Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Petitioner,

– versus–

RONNEL BUENAFE BERCADEZ,
Respondent.

G.R. No. 265123

Present:

LEONEN, *J.*, *Chairperson*,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

Promulgated:

JUL 29 2024

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DECISION

LOPEZ, J., *J.*:

This Court resolves the Petition for Review on *Certiorari*[1] assailing the Decision[2] and the Resolution[3] of the Court of Appeals (CA), which reversed the Decision[4] and Order[5] of the Regional Trial Court (RTC). The RTC set aside the April 25, 2019 and May 2, 2019 Resolutions[6] of the Metropolitan Trial Court (MeTC), which granted Ronnel Buenafe Bercadez's (Bercadez)

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1 *Rollo*, pp. 11–39. Under Rule 45.

2 *Id.* at 41–55. The August 31, 2022 Decision in CA-G.R. SP No. 166195 was penned by Associate Justice Alfonso C. Ruiz II and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Ronaldo Roberto B. Martin, Fifth Division, Court of Appeals, Manila.

3 *Id.* at 57–59. The January 5, 2023 Resolution in CA-G.R. SP No. 166195 was penned by Associate Justice Alfonso C. Ruiz II and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Ronaldo Roberto B. Martin, Former Fifth Division, Court of Appeals, Manila.

4 *Id.* at 119–126. The March 23, 2020 Decision was penned by Presiding Judge Ethel V. Mercado-Gutay of Branch 137, Regional Trial Court, Makati City, National Capital Judicial Region.

5 *Id.* at 134–135. The July 10, 2020 Order was penned by Presiding Judge Ethel V. Mercado-Gutay of Branch 137, Regional Trial Court, Makati City, National Capital Judicial Region.

6 *Id.* at 77–83, *id.* at 87–89. Penned by Assisting Judge Catherina N. Manzano of Branch 64, Metropolitan Trial Court, Makati City, National Capital Judicial Region.

Motion to Quash the Information filed against him on the ground that the facts charged do not constitute an offense. As such, the assailed CA rulings found that the MeTC correctly quashed the information filed against Bercadez and consequently reinstated the MeTC Resolutions.

Before the MeTC, the arresting officers testified that they arrested Bercadez after they were approached by some people who informed them of an alleged attempted robbery by Bercadez. During the arrest, one of the officers felt and then saw a knife tucked in Bercadez's waist. Bercadez was eventually charged of violation of Batas Pambansa Blg. 6 (B.P. Blg. 6) in an Information,[7] the accusatory portion of which reads:

> On or about 18th day of March 2019, in the City of Makati, the Philippines, accused, did then and there willfully, unlawfully and feloniously carry outside of his residence, a bladed weapon (knife) not being used as a necessary tool or implement to earn a livelihood, nor used in connection therewith.
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> CONTRARY TO LAW.[8]

Bercadez moved to quash[9] the Information and raised the following arguments: (1) the Information against him failed to allege that his alleged crime was in furtherance of, or to abet, or in connection with subversion, rebellion, insurrection, lawless violation, criminality, chaos, or public disorder; and (2) Presidential Decree No. 9 (P.D. No. 9), as amended by B.P. Blg. 6, already ceased to have any legal force given that the spirit behind the said laws—that is, to strengthen and give teeth to the declaration of martial law by former President Ferdinand E. Marcos—has also ceased.[10]

In its April 25, 2019 Resolution,[11] the MeTC emphasized that B.P. Blg. 6 is meant to be read in conjunction with P.D. No. 9, the law it amends. Since B.P. Blg. 6 merely amended the penalty and provided for exceptions to the offense of possession of weapons, the information for violation of the said law must still allege two essential elements as provided in P.D. No. 9. These elements are: (1) that the carrying outside of one's residence of any bladed, blunt, or pointed weapon is not used as a necessary tool or implement for a livelihood or in pursuit of a lawful activity; and (2) that the act of carrying the weapon was either in furtherance of, or to abet, or in connection with subversion, rebellion, insurrection, lawless violence, criminality, chaos, or public disorder. Since the Information failed to allege that the possession of the knife was being used in furtherance of, or to abet, or in connection with

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7 *Id.* at 60–61. Dated March 19, 2019.
8 *Id.* at 60.
9 *Id.* at 62–72. Dated April 4, 2019.
10 *Id.*
11 *Id.* at 77–83.

subversion, rebellion, insurrection, lawless violence, criminality, chaos, or public disorder, the second element is lacking. Thus, the MeTC disposed the case as follows:

> **WHEREFORE**, in view of the foregoing, the Motion to Quash is hereby **GRANTED** without prejudice to the filing of the **correct** Information against the accused Ronnel Buenafe Bercadez.[12] (Emphasis in the original)

The prosecution then moved for reconsideration,[13] but it was denied by the MeTC in its May 2, 2019 Resolution.[14]

Hence, the prosecution filed a Petition for *Certiorari*[15] with the RTC. Before the RTC, the prosecution contended that B.P. Blg. 6 is a separate and distinct law from P.D. No. 9, the violation of which does not require that the carrying of the weapon was in connection with subversion, rebellion, insurrection, lawless violence, criminality, chaos, or public disorder as an essential element.[16] Further, the prosecution argued that the MeTC should have given them an opportunity to amend the Information instead of quashing the same.[17]

In its Decision,[18] the RTC found merit in the contentions of the prosecution. The RTC advanced four points: *first*, that the legislature did not expressly invalidate or repeal P.D. No. 9, but merely imposed a lower penalty through the enactment of B.P. Blg. 6; *second*, that the differing political climate between the present, and during the time when P.D. No. 9 and B.P. Blg. 6 were passed, did not render the offenses punishable by the said laws obsolete; *third*, that the Supreme Court's ruling in *People v. Judge Purisima*[19] and *People v. Lasanas*,[20] where this Court required possession of the deadly weapon to be "in furtherance of, or to abet, or in connection with subversion, rebellion, insurrection, lawless violence, criminality, chaos, or public disorder"[21]—are not on all fours with the instant case; and *lastly*, that the legislative intent behind B.P. Blg. 6 was to make possession of bladed, pointed or blunt weapon outside of one's residence as illegal and unlawful—it being in the nature of *malum prohibitum*—except where such articles are being used as necessary tools or implements to earn a livelihood or in pursuit of a lawful activity.[22] Accordingly, the RTC disposed the case as follows:

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12 *Id.* at 83.
13 *Id.* at 84–86.
14 *Id.* at 87–89.
15 *Id.* at 90–99.
16 *Id.*
17 *Id.*
18 *Id.* at 119–126.
19 176 Phil. 186 (1978) [Per J. Muñoz-Palma, *En Banc*].
20 236 Phil. 27 (1987) [Per J. Feliciano, *En Banc*].
21 *Id.* at 40.
22 *Rollo*, pp. 121–125.

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> **WHEREFORE, PREMISES CONSIDERED,** herein public respondent is hereby found to have committed grave abuse of discretion amounting to lack or excess of jurisdiction in orde[r]ing the quashal of the *Information* in *Criminal Case No. M-MKT-19-02187*, entitled *People v. Ronnel Buenafe Bercadez*, and the pending petition for *certiorari* is hereby **GRANTED**. Consequently, the Resolutions of *April 25, 2019* and *May 2, 2019* are **SET ASIDE**, with further directive for the public respondent to immediately reinstate *Criminal Case No. M-MKT-19-02187* in the active docket, and set the case for further proceedings with dispatch.
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> **SO ORDERED.**[23] (Emphasis in the original)

Bercadez moved for reconsideration,[24] but it was denied by the RTC in its Order.[25] Aggrieved, Bercadez elevated the matter to the CA.[26]

In its Decision,[27] the CA granted the appeal of Bercadez. The CA emphasized that the title of B.P. Blg. 6—"An Act Reducing the Penalty for Illegal Possession of Bladed, Pointed or Blunt Weapons, and For Other Purposes, Amending for the Purpose Presidential Decree Numbered Nine"[28]—is telling that the legislature merely intended to downgrade the penalty for the crime defined by P.D. No. 9 and not to create or define a new crime. Otherwise, if the intention of the legislature was to do away with an essential element of the crime punished under P.D. No. 9, the same should be struck down as unconstitutional for being violative of the single-subject rule under the Constitution. Hence, the CA concluded that the MeTC was correct in quashing the Information for being defective, considering that it did not allege that the possession of the bladed weapon was in furtherance of, or to abet, or in connection with subversion, rebellion, insurrection, lawless violence, criminality, chaos, or public disorder.[29] Accordingly, the CA disposed the case as follows:

> **WHEREFORE**, the **APPEAL** is **GRANTED**. The assailed *Decision* dated 23 March 2020 and *Order* dated 10 July 2020 of the Regional Trial Court of Makati, Branch 137, in R-MKT-19-02992-SC are **REVERSED**. The *Resolutions* of the Municipal Trial Court of Makati, Branch 64 dated 25 April 2019 and 02 May 2019 in Criminal Case No. M-MKT-19-02187-CR are **REINSTATED**.
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> **SO ORDERED.**[30] (Emphasis in the original)

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23 *Id.* at 126.
24 *Id.* at 127–132.
25 *Id.* at 134–135.
26 *Id.* at 136–137.
27 *Id.* at 41–55.
28 *Id.* at 51.
29 *Id.* at 49–54.
30 *Id.* at 54.

The Office of the Solicitor General (OSG) moved for reconsideration,[31] but was denied by the CA in its Resolution.[32]

Hence, the OSG filed the instant Petition.

Before this Court, the OSG insists that the amendment of Paragraph 3 of P.D. No. 9 by B.P. Blg. 6 removed the second element of the offense punished under the said Presidential Decree, as identified in *Purisima*.[33]

In his Comment,[34] Bercadez prays that the instant Petition be denied for lack of merit.

This Court's Ruling

The Petition is bereft of merit.

To reiterate, the Information against petitioner charged him with "unlawfully and feloniously carry[ing] outside of his residence, a bladed weapon (knife) not being used as a necessary tool or implement to earn a livelihood, nor used in connection therewith."[35] This allegation constitutes the crime of violation of Section 1 of B.P. Blg. 6, which reads:

> SECTION 1. Paragraph three of Presidential Decree Numbered Nine is hereby amended to read as follows:
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> 3. It is unlawful to carry outside of one's residence any bladed, pointed or blunt weapon such as 'knife', 'spear', 'pana', 'dagger', 'bolo', 'barong', 'kris', or 'chako', except where such articles are being used as necessary tools or implements to earn a livelihood or in pursuit of a lawful activity. Any person found guilty thereof shall suffer the penalty of imprisonment of not less than one month nor more than one year or a fine of not less than Two Hundred Pesos nor more than Two Thousand Pesos, or both such imprisonment and fine as the Court may direct.

A review of Section 1 of B.P. Blg. 6 shows that the same is merely an amendatory provision to Paragraph 3 of P.D. No. 9. Prior to the amendment, the relevant portions of P.D. No. 9 read:

> WHEREAS, pursuant to Proclamation No. 1081 dated September 21, 1972, the Philippines has been placed under a state of martial law;

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31 *Id.* at 160–168.
32 *Id.* at 57–59. Dated January 5, 2023.
33 *Id.* at 20–33.
34 *Id.* at 196–223.
35 *Id.* at 42.

> WHEREAS, by virtue of said Proclamation No. 1081, General Order No. 6 dated September 22, 1972 and General Order No. 7 dated September 23, 1972, have been promulgated by me;
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> WHEREAS, subversion, rebellion, insurrection, lawless violence, criminally, chaos and public disorder mentioned in the aforesaid Proclamation No. 1081 are committed and abetted by the use of firearms, explosives and other deadly weapons;
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> . . . .
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> 3. It is unlawful to carry outside of residence any bladed, pointed or blunt weapon such as "fanknife," "spear," "dagger," "bolo," "balisong," "barong," "kris," or club, except where such articles are being used as necessary tools or implements to earn a livelihood and while being sued in connection therewith; and any person found guilty thereof shall suffer the penalty of imprisonment ranging from five to ten years as a Military Court/Tribunal/Commission may direct.

The MeTC correctly ruled that an amendatory law cannot be read independently of the law it seeks to amend. This precept holds especially true in the instant case where B.P. Blg. 6, the amendatory law, explicitly stated that it amends Paragraph 3 of P.D. No. 9.

In *Purisima*, several Informations were filed before the lower courts charging the respective accused with "illegal possession of deadly weapon"[36] in violation of P.D. No. 9. In dismissing or quashing the Informations, the trial courts concurred with the defense's argument that one essential element of the offense charged is missing from the Information, i.e., that the carrying outside of the accused's residence of a bladed, pointed or blunt weapon is in furtherance or on the occasion of, connected with, or related to subversion, insurrection, or rebellion, organized lawlessness or public disorder. This Court affirmed the orders of the judges of the lower court dismissing or quashing the respective Informations filed before them, considering that the same did not convey the elements of the crime and are consequently defective. Speaking through Justice Cecilia Muñoz-Palma, this Court *En Banc* held that the offense treated in P.D. No. 9 carries two elements:

> We hold that *the offense carries two elements*: *first*, the carrying outside one's residence of any bladed, blunt, or pointed weapon, etc. not used as a necessary tool or implement for a livelihood; and *second, that the act of carrying the weapon was either in furtherance of, or to abet, or in connection with subversion, rebellion, insurrection, lawless violence, criminality, chaos, or public disorder*.

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[36] *People v. Purisima*, 176 Phil. 186, 191 (1978) [Per J. Muñoz-Palma, *En Banc*].

> It is the second element which removes the act of carrying a deadly weapon, if concealed, outside of the scope of the statute or the city ordinance mentioned above. In other words, *a simple act of carrying any of the weapons described in the presidential decree is not a criminal offense in itself.* What makes the act criminal or punishable under the decree is *the motivation behind it.* Without that motivation, the act falls within the purview of the city ordinance or some statute when the circumstances so warrant.[37] (Emphasis supplied)

In *Lasanas*,[38] this Court was faced with a similar issue when the accused was charged with violation of Paragraph 3 of P.D. No. 9. In finding the Information filed against the accused as fatally defective, this Court applied the doctrine in *Purisima* and reiterated that to lawfully convict an accused under Paragraph 3 of P.D. No. 9, it is essential that the Information allege that the carrying of the weapon was in furtherance of, or to abet, or in connection with subversion, rebellion, insurrection, lawless violation, criminality, chaos, or public disorder. Otherwise, the Information would be fatally defective for failure to charge the commission of acts constitutive of the second element of the offense sought to be charged.

It is worth noting, however, that *Lasanas* was decided upon by this Court after the passing of B.P. Blg. 6. In this regard, this Court *En Banc*, speaking through Justice Florentino Feliciano, observed through a footnote:

> Batas Pambansa Blg. 6, enacted on 21 November 1978, may have sought to undo the effects of the decision of the Court in Purisima by amending paragraph 3 of P.D. No. 9 so as to penalize the act of carrying outside of one's residence any bladed, pointed or blunt weapon as a malum prohibitum, except where such articles were used as necessary tools or implements to earn a livelihood or in pursuit of a lawful activity. B.P. Blg. 6 reduced the penalty to imprisonment of not less than one month, and not more than one year or a fine of not less than [PHP] 200.00 and not more than [PHP] 2,000.00 or both such imprisonment and fine. *We cannot apply B.P. Blg. 6 to the instant case, Criminal Case No. 5055, since B.P. Blg. 6 is not more favorable to Rogelio Lasanas than the original paragraph 3 P.D. No. 9 as construed in Purisima.*[39] (Emphasis supplied)

As in *Purisima* and *Lasanas*, the pivotal issue in the case at bar hinged on the propriety of an Information charging an accused for violation of P.D. No. 9, as amended by B.P. Blg. 6, where the said Information does not allege that such commission was in furtherance of, or to abet, or in connection with subversion, rebellion, insurrection, lawless violation, criminality, chaos, or public disorder. Considering the analogous circumstances in *Purisima* and *Lasanas* in relation to the instant case, this Court finds no reason why the

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37 *Id.* at 202.
38 236 Phil. 27 (1987) [Per J. Feliciano, *En Banc*].
39 *Id.* at 40.

liberal interpretation accorded to the accused in *Purisima* and *Lasanas* should not be applied in this case.

Hence, the remaining issue is whether or not B.P. Blg. 6 dispensed with the requirement of the second element of the crime punished by P.D. No. 9, so as to make punishable the mere carrying of a bladed, pointed, or blunt weapon outside of one's residence, even if not in furtherance of, or to abet, or in connection with subversion, rebellion, insurrection, lawless violence, criminality, chaos, or public disorder.

This Court rules in the negative.

The legislative intent behind B.P. Blg. 6 can be recognized through a reading of its title: An Act Reducing The Penalty For Illegal Possession Of Bladed, Pointed Or Blunt Weapons, And For Other Purposes, Amending for the Purpose Presidential Decree Numbered Nine. Aside from Section 1 quoted above, B.P. Blg. 6 contains only three other paragraphs:

> SECTION 2. Article twenty-two of the Revised Penal Code shall apply to persons previously convicted under paragraph three of Presidential Decree Numbered Nine.
>
> SECTION 3. Any law or ordinance which is inconsistent herewith is hereby repealed.
>
> SECTION 4. This Act shall take effect upon its approval.

Verily, a cursory review of B.P. Blg 6 reveals that it merely amended P.D. No. 9 through the following: (1) changing the examples of weapons whose possession outside one's residence is prohibited; (2) lowering the period of penalty of imprisonment or providing as an alternative the imposition of a fine; and (3) adding the exception to the prohibition *or in pursuit of a lawful activity*.

Contrary to what the prosecution posits, B.P. Blg. 6 did not intend to define a new crime that is separate from that of P.D. No. 9. Rather, B.P. Blg. 6, as an amendatory law, must be read in conjunction with and in consideration of P.D. No. 9, the original law. Accordingly, the ruling in *Purisima*—as reiterated in *Lasanas*—remains applicable notwithstanding the fact that *Purisima* was decided prior to the amendment of P.D. No. 9 by B.P. Blg. 6.

For the guidance of the bench, the bar, and the public, this Court now echoes the ruling in *Purisima*, in that the elements of the crime of violation of P.D. No. 9, as amended by B.P. Blg. 6 are as follows:

1. the carrying outside one's residence of any bladed, blunt, or pointed weapon, etc. not used as a necessary tool or implement for a livelihood; and

2. that the act of carrying the weapon was either in furtherance of, or to abet, or in connection with subversion, rebellion, insurrection, lawless violence, criminality, chaos, or public disorder.

Applying the foregoing to the instant case, the MeTC did not commit grave abuse of discretion in quashing the Information filed against petitioner for violation of B.P. Blg. 6. Our Rules state that for a complaint or information to be sufficient, it must state the designation of the offense given by the statute.[40] Here it is plain that the Information against respondent must be quashed as the facts alleged in it do not include the existence of the second element and consequently do not constitute a punishable offense.

As to the prosecution's argument that they should have been given by the MeTC an opportunity to correct the defect in the information through an amendment, this Court rules that the MeTC correctly quashed the Information without prejudice to the filing of an Information alleging the correct designation of the offense. While the second paragraph of Rule 117, Section 4 of the Rules of Court provides that if a motion to quash "is based on the ground that the facts charged do not constitute an offense, the prosecution shall be given by the court an opportunity to correct the defect by amendment," this must be read in conjunction with the different provisions of the Rule. Notably, the first paragraph of Rule 117, Section 4 reads:

> **Section 4.** *Amendment of the complaint or information.* — If the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made.
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[40] Section 6 of Rule 110 of the Revised Rules of Criminal Procedure provides:
Section 6. Sufficiency of complaint or information. — A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as 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.
When an offense is committed by more than one person, all of them shall be included in the complaint or information.

Under this provision, an amendment may be made upon order of the court. An amendment to the information may, however, be made either with leave or without leave of court. Rule 110, Section 14 of the Rules of Court reads in part:

> **Section 14.** *Amendment or substitution.* — A complaint or information may be amended, in form or in substance, without leave of court, at any time before the accused enters his plea. After the plea and during the trial, a formal amendment may only be made with leave of court and when it can be done without causing prejudice to the rights of the accused[.]

In this case, the motion to quash was filed by respondent before he entered a plea. As such, the prosecution can, on its own, and without leave of court, file the necessary amendment to the information. They were at liberty to do the necessary amendment to the information without the need of a court order. It bears emphasis that an order to amend an information is necessary only after plea and during trial. In this situation, leave of court is necessary, which could only be granted when the amendment can be done without causing prejudice to the rights of the accused.

It must be clarified that Rule 117, Section 1 of the Rules of Court provides that a motion to quash must be filed before entering a plea.[41] As such, during this period—prior to entering a plea, the prosecution and the defense are given both opportunity to, amend the information for the prosecution, on one hand, pursuant to Rule 110, Section 14 of the Rules of Court, and for the defense, to contest the information, by moving it to be quashed by the accused, on the other, pursuant to Rule 117, Section 1 of the Rules of Court. It must be noted however that the amendment referred to under Rule 117, Section 4 can be made only by an order of the court. Thus, it contemplates a situation where leave of court is necessary for the amendment of the information, that is, after a plea has already been entered. This situation is covered by Rule 117, Section 9 of the Rules of Court, which reads:

> **Section 9.** *Failure to move to quash or to allege any ground therefor.* — The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g), and (i) of section 3 of this Rule.

Thus, the failure of an accused to file a motion to quash before entering a plea shall be considered a waiver of the grounds relied upon except as

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[41] **Section 1.** *Time to move to quash.* — At any time before entering his plea, the accused may move to quash the complaint or information.

provided in the Rules, one of which is covered by Rule 117, Section 1(a), which is, when the facts charged do not constitute an offense.[42] Correlatively, when the ground invoked by an accused is that the information charged do not constitute an offense, a motion to quash may be filed anytime. The response of the prosecution in this case is either to defend the allegations in the information or to amend the information, either with or without leave of court, depending on when the motion to quash was filed. If the motion to quash based on this ground was filed by the accused before entering a plea, the prosecution may make the necessary amendment on its own, as this does not require any court order. Conversely, if the motion is filed after the accused enters a plea, leave of court is necessary, and may be made only upon a court order in accordance with Rule 117, Section 4.

Here, it bears reiterating that the Motion to Quash was filed by respondent before he entered his plea. Thus, the prosecution had the opportunity to amend the Information had it found the insufficiency in its allegations. The prosecution could not pass the blame to the court by claiming that no court order was issued to give them the opportunity to amend the Information, and for the court to instead quash the Information without prejudice to the filing of the correct one. As no court order is necessary to amend the information during the said stage, the prosecution had every opportunity to make the necessary amendments had it acted appropriately. Thus, the MeTC did not commit an error when it did not order an amendment at this stage, as the duty to do so, falls on the prosecution and not on the court. Rather, the duty of the court is to dismiss the Information upon the filing of a new one charging the proper offense, in accordance with Rule 110, Section 14.[43]

In *Purisima*, this Court likewise ruled that nothing prevents the prosecution, other than double jeopardy, from refiling the Information and charging the accused with the proper crime.[44] However, instead of filing a new Information charging the accused with the correct designation of an offense, the prosecution in the instant case opted to move for reconsideration of the MeTC's Resolution and subsequently elevate the case to the RTC through a petition for *certiorari*. While this Court now echoes the rulings of the MeTC and the CA that the prosecution may still file a new Information charging the

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42 The other exceptions are: (b) That the court trying the case has no jurisdiction over the offense charged; (g) That the criminal action or liability has been extinguished; and (i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent.

43 **Section 14.** *Amendment or substitution.*

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If it appears at any time before judgment that a mistake has been made in charging the proper offense, the court shall dismiss the original complaint or information upon the filing of a new one charging the proper offense in accordance with section 19, Rule 119, provided the accused shall not be placed in double jeopardy. The court may require the witnesses to give bail for their appearance at the trial.

44 176 Phil. 186, 210 (1978) [Per J. Muñoz-Palma, *En Banc*].

accused Bercadez with the proper crime, this Court likewise emphasizes that such filing shall be subject to the law on prescription.

ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The August 31, 2022 Decision and January 5, 2023 Resolution of the Court of Appeals in CA-G.R. SP No. 166195 are **AFFIRMED**. The Information against Ronnel Buenafe Bercadez for violation of Batas Pambansa Blg. 6 is quashed without prejudice to the filing of an Information charging the proper offense and subject to the rules on prescription.

SO ORDERED.

JHOSEP Y. LOPEZ
Associate Justice

WE CONCUR:

I concur. See separate opinion.

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

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

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

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

ALEXANDER G. GESMUNDO
Chief Justice

SECOND DIVISION

G.R. No. 265123 – PEOPLE OF THE PHILIPPINES, Petitioner, **v. RONNEL BUENAFE BERCADEZ,** Respondent.

Promulgated:

JUL 29 2024

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CONCURRING OPINION

LEONEN, *J.*:

I concur with the *ponencia* in denying the Petition. The Information filed against respondent Ronnel Bercadez (Bercadez) was defective as it failed to allege all essential elements of violation of Batas Pambansa Blg. 6 (B.P. Blg. 6).

I

An Information is defined as "an accusation in writing charging a person with an offense, subscribed by the prosecutor and filed with the court."[1] For it to be deemed sufficient, the Information must indicate "the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as 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."[2]

As to what should be alleged in the Information, *Bustillo v. People*[3] emphasized that it "must clearly and sufficiently describe the charge and the elements and facts constituting the crime[.]"[4] This rule is founded on the constitutional right of an accused to be informed of the accusation against them.[5] *Bustillo* expounds:

> Article III, Section 14 (2) of the Constitution provides that the accused has the right to be informed of the nature and cause of the accusation against them. Rule 110, Sections 8 and 9 of the Rules of Court manifest this Constitutional right:
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> . . . .

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1 A.M. No. 00-5-03-SC, Revised Rules of Criminal Procedure, rule 110, sec. 4.
2 A.M. No. 00-5-03-SC, Revised Rules of Criminal Procedure, rule 110, sec. 6.
3 898 Phil. 263 (2021) [Per J. Leonen, Third Division].
4 *Id.* at 275.
5 *Id.* at 274–275.

> The right to be informed of the nature and cause of the accusation against an accused has the following objectives: (1) to furnish the accused with a description of the charge against him which will enable him to make a defense; (2) to avail himself of conviction or acquittal for protection against further prosecution for the same cause; and (3) to inform the court of the facts alleged, so that it may decide whether they are sufficient in law to support a conviction, if warranted.
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> An accused cannot be convicted of an offense unless it is clearly charged in the Information. The allegations of facts which constitute the charge are substantial matters and the accused's right to question his conviction based on facts not alleged in the Information cannot be waived.
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> Conviction based on a ground not alleged is unfair and underhanded because the accused was tried on a ground for which they have not prepared for. Thus, even if a crime is duly proven, an accused will not be convicted if the crime is not alleged or necessarily included in the Information filed against them.
>
> Thus, an Information must clearly and sufficiently describe the charge and the elements and facts constituting the crime because it is presumed that the accused has no independent knowledge of the facts that constitute the offense.[6]

In determining what facts and circumstances should be indicated in an Information, jurisprudence dictates that reference must be made "to the definitions and essentials of the"[7] crime alleged to have been committed.[8]

Here, Bercadez was charged with violation of B.P. Blg. 6. The law, as the *ponencia* correctly noted, is amendatory in nature which must be read with the provisions of the law it seeks to amend.[9] Being an amendatory law, B.P. Blg. 6 must not be read independently but in conjunction with Presidential Decree No. 9 (P.D. No. 9).

P.D. No. 9 considers as unlawful the act of carrying "outside of residence any bladed, pointed or blunt weapon[,]" unless these "articles are being used as necessary tools or implements to earn a livelihood and while being sued in connection therewith[.]" In particular, it states:

> WHEREAS, pursuant to Proclamation No. 1081 dated September 21, 1972, the Philippines has been placed under a state of martial law;
>
> WHEREAS, by virtue of said Proclamation No. 1081, General Order No. 6 dated September 22, 1972 and General Order No. 7 dated September 23, 1972, have been promulgated by me;

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6 *Id.*
7 *People v. Dimaano*, 506 Phil 635, 649 (2005) [*Per Curiam, En Banc*].
8 *Id.*
9 *Ponencia*, p. 8.

> WHEREAS, subversion, rebellion, insurrection, lawless violence, criminally, chaos and public disorder mentioned in the aforesaid Proclamation No. 1081 are committed and abetted by the use of firearms, explosives and other deadly weapons;
>
> NOW, THEREFORE, I, FERDINAND E. MARCOS, Commander-in-Chief of all the Armed Forces of the Philippines, in order to attain the desired result of the aforesaid Proclamation No. 1081 and General Orders Nos. 6 and 7, do hereby order and decree that:
>
> . . . .
>
> 3. It is unlawful to carry outside of residence any bladed, pointed or blunt weapon such as "fanknife," "spear," "dagger," "bolo," "balisong," "barong," "kris," or club, except where such articles are being used as necessary tools or implements to earn a livelihood and while being sued in connection therewith; and any person found guilty thereof shall suffer the penalty of imprisonment ranging from five to ten years as a Military Court/Tribunal/Commission may direct.

The provisions of P.D. No. 9 were amended by B.P. Blg. 6 by reducing the penalty imposed by the former law:

> SECTION 1. Paragraph three of Presidential Decree Numbered Nine is hereby amended to read as follows:
>
> "3. It is unlawful to carry outside of one's residence any bladed, pointed or blunt weapon such as 'knife', 'spear', 'pana', 'dagger', 'bolo', 'barong', 'kris', or 'chako', except where such articles are being used as necessary tools or implements to earn a livelihood or in pursuit of a lawful activity. Any person found guilty thereof shall suffer the penalty of **imprisonment of not less than one month nor more than one year or a fine of not less than Two Hundred Pesos nor more than Two Thousand Pesos, or both such imprisonment and fine as the Court may direct."** (Emphasis supplied)

I also agree with the *ponencia* that B.P. Blg. 6 cannot be construed as a separate and distinct law from P.D. No. 9. It is an amendatory law as evidenced by its title and the rest of its provisions.[10]

Having determined that the amended provisions of P.D. No. 9 apply, reference must be made to these laws in determining the facts and circumstances which should be indicated in the information for its violation.

People v. Purisima[11] teaches that the crime of violation of P.D. No. 9, paragraph 3 carries two elements:

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[10] *Ponencia*, p. 8.

[11] 176 Phil 191 (1978) [Per J. Muñoz Palma, *En Banc*].

> In all the Informations filed by petitioner the accused are charged in the caption as well as in the body of the Information with a violation of paragraph 3, P.D. 9. *What then are the elements of the offense treated in the presidential decree in question?*
>
> We hold that *the offense carries two elements*: *first*, the carrying outside one's residence of any bladed, blunt, or pointed weapon, etc. not used as a necessary tool or implement for a livelihood; and *second*, that the act of carrying the weapon was either in furtherance of, or to abet, or in connection with subversion, rebellion, insurrection, lawless violence, criminality, chaos, or public disorder.
>
> It is the second element which removes the act of carrying a deadly weapon, if concealed, outside of the scope of the statute or the city ordinance mentioned above. In other words, a simple act of carrying any of the weapons described in the presidential decree is not a criminal offense in itself. What makes the act criminal or punishable under the decree is *the motivation behind it*. Without that motivation, the act falls within the purview of the city ordinance or some statute when the circumstances so warrant.[12]

In this case, a perusal of the Information filed against Bercadez reveals that it failed to comply with the test of sufficiency. As the *ponencia* aptly observed, it failed to allege the second element of the crime particularly that "the act of carrying the weapon was either in furtherance of, or to abet, or in connection with subversion, rebellion, insurrection, lawless violence, criminality, chaos, or public disorder."[13] Considering that the factual allegations in the Information are insufficient, I agree that the Metropolitan Trial Court correctly ordered the quashal of the Information.

II

On a final note, it appears that the factual circumstances of this case present an opportunity for this Court to discuss the constitutionality and continued application of P.D. No. 9, as amended by B.P. Blg. 6.

In *Buella v. People*[14] this Court stressed that the continuing existence and effectivity of P.D. No. 9, as amended, raises an interesting question in light of its continued existence despite the cessation of Martial Law. However, *Buella* did not tackle the continuing applicability of P.D. No. 9 due to the absence of an actual case or controversy:

> The Court will not delve into the question of the continuing applicability of P.D. No. 9, as amended, in the absence of an actual case or controversy. It only notes, at this point, that this question may be of particular interest considering that Martial Law is no longer in place and P.D. No. 9 was specifically enacted in order to attain the desired result of Proclamation No.

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12 *Id.* at 202.
13 *Ponencia*, p. 9.
14 G.R. No. 244027, April 11, 2023 [Per C.J. Gesmundo, *En Banc*].

> 1081 (Declaration of Martial Law) and General Order Nos. 6 and 7 (in relation to the possession and carriage of firearms), as shown in the preamble of P.D. No. 9. *Cessante ratione legis cessat ipsa lex.* Where the reason for the existence of a law ceases, the law itself should also cease.[15]

Notably, in not a few cases, this Court has declared as ineffective various provisions of law after it found that the reason for their existence has ceased to exist.

In *Comendador v. De Villa*,[16] this Court decreed that Presidential Decree No. 39 (P.D. No. 39) became ineffective when General Order No. 8 was revoked. *Comendador* emphasized:

> On January 17, 1981, President Marcos issued Proc. No. 2045 proclaiming the termination of the state of martial law throughout the Philippines. The proclamation revoked General Order No. 8 and declared the dissolution of the military tribunals created pursuant thereto upon final determination of the cases pending therein.
>
> P.D. No. 39 was issued to implement General Order No. 8 and the other general orders mentioned therein. With the termination of martial law and the dissolution of the military tribunals created thereunder, the reason for the existence of P.D. No. 39 ceased automatically.
>
> It is a basic canon of statutory construction that when the reason of the law ceases, the law itself ceases. *Cessante ratione legis, cessat ipsa lex.* This principle is also expressed in the maxim ratio *legis est anima:* the reason of law is its soul.
>
> Applying these rules, we hold that the withdrawal of the right to peremptory challenge in P.D. No. 39 became ineffective when the apparatus of martial law was dismantled with the issuance of Proclamation No. 2045. As a result, the old rule embodied in Article 18 of Com. Act No. 408 was automatically revived and now again allows the right to peremptory challenge.[17]

In this case, Bercadez contended in his motion to quash the information that since the spirit behind P.D. No. 9 and B.P. Blg. 6 already ceased to exist, these laws have also ceased to have any legal force.[18]

In as much as Bercadez included as one of his arguments the continuing applicability of P.D. No. 9, as amended, it is my opinion that this Court may address and tackle the question of the continuing applicability of P.D. No. 9, as amended.

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15 *Id.*
16 277 Phil. 106 (1991) [Per J. Cruz, *En Banc*].
17 *Id.* at 115–116.
18 *Ponencia*, p. 2.

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

MARVIC M.V.F. LEONEN
Senior Associate Justice