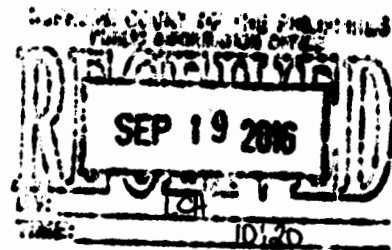




Republic of the Philippines
Supreme Court
Manila

EN BANC

NOTICE



Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated AUGUST 23, 2016, which reads as follows:

“G.R. No. 203563 (Raymundo T. Roquero, *petitioner*, v. Sandiganbayan (First Division) and People of the Philippines, *respondents*), G.R. Nos. 203693–94 (Nilda B. Plaras, *petitioner*, v. Honorable Sandiganbayan (First Division), Office of the Ombudsman, Jaime Regalario, Risa Hontiveros-Baraquel, Danilo Lim, and PCSO rep. by Eduardo G. Araullo, *respondents*), G.R. Nos. 203740–41 (Gloria Macapagal-Arroyo, *petitioner*, v. The Honorable Ombudsman and the Honorable Sandiganbayan (1st Division), *respondents*), G.R. Nos. 203955–56 (Jose R. Taruc V, *petitioner*, v. Sandiganbayan (1st Division), Office of the Ombudsman, Philippine Charity Sweepstakes Office, represented by Atty. Eduardo G. Araullo, Jaime Regalario, Risa Hontiveros-Baraquel, and Danilo Lim, *respondents*), G.R. Nos. 203978–79 (Reynaldo A. Villar, *petitioner*, v. Honorable Sandiganbayan (First Division), Office of the Ombudsman, represented by Honorable Conchita Carpio Morales, Jaime Regalario, Risa Hontiveros-Baraquel, Danilo Lim, and the Philippine Charity Sweepstakes Office, represented by Eduardo G. Araullo, *respondents*), and G.R. Nos. 204208–09 (Manuel L. Morato, *petitioner*, v. Hon. Sandiganbayan (First Division), Office of the Ombudsman, Jaime Regalario, Risa Hontiveros-Baraquel and Danilo Lim, and Philippine Charity Sweepstakes Office, represented by Eduardo G. Araullo, *respondents*). — This resolves consolidated Petitions for Certiorari and/or Prohibition¹ assailing the following for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction:

First, the Office of the Ombudsman’s Review Joint Resolution² dated July 10, 2012. The Review Joint Resolution found probable cause for filing an information for violation of Republic Act No. 7080³ against petitioners Raymundo T. Roquero (Roquero), Nilda B. Plaras (Plaras), Gloria

¹ The Petitions were filed under Rule 65 of the 1997 Rules of Civil Procedure.

² *Rollo* (G.R. No. 203563), pp. 145–187, Annex F.

³ An Act Defining and Penalizing the Crime of Plunder (1991).

J. R. Regalario

Macapagal-Arroyo (Arroyo), Jose R. Taruc V (Taruc), Reynaldo A. Villar (Villar), Manuel L. Morato (Morato), and four (4) others—Rosario G. Uriarte (Uriarte), Sergio O. Valencia (Valencia), Ma. Fatima A.S. Valdes (Valdes), and Benigno B. Aguas (Aguas).

Second, the Office of the Ombudsman's Joint Order⁴ dated September 28, 2012, which denied the Motions for Reconsideration of its July 10, 2012 Review Joint Resolution.

Third, the Sandiganbayan Resolution⁵ dated October 3, 2012, which found probable cause for the issuance of an arrest warrant against petitioners. The arrest warrant was in connection with the information for plunder filed under the Office of the Ombudsman's July 10, 2012 Review Joint Resolution.

Lastly, the Sandiganbayan Resolution⁶ dated October 4, 2012, which denied Arroyo's Motion for Reconsideration of its October 3, 2012 Resolution.

The Philippine Charity Sweepstakes Office (PCSO) is a government instrumentality created by Republic Act No. 1169,⁷ as amended (the PCSO Charter). It is the principal government agency raising and providing funds for health programs, medical assistance and services, and charities of national character. To raise funds for these purposes, it operates charity sweepstakes races, lotteries, and other similar activities.⁸

From January 2008 to June 2010, Valdes, Morato, Taruc, and Roquero were members of the PCSO Board of Directors.⁹ During the same period, the other petitioners were also holding government positions: (1) Arroyo, as President of the Philippines; (2) Villar, as Chairperson of the Commission on Audit; and (3) Plaras, as Chairperson and Head of the Commission on Audit's Intelligence/Confidential Fund Audit Unit.¹⁰

⁴ *Rollo* (G.R. Nos. 203740-41), pp. 128-148.

⁵ *Rollo* (G.R. No. 203563), pp. 213-214, Annex K. The Resolution was approved by the First Division, composed of Associate Justices Efren N. Dela Cruz, Rodolfo A. Ponferrada, and Rafael R. Lagos.

⁶ *Rollo* (G.R. Nos. 203740-41), pp. 153-154. The Resolution was approved by the First Division, composed of Associate Justices Efren N. Dela Cruz, Rodolfo A. Ponferrada, and Rafael R. Lagos.

⁷ Rep. Act No. 1169 (1954), An Act Providing for Charity Sweepstakes, Horse Races, and Lotteries.

⁸ Rep. Act No. 1169 (1954), sec. 1 provides:

SECTION 1. The Philippine Charity Sweepstakes Office. – The Philippine Charity Sweepstakes Office, hereinafter designated the Office, shall be the principal government agency for raising and providing for funds for health programs, medical assistance and services, and charities of national character, and as such shall have the general powers conferred in section thirteen of Act Numbered One thousand four hundred fifty-nine, and shall have the authority:

A. To hold and conduct charity sweepstakes races, lotteries, and other similar activities, in such frequency and manner, as shall be determined, and subject to such rules and regulations as shall be promulgated by the Board of Directors.

⁹ *Rollo* (G.R. No. 203563), p. 146, Review Joint Resolution of the Ombudsman.

¹⁰ *Id.*

Other persons impleaded in the Information subsequently filed by the Office of the Ombudsman were also public officers: (1) Valencia, as PCSO Chairperson; (2) Uriarte, as PCSO Vice Chairperson and General Manager; and (3) Aguas, as PCSO Budgets and Accounts Manager.¹¹

PCSO's 2008, 2009, and 2010 Corporate Operating Budgets made allocations for confidential and intelligence funds in substantial sums amounting to hundreds of millions of pesos per year.¹² "In July 2011, the Senate Committee on Accountability of Public Officers and Investigations (the Senate Blue Ribbon Committee) conducted a legislative inquiry on purported anomalies allegedly committed by officials of the PCSO during Arroyo's administration, pursuant to Senate Resolution No. 519 dated June 29, 2011."¹³ Among the matters discussed in this inquiry were purported irregularities in the use of PCSO's 2008, 2009, and 2010 confidential and intelligence funds.¹⁴

On July 25, 2011, Jaime Regalario (Regalario), Risa Hontiveros-Baraquel (Hontiveros-Baraquel), and Danilo Lim (Lim) filed before the Office of the Ombudsman a Complaint for plunder, malversation, and violation of Republic Act No. 3019¹⁵ (First Complaint).¹⁶ The First Complaint claimed that PCSO's confidential and intelligence funds were diverted for the alleged perpetrators' personal benefit. This was docketed as OMB-CC-C-11-0445-G.¹⁷

Regalario, Hontiveros-Baraquel, and Lim asserted that PCSO's having had confidential and intelligence funds was, in itself, questionable because neither the PCSO Charter nor the General Appropriations Acts for 2008, 2009, and 2010 allocated intelligence funds for PCSO.¹⁸ The diversion of intelligence funds, as well as Arroyo's acquiescence to it, was purportedly confirmed by Uriarte in the Senate Blue Ribbon Committee hearing on July 7, 2011. During this hearing, Uriarte supposedly submitted reports and documents of the disbursement of confidential and intelligence funds directly to Arroyo.¹⁹

Regalario, Hontiveros-Baraquel, and Lim further alleged that the release of intelligence funds was done in bad faith because "there was no

¹¹ Id. at 115-116.

¹² Id. at 147-153.

¹³ Id. at 153.

¹⁴ Id. at 154.

