

JANET LIM NAPOLES, PETITIONER, VS. HON. CONCHITA CARPIO MORALES IN HER CAPACITY AS OMBUDSMAN, PEOPLE OF THE PHILIPPINES, AND SANDIGANBAYAN, RESPONDENTS.

G.R. Nos. 216838-39. October 10, 2023

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

Certiorari is an extraordinary prerogative writ that is not demandable as a matter of right. For the Court to even consider a petition for certiorari, it must clearly and convincingly show the presence of grave abuse of discretion.[1]

At the crosshairs of the instant consolidated petitions for certiorari[2] are the Joint Resolution[3] and the Joint Order[4] of the Office of the Ombudsman (OMB) in OMB Case Nos. OMB-C-C-13-0320 and OMB-C-C-14-0017 entitled "National Bureau of Investigation and Atty. Levito D. Baligod v. Rizalina L. Seachon-Lanete, et al.," and "Field Investigation Office, Office of the Ombudsman v. Rizalina L. Seachon-Lanete, et al.," respectively.

The Joint Resolution gave due course to the complaints of the National Bureau of Investigation (NBI)[5] and the OMB-Field Investigation Office,[6] and recommended the filing of Informations[7] against petitioners Janet Lim Napoles (Napoles), John Raymund De Asis (De Asis), and Allan A. Javellana (Javellana), along with others. In the Joint Resolution, the Ombudsman found probable cause to indict Napoles for one count of plunder and 11 counts of violation of Section 3(e)[8] of Republic Act No. 3019.[9] De Asis, on the other hand, was inculcated for one count of plunder and two counts of violation of Section 3(e) of Republic Act No. 3019. Finally, Javellana was charged with three counts of violation of Section 3(e) of Republic Act No. 3019.

The diegesis of the case is synthesized as follows:

In their fight to uncover the truth, the NBI and Atty. Levito Baligod, private counsel for principal witness Benhur Luy (Luy) and other whistleblowers, filed a letter-complaint[10] (NBI complaint) against then Masbate 3rd District Representative Rizalina L. Seachon-Lanete (Representative Seachon-Lanete), Napoles, Javellana, and several others,[11] for plunder, docketed as OMB-C-C-13-0320. On the other hand, the OMB-Field Investigation Office lodged a similar complaint,[12] docketed as OMB-C-C-14-0017, charging Napoles, De Asis, Javellana, and several others with plunder and violation of Section 3(e) of Republic Act No. 3019. The whistleblowers of the "pork barrel scam" or "PDAF scam" perpetrated through a scheme that utilized the Priority Development Assistance Fund (PDAF) allocated to the members of Congress were the then employees of Napoles in Janet Lim Napoles (JLN) Corporation, namely: Luy, Marina Sula (Sula), and Merlina Suñas (Suñas).[13] Napoles, De Asis, Javellana, and their co-respondents were charged as co-conspirators for their respective participations in the anomalous PDAF scam involving the illegal utilization and pillaging of public funds sourced from the PDAF of Representative Seachon-Lanete for the years 2007-2009 in the total amount of PHP 112,290,000.00,[14] committed as follows—

As culled from Luy's testimony, Napoles negotiated for the use of Representative Seachon-Lanete's PDAF allocation in exchange for a "commission" or "kickback" amounting to a certain percentage of the PDAF.[15] Representative Seachon-Lanete's commission was pegged at 60% for the years 2007-2009.[16] Upon agreement on the conditions of the PDAF acquisition, Napoles advanced the portion of the lawmaker's kickback using her own money to commence the scheme.[17] Several JLN-controlled dummy non-governmental organizations (NGOs) were created and operated purposely to serve as conduits for the government funds pursuant to the directives of Napoles.[18] To make it appear that the projects were implemented, JLN Corporation and the JLN-controlled NGOs, acting on the orders of Napoles, used spurious receipts and liquidation documents.[19] Several machinations were likewise employed in securing the funds from the implementing agencies and liquidating disbursements.[20] Ultimately, the PDAF funds directed through the JLN-controlled NGOs to JLN Corporation were ultimately misappropriated.[21]

De Asis, the driver/messenger/janitor of Napoles, was charged for having assisted in the fraudulent processing and releasing of the PDAF funds to the JLN-controlled NGOs,[22] as well as his designation as incorporator and as member of the board of trustees of Countrywide Agri and Rural Economic Development, Inc. (CARED), a JLN-controlled NGO.[23]

Javellana's involvement was anchored on his work as former Director and President of National Agribusiness Corporation (NABCOR).[24] Along with Representative Seachon-Lanete, he was a signatory to several memorandums of agreement, i.e., ROCS-08-07174 Memorandum of Agreement (MOA), ROCS-08-03727 MOA, and ROCS-09-04182 MOA,[25] and likewise approved disbursement vouchers as well as co-signed the corresponding checks issued to the NGOs[26] in relation to the PDAF of Representative Seachon-Lanete.[27]

Investigations conducted by the NBI and the OMB-Field Investigation Office revealed that during Representative Seachon-Lanete's term as legislator for the 3rd District of Masbate from 2004 to 2010, she repeatedly endorsed the implementation of her PDAF-funded projects to JLN-controlled NGOs. For calendar years 2007-2009, her PDAF allotment was PHP 115,000,000.00, covered by Special Allotment Release Order Nos. ROCS-07-00699, ROCS-07-02116, ROCS-07-02964, ROCS-07-07211, ROCS-07-09368, ROCS-08-00123, ROCS-08-00124, ROCS-08-03727, ROCS-08-07174, ROCS-08-07175, ROCS-09-01695, ROCS-09-04182, and G-09-07620.[28] She then requested for the release of PHP 112,290,000.00 of her allotted budget to various implementing agencies, particularly: Technology Resource Center (TRC), NABCOR, and the National Livelihood Development Corporation (NLDC). Thereafter, PHP 107,341,300.00 of the budget was endorsed by the implementing agencies to several JLN-controlled NGOs as "project partners, e.g., Countrywide Agri and Rural Economic Development, Inc. (CARED), Masaganang Ani Para sa Magsasaka Foundation, Inc. (MAMFI), Philippine Social Development Foundation, Inc. (PSDFI), and Social Development Program for Farmers Foundation, Inc. (SDPFFI)."[29]

Thence, the OMB directed Napoles, De Asis, and Javellana, along with several others, to submit their respective counter-affidavits, to which they complied with.[30]

Professing her innocence, Napoles avowed that Luy fabricated his testimony to evade possible imprisonment for an ongoing trial for the crime of qualified theft. She likewise expostulated that the complaints were insufficient in form and substance, and consisted of general and sweeping allegations which violated her right to due process. Finally, she questioned the credibility of the whistleblowers, harping on the supposed inconsistencies and contradictions in their testimonies.[31]

For his part, De Asis avowed that there was a dearth of evidence that would prove his willful participation in any of the unlawful acts constituting the scheme or pattern in furtherance of amassing ill-gotten wealth. He averred further that he was merely running errands and performing his duties in good faith as driver/messenger/janitor of

Napoles without any knowledge of the purpose of his tasks or that said acts constituted an elaborate scheme to commit any criminal offense.[32]

Javellana, on the other hand, denied preparing any of the documents relating to the NABCOR-implemented projects funded by PDAF. He insisted that NABCOR's PDAF Department was in charge of the transactions, and he merely signed the documents in good faith, upon recommendation of his subordinates in NABCOR.[33]

In due course, the OMB issued the challenged 104-page Joint Resolution finding probable cause to indict, among others, Napoles and De Asis for one count of plunder, and Napoles, De Asis, and Javellana for 11, two, and three counts, respectively, of violation of Section 3(e) of Republic Act No. 3019.

The OMB resolved that the diversion of Representative Seachon-Lanete's PDAF was coursed through a complex scheme involving various participants from her office, the Department of Budget and Management (DBM), the implementing agencies, and the JLN-controlled NGOs.[34] Consequently, the OMB concluded that through the said scheme, Napoles, De Asis, Javellana, and their cohorts were able to siphon government funds in the aggregate amount of PHP 112,290,000.00, with at least PHP 73,065,000.00 received from 2007 to 2009 by Representative Seachon-Lanete.[35]

On this score, the OMB held that probable cause existed against Representative Seachon-Lanete, Napoles, and Javellana, among others, for plunder, taking into consideration that: (a) Representative Seachon-Lanete was a public officer at the time material to the charges; (b) with the help of her cohorts, who were public officers and private individuals, Representative Seachon-Lanete amassed, accumulated, or acquired ill-gotten wealth through their intricate modus operandi; and (c) such ill-gotten wealth amounted to at least PHP 73,065,000.00, which was more than the threshold amount of PHP 50,000,000.00 required in the crime of plunder.[36]

In the same vein, the OMB established probable cause to charge Representative Seachon-Lanete, De Asis, and Javellana, along with several others, with violation of Section 3(e) of Republic Act No. 3019 in light of the following: (a) Representative Seachon-Lanete and Javellana, et al. were all public officers, while Napoles and De Asis, private individuals, both conspired with these public officers; (b) the said public officers exhibited manifest partiality and granted unwarranted benefits to Napoles and her cohorts by favoring the JLN-controlled NGOs without complying with the requisite public bidding and without having been authorized by an appropriation law or ordinance, as legally mandated; (c) these public officers likewise exhibited bad faith by unduly benefiting from the ghost PDAF-funded projects through the receipt of "commissions," "kickbacks," and the like; and (d) their collective acts caused undue injury to the government in the aggregate amount of PHP 112,290,000.00.[37]

Accordingly, separate motions for reconsideration were timely filed by Napoles,[38] De Asis,[39] and Javellana.[40]

On November 26, 2014, the OMB issued the impugned Joint Order denying, inter alia, the motions for reconsideration.

This led to the filing of the instant petitions before this Court, docketed as G.R. Nos. 216838-39, 216846-47, and 216854-55, remonstrating against the OMB issuances and imputing grave abuse of discretion on the part of this constitutional office.

G.R. Nos. 216838–39

Petitioner Napoles contends that the OMB committed grave abuse of discretion amounting to lack or excess of jurisdiction when it—

a. RULED THAT THE COMPLAINTS, WHICH SERVED AS BASES FOR THE JOINT RESOLUTION

AND JOINT ORDER, ARE SUFFICIENT BOTH IN FORM AND IN SUBSTANCE;

b. ISSUED THE JOINT RESOLUTION AND JOINT ORDER NOTWITHSTANDING THAT THE COMPLAINTS CLEARLY FAILED TO ALLEGE AND SUBSTANTIATE THE ELEMENTS FOR VIOLATION OF SECTION 2 OF RA [NO.] 7080 ALSO KNOWN AS ANTI-PLUNDER LAW, AS AMENDED;

c. ISSUED THE JOINT RESOLUTION AND JOINT ORDER NOTWITHSTANDING THAT THE COMPLAINTS CLEARLY FAILED TO ALLEGE AND SUBSTANTIATE THE ELEMENTS FOR VIOLATION OF SECTION 3(E) OF RA [NO.] 3019, OTHERWISE KNOWN AS THE ANTI-GRAFT & CORRUPT PRACTICES ACT;

d. FOUND PROBABLE CAUSE NOTWITHSTANDING THE GLARING INSUFFICIENCY OF THE ALLEGATIONS IN THE COMPLAINTS, WHICH FAILED TO ESTABLISH A PATTERN OF OVERT OR CRIMINAL ACTS INDICATIVE OF THE OVERALL UNLAWFUL SCHEME OF CONSPIRACY; AND

e. ISSUED THE ASSAILED JOINT RESOLUTION AND JOINT ORDER BASED ON HEARSAY, SELF-SERVING AND TOTALLY INADMISSIBLE EVIDENCE.[41] (Emphasis in the original)

G.R. Nos. 216846–47

Petitioner De Asis, for his part, asseverates that the OMB acted with grave abuse of discretion amounting to lack or excess of jurisdiction in finding probable cause against him for plunder and for violation of Section 3(e) of Republic Act No. 3019, notwithstanding that—

1.

THE NBI COMPLAINT DID NOT CHARGE PETITIONER WITH ANY OFFENSE.

2.

THE [OMB – FIELD INVESTIGATION OFFICE] COMPLAINT CLEARLY FAILED TO ALLEGE AND SUBSTANTIATE THE ELEMENTS FOR PLUNDER.

a.

THERE IS NO EVIDENCE TO SHOW THAT PETITIONER DE ASIS KNOWINGLY TOOK PART IN ANY OF THE ACTS CONSTITUTING THE CRIME CHARGED, WITH KNOWLEDGE AND INTENT TO DO SO, TOWARDS A COMMON PURPOSE OF AMASSING ILL-GOTTEN WEALTH IN CONNIVANCE WITH THE RESPONDENTS IN THE OMBUDSMAN CASE.

b.

THERE IS NO SHOWING OF ANY CRIMINAL INTENT ON THE PART OF PETITIONER TO COMMIT THE CRIME OF PLUNDER, WHICH IS MALUM IN SE. AT ALL TIMES, PETITIONER ACTED WITHIN THE BOUNDS OF HIS DUTIES AS DRIVER/MESSENGER/BODYGUARD [/]JANITOR AND IN GOOD FAITH, WITHOUT ANY KNOW[LE]DGE OF ANY OF THE ACTS CONSTITUTING THE CRIME CHARGED.

3.

THE [OMB – FIELD INVESTIGATION OFFICE] COMPLAINT CLEARLY FAILED TO ALLEGE AND SUBSTANTIATE THE ELEMENTS OF THE SAID OFFENSE.[42] (Emphasis in the original)

G.R. Nos. 216854–55

Meanwhile, petitioner Javellana maintains that the OMB committed grave abuse of discretion amounting to lack or excess of jurisdiction when it—

A.

FAILED TO RULE THAT ALAN A. JAVELLANA WAS IN GOOD FAITH IN ACCORDANCE WITH THE ARIAS DOCTRINE.

B.

RULED THAT THERE IS PROBABLE CAUSE TO INDICT THE PETITIONER ALAN A. JAVELLANA FOR VIOLATION OF SECTION 3(E) OF REPUBLIC ACT NO. 3019.[43] (Emphasis in the original)

The Petitions are barren of merit.

Discernibly, the crux of the controversy revolves around the issue of whether the OMB committed any grave abuse of discretion in rendering the challenged order and resolution ultimately finding probable cause against petitioners for the charges against them.

The burden of demonstrating all the facts essential to establish the right to a writ of certiorari lies with Napoles, et al. They must sufficiently prove that the Joint Resolution and the Joint Order finding probable cause to indict them may be reviewed or even set aside by this Court based on the narrow ground of grave abuse of discretion amounting to lack or excess of jurisdiction.[44]

Time and again, the Court has consistently refrained from interfering with the discretion of the OMB to determine the existence of probable cause and to decide whether an Information should be filed. This observed policy is based not only in respect for the investigatory and prosecutory powers granted by the 1987 Constitution to the OMB, but upon practicality as well.[45] The Court's pronouncement in *Ciron v. Ombudsman Gutierrez*[46] is explicit—

[T]his Court's consistent policy has been to maintain non--interference in the determination of the Ombudsman of the existence of probable cause, provided there is no grave abuse in the exercise of such discretion. This observed policy is based not only on respect for the investigatory and prosecutory powers granted by the Constitution to the Office of the Ombudsman but upon practicality as well. Otherwise, the functions of the Court will be seriously hampered by innumerable petitions assailing the dismissal of investigatory proceedings

conducted by the Office of the Ombudsman with regard to complaints filed before it, in much the same way that the courts would be extremely swamped with cases if they could be compelled to review the exercise of discretion on the part of the fiscals or prosecuting attorneys each time they decide to file an information in court or dismiss a complaint by a private complainant.[47] (Emphasis in the original)

In *Reyes v. Hon. Ombudsman*,[48] however, the Court held that it is not precluded from reviewing the Ombudsman's action when there is a charge of grave abuse of discretion[49] —

Grave abuse of discretion implies a capricious and whimsical exercise of judgment tantamount to lack of jurisdiction. The Ombudsman's exercise of power must have been done in an arbitrary or despotic manner which must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.

....

In assessing if the Ombudsman had committed grave abuse of discretion, attention must be drawn to the context of its ruling — that is: preliminary investigation is merely an inquisitorial mode of discovering whether or not there is reasonable basis to believe that a crime has been committed and that the person charged should be held responsible for it. Being merely based on opinion and belief, a finding of probable cause does not require an inquiry as to whether there is sufficient evidence to secure a conviction.

....

[P]robable cause, for the purpose of filing a criminal information, has been defined as such facts as are sufficient to engender a well-founded belief that a crime has been committed and that respondent is probably guilty thereof. The term does not mean 'actual or positive cause' nor does it import absolute certainty. It is merely based on opinion and reasonable belief. Probable cause does not require an inquiry [into] whether there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of constitutes the offense charged.[50] (Emphasis supplied, citation omitted)

Simply put, in determining the elements of the crime charged for purposes of arriving at a finding of probable cause, only facts sufficient to support a prima facie case against the [accused] are required, not absolute certainty. A finding based on more than bare suspicion but less than evidence that would justify a conviction would suffice.[51]

In the case at bench, Napoles, et al. were charged with the crimes of plunder and/or violations of Section 3(e) of Republic Act No. 3019.

The Court, in *Cambe v. Office of the Ombudsman*,[52] took occasion to expound on the crime of plunder. Plunder, defined and penalized under Section 2 of Republic Act No. 7080[53] (now Section 12[54] of Republic Act No. 7659[55]) has the following elements: (a) that the offender is a public officer, who acts by [oneself] or in connivance with members of [one's] family, relatives by affinity or consanguinity, business associates, subordinates or other persons; (b) that [one] amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts described in Section 1(d)[56] thereof; and (c) that the aggregate amount or total value of the ill-gotten wealth amassed, accumulated or acquired is at least Fifty Million Pesos ([PHP] 50,000,000.00).[57]

The elements of violation of Section 3 (e)[58] of Republic Act No. 3019, on the other hand, are: (a) that the accused must be a public officer discharging administrative, judicial, or official functions (or a private individual acting in conspiracy with such public officers); (b) that [the accused] acted with manifest partiality, evident bad faith, or inexcusable negligence; and (c) that [the accused's] action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the

discharge of [such accused's] functions.[59]

In determining probable cause therefor, only a showing of the ostensible presence of the aforementioned elements is required.

Cambe instructs how probable cause is determined, thusly:

It should be borne in mind that probable cause is determined during the context of a preliminary investigation which is "merely an inquisitorial mode of discovering whether or not there is reasonable basis to believe that a crime has been committed and that the person charged should be held responsible for it." It "is not the occasion for the full and exhaustive display of the prosecution's evidence." Therefore, "the validity and merits of a party's defense or accusation, as well as the admissibility of testimonies and evidence, are better ventilated during trial proper than at the preliminary investigation level." Accordingly, "owing to the initiatory nature of preliminary investigations, the technical rules of evidence should not be applied in the course of its proceedings." In this light, and as will be elaborated upon below, this Court has ruled that 'probable cause can be established with hearsay evidence, as long as there is substantial basis for crediting the hearsay,' and that even an invocation of the rule on *res inter alios acta* at this stage of the proceedings is improper.[60] (Emphasis supplied)

Guided by the foregoing jurisprudential touchstones, the Court finds that the OMB did not gravely abuse its discretion in finding probable cause to indict petitioners Napoles, et al. for plunder and/or violation of Section 3(e) of Republic Act No. 3019.

The Court endeavors to expound such disquisition.

In G.R. Nos. 216838-39, Napoles remonstrates against the September 26, 2014 Joint Resolution and November 26, 2014 Joint Order which found probable cause against her for plunder and for violation of Section 3(e) of Republic Act No. 3019. Essentially, she maintains that the complaints filed against her were insufficient in form and substance as the same did not establish the specific acts of the crimes she purportedly committed. She further avers that since she is not a public officer, she cannot be subjected to prosecution by the OMB before the Sandiganbayan. Finally, she questions the credibility of the whistleblowers harping on the supposed inconsistencies in their testimonies.

Napoles is grasping at straws.

Anent her complicity in the crimes charged, records show that, in all reasonable likelihood, she played an integral role in the strategic misuse of Representative Seachon-Lanete's PDAF. Napoles' participation in the systematic pillaging of the lawmaker's PDAF was demystified by the affidavits of the whistleblowers Luy, Sula, and Suñas, as follows:

- The initial discussion starts with [Napoles] and the Lawmaker with respect to the utilization of the latter's PDAF. Either the Lawmaker or [Napoles] initiates the negotiations.

During this stage, the Lawmaker and [Napoles] would discuss the list of projects, description or purpose of the projects, corresponding [to] implementing government agency project cost.

The "commission" or "rebate" of the Lawmaker based on the project cost from PDAF allocation that is granted to [Napoles] and her NGOs is also discussed at this stage. The agreement on the share of the Lawmaker ranges from forty to sixty percent (40-60%) of the total project cost or forty to sixty percent (40-60%) of the amount stated in the SARO (LAWMAKER'S COMMISSION).

The mode and schedule of payment to the Lawmaker is [sic] also agreed upon at this stage. [Napoles] and the Lawmaker agree that the share of the latter is to be given prior to the release of the check payable to the

selected NGO, and in two (2) tranches. Half of the LAWMAKER'S COMMISSION is to be given upon receipt by [Napoles] from the Lawmaker of the List of the Projects identified by the latter with proof of receipt by the Department of Budget and Management (DBM) of said list. The other half of the LAWMAKER'S COMMISSION is handed to the Lawmaker after receipt of the copy of the SARO by [Napoles].

- After the negotiations, and upon the instruction of [Napoles], [Luy] prepares the so-called "Listing." Said document contains the list of the projects allocated by the Lawmaker to [Napoles] and her NGOs, project title or description, name of the implementing agency under the General Appropriations Act (GAA) Menu, and project cost. Thereafter, [Napoles] submits the "Listing" to the lawmaker concerned.

- The Lawmaker prepares a letter, who adopts and/or incorporates the "Listing" submitted to him by [Napoles], to the Senate President and the Finance Committee Chairperson, in case of a Senator, or to the Speaker of the House and the Chairperson of the Appropriations Committee, in case of District/Party List Representative. Subsequently, the Lawmaker endorses said letter to the DBM by the Lawmaker.

- After receipt by the DBM of a copy of the letter from the Lawmaker, with the endorsement of the proper Office/Committee, the Lawmaker concerned gives a copy of the letter with a "received" stamp to [Napoles]. [Napoles] then gives the Lawmaker the agreed advance LAWMAKER'S COMMISSION.

- [Luy] and/or other [Napoles'] employees follow-up the release of the SARO from the DBM. They cite the details of the letter of the Lawmaker to expedite the release of the SARO.

- Upon release of the SARO, DBM furnishes a copy of the same to the Lawmaker who then gives a copy of said document to [Napoles] or sends a copy to the office of JLN Corporation.

- Upon receipt of the SARO provided by the Lawmaker, [Napoles] orders her employees to prepare the money corresponding to the LAWMAKER'S COMMISSION which is delivered to the Lawmaker or his/her authorized representative, either by the authorized representative collecting the money in the office of JLN Corporation or by JLN employees delivering the LAWMAKER'S COMMISSION at the Lawmaker's or his/her authorized representative's residence.

- [Napoles], who chooses the NGO owned or controlled by her that will implement the project, instructs her employee to prepare a letter for the Lawmaker's signature endorsing the selected NGO to the Implementing Agency.

- In consideration of the payment received and in compliance with the prior agreement with [Napoles], the Lawmaker affixes his signature, thereby endorsing the selected NGO to the Implementing Agency. Subsequently, the Implementing Agency prepares a Memorandum of Agreement (MOA) between the agency and the selected NGO.

An employee of [Napoles] secures a copy of the MOA from the Implementing Agency. In most cases, the President of the NGO signs the MOA ahead of the Lawmaker.

- Simultaneous with the signing of the letter endorsing the NGO and the MOA. [Napoles] also gives from 1%-5% of the total project cost to the Chief of Staff of the Lawmaker.

- Either [Napoles], her employee, or the Legislator's staff submits the signed letter endorsing the name of the selected NGO and the signed MOA to the Implementing Agency.

