



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **February 22, 2023** which reads as follows:

“G.R. Nos. 242175-85 (*Gov. Roel Ragay Degamo v. Sandiganbayan (Second Division) and the Office of the Ombudsman*); G.R. Nos. 242788-99 (*Roel Ragay Degamo, Teodorico Reyes, and Danilo Mendez v. Sandiganbayan (Third Division) rep. by Presiding Justice Amparo M. Cabotaje-Tang, Associate Justice Bernelito R. Fernandez, and Associate Justice Sarah Jane T. Fernandez*); G.R. Nos. 243077-98 (*Teodorico G. Reyes and Danilo C. Mendez v. Sandiganbayan (2nd Division) rep. by Presiding Justice Oscar C. Herrera, Jr., Associate Justice Michael Frederick L. Musngi, Associate Justice Lorifel L. Pahimna and the Office of the Ombudsman*); and G.R. No. 247588 (*Farouk M. Macarambon v. The Hon. Sandiganbayan and the People of the Philippines*). — Before the Court are four consolidated cases assailing various issuances of the Sandiganbayan, to wit:

G.R. No. 242175-85 is a Petition for *Certiorari* with Application for Temporary Restraining Order and/or Writ of Preliminary Injunction<sup>1</sup> which seeks to reverse and set aside the Resolutions dated 12 July 2018<sup>2</sup> and 06 August 2018<sup>3</sup> of the Sandiganbayan in Crim Cases Nos. SB-17-CRM-2423 to SB-17-CRM-2433. The Sandiganbayan denied the Urgent Motion to Dismiss and/or Quash Information,<sup>4</sup> and the subsequent Motion for Reconsideration<sup>5</sup> filed by petitioner Gov. Roel Ragay Degamo (Degamo).

In G.R. Nos. 242788-99, Degamo, by way of a Petition for *Certiorari* (with an Urgent Application for the Issuance of a Temporary Restraining

<sup>1</sup> *Rollo* (G.R. Nos. 242175-85), pp. 3-64.

<sup>2</sup> *Id.* at 65-68; Penned by Chairperson Oscar C. Herrera, Jr., and concurred in by Associate Justices Michael Frederick L. Musngi and Lorifel L. Pahimna.

<sup>3</sup> *Id.* at 69; Approved by Chairperson Oscar C. Herrera, Jr., and Associate Justices Michael Frederick L. Musngi and Lorifel L. Pahimna.

<sup>4</sup> *Id.* at 503-514.

<sup>5</sup> *Id.* at 543-556.

Order and/or a Writ of Preliminary Injunction),<sup>6</sup> seeks to reverse and set aside the Resolutions dated 25 May 2018<sup>7</sup> and 07 August 2018<sup>8</sup> of the Sandiganbayan in Crim Cases Nos. SB-16-CRM-0467 to SB-16-CRM-0478. The Sandiganbayan denied Degamo's Motion for Leave to file Demurrer to Evidence,<sup>9</sup> and likewise denied the Motion for Reconsideration<sup>10</sup> subsequently filed by Degamo, Mendez, and Reyes.

On the other hand, **G.R. Nos. 243077-98** is a Petition for *Certiorari* (with Prayer for the Urgent Issuance of a Temporary Restraining Order and/or a Writ of Preliminary Injunction)<sup>11</sup> assailing the Resolutions dated 10 July 2018<sup>12</sup> and 21 September 2018<sup>13</sup> of the Sandiganbayan in Crim Cases Nos. SB-17-CRM-2423 to SB-17-CRM-2444. The Sandiganbayan denied Mendez and Reyes' Motion for Summary Dismissal,<sup>14</sup> and their subsequent Motion for Reconsideration.<sup>15</sup>

Lastly, in **G.R. No. 247588**, Farouk M. Macarambon (Macarambon) files a petition for *Certiorari* and Prohibition with Application for Injunctive Relief<sup>16</sup> to reverse and set aside the Resolutions dated 27 February 2019<sup>17</sup> and 11 April 2019<sup>18</sup> of the Sandiganbayan in Crim Case No. SB-17-CRM-2423. The Sandiganbayan denied Macarambon's Manifestation with Motion to Dismiss,<sup>19</sup> and Motion for Reconsideration.<sup>20</sup>

### Antecedents

Degamo is the former Governor of the Province of Negros Oriental (Province), while Danilo Cual Mendez (Mendez) and Teodorico Guevara Reyes (Reyes) were the provincial treasurer and provincial accountant, respectively, of the same province.

<sup>6</sup> *Rollo* (G.R. Nos. 242788-99), pp. 3-48.

<sup>7</sup> *Id.* at 49-50; Approved by Presiding Justice Amparo M. Cabotaje-Tang and Associate Justices Bernelito R. Fernandez and Sarah Jane T. Fernandez.

<sup>8</sup> *Id.* at 51; Approved by Presiding Justice Amparo M. Cabotaje-Tang and Associate Justices Bernelito R. Fernandez and Sarah Jane T. Fernandez.

<sup>9</sup> *Id.* at 775-800.

<sup>10</sup> *Id.* at 809-826.

<sup>11</sup> *Rollo* (G.R. Nos. 243077-98), pp. 3-44.

<sup>12</sup> *Id.* at 92-94; Penned by Chairperson Oscar C. Herrera, Jr., and concurred in by Associate Justices Michael Frederick L. Musngi and Lorifel L. Pahimna.

<sup>13</sup> *Id.* at 107-111; Penned by Chairperson Oscar C. Herrera, Jr., and concurred in by Associate Justices Alex L. Quiroz and Kevin Narce B. Vivero.

<sup>14</sup> *Id.* at 77-90.

<sup>15</sup> *Id.* at 95-105.

<sup>16</sup> *Rollo* (G.R. No. 247588) pp. 3-34.

<sup>17</sup> *Id.* at 35; Approved by Chairperson Oscar C. Herrera, Jr. and Associate Justices Michael Frederick L. Musngi and Bayani H. Jacinto.

<sup>18</sup> *Id.* at 36; Approved by Chairperson Oscar C. Herrera, Jr. and Associate Justices Michael Frederick L. Musngi and Lorifel L. Pahimna.

<sup>19</sup> *Id.* at 91-102.

<sup>20</sup> *Id.* at 103-115.

In December 2011, Typhoon *Sendong* struck Visayas and Mindanao resulting in numerous deaths and damage to homes and infrastructures. One of the provinces that was hit hard by the calamity is Negros Oriental.

Upon instructions from the Department of Budget and Management (DBM) Central Office and the Office of the President, calamity funds of the Province were released in June 2012 for the rehabilitation and repair of the damage caused by the typhoon. For this purpose, Special Allotment Release Order No. ROVII-12-0009202 (SARO) dated 05 June 2012 was issued by DBM Region VII,<sup>21</sup> indicating the amount of ₱961,550,000.00. A Notice of Cash Allocation (NCA) dated 05 June 2012 was also issued for the amount of ₱480,775,000.00,<sup>22</sup> representing 50% of the total amount of the SARO. DBM Region VII then informed Degamo, through a Letter dated 06 June 2012,<sup>23</sup> that the amount of ₱480,775,000.00 had been released to the Province for the relevant projects.<sup>24</sup>

Subsequently, DBM Region VII, through Usec. Mario Relampagos (Usec. Relampagos), was allegedly instructed by the DBM Central Office to withdraw the amount released to the Province. For that purpose, Negative SARO NO. ROVII-12-0012208 (Negative SARO) dated 29 June 2012 in the amount of ₱961,550,000.00 was issued.<sup>25</sup>

Letters were then sent by Usec. Relampagos and DBM Region VII to Degamo,<sup>26</sup> informing the latter about the withdrawal of the SARO. Degamo was further instructed to return the amount of ₱480,775,000.00 to the National Treasury and furnish DBM Region VII a copy of the bank deposit slip as proof. When Degamo failed to remit the amount, another Letter dated 10 July 2012<sup>27</sup> was sent to him to follow up the return of the amount. However, Degamo sent a Reply to DBM Region VII,<sup>28</sup> stating that the Province had no intention to return the amount released to it.<sup>29</sup>

On 29 October 2013, June Vincent Manuel Gaudan filed a Complaint<sup>30</sup> before the Ombudsman (OMB) Visayas (Gaudan Complaint) charging Degamo, Mendez, and Reyes with one (1) count of violation of Section 3(e) of Republic Act (RA) No. 3019<sup>31</sup> and eleven (11) counts of malversation through falsification.<sup>32</sup>

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<sup>21</sup> *Rollo* (G.R. Nos. 242175-85) pp. 308-309.

<sup>22</sup> *Id.* at 310-311.

<sup>23</sup> *Rollo* (G.R. Nos. 242788-99), p. 123.

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

<sup>25</sup> *Id.* at 128.

<sup>26</sup> *Rollo* (G.R. Nos. 242175-85), pp. 104-105, 315-316.

<sup>27</sup> *Rollo* (G.R. Nos. 242788-99), p. 131.

<sup>28</sup> *Id.* at 132.

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

<sup>30</sup> *Id.* at 487-495.

<sup>31</sup> Entitled: "ANTI-GRAFT AND CORRUPT PRACTICES ACT." Approved: 17 August 1960.

<sup>32</sup> *Rollo* (G.R. Nos. 242788-99), pp. 487-537.

Thereafter, or on 23 July 2014, Jessica Jane Villanueva-Koppin also filed a Complaint (Koppin Complaint) accusing Degamo, Mendez, and Reyes, and the provincial engineer of the Province, Franco Cafe Alpuerto, of eleven (11) counts of violation of Section 3(e) of RA 3019. The complaint alleged that they acted in conspiracy with the individual contractors to whom the projects were awarded. Notably, herein petitioner Farouk M. Macarambon (Macarambon) was included as one of the contractors charged. Based on the same Complaint, Mendez and Reyes were also charged with eleven (11) counts of falsification.<sup>33</sup>

Acting on the Gaudan Complaint, the OMB issued a Joint Resolution on 12 January 2016<sup>34</sup> finding probable cause to charge Degamo, Mendez, and Reyes. On 31 August 2016, the OMB filed the respective Informations before the Sandiganbayan for one (1) count of violation of Sec. 3(e) of RA 3019 in Criminal Case No. SB-16-CRM-0467,<sup>35</sup> and eleven (11) counts of malversation through falsification of public documents punishable under Article 217 in relation to Arts. 171 and 48 of the Revised Penal Code, in Criminal Cases Nos. SB-16-CRM-0468 to SB-16-CRM-0478.<sup>36</sup> The same was raffled to the Third Division of the Sandiganbayan. The accusatory portion of the Informations read:

SB-16-CRM-0467

That on 24 August 2012, or sometime prior or subsequent thereto, in Dumaguete City, Province of Negros Oriental, and within the jurisdiction of this Honorable Court, Philippines, accused Provincial Governor ROEL RAGAY DEGAMO, with Salary Grade 30, Provincial Treasurer DANILO CUAL MENDEZ, with Salary Grade 26, and Provincial Accountant TEODORICO GUEVARA REYES, with Salary Grade 26, all high-ranking public officers, while in the performance of their official functions, committing the offense in relation to office and taking advantage of their official positions, did there and then wilfully [sic], unlawfully and criminally, through evident bad faith, manifest partiality and/or gross inexcusable negligence, conspiring, confederating and mutually helping one another, disburse the total amount of ONE HUNDRED FORTY THREE MILLION TWO HUNDRED SIXTY EIGHT THOUSAND FOUR HUNDRED FORTY-ONE PESOS AND FIFTY-NINE CENTAVOS (Php 143,268,441.59) from the FOUR HUNDRED EIGHTY MILLION SEVEN HUNDRED SEVENTY-FIVE THOUSAND PESOS (Php 480,775,000.00) FY 2012 Calamity Fund released to the province of Negros Oriental, covered by Special Allotment Release Order (SARO) No. ROVII-12-0009202, when in truth and in fact there were no funds for the disbursements because the said SARO had earlier been withdrawn by the Department of Budget and Management (DBM) on 29 June 2012, thereby causing undue injury to the Government in the amount of ONE HUNDRED FORTY-THREE MILLION TWO HUNDRED SIXTY-EIGHT THOUSAND FOUR HUNDRED

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<sup>33</sup> Id.

<sup>34</sup> Id. at 538-548.

<sup>35</sup> Id. at 559-561.

<sup>36</sup> Id. at 562-594.

FORTY-ONE PESOS AND FIFTY NINE CENTAVOS (Php 143,268,441.59).

CONTRARY TO LAW.<sup>37</sup>

SB-16-CRM-0468<sup>38</sup>

That on 24 August 2012, or sometime prior or subsequent thereto, in Dumaguete City, Province of Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, accused Governor ROEL RAGAY DEGAMO, with Salary Grade 30, Provincial Treasurer DANILO CUAL MENDEZ, with Salary Grade 26, and Provincial Accountant TEODORICO GUEVARA REYES, with Salary Grade 26, all high-ranking public officers, who by reason of the duties of their said respective offices are accountable for public funds or properties of the Province of Negros Oriental, committing the complex crime charged herein while in the performance of, in relation to and/or taking advantage of their official positions and functions, conspiring and confederating with one another, did then and there willfully, unlawfully and feloniously appropriate, take or misappropriate or consent, or through abandonment or negligence, permit any person to take the public funds, from the FY 2012 Calamity Fund of the Province of Negros Oriental, covered by Special Allotment Release Order (SARO) No. ROVII-12-0009202 under their charge and custody amounting to SIX MILLION SIX HUNDRED SEVENTY-ONE THOUSAND FIVE HUNDRED THIRTY-FIVE PESOS AND NINETY-TWO CENTAVOS (Php 6,671,535.92) by making it appear that there were funds available, when and in truth and in fact the SARO for the FY 2012 Calamity Fund had already been withdrawn by the Department of Budget and Management (DBM) on 29 June 2012, thereby causing the appropriation and disbursement of 15% advance payment to Fiat Construction Services under Check No. 40066145 and Disbursement Voucher 100 (01)-2012-08-13743, both dated 24 August 2012, to the damage and prejudice of the Government in the amount of SIX MILLION SIX HUNDRED SEVENTY-ONE THOUSAND FIVE HUNDRED THIRTY-FIVE PESOS AND NINETY-TWO CENTAVOS (Php 6,671,535.92).

CONTRARY TO LAW.<sup>39</sup>

Meanwhile, acting on the Koppin Complaint, the OMB issued a Resolution dated 28 October 2016 recommending the filing of the charges.<sup>40</sup> Hence, on 12 November 2017, the OMB filed before the Sandiganbayan the Informations for eleven (11) counts of violation of Section 3(e) of RA 3019 in SB-17-CRM-2423 to SB-17-CRM-2433,<sup>41</sup> and eleven (11) counts of falsification punishable under Article 171(4) of the Revised Penal Code in SB-17-CRM-2434 to SB-17-CRM-2444.<sup>42</sup> The Informations, which were raffled to the Second Division of the Sandiganbayan, read:

<sup>37</sup> *Rollo* (G.R. Nos. 242175-85), pp. 403-404.

<sup>38</sup> Except for the date, check number, disbursement voucher number, the contractor's name, and the amount involved, the Informations for Criminal Cases Nos. SB-16-CRM-0468 to SB-16-CRM-0478 are similarly worded.

<sup>39</sup> *Rollo* (G.R. Nos. 242175-85), pp. 406-407.

<sup>40</sup> *Rollo* (G.R. Nos. 243077-98), pp. 43-67.

<sup>41</sup> *Rollo* (G.R. Nos. 242175-85), pp. 440-469.

<sup>42</sup> *Id.* at 470-502.

SB-17-CRM-2423<sup>43</sup>

That from 1 August 2012 to 23 August 2012, or sometime prior or subsequent thereto, in the Province of Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused ROEL RAGAY DEGAMO, DANILO CUAL MENDEZ, TEODORICO GUEVARA REYES and FRANCO CAFE ALPUERTO, public officers, being the Provincial Governor, Provincial Treasurer, Provincial Accountant, and Provincial Engineer, respectively, of the Province of Negros Oriental, in such capacities and committing the offense in relation to office, taking advantage of their official positions, and while in performance of their official functions, conspiring with one another and with accused FAROUK M. MACARAMBON a private individual and General Manager and Proprietor of Fiat Construction Services, Iligan City (Fiat), with deliberate intent, acting with manifest partiality, evident bad faith or gross inexcusable negligence, did then and there willfully, unlawfully and criminally cause undue injury to the government and give unwarranted benefits, advantage or preference to accused FAROUK M. MACARAMBON and/or Fiat, by awarding to the latter the contract/project for the "*Deepening, Rechanneling & Protection Dike of Sicipong River, Sta. Catalina, Negros Oriental*" and causing the payment in favor of Fiat the amount of Six Million, Six Hundred Seventy One Thousand, Five Hundred Thirty Five Pesos and 92/100 centavos (Php6,671,535.92), as 15% advance payment of the project, despite the issuance of Department of Budget and Management (DBM) Special Allotment Release Order No. ROVII-12-0012208 on June 29, 2012, which withdrew the release of the funds for the said project, and the prior demand by DBM for the return of the said funds, to the damage and prejudice of the government in the afore-stated amount.

CONTRARY TO LAW.<sup>44</sup>

SB-17-CRM-2434<sup>45</sup>

That on August 23, 2012, or sometime prior or subsequent thereto, in the Province of Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused DANILO CUAL MENDEZ, and TEODORICO GUEVARA REYES, both high-ranking public officers, being the Provincial Treasurer and Provincial Accountant, respectively, of the Province of Negros Oriental, in such capacities, committing the offense in relation to office, taking advantage of their official positions, conspiring, confederating and mutually helping one another, with deliberate intent, did then and there willfully, unlawfully and feloniously make untruthful statements in the narration of facts in **Disbursement Voucher No. 100(01)-2012-09-14058**, a public document, covering the amount of One Million, Four Hundred Ninety Six Thousand, One Hundred Fifty Pesos and 70/100 centavos (Php1,496,150.70) in favor of Bigfoot Construction & Supply as 15% advance payment for the Project: **Repair/Rehabilitation and**

<sup>43</sup> Except for the contractor's name, project name, and the amount involved, the Informations for Criminal Cases Nos. SB-17-CRM-2423 to SB-17-CRM-2433 are similarly worded.

<sup>44</sup> *Rollo* (G.R. Nos. 242175-85), p. 440.

<sup>45</sup> Except for the disbursement voucher number, the amount involved, the contractor's name, and the project name, the Informations for Criminal Cases Nos. SB-17-CRM-2434 to SB-17-CRM-2444 are similarly worded.

**Improvement of Balugo Bridge, Valencia, Negros Oriental**, wherein they had the legal obligation to disclose the truth of the facts narrated by them, by respectively certifying that funds were available for the project and that allotments had been obligated and the supporting documents were complete, when in truth and in fact, as accused fully well knew, the said statements were absolutely false, since there was absence of such appropriation and allotment for the project/transaction in view of the issuance of Special Allotment Release Order No. ROVII-12-0012208 on June 29, 2012 by the Department of Budget and Management, which withdrew the release of the funds for the said transaction, to the damage and prejudice of public interest.

CONTRARY TO LAW.<sup>46</sup>

Thereafter, proceedings before the Second and Third Divisions of the Sandiganbayan ensued separately.<sup>47</sup>

### **Proceedings before the Sandiganbayan**

*G.R. Nos. 242175-85*

On 17 January 2017, Degamo filed an Urgent Motion to Dismiss and/or Quash Information<sup>48</sup> before the Second Division of the Sandiganbayan. He argued that the cases pending before the Second and Third Divisions of the Sandiganbayan are similar, thus, there was a violation of the rule against forum shopping. Moreover, the Second Division has no jurisdiction over the case since the Third Division already acquired jurisdiction to the exclusion of other courts when the OMB filed the Informations before it pursuant to the Gaudan Complaint.<sup>49</sup>

On 19 February 2018, Mendez and Reyes filed an Urgent Motion and Manifestation<sup>50</sup> adopting Degamo's Urgent Motion to Dismiss and/or Quash Information.<sup>51</sup>

In its Resolution dated 12 July 2018,<sup>52</sup> the Second Division of the Sandiganbayan denied petitioner Degamo's **Urgent Motion to Dismiss and/or Quash Information**, to wit:

WHEREFORE, premises considered, the *Urgent Motion to Dismiss And/Or Quash Information* dated January 15, 2017, filed by accused Roel R. Degamo, through counsel, and adopted by accused Danilo C. Mendez,

<sup>46</sup> *Rollo* (G.R. Nos. 242175-85), pp. 470-471.

<sup>47</sup> *Id.* at 503-515.

<sup>48</sup> *Id.*

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

<sup>50</sup> *Id.* at 541-542.

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

<sup>52</sup> *Id.* at 65-68.

Teodorico G. Reyes and Franco C. Alpuerto, as per their *Urgent Joint Manifestation And Motion To Adopt, etc.* dated February 13, 2018, is hereby denied for lack of merit.

SO ORDERED.<sup>53</sup>

It explained that the Informations pending before it for eleven (11) counts of violation of Section 3(e) of RA 3019 refer to eleven (11) different contracts/projects and different amounts paid to different accused private individuals. On the other hand, except as to the one (1) count of violation of Section 3(e) of RA 3019, the remaining charges pending before the Third Division refer to different acts of malversation through falsification. Hence, the Second Division concluded that there is no forum shopping and it has jurisdiction over the case stemming from the Koppin Complaint.<sup>54</sup>

Aggrieved, Degamo, Mendez, and Reyes filed a Motion for Reconsideration,<sup>55</sup> but this was likewise denied in a Resolution dated 06 August 2018.<sup>56</sup>

*G.R. Nos. 242788-99*

Meanwhile, the Third Division continued to hear the case filed before it. After the termination of the presentation of the prosecution's evidence, Degamo, Mendez, and Reyes filed a **Motion for Leave to file a Demurrer to Evidence on 15 May 2018.**<sup>57</sup> They argued that the prosecution failed to overcome the presumption of innocence, since the evidence presented failed to establish the concurrence of the elements of the offenses charged.<sup>58</sup>

On 25 May 2018, the Third Division of the Sandiganbayan issued a Resolution denying Degamo, Mendez, and Reyes' Motion for Leave to file a Demurrer to Evidence for lack of merit,<sup>59</sup> viz.:

**WHEREFORE,** accused Roel Ragay Degamo, Teodorico Guevara Reyes and Danilo Cual Mendez, through counsel, are given a period of five (5) days from receipt of this Resolution within which to file their manifestation whether they will pursue their demurrer to evidence without leave of court. Without it, the presentation of the said accused's evidence set on **June 4, 5, 25, and 26, 2018, all at 8:30 o'clock in the morning shall proceed as previously scheduled.**<sup>60</sup>

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<sup>53</sup> Id. at 67-68.

<sup>54</sup> Id. at 65-67.

<sup>55</sup> Id. at 543-556.

<sup>56</sup> Id. at 69.

<sup>57</sup> *Rollo* (G.R. Nos. 242788-99), pp. 775-800.

<sup>58</sup> Id.

<sup>59</sup> Id. at 49-50.

<sup>60</sup> Id. at 49.





Their Motion for Reconsideration<sup>61</sup> was likewise denied in a Resolution dated 07 August 2018.<sup>62</sup>

*G.R. Nos. 243077-98*

At the Second Division of the Sandiganbayan, Mendez and Reyes also filed a Motion for Summary Dismissal dated 12 March 2018,<sup>63</sup> pleading as grounds thereof: violation of the rule against forum shopping and multiplicity of suits, and lack of jurisdiction.<sup>64</sup>

In a Resolution dated 10 July 2018,<sup>65</sup> the Second Division of the Sandiganbayan denied the Motion, thus:

WHEREFORE, the *Motion for Summary Dismissal* dated February 13, 2018, filed by accused Danilo Cual Mendez and Teodorico Guevara Reyes, through counsel, is hereby denied.<sup>66</sup>

The Second Division of the Sandiganbayan noted that Mendez and Reyes restated the grounds and arguments previously raised in the Urgent Motion to Dismiss and/or Motion to Quash Information earlier filed by Degamo, which they adopted. It found no merit in the similar arguments raised in the Motion for Summary Dismissal, reiterating that the offenses are different from the charges pending before the Third Division of the Sandiganbayan.<sup>67</sup>

Mendez and Reyes filed a Motion for Reconsideration,<sup>68</sup> which was likewise denied in a Resolution dated 21 September 2018.<sup>69</sup>

*G.R. No. 247588*

Meanwhile, Macarambon filed a Manifestation with Motion to Dismiss on 06 February 2019 before the Second Division of the Sandiganbayan.<sup>70</sup> He argued that the charges against him should be dismissed since the admissions and proof sought to be presented by the prosecution show that the evidence is insufficient to hail him to court for trial.

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<sup>61</sup> Id. at 809-826.

<sup>62</sup> Id. at 51.

<sup>63</sup> Id. at 77-90.

<sup>64</sup> Id.

<sup>65</sup> *Rollo* (G.R. Nos. 243077-98), pp. 92-94.

<sup>66</sup> Id. at 94.

<sup>67</sup> Id. at 107-111.

<sup>68</sup> *Rollo* (G.R. Nos. 243077-98), pp.95-105.

<sup>69</sup> Id. at 107-111.

<sup>70</sup> *Rollo* (G.R. No. 287588), pp. 91-102.

On 27 February 2019, the Second Division of the Sandiganbayan issued its Resolution denying Macarambon's Manifestation with Motion to Dismiss on the ground that it is a prohibited motion,<sup>71</sup> to wit:

Acting on the *Manifestation with Motion to Dismiss* dated February 4, 2019, filed by accused Farouk Macarambon, through counsel, praying for the dismissal of these cases on the ground that "The Evidence And The Admissions Of The Prosecution Show That There Is No Evidence Sufficient To Hail Accused Macarambon To Court For Trial", and considering that it is not one of those stated in *Section 3 Rule 117 of the Rules of Court*, the same is a prohibited motion under *A.M. No. 15-06-10-SC* or the *Revised Guidelines For Continuous Trial Of Criminal Cases*.

WHEREFORE, the *Manifestation with Motion to Dismiss* dated February 4, 2014 of accused Farouk Macarambon is hereby denied.<sup>72</sup>

The Second Division of the Sandiganbayan likewise denied Macarambon's Motion for Reconsideration through its Resolution<sup>73</sup> dated 11 April 2019.<sup>74</sup>

Notably, on 29 January 2021, the Third Division of the Sandiganbayan issued a Decision<sup>75</sup> acquitting Degamo, Mendez, and Reyes from the charges of one (1) count of Section 3(e) of RA 3019 and eleven (11) counts of malversation through falsification of public documents.<sup>76</sup>

On 01 June 2021, Degamo, Mendez, and Reyes filed a Manifestation and Motion to Withdraw Petition for *Certiorari* (Motion to Withdraw), praying that their Petition in G.R. No. 242788-99, assailing the denial of the Motion for Leave to File Demurrer to Evidence by the Third Division of the Sandiganbayan, be withdrawn on the ground of mootness.<sup>77</sup>

As reference, summarized below are the details regarding the cases before the Divisions of the Sandiganbayan:

Third Division <sup>78</sup>			
<i>Case Number</i>	<i>Crime Charged</i>	<i>Persons Involved</i>	<i>Subject Matter and Amounts Involved</i>
SB-16-CRM-0467	1 count of violation of Section 3(e) of RA 3019	Degamo, Mendez, and Reyes	Disbursement of a portion of the calamity fund despite withdrawal of SARO - Php 143,268,441.59

<sup>71</sup> Id. at 35.

<sup>72</sup> Id.

<sup>73</sup> Id. at 36.

<sup>74</sup> Id.

<sup>75</sup> Id. at 177-215.

<sup>76</sup> Id.

<sup>77</sup> *Rollo* (G.R. Nos. 242788-99), pp. 896-899.

<sup>78</sup> Id. at 559-594.

SB-16-CRM-0468 to SB-16-CRM-0478	11 counts of malversation through falsification of public documents under Article 217 in relation to Articles 171 and 48 of the RPC	Degamo, Mendez, and Reyes	<p>Making it appear that funds are available despite the withdrawal of the SARO; causing the appropriation and disbursement of the 15% advance payment to the following:</p> <ol style="list-style-type: none"> <li>1. Fiat Construction services - Php 6,671,535.92</li> <li>2. Richmark Construction &amp; Supply - Php 6,741,796.18</li> <li>3. Legazpi Premium Development Corporation - Php 29,970,762.86</li> <li>4. Legazpi Premium Development Corporation - Php 29,972,423.52</li> <li>5. Legazpi Premium Development Corporation - Php 7,279,260.90</li> <li>6. Lim General Contractors Corp. - Php 22,477,057.11</li> <li>7. CTC Builders and Supplies, Inc. - Php 14,985,131.70</li> <li>8. CTC Builders and Supplies, Inc. - Php 7,492,367.07</li> <li>9. Ajan Jaeda Incorporated - Php 14,985,042.11</li> <li>10. Bigfoot Construction and Supply - Php 1,196,913.52</li> <li>11. Bigfoot Construction and Supply - Php 1,496,150.70</li> </ol>
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<b>Second Division<sup>79</sup></b>			
<i>Case Number</i>	<i>Crime Charged</i>	<i>Persons Involved</i>	<i>Subject Matter and Amounts Involved</i>
SB-17-CRM-2423 to SB-17-CRM-2433	11 counts of violation of Section 3(e) of RA 3019	Degamo, Mendez, Reyes, and Alpuerto, together with the contractors	<p>Award of contract and disbursement of 15% advance payment despite withdrawal of release of funds, in conspiracy with the following:</p> <ol style="list-style-type: none"> <li>1. Macarambon, General Manager and Proprietor of Fiat Construction Services - Php 6,671,535.92</li> <li>2. Ricardo F. Abriol Santos, General Manager of Richmark Construction &amp; Supply - Php 6,741,796.18</li> <li>3. Maribel M. Ranola (Ranola), Authorized Managing Officer of Legazpi Premium Development Corporation - Php 29,970,762.86</li> <li>4. Ranola, Authorized Managing Officer of Legazpi Premium Development Corporation - Php 29,972,423.52</li> <li>5. Ranola, Authorized Managing Officer of Legazpi Premium Development Corporation - Php 7,279,260.90</li> <li>6. Alejandro C. Lim, Jr., President of Lim General Power Corporation - Php 22,477,057.11</li> <li>7. Mark Anthony L. Clemente (Clemente), Managing Officer of CTC Builders &amp; Supplies, Inc. - Php 14,985,131.70</li> <li>8. Clemente, Managing</li> </ol>

<sup>79</sup> Rollo (G.R. Nos. 243077-98), pp. 144-213.

			<p>Officer of CTC Builders &amp; Supplies, Inc. - Php 7,492,367.07</p> <p>9. Danny B. Chan, President of Ajan Jaeda, Inc. - Php 14,985,042.11</p> <p>10. Wilfredo P. Chu (Chu), Proprietor of Bigfoot Construction &amp; Supply - Php 1,196,913.52</p> <p>11. Chu, Proprietor of Bigfoot Construction &amp; Supply - Php 1,496,150.70</p>
SB-17-CRM-2434 to SB-17-CRM-2444	11 counts of falsification of a public document under Article 171(4) of the RPC	Mendez and Reyes	<p>Making untruthful statements in the disbursement vouchers for the release of the 15% advance payment to the following:</p> <p>1. Bigfoot Construction &amp; Supply - Php 1,496,150.70</p> <p>2. Bigfoot Construction &amp; Supply - Php 1,196,913.52</p> <p>3. Legazpi Premium Development Corporation - Php 29,972,423.52</p> <p>4. CTC Builders &amp; Supplies, Inc. - Php 7,492,367.07</p> <p>5. CTC Builders &amp; Supplies, Inc. - Php 14,985,131.70</p> <p>6. Lim General Contractor Corporation - Php 22,477,057.11</p> <p>7. Legazpi Premium Development Corporation - Php 7,279,260.90</p> <p>8. Ajan Jeadá Incorporated - Php 14,985,042.11</p> <p>9. Legazpi Premium</p>

			Development Corporation - Php 29,970,762.86
			10. Richmark Construction & Supply - Php 6,741,796.18
			11. Fiat Construction Services - Php 6,671,535.92

### Issues

The issues for resolution in these consolidated cases are as follows:

1. In G.R. Nos. 242175-85, 243077-98, and 247588, whether the criminal charges pending before the Second Division of the Sandiganbayan should be dismissed; and
2. In G.R. Nos. 242788-99, whether the Petition should be allowed to be withdrawn on the ground that it has become moot and academic.<sup>80</sup>

### Ruling of the Court

We grant the Petitions.

For purposes of clarity, we will discuss G.R. Nos. 242175-85, 243077-98, and 247588 together considering the similarity in the issues in these cases.

*G.R. Nos. 242175-85, 243077-98, and 247588*

To reiterate, the grounds raised by Degamo in his Urgent Motion to Dismiss and/or Quash Information in G.R. Nos. 242175-85 are forum shopping and lack of jurisdiction. Notably, this was filed prior to the reception of the prosecution's evidence. Mendez and Reyes similarly invoked these grounds in their Motion for Summary Dismissal in G.R. Nos. 243077-98.<sup>81</sup> Essentially, they raise that their respective Motions should have been granted considering the similarity of the criminal Informations before the Second and Third Divisions of the Sandiganbayan, which they claim will result in multiple prosecutions.

<sup>80</sup> *Rollo* (G.R. Nos. 242175-85), pp. 583-584.

<sup>81</sup> *Rollo* (G.R. Nos. 243077-98), pp. 77-78.

On the other hand, Macarambon in his Manifestation with Motion to Dismiss in G.R. No. 247588, insisted that after a due examination of the admissions and evidence sought to be presented by the prosecution, there is insufficient evidence to hail him to court for trial. It also bears stressing that Macarambon filed his Motion after the pre-trial proceedings before the Second Division of the Sandiganbayan.

A perusal of the Informations filed before both Divisions would reveal the following:

1. The charges for Section 3(e), RA 3019 are based on the allegation that petitioners acted through evident bad faith, manifest partiality and/or gross inexcusable negligence in disbursing the Calamity Fund despite withdrawal of the SARO by the DBM. The difference lies in the amounts, as the total of Php143,268,441.59 was indicated in the single Information filed before the Third Division, which was split into eleven (11) Informations before the Second Division based on the amount of each contract/ project awarded. Thus, the individual contractors (including Macarambon) were likewise charged before the Second Division.
2. As to the eleven (11) counts of falsification before the Second Division and eleven (11) counts of malversation through falsification before the Third Division, although in the latter there was an added assertion that petitioners appropriated/ permitted another to appropriate the funds, both were based on the charge that petitioners made it appear there were funds available to disburse, when in truth and in fact the SARO was already withdrawn.

While it appears that the prosecution has yet to proceed with the presentation of its evidence when the respective Motions of petitioners were filed, We note that the similarity of the Informations filed before both Divisions is apparent on their face. It is undeniable that the courts will consider substantially the same evidence such that there is the possibility of different interpretations.<sup>82</sup> Hence, although the instant case involves criminal proceedings, the rules against forum shopping may be applied by analogy to warrant the dismissal of the charges, for purposes of avoiding the possibility of two (2) competent tribunals rendering conflicting decisions.<sup>83</sup>

In any case, the dismissal of the pending charges against petitioners is warranted on the ground of double jeopardy.

In order for double jeopardy to attach, the following elements must concur: “(1) a valid information sufficient in form and substance to sustain a

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<sup>82</sup> *Philippine College of Criminology, Inc. v. Bautista*, G.R. No. 242486, 10 June 2020.

<sup>83</sup> See *Spouses Aguilar v. Manila Banking Corp.*, 533 Phil. 645, 664 (2006).

conviction of the crime charged; (2) a court of competent jurisdiction; (3) the accused has been arraigned and had pleaded; and (4) the accused was convicted or acquitted or the case was dismissed without his express consent.”<sup>84</sup>

As raised by petitioners Degamo, Mendez, and Reyes, they have already been acquitted in the proceedings before the Third Division of the Sandiganbayan, after a finding that they acted in good faith and there was no manifest partiality, evident bad faith, or gross inexcusable negligence on their part. Accordingly, the dismissal of the charges against Macarambon should likewise follow, on the basis that his alleged liability is merely based on the supposed illegal acts of petitioners Degamo, Mendez, and Reyes.

Since the previously mentioned requisites for the attachment of double jeopardy are present, the charges pending before the Second Division of the Sandiganbayan should be dismissed.

*G.R. Nos. 242788-99*

Considering the acquittal by the Third Division of Sandiganbayan of petitioners Degamo, Mendez, and Reyes from the charges of Section 3(e) of RA 3019 and malversation through falsification, the issues raised in their petition for *certiorari* have been rendered moot and academic.

It is established that a case becomes moot and academic when, due to supervening events, the conflicting issue which may be resolved by the court no longer exists.<sup>85</sup> In such case, the court would generally decline jurisdiction or dismiss it on the ground of mootness, as resolving the issue may no longer provide any practical value.<sup>86</sup>

Here, petitioners questioned the denial of the Motion for Leave to File a Demurrer to Evidence through their petition for *certiorari*. Even as the petition prays that they be allowed to file a Demurrer to Evidence, the ultimate relief petitioners seeks is the dismissal of the charges against them.

Be that as it may, resolving the issue of whether the Third Division of Sandiganbayan acted with grave abuse of discretion no longer serves any practical value in light of the acquittal of petitioners Degamo, Reyes, and Mendez. While jurisprudence provides instances when courts may still

<sup>84</sup> *Chiok v. People*, 774 Phil. 230, 247-248 (2015).

<sup>85</sup> See *Republic v. Moldex Realty, Inc.*, 780 Phil. 553, 561 (2016), citing *Province of Batangas v. Romulo*, 473 Phil. 806, 827 (2004); see also *Sanlakas v. Executive Secretary*, 466 Phil. 482, 505-506 (2004).

<sup>86</sup> See *David v. Macapagal-Arroyo*, 522 Phil. 705, 752-755 (2006); see also *Lu v. Lu Ym*, 585 Phil. 251, 269-272 (2008).



assume jurisdiction and decide cases which have become moot and academic,<sup>87</sup> none of these instances apply in this present case.

Hence, the petition for *certiorari* in G.R. Nos. 242788-99 should be allowed to be withdrawn on the ground of mootness.

**WHEREFORE**, premises considered, this Court:

1. In G.R. Nos. 242175-85, **GRANTS** the Petition, and hereby declares the Resolutions dated 12 July 2018 and 06 August 2018 of the Sandiganbayan in Crim Cases Nos. SB-17-CRM-2423 to SB-17-CRM-2433 **REVERSED** and **SET ASIDE**;
2. In G.R. Nos. 242788-99, **GRANTS** the Manifestation and Motion to Withdraw Petition for *Certiorari*. The Petition for *Certiorari* is hereby deemed **WITHDRAWN** and the case is considered **CLOSED** and **TERMINATED**;
3. In G.R. Nos. 243077-98, **GRANTS** the Petition and hereby declares the Resolutions dated 10 July 2018 and 21 September 2018 of the Sandiganbayan in Crim Cases Nos. SB-17-CRM-2423 to SB-17-CRM-2444 **REVERSED** and **SET ASIDE**;
4. In G.R. No. 247588, **GRANTS** the Petition and hereby declares the Resolutions dated 27 February 2019 and 11 April 2019 of the Sandiganbayan in Crim Case No. SB-17-CRM-2423 **REVERSED** and **SET ASIDE**.

Accordingly, We hereby **DISMISS** the Informations for eleven (11) counts of violation of Section 3(e) of Republic Act No. 3019 in SB-17-CRM-2423 to SB-17-CRM-2433 and eleven (11) counts of falsification punishable under Article 171(4) of the Revised Penal Code in SB-17-CRM-2434 to SB-17-CRM-2444 pending with the Second Division of Sandiganbayan on the ground of double jeopardy.


The Letter dated June 4, 2021 of petitioner Teodorico Reyes, requesting for complete copies of the case which will be used for his personal files, and authorizing Mr. Jobeth Elizalde to process and transact with the office, as well as to collect any documents on his behalf, is **NOTED**; and the authorized representative of petitioner Teodorico Reyes is directed to **COORDINATE** with the Division Clerk of Court, this Court, regarding the request and after payment of the necessary fees.

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<sup>87</sup> See *David v. Macapagal-Arroyo*, id.; see also *Lu v. Lu Ym*, id.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

**275 & 383**  
**MAR 27 2023**

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