Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

LIZA L. MAZA, SATURNINO C. OCAMPO, TEODORO A. CASIÑO, AND RAFAEL V. MARIANO,
Petitioners,

-versus-

HON. EVELYN A. TURLA, in her capacity as Presiding Judge of Regional Trial Court of Palayan City, Branch 40, FLORO F. FLORENDO, in his capacity as Officer-in-Charge Provincial Prosecutor, ANTONIO LL. LAPUS, JR., EDISON V. RAFANAN, and EDDIE C. GUTIERREZ, in their capacity as members of the panel of investigating prosecutors, and RAUL M. GONZALEZ, in his capacity as Secretary of Justice,
Respondents.

G.R. No. 187094

Present:

CARPIO, *J., Chairperson,*
PERALTA,
MENDOZA,
LEONEN, and
JARDELEZA, *JJ.*

Promulgated:
15 FEB 2017

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DECISION

LEONEN, *J.*:

Upon filing of an information in court, trial court judges must determine the existence or non-existence of probable cause based on their personal evaluation of the prosecutor's report and its supporting documents.

They may dismiss the case, issue an arrest warrant, or require the submission of additional evidence. However, they cannot remand the case for another conduct of preliminary investigation on the ground that the earlier preliminary investigation was improperly conducted.

This is a Petition for Certiorari and Prohibition[1] with a Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction. Petitioners seek to have the Orders[2] dated July 18, 2008[3] and December 2, 2008[4] of the Regional Trial Court, Palayan City, Branch 40 in Criminal Case Nos. 1879-P and 1880-P nullified and set aside and the criminal cases against them dismissed.

Petitioners Liza L. Maza, Saturnino C. Ocampo, Teodoro A. Casiño, and Rafael V. Mariano (petitioners) are former members of the House of Representatives. Liza represented Gabriela Women's Party (Gabriela), Saturnino and Teodoro represented Bayan Muna Party-List (Bayan Muna), while Rafael represented Anakpawis Party-List (Anakpawis).[5]

In three letters[6] all dated December 14, 2006, Police Senior Inspector Arnold M. Palomo (Inspector Palomo), Deputy Provincial Chief of the Nueva Ecija Criminal Investigation and Detection Team, referred to the Provincial Prosecutor of Cabanatuan City, Nueva Ecija, three (3) cases of murder against petitioners and 15 other persons.[7]

Inspector Palomo named 19 individuals, including Petitioners, who were allegedly responsible for the death of Carlito Bayudang, Jimmy Peralta, and Danilo Felipe.[8] His findings show that the named individuals conspired, planned, and implemented the killing of the supporters of AKBAYAN Party List (AKBAYAN), a rival of Bayan Muna and Gabriela.[9] Carlito Bayudang and Danilo Felipe were AKBAYAN community organizers,[10] whereas Jimmy Peralta was mistaken for a certain Ricardo Peralta, an AKBAYAN supporter.[11]

Inspector Palomo recommended that a preliminary investigation be conducted and that an Information for each count of murder be filed against

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1 *Rollo*, pp. 3–63. The Petition was filed under Rule 65 of the 1997 Rules of Court.
2 The Orders were penned by Presiding Judge Evelyn A. Atienza-Turla of Branch 40, Regional Trial Court, Palayan City.
3 *Rollo*, pp. 68–84.
4 Id. at 85–87.
5 Id. at 6, Petition.
6 Id. at 88–91, 131–134, and 166–170.
7 Id. at 88–89, 131–132, and 166–167.
8 Id. at 88, 132, and 167.
9 Id. at 91, 133–134, and 169.
10 Id. at 90 and 168.
11 Id. at 134.

the 19 individuals.[12]

On February 2, 2007, Investigating Prosecutor Antonio Ll. Lapus, Jr. issued a subpoena[13] requiring petitioners to testify at the hearings scheduled on February 16 and 23, 2007.

On March 9, 2007, petitioners filed a Special Appearance with Motion to Quash Complaint/Subpoena and to Expu[ng]e Supporting Affidavits.[14] They argue that the Provincial Prosecutor had no jurisdiction to conduct the preliminary investigation since no valid complaint was filed against them.[15] They also claimed that, "the preliminary investigation conducted was highly irregular, and that the subpoena issued against [them] was patently defective amounting to a denial of their rights to due process."[16]

On July 13, 2007, the panel of investigating prosecutors, composed of Antonio Ll. Lapus, Jr., Eddie C. Gutierrez, and Edison V. Rafanan, denied petitioners' motion and ordered the submission of their counter-affidavits.[17]

Petitioners filed their respective counter-affidavits.[18] They also filed a (1) Motion to conduct Clarificatory Hearing and to Allow [them] to Submit Written Memorandum,[19] and a (2) Joint Supplemental Counter-Affidavit on Common Legal Grounds in Support of their Prayer to Dismiss the Case,[20] both dated August 21, 2007.

On October 23, 2007, the panel issued an Order[21] again denying the motion. Petitioners moved for reconsideration,[22] which was denied by the panel in the Resolution[23] dated November 14, 2007.

The panel of prosecutors issued on April 11, 2008 a Joint Resolution,[24] reviewed and approved by Officer-in-charge Provincial Prosecutor Floro F. Florendo (Prosecutor Florendo). The panel found probable cause for murder in the killing of Carlito Bayudang and Jimmy Peralta, and for kidnapping with murder in the killing of Danilo Felipe, against the nineteen 19 suspects. However, the panel considered one of the suspects, Julie Flores Sinohin, as a state witness. The panel recommended

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12 Id. at 91, 134, and 170.
13 Id. at 206.
14 Id. at 207–217.
15 Id. at 9, Petition.
16 Id.
17 Id. at 218–219, panel of investigating prosecutor's Resolution.
18 Id. at 220–289.
19 Id. at 290–295.
20 Id. at 297–303.
21 Id. at 304.
22 Id. at 305–313.
23 Id. at 317.
24 Id. at 328–338.

that the corresponding Informations be filed against the remaining suspects.[25] On the same day, two (2) Informations[26] for murder were filed before the Regional Trial Court of Palayan City, Branch 40 in Nueva Ecija, (Palayan cases) and an Information[27] for kidnapping with murder was filed in Guimba, Nueva Ecija (Guimba case).

Petitioners filed a Motion for Judicial Determination of Probable Cause with Prayer to Dismiss the Case Outright on the Guimba case. This was opposed by the panel of investigating prosecutors and Prosecutor Florendo.[28] After the hearing on the motion and submission of the parties' memoranda, Judge Napoleon R. Sta. Romana issued an Order[29] dated August 5, 2008, dismissing the case for lack of probable cause.[30]

On April 21, 2008, petitioners also filed a Motion for Judicial Determination of Probable Cause with Prayer to Dismiss the Case Outright[31] on the Palayan cases. They requested the court to move forward with the presented evidence and decide if there were probable cause and, consequently, dismiss the case outright if there were none.[32]

The panel of investigating prosecutors and Prosecutor Florendo opposed the motion.[33] Petitioners filed their Reply[34] on May 12, 2008.

On April 25, 2008 and May 12, 2008, the motion was heard by the Regional Trial Court of Palayan City, Branch 40.[35] Thereafter, both parties submitted their respective memoranda.[36]

On July 18, 2008, Presiding Judge Evelyn A. Atienza-Turla (Judge Turla) issued an Order[37] on the Palayan cases. Judge Turla held that "the proper procedure in the conduct of the preliminary investigation was not followed in [the Palayan] cases"[38] due to the following:

> *First*, the records show that the supposed principal witnesses for the prosecution were not presented before the panel of prosecutors, much

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[25] Id. at 337.
[26] Id. at 339–344. The murder cases were docketed as Criminal Case No. 1879-P and Criminal Case No. 1880-P.
[27] Id. at 345–347. The kidnapping with murder case was docketed as Criminal Case No. 2613-G.
[28] Id. at 485, Regional Trial Court Order dated August 5, 2008.
[29] Id. at 484–494.
[30] Id. at 486.
[31] Id. at 348–402.
[32] Id. at 69, Regional Trial Court Order dated July 18, 2008.
[33] Id. at 403–414.
[34] Id. at 415–427.
[35] Id. at 68, Regional Trial Court Order dated July 18, 2008.
[36] Id. at 428–471, Petitioners' Memorandum, 473–479, People's Memorandum, and 480–483, Petitioners' Supplemental Memorandum.
[37] Id. at 68–84.
[38] Id. at 80.

less subscribed their supposed affidavits before them.

The marginal note of one of the panel member, Asst. Prov'l Pros. Eddie Gutierrez said it all, thus: **"I concur with the conclusion but I would have been more than satisfied if witnesses for the prosecution were presented."**

Second, the charge against [petitioners] is Murder (two counts), a non-bailable offense. The gravity of the offense alone, not to mention the fact that three of the movants are incumbent Party-List Representatives while the other one was a former Party-List Representative himself, whose imprisonment during the pendency of the case would deprive their constituents of their duly-elected representatives, should have merited a deeper and more thorough preliminary investigation.

The panel of prosecutors, however, did nothing of the sort and instead swallowed hook, line and sinker the allegations made by Isabelita Bayudang, Cleotilde Peralta[,] and Alvaro Juliano, and principally hinges on the affidavit of Julie Sinohin, a supposed "co-conspirator" of the movants, which were all not "subscribed or sworn" before the said panel.

Given the foregoing circumstances, this Court for all practical purposes will do an even worse job than what the panel of prosecutors did, by accepting in its entirety the findings of the said panel despite its obvious flaws. This practice should not be condoned.

. . . .

Third, [petitioners'] filing of a motion for reconsideration of the resolution of the preliminary investigation conducted by the panel of prosecutors is allowed by the rules. . . ,

. . . .

Strictly speaking, the filing of a "Motion for Reconsideration" is an integral part of the preliminary investigation proper. There is no dispute that the two (2) Informations for murder were filed *without* first affording the movants their right to file a motion for reconsideration. The denial thereof is tantamount to a denial of the right itself to a preliminary investigation. This fact alone already renders preliminary investigation conducted in this case *incomplete*. The inevitable conclusion is that the movants were not only effectively denied the opportunity to file a "Motion for Reconsideration" of the "Joint Resolution" dated April 11, 2008 issued by the panel of prosecutors assigned in these cases, but were also **deprived of their right to a full preliminary investigation preparatory to the filing of the Information against them**. (Emphasis in the original, citation omitted).[39]

Judge Turla further held:

In this case, the undue haste in filing of the information against movants cannot be ignored. From the gathering of evidence until the termination of the preliminary investigation, it appears that the state

[39] Id. at 80–81.

> prosecutors were overly-eager to file the case and to secure a warrant of arrest of [petitioners] without bail and their consequent detention. There can be no gainsaying the fact that the task of ridding society of criminals and misfits and sending them to jail in the hope that they will in the future reform and be productive members of the community rests both on the judiciousness of judges and the prudence of the prosecutors. There is however, a standard in the determination of the existence of probable cause. The determination has not measured up to that standard in this case.[40]

Judge Turla added that her order of remanding the Palayan cases back to the provincial prosecutors "for a complete preliminary investigation is not a manifestation of ignorance of law or a willful abdication of a duty imposed by law . . . but due to the peculiar circumstances obtaining in [the cases] and not just 'passing the buck' to the panel of prosecutors[.]"[41]

The dispositive portion reads:

> **WHEREFORE, PREMISES CONSIDERED**, this Court hereby resolves to:
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> 1.) **SET ASIDE** the "**Joint Resolution**" of the Nueva Ecija Provincial Prosecutor's Office dated **April 11, 2008** finding probable cause for two (2) counts of Murder against the herein movants; and,
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> 2.) **ORDER** the Office of the Provincial Prosecutor of Nueva Ecija to conduct the preliminary investigation on the incidents subject matter hereof in accordance with the mandates of Rule 112 of the Rules of Court.
>
> **SO ORDERED.**[42] (Emphasis in the original)

Petitioners moved for partial reconsideration[43] of the July 18, 2008 Order, praying for the outright dismissal of the Palayan cases against them for lack of probable cause.[44] The Motion was denied by Judge Turla in an Order dated December 2, 2008.[45]

Hence, on March 27, 2009, petitioners filed this Petition for Certiorari and Prohibition with Prayer for Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction against Judge Evelyn A. Turla, Prosecutors Floro F. Florendo, Antonio Ll. Lapus, Jr., Edison V. Rafanan, and Eddie C. Gutierrez, and Justice Secretary Raul M. Gonzalez

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40 Id. at 82.
41 Id. at 83–84.
42 Id. at 84.
43 Id. at 495–511.
44 Id. at 509.
45 Id. at 87.

(respondents).[46]

Petitioners pray that the July 18, 2008 and December 2, 2008 Orders of Judge Turla be set aside and annulled and that the murder cases against them be dismissed for failure to show probable cause. They also ask for the issuance of a temporary restraining order and/or writ of preliminary injunction to enjoin Judge Turla from remanding the cases to the provincial prosecutors, and "the respondent prosecutors from conducting further preliminary investigation [on] these cases."[47]

Petitioners claim that they "have no plain, speedy[,] and adequate remedy in the ordinary course of law[.]"[48] They also contend that "[r]espondents' actions will certainly cause grave and irreparable damage to [their] constitutional rights unless injunctive relief is afforded them through the issuance of a writ of preliminary injunction and/or temporary restraining order[.]"[49]

They allege that Judge Turla acted with grave abuse of discretion amounting to lack or excess of jurisdiction,

> [I] WHEN SHE SHIRKED FROM HER CONSTITUTIONAL DUTY TO DETERMINE PROBABLE CAUSE AGAINST PETITIONERS AND INSTEAD REMANDED THE CASES TO THE OFFICE OF THE PROVINCIAL PROSECUTOR DESPITE LACK OF EVIDENCE.
>
> [II] WHEN SHE DID NOT DISMISS THE CASES DESPITE THE LACK OF EVIDENCE TO ESTABLISH PROBABLE CAUSE AGAINST PETITIONERS.
>
> [III] WHEN SHE REFUSED TO RULE ON THE ISSUE OF FAILURE OF THE PROSECUTION EVIDENCE TO ESTABLISH THAT PETITIONERS ARE PRINCIPALS BY INDUCEMENT.
>
> [IV] FOR IGNORING THE ISSUE OF INADMISSIBILITY OF PROSECUTION EVIDENCE ON THE GROUND OF VIOLATION OF THE *RES INTER ALIOS ACTA* RULE.[50]

Petitioners claim that Judge Turla's order of remanding the case back to the prosecutors had no basis in law, jurisprudence, or the rules. Since she had already evaluated the evidence submitted by the prosecutors along with the Informations, she should have determined the existence of probable cause for the issuance of arrest warrants or the dismissal of the Palayan

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[46] Id. at 3.
[47] Id. at 59.
[48] Id. at 5.
[49] Id.
[50] Id. at 14.

cases.[51]

Petitioners assert that under the Rules of Court, in case of doubt on the existence of probable cause, Judge Turla could "order the prosecutor to present additional evidence [or] set the case for hearing so she could make clarifications on the factual issues of the case."[52]

Moreover, petitioners argue that the setting aside of the Joint Resolution establishes the non-existence of probable cause against them. Thus, the cases against them should have been dismissed.[53]

Petitioners aver that the documents submitted by the prosecution are neither relevant nor admissible evidence.[54] The documents "do not establish the complicity of the petitioner party-list representatives to the death of the supposed victims."[55]

On May 29, 2009, respondents filed their Comment[56] through the Office of the Solicitor General, raising the following arguments:

I

THE PETITION SHOULD BE DISMISSED FOR VIOLATING THE HIERARCHY OF COURTS.

II

RESPONDENT JUDGE'S ACTION IN REMANDING THE CASES FOR PRELIMINARY INVESTIGATION IS A RECOGNITION OF THE EXCLUSIVE AUTHORITY OF THE PUBLIC PROSECUTORS TO DETERMINE PROBABLE CAUSE FOR PURPOSES OF FILING APPROPRIATE CRIMINAL INFORMATION.

III.

THE PROSECUTION RIGHTLY FOUND PROBABLE CAUSE TO WARRANT THE FILING OF THE INDICTMENTS.

IV.

A FINDING OF PROBABLE CAUSE IS NOT A PRONOUNCEMENT OF GUILT BUT MERELY BINDS A SUSPECT TO STAND TRIAL.

V.

THE ISSUE OF ADMISSIBILITY OR INADMISSIBILITY OF EVIDENCE IS PROPERLY ADDRESSED DURING THE TRIAL ON THE MERITS OF THE CASE AND NOT DURING THE EARLY STAGE OF PRELIMINARY INVESTIGATION.[57]

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[51] Id. at 18–19.
[52] Id. at 19.
[53] Id. at 19–20.
[54] Id. at 22–47.
[55] Id. at 47.
[56] Id. at 513–534.
[57] Id. at 518.

Respondents claim that the petition before this Court violates the principle of hierarchy of courts. They contend that petitioners should have filed their petition before the Court of Appeals since it also exercises original jurisdiction over petitions for certiorari and prohibition. According to respondents, petitioners failed to justify a direct resort to this Court.[58]

Respondents also allege that respondent Secretary Gonzalez was wrongly impleaded. There was no showing that he exercised judicial or quasi-judicial functions, for which certiorari may be issued.[59]

On the allegation that Judge Turla reneged on her constitutional duty to determine probable cause, respondents counter that she did not abandon her mandate.[60] Her act of remanding the cases to the public prosecutors "is a confirmation of her observance of the well-settled principle that such determination of probable cause is an exclusive executive function of the prosecutorial arm of our government."[61]

Furthermore, respondent prosecutors' finding of probable cause is correct since evidence against petitioners show that more likely than not, they participated in the murder of the alleged victims.[62] The prosecutors' finding is not a final declaration of their guilt. It merely engages them to trial.[63]

Finally, respondents argue that the "issue of admissibility or inadmissibility of evidence is properly addressed during the trial on the merits of the case and not during the early stage of preliminary investigation."[64]

Petitioners filed their Reply[65] on September 24, 2009. Aside from reiterating their allegations and arguments in the petition, they added that direct invocation of this Court's original jurisdiction was allowed as their petition involved legal questions.[66] Moreover, the inclusion of Secretary Gonzalez as nominal party-respondent was allowed under Rule 65, Section 5[67] of the Rules of Court.[68]

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58 Id. at 519.
59 Id.
60 Id. at 520–523.
61 Id. at 523.
62 Id. at 523–527.
63 Id. at 527.
64 Id. at 527–530.
65 Id. at 549–565.
66 Id. at 549–553.
67 RULE 65. Certiorari, Prohibition and Mandamus

. . . .

Section 5. Respondents and costs in certain cases. — When the petition filed relates to the acts or omissions of a judge, court, quasi-judicial agency, tribunal, corporation, board, officer or person, the

We resolve the following issues:

First, whether petitioners violated the principle of hierarchy of courts in bringing their petition directly before this Court;

Second, whether respondent Judge Turla gravely abused her discretion when she remanded the Palayan cases to the Provincial Prosecutor for the conduct of preliminary investigation; and

Finally, whether admissibility of evidence can be ruled upon in preliminary investigation.

I

This petition is an exception to the principle of hierarchy of courts.

This Court thoroughly explained the doctrine of hierarchy of courts in *The Diocese of Bacolod v. Commission on Elections*:[69]

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

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petitioner shall join, as private respondent or respondents with such public respondent or respondents, the person or persons interested in sustaining the proceedings in the court; and it shall be the duty of such private respondents to appear and defend, both in his or their own behalf and in behalf of the public respondent or respondents affected by the proceedings, and the costs awarded in such proceedings in favor of the petitioner shall be against the private respondents only, and not against the judge, court, quasi-judicial agency, tribunal, corporation, board, officer or person impleaded as public respondent or respondents.
Unless otherwise specifically directed by the court where the petition is pending, the public respondents shall not appear in or file an answer or comment to the petition or any pleading therein. If the case is elevated to a higher court by either party, the public respondents shall be included therein as nominal parties. However, unless otherwise specifically directed by the court, they shall not appear or participate in the proceedings therein.

[68] *Rollo*, p. 553, Reply.

[69] G.R. No. 205728, January 21, 2015, 747 SCRA 1 [Per J. Leonen, En Banc].

at their level would not be practical considering their decisions could still be appealed before the higher courts, such as the Court of Appeals.

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

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

In other words, the Supreme Court's role to interpret the Constitution and act in order to protect constitutional rights when these become exigent should not be emasculated by the doctrine in respect of the hierarchy of courts. That has never been the purpose of such doctrine.

Thus, the doctrine of hierarchy of courts is not an iron-clad rule. This court has "full discretionary power to take cognizance and assume jurisdiction [over] special civil actions for *certiorari* . . . filed directly with it for exceptionally compelling reasons or if warranted by the nature of the issues clearly and specifically raised in the petition." As correctly pointed out by petitioners, we have provided exceptions to this doctrine:

First, a direct resort to this court is allowed when there are genuine issues of constitutionality that must be addressed at the most immediate time. A direct resort to this court includes availing of the remedies of *certiorari* and prohibition to assail the constitutionality of actions of both legislative and executive branches of the government.

. . . .

A *second* exception is when the issues involved are of transcendental importance. In these cases, the imminence and clarity of the threat to fundamental constitutional rights outweigh the necessity for prudence. The doctrine relating to constitutional issues of transcendental importance prevents courts from the paralysis of procedural niceties when clearly faced with the need for substantial protection.

. . . .

Third, cases of first impression warrant a direct resort to this court. In cases of first impression, no jurisprudence yet exists that will guide the lower courts on this matter. In *Government of the United States v. Purganan*, this court took cognizance of the case as a matter of first impression that may guide the lower courts:

> In the interest of justice and to settle once and for all the important issue of bail in extradition proceedings,

> we deem it best to take cognizance of the present case. Such proceedings constitute a matter of first impression over which there is, as yet, no local jurisprudence to guide lower courts.
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> ....
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> *Fourth*, the constitutional issues raised are better decided by this court. In *Drilon v. Lim*, this court held that:
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> > ... it will be prudent for such courts, if only out of a becoming modesty, to defer to the higher judgment of this Court in the consideration of its validity, which is better determined after a thorough deliberation by a collegiate body and with the concurrence of the majority of those who participated in its discussion.
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> ....
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> *Fifth*, . . . Exigency in certain situations would qualify as an exception for direct resort to this court.
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> *Sixth*, the filed petition reviews the act of a constitutional organ. . .
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> ....
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> *Seventh*, [there is] no other plain, speedy, and adequate remedy in the ordinary course of law[.]
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> . . . The lack of other sufficient remedies in the course of law alone is sufficient ground to allow direct resort to this court.
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> *Eighth*, the petition includes questions that are "dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the *orders complained of were found to be patent nullities*, or the appeal was considered as clearly an inappropriate remedy." In the past, questions similar to these which this court ruled on immediately despite the doctrine of hierarchy of courts included citizens' right to bear arms, government contracts involving modernization of voters' registration lists, and the status and existence of a public office.
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> ....
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> It is not, however, necessary that all of these exceptions must occur at the same time to justify a direct resort to this court.[70] (Emphasis supplied, citations omitted)

In *First United Constructors Corp. v. Poro Point Management Corp. (PPMC), et al.*,[71] this Court reiterated that it "will not entertain a direct invocation of its jurisdiction unless the redress desired cannot be obtained in the appropriate lower courts, and exceptional and compelling circumstances justify the

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70 Id. at 43–50.

71 596 Phil. 334 (2009) [Per J. Nachura, Third Division].

resort to the extraordinary remedy of a writ of certiorari."[72]

In this case, the presence of compelling circumstances warrants the exercise of this Court's jurisdiction. At the time the petition was filed, petitioners were incumbent party-list representatives. The possibility of their arrest and incarceration should the assailed Orders be affirmed, would affect their representation of their constituents in Congress.

Although the circumstances mentioned are no longer present, the merits of this case necessitate this Court's exercise of jurisdiction.

