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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

EVELYN L. MIRANDA,
Petitioner,

G.R. Nos. 144760-61

-versus-

SANDIGANBAYAN and THE OMBUDSMAN,
Respondents,
x----------x

EVELYN L. MIRANDA,
Petitioner,

G.R. Nos. 167311-12

-versus-

SANDIGANBAYAN and THE PEOPLE OF THE PHILIPPINES,
Respondents,
x----------x

VENANCIO R. NAVA,
Petitioner,

G.R. Nos. 167316-17

-versus-

HON. SANDIGANBAYAN 4TH DIVISION and THE PEOPLE OF THE PHILIPPINES,
Respondents,
x----------x

PRIMO C. OBENZA,
Petitioner,

-versus-

SANDIGANBAYAN and THE PEOPLE OF THE PHILIPPINES,
Respondents.

x----------x

G.R. Nos. 167625-26

Present:

CARPIO, *J.*
Chairperson,
MENDOZA,
LEONEN,
JARDELEZA,* and
MARTIRES, *JJ.*

Promulgated:

02 AUG 2017

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DECISION

MARTIRES, *J.*:

At bar are the consolidated cases assailing the different issuances of the Sandiganbayan, Fourth Division (*Sandiganbayan*) in Criminal Case Nos. 23625-26 both entitled "People of the Philippines versus Venancio R. Nava, Primo C. Obenza, Exuperia B. Austero, Antonio S. Tan, and Evelyn L. Miranda," viz:

a) G.R. Nos. 144760-61, filed by Evelyn L. Miranda (*Miranda*), is a Petition for Certiorari and Prohibition pursuant to Rule 65, Sections 1, 2 and 4 in relation to Sec. 1 Rule 58 of the Rules of Court on the 14 August 2000 Resolution[1] of the Sandiganbayan denying her motion to quash the Informations;

b) G.R. Nos. 167311-12 and G.R. Nos. 167625-26, filed by Miranda and Primo C. Obenza (*Obenza*), respectively, are Appeals by Certiorari pursuant to Rule 45 of the Rules of Court on the 10 January 2005 Decision[2] of the Sandiganbayan finding the accused in Criminal Case Nos. 23625-26, except Exuperia B. Austero (*Austero*), guilty of Violation of Sec. 3(g) of Republic Act (*R.A.*) No. 3019, and its 7 March 2005 Resolution[3] denying the separate Motion for Reconsideration of Obenza, Miranda, and Venancio R. Nava (*Nava*); and

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* Additional member per Raffle dated 8 May 2017.

1 *Rollo* (G.R. Nos. 144760-61), pp. 21-30; promulgated on 16 August 2000.

2 *Rollo* (G.R. Nos. 167311-12), pp. 27-66; Penned by Associate Justice Rodolfo A. Ponferrada, and concurred in by Associate Justices Gregory S. Ong and Jose R. Hernandez.

3 Id. at 67-75.

c) G.R. Nos. 167316-17, filed by Nava, is a Petition for Certiorari under Rule 65 of the Rules of Court on the above-mentioned 10 January 2005 Decision and 7 March 2005 Resolution of the Sandiganbayan.

THE FACTS

Sometime in August 1990, Nava, the Department of Education Culture and Sports (*DECS*) Region XI Director, and his school superintendents met to discuss Allotment Advice No. B-2-0392-90-2-014 (*Allotment Advice*) issued by DECS-Manila on 21 June 1990. During the meeting, Nava and his school superintendents agreed that the allotment, which was in the amount of ₱9.36 million and intended for the nationalized high schools in the region, be sub-allotted instead to the divisions and be used to procure science laboratory tools and devices (*SLTDs*). It was further agreed that the public bidding be dispensed with for the reason that the procurement had to be undertaken before the end of calendar year 1990; otherwise, the allotment would revert to the national fund.

On two separate occasions, the DECS Division of Davao Oriental (*DECS-Davao Oriental*) procured SLTDs from D'Implacable Enterprises (*D'Implacable*), owned by Antonio S. Tan (*Tan*) with business address at West Capitol Drive, Pasig, Metro Manila.[4] The DECS-Davao Oriental paid D'Implacable, whose sales representative was Miranda, using the allotments intended as additional miscellaneous operating expenses for the twenty nationalized high schools of Davao Oriental.

On 8 January 1991, the Commission on Audit (*COA*) Regional Office No. XI issued Assignment Order No. 91-174 creating an Audit Team (*team*) composed of Laura Soriano (*Soriano*) and Carmencita Eden T. Enriquez (*Enriquez*), as team leader and member, respectively, for the purpose of conducting a special audit on the releases made by the DECS Region XI to its different divisions involving the ₱9.36 million allotment.

On 20 May 1991, the COA Region XI Office furnished the Office of the Ombudsman-Mindanao (*OMB-Min*) with the Special Audit Report (*the report*) of the team on the procurement by the DECS-Davao Oriental of SLTDs from D'Implacable,[5] and the corresponding affidavit of complaint.[6] The team claimed in their affidavit, docketed as OMB-MIN-91-0202, that the DECS-Davao Oriental procured the SLTDs at prices higher by 64% to 1,175% than the prevailing price causing the government to lose ₱398,962.55; hence, a violation of Sec. 3(g) of R.A. No. 3019, COA Circular Nos. 78-84 and 85-55A, and DECS Order No.100.

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4 Exhibit folder; Appendix No. 5 to Exhibit "A."
5 Exhibit folder; Exhibit "A."
6 Records (OMB-MIN-91-0202), pp. 2-3.

After the conduct of preliminary investigation, the OMB-Min found probable cause against Nava, Obenza, Austero, Tan, and Miranda for two counts of Violation of Sec. 3(g) of R.A. No. 3019,[7] and thus filed with the Sandiganbayan on 8 April 1997, the following Informations:

Criminal Case No. 23625

That sometime on 16 November 1990, in Mati, Davao Oriental, and within the jurisdiction of this Honorable Court, the accused VENANCIO R. NAVA, PRIMO C. OBENZA and EXUPERIA B. AUSTERO, all public officers being then the Regional Director Department of Education, Culture and Sports, Region XI Davao City and a high ranking official by express provision of RA 7975, Division Superintendent of DECS Division of Davao Oriental with salary grade below 27 and Administrative Officer of DECS Division of Davao Oriental with salary grade below 27, respectively, committing the offense in relation to their official duties and taking advantage of the same, conspiring, confederating, and mutually aiding one another and with accused ANTONIO S. TAN and EVELYN S. MIRANDA, there and then, willfully, unlawfully and criminally, enter into a contract of purchase grossly and manifestly disadvantageous to the government, namely: BY PURCHASING from accused Miranda and Tan, the following goods under Purchase Order dated 16 November 1990 and Check No. 072108, to wit:

350 Units of Test Tube Glass Pyrex	for	P 9,555.00;
250 Units of Glass Spirit Burner	for	40,875.00;
130 Units of Spring Balance	for	71,630.00; and
75 Units of Bunsen Burner	for	52,575.00

or a unit price of P27.30, P163.50, P551.00 and P701.00, respectively, when the actual price of the said items per canvass by the Commission on Audit after considering the 10% price variance were only P14.30, P38.50, P93.50 and P90.75, respectively, thus the above-said procurements were overpriced by as much as 91% or P4,550.00; 325% or P31,250.00; 489% or P59,475.00; and 672% or P45,768.75, respectively, thus shortchanging the government by as much as P141,043.75.[8]

Criminal Case No. 23626

That sometime on 27 December 1990, in Mati, Davao Oriental, and within the jurisdiction of this Honorable Court, the accused VENANCIO R. NAVA, PRIMO C. OBENZA and EXUPERIA B. AUSTERO, all public officers being then the Regional Director Department of Education, Culture and Sports, Region XI Davao City, a high ranking official by express provision of RA 7975, Division Superintendent of DECS Division of Davao Oriental with salary grade below 27 and Administrative Officer of DECS Division of Davao Oriental with salary grade below 27; respectively, committing the offense in relation to their official duties and taking advantage of the same, conspiring and confederating, and mutually aiding one another and with accused ANTONIO S. TAN and EVELYN L. MIRANDA, there and then,

7 *Rollo* (G.R. Nos. 144760-61), pp. 34-39.
8 Id. at 40.

wilfully, unlawfully and criminally, enter into a contract of purchase grossly and manifestly disadvantageous to the government, namely: BY PURCHASING from accused Miranda and Tan, the following goods under Purchase Order dated 27 December 1990 and Check No. 073908, to wit:

89 Units of Flusk Brush (Nylon)	for	P 4,488,00;
444 Units of Graduated Cylinder	for	P 316,572.00;
195 Units of Iron Wire Gauge	for	P 3,159.00; and
54 Units of Beaker 250 ml. pyrex	for	P 6,751.00

or a unit price of P112.20, P713.00, P16.20, and P125.03, respectively, when the actual price of the said items per recanvassed by the Commission on Audit after considering the 10% price variance, were only P8.80, P159.50, P16.20, and P125.03, thus, the said purchases were overpriced, by as much as 1,175% or P8,892.40, 374% or P245,754.00, 64% or P1,228.50, and 434% or P2,043.90, respectively, thus shortchanging the government by as much as P257,918.80.[9]

During the hearing of these cases, the prosecution presented Soriano who identified the report.

For his defense, Nava testified that the documents pertinent to these transactions came from the office of Obenza. He claimed that he signed the documents because the amount involved for each of the two transactions was more than ₱100,000.00, and therefore within his authority to sign. He insisted that the transactions complied with the DECS' policies.

Obenza testified that the documents for the transactions with D'Implacable were already signed by Nava when these were brought to his office. Prudencio N. Mabanglo, the DECS Division Superintendent for Davao del Norte, testified that the documents for the procurement of SLTDs for his division were likewise already signed by Nava when these were brought to him.

Austero, Tan, and Miranda did not take the witness stand.

RULING OF THE SANDIGANBAYAN

On 10 January 2005, the Sandiganbayan rendered the assailed decision, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered –
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> 1. in Criminal Case No. 23625 – finding accused VENANCIO R. NAVA, PRIMO C. OBENZA, ANTONIO S. TAN and EVELYN MIRANDA guilty beyond reasonable doubt as charged and

[9] Id. at 41-43.

sentencing each of them to suffer the indeterminate penalty of six (6) years and one (1) month as minimum to ten (10) years as maximum, and to suffer perpetual disqualification from public office, and to indemnify, jointly and severally, the Government of the Republic of the Philippines in the amount of P141,043.75 representing the losses that it suffered and to proportionately pay the costs;

2. in Criminal Case No. 23626 – finding accused VENANCIO R. NAVA, PRIMO C. OBENZA, ANTONIO S. TAN and EVELYN MIRANDA guilty beyond reasonable doubt as charged and sentencing each of them to suffer the indeterminate penalty of six (6) years and one (1) month as minimum to ten (10) years as maximum, and to suffer perpetual disqualification from public office, and to indemnify, jointly and severally, the Government of the Republic of the Philippines in the amount of P257,918.80 representing the losses that it suffered, and to proportionately pay the costs; and

3. in both cases ACQUITTING accused EXUPERIA B. AUSTERO, for insufficiency of evidence, with costs de officio.[10]

Obenza, Miranda,[11] and Nava[12] filed their separate motion for reconsideration which were denied by the Sandiganbayan in its 7 March 2005 Resolution.[13]

ISSUES

The following issues were submitted by Miranda for the consideration of this Court in her petition for certiorari in G.R. No. 144760-61:

1. Respondent Court committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying the motion to quash;

2. The disputed resolution was in great contravention of the principle of "stare decisis" and settled jurisprudence;

3. The Respondent court should be immediately prohibited or restrained from further proceedings, in order not to render the subject petition moot and academic.[14]

On the other hand, Miranda anchored her petition in G.R. No. 167311-12 on the ground that "the [Sandiganbayan] had decided questions of substance in a way not in accord with law and the applicable decisions of this Honorable Court and/or [had] so far departed from the accepted and

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[10] *Rollo* (G.R. No. 167316-17), pp. 125-127.
[11] *Rollo* (G.R. No. 167311-12), pp. 76-87.
[12] *Rollo* (G.R. No. 167316-17), pp. 213-250.
[13] Id. at 129-137.
[14] *Rollo* (G.R. No. 144760-61), p.10

usual course of judicial proceeding[s] or so far sanctioned such a departure by the court a quo as to call for an exercise of the power of supervision vested in this Honorable Court."[15]

For G.R. Nos. 167316-17, Nava raised the following grounds to support his petition:

I. THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO A LACK OF OR EXCESS OF JURISDICTION IN UPHOLDING THE FINDINGS OF THE SPECIAL AUDIT TEAM THAT IRREGULARLY CONDUCTED THE AUDIT BEYOND THE AUTHORIZED PERIOD AND WHICH TEAM FALSIFIED THE SPECIAL AUDIT REPORT.

II. THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO A LACK OF OR EXCESS OF JURISDICTION IN UPHOLDING THE FINDINGS IN THE SPECIAL AUDIT REPORT WHERE, IN VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS, THE AUDIT TEAM EGREGIOUSLY FAILED TO COMPLY WITH THE MINIMUM STANDARDS SET BY THE SUPREME COURT AND ADOPTED BY THE COMMISSION ON AUDIT, AND CAME OUT WITH A REPORT THAT SUPPRESSED EVIDENCE FAVORABLE TO THE PETITIONER.

III. THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO A LACK OF OR EXCESS OF JURISDICTION IN UPHOLDING THE FINDINGS IN THE SPECIAL AUDIT REPORT CONSIDERING THAT NONE OF THE ALLEGEDLY OVERPRICED ITEMS FROM THE DIVISION OF DAVAO ORIENTAL WERE CANVASSED OR PURCHASED BY THE SPECIAL AUDIT TEAM SUCH THAT THERE IS NO COMPETENT EVIDENCE FROM WHICH TO DETERMINE THAT THERE WAS AN OVERPRICE AND THAT THE TRANSACTION WAS MANIFESTLY AND GROSSLY DISADVANTAGEOUS TO THE GOVERNMENT.

IV. THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO A LACK OF OR EXCESS OF JURISDICTION IN RULING THAT PETITIONER WAS ESTOPPED FROM QUESTIONING THE VALIDITY OF THE SPECIAL AUDIT REPORT.

V. THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO A LACK OF OR EXCESS OF JURISDICTION IN REFUSING TO REVIEW THE MANNER IN WHICH THE FINDINGS IN THE SPECIAL AUDIT REPORT CAME ABOUT AS A BASIS FOR THE SANDIGANBAYAN TO DETERMINE THE CRIMINAL LIABILITY OF THE PETITIONER.

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15 *Rollo* (G.R. No. 167311-12), p. 15.

VI. THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO A LACK OF OR EXCESS OF JURISDICTION IN GIVING CREDENCE TO THE SELF-SERVING AND PERJURIOUS TESTIMONY OF CO-ACCUSED PRIMO C. OBENZA THAT THE QUESTIONED TRANSACTIONS EMANATED FROM THE REGIONAL OFFICE IN SPITE OF THE DOCUMENTARY EVIDENCE WHICH PROVE THAT THE TRANSACTIONS EMANATED FROM THE DIVISION OFFICE OF DAVAO ORIENTAL HEADED BY CO-ACCUSED OBENZA.

VII. THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO A LACK OF OR EXCESS OF JURISDICTION IN FINDING THAT PETITIONER PRE-SIGNED THE PROCUREMENT DOCUMENTS CONSIDERING THAT THERE IS NO DOCUMENTARY PROOF OF SUCH PRE-SIGNING AND WHERE THE TESTIMONIAL EVIDENCE IS OBVIOUSLY CONTRIVED.

VIII. THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO A LACK OF OR EXCESS OF JURISDICTION IN FAILING TO ABSOLVE THE PETITIONER WHERE CONSPIRACY WAS NOT PROVEN.

IX. THE SANDIGANBAYAN COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO A LACK OF OR EXCESS OF JURISDICTION IN CONVICTING THE PETITIONER IN THE ABSENCE OF PROOF BEYOND REASONABLE DOUBT.[16]

Obenza, on the one hand, raised the following issues in G.R. No. 167625-26 to justify his prayer for the reversal of the Sandiganbayan's assailed decision and resolution:

I. The Public Respondent Honorable Sandiganbayan has palpably erred in ruling that Petitioner committed the crime found in Section 3(g) of R.A. 3019.

II. The Public Respondent Honorable Sandiganbayan has palpably erred in ruling that there was conspiracy between Venancio R. Nava and the Petitioner.

III. The Public Respondent Honorable Sandiganbayan has palpably erred in adamantly refusing to consider in favor of the Petitioner a case with similar facts arising from similar circumstances which have been finally decided by them, in consonance with the doctrine of stare decisis.

IV. The Public Respondent Honorable Sandiganbayan seriously erred in ruling that the Rule on judicial notice of a case decided by the same decision of the Honorable Sandiganbayan is not authorized in

[16] *Rollo* (G.R. No. 167316-17), pp. 12-13.

this case, which case is closely similar if not entirely the same in facts, offense charged and parties involved.

V. The Public Respondent Sandiganbayan grievously erred in not acquitting herein Accused.[17]

THE COURT'S RULING

Discussion on the Petition for Review on Certiorari assailing the denial of the Motion to Quash
(G.R. Nos. 144760-61)

Miranda assailed through this special civil action of certiorari the 14 August 2000 Resolution[18] of the Sandiganbayan denying her motion to quash.[19] Miranda claimed that there was no appeal or any other plain, speedy, and adequate remedy available to her in the ordinary course of law. She no longer sought from the Sandiganbayan a reconsideration of its ruling denying her motion because her arraignment was already scheduled on 2 October 2000, thus, her prayer for injunctive relief.[20]

The petition must fail.

First, the special civil action of certiorari will not lie unless the aggrieved party has no other plain, speedy, and adequate remedy in the ordinary course of law.[21] A recourse affording prompt relief from the injurious effects of the judgment or acts of a lower court or tribunal is considered "plain, speedy and adequate" remedy.[22] The plain, speedy, and adequate remedy available to Miranda, which she opted not to avail of, was to file a motion for reconsideration so as to afford the Sandiganbayan another chance to review any actual or conjured errors it may have committed when it resolved her motion to quash.

Miranda could have pleaded in her motion for reconsideration that her arraignment set on 2 October 2000, be deferred until the resolution of this motion. For sure, her arraignment would not have proceeded unless the Sandiganbayan had resolved her motion for reconsideration before that date. Her scheduled arraignment was clearly not sufficient justification to dispense with the filing of a motion for reconsideration. Time and again, we have ruled that the filing of a motion for reconsideration is an indispensable

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17 *Rollo* (G.R. No. 167625-26), p. 27.
18 *Rollo* (G.R. No. 144760-61), pp. 21-30; promulgated on 16 August 2000.
19 Records, Vol. I, pp. 385-392.
20 *Rollo* (G.R. Nos. 144760-61), pp. 9 and 16-17.
21 *Tan, Jr. v. Sandiganbayan,* 354 Phil. 463, 469 (1998).
22 *Rigor v. Tenth Division, Court of Appeals*, 526 Phil. 852, 855 (2006).

condition before resorting to the special civil action for certiorari to afford the court or tribunal the opportunity to correct its error, if any.[23]

Second, an order denying a motion to quash is interlocutory and therefore not appealable, nor can it be the subject of a petition for certiorari.[24] The denial of the motion to quash means that the criminal information remains pending with the court, which must proceed with the trial to determine whether the accused is guilty of the crime charged therein.[25] If a judgment of conviction is rendered and the lower court's decision of conviction is appealed, the accused can then raise the denial of his motion to quash not only as an error committed by the trial court but as an added ground to overturn the latter's ruling.[26]

Continuing accretions of case law reiterate the rationale for the rule:

> The reason of the law in permitting appeal only from a final order or judgment, and not from interlocutory or incidental one, is to avoid multiplicity of appeals in a single action, which must necessarily suspend the hearing and decision on the merits of the case during the pendency of the appeal. If such appeal were allowed, the trial on the merits of the case should necessarily be delayed for a considerable length of time, and compel the adverse party to incur unnecessary expenses; for one of the parties may interpose as many appeals as incidental questions may be raised by him and interlocutory orders rendered or issued by the lower court.[27]

And third, Miranda failed to bring her petition within the jurisprudentially established exceptions where appeal would be inadequate and the special civil action of certiorari or prohibition may be allowed, viz: (1) when the court issued the order without or in excess of jurisdiction or with grave abuse of discretion; (2) when the interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief; (3) in the interest of a more enlightened and substantial justice; (4) to promote public welfare and public policy; and (5) when the cases have attracted nationwide attention, making it essential to proceed with dispatch in the consideration thereof.[28]

Discussion on the Sandiganbayan Decision
(G.R. Nos. 167311-12, 167316-17 and 167625-26)

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23 *Fajardo v. Hon. Court of Appeals,* 591 Phil. 146, 151 (2008).

24 *Tan, Jr. v. Sandiganbayan*, supra note 21 at 470 citing *Socrates v. Sandiganbayan*, 324 Phil. 151, 176 (1996).

25 *Santos v. People,* 585 Phil. 337, 353 (2008).

26 *Galzote v. Brionee,* 673 Phil. 165, 172 (2011).

27 *Yee v. Bernabe*, 521 Phil. 514, 520 (2006) citing *Rudecon Management Corp. v. Singson*, 494 Phil. 581, 597 further citing *Sitchon v. Sheriff of Occidental Negros*, 80 Phil. 397, 399 (1948).

28 *Navaja v. De Castro,* G.R. No. 182926, 22 June 2015, 759 SCRA 487, 508-509 citing *Querijero v. Palmes-Limitar,* 695 Phil. 107, 111 (2012).

It must be noted that Miranda and Obenza assailed the Sandiganbayan decision and resolution via a petition for review under Rule 45, while Nava availed of the special civil action for certiorari pursuant to Rule 65 of the Rules of Court.

a) The Petition of Nava

Certiorari as a special civil action can be availed of only if there is a concurrence of the essential requisites, to wit: (a) the tribunal, board or officer exercising judicial functions has acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (b) there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law for the purpose of annulling or modifying the proceeding.[29]

On the first requisite, there is no dispute that the Sandiganbayan had jurisdiction over Criminal Case Nos. 23625-26 and the person of Nava. Jurisprudence instructs that where a petition for certiorari under Rule 65 of the Rules of Court alleges grave abuse of discretion, the petitioner should establish that the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction.[30] That an abuse in itself to be "grave" must be amply demonstrated since the jurisdiction of the court, no less, will be affected.[31] Grave abuse of discretion has a well-defined meaning:

> An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." Furthermore, the use of a petition for certiorari is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross. x x x[32]

Nothing from Nava's petition will confirm the merits of his claim that the Sandiganbayan had acted in a capricious, whimsical, arbitrary or

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29 *Dr. Domalanta, v. The Commission on Elections,* 390 Phil. 46, 65, citing *Sadikul v. Commission on Elections*, 381 Phil. 505, 516 (2000) further citing *Garcia v. House of Representatives Electoral Tribunal*, 371 Phil. 280, 291 (1999).

30 *Spouses Dycoco, v. Court of Appeals,* 715 Phil. 550, 563 (2013).

31 *Ysidoro v. Justice Leonardo-De Castro,* 681 Phil. 1, 17 (2012).

32 *Spouses Dycoco v. Court of Appeals,* supra note 30.

despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction when it rendered the assailed decision and resolution. Although Nava arrayed the issues in his petition with the alleged grave abuse of discretion by the Sandiganbayan, the truth is inescapably evident that these issues do not concern the resolution of errors of jurisdiction but of the alleged errors of judgment which the anti-graft court may commit in the exercise of its jurisdiction over Criminal Case Nos. 23625-26 and the person of Nava.

Corollary thereto, the alleged misapplication of facts and evidence, and whatever flawed conclusions of the Sandiganbayan, is an error in judgment, not of jurisdiction, and therefore not within the province of a special civil action for certiorari. Erroneous conclusions based on evidence do not, by the mere fact that errors were committed, rise to the level of grave abuse of discretion.[33] For as long as a court acts within its jurisdiction, any supposed error committed in the exercise thereof will amount to nothing more than an error of judgment reviewable and may be corrected by a timely appeal.[34] The rationale of this rule is that, when a court exercises its jurisdiction, an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed. Otherwise, every mistake made by a court will deprive it of its jurisdiction and every erroneous judgment will be a void judgment.[35]

It is a fundamental aphorism in law that a review of facts and evidence is not the province of the extraordinary remedy of certiorari, which is *extra ordinem* – beyond the ambit of appeal.[36] To stress, certiorari is a remedy designed for the correction of errors of jurisdiction, not errors of judgment.[37] Let us not lose sight of the true function of the writ of certiorari — "to keep an inferior court within the bounds of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to excess of jurisdiction."[38] And to emphasize this point, the following passage in the 1913 case of *Herrera v. Barretto*[39] is reiterated as it is still of significance today:

> The office of the writ of certiorari has been reduced to the correction of defects of *jurisdiction* solely and cannot legally be used for any other purpose. It is truly an extraordinary remedy and, in this jurisdiction, its use is restricted to truly extraordinary cases — cases in which the action of the inferior court is wholly void; where any further steps in the case would result in a waste of time and money and would produce no result whatever; where the parties, or their privies, would be

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33 *Ysidoro v. Justice Leonardo-de Castro, et al.*, supra note 31.

34 *Rigor v. Tenth Division, Court of Appeals*, supra note 22 at 856-857.

35 *Candelaria, v. Regional Trial Court, Branch 42, City of San Fernando, Pampanga*, 739 Phil. 1, 8 (2014), citing *Triplex Enterprises, Inc v. PNB-Republic Bank*, 527 Phil. 685, 690 (2006).

36 *Villareal v. Aliga*, 724 Phil. 47, 62, 64 (2014).

37 *People v. Dir. Gen. Nazareno*, 612 Phil. 753, 769 (2009).

38 *Fernando v. Vasquez*, 142 Phil. 266, 271 (1970).

39 25 Phil. 245, 271 (1913).

> utterly deceived; where a final judgment or decree would be nought but a snare and a delusion, deciding nothing, protecting nobody, a judicial pretension, a recorded falsehood, a standing menace. It is only to avoid such results as these that a writ of certiorari is issuable; and even here an appeal will lie if the aggrieved party prefers to prosecute it.[40]

On the second requisite, the remedy available to Nava was to appeal pursuant to Rule 45 of the Rules of Court. As discussed earlier, the issues raised by Nava were undoubtedly errors of judgment for which both law and jurisprudence prescribe the remedy of appeal. Significantly, R.A. No. 8249,[41] which governs the jurisdiction of the Sandiganbayan, pertinently states:

> Section 7. Form, Finality and Enforcement of Decisions. - x x x
>
> x x x x
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> Decisions and final orders of the Sandiganbayan shall be appealable to the Supreme Court by petition for review on certiorari raising pure questions of law in accordance with Rule 45 of the Rules of Court. x x x.

The afore-quoted is complimented by Part II, Rule X[42] of the Revised Internal Rules of the Sandiganbayan, viz:

> Section 1. Method of Review. -
>
> (a) In General – A party may appeal from a judgment or final order of the Sandiganbayan imposing or affirming a penalty less than death, life imprisonment or reclusion perpetua in criminal cases, and, in civil cases, by filing with the Supreme Court a petition for review on certiorari in accordance with Rule 45 of the 1997 Rules of Civil Procedure.

As is clearly provided, the sole and proper remedy available to Nava in his quest to obtain a reversal of the decision and resolution of the Sandiganbayan was to appeal pursuant to Rule 45 of the Rules of Court. The existence and availability of the right of appeal prohibits the resort to certiorari because a requirement for the latter remedy is there should be no appeal.[43]

Nava's assertion that the Sandiganbayan had acted with grave abuse of discretion in convicting him and that his petition was anchored on questions of fact and law, did not render futile his remedy of petition for

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40 Id. at 271 cited in *Fernando v. Vasquez,* supra note 38 at 271-272.

41 An Act Defining the Jurisdiction of the Sandiganbayan, Amending for the Purpose Presidential Decree No. 1606, as Amended, Providing Funds Therefor and for Other Purposes.

42 Review of Judgments and Final Orders.

43 *Malayang Manggagawa ng Stayfast Phils., Inc. v. National Labor Relations Commission*, 716 Phil. 500, 513 (2013).

review on certiorari or sanction his resort to a special civil action on certiorari. This issue was firmly settled in *Estinozo v. Court of Appeals*:[44]

> A petition for review on *certiorari* under Rule 45 and a petition for *certiorari* under Rule 65 are mutually exclusive remedies. *Certiorari* cannot co-exist with an appeal or any other adequate remedy. The nature of the questions of law intended to be raised on appeal is of no consequence. It may well be that those questions of law will treat exclusively of whether or not the judgment or final order was rendered without or in excess of jurisdiction, or with grave abuse of discretion. This is immaterial. The remedy is appeal, not *certiorari* as a special civil action.[45] (citations omitted)

While this Court recognizes the importance of procedural rules in insuring the effective enforcement of substantive rights through the orderly and speedy administration of justice, we likewise take into consideration that at stake in these cases are the life and liberty of Nava who, in his earnestness to seek the reversal of the findings of the Sandiganbayan, filed his petition on the eleventh day after his receipt of the questioned resolution. Thus, it would only be proper to relax the rules considering that, in numerous cases, this Court had allowed the liberal construction of the rules when to do so would serve the demands of substantial justice and equity[46] as amply discussed in *Aguam v. Court of Appeals*:[47]

> The court has discretion to dismiss or not to dismiss an appellant's appeal. It is a power conferred on the court, not a duty. The "discretion must be a sound one, to be exercised in accordance with the tenets of justice and fair play, having in mind the circumstances obtaining in each case." Technicalities, however, must be avoided. The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "A litigation is not a game of technicalities." "Lawsuits unlike duels are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts." Litigations must be decided on their merits and not on technicality. Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities. Thus, dismissal of appeals purely on technical grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the

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44 568 Phil. 390 (2008).
45 Id. at 399.
46 *Ong Lim Sing, Jr. v. FEB Leasing & Finance Corporation*, 551 Phil. 768 (2007).
47 388 Phil. 587 (2000).

parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.[48]

b) The Petitions of Nava, Obenza and Mendoza

The Court takes notice of the fact that the transactions entered into by the DECS Region XI with D'Implacable took place in 1990 when the governing law was COA Circular No. 85-55A[49] requiring public bidding on purchases of supplies, materials, and equipment in excess of ₱50,000.00 unless the law or the agency charter provides otherwise.[50] Significantly, the need for public bidding had been clearly acknowledged by Nava and his Division Superintendents when they met in August 1990, to discuss the Allotment Advice, only that it was agreed during that meeting to dispense with the public bidding as there was an alleged need to procure the SLTDs before the end of calendar year 1990; otherwise, the allotment would revert to the national fund. Thus, pursuant to what had allegedly been agreed upon during the meeting, the procurement of SLTDs by the different divisions of DECS Region VIII proceeded without public bidding and notwithstanding DECS Order No. 100 dated 3 September 1990, suspending the purchase of tools and devices, among others, in response to the government's call for economy measures.

While public bidding was the general rule in COA Circular No. 85-55A, the exceptions were clearly identified as follows: emergency purchase, negotiated purchase, and repeat order.[51] The fact is underscored that the subject transactions in these cases were undertaken through negotiated purchase but the grounds explicitly mentioned in the COA circular to justify a resort to this mode of procurement were conspicuously absent, viz: (a) failure of the required public bidding; (b) purchase is made from reputable manufacturers or exclusive distributors provided they offer the lowest or most advantageous price; (c) any purchase made from the Procurement Service; and (d) on emergency purchase as defined in the circular.[52]

On 26 July 1987, President Corazon C. Aquino issued Executive Order No. 301[53] which provided, among others, for the decentralization of negotiated contracts, viz:

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48 Id. at 593-594.

49 Rules and Regulations for the prevention Of Irregular, Unnecessary, Excessive or Extravagant (IUEE) Expenditures or Uses of Government Funds and Property.

50 COA Circular No. 85-55A, No. 4.1(a).

51 COA Circular No. 85-55A, No. 4.1.

52 COA Circular No. 85-55A, No. 4.1(c).

53 Decentralizing Actions on Government Negotiated Contracts, Lease Contracts and Records Disposal.

A. DECENTRALIZATION OF NEGOTIATED CONTRACTS

Sec. 1. Guidelines for Negotiated Contracts. Any provision of law, decree, executive order or other issuances to the contrary notwithstanding, no contract for public services or for furnishing supplies, materials and equipment to the government or any of its branches, agencies or instrumentalities shall be renewed or entered into without public bidding, except under any of the following situations:

a. Whenever the supplies are urgently needed to meet an emergency which may involve the loss of, or danger to, life and/or property;

b. Whenever the supplies are to be used in connection with a project or activity which cannot be delayed without causing detriment to the public service;

c. Whenever the materials are sold by an exclusive distributor or manufacturer who does not have subdealers selling at lower prices and for which no suitable substitute can be obtained elsewhere at more advantageous terms to the government;

d. Whenever the supplies under procurement have been unsuccessfully placed on bid for at least two consecutive times, either due to lack of bidders or the offers received in each instance were exorbitant or non-conforming to specifications;

e. In cases where it is apparent that the requisition of the needed supplies through negotiated purchase is most advantageous to the government to be determined by the Department Head concerned;

f. Whenever the purchase is made from an agency of the government.

In the same vein, not one of the aforementioned situations find their significance in these cases in order to excuse these transactions from public bidding and to allow resort to a negotiated procurement.

At present, the law governing the procurement activities in the government is R.A. No. 9184[54] requiring that **all** procurement be done through competitive bidding[55] except when the alternative methods of procurement would apply, viz: (a) limited source bidding otherwise known as selective bidding; (b) direct contracting otherwise known as single source procurement; (c) repeat order; (d) shopping; and (e) negotiated procurement.[56]

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[54] An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes.

[55] R.A. No. 9184, Article IV, Sec. 10.

[56] R.A. No. 9184, Article XVI, Sec. 48.

Consistent with the above issuances is the well-entrenched ruling of this Court that competitive public bidding may not be dispensed with nor circumvented; and alternative modes of procurement for public service contracts and for supplies, materials, and equipment may only be resorted to in the instances provided for by law.[57] A competitive public bidding is not some token procedure in the government designed to suit the whim of a public officer. By its very nature and characteristic, a competitive public bidding aims to protect the public interest by giving the public the best possible advantages thru open competition. Another self-evident purpose of public bidding is to avoid or preclude suspicion of favoritism and anomalies in the execution of public contracts.[58] It puzzles the Court therefore why the charges against the accused in Crim. Case Nos. 23625-26 were solely anchored on overpricing and failed to include the lack of public bidding when this was very evident from the case records.

On the several grounds raised by the petitioners to fortify their plea for acquittal, what caught the attention of this Court was the manner of canvass undertaken by the team to prove its claim of overpricing. Thus, the Court will task itself to consider foremost this ground *vis-vis* the elements of Violation of Sec. 3(g) of R.A. No. 3019:

> a) the accused is a public officer;
> b) that he entered into a contract or transaction on behalf of the government; and
> c) that such contract or transaction is grossly and manifestly disadvantageous to the government.[59]

The presence of the first and second elements is settled. As to the third, the Sandiganbayan primarily anchored on the report and the testimony of Soriano its declaration that the subject transactions were grossly and manifestly disadvantageous to the government. It ruled that based on the re-canvass conducted by the team on the eight (8) items involved in the transactions, the prices of the SLTDs procured from D'Implacable exceeded the prevailing market prices by as much as 64% to 1,175%; thus, were overpriced.[60]

COA Circular No. 85-55A defines "excessive expenditures" as follows:

> 3.3. EXCESSIVE EXPENDITURES

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[57] *Manila International Airport Authority v. Olongapo Maintenance Services, Inc..*, 567 Phil. 255, 277 (2008).
[58] *Lagoc v. Malaga, et al.*, 738 Phil. 623, 630 (2014).
[59] *People v. Go*, 730 Phil. 363, 369 (2014).
[60] *Rollo* (G.R. No. 167316-17), p.113.

> Definition: The term "excessive expenditures" signifies unreasonable expense or expenses incurred at an immoderate quantity and exorbitant price. It also includes expenses which exceed what is usual or proper as well as expenses which are unreasonably high, and beyond just measure or amount. They also include expenses in excess of reasonable limits.

The report enumerated the procedure allegedly undertaken by the team in determining the prices of the SLTDs, viz:

> OVERPRICING
>
> 1.6. To determine the reasonableness of the prices paid for by the Division Office on the purchase of SLTDs, the team performed the following audit procedure:
>
> > 1.6.1. Obtained samples of each laboratory tool and devices purchased by the Division of Davao Oriental. Memorandum Receipts covering all the samples were issued by the agency to the audit team and are marked as Exhibits 1, 2 and 3 of this report.
> >
> > 1.6.2. Brought and presented these samples to reputable business establishments in Davao City like the Mercury Drug Store, Berovan Marketing Incorporated and Allied Medical Equipment and Supply Corporation (AMESCO) where these items are also available, for price verification.
> >
> > 1.6.3. Available items which were exactly the same as the samples presented were purchased from AMESCO and Berovan Marketing Incorporated, the business establishments which quoted the lowest prices. Official Receipts were issued by the AMESCO and Berovan Marketing Incorporated which are hereto marked as Exhibits 4, 5, 6 and 7, respectively.[61]

A review of the exhibits attached to the report readily evinced that, contrary to the team's claim, no samples of the SLTDs were actually obtained from DECS-Davao Oriental, the subject of its audit. Exhibits 1[62] and 2[63] referred to in 1.6.1 of the report were the *Memorandum Receipt for Equipment, Semi-Expandable and Expandable Property,* respectively, issued by the Schools Division Superintendent of Digos, Davao del Sur, and Davao City, for the SLTDs received by the team and which were intended to be used for the canvass; while Exhibit 3[64] was the *Invoice-Receipt for Property* issued by the Superintendent of Tagum, Davao Province.

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61 Exhibit folder; Exhibit "A," pp. 13-14.
62 Id. at 42.
63 Id. at 43.
64 Id. at 44.

Because the sample SLTDs came from the divisions of Davao del Sur, Davao City, and Tagum, Davao Province, it was implausible to ascertain whether the tools and devices delivered by D'Implacable to DECS-Davao Oriental were exactly the same as those that were allegedly canvassed by the team. Consequently, it was improbable to determine whether the SLTDs of D'Implacable would have commanded equivalent or higher prices than those shown by the team during the "canvass." Significantly, the different DECS divisions of Region XI procured SLTDs also from Joven's Trading[65] thus reinforcing the doubt as to the sameness of the brand and quality of the tools and devices delivered by D'Implacable to DECS-Davao Oriental with those that were presented for "canvassing" by the team.

It must be stressed that, pursuant to COA Circular No. 85-55A, the term "excessive expenditure" pertains to the variables of price and quality. As to the price, the circular provides that it is excessive if "it is more than the 10% allowable price variance between the **price for the item bought** and the **price of the same item per canvass of the auditor.**"[66] Undoubtedly, what was required to be canvassed was the very same item subject of the assailed transaction. Evaluated against this COA definition, it cannot be validly maintained that the prices of D'Implacable were excessive considering that the items bought by DECS-Davao Oriental were obviously not the very same items "canvassed" by the team.

Soriano confirmed that her team had not prepared the canvass sheet – the single document that would have shown that a canvass was actually undertaken, the listing of the comparative prices of the SLTDs and the availability of the tools and devices from the three establishments. Soriano forwarded the justification that an actual canvass was undertaken and that the team had procured particular SLTDs only from the establishments selling the lowest price as evidenced by the cash invoices.[67] Her justification fails to convince. The cash invoices support only the finding that the SLTDs were procured by the team from AMESCO and Berovan but, not that a canvass was undertaken or that these two establishments had offered the lowest price for particular tools and devices. The absence of the canvass sheets not only highlights the feebleness of the claim that the prices of the SLTDs procured from D'Implacable were excessively higher than those that were "canvassed" but also lends truth to the probability that in actuality no canvass was undertaken.

In a case[68] involving the alleged overpriced purchase of *walis tingting* by Parañaque City, the Court held that the prosecution failed to provide the requisite burden of proof in order to overcome the presumption of innocence in favor of petitioners where the evidence against them would merely

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65 Records (OMB-MIN-91-0202), pp. 247-254 and 260-263.
66 Emphasis and underscoring supplied.
67 TSN, 24 April 2001, pp. 45-46.
68 *Caunan v. People,* 614 Phil. 179 (2009).

indicate the present market price of *walis tingting* of a **different specification** purchased from a **non-supplier** of Parañaque City, and the price of *walis tingting* purchased **in Las Piñas City**. The Court stressed that to prove its case of overpricing resulting in gross and manifest disadvantage to the government, the prosecution should have presented evidence of the actual price of the particular *walis tingting* purchased by Parañaque City at the time of the audited transaction or, at the least, an approximation thereof.

Similarly, in *Buscaino v. Commission on Audit,*[69] we reiterated our ruling in *Arriola v. Commission on Audit, et al.,*[70] and in *National Center for Mental Health Management v. Commission on Audit*[71] that mere allegations of overpricing are not:

> x x x [I]n the absence of the actual canvass sheets and/or price quotations from identified suppliers, a valid basis for outright disallowance of agency disbursements/cost estimates for government projects.
>
> A more humane procedure, and totally conformable to the due process clause, is for the COA representative to allow the members of the Contracts Committee mandatory access to the COA source documents/canvass sheets. Besides, this gesture would have been in keeping with COA's own Audit Circular No. 85-55-A par. 2.6, that:
>
> x x x As regards excessive expenditures, they shall be determined by place and origin of goods, volume or quantity of purchase, service warranties/quality, special features of units purchased and the like x x x
>
> By having access to source documents, petitioners could then satisfy themselves that COA guidelines/rules on excessive expenditures had been observed. The transparency would also erase any suspicion that the rules had been utilized to terrorize and/or work injustice, instead of ensuring a "working partnership" between COA and the government agency, for the conservation and protection of government funds, which is the main rationale for COA audit.
>
> x x x x
>
> We agree with petitioners that COA's disallowance was not sufficiently supported by evidence, as it was premised purely on undocumented claims, as in fact petitioners were denied access to the actual canvass sheets or price quotations from accredited suppliers. x x x
>
> x x x x
>
> It was incumbent upon the COA to prove that its standards were met in its audit disallowance. The records do not show that such was done in this case.
>
> x x x [A]bsent due process and evidence to support COA's disallowance,

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69 369 Phil. 886 (1999).
70 279 Phil. 156 (1991).
71 333 Phil. 222 (1996).

COA's ruling on petitioner's liability has no basis.[72]

Obviously, the element that the transaction must be grossly and manifestly disadvantageous to the government was not sustained by the testimonial and documentary evidence of the People. "Manifest" means that it is evident to the senses, open, obvious, notorious, unmistakable, etc.[73] "Gross" means "flagrant, shameful, such conduct as is not to be excused."[74] On the one hand, "disadvantageous" is defined as unfavorable, prejudicial.[75] Assessed against these definitions, we cannot see how the assailed transactions in these cases could have been disadvantageous to the government when, at the very least, the evidence of the prosecution only confirmed that sample SLTDs were secured by the team from three different divisions of Region XI, but not from DECS-Davao Oriental which was the subject of its audit; and that SLTDs, at a unit each, were purchased from Berovan and AMESCO.

In view of these findings, this Court finds it no longer necessary to dwell on the other issues raised by the petitioners.

The legal teaching in our jurisprudence is that the evidence adduced must be closely examined under the lens of the judicial microscope and that the conviction flows only from the moral certainty that guilt has been established by proof beyond reasonable doubt.[76] The presumption of innocence of an accused in a criminal case is a basic constitutional principle fleshed out by procedural rules which place on the prosecution the burden of proving that an accused is guilty of the offense charged by proof beyond reasonable doubt.[77] For conviction must rest no less than on hard evidence showing that the accused, with moral certainty, is guilty of the crime charged. Short of these constitutional mandate and statutory safeguard – that a person is presumed innocent until the contrary is proved – the Court is then left without discretion and is duty bound to render a judgment of acquittal.[78]

WHEREFORE, premises considered, the 10 January 2005 Decision and 7 March 2005 Resolution of the Sandiganbayan, Fourth Division, in Criminal Case Nos. 23625-26 are hereby **REVERSED** and **SET ASIDE**. Petitioners VENANCIO R. NAVA, PRIMO C. OBENZA, and EVELYN L. MIRANDA are **ACQUITTED** of the charges against them.

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72 *Buscaino v. Commission on Audit,* supra note 65 at 902-903.
73 *Sajul v. Sandiganbayan*, 398 Phil. 1082, 1105 (2000).
74 *Morales. v. People of the Philippines*, 434 Phil. 471, 488 (2002).
75 Webster's Third New International Dictionary, 1983.
76 *Zapanta v. People,* G.R. No. 192698-99, 22 April 2015, 757 SCRA 173, 196.
77 *People v. Maraorao*, 688 Phil. 458, 466 (2012).
78 *Evangelista v. People,* 392 Phil. 449, 458 (2000).

SO ORDERED.

SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.F LEONEN
Associate Justice

FRANCIS H. JARDELEZA
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.

ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice