G.R. No. 213455 – JUAN PONCE ENRILE, *Petitioner*, *v.* PEOPLE OF THE PHILIPPINES, HON. AMPARO M. CABOTAJE-TANG, HON. SAMUEL R. MARTIRES, and HON. ALEX L. QUIROZ of the THIRD DIVISION OF THE SANDIGANBAYAN, *Respondents*.

Promulgated:
August 11, 2015

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SEPARATE CONCURRING OPINION

PERLAS-BERNABE, *J.*:

I concur with the *ponencia* that petitioner Juan Ponce Enrile's (Enrile) motion for a bill of particulars should be partially granted on the matters herein discussed.

I.

The sufficiency of every Information is ordained by criminal due process, more specifically under the right of the accused to be informed of the nature and cause of the accusation against him stated under Section 14, Article III of the 1987 Philippine Constitution:

> Section 14. (1) No person shall be held to answer for a criminal offense without due process of law.
>
> (2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

The remedy against an insufficient Information in that it fails to allege the acts or omissions complained of as constituting the offense is a motion to quash on the ground that the allegations of the Information do not constitute the offense charged, or any offense for that matter,[1] under Section 3 (a),

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[1] "As a general proposition, a motion to quash on the ground that the allegations of the information do not constitute the offense charged, or any offense for that matter, should be resolved on the basis alone of said allegations whose truth and veracity are hypothetically admitted. The informations need only state the ultimate facts; the reasons therefor could be proved during the trial.

The fundamental test in reflecting on the viability of a motion to quash under this particular ground is whether or not the facts asseverated, if hypothetically admitted, would establish the essential elements of the crime defined in the law. In this examination, matters *aliunde* are not considered. However, inquiry into facts outside the information may be allowed where the prosecution

Rule 117 of the Revised Rules of Criminal Procedure. Its civil case counterpart is a motion to dismiss on the ground that the complaint fails to state a cause of action.[2] Note that when the rules speak of "the acts or omissions complained of as constituting the offense," they actually pertain to the ultimate facts that comprise the alleged crime's component elements. In civil procedure, the term "ultimate facts" means the essential facts constituting the plaintiff's cause of action.[3] A fact is essential if it cannot be stricken out without leaving the statement of the cause of action insufficient.[4] Ultimate facts are important and substantial facts which either directly form the basis of the primary right and duty, or which directly make up the wrongful acts or omissions of the defendant.[5] Ultimate facts should be distinguished from evidentiary facts. In *Bautista v. Court of Appeals*,[6] a criminal case that involved a violation of Batas Pambansa Bilang 22,[7] the Court distinguished an ultimate fact from an evidentiary fact as follows:

> The distinction between the elements of the offense and the evidence of these elements is analogous or akin to the difference between ultimate facts and evidentiary facts in civil cases. **Ultimate facts are the essential and substantial facts which either form the basis of the primary right and duty or which directly make up the wrongful acts or omissions of the defendant, while evidentiary facts are those which tend to prove or establish said ultimate facts**.[8] (Emphasis supplied)

In order to give full meaning to the right of the accused to be informed of the nature and cause of the accusation against him, not only should the Information state the acts or omissions complained of as constituting the offense (or the ultimate facts that comprise the crime's component elements), the rules also require certain facts to be stated in the Information to be deemed sufficient, namely, the name of the accused, the designation of the offense given by the statute, the name of the offended party, the approximate date of the commission of the offense, and the place where the offense was committed[9] (other requisite facts). Absent any of these essential facts, then the accused's right to be informed of the nature and cause of the accusation against him would be violated.

While not necessary to preserve said constitutional right, for as long as there is compliance with the above-stated bare minimums, the accused is given **<u>the procedural option</u>** to file a motion for bill of particulars to specify

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does not object to the presentation thereof." (*Valencia v. Sandiganbayan*, 477 Phil. 103, 112 [2004]; citations omitted)

2 Section 1 (g), Rule 16, RULES OF CIVIL PROCEDURE.

3 *Tantuico, Jr. v. Republic*, G.R. No. 89114, December 2, 1991, 204 SCRA 428, 437 (1991), citing *Remitere v. Yulo*, 123 Phil. 57, 62 (1966).

4 Id.

5 Id.

6 413 Phil. 159 (2001).

7 Entitled "AN ACT PENALIZING THE MAKING OR DRAWING AND ISSUANCE OF A CHECK WITHOUT SUFFICIENT FUNDS OR CREDIT AND FOR OTHER PURPOSES" (approved on April 3, 1979).

8 *Bautista v. Court of Appeals*, supra note 6, at 175.

9 Section 6, Rule 110, REVISED RULES OF CRIMINAL PROCEDURE.

the vague allegations in the Information. In *State v. Collett*,[10] the office of a bill of particulars in criminal cases was described as follows:

> That it contemplates something **<u>over and beyond the mere essentials of the averments necessary to state an offense</u>** is, in our judgment, ascertainable from the statute itself, which requires that the bill set up specifically the nature of the offense charged. x x x. (Emphasis and underscoring supplied)

Section 9, Rule 116 of the Revised Rules of Criminal Procedure explicitly states the motion's two-fold objective:

> Section 9. Bill of particulars. – The accused may, before arraignment, move for a bill of particulars **to enable him properly to plead and prepare for trial**. The motion shall specify the alleged defects of the complaint or information and the details desired. (Emphasis supplied)

Note that a motion under the foregoing rule is different from a motion for bill of particulars filed in a civil case under Rule 12 of the Rules of Civil Procedure, which purpose is for a party (whether plaintiff or defendant) to properly prepare his responsive pleading.[11] In a **criminal case**, there is no need to file a responsive pleading since the accused is, at the onset, already presumed innocent, and thus it is the prosecution which has the burden of proving his guilt beyond reasonable doubt. The plea entered by the accused during his arraignment is not the criminal case counterpart of a responsive pleading in a civil case. Arraignment is a peculiar phase of a criminal case which formally ensures the right of the accused to be informed of the nature and cause of the accusation against him. Thus, before arraignment, a motion for bill of particulars is available so that the accused can properly enter his plea, and also to later prepare his defense. On the other hand, in a **civil case**, which operates under the evidentiary threshold of preponderance of evidence, a motion for bill of particulars is available so that the defendant can intelligently refute the allegations in the complaint in his responsive pleading.

In a **civil case**, the bill later becomes relevant because, as a general rule, the trial therein will only be based on the allegations stated in the pleadings submitted by the parties. Meanwhile, in a **criminal case**, because of the standing presumption of innocence, the delimitation of what is to be pleaded to during arraignment and proved during trial is based on the

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[10] 58 N.E.2d 417 (1944).

[11] Section 1, Rule 12 of the RULES OF CIVIL PROCEDURE states:

> Section 1. When applied for; purpose. – Before responding to a pleading, a party may move for a definite statement or for a bill of particulars of any matter which is not averred with sufficient definiteness or particularity to enable him properly to prepare his responsive pleading. If the pleading is a reply, the motion must be filed within ten (10) days from service thereof. Such motion shall point out the defects complained of, the paragraphs wherein they are contained, and the details desired.

allegations in the Information and thus operates only against the prosecution. If the Information is vague (albeit sufficient), then the accused has the remedy of a motion for bill of particulars to delimit the allegations of the Information through the bill's function of specification and, in so doing may be able to properly enter his plea and later prepare his defense.

However, in both criminal and civil cases, it is a truism that it is not the office or function of a bill of particulars to furnish evidential information, whether such information consists of evidence which the pleader proposes to introduce or of facts which constitute a defense or offset for the other party or which will enable the opposite party to establish an affirmative defense not yet pleaded.[12]

Thus, in dealing with a motion for a bill of particulars in a criminal case, judges should observe that: (***a***) the remedy is distinct from a motion to quash in the sense that it presupposes that the acts or offenses constituting the offense (or the ultimate facts that comprise the crime's component elements) are already stated in the Information, albeit may be couched in vague language; (***b***) the remedy is, as mentioned, not meant to supply evidential information (or evidentiary facts); and (***c***) the particulars to be allowed are only those details that would allow a man of ordinary intelligence, as may be reasonable under the circumstances, to, again, properly plead during his arraignment and to prepare his defense for trial. Accordingly, the analysis involved in motion for bill of particulars should go beyond a simple ultimate facts-evidentiary facts dichotomy.

Also, it is significant to point out that in a situation where the accused has moved for a bill of particulars, but such motion is denied by the trial court, absent any restraining order from the proper court, **the arraignment of the accused should still proceed**; otherwise, it would be fairly easy for every accused to delay the proceedings against him by the mere expedient of filing a motion for a bill of particulars. Thus, the accused, on the scheduled date of arraignment, must enter a plea, and if he refuses upon his insistence for a bill of particulars, then, in accordance with Section 1 (c),[13] Rule 116 of the Rules of Criminal Procedure, the trial court shall enter a plea of not guilty for him. However, if the trial court's denial of such motion is later reversed by a higher court, then the accused may manifest that he is changing his plea upon consideration of the bill of particulars submitted, which, by suppletory application of the Rules of Civil Procedure, forms part of the Information.[14] It should be stressed that since a motion for bill of

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[12] *Tan v. Sandiganbayan*, 259 Phil. 502, 513 (1989), citing 71 C.J.S. Pleading S 376.

[13] Section 1. Arraignment and plea; how made. –

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(c) when the accused refuses to plead or makes a conditional plea, a plea of not guilty shall be entered for him.

[14] Section 6, Rule 13 of the RULES OF CIVIL PROCEDURE states:

particulars is not an objection on the sufficiency but on the vagueness of the Information, then the Information remains valid. As there is no objection on the validity of the Information, **then the arraignment and the plea entered during the proceedings whether by the court or the accused should equally be deemed valid and therefore, not set aside.**

II.

Enrile is charged with Plunder specifically in relation to the anomalous scheme behind the utilization of his Priority Development Assistance Fund (PDAF).[15] Statutorily defined, Plunder is committed by a "**public officer** who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, **amasses, accumulates or acquires ill-gotten wealth** through a **combination or series of overt criminal acts** as described in Section 1 (d) [of Republic Act No. 7080,[16] or the Plunder Law], in the aggregate amount or total value of **at least Fifty million pesos (50,000,000.00)**."[17] It is comprised of the following elements:

> **First**, that the offender is a **public officer**;
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> **Second**, that he **amasses, accumulates or acquires ill-gotten wealth** through a **combination or series**[18] **of overt or criminal acts** described in Section 1(d); and
>
> **Third**, that the aggregate amount or total **value of the ill-gotten wealth is at least 50,000,000.00**.

Plunder's peculiar nature as a composite scheme employed by a public officer to loot the coffers of the government translates into the proposition that the accused should be able to "dissect" the parts which make up the whole. Thus, only by affording the accused a reasonable

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Section. 6. Bill a part of pleading. – A bill of particulars becomes part of the pleading for which it is intended.

[15] See Information; *rollo*, pp. 170-171.

[16] "AN ACT DEFINING AND PENALIZING THE CRIME OF PLUNDER" (approved on July 12, 1991).

[17] As amended by RA 7659 entitled "AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL LAWS, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES" (approved on December 13, 1993).

[18] In *Estrada v. Sandiganbayan* (421 Phil. 290, 351 [2001]), it was explained:

> *Combination* - the result or product of combining; the act or process of combining. To *combine* is to bring into such close relationship as to obscure individual characters.
>
> *Series* - a number of things or events of the same class coming one after another in spatial and temporal succession.
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> That Congress intended the words "combination" and "series" to be understood in their popular meanings is pristinely evident from the legislative deliberations on the bill which eventually became RA 7080 or the Plunder Law.

opportunity to intelligently refute **each component criminal act** would he then be able to disprove that there exists a combination or series thereof or, if so existing, the combination or series of acts did not allow him to amass or accumulate the total amount of at least 50,000,000.00.

A Plunder charge takes on a more complicated complexion when made in the context of the PDAF. In such an instance, each predicate overt act would pertain to the transaction wherein the kickback or commission has been acquired by the accused (PDAF transaction). Due to its complexity, an Information for a Plunder PDAF charge should contain the following details so that the accused may properly plead and prepare his defense thereto: (***a***) the ghost or fictitious project which was supposedly funded by the PDAF; (***b***) the amount (or a reasonable approximate thereof) of the kickback or commission supposedly involved in the PDAF transaction; (***c***) the date or approximate date on which the PDAF transaction had transpired; (***d***) if coursed through an NGO, the name of the NGO through which the PDAF kickbacks were furtively facilitated; and (***e***) if so involving another government agency, the name of the agency to whom the PDAF was endorsed.

As an alternative, the Information may also make explicit reference to the Prosecutor's Resolution finding probable cause against the accused. However, the Prosecution must cite in the Information the specific portions of its Resolution referred to so as not to confuse the accused on what details are being alluded to when the Information is read to him in open court, to which he bases his plea during arraignment.[19] While it is recognized that the accused, who participates in a preliminary investigation, cannot feign ignorance of the finer details stated in the Prosecutor's Resolution, courts cannot assume that said details are automatically integrated in the Information. This is because the Prosecutor's Resolution is a product of a preliminary investigation proceeding meant only to determine if probable cause exists and thusly, if the Prosecution should file the corresponding Information before the court. Besides, the filing of an Information is an executive function; thus, it is up to the Prosecution to incorporate thereto the details for which it desires to proceed its case against the accused.

III.

The Information against Enrile reads:

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[19] Section 1 (a), Rule 116 of the REVISED RULES OF CRIMINAL PROCEDURE states:

Section 1. Arraignment and plea; how made. —

(a) The accused must be arraigned before the court where the complaint or information was filed or assigned for trial. The arraignment shall be made in open court by the judge or clerk by furnishing the accused with a copy of the complaint or information, reading the same in the language or dialect known to him, and asking him whether he pleads guilty or not guilty. The prosecution may call at the trial witnesses other than those named in the complaint or information.

> In 2004 to 2010 or thereabout, in the Philippines, and within this Honorable Court's jurisdiction, above-named accused JUAN PONCE ENRILE, then a Philippine Senator, JESSICA LUCILA G. REYES, then Chief of Staff of Senator Enrile's Office, both public officers, committing the offense in relation to their respective offices, conspiring with one another and with JANET LIM NAPOLES, RONALD JOHN LIM, and JOHN RAYMUND DE ASIS, did then and there willfully, unlawfully, and criminally amass, accumulate, and/or acquire ill-gotten wealth amounting to at least ONE HUNDRED SEVENTY TWO MILLION EUGHT HUNDRED THIRTY FOUR THOUSAND FIVE HUNDRED PESOS (Php172,834,500.00) through a combination or series of overt criminal acts, as follows:
>
> > (a) by repeatedly receiving from NAPOLES and/or her representatives LIM, DE ASIS, and others, kickbacks or commissions under the following circumstances: before, during and/or after the project identification, NAPOLES gave, and ENRILE and/or REYES received, a percentage of the cost of a project to be funded from ENRILE'S Priority Development Assistance Fund (PDAF), in consideration of ENRILE'S endorsement, directly or through REYES, to the appropriate government agencies, of NAPOLES' non-government organizations which became the recipients and/or target implementers of ENRILE'S PDAF projects, which duly-funded projects turned out to be ghosts or fictitious, thus enabling NAPOLES to misappropriate the PDAF proceeds for her personal gain; and
> >
> > (b) by taking undue advantage, on several occasions of their official positions, authority, relationships, connections, and influence to unjustly enrich themselves at the expense and to the damage and prejudice, of the Filipino people and the Republic of the Philippines.

With the Information merely confined to these allegations and to the end that the accused may properly plead and prepare his defense during trial, I, similar to the *ponencia*, therefore find it proper to **partially grant Enrile's motion for bill of particulars**, and **concomitantly have the prosecution submit such bill to reflect the following matters**:

> 1. "**The particular overt act/s alleged to constitute the "combination" and "series" charged in the Information**."[20]

This should not be construed as a particular, but rather a broad statement that encapsulates the motion's prayer. Each "overt act" pertains to each PDAF transaction which particulars are sought for in the more specific statements below.

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[20] *Ponencia*, p. 32.

> 2. "**A breakdown of the amounts of the kickbacks and commissions allegedly received** stating how the amount of 172,834,500.00 was arrived at."[21]

The amount of kickbacks and commissions is essential to each PDAF transaction, which, in turn, forms part of the whole Plunder scheme alleged by the prosecution. In order for the accused to identify the PDAF transaction attributed to him, for which he bases his plea during arraignment, he must be informed of the amount involved in each transaction. Because a Plunder conviction necessitates that the total PDAF transactions breach the 50,000,000.00 threshold, knowledge of such amounts is vital to the defense. It also guides the trial court to render the proper judgment.

There is no need to specify the nature of the ill-gotten wealth the accused allegedly amassed, accumulated, or acquired. As I see it, the type of ill-gotten wealth is only an evidentiary fact which supports the ultimate fact that the accused had amassed, accumulated, or acquired more than 50,000,000.00 in kickbacks and commissions. What is essential is that the ill-gotten wealth, regardless of its form, breaches the 50,000,000.00 threshold, the necessary details of which may be sufficiently supplied by the breakdown above-discussed.

> 3. "**The *approximate* dates of receipt of the alleged kickbacks and commissions since the overt acts to which the kickbacks and commissions relate, allegedly took place from 2004 to 2010.** At the very least, the prosecution should state the year when the kickbacks and transactions had been received."[22]

Similar to the *ponencia*,[23] I find that it is insufficient for the Information to just provide a broad time frame of six (6) years, more or less, to situate the occurrence of all the alleged PDAF transactions. In *Rocaberte v. People*,[24] the Court ruled that the Theft Information against the accused therein was seriously defective, for "[i]t places on him and his co-accused the unfair and unreasonable burden of having to recall their activities over a span of more than 2,500 days [(or 6 years)]. It is a burden nobody should be made to bear."[25] The same logic obtains here.

The year of the launching of each PDAF project need not be specified, as the *ponencia* now agrees. The year of launching of the PDAF project may not necessarily be the same as the year in which the PDAF is diverted. A

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[21] Id.
[22] Id.
[23] Id. at 24.
[24] 271 Phil. 154 (1991).
[25] Id. at 160.

project may last for several years from launching and the PDAF kickbacks may have been sporadically diverted throughout its course. It must be recalled that the charge here involves the accumulation of ill-gotten wealth by receiving a portion of the PDAF as commission and kickbacks. Thus, what is relevant is the year when the PDAF is diverted, not the year when the "cover project" is launched.

4. "**A brief description of the 'identified' projects where kickbacks and commissions were received.**"[26]

Project identification stands at the core of every PDAF transaction: it is the preliminary and necessary step to cast a veil of ostensible legitimacy to the scheme. Because it is the transaction's primary identifier, it is essential that the accused, during his arraignment, be informed of what project the PDAF transaction he is charged of is connected to. In this regard, it is also obvious that the name of the project is significant in the preparation of his defense.

Only the project name should be stated. There is no need to go beyond this and provide a brief description of the project (its nature, *e.g.*, farm inputs, equipment, and the year it was launched), and the intended beneficiaries, to which the *ponencia* accedes. At best, these are evidentiary facts which support the conclusions from which the ultimate fact, *i.e.*, the name of the project, is premised on.

5. "**The name of Napoles' NGOs which were the alleged recipients and target implementors of Enrile's PDAF projects**."[27]

The Napoles' NGOs were used basically as shell entities to which the PDAF kickbacks were fraudulently funneled. As such, they figure into a significant role in each PDAF transaction. Stating the vehicle of facilitation provides the accused basic information of the means by which the PDAF transaction in which he was supposedly involved was employed. The *ponencia* correctly pointed out that "only after a project has been identified could Enrile endorse Napoles' NGOs to the appropriate government agency that, in turn, would implement the supposed project using Enrile's PDAF."[28] The alleged interplay of Enrile's office and Napoles' NGO's was taken judicial notice by the Court in *Belgica v. Ochoa, Jr.*:[29]

> Recently, or in July of the present year [(i.e., 2013)], the National Bureau of Investigation (NBI) began its probe into allegations that "the

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[26] *Ponencia*, p. 33.
[27] Id.
[28] Id. at 24.
[29] G.R. Nos. 208566, 208493 & 209251, November 19, 2013, 710 SCRA 1.

> government has been defrauded of some ₱10 Billion over the past 10 years by a syndicate using funds from the pork barrel of lawmakers and various government agencies for scores of ghost projects." The investigation was spawned by sworn affidavits of six (6) whistle-blowers who declared that JLN Corporation – "JLN" standing for Janet **Lim Napoles** (Napoles) – had swindled billions of pesos from the public coffers for "ghost projects" using no fewer than 20 dummy **NGOs** for an entire decade. While the NGOs were supposedly the ultimate recipients of PDAF funds, the whistle-blowers declared that the money was diverted into Napoles' private accounts. Thus, after its investigation on the Napoles controversy, criminal complaints were filed before the Office of the Ombudsman, charging five (5) lawmakers for Plunder [(**among others, Enrile**)], and three (3) other lawmakers for Malversation, Direct Bribery, and Violation of the Anti-Graft and Corrupt Practices Act. Also recommended to be charged in the complaints are some of the lawmakers' chiefs -of-staff or representatives, the heads and other officials of three (3) implementing agencies, and the several presidents of the NGOs set up by Napoles.[30] (Emphases and words in brackets supplied; citations omitted)

Accordingly, an identification of the NGOs (and, as below discussed, the government agencies) involved in each PDAF transaction is therefore integral to the defense.

> 6. "**The government agencies to whom Enrile allegedly endorsed Napoles' NGOs**. We reiterate that the particular person/s in each government agency who facilitated the transactions need not anymore be named in the Information."[31]

As aptly observed by the *ponencia*,[32] government agencies have been allegedly used as conduits between Enrile and the Napoles' NGOs. The justification behind their inclusion is the same as that of the above.

The names of the public officer's agents or employees through which he courses through the "groundwork" of his scheme, *i.e.*, the actual exchange of money, need not be provided. These involve mere evidentiary facts that only tend to prove the ultimate fact that the public officer concerned indeed received kickbacks and commissions. In this case, what remains paramount is that the Information state that Enrile received kickbacks from Napoles, *et al.* in connection with the ghost projects wherein the former's PDAF was disbursed through the facility of his office. Regardless of who delivered and received the actual amounts, it is clear from the Information that Enrile's office as Philippine Senator was used to operate the scheme.

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[30] Id. at 80.
[31] *Ponencia*, p. 33.
[32] Id. at 27.

IV.

As a final point, it should be elucidated that **"[t]he factual premises for the allegation that Enrile took undue advantage of his official position in order to enrich himself to the damage and prejudice of the Filipino people and the Republic of the Philippines** x x x"[33] should not be provided by the prosecution.

The facts already alleged in the Information and the particulars granted are already sufficient to make out how Enrile took undue advantage of his official position. It will be recalled that the Information already alleges that Enrile, in his capacity as Senator from 2004-2010, conspired with Reyes, Napoles, Lim and De Asis in accumulating, amassing or acquiring 172,834,500.00 in ill-gotten wealth by receiving kickbacks and commission from projects funded by his PDAF, by endorsing Napoles-controlled NGOs to government agencies. From these allegations alone, the charge already conveys how Enrile supposedly took undue advantage of his office (for how else is he alleged to have diverted the funds) to the damage of the Filipino people (by depriving them of the public funds). In other words, it is fairly deducible from the allegations in the Information that Enrile must have taken undue advantage of his official position as Philippine Senator in order to manipulate the disposition of his PDAF and to obtain numerous kickbacks from Napoles. The damage and prejudice to the Filipino people and the Republic are also self-evident from the context of the Plunder charge, more so, one specifically on the PDAF scheme.

While the prosecution may have indeed quoted Section 1 (d) (6) of the Plunder Law,[34] the language of the phrase "[b]y taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines,"[35] is – according to its natural import – fully descriptive of the Plunder PDAF charge. It is common understanding that such an offense pertains to the act of taking undue advantage of a member of Congress of his PDAF, through his post-enactment authority. Since public funds are misappropriated, damage and prejudice has been obviously caused to the Filipino People. Therefore, it is unnecessary to split hairs on what this phrase means. As instructed in *Potter v. U.S.*:[36]

> The offense charged is a statutory one, and while it is doubtless true that it is not always sufficient to use simply the language of the statute in describing such an offense, x x x yet if such language is, according to the natural import of the words, fully descriptive of the offense, then ordinarily it is sufficient.

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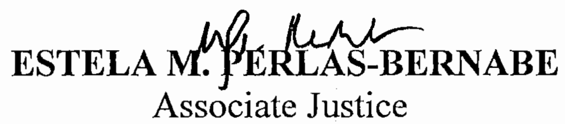
33 Id. at 33.
34 Id. at 27.
35 See Information; *rollo*, p. 171.
36 155 U.S. 438; 15 S. Ct. 144; 39 L. Ed. 214; (1894); citation omitted.

ACCORDINGLY, subject to the qualifications herein made, I vote to **PARTIALLY GRANT** the petition.



ESTELA M. PERLAS-BERNABE
Associate Justice