

**SANDIGANBAYAN  
QUEZON CITY**

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**SB-18-CRM-0003**

For: Violation of Section 3(e),  
R.A. No. 3019

- versus -

**SB-18-CRM-0004**

For: Violation of Section 3(g),  
R.A. No. 3019

*Present:*

**ARTHUR YAP, ET AL.**  
*Accused.*

**FERNANDEZ, SJ, J.,**  
*Chairperson.*  
**MIRANDA, J.,**  
**TRESPESES,\* J.**

*Promulgated:*

**AUG 15 2018**

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**RESOLUTION**

**FERNANDEZ, SJ, J.:**

This resolves the *Motion to Quash*<sup>1</sup> and the *Compliance*<sup>2</sup> filed by accused William G. Padolina, together with the *Opposition*<sup>3</sup> filed by the Prosecution.

Accused Padolina prays for the dismissal of the charges against him on the ground that this Court lacks jurisdiction over the offenses charged and over his person.<sup>4</sup>

\* Per Administrative Order No. 071-2018 dated February 1, 2018, Special Member in view of the vacancy in the Sixth Division.

<sup>1</sup> Dated January 22, 2018; Record, Vol. IX, pp. 53-93.

<sup>2</sup> Dated January 29, 2018; Record, Vol. IX, pp. 110-117.

<sup>3</sup> (Re: *Motion to Quash of Accused William A. Padolina*) dated February 2, 2018; Record, Vol. IX, pp. 139-147.

<sup>4</sup> Motion to Quash dated January 22, 2018, pp. 1 & 6; Record, Vol. IX, pp. 53 & 58.

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Accused Padolina argues:

**He is covered by the functional immunity extended to the International Rice Research Institute officials under Presidential Decree No. 1620,<sup>5</sup> and, in the Headquarters Agreement between the Republic of the Philippines and the IRRI.<sup>6</sup>**

He was appointed as member of the Board of Trustees of the Philippine Rice Research Institute from May 2001 to 2011, while he was under the employ of IRRI. He attended the PRRI Board of Trustees meetings on his official capacity and on official time; he is not representing himself, but officially represents IRRI.<sup>7</sup>

He received no remuneration as a member of the Board of Trustees of PRRI.<sup>8</sup>

To support his claims that he is an official of the International Rice Research Institute enjoying functional immunity, and that his appointment to the Board of the Philippine Rice and Research Institute (PhilRice) and his acts as such were by virtue of his position and in consonance with his functions at the IRRI, accused Padolina submitted, among others, the following documents:

a. Certification dated March 16, 2017, issued by Assistant Secretary Jerril G. Santos of the Department of Foreign Affairs, Office of Protocol, the pertinent portion of which reads:

This is to certify that DR. WILLIAM G. PADOLINA was included as Deputy Director General for Operations and Support Services in the official list of members of the mission submitted by the International Rice Research Institute (IRRI) to this Office in 14 November 2007.

As a Filipino national, Dr. Padolina had been accorded functional immunity by virtue of Article IV, Section 4.1.2 of the 2006 Headquarters Agreement between the Government of the Republic of the Philippines and the International Rice Research Institute, which provides that:

<sup>5</sup> *Granting to the International Rice Research Institute (IRRI) the Status, Prerogatives, Privileges and Immunities of an International Organization*

<sup>6</sup> Motion to Quash dated January 22, 2018, pp. 1-3; Record, Vol. IX, pp. 53-55.

<sup>7</sup> Motion to Quash dated January 22, 2018, pp. 4-5; Record, Vol. IX, pp. 56-57.

<sup>8</sup> Motion to Quash dated January 22, 2018, p. 4; Record, Vol. IX, p. 56.

