Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MANUEL G. SUNIGA, JR. and ANASTACIA D. SUNIGA, Petitioners,	**G.R. No. 229190**
- versus -	Present: LEONEN,* *J.*, Chairperson, LAZARO-JAVIER, Acting Chairperson, LOPEZ, M., LOPEZ, J., and KHO, JR., *JJ.*
ROLANDO MOLINA, MA. RITCHIALYN LEODONES, LEONARDO DE GUZMAN, and FROILAN ALEJANDRIA, Respondents.	Promulgated: NOV 0 6 2023

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D E C I S I O N

KHO, JR., *J.*:

Before the Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court filed by Manuel G. Suniga, Jr. (Manuel) and his mother Anastacia D. Suniga[2] (Anastacia; collectively, petitioners) assailing the Decision[3] dated November 22, 2016 and the Resolution[4] dated January 16, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 141824, which affirmed the Orders dated April 13, 2015[5] and May 25, 2015[6] of the Regional

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* On official business.

1 *Rollo*, pp. 9–41.

2 Also identified in the *rollo* as Manuel *Suñiga* and Anastacia *Suñiga* (*id.* at 5, 41, 156, 184, 186, 224, 230, 243, and 249–252), or Manuel *Soñiga* (*id.* at 43), or Manuel *Soniga* and Anastacia *Soniga* (*id.* at 153).

3 *Rollo*, pp. 47–63. Penned by Associate Justice Carmelita Salandanan Manahan with the concurrence of Associate Justices Japar B. Dimaampao (now a Member of the Court) and Franchito N. Diamante of the Eighth Division, Court of Appeals, Manila.

4 *Id.* at 66–71.

5 Not attached to the *rollo*; *see id.* at 52.

6 Not attached to the *rollo*; *see id.* at 53.

Trial Court of Gapan City, Nueva Ecija, Branch 35 (RTC) in Criminal Case No. 17076-13.

The Facts

This case stemmed from an Information[7] filed on ***December 17, 2013*** charging petitioners with Large Scale Illegal Recruitment, which reads:

> That during the month of June, 2001, in the Municipality of Peñaranda, Province of Nueva Ecija, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together, did then and there willfully, unlawfully and feloniously recruit, promise employment to LEONARDO DE GUZMAN, MA. RITCHIALYN LEODONES, FROILAN ALEJANDRIA and ROLANDO MOLINA, particularly that of a job in Saipan and Korea, a non-existing job, in exchange of such promise, received the total amount of PhP390,000.00, without any license or authority issued by the Philippine Overseas Employment Administration, to the injury and detriment of the said complainants.
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> CONTRARY TO LAW.[8]

The charges stemmed from a meeting on ***June 29, 2001*** among petitioners and respondents Rolando Molina (Molina), Ma. Ritchialyn Leodones (Leodones), Leonardo De Guzman (De Guzman),[9] and Froilan Alejandria (Alejandria; collectively, respondents) at Malimba, Gapan, Nueva Ecija, during which petitioners promised respondents employment in Saipan (Northern Mariana Islands) and Korea.[10] In consideration of the said promise of employment abroad, petitioners received money from each of the respondents totaling PHP 390,000.00, broken down as follows: (*a*) PHP 40,000.00 from Molina; (*b*) PHP 150,000.00 from Leodones; (*c*) PHP 40,000.00 from De Guzman; and (*d*) PHP 160,000.00 from Alejandria.[11]

As petitioners were unable to fulfill their promise of employment to respondents and in addition, failed to return the money they received,[12] respondents executed and filed with the Office of the Provincial Prosecutor of Cabanatuan City on ***December 5, 2001*** separate complaint-affidavits against them.[13] Meanwhile, petitioners alleged that they already settled their civil obligations to all four respondents sometime in ***2002***.[14]

Three years thereafter, or on ***March 30, 2005***,[15] the complaints were resolved when 2nd Assistant Public Prosecutor of Cabanatuan City Mario B. Veloso, as approved by Provincial Prosecutor Floro F. Florendo, issued a Joint

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7 Not attached to the *rollo*. *See rollo*, pp. 13 and 49–50.
8 *Id.* at 49–50.
9 Also identified in the records as *Leonard* De Guzman (*id.* at 251 and 252).
10 *Id.* at 12 and 48.
11 *Id.* at 48.
12 *Id.* at 48–49.
13 *Id.* at 48.
14 *Id.* at 12 and 13.
15 The CA Decision erroneously wrote the date as 2015.

