Republic of the Philippines
SUPREME COURT
Manila

EN BANC

SENATOR LEILA M. DE LIMA,
Petitioner,

- versus -

HON. JUANITA GUERRERO, in her capacity as Presiding Judge, Regional Trial Court of Muntinlupa City, Branch 204, PEOPLE OF THE PHILIPPINES, P/DIR. GEN. RONALD M. DELA ROSA, in his capacity as Chief of the Philippine National Police, PSUPT. PHILIP GIL M. PHILIPPS, in his capacity as Director, Headquarters Support Service, SUPT. ARNEL JAMANDRON APUD, in his capacity as Chief, PNP Custodial Service Unit, and ALL PERSONS ACTING UNDER THEIR CONTROL, SUPERVISION, INSTRUCTION OR DIRECTION IN RELATION TO THE ORDERS THAT MAY BE ISSUED BY THE COURT,
Respondents.

G.R. No. 229781

Present:

SERENO, *C.J.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
MARTIRES,
TIJAM,
REYES, JR., and
GESMUNDO, *JJ.*

Promulgated:

October 10, 2017

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DECISION

VELASCO, JR., *J.*:

For consideration is the Petition for *Certiorari* and Prohibition with Application for a Writ of Preliminary Injunction, and Urgent Prayer for Temporary Restraining Order and Status Quo Ante Order[1] under Rule 65 of the Rules of Court filed by petitioner Senator Leila De Lima. In it, petitioner assails the following orders and warrant issued by respondent judge Hon. Juanita Guerrero of the Regional Trial Court (RTC) of Muntinlupa City, Branch 204, in Criminal Case No. 17-165, entitled "*People vs. Leila De Lima, et al.*:" (1) the *Order* dated February 23, 2017 finding probable cause for the issuance of

[1] *Rollo*, pp. 3-300.

warrant of arrest against petitioner De Lima; (2) the *Warrant of Arrest* against De Lima also dated February 23, 2017; (3) the *Order* dated February 24, 2017 committing the petitioner to the custody of the PNP Custodial Center; and finally, (4) the supposed omission of the respondent judge to act on petitioner's *Motion to Quash*, through which she questioned the jurisdiction of the RTC.[2]

Antecedents

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

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

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

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

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

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

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

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[2] Id. at 8-9.
[3] Id. at 338.
[4] Id. at 15.
[5] The members of the DOJ Panel are: Senior Assistant State Prosecutor Peter L. Ong, and Senior Assistant City Prosecutors Alexander P. Ramos, Leilia R. Llanes, Evangeline P. Viudez-Canobas, and Editha C. Fernandez.
[6] *Rollo*, p. 339.
[7] Id. at 16.
[8] Id. at 92-142. Annex "D" to Petition.

petitioner contended that the DOJ prosecutors should inhibit themselves and refer the complaints to the Office of the Ombudsman.

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

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

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

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

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

> That within the period from November 2012 to March 2013, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-

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[9] Id. at 16.
[10] Id. at 17.
[11] Id.
[12] Id.
[13] Id. at 18.
[14] Id. at 18 and 144-195. Annex "E" to Petition.
[15] Id.
[16] Id. at 340.
[17] Id. at 18 and 203-254. Annex "G" to Petition.
[18] Id. at 197- 201. Annex "F" to Petition.

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

On February 20, 2017, petitioner filed a *Motion to Quash*,[20] mainly raising the following: the RTC lacks jurisdiction over the offense charged against petitioner; the DOJ Panel lacks authority to file the Information; the Information charges more than one offense; the allegations and the recitals of facts do not allege the *corpus delicti* of the charge; the Information is based on testimonies of witnesses who are not qualified to be discharged as state witnesses; and the testimonies of these witnesses are hearsay.[21]

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

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

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

On February 24, 2017, the PNP Investigation and Detection Group served the *Warrant of Arrest* on petitioner and the respondent judge issued the

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[19] Id. at 197-198.
[20] Id. at 20 and 256-295. Annex "H" to Petition.
[21] Id.
[22] Id. at 20-21. Annex "A" to Petition.
[23] Id. at 85.
[24] Id. at 20 and 87. Annex "B" to Petition.

assailed February 24, 2017 Order,[25] committing petitioner to the custody of the PNP Custodial Center.

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

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

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

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

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

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[25] Id. at 300.
[26] Id. at 66.
[27] Id. at 336-431.
[28] Id. at 344-346.
[29] Id. at 302- 306. *Urgent Motion and Special Raffle and to Set the Case for Oral Argument* dated February 27, 2017.
[30] Id. at 436-442.

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

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

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

The Issues

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

Procedural Issues:

A. Whether or not petitioner is excused from compliance with the doctrine on hierarchy of courts considering that the petition should first be filed with the Court of Appeals.

B. Whether or not the pendency of the Motion to Quash the Information before the trial court renders the instant petition premature.

C. Whether or not petitioner, in filing the present petition, violated the rule against forum shopping given the pendency of the Motion to Quash the Information before the Regional Trial Court of Muntinlupa City in Criminal Case No. 17-165 and the Petition for *Certiorari* filed before the Court of Appeals in C.A. G.R. SP No. 149097, assailing the preliminary investigation conducted by the DOJ Panel.

Substantive Issues:

A. Whether the Regional Trial Court or the Sandiganbayan has the jurisdiction over the violation of Republic Act No. 9165 averred in the assailed Information.

B. Whether or not the respondent gravely abused her discretion in finding probable cause to issue the Warrant of Arrest against petitioner.

C. Whether or not petitioner is entitled to a Temporary Restraining Order and/or *Status Quo Ante* Order in the interim until the instant petition is resolved or until the trial court rules on the Motion to Quash.

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[31] Id. at 446-606.
[32] Id. at 8689-8690.
[33] Id. at 8706-8769 and 8928-9028, for petitioner and respondents, respectively.
[34] Id. at 433-435.

OUR RULING

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

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

> 4. On February 24, 2017 at or around nine in the morning (9:00 AM), I went to PNP, CIDG, Camp Crame, Quezon City to notarize the Petition as discussed the previous night.
>
> 5. I met Senator De Lima when she was brought to the CIDG at Camp Crame and **I was informed that the Petition was already signed** and ready for notarization.
>
> 6. I was then provided the Petition by her staff. I examined the signature of Senator De Lima and confirmed that **it was signed** by her. I have known the signature of the senator given our personal relationship. Nonetheless, I still requested from her staff a photocopy of any of her government-issued valid Identification Cards (ID) bearing her signature. A photocopy of her passport was presented to me. I compared the signatures on the Petition and the Passport and I was able to verify that the Petition was in fact signed by her. Afterwards, I attached the photocopy of her Passport to the Petition which I appended to my Notarial Report/Record.
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> 7. Since I already know that Sen. De Lima caused the preparation of the Petition and that it was her who signed the same, I stamped and signed the same.
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> 8. To confirm with Senator De Lima that I have already notarized the Petition, I sought entry to the detention facility at or around three in the afternoon (3:00 PM). x x x
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> x x x x
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> 11. Since I was never cleared after hours of waiting, I was not able to talk again to Senator De Lima to confirm the notarization of the Petition. I then decided to leave Camp Crame.[35]

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

[35] Id. at 8689-8690.

certifications of the notary public at the end of the instruments) signed by Atty. Tresvalles-Cabalo that the documents were "**SUBSCRIBED** AND SWORN to **before me**."

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

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

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

In this regard, Section 4, Rule 7 of the Rules of Civil Procedure states that "[a] pleading is verified by an affidavit that the affiant has read the

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

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

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

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

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

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

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

In this case, when petitioner De Lima failed to **sign** the Verification and Certification against Forum Shopping **in the presence of the notary**, she has likewise failed to properly **swear under oath** the contents thereof, thereby rendering false and null the *jurat* and invalidating the Verification and Certification against Forum Shopping. The significance of a proper *jurat* and the effect of its invalidity was elucidated in *William Go Que Construction v. Court of Appeals*,[39] where this Court held that:

> In this case, **it is undisputed that the Verification/Certification against Forum Shopping attached to the petition for *certiorari* in CA-G.R. SP No. 109427 was not accompanied with a valid affidavit/properly certified under oath. This was because the *jurat* thereof was defective** in that it did not indicate the pertinent details regarding the affiants' *(i.e.*, private respondents) competent evidence of identities.
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> Under Section 6, Rule II of A.M. No. 02-8-13-SC 63 dated July 6, 2004, entitled the "2004 Rules on Notarial Practice" (2004 Rules on Notarial Practice), a *jurat* refers to an act in which an individual on a single occasion:
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> x x x x
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> In *Fernandez v. Villegas* (Fernandez), the Court pronounced that non-compliance with the verification requirement or a defect therein "does not necessarily render the pleading fatally defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby." "Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct." **Here, there was no substantial compliance with the**

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

> **verification requirement as it cannot be ascertained that any of the private respondents actually swore to the truth of the allegations in the petition for *certiorari* in CA-G.R. SP No. 109427** given the lack of competent evidence of any of their identities. **Because of this, the fact that even one of the private respondents swore that the allegations in the pleading are true and correct of his knowledge and belief is shrouded in doubt.**
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> For the same reason, neither was there substantial compliance with the certification against forum shopping requirement. In *Fernandez*, the Court explained that "**non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof**, unless there is a need to relax the Rule on the ground of 'substantial compliance' or presence of 'special circumstances or compelling reasons.'" Here, the CA did not mention — nor does there exist — any perceivable special circumstance or compelling reason which justifies the rules' relaxation. At all events, **it is uncertain if any of the private respondents certified under oath that no similar action has been filed or is pending in another forum.**
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> x x x x
>
> Case law states **that "[v]erification is required to secure an assurance that the allegations in the petition have been made in good faith or are true and correct, and not merely speculative." On the other hand, "[t]he certification against forum shopping is required based on the principle that a party-litigant should not be allowed to pursue simultaneous remedies in different fora." The important purposes behind these requirements cannot be simply brushed aside absent any sustainable explanation justifying their relaxation.** In this case, proper justification is especially called for in light of the serious allegations of forgery as to the signatures of the remaining private respondents, *i.e.*, Lominiqui and Andales. Thus, by simply treating the insufficient submissions before it as compliance with its Resolution dated August 13, 2009 requiring anew the submission of a proper verification/certification against forum shopping, the CA patently and grossly ignored settled procedural rules and, hence, gravely abused its discretion. All things considered, **the proper course of action was for it to dismiss the petition.**[40] (Emphasis and underscoring supplied.)

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

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[40] Id. at 321-326.

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

unsigned pleading that does not deserve the cognizance of this Court.[42] In *Salumbides, Jr. v. Office of the Ombudsman*,[43] the Court held thus:

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

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

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

PETITIONER DISREGARDED THE HIERARCHY OF COURTS

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

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

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[42] Id.

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

[44] *Ramirez v. Mar Fishing Co., Inc.*, 687 Phil. 125, 137 (2012), citing *Lanzaderas v. Amethyst Security and General Services*, 452 Phil. 621 (2003).

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

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

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

[48] Supra note 46.

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

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

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

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

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

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

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

[50] Id.

> interest of justice; (9) when the order complained of was a patent nullity; and (10) when the appeal was considered as an inappropriate remedy.[51]

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

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

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

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

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

Yet, petitioner harps on the supposed judicial efficiency and economy of abandoning the rule on the hierarchy of courts in the present case. Indeed, the Court has considered the practical aspects of the administration of justice in deciding to apply the exceptions rather than the rule. However, it is all the more

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

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

for these practical considerations that the Court must insist on the application of the rule and not the exceptions in this case. As petitioner herself alleges, with the President having declared the fight against illegal drugs and corruption as central to his platform of government, there will be a spike of cases brought before the courts involving drugs and public officers.[53] As it now stands, there are **232,557** criminal cases involving drugs, and around 260,796 criminal cases involving other offenses pending before the RTCs.[54] This Court cannot thus allow a precedent allowing public officers assailing the finding of probable cause for the issuance of arrest warrants to be brought directly to this Court, bypassing the appellate court, without any compelling reason.

THE PRESENT PETITION IS PREMATURE

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

> WHEREFORE, premises considered, and in the interest of substantial justice and fair play, Petitioner respectfully prays the Honorable Court that judgment be rendered:
>
> a. Granting a writ of *certiorari* annulling and setting aside the *Order* dated 23 February 2017, the *Warrant of Arrest* dated the same date, and the Order dated 24 February 2017 of the Regional Trial Court-Branch 204, Muntinlupa City, in Criminal Case No. 17-165 entitled *People of the Philippines versus Leila M. De Lima et al.*;
>
> b. Granting a writ of prohibition enjoining and prohibiting respondent judge from conducting further proceedings **until and unless the Motion to Quash is resolved with finality**;
>
> c. Issuing an order granting the application for the issuance of temporary restraining order (TRO) and a writ of preliminary injunction to the proceedings; and
>
> d. Issuing a Status Quo Ante Order restoring the parties to the status prior to the issuance of the Order and Warrant of Arrest, both dated February 23, 2017, thereby recalling both processes and restoring petitioner to her liberty and freedom.[55] (Emphasis supplied)

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

More importantly, her request for the issuance of a writ of prohibition under paragraph (b) of the prayer "until and unless the Motion to Quash is

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

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

[55] *Rollo*, p. 66.

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

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

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

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

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

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

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

> We note, however, that **the appellate court never actually ruled** on whether or not petitioner's right had prescribed. It merely declared that it was in a position to so rule and thereafter required the parties to submit

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

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

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

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

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

> memoranda. In making such a declaration, did the CA commit grave abuse of discretion amounting to lack of jurisdiction? It did not.
>
> x x x x
>
> **All things considered, this petition is *premature*. The CA has decided nothing and whatever petitioner's vehement objections may be (to any eventual ruling on the issue of prescription) should be raised only after such ruling shall have actually been promulgated**.
>
> *The situation evidently does not yet call for a recourse to a petition for* certiorari *under Rule 65*.[61] (Italicization from the original. Emphasis supplied.)

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

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

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

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

Without such order, the present petition cannot satisfy the requirements set before this Court can exercise its review powers. Section 5 (2)(C) of Article

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[61] Id. at 4540-451.

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

VIII of the 1987 Constitution explicitly requires the existence of "final judgments and orders of lower courts" before the Court can exercise its power to "review, revise, reverse, modify, or affirm on appeal or *certiorari*" in "all cases in which the jurisdiction of any lower court is in issue," *viz.*:

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

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

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

The established rule is that courts of justice will take cognizance only of controversies "wherein actual and not merely hypothetical issues are involved."[64] The reason underlying the rule is "to prevent the courts through

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[63] *Lozano v. Nograles*, 607 Phil. 334, 341 (2009).
[64] *Albay Electric Cooperative, Inc. v. Santelices*, 603 Phil. 104, 121 (2009).

avoidance of premature adjudication from entangling themselves in abstract disagreements, and for us to be satisfied that the case does not present a hypothetical injury or a claim contingent upon some event that has not and indeed may never transpire."[65]

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

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

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

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

PETITIONER VIOLATED THE RULE AGAINST FORUM SHOPPING

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

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

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

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

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

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

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

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

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

Anent the first requisite, there is an identity of parties when the parties in both actions are the same, or there is privity between them, or they are

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

successors-in-interest by title subsequent to the commencement of the action litigating for the same thing and under the same title and in the same capacity.[72]

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

All these requisites are present in this case.

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

As for the second requisite, even a cursory reading of the petition and the *Motion to Quash* will reveal that **the arguments and the reliefs prayed for are essentially the same**. In both, petitioner advances the RTC's supposed lack of jurisdiction over the offense, the alleged multiplicity of offenses included in the Information; the purported lack of the *corpus delicti* of the charge, and, basically, the non-existence of probable cause to indict her. And, removed of all non-essentials, she essentially prays for the same thing in both the present petition and the *Motion to Quash*: the nullification of the Information and her restoration to liberty and freedom. Thus, our ruling in *Ient v. Tullet Prebon (Philippines), Inc.*[74] does not apply in the present case as the petition at bar and the motion to quash pending before the court a quo involve similar if not the same reliefs. What is more, while Justice Caguioa highlights our pronouncement in *Ient* excepting an "appeal or special civil action for *certiorari*" from the rule against the violation of forum shopping, the good justice overlooks that the phrase had been used with respect to forum shopping committed through *successive* actions by a "party, against whom an adverse judgment or order has [already] been rendered in one forum."[75] The exception with respect to an "appeal or special civil action for *certiorari*" does not apply where the forum shopping is committed by *simultaneous* actions where no judgment or order has yet been rendered by either forum. To restate for emphasis, **the RTC has yet to rule on the Motion to Quash**. Thus, the present petition and the motion to quash before the RTC are *simultaneous* actions that do not exempt petitions for *certiorari* from the rule against forum shopping.

With the presence of the first two requisites, the third one necessarily obtains in the present case. Should we grant the petition and declare the RTC without jurisdiction over the offense, the RTC is bound to grant De Lima's

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

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

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

[75] Id.

