



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

RHODORA JAVIER CADIAO,
Accused.

SB-23-CRM-0060

For: Violation of Section 3(e) of
Republic Act No. 3019

Present:

Gomez-Estoesta, J., *Chairperson*
Trespeses, J., and
Hidalgo, J.

Promulgated:

October 20, 2023 *JP*

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RESOLUTION

GOMEZ-ESTOESTA, J.:

In the midst of the imposition of preventive suspension against accused Provincial Governor Rhodora Javier Cadio [“accused Cadio”], another challenge was made on the jurisdiction of this court to try the criminal case, with the filing of the present *Omnibus Motion for Reconsideration of the Resolution dated 21 September 2023 and for Dismissal of the Case Due to Lack of Jurisdiction*. This time, accused Cadio asseverates that is the Regional Trial Court, not this court, which has jurisdiction to try the criminal case.

To recall, in its *Resolution* dated September 21, 2023¹, the court issued its Order of preventive suspension against accused Cadio, the dispositive portion of which reads:

WHEREFORE, pursuant to Section 13 of Republic Act No. 3019, accused Rhodora J. Cadio is preventively suspended from her position as

¹ Records, Volume 1, pp. 118-123.

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Provincial Governor of the Province of Antique and from any public office which she may now or hereafter be holding for a period of ninety (90) days.

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The preventive suspension of the accused shall be automatically lifted upon expiration of the 90-day period from the implementation of this Resolution.

SO ORDERED.

THE MOTION FOR DISMISSAL

While accused Cadiao seeks to reconsider the resolution on preventive suspension, another prayer for the dismissal of the case was raised on ground of lack of jurisdiction under R.A. 10660, the grounds of which are summarized, as follows:

1. A reading of the Information would show that the damage alleged in the Information is damage caused to Antonio A. Dela Vega, the private complainant ["private complainant"]. There is no allegation of damage to the government nor bribery in the Information. Thus, pursuant to Section 4 of R.A. 10660, the RTC shall have exclusive original jurisdiction.

2. Despite the argument raised during the pre-suspension hearing on the jurisdiction of the court under R.A. 10660, the **Resolution dated September 21, 2023** (imposing the preventive suspension of accused Cadiao) was silent on the application of R.A. 10660. The resolution simply made a determination on the validity of the Information by referencing previous rulings, i.e., the **Resolution dated July 19, 2023** (which denied accused Cadiao's *Omnibus Motion to Quash Information, Recall Warrant of Arrest, and Dismiss the Case*)² and **Resolution dated August 08, 2023** (which denied accused Cadiao's *Motion for Reconsideration*).³ These resolutions purportedly did not resolve the issue on subject-matter jurisdiction. Accused Cadiao nonetheless admits that this is the first time that the issue on subject-matter jurisdiction under R.A. 10060 was brought up. It is well-settled in jurisprudence, however, that the issue of subject-matter jurisdiction can be raised at any stage of the proceedings subject to waiver or can even be raised at the Court's own initiative.

² The grounds raised by accused Cadiao in her *Omnibus Motion to Quash Information* is the claim that the charge is purely a monetary claim which does not constitute an offense; hence, it is COA which has the authority and power to settle all debts and claims. Records; Volume 1, pp. 353-371.

³ New matters were brought in the *Motion for Reconsideration* but which palpably, did not plead (i) lack of jurisdiction over the subject matter; (ii) existence of another action pending between the same parties for the same cause; and (iii) bar by prior judgment or by statute of limitations. Hence, the new matters raised were considered waived under the Omnibus Motion Rule. Records, Volume 1, pp. 490-496.