¹⁵ Rep. Act No. 3019 is otherwise known as the Anti-Graft and Corrupt Practices Act.

¹⁶ *Rollo*, p. 154.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

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actual intelligence project to be funded in the first place.”²⁰ They added that “[t]he scheme allegedly led to the misappropriation of public funds exceeding ₱50,000,000.00.”²¹

On November 29, 2011, a Second Complaint²² was filed before the Office of the Ombudsman, this time by PCSO itself. This was docketed as OMB-C-C-0800-L.²³ PCSO, then represented by Board Secretary Eduardo G. Araullo, charged Arroyo, Uriarte, Valencia, Morato, Roquero, Taruc, Valdes, Aguas, Villar and Plaras with plunder and violation of Section 3(a) and (c)²⁴ of Republic Act No. 3019.²⁵

The Second Complaint emphasized that PCSO’s confidential and intelligence funds must be used for specific confidential and counter-intelligence purposes, such as monitoring charity projects, investigating anomalies related to the “Botika ng Masa,” and scams perpetrated against lotto bettors and winners.²⁶

Despite access to existing confidential and intelligence funds in PCSO’s Corporate Operating Budget, Uriarte supposedly requested additional confidential and intelligence funds amounting to ₱310,000,000.00 from July 2007 to January 2010. These requests were all approved by Arroyo and confirmed by Uriarte, Valencia, Morato, Taruc, Roquero and Valdes.²⁷ PCSO alleged that Arroyo, Uriarte, Valencia, Morato, Roquero, Taruc, Valdes, Aguas, Villar and Plaras conspired with one another to divert and appropriate funds drawn from the confidential and intelligence funds in an aggregate amount of ₱391,943,177.00.²⁸

The Second Complaint likewise alleged that Aguas facilitated the withdrawal of the amounts by certifying the requisite vouchers, and that

²⁰ Id.

²¹ Id.

²² Id. at 114–123, Annex D.

²³ Id. at 114.

²⁴ Rep. Act No. 3019 (1960), secs. 3(a) and 3(c) provide:

Section 3. Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

(a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.

....

(c) Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any Government permit or license, in consideration for the help given or to be given, without prejudice to Section thirteen of this Act.

²⁵ *Rollo* (G.R. No. 203563), p. 116.

²⁶ Id. at 117.

²⁷ Id. at 121.

²⁸ Id.

Villar and Plaras facilitated the withdrawals by issuing credit notices and advisories.²⁹

In its assailed July 10, 2012 Review Joint Resolution,³⁰ the Office of the Ombudsman held that there was probable cause to indict Arroyo, Valencia, Uriarte, Morato, Taruc, Roquero, Valdes, Aguas, Villar and Plaras for plunder.³¹

The Resolution discussed how the elements of plunder, as defined by Section 2³² in relation to Section 1(d)³³ of Republic Act No. 7080, as amended by Republic Act No. 7659, were supposedly present.³⁴ The Office of the Ombudsman emphasized that “[f]or a government instrumentality primarily tasked to fund ‘*health programs, medical assistance and services, and charities of national character*’, PCSO’s Confidential/Intelligence Funds surprisingly grew from PHP10,000,000.00 in 2000 to

²⁹ Id.

³⁰ Id. at 145–187.

³¹ Id. at 187.

³² Rep. Act No. 7080 (1991), sec. 2 provides:

Section 2. 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 or 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.

³³ Rep. Act No. 7080 (1991), sec. 1 provides:

Section 1. Definition of Terms. — As used in this Act, the term —

....

d) “*ill-gotten wealth*” means any asset, property, business enterprise or material possession of any person within the purview of Section Two (2) hereof, acquired by him directly or indirectly through dummies, nominees, agents, subordinates and/or business associates by any combination or series of the following means or similar schemes:

- 1) Through misappropriation, conversion, misuse or malversation of public funds or raids on the public treasury;
- 2) By receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;
- 3) By the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies or instrumentalities or government-owned or -controlled corporations and their subsidiaries;
- 4) By obtaining, receiving or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;
- 5) By establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests; or
- 6) By taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

³⁴ Rollo (G.R. No. 203563), pp. 163–180.

Handwritten signature: J. B. J. J.

