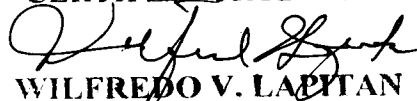




Republic of the Philippines  
**SUPREME COURT**  
 Manila

CERTIFIED TRUE COPY  
  
**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division

JUL 05 2018

**THIRD DIVISION**

**PHILIPPINE DEPOSIT  
 INSURANCE CORPORATION,**

**G.R. No. 234616**

Petitioner,

Present:

- versus -

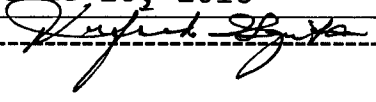
VELASCO, JR., J., Chairperson,  
 BERSAMIN,\*  
 LEONEN,  
 MARTIRES, and  
 GESMUNDO, JJ.

**MANU GIDWANI,**

Promulgated:

Respondent.

June 20, 2018

X----------X

**DECISION**

**VELASCO, JR., J.:**

**Nature of the Case**

For the Court's consideration is the Petition for Review on Certiorari under Rule 45 of the Rules of Court filed by Philippine Deposit Insurance System (PDIC) and docketed as G.R. No. 234616. The petition assails the January 31, 2017 Decision<sup>1</sup> and October 6, 2017 Resolution<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 146439. The challenged rulings reversed the finding of probable cause to charge respondent Manu Gidwani (Manu) with estafa through falsification under Art. 315(2)(a) in relation to Art. 172(1) and 171(4) of the Revised Penal Code (RPC), and for money laundering as defined in Section 4(a) of Republic Act No. (RA) 9160, otherwise known as the Anti-Money Laundering Act of 2001 (AMLA).

\* On leave.

<sup>1</sup> Penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Ricardo R. Rosario and Marie Christine Azcarraga-Jacob.

<sup>2</sup> Rollo, p. 80.

### The Facts

Pursuant to several resolutions of the Monetary Board (MB) of the Bangko Sentral ng Pilipinas (BSP), the following rural banks owned and controlled by the Legacy Group of Companies (Legacy Banks) were ordered closed and thereafter placed under the receivership of petitioner Philippine Deposit Insurance Corporation (PDIC):<sup>3</sup>

Name of Bank	MB Resolution No.	Date of Closure
Nation Bank, Inc.	1691	12/19/08
Rural Bank of Carmen, Inc.	1695	12/19/08
Dynamic Rural Bank, Inc.	1652	12/16/08
San Pablo Development Bank, Inc.	1653	12/16/08
Bank of East Asia, Inc.	1647	12/12/08
First Interstate Bank, Inc.	1648	12/12/08
Philippine Countryside Rural Bank, Inc.	1649	12/12/08
Rural Bank of San Jose, Inc.	1637	12/11/08
Pilipino Rural Bank, Inc.	1638	12/11/08
Rural Bank of Bais, Inc.	1639	12/11/08
Rural Bank of Paranaque, Inc.	1616	12/09/08
Rural Bank of DARBCI, Inc.	1692	12/19/08
Rural Bank of Polangui, Inc.	353	02/26/10

Respondent Manu, together with his wife Champa Gidwani and eighty-six (86) other individuals, represented themselves to be owners of four hundred seventy-one (471) deposit accounts with the Legacy Banks and filed claims with PDIC. The claims were processed and granted, resulting in the issuance of six hundred eighty-three (683) Landbank of the Philippines (Landbank) checks in favor of the 86 individuals, excluding the spouses Gidwani, in the aggregate amount of P98,733,690.21.

Two diagonal lines appeared in each of the Landbank checks, indicating that they were crossed-checks "Payable to the Payee's Account Only." Despite these explicit instructions, the individuals did not deposit the crossed checks in their respective bank accounts. Rather, the face value of all the checks were credited to a single account with Rizal Commercial Banking Corporation (RCBC) – RCBC Account No. 1-419-86822-8, owned by Manu.

PDIC alleges that it only discovered the foregoing circumstance when the checks were cleared and returned to it. This prompted PDIC to conduct an investigation on the true nature of the deposit placements of the 86 individuals. Based on available bank documents, the spouses Gidwani and the 86 individuals maintained a total of 471 deposit accounts aggregating P118,187,500 with the different Legacy Banks, and that 142 of these accounts, with the total amount of P20,966,439.09, were in the names of helpers and rank-and-file employees of the Gidwani spouses. Thus, they

<sup>3</sup> Id. at 11.

allegedly did not have the financial capacity to deposit the amounts recorded under their names, let alone make the deposits in various Legacy Banks located nationwide. PDIC likewise noted that advance interests on several of the deposits were paid to the Gidwani spouses even though they are not the named owners of the accounts.