II

The remand of the criminal cases to the Provincial Prosecutor for the conduct of another preliminary investigation is improper.

Petitioners assert that the documents submitted along with the Informations are sufficient for Judge Turla to rule on the existence of probable cause. If she finds the evidence inadequate, she may order the prosecutors to present additional evidence. Thus, according to petitioners, Judge Turla's action in remanding the case to the prosecutors for further preliminary investigation lacks legal basis.

Petitioners' contention has merit.

Rule 112, Section 5(a) of the Revised Rules of Criminal Procedure provides:

> RULE 112
>
> PRELIMINARY INVESTIGATION
>
> . . . .
>
> SEC. 5. When warrant of arrest may issue. —
>
> (a) By the Regional Trial Court. — Within ten (10) days from the filing of the complaint or information, the judge shall personally evaluate the resolution of the prosecutor and its supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest, or a commitment order when the complaint or information was filed pursuant to section 6 of this Rule. In case of doubt on the existence of probable cause, the judge may order the prosecutor to present additional evidence within five (5) days from notice and the issue

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[72] Id. at 342.

must be resolved by the court within thirty (30) days from the filing of the complaint or information.

A plain reading of the provision shows that upon filing of the information, the trial court judge has the following options: (1) dismiss the case if the evidence on record clearly fails to establish probable cause; (2) issue a warrant of arrest or a commitment order if findings show probable cause; or (3) order the prosecutor to present additional evidence if there is doubt on the existence of probable cause.[73]

The trial court judge's determination of probable cause is based on her or his personal evaluation of the prosecutor's resolution and its supporting evidence. The determination of probable cause by the trial court judge is a judicial function, whereas the determination of probable cause by the prosecutors is an executive function.[74] This Court clarified this concept in *Napoles v. De Lima*:[75]

> During preliminary investigation, the prosecutor determines the existence of probable cause for filing an information in court or dismissing the criminal complaint. As worded in the Rules of Court, the prosecutor determines during preliminary investigation whether "there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial." At this stage, the determination of probable cause is an executive function. Absent grave abuse of discretion, this determination cannot be interfered with by the courts. This is consistent with the doctrine of separation of powers.
>
> On the other hand, if done to issue an arrest warrant, the determination of probable cause is a judicial function. No less than the Constitution commands that "no . . . warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce[.]" This requirement of personal evaluation by the judge is reaffirmed in Rule 112, Section 5 (a) of the Rules on Criminal Procedure[.]
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> . . . .
>
> Therefore, the determination of probable cause for filing an information in court and that for issuance of an arrest warrant are different. Once the information is filed in court, the trial court acquires jurisdiction and "any disposition of the case as to its dismissal or the conviction or acquittal of the accused rests in the sound discretion of the Court."[76]

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[73] *See Ong v. Genio*, 623 Phil. 835, 843 (2009) [Per J. Nachura, Third Division].

[74] *Napoles v. De Lima*, G.R. No. 213529, July 13, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/july2016/213529.pdf> 9–10 [Per J. Leonen, Second Division].

[75] G.R. No. 213529, July 13, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/july2016/213529.pdf> [Per J. Leonen, Second Division].

[76] Id. at 9–10.

(Citations omitted)

In *De Lima v. Reyes*,[77] this Court further held:

> *The courts do not interfere with the prosecutor's conduct of a preliminary investigation. The prosecutor's determination of probable cause is solely within his or her discretion.* Prosecutors are given a wide latitude of discretion to determine whether an information should be filed in court or whether the complaint should be dismissed.[78] (Emphasis supplied, citation omitted)

Thus, when Judge Turla held that the prosecutors' conduct of preliminary investigation was "incomplete"[79] and that their determination of probable cause "has not measured up to [the] standard,"[80] she encroached upon the exclusive function of the prosecutors. Instead of determining probable cause, she ruled on the propriety of the preliminary investigation.

