

EN BANC

- G.R. No. 205698 – HOME DEVELOPMENT MUTUAL FUND (HDMF) PAG-IBIG FUND, *Petitioner*, v. CHRISTINA SAGUN, *Respondent*.
- G.R. No. 205780 – DEPARTMENT OF JUSTICE, represented by Secretary Leila De Lima, State Prosecutor Theodore M. Villanueva, and Prosecutor General Claro A. Arellano, and THE NATIONAL BUREAU OF INVESTIGATION (NBI), *Petitioners*, v. CHRISTINA SAGUN, *Respondent*.
- G.R. No. 208744 – DEPARTMENT OF JUSTICE, *Petitioner*, v. DELFIN S. LEE, *Respondent*.
- G.R. No. 209424 – HOME DEVELOPMENT MUTUAL FUND (HDMF), *Petitioner*, v. GLOBE ASIATIQUE REALTY HOLDINGS CORPORATION, DELFIN S. LEE, in his capacity as the President of the Corporation, and TESSIE G. WANG, *Respondents*.
- G.R. No. 209446 – PEOPLE OF THE PHILIPPINES, *Petitioner*, v. ALEX M. ALVAREZ, *Respondent*.
- G.R. No. 209489 – HOME DEVELOPMENT MUTUAL FUND, *Petitioner*, v. ATTY. ALEX M. ALVAREZ, *Respondent*.
- G.R. No. 209852 – HOME DEVELOPMENT MUTUAL FUND (HDMF), *Petitioner*, v. DELFIN S. LEE, *Respondent*.
- G.R. No. 210095 – DEPARTMENT OF JUSTICE, *Petitioner*, v. DELFIN S. LEE, *Respondent*.
- G.R. No. 210143 – PEOPLE OF THE PHILIPPINES, *Petitioner*, v. DELFIN S. LEE, *Respondent*.
- G.R. No. 228452 – HOME DEVELOPMENT MUTUAL FUND (HDMF), *Petitioner*, v. DEXTER L. LEE, *Respondent*.
- G.R. No. 228730 – PEOPLE OF THE PHILIPPINES, *Petitioner*, v. DEXTER L. LEE, *Respondent*.



G.R. No. 230680 – CRISTINA SALAGAN, *Petitioner*, v. PEOPLE OF THE PHILIPPINES and HOME DEVELOPMENT MUTUAL FUND (HDMF), *Respondents*.

Promulgated:

July 31, 2018

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SEPARATE CONCURRING OPINION

CAGUIOA, J.:

I concur with the *ponencia* insofar as it finds no probable cause to charge and arrest respondents Delfin S. Lee (Delfin Lee), Dexter L. Lee (Dexter Lee), Christina Sagun (Sagun), Atty. Alex M. Alvarez (Alvarez) and Cristina Salagan (Salagan) for the crime of syndicated *estafa* penalized under Presidential Decree 1689 (PD 1689).¹ I share the *ponencia*'s view that respondents do not qualify as a syndicate as defined in PD 1689.

Under the Revised Penal Code (RPC), any person who shall defraud another by any of the means set forth in Articles 315 and 316 shall be liable for *estafa*.

On April 6, 1980, President Ferdinand E. Marcos issued PD 1689 which treats the crime of syndicated *estafa*. Section 1 thereof, which incorporates Articles 315 and 316 by reference, reads:

SECTION 1. Any person or persons who shall commit *estafa* or other forms of swindling as defined in Articles 315 and 316 of the [RPC], as amended, shall be punished by life imprisonment to death if the swindling (*estafa*) is committed by a syndicate consisting of five or more persons formed with the intention of carrying out the unlawful or illegal act, transaction, enterprise or scheme, and the defraudation results in the misappropriation of moneys contributed by stockholders, or members of rural banks, cooperatives, "*samahang nayon(s)*", or farmers' associations, or of funds solicited by corporations/associations from the general public.

When not committed by a syndicate as above defined, the penalty imposable shall be *reclusion temporal* to *reclusion perpetua* if the amount of the fraud exceeds 100,000 pesos.

Hence, to sustain a charge for syndicated *estafa*, the following elements must be established: (i) *estafa* or other forms of swindling as defined in Articles 315 and 316 of the RPC is committed; (ii) the *estafa* or swindling is committed by a syndicate of five or more persons; and (iii)

¹ In relation to Article 315 of the RPC.

defraudation results in the misappropriation of money contributed by stockholders, or members of rural banks, cooperatives, “*samahang nayon(s)*,” or farmers’ associations or of funds solicited by corporations/associations from the general public.²

The resolution of the Petition requires the examination of the second and third elements.

