



Republic of the Philippines
Sandiganbayan
Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-21-CRM-0014 to 0053
For: Violation of Section 3(e)
of R.A. No. 3019, as amended

- versus -

NASSER C. PANGANDAMAN,
ET AL.,

Accused.

X ----- X

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-21-CRM-0054 to 0093
For: Malversation of Public Funds
through Falsification of Public
Documents

- versus -

NASSER C. PANGANDAMAN,
ET AL.,

Accused.

Present:

LAGOS, J., *Chairperson,*
MENDOZA-ARCEGA, and
CORPUS-MAÑALAC, JJ.

Promulgated:

September 08, 2022

X ----- X
Josef S. Legaspi

RESOLUTION

CORPUS-MAÑALAC, J.:

Before this Court is the *Motion for Reconsideration*¹ dated July 25, 2022 filed by accused Janet Lim Napoles, through counsel, on July 29, 2022 seeking a reconsideration of the Resolution² dated July 19, 2022 which denied her *Omnibus Motion (1. To Produce the Complete Records of the Preliminary Investigation supporting the allegations in the Informations; and 2. To Dismiss the above-entitled cases)*³ dated June 22, 2022.

¹ Records, Vol. 4, pp. 176-181.

² *Id.* at 96-103.

³ Records, Vol. 3, pp. 512-529.

Accused Napoles alleges that she received, through counsel, on July 20, 2022, via electronic mail, a copy of the assailed Resolution; that the legal issues raised in the *Omnibus Motion* were not addressed in assailed Resolution, which purportedly concentrated on the difference between the facts in *Okabe v. Gutierrez*⁴ and those in the instant cases; that she “is asking is for the prosecution to show or point out from the records of the preliminary investigation”⁵ where she can “find the alleged records that she operated and/or controlled the NGOs [non-governmental organizations] APMFI, CARED, AEPFFI, PASEDFI, POPDFI, SDPFFI, and MAMFI,”⁶ that as stressed in the *Omnibus Motion*, she is relying on Section 8,⁷ Rule 112 of the Rules of Criminal Procedure in support of her request that, on motion, the Court may order that production of the record or any of its part when necessary in the resolution of the case or any incident therein, in particular her motion to dismiss; that nothing in the assailed Resolution pointed to “the specific part of the records of the preliminary investigation [x x x] which were the basis in the judicial determination of probable cause [x x x] that will support the allegation in the Informations that accused Napoles operated and/or controlled the said NGOs;”⁸ that if the records are incomplete, she is requesting that the same be completed by the prosecution in order to determine whether such allegation is a statement of ultimate fact, considering that nothing in the NGOs’ corporate and financial records supports such allegation; and that a negative finding in the records of the preliminary investigation means that such allegation is not a statement of ultimate fact but a conclusion of law, “as it will entail the piercing of the veil of corporate fiction of the said NGOs which is not proper during judicial determination of probable cause as it will require the presentation of extrinsic evidence which are not part of the records of the preliminary investigation.”⁹

Accused Napoles claims that the Informations are “defective because they do not contain all the elements of the crime charged;”¹⁰ that all of the elements of violation of Section 3(e) of Republic Act (R.A.) No. 3019¹¹ and malversation of public funds are not applicable to her being a private individual; and that she is “being charged of conspiracy with the public officers in these cases [x x x] because, allegedly, she operated and/or controlled the said NGOs”¹² and, consequently, the evidence against her “must be for the purpose of proving her alleged overt act of operating and/or controlling the said NGOs.”¹³

⁴ G.R. No. 150185, 27 May 2004.

⁵ Records, Vol. 4, p. 176 (Motion for Reconsideration, p. 1).

⁶ *Id.*

⁷ Now Section 7, Rule 112 of the Rules of Criminal Procedure, as amended by A.M. No. 05-8-26-SC effective October 3, 2005.

⁸ Records, Vol. 4, p. 177 (Motion for Reconsideration, p. 2).

⁹ *Id.*

¹⁰ *Id.* at 178 (Motion for Reconsideration, p. 3).

¹¹ Anti-Graft and Corrupt Practices Act.

¹² Records, Vol. 4, p. 179 (Motion for Reconsideration, p. 4).

¹³ *Id.*

Accused Napoles further avers that piercing the veil of corporate fiction of the NGOs is improper in these cases “where the purpose is to establish for the first time the alleged liability of the NGOs and [the accused] for the amount sued upon in the Informations,”¹⁴ considering that the Court “will not be able to acquire jurisdiction over the said NGOs as they are not even impleaded in [these] cases;”¹⁵ that any allegation that would require the piercing of the veil of corporate fiction, whether against the NGOs or against her, is not a statement of ultimate fact but a conclusion of law; that if such an allegation is removed for being a conclusion of law that will require piercing the veil of corporate fiction, the accused asks whether the Informations will stand and enable the Court to render a valid judgment against her; and that, finally, it is in this context “why she is saying that the [Court] has no jurisdiction over the offense charged because [the] subject Informations do not contain all the elements of the crimes or offenses charged insofar as she is concerned.”¹⁶

On August 16, 2022, the prosecution filed its *Opposition*¹⁷ dated August 15, 2022 and prayed for the denial of the motion for reconsideration, arguing that the grounds therein are mere repetitions of the arguments that have already been passed upon by the Court.

At this juncture, a summary of the relevant antecedents insofar as accused Napoles is concerned is proper under the circumstances.

On March 21, 2022, accused Napoles filed, through counsel, a *Motion to Quash Information*¹⁸ dated March 19, 2022 based on the grounds under Section 3(a) and (b) of Rule 117, viz.: (1) the facts charged do not constitute an offense, and (2) the court trying the case has no jurisdiction over the offense charged. Except as to *Okabe* and Section 7 of Rule 112, the *Motion to Quash Information* raised essentially the same arguments being invoked in the subsequent *Omnibus Motion* and the present motion for reconsideration, revolving on the clause in the Informations that reads, “a non-government organization operated and/or controlled by Napoles.” The *Motion to Quash Information* prayed that, quoted *verbatim*:

After due proceedings, it is prayed that the subject Informations in the above-entitled cases be quashed because the facts charged do not constitute an offense for violation of Section 3(e) of RA 3019 and Malversation thru Falsification of Public Funds [*sic*] against accused Napoles only or in the alternative, that the above-entitled criminal cases be dismissed for lack of jurisdiction over the offenses charged owing to the defective and void nature of the subject Informations against accused Napoles only.¹⁹

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 180 (Motion for Reconsideration, p. 5).

¹⁷ Unpaginated.

¹⁸ Records, Vol. 3, pp. 84-112.

¹⁹ *Id.* at 111.

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By Resolution²⁰ of May 12, 2022, the Court denied the *Motion to Quash Information* dated March 19, 2022.

Accused Napoles did not file a motion for reconsideration of the Resolution dated May 12, 2022.

On June 22, 2022, accused Napoles, filed, through counsel, the *Omnibus Motion (1. To Produce the Complete Records of the Preliminary Investigation supporting the allegations in the Informations; and 2. To Dismiss the above-entitled cases)*²¹ of even date, repeating the arguments in her *Motion to Quash Information* but, this time, also invoking *Okabe* and Section 7 of Rule 112 for the dismissal of these cases due to the alleged “insufficiency of the records,”²² and prayed that, quoted *verbatim*:

WHEREFORE, it is respectfully prayed that the complete records of the preliminary investigation of the above-entitled cases be produced and that after due proceedings, the above-entitled criminal cases be dismissed pursuant to the ruling in the *Okabe case*.²³ (Italics in the original)

In relation to *Okabe*, to Section 7 of Rule 112 and to the foregoing clause in the Informations, the *Omnibus Motion* raised again that “the subject Informations are defective or void,”²⁴ that “the subject Informations do not appear to charge any offense at all against accused Napoles over which the [Court] can validly exercise its jurisdiction,”²⁵ and that the Court has no jurisdiction over the offenses charged “because of the lacking elements of the crime that should have been properly pleaded in the subject Informations.”²⁶

On June 24, 2022, accused Napoles entered a plea of not guilty to all the charges during arraignment.²⁷

By Resolution²⁸ of July 19, 2022, the Court denied the *Omnibus Motion* dated June 22, 2022.

Thus, the present motion for reconsideration filed on July 29, 2022.

²⁰ *Id.* at 286-298. The prosecution filed its Opposition (To the Motion to Quash Information) dated April 4, 2022 on April 5, 2022 (*Id.* at 243-254).

²¹ *Supra* note 3.

²² Records, Vol. 3, p. 513.

²³ *Id.* at 529.

²⁴ *Id.* at 525.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Records, Vol. 4, pp. 24-25, 30-31. The Order dated June 24, 2022 partly reads, quoted *verbatim* “After being arraigned, all of the accused entered a plea of *NOT GUILTY*, except accused Nasser Pangandaman, Teresita Legaspi Panlilio, Evelyn Ditchon De Leon and Mylene T. Encarnacion who refused to enter a plea. Considering this refusal to enter a plea, the Court enters for the accused pleas of “Not Guilty” (Records, Vol. 4, p. 30).

²⁸ *Supra* note 2. The prosecution filed its Opposition To The Omnibus Motion dated July 4, 2022 on even date (Records, Vol. 4, pp. 65-70).

RULING

The Court denies the motion for reconsideration.

***The motion for reconsideration
was filed out of time.***

Under the penultimate paragraph of Item III, 2(c) of the Revised Guidelines for Continuous Trial of Criminal Cases,²⁹ “[t]he motion for reconsideration of the resolution of a meritorious motion shall be filed within a non-extendible period of five (5) calendar days from receipt of such resolution.”

Granting that the *Omnibus Motion* may be considered a “meritorious motion,” as it also essentially raised grounds permissible under Item III, 2(c)(v),³⁰ the motion for reconsideration of the Resolution dated July 19, 2022 should have been filed within a non-extendible period of five calendar days from receipt thereof.

It was filed on July 29, 2022, nine calendar days from receipt on July 20, 2022 of the assailed Resolution. Such date of receipt is alleged in the motion for reconsideration:

1. On July 20, 2022, accused Napoles thru counsel received *via* e-mail the Resolution dated July 19, 2022 (assailed Resolution) of her Omnibus Motion [x x x].³¹ (Italics in the original)

This fact is supported by the records, in particular by the printout of the sent e-mail to the addresses of accused Napoles’ counsel of record on July 20, 2022,³² containing the Notice³³ dated July 20, 2022 and the Resolution dated July 19, 2022, as well as by the printout of the acknowledgment of receipt by said counsel on record on July 20, 2022.³⁴

Section 7, Rule V of the 2018 Revised Internal Rules of the Sandiganbayan³⁵ provides:

²⁹ A.M. No. 15-06-10-SC, effective September 1, 2017.

³⁰ III. Procedure, 2. Motions

x x x x

(c) *Meritorious Motions.* – Motions that allege plausible grounds supported by relevant documents and/or competent evidence, except those that are already covered by the Revised Guidelines, are meritorious motions, such as:

x x x x

v. Motion to quash information on the grounds that **the facts charged do not constitute an offense, lack of jurisdiction**, extinction of criminal action or liability, or double jeopardy under Sec. 3, par. (a), (b), (g), and (i), Rule 117[.] (Emphasis supplied)

³¹ Records, Vol. 4, p. 176 (Motion for Reconsideration, p. 1).

³² *Id.* at 169. The addresses of the sent e-mail included rgaray@seeds.com.ph and grlaw12b@hotmail.com, the submitted e-mail addresses of accused Napoles’ counsel on record.

³³ *Id.* at 175.

³⁴ *Id.* at 169.

³⁵ A.M. No. 13-7-05-SB, effective November 16, 2018.

Sec. 7. *Modes of Service.* – Without prejudice to the provisions of Rules 13 and 21 of the 1997 Rules of Civil Procedure, the subpoenas and notices shall first be electronically served through e-mail [x x x].

x x x x

The electronic service [x x x] under these guidelines shall be proved by any of the following:

a. printouts of sent e-mail and the acknowledgment by the recipient[.] (Emphasis supplied)

Sections 15 and 18, Rule 13 of the Rules of Civil Procedure³⁶ read:

Sec. 15. *Completeness of service.* – [x x x]

Electronic service is complete at the time of the electronic transmission of the document, or when available, at the time that the electronic notification of service of the document is sent. [x x x].

x x x x

Sec. 18. *Court-issued orders and other documents.* – The court may electronically serve orders and other documents to all the parties in the case which shall have the same effect and validity as provided herein. A paper copy of the order or other document electronically served shall be retained and attached to the record of the case.

That the Court also made a personal service of the Resolution dated July 19, 2022 on accused Napoles' counsel of record on July 26, 2022³⁷ is of no moment. The fact remains that as early as July 20, 2022 her counsel of record had received from the Court the full text of the assailed Resolution, enabling the accused to be fully informed of the factual and legal bases thereof. Otherwise, such an electronic service would be a waste of effort and time and rendered meaningless.

Considering that the fifth day from July 20, 2022 was July 25, 2022, Monday, on which a work suspension was declared because of the President's State of the Nation Address on said day,³⁸ the last day to file the motion for reconsideration was on July 26, 2022, Tuesday, or three days before it was actually filed on July 29, 2022.

For having been belatedly filed, the motion for reconsideration may be denied outright on this score alone.

In any event, granting *arguendo* that it was timely filed, it must still be denied, however, for lack of merit, as discussed hereunder.

³⁶ As amended by A.M. No. 19-10-20-SC, effective May 1, 2020.

³⁷ Records, Vol. 4, p. 175.

³⁸ Memorandum dated July 18, 2022 of Sandiganbayan Presiding Justice Amparo M. Cabotaje-Tang, regarding "WORK SUSPENSION ON JULY 25, 2022."

The ruling in Okabe v. Gutierrez is not a ground for motion to dismiss. Rather, it goes into the conduct of judicial determination of probable cause.

At the outset, the Court observes that accused Napoles may well have been confused regarding the nature and tenor of the ruling in *Okabe*. Moreover, she erroneously conflated *Okabe* and Section 7 of Rule 112 with the grounds for the quashal of an information (*i.e.*, the facts charged do not constitute an offense; the court trying the case has no jurisdiction over the offense charged), all sourced from the clause “a non-government organization operated and/or controlled by Napoles” in the Informations that she continuously harps on in her submissions.

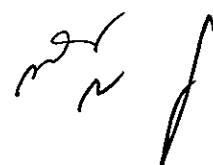
A cursory reading of *Okabe* reveals that the ruling therein does not concern the issue of a dismissal of a case for insufficiency of the records of the preliminary investigation. Verily, the pronouncement therein has to do with the judge’s finding of probable cause on the basis only of the Information, the investigating prosecutor’s resolution and the private complainant’s affidavit-complaint, “in the absence of copies of the affidavits of the witnesses of the private complainant and her reply affidavit, the counter-affidavit of the petitioner, and the evidence adduced during the preliminary investigation.”

Therein, the Supreme Court set aside the prior finding of probable cause, *inter alia*, and directed the judge to determine anew “the existence or non-existence of probable cause for the arrest of the petitioner based on the complete records, as required under Section 8(a) [now Section 7(a)], Rule 112,” explaining that:

[T]he judge must make a personal determination of the existence or non-existence of probable cause [x x x]. The duty to make such determination is *personal and exclusive to the issuing judge*. **He cannot abdicate his duty and rely on the certification of the investigating prosecutor** that he had conducted a preliminary investigation in accordance with law and the Rules of Court, as amended, and found probable cause for the filing of the Information.

x x x x

[I]n determining the existence or non-existence of probable cause [x x x], **the judge should not rely solely on the said report**. The judge should consider not only the report of the investigating prosecutor but also the affidavit/affidavits and the documentary evidence of the parties, the counter-affidavit of the accused and his witnesses, as well as the transcript of stenographic notes taken during the preliminary investigation, if any, submitted to the court by the investigating prosecutor upon the filing of the Information. Indeed, in *Ho v. People*, this Court held that:



[I]t is **not** required that the *complete* or *entire* records of the case during the preliminary investigation be submitted to and examined by the judge. We do not intend to unduly burden trial courts by obliging them to examine the complete records of every case all the time [x x x]. **What is required, rather, is that the judge must have sufficient supporting documents** (such as the complaint, affidavits, counter-affidavits, sworn statements of witnesses or transcripts of stenographic notes, if any) upon which to make his independent judgment or, at the very least, upon which to verify the findings of the prosecutor as to the existence of probable cause. **The point is: he cannot rely solely and entirely on the prosecutor's recommendation**, as Respondent Court did in this case. Although the prosecutor enjoys the legal presumption of regularity in the performance of his official duties and functions, which in turn gives his report the presumption of accuracy, the Constitution, we repeat, commands the judge to personally determine probable cause [x x x]. This Court has consistently held that a judge fails in his bounden duty if he relies merely on the certification or the report of the investigating officer.

(Additional emphasis supplied, italics in the original)

Consequently, the Court is perplexed why accused Napoles is asking for the dismissal of these cases pursuant to the ruling in *Okabe*, when, at most, what *Okabe* provides as a relief is the conduct of another judicial determination of probable cause. Strangely enough, the accused never even squarely asked the Court to make a judicial *redetermination* of probable cause, whether in the *Omnibus Motion* or in the present motion. Instead, what she alleged therein are grounds for the quashal of an information (*i.e.*, the facts charged do not constitute an offense; the court trying the case has no jurisdiction over the offense charged), in relation to *Okabe* and Section 7 of Rule 112, but, as earlier stated, all sourced from the clause "a non-government organization operated and/or controlled by Napoles" in the Informations.

In the present motion, the only allegations having references to judicial determination of probable cause are as follows:

5. As observed by accused Napoles, there is nothing in the assailed Resolution that pointed to the specific part of the records of the preliminary investigation of these cases where were the basis in the **judicial determination of probable cause** allegedly consisting of complaint-affidavits, counter-affidavits, numerous sworn statement[s] of the mayors and representatives of different local government units, corporate records of the NGOs and financial records including her Counter-Affidavit, that will support the allegation in the Informations that accused Napoles operated and/or controlled the said NGOs.

x x x x

7. Hence, if nothing can be found in the records of the preliminary investigation of the above-entitled cases that will support the allegation in the Information that accused Napoles operated and/or controlled the said NGOs, then the same is obviously not a statement of fact, but rather a conclusion of law as it will entail the piercing of the veil of corporate

fiction of the said NGOs which is not proper during **judicial determination of probable cause** as it will require the presentation of extrinsic evidence which are not part of the records of the preliminary investigation.³⁹ (Emphasis supplied)

At all events, while Section 7(b) of Rule 112 provides that “the court, on its own initiative or on motion of any party, may order the production of the record [of the preliminary investigation] or any of its part when necessary in the resolution of the case or any incident therein, or when it is to be introduced as an evidence in the case by the requesting party,” the Court finds that invoking this provision is misplaced, whether in the resolution of the motion to dismiss in her *Omnibus Motion* or of the present motion.

As the Court ruled in Resolution dated May 12, 2022 denying accused Napoles’ previous *Motion to Quash Information*:

Contrary to accused Napoles’ contention, control of the NGOs is not the overt act attributed to her. The phrase “operated and/or controlled by [accused] Napoles” appearing on each of the Informations, from which accused Napoles drew her argument, is merely descriptive of the NGOs mentioned therein.⁴⁰

This is axiomatic in all the Informations in these cases, such as, for example, the Informations in SB-21-CRM-0014 for violation of Section 3(e) of R.A. No. 3019 and SB-21-CRM-0054 for Malversation of Public Funds through Falsification of Public Documents, the portions of which insofar as accused Napoles is concerned are hereby quoted *verbatim*:

SB-21-CRM-0014

That in October to December 2007, or sometime prior to subsequent thereto, in the Philippines, and within the jurisdiction of this Honorable Court, accused public officers NASSER C. PANGANDAMAN (Pangandaman), being then the Secretary, [x x x], all of the Department of Agrarian Reform (DAR), while in the performance of their administrative and/or official functions, conspiring with one another and with private individuals JANET LIM NAPOLES (Napoles), [x x x], acting with manifest partiality, evident bad faith and/or gross inexcusable negligence, did then and there, willfully, unlawfully and criminally cause undue injury to the government in the amount of at least FIVE MILLION PESOS (P5,000,000.00), and give unwarranted benefits, advantage and preference to Agricultura Para sa Magbubukid Foundation, Inc. (APMFI), a **non-government organization operated and/or controlled by Napoles**, through the following acts:

x x x x

³⁹ Records, Vol. 4, p. 177 (Motion for Reconsideration, p. 2).

⁴⁰ Records, Vol. 3, p. 295 (Resolution dated May 12, 2022, p. 10).

(f) **Napoles used APMFI as a fund conduit** for the FIVE MILLION PESOS (P5,000,000.00) **for the purported implementation of a nonexistent project** through the indispensable participation and cooperation of [x x x], who forged signatures and fabricated documents to conceal the fictitious nature of the transaction, which documents were used to request said amount from the DAR, receive the corresponding check for the amount, and liquidate the same; **paid commissions and/or kickbacks** to Pangandaman (through Manlaque), Nieto (sometimes through Manlaque) and Panlilio in return for [x x x] their acts in facilitating the release of the FIVE MILLION PESOS (P5,000,000.00); and **appropriated a portion thereof for herself and caused the transfer in various amounts** to different bank accounts of various entities and individuals. (Emphasis supplied)

SB-21-CRM-0054

That in October to December 2007, or sometime prior to subsequent thereto, in the Philippines, and within the jurisdiction of this Honorable Court, accused public officers NASSER C. PANGANDAMAN (Pangandaman), being then the Secretary, [x x x], [x x x] of the Department of Agrarian Reform (DAR), all accountable for the TWO HUNDRED MILLION PESOS (P200,000,000.00) for the Fund Support for Agri-Business Development (FSABD) project of the Department of Agrarian Reform (DAR) by reason of their duties as DAR officials, conspiring with one another and with [x x x], and with private individuals **JANET LIM NAPOLES** (Napoles), [x x x], did then and there, willfully, unlawfully and feloniously take or misappropriate and/or allow the taking or misappropriation of the amount of FIVE MILLION PESOS (P5,000,000.00) by flagrantly disregarding applicable laws, rules, regulations and standard operating procedures and making it appear that the amount was used for financial assistance and/or the purchase of agricultural inputs/implements for farmer-beneficiaries of the Municipality of Sta. Josefa, Province of Agusan del Sur by manufacturing and falsifying the following documents: [x x x], (4) December 21, 2007 Agricultura Para sa Magbubukid Foundation, Inc. (APMFI) Official Receipt No. 044, [x x x], thereby causing the illegal diversion of the subject amount to APMFI, **a non-government organization operated and/or controlled by Napoles**, through the following acts:

x x x x

(f) **Napoles used APMFI as a fund conduit** for the FIVE MILLION PESOS (P5,000,000.00) **for the purported implementation of a nonexistent project** through the indispensable participation and cooperation of [x x x], who forged signatures and fabricated documents to conceal the fictitious nature of the transaction, which documents were used to request said amount from the DAR, receive the corresponding check for the amount, and liquidate the same; **paid commissions and/or kickbacks** to Pangandaman (through Manlaque), Nieto (sometimes through Manlaque), and Panlilio in return for their acts in facilitating the release of the FIVE MILLION PESOS (P5,000,000.00); and **appropriated a portion thereof for herself and caused the transfer in various amounts** to different bank accounts of various entities and individuals. (Emphasis supplied)

Undeniably, the clause “a non-government organization operated and/or controlled by Napoles” appearing in the Informations is merely descriptive of the NGOs, and the alleged overt acts of accused Napoles as a co-conspirator are actually recited in item (f) of the Informations. Thus, the said clause is inconsequential, as its presence or absence in the Informations does not in any way affect the sufficiency of the indictments for the offenses charged pursuant to Section 6⁴¹ of Rule 110.

As for Section 7(a) of Rule 112, the records supporting the Informations filed by the Office of the Ombudsman in these cases are fully compliant therewith:

Sec. 7. *Records.* – (a) *Records supporting the information or complaint.* – An information or complaint filed in court shall be supported by the affidavits and counter-affidavits of the parties and their witnesses, together with the other supporting evidence and the resolution on the case.

Unlike in *Okabe*, the records supporting the Informations in these cases are composed of seven (7) case folders, comprising thousands of pages in total, viz.: (1) Vol. 1 (927 pages), (2) Vol. 1-A (701 pages), (3) Vol. 1-B (703 pages), (4) Vol. 1-C (715 pages), (5) Vol. 1-D (746 pages), (6) Vol. 1-E (820 pages), and (7) Vol. 1-F (1,049 pages). These voluminous records contain the Field Investigation Office (FIO) Complaint⁴² dated June 6, 2013, the FIO Amended Complaint⁴³ dated May 14, 2015, accused Napoles’ Counter-Affidavit⁴⁴ dated October 6, 2015 and the respective counter-affidavits of the other accused, the Office of the Ombudsman’s Consolidated Resolution⁴⁵ dated December 14, 2017 and Consolidated Order⁴⁶ dated December 4, 2018, the documents and evidence in support of the charges, and the other records of the preliminary investigation.

A summary of the duty of the judge to conduct a personal determination of the existence of probable cause has been reiterated in *De Lima v. Guerrero*,⁴⁷ citing *Soliven v. Makasiar*,⁴⁸ thus:

What the Constitution underscores is the exclusive and personal responsibility of the issuing judge to satisfy himself of the existence of probable cause. In satisfying himself of the existence of probable cause [x x x], the judge is not required to personally examine the complainant and

⁴¹ 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.

⁴² Records, Vol. 1-A, pp. 5-249.

⁴³ Records, Vol. 1-C, pp. 1-293.

⁴⁴ Records, Vol. 1, pp. 451-470.

⁴⁵ *Id.* at 12-84.

⁴⁶ *Id.* at 90-111.

⁴⁷ G.R. No. 229781, 10 October 2017.

⁴⁸ G.R. No. 82585, 14 November 1988.

his witnesses. Following established doctrine and procedure, he shall: (1) personally evaluate the report and the supporting documents submitted by the fiscal regarding the existence of probable cause and, on the basis thereof, issue a warrant of arrest; or (2) if on the basis thereof he finds no probable cause, he may disregard the fiscal's report and require the submission of supporting affidavits of witnesses to aid him in arriving at a conclusion as to the existence of probable cause.

It bears to emphasize that in the judicial determination of probable cause in the present cases, the Court did not rely solely on the report, recommendation or certification of the Office of the Ombudsman. Rather, the Members of the Court evaluated "the Informations in these cases" and "carefully assess[ed] the resolution of the Office of the Ombudsman, the evidence in support thereof and the records of the preliminary investigation attached thereto." The relevant portions of the Minute Resolution⁴⁹ dated February 7, 2022, signed by all of the Members of the Court, are restated here for easy reference:

ACCORDINGLY, after perusing the Informations in these cases, and carefully assessing the resolution of the Office of the Ombudsman, the evidence in support thereof and the records of the preliminary investigation attached thereto, [x x x], the Court finds that sufficient grounds exist for the finding of probable cause [x x x].

In *De Lima*, the respondent judge therein evaluated "the Information and all the evidence presented during the preliminary investigation" in the judicial determination of probable cause:

"All the evidence presented during the preliminary investigation" encompasses a broader category than the "supporting evidence" required to be evaluated in *Soliven*. It may perhaps even be stated that respondent judge performed her duty in a manner that far exceeds what is required of her by the rules when she reviewed all the evidence, not just the supporting documents. At the very least, she certainly discharged a judge's duty in finding probable cause [x x x.]

In the same vein, "the evidence in support thereof and the records of the preliminary investigation," relating to the finding of probable cause in these cases, encompasses a broader category than the "supporting evidence" or "supporting documents" required to be evaluated in *Soliven*. It may likewise even be stated that the Members of the Court performed their duty in a manner that far exceeds what is required of them when they carefully assessed "the records of the preliminary investigation," not just the supporting evidence or documents.

Indeed, the Members of the Courts certainly discharged their duty in finding probable cause against all of the accused in these cases.

⁴⁹ Records, Vol. 2, pp. 94-95.



Therefore, in light of the premises, the Court finds no cogent reason to make a judicial redetermination of probable cause in these cases. In fine, the Court's previous finding of probable cause against accused Napoles, as well as the other accused, stands.

The arguments in the motion for reconsideration are a mere rehash of accused-movant's earlier motions.

It bears to stress that the arguments in the motion for reconsideration are indeed a mere rehash of accused Napoles' earlier submissions (*i.e.*, *Motion to Quash Information* dated March 19, 2022 and *Omnibus Motion* dated June 22, 2022), all anchored on the clause "a non-government organization operated and/or controlled by Napoles" in the Informations. All the relevant issues raised in the present motion have already been passed upon in both Resolution dated May 12, 2022 and Resolution dated July 19, 2022.

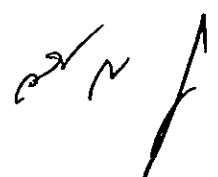
In short, no substantial arguments or new matters have been presented that may warrant the reversal of the assailed Resolution. There is no need, therefore, to belabor these issues any further.

In fact, the continued insistence in pursuing all the arguments drawn from the foregoing clause in the Informations by filing different motions borders on abusing procedural remedies. Instead of filing a motion for reconsideration of the Resolution dated May 12, 2022, which denied the *Motion to Quash Information*, accused Napoles opted to file the *Omnibus Motion (1. To Produce the Complete Records of the Preliminary Investigation supporting the allegations in the Informations; and 2. To Dismiss the above-entitled cases)*, raising practically the same arguments that, again, were all sourced from the said clause.

In other words, the arguments raised in the *Omnibus Motion*, as well as in the present motion, are not fresh though embellished with citation of *Okabe* and Section 7 of Rule 112.

Indeed, unnecessary processes can only constitute a waste of the Court's precious time, if not pointless entertainment. Had the accused filed instead a motion for reconsideration of the denial of the *Motion to Quash Information*, the Court would have been saved precious time, effort and resources, which could have been devoted to other pending cases that call for resolution and judgment.

As such, this Court shall no longer entertain a motion on any of the issues passed upon here and in the Resolutions dated May 12, 2022 and July 19, 2022, or any motion raising arguments drawn from the foregoing clause in the Informations.



Moreover, for future reference, the accused-movant's counsel of record is advised to plead with clarity in their submissions and avoid conflating different procedural rules and concepts, bearing in mind that each has its own defined scope and purpose.

Finally, the attention of said counsel of record is called to the glaring errors in the docket numbers contained in the caption and title of the *Motion to Quash Information*, the *Omnibus Motion* and the present motion. All of these submissions referred to the docket numbers as "SB-21-CRM-0014 to 0032" and "SB-21-CRM-0060 to 0093"⁵⁰ despite the fact that the accused-movant stands charged in all of the Informations in the instant cases, namely "SB-21-CRM-0014 to 0053" (for violation of Section 3(e) of R.A. No. 3019) and "SB-21-CRM-0054 to 0093" (for Malversation of Public Funds through Falsification of Public Documents).

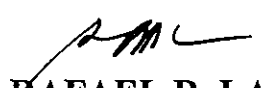
In sum, the motion for reconsideration is denied for lack of merit.

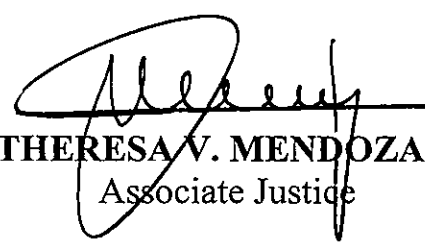
WHEREFORE, the *Motion for Reconsideration* dated July 25, 2022 of accused Janet Lim Napoles is **DENIED** for lack of merit.

SO ORDERED.


MARYANN E. CORPUS-MAÑALAC
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Associate Justice
Chairperson


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

⁵⁰ Records, Vol. 3, p. 84 (*Motion to Quash Information*, p. 1), p. 512 (*Omnibus Motion*, p. 1), and Records, Vol. 4, p. 176 (*Motion for Reconsideration*, p. 1)