

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
MANILA

En Banc

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

- versus -

G.R. No. 218232, 218235, 218266,
218903 and 219162
(SB-14-CRM-0240)

SANDIGANBAYAN, FIRST For: Certiorari under Rule 65
DIVISION, and PEOPLE OF THE of the Rules of Court
PHILIPPINES,

Respondents.

x-----x

MOTION FOR LEAVE TO ADMIT REPLY

Petitioner RAMON "BONG" B. REVILLA, JR. (the "petitioner"),
by counsel, respectfully states:

1. On 16 September 2015, petitioner received a copy of respondent's "Consolidated Comment" dated 10 September 2015 (the "Comment"). The respondent's Comment, however, raises misleading allegations and arguments which need to be controverted to properly apprise this Honorable Court of the accurate facts and legal premises to be considered in the resolution of his Petition dated 1 June 2015.

2. In the interest of justice, petitioner hereby respectfully beseeches this Honorable Court for leave to admit the attached Reply dated 24 September 2015 (the "Reply") in the above case. An examination of petitioner's Reply readily shows that it raises

substantial and meritorious arguments to refute the allegations in the Comment, which would warrant the admission of petitioner to bail.

RELIEF

WHEREFORE, petitioner Ramon "Bong" B. Revilla, Jr. most respectfully prays that this Honorable Court admit the attached Reply dated 24 September 2015 and take the same into consideration in the resolution of his Petition dated 1 June 2015.

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

Makati City for the City of Manila, 6 October 2015.

ESGUERRA & BLANCO

Counsel for Petitioner

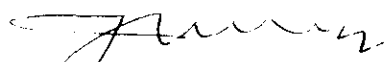
4th and 5th Floors, S & L Building

Dela Rosa cor. Esteban Streets,

Legaspi Village, Makati City

Tel. Nos. 8403413 to 15; Fax No. 8138185

By:



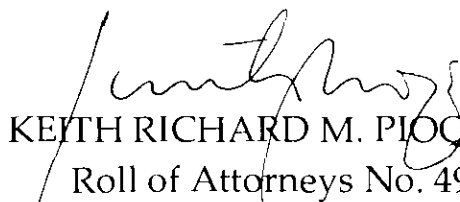
RAMON S. ESGUERRA

Roll of Attorneys No. 30183

PTR No. 4756456/1-9-15/Makati City

IBP No. 09520-Life/1-7-11/Cavite Chapter

MCLE Compliance No. IV-0011387/1-10-13




KEITH RICHARD M. PIOQUINTO

Roll of Attorneys No. 49344

PTR No. 4756464/1-9-15/Makati City

IBP No. 09744-Life/2-22-11/Makati City

MCLE Compliance No. IV-0000475/9-8-10


REODY ANTHONY M. BALISI
Roll of Attorneys No. 59672
PTR No. 4756458/1-9-15/Makati City
IBP No. 0987337/1-7-15/Quezon City Chapter
MCLE Compliance No. IV-0013443/3-07-13

Copy Furnished:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St. Legaspi Village, Makati City

HON. SANDIGANBAYAN, FIRST DIVISION
Sandiganbayan Building, Commonwealth Avenue
Quezon City

OFFICE OF THE SPECIAL PROSECUTOR
5th Floor Sandiganbayan Building
Commonwealth Avenue, Quezon City

ANCHETA & ASSOCIATES
Counsel for Atty. Richard A. Cambe
Suite 604, Park Trade Center
1716 Investment Drive, Madrigal Business Park
Ayala Alabang, Muntinlupa City

DAVID CUI-DAVID BUENAVENTURA
& ANG LAW OFFICES
Counsel for Janet Lim Napoles, et.al.
Suite 1905-A, Philippine Stock Exchange Centre
West Tower, Ortigas Center, Pasig City

REPUBLIC OF THE PHILIPPINES)
MAKATI CITY) S.S.

WRITTEN EXPLANATION AND
AFFIDAVIT OF SERVICE

The undersigned messengerial staff of ESGUERRA & BLANCO LAW OFFICES, with office address at 4th Floor, S & L Building, dela Rosa corner Esteban Streets, Legaspi Village, Makati City, hereby states under oath:

1. I am assigned to deliver, serve and file papers, pleadings and other documents for the above law office. However, considering the number of pleadings and other papers which require personal delivery, it is impracticable for the affiant to serve and file them all by hand.

2. Upon instruction of Atty. Reody Anthony M. Balisi, affiant served today the pleading described below:

Pleading: MOTION FOR LEAVE TO ADMIT REPLY
re/attached REPLY dtd Oct. 2015.
Case Title: Ramon "Bong" Revilla, Jr. vs Sandiganbayan, 1st Div., and
Civil Case No.: G.R. No. 218232, 21835, et al. People of the Phil.
Venue: Supreme Court - Manila En Banc

3. The pleading described above was served personally or by registered mail to:

Name and Address

Personal Delivery

1. Supreme Court - Mla. En Banc


by Registered Mail

Registry Receipt No.

- 1. Office of the Solicitor General
- 2. Hon. Sandiganbaya 1st Div.
- 3. Office of the Special Prosecutor
- 4. Ancheta & Associates
- 5. David Cui-David Buenaventura
& Ang Law Offices

(Please see attached list for additional parties)

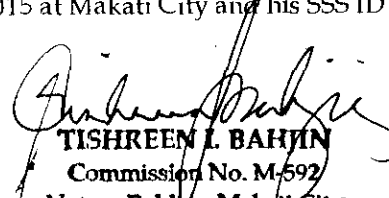
4. The registry receipts issued by the mailing office are attached to the original pleading on file with this court.

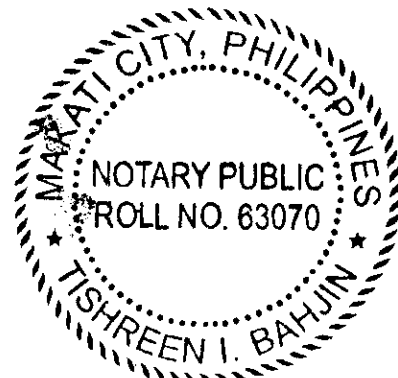

Jonathan B. Hermosa
Affiant's Name and Signature

OCT 14 2015

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2015 at Makati City, affiant, who is personally known to me, and has satisfactorily proven to me his identity through competent evidence, exhibiting his Community Tax Certificate No. 02468097 issued on 17 February 2015 at Makati City and his SSS ID No. 03-9476966-2.

Doc. No. 1061;
Page No. 7;
Book No. ///;
Series of 2015.


TISHREEN I. BAHJIN
Commission No. M-592
Notary Public - Makati City
Until December 31, 2015
Esguerra & Blanco Law Offices
4th & 5th Floors, S&L Building, De La Rosa corner
Esteban Sts., Legaspi Village, Makati City 1229
PTR No. 4756467/1-9-15/Makati City
IBP No. 098742/1-7-15/Quezon City Chapter
Roll No. 63070



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
MANILA

En Banc

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

- versus -

G.R. Nos. 218232, 218235,
218266, 218903 and 219162

SANDIGANBAYAN, FIRST
DIVISION, and PEOPLE OF THE
PHILIPPINES,

Respondents.

x ----- x

REPLY
(To Respondent's Consolidated Comment
dated 10 September 2015)

Petitioner RAMON "BONG" B. REVILLA, JR. ("petitioner"), by counsel, respectfully states:

1. In its Consolidated Comment dated 10 September 2015 (the "Comment"), respondent People of the Philippines, through the Ombudsman (the "respondent"), argues that: (a) respondent Sandiganbayan correctly denied bail to petitioner, Atty. Richard Cambe ("Atty. Cambe") and Janet Lim Napoles ("Napoles"), as the prosecution was able to establish "proof evident" of their guilt; (b) the case of *Montano v. Ocampo*¹ was erroneously invoked by petitioner; (c) the Sandiganbayan correctly held that the evidence presented during the bail hearings duly established criminal conspiracy among petitioner, Atty. Cambe and Napoles; and (d) the Sandiganbayan correctly gave credence to the testimonies of the prosecution witnesses and the evidence they testified on.

¹ G.R. No. L-6352, 29 January 1953; 49 O.G. 1855.

2. Respondent's arguments are erroneous and misleading.

There is no clear, strong and categorical proof that petitioner amassed, accumulated and acquired ill-gotten wealth of at least P50,000,000.00.

3. From respondent's own definition, to "amass" is "to gather or collect for oneself."² However, respondent erroneously misleads this Honorable Court by equating petitioner's sole act of supposedly endorsing Napoles' non-government organizations ("NGOs") as petitioner's alleged act of "gathering" or "collecting" "ill-gotten wealth" for himself, thus:

In exchange for his repeated endorsements of Napoles' NGOs as project partners in the implementation of his identified [Priority Development Assistance Fund] PDAF projects, Revilla repeatedly received commissions. Consequently, he was able to enrich himself and his family at the expense and to the damage of the Filipino people and the Republic who were unjustly deprived of the opportunity and means to improve their livelihood and to move towards his promise of a prosperous economy.³

4. It bears to emphasize that petitioner's supposed signatures in the endorsement letters are forged. As erroneously relied upon by the Sandiganbayan, the supposed confirmation by petitioner of his signature on the subject PDAF documents cannot have any weight or consideration as the Commission on Audit (COA) admittedly failed to present to petitioner the originals of these documents.⁴

5. In his Judicial Affidavit dated 19 November 2014, which he identified in open court, Atty. Desiderio Pagui ("Atty. Pagui"), whose handwriting expertise was affirmed by no less than this

² Comment, p.19.

