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[G.R. Nos. 212014-15, December 06, 2016]

RICHARD A. CAMBE, PETITIONER, VS. OFFICE OF THE OMBUDSMAN, NATIONAL BUREAU OF INVESTIGATION, LEVITO D. BALIGOD, AND FIELD INVESTIGATION OFFICE, RESPONDENTS.

[G.R. Nos. 212427-28]

SENATOR RAMON "BONG" REVILLA, JR., PETITIONER, VS. OFFICE OF THE OMBUDSMAN, THROUGH ITS SPECIAL PANEL OF INVESTIGATORS, NATIONAL BUREAU OF INVESTIGATION, LEVITO D. BALIGOD, AND FIELD INVESTIGATION OFFICE, OFFICE OF THE OMBUDSMAN, RESPONDENTS.

[G.R. Nos. 212694-95]

SENATOR RAMON "BONG" REVILLA, JR., PETITIONER, VS. OFFICE OF THE OMBUDSMAN, NATIONAL BUREAU OF INVESTIGATION, LEVITO D. BALIGOD, FIELD INVESTIGATION OFFICE OF THE OMBUDSMAN, OFFICE OF THE SPECIAL PROSECUTOR, AND THE HONORABLE SANDIGANBAYAN, RESPONDENTS.

[G.R. Nos. 212794-95]

RICHARD A. CAMBE, PETITIONER, VS. OFFICE OF THE OMBUDSMAN, NATIONAL BUREAU OF INVESTIGATION, LEVITO D. BALIGOD, AND FIELD INVESTIGATION OFFICE, RESPONDENTS.

[G.R. Nos. 213477-78]

JOHN RAYMUND DE ASIS, PETITIONER, VS. CONCHITA CARPIO MORALES IN HER OFFICIAL CAPACITY AS OMBUDSMAN, PEOPLE OF THE PHILIPPINES AND SANDIGANBAYAN, FIRST DIVISION, RESPONDENTS.

[G.R. Nos. 213532-33]

RONALD JOHN LIM, PETITIONER, VS. CONCHITA CARPIO MORALES IN HER OFFICIAL CAPACITY AS OMBUDSMAN, PEOPLE OF THE PHILIPPINES AND SANDIGANBAYAN, FIRST DIVISION, RESPONDENTS.

[G.R. Nos. 213536-37]

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

[G.R. Nos. 218744-59]

MARIO L. RELAMPAGOS, ROSARIO SALAMIDA NUÑEZ, LALAINÉ NARAG PAULE, AND MARILOU DIALINO BARE, PETITIONERS, VS. SANDIGANBAYAN, (FIRST DIVISION) AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

D E C I S I O N

PERLAS-BERNABE, J.:

Before this Court are consolidated petitions^[1] filed by petitioners Senator Ramon "Bong" Revilla, Jr. (Sen. Revilla), Richard A. Cambe (Cambe), Janet Lim Napoles (Napoles or Janet Napoles), John Raymund De Asis (De Asis), and Ronald John Lim (Lim), which commonly assail the Joint Resolution^[2] dated March 28, 2014 and the Joint Order^[3] dated June 4, 2014 of the Office of the Ombudsman (Ombudsman) in OMB-C-C-13-0316 and OMB-C-C-13-0395 finding probable cause to indict them, along with several others, for the crimes of Plunder, defined and penalized under Section 2 in relation to Section 1 (d) (1), (2), and (6) of Republic Act No. (RA) 7080,^[4] as amended (one [1] count) and/or of violation of Section 3 (e) of RA 3019^[5] (sixteen [16] counts).

Further assailed are: (1) by Cambe,^[6] the Ombudsman's Joint Order^[7] dated March 14, 2014, which denied Cambe's Supplemental Counter-Affidavit with Second Motion to Suspend Proceedings;^[8] (2) by Sen. Revilla,^[9] the Ombudsman's Order^[10] dated May 15, 2014 which denied Sen. Revilla's Omnibus Motion^[11] to re-conduct the preliminary investigation, among others; and (3) by petitioners Mario L. Relampagos (Relampagos), Rosario Salamida Nuñez (Nuñez), Lalaine Narag Paule (Paule), and Marilou Dialino Bare (Bare),^[12] the Resolutions dated November 13, 2014^[13] and May 13, 2015^[14] of the *Sandiganbayan* which affirmed the finding of probable cause against them in Criminal Case Nos. SB-14-CRM-0268, 0269, 0272, 0273, 0275, 0276, 0279, and 0280.

