

ORIGINAL
FILED BY: Malinda A.
DATE: Sept. 18, 2011

Republic of the Philippines
SUPREME COURT
Manila

EN BANC

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

- versus -

G.R. No. 219162
For: Certiorari under Rule 65
(Consolidated with G.R. No. 218266;
G.R. No. 218232; G.R. No. 218235;
and G.R. No. 218903)

**SANDIGANBAYAN (FIRST
DIVISION) AND PEOPLE OF THE
PHILIPPINES,**

Respondents.

X-----X

COMMENT

(On the Petition for *Certiorari* under
Rule 65 of the Revised Rules of Court)

The PEOPLE OF THE PHILIPPINES, represented by the Office of the Ombudsman, through the Office of the Special Prosecutor, unto this Honorable Court, most respectfully states:

1. Petitioner Ramon "Bong" B. Revilla, Jr., accused of plunder in Criminal Case No. SB-14-CRM-0240, seeks the corrective hand of *certiorari* to annul and set aside the *Writ of Preliminary Attachment* (writ) issued by the Honorable Sandiganbayan's First Division (respondent court) in the course of the proceedings in the said plunder case, thus:

- (a) In the *Resolution* promulgated on 5 February 2015, respondent court found the prosecution's *Ex-Parte Motion for Issuance of Writ of Preliminary Attachment/Garnishment* to be impressed with merit, granted the same and directed the court's Sheriff to attach so much of petitioner's property as is equivalent to the amount alleged to have been plundered, at PhP224,512,500.00.

- (b) The subsequent *Resolution* promulgated on 28 May 2015 denied petitioner's *Motion for Reconsideration* and reiterated that the prosecution's *ex-parte* motion was sufficient in form and substance to warrant the issuance of the writ.

THE ANTECEDENTS

2. The Office of the Ombudsman accused petitioner Revilla, Jr., Richard A. Cambe, Janet Lim Napoles, Ronald John B. Lim and John Raymund de Asis of the crime of plunder, defined and penalized under Republic Act No. (RA) 7080, otherwise known as "An Act Defining and Penalizing the Crime of Plunder." On 6 June 2014, it filed an Information before the Sandiganbayan, alleging that –

In 2006 to 2010, or thereabout, in the Philippines, and within this Honorable Court's jurisdiction, above-named accused RAMON B. REVILLA, JR., then a Philippine Senator, and RICHARD A. CAMBE, then Director III at the office of Sen. 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 LIM and JOHN RAYMUND DE ASIS, did then and there wilfully, 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 (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;
- 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.

CONTRARY TO LAW.

3. The Information was docketed as Criminal Case No. SB-14-CRM-0240 and raffled off to the First Division of the Sandiganbayan.

4. To protect and secure its claim in the amount of PhP224,512,500.00, the prosecution filed, on 27 October 2014, an *Ex-Parte Motion for Issuance of Writ of Preliminary Attachment/Garnishment* dated 26 October 2014, praying that a writ of preliminary attachment and/or garnishment be issued against the monies and properties owned by Ramon "Bong" Bautista Revilla, Jr., including bank deposits, shares of stock and other financial instruments. The details of these monies and properties were listed in Annex B of the prosecution's motion.

5. On 22 January 2015, respondent court issued a *Resolution*, directing petitioner to file his comment and/or opposition to the prosecution's ex-parte motion, which opposition had already been interposed.¹ The issues having been joined, respondent court promulgated the first assailed *Resolution* on 5 February 2015 and granted the prosecution's motion on findings that the same was impressed with merit and sufficient in both form and substance. On the same day, respondent court issued a *Writ of Attachment* directed to the Acting Chief, Sheriff and Security Services of the Sandiganbayan, containing the following dispositive portion:

WHEREFORE, BY VIRTUE THEREOF, YOU are hereby ordered to secure and attach so much of the properties of accused Ramon "Bong" Bautista Revilla, Jr. in the Philippines, not exempt from execution, as may be sufficient to satisfy the applicant's demand in an amount not exceeding P224,512,500.00 in value, and to make the appropriate return of this writ, enclosing therewith your full report on the proceedings in implementation thereof, within sixty (60) days from receipt.

