



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-18-CRM-0241**
Plaintiff, For: Plunder

Present

- versus -

AL C. ARGOSINO, ET AL.

Accused.

FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
MUSNGI,* J.

Promulgated:

MAY 31 2018

X-----X

RESOLUTION

FERNANDEZ, SJ, J.

This resolves the following:

1. *Motion for Reconsideration (Re: Minute Resolution dated 10 April 2018) -with Prayer to Recall/Quash the Warrant of Arrest¹ filed by accused Michael B. Robles; and*
2. *Accused Al C. Argosino's Motion for Reconsideration (Resolution dated 10 April 2018).²*

In his *Motion for Reconsideration*, accused Robles prays that this Court (1) order the dismissal of the present case on the ground that the factual allegations against the accused do not constitute the crime of Plunder, or the quashal of the Information on the ground that the facts charged do not constitute an offense; or in the alternative, (2)

* J. Musngi participated in the assailed Resolution; In view of the vacancy in the Sixth Division (As per Administrative Order No. 057-2018 dated January 29, 2018; *Revised Internal Rules of the Sandiganbayan*, Rule XI, Sec. 2[a])

¹ Dated April 12, 2018 and filed on April 16, 2018

² Dated April 15, 2018 and filed on April 16, 2018

RESOLUTION

People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 2 of 16

X-----X

direct the Office of the Special Prosecutor to conduct the reinvestigation; and (3) recall or quash the warrant of arrest pending the reinvestigation of the case. He avers:

1. His motion for reinvestigation is not based solely on his innocence, but also on newly discovered evidence that negates the crime of Plunder.
 - a. Although he professed his innocence in his *Omnibus Motion*, the ground he actually relied upon was newly discovered evidence. Hence, his motion for reinvestigation is not prohibited.
 - b. In *Leviste v. Alameda*,³ it was held that the trial court may grant a motion for reinvestigation of a criminal case pending before it where the interest of justice so requires.
 - c. Reinvestigation will serve the interest of justice, considering that Plunder is a non-bailable offense, and thus, the accused, while presumed innocent until the contrary is proved, is already subject to incarceration.
2. The newly discovered evidence he submitted will greatly affect the finding of probable cause in the disposition of the complaint. Said pieces of evidence establishes that (a) the alleged ill-gotten was not at all ill-gotten, but was actually intended for a lawful purpose, *i.e.*, for bail, (b) the money subject of the case falls below the threshold required in Plunder, and (c) there was only one act, not a series of overt or criminal acts.
3. His motion to dismiss on the ground that the factual allegations do not constitute a case of plunder is deemed a meritorious motion "to quash information on the grounds that the facts charged do not constitute an offense," which is allowed under the Revised Guidelines for Continuous Trial of Criminal Cases.
4. There is no series of overt or criminal acts.
 - a. The ₱50 million allegedly given in two (2) tranches within the span of around two hours cannot give rise to two (2) separate criminal acts. The two (2) instances of allegedly receiving money resulted from a single criminal impulse.
 - b. The Information alleges only one intention in relation to the receipt of the ₱50 million – "as consideration for the accused' intervention and assistance in the release of the

³ G.R. No. 182677, August 3, 2010



RESOLUTION

People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 3 of 16

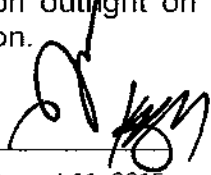
X-----X

Chinese nationals arrested and detained at Fontana Leisure Parks and Casino in Pampanga.”

- c. In *Enrile v. People*,⁴ it was held that even if the accumulated ill-gotten wealth amounts to at least ₱50 million, a person cannot be prosecuted for Plunder if it resulted from a single act.
 - d. The deliberations on the Plunder law make it clear that the “combination or series” of acts resulting in the accumulation of wealth pertains to “a series of criminal acts which are in themselves crimes.”
5. There is no ill-gotten wealth. The alleged ill-gotten wealth is actually intended for the bail of the Chinese nationals under detention, and not intended as a bribe.
 6. The amount involved falls below the threshold required for Plunder.
 - a. In the letter of Atty. Cruz and the Special Power of Attorney of Alexander Yu and Norman Ng confirm that the amount was actually short by ₱1,000.00.
 - b. In the Affidavit dated March 19, 2018 of private complainant Yuan Jing, it was stated that ₱2 million was intended as lawyer’s fees, and thus, the amount left is ₱48 million.

