authorized by law; and (3) that the accused freely and consciously possessed the drug.
>
> For both offenses, it is crucial that the prosecution establishes the identity of the seized dangerous drugs in a way that their integrity is well preserved - from the time of seizure or confiscation from the accused until the time of presentation as evidence in court. The fact that the substance said to have been illegally sold or possessed was the very same substance offered in court as exhibit must be established. (Emphasis supplied)

In People v. Cloma,[20] my ponencia found accused-appellant Randy Cloma guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. No. 9165.

> For the successful prosecution of the offense of illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the following elements must be proven: (1) the identity of the buyer and the seller, the object, and consideration; and (2) the delivery of the thing sold and the payment for it. The prosecution must establish proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of the corpus delicti.
>
> All the required elements are present in this case. SPO1 Ellevera testified that he was the poseur-buyer in the buy-bust operation. He identified Cloma as the seller of the shabu. SPO1 Ellevera confirmed the exchange of the five hundred peso (P500) marked money and shabu. Hence, the illegal sale of drugs was consummated. In People v. Gaspar, we held that the delivery of the contraband to the poseur-buyer and the receipt of the marked money consummate the buy-bust transaction between the entrapment officers and the accused. The crime of illegal sale of dangerous drugs is committed as soon as the sale transaction is consummated. (Emphasis supplied)

In People v. Ocfemia,[21] penned by Justice Leonardo-De Castro, the Court found accused-appellant Giovanni Ocfemia guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. No. 9165.

> In the prosecution for the crime of illegal sale of prohibited drugs, the following elements must concur: (1) the identities of the buyer and seller, object, and consideration; and (2) the delivery of the thing sold and the payment thereof. What is material to the prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually occurred, coupled with the presentation in court of the substance seized as evidence.[22] (Emphasis supplied)

In People v. Barte,[23] penned by Justice Peralta, the Court found accused-appellant Mercelita Arenas guilty beyond reasonable doubt of violation of Sections 5 and 11, Article II of R.A. No. 9165.

> For the prosecution of illegal sale of drugs to prosper, the following elements must be proved: (1) the identities of the buyer and the seller, the object of the sale, and the consideration; and (2) the delivery of the thing sold and the payment for the thing. What is material is the proof that the transaction or sale actually took place, coupled with the presentation in court of the corpus delicti as evidence. We find all the elements necessary for appellant's conviction for illegal sale of shabu clearly established in this case.
>
> PO3 Rimando, the poseur-buyer, positively identified appellant as the person whom he caught in flagrante delicto selling white crystalline substance presumed to be shabu in the buy-bust operation conducted by their police team; that upon appellant's receipt of the P2,000.00 buy-bust money from PO3 Rimando, she handed to him the two sachets of white crystalline substance which when tested yielded positive results for shabu. Appellant's delivery of the shabu to PO3 Rimando and her receipt of the marked money successfully consummated the buy-bust transaction. The seized shabu and the marked money were presented as evidence before the trial court. (Emphasis supplied)

Justice Peralta also added, for good measure, that: "Public prosecutors are reminded to carefully prepare the criminal complaint and Information in accordance with the law so as not to adversely affect the dispensation of justice."

In People v. Barte,[24] penned by Justice Bersamin, the Court acquitted accused-appellant Eddie Barte of violation of Section 5, Article II of R.A. No. 9165.

> After thorough review, we consider the appeal to be impressed with merit. Thus, we acquit the accused-appellant.
>
> In this jurisdiction, we convict the accused only when his guilt is established beyond reasonable doubt. Conformably with this standard, we are mandated as an appellate court to sift the records and search for every error, though unassigned in the appeal, in order to ensure that the conviction is warranted, and to correct every error that the lower court has committed in finding guilt against the accused. In this instance, therefore, the Court is not limited to the assigned errors, but can consider and correct errors though unassigned and even reverse the decision on grounds other than those the parties raised as errors.
>
> x x x x
>
> In the prosecution of the crime of selling a dangerous drug, the following elements must be proven, to wit: (1) the identities of the buyer, seller, the object, and the consideration; and (2) the delivery of the thing sold and the payment therefor. On the other hand, the essential requisites of illegal possession of dangerous drugs that must be established are the following, namely: (1) the accused was in possession of the dangerous drug; (2) such possession is not authorized by law; and (3) the accused freely and consciously possessed the dangerous drug. (Emphasis supplied)

In People v. Ismael,[25] penned by Justice Del Castillo, the Court acquitted accused-appellant Salim Ismael of violation of Sections 5 and 11, Article II of R.A. No. 9165.

> To secure a conviction for illegal sale of dangerous drugs under Section 5, Article II of RA 9165, the prosecution must establish the following elements: (1) the identity of the buyer and the seller, the object of the sale and its consideration; and (2) the delivery of the thing sold and the payment therefor. What is important is that the sale transaction of drugs actually took place and that the object of the transaction is properly presented as evidence in court and is shown to be the same drugs seized from the accused.
>
> On the other hand, for illegal possession of dangerous drugs, the following elements must be established: "[1] the accused was in possession of dangerous drugs; [2] such possession was not authorized by law; and [3] the

> accused was freely and consciously aware of being in possession of dangerous drugs."
>
> In cases of illegal sale and illegal possession of dangerous drugs, the dangerous drug seized from the accused constitutes the corpus delicti of the offense. Thus, it is of utmost importance that the integrity and identity of the seized drugs must be shown to have been duly preserved. "The chain of custody rule performs this function as it ensures that necessary doubts concerning the identity of the evidence are removed."
>
> x x x x
>
> In sum, we find that the prosecution failed to: (1) overcome the presumption of innocence which appellant enjoys; (2) prove the corpus delicti of the crime; (3) establish an unbroken chain of custody of the seized drugs; and (3) offer any explanation why the provisions of Section 21, RA 9165 were not complied with. This Court is thus constrained to acquit the appellant based on reasonable doubt. (Emphasis supplied)

In Belmonte v. People,[26] penned by Justice Perlas-Bernabe, the Court found accused-appellant Kevin Belmonte guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. No. 9165.

> In order to secure the conviction of an accused charged with illegal sale of dangerous drugs, the prosecution must prove the: (a) identity of the buyer and the seller, the object, and the consideration; and (b) delivery of the thing sold and the payment.
>
> In this relation, it is essential that the identity of the prohibited drug be established beyond reasonable doubt. In order to obviate any unnecessary doubts on the identity of the dangerous drugs, the prosecution has to show an unbroken chain of custody over the same. It must be able to account for each link in the chain of custody over the dangerous drug from the moment of seizure up to its presentation in court as evidence of the corpus delicti. (Emphasis supplied)

In Lescano v. People,[27] penned by Justice Leonen, the Court acquitted accused-appellant Howard Lescano of violation of Sections 5 and 11, Article II of R.A. No. 9165.

> The elements that must be established to sustain convictions for illegal sale of dangerous drugs are settled:
> In actions involving the illegal sale of dangerous drugs, the following elements must first be established: (1) proof that the transaction or sale took place and (2) the presentation in court of the corpus delicti or the illicit drug as evidence.[28] (Emphasis supplied)

Justice Leonen ended his ponencia in Lescano with a quote from People v. Holgado,[29] which he also wrote:

> It is lamentable that while our dockets are clogged with prosecutions under Republic Act No. 9165 involving small-time drug users and retailers, we are seriously short of prosecutions involving the proverbial "big fish." We are swamped with cases involving small fry who have been arrested for minuscule amounts. While they are certainly a bane to our society, small retailers are but low-lying fruits in an exceedingly vast network of drug cartels. Both law enforcers and prosecutors should realize that the more effective and efficient strategy is to focus resources more on the source and true leadership of these nefarious organizations. Otherwise, all these executive and judicial resources expended to attempt to convict an accused for 0.05 gram of shabu under doubtful custodial arrangements will hardly make a dent in the overall picture. It might in fact be distracting our law enforcers from their more challenging task: to uproot the causes of this drug menace. We stand ready to assess cases involving greater amounts of drugs and the leadership of these cartels.[30]

Finally, in People v. Cutura,[31] penned by Justice Tijam, the Court found accused-appellant Jose Cutura guilty beyond reasonable doubt of violation of Section 5, Article II of R.A. No. 9165.

> To secure a conviction for illegal sale of dangerous drugs, like shabu, the following elements must be established: (1) the identity of the buyer and the seller, the object of the sale, and the consideration; and (2) the delivery of the thing sold and its payment. The prosecution must also prove the illegal sale of the dangerous

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> drugs and present the corpus delicti in court as evidence.
>
> In this case, the prosecution duly established the following: (1) the identity of the buyer - PO3 Marcial, the seller - accused-appellant, the object of the sale one sachet of shabu which is an illegal drug, and the consideration - the two pieces of marked two hundred peso bills; and (2) PO3 Marcial positively identified accused-appellant as the one who transacted and sold the shabu to him in exchange for the marked money. He caught accused-appellant in flagrante delicto selling the shabu during a buy-bust operation. The seized item was sent to the crime laboratory and yielded positive results for presence of a dangerous drug. The seized sachet of shabu was likewise presented in court with the proper identification by PO3 Marcial. Evidently, what determines if there was, indeed, a sale of dangerous drugs is proof of the concurrence of all the elements of the offense. (Emphasis supplied)

To be sure, the stage in the prosecution of petitioner is different from those in the cases cited as examples above. Petitioner has yet to go into trial, while the accused-appellants in the above-mentioned cases have already been through this Court's review.

However, the Information in Criminal Case No. 17-165, as filed against petitioner, clearly and egregiously does not specify any of the essential elements necessary to prosecute the crime of illegal sale of drugs under Section 5, or of illegal trade of drugs under Section 5 in relation to Section 3(jj). Indisputably, the Information does not identify the buyer, the seller, the object, or the consideration of the illegal sale or trade. The Information also does not make any allegation of delivery of the drugs illegally sold or traded nor of their payment. The Information does not state the kind and quantity of the drugs subject of the illegal sale or trade.

Without these essential elements alleged in the Information, the actual sale or trade of dangerous drugs can never be established. For without the identities of the seller and buyer, and without an allegation on the kind and quantity of the drugs and the consideration of the sale, as well as the delivery of the object of the sale and the payment, there is no sale or trade of dangerous drugs that can be established during the trial. As this Court has repeatedly held:

> x x x. What is material is proof that the transaction or sale actually took place, coupled with the presentation in court of evidence of corpus delicti.[32] (Emphasis supplied)

In illegal sale of drugs, the corpus delicti is "the actual sale"[33] of the dangerous drugs, which must be alleged in the Information. This can be done only if the Information alleges the identities of the seller and buyer, the kind and quantity of the drugs which constitute the object of the sale, the consideration, the delivery of the dangerous drugs and the payment.

In short, it is simply impossible for the Information, as presently worded, to make out a case of illegal sale or illegal trade of dangerous drugs under Section 5 of R.A. No. 9165, which is the governing provision of R.A. No. 9165 prescribing the essential elements and penalties of the illegal sale or illegal trade of drugs.

The present Information against petitioner alleges only the "use of electronic devices" but does not allege any of the essential elements of "illegal sale" under Section 5. This Court cannot allow a prosecution for "illegal trade" of drugs where none, repeat absolutely none, of the essential elements of "illegal sale" of drugs is present. In short, in the present Information for the offense of "illegal trade" of drugs, only the circumstance of "use of electronic devices" is alleged, with no allegation on the identity of the seller, identity of the buyer, the kind and quantity of the illegal drugs sold or traded, the consideration and the delivery of the illegal drugs, and the actual payment. To allow such prosecution is obviously contrary to the constitutional due process requirement that the accused shall "be informed of the nature and cause of the accusation against him," as expressly mandated in Section 14(2), Article III in the Bill of Rights of the Constitution.

In People v. Caoile,[34] penned by Justice Leonardo-De Castro, and People v. PO2 Valdez,[35] penned by Justice Bersamin, the Court emphasized that "every element of the offense must be stated in the information." Both cases cited the case of People v. Dimaano,[36] in which the Court elaborated:

> 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 charged 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.[37] (Emphasis supplied)

In the present petition, the ponente himself believes in the importance of the accused's constitutional right to "be informed of the nature and cause of the accusation" against him. In his ponencia in Lim v. People,[38] the ponente acquitted petitioner in that case. The Information there alleged that petitioner knew of the alleged theft of the thing sold, which is the first part of the third element of the crime of fencing. However, the trial court convicted petitioner on the ground that he should have known that the thing sold was derived from the proceeds of theft, which pertains to the second part of the third element of the crime of fencing. To support his decision to reverse the trial court and acquit petitioner, the ponente wrote:

> We find that the conviction of petitioner violated his constitutional right to be informed of the nature and cause of the accusation against him.
>
> In Andaya v. People of the Philippines, we ruled that:
> It is fundamental that every element constituting the offense must be alleged in the information. The main purpose of requiring the various elements of a crime to be set out in the information is to enable the accused to suitably prepare his defense because he is presumed to have no independent knowledge of the facts that constitute the offense. The allegations of facts constituting the offense charged are substantial matters and an accused's right to question his conviction based on facts not alleged in the information cannot be waived. No matter how conclusive and convincing the evidence of guilt may be, an accused cannot be convicted of any offense unless it is charged in the information on which he is tried or is necessarily included therein. To convict him of a ground not alleged while he is concentrating his defense against the ground alleged would plainly be unfair and underhanded. The rule is that a variance between the allegation in the information and proof adduced during trial shall be fatal to the criminal case if it is material and prejudicial to the accused so much so that it affects his substantial rights.
>
> x x x x

From the foregoing, we find that the CA erred in affirming the trial court's findings and in convicting herein petitioner. It is necessary to remember that in all criminal prosecutions, the burden of proof is on the prosecution to establish the guilt of the accused beyond reasonable doubt. It has the duty to prove each and every element of the crime charged in the information to warrant a finding of guilt for the said crime. Furthermore, the information must correctly reflect the charges against the accused before any conviction may be made.

In the case at bar, the prosecution failed to prove the first and third essential elements of the crime charged in the information. Thus, petitioner should be acquitted due to insufficiency of evidence and reasonable doubt.[39] (Emphasis in the original)

Thus, as the ponente himself correctly stated in Lim v. People, the accused has the "constitutional right to be informed of the nature and cause of the accusation against him." In the same case, the ponente reiterated and affirmed the hornbook doctrine, by quoting Andaya v. People, that it is "fundamental that every element constituting the offense must be alleged in the information." The purpose of requiring the allegation in the Information of all the essential elements of the offense is to comply with the constitutional requirement that the accused must be "informed of the nature and cause of the accusation" against him.

In Dela Chica v. Sandiganbayan,[40] the Court held that an Information is not sufficient unless it accurately and clearly alleges all the elements of the crime charged. The Court explained:

> The issue on how the acts or omissions constituting the offense should be made in order to meet the standard of sufficiency has long been settled. It is fundamental that every element of which the offense is composed must be alleged in the information. No information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged. Section 6, Rule 110 of the Revised Rules of Court requires, inter alia, that the information must state the acts or omissions so complained of as constitutive of the offense. Recently, this Court emphasized that the test in determining whether the information validly charges an offense is whether the material facts alleged in the complaint or information will establish the essential elements of the offense charged as defined in the law. In this examination, matters aliunde are not considered. The law essentially requires this to enable the accused suitably to prepare his defense, as he is presumed to have no independent knowledge of the facts that constitute the offense.
>
> What facts and circumstances are necessary to be stated in the information must be determined by reference to the definitions and the essentials of the specific crime.[41] (Emphasis supplied)

Indeed, there can be no dispute whatsoever that each and every essential element of the offense charged must be alleged in the Information. This, in fact and in law, is axiomatic. Nothing. can be more fundamental than this in initiating any criminal prosecution, as the right to be informed of the "nature and cause of the accusation" is a fundamental right of an accused enshrined in the Bill of Rights of the Constitution.

Failure to allege any of the essential elements of the offense invariably means that probable cause cannot be determined on the basis of the Information, both as to the commission of the offense and as to the issuance of the warrant of arrest. In Baltazar v. People,[42] probable cause is defined as:

> Probable cause is such set of facts and circumstances which would lead a reasonably discreet and prudent man to believe that the offense charged in the Information or any offense included therein has been committed by the person sought to be arrested.[43]

Clearly, it is impossible for the presiding judge to determine the existence of probable cause for the issuance of a warrant of arrest where the Information does not allege any of the essential elements of the offense. Under Section 5[44] of Rule 112 of the Revised Rules of Criminal Procedure, the Regional Trial. Court judge may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. As held in People v. Sandiganbayan,[45] "[t]he absence of probable cause for the issuance of a warrant of arrest is not a ground for the quashal of the Information but is a ground for the dismissal of the case."

Here, the present Information against petitioner does not allege any of the essential elements of the crime of illegal sale or illegal trade of dangerous drugs. In short, the Information does not charge the offense of illegal sale or illegal trade of drugs. Ineluctably, the present Information against petitioner is patently void to charge

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petitioner of illegal sale or illegal trade of dangerous drugs. The trial court's only recourse is to dismiss the Information with respect to the charge of trade of dangerous drugs.

In People v. Pangilinan,[46] Justice Peralta recognized that an information that fails to allege the essential elements of the offense is void. In People v. Pangilinan, Justice Peralta quoted from this Court's ruling in People v. Dela Cruz:[47]

> The allegation in the information that accused-appellant "willfully, unlawfully and feloniously commit sexual abuse on his daughter [Jeannie Ann] either by raping her or committing acts of lasciviousness on her" is not a sufficient averment of the acts constituting the offense as required under Section 8, for these are conclusions of law, not facts. The information in Criminal Case No. 15368-R is therefore void for being violative of the accused-appellant's constitutionally-guaranteed right to be informed of the nature and cause of the accusation against him.[48] (Emphasis supplied)

Thus, Justice Peralta unequivocally acknowledges that the failure to allege in the Information the essential elements of the offense, a failure that violates the constitutional right of the accused to be informed of the nature and cause of the accusation against him, renders the Information void. After quoting from People v. Dela Cruz, Justice Peralta stated further in People v. Pangilinan:

> The right to be informed of the nature and cause of the accusation against an accused cannot be waived for reasons of public policy. Hence, it is imperative that the complaint or information filed against the accused be complete to meet its objectives. As such, an indictment must fully state the elements of the specific offense alleged to have been committed.[49]

The ponencia insists that the crime of illegal sale of drugs under Section 5 of R.A. No. 9165 is separate and distinct from the crime of illegal trade of drugs in Section 3(jj) of R.A. No. 91655.[50] The ponencia asserts that the Information charges petitioner for illegal trade of drugs under Section 3(jj), not under Section 5. This is gross error.

The title of Section 5 expressly states "Sale, Trading x x x of Dangerous Drugs." The text itself of Section 5 penalizes the unauthorized "sale, trade" of drugs. Indeed, the sale of drugs means the trade of drugs. Section 3(jj) defines "[t]rading" of drugs to refer to "[t]ransactions involving the illegal trafficking of dangerous drugs x x x using electronic devices." Thus, Section 3(jj) describes illegal "trading" of drugs as the illegal sale, illegal trade or illegal trafficking of drugs "using electronic devices." In illegal trade of drugs, there is an illegal sale of drugs but this illegal act is committed "using electronic devices."

Significantly, Section 3(r) defines "Illegal Trafficking" as "[t]he illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of any dangerous drug and/or controlled precursor and essential chemical." Thus, illegal trafficking of dangerous drugs means the illegal sale or illegal trading of dangerous drugs. Section 3(jj) defines "trading" of dangerous drugs as the "illegal trafficking" of dangerous drugs. Thus, the "trading" of dangerous drugs means "illegal trafficking," which under Section 3(r) means the "sale, trading" of dangerous drugs. Section 5 punishes the illegal sale or illegal trade of dangerous drugs. In short, the illegal sale, illegal trade, and illegal trafficking of dangerous drugs refer to the same crime that is punished under Section 5 of R.A. No. 9165.

R.A. No. 9165 does not provide a separate or higher penalty when the illegal sale or illegal trade of drugs is committed with the use of electronic devices. With or without the use of electronic devices, the crime committed is illegal sale or illegal trade of drugs if all the essential elements of illegal sale or illegal trade of drugs in Section 5 are present. The circumstance of 'use of electronic devices' is not an essential element of illegal sale or illegal trade of drugs in Section 5. Certainly, the crime of illegal trade of drugs can be committed even without the use of

electronic devices. To trade in illegal drugs is to sell or to traffic in illegal drugs. The use of electronic devices does not create a separate crime or even qualify the crime of illegal sale of drugs. The penalty for illegal sale or illegal trade of drugs is the same. The circumstance of "use of electronic device" does not increase the penalty or create a separate penalty.

The Information in Criminal Case No. 17-165 accused petitioner, together with Rafael Marcos Z. Ragos and Ronnie Palisoc Dayan, "for violation of Section 5, in relation to Sections 3(jj), 26(b), and 28 of R.A. No. 9165." The crime of illegal sale or illegal trade of dangerous drugs is governed by Section 5, and not Section 3(jj) which merely defines the term "trading" to include the illegal sale of drugs with the use of electronic devices. Section 5 reads:

> Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.
>
> The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.
>
> If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.
>
> For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemical trade, the maximum penalty shall be imposed in every case.
>
> If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.
>
> The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.
>
> The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section. (Emphasis supplied)

Contrary to the position of the ponencia, the crimes of "illegal sale" and "illegal trade" of drugs are both violations of Section 5, except that "illegal trade" involves the use of electronic devices in the sale of drugs. Thus, "trading" is defined in Section 3(jj) as "[t]ransactions involving the illegal trafficking of dangerous drugs x x x using electronic devices such as, but not limited to, text messages, email, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act."

Section 3(jj) falls under Section 3 on "Definitions." Section 3 is not the operative provision that prescribes the essential elements of the crime and its penalty. Section 3(jj) does not penalize "illegal trade" of drugs; it is Section 5 that penalizes "illegal trade" of drugs. Section 3(jj) has the same status as the other terms defined in Section 3 - they are mere definitions and do not prescribe the essential elements of an act that constitutes a crime to which a penalty is attached by law for the commission of such act. No person can be charged and convicted for violating a term defined in Section 3 separate and distinct from the provision of law prescribing the essential elements of the offense and penalizing such offense.

Clearly, the essential elements of "illegal sale" of drugs are the same as the essential elements of "illegal trade" and "illegal trafficking" of drugs, with the additional circumstance of use of electronic devices to facilitate the sale of drugs in case of "illegal trade" or "illegal trafficking." However, this additional circumstance of "use of electronic devices" is not an essential element of the crime that is punished under Section 5. After all, "to trade" or "to traffic" in drugs means to sell drugs. Thus, the Information charging the accused of "illegal trade" must allege all the essential elements of the offense of "illegal sale," and if the prosecution wants to be more specific, the Information can also allege the circumstance that there was "use of electronic devices" to facilitate the illegal sale. The absence of an allegation of "use of electronic devices" will not take the offense out of Section 5.

The circumstance of "use of electronic devices" is not an essential element of the crime under Section 5. There is also no provision whatsoever in R.A. No. 9165 that makes this circumstance a separate crime or qualifies the crime of illegal sale under Section 5. Nullum crimen sine lege. No crime without a law.[51] To repeat, there is no provision in R.A. No. 9165 defining and penalizing the circumstance of "use of electronic devices" in the sale or trade of dangerous drugs as a separate and distinct offense from Section 5. To charge petitioner, as the ponencia does, under Section 3(jj) for "illegal trade," separate and distinct from the offense under Section 5, is to charge petitioner with a non-existent crime. Section 3(jj) merely defines the "trading" of dangerous drugs. To repeat, no person can be charged and convicted for violating a definition in the law separate and distinct from the provision of law prescribing the essential elements of the crime and its penalty.

The ponencia mistakenly invokes People v. Benipayo.[52] In the 2009 People v. Benipayo case, this Court concluded that the RTC had exclusive original jurisdiction to try a written defamation complaint against an impeachable officer to the exclusion of the Ombudsman and the Sandiganbayan. At that time, R.A. No. 8249 was then the most recent law that amended Presidential Decree (P.D.) No. 1606. On 16 April 2015, P.D. No. 1606 was further amended by R.A. No. 10660, which is now the latest amendment to P.D. No. 1606. R.A. No. 10660 has the same enumeration of public officers as R.A. No. 8249.

R.A. No. 10660 took out of the jurisdiction of the RTC cases involving public officials with salary grade 27 or higher where there is allegation of damage to the government or bribery in an amount exceeding P1,000,000, and these cases now fall under the exclusive original jurisdiction of the Sandiganbayan. This amendment in R.A. No. 10660 now applies to the case of petitioner, taking her case out of the jurisdiction of the RTC since in the present Information there is an allegation of bribery exceeding P1,000,000 and petitioner had salary grade 31 as then Secretary of Justice.

In the present case, the ponencia attempts to replicate the logic of People v. Benipayo to conform with its strained conclusion that the RTC has exclusive original jurisdiction to try Senator De Lima. However, it is clear as day that People v. Benipayo does not apply to the present case because R.A. No. 10660, enacted after People v. Benipayo was decided, has already taken the present case out of the jurisdiction of the RTC.

In People v. Benipayo, this Court declared that it is "unnecessary and futile" to determine whether a crime is committed in relation to office when -

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> x x x. The grant to the Sandiganbayan of jurisdiction over offenses committed in relation to (public) office, similar to the expansion of the jurisdiction of the MTCs, did not divest the RTC of its exclusive and original jurisdiction to try written defamation cases regardless of whether the offense is committed in relation to office. The broad and general phraseology of Section 4, Presidential Decree No. 1606, as amended by Republic Act No. 8249, cannot be construed to have impliedly repealed, or even simply modified, such exclusive and original jurisdiction of the RTC.[53]
>
> However, People v. Benipayo has clearly been superseded by R.A. No. 10660 which takes out of the exclusive original jurisdiction of the RTC cases involving public officials with Salary Grade 27 or higher where there is an allegation of damage to the government or bribery in an amount exceeding P1,000,000. In the present Information against petitioner, there is an allegation of bribery exceeding P1,000,000 and petitioner then had Salary Grade 31. This clearly takes the case out of the exclusive original jurisdiction of the RTC.

The Sandiganbayan has jurisdiction over bribery, the crime actually alleged in the Information.

In insisting on the jurisdiction of the RTC, the ponencia sets aside R.A. No. 10660 as if this law does not exist at all. R.A. No. 10660 was approved on 16 April 2015, a date later than the approval of R.A. No. 9165. Section 2 of R.A. No. 10660 further amended Section 4 of P.D. No. 1606 to read as follows:

> SEC. 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
>
> "a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
>
> "(1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:
>
> "(a) Provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other provincial department heads:
>
> "(b) City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads;
>
> "(c) Officials of the diplomatic service occupying the position of consul and higher;
>
> "(d) Philippine army and air force colonels, naval captains, and all officers of higher rank;
>
> "(e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent and higher;
>
> "(f) City and provincial ,prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;
>
> "(g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations.
>
> "(2) Members of Congress and officials thereof classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989;
>
> "(3) Members of the judiciary without prejudice to the provisions of the Constitution;
>
> "(4) Chairmen and members of the Constitutional Commissions, without prejudice to the provisions of the Constitution; and

"(5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

"b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a. of this section in relation to their office.

"c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

"Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).

"Subject to the rules promulgated by the Supreme Court, the cases falling under the jurisdiction of the Regional Trial Court under this section shall be tried in a judicial region other than where the official holds office.

"In cases where none of the accused are occupying positions corresponding to Salary Grade '27' or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129, as amended.

"The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

"The Sandiganbayan shall have exclusive original jurisdiction over petitions for the issuance of the writs of mandamus, prohibition, certiorari, habeas corpus, injunctions, and other ancillary writs and processes in aid of its appellate jurisdiction and over petitions of similar nature, including quo warranto, arising or that may arise in cases filed or which may be filed under Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986: Provided, That the jurisdiction over these petitions shall not be exclusive of the Supreme Court.

"The procedure prescribed in Batas Pambansa Blg. 129, as well as the implementing rules that the Supreme Court has promulgated and may hereafter promulgate, relative to appeals/petitions for review to the Court of Appeals, shall apply to appeals and petitions for review filed with the Sandiganbayan. In all cases elevated to the Sandiganbayan and from the Sandiganbayan to the Supreme Court, the Office of the Ombudsman, through its special prosecutor, shall represent the People of the Philippines, except in cases filed pursuant to Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

"In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees in the proper courts which shall exercise exclusive jurisdiction over them.

"Any provisions of law or Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability shall at all times be simultaneously instituted with, and jointly determined in, the same proceeding by the Sandiganbayan or the appropriate courts, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized: Provided, however, That where the civil action had heretofore been filed separately but judgment therein has not yet been rendered, and the criminal case is hereafter filed with the Sandiganbayan or the appropriate court, said civil action shall be transferred to the Sandiganbayan or the appropriate court, as the case may be, for consolidation

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> and joint determination with the criminal action, otherwise the separate civil action shall be deemed abandoned." (Emphasis supplied)

Section 4 of P.D. No. 1606, as amended by R.A. No. 10660, explicitly states that the Sandiganbayan "shall exercise exclusive original jurisdiction in all cases" involving:

(1) Violations of R.A. No. 3019,[54] as amended, R.A. No. 1379,[55] and Chapter II, Section 2 (Bribery), Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials of the executive branch with Salary Grade 27 or higher, and other officials specifically enumerated under Section 4a(1)(a) to (g) and (2) to (5);

(2) Other offenses or felonies, whether simple or complexed with other crimes, committed in relation to their office by the public officials and employees mentioned in subsection "a"; and

(3) Civil and criminal offenses filed pursuant to and in connection with Executive Order Nos. 1,[56] 2,[57] 14[58] and 14-A,[59] issued in 1986.

When R.A. No. 10660, the latest amendment to Section 4 of P.D. No. 1606, mandated that the Sandiganbayan "shall exercise exclusive original jurisdiction in all cases" involving the offenses specified in the amended Section 4, it meant all cases without exception unless specifically excepted in the same or subsequent law. When the law says "all cases," it means there is no exception. R.A. No. 10660 wiped out all previous exceptions in all laws prior to R.A. No. 10660, and the only exceptions now are those found in Section 4 as amended by R.A. No. 10660.

Black's Law Dictionary[60] defines "all" in this manner:

> All. Means the whole of - used with a singular noun or pronoun, and referring to amount, quantity, extent, duration, quality, or degree. The whole number or sum of - used collectively, with a plural noun or pronoun expressing an aggregate. Every member of individual component of; each one of - used with a plural noun. In this sense, all is used generically and distributively. "All" refers rather to the aggregate under which the individuals are subsumed than to the individuals themselves.

Clearly, when the law says "all cases," the law means the whole number of cases, every one and each one of the cases. There is no exception, unless the same or subsequent law expressly grants an exception.

In the same Section 4 of P.D. No. 1606, as amended by R.A. No. 10660, the law states the exceptions granting the Regional Trial Court exclusive original jurisdiction where the information:

> (1) does not allege any damage to the government or any bribery; or
>
> (2) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding P1,000,000.

In cases where none of the accused is occupying positions with Salary Grade 27 or higher, or military or PNP officers mentioned in Section 4a(1)(d) and (e), the exclusive original jurisdiction is vested in the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, and Municipal Circuit Trial Court, as the case may be.

Thus, the Sandiganbayan has exclusive original jurisdiction in "all cases" of bribery where the accused is a public official with a Salary Grade 27 or higher and the amount involved exceeds P1,000,000. Furthermore, the Sandiganbayan also exercises exclusive original jurisdiction in "all cases" involving other offenses or felonies committed in relation to their office by the officials and employees enumerated under Section 4a, a situation applicable to petitioner Senator De Lima.

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At the time that the alleged crime was committed, Senator De Lima was Secretary of Justice with Salary Grade 31.[61] Her alleged acts of demanding, soliciting, and extorting money from high profile inmates in the New Bilibid Prison were committed in relation to her office, as the Information expressly alleges that she used her "power, position and authority" in committing the offense. The unnamed high profile inmates are detained in the New Bilibid Prison. The New Bilibid Prison is a facility under the administration of the Bureau of Corrections.[62] The Bureau of Corrections, in turn, is a line bureau and a constituent unit of the Department of Justice.[63] The amounts in the Information exceed P10,000,000 (ten million pesos), because aside from the P5,000,000 given twice, Senator De Lima also allegedly received P100,000 (one hundred thousand pesos) weekly from the unnamed inmates.

As previously discussed, the Information does not allege any of the essential elements of the crime of illegal sale or illegal trade of drugs. Instead, what is apparent is that the crime alleged in the Information is direct bribery. Article 210 of the Revised Penal Code defines direct bribery as:

> Art. 210. Direct Bribery. - Any public officer who shall agree to perform an act constituting a crime, in connection with the performance of his official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another, shall suffer the penalty of prision mayor in its medium and maximum periods and a fine of [not less than the value of the gift and] not less than three times the value of the gift in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed.
>
> If the gift was accepted by the officer in consideration of the execution of an act which does not constitute a crime, and the officer executed said act, he shall suffer the same penalty provided in the preceding paragraph; and if said act shall not have been accomplished, the officer shall suffer the penalties of prision correccional in its medium period and a fine of not less than twice the value of such gift.
>
> If the object for which the gift was received or promised was to make the public officer refrain from doing something which it was his official duty to do, he shall suffer the penalties of prision correccional in its maximum period to prision mayor in its minimum period and a fine of not less than three times the value of such gift.
>
> In addition to the penalties provided in the preceding paragraphs, the culprit shall suffer the penalty of special temporary disqualification.
>
> The provisions contained in the preceding paragraphs shall be made applicable to assessors, arbitrators, appraisal and claim commissioners, experts or any other persons performing public duties.

The elements of direct bribery are:

- The offender is a public officer;

- The offender accepts an offer or a promise or receives a gift or present by himself or through another;

- Such offer or promise is accepted, or the gift or present is received by the public officer with a view to committing some crime, or in consideration of the execution of an unjust act which does not constitute a crime, or to refrain from doing something which is his official duty to do; and

- The act which the offender agrees to perform or which he executes is connected to the performance of his official duties.[64]

The Information stated that: (1) The accused petitioner was the DOJ Secretary and the Officer-in-Charge of the Bureau of Corrections at the time of the alleged crime; (2) Petitioner demanded, solicited and extorted money from the high profile inmates; (3) Petitioner took advantage of her public office and used her power, position and

authority to solicit money from the high profile inmates; (4) Petitioner received more than P10,000,000 (ten million pesos) from the high profile inmates; (5) "By reason of which" referring to the payment of extortion money, the unnamed inmates were able to unlawfully trade in drugs. Thus, based on the allegations in the Information, the crime allegedly committed is direct bribery and not illegal sale or illegal trade of drugs.

Clearly, based on the allegations in the Information, jurisdiction lies with the Sandiganbayan and not with the RTC since petitioner allegedly used the "power, position and authority" of her office as then Secretary of Justice. Even if the Information designated the offense charged against petitioner as "Violation of the Comprehensive Dangerous Drugs Act of 2002, Section 5, in relation to Section 3(jj), Section 26(b) and Section 28, Republic Act No. 9165 (Illegal Drug Trading)," such caption in the Information is not controlling since it is the description of the crime charged and the particular facts alleged in the body of the Information that determine the character of the crime.[65]

As explained by this Court in People v. Dimaano:[66]

> x x x. What is controlling is not the title of the complaint, nor the designation of the offense charged or the particular law or part thereof allegedly violated, these being mere conclusions of law made by the prosecutor, but the description of the [offense] 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.[67]

The ponencia further insists that as a co-principal and co--conspirator, petitioner is liable for the acts of her co-principals and co--conspirators even if the Information does not allege that petitioner actually participated in the illegal trafficking of dangerous drugs but simply alleges that petitioner allowed the NBP inmates to do so.[68] The Information does not identify the actual "illegal traffickers" of drugs who are supposedly unnamed high profile inmates in the New Bilibid Prison. The Information does not also identify the buyers of the dangerous drugs, or the kind and quantity of the dangerous drugs illegally sold or traded. There is further no allegation on the delivery of the illegal drugs or payment for the illegal sale or trade of the drugs. How can petitioner be made liable as co-principal and co-conspirator when there is no allegation whatsoever that she committed an act constituting part of the illegal sale or trade of drugs and not one of the essential elements of the crime of illegal sale or illegal trade of dangerous drugs is alleged in the Information for "violation of Section 5, in relation to Sections 3(jj), 26(b), and 28 of R.A. No. 9165?"

Certainly, an allegation of conspiracy in the Information does not do away with the constitutional requirement that the accused must be "informed of the nature and cause of the accusation" against her. The fundamental requirement that the Information must allege each and every essential element of the offense charged applies whether or not there is a charge of conspiracy. National Housing Corporation v. Juco[69] defined "every" as follows:

> "Every" means each one of a group, without exception. It means all possible and all, taken one by one. (Italicization in the original)

In the present case, petitioner cannot be held liable for conspiracy in the illegal sale or illegal trade of dangerous drugs where none of the essential elements of the crime of illegal sale or illegal trade of dangerous drugs is alleged in the Information. Besides, the Information does not even allege that petitioner actually participated in the commission of acts constituting illegal sale or illegal trade of dangerous drugs to make her liable as a co-principal and co-conspirator.

Petitioner's alleged co-conspirators and co-principals who actually conducted and performed the illegal sale or illegal trade of dangerous drugs are not even charged as John Does or Jane Does in the Information. Without the

inclusion in the Information of the co-principals and co-conspirators who allegedly actually conducted and performed the illegal sale or illegal trade of dangerous drugs, petitioner cannot be charged with conspiracy. In conspiracy to illegally sell or illegally trade dangerous drugs, the identity of the actual sellers or traders must not only be alleged in the Information, but such actual sellers or traders must also be charged in the Information, either by name or as John Does or Jane Does. Without an actual seller or trader of the dangerous drugs identified in the Information, the petitioner cannot properly prepare for her defense. Without an actual seller or trader of the dangerous drugs charged in the Information, the illegal sale or illegal trade of dangerous drugs cannot be proven. It is self-evident that in any sale or trade of goods or services, there must be an actual seller and actual buyer. There is no illegal sale or illegal trade of dangerous drugs if there is no actual seller and actual buyer of the dangerous drugs.

The Ombudsman has primary jurisdiction over complaints for crimes cognizable by the Sandiganbayan.

Finally, the acts of the DOJ Panel violated the Memorandum of Agreement between the Department of Justice and the Office of the Ombudsman.

On 29 March 2012, the Office of the Ombudsman and the Department of Justice signed a Memorandum of Agreement[70] (MOA) which stated that the Ombudsman has "primary jurisdiction in the conduct of preliminary investigation and inquest proceedings over complaints for crimes cognizable by the Sandiganbayan." The MOA also provided a list of cases which fall under the exclusive original jurisdiction of the Sandiganbayan.[71] If a complaint involving one of the enumerated cases is filed before the DOJ, the DOJ shall advise the complainant to file it directly with the Ombudsman.

Based on the MOA, the DOJ should have turned over to the Ombudsman the preliminary investigation of petitioner on four grounds. First, there is an allegation of bribery against the public officer, which is alleged in the Information against petitioner. Second, the offense charged was allegedly committed in relation to the public officer's public office, which is alleged in the Information against petitioner. Third, the public officer has Salary Grade 27 or higher, which is the situation of petitioner. Fourth, there is an allegation of corruption by a public officer, which is alleged in the Information as committed by unnamed high profile inmates.

In any of the first three circumstances, the MOA expressly states that exclusive original jurisdiction belongs to the Sandiganbayan. In the fourth circumstance, exclusive original jurisdiction belongs to the Sandiganbayan if the public officer has Salary Grade 27 or higher, which is the situation of petitioner. Thus, any one of these four circumstances is a ground for the turn over of petitioner's preliminary investigation to the Ombudsman. The DOJ obviously failed to comply with its obligation under the MOA. In short, the DOJ under the terms of the MOA had no authority to conduct the preliminary investigation in Criminal Case No. 17-165 against petitioner.

Procedural Matters

The prosecution's dilemmas: incurable defects in the Information, effective denial of the Motion To Quash, duplicity of offenses in the Information.

Pages 41 to 44 of the ponencia instruct the DOJ prosecutors how to correct the patent defects in the Information filed against petitioner should this Court order its quashal. The ponencia cites Rule 117, Sections 4 and 5 of the Revised Rules of Criminal Procedure to justify petitioner's continued detention.

> Section 4. Amendment of complaint or information. - If the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made.
>
> If it is based on the ground that the facts charged do not constitute an offense, the prosecution shall be given by

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> the court an opportunity to correct the defect by amendment. The motion shall be granted if the prosecution fails to make the amendment, or the complaint or information still suffers from the same defect despite the amendment.
>
> Section 5. Effect of sustaining the motion to quash. - If the motion to quash is sustained, the court may order that another complaint or information be filed except as provided in section 6 of this rule. If the order is made, the accused, if in custody, shall not be discharged unless admitted to bail. If no order is made or if having been made, no new information is filed within the time specified in the order or within such further time as the court may allow for good cause, the accused, if in custody, shall be discharged unless he is also in custody for another charge. (Emphasis supplied)

The ponencia also cites Dio v. People[72] and emphasizes its statement that "failure to provide the prosecution with the opportunity to amend is an arbitrary exercise of power." The ponencia further states that "in the case at bar where petitioner has not yet been arraigned, the court a quo has the power to order the amendment of the February 17, 2017 Information filed against petitioner."

The ponencia's statements tend to mislead. The ponencia overlooked procedural errors in its suggestions. The defects in the Information cannot be cured by mere amendment.

An Information cannot be amended to vest jurisdiction upon a court.

The trial court can only order the prosecution to amend the Information as provided under Section 4 of Rule 117 if the trial court finds that there is a defect in the Information which "can be cured by amendment."[73] An amendment of the Information to vest jurisdiction upon a court is not allowed.[74] As held in Gonzales v. Judge Salvador:[75]

> Not all defects in an information can be cured by amendment, however, In Agustin v. Pamintuan, this Court held that the absence of any allegation in the information that the therein offended party was actually residing in Baguio City at the time of the commission of the alleged offense or that the alleged libelous articles were printed and first published in Baguio City is a substantial defect, which cannot be amended after the accused enters his plea. Amendment of the information to vest jurisdiction upon a court is not permissible.[76] (Emphasis supplied)

Thus, assuming that the RTC has exclusive original jurisdiction over all cases involving violations of R.A. No. 9165, the trial court cannot order the prosecution to amend the Information from one which charges direct bribery in an amount exceeding P1,000,000 and is cognizable by the Sandiganbayan to one which charges illegal trade of dangerous drugs in order to vest jurisdiction in the RTC, even assuming that the RTC has such jurisdiction which it does not have over petitioner, considering her salary grade and the allegation that she used her public office.

The Information as regards the charge of illegal trade of dangerous drugs is void ab initio.

Dio v. People allowed the correction of the defect in the Information of failure to allege venue. In the present case, however, the defect lies in the failure to allege even at least one of the elements of the crime. There was no allegation of any element of the crime of illegal trade of dangerous drugs. There was no specified seller, no specified buyer, no specified kind of dangerous drug, no specified quantity of dangerous drugs, no specified consideration, no specified delivery, and no specified payment. All that the Information alleged was the use of cellular phones, which is not even an essential element of the crime of illegal trade of dangerous drugs. If, as in the present case, the Information failed to mention even one element of the alleged crime, then the defect is so patent that it cannot ever be cured. There is complete and utter absence of the essential elements of the crime. Section 4 of Rule 117 allows an amendment of the Information if the defect "can be cured by amendment." A defective Information can be cured if it alleges some, but not all, of the essential elements of the offense.

However, if the Information does not allege any of the essential elements at all, the Information is void ab initio and is not merely defective. As held in Leviste v. Hon. Alameda:[77]

> It must be clarified though that not all defects in an information are curable by amendment prior to entry of plea. An information which is void ab initio cannot be amended to obviate a ground for quashal. An amendment which operates to vest jurisdiction upon the trial court is likewise impermissible.[78] (Emphasis supplied)

An amendment that cures a defective Information is one that supplies a missing element to complete the other essential elements already alleged in the Information. But when none of the other elements is alleged in the Information, there is nothing to complete because not a single essential element is alleged in the Information.

The Information already charges direct bribery.

The Court is also precluded from ordering an amendment of the present Information under Section 4 of Rule 117. The amendment under this section applies only when the defect in the Information can be cured by amendment, such as when the facts charged do not constitute any offense at all. In the present case, the Information already charges an offense, which is direct bribery. Thus, even if the prosecution specifies the seller, the buyer, the kind of dangerous drugs, the quantity of dangerous drugs, the consideration, the delivery, and the payment, the Information charging illegal trade of drugs would still be void. The Information would be void for duplicity of offense, because it would then charge petitioner with two crimes: direct bribery and illegal trade of drugs. Duplicity of offense is prohibited under Rule 110, Section 13 of the Revised Rules of Criminal Procedure, which states that "[a] complaint or information must charge only one offense, except when the law prescribes a single punishment for various offenses." There is nothing in our laws which states that there should be a single punishment for the two offenses of direct bribery and illegal trade of drugs.

No prematurity since this petition is for certiorari under Rule 65

The ponencia claims that the present petition is premature under under Section 5(2), Article VIII of the Constitution which empowers this Court to "review x x x on appeal or certiorari x x x final judgments or orders of lower courts x x x in [a]ll cases in which the jurisdiction of any lower court is in issue." The ponencia has fallen into grievous error.

Section 5(2), Article VIII of the Constitution refers to ordinary appeals, or to petitions for review under Rule 45 of the Rules of Court. The present petition for certiorari is an original action under Rule 65, and is expressly allowed under Section (1), Article VII of the Constitution, which provides:

> Sec. 5. The Supreme Court shall have the following powers:
>
> (1) Exercise original jurisdiction x x x over petitions for certiorari x x x. (Emphasis supplied)

A petition for certiorari under this Section as provided in Rule 65 is an original action that waits for no final judgment or order of a lower court because what is assailed is the lower court's absence of jurisdiction over the subject matter or its grave abuse of discretion amounting to lack or excess of jurisdiction. Petitioner is assailing an error of jurisdiction, not an error of judgment or order. Absence, lack or excess of jurisdiction is the very basis for a petition for certiorari under Rule 65.

What the ponencia wants is for petitioner, who is being held for a non-bailable offense, to wait for the final judgment or order of the trial court on the merits of the case before resorting to this Court on the fundamental and purely legal issue of jurisdiction. That obviously would not be a plain, speedy and adequate remedy as petitioner would be detained during the entire duration of the trial of the case. Certiorari under Rule 65 is properly available

when "there is no appeal, nor plain, speedy and adequate remedy in the ordinary course of law."[79] There can be no appeal because there is still no final judgment or order of the RTC. Unless there is resort to certiorari under Rule 65, petitioner will continue to be deprived of her liberty for the duration of the trial. The situation of petitioner in this case is precisely why the certiorari under Rule 65 was created.

In fact, Section 1 of Rule 41 expressly provides that the "aggrieved party may file an appropriate special civil action as provided in Rule 65" to assail "[a]n interlocutory order"[80] of a regional trial court. The Warrant of Arrest issued by respondent Judge Guerrero, like a search warrant, is an interlocutory order since it does not dispose of a case completely but leaves something more to be done in the criminal case, that is, the determination of the guilt or innocence of the accused.[81] There can be no prematurity when petitioner assails in the present petition for certiorari under Rule 65 that the Warrant of Arrest issued against her was a grave abuse of discretion on the part of Judge Guerrero.

Issuance of Warrant of Arrest effectively denied the Motion To Quash

The ponencia also insists that petitioner should have waited for Judge Guerrero's resolution on her Motion To Quash before proceeding to this Court. This is error. There is no longer any need to wait for the trial court's resolution on the Motion To Quash because the trial court had issued a Warrant of Arrest against petitioner after petitioner filed her Motion To Quash. We stated in Mead v. Argel:[82]

> x x x. In Pineda vs. Bartolome, the ground invoked was duplicity of offenses charged in the information. In the case at bar, the petitioner assails the very jurisdiction of the court wherein the criminal case was filed. Certainly, there is a more compelling reason that such issue be resolved soonest, in order to avoid the court's spending precious time and energy unnecessarily in trying and deciding the case, and to spare the accused from the inconvenience, anxiety and embarrassment, let alone the expenditure of effort and money, in undergoing trial for a case the proceedings in which could possibly be annulled for want of jurisdiction. Even in civil actions, We have counseled that when the court's jurisdiction is attacked in a motion to dismiss, it is the duty of the court to resolve the same as soon as possible in order to avoid the unwholesome consequences mentioned above.

The Information against petitioner was filed before the RTC of Muntinlupa City on 17 February 2017. Petitioner filed a Motion To Quash on 20 February 2017. Judge Guerrero found probable cause and issued Warrants of Arrest against petitioner and her co-accused on 23 February 2017.

Section 5(a) of Rule 112 of The Revised Rules of Criminal Procedure reads:

> Sec. 5. When warrant of arrest may issue. - (a) By the Regional Trial Court. - Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order when the complaint or information was filed pursuant to Section 6 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information.
>
> x x x x

Maza v. Turla[83] emphasized these options when it said:

> A plain reading of the provision shows that upon filing of the information, the trial court judge has the following options: (1) dismiss the case if the evidence on record clearly fails to establish probable cause; (2) issue a warrant of arrest or a commitment order if findings show probable cause; or (3) order the prosecutor to

> present additional evidence if there is doubt on the existence of probable cause.

By issuing the Warrant of Arrest, Judge Guerrero found probable cause that petitioner most likely committed the offense of illegal trade of dangerous drugs. This means that Judge Guerrero believed that the Information alleged all the essential elements of the offense charged, her court had jurisdiction over the offense charged, the DOJ Panel had authority to file the Information, and the Information does not charge more than one offense. In effect, Judge Guerrero already ruled on the merits of petitioner's Motion To Quash.

Thus, Judge Guerrero's issuance of the Warrant of Arrest is an effective denial of petitioner's Motion To Quash. Issuance of the Warrant of Arrest means that the trial court judge accepted the contents of the Information as well as the evidence supporting it, and found probable cause. However, it is a legal impossibility for the judge to find probable cause when the Information does not allege any of the essential elements of the offense charged. It is an oxymoron to say that the Information does not allege any of the essential elements of the offense charged and yet there is probable cause that the accused committed the offense charged, justifying the issuance of the Warrant of Arrest.

Clearly, there was an effective denial of petitioner's Motion To Quash when Judge Guerrero issued the Warrant of Arrest. The rule is that any order of an amendment of a defective Information must be contained in the same order as the denial of the Motion To Quash.[84] Thus, there is no longer any room for the amendment of the Information at Judge Guerrero's level since she already effectively denied the Motion To Quash.

Moreover, the effective denial of petitioner's Motion To Quash through the issuance of the Warrant of Arrest is a proper subject matter of a petition for certiorari under Rule 65 in relation to Rule 41. A denial of a Motion To Quash is an interlocutory order.[85] To repeat, Section 1 of Rule 41 provides that the "aggrieved party may file an appropriate special civil action as provided in Rule 65" to assail "[a] interlocutory order"[86] where the judge acted with grave abuse of discretion amounting to lack or excess of jurisdiction. This is exactly what petitioner has done in the present petition.

As Justice Peralta held in People v. Pangilinan, an Information that fails to allege the essential elements of the offense is void. A judge who finds probable cause, and issues a warrant of arrest, based on such void Information certainly commits grave abuse of discretion amounting to lack or excess of jurisdiction. For Judge Guerrero to issue the Warrant of Arrest despite the failure of the Information to allege any of the essential elements of the offense is an extreme case of grave abuse of discretion that must be struck down by this Court in the appropriate case, and that appropriate case is the present petition for certiorari under Rule 65.

No Forum-Shopping

The ponencia insists that petitioner violated the rule against forum- shopping when she filed the present case against Judge Guerrero before this Court while her Motion To Quash was still pending before Judge Guerrero. However, as we have previously shown, Judge Guerrero's issuance of a Warrant of Arrest after petitioner filed her Motion To Quash is a denial of petitioner's Motion To Quash. Contrary to the ponencia's assertion, there is no longer any Motion To Quash pending before the trial court.

Moreover, the ponencia still cannot declare that the petition filed before the Court of Appeals also violates the rule against forum-shopping. Page 3 of the ponencia states that -

> On January 13, 2017, petitioner filed before the Court of Appeals a Petition for Prohibition and Certiorari assailing the jurisdiction of the DOJ Panel over the complaints against her. The petitions, docketed as CA-G.R. No. 149097 and CA-G.R. No. 149385, are currently pending with the Special 6[th] Division of the appellate court. (Emphasis supplied)

There is a clear recognition that petitioner filed the case in the Court of Appeals to question the jurisdiction of the DOJ Panel, and not the jurisdiction of Judge Guerrero. There is no identity of parties, neither is there an identity of reliefs. Thus, there is obviously no forum-shopping.

A Final Word

The Information glaringly does not charge the non-bailable offense of illegal trade of drugs since not a single essential element of this particular offense is alleged in the Information. What the Information actually charges is the bailable offense of direct bribery. Yet petitioner is held without bail. Worse, direct bribery falls under the exclusive original jurisdiction of the Sandiganbayan, not the RTC that issued the Warrant of Arrest that keeps petitioner under detention for the non-existent, non-bailable offense of illegal trade of drugs as charged in the present Information.

Based on the Information itself, the accusation of illegal trade of drugs against petitioner is blatantly a pure invention. This Court, the last bulwark of democracy and liberty in the land, should never countenance such a fake charge. To allow the continued detention of petitioner under this Information is one of the grossest injustices ever perpetrated in recent memory in full view of the Filipino nation and the entire world.

The charge against petitioner under the present Information is like charging petitioner as a co-principal and co-conspirator in the crime of kidnapping for ransom with murder, where the Information alleges that petitioner received part of the ransom money from the perpetrators of the crime who are high profile inmates in the New Bilibid Prison, but the Information does not allege the identity of the actual kidnappers and killers, the identity of the victim, the fact of death of the victim or the corpus delicti, how the victim was killed, and the amount of the ransom money. Obviously, such an Information is void ab initio to charge anyone for the offense of kidnapping for ransom with murder. Such an Information, like the present Information under consideration, would be laughable if not for the non-bailable detention of the accused.

ACCORDINGLY, I vote to GRANT the petition for prohibition and certiorari. The Order dated 23 February 2017, and the Warrants of Arrest against petitioner Senator Leila M. De Lima and the other accused in Criminal Case No. 17-165, issued by respondent Judge Juanita Guerrero of the Regional Trial Court of Muntinlupa City, Branch 204, should be annulled and respondent judge should be enjoined from conducting further proceedings in Criminal Case No. 17-165. The Department of Justice should be directed to refer the direct bribery charge against petitioner Senator Leila M. De Lima and her co-accused to the Ombudsman for appropriate action. The Director-General of the Philippine National Police should be directed to immediately release from detention petitioner Senator Leila M. De Lima and all other accused in Criminal Case No. 17-165.

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[1] Finding sufficient probable cause for the issuance of Warrants of Arrest against all the accused in Criminal Case No. 17-165, namely, Leila M. De Lima, Rafael Marcos Z. Ragos, and Ronnie Palisoc Dayan.

[2] Violation of the Comprehensive Dangerous Drugs Act of 2002, Section 5, in relation to Sections 3(jj), 26(b), and 28, Republic Act No. 9165 (Illegal Drug Trading).

[3] Annex F of the Petition.

[4] People v. Guiara, 616 Phil. 290, 302 (2009), citing People v. Gonzales, 430 Phil. 504 (2002); People v. Bongalon, 425 Phil. 96 (2002); People v. Lacap, 420 Phil. 153 (2001); People v. Tan, 401 Phil. 259 (2000); People v. Zheng Bai Hui, 393 Phil. 68 (2000).

[5] People v. Ara, 623 Phil. 939, 955 (2009), citing Cruz v. People, 507 Phil. 722 (2009).

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[6] People v. Pagkalinawan, 628 Phil. 101, 114 (2010), citing People v. Pendatun, 478 Phil. 201 (2004), further citing People v. Cercado, 434 Phil. 492 (2002); People v. Pacis, 434 Phil. 148 (2002).

[7] People v. Politico, 647 Phil. 728, 738 (2010), citing People v. Alberto, 625 Phil. 545, 554 (2010) and People v. Rivera, 590 Phil. 894 (2008).

[8] People v. Manlangit, 654 Phil. 427, 436 (2011).

[9] 596 Phil. 376, 383-384 (2009).

[10] People v. Aure, 654 Phil. 541, 553 (2011), citing People v. Alberto, 625 Phil. 545, 554 (2010), further citing People v. Dumlao, 584 Phil. 732, 739 (2008).

[11] People v. Quiamanlon, 655 Phil. 695, 705 (2011), citing People v. Alberto, 625 Phil. 545, 554 (2010); citing People v. Dumlao, 584 Phil. 732, 739 (2008).

[12] People v. Pambid, 655 Phil. 719, 732 (2011), citing People v. Gonzales, 430 Phil. 504, 513 (2002); People v. Bongalon, 425 Phil. 96, 117 (2002); People v. Lacap, 420 Phil. 153, 175 (2001); People v. Tan, 401 Phil. 259, 269 (2000); People v. Zheng Bai Hui, 393 Phil. 68, 131 (2000).

[13] People v. Roble, 663 Phil. 147, 157 (2011), citing People v. Lorenzo, 633 Phil. 393, 402-403 (2010); People v. Ong, 568 Phil. 114, 121-122 (2008); with remaining citations omitted.

[14] People v. De la Cruz, 666 Phil. 593, 605-606 (2011).

[15] People v. Pascua, 672 Phil. 276, 283-284 (2011), citing People v. Midenilla, 645 Phil. 587, 601 (2010), citing People v. Guiara, 616 Phil. 290, 302 (2009).

[16] People v. Musa, 698 Phil. 204, 215 (2012), citing People v. Pascua, 672 Phil. 276 (2011).

[17] 705 Phil. 654, 670 (2013).

[18] Supra note 7.

[19] G.R. No. 217979, 22 February 2017. Citations omitted.

[20] G.R. No. 215943, 16 November 2016. Citations omitted.

[21] 718 Phil. 330 (2013).

[22] Id. at 345.

[23] G.R. No. 213598, 27 July 2016, 798 SCRA 680, 689. Citations omitted.

[24] G.R. No. 179749, 1 March 2017. Citations omitted.

[25] G.R. No. 208093, 20 February 2017. Citations omitted.

[26] G.R. No. 224143, 28 June 2017. Citations omitted.

[27] G.R. No. 214490, 13 January 2016, 781 SCRA 73.

[28] Id. at 82-83.

[29] 741 Phil. 78 (2014).

[30] Id. at 100.

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[31] G.R. No. 224300, 7 June 2017. Citations omitted.

[32] People v. De Jesus, 695 Phil. 114, 124 (2012), citing People v. Opiana, 750 Phil. 140, 147 (2015); People v. Salonga, 717 Phil. 117, 125 (2013); People v. Unisa, 674 Phil. 89, 108 (2011); People v. Gaspar, 669 Phil. 122, 135 (2011); People v. Berdadero, 636 Phil. 199, 206-207 (2010); People v. Dilao, 555 Phil. 394, 409 (2007).

[33] People v. Uy, 392 Phil. 773 (2000).

[34] 710 Phil. 564 (2013).

[35] 703 Phil. 519 (2013).

[36] 506 Phil. 630 (2005).

[37] Id. at 649-650.

[38] G.R. No. 211977, 12 October 2016.

[39] Id. Citations omitted.

[40] 462 Phil. 712 (2003).

[41] Id. at 719-720.

[42] 582 Phil. 275 (2008).

[43] Id. at 290.

[44] Sec. 5. When warrant of arrest may issue. - (a) By the Regional Trial Court. - Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order when the complaint or information was filed pursuant to Section 6 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information.

x x x x

[45] 482 Phil. 613, 630 (2004).

[46] 676 Phil. 16 (2011).

[47] 432 Phil. 988 (2002).

[48] Id. at 28. Citations omitted.

[49] Supra note 46 at 28. Citations omitted.

[50] Ponencia, pp. 27-30.

[51] Causing v. COMELEC, 742 Phil. 539 (2014); Rimando v. Commission on Elections, 616 Phil. 562 (2009); Evangelista v. People, 392 Phil. 449 (2000).

[52] 604 Phil. 317 (2009).

[53] Id. at 331-332.

[54] Anti-Graft and Corrupt Practices Act.

[55] An Act Declaring Forfeiture in Favor of the State any Property Found to have been Unlawfully Acquired by any Public Officer or Employee and Providing for the Proceedings Therefor.

[56] Creating the Presidential Commission on Good Government.

[57] Regarding the funds, moneys, assets, and properties illegally acquired or misappropriated by former President Ferdinand Marcos, Mrs. Imelda Romualdez Marcos, their close relatives, subordinates, business associates, dummies, agents or nominees.

[58] Vesting in the Sandiganbayan original and exclusive jurisdiction over all criminal and civil suits filed by the Presidential Commission on Good Government.

[59] Amending Executive Order No. 14.

[60] Fifth edition, 1979, page 68.

[61] http://www.dbm.gov.ph/wp-contentluploads/2012/03/Manual-on-PCC-Chapter-5.pdf (accessed 10 July 2017).

[62] http://www.bucor.gov.ph/facilities/nbp.html (accessed 10 July 2017).

[63] See also Section 4, Chapter I, Title III, Book IV of Executive Order No. 292.

Section 8, Republic Act No. 10575, The Bureau of Corrections Act of 2013 reads:

Supervision of the Bureau of Corrections. - The Department of Justice (DOJ), having the BuCor as a line bureau and a constituent unit, shall maintain a relationship of administrative supervision with the latter as defined under Section 38(2), Chapter 7, Book IV of Executive Order No. 292 (Administrative Code of 1987), except that the DOJ shall retain authority over the power to review, reverse, revise or modify the decisions of the BuCor in the exercise of its regulatory or quasi-judicial functions.

[64] Tad-y v. People, 504 Phil. 51 (2005); Mugno v. COMELEC, 439 Phil. 339 (2002).

[65] People v. Amistoso, 701 Phil. 345 (2013).

[66] 506 Phil. 630 (2005).

[67] Id. at 649.

[68] Ponencia, pp. 26-27.

[69] No. L-64313, 17 January 1985, 134 SCRA 172, 182.

[70] http://www.ombudsman.gov.ph/docs/references/OMB-DOJ_MOA.pdf (accessed 10 July 2017).

[71] Annex A of the MOA provides as follows:

"Sec. 4 of RA 8249 provides that the Sandiganbayan shall have original exclusive jurisdiction over:

I.)

Violations of RA 3019 (Anti-graft and Corrupt Practices Law);

II.)

RA 1379 (Forfeiture of Illegally Acquired Wealth);

III.)

Crimes by public officers or employees embraced in Ch. II, Sec. 2, Title VII, Bk. II of the RPC (Crimes committed by Public Officers) namely:

a)

Direct Bribery under Art 210 as amended by BP 871, May 29, 1985;

b)

Indirect Bribery under Art. 211 as amended by BP 871, May 29, 1985;

c)

Qualified Bribery under Art. 211-A as amended by RA 7659, December 13, 1993;

d)

Corruption of public officials under Art. 212 where one or more of the accused are officials occupying the following positions in the government whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

1)

Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade 27 and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758) specifically including:

i.

Provincial governors, vice-governors, members of the sangguniang panlalawigan, provincial treasurers, assessors, engineers and other provincial department heads;

ii.

City mayors, vice-mayors, members of the sangguniang panglungsod, city treasurers, assessors, engineers and other department heads;

iii.

Officials of the diplomatic service occupying the position of consul and higher;

iv.

Philippine Army and Air force colonels, naval captains and all officers of higher rank;

v.

Officers of the PNP while occupying the position of Provincial Director and those holding the rank of Senior Superintendent or higher;

vi.

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City and provincial prosecutors and their assistants, officials and the prosecutors in the Office of the Ombudsman and special prosecutor;

vii.

President, directors or trustees or managers of government-owned or controlled corporations, state universities or educational institutions or foundations;

2)

Members of Congress and Officials thereof classified as Grade 27 and up under Compensation and Classification Act of 1989;

3)

Members of the Judiciary without prejudice to the provisions of the Constitution;

4)

Chairmen and members of Constitutional Commissions, without prejudice to the provisions of the Constitution;

5)

All other national and local officials classified as Grade 27 and higher under the Compensation and Position Classification Act of 1989.

IV.)

Other offenses or felonies whether simple or complexed with other crimes committed in relation to their office by the public officials and employees mentioned above;

V.)

Civil and Criminal Cases filed pursuant to and in connection with EO 1, 2, 14 & 14-A issued in 1986;

VI.)

Petitions for issuance of Writ of mandamus, prohibition, certiorari, habeas corpus, injunction and other ancillary writs and processes in aid of its appellate jurisdiction; Provided, jurisdiction is not exclusive of the Supreme Court;

VII.)

Petitions for Quo Warranto arising or that may arise in cases filed or that may be filed under EO 1, 2, 14 & 14-A;

VIII.)

OTHERS provided the accused belongs to SG 27 or higher:

a)

Violation of RA 6713 Code of Conduct and Ethical Standards

b)

Violation of RA 7080 - THE PLUNDER LAW

c)

Violation of RA 7659 - The Heinous Crime Law

d)

RA 9160 - Violation of The Anti-Money Laundering Law when committed by a public officer.

e)

PD 46 referred to as the gift-giving decree which makes it punishable for any official or employee to receive directly or indirectly and for the private person to give or offer to give any gift, present or other valuable thing on any occasion including Christmas, when such gift, present or valuable thing is given by reason of his official position, regardless of whether or not the same is for past favors or the giver hopes or expects to receive a favor or better treatment in the future from the public official or employee concerned in the discharge of his official functions. Included within the prohibition is the throwing of parties or entertainment in honor of the official or employee or his immediate relatives.

f)

PD 749 which grants immunity from prosecution to any person who voluntarily gives information about any violation of Art. 210, 211 or 212 of the RPC, RA 3019, Sec. 345 of the NIRC, Sec. 3604 of the Customs and Tariff Code and other provisions of the said Codes penalizing abuse or dishonesty on the part of the public officials concerned and other laws, rules and regulations penalizing graft, corruption and other forms of official abuse and who willingly testifies against the public official or employee subject to certain conditions." (Emphasis supplied)

[72] G.R. No. 208146, 8 June 2016, 792 SCRA 646.

[73] Section 4, Rule 117; Gonzales v. Judge Salvador, 539 Phil. 25 (2006).

[74] Agustin v. Hon. Pamintuan, 505 Phil. 103 (2005).

[79] Section 1, Rule 65, Rules of Court.

[80] Rule 41, Section 1. Subject of appeal. - An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable. No appeal may be taken from: (a) x x x; (b) An interlocutory order; x x x. In any of the foregoing circumstances, the aggrieved party may file an appropriate special civil action as provided in Rule 65. (Emphasis supplied)

[81] Marcelo v. De Guzman, 200 Phil. 137 (1982). See also People v. Tan, 623 Phil. 1 (2009).

[82] 200 Phil. 650, 658 (1982).

[83] G.R. No. 187094, 15 February 2017, citing Ong v. Genio, 623 Phil. 835, 843 (2009).

[84] Gonzales v. Judge Salvador, 539 Phil. 25 (2006).

[85] People v. Macandog, 117 Phil. 216 (1963); Perez v. Court of Appeals, 250 Phil. 244 (1988).

[86] Rule 41, Section 1. Subject of appeal. An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable. No appeal may be taken from: (a) x x x; (b) An interlocutory order; x x x. In any of the foregoing circumstances, the aggrieved party may file an appropriate special civil action as provided in Rule 65. (Emphasis supplied)

CONCURRING OPINION

LEONARDO-DE CASTRO, J.:

I concur that the instant Petition for Certiorari and Prohibition with Application for a Writ of Preliminary Injunction, and Urgent Prayer for Temporary Restraining Order and Status Quo Ante Order filed by petitioner, Senator Leila M. De Lima, suffers from procedural defects and unmeritorious substantial arguments which warrant its dismissal.

Based on the Joint Resolution dated February 14, 2017 of the Department of Justice (DOJ) in NPS Nos. XVI-INV-16J-00313,[1] XVI-INV-161-00315,[2] XVI-INV-16K-00331,[3] XVI-INV-16K-00336,[4] and XVI-INV-16L-00384,[5] three Informations were filed on February 17, 2017 against petitioner and several other co-accused before the Regional Trial Court (RTC) of Muntinlupa City. One of the Informations was docketed as Criminal Case No. 17-165 and raffled to RTC-Branch 204 presided by respondent Judge Juanita T. Guerrero.

The Information in Criminal Case No. 17-165 charges petitioner and her co-accused, Rafael Marcos Z. Ragos (Ragos) and Ronnie Palisoc Dayan (Dayan), with "violation of Section 5, in relation to Section 3(jj), Section 26(b) and Section 28, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002."

On February 20, 2017, petitioner filed a Motion to Quash said Information based on the following arguments: the RTC has no jurisdiction over the offense charged; it is the Office of the Ombudsman, not the DOJ Panel, that has authority to file the case; the Information charges more than one offense; the allegations and recital of facts in the Information and the DOJ Joint Resolution do not allege the corpus delicti of the charge; the Information is solely based on the testimonies of witnesses who are not even qualified to be discharged as state witnesses; and at any rate, the witnesses' testimonies, which constitute the sole evidence against the accused, are inadmissible as hearsay evidence and have no probative value.

In an Order dated February 23, 2017, respondent Judge found sufficient probable cause for the issuance of Warrants of Arrest against petitioner, Ragos, and Dayan. Respondent Judge issued the Warrant of Arrest against petitioner on the same day.

The Warrant of Arrest was served upon petitioner on February 24, 2017 and by virtue of respondent Judge's Order of even date, petitioner was committed to the Custodial Service Unit at Camp Crame, Quezon City.

In this Petition, petitioner imputes grave abuse of discretion on the part of respondent Judge for:

> (a)
>
> The Order dated 23 February 2017 wherein respondent judge found probable cause for issuance of arrest warrant against all accused, including Petitioner Leila M. de Lima;
>
> (b)
>
> The Warrant of Arrest against Petitioner Leila M. de Lima also dated 23 February 2017 issued by respondent judge pursuant to the Order dated the same day;
>
> (c)
>
> The Order dated 24 February 2017, committing Petitioner to the custody of the PNP Custodial Center; and
>
> (d)

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> The omission of respondent judge in failing or refusing to act on Petitioner's Leila M. de Lima (sic) Motion to Quash, through which Petitioner seriously questions the jurisdiction of the lower court.

Petitioner prays that the Court render judgment:

> a.
>
> Granting a writ of certiorari annulling and setting aside the Order dated 23 February 2017, the Warrant of Arrest dated the same date, and the Order dated 24 February 2017 of the Regional Trial Court-Branch 204, Muntinlupa City, in Criminal Case No. 17-165 entitled People of the Philippines versus Leila M. de Lima et al.;
>
> b.
>
> Granting a writ of prohibition enjoining and prohibiting the respondent judge from conducting further proceedings until and unless the Motion to Quash is resolved with finality;
>
> c.
>
> Issuing an order granting the application for the issuance of temporary restraining order (TRO) and a writ of preliminary injunction to the proceedings; and
>
> d.
>
> Issuing a Status Quo Ante Order restoring the parties to the status prior to the issuance of the Order and Warrant of Arrest both dated February 23, 2017, thereby recalling both processes and restoring petitioner to her liberty and freedom.

I

In filing the present Petition, petitioner displayed patent disregard of several procedural rules. Petitioner filed this Petition for Certiorari and Prohibition prematurely, without first filing a motion for reconsideration, in violation of the hierarchy of courts, and lacking proper verification and certification of non-forum shopping.

Notably, there is a glaring inconsistency in petitioner's fundamental arguments in her Petition. Petitioner attributes grave abuse of discretion on respondent Judge's part for not acting on her Motion to Quash, yet, at the same time, argues that respondent Judge's issuance of the Order dated February 23, 2017, finding probable cause for issuance of warrants of arrest, and the corresponding Warrant of Arrest of even date against petitioner, should already be deemed a denial of the very same Motion.

Petitioner maintains that respondent Judge should not have issued the Warrant of Arrest against her without resolving first her Motion to Quash the Information. However, petitioner failed to present legal basis to support her position that it was mandatory for respondent Judge to resolve her Motion to Quash prior to issuing the Warrant of Arrest against her.

Respondent Judge's prompt issuance of a Warrant of Arrest on February 23, 2017, seven days after the filing of Information against petitioner, is only in compliance with Rule 112, Section 5(a) of the Rules of Court, which provides:

> Sec. 5. When warrant of arrest may issue. - (a) By the Regional Trial Court. - Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary

> investigation or when the complaint or information was filed pursuant to section 6 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information.

Given the aforementioned 10-day period, it behooves respondent Judge to forthwith personally evaluate the evidence on record and determine the existence of probable cause for the issuance of warrants of arrest. Hence, the swiftness by which respondent Judge issued the. Warrant of Arrest against petitioner, by itself, does not constitute grave abuse of discretion. As the Court cited in one of its cases, "[s]peed in the conduct of proceedings by a judicial or quasi-judicial officer cannot per se be instantly attributed to an injudicious performance of functions. For one's prompt dispatch may be another's undue haste."[6]

It also bears to remember that petitioner's Motion to Quash does not raise the question of jurisdiction alone, but also brings up several other issues, including factual ones, such as the admissibility and probative value of the testimonies of witnesses against petitioner and her co-accused, the resolution of which would have entailed more time. If respondent Judge acted on the Motion to Quash first, she risked failing to comply with the 10-day mandatory period set in Rule 112, Section 5(a) of the Rules of Court for determining probable cause for the issuance of warrants of arrest against petitioner and her co-accused.

In addition, respondent Judge ordered the issuance of the warrants of arrest against petitioner and her co-accused only "[a]fter a careful evaluation of the herein Information and all the evidence presented during the preliminary investigation conducted in this case by the Department of Justice, Manila," and "find[ing] sufficient probable cause against all the accused x x x." This is sufficient compliance with the requirement under Article III, Section 2[7] of the Constitution of personal determination of probable cause by the judge for the issuance of a search warrant or warrant of arrest. Respondent Judge's issuance of the Warrant of Arrest against petitioner enjoys the presumption of regularity in the performance of her duties, and petitioner utterly failed to show capriciousness, whimsicality, arbitrariness, or any despotic exercise of judgment by reason of passion and hostility on respondent Judge's part.[8]

In contrast, there is no particular law, rule, or jurisprudence which sets a specific time period for a judge to resolve a motion to quash in a criminal case. Rule 117, Section 1 of the Rules of Court states that "[a]t any time before entering his plea, the accused may move to quash the complaint or information[;]" and Rule 116, Section 1(g) reads that "[u]nless a shorter period is provided by special law or Supreme Court Circular, the arraignment shall be held within thirty (30) days from the date the court acquires jurisdiction over the person of the accused. The time of the pendency of a motion to quash or for a bill of particulars or other causes justifying suspension of the arraignment shall be excluded in computing the period." It may be reasonably inferred from the foregoing rules that a motion to quash must be filed by the accused and resolved by the judge before arraignment of the accused.

Petitioner herein has not been arraigned in Criminal Case No. 17-165. Petitioner filed her Motion to Quash on February 20, 2017; respondent Judge issued the Warrant of Arrest against petitioner on February 23, 2017; and petitioner was arrested on February 24, 2017. Given petitioner's pending Motion to Quash, the thirty (30)-day period for petitioner's arraignment is deemed suspended for the meantime. Petitioner filed this Petition on February 27, 2017.

In the instant Petition, petitioner ascribes grave abuse of discretion on respondent Judge's part for failing or refusing to act on petitioner's Motion to Quash, but petitioner filed said Petition before this Court just seven days after filing her Motion to Quash before the RTC. There is absolutely no showing that respondent Judge had breached the time period for acting on petitioner's Motion to Quash or that respondent Judge has no intention to

act on said Motion at all. Respondent Judge should be accorded reasonable time to resolve petitioner's Motion to Quash, which is still pending before respondent Judge's court. Clearly, the present Petition, insofar as it relates to petitioner's Motion to Quash, had been prematurely filed.

Akin to the instant case is Aguas v. Court of Appeals,[9] in which therein petitioner resorted to the filing of a petition for certiorari, prohibition, and mandamus, before the Court of Appeals even before the trial court could act on therein private respondents' motion to dismiss petitioner's complaint. The Court adjudged in Aguas that:

> It should be obvious that the petition for certiorari, prohibition and mandamus filed before respondent appellate court was premature, insofar as it relates to the motion to dismiss which has yet to be resolved. There was no order denying or granting the motion. Thus, there was really nothing to review insofar as the presence or absence of petitioner's cause of action is concerned. Petitioner's apprehension that it will be granted does not alone make it ripe for review by the Court of Appeals. There was no justiciable issue yet. Thus, it was error for the Court of Appeals to rule that the complaint, from the facts alleged by petitioner and hypothetically admitted by private respondents, does not state a cause of action.

In another case, Tano v. Socrates,[10] one set of petitioners was apprehended and criminally charged before the Municipal Circuit Trial Court (MCTC) for violating the ordinances of the City of Puerto Princesa and the Province of Palawan, which were enacted for the protection of marine life within their jurisdiction. Without seeking redress from the concerned local government units, the prosecutor's office, and other courts, the petitioners directly invoked the original jurisdiction of this Court by filing a petition for certiorari, essentially assailing the constitutionality of the ordinances for depriving petitioners of their means of livelihood without due process of law and seeking the dismissal of the criminal cases against them for violations of the said ordinances. The Court, in Tano, dismissed the petition for certiorari for being premature as therein petitioners had not even filed before the MCTC motions to quash the informations against them; and the Court then declared that even in the event that petitioners had filed such motions, the remedy of special civil action of certiorari would still be unavailing to them, thus:

> The primary interest of the first set of petitioners is, of course, to prevent the prosecution, trial and determination of the criminal cases until the constitutionality or legality of the Ordinances they allegedly violated shall have been resolved. x x x
>
> As to the first set of petitioners, this special civil [action] for certiorari must fail on the ground of prematurity amounting to a lack of cause of action. There is no showing that said petitioners, as the accused in the criminal cases, have filed motions to quash the informations therein and that the same were denied. The ground available for such motions is that the facts charged therein do not constitute an offense because the ordinances in question are unconstitutional. It cannot then be said that the lower courts acted without or in excess of jurisdiction or with grave abuse of discretion to justify recourse to the extraordinary remedy of certiorari or prohibition. It must further be stressed that even if petitioners did file motions to quash, the denial thereof would not forthwith give rise to a cause of action under Rule 65 of the Rules of Court. The general rule is that where a motion to quash is denied, the remedy therefrom is not certiorari, but for the party aggrieved thereby to go to trial without prejudice to reiterating special defenses involved in said motion, and if, after trial on the merits an adverse decision is rendered, to appeal therefrom in the manner authorized by law. And, even where in an exceptional circumstance such denial may be the subject of a special civil action for certiorari, a motion for reconsideration must have to be filed to allow the court concerned an opportunity to correct its errors, unless such motion may be dispensed with because of existing exceptional circumstances. Finally, even if a motion for reconsideration has been filed and denied, the remedy under Rule 65 is still unavailable absent any showing of the grounds provided for in Section 1 thereof. For obvious reasons, the petition at bar does not, and could not have, alleged any of such grounds.[11] (Emphasis ours.)

Although not on all fours with the case at bar, the aforequoted ruling in Tano significantly presents several

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variables arising from the denial of a motion to quash which will determine the appropriate remedy the affected party may avail under each circumstance, and which may not necessarily be a petition for certiorari under Rule 65 of the Rules of Court. It highlights even more the prematurity of the instant Petition wherein, as of yet, respondent Judge has not even granted or denied petitioner's Motion to Quash.

Petitioner prays in her Petition that the Court annul and set aside the Order dated February 23, 2017, finding probable cause to issue a warrant of arrest, as well as the Warrant of Arrest of even date, issued by respondent Judge against her. Petitioner, however, did not previously file a motion for reconsideration of said Order before respondent Judge's trial court.

Rule 65 petitions for certiorari and prohibition are discretionary writs, and the handling court possesses the authority to dismiss them outright for failure to comply with the form and substance requirements. The requirement under Sections 1 and 2 of Rule 65 of the Rules of Court on petitions for certiorari and prohibition, respectively, that "there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law[,]" is more than just pro-forma.[12]

The Court had ruled that a motion for reconsideration of the questioned Order or Resolution constitutes plain, speedy, and adequate remedy, and a party's failure to file such a motion renders its petition for certiorari fatally defective.[13] A motion for reconsideration allows the public respondent an opportunity to correct its factual and legal errors. The Court has reiterated in numerous decisions that a motion for reconsideration is mandatory before the filing of a petition for certiorari.[14]

While the rule that a motion for reconsideration is a condition sine qua non for the filing of a petition for certiorari is not iron-clad, none of the recognized exceptions[15] applies to petitioner's case. Petitioner's averment of lack of jurisdiction of the RTC over her case is baseless. Equally groundless is petitioner's claim that a motion for reconsideration is useless or that it is improbable for respondent Judge to grant such a relief. In the absence of clear and convincing evidence, respondent Judge's issuance of the Order dated February 23, 2017 and Warrant of Arrest against petitioner in the regular performance of her official duties can hardly quality as "political persecution." In addition, the present Petition does not involve pure questions of law as petitioner herself calls upon the Court to look into the evidence considered by the DOJ Panel in finding probable cause to file the Information against her in Criminal Case No. 17-165, as well as by respondent Judge in finding probable cause to issue the Warrant of Arrest against her.

Petitioner also filed directly before this Court her Petition for Certiorari and Prohibition assailing respondent Judge's actuations and/or inaction, bypassing the Court of Appeals and disregarding the hierarchy of courts. In Tano,[16] the Court stressed the need for strict compliance with the hierarchy of courts:

> Even granting arguendo that the first set of petitioners have a cause of action ripe for the extraordinary writ of certiorari, there is here a clear disregard of the hierarchy of courts, and no special and important reason or exceptional and compelling circumstance has been adduced why direct recourse to us should be allowed. While we have concurrent jurisdiction with Regional Trial Courts and with the Court of Appeals to issue writs of certiorari, prohibition, mandamus, quo warranto, habeas corpus and injunction, such concurrence gives petitioners no unrestricted freedom of choice of court forum, so we held in People v. Cuaresma:
> This concurrence of jurisdiction is not ... to be taken as according to parties seeking any of the writs an absolute unrestrained freedom of choice of the court to which application therefor will be directed. There is after all hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. A direct invocation of the Supreme Court's. original jurisdiction to issue these writs should

> be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is established policy. It is a policy necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket...
>
> The Court feels the need to reaffirm that policy at this time, and to enjoin strict adherence thereto in the light of what it perceives to be a growing tendency on the part of litigants and lawyers to have their applications for the so- called extraordinary writs, and sometimes even their appeals, passed upon and adjudicated directly and immediately by the highest tribunal of the land....

In Santiago v. Vasquez, this Court forcefully expressed that the propensity of litigants and lawyers to disregard the hierarchy of courts must be put to a halt, not only because of the imposition upon the precious time of this Court, but also because of the inevitable and resultant delay, intended or otherwise, in the adjudication of the case which often has to be remanded or referred to the lower court, the proper forum under the rules of procedure, or as better equipped to resolve the issues since this Court is not a trier of facts. We reiterated "the judicial policy that this Court will not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts or where exceptional and compelling circumstances justify availment of a remedy within and calling for the exercise of [its] primary jurisdiction."

I fail to appreciate any exceptional or compelling circumstance in petitioner's case to justify her direct resort to this Court or would constitute as an exception to the well-established judicial policy of hierarchy of courts.

Petitioner's utter lack of regard for procedural rules is further demonstrated by her improperly executed Verification and Certification against Forum Shopping. It is not disputed that while the jurat states that the said Verification and Certification were "SUBSCRIBED AND SWORN to before [the Notary Public]," this is not what had actually happened. Petitioner did not appear personally before the Notary Public, Atty. Maria Cecile C. Tresvalles-Cabalo (Tresvalles-Cabalo). The Petition and the attached Verification and Certification against Forum Shopping, which was already signed purportedly by petitioner, were merely brought and presented by petitioner's staff to Atty. Tresvalles-Cabalo, together with petitioner's passport, for notarization. This contravenes the requirement under the 2004 Rules on Notarial Practice that the "jurat"[17] be made by the individual in person before the notary public.

Verification is required to secure an assurance that the allegations in the petition have been made in good faith or are true and correct, and not merely speculative; and certification against forum shopping is required based on the principle that a party-litigant should not be allowed to pursue simultaneous remedies in different fora. The important purposes behind these requirements cannot be simply brushed aside absent any sustainable explanation justifying their relaxation.[18] Indeed, such requirements may be relaxed under justifiable circumstances or under the rule on substantial compliance. Yet, petitioner did not give a satisfactory explanation as to why she failed to personally see Atty. Tresvalles-Cabalo for the proper execution of her Verification and Certification against Forum Shopping, when Atty. Tresvalles-Cabalo was already right there at Camp Crame, where petitioner was detained, exactly for the purpose of providing notarization services to petitioner. Neither can it be said that there had been substantial compliance with such requirements because despite Atty. Tresvalles-Cabalo's subsequent confirmation that petitioner herself signed the Verification and Certification against Forum Shopping, still, petitioner has not complied at all with the requisite of a jurat that she personally appears before a notary public to avow, under penalty of law, to the whole truth of the contents of her Petition and Certification against Forum Shopping.

Petitioner's numerous procedural lapses overall reveal a cavalier attitude towards procedural rules, which should not be so easily countenanced based on petitioner's contention of substantial justice. In Manila Electric Company

v. N.E. Magno Construction, Inc.,[19] the Court decreed that no one has a vested right to file an appeal or a petition for certiorari. These are statutory privileges which may be exercised only in the manner prescribed by law. Rules of procedure must be faithfully complied with and should not be discarded with by the mere expediency of claiming substantial merit. The Court was even more emphatic in its judgment in William Go Que Construction v. Court of Appeals,[20] thus:

> As a final word, it is well to stress that "procedural rules are not to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party x x x Justice has to be administered according to the Rules in order to obviate arbitrariness, caprice, or whimsicality." Resort to the liberal application of procedural rules remains the exception rather than the rule; it cannot be made without any valid reasons underpinning the said course of action. To merit liberality, the one seeking such treatment must show reasonable cause justifying its noncompliance with the Rules, and must establish that the outright dismissal of the petition would defeat the administration of substantial justice. Procedural rules must, at all times, be followed, save for instances when a litigant must be rescued from an injustice far graver than the degree of his carelessness in not complying with the prescribed procedure. The limited exception does not obtain in this case.

II

Granting arguendo that the Court can take cognizance of the substantive issues raised in the instant Petition, the same should still be dismissed for lack of merit.

The alleged defects of the Information in Criminal Case No. 17-165 do not warrant its quashal.

The Information in Criminal Case No. 17-165 fully reads:

> The undersigned Prosecutors, constituted as a Panel pursuant to Department Orders 706 and 790 dated October 14, 2016 and November 11, 2016, respectively, accuse LEILA M. DE LIMA, RAFAEL MARCOS Z. RAGOS and RONNIE PALISOC DAYAN, for violation of Section 5, in relation to Section 3(jj), Section 26(b) and Section 28, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, committed as follows:
> That within the period from November 2012 to March 2013, in the City ofMuntinlupa, Philippines, and within the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then an employee of the Department of Justice detailed to De Lima, all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading, in the following manner: De Lima and Ragos, with the use of their power, position and authority, demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the Senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million (₱5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison.

Petitioner challenges the Information on the grounds that the facts therein do not constitute an offense; and that it fails to precisely designate the offense with which petitioner and her co-accused are charged, and to particularly describe the actions or omissions complained of as constituting the offense. Petitioner disputes respondents' contention that petitioner and her co-accused are being charged with conspiracy to commit drug trading, and insists that they are being accused of consummated drug trading.

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The relevant provisions of Republic Act No. 9165 expressly mentioned in the Information are reproduced below:

> Sec. 3. Definitions. - As used in this Act, the following terms shall mean:
>
> x x x x
>
> (jj) Trading. - Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.
>
> Sec. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.
>
> Sec. 26. Attempt or Conspiracy. - Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:
>
> x x x x
>
> (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
>
> Sec. 28. Criminal Liability of Government Officials and Employees. - The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees. (Emphases ours.)

"Trading of dangerous drugs" refers to "transactions involving illegal trafficking." "Illegal trafficking" is broadly defined under Section 3(r) of Republic Act No. 9165 as "[t]he illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of any dangerous drug and/or controlled precursor and essential chemical." The trading of dangerous drugs evidently covers more than just the sale of such drugs and a singular buy-and-sell transaction. It connotes the conduct of a business involving a series of transactions, often for a sustained period of time. It may be committed by various ways, or even by different combinations of ways.

The respondents aptly contended that the Information contains all the elements of conspiracy to commit illegal trading, viz., "first, two or more persons come to an agreement; second, the agreement is to commit drug trading by using electronic devices such as mobile or landlines, two-way radios, internet, etc., whether for money or any other consideration in violation of Republic Act No. 9165; and third, the offenders had decide[d] to commit the offense."

On the imprecise designation of the offense charged against petitioner and her co-accused, we may be guided accordingly by the pronouncements of the Court in People v. Valdez,[21] citing United States v. Lim San[22]:

> To discharge its burden of informing him of the charge, the State must specify in the information the details of the crime and any circumstance that aggravates his liability for the crime. The requirement of sufficient factual averments is meant to inform the accused of the nature and cause of the charge against him in order to enable him to prepare his defense. It emanates from the presumption of innocence in his favor, pursuant to which he is always presumed to have no independent knowledge of the details of the crime he is being charged with. To

> have the facts stated in the body of the information determine the crime of which he stands charged and for which he must be tried thoroughly accords with common sense and with the requirements of plain justice, for, as the Court fittingly said in United States v. Lim San:
> 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 crime is or what it is named x x x.

A practical consequence of the non-allegation of a detail that aggravates his liability is to prohibit the introduction or consideration against the accused of evidence that tends to establish that detail. The allegations in the information are controlling in the ultimate analysis. Thus, when there is a variance between the offense charged in the 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 included in the offense charged, or of the offense charged included in the offense proved. In that regard, an offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the information, constitute the latter; an offense charged is necessarily included in the offense proved when the essential ingredients of the former constitute or form part of those constituting the latter.

It may also do us well to remember that the Information only needs to state the ultimate facts; the evidentiary and other details can be provided during the trial.[23] The purpose of an Information is to afford an accused his/her right to be informed of the nature and cause of the accusation against him/her. For this purpose, the Rules of Court require that the Information allege the ultimate facts constituting the elements of the crime charged. Details that do not go into the core of the crime need not be included in the Information, but may be presented during trial. The rule that evidence must be presented to establish the existence of the elements of a crime to the point of moral certainty is only for purposes of conviction. It finds no application in the determination of whether or not an Information is sufficient to warrant the trial of an accused.[24]

Moreover, if indeed the Information is defective on the ground that the facts charged therein do not constitute an offense, the court may still order the prosecution to amend the same. As the Court ratiocinated in People v. Sandiganbayan (Fourth Division)[25]:

> Outright quashal of the Information not proper
>
> Even assuming for the sake of argument that the Information was defective on the ground that the facts charged therein do not constitute an offense, outright quashal of the Information is not the proper course of action.
>
> Section 4, Rule 117 of the Rules of Court gives clear guidance on this matter. It provides -
> Sec. 4. Amendment of complaint or information. - If the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made.

> If it is based on the ground that the facts charged do not constitute an offense, the prosecution shall be given by the court an opportunity to correct the defect by amendment. The motion shall be granted if the prosecution fails to make the amendment, or the complaint or information still suffers from the same defect despite the amendment.

When a motion to quash is filed challenging the validity and sufficiency of an Information, and the defect may be cured by amendment, courts must deny the motion to quash and order the prosecution to file an amended Information. Generally, a defect pertaining to the failure of an Information to charge facts constituting an offense is one that may be corrected by an amendment. In such instances, courts are mandated not to automatically quash the Information; rather, it should grant the prosecution the opportunity to cure the defect through an amendment. This rule allows a case to proceed without undue delay. By allowing the defect to be cured by simple amendment, unnecessary appeals based on technical grounds, which only result to prolonging the proceedings, are avoided.

More than this practical consideration, however, is the due process underpinnings of this rule. As explained by this Court in People v. Andrade, the State, just like any other litigant, is entitled to its day in court. Thus, a court's refusal to grant the prosecution the opportunity to amend an Information, where such right is expressly granted under the Rules of Court and affirmed time and again in a string of Supreme Court decisions, effectively curtails the State's right to due process.

Even if the Information suffers from vagueness, the proper remedy may still not be a motion to quash, but a motion for a bill of particulars. The Court declared in Enrile v. People[26] that if the Information charges an offense and the averments are so vague that the accused cannot prepare to plead or prepare for trial, then a motion for a bill of particulars is the proper remedy. The Court further expounded in Enrile that:

> In general, a bill of particulars is the further specification of the charges or claims in an action, which an accused may avail of by motion before arraignment, to enable him to properly plead and prepare for trial. x x x
>
> In criminal cases, a bill of particulars details items or specific conduct not recited in the Information but nonetheless pertain to or are included in the crime charged. Its purpose is to enable an accused: to know the theory of the government's case; to prepare his defense and to avoid surprise at the trial; to plead his acquittal or conviction in bar of another prosecution for the same offense; and to compel the prosecution to observe certain limitations in offering evidence.
>
> In criminal proceedings, the motion for a bill of particulars is governed by Section 9 of Rule 116 of the Revised Rules of Criminal Procedure which provides:
> Section 9. Bill of particulars. - The accused may, before arraignment, move for a bill of particulars to enable him properly to plead and prepare for trial. The motion shall specify the alleged defects of the complaint or information and the details desired.

The rule requires the information to describe the offense with sufficient particularity to apprise the accused of the crime charged with and to enable the court to pronounce judgment. The particularity must be such that persons of ordinary intelligence may immediately know what the Information means.

The general function of a bill of particulars, whether in civil or criminal proceedings, is to guard against surprises during trial. It is not the function of the bill to furnish the accused with the evidence of the prosecution. Thus, the prosecutor shall not be required to include in the bill of particulars matters of evidence relating to how the people intend to prove the elements of the offense charged or how the people intend to prove any item of factual information included in the bill of particulars.[27]

It cannot be denied that a single act or incident might offend against two or more entirely distinct and unrelated provisions of law and the accused may be prosecuted for more than one offense. The only limit to this rule is the

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prohibition under Article III, Section 21 of the Constitution that no person shall be twice put in jeopardy of punishment for "the same offense."[28] When a single criminal act may give rise to a multiplicity of offenses and where there is variance or differences between the elements of an offense in one law and another law, there will be no double jeopardy because what the rule on double jeopardy prohibits refers to identity of elements in the two offenses.[29]

While arguably, the same acts or incidents described in the Information in Criminal Case No. 17-165 may also constitute corruption or bribery, which is criminally punishable under other laws, said Information is sufficiently clear that petitioner and her co-accused are being charged therein for a drug-related offense. Both the heading and opening paragraph of the Information explicitly indicate that the offense charged is that penalized under Republic Act No. 9165.[30] The allegations in the Information that petitioner and her co-accused demanded and received certain amounts of money from high-profile inmates at the New Bilibid Prison are merely descriptive of their alleged participation in the conspiracy. The following declarations of the Court in People v. Lava,[31] which involved a charge for rebellion, is instructive on how the Information should be read in this case:

> The appellants also contend that the informations against them charge more than one offense, in violation of Section 12, Rule 106 of the old Rules of Court (now Section 12, Rule 117 of the new Rules of Court). This contention has no merit. A reading of the informations reveals the theory of the prosecution that the accused had committed the complex crime of rebellion with murders, robbery and arsons, enumerating therein eight counts regarding specific acts of murder, robbery and arson. These acts were committed, to quote the information, "to create and spread terrorism in order to facilitate the accomplishment of the aforesaid purpose", that is, to overthrow the Government. The appellants are not charged with the commission of each and every crime specified in the counts as crimes separate and distinct from that of rebellion. The specific acts are alleged merely to complete the narration of facts, thereby specifying the way the crime of rebellion was allegedly committed, and to apprise the defendants of the particular facts intended to be proved as the basis for a finding of conspiracy and/or direct participation in the commission of the crime of rebellion. An information is not duplicitous if it charges several related acts, all of which constitute a single offense, although the acts may in themselves be distinct offenses. Moreover, this Court has held that acts of murder, arson, robbery, physical injuries, etc. are absorbed by, and form part and parcel of, the crime of rebellion if committed as a means to or in furtherance of the rebellion charged. (Emphasis ours.)

There is no need for us to belabor the question of why the DOJ would rather prosecute petitioner and her co-accused for violation of Republic Act No. 9165, but not for corruption or bribery. Who to charge with what crime or none at all is basically the prosecutor's call.[32] Public prosecutors under the DOJ have a wide range of discretion, the discretion of whether, what, and whom to charge, the exercise of which depends on a smorgasbord of factors which are best appreciated by public prosecutors; and this Court has consistently adhered to the policy of non-interference in the conduct of preliminary investigations, and to leave to the investigating prosecutor sufficient latitude of discretion in the determination of what constitutes sufficient evidence as will establish probable cause for the filing of an information against the supposed offender.[33]

As has been extensively discussed by the ponente and Associate Justices Diosdado M. Peralta, Samuel R. Martires, and Noel Gimenez Tijam in their respective opinions, exclusive jurisdiction over drug-related cases still exclusively resides in the RTCs. On one hand, there is Article XI, Section 90 of Republic Act No. 9165, otherwise known as Comprehensive Dangerous Drugs Act of 2002, which specifically provides, under the heading of "Jurisdiction," that "[t]he Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction." The designation by the Supreme Court of special courts among existing RTCs for drug-related cases is more than just an administrative matter. From a plain reading of Article XI, Section 90, it is

clear that the jurisdiction to try and hear violations of Republic Act No. 9165 are presently not only exclusive to RTCs, but even made further exclusive only to RTCs specially designated by the Supreme Court.

On the other hand, the jurisdiction of the Sandiganbayan is set forth in Section 4 of Presidential Decree No. 1606, as amended by Republic Act No. 10660[34]:

> Sec. 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
>
> a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
> (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade "27" and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:
>
> x x x x
>
> (2) Members of Congress and officials thereof classified as Grade "27" and higher under the Compensation and Position Classification Act of 1989;
>
> (3) Members of the judiciary without prejudice to the provisions of the Constitution;
>
> (4) Chairmen and members of the Constitutional Commissions, without prejudice to the provisions of the Constitution; and
>
> (5) All other national and local officials classified as Grade "27" and higher under the Compensation and Position Classification Act of 1989.

b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a. of this section in relation to their office.

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00). (Emphasis ours.)

Despite the amendments to its jurisdiction, the Sandiganbayan primarily remains an anti-graft court, as it is expressly recognized in the Constitution.[35] Arguments that Republic Act No. 10660 expanded the jurisdiction of the Sandiganbayan are unfounded and contrary to the expressed intentions of the lawmakers in amending Section 4 of Presidential Decree No. 1606 through Republic Act No. 10660.

The lawmakers took note of the dismal rate of disposition reflected in the heavily clogged docket of the Sandiganbayan; and to streamline the jurisdiction and decongest the dockets of the anti-graft court, they included in Republic Act No. 10660 the proviso giving the RTC exclusive jurisdiction over minor cases, i.e., information which (a) does not allege any damage to the government or bribery; or (b) alleges damage to the government or bribery in an amount not exceeding One Million Pesos, regardless of the position or rank of the public official involved. By reason of said proviso, jurisdiction over minor cases involving high-ranking public officials is transferred from the Sandiganbayan to the RTC.[36] Therefore, said proviso cannot be invoked in reverse - to transfer jurisdiction over more cases from the RTC to the Sandiganbayan - in contravention of the express intent

of the lawmakers.

To emphasize, the goal of the amendments to the jurisdiction of the Sandiganbayan under Republic Act No. 10660 is to lessen, not add even more, to the caseload of the said anti-graft court. In any case, the proviso on damage to the government or bribery under Section 4 of Presidential Decree No. 1606, as amended by Republic Act No. 10660, finds no application to the Petition at bar since the Information in Criminal Case No. 17-165 charges petitioner with conspiracy to commit drug trading, and not bribery.

More importantly, I am in complete accord with the ponente who points out that Section 4(b) of Presidential Decree No. 1606, as amended, is a catch-all provision, of "broad and general phraseology," referring in general to "all other offenses or felonies whether simple or complexed with other crimes" committed by particular public officials. It cannot take precedence over Article XI, Section 90 of Republic Act No. 9165 which specifically pertains to drug-related cases, regardless of the identity of the accused. Republic Act No. 10660, expanding the jurisdiction of the Sandiganbayan, is of general character, and even though it is a later enactment, it does not alter Article XI, Section 90 of Republic Act No. 9165, a law of special nature. The decisions of the Court in Manzano v. Valera[37] and People v. Benipayo,[38] affirming the exclusive jurisdiction of RTCs over libel cases under Article 360 of the Revised Penal Code, may be applied by analogy to the case at bar.

The Court pronounced in Manzano that:

> Conformably with these rulings, we now hold that public respondent committed an error in ordering that the criminal case for libel be tried by the MTC of Bangued.
>
> For, although R.A. 7691 was enacted to decongest the clogged dockets of the Regional Trial Courts by expanding the jurisdiction of first level courts, said law is of a general character. Even if it is a later enactment, it does not alter the provision of Article 360 of the RPC, a law of a special nature. "Laws vesting jurisdiction exclusively with a particular court, are special in character, and should prevail over the Judiciary Act defining the jurisdiction of other courts (such as the Court of First Instance) which is a general law." A later enactment like R.A. 7691 does not automatically override an existing law, because it is a well settled principle of construction that, in case of conflict between a general law and a special law, the latter must prevail regardless of the dates of their enactment. Jurisdiction conferred by a special law on the RTC must therefore prevail over that granted by a general law on the MTC.
>
> Moreover, from the provisions of R.A. 7691, there seems to be no manifest intent to repeal or alter the jurisdiction in libel cases. If there was such intent, then the amending law should have clearly so indicated because implied repeals are not favored. As much as possible, effect must be given to all enactments of the legislature. A special law cannot be repealed, amended or altered by a subsequent general law by mere implication. Furthermore, for an implied repeal, a pre-condition must be found, that is, a substantial conflict should exist between the new and prior laws. Absent an express repeal, a subsequent law cannot be construed as repealing a prior one unless an irreconcilable inconsistency or repugnancy exists in the terms of the new and the old laws. The two laws, in brief, must be absolutely incompatible. In the law which broadened the jurisdiction of the first level courts, there is no absolute prohibition barring Regional Trial Courts from taking cognizance of certain cases over which they have been priorly granted special and exclusive jurisdiction. Such grant to the RTC (previously CFI) was categorically contained in the first sentence of the amended Sec. 32 of B.P. 129. The inconsistency referred to in Section 6 of R.A. 7691, therefore, does not apply to cases of criminal libel.[39]

In Benipayo, the Court upheld the jurisdiction of the RTC, as against that of the Sandiganbayan, over a libel case committed by a public official, reasoning as follows:

> As we have constantly held in Jalandoni, Bocobo, People v. Metropolitan Trial Court of Quezon City, Br. 32, Manzano, and analogous cases, we must, in the same way, declare herein that the law, as it still stands at

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> present, dictates that criminal and civil actions for damages in cases of written defamations shall be filed simultaneously or separately with the RTC to the exclusion of all other courts. A subsequent enactment of a law defining the jurisdiction of other courts cannot simply override, in the absence of an express repeal or modification, the specific provision in the RPC vesting in the RTC, as aforesaid, jurisdiction over defamations in writing or by similar means. The grant to the Sandiganbayan of jurisdiction over offenses committed in relation to (public) office, similar to the expansion of the jurisdiction of the MTCs, did not divest the RTC of its exclusive and original jurisdiction to try written defamation cases regardless of whether the offense is committed in relation to office. The broad and general phraseology of Section 4, Presidential Decree No. 1606, as amended by Republic Act No. 8249, cannot be construed to have impliedly repealed, or even simply modified, such exclusive and original jurisdiction of the RTC.[40]

The phrase in the Information that petitioner and her co-accused committed the offense charged by "taking advantage of their public office" is not sufficient to bring the offense within the definition of "offenses committed in relation to public office" which are within the jurisdiction of the Sandiganbayan. Such an allegation is to be considered merely as an allegation of an aggravating circumstance that petitioner and her co-accused are government officials and employees which will warrant the imposition of the maximum penalties, as provided under Section 28 of Republic Act No. 9165:

> Sec. 28. Criminal Liability of Government Officials and Employees. - The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees. (Emphases ours.)

For the foregoing reasons, I vote to dismiss the Petition.

---

[1] For: Violation of Section 5, in relation to Section 26(b) of Republic Act No. 9165.

[2] For: Violation of Section 5, in relation to Section 26(b) of Republic Act No. 9165.

[3] For: Violation of Section 3(e)(k) of Republic Act No. 3019, Section 5(a) of Republic Act No. 6713, Republic Act No. 9745, Presidential Decree No. 46 and Article 211 of the Revised Penal Code.

[4] For: Violation of Section 5, in relation to Section 26(b) of Republic Act No. 9165 in relation to Article 211-A of the Revised Penal Code, Section 27 of Republic Act No. 9165, Section 3(e) of Republic Act No. 3019, Presidential Decree No. 46, Section 7(d) of Republic Act No. 6713, and Article 210 of the Revised Penal Code.

[5] For: Violation of Section 5, in relation to Section 26 of Republic Act No. 9165.

[6] Napoles v. De Lima, G.R. No. 213529, July 13, 2016, citing Santos-Concio v. Department of Justice, 567 Phil. 70, 89 (2008).

[7] Sec. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

[8] Napoles v. De Lima, supra note 6.

[9] 348 Phil. 417, 425 (1998).

[10] 343 Phil. 670 (1997).

[11] Id. at 697-698.

[12] Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc., G.R. No. 207132, December 6, 2016.

[13] Metro Transit Organization, Inc. v. PIGLAS NFWU-KMU, 574 Phil. 481, 491-492 (2008).

[14] Estrada v. Office of the Ombudsman, 751 Phil. 821, 877 (2015).

[15] The recognized exceptions are: (a) where the order is a patent nullity, as where the court a quo had no jurisdiction; (b) where the questions raised in the certiorari proceeding have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceedings were ex parte, or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or where public interest is involved. (Saint Louis University, Inc. v. Olairez, 730 Phil. 444, 458-459 [2014]).

[16] Tano v. Socrates, supra note 10 at 699-700.

[17] Rule II, Section 6 of the 2004 Rules on Notarial Practice reads:

Sec. 6. Jurat. - "Jurat" refers to an act in which an individual on a single occasion:

(a) appears in person before the notary public and presents an instrument or document;

(b) is personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules;

(c) signs the instrument or document in the presence of the notary; and

(d) takes an oath or affirmation before the notary public as to such instrument or document. (Emphases ours.)

Rule II, Section 2 of the 2004 Rules on Notarial Practice defines "affirmation" or "oath" as follows:

Sec. 2. Affirmation or Oath. - The term "Affirmation" or "Oath" refers to an act in which an individual on a single occasion:

(a) appears in person before the notary public;

(b) is personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules; and

(c) avows under penalty of law to the whole truth of the contents of the instrument or document.

[18] William Go Que Construction v. Court of Appeals, G.R. No. 191699, April 19, 2016, 790 SCRA 309, 326.

[19] G.R. No. 208181, August 31, 2016.

[20] Supra note 18 at 326-327.

[21] 679 Phil. 279, 294-296 (2012).

[22] 17 Phil. 273 (1910).

[23] People v. Romualdez, 581 Phil. 462, 484 (2008).

[24] People v. Sandiganbayan (Fourth Division), G.R. No. 160619, September 9, 2015, 770 SCRA 162, 174-175.

[25] Id. at 176-177.

[26] 766 Phil. 75 (2015).

[27] Id. at 105-106.

[28] Loney v. People, 517 Phil. 408, 424 (2006).

[29] Nierras v. Dacuycuy, 260 Phil. 6, 13 (1990).

[30] Ramos, Jr. v. Pamaran, 158 Phil. 536, 541 (1974).

[31] 138 Phil. 77, 110 (1969).

[32] Elma v. Jacobi, 689 Phil. 307, 341 (2012).

[33] Aguirre v. Secretary of the Department of Justice, 571 Phil. 138, 161 (2008).

[34] An Act Strengthening Further the Functional and Structural Organization of the Sandiganbayan, Further Amending Presidential Decree No. 1606, as Amended, and Appropriating Funds Therefor.

[35] Article XI, Section 4 of the 1987 Constitution provides that "[t]he present anti-graft court known as the Sandiganbayan shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law."

[36] LIX JOURNAL, SENATE 16[TH] CONGRESS 1ST REGULAR SESSION 32-33 (February 26, 2014).

[37] 354 Phil. 66 (1998).

[38] 604 Phil. 317 (2009).

[39] Manzano v. Valera, supra note 37 at 75-76.

[40] People v. Benipayo, supra note 38 at 330-331.

SEPARATE OPINION

PERALTA, J.:

I concur with the ponencia that the instant Petition for Certiorari and Prohibition should be denied on the grounds of prematurity, forum shopping, for being improperly verified, and for lack of merit.

However, in light of the novelty and the transcendental importance of the jurisdictional issue raised by petitioner Senator Leila M. De Lima, I find it necessary to go over the records of the deliberation in the Congress to verify if the exclusive original jurisdiction of Regional Trial Courts (RTCs) under Section 39 of Republic Act (R.A.) No. 6425, or the Dangerous Drugs Act of 1972, was carried over to Section 90 of R.A. No. 9165, as amended, or the Comprehensive Dangerous Drugs Act of 2002. Since the legislature clearly intended to confer to Regional Trial Courts exclusive original jurisdiction over drug cases under R.A. No. 9165, respondent judge, the Hon. Juanita T. Guerrero, should be ordered to resolve the motion to quash, taking into account the discussion on the definition of

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conspiracy to commit illegal drug trading, the principles in determining the sufficiency of an information, and the remedies relative to motion to quash under Sections 4, 5 and 6, Rule 117 of the Rules of Court.

I also submit that respondent judge did not commit grave abuse of discretion, amounting to lack or excess of jurisdiction, when she issued the warrant of' arrest against petitioner despite the pendency of her motion to quash, because there is no law, jurisprudence or rules of procedure which requires her to first resolve a motion to quash before issuing a warrant of arrest. Respondent judge should be ordered to resolve the pending motion to quash in order to give her opportunity to correct the errors raised by petitioner.

On procedural grounds, I agree with the ponencia that the Petition for Certiorari and Prohibition must be dismissed on the grounds of prematurity and forum shopping, as well as for being improperly verified.

For one, petitioner Senator Leila M. De Lima failed to avail of the plain, speedy and adequate remedies before the DOJ and the respondent judge. During the Oral Arguments, it was conceded that before filing the petition at bar, petitioner failed to avail of a wide array of remedies before the DOJ and the respondent judge, such as: (1) filing of counter-affidavit with an alternative prayer for referral of the case to the Ombudsman; (2) filing a motion for re-investigation before the information is filed in court; (3) filing of a motion for leave of court to file a motion for re-investigation if an information has been filed; (4) filing of a motion for judicial determination of probable cause; (5) motion for bill of particulars; and (6) motion to quash warrant of arrest. Thus:

> JUSTICE PERALTA:
> Okay. Now, I was looking at your petition, and you missed out [on] a lot of remedies that should have been undertaken by Senator De Lima. In the conduct of the preliminary investigation before the DOJ, she did not file a counter-affidavit. Because if there was lack of jurisdiction from the very beginning, she should have filed a counter- affidavit presenting her countervailing evidence. And alternatively, ask for the dismissal of the case because the DOJ has no jurisdiction, because a motion to dismiss is not allowed. You have to file a counter--affidavit, thus, she waived it. That should have been the best time to argue that the DOJ has no jurisdiction. Then after that, x x x if there was a resolution by the DOJ, then you can file a motion for re-investigation.
>
> ATTY. HILBAY:
> Your Honor, according to the lawyers down below they filed an Omnibus Motion.
>
> JUSTICE PERALTA:
> Now, therefore, there was an Omnibus Motion.
>
> ATTY. HILBAY:
> Yes.
>
> JUSTICE PERALTA:
> There was a resolution, but she did not do anything. She should have filed a motion for re-investigation before the Information is filed before the court and ask the court to suspend the proceedings. And then, require the panel of the prosecutors to resolve the motion for re-investigation which she did not do.
>
> ATTY. HILBAY:
> I think, Your Honor, given the lawyers' experience with the panel of prosecutors in that case because they realized that it was pointless...
>
> JUSTICE PERALTA:
> Yeah, the other thing is that. Assuming that there was already an information filed, and she was not given a chance to file her countervailing evidence with the DOJ, then, Senator De Lima could have filed a motion for leave of court to file a motion for re-investigation so that the judge could have required the panel of the

prosecutors to reinvestigate or to reconsider the resolution, which she did not. There were remedies, so many remedies available under the rules.

ATTY. HILBAY
You're correct, Your Honor, that there are lot of abstract options that are available to petitioner in this case.

JUSTICE PERALTA:
Yeah.

ATTY. HILBAY:
But I think on the part of the lawyers, who handled the case down below, their reading of the situation was that it was already pointless.

JUSTICE PERALTA:
They may not act favorably, okay. But the case, well the court is already judicial in character because when the information is filed nobody can touch the information except the judge. Therefore, if the information was already filed before the court, Senator De Lima could have filed a motion for leave of court to file motion for reconsideration. So that the court should have required the public prosecutor to conduct a re-investigation upon orders of the court.

ATTY. HILBAY:
Again, pleading have been filed, we don't even know whether the court obliged...

xxxx

JUSTICE PERALTA:
Let's go further. If the information was already filed, this has always been the practice but sometimes they say, this is not an available remedy. Senator De Lima could have filed a motion for judicial determination of probable cause and invoke paragraph (a) of Rule 112, Section 6 [now Sec. 5]. Because the judge is mandated within ten (10) days to determine the existence of probable cause. And if he or she is not satisfied, then he could have required the prosecution to present additional evidence. If she is not yet satisfied, that would have caused for the dismissal of the case for lack of probable cause.

ATTY. HILBAY:
Yes.

JUSTICE PERALTA:
Which she did not do.

ATTY. HILBAY:
Again, Your Honor, there's so many channels by which this case...

JUSTICE PERALTA:
Yes, it's already judicial, you cannot already claim that the judge is bias, because the remedy is already judicial in character. So anyway...

ATTY. HILBAY:
You are correct, Your Honor.

xxxx

JUSTICE PERALTA:
I'll go to another point. Is it not? If there is a defect in the Information, because according to you, it's not clear. If they are charged with illegal trading or charged with attempt or conspiracy, is it not that the [proper] remedy should have been Rule 116, Section 9 of the Rules of Court, a motion for bill of particulars?

ATTY. HILBAY:
No, Your Honor, in fact, Your Honor, it is rather clear what the prosecutors intended to charge the petitioner. It is the OSG that has a new interpretation of the charge.

xxxx

JUSTICE PERALTA:

xxxx

So I'll go to another point. Now, why did you not file a motion to quash the warrant of arrest on the ground of lack of probable cause before coming to court? Is that a valid remedy under the rules?

ATTY. HILBAY:
Your Honor, the lawyers down below say that that was placed on record, those arguments, Your Honor.

JUSTICE PERALTA:
That was placed on record. Was there a motion actually, a motion to quash the warrant of arrest on the ground of lack of probable cause? Was there any made...?

ATTY. HILBAY:
I am told, Your Honor, that there were observations placed on record.

JUSTICE PERALTA:
And the problem observations because...

ATTY. HILBAY:
We are questioning the jurisdiction in the first place.

xxx[1]

The OSG is correct that there are available plain, speedy and adequate remedies for petitioner to assail the questioned orders of the respondent judge, as well as the DOJ. Direct resort before the Court through a Petition for Certiorari and Prohibition cannot be justified with a mere speculation that all the remedies available to petitioner before the DOJ or the respondent judge are pointless, and that they acted with bias and undue haste.

For another, petitioner violated the rules against forum shopping, and the pendency of her Motion to Quash the information before respondent judge renders her petition premature. In Villamor, Jr. v. Judge Manalastas,[2] the Court explained the concept of forum shopping as follows:

> As a rule, forum shopping is committed by a party wh, having received an adverse judgment in one forum, seeks another opinion in another court other than by appeal or the special civil action of certiorari. Conceptually, forum shopping is the institution of two or more suits in different courts, either simultaneously or successively, in order to ask the courts to rule on the same or related causes and/or to grant the same or substantially the same reliefs.
>
> Forum shopping also exists when, as a result of an adverse decision in one forum or in anticipation thereof, a party seeks a favorable opinion in another forum through means other than an appeal or certiorari.
>
> There is likewise forum shopping when the elements of litis pendentia are present or where a final judgment in one case will amount to res judicata in another.
>
> Litis pendentia is a Latin term meaning "a pending suit" and is variously referred to in some decisions as lis pendens and auter action pendant. As a ground for the dismissal of a civil action, it refers to the situation where two actions are pending between the same parties for the same cause of action, so that one of them becomes unnecessary and vexatious. It is based on the policy against multiplicity of suits.

> There is litis pendentia when the following requisites are present: identity of the parties in the two actions; substantial identity in the causes of action and in the reliefs sought by the parties; and the identity between the two actions should be such that any judgment that may be rendered in one case, regardless of which party is successful, would amount to res judicata in the other.
>
> Otherwise stated, the test is whether the two (or more) pending cases have identity of parties, of rights or causes of action, and of the reliefs sought. Willful and deliberate violation of the rule against it is a ground for summary dismissal of the case; it may also constitute direct contempt.
>
> Appeals and petitions for certiorari are normally outside the scope of forum shopping because of their nature and purpose; they grant a litigant the remedy of elevating his case to a superior court for review.
>
> It is assumed, however, that the filing of the appeal or petition for certiorari is properly or regularly invoked in the usual course of judicial proceedings, and not when the relief sought, through a petition for certiorari or appeal, is still pending with or has yet to be decided by the respondent court or court of origin, tribunal, or body exercising judicial or quasi-judicial authority, e.g., a still pending motion for reconsideration of the order assailed via a petition for certiorari under Rule 65.

I agree with the ponencia that all the elements of forum shopping are present. First, there is substantial identity of parties in the criminal case before the respondent judge where the People of the Philippines is the complainant, while petitioner is one of the accused, and the petition at bar where the People is the respondent, while Sen. De Lima is the petitioner. Second, petitioner's prayers in her motion to quash and in this petition are essentially the same, i.e., the nullification of the information and restoration of her liberty, on the grounds of lack of jurisdiction over the offense, the duplicity and insufficiency of the information, and the lack of probable cause to issue an arrest warrant against her. Third, due to the identity of issues raised in both cases, the Court's decision in this petition would amount to res judicata in the criminal case before the respondent judge with respect to the issues of jurisdiction over the offense and of the existence of probable cause to issue an arrest warrant against petitioner.

I further stress that what is also pivotal in determining whether forum shopping exists is the vexation caused the courts by a party who asks different courts to rule on the same or related issues and grant the same or similar reliefs, thereby creating the possibility of conflicting decisions being rendered by different courts upon the same issues.[3] The possibility of conflicting decisions between the Court and the respondent judge is real because Section 7 ofRule 65, as amended by A.M. No. 07-7-12-SC, requires the latter to proceed with the principal case within ten (10) days from the filing of a petition for certiorari with a higher court, absent a temporary restraining order or preliminary injunction, failing which may be a ground of an administrative charge. Section 1, Rule 116 pertinently provides that the arraignment shall be held within thirty (30) days from the date the court acquires jurisdiction over the person of the accused, and that the pendency of a motion to quash shall be excluded in computing the period. Considering that petitioner was arrested on February 24, 2017 and that no restraining order has yet been issued since the filing of her Petition on February 27, 2017, respondent judge is expected to resolve the motion to quash; hence, the possibility that her resolution would be in conflict with the Court's decision.

Apropos to this case is Estrada v. Office of the Ombudsman[4] where petitioner Senator Jinggoy Ejercito Estrada raised in his Petition for Certiorari the same issues he raised in his Motion for Reconsideration of the Joint Resolution of the Ombudsman finding probable cause. While his motion for reconsideration was pending, Sen. Estrada did not wait for the resolution of the Ombudsman and instead proceeded to file his Petition. The Court ruled that Sen. Estrada's Petition is not only premature, but also constitutes forum shopping, because he resorted to simultaneous remedies by filing the Petition alleging violation of due process by the Ombudsman even as his motion for reconsideration raising the very same issue remained pending with the Ombudsman.

In this case, petitioner raised in her Petition for Certiorari and Prohibition the same issues she raised in her Motion

to Quash, namely: (1) lack of jurisdiction over the offense charged; (2) the DOJ Panel's lack of authority to file the information; (3) the information charges more than one offense; (4) the allegations and the recitals of the facts do not allege the corpus delicti of the charge; (5) the information is based on testimonies of witnesses who are not qualified to be discharged as state witness; and (6) the testimonies of the witnesses are hearsay. Without waiting for the respondent judge's resolution of her motion to quash, petitioner filed her Petition. As in Estrada,[5] petitioner resorted to simultaneous remedies by filing her Petition raising the same issues still pending with the RTC, hence, the same must be dismissed outright on the grounds of prematurity and forum shopping.

The prematurity of the Petition at bar was further underscored during the Oral Arguments, considering that petitioner's motion to quash is still pending before the respondent judge:

> JUSTICE PERALTA:
> If an Information is filed, you determine the existence of probable cause from the allegations of the Information, that's the first thing that the judge will do. If the allegations are properly alleged as to jurisdiction, it took place in Muntinlupa, so the place of the commission of the crime is there, the allegations of 9165 under Section 90 she says that is jurisdiction, so what's the problem?
>
> ATTY. HILBAY:
> No subject matter, jurisdiction. Again, Your Honor, my point is...
>
> JUSTICE PERALTA:
> But that's not the basis of an issuance of a warrant of arrest precisely there is a motion to quash. If you do not agree and there's no jurisdiction, your remedy is to file a motion to quash the Information...
>
> ATTY. HILBAY:
> We did, Your Honor, file a motion to quash...
>
> JUSTICE PERALTA:
> That's the problem, it is pending, you come here. Why not wait for the RTC to determine as to whether or not there is jurisdiction over the person of the accused or over the subject matter? Because what you are saying is that, first determine jurisdiction. It is already there eh. The determination of probable cause will already include jurisdiction because that's alleged in the... she will not go beyond what's alleged in the Information. There is an allegation of jurisdiction eh. The crime is within the City of Muntinlupa, oh that's the jurisdiction over the place where the crime is committed.
>
> ATTY. HILBAY:
> Yeah, Your Honor, that's...
>
> JUSTICE PERALTA:
> You have the allegation in the Information, violation of Dangerous Drugs Act under Section 90, you have the accused, there is an allegation of relation to office. What's the problem?
>
> ATTY. HILBAY:
> She has subject matter jurisdiction, Your Honor.
>
> JUSTICE PERALTA:
> Yeah. In all the cases that came here on lack of probable cause, what happened in those cases is that the RTC first answered the queries posited by the accused that there is no probable cause. In the case of Allado v. Diokno, they filed a motion to determine probable cause. In the case of Senator Lacson, they filed a motion, and there were all hearings. Here, in this particular case, there is no hearing. So, how can we review the factual issues if in the first place these were not brought up in the RTC?
>
> ATTY. HILBAY:

Your Honor, there are no factual issues here. The only issue is jurisdiction. There's no need...

JUSTICE PERALTA:
So, your issue is not lack of probable cause for the issuance of a warrant of arrest, but lack of jurisdiction. So if you go, if your position now is lack of jurisdiction, then go to the RTC. And then, file a motion to quash. That's what she was asking. That should have been heard in the RTC.

ATTY. HILBAY:
Your Honor...

xxxx

JUSTICE PERALTA:
So to me, the procedure should have been to go first to the RTC. And then, come, if you cannot get a favorable decision, to Court. Justice iardeleza was saying there's no due process. I mean he did not say due process, but due process has been observed. The problem is she all waived her remedies. Hindi siya nag-file ng counter-affidavit. She did not file a counter-affidavit. She was given due process.

ATTY. HILBAY:
Yes.

JUSTICE PERALTA:
But she did not invoke all those remedies to comply with due process.

ATTY. HILBAY:
If I may, Your Honor, just clarify what happened so that we can now have full favor of the context of petitioner. She did not file a counter- affidavit precisely because she was questioning the jurisdiction of the Department of Justice. And yet, the Department of Justice, proceeded with undue haste, and filed the case before the court without jurisdiction. She filed a motion to quash before a court that has no jurisdiction. The court decided again with undue haste to issue warrant of arrest. What do you expect, Your Honor, the petitioner to do?

JUSTICE PERALTA:
That wouldn't have been a good basis of coming here because... That wouldn't have been a good basis of coming here.

ATTY. HILBAY:
Your Honor.

JUSTICE PERALTA:
...she was only speculating. She should have availed of the remedies and all of these have denied because they are biased and then, come here and then, release her. But this one, she did not follow.

ATTY. HILBAY:
Your Honor, what we're saying is that, we are now here, we have made out a very strong and clear case for an application of the exemptions of the procedures of this Court. Those exemptions are clearly stated in the jurisprudence of this Honorable Court.[6]

While petitioner also failed to justify that her case falls under the exceptions to the doctrine on hierarchy of courts, I posit that the issue of jurisdiction over the offense should still be addressed due to its transcendental importance.

In The Diocese of Bacolod v. Commission on Elections,[7] the Court stressed that the doctrine of hierarchy of courts is not an iron-clad rule, and that it has full discretionary power to take cognizance and assume jurisdiction over special civil actions for certiorari filed directly with it for exceptionally compelling reasons or if warranted

by the nature of the issues clearly and specifically raised in the petition. Recognized exceptions to the said doctrine are as follows:

> (a) when there are genuine issues of constitutionality that must be addressed at the most immediate time;
>
> (b) when the issues involved are of transcendental importance;
>
> (c) cases of first impression where no jurisprudence yet exists that will guide the lower courts on the matter;
>
> (d) the constitutional issues raised are better decided by the Court;
>
> (e) where exigency in certain situations necessitate urgency m the resolution of the cases;
>
> (f) the filed petition reviews the act of a constitutional organ;
>
> (g) when petitioners rightly claim that they had no other plain, speedy, and adequate remedy in the ordinary course of law that could free them from the injurious effects of respondents' acts in violation of their right to freedom of expression; and
>
> (h) the petition includes questions that are dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy.[8]

The petition at bench raises an issue of transcendental importance and a novel question of law, if not a case of first impression, namely: whether the Sandiganbayan has exclusive original jurisdiction over drug cases under R.A. No. 9165 committed by public officers or employees in relation to their office,' pursuant to Presidential Decree No. 1606, Revising Presidential Decree No. 1486 Creating a Special Court to be Known as "SANDIGANBAYAN" and for other purposes, as amended by R.A. No. 10660, revising Presidential Decree No. 1486 Creating a Special Court to be known as "SANDIGANBAYAN" and for other purposes. An Act Strengthening Further the Functional and Structural Organization of the Sandiganbayan Further Amending Presidential Decree No. 1606, as amended, and Appropriating Funds Therefor.

It bears empha is that jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the .complaint or information, and cannot be granted by agreement of the parties, acquired through, or waived, enlarged or diminished by any act or omtsston of the parties, or conferred by acquiescence of the court.[9] Considering that lack of jurisdiction over the subject matter of the case can always be raised anytime, even for the first time on appeal,[10] I see no reason for Us not to directly entertain a pure question of law as to the jurisdiction of the Sandiganbayan over drug-related cases, if only to settle the same once and for all. A decision rendered by a court without jurisdiction over the subject matter, after all, is null and void. It would be detrimental to the administration of justice and prejudicial to the rights of the accused to allow a court to proceed with a full-blown trial, only to find out later on that such court has no jurisdiction over the offense charged.

I take judicial notice of the Sandiganbayan Statistics on Cases Filed, Pending and Disposed of from February 1979 to May 31, 2017 which shows that out of the 34,947 cases filed and 33,101 cases disposed of, no case has yet been filed or disposed of involving violation of the Dangerous Drugs Law either under R.A. Nos. 6425 or 9165, thus:

> NUMBER OF CASES FILED and DISPOSED OF ACCORDING TO NATURE OF OFFENSE (FEBRUARY, 1979 TO MAY 31, 2017) [11]
>
> NATURE OF OFFENSE
>
> TOTAL

[Filed]

PERCENT DISTRIBUTION [Filed]

TOTAL
[Disposed]

PERCENT DISTRIBUTION [Disposed]

Crimes Against Religious Worship

1

0.003

1

0.003

Arbitrary Detention

72

0.206

69

0.208

Violation of Domicile

18

0.051

20

0.061

Assault Resistance and Disobedience

10

0.029

13

0.040

Perjury

116

0.332

76

0.230

Falsification Cases

6096

17.444

6215

18.776

Mal/Misfeasance

7

0.020

7

0.021

Bribery

365

1.044

347

1.048

Malversation Cases

10336

29.576

10376

31.346

Infidelity of Public Officers in the Custody of Prisoners/Documents

552

1.580

548

1.656

Other Offense Committed by Public Officers

582

1.665

544

1.643

Murder

317

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0.907

350

1.057

Homicide

203

0.581

220

0.665

Physical Injuries

169

0.484

170

0.514

Threats and Coercions

98

0.280

88

0.266

Kidnapping

2

0.006

2

0.006

Estafa Cases

4700

13.449

4974

15.027

Robbery

123

0.352

132

0.399

Theft

511

1.462

549

1.659

Malicious Mischief

20

0.057

16

0.048

Rape and Acts of Lasciviousness

21

0.060

18

0.054

Slander

16

0.046

17

0.051

Illegal Marriage

2

0.006

2

0.006

Violation of R.A. 3019

8322

23.813

6564

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19.830

Violation of Presidential Decrees

476

1.362

381

1.151

Qualified Seduction

5

0.014

8

0.024

Unlawful Arrest

4

0.011

4

0.012

Adultery and Concubinage

1

0.003

1

0.003

Plunder

11

0.032

4

0.012

Others

1344

3.846

989

2.988

Special Civil Action

94

0.269

74

0.224

Civil Cases (including PCGG cases)

217

0.621

200

0.604

Appealed Cases

135

0.386

121

0.365

Special Proceedings

1

0.003

1

0.003

Total

34947

100.00

33101

100.00

Granted that petitioner is neither the first public official accused of violating R.A. No. 9165 nor is she the first defendant to question the finding of probable cause for her arrest, she is foremost in raising a valid question of law on the jurisdiction of the Sandiganbayan over drug-related cases committed by a public servant in relation to her office.

On substantive grounds, I find that the Regional Trial Court has exclusive original jurisdiction over the violation of Republic Act No. 9165 averred in the assailed Information. "Exclusive jurisdiction" refers to that power which a court or other tribunal exercises over an action or over a person to the exclusion of all other courts, whereas "original jurisdiction" pertains to jurisdiction to take cognizance of a cause at its inception, try it and pass

judgment upon the law and facts.[12]

In support of my view that the RTC has exclusive original jurisdiction over dangerous drugs cases committed by public officials and employees in relation to their office, I found it conducive to consult other special cases within the RTC's exclusive and original jurisdiction, namely: libel and violations of the Intellectual Property Code (R.A. No. 8293), and the Dangerous Drugs Act of 1972 (R.A. No. 6425).

In People of the Philippines v. Benipayo,[13] the Court held that libel cases are within the RTC's exclusive original jurisdiction:

> As we have constantly held in Jalandoni, Bocobo, People v. Metropolitan Trial Court of Quezon City, Br. 32, Manzano, and analogous cases, we must, in the same way, declare herein that the law, as it still stands at present, dictates that criminal and civil actions for damages in cases of written defamations shall be filed simultaneously or separately with the RTC to the exclusion of all other courts. A subsequent enactment of a law defining the jurisdiction of other courts cannot simply override, in the absence of an express repeal or modification, the specific provision in the RPC vesting in the RTC, as aforesaid, jurisdiction over defamations in writing or by similar means. The grant to the Sandiganbayan of jurisdiction over offenses committed in relation to (public) office, similar to the expansion of the jurisdiction of the MTCs, did not divest the RTC of its exclusive and original jurisdiction to try written defamation cases regardless of whether the offense is committed in relation to office. The broad and general phraseology of Section 4, Presidential Decree No. 1606, as amended by Republic Act No. 8249, cannot be construed to have impliedly repealed, or even simply modified, such exclusive and original jurisdiction of the RTC.

In Samson v. Daway,[14] the Court ruled that certain violations of the Intellectual Property Code fall under the jurisdiction of the RTCs regardless of the imposable penalty:

> Section 163 of the same Code [R.A. No. 8293] states that actions (including criminal and civil) under Sections 150, 155, 164, 166, 167, 168 and 169 shall be brought before the proper courts with appropriate jurisdiction under existing laws, thus -
> SEC. 163. Jurisdiction of Court. - All actions under Sections 150, 155, 164 and 166 to 169 shall be brought before the proper courts with appropriate jurisdiction under existing laws. (Emphasis supplied)

The existing law referred to in the foregoing provision is Section 27 of R.A. No. 166 (The Trademark Law) which provides that jurisdiction over cases for infringement of registered marks, unfair competition, false designation of origin and false description or representation, is lodged with the Court of First Instance (now Regional Trial Court) -

> SEC. 27. Jurisdiction of Court of First Instance. - All actions under this Chapter [V - Infringement] and Chapters VI [Unfair Competition] and VII [False Designation of Origin and False Description or Representation], hereof shall be brought before the Court of First Instance.

We find no merit in the claim of petitioner that R.A. No. 166 was expressly repealed by R.A. No. 8293. The repealing clause of R.A. No. 8293, reads -

> SEC. 239. Repeals. - 239.1. All Acts and parts of Acts inconsistent herewith, more particularly Republic Act No. 165, as amended; Republic Act No. 166, as amended; and Articles 188 and 189 of the Revised Penal Code; Presidential Decree No. 49, including Presidential Decree No. 285, as amended, are hereby repealed. (Emphasis added)

Notably, the aforequoted clause did not expressly repeal R.A. No. 166 in its entirety, otherwise, it would not have used the phrases "parts of Acts" and "inconsistent herewith;" and it would have simply stated "Republic Act No. 165, as amended; Republic Act No. 166, as amended; and Articles 188 and 189 of the Revised Penal Code;

Presidential Decree No. 49, including Presidential Decree No. 285, as amended are hereby repealed." It would have removed all doubts that said specific laws had been rendered without force and effect. The use of the phrases "parts of Acts" and "inconsistent herewith" only means that the repeal pertains only to provisions which are repugnant or not susceptible of harmonization with R.A. No. 8293. Section 27 of R.A. No. 166, however, is consistent and in harmony with Section 163 of R.A. No. 8293. Had R.A. No. 8293 intended to vest jurisdiction over violations of intellectual property rights with the Metropolitan Trial Courts, it would have expressly stated so under Section 163 thereof.

Moreover, the settled rule in statutory construction is that in case of conflict between a general law and a special law, the latter must prevail. Jurisdiction conferred by a special law to Regional Trial Courts must prevail over that granted by a general law to Municipal Trial Courts.

In the case at bar, R.A. No. 8293 and R.A. No. 166 are special laws conferring jurisdiction over violations of intellectual property rights to the Regional Trial Court. They should therefore prevail over R.A. No. 7691, which is a general law. Hence, jurisdiction over the instant criminal case for unfair competition is properly lodged with the Regional Trial Court even if the penalty therefor is imprisonment of less than 6 years, or from 2 to 5 years and a fine ranging from P50,000.00 to P200,000.00.[15]

ln Morales v. CA,[16] the Court held that the RTCs have exclusive jurisdiction over specific criminal cases, namely: (a) Art. 360 of the Revised Penal Code, as amended by R.A. Nos. 1289 and 4363 on written defamations or libel; (b) violations of the Presidential Decree on Intellectual Property (P.D. No. 49, as amended), and (c) Section 39 of R.A.No. 6425, as amended by P.D. No. 44:

> Jurisdiction is, of course, conferred by the Constitution or by Congress. Outside the cases enumerated in Section 5(2) of Article VIII of the Constitution, Congress has the plenary power to define, prescribe and apportion the jurisdiction of various courts. Accordingly, Congress may, by law, provide that a certain class of cases should be exclusively heard and determined by one court. Such would be a special law and must be construed as an exception to the general law on jurisdiction of courts, namely, the Judiciary Act of 1948 as amended, or the Judiciary Reorganization Act of 1980. In short, the special law prevails over the general law.
>
> R.A. No. 7691 can by no means be considered another special law on jurisdiction but merely an amendatory law intended to amend specific sections of the Judiciary Reorganization Act of 1980. Hence, it does not have the effect of repealing or modifying Article 360 of the Revised Penal Code; Section 57 of the Decree on Intellectual Property; and Section 39 of R.A. No. 6425, as amended by P.D. No. 44. In a manner of speaking, R.A. No. 7691 was absorbed by the mother law, the Judiciary Reorganization Act of 1980.
>
> That Congress indeed did not intend to repeal these special laws vesting exclusive jurisdiction in the Regional Trial Courts over certain cases is clearly evident from the exception provided for in the opening sentence of Section 32 of B.P. Blg. 129, as amended by R.A. No. 7691. These special laws are not, therefore, covered by the repealing clause (Section 6) of R.A. No. 769.[17]

Having in mind the foregoing jurisprudence, I submit that R.A. No. 10660 cannot be considered as a special law on jurisdiction but merely an amendatory law intended to amend specific provisions of Presidential Decree No. 1606, the general law on the jurisdiction of the Sandiganbayan. Hence, Section 90 of R.A. No. 9165, which specifically named RTCs designated as special courts to exclusively hear and try cases involving violation thereof, must be viewed as an exception to Section 4.b. of P.D. No. 1606, as amended by R.A. No. 10660, which is a mere catch-all provision on cases that fall under the exclusive original jurisdiction of the Sandiganbayan. In other words, even if a drug-related offense was committed by public officials and employees in relation to their office, jurisdiction over such cases shall pertain exclusively to the RTCs. The broad and general phraseology of Section 4. b., P.D. No. 1606, as amended by R.A. No. 10660, cannot be construed to have impliedly repealed, or

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even simply modified, such exclusive jurisdiction of the RTC to try and hear dangerous drugs cases pursuant to Section 90 of R.A. No 9165.

Be that as it may, full reliance on the 1997 case of Morales[18] cannot be sustained because the prevailing law then was the Dangerous Drugs Act of 1972 (R.A. No. 6425), which clearly vests exclusive original jurisdiction over all cases involving said law upon the Circuit Criminal Court or the present day Regional Trial Court. R.A. No. 6425 was expressly repealed by Section 100 of the Comprehensive Dangerous Drugs Act of 2002 (R.A. No. 9165), as amended:

> Sec. 100. Repealing Clause - Republic Act No. 6425, as amended, is repealed and all other laws, administrative orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act, e hereby repealed or modified accordingly.[19]

The appropriate question of law that ought to be resolved is whether pursuant to Section 90 of R.A. No. 9165, the RTC still has exclusive original jurisdiction over drug-related cases similar to the express grant thereof under Section 39 of R.A. No. 6425:

> Article X
> Jurisdiction Over Dangerous Drugs Cases
>
> Article XI
> Jurisdiction Over Dangerous Drugs Cases
>
> Section 39. Jurisdiction of the Circuit Criminal Court. - The Circuit Criminal Court shall have exclusive original jurisdiction over all cases involving offenses punishable under this Act.
>
> xxx
>
> Section 90. Jurisdiction. - The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.
>
> xxx

That the exclusive original jurisdiction of RTCs over drug cases under R.A. No. 6425 was not intended to be repealed is revealed in the interpellation during the Second Reading of House Bill No. 4433, entitled "An Act Instituting the Dangerous Drugs Act of 2002, repealing Republic Act No. 6425, as amended":

> Initially, Rep. Dilangalen referred to the fact sheet attached to the Bill which states that the measure will undertake a comprehensive amendment to the existing law on dangerous drugs - RA No. 6425, as amended. Adverting to Section 64 of the Bill on the repealing clause, he then asked whether the Committee is in effect amending or repealing the aforecited law.
>
> Rep. Cuenco replied that any provision of law which is in conflict with the provisions of the Bill is repealed and/or modified accordingly.
>
> In this regard, Rep. Dilangalen suggested that if the Committee's intention was only to amend RA No. 6425, then the wording used should be "to amend" and not "to repeal" with regard to the provisions that are contrary to the provisions of the Bill.
>
> Adverting to Article VIII, Section 60, on Jurisdiction Over Dangerous Drugs Case, which provides that the Supreme Court shall designate regional trial courts to have original jurisdiction over all offenses punishable by

> this Act, Rep. Dilangalen inquired whether it is the Committee's intention that certain RTC salas will be designated by the Supreme Court to try drug-related offenses, although all RTCs have original jurisdiction over those offenses.
>
> Rep. Cuenco replied in the affirmative. He pointed that at present, the Supreme Court's assignment of drug cases to certain judges is not exclusive because the latter can still handle cases other than drug-related cases. He added that the Committee's intention is to assign drug-related cases to judges who will handle exclusively these cases assigned to them.
>
> In this regard, Rep. Dilangalen stated that, at the appropriate time, he would like to propose the following amendment: The Supreme Court shall designate specific salas of the RTC to try exclusively offenses related to drugs.
>
> Rep. Cuenco agreed therewith, adding that the Body is proposing the creation of exclusive drug courts because at present, almost all of the judges are besieged by a lot of drug cases some of which have been pending for almost 20 years.
>
> Whereupon, Rep. Dilangalen adverted to Section 60, Article VIII, lines 7 to 10 of the Bill, to wit: Trial of the case under this section shall be finished by the court not later than ninety (90) days from the date of the filing of the information. Decision on said cases shall be rendered within a period of fifteen (15) days from the date of submission of the case. He then asked whether the Committee intends to make this particular provision merely directory or compulsory.
>
> Rep. Cuenco answered that said provision is mandatory because if the case is not finished within 90 days, the Supreme Court can impose administrative sanctions on the judge concerned.
>
> However, Rep. Dilangalen pointed out that the Constitution specifically provides that the Supreme Court shall decide certain cases from the time they are submitted for resolution within a specific period. The same is true with the Court of Appeals, RTC and MTC. Rep. Cuenco affirmed this view.
>
> In line with the pertinent provision of the Constitution, Rep. Dilangalen pointed out that if the aforementioned provision of the Bill is made mandatory and those judges fail to finish their assigned cases within the required period, he asked whether they would be criminally charged.
>
> In response, Rep: Cuenco explained that the power to penalize belongs to the Supreme Court and Congress has no power to punish erring judges by sending them to jail for the reason that they have not finished their assigned cases within the prescribed period. He stressed that administrative sanctions shall be imposed by the Supreme Court on the erring judges.[20]

Records of the Bilateral Conference Committee on the Disagreeing Provisions of Senate Bill No. 1858 and House Bill No. 4433 (Comprehensive Dangerous Drugs Act of 2002) also show that Section 90 of R.A. No. 9165 does not repeal, but upholds the exclusive original jurisdiction of Regional Trial Court similar to that provided under Section 39 of R.A. No. 6425:

> The CHAIRMAN (REP. CUENCO). xxx On other matters, we would like to propose the creation of drug courts to handle exclusively drug cases; the imposition of a 60-day deadline on courts within which to decide drug cases; and No. 3, provide penalties on officers of the law and government prosecutors for mishandling and delaying drug cases.
>
> We will address these concerns one by one.
>
> 1. The possible creation of drug courts to handle exclusively drug cases. Any comments?
>
> Congressman Ablan. Ah, first, the Chairman, the Chairman of the Senate Panel would like to say something.

THE CHAIRMAN (SEN. BARBERS). We have no objection to this proposal, Mr. Chairman. As a matter of fact, this is one of the areas where we come into an agreement when we were in Japan. However, I just would like to add a paragraph after the word "Act" in Section 86 of the Senate versions, Mr. Chairman. And this is in connection with the designation of special courts by "The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of court designated in each judicial region shall be based on the population and the number of pending cases in their respective jurisdiction." That is my proposal, Mr. Chairman.

THE CHAIRMAN (REP. CUENCO). We adopt the same proposal.

SEN. CAYETANO. Comment, comment.

THE CHAIRMAN (REP. CUENCO). Puwede ba 'yan. Okay, Sige, Senator Cayetano.

SEN. CAYETANO. Mr. Chairman, first of all, there is already an Administrative Order 104, if I'm not mistaken in 1996 designating special courts all over the country that handles heinous crimes, which includes, by the way, violations of the present Drugs Act, where the penalty is life to death.

Now, when it comes to crimes where the penalty is six years or below, this is the exclusive jurisdiction not of the RTC, not of the Regional Trial Court, but of the municipal courts.

So my observation, Mr. Chairman, I think, since there are already special courts, we need not created that anymore or ask the Supreme Court. And number two, precisely, because there are certain cases where the penalties are only six years and below.These are really handles by the municipal trial court.

As far as the 60-day period, again, in the Fernan law, if I'm not mistaken, there is also a provision there that all heinous crimes will have to be decided within 60 days. But if you want to emphasize as far as the speedy which all these crimes should be tried and decided, we can put it there. But as far as designated, I believe this may be academic because there are already special courts. And number two, we cannot designate special court as far as the municipal courts are concerned. In fact, the moment you do that, then you may limit the number of municipal courts all over the country that will only handle that to the prejudice of the other or several other municipal court that handles many of these cases.

THE CHAIRMAN (REP. CUENCO). Just briefly, a rejoinder to the comments made by Senator Cayetano. It is true that the Supreme Court has designated certain courts to handle exclusively heinous crimes, okay, but our proposal here is confined exclusively to drug cases, not all kinds of heinous crimes. There are many kinds of heinous crimes: murder, piracy, rape, et cetera. The idea here is to focus the attention of the court, that court and to handle only purely drug cases.

Now, in case the penalty provided for by law is below six years wherein the regional trial court will have no jurisdiction, then the municipal courts may likewise be designated as the trial court concerning those cases. The idea hear really is to assign exclusively a sala of a regional trial court to handle nothing else except cases involving illegal drug trafficking.

Right now, there are judges who have been so designated by the Supreme Court to handle heinous crimes, but then they are not exclusive to drugs eh. And aside from those heinous crimes, they also handle other cases which are not even heinous. So the idea here is to create a system similar to the traffic courts which will try and hear exclusively traffic cases. So in view of the gravity of the situation and in view of the urgency of the resolution of these drug cases because - the research that we have made on the drug cases filed is that, the number of decided cases is not even one percent of those filed. There have been many apprehensions, thousands upon thousands apprehensions, thousands upon thousands of cases filed in court but only one percent have been disposed of. The reason is that there is no special attention made or paid on these drug cases by our courts.

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> So that is my humble observation, we have no problem.
>
> THE CHAIRMAN (SEN. BARBERS). I have no problem with that, Mr. Chairman, but I'd like to call your attention to the fact that my proposal in only for a designation because if it is for a creation that would entail another budget, Mr. Chairman. And almost always, the Department of Budget would tell us at the budget hearing that we lack funds, we do not have money. So that might delay the very purpose why we want the RTC or the municipal courts to handle exclusively the drug cases.That's why my proposal is designation not creation.
>
> THE CHAIRMAN (REP. CUENCO). Areglado. No problem, designation. Approved.[21]

Contrary to petitioner's claim that Section 90 of R.A. No. 9165 merely grants the Supreme Court administrative authority to designate particular branches of RTCs to exclusively try drug cases, records of deliberation in Congress underscore the intention to confer to the RTCs exclusive original jurisdiction over drug cases. Section 90 of R.A. No. 9165 was worded to give emphasis on the Court's power to designate special courts to exclusively handle such cases, if only to avoid creation of drug courts which entails additional funds, the lack of which would defeat the very purpose of the law to prioritize prosecution of drug cases.

Meanwhile, the ponencia cannot rely on the per curiam en banc decision[22] in an administrative case, which named the RTC as having the authority to take cognizance of drug-related cases. This is because the Court did not declare definitively therein that the RTC's jurisdiction is exclusive and original, so as to preclude the Sandiganbayan from acquiring jurisdiction over such cases when committed by a public servant in relation to office. One of the issues in the said case is whether the respondent judge of a Municipal Trial Court in Cities (MTCC) has jurisdiction to order confinement and rehabilitation of drug dependents from the drug rehabilitation center. The Court held that if the drug dependent was a minor, his confinement, treatment and rehabilitation in a center would be upon order, after due hearing, by the RTC in accordance with Section 30 of R.A. No. 6425, and that pursuant to Section 54, in relation to Section 90 of R.A. No. 9165, the RTC similarly has jurisdiction over drug-related cases.

I also take exception to the ponencia's statement to the effect that petitioner's alleged solicitation of money from the inmates does not remove the charge from the coverage of R.A. No. 9165 as Section 27 thereof punishes government officials found to have benefited from the trafficking of dangerous drugs. Section 27 applies only to "any elective local or national official" found to have benefitted from the proceeds of the trafficking of such drugs or have received any financial or material contributions from natural or juridical person found guilty of trafficking of such drugs. In view of the principle that penal statutes should be liberally construed in favor of the accused and strictly against the State, Section 27 cannot be held to apply to appointive officials like petitioner, who was the Secretary of the Department of Justice at the time of the commission of the alleged crime.

On the issue of whether respondent Judge gravely abused her discretion in finding probable cause to issue a warrant of arrest against petitioner despite her pending motion to quash the information, I resolve the issue in the negative.

It is well settled that grave abuse of discretion is the capricious or whimsical exercise of judgment equivalent to lack of jurisdiction; the abuse of discretion being so patent and gross as to amount to an evasion of positive duty or virtual non-performance of a duty enjoined by law. As aptly pointed out by the ponencia, since Section 5,[23] Rule 112 gives the judge ten (10) days within which to determine probable cause to issue warrant of arrest by personally evaluating the resolution of the prosecutor and its supporting evidence, petitioner cannot fault the respondent judge for issuing a warrant of arrest within three (3) days from receipt of the case records. There is no law, jurisprudence or procedural rule which requires the judge to act first on the motion to quash, whether or not

grounded on lack of jurisdiction, before issuing an arrest warrant. No grave abuse discretion may be, therefore, imputed against the respondent judge for issuing a warrant of arrest despite a pending motion to quash.

It may not be amiss to point out that there used to be a period within which to resolve a motion to quash under Section 6, Rule 117 of the 1964 Rules of Court, which was a reproduction of Section 6, Rule 113 of the 1940 Rules of Court to wit: "The motion to quash shall be heard immediately on its being made unless, for good cause, the court postpone the hearing. All issues whether of law or fact, which arise on a motion to quash shall be tried by the court." However, the said provision no longer found its way in the subsequent rules on criminal procedure, i.e., the 1985 Rules on Criminal Procedure and the present 2000 Revised Rules of Criminal Procedure. Considering that Section 1, Rule 117 of the present Rules provides that the accused may move to quash the information before entering his plea, while Section 1(g), Rule 116 thereof, states that the pendency of a motion to quash or other causes justifying suspension of the arraignment shall be excluded in computing .the period to arraign the accused, I conclude that the motion to quash should, at the latest, be resolved before the arraignment, without prejudice to the non-waivable grounds to quash under Section 9,[24] Rule 117, which may be resolved at any stage of the proceeding.

At any rate, to sustain the contention that a judge must first act on a pending motion to quash the information before she could issue a warrant of arrest would render nugatory the 10-day period to determine probable cause to issue warrant of arrest under Section 5, Rule 112. This is because if such motion to quash appears to be meritorious, the prosecution may be given time to comment, and the motion will have set for hearing. Before the court could even resolve the motion, more than 10 days from the filing of the complaint or information would have already passed, thereby rendering ineffectual Section 5(a), Rule 112.[25]

On petitioner's claim that respondent judge did not determine personally the existence of probable cause in issuing the warrant of arrest, I agree with the affirmative ruling of the ponencia on this issue. It bears emphasis that Section 5, Rule 112 only requires the judge to personally evaluate the resolution of the prosecutor and its supporting evidence, and if she finds probable cause, she shall issue such arrest warrant or commitment order.

In Allado v. Diokno,[26] citing Soliven v. Judge Makasiar,[27] the Court stressed that the judge shall personally evaluate the report and the supporting documents submitted by the fiscal regarding the existence of probable cause and, on the basis thereof, issue a warrant of arrest; or, if on the basis thereof she finds no probable cause, may disregard the fiscal's report and require the submission of supporting affidavits of witnesses to aid him in arriving at a conclusion on the existence of probable cause. "Sound policy dictates this procedure, otherwise, judges would be unduly laden with preliminary examination and investigation of criminal complaints instead of concentrating on hearing and deciding cases filed before their court."[28]

The Court added that the judge does not have to personally examine the complainant and his witnesses, and that the extent of her personal examination of the fiscal's report and its annexes depends on the circumstances of each case.[29] Moreover, "[t]he Court cannot determine beforehand how cursory or exhaustive the Judge's examination should be. The Judge has to exercise sound discretion for, after all, the personal determination is vested in the Judge by the Constitution. It can be as brief or as detailed as the circumstances of each case require. To be sure, the judge must go beyond the Prosecutor's certification and investigation report whenever necessary. [S]he should call for the complainant and witnesses themselves to answer the court's probing questions when the circumstances of the case so require."[30]

No clear and convincing evidence was presented by petitioner to overturn the disputable presumptions that official duty has been regularly performed and that a judge acting as such, was acting in the lawful exercise of jurisdiction,[31] when respondent judge issued the assailed Order, which appears to have complied with Section

5, Rule 112, as well as the doctrines in Allado and Soliven, thus:

> After a careful evaluation of the herein Information and all the evidence presented during the preliminary investigation conducted in this case by the Department of Justice, Manila, the Court finds sufficient probable cause for the issuance of Warrants of Arrest against all accused x x x LEILA M. DE LIMA x x x.

There being no grave abuse of discretion on the part of the respondent judge in issuing a warrant of arrest despite the pendency of petitioner's motion to quash, it is my view that respondent judge should be ordered to resolve the same motion in order to give her opportunity to correct the errors raised by petitioner. After all, in exercise of its power of review, the Court is not a trier of facts,[32] and the issue of whether probable cause exists for the issuance of a warrant for the arrest of an accused is a question of fact, determinable as it is from a review of the allegations in the information, the Resolution of the Investigating Prosecutor, including other documents and/or evidence appended to the information.[33]

On the issue of whether the information sufficiently charges the crime of conspiracy to trade illegal drugs, petitioner argues in the negative thereof, thus: (1) the information only mentions that she allegedly demanded, solicited and extorted money from the NBP inmates; (2) the absence of any allegation of her actual or implied complicity with or unity of action and purpose between her and the NBP inmates in the illegal trade; (3) the proper designation of the offense would be direct bribery under Art. 210 of the RPC in view of the allegation that money was given in exchange for special consideration and/or protection inside the NBP; (4) there is no allegation of corpus delicti; and (5) the violation remains to be intimately connected with the office of the accused because she could have only collected money from convicts if she had influence, power, and position to shield and protect those who sell, trade, dispense, distribute dangerous drugs, from being arrested, prosecuted and convicted.

Section 6, Rule 110 of the Rules of Court states that a complaint of information is sufficient if it states: (1) the name of the accused; (2) the designation of the offense given by the statute; (3) the acts or omissions complained of as constituting the offense; (4) the name of the offended party; (5) the approximate date of the commission of the offense; and (6) the place where the offense was committed.

In relation to petitioner's arguments which revolve around the defect in the second and third requisites, Section 8, Rule 110 provides that the complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense and specify its qualifying and aggravating circumstances. Section 9, Rule 110 states that the acts or omissions complained of as constituting the offense and the qualifying 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.

As held in Quimvel v. People,[34] the information must allege clearly and accurrately the elements of the crime charged. The facts and circumstances necessary to be included therein are determined by reference to the definition and elements of specific crimes. Moreover, the main purpose of requiring the elements of a crime to be set out in the information is to enable the accused to suitably prepare her. defense because she is presumed to have no independent knowledge of the facts that constitute the offense. The allegations of facts constituting the offense charged are substantial matters and the right of an accused to question her conviction based on facts not alleged in the information cannot be waived.

The Information charging petitioner with conspiracy to commit illegal drug trading, or violation of Section 5, in relation to Section 3 (jj), Section 26(b) and Section 28 of R.A. No. 9165, reads:

> That within the period from November 2012 to March 2013, in the City of Muntinlupa, Philippines, and within

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> the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then an employee of the Department of Justice detailed to De Lima, all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading, in the following manner: De Lima and Ragos, with the use of their power, position, and authority, demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the senatorial bid of De Lima in the May 2016 election, by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from high profile inmates in the New Bilibid Prison.

In determining whether the afore-quoted acts or omiSSions constituting conspiracy to commit illegal drug trading are sufficiently alleged in the information, the respondent judge should carefully consider the definition of such crime under Section 5, in relation to Section 3(jj), Section 26(b) and Section 28 of R.A. No. 9165.

The crime of "illegal drug trading" is defined under Section 3(jj), while conspiracy to commit such crime is dealt with under Section 26(b):

> (jj) Trading. - Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.
>
> xxxx
>
> SECTION 26. Attempt or Conspiracy. - Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:
>
> xxxx
>
> (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;

Significant note must be taken of Section 5, R.A. No. 9165 because it provides for the penalties for the various offenses covered, including "conspiracy to commit illegal drug trading," and identifies the persons who may be held liable for such offenses.

> SECTION 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be Imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.
>
> The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

> If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.
>
> For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade, the maximum penalty shall be imposed in every case.
>
> If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.
>
> The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.
>
> The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.[35]

As can be gleaned from the foregoing proviSions, the following persons may be held liable of conspiracy to commit illegal drug trading under Section 5 of R.A. No. 9165, namely:

> 1. Pusher - defined under Section 3(ff) as any person who sells, trades, administers, dispenses or gives away to another, on any terms whatsoever, or distributes, dispatches in transit or transports dangerous drugs or who acts as a broker in any of such transaction, in violation of the law;
>
> 2. Organizer;
>
> 3. Manager;
>
> 4. Financier - defined under Section 3(q) as any person who pays for, raises or supplies money for, or underwrites any of the illegal activities prescribed under the law; and
>
> 5. Protector or coddler - defined under Section 3(ee) as any person who knowingly or willfully consents to the unlawful acts provided for in under the law and uses his/her influence, power or position in shielding, harboring, screening or facilitating the escape of any person who he/she knows, or has reasonable grounds to believe on or suspects, has violated the provisions of the law in order to prevent the arrest, prosecution and conviction of the violator.

Respondent judge would also do well to bear in mind that jurisdiction of a court over a criminal case is determined by the allegations of the complaint or information.[36] In resolving a motion to dismiss based on lack of jurisdiction, the general rule is that the facts contained in the complaint or information should be taken as they are, except where the Rules of Court allow the investigation of facts alleged in a motion to quash such as when the ground invoked is the extinction of criminal liability, prescriptions, double jeopardy, or insanity of the accused.[37] In these instances, it is incumbent upon the trial court to conduct a preliminary trial to determine the merit of the motion to dismiss.[38]

Considering that petitioner's arguments do not fall within any of the recognized exceptions, respondent judge should remember that in determining which court has jurisdiction over the offense charged, the battleground should be limited within the four comers of the information. This is consistent with the rule that the fundamental test in determining the sufficiency of the material averments in an information is whether or not the facts alleged therein, which are hypothetically admitted, would establish the essential elements of the crime defined by law.[39] Evidence aliunde or matters extrinsic to the information are not to be considered, and the defect in the

information, which is the basis of the motion to quash, must be evident on its face.[40]

Moreover, in resolving the issue of whether the information filed against petitioner is sufficient or defective, respondent judge should recall United States v. Ferrer[41] where the Court ruled that when the complaint describes two acts which combined constitute but one crime, the complaint is not necessarily defective. "If the two or more acts are so disconnected as to constitute two or more separate and distinct offenses or crimes, then it would not be error to charge each of said acts in different complaints; but where the acts are so related as to constitute, in fact, but one offense, then the complaint will not be defective if the crime is described by relating the two acts in the description of the one offense."[42]

Also on point is United States v. Cernias[43] where it was held that while it is true that each of those acts charged against the conspirators was itself a crime, the prosecutor in setting them out in the information did no more than to furnish the defendants with a bill of particulars of the facts which it intended to prove at the trial, not only as a basis upon which to found an inference of guilt of the crime of conspiracy but also as evidence of the extremely dangerous and wicked nature of that conspiracy.

In resolving the motion to quash, respondent judge should further be mindful of the following remedies under Sections 4, 5 and 6 of Rule 117 of the Rules of Court that the RTC may exercise with sound discretion as the court with exclusive original jurisdiction over drug cases:

> SEC. 4. Amendment of complaint or information. - If the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made.
>
> If it is based on the ground that the facts charged do not constitute an offense, the prosecution shall be given by the court an opportunity to correct the defect by amendment. The motion shall be granted if the prosecution fails to make the amendment, or the complaint or information still suffers from the same defect despite the amendment.
>
> SEC. 5. Effect of sustaining the motion to quash. - If the motion to quash is sustained, the court may order that another complaint or information be filed except as provided in section 6 of this Rule. If the order is made, the accused, if in custody, shall not be discharged unless admitted to bail. If no order is made or if having been made, no new information is filed within the time specified in the order or within such further time as the court may allow for good cause, the accused, if in custody, shall be discharged unless he is also in custody for another charge.
>
> SEC. 6. Order sustaining the motion to quash not a bar to another prosecution; exception. - An order sustaining the motion to quash is not a bar to another prosecution for the same offense unless the motion was based on the grounds specified in Section 3 (g) and (i) of this Rule.

All told, the Petition for Certiorari and Prohibition must be denied on the grounds of prematurity, forum shopping and for being improperly verified. Going over the records of Congressional deliberations due to the transcendental importance of the jurisdictional issue raised by petitioner, however, I found that the RTC, not the Sandiganbayan, has exclusive original jurisdiction over all drug cases even if they were committed by public officials or employees in relation to their office. There being no grave abuse of discretion committed by the respondent judge in issuing a warrant of arrest despite the pendency of petitioner's motion to quash, the Court should order the respondent judge to resolve the motion to quash the information, taking into account the definition of conspiracy to commit illegal drug trading, the principles in determining the sufficiency of an information, and the remedies relative to a motion to quash under Sections 4, 5 and 6, Rule 117 of the Rules of Court.

WHEREFORE, I vote to DENY the Petition for Certiorari and Prohibition.

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[1] TSN, Oral Arguments - En Banc, G.R. No. 229781, Tuesday, March 14, 2017, pp. 64-74.

[2] 764 Phil. 456, 465-467 (2015).

[3] Bandillon v. La Filipina Uygongco Corporation, G.R. No. 202446, September 16, 2015, 770 SCRA 624, 649.

[4] 751 Phil. 821 (2015).

[5] Id.

[6] TSN, Oral Arguments - En Banc, G.R. No. 229781, Tuesday, March 21, 2017. (Emphasis added)

[7] 751 Phil. 301, 330 (2015).

[8] Diocese of Bacolod v. Commission on Elections, supra, at 331-335.

[9] Republic v. Bantigue Point Development Corporation, 684 Phil. 192, 199 (2012).

[10] Tumpag Jr. v. Tumpag, 744 Phil. 423, 433 (2014).

[11] http://sb.judiciary.gov.ph/statistics_report.html. Last visited on July 3, 2017.

[12] Black's Law Dictionary, Fifth Edition (1979).

[13] 604 Phil. 317, 330-332 (2009). (Emphasis added; citations omitted)

[14] 478 Phil. 784, 794 (2004).

[15] Emphasis added and citations omitted.

[16] 347 Phil. 493, 506-507 (1997). (Emphasis ours)

[17] Emphases added.

[18] Supra.

[19] Emphasis added.

[20] JOURNAL NO. 72, Wednesday and Thursday, March 6 and 7, 2002, 12[th] Regular Congress, 1[st] Session. http://www.congress.gov.ph/legisdocs/printjournal.php?congnum=12&id=104, last visited July 10, 2017.

[21] Bicameral Conference Committee on the Disagreeing Provisions of Senate Bill No. 1858 and House Bill No. 4433 (Comprehensive Dangerous Drugs Act of 2002), April 29, 2002. (Emphasis supplied)

[22] In Re: Partial Report on the Results of the Judicial Audit Conducted in the MTCC, Br. 1, Cebu City, 567 Phil. 103 (2009).

[23] Sec. 5. When warrant of arrest may issue. - (a) By the Regional Trial Court. - Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused

has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 7 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information.

[24] Sec. 9. Failure to move to quash or to allege any ground therefor. - The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g) and (i) of section 3 of this Rule.

[25] Sec. 5. When warrant of arrest may issue. - (a) By the regional Trial Court. - Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by a judge who conducted the preliminary investigation or when the complaint of information was filed pursuant to Section 6 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information. (Emphasis added)

[26] 302 Phil. 213, 233 (1994).

[27] 249 Phil. 394 (1988).

[28] Soliven v. Judge Makasiar, supra, at 399-400.

[29] Allado v. Judge Diokno, supra note 26, at 234.

[30] Id. at 234-235, citing Lim v. Felix, 272 Phil. 122 (1991).

[31] Rule 131, Section 3 (m) and (n).

[32] Navaja v. Hon. De Castro, 761 Phil. 142, 155 (2015).

[33] Ocampo v. Abando, 726 Phil. 441, 465 (2014).

[34] G.R. No. 214497, April 18, 2017.

[35] Emphasis added.

[36] Macasaet v. People of the Philippines, 492 Phil. 355, 373 (2005)

[37] Id.

[38] Id.

[39] People v. Odtuhan, 714 Phil. 349, 356 (2013).

[40] Id.

[41] 34 Phil. 277 (1916).

[42] United States v. Ferrer, supra, at 279.

[43] 10 Phil. 682, 690 (1908), cited in People v. Camerino, et al., 108 Phil. 79, 83 (1960).

SEPARATE CONCURRING OPINION

DEL CASTILLO, J.:

On February 17, 2017, an Information was filed against petitioner Senator Leila M. De Lima before the Regional Trial Court (RTC) of Muntinlupa City which reads:

> INFORMATION
>
> The undersigned Prosecutors, constituted as a Panel pursuant to Department Orders 706 and 790 dated October 14, 2016 and November 11, 2016, respectively, accuse LEILA M. DE LIMA, RAFAEL MARCOS Z. RAGOS and RONNIE PALISOC DAYAN, for violation of Section 5, in relation to Section 3(jj), Section 26(b) and Section 28, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, committed as follows:
>
> That within the period from November 2012 to March 2013, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then an employee of the Department of Justice detailed to De Lima, all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading, in the following manner: De Lima and Ragos, with the use of their power, position, and authority, demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison.
>
> **CONTRARY TO LAW.**

Docketed as Criminal Case No. 17-165, the case was raffled off to Branch 204 presided over by respondent Judge Juanita Guerrero. On February 23, 2017, the RTC issued an Order finding probable cause for the issuance of warrant of arrest against all the accused including petitioner. On even date, a warrant of arrest was issued. On February 24, 2017, the RTC issued an Order directing the commitment of petitioner at the PNP Custodial Center.

Aggrieved by the foregoing issuances, and by the RTC's alleged failure or refusal to act on her motion to quash Information whereby petitioner questions the jurisdiction of the RTC, petitioner instituted the instant Petition for Certiorari and Prohibition directly before this Court.

The issue that now confronts the Court is whether the RTC has jurisdiction over Crim. Case No. 17-165.

An examination of the Information reveals that petitioner was charged with violation of Section 5, in relation to

Section 3(jj), Section 26(b) and Section 28, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

Section 5 refers to x x x trading x x x of dangerous drugs x x x. Here, the Information specifically alleged petitioner of having engaged in trading and trafficking of dangerous drugs.

Meanwhile, Section 3(jj) defines trading as transactions involving illegal trafficking of dangerous drugs x x x using electronic devices x x x. Again, the subject Information specifically alleged that petitioner and co-accused used mobile phones and other electronic devices in trading and drug trafficking.

On the other hand, Section 26(b) punishes "attempt or conspiracy" to trade illegal drugs. The Information specifically stated that petitioner conspired with Dayan and Ragos in trading in illegal drugs.

And lastly, Section 28 provides for the imposition of the maximum penalties if those found guilty are government officials and employees.

It is clear from the foregoing allegations that petitioner is being charged with conspiring to engage in trading of illegal drugs, a case that is cognizable by and within the jurisdiction of the RTC.

The mention in the Information of the phrases "taking advantage of public office" and "with the use of their power, position, and authority", vis-a-vis the rest of the allegations in the Information, does not wrest from the RTC its jurisdiction over the case. To my mind, said phrases were mentioned specifically to highlight the fact that some of the personalities involved are public officials, in view of the fact that Section 28 of RA 9165 specifically deals with the "criminal liability of government officials and employees" and provides for the imposition of the maximum penalties if the violators were government officials and employees. By their being government officials and employees, their liability is aggravated and would necessitate the imposition of the maximum penalty, pursuant to Section 28.

It could therefore be construed that said phrases were mentioned in the Information precisely in view of Section 28.

Similarly, the mention of the phrases "offense in connection with official duties" in Section 3, RA 3019, and "in relation to office" in Section 4(sub- paragraph b) of RA 8249 (An Act Further Amending the Jurisdiction of the Sandiganbayan) would not wrest from the RTC its jurisdiction over the case. As held in Barriga v. Sandiganbayan:[1]

> x x x There are two classes of public office-related crimes under subparagraph (b) of Section 4 of Rep. Act No. 8249: first, those crimes or felonies in which the public office is a constituent element as defined by statute and the relation between the crime and the offense is such that, in a legal sense, the offense committed cannot exist without the office; second, such offenses or felonies which are intimately connected with the public office and are perpetrated by the public officer or employee while in the performance of his official functions, through improper or irregular conduct.

It is my opinion that that the offense with which petitioner was charged, that is, trading and trafficking of illegal drugs in conspiracy with her co-accused, can exist whether she holds public office or not, and regardless of the public position she holds, for the reason that public office is not a constituent element of the crime; otherwise stated, the offense of trading and trafficking of illegal drugs can exist independently of petitioner's public office. Moreover, the offense of trading in illegal drugs could not be said to be intimately connected to petitioner's office or that the same was done in the performance of her official functions.

The mere fact that the salary grade corresponding to the position of a Secretary of Justice is within the ambit of

the Sandiganbayan jurisdiction does not necessarily mean that said court should take cognizance of the case. It must be stressed that it is not the salary grade that determines which court should hear or has jurisdiction over the case; it is the nature thereof and the allegations in the Information. RA 9165 specifically vested with the RTC the jurisdiction over illegal drugs cases. On the other hand, the Sandiganbayan was specially constituted as the anti-graft court. And since petitioner is being charged with conspiring in trading of illegal drugs, and not with any offense involving graft, it is crystal clear that it is the RTC which has jurisdiction over the matter as well as over the person of the petitioner.

Incidentally, it must be mentioned at this juncture that in the case of People v. Morilla[2] decided by the Court on February 5, 2014, a case involving transportation of illegal drugs by a town mayor, the same was heard by the RTC although his salary grade was within the ambit of the Sandiganbayan.

Finally, the Petition for Certiorari and Prohibition suffers from several infirmities.

First, petitioner has several available remedies to take before resort is made to this Court. As enumerated in the Separate Concurring Opinion of Justice Peralta, the following options were available to petitioner: "1) filing of counter- affidavit with an alternative prayer for referral of the case to the Ombudsman; 2) filing a motion for re-investigation before the information is filed in court; 3) filing of a motion for leave of court to file a motion for re-investigation if an information has been filed; 4) filing of a motion for judicial determination of probable cause; 5) motion for bill of particulars; and 6) motion to quash warrant of arrest."[3] Unfortunately, petitioner did not opt to avail of any of these remedies before bringing her suit to the Court of last resort. Petitioner's claim, that it was pointless for her to avail of any of these remedies, not only lacks basis but also strikes at the very core of our judicial system. Rules are basically promulgated for the orderly administration of justice. The remedies chosen by the parties must be in accordance with the established rules and should not depend on their whims.

Second, petitioner is guilty of forum shopping; the petition suffers from prematurity. The instant Petition was filed before this Court despite the pendency of the motion to quash before respondent Judge. Suffice it to say that between the motion to quash and the instant Petition, there is identity of parties; the prayers in the two suits are similar; and the resolution of one will result in res judicata to the other.

Third, the Petition suffers from defective verification, a ground for outright dismissal pursuant to Rule 7 of the Rules of Court.

ACCORDINGLY, I vote to DISMISS the Petition.

---

[1] 496 Phil. 764, 773 (2005).

[2] 726 Phil. 244 (2014).

[3] Separate and Concurring Opinion of J. Peralta, p. 2.

SEPARATE CONCURRING and DISSENTING OPINION

PERLAS-BERNABE, J.:

I.

Petitioner Leila M. De Lima (petitioner) is charged as a conspirator for the crime of Illegal Drug Trading, defined and penalized under Section 5 in relation to Section 3 (jj), Section 26 (b), and Section 28 of Republic Act No.

(RA) 9165.[1] This much is clear from the caption, the prefatory, and accusatory portions of the Information,[2] which read:

> PEOPLE OF THE PHILIPPINES, Criminal Case No. 17-165
>
> Plaintiff,
>
> (NPS No. XVI-INV-16J-00315 and NPS No. XVI-INV-16K-00336)
>
> versus
>
> For:Violation of the Comprehensive Dangerous Drugs Act of 2002, Section 5 in relation to Section 3(jj), Section 26(b),and Section 28, Republic Act No. 9165 (Illegal Drug Trading)
>
> LEILA M. DE LIMA
>
> xxx
>
> Accused.
>
> x
> ----------
> ---------- x
>
> INFORMATION
> The undersigned Prosecutors, constituted as a Panel pursuant to Department Orders 706 and 790 dated October 14, 2016 and November 11, 2016, respectively, [accused] LEILA M. DE LIMA, RAFAEL MARCOS Z. RAGOS and RONNIE PALISOC DAYAN, for violation of Section 5, in relation to Section 3(jj), Section 26(b) and Section 28, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, committed as follows:
> That within the period from November 2012 to March 2013, in the City ofMuntinlupa, Philippines, and within the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then an employee of the Department of Justice detailed to De Lima, all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading, in the following manner: De Lima and Ragos, with the use of their power, position and authority, demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the Senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison.[3] (Emphases and underscoring supplied)

Illegal Drug Trading is penalized under Section 5, Article II of RA 9165, which reads in part:

> Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous

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> drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions. (Emphases and underscoring supplied)

Although the said crime is punished under the same statutory provision together with the more commonly known crime of Illegal Sale of Dangerous Drugs, it is incorrect to suppose that their elements are the same. This is because the concept of "trading" is considered by the same statute as a distinct act from "selling." Section 3 (jj), Article I of RA 9165 defines "trading" as:

> (jj)
>
> Trading. - Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act. (Emphases supplied)

Based on its textual definition, it may be gleaned that "trading" may be considered either as (1) an act of engaging in a transaction involving illegal trafficking of dangerous drugs using electronic devices; or (2) acting as a broker in any of said transactions.

> "Illegal trafficking" is defined under Section 3 (r), Article I as:
>
> (r)
>
> Illegal Trafficking. - The illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of any dangerous drug and/or controlled precursor and essential chemical.

Accordingly, it is much broader than the act of "selling," which is defined under Section 3 (ii), Article I as:

> (ii)
>
> Sell. - Any act of giving away any dangerous drug and/or controlled precursor and essential chemical whether for money or any other consideration.

However, in order to be considered as a form of trading under the first act, it is essential that the mode of illegal trafficking must be done through the use of an electronic device.

Meanwhile, in its second sense, trading is considered as the act of brokering transactions involving illegal trafficking. According to case law:

> A broker is generally defined as one who is engaged, for others, on a commission, negotiating contracts relative to property with the custody of which he has no concern; the negotiator between other parties, never acting in his own name, but in the name of those who employed him; he is strictly a middleman and for some purposes the agent of both parties. A broker is one whose occupation it is to bring parties together to bargain or to bargain for them, in matters of trade, commerce or navigation. Judge Storey, in his work on Agency, defines a broker as an agent employed to make bargains and contracts between other persons, in matters of trade, commerce or navigation for a compensation commonly called brokerage.[4] (Emphasis and underscoring supplied)

Essentially, a broker is a middleman whose occupation is to only bring parties together to bargain or bargain for them in matters of trade or commerce. He negotiates contracts relative to property with the custody of which he has no concern. In this sense, the act of brokering is therefore clearly separate and distinct from the transaction being brokered. As such, it may be concluded that brokering is already extant regardless of the perfection or

consummation of the ensuing transaction between the parties put together by the broker.

As applied to this case, it is then my view that when a person brings parties together in transactions involving the various modes of illegal trafficking, then he or she may already be considered to be engaged in Illegal Drug Trading per Section 3 (jj), Article I of RA 9165. In this regard, he or she need not be a party to the brokered transaction.

In the Joint Resolution[5] dated February 14, 2017 of the Department of Justice (DOJ) Panel of Prosecutors (DOJ Resolution), the prosecution resonated the foregoing, to wit:

> In our criminal justice system, jurisprudence is replete with cases involving illegal possession and selling of prohibited drugs where the accused are caught in flagrante delicto during buy bust or entrapment operations.
>
> That is not so, however, in the instant cases of illicit drug trade where the foundation or substance of the crime was clearly established by clear and unequivocal testimonies of inmates who admitted that they took part in the illicit activities, instead of the usual buy bust or entrapment operations.
>
> These testimonies point to the fact that orders for drugs were transacted inside NBP while deliveries and payments were done outside. These transactions were done with the use of electronic devices. This is typical of drug trading as distinguished from illegal possession or sale of drugs.
>
> At any rate, the recovery of several sachets of shabu from the kubols of Peter Co, Joio Baligad and Clarence Dongail during the raid on 15 December 2014, strongly suggests the existence of the objects of drug trading. These drugs as well as the sums of money and cellular phones confiscated from inmates are pieces of evidence that would prove that illegal transactions involving shabu through the use of mobile phones were consummated.[6]

As will be elaborated upon below, the Information reflects the charge of Illegal Drug Trading in the sense that it pins against herein petitioner (acting in conspiracy with her other co-accused, Rafael Marcos Z. Ragos and Ronnie Palisoc Dayan) her failure to exercise her duties as DOJ Secretary, which failure effectively allowed the illegal drug trade to exist in the National Bilibid Prison (NBP). Although petitioner was not alleged to have directly engaged as a broker for the sale, distribution or delivery of dangerous drugs, the prosecution basically theorizes that her knowledge of the existence of such scheme, and her failure to quell the same under her watch make her a co-conspirator in the crime of Illegal Drug Trading. In this relation, it is relevant to state that:

> It is common design which is the essence of conspiracy conspirators may act separately or together in different manners but always leading to the same unlawful result. The character and effect of conspiracy are not to be adjudged by dismembering it and viewing its separate parts but only by looking at it as a whole - acts done to give effect to conspiracy may be, in fact, wholly innocent acts.[7]

Ultimately, it is incumbent upon the prosecution to present evidence to prove that their allegations against petitioner make her part of the conspiracy. As to what evidence will be adduced by the prosecution to this end is not yet relevant at this stage of the proceedings. Providing the details of the conspiracy - take for instance, what drugs were the objects of the trade inside the NBP is clearly a matter of evidence to be presented at the trial. Therefore, the Information's absence of such detail does not negate the charge as one for Illegal Drug Trading.

In addition, it should be pointed out that all the incidents leading to the filing of the foregoing Information consistently revolved around the crime of Illegal Drug Trading: the complaints[8] (except that filed by Jaybee Sebastian [Sebastian]), the conduct of preliminary investigation,[9] and the DOJ Resolution against petitioner all pertain to the same crime. Accordingly, the DOJ, in the exercise of its prosecutorial function as an agency of the executive department, found probable cause and thus, decided to file the case before the Regional Trial Court (RTC) for the crime of Illegal Drug Trading. The discretion of what crime to charge a particular accused is a

matter that is generally within the prerogative of the Executive Department, which this Court should not unduly interfere with. Jurisprudence states that:

> The prosecution of crimes pertains to the Executive Department of the Government whose principal power and responsibility are to see to it that our laws are faithfully executed. A necessary component of the power to execute our laws is the right to prosecute their violators. The right to prosecute vests the public prosecutors with a wide range of discretion - the discretion of what and whom to charge, the exercise of which depends on a smorgasbord of factors that are best appreciated by the public prosecutors. The public prosecutors are solely responsible for the determination of the amount of evidence sufficient to establish probable cause to justify the filing of appropriate criminal charges against a respondent. Theirs is also the quasi-judicial discretion to determine whether or not criminal cases should be filed in court.
>
> Consistent with the principle of separation of powers enshrined in the Constitution, the Court deems it a sound judicial policy not to interfere in the conduct of preliminary investigations, and to allow the Executive Department, through the Department of Justice, exclusively to determine what constitutes sufficient evidence to establish probable cause for the prosecution of supposed offenders.[10] (Emphases and underscoring supplied)

In light of the foregoing, it cannot therefore be said that petitioner was charged for a different crime, such as of Direct Bribery under Article 210 of the Revised Penal Code (RPC) although - as the Office of the Solicitor General (OSG) itself admits - "some of the elements of direct bribery may be present in the Information, i.e., the accused are public officers and received drug money from the high-profile inmates."[11] Verily, the charge of Illegal Drug Trading is not only apparent from the language of the Information vis-a-vis the nature of the crime based on its statutory definition; it may also be deduced from the surrounding circumstances for which probable cause was found against the accused. As above-mentioned, the choice of what to charge a particular accused is the prerogative of the Executive, to which this Court must generally defer.

The peculiarity, however, in the foregoing Information is that while petitioner stands accused of the crime of Illegal Drug Trading, she is alleged to have committed the same "in relation to her office." As will be discussed below, because of this attending peculiarity, the case against petitioner falls within the jurisdiction of the Sandiganbayan and not the RTC, which is where the case was filed. Since the RTC has no jurisdiction over the subject matter, the case against petitioner, therefore, should be dismissed.

II.

On its face, the Information states that petitioner, "being then the Secretary of the Department of Justice," "by taking advantage of [her] public office," "did then and there commit illegal drug trading, in the following manner: De Lima and Ragos, with the use of their power, position and authority, demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the Senatorial bid of De Lima in the May 2016 [E]lection; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million [(P]5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison."[12] Based on these allegations, the crux of the Information is therefore petitioner's utilization of her Office to commit the subject crime vis-a-vis her failure to perform her official duties as DOJ Secretary to regulate the illegal activities within the NBP, which effectively paved the way for the said drug scheme to prosper without restriction. This is consistent with and more particularized in the DOJ Resolution, from which the present Information arose.

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In the DOJ Resolution, petitioner is alleged to have demanded various amounts of money (which includes weekly/monthly tara)[13] from high-profile inmates (among others, Sebastian, Wu Tuan Yuan a.ka. Peter Co, and Hans Anton Tan)[14] in the NBP in exchange for protections and/or special concessions (among others, feigning ignorance about the kubols, the transfer of the Bilibid 19 to the National Bureau of Investigation (NBI) which helped Sebastian centralize the drug trade in the NBP, the bringing in of liquors and other prohibited items in the NBP, the use of Bilibid TV Channel 3 as Sebastian's office).[15] These protections and/or special concessions are intimately related to petitioner's office as she had no power or authority to provide the same were it not for her functions as DOJ Secretary. Under Section 8[16] of RA 10575,[17] the DOJ of which petitioner was the head of[18] - shall exercise administrative supervisiOn over the Bureau of Corrections (BuCor). For its part, the BuCor "shall be in charge of safekeeping and instituting reformation programs to national inmates sentenced to more than three (3) years."[19] Thus, being the head of the DOJ the government agency exercising administrative supervision over the BuCor which is, in turn, in charge of the NBP - petitioner allegedly refused to properly exercise her functions to accommodate the various illicit activities in the NBP in exchange for monetary considerations and in ultimate fruition of the drug trade.

Case law holds that "as long as the offense charged in the information is intimately connected with the office and is alleged to have been perpetrated while the accused was in the performance, though improper or irregular, of his official functions, there being no personal motive to commit the crime and had the accused would not have committed it had he not held the aforesaid office, the accused is held to have been indicted for 'an offense committed in relation' to his office."[20]

In Crisostomo v. Sandiganbayan[21] (Crisostomo), this Court illumined that "a public officer commits an offense in relation to his office if he perpetrates the offense while performing, though in an improper or irregular manner, his official functions and he cannot commit the offense without holding his public office. In such a case, there is an intimate connection between the offense and the office of the accused. If the information alleges the close connection between the offense charged and the office of the accused, the case falls within the jurisdiction of the Sandiganbayan."[22]

III.

Presidential Decree No. (PD) 1606,[23] as amended,[24] states:

> Section 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
>
> a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
>
> (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:
>
> (a) Provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other provincial department heads:
>
> (b) City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads;
>
> (c) Officials of the diplomatic service occupying the position of consul and higher;

(d) Philippine army and air force colonels, naval captains, and all officers of higher rank;

(e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent and higher;

(f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;

(g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations.

(2) Members of Congress and officials thereof classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989;

(3) Members of the judiciary without prejudice to the provisions of the Constitution;

(4) Chairmen and members of the Constitutional Commissions, without prejudice to the provisions of the Constitution; and

(5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a. of this section in relation to their office.

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

x x x x (Emphases and underscoring supplied)

"The above law is clear as to the composition of the original jurisdiction of the Sandiganbayan. Under Section 4 (a), the following offenses are specifically enumerated: violations of R.A. No. 3019, as amended, R.A. No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code. In order for the Sandiganbayan to acquire jurisdiction over the said offenses, the latter must be committed by, among others, officials of the executive branch occupying positions of regional director and higher, otherwise classified as Grade 27 and higher, of the Compensation and Position Classification Act of 1989. However, the law is not devoid of exceptions. Those that are classified as Grade 26 and below may still fall within the jurisdiction of the Sandiganbayan provided that they hold the positions thus enumerated by the same law. x x x In connection therewith, Section 4 (b) of the same law provides that other offenses or felonies committed by public officials and employees mentioned in subsection (a) in relation to their office also fall under the jurisdiction of the Sandiganbayan."[25]

In People v. Sandiganbayan,[26] this Court distinguished that "[i]n the offenses involved in Section 4 (a), it is not disputed that public office is essential as an element of the said offenses themselves, while in those offenses and felonies involved in Section 4 (b), it is enough that the said offenses and felonies were committed in relation to the public officials or employees' office."[27] Hence, it is not necessary for public office to be a constituent element of a particular offense for the case to fall within the jurisdiction of the Sandiganbayan, for as long as an intimate connection exists between the said offense and the accused's public office.

This Court's disquisition in the case of Crisostomo is highly instructive on this matter:

> Indeed, murder and homicide will never be the main function of any public office. No public office will ever be a constituent element of murder. When then would murder or homicide, committed by a public officer, fall within the exclusive and original jurisdiction of the Sandiganbayan? People v. Montejo provides the answer. The Court explained that a public officer commits an offense in relation to his office if he perpetrates the

> offense while performing, though in an improper or irregular manner, his official functions and he cannot commit the offense without holding his public office. In such a case, there is an intimate connection between the offense and the office of the accused. If the information alleges the close connection between the offense charged and the office of the accused, the case falls within the jurisdiction of the Sandiganbayan. People v. Montejo is an exception that Sanchez v. Demetriou recognized.[28]

"Thus, the jurisdiction of the Sandiganbayan over this case will stand or fall on this test: Does the Information allege a close or intimate connection between the offense charged and [the accused]'s public office?"[29]

The Information against petitioner clearly passes this test. For indeed, it cannot be denied that petitioner could not have committed the offense of Illegal Drug Trading as charged without her holding her office as DOJ Secretary. Her alleged complicity in the entire drug conspiracy hinges on no other than her supposed authority to provide high-profile inmates in the NBP protections and/or special concessions which enabled them to carry out illegal drug trading inside the national penitentiary. As the OSG itself acknowledges, "during her tenure as Secretary of Justice, [petitioner] allowed the drug trade to fester and flourish inside the walls of the Bilibid so she can profit from the illicit commerce and finance her political aspirations."[30] The OSG even labels petitioner's participation as a form of "indispensable cooperation," without which the "inmates could not have plied their nefarious trade:"

> [Petitioner], Ragos, Dayan, petitioner's admitted lover, confabulated with the high-profile inmates of the national penitentiary to commit illegal drug trading through the use of mobile phones and other electronic devices. These inmates could not have plied their nefarious trade without the indispensable cooperation of [petitioner] and her DOJ factotums.[31]

Tested against the standards set by jurisprudence, petitioner evidently stands charged of an offense which she allegedly committed in relation to her office. Contrary to the OSG's assertions, this conclusion is not merely derived from the generic phrases "as Secretary of Justice" or "taking advantage of their public office,"[32] but rather, from the Information read as a whole, the overall context of the determination of the probable cause against her, and even the OSG's own characterization of petitioner's role in the entire conspiracy.

IV.

At this juncture, it deserves pointing out that under the most recent amendment to PD 1606, it is not enough that the accused, who should occupy any of the public positions specified therein, be charged of an offense either under Section 4 (a) or (b) of the same for the case to fall under the Sandiganbayan's jurisdiction. Under RA 10660, entitled "An Act Strengthening Further the Functional and Structural Organization of the Sandiganbayan, Further Amending Presidential Decree No. 1606, as amended, and Appropriating Funds Therefor," approved on April 16, 2015, the Sandiganbayan's special jurisdiction has now been limited to cases which (a) involve damage to the government and/or (b) allege any bribery,[33] and in both cases, should involve an amount of not less than P1,000,000.00. If any of these conditions are not satisfied, then the case should now fall under the jurisdiction over the proper RTCs. The limiting proviso reads:

> Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).[34] (Emphasis supplied)

The intent behind this provision, i.e., to streamline the anti-graft court's jurisdiction by making it concentrate on the "most significant cases filed against public officials," can be gleaned from the co-sponsorship speech of Senator Franklin Drilon during the deliberations of RA 10660:

> The second modification under the bill involves the streamlining of the anti-graft court's jurisdiction, which

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> will enable the Sandiganbayan to concentrate its resources in resolving the most significant cases filed against public official. The bill seeks to amend Section 4 of the law by transferring jurisdiction over cases which are classified as "minor" to the regional trial courts, which have sufficient capability and competence to handle these cases. Under this measure, the so-called "minor cases," although not really minor, shall pertain to those where the information does not allege any damage or bribe; those that allege damage or bribe that are unquantifiable; or those that allege damage or bribe arising from the same or closely related transactions or acts not exceeding One Million Pesos. As of the last quarter of 2013, about 60% of the cases before the Sandiganbayan constitute what we call "minor cases." With this amendment, such court will be empowered to focus on the most notorious cases and will be able to render judgment in a matter of months.[35] (Emphases supplied)

Thus, as it now stands, an Information against a particular accused should not merely charge him or her of an offense in relation to his or her office, but moreover, should show that the offense involves some damage to the government or any bribe in an amount not less than P1,000,000.00 so as to place the case within the jurisdiction of the Sandiganbayan. Otherwise, the case falls within the jurisdiction of the proper RTCs.

Relatedly, the damage to the government and/or bribe should be "quantifiable." This was not only the Congressional intent as revealed in the deliberations, but this interpretation also logically squares with the P1,000,000.00 monetary threshold. Hence, an allegation of non-pecuniary damage, such as the besmirchment of the public servtce, would not be enough to satisfy the condition.

While this amendment would have clearly applied to petitioner's case (as explained in the note below[36], Section 5 of RA 10660 qualifies that the same shall apply to "cases arising from offenses committed after the effectivity of this Act." Given that the Information situates the alleged crime "within the period from November 2012 to March 2013,"[37] Section 4 of PD 1606, as amended by RA 8249, prior to its amendment by RA 10660, should apply.

V.

It is the position of the OSG that only the RTCs have jurisdiction over drug cases regardless of the position and circumstances of the accused public officer.[38] As basis, it mainly cites Sections 28 and 90 of RA 9165:

> Section 28. Criminal Liability of Government Officials and Employees. - The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees.
>
> Section 90. Jurisdiction. - The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.

Section 28, however, only provides for the penalties against a government official found guilty of the unlawful acts provided in RA 9165. As it only relates to the imposition of penalties, Section 28 has nothing to do with the authority of the courts to acquire jurisdiction over drugs cases. In fact - as it is the case here the Sandiganbayan has jurisdiction over cases involving violations of RA 9165, provided that they are committed in relation to the qualified official's public office. Only that if said public official is found guilty, the Sandiganbayan is mandated to impose the maximum penalties provided for in RA 9165, including the accessory penalty of absolute perpetual disqualification from any public office. Hence, Section 28 is only relevant on the matter of what penalty would be imposed, which comes only at the end of the proceedings after a proper determination of guilt, and not as to the matter of which court should acquire jurisdiction over the case.

More apt to the issue of jurisdiction, however, is Section 90 of RA 9165 as also cited by the OSG. Section 90 states that specially designated courts among the existing RTCs are empowered "to exclusively try and hear cases involving violations of this Act", i.e., RA 9165. Thus, as a general rule, these designated drug courts have exclusive jurisdiction to take cognizance of drugs cases.

The conferment of special jurisdiction to these drug courts should, however, yield when there is a more special provision of law that would apply to more peculiar situations. Our legal system subscribes to "[t]he principle of lex specialis derogat generali - general legislation must give way to special legislation on the same subject, and generally is so interpreted as to embrace only cases in which the special provisions are not applicable. In other words, where two statutes are of equal theoretical application to a particular case, the one specially designed therefor should prevail."[39]

In this case, it is my view that PD 1606, as amended, is the more special provision of law which should prevail over Section 90 of RA 9165. Petitioner's case does not only pertain to a regular violation of the Dangerous Drugs Act, which falls under the jurisdiction of the RTCs acting as special drugs courts. Rather, it is a dangerous drugs case that is alleged to have been particularly committed by a public official with a salary grade higher than 27, in relation to her office. This unique circumstance therefore relegates Section 90 as the general provision of law that should therefore give way to the application of Section 4 of PD 1606, as amended.

In fact, Section 4 (b) of PD 1606, as amended by RA 8249, is clear that all "offenses," apart from felonies, that are committed by public officials within the law's ambit fall under the exclusive jurisdiction of the Sandiganbayan:

> b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a. of this section in relation to their office. (Emphasis supplied)

Article 3 of the RPC states that "[a]cts and omissions punishable by law are felonies." "The phrase 'punished by law' should be understood to mean 'punished by the Revised Penal Code' and not by special law. That is to say, the term 'felony' means acts and omissions punished in the revised Penal Code, to distinguish it from the words 'crime' and 'offense' which are applied to infractions of the law punishable by special statutes."[40]

Thus, may it be for a felony under the RPC, or any other offense under any other special penal law - for instance, RA 9165 the Sandiganbayan has jurisdiction over the case for as long as the offense is committed by a public official under the limiting conditions set forth in Section 4 of PD 1606, as amended.

It should be remembered that the Sandiganbayan is a special court whose authority stems from no less than the Constitution's mandate to hold certain public officials accountable. To recount, "[t]he creation of the Sandiganbayan was mandated by Section 5, Article XIII of the 1973 Constitution. By virtue of the powers vested in him by the Constitution and pursuant to Proclamation No. 1081, dated September 21, 1972, former President Ferdinand E. Marcos issued [PD] 1486. The decree was later amended by [PD] 1606, Section 20 of Batas Pambansa Blg. [(BP)] 129, [PD] 1860, and [PD] 1861."[41] "It was promulgated to attain the highest norms of official conduct required of public officers and employees, based on the concept that public officers and employees shall serve with the highest degree of responsibility, integrity, loyaland efficiency and shall remain at all times accountable to the people."[42]

"With the advent of the 1987 Constitution, the special court was retained as provided for in Section 4, Article XI[43] thereof. Aside from Executive Order Nos. 14 and 14-a, and [RA] 7080, which expanded the jurisdiction of the Sandiganbayan, [PD] 1606 was further modified by [RA] 7975, [RA] 8249, and just [in 2015], [RA] 10660."[44] "To speed up trial in the Sandiganbayan, [RA] 7975 was enacted for that Court to concentrate on the 'larger fish' and leave the 'small fry' to the lower courts. x x x [Thus, it] divested the Sandiganbayan of jurisdiction over public officials whose salary grades were at Grade '26' or lower, devolving thereby these cases to the lower

courts, and retaining the jurisdiction of the Sandiganbayan only over public officials whose salary grades were at Grade '27' or higher and over other specific public officials holding important positions in government regardless of salary grade."[45]

Overall, it may be gathered from history that the overarching denominator which triggers the Sandiganbayan's specialized competence is the necessity to properly hold high officials in government accountable for their misdeeds. In fact, the Sandiganbayan's raison d'etre is none other than its authority to try and hear criminal cases against an exclusive set of public officials, for select acts that bear on their public office. This exclusivity, as impelled itself by Constitutional force, constitutes a greater specialty which demands sole cognizance by this special court. Hence, for as long as these public officials are charged for offenses in relation to their office, and provided that the limiting conditions of the current amendments are satisfied, these cases should be considered as special cases that fall under the jurisdiction over the Sandiganbayan, to the exclusion of other courts, including the RTCs designated as special drugs courts. The conferment of jurisdiction over these special cases to the Sandiganbayan is further amplified by the express exclusion of such cases from the jurisdiction of all RTCs. Section 20 of BP 129[46] clearly states:

> Section 20. Jurisdiction in criminal cases. - Regional Trial Courts shall exercise exclusive original jurisdiction in all criminal cases not within the exclusive jurisdiction of any court, tribunal or body, except those now falling under the exclusive and concurrent jurisdiction of the Sandiganbayan which shall hereafter be exclusively taken cognizance of by the latter. (Emphasis and underscoring supplied)

As a final point, allow me to express my reservations with the Court's ruling in People v. Benipayo,[47] wherein it was held that libel cases, although alleged to have been committed in relation to one's public office, should nonetheless fall within the jurisdiction of the RTCs, and not the Sandiganbayan. The Court, applying the implied repeal rule, reasoned in this wise:

> As we have constantly held in Jalandoni, Bocobo, People v. Metropolitan Trial Court of Quezon City, Br. 32, Manzano, and analogous cases, we must, in the same way, declare herein that the law, as it still stands at present, dictates that criminal and civil actions for damages in cases of written defamations shall be filed simultaneously or separately with the RTC to the exclusion of all other courts. A subsequent enactment of a law defining the jurisdiction of other courts cannot simply override, in the absence of an express repeal or modification, the specific provision in the RPC vesting in the RTC, as aforesaid, jurisdiction over defamations in writing or by similar means. The grant to the Sandiganbayan of jurisdiction over offenses committed in relation to (public) office, similar to the expansion of the jurisdiction of the MTCs, did not divest the RTC of its exclusive and original jurisdiction to try written defamation cases regardless of whether the offense is committed in relation to office. The broad and general phraseology of Section 4, Presidential Decree No. 1606, as amended by Republic Act No. 8249, cannot be construed to have impliedly repealed, or even simply modified, such exclusive and original jurisdiction of the RTC.[48]

In so ruling, the Court relied on past cases which consistently held that libel cases should fall under the jurisdiction of the RTC. However, as will be explicated below, it is my view that these cases are improper authorities to arrive at this conclusion.

To contextualize, the cases cited in Benipayo largely revolved around the seeming conflict between (a) the expanded jurisdiction of the Municipal Trial Courts (MTC) to try criminal cases within an increased range of penalties, of which that provided for libel would then fall; and (b) the jurisdiction of the RTCs over libel cases as provided under Article 360 RPC.[49] These cases are:

(1) In Jalandoni v. Endaya (Jalandoni),[50] the amendment to the Judiciary Act by RA 3828[51] was cited by therein respondent to support his argument that the MTC had jurisdiction:

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> [Respondent MTC Judge] did base his action on what for him was the consequence of the Judiciary Act as amended by Republic Act No. 3828, Section 87 of which would confer concurrent jurisdiction on municipal judges in the capital of provinces with the court of first instance where the penalty provided for by law does not exceed prision correccional or imprisonment for not more than six years or fine not exceeding six thousand pesos or both. Libel is one of those offenses included in such category. He would thus conclude that as the amendatory act came into effect on June 22, 1963, the provisions of Article 360 as last amended by Republic Act No. 1289 conferring exclusive jurisdiction on courts of first instance, was thus repealed by implication.[52] (Emphasis and underscoring supplied)

(2) In Bocobo v. Estanislao (Bocobo)[53] (which, in turn, cited the ruling in Jalandoni), therein respondents also invoked RA 3828 in a similar light:

> The further point was raised by respondents that under Republic Act No. 3828, concurrent jurisdiction was conferred on municipal judges in the capitals of provinces with a court of first instance, in which the penalty provided for by law does not exceed prision correccional or imprisonment for not more than six years or a fine of P6,000.00 or both, such fine or imprisonment being the penalty for libel by means of radio broadcast as provided under Article 355 of the Revised Penal Code. For then that would mean that there was an implied repeal of the earlier amendatory act, Republic Act No. 1289 vesting exclusive jurisdiction on courts of first instance. Such a point was raised and rejected in the Jalandoni opinion x x x.[54] (Emphasis and underscoring supplied)

(3) Later, in People v. MTC of Quezon City and Red (Red),[55] citing Caro v. Court of Appeals (Caro),[56] it was contended that RA 7691,[57] which similarly expanded the jurisdiction of the MTCs, divested the RTCs of their jurisdiction over libel cases. Notably, Caro also cited both the cases of Bocobo and Jalandoni:

> Anent the question of jurisdiction, [we find] no reversible error committed by public respondent Court of Appeals in denying petitioner's motion to dismiss for lack of jurisdiction. The [contention that] R.A. No. 7691 divested the Regional Trial Courts of jurisdiction to try libel cases cannot be sustained. While libel is punishable by imprisonment of six months and one day to four years and two months (Art. 360, Revised Penal Code) which imposable penalty is lodged within the Municipal Trial Courts' jurisdiction under R.A. No. 7691 (Sec. 32 [21]), said law, however, excludes [therefrom cases] falling within the exclusive original jurisdiction of the Regional Trial [Courts.] The Court in [Bocobo vs. Estanislao, and Jalandoni vs. Endaya,] correctly cited by the Court of Appeals, has laid down the rule that Regional Trial Courts have the exclusive jurisdiction over libel cases, hence, the expanded jurisdiction conferred by R.A. 7691 to inferior courts cannot be applied to libel cases.[58] (Emphases and underscoring supplied)

(4) And finally, in Manzano v. Hon. Valera[59] (Manzano), in turn, citing Red:

> The applicable law is still Article 360 of the Revised Penal Code, which categorically provides that jurisdiction over libel cases are lodged with the Courts of First Instance (now Regional Trial Courts).
>
> This Court already had the opportunity to rule on the matter in G.R. No. 123263, People vs. MTC of Quezon City, Branch 32 and Isah V. Red wherein a similar question of jurisdiction over libel was raised. In that case, the MTC judge opined that it was the first level courts which had jurisdiction due to the enactment of R.A. 7691.[60] (Emphasis and underscoring supplied)

In all of these cases, this Court essentially held that the provisions expanding the MTCs' jurisdiction, by virtue of a general increase of penalty range, could not have meant an implied repeal of Article 360 of the RPC, whose clear and categorical language should prevail over the latter. In fact, it was observed that RA 7691, invoked in Red, Caro, and Manzano, excluded from the MTCs' jurisdiction "cases falling within the exclusive original jurisdiction of Regional Trial Courts and of the Sandiganbayan."[61]

The foregoing factual milieu is clearly different from that in Benipayo. In those cases (Jalandoni, et al.), this Court was tasked to decide whether or not an expansion of jurisdiction would be enough to impliedly repeal a special provision of law specifically conferring jurisdiction over libel cases to the RTC. Such expansion of jurisdiction was merely a result of a general increase in penalty range, which did not, in any manner, take into account the peculiar nature of the case, or the need for special competence to try such case. In the end, it was not difficult to discern why the Court ruled that said special provision (i.e., Article 360 of the RPC) had not been impliedly repealed. On the contrary, the Court in Benipayo should have taken into account that the contending provision in Section 4, PD 1606, as amended by RA 8249, vests unto the Sandiganbayan an even more special jurisdiction over "other offenses or felonies [(such as libel)] whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection (a) of this section in relation to their office." This latter provision, in contrast to the jurisdictional provisions in Jalandoni, et al., does not merely connote a general increase in penalty range but rather, precisely takes into account the Sandiganbayan's distinct competence to hear a peculiar class of cases, i.e., felonies and offenses committed in relation to certain public offices. Accordingly, the Court, in Benipayo, should have addressed this substantial disparity, which, thus, renders suspect its application of the implied repeal rule.

In any event, it is my submission that Section 4 of PD 1606, as amended, did not impliedly repeal provisions specifically vesting unto the RTCs special jurisdiction over certain criminal cases. The rule on implied repeals, as articulated in Benipayo, is that:

> [F]or an implied repeal, a pre-condition must be found, that is, a substantial conflict should exist between the new and prior laws. Absent an express repeal, a subsequent law cannot be construed as repealing a prior one unless an irreconcilable inconsistency or repugnancy exists in the terms of the new and old laws. The two laws, in brief, must be absolutely incompatible.[62] (Emphases and underscoring supplied)

Here, Section 90 of RA 9165, (and even Article 360 on libel) is not absolutely repugnant or incompatible with Section 4 of PD 1606, as amended. The special jurisdiction of the RTCs over drugs and libel cases still remain. However, when these offenses fall under the more specific scenarios contemplated under Section 4 of PD 1606, as amended, then it is the Sandiganbayan which has jurisdiction over the case. In other words, if it is a normal drugs or libel case, which was not committed by any of the public officers mentioned in Section 4, PD 1606, in relation to their office, and (under RA 10660) that no damage to the government and/or bribery involving an amount of not less than P1,000,000.00 was alleged, then clearly the said case falls within the jurisdiction of the RTCs; otherwise, under these very limited conditions, then the case falls within the jurisdiction of the Sandiganbayan. Accordingly, the various provisions can be reconciled relative to the specificity of context, which means that there is really no implied repeal. Again, "[i]mplied repeal by irreconcilable inconsistency takes place when the two statutes [that] cover the same subject matter x x x are so clearly inconsistent and incompatible with each other that they cannot be reconciled or harmonized; and both cannot be given effect, that is, that one law cannot be enforced without nullifying the other."[63] As herein demonstrated, harmony can be achieved.

To my mind, this harmonization is, in fact, not only possible but is also reasonable. Cases that involve high-ranking public officials, who are alleged to have abused their public office, and in such manner, have caused substantial pecuniary damage to the government, may be considered as cases of greater public interest. Due to the heightened public interest attendant to these cases, it is therefore reasonable that the same be decided by a collegial body as compared to a singular judge of an RTC, which must not only function as a drugs court, but must also devote its attention to ordinary cases falling under its general jurisdiction. Jurisprudence exhibits that "[t]he Sandiganbayan, which functions in divisions of three Justices each, is a collegial body which arrives at its decisions only after deliberation, the exchange of view and ideas, and the concurrence of the required majority vote."[64] The collegiality between justices (who not to mention - hold the same rank as that of the justices of the

Court of Appeals[65]) is a key feature of adjudication in the Sandiganbayan that precisely meets the heightened public interest involved in cases cognizable by it. More significantly, as already intimated, the Sandiganbayan was created for one, sole objective: "to attain the highest norms of official conduct required of public officers and employees."[66] As such, no other court has undivided and exclusive competence to handle cases related to public office. Despite statistics[67] allegedly showing that no drug case has been yet filed before the Sandiganbayan,[68] its exclusive competence to deal with these special cases involving high-ranking public officials must prevail. These statistics only reflect matters of practice which surely cannot supplant statutory conferment.

Conclusion

In fine, for the reasons discussed above, petitioner's case falls within the jurisdiction of the Sandiganbayan. This finding therefore necessitates the dismissal of the case against her as it was erroneously filed with the RTC, which holds no jurisdiction over the same. It is well-settled that a court which has no jurisdiction over the subject matter has no choice but to dismiss the case. Also, whenever it becomes apparent to a reviewing court that jurisdiction over the subject matter is lacking, then it ought to dismiss the case, as all proceedings thereto are null and void. Case law states that:

> Jurisdiction over subject matter is essential in the sense that erroneous assumption thereof may put at naught whatever proceedings the court might have had. Hence, even on appeal, and even if the parties do not raise the issue of jurisdiction, the reviewing court is not precluded from ruling that it has no jurisdiction over the case. It is elementary that jurisdiction is vested by law and cannot be conferred or waived by the parties or even by the judge. It is also irrefutable that a court may at any stage of the proceedings dismiss the case for want of jurisdiction.[69]

With this fundamental lack of authority, it is unnecessary and, in fact, even inapt to resolve the other procedural issues raised herein.

WHEREFORE, I vote to GRANT the petition.

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[1] Entitled "AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, REPEALING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, As AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES" (June 7, 2002).

[2] Rollo, pp. 197-201.

[3] Id.; emphases and underscoring supplied.

[4] Schmid & Oberly, Inc. v. RJL Martinez Fishing Corp., 248 Phil. 727, 736 (1988), citations omitted.

[5] Rollo, pp. 203-254. Signed by Senior Assistant State Prosecutor Peter L. Ong, Senior Assistant City Prosecutors Alexander P. Ramos and Evangeline P. Viudez-Canobas, Assistant State Prosecutor Editha C. Fernandez, and Associate Prosecution Attorney Roxanne F. Cu and approved by Prosecutor General Victor C. Sepulveda.

[6] See DOJ Resolution, p. 39; emphases and underscoring supplied.

[7] Yongco v. People, 740 Phil. 322, 335 (2014).

[8] See NPS No. XVI-INV-16J-00313 filed by Volunteers Against Crime and Corruption, NPS No. XVI-INV-16J-00315 filed by Reynaldo O. Esmeralda and Ruel M. Lasala, and NPS No. XVI-INV-16K-00336 and NPS No. XVI-INV-16L-00384 filed by National Bureau of Investigation; DOJ Resolution, pp. 1-2 and 4-5.

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[9] See NPS No. XVI-INV-16K-00331; DOJ Resolution, pp. 1 and 4. See also rollo, pp. 339-340.

[10] Ampatuan, Jr. v. De Lima, 708 Phil. 158, 163 (2013).

[11] See OSG's Memorandum dated April 12, 2017, p. 61.

[12] Rollo, pp. 197-198; emphases and underscoring supplied.

[13] See DOJ Resolution; pp. 39-42.

[14] See id. at 8, 20-22, and 23-24.

[15] See id. at 15.

[16] Sec. 8. Supervision of the Bureau of Corrections. - The Department of Justice (DOJ), having the BuCor as a line bureau and a constituent unit, shall maintain a relationship of administrative supervision with the latter as defined under Section 38 (2), Chapter 7, Book IV of Executive Order No. 292 (Administrative Code of 1987), except that the DOJ shall retain authority over the power to review, reverse, revise or modify the decisions of the BuCor in the exercise of its regulatory or quasi-judicial functions.

[17] Entitled "AN ACT STRENGTHENING THE BUREAU OF CORRECTIONS (BUCOR) AND PROVIDING FUNDS THEREFOR," otherwise known as "THE BUREAU OF CORRECTIONS ACT OF 2013," approved on May 24, 2013.

[18] Section 7, Chapter 2, Book IV of the Administrative Code of 1987 state the powers and functions of a Department Secretary, among others:

> Sec. 7. Powers and Functions of the Secretary. - The Secretary shall:
>
> (1)
>
> Advise the President in issuing executive orders, regulations, proclamations and other issuances, the promulgation of which is expressly vested by law in the President relative to matters under the jurisdiction of the Department;
>
> (2)
>
> Establish the policies and standards for the operation of the Department pursuant to the approved programs of government;
>
> (3)
>
> Promulgate rules and regulations necessary to carry out department objectives, policies, functions, plans, programs and projects;
>
> (4)
>
> Promulgate administrative issuances necessary for the efficient administration of the offices under the Secretary and for proper execution of the laws relative thereto. These issuances shall not prescribe penalties for their violation, except when expressly authorized by law;

(5)

Exercise disciplinary powers over officers and employees under the Secretary in accordance with law, including their investigation and the designation of a committee or officer to conduct such investigation;

(6)

Appoint all officers and employees of the Department except those whose appointments are vested in the President or in some other appointing authority; Provided, However, that where the Department is regionalized on a department-wide basis, the Secretary shall appoint employees to positions in the second level in the regional offices as defined in this Code;

(7)

Exercise jurisdiction over all bureaus, offices, agencies and corporations under the Department as are provided by law, and in accordance with the applicable relationships as specified in Chapters 7, 8, and 9 of this Book;

(8)

Delegate authority to officers and employees under the Secretary's direction in accordance with this Code; and

(9)

Perform such other functions as may be provided by law.

[19] RA 10575, Section 4.

[20] Rodriguez v. Sandiganbayan, 468 Phil. 374, 387 (2004), citing People v. Montejo, 108 Phil. 613, 622 (1960); emphasis supplied.

[21] 495 Phil. 718 (2005).

[22] Id. at 729, citing People v. Montejo, supra note 20; emphases and underscoring supplied.

[23] Entitled "REVISING PRESIDENTIAL DECREE NO. 1486 CREATING A SPECIAL COURT TO BE KNOWN AS 'SANDIGANBAYAN' AND FOR OTHER PURPOSES" (December 10, 1978).

[24] Amended by RA 8249, entitled "AN ACT FURTHER DEFINING THE JURISDICTION OF THE SANDIGANBAYAN, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE No. 1606, As AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES" (February 5, 1997), and further amended by RA 10660 entitled "AN ACT STRENGTHENING FURTHER THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN, FURTHER AMENDING PRESIDENTIAL DECREE NO. 1606, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR," (April 16, 2015).

[25] People v. Sandiganbayan, 645 Phil. 53, 63-64 (2010); emphases and underscoring supplied.

[26] Id.

[27] Id. at 67; underscoring supplied.

[28] Crisostomo, supra note 21, at 729; citations omitted.

[29] Id.; emphasis and underscoring supplied.

[30] See OSG 's Comment with Opposition dated March 3, 2017, p. 2.

[31] See id. at 44.

[32] See id. at 40.

[33] Notably, the proviso makes it clear that an allegation of "any bribery" would suffice. The word "any" literally and ordinarily means "whichever of a specified class might be chosen" ([last visited October 10, 2017]). The word "any" is used to generally qualify the succeeding term "bribery," which means that the allegation of bribery spoken of in the proviso does not necessarily pertain to Direct Bribery or any of the forms of bribery as defined and penalized under the RPC (under Chapter II, Section 2, Title VII, Book II of the Revised Penal Code). Thus, "any bribery" as used in Section 4 of PD 1606, as amended by RA 10660, should then be read in its common and non-technical acceptation that is, any form of "corrupt payment, receipt, or solicitation of a private favor for official action." (Black's Law Dictionary, 8[th] Edition, p. 204).

[34] See Section 2 of RA 10660, amending Section 4 of PD 1606; emphasis supplied.

[35] Record of the Senate, Vol. I, No. 59, February 26, 2014, pp. 22-23; emphases and underscoring supplied.

[36] In this case, the Information against petitioner alleges that she had committed some form of bribery in an amount exceeding P1,000,000.00. On its face, the Information states that petitioner, together with her co-accused, "with the use of their power, position and authority, demand, solicit and extort money from the high profile inmates in the New Bilibid Prison" (see rollo, p. 198). As above-discussed, petitioner, in her capacity as DOJ Secretary, provided protections and/or special concessions to high-profile inmates, which paved the way for the illegal drug trade to flourish and fester inside the NBP. Petitioner, however, did not betray her official duties as DOJ Secretary for free, as she instead, demanded a price for her misfeasance. As the Information reads, in exchange for such protections and/or special concessions, high-profile inmates "g[a]ve and deliver[ed] to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million [(P]5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison" (id). These monetary considerations were intended "to support [her] Senatorial bid in the May 2016 [E]lection" (id.). The gravamen of bribery is basically, the demand of a public officer from another of money or any other form of consideration in exchange for the performance or non-performance of a certain act that is related to the public officer's official functions. Petitioner's acts of bribery are clearly attendant to the charge against her in the Information and, in fact, are more vivid when parsing through the DOJ Resolution.

[37] Id. at 197.

[38] See OSG's Comment with Opposition, p. 36.

[39] Jalosjos v. Commission on Elections, 711 Phil. 414, 431 (2013).

[40] Reyes, L. B., The Revised Penal Code, Eighteenth Edition, p. 36; emphasis supplied.

[41] Duncano v. Sandiganbayan, 764 Phil. 67, 72-73 (2015).

[42] Serana v. Sandiganbayan, 566 Phil. 224, 240 (2008); emphasis and underscoring supplied.

[43] Section 4. The present anti-graft court known as the Sandiganbayan shall continue to function and exercise

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its jurisdiction as now or hereafter may be provided by law.

[44] Duncano v. Sandiganbayan, supra note 41, at 73-74.

[45] Id. at 76-77, citing Record of the Senate, Vol. I, No. 24, September 25, 1996, p. 799.

[46] Entitled "AN ACT REORGANIZING THE JUDICIARY, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES," otherwise known as "THE JUDICIARY REORGANIZATION ACT OF 1980" (August 14, 1981). This provision was modified accordingly to reflect the amendment in Presidential Decree No. 1860, entitiled "AMENDING THE PERTINENT PROVISIONS OF PRESIDENTIAL DECREE NO. 1606 AND BATAS PAMBANSA BLG. 129 RELATIVE TO THE JURISDICTION OF THE SANDIGANBAYAN AND FOR OTHER PURPOSES"(January 14, 1983).

[47] 604 Phil. 317 (2009).

[48] Id. at 330-332; citations omitted.

[49] Article 360 of the RPC provides in part: "[t]he criminal and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately with the court of first instance of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense[.]"

[50] 154 Phil. 246 (1974).

[51] Entitled "AN ACT TO AMEND CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED TWO HUNDRED NINETY-SIX, OTHERWISE KNOWN AS 'THE JUDICIARY ACT OF 1948, AND FOR OTHER PURPOSES" (June 22, 1963).

[52] Jalandoni, supra note 50, at 250-251.

[53] 164 Phil. 516 (1976).

[54] Id. at 522.

[55] 333 Phil. 500 (1996).

[56] See Court's Resolution dated June 19, 1996 in G.R. No. 122126.

[57] Entitled "AN ACT EXPANDING THE JURISDICTION OF THE METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, AND MUNICIPAL CIRCUIT TRIAL COURTS, AMENDING FOR THE PURPOSE BATAS PAMBANSA, BLG. 129, OTHERWISE KNOWN AS THE 'JUDICIARY REORGANIZATION ACT OF 1980,'" approved on March 25, 1994.

[58] Red, supra note 55, at 505; citations omitted.

[59] 354 Phil. 66 (1998).

[60] Id. at 74.

[61] See Section 2, RA 7691.

[62] Benipayo, supra note 47, at 330.

[63] Mecano v. Commission on Audit, G.R. No. 103982, December 11, 1992, 216 SCRA 500, 506.

[64] Flores v. People, 705 Phil. 119 (2013).

[65] See Section 1 of PD 1606.

[66] See second Whereas clause of PD 1606.

[67] See Sandiganbayan's Statistics on Cases Filed, Pending and Disposed Of as of June 30, 2017 (last accessed on October 10, 2017).

[68] See Ponencia, p. 40.

[69] Andaya v. Abadia, G.R.No. 104033, December 27, 1993, 228 SCRA 705, 717.

DISSENTING OPINION

LEONEN, J.:

"For to be free is not merely to cast off one's chains, but to live in a way that respects and enhances the freedom of others."[1]

Nelson Mandela Prisoner of Conscience for 27 years Long Walk to Freedom

I dissent.

The majority's position may not have been surprising. Yet, it is deeply disturbing. With due respect, it unsettles established doctrine, misapplies unrelated canons, and most importantly, fails to render a good judgment: law deployed with sound reasons taking the full context of the case as presented.

Reading the law and the jurisprudence with care, it is the Sandiganbayan, not the respondent Regional Trial Court, that has jurisdiction over the offense as charged in the Information. The Information alleged acts of petitioner when she was Secretary of the Department of Justice. That the alleged acts were done during her tenure, facilitated by her office, and would not have been possible had it not been for her rank, is also clear in the information. The alleged cnme she had committed was in relation to her office.

The legislative grant of jurisdiction to the Sandiganbayan can be no clearer than how it is phrased in Section 4 of Presidential Decree 1606 as amended by Republic Act No. 8249[2]:

> Section 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
>
> ....
>
> b. Other offenses of felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of this section in relation to their office.[3]

Jurisdiction over crimes committed by a Secretary of Justice in relation to his or her office is explicit, unambiguous and specifically granted to the Sandiganbayan by law.

On the other hand, the majority relies upon ambiguous inferences from provisions which do not categorically grant jurisdiction over crimes committed by public officers in relation to their office. They rely on Section 90 of

Republic Act No. 9165,[4] which states:

> Section 90. Jurisdiction. - The Supreme Court shall designate special courts from among tlte existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.[5] (Emphasis supplied)

There is no express grant of jurisdiction over any case in Republic Act No. 9165. Section 90 only authorizes the Supreme Court to designate among Regional Trial Courts special courts for drug offenses. Section 90 has not authorized the Supreme Court to determine which Regional Trial Court will have jurisdiction because Article VIII, Section 2 of the Constitution assigns that power only to Congress.[6]

The general grant of jurisdiction for all crimes for Regional Trial Courts is in Batas Pambansa Blg. 129, Section 20, which provides:

> Section 20. Jurisdiction in criminal cases. - Regional Trial Courts shall exercise exclusive original jurisdiction in all criminal cases not within the exclusive jurisdiction of any court, tribunal or body, except those now falling under the exclusive and concurrent jurisdiction of the Sandiganbayan which shall hereafter be exclusively taken cognizance of by the latter. (Emphasis supplied)

A responsible reading of this general grant of criminal jurisdiction will readily reveal that the law qualifies and defers to the specific jurisdiction of the Sandiganbayan. Clearly, Regional Trial Courts have jurisdiction over drug-related offenses while the Sandiganbayan shall have jurisdiction over crimes committed by public officers in relation to their office even if these happen to be drug-related offenses.

Respondent Regional Trial Court could not have cured its lack of jurisdiction over the offense by issuing a warrant of arrest. Nor could it also not have been cured by an amendment of the Information. The Regional Trial Court could only have acted on the Motion to Quash and granted it. To cause the issuance of a warrant of arrest was unnecessary and clearly useless. Being unreasonable, it was arbitrary. Such arbitrariness can be addressed by this original Petition for Certiorari and Prohibition.

Even the issuance of the Warrant of Arrest was unconstitutional. Respondent Regional Trial Court Judge Juanita Guerrero did not conduct the required personal examination of the witnesses and other pieces of evidence against the accused to determine probable cause. She only examined the documents presented by the prosecution. Under the current state of our jurisprudence, this is not enough considering the following: (a) the crime charged was not clear, (b) the prosecution relied on convicted prisoners; and (c) the sworn statements of the convicted prisoners did not appear to harmonize with each other.

In the context of the facts of this case, the reliance of the respondent judge only on the documents presented by the prosecution falls short of the requirements of Article III, Section 1 of the Constitution,[7] Soliven v. Makasiar,[8] Lim v. Felix,[9] and People v. Ho[10] among others. Having failed to determine probable cause as required by the Constitution, her issuance of the warrant of arrest was likewise arbitrary.

Therefore, the Petition should be granted.

I

The Regional Trial Court does not have jurisdiction over the offense charged.

Jurisdiction in a criminal case is acquired over the subject matter of the offense, which should be committed within the assigned territorial competence of the trial court.[11] Jurisdiction over the person of the accused, on the other hand, is acquired upon the accused's arrest, apprehension, or voluntary submission to the jurisdiction of the

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court.[12]

Jurisdiction over the offense charged "is and may be conferred only by law."[13] It requires an inquiry into the provisions of law under which the offense was committed and an examination of the facts as alleged in the information.[14] An allegation of lack of jurisdiction over the subject matter is primarily a question of law.[15] Lack of jurisdiction may be raised at any stage of the proceedings, even on appeal.[16]

Jurisdiction over a criminal case "is determined by the allegations of the complaint or information,"[17] and not necessarily by the designation of the offense in the information.[18] This Court explained in United States v. Lim San:[19]

> 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. 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 crime is or what it is named. 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.[20]

Petitioner stands charged for violation of Republic Act No. 9165, Article II, Section 5[21] in relation to Article I, Section 3(jj),[22] Article II, Section 26 (b),[23] and Article II, Section 28.[24] The Information filed against her read:

> INFORMATION
>
> The undersigned Prosecutors, constituted as a Panel pursuant to Department Orders 706 and 790 dated October 14, 2016 and November 11, 2016, respectively, [accused] LEILA M. DE LIMA, RAFAEL MARCOS Z. RAGOS and RONNIE PALISOC DAYAN, for violation of Section 5, in relation to Section 3(jj), Section 26(b) and Section 28, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of2002, committed as follows:
> That within the period of November 2012 to March 2013, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then an employee of the Department of Justice detailed to De Lima, all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading, in the following manner: De Lima and Ragos, with the use of their power, position and authority, demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the Senatorial bid in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully

> trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million (P5,000.000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison.
>
> CONTRARY TO LAW.[25]

According to the ponencia and the Office of the Solicitor General, petitioner is charged with the crime of "Conspiracy to Commit Illegal Drug Trading."[26] There is yet no jurisprudence on this crime or a definitive statement of its elements. The ponencia insists that while illegal sale of dangerous drugs defined under Section 3(ii) is a different crime from illegal trading of dangerous drugs defined under Section 3(jj), illegal trading is essentially the same as the crime defined under Section 3(r).[27] For reference, Sections 3(ii), (jj), and (r) read:

> (ii) Sell. - Any act of giving away any dangerous drug and/or controlled precursor and essential chemical whether for money or any other consideration.
>
> (jj) Trading. - Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, email, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.
>
> (r) Illegal Trafficking. - The illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of any dangerous drug and/or controlled precursor and essential chemical. (Emphasis supplied)

A plain reading of the three provisions, however, shows that all three (3) crimes necessarily involve (1) dangerous drugs, (2) controlled precursors, or (3) essential chemicals. These are the corpus delicti of the crime. Without the dangerous drug, controlled precursor, or essential crimes, none of the acts stated would be illegal. Thus, in People v. Viterbo:[28]

> As the dangerous drug itself forms an integral and key part of the corpus delicti of the crime, it is therefore essential that the identity of the prohibited drug be established beyond reasonable doubt.[29] (Emphasis in the original)

Similarly, in People v. Dimaano:[30]

> In cases involving violations of the Comprehensive Dangerous Drugs Act of 2002, the prosecution must prove "the existence of the prohibited drug[.]" "[T]he prosecution must show that the integrity of the corpus delicti has been preserved," because "the evidence involved - the seized chemical - is not readily identifiable by sight or touch and can easily be tampered with or substituted."[31] (Emphasis supplied)

In illegal sale of drugs, it is necessary to identify the buyer and the seller, as well as the dangerous drug involved. Illegal trading, being a different crime, does not only require the identities of the buyer and seller but also requires the identity of the broker: Regardless of the additional element, the fact remains that the essential element in all violations of Republic Act No. 9165 is the dangerous drug itself. The failure to identify the corpus delicti in the Information would render it defective.

The ponencia, however, insists that the offense designated in the Information and the facts alleged are that of illegal drug trading and not any other offense, stating:

> Read, as a whole, and not picked apart with each word or phrase construed separately, the Information against De Lima go beyond an indictment for Direct Bribery under Article 210 of the [Revised Penal Code]. As Justice Martires articulately explained, the averments on solicitation of money in the Information, which may be taken

> as constitutive of bribery, form "part of the description on how illegal drug trading took place in the (National Bilibid Prisons]." The averments on how petitioner asked for and received money from the [Bilibid] inmates simply complete the links of conspiracy between her, Ragos, Dayan, and the [Bilibid] inmates in willfully and unlawfully trading dangerous drugs through the use of mobile phones and other electronic devices under Section 5, in relation to Section 3 (jj), Section 26 (b), and Section 28 of [Republic Act No.] 9165.[32]

The Information alleges crucial facts that do not merely "complete the links of conspiracy." It alleges that petitioner "being then the Secretary of the Department of Justice ... by taking advantage of [her] public office, conspiring and confederating with accused Ronnie P. Dayan," "all of them having moral ascendancy or influence over inmates in the New Bilibid Prison," "did then and there commit illegal drug trading" "with the use of their power, position and authority," "demand[ed], solicit[ed] and extort[ed] money from the high profile inmates in the New Bilibid Prison Prison to support the Senatorial bid in the May 2016 election."[33] The Information further provides that "proceeds of illegal drug trading amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly 'tara' each from the high profile inmates in the New Bilibid Prison" were given and delivered to petitioner.

Petitioner was the Secretary of Justice where she exercised supervision over the Bureau of Corrections,[34] the institution in charge of New Bilibid Prison. Petitioner is alleged to have raised money for her senatorial bid by ordering the inmates to engage in an illicit drug trade where "those who cooperate will be given protection, but those who refuse will meet an [sic] unwelcome consequences."[35] The relationship between the public office and the probability of the commission of the offense, thus, becomes a critical element in the determination of jurisdiction. The public office held by petitioner at the time of the alleged commission of the offense cannot be overlooked since it is what determines which tribunal should have jurisdiction over the offense, as will be discussed later.

II

Jurisdiction is conferred by law. Article VIII, Section 2, first paragraph of the Constitution reads:

> ARTICLE VIII
> Judicial Department
>
> ....
>
> SECTION 2. The Congress shall have the power to define, prescribe, and apportion the jurisdiction of various courts but may not deprive the Supreme Court of its jurisdiction over cases enumerated in Section 5 hereof.

Under Batas Pambansa Blg. 129,[36] Regional Trial Courts have exclusive original jurisdiction over all criminal cases, except those under the exclusive concurrent jurisdiction of the Sandiganbayan:

> Sec. 20. Jurisdiction in criminal cases. Regional Trial Courts shall exercise exclusive original jurisdiction in all criminal cases not within the exclusive jurisdiction of any court, tribunal or body, except those now falling under the exclusive and concurrent jurisdiction of the Sandiganbayan which shall hereafter be exclusively taken cognizance of by the latter. (Emphasis supplied)

The Sandiganbayan was created under Presidential Decree No. 1486[37] as a special court with the original and exclusive jurisdiction to hear and decide crimes and offenses committed by public officers. Its creation was intrinsically linked to the principle of public accountability in the 1973 Constitution.[38]

Under its current structure, it is composed of seven (7) divisions, with three (3) justices per division.[39] This composition was designed precisely to hear and decide the cases of public officers, considering that the accused

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may have immense political clout. Instead of the case being heard by only one (1) magistrate who might succumb to political power, the case is heard in a division of three (3) magistrates acting as a collegial body. In an ideal setting, the Sandiganbayan's structure makes it more difficult for a powerful politician to exert his or her influence over the entire court.

Thus, in order to determine which tribunal must try the criminal offense committed by a public officer, it must first be determined whether the Sandiganbayan exercises exclusive and concurrent jurisdiction over the offense.

Under the 1973 Constitution, the Sandiganbayan had jurisdiction over cases involving graft and corruption as may be determined by law:

> ARTICLE XIII
> ACCOUNTABILITY OF PUBLIC OFFICERS
>
> ....
>
> SEC. 5. The Batasang Pambansa shall create a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office as may be determined by law.[40]

Originally, its jurisdiction was stated in Presidential Decree No. 1486. Section 4 provided:

> SECTION 4. Jurisdiction. - Except as herein provided, the Sandiganbayan shall have original and exclusive jurisdiction to try and decide:
>
> (a) Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act and Republic Act No. 1379;
>
> (b) Crimes committed by public officers or employees, including those employed in government-owned or controlled corporations, embraced in Title VII of the Revised Penal Code;
>
> (c) Other crimes or offenses committed by public officers or employees including those employed in government-owned or controlled corporations in relation to their office; Provided, that, in case private individuals are accused as principals, accomplices or accessories in the commission of the crimes hereinabove mentioned, they shall be tried jointly with the public officers or employees concerned.
>
> Where the accused is charged of an offense in relation to his office and the evidence is insufficient to establish the offense so charged, he may nevertheless be convicted and sentenced for the offense included in that which is charged.
>
> (d) Civil suits brought in connection with the aforementioned crimes for restitution or reparation of damages, recovery of the instruments and effects of the crimes, or forfeiture proceedings provided for under Republic Act No. 1379;
>
> (e) Civil actions brought under Articles 32 and 34 of the Civil Code.
>
> Exception from the foregoing provisions during the period of martial law are criminal cases against officers and members of the Armed Forces of the Philippines, and all others who fall under the exclusive jurisdiction of the military tribunals. (Emphasis supplied)

This provision was subsequently amended in Presidential Decree No. 1606[41] to read:

> SECTION 4. Jurisdiction. - The Sandiganbayan shall have jurisdiction over:
>
> (a) Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt

Practices Act, and Republic Act No. 1379;

(b) Crimes committed by public officers and employees, including those employed in government-owned or controlled corporations, embraced in Title VII of the Revised Penal Code, whether simple or complexed with other crimes; and

(c) Other crimes or offenses committed by public officers or employees, including those employed in government-owned or controlled corporations, in relation to their office.

The jurisdiction herein conferred shall be original and exclusive if the offense charged is punishable by a penalty higher than prision correccional, or its equivalent, except as herein provided; in otl1er offenses, it shall be concurrent with the regular courts.

In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees.

Where an accused is tried for any of the above offenses and the evidence is insufficient to establish the offense charged, he may nevertheless be convicted and sentenced for the offense proved, included in that which is charged.

Any provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability arising from the offense charged shall at all times be simultaneously instituted with, and jointly

Excepted from the foregoing provisions, during martial law, are criminal cases against officers and members of the armed forces in the active service. (Emphasis supplied)

Republic Act No. 8249[42] further amended Presidential Decree No. 1486 to grant the Sandiganbayan exclusive original jurisdiction over violations of Republic Act No. 3019 (graft and corruption), Republic Act No. 1379 (ill-gotten wealth), bribery under the Revised Penal Code, and the Executive Orders on sequestration:

SECTION 4. Section 4 of the same decree is hereby further amended to read as follows:

Sec. 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

A. Violations of Republic Act No. 3019, as amended, other known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

(1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

(a) Provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other city department heads;

(b) City mayor, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads;

(c) Officials of the diplomatic service occupying the position of consul and higher;

(d) Philippine army and air force colonels, naval captains, and all officers of higher rank;

(e) Officers of the Philippine National Police while occupying the position of provincial director and those

holding the rank of senior superintended or higher;

(f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;

(g) Presidents, directors or trustees, or managers of government-owned or -controlled corporations, state universities or educational institutions or foundations.

(2) Members of Congress and officials thereof classified as Grade '27' and up under the Compensation and Position Classification Act of 1989;

(3) Members of the judiciary without prejudice to the provisions of the Constitution;

(4) Chairmen and members of Constitutional Commission, without prejudice to the provisions of the Constitution; and

(5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

b. Other offenses of felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of this section in relation to their office.

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

In cases where none of the accused are occupying positions corresponding to Salary Grade '27' or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officer mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129, as amended.

The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or order of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

The Sandiganbayan shall have exclusive original jurisdiction over petitions for the issuance of the writs of mandamus, prohibition, certiorari, habeas corpus, injunctions, and other ancillary writs and processes in aid of its appellate jurisdiction and over petitions of similar nature, including quo warranto, arising or that may arise in cases filed or which may be filed under Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986: Provided, That the jurisdiction over these petitions shall not be exclusive of the Supreme Court.

The procedure prescribed in Batas Pambansa Blg. 129, as well as the implementing rules that the Supreme Court has promulgated and may thereafter promulgate, relative to appeals/petitions for review to the Court of Appeals, shall apply to appeals and petitions for review filed with the Sandiganbayan. In all cases elevated to the Sandiganbayan and from the Sandiganbayan to the Supreme Court, the Office of the Ombudsman, through its special prosecutor, shall represent the People of the Philippines, except in cases filed pursuant to Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or -controlled corporations, they shall be tried jointly with said public officers and employees in the proper courts which shall exercise exclusive jurisdiction over them.

Any provisions of law or Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability shall at all times be simultaneously instituted with,

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> and jointly determined in, the same proceeding by the Sandiganbayan or the appropriate courts, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing such civil action separately from the criminal action shall be recognized: Provided, however, That where the civil action had heretofore been filed separately but judgment therein has not yet been rendered, and the criminal case is hereafter filed with the Sandiganbayan or the appropriate court, said civil action shall be transferred to the Sandiganbayan or the appropriate court, as the case may be, for consolidation and joint determination with the criminal action, otherwise the separate civil action shall be deemed abandoned. (Emphasis supplied)

The question of whether the amended jurisdiction of the Sandiganbayan included all other offenses was settled in Lacson v. Executive Secretary,[43] where this Court stated that the Sandiganbayan would have jurisdiction over all other penal offenses, "provided it was committed in relation to the accused's official functions,"[44] thus:

> A perusal of the aforequoted Section 4 of R.A. 8249 reveals that to fall under the exclusive original jurisdiction of the Sandiganbayan, the following requisites must concur: (1) the offense committed is a violation of (a) R.A. 3019, as amended (the Anti-Graft and Corrupt Practices Act), (b) R.A. 1379 (the law on ill-gotten wealth), (c) Chapter II, Section 2, Title VII, Book II of the Revised Penal Code (the law on bribery), (d) Executive Order Nos. 1, 2, 14, and 14-A, issued in 1986 (sequestration cases), or (e) other offenses or felonies whether simple or complexed with other crimes; (2) the offender committing the offenses in items (a), (b), (c) and (e) is a public official or employee holding any of the positions enumerated in paragraph a of Section 4; and (3) the offense committed is in relation to the office.
>
> Considering that herein petitioner and intervenors are being charged with murder which is a felony punishable under Title VIII of the Revised Penal Code, the governing provision on the jurisdictional offense is not paragraph a but paragraph b, Section 4 of R.A. 8249. This paragraph b pertains to "other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of [Section 4, R.A. 8249] in relation to their office." The phrase "other offinses or folonies" is too broad as to include the crime of murder, provided it was committed in relation to the accused's official functions. Thus, under said paragraph b, what determines the Sandiganbayan's jurisdiction is the official position or rank of the offender that is, whether he is one of those public officers or employees enumerated in paragraph a of Section 4. The offenses mentioned in paragraphs a, b and c of the same Section 4 do not make any reference to the criminal participation of the accused public officer as to whether he is charged as a principal, accomplice or accessory. In enacting R.A. 8249, the Congress simply restored the original provisions of P.D. 1606 which does not mention the criminal participation of the public officer as a requisite to determine the jurisdiction of the Sandiganbayan.[45] (Emphasis supplied)

The Sandiganbayan's jurisdiction, however, was recently amended in Republic Act No. 10660.[46] Section 2 of this law states:

> SECTION 2. Section 4 of the same decree, as amended, is hereby further amended to read as follows:
>
> SEC. 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
>
> a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
>
> (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:
>
> (a) Provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers,

assessors, engineers, and other provincial department heads;

(b) City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads;

(c) Officials of the diplomatic service occupying the position of consul and higher;

(d) Philippine army and air force colonels, naval captains, and all officers of higher rank;

(e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent and higher;

(f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;

(g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations.

(2) Members of Congress and officials thereof classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989;

(3) Members of the judiciary without prejudice to the provisions of the Constitution;

(4) Chairmen and members of the Constitutional Commissions, without prejudice to the provisions of the Constitution; and

(5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a. of this section in relation to their office.

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).

Subject to the rules promulgated by the Supreme Court, the cases falling under the jurisdiction of the Regional Trial Court under this section shall be tried in a judicial region other than where the official holds office.

In cases where none of the accused are occupying positions corresponding to Salary Grade '27' or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129, as amended.

The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

The Sandiganbayan shall have exclusive original jurisdiction over petitions for the issuance of the writs of mandamus, prohibition, certiorari, habeas corpus, injunctions, and other ancillary writs and processes in aid of its appellate jurisdiction and over petitions of similar nature, including quo warranto, arising or that may arise

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> in cases filed or which may be filed under Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986: Provided, That the jurisdiction over these petitions shall not be exclusive of the Supreme Court.
>
> The procedure prescribed in Batas Pambansa Blg. 129, as well as the implementing rules that the Supreme Court has promulgated and may hereafter promulgate, relative to appeals/petitions for review to the Court of Appeals, shall apply to appeals and petitions for review filed with the Sandiganbayan. In all cases elevated to the Sandiganbayan and from the Sandiganbayan to the Supreme Court, the Office of the Ombudsman, through its special prosecutor, shall represent the People of the Philippines, except in cases filed pursuant to Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.
>
> In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees in the proper courts which shall exercise exclusive jurisdiction over them.
>
> Any provisions of law or Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability shall at all times be simultaneously instituted with, and jointly determined in, the same proceeding by the Sandiganbayan or the appropriate courts, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized: Provided, however, That where the civil action had heretofore been filed separately but judgment therein has not yet been rendered, and the criminal case is hereafter filed with the Sandiganbayan or the appropriate court, said civil action shall be transferred to the Sandiganbayan or the appropriate court, as the case may be, for consolidation and joint determination with the criminal action, otherwise the separate civil action shall be deemed abandoned. (Emphasis supplied)

Republic Act No. 10660 retained the Sandiganbayan's exclusive original jurisdiction over offenses and felonies committed by public officers in relation to their office. It contained, however, a new proviso:

> Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).

Inversely stated, Regional Trial Courts do not have exclusive original jurisdiction over offenses where the information alleges damage to the government or bribery, or where the damage to the government or bribery exceeds P1,000,000.00.

The Office of the Solicitor General proceeds under the presumption that offenses under Republic Act No. 9165 were under the exclusive original jurisdiction of the regional trial courts, citing Article XI, section 90, first paragraph of the law:[47]

> ARTICLE XI
> JURISDICTION OVER DANGEROUS DRUGS CASES
>
> SEC. 90. Jurisdiction. - The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.

The phrase "exclusive original jurisdiction" does not appear anywhere in the cited provision. The Office of the Solicitor General attributes this to the previous drug law, Republic Act No. 6425,[48] which stated:

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> ARTICLE X
> Jurisdiction Over Dangerous Drug Cases
>
> Section 39. Jurisdiction of the Circuit Criminal Court. The Circuit Criminal Court shall have exclusive original jurisdiction over all cases involving offenses punishable under this Act.
>
> ....

Republic Act No. 6425, however, has been explicitly repealed in the repealing clause of Republic Act No. 9165.[49] The current drug law does not provide exclusive original jurisdiction to the Regional Trial Courts.

The ponencia, however, attempts to rule otherwise without citing any legal basis for the conclusion. It states in no uncertain terms:

> In this case, RA 9165 specifies the RTC as the court with the jurisdiction to "exclusively try and hear cases involving violations of (RA 9165)."[50]

This citation in the ponencia has no footnote. Further examination shows that this was not quoted from any existing law or jurisprudence but from the Concurring Opinion of Justice Peralta[51] in this case. What the ponencia cites instead are the following provisions of Republic Act No. 9165:

> Section 20. Confiscation and Forfeiture of the Proceeds or Instruments of the Unlawful Act, Including the Properties or Proceeds Derived from the Illegal Trafficking of Dangerous Drugs and/or Precursors and Essential Chemicals. - Every penalty imposed for the unlawful importation, sale, trading, administration, dispensation, delivery, distribution, transportation or manufacture of any dangerous drug and/or controlled precursor and essential chemical, the cultivation or culture of plants which are sources of dangerous drugs, and the possession of any equipment, instrument, apparatus and other paraphernalia for dangerous drugs including other laboratory equipment, shall carry with it the confiscation and forfeiture, in favor of the government, of all the proceeds and properties derived from the unlawful act, including, but not limited to, money and other assets obtained thereby, and the instrwnents or tools with which the particular unlawful act was committed, unless they are the property of a third person not liable for the unlawful act, but those which are not of lawful commerce shall be ordered destroyed without delay pursuant to the provisions of Section 21 of this Act.
>
> After conviction in the Regional Trial Court in the appropriate criminal case filed, the Court shall immediately schedule a hearing for the confiscation and forfeiture of all the proceeds of the offense and all the assets and properties of the accused either owned or held by him or in the name of some other persons if the same shall be found to be manifestly out of proportion to his/her lawful income: Provided, however, That if the forfeited property is a vehicle, the same shall be auctioned off not later than five (5) days upon order of confiscation or forfeiture.
>
> During the pendency of the case in the Regional Trial Court, no property, or income derived therefrom, which may be confiscated and forfeited, shall be disposed, alienated or transferred and the same shall be in custodia legis and no bond shall be admitted for the release of the same.
>
> ....
>
> Section 62. Compulsory Submission of a Drug Dependent Charged with an Offense to Treatment and Rehabilitation. - If a person charged with an offense where the imposable penalty is imprisonment of less than six (6) years and one (1) day, and is found by the prosecutor or by the court, at any stage of the proceedings, to be a drug dependent, the prosecutor or the court as the case may be, shall suspend all further proceedings and transmit copies of the record of the case to the Board.
>
> In the event he Board determines, after medical examination, that public interest requires that such drug dependent be committed to a center for treatment and rehabilitation, it shall file a petition for his/her

> commitment with the regional trial court of the province or city where he/she is being investigated or tried[.]

None of these provisions explicitly states that only the Regional Trial Court has exclusive and original jurisdiction over drug offenses. It merely implies that the Regional Trial Court has jurisdiction over the drug offenses.

It was likewise inaccurate to cite Morales v. Court of Appeals[52] as basis considering that it involved Republic Act No. 6425, not Republic Act No. 9165. This Court in that case stated the change of status from "Court of First Instance" to "Regional Trial Court" did not abolish its exclusive original jurisdiction over drug offenses under Republic Act No. 6425. This Court did not explicitly state that this provision in Republic Act No. 6425 was carried over in Republic Act No. 9165.

The ponencia likewise anchors its "legal basis" for the Regional Trial Court's exclusive and original jurisdiction on Section 90 of Republic Act No. 9165:

> SEC. 90. Jurisdiction. - The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.

The phrase "exclusively" in Section 90 of Republic Act No. 9165 only pertains to the limited operational functions of the specially designated courts. Thus, in the Concurring Opinion in Gonzales v. GJH Land:[53]

> In this court's August 1, 2000 Resolution in A.M. No. 00-8-01-SC, this court designated certain Regional Trial Court branches as "Special Courts for drugs cases, which shall hear and decide all criminal cases in their respective jurisdictions involving violations of the Dangerous Drugs Act [of] 1972 (R.A. No. 6425) as amended, regardless of the quantity of the drugs involved."
>
> This court's Resolution in A.M. No. 00-8-01-SC made no pretenses that it was creating new courts of limited jurisdiction or transforming Regional Trial Courts into courts of limited jurisdiction. Instead, it repeatedly referred to its operational and administrative purpose: efficiency. Its preambular clauses emphasized that the designation of Special Courts was being made because "public policy and public interest demand that [drug] cases ... be expeditiously resolved[,]" and in view of "the consensus of many that the designation of certain branches of the Regional Trial Courts as Special Courts to try and decide drug cases ... may immediately address the problem of delay in the resolution of drugs cases." Moreover, its dispositive portion provides that it was being adopted "pursuant to Section 23 of [the Judiciary Reorganization Act of 1980], [and] in the interest of speedy and efficient administration of justice[.]"
>
> Consistent with these operational and administrative aims, this court's October 11, 2005 Resolution in A.M. No. 05-9-03-SC, which addressed the question of whether "special courts for dr[u]g cases [may] be included in the raffle of civil and criminal cases other than drug related cases[,]" stated:
> The rationale behind the exclusion of dr[u]g courts from the raffle of cases other than drug cases is to expeditiously resolve criminal cases involving violations of [R.A. No.] 9165 (previously, of [R.A. No.] 6435). Otherwise, these courts may be sidelined from hearing drug cases by the assignment of non-drug cases to them and the purpose of their designation as special courts would be negated. The faithful observance of the stringent time frame imposed on drug courts for deciding dr[u]g related cases and terminating proceedings calls for the continued implementation of the policy enunciated in A.M. No. 00-8-01-SC.

To reiterate, at no point did this court declare the Regional Trial Court branches identified in these administrative issuances as being transformed or converted into something other than Regional Trial Courts. They retain their status as such and, along with it, the Judiciary Reorganization Act of 1980's characterization of them as courts of general jurisdiction. However, this court, in the interest of facilitating operational efficiency and promoting the timely dispensation of justice, has opted to make these Regional Trial Court branches focus on a certain class of

the many types of cases falling under their jurisdiction.[54] (Citations omitted)

Designation of special courts does not vest exclusive original jurisdiction over a particular subject matter to the exclusion of any other court. It is Congress that has the power to define and prescribe jurisdiction of courts. This power cannot be delegated even to the Supreme Court. Thus, in Article VIII, Section 2 of the Constitution:

> Section 2. The Congress shall have the power to define, prescribe, and apportion the jurisdiction of various courts but may not deprive the Supreme Court of its jurisdiction over cases enumerated in Section 5 hereof. (Emphasis supplied)

Thus, the Congress passed Batas Pambansa Blg. 129, which grants the Regional Trial Courts exclusive original jurisdiction over criminal cases that do not fall under the exclusive concurrent jurisdiction of the Sandiganbayan. The Sandiganbayan has exclusive original jurisdiction over all other offenses committed by public officers in relation to their office. Moreover, Regional Trial Courts may have exclusive original jurisdiction where the Information does not allege damage to the government or bribery, or where damage to the government or bribery does not exceed P1,000,000.00.

The ponencia's invocation of Section 27 of Republic Act No. 9165 is non sequitur. The mention of the phrase "public officer or employee" does not automatically vest exclusive jurisdiction over drugs cases to the Regional Trial Courts. Section 27 reads:

> Section 27. Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed. - ....
>
> Any elective local or national official found to have benefited from the proceeds of the trafficking of dangerous drugs as prescribed in this Act, or have received any financial or material contributions or donations from natural or juridical persons found guilty of trafficking dangerous drugs as prescribed in this Act, shall be removed from office and perpetually disqualified from holding any elective or appointive positions in the government, its divisions, subdivisions, and intermediaries, including government-owned or -controlled corporations.

Petitioner was not an elective local or national official at the time of the alleged commission of the crime. She was an appointive official. This section would not have applied to her.

Simply put, there is no law which gives the Regional Trial Court exclusive and original jurisdiction over violations of Republic Act No. 9165. The Sandiganbayan, therefore, is not prohibited from assuming jurisdiction over drug offenses under Republic Act No. 9165.

The determination of whether the Sandiganbayan has jurisdiction depends on whether the offense committed is intimately connected to the offender's public office. In Lacson, this Court stated that it is the specific factual allegation in the Information that should be controlling in order to determine whether the offense is intimately connected to the discharge of the offender's functions:

> The remaining question to be resolved then is whether the offense of multiple murder was committed in relation to the office of the accused PNP officers.
>
> In People vs. Montejo, we held that an offense is said to have been committed in relation to the office if it (the offense) is intimately connected with the office of the offender and perpetrated while he was in the performance of his official functions. This intimate relation between the offense charged and the discharge of official duties must be alleged in the Information.

> As to how the offense charged be stated in the information, Section 9, Rule 110 of the Revised Rules of Court mandates:
> SEC. 9. Cause of Accusation. The acts or omtsstons complained of as constituting the offense must be stated in ordinary and concise language without repetition not necessarily in the terms of the statute defining the offense, put 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.

As early as 1954, we pronounced that the factor that characterizes the charge is the actual recital of the facts. The real nature of the criminal charges is determined not from the caption or preamble of the information nor from the specification of the provision of law alleged to have been violated, they being conclusions of law, but by the actual recital of facts in the complaint or information.

The noble object of written accusations cannot be overemphasized. This was explained in U.S. v. Karelsen:

> The object of this written accusations was First, To furnish the accused with such a description of the charge against him as will enable him to make his defense, and second, to avail himself of his conviction or acquittal for protection against a further prosecution for the same cause, and third, to inform the court of the facts alleged so that it may decide whether they are sufficient in law to support a conviction if one should be had. In order that this requirement may be satisfied, facts must be stated, not conclusions of law Every crime is made up of certain acts and intent these must be set forth in the complaint with reasonable particularity of time, place, names (plaintiff and defendant) and circumstances. In short, the complaint must contain a specific allegation of every fact and circumstance necessary to constitute the crime charged.
>
> It is essential, therefore, that the accused be informed of the facts that are imputed to him as he is presumed to have no independent knowledge of the facts that constitute the offense.
>
> ....
>
> ... For the purpose of determining jurisdiction, it is these allegations that shall control, and not the evidence presented by the prosecution at the trial.
>
> In the aforecited case of People vs. Montejo, it is noteworthy that the phrase committed in relation to public office does not appear in the information, which only signifies that the said phrase is not what determines the jurisdiction of the Sandiganbayan. What is controlling is the specific factual allegations in the information that would indicate the close intimacy between the discharge of the accused's official duties and the commission of the offense charged, in order to qualify the crime as having been committed in relation to public office.
>
> Consequently, for failure to show in the amended informations that the charge of murder was intimately connected with the discharge of official functions of the accused PNP officers, the offense charged in the subject criminal cases is plain murder and, therefore, within the exclusive original jurisdiction of the Regional Trial Court, not the Sandiganbayan.[55] (Emphasis in the original)

Even when holding public office is not an essential element of the offense, the offense would still be considered intimately connected to the public officer's functions if it "was perpetrated while they were in the performance, though improper or irregular, of their official functions:"[56]

> In Sanchez v. Demetriou, the Court elaborated on the scope and reach of the term "offense committed in relation to [an accused's] office" by referring to the principle laid down in Montilla v. Hilario, and to an exception to that principle which was recognized in People v. Montejo. The principle set out in Montilla v. Hilario, is that an offense may be considered as committed in relation to the accused's office if "the offense cannot exist without the office" such that "the office [is) a constituent element of the crime as ... defined and punished in Chapter Two to Six, Title Seven of the Revised Penal Code." In People v. Montejo, the Court, through Chief Justice Concepcion, said that "although public office is not an element of the crime of murder in

> [the] abstract," the facts in a particular case may show that
> ". . . the offense therein charged is intimately connected with [the accuseds'] respective offices and was perpetrated while they were in the performance, though improper or irregular, of their official functions. Indeed, [the accused] had no personal motive to commit the crime and they would not have committed it had they not held their aforesaid offices. The co-defendants or respondent Leroy S. Brown obeyed his instructions because he was their superior officer, as Mayor of Basilan City."

In the instant case, public office is not, of course, an element of the crime of murder, since murder may be committed by any person whether a public officer or a private citizen. In the present case, however, the circumstances quoted above found by the RTC bring petitioner Cunanan's case squarely within the meaning of an "offense committed in relation to the [accused's) public office" as elaborated in the Montejo case. It follows that the offense with which petitioner Cunanan is charged falls within the exclusive and original jurisdiction of the Sandiganbayan, and that the RTC of San Fernando, Pampanga had no jurisdiction over that offense.[57] (Citations omitted)

The Information clearly acknowledges that petitioner was the Secretary of Justice when the offense was allegedly committed. As Secretary of Justice, she exercised administrative supervision over the Bureau of Corrections,[58] the institution in charge of the New Bilibid Prison. The preliminary investigation concluded that the inmates participated in the alleged drug trade inside the New Bilibid Prison based on privileges granted or punishments meted out by petitioner.[59] This, in turn, leads to the conclusion that the offense was committed due to the improper or irregular exercise of petitioner's functions as Secretary of Justice. If she were not the Secretary of Justice at the time of the commission of the offense, she would not have been able to threaten or reward the inmates to do her bidding.

The Information alleges that petitioner received P5,000,000.00 on November 24, 2012, another P5,000,000.00 on December 15, 2012, and P100,000.00 weekly from the high profile inmates of the New Bilibid Prison "by taking advantage of [her] public office" "with the use of [her] power, position and authority," to "demand, solicit and extort money from the high profile inmates in the New Bilibid Prison Prison to support the Senatorial bid in the May 2016 election." None of these allegations actually corresponds to the crime of conspiracy to commit drug trading. It corresponds instead to direct bribery under Article 210 of the Revised Penal Code:

> Art. 210. Direct Bribery. Any public officer who shall agree to perform an act constituting a crime, in connection with the performance of his official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another, shall suffer the penalty of prision mayor in its minimum and medium periods and a fine of not less than three times the value of the gift, in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed.
>
> . . . .

The elements of direct bribery are:

> [1] That the accused is a public officer; [2] that he received directly or through another some gift or present, offer or promise; [3] that such gift, present or promise has been given in consideration of his commission of some crime, or any act not constituting a crime, or to refrain from doing something which it is his official duty to do, and [4] that the crime or act relates to the exercise of his functions as a public officer.[5] The promise of a public officer to perform an act or to refrain from doing it may be express or implied.[60]

I agree with Justice Perlas-Bernabe that Republic Act No. 10660 only refers to "any bribery" without specific mention of Direct Bribery under Article 210 of the Revised Penal Code. However, pending a conclusive definition of the term, resort must be made to existing penal statutes. The elements of Article 210 sufficiently correspond to the allegations in the Information. What is essential in bribery is that a "gift, present or promise has been given in

consideration of his or her commission of some crime, or any act not constituting a crime, or to refrain from doing something which it is his or her official duty to do."

The allegations in the Information, thus, place the jurisdiction of the offense squarely on the Sandiganbayan. To reiterate, the Regional Trial Court may exercise exclusive original jurisdiction only in cases where the Information does not allege damage to the government or any bribery. If the Information alleges damage to the government or bribery, the Regional Trial Court may only exercise jurisdiction if the amounts alleged do not exceed P1,000,000.00.

III

Not having jurisdiction over the offense charged, the Regional Trial Court committed grave abuse of discretion in determining probable cause and in issuing the warrant of arrest.

There are two (2) types of determination of probable cause: (i) executive; and (ii) judicial.[61]

Executive determination of probable cause answers the question of whether there is "sufficient ground to engender a well-founded belief that a crime has been committed, and the respondent is probably guilty, and should be held for trial."[62] It is determined by the public prosecutor after preliminary investigation when the parties have submitted their affidavits and supporting evidence. If the public prosecutor determines that there is probable cause to believe that a crime was committed, and that it was committed by the respondent, it has the quasi-judicial authority to file a criminal case in court.[63]

On the other hand, judicial determination of probable cause pertains to the issue of whether there is probable cause to believe that a warrant must be issued for the arrest of the accused, so as not to frustrate the ends of justice. It is determined by a judge after the filing of the complaint in court.[64] In this instance, the judge must evaluate the evidence showing the facts and circumstances of the case, and place himself or herself in the position of a "reasonably discreet and prudent man [or woman]" to assess whether there is a lawful ground to arrest the accused.[65] There need not be specific facts present in each particular case.[66] But there must be sufficient facts to convince the judge that the person to be arrested is the person who committed the crime.[67]

This case involves the exercise of judicial determination of probable cause.

IV

Arrest is the act of taking custody over a person for the purpose of making him or her answer for an offense.[68]

Except in specific instances allowed under the law, a judge must first issue a warrant before an arrest can be made. In turn, before a warrant can be issued, the judge must first determine if there is probable cause for its issuance.

"No warrant of arrest shall issue except upon probable cause, supported by oath or affirmation."[69]

This rule has been recognized as early as the 1900s[70] and has been enshrined in the Bill of Rights of the 1935, the 1973, and the present 1987 Constitution of the Philippines.[71]

Under the 1935 Constitution, the issuance of a warrant was allowed only upon the judge's determination of probable cause after examining the complainant and his witnesses under oath or affirmation. Thus:

> ARTICLE III
> Bill of Rights

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> SECTION 1. (3) The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, to be determined by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized.

The 1973 Constitution, on the other hand, specified the types of warrants that may be issued. Likewise, it allowed other responsible officers authorized by law to determine the existence of probable cause:

> ARTICLE IV
> Bill of Rights
>
> SECTION 3. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall not be violated, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined by the judge, or such other responsible officer as may be authorized by law, after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized.

When the present 1987 Constitution was enacted, the authority to issue warrants of arrest again became exclusively the function of a judge. Moreover, it specified that the judge must do the determination of probable cause personally:

> ARTICLE III
> Bill of Rights
>
> SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

V

Thus, in determining probable cause for the issuance of a warrant of arrest, there are two (2) Constitutional requirements: (i) the judge must make the determination, and (ii) the determination must be personal, after examining under oath or affirmation the complainant and his witnesses.[72]

Jurisprudence affirms that the judge alone determines the existence of probable cause for the issuance of a warrant of arrest.[73]

Confusion arises on the interpretation of the personal determination by the judge of probable cause.

The word "personally" is new in the 1987 Constitution. In the deliberations of the Constitutional Commission:[74]

> FR. BERNAS: Thank you, Madam President.
>
> ....
>
> Section 2 is the same as the old Constitution.
>
> The provision on Section 3 reverts to the 1935 formula by eliminating the 1973 phrase "or such other responsible officer as may be authorized by law," and also adds the word PERSONALLY on line 18. In other words, warrants under this proposal can be issued only by judges. I think one effect of this would be that, as soon as the Constitution is approved, the PCGG will have no authority to issue warrants, search and seizure orders, because it is not a judicial body. So, proposals with respect to clipping the powers of the PCGG will be

> almost unnecessary if we approve this. We will need explicit provisions extending the power of the PCGG if it wants to survive.
>
> ....
>
> MR. SUAREZ: Mr. Presiding Officer, I think the Acting Floor Leader is already exhausted. So I will get through with my questions very quickly. May I call the sponsor's attention to Section 3, particularly on the use of the word "personally." This, I assume, is on the assumption that the judge conducting the examination must do it in person and not through a commissioner or a deputy clerk of court.
>
> FR. BERNAS: Yes, Mr. Presiding Officer.
>
> MR. SUAREZ: The other point is that the Committee deleted the phrase "through searching questions" which was originally proposed after the word "affirmation." May we know the reason for this, Mr. Presiding Officer.
>
> FR. BERNAS: The sentiment of most of the members of the Committee was that it would still be understood even without that phrase.
>
> MR. SUAREZ: For purposes of record, does this envision a situation where the judge can conduct the examination personally even in his own residence or in a place outside of the court premises, say, in a restaurant, bar or cocktail lounge? I ask this because I handled a case involving Judge Pio Marcos in connection with the Golden Buddha case, and I remember the search warrant was issued at 2:00 a.m. in his residence.
>
> FR. BERNAS: May I ask Commissioner Colayco to answer that question from his vast experience as judge?
>
> MR. COLAYCO: We have never come across an incident like that. But we always make sure that the application is filed in our court. It has to be done there because the application has to be registered, duly stamped and recorded in the book.
>
> MR. SUAREZ: So it is clear to everybody that when we said "it shall be determined personally by the judge after examination under oath or affirmation" that process must have to be conducted in the court premises.
>
> MR. COLAYCO: Not only in the court premises but also in the courtroom itself. We do that at least in Manila.
>
> MR. SUAREZ: Thank you, Mr. Presiding Officer.
>
> MR. COLAYCO: For the information of the body, the words "searching questions," if I am not mistaken, are used in the Rules of Court.
>
> FR. BERNAS: The phrase is not yet used in the Rules of Court.[75]

In adding the word "personally" to the provision, the Constitutional Commission deliberations envisioned a judge personally conducting the examination in the courtroom, and not through any other officer or entity.

In the 1988 case of Soliven v. Makasiar,[76] this Court clarified the operation of this requirement given that documents and evidence are available also after the prosecutor's preliminary investigation:

> The second issue, raised by petitioner Beltran, calls for an interpretation of the constitutional provision on the issuance of warrants of arrest.
>
> ...
>
> The addition of the word "personally" after the word "determined" and the deletion of the grant of authority by the 1973 Constitution to issue warrants to "other responsible officers as may be authorized by law", has apparently convinced petitioner Beltran that the Constitution now requires the judge to personally examine the complainant and his witnesses determination of probable cause for the issuance of warrants of arrest. This is

> not an accurate interpretation.
>
> What the Constitution underscores is the exclusive and personal responsibility of the issuing judge to satisfy himself of the existence of probable cause. In satisfying himself of the existence of probable cause for the issuance of a warrant of arrest, the judge is not required to personally examine the complainant and his witnesses. Following established doctrine and procedure, he shall: (1) personally evaluate the report and the supporting documents submitted by the fiscal regarding the existence of probable cause and, on the basis thereof, issue a warrant of arrest; or (2) if on the basis thereof he finds no probable cause, he may disregard the fiscal's report and require the submission of supporting affidavits of witnesses to aid him in arriving at a conclusion as to the existence of probable cause.
>
> Sound policy dictates this procedure, otherwise judges would be unduly laden with the preliminary examination and investigation of criminal complaints instead of concentrating on hearing and deciding cases filed before their courts.[77]

Thus, in this earlier case, this Court implied that the actual personal examination of the complainant and his witnesses is not necessary if the judge has the opportunity to personally evaluate the report and the supporting documents submitted by the fiscal, or require the submission of supporting affidavits of witnesses if the former is not sufficient.[78]

This standard for determining probable cause was further explained in Lim, Sr. v. Felix,[79] where this Court ruled that a judge may not issue an arrest warrant solello on the basis of the prosecutor's certification that probable cause exists.[80] The evidence must be available to the judge for perusal and examination.

In Lim, Sr. v. Felix, a complaint was filed in the Municipal Trial Court of Masbate against several accused for the murder of Congressman Moises Espinosa and his security escorts.[81] The Municipal Trial Court of Masbate issued an arrest warrant after evaluating the affidavits and answers of the prosecution's witnesses during the preliminary investigation.[82] The Provincial Prosecutor of Masbate affirmed this finding, and thus filed separate Informations for murder with the Regional Trial Court of Masbate.[83]

Later, the case was transferred to the Regional Trial Court of Makati.[84]

In the Regional Trial Court of Makati, several of the accused manifested that some of the witnesses in the preliminary investigations recanted their testimonies.[85] Thus, they prayed that the records from the preliminary investigation in Masbate be transmitted to the court, and moved for the court to determine the existence of probable cause.[86]

Despite the motions and manifestations of the accused, the Regional Trial Court of Makati issued arrest warrants.[87] It found that since two (2) authorized and competent officers had determined that there was probable cause and there was no defect on the face of the Informations filed, it may rely on the prosecutor's certifications.[88]

This Court reversed the trial court's ruling and held that the prosecutor's certification was not enough basis for the issuance of the warrant of arrest.[89] While the judge may consider the prosecutor's certification, he or she must make his or her own personal determination of probable cause.[90] There is grave abuse of discretion if the judge did not consider any evidence before issuing an arrest warrant.[91] In such a case, there is no compliance with the Constitutional requirement of personal determination because the only person who made the determination of probable cause is the prosecutor.[92]

In ruling as such, Lim, Sr. v. Felix, discussed that the extent of the judge's personal determination depends on what is required under the circumstances:[93]

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> The extent of the Judge's personal examination of the report and its annexes depends on the circumstances of each case. We cannot determine beforehand how cursory or exhaustive the Judge's examination should be. The Judge has to exercise sound discretion for, after all, the personal determination is vested in the Judge by the Constitution. It can be as brief or as detailed as the circumstances of each case require. To be sure, the Judge must go beyond the Prosecutor's certification and investigation report whenever necessary. He should call for the complainant and witnesses themselves to answer the court's probing questions when the circumstances of the case so require.
>
> It is worthy to note that petitioners Vicente Lim, Sr. and Susana Lim presented to the respondent Judge documents of recantation of witnesses whose testimonies were used to establish a prima facie case against them. Although, the general rule is that recantations are not given much weight in the determination of a case and in the granting of a new trial, the respondent Judge before issuing his own warrants of arrest should, at the very least, have gone over the records of the preliminary examination conducted earlier in the light of the evidence now presented by the concerned witnesses in view of the "political undertones" prevailing in the cases.
>
> We reiterate that in making the required personal determination, a Judge is not precluded from relying on the evidence earlier gathered by responsible officers. The extent of the reliance depends on the circumstances of each case and is subject to the Judge's sound discretion. However, the Judge abuses that discretion when having no evidence before him, he issues a warrant of arrest.[94] (Emphasis supplied)

The extent of the judge's examination for the determination of probable cause, thus, depends on the circumstances of each case.[95] It may be extensive or not extensive, but there must always be a personal determination.[96]

The consideration of the prosecutor's certification is also discretionary.[97] While any preliminary finding of the prosecutor may aid the judge in personally determining probable cause, the judge is not bound to follow it.[98] The judge may disregard it and if he or she is not satisfied with the evidence presented, he may require the submission of additional affidavits to help him determine the existence of probable cause.[99]

In People v. Honorable Enrique B. Inting, et al., this Court even went as far as to say:

> By itself, the Prosecutor's certification of probable cause is ineffectual. It is the report, the affidavits, the transcripts of stenographic notes (if any), and all other supporting documents behind the Prosecutor's certification which are material in assisting the Judge to make his determination.[100]

Thus, this Court ruled that [t]he warrant issues not on the strength of the certification standing alone but because of the records which sustain it.[101]

It, thus, follows that the judicial determination of probable cause must be supported by the records of the case.

In Allado v. Diokno,[102] this Court invalidated an arrest warrant after it found that the issuing judge's determination was not supported by the records presented.

In that case, two (2) lawyers were implicated in the kidnapping and murder of German national Eugene Alexander Van Twest (Van Twest) on the basis of a sworn confession of one Escolastico Umbal (Umbal). Umbal claimed that the two (2) lawyers were the masterminds of the crime, while he and several others executed the crime in exchange for P2,500,000.00.[103]

The Presidential Anti-Crime Commission conducted an investigation. After evaluating the evidence gathered, the Chief of the Presidential Anti- Crime Commission referred the case to the Department of Justice for the institution of criminal proceedings.[104]

The matter was referred to a panel of prosecutors who eventually issued a resolution recommending the filing of

informations against the accused.[105]

The case was filed in the Regional Trial Court of Makati and raffied to Branch 62 presided by Judge Roberto C. Diokno (Judge Diokno).[106]

Judge Diokno issued a warrant of arrest against the two (2) lawyers.[107]

However, this Court found that there was not enough basis for the issuance of the warrant of arrest.[108] It ruled that the evidence was insufficient to sustain the finding of probable cause.[109] It noted that several inconsistencies were blatantly apparent, which should have led to the non- issuance of the arrest warrant.[110]

This Court found that the corpus delicti was not established. Van Twest's remains had not been recovered and the testimony of Umbal as to how they burned his body was "highly improbable, if not ridiculous."[111] It noted that the investigators did not even allege that they went to the place of the burning to check if the remains were there.[112]

It observed that Van Twest's own counsel doubted the latter's death, such that even after Van Twest's alleged abduction, his counsel still represented him in judicial and quasi-judicial proceedings, and manifested that he would continue to do so until Van Twest's death had been established.[113]

It also noted that Van Twest was reportedly an "international fugitive from justice" and, thus, there was a possibility that his "death" may have been staged to stop the international manhunt against him.[114]

This Court also considered the revoked admission of one (1) of the accused, the Presidential Anti-Crime Commission's finding on the crime's mastermind, the manner by which the accused obtained a copy of the resolution of the panel of prosecutors, the timing of Umbal's confession, and its numerous inconsistencies and contradictions.[115] This Court observed "the undue haste in the filing of the information and the inordinate interest of the government" and found that [f]rom the gathering of evidence until the termination of the preliminary investigation, it appears that the state prosecutors were overly eager to file the case and secure a warrant for the arrest of the accused without bail and their consequent detention.[116]

This Court then elucidated that good faith determination and mere belief were insufficient and could not be invoked as defense by the judge.[117] There must be sufficient and credible evidence.[118] Thus:

> Clearly, probable cause may not be established simply by showing that a trial judge subjectively believes that he has good grounds for his action. Good faith is not enough. If subjective good faith alone were the test, the constitutional protection would be demeaned and the people would be "secure in their persons, houses, papers and effects" only in the fallible discretion of the judge. On the contrary, the probable cause test is an objective one, for in order that there be probable cause the facts and circumstances must be such as would warrant a belief by a reasonably discreet and prudent man that the accused is guilty of the crime which has just been committed. This, as we said, is the standard. Hence, if upon the filing of the information in court the trial judge, after reviewing the information and the documents attached thereto, finds that no probable cause exists must either call for the complainant and the witnesses themselves or simply dismiss the case. There is no reason to hold the accused for trial and further expose him to an open and public accusation of the crime when no probable cause exists.
>
> But then, it appears in the instant case that the prosecutors have similarly misappropriated, if not abused, their discretion. If they really believed that petitioners were probably guilty, they should have armed themselves with facts and circumstances in support of that belief; for mere belief is not enough. They should have presented sufficient and credible evidence to demonstrate the existence of probable cause. For the prosecuting officer "is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern all; and whose interest, therefore, in a criminal

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> prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor - indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."
>
> ....
>
> Indeed, the task of ridding society of criminals and misfits and sending them to jail in the hope that they will in the future reform and be productive members of the community rests both on the judiciousness of judges and the prudence of prosecutors. And, whether it is preliminary investigation by the prosecutor, which ascertains if the respondent should be held for trial, or a preliminary inquiry by the trial judge which determines if an arrest warrant should issue, the bottomline is that there is a standard in the determination of the existence of probable cause, i.e., there should be facts and circumstances sufficiently strong in themselves to warrant a prudent and cautious man to believe that the accused is guilty of the crime with which he is charged. Judges and prosecutors are not off on a frolic of their own, but rather engaged in a delicate legal duty defined by law and jurisprudence.[119] (Emphasis supplied, citations omitted)

It further emphasized the need for the government to be responsible with the exercise of its power so as to avoid unnecessary injury and disregard of rights:[120]

> The facts of this case are fatefully distressing as they showcase the seeming immensity of government power which when unchecked becomes tyrannical and oppressive. Hence the Constitution, particularly the Bill of Rights, defines the limits beyond which lie unsanctioned state actions. But on occasion, for one reason or another, the State transcends this parameter. In consequence, individual liberty unnecessarily suffers. The case before us, if uncurbed, can be illustrative of a dismal trend. Needless injury of the sort inflicted by government agents is not reflective of responsible government. Judges and law enforcers are not, by reason of their high and prestigious office, relieved of the common obligation to avoid deliberately inflicting unnecessary injury.
>
> The sovereign power has the inherent right to protect itself and its people from vicious acts which endanger the proper administration of justice; hence, the State has every right to prosecute and punish violators of the law. This is essential for its self-preservation, nay, its very existence. But this does not confer a license for pointless assaults on its citizens. The right of the State to prosecute is not a carte blanche for government agents to defy and disregard the rights of its citizens under the Constitution. Confinement, regardless of duration, is too high a price to pay for reckless and impulsive prosecution. Hence, even if we apply in this case the "multifactor balancing test" which requires the officer to weigh the manner and intensity of the interference on the right of the people, the gravity of the crime committed and the circumstances attending the incident, still we cannot see probable cause to order the detention of petitioners.
>
> The purpose of the Bill of Rights is to protect the people against arbitrary and discriminatory use of political power. This bundle of rights guarantees the preservation of our natural rights which include personal liberty and security against invasion by the government or any of its branches or instrumentalities. Certainly, in the hierarchy of rights, the Bill of Rights takes precedence over the right of the State to prosecute, and when weighed against each other, the scales of justice tilt towards the former. Thus, relief may be availed of to stop the purported enforcement of criminal law where it is necessary to provide for an orderly administration of justice, to prevent the use of the strong arm of the law in an oppressive and vindictive manner, and to afford adequate protection to constitutional rights.
>
> ...
>
> Let this then be a constant reminder to judges, prosecutors and other government agents tasked with the enforcement of the law that in the performance of their duties they must act with circumspection, lest their thoughtless ways, methods and practices cause a disservice to their office and aim their countrymen they are

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> sworn to serve and protest. We thus caution government agents, particularly the law enforcers, to be more prudent in the prosecution of cases and not to be oblivious of human rights protected by the fundamental law. While we greatly applaud their determined efforts to weed society of felons, let not their impetuous eagerness violate constitutional precepts which circumscribe the structure of a civilized community. (Citations omitted, emphasis supplied)[121]

The powers granted to the judge are discretionary, but not arbitrary.[122] Verily, there is grave abuse of discretion when the judge fails to personally examine the evidence, refuses to further investigate despite "incredible accounts" of the complainant and the witnesses, and merely relies on the prosecutor's certification that there is probable cause.[123]

Thus, it found that given the circumstances and the insufficient evidence found against the two (2) lawyers, there is no sufficient basis for issuing the warrant of arrest.[124]

The later case of Ho v. People[125] illustrates the necessity of the judge's independent evaluation of the evidence in determining the existence of probable cause.

In Ho v. People,[126] this Court ruled that a judge cannot solely rely on the report and recommendation of the investigating prosecutor in issuing a warrant of arrest. The judge must make an independent, personal determination of probable cause through the examination of sufficient evidence submitted by the parties during the preliminary investigation.[127]

In this case, the Sandiganbayan relied on the "facts and evidence appearing in the resolution/memorandum of responsible investigators/prosecutors."[128] It issued the warrant of arrest after reviewing: (i) the information filed by the Office of the Ombudsman; (ii) the investigating officer's resolution, and (iii) the prosecution officer's memorandum.[129]

The Sandiganbayan noted that the memorandum and the resolution showed the proper holding of a preliminary investigation and the finding of probable cause by the authorized officials. It found that the resolution outlined and evaluated the facts, law, and submitted evidence before it recommended the filing of the Information. It likewise stated that "the Ombudsman will not approve a resolution just like that, without evidence to back it up."[130]

This Court found that this is not sufficient to be considered an independent and personal examination required under the Constitution and jurisprudence.[131]

This Court noted that the Sandiganbayan's examination did not include a review of the supporting evidence submitted at the preliminary investigation. This Court also observed that the memorandum and the resolution did not have the same recommendations as to who was to be indicted.[132] This Court found that the Sandiganbayan checked no documents from either of the parties, not even the documents which was the basis of the Ombudsman in determining the existence of probable cause.[133]

This Court, thus, ruled that the Sandiganbayan committed grave abuse of discretion in issuing the arrest warrant. The Ombudsman's findings and recommendation could not be the only basis of the Sandiganbayan.[134] The latter was obliged to verify the sufficiency of the evidence.[135] It must determine the issue of probable cause on its own and base it on evidence other than the findings and recommendation of the Ombudsman.[136]

This Court explained:

> In light of the aforecited decisions of this Court, such justification cannot be upheld. Lest we be too repetitive, we only wish to emphasize three vital matters once more: First, as held in Inting, the determination of probable cause by the prosecutor is for a purpose different from that which is to be made by the judge. Whether there is

> reasonable ground to believe that the accused is guilty of the offense charged and should be held for trial is what the prosecutor passes upon. The judge, on the other hand, determines whether a warrant of arrest should be issued against the accused, i.e. whether there is a necessity for placing him under immediate custody in order not to frustrate the ends of justice. Thus, even if both should base their findings on one and the same proceeding or evidence, there should be no confusion as to their distinct objectives.
>
> Second, since their objectives are different, the judge cannot rely solely on the report of the prosecutor in finding probable cause to justify the issuance of a warrant of arrest. Obviously and understandably, the contents of the prosecutor's report will support his own conclusion that there is reason to charge the accused of an offense and hold him for trial. However, the judge must decide independently. Hence, he must have supporting evidence, other than the prosecutor's bare report, upon which to legally sustain his own findings on the existence (or nonexistence) of probable cause to issue an arrest order. This responsibility of determining personally and independently the existence or nonexistence of probable cause is lodged in him by no less than the most basic law of the land. Parenthetically, the prosecutor could ease the burden of the judge and speed up the litigation process by forwarding to the latter not only the information and his bare resolution finding probable cause, but also so much of the records and the evidence on hand as to enable His Honor to make his personal and separate judicial finding on whether to issue a warrant of arrest.
>
> Lastly, it is not required that the complete or entire records of the case during the preliminary investigation be submitted to and examined by the judge. We do not intend to unduly burden trial courts by obliging them to examine the complete records of every case all the time simply for the purpose of ordering the arrest of an accused. What is required, rather, is that the judge must have sufficient supporting documents (such as the complaint, affidavits, counter-affidavits, sworn statements of witnesses or transcripts of stenographic notes, if any) upon which to make his independent judgment or, at the very least, upon which to verify the findings of the prosecutor as to the existence of probable cause. The point is: he cannot rely solely and entirely on the prosecutor's recommendation, as Respondent Court did in this case. Although the prosecutor enjoys the legal presumption of regularity in the performance of his official duties and functions, which in turn gives his report the presumption of accuracy, the Constitution, we repeat, commands the judge to personally determine probable cause in the issuance of warrants of arrest. This Court has consistently held that a judge fails in his bounden duty if he relies merely on the certification or the report of the investigating officer.[137] (Emphasis in the original, citations omitted)

Ho v. People[138] reiterated the rule that the objective of the prosecutor in determining probable cause is different from the objective of the judge. The prosecutor determines whether there is cause to file an Information against the accused. The judge determines whether there is cause to issue a warrant for his arrest. Considering this difference in the objectives, the judge cannot rely on the findings of the prosecutor, and instead must make his own conclusion. Moreover, while the judge need not conduct a new hearing and look at the entire record of every case all the time, his issuance of the warrant of arrest must be based on his independent judgment of sufficient, supporting documents and evidence.[139]

VI

The determination of the existence of probable cause for the issuance of a warrant of arrest is different from the determination of the existence of probable cause for the filing of a criminal complaint or information. The first is a function of the judge and the latter is a function of the prosecutor.

The delineation of these functions was discussed in Castillo v. Villaluz:[140]

> Judges of Regional Trial Courts (formerly Courts of First Instance) no longer have authority to conduct preliminary investigations. That authority, at one time reposed in them under Sections 13, 14 and 16, Rule 112 of the Rules of Court of 1964, was removed from them by the 1985 Rules on Criminal Procedure, effective on

> January 1, 1985, which deleted all provisions granting that power to said Judges. We had occasion to point this out in Salta v. Court of Appeals, 143 SCRA 228, and to stress as well certain other basic propositions, namely: (1) that the conduct of a preliminary investigation is "not a judicial function ... (but) part of the prosecution's job, a function of the executive," (2) that wherever "there are enough fiscals or prosecutors to conduct preliminary investigations, courts are counseled to leave this job which is essentially executive to them," and the fact "that a certain power is granted does not necessarily mean that it should be indiscriminately exercised."
>
> The 1988 Amendments to the 1985 Rules on Criminal Procedure, declared effective on October 1, 1988, did not restore that authority to Judges of Regional Trial Courts; said amendments did not in fact deal at all with the officers or courts having authority to conduct preliminary investigations.
>
> This is not to say, however, that somewhere along the line RTC Judges also lost the power to make a preliminary examination for the purpose of determining whether probable cause exists to justify the issuance of a warrant of arrest (or search warrant). Such a power - indeed, it is as much a duty as it is a power - has been and remains vested in every judge by the provision in the Bill of Rights in the 1935, the 1973 and the present (1987) Constitutions securing the people against unreasonable searches and seizures, thereby placing it beyond the competence of mere Court rule or statute to revoke. The distinction must, therefore, be made clear while an RTC Judge may no longer conduct preliminary investigations to ascertain whether there is sufficient ground for the filing of a criminal complaint or information, he retains the authority, when such a pleading is filed with his court, to determine whether there is probable cause justifying the issuance of a warrant of arrest. It might be added that this distinction accords, rather than conflicts, with the rationale of Salta because both law and rule, in restricting to judges the authority to order arrest, recognize that function to be judicial in nature.[141] (Citations omitted)

Given this difference, this Court has explicitly ruled that the findings of the prosecutor do not bind the judge. In People v. Honorable Enrique B. Inting, et al.:[142]

> First, the determination of probable cause is a function of the Judge. It is not for the Provincial Fiscal or Prosecutor nor for the Election Supervisor to ascertain. Only the Judge and the Judge alone makes this determination.
>
> Second, the preliminary inquiry made by a Prosecutor does not bind the Judge. It merely assists him to make the determination of probable cause. The Judge does not have to follow what the Prosecutor presents to him. By itself the Prosecutor's certification of probable cause is ineffectual. It is the report, the affidavits, the transcripts of stereographic notes (if any), and all other supporting documents behind the Prosecutor's certification which are material in assisting the Judge to make his determination.
>
> And third, Judges and Prosecutors alike should distinguish the preliminary inquiry which determines probable cause for the issuance of a warrant of arrest from the preliminary investigation proper which ascertains whether the offender should be held for trial or released. Even if the two inquiries are conducted in the course of one and the same proceeding, there should be no confusion about the objectives. The determination of probable cause for the warrant of arrest is made by the Judge. The preliminary investigation proper - whether or not there is reasonable ground to believe that the accused is guilty of the offense charged and, therefore, whether or not he should be subjected to the expense, rigors and embarrassment of trial - is the function of the Prosecutor.[143] (Emphasis supplied)

Thus, the determination of probable cause by the judge is not inferior to the public prosecutor. In fact, this power of the judge is constitutionally guaranteed.

