

FIRST DIVISION

[G.R. No. 171054, January 26, 2021]

EDGARDO T. YAMBAO, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE ANTI-MONEY LAUNDERING COUNCIL, RESPONDENT.

DECISION

GAERLAN, J.:

Before Us is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court challenging the Resolution^[2] dated January 4, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 90238, entitled "*In re: Ex-parte Application for the Issuance of Freeze Order Against the Monetary Instruments and Properties of Ret. Lt. Gen. Jacinto C. Ligot, Erlinda Y. Ligot, Paulo Y. Ligot, Riza Y. Ligot, George Y. Ligot, Miguel Y. Ligot and Edgardo Yambao, Republic of the Philippines, represented by the Anti Money Laundering Council, applicant.*"

Facts

Through a letter dated February 1, 2005,^[3] the Office of the Ombudsman (OMB) forwarded to the Anti-Money Laundering Council (AMLC) a copy of the OMB's complaint^[4] for perjury under Art. 183 of the Revised Penal Code and violation of Republic Act (R.A.) No. 6713^[5] and R.A. No. 3019^[6] against Ret. Lt. Gen. Jacinto C. Ligot (Gen. Ligot) and members of his immediate family. The OMB recommended the conduct of further investigation on Gen. Ligot for possible violation of R.A. No. 9160 or the Anti-Money Laundering Act of 2001, as amended.^[7] The OMB's recommendation resulted from its finding that Gen. Ligot and his family had accumulated wealth that is grossly disproportionate to their income.^[8]

The OMB's findings

Specifically, the OMB's investigation revealed that from Gen. Ligot's initial asset of P105,000.00 in 1982, his declared assets grew tremendously to P3,848,000.00 in 2004, with an increase of P3,743,003.00.^[9] The OMB noted that Gen. Ligot declared in his Statements of Assets and Liabilities (SALNs) that his sources of income mostly came from his salary as an officer of the Armed Forces of the Philippines (AFP).^[10] Apparently, however, Gen. Ligot and his spouse, Erlinda Yambao Ligot (Erlinda), have investments and other properties registered in their names that were not declared in Gen. Ligot's SALNs.^[11] The OMB's records further disclosed that the Ligots' children were able to acquire substantial assets when, at the time of the acquisition, they could not be reasonably considered to have the financial capacity to do so.^[12] Also, Gen. Ligot had substantial funds to cover the tuition fees of his children and their family's travel expenses during the period subject of the OMB's

investigation.^[13]

The OMB likewise found that Edgardo Tecson Yambao, Erlinda 's younger brother, (petitioner) is a mere dummy and/or nominee of the spouses Ligot. Petitioner's employment history stated that he was a private employee from 1977 to 1994 but his record of Social Security System contributions shows that he had no substantial salary when he was employed in the private sector. His other source of income possibly came from Mabelline Foods, Inc., which was registered with the Securities and Exchange Commission (SEC) in 1994. Petitioner appears to be the owner of said corporation. However, SEC records reveal that the company was not generating considerable income to enable petitioner to acquire substantial assets. In fact, petitioner has no record with the Bureau of Internal Revenue of filing his annual individual income tax return from 1999 up to the date of the OMB complaint. The OMB further noted that the three addresses used by petitioner in his records with the Bureau of Immigration, the SEC (General Information Sheet), and the National Statistics Office^[14] (marriage contract) are also the addresses used by the Ligots in their pertinent documents. These, along with the fact that Mabelline Foods, Inc. uses as its principal address the residential address of Gen. Ligot and family, buttressed the OMB's conclusion that petitioner and his wife are mere nominees of Gen. Ligot and all properties^[15] registered in petitioner's name are actually owned by Gen. Ligot and his family.^[16]

According to the OMB, the unexplained wealth of Gen. Ligot is estimated to be at least P54,001,217.00, which includes, among others, the following:

Gen. Ligot's undeclared assets	-	P41,185,583.53
Gen. Ligot's children assets	-	P 1,744,035.60
Tuition fees and travel expenses	-	P 2,308,047.87
Edgardo Yambao's assets relative to real properties	-	P 8,763,550.00

**TOTAL
UNEXPLAINED
WEALTH** - **P54,001,217.00**^[17]

For want of any record of the possible legal source of said unexplained wealth, the OMB ultimately concluded that the same may be presumed to have been acquired illegally, *i.e.*, proceeds from gifts, shares, benefits, present or percentage for Gen. Ligot in connection with or transactions between the government and any other party by reason of his office which he has to intervene under the law.^[18]

The AMLC's findings

Taking cue from the OMB 's findings, the AMLC conducted its own investigation and eventually found that apart from real properties, bank accounts and significant investments were also maintained by Gen. Ligot and his family.^[19] The AMLC then found reasonable grounds to believe that the monetary instruments and properties in the name of Gen. Ligot and his family, including petitioner, are related to unlawful

activities as defined under Section 3(i) of R.A. No. 9160, as amended, in relation to Section 3(b) of R.A. No. 3019, as amended.^[20]

Consequently, on the strength of AMLC Resolution No. 52, Series of 2005,^[21] the AMLC, through the Office of the Solicitor General (OSG), filed with the CA an Urgent *Ex-parte* Application^[22] for the issuance of a freeze order against the monetary instruments and properties of Gen. Ligot, Erlinda, and their children (Paulo, Riza, George, and Miguel, all surnamed Ligot), and petitioner.

Proceedings in the CA

Finding the existence of probable cause that the monetary instruments and properties enumerated in the *ex-parte* application are related to an unlawful activity, the CA, through a Resolution dated July 5, 2005,^[23] issued a Freeze Order over the subject monetary instruments. The Freeze Order was initially valid for 20 days.

Among those covered by the Freeze Order were the following bank accounts^[24] and motor vehicles^[25] registered in the name of petitioner:

BANK	ACCOUNT NO.
Metropolitan Bank and Trust Co.	00012407 (US\$ account)
United Overseas Bank Phils.	021072002773
	002072001829
Keppel Bank Philippines	3035000914
Citicorp Financial Services & Insurance Brokerage Phils., Inc.	000117966 (US\$ account)
	006911804 (US\$ account)
MOTOR VEHICLE	PLATE NO.
1996 Honda Accord Sedan	UFY223
2001 Toyota Hi-Lander	XBD 223
2002 Subaru Forester	XEB 718
2003 Subaru Forester	XHY362

Subsequently, petitioner filed a Motion to Lift Freeze Order Against the Monetary Instruments and Properties of Edgardo Yambao with Prayer Requests [sic] for Setting of an Oral Argument^[26] dated July 22, 2005. The OSG then filed its Consolidated Comment^[27] to petitioner's motion.

The OSG also filed an "Urgent Motion for Extension of Effectivity of Freeze Order,"^[28] to which petitioner, Gen. Ligot and the latter's family filed separate oppositions.^[29]

On September 20, 2005, the CA issued a Resolution,^[30] the dispositive portion of which states:

WHEREFORE, premises considered, the:

(a) **Motion to Lift Freeze order Against the Monetary Instruments and Properties of Edgardo Yambao with Prayer Requests for Setting of an Oral Argument is *DENIED*** for lack of merit; and the

(b) **Urgent Motion for Extension of Effectivity of Freeze Order** filed by applicant Republic of the Philippines, through the Office of the Solicitor General, is ***GRANTED***. As prayed for, **the Freeze Order issued by this Court on July 5, 2005 against the subject bank accounts, investments, vehicles and the related web accounts of the respondents, except those that were already closed as herein-above identified, is *EXTENDED until after all the appropriate proceedings and/or investigations being conducted are terminated, conformably with Section 10 of Republic Act No. 9160, as amended.***

SO ORDERED.^[31] (Emphasis and italics in the original, underscoring ours)

An Urgent Motion (to Separate Respondent Edgardo Yambao and to Resolve Pending Motion to Lift and Set Aside Freeze Order of the Honorable Court),^[32] dated 20 September 2005, was thereafter filed by petitioner.

Petitioner also moved for reconsideration of the September 20, 2005 CA Resolution.^[33]

Meanwhile, on November 18, 2005, this Court promulgated A.M. No. 05-11-04-SC or the *Rule of 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 under Republic Act No. 9160, as amended*, which became effective on December 15, 2005.

Asserting the applicability of the aforesaid Rule - specifically its provisions on a summary or post-issuance hearing within the 20-day period of effectivity of a Freeze Order and the limitation on an extension thereof to a period of not exceeding six months - to his case, petitioner filed an Urgent Motion for Summary Hearing to Limit Effectivity of Freeze Order and/or to Declare Expiration of Freeze Order.^[34]

On January 2, 2006, petitioner filed another Urgent Motion to Resolve Pending Urgent Motion (for Summary Hearing and to Limit Effectivity of Freeze Order and/or to Declare Expiration of Freeze Order).^[35]

On January 4, 2006, the CA issued the challenged Resolution,^[36] denying all

pending motions,^[37] including those of petitioner's.^[38]

The CA ruled that A.M. No. 05-11-04-SC is inapplicable in petitioner's case because the issues of extending and lifting the Freeze Order issued against his monetary instruments and properties were already resolved through the July 4, 2005 and September 20, 2005 CA Resolutions. Hence, said issues are no longer pending at the time of the effectivity of said Rule.^[39] Further, the CA denied petitioner's plea to be separated from the other respondents, ratiocinating that the charges against him and the Ligot family are based on the same facts and involve intertwining defenses.^[40] Finally, the CA maintained its ruling on the existence of probable cause that warranted the issuance, and, subsequently, the extension of the Freeze Order against petitioner's monetary instruments and properties.^[41]

The petition before this Court

Imputing reversible error to the CA, petitioner is now before this Court *via* the present Rule 45 petition anchored on the following grounds:

I.

THE CA ERRED IN HOLDING THAT THE FREEZE ORDER AGAINST THE PETITIONER IS NO LONGER PENDING AND HENCE NOT COVERED BY A.M. No. 05-11-04-SC OR THE NEW RULES ON CIVIL FORFEITURE AND FREEZE ORDERS[.]

II.

THE PETITIONER IS ENTITLED TO DUE PROCESS AND AS GUARANTEED BY THE CONSTITUTION AND AS PROVIDED BY THE NEW RULES[.]

III.

THE CA ERRED IN ITS DETERMINATION THAT PROBABLE CAUSE EXISTED AGAINST THE PETITIONER AND HIS MONETARY INSTRUMENTS AND FREEZE ORDERS (sic) AS NO EVIDENCE WAS EVER PRESENTED AGAINST HIM[.]

IV.

THE FREEZE ORDER AGAINST THE PETITIONER PROCEEDS FROM BASELESS ACCUSATIONS AND MERE SPECULATIONS[.]

V.

THE CA ERRED IN HOLDING THAT THE PETITIONER CANNOT BE SEPARATED FROM THE OTHER RESPONDENTS AS THERE ARE DIFFERENT CAUSES OF ACTIONS AND DEFENSES[.]^[42]

Petitioners arguments

In gist, petitioner asserts that it was erroneous for the CA to rule that the Freeze