



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

THE PEOPLE OF THE
PHILIPPINES,

Plaintiff-Appellee,

-versus-

RAMON “BONG” REVILLA,
JR., RICHARD A. CAMBE, and
JANET LIM NAPOLES,

Accused,

JANET LIM NAPOLES,

Accused-Appellant.

G.R No. 247611

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,

GESMUNDO,
LAZARO-JAVIER,
LOPEZ,
ROSARIO,*JJ.

Promulgated:

JAN 13 2021

RESOLUTION

LOPEZ, J.:

For this Court’s resolution is an Urgent Motion for Recognizance/Bail or House Arrest for Humanitarian Reason Due to COVID-19¹ filed by Janet Lim Napoles seeking temporary release from detention due to the COVID-19² pandemic.³

ANTECEDENTS

* Designated additional Member *per* Special Order No. 2797 dated November 5, 2020.

¹ *Rollo*, pp. 1,985-2,005.

² COVID-19 is the infectious disease caused by the coronavirus, SARS-CoV-2, which is a respiratory pathogen. The World Health Organization first learned of this new virus from Wuhan, China, on December 31, 2019, before it became a global pandemic. See “Coronavirus Disease (COVID-19),” World Health Organization (WHO), <<https://www.who.int/news-room/q-a-detail/coronavirus-disease-covid-19>> (last visited on November 8, 2020).

³ On March 11, 2020, the WHO declared the COVID-19 as a pandemic after the number of cases outside China increased 13-fold with 118,000 cases in 114 countries, and 4,291 people dying from the disease. See WHO Director-General’s opening remarks at the media briefing on COVID-19 - 11 March 2020, <<https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>> (last visited December 29, 2020).

On December 7, 2018, the Sandiganbayan Special First Division, rendered a Decision in Criminal Case No. SB-14-CRM-0240⁴ convicting Richard A. Cambe (Cambe) and Janet Lim Napoles (Napoles) of Plunder relative to the utilization of Senator Ramon “Bong” Revilla, Jr.’s Priority Development Assistance Fund (PDAF). After having been sentenced to suffer the penalty of *reclusion perpetua*,⁵ Cambe and Napoles separately appealed their conviction before this Court.⁶ Pending resolution of the appeal, Napoles is detained at the Correctional Institution for Women (CIW).⁷

NAPOLES’ MOTION

In her Motion,⁸ Napoles alleges that she is at risk of contracting COVID-19 inside the prison due to her Diabetes, an underlying COVID-19 health condition.⁹ She is entitled to be provisionally released on humanitarian grounds invoking this Court’s rulings in *De La Rama v. People’s Court (De La Rama)*¹⁰ and *Enrile v. Sandiganbayan (Enrile)*,¹¹ and because there are compelling reasons to support her acquittal from Plunder. Napoles pleads for the application of Office of the Court Administrator’s (OCA) Circular No. 91-2020,¹² the rationale of which mandates the enforcement of an accused’ right to bail and speedy trial. Finally, she raises that the Nelson Mandela Rules, provide the basis for the release of persons deprived of liberty (PDLs) in times of public health emergencies.

ISSUES

I

Whether the Constitution and the Rules of Court allow an accused to post bail pending the appeal of his, or her conviction of a capital offense.

⁴ *Rollo*, pp. 3-187; entitled “*People of the Philippines vs. Ramon ‘Bong’ Revilla, Jr., et al.*”; penned by Sandiganbayan Associate Justice Geraldine Faith A. Econg, with the concurrence of Associate Justices Edgardo M. Caldoná and Georgina D. Hidalgo; Associate Justice Efren N. de la Cruz, dissenting and concurring; and Associate Justice Ma. Theresa Dolores C. Gomez-Estoesta, dissenting.

⁵ *Id.* at 185-186. The dispositive portion of the December 7, 2018 Sandiganbayan Decision reads:
WHEREFORE, in light of all the foregoing, judgment is hereby rendered finding Richard A. Cambe, and Janet Lim Napoles GUILTY beyond reasonable doubt of the crime of Plunder, defined and penalized under Section 2 of Republic Act No. 7080, and are hereby sentenced to suffer the penalty of *reclusion perpetua*, with perpetual absolute disqualification to hold any public office.

For failure of the prosecution to establish beyond reasonable doubt that accused Ramon “Bong” Revilla, Jr. received, directly or indirectly the rebates, commission and kickbacks from his PDAF, the Court cannot hold him liable for the crime of Plunder. Accordingly, he is ACQUITTED.

Moreover, in view of the discussion above, and pursuant to Article 100 of the Revised Penal Code, accused are held solidarily and jointly liable to return to the National Treasury the amount of One Hundred Twenty-Four Million, Five Hundred Thousand Pesos (Php 124,500,000.00).

SO ORDERED.

⁶ Cambe’s appeal is docketed as G.R. No. 243873.

⁷ *Rollo*, p. 1,992.

⁸ *Supra* note 1.

⁹ *Rollo*, pp. 1,990-1,991.

¹⁰ 77 Phil. 461 (1946).

¹¹ 767 Phil. 147 (2015).

¹² Entitled “Release of Qualified Persons Deprived of Liberty”; issued on April 20, 2020.

N.B. The Motion mistakenly referred to ‘OCA Circular No. 90-2020’ entitled “Designation of Commercial Court and Family Court Judges as Judge-On-Duty.”

II

Whether Napoles could be provisionally released on humanitarian grounds due to the risk of contracting COVID-19.

III

Whether the Nelson Mandela Rules and the international community's call for the temporary release of PDLs due to the threats of COVID-19, provide sufficient basis to grant bail post-conviction.

RULING

The Court denies Napoles' Motion.

The presumption of innocence and the Constitutional right to bail end after the accused's conviction of a capital offense.

The right to bail is cognate to the fundamental right to be presumed innocent.¹³ It is accorded to a person in the custody of the law who may be allowed provisional liberty upon filing of a security to guarantee his, or her appearance before any court.¹⁴ It is a reconciling mechanism to accommodate both the accused's provisional liberty and the society's interest in assuring the accused's presence at trial.¹⁵

The Constitution guarantees every accused's right to bail, except for those charged with a capital offense when the evidence of guilt is strong:

SEC. 13. All persons, except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of *habeas corpus* is suspended. Excessive bail shall not be required.¹⁶ (Emphasis supplied.)

The Rules of Court echo this principle in this wise:

SEC. 7. Capital offense or an offense punishable by *reclusion perpetua* or life imprisonment, not bailable. — No person charged with a capital offense, or an offense punishable by *reclusion perpetua* or life imprisonment, shall be admitted to bail when evidence of guilt is strong,

¹³ *People v. Escobar*, 814 Phil. 840, 854 (2017).

¹⁴ *People v. Fitzgerald*, 536 Phil. 413, 424 (2006).

¹⁵ *Enrile v. Sandiganbayan*, *supra* note 11, at 166.

¹⁶ ART. III.

regardless of the stage of the criminal prosecution.¹⁷ (Emphases supplied.)

Indeed, **before conviction**, every person is entitled to bail as a matter of right unless, he or she is charged with a capital offense and the evidence of guilt is strong.¹⁸ In resolving bail applications of an accused charged with a capital offense, the Court conducts a summary hearing to determine the strength of the evidence of his or her guilt.¹⁹ In the affirmative, the accused cannot enjoy provisional liberty.²⁰ The rationale for this rule, is that the accused is more likely to be tempted to flee rather than await the outcome of the proceeding with a penalty demanding a lifetime of incarceration.²¹

On the other hand, bail **after conviction** is not absolute.²² It is a matter of judicial discretion which must be exercised with grave caution owing to the ascertainment of the accused's guilt:

The importance attached to conviction is due to the underlying principle that bail should be granted only where it is uncertain whether the accused is guilty or innocent, and therefore, where that uncertainty is removed by conviction it would, generally speaking, be absurd to admit to bail. After a person has been tried and convicted the presumption of innocence which may be relied upon in prior applications is rebutted, and the burden is upon the accused to show error in the conviction. From another point of view it may be properly argued that the probability of ultimate punishment is so enhanced by the conviction that the accused is much more likely to attempt to escape if liberated on bail than before conviction.²³
x x x.

Thus, under the Rules of Court, upon the accused's conviction by the Regional Trial Court of a **non-capital offense**, admission to bail is discretionary. However, when the penalty imposed on the accused exceeds six years, and any of the bail-negating circumstances exists,²⁴ the accused's

¹⁷ Rule 114.

¹⁸ *De la Camara v. Hon. Enage*, 148-B Phil. 502, 506-507 (1971).

¹⁹ See *Cortes v. Judge Catral*, 344 Phil. 415, 423-424 (1997).

²⁰ *People v. POI De Gracia*, 765 Phil. 386, 395 (2015).

²¹ *Id.*

²² *Reyes v. People*, G.R. No. 237172, September 18, 2019, citing *People v. Caderao*, 117 Phil. 650, 654 (1963).

²³ *Leviste v. Court of Appeals*, 629, Phil. 587, 613 (2010), citing Senator Vicente J. Francisco's explanation in *Obosa v. CA*, 334 Phil. 253, 273 (1997).

²⁴ RULES OF COURT, RULE 114, SEC. 5 provides:

SEC. 5. *Bail, when discretionary.* — Upon conviction by the Regional Trial Court of an offense not punishable by death, *reclusion perpetua*, or life imprisonment, admission to bail is discretionary.

x x x x

If the penalty imposed by the trial court is imprisonment exceeding six (6) years, the accused shall be denied bail, or his bail shall be cancelled upon a showing by the prosecution, with notice to the accused, of the following or other similar circumstances: (a) That he is a recidivist, quasi-recidivist, or habitual delinquent, or has committed the crime aggravated by the circumstance of reiteration; (h) That he has previously escaped from legal confinement, evaded sentence, or violated the conditions of his bail without valid justification; (c) That he committed the offense while under probation, parole, or

application for bail must be denied or cancelled.²⁵

Nevertheless, bail should be denied to an accused who was convicted of a **capital offense**.²⁶ In that instance, as explained in *People vs. Fortes*,²⁷ the Court would not have only determined that the evidence of guilt is strong, which would have been sufficient to deny bail even before conviction; it would have likewise ruled that the accused's guilt has been proven beyond reasonable doubt, viz:

The clear implication, therefore, is that if an accused who is charged with a crime punishable by *reclusion perpetua* is convicted by the trial court and sentenced to suffer such a penalty, bail is neither a matter of right on the part of the accused nor of discretion on the part of the court. **In such a situation, the court would not have only determined that the evidence of guilt is strong — which would have been sufficient to deny bail even before conviction — it would have likewise ruled that the accused's guilt has been proven beyond reasonable doubt. Bail must not then be granted to the accused during the pendency of his appeal from the judgment of conviction.**²⁸ x x x. (Emphasis supplied.)

In this case, Napoles was charged with Plunder, a capital offense which carries with it the penalty of *reclusion perpetua*.²⁹ During the summary bail hearings, the *Sandiganbayan* determined that the evidence of her guilt was strong and consequently denied her bail application. Thereafter, the *Sandiganbayan* found Napoles guilty as charged and imposed the penalty of *reclusion perpetua*. It was held that all the elements of plunder were present: (1) Although Napoles was not a public official, she is considered a 'business associate' who connived with Cambe who is a public official,³⁰ (2) Napoles,

conditional pardon; (d) That the circumstances of his case indicate the probability of flight if released on bail; or (e) That there is undue risk that he may commit another crime during the pendency of the appeal.

x x x x

²⁵ See also *Yap, Jr. v. CA*, 411 Phil. 190, 201-202 (2001).

²⁶ *People vs. Ricardo Cortez*, G.R. No. 92560, October 15, 1991.

²⁷ 295 Phil 683 (1993).

²⁸ *Id.* at 691-692.

²⁹ Section 2 of RA No. 7080, entitled "An Act Defining and Penalizing the Crime of Plunder," as amended by RA No. 7659, entitled "An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as Amended, Other Special Penal Laws, and for Other Purposes," provides:

Definition of the Crime of Plunder; Penalties. – Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt criminal acts as described in Section 1(d) hereof in the aggregate amount or total value of at least Fifty million pesos (P50,000,000.00) shall be guilty of the crime of plunder and shall be punished by *reclusion perpetua to death*. Any person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances, as provided by the Revised Penal Code, shall be considered by the court. The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State. x x x. (Underscoring supplied.)

³⁰ *Rollo*, p. 115.

in conspiracy with Cambe, amassed, accumulated, or acquired ill-gotten wealth through a series of criminal acts;³¹ and (3) the total amount amassed by Cambe and Napoles is at least ₱50,000,000.00³² Thus, applying all the above legal precepts, the presumption of innocence, and with it, the constitutional right to bail ends. Accordingly, Napoles' motion for bail pending the appeal of her conviction must be denied.

There are no compelling reasons to justify provisional release on "humanitarian grounds."

Napoles invokes "humanitarian grounds," as exemplified in the case of *De La Rama*,³³ and *Enrile*.³⁴ Napoles' reliance on these cases is misplaced.

In *De La Rama*, the Court found that Francisco C. De La Rama was "actually suffering from a minimal, early, unstable type of pulmonary tuberculosis, and chronic, granular pharyngitis"³⁵ which may progress into "advance stages when the treatment and medicine are no longer of any avail[.]"³⁶ In *Enrile*, the Court considered Former Senator Enrile's advanced age and ill health to require special medical attention. He was already more than 70 years old at the time of the alleged commission of the offense. He was also suffering from uncontrolled hypertension, arrhythmia, coronary calcifications associated with coronary artery disease, and exacerbations of Asthma-COPD Overlap Syndrome (ACOS), among others. Further, the Court ruled that Enrile's political and social standing and his immediate surrender to the authorities indicate that he was not a flight risk.

Both *De La Rama* and *Enrile* are exceptional, if not isolated cases, wherein the Court considered the special and compelling circumstances of the accused who needed continuing medication to preserve their health throughout the criminal proceedings, and to guarantee their appearance in court.³⁷ Their continued incarceration were shown to be injurious to their health, or endanger their life. The Court ratiocinated that to deny them bail would not serve the true objective of preventive incarceration during the trial.³⁸

³¹ *Id.*

³² *Id.* at 153.

³³ *Supra* note 10.

³⁴ *Supra* note 11.

³⁵ *Supra* note 10, at 465.

³⁶ *Supra.*

³⁷ *Enrile v. Sandiganbayan*, *supra* note 11.

³⁸ *Supra* at 177.

In contrast, Napoles resorted to this Court and alleged that she is at risk of contracting COVID-19 because she is suffering from diabetes, as shown by an unauthenticated medical certificate signed by her physician, which reads in part:

April 23, 2020-04-23

RE: JANET L. NAPOLES

x x x x

To whom it may concern,

This is to certify that Mrs. Napoles, 55 year [sic] old female has been my patient > 8 years. She is diagnosed to have the following diagnosis:

Diagnosis:

Type 2 Diabetes Mellitus
Hypertension³⁹

x x x x

Napoles' allegation is a question of fact which is not within the province of this Court to determine. Neither can the Court take judicial notice of her medical condition.⁴⁰ However, even assuming that she is indeed suffering from diabetes, that, in itself, is not sufficient to grant her provisional liberty, post-conviction. Towards this end, we echo Chief Justice Diosdado M. Peralta's position in *Almonte v. People*,⁴¹ thus:

At this juncture, we stress that unless there is clear showing that petitioners are actually suffering from a medical condition that requires immediate and specialized attention outside of their current confinement — as, for instance, an actual and proven exposure to or infection with the novel coronavirus — they must remain in custody and isolation incidental to the crimes with which they were charged, or for which they are being tried or serving sentence. Only then can there be an actual controversy and a proper invocation of humanitarian and equity considerations that is ripe for this Court to determine.⁴²

Napoles further contends that the rationale for OCA Circular No. 91-2020, equally applies to her. Foremost, OCA Circular No. 91-2020 is a directive to all judges of the first and second level courts to adhere to the “*Guidelines for Decongesting Holding Jails by Enforcing the Rights of Accused Persons to Bail and to Speedy Trial*,”⁴³ particularly (1) the release of PDLs who have served the minimum imposable penalty of the offense

³⁹ *Rollo*, p. 2,007.

⁴⁰ RULES OF COURT, Rule 129, Secs. 1 and 2.

⁴¹ G.R. No. 252117, July 28, 2020.

⁴² *Id.*; Separate Opinion of Chief Justice Peralta

⁴³ A.M. No. 12-11-2-SC, March 18, 2004.

charged against them,⁴⁴ and (2) the provisional dismissal of cases on the occasion of delays,⁴⁵ viz.:

Considering the continuing congestion of detention facilities nationwide and the consequent high risk of Persons Deprived of Liberty (PDLs) being afflicted with Covid-19, “there is a need to effectively implement existing policies laid down by the Constitution, the laws and the rules respecting the accused’s right to bail and to speedy trial in the context of decongesting our detention jails and humanizing the conditions of detained persons pending the hearing of their cases,” as provided in the Resolution of the Court *en banc* in A.M. No. 12-11-2-SC dated 18 March 2014.

Accordingly, ALL JUDGES of the first and second level courts are hereby REMINDED to ADHERE to the Guidelines for Decongesting Holding Jails by Enforcing the Rights of the Accused Persons to Bail and to Speedy Trial (Guidelines), as prescribed in the above Resolution of the Court *en banc*, particularly Sections 5 and 10 thereof, quoted herein, as follows:⁴⁶

X X X X

Verily, OCA Circular No. 91-2020 does not mandate the blanket release of PDLs because of the pandemic. It merely reminds the trial courts to effectively implement the existing policies laid down by the Constitution and the laws regarding the accused’s right to bail, and to speedy trial for the reduction of the congestion in detention facilities. To be sure, releasing an

⁴⁴ A.M. No. 12-11-2-SC, Sec. 5, provides:

SEC. 5. *Release after service of minimum imposable penalty.* — The accused who has been detained for a period at least equal to the minimum of the penalty for the offense charged against him shall be ordered released, *motu proprio* or on motion and after notice and hearing, on his own recognizance without prejudice to the continuation of the proceedings against him. [Sec. 16, Rule 114 of the Rules of Court and Sec. 5 (b) of RA 10389]

⁴⁵ A.M. No. 2-11-2-SC, Sec. 10:

SEC. 10. *Provisional dismissal.* — (a) When the delays are due to the absence of an essential witness whose whereabouts are unknown or cannot be determined and, therefore, are subject to exclusion in determining compliance with the prescribed time limits which caused the trial to exceed one hundred eighty (180) days, the court shall provisionally dismiss the action with the express consent of the detained accused.

(b) When the delays are due to the absence of an essential witness whose presence cannot be obtained by due diligence though his whereabouts are known, the court shall provisionally dismiss the action with the express consent of the detained accused provided:

(1) the hearing in the case has been previously twice postponed due to the non-appearance of the essential witness and both the witness and the offended party, if they are two different persons, have been given notice of the setting of the case for third hearing, which notice contains a warning that the case would be dismissed if the essential witness continues to be absent; and

(2) there is proof of service of the pertinent notices of hearings or subpoenas upon the essential witness and the offended party at their last known postal or e-mail addresses or mobile phone numbers.

(c) For the above purpose, the public or private prosecutor shall first present during the trial the essential witness or witnesses to the case before anyone else. An essential witness is one whose testimony dwells on the presence of some or all of the elements of the crime and whose testimony is indispensable to the conviction of the accused.

⁴⁶ OCA Circular No. 91-2020 dated April 20, 2020.

accused who has been convicted of a capital offense is not in accord with the Constitution, laws, rules and circulars.

The Nelson Mandela Rules and the international community's call for the temporary release of PDLs due to COVID-19 do not provide sufficient basis to grant bail, post-conviction.

Napoles likewise argues that the worldwide call for the temporary release of PDLs due to the threats posed by COVID-19,⁴⁷ and Rule 24 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, provide a legal ground for her release.⁴⁸

We disagree.

The revised United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) contain the universally acknowledged minimum standards for the management of prison facilities and the treatment of prisoners.⁴⁹ With respect to the healthcare and wellness of PDLs, it provides, *inter alia*, that PDLs who require specialized treatment or surgery should be transferred to specialized institutions or to civil hospitals;⁵⁰ that every prison should have a health-care service tasked with evaluating and improving the physical and mental health of PDLs;⁵¹ and PDLs who are suspected of having contagious diseases be clinically-isolated and given adequate treatment during the infectious period.⁵² Ultimately, the PDLs' access to health care is a State responsibility, thus:

RULE 24

1. The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.⁵³

Republic Act (RA) No. 10575⁵⁴ or "The Bureau of Corrections Act of 2013" and its Revised Implementing Rules and Regulations (Revised IRR)

⁴⁷ *Rollo*, p. 1,991.

⁴⁸ *Id.* at 1,991-1,992.

⁴⁹ "Nelson Mandela Rules" United Nations website, <https://www.un.org/en/events/mandeladay/mandela_rules.shtml> Last accessed October 20, 2020.

⁵⁰ *Id.*, Rule 27.

⁵¹ *Id.*, Rule 25.

⁵² *Id.*, Rule 30.

⁵³ *Id.*, Rule 24.

⁵⁴ AN ACT STRENGTHENING THE BUREAU OF CORRECTIONS (BUCOR) AND PROVIDING FUNDS THEREFOR, approved: May 24, 2013.



expressly refer and adhere to the standards laid down in the Nelson Mandela Rules, to wit:

SEC. 4. *The Mandates of the Bureau of Corrections.* x x x

(a) Safekeeping of National Inmates – The safekeeping of inmates shall include decent provision of quarters, food, water and clothing **in compliance with established United Nations standards.** The security of the inmates shall be undertaken by the Custodial Force consisting of Corrections Officers with a ranking system and salary grades similar to its counterpart in the BJMP.⁵⁵ (Emphasis supplied.)

RULE II – GENERAL PROVISIONS

SEC. 2. Declaration of Policy. It is the policy of the State to promote the general welfare and safeguard the basic rights of every prisoner incarcerated in our national penitentiary by promoting and ensuring their reformation and social reintegration, creating an environment conducive to rehabilitation and compliant with the United Nations Standard Minimum Rules for Treatment of Prisoners (UNSMRTP). It also recognizes the responsibility of the State to strengthen government capability aimed towards the institutionalization of highly efficient and competent correctional services.⁵⁶

x x x x

RULE IV – MANDATES OF THE BUREAU OF CORRECTION AND TECHNICAL OFFICERS

x x x x

a) **Safekeeping of National Inmates.** In compliance with established United Nations Standard Minimum Rules for the Treatment of Prisoners (UNSMRTP), the safekeeping of inmates shall include:

1. Decent and adequate provision of basic necessities such as shelters/quarters, food, water, clothing, medicine;

x x x x

The core objective of these safekeeping provisions is to “accord the dignity of man” to inmates while serving sentence in accordance with the basis for humane understanding of Presidential Proclamation 551, series 1995, and with UNSMRTP Rule 60.⁵⁷

However, the Revised IRR is also clear that it is only when advance medical treatment is required or prison hospitals prove to be inadequate will the PDLs be brought to the nearest hospital for treatment, *viz.*:

RULE VII – FACILITIES OF THE BUREAU OF CORRECTIONS

⁵⁵ “The Bureau of Corrections Act of 2013.”

⁵⁶ Revised IRR of RA 10575.

⁵⁷ Revised IRR of RA 10575, Sec. 4.

SEC. 7. Facilities of the Bureau of Corrections. The BuCor shall operate with the standard and uniform design of prison facilities, reformation facilities, and administrative facilities, through all the operating prison and penal farms.