Second Element

In concurrence with the *ponencia*, and with the separate opinions of Senior Associate Justice Antonio T. Carpio and Associate Justice Estela M. Perlas-Bernabe, I find that the evidence presented against Alvarez establish his participation as the fifth conspirator in the fraudulent scheme subject of the charge.

To note, the Information in Criminal Case No. 18480 charging respondents with syndicated *estafa*, implicates Alvarez under the following terms:

x x x x

That in carrying out the aforesaid conspiracy x x x accused x x x Alvarez, did then and there unlawfully, feloniously and knowingly notarize crucial pieces of documents, consisting, among others, of the buyer’s affidavit of income, promissory note, and developer’s affidavit (by Ms. Cristina Sagun) alleging compliance with the conditions set by [Home Development Mutual Fund (HDMF)], all of which are essential for the processing and approval of the purported transaction; x x x.³

As aptly explained by Justice Carpio, Alvarez admitted during the course of investigation that he notarized documents⁴ for Globe Asiatique Realty Holdings Corporation (GA) in exchange for a fixed monthly fee even as he was employed as manager of HDMF’s Foreclosure Department,⁵ and that he often notarized these documents in GA’s head office during the same period.⁶

Notably, these acts became subject of the case entitled *Alex M. Alvarez v. Civil Service Commission and Home Development Fund*, docketed as G.R. No. 224371.⁷ Therein, the Court found Alvarez liable for

² *Galvez v. Court of Appeals*, 704 Phil. 463, 472 (2013) [Per J. Perez, Special Second Division].

³ As quoted in the *ponencia*, p. 13.

⁴ Including, among others, Affidavits of Income, Contracts to Sell, promissory notes, Deeds of Assignment and Certificates of Acceptance.

⁵ Based on the NBI Report dated October 29, 2010, see J. Carpio, Dissenting Opinion, p. 25, citing *rollo* (G.R. No. 209446), Vol. II, p. 722.

⁶ Based on the transcript of clarificatory questioning of Ms. Veniza Santos Panem, see J. Carpio, Dissenting Opinion, id. at 23-25, citing *rollo*, Vol. VI (G.R. No. 209446), pp. 2550-2563.

⁷ G.R. No. 224371, September 19, 2016 (Unsigned Resolution).



grave misconduct, dishonesty and conduct prejudicial to the best interest of the service, and thus, dismissed Alvarez from service with finality.⁸

Again, as Justice Carpio astutely observes, Alvarez, being the manager of HDMF's Foreclosure Department, evidently knew that the documents he was notarizing for GA (*e.g.*, Affidavits of Income, Contracts to Sell and promissory notes, among others) were essential for the processing and approval of the housing loans in question. In the words of Justice Carpio, this glaring conflict of interest, coupled with the NBI's finding that majority of the documents corresponding to the fictitious accounts had been notarized by Alvarez,⁹ show that he had knowledge of the fraudulent scheme perpetrated by GA, and had actively participated therein.

In this connection, Associate Justice Leonen opines that Section 1 of PD 1689 does not specify the number of individuals who must be charged for an act of fraud to qualify as syndicated *estafa*, but requires only that the number of individuals acting out of a common design to defraud be at least five,¹⁰ since certain contingencies may prevent all individuals involved from standing trial.¹¹ Hence, he stresses that the primary task of investigators and prosecutors in such cases is to "demonstrate the fraudulent scheme employed by five or more individuals,"¹² and, thereafter, "to demonstrate how an individual accused took part in effecting that scheme."¹³

Justice Leonen's observations are well-taken. Indeed, the identification of the individuals involved in the perpetration of syndicated *estafa* and the determination of the nature of their participation are tasks that lie with investigators and prosecutors. Indeed, it is possible to demonstrate the existence of a fraudulent scheme employed by five or more individuals without having to bring each of them to trial. However, it bears emphasis that at the point when the identity and participation of the individual perpetrators are determined to the extent *sufficient* to demonstrate the fraudulent scheme, investigators and prosecutors are left with no reason to drop said individuals from the criminal charge and exclude them from trial. And should the investigators and prosecutors fail, or decide not to include these known malefactors in the charge of syndicated *estafa*, then the Court is left with no alternative but to determine the sufficiency of the said charge only on the basis of the number of malefactors so included as accused — this number going into the very definition of the law as to what constitutes syndicated *estafa*.