In his *Motion for Reconsideration*, accused Argosino prays for (1) his release, (2) the dismissal of the case on the ground that there is no Plunder, and (3) an order directing the Office of the Special Prosecutor to conduct a reinvestigation. He argues:

1. This Court erred in outright denying his *Omnibus Meritorious Motion*. His motion is not among those enumerated as prohibited motions under the *Revised Guidelines for Continuous Trial of Criminal Cases*⁵ (Revised Guidelines).
2. The list of prohibited motions under the Revised Guidelines is exclusive. The Court is not authorized to determine if the motion is similar to the enumerated prohibited motions and deny a motion outright on the ground that it is similar to a prohibited motion.


⁴ G.R. No. 213455, August 11, 2015

⁵ A.M. No. 15-06-10-SC



RESOLUTION

People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 4 of 16

X -----X

3. The relief seeking suspension of the proceedings and deferment of issuance of warrant of arrest is anchored on his Motion to Quash, which, at the time of the issuance of the assailed Resolution, was not yet set for hearing.
4. There is no series or combination of criminal acts that would constitute Plunder.
 - a. In *Macapagal-Arroyo v. People*,⁶ it was categorically stated that for an overt act to be considered part of the combination or series of acts, each act must be considered a predicate crime.
 - b. In Justice Kapunan's dissent in *Jose "Jinggoy" E. Estrada v. Sandiganbayan*,⁷ he stated that the Information suffers from ambiguity insofar as the element that there be a "combination or series of overt or criminal acts" is concerned. The Information alleges receiving or collecting money on several instances. However, it does not necessarily amount to the performance of a combination or series of overt or criminal acts. The receipt or collection of money could have been impelled by a single criminal resolution pertaining to a single overt or criminal act, and not a series or combination of acts.
 - c. The Information alleges two (2) ordinary acts used as a means to commit one (1) crime. The lone consideration for the two acts of allegedly of receiving money was the illegal release of the arrested Chinese nationals.
5. The law on Plunder contemplates the commission of predicate crimes over a period of time.
 - a. In the cases of *Jose "Jinggoy" E. Estrada*,⁸ *Macapagal-Arroyo*,⁹ *People v. Estrada*¹⁰ and *Organo v. Sandiganbayan*,¹¹ the series or combination of overt or criminal acts were done over the period of three (3) years, two (2) years, eight (8) years and four (4) months, respectively.
 - b. Here, the two (2) acts occurred within a single day and within the span of three (3) hours.

⁶ G.R. Nos. 220598 and 220953, July 19, 2016

⁷ G.R. No. 148965, February 26, 2002

⁸ *Ibid.*

⁹ *Supra.* Note 6

¹⁰ Crim. Case No. SB-14-CRM-0239 (pending in the Fifth Division of the Sandiganbayan)

¹¹ G.R. No. 136916, December 14, 1999



RESOLUTION

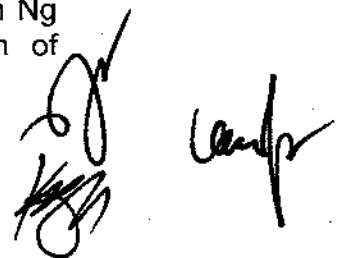
People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 5 of 16