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3. The clear allegation of damage to the private complainant cannot be construed as damage to the government. Damage to the government is when the latter sustains actual loss or damage, which must exist as a fact and cannot be based on speculations or conjectures. The loss or damage need not be proven with actual certainty. However, there must be some reasonable basis by which the court can measure it. Aside from this, the loss or damage must be substantial. It must be more than necessary, excessive, improper, or illegal.⁴

4. The court must resolve the application of R.A. 10660 to the case of accused Cadio and determine whether or not it has jurisdiction over the present case. Since the court does not have jurisdiction over the subject matter of this case, essentially it does not also have jurisdiction over its incidents such as the issuance of a preventive suspension and that the only disposition that may be made is to dismiss the case. When a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action. Any act that it performs without jurisdiction shall be null and void, and without any binding legal effect.⁵

5. Antonio A. Dela Vega's filing of an Affidavit of Desistance further negates the basis of the imposition of preventive suspension and supports the finding that there is no damage. The Information is categorical in alleging damage to the private complainant and not to anyone else; hence, the assertion of the prosecution that "*it can prove the existence of the elements of the crime charged, independent of the Affidavit of Desistance, during the trial of the case*" is rendered baseless upon Dela Vega's own submission of the Affidavit of Desistance, especially confirming that he has already been paid.

PROSECUTION'S COMMENT/OPPOSITION

To counter, the *Comment/Opposition* of the prosecution prayed for the denial of the *Omnibus Motion*, supported by the following arguments:

1. The Sandiganbayan alone has the exclusive original jurisdiction over violations of R.A. 3019, as amended. Using statutory construction, R.A. 3019, as a *special* penal law, should prevail over R.A. 10660, which is the more *general* law. Section 10 of R.A. 3019, as amended by B.P. 195, is clear that:

Sec. 10. Competent court. Until otherwise provided by law, all prosecutions under this Act shall be within the original jurisdiction of the Sandiganbayan.

Section 10 of R.A. 3019 evidently specified the Sandiganbayan as the court with the original jurisdiction to try and hear violations of R.A. 3019.

⁴ Citing *Renales v. People*, G.R. No. 231530-33 & 231603-08, June 16, 2021.

⁵ Citing *Bilag v. Ay-ay*, G.R. No. 189950, April 24, 2017.

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The amendment introduced in R.A. 10660 pertains to an amendment on the general jurisdiction of the Sandiganbayan, thus a general law, over crimes and offenses committed by high-ranking public officers in relation to their office. On the other hand, violations under R.A. 3019, being a special penal law, is excluded from the application on the delegated or expanded jurisdiction of the RTC as it pertains to all *other* crimes or offenses committed by such public officers in relation to office. Thus, the jurisdiction for offenses under R.A. 3019, as amended, involving officials and employees with salary grade 27 and above, and which were committed in relation to office, is under the Sandiganbayan as provided under Section 10 thereof, not with the RTC.

2. The Affidavit of Desistance of the private complainant cannot operate as a ground to lift the suspension *pendente lite* of accused Cadio under Section 13 of R.A. 3019, as amended, or to quash the Information. The Affidavit of Desistance was but a belated settlement of liabilities which may not be taken cognizance by the court, as it should be submitted as part of the records at the appropriate time during trial proper and not during the pre-suspension hearing nor pre-trial. Meantime, such affidavit cannot operate to alter or affect the validity of the Information which, at this time, has already passed the test for the court to proceed to trial and in the meantime, impose the mandatory preventive suspension of the accused.

THE COURT'S RULING

The jurisdiction of a court is determined by the allegations in the complaint or information.⁶ In order to determine the jurisdiction of the court in criminal cases, the complaint must be examined for the purpose of ascertaining whether or not the facts set out therein and the punishment provided for by law for such acts fall within the jurisdiction of the court in which the complaint is presented. If the facts set out in the complaint are sufficient to show that the court in which the complaint is presented has jurisdiction, then it is sufficient to hold that the court has jurisdiction.⁷

The Information in this case reads, thus:

That on 04 July 2016, or sometime prior or subsequent thereto, in San Jose, Antique, Philippines and within the jurisdiction of this Honorable Court, accused public officer RHODORA J. CADIAO, being the Provincial Governor of Antique, while in the performance of and taking advantage of her official position, with evident bad faith, manifest partiality or gross inexcusable negligence did then and there willfully, unlawfully and criminally **cause undue injury to Antonio A. Dela Vega (Dela Vega)** when Cadio unjustly refused to pay Dela Vega his salaries,

⁶ *Alarilla v. Sandiganbayan*, G.R. No. 136806, [August 22, 2000], 393 PHIL 143-158.

⁷ *US v. Mallari*, G.R. No. L-7108, February 20, 1913.

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Representation and Travel Allowance (RATA) and other benefits for the period July 2016 to February 2018 in the total amount of Php1,664,810.00, more or less, despite the finality of the Civil Service Commission (CSC) Decision invalidating Dela Vega's reassignment to Culasi Satellite Office and ordering Dela Vega's reinstatement as Head of the Provincial General Services Office (PGSO) and the payment of Dela Vega's corresponding RATA during the period of reassignment, thereby causing damage and prejudice to Dela Vega in the amount of Php1,664,810.00, more or less.

CONTRARY TO LAW.

Three facts are readily apparent in establishing this court's jurisdiction:

(i) accused Cadio is a public official belonging to the executive branch of government occupying the position of Provincial Governor;

(ii) the crime to which she is charged is a violation of Section 3 (e) of R.A. 3019 which, under P.D. 1606, as amended, vests in this court jurisdiction to take cognizance of the case; and

(iii) the allegation in the Information that the crime was committed "*on 04 July 2016 or sometime prior or subsequent thereto*" indicated that R.A. 10660, being the latest amendment of P.D. 1606, is the law applicable which pinpoints the commission of the offense as the determining factor in vesting this court of its jurisdiction to try a criminal case.⁸

Under this backdrop, the court denied accused Cadio's every single bid to dismiss the case, which then only hinted on the purported money claim of the private complainant and never attacked the limited jurisdiction of the court, as shown by the following:

1. *Omnibus Motion to Quash Information, Recall Warrant of Arrest and Dismiss the Case* dated June 22, 2023;⁹
2. *Motion for Reconsideration* dated July 6, 2023;¹⁰
3. *Motion for Bill of Particulars* dated August 9, 2023;¹¹
4. *Explanation* dated August 20, 2023 on the Show Cause Order on Preventive Suspension.¹²

⁸ Generally, the jurisdiction of a court to try a criminal case is to be determined at the time of the institution of the action, not at the time of the commission of the offense. R.A. No. 10660, which took effect on May 15, 2015, however, provided that the reckoning period to determine the jurisdiction of the Sandiganbayan in cases involving violations of R.A. No. 3019 is the time of the commission of the offense (*Ampongan v. Sandiganbayan*, G.R. Nos. 234670-71, August 14, 2019).

⁹ Records, Volume 1, pp. 204-226.

¹⁰ Id., pp. 384-406.

¹¹ Id., pp. 507-512.

¹² Records, Volume 2, pp. 042-060.

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The issue on jurisdiction only surfaced in accused Cadio's present *Omnibus Motion*. Concededly, however, it is a basic principle in procedural law that lack of jurisdiction over the subject matter of the case can always be raised anytime, even for the first time on appeal, since jurisdictional issues, as a rule, cannot be acquired through a waiver or enlarged by the omission of the parties or conferred by the acquiescence of the court.¹³ Thus, this issue must be settled by the court, even if raised after the belabored filing of several motions. The plea to dismiss is centered on the jurisdiction of the court to try the criminal case.

At this time, accused Cadio claims that it is not the Sandiganbayan that has jurisdiction to try this criminal case, but the Regional Trial Court. This argument is predicated on R.A. 10660, which specifically provides:

SEC. 4. *Jurisdiction*. – The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II 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) **Provincial governors**, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other provincial department heads:

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Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00). [Emphasis supplied]

Accused Cadio posits that the Information does not allege any damage to the government. She adduces that by mere reading alone, or at face value, it is enough that the allegation by itself already placed the jurisdiction to try the criminal case within the exclusive original jurisdiction of the Regional Trial Court.

¹³ *Tumpag v. Tumpag*, G.R. No. 199133, September 29, 2014, cited in *De Lima v. Guerrero*, G.R. No. 229781, October 10, 2017.

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The nuance in the argument is two-pronged.

One, damage as a concept will almost always require evidentiary proof, as the concept itself is tied to actual damages in civil law. The term "undue injury" in the context of Section 3 (e) of the Anti-Graft and Corrupt Practices Act punishing the act of "causing undue injury to any party," has a meaning akin to that civil law concept of "actual damage." Actual damage, in the context of these definitions, is akin to that in civil law.¹⁴

The cited case of *Renales v. People*,¹⁵ which echoed *Llorente v. Sandiganbayan*¹⁶, is more categorical in this context, explaining the nature of "damage" in criminal cases, to wit:

"Undue injury" is consistently interpreted as "actual damage." Undue has been defined as "more than necessary, not proper, or illegal" and injury as "any wrong or damaged one to another, either in his person, rights, reputation or property that is the invasion of any legally protected interest of another." Actual damage, in the context of these definitions, is akin to that in civil law.

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Furthermore, damages must not only be capable of proof, but must be actually proven with a reasonable degree of certainty. They cannot be based on flimsy and non-substantial evidence or upon speculation, conjecture, or guesswork. They cannot include speculative damages which are too remote to be included in an accurate estimate of the loss or injury. [emphasis supplied]

The same principle was re iterated in *Rivera v. People*,¹⁷ thus:

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[U]ndue injury should be equated with that civil law concept of "actual damage." Unlike in actions for torts, undue injury in Sec. 3 (e) cannot be presumed even after a wrong or a violation of a right has been established. Its existence must be proven as one of the elements of the crime. In fact, the causing of undue injury, or the giving of any unwarranted benefits, advantage or preference through manifest partiality, evident bad faith or gross inexcusable negligence constitutes the very act punished under this section. Thus, it is required that the undue injury be specified, quantified, and proven to the point of moral certainty.

Perceptively, it would appear that an allegation of "undue injury" in the Information, which in this case was alleged to have been caused to the private complainant, would certainly attach evidentiary proof that would require trial to proceed in this sense.

¹⁴ *Alvarez v. People*, G.R. No. 192591, June 29, 2011.

¹⁵ GR. No. 231530-33, June 16, 2021.

¹⁶ G.R. No. 85464, October 3, 1991.

¹⁷ G.R. No. 156577. December 3, 2014.

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On the other, a question is posed at this instance: does the allegation in the Information that “undue injury” was caused to the private complainant carry with it the contraposition that no damage was caused to the government, when the funds with which to pay the salaries, RATA and other benefits of the private complainant will almost certainly be sourced from the financial coffers of the local government.

Ostensibly, the threshold of this argument is in the allegation, or lack thereof, of “*damage to the government*” that should be read into the Information.

As accused Cadiao claims, it is enough that the Information does not allege any damage to the government; hence, this court is immediately stripped of its jurisdiction as it is now the Regional Trial Court which should try the criminal case.

Admittedly, it is easily deducible from the Information, if only the allegations thereof be considered, without more, that no “*damage to the government*” appears. Whether such absence in the allegation should allow this court to wrangle at the outset the impact this makes on its jurisdiction was certainly not a disposition it could make on its own. As adverted to, the allegation of damage or lack thereof is almost always tied to evidentiary proof. The issue is *not* whether this court has jurisdiction over the subject matter which, under R.A. 10660 in conjunction with R.A. 3019, it has without a doubt, but whether, such jurisdiction has been *transferred* to the Regional Trial Court in the *proviso* incorporated under Section 4 of R.A. 10660.

Now that accused Cadiao has raised it at this time, a determination should thus be made - will a mere perusal of the allegations in the Information immediately provide the answer to this court’s exercise of its jurisdiction? Or, where a definition of “*damage*” is jurisprudentially established, should this matter require a proceeding evidentiary in nature, which is normally reserved for trial proper?

If at all, the jurisdiction of this court, as now delineated under the amendments introduced in R.A. 10660, has been discussed in *Ampongan v. Sandiganbayan*,¹⁸ viz:

It is clear from the transitory provision of R.A. No. 10660 that the amendment introduced regarding the jurisdiction of the Sandiganbayan shall apply to cases arising from offenses committed after the effectivity of the law. Consequently, the new paragraph added by R.A. No. 10660 to Section 4 of Presidential Decree (P.D.) No. 1606, as amended, transferring the exclusive

¹⁸ G.R. Nos. 234670-71, August 14, 2019.

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original jurisdiction to the RTC of cases where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos, applies to cases which arose from offenses committed after the effectivity of R.A. No. 10660. [emphasis supplied]

Then again, in *De Lima v. Guerrero*,¹⁹ the Supreme Court enunciated:

Likewise of special significance is the *proviso* introduced by RA 10660 which, to reiterate for emphasis, states:

Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).

The clear import of the new paragraph introduced by RA 10660 is to streamline the cases handled by the Sandiganbayan by delegating to the RTCs some cases involving high-ranking public officials. With the dissents' proposition, opening the Sandiganbayan to the influx of drug-related cases, RA 10660 which was intended to unclog the dockets of the Sandiganbayan would all be for naught. Hence, sustaining the RTC's jurisdiction over drug-related cases despite the accused's high-ranking position, as in this case, is all the more proper. [emphasis supplied]

There is no argument that insofar as high-ranking public officials are concerned, the jurisdiction of this court is now concurrent with that of the Regional Trial Court in instances where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos.

If a determination of the jurisdiction of this court is based from a mere *allegation*, despite the concept of damages being evidentiary in context as akin to that in civil law, then, accused Cadio's argument that it is a mere *allegation* in the Information that provides the controlling factor in determining the court's jurisdiction may verily be well enough, lest this puts to risk the invoked constitutional right to be informed of the nature and cause of the accusation charged against the accused. Simply put, no evidentiary proof is necessary; it was sufficient that accused Cadio raised it at this time, prescinding from a mere allegation, or non-allegation thereof, in the Information.

Accused Cadio relies on *Andaya v. People*²⁰ to illustrate her point. Accused Cadio emphasizes that the Information did not allege "*damage to the government*;" hence, any proof that points to such, at the very least, is irrelevant to her cause since none was alleged in the *Information*. Accused

¹⁹ G.R. No. 229781, October 10, 2017.

²⁰ G.R. No. 168486, June 27, 2006.

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Cadiao asseverates that this is critical to her constitutional right to be informed of the nature and cause of the accusation against her. Assuming that "*damage to the government*" be shown by evidentiary proof, what would its consequence then be?

As fundamental as it can be, the answer is indeed provided in *Andaya v. People*, to wit:

It is fundamental that every element constituting the offense must be alleged in the information. The main purpose of requiring the various elements of a crime to be set out in the information is to enable the accused to suitably prepare his defense because he is presumed to have no independent knowledge of the facts that constitute the offense. The allegations of facts constituting the offense charged are substantial matters and an accused's right to question his conviction based on facts not alleged in the information cannot be waived.³³ No matter how conclusive and convincing the evidence of guilt may be, an accused cannot be convicted of any offense unless it is charged in the information on which he is tried or is necessarily included therein. To **convict him of a ground not alleged while he is concentrating his defense against the ground alleged would plainly be unfair and underhanded.** The rule is that a variance between the allegation in the information and proof adduced during trial shall be fatal to the criminal case if it is material and prejudicial to the accused so much so that it affects his substantial rights.

As it thus appears, the material *allegations* in the Information control whether the court has jurisdiction to try the criminal case. The material allegations in the Information are the basis for the accused to exercise the constitutional right to be informed of the nature and cause of the accusation against them.

To reiterate, the Information reads:

That on 04 July 2016, or sometime prior or subsequent thereto, in San Jose, Antique, Philippines and within the jurisdiction of this Honorable Court, accused public officer RHODORA J. CADIAO, being the Provincial Governor of Antique, while in the performance of and taking advantage of her official position, with evident bad faith, manifest partiality or gross inexcusable negligence did then and there willfully, unlawfully and criminally **cause undue injury to Antonio A. Dela Vega (Dela Vega)** when Cadiao unjustly refused to pay Dela Vega his salaries, Representation and Travel Allowance (RATA) and other benefits for the period July 2016 to February 2018 in the total amount of Php1,664,810.00, more or less, despite the finality of the Civil Service Commission (CSC) Decision invalidating Dela Vega's reassignment to Culasi Satellite Office and ordering Dela Vega's reinstatement as Head of the Provincial General Services Office (PGSO) and the payment of Dela Vega's corresponding RATA during the period of reassignment, **thereby causing damage and prejudice to Dela Vega in the amount of Php1,664,810.00, more or less.** [emphasis supplied]

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CONTRARY TO LAW.

The pertinent phrases highlighted above describes the allegation of damages and to whom it caused injury to, viz: "*cause undue injury to Antonio A. Dela Vega (Dela Vega) when Cadiao unjustly refused to pay Dela Vega his salaries, Representation and Travel Allowance (RATA) and other benefits x x x thereby causing damage and prejudice to Dela Vega in the amount of Php1,664,810.00, more or less.*"

Reiterating the definition given by *Renales v. People*,²¹ the phrase "cause undue injury" as provided in the Information is synonymous with "damage" as salaries, RATA, and other benefits were allegedly deprived of the private complainant.

Thus, it can be said with certainty that damage was indeed alleged. A reading of the Information would further show that it is only to private complainant Antonio A. Dela Vega that the damage was alleged to have been caused to. In no particular instance, neither directly nor inferred, can it be said that there was an allegation of damage to the government. It was, in fact, reiterated in the last sentence of the Information, "*thereby causing damage and prejudice to Dela Vega in the amount of Php1,664,810.00, more or less*" which confirmed that damage was done particularly to only Antonio A. Dela Vega, no one else.

To add, Section 10 of R.A. 3019, as amended by BP Blg. 195²², provides, to wit:

Until otherwise provided by law, all prosecutions under the Act shall be within the original jurisdiction of the Sandiganbayan.

Prosecution's argument is that R.A. 10660 is a general law pertaining to the jurisdiction of the Sandiganbayan, and RA 3019 is a special penal law which places violations thereof within the exclusive jurisdiction of the Sandiganbayan. With the conflict, both should yield to the statutory construction that a special law should prevail over a general law. This reasoning may not be deductively invalid but since the subject is on which court has **jurisdiction to try the criminal case**, it is the application of the clear intention of the laws that should only apply.

In *Non v. Ombudsman*,²³ the judge of the RTC of Pasig City haggled with the issue on jurisdiction when an Information was filed against public officials under Section 3 (e) of R.A. 3019. The accused inevitably filed a motion to quash on the ground that the RTC of Pasig City has no jurisdiction over the case pursuant to Section 2, paragraph 3 of R.A. No. 10660 which

²¹ At footnote 15.

²² B.P. Blg. 195 took effect on March 16, 1982.

²³ G.R. No. 251177, September 08, 2020.

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took effect in 2015. The RTC of Pasig City, however, issued the assailed Order denying accused's motion to quash, reasoning that the provision under R.A.10660 stating that "*cases falling under the jurisdiction of the Regional Trial Court under this section, shall be tried in a judicial region other than where the official holds office*" is not yet operative since the Supreme Court has yet to promulgate the pertinent rules on the aforesaid innovation of the law. As there are no implementing rules yet on this particular matter, the RTC of Pasig City concluded that the default regime is the one found in Section 15(a) of Rule 110 of the Revised Rules on Criminal Procedure; i.e., the criminal action shall be instituted and tried in the proper court of the municipality, city, or province where the offense was committed or where any of its essential ingredients took place.

The Supreme Court significantly ruled, as follows:

R.A. No. 10660 took effect in 2015. When the Information against petitioners was filed in 2018, petitioners were still Commissioners of the ERC, holding office in Ortigas, Pasig City. **The Information also did not allege any amount of damage to the government, or any bribery.** Applying Section 2 of R.A. No. 10660, the Information against petitioners should have been filed in a judicial region outside of the National Capital Judicial Region. **Since jurisdiction is a matter of substantive law, the established rule is that the statute in force at the time of the commencement of the action determines the jurisdiction of the court.**

The proviso "subject to the rules promulgated by the Supreme Court" should not stand as a hindrance to the application of the clear intention of the law.

The Senate deliberations on R.A. No. 10660 support the view that the RTC's jurisdiction under said law shall be tried in a judicial region outside of the place where the accused public official holds office.

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Contrary to the interpretation of the respondent judge and the Ombudsman, the applicability of R.A. No. 10660 is not conditioned upon the promulgation of rules by the Court. As we declared in *Government Service Insurance System v. Daymiel*:

Jurisdiction over a subject matter is conferred by the Constitution or the law, and rules of procedure yield to substantive law. Otherwise stated, jurisdiction must exist as a matter of law. Only a statute can confer jurisdiction on courts and administrative agencies.

If we were to follow respondents' reasoning — that until the Court comes up with implementing rules, the application of R.A. No. 10660 shall be put on hold — then the letter of the law would be rendered nugatory by the mere expediency of the Court's non-issuance of such rules. This is clearly not the intention of the framers of the law in placing

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the proviso, neither would the Court countenance such a scenario. The Court cannot enlarge, diminish, or dictate when jurisdiction shall be removed, given that the power to define, prescribe, and apportion jurisdiction is, as a general rule, a matter of legislative prerogative.

X X X. The dismissal of the case, thus, follows as a necessary consequence. As aptly stated in the case of *Radiowealth Finance Co., Inc. v. Pineda, Jr.*:

Jurisdiction is a matter of substantive law. Thus, an action may be filed only with the court or tribunal where the Constitution or a statute says it can be brought. Objections to jurisdiction cannot be waived and may be brought at any stage of the proceedings, even on appeal. When a case is filed with a court which has no jurisdiction over the action, the court shall *motu proprio* dismiss the case. [emphasis supplied]

Verily, jurisdiction is a matter of substantive law. **At this instance, it is P.D. No. 1606, as amended, rather than R.A. No. 3019, as amended, that determines the jurisdiction of the Sandiganbayan.**

All at once, the case of *Serana v. Sandiganbayan*²⁴ cleared this path when it ratiocinated:

We first address petitioner's contention that the jurisdiction of the Sandiganbayan is determined by Section 4 of R.A. No. 3019 (The Anti-Graft and Corrupt Practices Act, as amended). We note that petitioner refers to Section 4 of the said law yet quotes Section 4 of P.D. No. 1606, as amended, in her motion to quash before the Sandiganbayan.²⁵ She repeats the reference in the instant petition for *certiorari*²⁶ and in her memorandum of authorities.²⁷

We cannot bring ourselves to write this off as a mere clerical or typographical error. It bears stressing that petitioner repeated this claim twice despite corrections made by the Sandiganbayan.²⁸

Her claim has no basis in law. It is P.D. No. 1606, as amended, rather than R.A. No. 3019, as amended, that determines the jurisdiction of the Sandiganbayan. A brief legislative history of the statute creating the Sandiganbayan is in order. The Sandiganbayan was created by P.D. No. 1486, promulgated by then President Ferdinand E. Marcos on June 11, 1978. It was promulgated to attain the highest norms of official conduct required of public officers and employees, based on the concept that public officers and employees shall serve with the highest degree of responsibility, integrity, loyalty and efficiency and shall remain at all times accountable to the people.

P.D. No. 1486 was, in turn, amended by P.D. No. 1606 which was promulgated on December 10, 1978. P.D. No. 1606 expanded the jurisdiction of the Sandiganbayan.

²⁴ G.R. No. 162059, January 22, 2008.

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P.D. No. 1606 was later amended by P.D. No. 1861 on March 23, 1983, further altering the Sandiganbayan jurisdiction. R.A. No. 7975 approved on March 30, 1995 made succeeding amendments to P.D. No. 1606, which was again amended on February 5, 1997 by R.A. No. 8249. Section 4 of R.A. No. 8249 further modified the jurisdiction of the Sandiganbayan. x x x.

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Upon the other hand, R.A. No. 3019 is a penal statute approved on August 17, 1960. The said law represses certain acts of public officers and private persons alike which constitute graft or corrupt practices or which may lead thereto. Pursuant to Section 10 of R.A. No. 3019, all prosecutions for violation of the said law should be filed with the Sandiganbayan.

R.A. No. 3019 does not contain an enumeration of the cases over which the Sandiganbayan has jurisdiction. x x x.

In fine, the two statutes differ in that P.D. No. 1606, as amended, defines the jurisdiction of the Sandiganbayan while R.A. No. 3019, as amended, defines graft and corrupt practices and provides for their penalties. [emphasis supplied]

In conclusion, the position of accused Cadio has to be sustained.

First, the fact that the Information does not allege any damage to the government is enough in itself to strip this court of its jurisdiction to try the criminal case.

Second, it is P.D. 1606, as amended, not R.A. 3019, which determines the jurisdiction of this court. With the amendment introduced under R.A. 10660, jurisdiction over the subject matter is transferred to the Regional Trial Court, having provided, in effect:

Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).
[Emphasis supplied]

In sum, therefore, it is the Regional Trial Court which has exclusive original jurisdiction to try the criminal case.

WHEREFORE, the *Omnibus Motion for Reconsideration of the Resolution dated 21 September 2023 and for Dismissal of the Case Due to Lack of Jurisdiction* filed by accused Rhodora Javier Cadio is **GRANTED**.


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Accordingly, Criminal Case No. SB-23-CRM-0060 is **DISMISSED** for lack of jurisdiction pursuant to Section 4 of R.A. 10660.

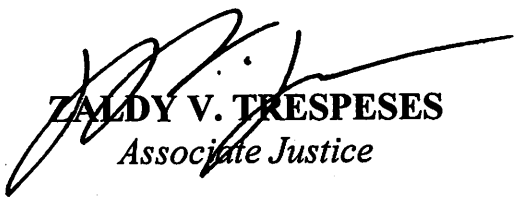
The cash bond posted by said accused before the Municipal Trial Court in Cities in Kidapawan City, Cotabato, in the amount of P90,000.00 under Official Receipt No. 9964529²⁵ is ordered **RELEASED** to the accused or her duly authorized representative.

The preventive suspension imposed against accused Rhodora J. Cadio from her position as Provincial Governor of the Province of Antique and from any public office per Resolution dated September 21, 2023 is **LIFTED**. The Order of Preventive Suspension furnished the Department of Interior and Local Government for implementation is **RECALLED**.

SO ORDERED.


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice
Chairperson

WE CONCUR:



ZALDY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice

²⁵ Records, Volume 1, pp. 305-306. The original OR is not on file, under the notation "Original OR c/o Court Interpreter".

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation, after deliberations were held in compliance with Section 1, Rule IX of the 2018 Internal Rules of the Sandiganbayan, before the case was assigned to the writer of the opinion of the Court's Division.


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson'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