

EN BANC

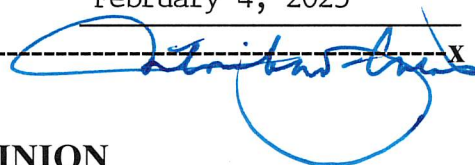
G.R. No. 232323– JESSICA LUCILA G. REYES, Petitioner, v. THE HONORABLE SANDIGANBAYAN THIRD DIVISION AND THE PEOPLE OF THE PHILIPPINES, Respondents.

G.R. No. 243411– JESSICA LUCILA G. REYES, Petitioner, v. THE HONORABLE SANDIGANBAYAN THIRD DIVISION AND THE PEOPLE OF THE PHILIPPINES, Respondents.

Promulgated:

February 4, 2025

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X

CONCURRING OPINION

LEONEN, J.:

On June 5, 2014, an Information was filed in the Sandiganbayan¹ charging petitioner Jessica Lucila Reyes with plunder for amassing ill-gotten wealth diverted from Senator Juan Ponce Enrile's Priority Development Assistance Fund (PDAF). The allegations in the information involved an elaborate scheme orchestrated by Janet Lim Napoles, Ronald John Lim, and John Raymund de Asis, in conspiracy with petitioner and the senator who allegedly received kickbacks or commissions amounting to at least PHP 172,834,500.00 from inexistent projects supposedly funded by the Senator's PDAF.

There are two incidents before the Supreme Court *En Banc* arising from this Sandiganbayan plunder case: (1) the Petition for *Certiorari*, docketed as G.R. No. 232323, where petitioner claims that the Sandiganbayan committed grave abuse of discretion in denying her motion to quash the Information; and (2) petitioner's motion in G.R. No. 243411, seeking reconsideration of the Supreme Court First Division's August 19, 2020 Decision affirming the Sandiganbayan's denial of her bail application, on a finding that there is strong evidence of her guilt.

I concur with the consolidation of these cases, given the interrelationship of the issues raised in them. As pointed out by the *ponencia*, resolving these cases jointly avoids multiplicity of suits and prevents the possibility of conflicting decisions.²

¹ The Sandiganbayan case is docketed as Criminal Case No. SB-14-CRM-0238.

² *Ponencia*, p. 5.



I likewise concur with the *ponencia* in finding that the Court may no longer rule upon the merits of either the Petition of *Certiorari* in G.R. No. 232323 or the Motion for Reconsideration in G.R. No. 243411, in light of petitioner's acquittal in the plunder case before the Sandiganbayan.³

Delving into the merits of the *certiorari* petition in G.R. No. 232323 would require that the Information in the plunder case be examined to answer the question of "whether the facts asseverated would establish the essential elements of the crime defined in the law,"⁴ without considering matters *aliunde*.⁵ There would thus be a need to "look into. . . (1) what must be alleged in a valid Information; (2) what the elements of the crime charged are; and (3) whether these elements are sufficiently stated in the Information."⁶ As in *Laurel v. Judge Abrogar*:⁷

An information or complaint must state explicitly and directly every act or omission constituting an offense and must allege facts establishing conduct that a penal statute makes criminal; and describes the property which is the subject of theft to advise the accused with reasonable certainty of the accusation he is called upon to meet at the trial and to enable him to rely on the judgment thereunder of a subsequent prosecution for the same offense. It must show, on its face, that if the alleged facts are true, an offense has been committed. The rule is rooted on the constitutional right of the accused to be informed of the nature of the crime or cause of the accusation against him. He cannot be convicted of an offense even if proven unless it is alleged or necessarily included in the Information filed against him.

As a general prerequisite, a motion to quash on the ground that the Information does not constitute the offense charged, or any offense for that matter, should be resolved on the basis of said allegations whose truth and veracity are hypothetically committed; and on additional facts admitted or not denied by the prosecution. If the facts alleged in the Information do not constitute an offense, the complaint or information should be quashed by the court.⁸ (Citations omitted)

Meanwhile, evaluating the merits of the motion in G.R. No. 243411 would entail a revisiting of "whether evidence of guilt of the accused is strong"⁹ because the direct issue would be whether "the Sandiganbayan acted with grave abuse of discretion in concluding that there is strong evidence against petition."¹⁰



³ *Id.* at 5–6.

⁴ *Domingo v. Sandiganbayan*, 379 Phil. 708, 719 (2000) [Per C.J. Davide, Jr., First Division]. (Citations omitted)

⁵ *Id.*

⁶ *People v. Sandiganbayan (Fourth Division)*, 769 Phil. 378, 387 (2015) [Per J. Jardeleza, Third Division].

⁷ 518 Phil. 409 (2006) [Per J. Callejo, Sr., First Division].

⁸ *Id.* at 431–432.

⁹ *People v. Tanes*, 851 Phil. 295, 304 (2019) [Per J. Caguioa, Second Division].

¹⁰ *Reyes v. Sandiganbayan Third Division*, 879 Phil. 227, 263 (2020) [Per J. J. Reyes, Jr., First Division].

Evidently, as the *ponencia* stressed, none of the foregoing may be carried out without running afoul of Article III, Section 21 of the Constitution, which articulates petitioner's protection from double jeopardy.¹¹

SECTION 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

The operationalization of the above provision was thoroughly discussed in *Corpus, Jr. v. Judge Pamular*.¹²

The Constitutional provision on double jeopardy guarantees the invocation of the law not only against the danger of a second punishment or a second trial for the same offense, "but also against being prosecuted twice for the same act where that act is punishable by . . . law and an ordinance." When a person is charged with an offense and the case against [them] is terminated either by acquittal or conviction or in any other way without [their] consent, [they] cannot be charged again with a similar offense. Thus, "[t]his principle is founded upon the law of reason, justice and conscience."

The constitutionally mandated right against double jeopardy is procedurally bolstered by Rule 117, Section 7 of the Revised Rules of Criminal Procedure, which reads:

RULE 117
Motion to Quash

. . . .

Section 7. *Former Conviction or Acquittal; Double Jeopardy.* — When an accused has been convicted or acquitted, or the case against [them] dismissed or otherwise terminated without [their] express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.

In substantiating a claim for double jeopardy, the following requisites should be present:

- (1) a first jeopardy must have attached prior to the second;
 - (2) the first jeopardy must have been validly
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¹¹ *Ponencia*, p. 6.

¹² 839 Phil. 731 (2018) [Per J. Leonen, Third Division]

terminated; and (3) the second jeopardy must be for the same offense as in the first.

With regard the first requisite, the first jeopardy only attaches:

(a) after a valid indictment; (b) before a competent court; (c) after arraignment; (d) when a valid plea has been entered; and (e) when the accused was acquitted or convicted, or the case was dismissed or otherwise terminated without [their] express consent.

The test for the third requisite is “whether one offense is identical with the other or is an attempt to commit it or a frustration thereof; or whether the second offense includes or is necessarily included in the offense charged in the first information.”

Also known as “*res judicata* in prison grey,” the mandate against double jeopardy forbids the “prosecution of a person for a crime of which [they have] been previously acquitted or convicted.” This is to “set the effects of the first prosecution forever at rest, assuring the accused that [they] shall not thereafter be subjected to the danger and anxiety of a second charge against [them] for the same offense.”

People v. Dela Torre underscored the protection given under the prohibition against double jeopardy:

Double jeopardy provides three related protections: (1) against a second prosecution for the same offense after acquittal, (2) against a second prosecution for the same offense after conviction, and (3) against multiple punishments for the same offense.

....

The ban on double jeopardy is deeply rooted in jurisprudence. The doctrine has several avowed purposes. ***Primarily, it prevents the State from using its criminal processes as an instrument of harassment to wear out the accused by a multitude of cases with accumulated trials.*** It also serves the additional purpose of precluding the State, following an acquittal, from successively retrying the defendant in the hope of securing a conviction. And finally, it prevents the State, following conviction, from retrying the defendant again in the hope of securing a greater penalty.

Double jeopardy is a fundamental constitutional concept which guarantees that an accused may not be harassed with constant charges or revisions of the same charge arising out of the same facts constituting a single offense. When an accused traverses the allegations in the information by entering a plea during the arraignment, [they are] already put in jeopardy of conviction. Having understood the charges, the accused after entering a plea prepares for [their] defense based on the possible evidence that may be presented by the prosecution. The protection given to the accused by the double jeopardy rule does not attach only after an acquittal or a conviction.



It also attaches after the entry of plea and when there is a prior dismissal for violation of speedy trial.¹³ (Emphasis in the original, citations omitted)

In relation, “to give life to the rule on double jeopardy, our rules on criminal proceedings require that a judgment of acquittal, whether ordered by the trial court or the appellate court, is final, unappealable, and immediately executory upon its promulgation”:¹⁴

This is referred to as the “finality-of-acquittal” rule. The rationale for the rule was explained in *People v. Velasco*:

The fundamental philosophy highlighting the finality of an acquittal by the trial court cuts deep into “the humanity of the laws and in a jealous watchfulness over the rights of the citizen, when brought in unequal contest with the State[.]” Thus, Green expressed the concern that “(t)he underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that *the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting [them] to embarrassment, expense and ordeal and compelling [them] to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent, [they] may be found guilty.*”

It is axiomatic that on the basis of humanity, fairness and justice, an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of [their] acquittal. The philosophy underlying this rule establishing the absolute nature of acquittals is “part of the paramount importance criminal justice system attaches to the protection of the innocent against wrongful conviction.” *The interest in the finality-of-acquittal rule, confined exclusively to verdicts of not guilty, is easy to understand: it is a need for “repose,” a desire to know the exact extent of one’s liability.* With this right of repose, the criminal justice system has built in a protection to insure that the innocent, even those whose innocence rests upon a jury’s leniency, will not be found guilty in a subsequent proceeding.

Related to [their] right of repose is the defendant’s interest in [their] right to have [their] trial completed by a particular tribunal. This interest encompasses [their] right to have [their] guilt or innocence determined in a single proceeding by the initial jury empanelled to try [them], for society’s awareness of the heavy personal strain which the criminal trial represents for the individual defendant is manifested in the willingness to limit Government to a single criminal proceeding to vindicate its very vital interest in enforcement of criminal laws. The ultimate goal is

¹³ *Id.* at 773–775.

¹⁴ *Chiok v. People*, 774 Phil. 230, 248 (2015) [Per J. Jardeleza, Third Division]. (Citation omitted)

prevention of government oppression; the goal finds its voice in the finality of the initial proceeding. As observed in *Lockhart v. Nelson*, “(t)he fundamental tenet animating the Double Jeopardy Clause is that the State should not be able to oppress individuals through the abuse of the criminal process.” Because the innocence of the accused has been confirmed by a final judgment, the Constitution conclusively presumes that a second trial would be unfair[.]¹⁵ (Emphasis in the original, citations omitted)

In fine, it is plainly infeasible for the Court to address the sufficiency of the Information allegations against petitioner, much less delve into the strength of the prosecution’s evidence against her, without clashing with the final, unappealable verdict of acquittal in her favor and endangering her right against double jeopardy.

ACCORDINGLY, I vote to **DISMISS** the Petition for *Certiorari* in G.R. No. 232323 and to **DENY** the Motion for Reconsideration in G.R. No. 243411.


MARVIC M.V.F. LEONEN
Senior Associate Justice

¹⁵ *Id.* at 248–249.