

Republic of the Philippines
SANDIGANBAYAN
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

**Crim. Cases Nos. 28107 and
SB-09-CRM-0194**

*For: Plunder
Violation of Sec. 4(a) of
R.A. No. 9160*

versus

Present:
Herrera, Jr., J. *Chairperson*
Musngi, J. &
Malabaguio, J.

MAJ. GEN. CARLOS F. GARCIA, ET AL.,
Accused.

Promulgated:
July 5, 2022 ant

X-----X

DECISION

HERRERA, JR., J.:

Accused Major General Carlos F. Garcia is charged before this Court as follows:

In Criminal Case No. 28107, accused Garcia is charged with ***Plunder***, defined and penalized under ***Republic Act (R.A.) No. 7080, as amended***, jointly with Clarita D. Garcia, Ian Carl D. Garcia, Juan Paulo D. Garcia, Timothy Mark D. Garcia, John, James and Jane Does, under an ***Information***¹ dated April 5, 2005, the accusatory portion of which reads:

“ That during the period from 1993 or sometime prior thereto, until 17 November 2004, in Quezon City, Philippines, the above-named accused **MAJ. GEN. CARLOS F. GARCIA**, a high-ranking public officer, having been a colonel of the Armed Forces of the Philippines since 1990 until his retirement with the rank of Major General in November 2004, by himself and in connivance/conspiracy with his co-accused members of his family **CLARITA D. GARCIA, IAN CARL D. GARCIA, JUAN PAULO D. GARCIA,**

¹ Record of Criminal Case No. 28107, Vol. 1, pp. 1-3

TIMOTHY MARK D. GARCIA, and in connivance/conspiracy with his other co-accused persons **JOHN DOES, JAMES DOES AND JANE DOES**, did then and there, willfully, unlawfully, and criminally, amass, accumulate and acquire ill-gotten wealth in the form of funds, landholdings and other real and personal properties, in the aggregate amount of at least **THREE HUNDRED THREE MILLION TWO HUNDRED SEVENTY-TWO THOUSAND FIVE AND 99/100 PESOS (P303,272,005.99)**, more or less, by himself, and in conspiracy with the above-named persons, through a series and/or combination of overt or criminal acts or similar schemes or means, by receiving commissions, gifts, shares, percentages, kickbacks or other forms of pecuniary benefits like "shopping money or gratitude money" from said **JAMES DOES** and **JANE DOES** and/or entities, in connection with government contracts or projects and/or by reason of the public office or position held by accused **MAJ. GEN CARLOS F. GARCIA** and/or by his taking undue advantage himself at the expense and to the damage of the Filipino People and the Republic of the Philippines.

ALL WITHIN THE JURISDICTION OF THE COURT AND CONTRARY TO LAW"

In Criminal Case No. SB-09-CRM-0194, accused Garcia is charged with **Violation of Section 4(a) of Republic Act (R.A.) No. 9160, as amended**, otherwise known as the **Anti-Money Laundering Act**, jointly with Clarita D. Garcia, Ian Carl D. Garcia, Juan Paulo D. Garcia, Timothy Mark D. Garcia, under an **Information**² dated November 17, 2009, the accusatory portion of which, insofar as pertinent, reads in part:

" That on or about the period 12 July 2002 to July 2004, or sometime prior or subsequent thereto, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the said accused **MAJ.GEN. CARLOS F. GARCIA**, a public officer, being then the Deputy Chief of Staff for Comptrollership of the Armed Forces of the Philippines, and private individuals **CLARITA DEPAKAKIBO GARCIA, IAN CARL D. GARCIA, JUAN PAULO D. GARCIA** and **TIMOTHY MARK D. GARCIA**, conspiring and confederating with each other and one another did, then and there, willfully, feloniously and maliciously transact the funds/money deposited in the accounts of the above-named accused with United Coconut Planters Bank, Bank of the Philippine Islands, Land Bank of the Philippines, Allied Banking Corporation, Banco de Oro, Planters Development Bank, Export and Industry Bank, Centennial Bank, Armed Forces and Police Savings and Loan ASSOCIATION Inc. (AFPSLAI), and Air Material Wing Savings and Loan Association Inc. (AMWLAI), all covered institutions, in the amount of **THREE HUNDRED THREE MILLION TWO HUNDRED SEVENTY TWO THOUSAND FIVE 99/100 PESOS (Php 303,272,005.99)** by depositing the same and eventually withdrawing from the said funds a total amount of **SEVENTY THREE MILLION and 00/100 PESOS (Php 73,000,000.00)** and **NINE HUNDRED SIXTY SEVEN THOUSAND TWO HUNDRED FIFTEEN THOUSAND and 99/100 US DOLLARS (US\$967,215.99)**, knowing that the same represent,

² Record of Criminal Case No. SB-09-CRM-0194, pp. 1-10

involve and/or relate to the proceeds of violation of Republic Act No. 7080, as amended, also known as Plunder, which is considered unlawful activity under Section 3(i)(4) of Republic Act No. 9160, as amended, and that the said funds deposited with the aforementioned banks were specifically transacted by the above-named accused in the following manner as follows:

XXX.
XXX.
XXX.

CONTRARY TO LAW”

Records show that from the charge of **Plunder** to which he earlier pleaded not guilty, accused Garcia pleaded guilty to the lesser offence of **Direct Bribery** under **Article 210 of the Revised Penal Code**; while from the charge of **Violation of Section 4(a) of R.A. 9160, the Anti-Money Laundering Act**, he pleaded guilty to the offense of **Violation of Section 4(b) of R.A. 9160, or Facilitating Money Laundering**³.

The pleas of guilty to the aforementioned lesser offenses was made pursuant to a **Plea-Bargaining Agreement**⁴ between the Office of the Special Prosecutor of the Office of the Ombudsman, on one hand, and accused Garcia, on the other hand, which was filed with the Court on March 16, 2010. The **Plea-Bargaining Agreement** was assailed in a **Petition for Certiorari** filed with the Supreme Court by the Republic of the Philippines, represented by the Office of the Solicitor General (OSG).

In a **Decision**⁵ promulgated on September 16, 2020 in G.R Nos. 207340 and 207349, the Supreme Court dismissed the above-mentioned **Petition for Certiorari**. On May 13, 2022, the Court received the **Entry of Judgment**⁶ issued by the Supreme Court stating that the **Decision** rendered on September 16, 2020 in G.R. Nos. 207340 and 207349 became final and executory on July 15, 2021.

³ Record of Criminal Case No. 28107, Vol. 10, pp. 7495-7496

⁴ Record of Criminal Case No. 28107, Vol. 9, pp. 7187-7205

⁵ Record of Criminal Case No. 28107, Vol. 13, pp. 9714-9733

⁶ Id, p. 9736

In the aforementioned **Decision**, the Supreme Court declared, inter alia, that:

“ This resolves the Petition for Certiorari filed by the Republic of the Philippines, represented by the Office of the Solicitor General, assailing the Plea-Bargaining Agreement between the Office of the Special Prosecutor and retired Major General Carlos F. Garcia (Garcia).

X X X.

X X X.

Separate cases for plunder and money laundering, which were eventually consolidated, were filed against the Garcia family before the Sandiganbayan. Only Garcia was arraigned for both cases, to which he pleaded not guilty.

X X X.

On March 16, 2010, as the prosecution was about to rest its case, the Office of the Special Prosecutor and Garcia filed a Joint Motion for Approval of Plea-Bargaining Agreement. The agreement was approved and signed by then Ombudsman Merceditas N. Gutierrez (Ombudsman Gutierrez).

In the Plea-Bargaining Agreement, Garcia withdrew his plea of not guilty to the crime of plunder and offered to enter a plea of guilty to the lesser offense of indirect bribery.

In addition, Garcia entered a plea of not guilty to the charge of money laundering, but then withdrew it for purposes of plea bargaining and offered to enter a plea of guilty to the lesser offense of facilitating money laundering. He also stated that his family members, who were charged in the same cases, had no participation in the cases filed against them.

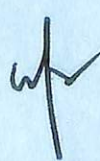
As part of the Plea-Bargaining Agreement, Garcia offered to cede P135,433,387.84 worth of cash, real and personal properties owned by himself and his family in favor of the government.

In consenting to the Plea-Bargaining Agreement, the Office of the Ombudsman, citing *People v. Kayanan*, stated that such an agreement was allowed when there was no “sufficient evidence to establish the guilt” of the accused.

On May 4, 2010, the Sandiganbayan, without acting on the Joint Motion for Approval of Plea-Bargaining Agreement and the Plea-Bargaining Agreement, directed Garcia to execute the necessary deeds of conveyance to transfer the properties covered in the Plea-Bargaining Agreement in favor of the State.

The Sandiganbayan held that Garcia’s change of plea under the Plea-Bargaining Agreement was warranted because it complied with the applicable rules and guidelines contained in the jurisprudence. It also pointed out that Garcia voluntarily agreed to the Plea-Bargaining Agreement and was apprised of its consequences.

X X X.



On December 16, 2010, Garcia pleaded guilty to the lesser offense of direct bribery and to the offense of violation of Section 4 (b) of Republic Act No. 9160 or Facilitating Money Laundering.

x x x.

x x x.

Both plunder and direct bribery involve public officers who capitalize on their official positions to commit a crime or an unjust act which would lead to their financial benefit. Thus, the plea of guilt to the lesser offense of direct bribery is necessarily included in the charged offense of plunder, because some of the essential elements of the crime of plunder constitute direct bribery.

In the same manner, the new charge of violation of Section 4(b) of the Anti-Money Laundering Act, or facilitating money laundering, is necessarily included in the original charge of violation of Section 4(a), or money laundering, against respondent Garcia.

Additionally, it is not disputed that the Office of the Special Prosecutor, upon the authority of the Ombudsman, has the power to enter into a plea-bargaining agreement. Here, Special Prosecutor Wendell Barrera-Sulit, under the direct supervision and control of the Ombudsman Gutierrez, entered into the assailed Plea-Bargaining Agreement with private respondent Garcia.

At this juncture, it must be emphasized that this Court will not interfere with the substance of or the wisdom behind the Plea-Bargaining Agreement, as that falls squarely within the Office of the Ombudsman's mandate of investigating and prosecuting erring government employees. Absent any blatant evidence of irregularity or grave abuse of discretion, this Court will generally confine itself to the legal and technical issues surrounding a plea-bargaining agreement or any similar agreement.

The acceptance of a plea bargain is purely upon the discretion of the prosecutor, while the approval of the plea bargain is subject to the judicial discretion of the court trying the facts. Hence, any review of a plea bargain approved by the Office of the Ombudsman would be tantamount to an appeal on a question of fact and not a proper subject of a Petition for Certiorari.

x x x.

x x x.

WHEREFORE, premises considered, the Petition for Certiorari is **DISMISSED**. The Temporary Restraining Order enjoining the Sandiganbayan from continuing with the proceedings in Criminal Case Nos. 28107 and SB-09-CRM-0194, both entitled "*People of the Philippines v. Major General Carlos F. Garcia*," and from implementing its December 16, 2010 Resolution approving Major Gen. Carlos F. Garcia's request for bail, is **LIFTED**.

SO ORDERED⁷."

⁷ Id, pp. 9714, 9717, 9718, 9731 and 9733

To recapitulate, accused Garcia entered the following pleas on December 16, 2010:

- a) In Criminal Case No. 28107, guilty to the lesser offense of **Direct Bribery** under **Article 210 of the Revised Penal Code**, from a charge of **Plunder** under **R.A. No. 2080**; and
- b) In Criminal Case No. SB-09-CRM-0194, guilty to the lesser offense of **Violation of Section 4(b) of R.A. 9160**, or **Facilitating Money Laundering**, from a charge of **Violation of Section 4(a) of the same R.A. 9160**.

WHEREFORE, premises considered, judgment is hereby rendered as follows:

- 1) In Criminal Case No. 28107, the Court finds accused Carlos F. Garcia guilty beyond reasonable doubt of **Direct Bribery, defined and penalized under Article 210 of the Revised Penal Code**. Pursuant to the provisions of the **Indeterminate Sentence Law**, he is hereby sentenced to suffer imprisonment of Four (4) Years and Two (2) Months of *prision correccional*, as minimum, to Eight (8) Years of *prision mayor* as maximum, and to pay a fine in the amount of FOUR HUNDRED AND SIX MILLION THREE HUNDRED THOUSAND AND ONE HUNDRED SIXTY-TWO PESOS (P406,300,162.00), or three (3) times the total value of the gifts received as per Plea-Bargaining Agreement, with subsidiary imprisonment in case of insolvency

and

- 2) In Criminal Case No. SB-09-CRM-0194, the Court finds accused Carlos F. Garcia guilty beyond reasonable doubt of **Violation of Section 4, paragraph b of Republic Act (R.A.) No. 9160**, or **Facilitating Money Laundering**. He is hereby sentenced to suffer imprisonment of Four (4)



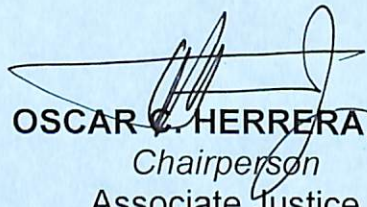
DECISION

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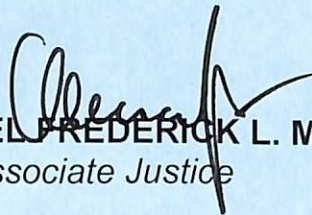
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years, as minimum, to Six (6) years as maximum, and to pay a fine of One Million Five Hundred Thousand Pesos (P1,500,000.00), with subsidiary imprisonment in case of insolvency.

Let these cases be archived with respect to accused Clarita D. Garcia, Ian Carl D. Garcia, Juan Paulo D. Garcia, Timothy Mark D. Garcia, John Does, James and Jane Does, to be revived upon their arrest or voluntary surrender. Let alias warrants of arrest be issued against them.


OSCAR C. HERRERA, JR.
Chairperson
Associate Justice

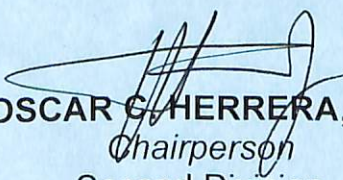
We concur:


MICHAEL FREDERICK L. MUSNGI
Associate Justice


ARTHUR O. MALABAGUIO
Associate Justice

ATTESTATION

I attest that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


OSCAR C. HERRERA, JR.
Chairperson
Second Division

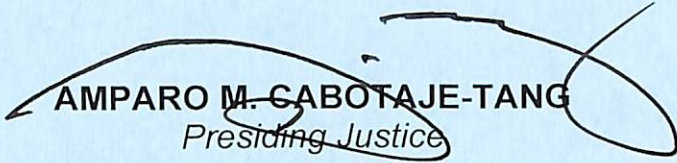
DECISION

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CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairman's Attestation, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice