

SENATOR JINGGOY EJERCITO ESTRADA, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN [FIFTH DIVISION] AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 228374-84, 236268, 249296, 249919, 254892 & 254906-15, October 28, 2025

Ponente: SINGH, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-228374-84/>

SINGH, J.:

These consolidated Petitions for Certiorari filed under Rule 65 of the Rules of Court by Senator Jose "Jinggoy" P. Ejercito Estrada (Estrada), Janet Lim Napoles (Napoles), and the People of the Philippines, represented by the Office of the Ombudsman, through the Office of the Special Prosecutor (OSP), assail the various Resolutions issued by the Sandiganbayan in relation to the charges for Plunder, punishable under Section 2 of Republic Act No. 7080, as amended, and for violation of Section 3(e) of Republic Act No. 3019, filed against Estrada, Napoles, and the other accused.

In G.R. Nos. 228374-84,[1] Estrada assails the Sandiganbayan Resolution,[2] dated July 14, 2016, which denied his Motion to Dismiss[3] the 11 Informations for violation of Section 3(e) of Republic Act No. 3019, under the theory that the acts charged therein are deemed absorbed in the Information for Plunder filed against him; and the Resolution,[4] dated October 4, 2016, which denied his Motion for Reconsideration.[5]

In G.R. No. 236268,[6] the People of the Philippines, through the OSP, assail the Sandiganbayan Resolution,[7] dated September 15, 2017, which reversed its Resolution,[8] dated January 7, 2016, and granted the Omnibus Motion,[9] filed by Estrada on September 13, 2016, and allowed his release on bail; and the Resolution,[10] dated November 10, 2017, which denied the OSP's Motion for Reconsideration,[11] dated September 25, 2017.

In G.R. No. 249296[12] and G.R. No. 249919,[13] Napoles and Estrada, respectively, assail the Sandiganbayan Resolution,[14] dated June 13, 2019, which denied their respective Demurrers to Evidence;[15] and the Resolution,[16] dated September 9, 2019, which denied their Motions for Reconsideration[17] to the June 13, 2019 Resolution. In G.R. No. 249296, Napoles likewise questions the Sandiganbayan Resolution,[18] dated September 19, 2019, which denied her Motion to Dismiss, in which she argued that the Sandiganbayan lacked jurisdiction in the Plunder case against her since the Information therefore allegedly charged no offense and, hence, was void.[19]

In G.R. Nos. 254892 and 254906-15,[20] Estrada assails the Sandiganbayan Minute Resolution,[21] dated June 4, 2020, which denied his Manifestation and Motion,[22] dated March 5, 2020, requesting that he be furnished and allowed to examine the evidence adduced and intended to be presented against him, as part of the preparation for his defense; and the Minute Resolution,[23] dated November 6, 2020, which denied his Motion for Reconsideration,[24] dated June 19, 2020, on the June 4, 2020 Minute Resolution.

The Facts

In a Joint Resolution,[25] dated March 28, 2014, in OMB-C-C-13-0313, the Office of the Ombudsman found probable cause to indict Estrada, along with several other public officials and private individuals, including

Napoles, for (a) Plunder under Section 2, in relation to Sections 1 (d) (1), (2) and (6), of Republic Act No. 7080, as amended, implicating Estrada's alleged ill-gotten wealth in the sum of, at least, PHP 183,793,750.00, representing kickbacks or commissions received by him from Napoles in connection with his Priority Development Assistance Fund (PDAF)-funded projects for the years 2004 to 2012;[26] and (b) 11 counts of violation of Section 3 (e) of Republic Act No. 3019, involving fund releases amounting to, more or less, PHP 255,114,000.00 drawn from Estrada's PDAF and coursed through different foundations, as reflected in disbursement vouchers.[27]

Pursuant to the above Joint Resolution, the Office of the Ombudsman then filed the corresponding Informations before the Sandiganbayan. The Plunder case was docketed as Criminal Case No. SB-14-CRM-0239 (Plunder Case),[28] and the 11 counts of graft were consolidated and docketed as Criminal Case Nos. SB-14-CRM-0256 to 0266 (Graft Cases).[29]

Estrada filed a Motion to Dismiss,[30] dated May 13, 2016, arguing that the charges in the Graft Cases are deemed absorbed by his indictment for Plunder as they arise from the same alleged illegal acts or transactions and, therefore, should be dismissed insofar as he is concerned. The Sandiganbayan denied the said motion for lack of merit in its Resolution,[31] dated July 14, 2016. It held that the Plunder Case and the Graft Cases involve different elements and may be prosecuted independently. Specifically, the issue in the Plunder Case involves a determination of whether the accused is guilty of "unjust enrichment" and obtained "ill-gotten wealth" arising from the alleged kickbacks, while the Graft Cases rest on the determination of whether the accused is guilty of "causing undue injury to the government" and "giving unwarranted benefits and advantages to private persons" through acts of "evident bad faith and manifest partiality.[32] Estrada's Motion for Reconsideration was denied in the Sandiganbayan's Resolution,[33] dated October 4, 2016. On December 12, 2016, Estrada filed a Petition for Certiorari[34] before this Court, questioning said Resolutions, docketed as G.R. Nos. 228374-84.

Meanwhile, Estrada filed an Omnibus Motion (Motion to Dismiss and/or Grant Bail to Accused) on September 12, 2016 in the Plunder Case, reiterating his previous request for admission to bail,[35] and citing the ruling in *Arroyo v. Sandiganbayan*,[36] which required the identification of a particular public officer as the main plunderer. The Sandiganbayan, in its Resolution,[37] dated September 15, 2017, granted bail to Estrada upon posting of the amount of PHP 1 million in cash. The Sandiganbayan held, among others, that there is an ambiguity or doubt as to who is the main plunderer in this case, given that there are two public officers charged, namely Estrada and his Deputy Chief of Staff, Pauline Therese Mary C. Labayen (Labayen), and that the PDAF scheme appeared to be commenced by or originated with Napoles. In so holding, the Sandiganbayan reversed its previous 200-page Resolution,[38] dated January 7, 2016, which denied Estrada's Petition for Bail. The OSP filed a Motion for Reconsideration[39] to the September 15, 2017 Resolution, but the same was denied in the Resolution, dated November 10, 2017.[40] Thus, the OSP filed a Petition for Certiorari,[41] dated January 16, 2018, before this Court, docketed as G.R. No. 236268, assailing the Sandiganbayan Resolutions, dated September 15, 2017[42] and November 10, 2017.[43]

Subsequently, Estrada and Napoles filed separate Demurrers to Evidence in the Plunder Case, both claiming that the prosecution failed to prove their guilt of the crimes charged beyond reasonable doubt. The Sandiganbayan denied both demurrers in a Resolution,[44] dated June 13, 2019, declaring that both testimonial and documentary evidence presented by the prosecution after the bail hearings, sufficiently established each element of the crime of Plunder against the accused. Estrada and Napoles filed their Motions for Reconsideration, which were denied by the Sandiganbayan in its Resolution,[45] dated September 9, 2019. Napoles likewise filed a Motion to Dismiss the Plunder Case,[46] on the ground of lack of jurisdiction, insisting that the case does not charge the offense of Plunder as it failed to identify Estrada as the main plunderer, which is one of the elements of the crime. The

Sandiganbayan denied said Motion to Dismiss in its Resolution,[47] dated September 19, 2019, where it held that the matters raised by Napoles in her Motion are mere reiterations of the issues she already raised in her previous Motions for Reconsideration, which have been exhaustively discussed in several resolutions of the court.

Estrada then filed before the Court a Petition for Certiorari (with prayers for the Court En Banc to act on the petition, to expedite the proceedings and to set the case for oral arguments, and to issue a temporary restraining order (TRO) addressed to respondent Sandiganbayan to suspend the proceedings in the Plunder Case, particularly for the purpose of receiving further evidence of Estrada for his defense and to render a decision in the said criminal case)[48] docketed as G.R. No. 249919, questioning the Resolutions of the Sandiganbayan, dated June 13, 2019 and September 9, 2019. Napoles, on the other hand, filed her separate Petition for Certiorari (with application for the issuance of a TRO and/or writ of preliminary injunction),[49] assailing the same Sandiganbayan Resolutions, dated June 13, 2019 and September 9, 2019, docketed as G.R. No. 249296.

During the pendency of all the aforementioned Petitions, the proceedings before the Sandiganbayan for the Graft Cases continued.

During the Pre-Trial Conference, the prosecution marked as its exhibits the documents referred to as "Daily Disbursement Reports" or "Disbursement Reports," which were supposedly print-outs from an external hard drive submitted by one of the prosecution witnesses/whistleblowers, Benhur K. Luy (Luy), to the National Bureau of Investigation (NBI). Estrada then filed a Manifestation and Motion,[50] dated March 5, 2020, in both the Graft Cases and the Plunder Case, praying for the Court to grant him access to image copies, examination reports, turnover reports, chain of custody forms and control forms, interview notes, and other documents in the external hard disk drive which he deemed necessary for the presentation of his witness, Dexter Laggui (Laggui), whom he claimed to be an expert witness on digital forensics.[51] He filed the Motion in the Plunder Case and the Graft Cases as he intended to present Laggui as a witness in all the cases.

The Sandiganbayan issued a Minute Resolution,[52] dated June 4, 2020, denying Estrada's Manifestation and Motion in both the Graft Cases and the Plunder Case. The Sandiganbayan held that Laggui had not yet been ruled by the Court to be qualified, hence it is still premature for accused Estrada to insist on the production of the image copies, external hard drives and other documents cited in his Motion, given that his purpose is clearly to prepare for a re-direct examination; and it appears to be too late in the day for the accused to ask for the production of the subject documents as almost six years have passed since the filing of the cases. If the documents were truly relevant and crucial to his defense, the Sandiganbayan held that, his lawyers should have filed the available discovery motion at the earliest opportunity. Estrada moved for the reconsideration of said Resolution, but the same was denied in the Resolution,[53] dated November 6, 2020. Thus, he filed with this Court another Petition for Certiorari,[54] docketed as G.R. Nos. 254892 and 254906-15.

The Court ordered the consolidation of all these cases in its Resolution,[55] dated May 12, 2021.

Meanwhile, during the pendency of these consolidated cases, Napoles filed a Motion to Withdraw the Petition for Certiorari,[56] praying for the withdrawal of her Petition in G.R. No. 249296, since the Sandiganbayan had rendered judgment acquitting her of Plunder.

The Issues

In G.R. Nos. 228374-84, the Court resolves the issue: Whether the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying his Motion to Dismiss the Graft Cases on the ground that they should be deemed absorbed in the Plunder Case.

In G.R. No. 236268, the Court resolves the issue: Whether the Sandiganbayan committed grave abuse of

discretion amounting to lack or excess of jurisdiction in granting Estrada's motion for bail.

In G.R. No. 249296 and G.R. No. 249919, the Court resolves the issue: Whether the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying the Demurrers to Evidence they filed in relation to the Plunder Case.

In G.R. Nos. 254892 and 254906-15, the Court resolves the issue: Whether the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying Estrada's request to be furnished with, and allowed to examine the evidence from the external hard drive of Luy.

The Ruling of the Court

Finding no cause to deny Napoles' Motion to Withdraw the Petition for Certiorari in G.R. No. 249296, the Court grants the same. Thus, the case with respect to the Petition questioning the denial by the Sandiganbayan of Napoles' Demurrer to Evidence in the Plunder Case is deemed closed and terminated.

Before delving into the merits of the remaining consolidated Petitions for Certiorari, the Court must contend first with the issue of whether the same is still justiciable and necessitates the Court's exercise of its adjudicative power.

The Court can take judicial notice of the Sandiganbayan Decision, dated January 19, 2024, and its subsequent Resolutions, dated August 22, 2024, and November 27, 2024, in the Plunder Case

At the outset, it must be noted that the present Petitions were filed during the pendency of the Plunder and Graft Cases against Estrada. Indeed, they assail the various Resolutions issued by the Sandiganbayan. Thus, the final disposition in the Plunder Case—resulting in either conviction or acquittal of the accused—would have an effect on the ruling in these consolidated cases.

As provided for under Rule 129, Sections 1 and 2 of the Rules of Court, courts can take judicial notice of facts without the need for the parties to present evidence. The provisions read:

SEC. 1. Judicial notice, when mandatory. – A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, official acts of the legislative, executive and judicial departments of the National Government of the Philippines, the laws of nature, the measure of time, and the geographical divisions.

SEC. 2. Judicial notice, when discretionary. – A court may take judicial notice of matters which are of public knowledge, or are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions.

Judicial notice is defined as "the cognizance of certain facts that judges may properly take and act on without proof because these facts are already known to them."^[57] The purpose of taking judicial notice is one of expediency and convenience for it fulfills the object of evidence; simply, it is equivalent to proof.^[58] Judicial notice may either be mandatory or discretionary.

The matters enumerated in Rule 129, Section 1 of the Rules of Court, are required to be taken judicial notice of by the courts, as follows:

- The existence and territorial extent of states;

- Their political history, forms of government, and symbols of nationality;
- The law of the nations;
- The admiralty and maritime courts of the world and their seals;
- The political constitution and history of the Philippines;
- The official acts of the legislative, executive, and judicial departments of the National Government of Philippines;
- The laws of nature;
- The measure of time; and,
- The geographical divisions.[59]

Meanwhile, there are certain subjects which the courts may take judicial notice of if they satisfy the conditions set forth in Rule 129, Section 2 of the Rules of Court. On this score, the discussion in *Juan v. Juan*[60] is instructive:

1. The doctrine of judicial notice rests on the wisdom and discretion of the courts. The power to take judicial notice is to be exercised by courts with caution; care must be taken that the requisite notoriety exists; and every reasonable doubt on the subject should be promptly resolved in the negative.

Generally speaking, matters of judicial notice have three material requisites: (1) the matter must be one of common and general knowledge; (2) it must be well and authoritatively settled and not doubtful or uncertain; and (3) it must be known to be within the limits of the jurisdiction of the court. The principal guide in determining what facts may be assumed to be judicially known is that of notoriety. Hence, it can be said that judicial notice is limited to facts evidenced by public records and facts of general notoriety.

To say that a court will take judicial notice of a fact is merely another way of saying that the usual form of evidence will be dispensed with if knowledge of the fact can be otherwise acquired. This is because the court assumes that the matter is so notorious that it will not be disputed. But judicial notice is not judicial knowledge. The mere personal knowledge of the judge is not the judicial knowledge of the court, and he [or she] is not authorized to make his [or her] individual knowledge of a fact, not generally or professionally known, the basis of his [or her] action. Judicial cognizance is taken only of those matters which are "commonly" known.

Things of "common knowledge," of which courts take judicial notice, may be matters coming to the knowledge of men generally in the course of the ordinary experiences of life, or they may be matters which are generally accepted by mankind as true and are capable of ready and unquestioned demonstration. Thus, facts which are universally known, and which may be found in encyclopedias, dictionaries[,] or other publications, are judicially noticed, provided they are of such universal notoriety and so generally understood that they may be regarded as forming part of the common knowledge of every person.[61]

Specific to the matter of decisions or rulings of other courts, the general rule is that "courts are not authorized to take judicial notice of the contents of the records of other cases, even when such cases have been tried or are pending in the same court, and notwithstanding the fact that both cases may have been heard or are actually pending before the same judge." [62]

This rule, however, admits of exceptions. In *Bongato v. Spouses Malvar*, [63] the Court held that cases which are "closely connected, interwoven or interdependent" to the case being considered may be taken judicial notice of by a court, thus:

[A]s a general rule, courts do not take judicial notice of the evidence presented in other proceedings, even if

these have been tried or are pending in the same court or before the same judge. There are exceptions to this rule. Ordinarily, an appellate court cannot refer to the record in another case to ascertain a fact not shown in the record of the case before it, yet, it has been held that it may consult decisions in other proceedings, in order to look for the law that is determinative of or applicable to the case under review. In some instances, courts have also taken judicial notice of proceedings in other cases that are closely connected to the matter in controversy. These cases "may be so closely interwoven, or so clearly interdependent, as to invoke" a rule of judicial notice.[64] (Emphasis supplied, citations omitted)

In *Trinidad v. People*,^[65] accused Jesus Trinidad offered in evidence rulings in drugs cases finding the unreasonableness of the search and seizure of the drugs confiscated from him. There, the Court took judicial notice of the circumstances attendant to the buy-bust operation described in those rulings. The Court thus concluded that the firearms and ammunition recovered from the same unreasonable search and seizure as in the drugs cases are also inadmissible in evidence.

Then, in *Yu v. Heirs of Sia*,^[66] judicial notice was taken of the decisions of the Court of Appeals and this Court in a prior case^[67] finding accused Ruben Yu guilty of violation of Presidential Decree No. 1096 or the National Building Code of the Philippines. Said judicial notice proved that Ruben Yu entered into an illegal contract to construct a building below the minimum requirements provided for in said Code.

Here, the final disposition in the Plunder Case is closely connected, interwoven, or interdependent with these consolidated cases. Again, the Petitions filed by the parties in G.R. Nos. 236268, 249919, and 254892, all question the following Resolutions of the Sandiganbayan:

(a)

The Resolutions, dated September 15, 2017 and November 10, 2017, which granted bail to Estrada;

(b)

The Resolutions, dated June 13, 2019 and September 9, 2019, which denied the Demurrer to Evidence filed by Estrada; and

(c)

The Minute Resolution, dated June 4, 2020, and the Resolution dated November 6, 2020, which denied Estrada's Manifestation and Motion for the prosecution and the NBI to produce certain documents and information regarding the external hard drive of prosecution witness Luy.

It must be noted that the abovementioned Resolutions of the Sandiganbayan are all interlocutory in nature. In *Carniyan v. Homne Guaranty Corporation*,^[68] the Court described an interlocutory order as one that:

... does not finally dispose of the case, and does not end the Court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is "interlocutory," e.g., an order denying a motion to dismiss under Rule 16 of the Rules, or granting a motion for extension of time to file a pleading, or authorizing amendment thereof, or granting or denying applications for postponement, or production or inspection of documents or things, etc. Unlike a "final" judgment or order, which is appealable, as above pointed out, an "interlocutory" order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case.^[69] (Emphasis in the original)

An order granting bail is interlocutory in nature for it does not end the criminal litigation.^[70] An order denying a demurrer to evidence is also interlocutory since trial continues with the presentation of the defense's evidence.^[71] Similarly, an order denying a motion to quash or dismiss a criminal case is interlocutory.^[72] Likewise, an order

denying a motion for production of evidence, which is akin to an order denying a party's request for discovery, is also interlocutory in nature.[73]

Thus, a decision on the merits in the Plunder Case would affect this Court's resolution of the abovementioned interlocutory orders. Indeed, a final judgment would render impractical any resolution on the grant of bail to Estrada as his acquittal would result in his freedom and the cancellation of his existing bail, if any, while his conviction may be the subject of an application for bail pending appeal. Moreover, any decision by the Court on the Demurrers to Evidence filed by Estrada and Napoles would be of no practical effect considering that the Sandiganbayan has already decided on the guilt of the accused. Finally, any decision by the Court on Estrada's request for production of documents would now be academic since trial in the Plunder Case has concluded, and the guilt or innocence of the accused has been determined.

On January 19, 2024, the Sandiganbayan promulgated its 396-page Decision[74] in the Plunder Case acquitting both Estrada and Napoles of Plunder, but convicting Estrada for one count of Direct Bribery and two counts of Indirect Bribery punishable under Articles 210 and 211, respectively, of the Revised Penal Code, and Napoles with five counts of Corruption of Public Official under Article 212, in relation to Article 210, and two counts of Corruption of Public Official under Article 212, in relation to Article 211 of the Revised Penal Code.

However, in its Resolution, promulgated on August 22, 2024, the Sandiganbayan: (a) granted Estrada's Motion for Reconsideration, filed on February 2, 2024, reversing his conviction for one count of Direct Bribery and two counts of Indirect Bribery under Articles 210 and 211 of the Revised Penal Code; and (b) partially granted Napoles' Motion for Partial Reconsideration filed on January 31, 2024, reversing her conviction for one count of Corruption of Public Officials, corresponding to the reversal of the conviction of one count of Direct Bribery against Estrada, while upholding her conviction for four counts of Corruption of Public Officials under Article 212, in relation to Article 210, paragraph 2, of the Revised Penal Code.

Further, in a Resolution, dated November 27, 2024, the Sandiganbayan dismissed the Motion for Reconsideration filed by the prosecution, which sought to reverse the Resolution, dated August 22, 2024 of the Sandiganbayan. The Sandiganbayan ruled that not only were the issues raised in the Motion already rigorously discussed in the August 22, 2024 Resolution, but the Motion also seeks to revisit factual findings of Estrada's acquittal that would place Estrada in double jeopardy.

Considering that the said Decision, dated January 19, 2024, and Resolutions, dated August 22, 2024, and November 27, 2024, of the Sandiganbayan are closely connected, interwoven, or interdependent with the Petitions for Certiorari in G.R. Nos. 236268, 249919, and 254892, all of which question interlocutory orders issued in the Plunder Case, the Court shall take judicial notice of the same.

The Petitions in G.R. Nos. 236268, 249919, and 254892 are now moot considering the judgment of acquittal of the Sandiganbayan in the Plunder Case

With the Court taking judicial notice of the Sandiganbayan Decision, dated January 19, 2024, and its subsequent Resolutions, dated August 22, 2024, and November 27, 2024, in the Plunder Case, the same may be considered as supervening events which render the Petitions in G.R. Nos. 236268, 249919, and 254892 moot and academic.

No less than the Constitution prescribes that the exercise of judicial power shall only be for actual cases and controversies. Article VIII, Section 1 of the Constitution reads:

SEC. 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be

established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. (Emphasis supplied)

There is an actual case or controversy when "the case presents conflicting or opposite legal rights that may be resolved by the court in a judicial proceeding." [75]

When a case becomes moot, it ceases to be an actual case or controversy. A case becomes moot by virtue of the happening of supervening events. As held by the Court in *Peñafrancia Sugar Mill, Inc. v. Sugar Regulatory Administration*: [76]

A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness. This is because the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced. (Emphasis supplied)

The Court has not shied away from declaring cases moot and academic after taking judicial notice of certain supervening events.

In *Suplico v. National Economic and Development Authority*, [77] the Court declared moot the case questioning the contract entered into by the government with ZTE Corporation for the implementation of the ZTE-National Broadband Network (NBN) Project. The Court took judicial notice of the official act of then-President Gloria Macapagal Arroyo when she informed then-President Hu Jintao of China in a meeting held on October 2, 2007 that the Philippines had decided to discontinue with the ZTE-NBN Project. With this supervening event, the Court held that it had no actual case to pass judgment on.

In *Jacinto-Henares v. St. Paul College of Makati*, [78] respondent St. Paul College of Makati filed an action seeking to declare invalid Revenue Memorandum Order (RMO) No. 20-2013, issued by the Commissioner of Internal Revenue. The said RMO required non-stock, non-profit corporations and associations to submit an application for tax exemption with the Bureau of Internal Revenue before they can enjoy the tax exemption benefits provided under the Constitution. The Court took judicial notice that the Commissioner had issued, during the pendency of the case, RMO No. 44-2016, which clarified that non-stock, non-profit educational institutions are excluded from the coverage of RMO No. 20-2013. Thus, the Court ruled that the issuance of the subsequent RMO is a supervening event which rendered the case moot.

Then, in *Chua v. Commission on Elections*, [79] the Court took judicial notice of the fact that petitioner Herbert Chua won as punong barangay in the 2018 barangay elections, the very same position he is contesting in that electoral protest case albeit in the immediately preceding election. The Court thus held that since there is no longer a position being contested, Chua's petition must be dismissed on the ground of mootness.

The promulgation of the Sandiganbayan Decision, dated January 19, 2024, and its Resolutions, dated August 22, 2024, and November 27, 2024, are supervening events that rendered the Petitions in G.R. Nos. 236268, 249919, and 254892 moot and academic. As discussed, these Petitions only assail certain interlocutory orders issued by the anti-graft court, and any decision by the Court on these cases would be of no practical use since the Sandiganbayan has already decided on the innocence of the accused. Evidently, there is no more justiciable controversy presently existing before the Court that warrants the exercise of its judicial power.

The Court may pass upon the issue in G.R. Nos. 228374-84 regarding the applicability of the absorption principle in the Graft Cases and the Plunder Case

To recall, Estrada filed a Motion to Dismiss the Graft Cases before the Sandiganbayan on the ground that the Graft Cases should be absorbed by the Plunder Case, claiming that they arise from the same alleged illegal acts or transactions. In a Resolution, dated July 14, 2016, the Sandiganbayan denied the Motion, ruling that the Plunder Case and the Graft Cases involve different elements and, thus, may be prosecuted independently. The related Motion for Reconsideration was also denied. Thus, Estrada filed a Petition for Certiorari before this Court, docketed as G.R. Nos. 228374-84, to question the said Resolutions.

However, as previously discussed, while the Petition was pending before this Court, in a Decision, dated January 19, 2024, the Sandiganbayan acquitted Estrada of Plunder, but found him guilty of one count of Direct Bribery and two counts of Indirect Bribery following the variance doctrine. However upon Motion for Reconsideration, the Sandiganbayan, in a Resolution, dated August 22, 2024, acquitted Estrada of all charges, including Direct and Indirect Bribery. The Motion for Reconsideration filed by the prosecution was dismissed in a Resolution, dated November 27, 2024. Thus, the Plunder Case has already become moot, considering that a judgment of acquittal is immediately final and executory.

In light of the acquittal and considering the Motion to Dismiss, if the Graft Cases were indeed meant to be absorbed in the Plunder Case, then the Graft Cases should be dismissed. Estrada's Petition for Certiorari should be granted. Conversely, if the Graft Cases should not be absorbed by the Plunder Case, then Estrada's acquittal in the Plunder Case should not affect the Graft Cases. Estrada's Petition for Certiorari should be denied. Thus, the Court may properly decide Estrada's Petition for Certiorari in G.R. Nos. 228374-84, as the determination of absorption of the Graft Cases in the Plunder Case would determine if the Graft Cases should proceed.

Even assuming that the Sandiganbayan's acquittal of Estrada in the Plunder Case should result in the dismissal of the Graft Cases, the Court may still decide on this Petition as an exception to mootness.

In *Oclarino v. Navarro*,^[80] the Court enumerated the instances when courts may still press on to adjudicate a case even if the same has been rendered moot:

(1)

Grave constitutional violations;

(2)

Exceptional character of the case;

(3)

Paramount public interest;

(4)

The case presents an opportunity to guide the bench, the bar, and the public; or

(5)

The case is capable of repetition yet evading review.^[81] (Emphasis supplied)

It is undeniable that the PDAF scam is an issue of paramount public interest, involving as it does, the alleged

misuse of public funds in the hundreds of millions of pesos.[82] Likewise, the Court finds it an opportune time to decide on the applicability of the absorption principle as it relates to Plunder punished under Republic Act No. 7080, and violations of Section 3(e) of Republic Act No. 3019. The Court's ruling in these cases would be useful for: (a) the prosecutors, who will be guided in indicting erring public officers with the appropriate crime; (b) the courts, which will be guided with how the absorption principle applies in criminal cases; and, (c) the public, in the exercise of the Court's symbolic function of educating them on important legal precepts and doctrines.

The absorption principle is applicable in Plunder and violations of Section 3(e) of Republic Act No. 3019 in certain instances; nevertheless, the Graft Cases filed against Estrada do not fall under this rule

Estrada contends that the Graft Cases are "deemed absorbed"[83] by the Plunder Case, such that violations of Section 3(e) of Republic Act No. 3019[84] constitute the predicate criminal acts of Plunder punished under Section 2 of Republic Act No. 7080.[85] This is allegedly supported by the congressional records that show the intent of the authors of Republic Act No. 7080 to treat individual violations of Republic Act No. 3019, insofar as they are part of merely one scheme to amass, accumulate, or acquire ill-gotten wealth, as absorbed by Plunder.[86] Estrada cites *Serapio v. Sandiganbayan*[87] and *Estrada v. Sandiganbayan*[88] in support of his position that the predicate criminal acts constitutive of Plunder do not have separate and distinct existence.[89] Thus, for failing to dismiss the Graft Cases, which should be deemed absorbed in the Plunder Case, Estrada alleges that the Sandiganbayan acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction.

The OSP maintains, on the other hand, that violations of Section 3(e) of Republic Act No. 3019 cannot be absorbed in Plunder considering the different gravamen of the offenses charged are as follows: for Plunder, it is the amassing, accumulation, or acquisition of ill-gotten wealth arising from kickbacks allegedly received by Estrada; while for violations of Section 3(e) of Republic Act No. 3019, it is the undue injury caused to the government and the giving of unwarranted benefits, advantage, or preference to private individuals arising from their manifest partiality and evident bad faith.[90] The OSP insists that Plunder, as a crime *malum in se*, is incompatible with violations of Section 3(e) of Republic Act No. 3019, which do not require such intent as the crime may be committed through gross inexcusable negligence.[91] It invokes the ruling in *Gonzales v. Abaya*[92] that the principle of absorption "applies to crimes punished by the same statute,"[93] thus, precluding its applicability to the Plunder and Graft Cases. The OSP contends that Estrada's reliance on the congressional records is misplaced since it is not shown that the authors of Republic Act No. 7080 intended graft cases to be absorbed by Plunder.[94] Finally, it maintains that the precedents invoked by Estrada are inapplicable in this case.[95]

In the usual course of procedure, a denial of a motion to dismiss or motion to quash results in the continuation of trial for the proper determination of the guilt of the accused. Only in the most compelling instances is direct resort to this Court via certiorari allowed to assail an interlocutory order of a trial court denying such motions. As held in *Non v. Office of the Ombudsman*:[96]

In meritorious cases, however, we have recognized certiorari as an appropriate remedy to assail interlocutory orders, specifically pertaining to denials of motions to quash. These instances are: (a) when the court issued the order without or in excess of jurisdiction or with grave abuse of discretion; (b) when the interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief; (c) in the interest of a more enlightened and substantial justice; (d) to promote public welfare and public policy; and (e) when the cases have attracted nationwide attention, making it essential to proceed with dispatch in the

consideration thereof.[97] (Emphasis supplied)

Grave abuse of discretion under Rule 65 of the Rules of Court, as amended, has a specific meaning. It is the arbitrary or despotic exercise of power due to passion, prejudice or personal hostility; or the whimsical, arbitrary, or capricious exercise of power that amounts to an evasion or refusal to perform a positive duty enjoined by law or to act at all in contemplation of law. For an act to be struck down as having been done with grave abuse of discretion, the abuse of discretion must be patent and gross.[98] Any person alleging grave abuse of discretion has the burden of proving that the questioned act was: "(1) done contrary to the Constitution, the law or jurisprudence or (2) executed whimsically, capriciously or arbitrarily, out of malice, ill will or personal bias." [99]

In determining whether the Sandiganbayan committed grave abuse of discretion in issuing the assailed Resolutions, dated July 14, 2016 and October 4, 2016, which denied Estrada's Motion to Dismiss, it is proper to first review the principle of absorption in criminal cases.

The principle traces its roots to the landmark case of *People v. Hernandez*, [100] where the Supreme Court held that Rebellion punished under Article 134 of the Revised Penal Code [101] absorbed the crimes of Murder, Arson, and Robbery, which are merely the means necessary for the perpetration of Rebellion. The Court held that "the ingredients of a crime form part and parcel thereof, and, hence, are absorbed by the same and cannot be punished either separately therefrom[.]" Since Rebellion may be committed by "engaging in war against the forces of the government" and "committing serious violence," [102] any act resulting in any "impairment or destruction of life and property constitutes not two or more offense[s], but only one crime—that of Rebellion[,]" plain and simple." [103]

In arriving at this reasoning, the Court looked into the nature of the crimes and differentiated them as to the purpose of their commission. Thus, it was ruled that the commission of common crimes, i.e., Murder, Arson, and Robbery, perpetrated in furtherance of a political offense such as Rebellion, are "divested of their character as 'common' offenses and assume the political complexion of the main crime of which they are mere ingredients, and, consequently, cannot be punished separately from the principal offense[.]" [104]

In *People v. Geronimo*, [105] the Court applied the doctrine laid down in *Hernandez*, and ruled that the crimes of Murder, Robbery, and Kidnapping committed by the various accused therein are deemed absorbed in the crime of Rebellion. The Court held that "any or all of the acts described in [A]rticle 135 [of the Revised Penal Code], when committed as a means to or in furtherance of the subversive ends described in [A]rticle 134, become absorbed in the crime of Rebellion, and cannot be regarded or penalized as distinct crimes in themselves." [106]

The subsequent cases of *People v. Santos*, [107] *People v. Rodriguez*, [108] and *People v. Lava*, [109] continued to apply the principle of absorption first laid down in *Hernandez* with respect to Rebellion cases filed against the various accused.

In *Enrile v. Salazar*, [110] the Court was called upon to reexamine the principle. However, a majority of the Court, sitting en banc, voted against the abandonment of the principle, and held that *Hernandez* remains a "good law" as its substantive and logical bases have remained persuasive enough not to warrant a reversal. [111] The Court recognized that with the repeal of Presidential Decree No. 942, [112] which sought to "nullify or neutralize *Hernandez*," [113] by Executive Order No. 187, [114] the interpretation in *Hernandez* was revived as binding precedent.