X-----X

6. The fact that the Office of the Ombudsman charged the accused with only one count of Bribery indicates that there was only one criminal act.
 - a. The Office of the Ombudsman, in its Resolution, found that there was probable cause to charge the accused with Direct Bribery, accused Argosino and Robles, having received through accused Sombero the amount of P50 million in consideration for the release of the 1,316 Chinese nationals detained for violation of immigration laws.
 - b. There was only one criminal act of receiving the amount of P50 million, albeit in two (2) installments.
 - c. In *Enrile v. People*,¹² it was held that if an alleged offense is committed in a single act, there is no crime of Plunder.
7. The amount involved in the present case does not reach the threshold of P50 million required for Plunder. The money turned over by accused Argosino and Robles was in the amount of only twenty-nine million nine hundred ninety-nine thousand pesos (P29,999,000.00).
8. Their possession of the money in the amount of P48 million was for the purpose of gathering evidence in the criminal case filed with the Parañaque City Prosecutor's Office, and not for the purpose of amassing, accumulating or acquiring any pecuniary interest.
9. On December 13, 2016, accused Argosino and Robles filed a case against Jack Lam for Corruption of Public Officials and Wire-tapping. On the same day, they turned over the amount of P29,999,000.00 to the Department of Justice (DOJ) as evidence, declaring that P18 million was with Calima and P2 million was with accused Sombero.
10. Their acts of filing a case against Jack Lam and of turning over said amount of money to the DOJ shows their lack of pecuniary interest to consider amassing, accumulating or acquiring the same.
11. A reinvestigation should be conducted because the Office of the Ombudsman disregarded certain affidavits which would negate Plunder, and because of newly-discovered evidence.
 - a. The Joint Affidavit dated August 17, 2017 of Norman Ng and Alexander Yu, the Manifestation Under Oath of

¹² *Supra.* Note 4



RESOLUTION

People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 6 of 16

x-----x

accused Sombero, and the Affidavit dated August 4, 2017 of Atty. Thaddeus E. Venturanza are material in resolving the present case.

- b. Newly discovered evidence consisting of the Letter-Request dated March 19, 2018 signed by Atty. Caroline PM. Cruz, the Affidavit of Yuan Jing and the Special Power of Attorney executed by Alexander Yu and Norman Ng, if appreciated, would support the quashal or dismissal of the present case.

In its *Consolidated Comment/Opposition Re: Accused Michael B. Robles' Motion for Reconsideration of the Minute Resolution dated 10 April 2018 with Prayer to Recall/Quash the Warrant of Arrest and Accused Al C. Argosino's Motion for Reconsideration (Resolution dated 10 April 2018)*,¹³ the prosecution counters:

1. This Court correctly denied the respective motions of accused Argosino and Robles. Such motions are superfluous because it is the duty of the Court to determine the existence of probable cause for the purpose of issuing a warrant of arrest within ten (10) days from the receipt of the Information.
2. The alleged newly-discovered evidence does not negate the finding of the existence of probable cause to charge the accused with Plunder. Moreover, said documents delve on evidentiary matters.
3. The essential elements of the offense are alleged in the Information.
4. The Information alleges that the accused amassed, accumulated and acquired ill-gotten wealth in the aggregate sum of P50 million through a combination or series of overt or criminal acts as described in Sec. 1, paragraph (d), subparagraphs (2)¹⁴ and (6)¹⁵ of R.A. No. 7080.
5. As found by the Office of the Ombudsman in its Resolution dated October 23, 2017, the amount given to the accused was P50 million. Accused Robles admitted that they took possession of the five (5) bags containing the total amount of P50 million. After

¹³ Dated April 23, 2018 and filed on April 25, 2018

¹⁴ By receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;

¹⁵ By taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

RESOLUTION

People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 7 of 16

x -----x

giving the amount of ₱2 million to accused Sombero, the remaining ₱48 million was kept in accused Argosino's house.

- 6. The matters raised by accused Robles and Argosino in their respective Motions are matters of defense that should be threshed out in a full-blown trial.

THE COURT'S RULING

In the Resolution dated April 10, 2018,¹⁶ this Court denied the *Omnibus Motion* of accused Robles and the *Omnibus Meritorious Motion* of accused Argosino (on the matters of reinvestigation, deferment of issuance of warrant and suspension of proceedings),¹⁷ both on the ground that they are prohibited motions. Said accused now move for reconsideration of the Resolution dated April 10, 2018.

A. Accused' Argosino's Motion for Reconsideration

Accused Argosino contends that this Court erred in outright denying his *Omnibus Meritorious Motion* because his motion qualifies as a meritorious motion under the Revised Guidelines. His contention does not persuade.