Motion to Quash in deference to this Court's authority. In the alternative, if the trial court rules on the *Motion to Quash* in the interim, the instant petition will be rendered moot and academic.

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

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

THE REGIONAL TRIAL COURT HAS JURISDICTION

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

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

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

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

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Versus

Criminal Case No. 17-165
(NPS No. XVI-INV-16J-00315 and

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

NPS No. XVI-INV-16K-00336)
For: ***Violation of the Comprehensive Dangerous Drugs Act of 2002*, Section 5, in relation to Section 3(jj), Section 26 (b), and Section 28, Republic Act No. 9165 (*Illegal Drug Trading)***

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

INFORMATION

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

> That within the period from November 2012 to March 2013, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, accused Leila M. De Lima, being then the Secretary of the Department of Justice, and accused Rafael Marcos Z. Ragos, being then the Officer-in-Charge of the Bureau of Corrections, by taking advantage of their public office, conspiring and confederating with accused Ronnie P. Dayan, being then the employee of the Department of Justice detailed to De Lima, all of them having moral ascendancy or influence over inmates in the New Bilibid Prison, **did then and there commit illegal drug trading**, in the following manner: De Lima and Ragos, with the use of their power, position, and authority demand, solicit and extort money from the high profile inmates in the New Bilibid Prison to support the Senatorial bid of De Lima in the May 2016 election; by reason of which, the inmates, not being lawfully authorized by law and through the use of mobile phones and other electronic devices, did then and there **willfully and unlawfully trade and traffic dangerous drugs**, and thereafter give and deliver to De Lima, through Ragos and Dayan, the proceeds of **illegal drug trading** amounting to Five Million (P5,000,000.00) Pesos on 24 November 2012, Five Million (P5,000,000.00) Pesos on 15 December 2012, and One Hundred Thousand (P100,000.00) Pesos weekly *"tara"* each from the high profile inmates in the New Bilibid Prison.
>
> CONTRARY TO LAW.[76]

[76] *Rollo*, pp. 197-198.

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

> The offense charged can also be elucidated by consulting the designation of the offense as appearing in the Information. **The designation of the offense is a critical element required under Sec. 6, Rule 110 of the Rules of Court for it assists in apprising the accused of the offense being charged.** Its inclusion in the Information is imperative to avoid surprise on the accused and to afford him of the opportunity to prepare his defense accordingly. Its import is underscored in this case where the preamble states that the crime charged is of "*Acts of Lasciviousness in relation to Section 5(b) of R.A. No. 7610.*"[78] (Emphasis supplied.)

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

> SECTION 3. *Definitions.* — As used in this Act, the following terms shall mean:
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> x x x x
>
> (jj) Trading. — Transactions involving the illegal trafficking of dangerous drugs and/or controlled precursors and essential chemicals using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.
>
> x x x x
>
> SECTION 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.
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> x x x x

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

> SECTION 26. *Attempt or Conspiracy*. — Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:
>
> x x x x
>
> (b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
>
> x x x x
>
> SECTION 28. Criminal Liability of Government Officials and Employees. — The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees.

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

Read as a whole, and not picked apart with each word or phrase construed separately, the Information against De Lima goes beyond an indictment for Direct Bribery under Article 210 of the RPC.[80] As Justice

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

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

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

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

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

Martires articulately explained, the averments on solicitation of money in the Information, which may be taken as constitutive of bribery, form "part of the description on how illegal drug trading took place at the NBP." The averments on how petitioner asked for and received money from the NBP inmates simply complete the links of conspiracy between her, Ragos, Dayan and the NBP inmates in willfully and unlawfully trading dangerous drugs through the use of mobile phones and other electronic devices under Section 5, in relation to Section 3(jj), Section 26(b), and Section 28, of RA 9165.

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

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

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

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

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

[82] Id.

[83] Id.

> landlines, two-way radios, internet, instant messengers and chat rooms or acting as a broker in any of such transactions whether for money or any other consideration in violation of this Act.

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

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

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

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

> (a) Administer. — Any act of introducing any dangerous drug into the body of any person, with or without his/her knowledge, by injection, inhalation, ingestion or other means, or of committing any act of indispensable assistance to a person in administering a dangerous drug to himself/herself unless administered by a duly licensed practitioner for purposes of medication.
>
> x x x x
>
> (d) Chemical Diversion. — The sale, distribution, supply or transport of legitimately imported, in-transit, manufactured or procured controlled precursors and essential chemicals, in diluted, mixtures or in concentrated form, to any person or entity engaged in the manufacture of any dangerous drug, and shall include packaging, repackaging, labeling, relabeling or concealment of such transaction through fraud, destruction of documents, fraudulent use of permits, misdeclaration, use of front companies or mail fraud.
>
> x x x x
>
> (i) Cultivate or Culture. — Any act of knowingly planting, growing, raising, or permitting the planting, growing or raising of any plant which is the source of a dangerous drug.
>
> x x x x
>
> (k) Deliver. — Any act of knowingly passing a dangerous drug to another, personally or otherwise, and by any means, with or without consideration.
>
> x x x x

> (m) Dispense. — Any act of giving away, selling or distributing medicine or any dangerous drug with or without the use of prescription.
>
> x x x x
>
> (u) Manufacture. — The production, preparation, compounding or processing of any dangerous drug and/or controlled precursor and essential chemical, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and shall include any packaging or repackaging of such substances, design or configuration of its form, or labeling or relabeling of its container; except that such terms do not include the preparation, compounding, packaging or labeling of a drug or other substances by a duly authorized practitioner as an incident to his/her administration or dispensation of such drug or substance in the course of his/her professional practice including research, teaching and chemical analysis of dangerous drugs or such substances that are not intended for sale or for any other purpose.
>
> x x x x
>
> (kk) Use. — Any act of injecting, intravenously or intramuscularly, of consuming, either by chewing, smoking, sniffing, eating, swallowing, drinking or otherwise introducing into the physiological system of the body, any of the dangerous drugs.

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

More so, that which qualifies the crime of Illegal Trafficking to Illegal Trading may make it impossible to provide the details of the elements of Illegal Sale. By "using electronic devices such as, but not limited to, text messages, e-mail, mobile or landlines, two-way radios, internet, instant messengers and chat rooms," the *Illegal Trading* can be remotely perpetrated away from where the drugs are actually being sold; away from the subject of the illegal sale. With the proliferation of digital technology coupled with ride sharing and delivery services, Illegal Trading under RA 9165 can be committed without getting one's hand on the substances or knowing and meeting the seller or buyer. To require the elements of Illegal Sale (the identities of the buyer, seller, the object and consideration, in Illegal Trade) would be impractical.

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

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

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

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

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

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

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

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

[85] *Medrano v. Court of Appeals*, 492 Phil. 222, 234-235 (2005), citing *Wickersham v. T. D. Harris*, 313 F.2d 468 (1963).

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

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

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

[89] Id.

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

It is basic that jurisdiction over the subject matter in a criminal case is given only by law in the manner and form prescribed by law.[90] It is determined by the statute in force at the time of the commencement of the action.[91] Indeed, Congress has the plenary power to define, prescribe and apportion the jurisdiction of various courts. It follows then that Congress may also, by law, provide that a certain class of cases should be exclusively heard and determined by one court. Such would be a special law that is construed as an exception to the general law on jurisdiction of courts.[92]

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

> **Section 20.** ***Confiscation and Forfeiture of the Proceeds or Instruments of the Unlawful Act, Including the Properties or Proceeds Derived from the Illegal Trafficking of Dangerous Drugs and/or Precursors and Essential Chemicals.*** – x x x x
>
> **After conviction in the Regional Trial Court** in the appropriate criminal case filed, the Court shall immediately schedule a hearing for the confiscation and forfeiture of all the proceeds of the offense and all the assets and properties of the accused either owned or held by him or in the name of some other persons if the same shall be found to be manifestly out of proportion to his/her lawful income:
>
> x x x x
>
> **During the pendency of the case in the Regional Trial Court,** no property, or income derived therefrom, which may be confiscated and forfeited, shall be disposed, alienated or transferred and the same shall be in *custodia legis* and no bond shall be admitted for the release of the same.
>
> x x x x
>
> **Section 61.** ***Compulsory Confinement of a Drug Dependent Who Refuses to Apply Under the Voluntary Submission Program.*** – x x x
>
> **A petition for the confinement of a person** alleged to be dependent on dangerous drugs to a Center may be filed by any person authorized by the

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

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

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

> Board **with the Regional Trial Court** of the province or city where such person is found.
>
> x x x x
>
> **Section 62.** ***Compulsory Submission of a Drug Dependent Charged with an Offense to Treatment and Rehabilitation.*** – If a person charged with an offense where the imposable penalty is imprisonment of less than six (6) years and one (1) day, and is found by the prosecutor or by the court, at any stage of the proceedings, to be a drug dependent, the prosecutor or the court as the case may be, shall suspend all further proceedings and transmit copies of the record of the case to the Board.
>
> In the event the Board determines, after medical examination, that public interest requires that such drug dependent be committed to a center for treatment and rehabilitation, **it shall file a petition for his/her commitment with the regional trial court** of the province or city where he/she is being investigated or tried: x x x
>
> x x x x
>
> **Section 90.** ***Jurisdiction***. – The Supreme Court shall designate special courts from among the existing **Regional Trial Courts** in each judicial region **to exclusively try and hear cases involving violations of this Act.** The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.
>
> The DOJ shall designate special prosecutors to exclusively handle cases involving violations of this Act.

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

> Applying by analogy the ruling in *People v. Simon*, *People v. De Lara*, *People v. Santos*, and *Ordoñez v. Vinarao*, the imposable penalty in this case which involves 0.4587 grams of shabu should not exceed *prision correccional*. We say by analogy because these cases involved marijuana, not methamphetamine hydrochloride (shabu). In Section 20 of RA. No. 6425, as amended by Section 17 of R.A. No. 7659, the maximum quantities of marijuana and methamphetamine hydrochloride for purposes of imposing the maximum penalties are not the same. For the latter, if the quantity involved is 200 grams or more, the penalty of *reclusion perpetua* to death and a fine ranging from P500,000 to P10 million shall be imposed. Accordingly, if the quantity involved is below 200 grams, the imposable penalties should be as follows:
>
> x x x x
>
> Clearly, the penalty which may be imposed for the offense charged in Criminal Case No. 96-8443 would at most be only *prision correccional*

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

duration is from six (6) months and one (1) day to six (6) years. **Does it follow then that, as the petitioner insists, the RTC has no jurisdiction thereon in view of the amendment of Section 32 of B.P. Blg. 129 by R.A. No. 7691, which vested upon Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts exclusive original jurisdiction over all offenses punishable with imprisonment not exceeding six (6) years irrespective of the amount of fine and regardless of other imposable accessory or other penalties?** This Section 32 as thus amended now reads:

x x x x

The exception in the opening sentence is of special significance which we cannot disregard. x xx The aforementioned exception refers not only to Section 20 of B.P. Blg. 129 providing for the jurisdiction of Regional Trial Courts in criminal cases, but also to **other laws which specifically lodge in Regional Trial Courts exclusive jurisdiction over specific criminal cases**, e. g., (a) Article 360 of the Revised Penal Code, as amended by R.A. Nos. 1289 and 4363 on written defamation or libel; (b) Decree on Intellectual Property (P. D. No. 49, as amended), which vests upon Courts of First Instance exclusive jurisdiction over the cases therein mentioned regardless of the imposable penalty; and (c) more appropriately for the case at bar, Section 39 of R.A. No. 6425, as amended by P.D. No. 44, which vests on Courts of First Instance, Circuit Criminal Courts, and the Juvenile and Domestic Relations Courts concurrent exclusive original jurisdiction over all cases involving violations of said Act.

x x x x

That Congress indeed did not intend to repeal these special laws vesting exclusive jurisdiction in the Regional Trial Courts over certain cases is clearly evident from the exception provided for in the opening sentence of Section 32 of B.P. Blg. 129, as amended by R.A. No. 7691. These special laws are not, therefore, covered by the repealing clause (Section 6) of R.A. No. 7691.

Neither can it be successfully argued that Section 39 of RA. No. 6425, as amended by P.D. No. 44, is no longer operative because Section 44 of B.P. Blg. 129 abolished the Courts of First Instance, Circuit Criminal Courts, and Juvenile and Domestic Relations Courts. While, indeed, Section 44 provides that these courts were to be "deemed automatically abolished" upon the declaration by the President that the reorganization provided in B.P. Blg. 129 had been completed**, this Court should not lose sight of the fact that the Regional Trial Courts merely replaced the Courts of First Instance as clearly borne out by the last two sentences of Section 44**, to wit:

x x x x

Consequently, **it is not accurate to state that the "abolition" of the Courts of First Instance carried with it the abolition of their exclusive original jurisdiction in drug cases vested by Section 39 of R.A. No. 6425, as amended by P. D. No. 44**. If that were so, then so must it be with respect to Article 360 of the Revised Penal Code and Section 57 of the Decree on Intellectual Property. On the contrary, in the resolution of 19 June 1996 in Caro v. Court of Appeals and in the resolution of 26 February 1997 in *Villalon v. Baldado*, this Court expressly ruled that Regional Trial Courts have the

> exclusive original jurisdiction over libel cases pursuant to Article 360 of the Revised Penal Code. In Administrative Order No. 104-96 this Court mandates that:
>
> x x x x
>
> **The same Administrative Order recognizes that violations of R.A. No. 6425, as amended, regardless of the quantity involved, are to be tried and decided by the Regional Trial Courts therein designated as special courts.**[94] (Emphasis and underscoring supplied)

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

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

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

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

> Initially, Rep. Dilangalen referred to the fact sheet attached to the Bill which states that the measure will undertake a comprehensive amendment to the existing law on dangerous drugs -- RA No. 6425, as amended. Adverting to Section 64 of the Bill on the repealing clause, **he then asked whether the Committee is in effect amending or repealing the aforecited law.**
>
> Rep. Cuenco replied that **any provision of law which is in conflict with the provisions of the Bill is repealed and/or modified accordingly.**
>
> In this regard, Rep. Dilangalen suggested that if the Committee's intention was only to amend RA No. 6425, then the wording used should be

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

"to amend" and not "to repeal" with regard to the provisions that are contrary to the provisions of the Bill.

Adverting to Article VIII, Section 60, on Jurisdiction Over Dangerous Drugs Case, which provides that "the Supreme Court shall designate regional trial courts to have original jurisdiction over all offenses punishable by this Act," **Rep. Dilangalen inquired whether it is the Committee's intention that certain RTC salas will be designated by the Supreme Court to try drug-related offenses, although all RTCs have original jurisdiction over those offenses.**

Rep. Cuenco replied in the affirmative. He pointed that at present, the Supreme Court's assignment of drug cases to certain judges is not exclusive because the latter can still handle cases other than drug-related cases. He added that the Committee's intention is to assign drug-related cases to judges who will handle exclusively these cases assigned to them.

In this regard, Rep. Dilangalen stated that, at the appropriate time, he would like to propose the following amendment; "The Supreme Court shall designate **specific salas of the RTC to try exclusively offenses related to drugs.**"

Rep. Cuenco agreed therewith, adding that the Body is proposing **the creation of exclusive drug courts** because at present, almost all of the judges are besieged by a lot of drug cases some of which have been pending for almost 20 years.[95] (Emphasis and underscoring supplied.)

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

THE CHAIRMAN (REP. CUENCO). x x x [W]e would like to propose **the *creation* of drug courts to handle exclusively drug cases**; the imposition of a 60-day deadline on courts within which to decide drug cases; and No. 3, provide penalties on officers of the law and government prosecutors for mishandling and delaying drugs cases.

We will address these concerns one by one.

1. The possible ***creation*** of drugs courts to handle exclusively drug cases. Any comments?

x x x x

THE CHAIRMAN (SEN. BARBERS). We have no objection to this proposal, Mr. Chairman. As a matter of fact, this is one of the areas where we come into an agreement when we were in Japan. However, I just would like to add a paragraph after the word "Act" in Section 86 of the Senate versions, Mr. Chairman. And this is in connection with the designation of special courts by

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

> "The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act. The number of court designated in each judicial region shall be based on the population and the number of pending cases in their respective jurisdiction." That is my proposal, Mr. Chairman.
>
> THE CHAIRMAN (REP. CUENCO). We adopt the same proposal.
>
> x x x x
>
> THE CHAIRMAN (SEN. BARBERS). I have no problem with that, Mr. Chairman, but I'd like to call your attention to the fact that **my proposal is only for *designation* because if it is for a creation that would entail another budget, Mr. Chairman.** And almost always, the Department of Budget would tell us at the budget hearing that we lack funds, we do not have money. So that might delay the very purpose why we want the RTC or the municipal courts to handle exclusively the drug cases. **That's why my proposal is designation not creation.**
>
> THE CHAIRMAN (REP. CUENCO). Areglado. No problem, designation. Approved.[96]

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

> SEC. 4. Jurisdiction. — The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:
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> a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
>
> (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

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

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

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

x x x x

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

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

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

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

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

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

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

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

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

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

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

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

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

Certainly, jurisdiction over offenses and felonies committed by public officers is not determined solely by the pay scale or by the fact that they were committed "in relation to their office." In determining the forum vested with the

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

[101] Supra note 92.

[102] Supra note 100.

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

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

jurisdiction to try and decide criminal actions, the laws governing the subject matter of the criminal prosecution must likewise be considered.

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

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

> x x x [I]t is a canon of statutory construction that a special law prevails over a general law — regardless of their dates of passage — and the special is to be considered as remaining an exception to the general.
>
> So also, every effort must be exerted to avoid a conflict between statutes. If reasonable construction is possible, the laws must be reconciled in that manner.
>
> Repeals of laws by implication moreover are not favored, and the mere repugnancy between two statutes should be very clear to warrant the court in holding that the later in time repeals the other.[108]

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

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

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

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

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

Court as drugs court, regardless of whether the violation of RA 9165 was committed in relation to the public officials' office.

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

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

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

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

The clear import of the new paragraph introduced by RA 10660 is to streamline the cases handled by the Sandiganbayan by delegating to the RTCs some cases involving high-ranking public officials. With the dissents' proposition, opening the Sandiganbayan to the influx of drug-related cases, RA 10660 which was intended to unclog the dockets of the Sandiganbayan would

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

[110] Id.

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

all be for naught. Hence, sustaining the RTC's jurisdiction over drug-related cases despite the accused's high-ranking position, as in this case, is all the more proper.

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

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

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

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

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

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

> This Court has held that **failure to provide the prosecution with the opportunity to amend is an arbitrary exercise of power**. In *People v. Sandiganbayan (Fourth Division)*:
>
> When a motion to quash is filed challenging the validity and sufficiency of an Information, and the defect may be cured by amendment, courts must deny the motion to quash and order the prosecution to file an amended Information. Generally, a defect pertaining to the failure of an Information to charge facts constituting an offense is one that may be corrected by an amendment. In such instances, courts are mandated not to automatically quash the Information; rather, it should grant the prosecution the opportunity to cure the defect through an amendment. This rule allows a case to proceed without undue delay. By allowing the defect to be cured by simple amendment, unnecessary appeals based on technical grounds, which only result to prolonging the proceedings, are avoided.

> More than this practical consideration, however, is the due process underpinnings of this rule. As explained by this Court in People v. Andrade, the State, just like any other litigant, is entitled to its day in court. Thus, a court's refusal to grant the prosecution the opportunity to amend an Information, where such right is expressly granted under the Rules of Court and affirmed time and again in a string of Supreme Court decisions, effectively curtails the State's right to due process.[112]

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

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

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

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

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

> A preliminary consideration in this case relates to the propriety of the chosen legal remedies availed of by the petitioner in the lower courts to question the denial of his motion to quash. In the usual course of procedure, **a denial of a motion to quash filed by the accused results in the**

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[112] *Dio v. People*, G.R. No. 208146, June 8, 2016, 792 SCRA 646, 659; citation omitted.
[113] See *Los Baños v. Pedro*, 604 Phil. 215 (2009).

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

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

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

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

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

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

In the present case, the respondent judge had no *positive duty* to first resolve the *Motion to Quash* before issuing a warrant of arrest. There is no rule of procedure, statute, or jurisprudence to support the petitioner's claim. Rather,

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

[115] *Rollo*, p. 85.

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

Sec.5(a), Rule 112 of the Rules of Court[117] required the respondent judge to evaluate the prosecutor's resolution and its supporting evidence within a limited period of only ten (10) days, *viz.*:

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

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

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

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

And yet, petitioner further contends that the language of the February 23, 2017 Order violated her constitutional rights and is contrary to the doctrine in

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

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

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

[120] 520 Phil. 907 (2006).

Soliven v. Makasiar.[121] Petitioner maintains that respondent judge failed to personally determine the probable cause for the issuance of the warrant of arrest since, as stated in the assailed Order, respondent judge based her findings on the evidence presented during the preliminary investigation and not on the report and supporting documents submitted by the prosecutor.[122] This hardly deserves serious consideration.

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

> What the Constitution underscores is the exclusive and personal responsibility of the issuing judge to satisfy himself the existence of probable cause. In satisfying himself of the existence of probable cause for the issuance of a warrant of arrest, the judge is not required to personally examine the complainant and his witnesses. Following established doctrine and procedure, he shall: (1) personally evaluate the report and the supporting documents submitted by the fiscal regarding the existence of probable cause and, on the basis thereof, issue a warrant of arrest; or (2) if on the basis thereof he finds no probable cause, he may disregard the fiscal's report and require the submission of supporting affidavits of witnesses to aid him in arriving at a conclusion as to the existence of probable cause.[126]

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

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

As **the prosecutor's report/resolution precisely finds support from the evidence presented during the preliminary investigation,** this Court cannot consider the respondent judge to have evaded her duty or refused to

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[121] 249 Phil. 394 (1988).

[122] *Rollo*, pp. 38-39.

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

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

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

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

[127] *Rollo*, p. 85.

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

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

> **findings of the prosecutor as to the existence of probable cause**. The point is: he cannot rely solely and entirely on the prosecutor's recommendation, as Respondent Court did in this case. Although the prosecutor enjoys the legal presumption of regularity in the performance of his official duties and functions, which in turn gives his report the presumption of accuracy, the Constitution, we repeat, commands the judge to personally determine probable cause in the issuance of warrants of arrest. This Court has consistently held that a judge fails in his bounden duty if he relies merely on the certification or the report of the investigating officer. [128] (Emphasis supplied.)

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

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

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

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

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[128] 345 Phil. 597, 608-612 (1997) (citations omitted).
[129] Supra note 125.
[130] *Ocampo v. Abando*, 726 Phil. 441, 465 (2014), citing *Sarigumba v. Sandiganbayan*, supra note 52.
[131] *Marcos v. Cabrera-Faller*, A.M. No. RTJ-16-2472, January 24, 2017.
[132] Id.
[133] *Rollo*, pp. 241-242. *Joint Resolution*, pp. 39-40.

21. On the morning of 24 November 2012, I received a call from Dep. Dir. Ragos asking where I was. I told him I was at home. He replied that he will fetch me to accompany him on a very important task.

22. Approximately an hour later, he arrived at my house. I boarded his vehicle, a Hyundai Tucson, with plate no. RGU910. He then told me that he will deliver something to the then Secretary of Justice, Sen. Leila De Lima. He continued and said "*Nior confidential 'to. Tayong dalawa lang ang nakakaalam nito. Dadalhin natin yung quota kay Lola. 5M 'yang nasa bag. Tingnan mo.*"

23. The black bag he was referring to was in front of my feet. It [was a] black handbag. When I opened the bag, I saw bundles of One Thousand Peso bills.

24. At about 10 o'clock in the morning, we arrived at the house located at Laguna Bay corner Subic Bay Drive, South Bay Village, Paranaque City.

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

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

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

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

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

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

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

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

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

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[134] *Rollo*, pp. 3843-3844.

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

> 8. One morning on the latter part of November 2012, I saw a black handbag containing a huge sum of money on my bed inside the Director's Quarters of the BuCor. I looked inside the black handbag and saw that it contains bundles of one thousand peso bills.
>
> 9. I then received a call asking me to deliver the black handbag to Mr. Ronnie Dayan. The caller said the black handbag came from Peter Co and it contains "*Limang Manok*" which means Five Million Pesos (Php5,000,000.00) as a "*manok*" refers to One Million Pesos (Php1,000,000.00) in the vernacular inside the New Bilibid Prison.
>
> 10. As I personally know Mr. Dayan and knows that he stays in the house of the then DOJ Sec. Leila M. De Lima located at Laguna Bay corner Subic Bay Drive, South Bay Village, Paranaque City, I knew I had to deliver the black handbag to Sen. De Lima at the said address.
>
> 11. Before proceeding to the house of Sen. De Lima at the above[-]mentioned address, I called Mr. Ablen to accompany me in delivering the money. I told him we were going to do an important task.
>
> 12. Mr. Ablen agreed to accompany me so I fetched him from his house and we proceeded to the house of Sen. De Lima at the above-mentioned address.
>
> 13. While we were in the car, I told Mr. Ablen that the important task we will do is deliver Five Million Pesos (Php5,000,000.00) "Quota" to Sen. De Lima. I also told him that the money was in the black handbag that was on the floor of the passenger seat (in front of him) and he could check it, to which Mr. Ablen complied.
>
> 14. Before noon, we arrived at the house of Sen. De Lima located at Laguna Bay corner Subic Bay Drive, South Bay Village, Paranaque City.
>
> 15. I parked my vehicle in front of the house. Both Mr. Ablen and I alighted from the vehicle but I went to the gate alone carrying the black handbag containing the Five Million Pesos (Php5,000,000.00).
>
> 16. At the gate, Mr. Ronnie Dayan greeted me and opened the gate for me. I then handed the handbag containing the money to Mr. Dayan.
>
> 17. We then proceeded to the main door of the house where Sen. De Lima was waiting for us. At the main door, Mr. Dayan handed the black handbag to Sen. De Lima, who received the same. We then entered the house.
>
> 18. About thirty minutes after, I went out of the house and proceeded to my quarters at the BuCor, Muntinlupa City.
> 19. One morning in the middle part of December 2012, I received a call to again deliver the plastic bag containing money from Peter Co to Mr. Ronnie Dayan. This time the money was packed in a plastic bag left on my bed inside my quarters at the BuCor, Muntinlupa City. From the outside of

> the bag, I could easily perceive that it contains money because the bag is translucent.
>
> 20. Just like before, I fetched Mr. Ablen from his house before proceeding to the house of Sen. De Lima located at Laguna Bay corner Subic Bay Drive, South Bay Village, Paranaque City, where I know I could find Mr. Dayan.
>
> 21. In the car, Mr. Ablen asked me if we are going to deliver "quota." I answered yes.
>
> 22. We arrived at the house of Sen. De Lima at the above[-]mentioned address at noontime. I again parked in front of the house.
>
> 23. I carried the plastic bag containing money to the house. At the gate, I was greeted by Mr. Ronnie Dayan. At that point, I handed the bag to Mr. Dayan. He received the bag and we proceeded inside the house.[135]

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

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

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

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

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[135] Id. at 3854-3856.
[136] Id. at 3793.

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

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

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

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

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

SO ORDERED.

PRESBITERO J. VELASCO, JR.
Associate Justice

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

[138] Supra note 67, at 874.

[139] Id.

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

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

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

WE CONCUR:

See Dissenting Opinion

MARIA LOURDES P. A. SERENO
Chief Justice

See Dissenting Opinion

ANTONIO T. CARPIO
Associate Justice

See Separate Concurring Opinion

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

I concur
See separate opinion

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

I concur
See separate opinion

MARIANO C. DEL CASTILLO
Associate Justice

See separate Concurring and Dissenting Opinion

ESTELA M. PERLAS-BERNABE
Associate Justice

I dissent. See separate opinion.

MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

See Dissent

This is to certify that J. Martires left his vote of concurrence. See his Concurring Opinion

See Dissent.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

SAMUEL R. MARTIRES
Associate Justice

See separate Concurring Opinion:

NOEL GIMENEZ TIJAM
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified 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.

MARIA LOURDES P. A. SERENO
Chief Justice