EN BANC

G.R. No. 222312 — MELISSA GAY CASTAÑEDA LIMLINGAN MANGANIP, BEATRICE EMILIA L. MANGANIP, PATRICIA GRACE LIMLINGAN PADUA, JOSE JERICHO PADUA III, GERARDO MARTIN C. LIMLINGAN, CELESTE MAYA RECTO LIMLINGAN, and MANUELITA LIMLINGAN, Petitioners, **v. REPUBLIC OF THE PHILIPPINES, represented by the ANTI-MONEY LAUNDERING COUNCIL,** Respondent.

G.R. No 222313 — POWERLINK.COM CORPORATION, Petitioner, **v. REPUBLIC OF THE PHILIPPINES, represented by the ANTI-MONEY LAUNDERING COUNCIL,** Respondent.

G.R. No. 222314 — CODEWORKS.PH, INC., Petitioner, **v. REPUBLIC OF THE PHILIPPINES, represented by the ANTI-MONEY LAUNDERING COUNCIL,** Respondent.

G.R. No. 222315 — OMNI SECURITY INVESTIGATION, INC., VIVE HOTEL INC., CORPORATE SOLUTIONS MANPOWER & GENERAL SERVICES, INC. and UNANIMOUS HOLDINGS, INC., Petitioners, **v. REPUBLIC OF THE PHILIPPINES, represented by the ANTI-MONEY LA UNDERING COUNCIL,** Respondent.

Promulgated:

May 20, 2025

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CONCURRING OPINION

ZALAMEDA, *J.*:

Combating money laundering is no easy feat. It requires a delicate drafting of laws and regulations that strike a balance between creating a *hospitable* atmosphere to depositors and a *hostile* environment against criminals. The government must find a solution that both *effectively protects* the rights of the innocent public and *efficiently prosecutes* the money launderers.

In these consolidated cases, the *ponencia* denies the petitions challenging the constitutionality of Section 4.2(a) and (b) of the 2018 Implementing Rules and Regulations (IRR), which superseded Section 10 (c.1) and (d) of the 2012 Implementing Rules and Regulations of the Anti-Money Laundering Act, on the grounds that they violate Article III, Section 2 of the Constitution and Section 10 of Republic Act No. 9160, or the "Anti-Money Laundering Act of 2001 (AMLA)," as amended.

I concur.

Nature of money laundering

The definition of money laundering under Section 4 of the AMLA highlights the money launderers' criminal objective: to conceal monetary instruments, properties or proceeds used in the commission of, or related in any way to, an unlawful activity, which they do so through intricate and diverse webs of related and interlocking accounts with different covered persons.[1]

As explained in *Republic v. Eugenio*,[2] the AMLA created two "extraordinary provisional reliefs" which the Anti-Money Laundering Council (AMLC) can use to effectively counter money laundering: the freeze order under Section 10 and the bank inquiry order under Section 11.[3]

Coverage and purpose of a freeze order

The original version of Section 10 of the AMLA covered the freezing of "*any deposit or similar account* that is in any way related to an unlawful activity."

Subsequently, in 2003, Republic Act No. 9194 amended Section 10 of the AMLA to change the coverage of the freeze order from "*any deposit or similar account*" to "*any monetary instrument or property* [that] is in any way related to an unlawful activity as defined in Section 3(i) [of the AMLA]."[4] Section 10 of AMLA underwent several amendments since then. However, Section 10's coverage remained the same: it covers the freezing of "*any monetary instrument or property*."[5]

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1 Republic Act No. 9194 (2003), sec. 4, as amended by Republic Act No. 10365 (2013), sec. 4.
2 569 Phil. 98 (2008) [Per J. Tinga, Second Division].
3 *Id.* at 122.
4 Republic Act No. 9194 (2003), sec. 7.
5 Republic Act No. 10167 (2012), sec. 1; Republic Act No. 10365 (2013), sec. 8; Republic Act No. 10927 (2017), sec. 4; and Republic No. 11521 (2021), sec. 5.

The change in phraseology of Section 10 does not appear to be plainly editorial. To recall, "*money instrument*" has a technical definition under Section 3(c) of the AMLA:

> (c) "*Money instrument*" refers to:
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> (1) coins or currency of legal tender of the Philippines, or of any other country;
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> (2) drafts, checks and notes;
>
> (3) securities or negotiable instruments, bonds, commercial papers, deposit certificates, trust certificates, custodial receipts or deposit substitute instruments, trading orders, transaction tickets and confirmations of sale or investments and money market instruments; and
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> (4) other similar instruments where title thereto passes to another by endorsement, assignment or delivery.

Given its present formulation, Section 10 seeks to freeze not the bank account itself, which appears to be the original intention under the 2002 version of the AMLA, but rather the "*monetary instrument or property*" found in the bank account.

To be sure, in 2017, Republic Act No. 10927[6] inserted the following paragraph in Section 10:

> *The freeze order or asset preservation order issued under this Act shall be limited only to the amount of cash or monetary instrument or value of property that the court finds there is probable cause to be considered as proceeds of a predicate offense*, and the freeze order or asset preservation order shall not apply to amounts in the same account in excess of the amount or value of the proceeds of the predicate offense.[7] (Emphasis and underscoring supplied)

This paragraph clarifies that the bank account itself is not frozen. What is covered by the freeze order is the "*amount of cash or monetary instrument or value of property that the court finds there is probable cause to be considered as proceeds of a predicate offense*." Thus, despite the issuance of a freeze order, the owner of the bank account may still withdraw or transfer the "*amounts in the same account in excess of the amount or value of the proceeds of the predicate offense*." This is because the freeze order does not apply to the bank account itself—it applies to the money instrument or

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[6] Republic Act No. 10927 (2017), An Act Designating Casinos as Covered Persons Under Republic Act No. 9160, otherwise Known as the Anti-Money Laundering Act of 2001, as Amended.

[7] Republic Act No. 10927 (2017), sec. 4.

property that the Court of Appeals finds there is probable cause to be considered as proceeds of a predicate offense.

Probable cause requirement under Section 10 of AMLA

Based on the discussions above, it is my considered view that Section 10 requires the determination of probable cause on the monetary instruments or properties and *not* on the bank accounts where they are deposited. After all, the freeze order applies to the money instrument or property and *not* to the bank accounts.

In this regard, I agree with the observation of Justice Jhosep Y. Lopez during the deliberation that once the Court of Appeals determines that probable cause exists, such determination attaches to, and necessarily follows, the money instrument or property regardless of the number of transfers and identities of the accounts holding the same.

Textually, Section 10 of AMLA simply requires the AMLC to establish that probable cause exists that the monetary instruments and properties sought to be frozen are the proceeds of a predicate offense. Section 10 does not require the AMLC to specifically identify the bank accounts where the monetary instruments or properties are deposited.

Indeed, Section 52(b) of A.M. 05-11-04-SC[8] only requires the freeze order issued by the Court of Appeals to "describe with particularity the monetary instrument, property or proceeds frozen, as well as the names of their owner or owners." Nowhere in A.M. 05-11-04-SC do We require the freeze order to also specify the bank accounts where the monetary instruments or properties are found. This is only logical since the freeze order applies to the monetary instrument or property and *not* to the bank account itself.

Even if the related and materially linked accounts were not initially identified in the *ex parte* application, the *ponencia* holds that the constitutional requirement of particularity under Article III, Section 2 of the Constitution is complied with as long as the amount of cash or monetary instrument or value of property are identified in the freeze order.[9]

I agree.

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[8] Rule of Procedure in Cases of Civil Forfeiture, Asset Preservation, and Freezing of Monetary Instrument, Property, or Proceeds Representing, Involving, or Relating to an Unlawful Activity or Money Laundering Offense under Republic Act No. 9160, as amended.

[9] *Ponencia*, p. 43.

The particularity requirement is complied with since the freeze order specifically **identifies** the "*amount of cash or monetary instrument or value of property that the court finds there is probable cause to be considered as proceeds of a predicate offense.*" Again, what is being seized by the freeze order is the monetary instrument or property and *not* the bank account. Thus, there is no constitutional violation if the related accounts are not *initially* identified in the freeze order as long as the amount of the monetary instrument or property is specifically identified—which is the very property sought to be seized.

Even if We assume that the freezing of the related accounts that were not *initially* identified in the AMLC's *ex parte* petition amounts to a warrantless seizure, it does not necessarily render Section 4.2(a) and (b) of the 2018 IRR of the AMLA, as amended, unconstitutional. As Justice Maria Filomena D. Singh correctly pointed out during the deliberation, not all warrantless searches and seizures are prohibited. Indeed, the Constitution only prohibits those which are unreasonable and those which are reasonable are permitted.[10]

As I will explain further below, Sections 4.2(a) and (b) of the 2018 IRR of the AMLA, as amended, serve a practical and reasonable purpose to effectively curb money laundering.

Practical necessity of Section 4.2(a) and (b) of the 2018 IRR of AMLA

Money laundering is a series of transactions that typically involves three stages, known as (1) placement, (2) layering, and (3) integration. **Placement** means that after the crime has been committed, the illicit proceeds in the form of cash and other assets are physically disposed of or moved, usually through financial institutions. This may be done in several ways, such as breaking large sums into smaller sums (also known as smurfing) and depositing them in banks, or purchasing insurance policies through premium payments. **Layering** occurs when the illicit proceeds are separated from the source by disguising the trail or source through complex layers of transactions. This may be accomplished by sending wire transfers to other accounts and other financial institutions or using shell companies.[11]

Lastly, **integration** happens when the money, appearing to be legitimate, is again made available to the criminal. This stage involves using laundered proceeds in seemingly normal transactions to create a perception of legitimacy.

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[10] *Veridiano v. People*, 810 Phil 642, 655 (2017) [Per J. Leonen, Second Division].
[11] VENCENT L. SALIDO, THE PHILIPPINE ANTI-MONEY LAUNDERING ACT ANNOTATED 6–7 (2019).

By the integration stage, it is extremely difficult to distinguish between legal and illegal wealth. This stage allows the launderers to increase their wealth with the proceeds of the crime. For example, in a trade-based money laundering where the collaborator ships goods worth PHP 500,000.00 but invoices PHP 1,000,000.00. The launderer then pays PHP 1,000,000.00. The collaborator holds the PHP 500,000.00 for future use.[12] It does not necessarily mean that all three stages must be performed. In fact, some of these steps may be omitted, depending upon the circumstances. For instance, a real estate that was used to settle the illicit activity instead of cash will not undergo the placement stage.

As mentioned, the most recent definition of money laundering under AMLA highlights the intention of money launderers, that is, to conceal, through intricate and diverse web of related and interlocking accounts that they may open or create in different covered institutions, their branches and/or other units, the monetary instruments, properties or proceeds used in the commission of, or related in any way to, an unlawful activity. To achieve their purpose, they will create multiple web of accounts, never a single account, and perform various transactions that will ensure that, in the end, the government will not be able to connect the unlawful activity with these monetary instruments, properties or proceeds and, thus, place them beyond its reach to forfeit. Although there may be multiple web of accounts, money launderers will retain control over these accounts. Hence, they will create one or a combination of these: (1) two or more accounts under their name within the same institutions; (2) joint accounts with another person; and (3) accounts under the name of various individuals but control or beneficial ownership is retained by them through "in trust for" or trustor or trustee.

