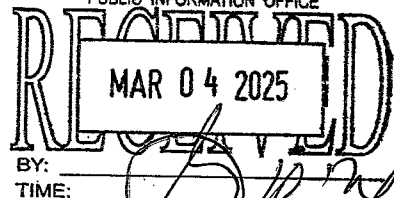




Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



MARIO GERALDO TAN,  
OSCAR JINGAPO LOPEZ,  
GLENN BIANCINGO  
CASTILLO, PERLITA  
GEMPEROA JUMAPAO, and  
SOFRONIO TILLOR  
MAGDADARO,

Petitioners,

G.R. No. 234694

Present:

LEONEN, S.A.J., Chairperson,  
LAZARO-JAVIER,  
M. LOPEZ,  
J. LOPEZ, and  
KHO, JR., JJ.

- versus -

PEOPLE OF THE  
PHILIPPINES,  
Respondent.

Promulgated:

NOV 26 2024

X-----X

DECISION

KHO, JR., J.:

Before this Court is a Petition for *Certiorari* [With Urgent Prayer for Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction (WPI)]<sup>1</sup> under Rule 65 of the Rules of Court filed by petitioners Mario Geraldo Tan (Tan), Oscar Jingapo Lopez (Lopez), Perlita Gemperoa Jumapao, and Sofronio Tillor Magdadaro (collectively, petitioners), assailing the Resolutions dated February 28, 2017<sup>2</sup> and July 17, 2017<sup>3</sup> issued by the Sandiganbayan in SB-16-CRM-0458, which denied their Motion to Quash<sup>4</sup> with Urgent Request to Change the Venue of the Hearing to Cebu City (Motion to Quash).

<sup>1</sup> Rollo, pp. 3-24.

<sup>2</sup> *Id.* at 29-41. Penned by Sandiganbayan Associate Justice Samuel R. Martires and concurred in by Associate Justices Michael Frederick R. Musngi and Geraldine Faith A. Econg.

<sup>3</sup> *Id.* at 42-50. Penned by Sandiganbayan Associate Justice Michael Frederick L. Musngi and concurred in by Associate Justices Oscar C. Herrera, Jr. and Lorifel L. Pahimna.

<sup>4</sup> Not attached to the *rollo*.

### The Facts

This case stemmed from an Information<sup>5</sup> dated July 4, 2016 charging petitioners with violation of Section 65(a)(2) of Republic Act (R.A.) No. 9184,<sup>6</sup> the accusatory portion of which reads:

The undersigned Assistant Special Prosecutor of the Office of the Special Prosecutor, Office of the Ombudsman, hereby accuses **TOMAS ALBURO RIVERAL, MARIO GERALDO TAN, OSCAR JINGAPO LOPEZ, GLENN BIANCINGO CASTILLO, PERLITA GEMPEROA JUMAPAO** and **SOFRONIO TILLOR MAGDADARO** of violating Section 65(a)(2) of Republic Act No. 9184 (The Government Procurement Reform Act), committed as follows:

On or about 18 May 2011 and sometime prior or subsequent thereto, in Cebu City, Philippines, and within this Honorable Court's jurisdiction; accused public officers, namely:

<b>TOMAS A. RIVERAL</b>	Commissioner, Cebu Port Commission
<b>MARIO G. TAN</b>	Manager, Engineering Services Department, Chairman, Bids and Awards Committee (BAC)
<b>OSCAR J. LOPEZ</b>	Manager, Port Management Department, Cebu Port Authority (CPA), BAC Member
<b>GLENN B. CASTILLO</b>	Manager, Finance and Administrative Department, CPA, BAC Member
<b>PERLITA G. JUMAPAO</b>	Manager, Administrative Division, CPA, BAC Member
<b>SOFRONIO T. MAGDADARO</b>	Manager, Construction and Maintenance Division CPA, Provisional BAC Member

taking advantage of their above-indicated official positions and committing the offense in relation to their office and duties; did then and there willfully, unlawfully, and criminally delay without justifiable cause the opening of bids for the procurement of Janitorial/Support Services for CY 2011 of Cebu Port Authority beyond the prescribed period of action, by postponing the scheduled opening of bids on 18 May 2011 and moving the same to 9 June 2011; the postponement having been due merely to alleged queries from media and port stakeholders, which queries, under law, may be raised only by prospective bidders and before the deadline for submission of bids.

CONTRARY TO LAW.<sup>7</sup> (Emphasis in the original)

The controversy arose from the conduct of bidding for the provision of janitorial/support services for Calendar Year (CY) 2011 (subject procurement)

<sup>5</sup> *Rollo*, pp. 26–28.

<sup>6</sup> Otherwise known as the “Government Procurement Reform Act” (2003).

<sup>7</sup> *Rollo*, p. 30.

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for the Cebu Port Authority (CPA). Petitioners were charged in their capacity as members of the CPA Bids and Awards Committee (CPA-BAC).<sup>8</sup>

On April 27, 2011, the CPA published the Invitation to Bid (ITB) for the subject procurement in the Philippine Daily Inquirer. The ITB stated that the bids and eligibility requirements of the bidders were to be submitted to the BAC Secretariat on or before May 18, 2011, Wednesday at 2 p.m. The ITB was signed by Lopez, as CPA-BAC Vice Chairman, and noted by Engr. Dennis R. Villamor (Villamor), as CPA General Manager.<sup>9</sup>

In a Letter dated April 29, 2011, Tan, the CPA-BAC Chairman, invited the Commission on Audit State Auditor to observe the proceedings. In the said Letter, it was stated that the pre-bid conference was set on May 5, 2011 and the opening of bids was scheduled on May 18, 2011.<sup>10</sup>

However, on May 18, 2011, CPA Commissioner Tomas Alburo Rivalal (Rivalal) requested Villamor to postpone the bidding process to a later date because of the "queries from the media and port stakeholders which needed to be answered first." Villamor then transmitted the request to the CPA-BAC with the marginal note "Approved as requested."<sup>11</sup>

Upon approval of the marginal note, the CPA-BAC informed the bidders present that the opening of bids scheduled for that day was reset to a later date. A Supplemental Bid Bulletin was later posted on May 30, 2011, re-scheduling the opening of bids to June 9, 2011.<sup>12</sup>

The opening of bids proceeded on June 9, 2011 for all the bidders except Able Services, which bid was opened on June 24, 2011.<sup>13</sup>

Consequently, a Complaint<sup>14</sup> was filed against Rivalal and petitioners before the Office of the Ombudsman (Ombudsman). After due proceedings, the Ombudsman found probable cause to indict Rivalal and petitioners for violation of Section 65(a)(2) of R.A. No. 9184. Accordingly, the Information<sup>15</sup> dated July 4, 2016 was filed before the Sandiganbayan, docketed as Criminal Case No. SB-16-CRM-0458, and was raffled to the Special Second Division.<sup>16</sup>

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<sup>8</sup> *Id.* at 26-27.

<sup>9</sup> *Id.* at 133.

<sup>10</sup> *Id.* at 134.

<sup>11</sup> *Id.* at 30.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Not attached to the *rollo*.

<sup>15</sup> *Rollo*, pp. 26-28.

<sup>16</sup> *Id.* at 30-31.

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Subsequently, Rivalal and petitioners filed their respective Motions to Quash,<sup>17</sup> with the latter interposing an urgent request to change the venue of the hearing to Cebu City. In their Motion to Quash, Rivalal contended that there was no delay because the postponement was done within the 45-day period allowed under the Implementing Rules and Regulations of R.A. No. 9184, and that he should not be held criminally liable because he merely requested for the postponement of the bidding process but it was Villamor who approved his request and ordered the CPA-BAC to postpone the opening of bids,<sup>18</sup> while petitioners argued that the facts alleged in the Information filed against them do not constitute an offense.<sup>19</sup> The prosecution opposed the Motions to Quash filed by Rivalal and petitioners.<sup>20</sup>

### **The Sandiganbayan Ruling**

In a Resolution<sup>21</sup> dated February 28, 2017, the Sandiganbayan: (a) granted Rivalal's Motion, and accordingly, quashed the Information as against him; but (b) denied the Motion to Quash filed by petitioners.<sup>22</sup>

In granting Rivalal's Motion to Quash, the Sandiganbayan explained that Rivalal merely requested Villamor to postpone the bidding process in general. According to the Sandiganbayan, it was Villamor, using his discretion, who approved the request of Rivalal and transmitted the said approval to the CPA-BAC, who then postponed the opening of bids. The Sandiganbayan ruled that it was the action of the CPA-BAC that led to the postponement of the opening of bids, and since Villamor was not indicted, there is no reason to also indict Rivalal.<sup>23</sup>

In denying petitioners' Motion to Quash, the Sandiganbayan ratiocinated that the factual circumstances must first be settled before it can make a final determination of whether the postponement caused by the CPA-BAC was justified. Thus, trial is necessary to prove the material dates of the bidding process, what transpired during the pre-bid conferences and during the submission of bids, and to determine the role and participation of the CPA's general manager.<sup>24</sup>

Petitioners then filed an Urgent Partial Motion for Reconsideration<sup>25</sup> and Supplement to Accused's Motion for Partial Reconsideration with Urgent Prayer to Dismiss for Lack of Jurisdiction and Lack of Cause of Action

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<sup>17</sup> Not attached to the *rollo*.

<sup>18</sup> *Rollo*, pp. 32–33.

<sup>19</sup> *Id.* at 34.

<sup>20</sup> *Id.* at 33.

<sup>21</sup> *Id.* at 29–41.

<sup>22</sup> *Id.* at 40.

<sup>23</sup> *Id.* at 39–40.

<sup>24</sup> *Id.* at 37.

<sup>25</sup> *Id.* at 51–57.

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(Supplement with Urgent Prayer)<sup>26</sup> arguing that: (a) pursuant to R.A. No. 10660,<sup>27</sup> the Sandiganbayan lacked jurisdiction over petitioners as they occupy positions “below the salary grade 27 jurisdiction threshold” of said tribunal; and (b) the Information does not allege any damage to government or bribery, nor alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding PHP1,000,000.00. Thus, according to petitioners, the Regional Trial Court (RTC) has exclusive original jurisdiction over their case.<sup>28</sup>

Meanwhile, the prosecution filed a Motion for Partial Reconsideration<sup>29</sup> with respect to the quashal of the Information against Rival.<sup>30</sup>

In a Resolution<sup>31</sup> dated July 17, 2017, the Sandiganbayan denied the prosecution’s Motion for Partial Reconsideration, and petitioners’ Urgent Partial Motion for Reconsideration and their Supplement with Urgent Prayer for lack of merit.<sup>32</sup>

Hence, the instant Petition filed by petitioners.<sup>33</sup>

### **The Issue Before the Court**

The issue for the Court’s resolution is whether the Sandiganbayan has committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying the quashal of the Information against petitioners.

### **The Court’s Ruling**

The Petition lacks merit.

The jurisdiction of the Sandiganbayan is provided in Section 4 of Presidential Decree (P.D.) No. 1606,<sup>34</sup> as amended by R.A. No. 8249, the applicable law at the time of the commission of the offense, thus:

“**Section 4.** Section 4 of the same decree is hereby further amended to read as follows:

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<sup>26</sup> *Id.* at 58–68.

<sup>27</sup> An Act Strengthening Further the Functional and Structural Organization of the Sandiganbayan, Further Amending Presidential Decree No. 1606, as Amended, and Appropriating Funds Therefor (2015).

<sup>28</sup> *Rollo*, pp. 61–62.

<sup>29</sup> *Id.* at 42.

<sup>30</sup> *Id.* at 43.

<sup>31</sup> *Id.* at 42–50.

<sup>32</sup> *Id.* at 50.

<sup>33</sup> *Id.* at 3–24.

<sup>34</sup> Revising Presidential Decree No. 1486 Creating a Special Court to be known as “Sandigabayan” and for Other Purposes (1978).

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

“a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-graft and Corrupt Practices Act, and Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

“(1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade ‘27’ and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

“(a) Provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other provincial department heads;

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

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

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

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

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

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

“(2) Members of Congress and officials thereof classified as Grade ‘27’ and up under the Compensation and Position Classification Act of 1989;

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

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

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

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

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

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

(Emphasis and italics in the original)

Petitioners contend that the Sandiganbayan has no jurisdiction over their case because they hold the position of managers in various departments of the CPA with salary grade of below 27, in which case, it is the RTC that has exclusive jurisdiction over their case.

Petitioners likewise argue that the Sandiganbayan has no jurisdiction over their case because they are charged with violation of the procurement law which is not a case falling under Section 4(a) of P.D. No. 1606, as amended. According to petitioners, the charge against them should involve a violation of R.A. No. 3019, R.A. No. 1379, or Title VII, Chapter II, Section 2 of the Revised Penal Code (RPC).

Petitioners’ contentions fail to persuade.

The Court has ruled in a number of cases<sup>35</sup> that public officials occupying positions that are classified as Salary Grade 26 and below may still fall within the original jurisdiction of the Sandiganbayan, **provided that they hold the positions enumerated under Section 4(1)(a) to (g) of P.D. No. 1606, as amended**. Specifically, in *People v. Sandiganbayan and Amante*,<sup>36</sup> the Court interpreted Section 4 of P.D. No. 1606, as amended, to mean as follows:

<sup>35</sup> *Ampongan v. Sandiganbayan*, 859 Phil. 872 (2019) [Per J. Peralta, Third Division]; *People v. Sandiganbayuan and Plaza*, 645 Phil. 53 (2010) [Per J. Peralta, Second Division]; *People v. Sandiganbayan and Amante*, 613 Phil. 407 (2009) [Per J. Peralta, Third Division]; *Lazarte, Jr. v. Sandiganbayan*, 600 Phil. 475 (2009) [Per J. Tinga, *En Banc*]; *Geduspan v. People*, 491 Phil. 375 (2005) [Per J. Corona, Third Division].

<sup>36</sup> 613 Phil. 407 (2009) [Per J. Peralta, Third Division].

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The above law is clear as to the composition of the original jurisdiction of the Sandiganbayan. Under Section 4(a), the following offenses are specifically enumerated: violations of R.A. No. 3019, as amended, R.A. No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code. In order for the Sandiganbayan to acquire jurisdiction over the said offenses, the latter must be committed by, among others, officials of the executive branch occupying positions of regional director and higher, otherwise classified as Grade 27 and higher, of the Compensation and Position Classification Act of 1989. However, the law is not devoid of exceptions. **Those that are classified as Grade 26 and below may still fall within the jurisdiction of the Sandiganbayan provided that they hold the positions thus enumerated by the same law.** Particularly and exclusively enumerated are provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other provincial department heads; city mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads; officials of the diplomatic service occupying the position as consul and higher; Philippine army and air force colonels, naval captains, and all officers of higher rank; PNP chief superintendent and PNP officers of higher rank; City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor; and presidents, directors or trustees, or **managers of government-owned or controlled corporations**, state universities or educational institutions or foundations. In connection therewith, Section 4(b) of the same law provides that other offenses or felonies committed by public officials and employees mentioned in subsection (a) in relation to their office also fall under the jurisdiction of the Sandiganbayan.<sup>37</sup> (Emphasis supplied)

In this case, petitioners hold the position of managers with salary grade of below 27 in various departments of the CPA, which is a Government-Owned and Controlled Corporations (GOCC) created under R.A. No. 7621<sup>38</sup> as a “public-benefit corporation”<sup>39</sup> to specifically administer all ports in the province of Cebu.<sup>40</sup> Their position as managers of a GOCC is specifically enumerated in Section 4(a)(1)(g) of P.D. No. 1606, as amended, as public officers under the jurisdiction of the Sandiganbayan. The Court has ruled on numerous occasions<sup>41</sup> that the Sandiganbayan has jurisdiction over presidents, directors, trustees, or managers of GOCCs. Clearly, petitioners fall within the original jurisdiction of the Sandiganbayan regardless of their salary grade.

<sup>37</sup> *Id.* at 420–421.

<sup>38</sup> An Act Creating the Cebu Port Authority, Defining its Powers and Functions, Providing Appropriation Therefore, and For Other Purposes (1992).

<sup>39</sup> SECTION 3. Creation of the Port Authority. — There is hereby created public-benefit corporation to be known as the Cebu Port Authority, hereinafter referred to as the Authority. This Authority shall be under supervision of the Department of Transportation and Communications for purposes of policy coordination.

<sup>40</sup> See also GCG Integrated Corporate Reporting System, *GOCC Classification*, available at <https://icrs.gcg.gov.ph/gocc-classification/> (last accessed on October 18, 2024).

<sup>41</sup> *Poro Exim Corporation v. Vicente*, G.R. Nos. 256060-61, June 27, 2023 [Per J. Kho, Jr., *En Banc*]; *Maligalig v. Sandiganbayan*, 867 Phil. 847 (2019) [Per C.J. Peralta, First Division]; *Lazarte, Jr. v. Sandiganbayan*, 600 Phil. 475 (2009) [Per J. Tinga, *En Banc*]; *People v. Sandiganbayan and Alas*, 491 Phil. 591 (2005) [Per J. Corona, Third Division]; *Geduspan v. People*, 491 Phil. 375 (2005) [Per J. Corona, Third Division].

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Furthermore, petitioners' contention that the Sandiganbayan has no jurisdiction over their case because the charge against them was not for violation of R.A. No. 3019, R.A. No. 1379, or Title VII, Chapter II, Section 2 of the RPC also deserves scant consideration.

It is well-settled that public officials enumerated in Section 4(1)(a) to (g) of P.D. No. 1606, as amended, may not only be charged in the Sandiganbayan with violations of R.A. No. 3019, R.A. No. 1379, or Title VII, Chapter II, Section 2 of the RPC, but also with other offenses or felonies committed in relation to their office pursuant to Section 4(b) of P.D. No. 1606,<sup>42</sup> as amended.

Thus, in *Alarilla v. Sandiganbayan*,<sup>43</sup> the Court ruled that the Sandiganbayan had jurisdiction over the petitioner municipal mayor who was charged with a crime of grave threats in relation to their office. Similarly, in *Ampongan v. Sandiganbayan*,<sup>44</sup> the petitioner vice mayor was charged with Falsification of Public Document under Article 171(2) of the RPC, and the Court held that the Sandiganbayan had jurisdiction over them because the crime was committed in relation to their office. In another case, particularly *People v. Sandiganbayan*,<sup>45</sup> therein petitioner, a member of the sangguniang panlungsod, was charged with violation of the Auditing Code of the Philippines, and the Court held that the Sandiganbayan had jurisdiction over them under Section 4(b) of P.D. No. 1606, as amended, because the other offense was committed in relation to their office.

As instructed by the foregoing case law, the phrase "other offenses and felonies" are broad in scope but are limited only to those that are committed in relation to the public official or employee's office.<sup>46</sup> Verily, as long as the offense charged in the Information is intimately connected with the office and is alleged to have been perpetrated while the accused was in the performance, though improper or irregular, of their official functions, there being no personal motive to commit the crime and had the accused not have committed it had they not held the aforesaid office, the accused is held to have been indicted for "an offense committed in relation" to their office.<sup>47</sup>

In this case, petitioners were charged with violation of R.A. No. 9184. Thus, while the charge of violation of the procurement law is not specifically included in the enumeration of crimes in Section(4)(a) over which the Sandiganbayan has jurisdiction. It falls under the category of other offenses as provided in Section 4(b) of P.D. No. 1606, as amended. In fact, a plain

<sup>42</sup> Revising Presidential Decree No. 1486 Creating a Special Court to be known as "Sandiganbayan" and for Other Purposes (1978).

<sup>43</sup> 393 Phil. 143 (2000) [Per J. Gonzaga-Reyes, Third Division].

<sup>44</sup> 859 Phil. 872 (2019) [Per J. Peralta, Third Division].

<sup>45</sup> 645 Phil. 53 (2010) [Per J. Peralta, Second Division].

<sup>46</sup> *People v. Sandiganbayan and Amante*, 613 Phil. 407, 423 (2009) [Per J. Peralta, Third Division].

<sup>47</sup> *Id.* at 423-424.

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reading of the Information filed against petitioners clearly stated that the charge against them was committed in relation to their office and duties, and taking advantage of their official positions in the CPA.

Petitioners also contend that the Information filed against them does not allege any damage to government or bribery, or alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding PHP1,000,000.00. Thus, petitioners argue that it is the RTC which has exclusive jurisdiction over their case.


Petitioners' contention deserves scant consideration.

In *Ampongan*, the Court held that the amendment in Section 4 of P.D. No. 1606 on jurisdiction shall apply only to cases arising from offenses committed after its effectivity, thus:

It is clear from the transitory provision of R.A. No. 10660 that the amendment introduced regarding the jurisdiction of the Sandiganbayan shall apply to cases arising from offenses committed after the effectivity of the law. Consequently, the new paragraph added by R.A. No. 10660 to Section 4 of Presidential Decree (P.D.) No. 1606, as amended, transferring the exclusive original jurisdiction to the RTC of cases where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding [PHP 1,000,000.00], applies to cases which arose from offenses committed after the effectivity of R.A. No. 10660.

Here, the Information filed against petitioners alleged that *the offense for violation of the procurement law was committed on May 18, 2011, which was before the effectivity of R.A. No. 10660 on May 5, 2015.* Thus, R.A. No. 10660 finds no application to petitioners' case. Accordingly, the Information filed against petitioners need not allege damage to government, or bribery arising from the same or closely related transactions, or acts in the amount not exceeding PHP1,000,000.00.

Lastly, petitioners ascribe grave abuse of discretion amounting to lack or excess of jurisdiction to the Sandiganbayan in denying their Motion to Quash considering that the facts alleged in the Information do not constitute an offense. Specifically, petitioners contend that there was a justifiable cause to postpone the opening of the bids. According to petitioners, Rivalal wrote Villamor requesting the postponement of the opening of bids, and Villamor approved the request with the marginal note "Approved as requested." Thus, petitioners assert that the delay in the opening of bids was caused by the directive of Villamor in his marginal note approving the request and not through their own action.



The Court is not convinced.

The test to determine if the facts charged constitute an offense is whether the facts as alleged, if hypothetically admitted, would establish the essential elements of the crime defined in law.<sup>48</sup> Matters *aliunde* will not be considered.<sup>49</sup>

Rule 110, Section 6 of the Rules of Court provides:

**Section 6. Sufficiency of complaint or information.** – A complaint or information is sufficient if it states the name of the accused, the designation of the offense by the statute, the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate time of the commission of the offense, and the place wherein the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information.

An Information is deemed sufficient if the acts or omissions complained of are alleged in a way that enables a person of common understanding to know what offense is intended to be charged, allows them to prepare their defense, and equips the court to render proper judgment.<sup>50</sup> Thus, an Information must clearly and accurately allege the elements of the crime and the circumstances constituting the charge.<sup>51</sup>

In this case, petitioners were charged of violating Section 65(a)(2) of R.A. No. 9184, which provides:

**Section 65. Offenses and Penalties.** – (a) Without prejudice to the provisions of Republic Act No. 3019, otherwise known as the “Anti-Graft and Corrupt Practices Act” and other penal laws, public officers who commit any of the following acts shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day, but not more than fifteen (15) years:

....

(2) Delaying, without justifiable cause, the screening for eligibility, opening of bids, evaluation and post evaluation of bids, and awarding of contracts beyond the prescribed periods of action provided for in the IRR.

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<sup>48</sup> *Lazarte, Jr. v. Sandiganbayan*, 600 Phil. 475, 488 (2009) [Per J. Tinga, *En Banc*].

<sup>49</sup> *Id.* at 491.

<sup>50</sup> *Jalandoni v. Ombudsman*, G.R. Nos. 211751, 217212-80, 244467-535, 245546-614, May 10, 2021 [Per J. Leonen, Third Division].

<sup>51</sup> *Id.*

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The Court finds that the facts constituting all the elements of violation of Section 65(a)(2) of R.A. No. 9184 are clearly averred in the Information. The Information specifically alleges that petitioners are public officers, who are members of the CPA-BAC, holding various positions in the CPA. The felonious act consisted of willfully, unlawfully, and criminally delaying without justifiable cause the opening of bids for the procurement of janitorial/support services for CY 2011 of the CPA beyond the prescribed period of action by postponing the scheduled opening of bids on May 18, 2011 to June 9, 2011 to allegedly accommodate the queries from the media and stakeholders of CPA, which, under the law, may be raised only by prospective bidders and before the deadline for the submission of bids. The offense was committed by petitioners in relation to their office and while in the performance of their official functions.

On the contention that the proximate cause of the postponement was the marginal note of Villamor approving Rival's request and that the same constitutes a justifiable cause to delay the opening of the bids, the Court agrees with the Sandiganbayan that these are matters of defense that should be threshed out in a full-blown trial on the merits.

Accordingly, the Sandiganbayan did not commit grave abuse of discretion in denying petitioners' Motion to Quash considering that the facts alleged in the Information constitute the offense charged. Moreover, the Sandiganbayan has jurisdiction over the case of petitioners regardless of their salary grade because they hold the position of managers in a GOCC, which is mentioned in Section 4(a)(1)(g) of P.D. No. 1606, as amended, and the violation of the procurement law which falls under the category of other offense as provided in Section 4(b) of the same law.

**ACCORDINGLY**, the Petition for *Certiorari* is **DENIED** for lack of merit. The Resolutions of the Sandiganbayan in SB-16-CRM-0458 dated February 28, 2017 and July 17, 2017 are **AFFIRMED**.

**SO ORDERED."**



**ANTONIO T. KHO, JR.**

Associate Justice

**WE CONCUR:**  
**MARVIC M.V.F. LEONEN**Senior Associate Justice  
Division Chairperson  
**AMY C. LAZARO-JAVIER**

Associate Justice

  
**MARION LOPEZ**

Associate Justice

  
**JHOSEP Y. LOPEZ**

Associate Justice

**ATTESTATION**

I attest 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's Division.

  
**MARVIC M.V.F. LEONEN**Senior Associate Justice  
Chairperson, Second Division**CERTIFICATION**

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

  
**ALEXANDER G. GESMUNDO**

Chief Justice