In *Leviste v. Hon. Alameda, et al.*:[81]

> [T]he task of the presiding judge when the Information is filed with the court is first and foremost to determine the existence or non-existence of probable cause for the arrest of the accused.
>
>> What the Constitution underscores is the exclusive and personal responsibility of the issuing judge to satisfy himself of the existence of probable cause. But the judge is not required to personally examine the complainant and his witnesses. Following established doctrine and procedure, he shall (1) personally evaluate the report and the supporting documents submitted by the prosecutor regarding the existence of probable cause, and on the basis thereof, he may already make a personal determination of the existence of probable cause; and (2) if he is not satisfied that probable cause exists, he may disregard the prosecutor's report and require the submission of supporting affidavits of witnesses to aid him in arriving at a conclusion as to the existence of probable cause.[82] (Citations omitted)

Regardless of Judge Turla's assessment on the conduct of the preliminary investigation, it was incumbent upon her to determine the existence of probable cause against the accused after a personal evaluation of

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[77] G.R. No. 209330, January 11, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/209330.pdf> [Per J. Leonen, Second Division].

[78] Id. at 16.

[79] *Rollo*, p. 81, Regional Trial Court Order dated July 18, 2008.

[80] Id. at 82.

[81] 640 Phil. 620 (2009) [Per J. Carpio Morales, Third Division].

[82] Id. at 649.

the prosecutors' report and the supporting documents. She could even disregard the report if she found it unsatisfactory, and/or require the prosecutors to submit additional evidence. There was no option for her to remand the case back to the panel of prosecutors for another preliminary investigation. In doing so, she acted without any legal basis.

III

The admissibility of evidence cannot be ruled upon in a preliminary investigation.

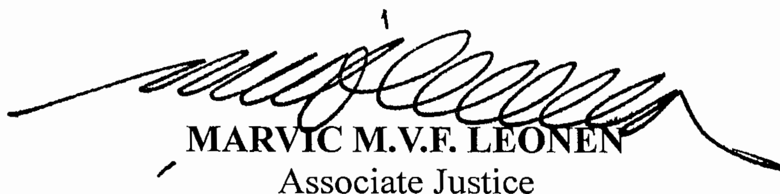
In a preliminary investigation,

> ...the public prosecutors do not decide whether there is evidence beyond reasonable doubt of the guilt of the person charged; they merely determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and that respondent is probably guilty thereof, and should be held for trial.[83]

To emphasize, "a preliminary investigation is merely preparatory to a trial[;] [i]t is not a trial on the merits."[84] Since "it cannot be expected that upon the filing of the information in court the prosecutor would have already presented all the evidence necessary to secure a conviction of the accused,"[85] the admissibility or inadmissibility of evidence cannot be ruled upon in a preliminary investigation.

WHEREFORE, the Petition is **PARTIALLY GRANTED**. The assailed Orders dated July 18, 2008 and December 2, 2008 of the Regional Trial Court, Palayan City, Branch 40 in Criminal Case Nos. 1879-P and 1880-P are **SET ASIDE**. The case is remanded to the Regional Trial Court, Palayan City, Branch 40 for further proceedings with due and deliberate dispatch in accordance with this Decision.

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

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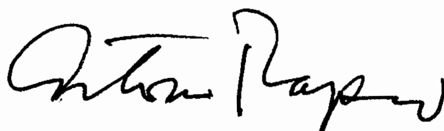
[83] *People v. Castillo*, 607 Phil. 754, 767 (2009) [Per J. Quisumbing, Second Division].

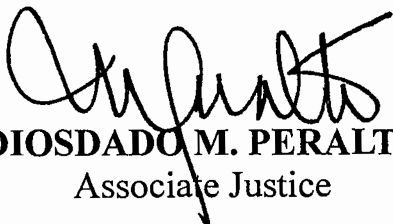
[84] *De Lima v. Reyes*, G.R. No. 209330, January 11, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/209330.pdf> 17 [Per J. Leonen, Second Division].

[85] *De Los Santos-Dio v. Court of Appeals*, 712 Phil. 288, 309 (2013) [Per J. Perlas-Bernabe, Second Division].

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



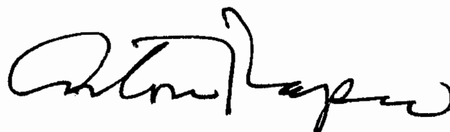
DIOSDADO M. PERALTA
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice