Republic of the Philippines
Supreme Court
Manila

EN BANC

RAMON "BONG" B. REVILLA, JR., **G.R. No. 218232**
Petitioner,

- versus -

SANDIGANBAYAN (FIRST DIVISION) and PEOPLE OF THE PHILIPPINES,
Respondents.
x- x
RICHARD A. CAMBE, **G.R. No. 218235**
Petitioner,

- versus -

SANDIGANBAYAN (FIRST DIVISION), PEOPLE OF THE PHILIPPINES, and OFFICE OF THE OMBUDSMAN,
Respondents.
x- x
JANET LIM NAPOLES, **G.R. No. 218266**
Petitioner,

- versus -

SANDIGANBAYAN (FIRST DIVISION), CONCHITA CARPIO MORALES, IN HER CAPACITY AS OMBUDSMAN, and PEOPLE OF THE PHILIPPINES,
Respondents.
x - x

PEOPLE OF THE PHILIPPINES,
Petitioner,

- versus -

SANDIGANBAYAN (FIRST DIVISION), RAMON "BONG" B. REVILLA, JR., and RICHARD A. CAMBE,
Respondents.

G.R. No. 218903

x- x

RAMON "BONG" B. REVILLA, JR.,
Petitioner,

- versus -

SANDIGANBAYAN (FIRST DIVISION) and PEOPLE OF THE PHILIPPINES,
Respondents.

G.R. No. 219162

Present:

CARPIO, *J.*,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,*
CAGUIOA,*
MARTIRES,
TIJAM,
REYES, JR., and
GESMUNDO, *JJ.*

Promulgated:

July 24, 2018

x- x

DECISION

CARPIO, *J.*:

The Case

The petitions for certiorari[1] in G.R. Nos. 218232, 218235, and 218266, filed by petitioners Ramon "Bong" B. Revilla, Jr. (Revilla), Richard

* No part.

[1] Pertain to the following petitions: (a) petition in G.R. No. 218232 filed by Revilla; (b) petition in G.R. No. 218235 filed by Cambe; and (c) petition in G.R. No. 218266 filed by Napoles.

A. Cambe (Cambe), and Janet Lim Napoles (Napoles), respectively, assail the Resolution[2] dated 1 December 2014 of the Sandiganbayan denying them bail and the Resolution[3] dated 26 March 2015 denying their motion for reconsideration in Criminal Case No. SB-14-CRM-0240.

In G.R. No. 218903, the Office of the Ombudsman assails the Resolution[4] dated 4 September 2014 of the Sandiganbayan denying the prosecution's motion to transfer the place of detention of Revilla and Cambe, and the Resolution[5] dated 20 May 2015 denying the motion for reconsideration. In G.R. No. 219162, Revilla assails the Resolution[6] dated 5 February 2015 of the Sandiganbayan granting the prosecution's motion for the issuance of a writ of preliminary attachment and the Resolution[7] dated 28 May 2015 denying his motion for reconsideration.

The Facts

The cases before us stemmed from the Information dated 5 June 2014 filed by the Office of the Ombudsman in the Sandiganbayan charging petitioners Revilla, Cambe, and Napoles, among others, with the crime of Plunder, defined and penalized under Section 2 of Republic Act No. (RA) 7080, as amended. The Amended Information[8] reads:

> In 2006 to 2010, or thereabout, in the Philippines, and within this Honorable Court's jurisdiction, above-named accused RAMON "BONG" BAUTISTA REVILLA, JR., then a Philippine Senator and RICHARD ABDON CAMBE, then DIRECTOR III at the Office of Senator Revilla, Jr., both public officers, committing the offense in relation to their respective offices, conspiring with one another and with JANET LIM NAPOLES, RONALD JOHN B. LIM, and JOHN RAYMUND S. DE ASIS, did then and there willfully, unlawfully, and criminally amass, accumulate and/or acquire ill-gotten wealth amounting to at least TWO HUNDRED TWENTY FOUR MILLION FIVE HUNDRED TWELVE THOUSAND FIVE HUNDRED PESOS (Php224,512,500.00), through a combination or series of overt criminal acts, as follows:
>
> > a) by repeatedly receiving from NAPOLES and/or her representatives LIM, DE ASIS, and others, kickbacks or commissions under the following circumstances: before, during and/or after the project identification, NAPOLES gave, and REVILLA, JR. and/or CAMBE received, a percentage of the cost of a project to be funded from REVILLA, JR.'s Priority Development Assistance Fund

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2 *Rollo* (G.R. No. 218232), Vol. I, pp. 53-123.

3 Id. at 124-148.

4 *Rollo* (G.R. No. 218903), Vol. I, pp. 29-40.

5 Id. at 41-49.

6 *Rollo* (G.R. No. 219162), Vol. I, pp. 36-43.

7 Id. at 44-51.

8 *Rollo* (G.R. No. 218235), Vol. I, pp. 166-167. In an Order dated 26 June 2014, the Sandiganbayan "resolved to PARTIALLY DENY the prosecution's motion to admit the amended information in that the proposed substantial amendments were not allowed but, with the conformity of the defense counsels, the Court authorized the prosecution to effect the formal amendments to the said Information."

> (PDAF), in consideration of REVILLA, JR.'s endorsement, directly or through CAMBE, to the appropriate government agencies, of NAPOLES' non-government organizations which became the recipients and/or target implementors of REVILLA, JR.'s PDAF projects, which duly-funded projects turned out to be ghosts or fictitious, thus enabling NAPOLES to misappropriate the PDAF proceeds for her personal gain;
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> b) by taking undue advantage, on several occasions, of their official positions, authority, relationships, connections, and influence to unjustly enrich themselves at the expense and to the damage and prejudice, of the Filipino people and the Republic of the Philippines.
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> CONTRARY TO LAW.[9]

Upon arraignment, Napoles and Cambe pleaded not guilty to the charge against them, while petitioner Revilla refused to enter any plea; thus, the Sandiganbayan entered a plea of not guilty in his behalf pursuant to Section 1(c), Rule 116 of the Rules of Court.[10]

In a Resolution[11] dated 19 June 2014, the Sandiganbayan issued warrants of arrest against Revilla, Cambe, and Napoles. On the same day, Revilla voluntarily surrendered to the Philippine National Police (PNP) and filed a Motion to Elect Detention Facilities *Ad Cautelam*[12] praying for his detention at the PNP Custodial Center in Camp Crame. On 20 June 2014, Cambe also voluntarily surrendered to the Sandiganbayan and filed an Urgent Motion to Commit Accused to Criminal Investigation and Detection Group (CIDG)[13] pending trial of the case.

In two separate Resolutions[14] both dated 20 June 2014, the Sandiganbayan ordered the turn over of Revilla and Cambe to the PNP-CIDG, Camp Crame, Quezon City for detention at its PNP Custodial Center Barracks.

G.R. Nos. 218232, 218235 and 218266

Revilla filed a Petition for Bail *Ad Cautelam* dated 20 June 2014; Cambe filed an Application for Bail[15] dated 23 June 2014; and Napoles filed a Joint Petition for Bail dated 25 June 2014, together with co-accused Ronald John Lim (Lim) and John Raymund De Asis (De Asis).[16]

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9 Id. at 19-20.

10 This provision reads: "(c) When the accused refuses to plead or makes a conditional plea, a plea of not guilty shall be entered for him."

11 *Rollo* (G.R. No. 218903), Vol. I, pp. 52-55.

12 Id. at 56-58.

13 Id. at 59-61.

14 Id. at 62-64.

15 *Rollo* (G.R. No. 218235), Vol. I, pp. 115-120.

16 Sandiganbayan Resolution dated 1 December 2014, footnote no. 2 states "The Court, in its Order dated July 3, 2014, denied the petition for bail filed by accused Lim and De Asis (jointly with

Thereafter, the Sandiganbayan conducted the bail hearings for Revilla, Cambe, and Napoles.

During the bail hearings, the prosecution presented nine witnesses, namely: Commission on Audit (COA) Assistant Commissioner in the Special Services Sector Susan P. Garcia; Department of Budget and Management (DBM) Directors Carmencita N. Delantar and Lorenzo C. Drapete; the whistleblowers Benhur K. Luy (Luy), Merlina P. Suñas (Suñas), Marina C. Sula (Sula), and Mary Arlene Joyce B. Baltazar (Baltazar); National Bureau of Investigation (NBI) Special Investigator III Joey I. Narciso (Narciso); and Anti-Money Laundering Council (AMLC) Bank Officer II Atty. Leigh Vhon Santos (Santos).

The Sandiganbayan summarized the prosecution's evidence as follows:

> From 2007 to 2009, accused Revilla was allocated and utilized [Priority Development Assistance Fund (PDAF)] in the total amount of ₱517,000,000.00, covered by twelve (12) [Special Allotment Release Orders (SAROs)], for livelihood and agricultural projects. He named the [Technology Livelihood Resource Center (TLRC), National Agri-Business Corporation (NABCOR), and National Livelihood Development Corporation (NLDC)] to be the [implementing agencies (IAs)], and endorsed five (5) of Napoles' [non-governmental organization (NGOs)], *i.e.,* [*Agri & Economic Program for Farmers Foundation, Inc. (**AEPFFI**), Philippine Social Development Foundation, Inc. (**PSDFI**), Masaganang Ani Para sa Magsasaka Foundation, Inc. (**MAMFI**), Social Development Program for Farmers Foundation, Inc. (**SDPFFI**), and Agricultura Para Sa Magbubukid Foundation, Inc. (**APMFI**),*] as project partners. Of the 12 SAROs, Luy identified six (6) SAROs in his Summary of Rebates, showing how he came up with the supposed ₱224,512,500.00 rebates/commissions/kickbacks mentioned in the Information. The six (6) SAROs with their corresponding amounts, beneficiary NGOs, IAs, and the amount of commissions received by Revilla, through Cambe, mentioned in Luy's Summary are shown in the table below:

TABLE A

SARO	Amount (Php)	IA	NGO	Rebates Received (Php)	Date Received
1. ROCS-07-05486	25 million	TLRC	AEPFFI	7.5 million	March 27, 2007
2. ROCS-08-05254	65 million	NABCOR	MAMFI/ SDPFFI	10 million 17,250,000.00	June 24, 2008 July 3, 2008
3. ROCS-08-05660	15 million	NABCOR	MAMFI	7,750,000.00	July 23, 2008

accused Napoles), as they had remained at-large."

4. D-08-9558	40 million	TLRC	SDPFFI	17 million	Dec. 5, 2008
5. ROCS-08-09789	40 million	TLRC	SDPFFI	2 million 18 million	Dec. 12, 2008 Dec. 15, 2008
6. G-09-07065	80 million	NLDC	AEPFFI and APMFI	9 million 9 million 2 million 12 million 8 million	Oct. 6, 2009 Oct. 6, 2009 Oct. 6, 2009 Oct. 22, 2009 Oct. 22, 2009
TOTAL	**Php 265 million**			**Php119,500,000.00**	

Other commissions without corresponding SARO numbers lifted from Luy's Summary are shown hereunder.

TABLE B

Date Received	**IA/Particulars**	**Rebates Received (Php)**
April 6, 2006	PDAF-DA 2006	5 million
June 6, 2006	DA – 2006	5 million
April 12, 2007	DA – 50 M	9.5 million
April 19, 2007	PDAF-DA 50 M and TLRC 50 M 2007	3 million
August 2, 2007		2 million
August 10, 2007		3 million
October 16, 2007	PDAF 82 M	5 million
October 25, 2007	PDAF 82 M	2 million
November 15, 2007	PDAF DA and TLRC 82 M 2007 project	5 million
November 23, 2007	PDAF 82 M project	3.5 million
December 21, 2007	PDAF 82 M project	10 million
December 26, 2007	PDAF 82 M project	10.5 million
May 9, 2008	PDAF 80 M	5 million
October 24, 2008	PDAF 50 M	3 million
March 17, 2010		28,512,500.00
April 28, 2010		5 million
TOTAL		**Php105,012,500.00**
Total Rebates Received	Table A + Table B	**Php224,512,500.00**

Accused Revilla's commissions represented 50% of the project cost, 25% percent of which was released by accused Napoles upon showing that the DBM already received accused Revilla's endorsement letter with project listings. The other 25% was released upon issuance of the SARO. On the other hand, accused Cambe's share was 5% of the project cost.

But there were instances that, prior to the issuance of the SARO and preempting its release, accused Revilla advanced money from accused Napoles. There were also times that his share was given to him in tranches until the full amount was paid. Thus, there appear entries in Luy's Summary of Rebates without corresponding SARO numbers, and in amounts less than 25% or 50% of the amount of the SARO. Accused Cambe got his commission either together with that of accused Revilla or separately. To acknowledge receipt of the rebates for himself or that for accused Revilla, accused Napoles' office had accused Cambe sign JLN vouchers which, however, were already shredded upon the instruction of accused Napoles.

Upon release of the SARO, documents like letters signed by accused Revilla indorsing accused Napoles' NGO, MOAs signed by accused Cambe, project proposal, and foundation profile, were submitted to the IA.

Subsequently, the IA, after deducting a 3% management fee, released a check in the name of the NGO endorsed by accused Revilla. Accused Napoles had either the president of the payee NGO or anybody from his trusted employees receive the check. Accused Napoles' representative signed the IA voucher and, in return, issued a receipt to the IA in the name of the foundation.

The check was then deposited to the account of the payee foundation. After it was cleared, accused Napoles had her trusted employees withdraw the proceeds of the check. The money was brought to accused Napoles, usually to her office at 2502 Discovery Center, and was disposed of at her will or upon her instruction. Part of the proceeds was used to pay the commissions of accused Revilla and Cambe. Some were kept at the office vault or was brought to her condo unit at 18D Pacific Plaza. Accused Napoles' share was pegged at 32% and 40%, depending on the IA, and she used it to buy dollars and to acquire properties in the Philippines and abroad. She also made deposits in a foreign account to support her daughter Jean and accused Napoles' brother Reynald Lim in the US.

To make it appear that there were implementations of the projects for which accused Revilla's PDAFs were intended, the NGOs submitted liquidation documents such as official receipts, delivery receipts, accomplishment reports, which were all fake, and lists of beneficiaries which were just fabricated having only signed by Napoles' employees, children, household helpers, drivers, and security guards. The receipts were issued by bogus suppliers which were likewise owned or controlled by accused Napoles.[17]

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[17] *Rollo*, (G.R. No. 218232), Vol. I, pp. 100-103.

On the other hand, the defense presented Atty. Desiderio A. Pagui (Pagui), a lawyer and retired document examiner of the NBI, as expert witness. In his Report No. 09-10-2013, attached to his Judicial Affidavit dated 12 November 2014 and adopted as his direct testimony, Pagui stated that upon comparison of Revilla's purported signatures on the photocopies of the PDAF documents and the standard documents bearing Revilla's authentic signature, the purported signatures are not authentic and affixed by Revilla. Pagui examined the originals and photocopies of the PDAF documents in open court using a magnifying glass, and he maintained that the purported signatures are not authentic and affixed by Revilla. Pagui likewise testified that he also examined the photocopies of documents with signatures of Cambe and his findings were embodied in Report No. 10-11-2013.

On cross-examination, Pagui testified that during his stint as document examiner in the NBI, it would take them an average of one or two days to examine a signature, their findings would be reviewed by the majority of the examiners present in the Questioned Document Division of the NBI, and it was the NBI's policy not to examine photocopies of documents as safety precaution. He, however, believed that an examination of the photocopies can now be made since there are already clear copies. He confirmed that it took him three months after the submission of the specimen signature and questioned signature to finish his Report, while it took him only a few minutes to make a conclusion that the photocopies are faithful reproduction of the original. Pagui was paid a professional fee of ₱200,000.00 for examining the signatures of Revilla and Cambe.

Cambe dispensed with the presentation of his witness, Fabian S. Fabian, supervisor of the Records Section of the Philippine Airlines after the parties stipulated on the authenticity and due execution of the Certification he issued and the Passenger Manifest for Flight Nos. PR 102 and PR 103. Napoles likewise dispensed with the testimony of Joel M. de Guzman, representative of the Bureau of Immigration, after the parties stipulated on the authenticity and due execution of her immigration records. Both Cambe and Napoles adopted the direct examination of Pagui.

The Sandiganbayan thereafter admitted all the documentary exhibits of Revilla, Cambe, and Napoles except for Exhibits 273 to 277 of Revilla for lack of sponsorship. Revilla made a tender of excluded exhibits and rested his case. Cambe and Napoles also rested their case relative to their application for bail.

In a Resolution dated 1 December 2014,[18] the Sandiganbayan denied the separate applications for bail filed by Revilla, Cambe, and Napoles. The Sandiganbayan held that the prosecution duly established with strong evidence that Revilla, Cambe, and Napoles, in conspiracy with one another,

[18] Supra note 2.

committed the crime of plunder defined and penalized under RA 7080; thus, they are not entitled to the constitutional right to bail.

In a Resolution dated 26 March 2015,[19] the Sandiganbayan denied for lack of merit: (a) Napoles' Motion for Reconsideration dated 17 December 2014; (b) Revilla's Omnibus Motion: (1) for Reconsideration, and (2) To Adduce Additional Evidence dated 17 December 2014; and (c) Cambe's: (1) Motion for Reconsideration dated 15 December 2014, and (2) Motion to Adduce Additional Evidence and Request for Subpoena embodied in his Reply dated 28 January 2015.

Thus, Revilla, Cambe, and Napoles filed their separate petitions for certiorari assailing the Resolutions of the Sandiganbayan before this Court. The petition filed by Revilla is docketed as G.R. No. 218232, the petition filed by Cambe is docketed as G.R. No. 218235, and the petition filed by Napoles is docketed as G.R. No. 218266.

On 21 December 2016, Revilla filed a Motion to Withdraw[20] the Petition for Certiorari he filed before this Court alleging that "[c]onsidering, however, that the presentation of prosecution evidence in the Plunder Case below will already commence on 12 January 2017, and that trial will be conducted every Thursday thereafter, petitioner will avail of the remedies available to him in said proceedings once the insufficiency of the evidence against him is established."[21]

G.R. No. 218903

Meanwhile, on 14 July 2014, the Office of the Ombudsman, through the Office of the Special Prosecutor, filed a Motion to Transfer the Place of Detention of Accused[22] Revilla, Cambe, and Napoles to the Bureau of Jail Management and Penology (BJMP) facility in Camp Bagong Diwa or other similar facilities of the BJMP. The motion states that the PNP Custodial Center is not a detention facility within the supervision of BJMP under RA 6975 and their continued detention in a non-BJMP facility affords them special treatment. In a Manifestation dated 4 August 2014, the prosecution alleged that the Sandiganbayan ordered the detention of Napoles in the BJMP facility in Camp Bagong Diwa; thus, as for Napoles, the motion of the prosecution became moot.

In his Opposition[23] dated 26 July 2014, Revilla alleged that his detention in the PNP Custodial Center is in accord with the Rules and upon a

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19 Supra note 3.
20 *Rollo* (G.R. No. 218232), Vol. VII, pp. 3622- 3626.
21 Id. at 3622.
22 *Rollo* (G.R. No. 218903), Vol. I, pp. 65-70.
23 Id. at 89-102.

valid resolution of the Sandiganbayan. On 6 August 2014, Cambe also filed his Opposition[24] to the Motion to Transfer the place of his detention.

In a Resolution[25] dated 4 September 2014, the Sandiganbayan denied the motion for failure to advance justifiable grounds for Revilla and Cambe's transfer. The Sandiganbayan held that detention in facilities other than a jail is sanctioned in our jurisdiction and there is no law mandating that detention prisoners shall only be detained in a jail supervised by the BJMP. The Sandiganbayan also found that it was not shown that Revilla and Cambe were granted benefits above the standards set for other detention prisoners.

The prosecution moved for reconsideration of the Sandiganbayan Resolution, while Revilla and Cambe filed their separate Opposition to the motion for reconsideration.

In a Manifestation (Re: Unauthorized Movement of Accused Revilla on 14 February 2015) with Motion (For the Issuance of an Order Directing the Concerned PNP Officials to Explain)[26] dated 27 February 2015, the prosecution alleged that Revilla was allowed to attend the birthday celebration of Juan Ponce Enrile in the PNP General Hospital under the guise of a medical emergency on 14 February 2015, bolstering its argument that Revilla's detention in the PNP Custodial Center is improper.

In his Comment[27] to the Manifestation, PDDG Leonardo A. Espina alleged that he directed the CIDG to investigate the incident, and he approved the recommendations of the CIDG to file an administrative case for Grave Misconduct and violation of PNPHSS 2012 Manual of Operations, and criminal case against PSUPT Eulogio Lovello R. Fabro (Fabro), PSINSP Celina D. Tapaoan (Tapaoan), and PO2 Jaydie Pelagio upon finding that Fabro and Tapaoan connived to facilitate the visit of Revilla to Enrile and tried to cover it up by requesting the attending physician PCINSP Duds Raymond Santos to change his statement.

In a Resolution[28] dated 20 May 2015, the Sandiganbayan denied the motion for reconsideration of the prosecution for lack of merit. The Sandiganbayan did not consider as sufficient reason the reported unauthorized visit of Revilla to the hospital room of Enrile to justify his transfer to Camp Bagong Diwa, since the concerned PNP officials have already been admonished for failure to comply with the Sandiganbayan's Order.

Thus, the Office of the Ombudsman, through the Office of the Special Prosecutor, filed a petition for certiorari before us assailing the

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24 Id. at 72-76.
25 Supra note 4.
26 *Rollo* (G.R. No. 218903), Vol. I, pp. 184-191.
27 Id. at 195-201.
28 Supra note 5.

Sandiganbayan Resolutions dated 4 September 2014 and 20 May 2015. This petition is docketed as G.R. No. 218903.

G.R. No. 219162

On 27 October 2014, the Office of the Ombudsman, through the Office of the Special Prosecutor, filed an *Ex Parte* Motion for Issuance of Writ of Preliminary Attachment/Garnishment[29] against the monies and properties of Revilla to serve as security for the satisfaction of the amount of ₱224,512,500.00 alleged as ill-gotten wealth, in the event that a judgment is rendered against him for plunder. The motion states that there is an imminent need for the issuance of the *ex parte* writ to prevent the disappearance of Revilla's monies and properties found to be *prima facie* unlawfully acquired, considering that the AMLC reported that many investment and bank accounts of Revilla were "terminated immediately before and after the PDAF scandal circulated in [the] media,"[30] and Revilla himself publicly confirmed that he closed several bank accounts when the PDAF scam was exposed. The details of the monies and properties sought to be attached were attached as Annex "B-Motion" in the prosecution's motion.

On 14 November 2014, Revilla filed an Opposition[31] to the prosecution's motion, arguing that the factual basis for the issuance of the writ is yet to be proven, and that the issuance of the writ would unduly preempt the proceedings in his bail application.

On 28 January 2015, the prosecution filed an Urgent Motion to Resolve *Ex Parte* Motion for Issuance of Writ of Preliminary Attachment/ Garnishment,[32] alleging that the safeguarding of Revilla's properties has become even more necessary after the Sandiganbayan denied Revilla's bail application and ruled that there is strong evidence of his guilt.

In a Resolution[33] dated 5 February 2015, the Sandiganbayan granted the prosecution's motion upon finding of its sufficiency both in form and substance. The Sandiganbayan held that the issuance of a writ of preliminary attachment is properly anchored on Sections 1 and 2 of Rule 57, and Sections 1 and 2 (b) and (c) of Rule 127 of the Rules of Court. Thus, the Sandiganbayan issued a Writ of Attachment directed to the Acting Chief, Sheriff and Security Services of the Sandiganbayan. On 10 July 2015, the Sandiganbayan granted the prosecution's amendatory motion and issued an Alias Writ of Preliminary Attachment, which included the properties under the known aliases or other names of Revilla and his spouse, Lani Mercado.[34]

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29 *Rollo* (G.R. No. 219162), Vol. I, pp. 188-199.
30 Id. at 191.
31 Id. at 200-209.
32 Id. at 210-218.
33 Supra note 6.
34 *Rollo* (G.R. No. 219162), Vol. II, pp. 566-567.

Revilla filed a motion for reconsideration, which the Sandiganbayan denied in a Resolution[35] dated 28 May 2015. The Sandiganbayan held that the writ of preliminary attachment is not the penalty of forfeiture envisioned under Section 2 of RA 7080, contrary to Revilla's argument. The Sandiganbayan further elucidated that the issuance of the writ is an ancillary remedy which can be availed of during the pendency of the criminal case of plunder, and it is not necessary to await the final resolution of the bail petition before it can be issued.

Thus, Revilla filed a petition for certiorari before us assailing the Sandiganbayan Resolutions dated 5 February 2015 and 28 May 2015. This petition is docketed as G.R. No. 219162.

In a Resolution[36] dated 4 August 2015, the Court *En Banc* resolved to consolidate G.R. No. 219162 (*Ramon "Bong" Revilla, Jr. v. Sandiganbayan [First Division]) and People of the Philippines*); G.R. No. 218232 (*Ramon "Bong" Revilla, Jr. v. Sandiganbayan [First Division] and People of the Philippines*); G.R. No. 218235 (*Richard A. Cambe v. Sandiganbayan [First Division], People of the Philippines, and Office of the Ombudsman*); G.R. No. 218266 (*Janet Lim Napoles v. Sandiganbayan [First Division], Hon. Conchita Carpio Morales, in her capacity as Ombudsman, and People of the Philippines*); and G.R. No. 218903 (*People of the Philippines v. Sandiganbayan [First Division], Ramon "Bong" Bautista Revilla, Jr. and Richard A. Cambe*).

In a Resolution[37] dated 21 February 2017, the Court *En Banc* resolved to note the compliance dated 10 February 2017 filed by the counsel of Revilla informing the Court that Revilla's Motion to Withdraw dated 14 December 2016 pertains only to the petition in G.R. No. 218232.

The Issues

In G.R. No. 218232, Revilla raises the following issue for resolution:

> The Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying petitioner's application for admission to bail despite the fact that the evidence on record do not show a clear and strong evidence of his guilt [for] the crime of plunder.[38]

In G.R. No. 218235, Cambe argues that the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the assailed resolutions:

> A. The denial of petitioner's application for bail was based on Criminal Procedure 1900 (General Order No. 58), which requires a much lower

35 Supra note 7.
36 *Rollo* (G.R. No. 219162), Vol. I, pp. 464-A-464-B.
37 *Rollo* (G.R. No. 218232), Vol. VII, pp. 3634-3635.
38 Id., Vol. I, p. 15.

> quantum of proof to deny bail (i.e., proof of guilt is evident or presumption of guilt is strong), and not on Section 13, Article III of the 1987 Philippine Constitution, which requires proof that "evidence of guilt is strong."
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> B. The denial of petitioner's motion for reconsideration was based on the concept of "totality of evidence" which is applicable in Writ of *Amparo* cases only.
>
> C. Even assuming that "proof evident," "presumption great," or proof that "the presumption of guilt is strong" are the tests to determine whether petitioner may be granted or denied bail, the assailed resolutions were based on mere presumptions and inferences.[39]

In G.R. No. 218266, Napoles alleged that the Sandiganbayan committed grave abuse of discretion in ruling:

> A. that the prosecution was able to prove with strong evidence that [Revilla] and [Cambe] conspired with [Napoles], in amassing, accumulating, and acquiring ill-gotten wealth. Thus, their petition for bail should be denied.
>
> B. that the hard disk, disbursement ledger and the summary of rebates are reliable and with integrity.
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> C. [that] the testimonies of the witnesses and the documents they [submitted are credible].
>
> D. [that] x x x that the evidence of the prosecution prove[s] plunder.[40]

In G.R. No. 218903, the Office of the Ombudsman, through the Office of the Special Prosecutor, alleged that the Sandiganbayan committed grave abuse of discretion amounting to lack and/or excess of jurisdiction:

> A. when it substituted its own judgment and refused to apply the clear mandate of [RA 6975].
>
> B. when it denied the transfer of private respondents to a BJMP-operated facility despite the absence of cogent reasons to justify their detention in a facility other than that prescribed by law.
>
> C. when it refused to recognize that the continued detention of private respondents at Camp Crame affords them special treatment and subjects them to different rules and procedures.[41]

In G.R. No. 219162, Revilla alleged that the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in granting the State's *Ex-Parte* Motion for the issuance of a writ of preliminary attachment considering that:

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39 *Rollo* (G.R. No. 218235), Vol. I, p. 6.

40 *Rollo* (G.R. No. 218266), Vol. I, p. 6.

41 *Rollo* (G.R. No. 218903), Vol. I, pp. 12-13.

> A. the issuance of the assailed writ is erroneous and premature. The plunder law does not allow the issuance of a writ of preliminary attachment, as it amounts to a prejudgment and violates petitioner's constitutional rights to presumption of innocence and due process; and
>
> B. there is neither legal nor factual basis for the issuance of the writ of preliminary attachment or garnishment.[42]

The Ruling of the Court

G.R. Nos. 218232, 218235, and 218266

At the outset, we note that Revilla withdrew his petition before the Court assailing the Resolution of the Sandiganbayan denying him bail. In withdrawing his petition, he stated "[he] will avail of the remedies available to him in [the plunder case before the Sandiganbayan] once the insufficiency of the evidence against him is established."[43] Accordingly, we no longer find it necessary to rule upon the issues raised by Revilla in his petition in G.R. No. 218232.

Now, we proceed to determine whether or not the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying bail to Cambe and Napoles, who are charged with the crime of plunder, after finding strong evidence of their guilt.

Judicial discretion, by its very nature, involves the exercise of the judge's individual opinion and the law has wisely provided that its exercise be guided by well-known rules which, while allowing the judge rational latitude for the operation of his own individual views, prevent them from getting out of control.[44] We have held that discretion is guided by: *first*, the applicable provisions of the Constitution and the statutes; *second*, by the rules which this Court may promulgate; and *third*, by those principles of equity and justice that are deemed to be part of the laws of the land.[45] The discretion of the court, once exercised, cannot be reviewed by certiorari nor controlled by mandamus save in instances where such discretion has been so exercised in an arbitrary or capricious manner. [46]

Section 13, Article III of the 1987 Constitution provides that:

> All persons, except those charged with offenses punishable by *reclusion perpetua* **when evidence of guilt is strong,** shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be

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42 *Rollo* (G.R. No. 219162), Vol. I, p. 11.
43 Supra note 21.
44 *People v. Cabral,* 362 Phil. 697 (1999).
45 Id.; *Carpio v. Maglalang,* 273 Phil. 240 (1991).
46 *San Miguel Corp. v. Sandiganbayan,* 394 Phil. 608 (2000), citing *Big Country Ranch Corp. v. Court of Appeals*, 297 Phil. 1105 (1993).

> impaired even when the privilege of the writ of *habeas corpus* is suspended. Excessive bail shall not be required. (Emphasis supplied)

Rule 114 of the Rules of Court emphasizes that offenses punishable by death, *reclusion perpetua* or life imprisonment are non-bailable when the evidence of guilt is strong:

> *Sec. 7. Capital offense or an offense punishable by reclusion perpetua or life imprisonment, not bailable.* – No person charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment, shall be admitted to bail **when evidence of guilt is strong**, regardless of the stage of the criminal prosecution. (Emphasis supplied)

The grant or denial of bail in an offense punishable by *reclusion perpetua*, such as plunder, hinges on the issue of **whether or not the evidence of guilt of the accused is strong**. This requires the conduct of bail hearings where the prosecution has the burden of showing that the evidence of guilt is strong,[47] subject to the right of the defense to cross-examine witnesses and introduce evidence in its own rebuttal.[48] The court is to conduct only a summary hearing, or such brief and speedy method of receiving and considering the evidence of guilt as is practicable and consistent with the purpose of the hearing which is **merely to determine the weight of evidence for purposes of bail.**[49]

The order granting or refusing bail which shall thereafter be issued must contain a summary of the evidence for the prosecution.[50] The summary of the evidence shows that the evidence presented during the prior hearing is formally recognized as having been presented and most importantly, considered.[51] The summary of the evidence is the basis for the judge's exercising his judicial discretion.[52] Only after weighing the pieces of evidence as contained in the summary will the judge formulate his own conclusion as to whether the evidence of guilt against the accused is strong based on his discretion.[53] Thus, judicial discretion is not unbridled but must be supported by a finding of the facts relied upon to form an opinion on the issue before the court.[54] It must be exercised regularly, legally and within the confines of procedural due process, that is, after evaluation of the evidence

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47 Rules of Court, Rule 114, Section 8 provides: "At the hearing of an application for bail filed by a person who is in custody for the commission of an offense punishable by death, *reclusion perpetua*, or life imprisonment, the prosecution has the burden of showing that the evidence of guilt is strong. The evidence presented during the bail hearing shall be considered automatically reproduced at the trial but, upon motion of either party, the court may recall any witness for additional examination unless the latter is dead, outside the Philippines, or otherwise unable to testify."

48 *Comia v. Judge Antona,* 392 Phil. 433 (2000), citing *Cortes v. Judge Catral*, 344 Phil. 415 (1997); *Ocampo v. Bernabe*, 77 Phil. 55 (1946).

49 *Serapio v. Sandiganbayan,* 444 Phil. 499 (2003), citing *Ocampo v. Bernabe,* 77 Phil. 55 (1946); *Basco v. Judge Rapatalo,* 336 Phil. 214 (1997).

50 *Basco v. Judge Rapatalo,* 336 Phil. 214 (1997); *Carpio v. Maglalang,* 273 Phil. 240 (1991), citing *People v. San Diego*, 135 Phil. 515 (1968).

51 *People v. Cabral,* supra note 44.

52 *People v. Cabral,* supra note 44.

53 *People v. Cabral,* supra note 44.

54 *Aleria, Jr. v. Velez,* 359 Phil. 141 (1998).

submitted by the prosecution.[55] Any order issued in the absence thereof is not a product of sound judicial discretion but of whim, caprice, and outright arbitrariness.[56]

In the present case, we find that the Sandiganbayan did not abuse its discretion amounting to lack or excess of jurisdiction when it denied bail to Cambe and Napoles, upon a finding of strong evidence that they committed the crime of plunder in conspiracy with one another.

Plunder, defined and penalized under Section 2[57] of RA 7080, as amended, has the following elements: (a) that the offender is a public officer, who acts by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons; (b) that he amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts described in Section 1(d)[58] hereof; and (c) that the aggregate amount or total value of the

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55 *People v. Antona*, 426 Phil. 151 (2002); *Borinaga v. Judge Tamin*, 297 Phil. 223 (1993).

56 Id.

57 Sec. 2. *Definition of the Crime of Plunder; Penalties.* – Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts as described in Section 1(d) hereof in the aggregate amount or total value of at least Fifty million pesos (₱50,000,000.00) shall be guilty of the crime of plunder and shall be punished by **reclusion perpetua to death**. Any person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances, as provided by the Revised Penal Code, shall be considered by the court. The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State. (Emphasis supplied)

58 Section 1(d) states:

> d) "Ill-gotten wealth" means any asset, property, business enterprise or material possession of any person within the purview of Section Two (2) hereof, acquired by him directly or indirectly through dummies, nominees, agents, subordinates and/or business associates by any combination or series of the following means or similar schemes.
>
> 1) Through misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury;
>
> 2) By receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;
>
> 3) By the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies or instrumentalities or government-owned or -controlled corporations and their subsidiaries;
>
> 4) By obtaining, receiving or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation including promise of future employment in any business enterprise or undertaking;
>
> 5) By establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests; or
>
> 6) By taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

ill-gotten wealth amassed, accumulated or acquired is at least Fifty Million Pesos (₱50,000,000.00).

In finding that there is strong evidence that petitioners Revilla, Cambe, and Napoles committed the crime of plunder, the Sandiganbayan held that:

> THE FIRST ELEMENT. Accused Revilla and Cambe were public officers at the time material to this case, accused Revilla being a member of the Senate of the Philippines, and accused Cambe being Revilla's Chief of Staff/Political Officer/Director III as appearing on the face of the documents on record. Accused Napoles is a private individual charged in conspiracy with accused Revilla and Cambe. As provided in Section 2 of RA 7080, "[a]ny person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense."
>
> THE SECOND ELEMENT. x x x.
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> x x x x
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> The separate and individual acts of accused Revilla, Cambe and Napoles convincingly appear to have facilitated the amassing, accumulation, and acquisition of ill-gotten wealth by accused Revilla. It is immaterial whether or not the prosecution has presented evidence that accused Cambe and Napoles by themselves have likewise amassed, accumulated, or acquired ill-gotten wealth in the amount of at least ₱50 Million each. It is sufficient that the prosecution has established that accused Revilla and accused Cambe have conspired with one another, and with accused Napoles in the accumulation or acquisition of ill-gotten wealth of at least ₱50 million.
>
> The Court is persuaded that the prosecution has presented compelling evidence that accused Revilla amassed, accumulated or acquired ill-gotten wealth by repeatedly receiving from accused Napoles or her representatives or agents, money, through accused Cambe, and in those several occasions, accused Revilla and/or Cambe made use of his or their official position, authority, connections, and influence. **This was established by the testimonies of the witnesses and the documents they testified to which, at this stage of the proceedings, [have] remained unrebutted, and thus, given full faith and credence by the Court.**
>
> From 2006 to 2009, accused Revilla was earmarked PDAF from the national budget. He had no physical and direct possession of the fund. However, as the fund was allocated to his office, he alone could trigger its release, after accomplishment of the necessary documentary requirements. All he had to do, and which he actually did, was to request its release from then President Gloria Macapagal-Arroyo (PGMA) or from the DBM accompanied by a list of projects and endorsement naming a certain implementing agency on the DBM's menu as project implementor. Finding everything to be in order, the DBM processed accused Revilla's request, approved it, and eventually released the SARO. Accused Revilla was informed of this release. After the SARO, the DBM issued the NCA

to cover the cash requirements of the IA authorized under the SARO. The DBM issued Notice of Cash Allocation Issued (NCAI) to the Bureau of Treasury. In tranches, the IA issued checks to the NGOs. The NGOs were paid in full of the project cost upon submission of liquidation reports with supporting documents, such as delivery receipts, purchase orders and list of beneficiaries, with corresponding signatures.

x x x x

It is well to note that accused Revilla's endorsement consisted of two phases. The first phase consisted of letters addressed to PGMA or the DBM requesting for the release of the PDAF, with attached list of priority projects. Itemized in the list were the location, name and amount of the project as well as the IA he desired to implement the project. The second phase consisted of letters to the IAs subsequent to the issuance of the SARO, this time, endorsing Napoles' NGOs to the IAs as the latter's project partners.

The endorsement letters and other documents submitted to the IAs show that accused Revilla's participation did not just stop at initiating the release of his PDAF, but extended to the implementation stage of his identified projects. He sent communications to the IAs appointing and authorizing accused Cambe to monitor, follow up, or assist in the implementation of the projects, and "to sign in his behalf all other documents needed to smooth the process." Accused Cambe, for accused Revilla, conformed to the project activities and project profiles prepared by the NGOs. He likewise signed on the tripartite MOAs with the representatives of the IA and the NGO concerned. Also, accused Cambe, by himself or for accused Revilla, signed liquidation documents such as accomplishment/terminal reports, reports of disbursement (fund utilization), inspection and acceptance reports.

x x x x

Accused Revilla could not have possibly drawn money from his PDAF allocation directly to himself. He had to do it through channels or conduits to camouflage the flow with a semblance of legitimacy. Here lies the indispensable participation of accused Napoles. Like accused Revilla, accused Napoles stayed at the background, using other people as her tentacles to fulfill her part of the conspiracy. Although accused Napoles' signature does not appear in any of these documents, evidence abounds to support that she was the brains behind the vital link of the conspiracy. Luy, Suñas, Sula and Baltazar, who once worked for accused Napoles, consistently declared that they moved and acted upon the instruction of Napoles, from the creation of fake NGOs to the diversion of the proceeds of the PDAF. Accused Napoles engineered the creation of the NGOs through which the proceeds of accused Revilla's PDAF were funneled.

Evidence discloses that the NGOs were illicitly established for some dishonest purpose. Their presidents and incorporators either have working or personal relations to accused Napoles, or unknown to her, or fictitious. The addresses of the NGOs were either the location of her property or that of her employees whom she made presidents, or otherwise inexistent. The lists of beneficiaries were bogus, and this was confirmed

by the COA during its own investigation where it was found that either there were no projects implemented or there were no such names of beneficiaries that existed.

Accused Napoles' connection to and control of the NGOs are made evident by the bank transactions of the NGOs. Records of bank transactions of these NGOs reveal, as testified to by witness Santos from the AMLC, that the accounts of these NGOs with the Landbank and Metrobank were only temporary repository of funds and that the withdrawal from the accounts of the NGOs had to be confirmed first with accused Napoles nothwithstanding that the accounts were not under her name. It is well to note that the bank accounts of these NGOs were opened by the named presidents using JLN Corp. identification cards. These circumstances are consistent to the testimonies of accused Luy, Sula, Suñas and Baltazar that as soon as the check of the PDAF proceeds were encashed, accused Napoles directed them or any of her trusted employees to withdraw the same. At this stage, the Court sees no basis to doubt the strong evidence against accused Napoles.

Accused Revilla managed to remain *incognito* in reaping benefits from the illegal scheme with the help and cooperation of accused Cambe. Concededly, there are no direct proofs that accused Revilla received commissions/rebates out of the proceeds of his PDAF routed to accused Napoles, but the circumstances persuasively attest that accused Revilla on several occasions, received money from the illegitimate deals involving his PDAF, through accused Cambe. Also, accused Cambe profited from the same transactions so far computed at ₱13,935,000.00.

There are solid reasons to infer that accused Cambe acted on behalf of accused Revilla and with the latter's *imprimatur*, and that accused Revilla effectively clothed accused Cambe with full authority. Consider these: (1) accused Cambe worked for Revilla in the Senate; (2) accused Revilla designated accused Cambe to follow up, supervise and act on his behalf for the implementation of the projects, and to sign necessary documents; (3) accused Cambe, representing accused Revilla or Revilla's office, signed the MOAs and other documents used to support the issuance of the checks from the IA to accused Napoles' NGOs to supposedly finance the projects out of accused Revilla's PDAF. Accused Cambe likewise signed liquidation documents such as accomplishment reports; (4) Luy, Suñas, and Sula forthrightly and positively identified Cambe to have received from them or from accused Napoles the commissions/rebates of accused Revilla; (5) the said witnesses likewise candidly testified that accused Cambe also personally got his own commission either from them or from accused Napoles; (6) Luy had recorded the commissions/rebates per his testimony, and as shown by his disbursement ledgers and Summary of Rebates. These points may rest heavily on the credibility of the witnesses. But, as discussed, the Court, in the meantime, saw no cogent justification to invalidate their testimonies.

x x x x

THE THIRD ELEMENT. Of the Php224,512,500.00 alleged in the Information to have been plundered by accused Revilla and/or Cambe, the

prosecution has so far strongly proven the amount of ₱103,000,000.00 broken down below. This is the total amount received by accused Cambe for Revilla, to which Luy, Sula and Suñas have testified to their personal knowledge. In other words, Luy, Sula or Suñas either directly handed the money to accused Cambe, or they saw accused Napoles, or any one of them, give the money to accused Cambe. Thus:

Date	Amount
April 6, 2006	Php 5,000,000.00
June 6, 2006	5,000,000.00
March 27, 2007	7,500,000.00
April 12, 2007	9,500,000.00
April 19, 2007	3,000,000.00
August 10, 2007	3,000,000.00
2008	10,000,000.00
	5,000,000.00
October 6, 2009	9,000,000.00
October 6, 2009	9,000,000.00
October 6, 2009	2,000.000.00
October 22, 2009	12,000,000.00
October 22, 2009	8,000,000.00
March 2010	15,000,000.00
Total	**Php103,000,000.00**[59]

(Emphasis supplied)

Thus, the Sandiganbayan exercised its judicial discretion within the bounds of the Constitution, law, rules, and jurisprudence after appreciating and evaluating the evidence submitted by the parties.

During the bail hearings, both parties were afforded opportunities to offer their evidence. The prosecution presented nine witnesses and documentary evidence to prove the strong evidence of guilt of the accused. The defense likewise introduced evidence in its own rebuttal and cross-examined the witnesses presented by the prosecution. Only after both parties rested their case that the Sandiganbayan issued its Resolution, which contains the summary of the prosecution's evidence. The summary of the prosecution's evidence shows the basis for the Sandiganbayan's discretion to deny bail to Cambe and Napoles.

In finding strong evidence of guilt against Cambe, the Sandiganbayan considered the PDAF documents and the whistleblowers' testimonies in finding that Cambe received, for Revilla, the total amount of ₱103,000,000.00, in return for Revilla's endorsement of the NGOs of Napoles as the recipients of Revilla's PDAF. It gave weight to Luy's summary of rebates and disbursement ledgers containing Cambe's receipt of

[59] *Rollo* (G.R. No. 218232), Vol. I, pp. 106-121.

money, which Luy obtained from his hard drive. The Sandiganbayan likewise admitted Narciso as expert witness, who attested to the integrity of Luy's hard drive and the files in it.

In finding strong evidence of guilt against Napoles, the Sandiganbayan considered the AMLC Report, as attested by witness Santos, stating that Napoles controlled the NGOs, which were the recipients of Revilla's PDAF. The Sandiganbayan found that the circumstances stated in the AMLC Report, particularly that the bank accounts of these NGOs were opened by the named presidents using JLN Corp. IDs, these accounts are temporary repository of funds, and the withdrawal from these accounts had to be confirmed first with Napoles, are consistent with the whistleblowers' testimonies that they were named presidents of Napoles' NGOs and they withdrew large amounts of cash from the NGOs' bank accounts upon instruction of Napoles. The Sandiganbayan also took note of the COA report, as confirmed by the testimony of Garcia, that Revilla's PDAF projects failed to comply with the law, Napoles' NGOs were fake, no projects were implemented and the suppliers selected to supply the NGOs were questionable.

Accordingly, there is no basis for the allegation of Cambe that the Sandiganbayan Resolutions were based on mere presumptions and inferences. On the other hand, the Sandiganbayan considered the entire record of evidence in finding strong evidence of guilt.

For purposes of bail, we held in *People v. Cabral*[60] that: "[b]y judicial discretion, the law mandates the determination of whether proof is evident or the presumption of guilt is strong. **'Proof evident' or 'Evident proof'** in this connection has been held to mean **clear, strong evidence which leads a well-guarded dispassionate judgment to the conclusion that the offense has been committed as charged, that accused is the guilty agent, and that he will probably be punished capitally if the law is administered. 'Presumption great'** exists when the circumstances testified to are such that the **inference of guilt naturally to be drawn therefrom is strong, clear, and convincing to an unbiased judgment and excludes all reasonable probability of any other conclusion.**"[61] The weight of evidence necessary for bail purposes is not proof beyond reasonable doubt, but strong evidence of guilt, or "proof evident," or "presumption great." A finding of "proof evident" or "presumption great" is not inconsistent with the determination of strong evidence of guilt, contrary to Cambe's argument.

Cambe further alleged that the Sandiganbayan gravely abused its discretion in relying on the concept of totality of evidence, which only applies in writ of amparo cases. To support this argument, Cambe's previous counsel cited *Razon, Jr. v. Tagitis.*[62]

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60 *People v. Cabral,* supra note 44.

61 Supra note 44, at 709. Boldfacing and underscoring supplied.

62 621 Phil. 536 (2009).

We specifically held in *Razon* that the: "unique situations that call for the issuance of the writ [of amparo], as well as the considerations and measures necessary to address these situations, may not at all be the same as the standard measures and procedures in ordinary court actions and proceedings."[63] Thus, the case of *Razon* should not have been applied in this case. On the other hand, as we held in *People v. Cabral*: "[e]ven though there is a reasonable doubt as to the guilt of accused, if on an examination of the **entire record** the presumption is great that accused is guilty of a capital offense, bail should be refused."[64] Accordingly, **an examination of the entire record – totality of evidence – is necessary to determine whether there is strong evidence of guilt, for purposes of granting or denying bail to the accused.**

In their separate petitions before us, Cambe and Napoles attempt to individually refute each evidence presented by the prosecution. In his petition, Cambe alleges that there was even no evidence that: (1) he is a public officer; and (2) he and Napoles also amassed, accumulated or acquired ill-gotten wealth of at least ₱50,000,000.00. Napoles, on the other hand, argues that there was no direct evidence that Revilla amassed ill-gotten wealth. In addition, Napoles argues that: (1) the whistleblowers' testimonies lack credibility and are hearsay because of their admission that they never saw Revilla talk with Napoles about their alleged agreement; (2) the AMLC report is multiple hearsay; and (3) the hard disk, disbursement ledger, and summary of rebates are not reliable because Narciso is not an expert witness, and the entries in the disbursement ledger are hearsay. In short, Cambe and Napoles question the conclusions of the Sandiganbayan insofar as its appreciation of the facts is concerned.

Generally, the factual findings of the Sandiganbayan are binding upon the Court.[65] However, this general rule is subject to some exceptions, among them: (1) when the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly mistaken; (3) there is a grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) said findings of facts are conclusions without citation of specific evidence on which they are based; and (6) the findings of fact of the Sandiganbayan are premised on the absence of evidence on record.[66]

We will not set aside the factual findings of the Sandiganbayan, absent any showing that the Sandiganbayan exercised its discretion out of whim, caprice, and outright arbitrariness amounting to grave abuse of discretion.

In any event, Cambe is estopped from claiming that he is not a public officer. Cambe himself admitted in his Application for Bail that "while

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63 Supra note 62, at 554.

64 *People v. Cabral,* supra note 44, at 709-710.

65 *Alvizo v. Sandiganbayan,* 454 Phil. 34 (2003).

66 Id. at 82.

accused Cambe is a public officer, he did not act by himself or in connivance with members of his family x x x."[67] Furthermore, such is a factual finding of the Sandiganbayan, which is binding before us.

Also, there is no need to prove that Cambe and Napoles likewise amassed, accumulated or acquired ill-gotten wealth of at least ₱50,000,000.00 or that Revilla talked with Napoles about their alleged agreement. The charge against them is conspiracy to commit plunder.

In *Estrada v. Sandiganbayan,*[68] we held that "the gravamen of the conspiracy charge, therefore, is not that each accused agreed to receive protection money from illegal gambling, that each misappropriated a portion of the tobacco excise tax, that each accused ordered the GSIS and SSS to purchase shares of Belle Corporation and receive commissions from such sale, nor that each unjustly enriched himself from commissions, gifts and kickbacks; **rather, it is that each of them, by their individual acts, agreed to participate, directly or indirectly, in the amassing, accumulation and acquisition of ill-gotten wealth of and/or for [petitioner Estrada].**"[69] Also, **proof of the agreement need not rest on direct evidence**, as the agreement itself may be inferred from the conduct of the parties disclosing a common understanding among them with respect to the commission of the offense.[70] It is **not necessary to show that two or more persons met together and entered into an explicit agreement setting out the details of an unlawful scheme** or the details by which an illegal objective is to be carried out.[71] Thus, in *Guy v. People of the Philippines*,[72] we held that conspiracy was properly appreciated by the Sandiganbayan because even though there was no direct proof that petitioners agreed to cause injury to the government and give unwarranted benefits to a certain corporation, their individual acts when taken together as a whole showed that they were acting in concert and cooperating to achieve the same unlawful objective. The conspiracy to commit plunder need not even be proved beyond reasonable doubt, but only for purposes of determining whether bail shall be granted.

Moreover, in giving credence to the testimonies of the prosecution witnesses, we held that the trial court's – the Sandiganbayan's – assessment of the credibility of a witness is entitled to great weight, sometimes even with finality.[73] This Court will not interfere with that assessment, absent any indication that the lower court has overlooked some material facts or gravely abused its discretion.[74] Minor and insignificant inconsistencies in the testimony tend to bolster, rather than weaken, the credibility of witnesses,

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67 *Rollo* (G.R. No. 218235), p. 117. Emphasis supplied.
68 427 Phil. 820 (2002).
69 Id. at 902.
70 *Guy v. People of the Philippines,* 601 Phil. 105 (2005).
71 Id.
72 Id.
73 *People of the Philippines v. Combate,* 653 Phil. 487 (2010).
74 Id.

for they show that the testimony is not contrived or rehearsed.[75] Moreover, the testimony of a witness must be considered in its entirety and not merely in its truncated parts.[76] Similarly, we held that "the credibility of the expert witness and the evaluation of his testimony is left to the discretion of the trial court whose ruling thereupon is not reviewable in the absence of an abuse of that discretion."[77]

As for the weight given by the Sandiganbayan to whistleblowers' testimonies, expert's testimony, AMLC report, the hard disk, disbursement ledger and summary of rebates, we emphasize that **for purposes of bail, the court does not try the merits or enter into any inquiry as to the weight that ought to be given to the evidence against the accused,** nor will it speculate on the outcome of the trial or on what further evidence may be offered therein.[78] **The course of inquiry may be left to the discretion of the court** which may confine itself to receiving such evidence as has reference to substantial matters, avoiding unnecessary thoroughness in the examination and cross-examination. [79]

Grave abuse of discretion implies a capricious and whimsical exercise of judgment tantamount to lack or excess of jurisdiction.[80] The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.[81]

We find that the Sandiganbayan was far from abusive of its discretion. On the contrary, its findings were based on the evidence extant in the records. In its appreciation and evaluation of the evidence against Cambe and Napoles, the Sandiganbayan did not commit grave abuse of discretion in finding that the prosecution established strong evidence of their guilt.

G.R. No. 218903

We find that the Sandiganbayan did not commit grave abuse of discretion amounting to lack and/or excess of jurisdiction when it denied the prosecution's motion to transfer the detention of Revilla and Cambe from the PNP Custodial Center to a BJMP-operated facility.

The Rules of Court provide that an arrest is the taking of a person into custody in order that he may be bound to answer for the commission of an

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75 Id.
76 Id.
77 *Gomez v. Gomez-Samson,* 543 Phil. 436, 457 (2007).
78 *Serapio v. Sandiganbayan,* 444 Phil. 499 (2003).
79 *People of the Philippines v. Judge Gako,* 401 Phil. 514 (2000); *Basco v. Rapatalo,* 336 Phil. 214 (1997).
80 *Cambe v. Office of the Ombudsman,* G.R. Nos. 212014-15, 6 December 2016, 812 SCRA 537.
81 Id.

offense.[82] An arrest is made by an actual restraint of a person to be arrested, or **by his submission to the custody of the person making the arrest.**[83] Section 24 of RA 6975, or An Act Establishing The Philippine National Police Under A Reorganized Department of the Interior and Local Government, and for Other Purposes, provides that: "The Philippine National Police (PNP) shall have the following powers and functions: x x x (e) **Detain an arrested person** for a period not beyond what is prescribed by law, informing the person so detained of all his rights under the Constitution; x x x." The Revised PNP Police Operational Procedures Manual provides that: "any person arrested due to the commission of a crime/s can be detained/admitted in the PNP Detention/Custodial Center."[84] As defined in the Revised PNP Police Operational Procedures Manual,[85] a detention/Custodial Center is an institution secured by the PNP Units concerned for the purpose of providing short term **custody of [a] detention prisoner** thereby affording his safety and preventing escape **while awaiting the court's disposition of the case** or his transfer to the appropriate penal institution.

In the present case, both Revilla and Cambe voluntarily surrendered to the Sandiganbayan upon the issuance of the warrants of arrest against them, albeit with motion to elect the detention facilities in the PNP Custodial Center. Upon their voluntary surrender, they are deemed arrested and taken into custody. The Sandiganbayan thereafter allowed both Revilla and Cambe to be detained in the PNP Custodial Center barracks. Under the Rules of Court, the court, such as the Sandiganbayan in the present case, shall exercise supervision over all persons in custody for the purpose of eliminating unnecessary detention.[86]

When by law jurisdiction is conferred on a court, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by law or by these rules, any suitable process or mode of proceeding may be adopted which appears comfortable to the spirit of the said law or rules.[87] Accordingly, the Sandiganbayan acted within its jurisdiction and did not abuse its discretion in ordering the commitment of Revilla and Cambe in the PNP Custodial Center.

Clearly, Section 24 of RA 6975 vests authority in the PNP to detain arrested persons such as Revilla and Cambe, and the Revised PNP Police Operational Procedures Manual includes the PNP Detention/Custodial

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82 Rule 113, Section 1.

83 Rule 113, Section 2.

84 Section 20.2a(1) of the Revised PNP Police Operational Procedures Manual. http://www.pnp.gov.ph/images/transparency_seal/2016/manuals/PNPOperationsManual.pdf (accessed 24 October 2017).

85 Id.

86 Rule 114, Section 25.

87 Rule 135, Section 6.

Center as an institution where any person arrested due to the commission of a crime/s can be detained/admitted.

The prosecution, however, anchors its motion to transfer the detention of Revilla and Cambe on Section 3, Rule 113 of the Rules of Court and Section 63 of RA 6975. Section 3, Rule 113 of the Rules of Court provides that: "It shall be the duty of the officer executing the warrant to arrest the accused and to deliver him to the nearest police station or jail without unnecessary delay." On the other hand, Section 63 of RA 6975 provides:

> SECTION 63. Establishment of District, City or Municipal Jail. — There shall be established and maintained in every district, city and municipality a secured, clean, adequately equipped and sanitary jail for the custody and safekeeping of city and municipal prisoners, any fugitive from justice, or person detained awaiting investigation or trial and/or transfer to the national penitentiary, and/or violent mentally ill person who endangers himself or the safety of others, duly certified as such by the proper medical or health officer, pending the transfer to a medical institution.
>
> The municipal or city jail service shall preferably be headed by a graduate of a four (4) year course in psychology, psychiatry, sociology, nursing, social work or criminology who shall assist in the immediate rehabilitation of individuals or detention of prisoners. Great care must be exercised so that the human rights of [these] prisoners are respected and protected, and their spiritual and physical well-being are properly and promptly attended to.

However, both Section 3 of Rule 113 and Section 63 of RA 6975 are inapplicable in the present case. It must be noted that Revilla and Cambe voluntarily surrendered to the Sandiganbayan, and there is no opportunity for the arresting officer to execute the warrants of arrest against them. Moreover, the said rule merely refers to the duty of the arresting officer **to deliver** the arrested person to the nearest police station or jail. The rule did not state about the duty "to detain" the arrested person to the nearest police station or jail. There is nothing in the rule referring to the place of detention of the arrested person.

In the same manner, there is nothing in Section 63 of RA 6975 which expressly mandates and limits the place of detention in BJMP-controlled facilities. On the other hand, it merely provides that: "there shall be established and maintained in every district, city and municipality a secured, clean, adequately equipped and sanitary jail x x x." When the language of the law is clear and explicit, there is no room for interpretation, only application.

Section 61 of the same law states that the BJMP shall exercise supervision and control over all city and municipal jails, while the provincial jails shall be supervised and controlled by the provincial government within

its jurisdiction.[88] Evidently, a provincial jail is a place of detention not within the supervision and control of the BJMP. From the law itself, there are places of detention for the accused, which are not within the control and supervision of the BJMP.

Thus, to argue, as the prosecution did, that Revilla and Cambe's detention in the PNP Custodial Center afforded them special treatment because it is not a jail supervised by the BJMP would be similar to saying that detention of an accused in a provincial jail supervised by the provincial government would afford such accused special treatment.

Aside from its bare statements, the prosecution did not advance compelling reasons to justify the transfer of detention of Revilla and Cambe. The prosecution likewise failed to substantiate its allegation of special treatment towards Revilla. As the Sandiganbayan properly held:

> The prosecution failed to advance compelling and reasonable grounds to justify the transfer of accused Revilla and Cambe from the PNP Custodial Center, Camp Crame, to a BJMP controlled jail. Since their detention at the PNP Custodial Center on June 20, 2014, the conditions of their confinement have not been altered by circumstances that would frustrate the very purpose of their detention. Both accused have submitted themselves to the Court when required. No concrete incidents have been cited by the prosecution to establish that their continued detention in Camp Crame is no longer viable, and that the better part of discretion is to transfer them to a BJMP controlled jail. The prosecution does not articulate what is in a BJMP facility that the PNP Custodial Center lacks, or vice versa, which will make a difference in the administration of justice.
>
> Before the Court is simply a general proposition that the accused should be confined in a BJMP controlled detention facility based on some rules, which the Court have previously discussed to be unacceptable, backed up by an unsubstantiated generic declaration that the PNP Custodial Center affords them special treatment not extended to all other detention prisoners under BJMP control. To the prosecution, this is a violation of the constitutional right to equal protection of the other detention prisoners, like Atty. Reyes, who is now detained in a BJMP facility.
>
> But, the Court is not convinced. To agree with the prosecution on the matter of special treatment is to accept a general notion that the public officers in a BJMP facility are more circumspect in the handling of detention prisoners than in a non-BJMP facility, like the PNP Custodial Center. Verily, the "special treatment," *e.g., wedding anniversary celebration of Senator Jinggoy Estrada* claimed by the prosecution, does not go with the place. It has even nothing to do with accused Revilla and Cambe. "Special treatment" is a judgment call by the people concerned in the place. For no matter which detention place will accused Revilla and Cambe be confined if the people controlling that place would extend them

[88] Section 61. *Powers and Functions.* – The Jail Bureau shall exercise supervision and control over all city and municipal jails. The provincial jails shall be supervised and controlled by the provincial government within its jurisdiction, whose expenses shall be subsidized by the National Government for not more than three (3) years after the effectivity of this Act.

> privileges not usually given to other detention prisoners, there would always be that dreaded "special treatment." Thus, special treatment can be addressed by ensuring that the people around the accused in their present detention facility will deter from giving them exceptional benefits, through a firm implementation of policies and measures, and the imposition of sanctions for non-compliance. The "special treatment" cannot be remedied by transferring the accused to another detention facility. The transfer must be reasonably justified.
>
> The Court solicitously agrees that it is the fact of detention and not the place of detention that is important. x x x. [89]

In its Resolution dated 20 May 2015, the Sandiganbayan stated that it so took into account, considering the circumstances of the accused, the security conditions of the place, and its proximity to the court.[90] With these factors, the Sandiganbayan viewed that the PNP Custodial Center would be able to secure the accused and ensure their attendance at trial, at a reasonable cost to the government. Absent any showing of grave abuse of discretion, the factual findings of the Sandiganbayan are binding upon the Court. We affirm the order of the Sandiganbayan directing the PNP-CIDG "to keep the accused in its custody at the aforesaid barracks (PNP Custodial Center Barracks) and not allow the accused to be moved, removed, or relocated until further orders from the court."[91]

G.R. No. 219162

We find that the Sandiganbayan did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in ordering the issuance of the writ of preliminary attachment against Revilla's monies and properties.

Presidential Decree No. 1606, as amended by RA 10660, provides that the Sandiganbayan has jurisdiction to jointly determine in the same proceeding the criminal action and the corresponding civil action for the recovery of civil liability, considering that the filing of the criminal action before the Sandiganbayan is deemed to necessarily carry with it the filing of the civil action.[92] The same law provides that the Rules of Court

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89 *Rollo* (G.R. No. 218903), Vol. I, pp. 38-39.

90 Id. at 46.

91 Id. at 62-64.

92 Presidential Decree No. 1606, as amended by Republic Act No. 10660, Section 4 provides: "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."

promulgated by the Supreme Court shall apply to all cases and proceedings filed with the Sandiganbayan.[93] The Rules of Court state that the provisional remedies in civil actions, insofar as they are applicable, may be availed of in connection with the civil action deemed instituted with the criminal action.[94]

The grounds for the issuance of the writ of preliminary attachment have been provided in Rule 57 and Rule 127 of the Rules of Court. Rule 127 states that the provisional remedy of attachment on the property of the accused may be availed of to serve as security for the satisfaction of any judgment that may be recovered from the accused when the criminal action is based on a **claim for money or property embezzled or fraudulently misapplied or converted to the use of the accused who is a public officer, in the course of his employment as such, or when the accused has concealed, removed or disposed of his property or is about to do so.**[95] Similarly, Rule 57 provides that attachment may issue: "x x x (b) in an **action for money or property embezzled or fraudulently misapplied or converted to his own use by a public officer** x x x; (c) in an action to recover the possession of property unjustly or fraudulently taken, detained or converted, **when the property, or any part thereof, has been concealed, removed, or disposed of to prevent its being found** or taken by the applicant or an authorized person; x x x."[96]

It is indispensable for the writ of preliminary attachment to issue that there exists a *prima facie* factual foundation for the attachment of properties, and an adequate and fair opportunity to contest it and endeavor to cause its negation or nullification.[97] Considering the harsh and rigorous nature of a writ of preliminary attachment, the court must ensure that all the requisites of the law have been complied with; otherwise, the court which issues it acts in excess of its jurisdiction.[98]

Thus, for the *ex-parte* issuance of a writ of preliminary attachment to be valid, an affidavit of merit and an applicant's bond must be filed with the court in which the action is pending.[99] For the affidavit of merit, Section 3 of

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93 Presidential Decree No. 1606, Section 9.

94 Rules of Court, Rule 127, Section 1.

95 Rules of Court, Rule 127, Section 2 provides: "When the civil action is properly instituted in the criminal action as provided in Rule 111, the offended party may have the property of the accused attached as security for the satisfaction of any judgment that may be recovered from the accused in the following cases:
x x x x
(b) When the criminal action is based on a claim for money or property embezzled or fraudulently misapplied or converted to the use of the accused who is a public officer, officer of a corporation, attorney, factor, broker, agent, or clerk, in the course of his employment as such, or by any other person in a fiduciary capacity, or for a willful violation of duty;
(c) When the accused has concealed, removed, or disposed of his property, or is about to do so; and
x x x x"

96 Rules of Court, Rule 57, Section 1. Emphasis supplied.

97 *Bataan Shipyard and Engineering Co., Inc. v. Presidential Commission on Good Government,* 234 Phil. 180 (1987).

98 *Jardine-Manila Finance, Inc. v. Court of Appeals,* 253 Phil. 626 (1989).

99 *Watercraft Venture Corp. v. Wolfe,* 769 Phil. 394 (2015).

the same rule states that: "[a]n order of attachment shall be granted only when it is made to appear by the affidavit of the applicant or some other person who personally knows of the facts that a sufficient cause of action exists, that the case is one of those mentioned in Section 1 hereof, that there is no sufficient security for the claim sought to be enforced by the action, and that the amount due to applicant or the value of the property the possession of which he is entitled to recover is as much as the sum for which the order is granted above all legal counterclaims." The mere filing of an affidavit reciting the facts required by Section 3, however, is not enough to compel the judge to grant the writ of preliminary attachment.[100] Whether or not the affidavit sufficiently established facts therein stated is a question to be determined by the court in the exercise of its discretion.[101] The sufficiency or insufficiency of an affidavit depends upon the amount of credit given it by the judge, and its acceptance or rejection, upon his sound discretion.[102] On the requirement of a bond, when the State is the applicant, the filing of the attachment bond is excused.[103]

We find that the Sandiganbayan acted within its jurisdiction since all the requisites for the issuance of a writ of preliminary attachment have been complied with.

Revilla, while still a public officer, is charged with plunder, committed by amassing, accumulating, and acquiring ill-gotten wealth, through a combination or series of overt or criminal acts, as follows:

> 1) Through **misappropriation, conversion, misuse, or malversation of public funds or raids** on the public treasury;
> 2) **By receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit** from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;
> 3) By the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies or instrumentalities or government-owned or -controlled corporations and their subsidiaries;
> 4) By obtaining, receiving or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation including promise of future employment in any business enterprise or undertaking;
> 5) By establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests; or
> 6) By taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.[104] (Emphasis supplied)

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100 Id.
101 Id.
102 Id.
103 *Republic of the Philippines v. Garcia,* 554 Phil. 371 (2007).
104 RA 7080, Section 1(d).

Clearly, the crime of plunder is based on a claim for public funds or property misappropriated, converted, misused, or malversed by the accused who is a public officer, in the course of his employment as such. The filing of the criminal action for plunder, which is within the jurisdiction of the Sandiganbayan,[105] is deemed to necessarily carry with it the filing of the civil action. Accordingly, the writ of preliminary attachment is an available provisional remedy in the criminal action for plunder.

In its Motion, the prosecution alleged that: "[Revilla] converted for his own use or caused to be converted for the use by unauthorized persons the sum of Php515,740,000.00 worth of public funds sourced from his PDAF through 'ghost' projects."[106] In *Cambe v. Office of the Ombudsman*,[107] we agreed with the Ombudsman's finding of probable cause against Revilla and held that for purposes of arriving at a finding of probable cause, "only facts sufficient to support a *prima facie* case against the [accused] are required, not absolute certainty." Thus, we held that the prosecution's evidence established a *prima facie* case for plunder against Revilla:

> Taking together all of the above-stated pieces of evidence, **the COA and FIO reports tend to *prima facie* establish that irregularities had indeed attended the disbursement of Sen. Revilla's PDAF and that he had a hand in such anomalous releases, being the head of Office which unquestionably exercised operational control thereof.** As the Ombudsman correctly observed, "[t]he PDAF was allocated to him by virtue of his position as a Senator, and therefore he exercise[d] control in the selection of his priority projects and programs. He indorsed [Napoles'] NGOs in consideration for the remittance of kickbacks and commissions from Napoles. Compounded by the fact that the PDAF-funded projects turned out to be 'ghost projects', and that the rest of the PDAF allocation went into the pockets of Napoles and her cohorts, [there is probable cause to show that] Revilla thus unjustly enriched himself at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines." Hence, he should stand trial for violation of Section 3(e) of RA 3019. For the same reasons, it is apparent that ill-gotten wealth in the amount of at least ₱50,000,000.00 (*i.e.*, ₱224,512,500.00) were amassed, accumulated or acquired through a combination or series of overt acts stated in Section 1 of the Plunder Law. Therefore, Sen. Revilla should likewise stand trial for Plunder.[108] (Emphasis supplied)

Thus, contrary to Revilla's insinuations, there exists a *prima facie* factual foundation for the attachment of his monies and properties.

Furthermore, in its Resolution dated 1 December 2014 denying bail to Revilla, the Sandiganbayan held that the prosecution duly established with strong evidence that Revilla, Cambe, and Napoles, in conspiracy with one another, committed the crime of plunder. The finding of strong evidence for

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105 RA 7080, Section 3 provides: "Until otherwise provided by law, all prosecutions under this Act shall be within the original jurisdiction of the Sandiganbayan."

106 *Rollo* (G.R. No. 219162), Vol. I, p. 190.

107 Supra note 80.

108 Supra note 80, at 599-600.

purposes of bail is a greater quantum of proof required than *prima facie* factual foundation for the attachment of properties. Thus, the Sandiganbayan properly exercised its discretion in issuing the writ of preliminary attachment upon appreciating and evaluating the evidence against Revilla.

Moreover, the Affidavit of Merit attached to the Motion and executed by graft investigators of Revilla's PDAF likewise established that (1) a sufficient cause of action exists for the issuance of a writ of preliminary attachment; (2) the case is one of those mentioned in Sections 57 and 127 of the Rules of Court, and (3) that Revilla has no visible sufficient security in the event that judgment is rendered against him. The sufficiency of the affidavit depends upon the amount of credit given by the Sandiganbayan, and its acceptance, upon its sound discretion. We refuse to interfere in its exercise of discretion, absent any showing that the Sandiganbayan gravely abused its discretion.

Even assuming that plunder is not based on a claim for public funds or property misappropriated, converted, misused or malversed by the public officer, the prosecution nevertheless alleged that Revilla has concealed, removed, or disposed of his property, or is about to do so, which is another ground for the issuance of the writ of preliminary attachment. The AMLC report, attached to the Motion, states that many investment and bank accounts of Revilla were "terminated immediately before and after the PDAF scandal circulated in [the] media," and Revilla himself publicly confirmed that he closed several bank accounts when the PDAF scam was exposed. Revilla failed to rebut these allegations with any evidence.

Considering that the requirements for its issuance have been complied with, the issuance of the writ of preliminary attachment by the Sandiganbayan is in order.

Contrary to Revilla's allegation, a writ of preliminary attachment may issue even without a hearing. Section 2, Rule 57 of the Rules of Court states that: "[a]n order of attachment may be issued either ***ex parte*** or upon motion with notice and hearing by the court in which the action is pending, or by the Court of Appeals or the Supreme Court, and must require the sheriff of the court to attach so much of the property in the Philippines of the party against whom it is issued, not exempt from execution, as may be sufficient to satisfy the applicant's demand, unless such party makes deposit or gives a bond as hereinafter provided in an amount equal to that fixed in the order, which may be the amount sufficient to satisfy the applicant's demand or the value of the property to be attached as stated by the applicant, exclusive of costs. x x x."

In *Davao Light & Power Co., Inc. v. Court of Appeals*,[109] this Court ruled that "a hearing on a motion or application for preliminary attachment is not generally necessary unless otherwise directed by the trial court in its discretion."[110] In the same case, the Court declared that "[n]othing in the Rules of Court makes notice and hearing indispensable and mandatory requisites for the issuance of a writ of attachment."[111] Moreover, there is an obvious need to avoid alerting suspected possessors of "ill-gotten" wealth and thereby cause that disappearance or loss of property precisely sought to be prevented.[112] In any case, Revilla was given an adequate and fair opportunity to contest its issuance.

Also, contrary to Revilla's allegation, there is no need for a final judgment of ill-gotten wealth, and a preliminary attachment is entirely different from the penalty of forfeiture imposed upon the final judgment of conviction under Section 2 of RA 7080. By its nature, a preliminary attachment is an ancillary remedy applied for not for its own sake but to enable the attaching party to realize upon the relief sought and expected to be granted in the main or principal action; it is a measure auxiliary or incidental to the main action.[113] As such, it is available **during the pendency of the action** which may be resorted to by a litigant to preserve and protect certain rights and interests **during the interim, awaiting the ultimate effects of a final judgment in the case**.[114] The remedy of attachment is provisional and temporary, designed for particular exigencies, attended by no character of permanency or finality, and always subject to the control of the issuing court.[115]

On the other hand, Section 2 of RA 7080 requires that upon conviction, the court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stock derived from the deposit or investment thereof forfeited in favor of the State. The State may avail of the provisional remedy of attachment to secure the preservation of these unexplained wealth and income, in the event that a judgment of conviction and forfeiture is rendered. The filing of an application for the issuance of a writ of preliminary attachment is a necessary incident in forfeiture cases.[116] It is needed to protect the interest of the government and to prevent the removal, concealment, and disposition of properties in the hands of unscrupulous public officers.[117] Otherwise, even if

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109 281 Phil. 386 (1991).

110 Id. at 396, citing *Toledo v. Judge Burgos*, 250 Phil. 514 (1998).

111 Id., citing *Filinvest Credit Corporation v. Judge Relova*, 202 Phil. 741, 750 (1982).

112 *Bataan Shipyard and Engineering Co., Inc. v. Presidential Commission on Good Government*, supra note 97.

113 *Lim, Jr. v. Spouses Lazaro*, 713 Phil. 356 (2013).

114 Id.

115 *Bataan Shipyard and Engineering Co., Inc. v. Presidential Commission on Good Government*, supra note 97.

116 *Republic of the Philippines v. Garcia*, supra note 103.

117 *Republic of the Philippines v. Garcia*, supra note 103.

the government subsequently wins the case, it will be left holding an empty bag.[118]

This Decision does not touch upon the guilt or innocence of any of the petitioners.

WHEREFORE, we **DISMISS** the petitions for lack of merit and **AFFIRM** the assailed Resolutions of the Sandiganbayan.

SO ORDERED.

ANTONIO T. CARPIO
Senior Associate Justice

WE CONCUR:

(Please see Concurring and Dissenting Opinion)
PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

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[118] *Republic of the Philippines v. Garcia,* supra note 103.

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

(no part)
FRANCIS H. JARDELEZA
Associate Justice

(no part)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

SAMUEL R. MARTIRES
Associate Justice

NOEL GIMENEZ TIJAM
Associate Justice

ANDRES B. REYES, JR.
Associate Justice
I join the dissent of J. Velasco

ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court