Then, in *Enrile v. Amin*, [115] the Court further expanded the application of the absorption principle by categorically stating that the same applies to all crimes, whether punishable by a special law or a general law, for as long as they are mere components or ingredients of Rebellion, thus:

All crimes, whether punishable under a special law or general law, which are mere components or ingredients, or committed in furtherance thereof, become absorbed in the crime of rebellion and cannot be isolated and charged as separate crimes in themselves. Thus:

....

The Hernandez and other related cases mention common crimes as absorbed in the crime of rebellion. These common crimes refer to all acts of violence such as murder, arson, robbery, kidnapping etc. as provided in the Revised Penal Code. The attendant circumstances in the instant case, however, constrain us to rule that the theory of absorption in rebellion cases must not confine itself to common crimes but also to offenses under special laws which are perpetrated in furtherance of the political offense.[116]

In *Amin*, the Court ruled that the charge filed against then Senator Juan Ponce Enrile for Obstruction of Justice under Section 1(e) of Presidential Decree No. 1829,[117] which was committed in connection with or in furtherance of rebellion punishable under Article 134 of the Revised Penal Code, is absorbed by the latter. Importantly, the Court emphasized that it is "the intent or motive [which] is the decisive factor" in determining whether the crime may be absorbed. The Court held that if the act is committed with "political or social motives, that is[,] in furtherance of [R]ebellion," then the crime is absorbed by Rebellion; otherwise, the accused may be tried separately.[118]

However, in *People v. De Jesus*,[119] the Court applied the principle of absorption not within the context of Rebellion, as laid down in *Hernandez* and the subsequent cases. In that case, the Court ruled that the crime of possession of marijuana punishable under Section 8 of Republic Act No. 6425,[120] is absorbed in the offense of selling marijuana penalized under Section 4 of the same law.[121] The Court held that since possession of illegal substances is inherent in the crime of selling them, "it is to be assumed that, in punishing selling, the legislature took into account the need to possess them first." [122] The Court thereafter confirmed, in *People v. Manansala*,[123] that "the illegal possession [of dangerous drugs] is either deemed absorbed by or is considered a necessary element of the illegal sale." [124]

The Court likewise adopted the absorption principle with regard to the crimes of Rape and Serious Illegal Detention. In *People v. Lactao*,[125] the Court ruled that "if the objective of the offender is to rape the victim only, and in the process, the latter had to be illegally detained, only the crime of rape is committed since illegal detention is deemed absorbed in rape." [126]

In the recent case of *People v. Ramoy*,[127] the Court again applied the absorption principle with respect to violations of Section 261(cc)(6) of the Omnibus Election Code,[128] which punishes the solicitation of votes in favor of a candidate inside a polling place, and Section 192 of the same Code,[129] which punishes the unlawful entry and presence inside the polling place. The Court held that the accused's act of illegally entering a polling place, with the intention of promoting a certain candidate in the elections, is absorbed by the crime of violation of Section 261(cc)(6). Thus, "when the crime is performed inside the polling place, 'unlawful or unauthorized presence' in the same place becomes inherent, as it is a means and an element of committing the election offense of unlawful campaign; and cannot be separated therefrom." [130]

There are decided cases, however, where the Court ruled that the principle of absorption was not applicable. In *Misolas v. Panga*,[131] the accused was charged with the crime of violation of Section 1 of Presidential Decree No. 1866.[132] Raised in the accused's petition before the Court is the question of the constitutionality of the third paragraph of said provision, which penalizes Illegal Possession of Firearms committed in furtherance of, or incident to, or in connection with the crimes of Rebellion, Insurrection, or Subversion. The accused contends that the provision is unconstitutional in line with the doctrines in *Hernandez* and *Geronimo*. The Court held, however, that the principle is inapplicable because the accused was charged with only one crime—violation of Section 1 of

PD No. 1866—and not any other, i.e. the accused was not charged with the complex crime of Subversion with Illegal Possession of Firearms, and neither was he separately charged for Subversion and for Illegal Possession of Firearms.[133] Thus, the crime has nothing to absorb, so to speak.

In *Baylosis v. Chavez, Jr.*, [134] the Court reiterated the ruling in *Misolas* that in the crime of violation of Section 1 of Presidential Decree No. 1866, the unlawful possession of a firearm used in furtherance of, incident to, or in connection with Rebellion, is an offense which can exist on its own and is not absorbed by Rebellion. The Court clarified that at the time *Hernandez* was promulgated, "there were no penal provisions defining and punishing, as specific offenses, crimes like murder, etc. committed in the course or as part of a [R]ebellion." [135] This no longer holds true, for Section 1 of Presidential Decree No. 1866 provides for the specific qualified offense of Illegal Possession of Firearms.

The Court likewise held in *Loney v. People* [136] that absorption is inapplicable if there are no common essential elements in the crimes involved. In that case, the petitioners were charged with Reckless Imprudence resulting in Damage to Property under Article 365 of the Revised Penal Code, as well as violations of Article 91(B)(5) and (6) of Presidential Decree No. 1067, [137] Section 8 of Presidential Decree No. 984, [138] and Section 108 of Republic Act No. 7942. [139] The Court ruled that Article 365 cannot absorb the other crimes charged considering that "in each of these laws on [sic] which petitioners were charged, there is one essential element not required of the others[.]" [140]

Finally, in *Gonzales*, which the OSP invokes as precedent, the Court ruled that absorption cannot be applied. There, soldiers who participated in the so-called "Oakwood Mutiny" were charged with two separate crimes: Coup d'etat punished under Article 134-A of the Revised Penal Code filed with the Regional Trial Court, and violation of Article 96 of the Articles of War filed with the Court Martial. The trial court held that the acts committed by the defendants were not service-related, thus it had jurisdiction over the crimes in accordance with Republic Act No. 7055, [141] and that the same were deemed absorbed by Coup d'etat. The Supreme Court held, however, that violation of Article 96 of the Articles of War is a service-oriented crime, thus, the trial court's order declaring that the acts done by the soldiers were not service-oriented, was tainted with grave abuse of discretion, considering that the same was issued beyond the trial court's jurisdiction. Relevantly, the Court held that: "Firstly, the doctrine of 'absorption of crimes' is peculiar to criminal law and generally applies to crimes punished by the same statute [...] Secondly, the doctrine applies only if the trial court has jurisdiction over both offenses." [142] Considering that Coup d'etat is punished under Article 134-A, and Article 96 violations pertain to military law, for which the trial court and the court martial have respective jurisdictions, then the crimes may not be deemed absorbed either way.

In all, the principle of absorption has found consistent jurisprudential mooring in the cases just discussed. Initially, the principle was only applied by the Court in cases of Rebellion starting with *Hernandez*, but the rationale behind and the concept that underpins it has been applied to other offenses as well, whether punished under a general law or a special law, i.e., *De Jesus*, *Lactao*, and *Ramoy*.

Notwithstanding that the Court declared in *Gonzales* that the principle of absorption may only be applied when the crimes are punished by the same law, such statement was qualified by the term "generally," [143] which is a recognition by the Court that there are specific instances when the principle may be applied even when the offenses are punished by different statutes. [144] Indeed, the Court has not shied away from applying the doctrine when the component act is punished by a separate or special law, much like in *Amin*, where it was held that a violation of Section 1(e) of Presidential Decree No. 1829, a special law, is absorbed by Rebellion punished under Article 134 of the Revised Penal Code, a general law.

More than jurisprudence, the absorption principle's rationale finds support in the Bill of Rights' provision against double jeopardy, which prohibits the punishment of a person for "the same offense."^[145] In *Corpus v. Pamular*,^[146] the Court explained that the right against double jeopardy ensures that a person would not suffer a second or more punishment for the same act. Thus:

The Constitutional provision on double jeopardy guarantees the invocation of the law not only against the danger of a second punishment or a second trial for the same offense, "but also against being prosecuted twice for the same act where that act is punishable by ... law and an ordinance." When a person is charged with an offense and the case against him or her is terminated either by acquittal or conviction or in any other way without his or her consent, he or she cannot be charged again with a similar offense. Thus, "[t]his principle is founded upon the law of reason, justice and conscience."^[147] (Emphasis supplied, citations omitted)

When an act punishable by law is a mere component, element, or ingredient of another crime for which the defendant is charged, the right against double jeopardy comes into effect or operation, thereby shielding that person from prosecution of the component crimes. Indeed, the same act may result in two or more separate and distinct offenses,^[148] but this is only applicable "if each crime involves some important act which is not an essential element of the other."^[149] When the offense is an inherent part of another offense, such that the commission of the former is essential for the performance of the latter, then the component crime loses its distinct and separate existence. As succinctly put in *Geronimo*, any and all acts done "as a means to or in furtherance of" another crime are absorbed by the latter.^[150]

It is in this regard that Estrada asserts that the alleged violations of Section 3(e) of Republic Act No. 3019 were committed as a means to, or in furtherance of, Plunder.

Plunder is punished under Section 2 of Republic Act No. 7080, as amended by Republic Act No. 7659, which reads:

SEC. 2. Definition of the Crime of Plunder; Penalties. — Any public officer who, by himself [or herself] or in connivance with members of his [or her] 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 [PHP 50 million] 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.

Plunder may be committed by engaging in a "combination or series of overt or criminal acts" described under Section 1(d) of Republic Act No. 7080. These acts are the so-called "predicate criminal acts" which form the bases or foundation of the crime of Plunder:^[151]

- (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[, herself] or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.[152]

Dissecting the above provisions, the elements of Plunder are:

(1) That the offender is a public officer who acts by himself [or herself] or in connivance with members of his [or her] family, relatives by affinity or consanguinity, business associates, subordinates, or other persons;

(2) That he [or she] amassed, accumulated or acquired ill-gotten wealth through a combination or series of the following overt or criminal acts: a. through misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury;

b. by receiving, directly or indirectly, any commission, gift, share, percentage, kickback or any other form of pecuniary benefits 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;

c. by the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies or instrumentalities of Government-owned or -controlled corporations or their subsidiaries;

d. 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;

e. 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

f. by taking 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; and,

(3) That the aggregate amount or total value of the ill-gotten wealth amassed, accumulated or acquired is at least [PHP 50 million].[153]

For the successful prosecution of Plunder, it must be proven that the accused committed any of the listed predicate criminal acts either in "combination or series" thereof. Combination refers to the commission of, at least, any two different predicate acts, while series pertains to the repetition of the same predicate act.[154]

The accusatory portion of the Information filed against Estrada in the Plunder Case reads:

In 2004 to 2012, or thereabout, in the Philippines, and within this Honorable Court's jurisdiction, above-named accused JOSE P. EJERCITO ESTRADA, then a Philippine Senator, and PAULINE THERESE MARY C. LABAYEN, then Deputy Chief of Staff of Sen. Estrada's Office, both public officers, committing the offense in relation to their respective offices, conspiring with one another and with JANET LIM NAPOLES and JOHN RAYMUND S. DE ASIS, did then and there willfully, unlawfully, and criminally amass, accumulate and/or acquire ill-gotten wealth amounting to at least [PHP] 183,793,750.00, through a combination or series of overt criminal acts, as follows:

a) by repeatedly receiving from NAPOLES and/or her representatives DE ASIS, and others, kickbacks or commissions under the following circumstances: before, during and/or after the project identification, NAPOLES gave, and ESTRADA and/or LABAYEN received, a percentage of the cost of a project to be funded from ESTRADA's Priority Development Assistance Fund (PDAF), in consideration of ESTRADA's endorsement, directly or through LABAYEN, to the appropriate government agencies, of NAPOLES' non-government organizations which became the recipients and/or target implementors of ESTRADA's PDAF projects, which duly-funded projects turned out to be ghosts or fictitious, thus enabling NAPOLES to misappropriate the PDAF proceeds for her personal gain;

b) by taking undue advantage, on several occasions, of their official positions, authority, relationships, connections, and influence to unjustly enrich themselves at the expense and to the damage and prejudice, of the Filipino people and the Republic of the Philippines.

CONTRARY TO LAW.[155] (Emphasis in the original)

The predicate criminal acts allegedly committed by Estrada fall under Section 1(d)(l) and (6) of Republic Act No. 7080, namely: (a) receiving kickbacks, commissions and other benefits from Napoles and her representative; and (b) taking advantage of his official position, authority, relationship, connection and influence to unjustly enrich himself at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

To determine whether Section 3(e) of Republic Act No. 3019 falls within the abovementioned predicate criminal acts, an examination of the text of the law is inescapable. The provision reads:

SEC. 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.

The elements of the crime of violation of Section 3(e) of Republic Act No. 3019 are:

1. The accused must be a public officer discharging administrative, judicial or official functions;
2. The accused must have acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and
3. The action of the accused caused undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of the functions of the accused.[156]

Evident from the enumeration are the two separate component acts and three separate modalities by which the crime may be committed.[157] The component acts are: (a) "causing undue injury to any party, including the Government;" and (b) "giving any private party any unwarranted benefit, advantage or preference." On the other hand, the three modalities of the crime are: (a) manifest partiality; (b) evident bad faith; and (c) gross inexcusable negligence.[158] An accused may be charged for any of the component acts, alongside any of the modalities of the crime, for the statute uses the disjunctive term "or," which connotes "dissociation and independence of one thing from other things enumerated." [159]

As to the first component act, the prosecution has the burden of proving that the public officer caused "undue

injury" to any party, including the government. In *Llorente v. Sandiganbayan*,^[160] the Court defined the term as follows:

In jurisprudence, "undue injury" is consistently interpreted as "actual damage." Undue has been defined as "more than necessary, not proper, [or] illegal;" and injury as "any wrong or damage done to another, either in his person, rights, reputation or property[;] [that is, the] invasion of any legally protected interest of another." Actual damage, in the context of these definitions, is akin to that in civil law.^[161]

With regard to the second component act, the statute provides that it is a "private party" who must have received the unwarranted benefit, advantage, or preference extended by the accused public officer. In *Villarosa v. People*,^[162] the Court explained how the second component act is committed:

For one to be found guilty under the second mode, it suffices that the accused has given unjustified favor or benefit to another in the exercise of his official, administrative or judicial functions. The word "unwarranted" means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason. "Advantage" means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action. "Preference" signifies priority or higher evaluation or desirability; choice or estimation above another.^[163] (citations omitted)

Relative to the three modalities by which violations of Section 3(e) of Republic Act No. 3019 are committed, the Court described them as follows:

[T]here is "manifest partiality" when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. "Evident bad faith" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. "Evident bad faith" contemplates a state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will or for ulterior purposes. "Gross inexcusable negligence" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.^[164]

In *Uriarte v. People*,^[165] the Court held that when the public officer commits a violation of Section 3(e) of Republic Act No. 3019 through "manifest partiality" and "evident bad faith," such is a crime performed by dolo, but when it is committed through "gross inexcusable negligence," such is achieved by culpa.^[166]

Here, the Informations charging Estrada of violation of Section 3(e) of Republic Act No. 3019 are similar, except for the noted differences in the years, amounts, disbursement voucher (DV) numbers, non-governmental organizations (NGOs), and public officers involved. For reference, the accusatory portion of Information in SB-14-CRM-0256, one of the Graft Cases, reads:

In 2008, or thereabout, in Pasay City, Philippines, and within this Honorable Court's jurisdiction, above-named accused JOSE P. EJERCITO ESTRADA, a Philippine Senator [...], all public officers, while in the performance of their official functions, conspiring with one another and with private individuals JANET LIM NAPOLES and JOHN RAYMUND DEASIS, acting with evident bad faith and manifest partiality, did then and there willfully, unlawfully, and criminally cause undue injury to the government in the amount of [PHP] 24,250,000.00, more or less, and give unwarranted benefits and advantage to said private individuals, through a scheme described as follows:
a. Estrada endorsed, directly or through Labayen, the non-governmental organization Masaganang Ani Para sa Magsasaka Foundation, Inc. (MAMFI) organized by Napoles and De Asis, to implement projects funded by Estrada's Priority Development Assistance Fund (PDAF) in the total amount of [PHP] 24,250,000.00 covered by Disbursement Vouchers No. 08-07-02436 and 08-10-3743, in disregard of the appropriation law and its implementing rules, and/or without the benefit of public bidding, as required under [Republic] Act No. 9184 and its implementing rules and regulations and with [the

non-governmental organization] being unqualified to undertake the projects;

b. Labayen prepared documents and executed communications with the DBM and the NABCOR for the release and use of Estrada's PDAF[;] DBM's Relampagos, Nuñez, Paule[,] and Bare facilitated with undue haste the processing of the pertinent Sub-Allotment Release Order and Notice of Cash Allocation[;] NABCOR's Javellana, Mendoza, Villalarvo-Johnson, Cacal, Guañizo, and Relevo caused the preparation and execution of Memoranda of Agreement governing the implementation of the projects, and, thereafter, facilitated, processed, and approved the disbursement of the subject PDAF without conducting a due diligence audit, to Napoles and De Asis who diverted the amount to Napoles' control instead of implementing the PDAF-funded projects which turned out to be inexistent; and

c. Said public officers and employees received "kickbacks" representing portions of Estrada's PDAF. CONTRARY TO LAW.[167] (Emphasis supplied)

The Informations for the remaining Graft Cases, namely SB-14-CRM-0257 until SB-14-CRM-0266, contain the same recital of facts as the Information in SB-14-CRM-0256, except for certain differences in material details, as follows:[168]

Graft Case No.