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"Immunity in general shall be accorded to non-Filipino officers of the institute only. Immunity for Filipino officers shall be limited to those relative to the performance of their functions or duty." (underscoring supplied)<sup>9</sup>

b. Letter dated January 25, 1999 of IRRI Director General Ronald P. Cantrell, which informed accused Padolina of the latter's selection as Director for External Relations of IRRI, effective February 1, 1999 and effective for 5 years.<sup>10</sup>

c. Letter dated July 17, 2003 of IRRI Director General Ronald P. Cantrell, offering accused Padolina a 5-year contract as Deputy Director General for Partnerships of the Institute.<sup>11</sup>

d. Letter dated February 1, 2006 of IRRI Director General Robert S. Zeigler, addressed to accused Padolina, to formally notify the latter of his title as *Deputy Director General for Operations and Support Services*, and of the corresponding responsibilities under the new IRRI management structure.<sup>12</sup>

e. Letter dated October 9, 2008 of IRRI Director General Robert S. Zeigler, addressed to accused Padolina, offering the latter a new contract as *Deputy Director General for Operations and Support Services* of IRRI, effective February 1, 2009. The terms of reference indicated therein are essentially the same as those stated in the February 1, 2006 letter, *viz:*

You will continue to report directly to the Director General and serve as a member of IRRI's Management Committee. Also, you will continue to work in close coordination with the Deputy Director General for Research, Director for Program Planning and Communications, and Director for Management Service.

Your terms of reference through the next contract period are as follows:

1. Serve as Secretary of the IRRI Board of Trustees and supervise the BOT Secretariat.
2. Supervision of the following operations and support services:

  
<sup>9</sup> Annex 6 of Motion to Quash dated January 22, 2018; Record, Vol. IX, p. 78.

<sup>10</sup> Annex 14 of Compliance dated January 29, 2018; Record, Vol. IX, pp. 112-113.

<sup>11</sup> Annex of Compliance dated January 29, 2018; Record, Vol. IX, pp. 116-117.

<sup>12</sup> Annex 10 of Motion to Quash dated January 22, 2018, p. 89.

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Host Country and Community Relations  
Seed Health Unit  
Legal Services  
Intellectual Property Management Unit  
Biosafety  
Visitors Office  
Operations Unit which includes Food and Housing,  
Transport, Safety and Security Services, Physical  
Plant, and Experiment Station<sup>13</sup>

f. Certification dated March 3, 2017, issued by PhilRice Acting Executive Director Sailila B. Abdula, the pertinent portion of which reads:

This is to certify that Dr. William G. Padolina was a member of the PhilRice Board of Trustees from May 28, 2002 to July 3, 2011.

It is further certified that Dr. Padolina did not receive any form of compensation or allowance throughout his term as PhilRice Trustee.<sup>14</sup>

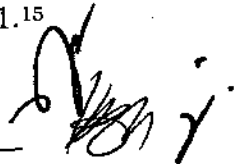
g. Secretary's Certificate dated April 4, 2017, issued by IRRI Board Secretary V. Bruce J. Tolentino, the pertinent portion of which reads:

1. Dr. William G. Padolina (Padolina) was first appointed as Director for External Relations then changed to Deputy Director General for Partnerships and then to Deputy Director General for Operations and Support Service of the Institute from February 1999 to April 2011;

2. Padolina served as the Secretary of the Board of Trustees of the IRRI from 2000 to 2011;

3. As part of his duties and responsibilities as Deputy Director General and under the immunities and privileges accorded to Officers and Staff of the Institute under the Headquarters Agreement executed between the Institute and the Government of the Republic of the Philippines, Padolina was also appointed as a member of the Board of Trustees of the Philippine Rice Research Institute (PhilRice) from May 2001 to 2011 and his attendance to the board meetings was on his official capacity;

4. Padolina's term at PhilRice was set to expire on May 28, 2010 but he was only actually replaced on July 3, 2011.<sup>15</sup>



<sup>13</sup> Annex 11 of Motion to Quash dated January 22, 2018; Record, Vol. IX, pp. 90-91.

<sup>14</sup> Annex 12 of Motion to Quash dated January 22, 2018; Record, Vol. IX, p. 92

<sup>15</sup> Annex 13 of Motion to Quash dated January 22, 2018, Record, Vol. IX, p. 93

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In its *Opposition*, the prosecution argued:

This Court has jurisdiction over the offense charged.

Accused Padolina was indicted in his capacity as member of the Board of Trustees of PhilRice and not as an official of the IRRI.