The Constitution clearly mandates that the judge must make a personal determination of probable cause, and jurisprudence has expounded that it must be made independently from the conclusion of the prosecutor. While the basis of their findings may be the same in that they can consider the same evidences and documents in coming to

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their conclusions, their conclusions must be separate and independently made.[144]

The finding of the public prosecutor may only aid the judge in the latter's personal determination, but it cannot be the basis, let alone be the limitation, of the judge in his finding of the existence or absence of probable cause.[145]

Thus, the judge does not need a clear-cut case before he or she can deny the issuance of a warrant of arrest. There is no rule that a warrant of arrest must be issued automatically if the prosecutor's findings of fact and evaluation of evidence show that there is probable cause to indict the accused. There is no presumption that the Information filed by the prosecutor is sufficient for the issuance of the arrest warrant. The judge does not need to consider or be limited by the authority of the public prosecutor before it can decide to deny or grant the issuance of the warrant of arrest.

The Constitution requires the judge's personal determination. This means that he must make his own factual findings and come up with his own conclusions, based on the evidence on record, or the examination of the complainant and the witnesses. The judge's basis for the grant of the arrest warrant depends on whatever is necessary to satisfy him on the existence of probable cause.

Thus, what will satisfy the judge on the existence of probable cause will differ per case. The circumstances of the case, the nature of the proceedings, and the weight and sufficiency of the evidence presented, may affect the judge's conclusion.

The judge is given a wide latitude of discretion. Necessarily, the procedure by which the judge determines probable cause is not automatic, cursory, or ministerial.[146] In some cases, he or she may find it sufficient to review the documents presented during the preliminary investigation. In others, it may be necessary to call a hearing to examine the complainant and the witnesses personally. A judge may not just conduct the examination on each case in the same manner. The standard is his or her own satisfaction of the existence of probable cause.

The doubt in the nature of the offense charged in the Information and the nature and the content of the testimonies presented would have put a reasonable judge on notice that it was not sufficient to depend on the documents available to her. The complexity of this case should have led her to actually conduct a physical hearing, call the witnesses, and ask probing questions.

After all, even Justices of this Court were left bewildered by what was charged, leaving this Court divided between Direct Bribery, Illegal Trading, or even Illegal Trafficking. The Solicitor General himself proposed that it was Conspiracy to Commit Illegal Trading which was being charged.

Furthermore, a substantial majority of the witnesses are convicts under the charge of the Bureau of Prisons and subject to the procedures of the Board of Pardons and Parole. All these agencies are under the Secretary of Justice who recused because he already took a public stance on the guilt of the accused. It would have been reasonable for a competent and independent judge to call the witnesses to test their credibility. Clearly the life of convicts can be made difficult or comfortable by any present administration.

Thus, it was grave abuse of discretion for respondent judge not to personally examine the witnesses in the context of the facts of this case. The issuance of the Warrant of Arrest was, therefore, invalid. The Warrant is void ab initio for being unconstitutional.

VII

Assuming that the trial court had jurisdiction over the offense charged in the Information and that the judge properly went through the preliminary investigation, still, the evidence presented by the prosecution and re-stated in the ponencia does not actually prove that there was probable cause to charge petitioner with conspiracy to

commit illegal drug trading or illegal drug trading:

> The foregoing findings of the DOJ find support in the affidavits and testimonies of several persons. For instance, in his Affidavit dated September 3, 2016, NBI agent Jovencio P. Ablen, Jr. narrated, viz:
> 21. On the morning of 24 November 2012, I received a call from Dep. Dir. Ragos asking where I was. I told him I was at home. He replied that he will fetch me to accompany him on a very important task.
>
> 22. Approximately an hour later, he arrived at my house. I boarded his vehicle, a Hyundai Tucson, with plate no. RGU910. He then told me that he will deliver something to the then Secretary of Justice, Sen. Leila de Lima. He continued and said "Nior confidential 'to. Tayong dalawa Zang ang nakakaalam nito. Dadalhin natin yung quota kay lola. 5M 'yang nasa bag. Tingnan mo."
>
> 23. The black bag he was referring to was in front of my feet. It [was a] black handbag. When I opened the bag, I saw bundles of One Thousand Peso bills.
>
> 24. At about 10 o'clock in the morning, we arrived at the house located at Laguna Bay comer Subic Bay Drive, South Bay Village, Paranaque City.
>
> 25. Dep. Dir. parked his vehicle in front of the house. We both alighted the vehicle but he told me to stay. He then proceeded to the house.
>
> 26. From our parked vehicle, Isaw Mr. Ronnie Dayan open the gate. Dep. Dir. Ragos then handed the black handbag containing bundles of one thousand peso bills to Mr. Dayan.
>
> 27. At that time, I also saw the then DOJ Sec. De Lima at the main door of the house. She was wearing plain clothes which is commonly known referred to as "duster."
>
> 28. The house was elevated from the road and the fence was not high that is why I was able to clearly see the person at the main door, that is, Sen. De Lima.
>
> 29. When Dep. Dir. Ragos and Mr. Dayan reached the main door, I saw Mr. Dayan hand the black handbag to Sen. De Lima, which she received. The three of them then entered the house.
>
> 30. After about thirty (30) minutes, Dep. Dir. Ragos went out of the house. He no longer has the black handbag with him.
>
> 31. We then drove to the BuCor Director's Quarters in Muntinlupa City. While cruising, Dep. Dir. Ragos told me "Nior 'wag kang maingay kahit kanino at wala kang Nakita ha" to which I replied "Sabi mo e. e di wala akong Nakita."
>
> 32. On the morning of 15 December 2012, Dep. Dir. Ragos again fetched me from my house and we proceeded to the same house located at Laguna Bay comer Subic Bay Drive, South Bay Village, Paranaque City.
>
> 33. That time, I saw a plastic bag in front of my feet. I asked Dep. Dir. Ragos "Quota na naman Sir?" Dep. Dir. Ragos replied "Ano pang ba, 'tang ina sila lang meron."

....

Petitioner's co-accused, Rafael Ragos, recounted on his own Affidavit dated September 26, 2016 a similar scenario:

> 8. One morning on the latter part of November 2012, I saw a black handbag containing a huge sum of money on my bed inside the Director's Quarters of the BuCor. I looked inside the black handbag and saw that it contains bundles of one thousand peso bills.

9. I then received a call asking me to deliver the black handbag to Mr. Ronnie Dayan. The caller said the black handbag came from Peter Co and it contains "Limang Manok" which means Five Million Pesos (Php5,000,000.00) as a "manok" refers to One Million Pesos (Php1,000,000.00) in the vernacular inside the New Bilibid Prison.

10. As I personally know Mr. Dayan and knows that he stays in the house of the then DOJ Sec. Leila M. De Lima located at Laguna Bay comer Subic Bay Drive, South Bay Village, Paranaque City, I kn[e]w I had to deliver the black handbag to Sen. De Lima at the said address.

11. Before proceeding to the house of Sen. De Lima at the above-mentioned address, I called Mr. Ablen to accompany me in delivering the money. I told him we were going to do an important task.

12. Mr. Ablen agreed to accompany me so I fetch[ed] him from his house and we proceeded to the house of Sen. De Lima at the above mentioned address.

13. While we were in the car, I told Mr. Ablen that the important task we will do is deliver Five Million Pesos (Php5,000,000.00) "Quota" to Sen. De Lima. I also told him that the money was in the black handbag that was on the floor of the passenger seat (in front of him) and he could check it, to which Mr. Ablen complied.

14. Before noon, we arrived at the house of Sen. De Lima located at Laguna bay corner Subic Bay Drive, South Bay Village, Paranaque City.

15. I parked my vehicle in front of the house. Both Mr. Ablen and I alighted from the vehicle but I went to the gate alone carrying the black handbag containing the Five Million Pesos (Php5,000,0000.00).

16. At the gate, Mr. Ronnie Dayan greeted me and opened the gate for me. I then handed the handbag containing the money to Mr. Dayan.

17. We then proceeded to the main door of the house where Sen. De Lima was waiting for us. At the main door, Mr. Dayan handed the black handbag to Sen. De Lima, who received the same. We then entered the house.

18. About thirty minutes after, I went out of the house and proceeded to my quarters at the BuCor, Muntinlupa City.

19. One morning in the middle part of December 2012, I received a call to again deliver the plastic bag containing money from Peter Co to Mr. Ronie Dayan. This time the money was packed in a plastic bag left on my bed inside my quarters at the BuCor, Muntinlupa City. From the outside of the bag, I could easily perceive that it contains money because the bag is translucent.

20. Just like before, I fetched Mr. Ablen from his house before proceeding to the house of Sen. De Lima located at Laguna Bay corner Subic bay Drive, South Bay Village, Paranaque City, where I know I could find Mr. Dayan.

21. In the car, Mr. Ablen asked me if we are going to deliver "quota." I answered yes.

22. We arrived at the house of Sen. De Lima at the above mentioned address at noontime. I again parked in front of the house.

23. I carried the plastic bag containing money to the house. At the gate, I was greeted by Mr. Ronnie Dayan. At that point, I handed the bag to Mr. Dayan. He received the bag and we proceeded inside the house.

....

The source of the monies delivered to petitioner de Lima was expressly bared by several felons incarcerated inside the NBP. Among them is Peter Co, who testified in the following manner:

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> 6. Noong huling bahagi ng 2012, sinabi sa akin ni Hans Tan na nanghihingi ng kontribusyon sa mga Chinese sa Maximum Security Compound ng NBP si dating DOJ Sec. De Lima para sa kanyang planong pagtakbo sa senado sa 2013 Elections. Dalawang beses akong nagbigay ng tig--P5 Million para tugunan ang hiling ni Sen. De Lima, na dating DOJ Secretary;
>
> 7. Binigay ko ang mga halagang ito kay Hans Tan para maibigay kay Sen. Leila De Lima na dating DOJ Secretary. Sa parehong pagkakataon, sinabihan na lang ako ni Hans Tan na naibigay na ang pera kay Ronnie Dayan na siyang tumatanggap ng pera para kay dating DOJ Sec. De Lima. Sinabi rin ni Hans Tan na ang nagdeliver ng pera ay si dating OIC ng BuCor nasi Rafael Ragos.
>
> 8. Sa kabuuan, nakapagbigay ang mga Chinese sa loob ng Maximum ng P10 Million sa mga huling bahagi ng taong 2012 kay dating DOJ Sec. De Lima para sa kanyang planong pagtakbo sa senado sa 2013 Elections. Ang mga perang ito ay mula sa pinagbentahan ng illegal na droga.[147]

The evidence presented to the trial court does not show that petitioner conspired to trade illegal drugs in the New Bilibid Prison. On the contrary, it alleges that petitioner received certain amounts of money from Jovencio P. Ablen, Jr., co-accused Rafael Ragos, and inmate Wu Tian Yuan/Peter Co. The allegation that the money came from the sale of illegal drugs was mentioned in passing by an inmate of the New Bilibid Prison, presently incarcerated for violation of Republic Act No. 6425 or the Dangerous Drugs Act of 1972.

Most of the evidence gathered by the Department of Justice came from convicts of the New Bilibid Prison, who have not personally appeared before the Department of Justice but were merely presented to the House of Representatives during a hearing in aid of legislation. Their testimonies were likewise inconsistent:

> JUSTICE LEONEN:
> All the facts in the Affidavits are actually corroborated by each other, correct?
>
> SOLICITOR GENERAL CALIDA:
> Yes, Your Honor.
>
> JUSTICE LEONEN:
> Because I read every Affidavit that is contained there, and it was difficult for me and my staff to actually create a timeline, or there was a corroboration of substantial points. For example, do you have the Affidavit of Diaz with you?
>
> SOLICITOR GENERAL CALIDA:
> Right now, Your Honor?
>
> JUSTICE LEONEN:
> Right now.
>
> SOLICITOR GENERAL CALIDA:
> I don't have it, Your Honor.
>
> ....
>
> JUSTICE LEONEN:
> In any case, Counsel, paragraph 28 of the Affidavit of Diaz, states the source of the money that he has supposed to have given through intermediaries to De Lima. And it is very clear there that he says, it did not come from drugs. Except that there is a subsequent question, paragraph 29, which actually shows that it was the investigator that suggested by a leading question that drugs were involved. In any case, I'm just saying that there is such an affidavit which actually says that. And based on the Affidavit itself, would you say that any judge really wanting to be impartial, should have called that witness in order to ask more searching questions of that witness?

> SOLICITOR GENERAL CALIDA:
> Pardon me and forgive me for asking this, Your Honor, but are we now assessing the .....
>
> JUSTICE LEONEN:
> We are not assessing .....
>
> SOLICITOR GENERAL CALIDA:
> ..... substantive evidence, Your Honor?
>
> JUSTICE LEONEN:
> We are not assessing the substance of the evidence, unless you are not familiar with it. We are not assessing it, we are just looking at the exceptions for the doctrine that the judge only relies on the document, and that the judge, in many cases of certiorari, have been told by this Court, that he or she should have called the witnesses when there were indicators that relying on the documents were not sufficient. That's a doctrine, that is Lim v. Felix, that is Haw v. People, that is People v. Ho. I am just asking you whether it is your opinion, right for Guerrero, or whether there was grave abuse of discretion in the determination of probable cause, that she did not call the witnesses. Considering that it was not clear where the sources of funds were coming from, case in point, the Affidavit of Diaz. In other words, I'm not saying that Diaz was telling the truth. I'm just saying that based on the Affidavit, there is doubt.[148]

There is nothing on record to support the finding of probable cause. Instead, the trial court issued a one (1)-page Order, which reads:

> After a careful evaluation of the herein Information and all the evidence presented during the preliminary investigation conducted in this case by the Department of Justice, Manila, the Court finds sufficient probable cause for the issuance of Warrants of Arrest against all the accused LEILA M. DE LIMA ...[149]

These evidence sufficiently engender enough doubt that there is probable cause to support illegal trading, illegal trafficking, or even conspiracy to commit illegal trading. It was, therefore, error and grave abuse of discretion for respondent judge to have issued the Warrant of Arrest.

VIII

A writ of prohibition may issue to enjoin criminal prosecutions to prevent the use of the strong arm of the law.

In Dimayuga v. Fernandez:[150]

> It is true, as respondents contend, that, as a general rule, a court of equity will not restrain the authorities of either a state or municipality from the enforcement of a criminal law, and among the earlier decisions, there was no exception to that rule. By the modern authorities, an exception is sometimes made, and the writ is granted, where it is necessary for the orderly administration of justice, or to prevent the use of the strong arm of the law in an oppressive or vindictive manner, or a multiplicity of actions....
>
> The writ of prohibition is somewhat sui generis, and is more or less in the sound legal discretion of the court and is intended to prevent the unlawful and oppressive exercise of legal authority, and to bring about the orderly administration of justice.[151]

Again,in Aglipay v. Ruiz:[152]

> The statutory rule, therefore, in this jurisdiction is that the writ of prohibition is not confined exclusively to courts or tribunals to keep them within the limits of their own jurisdiction and to prevent them from encroaching upon the jurisdiction of other tribunals but will issue, in appropriate cases, to an officer or person whose acts are without or in excess of his authority. Not infrequently, "the writ is granted, where it is necessary for the orderly administration of justice, or to prevent the use of the strong arm of the law in an oppressive or

vindictive manner, or a multiplicity of actions."[153] Ramos v. Hon. Torres[154] explained further:

[I]t is well-settled that, as a matter of general rule, the writ of prohibition will not issue to restrain criminal prosecution. Hence, in Hernandez v. Albano, we called attention to the fact that:

> ". . . a Rule now of long standing and frequent application - was formulated that ordinarily criminal prosecution may not be blocked by court prohibition or injunction. Really, if at every turn investigation of a crime will be halted by a court order, the administration of criminal justice will meet with an undue setback. Indeed, the investigative power of the Fiscal may suffer such a tremendous shrinkage that it may end up in hollow sound rather than as a part and parcel of the machinery of criminal justice."

This general rule is based, inter alia:

> ". . . on the fact that the party has an adequate remedy at law by establishing as a defense to the prosecution that he did not commit the act charged, or that the statute or ordinance on which the prosecution is based is invalid, and, in case of conviction, by taking an appeal."

It is true that the rule is subject to exceptions. As pointed out in the Hernandez case:

> "We are not to be understood, however, as saying that the heavy hand of a prosecutor may not be shackled - under all circumstances. The rule is not an invariable one. Extreme cases may, and actually do, exist where relief in equity may be availed of to stop a purported enforcement of a criminal law where it is necessary (a) for the orderly administration of justice; (b) to prevent the use of the strong arm of the law in an oppressive and vindictive manner; (c) to avoid multiplicity of actions; (d) to afford adequate protection to constitutional rights; and (e) in proper cases, because the statute relied upon is unconstitutional, or was 'held invalid.'"[155]

The vindictive and oppressive manner of petitioner's prosecution is well documented. Petitioner submitted to this Court a listing of attacks made against her by President Rodrigo R. Duterte. President Duterte made 37 statements about petitioner on 24 different occasions from August 11, 2016 to November 28, 2016, accusing her of being involved in the drug trade and repeatedly threatening to jail her. Excerpts of those statements included:

> "You elected a senator, kayong mga Pilipino na ... [w]ho was into narco- politics, who was being financed from the inside." Speech during the oathtaking of MPC, MCA, and PPA, September 26, 2016[156]

> "the portals of the national government has been opened by her election as senator because of the drug money. We are now a narco-politics." - Media Interview before his departure for Vietnam, September 28, 2016[157]

> "The portals of the invasion of drugs into the national government started with De Lima." - Speech at the Oathtaking of Newly-appointed Officials and LMP, October 11, 2016[158]

> "the portals of the national government have been opened to drug influence... Look at De Lima. Do you think those officials who testified against her are lying?" - Press Conference with the Malacañang Press Corps, Beijing, October 19, 2016[159]

> "with the election of De Lima ... the national portals of narcopolitics has entered into the political life of our country." Meeting with the Filipino Community in Tokyo, Japan, October 25, 2016[160]

> "De Lima opened the portals of narcopolitics that started in the National penitentiary." Launching of the Pilipinong may Puso Foundation, Waterfront Hotel, Davao City, November 11, 2016[161]

> "Now the portals of the national government has been opened to the creeping influence of drug[s]. You must remember that Leila, si Lilia or whatever the name is, was the Secretary of Justice herself and she allowed the drug industry to take place." - Speech at the 80[th] Founding Anniversary of the NBI, Ermita, Manila, November 14, 2016[162]

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"sadly, it was Sen. Leila De Lima who opened the 'portals of the national government to the contamination of narco politics." - During his meeting with Rep. Gloria Arroyo in Malacañang, November 28, 2016[163]

"I will destroy her in public" - Media interview, Davao City, August 11, 2016[164]

"I will tell the public the truth of you" Press Conference, August 17, 2016[165]

"De Lima, you are finished." - Media Interview, Ahfat Seafood Plaza 1, Bajada, Davao City, August 24, 2016[166]

"She will be jailed." - Speech during the oathtaking of MPC, MCA, and PPA, September 26, 2016[167]

"De Lima, do not delude yourself about her kneeling down. I warned her 8 months ago, before the election." - Speech during the 115[th] Anniversary of the PCG, Port Area, Manila, October 12, 2016[168]

"She will rot in jail." - Meeting with the Filipino Community in Tokyo, Japan, October 25, 2016[169]

"[My sins] was just to make public what was or is the corruption of the day and how drugs prorate [sic] inside our penal institutions, not only in Muntinlupa but sa mga kolonya." Media Briefing before his departure for Malaysia, NAJA Terminal 2, November 9, 2016[170]

"her driver herself, who was her lover, was the one also collecting money for her during the campaign." - Speech during the 115[th] Police Service Anniversary, August 17, 2016[171]

"But in fairness, I would never state here that the driver gave the money to her. But by the looks of it, she has it." - Speech during the 115[th] Police Service Anniversary, August 17, 2016[172]

"The crux of the matter is, if I do not talk about that relationship with De Lima to her driver, then there is no topic to talk about. Because what is really very crucial is the fact of that relationship with her driver, which I termed 'immoral' because the driver has a family and a wife, gave rise-that connection gave rise to the corruption of what was happening inside the national penitentiary." - Media Interview, Davao City, August 21, 2016[173]

"These illegal things which you saw on TV almost everyday for about a month, do you think that without De Lima giving [her driver] the authority to allow the inmates to do that?" Media Interview, Davao City, August 21, 2016[174]

"She is lying through her teeth because now that she is ... You know in all her answers, she was only telling about drugs, now she denied there are leads about drugs, but she never said true or false about the driver. And the driver is the connect-lahat naman sa loob sinasabi ... ang driver." - Media Interview, Davao City, August 21, 2016[175]

"From the looks of it, it would be unfair to say that si De Lima was into drug trafficking but by implication kasi she allowed them through her driver, pati sila Baraan, I was correct all along because I was supplied with a matrix." - Speech during his visit to the 10[th] ID, Philippine Army, Compostela Valley, September 20, 2016[176]

"Ang tao, hindi talaga makapigil eh. Magregalo ng bahay, see. It has never been answered kung kaninong bahay, sinong gumastos. Obviously, alam natin lahat. But that is how narco-politics has set in." Speech at the Oathtaking of Newly-appointed Officials and LMP, October 11, 2016[177]

The current Secretary of Justice, Vitaliano Aguirre, actively participated in the Senate and House of Representatives inquiry on the alleged proliferation of the drug trade in the New Bilibid Prison, repeatedly signing off on grants of immunity to the inmates who testified.[178]

Even the Solicitor General, Jose Calida, was alleged to have visited one (1) of the New Bilibid Prison inmates,

Jaybee Sebastian, to seek information on petitioner:

> May mga bumisita sa akin at tinatanong ang mga inpormasyon na ito at isa dito ay si Solicitor General Calida. Kami ay nagkaharap kasama ang kanyang grupo at nagbigay ako ng mga importanteng inpormasyon. Upang lubos ko silang matulungan ako ay humiling na malipat muli sa maximum kasama si Hanz Tan. Kinausap ni SOLGEN Calida sa telepono si OIC Ascuncion at pinakausap nya karni ni Hanz Tan ay dadalhin sa maxnnum sa lalong madaling panahon o ASAP ngunit hindi ito nangyari.[179]
>
> Minsan kong kinausap ang mga kapwa ko bilanggo sa Bldg. 14 at kinumbinsi ko sila na samahan akong magbigay linaw sa ginagawang imbestigasyon hingil sa paglaganap ng droga sa bilibid bunsod ito ng pakikipag-usap sa akin ni Sol Gen. Calida at Miss Sandra Cam.[180]

It is clear that the President, the Secretary of Justice, and the Solicitor General were already convinced that petitioner should be prosecuted even before a preliminary investigation could be conducted. The vindictive and oppressive manner by which petitioner was singled out and swiftly taken into custody is an exceptional circumstance that should have placed the courts on guard that a possible miscarriage of justice may occur.

IX

Under Rule 117 of the Rules of Court, an accused may file a motion to quash an Information on the basis that the trial court had no jurisdiction over the offense charged. Section 3 provides:

> Section 3. Grounds. - The accused may move to quash the complaint or information on any of the following grounds:
>
> (a) That the facts charged do not constitute an offense;
>
> (b) That the court trying the case has no jurisdiction over the offense charged;
>
> (c) That the court trying the case has no jurisdiction over the person of the accused;
>
> (d) That the officer who filed the information had no authority to do so;
>
> (e) That it does not conform substantially to the prescribed form;
>
> (f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law;
>
> (g) That the criminal action or liability has been extinguished;
>
> (h) That it contains averments which, if true, would constitute a legal excuse or justification; and
>
> (i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.

On February 20, 2017, petitioner filed a Motion to Quash before the Regional Trial Court of Muntinlupa, alleging that the trial court had no jurisdiction over the offense charged in the Information filed against her. While the Motion was pending, the trial court issued an Order dated February 23, 2017 finding probable cause against petitioner. Warrants of arrest were issued for her and her co-accused.[181]

The ponencia submits that the filing of a Petition for Certiorari and Prohibition before this Court questioning the trial court's jurisdiction to issue the warrants of arrest was premature, considering that the trial court had yet to act on petitioner's Motion to Quash.[182] This Court cited as basis Solid Builders v. China Bank,[183] State Investment House v. Court of Appeals,[184] Diaz v. Nora,[185] Republic v. Court of Appeals,[186] Allied Broadcasting Center v. Republic,[187] and De Vera v. Pineda.[188] None of these cases, however, actually

involved a pending motion to quash in a criminal prosecution.

In Solid Builders, a civil case, Solid Bank appealed the Court of Appeals decision on the ground that it effectively enabled China Bank to foreclose on its mortgages despite the allegedly unconscionable interest rates. This Court held that their appeal was premature since the trial court had yet to make a determination of whether the stipulated penalty between the.parties was unconscionable.[189]

In State Investment House, a civil case, the assailed rulings by the Court of Appeals did not actually make a determination on the issue of prescription. Thus, this Court found premature a petition for certiorari alleging that the Court of Appeals should not have ruled on the issue of prescription.[190]

In Diaz, a labor case, a petition for mandamus was filed to compel the Labor Arbiter to issue a writ of execution of his or her decision. The Labor Arbiter did not act on the motion for the issuance of a writ of execution since an appeal of the decision was filed before the National Labor Relations Commission. Diaz, however, contended that the appeal was not perfected. This Court found the petition for mandamus premature since the proper remedy should have been the filing of a motion to dismiss appeal before the National Labor Relations Commission and a motion to remand the records to the Labor Arbiter.[191]

In Republic, a civil case, this Court held that a writ of injunction cannot issue when there is no right yet to be violated.[192] In Allied Broadcasting, a special civil action, this Court held that the constitutionality of a law cannot be subject to judicial review if there is no case or controversy.[193] In De Vera, a special civil action, this Court held that a petition for certiorari questioning the conduct of investigation of the Integrated Bar of the Philippines is premature when the Investigating Commissioner has not yet submitted a report of the findings to the Board of Governors.[194]

Here, the Motion to Quash filed by petitioner before the trial court specifically assails the trial court's lack of jurisdiction over subject matter. Regardless of whether the Motion is denied or granted, it would not preclude this Court from entertaining a special civil action assailing the trial court's lack of jurisdiction over the offense charged.

If the Motion to Quash is denied, the remedy of certiorari and prohibition may still be available. As a general rule, the denial of a motion to quash is not appealable and the case proceeds to trial. This rule, however, admits of exceptions. In Lopez v. The City Judge,[195] this Court granted a petition for prohibition of a denial of a motion to quash on the basis of lack of jurisdiction, stating:

> On the propriety of the writs prayed for, it may be said that, as a general rule, a court of equity will not issue a writ of certiorari to annul an order of a lower court denying a motion to quash, nor issue a writ of prohibition to prevent said court from proceeding with the case after such denial, it being the rule that upon such denial the defendant should enter his plea of not guilty and go to trial and, if convicted, raise on appeal the same legal questions covered by his motion to quash. In this as well as in other jurisdictions, however, this is no longer the hard and fast rule.
>
> The writs of certiorari and prohibition, as extraordinary legal remedies, are, in the ultimate analysis, intended to annul void proceedings; to prevent the unlawful and oppressive exercise of legal authority and to provide for a fair and orderly administration of justice. Thus, in Yu Kong Eng vs. Trinidad . . . We took cognizance of a petition for certiorari and prohibition although the accused in the case could have appealed in due time from the order complained of, our action in the premises being based on the public welfare and the advancement of public policy. In Dimayuga vs. Fajardo . . . We also admitted a petition to restrain the prosecution of certain chiropractors although, if convicted, they could have appealed. We gave due course to their petition for the orderly administration of justice and to avoid possible oppression by the strong arm of the law. And in Arevalo vs. Nepomuceno . . . the petition for certiorari challenging the trial court's action admitting an amended

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> information was sustained despite the availability of appeal at the proper time.
>
> More recently, We said the following in Yap vs. the Hon. D. Lutero etc.:
>
> ....
> "Manifestly, the denial, by respondent herein, of the motion to quash the information in case No. 16443, may not be characterized as 'arbitrary' or 'despotic', or to be regarded as amounting to 'lack of jurisdiction'. The proper procedure, in the event of denial of a motion to quash, is for the accused, upon arraignment, to plead not guilty and reiterate his defense of former jeopardy, and, in case of conviction, to appeal therefrom, upon the ground that he had been twice put in jeopardy of punishment, either for the same offense, or for the same act, as the case may be. However, were we to require adherence to this pretense, the case at bar would have to be dismissed and petitioner required to go through the inconvenience, not to say the mental agony and torture, of submitting himself to trial on the merits in case No. 16443, apart from the expenses incidental thereto, despite the fact that his trial and conviction therein would violate one of his constitutional rights, and that, on appeal to this Court, we would, therefore, have to set aside the judgment of conviction of the lower court. This would, obviously, be most unfair and unjust. Under the circumstances obtaining in the present case, the flaw in the procedure followed by petitioner herein may be overlooked, in the interest of a more enlightened and substantial justice."

Indeed, the lack of jurisdiction of the City Court of Angeles over the criminal offense charged being patent, it would be highly unfair to compel the parties charged to undergo trial in said court and suffer all the embarrassment and mental anguish that go with it.[196]

If the trial court grants the Motion to Quash and fmds that it had no jurisdiction over the offense charged, the court cannot, as the ponencia states, "simply order that another complaint or information be filed without discharging the accused from custody"[197] under Rule 117, Section 5, unless the order is contained in the same order granting the motion. Rule 117, Section 5 reads:

> Section 5. Effect of sustaining the motion to quash. If the motion to quash is sustained, the court may order that another complaint or information be filed except as provided in section 6 of this rule. If the order is made, the accused, if in custody, shall not be discharged unless admitted to bail. If no order is made or if having been made, no new information is filed within the time specified in the order or within such further time as the court may allow for good cause, the accused, if in custody, shall be discharged unless he is also in custody for another charge.

In Gonzales v. Hon. Salvador:[198]

> The order to file another information, if determined to be warranted by the circumstances of the case, must be contained in the same order granting the motion to quash. If the order sustaining the motion to quash does not order the filing of another information, and said order becomes final and executory, then the court may no longer direct the filing of another information.[199]

Thus, if the trial court has no jurisdiction, any subsequent order it issues would be void. It is for this reason that lack of jurisdiction can be raised at any stage of the proceedings, even on appeal.[200] In a criminal case, any subsequent order issued by a court not having jurisdiction over the offense would amount to a harassment suit and would undoubtedly violate the constitutional rights of the accused.

The ponencia also failed to take note that petitioner amended her prayer in her Memorandum. The Petition states:

> WHEREFORE, premises considered, and in the interest of substantial justice and fair play, Petitioner respectfully prays the Honorable Court that judgment be rendered:
>
> - Granting a writ of certiorari annulling and setting aside the Order dated 23 February 2017, the Warrant of

> Arrest dated the same date, and the Order dated 24 February 2017 of the Regional Trial Court-Branch 204, Muntinlupa City, in Criminal Case No. 17-165 entitled People of the Philippines versus Leila M. De Lima et al.;
>
> - Granting a writ of prohibition enJommg and prohibiting respondent judge from conducting further proceedings until and unless the Motion to Quash is resolved with finality;
>
> - Issuing an order granting the application for the issuance of temporary restraining order (TRO) and a writ of preliminary injunction to the proceedings; and
>
> - Issuing a Status Quo Ante Order restoring the parties to the status prior to the issuance of the Order and Warrant of Arrest, both dated February 23, 2017, thereby recalling both processes and restoring petitioner to her liberty and freedom.[201]

Petitioner's Memorandum, however, states:

> WHEREFORE, premises considered, and in the interest of substantial justice and fair play, Petitioner respectfully prays the Honorable Court that judgment be rendered:
>
> - Granting a writ of certiorari annulling and setting aside the Order dated 23 February 2017, the Warrant of Arrest dated the same date, and the Order dated 24 February 2017 of the Regional Trial Court-Branch 204, Muntinlupa City, in Criminal Case No. 17-165 entitled People of the Philippines versus Leila M. De Lima et al.; and
>
> - Ordering the immediate release of Petitioner from detention. Petitioner likewise prays for other just and equitable reliefs.[202]

Issues raised in previous pleadings but not raised in the memorandum are deemed abandoned.[203] The memorandum, "[b]eing a summation of the parties' previous pleadings . . . alone may be considered by the Court in deciding or resolving the petition."[204] Thus, it is inaccurate for the ponencia to insist that petitioner's prayer in the Petition was "an unmistakable admission that the RTC has yet to rule on her Motion to Quash."[205] Petitioner's Memorandum does not mention the relief cited by the ponencia in her Petition, and thus, should be considered abandoned. Petitioner, therefore, does not admit that the Regional Trial Court must first rule on her Motion to Quash before seeking relief with this Court.

In any case, by issuing the Warrant of Arrest, the trial court already acted on the Motion to Quash by assuming jurisdiction over the offense charged. It would have been baffling for the trial court to fmd probable cause, issue the warrant of arrest, and then subsequently find the Information defective and grant the Motion to Quash. The relief sought by petitioner in the quashal of the Information would have been rendered moot once the trial court determined that it had the competence to issue the Warrant of Arrest.

X

Petitioner did not violate the rule on forum shopping since a question of lack of jurisdiction may be raised at any stage of the proceeding. The purpose of the rule on forum shopping is to prevent conflicting decisions by different courts on the same issue. Considering the novelty of the issue presented, a direct recourse to this Court despite the pendency of the same action in the trial court should be allowed.

In City of Makati v. City of Taguig,[206] this Court previously discussed the origins and purpose of the rule on forum shopping:

> Top Rate Construction & General Services, Inc. v. Paxton Development Corporation explained that:
> Forum shopping is committed by a party who institutes two or more suits in different courts, either

> simultaneously or successively, in order to ask the courts to rule on the same or related causes or to grant the same or substantially the same reliefs, on the supposition that one or the other court would make a favorable disposition or increase a party's chances of obtaining a favorable decision or action.

First Philippine International Bank v. Court of Appeals recounted that forum shopping originated as a concept in private international law:

> To begin with, forum-shopping originated as a concept in private international law, where non-resident litigants are given the option to choose the forum or place wherein to bring their suit for various reasons or excuses, including to secure procedural advantages, to annoy and harass the defendant, to avoid overcrowded dockets, or to select a more friendly venue. To combat these less than honorable excuses, the principle of forum non conveniens was developed whereby a court, in conflicts of law cases, may refuse impositions on its jurisdiction where it is not the most "convenient" or available forum and the parties are not precluded from seeking remedies elsewhere.
>
> In this light, Black's Law Dictionary says that forum-shopping "occurs when a party attempts to have his action tried in a particular court or jurisdiction where he feels he will receive the most favorable judgment or verdict." Hence, according to Words and Phrases, "a litigant is open to the charge of 'forum shopping' whenever he chooses a forum with slight connection to factual circumstances surrounding his suit, and litigants should be encouraged to attempt to settle their differences without imposing undue expense and vexatious situations on the courts."

Further, Prubankers Association v. Prudential Bank and Trust Co. recounted that:

> The rule on forum-shopping was first included in Section 17 of the Interim Rules and Guidelines issued by this Court on January 11, 1983, which imposed a sanction in this wise: "A violation of the rule shall constitute contempt of court and shall be a cause for the summary dismissal of both petitions, without prejudice to the taking of appropriate action against the counsel or party concerned." Thereafter, the Court restated the rule in Revised Circular No. 28-91 and Administrative Circular No. 04-94. Ultimately, the rule was embodied in the 1997 amendments to the Rules of Court.[207]

There is forum shopping when "there is identity of parties, rights or causes of action, and reliefs sought."[208] This Court, as discussed, is not precluded from entertaining a pure question of law, especially in this instance where the issue is a novel one. The rationale for the rule on forum shopping is to prevent conflicting decisions by different tribunals. There would be no conflicting decisions if this Court decides with finality that the trial court had no jurisdiction over the offense charged in the Information. It would be unjust to allow the trial court to proceed with the hearing of this case if, at some point, this Court finds that it did not have jurisdiction to try it in the first place.

XI

Petitioner substantially complied with the requirements of the verification in her Petition.

Rule 7, Section 4 of the Rules of Court requires all pleadings to be verified.[209] A pleading which lacks proper verification is treated as an unsigned pleading and shall, thus, be the cause for the dismissal of the case.[210] The requirement of verification is merely formal, not jurisdictional, and in proper cases, this Court may simply order the correction of a defective verification.[211] "Verification is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith."[212]

The ponencia insists on an unreasonable reading of the Rules, stating that petitioner's failure to sign the Verification in the presence of the notary invalidated her Verification.[213] It cites William Go Que Construction

v. Court of Appeals[214] and states that "[w]ithout the presence of the notary upon the signing of the Verification and Certification against Forum Shopping, there is no assurance that the petitioner swore under oath that the allegations in the petition have been made in good faith or are true and correct, and not merely speculative."[215]

The events which transpired in this case, however, are different than that of William Go Que Construction. Here, the petitioner and the notary public knew each other. There was no question as to their identities. The notary public's affidavit likewise states that she met with petitioner on the day of the notarization. Even with the difficulties presented by petitioner's detention, the notary public still required petitioner's staff to provide proof of identification.[216]

No one is questioning petitioner's identification or signature in the Petition. No one alleges that she falsified her signature in the Petition or that the notary public was unauthorized to notarize the Petition. The evil sought to be prevented by the defective verification, therefore, is not present in this case.

The ponencia's insistence on its view of strict compliance with the requirements of the jurat in the verification is a hollow invocation of an ambiguous procedural ritual bordering on the contrived. Substantial justice should always prevail over procedural niceties without any clear rationale.

XII

A direct resort to this Court will not be entertained if relief can be obtained in a lower court, owing to the doctrine of the hierarchy of courts. As aptly discussed in Diocese of Bacolod v. Commission on Elections:[217]

> The doctrine that requires respect for the hierarchy of courts was created by this court to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner. Trial courts do not only determine the facts from the evaluation of the evidence presented before them. They are likewise competent to determine issues of law which may include the validity of an ordinance, statute, or even an executive issuance in relation to the Constitution. To effectively perform these functions, they are territorially organized into regions and then into branches. Their writs generally reach within those territorial boundaries. Necessarily, they mostly perform the all-important task of inferring the facts from the evidence as these are physically presented before them. In many instances, the facts occur within their territorial jurisdiction, which properly present the 'actual case' that makes ripe a determination of the constitutionality of such action. The consequences, of course, would be national in scope. There are, however, some cases where resort to courts at their level would not be practical considering their decisions could still be appealed before the higher courts, such as the Court of Appeals.
>
> The Court of Appeals is primarily designed as an appellate court that reviews the determination of facts and law made by the trial courts. It is collegiate in nature. This nature ensures more standpoints in the review of the actions of the trial court. But the Court of Appeals also has original jurisdiction over most special civil actions. Unlike the trial courts, its writs can have a nationwide scope. It is competent to determine facts and, ideally, should act on constitutional issues that may not necessarily be novel unless there are factual questions to determine.
>
> This court, on the other hand, leads the judiciary by breaking new ground or further reiterating - in the light of new circumstances or in the light of some confusions of bench or bar - existing precedents. Rather than a court of first instance or as a repetition of the actions of the Court of Appeals, this court promulgates these doctrinal devices in order that it truly performs that role.
>
> In other words, the Supreme Court's role to interpret the Constitution and act in order to protect constitutional rights when these become exigent should not be emasculated by the doctrine in respect of the hierarchy of courts. That has never been the purpose of such doctrine.[218]

Diocese of Bacolod, however, clarified that the doctrine of hierarchy of courts is not iron-clad. There are recognized exceptions to its application. Thus, in Aala v. Uy:[219]

> Immediate resort to this Court may be allowed when any of the following grounds are present: (1) when genuine issues of constitutionality are raised that must be addressed immediately; (2) when the case involves transcendental importance; (3) when the case is novel; (4) when the constitutional issues raised are better decided by this Court; (5) when time is of the essence; (6) when the subject of review involves acts of a constitutional organ; (7) when there is no other plain, speedy, adequate remedy in the ordinary course of law; (8) when the petition includes questions that may affect public welfare, public policy, or demanded by the broader interest of justice; (9) when the order complained of was a patent nullity; and (10) when the appeal was considered as an inappropriate remedy.[220]

The doctrine of hierarchy of courts does not apply in this case. The issue before this Court is certainly a novel one. This Court has yet to determine with finality whether the regional trial court exercises exclusive jurisdiction over drug offenses by public officers, to the exclusion of the Sandiganbayan. Likewise, the question of jurisdiction pertains to a pure question of law; thus, allowing a direct resort to this Court.

Also, a direct resort to this Court is also allowed to "prevent the use of the strong arm of the law in an oppressive and vindictive manner."[221] This Court would be in the best position to resolve the case as it presents exceptional circumstances indicating that it may be "a case of persecution rather than prosecution."[222]

XIII

This would have been a simple and ordinary case had the petitioner's reaction been different.

The Petitioner here is known to be a vocal critic of this administration. She drew attention to many things she found wrong. She had been the subject of the colorful ire of the President of the Republic of the Philippines and his allies.

Publicly, through media and even before his Department could conduct the usual preliminary investigation, the Secretary of Justice himself already took a position and presented his case against the accused before a committee of the House of Representatives by personally conducting the examination of currently incarcerated individuals and serving sentence. This Court takes judicial notice that the Department of Justice has supervision and control over the Board of Pardons and Parole, the Bureau of Prisons, and the Witness Protection Program.

The public was treated to the witnesses of government as well as other salacious details of the life of the accused even before any formal investigation related to this case happened. It is true that the Secretary of Justice recused but the preference of the leadership of the Executive Branch was already made known so clearly, so colorfully, and so forcefully. It is reasonable to suspect that her case is quintessentially the use of the strong arm of the law to silence dissent.

Even in strong democracies, dissenting voices naturally fmd themselves in the minority. Going against the tide of majority opinion, they often have to face threats that may be deployed to silence them. It is then that they will repair to this Court for succor. After all, sacred among this Court's duties is the protection of everyone's fundamental rights enshrined in every corner of our Constitution.

It should not be this institution that wavers when this Court finds rights clearly violated. It is from the courage of our position and the clarity in our words that empowers our people to find their voice even in the most hostile of environments. To me, what happened in this case is clear enough. The motives are not disguised.

It is this that makes this case special: if we fail to call this case what it truly is, then it will not only be the

petitioner who will be in chains.

None of us will be able to claim to be genuinely free.

ACCORDINGLY, I vote to GRANT the Petition.

---

[1] NELSON MANDELA, LONG WALK TO FREEDOM 385 (1994).

[2] An Act Further Defining the Jurisdiction of the Sandiganbayan, Amending for the Purpose Presidential Decree No. 1606, as Amended, Providing Funds Therefor, and for Other Purposes (1997).

[3] Subsection (A) in Section 4 includes "[o]fficials of the executive branch occupying the positions of regional director and higher". This includes the Secretary of Justice. Republic Act No. 8249 by qualifying certain crimes to be referred to the Regional Trial Court also supports the interpretation that Section 4 [B] includes all crimes committed in relation to their office.

[4] Comprehensive Dangerous Drugs Act (2002).

[5] Similarly, sections 20, 61 and 62 also refers to the Regional Trial Court but are not exclusive grants of jurisdiction only to the Regional Trial Court.

Rep. Act No. 9165, sec. 20, 61 and 62 provides:

Section 20. Confiscation and Forfeiture of the Proceeds or Instruments of the Unlawful Act, Including the Properties or Proceeds Derived from the Illegal Trafficking of Dangerous Drugs and/or Precursors and Essential Chemicals. -

After conviction in the Regional Trial Court in the appropriate criminal case filed, the Court shall immediately schedule a hearing for the confiscation and forfeiture of all the proceeds of the offense and all the assets and properties of the accused either owned or held by him or in the name of some other persons if the same shall be found to be manifestly out of proportion to his/her lawful income: Provided, however, That if the forfeited property is a vehicle, the same shall be auctioned off not later than five (5) days upon order of confiscation or forfeiture.

SECTION 61. Compulsory Confinement of a Drug Dependent Who Refuses to Apply Under the Voluntary Submission Program. -

A petition for the confinement of a person alleged to be dependent on dangerous drugs to a Center may be filed by any person authorized by the Board with the Regional Trial Court of the province or city where such person is found.

Section 62. Compulsory Submission of a Drug Dependent Charged with an Offense to Treatment and Rehabilitation. - If a person charged with an offense where the imposable penalty is imprisonment of less than six (6) years and one (1) day, and is found by the prosecutor or by the court, at any stage of the proceedings, to be a drug dependent, the prosecutor or the court as the case may be, shall suspend all further proceedings and transmit copies of the record of the case to the Board.

In the event the Board determines, after medical examination, that public interest requires that such drug dependent be committed to a center for treatment and rehabilitation, it shall file a petition for his/her commitment with the regional trial courtof the province or city where he/she is being investigated or tried: Provided, That where a criminal case is pending in court, such petition shall be filed in the said court. The court shall take judicial

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notice of the prior proceedings in the case and shall proceed to hear the petition. If the court finds him to be a drug dependent, it shall order his/her commitment to a Center for treatment and rehabilitation. The head of said Center shall submit to the court every four (4) months, or as often as the court may require, a written report on the progress of the treatment. If the dependent is rehabilitated, as certified by the Center and the Board, he/she shall be returned to the court, which committed him, for his/her discharge therefrom.

[6] CONST., art. VIII, sec. 2 provides:

Section 2. The Congress shall have the power to define, prescribe, and apportion the jurisdiction of various courts but may not deprive the Supreme Court of its jurisdiction over cases enumerated in Section 5 hereof.

No law shall be passed reorganizing the Judiciary when it undermines the security of tenure of its Members.

[7] CONST., art. III, sec. 1 provides: Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

[8] 249 Phil. 394 (1988) [Per Curiam, En Banc].

[9] 272 Phil. 122 (1992) [Per J. Gutierrez, Jr., En Banc].

[10] 345 Phil. 597 (1997) [Per J. Panganiban, En Banc].

[11] See Cruz v. Court of Appeals, 436 Phil. 641, 654 (2002) [Per J. Carpio, Third Division] citing 4 Oscar M. Herrera, Remedial Law 3 (1992).

[12] See Valdepeñas v. People, 123 Phil. 734 (I966) [Per J. Concepcion, En Banc].

[13] See Cruz v. Court of Appeals, 436 Phil. 641, 654 (2002) [Per J. Carpio, Third Division].

[14] Soller v. Sandiganbayan, 409 Phil. 780, 789 (2001) [Per J. Gonzaga-Reyes, Third Division] citing CAMILO QUIAZON, PHILIPPINE COURTS AND THEIR JURISDICTIONS 36 (1993).

[15] See Gala v. Cui, 25 Phil. 522 (1913) [Per J. Moreland, First Division].

[16] See United States v. Castañares, 18 Phil. 210 (1911) [Per J. Carson, En Banc].

[17] Colmenares v. Hon. Villar, 144 Phil. 139, 142 (1970) [Per J. Reyes, J.B.L., En Banc].

[18] See Santos v. People, 260 Phil. 519 (1990) [Per J. Cruz, First Division].

[19] 17 Phil. 273 (1910) [Per J. Moreland, First Division].

[20] Id. at 278-279.

[21] Rep. Act No. 9165, art. II, sec. 5 provides:

Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be

imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

[22] Rep. Act No. 9165, art. I, sec. 3(jj) provides:

Section 3. Definitions. As used in this Act, the following terms shall mean:

....

jj) Trading. - Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.

[23] Rep. Act No. 9165, art. II, sec. 26(b) provides:

Section 26. Attempt or Conspiracy. Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

....

b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;

[24] Rep. Act No. 9165, art. II, sec. 28 provides:

Section 28. Criminal Liability of Government Officials and Employees. - The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees.

[25] Annex F of the Petition, pp. 1-2.

[26] Ponencia, p. 24.

[27] Id. at 27-28.

[28] 739 Phil. 593 (2014) [Per J. Perlas-Bernabe, Second Division].

[29] Id. at 601 citing People v. Adrid, 705 Phil. 654 (2013) [Per J. Velasco, Jr., Third Division].

[30] G.R. No. 174481, February 10, 2016, <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/february2016/174481.pdf> [Per J. Leonen, Second Division].

[31] Id. at 10 citing People v. Laba, 702 Phil. 301 (2013) [Per J. Perlas-Bernabe, Second Division]; People v. Watamama, 692 Phil. 102, 106 (2012) [Per J. Villarama, Jr., First Division]; and People v. Guzon, 719 Phil. 441 (2013) [Per J. Reyes, First Division].

[32] Ponencia, p. 26.

[33] Annex F of the Petition, pp. 1-2.

[34] Rep. Act No. 10575, sec. 8. Supervision of the Bureau of Corrections. - The Department of Justice (DOJ), having the BuCor as a line bureau and a constituent unit, shall maintain a relationship of administrative

supervision with the latter as defined under Section 38(2), Chapter 7, Book IV of Executive Order No. 292 (Administrative Code of 1987), except that the DOJ shall retain authority over the power to review, reverse, revise or modify the decisions of the BuCor in the exercise of its regulatory or quasi-judicial functions.

[35] Annex G of the Petition, p. 40, DOJ Resolution.

[36] The Judicial Reorganization Act of 1980.

[37] Creating a Special Court to be Known as "Sandiganbayan" and for Other Purposes (1978).

[38] See Pres. Decree No. 1486 (1978), Whereas Clauses.

[39] See Rep. Act No. 10660 (2015), sec. 1.

[40] CONST. (1973), art XIII, sec. 5.

[41] Revising Presidential Decree No. 1486 Creating a Special Court to be Known as "Sandiganbayan" and for Other Purposes (1978).

[42] An Act Further Defining the Jurisdiction of the Sandiganbayan, Amending for the Purposes Presidential Decree No. 1606, as amended, Providing Funds Therefor, and for Other Purposes (1997).

[43] 361 Phil. 251 (1999) [Per J. Martinez, En Banc].

[44] Id. at 270.

[45] Id. at 270-271.

[46] An Act Strengthening Further the Functional and Structural Organization of the Sandiganbayan, Further Amending Presidential Decree No. 1606, as amended, and Appropriating Funds Therefor (2015).

[47] Comment, p. 30.

[48] The Dangerous Drugs Act (1972).

[49] Rep. Act No. 9165, sec. 100.

[50] Ponencia, p. 39.

[51] Id. at 34, citing the Concurring Opinion of J. Peralta, p.12.

[52] 347 Phil. 493 (1997) [Per J. Davide, Jr. En Banc].

[53] 772 Phil. 483 (2015) [Per J. Perlas-Bernabe, En Banc].

[54] Concurring Opinion of J. Leonen in Gonzales v. GJH Land, 772 Phil. 483, 534-535 (2015) [Per J. Perlas-Bernabe, En Banc].

[55] Lacson v. Executive Secretary, 361 Phil. 251, 278-284 (1999) [Per J. Martinez, En Banc] citing People v. Montejo, 108 Phil. 613 (1960) [Per J. Concepcion, En Banc]; Republic vs. Asuncion, 301 Phil. 216 (1994) [Per J. Davide, Jr., En Banc]; People vs. Magallanes, 319 Phil. 319 (1995) [Per J. Davide, Jr., First Division]; People vs. Cosare, 95 Phil 657, 660 (1954)[Per J. Bautista Angelo, En Banc]; People vs. Mendoza, 256 Phil. 1136 (1989) [Per J. Fernan, Third Division]; US v. Karelman, 3 Phil. 223, 226 (1904) [Per J. Johnson, En Banc].

[56] Cunanan v. Arceo, 312 Phil. 111, 118 (1995) [Per J. Feliciano, Third Division].

[57] Id. at 118-119.

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[58] Rep. Act No. 10575, sec. 8.

[59] Annex G of the Petition, p. 40, DOJ Resolution.

[60] Manipon v. Sandiganbayan, 227 Phil. 253 (1986) [Per J. Fernan, En Banc] citing Maniego vs. People, 88 Phil. 494 (1951) [Per J. Bengzon, En Banc] and US vs. Richards, 6 Phil. 545 (1906) [Per J. Willard, First Division].

[61] People v. Castillo, 607 Phil. 754, 764 (2009) [Per J. Quisimbing, Second Division].

[62] RULES OF COURT, Rule 112, sec. 1.

[63] People v. Castillo, G.R. No. 171188, June 19, 2009, 607 Phil. 754, 764 (2009) [Per J. Quisimbing, Second Division].
[64] Id. at 765.

[65] Allado v. Diokno, 302 Phil. 213, 235 (1994) [Per J. Belosillo, First Division].

[66] U.S. v. Ocampo, 18 Phil. 1, 42 (1910) [Per J. Johnson, En Banc]; Act of Congress of July 1, 1902, otherwise known as The Philippine Bill, §5.

[67] Id.

[68] RULES OF COURT, Rule 113, sec. 1.

[69] U.S. v. Ocampo, 18 Phil. 1, 37 (1910) [Per J. Johnson]; Act of Congress of July 1, 1902, otherwise known as The Philippine Bill, §5.

[70] Id.

[71] CONST. (1935), art. III, sec. 1(3); CONST. (1972), art. IV, sec. 3; CONST., art. III, sec. 2.

[72] 1987 Constitution, Article III, Section 2.

[73] People v. Honorable Enrique B. Inting, et al., 265 Phil. 817, 821 (1990) [Per J. Gutierrez, Jr., En Banc].

[74] Record of the 1986 Constitutional Commission No. 032 (1986).

[75] Record of the 1986 Constitutional Commission No. 032 (1986).

[76] 249 Phil. 394 (1988) [Per Curiam Resolution]

[77] Id. at 399-400.

[78] Id. at 399.

[79] 272 Phil. 122 (1991) [Per J. Gutierrez, Jr., En Banc].

[80] Id. at 138.

[81] Id. at 126.

[82] Id. at 127.

[83] Id. at 128.

[84] Id.

[85] Id. at 129.

[86] Id. at 128.

[87] Id. at 129.

[88] Id.

[89] Id. at 130.

[90] Id. at 130.

[91] Id. at 137.

[92] Id. at 136.

[93] Id.

[94] Id. at 136-137.

[95] Id. at 136.

[96] Id.

[97] Id. at 130.

[98] Id.

[99] Id. at 131, citing Placer v. Villanueva, 211 Phil. 615 (1983)[Per J. Escolin, Second Division].

[100] People v. Honorable Enrique B. Inting, et al., 265 Phil. 817, (1990) [Per J. Gutierrez, Jr., En Banc].

[101] Lim, Sr. v. Felix, 272 Phil. 122, 135 (1991) [Per J. Gutierrez, Jr., En Banc].

[102] 301 Phil. 213 (1994) [Per J. Belosillo, First Division].

[103] Id. at 222.

[104] Id. at 222-223.

[105] Id. at 225.

[106] Id.

[107] Id. at 226.

[108] Id. at 224.

[109] Id. at 229.

[110] Id. at 231.

[111] Id. at 229.

[112] Id. at 230.

[113] Id.

[114] Id. at 231.

[115] Id.

[116] Id. at 236.

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[117] Id. at 235 citing Beck v. Ohio, 379 U.S. 89, 85 S.Ct. 223, 13 L.Ed. 2d. 142 (1964).

[118] Id.

[119] Id. at 235-237.

[120] Id. at 238.

[121] Id. at 237-239.

[122] Id. at 228.

[123] Id. at 233.

[124] Id. at 229.

[125] 345 Phil. 597 (1997) [Per J. Panganiban, En Banc].

[126] 345 Phil. 597 (1997) [Per J. Panganiban, En Banc].

[127] Id. at 611.

[128] Id. at 610.

[129] Id. at 609.

[130] Id. at 609.

[131] Id. at 613.

[132] Id. at 609.

[133] Id. at 613.

[134] Id.

[135] Id. at 604.

[136] Id. at 613.

[137] Id. at 611-612.

[138] 345 Phil. 597 (1997) [Per J. Panganiban, En Banc].

[139] Id. at 611.

[140] 253 Phil. 30 (1989) [Per J. Narvasa, First Division].

[141] Id. at 31-33.

[142] 265 Phil. 817 (1990) [Per J. Gutierrez, Jr., En Banc].

[143] Id. at 821-822.

[144] Lim, Sr. v. Felix, 272 Phil. 122, 135 (1991) [Per J. Gutierrez, Jr., En Banc].

[145] Id. at 136.

[146] Placer v. Villanueva, 211 Phil. 615, 621 (1983) [Per J. Escolin, Second Division].

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[147] Ponencia, pp. 48-51 citing the affidavits of Jovencio P. Ablen, Jr., Rafael Ragos, and Wu Tian Yuan/Peter Co.

[148] TSN Oral Arguments, March 28, 2017, pp. 58-59.

[149] "Annex ____."

[150] 43 Phil. 304 (1922) [Per J. Johns, First Division].

[151] Id. at 306-307.

[152] 64 Phil. 201 (1937) [Per J. Laurel, First Division].

[153] Id. citing Dimayuga v. Fernandez, 43 Phil. 304 (1922) [Per J. Johns, First Division]. See also Planas v. Gil, 67 Phil. 62 (1939) [Per J. Laurel, En Banc]; University of the Philippines v. City Fiscal of Quezon City, 112 Phil. 880 (1961) [Per J. Dizon, En Banc]; Lopez v. The City Judge, 124 Phil. 1211 (1966) [Per J. Dizon, En Banc]; Ramos v. Central Bank, 222 Phil. 473 (1971) [Per Reyes, J.B.L., En Banc]; Fortun v. Labang, 192 Phil. 125 (1981) [Per J. Fernando, Second Division]; and Santiago v. Vasquez, 282 Phil. 171 (1992) [Per J. Regalado, En Banc].

[154] 134 Phil. 544 (1968) [Per J. Concepcion, En Banc].

[155] Id. at 550-551 citing Hernandez v. Albano, 125 Phil. 513 (1967) [Per J. Sanchez, En Banc] and Gorospe v. Penaflorida, 101 Phil. 892 (1957) [Per J. Bautista Angelo, En Banc].

[156] Annex A of the Compliance, pp. 5-6.

[157] Id. at 4-5.

[158] Id. at 4.

[159] Id. at 3.

[160] Id. at 2.

[161] Id. at 1.

[162] Id. at 1.

[163] Id.

[164] Id. at 19.

[165] Id. at 18.

[166] Id. at 14.

[167] Id. at 5.

[168] Id. at 3.

[169] Id.

[170] Id. at 2.

[171] Id. at 17.

[172] Id.

[173] Id. at 14-15.

[174] Id. at 15.

[175] Id. at 16.

[176] Id. at 9.

[177] Id. at 4.

[178] See Annex 6 of the Compliance of the Office of the Solicitor General.

[179] Compliance of the Office of the Solicitor General, Sinumpaang Salaysay by Sebastian, p. 15.

[180] Compliance of the Office of the Solicitor General, Pinag-isang Sinumpaang Kontra Salaysay by Sebastian, p. 12.

[181] Ponencia, p. 4.

[182] Id. at 15.

[183] 708 Phil. 96 (2013) [Per J. Leonardo-De Castro, First Division].

[184] 527 Phil. 443 (2006) [Per J. Corona, Second Division].

[185] 268 Phil. 433 (1990) [Per J. Gancayco, First Division].

[186] 383 Phil. 398 (2000) [Per J. Mendoza, Second Division].

[187] 268 Phil. 852 (1990) [Per J. Gancayco, En Banc].

[188] 288 Phil. 318 (1992) [Per J. Padilla, En Banc].

[189] Solid Builders v. China Bank, 709 Phil. 96, 117 (2013) [Per J. Leonardo-De Castro, First Division].

[190] State Investment House v. Court of Appeals, 527 Phil. 443, 451 (2006) [Per J. Corona, Second Division].

[191] Diaz v. Nora, 268 Phil. 433, 437-438 (1990) [Per J. Gancayco, First Division].

[192] Republic v. Court of Appeals, 383 Phil. 398, 410-412 (2000) [Per J. Mendoza, Second Division].
[193] Allied Broadcasting Center v. Republic, 268 Phil. 852, 858 (1990) [Per J. Gancayco, En Banc].

[194] De Vera v. Pineda, 288 Phil. 318, 328 (1992) [Per J. Padilla, En Banc].

[195] 124 Phil. 1211 (1966) [Per J. Dizon, En Banc].

[196] Id. at 1217-1219.

[197] Ponencia, p. 18.

[198] 539 Phil. 25 (2006) [Per J. Carpio Morales, Third Division].

[199] Id. at 34-35.

[200] See United States v. Castañares, 18 Phil. 210 (1911) [Per J. Carson, En Banc].

[201] Petition, p. 64.

[202] Memorandum for Petitioner, p. 61.

[203] See A.M. No. 99-2-04-SC (2000).

[204] A.M. No. 99-2-04-SC (2000).

[205] Ponencia, p. 15.

[206] G.R. No. 208393, June 15, 2016, <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/june2016/208393.pdf> [Per J. Leonen, Second Division].

[207] Id. citing Top Rate Construction & General Services, Inc. v. Paxton Development Corporation , 457 Phil. 740 (2003) [Per J. Bellosillo, Second Division); First Philippine International Bank v. Court of Appeals, 322 Phil. 280 (1996) [Per J. Panganiban, Third Division); and Prubankers Association v. Prudential Bank and Trust Co., 361 Phil. 744 (1999) [Per J. Panganiban, Third Division].

[208] Yap v. Chua, 687 Phil. 392, 400 (2012) [Per J. Reyes, Second Division] citing Young v. John Keng Seng, 446 Phil. 823, 833 (2003) [Per J. Panganiban, Third Division].

[209] RULES OF COURT, Rule 7, sec. 4 provides:

Section 4. Verification.—Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.

[210] See RULES OF COURT, Rule 7, sec. 4 and sec. 5.

[211] See Jimenez vda. De Gabriel v. Court of Appeals, 332 Phil. 157, 165 (1996) [Per J. Vitug, First Division].

[212] Shipside v. Court of Appeals, 404 Phil. 981, 994-995 (2001) [Per J. Melo, Third Division].

[213] Ponencia, pp. 9-10.

[214] G.R.No. 191699, April 19, 2016, <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/april2016/191699.pdf> [Per J. Perlas-Bernabe, First Division].

[215] Ponencia, p. 11.

[216] See Memorandum for Petitioner, pp. 59-60.

[217] 751 Phil. 301 (2015) [Per. J. Leonen, En Banc].

[218] Id. at 329 citing Ynot v. Intermediate Appellate Court, 232 Phil. 615, 621 (1987) [Per J. Cruz, En Banc]. J.M. Tuason & Co., Inc. et al. v. Court of Appeals, et al., 113 Phil. 673, 681 (1961) [Per J. J.B.L. Reyes, En Banc]; and Espiritu v. Fugoso, 81 Phil. 637, 639 (1948) [Per J. Perfecto, En Banc].

[219] G.R. No. 202781, January 10, 2017, <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/january2017/202781.pdf> [Per J. Leonen, En Banc].

[220] Id. at 15 citing The Diocese of Bacolod v. Commission on Elections, 751 Phil. 301, 331-335 (2015) [Per. J. Leonen, En Banc].

[221] Dimayuga v. Fernandez, 43 Phil. 304, 306-307 (1922) [Per J. Johns, First Division].

[222] Brocka v. Enrile, 270 Phil. 271, 277-279 (1990) [Per J. Medialdea, En Banc].

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DISSENTING OPINION

JARDELEZA, J.:

The case presents a conflict between a person's right to liberty and the State's right to prosecute persons who appear to violate penal laws. On the one hand, the petitioner argues that a presiding judge's first duty in a criminal case is to determine the trial court's own competence or jurisdiction. When a judge is put on alert, through a motion to quash filed by the accused challenging her jurisdiction over the offense charged, she must first resolve the issue of jurisdiction before issuing a warrant of arrest. On the other hand, respondents maintain that the first and foremost task of the judge is to determine the existence or non-existence of probable cause for the arrest of the accused. The Revised Rules of Criminal Procedure do not require a judge to resolve a pending motion to quash prior to the issuance of a warrant of arrest.

The ponencia accepts the respondents' position and concludes that the respondent judge had no positive duty to first resolve petitioner De Lima's motion to quash before issuing a warrant of arrest. I respectfully dissent. While I do not fully subscribe to petitioner's analysis, I find that, under the present Rules, the demands of due process require the judge to resolve the issue of jurisdiction simultaneous with, if not prior to, the issuance of the warrant of arrest.

I

One of the fundamental guarantees of the Constitution is that no person shall be deprived of life, liberty, or property without due process of law.[1] With particular reference to an accused in a criminal prosecution, Section 14(1) of Article III provides:

> Sec. 14. (1) No person shall be held to answer for a criminal offense without due process of law.

As applied to criminal proceedings, due process is satisfied if the accused is informed as to why he is proceeded against and what charge he has to meet, with his conviction being made to rest on evidence that is not tainted with falsity after full opportunity for him to rebut it and the sentence being imposed in accordance with a valid law.[2] This formulation of due process in criminal procedure traces its roots from a US Supreme Court decision of Philippine origin, Ong Chang Wing v. United States,[3] where the federal court held:

> This court has had frequent occasion to consider the requirements of due process of law as applied to criminal procedure, and, generally speaking, it may be said that if an accused has been heard in a court of competent jurisdiction, and proceeded against under the orderly processes of law, and only punished after inquiry and investigation, upon notice to him, with an opportunity to be heard, and a judgment awarded within the authority of a constitutional law, then he has had due process of law.[4] (Citation omitted.)

For clarity, the criminal due process clause of the Bill of Rights refers to procedural due process. It simply requires that the procedure established by law or the rules[5] be followed.[6] "Criminal due process requires that the accused must be proceeded against under the orderly processes of law. In all criminal cases, the judge should follow the step-by-step procedure required by the Rules. The reason for this is to assure that the State makes no mistake in taking the life or liberty except that of the guilty."[7] It applies from the inception of custodial investigation up to rendition of judgment.[8] The clause presupposes that the penal law being applied satisfies the substantive requirements of due process.[9] In this regard, the procedure for one of the early stages of criminal prosecution, i.e., arrests, searches and seizure, is laid down by the Constitution itself. Article III, Section 2 provides that a search warrant or warrant of arrest shall only be issued upon a judge's personal determination of

probable cause after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Also part of an accused's right to due process is the right to a speedy trial[10] and to a speedy disposition of a case,[11] which have both been expressed as a right against "vexatious, capricious, and oppressive delays."[12] The right of the accused to a speedy trial and to a speedy disposition of the case against him was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him for an indefinite time, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases. The inquiry as to whether or not an accused has been denied such right is not susceptible to precise qualification; mere mathematical reckoning of the time involved is insufficient. The concept of a speedy disposition is a relative term and must necessarily be a flexible concept. In determining whether the right has been violated, courts must balance various factors such as the duration of the delay, the reason therefor, the assertion of the right, and prejudice to the defendant.[13]

Parallel to the rights of the accused is the State's "inherent right to protect itself and its people from vicious acts which endanger the proper administration of justice."[14] The State has every right to prosecute and punish violators of the law because it is essential for the sovereign's self- preservation and its very existence.[15] In our democratic system, society has a particular interest in bringing swift prosecutions and the government, as representatives of the people, is the one who should protect that interest.[16]

In resolving conflicts between the State's right to prosecute and the rights of the accused, the Court has applied the balancing test.[17] "[C]ourts must strive to maintain a delicate balance between the demands of due process and the strictures of speedy trial, on the one hand; and, on the other, the right of the State to prosecute crimes and rid society of criminals."[18] While the State, through its executive and judicial departments, has the "natural and illimitable"[19] right to prosecute and punish violators of the law, it has the concomitant duty of insuring that the criminal justice system is consistent with due process and the constitutional rights of the accused.[20]

II

Before proceeding with the analysis of the case, it is important to clarifY at the outset the limits of the accused's rights. First, the Constitution does not require judicial oversight of the executive department's decision to prosecute.[21] Second, there is no absolute constitutional right to have the issue of jurisdiction-understood as the authority to hear and try a particular offense and impose punishment[22] determined prior to the issuance of a warrant of arrest. This is because the issuance of a warrant of arrest is not dependent upon the court's jurisdiction over the offense charge. Petitioner's formulation-that a court without jurisdiction over the offense charged has no power to issue a warrant of arrest and, consequently, that a warrant so issued is void-fails to capture this nuance.

At first glance, it appears that there is merit to petitioner's argument because under the current Rules of Criminal Procedure, the court that issues the warrant is the same court that hears and decides the criminal case. However, the two are tied only by a mere procedural rule rather than a substantive law on jurisdiction. The history of the warrant procedure in the Philippines and the practice in the US reveal that the two powers, i.e., the power to issue warrants and the power to hear and decide cases, are separate and distinct. This is not quite the same as the power to issue a temporary restraining order, for instance, which is plainly incidental to the main action and can have no independent existence apart from a suit on a claim of the plaintiff against the defendant.

Under the Judiciary Act of 1948,[23] the Courts of First Instance (CFI) were granted original jurisdiction over "all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos."[24] However, Section 87 of the same law vests upon lower level courts, the justices of the peace, the authority to "conduct preliminary investigations for any offense alleged to have been committed

within their respective municipalities and cities, without regard to the limits of punishment, and may release, or commit and bind over any person charged with such offense to secure his appearance before the proper court."

Thus, under the 1964 Rules of Court, the standard procedure was for the justice of the peace to conduct a preliminary examination upon the filing of a complaint or information imputing the commission of an offense cognizable by the CFI, for the purpose of determining whether there is a reasonable ground to believe that an offense has been committed and the accused is probably guilty thereof, so that a warrant of arrest may be issued and the accused held for trial.[25] CFI judges had a similar authority to conduct preliminary examination and investigation upon a complaint directly filed with it.[26]

The Judiciary Reorganization Act of 1980[27] is clearer. It provides that "[j]udges of Metropolitan Trial Courts, except those in the National Capital Region, of Municipal Trial Courts, and Municipal Circuit Trial Courts shall have authority to conduct preliminary investigation of crimes alleged to have been committed within their respective territorial jurisdictions which are cognizable by the Regional Trial Courts."[28] Thus, municipal/metropolitan trial court (MTC) judges have the power to issue a warrant of arrest in relation to the preliminary investigation pending before them, with the only restriction being that embodied in the Bill of Rights, i.e., finding of probable cause after an examination in writing and under oath or affirmation of the complainant and his witnesses.

This substantive law found implementation in the 1985 Rules of Criminal Procedure, which provided that when the municipal trial judge conducting the preliminary investigation is satisfied after an examination in writing and under oath of the complainant and his witnesses in the form of searching questions and answers, that a probable cause exists and that there is a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice, he shall issue a warrant of arrest.[29] The 1985 Rules removed the conduct of preliminary investigation by regional trial court (RTC) judges and introduced a substantial change with respect to the RTC's exercise of its power to issue an arrest warrant-the RTC could only do so after an information had been filed.[30]

In the US, from which we patterned our general concept of criminal due process, the magistrate judge who issues the arrest warrant is different from the judge who conducts the preliminary hearing (post-arrest) and the one who actually tries the case.[31] The probable cause determination for the issuance of an arrest warrant is a preliminary step in the Federal Criminal Procedure, done ex parte without bearing any direct relation to the jurisdiction to hear the criminal case after indictment. Notably, our old rules hewed closely to the American procedure where the determination of probable cause and issuance of arrest warrants were performed by lower level courts.