³ Comment, p.21.

⁴ TSN dated 17 July 2014, P.M. session, attached as Annex "F" of the Petition.

Honorable Court,⁵ concluded that petitioner's purported signature appearing on said letter was not his.⁶ It bears to stress that in his handwriting examination report entitled "Report No. 09-10/2013" dated 3 December 2013 (the "Pagui Report"), Atty. Pagui noted the glaring and marked differences between petitioner's standard signatures and the signature appearing in the 20 July 2011 letter.⁷ It is therefore without a doubt that petitioner's purported signature in the confirmation letter is forged.

6. In any event, assuming, although highly disputed, that the 20 July 2011 letter is genuine, it does not provide a "conclusive confirmation" on the genuineness of petitioner's alleged signatures in the PDAF Documents. There is also nothing in said letter which proves or even indicates that petitioner admitted the authenticity of his and Atty. Cambe's signatures. The confirmation letter merely provides that after an initial examination, it *appears* that the signatures on the documents attached to the COA letter are purportedly petitioner's and Atty. Cambe's signatures, thus:

After going through these documents and initial examination, it appears that the signatures and/or initials on these documents are my signatures or that of my authorized representative.⁸

7. Further, contrary to respondent's claim that "[petitioner] never questioned or filed a case against any individual who may have benefited from such dastardly act [forgeries of PDAF documents],"⁹ petitioner filed a Complaint dated 10 September 2013,¹⁰ docketed as BCV-2013-193 before the Regional Trial Court, Bacoor City, Branch 19, specifically praying for the nullification of the PDAF documents and for accounting and return of the amounts received by Benhur K. Luy ("Luy"), Marina C. Sula ("Sula") and

⁵ See *Republic of the Philippines v. Court of Appeals, et al.*, G.R. No. 84966, 21 November 1991; *Titan Construction Corp. v. David, Sr.*, G.R. No. 169548, 15 March 2010, 615 SCRA 362.

⁶ Atty. Pagui's Judicial Affidavit, pages 10 to 11, a copy of which is attached as Annex "FF" of the Petition.

⁷ Atty. Pagui's Report dated 3 December 2013 (the "Pagui Report"), pp. 5-6, a copy of which is attached as Annex "GG" of the Petition.

⁸ Emphasis supplied.

⁹ Comment, p.22.

¹⁰ A copy the Complaint dated 10 September 2013 is attached as Annex "A" hereof.

Merlina P. Suñas ("Suñas"), among others. Verily, respondent is clearly mistaken in arguing that petitioner had been all the while complacent and unbothered by the forgeries perpetrated by Luy, Sula and Suñas, among others.

8. Even assuming, although highly disputed, that petitioner's signatures in the endorsement letters are authentic, his act of endorsing has no relation whatsoever and cannot amount to the element of amassing, accumulating, or acquiring ill-gotten wealth. There is likewise nothing in the pertinent laws and rules and regulations¹¹ relating to the implementation of the PDAF, which proscribes petitioner from endorsing NGOs. To be sure, the implementing agencies ("IAs") are not bound by any endorsement from petitioner or any legislator, since the latter neither has the power nor authority to implement his PDAF allocation, nor does he have operational control over the IAs. The IAs exercise absolute and independent discretion in the implementation of the PDAF projects.¹² Similarly, COA Circular No. 2007-001 dated 25 October 2007 states that the implementing agencies have the sole and unhindered discretion in determining a qualified NGO to implement projects from government funds.¹³

9. In *United States v. Elviña*,¹⁴ this Honorable Court held that the act from which a presumption of criminal intent springs must be a criminal act by itself. Here, there was nothing illegal or criminal in the acts allegedly committed by petitioner. There was nothing criminal or felonious in endorsing the NGOs to implement projects under the PDAF, or even in allegedly signing the various documents. Such acts, assuming they are true, do not in any way prove the elements of the crime of plunder, particularly, that petitioner amassed, accumulated or acquired, or in any way received ill-gotten wealth.

¹¹ General Appropriations Act, Republic Act No. 9184, COA Circular No. 2007-001 dated 25 October 2007, General Procurement and Policy Board Resolution No. 12-2007 dated 29 June 2007, National Budget Circular (NBC) No. 537 dated 30 February 2012, NBC No. 547 dated 18 January 2013.

¹² NBC No. 537, pp. 1, 2, 7; NBC No. 547, pp. 2, 6, 7, copies of which are attached as Annexes "II" and "II-1", respectively, of the Petition.

¹³ COA Circular No. 2007-001, sections 4.5.1, 4.5.2., 4.5.3 (h), (j) and (k), and 5.3, a copy of said COA Circular is attached as Annex "JJ" of the Petition.

¹⁴ G.R. No. L-7280, 13 February 1913, 24 Phil. 230.

The Sandiganbayan gravely erred in finding that petitioner actually received "kickbacks" or commissions from his PDAF allocations from 2006 to 2010.

10. In its assailed Resolution dated 1 December 2014, the Sandiganbayan unequivocally found that "*there are no direct proofs that accused Revilla received commissions or rebates out of the proceeds of his PDAF routed to accused Napoles.*"¹⁵ In fact, respondent's key witnesses, Luy, Suñas and Sula even admitted that they neither handed nor delivered any money to petitioner,¹⁶ nor did they see or witness Napoles hand any money to petitioner.¹⁷

11. Absent any direct proof of petitioner's supposed receipt of moneys, kickbacks or commissions from his PDAF allocations, the State's other pieces of evidence fall short of the standard of a clear, strong and categorical evidence of petitioner's guilt for plunder. On this score alone, the Sandiganbayan should have granted petitioner's application for bail.

12. However, the Sandiganbayan grievously erred in concluding that petitioner "received money from the illegitimate deals involving his PDAF, *through* [Atty.] Cambe."¹⁸

13. It bears to reiterate that this conclusion by the Sandiganbayan is baseless and belied by the evidence on record. There is neither independent evidence nor any concrete proof that Atty. Cambe gave or delivered kickbacks or commissions supposedly received by him to petitioner. Yet, the Sandiganbayan, with manifest

¹⁵ Resolution dated 1 December 2014, attached as Annex "A," p. 64 of the Petition; emphasis supplied.

¹⁶ Transcript of Stenographic Notes (TSN) dated 20 August 2014, A.M. session, p. 94, attached as Annex "K" of the Petition; TSN dated 28 August 2014, A.M. session, p.67, attached as Annex "I" of the Petition; TSN dated 18 September 2014, A.M. session, pp.60-61, attached as Annex "V" of the Petition; TSN dated 18 September 2014, P.M. session, p.81, attached as Annex "W" of the Petition.

¹⁷ Annex "K" of the Petition, p.95; Annex "I" of the Petition, pp.65-66; Annex "V" of the Petition, p.58; Annex "W" of the Petition, p.81.

¹⁸ *Supra*, at note 15.

abuse of discretion, weaved petitioner's supposed "strong evidence of guilt" in its "totality of evidence" rule from respondent's incredible, unfounded and hearsay evidence.

14. *First*, it was error for the Sandiganbayan to give weight on Luy's disk drive to purportedly support Luy's bare testimony. This disk drive supposedly shows the amounts allegedly received by petitioner, *through* Atty. Cambe, from Napoles and/or Luy.

15. Luy's testimony on the figures and other contents in his alleged disk drive should not have been considered or given any weight on the ground that it is based purely on hearsay. Luy admitted that some of the entries therein were only based on information relayed to him by Napoles, which information he did not personally know as fact.¹⁹ Respondent failed to present the disbursement vouchers, terminal reports and liquidation reports of Napoles' NGOs, which are allegedly the bases of the figures in Luy's Disbursement Reports. Accordingly, Luy did not have personal knowledge of the information which he entered in his disk drive. Thus, the pronouncement by this Honorable Court in *Nestle Philippines, Inc. FY Sons, Inc.*²⁰ is applicable in this case, *viz*:

Rayos testified on a statement of account she prepared on the basis of invoices and delivery orders which she, however, knew nothing about. She had no personal knowledge of the facts on which the accounts were based since, admittedly, she was not involved in the delivery of goods and was merely in charge of the records and documents of all accounts receivable as part of her duties as credit and collection manager. She thus knew nothing of the truth or falsity of the facts stated in the invoices and delivery orders, i.e., whether such deliveries were in fact made in the amounts and on the dates stated, or whether they were actually received by Sandiganbayan. She was not even the credit and collection manager during the period the agreement was in effect. This can only mean that she merely obtained these documents from another without any personal knowledge of their contents.

¹⁹ TSN dated 7 August 2014, P.M. session, pp.17, 120, attached as Annex "EE" of the Petition.

²⁰ G.R. No. 150780, 5 May 2006.

The foregoing shows that *Rayos was incompetent to testify on whether or not the invoices and delivery orders turned over to her correctly reflected the details of the deliveries made. Thus, the CA correctly disregarded her testimony.*²¹

16. Contrary to the Sandiganbayan's finding and respondent's bare allegation that there were "no alterations or modifications [on Luy's hard disk drive] from the date that they were last saved up to the date of examination,"²² the testimony of respondent's own witness, Joey I. Narciso ("Narciso"), confirmed the tampering of the disk drive.

17. During cross-examination, it was elicited that some of the files in Luy's disk drive were modified at the time when Luy was no longer connected with Napoles.²³ Worse, files were modified when the disk drive was already in the possession of the National Bureau of Investigation (NBI).²⁴ To recall, Luy was already in custody of the NBI by *March 2013*.

- a. File no. 1 (2004 September Disbursement.xls) was last saved only on *30 June 2013*;²⁵
- b. File no. 5 (2004 October Disbursement.xls) was last saved only *20 June 2013*;²⁶
- c. File no. 31 (03-2007 March Disbursement.xls)", was last saved only on *15 July 2013*;²⁷ and
- d. File 58 (15_Disbursement.xls) was last saved only on *17 July 2013*.²⁸

²¹ Emphasis supplied.

²² Comment, p.24.

²³ TSN dated 30 October 2014, P.M. session, attached as Annex "Q" of the Petition.

²⁴ *Id.*

²⁵ The respondent's Exhibit "RR," or "Printout of Tabulated List of Files with Corresponding Metadata and Extended Files Properties," a copy of which is attached as Annex "CC" of the Petition.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

18. The Sandiganbayan's heavy reliance on the disk drive, despite its admitted shortcomings,²⁹ is therefore tainted with grave abuse of discretion, especially when:

- a. File no. 1 (2004 September Disbursement.xls) was allegedly created on 1 September 2004, but it *was last saved on 30 June 2013*, or nine (9) years after, and Narciso admitted that said file was possibly modified;³⁰
- b. File no. 5 (01-2005 January Disbursement.xls) was created on 4 January 2005, but it was *last saved on 20 June 2013*, or eight (8) years after, and Narciso admitted that said file was possibly modified;³¹
- c. File no. 31 (03-2007 March Disbursement.xls) was created on 2 March 2007, but it *was last saved on 15 July 2013*, or six (6) years after, and Narciso admitted that said file was possibly modified;³² and
- d. File no. 58 (2004 September Disbursement.xls) was created on 1 September 2004, but it *was last saved on 20 June 2013*, or nine (9) years after, and Narciso admitted that said file was possibly modified.³³

19. In addition to his categorical admission that the above files could have been modified, Narciso likewise failed to explain the chain of possession of the disk drive. There was no showing of the procedures taken to preserve the evidentiary integrity of the disk drive – such as the name and signature of the collecting agent, the date and place of its turnover from one agent to another, until its final disposition in court, or any standard of information that should be on electronic gadgets being subjected to forensic investigation.

20. With the high probability that the contents thereof may have been modified and altered at the time Luy was already in the custody of the NBI, and with Narciso's failure to explain its chain of

²⁹ Resolution dated 26 March 2015, p. 21, attached as Annex "B" of the Petition.

³⁰ TSN dated 6 November 2014, A.M. session, attached as Annex "P" of the Petition, pp.24-26; Annex "Q" of the Petition, pp.77-82.

³¹ *Id.*

³² *Id.*

³³ *Id.*

possession, the Sandiganbayan should not have given the contents of said disk drive—or Narciso’s testimony—any weight or credibility.

21. In fact, there is no proof of the truth or authenticity of the contents of the disk drive. Narciso never had the opportunity to examine the source documents or the source computer. He admitted that when he testified that the hash values are intact, he was merely referring to the hash value of the files in the disk drive and those in the image disk files. Narciso did not compare the hash values of the files in the disk drive and the hash values of the original source files where the disk drive files were allegedly copied.³⁴ In fact, the hash values of the first two files, the 2004 September disbursement.xls and 2004 October disbursement.xls in the Senate copy, are different from the hash value appearing in the Ombudsman copy.³⁵ *When hash values are different in files which are supposedly the same or identical, it only proves that there is tampering.*

22. Even then, when asked in open court, Narciso – who ranks himself as a mere 75% expert – admitted that he is not 100% certain that the disk drive is reliable.³⁶ Indeed, it is difficult for petitioner to believe that he would be deprived of his liberty based on an unreliable piece of evidence from an incredible witness. To be sure, Luy’s incredible data in his disk drive could not have been “authenticated” by Narciso’s testimony. If at all, Narciso confirmed the unreliability of the data in the disk drive.

23. Narciso’s admission in court, as quoted in the Comment,³⁷ that there is a 99% reliability of the files extracted from the disk drive of Luy cannot be relied upon by the Sandiganbayan as it is a mere conclusion of fact and opinion of the witness. The court cannot blindly conclude and rely on the testimony of a witness. It is for the court to scrutinize and assess the reliability of the disk drive of Luy.

³⁴ Annex “P” of the Petition, pp. 30-31.

³⁵ TSN dated 6 November 2014, P.M. session, attached as Annex “O” of the Petition, pp. 32-34.

³⁶ *Id.*, pp.39-40; Annex “P” of the Petition, p.32.

³⁷ Comment, p. 24.

24. *Second*, it is manifest error for the Sandiganbayan to have given credence on Luy's ledger. Considering that the entries in said ledger were sourced from Luy's tampered disk drive, it is consequent that the entries in the ledger are likewise tampered. Luy's supposed "candid and spontaneous declarations" on the contents of his records rest on shaky foundation. Respondent, in its Comment, was unable to disprove the following uncontroverted facts, which the Sandiganbayan, with manifest abuse of discretion, utterly disregarded, to wit:

- a. Luy said that he copied the files of the iMac computer of Napoles into his disk drive in 2012;³⁸ Narciso testified on cross examination that he could not authenticate the alleged disk drive of Luy as to whether the files therein were copied by Luy in 2012;³⁹
- b. Luy said that he himself copied *all* the files in his alleged disk drive from an iMac computer of Napoles;⁴⁰ Narciso testified that he found the files in the disk drive as having been copied from not just one, but several computers;⁴¹
- c. Luy said that he alone created the files and entered data in the iMac computer of Napoles;⁴² Narciso testified that he found that the files in the disk drive to have been created not by just one but several persons, among them, "Annabelle Luy," sister of Benhur Luy, a certain "Belen," another using the code "1234," and "Owner;"⁴³
- d. Luy said he used the USB cable of the disk drive in copying the files from the iMac computer of Napoles, which meant that he could not have copied the deleted files from the source computer as a device like a USB cable cannot copy deleted files into a disk drive or another computer;⁴⁴ Narciso testified that the disk drive contained deleted files, numbering 2,410, thereby indicating that the files were created, and later deleted, when Luy was already in the

³⁸ TSN dated 31 July 2014, A.M. session, p.68, a copy of which is attached as Annex "DD" of the Petition.

³⁹ Annex "O" of the Petition, pp.9, 16; Annex "P" of the Petition, p.26.

⁴⁰ Annex "I" of the Petition, p.37.

⁴¹ Annex "O" of the Petition, p. 10.

⁴² Annex "EE" of the Petition, p.23.

⁴³ Annex "Q" of the Petition, pp.68-70; see also TSN dated 23 October 2014, A.M. session, attached as Annex "R" of the Petition.

⁴⁴ Annex "I" of the Petition, p.47.

custody of the NBI or under the Witness Protection Program;⁴⁵

- e. Since Luy said that he alone created the files in the source computer and he alone copied the same files into his alleged disk drive,⁴⁶ the files should have the same hash values; on cross-examination, Narciso admitted that some files did not have the same hash values as all the other files.⁴⁷ As stated, this proves tampering;
- f. Luy said that he copied the files into his alleged disk drive from the source computer in 2012;⁴⁸ Narciso found that the disk drive contained files created in 2013 and files modified in 2013 when Luy was already in the custody of the NBI;⁴⁹ and
- g. As stated, the metadata of the files in the disk drive indicated that they have been accessed, modified and last saved after Luy was allegedly rescued in March 2013 by the NBI from his illegal detention by Napoles,⁵⁰ thereby indicating that the files have been altered and modified after Luy claimed to have copied them into his alleged disk drive in 2012.

25. *Third*, the testimonies of respondent's witnesses, with respect to Atty. Cambe's alleged receipt of kickbacks, are replete with ***material inconsistencies***, which are worth reiterating herein:

- a. Luy was in Europe from 18 to 29 October 2008,⁵¹ which renders him impossible to meet with Atty. Cambe, and for Atty. Cambe to have received, on behalf of petitioner, the alleged kickback in the amount of P3,000,000.00 on 24 October 2008, as Luy falsely entered in his "Summary of Rebates"⁵² and "Disbursement Reports;"
- b. Atty. Cambe and his family were in the United States from 6 to 27 May 2008,⁵³ which renders it impossible for Luy to

⁴⁵ Annex "O" of the Petition, pp.18-19.

⁴⁶ Annex "EE" of the Petition, p.23.

⁴⁷ Annex "O" of the Petition, pp.32-34.

⁴⁸ TSN dated 31 July 2014, A.M. session, attached as Annex "DD" of the Petition, p.68.

⁴⁹ Annex "Q" of the Petition, pp.78-82; Annex "P" of the Petition, pp.24-26.

⁵⁰ *Id.*

⁵¹ Annex "K" of the Petition, p.87.

⁵² Summary of Rebates, attached as Annex "X" of the Petition.

⁵³ Cambe's Exhibit "282 series," attached as Annex "Y" of the Petition.

have given Atty. Cambe the amount of P5,000,000.00 on 9 May 2008, as Luy again falsely indicated in his "Summary of Rebates" and "Disbursement Reports;"⁵⁴

- c. Luy categorically admitted that he does not have any proof (other than his perjured testimony) that Atty. Cambe received any amount from him, particularly the cash amounts listed in his "Summary of Rebates;"⁵⁵ and
- d. Luy did not present any basis for the SARO numbers appearing in his "Summary of Rebates." Luy testified that his only bases for the preparation of his "Summary of Rebates" were his "Disbursement Reports." However, these "Disbursement Reports" do not indicate any SARO numbers, thus making Luy an incredible witness.⁵⁶

26. More importantly, Atty. Cambe was found to have no ill-gotten wealth, as conceded by the State's witness Atty. Leigh Vhon G. Santos of the Anti-Money Laundering Council (AMLC).⁵⁷ The AMLC found no money or property which would show Atty. Cambe's supposed amassing, accumulation or acquisition of property, much less petitioner's.

27. In its desperate attempt to skirt this undisputed fact, respondent turned to the AMLC's Report supposedly showing that petitioner amassed, accumulated or acquired "ill-gotten wealth." Even a cursory perusal of the Sandiganbayan's resolutions, however, shows that the Sandiganbayan did not give probative value, much less considered, the AMLC Report.

28. Nonetheless, lest this Honorable Court be misguided, respondent does not have any clear and convincing evidence of petitioner's alleged "ill-gotten wealth," which is necessary for the prosecution of the crime of plunder. Respondent's AMLC Report, if at all, only attempted to prove petitioner's supposed "unexplained wealth" which is starkly different from "ill-gotten wealth."

⁵⁴ 2006 to 2010 Disbursement Reports attached as Annexes "Z" to "Z-4" of the Petition.

⁵⁵ Annex "K" of the Petition, p.87.

⁵⁶ TSN dated 14 August 2014, P.M. session, attached as Annex "M" of the Petition, pp.23-24.

⁵⁷ TSN dated 23 October 2014, A.M. session, attached as Annex "R" of the Petition, pp.18-20, 29-30.

29. "Unexplained wealth" is such because it is manifestly out of proportion to the public officer's salary and lawful income, while "ill-gotten wealth" is such because of the manner by which it was acquired. "Unexplained wealth" covers "property and/or money," while "ill-gotten wealth" may, in addition, consist of a business enterprise.

30. As respondent noted in its Comment, the "bank accounts and records examined by the AMLC [Secretariat] tally as convincing indication of the *unexplained* increasing *wealth* placed at the disposal and for the enjoyment of [petitioner] and his immediate family."⁵⁸ Thus, nothing in the AMLC Report sufficiently establishes petitioner's "ill-gotten wealth," or that these were sourced from Napoles or from kickbacks from his PDAF allocations. Thus, the Report deserves scant consideration.

31. From the foregoing, it is clear that the Sandiganbayan's heavy reliance on Luy's tampered hard disk drive and dubious ledger entries, buttressed by the hearsay and inconsistent testimony of Luy, is therefore tainted with grave abuse discretion.

As unequivocally pronounced in the case of Montano v. Ocampo,⁵⁹ in determining the probability of flight of petitioner, his social standing and his other personal circumstances are important factors.

32. Respondent asserts that petitioner erroneously invoked the *Montano* ruling. In light of this Honorable Court's ruling in *Enrile v. Sandiganbayan*,⁶⁰ petitioner begs to differ.

⁵⁸ Comment, p.26.

⁵⁹ G.R. No. L-6352, 29 January 1953; 49 O.G. 1855.

⁶⁰ G.R. No. 213847, 18 August 2015.

33. Verily, the principal purpose of bail is to guarantee the appearance of the accused during trial, or whenever so required by the court.⁶¹ As elucidated by this Honorable Court in *Basco v. Rapatalo*,⁶² viz:

In other words, if the denial of bail is authorized in capital offenses, it is only in theory that the proof being strong, the defendant would flee, if he has the opportunity, rather than face the verdict of the court. Hence the exception to the fundamental right to be bailed should be applied in direct ratio to the extent of probability of evasion of the prosecution. In practice, bail has also been used to prevent the release of an accused who might otherwise be dangerous to society or whom the judges might not want to release.

34. Consistent with the above ruling, this Honorable Court in *People v. Sandiganbayan and Estrada*⁶³ held that:

The Court takes stock of the fact that those who usually jump bail are shadowy characters mindless of their reputation in the eyes of the people for as long as they can flee from the retribution of justice. On the other hand, those with a reputation and a respectable name to protect and preserve are very unlikely to jump bail. The Court, to be sure, cannot accept any suggestion that someone who has a popular mandate to serve as Senator is harboring any plan to give up his Senate seat in exchange for becoming a fugitive from justice.

35. Like in *Montano and Estrada*, this Honorable Court in *Enrile*, appreciated, among others, the following considerations as compelling justifications for Senator Juan Ponce Enrile's ("Senator Enrile") admission to bail: (a) Senator Enrile's social and political standing, together with his "solid reputation in both his public and private lives, his long years of public service, and history's judgment of him being at stake;" and (b) Senator Enrile's immediate surrender to the authorities upon his being charged in court, which indicates that the risk of his flight or escape from the courts' jurisdiction is highly unlikely.

⁶¹ *Basco v. Rapatalo*, A.M. RTJ-96-1335, 5 March 1997.

⁶² A.M. RTJ-96-1335, 5 March 1997.

⁶³ G.R. No. 158754, 10 August 2007.

36. In the same vein, petitioner respectfully submits the following considerations for this Honorable Court's appreciation for his entitlement to bail: (a) his voluntary surrender, constant attendance during hearings, and participation during the proceedings in this case, indicating his adherence to and respect for court processes; (b) his name and stature as an incumbent Senator of the Philippines; and of course, (c) the lack of clear, convincing and categorical proof of his guilt for the crime of plunder, as above shown.

There is no proof of the alleged conspiracy among the accused in SB-12-CRM-0240.

37. The Sandiganbayan's finding of the alleged participation of petitioner was based on the latter's supposed endorsements. However, these purported endorsements were already admitted by the respondent's witnesses as forged by them⁶⁴ and was even supported by the Pagui Report⁶⁵ which noted the glaring and marked differences between petitioner's standard signatures and the signature appearing in the confirmation letter.⁶⁶

38. Even assuming, although highly disputed, that petitioner wrote the endorsement letters, this act in itself cannot be considered as an "overt act" to further the conspiracy of committing plunder as there is nothing irregular or illegal in it. It bears to reiterate that there is nothing in the COA Rules, the General Appropriations Act ("GAA"), the Procurement and other pertinent laws relating to the implementation of the PDAF, which proscribes petitioner from endorsing NGOs. Even respondent's witnesses, Carmencita N.

⁶⁴ TSN dated 25 September 2014, A.M. session, p.11; TSN dated 28 August 2014, A.M. session, p.59; TSN dated 11 September 2014, P.M. session, p.49, attached as Annexes "H," "I" and "J," respectively, of the Petition.

⁶⁵ Atty. Pagui's Report dated 3 December 2013, a copy of which is attached as Annex "GG" of the Petition.

⁶⁶ *Id.*, pp. 5-6.

Delantar⁶⁷ and Lorenzo C. Drapete,⁶⁸ confirmed that there was nothing illegal or wrong with the action of petitioner.⁶⁹

39. To support its conclusion that petitioner received kickbacks from his own PDAF, the Sandiganbayan baselessly presumed that Atty. Cambe is petitioner's representative, and concluded that whatever moneys Atty. Cambe supposedly gained are *ipso facto* petitioner's. *It bears to stress, however, that respondent's own key witnesses admitted that they never saw petitioner receive any money from Napoles or Atty. Cambe. Thus, there was a glaring absence of any independent evidence showing that petitioner received kickbacks or commissions from Atty. Cambe. This crucial and uncontested fact should have been considered by the Sandiganbayan in petitioner's favor.*

40. Even the PDAF documents presented by respondent are unreliable and unauthenticated and these evidence, do not, by any stretch of the imagination, constitute evident proof to show a unity of criminal design to perpetuate the crime of plunder among petitioner, Atty. Cambe and Napoles. In its assailed Resolutions, the Sandiganbayan has been unable to explain or specify how it concluded, by clear and convincing evidence, that petitioner amassed, accumulated and acquired ill-gotten wealth as "established by testimonies of the witness and the documents they testified to."⁷⁰

The Sandiganbayan erred in giving credence to the testimonies of respondent State's witnesses.

41. Further, it was a glaring error for the Sandiganbayan to give credence to the testimonies of respondent's witnesses. These same witnesses confessed that they forged the PDAF documents, such as the endorsement letters, project proposals, project activity reports, project profiles, inspection and acceptance reports, disbursement reports, disbursement vouchers, accomplishment

⁶⁷ Director of the Budget and Management Office-G from 2007 to 2009.

⁶⁸ Head of the Budget and Management Bureau-F.

⁶⁹ TSN dated 20 August 2014, A.M. session, attached as Annex "K" of the Petition.

⁷⁰ Resolution dated 1 December 2014, p. 56, attached Annex "A" of the Petition.

reports, acknowledgment receipts, delivery reports and certificates of acceptance.⁷¹ Being forged, the Sandiganbayan gravely erred in considering these pieces of evidence to deduce petitioner's alleged participation therein, since these forged documents cannot be attributed to petitioner.

42. Moreover, respondent relies on the testimonies of Luy, Sula and Suñas to support its allegation that petitioner purportedly received kickbacks from his PDAF. An examination of these hearsay testimonies, however, reveals the weakness of respondent's evidence, and show petitioner's entitlement to bail.

43. In its Comment, respondent argues that its witnesses' testimonies are not inadmissible for being hearsay because such testimonies are allegedly "independent relevant statements" supporting the theory of conspiracy among petitioner, Atty. Cambe and Napoles.⁷² Thus, following respondent's theory, respondent considers the testimonies of its witnesses, not for their truth or falsity, but only as to the fact that such were uttered. Whether these witnesses' version of the facts is veracious is another issue.⁷³

44. Verily, respondent is grasping at straws in its attempt to salvage the admissibility of its witnesses' testimonies. Respondent contradicts itself by invoking the principle of "independent relevant statement" at the same time relying on the content of the testimonies of its witnesses to pin down petitioner for the crime of plunder.

45. The fact in issue in this case is whether petitioner, Atty. Cambe and Napoles conspired to amass, accumulate or acquire ill-gotten wealth. The overt acts indicative of their supposed participation in the conspiracy must be clearly and convincingly shown. The proof of this conspiracy must necessarily be evaluated as to the truth or falsity of testimonies proffered, and not merely on the fact of their utterances.

46. It will be remembered that petitioner's or Atty. Cambe's alleged receipt of the kickbacks or commissions from petitioner's

⁷¹ *Supra*, at note 64.

⁷² Comment, p. 34.

⁷³ Comment, p. 33.

PDAF allocations were hinged on the “contents” or the supposed “truths” of the testimonies of these same witnesses. The relevancy of their testimony, therefore, delves on their truthfulness or falsity so as to prove conspiracy or the fact of “receipt.”

47. In arguing that its witnesses’ testimonies are “independent relevant statements,” respondent admits that the contents of its witnesses’ testimonies, which are actually the bases for its submission that petitioner and his co-accused conspired to commit the alleged crime of plunder, CANNOT be considered as the truth. Moreover, that respondent argues that the testimonies of its witnesses are actually “independent relevant statements” is thus a practical admission that the testimonies are indeed hearsay. Accordingly, respondent effectively admitted that its witnesses have no personal knowledge of the supposed conspiracy, as in fact, its witnesses neither saw nor heard petitioner, Atty. Cambe and Napoles perpetrate any overt act showing their participation in the alleged “PDAF Scam.”⁷⁴

48. It is well-settled that criminal conspiracy must always be founded on facts, not on mere inferences, conjectures and presumptions.⁷⁵ To hold an accused, in this case herein petitioner, guilty as a co-principal by reason of conspiracy, he must be shown to have performed an overt act in pursuance or furtherance of the complicity.⁷⁶ Absence of such proof of conspiracy among the accused and absence of direct evidence of petitioner’s receipt of kickbacks, there can be no “proof evident” of petitioner’s guilt.

49. All told, petitioner most respectfully beseeches this Honorable Court’s intervention to rectify the Sandiganbayan’s grave abuse of discretion and serious error, in both fact and law, in denying petitioner’s application for bail. To be sure, respondent’s evidence, which are unreliable, dubious and based solely on hearsay, cannot be considered as the “strong” evidence required by law to justify a

⁷⁴ Comment, p. 34.

⁷⁵ People v. Absalon, et al., G.R. No. 137750, 25 January 2001.

⁷⁶ People v. Pantaleon, G.R. Nos. 158694-96, 13 March 2009.

denial of petitioner's provisional liberty. As this Honorable Court ruled in *Montano*:⁷⁷

Exclusion from bail in capital offenses being an exception to the otherwise absolute right guaranteed by the constitution, the natural tendency of the courts has been toward a fair and liberal appreciation, rather than otherwise, of the evidence in the determination of the degree of proof and presumption of guilt necessary to warrant a deprivation of that right.

Besides, to deny bail it is not enough that the evidence of guilt is strong; it must also appear that in case of conviction the defendant's criminal liability would probably call for a capital punishment.

RELIEF

WHEREFORE, petitioner respectfully prays that this Honorable Court give due course to the petition and after proceedings duly had, to render judgment: (a) nullifying and setting aside the Sandiganbayan, First Division's Resolutions dated 1 December 2014 and 26 March 2015; and (b) ordering the Sandiganbayan, First Division to forthwith order the admission of petitioner to bail.

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

Makati City for the City of Manila, 6 October 2015.

ESGUERRA & BLANCO

Counsel for Petitioner

4th and 5thFloors, S & L Building

Dela Rosa cor. Esteban Streets,

Legaspi Village, Makati City


Tel. Nos. 8403413 to 15; Fax No. 8138185

By:


⁷⁷ Emphasis supplied.


RAMON S. ESGUERRA

Roll of Attorneys No. 30183
PTR No. 4756456/1-9-15/Makati City
IBP No. 09520-Life/1-7-11/Cavite Chapter
MCLE Compliance No. IV-0011387/1-10-13


KEITH RICHARD M. PIOQUINTO

Roll of Attorneys No. 49344
PTR No. 4756464/1-9-15/Makati City
IBP No. 09744-Life/2-22-11/Makati City
MCLE Compliance No. IV-0000475/9-8-10


REODY ANTHONY M. BALISI

Roll of Attorneys No. 59672
PTR No. 4756458/1-9-15/Makati City
IBP No. 0987337/1-7-15/Quezon City Chapter
MCLE Compliance No. IV-0013443/3-07-13

Copy Furnished:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St. Legaspi Village, Makati City

HON. SANDIGANBAYAN, FIRST DIVISION
Sandiganbayan Building, Commonwealth Avenue
Quezon City

OFFICE OF THE SPECIAL PROSECUTOR
5th Floor Sandiganbayan Building
Commonwealth Avenue, Quezon City

ANCHETA & ASSOCIATES

Counsel for Atty. Richard A. Cambe

Suite 604, Park Trade Center

1716 Investment Drive, Madrigal Business Park

Ayala Alabang, Muntinlupa City

DAVID CUI-DAVID BUENAVENTURA

& ANG LAW OFFICES

Counsel for Janet Lim Napoles, et.al.

Suite 1905-A, Philippine Stock Exchange Centre

West Tower, Ortigas Center, Pasig City

OFFICE COPY
REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT
FOURTH JUDICIAL REGION
CITY OF BACOR, BRANCH _____

RECEIVED
RR-011 BACOR
SEP 2013
11:40 am

RAMON "BONG" REVILLA, JR.,

ANNEX "A"

Plaintiff,

- versus -

**BENHUR K. LUY, JOCELYN D.
PIORATO, MARINA C. SULA,
NEMESIO PABLO, PETRONILLA
A. BALMACEDA, EVELYN DE
LEON, and JOHN DOE,**

Civil Case No. BCV-2013-193
For: *Declaration of Nullity of
Documents, Accounting
and Damages*

Defendants.

x-----λ

COMPLAINT

Plaintiff **RAMON "BONG" REVILLA, JR.** ("Plaintiff Revilla"), by counsel, respectfully alleges:

NATURE OF COMPLAINT

This is a **Complaint to declare null and void**, for being absolutely simulated and fictitious, the Priority Development Assistance Fund ("PDAF") documents ("PDAF Documents") attached to the Commission on Audit's ("COA") letter dated 8 July 2011 ("COA letter") addressed to Plaintiff Revilla requesting him to confirm whether the signatures appearing on the PDAF Documents are those of Plaintiff Revilla or of one of his staff, Atty. Richard Cambe ("Atty. Cambe") in relation to conduct of a government-wide performance audit on priority development programs and projects of the government implemented during Calendar Years 2007 - 2009. As per the COA letter, the audit covered a number of Implementing Agencies, including the National Agribusiness Corporation ("NABCOR"), ZNAC Rubber State Corporation ("ZREC"), National

Livelihood Development Corporation ("NLDC") and Technology Resource Center ("TRC").

On 14 August 2012, the COA released a Special Audits Office Report No. 2012 - 13 entitled Priority Development Assistance Fund and Various Infrastructures including Local Projects ("COA Report"), which used as a basis, among others, the PDAF Documents attached to the COA Letter. The Audit disclosed that the PDAF were not properly released by the Department of Budget Management ("DBM") and not appropriately, efficiently, and effectively utilized by the Implementing Agencies. Based on the COA Report, Complainant Revilla was one of the legislators who assigned the PDAF allocation to "questionable" non-government organizations ("NGO") on the basis of the PDAF Documents, the said NGOs are bogus NGO, and the projects purportedly covered by the PDAF documents were not implemented.

However, upon scrutiny of a handwriting expert, the signatures purportedly appearing to be those of Plaintiff Revilla or of Atty. Cambe as Plaintiff Revilla's representative, are forgeries. Thus, the PDAF documents are absolutely simulated or fictitious and should be declared by this Honorable Court as null and void. It is of Plaintiff Revilla's legal interest to have the PDAF Documents declared null and void, for being simulated and fictitious, in the interest of his and his office's dignity, reputation and peace of mind.

Further, as a necessary consequence of having the PDAF Documents declared null and void, this Complaint seeks to require the Defendants to account and return all the amounts received by them, as per the COA Report, on the basis of the fictitious PDAF Documents.

A copy of the COA letter is attached as Annex "A" hereof. Attached as Annexes "B to B-167" are copies of the PDAF Documents¹ and Annex "C" is a copy of the table of PDAF Documents as prepared by the COA.

¹ Among the PDAF Documents, Annexes "B-41", "B-58", "B-59", "B-60", "B-61", "B-62", "B-64", "B-65", "B-75", "B-91", "B-101", "B-137", "B-137", "B-139", "B-140", "B-141", "B-142", "B-143", "B-144", "B-145", "B-146", "B-147", "B-148", "B-149" and "B-150" contained the forged signatures of Petitioner Revilla.

THE PARTIES

1.1. Plaintiff Revilla is of legal age, married, with residential address at 305 Aguinaldo Highway, City of Bacoor, Cavite. Plaintiff Revilla is an incumbent Senator of the Republic of the Philippines, having held such position for nine (9) years now. He is currently the Chairman of the Senate Committees on Public Service, and member of the Senate Committees on Cooperatives, Finance, National Defense and Security, Public Information and Mass Media, Public Works, Ways and Means, Cultural Communities, Environment and Natural Resources, Foreign Relations, Public Order and Dangerous Drugs, and Urban Planning, Housing and Resettlement.

Prior to being elected Senator, he was previously the Vice-Governor-elect of the Province of Cavite during the 1995 elections. Subsequently, due to the resignation of the then Cavite Governor Epimaco Velasco ("Velasco"), Plaintiff Revilla assumed Velasco's vacant position and became the Governor of Cavite. In the 1998 local elections, Plaintiff Revilla ran for, and was elected, Governor of Cavite, which he served the full term, or from 1998 to 2001. In 2002, Plaintiff Revilla was appointed by then President Gloria Macapagal Arroyo as the Chairman of the Videogram Regulatory Board (now Optical Media Board), which he held until 2004.

For this case, Plaintiff Revilla may be served with pleadings, orders, and other processes of this Honorable Court through the undersigned counsel at 5th Floor, Park Trade Centre, 1716 Investment Drive, Madrigal Business Park, Alabang, Muntinlupa City.

1.2. Defendant Benhur K. Luy of age, single, and Chairman of his bogus NGO, **Social Development Program for Farmers Foundation, Inc.** ("SDPFI"), with office address at Block 40, Lot 28, Iligan Street, South City Homes, Binan, Laguna, where he may be served with summons and other processes of the Honorable Court.

1.3. Defendant Nemesio Pablo is of legal age, and Chairman of his bogus NGO, **Agri and Economic Program for Farmers Foundation, Inc.**, ("AEPFFI"), with office address at Block 24, Lot 9, Phase I, EP Housing, Western Bicutan, Taguig City, where he may be served with summons and other processes of the Honorable Court.

1.4. Defendant Evelyn de Leon is of legal age, and President of her bogus NGO, **Philippine Social Development Foundation, Inc.** ("PSDFI"), with office address at Block 23, Lot 1, Rd. 18 R. Magsaysay Street, cor. J. delos Reyes Street, AFPOVAI Phase II, Western Bicutan, Taguig City, where she may be served with summons and other processes of the Honorable Court.

1.5. Defendant Jocelyn D. Piorato, is of legal age, and President of her bogus NGO, **Agrikultura Para sa Magbubukid Foundation, Inc.** ("AMFI"), with office address at Block 4, Lot 3, St. Joseph Village, Binan, Laguna, where she may be served with summons and other processes of the Honorable Court.

1.6. Defendant Marina C. Sula is of legal age, and President of her bogus NGO, **Masaganang Ani Para sa Magsasaka Foundation, Inc.** ("MAMFI"), with office address at 16-A Guevarra Street, Paltok, Quezon City, where she may be served with summons and other processes of the Honorable Court.

1.7. Defendants Petronilla A. Balmaceda is of legal age, and President of her bogus NGO, **Pangkabuhayan Foundation, Inc.** ("PFI"), with office address at 1050 DNE Building, Quezon Avenue, cor. Roces Avenue, Quezon City, where she may be served with summons and other processes of the Honorable Court.

1.8. Defendant John Doe is of legal age and President of his bogus NGO, **St. James the Apostle Multi-Purpose Coop** ("St. James"), with address unknown. Plaintiff Revilla shall accordingly inform the Honorable Court once the identity and whereabouts of defendant John Doe and St. James are established.

Defendants are reportedly availing of the Witness Protection Program and thus, are under the protective custody of the National Bureau of Investigation ("NBI"), Taft Avenue, Manila. Should service of summons not be effected at the respective indicated office address of the defendants, service may be made upon them through the NBI.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

2.1. The PDAF is an allotment or budget in the annual Government Appropriations Act ("GAA"). Upon the approval of the

GAA, the President, through the Department of Budget and Management ("DBM"), decides on the schedule of fund releases (*i.e.*, number of tranches, amount per tranche, and the dates of release of the PDAF and other congressional allocations).

2.2. The GAA provides a list of agencies designated to implement each type of project/program. In addition, the GAA requires legislators, like Petitioner Revilla, to identify projects that match the priority list and standards prepared by each Implementing Agency.

2.3. For Senators, for example, the total allocation released for their programs/projects is P200,000,000.00,² which amount has been equally divided into infrastructure (hard) projects (*i.e.*, infrastructure projects) and soft programs and projects (*i.e.*, education, health, and other social services projects).

2.4. The Senator's lists of projects are then submitted to the Chairperson of the Senate Committee on Finance and the Senate President through an endorsement letter. Once the project proposal/endorsement is found acceptable, the Chairperson of the Senate Committee on Finance and the Senate President, then, jointly endorse the list of projects of the Senator to the DBM. Thereafter, the DBM reviews the project proposals.

2.5. When a project proposal complies with the requirements, the DBM Secretary issues the Special Allotment Release Order ("SARO"), a document that obligates funds for a project to its Implementing Agency, and which is chargeable against the PDAF of the Senator.³

2.6. The DBM releases part of a Senator's PDAF, through the issuance of the SARO, directly to the Implementing Agency, which is tasked to execute the project.⁴ In certain cases, SARO is released other than to the Implementing Agency concerned. In the case of LGUs, funds are released to the DBM as fund administrator, while for

² DBM National Budget Circular ("NBC") No. 547, NBC No. 529 and NBC No. 537.

³ NBC No. 547, NBC No. 529 and NBC No. 537.

⁴ NBC No. 547, NBC No. 529 and NBC No. 537; Sections 4.4. & 5.3. of COA Circular No. 2007-001.

government-owned and/or controlled corporations ("GOCCs"), funds are released to the Bureau of the Treasury ("BTR").⁵

2.7. Once the SARO is with the Implementing Agency identified by the Senator, the latter is the one responsible and accountable for the release of the PDAF (SARO) through the implementation of the Senator's projects/programs.⁶

2.8. Plaintiff Revilla's participation in the PDAF release process is regular and above board:

- a. Plaintiff Revilla's involvement and/or participation in the release of my PDAF starts and ends in writing an endorsement letter to the Senate President and the Chairman of the Senate Committee on Finance for the projects/programs which he has identified in the current GAA on a fiscal year;
- b. Plaintiff Revilla's PDAF allocation is neither released nor given to him or to his office at any given time, but directly to the Implementing Agencies of his identified projects/programs;
- c. The Implementing Agencies are the ones accountable for government money;⁷ and
- d. It is the mandated duty of the Implementing Agencies to closely monitor and supervise the implementation and completion of PDAF projects/programs and ensure the legitimacy of the NGOs which will carry out the intended project/program.⁸

2.9. As the PDAF allocation for Plaintiff Revilla's office does not go to him or his office, nor does he or any of his staff has physical possession or effective control thereof, Plaintiff Revilla has no discretion whatsoever in disbursing or spending the PDAF, much less select a recipient for that purpose. Neither could Plaintiff Revilla

⁵ NBC No. 547 and NBC No. 537.

⁶ NBC No. 547, NBC No. 529 and NBC No. 537; Sections 4.4. & 5.3. of COA Circular No. 2007-001.

⁷ Section 4.4. of COA Circular No. 2007-001.

⁸ Section 4.4. of COA Circular No. 2007-001.

have any authority to compel the Implementing Agencies to select an NGO of his preference and transfer his office's PDAF allocation to them as it is within the powers and duties of the of the implementing agencies to do so.⁹

2.10. Noteworthy is the fact that the existence or apparent validity of the PDAF Documents attached to COA Letter undermines the actual, legal and regular participation of Plaintiff Revilla and his office to the entire PDAF process.

2.11. On 11 July 2011, the Office of Plaintiff Revilla received the COA letter dated 8 July 2011 requesting Plaintiff Revilla to confirm whether the signatures appearing on the PDAF documents are his or those of his staff, Atty. Cambe.

2.12. Recently, due to news reports that signatures of legislators are being forged in relation to the release of PDAF, Plaintiff Revilla engaged the services of a licensed and reputable handwriting expert, Mr. Rogelio Azores, whose examination of the PDAF Documents reveal that the signature appearing above Plaintiff Revilla's name and the name of Atty. Cambe were not written by them. Thus, the PDAF Documents are absolutely fictitious and simulated.

2.13. On 14 August 2012, the COA released the COA report. The following may be deduced based on the COA Report:

- a. The NGOs headed by the Defendants are bogus;
- b. The projects supposedly covered by the PDAF Documents were not carried out; and,
- c. A portion of the funds which were allegedly misappropriated came from Plaintiff Revilla's PDAF allocation.

⁹ Section 4.5 of COA Circular No. 2007-001.

FIRST CAUSE OF ACTION
(Declaration of Nullity of PDAF Documents)

3.1. The foregoing paragraphs are repleaded herein by way of reference.

3.2. Articles 1346 and 1409 of the New Civil Code provide that contracts that are simulated and fictitious are inexistent and void from the beginning. Thus:

“Art. 1346. **An absolutely simulated or fictitious contract is void.** A relative simulation, when it does not prejudice a third person and is not intended for any purpose contrary to law, morals, good customs, public order or public policy binds the parties to their real agreement.”

xxx

“Art. 1409. **The following contracts are inexistent and void from the beginning:**

(1) Those whose cause, object or purpose is contrary to law, morals, good customs, public order or public policy;

(2) **Those which are absolutely simulated or fictitious;**

(3) Those whose cause or object did not exist at the time of the transaction;

(4) Those whose object is outside the commerce of men;

(5) Those which contemplate an impossible service;

(6) Those where the intention of the parties relative to the principal object of the contract cannot be ascertained;

(7) Those expressly prohibited or declared void by law.

These contracts cannot be ratified. Neither can the right to set up the defense of illegality be waived.”¹⁰

¹⁰ Article 1409 of the New Civil Code.

3.3. In *Valerio v. Refresca*¹¹, the Supreme Court held that a contract is null and void if parties do not intend to be bound at all by its stipulations, *viz*:

“In absolute simulation, there is a colorable contract but it has no substance as the parties have no intention to be bound by it. The main characteristic of an absolute simulation is that the apparent contract is not really desired or intended to produce legal effect or in any way alter the juridical situation of the parties. **As a result, an absolutely simulated or fictitious contract is void, and the parties may recover from each other what they may have given under the contract.** However, if the parties state a false cause in the contract to conceal their real agreement, the contract is relatively simulated and the parties are still bound by their real agreement. Hence, where the essential requisites of a contract are present and the simulation refers only to the content or terms of the contract, the agreement is absolutely binding and enforceable between the parties and their successors in interest.”

3.4. Further, in the cases of *Solomon v. Intermediate Appellate Court*,¹² *Vda. De Portugal v. Intermediate Appellate Court*¹³, *Garanciang v. Garanciang*,¹⁴ and *Lacsamana v. Court of Appeals*,¹⁵ the Supreme Court ruled that contracts executed by virtue of a forged signature or fictitious deeds are void *ab initio*. The absence of the essential requisites of consent rendered the contract inexistent and subject to the declaration of nullity of the court.¹⁶

3.5. Here, not only did Plaintiff Revilla not intend to be bound by the stipulations in the PDAF Documents, he is absolutely not a party to any of it. As found by Mr. Roger Azores, an expert in signature verification, the signatures appearing in the PDAF Documents are forged. Attached hereto and made integral parts hereof as Annexes “D” to “D-1” are copies of the results of the

¹¹ G.R. No. 163687, March 28, 2006, 485 SCRA 494, 500-501; citing *Loyola v. Court of Appeals*, 383 Phil. 171 (2000), and *Balite v. Lim*, 487 Phil. 281 (2004).

¹² G.R. No. 70263, 14 May 1990, 185 SCRA 352, 363-364.

¹³ G.R. No. L-73564, 25 March 1988, 159 SCRA 178, 183.

¹⁴ 138 Phil. 237, 239 (1969).

¹⁵ 351 Phil. 526, 533-534 (1998).

¹⁶ *Gochan and Sons Realty Corp, et al vs. Heirs of Raymundo Baba, et al.*, G.R. No. 138945, August 19, 2003.

examination conducted by Mr. Roger Azores where he found that the PDAF Documents purportedly bearing the signatures of Plaintiff Revilla are forged.

3.6. More particularly, Mr. Roger Azores concluded that the signatures of Plaintiff Revilla in the following documents are forgeries:

B-4

B-41

Name of Document
Letter addressed to Mr. Antonio Y. Ortiz, Director General Technology and Livelihood Resource Center dated 27 Nov. 2007
Letter addressed to Hon. Arthur C. Yap, Secretary Department of Agriculture dated 27 Nov. 2007.
Letter addressed to Hon. Godelina G. Amata, President, National Livelihood Development Corporation dated 27 Feb. 2009
Letter addressed to Hon. Godelina G. Amata, President, National Livelihood Development Corporation dated 28 Apr. 2009
Pangkabuhayan Foundation Inc., Accomplishment Report dated in the year 2009
Pangkabuhayan Foundation Inc., Accomplishment Report dated in the year 2009
Pangkabuhayan Foundation Inc., List of Beneficiaries Livelihood Project, Sen. Ramon "Bong" Revilla Jr., attendance sheet conduct of training dated 3-5 Oct. 2009
Pangkabuhayan Foundation Inc., List of Beneficiaries Livelihood Project, Sen. Ramon "Bong" Revilla Jr., dated in the year 2009
Pangkabuhayan Foundation Inc., List of Beneficiaries Livelihood Project, Sen. Ramon "Bong" Revilla Jr. dated in the year 2009.
Vegetable Growing Program and Planting Materials distribution Project in the Municipality of Akbar, Sulu, Livelihood Project of Sen. Ramon "Bong" Revilla Jr., dated in the year 2009.
Pangkabuhayan Foundation Inc.,

Accomplishment Report ROCS-09-02426 dated in the year 2009
Project Title: Vegetable Growing Program Backyard Vegetable Farming, Office of Sen. Ramon "Bong" Revilla, Jr., implementing agency-Zamboanga Rubber Estate Corp. dated in the year 2009.
Certificate of Acceptance dated 12 March 2008
Senate Pasay City, Office of Sen. Ramon "Bong" Revilla Jr., Certificate of Acceptance dated in the year 2009.
Senate Pasay City, Office of Sen. Ramon "Bong" Revilla Jr., Certificate of Acceptance dated in the year 16 Sept. 2009.
Letter addressed to Mr. Antonio Y. Ortiz, Director General, Technology and Livelihood Resource Center dated 10 April 2007.

3.7. Mr. Azores also found that the signatures of Atty. Cambe in several memoranda of agreement are also forgeries. Attached hereto and made integral parts hereof as Annexes "E" to "E - 3" are copies of the results of the examination conducted by Mr. Roger Azores where he found that the PDAF Documents purportedly bearing the signatures of Atty. Cambe are forged.

3.8. As Plaintiff Revilla's signatures and those of Atty. Cambe were forgeries, the contracts or documents which bear those signatures are fictitious and void.

3.9. By law and jurisprudence, Defendants are presumed to be the material authors of the falsification as they were the ones who possessed, used, uttered, and submitted the Falsified PDAF Documents, and they took advantage of and profited from the Falsified PDAF Documents with the release of government funds to them and their NGOs.

3.10. In *Serrano, et al. v. Court of Appeals*, G.R. No. 123896, June 25, 2003, the Supreme Court held that:

“It is an established rule that when it is proved that a person has in his possession a falsified document and makes use of the same, the presumption or inference is justified that such person is the forger x x x This is especially true if the use or uttering of the forged documents was so closely connected in time with the forgery that the user or possessor may be proven to have the capacity of committing the forgery xxx In the absence of a satisfactory explanation, one who is found in possession of a forged document and who used or uttered it is presumed to be the forger.”

3.12. The PDAF Documents being products of simulation and/or forgeries should thus be declared null and void by this Honorable Court.

SECOND CAUSE OF ACTION
(Account and Return of All Amounts
Received by Defendants to the Government)

3.13. The foregoing paragraphs are repleaded herein by way of reference.

3.14. Based on the COA Report, Plaintiff Revilla supposedly allocated P502.89 million of his 2007 - 2009 PDAF to bogus NGOs. Annex “A” of the COA Report lists the NGOs to which the PDAF were transferred:

NGO	Implementing Agency	Amount (Million)
Agri& Economic Program for Farmers Foundation, Inc.	NLDC	P82.450
	TRC	24.0
Agricultura Para saMagbubukid Foundation, Inc.	NLDC	58.2
Masaganang Ani Para saMagsasaka Foundation, Inc.	NABCOR	50.44
	NLDC	67.9
Pangkabuhayan Foundation Inc.	ZREC	9.7
Philippine Social Development Foundation, Inc.	TRC	31.5
Social Development Program for Farmers Foundation, Inc.	NABCOR	38.8
	NLDC	58.2

	TRC	72.0
St. James the Apostle Multi-Purpose Coop	NABCOR	9.7
TOTAL		P502.89

3.15. Hence, based on the COA Report, the following NGOs headed by the Defendants received the following amounts through the fictitious, null and void PDAF Documents:

- a) P169 million were transferred to Social Development Program for Farmers Foundation, Inc. through NABCOR (P38.8M), NLDC (P58.2M) and TRC (P72M).
- b) P118.34 million were transferred to Masaganang Ani Para Sa Magsasaka Foundation, Inc. through NABCOR (P50.44M) and NLDC (P67.9M).
- c) P106.45 million were transferred to Agri & Economic Program for Farmers Foundation, Inc. through NLDC (P82.450M) and TRC (P24M).
- d) P31.5 million were transferred to Philippine Social Development Foundation, Inc. Through TRC.
- e) P9.7 million was transferred to St. James the Apostle Multi Purpose Coop through NABCOR.
- f) P58.2 million was transferred to Agricultura Para sa Magbubukid Foundation.
- g) P9.7 million was transferred to Pangkabuhayan Foundation.

3.16. As a matter of consequence, when the PDAF Documents are declared null and void by the Honorable Court, the Defendants are duty-bound to account for, and return, any and all amounts they received by virtue of the void contracts. In *Filinvest Land, Inc. et al. v. Backy, et al.*¹⁷, the Supreme Court held that any amount received from a void contract should be returned:

"Nevertheless, petitioner does not err in seeking the return of the down payment as a consequence of the sale having been declared void. The rule is settled that the declaration of nullity of a contract which is void *ab initio* operates to restore things to the state and

¹⁷ G.R. No. 174715, October 1, 2012.

condition in which they were found before the execution thereof. Petitioner is correct in its argument that allowing respondents to keep the amount received from petitioner is tantamount to judicial acquiescence to unjust enrichment."¹⁸

3.17. In this case, the defendant should be ordered to account for and return the amounts they received through the use of the fictitious PDAF Documents to the government. To hold otherwise or to state the Plaintiff Revilla does not have personality to seek for this particular prayer would amount to unjust enrichment on the part of the Defendants.

THIRD CAUSE OF ACTION **(Payment of Moral Damages)**

3.18. The foregoing paragraphs are repleaded herein by way of reference.

3.19. Defendants' wanton, fraudulent, reckless, oppressive and malevolent acts and omissions, particularly in illegally, unlawfully and maliciously forging the signatures of Plaintiff Revilla and Atty. Cambe in the PDAF Documents and thereafter criminally, fraudulently and insidiously using the said falsified PDAF Documents to withdraw Plaintiff Revilla's PDAF funds and then diverting, misappropriating and taking the PDAF funds, have exposed Plaintiff Revilla not only to probable criminal prosecution for Malversation of Public Funds, violation of the Anti-Graft and Corrupt Practices Act, and probable Plunder, but has exposed him to public hatred, condemnation, and dishonor. Plaintiff Revilla, including his family, has suffered mental anguish and wounded feelings at the way defendants have used his name to accomplish their wrongful ends and thereby tarnish Plaintiff Revilla good name and reputation.

3.20. Consequently, Defendants should be ordered to each pay Plaintiff Revilla moral damages in such amount as the Honorable Court may find just and reasonable but not less than P100,000.00.

¹⁸

Emphasis supplied.

FOURTH CAUSE OF ACTION
(Payment of Exemplary Damages)

3.11. The foregoing paragraphs are repleaded herein by way of reference.

3.12. By forging Plaintiff Revilla's and Atty. Cambe's signatures to make it appear that Plaintiff Revilla is part of the scheme to convert his PDAF to personal use, defendants acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner.

3.13. Consequently, by way of example or correction for the public good, defendants should be ordered to each pay Plaintiff Revilla at least P100,000.00 as exemplary damages.

FIFTH CAUSE OF ACTION
(Payment of Attorney Fees and Litigation Expenses)

3.14. The foregoing paragraphs are repleaded herein by way of reference.

3.15. To protect his rights and interests and to seek redress for his grievance against defendants, Plaintiff Revilla was compelled to engage the services of counsel for a fee and incur expenses for litigation.¹⁹ In addition, defendants acted in gross and evident bad faith in refusing to satisfy plaintiff's plainly valid, just, and demandable claim.²⁰

3.16. Thus, defendants should be ordered to pay Plaintiff Revilla's attorney's fees of at least P100,000.00, and the further sum of at least P50,000.00 as litigation expenses.

¹⁹ Civil Code, Art. 2208 (2).

²⁰ *Ibid*, Art. 2208 (3).

PRAYER

WHEREFORE, Plaintiff Revilla respectfully prays that, after due and proper trial on the merits, the Honorable Court render judgment:

- 1) Under the First Cause of Action, declaring the PDAF Documents null and void;
- 2) Under the Second Cause of Action, directing Defendants to account for and return to the Government any and all amounts they received through the use of null and void PDAF Documents;
- 3) Under the Third Cause of Action, ordering Defendants to each pay Plaintiff Revilla not less than P100,000.00 as moral damages;
- 4) Under the Fourth Cause of Action, ordering Defendants to each pay Plaintiff Revilla not less than P100,000.00 as exemplary damages;
- 5) Under the Fifth Cause of Action, ordering Defendants to pay Plaintiff Revilla the amount of not less than P100,000.00 as attorney's fees and not less than P50,000.00 as litigation expenses;
- 6) Ordering Defendants to pay the cost of suit.

Plaintiff Revilla further prays for such other relief as may be deemed just and equitable in the premises.

Muntinlupa City for Bacoor City, 10 September 2013.

BODEGON ESTORNINOS GUERZON
BORJE & GOZOS
Counsel for Plaintiff Ramon "Bong" Revilla, Jr.
5th Floor Park Trade Centre, 1716 Investment Drive
Madrigal Business Park, Alabang 1780
Muntinlupa City
Telephone No. 772-5289


By:



JOEL L. BODEGON
PTR No. 1235383, 14 Jan. 2013, Muntinlupa City
Roll of Attorneys No. 25935
IBP (Lifetime) No. 03998, Sorsogon
MCLE Compliance III-0011018



NIQUEE LOUISE A. YAP
PTR No. 10471396, 22 January 2013, Las Piñas
IBP No. 926566, 18 Jan. 2013, South Cotabato
Roll of Attorneys No. 60468
MCLE Compliance No. IV-0013700



GLENNA MARI M. DELA CRUZ
PTR No. 1321287, 02 May 2013, Muntinlupa City
I BP No. 935495, 15 April 2013 PPLM
Roll of Attorneys No. 62605
MCLE Compliance No. (Not yet required)




KRISTINE JANE M. PERDITO
PTR No. 1321288, 02 May 2013, Muntinlupa City
IBP No. 935443, 12 April 2013 PPLM
Roll of Attorneys No. 62539
MCLE Compliance No. (Not yet required)

VERIFICATION/CERTIFICATION ON NON-FORUM SHOPPING

I, **RAMON "BONG" REVILLA, JR.**, of legal age, Filipino and with address at #305 Aguinaldo Highway, City of Bacoor, Province of Cavite, subscribing under oath depose and state that:


1. I am the plaintiff in the instant case;
2. I caused the preparation of the foregoing Complaint;
3. I have read the contents of the said Complaint, the contents of which are true and correct based on my personal knowledge and on authentic records at hand;
4. No other action or proceeding involving the same issues raised in the Complaint has been commenced in the Supreme court, the Court of Appeals, or any other tribunal or agency; and to the best of my knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or any other tribunal or agency;
5. Should I hereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals or any other tribunal or agency, I hereby undertake to report that fact to this Honorable Court within five (5) days from receipt of that information.


RAMON "BONG" REVILLA, JR.

SUBSCRIBED AND SWORN to before me this 12 September 2013, in Makati City, Philippines, affiant exhibiting to me the following:

Affiant	Competent Evidence of Identity		Passport		
		Type of ID	ID Number and Expiry Date	Number	Date/Place Issued
RAMON "BONG" REVILLA, JR.	1	Driver's License	D02-84-027631/ 2013-09-25	XX5319693	20 Jan 2010/ Manila
	2	PhilHealth	19-025492674-8		

Doc. No. 460;
 Page No. 95;
 Book No. 11;
 Series of 2013.


PAUL VINCENT W. ANOVER
 Notary Public for and in Muntinlupa City,
 10673 Park Trade Center, MBR Muntinlupa City,
 Appointment No. NTC-12-026 (2012-2013) Until December 2012
 PTR No. 0122231, 01/03/2013, Muntinlupa City
 ID# LRN 09580, 01/14/2011
 Roll of Attorneys No. 56759, ASM Chapter
 *ICLP Certificate No. 01-0001459, November 26, 2009