G.R. No. 229781 ***(Leila M. De Lima v. Hon. Juanita Guerrero, in her capacity as presiding judge, Regional Trial Court of Muntinlupa City, Branch 204, People of the Philippines, P/Dir. Gen. Ronald M. Dela Rosa in his capacity as Chief of the Philippine National Police, PSupt. Philip Gil M. Philipps, in his capacity as Director, Headquarters Support Service, Supt. Arnel Jamandron Apud, in his capacity as Chief, PNP Custodial Service Unit, and All Persons acting under their Control, Supervision, Instruction or Direction in relation to the Orders that may be issued by the Court)***

Promulgated:

October 10, 2017

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DISSENTING OPINION

SERENO, *CJ*:

The *lis mota* in this case is whether the offenses alleged to have been committed by the petitioner, an official with a Salary Grade level of 30, were committed in relation to her office such that it is the Sandiganbayan, and not the Regional Trial Court (RTC) that has jurisdiction over the criminal case against her that was lodged in the respondent court. The Solicitor General claims that regional trial courts, despite the language of the laws creating the Sandiganbayan, and thereafter amending it, cannot be ousted of their exclusive jurisdiction over the same.

Offenses Defined and Penalized Under R.A. 9165

An analysis of the offenses under Republic Act No. (R.A.) 9165 (Comprehensive Dangerous Drugs Act of 2002) would show the myriad ways through which public officers can commit a drug crime in relation to their office. This, together with the announcement that thousands of public officials are in the government's drug list, underscores the transcendental importance of resolving the issue of jurisdiction of courts over offenses committed by public officials with a salary grade level of at least 27, when the offenses are penalized under R.A. 9165, and when, as in this case, the petition alleges that they could not have been committed unless in relation to their office.

There are a total of 49 drug offenses defined in R.A. 9165. The following six offenses specifically provide for public office as an element:

1. Misappropriation, misapplication. or failure to account for the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment, including the

proceeds or properties obtained from the unlawful act, committed by a public officer or employee under Section 27;[1]

2. Violation of the confidentiality of records under Section 72;[2]
3. Failure to testify as prosecution witnesses in dangerous drugs cases under Section 91;[3]
4. Failure of the immediate superior of a public officer who failed to testify as prosecution witness in dangerous drugs cases, if the former does not exert reasonable effort to present the latter to the court, under Section 91;[4]
5. Failure of the immediate superior to notify the court of an order to transfer or re-assign the public officer who failed to testify under Section 91;[5] and

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[1] Section 27. *Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any public office, shall be imposed upon any public officer or employee who misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in this Act.

[2] Section 72. *Liability of a Person Who Violates the Confidentiality of Records.* — The penalty of imprisonment ranging from six (6) months and one (1) day to six (6) years and a fine ranging from One thousand pesos (₱1,000.00) to Six thousand pesos (₱6,000.00), shall be imposed upon any person who, having official custody of or access to the confidential records of any drug dependent under voluntary submission programs, or anyone who, having gained possession of said records, whether lawfully or not, reveals their content to any person other than those charged with the prosecution of the offenses under this Act and its implementation. The maximum penalty shall be imposed, in addition to absolute perpetual disqualification from any public office, when the offender is a government official or employee. Should the records be used for unlawful purposes, such as blackmail of the drug dependent or the members of his/her family, the penalty imposed for the crime of violation of confidentiality shall be in addition to whatever crime he/she may be convicted of.

[3] Section 91. *Responsibility and Liability of Law Enforcement Agencies and Other Government Officials and Employees in Testing as Prosecution Witnesses in Dangerous Drugs Cases.* — Any member of law enforcement agencies or any other government official and employee who, after due notice, fails or refuses intentionally or negligently, to appear as a witness for the prosecution in any proceedings, involving violations of this Act, without any valid reason, shall be punished with imprisonment of not less than twelve (12) years and one (1) day to twenty (20) years and a fine of not less than Five hundred thousand pesos (₱500,000.00), in addition to the administrative liability he/she may be meted out by his/her immediate superior and/or appropriate body.

The immediate superior of the member of the law enforcement agency or any other government employee mentioned in the preceding paragraph shall be penalized with imprisonment of not less than two (2) months and one (1) day but not more than six (6) years and a fine of not less than Ten thousand pesos (₱10,000.00) but not more than Fifty thousand pesos (₱50,000.00) and in addition, perpetual absolute disqualification from public office if despite due notice to them and to the witness concerned, the former does not exert reasonable effort to present the latter to the court.

The member of the law enforcement agency or any other government employee mentioned in the preceding paragraphs shall not be transferred or re-assigned to any other government office located in another territorial jurisdiction during the pendency of the case in court. However, the concerned member of the law enforcement agency or government employee may be transferred or re-assigned for compelling reasons: Provided, That his/her immediate superior shall notify the court where the case is pending of the order to transfer or re-assign, within twenty-four (24) hours from its approval: Provided, further, That his/her immediate superior shall be penalized with imprisonment of not less than two (2) months and one (1) day but not more than six (6) years and a fine of not less than Ten thousand pesos (₱10,000.00) but not more than Fifty thousand pesos (₱50,000.00) and in addition, perpetual absolute disqualification from public office, should he/she fail to notify the court of such order to transfer or re-assign.

Prosecution and punishment under this Section shall be without prejudice to any liability for violation of any existing law.

[4] Id.

[5] Id.

6. Delay and bungling in the prosecution of drug cases under Section 92.[6]

Since public office is an element of the foregoing offenses, these offenses are necessarily committed in relation to office.

Meanwhile, **other offenses under R.A. 9165 do not specify public office as an essential element, but the means by which they can be committed are closely connected with the power, influence, resources, or privileges attached to a public office, so that public officers cannot commit those offenses unless aided by their position.**

Section 4,[7] which penalizes the importation of dangerous drugs and/or controlled precursors and essential chemicals, refers to an offense that may be committed in relation to office through the use of a diplomatic passport, diplomatic facilities or any other means involving one's official status and intended to facilitate the unlawful entry of the dangerous drug and/or controlled precursor and essential chemical into the Philippines. It may also be committed by public customs officials who use their authority to facilitate and prevent the inspection of any parcel or cargo containing a dangerous drug and/or controlled precursor and essential chemical.

Section 5[8] penalizes the sale, trading, administration, dispensation, delivery, distribution, and transportation of dangerous drug and/or controlled

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[6] Section 92. *Delay and Bungling in the Prosecution of Drug Cases.* — Any government officer or employee tasked with the prosecution of drug-related cases under this Act, who, through patent laxity, inexcusable neglect, unreasonable delay or deliberately causes the unsuccessful prosecution and/or dismissal of the said drug cases, shall suffer the penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years without prejudice to his/her prosecution under the pertinent provisions of the Revised Penal Code.

[7] Section 4. *Importation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall import or bring into the Philippines any dangerous drug, regardless of the quantity and purity involved, including any and all species of opium poppy or any part thereof or substances derived therefrom even for floral, decorative and culinary purposes.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person, who, unless authorized by law, shall import any controlled precursor and essential chemical.

The maximum penalty provided for under this Section shall be imposed upon any person, who, unless authorized under this Act, shall import or bring into the Philippines any dangerous drug and/or controlled precursor and essential chemical through the use of a diplomatic passport, diplomatic facilities or any other means involving his/her official status intended to facilitate the unlawful entry of the same. In addition, the diplomatic passport shall be confiscated and canceled.

The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[8] SECTION 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

precursors, as well as the act of being a broker in the aforementioned transactions. While public office is not an element of these offenses, they may be committed in relation to office in the case of conspiracy, where public officers use their influence, power, or position in coercing others to engage in the prohibited transactions. The nature of the office involved may also facilitate the commission of the offense as in the case of public health officials in charge of the care of patients and who have access to dangerous drugs, essential chemicals, or controlled precursors. Further, the law imposes the maximum penalty upon any person who uses minors or mentally incapacitated individuals as runners, couriers, and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade. This offense may be committed in relation to office by a public official in charge of institutions caring for minors or mentally incapacitated individuals.

Section 6[9] makes the maintenance of a den, dive, or resort a punishable offense under the law. Public office is not an element of the

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The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any controlled precursor and essential chemical, or shall act as a broker in such transactions.

If the sale, trading, administration, dispensation, delivery, distribution or transportation of any dangerous drug and/or controlled precursor and essential chemical transpires within one hundred (100) meters from the school, the maximum penalty shall be imposed in every case.

For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemicals trade, the maximum penalty shall be imposed in every case.

If the victim of the offense is a minor or a mentally incapacitated individual, or should a dangerous drug and/or a controlled precursor and essential chemical involved in any offense herein provided be the proximate cause of death of a victim thereof, the maximum penalty provided for under this Section shall be imposed.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[9] Section 6. *Maintenance of a Den, Dive or Resort.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person or group of persons who shall maintain a den, dive or resort where any dangerous drug is used or sold in any form.

The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person or group of persons who shall maintain a den, dive, or resort where any controlled precursor and essential chemical is used or sold in any form.

The maximum penalty provided for under this Section shall be imposed in every case where any dangerous drug is administered, delivered or sold to a minor who is allowed to use the same in such a place.

Should any dangerous drug be the proximate cause of the death of a person using the same in such den, dive or resort, the penalty of death and a fine ranging from One million (₱1,000,000.00) to Fifteen million pesos (₱15,000,000.00) shall be imposed on the maintainer, owner and/or operator.

If such den, dive or resort is owned by a third person, the same shall be confiscated and escheated in favor of the government: Provided, That the criminal complaint shall specifically allege that such place is intentionally used in the furtherance of the crime: Provided, further, That the prosecution shall prove such intent on the part of the owner to use the property for such purpose: Provided, finally, That the owner shall be included as an accused in the criminal complaint.

The maximum penalty provided for under this Section shall be imposed upon any person who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be

offense, but it can be committed in relation to office by public officers who use the power and influence of their office to maintain a place where any dangerous drug and/or controlled precursor and essential chemical is administered, delivered, stored for illegal purposes, distributed, sold, or used in any form. The offense may also be committed in relation to public office if the den, dive, or resort was maintained in a public facility or property under the authority of the public official involved.

Section 8[10] penalizes the manufacture of dangerous drugs and/or controlled precursors and essential chemicals and does not include public office as an element. Nevertheless, Section 8(e) provides that the employment of a public official in the clandestine laboratory shall be considered as an aggravating circumstance to be appreciated against the manufacturer. Further, the offense may be committed in relation to office by a public health official engaged in the research and development of medicines.

Under Section 9,[11] illegal chemical diversion of controlled precursors and essential chemicals is penalized. This offense includes the sale, distribution, supply, or transport of legitimately imported, in-transit, manufactured, or procured controlled precursors and essential chemicals in diluted, mixtures, or in concentrated form to any person or entity engaged in the manufacture of any dangerous drug. It can be committed in relation to office by a public official engaged in the legitimate procurement of controlled precursors and essential chemicals.

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imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[10] Section 8. *Manufacture of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall engage in the manufacture of any dangerous drug.
The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person, who, unless authorized by law, shall manufacture any controlled precursor and essential chemical.
The presence of any controlled precursor and essential chemical or laboratory equipment in the clandestine laboratory is a prima facie proof of manufacture of any dangerous drug. It shall be considered an aggravating circumstance if the clandestine laboratory is undertaken or established under the following circumstances:
(a) Any phase of the manufacturing process was conducted in the presence or with the help of minor/s;
(b) Any phase or manufacturing process was established or undertaken within one hundred (100) meters of a residential, business, church or school premises;
(c) Any clandestine laboratory was secured or protected with booby traps;
(d) Any clandestine laboratory was concealed with legitimate business operations; or
(e) Any employment of a practitioner, chemical engineer, public official or foreigner.
The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.
The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[11] Section 9. *Illegal Chemical Diversion of Controlled Precursors and Essential Chemicals.* — The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person, who, unless authorized by law, shall illegally divert any controlled precursor and essential chemical.

Section 10[12] penalizes the manufacture, delivery, possession with intent to deliver, and use of equipment, instrument, apparatus, and other paraphernalia used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal dangerous drugs and/or controlled precursors and essential chemicals. Section 10 imposes the maximum penalty upon any person who uses a minor or a mentally incapacitated individual to deliver such equipment or instrument. Again, this offense may be committed in relation to office by a public official in charge of institutions caring for minors or mentally incapacitated individuals. With respect to the use of the illegal equipment or instrument in order to inject, ingest, inhale or otherwise introduce into the human body a dangerous drug, this offense may be committed in relation to office by a public health official in charge of the care of patients.

Section 11[13] penalizes the unauthorized possession of dangerous drugs. Public office is not an element of the offense, but there are numerous ways through which the offense can be committed by public officials in relation to their office. Using the influence, power, privileges, or resources attached to their office, they can easily gain access to or evade apprehension for the possession of dangerous drugs.

Likewise under Section 12,[14] public office is not specified as an element in the offense of unauthorized possession of an equipment, instrument, apparatus, and other paraphernalia fit or intended for smoking,

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[12] Section 10. *Manufacture or Delivery of Equipment, Instrument, Apparatus, and Other Paraphernalia for Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person who shall deliver, possess with intent to deliver, or manufacture with intent to deliver equipment, instrument, apparatus and other paraphernalia for dangerous drugs, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain or conceal any dangerous drug and/or controlled precursor and essential chemical in violation of this Act.

The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (₱10,000.00) to Fifty thousand pesos (₱50,000.00) shall be imposed if it will be used to inject, ingest, inhale or otherwise introduce into the human body a dangerous drug in violation of this Act.

The maximum penalty provided for under this Section shall be imposed upon any person, who uses a minor or a mentally incapacitated individual to deliver such equipment, instrument, apparatus and other paraphernalia for dangerous drugs.

[13] Section 11. *Possession of Dangerous Drugs.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug x x x, regardless of the degree of purity thereof.

[14] Section 12. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs.* — The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (₱10,000.00) to Fifty thousand pesos (₱50,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body: Provided, That in the case of medical practitioners and various professionals who are required to carry such equipment, instrument, apparatus and other paraphernalia in the practice of their profession, the Board shall prescribe the necessary implementing guidelines thereof.

The possession of such equipment, instrument, apparatus and other paraphernalia fit or intended for any of the purposes enumerated in the preceding paragraph shall be prima facie evidence that the possessor has smoked, consumed, administered to himself/herself, injected, ingested or used a dangerous drug and shall be presumed to have violated Section 15 of this Act.

consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body. But, as in Section 11, the influence, power, privileges, or resources attached to the office can be used by a public officer to gain access to or evade apprehension for the possession of the equipment or instrument identified in Section 12.

Sections 13[15] and 14[16] penalize the unauthorized possession of dangerous drugs and equipment or instruments for the consumption or administration of those drugs during parties, social gatherings or meetings. Public office is not an element of the offenses, but they can be committed in relation to office by public officers who are able to access and possess the dangerous drugs or the equipment or instrument by virtue of their office as described above. Further, public officers may be able to bring the illegal items to a party, social gathering, or meeting without any apprehension by virtue of the power or influence of their office.

The use of dangerous drugs is penalized in Section 15[17] of the law. While use is inherently personal, the commission of the offense may be facilitated by the public officer's power, influence, or authority, without which the use would not have been possible.

Section 16[18] penalizes the cultivation or culture of plants classified either as dangerous drugs or sources thereof. The offense can be committed

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[15] Section 13. *Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings.* — Any person found possessing any dangerous drug during a party, or at a social gathering or meeting, or in the proximate company of at least two (2) persons, shall suffer the maximum penalties provided for in Section 11 of this Act, regardless of the quantity and purity of such dangerous drugs.

[16] Section 14. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs During Parties, Social Gatherings or Meetings.* — The maximum penalty provided for in Section 12 of this Act shall be imposed upon any person, who shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body, during parties, social gatherings or meetings, or in the proximate company of at least two (2) persons.

[17] Section 15. *Use of Dangerous Drugs.* — A person apprehended or arrested, who is found to be positive for use of any dangerous drug, after a confirmatory test, shall be imposed a penalty of a minimum of six (6) months rehabilitation in a government center for the first offense, subject to the provisions of Article VIII of this Act. If apprehended using any dangerous drug for the second time, he/she shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from Fifty thousand pesos (₱50,000.00) to Two hundred thousand pesos (₱200,000.00): Provided, That this Section shall not be applicable where the person tested is also found to have in his/her possession such quantity of any dangerous drug provided for under Section 11 of this Act, in which case the provisions stated therein shall apply.

[18] Section 16. *Cultivation or Culture of Plants Classified as Dangerous Drugs or are Sources Thereof.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who shall plant, cultivate or culture marijuana, opium poppy or any other plant regardless of quantity, which is or may hereafter be classified as a dangerous drug or as a source from which any dangerous drug may be manufactured or derived: Provided, That in the case of medical laboratories and medical research centers which cultivate or culture marijuana, opium poppy and other plants, or materials of such dangerous drugs for medical experiments and research purposes, or for the creation of new types of medicine, the Board shall prescribe the necessary implementing guidelines for the proper cultivation, culture, handling, experimentation and disposal of such plants and materials.

The land or portions thereof and/or greenhouses on which any of said plants is cultivated or cultured shall be confiscated and escheated in favor of the State, unless the owner thereof can prove lack of knowledge of such cultivation or culture despite the exercise of due diligence on his/her part. If the land involved is part of the public domain, the maximum penalty provided for under this Section shall be imposed upon the offender.

The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a "financier" of any of the illegal activities prescribed in this Section.

in relation to office by public officers who use public lands or properties under their power or jurisdiction for these illegal activities. Further, they may personally engage in planting, cultivating, or culturing dangerous drugs without interference by law enforcement agencies by virtue of the power and influence of their office.

Section 17[19] penalizes the offense of failure to maintain and keep original records of transactions on dangerous drugs and/or controlled precursors and essential chemicals in accordance with Section 40.[20] The

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The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) shall be imposed upon any person, who acts as a "protector/coddler" of any violator of the provisions under this Section.

[19] Section 17. *Maintenance and Keeping of Original Records of Transactions on Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of imprisonment ranging from one (1) year and one (1) day to six (6) years and a fine ranging from Ten thousand pesos (₱10,000.00) to Fifty thousand pesos (₱50,000.00) shall be imposed upon any practitioner, manufacturer, wholesaler, importer, distributor, dealer or retailer who violates or fails to comply with the maintenance and keeping of the original records of transactions on any dangerous drug and/or controlled precursor and essential chemical in accordance with Section 40 of this Act.

An additional penalty shall be imposed through the revocation of the license to practice his/her profession, in case of a practitioner, or of the business, in case of a manufacturer, seller, importer, distributor, dealer or retailer.

[20] Section 40. *Records Required for Transactions on Dangerous Drugs and Precursors and Essential Chemicals.* —

a) Every pharmacist dealing in dangerous drugs and/or controlled precursors and essential chemicals shall maintain and keep an original record of sales, purchases, acquisitions and deliveries of dangerous drugs, indicating therein the following information:

(1) License number and address of the pharmacist;
(2) Name, address and license of the manufacturer, importer or wholesaler from whom the dangerous drugs have been purchased;
(3) Quantity and name of the dangerous drugs purchased or acquired;
(4) Date of acquisition or purchase;
(5) Name, address and community tax certificate number of the buyer;
(6) Serial number of the prescription and the name of the physician, dentist, veterinarian or practitioner issuing the same;
(7) Quantity and name of the dangerous drugs sold or delivered; and
(8) Date of sale or delivery.

A certified true copy of such record covering a period of six (6) months, duly signed by the pharmacist or the owner of the drugstore, pharmacy or chemical establishment, shall be forwarded to the Board within fifteen (15) days following the last day of June and December of each year, with a copy thereof furnished the city or municipal health officer concerned.

(b) A physician, dentist, veterinarian or practitioner authorized to prescribe any dangerous drug shall issue the prescription therefor in one (1) original and two (2) duplicate copies. The original, after the prescription has been filled, shall be retained by the pharmacist for a period of one (1) year from the date of sale or delivery of such drug. One (1) copy shall be retained by the buyer or by the person to whom the drug is delivered until such drug is consumed, while the second copy shall be retained by the person issuing the prescription.

For purposes of this Act, all prescriptions issued by physicians, dentists, veterinarians or practitioners shall be written on forms exclusively issued by and obtainable from the DOH. Such forms shall be made of a special kind of paper and shall be distributed in such quantities and contain such information and other data as the DOH may, by rules and regulations, require. Such forms shall only be issued by the DOH through its authorized employees to licensed physicians, dentists, veterinarians and practitioners in such quantities as the Board may authorize. In emergency cases, however, as the Board may specify in the public interest, a prescription need not be accomplished on such forms. The prescribing physician, dentist, veterinarian or practitioner shall, within three (3) days after issuing such prescription, inform the DOH of the same in writing. No prescription once served by the drugstore or pharmacy be reused nor any prescription once issued be refilled.

(c) All manufacturers, wholesalers, distributors, importers, dealers and retailers of dangerous drugs and/or controlled precursors and essential chemicals shall keep a record of all inventories, sales, purchases, acquisitions and deliveries of the same as well as the names, addresses and licenses of the persons from whom such items were purchased or acquired or to whom such items were sold or delivered, the name and quantity of the same and the date of the transactions. Such records may be subjected anytime for review by the Board.

offender under this section refers to the practitioner, manufacturer, wholesaler, importer, distributor, dealer, or retailer who deals with dangerous drugs and/or controlled precursors and essential chemicals. The offense may be committed in relation to office by public physicians or other government medical workers who are required to maintain original records of transactions on dangerous drugs.

Section 18[21] penalizes the unnecessary prescription of dangerous drugs, while Section 19[22] penalizes the unlawful prescription thereof. These offenses may be committed in relation to office by public officers, especially public physicians or medical workers, whose positions authorize or require them to prescribe drugs to patients.

Section 26 penalizes a mere attempt or conspiracy to commit the following offenses:

a) Importation of any dangerous drug and/or controlled precursor and essential chemical;
b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
c) Maintenance of a den, dive or resort where any dangerous drug is used in any form;
d) Manufacture of any dangerous drug and/or controlled precursor and essential chemical; and
e) Cultivation or culture of plants that are sources of dangerous drugs.

With respect to an attempt to commit the enumerated offenses, since the included offenses can be committed in relation to public office, the mere commencement of their commission, as described above, directly by overt acts will also hold the public officer liable.

Conspiracy to commit the enumerated offenses can be committed in relation to office by public officers who use the power, influence, or moral ascendancy of their office to convince the co-conspirators to come into an agreement regarding the commission of the offense.

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[21] Section 18. *Unnecessary Prescription of Dangerous Drugs.* — The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00) and the additional penalty of the revocation of his/her license to practice shall be imposed upon the practitioner, who shall prescribe any dangerous drug to any person whose physical or physiological condition does not require the use or in the dosage prescribed therein, as determined by the Board in consultation with recognized competent experts who are authorized representatives of professional organizations of practitioners, particularly those who are involved in the care of persons with severe pain.

[22] Section 19. *Unlawful Prescription of Dangerous Drugs.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall make or issue a prescription or any other writing purporting to be a prescription for any dangerous drug.

Penalized under Section 29[23] is the planting of evidence constituting any dangerous drug and/or controlled precursor and essential chemical – regardless of quantity and purity – in the person, house, effects or in the immediate vicinity of an innocent individual. The offense may be committed in relation to office by public officers whose position or job description enables them to plant evidence on innocent individuals.

Penalized under Section 30[24] is a juridical entity's partner, president, director, manager, trustee, estate administrator, or officer who knowingly authorizes, tolerates, or consents to the use of the vehicle, vessel, aircraft, equipment, or other facility of the juridical entity as an instrument in the importation, sale, trading, administration, dispensation, delivery, distribution, transportation, or manufacture of dangerous drugs, or chemical diversion. While public office is not an element thereof, the offense may be committed by public officers in relation to their office if they are employed in a government-owned or -controlled corporation.

Section 37[25] penalizes the issuance of false or fraudulent drug test results. It can be committed in relation to office by a public physician authorized, licensed, or accredited to conduct drug tests in a government hospital, clinic, or health center. The public officer may also be a technician or an assistant in a government drug-testing center who is able to facilitate the issuance, or acts in conspiracy with the physician in the issuance, of a false or fraudulent drug test result.

The financing and protecting or coddling of persons involved in specific drug offenses are also penalized under R.A. 9165. Penalized specifically are the financing and protecting or coddling of those who import dangerous drugs; enter into sale and other transaction; maintain dens, dives, or resorts; manufacture dangerous drugs; manufacture equipment for dangerous drugs; and cultivate dangerous drugs.

Being a financier in these offenses can be committed in relation to office if public funds are used therefor. Being a protector or coddler – an

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[23] Section 29. *Criminal Liability for Planting of Evidence.* — Any person who is found guilty of "planting" any dangerous drug and/or controlled precursor and essential chemical, regardless of quantity and purity, shall suffer the penalty of death.

[24] Section 30. *Criminal Liability of Officers of Partnerships, Corporations, Associations or Other Juridical Entities.* — In case any violation of this Act is committed by a partnership, corporation, association or any juridical entity, the partner, president, director, manager, trustee, estate administrator, or officer who consents to or knowingly tolerates such violation shall be held criminally liable as a co-principal.

The penalty provided for the offense under this Act shall be imposed upon the partner, president, director, manager, trustee, estate administrator, or officer who knowingly authorizes, tolerates or consents to the use of a vehicle, vessel, aircraft, equipment or other facility, as an instrument in the importation, sale, trading, administration, dispensation, delivery, distribution, transportation or manufacture of dangerous drugs, or chemical diversion, if such vehicle, vessel, aircraft, equipment or other instrument is owned by or under the control or supervision of the partnership, corporation, association or juridical entity to which they are affiliated.

[25] Section 37. *Issuance of False or Fraudulent Drug Test Results.* — Any person authorized, licensed or accredited under this Act and its implementing rules to conduct drug examination or test, who issues false or fraudulent drug test results knowingly, willfully or through gross negligence, shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from One hundred thousand pesos (₱100,000.00) to Five hundred thousand pesos (₱500,000.00).

An additional penalty shall be imposed through the revocation of the license to practice his/her profession in case of a practitioner, and the closure of the drug testing center.

offense that can be committed by public officers only in relation to their office – refers to the use of influence, power, or position in shielding, harboring, screening, or facilitating the escape of any person in order to prevent the latter's arrest, prosecution and conviction for the offenses enumerated above

From the above recital of drug offenses, it can be seen that depending on the particular allegations in the charge, most of the offenses under R.A. 9165 can be committed by a public officer in relation to office.

The thousands of public officers included in the President's drug list vis-à-vis the numerous means through which a drug offense can be committed in relation to public office foreshadow chaos in the process of determining which prosecutorial body or tribunal has jurisdiction. This is not a question that we can leave for determination by the Department of Justice (DOJ) and the Office of the Ombudsman (Ombudsman) alone, as proposed by the Solicitor General during the oral arguments on 28 March 2017, to wit:

> **CHIEF JUSTICE SERENO:**
>
> x x x In fact, are you now trying to tell us that assuming that the President is correct, that there are thousands and thousands of government officials involved, that the Court is not going to decide on the question of jurisdiction now, while we have the opportunity to do so?
>
> **SOLICITOR GENERAL CALIDA:**
>
> Well, Your Honor, this case arose from the acts of De Lima in directly going to this Court, despite the pendency of the motion to quash, before Judge Guerrero, that is forum shopping at the very least, Your Honor. So, let's first, my humble submission is, Your Honor, let's decide the petition on its face, Your Honor, and not dig into substantive or evidentiary data, Your Honor, because this is not yet the time to do so. There will be a time for that, Your Honor, during the trial of this case before the RTC.
>
> **CHIEF JUSTICE SERENO:**
>
> Precisely, the timeliness is already being put forth before us, Justice Leonen already told you what will [happen] to all those thousands of officials. You're basically saying that the DOJ or the Ombudsman will decide which will assume jurisdiction over the investigation and they will on their own decide whether to file it before the RTC and the [Sandiganbayan], is that basically the effect of what you're saying, when you're saying, that we should dismiss this petition?
>
> **SOLICITOR GENERAL CALIDA:**
>
> Yes, Your Honor. First, of all, there is a defective *jurat*, the formal requisites of Section 1, Rule 65 of the Rules of Court was not complied with, this is just a scrap of paper that deserves to be put in the trash can, Your Honor.[26]

It behooves this Court to clarify and settle the question of jurisdiction over drug crimes committed in relation to public office.

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[26] TSN, Oral Arguments for G.R. No. 229781, 28 March 2017, pp. 120-121.

Alleged Acts of the Petitioner Could not Have Been Committed Unless in Relation to Her Office

The Court has held that an offense is deemed to be committed in relation to the public office of the accused when that office is an element of the crime charged.[27] However, even if public office is not an element of the offense, the jurisdiction of the Sandiganbayan obtains when the relation between the crime and the office is direct and not accidental such that, in the legal sense, the offense cannot exist without the office.[28]

Petitioner argues that the acts allegedly committed by her constitute an offense exclusively cognizable by the Sandiganbayan, because (1) the inculpatory allegations in the Information constitute no offense other than direct bribery,[29] which is an offense defined and punished under Chapter II, Section 2, Title VII, Book II[30] of the Revised Penal Code; (2) petitioner, at the time of the alleged commission of the crime, was an official in the executive branch occupying a position classified as Grade 27 or higher;[31] and (3) the crime alleged is clearly in relation to the office of petitioner as former Secretary of Justice.[32]

On the other hand, respondents allege that although some elements of direct bribery may be present in the Information,[33] petitioner is ultimately being charged with violation of R.A. 9165.[34]

Regardless of whether the Information charges the crime of bribery or illegal drug trading, or regardless of how the Court classifies the crime, there is only one conclusion – the crime could not have been committed if not for petitioner's position as Secretary of Justice.

Inmates in the national prisons are classified into three security groups. Maximum security inmates are those who are highly dangerous or pose high security risk that requires a high degree of control and supervision.[35] Medium security inmates are those who cannot be trusted in

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[27] *Alarilla v. Sandiganbayan*, 393 Phil. 143 (2000).
[28] *Montilla v. Hilario*, 90 Phil. 49 (1951).
[29] Memorandum for Petitioner, pp. 28-30.
[30] Revised Penal Code, Article 210 (direct bribery), Article 211 (indirect bribery), Article 211-A (qualified bribery) and Article 212 (corruption of public officials).
[31] Memorandum for Petitioner, p. 30.
[32] Id. at 30-33.
[33] Office of the Solicitor General's Memorandum, pp. 63-65.
[34] Id. at 57-60.
[35] Bureau of Corrections Operating Manual, Book I, Part II, Chapter 3, Section 3(a).
Under this category are the following:

1. Those sentenced to death;
2. Those whose minimum sentence is 20 years imprisonment;
3. Remand inmates or detainees whose sentence is 20 years and above, and those whose sentences are under review by this Court or the CA;
4. Those with pending cases;
5. Recidivists, habitual delinquents and escapees;
6. Those confined at the Reception and Diagnostic center;[35]
7. Those under disciplinary punishment or safekeeping; and
8. Those who are criminally insane or those with severe personality or emotional disorders that make them dangerous to fellow inmates or the prison staff.

less-secure areas, but whose conduct or behavior requires minimum supervision.[36] Minimum security inmates are those who can be reasonably trusted to serve their sentences under less restricted conditions.[37]

Inmates are also classified as follows according to their entitlement to privileges:

1. Detainee;
2. Third-class inmates or those who have either been previously committed for three or more times as a sentenced inmate, except those imprisoned for nonpayment of a fine and those who have been reduced from a higher class;
3. Second-class inmates or those who have newly arrived, demoted from the first class, or promoted from the third class;
4. First-class inmates or those whose known character and credit for work while in detention earned assignment to this class upon commencement of sentence, or who have been promoted from the second class; and
5. Colonist.[38]

Colonists are the highest class of inmates entitled to special privileges.[39] They are those who were first-class inmates and has served one year immediately preceding the completion with good conduct of one-fifth

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[36] Id at Section 3(b).
Under this category are the following:
1. Those whose minimum sentence is less than 20 year-imprisonment;
2. Remand inmates or detainees whose sentences are below 20 years;
3. Those who are 18 years of age and below, regardless of the case and sentence;
4. Those who have two or more records of escape, who can be classified as medium security inmates if they have served eight years since their recommitment. Those with one record of escape must have served five years; and
5. First offenders sentenced to life imprisonment, who may be classified as medium security inmates if they have served five years in a maximum security prison or less, upon the recommendation of the Superintendent. Those who were detained in a city and/or provincial jail shall not be entitled to this classification.

[37] Id. at Section 3(c).
Under this category are the following:
1. Those with a severe physical handicap as certified by the chief medical officer of the prison;
2. Those who are 65 years old and above, without any pending case, and whose convictions are not on appeal;
3. Those who have served one-half of their minimum sentence or one-third of their maximum sentence, excluding good conduct time allowance (GCTA); and
4. Those who have only six months more to serve before the expiration of their maximum sentence.

[38] Id. at Section 5.

[39] Bureau of Corrections Operating Manual, Book I, Part II, Chapter 3, Section 7.
The following are the special privileges:
1. Credit of an additional GCTA of five days for each calendar month while retaining their classification, aside from the regular GCTA authorized under Article 97[39] of the Revised Penal Code;
2. Automatic reduction of the life sentence imposed to a sentence of 30 years;
3. Subject to the approval of the Director, having their respective wives and children, or the women they desire to marry, live with them in the prison and penal farm.
4. As a special reward to deserving colonists, the issuance of a reasonable amount of clothing and ordinary household supplies from the government commissary in addition to free subsistence; and
5. The wearing of civilian clothes on such special occasions as may be designated by the Superintendent.

of the maximum term of their prison sentence, or seven years in the case of a life sentence.[40]

Under the Bureau of Corrections (BuCor) Operating Manual issued on 30 March 2000, the transfer of inmates to another prison is done by the BuCor Director upon the recommendation of the Superintendent of the prison facility concerned.[41] On the other hand, the transfer to a prison and penal farm of inmates not eligible to be colonists is done by the Director upon the recommendation of the Classification Board.[42]

On 3 June 2011, petitioner, as then Secretary of Justice, issued Department Circular No. 025 ordering that all transfers of inmates to any of the penal colonies or penal farms shall bear the prior approval of the Secretary of Justice.

As alleged in the affidavits, the issue of transferring detainees as well as the grant of privileges became the modus by which petitioner influenced the proliferation of the drug trade inside the NBP. We will relate some of their allegations here. Assuming all of these allegations to be true, it can only be concluded that petitioner could not have participated in any way in the drug trade unless she used her office for that purpose.

According to most of the inmate-witnesses, Jaybee Sebastian (Sebastian) wanted to monopolize the drug trade inside the National Bilibid Prison (NBP). He instructed them to deal drugs, the proceeds of which would supposedly be given to petitioner, who had demanded that the inmates contribute money for her candidacy for senator in the May 2016 elections. They were forced to follow his instruction for fear of certain repercussions. Among these was the possibility that they would be transferred to another detention center or a far-flung penal colony and taken away from their families.

In his affidavit, Wu Tuan Yuan a.k.a. Peter Co narrated that his *kubol* was searched and he was transferred, together with others, to the National Bureau of Investigation (NBI). Sebastian supposedly wanted them to understand that those who would not follow would be transferred to a penal colony.[43] In his affidavit, Jojo Baligad stated that he was transferred to the NBI, because his name was included in the list of people that Sebastian furnished petitioner, so that the latter could monopolize the drug trade.[44] Joel

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[40] Id. at Section 6.

[41] Id. at Chapter 5, Section 1.

[42] Id. at Section 4. The Classification Board is composed of the following: the Superintendent as Chairman; the Chief of the Reception and Diagnostic Center as Vice-Chairman; the Medical Officer, the Chief of the Education Section, the Chief of the Agro-Industries Section as members; and the Chief Overseer as Secretary. (Id. at Chapter 3, Section 1)

[43] Affidavit of Wu Tuan Yuan a.k.a. Peter Co, page 4:
Hindi ko na ikinagulat na hindi nasali ang "kubol" ni Jaybee sa paggalugad. Hindi rin siya dinala sa NBI. Alam ko na dahil malakas siya kay dating Secretary *De Lima. Alam ko rin na ang paggalugad sa aming mga "kubol" at pagdala sa amin sa NBI ay kanyang paraan na pagpaparating ng mensahe sa amin na ang hindi sumunod sa gusto niya na idaan ang lahat ng operasyon ng negosyo ng droga sa kanya ay kaya niyang ipalipat at ipatanggal ang espesyal na pribilehiyong tinatamasa sa loob ng Bilibid;*

[44] Affidavit of Jojo Baligad, page 3:

Capones also stated that Sebastian assured him that those who would fund petitioner's candidacy would be protected. At any rate, they had no choice but to follow, because Sebastian had the influence to have them killed or be transferred.[45] His word was law, according to Noel Martinez, because those who did not follow would be the victim of planted drugs or be transferred or killed.[46] Despite his belief that he would not be touched because he gave ₱3 million to petitioner and ₱1.2 million to BuCor Officer-in-Charge Rafael Z. Ragos (Ragos) monthly, Herbert Colanggo was transferred when he did not agree to centralize the drug trade through Sebastian.[47] According to Rodolfo Magleo, Sebastian was ultimately able to monopolize the drug trade after the Bilibid 19 had been transferred to the NBI. Allegedly, Sebastian gave ₱10 million to petitioner in order to effect the transfer.[48]

For his part, Sebastian denied that he was "untouchable" in the national penitentiary, but he confirmed that petitioner meddled in the administration of the prison by ordering the transfers of inmates to other detention facilities.[49]

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cont.

Ayon sa mga naririnig ko, pinalipat daw kami ni Secretary *DE LIMA kasi may ibinigay sa kanya si JAYBEE SEBASTIAN na lista ng mga pangalan namin. Gusto daw kasi ni JAYBEE na ma-*solo *ang sistema ng droga sa loob ng Bilibid at, sa aming pag-alis o paglipat, magagawa niya na ito na wala di-umanong kakumpitensya sa kalakal na ito.*

[45] Affidavit of Joel Capones y Duro, page 1:
Ipinaliwanag niya rin sa amin na ang mga tutulong sa paglikom ng pondo para kay Sec. De Lima ay sagot niya at mapupruteksyunan at walang anumang magiging problema o panganib, samantalang ang babangga o sasalungat ay may paglalagyan. Ganunpaman, wala naman talaga kaming ibang mapagpipilian dahil kaya ni Jaybee na magpapatay at magpalipat sa malalayong piitan.

[46] Affidavit of Noel Martinez y Golloso, page 1:
Sa katunayan, alam ng lahat dito sa Bilibid na ang salita ni Jaybee ay parang batas. Ang sinumang hindi sasang-ayon sa gusto niya ay maaaring mamatay o taniman ng droga o itapon sa malalayong kolonya na tunay na kinatatakutan naming mga bilanggo dito sa Bilibid.

[47] Affidavit of Herbert Colanggo, page 1:
Noong buwan ng November 2014, *kinausap muli ako ni Joenel Sanchez upang i-*centralize *ang operasyon at inatasan din niya ako na kuhanan ko ang mga* bigtime drug lords *ng droga ng may timbang na hindi bababa sa 30 to 50 kilos at pagkatapos ko makuha ang droga ay huwag na itong bayaran at sabihin na lang sa kanya ang pangalan ng mga* drug lords *na aking nakuhanan upang ang mga ito ay ipatapon nila sa ibang lugar.*
Hindi ako pumayag na estapahin ang mga drug lords *dahil naisip ko paano na kung wala na si Sec. De Lima o ang* Director *ng Bilibid. Hindi ko rin naisip na ako ay ipapatapon dahil nagbibigay naman ako ng payola kay Sec. De Lima ng* 3-Million *at sa* Director *ng* 1.2-Million *kada buwan.*

[48] Affidavit of Rodolfo Magleo y Tamayo, page 4:
Binigyan niya (Jaybee Sebastian) ng SAMPUNG MILYON (Php10,000,000.00) si DE LIMA para sa paglipat ng BILIBID 19 na kanyang kakumpitensiya at nagbibigay siya ng karagdagang ISANG MILYON (Php1,000,000.00) kada buwan.
Ang solo drug trading *ni JB Sebastian sa loob ng Bilibid ay naging matagumpay sa loob ng walong (8) buwan at nagtapos noong nagbitiw si DE LIMA bilang* DOJ Secretary *sa kanyang paghahanda sa pagtakbo bilang senador.*

[49] Affidavit of Jaybee Sebastian, page 5:
Dahil sa lagayan o corruption *sa opisina ng BUCOR sa panahon na ito, wala ng disiplina at hustisya ang kapwa ko bilanggo. Dagdag pa nito ay ang pakikialam ni* Secretary *De Lima katulad ng pag*transfer *ng Brigada 9A at paraan ng pagdidisiplina namin sa mga kakosa at ang pagbartolina sa amin na mga* commander *tuwing kami ay magrereklamo upang ayusin ang pagkain naming mga* inmates. *Kapag hindi sipsip kay* Secretary *De Lima ang* Director, *tulad ng nangyari kay* Director *Pangilinan, ay tanggal kaagad pero kapag sipsip sa kanya kahit anong palpak andiyan pa rin.*
Page 9:
Na kinausap din ng aking abogado si Superintendent *Richard Schwarzcopf ngunit sinabi ni Super sa aking abogado na tanging si* Secretary *De Lima lamang ang pwedeng makapigil sa aking paglipat sa Building 14.*

Money was also alleged to have exchanged hands in order to prevent the transfers of inmates to a penal colony. Froilan "Poypoy" Trestiza narrated that he had been threatened with transfer to a penal colony, so he was compelled to pay ₱10,000 for this not to happen.[50] He also testified that when he was placed in the medium security compound of the NBP and he later wanted to be transferred back to the maximum security compound, he was told that petitioner could do so if he paid ₱200,000 to Jun Ablen and Ragos.[51]

Based on the affidavits, the transfers of inmates to a penal farm or penal colony morphed from a manner of rewarding good behavior inside the national penitentiary into a way of punishing those who did not contribute to or fund petitioner's candidacy. The imminent threat of transfer, which was then within the exclusive power of petitioner as Secretary of Justice, became a manner of keeping disobedience at bay, disobedience here meaning not engaging in the illegal drug trade. Presumably, without that threat, petitioner would not have been able to exact obedience from the inmates.

Note is also taken of the apparent fact that inmates considered the transfer from the maximum security to the medium security compound as a punishment, again contrary to the regulation that medium security inmates are provided relative freedom and less supervision than those classified as maximum security. According to the inmates, this power to transfer them to other security compounds or detention centers was also lodged in petitioner as a way to keep their behavior in check. Again "keeping their behavior in check" here meant that they should continue to engage in the illegal drug trade inside the NBP. The evolution of the maximum security compound into a "Little Las Vegas" appears to have been an important incentive for inmates to want to stay there.

Rodolfo Magleo narrated that the maximum security compound of the NBP was nicknamed "Little Las Vegas" because it was rife with concerts,

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[50] Affidavit of Froilan "Poypoy" Lacson Trestiza, page 2:
*Habang ine-*escort*an ng mga opisyal ng BuCor noong unang lingo ng Nobyembre taong 2012, pinagbantaan ako ni MARTINEZ. Ang sabi niya sa akin, "ANO NA NGAYON, POY, WALA NA ANG DIRECTOR MO PERO AKO CONSULTANT PA RIN NI SOJ. SAAN MO BA GUSTONG IPATAPON?" x x x Dito niya po ako hiningan ng Sampung Libong Piso (P10,000.00). Upang hindi naman po ako mapatapon at malayo sa aking pamilya, sinikap ko pong makalikom ng halagang ito at ibinigay kay MARTINEZ.*

[51] Testimony of Froilan "Poypoy" Lacson Trestiza before the House of Representatives on 20 September 2016:
Noong ika-tatlong lingo ng Disyembre taong 2012 matapos na mailipat na sa Maximum Security Compound *ang ilan naming kasamahan na nabartolina sa* Medium Security Compound, *ako ay binalitaan ni (John) Herra at nagsabing nakausap daw niya si Jun Ablen. Si Ablen ay malapit kay noo'y OIC BuCor* Director *Rafal Marcos Ragos. Ang sabi ni Ablen sa akin ay pinagbibigay daw ako ni OIC Ragos ng dalawandaang libong piso kung gusto ko na mailipat sa* Maximum Security Compound. *Ayon kay Ablen, sinabi daw ni Ragos na ang magdedesisyon ng aking paglipat ay si De Lima.*
Ako po ay humingi ng tulong sa aking magulang at mga kapatid para maibigay ang hinihinging halaga ni Ragos sa akin. Sa pamamagitan ng aking kapatid at ni Herra, ay naiabot ang nasabing halaga kay Jun Ablen noong Disyembre 19, 2012. Dagdag ni Herra, sabi din daw ni Jun Ablen na ayon kay Ragos, susunduin daw ako mula sa Medium Security Compound *at ihahatid sa* Maximum Security Compound *bilang patunay na natanggap na niya ang pera. Noong Disyembre 22 taong 2012, nangyari nga po ang pangakong pagsundo sa akin ni Ragos at ni Jun Ablen, kung kaya't siguradong natanggap na ni Ragos ang dalawandaang libong piso na hiningi niya.*

gambling and prostitution.[52] This allegation was confirmed by Sebastian.[53] Jojo Baligad disclosed that the weekly *tara* of ₱100,000 that their group paid to Ragos was in exchange for leniency in allowing contraband to be brought inside the prison.[54] Vicente Sy stated that he paid ₱1 million, so that he could bring and use appliances in the prison, and another ₱500,000 when they were actually delivered.[55] Engelberto Acenas Durano stated that Ronnie Dayan approached him and told him that if he needed protection for his business, the former would have to help with petitioner's candidacy.[56] Durano added that one could not refuse to be part of the drug trade inside the prison, because the privileges originally extended could be lost.[57] According to Jaime Patcho, Sebastian assured him that if they contributed to fund the candidacy of petitioner, they would not be harassed or disturbed in the enjoyment of privileges.[58] In fact, after they obeyed the instruction for them to engage in the drug trade for petitioner's candidacy, Joel Capones observed that new privileges were extended to them almost immediately.[59]

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[52] Affidavit of Rodolfo Magleo y Tamayo, page 1:
Noong mga kapanahunan ng pangangasiwa ni DOJ Secretary *LEILA DE LIMA, ang* Maximum Security Compound *ng* New Bilibid Prisons *ay kinilala bilang* "LITTLE LAS VEGAS" *dahil sa talamak na paglipana ng droga, sugal,* concert *ng mga kilalang mga* singer *at* celebrities *at prostitusyon. Halos 80% ng mga inmate ay mayroong mga* cellphones *at* gadgets.

[53] Affidavit of Jaybee Nino Manicad Sebastian, page 6:
Gusto ko pong linawin at pasinungalingan ang mga balita o paratang na ako diumano ay untouchable *at malakas kay* Secretary *De Lima. Ang totoo po ay si Colangco ang siyang tunay na malakas sa BUCOR at kay DOJ* Secretary *De Lima. Bilang patotoo nito, nagagawa niyang magpasok ng lahat ng kontrabando, babae, alak, mga matataas na kalibreng baril, mga mamahaling gamit at magpasimuno ng ibat-ibang sugal sa loob ng Bilibid kung saan ang pustahan nila ay milyun-milyong piso halos araw-araw, kasama na dito ang paggawa ng halos linggohang* concert *ni Colangco kung saan nagpapapasok siya ng* truck-truck *na* beer *at mga tao galing sa labas ng Bilibid upang manood ng kanyang* concert.

[54] Affidavit of Jojo baligad y Rondal, page 1:
Noong unang lingo ng Enero 2013 ay pinuntahan ako ni Commander *POY sa aking kubol. Sinabi niya sa akin na nagbigay na ng "tara" sa pangkat naming si O.I.C. RAFAEL RAGOS na Isandaang Libong Piso (₱100,000.00) kada lingo. Ang halagang ito ay kapalit ng pagluluwag dito sa loob ng NBP. Dahil sa pagluwag na ito, hindi na kinukumpiska ang mga kontrabando katulad ng drogang shabu at marijuana, mga* cellphone, laptop computer, tablet, wifi receiver *at* signal booster. *Dahil din sa pagluwag na ito, hindi na rin sinisita ang mga dapat sana'y mga ipinagbabawal na gawain katulad ng pagbebenta at pag gamit ng droga, pagsusugal, pagiinom ng alak at pag gamit ng babae.*

[55] Affidavit of Vicente M. Sy, page 5:
Humingi sa akin si George ng ONE MILLION PESOS *(₱1,000,000.00). Ang halagang ito ay sinabi ni George na para kay* Justice Secretary *Leila De Lima para papasukin ang mga* appliances *at para payagan ang paggamit ng mga ito sa loob ng Bilibid. Bago magkaroon ng* actual delivery, *ako ay hiningian pa ulit ng karagdagang FIVE HUNDRED THOUSAND PESOS (P500,000.00) at ito ay sinabi sa akin na para din kay* Justice Secretary *Leila De Lima.*

[56] Affidavit of Engelberto Acenas Durano, page 2:
Isang beses, tinawagan niya (Ronnie Dayan) ako at sinabi na kung kailangan ko ng "proteksiyon" sa aking "negosyo" ay tulungan namin si Secretary *De Lima sa kanyang pangangampanya bilang senador sa taong 2016.*

[57] Id. at 5:
Bilang kalakaran sa loob ng preso, hindi ka maaaring tumanggi na maging bahagi ng pagbebenta ng illegal na droga sa loob ng NBP dahil matatanggalan ka ng mga benepisyo na ibinibigay tulad sa aming mga pinuno ng mga samahan sa loob ng NBP at ang malala ay ang posibilidad na pagbantaaan ang aming buhay kung hindi makikisama at magiging parte ng ganitong sistema.

[58] Affidavit of Jaime Patcho, page 1:
Kinausap niya (Jaybee Sebastian) ako at sabi niya tolongan ko siya para hinde na ako mapurhiwesyo at doon derekta niyang sinabi na bigyan siya bilang tolong sa paghahanda sa pagtakbo sa pagka senador sa darating na election *ni DOJ* Secretary *Laila Dilima. At wag ako mangamba kasi sa kanya raw ang administrasyon.*

[59] Affidavit of Joel Capones y Duro, page 2:
Halos kasabay nito, kami ay pinayagan na ng mga bagong pribilehiyo sa Maximum Security. *Ako ay nagkaroon ng* aircon *at* refrigerator *sa aking kubol. Pinayagan din ako na gumamit ng motorsiklo sa loob ng* Maximum Security Compound. *Naging mas maluwag din ang pamunuan ng NBP sa kanilang pagpapatupad ng mga patakaran sa amin.*

German Agojo also disclosed that Sebastian assured the members of his group that they would receive protection and privileges if they would agree to deal drugs to earn money for petitioner's candidacy.[60]

The alleged grant by petitioner of special requests from the inmates was also alleged by Ragos. He stated that when he relayed these special requests to petitioner, she would just respond with a nod.[61] Nevertheless, Reynante Diaz disclosed that the Office of the Director also received bribe money in exchange for allowing women, liquor and concert equipment to be brought into the prison.[62]

Other allegations relate to the use of disciplinary powers by the petitioner. All of these again yield the same conclusion that she could not have committed them except, self-evidently, by using her power as Secretary of Justice. Under the existing rules, the commission of any prohibited acts[63]

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[60] Affidavit of German Agojo y Luna, page 1:
Natatandaan ko na noong Enero 2014 pinulong ni Jaybee ang aking pangkat at kami ay inutusan na magbenta ng droga. Wala raw kaming dapat ikatakot. Kami raw ay malayang makakagalaw at kami ay puproteksyunan at bibigyan ng mga pribilehiyo. Ngunit kailangan naming makalikom ng halagang ₱20,000,000.00 para sa aming pangkat sa loob ng tatlong buwan, para raw sa suporta sa pagtakbo ni Sec. Leila Delima sa 2016 election para sa Senado. Ang hindi pagsang-ayon ay may kaukulang parusa.

[61] Affidavit of Rafael Z. Ragos, page 2:
During my tenure as Officer in Charge of the Bureau of Corrections, I also received several special requests from inmates such as long weekends, that is to allow their visitors to stay with them for a couple days, entry of construction materials, and conduct of celebrations inside the NBP. Inmate Herbert Colanggo made several requests to conduct a celebration inside the NBP. In making some of his requests, he told me that "*Alam na ni* secretary *yan*," referring to Sec. De Lima.
I would casually mention such celebration requests, including the request of inmate Colanggo, to Sec. De Lima whenever I have the opportunity to tell her, to which she would normally respond with a nod.

[62] Affidavit of Reynante Diaz y Delima, page 3:
Pagdating sa pagpasok ng mga banda at performers, *may* request *kaming ginagawa una sa* Commander of the Guards, *tapos sa* Office of the Superintendent, *tapos i*-routing *at maghihintay na lang kami ng tawag ng* Secretary *ng* Office of the Superintendent. *Pero mas mabilis sa amin kasi dumidirekta kami sa* Office of the Superintendent. *May* weekly *kaming binibigay pero ang pinaka-sigurado ay* every month *sa* Office of the Director, Superintendent, *OIC at sa* Commander of the Guards *pati ang mga* Prison Guards *na nakabantay sa bawat* gate. *Pag nagpapasok kami ng babae, sinasabay namin sila sa mga bisita para hindi halata. Para sa mga* gadgets, beer, *alak at iba pa, sinisingit namin ang mga ito sa* truck *ng* sound system. *At kunwari i-che*check *ng* guards *para hindi halata pero alam nila yun. Mga 4 to 5* trucks *ang pumapasok kasama ang* generator *na 350 kva na kayang pailawin ang buong* maximum.
Page 5:
Kasi pag sobrang maramihan na ang guest, *kunwari ine*-endorse *kami ng* Office of the Director *sa DOJ, para masabi lang na ginagawa din nila ang trabaho nila.*

[63] Section 4, Chapter 1, Part IV, Book I of the BuCor Operating Manual, prohibits the commission of the following acts inside prisons:

1. Participating in illegal sexual acts or placing oneself in situations or exhibiting behavior in a way that would encourage the commission of illegal sexual acts;
2. Openly or publicly displaying photographs, pictures, drawings, or other pictorial representations of persons engaged in sexual acts (actual or simulated), masturbation, excretory functions or lewd or obscene exhibitions of the genitals;
3. Possessing articles that pose a threat to prison security or to the safety and well-being of the inmates and staff;
4. Giving gifts, selling or engaging in barter with prison personnel;
5. Maligning or insulting any religious belief or group;
6. Rendering personal services to or requiring personal services from a fellow inmate;
7. Gambling;
8. Exchanging uniforms with other inmates or wearing uniforms other than those that were officially issued to the inmate;
9. Using profane, vulgar or obscene language or making loud or unusual noise of any kind;
10. Loitering in the prison compound or reservation;
11. Giving a gift or providing material or other assistance to fellow inmates or to the prison administration in general;
12. Engaging in any private work for the benefit of a prison officer or employee;

will subject the erring inmate to disciplinary action by the Board of Discipline established by the BuCor Director. The decision of the board is subject to the approval of the Superintendent of the prison facility.[64] The board can impose sanctions such as caution or reprimand; cancellation of recreation, education, entertainment or visiting privileges; deprivation of GCTA for a specific period; and change of security status to the next higher category, e.g., from medium to maximum.[65]

Considering that the Superintendent is required to strictly enforce all laws and rules and regulations relating to prisons,[66] these prohibited acts could not have been committed inside the prison without those in charge allowing them. Significantly, under Section 8 of R.A. 10575 (The Bureau of Corrections Act of 2013), the Department of Justice (DOJ) exercises administrative supervision over BuCor and retains the authority to review, reverse, revise or modify the latter's decisions in the exercise of the department's regulatory or quasi-judicial functions. Therefore, **the power allegedly exercised by petitioner as narrated by the inmate-witnesses is affirmed by the legal framework instituted between the DOJ and BuCor through applicable laws and regulations.**

Based on the narrations of the inmate-witnesses, leniency and special privileges were accorded in exchange for money. The inmates allegedly would not have forked in the money or engaged in illegal drug trade to be able to give the money, if they knew that their efforts would not matter anyway. Like a transfer, the grant or denial of special privileges was allegedly used as an incentive for obedience or a deterrent for refusal to follow what was required of the inmates by those in power.

Other than the above acts, petitioner is not charged with having committed any other act in a private, non-official capacity to further the trade in drugs. It is therefore indubitable that she is being charged in her former capacity as a public official and for having committed violations of R.A. 9165 by using her office as a means of committing the crime of illegal trading in dangerous drugs under Section 5 in relation to Section 3(jj), Section 26(b), and Section 28.

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cont.

13. Controlling the activities of other inmates except in organizations or groups recognized by prison authorities;
14. Tattooing oneself or allowing oneself to be tattooed on any part of the body. The removal or alteration of tattoos may only be performed by a prison medical officer upon prior approval by the Superintendent;
15. Disobeying legal orders of prison authorities promptly and courteously;
16. Threatening, orally or in writing, the life of any employee or prison official;
17. Possessing any communication device like a cellular telephone, pager or radio transceiver;
18. Constructing, renovating or repairing, with personal funds, a prison building or structure;
19. Making frivolous or groundless complaints; and
20. In general, displaying any behavior that might lead to disorder or violence, or such other actions that may endanger the facility, the outside community or others.

Further, inmates are not allowed to engage in any revenue-generating or profit-making endeavor or profession, except when authorized to do so in writing by the Director or the Superintendent. (Section 5)

[64] Id. at Chapter 2, Section 1 and Section 2(f).
[65] Id. at Section 4.
[66] Id. at Book II, Part II, Section 2(a)(ii).

Sandiganbayan has Exclusive Jurisdiction

Respondents allege that under the Revised Penal Code, R.A. 6425 (The Dangerous Drugs Act of 1972), and R.A. 9165, the regional trial courts are vested by law with jurisdiction over cases involving illegal drugs, originally because of the imposable penalty and, later on, because of the nature of the offense.[67] They have exclusive and original jurisdiction in all cases punishable under R.A. 6425 and R.A. 9165.

Specifically, Section 90 of R.A. 9165 provides:

> Section 90. *Jurisdiction.* — **The Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act.** The number of courts designated in each judicial region shall be based on the population and the number of cases pending in their respective jurisdiction.
>
> The DOJ shall designate special prosecutors to exclusively handle cases involving violations of this Act.
>
> The preliminary investigation of cases filed under this Act shall be terminated within a period of thirty (30) days from the date of their filing.
>
> When the preliminary investigation is conducted by a public prosecutor and a probable cause is established, the corresponding information shall be filed in court within twenty-four (24) hours from the termination of the investigation. If the preliminary investigation is conducted by a judge and a probable cause is found to exist, the corresponding information shall be filed by the proper prosecutor within forty-eight (48) hours from the date of receipt of the records of the case.
>
> Trial of the case under this Section shall be finished by the court not later than sixty (60) days from the date of the filing of the information. Decision on said cases shall be rendered within a period of fifteen (15) days from the date of submission of the case for resolution. (Emphasis supplied)

Additionally, respondents argue that the exclusive jurisdiction of regional trial courts over violations of R.A. 9165 finds further support in several provisions of R.A. 9165,[68] such as the following:

> Section 20. *Confiscation and Forfeiture of the Proceeds or Instruments of the Unlawful Act, Including the Properties or Proceeds Derived from the Illegal Trafficking of Dangerous Drugs and/or Precursors and Essential Chemicals.* – Every penalty imposed for the unlawful importation, sale, trading, administration, dispensation, delivery, distribution, transportation or manufacture of any dangerous drug and/or controlled precursor and essential chemical, the cultivation or culture of plants which are sources of dangerous drugs, and the possession of any equipment, instrument, apparatus and other paraphernalia for dangerous drugs including other laboratory equipment, shall carry with it the confiscation and forfeiture, in favor of the government, of all the proceeds and properties derived from

[67] Office of the Solicitor General's Memorandum, pp. 32-36.
[68] Id. at 39-41.

the unlawful act, including, but not limited to, money and other assets obtained thereby, and the instruments or tools with which the particular unlawful act was committed, unless they are the property of a third person not liable for the unlawful act, but those which are not of lawful commerce shall be ordered destroyed without delay pursuant to the provisions of Section 21 of this Act.

After conviction in the Regional Trial Court in the appropriate criminal case filed, the Court shall immediately schedule a hearing for the confiscation and forfeiture of all the proceeds of the offense and all the assets and properties of the accused either owned or held by him or in the name of some other persons if the same shall be found to be manifestly out of proportion to his/her lawful income: *Provided, however*, That if the forfeited property is a vehicle, the same shall be auctioned off not later than five (5) days upon order of confiscation or forfeiture.

During the pendency of the case in the Regional Trial Court, no property, or income derived therefrom, which may be confiscated and forfeited, shall be disposed, alienated or transferred and the same shall be in *custodia legis* and no bond shall be admitted for the release of the same.

The proceeds of any sale or disposition of any property confiscated or forfeited under this Section shall be used to pay all proper expenses incurred in the proceedings for the confiscation, forfeiture, custody and maintenance of the property pending disposition, as well as expenses for publication and court costs. The proceeds in excess of the above expenses shall accrue to the Board to be used in its campaign against illegal drugs.

x x x x

Section 27. *Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed.* – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any public office, shall be imposed upon **any public officer or employee who misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in this Act**.

Any elective local or national official found to have benefited from the proceeds of the trafficking of dangerous drugs as prescribed in this Act, or have received any financial or material contributions or donations from natural or juridical persons found guilty of trafficking dangerous drugs as prescribed in this Act, shall be removed from office and perpetually disqualified from holding any elective or appointive positions in the government, its divisions, subdivisions, and intermediaries, including government-owned or –controlled corporations.

Section 28. *Criminal Liability of Government Officials and Employees.* — **The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification**

> **from any public office, if those found guilty of such unlawful acts are government officials and employees.** (Emphases supplied)

The reliance of respondents on Section 90 of R.A. 9165 stems from the phrase "exclusively try and hear cases involving violations of this Act." It is believed that the word "exclusively" denotes that jurisdiction lies with regional trial courts to the exclusion of all other courts.

It bears emphasis that the entire first sentence of Section 90 provides that "[t]he Supreme Court shall designate special courts from among the existing Regional Trial Courts in each judicial region to exclusively try and hear cases involving violations of this Act." Thus, in recognition of the constitutional authority of the Supreme Court to supervise the administration of all courts, the legislature mandated it to designate special courts from among the regional trial courts that shall exclusively try and hear cases involving violations of R.A. 9165.

In *Gonzales v. GJH Land, Inc.*,[69] it was ruled that the power of this Court to designate special courts has nothing to do with the statutory conferment of jurisdiction, because, primarily, the Court cannot enlarge, diminish, or dictate when jurisdiction shall be removed.[70] As a general rule, the power to define, prescribe, and apportion jurisdiction is a matter of legislative prerogative.[71]

To emphasize the distinction between the power of the legislature to confer jurisdiction and that of the Supreme Court to supervise the exercise thereof, the Court enunciated:

> As a basic premise, let it be emphasized that a court's acquisition of jurisdiction over a particular case's subject matter is different from incidents pertaining to the exercise of its jurisdiction. Jurisdiction over the subject matter of a case is **conferred by law**, whereas a court's **exercise of jurisdiction**, unless provided by the law itself, is governed by the Rules of Court or by the orders issued from time to time by the Court. In *Lozada v. Bracewell*, it was recently held that **the matter of whether the RTC resolves an issue in the exercise of its general jurisdiction or of its limited jurisdiction as a special court is only a matter of procedure and has nothing to do with the question of jurisdiction.**[72] (Emphases and underscoring in the original)

In the first sentence of Section 90 of R.A. 9165, the legislature called on the Supreme Court to rationalize the exercise of jurisdiction by the courts. This call for rationalization is evident from the words "to exclusively try and hear cases involving violations of this Act."

As will be shown below, the word "exclusively" in Section 90 of R.A. 9165 pertains to the courts' exercise of jurisdiction, and not to the legislature's conferment thereof.

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[69] G.R. No. 202664, 10 November 2015, 774 SCRA 243.
[70] Id.
[71] Id.
[72] Id. at 257.

In the En Banc Resolution dated 11 October 2005, the Court, answering the question "May special courts for drug cases be included in the raffle of civil and criminal cases other than drug related cases?" stated:

> **The phrase "to exclusively try and hear cases involving violations of this Act" means that, as a rule, courts designated as special courts for drug cases shall try and hear drug-related cases only, i.e., cases involving violations of R.A. No. 9165, to the exclusion of other courts.**
>
> The very title of Article XI of R.A. No. 9165, the article where Section 90 is included, reads: "Jurisdiction Over Drug Cases." **It provides for the forum where drug cases are to be filed, tried and resolved: Regional Trial Courts (RTCs) designated by this Court as special drug courts. The jurisdiction of the designated courts is exclusive of all other courts not so designated.**
>
> In our resolution in A.M. No. 00-8-01-SC on August 1, 2000, certain branches of the RTCs were designated as special courts for drug cases. They were tasked to hear and decide all criminal cases in their respective jurisdictions involving violations of R.A. No. [6425], otherwise known as the "Dangerous Drugs Act of 1972," as amended, regardless of the quantity of drugs involved. Among the guidelines issued to implement such designation was a directive to Executive Judges of the RTCs concerned to exclude the designated courts from the raffle of other cases subsequent to the assignment or transfer of drug cases to them.
>
> Even after the passage of R.A. No. 9165, the designated courts under A.M. No. 00-8-01-SC remained as special courts for drug cases. The resolution is still in effect insofar as it is not inconsistent with the new law. The fact that A.M. No. 00-8-01-SC has not been abandoned is evident in resolutions subsequently issued by the Court adding or replacing drug courts in different jurisdictions. These resolutions expressly state that the guidelines set forth in A.M. No. 00-8-01-SC should be observed, if applicable.
>
> **The rationale behind the exclusion of drug courts from the raffle of cases other than drug cases is to expeditiously resolve criminal cases involving violations of R.A. No. 9165 (previously, of R.A. No. [6425]). Otherwise, these courts may be sidelined from hearing drug cases by the assignment of non-drug cases to them and the purpose of their designation as special courts would be negated. The faithful observance of the stringent time frame imposed on drug courts for deciding drug related cases and terminating proceedings calls for the continued implementation of the policy enunciated in A.M. No. 00-8-01-SC.**[73] (Emphases supplied)

Clearly, only those designated as special courts for drug cases shall exercise the jurisdiction to try and hear drug-related cases, to the exclusion of all other courts *not so designated*. The rationale for the rule is for these special courts to expeditiously resolve cases within the stringent time frame provided by the law; i.e., the trial of the case shall be finished by the court not later than 60 days from the date of filing of the information, and the decision shall be rendered within a period of 15 days from the date of submission of the case for resolution.

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[73] *Re: Request for Clarification on whether Drug Courts should be included In the Regular Raffle*, A.M. No. 05-9-03-SC, 11 October 2005.

The En Banc Resolution dated 11 October 2005 succinctly echoes the legislative intent of the framers of R.A. 9165 as shown below:

> REP. DILANGALEN. Under Section 60, we have here Jurisdiction Over Dangerous Drug Case. Section 60, it states here: "The Supreme Court shall designate Regional Trial Courts to have original jurisdiction over all offenses punishable in this Act."
>
> **Mr. Speaker, what I know is, the Regional Trial Courts have original jurisdiction over offenses involving drugs.**
>
> **REP. CUENCO. Yes.**
>
> **REP. DILANGALEN. Is it the intention of the Committee that certain salas of the Regional Trial Courts be designated by the Supreme Court to try exclusively drugs-related offenses?**
>
> **REP. CUENCO. That is correct. That is the objective. What is happening right now, Gentleman from Maguindanao, is that although the Supreme Court has issued a directive requiring the creation of – the assignment of drugs cases to certain judges, but the assignment is not exclusive. These judges still handle other cases, aside from the drugs cases. Our intention really is to assign cases to judges which are exclusively drugs cases and they will handle no other cases.**
>
> REP. DILANGALEN. If that is the case, Mr. Speaker, at the appropriate time, I would like to propose the following amendment, "that the Supreme Court shall designate specific or salas of Regional Trial Courts to try exclusively offenses related to drugs.
>
> REP. CUENCO. Yes. Simply stated, we are proposing the setting up of exclusive drug courts, just like traffic courts. Because almost all judges now are really besieged with a lot of drug cases. There are thousands upon thousands of drug cases pending for as long as twenty years.
>
> REP. DILANGALEN. Yes, Mr. Speaker. I think we have here a convergence of ideas. We have no dispute here, but I am only more concerned with the phraseology of this particular provision.
>
> REP. CUENCO. Then we will polish it.
>
> REP. DILANGALEN. Thank you very much, Mr. Speaker.
>
> So, at the appropriate time I would like to recommend an amendment that the Supreme Court shall designate particular salas of Regional Trial Courts to try exclusively all offenses punishable under this Act.
>
> REP. CUENCO. Fine.
>
> REP. DILANGALEN. Thank you very much, Mr. Speaker.
>
> Under Article 60 also, we have here a provision, second paragraph on page 46, "Trial of the case under this Section shall be finished by the court not later than ninety (90) days from the date of the filing of the information. Decision on said cases shall be rendered within a period of fifteen (15) days from the date of submission of the case."
>
> My question is, is it the intention of the Committee to make this particular provision merely directory as in...?
>
> REP. CUENCO. Compulsory.
>
> REP. DILANGALEN. If it is compulsory, what will happen if the case is not finished in ninety days?

REP. CUENCO. Well, administrative sanctions should be imposed on the judge by the Supreme Court.

REP. DILANGALEN. You know, Mr. Speaker, even under the Constitution, we have specific provisions here. The Supreme Court will decide certain cases from the time it is submitted for resolution within a specific period of time. That is true with the Court of Appeals, Regional Trial Courts and Municipal Trial Courts.

REP. CUENCO. Yes. Pero directory lang daw.

REP. DILANGALEN. But this provision of the Constitution is not followed. So, if we are going to make this particular provision not only directory but mandatory, will it be criminal if judges would fail?

REP. CUENCO. I do not know whether we have the power to the Supreme Courts. The power to the Supreme Courts rests with the Supreme Court.

REP. DILANGALEN. So, the intention of the Committee is only to mete administrative sanction.

REP. CUENCO. Yes, that is the only power that the Congress would have against erring judges. You cannot send a judge to jail because he is a slowpoke.

REP. DILANGALEN. Well, if that is the case, Mr. Speaker, then thank you very much for the information. There is no intention of filing criminal case against them but only administrative sanctions.

Thank you very much.

REP. CUENCO. Administrative sanctions should be imposed on him by the Supreme Court.[74] (Emphases supplied)

The intention behind the first sentence of Section 90 of R.A. 9165 was thus made clear: for the Supreme Court to assign regional trial courts that will handle drug cases exclusive of all other cases. Considering the foregoing, the exclusivity referred to therein pertains to the court's exercise of the jurisdiction conferred upon it by the legislature. There is no cogent reason to conclude that the legislature conferred jurisdiction on these special courts for them to take cognizance of violations of R.A. 9165 to the exclusion of all other courts.

The fact that it was not the intention of the legislature to confer jurisdiction on regional trial courts to the exclusion of all other courts was even highlighted during the bicameral conference committee meeting on the disagreeing provisions of House Bill No. 4433 and Senate Bill No. 1858, to wit:

CHAIRMAN CUENCO. x x x

On other matters we would like to propose the creation of drug courts to handle exclusively drug cases; the imposition of a sixty day deadline on courts within which to decide drug cases; and number three, provide penalties on officers of the law and government prosecutors for mishandling and delaying drug cases. We will address these concerns one by one. Number one, the possible creation of drug courts to handle

[74] Plenary Deliberations (Period of Sponsorship and Debate) on R.A. 9165 (House Bill No. 4433), 7 March 2002.

exclusively drug cases, any comment? Congressman Ablan? First with the Chairman of the Senate Panel would like to say something.

CHAIRMAN BARBERS. We have no objection on this proposal, Mr. Chairman. As a matter of fact, this is one of the areas where we come to an agreement when we were in Japan. However, I would just like to add a paragraph after the word "Act" in Section 86 of the Senate version, Mr. Chairman, and this is in connection with the designation of special courts by the Supreme Court. And the addendum that I'd like to make is this, Mr. Chairman, after the word "Act" – the Supreme Court of the Philippines shall designate special courts from among the existing regional trial courts in its judicial region to exclusively try and hear cases involving violations of this Act. The number of court designated in each division, region shall be based on the population and the number of cases pending in the respective jurisdiction. That is my proposal, Mr. Chairman.

CHAIRMAN CUENCO. We adopt the same proposal.

SEN. CAYETANO. Comment, comment.

CHAIRMAN CUENCO. Pwede ba iyan? O sige Senator Cayetano.

SEN CAYETANO. Mr. Chairman, first of all there is already an administrative order by the Supreme Court, Administrative Order 51 as amended by Administrative Order 104, if I'm not mistaken, in '96 designating special courts all over the country that handles heinous crimes which include, by the way, violation of the present drug act where the penalty is life to death. **Now, when it comes to crimes where the penalty is six years or below this is the exclusive jurisdiction not of the RTC, not of the regional trial court, but of the municipal courts.** So my observation, Mr. Chairman, I think since there are already special courts we need not create that anymore or ask the Supreme Court. **And number two, precisely because there are certain cases where the penalties are only six years and below. These are really handled now by the Municipal Trial Court.** As far as the 60-day period, again in the Fernan Law, if I'm not mistaken, there is also a provision there that all heinous crimes now will have to be decided within 60 days. But if you want to emphasize as far as the speed by which all these crimes should be tried and decided, we can put it there. But as far as designation, I believe this may be academic because there are already special courts. And number 2, we cannot designate special courts as far as the municipal courts are concerned. In fact the moment you do that then you may limit the number of municipal courts all over the country that will only handled that to the prejudice of several other municipal courts that handles many of these cases.

CHAIRMAN CUENCO. Just a brief rejoinder, with the comments made by Senator Cayetano.

It is true that the Supreme Court has designated certain courts to handle exclusively heinous crime. Okay. But our proposal here is confined exclusively to drug cases, not all kinds of heinous crimes. There are so many kinds of heinous crimes, murder, piracy, rape, et cetera. The idea here is to focus the attention of a court, on that court to handle only purely drug cases. **Now, in case the penalty, the penalty provided for by law is below 6 years wherein the regional trial courts will have no jurisdiction, then the municipal courts may likewise be designated as the trial court concerning those cases.** The idea here really is to assign exclusively a sala of a regional trial court to handle nothing else except cases involving drugs, illegal drug trafficking. Right now there are judges who have been so designated by the Supreme Court to handle heinous

> crimes but they are not exclusive to drugs, eh. Aside from those heinous crimes, they also handle other cases, which are not even heinous.
>
> So the idea here is to create a system similar to the traffic courts, which will try and hear exclusively traffic cases. So, in view of the gravity of the situation and in view of the urgency of the resolution of these drug cases because the research that we have made on the drug cases filed is that the number of decided cases not even 1% of those filed. There have been many apprehensions, thousands upon thousands of apprehensions, thousands upon thousands of cases filed in court but only about 1% have been disposed, The reason is that there is no special attention made or paid on these drug cases by our courts.
>
> So that is my humble observation.
>
> SEN. CAYETANO. No Problem.
>
> CHAIRMAN CUENCO. You have no problem.
>
> CHAIRMAN BARBERS. I have no problem with that, Mr. Chairman. **But I'd like to call your attention to the fact that my proposal is only for a designation because if it is for creation that would entail another budget, Mr. Chairman. And almost always, the Department of Budget will tell us in the budget hearing that we lack funds, we do not have money. So that might delay the very purpose why we want the RTCs or the municipal courts to handle exclusively the drug cases.** That's why my proposal is designation not creation.
>
> CHAIRMAN CUENCO. Areglado. No problem. Designation. Approved.[75] (Emphases supplied)

Clearly, the legislature took into consideration the fact that certain penalties were not within the scope of the jurisdiction of regional trial courts; hence, it contemplated the designation of municipal trial courts to exclusively handle drug cases as well. Notably, under Section 32 of *Batas Pambansa Blg.* (B.P.) 129 (The Judiciary Reorganization Act of 1980), metropolitan trial courts, municipal trial courts and municipal circuit trial courts have exclusive original jurisdiction over all offenses punishable with imprisonment not exceeding six years, irrespective of the amount of fine.

In this regard, Section 20 of B.P. 129 as amended finds relevance:

> Section 20. *Jurisdiction in Criminal Cases.* — Regional Trial Courts shall exercise exclusive original jurisdiction in all criminal cases not within the exclusive jurisdiction of any court, tribunal or body, **except those now falling under the exclusive and concurrent jurisdiction of the Sandiganbayan which shall hereafter be exclusively taken cognizance of by the latter**. (Emphasis supplied)

Section 20 of B.P. 129 is the legislature's conferment of jurisdiction on regional trial courts. However, the legislature explicitly removed from the jurisdiction of regional trial courts all criminal cases falling under the exclusive and concurrent jurisdiction of the Sandiganbayan. Thus, Section

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[75] Bicameral Conference Committee Meeting on the Disagreeing Provisions of House Bill No. 4433 and Senate Bill No. 1858, 29 April 2002.

20 of B.P. 129 should be read in conjunction with Section 4[76] of Presidential Decree No. (P.D.) 1606[77] as amended.

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[76] Section 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;

(b) City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads;

(c) Officials of the diplomatic service occupying the position of consul and higher;

(d) Philippine army and air force colonels, naval captains, and all officers of higher rank;

(e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent and higher;

(f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;

(g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations.

(2) Members of Congress and officials thereof classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989;

(3) Members of the judiciary without prejudice to the provisions of the Constitution;

(4) Chairmen and members of the Constitutional Commissions, without prejudice to the provisions of the Constitution; and

(5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

b. Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a. of this section in relation to their office.

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

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 (₱1,000,000.00).

Subject to the rules promulgated by the Supreme Court, the 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.

In cases where none of the accused are occupying positions corresponding to Salary Grade '27' or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129, as amended.

The Sandiganbayan shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

The Sandiganbayan shall have exclusive original jurisdiction over petitions for the issuance of the writs of mandamus, prohibition, certiorari, habeas corpus, injunctions, and other ancillary writs and processes in aid of its appellate jurisdiction and over petitions of similar nature, including quo warranto, arising or that may arise in cases filed or which may be filed under Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986: Provided, That the jurisdiction over these petitions shall not be exclusive of the Supreme Court.

The procedure prescribed in Batas Pambansa Blg. 129, as well as the implementing rules that the Supreme Court has promulgated and may hereafter promulgate relative to appeals/petitions for review to the Court of Appeals, shall apply to appeals and petitions for review filed with the Sandiganbayan. In all cases elevated to the Sandiganbayan and from the Sandiganbayan to the Supreme Court, the Office of the Ombudsman, through its special prosecutor, shall represent the People of the Philippines, except in cases filed pursuant to Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees in the proper courts which shall exercise exclusive jurisdiction over them.

As will be discussed more thoroughly in the following section of this opinion, the Court has ruled in a line of cases[78] that the following requisites must concur for an offense to fall under the exclusive original jurisdiction of the Sandiganbayan:

1. The offense committed is (a) a violation of the Anti-Graft and Corrupt Practices Act as amended; (b) a violation of the law on ill-gotten wealth; (c) a violation of the law on bribery; (d) related to sequestration cases; or (e) all other offenses or felonies, whether simple or complexed with other crimes;
2. The offender committing the offenses in items (a), (b), (c) and (e) is a public official or employee holding any of the positions enumerated in paragraph (a) of Section 4; and
3. The offense committed is in relation to office.

In this case, an offense was allegedly committed by petitioner while she was Secretary of Justice, an official of the executive branch, and classified as Grade '27' or higher. Furthermore, as discussed above, the offense was allegedly committed in relation to her office. Thus, the offense charged falls under the exclusive original jurisdiction of the Sandiganbayan.

It follows that the Ombudsman has primary jurisdiction in the conduct of the investigation into the four complaints taken cognizance of by the DOJ panel of investigators[79] (panel) in this case. Section 15(1) of R.A. 6770 (The Ombudsman Act of 1989) as amended provides that the Ombudsman shall have primary jurisdiction over cases cognizable by the Sandiganbayan; and, in the exercise of this primary jurisdiction, the Ombudsman may take over, at any stage and from any investigatory agency of the government, the investigation of these cases.

The primary jurisdiction of the Ombudsman to investigate cases cognizable by the Sandiganbayan was operationalized by the former, together with the DOJ in the Memorandum of Agreement (MOA) executed on 29 March 2012. The pertinent portion of the MOA provides:

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cont.

Any provisions of law or Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability shall at all times be simultaneously instituted with, and jointly determined in, the same proceeding by the Sandiganbayan or the appropriate courts, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized: Provided, however, That where the civil action had heretofore been filed separately but judgment therein has not yet been rendered, and the criminal case is hereafter filed with the Sandiganbayan or the appropriate court, said civil action shall be transferred to the Sandiganbayan or the appropriate court, as the case may be, for consolidation and joint determination with the criminal action, otherwise the separate civil action shall be deemed abandoned.

[77] Entitled "Revising Presidential Decree No. 1486 Creating a Special Court to be known as 'Sandiganbayan' and for Other Purposes."

[78] *Adaza v. Sandiganbayan*, 502 Phil. 702 (2005); *Geduspan v. People*, 491 Phil. 375 (2005); *Lacson v. Executive Secretary*, 361 Phil. 251 (1999).

[79] Chaired by Senior Asst. State Prosecutor Peter Ong, with members Senior Asst. City Prosecutor Alexander Ramos, Senior Asst. City Prosecutor Leila Llanes, Senior Asst. City Prosecutor Evangeline Viudes-Canobas, and Asst. State Prosecutor Editha Fernandez.

I. Agreements

A. Jurisdiction

1. The OMB has primary jurisdiction in the conduct of preliminary investigation and inquest proceedings over complaints for crimes cognizable by the Sandiganbayan.
2. If, upon the filing of a complaint, the prosecution office of the DOJ determines that the same is for a crime falling under the exclusive jurisdiction of the Sandiganbayan, it shall advise the complainant to file it directly with the OMB: Provided, That in case a prosecution office of the DOJ receives a complaint that is cognizable by the Sandiganbayan, it shall immediately endorse the same to the OMB. Provided further, That in cases where there are multiple respondents in a single complaint and at least one respondent falls within the jurisdiction of the Sandiganbayan, the entire records of the complaint shall be endorsed to the OMB.

However, the fact that the Ombudsman has primary jurisdiction to conduct an investigation into the four complaints does not preclude the panel from conducting any investigation of cases against public officers involving violations of penal laws. In *Honasan II v. Panel of Investigating Prosecutors of the Department of Justice*,[80] the Court ruled that accords between the Ombudsman and the DOJ, such as the MOA in this case, are mere internal agreements between them. It was emphasized that under Sections 2[81] and 4,[82] Rule 112 of the Rules of Court, DOJ prosecutors have the authority to conduct preliminary investigations of criminal complaints filed with them

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[80] 470 Phil. 721 (2004).

[81] Section 2. *Officers Authorized to Conduct Preliminary Investigations.* —
The following may conduct preliminary investigations:
(a) Provincial or City Prosecutors and their assistants;
(b) Judges of the Municipal Trial Courts and Municipal Circuit Trial Courts;
(c) National and Regional State Prosecutors; and
(d) Other officers as may be authorized by law.
Their authority to conduct preliminary investigations shall include all crimes cognizable by the proper court in their respective territorial jurisdictions.

[82] Section 4. *Resolution of Investigating Prosecutor and its Review.* — If the investigating prosecutor finds cause to hold the respondent for trial, he shall prepare the resolution and information. He shall certify under oath in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he was given an opportunity to submit controverting evidence. Otherwise, he shall recommend the dismissal of the complaint.
Within five (5) days from his resolution, he shall forward the record of the case to the provincial or city prosecutor or chief state prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction. They shall act on the resolution within ten (10) days from their receipt thereof and shall immediately inform the parties of such action.
No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.
Where the investigating prosecutor recommends the dismissal of the complaint but his recommendation is disapproved by the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy on the ground that a probable cause exists, the latter may, by himself, file the information against the respondent, or direct another assistant prosecutor or state prosecutor to do so without conducting another preliminary investigation.
If upon petition by a proper party under such rules as the Department of Justice may prescribe or *motu proprio*, the Secretary of Justice reverses or modifies the resolution of the provincial or city prosecutor or chief state prosecutor, he shall direct the prosecutor concerned either to file the corresponding information without conducting another preliminary investigation, or to dismiss or move for dismissal of the complaint or information with notice to the parties. The same rule shall apply in preliminary investigations conducted by the officers of the Office of the Ombudsman. (Emphases supplied)

for offenses cognizable by the proper court within their respective territorial jurisdictions, including those offenses that fall under the original jurisdiction of the Sandiganbayan.[83]

Nevertheless, if the offense falls within the original jurisdiction of the Sandiganbayan, the prosecutor shall, after investigation, transmit the records and their resolutions to the Ombudsman or the latter's deputy for appropriate action.[84] Furthermore, the prosecutor cannot dismiss the complaint without the prior written authority of the Ombudsman or the latter's deputy; nor can the prosecutor file an Information with the Sandiganbayan without being deputized by, and without receiving prior written authority from the Ombudsman or the latter's deputy.[85]

Thus, after concluding its investigation in this case, the panel should have transmitted the records and their resolution to the Ombudsman for appropriate action.

Considering that an Information has already been filed before the Regional Trial Court of Muntinlupa City, Branch 204, this Court may order the quashal of the Information based on lack of jurisdiction over the offense charged, pursuant to Section 3(b),[86] Rule 117 of the Rules of Court.

Accordingly, Section 5 of Rule 117 shall apply:

> Section 5. *Effect of sustaining the motion to quash.* — **If the motion to quash is sustained, the court may order that another complaint or information be filed except as provided in Section 6 of this rule. If the order is made, the accused, if in custody, shall not be discharged unless admitted to bail.** If no order is made or if having been made, no new information is filed within the time specified in the order or within such further time as the court may allow for good cause, the accused, if in custody, shall be discharged unless he is also in custody for another charge. (Emphasis supplied)

It would be necessary for the Court to provide the Ombudsman a certain period of time within which to file a new complaint or Information based on the records and resolution transmitted by the panel. Significantly, petitioner will not be discharged from custody. If, however, the Ombudsman finds that there is no probable cause to charge her, or if it fails to file an Information before the Sandiganbayan within the period provided by this Court, petitioner should be ordered discharged, without prejudice to another prosecution for the same offense.[87]

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[83] *Honasan II v. Panel of Investigating Prosecutors of the Department of Justice*, supra.
[84] Id.
[85] Id.
[86] Rules of Court, Rule 117, Section 3(b) provides:
Section 3. *Grounds.* — The accused may move to quash the complaint or information on any of the following grounds:
x x x
(b) That the court trying the case has no jurisdiction over the offense charged;
[87] Id. at Section 6, which provides:

Rationale for the Creation of the Sandiganbayan

The Sandiganbayan is a court that exists by constitutional fiat, specifically Section 5, Article XIII of the 1973 Constitution, which provides as follows:

> SECTION 5. The National Assembly shall create a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office as may be determined by law.

Pursuant to the Constitution and Proclamation No. 1081,[88] President Ferdinand Marcos issued P.D. No. 1486[89] creating the Sandiganbayan. Its creation was intended to pursue and 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.[90] As an anti-graft court, the Sandiganbayan is structured as a collegiate body and is considered a trailblazing institution that arose from our unique experience in public governance.[91]

P.D. 1486 was expressly repealed by P.D. 1606, which elevated the Sandiganbayan to the level of the CA and expanded the former's jurisdiction. B.P. 129, P.D. 1860,[92] and P.D. 1861[93] subsequently amended P.D. 1606, further expanding the jurisdiction of the Sandiganbayan.

The existence and operation of the Sandiganbayan continued under the 1987 Constitution by express mandate, as follows:

> Section 4. The present anti-graft court known as the Sandiganbayan shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law. [94]

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cont.

Section 6. Order sustaining the motion to quash not a bar to another prosecution; exception. — An order sustaining the motion to quash is not a bar to another prosecution for the same offense unless the motion was based on the grounds specified in Section 3 (g) and (i) of this Rule.

Section 3(g) and (i) of Rule 117 provides:

Section 3. *Grounds*. — The accused may move to quash the complaint or information on any of the following grounds:

x x x

(g) That the criminal action or liability has been extinguished;

x x x

(i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.

[88] Proclaiming a State of Martial Law in the Philippines dated 21 September 1972.

[89] Creation of the Sandiganbayan, Presidential Decree No. 1486 dated 11 June 1978.

[90] WHEREAS Clause, Creation of the Sandiganbayan, Presidential Decree No. 1486 dated 11 June 1978.

[91] Co-Sponsorship Speech of Senator Franklin Drilon, S. Journal Sess. No. 75, at 33, 16th Congress, 1st Regular Session (26 February 2014).

[92] Amendments to P.D. No. 1606 and B.P. Blg. 129 Re: Jurisdiction of the Sandiganbayan, Presidential Decree No. 1860, (14 January 1983).

[93] Amending P.D. No. 1606 and B.P. Blg. 129 Re: Jurisdiction of the Sandiganbayan, Presidential Decree No. 1861 (March 23, 1983).

[94] The 1987 CONSTITUTION, Art. XI. Sec. 4.

Subsequently, Executive Order Nos. (E.O.) 14[95] and 14-a,[96] as well as R.A. 7080,[97] further expanded the jurisdiction of the Sandiganbayan.

P.D. 1606 was further modified by R.A. 7975,[98] R.A. 8249,[99] and R.A. 10660,[100] which introduced amendments in the Sandiganbayan's composition, jurisdiction, and procedure.

The jurisdiction of the Sandiganbayan has undergone significant modifications through the years in order to keep up with the ever-evolving dynamics of public governance.

Section 4 of P.D. 1486 first defined the cases over which the Sandiganbayan shall have original and exclusive jurisdiction as follows:

> (a) Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act and Republic Act No. 1379;
>
> (b) Crimes committed by public officers or employees, including those employed in government-owned or controlled corporations, embraced in Title VII of the Revised Penal Code;
>
> (c) Other crimes or offenses committed by public officers or employees including those employed in government-owned or controlled corporations in relation to their office; *Provided*, that, in case private individuals are accused as principals, accomplices or accessories in the commission of the crimes hereinabove mentioned, they shall be tried jointly with the public officers or employees concerned.
>
> Where the accused is charged of an offense in relation to his office and the evidence is insufficient to establish the offense so charged, he may nevertheless be convicted and sentenced for the offense included in that which is charged.
>
> (d) Civil suits brought in connection with the aforementioned crimes for restitution or reparation of damages, recovery of the instruments and effects of the crimes, or forfeiture proceedings provided for under Republic Act No. 1379;
>
> (e) Civil actions brought under Articles 32 and 34 of the Civil Code.
>
> Exception from the foregoing provisions during the period of material law are criminal cases against officers and members of the Armed Forces of the Philippines, and all others who fall under the exclusive jurisdiction of the military tribunals.[101]

P.D. 1606 expressly repealed[102] P.D. 1486 and revised the jurisdiction of the Sandiganbayan. It removed therefrom the civil cases stated in Section

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[95] Jurisdiction Over Cases Involving the Ill-Gotten Wealth of Former President Ferdinand E. Marcos, Executive Order No. 14 (7 May 1986).
[96] Amending E.O. No. 14 (May 7, 1986) Re: Ill-Gotten Wealth of Former President Ferdinand Marcos, Executive Order No. 14-A (18 August 1986).
[97] Anti-Plunder Act, Republic Act No. 7080 (12 July 1991).
[98] Amendments to P.D. No. 1606 Re: Organization of Sandiganbayan, Republic Act No. 7975 (30 March 1995).
[99] Defining the Jurisdiction of the Sandiganbayan, Republic Act No. 8249 (5 February 1997).
[100] Amendment to P.D. No. 1606 (Functional and Structural Organization of the Sandiganbayan), Republic Act No. 10660, 16 April 2015.
[101] P.D. 1486, Section 4.
[102] P.D. 1606, Section 16 provides:

4(d) and (e) of P.D. 1486 and specified the penalty of *prision correccional* or its equivalent as the demarcation delineating the anti-graft court's jurisdiction over crimes or offenses committed in relation to public office.

Subsequently, Section 20 of B.P. 129[103] expanded the exclusive original jurisdiction of the Sandiganbayan over the offenses enumerated in Section 4 of P.D. 1606 to embrace all such offenses irrespective of the imposable penalty. This expansion caused a proliferation in the filing of cases before the Sandiganbayan, when the offense charged was punishable by a penalty not higher than *prision correccional* or its equivalent.[104]

P.D. 1606 was subsequently amended, first by P.D. 1860 and eventually by P.D. 1861, which made *prision correccional* or imprisonment for six years, or a fine of ₱6,000 the demarcation line limiting the Sandiganbayan's jurisdiction to offenses or felonies committed in relation to public office.[105] Appellate jurisdiction was then vested in the Sandiganbayan over the cases triable by the lower courts.[106]

Section 2 of R.A. 7975 subsequently redefined the jurisdiction of the anti-graft court as follows:

> Sec. 4. *Jurisdiction.* — The *Sandiganbayan* shall exercise original jurisdiction on 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 of the Revised Penal Code, where one or more of the principal 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;
>
> (b) City mayors, vice-mayors, members of the *sangguniang panlungsod*, city treasurers, assessors, engineers and other city department heads;
>
> (c) Officials of the diplomatic service occupying the position of consul and higher;

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cont.

Section 16. *Repealing Clause.* — This Decree hereby repeals Presidential Decree No. 1486 and all other provisions of law, General Orders, Presidential Decrees, Letters of Instructions, rules or regulations inconsistent herewith.

[103] B.P. 129, Section 20 provides:

Section 20. *Jurisdiction in Criminal Cases.* — Regional Trial Courts shall exercise exclusive original jurisdiction in all criminal cases not within the exclusive jurisdiction of any court, tribunal or body, except those now falling under the exclusive and concurrent jurisdiction of the Sandiganbayan which shall hereafter be exclusively taken cognizance of by the latter.

[104] WHEREAS Clause, P.D. 1860 and 1861.

[105] P.D. 1860, Sec. 1.

[106] P.D. 1861, Sec. 1.

> (d) Philippine army and air force colonels, naval captains, and all officers of higher ranks;
>
> (e) PNP chief superintendent and PNP officers of higher rank;
>
> (f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;
>
> (g) Presidents, directors or trustees, or managers of government-owned or-controlled corporations, state universities or educational institutions or foundations;
>
> (2) Members of Congress and officials thereof classified as Grade "27" and up under the Compensation and Position Classification Act of 1989;
>
> (3) Members of the Judiciary without prejudice to the provisions of the Constitution;
>
> (4) Chairmen and members of Constitutional Commissions, without prejudice to the provisions of the Constitution; and
>
> (5) All other national and local officials classified as Grade "27" and higher under the Compensation and Position Classification Act of 1989.
>
> b. Other offenses or felonies committed by the public officials and employees mentioned in subsection (a) of this section in relation to their office.
>
> c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A.
>
> In cases where none of the principal accused are occupying positions corresponding to salary grade "27" or higher, as prescribed in the said Republic Act No. 6758, or PNP officers occupying the rank of superintendent or higher, or their equivalent, exclusive jurisdiction thereof shall be vested in the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, and Municipal Circuit Trial Court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129.

The Grade '27' demarcation was first introduced in this amending law. As explained in *People v. Magallanes*,[107] under the amendments, the Sandiganbayan partially lost its exclusive original jurisdiction over cases involving violations of R.A. 3019; R.A. 1379; and Chapter II, Section 2, Title VII of the Revised Penal Code. The anti-graft court retains cases in which the accused are those enumerated in Section 4(a) of R.A. 7975 and, generally, national and local officials classified as Grade '27' and higher under R.A. 6758 (The Compensation and Position Classification Act of 1989). Moreover, the Sandiganbayan's jurisdiction over other offenses or felonies committed by public officials and employees in relation to their office is no longer determined by the prescribed penalty, as it is enough that they be committed by those public officials and employees enumerated in Section 4(a). However, the exclusive original jurisdiction over civil and

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[107] 319 Phil. 319 (1995).

criminal cases filed in connection with E.O. 1, 2, 14, and 14-A was retained.[108]

In 1997, R.A. 8249 was passed, further altering the jurisdiction of the anti-graft court as follows:

> Sec. 4. *Jurisdiction.* — The *Sandiganbayan* shall exercise exclusive original jurisdiction in all cases involving:
>
> a. Violations of Republic Act No. 3019, as amended, other 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 city department heads;
>
> (b) City mayor, vice-mayors, members of the *sangguniang panlungsod*, city treasurers, assessors, engineers, and other city department heads;
>
> (c) Officials of the diplomatic service occupying the position of consul and higher;
>
> (d) Philippine army and air force colonels, naval captains, and all officers of higher rank;
>
> (e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent or higher;
>
> (f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;
>
> (g) Presidents, directors or trustees, or managers of government-owned or -controlled corporations, state universities or educational institutions or foundations.
>
> (2) Members of Congress and officials thereof classified as Grade '27' and up under the Compensation and Position Classification Act of 1989;
>
> (3) Members of the judiciary without prejudice to the provisions of the Constitution;
>
> (4) Chairmen and members of Constitutional Commission, without prejudice to the provisions of the Constitution; and
>
> (5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

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[108] Id.

> b. Other offenses of felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a of this section in relation to their office.
>
> c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.
>
> In cases where none of the accused are occupying positions corresponding to Salary Grade '27' or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officer mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in *Batas Pambansa Blg.* 129, as amended.

As can be gleaned from the above-quoted portions, Section 4(a) and (c) of R.A. 8249 deleted the word "principal" before the word "accused" appearing in the Section 2(a) and (c) of R.A. 7975. Further, the phrase "whether simple or complexed with other crimes" was added in paragraph 4 of Section 4. The jurisdiction over police officials was also extended under paragraph a(1)(e) to include "officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintended or higher."

In *Lacson v. Executive Secretary*,[109] the requisites for a case to fall under the exclusive original jurisdiction of the Sandiganbayan under R.A. 8249 were enumerated as follows:

1. The offense committed is a violation of (a) R.A. 3019, as amended (the Anti-Graft and Corrupt Practices Act); (b) R.A. 1379 (the law on ill-gotten wealth); (c) Chapter II, Section 2, Title VII, Book II of the Revised Penal Code (the law on bribery); (d) E.O. 1, 2, 14, and 14-A, issued in 1986; or (e) some other offense or felony whether simple or complexed with other crimes.
2. The offender committing the offenses in items (a), (b), (c) and (e) is a public official or employee holding any of the positions enumerated in paragraph a of Section 4.
3. The offense is committed in relation to office.

In *Adaza v. Sandiganbayan*,[110] this Court clarified the third element – that the offense committed is in relation to office:

> **R.A. 8249 mandates that for as long as the offender's public office is intimately connected with the offense charged or is used to facilitate the commission of said offense and the same is properly alleged in the information, the Sandiganbayan acquires jurisdiction.** Indeed, the law specifically states that the Sandiganbayan has jurisdiction over all "other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection

[109] 361 Phil. 251 (1999).
[110] 502 Phil. 702 (2005).

> a of Section 4 in relation to their office." Public office, it bears reiterating, need not be an element of the offense charged.[111] (Emphasis supplied)

The latest amendment to P.D. 1606 was R.A. 10660 issued on 16 April 2015. While R.A. 10660 retained the list of officials under the Sandiganbayan's jurisdiction, it streamlined the anti-graft court's jurisdiction by adding the following proviso in Section 4 of P.D. 1606:

> *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 (₱1,000,000.00).
>
> Subject to the rules promulgated by the Supreme Court, the 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.

In effect, the latest amendment transferred the jurisdiction over cases classified by the amending law's sponsors as *minor*[112] to regional trial courts, which have sufficient capability and competence to handle those cases.

An understanding of the structural framework of the Sandiganbayan would affirm its jurisdiction over the drug case involving petitioner herein. An analysis of the structure of the Sandiganbayan's jurisdiction would reveal the following salient points:

1. There is a marked focus on high-ranking officials.
2. Its jurisdiction covers offenses or felonies involving substantial damage to the government or public service.
3. These offenses or felonies involve those that are committed in relation to public office.

The foregoing points indicate what Justice Mario Victor Marvic F. Leonen terms "expertise-by-constitutional design."[113] The unique competence of the anti-graft court was also observed by Justice Antonio P. Barredo in his concurring opinion in *Nuñez v. Sandiganbayan*:[114]

> Constitutionally speaking, I view the Sandiganbayan as *sui generis* in the judicial structure designed by the makers of the 1971 Constitution. To be particularly noted must be the fact that the mandate of the Constitution that the National Assembly "shall create," it is not under the Article on the Judiciary (Article X) but under the article on Accountability of Public Officers. More, the Constitution ordains it to be "a special court." To my mind, such "special" character endowed to the Sandiganbayan carries

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[111] Id. at 720-721.
[112] Co-Sponsorship Speech of Senator Franklin Drilon, S. Journal Sess. No. 75, at 33, 16th Congress, 1st Regular Session (26 February 2014).
[113] *Macapagal-Arroyo v. People*, G.R. Nos. 220598 & 220953, 19 July 2016, Dissenting Opinion of J. Leonen.
[114] *Nuñez v. Sandiganbayan*, 197 Phil. 407 (1982), Concurring Opinion of J. Barredo.

> with it certain concomitants which compel that it should be treated differently from the ordinary courts.[115]

Indeed, the jurisdiction of the Sandiganbayan contemplates not only an offense against the people, as in an ordinary crime, but an offense against the people committed precisely by their very defenders or representatives. It involves an additional dimension – abuse of power – considered over and above all the other elements of the offense or felony committed.

The delineation of public officials who fall within the original and exclusive jurisdiction of the Sandiganbayan indicates the intention to focus on high-ranking officials, particularly including the following:

> (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 city department heads;
>
> (b) City mayor, vice-mayors, members of the *sangguniang panlungsod*, city treasurers, assessors, engineers, and other city department heads;
>
> (c) Officials of the diplomatic service occupying the position of consul and higher;
>
> (d) Philippine army and air force colonels, naval captains, and all officers of higher rank;
>
> (e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent or higher;
>
> (f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;
>
> (g) Presidents, directors or trustees, or managers of government-owned or -controlled corporations, state universities or educational institutions or foundations.
>
> (2) Members of Congress and officials thereof classified as Grade '27' and up under the Compensation and Position Classification Act of 1989;
>
> (3) Members of the judiciary without prejudice to the provisions of the Constitution;
>
> (4) Chairmen and members of Constitutional Commission, without prejudice to the provisions of the Constitution; and
>
> (5) All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

In *Serana v. Sandiganbayan*,[116] this Court clarified that while the first part of Section 4(a) covers only officials classified as Grade '27' and higher,

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[115] Id. at 434.
[116] 566 Phil. 224 (2008).

its second part specifically includes other executive officials whose positions may not fall under that classification, but who are by express provision of the law placed under the jurisdiction of the anti-graft court. Therefore, more than the salary level, the focus of the Sandiganbayan's jurisdiction and expertise is on the nature of the position held by the public officer.

To put it simply, public officials whose ranks place them in a position of marked power, influence, and authority are within the exclusive original jurisdiction of the Sandiganbayan. While all government employees are public officers as defined by law, those with Grade '27' and higher and other officials enumerated are recognized as holding more concentrated amounts of power that enable them to commit crimes in a manner that lower-ranked public officers cannot. As clearly explained by this Court in *Rodrigo v. Sandiganbayan*,[117] the delineation of the jurisdiction of the Sandiganbayan in this manner frees it from the task of trying cases involving lower-ranking government officials and allows it to focus its efforts on the trial of those who occupy higher positions in government.

These high-ranking officials are the so-called "big fish" as opposed to the "small fry." The Explanatory Note of House Bill No. 9825,[118] which eventually became R.A. 7965 and introduced for the first time the delineation of the Sandiganbayan's jurisdiction based on salary grade, provides a very telling insight on the court's intended expertise. The Explanatory Note reads:

> One is given the impression that only lowly government workers or the so-called 'small fry' are expediently tried and convicted by the *Sandiganbayan*. The reason for this is that at present, the *Sandiganbayan* has the exclusive and original jurisdiction over graft cases committed by all officials and employees of the government, irrespective of rank and position, from the lowest-paid janitor to the highly-placed government official. **This jurisdiction of the *Sandiganbayan* must be modified in such a way that only those occupying high positions in the government and the military (the big fishes) may fall under its exclusive and original jurisdiction.** In this way, the *Sandiganbayan* can devote its time to big time cases involving the "big fishes" in the government. The regular courts will be vested with the jurisdiction of cases involving less-ranking officials (those occupying positions corresponding to salary grade twenty-seven (27) and below and PNP members with a rank lower than Senior Superintendent.[119] (Emphasis supplied)

In other words, Congress deemed Grade '27' as the proper demarcation distinguishing the "big fish" from the "small fry." In fact, House Bill No. 9825 originally intended only officials of Grade '28' and above as falling within the exclusive and original jurisdiction of the Sandiganbayan, but the resulting law included officials of Grade '27.'[120]

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[117] 362 Phil. 646 (1999).
[118] Id.
[119] Id. at 664.
[120] Id.

It is the intention of Congress to focus the expertise of the Sandiganbayan not only on high-ranking public officials, but also on high-profile crimes committed in relation to public office. At the outset, the fact that the crime was committed by a high-ranking public official as defined by the Sandiganbayan law makes it a high-profile crime in itself. However, the most succinct display of the legislative intention is the recent passage of R.A. 10660, which transfers so-called minor cases to the regional trial courts. These minor cases refer to those in which the Information does not allege any damage to the government or any bribery, or alleges damage to the government or bribery in an amount not exceeding one million pesos.[121]

Senator Franklin Drilon, in his sponsorship speech before the Senate, expressed this specific intention:[122]

> The second modification under the bill involves the streamlining of the anti-graft court's jurisdiction, which will enable the Sandiganbayan to concentrate its resources in resolving the **most significant cases filed against public officials**. xxx With this amendment, **such court will be empowered to focus on the most notorious cases** and will be able to render judgment in a matter of months. (Emphases supplied)

That the Sandiganbayan's jurisdiction must focus on high-profile cases was also expressed during the committee deliberations on Senate Bill Nos. 470 and 472[123] as follows:

> MR. MARCELO. Sixty percent belong to this category of minor cases. It is my position, Your Honor, **that the Sandigan should be able to focus their attention to major cases not to these minor cases.** I don't know but during my time two-thirds of the justices in the Sandiganbayan are former regional trial court judges and they were handling much more complicated cases involving much higher amounts than this, than one million or less.
>
> x x x x
>
> So that's the amendment that I am proposing **so that really the Sandiganbayan can really spend their time in high profile cases.** (Emphases supplied)

From the foregoing, it can be gleaned that the Sandiganbayan's jurisdiction is intended to focus on major cases that involve bribery or damage to the government worth at least one million pesos, or is unquantifiable.

That allegations of unquantifiable bribery or damage remain within the Sandiganbayan's jurisdiction is shown by the legislative history of R.A. 10660. A review would show that in both House Bill No. 5283 and Senate Bill No. 2138, cases in which the Information alleges damage or a bribe that is unquantifiable are included among those to be transferred to the regional

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[121] R.A. 10660, Sec. 4.

[122] Co-Sponsorship Speech of Senator Franklin Drilon, S. Journal Sess. No. 75, at 33, 16th Congress, 1st Regular Session (26 February 2014).

[123] Senate Committee on Justice and Human Rights, Discussion and Deliberation on Senate Bill No. 470 and 472, at 23-24 (13 February 2014).

trial courts' jurisdiction. Even the sponsorship speech of Senator Drilon,[124] as well as the interpellations[125] before the Senate, notably included unquantifiable bribe or damage among the considerations. However, the Conference Committee Report on the Disagreeing Provisions of Senate Bill No. 2138 and House Bill No. 5283 adopted the House version as the working draft and deleted the phrase "(b) alleges damage or bribe that are unquantifiable."[126] While there was no reason available in the records explaining the deletion of this phrase, the law retains, in effect, the Sandiganbayan's jurisdiction over cases involving allegations of an unquantifiable bribe or damage.

The latest amendment reflects the consistent legislative intent to streamline the jurisdiction of the Sandiganbayan by focusing it on high-ranking officials involved in high-profile or notorious cases involving public office.

In consideration of the caliber of the parties and cases falling within the ambit of the exclusive and original jurisdiction of the Sandiganbayan, the law has carefully crafted a judicial structure that especially addresses the intricacies of the issues that may arise before that court.

The Sandiganbayan is a collegial court presently composed of seven divisions of three members each.[127] The term "collegial" relates to a group of colleagues or a "collegium," which is "an executive body with each member having approximately equal power and authority."[128] As such, the members of the anti-graft court act on the basis of consensus or majority rule.[129]

This collegiate structure of the Sandiganbayan was acknowledged to be necessary in order to competently try the public officials and cases before it. As discussed by this Court in *Jamsani-Rodriguez v. Ong*:[130]

> Moreover, the respondents' non-observance of collegiality contravened the **very purpose of trying criminal cases cognizable by Sandiganbayan before a Division of *all* three Justices.** Although there are criminal cases involving public officials and employees triable before single-judge courts, PD 1606, as amended, has *always* required a Division of three Justices (not one or two) to try the criminal cases cognizable by the Sandiganbayan, **in view of the accused in such cases holding higher rank or office than those charged in the former cases.**[131] (Emphases supplied)

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[124] Co-Sponsorship Speech of Senator Franklin Drilon, S. Journal Sess. No. 75, at 32-33, 16th Congress, 1st Regular Session (26 February 2014).
[125] Senate Committee on Justice and Human Rights, Discussion and Deliberation on Senate Bill No. 470 and 472 (13 February 2014).
[126] S. Journal Sess. No. 69, at 196, 16th Congress, 1st Regular Session (12 May 2014).
[127] R.A. 10660, Section 1.
[128] *Payumo v. Sandiganbayan*, 669 Phil. 545 (2011), citing Webster's Third New World International Dictionary, 445 (1993).
[129] Id.
[130] 643 Phil. 14 (2010).
[131] Id. at 36.

Aware of the political clout that high-ranking public officials may have, and how they could easily exert influence over single-judge courts, a division composed of three Justices was recognized to be less susceptible to the political reach of the public officers involved.

The foregoing intention is reflected in the latest amendment to R.A. 10660 which provides that the trial of cases transferred to regional trial courts shall be conducted in a judicial region other than where the official holds office.[132]

As discussed by the resource person during the committee deliberations on Senate Bill No. 2138:[133]

> Mr. Marcelo: xxx The only limitation that I suggest is that the Supreme Court should assign these cases to a region different from where any of the accused or the accused reside or have their place of office. That is the reason why these cases, most of them, involve officials who have salary grade 27 like mayors, most of these cases, these minor cases. And because of their political clout, you know, they can have connections, they may be partymates of the governor who may —
>
> **Unfortunately in our judicial system right now, there are instances where maybe he can exert influence on the judges so the jurisdiction now--they made it that the jurisdiction belong to the Sandiganbayan.** That is why we also propose an amendment that the Supreme Court in assigning these cases, what we call minor cases, to the RTCs will only assign it to a regional trial court in a different region so that there will be no possibility of political influence, Your Honors. (Emphases supplied)

This was noted again during the interpellation by Senator Angara:[134]

> Senator Angara. I see. In the proposed amendment that we are referring to, the second paragraph mentions that, "subject to the rules promulgated by the Supreme Court, the cases falling under the jurisdiction of the RTC shall be tried in a judicial region other than that where the official holds office".
>
> Mr. President, I understand **the basic reasoning behind this provision, and this is probably to prevent that official from exerting influence over the RTC judge who is to try the case.** Is this correct, Mr. President?
>
> Senator Pimentel. Yes, specifically, the concept of the other judicial region. Yes, that is the purpose, Mr. President. So, **there is a presumption, in effect, that the public official of this rank has influence or wields influence in the judicial region where he holds office. That is the assumption in the amendment.** (Emphases supplied)

The structural framework of the Sandiganbayan as discussed above is unique. There is no other court vested with this kind of jurisdiction and structured in this manner. The structure vests the anti-graft court with the competence to try and resolve high-profile crimes committed in relation to the office of a high-ranking public official – as in the case at bar.

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[132] R.A. 10660, Section 2.

[133] Senate Committee on Justice and Human Rights, *Discussion and Deliberation on Senate Bill No. 470 and 472*, at 24-25 (13 February 2014).

[134] S. Journal Sess. No. 62, at 72, 16th Congress, 1st Regular Session (5 March 2014).

Here, we have a senator whose salary is above Grade '27.' She is being charged in the Information with a drug offense that was clearly described as committed in relation to her office as Secretary of Justice. There is an alleged bribe or damage to the government that is above the amount of one million pesos. Clearly, the case falls within the Sandiganbayan's jurisdiction. The drug courts specified in R.A. 9165 do not have the necessary machinery, expertise, or competence that the Sandiganbayan has to resolve the accusations against petitioner. Therefore, its structural framework further affirms the conclusion that as between a single-judge trial court and a collegiate Sandiganbayan, the latter retains original and exclusive jurisdiction over high-ranking officials accused of committing drug offenses in relation to their office.

A conclusion placing within the jurisdiction of the Sandiganbayan those drug offenses committed by public officers falling under Grade '27' and above is in consonance with a fundamental principle: the Court must construe criminal rules in favor of the accused. In fact, even the slightest doubt must be resolved in favor of the accused.[135] In my dissenting opinion in *Corpuz v. People*,[136] I extensively explained this principle in the following manner:

> This directive is moored on the equally vital doctrine of presumption of innocence. These principles call for the adoption of an interpretation which is more lenient. Time and again, courts harken back to the *pro reo* rule when observing leniency, explaining: "The scales of justice must hang equal and, in fact should be tipped in favor of the accused because of the constitutional presumption of innocence."
>
> This rule underpins the prospectivity of our penal laws (laws shall have no retroactive application, unless the contrary is provided) and its exception (laws have prospective application, unless they are favorable to the accused). The *pro reo* rule has been applied in the imposition of penalties, specifically the death penalty and more recently, the proper construction and application of the Indeterminate Sentence Law.
>
> The rationale behind the *pro reo* rule and other rules that favor the accused is anchored on the rehabilitative philosophy of our penal system. In *People v. Ducosin,* the Court explained that it is "necessary to consider the criminal, first, as an individual and, second, as a member of society. This opens up an almost limitless field of investigation and study which it is the duty of the court to explore in each case as far as is humanly possible, with the end in view that penalties shall not be standardized but fitted as far as is possible to the individual, with due regard to the imperative necessity of protecting the social order."[137]

Here, it is more favorable to petitioner and all other similar public officials accused of drug offenses committed in relation to their office to be placed within the Sandiganbayan's jurisdiction, as shown in the following two ways.

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[135] *People v. Milan*, 370 Phil. 493 (1999).
[136] *Corpuz v. People*, 734 Phil. 353 (2014).
[137] Id. at 454-455.

First, the appeal route is shorter, by virtue of the fact that the review of convictions is generally elevated to this Court via the discretionary mode of petition for review on certiorari under Rule 45.[138] On the other hand, convictions by the trial courts still undergo intermediate review before ultimately reaching this Court, if at all. If measured against the Speedy Trial Act[139] standards, a review of convictions by this Court will show a higher speed of disposition.

Second, the direct elevation of a petition to the Supreme Court translates to the application of a tighter standard in the trial of the case. The three Justices of a Division, rather than a single judge, will naturally be expected to exert keener judiciousness and to apply broader circumspection in trying and deciding such cases.[140] As again observed by Justice Barredo in his concurring opinion in *Nuñez v. Sandiganbayan*:[141]

> I believe that **the accused has a better guarantee of a real and full consideration of the evidence and the determination of the facts where there are three judges actually seeing and observing the demeanor and conduct of the witnesses**. It is Our constant jurisprudence that the appellate courts should rely on the evaluation of the evidence by the trial judges, except in cases where pivotal points are shown to have been overlooked by them. With more reason should this rule apply to the review of the decision of a collegiate trial court. Moreover, when the Court of Appeals passes on an appeal in a criminal case, it has only the records to rely on, and yet the Supreme Court has no power to reverse its findings of fact, with only the usual exceptions already known to all lawyers and judges. **I strongly believe that the review of the decisions of the Sandiganbayan, whose three justices have actually seen and observed the witnesses as provided for in P.D. 1606 is a more iron-clad guarantee that no person accused before such special court will ever be finally convict without his guilt appearing beyond reasonable doubt as mandated by the Constitution.**[142] (Emphases supplied)

In *Cesar v. Sandiganbayan*,[143] this Court discussed how, ultimately, the tighter standards in the Sandiganbayan translates into the application of the same standards before this Court:

> Considering further that no less than three senior members of this Court, Justices Teehankee, Makasiar, and Fernandez dissented from the Court's opinion in *Nuñez* partly because of the absence of an intermediate appeal from Sandiganbayan decisions, where questions of fact could be fully threshed out, this Court has been most consistent in carefully examining all petitions seeking the review of the special court's decisions to ascertain that the fundamental right to be presumed innocent is not disregarded. This task has added a heavy burden to the workload of this Court but it is a task we steadfastly discharge.[144]

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[138] P.D. 1606, Section 7.
[139] R.A. 8493, 12 February 1998.
[140] *Payumo v. Sandiganbayan*, 669 Phil. 545 (2011).
[141] *Nuñez v. Sandiganbayan*, 197 Phil. 407 (1982), Concurring Opinion of J. Barredo.
[142] Id. at 436.
[143] G.R. No. L-54719-50, 17 January 1985, 134 SCRA 105.
[144] Id. at 121.

Procedural Issues

The procedural issues identified all boil down to the propriety of filing the instant petition despite there being remedies available, and in fact availed of, before the Regional Trial Court of Muntinlupa City, Branch 204 (RTC) and the Court of Appeals (CA).

Notwithstanding the fact that petitioner failed to observe the hierarchy of courts, and opted not to wait for the resolution of her motion to quash the Information – which was a plain, speedy and adequate remedy under the premises – her petition has clearly established enough basis to grant relief.

There is substantial compliance with respect to the rule on the verification and certification against forum shopping.

It is conceded that there was failure on the part of petitioner to sign the Verification and Certification Against Forum Shopping in the presence of the notary public, Atty. Maria Cecile C. Tresvalles-Cabalo. Nevertheless, this defect is not fatal and does not warrant an automatic and outright dismissal of the present petition.

The purpose of requiring a verification is to secure an assurance that the allegations of the petition have been made in good faith or are true and correct, and not merely speculative.[145] This requirement is simply a condition affecting the form of pleadings, and noncompliance therewith does not necessarily render them fatally defective. Indeed, verification is only a formal, not a jurisdictional, requirement.[146]

On the other hand, the required certification against forum shopping is considered by this Court to be rooted in the principle that a party-litigant shall not be allowed to pursue simultaneous remedies in different *fora,* as this practice is detrimental to an orderly judicial procedure.[147] Like the requirement of verification, the rule requiring the submission of certification, although obligatory, is not jurisdictional.[148]

Since the requirement of verification and certification against forum shopping is not jurisdictional, this Court has relaxed compliance therewith under justifiable circumstances, specifically (1) under the rule of substantial compliance,[149] and (2) in the presence of special circumstances or compelling reasons.[150]

In the present case, there is substantial compliance with the above rule. It is undisputed that petitioner herself personally signed the Verification and Certification Against Forum Shopping of the petition before this Court.

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[145] *Torres v. Specialized Packaging Development Corp.*, 447 Phil. 540 (2004).
[146] *In-N-Out Burger, Inc. v. Sehwani, Inc.*, 595 Phil. 1119 (2008).
[147] *People v. De Grano*, 606 Phil. 547 (2009).
[148] Id.
[149] *Fernandez v. Villegas*, 741 Phil. 689 (2014).
[150] Id.

She was qualified to sign the foregoing document, as she had sufficient knowledge to swear to the truth of the allegations therein. This principle is in accordance with this Court's ruling in *Fernandez v. Villegas* on substantial compliance as follows:

> 3) Verification is deemed *substantially complied* with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.
>
> 4) As to certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons."
>
> 5) The certification against forum shopping must be signed by all the plaintiffs or petitioners in a case; otherwise, those who did not sign will be dropped as parties to the case. Under reasonable or justifiable circumstances, however, as when all the plaintiffs or petitioners share a common interest and involve a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the Rule.[151]

The Decision cites *William Go Que Construction v. Court of Appeals*[152] as basis for the dismissal of the petition on the ground of a defective verification and certification against forum shopping. In that case, this Court ordered the dismissal of the petition for *certiorari* before the Court of Appeals for the failure of private respondents therein to substantially comply with the rule on verification and certification against forum shopping. The ruling hinged on the finding that the *jurat* therein was defective for its failure to indicate the pertinent details regarding the private respondent's competent evidence of identities. Because of the lack of evidence of identities, it could not be ascertained whether any of the private respondents actually swore to the truth of the allegations in the petition.

However, the above-cited jurisprudence is not apropos, as it does not consider substantial compliance, as in this case, by the present petitioner with the rule on verification and certification against forum shopping. While petitioner admittedly failed to sign the verification and certification against forum shopping in the presence of the notary public, the latter was able to sufficiently confirm the former's identity as the signatory thereof.

As explained in her affidavit, Atty. Tresvalles-Cabalo examined the signature of petitioner. The notary was then able to confirm that it was genuine on account of her personal relationship with petitioner and after comparing the signatures in the petition and in the latter's valid passport. The passport is competent evidence of identification duly indicated in the *jurat*. Likewise notable is the fact that when the two of them met at the Criminal Investigation and Detection Group (CIDG) in Camp Crame, petitioner personally informed the notary public that she had already affixed

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[151] Id. at 698.
[152] G.R. No. 191699, 19 April 2016.

her signature on the verification and certification against forum shopping. Under the foregoing circumstances, the identity of petitioner as the person who subscribed and swore to the truth of the allegations in her petition can no longer be put into question.

More importantly, the vital issue presented by the present petition is whether it is the DOJ or Ombudsman that has jurisdiction. It is this issue that serves as the "special circumstance" or "compelling reason" for the Court to justify a liberal application of the rule on verification and certification against forum shopping.

As will be further expounded below, the threshold issue raised is novel, of transcendental importance, and its resolution is demanded by the broader interest of justice. Therefore, it behooves this Court to give the petition due course and resolve it on the merits.

The petition presents exceptions to the doctrine of hierarchy of courts.

While it is conceded that the Court must enjoin the observance of the hierarchy of courts, it is likewise acknowledged that this policy is not inflexible in light of several well-established exceptions. T*he Diocese of Bacolod v. Commission on Elections*[153] enumerates and explains the different exceptions that justify a direct resort to this Court as follows:

> *First*, a direct resort to this court is allowed when there are genuine issues of constitutionality that must be addressed at the most immediate time. A direct resort to this court includes availing of the remedies of *certiorari* and prohibition to assail the constitutionality of actions of both legislative and executive branches of the government.
>
> x x x x
>
> **A *second* exception is when the issues involved are of transcendental importance. In these cases, the imminence and clarity of the threat to fundamental constitutional rights outweigh the necessity for prudence. The doctrine relating to constitutional issues of transcendental importance prevents courts from the paralysis of procedural niceties when clearly faced with the need for substantial protection.**
>
> x x x x
>
> ***Third*, cases of first impression warrant a direct resort to this court. In cases of first impression, no jurisprudence yet exists that will guide the lower courts on this matter. In *Government of the United States v. Purganan*, this court took cognizance of the case as a matter of first impression that may guide the lower courts:**
>
> **In the interest of justice and to settle once and for all the important issue of bail in extradition proceedings, we deem it best to take cognizance of the present case. Such proceedings constitute a matter of first impression over which there is, as yet, no local jurisprudence to guide lower courts.**
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> x x x x

[153] G.R. No. 205728, 21 January 2015, 747 SCRA 1, 45-50.

> ***Eighth*, the petition includes questions that are "dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice,** or the *orders complained of were found to be patent nullities*, **or the appeal was considered as clearly an inappropriate remedy."** In the past, questions similar to these which this court ruled on immediately despite the doctrine of hierarchy of courts included citizens' right to bear arms, government contracts involving modernization of voters' registration lists, and the status and existence of a public office.

The instant petition presents several exceptions to the doctrine of hierarchy of courts, which justifies the direct resort to this Court.

The issue involved is one of transcendental importance. There is an urgent necessity to resolve the question of whether it is the DOJ or the Ombudsman that should investigate offenses defined and penalized under R.A. 9165 in view of the government's declared platform to fight illegal drugs. This avowed fight has predictably led to a spike in drug-related cases brought before the courts involving public officers. The President has already identified a large number of public officers allegedly involved in the drug trade. Our investigating and prosecutorial bodies must not be left to guess at the extent of their mandate.

As shown above, the offense charged falls under the jurisdiction of the Sandiganbayan, because it was allegedly committed by petitioner in relation to her public office as Secretary of Justice, which is classified as Grade '27' or higher.

Lastly, as the issue raised affects public welfare and policy, its resolution is ultimately demanded by the broader interest of justice. The difficulties in reading the various statutes in light of the 84,908 pending drug-related cases that are foreseen to sharply increase even more in the near future demands a clarification of the parameters of jurisdiction that will guide the DOJ, the Ombudsman, the Sandiganbayan, and the lower courts in addressing these cases. This clarification will lead to a speedy and proper administration of justice.

The petition is not entirely premature.

In *Arula v. Espino*,[154] the Court explained the legal tenet that a court acquires jurisdiction to try a criminal case only when the following requisites concur: (a) the offense must be one that the court is by law authorized to take cognizance of; (b) the offense must have been committed within its territorial jurisdiction; and (c) the person charged with the offense must have been brought to its forum for trial, involuntarily by a warrant of arrest or upon the person's voluntary submission to the court.

In the instant petition, petitioner ascribes grave abuse of discretion of the part of respondent judge for the following alleged acts and omissions:

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[154] 138 Phil. 570 (1969).

1. Issuance of the Order dated 23 February 2017 finding probable cause for the issuance of a warrant of arrest against all the accused, including petitioner;
2. Issuance of a Warrant of Arrest dated 23 February 2017 against petitioner;
3. Issuance of the Order dated 24 February 2017 committing petitioner to the Philippine National Police Custodial Center; and
4. Failure or refusal to resolve the Motion to Quash through which petitioner seriously questions the jurisdiction of the RTC.

In the petition before us, petitioner is assailing the RTC's acquisition of jurisdiction to try the charge against her on two fronts. In assailing the trial court's finding of probable cause for the issuance of a warrant of arrest and the resulting issuance thereof, she is questioning the validity of the grounds on which she was brought before the RTC for trial. In insisting that the trial court resolve her motion to quash, she is saying that its resolution thereof will lead it to the conclusion that the offense with which she is charged is not one that it is authorized by law to take cognizance of.

Considering that the warrant of arrest has already been implemented and that she has already been brought into custody, it cannot be said that the instant petition is entirely premature. Her alleged "**unmistakable admission that the RTC has yet to rule on her Motion to Quash and the existence of the RTC's authority to rule on the said motion**"[155] relates to only one of the aspects of the trial court's assailed jurisdiction.

As regards the alleged failure of petitioner to move for reconsideration of the Orders dated 23 February 2017 and 24 February 2017 before filing the instant petition for certiorari, it is my opinion that her situation falls under the recognized exceptions.

In *People v. Valdez*,[156] we said:

> The general rule is that a motion for reconsideration is a condition sine qua non before a petition for certiorari may lie, its purpose being to grant an opportunity for the court a quo to correct any error attributed to it by a re-examination of the legal and factual circumstances of the case.
>
> However, the rule is not absolute and jurisprudence has laid down the following exceptions when the filing of a petition for certiorari is proper notwithstanding the failure to file a motion for reconsideration:
>
> a) **where the order is a patent nullity, as where the court a quo has no jurisdiction**;
> b) where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court;
> c) **where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner** or the subject matter of the petition is perishable;

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[155] Draft Decision, p. 15.
[156] G.R. Nos. 216007-09, 8 December 2015, 776 SCRA 672.

d) where, under the circumstances, a motion for reconsideration would be useless;
e) where petitioner was deprived of due process and there is extreme urgency for relief;
f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable;
g) where the proceedings in the lower court are a nullity for lack of due process;
h) where the proceeding was *ex parte* or in which the petitioner had no opportunity to object; and,
i) **where the issue raised is one purely of law or public interest is involved.**[157] (Emphasis supplied)

In that case, we recognized that the resolution of the question raised was of urgent necessity, considering its implications on similar cases filed and pending before the Sandiganbayan. In this case, the primordial interest, which is the observance of the rule of law and the proper administration of justice, requires this Court to settle once and for all the question of jurisdiction over public officers accused of violations of R.A. 9165.

Forum shopping was not willful and deliberate.

While petitioner may have indeed committed forum shopping when she filed the instant petition before this Court raising essentially the same arguments that she raised in her pending motion to quash before the RTC. However, I am of the view that her act of forum shopping was not willful and deliberate for the following reasons.

First, she clearly stated in the verification and certification against forum shopping attached to the instant Petition for Certiorari and Prohibition that she had a pending motion to quash filed before the RTC on 20 February 2017. She also reported therein the pendency of the Petition for Certiorari and Prohibition, which she had filed before the CA on 13 January 2017.

Second, the amount of publicity and media coverage received by petitioner in relation to the charge against her renders it practically impossible for her to hide the fact of the pendency of the other cases she has filed in pursuance of her defenses and arguments. It must be borne in mind that what is critical in determining the existence of forum shopping is the vexation caused the courts and parties-litigants by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or grant the same or substantially the same reliefs. It is this vexation that creates the possibility of conflicting decisions being rendered by different fora upon the same issues.[158] Such eventuality will not come to pass in this case.

We have occasions[159] to rule that when forum shopping is not willful and deliberate, the subsequent case shall be dismissed without prejudice on

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[157] Id. at 683-684.
[158] *Grace Park International Corp. v. Eastwest Banking Corp.*, G.R. No. 210606, 27 July 2016.
[159] *Phil. Pharmawealth, Inc. v. Pfizer, Inc.*, 649 Phil. 423 (2010); *Chua v. Metropolitan Bank and Trust Co.*, 613 Phil. 143 (2009).

the ground of either *litis pendentia* or *res judicata*. However, we have also ruled in certain cases that the newer action is not necessarily the one that should be dismissed.[160]

In *Medado v. Heirs of Consing*,[161] we reiterated the relevant factors that courts must consider when they have to determine which case should be dismissed, given the pendency of two actions. These factors are (1) the date of filing, with preference generally given to the first action filed to be retained; (2) whether the action sought to be dismissed was filed merely to preempt the latter action or to anticipate its filing and lay the basis for its dismissal; and (3) whether the action is the appropriate vehicle for litigating the issues between the parties.

In this case, in determining the action or the relief that should be dismissed, I believe that the motion to quash filed by petitioner before the RTC should be the one disregarded by this Court. The instant petition for certiorari is the appropriate vehicle to settle the issue of whether it is the RTC or the Sandiganbayan that should try and hear the charge against petitioner.

Accordingly, I vote that the Court **GRANT** the petition. The Order dated 23 February 2017 and the Warrant of Arrest issued against petitioner should be annulled and set aside. Nevertheless, the Department of Justice panel of investigators should be directed to transmit the records and the resolution of the case to the Office of the Ombudsman for appropriate action.

MARIA LOURDES P. A. SERENO
Chief Justice

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[160] *Bandillion v. La Filipina Uygongco Corp.*, G.R. No. 202446, 16 September 2015, 770 SCRA 624; *Espiritu v. Tankiansee*, 667 Phil. 9 (2011).
[161] 681 Phil. 536 (2012).