PHP103,000,000.00 in 2008.”³⁵ The allocations and alleged increases are summarized as follows:

	2008	2009	2010(1 st Sem)	Total
Allocated CIF in COB	28,000,000.00	60,000,000.00	60,000,000.00	148,000,000.00
Additional CIF (requested by respondent Uriarte and granted by respondent Arroyo)	75,000,000.00	90,000,000.00	150,000,000.00	315,000,000.00
TOTAL (Sum of Allocated and Additional CIF)	103,000,000.00	150,000,000.00	210,000,000.00	463,000,000.00 ³⁶

The Office of the Ombudsman noted that Uriarte’s requests for additional confidential and intelligence funds for 2008 to 2010 “preceded the approval of PCSO’s [Corporate Operating Budget], which already had a [confidential and intelligence funds] allocation.”³⁷ It further stressed that Uriarte repeatedly asked Arroyo for additional confidential and intelligence funds even without presenting any “specific plan for, project, program or undertaking of intelligence activity.”³⁸

On conspiracy, the Office of the Ombudsman stated:

[T]he presence of conspiracy among respondents Arroyo, Valencia, Uriarte, Morato, Taruc V, Roquero, Valdes, Aguas, Villar and Plasas cannot be denied. There is cohesion and interconnection in their attitude, intent and purpose that cannot be logically interpreted other than to mean the attainment of the same end that runs thru the entire gamut of acts separately perpetrated by them. The role played by each of them is so indispensable to the success of their scheme that, without any of them, the same would have failed.

In order to recurrently divert significant funds from the CIF, there must be a heavily-funded CIF to begin with. This was made possible by respondent Arroyo, who approved the grants of additional CIF to PCSO at the request of respondent Uriarte, and respondents Valencia, Morato, Taruc V, Roquero and Valdes, who approved COBs containing CIF allocations in tens of millions of Pesos as members of the Board, and

³⁵ Id. at 165.

³⁶ Id.

³⁷ Id. at 166.

³⁸ Id. at 165.

respondent Arroyo, who granted additional CIF to PCSO, at the request of respondent Uriarte.³⁹

Seven (7) of the 10 individuals impleaded in the Office of the Ombudsman's Review Joint Resolution moved for reconsideration:

- (1) Arroyo's Motion for Reconsideration was dated July 25, 2012;⁴⁰
- (2) Valencia's Motion for Reconsideration was dated July 23, 2012;⁴¹
- (3) Uriarte's Motion for Reconsideration was dated July 24, 2012;⁴²
- (4) Morato's Motion for Reconsideration was dated July 20, 2012;⁴³
- (5) Taruc's Motion for Reconsideration was dated July 22, 2012;⁴⁴
- (6) Villar's Motion for Reconsideration was dated July 23, 2012;⁴⁵ and
- (7) Plaras' Motion for Reconsideration was dated July 23, 2012.⁴⁶

On September 28, 2012, the Office of the Ombudsman issued the Joint Order denying the seven (7) Motions for Reconsideration.⁴⁷

The Office of the Ombudsman proceeded to file before the Sandiganbayan an Information⁴⁸ against Arroyo, Valencia, Uriarte, Morato, Taruc, Roquero, Valdes, Aguas, Villar and Plaras.

³⁹ Id. at 181.

⁴⁰ Rollo (G.R. Nos. 203740-41), pp. 398-430.

⁴¹ Id. at 130, Joint Order.

⁴² Id.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Rollo (G.R. Nos. 203978-79), pp. 249-271.

⁴⁶ Rollo (G.R. Nos. 203693-94), pp. 405-431.

⁴⁷ Rollo (G.R. Nos. 203740-41), pp. 128-148.

⁴⁸ Rollo (G.R. No. 203563), pp. 188-191.

Plaras

In its assailed October 3, 2012 Resolution,⁴⁹ the Sandiganbayan found probable cause to issue an arrest warrant against Arroyo, Valencia, Uriarte, Morato, Taruc, Roquero, Valdes, Aguas, Villar and Plaras, thus:

The judicial determination of probable cause is one made by the judge to ascertain whether a warrant of arrest should be issued against the accused. The judge must satisfy himself that based on the evidence submitted, there is necessity for placing the accused under custody in order not to frustrate the ends of justice. If the judge finds no probable cause, the judge cannot be forced to issue the arrest warrant. . . .

To move the court to conduct a judicial determination of probable cause is a mere superfluity, for with or without such motion, the judge is duty-bound to personally evaluate the resolution of the public prosecutor and the supporting evidence. In fact, the task of the presiding judge when the Information is filed with the court is first and foremost to determine the existence or non-existence of probable cause for the arrest of the accused. . . .

. . . .

The rules do not require cases to be set for hearing to determine probable cause for the issuance of a warrant of arrest of the accused before any warrant may be issued. . . . Petitioner thus cannot, as a matter of right, insist on a hearing for judicial determination of probable cause. Certainly, petitioner “cannot determine beforehand how cursory or exhaustive the [judge’s] examination of the records should be [since t]he extent of the judge’s examination depends on the exercise of his sound discretion as the circumstances of the case require[.]”⁵⁰ (Citations omitted)

On the same date, an Order of Arrest⁵¹ was issued against Arroyo, Valencia, Uriarte, Morato, Taruc, Roquero, Valdes, Aguas, Villar and Plaras.

On October 4, 2012, Arroyo orally moved for reconsideration⁵² of the Sandiganbayan’s October 3, 2012 Resolution.

On the same date, the Sandiganbayan issued the Resolution⁵³ denying Arroyo’s Motion for Reconsideration.

On October 11, 2012, Roquero filed before this Court a Petition for Certiorari and Prohibition⁵⁴ with a prayer for a temporary restraining order

⁴⁹ Id. at 23–25.

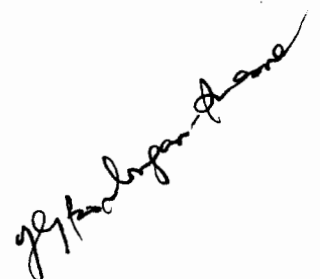
⁵⁰ Id. at 24.

⁵¹ Id. at 213–214, Annex K.

⁵² *Rollo* (G.R. Nos. 203740–41), pp. 504–509.

⁵³ *Rollo* (G.R. Nos. 203740–41), pp. 153–154.

⁵⁴ *Rollo* (G.R. No. 203563), pp. 3–20.



and preliminary injunction. This Petition sought to annul and set aside the October 3, 2012 Resolution of the Sandiganbayan.⁵⁵

On October 19, 2012, Plaras filed before this Court a Petition for Certiorari⁵⁶ with a prayer for a temporary restraining order and/or writ of preliminary injunction. She assailed the July 10, 2012 Review Joint Resolution and September 28, 2012 Joint Order of the Office of the Ombudsman, as well as the October 3, 2012 Resolution of the Sandiganbayan. Plaras prayed for these Resolutions and Joint Order to be “reverse[d] and set aside.”⁵⁷ She also prayed for a temporary restraining order and/or writ of preliminary injunction to be issued and for the Sandiganbayan to be directed to cause the withdrawal of the Information.⁵⁸

On October 24, 2012, Arroyo filed before this Court a Petition⁵⁹ for Certiorari and Prohibition. She sought to annul and set aside the following issuances: the Office of the Ombudsman’s July 10, 2012 Review Joint Resolution; the Office of the Ombudsman’s September 28, 2012 Joint Order; the Sandiganbayan’s October 3, 2012 Resolution; and the Sandiganbayan’s October 4, 2012 Resolution.⁶⁰

On November 8, 2012, Taruc filed before this Court a Petition for Certiorari and Prohibition⁶¹ with an application for a temporary restraining order and/or writ of preliminary injunction. This Petition sought to nullify and set aside the July 10, 2012 Review Joint Resolution and the September 28, 2012 Joint Order of the Office of the Ombudsman.⁶² Taruc prayed for the nullification and setting aside of the arrest warrant, as well as for the dismissal of the Sandiganbayan case for lack of probable cause.⁶³

On November 9, 2012, Villar filed before this Court a Petition for Certiorari⁶⁴ with a prayer for the issuance of a temporary restraining order. He prayed that the July 10, 2012 Review Joint Resolution and September 28, 2012 Joint Order of the Ombudsman, as well as of the October 3, 2012 Resolution of the Sandiganbayan, be set aside.⁶⁵ Villar also prayed for the issuance of a temporary restraining order and the withdrawal of the information for plunder on the ground of lack of probable cause.⁶⁶

⁵⁵ Id. at 20.

⁵⁶ *Rollo* (G.R. Nos. 203693–203694), pp. 3–39.

⁵⁷ Id. at 33.

⁵⁸ Id.

⁵⁹ *Rollo* (G.R. Nos. 203740–203741), pp. 3–84.

⁶⁰ Id. at 3–4.

⁶¹ *Rollo* (G.R. Nos. 203955–203956), pp. 3–45.

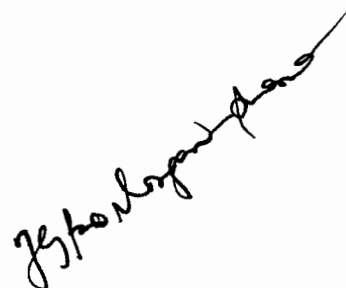
⁶² Id. at 42–43.

⁶³ Id. at 43.

⁶⁴ *Rollo* (G.R. Nos. 203978–203979), pp. 9–33.

⁶⁵ Id. at 27.

⁶⁶ Id.



On November 21, 2012, Morato filed before this Court a Petition for Certiorari⁶⁷ with an urgent prayer for a temporary restraining order and/or preliminary injunction. The Petition prayed that the July 10, 2012 Resolution and September 28, 2012 Joint Order of the Ombudsman be set aside. It also prayed that the October 3, 2012 Resolution of the Sandiganbayan be set aside.⁶⁸

These petitions questioning the findings of probable cause – for indicting the petitioners for Plunder and/or the issuance of a warrant of arrest against them pursuant to this indictment – were subsequently consolidated.

While these Petitions were pending, trial proceeded before the Sandiganbayan. The prosecution proceeded with the presentation of its evidence. “After the Prosecution rested its case, [Arroyo], Aguas, Valencia, Morato, Taruc V, Roquero and Villar separately filed their demurrers to evidence asserting that the Prosecution did not establish a case for plunder against them.”⁶⁹

In the Resolution dated April 6, 2015, the Sandiganbayan granted the demurrers to evidence of Morato, Roquero, Taruc, and Villar.⁷⁰ The Resolution likewise denied the demurrers to evidence of Arroyo, Aguas, and Valencia, “holding that there was sufficient evidence showing that they had conspired to commit plunder; and that the Prosecution had sufficiently established a case of malversation against Valencia[.]”⁷¹

Thereafter, Arroyo and Aguas filed before this Court Petitions for Certiorari claiming that that the denial of their demurrers was tainted with grave abuse of discretion. These Petitions were the subject of this Court’s July 19, 2016 Decision in *Macapagal-Arroyo v. People of the Philippines*,⁷² where this Court granted their demurrers to evidence.⁷³

The confluence of the Sandiganbayan’s assailed October 3, 2012 and October 4, 2012 Resolutions (on probable cause for the issuance of an arrest warrant), together with its subsequent April 6, 2015 Resolution and this Court’s July 19, 2016 Decision in *Macapagal-Arroyo v. People of the Philippines* (on the various demurrers to evidence), render the present Petitions moot and academic.

⁶⁷ *Rollo* (G.R. Nos. 204208–204209), pp. 3–39.

⁶⁸ *Id.* at 36.

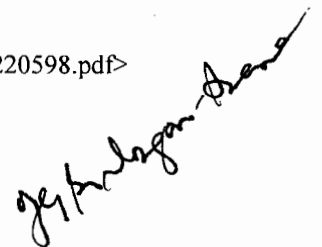
⁶⁹ *Macapagal-Arroyo v. People of the Philippines*, G.R. No. 220598, July 19, 2016 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/july2016/220598.pdf>> 3–19 [Per J. Bersamin, En Banc].

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² G.R. No. 220598, July 19, 2016 <<http://sc.judiciary.gov.ph/jurisprudence/2016/july2016/220598.pdf>> [Per J. Bersamin, En Banc].

⁷³ *Id.* at 47.



As explained in *Pormento v. Estrada*:⁷⁴

As a rule, this Court may only adjudicate actual, ongoing controversies. The Court is not empowered to decide moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the result as to the thing in issue in the case before it. In other words, when a case is moot, it becomes non-justiciable.

An action is considered “moot” when it no longer presents a justiciable controversy because the issues involved have become academic or dead or when the matter in dispute has already been resolved and hence, one is not entitled to judicial intervention unless the issue is likely to be raised again between the parties. There is nothing for the court to resolve as the determination thereof has been overtaken by subsequent events.⁷⁵

The consolidated Petitions themselves pertain to an occurrence that rendered the assailed issuances of the Office of the Ombudsman moot. The Sandiganbayan’s issuance of an arrest warrant, in view of its own judicial determination of probable cause, rendered moot the matter of the Office of the Ombudsman’s finding of probable cause to indict petitioners.

The proceedings before the Office of the Ombudsman were distinct from those before the Sandiganbayan. “[E]xecutive determination of probable cause is different from the judicial determination of probable cause.”⁷⁶ In *People v. Castillo and Mejia*:⁷⁷

There are two kinds of determination of probable cause: executive and judicial. The executive determination of probable cause is one made during preliminary investigation. It is a function that properly pertains to the public prosecutor who is given a broad discretion to determine whether probable cause exists and to charge those whom he believes to have committed the crime as defined by law and thus should be held for trial. Otherwise stated, such official has the quasi-judicial authority to determine whether or not a criminal case must be filed in court. Whether or not that function has been correctly discharged by the public prosecutor, i.e., whether or not he has made a correct ascertainment of the existence of probable cause in a case, is a matter that the trial court itself does not and may not be compelled to pass upon.

The judicial determination of probable cause, on the other hand, is one made by the judge to ascertain whether a warrant of arrest should be issued against the accused. The judge must satisfy himself that based on

⁷⁴ 643 Phil. 735 (2010) [Per C.J. Corona, En Banc].

⁷⁵ Id. at 738–739, citing *Honig v. Doe*, 484 U.S. 305 (1988) and *Santiago v. Court of Appeals*, 348 Phil. 792, 800 (1998) [Per J. Martinez, Second Division].

⁷⁶ *De Lima v. Reyes*, G.R. No. 209330, January 11, 2016 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/209330.pdf>> 16 [Per J. Leonen, Second Division].

⁷⁷ 607 Phil. 754 (2009) [Per J. Quisumbing, Second Division].

J. Leonen

the evidence submitted, there is necessity for placing the accused under custody in order not to frustrate the ends of justice. If the judge finds no probable cause, the judge cannot be forced to issue the arrest warrant.⁷⁸

A trial court's finding of probable is, therefore, not contingent on a prosecutor's finding of probable cause. As soon as probable cause is judicially determined, any question on executive determination of probable cause is rendered moot.⁷⁹ Thus, in *De Lima v. Reyes*:⁸⁰

Here, the trial court has already determined, independently of any finding or recommendation by the First Panel or the Second Panel, that probable cause exists for the issuance of the warrant of arrest against respondent. Probable cause has been judicially determined. Jurisdiction over the case, therefore, has transferred to the trial court. A petition for certiorari questioning the validity of the preliminary investigation in any other venue has been rendered moot by the issuance of the warrant of arrest and the conduct of arraignment.

The Court of Appeals should have dismissed the Petition for Certiorari filed before them when the trial court issued its warrant of arrest. Since the trial court has already acquired jurisdiction over the case and the existence of probable cause has been judicially determined, a petition for certiorari questioning the conduct of the preliminary investigation ceases to be the "plain, speedy, and adequate remedy" provided by law. Since this Petition for Review is an appeal from a moot Petition for Certiorari, it must also be rendered moot.

The prudent course of action at this stage would be to proceed to trial. Respondent, however, is not without remedies. He may still file any appropriate action before the trial court or question any alleged irregularity in the preliminary investigation during pre-trial.⁸¹

Apart from how the Sandiganbayan's finding of probable cause and issuance of an arrest warrant render two (2) out of the four (4) assailed issuances moot, subsequent rulings on demurrers on evidence filed before the Sandiganbayan impel the termination of petitioners' prosecution for being moot.

⁷⁸ Id. at 764–765, citing *Paderanga v. Drilon*, 273 Phil. 290, 296 (1991) [Per J. Regalado, En Banc]; *Roberts, Jr. v. Court of Appeals*, 324 Phil. 568, 620–621 (1996) [Per J. Davide, Jr., En Banc]; and *Ho v. People*, 345 Phil. 597, 611 (1997) [Per J. Panganiban, En Banc].

⁷⁹ *De Lima v. Reyes*, G.R. No. 209330, January 11, 2016 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/209330.pdf>> [Per J. Leonen, Second Division]. See also J. Leonen's Concurring Opinion in *Reyes v. Ombudsman*, G.R. Nos. 212593, March 15, 2016 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/march2016/212593-94_leonen.pdf> [Per J. Perlas-Bernabe, En Banc].

⁸⁰ G.R. No. 209330, January 11, 2016 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/209330.pdf>> [Per J. Leonen, Second Division].

⁸¹ Id. at 20.

J. Leonen

The Sandiganbayan's April 6, 2015 Resolution made definite findings with respect to Morato, Roquero, Taruc, and Villar. As to Morato, Roquero and Taruc, "said accused who were members of the PCSO Board of Directors were not shown to have diverted any PCSO funds to themselves, or to have raided the public treasury by conveying and transferring into their possession and control any money or funds from PCSO account."⁸² As to Villar and, by extension, to Plaras, the Sandiganbayan found "there had been no clear showing that his designation of Plaras had been tainted with any criminal design; and that the fact that Plaras had signed 'by authority' of Villar as the [Commission on Audit] Chairman could not criminally bind him in the absence of any showing of conspiracy."⁸³

Conformably, the dispositive portion of the Sandiganbayan's April 6, 2015 Resolution explicitly stated that Morato, Roquero, Taruc, and Villar were acquitted of the offense charged.⁸⁴

In *Macapagal-Arroyo*, this Court found grave abuse of discretion on the part of the Sandiganbayan in denying Arroyo's and Aguas' demurrers to evidence despite the prosecution's "failure to properly allege the main plunderer . . . [thereby] violating the rights of *each accused* to be informed of the charges against each of them."⁸⁵ This Court repeatedly characterized the prosecution's assertion of and the Sandiganbayan's finding of conspiracy as "unwarranted"⁸⁶ and "unsustainable."⁸⁷ It further emphasized that the prosecution failed to establish the *corpus delicti* of plunder—that is, "the amassment, accumulation or acquisition of ill-gotten wealth valued at not less than ₱50,000,000.00"⁸⁸—a matter that "should lead to the dismissal of the criminal prosecution."⁸⁹

The question of the propriety of the findings of probable cause for petitioners' indictment and arrest, as well as the reliefs petitioners seek, are contingent on the existence and continuation of criminal proceedings against petitioners. With the grant of demurrers to evidence—and the acquittals ensuing from it⁹⁰—as well as this Court's pronouncements negating conspiracy and the commission of plunder, the proceedings against petitioners are terminated. There is no longer any case relating to petitioners' indictment and arrest. There are no longer any proceedings to restrain or enjoin.

⁸² *Macapagal-Arroyo v. People of the Philippines*, G.R. Nos. 220598 and 220953, July 19, 2016 <<http://sc.judiciary.gov.ph/jurisprudence/2016/july2016/220598.pdf>> 19 [Per J. Bersamin, En Banc].

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.* at 36.

⁸⁶ *Id.*

⁸⁷ *Id.* at 40.

⁸⁸ *Id.* at 42.

⁸⁹ *Id.*

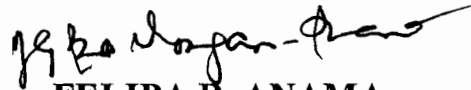

⁹⁰ *Id.* at 47.



The actual case or controversy that may have justified the filing of each of the consolidated Petitions no longer exists. Any discussion on the probable cause supposedly underlying petitioners' indictment and arrest will be a purely theoretical exercise that will serve no practical judicial value.

WHEREFORE, the consolidated Petitions are **DISMISSED.**"
Brion, J., on leave. Peralta, J., no part in G.R. No. 203563. (56)

Very truly yours,


FELIPA B. ANAMA
Clerk of Court 

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