



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

BAI SANDRA SINSUAT A. SEMA, G.R. No. 198083  
Petitioner,

Present:

-versus-

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

REPUBLIC OF THE  
PHILIPPINES represented by THE  
ANTI-MONEY LAUNDERING  
COUNCIL (AMLC),  
Respondent.

Promulgated:  
OCT 10 2022

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DECISION

LEONEN, J.:

Probable cause must be established before a freeze order is issued by the Court of Appeals. This is shown through “facts and circumstances [that] would lead a reasonably discreet, prudent[,] or cautious [person] to believe that an unlawful activity and/or a money laundering offense is about to be, is being[,] or has been committed and that the account or monetary instrument or property subject thereof sought to be frozen is in any way related to said unlawful activity and/or money laundering offense.”<sup>1</sup>

This Court resolves the Petition for Review<sup>2</sup> filed by Bai Sandra Sinsuat A. Sema (Sema), assailing the Resolutions<sup>3</sup> of the Court of Appeals

<sup>1</sup> *Ligot v. Republic*, 705 Phil. 477, 501 (2013) [Per J. Brion, Second Division].

<sup>2</sup> *Rollo*, pp. 11–38.

<sup>3</sup> *Id.* at 726–792, 1781–1785. The July 5, 2011 Resolution in CA-G.R. AMLC No. 00040 denying the various motions to lift the Freeze Order, including Sema’s Urgent Motion to Lift Freeze Order, was penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justices

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that denied her Urgent Motion to Lift Freeze Order. The Court of Appeals earlier issued a Freeze Order<sup>4</sup> covering, among others, the various bank accounts and properties of a certain “Bai Sandra Ampatuan” and “Bai Sandra S. Ampatuan,” and others,<sup>5</sup> after granting the Urgent *Ex Parte* Petition<sup>6</sup> filed by the Republic of the Philippines through the Anti-Money Laundering Council (the Council). The Freeze Order directed various government agencies and private institutions<sup>7</sup> to freeze the bank accounts and properties of several individuals, including that of a Bai Sandra Ampatuan/Bai Sandra S. Ampatuan.

The Urgent *Ex Parte* Petition was based on an investigation conducted by the Council. Attached to it were the following:

1. Special Audit Report No. 2010 for the Office of the Regional Governor of the Autonomous Region in Muslim Mindanao by the Commission on Audit;
2. Evaluation Report on the lifestyle check conducted by the Office of the Deputy Ombudsman for Mindanao on Datu Andal S. Ampatuan, Sr. and Datu Zaldy U. Ampatuan;
3. Sinumpaang Salaysay of Lakmodin Alamada Saliao (Saliao) submitted to the Council; and
4. Joint Complaint-Affidavit and Supplemental Joint Complaint-Affidavit furnished to the Council and executed by the widows of the [Maguindanao] massacre’s victims.<sup>8</sup>

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Bienvenido L. Reyes and Elihu A. Ybañez of the Special Second Division of the Court of Appeals, Manila. A subsequent Resolution dated August 11, 2011 denied the various motions for reconsideration filed in the same case.

<sup>4</sup> *Id.* at 530–552. The June 6, 2011 Resolution in CA-G.R. AMLC No. 00040 issuing the Freeze Order was penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justices Bienvenido L. Reyes and Elihu A. Ybañez of the Special Second Division of the Court of Appeals, Manila.

<sup>5</sup> *Id.* at 1094–1095, 1520–1584. Also named in the Petition were Datu Andal Salibo Ampatuan, Sr., Hadja Bai Laila Uy Ampatuan, Datu Andal Uy Ampatuan, Jr., Zaldy Puti Uy Ampatuan, Zaldy Uy Ampatuan, Sajid Islam Uy Ampatuan, Osmena Medag Bandila, Delia Saqueton Sumail, Aladin Draper Sumail, Adham G. Patadon, Nelia N. Garde, Anwar Uy Ampatuan, Ameerah Ampatuan Mamalapat, Rebecca Uy Ampatuan-Ampatuan, Rebecca Padsod Ampatuan, Atty. Redemberto Reyes Villanueva, Datu Lucas Ampatuan Ampatuan, Alibai Sakal Ampatuan, Datu Ulo Upam Ampatuan, Datu Akmad Masukat Ampatuan, Soraida Biruar Ampatuan, Bai Shaydee Uy Ampatuan, Michelle Sakal Ampatuan, Michael Ampatuan Sulaik, and Bai Monadia Ampatuan Abdullah.

<sup>6</sup> *Id.* at 1006–1098.

<sup>7</sup> *Id.* at 1094–1095, 1630–1631. These institutions included Deal Gems and Jewelries Pawnshop, Maguindanao Electric Coop. (MAGELCO), Allied Banking Corporation, Banco de Oro, Unibank, Inc., Bank of the Philippine Islands, BPI Family Savings Bank, Coop Bank of Cotabato, Development Bank of the Philippines, East West Banking Corporation, Equicom Savings Bank, Inc., Equitable Card Network, Inc., Equitable PCI Bank, Land Bank of the Philippines, Metrobank Card Corporation, Metropolitan Bank and Trust Company, One Network RB, Inc., Philam Equitable Life Assurance Company, Philippine AXA Life Insurance Corporation, Philippine National Bank, Philippine Savings Bank, Planters Development Bank, PruLife Insurance Corporation of UK, RCBC Savings Bank, Rizal Commercial Banking Corporation, Security Bank Corporation, Standard Chartered Bank, Sterling Bank of Asia, Inc., Toyota Financial Services Philippine Corporation, Union Bank of the Philippines, United Coconut Planters Bank, Philippine National Police Firearms and Explosive Office, Land Transportation Office, Register of Deeds of Davao City, Register of Deeds of Maguindanao and/or Cotabato City, and Province of Maguindanao.

<sup>8</sup> *Id.* at 780–781.

In its Resolution,<sup>9</sup> the Court of Appeals found probable cause and issued a Freeze Order on the bank accounts listed in the Petition effective for 20 days.<sup>10</sup> The dispositive portion of the Resolution read:

WHEREFORE, premises considered, a freeze order is hereby ISSUED, effective for a period of twenty (20) days, and all the covered institutions and government offices, to wit: Deal Gems and Jewelries Pawnshop, Maguindanao Electric Coop. (MAGELCO), Allied Banking Corporation, Banco de Oro, Unibank, Inc., Bank of the Philippine Islands, BPI Family Savings Bank, Coop Bank of Cotabato, Development Bank of the Philippines, East West Banking Corporation, Equicom Savings Bank, Inc., Equitable Card Network, Inc., Equitable PCI Bank, Land Bank of the Philippines, Metrobank Card Corporation, Metropolitan Bank and Trust Company, One Network RB, Inc., Philam Equitable Life Assurance Company, Philippine AXA Life Insurance Corporation, Philippine National Bank, Philippine Savings Bank, Planters Development Bank, PruLife Insurance Corporation of UK, RCBC Savings Bank, Rizal Commercial Banking Corporation, Security Bank Corporation, Standard Chartered Bank, Sterling Bank of Asia, Inc., Toyota Financial Services Philippine Corporation, Union Bank of the Philippines, United Coconut Planters Bank, PNP Firearms and Explosive Office, Land Transportation Office, Register of Deeds of Davao City, Register of Deeds of Maguindanao and/or Cotabato City, and Province of Maguindanao are hereby DIRECTED to immediately freeze the bank accounts, including all related web of accounts, and all properties listed in "Annex H" of the Petition, which is made an integral part hereof, of all the respondents, namely: Datu Andal Salibo Ampatuan, Sr., Hadja Bai Laila Uy Ampatuan, Datu Andal Uy Ampatuan, Jr., Zaldy Puti Uy Ampatuan, Zaldy Uy Ampatuan, Sajid Islam Uy Ampatuan, Osmena Medag Bandila, Delia Saqueton Sumail, Aladin Draper Sumail, Adham G. Patadon, Nelia N. Garde, Tahirodin Benzar A. Ampatuan, Anwar Uy Ampatuan, Ameerah Ampatuan Mamalapat, Rebecca Uy Ampatuan-Ampatuan, Rebecca Padsod Ampatuan, Atty. Redemberto Reyes Villanueva, Datu Lucas Ampatuan Ampatuan, Alibai Sakal Ampatuan, Datu Ulo Upam Ampatuan, Datu Akmad Masukat Ampatuan, Soraida Biruar Ampatuan, Bai Shaydee Uy Ampatuan, *Bai Sandra Ampataun*, *Bai Sandra S. Ampatuan*, Michelle Sakal Ampatuan, Michael Ampatuan Sulaik, and Bai Monadia Ampatuan Abdullah.

Within twenty-four (24) hours from receipt of the freeze order, the said covered institutions and government agencies concerned are DIRECTED to submit to this Court and the Anti-Money Laundering Council, by personal delivery, a detailed written return on the freeze order specifying all the pertinent and relevant information which shall include the following: 1) the account numbers; 2) the names of the account owners or holders; 3) the amount of the monetary instrument, property or related web of accounts as of the time they were frozen; 4) all relevant information as to the nature of the monetary instrument or property subject of the freeze order; 5) any information on the related web of accounts pertaining to the monetary instrument or property subject of the freeze order; and 6) the time when the freeze thereon took effect, pursuant to Rule 10.3.c of the Revised Implementing Rules and Regulations of Republic Act No. 9160, as amended by Republic Act No. 9194.

<sup>9</sup> *Id.* at 530-552.

<sup>10</sup> *Id.* at 727.

Let copies of this Resolution be served in accordance with Section 54 in relation to Section 14 of A.M. No. 05-11-04-SC, upon the respondents or persons acting in their behalf, such covered institutions and government agencies, and such party in interest as may have appeared before the Court.

SO ORDERED.<sup>11</sup>

Thirty accounts<sup>12</sup> belonging to Sema and her husband were included in the Freeze Order.<sup>13</sup>

<i>Name</i>	<i>Account Number</i>	<i>Institution Name</i>
Bai Sandra Ampatuan Sema	00000161363910	Land Bank Of The Phils-Davao
Sandra Ampatuan Sema	0001008037904	Metropolitan Bank & Tco-Davao Ctr
Sandra Ampatuan Sema	0001008051320	Metropolitan Bank & Tco-Davao Ctr
Bai Sandra Ampatuan Sema	0001406002720	Metropolitan Bank & Tco-Cota Penda
Sema Bai Sandra Ampatuan	0006 003077	Standard Chartered Bank-
Sema Bai Sandra Ampatuan	01421749	Pru Life Insurance Corporation of UK-
Sema Muslimin Gampong	01422029	Pru Life Insurance Corporation Of UK-
Bai Sandra Ampatuan Sema	0161363910	Land Bank of The Phils-Davao
Bai Sandra Ampatuan Sema	0162004298	Land Bank Of The Phils-Davao
Bai Sandra Ampatuan Sema	0406000877476	Metropolitan Bank & TCO-
Sandra S. Ampatuan	1008037904	Metropolitan Bank & TCO-Davao Ctr
Bai Sandra Sema Ampatuan	111-52907-9	Equitable PCI Bank-
Bai Sandra S. Ampatuan	1142000284	Equitable PCI Bank-
Bai Sandra S Ampatuan	1148007582	Equitable Pci Bank-Makakua/Co
Bai Sandra Ampatuan	118-78813-2	Banco De Oro Unibank Inc-
Ampatuan Bai Sandra	1309009475	Banco De Oro Unibank Inc-
Ampatuan Bai Sandra	1359046886	Equitable PCI Bank-T M

<sup>11</sup> *Id.* at 550-552.

<sup>12</sup> These accounts included Account No. 00000161363910 with the Land Bank of the Philippines Davao under the name of Bai Sandra Ampatuan Sema; Account No. 0001008037904 with Metropolitan Bank & TCO-Davao Ctr under the name of Sandra Ampatuan Sema; Account No. 0001008051320 with Metropolitan Bank & TCO-Davao Ctr under the name of Sandra Ampatuan Sema.

<sup>13</sup> *Rollo*, pp. 582-583.

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Bai Sandra Ampatuan Sema	*170-09133-5	Banco De Oro Unibank Inc-
Sema Bai Sandra Ampatuan	2930004970	China Banking Corp-Cotabato
Sandra S. Ampatuan	3008422533	Metropolitan Bank & TCO-Davao Ctr
Bai Sandra Ampatuan Sema	3705578426	Phil National Bank-Cotabato
Bai Sandra Ampatuan Sema	3705578434	Phil National Bank-Cotabato
Bai Sandra Ampatuan Sema	3705578442	Phil National Bank-Cotabato
Bai Sandra Ampatuan Sema	3705578450	Phil National Bank-Cotabato
Ampatuan Sandra Sinsuat	510-0866168	Philippine AXA Life Insurance Corporation-
Ampatuan Sandra Sinsuat	510-0866176	Philippine AXA Life Insurance Corporation-
Bai Sandra S Ampatuan	5359008017	Banco De Oro Unibank Inc-
Muslimin Gampong Sema, Bai Sandra Ampatuan Sema	805519302611	Banco De Oro Unibank Inc-
Bai Sandra Ampatuan Sema	IC-14510204917	Banco De Oro Unibank Inc-
Ampatuan Bai Sandra	IC-64518003807	Banco De Oro Unibank Inc-

In turn, Sema filed an Urgent Motion to Lift Freeze Order.<sup>14</sup>

Sema alleged that she is the duly elected representative for the First District of Maguindanao and Cotabato City. Despite her maiden name being Ampatuan, she claimed that she is not related by blood to the other respondents of the Freeze Order who are members of the Ampatuan clan. Instead, she stated that she is the “daughter of the late Datu Mantato Sumagka Ampatuan, Sr., who in turn was the son of Datu Ampatuan Sabdullah of Kabuntalan. Datu Mantato Ampatuan took the first name of his father Ampatuan and annexed it as his last name.”<sup>15</sup> Thus, the Ampatuans of Kabuntalan where she comes from are not related to the Ampatuans of Shariff Aguak, where the other respondents of the Freeze Order came from.<sup>16</sup>

<sup>14</sup> *Id.* at 732.

<sup>15</sup> *Id.* at 732.


<sup>16</sup> *Id.* at 732–733.

Sema also alleged that the name, Bai Sandra Ampatuan/Bai Sandra S. Ampatuan, one of the respondents in the Freeze Order, does not refer to her whose maiden name is Bai Sandra Sinsuat Ampatuan. Rather, it refers to Bai Zandria Sinsuat Ampatuan, a member of the Ampatuan clan and wife of Sajid Islam Uy Ampatuan. Sema also claimed that she is not the wife of any member of the Ampatuan clan, but the wife of Muslimin Sema, incumbent vice-mayor of Cotabato City and chair of the Moro National Liberation Front. She denied having transacted with the Ampatuan clan or having participated in the alleged illegal transactions of the clan. As such, she prayed that the Freeze Order on her and her husband's accounts be lifted.<sup>17</sup>

Other respondents in the Freeze Order also filed their motions to lift the Freeze Order.<sup>18</sup>

In its Consolidated Comment, the Republic averred that "[Sema's] bare claims hardly justify the volume of transactions on the identified accounts under her name, which number no less than . . . 30."<sup>19</sup> It also pointed out that Sema failed to mention that before her term as member of Congress in 2010, she was an undersecretary for the Department of Education of the Autonomous Region in Muslim Mindanao in 2003 until her election. The documents gathered by the Council showed large unliquidated funds on the part of the Department. Probable cause thus existed that the bank accounts subject of the Freeze Order are related to unlawful activities, and a "more thorough and detailed inquiry into said accounts is imperative to confirm all the initial findings of the [Council's] investigation."<sup>20</sup> It added that the Republic was also in the process of filing an urgent application for the immediate issuance of an order allowing it to inquire into the bank deposits to determine their historical data.<sup>21</sup>

Considering the complex nature of the case and the fact that most of the banks have not yet submitted records of the concerned bank accounts, the Republic moved to extend the validity of the Freeze Order from 20 days to six months under Section 53(b) of A.M. No. 05-11-04-SC.<sup>22</sup> It reiterated its allegations that the bank accounts and properties covered by the Freeze Order were related to unlawful activities, and that transactions made by the respondents in the Freeze Order during their stint as public officials were tainted with irregularities to the damage of the Republic and the Filipino people. Thus, obtaining a freeze order was vital during the pendency of the inquiry to stop the funds from being withdrawn or the properties disposed.<sup>23</sup>



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<sup>17</sup> *Id.* at 733.

<sup>18</sup> *Id.* at 732-742.

<sup>19</sup> *Id.* at 742.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 745.

<sup>23</sup> *Id.*

Sema filed her Opposition to the Motion<sup>24</sup> to extend the effectivity of the Freeze Order. Aside from alleging procedural defects in the Motion, she alleged that there was “no probable cause to believe that her bank accounts and that of her husband are in any way related to the alleged unlawful activity and/or money laundering offense” because there was a mistake of her identity when she was considered the same person as Bai Zandria Sinsuat Ampatuan.<sup>25</sup> She claimed that other than this mistake of identity, she had no relation to the other respondents from the Ampatuan clan neither by blood, by transaction, nor by her tenure as an official of the Autonomous Region in Muslim Mindanao.<sup>26</sup>

Sema also argued that the Special Audit Report covers the period of January 2008 to September 2009, during which she was no longer with the Autonomous Region in Muslim Mindanao, as she had already resigned as early as December 2001. She also said that she was never included in the lifestyle check by the Office of the Ombudsman, and that her name only came up after a database search despite not being the subject of any investigation by the Council. She maintained that her accounts and those of her husband were only frozen “for the simple reason that one of the actual respondent’s name sounds the same as her maiden name.”<sup>27</sup> She said that the Sinumpaang Salaysay of Ramonita S. Salaysay and other witnesses, used as basis by the Republic, referred to Bai Zandria Sinsuat Ampatuan, a different person from her. The Sinumpaang Salaysay of Saliao, also used by the Republic, never even mentioned her name.<sup>28</sup>

In her *Ad Cautelam* Reply to the Consolidated Comment, Sema again alleged that her identity is crucial. The Urgent *Ex Parte* Petition named Bai Sandra Ampatuan/Bai Sandra S. Ampatuan, who is a different person. She asserted her claim that she is Bai Sandra Sinsuat Ampatuan Sema. To her, this justified the immediate lifting of the Freeze Order against her, and that no person had the obligation to justify owning 30 bank accounts. Moreover, she belied the Republic’s claim that there were a “volume of transactions in the identified accounts under Rep. Bai Sandra Sema’s name to justify the freezing of the accounts, as she was not even one of the persons identified in the Petition.”<sup>29</sup> She also stated that some of the bank accounts covered, which were already closed or have been replaced with new account numbers because of bank mergers, cannot be the subject of the Freeze Order unless it is shown that these were related to alleged unlawful activities.<sup>30</sup> She also rejected the Republic’s allegation that she was undersecretary of education in the Autonomous Region in Muslim Mindanao, as she never held such position. Instead, she served as assistant regional cabinet secretary in the Autonomous Region in Muslim Mindanao from November 1996 up to

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<sup>24</sup> *Id.* at 764.

<sup>25</sup> *Id.* at 764-765.

<sup>26</sup> *Id.* at 765.

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

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 766.

<sup>30</sup> *Id.*



December 2001 during the time of Governor Nur Misuari and not during the time of Zaldy Uy Ampatuan, who is a respondent in the case.<sup>31</sup>

Sema filed a Manifestation, praying that Governor Esmael "Toto" Mangudadatu's Affidavit, stating that the Ampatuans of Kabuntalan are not related by blood to the Ampatuans of Shariff Aguak,<sup>32</sup> be admitted and considered in the deliberation of the case.<sup>33</sup> The Court of Appeals noted this Manifestation.<sup>34</sup>

In its Resolution,<sup>35</sup> the Court of Appeals denied the various Motions to lift Freeze Order, including the one filed by Sema. It reiterated its earlier finding of probable cause to freeze the bank accounts and other properties, and found that there were no compelling grounds to lift the order. It noted:

The diverse purported facts, matters and arguments, *i.e.* (lineage, pedigree, mistaken identity . . . ) raised by respondents in their motions cannot be resolved in the instant AMLC case for issuance of freeze order which is purely summary in nature, as the adjudication on the merits of the same necessitates a full-blown trial requiring the presentation of evidence by the parties in the proper remedial proceeding and forum.<sup>36</sup>

The Court of Appeals also granted the Republic's Urgent Motion for Extension of Effectivity of Freeze Order<sup>37</sup> and extended the order for a period not exceeding six months.<sup>38</sup> The dispositive portion of the Resolution reads:

**WHEREFORE**, premises considered, respondents' various motions to lift Freeze Order are **DENIED** for lack of merit. For humanitarian reason, the freezing of payroll account no. 0910-182438-500 with the Development Bank of the Philippines of Dr. Tahir B. Sulaik is **LIFTED, without prejudice** to any proceeding that may be filed by petitioner under Section 11 of Republic Act No. 9160, as amended by Republic Act No. 9194, any action for civil forfeiture, and other remedial proceedings under A.M. No. 05-11-04-SC, should the same be warranted.

The reliefs prayed for in the letter-reply of Sterling Bank of Asia filed on 08 June 2011, the Compliance/Return dated 08 June 2011 of Toyota Financial Services Philippines Corporation, and the 2<sup>nd</sup> supplementary return dated 13 June 201 of Banco de Oro are all **DENIED** for lack of merit. Regarding the Motion for Clarification dated 23 June 2011 of the Philippine National Bank, account no. 915113603070001 of the Province of Maguindanao are **INCLUDED** in the Freeze Order. The

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<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 686-687.

<sup>33</sup> *Id.* at 774.

<sup>34</sup> *Id.* at 776.

<sup>35</sup> *Id.* at 790-791. However, the Court of Appeals lifted the freeze order on the payroll account of one respondent, Dr. Tahir B. Sulaik, for humanitarian reasons.

<sup>36</sup> *Id.* at 782.

<sup>37</sup> *Id.* at 651-666.

<sup>38</sup> *Id.* at 784.



Manifestation dated 29 June 2011 of respondent Bai Sandra Sinsuat Ampatuan is **NOTED**.

The effectivity of the Freeze Order is hereby **EXTENDED up to 02 December 2011**, or for a period not exceeding six (6) months, from 06 June 2011, pursuant to Section 53(b) of A.M. No. 05-11-04-SC. Let the records of this case be transmitted to the Regional Trial Court for consolidation with any pending civil forfeiture proceedings, in accordance with Section 56 of A.M.M No. 05-11-04-SC.

**SO ORDERED.**<sup>39</sup>

Sema, as well as the other respondents in the Freeze Order, moved for reconsideration.<sup>40</sup> However, the Court of Appeals denied the Motions, saying that the “grounds relied upon in the said Motions are mere rehash of the matters put forward by the respondents in their previous pleadings which were already considered, passed upon, and found unmeritorious in the Resolution dated 05 July 2011.”<sup>41</sup> It also reaffirmed its finding of probable cause to issue the Freeze Order.<sup>42</sup>

Sema filed the present Petition<sup>43</sup> assailing the Freeze Order on her and her husband’s bank accounts and properties.

Republic filed its Comment,<sup>44</sup> claiming mootness of the issue since the Freeze Order had already expired. It also supported the finding of probable cause by the Court of Appeals.

Thereafter, the Court required the parties to file their respective Memoranda.<sup>45</sup>

In her pleadings and Memorandum,<sup>46</sup> petitioner argues that the case falls under the exceptions where this Court can decide an issue otherwise moot.<sup>47</sup> Particularly, she claims that there is a grave violation of the Constitution; that the situation involves paramount public interest; that the issue requires the formulation of controlling principles to guide the bench, the bar, and the public; and that the case is capable of repetition yet evading review.<sup>48</sup>

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<sup>39</sup> *Id.* at 790–791.

<sup>40</sup> *Id.* at 793–814.

<sup>41</sup> *Id.* at 1784.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 11–36.

<sup>44</sup> *Id.* at 1947–1984.

<sup>45</sup> *Id.* at 2328-A.

<sup>46</sup> *Id.* at 2339–2403.

<sup>47</sup> *Id.* at 2354.

<sup>48</sup> *Id.* at 2354–2355.

Petitioner asserts that respondent's Urgent *Ex Parte* Petition for the issuance of the Freeze Order was insufficient in form and substance, resulting in the violation of her constitutional right to due process. She also claims that it is of paramount public interest to limit freeze orders to cases where probable cause is clearly established. She also maintains that there is no case yet that discusses the concept of probable cause in the issuance of freeze orders, so this case is instrumental in laying down controlling guidelines. Moreover, she says that the improper issuance of freeze orders is capable of repetition even though evading review as the effectivity period is only for 20 days to six months.<sup>49</sup>

Petitioner also claims that despite the expiration of the Freeze Order, respondent also filed for the issuance of an Asset Preservation Order before the Regional Trial Court of Manila, "which is essentially based on the same allegations and supporting evidence as the petition for Freeze Order."<sup>50</sup> The trial court merely depended on the earlier issuance of the Freeze Order, the subject of this case, when it issued the Asset Preservation Order.<sup>51</sup>

Further, petitioner claims exceptions to the rule that only questions of law may be resolved in petitions for review. She says that the Freeze Order was "grounded entirely on speculation, surmises, or conjectures; based on a manifestly mistaken and absurd inference; relied on a misapprehension of facts; and was not supported by specific evidence"<sup>52</sup> because it was based on evidence that did not exist.<sup>53</sup> Moreover, strictly following the rule that only questions of law may be heard on petitions for review would curtail this Court's duty of judicial review. Petitioner theorizes that since freeze orders may only be issued by the Court of Appeals and appealable only to the Supreme Court, its determination of probable cause that necessarily involves questions of fact would never be subject to review.<sup>54</sup>

As to the merits, petitioner rejects the finding of probable cause against her because her bank accounts and properties are not related to the alleged unlawful activities of the Ampatuan clan.<sup>55</sup> According to her, respondent's Urgent *Ex Parte* Petition and the Court of Appeals' Resolutions do not show any allegation or evidence that her bank accounts are in any way connected with the alleged unlawful activities of plunder and violation of Republic Act No. 3019, as defined under Republic Act No. 9160, or the Anti-Money Laundering Act of 2001, as amended.<sup>56</sup>

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<sup>49</sup> *Id.* at 2355–2356.

<sup>50</sup> *Id.* at 2356–2357.

<sup>51</sup> *Id.* at 2357–2358.

<sup>52</sup> *Id.* at 2361.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 2362.

<sup>55</sup> *Id.* at 2363.

<sup>56</sup> *Id.*

Citing a person's right to be presumed innocent, petitioner claims that in the determination of probable cause, it is respondent that has the burden of proof.<sup>57</sup> She insists that she is not "Bai Zandra Ampatuan" or "Zandria Sinsuat-Ampatuan" who is the respondent named in the Freeze Order.<sup>58</sup> Not being a party to the Freeze Order proceedings, she is not within the jurisdiction of the Court of Appeals.<sup>59</sup> Even assuming that petitioner was a respondent in the Urgent *Ex Parte* Petition, she is still presumed to not have participated in the unlawful activities, unless the Republic establishes otherwise through sufficient evidence.<sup>60</sup>

Petitioner argues that the Urgent *Ex Parte* Petition is insufficient in form as to her since her name was not stated in the caption. Despite this, her bank accounts were included and eventually frozen. The Petition's body also failed to allege respondent's claims against her; her bank accounts were merely enumerated in pages 70 to 71 of the Petition, as she was erroneously considered an immediate relative of the Ampatuans.<sup>61</sup> There was likewise no allegation that her bank accounts were related to unlawful activities, nor that she had any connection with any act of money laundering.<sup>62</sup>

Petitioner also claims that the Urgent *Ex Parte* Petition is insufficient in substance. According to her, it failed to allege any ground that may be relied upon for the issuance of the Freeze Order against her. She reiterates her claim that her name, Bai Sandra Sinsuat Ampatuan Sema, only came up after a database search conducted on the immediate relatives of the Ampatuans, and that she was only included in the list because of her surname.<sup>63</sup> She further claims that the Petition failed to establish any connection between her and the unlawful activities in the Office of the Regional Governor of the then Autonomous Region in Muslim Mindanao.<sup>64</sup> Quoting the transcript of stenographic notes, petitioner says that she was included "because of the surname. She was categorized in the database [as a] 'might be'," and that her relationship with the other Ampatuans was unclear even to the investigator.<sup>65</sup>

Thus, petitioner insists that there could be no probable cause against her since the supporting evidence supposedly used as basis were "patently insufficient to engender a well-founded belief, and indeed do not even hint, that the bank accounts of Rep. Sema that are subject to the Freeze Order are in any way connected with the unlawful activities of Plunder and Graft and Corruption."<sup>66</sup> She also claims that she suffered further damage when the

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<sup>57</sup> *Id.* at 2367.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 2399.

<sup>60</sup> *Id.* at 2368.

<sup>61</sup> *Id.* at 2361-2372.

<sup>62</sup> *Id.* at 2372.

<sup>63</sup> *Id.* at 2373-2374.

<sup>64</sup> *Id.* at 2374.

<sup>65</sup> *Id.* at 2377-2378.

<sup>66</sup> *Id.* at 2381.

Resolution issuing the Freeze Order was made the basis of the issuance of an Asset Preservation Order against her<sup>67</sup> in a subsequent case for civil forfeiture before the Regional Trial Court of Manila.<sup>67</sup> She claims that this resulted in the deprivation of her property without due process of law.<sup>68</sup>

For its part, respondent Republic argued that the extended effectivity of the Freeze Order had expired on December 2, 2011, which renders this case moot.<sup>69</sup> Moreover, respondent mentions the Asset Preservation Order already issued by the Regional Trial Court of Manila, which covers the same bank accounts in the Freeze Order. Thus, "the resolution of the issues raised in the present petition would be of no practical value."<sup>70</sup> It also says that petitioner's claim that her case falls under the exceptions to the rule on mootness has no proof.<sup>71</sup>

Respondent also reiterates the general rule that petitions for review only cover questions of law. Here, petitioner claims that the Freeze Order should be lifted because the documents used to find probable cause against her were not sufficient.<sup>72</sup> According to respondent, the determination of the existence of probable cause for the issuance of a freeze order is a factual question and cannot be reviewed in a Rule 45 petition.<sup>73</sup>

On the merits, respondent insists that probable cause was established showing that petitioner's bank accounts were related to the unlawful activities of the Ampatuans. It points to the documents attached to the Urgent *Ex Parte* Petition, showing that the bank accounts and properties of the Ampatuans were related to the commission of plunder and violation of Republic Act No. 3019, which were among the unlawful activities described under Republic Act No. 9160.<sup>74</sup> They also show that the Ampatuans acted by themselves and in connivance with other family members, relatives, associates, subordinates, or other persons.<sup>75</sup> According to respondent, it was the web of bank accounts, which included petitioner's accounts, which were used to transact the proceeds of their unlawful activities.<sup>76</sup>

Respondent also claims that the misspelling in petitioner's name in the complaint-affidavit filed before the Office of the Ombudsman was only a typographical error.<sup>77</sup> This was corrected in an amended complaint affidavit clarifying her identity.<sup>78</sup>

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<sup>67</sup> *Id.* at 2389–2394.

<sup>68</sup> *Id.* at 2396–2399.

<sup>69</sup> *Id.* at 2418.

<sup>70</sup> *Id.* at 2419.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.* at 2420.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 2422–2423.

<sup>75</sup> *Id.* at 2423.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.* at 2429.

<sup>78</sup> *Id.*

Furthermore, the Urgent *Ex Parte* Petition refers to petitioner as “Bai Sandra Ampatuan” and “Bai Sandra S. Ampatuan.”<sup>79</sup> Respondent points out that petitioner herself prays that the Freeze Order be lifted on her bank accounts, including those of “Bai Sandra Ampatuan” and “Bai Sandra S. Ampatuan,” which names were included in the Freeze Order.<sup>80</sup> It argues that petitioner’s supposed relationship with the Ampatuans was not the Court of Appeals’ basis in finding that her bank accounts should be frozen.<sup>81</sup> It invokes the Court of Appeals’ ruling that arguments, such as lineage, pedigree, mistaken identity, and others raised by petitioner, require a full-blown trial.<sup>82</sup> It likewise claims that petitioner failed to show any proof of the source of the huge amounts deposited in her frozen bank accounts.<sup>83</sup>

The issues for this Court’s resolution are:

First, whether the case has been rendered moot by the expiration of the Freeze Order’s effectivity on December 2, 2011;

Second, whether the Petition should be denied for raising questions of fact; and

Finally, whether probable cause exists to issue the Freeze Order against petitioner’s and that of her husband’s bank accounts and other properties.

We grant the Petition.

## I

We find that while the Freeze Order has indeed expired, a resolution on the issues raised in this case is still in order.

In *Express Telecommunications v. AZ Communications*:<sup>84</sup>

A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* at 2430.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.* at 2431.

<sup>83</sup> *Id.*

<sup>84</sup> 877 Phil. 44 (2020) [Per J. Leonen, Third Division].

the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness. This is because the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.<sup>85</sup>

Thus, while a case initially presents a justiciable controversy, the occurrence of a subsequent event may render the resolution of the case ineffective. In which case, adjudicating the parties' claims will not result in the grant of any relief to the parties.

The subject Freeze Order was issued on June 6, 2011 with an initial validity of 20 days. Upon Motion by respondent Republic, the Court of Appeals extended the order's validity for a period not exceeding six months.<sup>86</sup> Respondent correctly points out that the extended period had already lapsed, and the Freeze Order is no longer in effect.<sup>87</sup>

Nevertheless, petitioner cites several exceptions to the rule on mootness and claims that these apply to her case.

Jurisprudence enumerates these exceptional instances:

- (1) Grave constitutional violations;
- (2) Exceptional character of the case;
- (3) Paramount public interest;
- (4) The case presents an opportunity to guide the bench, the bar, and the public; or
- (5) The case is capable of repetition yet evading review.<sup>88</sup>

Petitioner claims that four of these exceptions apply to her case, namely, that there is a grave violation of the constitution; that the situation involves paramount public interest; that the issue requires the formulation of controlling principles to guide the bench, the bar, and the public; and that the case is capable of repetition yet evading review.<sup>89</sup> Petitioner says that this case is a good opportunity, despite its mootness, to lay down guidelines for future cases involving freeze orders. Particularly, petitioner insists that the

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<sup>85</sup> *Id.* at 53–54, citing *Peñafrancia Sugar Mill v. Sugar Regulatory Administration*, 728 Phil. 535 (2014) [Per J. Perlas-Bernabe, Second Division].

<sup>86</sup> *Rollo*, pp. 790–791.

<sup>87</sup> *Id.* at 1755–1756, 2418–2419.

<sup>88</sup> *Express Telecommunications v. AZ Communications*, 877 Phil. 44, 58 (2020) [Per J. Leonen, Third Division], citing *Republic v. Moldex Realty*, 780 Phil. 553, 561 (2016) [Per J. Leonen, Second Division].

<sup>89</sup> *Rollo*, pp. 2354–2355.

case is capable of repetition yet it evades review given the short duration of freeze orders.<sup>90</sup>

In *Republic v. Ongpin*,<sup>91</sup> this Court also resolved a petition for review concerning a freeze order that had already expired. Despite the petition being moot, the Court proceeded to resolve the case, holding that “the case involves a situation of exceptional character and is of paramount public interest, warranting a resolution on the merits.”<sup>92</sup>

The lack of jurisprudence that directly discuss freeze orders also urged this Court to rule on the merits.<sup>93</sup>

We find the same situation to be present here. Thus, a resolution on the issues raised in this case is in order.

## II

On the procedural issue, we rule that the Petition cannot be denied for merely raising questions of fact. Petitioner has sufficiently proved that exceptions to the general rule under Rule 45 apply to her case.

Section 1 of Rule 45 provides that a petition shall raise only questions of law. In *Pascual v. Burgos*:<sup>94</sup>

The Rules of Court require that only questions of law should be raised in petitions filed under Rule 45. This court is not a trier of facts. It will not entertain questions of fact as the factual findings of the appellate courts are “final, binding[,] or conclusive on the parties and upon this [c]ourt” when supported by substantial evidence. Factual findings of the appellate courts will not be reviewed nor disturbed on appeal to this court.<sup>95</sup>

Under the Rules<sup>96</sup> governing petitions for the issuance of freeze orders, the Court of Appeals is mandated to look into the verified allegations in the petition, as well as all other relevant documents to determine if “there exists probable cause that the monetary instrument, property, or proceeds are in any way related to or involved in any unlawful activity as defined in Section 3(i) of Republic Act No. 9160, as amended[.]”<sup>97</sup> Its assessment of

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<sup>90</sup> *Id.* at 2354–2358.

<sup>91</sup> G.R. No. 207078, June 20, 2022 [Per J. Leonen, Second Division].

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> 776 Phil. 167 (2016) [Per J. Leonen, Second Division].

<sup>95</sup> *Id.* at 182.

<sup>96</sup> A.M. No. 05-11-04-SC (2005).

<sup>97</sup> A.M. No. 05-11-04-SC (2005), sec. 51.



these allegations and documents is a factual finding that generally cannot be reviewed in a Rule 45 petition.<sup>98</sup>

However, petitioner claims exceptions to this rule. She alleges that the issuance of the Freeze Order against her accounts and properties was “grounded entirely on speculation, surmises, or conjectures; based on a manifestly mistaken and absurd inference; relied on a misapprehension of facts; and was not supported by specific evidence”<sup>99</sup> because it was based on evidence that did not exist.<sup>100</sup>

To illustrate her point, she claims that the Petition did not contain allegations that her bank accounts were connected to unlawful activities.<sup>101</sup> She points to the documents used as bases by the Court of Appeals and claims that they do not establish the necessary facts that would implicate her bank accounts to the alleged activities of the other respondents.<sup>102</sup>

Further, petitioner notes that only the Court of Appeals can determine probable cause to issue a freeze order, and the Rules only allows an appeal to this Court by a Rule 45 petition for review.<sup>103</sup> Absolutely precluding a factual review would mean that the Court of Appeals’ determination of probable cause, which necessarily involves questions of fact, “would never be subject to review.”<sup>104</sup> To her, this presents an absurd situation and the interest of justice demands a factual review.<sup>105</sup>

This Court agrees. Petitioner has sufficiently “alleged, substantiated, and proved” that exceptions to the general rule under Rule 45 apply.<sup>106</sup> A factual review of the case is in order.

### III

We find that there was no probable cause for the Court of Appeals to issue the Freeze Order against petitioner’s and that of her husband’s bank accounts and properties.

<sup>98</sup> See *Pascual v. Burgos*, 776 Phil. 167, 183 (2016) [Per J. Leonen, Second Division].

<sup>99</sup> *Rollo*, p. 2361.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.* at 2360–2361.

<sup>102</sup> *Id.* at 2374–2375.

<sup>103</sup> SECTION 57. *Appeal*. — Any party aggrieved by the decision or ruling of the court may appeal to the Supreme Court by petition for review on certiorari under Rule 45 of the Rules of Court. The appeal shall not stay the enforcement of the subject decision or final order unless the Supreme Court directs otherwise.

<sup>104</sup> *Rollo*, p. 2362.

<sup>105</sup> *Id.* at 2361–2362.

<sup>106</sup> See *Pascual v. Burgos*, 776 Phil. 167, 169 (2016) [Per J. Leonen, Second Division].

The Anti-Money Laundering Act of 2001,<sup>107</sup> as originally passed, authorized the Anti-Money Laundering Council to issue freeze orders upon determination of probable cause.

However, two years after its effectivity, Section 10 of this law was amended by Republic Act No. 9194, which transferred the authority to issue such freeze orders to the Court of Appeals.<sup>108</sup>

The Anti-Money Laundering Council's role in freeze order proceedings was therefore changed to being a petitioner before the Court of Appeals. Section 10 of Republic Act No. 9160 as amended by Republic Act No. 9194 reads:

SECTION 10. *Freezing of Monetary Instrument or Property.* — The Court of Appeals, upon application *ex parte* by the AMLC and after determination that probable cause exists that any monetary instrument or property is in any way related to an unlawful activity as defined in Section 3(i) hereof, may issue a freeze order which shall be effective immediately. The freeze order shall be for a period of twenty (20) days unless extended by the court.

This change is reflected in A.M. No. No. 05-11-04-SC, issued by this Court in 2005, which outlines the procedure in cases of civil forfeiture, asset preservation, and freezing of monetary instrument, property, or proceeds representing, involving, or relating to an unlawful activity or money laundering offense. This issuance was the applicable Rule at the time of the incidents in this case.<sup>109</sup>

Section 44 of A.M. No. 05-11-04-SC states where petitions for freeze orders should be filed:

SECTION 44. *Party to File Petition.* — The Republic of the Philippines, through the Anti-Money Laundering Council, represented by the Office of the Solicitor General, may file *ex parte* with the Court of Appeals a verified petition for a freeze order on any monetary instrument, property or proceeds relating to or involving an unlawful activity as defined under Section 3(i) of Republic Act No. 9160, as amended by Republic Act No. 9194.

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After the filing of the *ex parte* petition, the Court of Appeals is bound to assess the allegations in the petition and determine probable cause. If it

<sup>107</sup> Republic Act No. 9160 (2001).

<sup>108</sup> Subsequent amendments to the Anti-Money Laundering Act were introduced after Republic Act No. 9194, namely: Republic Act No. 10167 in 2012, Republic Act No. 10365 in 2013, and Republic Act No. 10927 in 2017. At the time the Urgent *Ex Parte* Petition for the Issuance of a Freeze Order was filed, Republic Act No. 9194 was in effect. See *Republic v. Ongpin*, G.R. No. 207078, June 20, 2022 [Per J. Leonen, Second Division].

<sup>109</sup> A more recent A.M. No. 21-03-13-SC, or the Rule on Asset Preservation, Seizure and Forfeiture in Criminal Cases under Republic Act No. 9160, as amended, took effect on May 31, 2021.

finds that such probable cause exists, the Court of Appeals shall issue the freeze order. Otherwise, the petition is dismissed outright:

SECTION 51. *Action by the Court of Appeals.* — All members of the Division of the Court to which the assigned justice belongs shall act on the petition within twenty-four hours after its filing. However, if one member of the Division is not available, the assigned justice and the other justice present shall act on the petition. If only the assigned justice is present, he shall act alone. The action of the two justices or of the assigned justice alone, as the case may be, shall be forthwith promulgated and thereafter submitted on the next working day to the absent member or members of the Division for ratification, modification or recall.

*If the Court is satisfied from the verified allegations of the petition that there exists probable cause that the monetary instrument, property, or proceeds are in any way related to or involved in any unlawful activity as defined in Section 3(i) of Republic Act No. 9160, as amended by Republic Act No. 9194, it shall issue ex parte a freeze order as hereinafter provided.*

*If the Court finds no substantial merit in the petition, it shall dismiss the petition outright, stating the specific reasons for such dismissal.*

When the unanimous vote of the three justices of the Division cannot be obtained, the Presiding Justice or the Executive Justice shall designate two justices by raffle from among the other justices of the first three divisions to sit temporarily with them forming a special division of five justices. The concurrence of a majority of such special division shall be required for the pronouncement of a judgment or resolution.<sup>110</sup> (Emphasis supplied)

Thus, it is the Court of Appeals that evaluates the allegations in the petition and whether these are sufficient to establish probable cause for the issuance of a freeze order.

To establish this, a petitioner must show “facts and circumstances which would lead a reasonably discreet, prudent or cautious [person] to believe that an unlawful activity and/or a money laundering offense is about to be, is being or has been committed and that the account or monetary instrument or property subject thereof sought to be frozen is in any way related to said unlawful activity and/or money laundering offense.”<sup>111</sup>

Such facts and circumstances must be shown in the petition’s allegations as well as its contents. Under Section 46 of A.M. No. 05-11-04-SC, part of its contents are the “supporting evidence showing that the monetary instrument, property, or proceeds are in any way related to or involved in an unlawful activity...”<sup>112</sup> The alleged unlawful activities in the

<sup>110</sup> A.M. No. 05-11-04-SC (2005), sec. 51.

<sup>111</sup> *Ligot v. Republic*, 705 Phil. 477, 501 (2013) [Per J. Brion, Second Division].

<sup>112</sup> A.M. No. 05-11-04-SC (2005), sec. 46.

urgent *ex parte* petition are corrupt practices under Republic Act No. 3019, Section 3(e),<sup>113</sup> and plunder under Republic Act No. 7080.<sup>114</sup>

Here, the Court of Appeals looked into the following, namely, (1) the Urgent *Ex Parte* Petition; (2) the investigation conducted by the Council contained in AMLC Resolution No. 50, series of 2011; (3) Saliao's *Sinumpaang Salaysay* submitted to the Council; (4) the corresponding Special Audit Report No. 2010 of the Commission on Audit for the Office of the Regional Governor of the Autonomous Region in Muslim Mindanao; (5) the Office of the Deputy Ombudsman for Mindanao's Evaluation Report on the lifestyle check conducted on Datu Andal S. Ampatuan, Sr. and Datu Zaldy U. Ampatuan; (6) the Joint Complaint-Affidavit of the widows of the victims of the Maguindanao massacre furnished to the Council; and their Supplemental Joint Complaint-Affidavit.<sup>115</sup>

A review of these documents shows that probable cause against petitioner was never established. The Freeze Order should therefore be lifted as to her accounts and that of her husband.

First, the Urgent *Ex Parte* Petition<sup>116</sup> narrated the factual antecedents that led to the application for the freeze order. It alleged the spurious transactions but failed to mention how petitioner was related to these. All it stated was that the Council conducted an investigation on the "immediate relatives of the Ampatuans," and proceeded to enumerate petitioner's bank accounts without explaining how these were in any way connected to the unlawful activities.<sup>117</sup>

In its discussion, the Urgent *Ex Parte* Petition merely described how the transactions were violations of Section 3(e) of Republic Act No. 3019

<sup>113</sup> SECTION 3. *Corrupt practices of public officers.* In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

.....  
(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

<sup>114</sup> SECTION 2. *Definition of the Crime of Plunder; Penalties* — Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts as described in Section 1(d) hereof, in the aggregate amount or total value of at least Seventy-five million pesos ([PHP] 75,000,000.00), shall be guilty of the crime of plunder and shall be punished by life imprisonment with perpetual absolute disqualification from holding any public office. Any person who participated with said public officer in the commission of plunder shall likewise be punished. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances shall be considered by the court. The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stock derived from the deposit or investment thereof forfeited in favor of the State.

<sup>115</sup> *Rollo*, pp. 780–781.

<sup>116</sup> *Rollo*, pp. 1006–1098.

<sup>117</sup> *Id.* at 1074–1075.

and plunder under Republic Act No. 7080, and that “the subject individuals took advantage of their official positions, authority, relationship, connection or influence to unjustly enrich themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.”<sup>118</sup> However, it failed to explain how petitioner in particular was connected to these transactions.

Second, the Council’s investigation contained in AMLC Resolution No. 50, series of 2011<sup>119</sup> likewise failed to show how petitioner was connected to the unlawful activities. It merely mentioned that a “database search was also conducted on the immediate relatives of the Ampatuans,”<sup>120</sup> and listed petitioner’s bank accounts without any explanation.

Upon clarification, Mr. Jerome Golpo (Golpo) of the Council, a member of the team that conducted the database search, said that petitioner was only included “because of the surname. [S]he was categorized in the database [as a] ‘might be’.”<sup>121</sup> At that time, the Council was still continuing its investigation as to petitioner’s “importance or relevance until a money-laundering case is actually filed.”<sup>122</sup> Golpo admitted that he was unsure if petitioner is indeed an immediate relative of the Ampatuans, and merely based the connection on the fact that she had the name Ampatuan.<sup>123</sup>

Third, Saliao’s *Sinumpaang Salaysay*,<sup>124</sup> also mentioned in AMLC Resolution No. 50, series of 2011, mentioned 16 individuals and three entities, but petitioner’s name was notably not included.<sup>125</sup> Saliao was a witness to the Maguindanao massacre.

Fourth, the Commission on Audit’s Special Audit Report No. 2010-01<sup>126</sup> detailed the irregularities observed within the Office of the Regional Governor of the then Autonomous Region in Muslim Mindanao.<sup>127</sup> It noted the failure to comply with the rule that payments must be made by check, and that advances to disbursing officers far exceeded their maximum accountabilities.<sup>128</sup> Transactions paid through cash advances were also considered improbable considering the amounts involved and the supposed payee’s locations in different parts of the country.<sup>129</sup> Bidding processes were not followed for some transactions.<sup>130</sup> Various other irregularities in the Office of the Regional Governor were also noted. Still, petitioner’s

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<sup>118</sup> *Id.* at 1092.

<sup>119</sup> *Id.* at 282–352.

<sup>120</sup> *Id.* at 333–337.

<sup>121</sup> *Id.* at 2377.

<sup>122</sup> *Id.*

<sup>123</sup> *Id.* at 2377–2378.

<sup>124</sup> *Id.* at 1985–1988.

<sup>125</sup> *Id.* at 298–299.

<sup>126</sup> *Id.* at 133–254.

<sup>127</sup> *Id.* at 137.

<sup>128</sup> *Id.* at 156.

<sup>129</sup> *Id.*

<sup>130</sup> *Id.* at 170.

involvement in any of them was not discussed. The Report focused on the transactions by the Office of the Regional Governor, and petitioner's connection to the Office was likewise never established.<sup>131</sup>

Fifth, the Office of the Deputy Ombudsman for Mindanao's Evaluation Report on the Lifestyle Check conducted by the Ampatuan Lifestyle Check Panel on Andal S. Ampatuan, Sr. and Zaldy U. Ampatuan<sup>132</sup> listed the properties belonging to Andal S. Ampatuan, Sr., including real properties, vehicles, firearms, as well as his travel history abroad. It then compared it with his statements of assets, liabilities and net worth, and concluded that he had failed to make the necessary declarations for several years.<sup>133</sup> His annual income tax returns were also examined, where the Evaluation Report concluded that he had a questionable surge in his income considering his only declared business was his farm business.<sup>134</sup>

A similar evaluation was conducted on Zaldy U. Ampatuan. A review of his statements of assets, liabilities and net worth likewise showed errors, discrepancies, and irregularities. Some of the assets were belatedly disclosed. His annual income tax returns were also reviewed, which showed a sudden unaccounted increase in his income, considering his only declared business was a pawnshop owned by his spouse.<sup>135</sup>

The Evaluation Report recommended the filing of criminal and administrative complaints against Andal S. Ampatuan, Sr. and Zaldy U. Ampatuan.<sup>136</sup> However, petitioner was never mentioned in the Evaluation Report, as the lifestyle check was only conducted on Andal S. Ampatuan, Sr. and Zaldy U. Ampatuan.<sup>137</sup>

Sixth, the Joint Complaint-Affidavit<sup>138</sup> for plunder, graft and corruption, and forfeiture of the widows of the Maguindanao massacre victims and their Supplemental Joint Complaint-Affidavit<sup>139</sup> impleaded "Bai Zandra Ampatuan" and "Zandria Sinsuat-Ampatuan" as respondent. However, the Joint Complaint-Affidavit mentions "Zandria Sinsuat" as being married to another respondent, Datu Sajid Ampatuan. The name "Bai Zandra Ampatuan" was also mentioned as a property owner in a quote from an investigative report by Ms. Carolyn O. Arguillas.<sup>140</sup> However, petitioner's name does not appear anywhere in the Joint Complaint-Affidavit and Supplemental Joint Complaint-Affidavit, nor were allegations made against her.

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<sup>131</sup> *Id.* at 133–254.

<sup>132</sup> *Id.* at 372–380.

<sup>133</sup> *Id.* at 373–375.

<sup>134</sup> *Id.* at 375.

<sup>135</sup> *Id.* at 378.

<sup>136</sup> *Id.* at 379.

<sup>137</sup> *Id.* at 372–380.

<sup>138</sup> *Id.* at 353–370.

<sup>139</sup> *Id.* at 271–280.

<sup>140</sup> *Id.* at 360.

Thus, it appears that at the time the Urgent *Ex Parte* Petition was filed, petitioner was only implicated as a subject of the Freeze Order because of a database searched conducted by the Council on the surname Ampatuan. Notable is Golpo's admission that petitioner was only included in the search and assumed to be connected to the other Ampatuans because she bore the same surname.<sup>141</sup> Clearly, a person having a similar surname with another is not sufficient to prove their relationship, much less their participation in unlawful activities. It does not establish probable cause.

In fact, a more careful reading of the Urgent *Ex Parte* Petition mentions Zandria Sinsuat as the wife of Datu Sajid Islam Uy Ampatuan,<sup>142</sup> also named as respondent in the Urgent *Ex Parte* Petition, as well as in the criminal complaint for plunder, graft and corruption, and forfeiture.<sup>143</sup> Datu Sajid Islam Uy Ampatuan was also mentioned in Saliao's Sinumpaang Salaysay.<sup>144</sup> This lends some truth to petitioner's claim that she is not the same person as Bai Zandra Ampatuan or Zandria Sinsuat-Ampatuan, who is the one named as respondent in the criminal complaint.<sup>145</sup>

This case of mistaken identity was never fully discussed in the Court of Appeals' Resolutions, despite it acknowledging petitioner's insistence in her pleadings that she is not the proper party to the case.<sup>146</sup>

All that the Court of Appeals had to say was that matters of lineage, pedigree, and mistaken identity were not proper in a proceeding for the issuance of freeze orders, since these related to the merits of the case requiring trial.<sup>147</sup>

We disagree.

A person's identity should be ascertained even in—or especially in—the determination of probable cause for the issuance of a freeze order. A party who has not been shown by probable cause to have any involvement whatsoever in unlawful activities should not be subject to a freeze order.

To be sure, probable cause in the issuance of a freeze orders does not require absolute certainty, but facts presented by the Republic must convince "a reasonably discreet, prudent or cautious [person]"<sup>148</sup> of the commission of an unlawful activity and the relation of a person's properties sought to be

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<sup>141</sup> *Id.* at 2377.

<sup>142</sup> *Id.* at 1044-A.

<sup>143</sup> *Id.* at 353.

<sup>144</sup> *Id.* at 1947–1984.

<sup>145</sup> *Id.* at 353.

<sup>146</sup> *Id.* at 1729–1731.

<sup>147</sup> *Id.* at 782.

<sup>148</sup> *Ligot v. Republic*, 705 Phil. 477, 501 (2013) [Per J. Brion, Second Division].



frozen to such unlawful activity.<sup>149</sup> Precisely, the burden of proof to establish probable cause lies with the Republic as petitioner, and this necessarily requires that the persons whose bank accounts are sought to be frozen are positively and accurately identified. We find that respondent has failed to meet this burden.

Indeed, *Yambao v. Republic*<sup>149</sup> describes a freeze order as an extraordinary and pre-emptive relief:

A freeze order is an *extraordinary and interim relief* issued by the CA to prevent the dissipation, removal, or disposal of properties that are suspected to be the proceeds of, or related to, unlawful activities as defined in Section 3 (i) of RA No. 9160, as amended. The primary objective of a freeze order is to temporarily preserve monetary instruments or property that are in any way related to an unlawful activity or money laundering, by preventing the owner from utilizing them during the duration of the freeze order. The relief is *pre-emptive* in character, meant to prevent the owner from disposing his property and thwarting the State's effort in building its case and eventually filing civil forfeiture proceedings and/or prosecuting the owner.

....

As correctly noted by the petitioners, *a freeze order is meant to have a temporary effect; it was never intended to supplant or replace the actual forfeiture cases where the provisional remedy — which means, the remedy is an adjunct of or an incident to the main action — of asking for the issuance of an asset preservation order from the court where the petition is filed is precisely available.* For emphasis, a freeze order is both a preservatory and preemptive remedy.

....

From the foregoing, the lifting of the subsisting Freeze Order against the monetary instruments and properties of petitioner is in order, *more so in view of the fact that a petition for forfeiture (Civil Case No. 0197) — where petitioner is named as one of the respondents — has already been filed by the Republic before the Sandiganbayan sometime in September 2005.*<sup>150</sup> (Citations omitted)

However, it must be stressed that the urgency that a freeze order seeks to meet does not discharge the Republic of the burden to properly establish its case.

**ACCORDINGLY**, the Petition is **GRANTED**. The Freeze Order against petitioner Bai Sandra Sinsuat A. Sema's and her husband Muslimin Gampong's<sup>151</sup> bank accounts enumerated in "Annex H" attached to the June 6, 2011 Resolution of the Court of Appeals in CA-G.R. AMLC No. 00040 is **LIFTED**. This is without prejudice to other preservation orders, if any, that

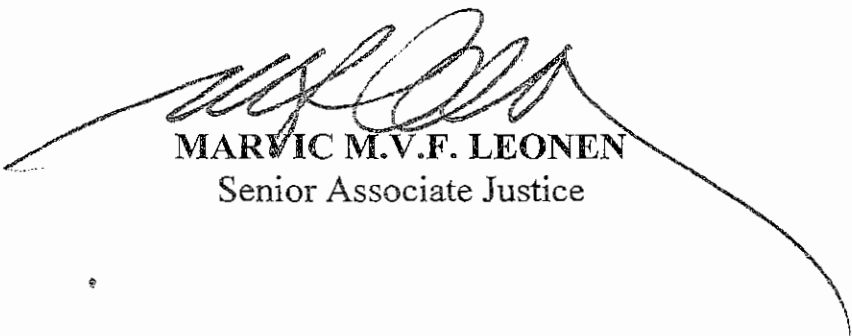
<sup>149</sup> G.R. No. 171054, January 26, 2021 [Per J. Gaerlan, First Division].

<sup>150</sup> *Id.*

<sup>151</sup> Sometimes referred to as Muslimin Sema and Sema Muslimin Gampong in the *rollo*.

the Regional Trial Court of Manila may have issued over said monetary instruments and properties relative to the forfeiture case filed before said court.

**SO ORDERED.**

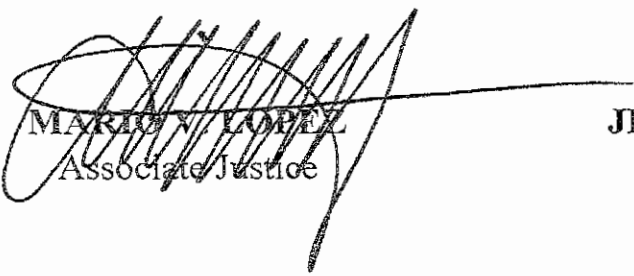


**MARVIC M.V.F. LEONEN**  
Senior Associate Justice


WE CONCUR:



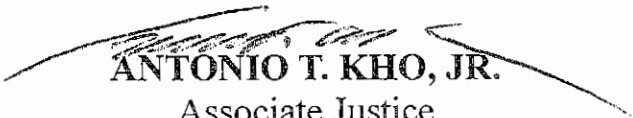
**AMY C. LAZARO-JAVIER**  
Associate Justice



**MARIO N. LOPEZ**  
Associate Justice




**JHOSEP V. LOPEZ**  
Associate Justice



**ANTONIO T. KHO, JR.**  
Associate Justice

**ATTESTATION**

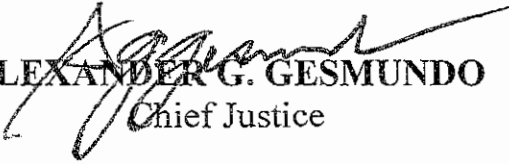
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



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

**CERTIFICATION**

Pursuant to Article VIII, Section 13 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.



ALEXANDER G. GESMUNDO  
Chief Justice