⁸ Id.

⁹ See J. Carpio, Dissenting Opinion, pp. 25-26.

¹⁰ See J. Leonen, Dissenting Opinion, p. 4.

¹¹ Id. at 5.

¹² Id.

¹³ Id.



In any case, I submit that the second element of syndicated *estafa* is already satisfied in view of Alvarez's participation in the fraudulent scheme, as discussed.

Third Element

Considering that the fraudulent scheme in question was perpetrated by an entity which does *not* solicit funds from the general public, I find that the third element of syndicated *estafa* is absent. Thus, I likewise concur with the *ponencia* in this respect.

In *Galvez v. Court of Appeals*¹⁴ (*Galvez*), Asia United Bank (AUB) charged private respondents therein with syndicated *estafa* for having deceived AUB into granting their corporation, Radio Marine Network Smartnet, Inc. (RMSI), a ₱250-million Omnibus Credit Line based on the misrepresentation that RMSI had sufficient capital and assets to secure the financial accommodation. Resolving the case, the Court ruled that fraud only qualifies as syndicated *estafa* under PD 1689 when the corporation or association through which it is committed is an entity which receives contributions from the general public:

On review of the cases applying the law, we note that the swindling syndicate used the association that they manage to defraud the general public of funds contributed to the association. Indeed, Section 1 of [PD] 1689 speaks of a syndicate formed with the intention of carrying out the unlawful scheme for the misappropriation of the money contributed by the members of the association. **In other words, only those who formed and manage associations that receive contributions from the general public who misappropriated the contributions can commit syndicated *estafa*.**

[Respondents], however, are not in any way related either by employment or ownership to AUB. They are outsiders who, by their cunning moves were able to defraud an association, which is the AUB. **Theirs would have been a different story, had they been managers or owners of AUB who used the bank to defraud the public depositors.**

This brings to fore the difference between the case of Gilbert Guy, *et al.*, and that of *People v. Balasa*, *People v. Romero*, and *People v. Menil, Jr.*

In *People v. Balasa*, the accused formed the *Panata* Foundation of the Philippines, Inc., a non-stock/non-profit corporation and the accused managed its affairs, solicited deposits from the public and misappropriated the same funds.

We clarified in *Balasa* that although, the entity involved, the *Panata* Foundation, was not a rural bank, cooperative, *samahang nayon* or farmers' association, it being a corporation, does not take the case out of

¹⁴ *Supra* note 2.



the coverage of [PD] 1689. [PD] 1689's third "whereas clause" states that it also applies to other "corporations/associations operating on funds solicited from the general public." It is this pronouncement about the coverage of "corporations/associations" that led us to the ruling in our [April 25, 2012] Decision that a commercial bank falls within the coverage of [PD] 1689. We have to note though, as we do now, that the *Balasa* case, differs from the present petition because while in *Balasa*, the offenders were insiders, *i.e.*, owners and employees who used their position to defraud the public, in the present petition, the offenders were not at all related to the bank. **In other words, while in *Balasa* the offenders used the corporation as the means to defraud the public, in the present case, the corporation or the bank is the very victim of the offenders.**

Balasa has been reiterated in *People v. Romero*, where the accused Martin Romero and Ernesto Rodriguez were the General Manager and Operation Manager, respectively, of Surigao San Andres Industrial Development Corporation, a corporation engaged in marketing which later engaged in soliciting funds and investments from the public.

A similar reiteration was by *People v. Menil, Jr.*, where the accused Vicente Menil, Jr. and his wife were proprietors of a business operating under the name ABM Appliance and Upholstery. Through ushers and sales executives, the accused solicited investments from the general public and thereafter, misappropriated the same.¹⁵ (Emphasis supplied)

Based on the foregoing, I find that the third element of syndicated *estafa* does not obtain. To recall, the misappropriated funds in this case pertain to HDMF. While such funds were undoubtedly solicited from the general public, it bears emphasizing that **HDMF was not the corporate vehicle used to perpetrate the fraud. Rather, HDMF was the subject of the fraudulent scheme perpetrated by GA.** These facts, taken together, place the present case beyond the scope of PD 1689.

Justice Carpio is of the position that PD 1689 does not require that the perpetrator or the accused corporation/association be the one to solicit funds from the public, so long as the defraudation results in the misappropriation of money or of funds solicited by corporations/associations from the general public.¹⁶ With all due respect, I disagree. The limited scope of PD 1689 is discernable from its "whereas clauses":

WHEREAS, there is an upsurge in the commission of swindling and other forms of frauds in rural banks, cooperatives, "samahang nayon (s)", and farmers' associations or **corporations/associations operating on funds solicited from the general public;**

WHEREAS, such defraudation or misappropriation of funds contributed by stockholders or members of such rural banks, cooperatives,

¹⁵ Id. at 473-474.

¹⁶ See J. Carpio, Dissenting Opinion, p. 27.



“samahang nayon(s)”, or farmers’ associations, or of funds solicited by corporations/associations from the general public, **erodes the confidence of the public in the banking and cooperative system, contravenes the public interest, and constitutes economic sabotage that threatens the stability of the nation;**

WHEREAS, it is imperative that the resurgence of said crimes be checked, or at least minimized, by imposing capital punishment on certain forms of swindling and other frauds involving rural banks, cooperatives, “samahang nayon(s)”, farmers’ associations or corporations/associations operating on funds solicited from the general public[.] (Emphasis supplied)

The “whereas clauses” are clear — PD 1689 is intended to cover swindling and other forms of frauds involving corporations or associations operating on funds solicited from the general public. To relax the third element of syndicated *estafa* in the present case is to adopt a liberal interpretation of PD 1689 to respondents’ detriment; this cannot be done without doing violence to the well-established rule on the interpretation of criminal and penal statutes.

The early case of *People v. Garcia*¹⁷ lends guidance:

x x x “Criminal and penal statutes must be strictly construed, that is, they cannot be enlarged or extended by intendment, implication, or by any equitable considerations. In other words, the language cannot be enlarged beyond the ordinary meaning of its terms in order to carry into effect the general purpose for which the statute was enacted. **Only those persons, offenses, and penalties, clearly included, beyond any reasonable doubt, will be considered within the statute’s operation.** They must come clearly within both the spirit and the letter of the statute, and where there is any reasonable doubt, it must be resolved in favor of the person accused of violating the statute; that is, all questions in doubt will be resolved in favor of those from whom the penalty is sought.” x x x¹⁸ (Emphasis supplied)

The absence of the third element takes GA’s fraudulent scheme outside of the scope of PD 1689. **Nevertheless, such absence does not have the effect of absolving respondents herein of criminal liability, as the fraudulent scheme remains punishable under Article 315 of the RPC.**

I find that the allegations in the Information, coupled with the evidence offered thus far, establish the existence of probable cause to charge and try respondents for the crime of simple *estafa* under the RPC, particularly under Article 315(2)(a)¹⁹ thereof due to respondents’

¹⁷ 85 Phil. 651 (1950) [Per J. Tuason, En Banc].

¹⁸ Id. at 656.

¹⁹ RPC, Article 315(2)(a) provides:

ART. 315. *Swindling (estafa)*. - Any person who shall defraud another by any of the means mentioned hereinbelow x x x:

x x x x

involvement in the implementation of GA's "Special Other Working Group Membership Program" (SOWG).²⁰

Respondents insist that GA's duty to warrant the veracity of its buyer-borrowers' qualifications had been rendered inexistent by the Memorandum of Agreement dated July 13, 2009 (MOA), owing to the summary judgment rendered by the Regional Trial Court (RTC) of Makati in Civil Case No. 10-1120²¹ which provides, in part:

The MOA dated [July 13, 2009] entered into between [GA] and defendant HDMF which was duly approved by the Board of Trustees of the latter, without any doubt, effectively superseded, amended, and modified the provisions of the continuing [Funding Commitment Agreements (FCAs)] and [Collection Servicing Agreements] which are inconsistent with its provisions specifically in the following areas of concern:

- a. Warranty of the developer on the approval of loan applications of [HDMF] member-borrowers who bought houses and lots from the Xevera Bacolor and Mabalacat projects of [GA] considering that under the MOA, [GA] is limited to loan counseling;
- b. Warranty against any misrepresentation of the employees or agents of [GA] in connection with the latter's evaluation and approval of loan accounts due to the fact that under the MOA, [GA] is limited to loan counseling; and
- c. Right to unilateral termination of the contracts because under the MOA, the contracts can only be terminated upon mutual consent of both parties.²²

Respondents posit that GA *could not* have made any false representations which would have impelled HDMF to approve the loan applications of its buyer-borrowers, so as to render them liable for simple *estafa* under Article 315(2)(a) of the RPC.

I disagree. I find, as do the majority, that GA's systematic endorsement of fictitious and unqualified buyer-borrowers serves as sufficient basis to hold the respondents liable for simple *estafa* — which liability stands regardless of whether GA's warranties under the Funding Commitment Agreements (FCAs) remained in effect.

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

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

²⁰ See *ponencia*, p. 40.

²¹ Entitled *Globe Asiatique Realty Holdings Corporation and Delfin Lee (in his capacity as President of the Corporation) v. Home Development Mutual Fund (HDMF) or Pag-Ibig Fund, its Board of Trustees and Emma Linda Faria, Officer in Charge*, for Specific Performance and Damages.

²² *Rollo* (G.R. No. 209424), Vol. II, p. 447.



To recall, the elements of simple *estafa* under Article 315(2)(a) are: (i) there must be a false pretense or fraudulent representation as to the offender's power, influence, qualifications, property, credit, agency, business or imaginary transactions; (ii) that such false pretense or fraudulent representation was made or executed prior to or simultaneously with the commission of the fraud; (iii) that the offended party relied on the false pretense, fraudulent act, or fraudulent means and was induced to part with his money or property; and (iv) that, as a result thereof, the offended party suffered damage.²³ In order for simple *estafa* of this kind to exist, the false pretense or fraudulent representation must be made prior to, or at least simultaneous with, the delivery of the thing subject of the fraud, it being essential that such false statement or representation constitutes the very cause or motive which induces the victim to part with his/her money.²⁴

With respect to the element of false pretense or fraudulent representation, the Court's ruling in *Preferred Home Specialties Inc. v. Court of Appeals*²⁵ is instructive:

A "representation" is anything which proceeds from the action or conduct of the party charged and which is sufficient to create upon the mind a distinct impression of fact conducive to action. "False" may mean untrue, or designedly untrue, implying an intention to deceive, as where it is applied to the representations of one inducing another to act to its own injury. "Fraudulent" representations are those proceeding from, as characterized by fraud, the purpose of which is to deceive. "False pretense" means any trick or device whereby the property of another is obtained.²⁶

To be sure, **there is nothing in Article 315 which requires that the matter falsely represented be the subject of an obligation or warranty on the part of the offender.** It is sufficient that the false representation made by the offender had served as the driving force in the victim's defraudation.

On this score, it bears stressing that HDMF agreed to adopt GA's proposed SOWG on the basis of Delfin Lee's representations that a significant number of buyers had expressed interest in purchasing units in its Xevera Projects. In fact, after having secured billions of pesos under the first nine (9) FCAs executed between August 12, 2008 and July 10, 2009, Delfin Lee sought to further secure, as he did secure, additional funding commitment lines through an accelerated loan take-out process, under the guise of a "rapid and notable increase in the number of buyers" for GA's Xevera Projects.

²³ *People v. Baladjay*, G.R. No. 220458, July 26, 2017, p. 7 [Per J. Velasco, Jr., Third Division].

²⁴ See *Preferred Home Specialties Inc. v. Court of Appeals*, 514 Phil. 574, 597-598 (2005) [Per J. Callejo, Sr., Second Division].

²⁵ *Id.*

²⁶ *Id.* at 598-599.

However, as was later admitted by Delfin Lee himself, *at least* one thousand (1,000) of the buyer-borrowers which GA had endorsed to HDMF were questionable. Worse, **Delfin Lee likewise admitted that these questionable accounts were kept current not by the buyer-borrowers on record, but by GA itself.**²⁷ In turn, the subsequent audit conducted by HDMF revealed that: (i) only 1.85% of the *sampled* accounts under the SOWG category were actually occupied by their corresponding buyer-borrowers; (ii) 83.38% of acquired units under the SOWG category were unoccupied; and (iii) 7.69% of accounts under the SOWG category had been closed. These figures account for at least 296 anomalous SOWG accounts out of the 320 accounts HDMF sampled during the audit, which, in turn, constitutes 10% of the total number of SOWG accounts booked by GA.²⁸ What is even more telling is the fact that GA's remittance rate immediately fell from 100% to 0% a month after HDMF suspended loan take-outs in favor of GA's buyers due to its alarming findings.²⁹

The sheer volume of anomalous SOWG accounts is indicative of willful and fraudulent misrepresentation on the part of GA, for while the endorsement of a handful of fictitious and/or inexistent buyer-borrowers may reasonably result from negligence or even mere oversight, the endorsement such accounts in the hundreds clearly shows the employment of an elaborate scheme to defraud, and assumes the nature and character of fraud and deceit constitutive of simple *estafa* under Article 315(2)(a):

[F]raud, in its general sense is deemed to comprise anything calculated to deceive, including all acts, omissions, and concealment involving a breach of legal or equitable duty, trust, or confidence justly reposed, resulting in damage to another, or by which an undue and unconscientious advantage is taken of another. It is a generic term embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to secure an advantage over another by false suggestions or by suppression of truth and includes all surprise, trick, cunning, dissembling and any unfair way by which another is cheated. And deceit is the false representation of a matter of fact whether by words or conduct, by false or misleading allegations, or by concealment of that which should have been disclosed which deceives or is intended to deceive another so that he shall act upon it to his legal injury.³⁰ (Emphasis supplied)

To my mind, this elaborate scheme could not have been possible without the complicity of the respondents, given the volume of transactions and amount of money involved in its perpetration. Hence, the respondents should accordingly be charged and made to stand trial.

²⁷ *Rollo* (G.R. No. 205698), Vol. I, p. 334.

²⁸ Figures culled from the results of the HDMF special audit, as narrated by the NBI in its Preliminary Investigation Report dated October 29, 2010 (see *rollo* [G.R. No. 205698], Vol. I, p. 334).

²⁹ *Rollo* (G.R. No. 205698), Vol. I, p. 334.

³⁰ *Lateo v. People*, 666 Phil. 260, 273-274 (2011) [Per J. Nachura, Second Division] cited in the *ponencia*, p. 40; see also *Republic v. Mega Pacific eSolutions, Inc.*, 788 Phil. 160, 196-197 (2016) [Per C.J. Sereno, First Division].

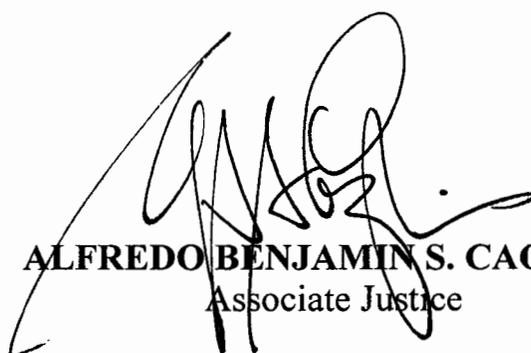


Moreover, Justice Perlas-Bernabe correctly notes that even if it is assumed, *arguendo*, that the MOA had the effect of negating GA's warranties under the FCAs anent its buyer-borrowers' qualifications, **no less than nine (9) FCAs implementing the SOWG arrangement had nevertheless been executed prior to the execution of the MOA. Accordingly, the offense of simple estafa had already been consummated in respect of these nine (9) FCAs, which account for the staggering amount of Two Billion Nine Hundred Million Pesos (P2,900,000,000.00) in loan proceeds.**

On the basis of the foregoing, I vote that the petitions docketed as **G.R. Nos. 205698, 205780, 209446, 209489, 209852, 210143, 228452, 228730 and 230680** be **GRANTED IN PART**, and that the public prosecutor be directed to amend the Information to reflect the correct charge of simple *estafa*, under Article 315(2)(a) of the RPC. Let the warrants of arrest against respondents Delfin S. Lee, Dexter L. Lee, Christina Sagun, and Cristina Salagan **STAND**, and the warrant of arrest against Atty. Alex M. Alvarez be deemed **REINSTATED**.

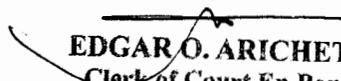
I concur with the *ponencia* insofar as it **GRANTS** the petition docketed as **G.R. No. 209424**, and **DIRECT** the remand of Civil Case No. 10-1120 entitled *Globe Asiatique Realty Holdings, Corp. et al. v. The Home Development Mutual Fund or Pag-Ibig Fund, et al.* to the Regional Trial Court of Makati City, Branch 58 for further proceedings.

Finally, I concur with the *ponencia* insofar as it **GRANTS** the petitions docketed as **G.R. Nos. 208744 and 210095**, and **LIFTS** the Writ of Preliminary Injunction dated April 10, 2013 issued by the Regional Trial Court of Pasig City, Branch 167.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court