



Republic of the Philippines  
Supreme Court  
Manila

**EN BANC**

**JOSE MIGUEL T. ARROYO,**  
Petitioner,

**G.R. No. 199082**

**-versus-**

**DEPARTMENT OF JUSTICE;  
COMMISSION ON ELECTIONS; HON.  
LEILA DE LIMA, in her capacity as  
Secretary of the Department of Justice; HON.  
SIXTO BRILLANTES, JR., in his capacity as  
Chairperson of the Commission on Elections;  
and the JOINT DOJ-COMELEC  
PRELIMINARY INVESTIGATION  
COMMITTEE and FACT-FINDING TEAM,  
Respondents.**

X-----X

**BENJAMIN S. ABALOS, SR.,**  
Petitioner,

**G.R. No. 199085**

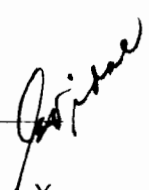
**-versus-**

**HON. LEILA DE LIMA, in her capacity as  
Secretary of Justice; HON. SIXTO S.  
BRILLANTES, JR., in his capacity as  
COMELEC Chairperson; RENE V.  
SARMIENTO, LUCENITO N. TAGLE,  
ARMANDO V. VELASCO, ELIAS R.  
YUSOPH, CHRISTIAN ROBERT S. LIM  
AND AUGUSTO C. LAGMAN, in their  
capacity as COMELEC COMMISSIONERS;  
CLARO A. ARELLANO, GEORGE C. DEE,  
JACINTO G. ANG, ROMEO B. FORTES  
AND MICHAEL D. VILLARET, in their  
capacity as CHAIRPERSON AND  
MEMBERS, RESPECTIVELY, OF THE  
JOINT DOJ-COMELEC PRELIMINARY**

**INVESTIGATION COMMITTEE ON THE  
2004 AND 2007 ELECTION FRAUD**

Respondents.

X-----X

**GLORIA MACAPAGAL-ARROYO,**  
Petitioner,**G.R. No. 199118****Present:****-versus-**SERENO, *C.J.*,  
CARPIO,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
BRION,  
PERALTA,  
BERSAMIN,  
DEL CASTILLO,  
ABAD,  
VILLARAMA, JR.,  
PEREZ,  
MENDOZA,  
REYES,  
PERLAS-BERNABE, and  
LEONEN, *JJ.***COMMISSION ON ELECTIONS,**  
represented by Chairperson Sixto S.  
Brillantes, Jr., **DEPARTMENT OF JUSTICE,**  
represented by Secretary Leila M. De Lima,  
**JOINT DOJ-COMELEC PRELIMINARY**  
**INVESTIGATION COMMITTEE,**  
**SENATOR AQUILINO M. PIMENTEL III,**  
and **DOJ-COMELEC FACT FINDING**  
**TEAM,****Promulgated:**JULY 23, 2013 

Respondents.

X-----X

**RESOLUTION****PERALTA, J.:**

For resolution are the separate motions for reconsideration filed by movants Gloria Macapagal Arroyo (GMA)<sup>1</sup> in G.R. No. 199118 and Jose Miguel T. Arroyo (Mike Arroyo)<sup>2</sup> in G.R. No. 199082 praying that the

<sup>1</sup> Rollo (G.R. No. 199118), pp. 845-867.

<sup>2</sup> Rollo (G.R. No. 199082), pp. 1155-1174.

Court take a second look at our September 18, 2012 Decision<sup>3</sup> dismissing their petitions and supplemental petitions against respondents Commission on Elections (Comelec), the Department of Justice (DOJ), Senator Aquilino M. Pimentel III (Senator Pimentel), Joint DOJ-Comelec Preliminary Investigation Committee (Joint Committee) and DOJ-Comelec Fact-Finding Team (Fact-Finding Team), *et al.*

For a better perspective, we briefly state the relevant factual and procedural antecedents as found by the Court in the assailed decision, to wit:

On August 15, 2011, the Comelec and the DOJ issued Joint Order No. 001-2011 creating and constituting a Joint Committee and Fact-Finding Team (referred to as Joint Panel) on the 2004 and 2007 National Elections electoral fraud and manipulation cases. The Joint Committee was mandated to conduct the necessary preliminary investigation on the basis of the evidence gathered and the charges recommended by the Fact-Finding Team. The Fact-Finding Team, on the other hand, was created for the purpose of gathering real, documentary, and testimonial evidence which can be utilized in the preliminary investigation to be conducted by the Joint Committee. Pursuant to Section 7<sup>4</sup> of the Joint Order, on August 23, 2011, the Joint Committee promulgated its Rules of Procedure.

In its Initial Report<sup>5</sup> dated October 20, 2011, the Fact-Finding Team concluded that manipulation of the results in the May 14, 2007 senatorial elections in the provinces of North and South Cotabato, and Maguindanao was indeed perpetrated.<sup>6</sup> The Fact-Finding Team recommended, among others, that petitioner Benjamin S. Abalos, Sr. (Abalos) be subjected to preliminary investigation for electoral sabotage for conspiring to manipulate the election results in North and South Cotabato; that GMA and Abalos be subjected to another preliminary investigation for manipulating the election results in Maguindanao;<sup>7</sup> and, that Mike Arroyo be subjected to further investigation.<sup>8</sup> The case was docketed as DOJ-Comelec Case No. 001-2011.

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<sup>3</sup> *Id.* at 1188-1247.

<sup>4</sup> Section 7. *Rules of Procedure.* – Within forty-eight (48) hours from the issuance of this Joint Order, the Committee shall meet and craft its rules of procedure as may be complementary to the respective rules of DOJ and Comelec, and submit the same to the Secretary of Justice and the Comelec *En Banc* for approval within five (5) days from such initial meeting.

<sup>5</sup> *Rollo* (G.R. No. 199118), pp. 58-143.

<sup>6</sup> *Id.* at 124.

<sup>7</sup> *Id.* at 132-134.

<sup>8</sup> *Id.* at 137.

Meanwhile, on October 17, 2011, Senator Pimentel filed a Complaint-Affidavit<sup>9</sup> for Electoral Sabotage against petitioners and twelve others, and several John Does and Jane Does. The case was docketed as DOJ-Comelec Case No. 002-2011.

On October 24, 2011, the Joint Committee issued two subpoenas against petitioners in DOJ-Comelec Case Nos. 001-2011 and 002-2011.<sup>10</sup> On November 3, 2011, petitioners, through counsel, appeared before the Joint Committee<sup>11</sup> and respondents therein were ordered to submit their Counter-Affidavits by November 14, 2011.<sup>12</sup>

Thereafter, petitioners filed before the Court separate Petitions for *Certiorari* and Prohibition with Prayer for the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction assailing the creation of the Joint Panel.<sup>13</sup> The petitions were eventually consolidated.

On November 14, 2011, Mike Arroyo filed a Motion to Defer Proceedings<sup>14</sup> before the Joint Committee, in view of the pendency of his petition before the Court. On the same day, GMA filed before the Joint Committee an Omnibus Motion *Ad Cautelam*<sup>15</sup> to require Senator Pimentel to furnish her with documents referred to in his complaint-affidavit and for the production of election documents as basis for the charge of electoral sabotage. GMA prayed that she be allowed to file her counter-affidavit within ten (10) days from receipt of the requested documents.<sup>16</sup> Petitioner Abalos, for his part, filed a Motion to Suspend Proceedings (*Ex Abundante Ad Cautelam*),<sup>17</sup> in view of the pendency of his petition brought before the Court.

In an Order<sup>18</sup> dated November 15, 2011, the Joint Committee denied the aforesaid motions of petitioners. GMA, subsequently, filed a motion for reconsideration.<sup>19</sup>

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<sup>9</sup> *Rollo* (G.R. No. 199085), pp. 162-194.

<sup>10</sup> *Rollo* (G.R. No. 199118), p. 316.

<sup>11</sup> *Id.* at 17.

<sup>12</sup> *Rollo* (G.R. No. 199082), p. 21.

<sup>13</sup> Refers to the Joint Committee and Fact-Finding Team.

<sup>14</sup> *Rollo* (G.R. No. 199082), pp. 158-161.

<sup>15</sup> *Rollo* (G.R. No. 199118), pp. 250-259.

<sup>16</sup> *Id.* at 257.

<sup>17</sup> *Rollo* (G.R. No. 199085), pp. 302-306.

<sup>18</sup> *Rollo* (G.R. No. 199118), pp. 260-264.

<sup>19</sup> *Id.* at 224.

On November 16, 2011, the Joint Committee promulgated a Joint Resolution which was later indorsed to the Comelec.<sup>20</sup> On November 18, 2011, the Comelec *en banc* issued a Resolution<sup>21</sup> approving and adopting the Joint Resolution subject to modifications. The Comelec resolved, among others, that an information for electoral sabotage be filed against GMA and Abalos, while the charges against Mike Arroyo be dismissed for insufficiency of evidence.

On even date, pursuant to the above Resolution, the Comelec's Law Department filed with the Regional Trial Court (RTC), Pasay City, an Information against petitioner GMA, Governor Andal Ampatuan, Sr., and Atty. Lintang H. Bedol, for violation of Section 42(b)(3) of Republic Act (RA) No. 9369, amending Section 27 (b) of RA 6646, docketed as Criminal Case No. RPSY-11-04432-CR.<sup>22</sup> The case was raffled to Branch 112 and the corresponding Warrant of Arrest was issued which was served on GMA on the same day.<sup>23</sup>

On November 18, 2011, GMA filed with the RTC an Urgent Omnibus Motion *Ad Cautelam*<sup>24</sup> with leave to allow the Joint Committee to resolve the motion for reconsideration filed by GMA, to defer issuance of a warrant of arrest and a hold departure order, and to proceed to judicial determination of probable cause. She, likewise, filed with the Comelec a Motion to Vacate *Ad Cautelam*<sup>25</sup> praying that its Resolution be vacated for being null and void. The RTC, nonetheless, issued a Warrant for her arrest which was duly served. GMA was later arraigned and she entered a plea of "not guilty." She was, for some time, on hospital arrest but was able to obtain temporary liberty when her motion for bail was granted. At present, she is again on hospital arrest by virtue of a warrant issued in another criminal case.

On September 18, 2012, the Court rendered the assailed Decision, the dispositive portion of which reads:

**WHEREFORE**, premises considered, the petitions and supplemental petitions are **DISMISSED**. Comelec Resolution No. 9266 dated August 2, 2011, Joint Order No. 001-2011 dated August 15, 2011, and the Fact-Finding Team's Initial Report dated October 20, 2011, are declared **VALID**. However, the Rules of Procedure on the Conduct of

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<sup>20</sup> *Id.* at 318.

<sup>21</sup> *Id.* at 265-273.

<sup>22</sup> *Id.* at 321.

<sup>23</sup> *Id.* at 226.

<sup>24</sup> *Id.* at 274-280.

<sup>25</sup> *Id.* at 439-451.

Preliminary Investigation on the Alleged Election Fraud in the 2004 and 2007 National Elections is declared **INEFFECTIVE** for lack of publication.

In view of the constitutionality of the Joint Panel and the proceedings having been conducted in accordance with Rule 112 of the Rules on Criminal Procedure and Rule 34 of the Comelec Rules of Procedure, the conduct of the preliminary investigation is hereby declared **VALID**.

Let the proceedings in the Regional Trial Court of Pasay City, Branch 112, where the criminal cases for electoral sabotage against petitioners GMA and Abalos are pending, proceed with dispatch.