6. Subsequently, the prosecution filed a *Manifestation with Motion* dated 30 March 2015, seeking the amendment of the respondent court's 5 February 2015 *Resolution* to also include in the writ, the properties under the known aliases or other names of Revilla and his spouse, Lani Mercado.

7. After careful consideration, respondent court granted the prosecution's amendatory motion in a *Resolution* promulgated on 10 July 2015. On even date, an *Alias Writ of Preliminary Attachment* directed the court's Acting Chief of the Sheriff and Security Services, as follows:

¹ See *Opposition (to the Prosecution's Ex-Parte Motion for Issuance of Writ of Preliminary Attachment/Garnishment dated October 26, 2015)* dated 14 November 2014.

WHEREFORE, BY VIRTUE THEREOF, YOU are hereby ordered to secure and attach so much of the properties of accused Ramon “Bong” Bautista Revilla, Jr. in the Philippines, or under his other names, to wit: *Revilla, Jr. Ramon Bong, Jose Marie M. Bautista, Jose Marie Mortel Bautista, Ramon Bong Jr. Bautista, Ramon Bong Bautista and Bautista Jose Marie*, or under any of these names with his wife *Mercado Lani Hernandez or Bautista Jesus Victoria, or Jesusa Victoria H. Bautista or Lani Mercado Revilla*, not exempt from execution, as may be sufficient to satisfy the applicant’s demand in an amount not exceeding P224,512,500.00.

8. In the meantime, on 9 February 2015, petitioner Revilla filed a *Motion for Reconsideration*² of the 5 February 2015 *Resolution* on grounds that: (a) the prosecution failed to comply with the Rules of Court in applying for the writ; (b) the issuance of the writ is premature; (c) there is neither legal nor factual basis for the issuance of the writ; and (d) the issuance of the writ only as against petitioner violates his right to equal protection. The prosecution filed his opposition, to which petitioner replied.³ In its *Resolution* promulgated on 28 May 2015, respondent court denied the *Motion for Reconsideration* and affirmed the sufficiency in both form and substance of the prosecution’s *ex-parte* motion.

9. Petitioner now invokes Rule 65 of the Revised Rules of Court and charges respondent court of having acted with grave abuse of discretion amounting to lack or excess of jurisdiction in granting the prosecution’s *ex-parte* motion and denying his motion for reconsideration. He reiterates the same arguments already passed upon by respondent court and claims anew that:

- a) the issuance of the assailed writ is erroneous and premature considering that 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 right 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.

² Annex G of the *Petition*.

³ Annex I of the *Petition*.

10. By way of comment, and in compliance with this Honorable Court's *Resolution* dated 4 August 2015,⁴ the People submit that:

- a) the issuance of a writ of preliminary attachment, being an ancillary remedy, cannot be considered as premature; neither can it be viewed as a judgment on the merits; and
- b) there are legal and factual bases for the issuance of a writ of preliminary attachment.

DISCUSSION

The issuance of a writ of preliminary attachment, being an ancillary remedy, cannot be considered as premature; neither can it be viewed as a judgment on the merits.

11. Petitioner insists that the issuance of a writ of preliminary attachment is premature as there should first be a declaration from the court that his monies, assets and properties are "ill-gotten." He argues that the crime of plunder is considered as *sui generis* in exacting civil liability *vis-à-vis* the need to first prove beyond reasonable doubt the amassing, accumulation or acquisition of ill-gotten wealth through such predicate crimes as bribery, misappropriation and malversation, among others.

12. This argument is erroneous.

13. Rule 57, Section 1 of the Rules of Court provides the grounds upon which the remedy of attachment may issue, thus:

x x x At the commencement of the action or at any time before entry of judgment, a plaintiff or any proper party may have the property of the adverse party attached as security for the satisfaction of any judgment that may be recovered in the following cases:

xxx xxx xxx

(b) In an action for money or property embezzled or fraudulently misapplied or converted to his own use by a public officer, or an officer of a corporation, or an 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;

⁴ The OSP received a copy of the 4 August 2015 *Resolution* on 7 August 2015. Subsequently, it filed two (2) motions for extension of time, totalling forty (40) days or until 26 September 2015, within which to comply.

(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; [Emphasis supplied]

14. Relatedly, Rule 127, Section 2(b) and (c) of the same Rules makes a writ of preliminary attachment available in situations where an accused has converted or misappropriated public funds or has concealed, removed or disposed of his property, or is about to do so. As provided therein,

SECTION 1. *Availability of provisional remedies.* — 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.

SECTION 2. *Attachment.* — 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:

xxx xxx xxx

(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**; x x x (Emphasis ours)

15. The procedural rules above-quoted apply when the civil action is instituted in the same criminal action, as is the situation in petitioner's plunder case. Accordingly, a writ of preliminary attachment may be sought at the commencement of the action or at any time before entry of the judgment in the criminal case, the only other condition being that the application for the writ should contemplate the instances specifically enumerated in the said rules. Contrary to petitioner's stance, there is nothing in the procedures and the rules which even intimates that an applicant is required to await the decision in the principal case before a writ of attachment may be availed of.

16. It needs emphasizing that the issuance of a writ of attachment is an ancillary remedy. It is not sought for its own sake but rather to enable the attaching party to realize upon the relief sought and expected to be granted in the main or principal action.⁵ Being an ancillary or auxiliary remedy, 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 therein pending rendition, and for purposes of the ultimate effects, of a final judgment in the case. They are provisional because they constitute temporary measures availed of during the pendency of the action and they are ancillary because they are mere incidents in and are dependent upon the result of the main action.⁶

17. Clearly, the issuance of the assailed writ cannot be considered as premature; neither can it be viewed as a judgment on the merits, as it is merely a provisional and ancillary remedy to preserve the *status quo* until the merits of the case can be heard. The hearing, if any, on the application for the issuance of a writ of preliminary attachment is separate and distinct from the trial on the merits of the main case. Even the quantum of evidence required for one is different from the other, so that it does not necessarily follow that if the court grants and issues the temporary writ applied for, the same court will now have to rule in favor of the applicant of the writ, which in this case, is the People of the Philippines.

18. In *BASECO vs. PCGG*,⁷ the Supreme Court had occasion to discuss the reasons for the issuance of this conservatory writ, including:

x x x the obvious need to avoid alerting suspected possessors of “ill-gotten wealth” and thereby cause the disappearance or loss of property precisely sought to be prevented, and the fact, just as self-evident, that “any transfer, disposition, concealment or disappearance of said assets and properties would frustrate, obstruct or hamper the efforts of the Government” at the just recovery thereof.

19. As to petitioner’s argument that the preliminary attachment of his properties constitutes an outright forfeiture and confiscation thereof even prior to any verdict of conviction, in violation of the Plunder Law, the same cannot likewise hold water.

20. The issuance of a writ of preliminary attachment provided under Rule 127 of the Rules of Court should not be equated with the forfeiture provision under Section 2 of RA 7080. While Section 2 of RA

⁵ *BAC Manufacturing and Sales Corporation v. Court of Appeals*, G.R. No. 96784, 2 August 1991, citing *Sievert vs. Court of Appeals, et al.*, 168 SCRA 692.

⁶ Regalado, *REMEDIAL LAW COMPENDIUM*, Vol. 1 (8th Ed.), p. 616]. (*Underscoring ours*)

⁷ G.R. No. 75885, 27 May 1987.

7080 provides that “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,” there is nothing in said law which limits the civil liability of the accused only to the ill-gotten wealth that may be recovered by the State. As aptly explained by respondent court in its assailed *Resolution* of 28 May 2015:

If at all, the forfeiture provided under Section 2, R.A. 7080 may be likened to the provision of Article 45 of the Revised Penal Code which provides that “*every penalty imposed for the commission of a felony shall carry with it the forfeiture of the proceeds of the crime and the instrument or tools with which it was committed.*” Thus, in addition to the forfeiture of the “proceeds of the crime and the instruments or tools with which it was committed,” civil liability, consisting of restitution, reparation of damage caused and indemnification for consequential damages, is still allowed to be recovered from the accused. In the same token, in addition to the forfeiture of the ill-gotten wealth of the accused in favor of the State under Section 2 of R.A. 7080 (which can be considered as “proceeds of the crime and the instruments or tools with which it was committed”), recovery of civil liability arising from the commission of the offense is still allowed, especially so when the ill-gotten wealth that may be found in the possession of the accused upon conviction is much less than the amount of civil liability that may be established by the prosecution. It is in this light that the writ of preliminary attachment is allowed to be issued in a prosecution for plunder.

There are legal and factual bases for the issuance of a writ of preliminary attachment.

21. Petitioner also contends that there is no legal and factual basis for the issuance of the writ of preliminary attachment against his properties as it was based on the prosecution’s bare allegations and without any hearing having been conducted to require the prosecution to substantiate the allegations in its application for a writ of preliminary attachment. He further asserts that the assailed *Resolution* is unjust and grossly prejudicial to him because the prosecution merely submitted a bare list of properties supposedly owned by him, which list includes properties which were not proven to be in his name. In seeming indignation, he successively protests – in his *Opposition*, *Motion for Reconsideration* and petition – what he perceives to be a violation of his right due process, to the equal protection of the laws, and back to the due process of law, respectively.

22. By any standard, petitioner Revilla is not an ordinary person. He has the means and capacity to conceal, remove or dispose of the monies and properties he is charged of having unlawfully acquired. It may be well to remember that the petitioner has repeatedly abused and circumvented the ordinary processes of the Priority Development Assistance Fund (PDAF) to cloak with a mystique of legality the nefarious scheme he and his co-accused perpetuated to deplete the public treasury and luxuriate in the proceeds of the public monies which they considered their own. It is, thus, quite logical to believe that he will likewise abuse the judicial and legal processes to conceal or dispose any part of his unlawfully acquired wealth. A writ of preliminary attachment would purposely prevent any machination or trickery that petitioner and his agents may concoct, to cause the dissipation of his unlawfully-obtained wealth.

23. To reiterate, there is *prima facie*⁸ evidence showing that much of petitioner's wealth is ill-gotten, the same having been sourced from public money amassed, accumulated or acquired from bribes, commissions and kickbacks amounting to PhP224M of his PhP515M PDAF projects. Such PhP224M wealth, which appears to be *prima facie* ill-gotten, has to be preserved, pending final determination of the legality thereof, including any purchased property sourced from such money.

24. Based on the ledger of Benhur Luy, which was presented and testified on during the bail hearings in the plunder case, the prosecution has shown that for the period 2006-2010, petitioner Revilla received the total amount of PhP224,512,500.00 as his advance fee, commission, kickback and/or bribe, which amount is a conservative determination of the ill-gotten wealth that petitioner amassed, acquired and/or accumulated in the disbursements of his PDAF allocation.

25. Petitioner Revilla took advantage of his position as a Senator to receive shares, commissions, advances, kickbacks or bribes amounting to the said amount of PhP224,512,500.00 for endorsing the non-government organizations (NGOs) of co-plunderer Janet Lim Napoles in the implementation of fictitious projects funded by his PDAF worth PhP515,740,000.00.

⁸ As defined in H. Black, et al., Black's Law Dictionary 1190, 6th ed., 1990: Evidence good and sufficient on its face. Such evidence as, in the judgement of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient. Evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgement in favor of the issue it supports, but which may be contradicted by other evidence.

26. Petitioner 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 allocation, through the implementation of “ghost” projects. The salient finding of the Anti-Money Laundering Council (AMLC) in its financial forensic investigation report, which observed petitioner and his family’s bank transactions from 2006 to 2010, indicated that petitioner Revilla received kickbacks from the pork barrel funds he directed to the bogus foundations controlled by Janet Lim Napoles. The report likewise showed the discrepancies in petitioner’s official cash and other asset declarations that could indicate “concealment of unexplained wealth.”

27. Thus, contrary to petitioner’s claim, there exist legal and factual bases for the valid issuance of a writ of preliminary attachment in the plunder case.

28. The circumstances earlier described give rise to a compelling and overriding need for the State to preserve and prevent any dissipation of petitioner’s *prima facie* ill-gotten wealth pending litigation. In the first place, the issuance of the writ of preliminary attachment clearly falls within the ambit of Rule 57, Section 1 and Rule 127, Section 2(b) and (c) of the Rules of Court.