It is PDIC's contention, therefore, that the Gidwani spouses and the 86 individuals, with the indispensable cooperation of RCBC, deceived PDIC into issuing the 683 checks with the total face value of P98,733,690.21. Petitioner posits that the 86 individuals are not entitled to the proceeds of the deposit insurance since they are not the true owners of the accounts with the Legacy Banks, albeit recorded under their names. Rather, it is the spouses Gidwani who are the true beneficial owners thereof and can only be entitled to a maximum deposit coverage of P250,000.00 each pursuant to Sec. 4(g) of the PDIC Charter, as amended. However, with wilful malice and intent to circumvent the law, the Gidwani spouses made it appear that the deposits for which the insurance was paid were owned by 86 distinct individuals when, in truth and in fact, all the deposits were maintained for the sole benefit of the Gidwani spouses.


Pursuant to its mandate to safeguard the deposit insurance fund against illegal schemes and machinations, PDIC, on November 6, 2012, lodged a criminal complaint<sup>4</sup> before the Department of Justice (DOJ) Task Force on Financial Fraud (DOJ Task Force) for estafa through falsification under Art. 315(2)(a) in relation to Art. 172(1) and 171(4) of the Revised Penal Code and for money laundering as defined in Section 4(a) of AMLA against the Gidwani spouses and the 86 other individuals. To summarize, the complaint against the respondents, docketed as I.S. No. XVI-INV-12K-00480, was built on the following circumstances:

- a. 683 crossed-checks "for payees account only," representing deposit insurance aggregating P98,733,690.21, were issued to the 86 individuals. Of the amount stated, P97,733,690.21 was deposited to an account controlled by the Spouses Manu and Champa Gidwani;
- b. The funds used to open the questioned deposit accounts were from a single source;
- c. Advance interests on deposits not in the name of the Gidwani spouses were paid to Manu;
- d. 55 of the 86 individual respondents used as their mailing addresses either or both the home and business addresses of the principal respondents.<sup>5</sup>

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<sup>4</sup> Id. at 100.

<sup>5</sup> Id. at 611.



In their counter-affidavits, the Gidwani spouses denied the charges against them, particularly on being owners of the accounts in question.<sup>6</sup> In brief, they claimed that there was no falsification committed by them since what was stated about the 86 individuals being the owners of their respective accounts was true. Manu merely had a fund management agreement with the depositors who got into investing with the Legacy Banks because of him. They sought his help in setting up investment portfolios and in managing them. The funds that were remitted for him to manage were then placed in the different Legacy Banks under their names to prevent co-mingling of funds.<sup>7</sup>

The circumstances brought to fore by the PDIC do not negate the fact of ownership of the other individual depositors, so Manu claimed.<sup>8</sup>

*First*, he explained that he funded the opening of some of the accounts in the name of the depositors merely for convenience and practicality, and in order to avail of better rates and freebies. He also lamented that PDIC left out the fact that the other accounts were funded by respondents themselves.

*Second*, it was the Legacy Banks themselves that requested that advanced interests for the accounts being managed by Manu as a group to be paid to him, to which set-up the individual depositors agreed for convenience.

*Third*, the crossed-checks issued by PDIC ended up in his RCBC account because the other respondents did not have other accounts of their own. The payees then requested him to advance the value of their checks in exchange thereof. Manu adds that there was nothing illegal with the arrangement since the checks, although crossed, bore the endorsement of the payees or their duly authorized representatives.

*Fourth*, the depositors had been using Manu's business and residential address because some of them live abroad and stay at Manu's residence when in the Philippines. This is aside from the fact that it is Manu who was managing their accounts and had to deal with all concerns relating thereto.


*Finally*, respondent Manu pointed out that PDIC approved and realized the insurance claims not because of any perceived misrepresentation, but because PDIC itself verified that the individual respondents were in fact the owners of the subject bank accounts.

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<sup>6</sup> Id. at 567.

<sup>7</sup> Id. at 568.

<sup>8</sup> Id. at 568-570.



### Resolutions of the Department of Justice

On January 14, 2014, the DOJ Task Force promulgated a Resolution<sup>9</sup> dismissing the Complaint in the following manner:

**WHEREFORE**, on premises considered, the above-entitled complaint is recommended **DISMISSED** for lack of probable cause.

**SO RESOLVED.**

The DOJ Task Force's rationale in dismissing the complaint is that the voluminous records of the case allegedly do not support the theory that Manu owned all of the accounts in question, much less falsified commercial and official documents in claiming insurance deposits. It found that less than half of the accounts in question were funded by Manu through his RCBC account while the rest were funded by the account holders themselves.

PDIC's motion for reconsideration from the January 14, 2014 Resolution was denied through the DOJ Task Force's Resolution<sup>10</sup> dated December 3, 2014. Unperturbed, PDIC interposed a petition for review with the Office of the Secretary of Justice (SOJ).

On September 11, 2015, then Undersecretary of Justice Jose F. Justiniano issued a Resolution (Justiniano Resolution)<sup>11</sup> denying PDIC's appeal thusly:

**WHEREFORE**, premises considered, the petition is hereby **DENIED**.

**SO ORDERED.**<sup>12</sup>

Based on the Justiniano Resolution, PDIC failed to overcome the presumption of ownership over the subject deposits. On the contrary, the respondents bolstered their position by proffering a practical and plausible set-up, pursuant to an internal fund management agreement, that resulted in Manu's relation with the subject deposits.<sup>13</sup>

Moreover, PDIC allegedly failed to prove that respondents lied in their insurance claims. Respondents could not have worked fraud into the claims without detection under the rigorous claims process. Rather, the fault in the perceived error in payment lies with PDIC for its negligence in processing the claims, in failing to conduct a thorough investigation, and in its failure to detect the red flags earlier on.