Resolution[16] finding probable cause to indict petitioners for estafa and large scale illegal recruitment, to wit:

> Complainants Froilan Alejandria, Rolando Molina, Leonardo de Guzman and Ma. Ritchialyn Leodones cried Estafa and Illegal Recruitment, when respondents Anastacia Suniga, Manuel Suniga alias Randy Aberin, alias Froilan Suniga, promised them jobs in Saipan, [*and*] Korea and because of this promise which never happened, these complainants were defrauded by the respondents to part with their hard earned money, PhP160,000.00 from Froilan Alejandria, PhP40,000.00 from Rolando Molina, PhP40,000.00 from Leonardo de Guzman, and PhP150,000.00 from Ma. Ritchialyn Leodones, which took place in June 2001, at Malimba, Gapan City.
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> Respondents moved for time to file counter-affidavit, but failed to file any, hence, the evidence for the complainant[s] remained uncontroverted.
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> WHEREFORE, there being probable cause for Estafa and Illegal Recruitment in Large Scale, it is recommended that the respondents be indicted for these offenses, and that the attached Informations be approved for filing in court.[17]

No action was taken on the case until ***eight years later***, or on ***December 17, 2013***, when the abovementioned Information was filed with the RTC.

The RTC Proceedings

On February 7, 2014, the RTC issued a warrant of arrest against petitioners,[18] which they questioned in their Motion to Quash/Dismiss and Motion to Recall and Quash the Warrant of Arrest[19] (Motion to Quash). Petitioners contended that the RTC had no jurisdiction over the case as it involved money claims over which the National Labor Relations Commission has original and exclusive jurisdiction, that they were deprived of due process because of the undue delay in the conduct of the preliminary investigation, and that in any case, the offense has already prescribed since illegal recruitment prescribes in five years.[20] Petitioners added that their civil obligation relative to this case has been settled sometime in 2002.[21]

In an Order dated April 13, 2015, the RTC denied the Motion to Quash for lack of merit.[22] The RTC upheld its jurisdiction over the case, citing

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16 Not attached to the *rollo*. *See rollo*, pp. 49 and 260.
17 *Id.* at 49.
18 *Id.* at 50 and 261.
19 *Id.* at 51.
20 *Id.*
21 *Id.*
22 *Id.* at 52.

Section 9[23] of Republic Act No. (RA) 8042.[24] It also ruled that petitioners were charged with large scale illegal recruitment involving economic sabotage, and therefore the crime has not yet prescribed since under RA 8042, the prescriptive period for the same is 20 years.[25] The RTC also found no due process violations, pointing out that there was no evidence that the civil aspect of the case has been settled and that petitioners were given the chance to file their counter-affidavits, but failed to do so.[26]

Aggrieved, petitioners moved for reconsideration, but the same was denied in an Order dated May 25, 2015.[27] Undaunted, petitioners filed with the CA a Rule 65 Petition, claiming that the RTC gravely abused its discretion in denying their Motion to Quash and their subsequent motion for reconsideration.[28]

The CA Ruling

In a Decision[29] dated November 22, 2016, the CA affirmed the RTC ruling.

On the procedural question, the CA ruled that a petition for *certiorari* is not the proper remedy to assail the denial of a motion to quash an Information, holding that the proper procedure was for petitioners to enter their plea, go to trial without prejudice to presenting the defenses invoked in their Motion to Quash, and if an adverse decision is rendered, to appeal therefrom in the manner authorized by law.[30] The CA added that issues involving the finding of probable cause, either for an indictment or for the issuance of a warrant of arrest, are primarily questions of fact that are normally not within the purview of a petition for *certiorari*.[31]

The CA then held that petitioners failed to show that the RTC gravely abused its discretion in issuing the assailed Orders.[32] It found that petitioners

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23 SEC. 9. *Venue.* – A criminal action arising from illegal recruitment as defined herein shall be filed with the Regional Trial Court of the province or city where the offense was committed or where the offended party actually resides at the same time of the commission of the offense: Provided, That the court where the criminal action is first filed shall acquire jurisdiction to the exclusion of other courts. Provided, however, That the aforestated provisions shall also apply to those criminal actions that have already been filed in court at the time of the effectivity of this Act.

24 Entitled "An Act to Institute the Policies of Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of Migrant Workers, Their Families and Overseas Filipinos in Distress, and For Other Purposes" (June 7, 1995).

25 *Rollo*, p. 52. Section 12 of RA 8042 provides:

> SEC. 12. *Prescriptive Periods.* -- Illegal recruitment cases under this Act shall prescribe in five (5) years: Provided, however, That illegal recruitment cases involving economic sabotage as defined herein shall prescribe in twenty (20) years.

26 *Id.*

27 *Id.* at 53.

28 *Id.* at 53–54.

29 *Id.* at 47–63.

30 *Id.* at 56.

31 *Id.*

32 *Id.* at 57.

were not denied due process as they were given the opportunity to be heard,[33] noting in this regard that any alleged irregularity in the conduct of the preliminary investigation will not render an Information void or impair its validity.[34] The CA further found no error in the RTC's finding of probable cause to issue a warrant of arrest, stating that this was merely the result of the RTC's own independent assessment of the evidence on hand.[35] Lastly, the CA brushed off all the other issues raised by petitioners, holding that the RTC had already addressed these matters.[36]

Petitioners moved for reconsideration, which was, however, denied in a Resolution[37] dated January 16, 2017; hence, this Petition.

The Issue Before the Court

The primary issue before the Court is whether the CA correctly denied the Petition.

Petitioners maintain that the CA erred in ruling against them. *First*, they claim that they could not be made liable for Illegal Recruitment involving economic sabotage, as the offense can only be committed by three or more persons conspiring with each other whereas there were only two of them, submitting further that the fact of conspiracy was not set out in the Information.[38] *Second*, petitioners insist that they were deprived of due process since they were not able to submit controverting evidence during the preliminary investigation.[39] *Third*, they aver that it was erroneous for the case against them to proceed as no receipts were even presented to show that they indeed received money from respondents.[40] *Fourth*, ***petitioners contend that the filing of the Information only in 2013 violated their constitutional right to a speedy disposition of their case, citing Section 11 of RA 8042.***[41] *Fifth*, they insist that the case against them should be dismissed as prescription had already set in.[42] *Last*, petitioners assert that prosecution failed to secure the mandatory and jurisdictional clearance from the Department of Labor and Employment (DOLE) to prosecute the case.[43]

The People of the Philippines, through the Office of the Solicitor General (OSG), argue in its Comment[44] dated October 22, 2019 that the Petition should be dismissed. The OSG asserts that the Petition merely

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33 *Id.* at 59.
34 *Id.*
35 *Id.* at 60–61.
36 *Id.* at 61.
37 *Id.* at 66–71.
38 *Id.* at 14, 20, 23, 24, and 26.
39 *Id.* at 15, 17–19, 20, 21–23, and 35.
40 *Id.* at 19 and 20.
41 *Id.* at 14, 15, 26, 29–32, 33, and 35.
42 *Id.* at 15, 26, 32, and 36.
43 *Id.* at 14, 15, and 36–38.
44 *Id.* at 258–276.

reiterates the factual issues and arguments raised by petitioners before the RTC and the CA,[45] even noting that some of the errors raised by petitioners were those made by the RTC or by the prosecutors, and not just by the CA.[46] It adds that whether there was probable cause to charge petitioners or to issue a warrant of arrest are both questions of fact which cannot be entertained in a Rule 45 petition.[47] The OSG also agreed with the CA that a petition for *certiorari* is not the proper remedy for petitioners to assail the denial of their motions filed with the RTC,[48] emphasizing in this regard that the determination of the sufficiency of evidence for the issuance of a warrant of arrest is well within the jurisdiction of the RTC.[49] Finally, the OSG pointed out that petitioners are liable for large scale illegal recruitment involving economic sabotage since the offense as defined by law is committed when it is perpetrated against three or more persons individually or as a group,[50] and since the offense is illegal recruitment in large scale, then the case against petitioners has not yet prescribed.[51]

Respondents did not file any comment to the Petition,[52] but submitted their respective Sinumpaang Pahayag,[53] one dated September 10, 2019 and the two others dated September 15, 2019, as well as a Sama-Samang Pahayag[54] dated September 10, 2019. In their respective Sinumpaang Pahayag, respondents Molina, Alejandria, and De Guzman all stated that the case had already been amicably settled, and that they are no longer interested in pursuing their claims against petitioners. The Sama-Samang Pahayag reiterated these claims.

The Court's Ruling

The Court is constrained to grant the Petition.

I.

Before discussing the merits of the case, the Court would wish to discuss two points involving procedure pertinent to the proper disposition of this case.

On the one hand, the Court must emphasize, as the CA correctly ruled, that a petition for *certiorari* is ***not*** the proper remedy to assail the denial of a motion to quash an Information, as petitioners did in this case. It is an

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45 *Id.* at 265.
46 *Id.* at 264 and 266.
47 *Id.* at 263, 265, and 268.
48 *Id.* at 267–268.
49 *Id.* at 268.
50 *Id.* at 269 and 271–272.
51 *Id.* at 269.
52 *See id.* at 169, 177, 230–231, and 283.
53 *Id.* at 249–251.
54 *Id.* at 252.

established rule that a petition for *certiorari* or prohibition is not the proper remedy to assail an adverse interlocutory order rendered by a lower court or tribunal.[55] One such interlocutory order is a denial of a motion to quash, which is likewise not appealable.[56] In *People v. Ramoy*,[57] the Court, speaking through Justice Samuel H. Gaerlan, has stated that the denial cannot be the proper subject of a special civil action for *certiorari*, in view of the availability of other remedies in the ordinary course of law. The proper procedure, as the Court, speaking through Justice Antonio Eduardo B. Nachura, held in *Soriano v. People*,[58] is:

> ***[F]or the accused to enter a plea, go to trial without prejudice on his part to present the special defenses he had invoked in his motion to quash and if after trial on the merits, an adverse decision is rendered, to appeal therefrom in the manner authorized by law.*** Thus, petitioners should not have forthwith filed a special civil action for *certiorari* with the CA and instead, they should have gone to trial and reiterated the special defenses contained in their motion to quash. There are no special or exceptional circumstances in the present case that would justify immediate resort to a filing of a petition for *certiorari*. . .[59] (Emphasis supplied; citations omitted)

As no special or exceptional circumstances were pleaded by petitioners in the present case to justify their immediate resort to a petition for *certiorari*, then the CA acted correctly in dismissing the same.

On the other, it is ***not*** mandatory, and ***neither*** is it jurisdictional, for prosecutors resolving complaints for illegal recruitment to first secure a clearance from the DOLE before proceeding to do so. Petitioners are under the impression that the directives in both Department of Justice Circular No. 9, series of 1985[60] (DOJ Circular No. 9) and the 2012 Guidelines on the Conduct of the DOLE, DILG, DND, DOJ, AFP and PNP Relative to the Exercise of Workers' Rights and Activities[61] (Guidelines) are applicable to their case, believing that the criminal complaints filed against them are within the purview of a labor case or labor dispute.[62]

The Court disagrees.

DOJ Circular No. 9 pertinently provides:

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55 *Quiñon v. Sandiganbayan*, 338 Phil. 290 (1997) [Per C.J. Narvasa, Third Division].
56 *People v. Ramoy*, G.R. No. 212738, March 9, 2022 [Per J. Gaerlan, First Division].
57 *Id.*
58 609 Phil. 31 (2009) [Per J. Nachura, Third Division].
59 *Id.* at 47.
60 Entitled "Criminal Cases Relating to or Arising Out of a Labor Dispute" (May 22, 1985), in relation to the untitled Department of Justice Circular No. 15 (June 7, 1982).
61 Signed May 7, 2012.
62 *Rollo*, p. 37.

> Pursuant to the President's letter-directive dated June 1982 as embodied under [Department] Circular No. 15, dated June 7, 1982, clearance must be sought from the [DOLE] and/or the Office of the President before taking cognizance of complaints for preliminary investigation and the filing in court of the corresponding informations of cases arising out of or related to a labor dispute.

On the other hand, clause XII of the Guidelines reads:

> XII. DOLE CLEARANCE PRIOR TO TAKING COGNIZANCE OF COMPLAINTS FOR PRELIMINARY INVESTIGATION
>
> Recognizing the primary jurisdiction of DOLE over labor disputes and pursuant to the DOJ Circular No. 15, Series of 1982, and Circular No. 9, Series of 198[5], fiscals and other government prosecutors shall first secure clearance from the DOLE and/or Office of the President "before taking cognizance of complaints for preliminary investigation and the filing in court of the corresponding information[s] of cases arising out of or related to a labor dispute," including cases with "allegations of violence, coercion, physical injuries, assault upon a person in authority and other similar acts of intimidation[,] obstructing the free ingress to and egress from a factory or place of operation of the machines of such factory, or the employer's premises."

While petitioners are correct that both refer to the necessity of securing clearances relative to cases involving labor disputes, they are however incorrect in postulating that their case—a criminal complaint for illegal recruitment—comes within the scope of these issuances, or within the scope of the definition of a ***labor dispute***.

Article 219(l)[63] of the Labor Code defines a ***labor dispute*** as that which includes any controversy or matter concerning terms and conditions of employment, or the association or representation of persons in negotiating, fixing, maintaining, changing, or arranging the terms and conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee. In this sense, therefore, most labor disputes can be grouped or categorized into two types: those involving the terms or conditions of employment, or those involving representation. This categorization is also the test to be used to determine whether a controversy comes within the definition of a labor dispute under the Labor Code.[64]

Illegal recruitment, on the other hand, is defined in Section 6 of RA 8042 as any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers, and includes referring, contract services, or promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority issued by the

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63 As renumbered, formerly Article 212 (l). See DEPARTMENT ADVISORY No. 01, series of 2015, entitled "Renumbering of the Labor Code of the Philippines, as Amended" (July 21, 2015).

64 *FEATI University v. Hon. Bautista*, 125 Phil. 326, 368 (1966) [Per J. Zaldivar, *En Banc*].

DOLE. Quite simply, illegal recruitment is committed by persons who, without authority from the government, give the impression that they have the power to send workers abroad for employment purposes.[65]

It is at once clear from the foregoing definitions that the complaints for illegal recruitment filed against petitioners are not within the meaning of a labor dispute. There is in this case no submission that there exists, or that there should be, an employer-employee relationship between the parties; there is no question raised respecting the terms or conditions of employment of respondents; and there is no issue as to the representation of respondents to negotiate, fix, maintain, change, or arrange the terms and conditions of their employment. As the case is not a labor dispute, then no clearance is needed before prosecutors can resolve and pass upon the complaints filed by respondents.

II.

The foregoing matters aside, the Court also finds value in briefly addressing the following issues raised by petitioners:

First, petitioners are incorrect that they cannot be made liable for large scale illegal recruitment on account of there being only two of them who allegedly committed the offense. Under Section 6 of RA 8042, as well as Article 38(b) of the Labor Code, illegal recruitment is *deemed committed in large scale if committed* ***against*** *three or more persons individually or as a group.* As there are four complainants in this case, then it was proper to charge petitioners with large scale illegal recruitment. This is true even if there were only two of them who allegedly committed the offense, as the designation of the crime was not "illegal recruitment committed by a syndicate", or illegal recruitment *carried out* by three or more persons conspiring or confederating with one another.

Second, it is with the foregoing definitions in mind that the Court finds the Information as sufficiently identifying the offense committed by petitioners, as well as sufficiently alleging that the two of them conspired with one another to perpetrate the offense. Once more, the Information filed with the RTC provides:

> That during the month of June, 2001, in the Municipality of Peñaranda, Province of Nueva Ecija, and within the jurisdiction of this Honorable Court, the above-named accused, ***conspiring together***, did then and there ***willfully, unlawfully and feloniously recruit, promise employment to LEONARDO DE GUZMAN, MA. [RITCHIALYN] LEODONES, FROILAN ALEJANDRIA and ROLANDO MOLINA, particularly that of a job in Saipan and Korea, a non-existing job, in***

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[65] *People v. Arnaiz*, 769 Phil. 526, 533 (2015) [Per J. Villarama, Jr., Third Division].

> ***exchange of such promise, received the total amount of PhP390,000.00, without any license or authority issued by the Philippine Overseas Employment Administration***, to the injury and detriment of the said complainants.
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> CONTRARY TO LAW.[66] (Emphasis supplied)

The recital in the Information clearly makes out that the charge against petitioners was large scale illegal recruitment, and not illegal recruitment committed by a syndicate, as the following elements of the offense were recounted therein: (*a*) the offender undertakes a recruitment activity under Article 13(b)[67] of the Labor Code or a prohibited recruitment practice under Articles 34 and 38 of the Labor Code and Section 6 of RA 8042; (*b*) the offender does not have a license or authority to lawfully engage in the recruitment and placement of workers; and (*c*) the offender commits the same against three or more persons, individually or as a group.[68] In addition, the Information itself stated that petitioners conspired together to commit the offense, contrary to the submission of petitioners.

Relatedly, mention must be made at this point that both Section 6 of RA 8042 and Article 38(b) of the Labor Code state that illegal recruitment when committed by a syndicate or in large scale *shall be considered an offense involving economic sabotage*. Hence, there is no need for prosecutors to explicitly state this in the Information, given that the characterization is one already provided by law.

Third, petitioners are also incorrect in insisting that the offense with which they were charged had already prescribed, asserting that under Section 12 of RA 8042, illegal recruitment cases prescribe in five years. While it is true that illegal recruitment cases prescribe in five years, it must be noted that petitioners were not charged with simple illegal recruitment,[69] but with large scale illegal recruitment. As previously stated, large scale illegal recruitment is deemed an offense involving economic sabotage, and that being so, it *prescribes in 20 years* as clearly and plainly provided likewise under Section 12. This is the same prescriptive period for illegal recruitment committed by a syndicate.

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66 *Rollo*, pp. 49–50.

67 **Art. 13. Definitions.**

. . . .

(b) "Recruitment and placement" refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers, and includes referrals, contract services, promising or advertising for employment, locally or abroad, whether for profit or not: Provided, That any person or entity which, in any manner, offers or promises for a fee, employment to two or more persons shall be deemed engaged in recruitment and placement.

. . . .

68 *People v. Marzan*, G.R. No. 227093, September 21, 2022 [Per J. Lazaro-Javier, Second Division], *citing People v. Racho*, 819 Phil. 137, 148 (2017) [Per J. Perlas-Bernabe, Second Division].

69 *See People v. Ortiz-Miyake*, 344 Phil. 598 (1997) [Per J. Regalado, Second Division].

Fourth, petitioners have failed to prove that they were actually deprived of the opportunity to present countervailing evidence during the preliminary investigation. Both courts *a quo* found that petitioners were given a chance to file their counter-affidavits, but that they failed to do so.[70] The lack of clear and convincing evidence to the contrary should mean that the presumption of regularity in the performance of official duty in favor of the prosecutors should prevail.[71] Besides, as aptly ruled by the CA, any alleged irregularity in the conduct of a preliminary investigation will not render the Information void or impair its validity,[72] and it will not even affect the jurisdiction of the court which has taken cognizance of the Information.[73]

Last, there is no merit to the contention that receipts which show that petitioners received money from respondents are vital to the prosecution of the illegal recruitment case against the former. The Court has already ruled in a plethora of cases that the presentation of receipts acknowledging payments is not necessary to a successful prosecution for illegal recruitment.[74] The absence of receipts does not warrant an acquittal and is not fatal to the case of the prosecution, as long it is able to establish through credible testimonial evidence that the accused is or was engaged in illegal or prohibited recruitment.[75]

III.

While the foregoing discussions all seemingly point to a dismissal of this Petition and the affirmance of the CA ruling, the Court must, nevertheless, render a ruling in favor of petitioners in view of several matters clearly appearing on record that should be appreciated in their favor.

The first is the fact that based on the Joint Resolution issued by the prosecutors in 2005, the chief basis for the finding that there was probable cause to hold petitioners for trial were the complaints filed by each of the respondents. However, submissions have been made that respondents Molina, Alejandria, and De Guzman are no longer interested in pursuing this case. Without their statements, their complaints against petitioners can no longer proceed as there is no other evidence that petitioners indeed committed a crime against them. While respondent Leodones did not make any submission that would amount to a desistance on her part from participating in the case, the Court takes into account that the OSG never denied nor qualified petitioners' insistent allegation that the civil aspect of the case had already been amicably settled. It is thus reasonable and just to presume that respondent Leodones is of the same temperament as the other three.

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70 *Rollo*, pp. 59–60.

71 *Yap v. Lagtapon*, 803 Phil. 652, 663 (2017) [Per J. Caguioa, First Division].

72 *De Lima v. Reyes*, 776 Phil. 623, 648 (2016) [Per J. Leonen, Second Division].

73 *People v. Narca*, 341 Phil. 696, 706 (1997) [Per J. Francisco, Third Division].

74 *People v. Sagaydo*, 395 Phil. 538, 549 (2000) [Per J. Pardo, First Division]; *People v. Ong*, 379 Phil. 47, 65 (2000) [Per J. Mendoza, Second Division]; and *People v. Saley*, 353 Phil. 897, 936 (1998) [Per J. Vitug, First Division].

75 *Id.*

Assuming that respondent Leodones is intent on pursuing the case, it is unfortunate that ***the inordinate delay in resolving and filing thereof has resulted not only in a violation of the mandatory periods provided under Section 11 of RA 8042, but also in a violation of petitioners' constitutional right to the speedy disposition of cases pursuant to Section 16, Article III of the Constitution***.

Section 11 of RA 8042 provides for the mandatory periods for resolving illegal recruitment cases, to wit:

> SEC. 11. *Mandatory Periods for Resolution of Illegal Recruitment Cases*.—The preliminary investigations of cases under this Act ***shall be terminated within a period of thirty (30) calendar days from the date of their filing***. Where the preliminary investigation is conducted by a prosecution officer and a *prima facie* case is established, ***the corresponding information shall be filed in court within twenty-four (24) hours from the termination of the investigation***. If the preliminary investigation is conducted by a judge and a *prima facie* case is found to exist, the corresponding information shall be filed by the proper prosecution officer within forty-eight (48) hours from the date of receipt of the records of the case. (Emphasis supplied)

As earlier related, and as the records show, the complaint-affidavits of respondents were filed on ***December 5, 2001***. Thus, and ideally, the preliminary investigation should have been terminated as of ***January 4, 2002*** following Section 11 above, which corresponds to the 30th calendar day from the date of the filing of the complaints. Instead, the complaints were resolved only on ***March 30, 2005***, or ***a few months over three years*** from the date of their filing. Adding to the delay is the fact that the Information, which should have been filed ***within 24 hours*** from the termination of the investigation, was filed only on ***December 17, 2013***, which was ***more than eight years*** from the time the investigation was terminated, or ***more than 12 years*** from the time the complaints were filed. This seeming violation of the mandatory periods under Section 11, coupled with a lack of explanation from the prosecutors as to why there was a delay in the proceedings and a concomitant lack of discussion of this matter by both the courts *a quo* and the OSG, pushes this Court to hold that indeed, petitioners' right to a speedy disposition of their case has been violated, a right guaranteed under Section 16, Article III of the 1987 Constitution:

> **Section 16.** All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

To be sure, the Court *En Banc*, speaking through now-Senior Associate Justice Marvic M.V.F. Leonen, has clarified in *Cagang v. Sandiganbayan*,[76]

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[76] 837 Phil. 815 (2018) [Per J. Leonen, *En Banc*].

that when there is a question involving the right to the speedy disposition of cases, the determination of the length of delay is never mechanical and thus, a consideration of the entire context of the case from the amount of evidence to be weighed to the simplicity or complexity of the issues raised is enjoined.[77] This is the fourth point of a five-part analysis adopted in *Cagang* that should be undertaken where the right to speedy disposition of cases or the right to speedy trial is invoked, the entirety of which reads as follows:

> *First*, the right to speedy disposition of cases is different from the right to speedy trial. While the rationale for both rights is the same, the right to speedy trial may only be invoked in criminal prosecutions against courts of law. The right to speedy disposition of cases, however, may be invoked before any tribunal, whether judicial or quasi-judicial. What is important is that the accused may already be prejudiced by the proceeding for the right to speedy disposition of cases to be invoked.
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> *Second*, a case is deemed initiated upon the filing of a formal complaint prior to a conduct of a preliminary investigation. This Court acknowledges, however, that [*the law may*] set reasonable periods for preliminary investigation, with due regard to the complexities and nuances of each case. Delays beyond this period will be taken against the prosecution. The period taken for fact-finding investigations prior to the filing of the formal complaint shall not be included in the determination of whether there has been inordinate delay.
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> *Third*, courts must first determine which party carries the burden of proof. If the right is invoked within the given time periods contained in current Supreme Court resolutions and circulars, and the time periods that will be promulgated by the Office of the Ombudsman, the defense has the burden of proving that the right was justifiably invoked. If the delay occurs beyond the given time period and the right is invoked, the prosecution has the burden of justifying the delay.
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> If the defense has the burden of proof, it must prove *first*, whether the case is motivated by malice or clearly only politically motivated and is attended by utter lack of evidence, and *second*, that the defense did not contribute to the delay.
>
> Once the burden of proof shifts to the prosecution, the prosecution must prove *first*, that it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; *second*, that the complexity of the issues and the volume of evidence made the delay inevitable; and *third*, that no prejudice was suffered by the accused as a result of the delay.
>
> *Fourth*, determination of the length of delay is never mechanical. Courts must consider the entire context of the case, from the amount of evidence to be weighed to the simplicity or complexity of the issues raised.
>
> An exception to this rule is if there is an allegation that the prosecution of the case was solely motivated by malice, such as when the case is politically motivated or when there is continued prosecution despite utter lack of evidence. Malicious intent may be gauged from the behavior

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[77] *Id.* at 881.

> of the prosecution throughout the proceedings. If malicious prosecution is properly alleged and substantially proven, the case would automatically be dismissed without need of further analysis of the delay.
>
> Another exception would be the waiver of the accused to the right to speedy disposition of cases or the right to speedy trial. If it can be proven that the accused acquiesced to the delay, the constitutional right can no longer be invoked.
>
> In all cases of dismissals due to inordinate delay, the causes of the delays must be properly laid out and discussed by the relevant court.
>
> *Fifth*, the right to speedy disposition of cases or the right to speedy trial must be timely raised. The respondent or the accused must file the appropriate motion upon the lapse of the statutory or procedural periods. Otherwise, they are deemed to have waived their right to speedy disposition of cases.[78] (Italics in the original; citations omitted)

The Court has already discussed above that there was a delay in the conduct of the preliminary investigation and in the filing of the Information in Court, pursuant to the periods under Section 11 of RA 8042. This plain and obvious non-compliance with the statutory periods for resolving complaints for illegal recruitment is taken against the prosecution. There is nothing on record, however, to show that the prosecutors, or even the OSG, proffered a justification or explanation for the delay.

Further applying the *Cagang* precepts to this case, the Court finds no evidence that petitioners significantly contributed to the delay in resolving the complaints against them as in fact, the prosecutors continued with the proceedings *sans* petitioners' counter-affidavits.

Relative to the fifth point adopted in *Cagang*, the next question would then be whether petitioners waived their right to a speedy disposition of their cases, as it is relevant to point out that no allegation was made by them that they raised this matter with the DOJ or the prosecution officers who found probable cause to charge them before they did so with the RTC.

The Court, however, finds that they did not waive their right. It is significant to note here that not only did petitioners invoke their right as soon as they were made aware of the filing of the Information, but also that one year into the filing of the complaint, or in ***2002***, petitioners claim to have already amicably settled the case with respondents. The OSG does not deny this, and the CA at the time it rendered its Decision and Resolution did not have the benefit of having on record the Sinumpaang Pahayag and Sama-Samang Pahayag of respondents Molina, Alejandria, and De Guzman. Considering this situation in 2002, the Court cannot fault petitioners in believing in good faith that the case against them would no longer proceed—it being certain that respondents Molina, Alejandria, and De Guzman were no

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[78] *Id.* at 880–882.

longer interested in pursuing their complaints against them, as they have in fact moved on with their respective lives. As the Court, speaking through Justice Mario V. Lopez, has held in *Figueroa v. Sandiganbayan*:[79]

> Verily, the renunciation of a constitutional right must be positively demonstrated. The implied waiver of such right cannot be presumed. To be sure, a valid waiver of a right requires the confluence of the following elements, to wit: (1) that the right exists; (2) that the person involved had knowledge of the existence of such right, either actual or constructive; and, (3) that said person had an actual intention to relinquish the right. Moreover, the waiver should not only be voluntary but must also be knowingly and intelligently made. The waiver must be performed with sufficient awareness of the relevant circumstances and likely consequences. There must be persuasive evidence of an actual intention to relinquish the right. Mere silence of the holder of the right should not be easily construed as surrender thereof. The courts must indulge every reasonable presumption against the existence and validity of such waiver.[80] (Citations omitted)

It would thus be immaterial for petitioners to be required to file a motion to expedite the proceedings, since even after resolution of the complaints, there was also a long and unexplained delay in the filing of the Information with the RTC. Similar to our disposition in *Figueroa*, *the burden is not on petitioners to ensure that the wheels of justice continue to turn; rather, it is for the State or its agents to guarantee that cases are disposed within a reasonable period or within the periods provided by law*. It is thus sufficient that petitioners only raised the issue when they were informed that despite the amicable settlement and desistance of respondents in 2002, an Information was still filed against them with the RTC in 2013.

The case, therefore, against petitioners should be dismissed as their constitutional right to the speedy disposition of their case has been infringed. As *Figueroa* once more instructs:

> At this point, the Court reiterates that the objective of the right to speedy disposition of cases is to spur dispatch in the administration of justice and to prevent the oppression of the citizen by holding a criminal prosecution suspended over him for an indefinite time. Akin to the right to a speedy trial, its objective is to assure that an innocent person may be free from the anxiety and expense of litigation or if otherwise, to have his guilt determined within the shortest possible time compatible with the presentation and consideration of whatever legitimate defense he may raise. This unrest and the tactical disadvantages carried by the passage of time should be weighed against the State and in favor of the individual. [81] (Citations omitted)

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79 G.R. Nos. 235965–66, February 15, 2022 [Per J. M. Lopez, First Division].

80 *Id.*

81 *Id.*

IV.

The dismissal of this case as to petitioner Anastacia is likewise warranted on account of her supervening death. The Court has been informed in petitioners' Reply[82] dated September 1, 2021 that Anastacia passed away on December 5, 2020,[83] attaching thereto a Certificate of Death[84] dated December 10, 2020.

Under prevailing law and jurisprudence, Anastacia's death prior to her final conviction ***totally extinguishes*** her criminal liability. Article 89(1) of the Revised Penal Code provides that:

> Article 89. *How criminal liability is totally extinguished.*— Criminal liability is totally extinguished:
>
> 1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment;
>
> . . . .

The rationale is that upon Anastacia's death, the criminal action is deemed extinguished since there is no longer a person or defendant to stand as the accused.[85] As the Court, through former Senior Associate Justice Estela M. Perlas-Bernabe, has stressed in *People v. Monroyo*,[86] the death of the accused pending appeal of the conviction—or, as in the case bar, pending determination whether the Information filed against him or her was proper and valid—extinguishes his or her criminal liability, as well as the civil liability, based solely thereon.[87] Ordinarily, the civil action instituted therein for the recovery of civil liability *ex delicto* is likewise *ipso facto* extinguished, grounded as it is on the criminal action. Nonetheless, as it has been done in a catena of cases, it is well to clarify that civil liabilities may survive if they are predicated on a source of obligation other than delict. Here, statements submitted by the private respondents show that Anastacia's civil liabilities as to them had already been settled.[88]

In sum, there are substantial reasons for this Court to order the dismissal of this case. The CA, in dismissing the petition for *certiorari*, sidestepped the issue of whether petitioners' right to a speedy disposition of their case has been violated. It is on this ground that the Court finds for petitioners, in addition to the finding that the supervening death of Anastacia likewise warrants the dismissal of the case against her.

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82 *Rollo*, pp. 290–336.
83 *Id.* at 291.
84 *Id.* at 337–338.
85 *People v. Maylon*, 878 Phil. 901, 905 (2020) [Per J. Perlas-Bernabe, Special Second Division].
86 811 Phil. 802 (2019) [Per J. Perlas-Bernabe, Special First Division].
87 *See* also *People v. Viloria*, G.R. Nos. 247563 & 250517, February 8, 2023 [Per J. J. Lopez, Second Division].
88 *Rollo*, pp. 249–252.

ACCORDINGLY, the Court resolves to: (*a*) **GRANT** the Petition for Review on *Certiorari* filed by Manuel G. Suniga, Jr. and Anastacia D. Suniga, and accordingly, **SET ASIDE** the Decision dated November 22, 2016 and the Resolution dated January 16, 2017 of the Court of Appeals in CA-G.R. SP No. 141824; (*b*) **DISMISS** Criminal Case No. 17076-13 for Large Scale Illegal Recruitment before the Regional Trial Court of Gapan City, Nueva Ecija, Branch 35 against Manuel G. Suniga, Jr. for lack of evidence and for violation of his constitutional right to the speedy disposition of cases, and against Anastacia D. Suniga by reason of her supervening death; and (*c*) declare this case **CLOSED** and **TERMINATED**.

Let a copy of this Decision be **FURNISHED** the Department of Justice for its appropriate action.

Let entry of judgment be issued immediately.

SO ORDERED.

ANTONIO T. KHO, JR.
Associate Justice

WE CONCUR:

On official business
MARVIC M.V.F. LEONEN
Senior Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice
Acting Chairperson

MARIANO C. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

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

AMY C. LAZARO-JAVIER
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

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

ALFREDO BENJAMIN S. CAGUIOA
Acting Chief Justice
Per Special Order No. 3045
dated November 3, 2023