Date of Commission

DV No. / Amount

NGO Involved

SB-14-CRM-0257

2008

DV Nos. 012008092220, 012007092221 in the amount of PHP 22,500,000.00

Social Development Program for Farmers Foundation, Inc.
(SDPFFI)

SB-14-CRM-0258

2008 to 2009

DV Nos. 08-09-03381 and 09-03-1025 in the amount of PHP 18,914,000.00

Masaganang Ani Para sa Magsasaka Foundation, Inc.
(MAMFI)

SB-14-CRM-0259

2009

DV Nos. 09050655, 9060701[,] and 09060783 in the amount of PHP 20,000,000.00

MAMFI

SB-14-CRM-0260

2009

DV No. 09-03-0762 in the amount of PHP 2,910,000.00

SDPFFI

SB-14-CRM-0261

2009

DV Nos. 09-03-0764, 09-04-1395, 09-05-1735[,] and 09-04-1283 in the amount of PHP 23,280,000.00

MAMFI

SB-14-CRM-0262

2009 to 2010

DV Nos. 09121838, 100110005, 10010116[,] and 10050855 in the amount of PHP 29,100,000.00

MAMFI

SB-14-CRM-0263

2010

DV Nos. 10-11-0135, 10-12-0141[,] and 10-12-0147 in the amount of PHP 25,000,000.00

SDPFFI

SB-14-CRM-0264

2010

DV Nos. 10020266, 10030353[,] and 10050821 in the amount of PHP 25,000,000.00

SDPFFI

SB-14-CRM-0265

2010

DV Nos. 10-09-0099, 10-10-0105[,] and 10-10-0123 in the amount of PHP 31,000,000.00

MAMFI

SB-14-CRM-0266

2010

DV Nos. 10-01-0077 and 10-03-0824 in the total amount of PHP 9,700,000.00

MAMFI[169]

The Informations in the Graft Cases uniformly charge Estrada with committing both component acts of "causing undue injury to any party, including the Government" and "giving any private party any unwarranted benefit, advantage or preference" through two modalities, namely, "evident bad faith" and "manifest partiality."

As discussed, "undue injury," in the context of the first component act under Section 3(e) of Republic Act No. 3019, has a meaning akin to the civil law concept of "actual damage,"[170] which must be specified, quantified, and based on competent proof that may be used for its valuation or measurement.[171] The allegation in the Graft Cases is that Estrada, by using his office, personally endorsed his PDAF to NGOs controlled by Napoles, and in the course of the disbursement of funds to these organizations for supposed PDAF-funded projects, he received kickbacks, the amounts of which are described in the table above.

The term "kickback" has no found definition in Republic Act No. 3019. Considering, however, that the provision is clear, plain, and free from ambiguity, the use of the term's literal meaning is appropriate.[172] The plain meaning of kickback is:

[A] return of a part of a sum received often because of confidential agreement or coercion.[173]

....

[A]n amount of money that is paid to someone illegally in exchange for secret help or work.[174]

....

[A] sum of money that is paid to someone illegally, for example, money which a company pays someone to arrange for the company to be chosen to do an important job.[175]

Indeed, the act of public officers in receiving kickbacks, which by definition are "illegal payments" sourced from public projects, results in "undue injury" on the part of the government. The PDAF, a form of "pork barrel" prior to its declaration of invalidity by the Court,[176] was meant to be "an appropriation of government spending meant for localized projects and secured solely or primarily to bring money to a representative's district." [177] Instead of utilizing government funds for the benefit of a particular legislator's constituents, the money is diverted to the control of public officers and their co-conspirators, and the benefit received by the public, if any, becomes immaterial. Worse, when the supposed projects are not actually implemented, the public is entirely shortchanged as no benefit from the project, which is funded by the public treasury, inures to them. The undue injury to the government is quantifiable by the amount of public funds lost to the corrupt act as a form of kickback, which the public officers and their co-conspirators received.

To repeat, the Plunder Case against Estrada specifically alleged that he committed one of the predicate criminal acts of "repeatedly receiving from [Napoles] and/or her representatives[,] [De Asis], and others, kickbacks or commissions," while the Graft Cases alleged that Estrada "received 'kickbacks' representing portions of Estrada's PDAF."

The logical conclusion is that the component act of "causing undue injury to [...] the Government" under Section 3(e) of Republic Act No. 3019, particularly when the allegation pertains to the receipt of kickbacks, is absorbed by the predicate criminal act of "receiving, directly or indirectly, any commission, gift, share, percentage, kickback or any other form of pecuniary benefits from any person and/or entity..." under Section 1(d)(2) of Republic Act No. 7080.

The absorption by Plunder of other crimes which are inherently part thereof finds support in Hernandez and the cases decided after it discussed above. These precedents provide for the rule that any and all acts done "as a means to or in furtherance of another crime are absorbed by the latter.[178] There is no compelling reason not to apply such principle here, especially when Plunder has been characterized as a "composite scheme employed by a public officer to loot the coffers of the government." [179] As a "composite scheme" composed of several predicate criminal acts, it is therefore possible that certain overt acts, which are offenses by themselves, may be committed as a means to or in furtherance of Plunder. In such instance, the overt acts or predicate criminal acts are considered the essential elements or ingredients of Plunder.

Aside from the similarity in the material allegations in the Informations both in the Plunder and Graft Cases that Estrada received kickbacks from the release of his PDAF to Napoles-controlled NGOs, it has been shown that the transactions covered by the Informations in the Graft Cases are the same transactions that support the Information in the Plunder Case. The DVs showing the transfer of funds to the NGOs that form the basis of the Graft Cases,[180] are sourced from the same Special Allotment Release Orders (SAROs) issued by the Department of

Budget and Management (DBM) evidencing the release of portions of Estrada's PDAF and marked as evidence in the Plunder Case.[181]

The rule in statutory construction is that intent is principally determined from the language of the law.[182] Where it is clear and unambiguous, resort to extrinsic aids of interpretation is not required. Notwithstanding, the Court has recognized that reference to congressional deliberation records provides guidance in revealing the intent of the authors of the law.[183]

The records of the May 7, 1991 Bicameral Conference Committee deliberations on the disagreeing provisions of the bill that would eventually become Republic Act No. 7080, as cited by Estrada, show the following:

REP. ISIDRO: I am just intrigued again by our definition of plunder. We say THROUGH A COMBINATION OR SERIES OF OVERT CRIMINAL ACTS AS MENTIONED IN SECTION ONE HEREOF. Now when we say combination, we actually mean to say, if there are two or more means, we mean to say that number one and two or number one and something else are included, how about a series of the same act? For example, through misappropriation, conversion, misuse, will these be included also?

THE CHAIRMAN (REP. GARCIA): Yeah, because we say a series.

REP. ISIDRO: Series.

THE CHAIRMAN (REP. GARCIA): Yeah, we include series.

REP. ISIDRO: But we say we begin with a combination.

THE CHAIRMAN (REP. GARCIA): Yes.

REP. ISIDRO: When we say combination, it seems that—

THE CHAIRMAN (REP. GARCIA): Two.

REP. ISIDRO: Not only two but we seem to mean that two of the enumerated means not twice of one enumeration.

THE CHAIRMAN (REP. GARCIA): No, no, not twice.

REP. ISIDRO: Not twice?

THE CHAIRMAN (REP. GARCIA): Yes. Combination is not twice—but combination, two acts.

REP. ISIDRO: So in other words, that's it. When we say combination, we mean, two different acts. It cannot be a repetition of the same act.

THE CHAIRMAN (REP. GARCIA): That be referred to series, yeah.

REP. ISIDRO: No, no. Supposing one act is repeated, so there are two.

THE CHAIRMAN (REP. GARCIA): A series.

REP. ISIDRO: That's not series. It's a combination. Because when we say combination or series, we seem to say that two or more, 'di ba?

THE CHAIRMAN (REP. GARCIA): Yes, this distinguishes it really from ordinary crimes. That is why, I said, that is a very good suggestion because if it is only one act, it may fall under ordinary crime but we have here a combination or series of overt criminal acts[.]

....

THE CHAIRMAN (REP. GARCIA): Series. One after the other eh di...

THE CHAIRMAN (SEN. TANADA): So that would fall under the term "series?"

THE CHAIRMAN (REP. GARCIA): Series, oo.

REP. ISIDRO: Now, if it is a combination, ano, two misappropriations...

THE CHAIRMAN (REP. GARCIA): It's not... Two misappropriations will not be combination. Series.

REP. ISIDRO: So, it is not a combination?

THE CHAIRMAN (REP. GARCIA): Yes.

REP. ISIDRO: When you say combination, two different?

THE CHAIRMAN (REP. GARCIA): Yes.

THE CHAIRMAN (SEN. TAÑADA): Two different.

REP. ISIDRO: Two different acts.

THE CHAIRMAN (REP. GARCIA): For example, ha...

REP. ISIDRO: Now a series, meaning repetition...[184] (Emphasis in the original)

The plenary deliberations, dated June 6, 1989, on Senate Bill No. 733, the precursor of Republic Act No. 7080, shows:

Senator Maceda: In line with our interpellation that sometimes "one" or maybe even "two" acts may already result in such a big amount, on line 25, would the sponsor consider deleting the words "a series of overt or," to read, therefore: "or conspiracy COMMITTED by criminal acts such as." Remove the idea of necessitating "a series." Anyway, the criminal acts are in the plural.

Senator Tañada: That would mean a combination of two or more of the acts mentioned therein.

The President: Probably two or more would be...

Senator Maceda: Yes, because "a series" implies several or many; two or more.

Senator Tañada: Accepted, Mr. President...

[. . .]

The President: If there is only one, then he has to be prosecuted under the particular crime. But when we say "acts of plunder" there should be, at least, two or more.

Senator Romulo: In other words, that is already covered by existing laws, Mr. President.[185] (Emphasis in the original)

The Court agrees with the position of the OSP that the deliberations of Congress on the passage of Republic Act No. 7080, as cited by Estrada, do not show that there was clear intent that violations of Republic Act No. 3019 would ipso jure be absorbed by Plunder. What these records exhibit is the legislators' attempt to distinguish between the terms "series" and "combination" that define the crime of Plunder.

Nevertheless, in *Estrada v. Sandiganbayan*,[186] the Court had occasion to explain the history behind the enactment of Republic Act No. 7080, thus:

A study of the history of [Republic Act] No. 7080 will show that the law was crafted to avoid the mischief and

folly of filing multiple informations. The Anti-Plunder Law was enacted in the aftermath of the Marcos regime where charges of ill-gotten wealth were filed against former President Marcos and his alleged cronies. Government prosecutors found no appropriate law to deal with the multitude and magnitude of the acts allegedly committed by the former President to acquire illegal wealth. They also found that under the then existing laws such as the Anti-Graft and Corrupt Practices Act, the Revised Penal Code and other special laws, the acts involved different transactions, different time and different personalities. Every transaction constituted a separate crime and required a separate case and the over-all conspiracy had to be broken down into several criminal and graft charges. The preparation of multiple Informations was a legal nightmare but eventually,[39] separate and independent cases were filed against practically the same accused before the Sandiganbayan. [Republic Act] No. 7080 or the Anti-Plunder Law was enacted precisely to address this procedural problem. This is pellucid in the Explanatory Note to Senate Bill No. 733, viz: "Plunder, a term chosen from other equally apt terminologies like kleptocracy and economic treason, punishes the use of high office for personal enrichment, committed thru a series of acts done not in the public eye but in stealth and secrecy over a period of time, that may involve so many persons, here and abroad, and which touch so many states and territorial units. The acts and/or omissions sought to be penalized do not involve simple cases of malversation of public funds, bribery, extortion, theft and graft but constitute plunder of an entire nation resulting in material damage to the national economy. The above-described crime does not yet exist in Philippine statute books. Thus, the need to come up with a legislation as a safeguard against the possible recurrence of the depravities of the previous regime and as a deterrent to those with similar inclination to succumb to the corrupting influence of power." [187] (Emphasis in the original)

Republic Act No. 7080, more than a substantive criminal statute, provided for a procedural answer to prosecutors who wish to indict public officers who committed multiple crimes in furtherance of one single act, the prosecution of each and every one of these individual crimes would drain the resources of the government and lead to a "legal nightmare." [188] In fact, the law does not require that each and every predicate criminal act be proven to obtain a successful conviction of Plunder, only that the "pattern of overt or criminal acts indicative of the overall unlawful scheme or conspiracy" be proven beyond reasonable doubt. [189]

The OSP also maintains that Plunder is a crime *malum in se*, while violations of Section 3(e) of Republic Act No. 3019 may be committed through gross inexcusable negligence. Thus, Plunder, which requires as an essential element the criminal intent of the perpetrator, cannot absorb a crime that may be committed by negligence or *culpa*.

Indeed, in *Estrada vs. Sandiganbayan*, [190] the Court declared that Plunder, though punished under a special law, is a crime *malum in se* for being inherently wrongful and immoral.

It must be noted, however, that the Informations in the Graft Cases filed against Estrada alleged that he committed the crime through "evident bad faith and manifest partiality." There is no mention in the accusatory portion of said Informations that Estrada committed the crime through gross inexcusable negligence.

Violations of Section 3(e) of Republic Act No. 3019 committed through manifest partiality or evident bad faith are offenses that require *dolo* or deceit. There is deceit when the wrongful act is performed with deliberate intent. [191] Criminal intent or *mens rea*—a mental state the existence of which is exhibited by overt acts—must be shown in felonies committed by means of *dolo*. [192]

In *Martel v. People*, [193] the Court discussed that criminal intent is a necessary element to establish the presence of the two modalities of evident bad faith and manifest partiality:

It is settled in jurisprudence that evident bad faith "does not simply connote bad judgment or negligence" but of having a "palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with

furtive design or with some motive or self-interest or ill will or for ulterior purposes." Simply put, it partakes of the nature of fraud.

The presence of evident bad faith requires that the accused acted with a malicious motive or intent, or ill will. It is not enough that the accused violated a provision of law or that the provision of law violated is clear, unmistakable and elementary. To constitute evident bad faith, it must be proven that the accused acted with fraudulent intent.

As explained in *Sistoza*, "mere bad faith or partiality and negligence per se are not enough for one to be held liable under the law since the act of bad faith or partiality must in the first place be evident or manifest."

To stress anew, evident bad faith "contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes." It connotes "a manifest deliberate intent on the part of the accused to do wrong or to cause damage. It contemplates a breach of sworn duty through some perverse motive or ill will."

....

There is manifest partiality "when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another." It should be remembered that manifest partiality, similar to evident bad faith, is in the nature of *dolo*. Hence, it must be proven that the accused had malicious and deliberate intent to bestow unwarranted partiality upon Toyota Davao, Kar Asia, and Ford Davao.[194] (Emphasis supplied; Citations omitted)

In *ABS-CBN Corporation v. Gozon*,[195] the Court clarified that only in offenses considered *mala in se* is intent required for their successful prosecution. Thus, "[c]rimes *mala in se* presuppose that the person who did the felonious act had criminal intent to do so, while crimes *mala prohibita* do not require knowledge or criminal intent[.]"[196]

Considering that criminal intent is required in either modality, it can be said that violations of Section 3(e) of Republic Act No. 3019 committed through manifest partiality or evident bad faith are crimes *mala in se*. Such classification paves the way for the application of the absorption principle since the common element of criminal intent must be present in both Plunder and violations of Section 3(e) committed through manifest partiality or evident bad faith.

Analysis of the second component act of Section 3(e) of Republic Act No. 3019 leads, however, to a different conclusion.

Notwithstanding that the receipt of kickbacks may fall under the component act of "causing undue injury to [...] the Government" provided for in Section 3(e) of Republic Act No. 3019, which may be considered as one of the predicate criminal acts of Plunder under Section 1(d)(2) of Republic Act No. 7080, the other component act of "giving any private party any unwarranted benefit, advantage or preference" provided for in Section 3(e) of Republic Act No. 3019 finds no statutory cover under Section 1(d) of Republic Act No. 7080, except when such other party is the same public officer acting in a private capacity. In other words, the general rule is that the component act of "giving any private party any unwarranted benefit, advantage[,], or preference" is not one of the predicate criminal acts of Plunder, and the exception is when the public officer is the one who receives such unwarranted benefit, advantage or preference.

Again, the predicate acts of Plunder for which Estrada was accused of committing are: (1) "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;"[197] and (2) "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." [198]

In both of these predicate criminal acts, it is unmistakable that the beneficiary in the commission of such acts are the public officers charged with the crime of plunder, who in this case are Estrada and his then-Deputy Chief of Staff, Labayan.

Plunder presupposes that it is the public officer who benefitted from the commission of the predicate criminal act of receiving kickbacks or any form of pecuniary benefit from any person or entity. The language of Republic Act No. 7080 is clear on this point, as Section 2 thereof provides that it is the "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." Furthermore, Section 1(d)(2) of the same law provides that the receipt of the kickback is conditioned on the presence of "any government contract or project" or "by reason of the office or position of the public officer concerned," qualifications present only when there is a public officer involved.

Relative to the second predicate act, it is evident that Section 1(d)(6) of Republic Act No. 7080 pertains to the public officers' act of "taking undue advantage" of their official positions to "unjustly enrich [...] themselves" to the damage and prejudice of the government. Clearly, the law provides that the beneficiary of such predicate criminal act is the public officers who are unjustly enriched through the abuse of their public positions.

In Arroyo, the Court held that in the predicate criminal act of raiding the public treasury under Section 1(d)(1) of Republic Act No. 7080, it is required that the Information for Plunder accuses the public officer of "personal benefit" from the use of the public properties taken or raided. Similarly, the requirement of personal benefit is implied in Section 1(d)(2) and (6) of Republic Act No. 7080, as the public officer who receives kickbacks and abuses his public position to unjustly enrich himself clearly obtains some form of personal benefit, in such sum of money paid to the public officer, to the damage and prejudice of the government.

On the other hand, the component act of "giving any private party any unwarranted benefit, advantage or preference" under Section 3(e) of Republic Act No. 3019 visibly requires that it is a "private party" who is benefitted by the overt act of the public officer.

As pointed out by Associate Justice Japar B. Dimaampao during the deliberations of these consolidated cases, the law recognizes that the "private party" contemplated under Section 3(e) of Republic Act No. 3019 may likewise pertain to the same public officer, who received the unwarranted benefit, advantage or preference acting in their private capacity.

Indeed, in *Ambit, Jr. v. Sandiganbayan*, [199] the Court clarified that the term "private party" is a broad phrase that covers other private persons or even public officers acting in their private capacity:

In drafting the Anti-Graft Law, the lawmakers opted to use "private party" rather than "private person" to describe the recipient of the unwarranted benefits, advantage or preference for a reason. The term "party" is a technical word having a precise meaning in legal parlance as distinguished from "person" which, in general usage, refers to a human being. Thus, a private person simply pertains to one who is not a public officer. While a private party is more comprehensive in scope to mean either a private person or a public officer acting in a private capacity to protect his personal interest.

In the present case, when petitioners transferred Mayor Adalim from the provincial jail and detained him at petitioner Ambil, Jr.'s residence, they accorded such privilege to Adalim, not in his official capacity as a mayor, but as a detainee charged with murder. Thus, for purposes of applying the provisions of Section 3(e), [Republic Act] No. 3019, Adalim was a private party.

Moreover, in order to be found guilty under the second mode, it suffices that the accused has given unjustified favor or benefit to another in the exercise of his official, administrative or judicial functions[.][200] (Emphasis supplied, citations omitted)

Be that as it may, the law acknowledges that a violation of Section 3(e) of Republic Act No. 3019 may be done when the recipient of the unwarranted benefit, advantage or preference is a person other than the public officer charged with the crime. Such was the case in *Ambil*, where the Court held that even though the beneficiary of the unwarranted benefit, advantage or preference is a public officer, i.e., then Mayor Francisco Adalim, he received such benefit, advantage or preference in his private capacity as a detainee charged with a crime, and not as a public officer. More importantly, Mayor Adalim is not the same person charged with violation of Section 3(e) of Republic Act No. 3019, but then Governor Ruperto Ambil, Jr. Thus, as the Court has tersely stated in *Sison v. People*,[201] "it suffices that the accused has given unjustified favor or benefit to another, in the exercise of [their] official, administrative or judicial functions." [202]

It is therefore logical to hold that the component act of "giving any private party any unwarranted benefit, advantage or preference" under Section 3(e) of Republic Act No. 3019 cannot be absorbed by the predicate criminal acts under Section 1(d)(2) and (6) of Republic Act No. 7080 considering the different gravamen of the offenses: in the former, the unwarranted benefit is accorded to a private party separate and distinct from the public officer, while in the latter, it is the public officer who benefits from the act of receiving kickbacks and unjustly enrich himself or herself through such combination or series of overt acts as to constitute Plunder. The only exception to this rule is when the Information alleging a violation of Section 3(e) of Republic Act No. 3019 names the same public officer, acting in a private capacity, as the beneficiary of the unwarranted benefit, advantage or preference. This is so because the primary beneficiary of both Plunder and Graft now pertain to only one and the same person.

In view of the foregoing discussion, the rule as regards the applicability of the absorption principle to violations of Section 3(e) of Republic Act No. 3019 and Section 2 of Republic Act No. 7080 may be summarized, as follows:

(a)

The component act of "causing undue injury to [...] the Government" by specifically alleging receipt of kickbacks, commissions and other benefits committed through manifest partiality or evident bad faith punishable under Section 3(e) of Republic Act No. 3019, is deemed absorbed by the predicate criminal act of "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" under Section 1(d)(2) of Republic Act No. 7080;

(b)

Violations of Section 3(e) of Republic Act No. 3019 alleging the other component act of "giving any private party any unwarranted benefit, advantage or preference" is not absorbed in Republic Act No. 7080 if the recipient of the unwarranted benefit, advantage or preference is a person other than the public officer, since the primary beneficiary thereof is another individual and not the public officer who allegedly amassed, acquired, and accumulated ill-gotten wealth. However, if the recipient of the unwarranted benefit, advantage or preference is the same public officer acting in their private capacity, then the violation of Section 3(e) of Republic Act No. 3019 is absorbed in Plunder; and

(c)

Violations of Section 3(e) of Republic Act No. 3019 alleging any of the two component acts but committed through gross inexcusable negligence is not absorbed in Plunder, considering that the element of *dolo* or intent

is absent.

Here, the Informations in the Graft Cases filed against Estrada specifically alleged that he gave "unwarranted benefits and advantage to [...] private individuals," namely Napoles and her representative, De Asis, by personally endorsing, without the benefit of public bidding, as required under Republic Act No. 9184 and its implementing rules and regulations, to their NGOs a portion of his own PDAF allocation. In turn, Napoles diverted the amounts to her control instead of implementing the PDAF-funded projects which turned out to be inexistent, and in the process, Estrada received a portion of his PDAF through kickbacks. Thus, the accusation in the Informations is clear that Estrada gave unwarranted benefit, advantage or preference to Napoles and De Asis.

Notwithstanding that the Informations in the Graft Cases alleged that Estrada received kickbacks from the diversion of his PDAF to the NGOs of Napoles and De Asis, the Informations did not clearly and unequivocally aver that Estrada likewise received unwarranted benefit, advantage or preference in his own private capacity. The Court takes its cue from the relatively recent case of *Leonardo v. People*,^[203] where the conviction of then Mayor Stewart Leonardo for violation of Section 3(e) of Republic Act No. 3019 for receiving unwarranted benefit, advantage or preference in his private capacity from his own acts, was affirmed by the Court. The Information in that case reads:

That on or about [May 21,] 2010 or sometime prior or subsequent thereto, in the Municipality of Quezon, Bukidnon, and within the jurisdiction of this Honorable Court, the accused, STEWART G. LEONARDO, Municipal Mayor of the Quezon, Bukidnon, a high ranking public employee, committing the offense in relation to office, and taking advantage of his position with manifest partiality and evident bad faith, did then and there willfully, unlawfully, and criminally secured for himself, in his private capacity, unwarranted benefit and advantage, that while representing the Local Government of the Municipality of Quezon (LGU Quezon) in the auction conducted by the United Auctioneers, Inc. in Olongapo City, for the procurement of the LGU Quezon equipment, he also bid and bought his personal equipment, and thereby made use of the bid deposit in the amount of [PHP 100,000.00] paid for by the LGU Quezon for his personal bid, and applied the same, which was supposed to be deducted from the total purchase price of the LGU Quezon, to the total purchase price of his personal equipment; and that he made sure that his personal equipment will be transported alongside the LGU Quezon equipment in order to avoid incurring expenses for himself in the form of toll fees, shipment costs, and other incidental expenses.

CONTRARY TO LAW.^[204] (Emphasis supplied)

The law requires that the Information must allege clearly and accurately the elements of the crime and the circumstances constituting the charge.^[205] The test is whether the crime is described in intelligible terms with such particularity as to apprise the accused, with reasonable certainty, of the offense charged.^[206] The Information in *Leonardo* satisfied this requirement as it is unambiguous that then Mayor Leonardo was being charged of violating Section 3(e) of Republic Act No. 3019 as he received the unwarranted benefit, advantage or preference in his private capacity.

Here, the Informations filed against Estrada in the Graft Cases did not state with clarity and sufficient particularity that Estrada received, in his private capacity, any unwarranted benefit, advantage or preference. As averred in the said Informations, the "private individuals" pertained to were Napoles and De Asis, and the allegation was that Estrada gave unwarranted benefits and advantage to "said private individuals" only.^[207] Thus, the Graft Cases are not absorbed by the Plunder Case considering that the recipients of the unwarranted benefit, advantage or preference are private parties other than Estrada himself.

Considering that the Informations in the Graft Cases alleged that Estrada committed the component act of "giving any private party any unwarranted benefit, advantage or preference" to private parties Napoles and De Asis, the

same may not be absorbed in the Plunder Case. It must be noted that even though Section 3(e) of Republic Act No. 3019 provides for two component acts, neither mode constitutes a distinct offense, and an accused may be charged under either mode or both, such that the presence of one would suffice for conviction.[208] If the Information alleges the commission of both component acts of Section 3(e) of Republic Act No. 3019, it is enough that the accused be convicted in one component act. Again, the provision uses the word "or," which connotes that either component act qualifies as a violation of Section 3(e). Simply, the presence of one component act would suffice for conviction.[209]

Notwithstanding that the component act of "causing undue injury to [...] the Government" by receiving kickbacks may be considered a predicate criminal act in Plunder and may thus be absorbed by the latter, nothing precludes the prosecution from presenting evidence to prove that Estrada violated Section 3(e) of Republic Act No. 3019 through the component act of "giving any private party any unwarranted benefit, advantage or preference." Consequently, the Informations in the Graft Cases may survive and exist on their own as the prosecution may still prove that Estrada committed the component act of giving unwarranted benefit, advantage or preference to Napoles and De Asis, and their dismissal is unwarranted considering that the prosecution may still present evidence with regard to the second component act under Section 3(e).

Thus, the Sandiganbayan did not commit grave abuse of discretion amounting to lack or excess of jurisdiction when it denied Estrada's Motion to Dismiss, as embodied in its Resolutions, dated July 14, 2016 and October 4, 2016.

G.R. Nos. 254906-15 are not affected by mootness; nevertheless, the Court is constrained to deny the Petition for Certiorari

To clarify, Estrada filed his Manifestation and Motion for the production of evidence to cover both the Plunder and Graft Cases. As discussed, the promulgation of the January 19, 2024 Decision and the August 22, 2024 and November 27, 2024 Resolutions of the Sandiganbayan effectively rendered Estrada's Petition for Certiorari in G.R. No. 254892 moot and academic, but this is only with respect to the Plunder Case, as Estrada's acquittal in the Plunder Case would not affect the Graft Cases since the Graft Cases are not absorbed in the Plunder Case. As such, the Petitions for Certiorari in G.R. Nos. 254906-15 are not tainted by mootness.

Nevertheless, the Court finds that Estrada's Petition for Certiorari in G.R. Nos. 254906-15 relative to the Graft Cases should be denied.

Part III, Section (2)(c) of the Revised Guidelines for the Continuous Trial of Criminal Cases (Continuous Trial Guidelines) [210] provides for meritorious and unmeritorious motions, and the proper procedure to question the order when meritorious motions are denied by the trial court:

2. Motions

....

(c) Meritorious Motions—Motions that allege plausible grounds supported by relevant documents and/or competent evidence, except those that are already covered by the Revised Guidelines, are meritorious motions[.]

...

The motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of [five] calendar days from receipt of such resolution, and the adverse party shall be given an equal period of [five] calendar days from receipt of the motion for reconsideration within which to submit its comment. Thereafter, the motion for reconsideration shall be resolved by the court within a non-extendible period of [five] calendar days from the expiration of the [five]-day period to submit the comment.

Motions that do not conform to the requirements stated above shall be considered unmeritorious and shall be denied outright. (Emphasis supplied)

In *Moreno v. Sandiganbayan*,^[211] the petitioner, who was convicted of the crime of violation of Section 3(e) of Republic Act No. 3019 by the Sandiganbayan, filed a motion praying that she be allowed to serve her sentence under home care or house arrest, which was eventually denied by the anti-graft court. This Court held that the failure of the petitioner to provide evidence, i.e., medical records or physician's report to show that she is suffering from certain health conditions that prevent her from serving her sentence in prison, rendered her motion unmeritorious. Thus, it was proper for the Sandiganbayan to deny such motion outright.

Here, Estrada's Manifestation and Motion before the Sandiganbayan was not supported by relevant evidence. No document was attached or annexed to the said Manifestation and Motion, nor did Estrada point to any evidence already submitted before the anti-graft court that could support his cause. Thus, the Sandiganbayan correctly denied the same.

Even if the Court considers Estrada's Manifestation and Motion to be a meritorious motion, the Court finds that his Motion for Reconsideration of the Minute Resolution, dated June 4, 2020, was belatedly filed. As admitted by Estrada in his Petition, he received, through counsel, the Minute Resolution on the same day it was promulgated on June 4, 2020.^[212] Thus, he had five days, or until June 9, 2020, within which to file a motion for reconsideration. However, Estrada only filed his Motion for Reconsideration on June 19, 2020,^[213] which was beyond the five-day period prescribed by the Continuous Trial Guidelines.

Even if these procedural infirmities are brushed aside, the Court nevertheless finds no merit in the arguments raised in the Petition.

At the outset, Estrada's Manifestation and Motion for the NBI and the prosecution to produce the requested documents and information is akin to a mode of discovery sanctioned under the Rules of Court, as amended.

In *People v. Ang*,^[214] the Court held that a request for admission, a mode of discovery provided for under Rule 26 of the Rules of Court, as amended, may not be used in criminal proceedings because: (a) a request for admission cannot be served on the prosecution because it is answerable only by an adverse party to whom such request was served; and (b) it may run counter with the constitutional protection granted to the accused against self incrimination. Nevertheless, the Court recognized that there is nothing in the Rules which preclude the applicability of other modes of discovery in criminal proceedings.

The separate concurring opinion of Associate Justice Rodil V. Zalameda in *Ang* discussed that in the United States Federal Rules of Criminal Procedure, there are only two modes of discovery allowed in criminal proceedings, namely: (a) depositions under Rule 15; and (b) discovery and inspection under Rule 16.^[215] Justice Zalameda described these modes, thus:

Under Rule 15, the court may, under exceptional circumstances and in the interest of justice, grant a motion to have a prospective witness be deposed in order to preserve his or her testimony for trial. This includes the taking of depositions outside the U.S., without the defendant's presence, after the court makes certain case-specific findings.

Meanwhile, under Rule 16, a defendant may, under specific conditions, make a request for government disclosure of any of the following: (a) substance of any relevant oral statement made by the defendant, before or after arrest, in response to interrogation; (b) relevant written or recorded statement within the government's custody; (c) prior criminal record that is within the government's possession; (d) any material document or object within the government's possession to be inspected or copied by defendant; (e) any material report of physical or mental examination or any scientific test or experiment within the government's possession; and (f) a written summary of an expert witness' testimony. If a defendant requires government disclosure and the government complies, then he or she has the reciprocal obligation to permit the government, upon request, to allow such disclosure. Failing to respond to a request for disclosure may result in the exclusion of the requested information from being disclosed during trial. There are certain materials, however, that are not subject to disclosure, such as reports made in connection with investigating or prosecuting the case, or statements made by prospective witnesses.[216] (Citations omitted)

Philippine procedural rules are similarly structured to that of the U.S. In fact, the present Rules of Criminal Procedure traces its roots to General Order No. 58,[217] dated April 23, 1900, issued by the then-Military Governor of the Philippines during the period of American occupation.[218] This General Order instituted a code of criminal procedure that was "more consonant with American legal ideas" and "remains virtually unchanged [...]" and governs present-day criminal procedure in the Philippines."[219] This comparable framework thus presents a reasonable context within which the Court may determine whether this mode of discovery is allowed in criminal proceedings.

