



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**CEZAR T. QUIAMBAO,**  
Petitioner,

**G.R. No. 195957**

**Present:**

- versus -

PERALTA, C.J., *Chairperson*,  
CAGUIOA, *Working Chairperson*,  
REYES, J. JR.,  
LAZARO-JAVIER, and  
LOPEZ, JJ.

**PEOPLE OF THE PHILIPPINES**  
and **STAR INFRASTRUCTURE**  
**DEVELOPMENT CORPORATION,**  
Respondents.

**Promulgated:**

**JAN 15 2020**

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**DECISION**

**REYES, J. JR., J.:**

Before us is a Petition for Review on *Certiorari* against the Court of Appeals' (CA's) Decision<sup>1</sup> dated November 18, 2010 and Resolution<sup>2</sup> dated March 10, 2011 in CA-G.R. SP No. 113553, finding no grave abuse of discretion on the part of the Regional Trial Court (RTC) of Pasig City, Branch 161, when it directed the filing of as many information for estafa as alleged against petitioner Cezar T. Quiambao (Quiambao).

**The Antecedents**

From criminal complaints for estafa filed by the Star Infrastructure Development Corporation (SIDC) against Quiambao, docketed as I.S. Nos.

<sup>1</sup> Penned by Associate Justice Ramon R. Garcia, with Associate Justices Rebecca De Guia-Salvador and Manuel M. Barrios, concurring; *rollo*, pp. 39-56.

<sup>2</sup> Id. at 58-59.

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06-10-11685 to 89,<sup>3</sup> the Office of the City Prosecutor of Pasig City (OCP-Pasig) rendered a Consolidated Resolution<sup>4</sup> dated May 2, 2007 finding probable cause to charge Quiambao with two counts of estafa. Consequently, two separate Information<sup>5</sup> were filed against Quiambao before the RTC on June 4, 2007, worded as follows:

(a) Criminal Case No. 135413-PSG<sup>6</sup> – Estafa through misappropriation.

**Sometime between 1997 to 2004**, in Pasig City, and within the jurisdiction of this Honorable Court, [Quiambao] being then in the capacity as a Chairman of the Board of Directors, CEO and/or Treasurer of Star Infrastructure Development Corporation (SIDC) represented by Louie A. Turgo, as such is in the position of influence and control [to] receive in trust corporate funds and made disbursements and release of funds in favor of STRADEC and Strategic Alliance Holdings, Inc. (SAHI), which is owned and fully operated by [Quiambao] and to [sic] Roberto Quiambao, which corporations are neither affiliated to nor connected with SIDC nor said disbursement to Roberto Quiambao is with justification, but [Quiambao] once in possession of the same and far from complying with his obligation, with unfaithfulness and abuse of confidence and with intent to defraud the complainant, [SIDC], did then and there willfully, unlawfully and feloniously misappropriate, misapply and convert to his own personal use and benefit the said money, and despite demand, [Quiambao] failed and refused and still fails and refuses to return the amount of Eighty[-]Five Million, Eight Hundred Eight Thousand, Seven Hundred Seventy[-]Eight Pesos and Twenty[-]Six Centavos (P85,808,778.26), to the damage and prejudice of the complainant. (Emphasis supplied)

Contrary to Law.<sup>7</sup>

(b) Criminal Case No. 135414-PSG<sup>8</sup> – Estafa through deceit and false pretenses.

**Sometime between 1997 to 2004**, in Pasig City, and within the jurisdiction of this Honorable Court, [Quiambao], by means of deceit and false pretenses executed prior to or simultaneously with the commission of fraud, did then and there willfully, unlawfully and feloniously defraud complainant Star Infrastructure Development Corporation (SIDC) represented by Louie A. Turgo in the following manner, to wit: [Quiambao] through fraudulent means, by falsely pretending to possess power, qualification and/or similar deceit, obtained funds from the corporation either as a loan repayments or salary or compensation, to which [Quiambao succeeded] in defrauding/inducing the said corporation, which actually made the disbursements in the total amount of Fifteen

<sup>3</sup> Also referred to as I.S. Nos. PSG 06-10-11685 to 89 in some parts of the *rollo*.

<sup>4</sup> *Rollo*, pp. 64-70.

