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THIRD DIVISION

[G.R. No. 208587. July 29, 2015]

JM DOMINGUEZ AGRONOMIC COMPANY, INC., HELEN D. DAGDAGAN, PATRICK PACIS, KENNETH PACIS, and SHIRLEY DOMINGUEZ, *petitioners, vs*. **CECILIA LICLICAN, NORMA D. ISIP, and PURITA DOMINGUEZ,** *respondents*.

SYLLABUS

1. **REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; GRAVE ABUSE OF DISCRETION; WHEN SEEKING THE CORRECTIVE HAND OF *CERTIORARI*, A CLEAR SHOWING OF CAPRICE AND ARBITRARINESS IN THE EXERCISE OF DISCRETION IS IMPERATIVE.—** We have previously ruled that grave abuse of discretion may arise when a lower court or tribunal violates or contravenes the Constitution, the law or existing jurisprudence. By grave abuse of discretion is meant, such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law. The word "capricious," usually used in tandem with the term "arbitrary," conveys the notion of willful and unreasoning action. Thus, when seeking the corrective hand of *certiorari*, a clear showing of caprice and arbitrariness in the exercise of discretion is imperative. In the case at bar, the CA correctly ruled that Judge Tiongson-Tabora acted with grave abuse of discretion when she ordered the arrests of respondents Isip and Liclican despite the existence of a prejudicial question.

2. **ID.; CRIMINAL PROCEDURE; PREJUDICIAL QUESTION; ESSENTIAL ELEMENTS; PRESENT; RATIONALE FOR THE DOCTRINE ON PREJUDICIAL QUESTION.—** As jurisprudence elucidates, a prejudicial question generally exists in a situation where a civil action and a criminal action are both pending, and there exists in the former an issue that must

be pre-emptively resolved before the latter may proceed, because howsoever the issue raised in the civil action is resolved would be determinative *juris et de jure* of the guilt or innocence of the accused in the criminal case. The rationale behind the principle is to avoid two conflicting decisions, and its existence rests on the concurrence of two essential elements: (i) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (ii) the resolution of such issue determines whether or not the criminal action may proceed. Here, the CA aptly observed that Civil Case No. 6623-R, the intra-corporate dispute, posed a prejudicial question to Criminal Case Nos. 29175-R and 29176-R. To be sure, Civil Case No. 6623-R involves the same parties herein, and is for nullification of JMD's meetings, election and acts of its directors and officers, among others. Court intervention was sought to ascertain who between the two contesting group of officers should rightfully be seated at the company's helm. Without Civil Case No. 6623-R's resolution, petitioners' authority to commence and prosecute Criminal Case Nos. 29175-R and 29176-R against respondents for qualified theft in JMD's behalf remained questionable, warranting the suspension of the criminal proceedings. x x x. Verily, the RTC ought to have suspended the proceedings, instead of issuing the challenged Orders issued by the RTC.

3. **ID.; ID.; ID.; THE RESOLUTION OF THE PREJUDICIAL QUESTION DID NOT CURE THE GRAVE ABUSE OF DISCRETION ALREADY COMMITTED; CONDONING THE CONTINUATION OF THE CRIMINAL PROCEEDINGS DESPITE, AT THAT TIME, THE EXISTENCE OF A PREJUDICIAL QUESTION WOULD CREATE A PRECEDENT THAT RENDERS INUTILE THE DOCTRINE ON PREJUDICIAL QUESTION, SUCH THAT THE COURT TRYING THE CRIMINAL CASE WILL BE PERMITTED TO PROCEED WITH THE TRIAL IN THE ABERRANT ASSUMPTION THAT THE RESOLUTION OF THE PRIOR INSTITUTED CIVIL CASE WOULD BENEFIT THE PRIVATE COMPLAINANT IN THE CRIMINAL PROCEEDINGS.—** The resolution of the prejudicial question did not, in context, cure the grave abuse of discretion already committed. The fact remains that when the RTC, Branch 7 issued its challenged Orders on March 10, 2009, the Judgment in favor of petitioners was not yet rendered. Consequently, there was still, at that time, a real dispute as to

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who the rightful set of officers were. Plainly, Judge Tiongson-Tabora should not have issued the challenged Orders and should have, instead, suspended the proceedings until Civil Case No. 6623-R was resolved with finality. To grant the instant petition and rule that the procedural infirmity has subsequently been cured either by the Judgment or by Judge Tiongson-Tabora's inhibition would mean condoning the continuation of the criminal proceedings despite, at that time, the existence of a prejudicial question. Such condonation would create a precedent that renders inutile the doctrine on prejudicial question, such that the court trying the criminal case will be permitted to proceed with the trial in the aberrant assumption that the resolution of the prior instituted civil case would benefit the private complainant in the criminal proceedings. To reiterate, there was no certainty yet on how the RTC, Branch 59 would rule; thus, no assumption on Civil Case No. 6623-R's resolution can be made when the challenged Orders were issued. Indeed, had the RTC, Branch 59 not given credence to petitioners' arguments, it would have led to an awkward situation wherein much time and effort is wasted by the RTC, Branch 7 in trying criminal cases it should not have entertained.

APPEARANCES OF COUNSEL

Emiliano L. Gayo for petitioners.

Aeneas Eli S. Diaz & Al A. Parreo and *Dion Rex A. Africa* for respondents.

D E C I S I O N

VELASCO, JR., *J.*:

Nature of the Case

Petitioners, through the instant Petition for Review on Certiorari under Rule 45 of the Rules of Court, seek the reversal of the Court of Appeals (CA) Decision[1] dated August 30, 2012 and its Resolution[2]

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[1] *Rollo*, pp. 294-312. Penned by Associate Justice Magdangal M. de Leon and concurred in by Associate Justices Stephen C. Cruz and Myra V. Garcia-Fernandez.

[2] *Id.* at 361-362.

dated July 15, 2013 in CA-G.R. SP No. 108617. Said rulings nullified the Orders authorizing the issuance of the assailed warrants of arrest against respondents for allegedly having been issued in grave abuse of discretion.

The Facts

During the annual stockholders meeting of petitioner JM Dominguez Agronomic Company, Inc. (JMD) held on December 29, 2007 at the Baguio City Country Club, the election for its new set of directors was conducted. This event was presided by then company president, and herein respondent, Cecilia Liclican (Liclican), and attended by her co-respondents Norma Isip (Isip) and Purita Rodriguez, and by petitioners Helen Dagdagan (Dagdagan), Patrick Pacis, Kenneth Pacis, and Shirley Dominguez (Dominguez) as well. Conflict ensued when petitioners Patrick and Kenneth Pacis were allegedly not allowed to vote on the ground that they are not registered stockholders of JMD. As pointed out, it was their mother and grandmother, both deceased, who are the stockholders in JMD, and that there is still no settlement of their respective estates to effectively transfer their shares in the company to Patrick and Kenneth Pacis.[3]

Tensions rose and respondents, allegedly, walked out of the meeting. But since the remaining stockholders with outstanding shares constituted a quorum, the election of officers still proceeded, which yielded the following result:[4]

Officers:

1. Helen D. Dagdagan as President
2. Patrick D. Pacis as Vice-President
3. Kenneth D. Pacis as Secretary
4. Shirley C. Dominguez as Treasurer

After staging the walk-out, respondents, on even date, executed a Board Resolution certifying that in the stockholders meeting, the following were elected directors and officers of JMD:[5]

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[3] *Id*. at 296.

[4] *Id*. at 320.

[5] *Id*. at 321.

