



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

EN BANC

JUAN PONCE ENRILE,
Petitioner,

- versus -

G.R. No. 258841

SANDIGANBAYAN AND PEOPLE
OF THE PHILIPPINES,
Respondents.

x - - - - - x

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on February 27, 2024 a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on July 12, 2024 at 2:00 p.m.

Very truly yours,

MARIFE M. LOMIBAO-CUEVAS
Clerk of Court

PONCE ENRILE REYES &
MANALASTAS (x)
Counsel for Petitioner
3rd Floor, Vernida IV Building
128 L.P. Leviste Street, Salcedo Village
Makati City

ATTY. ESTELITO P. MENDOZA (x)
Counsel for Petitioner
Suite A, 18th Floor, Tower 6789
6789 Ayala Avenue, Makati City

PUBLIC INFORMATION OFFICE (x)
OFFICE OF THE COURT
ADMINISTRATOR (x)
OFFICE OF THE CHIEF ATTORNEY (x)
PHILIPPINE JUDICIAL ACADEMY (x)
LIBRARY (x)
JUDICIAL RECORDS OFFICE (x)
Supreme Court

OFFICE OF THE SPECIAL PROSECUTOR (x)
4th Floor, Ombudsman Building
Agham Road, Diliman, Quezon City

SANDIGANBAYAN - THIRD DIVISION (x)
Commonwealth Avenue
Diliman, Quezon City

THE SOLICITOR GENERAL (x)
Office of the Solicitor General
134 Amorsolo Street
Legaspi Village, Makati City



Republic of the Philippines
Supreme Court
Manila

EN BANC

JUAN PONCE ENRILE,

G.R. No. 258841

Petitioner,

Present:

GESMUNDO, *CJ.*,*

LEONEN,

CAGUIOA,*

HERNANDO,

LAZARO-JAVIER,

INTING,

ZALAMEDA,

LOPEZ, M.,

GAERLAN,

ROSARIO,

LOPEZ, J.,

DIMAAMPAO,

MARQUEZ,

KHO, JR., and

SINGH, *JJ.*

-versus-

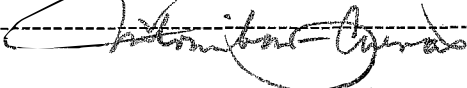
SANDIGANBAYAN
PEOPLE OF
PHILIPPINES,

and
THE

Respondents.

Promulgated:

February 27, 2024

X-----

-----X

DECISION

SINGH, *J.*:

This is a Petition for Prohibition (**Petition**),¹ dated March 1, 2022, filed by the petitioner Juan Ponce Enrile (**Enrile**) praying that the Court enjoin the Sandiganbayan from acting in Criminal Case No. SB-14-CRM-0238, titled *People of the Philippines v. Juan Ponce Enrile, et al.* (**Main Case**) and to dismiss the said criminal case.²

* No part

¹ *Rollo*, pp. 3-29.

² *Id.* at 22.

The Facts

On June 5, 2014, the Office of the Ombudsman filed with the Sandiganbayan an Information,³ dated June 5, 2014, for Plunder against Enrile, Jessica Lucila Reyes (**Reyes**), Janet Lim Napoles (**Napoles**), Ronald John Lim (**Lim**), and John Raymund de Asis (**de Asis**).⁴

The Information reads:

In 2004 to 2010 or thereabout, in the Philippines, and within this Honorable Court's jurisdiction, above-named accused JUAN PONCE ENRILE, then a Philippine Senator, JESSICA LUCILA G. REYES, then Chief of Staff of Senator Enrile's Office, both public officers, committing the offense in relation to their respective offices, conspiring with one another and with JANET LIM NAPOLES, RONALD JOHN LIM, and JOHN RAYMUND DE ASIS, did then and there willfully, unlawfully, and criminally amass, accumulate, and/or acquire ill-gotten wealth amounting to at least ONE HUNDRED SEVENTY TWO MILLION EIGHT HUNDRED THIRTY FOUR THOUSAND FIVE HUNDRED PESOS ([PHP]172,834,500.00) through a combination or series of overt criminal acts, as follows:

- (a) by repeatedly receiving from NAPOLES and/or her representatives LIM, DE ASIS, and others, kickbacks or commissions under the following circumstances: before, during and/or after the project identification, NAPOLES gave, and ENRILE and/or REYES received, a percentage of the cost of a project to be funded from ENRILE'S Priority Development Assistance Fund (PDAF), in consideration of ENRILE'S endorsement, directly or through REYES, to the appropriate government agencies, of NAPOLES' non-government organizations which became the recipients and/or target implementors of ENRILE'S PDAF projects, which duly-funded projects turned out to be ghosts or fictitious, thus enabling NAPOLES to misappropriate the PDAF proceeds for her personal gain;
- (b) by taking undue advantage, on several occasions, of their official positions, authority, relationships, connections, and influence to unjustly enrich themselves at the expense and to the damage and prejudice, of the Filipino people and the Republic of the Philippines.

CONTRARY TO LAW.⁵

On July 10, 2014, Enrile filed a Motion for Bill of Particulars before the Sandiganbayan. The Sandiganbayan denied the Motion, which prompted Enrile to file a Petition for *Certiorari* (**Bill of Particulars Petition**) under Rule 65 of the Rules of Court with the Court. This was docketed as G.R. No. 213455 and entitled *Juan Ponce Enrile v. People of the Philippines, Hon. Amparo Cabotaje-Tang, Hon. Samuel R. Martires, and Hon. Alex L. Quiroz of the Third Division of the Sandiganbayan* (**Bill of Particulars Case**). In its

³ *Id.* at 544.

⁴ *Id.*

⁵ *Id.* at 544-545, Information.

Decision (**Bill of Particulars Decision**),⁶ dated August 11, 2015, the Court partially granted Enrile's Rule 65 Petition and ordered the prosecution to submit a Bill of Particulars on some of the items subject of Enrile's Motion for Bill of Particulars.⁷

The dispositive portion of the Bill of Particulars Decision states:

- a. We PARTIALLY GRANT the present petition for *certiorari*, and SET ASIDE the Sandiganbayan's resolutions dated July 11, 2014, which denied Enrile's motion for bill of particulars and his motion for reconsideration of this denial.
- b. We DIRECT the *People of the Philippines* to SUBMIT, within a non-extendible period of fifteen (15) days from finality of this Decision, with copy furnished to Enrile, a bill of particulars containing the facts sought that we herein rule to be material and necessary. The bill of particulars shall specifically contain the following:
 1. The particular overt act/s alleged to constitute the "combination or series of overt criminal acts" charged in the Information.
 2. A breakdown of the amounts of the "kickbacks or commissions" allegedly received, stating how the amount of [PHP]172,834,500.00 was arrived at.
 3. A brief description of the 'identified' projects where kickbacks or commissions were received.
 4. The *approximate* dates of receipt, "in 2004 to 2010 or thereabout," of the alleged kickbacks and commissions from the identified projects. At the very least, the prosecution should state the year when the kickbacks and transactions from the identified projects were received.
 5. The name of Napoles' non-government organizations (NGOs) which were the alleged "recipients and/or target implementors of Enrile's PDAF projects."
 6. The government agencies to whom Enrile allegedly endorsed Napoles' NGOs. The particular person/s in each government agency who facilitated the transactions need not be named as a particular.

All particulars prayed for that are not included in the above are hereby denied.

SO ORDERED.⁸

The prosecution complied with the Bill of Particulars Decision and submitted its Bill of Particulars,⁹ dated May 16, 2016.

Thereafter, the proceedings before the Sandiganbayan continued. The Sandiganbayan conducted the Pre-Trial Conference on December 7, 2018.¹⁰ In connection with this, Enrile filed an Omnibus Motion (**Omnibus Motion**), dated April 12, 2019, where he noted the absence of a pre-trial order with

⁶ *Enrile v. People*, 766 Phil. 75 (2015) [Per J. Brion, *En Banc*].

⁷ *Id.* at 138-139

⁸ *Id.*

⁹ *Rollo*, pp. 130-140.

¹⁰ *Id.* at 141.



respect to him. He also argued that the pre-trial order should limit the prosecution's evidence to the alleged overt criminal acts described in the prosecution's Bill of Particulars.¹¹ The Sandiganbayan denied this motion in its Resolution (**May 29, 2021 Resolution**), dated May 29, 2021.¹²

Enrile also filed a Motion for Inclusion in the Pre-Trial Order the Issues Which Need to be Resolved to Determine the Guilt or Innocence of the Accused of the Offense of Plunder as Charged in the Information (**Motion for Inclusion**), dated October 21, 2019.¹³ In this Motion, Enrile referred to the Pre-Trial Order issued with respect to his co-accused Reyes and prayed that certain issues should be included therein in accordance with the prosecution's Bill of Particulars.¹⁴ The Sandiganbayan denied the Motion for Inclusion in its Resolution (**December 3, 2019 Resolution**), dated December 3, 2019.¹⁵

Subsequently, the Sandiganbayan issued a Pre-Trial Order (With Respect to Accused Juan Ponce Enrile) (**Pre-Trial Order**),¹⁶ dated January 8, 2020.

Enrile filed his Comments in Regard the Pre-Trial Order dated January 8, 2020, on February 14, 2020.¹⁷ In this pleading, Enrile sought clarification as to why a separate Pre-Trial Order was issued with respect to him and whether a joint trial of all the accused will be conducted. Further, Enrile stated, among others, that the dispositive portion of the Court's Bill of Particulars Decision should be reflected in the Pre-Trial Order.¹⁸ He also prayed for the inclusion of the Bill of Particular's Annex A in the Pre-Trial Order.¹⁹

On February 20, 2020, Enrile filed an *Ex-Parte* Motion for Resolution/Clarification of Matters Subject of the "Comments In Regard the 'Pre-Trial Order'..." (**Ex Parte Motion**), dated February 14, 2020, on February 19, 2020.²⁰

In its Resolution, dated February 15, 2021, the Sandiganbayan noted Enrile's Comments and *Ex-Parte* Motion and clarified that a joint trial will indeed be conducted for all the accused. The Sandiganbayan also explained that a pre-trial order had to be issued with respect to Enrile because the pre-trial with respect to the other accused, Napoles and Reyes, had long been terminated and pre-trial orders as to them were already issued. As to Enrile's

¹¹ *Id.* at 547-548, Resolution dated June 9, 2021.

¹² *Id.* at 548.

¹³ *Id.* at 548-549.

¹⁴ *Id.* at 549.

¹⁵ *Id.* at 550.

¹⁶ *Id.* at 141-543.

¹⁷ *Id.* at 553.

¹⁸ *Id.*

¹⁹ *Id.* at 554-555.

²⁰ *Id.*

prayer for the inclusion of Annex A of the Bill of Particulars in the Pre-Trial Order, the Sandiganbayan stated that it had already passed upon the issue when it denied Enrile's Omnibus Motion and Motion for Inclusion.²¹

Enrile filed three (3) more pleadings after this.

First, Enrile filed a Manifestation (1) in regard the Pre-Trial Orders of accused Enrile, Reyes, Napoles, and other accused whose pre-trial order was already issued; and (2) to await the Pre-Trial Order, reserving the right to take a position in regard to the issues to be tried (**Manifestation on the Pre-Trial Orders**), dated February 26, 2021.²² Here, Enrile argued that all the Pre-Trial Orders should be consolidated. He also stated that considering the ruling of the Court in the Bill of Particulars Case, the prosecution's evidence should be limited to those defined in the Bill of Particulars.²³

Second, Enrile filed an Objection to the Admission of the Pre-Trial Order Consisting of 403 Pages; Absent A Pre-Trial Order, There Cannot be A Trial Compliant with Section 14 (1) and Section 14 (2), Article III of the Constitution; Absent a Trial, the Case Must Be Dismissed Forthwith (**Objections**), dated March 23, 2021. Enrile objected to the Pre-Trial Order on the ground that it does not define and limit the issues to be tried. He also reiterated that the Pre-Trial Order must include the issues required to be resolved under the Bill of Particulars and its Annex A.²⁴

Third, Enrile filed a Manifestation, dated June 8, 2021, stating that he shall await the Sandiganbayan's resolution of the issues on the Pre-Trial Order before attending any trial.²⁵

The Ruling of the Sandiganbayan

The Sandiganbayan found no merit in the foregoing pleadings and resolved to merely note them in its Resolution (**June 9, 2021 Resolution**),²⁶ dated June 9, 2021.

In particular, as to Enrile's proposal in the Manifestation on the Pre-Trial Orders to consolidate all the existing pre-trial orders, the Sandiganbayan disagreed. The Sandiganbayan stated that there is no rule prohibiting the issuance of separate pre-trial orders in cases where there are several accused in a joint trial. Further, the Sandiganbayan explained that the pre-trial for

²¹ *Id.* at 554–555.

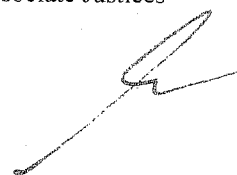
²² *Id.* at 555–556.

²³ *Id.* at 556.

²⁴ *Id.* at 556–557.

²⁵ *Id.* at 557.

²⁶ *Id.* at 546–566, approved by Presiding Justice Amparo M. Cabotaje-Tang and Associate Justices Ronald B. Moreno and Sarah Jane T. Fernandez.



Reyes and Napoles had long been terminated and, thus, the existence of separate pre-trial orders merely reflect the difference in the pace of the proceedings with respect to the different accused.²⁷

As to Enrile's manifestation that the Pre-Trial Order should include the issues referred to in the dispositive portion of the ruling of the Court in the Bill of Particulars Case as well as Annex A of the Bill of Particulars, the Sandiganbayan stated that the Pre-Trial Order already defined the issue to be tried as follows: "whether the accused is guilty [of] the crime of Plunder."²⁸ The Sandiganbayan added that the ultimate issue in every criminal case "boils down to whether the prosecution has proven the guilt of the accused of the offense charged beyond reasonable doubt. Thus, when the Court issued the Pre-Trial Order (With Respect to Accused Juan Ponce Enrile), the sole issue it defined was whether the accused is guilty [of] the crime of Plunder."²⁹

The Sandiganbayan also noted that Enrile's assertion that the Bill of Particulars and the dispositive portion of the Bill of Particulars Decision should be included in the Pre-Trial Order has already been resolved. Further, the Sandiganbayan highlighted that the issues proposed by Enrile are "already encompassed in the issue of whether the prosecution has proven the elements of the offense charged with moral certainty."³⁰

The Sandiganbayan also disagreed with Enrile's position that the prosecution's evidence should be limited to only what the prosecution stated in the Bill of Particulars. According to the Sandiganbayan, it cannot "direct the prosecution to observe certain limitations in offering evidence, precisely when no evidence has yet been offered since trial has not yet started as to him."³¹ In addition, the Sandiganbayan said:

Thus, the prosecutor shall not be required to include in the bill of particulars matters of evidence relating to how the people intend to prove the elements of the offense charged or how the people intend to prove any item of factual information included in the bill of particulars. Accordingly, the Court has consistently refused to limit in the pre-trial orders the evidence on his alleged overt criminal acts to the acts described in the Bill of Particulars submitted by the prosecution. To do so would be, in the opinion of the Court, akin to disallowing the prosecution from presenting certain evidentiary matters during trial as well as interfere with the discretion of the prosecution on how to present evidentiary facts during trial and how to prosecute the case.³²

The dispositive portion of the June 9, 2021 Resolution states:

²⁷ *Id.* at 559.

²⁸ *Id.* at 560.

²⁹ *Id.* at 561.

³⁰ *Id.* at 562.

³¹ *Id.* at 564.

³² *Id.*

WHEREFORE, in light of all the foregoing considerations, the Court resolves to **NOTE** accused Enrile's –

1. *Manifestation (1) in regard of the pre-trial orders of accused Enrile, Reyes, Napoles, and other accused whose pre-trial order was already issued; and (2) to await the Pre-Trial Order, reserving the right to take a position in regard the issues to be tried* dated February 26, 2021;
2. *Objection to the Admission of the "Pre-Trial Order" consisting of 403 Pages; Absent A Pre-Trial Order, There Cannot Be A Trial Compliant With Section 14 (1) And Section 14 (2), Article III of the Constitution; Absent A Trial, The Case Must be Dismissed Forthwith* dated March 23, 2021; and
3. *Manifestation* dated June 8, 2021.

SO ORDERED.³³ (Emphasis in the original)

Enrile filed a Motion for Reconsideration on June 22, 2021, which the Sandiganbayan denied in its Resolution (**July 12, 2021 Resolution**),³⁴ dated July 12, 2021.

In the July 12, 2021 Resolution, the Sandiganbayan said that Enrile's pleadings, which were noted in the June 29, 2021 Resolution, contained proposals, manifestations, and objections but did not contain any specific prayer for relief except for the Objections which asked that the Pre-Trial Order should be denied admission. Thus, the Sandiganbayan merely noted the manifestations and proposals. As to the Objections, the Sandiganbayan similarly only noted it because it found no legal basis to deny the admission of the Pre-Trial Order that it issued. This notwithstanding, Enrile purportedly erroneously claimed in his Motion for Reconsideration that his manifestations, proposals, and objections are reliefs which the Sandiganbayan denied. The Sandiganbayan stated that since Enrile himself opted to make manifestations and proposals without asking for relief, it could only note such proposals and manifestations.³⁵

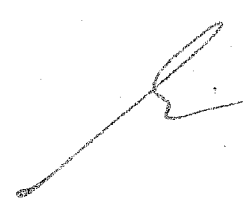
The Sandiganbayan also held that Enrile cannot insist that the issues in the Pre-Trial Order should be limited to those stated in the Bill of Particulars. According to the Sandiganbayan, "to frame and limit the issues to be tackled during trial to those listed in the Bill of Particulars, as the accused suggests, would be, in the opinion of the Court, akin to disallowing the prosecution from presenting certain evidentiary matters during trial and interfere with the discretion of the prosecution on how to present evidentiary facts during trial and how to prosecute the case."³⁶ It also reiterated that the issues which Enrile

³³ *Id.* at 565–566.

³⁴ *Id.* at 41–59.

³⁵ *Id.* at 50–51.

³⁶ *Id.* at 56.



insists should be included in the Pre-Trial Order were already encompassed in the ultimate issue of whether the prosecution established the elements of the crime of Plunder beyond reasonable doubt.³⁷

The dispositive portion of the July 12, 2021 Resolution states:

WHEREFORE, in view of the above considerations, the Court **RESOLVES** to **DENY** as it hereby **DENIES** the *Motion for Reconsideration* dated June 21, 2021, filed by the accused Enrile, for lack of merit.

SO ORDERED.³⁸ (Emphasis in the original)

On the first day of trial, the prosecution indicated that it will present as its first witness Atty. Ryan Medrano (**Atty. Medrano**).³⁹ Atty. Medrano was a member of the team of the Office of the Ombudsman Field Investigators who conducted field verifications and found that the projects funded by Enrile's Priority Development Assistance Fund (**PDAF**) were not implemented.⁴⁰

Enrile filed this Petition before the Court seeking to enjoin the Sandiganbayan from acting on the criminal case against him and praying for its dismissal. He raises the following arguments:

First, the Information and the Bill of Particulars define and limit the issues to be tried in the criminal case. This means, in turn, that the prosecution's evidence must be limited to the matters alleged in the Information and the Bill of Particulars.⁴¹

Second, the Sandiganbayan disregarded the Bill of Particulars and the Court's Bill of Particulars Decision when it refused to include them in the Pre-Trial Order, despite Enrile's repeated pleas, and allowed "the prosecution to present evidence, in violation of Enrile's constitutional rights."⁴² By doing so, the issues to be resolved during trial are "now broadened and increased to a large extent, notwithstanding that this Honorable Court has already identified the ultimate facts to be proven [sic] – '**the acts or omissions complained of as constituting the offense**,' and the Prosecution has already submitted the 'Bill of Particular's in regard these 'overt criminal acts' allegedly committed by Enrile in a 'combination or series.'"⁴³

³⁷ *Id.* at 57.

³⁸ *Id.* at 59.

³⁹ *Id.* at 6.

⁴⁰ *Id.* at 100, Comment, dated April 29, 2022.

⁴¹ *Id.* at 15–18.

⁴² *Id.* at 15.

⁴³ *Id.* at 19.

Third, the Sandiganbayan's crafting of the issue in the Pre-Trial Order, (*i.e.*, whether the accused is guilty of the crime of Plunder), further frustrates the purpose for which the Court issued the Bill of Particulars Decision as this crafting of the issue will not guard Enrile against surprises during the trial.⁴⁴

Fourth, in disregarding the Bill of Particulars and allowing the prosecution to present any evidence, the Sandiganbayan acted in a manner that constitutes vexatious, oppressive, unjustified, and capricious delay in violation of Enrile's constitutional right to speedy trial.⁴⁵

Finally, a petition for prohibition is the appropriate remedy in this case to enjoin the Sandiganbayan from proceeding with the trial and to compel it to dismiss the criminal case against Enrile.⁴⁶

The respondent People of the Philippines (**the People**) filed its Comment,⁴⁷ dated April 29, 2022, through the Office of the Special Prosecutor. The People raised the following arguments:

First, the Petition, which intends to assail the July 12, 2021 Resolution denying Enrile's Motion for Reconsideration, was filed out of time. Upon verification with the Sandiganbayan, the People confirmed that Enrile received the July 12, 2021 Resolution on July 22, 2021. However, he filed the Petition only in March 2022, eight (8) months later, well beyond the sixty (60)-day reglementary period. Further, Enrile's claim that the Bill of Particulars should be included in the Pre-Trial Order was raised and resolved as early as in May and December 2019. Instead of filing the appropriate action before the Court to assail the Sandiganbayan's resolution on this point, Enrile insisted on reiterating and rehashing the same arguments before the Sandiganbayan.⁴⁸

Second, the Petition did not include a verified proof of service as required under the Rules of Court.⁴⁹

Third, a petition for prohibition can only prosper if the petitioner has no other plain, adequate, and speedy remedy in the ordinary course of law. Here, Enrile has other remedies. In particular, Enrile can object to the presentation of evidence that are outside the overt acts described in the Bill of Particulars. He can also object to the formal offer of evidence as to evidence that are irrelevant or immaterial. He may even file a demurrer to evidence at

⁴⁴ *Id.* at 21.

⁴⁵ *Id.* at 20.

⁴⁶ *Id.* at 12-14.

⁴⁷ *Id.* at 82-104.

⁴⁸ *Id.* at 95-97.

⁴⁹ *Id.* at 97.



the proper time. Finally, he still has the opportunity to present his defense. Thus, Enrile's resort to the filing of the Petition is improper.⁵⁰

Fourth, the Sandiganbayan did not act with grave abuse of discretion. Contrary to Enrile's claim, the Sandiganbayan never ignored the Court's Bill of Particulars Decision and the prosecution's Bill of Particulars. The People assert that the Bill of Particulars merely provided the details which the Court deemed necessary to fully inform Enrile of the nature and cause of the accusation against him. It did not lay down the entire case of the prosecution nor was it intended to limit the matters that can be passed upon during the trial. In addition, according to the People, the Bill of Particulars "does not provide particulars on the conspiracy among the accused; the amount of Enrile's PDAF each year, the COA Audits or field investigations that were conducted; or the other persons" from whom he received kickbacks and commissions. These matters can and may still be proven by the prosecution even if they are not included in the bill of particulars.⁵¹

Fifth, the Sandiganbayan did not disregard the Bill of Particulars when it crafted the issue in the Pre-Trial Order. The Bill of Particulars is already deemed part of the record and is considered incorporated into the averments of the Information which the Sandiganbayan can use as "basis for its rulings, especially on issues of relevancy and admissibility of evidence."⁵²

Moreover, there is no rule requiring the Pre-Trial Order to recite all the litigable issues. The People assert:

Even if the Statement of the Issue focused solely on the ultimate issue for trial, it is understood that [the Sandiganbayan] will use the averments in the Information and the bill of particulars as guideposts in determining whether an evidence is admissible or not. Hence, the Statement of the Issue need not replicate matters that are already addressed by the Information and the bill of particulars.⁵³

Finally, the People argue that the Rules of Court is replete with rules governing the admissibility of evidence. The Sandiganbayan is capable of enforcing these rules. In this regard, the People assert that Atty. Medrano's testimony is relevant. The People claim that Atty. Medrano was a member of the team of Ombudsman Field Investigators who conducted field verifications and discovered that the projects funded by Enrile's PDAF were not implemented. Thus, Atty. Medrano's testimony and the documents subject of his testimony are "very relevant to the Plunder case."⁵⁴

⁵⁰ *Id.* at 97-98.

⁵¹ *Id.* at 98-99.

⁵² *Id.* at 99-100.

⁵³ *Id.*

⁵⁴ *Id.* at 100.

Enrile filed his Reply (**Reply**),⁵⁵ dated May 25, 2022. In the Reply, Enrile refuted the People's claim that the Petition was filed out of time. He asserted that the Sandiganbayan's various resolutions, which denied his argument that the prosecution's evidence should be limited to the overt acts stated in the Bill of Particulars, are all interlocutory orders. Because these orders are merely interlocutory, they do not become final and may therefore be assailed through prohibition without complying with the 60-day reglementary period which only apply to final orders.⁵⁶

Enrile also asserted that the Petition filed with the Court included a verified proof of service, in accordance with the Rules of Court.⁵⁷

Moreover, Enrile argued that any purported remedies available to him are merely illusory. The Sandiganbayan had already repeatedly rejected Enrile's argument and has consistently refused to include and apply the Bill of Particulars Decision.⁵⁸ He also reiterated his claim that the Sandiganbayan acted with grave abuse of discretion in ignoring the Bill of Particulars Decision and the Bill of Particulars.⁵⁹

Enrile ultimately prays that the Court enjoin the Sandiganbayan from acting on the Main Case and to dismiss the case for violation of his constitutional right to due process, to be informed of the nature and cause of the accusation against him, and to speedy trial resulting from the Sandiganbayan's grave abuse of discretion in deliberately disregarding the Bill of Particulars Decision.⁶⁰

The Issues

1. Whether the Petition is procedurally defective.
2. Whether the Bill of Particulars should be incorporated in the Pre-Trial Order.
3. Whether the prosecution's evidence should be limited only to matters stated in the Bill of Particulars.
4. Whether the Main Case should be dismissed.

⁵⁵ *Id.* at 69–79.

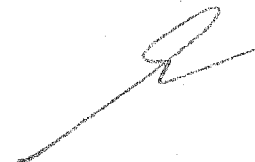
⁵⁶ *Id.* at 70.

⁵⁷ *Id.*

⁵⁸ *Id.* at 71.

⁵⁹ *Id.* at 71–74.

⁶⁰ *Id.* at 22..



The Court's Ruling

The Petition is procedurally defective

- a. The Petition was filed out of time

Enrile does not deny that he filed the Petition only in March 2022 despite the fact that he received the assailed July 12, 2021 Resolution (which denied his Motion for Reconsideration) on July 22, 2021. Enrile insists that because the assailed Resolutions are interlocutory orders, they are not subject to the 60-day reglementary period for the filing of a petition for prohibition.

There is no dispute that the Sandiganbayan's denial of Enrile's prayer for: (a) the inclusion of the Bill of Particulars Decision in the Pre-Trial Order; and (b) the Sandiganbayan to limit the prosecution's evidence to pertain only to matters stated in the Bill of Particulars, is interlocutory. An order is interlocutory when it resolves only an incidental matter "which does not touch on the merits of the case or put an end to the proceedings."⁶¹ An interlocutory order leaves something more to be done by the trial court as to the merits of the case. Generally, interlocutory orders are not subject to a reglementary period.⁶²

However, in *San Juan, Jr. v. Cruz*,⁶³ the Court ruled that where there are multiple motions for reconsideration raising the same arguments to assail an interlocutory order, the 60-day period is reckoned from the notice of the denial of the first motion for reconsideration and not that of the last motion for reconsideration. While there is no rule prohibiting the filing of a second (or even subsequent motions for reconsideration) raising the same arguments raised in a first motion for reconsideration, the latter motions can be denied on the ground that they merely reiterate the grounds and arguments already passed upon by the court. Moreover, the reckoning point for the 60-day period is the notice of the denial of the first motion for reconsideration, "otherwise indefinite delays will ensue."⁶⁴

The Court applied the ruling in *San Juan* in *Communication and Information Systems Corp. v. Mark Sensing Australia Pty. Ltd.*⁶⁵ In this case, the Court ruled that the sixty (60)-day reglementary period for the filing of a Rule 65 *certiorari* petition is reckoned from the notice of the denial of the first motion for reconsideration and not of the third motion for reconsideration. The Court said:

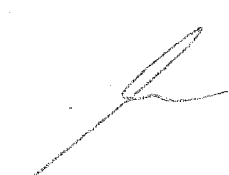
⁶¹ *Heirs of Hinog v. Melicor*, 495 Phil. 422, 434 (2005) [Per J. Austria-Martinez, Second Division].

⁶² *Id.* at 434-435.

⁶³ 529 Phil. 402 (2006) [Per J. Callejo, Sr., First Division].

⁶⁴ *Id.* at 415.

⁶⁵ 804 Phil. 233 (2017) [Per J. Jardeleza, Third Division].



Applying the rule in *San Juan*, MSAPL's challenge to the order dated April 13, 2009 was clearly time-barred. The 60-day reglementary period for challenging the RTC's issuance of the amended writ of attachment should be counted from April 27, 2009, 39 the date when MSAPL received a copy of the April 13, 2009 Order denying MSAPL's motion for reconsideration of the December 22, 2008 Order which granted CISC's motion to amend the writ of preliminary attachment. The CA, however, considered MSAPL's act of filing a motion to determine the sufficiency of the bond as a definitive indication that private respondents have not "abandoned their right to impugn the evidence submitted in the application for the second writ." This is erroneous for two reasons: *first*, MSAPL's motion never impugned the propriety and factual bases of the RTC's issuance of the amended writ of attachment; and *second*, even if it did, the motion would be considered as a second motion for reconsideration, which could not have stayed the reglementary period within which to file a petition for *certiorari* assailing an interlocutory order. **We emphasize that the provisions on reglementary periods are strictly applied, indispensable as they are to the prevention of needless delays, and are necessary to the orderly and speedy discharge of judicial business. The timeliness of filing a petition for *certiorari* is mandatory and jurisdictional, and should not be trifled with.**⁶⁶ (Emphasis supplied, citations omitted)

Further, in *Philippine National Bank v. Intestate Estate of De Guzman*,⁶⁷ the Court cited *San Juan* to deny a petition for *certiorari* under Rule 65, which was filed using the denial of the last of a series of motions to dismiss raising the same arguments as the reckoning point. The Court explained:

The Court finds insufferable petitioner's repeated filing of Motions to Dismiss raising the same ground. In the three previous Motions to Dismiss and in an omnibus motion for reconsideration, petitioner argued that the present case was barred by prior judgment and that there was forum-shopping. Correspondingly, the issues had been repetitively passed upon and resolved by the court a quo.

The motions were apparently filed for no other reason than to gain time and gamble on a possible change of opinion of the court or the judge sitting on the case. The Motions to Dismiss were filed in a span of five years, the first one having been filed on June 1, 2000 and the last — the subject motion — on February 15, 2005, three years after petitioner filed its answer. In fact, since the first Motion to Dismiss, three judges had already sat on the case and resolved the motions. **By filing these motions, petitioner had disrupted the court's deliberation on the merits of the case. This strategy cannot be tolerated as it will entail inevitable delay in the disposition of the case.**

.....
Applying the ruling in *San Juan*, the petition for *certiorari* was evidently filed out of time, as its filing was reckoned from the denial of the last motion. **The subject Motion to Dismiss was filed in an attempt to**

⁶⁶ *Id.* at 242-243.

⁶⁷ 635 Phil. 128 (2010) [Per J. Nachura, Second Division].



resurrect the remedy of a petition for certiorari, which had been lost long before its filing.⁶⁸ (Emphasis supplied)

In this Petition, Enrile challenges the Sandiganbayan's refusal to include the Bill of Particulars in the Pre-Trial Order and to limit the prosecution's evidence to the matters stated in the Bill of Particulars. Enrile first raised these points in the Omnibus Motion and in the Motion for Inclusion.

In particular, in the Omnibus Motion, Enrile argued that the Pre-Trial Order which the Sandiganbayan was about to issue should limit the prosecution's evidence to the alleged overt criminal acts described in the Bill of Particulars.⁶⁹ The Sandiganbayan denied this in its May 29, 2021 Resolution. Further, Enrile argued in the Motion for Inclusion that the Pre-Trial Order should include certain issues in accordance with the Bill of Particulars.⁷⁰ The Sandiganbayan denied this in its December 30, 2019 Resolution.⁷¹ Notably, Enrile did not state in his Petition the date of his receipt of the December 3, 2019 and May 29, 2021 Resolutions.

Enrile reiterated these arguments in the Comments in Regard the "Pre-Trial Order" dated January 8, 2020, dated February 14, 2020, Manifestation on the Pre-Trial Orders, Objections, and the June 8, 2021 Manifestation. Significantly, none of these pleadings included any prayer specifically asking the Sandiganbayan for relief. It was only when the Sandiganbayan issued the June 9, 2021 Resolution, which correctly only noted the said pleadings, that Enrile filed a Motion for Reconsideration specifically asking for relief. As stated above, the Sandiganbayan rejected the Motion for Reconsideration in the July 12, 2021 Resolution.

The ruling in *San Juan, Communication and Information Systems Corp.*, and *Philippine National Bank* applies here.

In this Petition, Enrile argues that the Sandiganbayan erred in refusing to include the Bill of Particulars in the Pre-Trial Order and in rejecting his view that the prosecution's evidence should be limited to matters stated in the Bill of Particulars. The Sandiganbayan first refused to include the Bill of Particulars in the Pre-Trial in its December 3, 2019 Resolution when it denied the Omnibus Motion. Further, it first rejected Enrile's argument that the prosecution's evidence should be limited to the Bill of Particulars in its May 29, 2021 Resolution which denied the Motion for Inclusion. All subsequent pleadings which Enrile filed insisting on these points were mere reiterations of the arguments already raised and rejected in the Omnibus Motion and the

⁶⁸ *Id.* at 133-134.

⁶⁹ *Rollo*, pp. 546-566.

⁷⁰ *Id.* at 549.

⁷¹ *Id.* at 550.

Motion for Inclusion. While Enrile was not prohibited from repeatedly raising the same arguments assailing the interlocutory rulings of the Sandiganbayan embodied in the December 3, 2019 and May 29, 2021 Resolutions, the 60-day period for the filing of the Petition should be reckoned from the date when Enrile received a copy of the December 30, 2019 Resolution (as to the issue on whether the Bill of Particulars should be included in the Pre-Trial Order) and the May 29, 2021 Resolution (as to the issue of whether the prosecution's evidence should be limited to the matters stated in the Bill of Particulars). The subsequent pleadings invoking the same grounds did not serve to extend or reset this reglementary period.

The present Petition does not state the date when Enrile received the December 3, 2019 and the May 29, 2021 Resolutions. This contravenes Rule 46, Section 3 in relation to Rule 56 and Rule 65, of the Rules of Court, which mandates that a Rule 65 petition must state, among others, the "material dates showing when notice of the judgment or final order or resolution thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received." This renders the Petition defective.

The Sandiganbayan, in the June 9, 2021 and the July 12, 2021 Resolutions, repeatedly referred to the December 3, 2019 and the May 29, 2021 Resolutions. The records do not show that Enrile denied receiving these Resolutions in 2019 and in 2021. Considering that Enrile filed this Petition only in March 2022, it is reasonable to conclude that it was filed way beyond the sixty (60)-day period from the receipt of the December 3, 2019 and the May 29, 2021 Resolutions.

Given the foregoing, the Petition for Prohibition was clearly filed out of time.

- b. There is a plain, adequate, and speedy remedy in the ordinary course of law.

Rule 65, Section 2 of the Rules of Court states that a petition for prohibition may be resorted to only if there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law. Section 2 provides in part:

SEC. 2. Petition for prohibition. — When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, **and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law**, a person aggrieved



thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.⁷² (Emphasis supplied)

A plain, speedy, and adequate remedy in the ordinary course of law is defined as a remedy which would be equally “beneficial, speedy, and sufficient, not merely a remedy which at some time in the future will bring about a revival of the judgment[.]”⁷³ It is a remedy that will “promptly relieve the petitioner from the injurious effects of that judgment and the acts of the inferior court or tribunal concerned.”⁷⁴

Here, the relief prayed for is the dismissal of the Main Case purportedly because the Sandiganbayan has violated Enrile’s constitutional right by refusing to limit the prosecution’s evidence to matters stated in the Bill of Particulars and to include the Bill of Particulars in the Pre-Trial Order.

At its core, Enrile’s claim is rooted in the argument that the Sandiganbayan must not allow the prosecution to present evidence that is irrelevant to the issues in the Main Case. In the determination of the relevance of the prosecution’s evidence, Enrile’s view is that the Information and the Bill of Particulars set the parameters and no evidence other than those stated in the Information and the Bill of Particulars is relevant.

This is ultimately a question of the admissibility of the prosecution’s evidence. In seeking the exclusion of evidence, Enrile certainly has a plain, adequate, and speedy remedy in the ordinary course of law. Under Rule 132, Section 36 of the Rules of Court, a party can object to the admissibility of evidence immediately after they are offered. In the case specifically of Atty. Medrano’s testimony, Enrile was free to object to the admissibility of this evidence at the time Atty. Medrano was called to testify.⁷⁵ With respect to the documentary evidence which Atty. Medrano is tasked to identify, Enrile is free to object to the admissibility of these documents after they are formally offered.⁷⁶

In the event that the Sandiganbayan allows the admission of evidence which Enrile deems to be inadmissible, and thereafter convicts him, Enrile has the remedy of appeal. It is well-established that the remedy against interlocutory orders is not the filing of a Rule 65 petition but the filing of an

⁷² RULES OF COURT, Rule 65, sec. 2.

⁷³ *Conti v. Court of Appeals*, 366 Phil. 956, 965 (1999) [Per J. Vitug, *En Banc*].

⁷⁴ *Id.*

⁷⁵ RULES OF COURT, Rule 132, sec. 36.

⁷⁶ *Id.*

appeal where issues as to the purportedly erroneous interlocutory orders will be included as part of the assignment of errors.⁷⁷

In view of the remedies available to Enrile at this point, there is no necessity for this Court to bar the Sandiganbayan from proceeding with the Main Case, much less to order its dismissal.

- c. The Sandiganbayan did not act with grave abuse of discretion amounting to lack or excess of jurisdiction

To be sure, there are instances when a resort to a Rule 65 petition for prohibition is warranted. A party may assail an interlocutory order instead of waiting for the court to render judgment and filing an appeal when the court acted with grave abuse of discretion amounting to lack or excess of jurisdiction.⁷⁸

The meaning of grave abuse of discretion is well established. In *Global Medical Center of Laguna, Inc. v. Ross Systems International, Inc.*,⁷⁹ the Court said that grave abuse of discretion –

[I]mplics such capricious and whimsical exercise of judgment as to be equivalent to lack or excess of jurisdiction; simply put, power is exercised in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility; and such exercise is so patent or so gross as to amount to an evasion of a positive duty or to a virtual refusal either to perform the duty enjoined or to act at all in contemplation of law.

Grave abuse of discretion is a high bar. It does not pertain to mere errors of law committed by a court in the exercise of its jurisdiction. In fact, even abuse of discretion is not sufficient. The abuse of discretion must be “grave and patent, and it must be shown that the discretion was exercised arbitrarily or despotically.”⁸⁰

The Court rules that the Sandiganbayan did not act with grave abuse of discretion in this case. As will be discussed more extensively below, the Sandiganbayan correctly ruled that there is no basis nor necessity to include the Bill of Particulars Decision in the Pre-Trial Order and to limit the prosecution’s evidence to the matters stated in the Bill of Particulars.

⁷⁷ *Bernas v. Sovereign Ventures, Inc.*, 528 Phil. 584, 590-591 (2006) [Per J. Sandoval-Gutierrez, Second Division].

⁷⁸ RULES OF COURT, Rule 65, sec. 2.

⁷⁹ G.R. Nos. 230112 & 230119, May 11, 2021 [Per J. Caguioa, *En Banc*].

⁸⁰ *Id.*



Contrary to Enrile's claim, the Sandiganbayan acted in accordance with law and jurisprudence.

Given the foregoing, this Petition is dismissible for its patent procedural defects. Nonetheless, in the interest of substantial justice, and to eliminate any doubt that Enrile has not been given his day in court, the Court opts to further resolve the substantive issues raised in this case.

*The Sandiganbayan did not disregard
the Court's Bill of Particulars
Decision*

Enrile asserts that the Sandiganbayan disregarded the Court's Bill of Particulars Decision by refusing to include it in the Pre-Trial Order and to limit the prosecution's evidence to matters categorically stated in the Bill of Particulars. The Court disagrees.

- a. There is no necessity to include the Bill of Particulars Decision in the Pre-Trial Order

- i. Bill of Particulars in Criminal Cases

The Constitution grants the accused in a criminal prosecution the right to be informed of the nature and cause of the accusation against him.⁸¹ This constitutional right is operationalized through the requirement under the Rules of Criminal Procedure that an Information must state certain matters in order to be considered valid and sufficient. Specifically, an Information must state the "name of the accused; the designation of the offense given by the statute; the acts or omissions complained of constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed."⁸²

An important feature of an Information is that it must state ultimate facts only and not evidentiary facts. In the Bill of Particulars Decision, the Court said:

Ultimate facts is defined as those facts which the expected evidence will support. The term does not refer to the details of probative matter or particulars of evidence by which these material elements are to be established. *It refers to facts that the evidence will prove at the trial.*

⁸¹ CONST., art. III, sec. 14.

⁸² RULES OF COURT, Rule 110, sec. 6.



Evidentiary facts, on the other hand, are the facts necessary to establish the ultimate facts; they are the premises that lead to the ultimate facts as conclusion. *They are facts supporting the existence of some other alleged unproven fact.*

In *Bautista v. Court of Appeals*, the Court explained these two concepts in relation to a particular criminal case, as follows:

The distinction between the elements of the offense and the evidence of these elements is analogous or akin to the difference between ultimate facts and evidentiary facts in civil cases. **Ultimate facts are the essential and substantial facts which either form the basis of the primary right and duty or which directly make up the wrongful acts or omissions of the defendant, while evidentiary facts are those which tend to prove or establish said ultimate facts.** x x x.⁸³ (Emphasis in the original; citations omitted)

In order to ensure that the right of an accused to be informed is upheld, the Rules of Criminal Procedure also allows an accused to move for a bill of particulars in instances where an Information, while valid, does not fully inform the accused of the specific details of the alleged offense. Rule 116, Section 9 of the Rules of Criminal Procedure states:

SEC. 9. Bill of Particulars. – The accused may, before arraignment, move for a bill of particulars to enable him to properly plead and prepare for trial. The motion shall specify the alleged defects of the complaint or information and the details desired.

In *Virata v. Sandiganbayan*,⁸⁴ the Court expounded on the function of a bill of particulars, thus:

It is the office or function, as well as the object or purpose, of a bill of particulars to amplify or limit a pleading, specify more minutely and particularly a claim or defense set up and pleaded in general terms, give information, not contained in the pleading, to the opposite party and the court as to the precise nature, character, scope, and extent of the cause of action or defense relied on by the pleader, and apprise the opposite party of the case which he has to meet, to the end that the proof at the trial may be limited to the matters specified, and in order that surprise at, and needless preparation for, the trial may be avoided, and that the opposite party may be aided in framing his answering pleading and preparing for trial. **It has also been stated that it is the function or purpose of a bill of particulars to define, clarify, particularize, and limit or circumscribe the issues in the case, to expedite the trial, and assist the court. A general function or purpose of a bill of particulars is to prevent injustice or do justice in the case when that cannot be accomplished without the aid of such a bill.**⁸⁵ (Emphasis in the original)

⁸³ *Enrile v. People*, 766 Phil. 75, 102–103 (2015) [Per J. Brion, *En Banc*].

⁸⁴ 293 Phil. 55 (1993) [Per J. Davide, Jr., *En Banc*].

⁸⁵ *Id.* at 68.

Further, in the Bill of Particulars Decision, the Court explained:

In criminal cases, a bill of particulars detail items or specific conduct not recited in the Information but nonetheless pertain to or are included in the crime charged. Its purpose is to enable an accused: to know the theory of the government's case; to prepare his defense and to avoid surprise at the trial; to plead his acquittal or conviction in bar of another prosecution for the same offense; and to compel the prosecution to observe certain limitations in offering evidence.

.....

The general function of a bill of particulars, whether in civil or criminal proceedings, is *to guard against surprise during trial*. It is not the function of the bill to furnish the accused with the evidence of the prosecution. Thus, the prosecutor shall not be required to include in the bill of particulars matters of evidence relating to how the people intend to prove the elements of the offense charged or how the people intend to prove any item of factual information included in the bill of particulars.⁸⁶ (Underline supplied, Emphasis in the original)


A bill of particulars supplements the Information and is intended to supply additional details as to the ultimate facts alleged in the Information. Because of this specific function of a bill of particulars, it is not a complete narrative of the prosecution's entire case against an accused. It is not intended to include detailed evidentiary matters and does not contain how the prosecution intends to prove the alleged ultimate facts and what evidence they intend to present. A bill of particulars is not the prosecution's trial plan.

Similarly, the Information is just the summary of the charge against an accused. It does not include the evidence to support the charge. As the Bill of Particulars merely supplements the Information precisely to apprise the accused of the nature and cause of the accusation against him, an inventory or listing of the prosecution's evidence to support the charge is not expected to be embodied in a Bill of Particulars.

Clearly, to limit the prosecution to the presentation only of evidence mentioned in the Information and the Bill of Particulars would be to shackle and tie its hands and deprive it of the free exercise of its discretion to determine who and what to present. It is settled that the matter of presentation of evidence by the prosecution is not for the courts to decide. The prosecution possesses the discretion to determine how to present its case and it has the right to choose whom it wishes to present as witnesses.⁸⁷

⁸⁶ *Enrile v. People*, 766 Phil. 75, 105–106 (2015) [Per J. Brion, *En Banc*].

⁸⁷ *People v. Angkob*, 695 Phil. 528, 541–542 (2012) [Per J. Perez, Second Division].



ii. Pre-Trial Order in Criminal Cases

Under the Rules of Criminal Procedure, a pre-trial order shall contain the following: (a) the actions taken during the pre-trial; (b) the facts stipulated; and (c) the evidence marked. Further, A.M. No. 03-1-09-SC⁸⁸ adds that the pre-trial order shall also include the number of witnesses to be presented and the schedule for trial.⁸⁹ The pre-trial order limits the trial to matters not disposed of and controls the course of action during trial.⁹⁰

In ascertaining what a pre-trial order in a criminal case should contain, there is a need to look at what actions are taken during the pre-trial itself. In this regard, Part I (B) of A.M. No. 03-1-09-SC provides in part:

6. When plea bargaining fails, the Court shall:

a. Adopt the minutes of preliminary conference as part of the pre-trial proceedings, confirm markings of exhibits or substituted photocopies and admissions on the genuineness and due execution of documents and list object and testimonial evidence;

b. **Scrutinize every allegation of the information and the statements in the affidavits and other documents which form part of the record of the preliminary investigation and other documents identified and marked as exhibits in determining further admissions of facts, documents and in particular as to the following:**

1. the identity of the accused;
2. court's territorial jurisdiction relative to the offense/s charged;
3. qualification of expert witness/es;
4. amount of damages;
5. genuineness and due execution of documents;
6. the cause of death or injury, in proper cases;
7. adoption of any evidence presented during the preliminary investigation;
8. disclosure of defenses of alibi, insanity, self-defense, exercise of public authority and justifying or exempting circumstances; and
9. such other matters that would limit the facts in issue.

c. Define factual and legal issues;

d. Ask parties to agree on the specific trial dates and adhere to the flow chart determined by the court which shall contain the time frames for the different stages of the proceeding up to promulgation of decision and use the time frame for each stage in setting the trial dates;

e. Require the parties to submit to the Branch COC the names, addresses and contact numbers of witnesses that need to be summoned by subpoena; and

f. Consider modification of order of trial if the accused admits the charge but interposes a lawful defense.

7. During the pre-trial, the judge shall be the one to ask questions on issues raised therein and all questions must be directed to him to avoid hostilities between parties.

⁸⁸ GUIDELINES TO BE OBSERVED BY TRIAL COURT JUDGES AND CLERKS OF COURT IN THE CONDUCT OF PRE-TRIAL AND USE OF DEPOSITION-DISCOVERY MEASURES, effective on August 16, 2004.

⁸⁹ GUIDELINES TO BE OBSERVED BY TRIAL COURT JUDGES AND CLERKS OF COURT IN THE CONDUCT OF PRE-TRIAL AND USE OF DEPOSITION-DISCOVERY MEASURES, PART I (B) (10).

⁹⁰ RULES OF COURT, Rule 118, sec. 4.

8. All agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel, otherwise, they cannot be used against the accused. The agreements covering the matters referred to in Section 1 of Rule 118 shall be approved by the court. (Emphasis supplied)

It is worth highlighting that A.M. No. 03-1-09-SC specifically tasks the trial court to scrutinize the allegations in the Information for the purpose of determining if further admissions of facts and documents are proper. It does not, however, require the trial court to include in the pre-trial order the allegations in the Information or in any other court submission, such as the Bill of Particulars. This is but logical because the pre-trial functions to streamline the trial of the case. It is not a proceeding intended to study and discuss the allegations in the Information, and in the bill of particulars if such document supplements the Information in the case. The matter of establishing the allegations in the Information, as may be supplemented by the bill of particulars, as well as of disproving them, are reserved for trial as limited by the admissions and stipulations done during the pre-trial.

The Rules of Criminal Procedure, A.M. No. 03-1-09-SC, and the Revised Guidelines for Continuous Trial of Criminal Cases⁹¹ do not require the Bill of Particulars to be incorporated in the Pre-Trial Order. Doing so is in fact unnecessary and superfluous because the Bill of Particulars, which supplements the Information, is already part of the records of the case.

Further, as regards this specific case, the Court emphasizes that the Bill of Particulars Decision binds the Sandiganbayan. Neither the Sandiganbayan nor the prosecution disputes this. The Court cannot act based on the assumption that the Sandiganbayan will act in bad faith in the conduct of the trial by disregarding the Bill of Particulars Decision and the Bill of Particulars itself. Enrile's doubts as to the Sandiganbayan's fealty to the law is no cause of action and his inability to trust in the judicial system does not merit relief. The Sandiganbayan is entitled to the presumption of regularity. Unless and until Enrile is able to show that the Sandiganbayan has acted in a manner that patently disregards the Bill of Particulars or that is in any manner contrary to law, the Court finds no reason to interfere with the proceedings in the Sandiganbayan.

- b. The prosecution's evidence should not be limited to what is stated in the Bill of Particulars

The Sandiganbayan did not err in taking the position that the prosecution's evidence should not be limited to what is stated in the Bill of Particulars.

⁹¹ See A.M. No. 15-06-10-SC, effective on September 1, 2017.



To reiterate, a bill of particulars supplements the Information in criminal cases. It provides details not recited in the Information which are nonetheless necessary to enable the accused to know the theory of the prosecution, prepare his defense and avoid surprise during the trial, to invoke double jeopardy in another prosecution for the same offense, and to compel the prosecution to observe certain limitations in the offering of evidence.⁹²

With respect to the function of the bill of particulars in limiting the prosecution's evidence, this means that the evidence of the prosecution must pertain to the crime charged in the Information, as supplemented by the bill of particulars. Stated more simply, the prosecution must present evidence that tends to prove the specific crime charged in the Information. Where an Information is vague, a bill of particulars aids in particularizing the allegations in the Information. This avoids a situation where the prosecution can present evidence other than what is alleged in the Information because the allegations therein are too vague or general.

Nonetheless, the Information and the Bill of Particulars state only ultimate facts. The evidentiary facts and the manner by which the prosecution intends to prove the elements of the crime and the guilt of the accused are not stated in the Information and are not required to be enumerated and discussed in a bill of particulars.⁹³ Because the bill of particulars does not and should not narrate the prosecution's trial plan, it is to be expected that the prosecution, in the course of the trial, will present evidence not mentioned categorically in the bill of particulars.

However, in determining what evidence is admissible, the Information and the bill of particulars serve vital roles.

Rule 128, Section 3 of the Revised Rules on Evidence⁹⁴ reads:

SEC. 3. *Admissibility of evidence.* – Evidence is admissible when it is relevant to the issue and not excluded by the Constitution, the law or these Rules.

Thus, there are two requirements for the admissibility of evidence. It must not be specifically excluded by the Constitution, the law, or the Rules of Court. Moreover, it must be relevant.

Evidence is relevant if it has “such a relation to the fact in issue as to induce belief in its existence or non-existence.”⁹⁵ In criminal cases, evidence

⁹² *Enrile v. People*, 766 Phil. 75, 105 (2015) [Per J. Brion, *En Banc*].

⁹³ *Id.* at 103.

⁹⁴ A.M. No. 19-08-15-SC, effective May 1, 2020.

⁹⁵ RULES OF COURT, Rule 128, sec. 4.

is relevant if it tends to induce belief in the existence of the elements of the crime charged. Thus, in ascertaining the relevance of evidence, the trial court must necessarily rely on the allegations in the Information, as supplemented by the bill of particulars. As such, the Information and the bill of particulars limit the prosecution's evidence in the sense that the evidence must be relevant to the particular crime charged in the Information and the bill of particulars. However, at the risk of repetition, the Information and the bill of particulars only state ultimate facts. Further, the bill of particulars is not an exhaustive list of all the evidence that the prosecution may present. The test of relevancy of evidence is only as to whether the evidence tends to prove the elements of the crime, as stated in the Information and supplemented by the bill of particulars.

This is the very reason why this Court only partially granted Enrile's Petition in the Bill of Particulars Case.

To recall, Enrile asked for the following details in the Petition in the Bill of Particulars Case:

Allegations of Information

"[...] accused JUAN PONCE ENRILE, then a Philippine Senator, JESSICA LUCILA G. REYES, then Chief of Staff of Senator Enrile's Office, both public officers, committing the offense in relation to their respective offices, conspiring with one another and with JANET LIM NAPOLES, RONALD JOHN LIM, and JOHN RAYMUND DE ASIS, did then and there willfully, unlawfully, and criminally amass, accumulate, and/or acquire ill-gotten wealth amounting to at least ONE HUNDRED SEVENTY TWO MILLION EIGHT HUNDRED THIRTY FOUR THOUSAND FIVE HUNDRED PESOS ([PHP]172,834,500.00) through a combination or series of overt acts,..."

" [...] by repeatedly receiving from NAPOLES and/or her representatives LIM, DE ASIS, and others, kickbacks or commissions under the following circumstances: before, during and/or after the project identification, NAPOLES gave, and ENRILE and/or REYES received, a percentage of the cost

Details Desired

a. Who among the accused acquired the alleged ill-gotten wealth amounting to at least ONE HUNDRED SEVENTY TWO MILLION EIGHT HUNDRED THIRTY FOUR THOUSAND FIVE HUNDRED PESOS (Php172,834,500.00)? One of them, two of them or all of them? Kindly specify.

b. The allegation "through a combination or series of overt criminal acts" is a conclusion of fact or of law. What are the particular overt acts which constitute the "combination"? What are the particular overt acts which constitute the "series"? Who committed those acts?

a. What was "repeatedly received"? If sums of money, the particular amount. If on several occasions and in different amounts, specify the amount on each occasion and the corresponding date of receipt.

of a project to be funded from ENRILE'S Priority Development Assistance Fund (PDAF), in consideration of ENRILE'S endorsement, directly or through REYES, to the appropriate government agencies, of NAPOLES' non-government organizations which became the recipients and/or target implementers of ENRILE'S PDAF projects, which duly-funded projects turned out to be ghosts or fictitious, thus enabling NAPOLES to misappropriate the PDAF proceeds for her personal gain;

b. Name the specific person(s) who delivered the amount of Php172,834,500.00 and the specific person(s) who received the amount; or if not in lump sum, the various amounts totaling Php172,834,500.00...Specify particularly the person who delivered the amount, Napoles or Lim or De Asis, and who particularly are the others.

c. To *whom* was the money given? To Enrile or Reyes? State the amount given on each occasion, the *date* when and the *place* where the amount was given.

d... *Describe* each project allegedly identified, *how*, and *by whom* was the project identified, the *nature* of each project, where it is located and the cost of each project.

e. For each of the years 2004-2010, under *what law* or *official document* is a portion of the "Priority Development Assistance Fund" identified as that of a member of Congress, in this instance, as ENRILE'S, to be found? In what *amount* for each year is ENRILE'S Priority Development Assistance Fund? When, and to whom, did Enrile endorse the projects in favor of "Napoles non-government organizations which became the recipients and/or target implementers of ENRILE'S PDAF projects?" *Name* Napoles non-government organizations which became the recipients and/or target implementers of ENRILE'S PDAF projects. *Who paid* Napoles, *from whom* did Napoles collect the fund for the projects which turned out to be ghosts or fictitious? *Who authorized* the payments for each project?

f. [...] what COA audits or field investigations were conducted which validated the findings that each of Enrile's PDAF projects in the years 2004-2010 were ghosts or spurious projects?

[...] by taking undue advantage, on several occasions of their official positions, authority, relationships, connections, and influence to unjustly enrich themselves at the expense and to

a. Provide the details of how Enrile took undue advantage, on several occasions, of his official positions, authority, relationships, connections, and influence to unjustly enrich himself at the expense and to the damage and prejudice, of the

the damage and prejudice, of the Filipino people and the Republic of the Philippines.

Filipino people and the Republic of the Philippines. Was this because he *received* any *money* from the government? *From whom* and *for what* reason did he receive any money or property from the government through which he “unjustly enriched himself”? State the details from whom each *amount* was received, the *place* and the *time*.⁹⁶

The Court directed the prosecution to file a bill of particulars only as to the following:

1. The particular overt act/s alleged to constitute the “combination or series of overt criminal acts” charged in the Information.
2. A breakdown of the amounts of the “kickbacks or commissions” allegedly received, stating how the amount of P172,834,500.00 was arrived at.
3. A brief description of the ‘identified’ projects where kickbacks or commissions were received.
4. The approximate dates of receipt, “in 2004 to 2010 or thereabout,” of the alleged kickbacks and commissions from the identified projects. At the very least, the prosecution should state the year when the kickbacks and transactions from the identified projects were received.
5. The name of Napoles’ non-government organizations (NGOs) which were the alleged “recipients and/or target implementors of Enrile’s PDAF projects.”
6. The government agencies to whom Enrile allegedly endorsed Napoles’ NGOs. The particular person/s in each government agency who facilitated the transactions need not be named as a particular.⁹⁷

The Court ruled that Enrile’s requested details as to the following matters are unnecessary:

Enrile’s Requested Information

Who among the accused acquired the alleged “ill-gotten wealth?”

Reason for the Court’s denial:

Since the crime of plunder may be done in connivance or in conspiracy with other persons, and the Information filed clearly alleged that Enrile and Jessica Lucila Reyes conspired with one another and with Janet Lim Napoles, Ronald John Lim and John Raymund De Asis, then it is unnecessary to specify, as an essential element of the offense, whether the ill-gotten wealth amounting to at least [PHP]172,834,500.00 had been acquired by one, by two or by all of the accused. **In the crime of plunder, the amount of ill-gotten wealth acquired by each**

⁹⁶ *Enrile v. People*, 766 Phil. 75 (2015) [Per J. Brion, *En Banc*].

⁹⁷ *Id.* at 94–96.

accused in a conspiracy is immaterial for as long as the total amount amassed, acquired or accumulated is at least P50 million.”⁹⁸ (Emphasis supplied)

For each of the years 2004-2010, under what law or official document is a portion of the “Priority Development Assistance Fund” identified as that of a member of Congress, in this instance, as ENRILE's, to be found? In what amount for each year is ENRILE's Priority Development Assistance Fund?

These matters will simply establish and support the ultimate fact that Enrile's PDAF was used to fund fictitious or nonexistent projects. Whether a discretionary fund (in the form of PDAF) had indeed been made available to Enrile as a member of the Philippine Congress and in what amounts are evidentiary matters that do not need to be reflected with particularity in the Information, and may be passed upon at the full-blown trial on the merits of the case.⁹⁹ (Emphasis supplied)

What COA audits or field investigations were conducted which validated the findings that each of Enrile's PDAF projects in the years 2004-2010 were ghosts or spurious projects?

The details of the “*COA audits or field investigations*” only support the ultimate fact that the projects implemented by Napoles' NGOs, and funded by Enrile's PDAF, were nonexistent or fictitious. **Thus, they are evidentiary in nature and do not need to be spelled out with particularity in the Information.**

To require more details on these matters from the prosecution would amount to asking for evidentiary information that the latter intends to present at the trial; it would be a compulsion on the prosecution to disclose in advance of the trial the evidence it will use in proving the charges alleged in the indictment.¹⁰⁰ (Emphasis supplied)

Who were the “others” who (apart from Napoles, De Asis, and Lim) gave kickbacks to Enrile?

We also deny Enrile's plea for details on who “the others” were (aside from Napoles, Lim and De Asis) from whom he allegedly received kickbacks and commissions. These other persons do not stand charged of conspiring with Enrile and need not therefore be stated with particularity, either as specific individuals or as John Does. **The Court cannot second-guess the prosecution's reason for not divulging the identity of these “others” who may potentially be**

⁹⁸ *Rollo*, pp. 116-117.

⁹⁹ *Id.* at 118.

¹⁰⁰ *Id.* at 119.

witnesses for the prosecution. ¹⁰¹
(Emphasis supplied)

In ruling that the foregoing requested details should not be included in the Bill of Particulars, the Court considered whether the information constitute evidentiary facts. Where the requested detail is evidentiary in nature, the Court was clear in the Bill of Particulars Decision. This should not be in the Bill of Particulars lest the Court end up forcing the prosecution to “disclose in advance of the trial the evidence it will use in proving the charges alleged in the indictment.”¹⁰²

Thus, while these details are relevant to the case, they are evidentiary matters which need not be in the Bill of Particulars. Nonetheless, because they are evidentiary matters, they are to be tackled during the trial. Stated more simply, the evidence establishing these issues are relevant and the prosecution can present them during trial (to establish the ultimate facts) even if they are not categorically stated in the Bill of Particulars.

In this regard, it is significant that the People stated in their Comment that Atty. Medrano, whose testimony Enrile seeks to exclude, was a member of the team of Ombudsman Field Investigators who conducted the verifications and discovered that the projects funded by Enrile’s PDAF were not implemented. This is one of the requested details in Enrile’s Bill of Particulars Petition which this Court ruled in the Bill of Particulars Decision should not form part of the Bill of Particulars and should be tackled during the trial in the Main Case. Thus, the Sandiganbayan was merely complying with the Bill of Particulars Decision when it allowed the prosecution to proceed with the presentation of Atty. Medrano as a witness.

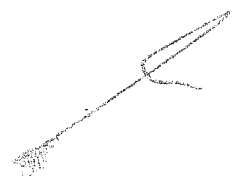
In truth, there is nothing in the conduct of the Sandiganbayan that would confirm Enrile’s allegation that it has disregarded the Bill of Particulars Decision, let alone acted in a manner that is contrary to law and jurisprudence.

The Sandiganbayan’s refusal to include the Bill of Particulars in the Pre-Trial Order and to prevent the prosecution from presenting evidence as to matters not included in the Bill of Particulars is proper. This refusal does not amount to a disregard of the Bill of Particulars Decision, much less a breach of applicable law and jurisprudence.

The prosecution must be allowed to present evidence based on its own discretion and in accordance with the law and the rules. It has the right to determine what evidence should be presented, when, and for what purpose. Its discretion is limited only by the requirement that the evidence must be

¹⁰¹ *Id.* at 119.

¹⁰² *Id.*



admissible – *i.e.*, relevant and not excluded by law. In determining the relevance of evidence, the Information and the Bill of Particulars are useful tools in identifying the main issues and the ultimate facts. They are not, however, an exhaustive list of the evidence that the prosecution may present.

Should the prosecution present evidence that is inadmissible, Enrile is not without any remedy. As already discussed above, he has the right to object to inadmissible evidence at the time they are offered. The Court, however, cannot interfere with the proceedings before the Sandiganbayan simply because Enrile suspects that it *may* allow inadmissible evidence and *may* disregard the Bill of Particulars Decision.

In addition, as the Court finds that the Sandiganbayan acted in accordance with law and jurisprudence, Enrile's claim that it violated his constitutional rights is palpably without merit.

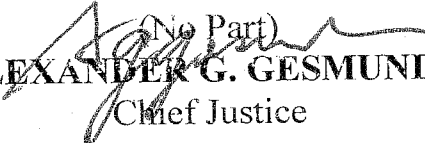
To be sure, the Court will not shirk from its duty to correct the conduct of the Sandiganbayan, and any other lower court for that matter, should it find that they have acted with grave abuse of discretion. This, however, requires proof, and cannot be based on a party's mere suspicions. The Court does not act on the basis of fear, baseless assumptions of bad faith, or conjectures. The Court cannot countenance any effort to undermine the integrity of the Sandiganbayan, and of the judiciary as a whole, by finding merit in allegations based on nothing but speculations and suppositions. As much as litigants demand fairness from the courts, the judiciary similarly expects fairness from litigants. No court or judge should be charged with grave abuse in the absence of proof.

ACCORDINGLY, the Petition for Prohibition, dated March 1, 2022 is **DISMISSED**.

SO ORDERED.



MARIA FILOMENA D. SINGH
Associate Justice


WE CONCUR:


(No Part)

ALEXANDER G. GESMUNDO
 Chief Justice

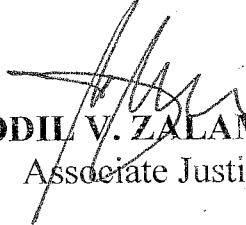

MARVIC M.V.F. LEONEN
 Senior Associate Justice

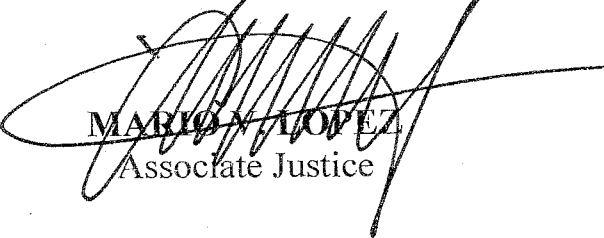
(No Part)
ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice

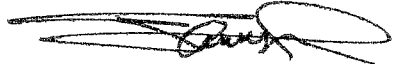

RAMON PAUL L. HERNANDO
 Associate Justice


AMY C. LAZARO-JAVIER
 Associate Justice


HENRI JEAN PAUL B. INTING
 Associate Justice



RODIL V. ZALAMEDA
 Associate Justice



MARION LOPEZ
 Associate Justice


SAMUEL H. GAERLAN
 Associate Justice


RICARDO R. ROSARIO
 Associate Justice


JHOSEP V. LOPEZ
 Associate Justice


JAPAR B. DIMAAMPAO
 Associate Justice


JOSE MIDAS P. MARQUEZ
 Associate Justice

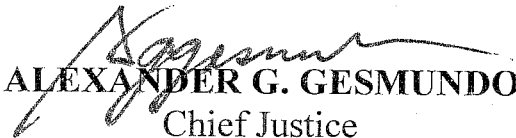




ANTONIO T. KHO, JR.
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.



ALEXANDER G. GESMUNDO
Chief Justice