<sup>5</sup> *Id.* at 60-63.

<sup>6</sup> Also referred to as Criminal Case No. 135413 in some parts of the *rollo*.

<sup>7</sup> *Rollo*, p. 60.

<sup>8</sup> Also referred to as Criminal Case No. 135414 in some parts of the *rollo*.

Million, One Hundred Eighty Thousand Pesos (P15,180,000.00), and [Quiambao] once in possession of the aforementioned amount, misapplied, misappropriated and converted to his own personal use and benefits to the damage and prejudice of the complainant [SIDC] represented by Louie A. [Turgo] in the aforementioned total amount of Fifteen Million, One Hundred Eighty Thousand Pesos (P15,180,000.00). (Emphasis supplied)

Contrary to Law.<sup>9</sup>

Aggrieved by the OCP-Pasig's finding of probable cause and accusing the SIDC of forum shopping, Quiambao lodged a Petition for Review of the OCP-Pasig's May 2, 2007 Consolidated Resolution before the Department of Justice (DOJ) on June 19, 2007.<sup>10</sup> Quiambao invited the attention of the DOJ to the 11 criminal complaints (I.S. Nos. PSG 05-05-04326 to 27 and 05-08-07924 to 32) pending review before it, involving the same issues and subject matter as I.S. Nos. 06-10-11685 to 89 from which the May 2, 2007 Consolidated Resolution originated.<sup>11</sup> The OCP-Pasig had dismissed the said 11 criminal complaints, which the SIDC appealed to the DOJ.<sup>12</sup>

Meanwhile, on November 9, 2007, Quiambao moved to quash<sup>13</sup> the twin Information in Criminal Case Nos. 135413-14-PSG for merely stating the date of commission of the offenses as "[s]ometime between 1997 to 2004." Agreeing that the phrasing of the date is so broad and general, but such defect is merely in form that is curable by amendment, the RTC issued an Order<sup>14</sup> on February 6, 2008, directing the prosecution to specify the approximate months or years from 1997 to 2004 when the acts causing the total defraudation stated in the information were committed.

As a result, on April 15, 2008, the OCP-Pasig issued two Amended Information<sup>15</sup> that replaced the phrase "[s]ometime between 1997 to 2004" with 72 specific dates, in the following manner:

(a) Criminal Case No. 135413-PSG – Estafa through misappropriation.

**That on November 21 and December 22, 1997, April 6, April 28, May 4, May 7, May 15, May 18, May 19, 1998, June 28, July 14, July 16, and August 14, 1999, May 30, June 7, June 13, June 22, June 23, July 13, July 14, July 17, August 11, and August 21, 2000, January 31, March 12, March 27, April 6, April 10, April 11, April 19, April 20, April 26, May 2, May 3, May 4, and May 8, 2001, July 30, August 2, September 11, October 8, and October 29, 2002, January 13, January 15, March 25, May 14, and May 20, 2003, in Pasig City, and**

<sup>9</sup> *Rollo*, p. 62.

<sup>10</sup> *Id.* at 71-132.

<sup>11</sup> *Id.* at 73.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 134-140.

<sup>14</sup> Docketed as Criminal Case [Nos.] 135413-14-CR; *id.* at 158-160.

<sup>15</sup> *Id.* at 161-164.

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within the jurisdiction of this Honorable Court, [Quiambao] being then in the capacity as a Chairman of the Board of Directors, CEO and/or Treasurer of Star Infrastructure Development Corporation (SIDC)<sup>16</sup> x x x. (Emphasis supplied)

(b) Criminal Case No. 135414-PSG – Estafa through deceit and false pretenses.

**That on July 14 and August 14, 1999, May 30, June 13, June 22, June 23, July 17, and August 11, 2000, August 2, 2002, July 30, August 18, August 21, September 12, September 29, October 15, October 30, November 13, November 20, December 11, and December 17, 2003, January 14, January 28, February 13, February 27, March 12, and March 30, 2004, in Pasig City, and within the jurisdiction of this Honorable Court,<sup>17</sup> x x x. (Emphasis supplied)**

In another Motion to Quash with Motion to Dismiss<sup>18</sup> filed on June 13, 2008, Quiambao alleged that the insertion of various dates was a substantial amendment requiring the conduct anew of a preliminary investigation, contending that the prosecution failed to comply with the directive to formally amend the Information. The RTC denied the motions through an Order<sup>19</sup> dated August 28, 2008, ruling that the Amended Information merely alleged with particularity the months and years the defraudation was committed and that Quiambao remains charged with the same offense.

Undeterred, Quiambao filed a Motion for Reconsideration with Motion for Judicial Re-determination of Probable Cause<sup>20</sup> on September 26, 2008, reiterating that the patent defects in the original information were not cured and claiming that a judicial re-determination of probable cause was warranted. In its Comment on the said motions, the OCP-Pasig argued that Quiambao was being charged with a continuing crime of estafa committed from 1997 to 2004.<sup>21</sup> The RTC denied Quiambao's motions in an Order<sup>22</sup> dated January 26, 2009, maintaining that the prosecution had substantially complied with the order to amend the two Information.

Quiambao then filed an Omnibus Motion<sup>23</sup> to clarify the RTC's January 26, 2009 Order and to quash the Amended Information for allegedly charging multiple offenses, assailing the prosecution's theory of Quiambao being charged with a continuing crime of estafa committed from 1997 to 2004 which the RTC allegedly failed to address in its order. This time, ruling that each misappropriation and conversion is an independent complete

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<sup>16</sup> Id. at 161.

<sup>17</sup> Id. at 163.

<sup>18</sup> Id. at 165-176.

<sup>19</sup> Id. at 196-197.

<sup>20</sup> Id. at 198-216.

<sup>21</sup> Id. at 221-224.

<sup>22</sup> Id. at 228-229.

<sup>23</sup> Id. at 230-240.

felony and not the result of a single criminal intent to defraud, the RTC issued an Order<sup>24</sup> dated May 7, 2009, directing the quashal of the twin Amended Information for charging multiple offenses.

The SIDC moved for reconsideration<sup>25</sup> of the May 7, 2009 Order, arguing that the RTC should not have considered a situation contrary to that set forth in the criminal complaint. Acting on the motion, the RTC issued its October 5, 2009 Order,<sup>26</sup> directing the prosecution to file the corresponding information for each act of estafa as alleged in the Amended Information.

On November 5, 2009, Quiambao sought partial reconsideration of the October 5, 2009 Order, but this was denied by the RTC on February 8, 2010.<sup>27</sup> Consequently, Quiambao filed a Petition for *Certiorari*<sup>28</sup> with prayer for injunctive relief with the CA. The CA, however, found no merit in Quiambao's petition, which it dismissed on November 18, 2010 through the Decision<sup>29</sup> presently under review.

According to the CA, the amendments which the RTC directed the city prosecutor to make are only of form and not of substance. It held that the amendments were not new facts because they were based on the same documentary evidence presented during the preliminary investigation. Furthermore, it pointed out that the RTC is not subservient to the findings of the DOJ and is mandated to make its own determination of probable cause.

Quiambao sought reconsideration, insisting that the dates enumerated in the quashed Amended Information could not be the basis of filing new criminal information without the conduct of another preliminary investigation.<sup>30</sup> The motion was denied by the CA in its March 10, 2011 Resolution<sup>31</sup> for merely reiterating the grounds already considered when it arrived at its decision.

In view of the CA's November 18, 2010 Decision and the March 10, 2011 Resolution upholding the RTC's Order to file the corresponding information for each act of estafa, the OCP-Pasig filed a motion on March 14, 2011, for the RTC to admit 81 Amended Information.<sup>32</sup> Hence, Quiambao filed the present petition on March 24, 2011 against the said CA Decision and Resolution, citing the following grounds:

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<sup>24</sup> Id. at 266-267.

<sup>25</sup> Id. at 268-275.

<sup>26</sup> Id. at 303-304.

<sup>27</sup> Id. at 339-340.

<sup>28</sup> Id. at 341-364.

<sup>29</sup> Supra note 1.

<sup>30</sup> *Rollo*, p. 501.

<sup>31</sup> Supra note 2.

<sup>32</sup> *Rollo*, pp. 505-507.

## I.

IN RESOLVING CA-G.R. SP NO. 113553, THE [CA] HAS NOT ONLY DECIDED QUESTIONS OF SUBSTANCE IN A WAY NOT IN ACCORD WITH LAW OR WITH THE APPLICABLE DECISIONS OF THE HONORABLE SUPREME COURT, BUT HAS ALSO SO FAR SANCTIONED THE TRIAL COURT'S DEPARTURE FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS AS TO CALL FOR AN EXERCISE OF THIS HONORABLE COURT'S POWER OF SUPERVISION, INASMUCH AS BOTH THE TRIAL COURT AND THE [CA] DEPRIVED PETITIONER HIS RIGHT TO THE CONDUCT OF A NEW PRELIMINARY INVESTIGATION, WHICH IS MANDATORY UNDER THE CIRCUMSTANCES.

## II.

INSTEAD OF AFFIRMING THE TRIAL COURT'S DIRECTIVE TO FILE ANOTHER SET OF CRIMINAL INFORMATION, THE [CA] SHOULD HAVE ALTOGETHER DISMISSED THE CHARGES AGAINST PETITIONER.<sup>33</sup>

The SIDC filed its Comment<sup>34</sup> on July 4, 2011, delineating the issue in Quiambao's petition as whether the eventual amendments made to the twin Information filed in Criminal Case Nos. 135413-14-PSG were formal or substantial. It reiterated that the subject amendments were merely formal because they merely specified the various dates during which the crimes charged were committed and nothing more was added. The SIDC argued that the amendments did not alter the nature of the crimes charged and Quiambao failed to show how the amendments entitled him to a new preliminary investigation.

In its Comment<sup>35</sup> filed on September 5, 2011, the Office of the Solicitor General (OSG) argued that Quiambao's original defenses would still be equally available even after the amendments. The OSG reasoned that an amendment that simply eliminates vagueness in the information without introducing new and material facts, only stating with precision something already contained in the original information, is merely one of form.

Quiambao filed a Consolidated Reply<sup>36</sup> on September 23, 2011, insisting that the various dates inserted in the quashed Amended Information were not part of the findings during the preliminary investigation stage of Criminal Case Nos. 135413-14-PSG. Quiambao also manifested that the RTC had issued an Order<sup>37</sup> on August 8, 2011, deciding to defer action on the prosecution's motion to admit the 81 Amended Information until this Court has resolved the present petition.

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<sup>33</sup> Id. at 18-19.

<sup>34</sup> Id. at 691-698.

<sup>35</sup> Id. at 705-720.

<sup>36</sup> Id. at 725-736.

<sup>37</sup> Id. at 756-758.

On November 16, 2011, Quiambao filed a Manifestation<sup>38</sup> regarding the October 6, 2011 Resolution<sup>39</sup> of the DOJ which reversed and set aside the OCP-Pasig's May 2, 2007 Consolidated Resolution. The DOJ found that the OCP-Pasig's Consolidated Resolution (I.S. Nos. 06-10-11685 to 89) from which the present controversy arose involved the same issues and subject matter between the same parties as a prior Consolidated Resolution of the OCP-Pasig dated December 8, 2005 (I.S. Nos. PSG 05-05-04326 to 27 and 05-08-07924 to 32) pending review before the DOJ.

The SIDC filed a Counter-Manifestation<sup>40</sup> on November 23, 2011 pointing out that upon filing of the information in court, findings of the prosecutorial arm of the government on the existence of probable cause are merely recommendatory, recalling that the RTC had already made a finding that probable cause exists in the case under review.

In a Manifestation<sup>41</sup> dated October 24, 2013, Quiambao manifested that, through a Decision<sup>42</sup> dated September 10, 2013 in CA-G.R. SP No. 123298, the CA had dismissed the SIDC's Petition for *Certiorari* assailing the DOJ's Resolution dated October 6, 2011. In that case, the CA found that the DOJ did not abuse its discretion in ruling that the OCP-Pasig's December 8, 2005 and May 2, 2007 Consolidated Resolutions have identical facts, issues and parties. In this regard, Quiambao argued that the DOJ's order to withdraw the information arising from the OCP-Pasig's May 2, 2007 Consolidated Resolution, as upheld by the CA, necessarily includes the withdrawal of the 81 Amended Information that are pending before the RTC.