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<sup>9</sup> Id. at 559.

<sup>10</sup> Id. at 609.

<sup>11</sup> Id. at 658.

<sup>12</sup> Id. at 672.

<sup>13</sup> Id. at 663.

On June 3, 2016, then SOJ Emmanuel Caparas, however, overturned the Justiano Resolution through his own ruling granting PDIC's motion for reconsideration (Caparas Resolution).<sup>14</sup> The dispositive portion of the ruling states:

**WHEREFORE**, the motion for reconsideration is hereby **GRANTED**. The Resolution of this Office dated 11 September 2015, and the Resolutions dated 14 January 2014 and 03 December 2014 of the DOJ-Task Force on Financial Fraud, are hereby **REVERSED** and **SET ASIDE**.

The Prosecutor General is hereby directed to: (1) file separate informations for the complex crime of estafa under Article 315(2)(a) in relation to Articles 172(1) and 171(4) of the Revised Penal Code against each of the respondents pursuant to the attached Annex "A"; (2) file the corresponding informations for violation of Article 183 of the Revised Penal Code against the respondents, except as to respondents RCBC and Andrew Jereza and respondents Manu and Champa Gidwani; (3) file the corresponding informations for violation of Section 4(a) of the Anti-Money Laundering Act of 2001 or R.A. 9160 against the 86 respondents and respondents Spouses Manu and Champa Gidwani, and for violation of Section 4(c) of the Anti-Money Laundering Act against respondent Andrew Jereza; and (4) to report the action taken thereon within ten (10) days from receipt hereof.

**SO ORDERED.**<sup>15</sup>

In so ruling, SOJ Caparas ratiocinated that, on the charge of estafa through falsification, the individual depositors committed false pretenses when they made it appear that they were the legitimate owners of the subject bank accounts with the Legacy Banks, which information was used in the processing of the insurance claims with PDIC, even when in truth and in fact, the accounts were owned and controlled by Manu. Had the depositors truthfully divulged to PDIC that the true and beneficial owner of the subject bank accounts was Manu, PDIC would not have been duped into treating the bank accounts individually and separately. It would have only paid the Gidwani Spouses P250,000.00, and not P98,733,690.21.<sup>16</sup>

SOJ Caparas did not give credence to the defense that there existed a fund management agreement between Manu, on the one hand, and the 86 respondents, on the other. For aside for the self-serving and barren allegation, no other piece of evidence was offered to support the claim. Besides, a fund management agreement, being essentially an investment contract, would have required registration with the Securities and Exchange Commission, so SOJ Caparas ruled.<sup>17</sup>

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<sup>14</sup> Id. at 693.

<sup>15</sup> Id. at 701-702.

<sup>16</sup> Id. at 698.

<sup>17</sup> Id. at 698-699.

Aggrieved, several of the respondents filed their respective motions for reconsideration of the Caparas Resolution. Meanwhile, herein respondent Manu immediately elevated the matter to the CA, ascribing grave abuse of discretion on the part of SOJ Caparas in finding probable cause to charge him with estafa and for violation of the AMLA. The case was docketed as CA-G.R. SP No. 149497.

On November 29, 2016, SOJ Vitaliano N. Aguirre granted the motions for reconsideration of several of Manu's co-respondents *a quo*, reinstating the Justiniano Resolution.<sup>18</sup>

### **Ruling of the Court of Appeals**

Through its challenged January 31, 2017 Decision, the CA reversed the Caparas Resolution, thusly:

**WHEREFORE**, petition is **GRANTED**. The Resolution dated June 3, 2016 of then DOJ Secretary Emmanuel L. Caparas is **ANNULED** and **SET ASIDE**. Resultantly, the DOJ Resolutions dated September 11, 2015, dismissing the Complaint of Philippine Deposit Insurance Corporation is **REINSTATED**.

The Prosecutor General is hereby **DIRECTED** to cause the withdrawal of any Information that might have been filed in court against the petitioner, if any, based on the Resolution dated June 3, 2016.

### **SO ORDERED.**


According to the CA, SOJ Caparas gravely abused his discretion when he reversed and set aside the earlier resolutions of the DOJ Task Force and of SOJ Justiniano even though no new evidence was offered by PDIC to support its allegations against Manu and his co-respondents.

Additionally, the CA held that a review of PDIC's complaint would show that the allegations against Manu were not sufficient to constitute the offense of estafa or money-laundering. PDIC could not be deemed to have been deceived by the Gidwani spouses and the 86 other individuals since the latter are the true owners and depositors of the accounts and monies involved. Their insurance claims were granted after undergoing the tedious verification and investigation process performed by PDIC itself. Based on PDIC's own evaluation then, the individual depositors were indeed the true owners of the accounts.<sup>19</sup>

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<sup>18</sup> Id. at 800.

<sup>19</sup> Id. at 73.



The CA upheld the presumption that a depositor is presumed to be the owner of funds standing in his name in a bank deposit, and ruled that the circumstances alleged by PDIC do not dovetail with its theory that the subject accounts were owned solely by the spouses Gidwani. For the appellate court, the opening of the accounts, the use of the mailing address, the transmittal of advance interests, and the subsequent deposit of the checks in the RCBC account of the Gidwani spouses are not indications of ownership. Rather, they confirm the defense that an arrangement had been made between the spouses and the individual depositors on the management of the latter's funds.<sup>20</sup> Consequently, the claims filed before the PDIC cannot be deemed as falsified claims.

PDIC moved for reconsideration from this adverse ruling, but the CA affirmed its earlier ruling through its October 6, 2017 Resolution. This brings us to the instant recourse.

### **The Issues**

PDIC's petition is hinged on the following assignment of errors:

#### I.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN TAKING COGNIZANCE OF RESPONDENT MANU GIDWANI'S PETITION FOR CERTIORARI UNDER RULE 65 OF THE 1997 RULES OF CIVIL PROCEDURE TO ASSAIL THE CAPARAS RESOLUTION DESPITE HIS FAILURE TO FILE A MOTION FOR RECONSDIERATION WITH THE DOJ PRIOR TO THE FILING OF THE PETITION FOR CERTIORARI

#### II.


WHETHER OR NOT THE CAPARAS RESOLUTION BECAME FINAL AND EXECUTORY INSOFAR AS RESPONDENT MANU GIDWANI IS CONCERNED FOR FAILURE TO ASSAIL THE CAPARAS RESOLUTION THROUGH A MOTION FOR RECONSIDERATION

As can be gleaned, PDIC stated purely procedural issues in its petition for review. Nevertheless, the allegations in the petition are sufficient for Us to delve into the issue of whether or not the CA erred in finding that SOJ Caparas acted in grave abuse of discretion in overturning the Justiniano Resolution even though no additional evidence was adduced by PDIC to support its claim.

For his part, respondent Gidwani maintains that the complaint is based on nothing more than PDIC's suspicion that the subject bank accounts were actually owned by him and his spouse; that the presumption that each individual depositor is the owner of the funds under his name in a bank

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<sup>20</sup> Id. at 76.





deposit was not refuted by PDIC; that the circumstances surrounding the case confirm the arrangement for fund management between the spouses Gidwani and the individual depositors; that the individual depositors confirmed their ownership over the deposited funds; and that PDIC itself acted on the applications of the individual claimants and effectively ruled on the legitimacy of their claims by approving the same.

### **The Court's Ruling**

The petition is meritorious.

### **The CA erred in ruling that SOJ Caparas gravely abused his discretion in reversing the Justiniano Resolution absent additional evidence from PDIC**

Hornbook doctrine is that courts of law are precluded from disturbing the findings of public prosecutors and the DOJ on the existence or non-existence of probable cause for the purpose of filing criminal informations, unless such findings are tainted with grave abuse of discretion, amounting to lack or excess of jurisdiction.<sup>21</sup> As explicated in *Aguilar v. Department of Justice (Aguilar)*:<sup>22</sup>

[t]he rationale behind the general rule rests on the principle of separation of powers, dictating that the determination of probable cause for the purpose of indicting a suspect is properly an executive function; while the exception hinges on the limiting principle of checks and balances, whereby the judiciary, through a special civil action of certiorari, has been tasked by the present Constitution "to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."

Grave abuse of discretion had been defined in jurisprudence to mean a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be patent and gross so as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law.<sup>23</sup> The underlying principle behind the courts' power to review a public prosecutor's determination of probable cause is to ensure that the latter acts within the permissible bounds of his authority or does not gravely abuse the same. This manner of judicial review is a constitutionally-enshrined form of check and balance which underpins the very core of our system of government.<sup>24</sup>

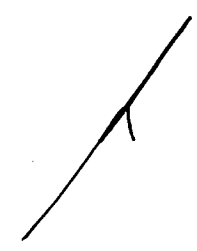
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<sup>21</sup> *Aguilar v. Department of Justice*, G.R. No. 197522, September 11, 2013.

<sup>22</sup> *Id.*

<sup>23</sup> *Chua v. People of the Philippines*, G.R. No. 195248, November 22, 2017.

<sup>24</sup> *Aguilar v. Department of Justice*, supra note 21.



In the assailed Decision, the CA held that SOJ Caparas gravely abused his discretion when he superseded the earlier resolutions of the DOJ Task Force and of SOJ Justiniano even though there was no new evidence offered by PDIC to justify the reversal. To quote the CA:

There is nothing new in the evidence revisited, reviewed and reassessed by Secretary Caparas from those initially studied and examined by the investigating panel who have the opportunity to sift first hand these evidence. Considering that the fact finding panel of the DOJ found no prima facie case against the petitioner, a fact affirmed by the DOJ Secretary through Undersecretary Justiniano, great restraint should have been exercised by Secretary Caparas in reversing the findings of the investigating panel during the preliminary investigation. There were no new evidence presented in the motion for reconsideration of PDIC that would compel Secretary Caparas to rule otherwise. It must be stressed that the panel had already determined an independent finding or recommendation that no probable cause exists against the petitioner. In overturning the said findings and recommendations of the [DOJ Task Force], he acted in an arbitrary and despotic manner by reason of passion or personal hostility.

x x x x

x x x It must be pointed out that the petition for review was already resolved by the DOJ Secretary through Undersecretary Justiniano. In other words, the power of the DOJ Secretary to review, approve, reverse or modify acts and decisions of his subordinate officials or unit had already been performed as in fact, the then Secretary believed on the theory of the petitioner through Undersecretary Justiniano. The question therefore may be asked – after he assumed the position of Acting Secretary of Justice, can Caparas again make a second look on the said complaint and act favourably on PDIC's motion for reconsideration taking into account that what the latter had presented in its motion are the same arguments and theories already threshed out by his predecessor making its motion as a *pro forma* motion? Since a resolution had already been promulgated by the investigating panel and reviewed by the previous Secretary of Justice, the motion for reconsideration has to be denied if only to write finis to this controversy, otherwise it will open gates to endless litigation and probable miscarriage of justice.<sup>25</sup> (words in brackets added)

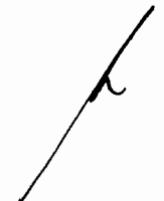
The Court strongly disagrees with this pronouncement.

The filing of a motion for reconsideration is not mere formality, but an opportunity for a judicial or quasi-judicial body to correct imputed errors, in fact or in law, in its findings and conclusions.<sup>26</sup> The office of the motion is *precisely* to grant the investigating body, the DOJ in this case, the opening to give a second hard look at the matter at hand, and to determine if its previous ruling is in accord with evidence on record and statute.

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<sup>25</sup> *Rollo*, pp. 69-70.

<sup>26</sup> *National Housing Authority v. Court of Appeals*, G.R. No. 144275, July 5, 2001



In resolving the motion for reconsideration lodged with his office and in exercising jurisdiction, SOJ Caparas has the power and discretion to make his own personal assessment of the pleadings and evidence subject of review. He is not bound by the rulings of his predecessors because there is yet to be a final resolution of the issue; the matter is still *pending* before his office after all. To hold otherwise would render the filing of the motion a futile exercise, and the recourse, pointless.

Jurisprudence teaches, in a litany of cases, that a motion for reconsideration is generally considered as the plain, speedy, and adequate remedy that is a condition *sine qua non* to the filing of a petition for certiorari,<sup>27</sup> within the contemplation of Rule 65, Section 1 of the Rules of Court.<sup>28</sup> But if the judicial or quasi-judicial body would be precluded from overruling its earlier pronouncement on reconsideration, then a motion for reconsideration would be no remedy at all, let alone one that is plain, speedy, and adequate.

The treatment of a motion for reconsideration is then not a ministerial function that can only result in the denial thereof. It was therefore plain error on the part of the CA to have ruled that SOJ Caparas virtually had no option but to affirm the findings of the DOJ Task Force and of SOJ Justiniano as to the alleged absence of probable cause to charge respondent.

That no new evidence was offered by PDIC on reconsideration is of no moment. For under Section 13 of Department Circular No. 70 of the DOJ, otherwise known as the 2000 National Prosecutorial Service Rule on Appeal (2000 NPS Rules), the party aggrieved by the ruling of the SOJ during the preliminary investigation may file a motion for reconsideration within a non-extendible period of ten (10) days from notice. Quite conspicuous, however, is that the 2000 NPS Rules does not specify the grounds for filing the said motion. In this regard, the Court refers to the Rules of Court for guidance.

Rule 1, Section 4 of the Rules of Court provides that the rules can be applied in a supplementary character. It means that the provisions in the Rules of Court will be made to apply where there is deficiency or an insufficiency in the applicable rule.<sup>29</sup> Thus, even though the 2000 NPS Rules is lacking in specifics insofar as the grounds for a motion for reconsideration is concerned, Rule 37 of the Rules of Court bridges the breach. Pertinently, Rule 37, Section 1 states:

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<sup>27</sup> *Id.*

<sup>28</sup> Section 1. Petition for *certiorari*. When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of [its or his] jurisdiction, or with grave abuse of discretion amounting to lack or excess of its or his jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

<sup>29</sup> *Government Service Insurance System v. Villaviza*, G.R. No. 180291, July 27, 2010.

**RULE 37****New Trial or Reconsiderations**

**Section 1. Grounds of and period for filing motion for new trial or reconsideration.** — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.

Within the same period, the **aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.** (emphasis added)

As can be gleaned, a motion for reconsideration may be granted if (1) the damages awarded are excessive, (2) the evidence is insufficient to justify the decision or final order, or (3) the decision or final order is contrary to law. The judicial or quasi-judicial body concerned may arrive at any of the three enumerated conclusions even without requiring additional evidence. To be sure, the introduction of newly discovered additional evidence is a ground for new trial or a *de novo* appreciation of the case, but not for the filing of a motion for reconsideration. Judicial proceedings even prohibit the practice of introducing new evidence on reconsideration since it potentially deprives the opposing party of his or her right to due process. While quasi-judicial bodies in administrative proceedings may extend leniency in this regard and allow the admission of evidence offered on reconsideration or on appeal,<sup>30</sup> this is merely permissive and does not translate to a requirement of attaching additional evidence to support motions for reconsideration.

**The CA erred in ruling that SOJ Caparas gravely abused his discretion in finding probable cause**

Proceeding to the crux of the controversy, the Court now resolves whether or not the CA erred in dismissing due to lack of probable cause the criminal complaint for estafa through falsification under Art. 315(2)(a) in relation to Art. 172(1)<sup>31</sup> and 171(4)<sup>32</sup> of the RPC, and for money laundering

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<sup>30</sup> *Scisan v. NLRC*, G.R. No. 176240, October 17, 2008

<sup>31</sup> **Article 172.** *Falsification by private individual and use of falsified documents.* - xxx

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document; x x x

as defined in Section 4(a) of RA 9160. Here, the legal proscriptions purportedly violated by respondent read:

**Article 315. *Swindling (estafa)*.** – x x x

x x x x

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits.

x x x x

**Section 4. *Money Laundering Offense*.** – Money laundering is a crime whereby the proceeds of an unlawful activity are transacted, thereby making them appear to have originated from legitimate sources. It is committed by the following:

a. Any person knowing that any monetary instrument or property represents, involves, or relates to the proceeds of any unlawful activity, transacts or attempts to transact said monetary instrument or property.

Jurisprudence elucidates that the elements of *estafa* or swindling under paragraph 2 (a) of Article 315 of the RPC are the following:<sup>33</sup>

1. That there must be a false pretense, fraudulent act or fraudulent means;
2. That such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud;
3. That the offended party must have relied on the false pretense, fraudulent act, or fraudulent means, that is, he was induced to part with his money or property because of the false pretense, fraudulent act, or fraudulent means;
4. That as a result thereof, the offended party suffered damage.

According to PDIC, the crime charged was committed when the 86 other individuals fraudulently declared that they are the bona fide owners of 471 deposits with the legacy banks; that the purported depositors, in conspiracy with Manu, falsified official documents by making the untruthful statement of ownership in their deposit insurance claims; that PDIC relied on the representations of the claimants when it released to them the deposit insurance proceeds amounting to P98,733,690.21, of which P97,733,690.21 was deposited to the RCBC account of Manu Gidwani; and that the

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<sup>32</sup> **Article 171. *Falsification by public officer, employee or notary or ecclesiastic minister*.** - The penalty of prision mayor and a fine not to exceed P5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

x x x x

4. Making untruthful statements in a narration of facts.

<sup>33</sup> *Sy v. People of the Philippines*, G.R. No. 183879, April 14, 2010.

government suffered damage when PDIC discovered upon investigation that Manu was the sole beneficial owner of the bank accounts.

In the assailed Decision, the CA did not give credence to the allegations of PDIC. It ruled instead that “PDIC failed to prove that [Manu] is the owner of all subject bank accounts or financed the same” and, as such, Manu could not be considered to have committed false pretenses or misrepresentation against PDIC.

We disagree.

It must be recalled that the criminal case is still in the stage of preliminary investigation. Under Rule 112, Section 1 of the Rules of Court, a preliminary investigation is “an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial.” The investigation is advisedly called preliminary, because it is yet to be followed by the trial proper in a court of law.<sup>34</sup> The occasion is not for the full and exhaustive display of the parties since the function of the investigating prosecutor is not to determine the guilt or innocence of an accused.

In this case, the PDIC reportedly discovered that there was only one beneficial owner of the 471 bank accounts with the Legacy Banks of the 86 individual depositors – respondent Manu. To illustrate, PDIC reportedly discovered that 142 of these 471 accounts, with the total amount of P20,966,439.09, were in the names of helpers and rank-and-file employees of the Gidwani spouses who do not have the financial capacity to deposit the amounts recorded under their names, *viz*:<sup>35</sup>

Respondent	Occupation	No. of Bank Accounts/Checks Received	Insurance Received (Php)
Julie Alib	Helper	27	3,980,054.55
Erlyn Aragon	Helper	22	3,106,040.63
Lorlyn Arellano	Helper	27	3,891,289.95
Faith Jabagat	Sales Girl at Glory Bazar	6	978,063.16
Kenny Matani	Sales Manager at Glory Bazar	24	3,513,734.40
Lourdes Matani	Sales Girl at Glory Bazar	12	1,812,057.21
Rodin Mixdon	Technician at Glory Bazar	2	250,000.00
Gerline Molines	Sales Girl at Glory Bazar	6	938,803.69
Francisca Talatala	Sales Clerk at Glory Bazar	6	908,242.61
Emily Taleon	Sales Girl at Glory Bazar	10	1,588,152.94
<b>Total</b>		<b>142</b>	<b>20,966,439.09</b>

<sup>34</sup> *Claridad v. Esteban*, G.R. No. 191567, March 20, 2013.

<sup>35</sup> *Rollo*, p. 17.

Moreover, the helpers and rank-and-file employees who reside and are employed in Bacolod City maintained bank accounts in Legacy Banks located in different parts of the country:<sup>36</sup>

<b>Respondent</b>	<b>Banks</b>	<b>Location</b>
Julie Alib (27 accounts)	Rural Bank of Bais, Inc. Rural Bank of DARBCI, Inc. Rural Bank of San Jose, Inc. San Pablo Development Bank, Inc. Bank of East Asia, Inc. Nation Bank, Inc. Philippine Countryside Rural Bank, Inc. Pilipino Rural Bank, Inc. Rural Bank of Carmen, Inc. Rural Bank of Polangui, Inc.	Mandaue City, Cebu South Cotabato San Jose, Batangas San Pablo, Laguna Minglanilla, Cebu Bacolod City, Negros Occidental Lapu-Lapu City, Cebu Dumaguete City, Negros Oriental West Cogon, Cebu Polangui, Albay
Erlyn Aragon (22 accounts)	Pilipino Rural Bank, Inc. Rural Bank of Bais, Inc. (Home Office) Rural Bank of Bais, Inc. (Mandaue) Rural Bank of Polangui, Inc. Rural Bank of San Jose, Inc. San Pablo Development Bank, Inc. Nation Bank, Inc. Philippine Countryside Rural Bank, Inc. Rural Bank of Carmen, Inc. Rural Bank of Paranaque, Inc. (Pasig)	Bacolod City, Negros Occidental Bais City, Negros Oriental Mandaue City, Cebu Polangui, Albay San Jose, Batangas San Pablo, Laguna Bacolod City, Negros Occidental Lapu-Lapu City, Cebu West Cogon, Cebu Pasig City, Metro Manila
Lorlyn Arellano (27 accounts)	Nation Bank, Inc. Rural Bank of Bais, Inc. (Home Office) Rural Bank of Bais, Inc. (Mandaue) Rural Bank of Polangui, Inc. Rural Bank of San Jose, Inc. San Pablo Development Bank, Inc. Bank of East Asia, Inc. Philippine Countryside Rural Bank, Inc. Pilipino Rural Bank, Inc. Rural Bank of DARBCI, Inc. Rural Bank of Paranaque, Inc. (Pasig)	Bacolod City, Negros Occidental Bais City, Negros Oriental Mandaue City, Cebu Polangui, Albay San Jose, Batangas San Pablo, Laguna Minglanilla, Cebu Lapu-Lapu City, Cebu Dumaguete City, Negros Oriental South Cotabato Pasig City, Metro Manila
Faith Jabagat (2 accounts)	Nation Bank, Inc. Philippine Countryside Rural Bank, Inc.	Bacolod City, Negros Occidental Lapu-Lapu City, Cebu
Kenny Matani (24 accounts)	Nation Bank, Inc. Philippine Countryside Rural Bank, Inc. Rural Bank of Bais, Inc. (Mandaue) Rural Bank of DARBCI, Inc. Rural Bank of Carmen, Inc. Rural Bank of San Jose, Inc. San Pablo Development Bank, Inc. Bank of East Asia, Inc. Rural Bank of Paranaque, Inc. (Pasig)	Bacolod City, Negros Occidental Liloan, Cebu Mandaue City, Cebu South Cotabato West Cogon, Cebu San Jose, Batangas San Pablo, Laguna Minglanilla, Cebu Pasig City, Metro Manila
Lourdes Matani (12 accounts)	Nation Bank, Inc. Philippine Countryside Rural Bank, Inc. Rural Bank of Bais, Inc. (Mandaue) San Pablo Development Bank, Inc. Rural Bank of Paranaque, Inc. (Pasig)	Bacolod City, Negros Occidental Lapu-Lapu City, Cebu Mandaue City, Cebu San Pablo, Laguna Pasig City, Metro Manila

<sup>36</sup> Id. at 17-19.

Rodin Mixdon (2 accounts)	Rural Bank of Bais, Inc. (Mandaue)	Mandaue City, Cebu
Gerline Molines (6 accounts)	Nation Bank, Inc. Philippine Countryside Rural Bank, Inc. Rural Bank of Bais, Inc. (Mandaue)	Bacolod City, Negros Occidental Lapu-Lapu City, Cebu Mandaue City, Cebu
Francisca Talatala (6 accounts)	Nation Bank, Inc. Philippine Countryside Rural Bank, Inc. Rural Bank of Bais, Inc. (Mandaue)	Bacolod City, Negros Occidental Lapu-Lapu City, Cebu Mandaue City, Cebu
Emily Taleon (10 accounts)	Nation Bank, Inc. Rural Bank of Bais, Inc. (Home Office) Rural Bank of Bais, Inc. (Mandaue) San Pablo Development Bank, Inc. Philippine Countryside Rural Bank, Inc.	Bacolod City, Negros Occidental Bais City, Negros Oriental Mandaue City, Cebu San Pablo, Laguna Lapu-Lapu City, Cebu

That these individuals reported either respondent Manu's office or business address as their own further arouses serious suspicion on the true ownership of the funds deposited. It gives the impression that they had been used by respondent as dummies, and their purported ownership mere subterfuge, in order to increase the amount of his protected deposit.

Under Republic Act No. 3591 (PDIC Charter), as amended, all deposits in a bank maintained in the same right and capacity for a depositor's benefit, either in his name or in the name of others, shall be added together for the purpose of determining the insured deposit amount due to a bona fide depositor, which amount should not exceed the maximum deposit insurance coverage (MDIC) of P250,000.00. Thus, the entitlement to a deposit insurance is based *not* on the number of bank accounts held, but on the number of beneficial owners. It is this government policy and P250,000.00 threshold that respondent Manu purportedly circumvented by conspiring with the 86 individuals. If not for the fact that the 683 Landbank crossed checks amounting to P97,733,690.21 were deposited in the RCBC account of respondent Manu, petitioner would not have gotten wind of this probable concealment of true ownership over the subject bank accounts.

A crossed check is one where two parallel lines are drawn across its face or across its corner, and carries with it the following effects: (a) the check may not be encashed but only deposited in the bank; **(b) the check may be negotiated only once to the one who has an account with the bank;** and (c) the act of crossing the check serves as a warning to the holder that the check has been issued for a definite purpose and he must inquire if he received the check pursuant to this purpose; otherwise, he is not a holder in due course.<sup>37</sup> **In other words, the crossing of a check is a warning that the check should be deposited only in the account of the payee.**<sup>38</sup> Thus, to the mind of the Court, the act of depositing second-endorsed crossed-checks in the name of 86 different payees under a single account is highly irregular if not potentially criminal.

<sup>37</sup> *Go v. Metropolitan Bank and Trust Co.*, G.R. No. 168842, August 11, 2010.

<sup>38</sup> *Go v. Metropolitan Bank and Trust Co.*, G.R. No. 168842, August 11, 2010.



Respondent seeks to exonerate himself from the charges by claiming that PDIC was negligent in processing the insurance claims. This was, in fact, the ruling of the DOJ Task Force – that there was a clear paper trail by which PDIC could have traced and uncovered the status of the subject accounts before releasing the proceeds. The proposition, however, deserves scant consideration. For negligence on the part of the PDIC does not preclude the commission of fraud on the part of the claimants, and could have even made the agency even more susceptible to abuse.

Respondent likewise raised that he and the individual depositors entered into a fund management scheme to facilitate the transactions with the Legacy Banks; he did not deny opening and funding some of the accounts for the individual creditors, and even admitted to receiving advance interests for the subject bank accounts that were meant for the actual depositors. Anent this contention, SOJ Caparas held that the allegation of a fund management scheme is barren and self-serving, and that, in any event, the agreement partakes the nature of an investment contract that ought to have been registered first with the Securities and Exchange Commission before it can be given effect.

Whether or not there indeed existed an agreement between respondent Manu and the individual depositors is a matter best left ventilated during trial proper, where evidence can be presented and appreciated fully. Suffice it to state for now that the Court herein finds probable cause to charge respondent for estafa and money laundering.

**WHEREFORE**, premises considered, the instant petition is hereby **GRANTED**. The January 31, 2017 Decision and October 6, 2017 Resolution of the Court of Appeals in CA-G.R. SP No. 146439 are hereby **REVERSED** and **SET ASIDE**. The June 3, 2016 Resolution of the Department of Justice, through then Secretary of Justice Emmanuel L. Caparas, in NPS Docket No. XVI-INV-12K-00480 finding probable cause to charge respondent Manu Gidwani for estafa through falsification under Art. 315(2)(a) in relation to Art. 172(1) and 171(4) of the RPC in the amount of P97,733,690.21, and for money laundering as defined in Section 4(a) of RA 9160 is hereby **REINSTATED**.


**SO ORDERED.**

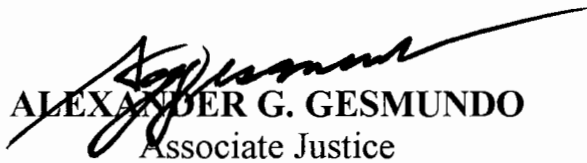
**PRESBITERO J. VELASCO, JR.**  
Associate Justice

WE CONCUR:

(On Leave)  
**LUCAS P. BERSAMIN**  
Associate Justice


  
**MARVIC M.V.F. LEONEN**  
Associate Justice

  
**SAMUEL R. MARTIRES**  
Associate Justice

  
**ALEXANDER G. GESMUNDO**  
Associate Justice

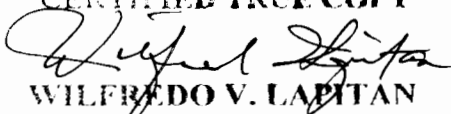
**ATTESTATION**

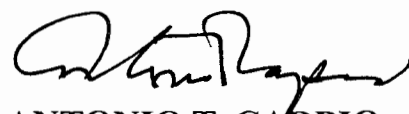
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

**CERTIFICATION**

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

**CERTIFIED TRUE COPY**  
  
**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division

  
**ANTONIO T. CARPIO**  
Acting Chief Justice

JUL 05 2018