The immunity of IRRI's officials insofar as immunity from legal processes is concerned is restricted only to their official acts.<sup>16</sup>

**RULING**

The International Rice Research Institute (IRRI) was granted the status, prerogatives, privileges and immunities of an international organization by virtue of Presidential Decree No. 1620. The Supreme Court, in **International Catholic Migration Commission vs. Calleja, and, Kapisanan ng Manggagawa at TAC sa IRRI-Organized Labor Association in Line Industries and Agriculture vs. Secretary of Labor and Employment and International Rice Research Institute, Inc.**,<sup>17</sup> explained:

The facts disclose that on 9 December 1959, the Philippine Government and the Ford and Rockefeller Foundations signed a Memorandum of Understanding establishing the International Rice Research Institute (IRRI) at Los Baños, Laguna. It was intended to be an autonomous, philanthropic, tax-free, non-profit, non-stock organization designed to carry out the principal objective of conducting "basic research on the rice plant, on all phases of rice production, management, distribution and utilization with a view to attaining nutritive and economic advantage or benefit for the people of Asia and other major rice-growing areas through improvement in quality and quantity of rice."

Initially, IRRI was organized and registered with the Securities and Exchange Commission as a private corporation subject to all laws and regulations. However, by virtue of Presidential Decree No. 1620, promulgated on 19 April 1979, IRRI was granted the status, prerogatives,

<sup>16</sup> At pp. 1-2; Record, Vol. IX, pp. 139-140.  
<sup>17</sup> 190 SCRA 130, 143 [1990].

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privileges and immunities of an international organization.

Based on the documents he submitted, accused Padolina established that, at the time material to this case, he was the *Deputy Director General for Operations and Support Services* of IRRI. Under **Presidential Decree No. 1620** and the *Headquarters Agreement*, accused Padolina, as deputy director general of IRRI, enjoys functional immunity.

However, this Court finds that the *Motion to Quash* filed by accused William G. Padolina has no merit. Accused Padolina failed to establish that the acts for which he was indicted were necessary for the performance of the functions of IRRI and for the furtherance of its purposes. The acts were performed by accused Padolina in his "private capacity" as an appointed Board member of PhilRice, and not as an official of IRRI.

Essentially, the two Information charge all the accused for instituting a Car Plan for PhilRice beneficiary-employees which allowed them to obtain personal loans from Philippine National Bank (PNB), secured through Hold Out Agreements over PhilRice funds with PNB, and which private cars were then leased, without public bidding, by PhilRice for the official use of the beneficiary-employees and with said employees still receiving transportation allowance.

The accusatory portions of the two Information read:

SB-18-CRM-0003; Violation of Section 3(e), R.A. No. 3019<sup>18</sup>

That from the year 2008 to 2009 or sometime prior or subsequent thereto, in Diliman, Quezon City, Philippines, and within this Honorable Court's jurisdiction, accused public officers **ARTHUR YAP y CUA**, then Secretary of the Department of Agriculture (DA) and Chairman of the Board of Trustees of the Philippine Rice Research Institute (PhilRice), **RONILLO BERONIO y ALEJANDREO**, then Executive Director of PhilRice, **JOHNIFER BATARA y GALAMAY**, **FE D. LAYSA**, **WILLIAM PADOLINA y GONZALES**, **WINSTON C. CORVERA**, **GELIA CASTILLO y TAGUMPAY**, **SENEN BACANI y CARLOS**, and, **RODOLFO UNDAN y CORPUZ**, all Members of PhilRice

<sup>18</sup> *Anti-Graft and Corrupt Practices Act*

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Board of Trustees, while in the performance of their administrative and/or official functions, conspiring with one another, acting with manifest partiality, evident bad faith and/or gross inexcusable negligence, did then and there willfully, unlawfully and criminally give unwarranted benefits and advantage to PhilRice Car Plan's beneficiary-employees, namely: Ronilo A. Beronio, Sophia T. Borja, Rolando T. Cruz, Rodolfo S. Escabarte, Jr., Sergio R. Francisco, Manuel G. Gaspar, Edgar M. Libetario, Mario M. Movillon, Evangeline B. Sibayan, and Artemio B. Vasallo, by instituting said Car Plan that allowed the said beneficiary-employees to obtain personal loans from the Philippine National Bank (PNB) for the purchase of their private cars, secured by the PhilRice funds through Hold Out Agreements with PNB; which private cars were then leased by PhilRice for the official use of the beneficiary-employee without the benefit of public bidding; with the beneficiary-employee being still entitled to transportation allowance despite the use of an official vehicle; thereby causing undue injury to PhilRice for it could not utilize its deposits with PNB during the subsistence of the loans and its failure to obtain the best possible car rental deals, among other things.

CONTRARY TO LAW.

SB-18-CRM-004; Violation of Section 3(g), R.A. No. 3019

That in 2009 or sometime prior or subsequent thereto, in Diliman, Quezon City, Philippines, and within this Honorable Court's jurisdiction, accused public officers **ARTHUR YAP y CUA**, then Secretary of the Department of Agriculture (DA) and Chairman of the Board of Trustees of the Philippine Rice Research Institute (PhilRice), **JOHNIFER BATARA y GALAMAY, FE D. LAYSA, WILLIAM PADOLINA y GONZALES, WINSTON C. CORVERA, GELIA CASTILLO y TAGUMPAY, SENEN BACANI y CARLOS**, and, **RODOLFO UN DAN y CORPUZ**, all Members of PhilRice Board of Trustees, PhilRice Executive Director **RONILLO BERONIO y ALEJANDREO** (Beronio) and Cashier IV **FE N. LUMAWAG** (Lumawag) while in the performance of their administrative and/or official functions, conspiring with one another, did then and there willfully, unlawfully and criminally enter into contracts/transactions in behalf of the government that were manifestly and grossly disadvantageous to it, with Beronio and Lumawag signing Hold Out Agreements (HOAs) with the Philippine National Bank (PNB), pursuant to the PhilRice Car Plan instituted by the PhilRice Board of Trustees comprised of the above-mentioned accused, subjecting PhilRice's deposit with PNB to the agreement that said deposit will not be withdrawn until the car/personal loans guaranteed are paid in full amounting to PhP15,780,000.00.



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CONTRARY TO LAW.

First, accused Padolina failed to show that he assumed his membership of the Board of PhilRice as a representative of the IRRI.

Under **Executive Order No. 1061**,<sup>19</sup> a representative of the IRRI is a member of the Advisory Council created under Section 8 thereof. The Advisory Council, composed of representatives from the different government agencies, and one representative from the IRRI, is tasked to assist the PhilRice director, deputy director and program leaders in pursuing inter-agency activities, *viz*:

**Sec. 8. Advisory Council.** The Director and such Deputy Directors and Program Leaders as may be appointed by the Board shall be assisted by an Advisory Council in pursuing inter-agency activities. xxx

On the other hand, the Board of Trustees of PhilRice is composed of the Secretary of Agriculture, as *ex-officio* chairperson, and twelve (12) other members to be appointed by the President of the Philippines, upon recommendation of the *Presidential Adviser for One Million Jobs*.<sup>20</sup> To be sure, E.O. No. 1061 did not list a representative from the IRRI as an *ex officio* member of the Board.

The documents submitted by accused Padolina shows that he was appointed as a member of the Board of PhilRice, and not as a member of the Advisory Council. On the other hand, the Information charged accused Padolina for the acts he performed as a member of the Board of Trustees of PhilRice, and not as an official of the IRRI nor as a member of the PhilRice Advisory Council.

The documents submitted by accused Padolina failed to establish that his appointment as a member of the PhilRice Board was part of his official functions as IRRI Deputy Executive Director. The Secretary's Certification<sup>21</sup> issued by

<sup>19</sup> Entitled *Establishing the Philippine Rice Research Institute*

<sup>20</sup> Section 4, E.O. No. 1061, as amended by E.O.No. 60 dated November 7, 1986 and E.O. No. 76 dated March 4, 2002.

<sup>21</sup> Record, Vol. IX, p. 93



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IRRI Board Secretary Bruce Tolentino that, "(A)s part of his duties and responsibilities as Deputy Director General and under the immunities and privileges accorded to Officers and Staff of the Institute under the Headquarters Agreement executed between the Institute and the Government of the Republic of the Philippines, Padolina was also appointed as a member of the Board of Trustees of the Philippine Rice Research Institute (PhilRice) from May 2001 to 2011 and his attendance to the board meetings was on his official capacity," is not supported by the Headquarters Agreement nor by the enumeration of responsibilities listed in his letters of appointment as IRRI Deputy Director General. At most, this Court can only conclude that as part of their unwritten internal arrangement, IRRI allowed accused Padolina to assume the PhilRice Board membership and to attend the PhilRice Board meetings in his official capacity.

Corollarily, accused Padolina failed to present, despite the directive of the Court, his appointment papers or any other document to establish that then President Gloria Macapagal-Arroyo appointed him to PhilRice as part of his functions as Deputy Executive General of IRRI. It, thus, appears that he was appointed to the PhilRice Board in his private capacity.

That accused Padolina did not receive remuneration as a member of the Board of Trustees of PhilRice does not negate the fact that he is an official of the Philippine Government. It is well established that compensation is not an essential element of public office; at most, it is merely incidental to the public office.<sup>22</sup>

Second, and more importantly, accused Padolina is invoking *functional immunity* and not *diplomatic immunity*.

In his concurring opinion in **Liang vs. People**,<sup>23</sup> Justice Reynato S. Puno distinguished *diplomatic immunity* from *functional immunity*, as follows:

Under the *Vienna Convention on Diplomatic Relations*, a diplomatic envoy is immune from criminal jurisdiction of the receiving State for all acts, whether private or official,

<sup>22</sup> Serana vs. Sandiganbayan, 542 SCRA 224, 248 [2008].

<sup>23</sup> 323 SCRA 692 [2000].



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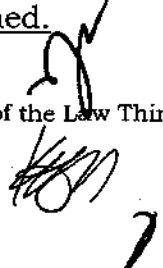
and hence he cannot be arrested, prosecuted and punished for any offense he may commit, unless his **diplomatic** immunity is waived. On the other hand, officials of international organizations enjoy **"functional"** immunities, that is, only those necessary for the exercise of the functions of the organization and the fulfillment of its purposes. This is the reason why the *ADB Charter and Headquarters Agreement* explicitly grant **immunity** from legal process to bank officers and employees *only* with respect to acts performed by them in their official capacity, except when the Bank waives **immunity**. In other words, officials and employees of the ADB are subject to the jurisdiction of the local courts for their private acts, notwithstanding the absence of a waiver of **immunity**.<sup>24</sup>

In *International Catholic Migration Commission*,<sup>25</sup> the Supreme Court explained that the *raison d'etre* for these immunities for international organizations, such as IRRI, is the assurance of unimpeded performance of their functions by the agencies concerned:

There are basically three propositions underlying the grant of international immunities to international organizations. These principles, contained in the ILO Memorandum are stated thus: 1) international institutions should have a status which protects them against control or interference by any one government in the performance of functions for the effective discharge of which they are responsible to democratically constituted international bodies in which all the nations concerned are represented; 2) no country should derive any national financial advantage by levying fiscal charges on common international funds; and, 3) the international organization should, as a collectivity of States members, be accorded the facilities for the conduct of its official business customarily extended to each other by its individual member States. The theory behind all three propositions is said to be essentially institutional in character. "It is not concerned with the status, dignity or privileges of individuals, but with the elements of **functional** independence necessary to free international institutions from national control and to enable them to discharge their responsibilities impartially on behalf of all their members." The *raison d'etre* for these immunities is the assurance of unimpeded performance of their functions by the agencies concerned.

<sup>24</sup> 355 SCRA 125, 154 [2001], citing 1 Restatement of the Law Third, p. 511.

<sup>25</sup> *Supra*



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The grant of immunity from local jurisdiction to ICMC and IRRI is clearly necessitated by their international character and respective purposes. The objective is to avoid the danger of partiality and interference by the host country in their internal workings.

Justice Puno further explained, in his concurring opinion, in **Liang**:

Clearly, the most important immunity to an international official, in the discharge of his international functions, is immunity from local jurisdiction. There is no argument in doctrine or practice with the principle that an international official is independent of the jurisdiction of the local authorities for his official acts. Those acts are not his, but are imputed to the organization, and without waiver the local courts cannot hold him liable for them. In strict law, it would seem that even the organization itself could have no right to waive an official's immunity for his official acts. This permits local authorities to assume jurisdiction over an individual for an act which is not, in the wider sense of the term, his act at all. It is the organization itself, as a juristic person, which should waive its own immunity and appear in court, not the individual, except insofar as he appears in the name of the organization. Provisions for immunity from jurisdiction for official acts appear, aside from the aforementioned treaties, in the constitution of most modern international organizations. The acceptance of the principle is sufficiently widespread to be regarded as declaratory of international law.

Such are the immunities recognized under **P.D. No. 1620**, viz:

**Article 2**  
**Immunities and Privileges**

The Institute shall enjoy in the Philippines all the immunities and privileges normally accorded to international organizations of a universal character.

**Article 3**  
**Immunity from Legal Process**

The Institute shall enjoy immunity from any penal, civil and administrative proceedings, except insofar as that immunity

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has been expressly waived by the Director-General of the Institute or his authorized representatives.

**Article 10**  
**Purpose of Immunities**

1. The privileges and immunities provided for by this decree are not intended for the personal benefit of the officials of the Institute. They are accorded solely in order to ensure in all circumstances the free operation of the Institute and the complete freedom of its officials.

2. The Director-General of the Institute shall have the right and duty to waive the immunity of any official whenever, in his opinion, the immunity would impede the normal course of justice and can be waived without prejudice to the interest of the Institute.

They are also the same immunities granted under the **Headquarters Agreement** between the Government of the Republic of the Philippines and the International Rice Research Institute:

**ARTICLE IV**  
**IMMUNITIES AND PRIVILEGES**  
**1. Grant of Immunities and Privileges**

Section 4.1.1. The Institute shall enjoy the immunities and privileges accorded to an international organization of universal character.

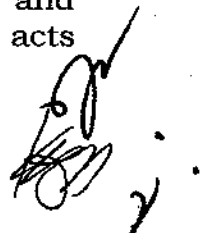
Section 4.1.2. Immunity in general shall be accorded to non-Filipino officers of the Institute only. Immunity for Filipino Officers shall be limited to those relative to the performance of their functions or duty.

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**3. Immunity from Legal Process**

Section 4.3.1. The Institute shall enjoy immunity from any penal, civil and administrative proceedings, except insofar as that immunity has been expressly waived by the Director-General or his/her authorized representatives.

Section 4.3.2. The members of the Board of Trustees, officials, staff, and consultant of IRRI shall enjoy immunity from legal process, including arrest and detention, in respect of words spoken or written and acts



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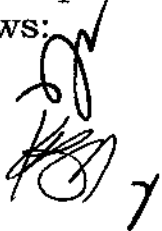
performed by them in their official capacity, except where such immunity is waived by the Director-General. This provision will not relieve any person from liability for any damage arising from any criminal act, gross negligence or fraudulent act.”

Here, accused Padolina's participation in the approval of the *Car Plan* is not related to the performance of his official functions as Deputy Director General of IRRI and they were not in furtherance of the objectives of IRRI.

**P.D. No. 1620** lists the objectives of the IRRI as follows:

1. To conduct basis research on the rice plant, on all phases of rice production, management, distribution and utilization with a view of attaining nutritive and economic advantage of benefit for the people of Asia and other major rice-growing areas through improvement in quality and quantity of rice;
2. To publish and disseminate research findings and recommendations of the Institute;
3. To distribute improved plant materials to regional and international research centers where they might be of significant value or use in breeding or improvement programs;
4. To develop and educate promising young scientists, primarily from South and Southeast Asia along lines connected with or relating to rice production, distribution and utilization, through a resident training program under the guidance of well-trained and distinguished scientists;
5. To establish, maintain and operate an information center library which will provide, among others, for interested scientists and scholars everywhere a collection of the world's literature on rice;
6. To organize or hold periodic conferences, forums and seminars, whether international, regional, local or otherwise for the purpose of discussing current problems.

The same Presidential Decree recognized that through a *Memorandum of Understanding* the IRRI was granted incidental powers in furtherance of the foregoing objectives, as follows:



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1. To acquire or obtain from any governmental authority, national, municipal or local, foreign or domestic or otherwise or from any corporation, company, association, or person, such charters, franchises, licenses, rights, privileges, assistance, financial or otherwise, and concessions as are conducive to and necessary for the attainment of the purpose of the Institute.
2. To receive and acquire by donation, grants, exchange, devise, bequests, purchase, or lease either absolutely or in trust, contributions from any person, firm or entity whomsoever of such properties, real and personal, including funds and valuable effects, as may be necessary to carry out the objects and purpose of THE INSTITUTE and to hold, operate, use or otherwise dispose of the same.
3. To do and perform all acts and things as are necessary expedient suitable or proper for the furtherance or accomplishment of the purpose and the attainment of any or all of the objectives herein stated, or which shall appear, at any time, as conducive to and useful for the activities of the Institute.

Accused Padolina's act of voting to approve the Car Plan to provide benefits to employees of the PhilRice do not fall under any of the above objectives or powers of the IRRI.

Accused Padolina's claim that the IRRI issued a certification that his attendance in the PhilRice Board meetings were in his official capacity does not help his case. Notably, the IRRI and the Department of Foreign Affairs did not issue any document attesting that they consider accused Padolina's act of voting to approve the PhilRice Car Plan as his official act as the Deputy Director General of IRRI.

As Justice Puno stated in his concurring opinion in **Liang**, if the immunity does not exist, there is nothing to certify:

*Second*, considering that bank officials and employees are covered by **immunity** only for their official acts, the necessary inference is that the authority of the Department of Affairs, or even of the ADB for that matter, to certify that they are entitled to **immunity** is limited only to acts done in their official capacity. Stated otherwise, it

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is not within the power of the DFA, as the agency in charge of the executive department's foreign relations, nor the ADB, as the international organization vested with the right to waive immunity, to invoke immunity for private acts of bank officials and employees, since no such prerogative exists in the first place. If the immunity does not exist, there is nothing to certify.

As an aside, ADB cannot even claim to have the right to waive **immunity** for private acts of its officials and employees. The Charter and the Headquarters Agreement are clear that the **immunity** can be waived only with respect to official acts because this is only the extent to which the privilege has been granted. One cannot waive the right to a privilege which has never been granted or acquired.

Finally, the Sandiganbayan has jurisdiction over the offenses charged and over the person of accused Padolina.

Section 4 of **P.D. No. 1606**,<sup>26</sup> provides:

**Section 4. Jurisdiction** - The Sandiganbayan shall exercise original jurisdiction in all cases involving:

a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corruption Practices Act, and Republic Act No. 1379, and Chapter II, Section 2, Title VII 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:

(a) x x x

(b) Presidents, directors or trustees, or managers of government-owned or controlled

<sup>26</sup> Revising Presidential Decree No. 1486 Creating a Special Court to be Known as "Sandiganbayan" and for Other Purposes

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corporations, state universities or educational institutions or foundations;<sup>27</sup>

(c) x x x

The two (2) Information charging accused Padolina of violation of Sections 3(e) and 3(g) of Republic Act No. 3019 fall squarely under Section 4(a) of P.D. No. 1606.

On the other hand, accused Padolina is charged as a member of the Board of PhilRice and he is charged of having acted in conspiracy with his co-accused, including the Secretary of Agriculture, an official of the executive branch occupying a position higher than an executive director with Salary Grade 31. Undoubtedly, the present cases fall within the jurisdiction of this Court.

Perforce, the *Motion to Quash* must be denied.

**WHEREFORE**, the *Motion to Quash* dated January 22, 2018 filed by accused William G. Padolina, is **DENIED**.


**SO ORDERED.**

Quezon City, Metro Manila.

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**WE CONCUR:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**ZALDY V. TRESPESSES**  
Associate Justice

<sup>27</sup> Underscoring supplied.