X X X X

d) **Hospital/Infirmary** – refers to a medical facility established inside the prison compound for treatment of sick or injured inmates. This will also serve as a place of confinement for inmates with contagious disease. **Sick inmates requiring advance medical treatment shall be brought to the nearest hospital if the prison hospital does not have the necessary medical equipment and expertise to treat such malady.**⁵⁸ (Emphasis supplied.)

X X X X

On the other hand, the release of PDLs in foreign jurisdictions as a response to COVID-19 is restricted and unavailing to high-risk inmates or those who are considered a danger to the society. While it is true that several countries have implemented release programs for prisoners to prevent the spread of COVID-19 virus, these initiatives are subject to exceptions. In Afghanistan, the members of Islamist Militant Group are not included. In Indonesia, those released were mostly juvenile offenders and those who already served at least two-thirds of their sentences. In Iran, only low-risk and non-violent offenders serving short sentences are released. In Morocco, the prisoners were selected based on their health, age, conduct, and length of detention, and were granted pardon. In United Kingdom, high-risk inmates convicted of violent or sexual offenses, or of national security concern, or a danger to children were excluded. It must be stressed that the release of prisoners in other jurisdictions was made upon the orders of their Chief Executives.⁵⁹

Notably, neither the Nelson Mandela Rules, the Bureau of Corrections Act of 2013, nor the worldwide trend to decongest jail facilities due to COVID-19, support the release of PDLs pending the appeal of their conviction of a capital offense. Thus, Napoles failed to allege, much less prove, any source of right under the international or domestic laws, to warrant her temporary release.

In the same vein, Napoles is not entitled to be released on recognizance which is merely an alternative form of bail. RA No. 10389,⁶⁰ provides that

⁵⁸ Revised IRR of RA 10575.

⁵⁹ *Almonte v. People*, *supra* note 41, Concurring Opinion of Associate Justice Mario V. Lopez, citing “List: Countries Releasing Prisoners Over Corona Virus Fears,” <<https://www.rappler.com/newsbreak/iq/257267-list-countries-release-prisoners-over-coronavirus-fears>> Accessed April 23, 2020.

⁶⁰ AN ACT INSTITUTIONALIZING RECOGNIZANCE AS A MODE OF GRANTING THE RELEASE OF AN INDIGENT PERSON IN CUSTODY AS AN ACCUSED IN A CRIMINAL CASE AND FOR OTHER PURPOSES. approved: March 14, 2013.



recognizance is available to those who are entitled to bail, but are unable to post bail due to abject poverty.⁶¹ However, it does not apply to those charged with offenses punishable by death, *reclusion perpetua*, or life imprisonment when evidence of guilt is strong.⁶² Here, Napoles never claimed that she was an indigent. Moreover, she was convicted of an offense punishable by *reclusion perpetua*. Clearly, RA No. 10389, does not apply to her.

In fine, aside from her conviction of Plunder which necessarily imports that the evidence of her guilt is strong, Napoles failed to establish that there are exceptional and compelling considerations for her temporary release. Be it noted, that the Constitutional and statutory requisites for the grant of bail are neither suspended nor supplanted by the existence of a pandemic.

FOR THESE REASONS, accused-appellant Janet Lim Napoles' Urgent Motion for Recognizance/Bail or House Arrest for Humanitarian Reason Due to COVID-19, is **DENIED**.

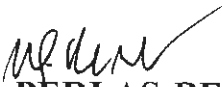
SO ORDERED.


MARIO Y. LOPEZ
Associate Justice

⁶¹ *Id.*, or the "Recognizance Act of 2012," Sec. 3.

⁶² PPA-DOJ Internal Guidelines for the Implementation of RA No. 10389, Sec. 2.

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



ALEXANDER G. GESMUNDO
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


RICARDO R. ROSARIO
Associate Justice

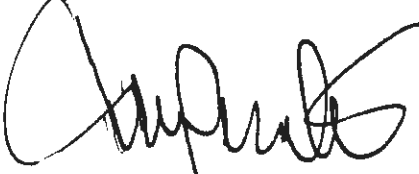
ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Chief Justice