**SO ORDERED.**<sup>26</sup>

Hence, these motions for reconsideration.

### *Issues*

Mike Arroyo reiterates his arguments on the independence of the Comelec as basis in nullifying the subject joint DOJ-Comelec resolutions. Echoing Justice Arturo Brion in his Dissenting and Concurring Opinion,<sup>27</sup> Mike Arroyo insists that the creation of the Joint Panel undermines the decisional independence of the Comelec.<sup>28</sup>

Mike Arroyo also maintains that the DOJ should conduct preliminary investigation only when deputized by the Comelec but not exercise concurrent jurisdiction.<sup>29</sup> Finally, as has been repeatedly pointed out in his earlier pleadings before the Court, Mike Arroyo claims that the proceedings involving the electoral sabotage case were rushed because of pressures from the executive branch of the government.<sup>30</sup>

For her part, GMA claims that in availing of the procedural remedies available, she merely exercised her earnest efforts to defend herself and should not have been deemed by the Court as acts which purportedly tend to demonstrate that she either waived or forfeited her right to submit her counter-affidavit and countervailing evidence.<sup>31</sup> Citing several cases decided by the Court, she likewise faults the Court in not upholding her right to ask

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<sup>26</sup> *Id.* at 756-757. (Emphasis in the original)

<sup>27</sup> *Rollo* (G.R. No. 199082), pp. 1106-1146.

<sup>28</sup> *Id.* at 1161.

<sup>29</sup> *Id.* at 1162.

<sup>30</sup> *Id.* at 1163

<sup>31</sup> *Rollo* (G.R. No. 199118), pp. 850-854.

for additional time within which to submit her counter-affidavit and countervailing evidence.<sup>32</sup> GMA highlights that the subject Comelec Resolution creating the Joint Panel is different from the previous Comelec resolutions requesting the DOJ Secretary to assign prosecutors to assist the Comelec, as the latter emphasize the role of the DOJ as deputized agency in the conduct of preliminary investigation. She maintains that it is the Comelec and not the Joint Committee that has the primary, if not exclusive, authority to conduct preliminary investigation of election cases.<sup>33</sup>

In their Consolidated Comment,<sup>34</sup> respondents defend the creation of the Joint Committee and argue that it does not undermine the independence of the Comelec as a constitutional body because it is still the Comelec that ultimately determines probable cause.<sup>35</sup> As to the conduct of the preliminary investigation, respondents maintain that no rights were violated as GMA was afforded the opportunity to defend herself, submit her counter-affidavit and other countervailing evidence.<sup>36</sup> They, thus, consider GMA's claim of availing of the remedial measures as "delaying tactics" employed to thwart the investigation of charges against her by the Joint Committee.<sup>37</sup>

### *The Court's Ruling*

Clearly from the above discussion, movants raise issues that have been thoroughly explained by the Court in the assailed decision. The issues were all addressed and the explanation was exhaustive, thus, we find no reason to disturb the Court's conclusions.

At any rate, if only to address the motions of the movants herein and to put an end to the questions attached to the creation of the Joint Panel and, consequently, to the performance of their assigned tasks, we hereby reiterate our findings and conclusions made in the assailed decision.

This is not the first time that the Court is confronted with the issue of whether the Comelec has the exclusive power to investigate and prosecute cases of violations of election laws. In *Barangay Association for National Advancement and Transparency (BANAT) Party-List v. Commission on Elections*,<sup>38</sup> the constitutionality of Section 43<sup>39</sup> of RA 9369<sup>40</sup> had already

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<sup>32</sup> *Id.* at 854-857.

<sup>33</sup> *Id.* at 860-862.

<sup>34</sup> *Id.* at 902-932.

<sup>35</sup> *Id.* at 906-911.

<sup>36</sup> *Id.* at 911-913.

<sup>37</sup> *Id.* at 913.

<sup>38</sup> G.R. No. 177508, August 7, 2009, 595 SCRA 477.

been raised by petitioners therein and addressed by the Court. While recognizing the Comelec's exclusive power to investigate and prosecute cases under *Batas Pambansa Bilang* 881 or the Omnibus Election Code, the Court pointed out that the framers of the 1987 Constitution did not have such intention. This exclusivity is thus a legislative enactment that can very well be amended by Section 43 of RA 9369. Therefore, under the present law, the Comelec and other prosecuting arms of the government, such as the DOJ, now exercise concurrent jurisdiction in the investigation and prosecution of election offenses.

Indeed, as aptly pointed out by GMA, there is a discrepancy between Comelec Resolution No. 3467<sup>41</sup> dated January 12, 2001 and Joint Order No. 001-2011, dated August 15, 2011, creating and constituting a Joint Committee and Fact-Finding Team on the 2004 and 2007 National Elections electoral fraud and manipulation cases. However, GMA seemed to miss the date when these two resolutions were promulgated by the Comelec. It is noteworthy that Comelec Resolution No. 3467 was issued when Section 265 of the Omnibus Election Code was still effective, while Joint Order No. 001-2011 as well as Comelec Resolution Nos. 8733<sup>42</sup> and 9057<sup>43</sup> mentioned in the assailed decision but missed out by GMA in her motion, were issued during the effectivity of Section 43 of RA 9369, giving the Comelec and other prosecuting arms of the government the concurrent jurisdiction to investigate and prosecute election offenses. This amendment paved the way for the discrepancy. In Comelec Resolution No. 3467, the Comelec maintained the continuing deputation of prosecutors and the Comelec Law Department was tasked to supervise the investigatory and prosecutory functions of the task force pursuant to the mandate of the Omnibus Election Code. However, with the amendment, the Comelec likewise changed the

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<sup>39</sup> Section 43. Section 265 of Batas Pambansa Blg. 881 is hereby amended to read as follows:

“SEC. 265. *Prosecution.* – The Commission shall, through its duly authorized legal officers, have the power, concurrent with the other prosecuting arms of the government, to conduct preliminary investigation of all election offenses punishable under this Code, and to prosecute the same.”

<sup>40</sup> An Act Amending Republic Act No. 8436, Entitled "An Act Authorizing the Commission on Elections to Use an Automated Election System in the May 11, 1998 National or Local Elections and in Subsequent National and Local Electoral Exercises, to Encourage Transparency, Credibility, Fairness and Accuracy of Elections, Amending for the Purpose Batas Pambansa Blg. 881, as Amended, Republic Act No. 7166 and Other Related Election Laws, Providing Funds Therefor and for Other Purposes." Approved on 23 January 2007.

<sup>41</sup> “In the Matter of Requesting the Honorable Secretary of Justice to Assign Prosecutors as Members of a Special Task Force to Assist the Commission in the Investigation and Prosecution of Election Offenses in the May 14, 2001 National and Local Elections and Reiterating the Continuing Deputation of Prosecutors under Rule 34 of the Comelec Rules of Procedure.”

<sup>42</sup> “In the Matter of Requesting the Honorable Secretary of Justice to Assign Prosecutors as Members of a Special Task Force Created by the Commission to Conduct the Investigation and Prosecution of Election Offenses in Connection with the May 10, 2010 National and Local Elections”

<sup>43</sup> “In the Matter of Requesting the Honorable Secretary of Justice to Assign Prosecutors as Members of a Special Task Force to Assist the Commission in the Investigation and Prosecution of Elections Offenses in Connection with the October 25, 2010 Barangay and Sangguniang Kabataan Elections”



tenor of the later resolutions to reflect the new mandate of the Comelec and other prosecuting arms of the government now exercising concurrent jurisdiction. Thus, the Comelec Law Department and the Office of the Chief State Prosecutor of the DOJ were tasked to jointly supervise the investigatory and prosecutory functions of the Comelec-DOJ Task Force. Considering, therefore, that the later resolutions, including Joint Order No. 001-2011, were issued pursuant to Section 43 of RA 9369 amending Section 265 of BP 881 which was declared “constitutional” in *Banat*, there is no reason for us to declare otherwise. To maintain the previous role of other prosecuting arms of the government as mere deputies despite the amendment would mean challenging Section 43 of RA 9369 *anew* which has already been settled in *Banat*.