Given the foregoing money laundering schemes, a freeze order under Section 10 of AMLA can be a powerful tool to preserve the monetary instruments or property which are in any way related to unlawful activities. In effect, the owner of such monetary instruments or property would be inhibited from utilizing, moving, transferring or disposing the same for the duration of the freeze order. In upholding the *ex parte* filing of petitions for freeze order, the Court in *Eugenio* emphasized that making such freeze order anteceded by a judicial proceeding with notice to the account holder would allow for or lead to the dissipation of such funds even before the order could be issued.[13]

In the same vein, notice to the owner of monetary instruments would trigger said owner to move, transfer, withdraw, and dissipate *all other* monetary instruments. Thus, if We adhere to petitioners' view that the probable cause determination pertains to the bank account, instead of the monetary instrument or property, and therefore, We will require a new and separate round of probable cause determination for other bank accounts, then

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[12] *Id.*

[13] 569 Phil. 98, 124 (2008) [Per J. Tinga, Second Division].

it is highly likely that the authorities will be pre-empted from preserving the other monetary instruments. By then, there will be practically nothing more to preserve. This stance will defeat the purpose of freezing the assets and the entire Section 10 of AMLA. Thus, as currently worded, Section 4.2(a) and (b) of the 2018 IRR of AMLA satisfy the objectives and meet the limits set forth under Section 10 of AMLA.

Safeguards to the depositors

The reasonableness of Section 4.2(a) and (b) of the 2018 IRR of AMLA is further strengthened by the following protections accorded to the affected depositors under Section 10 of the AMLA:

> 1. A person whose account has been frozen may file a motion to lift the freeze order and the court must resolve this motion before the expiration of the freeze order;
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> 2. The freeze order issued shall be limited only to the amount of cash or monetary instrument or value of property that court finds there is probable cause to be considered as proceeds of a predicate offense, and the freeze order shall not apply to amounts in the same account in excess of the amount or value of the proceeds of the predicate offense;
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> 3. The freeze order shall be initially for a period of 20 days and within the 20-day period, the Court of Appeals shall conduct a summary hearing, with notice to the parties, to determine whether or not to modify or lift the freeze order, or extend its effectivity;
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> 4. Total period of the freeze order issued by the Court of Appeals shall not exceed six months;
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> 5. If there is no case filed against a person whose account has been frozen within the period determined by the Court of Appeals, not exceeding six months, the freeze order shall be deemed *ipso facto* lifted; and
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> 6. The person whose property or funds have been frozen may withdraw such sums as the AMLC determines to be reasonably needed for monthly family needs and sustenance including the services of counsel and the family medical needs of such person.

The foregoing demonstrates that the current legal framework on freeze orders is not oppressive. As I have prefaced earlier, Section 10 of the AMLA seeks to strike a balance between creating a *hospitable* atmosphere to depositors and a *hostile* environment against criminals.

Faithful compliance with our international commitments

At this juncture, it must be stressed that the Government has two objectives in money laundering investigations: *first*, the filing of money laundering cases and, *second*, running after the proceeds of crime. As criminals build a sophisticated strategy for legalization of criminally acquired proceeds, the government should be equipped with an effective system to protect the financial system from criminal money, which threatens national and international economy.[14] This is of particular significance in preserving our international standing, as the Philippines only recently exited the Financial Action Task Force (FATF)'s "grey list," a designation for jurisdictions under increased monitoring.[15]

The mandate of the FATF is to set standards and to promote effective implementation of legal, regulatory, and operational measures for combating money laundering, terrorists financing, and the financing of proliferation, and other related threats to the integrity of the international financial system. The FATF's 40 Recommendations are mandates for action by a country if that country wants to be viewed by the international community as meeting international standards.[16] Pertinently, the FATF's Recommendation 4 and the related Interpretive Note on confiscation and provisional measures must be highlighted, *viz.*:

> Countries should ensure that they have policies and operational frameworks that prioritise asset recovery in both the domestic and international context.
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> Taking into account the Vienna Convention, the Palermo Convention, the United Nations Convention against Corruption, and the Terrorist Financing Convention, countries should have measures, including legislative measures, to enable their competent authorities to:
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> a) identify, trace and evaluate criminal property and property of corresponding value;
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> b) suspend or withhold consent to a transaction;
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> c) take any appropriate investigative measures;
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> d) *expeditiously carry out provisional measures, such as freezing and seizing, to prevent any dealing, transfer or disposal of criminal property and property of corresponding value*;
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> e) confiscate criminal property and property of

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[14] Svetlana Nikoloska & Ivica Simonovski, *Role of Banks as Entity in the System for Prevention of Money Laundering in Macedonia*, 44 PROCEDIA – SOCIAL AND BEHAVIORAL SCIENCES 453 (2012).

[15] Philippines Exits FATF Greylist – February 21, 2025, *available at* http://www.amlc.gov.ph/images/PDFs/Main/PR_PH%20Exits%20FATF%20GREYLIST.pdf (last accessed on August 11, 2025).

[16] VINCENT L. SALIDO, THE PHILIPPINE ANTI-MONEY LAUNDERING ACT ANNOTATED 30–33 (2019).

corresponding value through conviction-based confiscation;

f) confiscate criminal property through non-conviction based confiscation;

g) enforce a resulting confiscation order; and

h) ensure effective management of property that is frozen, seized or confiscated."[17]

. . . .

B. Criminal property and property of corresponding value

. . . .

3. Criminal property and property of corresponding value extends to property owned or held by third parties, but without prejudicing the rights of bona fide third parties. Examples of circumstances where property is owned or held by non-bona fide third parties and could be criminal property or property of corresponding value include:

(a) property under the effective control of the defendant or person under investigation and, for example, held or owned by family members, associates or legal persons and arrangements; or

(b) where the property has been gifted or transferred to the third party for an amount significantly above or below market value.

C. Provisional measures

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4. In response to relevant information, countries should enable the FIU or other competent authority to take immediate action, directly or indirectly, to withhold consent to or suspend a transaction suspected of being related to money laundering, predicate offences, or terrorist financing. The maximum duration of this measure should be specified and allow sufficient time to analyse the transaction and for competent authorities to initiate, where appropriate, an action to freeze or seize.

5. Countries should have measures, including legislative measures, to enable their competent authorities to expeditiously carry out provisional measures. This should include:

(a) allowing the initial application to freeze or seize criminal property and property of corresponding value to be made ex parte or without prior notice: and

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[17] Financial Action Task Force. International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, *available at* https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html (last accessed on August 11, 2024).

> *(b) ensuring that provisional measures do not have unreasonable or unduly restrictive conditions for effective action, such as in relation to demonstrating the risk of dissipation.*
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> 6. When necessary to act as expeditiously as possible, countries should enable competent authorities to freeze and seize criminal property and property of corresponding value without a court order, with such action reviewable through judicial proceedings within a period of time. If either or both freezing or seizing without a court order is inconsistent with fundamental principles of domestic law, a country may use an alternative mechanism if it enables their competent authorities to systematically take action quickly enough to prevent the dissipation of criminal property and property of corresponding value.
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> 7. Countries should have measures, including legislative measures, that enable their competent authorities to take steps that will prevent or void actions that prejudice the country's ability to freeze or seize or confiscate criminal property and property of corresponding value.[18] (Emphasis supplied)

To give life to the foregoing recommendations, it is imperative that freeze orders be executed promptly and without prior notice to the account holder or asset owner. Otherwise, such orders risk becoming meaningless, leaving the government with an empty bag. Verily, it is my view that the determination of probable cause on the monetary instruments or properties, and *not* on the bank accounts where they are deposited, is in keeping with the Constitution and Our international commitment to combat money laundering effectively.

ACCORDINGLY, I vote to **DENY** the Petitions.

RODIL V. ZALAMEDA
Associate Justice

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[18] *Id.*