- [Napoles'] employees make follow-ups with the DBM regarding the release of the Notice of Cash Allocation (NCA). Upon the release of the NCA, the Implementing Agency will be notified of the same. The Implementing Agency will then issue a check to the NGO mentioned in the endorsement letter of the Lawmaker.

[Napoles], who has a prior agreement to give 10% of the project cost to the Head of the Implementing Agency,

makes personal follow-ups on the release of the check from the Head of the Implementing Agency.

The 10% commission payable to the Head of the Implementing Agency is computed based on the amount released to the selected NGO. If the first release is ninety percent (90%) of the total project cost, the Head of the Agency will receive 10% of the 90% from [Napoles]. The remaining 10% share of the Head of the Implementing Agency from the remaining unreleased amount (10% of the total project cost) will be received by said Head upon the issuance of the corresponding check for the unreleased amount.

- The succeeding checks will be issued upon compliance with the necessary documentation. In practice, however, even without checking the veracity of the submitted documents, such as official receipts, delivery receipts, sales invoices, inspection reports, delivery reports, certificates of acceptance, terminal reports and master list of beneficiaries, the checks are issued.

- [Napoles'] employees coordinate with the bank of the selected NGO to prepare the amount to be withdrawn upon the clearing of the check.

- Upon withdrawal of the money from the bank, JLN employees bring the money to the office of JLN Corporation where it will be recounted. [Napoles] will then decide how much will be left in the office and how much will be brought to the [Napoles] residence in Taguig City."^[61]

The NBI and OMB-Field Investigation Office's on-site verification, coupled with the reports submitted by the Commission on Audit (COA) through its Special Audit Office following the audit of Representative Seachon-Lanete's PDAF allocations and disbursements covering the period 2007-2009,^[62] further bolstered the findings that the PHP 112,290,000.00 PDAF of the lawmaker was never used for the intended projects, and the documents submitted by the NGOs/project partners to the implementing agencies were all fabricated. Along this grain, it does not escape the mind of this Court that the NGOs/project partners were selected without public bidding.

Based on the prima facie case presented, the Court is convinced that there exists probable cause against Napoles for the charge of plunder as it has been ostensibly established that: (a) in conspiracy with Representative Seachon-Lanete, a public officer who supposedly abused her authority, and other personalities, she (Napoles) was significantly involved in the aforementioned illicit scheme to obtain Representative Seachon-Lanete's PDAF; (b) Representative Seachon-Lanete repeatedly received ill-gotten wealth in the form of "kickbacks" for the years 2007-2009; and (c) the total value of "kickbacks" given to her amounted to at least PHP 73,065,000.00.^[63]

There is likewise probable cause against Napoles for violations of Section 3(e) of Republic Act No. 3019, as it is apparent that: (a) she conspired with public officials, i.e., Representative Seachon-Lanete and her chief of staff, who exercised official functions whenever they would enter into transactions involving illegal disbursements of the PDAF; (b) Representative Seachon-Lanete, inter alia, has shown manifest partiality and evident bad faith by repeatedly endorsing the JLN-controlled NGOs as beneficiaries of her PDAF-funded projects sans the benefit of a public bidding and/or negotiated procurement, in contravention of existing laws, rules, and regulations on government procurement; and (c) the non-existing PDAF-funded projects caused undue prejudice to the government in the amount of PHP 112,290,000.00.

Apropos Napoles' insistence that as a private individual, she cannot be held liable for the crimes of plunder and violations of Section 3(e) of Republic Act No. 3019, this Court hews to the doctrinal precept that while the primary offender in the aforesaid crimes are public officers, private individuals may also be held liable for the same if they are found to have conspired with said officers in committing the same. This proceeds from the fundamental principle that in cases of conspiracy, the act of one is the act of all.^[64] Thusly, given Napoles' crucial role in the illegal hemorrhaging of Representative Seachon-Lanete's PDAF, the OMB aptly charged her

for the said crimes, together with Representative Seachon-Lanete, as a co-conspirator, as well as their cohorts.

It is likewise Napoles' unyielding stance that the complaints against her are insufficient in form and in substance. She professes that said complaints lacked certain particularities, such as the time, place, and manner of the commission of the crimes charged.

Napoles' polemics fail to persuade.

Rule 110, Section 6 of the Revised Rules of Criminal Procedure cannot be any clearer:

SECTION 6. Sufficiency of complaint or information. — A complaint or information is sufficient if it states 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 date of the commission of the offense; and the place where the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information.

The Court had explicated on the sufficiency of information in the case of *Jalandoni v. Office of the Ombudsman*,^[65] viz.:

An information is deemed sufficient if the acts or omissions complained of are alleged in a way that enables "a person of common understanding to know what offense is intended to be charged[.]" allows them to prepare their defense, and equips the court to render proper judgment. Thus, an information must clearly and accurately allege the elements of the crime and the circumstances constituting the charge.^[66]

In alleging the acts or omissions, the wording of the information need not be an exact reproduction of the law. Rule 110, Section 9 of the same Rules provides guidance:

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

In this case, the following averments in the NBI and the OMB-Field Investigation Office complaints snugly fit into the realm of Section 6, Rule 110: (1) Napoles, De Asis, and Javellana, among others, were responsible for the PDAF scam through their concerted illegal actions; (2) Napoles, et al. and others are being accused of plunder and/or violations of Section 3(e) of Republic Act No. 3019; (3) they employed a scheme to perpetuate the said scam, details of which were revealed by the whistleblowers named in the complaints; (4) because of the PDAF scam, the Philippine government was prejudiced and defrauded in the approximate amount of PHP 112,290,000.00; and (5) the PDAF scam happened sometime between the years 2004 and 2010, specifically in Taguig City, Pasig City, Quezon City, and Pasay City.^[67] These allegations were ensuingly reproduced in the Informations filed before the Sandiganbayan. There is no gainsaying that Napoles, et al. were completely informed of the accusations against them to enable them to prepare for an intelligent defense. Without a doubt, the NBI and the OMB-Field Investigation Office complaints are sufficient in form and in substance.

The Court shall now dwell on the protestation that the testimonies of the whistleblowers lack credibility and are inadmissible for being hearsay. Indeed, the invocation of the *res inter alios acta* rule rings hollow and fails to pass judicial muster.

In *Reyes*,^[68] the Court held—

[W]histleblower testimonies — especially in corruption cases, such as this — should not be condemned, but rather, be welcomed as these whistleblowers risk incriminating themselves in order to expose the perpetrators and bring them to justice. In *Re: Letter of Presiding Justice Conrado M. Vasquez, Jr. on CA-G.R. SP No. 103692 (Antonio Rosete, et al. v. Securities and Exchange Commission, et al.)* [590 Phil. 8, 49-50 (2008)], the Court gave recognition and appreciation to whistleblowers in corruption cases, considering that corruption is often done in secrecy and it is almost inevitable to resort to their testimonies in order to pin down the crooked public officers.[69] (Emphasis supplied)

In the same case, the Court unanimously ruled that the testimonies of whistleblowers are admissible in evidence, considering that technical rules of evidence are not binding on the prosecutor during preliminary investigation. In declaring that the objection based on *res inter alios acta* should falter, the Court elucidated:

Neither can the Napoles siblings discount the testimonies of the whistleblowers based on their invocation of the *res inter alios acta* rule under Section 28, Rule 130 of the Rules on Evidence, which states that the rights of a party cannot be prejudiced by an act, declaration, or omission of another, unless the admission is by a conspirator under the parameters of Section 30 of the same Rule. To be sure, the foregoing rule constitutes a technical rule on evidence which should not be rigidly applied in the course of preliminary investigation proceedings. In *Estrada*, the Court sanctioned the Ombudsman's appreciation of hearsay evidence, which would otherwise be inadmissible under technical rules on evidence, during the preliminary investigation "as long as there is substantial basis for crediting the hearsay." This is because "such investigation is merely preliminary, and does not finally adjudicate rights and obligations of parties." Applying the same logic, and with the similar observation that there lies substantial basis for crediting the testimonies of the whistleblowers herein, the objection interposed by the Napoles siblings under the evidentiary *res inter alios acta* rule should falter. Ultimately, as case law edifies, "[t]he technical rules on evidence are not binding on the fiscal who has jurisdiction and control over the conduct of a preliminary investigation," as in this case.[70] (Emphasis supplied, citation omitted)

But even assuming that the rule on *res inter alios acta* were to apply during preliminary investigation, the treatment of the whistleblowers' statements as hearsay is bound by the exception on independently relevant statements. Cambe clarifies—

Under the doctrine of independently relevant statements, regardless of their truth or falsity, the fact that such statements have been made is relevant. The hearsay rule does not apply, and the statements are admissible as evidence. Evidence as to the making of such statement is not secondary but primary, for the statement itself may constitute a fact in issue or be circumstantially relevant as to the existence of such a fact.[71]

Indeed, the testimonies of the whistleblowers in the case at bench are independently relevant to establish the involvement of Napoles, et al., considering their respective participations in the entire PDAF scam. Therefore, the statements made by Luy, Sula, and Suñas, who, as employees of JLN Corporation, were privy to the financial transactions of Napoles concerning the Representative Seachon-Lanete's PDAF, should be given consideration as they are directly, if not circumstantially, relevant to the issue at hand.

Cambe further elucidates:

Moreover, this Court cannot tag key documentary evidence as forgeries and bar testimonies as hearsay at this stage of the proceedings; otherwise, it would defy established principles and norms followed during preliminary investigation. Jurisprudence teaches us that "[i]n dealing with probable cause[,] as the very name implies, we deal with probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act. The standard of proof is accordingly correlative to what must be proved.[72]

In a nutshell, the OMB did not gravely abuse its discretion in finding probable cause to indict Napoles for the

crimes of plunder and violation of Section 3(e) of Republic Act No. 3019.

In G.R. Nos. 216846-47, petitioner De Asis likewise imputes grave abuse of discretion on the part of the OMB in finding probable cause against him for plunder and violations of Section 3(e) of Republic Act No. 3019. Among other contentions, he avows that the performance of his functions as Napoles' driver/messenger/janitor hardly constitutes overt acts of the aforesaid crimes or a willful participation thereof.

The avowal is hardly persuasive.

Before delving further, De Asis is placed in the same situation as Napoles in that they are being charged with crimes principally performed by public officers despite their standing as private individuals on account of their purported conspiracy with public officers, Representative Seachon-Lanete and the staff/officers of the implementing agencies, et al. Thus, the reasonable likelihood that conspiracy existed between them denotes the probable existence of the elements of the crimes discussed above equally as to him.

Evidence on record similarly exhibits probable cause for De Asis' involvement as a co-conspirator for the crime of plunder, as well as several counts of violation of Section 3(e) of Republic Act No. 3019. He was a member/incorporator of CARED — one of JLN-controlled NGOs that was used in the perpetuation of the scam particularly involved in the illegal disbursement of Representative Seachon-Lanete's PDAF. Luy and Suñas tagged him as one of those who: 1) prepared the money to be given to Representative Seachon-Lanete and/or her chief of staff; 2) received the checks issued by the implementing agencies to the NGOs and deposited the checks in the bank; and 3) was tasked, after the money was withdrawn from the bank, to bring them to Napoles' house.[73] With these, the Court resolves that there are equally well-grounded bases to believe that, in all possibility, De Asis, through his participation as member/incorporator of CARED, and his acts of receiving checks in the name of the said NGOs, depositing them to the NGOs' bank accounts, delivering money to Napoles, and assisting in the delivery of "kickbacks" and "commissions" of the legislators, conspired with Representative Seachon-Lanete, Napoles, et al. to commit the crimes charged against them.

De Asis' defenses, which are anchored on the want of criminal intent, as well as the absence of all the elements of the crime of plunder on his part, are better ventilated during trial and not during preliminary investigation. To reiterate, a preliminary investigation is not the occasion for the full and exhaustive display of the prosecution's evidence; and the presence or absence of the elements of the crime charged is evidentiary in nature and is a matter of defense that may be passed upon only after a full-blown trial on the merits.[74]

Thence, for De Asis' discernible participation in the PDAF scam, the OMB did not gravely abuse its discretion in finding probable cause against him for one count of plunder and two counts of violation of Section 3(e) of Republic Act No. 3019, as charged.

Finally, in G.R. Nos. 216854–55, Javellana invokes the ruling in *Arias v. Sandiganbayan*[75] as a desperate attempt to exculpate himself from liability. He argues that he cannot be held accountable for approving the PDAF releases pertaining to those projects assigned to NABCOR as he merely issued such approval after his subordinates and other NABCOR officials involved in the processing and/or implementation of PDAF-funded projects examined the supporting documents, assured him of the availability of funds, and recommended the approval of the disbursements.

Javellana's invocation of the *Arias* doctrine is misplaced.

The *Arias* doctrine squarely applies in cases where, in the performance of his official duties, the head of an office is being held to answer for his act of relying on the acts of his subordinate. The Court En Banc recognized that "[a]ll heads of offices have to rely to a reasonable extent on their subordinates and on the good faith of those who

prepare bids, purchase supplies, or enter into negotiations." [76]

The case, however, is not on all fours with the case at bench. The pronouncement in *Arias* presupposes that the head of the agency merely relied in good faith on the prior certifications and recommendations of his/her subordinates, and the recommendation of the subordinate must precede the superior's approval. Here, Javellana's subordinate disputes having recommended the approval of the fund release to him. Conversely, it was professed that the directive to sign the disbursement vouchers pertaining to PDAF disbursements came from Javellana himself and in most instances, the checks and other documents were already signed by Javellana, among others, even before the said documents would reach them for signature. [77] Plain as day, in the instant case, it is the head of office who influenced, pressured, coerced, or otherwise convinced the subordinate to sign the voucher or recommend the approval of the transaction.

As regards the finding of probable cause against Javellana in relation to his supposed violation of Section 3(e) of Republic Act No. 3019, it suffices that the offender, who is an officer discharging administrative, judicial or official functions, acted with manifest partiality, evident bad faith, or inexcusable negligence that caused undue injury to any party, including the Government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his or her functions. [78]

It appears that the irregularities and anomalies in the transactions as previously discussed did not hinder Javellana, who was a public officer at the time material to the charges, and his cohorts, to process with indecent haste the Special Allotment Release Order and other pertinent documents essential to facilitate the release of the funds, as well as expedite the release of the PDAF disbursements to the NGOs controlled by Napoles. Javellana's role in the processing and release of PDAF disbursements was clearly in the exercise of his administrative and/or official functions. So, too, was he categorically identified as one who consistently pressed for the immediate processing of PDAF releases. His efforts were too glaring that the Court cannot, in any way, simply turn a blind eye. Javellana palpably went all out to accommodate the NGOs which paved the way for Napoles to repeatedly receive unwarranted benefits from the inexistent/ghost projects for a significant number of years.

Verily, the pieces of evidence proffered when taken together, point to the fact that there is substantial basis to engender a well-founded belief that the crimes charged were committed, and Javellana is probably guilty thereof.

In light of the foregoing disquisitions, the standard of probable cause was adequately hurdled by the prosecution in this case. The Court rules and so holds that the OMB did not err in finding probable cause against Napoles, et al. and in denying their respective motions for reconsideration. The findings against them are fully supported by hard evidence on record and no semblance of misapprehension taint the same. Perforce, the dismissal of their individual petitions is in order. All of them should therefore stand trial for the crimes hurled against them.

ACCORDINGLY, the Petitions for Certiorari are hereby DISMISSED for lack of merit. The Joint Resolution dated September 26, 2014 and the Joint Order dated November 26, 2014 of the Office of the Ombudsman in OMB Case Nos. OMB-C-C-13-0320 and OMB-C-C-14-0017 are AFFIRMED. The Sandiganbayan is DIRECTED to commence/continue with the necessary proceedings in these cases with deliberate dispatch.

SO ORDERED."

Gesmundo, C.J., Leonen, S.J., Hernando, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Marquez, Kho, Jr., and Singh, JJ., concur.

Caguioa, [*] J., no part.

Lazaro-Javier, [**] J., on official business.

[*] No Part.

[**] On official business.

[1] *Sombero v. Office of the Ombudsman*, 878 Phil. 460, 462 (2020) [Per J. Reyes, J. Jr., First Division].

[2] Rollo (G.R. Nos. 216838-39), pp. 3-37; rollo (G.R. No. 216846-47), pp. 3-35; and rollo (G.R. No. 216854-55), pp. 3-27.

[3] Rollo (G.R. Nos. 216838-39), pp. 38-141. The September 26, 2014 Joint Resolution of the Task Force PDAF Per Office Order No. 316, Series of 2014 was prepared by Graft Investigation and Prosecution Officer I Members Cathy D. Cardino-Samson and Johanna A. Young, reviewed by Graft Investigation and Prosecution Officer II Team Leader (Team A) Anna Francesca M. Limbo, recommended for approval by Graft Investigation and Prosecution Officer IV Executive Officer M.A. Christian O. Uy, and approved by Ombudsman Conchita Carpio Morales.

[4] *Id.* at 142-188. The November 26, 2014 Joint Order of the Task Force PDAF Per Office Order No. 316, Series of 2014 was prepared by Graft Investigation and Prosecution Officer I Members Cathy D. Cardino-Samson and Johanna A. Young; reviewed by Graft Investigation and Prosecution Officer II Team Leader (Team A) Anna Francesca M. Limbo; recommended for approval by Graft Investigation and Prosecution Officer IV Executive Officer M.A. Christian O. Uy; and approved by Ombudsman Conchita Carpio Morales.

[5] *Id.* at 42; 318-337. The September 16, 2013 letter requesting that a preliminary investigation be conducted by the OMB on the basis of the investigation conducted by the NBI was signed by NBI Assistant Director Medardo G. De Lemon.

[6] *Id.* at 189-269.

[7] Rollo (G.R. Nos. 216846-47), pp. 509-523.

[8] 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:

....

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

[9] Anti-Graft and Corrupt Practices Act (1960).

[10] Rollo (G.R. No. 216838-39), pp. 42; 318-337.

[11] *Id.* at 334-335. Jose R. Sumalpong, Jeanette dela Cruz, Godelina G. Amata, Antonio Y. Ortiz, Evelyn de Leon, Mylene T. Encarnacion, Dennis L. Cunanan, Victor Roman Cacal, Romulo M. Relevo, Maria Ninez P. Guañizo, Ma. Julie A. Villalarvo-Johnson, Rhodora B. Mendoza, Gregoria G. Buenaventura, Alexis G. Sevidal, Sofia D. Cruz, Chita C. Jalandoni, Francisco B. Figura, and Marivic V. Jover.

[12] *Id.* at 189-269.

- [13] Id. at 193.
- [14] Id. at 194-195.
- [15] Id. at 199.
- [16] Id. at 202.
- [17] Id. at 199.
- [18] Id. at 207-209.
- [19] Id. at 206.
- [20] Id. at 253.
- [21] Id. at 57-60.
- [22] Rollo (G.R. Nos. 216846-47), p. 520.
- [23] Rollo (G.R. Nos. 216838-39), p. 192.
- [24] Id. at 180-190.
- [25] Id. at 50-54.
- [26] Id. at 55-56.
- [27] Id. at 91.
- [28] Id. at 194.
- [29] Id. at 194-195.
- [30] Id. at 62.
- [31] Id. at 64-65. (Note: Napoles' Counter-Affidavit dated August 4, 2014 is not attached to the rollo.)
- [32] Rollo (G.R. Nos. 216846-47), pp. 5-6.
- [33] Rollo (G.R. Nos. 216854-55), p. 7.
- [34] Id. at 85-90.
- [35] Id. at 105.
- [36] Id. at 106-114.
- [37] Id. at 90-103.
- [38] Id. at 356-372.
- [39] Rollo (G.R. Nos. 216846-47), pp. 187-197.
- [40] Rollo (G.R. Nos. 216854-55), pp. 185-197.
- [41] See rollo, (G.R. Nos. 216838-39), pp. 10-11.
- [42] See rollo, (G.R. Nos. 216846-47), pp. 18-19.
- [43] See rollo, (G.R. Nos. 216854-55), p. 12.

[44] See *Sombero, Jr. v. Office of the Ombudsman*, 878 Phil. 460, 470 (2020) [Per J. Reyes, J. Jr., First Division].

[45] See *Cambe v. Office of the Ombudsman*, 802 Phil. 190, 213-214 (2016) [Per J. Perlas-Bernabe, En Banc].

[46] 758 Phil. 354 (2015) [Per J. Perlas-Bernabe, First Division].

[47] *Id.* at 362-363.

[48] 783 Phil. 304 (2016) [Per J. Perlas-Bernabe, En Banc].

[49] *Id.* at 332.

[50] *Id.* at 332-333.

[51] See *Cambe v. Office of the Ombudsman*, 802 Phil. 190, 214 (2016) [Per J. Perlas-Bernabe, En Banc]. (Emphasis in the original)

[52] 802 Phil. 190, 214 (2016) [Per J. Perlas-Bernabe, En Banc].

[53] *An Act Defining and Penalizing the Crime of Plunder* (1991).

[54] Section 12. Section 2 of Republic Act No. 7080 (*An Act Defining and Penalizing the Crime of Plunder*) is hereby amended to read as follows:

"Sec. 2. Definition of the Crime of Plunder; Penalties – Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts as described in Section 1 (d) hereof in the aggregate amount or total value of at least Fifty million pesos ([PHP] 50,000,000.00) shall be guilty of the crime of plunder and shall be punished by reclusion perpetua to death. Any person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances, as provided by the Revised Penal Code, shall be considered by the court. The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State."

[55] *An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for That Purpose the Revised Penal Code, as Amended, Other Special Penal Laws, and for Other Purposes* (1993).

[56] Section 1. Definition of Terms. — As used in this Act, the term –

....

d) Ill-gotten wealth means any asset, property, business enterprise or material possession of any person with in the purview of Section Two (2) hereof, acquired by him directly or indirectly through dummies, nominees, agents, subordinates and/or business associates by any combination or series of the following means or similar schemes:

- 1) Through misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury;
- 2) By receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;
- 3) By the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies or instrumentalities or government-owned or-controlled corporations and their subsidiaries;

- 4) By obtaining, receiving or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;
- 5) By establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests; or
- 6) By taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

[57] See *Cambe v. Office of the Ombudsman*, 802 Phil. 190, 214-216 (2016) [Per J. Perlas-Bernabe, En Banc].

[58] 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:

....

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

[59] See *Cambe v. Office of the Ombudsman*, 802 Phil. 190, 216-217 (2016) [Per J. Perlas-Bernabe, En Banc].

[60] See *Cambe v. Office of the Ombudsman*, 802 Phil. 190, 217 (2016) [Per J. Perlas-Bernabe, En Banc].

[61] *Rollo* (G.R. Nos. 216838-39), pp. 323-325.

[62] *Id.* at 89-90.

[63] *Id.* at 111.

[64] See *Reyes v. Ombudsman*, 783 Phil. 304, 349 (2016) [Per J. Perlas-Bernabe, En Banc].

[65] G.R. Nos. 211751 et al., May 10, 2021 [Per J. Leonen, Third Division].

[66] *Id.*

[67] *Rollo* (G.R. Nos. 216838-39), p. 320.

[68] 783 Phil. 304 (2016) [Per J. Perlas-Bernabe, En Banc].

[69] *Id.* at 344-345.

[70] *Id.* at 361-362.

[71] See *Cambe v. Office of the Ombudsman*, 802 Phil. 190, 226-227 (2016) [Per J. Perlas-Bernabe, En Banc].

[72] *Id.* at 240.

[73] *Rollo* (G.R. Nos. 216846-47), pp. 515-516, 520-521.

[74] See *Relampagos v. Office of the Ombudsman*, G.R. Nos. 234868-69, July 27, 2022 [Per J. Inting, Third Division].

[75] 259 Phil. 794 (1989) [Per J. Gutierrez, Jr., En Banc].

[76] See *id.* at 801. (Emphasis supplied)

[77] Rollo (G.R. Nos. 216838-39), pp. 68-69.

[78] See *Catacutan v. People*, 672 Phil. 178, 188 (2014) [Per J. Del Castillo, First Division].

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