To be sure, the creation of a Joint Committee is not repugnant to the concept of “concurrent jurisdiction” authorized by the amendatory law. As we explained in our September 18, 2012 Decision:

x x x The doctrine of concurrent jurisdiction means equal jurisdiction to deal with the same subject matter. Contrary to the contention of the petitioners, there is no prohibition on simultaneous exercise of power between two coordinate bodies. What is prohibited is the situation where one files a complaint against a respondent initially with one office (such as the Comelec) for preliminary investigation which was immediately acted upon by said office and the re-filing of substantially the same complaint with another office (such as the DOJ). The subsequent assumption of jurisdiction by the second office over the cases filed will not be allowed. Indeed, it is a settled rule that the body or agency that first takes cognizance of the complaint shall exercise jurisdiction to the exclusion of the others.

x x x x

None of these problems would likely arise in the present case. The Comelec and the DOJ themselves agreed that they would exercise their concurrent jurisdiction jointly. Although the preliminary investigation was conducted on the basis of two complaints – the initial report of the Fact-Finding Team and the complaint of Senator Pimentel – both complaints were filed with the Joint Committee. Consequently, the complaints were filed with and the preliminary investigation was conducted by only one investigative body. Thus, we find no reason to disallow the exercise of concurrent jurisdiction jointly by those given such authority. This is especially true in this case given the magnitude of the crimes allegedly committed by petitioners. The joint preliminary investigation also serves to maximize the resources and manpower of both the Comelec and the DOJ for the prompt disposition of the cases.<sup>44</sup>

<sup>44</sup>

*Rollo* (G.R. No. 199118), pp. 734-736. (Citations omitted)

Notwithstanding the grant of concurrent jurisdiction, the Comelec and the DOJ nevertheless included a provision in the assailed Joint Order whereby the resolutions of the Joint Committee finding probable cause for election offenses shall still be approved by the Comelec in accordance with the Comelec Rules of Procedure.<sup>45</sup> With more reason, therefore, that we cannot consider the creation of the Joint Committee as an abdication of the Comelec's independence enshrined in the 1987 Constitution.

Finally, we focus on the validity of the preliminary investigation conducted by the Joint Committee.

The procedure in conducting the preliminary investigation is governed by Rule 112 of the Revised Rules on Criminal Procedure and Rule 34 of the Comelec Rules of Procedure. Under both Rules,<sup>46</sup> the respondent shall submit his counter-affidavit and that of his witnesses and other supporting documents relied upon for his defense, within ten (10) days from receipt of the subpoena, with the complaint and supporting affidavits and documents.<sup>47</sup> Also in both Rules, respondent is given the right to examine evidence, but such right of examination is limited only to the documents or evidence submitted by complainants which she may not have been furnished and to copy them at her expense.<sup>48</sup>

As to the alleged denial of GMA's right to examine documents, we maintain that no right was violated in view of the limitation of such right as set forth above. We reiterate our explanation in the assailed decision, to wit:

While it is true that Senator Pimentel referred to certain election documents which served as bases in the allegations of significant findings specific to the protested municipalities involved, there were no annexes or

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<sup>45</sup> *Id.* at 733.