Although his motion to quash on the ground that the facts charged do not constitute an offense is a meritorious motion,¹⁸ his motions (1) to dismiss the case, (2) for reinvestigation, (3) for the deferment of the issuance of the warrant of arrest, and (4) to suspend proceedings squarely fall within the enumeration of prohibited motions under III. 2. (b) i. and iii. of the Revised Guidelines.

It is unmistakable that his motion to dismiss, and in connection therewith, his motion to defer the issuance of warrant of arrest, can be considered a motion for judicial determination of probable cause – a motion prohibited under III. 2. (b) i. of the Revised Guidelines. The pertinent portion of his *Omnibus Meritorious Motion* is hereunder quoted:¹⁹

In seeking to dismiss the instant case and/or to refer the case for further investigation under the above-cited rules of procedure,

¹⁶ Record, Vol. 3, pp. 158-159

¹⁷ The matter of his motion to quash is the subject of a separate resolution.

¹⁸ III. 2. (c) v. of the Revised Guidelines

¹⁹ Record, pp. 35-36 (*Omnibus Meritorious Motion*, pp. 4-5)

RESOLUTION

People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 8 of 16

X -----X

Accused Argosino likewise invokes the authority of the Honorable 4th Division, after evaluation of evidence on record, to dismiss the case under Section 6 of Rule 112 of the Revised Rules of Court, and to pertinently quote:

"Section 6. *When warrant of arrest may issue.*²⁰ – (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 if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 7 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."

Dismissing a case on the abovesited ground necessarily entails the determination of the existence of probable cause. Accused Argosino, in his *Omnibus Meritorious Motion*, in essence, moved for a judicial determination of probable cause. Such motion is a mere superfluity because, with or without such motion, the Court is duty-bound to personally evaluate the Resolution of the Office of the Ombudsman and the supporting evidence.²¹ This Court, in the assailed Resolution, performed such duty when it determined that there was probable cause for the issuance of a warrant of arrest against the accused.

His motion for reinvestigation, as well as his motion to suspend proceedings are prohibited motions under III. (2) b. iii. of the Revised Guidelines. The provision reads:

III. Procedure

x x x

2. Motions

x x x

(b) *Prohibited Motions.* – Prohibited motions shall be denied outright before the scheduled arraignment without need of comment and/or opposition

²⁰ Now Sec. 5

²¹ Please see *Leviste v. Alameda, Supra.* Note 3

RESOLUTION

People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 9 of 16

X -----X

The following motions are prohibited:

x x x

- iii. Motion for reinvestigation of the prosecutor recommending the filing of information once the information has been filed before the court (1) if the motion is filed without prior leave of court; (2) when preliminary investigation is not required under Sec. 8, Rule 112; and (3) when the regular preliminary investigation is required and has been actually conducted, and the grounds relied upon in the motion are not meritorious, such as issues of credibility, admissibility of evidence, innocence of the accused, or lack of due process when the accused was actually notified, among others.

(underscoring supplied)

A plain reading of his arguments would show that he is praying for the reinvestigation of the case because, according to him, the Office of the Ombudsman disregarded certain affidavits that would establish facts supporting the innocence of the accused, *i.e.*, that the money was intended for bail of the detained Chinese nationals, and that there was no bribery or extortion.

The rest of his arguments pertain to his motion to quash, which is the subject of a separate resolution.

B. Motion for Reconsideration of accused Robles

For the same reasons as previously discussed, this Court finds no justification to warrant the reversal of its ruling as to the *Omnibus Motion* of accused Robles.

This Court will consider his Motion for Reconsideration as his motion to quash the Information on the ground that the facts charged do not constitute an offense. However, this Court resolves to deny the same.

A motion to quash on the ground that the facts charged do not constitute an offense²² assails the sufficiency of the Information. In resolving such motion, the Court need not go beyond the four corners

²² Rules of Court. Rule 117, Sec. 3(a).

RESOLUTION

People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 10 of 16

x-----x

of the Information, the allegations of which the truth and veracity are hypothetically admitted. In *People v. Sandiganbayan*,²³ it was held that the question that must be answered is whether or not the allegations in the Information are sufficient to establish the elements of the crime charged without considering matters aliunde. *Viz.:*

x x x. The question that must be answered is whether such allegations are sufficient to establish the elements of the crime charged without considering matters aliunde. In proceeding to resolve the issue, courts must look into three matters: (1) what must be alleged in a valid Information; (2) what the elements of the crime charged are; and (3) whether these elements are sufficiently stated in the Information.

Rule 110, Sec. 6 of the Rules of Court provides for the contents of a sufficient Information. To wit:

Sec. 6. Sufficiency of complaint or information. – A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information.

(underscoring supplied)

The Information in Crim. Case No. SB-18-CRM-0241 charges accused Argosino, Robles and Sombero with Plunder. The elements of the offense are as follows:

1. That the offender is a public officer who acts by himself/herself or in connivance with members of his/her family, relatives by affinity or consanguinity, business associates, subordinate, or other persons;
2. That the offender amassed, accumulated or acquired ill-gotten wealth through a combination or series of the following overt or criminal acts:
 - a. Through misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury;

²³ G.R. No. 160619, September 9, 2015

RESOLUTION

People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 11 of 16


X-----X

- b. By receiving, directly or indirectly, any commission, gift, share, percentage, kickback or any other form of pecuniary benefits from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;
 - c. By the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies or instrumentalities of government-owned or -controlled corporations or their subsidiaries;
 - d. By obtaining, receiving or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;
 - e. By establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests; or
 - f. By taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines; and,
3. That the aggregate amount or total value of the ill-gotten wealth amassed, accumulated or acquired is at least ₱50,000,000.00.²⁴

The Court will determine if the Information in Crim. Case No. SB-18-CRM-0241 sufficiently alleges these elements. The accusatory portion of said Information reads:

That on or about 27 November 2016, or sometime prior or subsequent thereto, in Parañaque City, Philippines, and within the jurisdiction of this Honorable Court, accused **AL CAPARROS ARGOSINO** (Argosino) and **MICHAEL B. ROBLES** (Robles), both public officers, being then Deputy Commissioners of the Bureau of Immigration, committing the offense in relation to their office, conspiring and confederating with each other and with private individual **WENCESLAO A. SOMBERO, JR.** (Sombero), did then and there willfully, unlawfully and criminally amass, accumulate and acquire ill-gotten wealth in the aggregate amount of **FIFTY MILLION PESOS (PhP50,000,000.00)** through a series or combination of overt or criminal acts, or similar schemes or means, such as by

²⁴ *Enrile v. People, Supra.* Note 4



RESOLUTION

People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 12 of 16

X -----X

receiving, directly or indirectly, a sum of money from any person and/or entity by reason of their office or position as Deputy Commissioners of the Bureau of Immigration, and by taking undue advantage of their official position, authority and influence as such Deputy Commissioners to unjustly enrich themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines, under Section 1, paragraph d, subparagraphs (2) and (6) of Republic Act No. 7080, as amended, described as follows: by repeatedly receiving or collecting a sum of money which aggregated to an amount of FIFTY MILLION PESOS (PhP50,000,000.00) delivered to and received by the accused Argosino and Robles on two instances at the City of Dreams Manila, an establishment in Parañaque City, that is, TWENTY MILLION PESOS (PhP 20,000,000.00) at or about 2:00 a.m. of 27 November 2016 and THIRTY MILLION PESOS (PhP30,000,000.00) at or about 5:45 a.m. of the same day, both from accused Sombero, as consideration for the intervention and assistance of accused Argosino and Robles in the release of Chinese nationals arrested and detained at Fontana Leisure Parks and Casino in Pampanga, thereby the accused public officers took undue advantage of their position, authority and influence in amassing, accumulating and acquiring the said ill-gotten wealth.

CONTRARY TO LAW.

The Information alleges the first element of Plunder. It states that accused Argosino and Robles, both public officers, being Deputy Commissioners of the Bureau of Immigration, conspired and confederated with each other, and with accused Sombero, a private individual.

The third element of Plunder is likewise alleged in the Information. It states that the accused willfully, unlawfully and criminally amassed, accumulated and acquired ill-gotten wealth in the aggregate amount of ₱50 million.

The only matter left for determination is whether or not the Information alleges the second element.

According to accused Robles, the Information failed to allege the second element of Plunder. Only one criminal act of receiving and collecting a sum of money was alleged, albeit delivered in two (2) tranches. Both deliveries of sums of money was allegedly received from accused Sombero in consideration for accused Argosino and Robles' assistance in the release of the Chinese nationals arrested and detained at Fontana Leisure Parks and Casino in Pampanga.

RESOLUTION

People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 13 of 16

X-----X

On the other hand, the prosecution contends that the Information alleges two acts, namely, (a) receiving, directly or indirectly, a sum of money from a person and/or entity by reason of their office or position as Deputy Commissioners of the Bureau of Immigration, and (b) taking undue advantage of their official position, authority and influence as Deputy Commissioners to unjustly enrich themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

This Court is not inclined to agree with either accused Robles or the prosecution. Nonetheless, this Court finds that the Information alleges the second element of Plunder.

The second element of Plunder is that the offender must have amassed, accumulated or acquired ill-gotten wealth through a combination or series of overt or criminal acts as described in Sec. 1(d) of Republic Act No. 7080 (R.A. No. 7080). In *Estrada v. Sandiganbayan*,²⁵ the Supreme Court explained the words "combination" and "series" in this wise:

Thus, when the Plunder Law speaks of "combination," it is referring to at least two (2) acts falling under different categories of enumeration provided in Sec. 1, par. (d), e.g., raids on the public treasury in Sec. 1, par. (d), subpar. (1), and fraudulent conveyance of assets belonging to the National Government under Sec. 1, par. (d), subpar. (3).

On the other hand, to constitute a "series" there must be two (2) or more overt or criminal acts falling under the same category of enumeration found in Sec. 1, par. (d), say, misappropriation, malversation and raids on the public treasury, all of which fall under Sec. 1, par. (d), subpar. (1). Verily, had the legislature intended a technical or distinctive meaning for "combination" and "series," it would have taken greater pains in specifically providing for it in the law.

Here, the Information states that the accused amassed, accumulated and acquired ill-gotten wealth "by receiving, directly or indirectly, a sum of money from any person and/or entity by reason of their office or position as Deputy Commissioners of the Bureau of Immigration, and by taking undue advantage of their official position, authority and influence as such Deputy Commissioners to unjustly

²⁵ G.R. No. 148560, November 19, 2001

RESOLUTION

People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 14 of 16

X-----X

enrich themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.”

At first glance, it may appear that the Information alleges a combination of two (2) separate acts, pertaining to subparagraphs (2) and (6) of Sec. 1(d) of R.A. No. 7080. However, a closer reading of the Information would show that such “receiving of a sum of money” and “taking undue advantage of their official position” pertain to the very same set of acts. The pertinent portion of the Information reads:

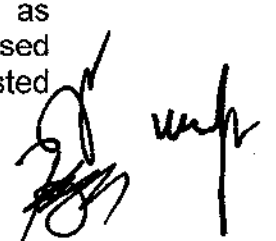
x x x by repeatedly receiving or collecting a sum of money which aggregated to an amount of FIFTY MILLION PESOS (PhP50,000,000.00) delivered to and received by the accused Argosino and Robles on two instances at the City of Dreams Manila, an establishment in Parañaque City, x x x, as consideration for the intervention and assistance of accused Argosino and Robles in the release of Chinese nationals arrested and detained at Fontana Leisure Parks and Casino in Pampanga, thereby the accused public officers took undue advantage of their position, authority and influence in amassing, accumulating and acquiring the said ill-gotten wealth.

(emphasis and underscoring supplied)

Stated differently, the Information alleges that accused Argosino and Robles repeatedly received the sum of money totaling ₱50 million by reason of their office or position, and thereby, took advantage of their position and authority. There can be no combination of acts in the Information because a combination requires at least two (2) separate acts, not a single act or same set of acts that may constitute two distinct means of, or schemes for the acquisition of ill-gotten wealth as enumerated in Sec. 1(d) of R.A. No. 7080.

While no combination of acts is alleged, the Information alleges a series of overt acts. The pertinent portion of the Information reads:

x x x by repeatedly receiving or collecting a sum of money which aggregated to an amount of FIFTY MILLION PESOS (PhP50,000,000.00) delivered to and received by the accused Argosino and Robles on two instances at the City of Dreams Manila, an establishment in Parañaque City, that is, TWENTY MILLION PESOS (PhP 20,000,000.00) at or about 2:00 a.m. of 27 November 2016 and THIRTY MILLION PESOS (PhP30,000,000.00) at or about 5:45 a.m. of the same day, both from accused Sombero, as consideration for the intervention and assistance of accused Argosino and Robles in the release of Chinese nationals arrested



RESOLUTION

People vs. Argosino, et al.
Criminal Case No. SB-18-CRM-0241

Page 15 of 16

X-----X

and detained at Fontana Leisure Parks and Casino in Pampanga, x
x x

Accused Robles' contention that the Information alleges only a single act or offense is the very same argument made by the petitioner in *Jose "Jinggoy" E. Estrada*.²⁶ In that case, the portion of the Information charging the petitioner reads:

- (a) By receiving OR collecting, directly or indirectly, on SEVERAL INSTANCES, MONEY IN THE AGGREGATE AMOUNT OF FIVE HUNDRED FORTY-FIVE MILLION PESOS (P545,000,000.00) MORE OR LESS, FROM ILLEGAL GAMBLING IN THE FORM OF GIFT, SHARE, PERCENTAGE, KICKBACK OR ANY FORM OF PECUNIARY BENEFIT, BY HIMSELF AND/OR in connivance with co-accused CHARLIE 'ATONG' ANG, Jose 'Jinggoy' Estrada, Yolanda T. Ricaforte, Edward Serapio, AN (sic) JOHN DOES AND JANE DOES, in consideration OF TOLERATION OR PROTECTION OF ILLEGAL GAMBLING;

The Supreme Court rejected the petitioner's claim that only one act or offense was alleged in the information in this manner:

Petitioner's contention that R.A. No. 7080 is unconstitutional as applied to him is principally perched on the premise that the Amended Information charged him with only one act or one offense which cannot constitute plunder. He then assails the denial of his right to bail.

x x x

Pertinent to the case at bar is the predicate act alleged in sub-paragraph (a) of the Amended Information which is of "receiving or collecting, directly or indirectly, on several instances, money in the aggregate amount of P545,000,000.00 for illegal gambling in the form of gift, share, percentage, kickback or any form of pecuniary benefit x x x." In this sub-paragraph (a), petitioner, in conspiracy with former President Estrada, is charged with the act of receiving or collecting money from illegal gambling amounting to P545 million. Contrary to petitioner's posture, the allegation is that he received or collected money from illegal gambling "on several instances." The phrase "on several instances" means the petitioner committed the predicate act in series. To insist that the Amended Information charged the petitioner with the commission of only one act or offense despite the phrase "several instances" is to indulge in a twisted, nay, "pretzel" interpretation.

²⁶ *Supra*. Note 7

RESOLUTION

People vs. Argosino, et al.

Criminal Case No. SB-18-CRM-0241

Page 16 of 16

X-----X

The Information in the present case alleges that accused Argosino and Robles repeatedly received or collected a sum of money on two (2) instances, in consideration for their intervention and assistance in the release of Chinese nationals arrested and detained at Fontana Leisure Parks and Casino in Pampanga. Applying the ruling in the aforementioned case, each instance of receiving or collecting a sum of money constitutes a separate act. Hence, the Information in the case at bar alleges the commission of acts in series.

The rest of the arguments in the Motion of accused Robles are matters of defense which are better threshed out during the trial on the merits.

WHEREFORE, the Court rules as follows:

1. Accused Argosino's *Motion for Reconsideration* is **DENIED** for lack of merit.
2. Accused Robles' *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


MICHAEL FREDERICK L. MUSNGI
Associate Justice