



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
 Quezon City

SIXTH DIVISION

**PEOPLE OF THE PHILIPPINES,** **SB-18-CRM-0240**  
 Plaintiff, For: Violation of Sec. 3(e)  
 of R.A. No. 3019

**SB-18-CRM-0242**  
 For: Direct Bribery under  
 Art. 210 of the RPC

**SB-18-CRM-0243**  
 For: Violation of P.D. No. 48

*Present*

- versus -

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

**AL C. ARGOSINO, ET AL.**  
 Accused.

*Promulgated:*

**JAN 07 2019** / *1/09/19*

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**RESOLUTION**

**FERNANDEZ, SJ, J.**

This resolves the *Motion for Reconsideration (Re: Resolution dated 12 November 2018)*<sup>1</sup> filed by accused Michael B. Robles; and the *Motion for Reconsideration (Court Resolution dated 12 November 2018 re Denial of Motion to Quash Informations and/or Dismiss Cases)*<sup>2</sup> filed by accused Al C. Argosino.

*[Handwritten signature]*

\* J. Trespeses participated in the assailed Resolution (2018 Revised Internal Rules of the Sandiganbayan, Rule X, Sec. 2[a]); in view of the inhibition of J. Vivero (Per Administrative Order No. 295-2018 dated May 25, 2018)

<sup>1</sup> Dated November 16, 2018; Record, Vol. 6, pp. 250-264

<sup>2</sup> Dated November 16, 2018; Record, Vol. 6, pp. 265-276

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In his *Motion for Reconsideration*, accused Robles prays that this Court reverse and set aside the Resolution dated November 12, 2018,<sup>3</sup> and issue a new one quashing and/or dismissing the cases/Informations in the present cases. He argues:

1. The mere fact that the crimes charged in SB-18-CRM-0240 (violation of Sec. 3[e] of R.A. No. 3019), 0242 (Direct Bribery under Art. 210 of the Revised Penal Code) and 0243 (violation of P.D. No. 46) are absorbed in Plunder justifies the dismissal of said cases.
2. Under R.A. No. 7080 (Plunder Law), the means of acquiring ill-gotten wealth are offenses which are necessary to commit Plunder. These offenses are not treated as separate crimes, but constitute a single crime called Plunder.
3. In *Jose "Jinggoy" E. Estrada v. Sandiganbayan, et al.*,<sup>4</sup> it was held that the Plunder Law was enacted to address the problem of having to file multiple Informations in court.
4. The prosecution argued that the Plunder Law gives it the option of filing one Information for Plunder, instead of filing multiple Informations for separate acts or omissions. However, in the present cases, the prosecution did not choose between filing an Information for Plunder, and filing multiple Informations for the separate acts or omissions. It filed an Information for Plunder, in addition to multiple Informations for separate acts or omissions.
5. In *People v. Malinao*,<sup>5</sup> it was held that "when an offense becomes a component of another, x x x the former is not to be further separately punished."
6. The fundamental principle in applying and in interpreting criminal laws is to resolve all doubts in favor of the accused. Thus, the interpretation which is more lenient to the accused must be adopted.

In his *Motion for Reconsideration*, accused Argosino similarly prays for the reversal of the Resolution dated November 12, 2018, and the issuance of a new one granting his Motion to Quash and/or Dismiss the cases. He avers:

<sup>3</sup> Record, Vol. 6, pp. 208-214

<sup>4</sup> G.R. No. 148965, February 26, 2002

<sup>5</sup> G.R. No. 128148, February 16, 2004

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1. The denial of his Motion was based on the lack of prior conviction or acquittal, or the dismissal of a previous case without the consent of the accused.
2. There could have been no prior conviction or acquittal in the Plunder case<sup>6</sup> because said case was consolidated with the present cases. The consolidated cases are the subjects of a single trial.
3. The extent of double jeopardy is not limited to cases where there is a conviction or acquittal in, or the dismissal of, a previous case.
  - a. In *Philippine Savings Bank v. Spouses Bermoy*,<sup>7</sup> the Supreme Court held that double jeopardy may be invoked if the accused was charged with the same offense in two separate pending cases.
  - b. In *People v. Relova*,<sup>8</sup> it was held that conviction or acquittal is not indispensable to sustain the plea of double jeopardy.
4. The present cases should be dismissed because the crimes charged are absorbed, or are necessarily included, in Plunder.
  - a. The deliberations of the Congress in the enactment of the Plunder Law would show that Plunder absorbs the crimes charged in the present cases.
  - b. Under the principle of complex crime, the filing of multiple Informations is proscribed.
5. Plunder, which is committed through other crimes, is a complex crime, and as such, calls for the imposition of the maximum penalty, not the filing of multiple Informations.

In its *Consolidated Opposition (To Accused Al C. Argosino and Michael B. Robles' Motions for Reconsideration both dated 16 November 2018)*,<sup>9</sup> the prosecution counters:

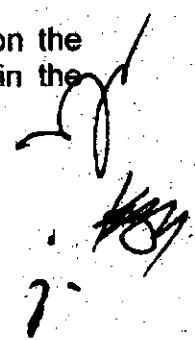
1. The accused failed to prove that all the requisites of double jeopardy are present.
2. Accused Argosino and Robles' Motion was anchored on the contention that the crimes charged in the Information in the

<sup>6</sup> SB-18-CRM-0241

<sup>7</sup> G.R. No. 151912, September 26, 2005

<sup>8</sup> G.R. No. L-45129, March 6, 1987

<sup>9</sup> Dated November 28, 2018; Record, Vol. 6, pp. 279-293



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present cases are absorbed in Plunder. This is not a ground for the filing of a motion to quash after they have entered their plea.

3. The crimes charged in the present cases are not absorbed in Plunder.
  - a. The crimes charged cannot be considered "the same offense" as Plunder.
  - b. The present cases, and that for Plunder, arose from the same set of facts. However, the crimes charged are essentially different because they have diverse indispensable elements.
  - c. There being no ambiguity in R.A. No. 7080, the accused' resort to the legislative deliberations is uncalled for. Had Plunder been intended to absorb its predicate crimes, it would have been expressly provided in R.A. No. 7080.
4. The principles of complex crime proper or *delito complejo*, and continuing crime or *delito continuado* are not applicable in the present cases.

### THE COURT'S RULING

In their respective Motions for Reconsideration, accused Argosino and Robles insist that the offenses charged in the present cases are absorbed in Plunder, and thus, the accused should be charged with Plunder only, and not Plunder, in addition to the offenses charged in the present cases. Accused Argosino further contends that a prior conviction or acquittal is not indispensable to the invocation of double jeopardy.

This Court is not persuaded.

Indeed, in *Philippine Saving Bank v. Spouses Bermoy*,<sup>10</sup> the Supreme Court held:

The right against double jeopardy can be invoked if (a) the accused is charged with the same offense in two separate pending cases, or (b) the accused is prosecuted anew for the same offense after he had been convicted or acquitted of such offense, or (c) the prosecution appeals from a judgment in the same case.<sup>11</sup> The

<sup>10</sup> *supra*, Note 7

<sup>11</sup> Citing II F. Regalado, Remedial Law Compendium 491 (10<sup>th</sup> ed., 2004)

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last is based on Section 2, Rule 122 of the Rules of Court which provides that "[a]ny party may appeal from a final judgment or order, **except if the accused would be placed thereby in double jeopardy.**"

Likewise, in *People v. Relova*,<sup>12</sup> citing *Yap v. Lutero*,<sup>13</sup> as part of the discussion, it was stated:

x x x. Incidentally, such conviction or acquittal is not indispensable to sustain the plea of double jeopardy of punishment for the same offense. So long as jeopardy has attached under one of the informations charging said offense, the defense may be availed of in the other case involving the same offense, even if there has been neither conviction nor acquittal in either case.

But an examination of said Decisions would show that the issues resolved in those cases are not the same as that which this Court must resolve. In *Philippine Saving Bank v. Spouses Bermoy*, the Supreme Court resolved the issue of whether a review of the trial court's dismissal of the case upon demurrer to evidence will place the accused in double jeopardy. On the other hand, in *People v. Relova*, the Supreme Court differentiated the two (2) kinds of double jeopardy, the first, under the first sentence of the constitutional provision on double jeopardy,<sup>14</sup> and the second, under the second sentence. Neither case passed upon the issue before this Court.

Although rendered earlier than the aforementioned cases, the ruling in *People v. Milflores*<sup>15</sup> is more apropos to the present cases. There, an Information for multiple frustrated murder, and a separate one for murder, were filed against the accused. The two (2) cases arose from the same act of delivering a bomb inside a bag containing vegetables, which resulted in the death of one person, and injuries to seven others. Therein accused' motion to quash on the ground of double jeopardy was denied, and after a joint trial, the trial court rendered a decision of conviction for multiple attempted murder, and for murder. Upon appeal, the accused assailed the denial of his motion to quash. He argued that his plea in the charge of murder—after he had entered his plea in the charge of multiple frustrated murder—placed him in double jeopardy because both charges arose from a single act.

<sup>12</sup> *supra*. Note 8

<sup>13</sup> G.R. No. L-12669, April 30, 1959; 105 Phil. 1307 (1959)

<sup>14</sup> Now Art. III, Sec. 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

<sup>15</sup> G.R. Nos. L-32144-45, July 30, 1982

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According to the Supreme Court, the issue was not whether or not therein accused was under risk of double jeopardy, but whether or not the error of filing two separate informations for the same offense was a reversible error. The Supreme Court held that although the filing of separate informations for the same offense was, indeed, a technical error, the defect was cured because the cases were jointly tried, and it was as if the accused had been prosecuted and tried under a single Information. viz.:

And so, the legal problem before Us is not really whether or not the filing of Criminal Case No. 88174 placed appellant under risk of double jeopardy. What has to be resolved here is the question of whether or not the error of the fiscal of filing two separate informations for the same offense, albeit with different offended parties in each of them, in reversible error, having in view the peculiar milieu of the said cases.

On this point, the Solicitor General submits that:

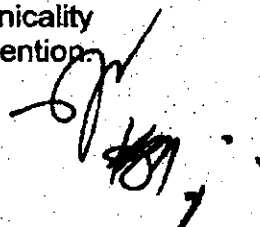
"We submit that Criminal Cases Nos. 88173 and 88174 were the results of appellant's single act (pp. 1 and 1, Informations, rec.), and should have been incorporated in one criminal information in accordance with the provision of Article 48 of the Revised Penal Code, the same being a complex crime. The reason behind the legal doctrine of discouraging the splitting of cause of action in complex crimes was enunciated by this Honorable Supreme Court in the case of *People vs. Cano*, G.R. No. L-19660, May 24, 1966; when it ruled that:

x x x

Significantly, the cases at bar were filed at the same time and there was a joint hearing in both cases (pp. 1-2; t.s.n., Magalit March 21, 1968). Definitely then, joint hearing conducted by the trial court in the cases at bar cured the technical defect of splitting of the cause of action, for the inconvenience sought to be prevented was avoided.

"Moreover, the cases cited by the appellant in support for its defense of double jeopardy cannot be applied in this case (pp. 8, 9, Appellant's Brief). Firstly, because there was only one injured party in the cited cases, while there were several injured parties in the case at bar, secondly, the filing of the information and the hearings on the former cases were made one after the other, while the information in the cases at bar were filed on the same date x x x

There is, to Our mind, some degree of plausibility in such posture of the People. Indeed, it is obvious that the technical error of the fiscal in filing two separate informations did not cause appellant any substantial prejudice at all. In effect, as the proceedings were actually conducted, it is as if appellant had been prosecuted and tried under a single information. It would be giving premium to technicality and sacrificing substantial justice to yield to counsel's contention.



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Besides, to do so would result in duplicating what had already been done, the full-dressed trial of the case, with both prosecution and defense presenting all their respective evidence.

But the more untenable aspect of the position of appellant is that when he invoked the defense of double jeopardy, what could have been the first jeopardy had not yet been completed or even began. It is settled jurisprudence in this Court that the mere filing of two informations or complaints charging the same offense does not yet afford the accused in those cases the occasion to complain that he is being placed in jeopardy twice for the same offense, for the simple reason that the primary basis of the defense of double jeopardy is that the accused has already been convicted or acquitted in the first case or that the same has been terminated without his consent. (Bulaong vs. People, L-19344, July 27, 1966, 17 SCRA 746; Silvestre vs. Military Commission No. 21, No. L-46366, March 8, 1978; Buscayno vs. Military Commissions Nos. 1, 2, 6 and 25, No. L-58284, Nov. 19, 1981, 109 SCRA 273)

Accordingly, We overrule appellant's first assignment of error.

(underscoring supplied)

This was repeated in the later case of *People v. Malinao*,<sup>16</sup> wherein the accused was charged, in two separate Informations, with murder, and with illegal possession of a firearm.<sup>17</sup> At the time of the commission of the offenses in that case, an accused found guilty in a killing effected with the use of an unlicensed firearm is not punished for homicide or murder, and separately, for illegal possession of a firearm. The homicide or murder becomes an essential element in the aggravated form of illegal possession of a firearm, and the accused is punished only for such aggravated form of illegal possession of a firearm. Because the murder or homicide is only an element in the aggravated form of illegal possession of a firearm, the accused is essentially punished for a single offense.

The separate opinion of Justice Florenz D. Regalado in *People v. Barros*<sup>18</sup> was made an integral part of the High Court's Decision in *Malinao*, to serve as a guide in cases involving a killing effected with the use of an unlicensed firearm. Pertinent to the present cases are the portions of the discussion which detail how an accused found guilty of both offenses should be penalized, and the appropriate course of

<sup>16</sup> *supra*. Note 5

<sup>17</sup> The prevailing laws at the time of the commission of the offenses were Art. 249 of the Revised Penal Code and P.D. No. 1866

<sup>18</sup> G.R. Nos. 101107-08, June 27, 1995

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action courts must take in cases were separate Informations for homicide or murder, and for illegal possession of a firearm, are filed, instead of only a single Information for the aggravated form of illegal possession of a firearm. To wit:

At this point, it is imperative for the Court, so as to serve as a guide for the Bench and the Bar, to reproduce the separate opinion of illustrious Mr. Justice Florenz D. Regalado in the *Barros* case which was mentioned in the ponencia of then Chief Justice Andres R. Narvasa as having been subscribed to by all the then Members of the Court and now being made an integral part of herein decision, viz:

The main concern was as to whether or not, whenever a killing is effected with the use of an unlicensed firearm, the malefactor should be punished separately for both offenses, with the unlawful taking of life to be proceeded against under the corresponding provision of the Revised Penal Code and the illegal possession of the firearm under Presidential Decree No. 1866. The case now before the Court presents an opportunity for a reevaluation of the previous rulings on this issue.

x x x

This premise accordingly brings up the second query as to whether or not the crime should properly be the aggravated illegal possession of an unlicensed firearm through the use of which a homicide or murder is committed. It is submitted that an accused so situated should be liable only for the grave offense of aggravated illegal possession of the firearm punished by death under the second paragraph of Section 1, Presidential Decree No. 1866, and it is on this point that the writer dissents from the holding which would impose a separate penalty for the homicide in addition to that for the illegal possession of the firearm used to commit the former.

If the possession of the unlicensed firearm is the only offense imputable to the accused, the Court has correctly held that to be the simple possession punished with *reclusion temporal* in its maximum period to *reclusion perpetua* in the first paragraph of Section 1. **Where, complementarily, the unlicensed firearm is used to commit homicide or murder, then either of these felonies will convert the erstwhile simple illegal possession into the graver offense of aggravated illegal possession. In other words, the homicide or murder constitutes the essential element for integrating into existence the capital offense of the aggravated form of illegal possession of a firearm.** Legally, therefore, it would be illogical and unjustifiable to use the very same offenses of homicide or murder as integral elements of and to create the said capital offense, and then treat the former all over again as independent offenses to be separately punished further, with penalties immediately following the death penalty to boot.

The situation contemplated in the second query is, from the punitive standpoint, virtually of the nature of the so-called "special complex crimes," which should more appropriately be called composite crimes, punished in Article 294, Article 297 and Article 335. They are neither of the same legal basis as nor subject to the rules on complex crimes in Article 48, since they do not consist of a single act giving rise to two or more grave or less



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grave felonies nor do they involve an offense being a necessary means to commit another. However, just like the regular complex crimes and the present case of aggravated illegal possession of firearms, only a single penalty is imposed for each of such composite crimes although composed of two or more offenses.

x x x

What is, therefore, sought to be stressed by such alternative illustration, as well as the discussion on complex and composite crimes, is that when an offense becomes a component of another, the resultant crime being correspondingly punished as thus aggravated by the integration of the other, the former is not to be further separately punished as the majority would want to do with the homicide involved in the case at bar.

x x x

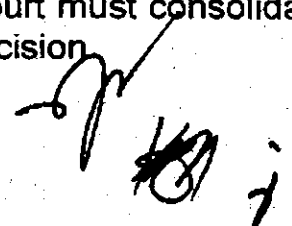
Lastly, on the matter of the offense or offenses to be considered and the penalty to be imposed when the unlawful killing and the illegal possession are charged in separate informations, from what has been said the appropriate course of action would be to consolidate the cases and render a joint decision thereon, imposing a single penalty for aggravated illegal possession of firearm if such possession and the unlawful taking of life shall have been proved, or for only the proven offense which may be either simple illegal possession, homicide or murder *per se*. The same procedural rule and substantive disposition should be adopted if one information for each offense was drawn up and these informations were individually assigned to different courts or branches of the same court.

x x x

In any event, the foregoing contingencies would run counter to the proposition that the real offense committed by the accused, and for which sole offense he should be punished, is the aggravated form of illegal possession of a firearm. Further, it is the writer's position that the possible problems projected herein may be minimized or obviated if both offenses involved are charged in only one information or that the trial thereof, if separately charged, be invariably consolidated for joint decision. Conjointly, this is the course necessarily indicated since only a single composite crime is actually involved and it is palpable error to deal therewith and dispose thereof by segregated parts in piecemeal fashion.

(underscoring supplied)

From the foregoing, it can be gathered that when multiple Informations charging different offenses are filed, where only one should have been filed because one or more offenses are included in another, or one or more offenses should have been complexed with another, the accused may not be punished separately for each of the crimes charged. However, there is no need to dismiss the other cases. In such event, the court must consolidate the cases, hold a joint trial, and render a joint decision.



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This Court notes that *Milflores* and *Malinao* involve offenses different from those charged in the present cases. However, in both cases, there were two (2) Informations filed, where only one Information incorporating the offenses separately charged should have been filed. In both cases, the Supreme Court discussed the appropriate course of action that must be taken in such event.

Accused Argosino and Robles insist the offenses charged in the present cases are absorbed in, and are necessarily included in the offense of Plunder, and therefore, only an Information for Plunder should have been filed. But as seen in *Milflores* and *Malinao*, the proper course of action is not to dismiss the present cases, but to hold a joint trial and render a joint decision.

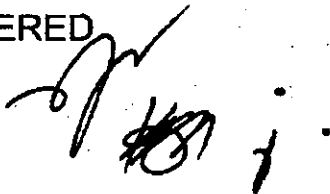
Verily, SB-18-CRM-0241 and the present cases had already been consolidated, will be jointly tried, and will be disposed of in a single decision. In fact, accused Argosino even cites the consolidation of the cases as the very reason why the accused cannot raise the defense of double jeopardy.<sup>19</sup> Hence, the alleged error of filing multiple Informations for the same offense has been addressed.

At this stage in the proceedings, the Court finds it unnecessary to determine if the offenses charged in the present cases are absorbed in Plunder.

**WHEREFORE**, the Court rules as follows:

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

SO ORDERED



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<sup>19</sup> *Motion for Reconsideration*, pp. 2 (par. 6), 4 (par. 13)

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**SARAH JANE T. FERNANDEZ**

Associate Justice  
Chairperson

**We Concur:**



**KARL B. MIRANDA**  
Associate Justice



**ZALDY V. TRESPESSES**  
Associate Justice