The foregoing confirms that the power to issue an arrest warrant may exist independently of the power to hear and decide a case and that the judge issuing the warrant need not be the same judge who will hear and decide the case. The Constitution only requires that the person who issues the warrant should be a judge and there is no requirement that this judge should sit on a court that has jurisdiction to try the case. It is therefore inaccurate to characterize the power to issue a warrant of arrest as being subsumed by the court's jurisdiction over the offense charged. Again, it only seems that way because of the revisions introduced by the 2000 Rules of Criminal Procedure. The 2000 Rules tied the issuance of the warrant of arrest with the court having jurisdiction over the offense charged. Thus, unlike the previous iteration of the Rules, the court that will hear and decide the criminal case became the same and exclusive court that determines probable cause for the issuance of the warrant of arrest.[32] The 2005 amendments to Rule 112[33] later removed the function of conducting preliminary investigation from MTC judges, which means that arrest warrants may now only issue after the filing of information. This is significant because the filing of an information is the operative act that vests the court jurisdiction over a particular criminal case.[34] Notwithstanding the present formulation of our criminal

procedure, the provision in the Judiciary Reorganization Act authorizing MTC judges to conduct preliminary investigation and issue arrest warrants remain to be good law. Such powers are conferred by substantive law and, strictly speaking, cannot be "repealed" by procedural rules.

The issuance of a warrant of arrest is, at its core, a special criminal process, similar to its companion in the Bill of Rights, that is, the issuance of a search warrant. As the Court explained in Malaloan v. Court of Appeals,[35] penned by Justice Regalado:

> Petitioners invoke the jurisdictional rules in the institution of criminal actions to invalidate the search warrant issued by the Regional Trial Court of Kalookan City because it is directed toward the seizure of firearms and ammunition allegedly cached illegally in Quezon City. This theory is sought to be buttressed by the fact that the criminal case against petitioners for violation of Presidential Decree No. 1866 was subsequently filed in the latter court. The application for the search warrant, it is claimed, was accordingly filed in a court of improper venue and since venue in criminal actions involves the territorial jurisdiction of the court, such warrant is void for having been issued by a court without jurisdiction to do so.
>
> The basic flaw in this reasoning is in erroneously equating the application for and the obtention of a search warrant with the institution and prosecution of a criminal action in a trial court. It would thus categorize what is only a special criminal process, the power to issue which is inherent in all courts, as equivalent to a criminal action, jurisdiction over which is reposed in specific courts of indicated competence. It ignores the fact that the requisites, procedure and purpose for the issuance of a search warrant are completely different from those for the institution of a criminal action.
>
> For, indeed, a warrant, such as a warrant of arrest or a search warrant, merely constitutes process. A search warrant is defined in our jurisdiction as an order in writing issued in the name of the People of the Philippines signed by a judge and directed to a peace officer, commanding him to search for personal property and bring it before the court. A search warrant is in the nature of a criminal process akin to a writ of discovery. It is a special and peculiar remedy, drastic in its nature, and made necessary because of a public necessity.
>
> In American jurisdictions, from which we have taken our jural concept and provisions on search warrants, such warrant is definitively considered merely as a process, generally issued by a court in the exercise of its ancillary jurisdiction, and not a criminal action to be entertained by a court pursuant to its original jurisdiction. We emphasize this fact for purposes of both issues as formulated in this opinion, with the catalogue of authorities herein.[36] (Emphasis supplied, citations omitted.)

Malaloan's reasoning is equally applicable to arrest warrants, particularly when historical, functional, and structural considerations of our criminal procedure are taken into account. An arrest warrant is a preliminary legal process, issued at an initial stage of the criminal procedure, in which a judge finds probable cause that a person committed a crime and should be bound over for trial. The principal purpose of the warrant procedure laid down by the rules is to satisfY the requirements of Article III, Section 2. Its placement in Rule 112 (preliminary investigation) reflects an assumption that the probable cause determination/issuance of arrest warrant precedes the criminal action proper which begins with arraignment. Prior to arraignment, we have held that the specific rights of the accused enumerated under Article III, Section 14(2), as reiterated in Rule 115, do not attach yet because the phrase "criminal prosecutions" in the Bill of Rights refers to proceedings before the trial court from arraignment (Rule 116) to rendition of the judgment (Rule 120).[37] Following Justice Regalado's analysis in Malaloan, it may be concluded that the criminal action proper formally begins with arraingnment.[38]

The distinction between the warrant process and the criminal action leads me to conclude that there is no stand-alone right that criminal jurisdiction be detennined prior to the issuance of a warrant of arrest. For one, the Constitution does not textually prescribe such procedure; for another, such statement would not have been universally true, dependent as it is upon prevailing procedural rules. Moreover, since the power to issue a warrant

of arrest is conferred by substantive law, such as the Constitution[39] and the Judiciary Reorganization Act, its issuance by a court upon which such authority is vested but having no jurisdiction over offense charged cannot be peremptorily be declared as void for being ultra vires. However, the issuance of the warrant may be annulled if it contravenes the Rules because that would result in a violation of the accused's due process rights.

III

In my view, any due process claim by the accused must be evaluated on the basis of the applicable rules of procedure. This is consistent with the traditional touchstone for criminal due process that the accused must be proceeded against according to the procedure prescribed by remedial law.[40]

Under Rule 112 of the 2000 Rules, the judge is required to "personally evaluate the resolution of the prosecutor and its supporting evidence" within 10 days from the filing of the information.[41] After his personal determination of probable cause, the judge has three options: (a) to immediately dismiss the case for lack of probable cause; (b) if he finds probable cause, issue a warrant of arrest or commitment order; or (c) in case of doubt on the existence of probable cause, he may order the prosecution to present additional evidence.[42] While the Rules do not mention dismissal for lack of jurisdiction in Rule 112, it may be raised as a ground for the quashal of the information under Rule 117.[43]

A motion to quash may be filed any time before the accused enter his plea,[44] which means at any point between the filing of the information and arraignment. Thus, there is a 10-day window within which both the determination of probable cause and the motion to quash may be simultaneously pending before the trial court. In this regard, the Solicitor General is correct that the Rules are silent as to which matter the court should resolve first. But the silence is ambiguous; in analyzing the process due the accused in these instances, it becomes necessary to balance the societal interests and the rights of the accused.

A sweeping rule that a motion to quash must be resolved prior to the determination of probable cause would unduly impair society's interest in having the accused answer to a criminal prosecution because it is susceptible to being used as a dilatory tool to evade arrest. Neither would a rule that the motion be resolved simultaneously with probable cause be workable because the judge only has 10 days within which to personally determine probable cause. A motion to quash is a litigious motion that requires notice and hearing,[45] and it may well be unreasonable to impose upon judges such additional burden within a tight timeframe. The accused's right to a speedy disposition of his case does not mean that speed is the chief objective of the criminal process; careful and deliberate consideration for the administration of justice remains more important than a race to end the litigation.[46]

On the narrow ground of lack of jurisdiction over the offense charged, however, the balance tilts in favor of the accused. As I have previously emphasized, the 2000 Rules is structured in such a way that the court that issues the arrest warrant is the same court that hears the case. Upon filing of the information, the court is authorized by the Rules to exercise all powers relevant to the criminal case which include the issuance of arrest warrants, bail applications,[47] quashal of search warrants,[48] and, of course, the criminal action proper, from arraignment to judgment.[49] Because the existing procedure has consolidated the various facets of criminal procedure in a single court, the exercise of these powers have become procedurally tied to jurisdiction over the offense charged. Hence, while I have pointed out that the power to issue arrest warrants is separate and distinct from the power to hear and decide a case, the Rules make it impossible for the court to proceed to arraignment and trial if it has no jurisdiction over the offense charged.

When a court without jurisdiction over the offense orders the arrest of the accused prior to resolving the issue of jurisdiction, it necessarily prolongs the disposition of the case. I view this delay as incompatible with due process

and the right to speedy disposition of cases. First, the reason for the delay is directly attributable to the prosecution, which has the primary duty of determining where the information should be filed.[50] The accused plays no part in such determination and it is not her duty to bring herself to trial. The State has that duty as well as the duty of ensuring that the conduct of the prosecution, including the pretrial stages, is consistent with due process.[51] Second, when the prosecution is amiss in its duty, it unavoidably prejudices the accused. Prejudice is assessed in view of the interests sought to be protected by the constitutional criminal due process guarantees, namely: to prevent oppressive pretrial incarceration; to minimize anxiety and concerns of the accused to trial; and to limit the possibility that his defense will be impaired.[52] When an accused is forced to contend with pretrial restraint while awaiting for the court's dismissal of the case on jurisdictional grounds, these interests are ultimately defeated.

Considering that, under the present Rules, the court where the information is filed cannot proceed to trial if it has no jurisdiction over the offense charged, any delay between the issuance of the warrant of arrest and the resolution of the issue of jurisdiction, regardless of the length of time involved, is per se unreasonable. The delay and concomitant prejudice to the accused is avoidable and would serve no other purpose than to restrain the liberty of the accused for a period longer than necessary. Liberty is "too basic, too transcendental and vital in a republican state, like ours"[53] to be prejudiced by blunders of prosecutors. Society has no interest in the temporary incarceration of an accused if the prosecution's ability proceed with the case in accordance with the processes laid down by the Rules is in serious doubt. The generalized notion of the sovereign power's inherent right to self-preservation must yield to the paramount objective of safeguarding the rights of an accused at all stages of criminal proceedings, and to the interest of orderly procedure adopted for the public good.[54] Indeed, societal interests are better served if the information is filed with the proper court at the first instance.

In practical terms, I submit that the determination of probable cause and resolution of the motion to quash on the ground of lack of jurisdiction over the offense charged should be made by the judge simultaneously within the 10-day period prescribed by Rule 112, Section S(a). In resolving the question of jurisdiction, the judge only needs to consider the allegations on the face of the information and may proceed ex parte. As opposed to other grounds for quashal of the information, jurisdiction may easily be verified by looking at the imposable penalty for the offense charged, the place where the offense was committed, and, if the offender is a public officer, his salary grade and whether the crime was alleged to have been committed in relation to his office. If the motion to quash filed by the accused raises grounds other than lack of jurisdiction over the offense charged, then the court may defer resolution of these other grounds at any time before arraignment. This procedure in no way impinges the right of the State to prosecute because the quashal of the information is not a bar to another prosecution for the same offense.[55]

In sum, the Rules on Criminal Procedure play a crucial role in implementing the criminal due process guarantees of the Constitution. Contravention of the Rules is tantamount to a violation of the accused's due process rights. The structure of the Rules binds the issuance of a warrant of arrest to jurisdiction over the main criminal action; hence, the judicious procedure is for the judge to determine jurisdiction no later than the issuance of the warrant of arrest in order to mitigate prejudice to the accused. Applying the foregoing principles, the respondent judge violated petitioner's constitutional right to due process and to speedy disposition of cases when she issued a warrant of arrest without resolving the issue of jurisdiction over the offense charged. She ought to have known that, under the Rules, she could not have proceeded with petitioner's arraignment if she did not have jurisdiction over the offense charged. Respondent judge's error is aggravated by the fact that the lack of jurisdiction is patent on the face of the information. On this point, I join the opinion of Justice Caguioa that it is the Sandiganbayan which has jurisdiction over the offense. At the time of the alleged commission of the offense, petitioner was the incumbent Secretary of the Department of Justice, a position classified as Salary Grade 31 and squarely falls

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within the jurisdiction of the Sandiganbayan.[56] It is likewise clear from the allegations in the information that the crime was committed in relation to her capacity as then Secretary of Justice.[57]

I vote to grant the petition.

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[1] CONSTITUTION, Art. III, Sec. 1.

[2] Vera v. People, G.R. No. L-31218, February 18, 1970, 31 SCRA 711, 717.

[3] 218 U.S. 272 (1910).

[4] Id. at 279-280.

[5] CONSTITUTION, Art. VIII, Sec. 5(5).

[6] United States v. Ocampo, 18 Phil. 1, 41 (1910).

[7] Romualdez v. Sandiganbayan, G.R. Nos. 143618-41, July 30, 2002, 385 SCRA 436, 446. Citations omitted.

[8] Id. at 445.

[9] Bernas, The 1987 Constitution of the Republic of the Philippines: A Commentary, 2009 Ed., p. 498.

[10] CONSTITUTION, Art. III, Sec. 14(2).

[11] CONSTITUTION, Art. III, Sec. 16. In Dansal v. Fernandez (G.R. No. 126814, March 2, 2000, 327 SCRA 145, 152-153), the Court succinctly explained the distinction between Section 14(2) and Section 16: "(Section 16] guarantees the right of all persons to 'a speedy disposition of their case'; includes within its contemplation the periods before, during and after trial, and affords broader protection than Section 14(2), which guarantees just the right to a speedy trial. It is more embracing than the protection under Article VII, Section 15, which covers only the period after the submission of the case. The present constitutional provision applies to civil, criminal and administrative cases." (Citations omitted.)

[12] Gonzales v. Sandiganbayan, G.R. No. 94750, July 16, 1991, 199 SCRA 298, 307. Citation omitted.

[13] Corpuz v. Sandiganbayan, G.R. No. 162214, November 11, 2004, 442 SCRA 294, 313.

[14] Allado v. Diokno, G.R. No. 113630, May 5, 1994, 232 SCRA 192, 209.

[15] Id.

[16] Corpuz v. Sandiganbayan, supra at 321.

[17] Id. at 313. See also Coscolluela v. Sandiganbayan (First Division), G.R. No. 191411, July 15, 2013, 710 SCRA 188; Olbes v. Buemio, G.R. No. 173319, December 4, 2009, 607 SCRA 336; and People v. Tampal, G.R. No. 102485, May 22, 1995, 244 SCRA 202.

[18] Lumanlaw v. Peralta, Jr., G.R. No. 164953, February 13, 2006, 482 SCRA 396, 409.

[19] Estrada v. Sandiganbayan, G.R. No. 148560, November 19, 2001, 369 SCRA 394, 427

[20] Corpuz v. Sandiganbayan, supra note 13 at 321.

[21] We only review, in an appropriate case, whether the prosecutorial arm gravely abused its discretion. (Information Technology v. Comelec, G.R. Nos. 159139 & 174777, June 6, 2017.) This is not at issue here because it is the subject of the consolidated cases filed by petitioner which are presently pending before the Court of Appeals, docketed as G.R. SP Nos. 149097 and 149358.

[22] People v. Mariano, G.R. No. L-40527, June 30, 1976, 71 SCRA 600, 605.

[23] Republic Act No. 296.

[24] Republic Act No. 296, Sec. 44(f).

[25] 1964 RULES OF COURT, Rule 112, Secs. 1 & 2.

[26] 1964 RULES OF COURT, Rule 112, Sec. 13.

[27] Batas Pambansa Blg. 129.

[28] Batas Pambansa Blg. 129, Sec. 37.

[29] 1985 RULES OF CRIMINAL PROCEDURE, Rule 112, Sec. 6(b).

[30] 1985 RULES OF CRIMINAL PROCEDURE, Rule 112, Sec. 6(a).

[31] FEDERAL RULES or CRIMINAL PROCEDURE, Rules 4, 5.1 and 18.

[32] 2000 REVISED RULES OF CRIMINAL PROCEDURE, Rule 112, Sec. 6.

[33] A.M. No. 05-8-26-SC, Amendment of Rules 112 and 114 of the Revised Rules on Criminal Procedure by Removing the Conduct of Preliminary Investigation from Judges of the First Level Courts, August 30, 2005.

[34] The 2000 Rules did not have any explanatory note, though it may be gleaned that the reason is to streamline the criminal procedure and to ease the burden on MTCs or, more generally, to ensure the speedy and efficient administration of justice.

[35] G.R. No. 104879, May 6, 1994, 232 SCRA 249.

[36] Id. at 255-257. See also Worldwide Web Corporation v. People, G.R. No. 161106, January 13, 2014, 713 SCRA 18.

[37] People v. Jose, G.R. No. L-28232, February 6, 1971, 37 SCRA 450, 472-473, citing U.S. v. Beecham, 23 Phil. 258 (1912).

[38] An arraignment is that stage where, in the mode and manner required by the rules, an accused, for the first time, is granted the opportunity to know the precise charge that confronts him. The accused is formally informed of the charges against him, to which he enters a plea of guilty or not guilty (Albert v. Sandiganbayan, G.R. No. 164015, February 26, 2009, 580 SCRA 279, 287. Italics supplied, citation omitted.). See also the rule in double jeopardy, which requires arraignment and plea for jeopardy to attach (People v. Ylagan, 58 Phil. 851 [1933]). Jeopardy does not attach in the preliminary investigation stage because it "has no purpose except that of

determining whether a crime has been committed and whether there is probable cause to believe the accused guilty thereof" (Paderanga v. Drilon, G.R. No. 96080, April 19, 1991, 196 SCRA 86, 90).

[39] "The power of the judge to determine probable cause for the issuance of a warrant of arrest is enshrined in Section 2, Article III of the Constitution." (Fenix v. Court of Appeals, G.R. No. 189878, July 11, 2016, 796 SCRA 117, 131.)

[40] See Taglay v. Daray, G.R. No. 164258, August 22, 2012, 678 SCRA 640; Romualdez v. Sandiganbayan, supra note 7; and United States v. Ocampo, supra note 6.

[41] RULES OF COURT, Rule 112, Sec. 5(a).

[42] RULES OF COURT, Rule 112, Sec. 5(a).

[43] RULES OF COURT, Rule 117, Sec. 3(b).

[44] RULES OF COURT, Rule 117, Sec. 1.

[45] People v. Court of Appeals, G.R. No. 126005, January 21, 1999, 301 SCRA 475, 492-493.

[46] State Prosecutors v. Muro, A.M. No. RTJ-92-876, December 11, 1995, 251 SCRA 111, 117-118.

[47] RULES OF COURT, Rule 114, Sec. 17.

[48] RULES OF COURT, Rule 126, Sec. 14.

[49] RULES OF COURT, Rules 116-120.

[50] RULES OF COURT, Rule 110, Secs. 4, 5 & 15.

[51] Coscolluela v. Sandiganbayan (First Division), supra note 17 at 199, citing Barker v. Wingo, 407 U.S. 514 (1972).

[52] Id. at 200-201.

[53] People v. Hernandez, et al., 99 Phil. 515, 551 (1956).

[54] Alejandro v. Pepito, G.R. No. L-52090, February 21, 1980, 96 SCRA 322, 327.

[55] RULES OF COURT, Rule 117, Sec. 6.

[56] Presidential Decree No. 1606, as amended. Sec. 4(b) in relation to 4(a)(1).

[57] Relevant portions of the information reads that "accused Leila M. De Lima, being then the Secretary of the Department of Justice x x x having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading x x x De Lima and Ragos, with the use of their power, position and authority, demand, solicit and extort money from the high profile inmates x x x."

DISSENTING OPINION

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CAGUIOA, J.:

Again, I dissent.

First and foremost is the Constitution. And the Court is its most valiant guardian with the sacred duty to nip in the bud any erosion, derogation or diminution of its primacy.

This case, in almost every aspect, involves a constitutional issue - and presents itself as a moment in the country's history where the Court could, as indeed it was called upon, to lay down clear and unambiguous positions on the primacy of the Constitution. Instead of seizing this golden opportunity, and bravely asserting its role as guardian, the Court, speaking through the majority, has chosen to, once again, retreat and find refuge in technical and procedural niceties, totally brushing aside the paramount constitutional significance of this case.

The constitutional questions raised in this case are crystal clear:

Can an Information - void on its face - warrant a determination of probable cause against petitioner and justify the issuance of an arrest warrant against her and cause her arrest and detention without violating her constitutional right to be informed of the nature and cause of the accusation against her - when this very same Court en banc has previously ruled[1] that such an Information is violative of the right of the accused to be informed of the nature and cause of the accusation against him and should be acquitted?

Can a trial judge, when called upon to determine probable cause to issue a warrant of arrest, simply ignore the accused's motion to quash the Information raising lack of jurisdiction on the expedient pretext that the rules of procedure are silent in this respect, without violating these constitutional rights of the accused?

Is it constitutional to first incarcerate an indicted person charged by a void Information, and then afterwards order its amendment because that is what the rules of procedure insinuate, without violating the accused's constitutional rights?

Can a trial judge postpone the resolution of a motion to quash the Information-based on the ground of lack of jurisdiction where the accused is charged with a violation of the Dangerous Drugs Act of 1972 (Republic Act No. 9165) without any reference to a specific dangerous drug (the corpus delicti), and the specific acts constituting the offense and all the elements of the offense averred in statements of fact (and not conclusions of law) - until after the determination of probable cause to issue a warrant of arrest, without violating his constitutional rights?

Are the above constitutional issues not sufficient to warrant the relaxation of the rigid application of the rules of procedure in this case - when, in innumerable other occasions,[2] this very same Court had given due course to a certiorari petition despite its procedural defects?

In his Dissenting Opinion in Cambe v. Office of the Ombudsman,[3] where former Senator Ramon "Bong" Revilla, Jr. is one of the accused, the ponente invoked, as an argument to free the accused, the balancing rule (ensuring that, on one hand, probable criminals are prosecuted, and, on the other, the innocent are spared from baseless prosecution). This balancing rule, according to the ponente, is intended to guarantee the right of every person from the inconvenience, expense, ignominy and stress of defending himself/herself in the course of a formal trial, until the reasonable probability of his or her guilt has been passed and to guard the State against the burden of unnecessary expense and effort in prosecuting alleged offenses and in holding trials arising from false, frivolous or groundless charges, so that the Court's duty is to temper the prosecuting authority when it is used for persecution.[4] Why is the ponente not according petitioner here the same treatment?

In Macapagal-Arroyo v. People,[5] the majority of the Court decreed that the situations in which the writ of certiorari may issue should not be limited because to do so would destroy its comprehensiveness and usefulness.

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This was the reasoning of the majority to justify the Court's cognizance of a special civil action for certiorari assailing the denial of former President Gloria Macapagal-Arroyo's demurrer to evidence before the lower court notwithstanding the express procedural rule[6] that an order denying a demurrer shall not be reviewable by appeal or certiorari before judgment. Why could not petitioner, in this case, be allowed to avail of the comprehensive and useful certiorari action even if she did not comply strictly with the procedural rules? Why is she being treated differently?

Unfortunately, these questions have become rhetorical in light of the Decision of the majority. Nevertheless, I find that there is an imperative need to discuss and answer these issues, which I do so through this dissent.

Indeed, while the confluence of stunning revelations and circumstances attendant in this case makes this case unique, its legal ramifications make it unparalleled and one of first impression. The right to liberty and the concomitant rights to due process, to be presumed innocent, to be informed of the nature and cause of the accusation against the accused; the crimes of conspiracy to trade and trading of illegal drugs; the elements of illegal drug trading; the determination of probable cause by a trial judge who is confronted with an Information with unquestionable insufficiency and a pending motion to quash the Information; and the jurisdiction over a public official who is allegedly involved in illegal trading of drugs and a recipient of its proceeds - these are the key legal concepts that define and circumscribe the unprecedented importance of this case.

The Constitution affords the individual basic universal rights that must be safeguarded, protected and upheld before he is detained to face trial for a crime or offense leveled against him in an Information or complaint.

The Constitution guarantees under the first section of the Bill of Rights that no person shall be deprived of liberty without due process of law. In the words of Justice Malcolm:

> Civil liberty may be said to mean that measure of freedom which may be enjoyed in a civilized community, consistently with the peaceful enjoyment of like freedom in others. The right to liberty guaranteed by the Constitution includes the right to exist and the right to be free from arbitrary personal restraint or servitude. The term cannot be dwarfed into mere freedom from physical restraint of the person of the citizen, but is deemed to embrace the right of man to enjoy the faculties with which he has been endowed by his Creator, subject only to such restraints as are necessary for the common welfare. x x x [L]iberty includes the right of the citizen to be free to use his faculties in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any avocation, and for that purpose, to enter into all contracts which may be proper, necessary, and essential to his carrying out these purposes to a successful conclusion. x x x[7]

Section 2 of the Article on Bill of Rights is indispensably linked with Section 1. It provides:

> SEC. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Without cavil, before a person is deprived of his liberty, he must be accorded due process, and a determination of probable cause by the judge is mandatory before a warrant for his arrest may issue. Truly, the proper determination of probable cause is the cornerstone of the right to liberty.

The Constitution further provides under Section 14, Article III that "(1) No person shall be held to answer for a criminal offense without due process of law. (2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right x x x to be informed of the nature and cause of the accusation against him x x x."

The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantee these basic rights, viz.:

Under the Declaration:

> Article 3: Right to life
>
> Everyone has the right to life, liberty and security of person. x x x x
>
> Article 9: Ban on arbitrary detention
>
> No one shall be subjected to arbitrary arrest, detention or exile.

And, under the Covenant:

> Article 9
>
> 1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
>
> 2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
>
> 3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
>
> 4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
>
> 5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

The Rules of Court echo the right "[t]o be presumed innocent until the contrary is proved beyond reasonable doubt,"[8] and re-affirm the right of the accused in all criminal proceedings "[t]o be informed of the nature and cause of the accusation against him."[9] These rights reinforce the accused's right to due process before his liberty may be curtailed.

The Rules of Court has a counterpart provision on determination of probable cause for the issuance of a warrant of arrest, viz.:

> SEC. 5. When warrant of arrest may issue. - (a) By the Regional Trial Court. - Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record fails to clearly establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 6 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint or information.

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Still another mechanism in the Rules to safeguard the accused's right to liberty is the motion to quash under Rule 117 of the Rules of Court. Section 1 of Rule 117 allows the accused to file a motion to quash the Information or complaint at any time before entering his plea. Under Section 3 of Rule 117, the accused may move to quash the complaint or Information on the grounds, among others, that (a) the facts charged do not constitute an offense, and (b) the court trying the case has no jurisdiction over the offense charged.

Even before an Information is filed before the court, the preliminary investigation stage - which is an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial - is part and parcel of the accused's right to due process before he can be deprived of his right to liberty.

These basic, fundamental universal rights, enshrined and cast in stone in our Constitution, are guaranteed. Thus, the pivotal issue in this case is this: Were Petitioner Leila M. De Lima's (Petitioner) constitutional rights violated in the proceedings below?

Given the constitutional ramifications and novel questions of law involved in this case, it is apropos to discuss the substantive issues ahead of the procedural ones.

The Substantive Issues

The Information leveled against Petitioner under the caption "For: Violation of the Comprehensive Dangerous Drugs Act of 2002, Section 5, in relation to Section 3(jj), Section 26(b), and Section 28, Republic Act No. 9165[10] (Illegal Drug Trading[11])," states:

> The undersigned Prosecutors, constituted as a Panel pursuant to Department Orders 706 and 790 dated October 14, 2016 and November 11, 2016, respectively, accuse LEILA M. DE LIMA, RAFAEL MARCOS Z. RAGOS and RONNIE PALISOC DAYAN, for violation of Section 5, in relation to Section 3(jj), Section 26(b) and Section 28, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, corrunitted as follows:
> That within the period from November 2012 to March 2013, in the City ofMuntinlupa, Philippines, and within the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then an employee of the Department of Justice detailed to De Lima, all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading, in the following manner: De Lima and Ragos, with the use of their power, position and authority, demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the Senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison.
>
> CONTRARY TO LAW. (Emphasis and underscoring supplied)

The plain language of the Information reveals that it: (1) does not charge Petitioner with "attempt or conspiracy to commit illegal trading of dangerous drugs" under Section 26(b) of RA 9165; (2) does not charge Petitioner with illegal "Trading" of dangerous drugs as defined under the Act; (3) is fatally defective as an indictment of illegal drug "trading" as the term is ordinarily understood; (4) does not charge Petitioner with violation of Sections 27 and 28 of the Act; and (5) does not validly charge Petitioner with any unlawful act under the Act.

The Information does NOT charge "attempt or conspiracy to commit illegal trading of dangerous drugs" under Section 26(b) of RA 9165.

The caption and the prefatory clause or preamble of the Information unequivocally states that Petitioner is being charged with "violation of Section 5, in relation to Section 3(jj), Section 26(b) and Section 28," of RA 9165.

Notably, Section 3(jj) is not a separate offense because it merely defines the term "trading," while Section 28, in turn, relates only to the imposable penalties on government officials and employees, to wit: "The maximum penalties of the unlawful acts provided in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees." In simple terms, therefore, the lynchpin to the charge of the Information is the violation of Section 5 of RA 9165.

It is thus immediately evident that "Section 5 in relation to x x x Section 26(b)" is a misnomer, if not totally nonsensical because Section 5 and Section 26(b) are two separate unlawful acts or offenses penalized under RA 9165.

Section 26(b) of RA 9165 in part states:

> SEC. 26. Attempt or Conspiracy. - Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:
>
> x x x x
>
> (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;

Clearly, the foregoing provision punishes the mere agreement or conspiracy to commit illegal trading. This is one of those situations where the law itself makes the mere agreement punishable. That said, it is likewise ineluctably clear that what Section 26(b) means is that the illegal trading has not been committed - which is completely opposite to the situation of Section 5 which requires that the trading has already been committed. In other words, the moment the illegal trading has been committed, then it is Section 5 that is the applicable provision of RA 9165 and no longer Section 26(b) - which is the commonsensical conclusion to make especially since the penalty in the latter is provided to be the same penalty provided for Section 5, or the consummated act.

A fair reading of the body or factual recitals of the Information is that Petitioner is being charged with violation of Section 5 and not violation of Section 26(b). Again, the nomenclature "violation of Section 5, in relation to Section 26(b)" is simply nonsensical.

What exactly was Petitioner charged with by the Information? Once more, the body of the Information reads:

> That within the period from November 2012 to March 2013, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then an employee of the Department of Justice detailed to De Lima; all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading, in the following manner: De Lima and Ragos, with the use of their power, position and authority, demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the Senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through

> Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison. (Emphasis and underscoring supplied)

On its face, the Information unmistakably describes past or consummated acts - "all of them [including Petitioner] DID x x x commit illegal drug trading," "the inmates x x x DID x x x trade and traffic dangerous drugs," and "[the inmates] DID give and deliver to De Lima (Petitioner) x x x the proceeds of illegal drug trading."[12]

Nothing could be clearer: the purported offense described in the Information is illegal drug trading as a consummated crime, and not as a conspiracy to commit the same. Thus, the claim that Petitioner was charged for conspiracy to commit illegal drug trading under Section 26(b) of RA 9165[13] is egregious error, if not a clear afterthought on the part of the Office of the Solicitor General (OSG) after it had itself realized that, for the reasons to be stated later, the Information filed by the Department of Justice (DOJ) which charges a violation of Section 5, RA 9165, is wholly insufficient and void.

To be sure, nowhere in the language and wording of the Information can a conspiracy or attempt to commit trading of dangerous drugs be even inferred. To read the above-quoted acts in the Information to only be at the preparatory stage, or just about to be committed, is an unforgivable perversion of the English language and an insult to the intelligence of the Court.

Again, the gravamen of conspiracy as a distinct crime is the agreement itself. In this jurisdiction, conspiracy embraces either one of two forms as a crime by itself or as a means to commit a crime. In the first instance, the mere act of agreeing to commit a crime and deciding to commit it is already punishable, but only in cases where the law specifically penalizes such act and provides a penalty therefor. In the latter instance, conspiracy assumes importance only with respect to determining the liability of the perpetrators charged with the crime.[14] Under this mode, once conspiracy is proved, then all the conspirators will be made liable as co-principals regardless of the extent and character of their participation in the commission of the crime: "the act of one is the act of all."[15]

Here, the Information clearly charges Petitioner with illegal drug "trading" per se under Section 5 of RA 9165, and not for conspiracy to commit the same under Section 26(b). While the phrase "conspiring and confederating" appears in the Information, such phrase is, as explained above, used merely to describe the means or the mode of committing the consummated offense so as to ascribe liability to all the accused as co-principals.

The Court's ruling in Macapagal-Arroyo v. People[16] lends guidance. Petitioner therein was charged under an Information for Plunder, which bears a resemblance to the Information in the case at hand. Therein, the phrase "conniving, conspiring and confederating with one another" similarly preceded the narration of the overt acts of "amass[ing], accumulat[ing], and/or acquir[ing] x x x ill-gotten wealth," which demonstrates the intention of the prosecution to use conspiracy merely to impute liability on the petitioner therein for the collective acts of her co-accused, viz.:

> The information reads:
> x x x x
>
> That during the period from January 2008 to June 2010 or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused GLORIA MACAPAGAL-ARROYO, then the President of the Philippines, x x x, all public officers committing the offense in relation to their respective offices and taking undue advantage of their respective official positions, authority, relationships, connections or influence, conniving, conspiring and confederating with one another, did then and there willfully, unlawfully and criminally amass, accumulate and/or acquire[, d]irectly or

> indirectly, ill-gotten wealth in the aggregate amount or total value of THREE HUNDRED SIXTY-FIVE MILLION NINE HUNDRED NINETY- SEVEN THOUSAND NINE HUNDRED FIFTEEN PESOS (PHP365,997,915.00), more or less, through any or a combination or a series of overt or criminal acts, or similar schemes or means, described as follows:
>
> x x x x

A perusal of the information suggests that what the Prosecution sought to show was an implied conspiracy to commit plunder among all of the accused on the basis of their collective actions prior to, during and after the implied agreement. It is notable that the Prosecution did not allege that the conspiracy among all of the accused was by express agreement, or was a wheel conspiracy or a chain conspiracy.

x x x x

Nevertheless, the Prosecution insists that GMA, Uriarte and Aguas committed acts showing the existence of an implied conspiracy among themselves, thereby making all of them the main plunderers. On this score, the Prosecution points out that the sole overt act of GMA to become a part of the conspiracy was her approval via the marginal note of "OK" of all the requests made by Uriarte for the use of additional intelligence fund. x x x[17] (Emphasis supplied)

Similar to Macapagal-Arroyo, the phrase "conspiring and confederating" in the Information against Petitioner precede$ the overt acts of "trad[ing] and traffic[king]" and "giv[ing] and deliver[ing]" which means that "conspiring and confederating" was alleged to be the means by which the crime of trading was committed. As well, the phrase "did then and there commit" confirms the consummation of a prior alleged agreement. In fact, to dispel all doubt, the narration of the alleged delivery of the proceeds of illegal trading to Petitioner unmistakably shows that the alleged conspiracy of illegal drug trading had already been carried out and that Petitioner was to be prosecuted for such - and not for her act of allegedly agreeing to commit the same. Indeed, even as to the allegations of giving and delivering of the so-called "tara" by the unidentified high-profile inmates in the New Bilibid Prison (NBP), this is clearly phrased as being the result of consummated acts of illegal trading.

Most importantly, the DOJ Resolution[18] itself, upon which the Information is based, confirms that the sense in which conspiracy was used was merely as the manner or mode of imputing liability, and not as a crime in itself:

> From the foregoing, it is clear that there was conspiracy among De Lima, Bucayu, Elli, Sebastian, Dayan, Sanchez and JAD to commit illegal drug trading, hence, the guilt of one of them is the guilt of all x x x.
>
> It is a time-honored principle in law that direct proof is not essential to prove conspiracy. x x x In other words, conspiracy may be inferred from the collective acts of respondents before, during and after the commission of the crime which point to a joint purpose, design, concerted action, and community of interests.[19] (Emphasis supplied)

On this score, in People v. Fabro,[20] the very case cited by the OSG,[21] the Court appreciated the language of the Information there - which is almost identical to the Information against Petitioner here - as charging the crime of consummated drug sale and not a conspiracy to commit.

In that case, the respondent was charged under an Information designated as a "violation of Section 21 (b) Art. IV, in relation to Section 4, Art. II of Republic Act No. 6425, as amended."[22] Section 21(b) is the counterpart provision of Section 26(b) of RA 9165 whereas Section 4 is the counterpart provision of Section 5 of RA 9165. Notably, the Court therein disregarded the charge for conspiracy to sell, administer, or deliver illegal drugs and instead convicted the respondent for violation of Section 4, Article II of RA 6425 (which, again, is now Section 5 of RA 9165), which punishes the sale and/or delivery of illegal drugs as a consummated crime. In affirming the

lower court's conviction in toto, the Court interpreted the recital of facts in the Information to be one for consummated sale, and not for conspiracy to sell, based on the language used:

> Appellant Berly Fabro y Azucena, together with her common-law husband Donald Pilay y Calag and Irene Martin, was charged with the crime of "violation of Section 21 (b) Art. IV, in relation to Section 4, Art. II of Republic Act No. 6425, as amended," under Criminal Case No. 11231-R of the Regional Trial Court of Baguio City, in an information that reads:
> That on or about the 7th day of April 1993, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another, did then and there willfully, unlawfully and feloniously sell and/or deliver to PO2 ELLONITO APDUHAN, who acted as poseur-buyer, one (1) kilo of dried marijuana leaves, a prohibited drug without any authority of law, in violation of the aforementioned provision of law.
>
> CONTRARY TO LAW.
>
> x x x x

On January 4, 1994, the trial court rendered the Decision disposing of Criminal Case No. 11231-R as follows:

> WHEREFORE, the Court Finds the accused Berly Fabro guilty beyond reasonable doubt of the offense of Violation of Section 4 Article II of Republic Act No. 6425 as amended (Sale and/or Delivery of Marijuana) as charged in the body of the Information, not its caption, and hereby sentences her to Life Imprisonment and to pay a Fine of Twenty Thousand Pesos (P20,000.00) without subsidiary imprisonment in case of Insolvency and to pay the costs.
>
> x x x x

A final note. The information denotes the crime as a "VIOLATION OF SECTION 21 (b) ART. IV IN RELATION TO SECTION 4/ARTICLE II OF REPUBLIC ACT 6425 AS AMENDED." This is an erroneous designation of the crime committed. Section 21 of R.A. 6425 reads:

> SEC. 21. Attempt and Conspiracy. - The same penalty prescribed by this Act for the commission of the offense shall be imposed in case of any x x x conspiracy to commit the same in the following cases:
>
> x x x x
>
> b) Sale, administration, delivery, distribution and transportation of dangerous drugs.

It is clear that Section 21 (b) of R.A. 6425 punishes the mere conspiracy to commit the offense of selling, delivering, distributing and transporting of dangerous drugs. Conspiracy herein refers to the mere agreement to commit the said acts and not the actual execution thereof. While the rule is that a mere conspiracy to commit a crime without doing any overt act is not punishable, the exception is when such is specifically penalized by law, as in the case of Section 21 of Republic Act 6425. Conspiracy as crime should be distinguished from conspiracy as a manner of incurring criminal liability the latter being applicable to the case at bar.

In any event, such error in the information is not fatal. The body of the information states that the crime for which the petitioner is charged is as follows:

> "the above-named accused, conspiring, confederating and mutually aiding one another, did there willfully, unlawfully and feloniously sell and/or deliver to PO2 Elonito Apduhan, who acted as poseur buyer, one (1) kilo of dried marijuana leaves ..."

It has been our consistent ruling that what is controlling [is] the actual recital of facts in the body of the information and not the caption or preamble of the crime.

Having considered the assignments of error and finding no basis which, from any aspect of the case, would justify us in interfering with the findings of the trial court, it results that the appealed decision must be AFFIRMED in toto.[23] (Emphasis and underscoring supplied)

Following Fabro, which is on all fours with the situation of Petitioner, there is therefore no other acceptable reading of the Information than that it actually charges Petitioner with illegal drug trading under Section 5 and not a conspiracy to commit under Section 26(b).

It is noted that Respondents correctly stressed that the unlawful act of "trading" is a separate and distinct offense from conspiracy to commit the same, which are respectively punished under separate provisions of RA 9165.[24] Unfortunately, by the same claim, Respondents fall on their own sword. Given that the two offenses are different from each other, Petitioner cannot now be charged with one crime and yet be convicted of the other. The Court cannot allow the Prosecution's strategy to flourish without infringing on the fundamental right of Petitioner to due process.

By constitutional mandate, a person who stands charged with a criminal offense has the right to be informed of the nature and cause of the accusation against him. As a necessary adjunct of the right to be presumed innocent and to due process, the right to be informed was enshrined to aid the accused in the intelligent and effective preparation of his defense. In the implementation of such right, trial courts are authorized under the Rules of Court to dismiss an Information upon motion of the accused, should it be determined that, inter alia, such Information is defective for being in contravention of the said right.

Therefore, Petitioner is correct when she argues in her Memorandum that her right to be informed of the nature and cause of the accusation against her was violated when she was charged, arrested, and detained for consummated illegal drug trading despite Respondents' claim, now, that she was really charged for conspiracy to commit illegal drug trading. Indeed, Respondents' sudden change in stance, through the OSG, along with the subsequent concurrence of the DOJ, violated Petitioner's right to be informed of the nature and cause of the accusation against her.

Given the foregoing, the insistence of some members of the Court that the Information, as worded, validly indicts Petitioner with conspiracy to engage in illegal drug trading, referring to an unconsummated act, is beyond comprehension.

The Information does NOT charge Petitioner with illegal "Trading" of dangerous drugs as defined under RA 9165.

Section 5, which penalizes illegal trading of dangerous drugs, states:

> SEC. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.
>
> The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions. (Underscoring supplied)

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Section 3(jj) in turn defines "Trading" in the following manner:

(jj) Trading. - Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act. (Underscoring supplied)

To be sure, the definition of "[t]rading" above does not identify the act or acts that the offender must commit to make him liable for illegal drug trading. It merely refers to "[t]ransactions involving the illegal trafficking of dangerous drugs."

"Illegal Trafficking," on the other hand, is defined in Section 3(r):

> SEC. 3. Definitions. - As used in this Act, the following terms shall mean:
>
> x x x x
>
> (r) Illegal Trafficking. The illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of any dangerous drug and/or controlled precursor and essential chemical.
>
> x x x x

Based on the foregoing definitions, the term "illegal trading" is nothing more than "illegal trafficking" "using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions." Or stated differently, illegal trading is "[t]he illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of any dangerous drug and/or controlled precursor and essential chemical" "using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions."

Thus, while "trading" does not articulate the underlying specific unlawful acts penalized under RA 9165, its use of the term "illegal trafficking" constitutes a specific reference to the unlawful acts enumerated under illegal trafficking, i.e., cultivation or culture (Section 16), delivery, administration, dispensation, sale, trading, transportation or distribution (Section 5), importation (Section 4), exportation, manufacture (Section 8), and possession (Section 11) of dangerous drugs. The terms "Administer," "Cultivate or Culture," "Deliver," "Dispense," "Manufacture," "Sell," and "Use" are in turn defined under Section 3, subsections (a), (i), (k), (m), (u), (ii), and (kk).

In this regard, the term "trading" in the definition of "illegal trafficking" should now be understood in its ordinary acceptation - the buy[ing] and sell[ing] of goods, exchang[ing] (something) for something else, typically as a commercial transaction.[25]

While the Information employs the terms "drug trading" and "trade and traffic dangerous drugs," it does not, however, contain a recital of the facts constituting the illegal "trade" or "traffic" of dangerous drugs. Since "trading" and "illegal trafficking" are defined terms under RA 9165, their use in the Information will carry with them their respective definitions. Viewed in the foregoing light, the Information is fatally defective because it does not allege the specific acts committed by Petitioner that constitute illegal "trading" or "illegal trafficking" of dangerous drugs as defined in Section 3(jj) and Section 3(r) of the Act. Rather, it relies only on conclusionary phrases of "drug trading" and "trade and traffic of dangerous drugs."

To restate: the Information did not mention any of the following transactions involving dangerous drugs:

(a) cultivation or culture - planting, growing, raising, or permitting the planting, growing or raising of any plant which is the source of a dangerous drug;[26]

(b) delivery - passing a dangerous drug to another, personally or otherwise, and by any means, with or without consideration;[27]

(c) administration - introducing any dangerous drug into the body of any person, with or without his/her knowledge, by injection, inhalation, ingestion or other means, or of committing any act of indispensable assistance to a person in administering a dangerous drug to himself/herself;[28]

(d) dispensation - giving away, selling or distributing medicines or any dangerous drugs with or without the use of prescription;[29]

(e) manufacture - production, preparation, compounding or processing of any dangerous drug and/or controlled precursor and essential chemical, either directly or indirectly, or by extraction from substance of natural origin, or independently by chemical synthesis or by a combination of extraction and chemical synthesis, including packaging or re-packaging of such substances, design or configuration of its form, labeling or relabeling of its container;[30]

(f) sale - giving away any dangerous drug and/or controlled precursor and essential chemical whether for money or any other consideration;[31]

(g) transportation; distribution;

(h) importation - bring into the Philippines any dangerous drug, regardless of the quantity and purity involved;[32]

(i) exportation;

(j) possession; and

(k) acting as broker in any other preceding transactions.

Without doubt, the Information did not mention if Petitioner cultivated, cultured, delivered, administered, dispensed, manufactured, sold, transported, distributed, imported, exported, possessed or brokered in any transaction involving the illegal trafficking of any dangerous drug.

Accordingly, while the word "trading" is attributed to Petitioner in the Information, the essential acts committed by Petitioner from which it can be discerned that she did in fact commit illegal "trading" of dangerous drugs as defined in RA 9165 are not alleged therein.

Since the Information does not mention the constitutive acts of Petitioner which would translate to a specific drug trafficking transaction or unlawful act pursuant to Section 3(r), then it is fatally defective on its face. Thus, it was improvident for the respondent Judge to issue a warrant of arrest against Petitioner.

Additionally, on the matter of illegal "trading" of dangerous drugs, the ponencia quotes with approval Justice Martires' explanation that the averments on solicitation of money in the Information form "part of the description on how illegal drug trading took place at the NBP." However, the Information's averments on solicitation of money, including those on the use of mobile phones and other electronic devices, without the factual allegations of the specific transaction involving the illegal trafficking of dangerous drugs as defined in Section 3(r), are still insufficient to validly indict Petitioner with illegal drug "trading" under Section 5 in relation to Sections 3(jj) of

RA 9165. The "solicitation of money" would only indicate that the "transaction involving the illegal trafficking of dangerous drugs" was "for money." That is all.

It bears repeating that the Information sorely lacks specific factual allegations of the illegal trafficking transaction which Petitioner purportedly got involved with in conspiracy with her co-accused. The Information does NOT contain factual allegations of illegal cultivation, culture, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of specific and identified dangerous drugs. Again, the Information simply states: "accused x x x De Lima x x x and accused x x x Ragos x x x, conspiring and confederating with accused x x x Dayan x x x did then and there commit illegal drug trading, in the following manner: De Lima and Ragos x x x demand, solicit and extort money from the high profile inmates in the [NBP] x x x; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs x x x."

The averments of "illegal trading," "unlawfully trade and traffic," and "dangerous drugs" are conclusions of law and not factual allegations. Such allegations do not sufficiently inform Petitioner of the specific accusation that is leveled against her.

The ponencia, while it enumerates the purported two modes of committing illegal trading: (1) illegal trafficking using electronic devices; and (2) acting as a broker in any transaction involved in the illegal trafficking of dangerous drugs, and as it correctly points out that the crime of illegal trading has been written in strokes much broader than that for illegal sale of dangerous drugs, still conveniently avoids specifying and enumerating the elements of illegal trading. How can the sufficiency of the Information be determined if not even the elements of the crime it is supposedly charging are known?

Illegal sale of dangerous drugs has defined and recognized elements. Surely, illegal trading of dangerous drugs, like every crime and offense, must have defined and recognized elements. Without defining and identifying the elements of illegal trading of dangerous drugs, the ponencia's reasoning is not only incomplete and insufficient, worse, it tends to validate the dangerous and anomalous situation where an ordinary citizen can be arrested by mere allegation in an Information that he committed "illegal trading of dangerous drugs using mobile phones and other electronic devices." It is highly lamentable that the majority of the members of the Court have put their imprimatur to this insidious manner of phrasing an Information concerning illegal drugs offenses to detain an unsuspecting individual. The real concern is this: if this can be done to a sitting Senator of the Republic of the Philippines, then this can be done to any citizen.

As to the purported first mode of committing illegal trading, the Information is thus void as it fails to identify the illegal trafficking transaction involved in this case, and fails to sufficiently allege the factual elements thereof.

As to the purported second mode acting as a broker in any transactions involved in the illegal trafficking of dangerous drugs - this requires the existence of an illegal trafficking transaction. Without a predicate transaction, an individual cannot be accused of acting as its broker.

While it may be true that a person accused of illegal "trading" by acting as a broker need not get his hands on the substance or know the meeting of the seller and the buyer, still, the transaction that he purportedly brokered should be alleged in the Information for the latter to be valid, and thereafter proved beyond reasonable doubt, for the accused to be convicted. The seller and the buyer or the persons the broker put together must be identified. If he brokered an illegal sale of dangerous drugs, then the identities of the buyer, seller, the object and consideration are essential.

Thus, I take exception to the wholesale importation of the concept of "brokering" in the offense of illegal

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"trading" of dangerous drugs without specifying the predicate illegal trafficking transaction which the accused "brokered". To repeat, this transaction must be sufficiently alleged in charges against an accused indicted for having acted as a broker because that is the requirement of the law - "acting as a broker in any of such transactions [involving the illegal trafficking of dangerous drugs]".

As well, and as will be explained further, the specific "dangerous drugs" that are the object of the transaction must likewise be alleged and identified in the Information.

In fine, while the ponencia indulges in hypotheticals as to what transactions can or cannot be covered by "illegal trading" by "brokering," it fails miserably to identify the elements of "illegal trading" committed by acting as a broker. There is nothing in the Information against Petitioner from which it can reasonably be inferred that she acted as a broker in an illegal trafficking of dangerous drugs transaction - the Information does not even identify the seller/s and buyer/s of dangerous drugs that Petitioner supposedly brought together through her efforts. If Petitioner was supposedly the broker, then who were the NBP high-profile inmates supposed to be? Sellers? Buyers? Likewise, the Information is dead silent on the specific dangerous drugs consisting of the object of the transaction.

The Information does NOT charge Petitioner with illegal drug "trading" as the term is ordinarily understood.

In People v. Valdez,[33] the Court described a sufficient Information, thus:

> It cannot be otherwise, for, indeed, 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 facts in the complaint or information. In People v. Dimaano, the Court elaborated:
> 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 charged 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]
>
> x x x x

To discharge its burden of informing him of the charge, the State must specify in the information the details of the crime and any circumstance that aggravates his liability for the crime. The requirement of sufficient factual averments is meant to inform the accused of the nature and cause of the charge against him in order to enable him to prepare his defense. It emanates from the presumption of innocence in his favor, pursuant to which he is always presumed to have no independent knowledge of the details of the crime he is being charged with. To have the facts stated in the body of the information determine the crime of which he stands charged and for which he must be tried thoroughly accords with common sense and with the requirements of plain justice, for, as the Court fittingly said in United States v. Lim San:

> 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 be, 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 be perform the acts alleged in the body of the information in the manner therein set forth. If be 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 (or 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 to say what the crime is or what it is named. x x x. (emphasis supplied)[34] (Italics supplied)

Does the Information under scrutiny comply with the requirement of sufficiency as explained above? It clearly does not. The elements of the offense or unlawful act charged are not contained in the Information.

To reiterate, the unlawful act of "trading" of dangerous drugs is penalized under Section 5 of RA 9165, to wit:

> SEC. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transaction. The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions. (Underscoring supplied)

While "sell" is defined under Section 3(ii), "trade" is not defined in the same fashion. It is "trading" that is defined under Section 3(jj) and, as explained above, the defined term "illegal trafficking" is imbedded therein. Since "trade" in Section 5, for purposes of this discussion, is to be understood in its ordinary meaning, and "sell" and "trade" involve analogous or similar acts, then logic dictates that the elements of illegal trade of dangerous drugs or "illegal drug trading" should have the same jurisprudentially sanctioned elements of illegal sale of dangerous drugs.

Well-entrenched is the rule that for the prosecution of illegal sale of drugs, the following elements must be proved: (1) the identity of the buyer and seller, the object and the consideration; and (2) the delivery of the thing sold and its payment.[35]

Bearing in mind these elements, the elements of illegal trade or trading of dangerous drugs are thus: (1) the identity of the trader or merchant and purchaser or customer, the object and the consideration (money or other consideration per Section 30[jj]); (2) delivery of the thing traded and its consideration; and (3) the use of electronic devices such as text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms to facilitate the transaction. If the accused acted as a broker, then such fact must be alleged as an additional element.

The object of the trade or trading is a specific dangerous drug that is included in the definition under Section 3(j)

of RA 9165 and described with specificity in the Information. In cases involving dangerous drugs, the corpus delicti is the presentation of the dangerous drug itself.[36] Without the averment of the corpus delicti, the Information is deficient because an element of the offense is missing.

Are all the elements of illegal trade or trading of dangerous drugs by Petitioner alleged in the Information? Again, they are not.

To recall, the Information pertinently states:

> That x x x accused Leila M. De Lima x x x and accused Rafael Marcos Z. Ragos, x x x conspiring and confederating with accused Ronnie P. Dayan x x x did then and there commit illegal drug trading, in the following manner: De Lima and Ragos x x x demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the Senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison. (Emphasis and underscoring supplied)

As to the averments of the Information regarding Petitioner's acts, it only states that Petitioner "commit(ted) illegal drug trading in the following manner: [Petitioner] x x x demand[ed], solicit[ed] and extort[ed] money from the high profile inmates in the New Bilibid Prison" and Petitioner received from the inmates proceeds of illegal drug trading.

None of the elements of illegal drug trade or trading is present in the Information insofar as Petitioner is concerned. The Information does not identify Petitioner as the trader, or merchant, or broker. There is no indication in the Information that she ever possessed any dangerous drug prior to the purported trading. The Information does not identify any purchaser or customer. It does not state the consideration. It does not identify the specific dangerous drug that she traded or brokered. If Petitioner acted as the broker, who were the seller/sand the buyer/s? The Information is once more silent on these crucial facts. There is even no mention in the Information that Petitioner used any electronic device in her participation, if any, in the purported illegal activity. Given these glaring infirmities that can be easily seen from a plain, unbiased reading of the Information, there is no conclusion other than it is fatally defective.

Even with respect to the acts attributed to the unnamed NBP high- profile inmates, the Information fails to also allege the elements of illegal drug trade or trading that they committed. The Information merely states that "the inmates x x x through the use of mobile phones and other electronic devices x x x trade[d] and traffic[ked] dangerous drugs, and thereafter [gave] and deliver[ed] to [Petitioner] x x x the proceeds of illegal drug trading." Again, the Information does not mention the purchaser or customer, the specific dangerous drug traded, the consideration and the identity of the inmates. While Petitioner and her co-accused, Rafael Marcos Z. Ragas and Ronnie P. Dayan, are identified in the Information, the identities of the NBP inmates have been intentionally omitted.

The employment of the term "dangerous drugs" in the Information does not satisfy the requirement of specificity of the corpus delicti. "Dangerous Drugs" is a catch - all term - to "[i]nclude those listed in the Schedule annexed to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 Single Convention on Psychotrophic Substances as enumerated in the attached annex which is an integral part of this Act."[37] The Information does not state the specific dangerous drugs traded by the so-called high-profile NBP inmates.

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In People v. Posada,[38] an Information where the objects of illegal sale and illegal possession of dangerous drugs were lumped together and commingled, the Court found such as defective and ambiguous, viz.:

> The unfortunate fact of this case is that rather than separately charging Emily for the sale of the one sachet of shabu and charging both Emily and Roger for possession of the 12 sachets of shabu, the public prosecutor lumped the charges together to sale of 12 sachets of shabu. This is wrong. The Information is defective for charging the accused-appellants of selling 12 sachets of shabu when, in fact, they should have been charged of selling one sachet of shabu and possessing 12 sachets of shabu. From the evidence adduced, Emily and Roger never sold the 12 sachets of shabu. They possessed them. Thus, they should have not been convicted for selling the 12 sachets of shabu. However, this was exactly what was done both by the trial court and the CA. Without basis in fact, they convicted the couple for selling the 12 sachets of shabu.
>
> Indeed, it must be pointed out that the prosecution filed a defective Information. An Information is fatally defective when it is clear that it does not charge an offense[39] or when an essential element of the crime has not been sufficiently alleged.[40] In the instant case, while the prosecution was able to allege the identity of the buyer and the seller, it failed to particularly allege or identify in the Information the subject matter of the sale or the corpus delicti. We must remember that one of the essential elements to convict a person of sale of prohibited drugs is to identify with certainty the corpus delicti. Here, the prosecution took the liberty to lump together two sets of corpora delicti when it should have separated the two in two different informations. To allow the prosecution to do this is to deprive the accused-appellants of their right to be informed, not only of the nature of the offense being charged, but of the essential element of the offense charged; and in this case, the very corpus delicti of the crime.
>
> Furthermore, when ambiguity exists in the complaint or information, the court has no other recourse but to resolve the ambiguity in favor of the accused.[41] Here, since there exists ambiguity as to the identity of corpus delicti, an essential element of the offense charged, it follows that such ambiguity must be resolved in favor of the accused-appellants. Thus, from the foregoing discussion, we have no other choice but to acquit the accused-appellants of sale of 12 sachets of shabu.
> x x x x
>
> Possession is a necessary element in a prosecution for illegal sale of prohibited drugs. It is indispensable that the prohibited drug subject of the sale be identified and presented in court. That the corpus delicti of illegal sale could not be established without a showing that the accused possessed, sold and delivered a prohibited drug clearly indicates that possession is an element of the former. The same rule is applicable in cases of delivery of prohibited drugs and giving them away to another.[42] x x x
>
> x x x x

Finally, we cannot let this case pass us by without emphasizing the need for the public prosecutor to properly evaluate all the pieces of evidence and file the proper information to serve the ends of justice. The public prosecutor must exert all efforts so as not to deny the People a remedy against those who sell prohibited drugs to the detriment of the community and its children. Many drug cases are dismissed because of the prosecutor's sloppy work and failure to file airtight cases. If only the prosecution properly files the Information and prosecutes the same with precision, guilty drug pushers would be punished to the extent allowed under the law, as in this case.[43]

If an averment of commingled sachets of shabu in an Information is not sufficient, then, with greater reason, the mere invocation of the term "dangerous drugs," - a defined term in RA 9165, and thus a conclusion of law, without identifying the specific drug - renders the Information fatally defective.

A charge under Section 5 of RA 9165 requires allegation of corpus delicti.

As a rule, an Information need only state the ultimate facts constituting the offense, as evidentiary details are more appropriately threshed out during trial. However, as a consequence of the accused's right to be informed of the nature and cause of the accusation against him, the Information must allege clearly and accurately the elements of the crime charged.[44] In People v. Posada,[45] the Court stressed the importance of alleging and identifying in the Information the corpus delicti and explained that the failure of the prosecution to particularly identify the dangerous drug in the Information was tantamount to a deprivation of the accused's right to be informed of the nature of the offense being charged.

It must also be stressed that in prosecutions involving narcotics and other illegal substances, the substance itself constitutes the corpus delicti of the offense and the fact of its existence is vital to sustain a judgment of conviction beyond reasonable doubt.[46]

The crime of "trading" dangerous drugs is punished alongside "selling" under Section 5 of RA 9165. However, the offenses differ only as to the overt acts involved, where "[a]ny act of giving away any dangerous drug and/or controlled precursor and essential chemical whether for money or any other consideration" constitutes "selling" while "[t]ransactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals x x x using electronic devices x x x whether for money or any other consideration" amounts to "trading."[47]

There is no difference, however, with respect to the subject matter of both transactions: they remain to be dangerous drugs and/or controlled precursors and essential chemicals. There is thus no significant reason to treat prosecutions involving the unlawful act of selling differently from illegal trading, insofar as they require the allegation and identification of the corpus delicti in the Information is concerned.

The Court in People v. Enumerable,[48] citing People v. Watamama,[49] held that the existence of the dangerous drug and the chain of its custody have to be proven in all prosecutions for violations of RA 9165:

> It is settled that in prosecutions for illegal sale of dangerous drug, not only must the essential elements of the offense be proved beyond reasonable doubt, but likewise the identity of the prohibited drug. The dangerous drug itself constitutes the corpus delicti of the offense and the fact of its existence is vital to a judgment of conviction.
>
> Necessarily, the prosecution must establish that the substance seized from the accused is the same substance offered in court as exhibit. In this regard, the prosecution must sufficiently prove the unbroken chain of custody of the confiscated illegal drug. In People v. Watamama, the Court held:
> In all prosecutions for the violation of the Comprehensive Dangerous Drugs Act of 2002, the existence of the prohibited drug has to be proved. The chain of custody rule requires that testimony be presented about every link in the chain, from the moment the item was seized up to the time it is offered in evidence. To this end, the prosecution must ensure that the substance presented in court is the same substance seized from the accused.
>
> While this Court recognizes substantial adherence to the requirements of R.A. No. 9165 and its implementing rules and regulations, not perfect adherence, is what is demanded of police officers attending to drugs cases, still, such officers must present justifiable reason for their imperfect conduct and show that the integrity and evidentiary value of the seized items had been preserved. x x x

In People v. Climaco, citing Malillin v. People, the Court held:

> x x x [T]o establish guilt of the accused beyond reasonable doubt in cases involving dangerous drugs, it is important that the substance illegally possessed in the first place be the same substance offered in court as exhibit. This chain of custody requirement ensures that unnecessary doubts are removed concerning the identity of the evidence. When the identity of the dangerous drug recovered from the accused is not the same dangerous drug presented to the forensic chemist for review and examination, nor the same dangerous drug

> presented to the court, the identity of the dangerous drug is not preserved due to the broken chain of custody. With this, an element in the criminal cases for illegal sale and illegal possession of dangerous drugs, the corpus delicti, is not proven, and the accused must then be acquitted based on reasonable doubt. For this reason, [the accused] must be acquitted on the ground of reasonable doubt due to the broken chain of custody over the dangerous drug allegedly recovered from him.[50]

Indeed, the State can never fulfill its burden to establish the chain of custody of the concerned dangerous drug, as required under Section 21 of RA 9165, without the dangerous drug being identified with specificity in the Information. Absent such allegation in the Information, it is impossible to validate that the dangerous drug presented in court is the very same one that the Information speaks of and for which the accused stands indicted.

Thus, when the majority finds, as it has so found, that the Information against Petitioner is sufficient for illegal "trading" of dangerous drugs, then this case goes down in history as the ONLY criminal case involving dangerous drugs where the Information is totally silent on the corpus delicti of the illegal trading and yet is still held sufficient by its mere averment of the phrase "dangerous drugs". This farce now opens the floodgates to the unparalleled filing of criminal cases on the mere allegation in the Information that the accused had sold or traded "dangerous drugs", and will indubitably lead to an endless string of prosecutions - in blatant violation of an accused's constitutionally guaranteed rights to not be deprived of liberty without due process, to be presumed innocent and to be informed of the nature and cause of the accusation against him, the strict requirements of Section 21 of RA 9165 having been effectively repealed.

The Information does NOT validly charge Petitioner with violation of Sections 27 and 28 of the Act.

Section 27 of RA 9165 provides:

> SEC. 27. Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any public office, shall be imposed upon any public officer or employee who misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in this Act.
>
> Any elective local or national official found to have benefited from the proceeds of the trafficking of dangerous drugs as prescribed in this Act, or have received any financial or material contributions or donations from natural or juridical persons found guilty of trafficking dangerous drugs as prescribed in this Act, shall be removed from office and perpetually disqualified from holding any elective or appointive positions in the government, its divisions, subdivisions, and intermediaries, including government-owned or -controlled corporations.

The Information partly states that:

> x x x De Lima and Ragos, with the use of their power, position and authority [as then Secretary of the Department of Justice and Officer--in-Charge of the Bureau of Corrections, respectively], demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the Senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, x x x through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading, amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December

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> 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison. (Underscoring provided)

The quoted portion of the Information is not sufficient to charge Petitioner with the unlawful act of misappropriation, misapplication and failure to account for the proceeds obtained from illegal drug trading allegedly committed by high-profile NBP inmates. Petitioner, as then DOJ Secretary, did not have any legal duty or obligation to take custody of or account for proceeds obtained from unlawful acts committed under RA 9165. Without the allegation in the Information that, as DOJ Secretary, Petitioner had such duty or obligation, she could not have committed misappropriation, misapplication and failure to account for the so-called "proceeds of illegal drug trading." Besides, as explained above, "illegal drug trading" is a conclusion of law and not an averment of specific facts. At the very least, the specific acts of Petitioner constituting illegal "trading" of dangerous drugs should be alleged in the Information. Again, there is even no mention in the Information that Petitioner transacted dangerous drugs "using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, [etc.]."

Also, Petitioner cannot be held liable under the second paragraph of Section 27. She was not an "elective local or national official" when "proceeds of illegal drug trading" were purportedly delivered to her. The Information does not even allege the specifics of the trading and trafficking of dangerous drugs which the high-profile inmates purportedly committed. Nor does the Information allege that the said inmates had been "found guilty of trafficking dangerous drugs" and such proceeds were derived from the illegal trafficking committed by them and for which they had been convicted.

Section 28 of RA 9165 cannot as well be invoked as a possible source of Petitioner's indictment because it does not provide an additional unlawful act for which a penalty is provided. Rather, it only provides the appropriate penalty to be imposed if a government official or employee is found guilty of any unlawful act under RA 9165.

The Information does NOT validly charxe Petitioner with any unlawful act under the Act.

Guided by the foregoing, the patent glaring defects on the face[51] of the Information in the present case present themselves the corpus delicti or the "dangerous drugs" subject of the case is not particularly alleged or identified; the use of the term "trading" is without the specific acts committed by Petitioner as there is no averment of any or all the elements of said unlawful acts, including her use of identified electronic device/s; the names of the so-called "high profile inmates in the New Bilibid Prison" are not provided; and the purported acts of the said inmates constituting illegal "trade and traffic [of] dangerous drugs" (from which the "proceeds" were derived) are not alleged.

Following the previous discussion, the sweeping use of the terms "dangerous drugs," "illegal drug trading," "trade and traffic dangerous drugs," and "proceeds of illegal drug trading" hardly suffice - and cannot and should not be held by the Court to suffice - for the required particularity of an Information involving violations of RA 9165. By omitting to mention the specific type and amount of the alleged drugs involved, the specific acts constitutive of trading and trafficking by both Petitioner and the so-called high-profile inmates where all the elements of those unlawful acts are described, the Information against Petitioner for illegal trading of drugs under Section 5 in relation to Section 3(r) is perforce fatally defective. Accordingly, Petitioner is effectively deprived of the fair opportunity to prepare her defense against the charges mounted by the Government as she is left to rely on guesswork and hypotheticals as to the subject matter of the offense. Under these circumstances, by no means is Petitioner properly equipped to face the awesome power and resources of the State, there being no sufficient factual allegations of the specific, actual offense that she is charged with and its corpus delicti.

Petitioner was no doubt deprived of her right to be informed of the nature and cause of the accusation against her.

She has been deprived her liberty without due process and to be presumed innocent.

In People v. Pangilinan,[52] the Court, through Justice Diosdado M. Peralta, held, citing the en banc case of People v. Dela Cruz,[53] that a defective or deficient information is void, viz:

> x x x We again quote the charging part of the Information for easy reference, thus:
> That on or about 1995 up to about June 2001 at Barangay Apsayan, Municipality of Gerona, Province of Tar1ac, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with lewd design, did then and there willfully, unlawfully and criminally commit acts of lasciviousness upon the person of AAA, a minor subjected to sexual abuse.
>
> That accused is the stepfather of AAA who was born on January 29, 1988.
>
> Contrary to law.

Under Section 8, Rule 110 of the Rules of Criminal Procedure, it provides:

> Sec. 8. Designation of the offense. - The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

A reading of the allegations in the above-quoted Information would show the insufficiency of the averments of the acts alleged to have been committed by appellant. It does not contain the essential facts constituting the offense, but a statement of a conclusion of law. Thus, appellant cannot be convicted of sexual abuse under such Information.

In People v. Dela Cruz, wherein the Information in Criminal Case No. 15368-R read:

> That on or about the 2[nd] day of August, 1997, in the City of Baguio, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously commit sexual abuse on his daughter either by raping her or committing acts of lasciviousness on her, which has debased, degraded and demeaned the intrinsic worth and dignity of his daughter, x x x as a human being.
>
> CONTRARY TO LAW.

We dismissed the case after finding the Information to be void and made the following ratiocinations:

> The Court also finds that accused-appellant cannot be convicted of rape or acts of lasciviousness under the information in Criminal Case No. 15368-R, which charges accused-appellant of a violation of R.A. No. 7610 (The Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act), "either by raping her or committing acts of lasciviousness."
>
> It is readily apparent that the facts charged in said information do not constitute an offense. The information does not cite which among the numerous sections or subsections ofR.A. No. 7610 has been violated by accused- appellant. Moreover, it does not state the acts and omissions constituting the offense, or any special or aggravating circumstances attending the same, as required under the rules of criminal procedure. Section 8, Rule 110 thereof provides:
>
> x x x x
>
> The allegation in the information that accused--appellant "willfully, unlawfully and feloniously commit sexual abuse on his daughter x x x either by raping her or committing acts of lasciviousness on her" is not a sufficient averment of the acts constituting the offense as required under Section 8, for these are conclusions of law, not facts. The information in Criminal Case No. 15368-R is therefore void for being violative of the

> accused-appellant's constitutionally-guaranteed right to be informed of the nature and cause of the accusation against him.

The right to be informed of the nature and cause of the accusation against an accused cannot be waived for reasons of public policy. Hence, it is imperative that the complaint or information filed against the accused be complete to meet its objectives. As such, an indictment must fully state the elements of the specific offense alleged to have been committed.[54] (Emphasis and underscoring supplied)

The dispositive portion of People v. Pangilinan is noteworthy, thus:

> WHEREFORE, x x x
>
> The Information in Criminal Case No. 11769 is declared null and void for being violative of the appellant's constitutionally-guaranteed right to be informed of the nature and cause of the accusation against him. The case for Child Sexual Abuse under Section 5 (b) of RA No. 7160 against appellant is therefore DISMISSED.[55]

Thus, an Information which fails the sufficiency requirement of Section 8, Rule 110 of the Rules of Court is null and void for being violative of the accused's right to be informed of the nature and cause of the accusation against him.

The constitutionally-guaranteed right of the accused to be informed of the nature and cause of the accusation against him is assured and safeguarded under Sections 6, 8 and 9 of Rule 110 of the Rules of Court. Under Section 6, on the sufficiency of information, [a] complaint or information is sufficient if it states[, among others,] x x x the designation of the offense given by the statute[, and] the acts or omissions complained of as constituting the offense. Section 8, on the designation of the offense, mandates that "[t]he complaint or information shall state the designation of the offense given by the statute[; and] aver the acts or omissions constituting the offense x x x." As to the cause of accusation, Section 9 provides:

> SEC. 9. 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.

The Information in this case, following People v. Pangilinan and People v. Dela Cruz, is, without doubt, fatallv defective as an indictment against Petitioner for an unlawful act under RA 9165. The allegation in the Information that Petitioner "did then and there commit illegal drug trading" is not a sufficient averment of the essential facts constituting the offense or unlawful act as required under Section 8, Rule 110 of the Rules of Court for this is a conclusion of law, and not an averment of facts. The same holds true with respect to the allegation in the Information that "the inmates x x x through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs" because this too is a conclusion of law.

If a criminal case merits dismissal when the Information from which it arose is void for being insufficient pursuant to People v. Pangilinan and People v. Dela Cruz, then, and with more reason, should the Information be quashed and the criminal case dismissed at the very outset.

To let the accused suffer the travails of a protracted criminal trial only to be acquitted in the end on the ground that the Information from which the case originated was null and void is totally unjust and inhuman, and should not be countenanced by the Court.

It is true that under Section 3(a), Rule 117, the accused may move to quash the complaint or Information on the ground that "the facts charged do not constitute an offense." It is likewise true that amendment of the Information

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is possible under Section 4 thereof, to wit:

> SEC. 4. Amendment of complaint or information. - If the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made.
>
> If it is based on the ground that the facts charged do not constitute an offense, the prosecution shall be given by the court an opportunity to correct the defect by amendment. The motion shall be granted if the prosecution fails to make the amendment, or the complaint or information still suffers from the same defect despite the amendment.

However, these provisions simply do not, as they cannot, apply to a situation where, as here, there are no factual allegations in the Information constituting an offense or unlawful act that Petitioner purportedly committed under RA 9165, which accordingly renders the Information null and void. In plain terms, the foregoing remedies need not be availed of by the accused - they do not apply when the defect of the Information cannot be cured by an amendment because a null and void Information cannot be cured by an amendment.

Given the nullity of the Information, the respondent Judge had no legal basis to issue the warrant of arrest against Petitioner and the Information should have been quashed or nullified by the respondent Judge at the very outset.

Indeed, even if it could be assumed for the sake of argument that the Information may be cured by an amendment, still, the respondent Judge should have awaited the amendment to be properly made before she issued the warrant of arrest against Petitioner. To detain or restrain the liberty of Petitioner on the strength of a fatally defective Information, or pending the amendment thereof to conform to the requirements of the Rules of Court, was to consciously and maliciously curtail Petitioner's constitutionally-guaranteed rights to be presumed innocent, to be informed of the nature and cause of the accusation against her, and not to be deprived of her liberty without due process. These rights stand supreme in the absence of a showing of anv countervailing, convincing and compelling ground to detain Petitioner in the meantime. Without question, respondent Judge acted whimsically, capriciously and despotically.

The acts alleged in the Information constitute, at most, a charge for indirect bribery.

Petitioner asserts that the offense charged by the Information is neither illegal sale of dangerous drugs, nor conspiracy to commit the same - positing instead that the acts alleged in the Information constitute direct bribery penalized under Article 210[56] of the Revised Penal Code (RPC).

Direct bribery has the following elements:

> x x x (1) that the accused is a public officer; (2) that he received directly or through another some gift or present, offer or promise; (3) that such gift, present or promise has been given in consideration of his commission of some crime, or any act not constituting a crime, or to refrain from doing something which it is his official duty to do; and (4) that the crime or act relates to the exercise of his functions as a public officer.

Accordingly, Petitioner's Memorandum asserts:

> 72. The allegations in the Information and the import of the plain terms used therein refer to the crime of bribery.
>
> 73. First, [Petitioner] is a public officer as defined in Article 203 x x x
>
> 74. Second, the Information alleges that [Petitioner] demanded, solicited and/or extorted and eventually received through intermediaries, money from the NBP Inmates x x x
>
> 75. Third, it is also alleged that the money is given in exchange for special consideration, such as convenient and comfortable spaces in the NBP or just not being transferred to a less hospitable detention area.

> 76. Lastly, the Information also alleged facts that relate the special consideration/protection to be a function of the accused as Secretary of Justice. x x x[57] (Emphasis supplied)

However, while the first, second, and fourth elements of direct bribery are indeed alleged in the Information, the third is not. Nowhere within the four corners of the Information is it alleged that the money or "proceeds" purportedly delivered to Petitioner by the NBP high-profile inmates was premised upon any agreement to afford special consideration and/or treatment in their favor.

It is a fundamental assumption in criminal actions that the accused has no independent knowledge of the facts constituting the crime charged. As a necessary complement of the accused's constitutional right to be informed of the nature and cause of the accusation against him, the Information must therefore contain a complete narration of the essential elements of the offense. In this regard, the accused must strictly rely on the allegations in the Information and no conviction can result for a crime that has not been sufficiently detailed in the same. Thus, applied to this case, contrary to the claim of Petitioner, no direct bribery is discernible from the Information.

Instead, based on the ultimate facts alleged, the Information supplies a basis for a charge of indirect bribery.[58] The essential element of indirect bribery, as defined in Article 211 of the RPC, is the acceptance by a public officer of a gift or material consideration.[59] In this respect, the Court held in Pozar v. Court of Appeals[60]:

> It is well to note and distinguish direct bribery from indirect bribery. In both crimes, the public officer receives gift. While in direct bribery, there is an agreement between the public officer and the giver of the gift or present, in indirect bribery, usually no such agreement exists. In direct bribery, the offender agrees to perform or performs an act or refrains from doing something, because of the gift or promise; in indirect bribery, it is not necessary that the officer should do any particular act or even promise to do an act, as it is enough that he accepts gifts offered to him by reason of his office.[61] (Emphasis and underscoring supplied)

Indirect bribery is an offense cognizable by the Sandiganbayan and not the Regional Trial Court.

As fully explained above, the Information cannot validly indict Petitioner with any unlawful act penalized under RA 9165. Under its Section 90, "the existing Regional Trial Courts in each judicial region [designated by the Court] to exclusively try and hear cases involving violations of this Act" have jurisdiction over such violations. Since this case, however, does not involve any violation of RA 9165, and the only possible felony that the Information may charge Petitioner with is indirect bribery, then the Regional Trial Court is completely bereft of jurisdiction to take cognizance of the case.

Pursuant to Section 4 of Presidential Decree No. (PO) 1606,[62] indirect bribery falls within the exclusive original jurisdiction of the Sandiganbayan when committed by officials of the executive branch occupying positions classified as Salary Grade 27 or higher, it being among the offenses treated in Chapter II, Section 2, Title VII, Book II of the RPC, viz.:

> SEC. 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
>
> a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
>
> (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade "27" and higher, of the Compensation and Position Classification Act of 1989 x x x[.] (Emphasis supplied)

Under the Compensation and Position Classification Act,[63] the position of department secretary is classified as

Salary Grade 31. Hence, the offense - indirect bribery - that Petitioner may be charged with in the Information, having been allegedly committed at the time when Petitioner occupied the office ofDOJ Secretary, undoubtedly falls within the exclusive original jurisdiction of the Sandiganbayan. Thus, the respondent Judge had no jurisdiction to take cognizance of the case and issue the warrant of arrest against Petitioner.

In this regard, I adopt the further disquisition of Associate Justice Perlas-Bernabe supporting the conclusion that it is the Sandiganbayan that has jurisdiction over the offense charged against Petitioner.

Since the only possible offense that may be leveled against Petitioner, based on the acts alleged in the Information, is indirect bribery, which is exclusively cognizable by the Sandiganbayan, then the DOJ Panel of Prosecutors violated the Memorandum of Agreement between the DOJ and the Office of the Ombudsman dated March 29, 2012 (MOA) which recognizes the primary jurisdiction of the Ombudsman in the conduct of preliminary investigation and inquest proceedings for crimes and offenses over which the Sandiganbayan has exclusive jurisdiction.

Thus, when it became apparent that the case involved any of the crimes and offenses specified in Annex A of the MOA, which includes indirect bribery, it behooved the DOJ to already inform the complainant to file the complaint directly with the Ombudsman.

By this statement, no determination is being made that an indictment of indirect bribery should already be filed against Petitioner. The Court cannot second guess what the decision of the Ombudsman would be after the appropriate proceedings concerning a complaint for indirect bribery against Petitioner have been conducted by her Office.

The respondent Judge effectively denied Petitioner's Motion to Quash when she took cognizance of the case and found probable cause to issue a warrant of arrest against Petitioner.

Petitioner's Motion to Quash raised, among others, the lack of jurisdiction of the Regional Trial Court (RTC) over the offense charged against Petitioner, the lack of authority of the DOJ Panel to file the Information, and the defects in the Information.

As stated earlier, the availment by an accused of a motion to quash the information is in furtherance of his constitutional rights not to be deprived of liberty without due process, to be presumed innocent and to be informed of the nature and cause of the accusation against him. These same rights are safeguarded by the provision requiring the determination of probable cause before the issuance of a warrant of arrest. Thus, both should be decided prior to or simultaneous with the issuance of a warrant of arrest.

While the Rules do not expressly require such simultaneous resolution, there is also nothing in the Rules that bars the judge from doing so. In fact, the preferred sequence should be that the trial court should first rule on the motion to quash before it can even determine probable cause. Certainly, however, it behooves the trial court to at least rule on the motion to quash simultaneously with the determination of probable cause before it issues the warrant of arrest against the accused. Postponing the resolution of the motion to quash to after the issuance of the arrest warrant is certainly inconsistent with the accused's constitutional rights. Such a stance is constitutionally unsound. Between the lack of an express provision in the Rules and the constitutional guarantee that the said rights be respected, the express provisions of the Constitution must prevail.

And, if there is a doubt on that matter, the doubt should be resolved in favor of the accused. It is indeed more favorable to the accused and in keeping with his rights that his motion to quash be first resolved -at the earliest opportunity and before the arrest warrant is issued against him. The essence of due process is after all the right to he heard before one is deprived of his right to liberty. And Petitioner, being an accused, is no exception even if

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she is an avowed critic of the incumbent President.

Justice Peralta's Concurring Opinion points out that under the 1940 and 1964 Rules of Court, it was provided that the motion to quash shall be heard immediately on its being made unless, for good cause, the court postpone the hearing; and all issues whether of fact or law, which arise on a motion to quash shall be tried by the court. It also points out that the period to file the motion to quash is before the accused enters his plea. On the premise that this no longer appears in the current Rules of Court, a conclusion is reached that the motion to quash should, at the least, be resolved before arraignment-thus implying that the respondent Judge did not commit grave abuse of discretion by not immediately ruling on the motion to quash because she had, after all, the period to do so prior to the entry of plea. The Concurring Opinion implies as well that there was no error on the part of the respondent Judge in issuing a warrant of arrest prior to resolving the motion to quash.

I do not agree. The absence of such provision in the present Rules does not mean that the judge should not rule on the motion to quash immediately, especially bearing in mind the constitutional rights of the accused. As already explained, to belatedly rule on the motion directly runs counter to these rights.

In plain language, the provision, in providing a period within which to file the motion to quash, intends to put a time limit on when the motion can be entertained by the trial court. It does not provide that the resolution of the motion cannot be made during the determination of probable cause to issue the warrant of arrest.

As already explained, the respondent Court's jurisdiction over the case is, given the language of the Information, tenuous at best. Thus, when the respondent Judge took cognizance of the case despite the clearly insufficient manner in which the Information charges Petitioner with a violation of RA 9165, she effectively denied the ground in Petitioner's Motion to Quash that the RTC does not have jurisdiction over the case. By the same token, she also denied the ground that the allegations and recital of facts in the Information do not allege the corpus delicti of the unlawful act penalized under RA 9165 which the Information is supposed to charge.

As well, inasmuch as the Ombudsman is the proper official who has jurisdiction to conduct preliminary investigation in complaints for possible indirect bribery, the respondent Judge, in asserting jurisdiction, likewise effectively denied the Motion to Quash's ground that the DOJ had no authority to file the Information.

To recall, the Motion to Quash was filed by Petitioner during the probable cause determination stage - i.e., at that time when the respondent Judge was confronted with the question of whether or not a warrant for the arrest of Petitioner should be issued, and where the very jurisdiction of the RTC and sufficiency of the Information had been put in issue. Petitioner even invoked her constitutional right to be informed of the nature and cause of the accusation against her.

Under Section 5, Rule 112, the judge has 10 days from the filing of the Information to determine probable cause for the issuance of an arrest warrant. These same 10 days were more than ample time for respondent Judge to concurrently rule on the Motion to Quash. It is thus ludicrous to assert that respondent Judge can still rule on the Motion to Quash even after she had already ordered Petitioner's arrest-as this cannot now undo the prior curtailment of Petitioner's rights to liberty, to due process, to be presumed innocent and to be informed of the nature and cause of the accusation against her.

Justice Peralta's Concurring Opinion also observes that sustaining the contention that a judge must first act on a pending motion to quash the information before she could issue a warrant of arrest would render nugatory the 10-day period to determine probable cause to issue a warrant of arrest under Section 5, Rule 112. Again, this is incorrect. As stated, in the face of the constitutional rights of an accused, that same 10-day period was ample time for respondent Judge to simultaneously rule on the motion to quash and determine probable cause - especially

where, as in this case, the Information is patently defective.

The respondent Judge thus acted with grave abuse of discretion amounting to lack or in excess of jurisdiction.

The Court in Malayang Manggagawa ng Stayfast Phils., Inc. v. NLRC[64] stated:

> Where a petition for certiorari under Rule 65 of the Rules of Court alleges grave abuse of discretion, the petitioner should establish that the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction. This is so because "grave abuse of discretion" is well-defined and not an amorphous concept that may easily be manipulated to suit one's purpose. In this connection, Yu v. Judge Reyes-Carpio, is instructive:
> The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." Furthermore, the use of a petition for certiorari is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross. x x x.[65] (Emphasis supplied; citations omitted)

The respondent Judge's grave abuse of discretion is evident from the following:

(1)

She issued the warrant of arrest against Petitioner despite the patent defects evident on the face of the Information;

(2)

She made a determination of probable cause for violation of RA 9165 against Petitioner despite the absence of sufficient factual averments in the Information of the specific acts constituting such violation;

(3)

She disregarded established and hornbook jurisprudence requiring the presence of corpus delicti in dangerous drugs cases, thus characterizing her act of issuing a warrant of arrest as gross ignorance of the law;

(4)

She totally ignored or purposely closed her eyes to a plethora of cases which held that Informations that aver conclusions of law, and not specific facts, as to the offense allegedly committed, are null and void for being violative of the accused's right to be informed of the nature and cause of the accusation against him;

(5)

She assumed jurisdiction over the case despite the fact that the Information had not validly charged Petitioner with any offense under RA 9165, it being patent that the only crime the Information could sustain is one exclusively cognizable by the Sandiganbayan;

(6)

She disregarded and violated Petitioner's rights not to be deprived of liberty without due process of law and to be presumed innocent when she purposely did not rule on Petitioner's Motion to Quash before she issued a warrant for her arrest, showing extreme and utter malice and bias against Petitioner;

(7)

If there was a doubt as to whether the Motion to Quash was to be resolved simultaneously with the determination of probable cause, she should have resolved the doubt in Petitioner's favor which is the general and accepted rule; and since she did not do so, this again showed her bias against Petitioner;

(8)

She acted without jurisdiction when she took cognizance of the case despite the fatal defect on the face of the Information that it could not have validly charged any violation of RA 9165 against Petitioner and that what is apparent therein is only a possible charge of indirect bribery, which is exclusively cognizable by the Sandiganbayan; and

(9)

In finding probable cause against Petitioner for violation of RA 9165 and issuing the warrant of arrest against her despite the nullity of the Information, she disregarded and curtailed Petitioner's right to be informed of the nature and cause of the accusation against her and to be presumed innocent, again showing bias against Petitioner.

Clearly, there is no conclusion that can be derived from the foregoing other than a finding of grave abuse of discretion on the part of the respondent Judge. The respondent Judge acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of her jurisdiction as to be equivalent to lack of jurisdiction. Thus, Petitioner has availed of the proper remedy a petition for certiorari under Rule 65 of the Rules.

The Procedural Issues

Proceeding now to the procedural issues, the ponencia asserts that the Petition is plagued with procedural defects that warrant its outright dismissal.

This is error.

The Court in numerous cases has set aside procedural issues to give due course to certiorari petitions. Surely, each member of the Court has invoked, and will so continue to invoke, the Constitution to justify the relaxation of the application of procedural rules. However, the majority finds that Petitioner here has not made out a case falling under any of the recognized exceptions to procedural rules applicable to the Petition.

If the Constitution is the fundamental and highest law of the land, why should its invocation to clothe the Court with jurisdiction be an exception to procedural rules? Should not the invocation of the Constitution be the general rule?

The verification and certification requirements under Rule 65 were substantially complied with.

The ponencia takes note of the statements in the Affidavit executed by Atty. Maria Cecile C. Tresvalles-Cabalo (Atty. Tresvalles-Cabalo) confirming that Petitioner affixed her signature on the Petition's Verification and Certification Against Forum Shopping before the same was transmitted to the former for notarization. The ponencia submits, on the basis of William Go Que Construction v. Court of Appeals[66] and Salumbides, Jr. v. Office of the Ombudsman[67] that such fact renders the Petition fatally defective, due to non-compliance with the mandatory verification and certification requirements under Rule 65 of the Rules.

That the petitioners in William Go Que Construction and Salumbides, Jr. failed to strictly comply with the verification and certification requirements under the Rules is undisputed. However, the circumstances in these cases significantly differ from those obtaining in this case, and preclude the adoption of the Court's rulings therein in the present Petition.

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In William Go Que Construction, respondents therein failed to comply with the verification and certification requirements since the corresponding jurat did not indicate the pertinent details regarding their respective identities. For this reason, the Court was left with no means to ascertain whether any of said respondents had, in fact, signed the verification and certification in question. In Salumbides, Jr., the verification portion of the petition therein did not carry a certification at all. Accordingly, the Court held that non-compliance with the certification requirement, as distinguished from defective compliance, served as sufficient cause for dismissal without prejudice.

The foregoing circumstances do not obtain in this case. As stated in Atty. Tresvalles-Cabalo's Affidavit,[68] Petitioner's staff informed her in advance that the Petition had already been signed by Petitioner, and that the same was ready for notarization. Thereafter, the signed Petition was handed to her by a staff member. Because of her familiarity with Petitioner's signature, Atty. Tresvalles-Cabalo was able to ascertain that the signature appearing on the Verification and Certification Against Forum Shopping appended to the Petition was Petitioner's.[69] Nonetheless, Atty. Tresvalles--Cabalo still requested, and was thereafter provided a photocopy of Petitioner's passport.[70]

Based on the foregoing narrative, Atty. Tresvalles-Cabalo was able to sufficiently ascertain that the person who had signed the Petition and the Verification and Certification Against Forum Shopping appended thereto was, in fact, Petitioner herself.[71] No doubt exists as to the identity of Petitioner as the affiant, and the authenticity of the signature appearing on the document in question. Petitioner herself does not question the authenticity of her signature. Hence, it is crystal clear that the reasons which impelled the Court to rule as it did in William Go Que Construction and Salumbides, Jr. do not exist in the present case.

Verily, the Court, in William Go Que Construction, acknowledged that failure to strictly comply with the verification and/or certification requirements shall not constitute a fatal defect, provided there is substantial compliance therewith:

> In this case, it is undisputed that the Verification/Certification against Forum Shopping attached to the petition for certiorari in C.A.--G.R. S.P. No. 109427 was not accompanied with a valid affidavit/properly certified under oath. This was because the jurat thereof was defective in that it did not indicate the pertinent details regarding the affiants' (i.e., private respondents) competent evidence of identities.
>
> x x x x
>
> x x x To note, it cannot be presumed that an affiant is personally known to the notary public; the jurat must contain a statement to that effect. Tellingly, the notarial certificate of the Verification/Certification of Non-Forum Shopping attached to private respondents' petition before the CA did not state whether they presented competent evidence of their identities, or that they were personally known to the notary public, and, thus, runs afoul of the requirements of verification and certification against forum shopping under Section 1, Rule 65, in relation to Section 3, Rule 46, of the Rules of Court.
>
> In Fernandez v. Villegas (Fernandez), the Court pronounced that noncompliance with the verification requirement or a defect therein "does not necessarily render the pleading fatally defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby." "Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct." Here, there was no substantial compliance with the verification requirement as it cannot be ascertained that any of the private respondents actually swore to the truth of the allegations in the petition for certiorari in C.A.-G.R. S.P. No. 109427 given the lack of competent evidence of any of their identities. Because of this, the fact that even one of the private respondents swore that

> the allegations in the pleading are true and correct of his knowledge and belief is shrouded in doubt.
>
> For the same reason, neither was there substantial compliance with the certification against forum shopping requirement. In Fernandez, the Court explained that "non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of 'substantial compliance' or presence of 'special circumstances or compelling reasons.'" Here, the CA did not mention - nor does there exist any perceivable special circumstance or compelling reason which justifies the rules' relaxation. At all events, it is uncertain if any of the private respondents certified under oath that no similar action has been filed or is pending in another forum. x x x[72] (Emphasis and underscoring supplied)

Petitioner, being the sole party in interest in the present case, undoubtedly qualifies as one with ample knowledge to affirm the veracity of the allegations in the Petition, and with sufficient capacity to certify that its filing does not constitute forum shopping. This serves, as it should, as sufficient basis to hold that the verification and certification requirements have been substantially complied with.

The principle of substantial compliance remains controlling with respect to the verification and certification requirements under Rule 65.

It has been argued that while there is jurisprudence to the effect that an irregular notarization does not necessarily affect the validity of a document, but merely reduces its evidentiary value to that of a private one, such principle should not be deemed controlling with respect to petitions filed under Rule 65, since the Rule specifically mandates that petitions for certiorari be verified and accompanied by a sworn certificate against forum shopping. This position proffers the view that strict compliance with the verification and certification requirements shall, at all times, be necessary. Again, this is wrong.

In Rombe Eximtrade (Phils.), Inc. v. Asiatrust Development Bank,[73] the Court held that the Court of Appeals (CA) correctly resolved the petition for certiorari filed by respondent bank notwithstanding allegations that the party who signed the verification and certification thereof was not duly authorized to do so. In so ruling, the Court applied the principle of substantial compliance with respect to a petition for certiorari filed under Rule 65:

> On the matter of verification, the purpose of the verification requirement is to assure that the allegations in a petition were made in good faith or are true and correct, not merely speculative. The verification requirement is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the petition signed the verification attached to it, and when matters alleged in the petition have been made in good faith or are true and correct. In this case, we find that the position, knowledge, and experience of Ferrer as Manager and Head of the Acquired Assets Unit of Asiatrust, and his good faith, are sufficient compliance with the verification and certification requirements. This is in line with our ruling in Iglesia ni Cristo v. Ponferrada, where we said that it is deemed substantial compliance when one with sufficient knowledge swears to the truth of the allegations in the complaint x x x[74] (Emphasis and underscoring supplied)

Further, in Marcos-Araneta v. Court of Appeals,[75] the Court held that verification is not a jurisdictional requirement but a formal one which may be subsequently corrected or cured upon order of the courts. The Court further held that contrary to the actuations of petitioners therein, the CA did not err when it permitted respondent's counsel to cure the defects in the verification and certification appended to the joint petition for certiorari which respondent filed before the CA via Rule 65.

Still, in the more recent case of Ingles v. Estrada,[76] the Court held that the CA erred when it dismissed the certiorari petition filed by petitioners therein on the ground of non-compliance with Section 1 ofRule 65, because its verification and certification lacked the signatures of 3 out of the 5 named petitioners. In so ruling, the Court

found that the verification and certification requirements should be deemed to have been substantially complied with.

The foregoing cases, among others,[77] illustrate that while the verification and certification requirements are explicit under Rule 65, they remain within the ambit of the principle of substantial compliance.

The Petition constitutes an exception to the principle of hierarchy of courts, as it presents novel questions of law and raises genuine constitutional issues.

The ponencia holds that Petitioner violated the rule on hierarchy of courts and failed to sufficiently establish the existence of reasons that warrant the application of its recognized exceptions. As discussed in the first portion of this Dissenting Opinion, the Petition involves novel questions of law and genuine constitutional issues that justify a direct resort to this Court.

Foremost is the recognition and application of the constitutionally-guaranteed rights of Petitioner, as an accused, to be informed of the nature and cause of the accusation against her and to be presumed innocent given the nullity of the Information because it does not contain the essential facts constituting the unlawful act of illegal trading of dangerous drugs. Whether the Motion to Quash should be resolved simultaneously with the determination of probable cause for the issuance of the warrant of arrest against Petitioner, so that her right not to be deprived of liberty without due process would not be curtailed, is a novel question of law.

The nature of the charge involved in the present Petition and the apparent conflict between RA 9165 and RA 10660[78] in respect of jurisdiction over offenses committed by public officials in relation to their office, presents another novel issue based on the observations of some members of the Court. In fact, the specific circumstances which set this case apart from previously decided cases were expounded upon during Justice Carpio's interpellation:

> JUSTICE CARPIO:
> Counsel, what is the latest law on the charter of the Sandiganbayan?
>
> ATTY. HILBAY:
> The latest law, Your Honor, is (RA] 10-6-60 (sic) which was passed in, I think, June or July of 2014.
>
> x x x x
>
> JUSTICE CARPIO:
> Okay. What does it say on jurisdiction?
>
> ATTY. HILBAY:
> Okay. If I may read, Your Honor, Section 2 (sic), Section 4 of the same decree: As amended is hereby further amended to read as follows:
>
> Section 4. Jurisdiction. The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving (a)...
>
> JUSTICE CARPIO:
> x x x x
> When it says "exclusive" that means no other court can acquire?
>
> ATTY. HILBAY:
> You are correct, Your Honor.
>
> JUSTICE CARPIO:
> When it says "in all cases", it means there is no exception?

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ATTY. HILBAY:
Correct, Your Honor.

JUSTICE CARPIO:
So, it reiterates the word, the meaning of "exclusive" with the phrase "in all cases". So, "in all cases" means no exception at all?

ATTY. HILBAY:
It exhausts all possibilities, Your Honor.

x x x x

JUSTICE CARPIO:
Okay, and one case is if the respondent, public respondent has a salary grade of 27 or higher?

ATTY. HILBAY:
Yes.

x x x x

JUSTICE CARPIO:
So, if one of the respondents is a public official with salary grade of 27...

x x x x

JUSTICE CARPIO:
And above, then the case falls under the Sandiganbayan if there is a violation of laws, correct?

x x x x

JUSTICE CARPIO:
Yes. Any criminal law, any crime?

x x x x

ATTY. HILBAY:
In letter B, Your Honor, which is the catch all provision: "Other offenses and felonies whether simple or complex with other crimes committed by public officials and employees mentioned in sub-section A those with salary grade 27 and above, in general, of this section in relation to their office."

x x x x

JUSTICE CARPIO:
If he commits a crime not falling under those crimes mentioned expressly but he commits it in relation to his office and he is salary grade 27 or above...

x x x x

JUSTICE CARPIO:
...it will fall under the Sandiganbayan?

ATTY. HILBAY:
Exclusive original jurisdiction.

JUSTICE CARPIO:
And that is your claim now, that the petitioner here has a salary grade of 27...

x x x x

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JUSTICE CARPIO:
...at the time of the commission her salary grade was 27 and above?

ATTY. HILBAY:
31.

JUSTICE CARPIO:
31. And the Information charges her with the crime in relation to her office that she took advantage of her position or authority?

ATTY. HILBAY:
That's very clear in the Information, Your Honor.

JUSTICE CARPIO:
Yes, okay. So that's your basis for filing this petition basically on that jurisdictional ground?

ATTY. HILBAY:
Yes, Your Honor.

JUSTICE CARPIO:
Okay. So, that's the latest expression of the law. But there are two previous cases, People [v.] Benipayo, where this Court said that despite the charter of the Sandiganbayan even if the respondent is a public official with the salary grade above 27, still it will fall under RTC because the crime is libel?

ATTY. HILBAY:
Yes, Your Honor.

JUSTICE CARPIO:
How do you answer that?

ATTY. HILBAY:
No. 1, Your Honor, in the Benipayo case, the statute clearly says it is the RTC that has exclusive jurisdiction over all libel cases. No. 2, also, Your Honor, you don't have to be a (sic) COMELEC Chair Benipayo to commit libel, he could be Professor Benipayo or any other, you know, he could have done that, committed libel in any other capacity. In this case, Your Honor, it's very different. There is no other law that provides exclusive jurisdiction to the RTC. And in fact, in this case the case of petitioner (sic) falls squarely within Section 4 of P.D. 1606 whether it is, in fact, Direct Bribery under Section A or Drug Trading which would fall under Section B because both of them were done in relation to her public office.

x x x x

JUSTICE CARPIO:
In Benipayo, did the prosecution allege that Benipayo committed libel in relation to his office?

ATTY. HILBAY:
No, Your Honor, I don't think so.

JUSTICE CARPIO:
Here, the prosecution alleged that. So it's the prosecution who's claiming that the offense committed by the petitioner is in relation to her office?

ATTY. HILBAY:
Your Honor, as I stated in my opening statement, the prosecution itself has clearly embedded those cooperative phrases.[79] (Emphasis supplied)

The novelty of the issues raised in the Petition was further emphasized during the interpellation of Justice Leonen:

JUSTICE LEONEN:
In the structure of the Sandiganbayan, there are three justices that hear the case and for a Regional Trial Court, there is one judge. And many of you have practiced, I have practiced in our trial courts, mas madaling kausapin ang isa kaysa tatlo, correct?

ATTY. HILBAY:
I would suppose, Your Honor.

x x x x

JUSTICE LEONEN:
x x x But the point there is, there is a certain reason why the Sandiganbayan is composed of three justices at the level of the Court of Appeals, at the appellate level and they all hear one case. This is a case involving whatever the Sandiganbayan law says. Why? Why is the structure of the Sandiganbayan different?

x x x x

JUSTICE LEONEN:
Is it possible, in order that high public officials especially the very high public officials cannot avail of the mechanisms of government or the network that they left behind in government in order to be able to influence a case... (interrupted)

x x x x

JUSTICE LEONEN:
...because three justices at the appellate level, very close to being promoted to the Supreme Court, will be, I think, a better buffer than simply one lonely in (sic), let us say, in Muntinlupa whose promotion and whose future may be affected by cases that she or he decides by himself or herself, correct?

ATTY. HILBAY:
Correct, Your Honor.

x x x x

JUSTICE LEONEN:
Yes. Now here we have this particular case so I will not go into the text, I will just go into the purpose; and I will not even go to the general or specific rule because that has already been covered. Here we have a case and De Lima, Leila De Lima was what?

ATTY. HILBAY:
Secretary of Justice...

JUSTICE LEONEN:
And Secretary of Justice means a cabinet official and cabinet official that may have had hand in appointments in many of the judicial offices, right?

ATTY. HILBAY:
Possibly...

JUSTICE LEONEN:
Or for that matter, may have left a network in the Department of Justice, I do not know, or may have a hand in the legal sector of the...our economy and, therefore, there is need that certain kinds of cases of this nature, not because she is Leila De Lima but because she was a Cabinet Secretary. Even [if] it was an offense punishable by the Revised Penal Code, there is reason that it be given to the Sandiganbayan, correct?

ATTY. HILBAY:

> Correct, Your Honor.
>
> x x x x
>
> JUSTICE LEONEN:
> Okay, would you tell us if there is any precedent on Trading, not Illegal Sale, on Trading?
>
> ATTY. HILBAY:
> We're not aware, Your Honor, but we'll do the research.
>
> JUSTICE LEONEN:
> None, okay. There is no case. This is the first case, if ever there is such an offense, correct?
>
> ATTY. HILBAY:
> Correct, Your Honor.[80] (Emphasis supplied)

In addition, it should not be overlooked that the Petition averred that undue haste attended the issuance of the warrant of arrest against Petitioner.[81] Moreover, it bears emphasizing that the Petitioner asserted that the Information against her failed to inform her of the specific nature and cause of the accusation against her, for while she was charged with consummated drug trading under Section 5 of RA 9165, the Information is bereft of any allegation as to the sale and delivery of any specific drug, or the character and quantity thereof.[82]

These issues strike at the very heart of the constitutional right to criminal due process, the importance of which had been painstakingly stressed by the Court in Enrile v. People,[83] thus:

> Under the Constitution, a person who stands charged of a criminal offense has the right to be informed of the nature and cause of the accusation against him. This right has long been established in English law, and is the same right expressly guaranteed in our 1987 Constitution. This right requires that the offense charged be stated with clarity and with certainty to inform the accused of the crime he is facing in sufficient detail to enable him to prepare his defense.
>
> In the 1904 case of United States v. Karelsen, the Court explained the purpose of informing an accused in writing of the charges against him from the perspective of his right to be informed of the nature and cause of the accusation against him:
> The object of this written accusation was First. To furnish the accused with such a description of the charge against him as Will enable him to make his defense; and second, to avail himself of his conviction or acquittal for protection against a further prosecution for the same cause; and third, to inform the court of the facts alleged, so that it may decide whether they are sufficient in law to support a conviction, if one should be had. x x x In order that this requirement may be satisfied, facts must be stated, not conclusions of law. Every crime is made up of certain acts and intent; these must be set forth in the complaint with reasonable particularity of time, place, names (plaintiff and defendant), and circumstances. In short, the complaint must contain a specific allegation of every fact and circumstances necessary to constitute the crime charged. x x x

The objective, in short, is to describe the act with sufficient certainty to fully appraise the accused of the nature of the charge against him and to avoid possible surprises that may lead to injustice. Otherwise, the accused would be left speculating on why he has been charged at all.

In People v. Hon. Mencias, et al., the Court further explained that a person's constitutional right to be informed of the nature and cause of the accusation against him signifies that an accused should be given the necessary data on why he is the subject of a criminal proceeding. The Court added that the act or conduct imputed to a person must be described with sufficient particularity to enable the accused to defend himself properly.

The general grant and recognition of a protected right emanates from Section 1, Article III of the 1987

Constitution which states that no person shall be deprived of life, liberty, or property without due process of law. The purpose of the guaranty is to prevent governmental encroachment against the life, liberty, and property of individuals; to secure the individual from the arbitrary exercise of the powers of the government, unrestrained by the established principles of private rights and distributive justice x x x; and to secure to all persons equal and impartial justice and the benefit of the general law.

Separately from Section 1, Article III is the specific and direct underlying root of the right to information in criminal proceedings - Section 14(1), Article III - which provides that "No person shall be held to answer for a criminal offense without due process of law." Thus, no doubt exists that the right to be informed of the cause of the accusation in a criminal case has deep constitutional roots that, rather than being cavalierly disregarded, should be carefully protected.[84] (Emphasis and underscoring supplied; citations omitted)

As tersely observed in Arroyo v. Department of Justice,[85] direct relief has been granted by the Court to rectify a manifest injustice suffered by parties whose right to criminal due process had been violated:

> This is not the first time that the Court is confronted with the issue of jurisdiction to conduct preliminary investigation and at the same time with the propriety of the conduct of preliminary investigation. In Cojuangco, Jr. v. Presidential Commission on Good Government [PCGG], the Court resolved two issues, namely: (1) whether or not the PCGG has the power to conduct a preliminary investigation of the anti-graft and corruption cases filed by the Solicitor General against Eduardo Cojuangco, Jr. and other respondents for the alleged misuse of coconut levy funds; and (2) on the assumption that it has jurisdiction to conduct such a preliminary investigation, whether or not its conduct constitutes a violation of petitioner's right to due process and equal protection of the law. The Court decided these issues notwithstanding the fact that Informations had already been filed with the trial court.

In Allado v. Diokno, in a petition for certiorari assailing the propriety of the issuance of a warrant of arrest, the Court could not ignore the undue haste in the filing of the information and the inordinate interest of the government in filing the same. Thus, this Court took time to determine whether or not there was, indeed, probable cause to warrant the filing of information. This, notwithstanding the fact that information had been filed and a warrant of arrest had been issued. Petitioners therein came directly to this Court and sought relief to rectify the injustice that they suffered.[86] (Emphasis supplied)

The need for the Court's direct action is made more manifest by the fact that while Petitioner had been charged, arrested, and detained for consummated drug trading under Section 5, of RA 9165,[87] the OSG now claims that the offense she had allegedly committed was conspiracy to commit drug trading - an entirely different offense punishable under Section 26 (b) of the same statute.[88]

The principle of hierarchy of courts is not an iron-clad rule.[89] Accordingly, the Court has full discretionary power to take cognizance and assume jurisdiction over special civil actions for certiorari filed directly with it if warranted by the nature of the issues raised in therein.[90] In this connection, the Court ruled in The Diocese of Bacolod v. Commission on Elections[91]:

> x x x [T]he Supreme Court's role to interpret the Constitution and act in order to protect constitutional rights when these become exigent should not be emasculated by the doctrine in respect of the hierarchy of courts. That has never been the purpose of such doctrine.
>
> Thus, the doctrine of hierarchy of courts is not an iron-clad rule. This court has "full discretionary power to take cognizance and assume jurisdiction [over] special civil actions for certiorari ... filed directly with it for exceptionally compelling reasons or if warranted by the nature of the issues clearly and specifically raised in the petition." As correctly pointed out by petitioners, we have provided exceptions to this doctrine:
> x x x x

> Third, cases of first impression warrant a direct resort to this court. In cases of first impression, no jurisprudence yet exists that will guide the lower courts on this matter x x x[92] (Emphasis supplied)

The Petition, having presented, at the very least, a question of first impression and a genuine constitutional issue, is exempted from the rule on hierarchy of courts. Hence, it is indeed lamentable that the majority of the Court has shirked its duty to resolve the Petition to determine whether Petitioner's rights to due process, to be presumed innocent and to be informed of the nature and cause of the accusation against her had in fact been violated in the face of apparent defects plaguing the Information. To uphold the technical rules of procedure without due deference to these fundamental constitutional rights would be to defeat the very purpose for which such rules, including the hierarchy of courts, were crafted.

The factual precedents that gave rise to this Petition have left Petitioner with no other plain, speedy, and adequate remedy in the ordinary course of law.

The ponencia finds that the Petition is premature, as there is still something left for the trial court to do - that is, resolve petitioner's Motion to Quash. Such position is anchored on the cases of Solid Builders Inc. v. China Banking Corporation[93] (Solid Builder's), State Investment House, Inc. v. Court of Appeals[94] (State Investment House) and Diaz v. Nora[95] (Diaz), which uphold the dismissal of the petitions therein on the ground of prematurity.

However, as previously narrated, considering that the Petition had been prompted precisely by the RTC's inaction on Petitioner's Motion to Quash, then the cases relied upon to support the contrary view are inapplicable.

It bears noting that subject matter jurisdiction was not an issue in Solid Builder's and State Investment House. Moreover, while subject matter jurisdiction was raised as an issue in Diaz, the antecedents which prompted the Court to dismiss the petition for mandamus filed by petitioner therein on the ground of prematurity substantially differ from those in the present case.

In Diaz, petitioner filed a complaint for illegal suspension and damages before the National Labor Relations Commission (NLRC), and subsequently secured a favorable decision from the Labor Arbiter (LA). Respondent therein appealed said decision to the NLRC. Immediately thereafter, petitioner filed a motion for execution before the LA, alleging that respondent failed to file the necessary bond which precluded the perfection of the appeal, thereby rendering the LA's decision final and executory. Instead of acting on petitioner's motion, the LA forwarded the records of the case to the NLRC. Aggrieved, petitioner filed a petition for mandamus before the Court to compel the remand of the records of the case to the LA to facilitate the issuance of a writ of execution. The Court dismissed the petition for being premature because petitioner failed to give the NLRC the opportunity to determine whether or not it has jurisdiction over respondent's appeal, thus:

> Petitioner argues that a motion for reconsideration cannot be filed with the respondent labor arbiter as the latter merely failed to resolve the motion for execution and sent the records of the case to respondent NLRC. Petitioner further contends that he cannot seek a reconsideration from respondent NLRC as it has no jurisdiction over the appeal private respondent having failed to perfect its appeal. Petitioner asserts that it is the ministerial duty of the respondent NLRC to remand the records and for the respondent labor arbiter to execute his decision.
>
> The proper step that the petitioner should have taken was to file a motion to dismiss appeal and to remand the records with the respondent NLRC alleging therein that the decision had become final and executory. It is not true that respondent NLRC has no jurisdiction to act on this case at all. It has the authority to dismiss the appeal if it is shown that the appeal has not been duly perfected. It is only when the respondent NLRC denies such motion and the denial appears to be unlawful that this petition for mandamus should be filed in this Court.

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x x x x

> In this case it has not been shown that either the respondent labor arbiter or respondent NLRC has unlawfully neglected the performance of an act which the law specifically enjoins them as a duty to perform or has otherwise unlawfully excluded petitioner from a right he is entitled to. In the case of the respondent labor arbiter, he has not denied the motion for execution filed by the petitioner. He merely did not act on the same. Neither had petitioner urged the immediate resolution of his motion for execution by said arbiter. In the case of the respondent NLRC, it was not even given the opportunity to pass upon the question raised by petitioner as to whether or not it has jurisdiction over the appeal, so the records of the case can be remanded to the respondent labor arbiter for execution of the decision.
>
> Obviously, petitioner had a plain, speedy and adequate remedy to seek relief from public respondents but he failed to avail himself of the same before coming to this Court. To say the least, the petition is premature and must be struck down.[96] (Emphasis and underscoring supplied)

To be sure, what impelled the Court to rule as it did in Diaz was the failure of petitioner therein to give the NLRC the opportunity to determine the jurisdictional issue subject of the mandamus petition. Diaz thus instructs that in assailing matters of jurisdiction, the speedy, adequate, and appropriate remedy lies, in the first instance, with the court or body whose jurisdiction is being assailed. Consequently, should this remedy fail, resort to the next available remedy provided UI1der the Rules should be permitted.

Proceeding therefrom, it bears stressing that Petitioner filed her Motion to Quash before the RTC precisely for the purpose of assailing the latter's jurisdiction. Through the filing of the Motion to Quash, the RTC was afforded the opportunity to address the issue head on. By failing to seasonably rule on the same - and instead, immediately ordering Petitioner's incarceration with the issuance of a warrant of arrest - the respondent Judge left Petitioner with no other recourse but to elevate the matter to this Court via Rule 65, in view of the nature of the issues herein. Thus, to dismiss the Petition on the ground of prematurity would be to punish Petitioner for the respondent Judge's inaction, over which she has no control.

Not only was there inaction on the part of the respondent Judge, her Order for the issuance of the warrant of arrest against Petitioner without resolving the Motion to Quash (which put in question the court's very jurisdiction and the sufficiency of the Information) effectively denied the Motion to Quash. The respondent Judge had in effect found that the Information was sufficient pursuant to the Rules of Court and the trial court had jurisdiction over the case. For her to subsequently "rule" on the Motion to Quash would be illusory because by refusing to rule on the Motion to Quash simultaneously with the determination of probable cause, the respondent Judge had already disregarded and trampled upon Petitioner's rights not to be held to answer for a criminal offense without due process, not to be deprived of liberty without due process, to be presumed innocent and to be informed of the nature and cause of the accusation against her.

With the glaring defects in the Information and the patent violation of Petitioner's constitutional rights smacking of grave abuse of discretion on the part of respondent Judge, it will be the height of unfairness to insist that the speedy, adequate, and appropriate remedy is to proceed to trial.

The rule against forum shopping was not violated.

In the recent case of Ient v. Tullett Prebon (Philippines), Inc.,[97] the Court had the occasion to determine whether petitioners therein committed forum shopping, as they resolved to file a petition for certiorari before this Court during the pendency of their motion to quash with the RTC. Ruling in the negative, the Court held:

> Forum shopping is an act of a party, against whom an adverse judgment or order has been rendered in one forum, of seeking and possibly getting a favorable opinion in another forum, other than by appeal or special

> civil action for certiorari. It may also involve the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition. There is no forum shopping where the suits involve different causes of action or different reliefs.[98] (Emphasis and underscoring supplied)

On such basis, no forum shopping was committed in this case for two pnmary reasons.

First, the criminal case pending with the RTC, on the one hand, and the Petition on the other, involve different causes of action. The former is a criminal action which seeks to establish criminal liability, while the latter is a special civil action that seeks to correct errors of jurisdiction. Second, the two cases seek different reliefs. The RTC case seeks to establish Petitioner's culpability for the purported acts outlined in the Information, while the Petition seeks to correct the grave abuse of discretion allegedly committed by the respondent Judge when she proceeded to issue a warrant of arrest against Petitioner despite the pendency of the latter's Motion to Quash, which, in turn, assailed the respondent Judge's very jurisdiction to take cognizance of the case.[99]

The rules of procedure are intended to facilitate rather than frustrate the ends of justice.

Notwithstanding the foregoing disquisition, it is necessary to stress that the Rules concerning the protection and enforcement of constitutional rights, pleading, practice and procedure in all courts are promulgated by the Court under Section 5(5) of Article VIII of the Constitution. It cannot diminish or modify substantive rights,[100] much less be used to derogate against constitutional rights. The Rules itself provides it must be construed liberally to promote the just, speedy and inexpensive disposition of every action and proceeding[101] and thus must always yield to the primary objective of the Rules, that is, to enhance fair trials and expedite justice.

Time and again, this Court has decreed that rules of procedure are mere tools aimed at facilitating the attainment of justice, rather than its frustration.[102] This principle finds emphatic application in this case.

Closing

When the very rights guaranteed to an accused by our Constitution are disregarded and the rules of procedure are accorded precedence - that is abhorrent and preposterous. That is plain and simple injustice.

The separate and discordant voices of the members of the Court have been heard. Yet, there is no direct pronouncement that the Information against Petitioner and her co-accused is valid. The impression that can be gathered is that if it is defective, then it can anyway be subsequently amended. In the meantime, Petitioner must continue to languish in jail - even if the Information cannot possibly be amended because it is fatally defective. This case thus highlights the need for the immediate resolution of a motion to quash that is filed during the determination of probable cause stage if only to avoid the curtailment of an accused's constitutional rights, especially his right to be presumed innocent and to not be deprived of his liberty without due process of law. Where, as here, the Information only contains defined legal terms and conclusions of law, without specific factual allegations of the elements of the offense charged - thus, a sham, and showcasing the lack of jurisdiction of the trial court, then there is a clear need that the motion to quash raising these grounds, when filed during the determination of probable cause stage, should be resolved and cannot be postponed to a time after the arrest of the accused.

In this case, unfortunately, the Constitution is deemed no match to the absence of a specific procedural rule that a motion to quash should be ruled upon simultaneously with the determination of probable cause - even if the Information indicting the accused is void on its face and the very jurisdiction of the criminal court is being questioned. The majority of the Court has succeeded, by its Decision, to make the Constitution subservient to the rules of procedure. They now allow for the deprivation of an individual's liberty while waiting for the correct and

legally sufficient Information to be filed and approved by the criminal court.

The message is clear and unmistakable: Arrest first; resolve the motion to quash and amend the Information later; then proceed to trial; finally, acquit after ten years or so. It does not matter if the accused is to languish in detention. Never mind the accused's constitutional right to be presumed innocent, to be informed of the nature and cause of the accusation against him and not to be held to answer for a criminal offense without due process of law. Never mind if the Information is void for containing mere conclusions of law, for failing to identity and quantify the specific dangerous drug which is the object or corpus delicti of the alleged RA 9165 violation, and for not alleging all the facts needed to establish the elements of the offense charged. Never mind if previously this same Court has ruled that such a void Information warrants the acquittal of the accused.

And when the accused is finally acquitted, then the Constitution can finally be invoked to justify the acquittal - his constitutional rights can then belatedly be declared to have been violated. In the end, years down the road, the Constitution would then be given its due importance. But TODAY, to the majority, the Constitution can wait.

When I took my oath of office, I swore to uphold and defend the Constitution. This dissent is in keeping with that oath. I submit that the Constitution must reign supreme NOW and ALWAYS.

We've unmasked madmen, Watson, wielding scepters. Reason run riot. Justice howling at the moon.

-Sherlock Holmes[103]

WHEREFORE, I vote to GRANT the Petition.

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[1] People v. Pangilinan, 676 Phil. 16 (2011) [Per J. Peralta, with JJ. Velasco, Jr., Abad, Perez and Mendoza concurring, Third Division] and People v. Dela Cruz, 432 Phil. 988 (2002) [Per J. Kapunan, with JJ. Bellosillo, Vitug, Mendoza, Panganiban, Sandoval-Gutierrez, Carpio, Austria-Martinez and Corona concurring, En Banc].

[2] See Rombe Eximtrade (Phils.), Inc. v. Asiatrust Development Bank, 568 Phil. 810 (2008) [Per J. Velasco, Jr., with JJ. Quisumbing, Carpio, Carpio-Morales and Tinga concurring, Second Division] and Marcos-Araneta v. Court of Appeals, 585 Phil. 38 (2008) [Per J. Velasco, Jr., with JJ. Quisumbing, Carpio-Morales, Tinga and Brion concurring, Second Division].

[3] G.R. Nos. 212014-15, 212427-28, 212694-95, 212794-95, 213477-78, 213532-33, 213536-37 & 218744-59, December 6, 2016.

[4] Id. at 16-17.

[5] G.R. Nos. 220598 & 220953, July 19, 2016, 797 SCRA 241 [Per J. Bersamin, with JJ. Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Del Castillo, Perez, Mendoza, Reyes and Jardeleza concurring. En Banc.]

[6] RULES OF COURT, Rule 119, Sec. 23.

[7] Rubi v. Provincial Board of Mindoro, 39 Phil. 660, 705 (1919) [Per J. Malcolm, En Banc].

[8] RULES OF COURT, Rule 115, Sec. 1(a).

[9] Id., Sec. 1(b).

[10] Hereinafter referred to as RA 9165.

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[11] Emphasis supplied.

[12] Emphasis, capitalization and underscoring supplied.

[13] Memorandum for Respondents, p. 58.

[14] See Macapagal-Arroyo v. People, supra note 5, at 311.

[15] People v. Peralta, 134 Phil. 703, 718 (1968) [Per Curiam, En Banc].

[16] Macapagal-Arroyo v. People, supra note 5.

[17] Id. at 270-271, 317 and 322.

[18] DOJ Joint Resolution dated February 14, 2017 in NPS No. XVI-INV-16J-00313, NPS No. XVI-INV-16J-00315, NPS No. XVI-INV-16K-00331, NPS No. XVI-INV-16K-00336 and NPS No. XVI-INV-16L-00384.

[19] Id. at 44.

[20] 382 Phil. 166 (2000) [Per J. Kapunan, First Division].

[21] Memorandum for Respondents, par. 129, pp. 55-56.

[22] Otherwise known as the "The Dangerous Drugs Act of 1972."

[23] People v. Fabro, supra note 20, at 170, 175 and 178-179.

[24] Memorandum for Respondents, p. 56.

[25] Available online at: https://en.oxforddictionaries.com/definition/trade. Last accessed: July 23, 2017.

[26] RA 9165, Sec. 3(i).

[27] Id., Sec. 3(k).

[28] Id., Sec. 3(a).

[29] Id., Sec. 3(m).

[30] Id., Sec. 3(u).

[31] Id., Sec. 3(ii).

[32] Id., Sec. 4.

[33] 679 Phil. 279 (2012) [Per J. Bersamin, First Division].

[34] Id. at 293-295.

[35] People v. Blanco, 716 Phil. 408, 414 (2013); cases cited omitted [Per J. Perez, Second Division].

[36] People v. Climaco, 687 Phil. 593, 603 (2012) [Per J. Carpio, Second Division].

[37] RA 9165, Sec. 3(j).

[38] 684 Phil. 20 (2012) [Per J. Reyes, Second Division].

[39] Dela Chica v. Sandiganbayan, 462 Phil. 712, 723 (2003) [Per J. Azcuna, First Division].

[40] People v. Galido, 470 Phil. 348 (2004) [Per J. Panganiban, First Division].

[41] People v. Ng Pek, 81 Phil. 562, 565 (1948) [Per J. Ozaeta, En Banc].

[42] People v. Lacerna, 344 Phil. 100, 120 (1997) [Per J. Panganiban, Third Division].

[43] Supra note 38, at 40-47.

[44] Gov. Bangko Sentral ng Pilipinas, 619 Phil. 306, 316-317 (2009) [Per J. Brion, Second Division].

[45] Supra note 38, at 46.

[46] People v. Suan, 621 Phil. 174, 179 (2010) [Per J. Del Castillo, Second Division], citing Carino v. People, 600 Phil. 433, 444 (2009) [Per J. Tinga, Second Division]; People v. Simbahon, 449 Phil. 74, 81 and 83 (2003) [Per J. Ynares-Santiago, First Division].

[47] RA 9165, Sec. 3(ii) and (jj).

[48] 751 Phil. 751 (2015) [Per J. Carpio, Second Division].

[49] 692 Phil. 102, 106-107 (2012) [Per J. Villarama, Jr., First Division].

[50] People v. Enumerable, supra note 48, at 755-757.

[51] Double redundancy intended for emphasis.

[52] Supra note 1.

[53] Supra note 1, at 992 and 1014-1016.

[54] People v. Pangilinan, supra note 1 at 26-28.

[55] Id. at 38.

[56] Article 210 of the Revised Penal Code provides:

> ART. 210. Direct bribery. - Any public officer who shall agree to perform an act constituting a crime, in connection with the performance of his official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another, shall suffer the penalty of prision mayor in its medium and maximum periods and a fine of not less than three times the value of the gift, in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed.
>
> If the gift was accepted by the officer in consideration of the execution of an act which does not constitute a crime, and the officer executed said act, he shall suffer the same penalty provided in the preceding paragraph; and if said act shall not have been accomplished, the officer shall suffer the penalties of prision correccional in its medium period and a fine of not less than twice the value of such gift.
>
> If the object for which the gift was received or promised was to make the public officer refrain from doing something which it was his official duty to do, he shall suffer the penalties of prision correccional in its maximum period to prision mayor in its minimum period and a fine of not less than three times the value of such gift.
>
> In addition to the penalties provided in the preceding paragraphs, the culprit shall suffer the penalty of special temporary disqualification.
>
> The provisions contained in the preceding paragraphs shall be made applicable to assessors, arbitrators, appraisal and claim commissioners, experts or any other persons performing public duties.

[57] Petitioner's Memorandum, pp. 29-30.

[58] Article 211 of the Revised Penal Code provides:

> ART. 211. Indirect bribery. - The penalties of prision correccional in its medium and maximum periods, suspension and public censure shall be imposed upon any public officer who shall accept gifts offered to him by reason of his office.

[59] Garcia v. Sandiganbayan, 537 Phil. 419, 441-442 (2006) [Per J. Chico-Nazario, First Division]

[60] 217 Phil. 698 (1984) [Per J. Guerrero, Second Division].

[61] Id. at 708.

[62] As amended by RA 10660.

[63] RA 6758 (1989), Sec. 8.

[64] 713 Phil. 500 (2013) [Per J. Leonardo-De Castro, First Division].

[65] Id. at 515-516.

[66] G.R. No. 191699, April 19, 2016, 790 SCRA 309 [Per J. Perlas-Bernabe, First Division].

[67] 633 Phil. 325 (2010) [Per J. Carpio-Morales, En Banc].

[68] Affidavit dated March 20, 2017.

[69] Id.

[70] Id.

[71] Id.

[72] Supra note 66, at 321-325.

[73] Supra note 2.

[74] Id. at 816-817.

[75] Supra note 2, at 52.

[76] 708 Phil. 271, 303-306 (2013) [Per J. Perez, Second Division].

[77] See Bacolor v. VL Makabali Memorial Hospital, Inc., G.R. No. 204325, April 18, 2016, 790 SCRA 20 [Per J. Del Castillo, Second Division].

[78] AN ACT STRENGTHENING FURTHER THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN, FURTHER AMENDING PRESIDENTIAL DECREE NO. 1606, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR.

[79] TSN, March 14, 2017, pp. 51-57.

[80] Id. at 131-134.

[81] Petition, p. 22.

[82] Id. at 42.

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[83] 766 Phil. 75 (2015) [Per J. Brion, En Banc].

[84] Id. at 98-100.

[85] 695 Phil. 302 (2012) [Per J. Peralta, En Banc].

[86] Id. at 333-334.

[87] Petition, pp. 18-19.

[88] TSN, March 28,2017, p. 16.

[89] Maza v. Turla, G.R. No. 187094, February 15, 2017, p. 11 [Per J. Leonen, Second Division] citing The Diocese of Bacolod v. Commission on Elections, 751 Phil. 301, 330 (2015) [Per J. Leonen, En Banc].

[90] Id. at 330-331.

[91] Supra note 89.

[92] Id. at 330-333.

[93] 707 Phil. 96 (2013) [Per J. Leonardo-De Castro, First Division].

[94] 527 Phil. 443 (2006) [Per J. Corona, Second Division].

[95] 268 Phil. 433 (1990) [Per J. Gancayco, First Division].

[96] Id. at 436-438.

[97] G.R. Nos. 189158 and 189530, January 11, 2017 [Per J. Leonardo-De Castro, First Division].

[98] Id. at 13-14.

[99] Petition, p. 20.

[100] CONSTITUTION, Art. VIII, Sec. 5(5).

[101] RULES OF COURT, Rule 1, Sec. 6.

[102] Alcantara v. Philippine Commercial and International Bank, 648 Phil. 267, 279 (2010) [Per J. Leonardo-De Castro, First Division].

[103] Murder by Decree - The Movie (1979), http://www.quotes.net/movies/7825, last accessed October 11, 2017.

CONCURRING OPINION

MARTIRES, J.:

Glaring in this petition is petitioner's violation of the rule against forum shopping and the cavalier manner in which she flaunts her disregard of the law.

THE PETITION

After the surprising revelations made during the inquiries separately conducted by the Senate and the House of Representatives on the proliferation of drug syndicates at the New Bilibid Prison (NBP), the Volunteers Against

Crime and Corruption (VACC) filed a complaint on 11 October 2016, against petitioner Leila M. de Lima (De Lima), among others, for violation of Section 5, in relation to Sec. 26(b) of Republic Act (R.A.) No. 9165[1] before the Department of Justice (DOJ); and later filed with the DOJ its supplemental complaint, docketed as NPS No. XVI-INV-16J-00313.

Subsequently, Reynaldo Esmeralda and Ruel M. Lasala, former National Bureau of Investigation (NBI) Deputy Directors, filed their complaint for violation of Sec. 5, in relation to Sec. 26(b) of R.A. No. 9165, docketed as NPS No. XVI-INV-161-00315, against De Lima and former Bureau of Corrections (BuCor) Officer-in-Charge, Rafael Marcos Ragos (Ragos).

Another complaint, docketed as NPS No. XVI-INV-16K-00331, was filed by Jaybee Niño Sebastian against De Lima, among others, for violation of Sec. 3(e)and (k) of R.A. No. 3019, Sec. 5(a) of R.A. No. 6713, R.A. No. 9745, Presidential Decree (P.D.) No. 46, and Article 211 of the Revised Penal Code (RPC).

On 10 November 2016, the NBI also filed a complaint, docketed as NPS No. XVI-INV-16-K-00336, against De Lima, among others, for violation of Sec. 5, in relation to Sec. 26(b) of R.A. No. 9165, Arts. 210 and 211-A of the RPC, Sec. 27 of R.A. No. 9165, Sec. 3(e) of R.A. No. 3019, Sec. 7(d) of R.A. No. 6713, and P.D. No. 46.

The four cases having been consolidated, the DOJ Panel of Investigators (DOJ Panel), created pursuant to Department Order No. 706, proceeded with the conduct of the preliminary investigation which De Lima questioned by filing her Omnibus Motion to Immediately Endorse the Cases to the Office of the Ombudsman and for the Inhibition of the Panel of Prosecutors and the Secretary of Justice. De Lima asserted that the Office of the Ombudsman has the exclusive authority and sole jurisdiction to conduct the preliminary investigation. Corollary thereto, De Lima, during the hearing on 21 December 2016, manifested that she would not submit any counter--affidavit; hence, the DOJ Panel, in order to expedite the proceedings, declared the pending incidents and the complaints submitted for resolution.

In the meantime, another complaint, docketed as NPS No. XVI-INV-16-L-00384, was filed by the NBI against De Lima, among others, for violation of Sec. 5, in relation to Sec. 26, R.A. No. 9165.

On 13 January 2017, De Lima filed before the Court of Appeals (CA) a Petition for Prohibition and a Petition for Certiorari, docketed as CA-G.R. SP Nos. 149097, and 149358 respectively, assailing the jurisdiction of the DOJ Panel.

On 17 February 2017, the DOJ Panel filed three Informations against De Lima and several other accused before the Regional Trial Court (RTC) of Muntinlupa City. One of these informations, docketed as Criminal Case No. 17-165, and raffled to RTC, Branch 204, charged De Lima, Ragos, and Ronnie Palisoc Dayan (Dayan) with violation of Sec. 5 in relation to Sec. 3(jj), 26(b) and 28 of R.A. No. 9165, viz:

> That within the period from November 2012 to March 2013, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then an employee of the Department of Justice detailed to De Lima, all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading, in the following manner: De Lima and Ragos, with the use of their power, position and authority, demand, solicit and extort money from the high-profile inmates in the New Bilibid Prison to support the senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there wilfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million (P5,000,000.00) Pesos on 24

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> November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison.[2]

As a result of the filing of the information, De Lima, on 20 February 2017, filed a Motion to Quash raising, among other issues, the RTC's lack of jurisdiction over the offense charged against her and the DOJ's lack of authority to file the information.

On 23 February 2017, respondent Judge Juanita Guerrero (Judge Guerrero)[3] issued an Order finding probable cause for the issuance of a warrant of arrest against De Lima, Ragas, and Dayan. The following day, the warrant, which recommended no bail, was served by the Philippine National Police (PNP) Investigation and Detection Group on De Lima. Corollary thereto, Judge Guerrero issued an Order committing De Lima to the custody of the PNP Custodial Center.

De Lima now comes before the Court with this Petition for Certiorari and Prohibition with Application for a Writ of Preliminary Injunction, and Urgent Prayer for Temporary Restraining Order and Status Quo Ante Order under Rule 65 of the Rules of Court raising the following issues:

> - Whether respondent judge committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the questioned Order and Warrant of Arrest both dated 23 February 2017, despite the pendency of petitioner's Motion to Quash that seriously questions the very jurisdiction of the court.
>
> - Whether respondent judge committed grave abuse of discretion amounting to lack or excess of jurisdiction when she issued the assailed Order and Warrant of Arrest in clear violation of constitutional and procedural rules on issuing an arrest warrant.
>
> - Whether respondent judge committed grave abuse of discretion amounting to lack or excess of jurisdiction when, without basis in fact and in law, respondent judge found probable cause against petitioner and thereby issued an arrest warrant against her.[4]

and pleading for the following reliefs:

> - Granting a writ of certiorari annulling and setting aside the Order dated 23 February 2017, the Warrant of arrest dated the same, and the Order dated 24 February 2017 of the Regional Trial Court, Branch 204, Muntinlupa City, in Criminal Case No. 17-165 entitled People of the Philippines versus Leila M. de Lima, et al.;
>
> - Granting a writ of prohibition enjoining and prohibiting the respondent judge from conducting further proceedings until and unless the Motion to Quash is resolved with finality;
>
> - Issuing an Order granting the application for the issuance of a temporary restraining order (TRO) and a writ of preliminary injunction to the proceedings; and
>
> - Issuing a Status Quo Ante Order restoring the parties to the status prior to the issuance of the Order and Warrant of Arrest, both dated 23 February 2017, thereby recalling both processes and restoring petitioner to her liberty and freedom.[5]

If only on the ground of forum shopping, the petition should have been dismissed outright.

I. The rule against forum shopping was violated by petitioner.

In Heirs of Marcelo Sotto v. Palicte,[6] the Court, consistent with its ruling on forum shopping, declared the following:

> There is forum shopping "when a party repetitively avails several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts

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> and circumstances, and all raising substantially the same issues either pending in or already resolved adversely by some other court." Forum shopping is an act of malpractice that is prohibited and condemned because it trifles with the courts and abuses their processes. It degrades the administration of justice and adds to the already congested court dockets. An important factor in determining its existence is the vexation caused to the courts and the parties-litigants by the filing of similar cases to claim substantially the same reliefs.[7]

In determining whether a party violated the rule against forum shopping, the most important factor to consider is whether the elements of litis pendentia concur, namely: "(a) [there is] identity of parties, or at least such parties who represent the same interests in both actions; (b) [there is] identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) [that] the identity with respect to the two preceding particulars in the two cases is such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to res judicata in the other case."[8]

The parties in the present petition and the pending motion to quash[9] in Criminal Case No. 17-165 before the RTC, Branch 204, Muntinlupa City, are the same, viz: De Lima is the petitioner in the case before the Court and the accused in Criminal Case No. 17-165; while the respondents in this case have substantial identity with the plaintiff before the trial court.

There is identity of the arguments on which De Lima anchored her motion to quash and her present petition, viz: the RTC has no jurisdiction over the offense charged; it is the Office of the Ombudsman and not the DOJ Panel that has authority to file the case; and the allegations in the information do not allege the corpus delicti of the charge of Violation of R.A. No. 9165. Consequently, the reliefs prayed for in the petition and the motion to quash are basically the same, i.e., the information in Crim. Case No. 17-165 should be nullified and that her liberty be restored.

Predictably, the decision by the Court of the petition renders academic the motion to quash, while a resolution of the motion to quash moots the petition.

In Brown-Araneta v. Araneta,[10] the Court laid down the following teaching:

> The evil sought to be avoided by the rule against forum shopping is the rendition by two competent tribunals of two separate and contradictory decisions. Unscrupulous party litigants, taking advantage of a variety of competent tribunals, may repeatedly try their luck in several different fora until a favorable result is reached. To avoid the resultant confusion, the Court adheres to the rules against forum shopping, and a breach of these rules results in the dismissal of the case.[11](underlining supplied)

Applying this teaching to the present case, the Court has no option but to dismiss this petition considering the blatant breach by De Lima of the rules against forum shopping.

Notably, in the Verification And Certification Against Forum Shopping which De Lima attached to her present petition, she stated:

> xxxx
>
> 3. I hereby certify that I have not commenced any actions or proceedings involving the same issues as this Petition before the Supreme Court, the Court of Appeals, or any divisions thereof, or before any other courts, tribunals or agencies, aside from the following, the pendency of which is part of the basis for filing this Petition:
>
> a. The Motion to Quash I filed before Branch 204 of the Regional Trial Court of Muntinlupa City last 20 February 2017 in Criminal Case No. 17-165, entitled "People v. De Lima, et al." and
>
> b. The Petition for Prohibition and Certiorari I filed before the Court of Appeals (currently pending before its

> Sixth Division) last 13 January 2017, docketed as CA G.R. No. 149097, entitled "De Lima v. Panel of Prosecutors of DOJ, et al."[12]

By De Lima's own admission, she has a pending motion to quash before the RTC and a petition[13] before the CA which formed part of her bases in filing her petition before the Court. For sure, by declaring her pending motion to quash before the RTC and petition before the CA, De Lima was complying with Circular No. 28-91,[14] which requires that a certification on forum shopping be attached to a petition filed with the Court. But the equally significant truth is that she has resorted to forum shopping by taking advantage of a variety of competent tribunals, and trying her luck in several different fora until she obtains a favorable result; thus, a ground for the outright dismissal of the present petition.

In relation to forum shopping, the Rules of Court prescribes the specific sequence and hierarchical order by which reliefs may be availed of by the parties, viz:

> The Rules of Court, the code governing judicial procedure, prescribes the remedies (actions and special proceedings) that may be availed of for the myriad reliefs that persons may conceivably have need of and seek in this jurisdiction. But that the adjective law makes available several remedies does not imply that a party may resort to them simultaneously or at his pleasure or whim. There is a sequence and a hierarchical order which must be observed in availing of them. Impatience at what may be felt to be the slowness of the judicial process, or even a deeply held persuasion in the rightness of one's cause, does not justify short-cuts in procedure, or playing fast and loose with the rules thereof.[15]

The rules and jurisprudence dictate that petitioner should have allowed the lower courts to resolve the issues she brought forth before them prior to the filing of this petition. It is thus beyond comprehension how the petitioner, who describes herself as a "sitting Senator of the Republic, a former Secretary of Justice and Chairperson of the Commission on Human Rights, and a prominent member of the legal profession"[16] would tread on a precarious situation and risk to squander the remedies which the law accorded her by trifling with the orderly administration of justice unless she is trying to give us the impression that the lofty positions she claims to occupy or to have held has covered her with the habiliments of a privileged litigant.

II. The RTC has jurisdiction over Criminal Case No. 17-165.

a. RTC has jurisdiction over crimes involving illegal drugs.

Under R.A. No. 6425,[17] or the Dangerous Drugs Act of 1972, the Circuit Criminal Courts (CCCs) were vested with the exclusive original jurisdiction over all cases involving offenses punishable under the Act. However, with the abolition of the CCCs as a result of the enactment of Batas Pambansa (B.P.) Blg. 129,[18] the Court issued Circular No. 20[19] designating certain branches of the RTCs as special criminal courts to exclusively try, among other cases, "Violations of RA 6425 of the Dangerous Drugs Act of 1972, as amended, cognizable by Regional Trial Courts under Batas Pambansa Blg. 129."

With the passage of R.A. No. 9165, the Court was tasked to designate special courts from among the existing RTCs in each judicial region to exclusively try and hear cases involving breaches of the Act or, to be specific, on the violations of the Comprehensive Dangerous Drugs Law of 2002, viz:

> Section 90. Jurisdiction. - The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction. (underlining supplied)

Pertinently, in A.M. No. 05-9-03-SC, the Court declared that the jurisdiction of the RTCs designated as special

drug courts shall be exclusive of all other courts not so designated.

Indeed, a reading of R.A. No. 9165 will confirm that only the RTC is empowered to hear and decide violations of the Act, viz:

> Section 20. Confiscation and Forfeiture of the Proceeds or Instruments of the Unlawful Act, Including the Properties or Proceeds Derived from the Illegal Trafficking of Dangerous Drugs and/or Precursors and Essential Chemicals. -
>
> After conviction in the Regional Trial Court in the appropriate criminal case filed, the Court shall immediately schedule a hearing for the confiscation and forfeiture of all the proceeds of the offense and all the assets and properties of the accused either owned or held by him or in the name of some other persons if the same shall be found to be manifestly out of proportion to his/her lawful income: Provided, however, That if the forfeited property is a vehicle, the same shall be auctioned off not later than five (5) days upon order of confiscation or forfeiture.
>
> During the pendency of the case in the Regional Trial Court, no property, or income derived therefrom, which may be confiscated and forfeited, shall be disposed, alienated or transferred and the same shall be in custodia legis and no bond shall be admitted for the release of the same. (underlining supplied)

Evidently, the legislature would not have taken great pains in including Sec. 90 in R.A. No. 9165, which explicitly specified the RTC as having exclusive jurisdiction over drug cases; and Sec. 20, that distinctly recognized RTC's authority to try these cases, if its intent was likewise to confer jurisdiction to the Sandiganbayan or other trial courts the cases involving violations of the Act.

That the exclusive jurisdiction of the RTC relative to violation of R.A. No. 9165 extends not only to private individuals but also to government officials and employees is readily verified by the following provisions:

> Section 27. Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any public office, shall be imposed upon any public officer or employee who misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in this Act.
>
> Any elective local or national official found to have benefited from the proceeds of the trafficking of dangerous drugs as prescribed in this Act, or have received any financial or material contributions or donations from natural or juridical persons found guilty of trafficking dangerous drugs as prescribed in this Act, shall be removed from office and perpetually disqualified from holding any elective or appointive positions in the government, its divisions, subdivisions, and intermediaries, including government-owned or controlled corporations.
>
> Section 28. Criminal Liability of Government Officials and Employees. - The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees. (emphasis and underlining supplied)

It is noteworthy that Secs. 27 and 28 did not qualify that the public officer or employee referred to therein excludes those within the exclusive jurisdiction of the Sandiganbayan as enumerated in R.A. No. 8249, the law

enforced at the time of the approval of R.A. No. 9165. Elsewise stated, conspicuously absent in R.A. No. 9165 is the distinction between a public officer covered by the exclusive original jurisdiction of the Sandiganbayan and those of the other trial courts. The absence of this distinction is significant - it settles the issue that violations of the provisions of R.A. No. 9165 by a public officer or employee, regardless of his position, brings him to the exclusive jurisdiction of the RTC. Ubi lex non distinguit nec nos distinguire debemus. Where the law does not distinguish, courts should not distinguish.[20]

Moreover, Secs. 27 and 28 are clear and therefore must be given their literal meaning. Jurisprudence[21] instructs as follows:

> The plain meaning rule or verba legis, derived from the maxim index animi sermo est (speech is the index of intention), rests on the valid presumption that the words employed by the legislature in a statute correctly express its intention or will, and preclude the court from construing it differently. For the legislature is presumed to know the meaning of the words, to have used them advisedly, and to have expressed the intent by use of such words as are found in the statute. Verba legis non est recedendum. From the words of a statute there should be no departure.[22]

Considering therefore that the charge in Criminal Case No. 17-165 is for violation of the provisions of R.A. No. 9165, it is beyond the shadow of doubt that this case, notwithstanding the position and salary grade of De Lima during the time material to the crime charged, falls within the exclusive jurisdiction of the RTC.

b. Crim. Case No. 17-165 involves the charge of violation of R.A. No. 9165.

Jurisprudence[23] provides for the definition of jurisdiction, viz:

> Jurisdiction is the basic foundation of judicial proceedings. The word "jurisdiction" is derived from two Latin words "juris" and "dico" - "I speak by the law" - which means fundamentally the power or capacity given by the law to a court or tribunal to entertain, hear, and determine certain controversies. Bouvier's own definition of the term "jurisdiction" has found judicial acceptance, to wit: "Jurisdiction is the right of a Judge to pronounce a sentence of the law in a case or issue before him, acquired through due process of law;" it is "the authority by which judicial officers take cognizance of and decide cases."
>
> In Herrera v. Barretto, x x x this Court, in the words of Justice Moreland, invoking American jurisprudence, defined "jurisdiction" simply as the authority to hear and determine a cause the right to act in a case. "Jurisdiction" has also been aptly described as the right to put the wheels of justice in motion and to proceed to the final determination of a cause upon the pleadings and evidence.
>
> "Criminal Jurisdiction" is necessarily the authority to hear and try a particular offense and impose the punishment for it.
>
> The conferment of jurisdiction upon courts or judicial tribunals is derived exclusively from the constitution and statutes of the forum.[24] xxx

The general rule is that jurisdiction is vested by law and cannot be conferred or waived by the parties.[25] Simply put, jurisdiction must exist as a matter of law.[26]

To determine the jurisdiction of the court in criminal cases, the complaint must be examined for the purpose of ascertaining whether or not the facts set out therein and the punishment provided for by law fall within the jurisdiction of the court where the complaint is filed. The jurisdiction of courts in criminal cases is determined by the allegations of the complaint or information, and not by the findings the court may make after the trial.[27]

Section 6, Rule 110 of the Rules of Court, provides that an information is sufficient if it states the names 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 date of the commission of the offense; and the place where the offense was committed. The fundamental test in determining the sufficiency of the averments in a complaint or information is, therefore, whether the facts alleged therein, if hypothetically admitted, constitute the elements of the offense.[28] The information must allege clearly and accurately the elements of the crime charged.[29]

Likewise, it is well-settled that the averments in the complaint or information characterize the crime to be prosecuted and the court before which it must be tried.[30] 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.[31]

With the above jurisprudence and the provision of the Rules of Court as yardstick, we now evaluate the information in Criminal Case No. 17-165.

The information charges that, sometime from November 2012 to March 2013, in Muntinlupa City, De Lima, Ragos, and Dayan, in conspiracy with each other, committed illegal drug trading, a violation of Sec. 26(b)[32] in relation to Secs. 5,[33] 3(jj),[34] and 28[35] of R.A. No. 9165.

The information further provides that offense was committed as follows: "De Lima and Ragos, with the use of their power, position and authority, demand, solicit and extort money from the high-profile inmates in the New Bilibid Prison to support the senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there wilfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragas and Dayan, the proceeds of illegal drug trading amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly 'tara' each from the high profile inmates in the New Bilibid Prison."

Since it is axiomatic that jurisdiction is determined by the averments in the information,[36] the evident sufficiency of the allegations supporting the charge against De Lima for violation of Sec. 5 in relation to Secs. 3 (jj), 26(b) and 28 of R.A. No. 9165, firmly secures the exclusive jurisdiction of the RTC over the case pursuant to Sec. 90 of the same Act.

c. The jurisdiction of the Sandiganbayan.

Section 5, Article XIII of the 1973 Constitution directed the creation of the Sandiganbayan, viz:

> Section 5. The National Assembly shall create a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or -controlled corporations, in relation to their office as may be determined by law.

On 11 June 1978, President Ferdinand E. Marcos (Pres. Marcos) issued P.D. No. 1486[37] creating the Sandiganbayan. By virtue of P.D. No. 1606[38] issued by Pres. Marcos on 10 December 1978, the jurisdiction of the Sandiganbayan was modified as follows:

> Section 4. Jurisdiction. The Sandiganbayan shall have jurisdiction over:
>
> (a)
>
> Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, and Republic Act No. 1379;

(b)

Crimes committed by public officers and employees including those employed in government-owned or-controlled corporations, embraced in Title VII of the Revised Penal Code, whether simple or complexed with other crimes; and

(c)

Other crimes or offenses committed by public officers or employees, including those employed in government-owned or-controlled corporations, in relation to their office.

The jurisdiction herein conferred shall be original and exclusive if the offense charged is punishable by a penalty higher than prision correccional, or its equivalent, except as herein provided; in other offenses, it shall be concurrent with the regular courts.

In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees.

Where an accused is tried for any of the above offenses and the evidence is insufficient to establish the offense charged, he may nevertheless be convicted and sentenced for the offense proved, included in that which is charged.

Any provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability arising from the offense charged shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by, the Sandiganbayan, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such action shall be recognized; Provided, however, that, in cases within the exclusive jurisdiction of the Sandiganbayan, where the civil action had therefore been filed separately with a regular court but judgment therein has not yet been rendered and the criminal case is hereafter filed with the Sandiganbayan, said civil action shall be transferred to the Sandiganbayan for consolidation and joint determination with the criminal action, otherwise, the criminal action may no longer be filed with the Sandiganbayan, its exclusive jurisdiction over the same notwithstanding, but may be filed and prosecuted only in the regular courts of competent jurisdiction; Provided, further, that, in cases within the concurrent jurisdiction of the Sandiganbayan and the regular courts, where either the criminal or civil action is first filed with the regular courts, the corresponding civil or criminal action, as the case may be, shall only be filed with the regular courts of competent jurisdiction.

Excepted from the foregoing provisions, during martial law, are criminal cases against officers and members of the armed forces in the active service.

With the passage of B.P. Blg. 129, the exclusive original jurisdiction of the Sandiganbayan over the offenses enumerated in Sec. 4 of P.D. No. 1606 expanded to embrace all such offenses irrespective of the imposable penalty.

On 14 January 1983, Pres. Marcos signed P.D. No. 1860[39] conferring original and exclusive jurisdiction upon the Sandiganbayan for offenses enumerated in Sec. 4 of P.D. No. 1606 if punishable by a penalty higher than prision correccional or its equivalent, and original and exclusive jurisdiction with the appropriate court in accordance with the provisions of B.P. Blg. 129[40] for other offenses.

By virtue of P.D. No. 1861,[41] which was signed by Pres. Marcos on 23 March 1983, the Sandiganbayan was vested with exclusive appellate from the final judgments, resolutions or orders of the RTCs in cases originally decided by them in their respective territorial jurisdiction, and by way of petition for review, from the final

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judgments, resolutions or orders of the RTCs in the exercise of their appellate jurisdiction over cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts, in their respective jurisdiction.

Under the 1987 Constitution, the Sandiganbayan was mandated to continue to function and exercise its jurisdiction.[42] With the issuance of Executive Order (E.O.) Nos. 14[43] and 14-A, the Sandiganbayan exercised exclusive original jurisdiction over civil and criminal cases filed by the Presidential Commission on Good Government (PCGG), and under R.A. No. 7080,[44] the plunder cases.

Through R.A. No. 7975[45] and R.A. No. 8249,[46] the jurisdiction of the Sandiganbayan was further defined. At present, the exclusive original jurisdiction of the anti-graft court is specified in R.A. No. 10660[47] as follows:

> Section 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
>
> - Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
>
> (1)
>
> Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade "27" and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:
>
> (a)
>
> Provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other provincial department heads:
>
> (b)
>
> City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads;
>
> (c)
>
> Officials of the diplomatic service occupying the position of consul and higher;
>
> (d)
>
> Philippine army and air force colonels, naval captains, and all officers of higher rank;
>
> (e)
>
> Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent and higher;
>
> (f)
>
> City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;
>
> (g)
>
> Presidents, directors or trustees, or managers of government-owned or controlled corporations, state

universities or educational institutions or foundations.

(2)

Members of Congress and officials thereof classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989;

(3)

Members of the judiciary without prejudice to the provisions of the Constitution;

(4)

Chairmen and members of the Constitutional Commissions, without prejudice to the provisions of the Constitution; and

(5)

All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

- Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a. of this section in relation to their office.

- Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).

Subject to the rules promulgated by the Supreme Court, the cases falling under the jurisdiction of the Regional Trial Court under this section shall be tried in a judicial region other than where the official holds office.

In cases where none of the accused are occupying positions corresponding to Salary Grade '27' or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129, as amended.

The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

The Sandiganbayan shall have exclusive original jurisdiction over petitions for the issuance of the writs of mandamus, prohibition, certiorari, habeas corpus, injunctions, and other ancillary writs and processes in aid of its appellate jurisdiction and over petitions of similar nature, including quo warranto, arising or that may arise in cases filed or which may be filed under Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986: Provided, That the jurisdiction over these petitions shall not be exclusive of the Supreme Court.

The procedure prescribed in Batas Pambansa Blg. 129, as well as the implementing rules that the Supreme Court has promulgated and may hereafter promulgate, relative to appeals/petitions for review to the Court of Appeals, shall apply to appeals and petitions for review filed with the Sandiganbayan. In all cases elevated to the Sandiganbayan and from the Sandiganbayan to the Supreme Court, the Office of the Ombudsman, through its special prosecutor, shall represent the People of the Philippines, except in cases filed pursuant to Executive

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> Order Nos. 1, 2, 14 and 14-A, issued in 1986.
>
> In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees in the proper courts which shall exercise exclusive jurisdiction over them.
>
> Any provisions of law or Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability shall at all times be simultaneously instituted with, and jointly determined in, the same proceeding by the Sandiganbayan or the appropriate courts, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized: Provided, however, That where the civil action had heretofore been filed separately but judgment therein has not yet been rendered, and the criminal case is hereafter filed with the Sandiganbayan or the appropriate court, said civil action shall be transferred to the Sandiganbayan or the appropriate court, as the case may be, for consolidation and joint determination with the criminal action, otherwise the separate civil action shall be deemed abandoned.

Noteworthy, the then exclusive and original jurisdiction of the Sandiganbayan as provided for in P.D. 1606, i.e., violations of R.A. Nos. 3019 and 1379,[48] and in Chapter II, Sec. 2, Title VII, Book II of the RPC, had expanded. At present, for an offense to fall under the exclusive original jurisdiction of the Sandiganbayan, the following requisites must concur:

> (1)
>
> the offense committed is a violation of:
>
> (a)
>
> R.A. 3019, as amended (the Anti-Graft and Corrupt Practices Act);
>
> (b)
>
> R.A. 1379 (the law on ill-gotten wealth);
>
> (c)
>
> Chapter II, Section 2, Title VII, Book II of the Revised Penal Code (the law on bribery);
>
> (d)
>
> Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986 (sequestration cases); or
>
> (e)
>
> Other offenses or felonies whether simple or complexed with other crimes;
>
> (2)
>
> the offender committing the offenses in items (a), (b), (c) and (e) is a public official or employee holding any of the positions enumerated in paragraph a of Sec. 4;
>
> (3)
>
> the offense committed is in relation to the office;[49] and,
>
> (4)

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> the Information contains an allegation as to:
>
> (a)
>
> any damage to the government or any bribery; or
>
> (b)
>
> damage to the government or bribery arising from the same or closely related transactions or acts in an amount exceeding One million pesos (P1,000,000.00).[50]

Evaluated against the above enumeration, the charge against De Lima for Violation of Sec. 5,[51] in relation to Secs. 3(jj),[52] 26(b)[53] and 28[54] of R.A. No. 9165 does not fall within the jurisdiction of the Sandiganbayan. Although De Lima, as earlier stated, was a high-ranking public officer with salary grade 31 during the time material to the acts averred in the information, the charge against her, however, does not involve a violation of the Anti-Graft and Corrupt Practices Act, the law on ill-gotten wealth, the law on bribery or the sequestration cases.

Jurisprudence dictates the stringent requirement that the charge be set forth with such particularity as will reasonably indicate the exact offense which the accused is alleged to have committed in relation to his office.[55] For sure, the mere allegation that the offense was committed by the public officer in relation to his office would not suffice. That phrase is merely a conclusion of law, not a factual averment that would show the close intimacy between the offense charged and the discharge of the accused's official duties.[56]

The information in this case proves that the crime for which De Lima is charged was not committed in relation to her office. The glaring absence of an allegation in the information that the violation of the pertinent provisions of R.A. No. 9165 was in relation to De Lima's office underscores the fact that she is being charged under this Act and not for any other offense based on the same facts. Moreover, nothing from the information can judiciously show the relationship between the offense charged and the discharge by De Lima of her official duties. To stress, for an offense to be committed in relation to the office, the relation between the crime and the office must be direct and not accidental, such that the offense cannot exist without the office.[57]

The phrase "in relation to their office" as used in Sec. 4 of R.A. No. 8249, the precursor of R.A. No. 10660, had been explained by the Court as follows:

> As early as Montilla vs. Hilario, this Court has interpreted the requirement that an offense be committed in relation to the office to mean that "the offense cannot exist without the office "or" that the office must be a constituent element of the crime" as defined and punished in Chapter Two to Six, Title Seven of the Revised Penal Code (referring to the crimes committed by the public officers). People vs. Montejo enunciated the principle that the offense must be intimately connected with the office of the offender and perpetrated while he was in the performance, though improper or irregular of his official functions. The Court, speaking through Chief Justice Concepcion said that although public office is not an element of the crime of murder in (the) abstract, the facts in a particular case may show that -
> xxx the offense therein charged is intimately connected with (the accused's) respective offices and was perpetrated while they were in the performance though improper or irregular, of their official functions. Indeed (the accused) had no personal motive to commit the crime and they would not have committed it had they not held their aforesaid offices. The co-defendants of respondent Leroy S. Brown obeyed his instructions because he was their superior officer, as Mayor of Basilan City.

The cited rulings in Montilla vs. Hilario and in People vs. Montejo were reiterated in Sanchez vs. Demetriou, Republic vs. Asuncion, and Cunanan vs. Arceo. The case of Republic vs. Asuncion categorically pronounced that the fact that offense was committed in relation to the office must be alleged in the information:

> That the public officers or employees committed the crime in relation to their office, must, however, be alleged in the information for the Sandiganbayan to have jurisdiction over a case under Section 4(a)(2). This allegation is necessary because of the unbending rule that jurisdiction is determined by the allegations of the information.

For this purpose what is controlling is not whether the phrase "committed in violation to public office" appears in the information; what determines the jurisdiction of the Sandiganbayan is the specific factual allegation in the information that would indicate close intimacy between the discharge of the accused's official duties and the commission of the offense charged in order to qualify the crime as having been committed in relation to public office.[58] (underlining supplied)

For sure, the crime of Violation of R.A. No. 9165 can be committed by De Lima even if she is not a public officer. A review of R.A. No. 9165 validates that the acts involved therein can be committed by both private individuals and government officers and employees. In the same vein, the respective offices of De Lima, Ragos, and Dayan, as DOJ Secretary, BuCor OIC, and employee of the DOJ, respectively, were not constituent elements of the crime of illegal drug trading. True, there was a mention in the information relative to the offices held by De Lima, Ragos, and Dayan, and allegations as to their taking advantage of their office and use of their positions, but these were palpably included by the DOJ Panel for the purpose of applying Sec. 28 of R.A. No. 9165 relative to the imposition of the maximum penalties of the unlawful acts provided for in the law and the absolute perpetual disqualification from any public office of the accused.

d. The ruling in Photokina v. Benipayo as it is applied in the present petition.

Of utmost significance at this point is the case of People and Photokina Marketing Corp. v. Benipayo.[59] Alfredo Benipayo (Benipayo), then Chairman of the Commission on Elections (COMELEC), delivered a speech at the University of the Philippines which the Manila Bulletin subsequently published. Believing that it was the one being alluded to in the speech, Photokina Marketing Corporation (Photokina) filed through its representative a libel case against Benipayo before the Office of the City Prosecutor of Quezon City (OCP-QC). Finding probable cause for libel against Benipayo, the OCP-QC filed an information, docketed as Crim. Case No. Q-02-109407, with the RTC of Quezon City (RTC-QC). Subsequently, Photokina filed another complaint against Benipayo before the OCP-QC relative to the statements he made in a talk show. This led to the filing by the OCP-QC of an information for libel, docketed as Criminal Case No. Q-02-109406, before the RTC-QC.

Benipayo moved for the dismissal of the two cases against him. He asserted that the RTC-QC had no jurisdiction over his person as he was an impeachable officer; thus, he could not be criminally prosecuted before any court during his incumbency. Likewise, he posited that even if he can be criminally prosecuted, it was the Office of the Ombudsman that should investigate him, and that the case should be filed with the Sandiganbayan.

Albeit Benipayo was no longer an impeachable officer since his appointment was not confirmed by Congress, the RTC dismissed Crim. Case No. Q-02-109407 for lack of jurisdiction. It ruled that it was the Sandiganbayan that had jurisdiction over the case to the exclusion of all other courts because the alleged libel was committed by Benipayo in relation to his office, i.e., the speech was delivered in his official capacity as COMELEC Chairman. In the same vein, the RTC ordered the dismissal of Criminal Case No. Q-02-109406 on the ground that it had no jurisdiction over the person of Benipayo. Aggrieved with the dismissal of these cases, the People and Photokina repaired to the Court.

The Court took note of the fact that both the People and Photokina, on one hand, and Benipayo, on the other, were harping on the wrong premise as to which between the RTC and the Sandiganbayan had jurisdiction over the offense by extensively arguing on whether the offense of libel was committed by Benipayo in relation to his office. The Court declared that the parties and the trial court failed to primarily ascertain whether the current laws

confer on both the Sandiganbayan and the RTC jurisdiction over libel cases; otherwise if the said courts do not have concurrent jurisdiction to try the offense, it would be pointless to still determine whether the crime was committed in relation to office.

The Court ruled that Art. 360 of the RPC, as amended by R.A. No. 4363,[60] is explicit on which court has jurisdiction to try cases of written defamations, thus:

> The criminal and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately with the court of first instance [now, the Regional Trial Court] of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense xxx.

In addition thereto, on 21 October 1996, the Court issued Administrative Order (AO) No. 104-96 which conferred exclusive jurisdiction with the RTC to try libel cases, viz:

> RE: DESIGNATION OF SPECIAL COURTS FOR KIDNAPPING, ROBBERY, CARNAPPING, DANGEROUS DRUGS CASES AND OTHER HEINOUS CRIMES; INTELLECTUAL PROPERTY RIGHTS VIOLATIONS AND JURISDICTION IN LIBEL CASES.
>
> xxxx
>
> C
>
> LIBEL CASES SHALL BE TRIED BY THE REGIONAL TRIAL COURTS HAVING JURISDICTION OVER THEM TO THE EXCLUSION OF THE METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS AND MUNICIPAL CIRCUIT TRIAL COURTS. (underlining supplied)

Hence, in granting the petition and in ordering that Criminal Cases Nos. Q-02-109406 and Q-02-109407 be reinstated and remanded to the RTC-QC for further proceedings, the Court judiciously resorted to the provisions of Article 360 of the RPC and AO No. 104-96, as these explicitly provided for the exclusive jurisdiction of the RTC over libel cases, and the catena of cases that breathe life to these laws.

With the legal teaching in Benipayo, there is neither rhyme nor reason to still establish whether De Lima committed the charge against her in relation to her office considering that by explicit provision of R.A. No. 9165, it is the RTC that has exclusive original jurisdiction over violations of the Act. Simply put, the exclusive original jurisdiction of the RTC over breaches of R.A. No. 9165 extends to any government officer or employee, regardless of his position and salary grade, and whether or not the same was committed in relation to his office.

It is a basic tenet in statutory construction that a special law prevails over a general law.[61] In Benipayo,[62] the Court pronounced that "[l]aws vesting jurisdiction exclusively with a particular court, are special in character and should prevail over the Judiciary Act defining the jurisdiction of other courts (such as the Court of First Instance) which is a general law." Applying this pronouncement to the present petition, it is unquestionable that, relevant to the present charge against De Lima, it is R.A. No. 9165 as it vests exclusive original jurisdiction with the RTC to try drug cases, which is the special law and thus should prevail over R.A. No. 10660.

e. The offense of bribery vis-a-vis the violation of the provisions of R.A. No. 9165.

An innovation brought about by the passage of R.A. No. 10660 is that, in the desire of Congress to improve the disposition of cases of the anti-graft court, it streamlined the jurisdiction of the Sandiganbayan by vesting in the RTC exclusive original jurisdiction where the information (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related

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transactions or acts in an amount not exceeding P1,000,000.00.

It is unmistakable that in the case at bar, there was no allegation in the information as to any damage to the government.

On "bribery," in his co-sponsorship speech[63] for the immediate approval of Senate Bill No. 2138 or the "Act Further Amending Presidential Decree No. 1606," Senate President Franklin Drilon (Sen. Drilon) stated that the bill seeks to introduce three innovations in the Sandiganbayan, viz: first, the introduction of the "justice-designate" concept; second, the transfer of so-called minor cases to the RTCs; and last, a modification of the voting requirement in rendering decision. Specifically as to the second, Sen. Drilon expressed the following:

> The second modification under the bill involves the streamlining of the anti-graft court's jurisdiction, which will enable the Sandiganbayan to concentrate its resources on resolving the most significant cases filed against public officials. The bill seeks to amend Section 4 of the law by transferring jurisdiction over cases that are classified as "minor" to the regional trial courts, which have the sufficient capability and competence to handle these cases. Under this measure, the so-called "minor cases," although not really minor, shall pertain to those where the information does not allege any damage or bribe; those that allege damage or bribe that are unquantifiable; or those that allege damage or bribe arising from the same or closely related transactions or acts not exceeding One Million Pesos.[64] (emphasis supplied)

The interpellation[65] of the bill yielded the following pertinent discussion:

> On line 33 of page 3, Sen. Angara asked what cases would still fall under the Metropolitan Trial Court (MTC) and the Metropolitan Circuit Trial Court (MCTC) as he noted that cases would still be referred to the RTC if the damages do not exceed P1 million. Senator Pimentel replied that the officials enumerated under PD 1606 will be tried before the Sandiganbayan, and the bill seeks to divide the cases into the following: 1) if the information does not allege any damage or bribe, it would go to the RTC; 2) if the information alleges damage or bribe that is not quantifiable it would go to the RTC; and 3) if there is an allegation of damage or bribe but the amount is not more than P1 million, it would go to the RTC. He pointed out that the amendment only concerns the RTC and Sandiganbayan. (emphasis supplied)

Clearly, what is contemplated in R.A. No. 10660 is the giving of bribe and not necessarily the offenses on Bribery enumerated in Chapter II, Section 2, Title VII, Book II of the Revised Penal Code. "Bribe" is defined as "[a]ny money, goods, right in action, property, thing of value, or any preferment, advantage, privilege or emolument, or any promise or undertaking to give any, asked, given, or accepted, with a corrupt intent to induce or influence action, vote, or opinion of person in any public or official capacity. A gift, not necessarily of pecuniary value, is bestowed to influence the conduct of the receiver."[66]

The position that the "bribery" referred to in R.A. No. 10660 pertains to the "bribe" and not necessarily to Bribery as penalized under Art. 210 to 211-A of the RPC finds support in the truth that there are likewise corrupt acts under R.A. No. 3019 where bribe is involved and thus may fall under the exclusive original jurisdiction of the RTC, viz:

> Section 3. Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:
> xxxx
>
> (b) Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other part, wherein the public officer in his official capacity has to intervene under the law.

> (c) Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any Government permit or license, in consideration for the help given or to be given, without prejudice to Section thirteen of this Act.
>
> xxxx
>
> (f) Neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for the purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party.

While the information in Criminal Case No. 17-165 states that De Lima and Ragos demanded, solicited, and extorted money from the high--profile inmates in the NBP to support her senatorial bid in the 2016 elections, appreciation of all the whole allegations therein points towards an accusation for Violation of Sec. 26(b) in relation to Secs. 5, 3(jj) and 28 of R.A. No. 9165; hence, within the original exclusive jurisdiction of the RTC. To stress, the jurisdiction of a court over the criminal case is determined by the allegations in the complaint or information. And once it is so shown, the court may validly take cognizance of the case.[67] Jurisdiction cannot be based on the findings the court may make after the trial.[68]

It is significant to state that there are averments in the information in Criminal Case No. 17-165 that conceivably conform to the other elements of bribery, i.e., (1) that the accused is a public officer; (2) that he received directly or through another some gift or present, offer or promise; (3) that such gift, present or promise has been given in consideration of his commission of some crime, or any act not constituting a crime, or to refrain from doing something which is his official duty to do; and (4) that the crime or act relates to the exercise of his functions as a public officer.[69] As it is, the averments on some of the elements of bribery in the information merely formed part of the description on how illegal drug trading took place at the NBP. Irrefragably, the elements of bribery, as these are found in the information, simply completed the picture on the manner by which De Lima, Ragos, and Dayan conspired in violating Section 5 in relation to Sections 3(jj), 26(b) and 28 of R.A. No. 9165.

On this point, Sec. 27 of R.A. No. 9165 is again quoted:

> Section 27. Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed. -
>
> xxx
>
> Any elective local or national official found to have benefited from the proceeds of the trafficking of dangerous drugs as prescribed in this Act, or have received any financial or material contributions or donations from natural or juridical persons found guilty of trafficking dangerous drugs as prescribed in this Act, shall be removed from office and perpetually disqualified from holding any elective or appointive positions in the government, its divisions, subdivisions, and intermediaries, including government-owned or -controlled corporations. (emphasis supplied)

Readily apparent is that the elements of bribery are equally present in Sec. 27 of R.A. No. 9165. By benefiting from the proceeds of drug trafficking, an elective official, whether local or national, regardless of his salary grade, and whether or not the violation of Sec. 27 of R.A. No. 9165 was committed in relation to his office, automatically brings him to the fold of R.A. No. 9165; thus, within the exclusive jurisdiction of the RTC.

But notwithstanding the charge against De Lima before the RTC for Violation of Sec. 5 in relation to Secs. 3(jj),

26(b) and 28 of R.A. No. 9165, there is nothing that would bar the DOJ Panel to recommend to the Office of the Ombudsman the filing of an information before the Sandiganbayan involving the same facts covered by Crim. Case No. 17-165, if the evidence so warrants. The legal teaching in Soriano v. People[70] finds its significance, viz:

> Jurisprudence teems with pronouncements that a single act or incident might offend two or more entirely distinct and unrelated provisions of law, thus justifying the filing of several charges against the accused.
>
> In Loney v. People, this Court, in upholding the filing of multiple charges against the accused, held:
>
> As early as the start of the last century, this Court had ruled that a single act or incident might offend against two or more entirely distinct and unrelated provisions of law thus justifying the prosecution of the accused for more than one offense. The only limit to this rule is the Constitutional prohibition that no person shall be twice put in jeopardy of punishment for "the same offense." In People v. Doriquez, we held that two (or more) offenses arising from the same act are not "the same" -
> xxx if one provision [oflaw] requires proof of an additional fact or element which the other does not, x x x. Phrased elsewise, where two different laws (or articles of the same code) define two crimes, prior jeopardy as to one of them is no obstacle to a prosecution of the other, although both offenses arise from the same facts, if each crime involves some important act which is not an essential element of the other.

xxxx

Consequently, the filing of the multiple charges against petitioners, although based on the same incident, is consistent with settled doctrine.[71] (underscoring supplied)

It must be emphasized that the Sandiganbayan, whose present exclusive original jurisdiction is defined under R.A. No. 10660, is unquestionably an anti-graft court, viz:

> Section 4. The present anti-graft court known as the Sandiganbayan shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law.[72] (emphasis supplied)

On the one hand, by explicit provision of R.A. No. 9165,[73] the RTC had been conferred with the exclusive jurisdiction over violations of the Act. Only the specially designated RTC, to the exclusion of other trial courts, has been expressly vested with the exclusive authority to hear and decide violations of R.A. No. 9165. Even the Sandiganbayan, which is likewise a trial court, has not been conferred jurisdiction over offenses committed in relation to the Comprehensive Drugs Act of 2002.

The rationale in designating certain RTCs as drug courts is easily discernible - it would enable these courts to acquire and thereafter apply the expertise apposite to drug cases; thus, prompting the effective dispensation of justice and prompt resolution of cases.

Parenthetically, a relevant issue that arises is which between the Office of the Ombudsman or the DOJ would have jurisdiction to conduct the preliminary investigation in this case. De Lima posits that it should be the Office of the Ombudsman.

Since the complaint against De Lima is for violation of R.A. No. 9165, there is a need to review the provisions of the Act.

Section 90 of R.A. No. 9165 pertinently provides that "[t]he DOJ shall designate special prosecutors to exclusively handle cases involving violations of this Act." While De Lima was a high-ranking public officer during the time material to the charge against her, this however was not a valid justification to remove her from the authority of the DOJ which has been vested by R.A. No. 9165 with exclusive jurisdiction to handle the drug

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case, i.e., inclusive of the conduct of preliminary investigation and the filing of information with the RTC.

To put more emphasis on the jurisdiction of the DOJ to conduct preliminary investigation in this case, we note Sec. 2 of R.A. No. No. 6770,[74] otherwise known as "The Ombudsman Act of 1989," that provides:

> Section 2. Declaration of Policy. - The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.
>
> Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, efficiency, act with patriotism and justice and lead modest lives. (underscoring supplied)

From this quoted provision of the law, it is evident that the intent in creating the Office of the Ombudsman was to prevent and eradicate graft and corruption in government. Understandably, the cases handled by the Office of the Ombudsman pertain mainly to graft and corruption.

To a certain extent, violations of R.A. No. 9165 may likewise constitute an infringement by a public officer or employee, if it is committed in relation to his office, of the provisions of the RPC or special laws, specifically R.A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. Consequently, a public officer or employee, in addition to being charged for violation of R.A. No. 9165, may likewise be prosecuted for the offenses committed under the RPC or other special laws. At that instance, concurrent jurisdiction is vested with the DOJ and the Office of the Ombudsman to conduct preliminary investigation. But if it is the Sandiganbayan, pursuant to R.A. No. 10660, that has jurisdiction over the person of the accused, the Office of the Ombudsman shall have primary jurisdiction over the complaint and, in the exercise of its primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of the case.[75]

To the point of being repetitive, the charge against De Lima was beyond doubt for violation of R.A. No. 9165; hence, by applying Sec. 90 of the Act, it was clearly within the realm of DOJ to conduct the preliminary investigation of the complaint against her and to file the corresponding information.

To recapitulate, R.A. No. 9165 is explicit that only the RTCs designated by the Court to act as special courts shall have exclusive jurisdiction to hear and try cases involving violations of the Act.

By applying our ruling in Benipayo, it is firmly settled that only the specially designated courts of the RTC shall have exclusive original jurisdiction over violations of R.A. No. 9165 committed by a public officer or employee, regardless of his position or salary grade, and whether or not he committed this in relation to his office. Since R.A. No. 9165 does not distinguish as to the position of the public officer or employee involved, or whether or not he committed the violation in relation to his office, so shall the Court not distinguish. It cannot be gainsaid therefore that the charge against De Lima, regardless of her rank and salary grade at the time material to the case, and whether or not she committed the charge of violation of R.A No. 9165 in relation to her office, is within the exclusive jurisdiction of the RTC.

In the same vein, Sec. 90 of R.A. No. 9165 categorically states it is the DOJ that shall exclusively handle cases involving violations of the Act. As it has been established that the complaint against De Lima is for violation of R.A. No. 9165, it was only appropriate that the DOJ handled the preliminary investigation of the case and filed the corresponding information. It would be procedurally infirm for the Office of the Ombudsman to invade the exclusive jurisdiction of the DOJ.

In addition to the charge under R.A. No. 9165, should the evidence against a public officer or employee, regardless of his position and salary grade, support a finding for probable cause for violation of other laws committed in relation to his office, he should be prosecuted accordingly. In that instance, his position and salary

grade would be of primordial consideration in determining the office that should conduct the preliminary investigation and the court that should hear and try the case.

In relation thereto, if the public officer or employee holds a position enumerated in R.A. No. 10660 or falls within the exclusive jurisdiction of the Sandiganbayan, the Office of the Ombudsman shall have primary jurisdiction over the complaint; and in the exercise of its jurisdiction, it may take over at any stage from any investigatory office the investigation of the case. Should there be a finding of probable cause by the Office of the Ombudsman, the information should be filed with the Sandiganbayan.

If the position of the public officer or employee is not included in the enumeration in R.A. No. 10660, the Office of the Ombudsman and the DOJ shall have concurrent jurisdiction over the complaint, and the information should be filed with the proper trial court.

De Lima asserted in her petition that based on the findings of the DOJ Panel, the crime she had committed was Direct Bribery. Whether or not she can be held liable for Direct Bribery or for violation of other laws, in addition to violation of R.A. No. 9165, is best left to the determination of the DOJ.

I therefore vote to dismiss the petition.

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[1] Entitled "An Act Instituting The Comprehensive Dangerous Drugs Act Of 2002, Repealing Republic Act No. 6425, Otherwise Known as the Dangerous Drugs Act of 1972, as Amended, Providing Funds Therefor, and for Other Purposes." Also known as the "Comprehensive Dangerous Drugs Act Of 2002."

[2] Rollo, pp. 197-201.

[3] Presiding Judge of the RTC, Branch 204, Muntinlupa City.

[4] Rollo, p. 22.

[5] Id. at 66.

[6] 726 Phil. 651 (2014).

[7] Id. at 653-654.

[8] Daswani v. Banco de Oro Universal Bank, G.R. No. 190983, 29 July 2015, 764 SCRA 160, 169-170.

[9] Rollo, pp. 256-295.

[10] 719 Phil. 293 (2013).

[11] Id. at 316-317.

[12] Rollo, pp. 69-70.

[13] Id. at 144-195.

[14] The subject of the Circular reads: "Additional requisites for petitions filed with the Supreme Court and the Court of Appeals to prevent forum-shopping or multiple filing of petitions and complaints."

[15] Gatmaytan v. CA, 335 Phil. 155, 168 (1997).

[16] Rollo, p. 5.

[17] Approved on 4 April 1972.

[18] Entitled "An Act Reorganizing the Judiciary, Appropriating funds Therefor, and For Other Purposes."

[19] Dated 7 August 1987.

[20] Amores v. House of Representatives, 636 Phil. 600, 609 (2010).

[21] Philippine Amusement and Gaming Corp. v. Philippine Gaming Jurisdiction, Inc., 604 Phil. 547 (2009).

[22] Id. at 553.

[23] People v. Mariano, 163 Phil. 625 (1976).

[24] Id. at 629-630.

[25] Garcia v. Ferro Chemicals, Inc., 744 Phil. 590, 605 (2014).

[26] People v. Sandiganbayan, 482 Phil. 613, 626 (2004).

[27] Buaya v. Polo, 251 Phil. 422, 425 (1989).

[28] Enrile v. Manalastas, 746 Phil. 43, 54 (2014).

[29] Guinhawa v. People, 505 Phil. 383, 399-400 (2005).

[30] Buaya v. Polo, supra note 27.

[31] Consigna v. People, 731 Phil. 108, 119 (2014).

[32] Section 26. Attempt or Conspiracy. - Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

> xxxx
>
> (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
>
> xxxx

[33] Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

xxxx

[34] Section 3. Definitions. As used in this Act, the following terms shall mean:

> (jj) Trading. - Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, email, mobile or

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landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.

[35] Section 28. Criminal Liability of Government Officials and Employees. - The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees.

[36] Serana v. Sandiganbayan, 566 Phil. 224, 250 (2008).

[37] Entitled "Creating A Special Court To Be Known As Sandiganbayan And For Other Purposes." The jurisdiction of the Sandiganbayan under this P.O. were as follows:

Section 4. Jurisdiction. Except as herein provided, the Sandiganbayan shall have original and exclusive jurisdiction to try and decide:

(a)

Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act and Republic Act No. 1379;

(b)

Crimes committed by public officers or employees, including those employed in government-owned or controlled corporations, embraced in Title VII of the Revised Penal Code;

(c)

Other crimes or offenses committed by public officers or employees including those employed in government-owned or controlled corporations in relation to their office; Provided, that, in case private individuals are accused as principals, accomplices or accessories in the commission of the crimes hereinabove mentioned, they shall be tried jointly with the public officers or employees concerned.

Where the accused is charged of an offense in relation to his office and the evidence is insufficient to establish the offense so charged, he may nevertheless be convicted and sentenced for the offense included in that which is charged.

(d)

Civil suits brought in connection with the aforementioned crimes for restitution or reparation of damages, recovery of the instruments and effects of the crimes, or forfeiture proceedings provided for under Republic Act No. 1379;

(e)

Civil actions brought under Articles 32 and 34 of the Civil Code.

Exception from the foregoing provisions during the period of material law are criminal cases against officers and members of the Armed Forces of the Philippines, and all others who fall under the exclusive jurisdiction of

the military tribunals.

[38] Entitled "Revising Presidential Decree No. 1486 Creating a Special Court to be known as Sandiganbayan and For Other Purposes."

[39] Entitled "Amending the Pertinent Provisions of Presidential Decree No. 1606 and Batas Pambansa Blg. 129 Relative to the Jurisdiction of the Sandiganbayan and For Other Purposes."

[40] Judiciary Reorganization Act of 1980.

[41] Entitled "Amending The Pertinent Provisions of Presidential Decree No. 1606 and Batas Pambansa Blg. 129 Relative to the Jurisdiction of the Sandiganbayan and For Other Purposes."

[42] Article XI, Section 4.

[43] Entitled "Defining the Jurisdiction over cases involving the Ill-Gotten Wealth of Former President Ferdinand E. Marcos, Mrs. Imelda R. Marcos, Members of their Immediate Family, Close Relatives, Subordinates, Close and/or Business Associates, Dummies, Agents and Nominees, Effective on May 7, 1986."

[44] Entitled "An Act Defining and Penalizing the Crime of Plunder" approved on 12 July 1991.

[45] Entitled "An Act to Strengthen the Functional and Structural Organization of the Sandiganbayan, Amending for that Purpose Presidential Decree No. 1606, as Amended" approved on 30 March 1995.

[46] Entitled "An Act Further Defining the Jurisdiction of ihe Sandiganbayan, amending tor the Purpose Presidential Decree No. 1606, as Amended, Providing Funds Therefor, and For Other Purposes" approved on 5 February 1997.

[47] Entitled "An Act Strengthening further the Functional and Structural Organization of the Sandiganbayan, further amending Presidential Decree No. 1606, as amended, and Appropriating Funds Therefor" approved 16 April 2015.

[48] Entitled "An Act Declaring Forfeiture in Favor of the State any property found to have been Unlawfully Acquired by any Public Officer or Employee and Providing for the Proceedings Therefor" approved on 18 June 1955.

[49] Adaza v. Sandiganbayan, 502 Phil. 702, 714 (2005).

[50] Pursuant to R.A. No. 10660.

[51] Section 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

xxxx

[52] Section 3. Definitions. As used in this Act, the following terms shall mean:

> (jj) Trading. - Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, email, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.

[53] Section 26. Attempt or Conspiracy. -Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

> xxxx
>
> (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
>
> xxxx

[54] Section 28. Criminal Liability of Government Officials and Employees. - The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees.

[55] Lacson v. Executive Secretary, 361 Phil. 251, 282 (1999).

[56] Id.

[57] Adaza v. Sandiganbayan, supra note 49 at 715.

[58] Soller v. Sandiganbayan, 409 Phil. 780, 791-792 (2001).

[59] 604 Phil. 317 (2009).

[60] Entitled "An Act to Further Amend Article Three Hundred Sixty of the Revised Penal Code," which was approved on 19 June 1965.

[61] Remo v. The Hon. Secretary of Foreign Affairs, 628 Phil. 181, 191 (2010).

[62] Supra note 59 at 329.

[63] Session No. 59, 26 February 2014, pp. 32-33.

[64] Id. at 33.

[65] Session No. 62, 5 March 2014, pp. 72-73.

[66] Blacks Law Dictionary, Sixth Ed., p. 191.

[67] Navaja v. De Castro, 761 Phil. 142, 150-151 (2015), citing Foz, Jr. v. People, 618 Phil. 120, 129 (2009).

[68] Buaya v. Polo, supra note 27.

[69] Balderama v. People, 566 Phil. 412, 419 (2008).

[70] 609 Phil. 31 (2009).

[71] Id. at 42-43.

[72] 1987 Constitution, Article XI.

[73] Section 90.

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[74] Entitled "An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman, and For Other Purposes."

[75] R.A. No. 6770, Sec. 15(1).

SEPARATE CONCURRING OPINION

TIJAM, J.:

It is settled that social and public interest demand the punishment of the offender.[1] It is likewise equally true that in a criminal prosecution, the accused has at stake interests of immense importance, both because of the possibility that he may lose his liberty or even his life upon conviction and because of the certainty that he would be stigmatized by the conviction.[2] With the public position of the accused being a Senator of the Philippines, and a former Secretary of Justice, it is easy to fall into the temptation of extremely scrutinizing the events that led to the instant quandary. It bears to keep in mind, however, that the instant case is one under Rule 65, a Petition for Certiorari. Hence, the facts of the case should be examined with a view of determining whether the respondents committed grave abuse of discretion in filing the charges against petitioner, and eventually ordering her arrest.

In this petition, Senator De Lima seeks to correct the grave abuse of discretion purportedly committed by respondent Judge Juanita Guerrero, presiding judge of the Regional Trial Court (RTC) of Muntinlupa City, Branch 204 in connection with the criminal action for alleged illegal drug trading docketed as Criminal Case No. 17-165, and entitled, "People of the Philippines v. Leila M. de Lima, Rafael Marcos Z. Ragos, Ronnie Palisoc Dayan."

Specifically assailed in this petition are the following:

- The Order dated February 23, 2017 wherein respondent judge found probable cause for the issuance of arrest warrants against all the accused, including Petitioner Leila M. De Lima;

- The Warrant of Arrest against Petitioner also dated February 23, 2017, issued by respondent judge pursuant to the Order dated the same day;

- The Order dated February 24, 2017, committing Petitioner to the custody of the PNP Custodial Center; and

- The omission of respondent judge in failing or refusing to act on Petitioner's Motion to Quash, through which Petitioner seriously questions the jurisdiction of the lower court.

Petitioner prays that this Court annul the aforesaid orders and restore the parties to the status quo prior to the issuance of the said orders. Petitioner also prays that the respondent judge be compelled to resolve the motion to quash.

For their part, respondents maintain the validity of their actions insofar as petitioner's case is concerned. They claim that there is probable cause to charge petitioner with the offense of Conspiracy to Commit Illegal Drug Trading. They also affirm the RTC's jurisdiction to try the case. Also, respondents claim that respondent judge observed the constitutional and procedural rules in the issuance of the questioned orders and warrants of arrest.

With the foregoing in mind, and for reasons hereafter discussed, I concur with the vote of the majority that the instant petition should be denied. Petitioner was unable to establish that grave abuse of discretion attended the proceedings a quo.

The petition is procedurally infirm

A petition for certiorari under Rule 65 of the Rules of Court is a pleading limited to correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. Its principal office is to keep the inferior court within the parameters of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to lack or excess of jurisdiction. It may issue only when the following requirements are alleged in and established by the petition: (1) that the writ is directed against a tribunal, a board or any officer exercising judicial or quasi-judicial functions; (2) that such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) that there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.[3]

In this case, the last two requisites are lacking. As will be discussed hereafter, petitioner was not able to discharge the burden of establishing that there was grave abuse of discretion on the part of respondent judge. Neither did she establish that there was no other remedy available to her in the ordinary course of law.

What is peculiar with the instant case is that it imputes grave abuse of discretion to an act of omission. Petitioner ultimately questions respondent judge's failure to act on her motion to quash. I am of the view that the circumstances sorrounding the respondent judge's inaction are not sufficient to justify resort to a petition for certiorari directly with this court.

For one, there is no showing that petitioner gave the trial court an opportunity to rule on the motion to quash. Without an actual denial by the Court, it would seem that the basis for petitioner's prayed reliefs are conjectures. To my mind, the trial court's inaction is an equivocal basis for an extraordinary writ of certiorari, and petitioner has failed to establish that such inaction requires immediate and direct action on the part of this Court. On this note, I agree with Justice Velasco that a petition for mandamus is available to compel the respondent judge to resolve her motion. Assuming further that the issuance of a warrant of arrest constituted as an implied denial of petitioner's motion to quash, jurisprudence[4] is consistent that the remedy against the denial of a motion to quash is for the movant accused to enter a plea, go to trial, and should the decision be adverse, reiterate on appeal from the final judgment and assign as error the denial of the motion to quash.

That the trial court has yet to rule directly on the jurisdictional issue also highlights the forum shopping committed by petitioner. Should respondent judge grant the motion to quash, then it fundamentally makes the instant petition moot and academic, as the underlying premise of the instant case is the "implied" denial of the RTC of petitioner's motion to quash. On the other hand, should this Court grant the instant petition, then the RTC is left with no option but to comply therewith and dismiss the case. It is also possible that this Court confirms the respondent judge's actions, but the latter, considering the time period provided under Section 1(g)[5] of Rule 116, grants petitioner's prayer for the quashal of the information. Any permutation of the proceedings in the RTC and this Court notwithstanding, I find that filing the instant petition to this Court is clear forum shopping. It should have been outrightly dismissed if this Court is indeed keen in implementing the policy behind the rule against forum shopping. Verily, forum shopping is a practice which ridicules the judicial process, plays havoc with the rules of orderly procedure, and is vexatious and unfair to the other parties to the case.[6] Our justice system suffers as this kind of sharp practice opens the system to the possibility of manipulation; to uncertainties when conflict of rulings arise; and at least to vexation for complications other than conflict of rulings.[7]

In the same vein, the failure of petitioner's to await the RTC's ruling on her motion to quash, and her direct resort

to this Court violates the principle of hierarchy of courts. Other than the personality of the accused in the criminal case, nothing is exceptional in the instant case that warrants relaxation of the principle of hierarchy of courts. I am of the view that the instant case is an opportune time for the Court to implement strict adherence to the principle of hierarchy of courts, if only to temper the trend in the behaviour of litigants in having their applications for the so-called extraordinary writs and sometimes even their appeals, passed upon and adjudicated directly and immediately by the highest tribunal of the land.[8] The Supreme Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the fundamental charter and immemorial tradition. It cannot and should not be burdened with the task of dealing with causes in the first instance. Its original jurisdiction to issue the so-called extraordinary writs should be exercised only where absolutely necessary or where serious and important reasons exist therefor.[9] Where the issuance of an extraordinary writ is also within the competence of the Court of Appeals or a Regional Trial Court, it is in either of these courts that the specific action for the writ's procurement must be presented. This is and should continue to be the policy in this regard, a policy that courts and lawyers must strictly observe.[10]

Even if we disregard such procedural flaw, the substantial contentions of the petitioner fail to invite judgment in her favor.

The warrant of arrest was validly issued

The argument that respondent judge did not make a personal determination of probable cause based on the wordings of the February 23, 2017 Order is inaccurate and misleading.

Undisputably, before the RTC judge issues a warrant of arrest under Section 6, Rule 112[11] of the Rules of Court, in relation to Section 2, Article III[12] of the 1987 Constitution, the judge must make a personal determination of the existence or non-existence of probable cause for the arrest of the accused. The duty to make such determination is personal and exclusive to the issuing judge. He cannot abdicate his duty and rely on the certification of the investigating prosecutor that he had conducted a preliminary investigation in accordance with law and the Rules of Court.[13]

Personal determination of probable cause for the issuance of a warrant of arrest, as jurisprudence teaches, requires a personal review of the recommendation of the investigating prosecutor to see to it that the same is supported by substantial evidence. The judge should consider not only the report of the investigating prosecutor but also the affidavits and the documentary evidence of the parties, the counter-affidavit of the accused and his witnesses, as well as the transcript of stenographic notes taken during the preliminary investigation, if any, submitted to the court by the investigating prosecutor upon the filing of the Information.[14]

In this case, the fact that respondent judge relied on the "Information and all the evidence during the preliminary investigation", as stated in the February 27, 2017 Order, does not invalidate the resultant warrant of arrest just because they are not exactly the same as the documents mentioned in Section 6 of Rule 112, viz: prosecutor's resolution and its supporting documents. As aptly discussed in the majority decision, citing relevant jurisprudence, the important thing is that the judge must have sufficient supporting documents other than the recommendation of the prosecutor, upon which to make his independent judgment.

Contrary to petitioner’s argument, the wordings of the February 27, 2017 Order reveal that respondent judge reviewed the available evidence and evaluated whether the same corresponds to the allegations in the Information. On this note, I agree with Justice Velasco that the respondent judge can be said to have even exceeded what is required of her under our procedural rules. In reviewing the evidence presented during the preliminary investigation and the Information, the respondent judge made a de novo determination of whether probable cause exists to charge petitioner in court.

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Neither can respondent judge be held to have committed grave abuse of discretion when she issued a warrant of arrest against petitioner before resolving her motion to quash. There is simply no urgency that justifies overriding the 10-day period set forth in Section 5(a) of Rule 112 of the Rules of Court for judicial determination of probable cause. It bears to be reminded that under Section 9[15] of Rule 117 of the Rules of Court, the court's lack of jurisdiction over the offense charged is a non-waivable ground to quash the information, which may be raised by the accused and resolved by the court even after the accused enters his plea.[16] Neither has petitioner presented a legal principle or rule which requires the court to resolve the motion to quash before issuance of the warrant of arrest.

The dissenting opinions posit that the judge should have resolved the issue of the RTC's jurisdiction of the case simultaneously with determining probable cause to order the arrest of the accused. It is interesting, however, to note that the dissenting opinions also recognize that there is no written rule or law which requires the judge to adopt such course of action. To my mind, the absence of an express rule that specifically requires the judge to resolve the issue of jurisdiction before ordering the arrest of an accused, highlights the lack of grave abuse of discretion on the part of respondent judge. To be sure, certiorari under Rule 65 is a remedy narrow in scope and inflexible in character. It is not a general utility tool in the legal workshop. It offers only a limited form of review. Its principal function is to keep an inferior tribunal within its jurisdiction. It can be invoked only for an error of jurisdiction, that is, one where the act complained of was issued by the court, officer or a quasi-judicial body without or in excess of jurisdiction, or with grave abuse of discretion which is tantamount to lack or in excess of jurisdiction, not to be used for any other purpose, such as to cure errors in proceedings or to correct erroneous conclusions of law or fact. A contrary rule would lead to confusion, and seriously hamper the administration of justice.[17]

The RTC has jurisdiction to try the case against petitioner

Conspiracy to commit illegal trading under Section 5,[18] in relation to Section 3(jj),[19] Section 26 (b)[20] and Section 28[21] of Republic Act (R.A.) No. 9165 or the "Comprehensive Dangerous Drugs Act of 2002" is within the jurisdiction of the RTC. This is plain from the text of the first paragraph of Section 90 of R.A. No. 9165, to wit:

> Sec. 90. Jurisdiction. - The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.
>
> xxxx (Emphasis ours)

Confusion as to the court which should properly take cognizance of petitioner's case is understandable. Truly, under Presidential Decree No. 1606, as amended by R.A. No. 8249 and R.A. No. 10660 (otherwise known as the Sandiganbayan Law), the law grants Sandiganbayan a broad authority to try high-ranking public officials. Further, Section 4(b) of the said law grants Sandiganbayan jurisdiction over "b. Other offenses or felonies committed by public officials and employees mentioned in subsection (a) of this section in relation to their office." In Lacson v. Executive Secretary, et al.,[22] this Court declared that the phrase "other offenses or felonies" is too broad as to include the crime of murder, provided it was committed in relation to the accused's official functions. Thus, under said paragraph "b", what determines the Sandiganbayan's jurisdiction is the official position or rank of the offender that is, whether he is one of those public officers or employees enumerated in paragraph "a" of Section 4. Petitioner's argument espousing that the Sandiganbayan has jurisdiction, is therefore, not totally unfounded.

However, the specific grant of authority to RTCs to try violations of the Comprehensive Dangerous Drugs Act is

categorical. Section 90 thereof explicitly provides that, "The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act."

By virtue of such special grant of jurisdiction, drugs cases, such as the instant case, despite the involvement of a high-ranking public official, should be tried by the RTC. The broad authority granted to the Sandiganbayan cannot be deemed to supersede the clear intent of Congress to grant RTCs exclusive authority to try drug-related offenses. The Sandiganbayan Law is a general law encompassing various offenses committed by high-ranking officials, while R.A. No 9165 is a special law specifically dealing with drug-related offenses. A general law and a special law on the same subject are statutes in pari materia and should, accordingly, be read together and harmonized, if possible, with a view to giving effect to both. The rule is that where there are two acts, one of which is special and particular and the other general which, if standing alone, would include the same matter and thus conflict with the special act, the special law must prevail since it evinces the legislative intent more clearly than that of a general statute and must not be taken as intended to affect the more particular and specific provisions of the earlier act, unless it is absolutely necessary so to construe it in order to give its words any meaning at all.[23] Neither does the amendment[24] in the Sandiganbayan Law, introduced in 2015, through R.A. No. 10660, affect the special authority granted to RTCs under R.A. No. 9165. It is a well-settled rule in statutory construction that a subsequent general law does not repeal a prior special law on the same subject unless it clearly appears that the legislature has intended by the latter general act to modify or repeal the earlier special law. Generalia specialibus non derogant (a general law does not nullify a specific or special law).[25]

Also, R.A. No. 10660, in giving the RTC jurisdiction over criminal offenses where the information does not allege any damage to the government, or alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (PhP 1 Million), cannot be used as a basis to remove from the RTC its jurisdiction to try petitioner's case just because the information alleges an amount involved exceeding PhP 1 Million.

It is useful to note that R.A. No. 10660 contains a transitory provision providing for the effectivity of the amendment, as follows:

> SEC. 5. Transitory Provision. - This Act shall apply to all cases pending in the Sandiganbayan over which trial has not begun: Provided, That: (a) Section 2, amending Section 4 of Presidential Decree No. 1606, as amended, on "Jurisdiction"; and (b) Section 3, amending Section 5 of Presidential Decree No. 1606, as amended, on "Proceedings, How Conducted; Decision by Majority Vote" shall apply to cases arising from offenses committed after the effectivity of this Act. (Emphasis ours)

Based from the provisions of R.A. No. 10660, it is clear that the changes introduced therein, particularly on jurisdiction, were made to apply to acts committed after the law's effectivity. Considering that the information alleges that the offense was committed on various occasions from November 2012 to March 2013, or two years before the effectivity of R.A. No. 10660 on May 5, 2015, said law cannot be applied to clothe Sandiganbayan jurisdiction over petitioner's case by virtue of the amount alleged in the Information.

The conclusion that the RTC has jurisdiction over the subject matter of petitioner's case is also supported by related provisions in R.A. No. 9165. Perusal of the said law reveals that public officials were never considered excluded from its scope. This is evident from the following provisions:

> Section 27. Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed - The penalty of

> life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any public office, shall be imposed upon any public officer or employee who misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in this Act.
>
> Any elective local or national official found to have benefited from the proceeds of the trafficking of dangerous drugs as prescribed in this Act, or have received any financial or material contributions or donations from natural or juridical persons found guilty of trafficking dangerous drugs as prescribed in this Act, shall be removed from office and perpetually disqualified from holding any elective or appointive positions in the government, its divisions, subdivisions, and intermediaries, including government-owned or -controlled corporations.
>
> Section 28. Criminal Liability of Government Officials and Employees. - The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees. (Emphasis supplied)

Taken with Section 90 of the same law, which states that RTCs are to "exclusively try and hear cases" involving violations of the Dangerous Drugs Act, it becomes apparent that public officials, so long as they are charged for the commission of the unlawful acts stated in R.A. No. 9165, may be charged in the RTC.

As to petitioner's allegation that her position as former Justice Secretary at the time the offense was purportedly committed removes the case from the RTC's jurisdiction, We agree with the discussion of the majority that since public or government position is not an element of the offense, it should not be deemed to be one committed in relation to one's office. Hence, the offense cannot be deemed as one sufficient to transfer the case to the Sandiganbayan.

Further, petitioner's insistence that the crime charged is Direct Bribery, instead of Conspiracy to Commit Illegal Trading, springs from a piecemeal reading of the allegations in the Information.

Under Philippine law, conspiracy should be understood on two levels. Conspiracy can be a mode of committing a crime or it may be constitutive of the crime itself. Generally, conspiracy is not a crime in our jurisdiction. It is punished as a crime only when the law fixes a penalty for its commission such as in conspiracy to commit treason, rebellion and sedition.[26] In this case, mere conspiracy to commit illegal drug trading is punishable in itself. This is clear from Section 26 of R.A. No. 9165, to wit:

> Sec. 26. Attempt or Conspiracy. - Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:
> xxxx
>
> (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
>
> xxxx.

When conspiracy is charged as a crime, the act of conspiring and all the elements of said crime must. be set forth in the complaint or information.[27] For example, the crime of "conspiracy to commit treason" is committed when, in time of war, two or more persons come to an agreement to levy war against the Government or to adhere to the enemies and to give them aid or comfort, and decide to commit it. The elements of this crime are: (1) that

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the offender owes allegiance to the Government of the Philippines; (2) that there is a war in which the Philippines is involved; (3) that the offender and other person or persons come to an agreement to: (a) levy war against the government, or (b) adhere to the enemies, to give them aid and comfort; and (4) that the offender and other person or persons decide to carry out the agreement. These elements must be alleged in the information.[28]

Applying the foregoing to the case at bar, in order to prosecute the offense of conspiracy to commit illegal trading, only the following elements are necessary:

- that two or more persons come to an agreement;

- the agreement is to commit drug trading, as defined in R.A. No. 9165, which refers to any transaction involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, email, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration.

- That the offenders decide to commit the offense.

A cursory reading of the Information charged against petitioner shows the aforesaid elements. To quote the Information:

INFORMATION

> The undersigned Prosecutors, constituted as a Panel pursuant to Department Orders 706 and 790 dated October 14, 2016 and November 11, 2016, respectively, accuse LEILA M. DE LIMA, RAFAEL MARCOS Z. RAGOS and RONNIE PALISOC DAYAN, for violation of Section 5, in relation to Section 3(jj), Section 26(b) and Section 28, Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, committed as follows:
>
> That within the period from November 2012 to March 2013, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then an employee of the Department of Justice detailed to De Lima, all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, did then and there commit illegal drug trading, in the following manner: De Lima and Ragos, with the use of their power, position and authority, demand, solicit and extort money from the high profile inmates in the new Bilibid Prison to support the Senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there willfully and unlawfully trade and traffic dangerous drugs, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of illegal drug trading amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly "tara" each from the high profile inmates in the New Bilibid Prison.
>
> CONTRARY TO LAW. (Emphasis ours)

The agreement to commit illegal drug trading is clear from the allegation that petitioner, along with her co-accused, solicited money from the inmates, and "by reason of which" the inmates were able to deal illegal drugs through the use of electronic devices inside NBP. Petitioner's assent to the said agreement is also apparent

from the allegation that she received or collected from the inmates, through her co-accused, the proceeds of illegal trading on various occasions. Clearly, the information alleges that illegal drug trading inside the New Bilibid prison was facilitated or tolerated because of, or "by reason" of the money delivered to then Secretary of Justice, petitioner.

Necessarily, I disagree with the point raised by Justice Carpio as to the necessity of including in the Information the elements of illegal sale of dangerous drugs. As stated above, what is punished in case of conspiracy is not the sale of the drugs itself, but the agreement itself to commit the offense of illegal trading. The gist of the crime of conspiracy is unlawful agreement, and where conspiracy is charged, it is not necessary to set out the criminal object with as great a certainty as is required in cases where such object is charged as a substantive offense.[29] Note must be taken of the definition used in R.A. No. 9165 that trading refers to all transactions involving "illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals x x x." Under Section 3(r) of R.A. No. 9165, trafficking covers "the illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of any dangerous drug and/or controlled precursor and essential chemical." To my mind, the aforesaid provisions highlight the Congress' intent to punish the illegal system or scheme of peddling illegal drugs, different or distinct from the component act of selling drugs. Hence, there is no need to treat the offense of conspiracy to commit illegal trading in the same way as illegal sale of drugs. The allegation of conspiracy in the Information should not be confused with the adequacy of evidence that may be required to prove it. A conspiracy is proved by evidence of actual cooperation; of acts indicative of an agreement, a common purpose or design, a concerted action or concurrence of sentiments to commit the felony and actually pursue it. A statement of the evidence on the conspiracy is not necessary in the Information.[30]

Further, I am also wary of the practical repercussions of requiring specific details of the component illegal transactions in an Information charging conspiracy of illegal drug trading. If allegations of the identities of the buyer, seller, consideration, delivery of the drugs or mode of payment thereof are to be required in the Information, it will be too unduly burdensome, if not outright unlikely, for the government to prosecute the top level officials or "big fish" involved in organizations or groups engaged in illegal drug operations. This is because top level officials would not be concerned with the day-to-day or with the minute details in the transactions at the grassroots level. In any case, the lack of knowledge on the part of the top persons in the drug operation organizations as to the individual transactions concerning the group, does not necessarily equate to their lack of assent to the illegal agreement.

No reason to reverse the preliminary recommendation of the DOJ Panel of Prosecutors

Petitioner also attacks the purported irregularities during the preliminary investigation and alleges that the filing of a criminal charge against her is mere political harassment. She also claims that her constitutional rights have been violated throughout the conduct of preliminary investigation, citing the cases of Salonga v. Paño,[31] Allado v. Diokno[32] and Ladlad v. Velasco.[33]

Petitioner failed to establish merit to the aforesaid contentions.

The court's review of the executive's determination of probable cause during preliminary investigation is not broad and absolute. The determination of probable cause during a preliminary investigation or reinvestigation is recognized as an executive function exclusively of the prosecutor.[34] In our criminal justice system, the public prosecutor has the quasi-judicial discretion to determine whether or not a criminal case should be filed in court. Courts must respect the exercise of such discretion when the information filed against the accused is valid on its face, and no manifest error, grave abuse of discretion or prejudice can be imputed to the public prosecutor.[35]

In this case, the fact that the primary basis of the Information was the testimonies of convicts in the National Bilibid Prison does not, of itself, indicate grave abuse of discretion, nor negate the existence of probable cause. Considering that the illegal trading was alleged to have been committed in the country's main penal institution, as well as the peculiar nature of the crime alleged to have been committed, the logical source of information as to the system and process of illegal trading, other than petitioner and her co-accused, are the prisoners thereof, who purportedly participated and benefitted from the scheme.

Petitioner's clamour to apply the rules on evidence is misplaced. This is because preliminary investigation is not part of the trial. In Artillero v. Casimiro,[36] citing Lozada v. Hernandez,[37] this Court explained the nature of a preliminary investigation in relation to the rights of an accused, as follows:

> It has been said time and again that a preliminary investigation is not properly a trial or any part thereof but is merely preparatory thereto, its only purpose being to determine whether a crime has been committed and whether there is probable cause to believe the accused guilty thereof. (U.S. vs. Yu Tuico, 34 Phil. 209; People vs. Badilla, 48 Phil. 716). The right to such investigation is not a fundamental right guaranteed by the constitution. At most, it is statutory. (II Moran, Rules of Court, 1952 ed., p. 673). And rights conferred upon accused persons to participate in preliminary investigations concerning themselves depend upon the provisions of law by which such rights are specifically secured, rather than upon the phrase "due process of law". (U.S. vs. Grant and Kennedy, 18 Phil., 122). (Emphasis ours)

Verily, the credibility and weight of the testimonies of the convicts are matters which are properly subject to the evaluation of the judge during trial of the instant case. For the purpose of determining whether the petitioner should be charged with Conspiracy to Commit Illegal Drug Trading, the statements of the witnesses, as discussed in the majority opinion, suffice. Further, whether or not there is probable cause for the issuance of warrants for the arrest of the accused is a question of fact based on the allegations in the Informations, the Resolution of the Investigating Prosecutor, including other documents and/or evidence appended to the Information. Hence, it is not incumbent upon this Court to rule thereon, otherwise, this Court might as well sit as a trier of facts.

Neither can We reverse the DOJ's determination by the invocation of this Court's ruling in Allado, Salonga, and Ladlad and declare that petitioner is politically persecuted for the simple reason that there are glaring factual differences between the said cases and the one at bar.

In the case of Allado, the Presidential Anti-Crime Commission operatives who investigated the murder of therein victim, claimed that petitioners were not the mastermind of the crime, and it was actually another person.

Meanwhile, in the case of Salonga, this Court invalidated the resolutions of therein respondent judge finding probable cause against Salonga because the prosecution's evidence miserably failed to establish Salonga's specific act constituting subversion. In that case, Salonga was tagged as a leader of subversive organizations because: 1) his house was used as a "contactpoint"; and (2) "he mentioned some kind of violent struggle in the Philippines being most likely should reforms be not instituted by President Marcos immediately." The alleged acts do not obviously constitute subversion.

Similarly, in the case of Ladlad, majority of the prosecution witnesses did not name Crispin Beltran as part of a rebellion plot against the government.

Certainly, the aforesaid circumstances do not obtain in the case of petitioner. Her co-accused, along with the NBP inmates, uniformly name her as the "big fish", in the scheme to trade illegal drugs in prison. Such statements, which petitioner failed to rebut by countervailing evidence, suffice to establish a prima facie case against her. The term prima facie evidence denotes evidence which, if unexplained or uncontradicted, is sufficient to sustain the proposition it supports or to establish the facts, or to counterbalance the presumption of innocence to warrant a

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conviction.[38]

Owing primarily to the nature of preliminary investigation, and being cognizant of the stage at which the case is currently in, it would be baseless, not to mention unfair, to examine every single piece of evidence presented by the prosecution under the same rules observed during trial. Petitioner is surely familiar with the legal principle that during preliminary investigation, the public prosecutors do not decide whether there is evidence beyond reasonable doubt of the guilt of the person charged; they merely determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and that respondent is probably guilty thereof, and should be held for trial.[39]

Indeed, courts are bound to respect the prosecution's preliminary determination of probable cause absent proof of manifest error, grave abuse of discretion and prejudice. The right to prosecute vests the prosecutor with a wide range of discretion—the discretion of what and whom to charge, the exercise of which depends on a smorgasbord of factors which are best appreciated by prosecutors.[40]

For sure, the conclusion herein reached merely touches on the preliminary issue of the propriety of the course of action taken by the DOJ Panel of Prosecutors and by respondent judge in petitioner's case. It has no relation nor bearing to the issue of petitioner's innocence or guilt on the offense charged. The validity and merits of a party's defense or accusation, as well as admissibility of testimonies and evidence, are better ventilated during trial proper.[41] In any case, as discussed above, the circumstances of the instant case fails to establish that respondents' acts were exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility.

WHEREFORE, I vote to DENY the petition.

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[1] Binay v. Sandiganbayan, G.R. Nos. 120681-83 & G.R. No. 128136, October 1, 1999.

[2] People v. Baldogo, G.R. Nos. 128106-07, January 24, 2003.

[3] Tan v. Spouses Antazo, G.R. No. 187208, February 23, 2011.

[4] See Enrile v. Judge Manalastas, G.R. No. 166414, October 22, 2014; Soriano vs. People, G.R. Nos. 159517-18, June 30, 2009

[5] (g) Unless a shorter period is provided by special law or Supreme Court circular, the arraignment shall be held within thirty (30) days from the date the court acquires jurisdiction over the person of the accused. The time of the pendency of a motion to quash or for a bill of particulars or other causes justifying suspension of the arraignment shall be excluded in computing the period.

[6] Heirs of Penaverde v. Heirs of Penaverde, G.R. No. 131141, October 20, 2000.

[7] See Madara et al. v. Judge Perello, G.R. No. 172449, August 20, 2008.

[8] See Quesada v. Department of Justice, G.R. No. 150325, August 31, 2006, citing People of the Philippines v. Cuaresma, G.R. No. 67787, April 18, 1989.

[9] Banez v. Concepcion, G.R. No. 159508, August 29, 2012.

[10] Id.

[11] Sec. 6. When warrant of arrest may issue. - (a) By the Regional Trial Court. - Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its

supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 7 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue must be resolved by the court within thirty (30) days from the filing of the complaint of information.

[12] Sec. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

[13] Okabe v. Gutierrez, G.R. No. 150185, May 27, 2004.

[14] Id.

[15] Sec. 9. Failure to move to quash or to allege any ground therefor. - The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g), and (i) of section 3 of this Rule.

[16] See Marcos v. Sandiganbayan, G.R. Nos. 124680-81, February 28, 2000; Madarang and Kho vs. Court of Appeals, G.R. No. 143044, July 14, 2005.

[17] Heirs of Bilog v. Melicor, G.R. No. 140954, April 12, 2005.

[18] Sec. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. - The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions. x x x

[19] (jj) Trading. - Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, email, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.

[20] Sec. 26. Attempt or Conspiracy. -Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

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(b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;

[21] Sec. 28. Criminal Liability of Government Officials and Employees. - The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees.

[22] G.R. No. 128096, January 20, 1999, 301 SCRA 298.

[23] Vinzons-Chato v. Fortune Tobacco Corporation, G.R. No. 141309, June 19, 2007.

[24] Sec. 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

xxxx

b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a. of this section in relation to their office.

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).

Subject to the rules promulgated by the Supreme Court, the cases falling under the jurisdiction of the Regional Trial Court under this section shall be tried in a judicial region other than where the official holds office.

xxxx (Emphasis ours)

[25] Social Justice Society v. Atienza, G.R. No. 156052, February 13, 2008.

[26] Lazarte v. Sandiganbayan, G.R. No. 180122, March 13, 2009.

[27] See People of the Philippines v. Ara, G.R. No. 185011, December 23, 2009.

[28] See Estrada v. Sandiganbayan, G.R. No. 148965, February 26, 2002.

[29] Estrada v. Sandiganbayan, supra note 28.

[30] Lazarte v. Sandiganbayan, supra note 26.

[31] G.R. No. L-59524, February 18, 1985.

[32] G.R. No. 113630, May 5, 1994.

[33] G.R. Nos. 172070-72, June 1, 2007.

[34] Dupasquier v. Court of Appeals, G.R. Nos. 112089 & 112737, January 24, 2001.

[35] Id.

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[36] G.R. No. 190569, April 25, 2012.

[37] 92 Phil. 1051 (1953).

[38] Bautista v. Court of Appeals, G.R. No. 143375, July 6, 2001.

[39] People v. Castillo and Mejia, G.R. No. 171188, June 19, 2009.

[40] Leviste v. Alameda, G.R. No. 182677, August 3, 2010.

[41] United Coconut Planters Bank v. Looyuko and Go, G.R. No. 156337, September 28, 2007.

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