In compliance with our directive for the parties to file their respective memoranda, the OSG manifested on September 14, 2017 that it is adopting its prior Comment as its Memorandum.<sup>43</sup> Quiambao, on the other hand, filed a Memorandum on October 18, 2017 reiterating his arguments.<sup>44</sup> Also on record is the SIDC's Memorandum filed on October 25, 2017, likewise reiterating its key points.<sup>45</sup>

### The Issue

Bearing in mind that the petition arose from the RTC's order for the prosecution to file as many information for estafa as alleged in a previous amended information *sans* the conduct of a new preliminary investigation,

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<sup>38</sup> Id. at 760-766.

<sup>39</sup> Id. at 764-766.

<sup>40</sup> Id. at 767-769.

<sup>41</sup> Id. at 800-802.

<sup>42</sup> Penned by Associate Justice Vicente S.E. Veloso, with Associate Justices Eduardo B. Peralta, Jr. and Nina G. Antonio-Valenzuela, concurring; id. at 805-823.

<sup>43</sup> Id. at 828-829.

<sup>44</sup> Id. at 839-867.

<sup>45</sup> Id. at 873-888.

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our main concern here is whether or not it was reversible error for the CA to find no grave abuse of discretion on the part of the RTC when the latter issued the said order.

Although the present petition also attempts to put in issue whether or not the CA should have instead dismissed the charges against Quiambao, the finding of probable cause *per se*, by either the prosecutor or the RTC, was not the subject of the CA Decision and Resolution under present review. The grounds raised in the Rule 65 petition before the CA leading to the present petition indicate that what it assailed was the directive for the prosecutor to file new information in lieu of the defective Amended Information and despite the pendency of an appeal before the DOJ.<sup>46</sup>

Note that the appeal before the DOJ which questioned, among others, the sufficiency of the evidence in support of Quiambao's indictment proceeded independently and was itself the subject of another Rule 65 petition before the CA.<sup>47</sup> We would then be out of bounds if we were to delve into the propriety or impropriety of the finding that there exists probable cause to hold Quiambao to trial, as this issue was the subject of another case and was not what triggered the petition before us.

Resolution of the present controversy is confined to whether or not the amendments to the information, as ordered by the trial court, are substantial and prejudicial to Quiambao's rights.

### The Ruling of the Court

It may be remembered that in the original information, the charge of estafa was extrapolated into two charges based on the manner the defraudation was committed within a span of eight years. It was upon Quiambao's own motion that the RTC directed the OCP-Pasig to state with particularity when the alleged acts that led to the defraudation were committed.

Although the precise date of the commission of the offense is not required to be stated in the information unless it is a material ingredient<sup>48</sup> — and the time of occurrence is not a material ingredient of the crime of estafa, Quiambao's concern was well-taken by the RTC. However, the RTC did not grant the motion to quash as it is clearly provided by the Rules of Criminal Procedure that **if the motion to quash is based on an alleged defect in the information which can be cured by amendment, the court shall order the amendment to be made.**<sup>49</sup>

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<sup>46</sup> Id. at 48.

<sup>47</sup> Supra note 42.

<sup>48</sup> See *Corpuz v. People*, 734 Phil. 353, 393 (2014), in relation to the RULES OF COURT, Rule 110, Sec. 11.

<sup>49</sup> *People v. Andrade*, 747 Phil. 703, 706 (2014). (Emphasis supplied).

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In this regard:

Section 14, Rule 110 of the Revised Rules of Criminal Procedure governs the matter of amending the information:

*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.

However, any amendment before plea, which downgrades the nature of the offense charged in or excludes any accused from the complaint or information, can be made only upon motion by the prosecutor, with notice to the offended party and with leave of court. The court shall state its reasons in resolving the motion and copies of its order shall be furnished all parties, especially the offended party.

There is no precise definition of what constitutes a substantial amendment. According to jurisprudence, substantial matters in the complaint or information consist of the recital of facts constituting the offense charged and determinative of the jurisdiction of the court. Under Section 14, however, **the prosecution is given the right to amend the information, regardless of the nature of the amendment, so long as the amendment is sought before the accused enters his plea**, subject to the qualification under the second paragraph of Section 14.

Once the accused is arraigned and enters his plea, however, Section 14 prohibits the prosecution from seeking a substantial amendment, particularly mentioning those that may prejudice the rights of the accused. One of these rights is the constitutional right of the accused to be informed of the nature and cause of accusation against him, a right which is given life during the arraignment of the accused of the charge against him. The theory in law is that since the accused officially begins to prepare his defense against the accusation on the basis of the recitals in the information read to him during arraignment, then the prosecution must establish its case on the basis of the same information.<sup>50</sup> (Emphases supplied)

“[A]mendments that do not charge another offense different from that charged in the original one; or do not alter the prosecution’s theory of the case so as to cause surprise to the accused and affect the form of defense he has or will assume are considered merely as formal amendments.”<sup>51</sup> Furthermore, as relevantly pointed out by the CA, Quiambao has not yet

<sup>50</sup> *Dr. Mendez v. People*, 736 Phil. 181, 191-192 (2014).

<sup>51</sup> *Id.* at 193.

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entered his plea; hence, the Amended Information could still be further amended.<sup>52</sup>

To recall, the RTC agreed that “[s]ometime between 1997 to 2004” is so broad and general. As a result, the phrase was replaced with **specific dates within 1997 to 2004** relating to the dates of issuance of various checks and vouchers as appearing in the documentary exhibits submitted during the preliminary investigation and enumerated in the OCP-Pasig’s Consolidated Resolution. There is no merit in Quiambao’s insistence that the specified dates were not among the prosecutor’s findings from the preliminary investigation. We have reason to believe that the subject dates were considered by the OCP-Pasig when it arrived at the phrase “sometime between 1997 to 2004.” Thus, we agree with the CA that the eventual amendments directed by the RTC were not new facts and any controverting evidence that Quiambao presented during the preliminary investigation would still be available and applicable for his defense during trial on the merits. It cannot be said that Quiambao was not informed of the existence of these pieces of evidence, much less that specifying the dates of the acts complained of amounted to a change in the nature of the charges such that Quiambao would have to prepare a new defense.

Despite this case having dragged on for more than a decade, Quiambao has not yet entered a plea in the proceedings below. Relative to this, any discussion on whether the amendments were substantial or merely formal would have been called for had Quiambao already entered a plea, but he has not. Even if we were to assume a scenario where Quiambao has already been arraigned:

x x x The test as to when the rights of an accused are prejudiced by the amendment of a Complaint or Information is when a defense under the Complaint or Information, as it originally stood, would no longer be available after the amendment is made, and when any evidence the accused might have, would be inapplicable to the Complaint or Information as amended.

On the other hand, an amendment which merely states with additional precision something which is already contained in the original information, and which, therefore, adds nothing essential for conviction for the crime charged is an amendment to form that can be made at any time.<sup>53</sup>

After careful assessment, we concur with the observation that the questioned amendments were merely formal and not substantial as would cause prejudice to Quiambao such that a new preliminary investigation would be necessary to accord him due process.

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<sup>52</sup> *Rollo*, p. 49, in relation to the RULES OF COURT, Rule 110, Sec. 14.

<sup>53</sup> *Gabionza v. Court of Appeals*, 408 Phil. 58, 64-65 (2001).

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While it is true that the twin Amended Information had been ordered quashed for charging multiple offenses due to the various dates enumerated, it bears mentioning that it was upon Quiambao's own motion to clarify and quash these Amended Information which led the RTC to reconsider the theory that Quiambao was charged with two continuing crimes of estafa. After being convinced that each act of misappropriation or conversion was an independent complete felony, the RTC agreed with Quiambao that it was tantamount to being charged with multiple offenses. It was this that led to the quashal. However, to Quiambao's utter dismay, the RTC reconsidered upon realizing that the better remedy is to order that information be filed, considering that the ground relied on is neither extinction of the alleged criminal liability nor double jeopardy.<sup>54</sup> For this reason, the alleged acts of defraudation were eventually extrapolated into as many acts as alleged in the twin Amended Information.

Again, it is not for this court to determine whether or not the dates inserted were unfounded, much less whether Quiambao's acts amounted to estafa because that factual issue is for the trial court to thresh out. Furthermore, Quiambao asserts that he was charged with having committed estafa in the present consolidated cases by co-signing company checks with other corporate officers of the SIDC.<sup>55</sup> Allegedly, for the similar act of co-approving check payments with other officers of the SIDC, Quiambao was indicted for qualified theft.<sup>56</sup> That another criminal case was dismissed by the trial court, which was sustained by the CA on January 19, 2009 and affirmed by this Court on February 17, 2010.<sup>57</sup> Again, whether the allegations are true and the same would have a bearing in the consolidated cases for estafa from which this petition stemmed, are also matters appropriate for the RTC to thresh out.

As to the effect of the DOJ's order to withdraw the information arising from the OCP-Pasig's May 2, 2007 Consolidated Resolution, as upheld by the CA, we reiterate that jurisdiction over the criminal complaints had already vested with the RTC. It does not follow that the directive necessarily includes the Amended Information pending admission with the RTC. It is also worth recalling that the order to withdraw the information did not arise from a finding of lack of probable cause to charge Quiambao, but because there were other identical resolutions pending review with the DOJ. Neither party has apprised us of the current status of those related resolutions of the OCP-Pasig, a matter also that should properly be brought to the attention of the RTC as to any possible bearing on the present cases.

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<sup>54</sup> RULES OF COURT, Rule 117, Sec. 5, in relation to Sec. 6 thereof.

<sup>55</sup> *Rollo*, p. 26.

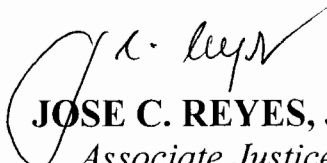
<sup>56</sup> *Id.* at 27.

<sup>57</sup> *Star Infrastructure Development Corp. v. Quiambao*, G.R. No. 190174 (*id.* at 681-682), upholding the CA Decision in CA-G.R. CR No. 31169, penned by Associate Justice Rosmari D. Carandang (now a Member of the Court), with Associate Justices Teresita Dy-Liacco Flores and Sixto C. Marella, Jr., concurring; *id.* at 670-680.

At any rate, the subject matter of this petition pertains to the eventual amendments made on the original information.

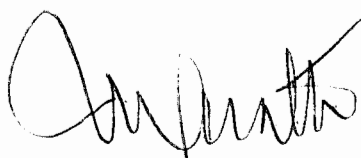
**WHEREFORE**, premises considered, the petition is **DENIED** for lack of merit.

**SO ORDERED.**

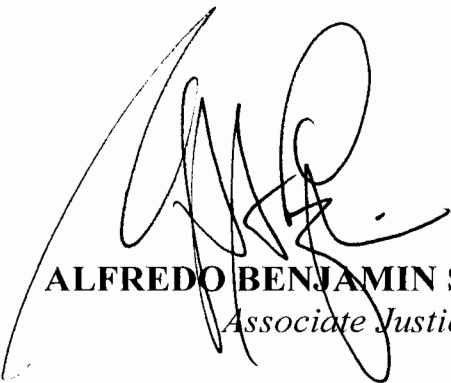


**JOSE C. REYES, JR.**  
*Associate Justice*

**WE CONCUR:**



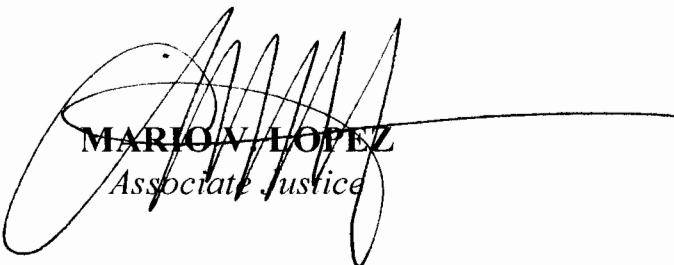
**DIOSDADO M. PERALTA**  
*Chief Justice*  
*Chairperson*



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*



**AMY C. LAZARO-JAVIER**  
*Associate Justice*



**MARION LOPEZ**  
*Associate Justice*

**CERTIFICATION**

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



**DIOSDADO M. PERALTA**  
*Chief Justice*