29. Additionally, the issuance of the writ of preliminary attachment is based on the following uncontroverted facts:

- (a) that Revilla is charged with Plunder in amassing public money for his own use or has acquired ill-gotten wealth in the amount of at least PhP224,512,500.00;
- (b) that he has concealed, removed or disposed of public money that he unjustly took, misappropriated or disposed of, and has the capacity and means to conceal, remove or dispose of any other public money he has unlawfully taken, misappropriated or disposed of;
- (c) that he has properties, real and personal, within the Philippines, including bank deposits and financial instruments;
- (d) that the amount due the State in the event the respondent court will order the forfeiture of the public monies alleged to have been illegally amassed by petitioner is at least PhP224,512,500.00;

- (e) that there is no other sufficient security for the claim sought to be enforced; and
- (f) that plaintiff People of the Philippines is exempted from posting the requisite bond to answer for all costs which may be adjudged to the accused and all damages which accused may sustain by reason of the attachment prayed for, if it shall be finally adjudged that plaintiff is not entitled thereto.

30. It is worthy to point out that in the course of the conduct of their financial investigation, the Anti-Money Laundering Council Secretariat (AMLCS) found that petitioner Revilla closed and terminated his investments and bank accounts immediately before and after the pork barrel scandal circulated in the media.⁹ This fact was never refuted by the defense, except for the allegation that petitioner's statements to the media – that he indeed closed his bank accounts at the time when the pork barrel scam was exposed – does not suffice as proof. Notwithstanding such negation, petitioner Revilla's act of closing and terminating his said investments and bank accounts – as found by the AMLCS – indubitably establishes that he has "concealed, removed or disposed of his property."

31. While petitioner Revilla assails, for allegedly being hearsay and therefore unreliable, the Inquiry Report¹⁰ on his bank accounts which was prepared by the AMLCS, it is important to point out that this report was prepared by a team of financial investigators/bank officers in the course of the performance of their duties to inquire into bank accounts and determine whether the proceeds of these accounts have been used for any illegal or unlawful activity. No less than RA 9160,¹¹ as amended mandates these duties. The documents and reports which AMLCS examined in the performance of its mandate were submitted by banks or banking institutions by virtue of an order issued by the Court of Appeals, allowing such inquiry or disclosure. Banks, by the nature of their business, are obliged to exercise the highest degree of diligence as well as high standards of integrity and performance in all transactions because their business is imbued with public interest.¹² Having been prepared in the ordinary course of business by institutions in which the highest degree of diligence is required, the documents and reports gathered, reviewed and analyzed by the AMLCS are entitled to full faith and credit. Any other construal would render the provisions of RA 9160 wholly inutile, specifically if the report cannot be used for the prosecution of the predicate crime in a plunder case or unlawful activity and money laundering.

⁹ Inquiry Report on the Bank Transactions Related to the Alleged Involvement of Sen. Ramon B. Bong Revilla Jr. in the PDAF Scam dated September 16, 2014 (Exh. Z³); page 58 to 59.

¹⁰ *Ibid.*

¹¹ Entitled "An Act Defining the Crime of Money Laundering, Providing Penalties Therefor and for Other Purposes," as amended by RA 9194 and RA 10167.

¹² See *ComSavings Bank vs. Capistrano*, G.R. No. 170942, August 28, 2013.

32. Petitioner next claims that the prosecution contradicted itself by claiming that he (Revilla) has no other sufficient security for the government's claim against him and at the same time, attaching as Annex B of its *Ex Parte Motion for the Issuance of a Preliminary Attachment/Garnishment*" a long list of properties supposedly owned by him. This is a misleading assertion and an uninformed understanding of the prosecution's position. What the prosecution, in fact, stated in its *ex parte* motion is that, other than the bank deposits and the properties described in Annex B of its motion, Revilla has no visible sufficient security for the claim of the State against him in the event that judgment will be rendered against him and the amount of PhP224,512,500.00 accumulated by him to be ill-gotten becomes forfeitable in favor of the State.

33. As for Revilla's argument that the list of properties submitted by the prosecution includes properties which were not proven to be in his name, it must be emphasized that the properties listed in Annex B of the prosecution's *Ex Parte Motion* were culled from official and public records, including Revilla's Statement of Assets, Liabilities and Networth (SALN) as well as bank records obtained by the AMLCS in the course of their financial investigation in connection with the plunder case.

34. On Revilla's assertion that the writ of preliminary of attachment against his properties was issued without any hearing having been conducted to require the prosecution to substantiate the allegations in its application for a writ of preliminary attachment, it is sufficient to point out that under Section 2 of Rule 57 of the Rules of Court, notice and hearing are not indispensable and mandatory requisites for the issuance of the writ. The rationale behind this is the "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, and the fact, just as self-evident, that 'any transfer, disposition, concealment or disappearance of said assets and properties would frustrate, obstruct or hamper the efforts of the Government' at the just recovery thereof."¹³

35. At any rate, the records will reflect that petitioner Revilla was given by respondent court the opportunity to file his comment on the prosecution's *Ex-Parte Motion for Issuance of Writ of Preliminary Attachment/Garnishment*. As the records will show, he, in fact, filed an *Opposition (to the Prosecution's Ex-Parte Motion for Issuance of Writ of Preliminary Attachment/Garnishment dated October 26, 2014)* dated 14 November 2014.

¹³ *BASECO vs. PCGG*, G.R. No. 75885, 27 May 1987.

36. Finally, inasmuch as a writ of preliminary attachment may be issued without hearing, it is also relevant to point out that the court before whom the application is made has full discretion in considering the supporting evidence proffered by the applicant. In dealing with the affidavit of merit attached to such an application, the court is empowered to decide whether or not the allegations therein should be given credit. As enunciated in *Antonio Toledo vs. Jose P. Burgos, et al.*,¹⁴ "the sufficiency or insufficiency of an affidavit depends upon the amount of credit given to it by the judge, and its acceptance or rejection upon his sound discretion." In this case, respondent court properly exercised its discretion in accepting the affidavit of merit as one of the pieces of evidence of the prosecution – the others being those that have already been discussed – sufficient to support the application for, and issuance of, the writ of preliminary attachment.

37. All told, there is nothing in the instant petition which points to any error or even grave abuse of discretion on the part of the Honorable Sandiganbayan which would warrant a reversal or modification of the assailed *Resolutions* promulgated on 5 February 2015 and 28 May 2015 in the plunder case docketed as Criminal Case No. SB-14-CRM-0240.

PRAYER

WHEREFORE, PREMISES CONSIDERED, it is respectfully prayed that the instant petition be **DISMISSED** for utter lack of merit.


Other reliefs just and equitable under the premises are likewise prayed for.


Quezon City, Philippines, 17 September 2015.


OFFICE OF THE SPECIAL PROSECUTOR
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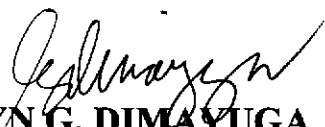
By:

¹⁴ G.R. No. 75466, 19 December 1988.


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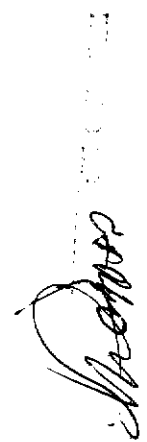

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2015 SEP 17 AM 3:30

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EXPLANATION

Pursuant to Section 11, Rule 13 of the 1997 Revised Rules of Civil Procedure, copy of this *Comment* is being served upon the parties, except the Sandiganbayan, by registered mail in view of the distance and lack of manpower to personally serve the same.


JANET LEAH M. RAMOS

REGISTRY RECEIPT

Atty. Ramon S. Esguerra, et al. (123)

Post Office _____

Letter/Package No. _____

Posted on **17 SEP 2015**

Preserve this receipt for reference in case of inquiry

GR No. 219162 Comment

Ken'ia

OSC

Post Office _____

Letter/Package No. _____

Posted on **17 SEP 2015**

Preserve this receipt for reference in case of inquiry

GR No. 219162 Comment

Ken'ia

Postmaster/Teller