<sup>46</sup> Section 3 (c), Rule 112 of the Revised Rules on Criminal Procedure provides:

(c) Within ten (10) days from receipt of the subpoena with the complaint and supporting affidavits and documents, the respondent shall submit his counter-affidavit and that of his witnesses and other supporting documents relied upon for his defense. x x x

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Section 6 (a), Rule 34 of the Comelec Rules of Procedure, on the other hand, provides:

(a) If on the basis of the complaint, affidavits and the supporting evidence, the investigating officer finds no ground to continue with the inquiry, he shall recommend the dismissal of the complaint and shall follow the procedure prescribed in Section 8 (c) of this Rule. Otherwise, he shall issue a subpoena to the respondent, attaching thereto a copy of the complaint, affidavits and other supporting documents giving said respondent ten (10) days from receipt within which to submit counter-affidavits and other supporting documents. The respondent shall have the right to examine all other evidence submitted by the complainant.

<sup>47</sup> Revised Rules of Criminal Procedure, Rule 112, Section 3 (c) and Comelec Rules of Procedure, Rule 34, Section 6 (a).

<sup>48</sup> *Rollo* (G.R. No. 199118), p. 746.

attachments to the complaint filed. As stated in the Joint Committee's Order dated November 15, 2011 denying GMA's Omnibus Motion *Ad Cautelam*, Senator Pimentel was ordered to furnish petitioners with all the supporting evidence. However, Senator Pimentel manifested that he was adopting all the affidavits attached to the Fact-Finding Team's Initial Report. Therefore, when GMA was furnished with the documents attached to the Initial Report, she was already granted the right to examine as guaranteed by the Comelec Rules of Procedure and the Rules on Criminal Procedure. Those were the only documents submitted by the complainants to the Committee. If there are other documents that were referred to in Senator Pimentel's complaint but were not submitted to the Joint Committee, the latter considered those documents unnecessary at that point (without foreclosing the relevance of other evidence that may later be presented during the trial) as the evidence submitted before it were considered adequate to find probable cause against her. x x x<sup>49</sup>

Neither was GMA's right violated when her motion for extension of time within which to submit her counter-affidavit and countervailing evidence was consequently denied. The Rules use the term "shall" in requiring the respondent to submit counter-affidavit and other countervailing evidence within ten (10) days from receipt of the subpoena. It is settled that the use of the word "shall" which is a word of command, underscores the mandatory character of the rule.<sup>50</sup> As in any other rule, though, liberality in the application may be allowed provided that the party is able to present a compelling justification for the non-observance of the mandatory rules. In the 2008 Revised Manual for Prosecutors, investigating prosecutors allow or grant motions or requests for extension of time to submit counter-affidavits when the interest of justice demands that respondent be given reasonable time or sufficient opportunity to engage the services of counsel; examine voluminous records submitted in support of the complaint or undertake research on novel, complicated or technical questions or issues of law and facts of the case.<sup>51</sup>

In this case, GMA claimed that she could not submit her counter-affidavit within the prescribed period because she needed to examine documents mentioned in Senator Pimentel's complaint-affidavit. It appeared, however, that said documents were not submitted to the Joint Committee and the only supporting documents available were those attached to the Initial Report of the Fact-Finding Team. Admittedly, GMA was furnished those documents. Thus, at the time she asked for the extension of time within which to file her counter-affidavit, she very well knew that the documents she was asking were not in the record of the case. Obviously, she was not furnished those documents because they were not submitted to the

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<sup>49</sup> *Id.* at 746-747. (Citations omitted)

<sup>50</sup> *Tan v. Link*, G.R. No. 172849, December 10, 2008, 573 SCRA 479, 490.

<sup>51</sup> 2008 Revised Manual for Prosecutors, p. 89.

Joint Committee. Logically, she has no right to examine said documents. We cannot, therefore, fault the Joint Committee in consequently denying her motion for extension to file counter-affidavit as there was no compelling justification for the non-observance of the period she was earlier required to follow.