The Facts

Petitioners are all charged as co-conspirators for their respective participations in the illegal pillaging of public funds sourced from the Priority Development Assistance Fund (PDAF) of Sen. Revilla for the years 2006 to 2010,^[15] in the total amount of P517,000,000.00.^[16] The charges are contained in two (2) complaints, namely: (1) a Complaint for Plunder^[17] filed by the National Bureau of Investigation (NBI) and Atty. Levito D. Baligod on September 16, 2013, docketed as OMB-C-C-13-0316; and (2) a Complaint for Plunder and violation of Section 3 (e) of RA 3019^[18] filed by the Field Investigation Office of the Ombudsman (FIO) on November 18, 2013, docketed as OMB-C-C-13-0395, both before the Ombudsman. Briefly stated, petitioners were

implicated for the following acts:

(a) **Sen. Revilla**, as Senator of the Republic of the Philippines, for authorizing the illegal utilization, diversion, and disbursement of his allocated PDAF through his endorsement of fraudulent Non-Governmental Organizations (NGOs) created and controlled by Napoles's JLN (Janet Lim Napoles) Corporation^[19] in relation to "ghost" PDAF-funded projects,^[20] and for receiving significant portions of the diverted PDAF funds as his "commission" or "kickback";^[21]

(b) **Cambe**, as Chief of Staff of Sen. Revilla during the times material to this case, for processing the utilization, diversion, and disbursement of Sen. Revilla's PDAF,^[22] and for personally receiving his own "commission" or "kickback" from the diverted funds;^[23]

(c) **Napoles**, as the mastermind of the entire PDAF scam, for facilitating the illegal utilization, diversion, and disbursement of Sen. Revilla's PDAF through: (1) the commencement *via* "business propositions" with the legislator regarding his allocated PDAF; (2) the creation and operation of JLN-controlled NGOs to serve as "conduits" for "ghost" PDAF-funded projects; (3) the use of spurious receipts and liquidation documents to make it appear that the projects were implemented by her NGOs; (4) the falsification and machinations used in securing funds from the various implementing agencies (IAs) and in liquidating disbursements; and (5) the remittance of Sen. Revilla's PDAF for misappropriation;^[24]

(d) **Lim** and **De Asis**, as staff employees of Napoles, for assisting in the fraudulent processing and releasing of the PDAF funds to the JLN-controlled NGOs^[25] through, among others, their designation as Presidents/Incorporators^[26] of JLN-controlled NGOs, namely, *Kaupdanan Para sa Mangunguma Foundation, Inc.* (KPMFI)^[27] and *Ginintuang Alay sa Magsasaka Foundation, Inc.* (GAMFI),^[28] respectively, and for eventually remitting the PDAF funds to Napoles's control;^[29] and

(e) **Relampagos**, **Nuñez**, **Paule**, and **Bare** (Relampagos, *et al.*), as employees of the Department of Budget and Management (DBM), for participating in the misuse or diversion of Sen. Revilla's PDAF, by acting as "contacts" of Napoles within the DBM, and thereby, assisting in the release of the Special Allotment Release Orders (SAROs) and Notices of Cash Allocation (NCAs) covering Sen. Revilla's PDAF.^[30]

As alleged, the PDAF scheme commences with Napoles meeting with a legislator - in this case, Sen. Revilla - with the former giving an offer to "acquire" his PDAF allocation in exchange for a "commission" or "kickback" amounting to a certain percentage of the PDAF.^[31] Upon their agreement on the conditions of the PDAF acquisition, including the project for which the PDAF will be utilized, the corresponding IA tasked to implement the same, and the legislator's "commission" or "kickback" ranging from 40-60% of either the project cost or the amount stated in the SARO,^[32] the legislator would then write a letter addressed to the Senate President for the immediate release of his PDAF, who in turn, will endorse such request to the DBM for the release of the SARO.^[33] By this time, the initial advance portion of the "commission" would be remitted by Napoles to the legislator.^[34] Upon release of the SARO, Napoles would then direct her staff - including whistleblowers

Benhur Luy (Luy), Marina Sula (Sula), and Merlina Suñas (Suñas) to prepare PDAF documents containing, *inter alia*, the preferred JLN-controlled NGO that will be used as a "conduit" for the implementation of the project, the project proposals of the identified NGO, and the endorsement letters to be signed by the legislator and/or his staff, all for the approval of the legislator;^[35] and would remit the remaining portion or balance of the "commission" of the legislator, which is usually delivered by her staff, Lim and De Asis.^[36] Once the documents are approved, the same would be transmitted to the IA which would handle the preparation of the Memorandum of Agreement (MOA) to be executed by the legislator's office, the IA, and the chosen NGO.^[37] Thereafter, the DBM would release the NCA^[38] to the IA concerned, the head/official of which, in turn, would expedite the transaction and release of the corresponding check representing the PDAF disbursement, in exchange for a ten percent (10%) share in the project cost.^[39] Among those tasked by Napoles to pick up the checks and deposit them to the bank accounts of the NGO concerned were Luy, Suñas, and De Asis.^[40] Once the funds are in the account of the JLN-controlled NGO, Napoles would then call the bank to facilitate the withdrawal thereof.^[41] Upon withdrawal of the said funds by Napoles's staff, the latter would bring the proceeds to the office of JLN Corporation for accounting.^[42] Napoles would then decide how much will be left in the office and how much will be brought to her residence in Taguig City. De Asis, Lim, Luy, and Suñas were the ones instructed to deliver the money to Napoles's residence.^[43] Finally, to liquidate the disbursements, Napoles and her staff would manufacture fictitious lists of beneficiaries, liquidation reports, inspection reports, project activity reports, and similar documents that would make it appear that the PDAF-funded projects were implemented when, in fact, they were not since they were actually inexistent or, in other words, "ghost" projects.^[44] Under this *modus operandi*, Sen. Revilla, with the help of petitioners, among others, allegedly funneled his PDAF amounting to around P517,000,000.00^[45] to the JLN-controlled NGOs and, in return, received "commissions" or "kickbacks" amounting to at least P224,512,500.00^[46]

In the Orders dated November 19, 2013^[47] and November 29, 2013,^[48] the Ombudsman directed petitioners, along with several others, to submit their respective counter-affidavits, to which petitioners complied with, except for Napoles and Lim.^[49]

In his defense, Revilla filed his Counter-Affidavit dated January 16, 2014, contending that: (a) his and Cambe's signatures in the PDAF documents were forgeries; (b) the utilization of his PDAF had "always been regular and above-board"; (c) his involvement in the release of his PDAF is limited; and (d) there is "no credible proof" to show that he committed said illegal acts and that conspiracy exists between him and all the other persons involved in the PDAF scam.^[50]

Cambe, on the other hand, filed his Counter-Affidavit dated January 20, 2014 and Supplemental Counter-Affidavit dated March 12, 2014, maintaining that: (a) his signatures in the PDAF documents were all forgeries; and (b) he did not receive any money from Sen. Revilla's PDAF nor connive with any of the alleged co-conspirators to acquire ill-gotten wealth.^[51]

For his part, De Asis filed his Counter-Affidavit dated January 16, 2014, admitting

that: (a) he was an employee of the JLN Corporation; (b) he did pick up checks for JLN-controlled NGOs; and (c) he was an incorporator in one of the JLN-controlled NGOs; but denying that he personally benefited from the supposed misuse of Sen. Revilla's PDAF.^[52]

Meanwhile, Relampagos, *et al.*, in their separate Counter-Affidavits dated December 13, 2013, contended that: (a) there is no probable cause and factual or legal basis to indict them for the offenses charged; and (b) the criminal complaints did not specifically mention their names as among those who allegedly participated in the misuse of Sen. Revilla's PDAF.^[53]

Pending resolution of the Ombudsman cases, Sen. Revilla and Cambe separately moved for the suspension of the preliminary investigation^[54] on the criminal complaints, which were, however, denied by the Ombudsman in a Joint Order^[55] dated January 28, 2014, holding that no prejudicial question exists to warrant the suspension of the preliminary investigation proceedings.^[56]

Cambe filed another motion^[57] to suspend proceedings of the preliminary investigation, claiming that the filing of the criminal complaints was premature since the Commission on Audit (COA) had yet to issue an Order of Execution in relation to the Notices of Disallowance^[58] (NDs) against Sen. Revilla's Office, docketed as Special Audits Office (SAO) ND Nos. NLDC-2014-013-PDAF(07-09) to 020-PDAF(07-09). The said motion was, again, denied by the Ombudsman in a Joint Order^[59] dated March 14, 2014 (March 14, 2014 Joint Order). Thus, Cambe elevated the matter to this Court *via* a petition for *certiorari*, docketed as **G.R. Nos. 212014-15**.

Meantime, Sen. Revilla filed a Motion to be Furnished Copies of Motions, Pleadings, and Other Submissions (Motion to be Furnished),^[60] praying that he be furnished with copies of all the counter-affidavits filed by the parties in this case, which was denied by the Ombudsman in an Order^[61] dated March 11, 2014. His motion for reconsideration^[62] thereof was likewise denied by the Ombudsman in an Order^[63] dated March 27, 2014.

Sen. Revilla likewise filed a Motion for Voluntary Inhibition (Of the Special Panel of Investigators),^[64] which was also denied by the Ombudsman in an Order^[65] dated March 7, 2014. His motion for reconsideration^[66] thereof was further denied in an Order^[67] dated May 9, 2014.

In a Joint Resolution^[68] dated March 28, 2014 (March 28, 2014 Joint Resolution), the Ombudsman found probable cause to indict, among others, petitioners Sen. Revilla, Cambe, Napoles, De Asis, and Lim of one (1) count of Plunder,^[69] and all the petitioners (along with several others), except Lim, of sixteen (16) counts of violation of Section 3 (e) of RA 3019.^[70]

The Ombudsman found that the diversion and/or misuse of Sen. Revilla's PDAF was coursed through a complex scheme involving various participants from Sen. Revilla's Office, the DBM, the IAs, and the JLN-controlled NGOs. The Ombudsman then went on to conclude that through the said scheme, they were able to siphon out