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Board of Directors:

1. Cecilia D. Liclican – Chairman and Presiding Officer
2. Norma D. Isip
3. Purita C. Dominguez
4. Tessie C. Dominguez, and
5. Shirley C. Dominguez

Officers:

1. Cecilia D. Liclican as President and Presiding Officer
2. Norma D. Isip as Vice-President
3. Gerald B. Cabrera as Corporate Secretary/Treasurer and
4. Oscar Aquino – Financial Consultant Auditor

In reaction to the foregoing developments, petitioners Dagdagan, Patrick and Kenneth Pacis, and Dominguez filed a Complaint against respondents before the Regional Trial Court of Baguio City (RTC) for nullification of meetings, election and acts of directors and officers, injunction and other reliefs, raffled to Branch 59 of the court. Docketed as Civil Case No. 6623-R, the case, after a failed mediation, was referred for appropriate Judicial Dispute Resolution (JDR) to Branch 7 of the RTC. Meanwhile, petitioner stockholders immediately took hold of corporate properties, represented themselves to JMD's tenants as the true and lawful directors of the company, and collected and deposited rents due the company to its bank account.[6]

Subsequently, JMD, represented by petitioners Dagdagan and Patrick Pacis, executed an Affidavit-Complaint[7] dated December 15, 2008 charging respondents Liclican and Isip with qualified theft. Petitioners alleged in the complaint, docketed as I.S. No. 3011 with the Office of the City Prosecutor in Baguio City, that on January 2, 2008, Liclican and Isip, without any authority whatsoever, conspired to withdraw the amount of ₱852,024.19 from the corporation's savings account with the Equitable-PCI Bank; and that the following day, they issued Check No. C0002489901[8]

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[6] *Id*. at 3-4.

[7] *Id*. at 247-253.

[8] *Id*. at 252.

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in the amount of ₱200,000, payable to cash, and to be drawn against JMD's account with Robinson's Savings Bank.[9]

In a separate complaint,[10] docketed as I.S. No. 3118, the corporation claimed that respondents Liclican and Isip likewise issued Equitable-PCI Bank Check No. 320953[11] payable to one Atty. Francisco Lava, Jr. for ₱200,000 to be debited from the corporation's account.

After due proceedings, the Office of the City Prosecutor of Baguio City, by Joint Resolution of February 2, 2009, recommended the filing of informations as follows:[12]

> WHEREFORE, premises considered, the undersigned recommends for approval the attached Informations for Qualified Theft against LICLICAN and ISIP in I.S. No. 3011 and another against LICLICAN in I.S. No. 3118.

When filed, the informations were eventually raffled to Branch 7 of the RTC, the same court overseeing the JDR,[13] presided over by Judge Mona Lisa V. Tiongson-Tabora (Judge Tiongson-Tabora). The criminal cases for qualified theft were then docketed as Criminal Case Nos. 29176-R (based on I.S. No. 3118) and 29175-R (based on I.S. No. 3111).

On March 10, 2009, Judge Tiongson-Tabora issued an Order[14] in Criminal Case No. 29176-R, finding probable cause for the issuance of a warrant of arrest against Liclican, thus:

> WHEREFORE, the Information filed herein is hereby given due course. Let the corresponding warrant of arrest be issued against the accused. As recommended, the bail is hereby fixed as Php80,000.00.
>
> SO ORDERED.

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[9] *Id*. at 247-248.

[10] *Id*. at 254-259.

[11] *Id*. at 257.

[12] *Id*. at 260.

[13] *Id*. at 300.

[14] *Id*. at 271.

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A similar Order,[15] also dated March 10, 2009, was issued in Criminal Case No. 29175-R likewise finding probable cause against respondents Liclican and Isip, *viz*:

> WHEREFORE, the Information filed herein is hereby given due course. Let the corresponding warrant of arrest be issued against the accused. As recommended, the bail is hereby fixed at Php 80,000.00 each.
>
> Considering that the address provided for accused Norma Isip is Washington, U.S.A., the private complainants are hereby given fifteen (15) days from receipt hereof to provide the Court with a local address for the said accused if she may be found in the Philippines.
>
> SO ORDERED.

Consequently, the corresponding warrants were issued for the arrests of Isip and Liclican.[16]

In due time, respondents lodged a petition for certiorari with the CA, docketed as CA-G.R. SP No.108617, to annul and set aside the two (2) March 10, 2009 Orders by the RTC Branch 7, anchored, among others, on the alleged existence of a prejudicial question. According to respondents, petitioner stockholders, by filing the complaint-affidavit, are already assuming that they are the legitimate directors of JMD, which is the very issue in the intra-corporate dispute pending in the RTC, Branch 59.

Ruling of the Court of Appeals

In its assailed Decision, the CA granted the petition for certiorari, disposing as follows:

> **WHEREFORE**, the challenged Orders both dated March 10, 2009 are hereby **ANNULLED** and **SET ASIDE** for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.
>
> **SO ORDERED.**

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[15] *Id*. at 269.

[16] *Id*. at 270, 272.

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The appellate court held that Judge Tiongson-Tabora should have refrained from determining probable cause since she is well aware of the pendency of the issue on the validity of JMD's elections in Civil Case No. 6623-R. As the judge overseeing the JDR of the said intra-corporate dispute, she knew that there was still doubt as to who the rightfully elected directors of JMD are and, corollarily, who would have the authority to initiate the criminal proceedings for qualified theft.[17]

The CA further noted that even as corporate officers, as they claim to be, petitioners Dagdagan and Patrick Pacis cannot file the Complaint-Affidavit in the exercise of corporate powers without authority from the board of directors under Sec. 23,[18] in relation to Sec. 25[19] of the Corporation Code.[20] Any doubt

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[17] *Id*. at 307.

[18] **Section 23.** The board of directors or trustees. – Unless otherwise provided in this Code, the corporate powers of all corporations formed under this Code shall be exercised, all business conducted and all property of such corporations controlled and held by the board of directors or trustees to be elected from among the holders of stocks, or where there is no stock, from among the members of the corporation, who shall hold office for one (1) year until their successors are elected and qualified. x x x

[19] **Section 25.** Corporate officers, quorum. – Immediately after their election, the directors of a corporation must formally organize by the election of a president, who shall be a director, a treasurer who may or may not be a director, a secretary who shall be a resident and citizen of the Philippines, and such other officers as may be provided for in the by-laws. Any two (2) or more positions may be held concurrently by the same person, except that no one shall act as president and secretary or as president and treasurer at the same time.

The directors or trustees and officers to be elected shall perform the duties enjoined on them by law and the by-laws of the corporation. Unless the articles of incorporation or the by-laws provide for a greater majority, a majority of the number of directors or trustees as fixed in the articles of incorporation shall constitute a quorum for the transaction of corporate business, and every decision of at least a majority of the directors or trustees present at a meeting at which there is a quorum shall be valid as a corporate act, except for the election of officers which shall require the vote of a majority of all the members of the board.

Directors or trustees cannot attend or vote by proxy at board meetings.

[20] *Rollo*, p. 309.

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cast on the validity of the board elections would then necessarily extend to the authority of the officers to act.

As further held by the CA:

> x x x Since there is doubt in the instant case as to the sufficiency of the authority of a corporate officer, Judge Tiongson-Tabora should have exercised prudence by holding the criminal cases in abeyance pending resolution of the intra-corporate dispute which private respondents themselves instituted.[21]

Aggrieved, individual petitioners moved for reconsideration, on the main contention that their election as officers and directors of JMD has already been sustained by the trial court via its Judgment in Civil Case No. 6623-R dated May 6, 2011. They likewise claimed that the issue on whether or not the RTC, Branch 7 committed grave abuse of discretion is already rendered moot and academic by the judge's inhibition in Criminal Case Nos. 29175-R and 29176-R, and the termination of the JDR proceedings in Civil Case No. 6623-R. Petitioners' motion, however, proved futile as the appellate court denied the same in its July 15, 2013 Resolution.[22]

Hence, the instant recourse.

The Issues

Plainly, the resolution of the extant case depends on whether or not there exists a prejudicial question that could affect the criminal proceedings for qualified theft against respondents. In the concrete, the issues are (i) whether or not Civil Case No. 6623-R constituted a prejudicial question warranting the suspension of the proceedings in Criminal Case Nos. 29175-R and 29176-R; and (ii) whether or not grave abuse of discretion attended the issuance of the two assailed March 10, 2009 Orders in Criminal Case Nos. 29175-R and 29176-R.

The Court's Ruling

The petition lacks merit.

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[21] *Id*. at 314-315.

[22] *Id*. at 361.

The challenged Orders of the trial court were issued in grave abuse of discretion

We have previously ruled that grave abuse of discretion may arise when a lower court or tribunal violates or contravenes the Constitution, the law or existing jurisprudence. By grave abuse of discretion is meant, such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law. The word "capricious," usually used in tandem with the term "arbitrary," conveys the notion of willful and unreasoning action. Thus, when seeking the corrective hand of certiorari, a clear showing of caprice and arbitrariness in the exercise of discretion is imperative.[23]

In the case at bar, the CA correctly ruled that Judge Tiongson-Tabora acted with grave abuse of discretion when she ordered the arrests of respondents Isip and Liclican despite the existence of a prejudicial question.

As jurisprudence elucidates, a prejudicial question generally exists in a situation where a civil action and a criminal action are both pending, and there exists in the former an issue that must be pre-emptively resolved before the latter may proceed, because howsoever the issue raised in the civil action is resolved would be determinative *juris et de jure* of the guilt or innocence of the accused in the criminal case.[24] The rationale behind the principle is to avoid two conflicting decisions,[25] and its existence rests on the concurrence of two essential elements: (i) the civil action involves an issue similar or intimately related to the issue

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[23] *Perez v. Court of Appeals*, G.R. No. 162580, January 27, 2006, 480 SCRA 411, 416.

[24] *Yap v. Cabales*, G.R. No. 159186, June 5, 2009, 588 SCRA 426.

[25] *Id*.

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raised in the criminal action; and (ii) the resolution of such issue determines whether or not the criminal action may proceed.[26]

Here, the CA aptly observed that Civil Case No. 6623-R, the intra-corporate dispute, posed a prejudicial question to Criminal Case Nos. 29175-R and 29176-R. To be sure, Civil Case No. 6623-R involves the same parties herein, and is for nullification of JMD's meetings, election and acts of its directors and officers, among others. Court intervention was sought to ascertain who between the two contesting group of officers should rightfully be seated at the company's helm. Without Civil Case No. 6623-R's resolution, petitioners' authority to commence and prosecute Criminal Case Nos. 29175-R and 29176-R against respondents for qualified theft in JMD's behalf remained questionable, warranting the suspension of the criminal proceedings.

Judge Tiongson-Tabora cannot deny knowledge of the pendency of Civil Case No. 6623-R as the judge presiding over its JDR. As correctly held by the CA:

> **Judge Tiongson-Tabora is well-aware of the existence of said prejudicial question** that should have barred the filing of the criminal complaint against petitioners Liclican and Isip, for the simple reason that a juridical person can only act through its officers, and the issue in the main case submitted for JDR before Judge Tiongson-Tabora is one for nullification of meetings, election and act of directors and officers, injunction and other reliefs. Thus, **she knows for a fact that there is a question as to who are the legitimate directors of JMD such that there is doubt as to whether private respondents are in a position to act for JMD.** (emphasis added)

Verily, the RTC ought to have suspended the proceedings, instead of issuing the challenged Orders issued by the RTC.

The subsequent resolution of the prejudicial question did not cure the defect

It may be, as the petitioners pointed out in their motion for reconsideration filed before the CA, that Civil Case No. 6623-R

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[26] RULES OF COURT, Rule 111, Sec. 7.

was eventually resolved in their favor through a Judgment[27] dated May 6, 2011 rendered by the RTC, Branch 59, the dispositive portion of which reads:

> **WHEREFORE**, from all the foregoing disquisitions, the Court hereby declares that the **plaintiffs** [petitioners herein] **are the duly elected board of directors and officers of the JM Dominguez Agronomic Company, Inc. for the year 2008 and hold-over capacity unless here had already been an election of new officers**.
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> **Consequently, all Corporate Acts which the defendants** [herein respondents and one Gerald Cabrera and one Oscar Aquino] **have done and performed and all documents they have executed and issued have no force and effect.**
>
> Considering that the amount of Php850,000.00 which defendants have withdrawn under the account of JM Dominguez Agronomic Company, Inc. from the Equitable – PCI Bank (now Banco de Oro) is the same subject in CC no. 29175-R entitled Pp. *vs*. Cecilia Liclican and Norma D. Isip for Qualified Theft, the Court will no longer dwell on the same.
>
> x x x x x x x x x
>
> **SO ORDERED.** (emphasis and words in bracket added)

This Judgment has, on June 6, 2011, become final and executory, as per the Notice of Entry of Judgment issued by the same trial court.[28] Evidently, whatever cloud of doubt loomed over petitioners' actuations has already been dispelled. Petitioners then postulate that the question on whether or not the challenged Orders were issued in grave abuse of discretion has already been rendered moot and academic by the June 6, 2011 ruling and by Judge Tiongson-Tabora's subsequent inhibition in the criminal proceedings. Consequently, they argue that their motion for reconsideration should have been granted by the appellate court.

We are not convinced.

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[27] *Rollo*, pp. 353-355. Penned by Judge Iluminada P. Cabato.

[28] *Id*. at 356.

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The resolution of the prejudicial question did not, in context, cure the grave abuse of discretion already committed. The fact remains that when the RTC, Branch 7 issued its challenged Orders on March 10, 2009, the Judgment in favor of petitioners was not yet rendered. Consequently, there was still, at that time, a real dispute as to who the rightful set of officers were. Plainly, Judge Tiongson-Tabora should not have issued the challenged Orders and should have, instead, suspended the proceedings until Civil Case No. 6623-R was resolved with finality.

To grant the instant petition and rule that the procedural infirmity has subsequently been cured either by the Judgment or by Judge Tiongson-Tabora's inhibition would mean condoning the continuation of the criminal proceedings despite, at that time, the existence of a prejudicial question. Such condonation would create a precedent that renders inutile the doctrine on prejudicial question, such that the court trying the criminal case will be permitted to proceed with the trial in the aberrant assumption that the resolution of the prior instituted civil case would benefit the private complainant in the criminal proceedings. To reiterate, there was no certainty yet on how the RTC, Branch 59 would rule; thus, no assumption on Civil Case No. 6623-R's resolution can be made when the challenged Orders were issued. Indeed, had the RTC, Branch 59 not given credence to petitioners' arguments, it would have led to an awkward situation wherein much time and effort is wasted by the RTC, Branch 7 in trying criminal cases it should not have entertained.

The foregoing notwithstanding, it should be made clear that the nullification of the March 10, 2009 Orders does not, under the premises, entail the dismissal of the instituted criminal cases, but would merely result in the suspension of the proceedings in view of the prejudicial question. However, given the resolution of the prejudicial question and Judge Tiongson-Tabora's inhibition, Criminal Case Nos. 29175-R and 29176-R may already proceed, and ought to be re-raffled to re-determine the existence of probable cause for the issuance of warrants of arrest against respondents.

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WHEREFORE, premises considered, the petition is hereby **DENIED** for lack of merit. The Court of Appeals' August 30, 2012 Decision and July 15, 2013 Resolution in CA-G.R. SP No. 108617 are hereby **AFFIRMED**.

Criminal Case Nos. 29175-R and 29176-R are hereby **REMANDED** to the Executive Judge of the Regional Trial Court of Baguio City to be re-raffled to one of its branches other than Branch 7.

SO ORDERED.

Peralta, Villarama, Jr., Perez,[*] and *Jardeleza, JJ.,* concur.

SECOND DIVISION

[G.R. No. 210412. July 29, 2015]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **KAMRAN F. KARBASI,** *respondent.*

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; CITIZENSHIP; CONCEPT; JUDICIAL NATURALIZATION DISTINGUISHED FROM ADMINISTRATIVE NATURALIZATION.— Citizenship is personal and, more or less a permanent membership in a political community. It denotes possession within that particular political community of full civil and political rights subject to special disqualifications. Reciprocally, it imposes the duty of allegiance to the political community. The core of citizenship is the capacity to enjoy political rights, that is, the right to participate in government principally through the right to vote, the right to hold public office and the right

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[*] Acting member per Special Order No. 2084 dated June 29, 2015.