Similar to discovery and inspection under Rule 16 of the United States Federal Rules of Criminal Procedure,[220] production or inspection of material evidence under Rule 116, Section 10 of the Rules of Court, as amended, affords the opportunity for the accused, upon showing of good cause, to compel the production and inspection of material evidence, including documents or things relevant to the case, which are in the control or possession of the prosecution. The provision reads:

SEC. 10. Production or inspection of material evidence in possession of prosecution.—Upon motion of the accused showing good cause and with notice to the parties, the court, in order to prevent surprise, suppression, or alteration, may order the prosecution to produce and permit the inspection and copying or photographing of any written statement given by the complainant and other witnesses in any investigation of the offense conducted by the prosecution or other investigating officers, as well as any designated documents, papers, books, accounts, letters, photographs, objects [sic] or tangible things not otherwise privileged, which constitute or contain evidence material to any matter involved in the case and which are in the possession or under the control of the prosecution, police, or other law investigating agencies.

In fact, this provision is similar to or identical with Rule 27, Section 1 of the Rules of Court, as amended, which provides for the production or inspection of documents and things in civil actions. In *Solidbank Corporation v. Gateway Electronics Corporation*,[221] the Court enumerated the requisites for a party to avail of this mode of discovery:

- (a) The party must file a motion for the production or inspection of documents or things, showing good cause therefor;
- (b) Notice of the motion must be served to all other parties of the case;
- (c) The motion must designate the documents, papers, books, accounts, letters, photographs, objects[,] or tangible things which the party wishes to be produced and inspected;
- (d) Such documents, etc., are not privileged;
- (e) Such documents, etc., constitute or contain evidence material to any matter involved in the action, and

(f) Such documents, etc., are in the possession, custody[,] or control of the other party. (citation omitted)

Common in all these is the requirement that a party seeking the production or inspection of material evidence must show "good cause" therefor. In *Santamaria v. Cleary*,^[222] the Court described this term as follows:

Good cause means a substantial reason—one that affords a legal excuse. Whether or not substantial reasons exist is for the court to determine, as there is no hard and fast rule for determining the question as to what is meant by the term "for good cause shown." (Emphasis in the original)

The "good cause" purported by Estrada pertains to the very rationale for his request to access the documents and information surrounding Luy's external hard drive—that is, for the presentation of Laggui as an expert witness in the Graft Cases.^[223]

Evidently, Estrada failed to show a good cause that would warrant the grant of his Manifestation and Motion. Aside from the mere purpose that "he intends to [...] present Mr. Laggui as an expert witness in [the] Graft Cases,"^[224] there is nothing more that Estrada offered as valid justification for the Sandigabanyan's exercise of its compulsive power to produce evidence. Indeed, the Pre-Trial in the Graft Cases had been concluded, and any additional evidence that Estrada, as accused, intended to additionally present must be justified by a more substantial reason other than the mere incident of presenting a witness.

The purpose of the pre-trial in criminal proceedings is to consider the following: (a) plea bargaining; (b) stipulation of facts; (c) marking for identification of evidence of the parties; (d) waiver of objections to admissibility of evidence; (e) modification of the order of trial if the accused admits the charge but interposes lawful defenses; and (f) such matters as will promote a fair and expeditious trial of the criminal and civil aspects of the case.^[225] Any evidence admitted during pre-trial binds the parties.^[226] Thus, the Rules require that a party intending to present additional evidence beyond the pre-trial stage must show good cause—a legal excuse—before such evidence may be admitted. This, Estrada failed to do.

In addition, as provided for in Part I(B) of the Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-Trial and the Use of Deposition-Discovery Measures (Pre-Trial Guidelines),^[227] the trial court is duty-bound to issue the pre-trial order which shall control the course of trial, including which evidence may be presented by the parties. The provision reads:

B. Criminal Cases

....

2. After the arraignment, the court shall forthwith set the pre-trial conference issue an order: (a) ... (c) within thirty days from the date of arraignment, and informing the parties that no evidence shall be allowed to be presented during trial other than those identified and marked during pre-trial except when allowed by the court for good cause shown[.] (Emphasis supplied)

In *Cruz v. People*,^[228] the Court summarized the rule, thus:

The rule is that no evidence shall be allowed during trial if it was not identified and pre-marked during trial. This provision, however, allows for an exception: when allowed by the court for good cause shown. There is no hard and fast rule to determine what may constitute "good cause," though this Court has previously defined it as any substantial reason "that affords a legal excuse." (Citation omitted)

After arraignment, the trial court shall issue a pre-trial order. Failure to identify and pre-mark evidence during pre-trial results in the non-admission of such evidence during trial. Considering that Estrada failed to identify and pre-mark the requested documents and information during the Pre-Trial in the Plunder and Graft Cases, they may

not be admitted in evidence, unless the court allows them for "good cause" shown.

To reiterate, no good cause was proffered by Estrada that would compel the Sandiganbayan to order the NBI and the prosecution to furnish him the requested documents and information, and eventually allow him to introduce additional evidence other than those listed in the Pre-Trial Order. Thus, the Sandiganbayan did not commit grave abuse of discretion in issuing the Minute Resolution, dated June 4, 2020, and the Resolution, dated November 6, 2020.

It must be clarified, however, that the Court is, at this point, not making any ruling on the admissibility of the evidence subject of Estrada's Manifestation and Motion. Admissibility of evidence refers to the question of whether certain pieces of evidence are to be considered at all.[229] Indeed, admissibility is a matter that is addressed to the sound discretion of the trial court.[230] Thus, considering that the Graft Cases will proceed before the Sandiganbayan, it is only proper that such court be granted the latitude to determine the admissibility of any and all files and documents contained in Luy's external hard disk drive.

ACCORDINGLY, the Petitions for Certiorari in G.R. Nos. 236268, 249919, 254892 and 254906-15 are DISMISSED for being moot and academic. The Petition for Certiorari in G.R. Nos. 228374-84 is DISMISSED for lack of merit.

The Motion to Withdraw the Petition for Certiorari filed by Janet Lim Napoles is GRANTED. The Petition for Certiorari in G.R. No. 249296 is WITHDRAWN. G.R. No. 249296 is DEEMED CLOSED and TERMINATED.

SO ORDERED.

Hernando, Lazaro-Javier, Inting, Dimaampao, and Marquez, JJ., concur.

Gesmundo,[*] C.J., Caguioa,[*] and Gaerlan[*] JJ., no part.

Leonen, S.A.J., see separate concurring opinion.

Zalameda,**] Rosario,**] J. Lopez,**] and Kho, Jr.,**] JJ., on official business, but left his concurring vote.

Villanueva,***] J., on official leave, but left his concurring vote.

[*] No part.

**] On official business.

***] On official leave.

[1] Rollo (G.R. Nos. 228374-84), pp. 3-28.

[2] Id. at 29-35. Penned by Associate Justice Rafael R. Lagos and concurred in by Associate Justices Roland B. Jurado and Maria Theresa V. Mendoza-Arcega of the Fifth Division, Sandiganbayan, Quezon City.

[3] Id. at 46-62.

[4] Id. at 36-45. Penned by Associate Justice Rafael R. Lagos and concurred in by Associate Justices Roland B. Jurado and Maria Theresa V. Mendoza-Arcega of the Fifth Division, Sandiganbayan, Quezon City.

[5] Id. at 227-250-A.

[6] Rollo (G.R. No. 236268), pp. 7-36; 40-70.

[7] Id. at 71-85. Penned by Associate Justice Maria Theresa V. Mendoza-Arcega and concurred in by Associate Justices Reynaldo P. Cruz and Lorifel L. Pahimna of the Special Fifth Division, Sandiganbayan, Quezon City.

Associate Justices Rafael R. Lagos and Zaldy V. Trespeses registered dissenting opinions.

[8] Id. at 121-335. Penned by Associate Justice Roland B. Jurado and concurred in by Associate Justices Alexander G. Gesmundo (now Chief Justice of the Supreme Court) and Ma. Theresa Dolores C. Gomez-Estoesta.

[9] Id. at 71.

[10] Id. at 94-97. Penned by Associate Justice Maria Theresa V. Mendoza-Arcega and concurred in by Associate Justices Reynaldo P. Cruz and Lorifel L. Pahimna of the Special Fifth Division, Sandiganbayan, Quezon City. Associate Justices Rafael R. Lagos and Zaldy V. Trespeses registered dissenting opinions.

[11] Id. at 99-109.

[12] Rollo (G.R. No. 249296), pp. 3-95.

[13] Rollo (G.R. No. 249919), pp. 3-88.

[14] Id. at 89-126; Rollo (G.R. No. 249296), pp. 96-133.

[15] Rollo (G.R. No. 249919), pp. 222-337.

[16] Id. at 127-138; Rollo (G.R. No. 249296), pp. 134-145.

[17] Id. at 139-177; Rollo (G.R. No. 249296), pp. 151-179.

[18] Rollo (G.R. No. 249296), pp. 146-150. Penned by Associate Justice Rafael R. Lagos and concurred in by Associate Justices Maria Theresa V. Mendoza-Arcega and Maryann E. Corpus Mañalac of the Fifth Division, Sandiganbayan, Quezon City.

[19] Id. at 146.

[20] Rollo (G.R. Nos. 254892 & 254906-15), pp. 3-41.

[21] Id. at 42-43.

[22] Id. at 97-107.

[23] Id. at 44-47.

[24] Id. at 120-135.

[25] Rollo (G.R. Nos. 228374-84), pp. 63-182. Signed by Graft Investigation and Prosecution Officer IV M.A. Christian O. Uy, as the Chairman, and Graft Investigation and Prosecution II Ruth Laura A. Mella, Francisca M. Serfino, Anna Francesca M. Limbo, and Jasmine Ann B. Gapatan, as Members, of the Special Panel, and approved by Ombudsman Conchita Carpio Morales, Office of the Ombudsman, Quezon City.

[26] Id. at 183-184.

[27] Id. at 170-177.

[28] Id. at 183-184.

[29] Rollo (G.R. Nos. 254892 & 254906-15), pp. 48-80.

[30] Rollo (G.R. Nos. 228374-84), pp. 46-62.

[31] Id. at 29-35.

[32] Id. at 32.

[33] Id. at 36-45.

[34] Id. at 3-28.

[35] Rollo (G.R. No. 236268), pp. at 111-120, 121-335. Estrada's previous Motion for Bail, dated June 23, 2014, which was denied by the Sandiganbayan in its Resolution.

[36] 790 Phil. 367 (2016) [Per J. Bersamin, En Banc].

[37] Rollo (G.R. No. 236268), pp. 71-85.

[38] Id. at 121-335.

[39] Id. at 99-109.

[40] Id. at 94-97.

[41] Id. at 7-36; 40-70.

[42] Id. at 71-85.

[43] Id. at 94-97.

[44] Rollo (G.R. No. 249296), pp. 96-133; Rollo (G.R. No. 249919), pp. 89-126.

[45] Rollo (G.R. No. 249296), pp. 134-145; Rollo (G.R. No. 249919), pp. 127-138.

[46] Rollo (G.R. No. 249296), pp. 217-235.

[47] Id. at 146-150.

[48] Rollo (G.R. No. 249919), pp. 3-88.

[49] Rollo (G.R. No. 249296), pp. 3-95.

[50] Rollo (G.R. Nos. 254892 & 254906-15), pp. 97-107.

[51] Id. at 81-96.

[52] Id. at 42-43.

[53] Id. at 44-47.

[54] Id. at 3-34.

[55] Rollo (G.R. No. 249919), pp. 575-578.

[56] Rollo (G.R. No. 228374-84), pp. 1001-1003.

[57] *Juan v. Juan*, 817 Phil. 192, 205 (2017) [Per J. Peralta, Second Division].

[58] *Degayo v. Magbanua-Dinglasan*, 757 Phil. 376 (2015) [Per J. Brion, Second Division].

[59] *People v. Liban*, 399 Phil. 178 (2000) [Per J. Vitug, En Banc].

[60] 817 Phil. 192 (2017) [Per J. Peralta, Second Division].

[61] Id. at 206-207. Citing *Spouses Latip v. Chua*, 619 Phil. 155, 164-165 (2009) [Per J. Nachura, Third

Division], citing further *State Prosecutors v. Muro*, 306 Phil. 519 (1994) [Per Curiam, En Banc].

[62] *Republic v. Science Park of the Philippines, Inc.*, 843 Phil. 123, 132 (2018) [Per J. Perlas-Bernabe, Second Division], citing *Pilipinas Shell Petroleum Corporation v. Commissioner of Customs*, 801 Phil. 806, 848 (2016) [Per J. Perez, Third Division].

[63] 436 Phil. 109 (2002) [Per J. Panganiban, Third Division].

[64] *Id.* at 117-118.

[65] 847 Phil. 305 (2019) [Per J. Perlas-Bernabe, Second Division].

[66] 925 Phil. 375 (2022) [Per J. Zalameda, First Division].

[67] *Yu v. People*, G.R. No. 241907, January 7, 2019 [Notice, First Division].

[68] 859 Phil. 744, 755 (2019) [Per J. A. Reyes, Jr., Third Division].

[69] *Id.* at 755. Citing *Denso (Phils.), Inc. v. Intermediate Appellate Court*, 232 Phil. 256 (1987) [Per J. Narvasa, First Division].

[70] See *Pobre v. Court of Appeals*, 501 Phil. 361, 369 (2005) [Per J. Ausitra-Martinez, Second Division].

[71] *Sps. Mangaron v. Hanna Via Design & Construction*, 863 Phil. 731, 735 (2019) [Per J. Reyes, Jr., Second Division].

[72] See *Jalandoni v. Office of the Ombudsman*, 902 Phil. 365, 396 (2021) [Per J. Leonen, Third Division].

[73] *Fortune Corporation v. Court of Appeals*, 299 Phil. 356 (1994) [Per J. Regalado, Second Division].

[74] *Rollo* (G.R. No. 228374-84), pp. 1005-1389. Penned by Associate Justices Rafael R. Lagos, Maria Theresa V. Mendoza-Arcega, and Maryann E. Corpus-Mañalac of the Fifth Division, Sandiganbayan, Quezon City.

[75] *Land Bank of the Philippines v. Fastech Synergy Philippines Inc.*, 816 Phil. 422, 445 (2017) [Per J. Leonen, Second Division].

[76] 728 Phil. 535, 540 (2014) [Per J. Perlas-Bernabe, Second Division].

[77] 580 Phil. 301 (2008) [Per J. R.T. Reyes, En Banc].

[78] 807 Phil. 133 (2017) [Per J. Carpio, Second Division].

[79] 838 Phil. 619 (2018) [Per J. Reyes, Jr., En Banc].

[80] 863 Phil. 949 (2019) [Per J. J. Reyes, Jr., Second Division].

[81] *Id.* at 955.

[82] *Peralta v. Philippine Postal Corporation*, 844 Phil. 603, 622 (2019) [Per J. Tijam, En Banc]. "There is no question that the issues being raised affect the public interest, involving as they do, the alleged misuse of public funds[.]"

[83] *Rollo* (G.R. Nos. 228374-84), p. 11-13.

[84] Section 3. Corrupt practices of public officers. — 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.

[85] Section 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 [PHP 50 million] 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.

[86] Rollo (G.R. Nos. 228374-84), pp. 14-16.

[87] 444 Phil. 499 (2003) [Per J. Callejo, Sr., En Banc].

[88] 427 Phil. 820 (2002) [Per J. Puno, En Banc].

[89] Rollo (G.R. Nos. 228374-84), pp. 16-19.

[90] Id. at 364.

[91] Id.

[92] 530 Phil. 189 (2006) [Per J. Sandoval-Gutierrez, En Banc].

[93] Id. at 214.

[94] Rollo (G.R. Nos. 228374-84), pp. 366-367.

[95] Id. at 367-369.

[96] 882 Phil. 962 (2020) [Per J. J. Reyes, Jr., En Banc].

[97] Id. at 975.

[98] Caballes v. Court of Appeals, 935 Phil. 823, 827 (2023) [Per J. Gaerlan, Third Division], citing Fajardo v. Court of Appeals, 591 Phil. 146, 153 (2008) [Per Acting C.J. Quisimbing, Second Division].

[99] Ocampo v. Enriquez, 798 Phil. 227, 294 (2016) [Per J. Peralta, En Banc].

[100] 99 Phil. 515 (1956) [Per J. Concepcion, En Banc].

[101] REV. PEN. CODE, art. 134. "The crime of rebellion or insurrection is committed by rising publicly and taking arms against the Government for the purpose of removing from the allegiance to said Government or its laws, the territory of the Philippine Islands or any part thereof, of any body of land, naval or other armed forces, or of depriving the Chief Executive or the Legislature, wholly or partially, of any of their powers or prerogatives."

[102] REV. PEN. CODE, art. 134.

[103] People v. Hernandez, 99 Phil. 515 (1956) [Per J. Concepcion, En Banc].

[104] Id.

[105] 100 Phil 90 (1956) [Per J. J.B.L. Reyes, En Banc].

[106] Id. at 95. (Emphasis supplied)

[107] 104 Phil. 551 (1958) [Per J. Felix, En Banc].

[108] I 07 Phil. 659 (1960) [Per J. Bautista Angelo, En Banc].

[109] 138 Phil. 77 (1969) [Per J. Zaldivar, En Banc].

[110] 264 Phil. 593 (1990) [Per J. Narvasa, En Banc].

[111] Id.

[112] Presidential Decree No. 942 (1976). Amending the Provisions of the Revised Penal Code on Crimes Against Public Order.

[113] 264 Phil. 593 (1990) [Per J. Narvasa, En Banc].

[114] Executive Order No. 187 (1987), Repealing Presidential Decree Nos. 38, 942, 970, 1735, 1834, 1974, and 1996 and Articles 142-a and 142-b of the Revised Penal Code and Restoring Articles 135, 136, 137, 138, 140, 141, 142, 143, 144, 146, 147, 177, 178, and 179 to Full Force and Effect as They Existed Before Said Amendatory Decrees.

[115] 267 Phil. 603 (1990) [Per J. Gutierrez, Jr., En Banc].

[116] Id. at 611-612.

[117] "The penalty of prision correccional in its maximum period, or a fine ranging from [PHP] 1,000 to [PHP] 6,000 pesos, or both, shall be imposed upon any person who knowingly or willfully obstructs, impedes, frustrates or delays the apprehension of suspects and the investigation and prosecution of criminal cases by committing any of the following acts:

. . . .

(c) harboring or concealing, or facilitating the escape of, any person he knows, or has reasonable ground to believe or suspect, has committed any offense under existing penal laws in order to prevent his arrest prosecution and conviction[.]"

[118] 267 Phil. 603, 614 (1990) [Per J. Gutierrez, Jr., En Banc].

[119] 229 Phil. 518 (1986) [Per J. Gutierrez, Jr., Second Division].

[120] "SEC. 8. Possession or Use of Prohibited Drugs. — The penalty of imprisonment ranging from six years and one day to twelve years and a fine ranging from [PHP 6,000.00] to [PHP 12,000.00] shall be imposed upon any person who, unless authorized by law, shall possess or use any prohibited drug, except Indian hemp as to which the next following paragraph shall apply.

The penalty of imprisonment ranging from six months and one day to six years and a fine ranging from [PHP 600.00] to [PHP 6,000.00] shall be imposed upon any person who, unless authorized by law, shall possess or use Indian hemp."

[121] Republic Act No. 6425 (1972), sec. 4. "SEC. 4. Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs. – The penalty of imprisonment ranging from twelve years and one day to twenty years and a fine ranging from twelve thousand to twenty thousand pesos shall be imposed upon any person

who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug, or shall act as a broker in any of such transactions. In case of a practitioner, the additional penalty of the revocation of his license to practice his profession shall be imposed. If the victim of the offense is a minor, the maximum of the penalty shall be imposed.

Should a prohibited drug involved in any offense under this Section be the proximate cause of the death of a victim thereof, the penalty of life imprisonment to death and a fine ranging from twenty thousand to thirty thousand pesos shall be imposed upon the pusher."

[122] *People v. De Jesus*, 229 Phil. 518, 523 (1986) [Per J. Gutierrez, Jr., Second Division].

[123] 708 Phil. 66 (2013) [Per J. Bersamin, First Division].

[124] *Id.* at 77.

[125] 298 Phil. 243 (1993) [Per J. Bellosillo, First Division].

[126] *Id.* at 247.

[127] 920 Phil. 656 (2022) [Per J. Gaerlan, First Division].

[128] *Batas Pambansa Blg. 881* (1985), sec. 261. "Prohibited Acts.—The following shall be guilty of an election offense:

....

(cc) On candidacy and campaign:

....

(6) Any person who solicits votes or undertakes any propaganda, on the day of election, for or against any candidate or any political party within the polling place or within a radius of thirty meters thereof."

[129] *Batas Pambansa Blg. 881* (1985), sec. 192. "Persons allowed in and around the polling place.—During the voting, no person shall be allowed inside the polling place, except the members of the board of election inspectors, the watchers, the representatives of the Commission, the voters casting their votes, the voters waiting for their turn to get inside the booths whose number shall not exceed twice the number of booths and the voters waiting for their turn to cast their votes whose number shall not exceed twenty at any one time. The watchers shall stay only in the space reserved for them, it being illegal for them to enter places reserved for the voters or for the board of election inspectors or to mingle and talk with the voters within the polling place.... [.]"

[130] *Id.*

[131] 260 Phil. 702 (1990) [Per J. Cortes, En Banc].

[132] "SEC. 1. Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms of Ammunition.—The penalty of reclusion temporal in its maximum period to reclusion perpetua shall be imposed upon any person who shall unlawfully manufacture, deal in, acquire, dispose, or possess any firearm, part of firearm, ammunition or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition.

If homicide or murder is committed with the use of an unlicensed firearm, the penalty of death shall be imposed.

If the violation of this Section is in furtherance of, or incident to, or in connection with the crimes of rebellion, insurrection or subversion, the penalty of death shall be imposed.

The penalty of reclusion temporal in its maximum period to reclusion perpetua shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any of the firearms owned by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs.

The penalty of prision mayor shall be imposed upon any person who shall carry any licensed firearm outside his residence without legal authority therefor."

[133] *Misolas v. Panga*, 260 Phil. 702 (1990) [Per J. Cortes, En Banc].

[134] 279 Phil. 448 (1991) [Per J. Narvasa, En Banc].

[135] *Id.* at 463.

[136] 517 Phil. 408 (2006) [Per J. Carpio, Third Division].

[137] WATERCODE (1976).

[138] National Pollution Control Law (1976).

[139] Philippine Mining Act of 1995.

[140] *Loney v. People*, 517 Phil. 408, 422 (2006) [Per J. Carpio, Third Division].

[141] Republic Act No. 7055 (1991). 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.

[142] *Gonzales v. Abaya*, 530 Phil. 189, 214 (2006) [Per J. Sandoval-Gutierrez, En Banc].

[143] Collins Dictionary, "generally," available at <https://www.collinsdictionary.com/dictionary/english/generally> (last accessed on February 12, 2024).

"You use generally to give a summary of a situation, activity, or idea without referring to the particular details of it; You use generally to say that something happens or is used on most occasions but not on every occasion."

[144] *Loney v. People*, 517 Phil. 408 (2006) [Per J. Carpio, Third Division].

[145] CONST., art. III, sec. 21.

[146] 839 Phil. 731 (2018) [Per J. Leonen, Third Division].

[147] *Id.* at 773.

[148] *Suero v. People*, 490 Phil. 760 (2005) [Per J. Panganiban, Third Division].

[149] *Loney v. People*, 517 Phil. 408, 421-422 (2006) [Per J. Carpio, Third Division], citing *People v. Doriquez*, 133 Phil. 295 (1968) [Per J. Castro, En Banc].

[150] 100 Phil. 90, 95 (1956) [Per J. J.B.L. Reyes, En Banc].

[151] *Estrada v. Office of the Ombudsman*, 837 Phil. 913 (2018) [Per J. Carpio, En Banc].

[152] *Id.* at 944-945. Citing *Enrile v. People*, 766 Phil. 75, 115-116 (2015) [Per J. Brion, En Banc].

[153] *Republic v. Sandiganbayan*, 885 Phil. 96, 147-148 (2020) [Per J. Leonen, Third Division].

- [154] Estrada v. Sandiganbayan, 421 Phil. 290 (2001) [Per J. Bellosillo, En Banc].
- [155] Rollo (G.R. Nos. 228374-84), p. 7.
- [156] Rivera v. People, 749 Phil. 124 (2014) [Per J. Mendoza, Second Division].
- [157] See Soriano v. People, 922 Phil. 726, 735 (2022) [Per J. Inting, First Division].
- [158] Id. at 734.
- [159] Araneta v. Santiago, 578 Phil. 876, 885 (2008) [Per J. Chico-Nazario, Third Division].
- [160] 350 Phil. 820 (1998) [Per J. Panganiban, First Division].
- [161] Id. at 838.
- [162] 875 Phil. 270 (2020) [Per C.J. Peralta, En Banc].
- [163] Id. at 305.
- [164] Tiongco v. People, 843 Phil. 225 (2018) [Per J. Carpio, Second Division], citing People v. Atienza, 688 Phil. 122, 132 (2012) [Per J. Peralta, Third Division].
- [165] 540 Phil. 477 (2006) [Per J. Callejo, Sr., First Division].
- [166] Id. at 494.
- [167] Rollo (G.R. Nos. 228374-84) pp. 357-358.
- [168] OMB-C-C-13-0397 Joint Resolution, dated March 31, 2014. Rollo (G.R. Nos. 228374-84), pp. 170-177.
- [169] Rollo (G.R. Nos. 228374-84) pp. 359-162.
- [170] Santos v. People, 520 Phil. 58, 70-71 (2006) [Per J. Garcia, Second Division].
- [171] Soriano v. Marcelo, 597 Phil. 308, 318 (2009) [Per J. Austria-Martinez, Third Division].
- [172] Dubongco v. Commission on Audit, 848 Phil. 367, 378 (2019) [Per J. Reyes, Jr., En Banc].
- [173] MERRIAM-WEBSTER DICTIONARY, "kickback," available at <https://www.merriam-webster.com/dictionary/kickback> (last accessed on February 10, 2024).
- [174] CAMBRIDGE DICTIONARY, "kickback," available at <https://dictionary.cambridge.org/us/dictionary/english/kickback> (last accessed on February 10, 2024).
- [175] COLLINS DICTIONARY, "kickback," available at <https://www.collinsdictionary.com/dictionary/english/kickback> (last accessed on February 10, 2024).
- [176] Belgica v. Ochoa, 721 Phil. 416, 485 (2013) [Per J. Perlas-Bernabe, En Banc].
- [177] Id.
- [178] People v. Geronimo, 100 Phil 90, 95 (1956) [Per J. J.B.L. Reyes, En Banc].
- [179] J. Perlas-Bernabe, Separate Concurring Opinion in Enrile v. People, 766 Phil. 75, 146 (2015) [Per J. Brion, En Banc].
- [180] Rollo (G.R. Nos. 228374-84), pp. 185-215.

[181] Id. at 216-225.

[182] Municipality of Parañaque v. V.M. Realty Corporation, 354 Phil. 684, 694 (1998) [Per J. Panganiban, First Division].

[183] Roxas & Company, Inc. v. DAMBA-NFSW, 622 Phil. 37, 60 (2009) [Per J. Carpio-Morales, En Banc].

[184] Estrada v. Sandiganbayan, 421 Phil. 290, 348-350 (2001) [Per J. Bellosillo, En Banc].

[185] Id. at 350.

[186] 427 Phil. 820 (2002) [Per J. Puno, En Banc].

[187] Id. at 851-852.

[188] Id. at 851.

[189] Republic Act No. 7080 (1991), sec. 4 states:

SEC. 4. Rule of Evidence. – For purposes of establishing the crime of plunder, it shall not be necessary to prove each and every criminal act done by the accused in furtherance of the scheme or conspiracy to amass, accumulate or acquire ill-gotten wealth, it being sufficient to establish beyond reasonable doubt a pattern of overt or criminal acts indicative of the overall unlawful scheme or conspiracy.

[190] 427 Phil. 820 (2002) [Per J. Puno, En Banc].

[191] Office of the Ombudsman v. Santidad, 867 Phil. 440, 466 (2019) [Per C.J. Peralta, First Division].

[192] Malabanan v. Sandiganbayan, 815 Phil. 183, 201-202 (2017) [Per C.J. Sereno, First Division].

[193] 895 Phil. 270 (2021) [Per J. Caguioa, En Banc].

[194] Id. at 297-298.

[195] 755 Phil. 709 (2015) [Per J. Leonen, Second Division].

[196] Id. at 764.

[197] Republic Act No. 7080 (1991), sec. 1(d)(2).

[198] Republic Act No. 7080 (1991), sec. 1(d)(6).

[199] 669 Phil. 32 (2011) [Per J. Villarama, Jr., First Division].

[200] Id. at 55.

[201] 628 Phil. 573 (2010) [Per J. Corona, Third Division].

[202] Id. at 585.

[203] 895 Phil. 688 (2021) [Per J. Lazaro-Javier, Second Division].

[204] Id. at 691.

[205] Jalandoni v. Office of the Ombudsman, 902 Phil. 365, 397 (2021) [Per J. Leonen, Third Division].

[206] Lazarte, Jr. v. Sandiganhayan, 600 Phil. 475, 491 (2009) [Per J. Tinga, En Banc].

[207] Rollo (G.R. Nos. 228374-84) pp. 357-358.

[208] Reyes v. Office of the Deputy Ombudsman for Luzon, 938 Phil. 357, 389 (2023) [Per J. Gaerlan, Third Division].

[209] Coloma, Jr. v. Sandiganbayan, 744 Phil. 214, 232 (2014) [Per J. Mendoza, Second Division].

[210] A.M. No. 15-06-10-SC, September 1, 2017.

[211] 929 Phil. 743 (2020) [Per J. Inting, Third Division].

[212] Rollo (G.R. Nos. 254892 & 254906-15), p. 12.

[213] Id.

[214] 887 Phil. 277 (2020) [Per J. Carandang, En Banc]. (Emphasis supplied)

[215] J. Zalameda, Separate Concurring Opinion in People v. Ang, 887 Phil. 277, 369-370 (2020) [Per J. Carandang, En Banc].

[216] Id.

[217] CRIMINAL PROCEDURE 1900.

[218] F.C. Fisher, Some Peculiarities of Philippine Criminal Law and Procedure, XIX VIRGINIA LAW REVIEW 33 (1932).

[219] Amy Rossabi, The Colonial Roots of Criminal Procedure in the Philippines, XI COLUMBIA JOURNAL OF ASIAN LAW 175 (1997).

[220] FEDERAL RULES OF CRIMINAL PROCEDURE, rule 16(a)(1)(E) states:

(E) Documents and Objects. Upon a defendant's request, the government must permit the defendant to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, buildings or places, or copies or portions of any of these items, if the item is within the government's possession, custody, or control and: (i) the item is material to preparing the defense; (ii) the government intends to use the item in its case-in-chief at trial; or (iii) the item was obtained from or belongs to the defendant."

[221] 576 Phil. 250, 261 (2008) [Per J. Nachura, Third Division].

[222] 787 Phil. 305, 321-322 (2016) [Per J. Leonen, Second Division], citing Fortune Corporation v. Court of Appeals, 299 Phil. 356 (1994) [Per J. Regalado, Second Division].

[223] Rollo (G.R. Nos. 254892 & 254906-15), p. 98.

[224] Id.

[225] People v. Perez, 444 Phil. 841, 855 (2003) [Per Curiam, En Banc].

[226] Id.

[227] A.M. No. 03-1-09-SC (2004), sec. 2.

[228] 810 Phil. 801, 815 (2017) [Per J. Leonen, Second Division].

[229] Buencamino v. People, 889 Phil. 871, 902 (2020) [Per J. Caguioa, First Division].

[230] Day v. Regional Trial Court of Zamboanga City, 269 Phil. 630, 640 (1990) [Per J. Paras, Second Division].

CONCURRING OPINION

LEONEN, SAJ.:

I concur with the ponencia that petitioners' acquittal in plunder under Republic Act No. 7080 does not affect the further disposition of their cases for graft under violation of Section 3(e) of Republic Act No. 3019. As thoroughly explained by the ponencia, violations of Section 3(e) of Republic Act No. 3019 in the "giving any private party any unwarranted benefit, advantage or preference" is not absorbed in Republic Act No. 7080 if the recipient of the unwarranted benefit, advantage, or preference is a person other than the public officer.[1]

The graft cases here allege that Jinggoy Ejercito Estrada (Estrada) gave unwarranted benefits and advantage to private individuals Janet Lim Napoles (Napoles) and John Raymond de Asis (de Asis) by personally endorsing a portion of his Priority Development Assistance Fund (PDAF), paid for by people's taxes, to their non-existent government projects. In return, Estrada was able to receive a portion of his PDAF in the form of kickbacks from these supposed projects.[2]

There should be no hindrance in the continuing prosecution of the cases for violation of Republic Act No. 3019 despite Estrada's prior acquittal by the Sandiganbayan of his cases for plunder under Republic Act No. 7080.

Due to the January 19, 2024 Sandiganbayan Decision[3] in SB-14-CRM-0239 on the acquittal for the charges of plunder, Napoles in G.R. No. 249296 filed a Motion to Withdraw Petition for Certiorari, which was granted by this Court En Banc in an October 1, 2024 Resolution.[4] In my view, this was an unfortunate consequence of a flawed decision based on dangerous precedent—an occurrence that should not have happened under this Court's watch.

This dispositive portion of the January 19, 2024 Sandiganbayan Decision in SB-14-CRM-0239 reads:

WHEREFORE, in light of the foregoing premises, the Court finds accused Jose "Jinggoy" P. Ejercito Estrada and Janet Lim Napoles NOT GUILTY of Plunder based on reasonable doubt.

However, the Court finds accused Jose "Jinggoy" P. Ejercito Estrada GUILTY beyond reasonable doubt of one (1) count of Direct Bribery, defined and penalized under Article 210 of the Revised Penal Code. Appreciating the mitigating circumstance of voluntary surrender, he is hereby sentenced to suffer the indeterminate penalty of imprisonment of eight (8) years of prision mayor, as minimum, to nine (9) years and four (4) months of prision mayor, as maximum, with special temporary disqualification, and the accessory penalties of temporary absolute disqualification and that of perpetual special disqualification from the right of suffrage. He is also ordered to pay a fine of Php3,000,000.00.

Furthermore, accused Jose "Jinggoy" P. Ejercito Estrada is found GUILTY beyond reasonable doubt of two (2) counts of Indirect Bribery, defined and penalized under Article 211 of the Revised Penal Code.

Appreciating the mitigating circumstance of voluntary surrender, he is hereby sentenced to suffer the indeterminate penalty of imprisonment of two (2) years and four (4) months of prision correccional, as minimum, to three (3) years, six (6) months and twenty (20) days of prision correccional, as maximum, for each count. He is also sentenced to suffer the penalties of suspension and public censure, with the accessory penalties of suspension from public office, from the right to follow a profession or calling, and that of perpetual special disqualification from the right of suffrage.

Correspondingly, accused Janet Lim Napoles is found GUILTY beyond reasonable doubt of five (5) counts of Corruption of Public Officials, defined and penalized under Article 212, in relation to Article 210, paragraph 2 of the Revised Penal Code. She is hereby sentenced to suffer the indeterminate penalty of imprisonment of eight (8) years of prision mayor, as minimum, to ten (10) years and eight (8) months of prision mayor, as

maximum, for each count. She is also ordered to pay a fine of Php29,625,000.00.

The Court likewise finds accused Janet Lim Napoles GUILTY beyond reasonable doubt of two (2) counts of Corruption of Public Officials defined and penalized under Article 212, in relation to Article 211 of the Revised Penal Code. She is hereby sentenced to suffer the indeterminate penalty of imprisonment of two (2) years and four (4) months of prision correccional, as minimum, to four (4) years, nine (9) months and ten (10) days of prision correccional, as maximum, for each count. She is also sentenced to suffer the penalty of public censure.

Accused Janet Lim Napoles is further ordered to INDEMNIFY the Government of the Republic of the Philippines in the amount of Php262,034,000.00 with interest of 6% per annum reckoned from the finality of this decision until full payment, by way of civil liability.

Considering that accused John Raymund De Asis and Pauline Therese Mary C. Labayen remain at-large, let an ALIAS WARRANT OF ARREST be issued against them and this case is ordered ARCHIVED insofar as they are concerned, subject to reinstatement of the same once the Court acquires jurisdiction over their persons.

SO ORDERED.[5]

On the charge of plunder, the Sandiganbayan found:

The gravamen of the offense of Plunder, its corpus delicti, then, is the amassing, accumulation or acquisition of ill-gotten wealth amounting to at least P50 million. It is this element of amassing, accumulation, or acquisition of ill-gotten wealth that converts the criminal acts of misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury, etc., into plunder. Without this core element, there can be no Plunder.

The fact that Estrada was a public officer at the time material to the charge, is undeniable. Only his position as Senator entitled him to PDAF allocations.

As regards Napoles, the allegation of the Information that "In 2004 to 2012, or thereabout, in the Philippines, and within this Honorable Court's jurisdiction, above-named accused Jose "Jinggoy" P. Ejercito Estrada, then a Philippine Senator, and Pauline Therese Mary C. Labayen, then Deputy Chief of Staff of Sen. Estrada's Office, both public officers, committing the offense in relation to their respective offices, conspiring with one another and with Janet Lim Napoles, and John Raymund De Asis, did then and there willfully, unlawfully, and criminally amass, accumulate and/or acquire ill-gotten wealth amounting to at least One Hundred Eighty Three Million Seven Hundred Ninety Three Thousand Seven Hundred Fifty Pesos (Php 183,793,750.00) through a combination or series of overt criminal acts, as follows: xxx" expressly charges conspiracy.

The law on plunder provides that it is committed by "a public officer who acts by himself or in connivance with..." The term "connivance" suggests an agreement or consent to commit an unlawful act or deed with another; to connive is to cooperate or take part secretly with another. It implies both knowledge and assent that may either be active or passive.

Since the crime of plunder may be done in connivance or in conspiracy with other persons, and the Information filed clearly alleged that Estrada, Labayen, Napoles and De Asis conspired with one another, then it is unnecessary to specify, as an essential element of the offense, whether the ill-gotten wealth amounting to at least P183,793,750.00 had been acquired by one, by two or by all of the accused. In the crime of plunder, the amount of ill-gotten wealth acquired by each accused in a conspiracy is immaterial for as long as the total amount amassed, acquired or accumulated is at least P50 million.[6]

Interestingly, the Sandiganbayan then proceeds to discuss violations for bribery and corruption,[7] only circling back to the issue on plunder when discussing the civil liabilities of the accused:

On Civil Liability

In this case, the present accused (i.e., Estrada and Napoles) are acquitted of the crime of plunder based on reasonable doubt, for the failure of the prosecution to prove that the threshold amount has been met or that a public officer (i.e., Estrada) amassed, accumulated or acquired, direct or indirectly, an ill-gotten wealth in the amount of at least Php50,000,000.00.[8]

The lack of further discussion on the prosecution's failure to prove the presence of plunder may have been prescinded by an earlier September 15, 2017 Resolution[9] of the Sandiganbayan on the grant of bail to Estrada. The Sandiganbayan explained that while it had earlier denied the grant of bail to Estrada on January 7, 2016, its prior ruling needed to be reviewed in light of this Court's promulgation of *Macapagal-Arroyo v. Sandiganbayan*[10] on July 19, 2016:

The Court earlier said that there appears to be a wheel conspiracy where accused Estrada is the hub: "xxx The conspiracy in the first Estrada case was said to resemble the "wheel" conspiracy; it is in the same way that his case has burgeoned into a "wheel" conspiracy. The diversion of the PDAF allocations was controlled by a single hub, namely: Senator Estrada as the lawmaker who gave the impetus to release his PDAF allocations to favor Napoles, who controlled the "spokes" of the conspiracy through her networking scheme. xxx"

But when the Court then examined the evidence and arrived at such finding, the identification of a main plunderer was not yet a factor to be considered. Now, after considering the Arroyo case, such finding needs to be reassessed.

"Main", an adjective, means "principal, leading, or chief in importance, strength, extent, or length." When used together with the word "plunderer" as in "main plunderer", it means a principal plunderer or the most important personality in a plunder scheme. A main plunderer should therefore be not only the principal person who had amassed ill-gotten wealth but should also be the one who principally benefitted and/or the main actor who masterminded the whole plunder scheme and initiated it. The Supreme Court emphasized in the Arroyo case that there must be relevant proof as to who the mastermind is, for the identification of the main plunderer.[11]

Thus, in assessing Estrada's guilt for plunder, the Sandiganbayan now had to consider the "main plunderer" doctrine introduced in *Macapagal-Arroyo v. Sandiganbayan*. [12]

I reiterate my previous dissent in *Macapagal-Arroyo* and maintain that the identification of a "main plunderer" in plunder cases has no basis in law.

Plunder is defined in Section 2 of Republic Act No. 7080,[13] as amended:

Section 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 (P50,000,000.00) 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.

The elements necessary for the prosecution of this offense is stated in the landmark case bearing the name of petitioner Estrada's father. In *Estrada v. Sandiganbayan*: [14]

Section 2 [of Republic Act No. 7080] is sufficiently explicit in its description of the acts, conduct and

conditions required or forbidden, and prescribes the elements of the crime with reasonable certainty and particularity. Thus —

That the offender is a public officer who acts by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons;

That he amassed, accumulated or acquired ill-gotten wealth through a combination or series of the following overt or criminal acts: (a) through misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury; (b) by receiving, directly or indirectly, any commission, gift, share, percentage, kickback or any other form of pecuniary benefits 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; (c) by the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies or instrumentalities of Government owned or controlled corporations or their subsidiaries; (d) 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; (e) 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 (f) by taking 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; and,

That the aggregate amount or total value of the ill-gotten wealth amassed, accumulated or acquired is at least P50,000,000.00.[15]

I previously stated in Macapagal-Arroyo that Section 2 describes "overt or criminal acts," thus the use of the disjunctive "or" distinguishes between "overt acts" and "criminal acts." This distinction is critical to appreciating the nature of the predicate means or schemes enumerated in Section 1 (d) of Republic Act No. 7080:

d) "Ill-gotten wealth" means any asset, property, business enterprise or material possession of any person within 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.

While some of these acts may coincide with other criminal offenses specified in other statutes, it is unnecessary for a person accused of plunder be also shown to have committed the specific criminal offenses enumerated by

these predicate acts. It is enough that there is an overt showing that the accused engaged in such means or schemes to commit plunder.

Section 2 of the law likewise states that plunder may be committed "by himself or in connivance" indicating that the crime may be committed in concert by several persons, and that it is unnecessary for there to be one ultimate criminal mastermind responsible for all the criminal acts:

By definition, plunder may be a collective act, just as well as it may be an individual act. Section 2 of Republic Act No. 7080 explicitly states that plunder may be committed "in connivance": Section 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[.]

In stating that plunder may be committed collectively, Section 2 does not require a central actor who animates the actions of others or to whom the proceeds of plunder are funneled.

It does, however, speak of "[a]ny public officer." This reference is crucial to the determination of plunder as essentially an offense committed by a public officer. Plunder is, therefore, akin to the offenses falling under Title VII of the Revised Penal Code. Likewise, this reference highlights the act of plundering as essentially one that is accomplished by taking advantage of public office or other such instrumentalities.

Contrary to what the ponencia postulates, there is no need for a "main plunderer." Section 2 does not require plunder to be centralized, whether in terms of its planning and execution, or in terms of its benefits. All it requires is for the offenders to act out of a common design to amass, accumulate, or acquire ill-gotten wealth, such that the aggregate amount obtained is at least P50,000,000.00. Section 1 (d) of Republic Act No. 7080, in defining "ill-gotten," no longer even speaks specifically of a "public officer." In identifying the possessor of ill-gotten wealth, Section 1 (d) merely refers to "any person":

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 the allegation of conspiracy as its crux, each of the accused was charged as a principal. In a conspiracy:

the act of one is the act of all the conspirators, and a conspirator may be held as a principal even if he did not participate in the actual commission of every act constituting the offense. In conspiracy, all those who in one way or another helped and cooperated in the consummation of the crime are considered co-principals since the degree or character of the individual participation of each conspirator in the commission of the crime becomes immaterial.

From an evidentiary perspective, to be held liable as a co-principal, there must be a showing of an overt act in furtherance of the conspiracy, either by actively participating in the actual commission of the crime, or by lending moral assistance to his co-conspirators by being present at the scene of the crime, or by exerting moral ascendancy over the rest of the conspirators as to move them to executing the conspiracy.[16]

Here, the Information clearly indicated all the predicate acts necessary for a charge of plunder:

The undersigned Graft Investigation and Prosecution Officer of the Office of the Ombudsman accuses JOSE "JINGOY" P. EJERCITO ESTRADA, PAULINE THERESE MARY C. LABAYEN, JANET LIM NAPOLES, and JOHN RAYMUND DE ASIS of Plunder, defined and penalized under Sec. 2 of Republic Act No. 7080, as amended, committed, as follows:

In 2004 to 2012, or thereabout, in the Philippines, and within this Honorable Court's Jurisdiction, above-named

accused JOSE "JINGOY" P. EJERCITO ESTRADA, then a Philippine Senator, and PAULINE THERESE MARY C. LABAYEN, then Deputy Chief of Staff of Sen. Estrada's Office, both public officers, committing the offense in relation to their respective offices, conspiring with one another and with JANET LIM NAPOLES, and JOHN RAYMUND DEASIS, did then and there willfully, unlawfully and criminally amass, accumulate and/or acquire ill-gotten wealth amounting to at least ONE HUNDRED EIGHTY THREE MILLION SEVEN HUNDRED NINETY THREE THOUSAND SEVEN HUNDRED FIFTY PESOS (Php183,793,750.00) through a combination or series of overt criminal acts, as follows:

a) by repeatedly receiving from NAPOLES and/or her representative DE ASIS, and other, kickback or commissions under the following circumstances: before, during and/or after the project identification. NAPOLES gave, and ESTRADA and/or LABAYEN received, a percentage of the cost of a project to be funded from ESTRADA'S Priority Development Assistance Fund (PDAF), in consideration of Estrada's endorsement, directly or through LABAYEN, to the appropriate government agencies, of NAPOLES' non-government organizations which became the recipients and/or target implementers of ESTRADA's PDAF projects, which duly-funded project turned out to be ghost or fictitious, thus enabling NAPOLES to misappropriate the PDAF proceeds for her personal gain;

b) by taking undue advantage, on several occasions, of their official positions, authority relationships, connections and influence to unjustly enrich themselves at the expense and to damage and prejudice, of the Filipino people and the Republic of the Philippines.

CONTRARY TO LAW.[17]

Estrada, in connivance with other persons, favorably endorsed Napoles's ghost projects, funded by his PDAF, in consideration for the return of a portion of his PDAF through kickbacks or commissions. The total amount of ill-gotten wealth accumulated from this scheme was PHP 183,793,750.00 or over and above the PHP 50 million indicated in the law.

The acquittal for plunder was due to the prosecution's failure to identify Estrada as the "main plunderer," as required by Macapagal-Arroyo. This, despite clear allegations of the pillaging of the country's coffers of the total amount of PHP 183,793,750.00.

Plunder is not committed in small-scale. It is committed through a series or combination of acts, and by several persons. It is the large-scale systematic looting of the country's treasury, and to be able to do so does not require for only one specific mastermind to animate all acts necessary for its commission. To require only one specific "main plunderer" is to require more than what is necessary in the law.

Accountability is the consistent driving force of public service. This is embodied by the words that are often repeated to remind public officers of their mandate to serve the people:

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, and efficiency, act with patriotism and justice, and lead modest lives.[18]

By requiring a "main plunderer" over and above the proof required under the law, Macapagal-Arroyo ultimately made plunder more difficult to prosecute, and consequently, promoted the culture of impunity among corrupt politicians.

The discovery of the PDAF scheme and the subsequent prosecution of those involved was supposed to bring about the advent of good governance and signal to the public that corruption of any form would no longer be tolerated. The public trusted that the harsh penalties imposed on those who would misuse the hard-earned taxes paid by ordinary citizens would finally fall upon those who seek to betray the public trust. Unfortunately, with the

promulgation of Macapagal-Arroyo, those responsible have not been made liable to the full extent of the law.

Ghost projects and corrupt politicians have once again caught the public eye. There is a palpable fear that once again, there will be no accountability at the end of it, regardless of the blatant misuse of stolen public funds. It is with hope that a more enlightened Court will see fit to review the doctrine in Macapagal-Arroyo and reverse it.

ACCORDINGLY, I vote to DISMISS the Petitions for Certiorari in G.R. Nos. 228374-84 and 254906-15 and order the Sandiganbayan to proceed with the 11 counts of Graft, consolidated and docketed as Criminal Case Nos. SB-14-CRM-0256 to 0266, with dispatch.

[1] Ponencia, p. 45.

[2] Id. at 45-46.

[3] Rollo (G.R. No. 249296), pp. 1204-1499. The Decision was Per Curiam, and concurred in by Associate Justice Rafael R. Lagos (Chair), Associate Justice Maria Theresa V. Mendoza-Arcega, and Associate Justice Maryann E. Corpus-Mañalac of the Fifth Division.

[4] Id. at 1501.

[5] Id. at 1498-1499.

[6] Id. at 1475-1476.

[7] Id. at 1476-1489.

[8] Id. at 1489.

[9] Rollo (G.R. No. 236268), pp. 71-85. The Resolution of the Fifth Division was penned by Associate Justice Maria Theresa V. Mendoza-Arcega, and concurred in by Associate Justice Reynaldo P. Cruz and Associate Justice Lorifel M. Pahimna. Associate Justices Rafael R. Lagos and Zaldy V. Trespeces dissented.

[10] 790 Phil. 367 (2016) [Per J. Bersamin, En Banc].

[11] Rollo (G.R. No. 236268), p. 82.

[12] 790 Phil. 367 (2016) [Per J. Bersamin, En Banc].

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

[14] 421 Phil. 290 (2001) [Per J. Bellosillo, En Banc].

[15] Id. at 343-344.

[16] J. Leonen, Dissenting Opinion in Macapagal-Arroyo v. Sandiganbayan, 790 Phil. 367, 506-507 (2016) [Per J. Bersamin, En Banc].

[17] Rollo (G.R. No. 236268), pp. 77-78.

[18] CONST., art. XI, sec. 1.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.