EN BANC

G.R. No. 241494 – SEN. ANTONIO "SONNY" F. TRILLANES IV, Petitioner, **v. HON. SALVADOR C. MEDIALDEA in his capacity as Executive Secretary, HON. DELFIN N. LORENZANA, in his capacity as Secretary of National Defense, HON. EDUARDO M. AÑO, in his capacity as Secretary of Interior and Local Government, HON. MENARDO I. GUEVARRA, in his capacity as Secretary of Justice, GEN. CARLITO G. GALVEZ, JT., in his capacity as Chief of Staff, Armed Forces of the Philippines, P/DIR. GEN. OSCAR D. ALBAYALDE, in his capacity as Chief of the Philippine National Police, and all persons acting for and in their behalf and/or under their direction,** Respondents.

G.R. No. 256660 – PEOPLE OF THE PHILIPPINES, Petitioner, **v. SEN. ANTONIO "SONNY" F. TRILLANES IV,** Respondent.

G.R. No. 256078 – PEOPLE OF THE PHILIPPINES, Petitioner, **v. SEN. ANTONIO F. TRILLANES IV,** Respondent.

Promulgated:

April 3, 2024

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SEPARATE CONCURRING OPINION

LEONEN, *J.*:

A driver's license validly issued cannot be rendered invalid if the State, through an administrative agency, cannot present the application that the license applicant had submitted to it previously. In the same vein, the appointment of a judge who has been sitting in the bench for 30 years cannot be invalidated if the Judicial and Bar Council can no longer present the judge's application submitted to it 30 years prior. Rights that have already been vested cannot be arbitrarily withdrawn, regardless of the change in administrations.

Before us is the case of former Senator Antonio "Sonny" F. Trillanes IV (Trillanes), a former member of the Armed Forces of the Philippines. In 2003, Trillanes, with a group of other soldiers known as the Magdalo Group, took over the Oakwood Premier Apartments in Makati City. The members of the Magdalo Group were promptly charged with the crime of *coup d'etat* for the attempted mutiny. In 2007, during the hearing of their criminal case before the trial court, the Magdalo Group walked out of the court room to take over the Manila Peninsula Hotel to call for the ouster of then President

Gloria Macapagal-Arroyo.[1] They were likewise charged with rebellion for the Peninsula incident.[2]

In 2010, then President Benigno S. Aquino III issued Proclamation No. 75, which provided, among others:

> SECTION 1. *Grant of Amnesty.* – Amnesty is hereby granted to all active and former personnel of the AFP and PNP as well as their supporters who have or may have committed crimes punishable under the Revised Penal Code, the Articles of War or other laws in connection with, in relation or incident to the July 27, 2003 Oakwood Mutiny, the February 2006 Marines Stand-Off and the November 29, 2007 Manila Peninsula Incident who shall apply therefor; Provided that amnesty shall not cover rape, acts of torture, crimes against chastity and other crimes committed for personal ends.

The Proclamation further stated:

> SECTION 4. *Effects.* –
>
> (a) Amnesty pursuant to this proclamation shall extinguish any criminal liability for acts committed in connection, incident or related to the July 27, 2003 Oakwood Mutiny, the February 2006 Marines Stand-Off and the November 29, 2007 Peninsula Manila Hotel Incident without prejudice to the grantee's civil liability for injuries or damages caused to private persons.
>
> (b) Except as provided below, the grant of amnesty shall effect the restoration of civil and political rights or entitlement of grantees that may have been suspended, lost or adversely affected by virtue of any executive, administrative or criminal action or proceedings against the grantee in connection with the subject incidents, including criminal conviction or any form, if any.

To process the applications for amnesty in relation to Proclamation No. 75, the Department of National Defense created a committee which promulgated the Department of National Defense Amnesty Committee Circular No. 1, titled the "Rules of Procedure of the DND Ad Hoc Amnesty Committee for the Implementation of Presidential Proclamation No. 75."[3] The second paragraph of Section 11 of these Rules, in particular, provides:

> No application shall be approved without an express admission by the applicant of actual involvement/participation in connection with, in relation or incident to the July 27, 2003 Oakwood Mutiny, the February 2006 Marines Stand-Off and/or the November 29, 2007 Peninsula Manila Hotel Incident and that such involvement/ participation constituted a violation of the 1987 Constitution, criminal laws and the Articles of War,

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1 *Ponencia*, p. 3.
2 *Id.* at 4.
3 *Id.* at 6.

> as indicated in the application form. No application shall likewise be approved without a recantation of all previous statements, if any, that are inconsistent with such express admission of actual involvement/participation and guilt.

On January 21, 2011, the Department of National Defense granted amnesty to Trillanes, as shown by a Certificate of Amnesty signed by then National Defense Secretary Voltaire Gazmin. Trillanes presented this Certificate to the trial courts where his coup d'etat and rebellion cases were pending, in support of his Motions to Dismiss. Acting on his Motions, the trial courts dismissed the cases against him.[4]

In the 2016 National and Local Elections, then Davao City Mayor Rodrigo R. Duterte was elected president. Trillanes, then a senator, had become a vocal critic of former President Duterte.

On August 31, 2018, then President Duterte issued Proclamation No. 572, or the "Revocation of the Department of National Defense Ad Hoc Committee Resolution No. 2(#1) dated January 31, 2011 insofar as it granted Amnesty to Former LTSG Antonio Trillanes IV." The Proclamation claimed that Trillanes did not comply with the conditions of Proclamation No. 75, as he allegedly did not admit to his guilt in the Oakwood and Peninsula incidents:[5]

> WHEREAS, former LTSG Antonio Trillanes IV, O-11797 PN, a grantee under Proclamation No. 75, did not file an Official Amnesty Application Form as per the Certification dated August 30, 2018 issued by Lt. Col. Thea Joan N. Andrade, Chief Discipline, Law and Order Division of the Office of the Deputy Chief of Staff for Personnel, J1 starting that "there is no available copy of his application for amnesty in the records";
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> WHEREAS, former LTSG Antonio Trillanes IV, O-11797 PN, never expressed his guilt for the crimes that were committed on occasion of the Oakwood Mutiny and Peninsula Manila Hotel Siege, stating that "they were not admitting guilt to the mutiny and coup d'etat charges lodged against them both in the civil and military courts" and "I would like to qualify that we did not admit to the charge of coup d'etat or anything na ifinile sa amin kasi we believe na hindi iyon and nararapat na i-charge sa amin[.]"[6]

On September 4, 2018, the Department of Justice filed a Very Urgent Ex-Parte Omnibus Motion for Issuance of Hold Departure Order and Alias Warrant of Arrest against Trillanes before Branch 148, the trial court where the *coup d'etat* case had been pending. It also filed a Very Urgent Ex-Parte Omnibus Motion for the Issuance of a Hold Departure Order and Warrant of

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4 *Id.* at 8–9.
5 *Id.* at 9.
6 *Id.* at 10.

Arrest before Branch 150, the trial court where the rebellion case had been pending.[7]

Trillanes alleged that on the same day, members of the Philippine National Police and the Criminal Investigation and Detection Group and officers of the Armed Forces of the Philippines attempted to arrest him while he was in the Senate Building.[8]

The primordial issue before this Court is the validity of Proclamation No. 572 and its subsequent effects on the *coup d'etat* and rebellion cases against Trillanes.

I concur with the *ponencia* that Proclamation No. 572 should be declared void, as it undoubtedly singled out Trillanes, violating his constitutional rights:

> It is clear and undeniable, from the very language of Proclamation No. 572, that it was issued specifically for the purpose of declaring void the grant of amnesty to Trillanes despite the fact that the Secretary of National Defense issued numerous other certificates of amnesty to applicants under Proclamation No. 75. There were, in fact, 277 amnesty grantees under Proclamation No. 572. Since the intent to single out Trillanes is patent and manifest, there must be a showing that this classification is reasonable.
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> . . . .
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> This deliberate singling out of Trillanes is underscored by the fact that there is no explanation as to why the government specifically sought for a copy of his amnesty application form. There is no explanation as to what triggered this process and whether there was any justifiable reason to reopen the issue almost a decade after the certificate of amnesty was issued . . . .
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> This, considered along with the fact that Trillanes was not even notified that the government was apparently reviewing his amnesty application, let alone given an opportunity to explain any alleged irregularity, highlights the arbitrariness of the issuance of Proclamation No. 572.
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> When the machinery of the government is brought to bear down on an individual in this way, fealty to the Constitution and the laws guards against governmental abuse. In situations like this, the value of the Bill of Rights becomes even clearer. It is often an individual's last line of defense against the awesome powers of the State. In the government's zeal to carry out its duties, there may be instances where it may attempt to explain a disregard of fundamental rights as miniscule, justifiable, or even necessary. Yet even the loftiest of intentions cannot justify a breach of the

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7 *Id.* at 11.
8 *Id.*

> Constitution. The rule of law is the people's greatest protection against abuse.[9]

I agree that Proclamation No. 572 was in clear violation of Trillanes's right to due process and equal protection of the laws, as he was the only amnesty grantee under Proclamation No. 75 to have come under Proclamation No. 572. I likewise agree that Proclamation No. 572 should be declared void for violating the constitutional provision against *ex post facto* laws and that upholding its validity would violate his right to double jeopardy.

In my view, however, Proclamation No. 572 should also be declared void for being in the nature of a bill of attainder. I am also of the opinion that Proclamation No. 572 cannot be used as basis to allow the warrantless arrest of Trillanes.

I explain further.

I

Preliminarily, I express my concurrence with the *ponencia's* pronouncement that this case was ripe for adjudication, as it involves conflicting legal rights or a contrariety of rights.[10] In *Calleja v. Executive Secretary*:[11]

> An actual case or controversy exists when there is a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute. The issues presented must be definite and concrete, touching on the legal relations of parties having adverse interests. There must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence. Corollary thereto, the case must not be moot or academic, or based on extra-legal or other similar considerations not cognizable by a court of justice. All these are in line with the well-settled rule that this Court does not issue advisory opinions, nor does it resolve mere academic questions, abstract quandaries, hypothetical or feigned problems, or mental exercises, no matter how challenging or interesting they may be. Instead, case law requires that there is ample showing of *prima facie* grave abuse of discretion in the assailed governmental act in the context of actual, not merely theoretical, facts.[12]

In *Universal Robina Corporation v. Department of Trade and Industry*,[13] this Court further stressed that a case is ripe for adjudication

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9 *Id.* at 57–59.
10 *Id.* at 34.
11 G.R. No. 252578, December 7, 2021 [Per J. Carandang, *En Banc*].
12 *Id.*
13 G.R. No. 203352, February 14, 2023 [Per J. Leonen, *En Banc*].

when there is a clear and convincing showing of contrariety of the parties' legal rights.[14] To establish an actual case, the allegations of the parties must clearly demonstrate that that there is contrariety of rights and there is no other way to interpret the assailed governmental act than that it is unconstitutional.

Executive Secretary v. Pilipinas Shell[15] further laid down the guidelines in determining the existence of clear and convincing contrariety of rights:

> Thus, in asserting contrariety of rights, it is not enough to merely allege an incongruence of rights between the parties. The party availing of the remedy must demonstrate that the statue is so contrary to his or her rights that there is no other interpretation other than that there is a factual breach of rights. There can be no clearly demonstrable contrariety of rights when there are possible ways to interpret the statutory provision, ordinance or a regulation that will save its constitutionality. In other words, the party must clearly demonstrate contrariety of rights by showing that only possible way to interpret the provision is unconstitutional, that it is the very *lis mota* of the case, and therefore, ripe for adjudication.[16]

Here, Trillanes argues that the President's issuance of Proclamation No. 572 singled him out and targeted him, violating his right against warrantless arrests, double jeopardy, due process, and equal protection of laws. Respondents, however, argue that such issuance was within the power of clemency granted to the President.

If the Proclamation is upheld as a valid exercise of presidential power, and if the violation to fundamental rights is clear, it could potentially give subsequent administrations the power to render void any prior act of the previous administration, regardless of violations to an individual or a group's fundamental rights.

The violation of one's right against warrantless arrests, double jeopardy, due process, and equal protection of laws carries with it, among others, a loss of the fundamental right to liberty. This violation is so egregious and so imminent that this Court cannot interpret the assailed government act other than that it is unconstitutional. There is, thus, an allegation in the Petitions of a clear contrariety of rights between the parties.

II

Article III, Section 2 of the Constitution mandates:

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14 *Id.*

15 G.R. No. 209216, February 21, 2023 [Per J. Leonen, *En Banc*].

16 *Id.*

> SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Thus, as a general rule, no arrest shall be made without a corresponding warrant of arrest.

This is not to say that all warrantless arrests are invalid. The Rules of Court provides for exceptions where a person may be lawfully arrested, even without any warrant of arrest having been issued:

> RULE 113
> Arrest
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> . . . .
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> SECTION 5. *Arrest without warrant; when lawful.* — A peace officer or a private person may, without a warrant, arrest a person:
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> (a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
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> (b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
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> (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.
>
> In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with section 7 of Rule 112.

In this case, Trillanes alleges that members of the members of the Philippine National Police and the Criminal Investigation and Detection Group and officers of the Armed Forces of the Philippines attempted to arrest him[17] while their application for warrants of arrest was still pending before the trial courts.

Any arrest made in this specific instance would be invalid. The mere issuance of Proclamation No. 572 did not grant to State forces the power to

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[17] *Ponencia*, p. 11.

rearrest Trillanes in connection to his *coup d'etat* and rebellion cases. This is clear from the wording itself of Proclamation No. 572, which provides:

> SECTION 2. *Effects.*
>
> 1. As a consequence, the Department of Justice and Court Martial of the Armed Forces of the Philippines are ordered to pursue all criminal and administrative cases filed against former LTSG Antonio Trillanes in relation to the Oakwood Mutiny and the Manila Peninsula Incident.
>
> 2. The Armed Forces of the Philippines and the Philippine National Police are ordered to employ all lawful means to apprehend former LTSG Antonio Trillanes so that he can be recommitted to the detention facility where he had been incarcerated for him to stand trial for the crimes he is charged with.[18]

The directive to "employ all lawful means" carries with it the implied instruction to carry out the arrest according to what the law provides. In this instance, there must first be a warrant of arrest. The pending applications for a warrant of arrest on the same day as the alleged attempt to arrest Trillanes clearly shows that the Executive department knew that a warrant of arrest was necessary. Thus, to proceed without a warrant would make any arrest invalid.

III

Proclamation No. 572 is void as it violates Trillanes's right against double jeopardy.

Article III, Section 21 of the Constitution states:

> SECTION 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

Melo v. People[19] explains the concept of double jeopardy, thus:

> [Double jeopardy] meant that when a person is charged with an offense and the case is terminated either by acquittal or conviction or in any other manner without the consent of the accused, the latter cannot again be charged with the same or identical offense. This principle is founded upon the law of reason, justice and conscience. It is embodied in the maxim of the civil law *non bis in idem*, in the common law of England, and undoubtedly in every system of jurisprudence, and instead of having specific origin it simply always existed. It found expression in the

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[18] *Id.* at 10–11.

[19] 85 Phil. 766 (1950) [Per C.J. Moran, *En Banc*].

> Spanish Law and in the Constitution of the United States and is now embodied in our own Constitution as one of the fundamental rights of the citizen.[20]

Caes v. Intermediate Appellate Court[21] likewise expounds:

> Fittingly described as "*res judicata* in prison grey," the right against double jeopardy prohibits the prosecution of a person for a crime of which he has been previously acquitted or convicted. The purpose is to set the effects of the first prosecution forever at rest, assuring the accused that he shall not thereafter be subjected to the danger and anxiety of a second charge against him for the same offense.[22]

The Rules of Court provides the instances when a subsequent charge constitutes a violation of the right against double jeopardy. Rule 117, Section 7 provides:

> Rule 117
> Motion to Quash
>
> . . . .
>
> SECTION 7. *Former conviction or acquittal; double jeopardy.* — When an accused has been convicted or acquitted, or the case against him dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.

Under this provision, double jeopardy has the following elements: "(a) a valid complaint or information; (b) filed before a competent court; (c) to which the defendant had pleaded; and (d) of which [they] had been previously acquitted or convicted or which was dismissed or otherwise terminated without [their] express consent."[23]

The *ponencia*, thus, correctly found that "[w]here an accused moves for the dismissal of a criminal case on the ground that he or she has been granted amnesty . . . double jeopardy applies."[24] Even if such dismissal was with Trillanes's express consent, his rearrest on the basis of these cases constituted double jeopardy.

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20 *Id.* at 768.
21 258-A Phil. 620 (1989) [Per J. Cruz, First Division].
22 *Id.* at 626–627.
23 *Caes v. Intermediate Appellate Court*, 258-A Phil. 620, 627 (1989) [Per J. Cruz, First Division].
24 *Ponencia*, p. 46.

Under the Revised Penal Code, criminal liability is completely extinguished by a grant of amnesty:

> ARTICLE 89. *How criminal liability is totally extinguished.* — Criminal liability is totally extinguished:
>
> . . . .
>
> (3) By amnesty, which completely extinguishes the penalty and all its effects[.]

People v. Nanadiego[25] states that "[i]t has been consistently ruled by this Court that amnesty looks backward and abolishes and puts into oblivion the offense itself, it so overlooks and obliterates the offense with which [they are] charged; that the person released by amnesty stands before the law precisely as though [they] had committed no offense."[26]

Thus, considering that the practical effect of amnesty is the complete extinguishment of the offense, it would be illogical for any grantee of an amnesty not to seek the dismissal of their cases filed before the courts. The dismissal would be on the merits. Any subsequent reindictment on the same offense would be double jeopardy.

Caes likewise recognizes that there can be double jeopardy even if the dismissal of the prior case was made on the motion of the accused:

> There are instances in fact when the dismissal will be held to be final and to dispose of the case once and for all even if the dismissal was made on motion of the accused himself. The first is where the dismissal is based on a demurrer to the evidence filed by the accused after the prosecution has rested. Such dismissal has the effect of a judgment on the merits and operates as an acquittal. In *People v. City of Silay*, for example, the trial court dismissed the case on motion of the accused on the ground of insufficiency of the prosecution evidence. The government came to this Court on certiorari, and the accused pleaded double jeopardy. Our finding was that the case should not have been dismissed because the evidence submitted by the prosecution was not insufficient. Even so, the petitioner had to be denied relief because the dismissal amounted to an acquittal on the merits which was therefore not appealable. Justice Muñoz-Palma said: "However erroneous the order of the respondent Court is, and although a miscarriage of justice resulted from said order, such error cannot now be lighted because of the timely plea of double jeopardy."

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25 261 Phil. 953 (1990) [Per J. Bidin, Third Division].

26 *Id.* at 963.

> The other exception is where the dismissal is made, also on motion of the accused, because of the denial of his right to a speedy trial. This is in effect a failure to prosecute . . . .[27] (Citations omitted)

In this instance, a motion to dismiss based on a grant of clemency operates as a dismissal on the merits. The dismissal is considered final. Any subsequent prosecution of these cases should be considered a violation of the right against double jeopardy.

IV

Proclamation No. 572 is in the nature of a bill of attainder and an *ex post facto* law and should be struck down as unconstitutional.

Article III, Section 22 of the Constitution succinctly mandates that "[n]o *ex post facto* law or bill of attainder shall be enacted."

People v. Ferrer[28] explains the concept and nature of a bill of attainder:

> A bill of attainder is a legislative act which inflicts punishment without trial. Its essence is the substitution of a legislative for a judicial determination of guilt. The constitutional ban against bills of attainder serves to implement the principle of separation of powers by confining legislatures to rule-making and thereby forestalling legislative usurpation of the judicial function. History in perspective, bills of attainder were employed to suppress unpopular causes and political minorities, and it is against this evil that the constitutional prohibition is directed. The singling out of a definite class, the imposition of a burden on it, and a legislative intent, suffice to stigmatize a statute as a bill of attainder.[29]

I am aware that only legislative acts can be classified as bills of attainder, and that *Montenegro v. Castañeda*[30] has stated that a presidential proclamation, not being a legislative act, cannot be considered as such.

Proclamation No. 572, however, seeks to prosecute Trillanes and only Trillanes for the offenses of *coup d'etat* and rebellion in relation to the Oakwood and Peninsula incidents. It was specifically employed "to suppress unpopular causes and political minorities" and it "[singled] out . . . a definite class, [and imposed] a burden on it,"[31] which are the very evils sought to be prevented by the prohibition on bills of attainder.

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27 *Caes v. Intermediate Appellate Court*, 258-A Phil. 620, 627–628 (1989) [Per J. Cruz, First Division].
28 150-C Phil. 551 (1972) [Per J. Castro, *En Banc*].
29 *Id.* at 564–565.
30 91 Phil. 882, 885 (1952) [Per J. Bengzon, *En Banc*].
31 *People v. Ferrer*, 150-C Phil. 551, 565 (1972) [Per J. Castro, *En Banc*].

In this case, the reason for the withdrawal of Trillanes's grant of amnesty had not been sufficiently proven. There was no process by which Trillanes was given a chance to prove that his application was invalid. The Proclamation had immediately concluded that "he did not comply with the minimum requirements to qualify under the Amnesty Proclamation."[32] It immediately provided for a punishment, that is, the voiding of his grant of clemency, without just cause.

Proclamation No. 572 should likewise be declared unconstitutional for being in the nature of an *ex post facto* law.

An *ex post facto* law is one that:

> (1) makes criminal an act done before the passage of the law and which was innocent when done, and punishes such an act;
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> (2) aggravates a crime, or makes it greater than it was, when committed;
>
> (3) changes the punishment and inflicts a greater punishment than the law annexed to the crime when committed;
>
> (4) alters the legal rules of evidence, and authorizes conviction upon less or different testimony than the law required at the time of the commission of the offense;
>
> (5) assuming to regulate civil rights and remedies only, in effect imposes penalty or deprivation of a right for something which when done was lawful; and
>
> (6) ***deprives a person accused of a crime of some lawful protection to which he has become entitled, such as the protection of a former conviction or acquittal, or a proclamation of amnesty.***[33] (Emphasis supplied)

The mere title of the issuance in itself already states its *ex post facto* nature, "*insofar as it granted Amnesty to Former LTSG Antonio Trillanes IV.*" The Proclamation recognizes that Trillanes already benefitted from a proclamation of amnesty and seeks to void that protection.

The grant of amnesty had already become final and can no longer be disturbed, even by a subsequent administration:

> These rules not only define when a decision becomes final, it also allows an amnesty grantee the right to rely on the effectivity of the amnesty and to the reasonable expectation that once the decision becomes final and immutable, his or her amnesty can no longer be disturbed.[34]

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32 Proclamation No. 572 (2018), sec. 1.

33 *In the Matter of the Petition for the Declaration of the Petitioner's Rights and Duties under Sec. 8 of R.A. No. 6132*, 146 Phil. 429, 431–432 (1970) [Per J. Makasiar, *En Banc*].

34 *Ponencia*, p. 52.

The provisions of the Proclamation likewise outscore its seemingly vindictive nature. Aside from the title, which singles out Trillanes's application among the other amnesty grantees, the grounds for the revocation do not stand the test of scrutiny and can be overturned by a mere presentation of contrary evidence:

> WHEREAS, former LTSG Antonio Trillanes IV, O-11797 PN, a grantee under Proclamation No. 75, did not file an Official Amnesty Application Form as per the Certification dated August 30, 2018 issued by Lt. Col. Thea Joan N. Andrade, Chief Discipline, Law and Order Division of the Office of the Deputy Chief of Staff for Personnel, J1 starting that "there is no available copy of his application for amnesty in the records";
>
> WHEREAS, former LTSG Antonio Trillanes IV, O-11797 PN, never expressed his guilt for the crimes that were committed on occasion of the Oakwood Mutiny and Peninsula Manila Hotel Siege, stating that "they were not admitting guilt to the mutiny and *coup d'etat* charges lodged against them both in the civil and military courts" and "I would like to qualify that we did not admit to the charge of *coup d'etat* or anything na ifinile sa amin kasi we believe *na hindi iyon and nararapat na i-charge sa amin,*"
>
> WHEREAS, despite former LTSG Trillanes IV's failure to apply for amnesty and refusal to admit his guilt, his name was nonetheless included among those granted amnesty pursuant to DND *Ad Hoc* Committee Resolution No 2 approved by former Secretary of National Defense Voltaire T. Gazmin[.][35]

As the *ponencia* states:

> The factual findings of Branch 148, as affirmed by the CA, and which the People did not deny, show that there were a total of 277 amnesty grantees under Proclamation No. 572 whose application forms could no longer be located. This notwithstanding, only Trillanes'[s] certificate of amnesty was declared void. This gross under-inclusiveness undercuts the respondent's claim that Proclamation No. 572 was based on a reasonable classification. If Proclamation No. 572 was issued with the intent of correcting the purported error of the Committee and the Secretary of National Defense, every one of the 277 amnesty grantees whose application forms could not be located should have been covered by Proclamation No. 572 or of some other proclamation declaring their certificates of amnesty void. There is no reasonable distinction between Trillanes and all the other amnesty grantees, or at least none was shown.[36]

In any case, even the *ponencia* upholds the trial court's finding that Trillanes did submit his application form.[37]

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35 Proclamation No. 572 (2018), Tenth, Eleventh, and Twelfth Whereas Clauses.

36 *Ponencia*, pp. 59–60.

37 *Id.* at 63–64.

Amnesty, once granted, is final and immutable. A subsequent administration cannot revoke it based on a mere supposition that there was no application made, merely because records of the application cannot be found.

Proclamation No. 572 clearly shows the potential for abuse of subsequent administrations for revisiting applications that have already been granted by a prior administration. If upheld, this Court's ruling would render any decision of any institution, whether administrative or judicial, subject to the whim of a subsequent administration.

ACCORDINGLY, I vote to the **GRANT** the Petition for *Certiorari*, Prohibition, and Injunction in G.R. No. 241494. I further vote to **DENY** the Petition for Review with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction and Set the Case for Oral Argument dated June 15, 2021 in G.R. No. 256660, and the Petition for Review with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction and Motion to Set the Case for Oral Argument in G.R. No. 256078.

Proclamation No. 572 should be declared **VOID** for violating the constitutional right against due process, equal protection of the laws, warrantless arrests, and double jeopardy, as well as the prohibition against bills of attainder and *ex post facto* laws.

MARVIC M.V.F. LEONEN
Senior Associate Justice