And as we held in the assailed decision:

There might have been overzealousness on the part of the Joint Committee in terminating the investigation, endorsing the Joint Resolution to the Comelec for approval, and in filing the information in court. However, speed in the conduct of proceedings by a judicial or quasi-judicial officer cannot *per se* be instantly attributed to an injudicious performance of functions. The orderly administration of justice remains the paramount consideration with particular regard to the peculiar circumstances of each case. To be sure, petitioners were given the opportunity to present countervailing evidence. Instead of complying with the Joint Committee's directive, several motions were filed but were denied by the Joint Committee. Consequently, petitioners' right to submit counter-affidavit and countervailing evidence was forfeited. Taking into account the constitutional right to speedy disposition of cases and following the procedures set forth in the Rules on Criminal Procedure and the Comelec Rules of Procedure, the Joint Committee finally reached its conclusion and referred the case to the Comelec. The latter, in turn, performed its task and filed the information in court. Indeed, petitioners were given the opportunity to be heard. They even actively participated in the proceedings and in fact filed several motions before the Joint Committee. Consistent with the constitutional mandate of speedy disposition of cases, unnecessary delays should be avoided.<sup>52</sup>

Finally, in our assailed decision, we already took judicial notice that not only did GMA enter a plea of "not guilty," she also filed a Motion for Bail and after due hearing, it was granted. Apparently, she benefited from the RTC Order giving her temporary liberty. In filing the motion before the RTC and actively participating therein, she has chosen to seek judicial remedy before the RTC where the electoral sabotage case is pending instead of the executive remedy of going back to the Joint Committee for the submission of her counter-affidavit and countervailing evidence. Besides, as thoroughly discussed in the assailed decision, the irregularity or even the absence of preliminary investigation does not impair the validity of the information filed against her.

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*Rollo* (G.R. No. 199118), pp. 750-751. (Citations omitted)

WHEREFORE, premises considered, the Motions for Reconsideration are **DENIED** for lack of merit.

SO ORDERED.

  
DIOSDADO M. PERALTA  
Associate Justice

WE CONCUR:

*I reiterate  
see my qualified concurring  
opinion of  
Sept. 18, 2012.*

MARIA LOURDES P. A. SERENO  
Chief Justice

*I reiterate my Separate  
Concurring & Dissenting Opinion of  
Sept 18, 2012 Antonio Raymundo*

ANTONIO T. CARPIO  
Associate Justice

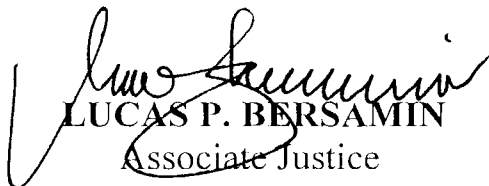
PRESBITERO J. VELASCO, JR.  
Associate Justice

*I concur in the result but join  
the dissenting opinion of Justice Brion  
on the violation of the constitutionally guaranteed  
private property of Castro & family etc.*

TERESITA J. LEONARDO-DE CASTRO  
Associate Justice


*See: Dissenting Opinions  
Armando Ad Brion*

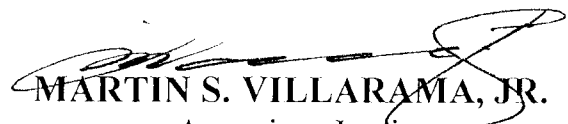
ARTURO D. BRION  
Associate Justice

  
LUCAS P. BERSAMIN  
Associate Justice

  
MARIANO C. DEL CASTILLO  
Associate Justice

*I join the dissent of J. A.D. Brion.*

  
ROBERTO A. ABAD  
Associate Justice

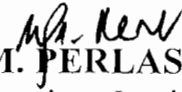
  
MARTIN S. VILLARAMA, JR.  
Associate Justice

  
JOSE PORTUGAL PEREZ  
Associate Justice

*I maintain my previous separate  
opinion.*

JOSE CATRAL MENDOZA  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice


  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

*I concur in the result and join J. Carpio's  
separate concurring and dissenting opinion of Sept 18, 2012.*

  
**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice