

## THIRD DIVISION

[ G.R. No. 185484, June 27, 2018 ]

**FRANCISCO I. CHAVEZ, PETITIONER, VS. IMELDA R. MARCOS,  
RESPONDENT.**

### DECISION

**LEONEN, J.:**

This Court will not require a judge to inhibit himself in the absence of clear and convincing evidence to overcome the presumption that he will dispense justice in accordance with law and evidence.<sup>[1]</sup> This Court will also not allow itself to become an instrument to paper over fatal errors done by the petitioner and the prosecution in the lower court.

This is a Petition for Review on Certiorari,<sup>[2]</sup> assailing the Court of Appeals February 28, 2008 Decision<sup>[3]</sup> and November 24, 2008 Resolution<sup>[4]</sup> in CA-G.R. SP No. 98799, dismissing Francisco I. Chavez's (Chavez) Petition for Certiorari<sup>[5]</sup> and affirming the Regional Trial Court order, which denied the prosecution's motion for inhibition.<sup>[6]</sup>

This case involves 33 consolidated criminal cases, namely, Criminal Case Nos. 91-101732-39, 91-101879-83, 91-101884-92, and 92-101959-69,<sup>[7]</sup> filed against Imelda R. Marcos (Imelda), among others, for violations of Section 4 of Central Bank Circular No. 960,<sup>[8]</sup> in relation to Section 34 of Republic Act No. 265,<sup>[9]</sup> or the Central Bank Act.<sup>[10]</sup>

The Information in Criminal Case No. 91-101732 read, in part:

That from 1973 up to December 26, 1985, both dates inclusive, and for sometime thereafter, the above-named accused, in conspiracy with her late husband, then President Ferdinand E. Marcos, while both residing in Malacanang Palace in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, did then and there wilfully, unlawfully and feloniously open and maintain foreign exchange accounts abroad, particularly in Banque de Paris et des Pays-Bas (also known as Banque Paribas) in Geneva, Switzerland, later transferred to another bank known as LOMBARD, ODIER ET CIE also in Geneva, in the names of several establishments organized by their dummy or attorney-in-fact identified as Stephane A. Cattai, among which were accounts 036-517 J, Establishment BULLSEYE; 037-973 R, Establishment MABARI; 038-150 L, Establishment GLADIATOR; 038-489Z, Establishment VOLUBILIS, 32.529 X, INTERNATIONAL INTELLIGENCE FUND; PRETORIEN created under the name INTELLIGENCE; Establishment GARDENIA; Establishment GLADIATOR; Establishment CESAR; Establishment ESG; account

numbers 23-0734H, 22-98SC, 23-285; 3652IN; and 073 043 P in the name of accused who executed a power of attorney in favour of her husband on September 29, 1980 giving the latter the authority to do anything with respect to her accounts; which accounts were reduced to five, namely; 036 517 J; 037-973 R; 038 150 L; 038 489 Z, and 036 521 N which were later on transferred to LOMBARD, ODIER ET CIE for credit to the account COGES 00777 per instruction on May 17, 1984 of the accused's husband and attorney-in-fact to their dummy and duly appointed administrator Stephane Cattai who also transferred to said Lombard Odier et Cie in order to continue managing for them their hidden accounts, including the investment of \$15-million in Philippine-issued dollar-denominated treasury notes which was fully paid together with the interests on December 26, 1985 and which payment was remitted to LOMBARD, ODIER ET CIE for the credit of Account COGES 00777 of the accused and her late husband, which act of maintaining said foreign exchange accounts abroad was not permitted under the Central Bank regulations.

CONTRARY TO LAW.<sup>[11]</sup>

The informations for Criminal Case Nos. 91-101733-39 read similarly, except for the dates of the offense, the name/s of the dummy/ies used, the amounts maintained in the foreign exchange accounts, and the names of the foreign banks where the accounts were allegedly held by the accused.<sup>[12]</sup>

The Information in Criminal Case No. 91-101888 read, in part:

That from September 1, 1983 up to 1987, both dates inclusive, and for sometime thereafter, both accused, conspiring and confederating with each other and with the late President Ferdinand E. Marcos, all residents of Manila, Philippines, and within the jurisdiction of this Honorable Court, did then and there wilfully, unlawfully and feloniously fail to submit reports in the prescribed form and/or register with the Foreign Exchange Department of the Central Bank within 90 days from October 21, 1983 as required of them being residents habitually/customarily earning, acquiring or receiving foreign exchange from whatever source or from invisibles locally or from abroad, despite the fact they actually earned interests regularly every six (6) months for the first two years and then quarterly thereafter for their investment of \$50-million, later reduced to \$25-million in December 1985, in Philippine-issued dollar denominated treasury notes with floating rates and in bearer form, in the name of Bank Hofmann, AG, Zurich, Switzerland, for the benefit of Avertina Foundation, their front organization established for economic advancement purposes with secret foreign exchange account Category (Rubric) C.A.R. No. 211 925-02 in Swiss Credit Bank (also known as SKA) in Zurich, Switzerland, which earned, acquired or received for the accused Imelda Romualdez Marcos and her late husband an interest of \$2,267,892 as of December 16, 1985 which was remitted to Bank Hofmann, AG, through Citibank, New York, United States of America, for the credit of said Avertina account on December 19, 1985, aside from the redemption of \$25 million (one-half of the original \$50-M) as of December 16, 1985 and outwardly remitted from the Philippines in the

amounts of \$7,495,297.49 and \$17,489,062.50 on December 18, 1985 for further investment outside the Philippines without first complying with the Central Bank reporting/registering requirements.

CONTRARY TO LAW.<sup>[13]</sup>

The Information in Criminal Case No. 91-1 01879 read, in part:

That from September 21, 1983 up to December 26, 1985, both dates inclusive, and for sometime thereafter, all accused, conspiring and confederating with one another and with the late President Ferdinand E. Marcos, all residing and/or doing business in Manila, Philippines, and within the jurisdiction of this Honorable Court, and assisted by their foreign agent or attorney-in-fact Stephane G. Cattai, did then and there wilfully, unlawfully and feloniously fail to submit reports in the prescribed form and/or register with the Foreign Exchange Department of the Central Bank within 90 days from October 21, 1983 as required of them being residents habitually/customarily earning, acquiring/receiving foreign exchange from whatever source or from invisibles locally or from abroad, despite the fact that they actually earned interests regularly for their investment of FIFTEEN MILLION (\$15-million) DOLLARS, U.S. currency, in Philippine-issued dollar-denominated treasury notes with floating rates and in bearer form, in the name of Banque de Paris et des Pays-Bas (also known as Banque Paribas) in Geneva, Switzerland but which was transferred on May 17, 1984 to Lombard, Odier et Cie, a bank also in Geneva, for the account of COGES 00777 being managed by Mr. Stephane Cattai for the Marcoses who also arranged the said investment of \$15-million through respondents Roberto S. Benedicto and Hector T. Rivera by using the Royal Traders Bank in Manila as the custodian of the said dollar-denominated treasury notes, which earned, acquired or received for the accused Imelda Romualdez Marcos and her late husband an interest of \$876,875.00 as of June 15, 1984 which was remitted to Banque Paribas through Chemical Bank in New York, United States of America, for the Credit of said Account COGES 00777 of the Marcoses for further investment outside the Philippines without first complying with the reporting/registering requirements of the Central Bank.

CONTRARY TO LAW.<sup>[14]</sup>

The other charges in the other informations read substantially the same, save for the dates of the offense, the name/s of the dummy/ies used, the amounts maintained in the foreign exchange accounts, and the names of the foreign banks where the accounts were allegedly held by the accused.<sup>[15]</sup>

The prosecution's version of facts leading to the filing of the informations was summarized as follows:

In September 1983, the Central Bank of the Philippines issued dollar-denominated treasury notes (dollar t-notes for brevity) in the total amount of \$125-million, U.S. currency. \$75-million of these notes were purchased by three Swiss banks holding the hidden wealth of then

President Ferdinand E. Marcos and his wife Imelda Romualdez Marcos (the Marcoses, for brevity). The purchases were recorded in the Central Bank under the name of the Marcoses' front man, then Ambassador Roberto S. Benedicto.

Of this \$75-million, \$50-million came from Bank Hofmann, \$10-million from the Swiss Bank Corporation (SBC), and \$15-million from Banque Paribas. The purchases by Bank Hofmann and SBC were made through accounts owned by foundations called Avertina, Maler I, and Maler II, which were owned by the Marcoses, and which act of opening and maintaining foreign exchange accounts abroad without CB authorization is a violation of Sec. 4 of the CB's Foreign Exchange Restrictions as consolidated in 1983 in CB Circular No. 960.

The purchase by Banque Paribas (later transferred to Lombard, Odier et Cie) was arranged by the Marcoses' attorney-in-fact Stephane Cattai through Traders Royal Bank (TRB) which acted as custodian of the securities. The contact person at TRB was Hector T. Rivera, vice president of the bank's Trust Department.

Avertina's \$50-million investment earned an interest of \$13,623,540.77 from 1983 to 1986; Maler I and Maler II's \$10-million investment earned \$3,369,479.18 in interest from 1984 to 1987; and Banque Paribas/Lombard Odier et Cie's \$15-million investment earned \$3,579,479.16 from 1984 to 1985.

Total interest earned by the Marcoses out of the dollar t-notes amounted to \$20,572,499.11 from 1984 to 1987. All of these interest [illegible] department in violation of Sec. 10 of CB Circular No. 960.

The transactions came to light only after the so-called EDSA People Power Revolution in February 1986 when documents relating to the Marcoses' Swiss bank accounts and dollar t-note purchases were found in Malacanang Palace after the Marcos family had fled.

The Malacanang documents revealed that the Marcoses maintained a number of Swiss bank accounts, among them:

A. In Banque de Paris et des Pays-Bas (also known as Banque Paribas) in Geneva, Switzerland, later transferred to another bank known as LOMBARD, ODIER ET CIE also in Geneva, in the names of several establishments organized by the Marcoses' attorney-in-fact identified as Stephane A. Cattai -

1. Account 036-517 J, Establishment BULLSEYE;
2. Account 037-973 R, Establishment MABARI;
3. Account 038-[illegible], Establishment GLADIATOR;
4. Account 038-489 Z, Establishment VOLUBILIS;
5. Account 32.529 X, INTERNATIONAL INTELLIGENCE FUND;
6. Account PRETORIEN created under the name INTELLIGENCE;

7. Establishment GARDENIA;
8. Establishment GLADIATOR;
9. Establishment CESAR;
10. Establishment ESG;
11. Accounts 23-0734H, 22-98SC, 23-285; 3652IN; and 073 043 P in the name of Mrs. Marcos who executed a power of attorney in favour of her husband on September 29, 1980 giving the latter the authority to do anything with respect to her accounts, which accounts were reduced to five, namely; 036 517 J; 037-973 R; 038 150 L; 038 489 Z, and 036 521 N which were later on transferred to LOMBARD, ODIER ET CIE for credit to the account COGES 00777;

B. In Swiss Credit Bank (also known as SKA) in Switzerland in the names of foundations which were organized successively or one after the other by the Marcoses' nominees, fronts, agents or duly appointed administrators -

1. Charis Foundation which was succeeded by Azio Foundation on June 11, 1971, renamed Verso Foundation on August 29, 1978, which was dissolved on June 25, 1981 and the funds transferred to Fides Trust Company in Bank Hofmann, which transferred the same to Vibur Foundation under the account "Reference OSER" on September 10, 1981;
2. Trinidad Foundation, succeeded by Rayby Foundation on June 22, 1973, which was dissolved on March 10, 1981 and whose funds were transferred to Bank Hofmann in favor of Fides Trust Company under account "Reference DIDO" which organized Palmy Foundation;
3. Xandy Foundation, which was renamed Wintrop Foundation on August 29, 1978, whose assets and/or funds were transferred on May 10, 1981 to Fides Trust Company under the account "Reference OMAL" in Bank Hofmann, which effected the transfer of said assets and/or funds to Avertina Foundation;
4. Charis Foundation, which was renamed Scolari Foundation on December 13, 1974 and then renamed Valamo Foundation on August 29, 1978, which was dissolved on June 25, 1981 and its assets and/or funds transferred to Fides Trust Company under the account "Reference OMAL" in Bank Hofmann, which effected the transfer of said assets and/or funds to Spinus Foundation which opened an account with SKA on September 10, 1981, but which also transferred the funds to Avertina Foundation;

C. In Swiss Bank Corporation (SBC) in Geneva, Switzerland: Establishment, later transformed into Maler Foundation, which was